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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Wednesday, August 9, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us heed the words of Ecclesiastes:

*To every thing there is a season, and a time to every purpose under the heaven * * * a time to keep silence, and a time to speak.*—Ecclesiastes 3: 1, 7.

Lord God, the strength of our lives, help us to live by the truth of Thy word, knowing when to speak and when not to speak. When we are moved to speak may it be with wisdom and courage. And give us the harder discipline of remaining silent when we have nothing to say and can profit more by creative silence. Show us that alike in speaking or in silence we may serve Thee. Thus, give us grace to move forward all useful legislation.

Take this Nation, its leaders, its legislators, its diplomats, its jurists, and all its public servants under the shelter of Thy fold that we go not astray.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 9, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS TODAY UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS FRIDAY UNTIL 9 A.M. SATURDAY, AUGUST 12, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Friday, it stand in recess until the hour of 9 o'clock on Saturday morning.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 997.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state it.

The assistant legislative clerk read as follows:

A resolution (S. Res. 531) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 11567.

There being no objection, the resolution (S. Res. 531) was considered and agreed to as follows:

S. RES. 531

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 11567, a bill to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–1981, and for other purposes. Such waiver is necessary to permit consideration of H.R. 11567.

Compliance with section 402(a) was not possible by May 15, 1978, because of the press of business within the committee and within the Senate. Because of this schedule, the committee was unable to hold hearings until May 18, 1978. The hearing record was not closed until earlier this month at which time the committee resumed its consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I have no further need for my time. I yield it back.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

THE STORY OF WILLIAM GARRAWAY BROWNLOW

Mr. BAKER. Mr. President, I call the attention of my colleagues to the publication of a book about a colorful and controversial Tennessee newspaperman of the Civil War era. The title of the book is, "That D - - - - d Brownlow." It is the story of William Gannaway Brownlow and his newspaper, the Knoxville, Tennessee, Whig. He was also known as "The Fighting Parson."

Parson Brownlow served as Governor of Tennessee and served in the U.S. Senate, but the "D - - - - d" in the title does not stand for "distinguished." Instead, it reflects the reputation of the subject for being "mean, ruthless, vindictive and vitriolic"—and that was what his friends said about him.

Steve Humphrey, former associate editor of the Knoxville Journal, a descendent of the Whig, has thoroughly researched the life of Parson Brownlow and the history of the newspaper. He has put together a fascinating, readable and informative picture of Brownlow as Methodist preacher, newspaperman and human being.

I think the story of the fighting parson and his decidely one-sided newspaper is a delightful look back into history. Any readers who think our modern

press is too big, or too powerful or too influential will be amazed to read about the vigorous press of that day, differences of opinion were occasionally settled with duels or physical assaults upon the person.

My friend Steve Humphrey, who enjoyed a long and distinguished career before his retirement in 1969, without quite the fireworks of his predecessor, has made a major contribution with this book.

I congratulate him on his achievement and commend the book to a wider audience than my own State.

I also congratulate the publisher, Appalachian Consortium Press, of Boone, N.C., for bringing together these two Tennessee newspapermen.

Mr. President, I have no need for my time under the standing order. I yield it back.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 12932, which the clerk will state by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12932) making appropriations for the Department of the Interior and related agencies for fiscal year September 30, 1979, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The pending question is on agreeing to the amendment of the Senator from Louisiana.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to extend beyond 30 minutes, with statements therein limited to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Public Lands and Resources Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on S. 2475 and H.R. 10587, legislation to improve the range conditions of the public grazing lands.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

NATIONAL INSTITUTES OF HEALTH CARE RESEARCH ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, what is the time agreement on S. 2466, the measure against which there is a motion entered to reconsider?

The ACTING PRESIDENT pro tempore. On the bill, S. 2466, debate on any amendment in the first degree is limited to 1 hour, debate on any amendment in the second degree is limited to 30 minutes, debate on any debatable motion, appeal, or point of order is limited to 20 minutes, in each case equally divided in accordance with the usual form.

Mr. ROBERT C. BYRD. How much time on the bill itself?

The ACTING PRESIDENT pro tempore. Time on the bill was limited to 2 hours.

Mr. ROBERT C. BYRD. Two hours.

Mr. President, if the motion to reconsider carries, the time agreement on that bill again obtains, does it not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. How much time would remain on that bill in that event?

The ACTING PRESIDENT pro tempore. In order for the bill to have reached third reading and final passage, the time on the bill itself would have had to be yielded back.

Mr. ROBERT C. BYRD. That is not my question.

How much of the 2 hours originally on the bill was utilized?

The ACTING PRESIDENT pro tempore. The Chair is advised it will have to check the records and advise the Senator from West Virginia.

Mr. ROBERT C. BYRD. I think the Chair need not do that. I express my appreciation to the Chair.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the Interior appropriation bill today, in whatever form that disposition may take, including taking the bill down, the Senate then proceed to the reconsideration of S. 2466; that upon the disposition of that measure the Senate proceed to the consideration of the Agriculture appropriation bill; that upon the disposition of that bill the Senate proceed to the consideration of Calendar Order No. 991, resolution disapproving the proposed deferral of budget authority for the Garrison diversion unit, Bureau of Reclamation, Department of the Interior; that upon the disposition of that measure the Senate proceed to the consideration of the public works appropriation bill, without prejudice to the order that has already been entered authorizing the majority leader to proceed to the consideration of the agriculture bill at any time.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I wonder if the majority leader would consider describing with a little greater certainty when we might have the public works appropriation bill before us.

I had hoped he might include in that request some sort of specificity on time.

Mr. ROBERT C. BYRD. I can give the minority leader assurance that the bill would not be called up today.

Mr. BAKER. And today is Wednesday, so would the majority leader be willing to include in the order that it would not be before the Senate before Thursday?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I thank the majority leader.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. HANSEN. Would the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. HANSEN. The Senator from Wyoming is not certain that he understands clearly what the situation is now, when we go back to the Interior appropriations bill.

Am I correct in assuming that the Johnston amendment, as originally submitted, will be before the Senate?

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. HANSEN. And the Senator from Louisiana would have the right, I assume, to modify that amendment as he chooses.

Mr. ROBERT C. BYRD. There is no time limit on the amendment, and no action has been taken on the amendment, so he would have the right to modify.

I ask the Chair if I am correct. No action having been taken on the Johnston amendment, he therefore would have the right to modify it.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. I want to be sure I am correct in saying that no action has been taken on the amendment.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. HANSEN. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Wyoming.

I yield the floor, Mr. President.

UNIVERSAL CONSENSUS ON CERTAIN HUMAN RIGHTS ARGUES FOR RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, last week, my distinguished colleague from Arizona, Mr. GOLDWATER, spoke with concern about the selective application of human rights and the contradictions that may arise as a result of such discrimination.

Of primary interest to the Senator were the basic ideals that underlie our support for human rights. Citing an article by Foreign Affairs Association director Cas de Villiers, he was distressed that this Nation has failed to apply human rights standards uniformly and neutrally, regardless of the nature of various regimes or the size of their armaments.

Much of the blame for this state of affairs, claims Mr. GOLDWATER, lies with President Carter, whose advocacy of human rights has sometimes seemed selective and arbitrary.

Part of the problem, however, may stem from the fundamental question of what exactly constitutes "human rights." As Mr. de Villiers notes in his article placed by Mr. GOLDWATER in the RECORD:

> Different cultures and political systems have produced different perceptions which have precluded any universally acceptable definition of human rights, in spite of Articles 55 and 56 of the United Nations Charter and the lengthy list of definitions included in the Universal Declaration on Human Rights which was adopted without dissent in 1948.

According to Mr. de Villiers, the upshot of this lack of consensus on the precise definition of human rights has been general confusion. He writes:

> Thus, from the earliest days of the United Nations, representatives found themselves using the same words—freedom, justice, rights, and dignity—but sharply disagreeing on their meaning.

Mr. President, Mr. de Villiers' essay challenges whether we are really invoking human rights, or whether we are merely dressing up arbitrary political standards in the guise of human rights.

But this consideration should not deter our efforts to support aggressively those individual human rights on which there is indeed universal consensus.

On such right, Mr. President, is the most sacred of all. It is the right to live.

Enunciated in the same Universal Declaration on Human Rights to which Mr. de Villiers refers in his article, the right to live is protected by the United Nations Genocide Convention, which defines and punishes genocide as a crime under international law.

Eighty-three nations have endorsed this treaty since 1948, but amazingly, the United States has not done so. Of course, that is entirely up to this body, the U.S. Senate. Every President since President Truman has urged us to do so. Needless to say, our failure to ratify this important document represents a glaring inconsistency in itself.

How can we constantly speak out for human rights when we have not yet pledged ourselves to safeguard the most precious of those rights?

It is true that we have suffered some setbacks in our human rights campaign. We have made some mistakes. In the future, we must work harder to insure that we apply our human rights standards in an equitable and consistent manner.

But let us not question the universality of certain human rights. Let us not, above all, be timid about defending the right to live. Let us ratify the Genocide Convention.

PRIVATE ENTERPRISE

Mr. STEVENS. Mr. President, we who work in government have long realized that government alone cannot address the enormously complex and seemingly endless problems faced by people in this Nation today. We have had to depend on a strong private and voluntary sector working in partnership with government to seek solutions to these problems. It is this unique feature of the American character that has helped to make our country strong and compassionate.

Recently, I had occasion to read a speech which my distinguished colleague from Pennsylvania, Senator HEINZ, delivered at the groundbreaking ceremony of the new Allegheny General Hospital in Pittsburgh. Senator HEINZ has captured the essence of the importance of business and the voluntary sectors to the success of our Nation, and I believe his message is so significant as to merit sharing with the other Members of this body. Mr. President, I ask unanimous consent that the full text of Senator HEINZ' remarks be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS OF H. JOHN HEINZ III

This is an audience dedicated to health care and people's needs. And we, in this audience, are all aware of the need for attention to many major health care problems facing our Nation:

Catastrophically high medical bills.

The lack of universal and comprehensive health insurance coverage.

The minimal amount of consumer health awareness and education.

The need to provide quality training and education, for example, in the principles of nutrition—and I might add not just education of general public, but also nutrition education for doctors, nurse practitioners and others in the health care profession.

The lack of viable alternatives to institutionalization and the urgency for improvement in delivery of health care services for our elderly. One point you deserve special commendation for: I note that your new Center for the Aging is in the formative stages and well on the way to providing the research and investigation necessary for a better understanding of the health problems of older people.

I am aware that there are many Americans who say that these and other health services in the United States will only be improved and extended by the Federal Government alone—and with that point of view, I totally disagree. The PHASE II construction of this hospital will cost $104.3 million, and not one cent of it is Federal funding. Through bonds, contributions from the medical staff, the hospital employees, the women's auxiliary, and the generous outpouring of business and private donations, you have demonstrated that Americans, without Government handouts, are willing to invest freely and wisely, building for the future.

And so I would like to speak briefly today about the need to encourage a strong private enterprise and voluntary sector in America. For not only are these traditions of private giving for public purposes as old as America herself, they are the very foundations on which our country is built. And I am deeply concerned that we may be travelling in the direction of so weakening our private and voluntary sectors, that when we arrive at our destination there will be only Government resources and regulations on which to rely.

One issue the American people are forcing the country to confront is the issue raised most dramatically by Proposition 13 in California: at what point do taxes, that share of the Nation's wealth going to government-determined uses. become so burdensome as to undercut the very strengths of incentive, individual initiative, risk-taking, and involvement in the self-help and voluntarily undertaken community activities that have given our country its uniqueness and greatness. I believe it is high time that every level of government address this issue.

Speaking as a member of the Senate Buget Committee, I can assure you that on Capitol Hill—both in the old days of the Bureau of the Budget and most recently with the relatively new Congressional Budget Office—the traditional budget process has followed this pattern: first, set the level of outlays desirable or necessary to meet social and other needs; then, after that, finance them. The most obvious consequence of this dubious policy has been the enormous deficits that we have accumulated over the years. All this has raised our national debt from $500 billion four years ago to $750 billion or over $3,500 for every man, woman and child in America today.

I submit that a better approach to budget making would be to ask ourselves what is the affordable limit of the revenues which we give to government, and then to adjust our federal priorities accordingly.

Consider the following: next year FY 79, federal revenues will be approximately $440 billion. By FY 83, according to the Congressional Budget Organization, and including the enactment of a one shot tax cut next year, these revenues are expected to jump to $729 billion—a whopping 63% increase. Even adjusting these figures to account for the 5½% inflation factor built in to these projections, this means there will be an increase in taxes in real terms of well over one third, 36 percent in fact, within five short years.

This is why there is growing and legitimate interest in significant tax rate cuts, why so many of us in the Congress have cosponsored the Roth-Kemp tax proposal, or similar measures; and why, when asked to respond to the statement, "I have reached the breaking point on taxes", an amazing 72 percent of the American people agreed.

A related issue is the concern over the disappointingly low level of investment in research development in business formation, including venture capital, and in overall investment for plant modernization, expansion and elimination of bottlenecks. Among other things, the Steiger Capital Gains Amendment seeks to address these problems.

I agree with the principle that, generally speaking, when you tax something, you get less of it; if you subsidize something, you get more of it. In our country, we tax work and growth, investment and employment, savings and productivity. We subsidize nonwork and consumption, welfare and debt. Is it any great wonder, then, that our annual increases in productivity—less than 2%—are not only the lowest of, but far below, any industrialized nation in the world.

A rational tax policy must, therefore, also encourage and facilitate the growth of business capital, retained earnings and investment to achieve greater productivity and real growth. Which means more real jobs, and in the long run more real revenues to the government.

The strong sentiment for tax reduction, for Roth-Kemp, for Steiger, reflects the public's recognition of these fundamental problems and basic truths. In my judgment, the Congress will take these sentiments of the American people to heart this year and enact tax cut legislation that will effectively address these concerns.

In sum, if we are to make any progress in helping people who need help—if we are to build a better health care system—if we are to reform our welfare system—if we are to develop a more effective urban strategy—we will only be successful if our country is successful and if the people who pay the taxes, the wage earners and businesses, large

and small, have the incentive to work and produce.

I am equally concerned today about the quiet but constant erosion of another irreplaceable national resource, our tradition of volunteerism and its institutions.

One of the great distinguishing characteristics of the American people has been their willingness to come together voluntarily, in a spirit of caring and sharing, to do those things which they see must be done. It has given us libraries, art collections, historical societies and, yes, even $104 million hospitals. This voluntary spirit is as old as our nation. Today I fear it is in grave danger of being trampled and swept away.

Most Americans take our voluntary institutions and the good they do, for granted. But the fact is that the lifeblood of volunteerism, charitable contributions by individual Americans, is being drained away. If we look at the period of 1973–1975, we will see that 3½ million fewer taxpayers in our country chose to report making any charitable contributions. Nominally, charitable contributions appeared to rise during this same period by $1.6 billion, from $13.8 billion to $15.4 billion. In fact, however, inflation virtually turned this apparent gain into a nearly equal loss. In 1973 dollars, the $15.4 billion of 1975 was worth only $12.7 billion, or an actual loss in spending power of $1.1 billion compared to 1973. There is no evidence that this trend of shrinking support and involvement has in any way lessened.

This is why I introduced, in the fall of 1974, legislation to provide a 50-percent tax credit for religious and charitable contributions, and why Senators Packwood and Moynihan have introduced legislation to allow such contribution as an itemized dedution for all taxpayers—even if they take the standard deduction.

It may not be possible today to go as far toward relieving this hardship on the voluntary sector as I wanted to back in 1974. But at the very least, we must ensure that Middle Income Americans have an incentive to contribute to voluntary and charitable organizations if we expect to stimulate, not stifle, the interest of people in solving the problems of their neighborhoods, communities, or cities. I believe the American people can more often find better solutions than many of those we in government find in distant Harrisburg or Washington.

Where people have helped themselves, where innovation has been local in origin, as so much has been here in Pittsburgh with Station Square and the Mexican War Streets, with the Old Post Office Museum and Gateway Center, and now with this magnificent new wing of Allegheny General Hospital, all accomplished through private and voluntary efforts, we have seen the success of Americans as private citizens with a public interest. For people can reach where government cannot; people can do what government cannot; and people can bring to a task the heart and sensitivity that government cannot. This is not an argument against government and the responsibilities it must meet; it is, however, an argument for the realization that the problems of people are too important to be left to government alone.

Thank you for this opportunity to share these thoughts with you on this proud occasion.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar order Nos. 980 and 991.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SECURITIES EXCHANGE ACT AMENDMENTS

The Senate proceeded to consider the bill (H.R. 11567) to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–1981, and for other purposes, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended—

(1) by striking out "and" after "September 30, 1977," in the first sentence;

(2) by inserting before the period at the end of the first sentence a comma and the following: "$69,000,000 for the fiscal year ending September 30, 1979, and $79,000,000 for the fiscal year ending September 30, 1980"; and

(3) by striking out "fiscal year 1978" in the last sentence and inserting in lieu thereof "fiscal year 1980".

SEC. 2. Section 3(b) of the Securities Act of 1933 (15 U.S.C. 77c(b)) is amended by striking out "$1,500,000" and inserting in lieu thereof "$2,500,000".

● Mr. WILLIAMS. Mr. President, H.R. 11567 would provide authorizations for the Securities and Exchange Commission for fiscal years 1979–80. In addition, the bill would amend section 3(b) of the Securities Act of 1933 to increase the maximum aggregate amount of securities which can be issued pursuant to the exemption provided by that section to $2.5 million. This provision is designed to assist small businesses in raising and attracting investment capital at reasonable costs and with a minimum of red tape.

Mr. President, the Securities and Exchange Commission originally requested a 3-year budget authorization for fiscal years 1979–81. The amounts requested were $70 million, $80 million, and $91 million, respectively. The bill before us provides for a 2-year authorization, slightly below the Commission's requested levels.

As the committee report makes clear, the SE deserves these increased authorization levels. In addition to its traditional mandate, in recent years the Congress has passed laws imposing new and significant responsibilities upon the agency. The Securities Act Amendments of 1975 augmented the responsibilities and the powers of the SEC to facilitate a a national market system and a nationwide system for the efficient and economical clearance and settlement of securities transactions.

More recently, the Foreign Corrupt Practices Act, passed late last year, recognizes the Commission's role in ferreting out and prosecuting improper conduct by American companies in bribing foreign officials and confers upon the Commission significant new enforcement and regulatory duties. In still other areas, the Commission must come to grips with the serious issues it has identified in the organized trading of put and call options. And these are only a few illustrations of the enormous and expanding workload of the SEC.

I should point out to my colleagues that the bill contains provisions which were already passed by the Senate and partially enacted into law as part of Public Law 95–283. In the Senate bill which eventually became law, the committee proposed to increase the regulation A offering under the Securities Act to $2.5 million from $500,000. Unfortunately, the dollar amount was raised only to $1.5 million because of some opposition in the House.

While this is still an improvement, I continue to feel very strongly that the Senate should once again insist on its original position. Small businesses are in full support of this amendment, as is the SEC. By approving this high ceiling, we can build flexibility into the law to allow the SEC to use its discretionary authority to adjust the level of the small business offering exemption periodically based upon experience with inflation and the actual costs of raising capital.

This is far better, it seems to me, than permitting small businessmen to be victimized by the increased cost of doing business and raising capital until the Congress can act again. The history of the small business exemption is that Congress always reacts long after the fact. This has happened four times since 1933. We can avoid this, and remove some of the difficulties small businesses have experienced, by building a cushion into the law and allowing the SEC—the agency charged by the Congress with protecting public investors—to raise or lower the threshold as circumstances warrant.

Mr. President, the committee is unanimously in favor of this bill. I urge my colleagues to approve H.R. 11567.●

● Mr. TOWER. Mr. President, I am pleased to support H.R. 11567 as reported by the Senate Banking Committee. The bill would authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980 in amounts of $69 and $79 million, respectively. In addition, it would amend section 3(b) of the Securities Act of 1933 to increase the amount which may be sold in small offerings under that section from $1.5 to $2.5 million.

The authorization levels in the bill reflect the growing responsibilities of the SEC partially as a result of the Securities Acts Amendments of 1975. The Commission's role in implementing those amendments will require it to devote increasing time and effort to its responsibilities, particularly with respect to the development of the national market system.

The committee decided to approve a 2-year authorization for the SEC, in order to enable it to plan for and anticipate funding levels through fiscal year 1980. The committee's willingness to do so was based in large measure upon the effort which the Commission devoted in preparing and submitting a budget authorization request and a budget estimate which explained in detail the priorities of the Commission.

I am particularly pleased that the committee has approved the increase in the ceiling for small offerings. This increase is an important recommendation made in "The Study of Small Business" of the Small Business Administration, a study completed in June 1977. The study grew out of legislation that I introduced

in 1975 to authorize a major study of small business in America.

The principal "small offering" vehicle utilized is that provided by regulation A, the standard form established by the Securities and Exchange Commission. Regulation A is presently subject to a ceiling of $500,000; offerings of a larger amount must go through the process of full registration under the Securities Act. In recent years, partially because of this low ceiling, the use of regulation A has diminished almost to the point of extinction. In 1972, for example, 650 offerings were sold through the regulation A exemption, with total proceeds of approximately $256 million. By 1977, the number of offerings had declined to 124, and only $46 million was raised.

Demand for outside financing by businesses generally has increased greatly in the past few years, while at the same time the supply of capital for equity financing has diminished dramatically. In 1969, 1972 new equity issues were brought into the securities markets; in 1977, there were only 244 such issues. Companies with a net worth of less than $5 million sold $48 new equity issues in 1969, and derived almost $1.5 billion from the offerings. In 1975, however, only 4 new equity issues were offered, yielding about $16 million.

Companies using the regulation A exemption are generally small businesses, and the costs of having to go through the full registration process with the SEC are simply too high in many cases. In short, it is fair to say that many small businesses unable to raise funds through regulation A are effectively foreclosed from access to the public securities markets.

At the same time, these same companies may be unable to take advantage of the private placement and venture capital markets. I understand that small offerings in these markets are becoming more and more rare for a variety of reasons, including the tendency toward greater institutional dominance of securities investing, pressures leading to greater reliance upon debt financing rather than equity financing, and the decline in the number of strong small and regional brokerage firms which are often most attuned to the needs of small businesses.

These factors acting together have had a substantial adverse effect upon the abilities of small businesses to raise equity capital. That fact alone is disturbing; however, when considered in light of the contributions made to the economy by small businesses, including improved technology and growth in employment and competition, the implications of such a trend become even more alarming.

While increase in the statutory ceiling of the "small offering" exemption alone is not going to solve the capital formation problems of small businesses, it does represent a significant step in the direction of relief for some small businesses.

Coupled with other steps, such as enactment of a meaningful reduction in capital gains taxation rates and other needed steps to increase the potential rewards available to investors willing to take risks, this increase can address forcefully and directly some of the needs of small businesses.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1057), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

BACKGROUND AND NEED FOR THE LEGISLATION

Section 1 of the bill would amend section 35 of the Securities Exchange Act of 1934 (the Exchange Act) to provide the Commission with authorizations of $69 million in fiscal year 1979 and $79 million in fiscal year 1980.

Prior to 1975, appropriations for the Securities and Exchange Commission were based on open-ended budget authorizations contained in the Exchange Act. The specific sum was determined by the size of the Commission's annual appropriation. However, the Securities Acts Amendments of 1975 amended the Exchange Act to authorize a specific level of appropriations for the SEC in fiscal years 1976 and 1977 and required additional authorizations in subsequent years.

For fiscal year 1978, the Commission submitted legislation to the Congress providing for a multiyear budget authorization of $64 million in fiscal year 1978, $70 million in fiscal year 1979, and $75 million in fiscal year 1980. Because of its concern over the quality and quantity of information provided by the SEC in justification of its requested authorization levels, the committee approved only a single year authorization. The following passage from the committee report captures the committee's dissatisfaction with and recommendations for the Commission's future budget presentations (S. Rept. 95–182):

"Based upon this experience, the committee encourages and expects the Commission to upgrade the quality and informational content of its budget submissions in the future. If the committee is to exercise its substantive oversight functions and set authorization limits for this important agency of Government, it must receive better and more detailed information from the Commission. In the same vein, the Commission should prepare its budget submission and estimate its financial requirements in coordination with its planned priorities and projected needs. Such planning will result in maximum advantage to the Commission in terms of both charting its future course and using its resources most efficiently and effectively.

The committee is generally pleased that the Commission has responded for this and future fiscal years by vastly improving the informational and analytical content of the documents it submitted to the Congress concerning its budget requirements and future plans. According to the testimony of SEC Chairman Williams, the SEC engaged in comprehensive and detailed budget planning. The Commission produced for the appropriate committees of the Congress two informative and useful documents—a budget authorization request and a budget estimate. For the first time, the Commission prepared information which both provides and permits detailed analysis of every aspect of the Commission's activities and resource requirements. By setting out its program goals and long range objectives, the Commission has greatly assisted the committee. At the same time, the committee believes the Commission has benefited significantly from the exercise in terms of being better able to chart its own future course and apply its resources to maximum advantage and efficiency.

The SEC has once again requested a multiyear authorization. But unlike previous requests to which the committee was not receptive, this year the SEC has made a strong and well-documented case. In addition, the SEC pointed out that its single year authorization makes it somewhat unique among the independent regulatory agencies. There are 10: six are presently funded on the basis of standing budget authorization—the Civil Aeronautics Board, Federal Communications Commission, Federal Maritime Commission, Federal Power Commission, Federal Trade Commission, and Interstate Commerce Commission. Of the four remaining agencies with definite or fixed budget authorizations, only the Securities and Exchange Commission and the Nuclear Regulatory Commission are authorized appropriations on a single-year basis. The other two agencies, the Commodity Futures Trading Commission and the Consumer Product Safety Commission, have been granted budget authority for a 3-year period. The committee is aware of no reason to single out the SEC for annual authorizations which can be time-consuming for both the committee and the Commission.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979 and 1980, and for other purposes.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DISAPPROVAL OF DEFERRAL OF BUDGET AUTHORITY FOR THE GARRISON DIVERSION UNIT, BUREAU OF RECLAMATION

The resolution (S. Res. 525) disapproving the proposed deferral of budget authority for the Garrison diversion unit, Bureau of Reclamation, Department of the Interior, was considered and agreed to, as follows:

Resolved, That the Senate disapproves the proposed deferral of budget authority (deferral numbered D78–63) for the Garrison diversion unit, Pick-Sloan Missouri Basin program, Bureau of Reclamation, Department of the Interior, as set forth in the message of May 12, 1978, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. YOUNG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. YOUNG. Mr. President, on behalf of my colleague, Senator BURDICK, and myself, I ask unanimous consent to have printed in the RECORD a copy of the committee report on the resolution of disapproval. This report gives the reason why the administration was opposed to it and the committee response for approval. I ask unanimous consent on behalf of both of us that the report be printed.

Approval of this resolution will require the administration to continue construction on a project North Dakota has been seeking since statehood, one on which the Federal Government has al-

ready spent $170 million. The Interior Department estimates that if the project were discontinued, it would cost an additional $93 million to restore the environment of North Dakota to what it was before the features of Garrison diversion built thus far had been built.

Mr. President, with the addition of the language to the report relating to consultations with Canada, our State Department has advised me that it no longer objects to the resolution.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1068), explaining the purposes of the measure.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PRESIDENTIAL RATIONALE FOR PROPOSED DEFERRAL

The amount deferred was provided in an appropriation of $18,660,000 in the Public Works for Water and Power Development and Energy Research Appropriation Act, 1978 (Public Law 95-96). These funds are for continued construction of facilities of the Garrison Diversion Unit project in North Dakota. Funds are being deferred pending the completion and evaluation of project studies which have been necessitated for the following reasons:

(1) Department of State assurances to the Canadian Government that construction of project features which may be in violation of the Boundary Waters Treaty of 1909 would not begin until after a report on the project by the International Joint Commission (IJC) was received by the two Governments and subsequent consultations were held. The IJC report was completed in September 1977 and consultations are being arranged, but have not taken place.

(2) In May of 1977, the Secretary of the Interior and the Audubon Society entered into an agreement, in connection with Civil Action No. 76-0943 brought by the Audubon Society against the Secretary of the Interior, to cease activity on the project pending the completion of a supplementary environmental impact statement and reconsideration of the project by the Congress. The court approved the agreement (stipulation and order) and the deferral will remain in effect until these and environmental problems are resolved.

COMMITTEE RECOMMENDATION

The Committee recommends that the proposed deferral be overturned.

In approving Senate Resolution 525, its sponsors and the Committee agree that construction of the Garrison Diversion Unit should only be on that part of the project where the return flows are to the Missouri River and Tributaries Basin. This would be in accord with the findings of the International Joint Commission as contained in its Report entitled "Transboundary Implications of the Garrison Diversion Unit," which has been filed with both the Canadian and United States Governments. One of its recommendations was:

". . . the Commission further believe all the outlet works from the reservoirs should be relocated so they discharge only into the Missouri River Basin. Moreover, to prevent inadvertent transfers of biota, fishing in Lonetree Reservoir should be forbidden. These actions would reduce the likelihood of the introduction of foreign biota into the waters of the Hudson Bay Drainage Basin.

"The Commission concludes that Lonetree Reservoir and its dams could be constructed without an unacceptable risk to Canada if all outlet works from the reservoir are located so as to discharge only into the Missouri River Basin and if fishing in the reservoir is forbidden."

Thus, proceeding with construction of this project would be in compliance with the recommendations of the International Joint Commission.

The Committee intends that none of the funds mandated for expenditure by this resolution should be expended in ways inconsistent with the obligations and undertakings of the United States Government to Canada. The Committee understands that the United States has undertaken to consult with the Government of Canada on the potential transboundary impacts of the project before certain aspects of the project potentially affecting Canada are initiated. It is the sense of this Committee that those consultations should be completed not later than the end of calendar year 1979 in order that this important project may not be unduly delayed.

The proposal of irrigating land in eastern North Dakota with water from the Missouri River was first brought to the attention of Congress in 1889, and since 1938 there have been continuous appropriations to pursue this purpose. Beginning with the construction of Garrison Dam, which was authorized in 1944, the people of North Dakota finally believed that their dream would come true.

Approximately 466,000 acres of rich, agricultural bottom lands were taken by the United States to construct and operate the Garrison Dam and Reservoir. An additional 100,000 acres were given up by the people of North Dakota to the Oahe Dam and Reservoir. This total and final sacrifice of these land resources was made to provide the flood control, navigation, hydroelectric power, and dependable water supplies for downstream and other needs as they are served by these reservoirs. The downstream benefits have been enjoyed for more than 20 years. In return, the people of North Dakota were promised diversion of Missouri River water into eastern North Dakota.

The project was first authorized with one million acres proposed for irrigation by the Pick-Sloan Missouri Basin Plan in the Flood Control Act of 1944, and reauthorized in 1965 (the present authorization) with 250,000 acres authorized for irrigation. And while the primary project purpose has been irrigated, the committee notes the compelling need now for municipal an industrial water also. Over 32 cities, towns, and communities have requested water from the project. The project has been under construction for 10 years and Federal expenditures now exceed $170 million.

If the project were to be discontinued or abandoned, the Department of Interior estimates it would require approximately $93 million in additional funds to restore the environment of the State of North Dakota to the condition which existed prior to the construction of the features of Garrison Diversion which have been built to date. In recommending the appropriation of $18,660,000 for the Garrison Project for fiscal year 1978, the Committee carefully reviewed the President's revised budget request of $15,260,000 and determined that the proposed revisions were not warranted. The Committee was at that time fully aware of the extensive litigation which had taken place on the Garrison Diversion Project, including the decision by the U.S. Court of Appeals for the Eighth Circuit Court affirming the decision of the Federal District Court in Bismarck, N. Dak., that the Environmental Impact Statement on the Garrison Diversion Unit had been prepared in good faith and had complied with the National Environmental Policy Act. The Committee was also fully aware of pending litigation in the Federal District Court in the District of Columbia, which litigation is still pending.

In the course of hearings on the fiscal 1979 Public Works for Water and Power Development and Energy Research Appropriations bill, the Committee has developed a voluminous file and record on this project. The Committee believes that construction of the project should go forward. As has previously been stated, the sponsors of this resolution and the Committee agree that these funds could only be spent on that part of the Garrison Diversion Unit where the return flows were only to the Missouri River and Tributaries Basin and in ways which are consistent with the obligations and undertakings of the United States Government to Canada. Thus, any construction would be in compliance with the recommendations of the International Joint Commission.

VIEWS OF THE COMMITTEE ON THE BUDGET

On Senate Resolution 525, a deferral resolution disapproving a proposed deferral of $17.7 million in budget authority for the Garrison diversion unit project in North Dakota.

The Senate Committee on the Budget, to which was referred Senate Resolution 525, disapproving the proposed deferral of budget authority numbered D78-63, as set forth in the President's special message transmitted to the Congress under section 1013 of the Impoundment Control Act of 1974, having considered the same, reports as follows:

The matter contained in Senate Resolution 525 does not appear to have significant macroeconomic effects, nor does it significantly affect budget priorities or aggregate spending levels. The Committee therefore has no recommendation on this resolution.

Mr. ROBERT C. BYRD. Mr. President, on July 25, Senate Resolution 525 was introduced by the distinguished Senators from North Dakota, Mr. YOUNG and Mr. BURDICK, and referred to the Appropriations Committee. On August 7, the Appropriations Committee, having obtained the views of the Budget Committee, reported favorably on the resolution. The views of the Budget Committee were in concurrence with this recommendation.

The resolution offered by Senators YOUNG and BURDICK disapproved the proposed deferral of $17.7 million in budget authority for the Garrison Diversion Project in North Dakota. Pursuant to title X of the Impoundment Control Act of 1974, the President, on May 12, transmitted to the Congress a proposal that the expenditure of these funds, previously appropriated for the Bureau of Reclamation within the Department of Interior, be deferred.

Mr. President, on November 2, 1889, North Dakota joined the Union. During the past 89 years, that State has sent great representatives to Washington—among them, Senator YOUNG, who has served North Dakota in the Senate since 1945, and Senator BURDICK, who has worked for North Dakota in the Senate since 1960.

Since 1889, the leaders and the people of North Dakota have come before the Congress to express the need to divert the waters of the Missouri River to the eastern portions of their State. Over the years, much attention and study has been devoted to the project. Since 1938, Federal funds have been appropriated to pursue this purpose. In 1944, the Pick-Sloan Missouri Basin plan of the Flood Control Act authorized the Garrison Diversion Irrigation Project. The project was reauthorized in 1965. It has been under construction for 10 years and Federal expenditures now exceed $170 million.

All but two of the project's major features have been completed. One of these

is the 76-mile-long major supply canal, which is near completion. The other is the Snake Creek Pumping Station which would pump water from Garrison Reservoir to a higher elevation in order to permit gravity flow of water to the Lonetree Reservoir. Land for the Lonetree Reservoir has already been acquired, and some construction has begun.

In his message to the Congress concerning the proposed deferral of certain budget authority for the Garrison unit project, the President pointed out that construction of certain features—such as the Lonetree Reservoir—could possibly be in violation of the Boundary Waters Treaty of 1909 between the United States and Canada. The sponsors of Senate Resolution 525, Senators BURDICK and YOUNG, worked with the members of the Appropriations Committee and fashioned an agreement to provide that construction of the Garrison diversion unit should only be on that part of the project where the return flows are to the Missouri River and tributaries basin. This agreement, as explained in the Appropriations Committee report on the resolution, is in accord with the findings of the International Joint Commission. The Appropriations Committee stated its clear intention that work should proceed in a manner consistent with the treaty obligations of the U.S. Government and Canada. In order to assure that the project not be unduly delayed, the committee has urged that consultations between Canada and the United States on the matter be completed no later than the end of calendar year 1979.

Mr. President, I strongly support Senators BURDICK and YOUNG in their intentions to see the completion of this important project. It is important for irrigation purposes, and for the provision of municipal and industrial water. More than 32 cities, towns and communities have already requested water from the project.

The people of North Dakota are fortunate in having, in Senators BURDICK and YOUNG, two great Senators who have brought their case before the Senate. The Garrison diversion project is a good project which the Congress has agreed repeatedly should go forward. I hope that now, with adoption of Senate Resolution 525, that work will be speedily completed.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Myrene Glasmann, of my whip office, have the privilege of the floor today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the debate and votes on the bill before the Senate: Danny Boggs, Dave Swanson, Fred Coatt, Peggy Kimbrough, Carol Sacchi, and Nolan McKean.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1979

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3443

The ACTING PRESIDENT pro tempore. The pending question is on the amendment of the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of my amendment to H.R. 12932: Rick Richard, Ben Cooper, Jim Bruce, Laure Hudson, and Richard Grundy.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the bill before the Senate provides appropriations to support the operation of the crude oil entitlements program by the Department of Energy. I am offering an amendment which will, in a specific way, limit the use of these funds in the administration of this program.

The ultimate power of Congress to control the President's interpretation of the policies embodied in existing laws lies in control of the funds required to execute these policies. In my opinion, the administration is using the entitlements program to shift vast amounts of the consumer's money around in the domestic economy to the benefit of those it seeks to please. In my opinion, this is a glaring example of abuse of congressional authority. It is entirely appropriate for Congress to check such abuses through the denial of funds for actions contrary to the spirit and intent of the law.

Mr. President. My amendment would forbid the use of funds appropriated under this act to implement an increase in the existing entitlement subsidy for imports of residual fuel oil and refined petroleum products. The amendment is a specific limitation on the use of funds and will not require any interpretation or determination by anyone in the Department of Energy. The program for issuance of entitlements is an established one, described in the Code of Federal Regulations (10 CFR 211.67). Enactment of this amendment will place a sorely needed limit on the administration of this program.

The amendment complements a more general policy on refined products imports adopted by the Senate Committee on Energy and Natural Resources earlier this year by a vote of 17 to 1. The action by the Energy and Natural Resources Committee is incorporated in S. 2692, the fiscal 1979 authorizing legislation for the Department. However, as most of you know, Senate floor action on the authorization bill has been delayed by the continuing controversy over the President's energy plan. This fact makes it all the more necessary that the Senate have an opportunity to state its position on refined product import subsidies in the context of the appropriations process.

Let me briefly describe the issue. The existence of the crude oil entitlements program is a direct consequence of the existence of price controls on domestic crude oil production. This program equalizes crude oil costs among domestic refiners, so that refiners dependent on high-cost imported oil are able to maintain operations in competition with refiners (mostly major oil companies) with access to price-controlled domestic crude oil. Without this program, a substantial portion of our domestic refining capacity would be totally unable to compete, for no other reason than the high crude oil costs they would face, while other refiners would reap unwarranted windfall gains.

Domestic production of gasoline, heating oil, residual fuel and other refined petroleum products would be severely curtailed, and our imports of these products would be far higher than they are today.

The program involves transfers of funds, at the rate of $200 million per month—that is the existing law—among domestic refiners, all of whom are subject to Federal regulation. It is a complex program when restricted to domestic refiners, but one that could be quickly phased out in concert with any phaseout of domestic crude oil price controls.

The Department of Energy, and earlier, the Federal Energy Administration, under heavy pressure from the east coast congressional delegations, has proposed to dip into the pool of funds generated by the crude oil entitlements program to subsidize imports into the east coast of residual fuel oil and home heating oil processed in foreign refineries outside the reach of Federal regulation. Since April 1976, importers of residual fuel oil have received a 30-percent entitlement subsidy. At present, no entitlements are issued to importers of home heating oil, although full subsidy was granted on a temporary basis in 1977.

On June 15, the Department of Energy issued a proposed rule which would increase the entitlement subsidy for residual fuel imports from the present 30-percent value to 100 percent. This increased access to the entitlements pool would be available to importers on the U.S. east coast and in the State of Michigan.

The east coast is seeking lower prices, and for that they cannot be blamed. However, this would be achieved by transferring funds from consumers of petroleum in States outside the east coast—and from gasoline and heating oil consumers on the east coast—to residual fuel importers. That is, refiners costs of operation will be increased by the amount of the subsidy to residual fuel importers. These costs will be passed directly on to consumers. Or, to state it another way, when you lower the price of resid on the east coast, you raise the price of all petroleum products elsewhere across the country.

Mr. President, I ask unanimous consent that tables sharing the State-by-State impact of these transfers submitted to the Committee on Energy and Natural Resources by the Department of Energy be printed at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. JOHNSTON. These tables show the impact of the proposed rule on gasoline, distillate, and residual fuel production only. They indicate that additional amounts of approximately $400 million annually will be transferred to importers of residual fuel oil. Of this, over $250 million will come from consumers of petroleum products in States outside the east coast and about $150 million will be charged to east coast and Michigan users of gasoline and heating oil. Ironically, the States of Michigan, Georgia, and Vermont, who are supposed to be recipients of benefits under the proposal, would actually lose funds if it were adopted, because gasoline and distillate fuel costs would rise by an amount which is greater than the subsidy to residual fuel in these States.

The DOE proposal is a prime example of administrative abuse of the very general authority granted under the Emergency Petroleum Allocation Act.

The action of the administration will clearly encourage additional imports of residual fuel oil. What it would do is subsidize imports of resid. The bulk of these imports will come from Caribbean refiners owned by major international oil companies. Increased imports mean increased dependence on unreliable foreign sources of supply. It means an increased deficit in our balance of payments and attendent pressure on the dollar abroad.

The proposal invites the kind of divisive, interregional conflict over energy policy which has been so destructive of efforts to achieve a reasonable, national energy policy.

The proposal further complicates the entitlements program—by creating a vested interest by these new proposed beneficiaries in its continuation. This only pushes the day further into the future when this overly burdensome, insensitive, and ineffective regulatory machinery can be dismantled.

There is no guarantee that the subsidy will in fact work to actually lower consumer prices.

It is entirely likely that foreign refiners being free of any regulation from the United States, will simply raise their prices and capture all or part of the subsidy. That is precisely what happened when the 30-percent entitlement was implemented in 1976. Indeed, that change in the regulation was scarcely in effect before resid fuel prices began a sharp increase.

Let me repeat that.

When the very same thing was done in 1976 and the first 30-percent entitlement was given, resid prices immediately went up to take advantage of the 30 percent. So, in effect, what we did in 1976 and what DOE proposes to do today is subsidize the foreign refiners in the Caribbean at the expense of domestic refiners.

It is no wonder that we are 3 million barrels a day short in refining capacity.

What is even more discouraging about the DOE plan is the fact that the Department apparently expects the extreme dependence of the east coast on residual fuel imports to continue forever. Surely explicit, encouragement of residual fuel imports must send the worst possible signals to domestic refiners seeking to expand our own capacity to meet our refined petroleum product needs. There is no justification for encouragement of construction of foreign refining capacity to serve U.S. markets.

Mr. President, the Senate simply ought not to tolerate the uses that DOE is making of the entitlements program. It was never intended that a $200 million a month slush fund be created to reward the President's friends and punish his enemies. My amendment will check what is perhaps the most overt use of the program for purposes which are counterproductive of national policy. I hope it will discourage any future abuse.

The east coast's problems with import dependence must find their solution in increased domestic production of residual fuel oil. Such a policy is in the interest of the east coast and it is in the interest of the country as a whole. It is in this direction that the DOE should be directing its efforts, rather than attempting to solve short-term political problems with continual adjustments to an already overly complex regulatory scheme.

Mr. President, having made that rather strong indictment of what the President proposes to do with 100 percent entitlements, I think it is appropriate that I explain the reason why I was willing to compromise this matter on yesterday and indeed if the Senate would consent why I would still be willing to do that.

A compromise in this case, Mr. President, is not made or offered or considered because it is partly right or because there is justice or equity or good policy in what the administration proposes to do. Rather it is in recognition of the fact that we are in the midst of August and by the end of September will undoubtedly adjourn the Senate. This 100 percent entitlement is strongly supported by the administration, by the Speaker of the House of Representatives, and by a large number of Representatives in the House, and I think it is fair to say that there are always difficulties in getting an amendment passed all the way through the process, through the House of Representatives, through the Rules Committee, through the floor of the House, and through a conference committee, this late in the year.

For that reason I thought that giving two-sevenths of what the rulemaking would do, in other words, get a five-sevenths victory and a two-sevenths loss made pretty good sense as a compromise.

I still say this amendment was the proper thing. I brought it up in the Energy Committee and it passed by 17 to 1. I believe we can pass it here on the floor of the Senate. I still maintain that a compromise is the best thing.

Let me say, Mr. President, we recognize that costs of residual on the east coast when paid in the midst of a cold winter, as we have had in the last two winters, constitute an expense. But there has been no study to show that the expense of fuel from all sources on the east coast is any greater than the expense of fuel elsewhere. No attempt has been made, for example, to compare the cost of heating in Maine with the cost of heating and air-conditioning in Alabama.

Until that kind of relative study is done, there is no justification for this massive transfer of funds, $400 million a year, from the consumers of one type of petroleum product to the consumers of others.

I am pleased to say for Boston that its costs of gasoline are some 5 cents a gallon less than they are in New Orleans. Why that should be I have not the slightest idea, with the refining capacity being located close to New Orleans. But that is the fact.

Residual fuel oil costs less on the east coast than it does, for example, in California. So the point is there has been no study, no justification made, as to why this amendment should not pass.

Mr. President, I hope that the Senate will pass this amendment.

EXHIBIT 1

TABLE VIII.—IMPACT OF PROPOSED EAST COAST RESIDUAL FUEL OIL PROGRAM ON IMPORT-DEPENDENT STATES

[Dollar amounts in thousands]

State	Gasoline (1,000 gal)	Gasoline cost	Distillate (MBY)	Distillate cost	Residual (MBY)	Residual benefit (MBY)	Total Net effect
Connecticut	1,419,530	$3,264	23,706	$2,276	33,365	21,867	$16,147
Delaware	315,483	726	4,615	443	11,132	7,236	6,067
Florida	4,507,541	10,367	26,068	2,407	91,241	59,307	46,533
Georgia	2,913,600	6,701	21,480	2,062	13,409	8,716	(47)
Maine	567,427	1,305	13,407	1,287	11,616	7,550	4,958
Maryland-District of Columbia	2,149,542	4,944	24,352	2,338	33,332	21,666	14,384
Massachusetts	2,398,788	5,517	61,666	5,920	80,888	52,577	41,140
Michigan	4,861,759	11,182	43,964	4,221	20,939	9,565	(5,838)
New Hampshire	425,791	979	8,758	841	6,039	3,925	2,105
New Jersey	3,397,404	7,814	61,787	5,932	58,606	38,094	24,348
New York	6,200,477	14,261	115,237	11,063	157,812	102,578	77,254
North Carolina	3,012,863	6,929	24,081	2,312	9,667	6,283	2,958
Pennsylvania	4,828,457	11,105	74,691	7,170	53,159	34,553	16,278
Rhode Island	377,254	868	8,478	814	4,431	2,880	1,198
South Carolina	1,599,507	3,679	10,218	981	8,501	5,526	866
Vermont	252,284	580	5,394	518	1,285	(123)	(1,221)
Virginia	2,622,471	6,124	25,339	2,433	40,108	26,070	17,513

TABLE IX.—IMPACT OF PROPOSED EAST COAST RESIDUAL FUEL OIL PROGRAM ON NON-IMPORT-DEPENDENT STATES

States ineligible for subsidy	Gasoline consumption (1,000 gal)	Increase in gasoline cost	Distillate consumption (1,000 bbl)	Increase in distillate cost	Residual consumption (1,000 bbl)	Increase in residual cost	Total increase in cost
Alabama	2,028,878	$4,637,435	18,032	$1,731,072	13,984	$1,342,464	$7,710,971
Alaska	214,140	489,463	9,533	915,168	1,242	119,232	1,523,863
Arizona	1,250,911	2,859,225	10,181	977,376	3,908	375,168	4,211,769
Arkansas	1,256,990	2,873,120	10,078	967,488	13,091	1,256,736	5,097,344
California	10,747,682	24,566,129	45,929	4,409,184	135,880	13,044,480	42,019,793
Colorado	1,412,653	3,228,921	9,508	912,768	3,503	336,288	4,477,977
Hawaii	303,936	694,482	2,070	198,720	11,878	1,140,288	2,033,490
Idaho	520,640	1,190,034	7,346	705,216	703	67,488	1,962,738
Illinois	5,354,304	12,238,408	58,877	5,652,192	24,459	2,348,064	20,238,664
Indiana	2,784,248	6,363,995	36,113	3,466,848	19,688	1,890,048	11,720,891
Iowa	1,786,727	4,083,947	15,255	1,464,480	588	56,448	5,604,875
Kansas	1,468,769	3,357,186	11,986	1,150,656	6,296	604,416	5,112,258
Kentucky	1,840,476	4,206,802	13,666	1,311,936	2,226	213,696	5,732,434
Louisiana	1,991,422	4,551,822	22,774	2,186,304	38,191	3,666,336	10,404,462
Minnesota	2,151,041	4,916,665	27,513	2,641,248	5,140	493,440	8,051,353
Mississippi	1,245,753	2,847,435	13,713	1,316,448	13,380	1,284,480	5,448,363
Missouri	2,802,102	6,404,804	19,525	1,874,400	3,548	340,608	8,619,812
Montana	499,879	1,142,580	8,383	804,768	2,549	244,704	2,192,052
Nebraska	939,870	2,148,274	10,176	976,896	1,639	157,344	3,282,514
Nevada	434,031	992,071	2,715	260,640	649	62,304	1,315,015
New Mexico	760,885	1,739,166	8,022	770,112	1,582	151,872	2,661,150
North Dakota	452,728	1,034,807	4,061	389,856	1,245	119,520	1,544,183
Ohio	5,273,960	12,054,765	51,519	4,945,824	12,041	1,155,936	18,156,525
Oklahoma	1,832,255	4,188,011	11,771	1,130,016	687	65,952	5,383,979
Oregon	1,297,687	2,966,142	14,022	1,346,112	3,806	365,376	4,677,630
South Dakota	473,672	1,082,679	3,311	317,856	199	19,104	1,419,639
Tennessee	2,408,466	5,505,065	21,449	2,059,104	1,385	132,960	7,697,129
Texas	8,007,765	18,303,462	59,355	5,698,080	45,502	4,368,192	28,369,734
Utah	680,027	1,554,347	8,367	803,232	5,167	496,032	2,853,611
Washington	1,852,140	4,233,463	18,345	1,761,120	7,875	756,000	6,750,583
West Virginia	870,652	1,989,833	6,807	653,472	2,646	254,016	2,897,321
Wisconsin	2,299,086	5,255,054	30,266	2,905,536	2,027	194,592	8,355,182
Wyoming	343,229	784,523	8,020	769,920	2,914	279,744	1,834,187

Mr. JOHNSTON. At this point, Mr. President, I ask unanimous consent that the testimony of Senator LLOYD BENTSEN and James A. O'Neill, Jr., both of whom testified before the Committee on Energy and Natural Resources, and a table showing gasoline prices in selected cities be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR LLOYD BENTSEN

Mr. Chairman, I appreciate this opportunity to testify on the Department of Energy's proposal to increase the entitlement subsidy for imported residual fuel oil. When the entitlements program was adopted in 1974, its purpose was to eliminate the competitive disadvantage of refineries which rely on imported oil at world market prices. The program was intended for a single purpose: To evenly distribute the higher costs of imported crude so that no refiners would derive unfair economic benefits simply because they had the good fortune to be supplied with domestic crude at artificially low prices.

Since then, we have further complicated an already complicated program by repeatedly using the entitlements mechanism to achieve purposes for which it was never intended. It has become a Rube Goldberg contraption; one that is troublesome to both the public and private groups that have become entangled in its bureaucratic tentacles.

Now the Department of Energy wants to use the Entitlements Program to increase subsidies for imported residual fuel oil on the East Coast. I appreciate their desire to lower energy costs but must strongly object to this effort to cut East Coast energy bills at the expense of every other region.

Eastern states are not alone in experiencing rapidly rising residential energy costs. For example, since 1967, electric utility rates have increased by 72 percent in Boston, Mass., and 88 percent in Houston, Texas. According to the Bureau of Labor Statistics, the retail price index for all energy has gone up by 205 percent in Boston compared to 207 percent in Houston. A comparison of residual fuel oil costs reveals that prices on the East Coast are often no greater than those for the same quality fuel in many other regions of the country.

I am concerned because increased entitlements for residual fuel oil will eventually be paid for by consumers of other refined petroleum products—especially gasoline. Because Texans travel greater than average distances to reach their places of employment and commerce, they stand to be the big losers in this program. I am told that in one year alone, Texas gasoline costs could increase by as much as $18 million. The total cost of the increased subsidy will come to as much as $624 million nationwide. I simply cannot understand why consumers in one part of the country should be asked to chip in to help pay their neighbors' energy bills when their neighbors' bills are no more costly than their own.

Futhermore, I am not convinced the increased subsidy will ever be seen by East Coast consumers. In 1976, DOE approved a 30 percent entitlement which they expected to show up in reduced residential fuel bills. A Library of Congress study reveals that prices initially dropped, but by less than the entitlement subsidy, and soon began to rise again with the approach of winter. In fact, residual prices increased by $3.00 per barrel during a period when world crude prices rose by less than $1.00 per barrel. These prices never returned to the lower levels experienced immediately following the granting of the new subsidy. The Library of Congress concluded, "The ultimate result was a diminution of competition from refiners which allowed prices to *rise*."

The numbers clearly show that the entitlements program failed misarably as a device for lowering residential energy costs. But where did this subsidy go if consumers didn't get it? There are two possibilities: the foreign refiner or the importer. By increasing the subsidy from a 30 percent to a 100 percent entitlement, we can expect the same thing to happen, only on a grander scale.

What I fail to understand is why DOE wants to further subsidize foreign refiners at a time when the United States desperately needs to increase its own refining capacity. It is an unfortunate fact of life that for the immediate future we must continue to be dependent on foreign sources of energy. But there is no justification for our continued dependence on foreign refiners. We are currently short nearly 3 million barrels per day of refining capacity, and are the only major industrialized nation which cannot supply its own refining needs. In fact, I understand the Department of Energy is concerned that in case of national emergency, it will be necessary to rely on foreign refiners to help process oil from the Strategic Petroleum Reserves. By increasing the subsidy for foreign refiners, we will act against our own self interest by erecting one more barrier to the development of our domestic refining capabilities.

Furthermore, we will be acting at cross purposes to our stated goal of energy independence. Instead of making it more difficult to use imported fuel, the DOE proposal would provide an incentive for the consumption of foreign petroleum products, and would do so at a time when our balance of payments deficit is dangerously high.

Mr. Chairman, on numerous occasions, this Committee has demonstrated its concern with the problems I have discussed, and I want to commend you in particular for your overwhelming opposition to the proposed increase in the residual fuel oil subsidy. Instead of the DOE program, what we need is a plan to reduce our unhealthy reliance on foreign refiners. Ideally, fuel oil used on the East Coast should be produced by domestic refiners, not those located on foreign shores. To accomplish this, we must encourage the construction of more refineries, and the conversion of existing plants to handle heavy and sour crudes from Alaska and California.

I want to help lower energy costs as much as anyone, but I believe the Senate should address such problems with the best interest of the nation foremost in mind. As individual Members of Congress, we are expected to—and should—fight for programs that benefit our constituents. But as a body, it is the responsibility of Congress to see beyond sectional differences and forge policies that will work for the good of the whole country, not just one region.

TESTIMONY OF JAMES A. O'NEILL, JR.

Mr. Chairman and Members of the Subcommittee:

International Processors is grateful for the opportunity to present its views to the Subcommittee on Energy Conservation and Reg-

ulation of the Senate Committee on Energy and Natural Resources. We commend the Committee for its continued efforts to review and constructively criticize the entitlements program and to examine the broader perspective concerning this country's lack of sufficient refinery capacity and urgent need for a clear national refining policy. These are issues of grave concern to our company and to the nation as a whole.

International Processors is a 50–50 partnership between Ingram Corporation and International Matex Tank Terminals, both of New Orleans, Louisiana. International Processors has recently begun construction of a 30,000 barrel per day grass roots refinery at St. Rose, Louisiana. When the plant commences operations in the first quarter of 1979, a substantial portion of its output will be residual fuel.

In 1976, the Department of Energy promulgated regulations which granted partial entitlement benefits to qualified East Coast importers of foreign refined residual fuel. In addition, the program, which remains in effect today, penalized all shipments of domestically refined residual fuel to the East Coast above 5,000 barrels per day. DOE has long since recognized that this program has had a disastrous effect upon the competitive balance between onshore and offshore refiners, as well as upon the East Coast and Gulf Coast markets. Appropriately, DOE is seeking to change the program currently in effect.

The program which DOE has proposed, however, is equally disastrous. The proposal to remove the "reverse entitlement" penalty and extend product entitlements to 100 percent would effectively subsidize foreign refineries at the expense of domestic refiners, workers and consumers. The promulgation of the current proposal would result in a number of undesirable effects, as outlined below.

1. Increased Imports of Refined Products:

DOE's proposal, if implemented, would encourage the importation of increased volumes of residual fuel. Since the implementation of the current DOE program, more and more residual fuel has remained in the Gulf Coast rather than moving to the East Coast where it is needed most. To the extent that residual has continued to move to the East Coast, it has been through the 5,000 BPD "window" that does not incur the reverse entitlement penalty. Whereas under the current program, such residual fuel movements are essentially competitive with foreign supplies, under the new proposal, no such window would exist. Therefore, all Gulf Coast residual fuel would be severely disadvantaged vis-a-vis Caribbean residual fuel, and less and less Gulf Coast residual fuel would move to the East Coast, in turn requiring greater and greater amounts of imports.

Presumably, it is the goal of the United States to foster energy independence. If this be the case, then actions should be considered which would decrease product imports rather than increase them. Moreover, importing greater volumes of refined products forces the U.S. to bear the costs of foreign refining and consequently would exacerbate what is already the worst balance-of-payments deficit in this country's history. Further, by increasing our dependence on foreign refiners, we undermine our ability to meet our own needs and hence our own national security.

2. Discouragement of New Refinery Capacity:

The United States is currently short some 3 million barrels of daily refinery capacity in meeting domestic demand. It is noteworthy that the U.S. is the only major industrial country in the world that cannot refine its own needs. Further, the United States is currently in the extremely embarrassing position of being incapable of refining the crude oil which will be stored in the Strategic Petroleum Reserve. These reserves will be of little use to the nation's security if we have to depend upon foreign refineries to refine the crude oil into required products, since there is serious doubt as to the reliability of Caribbean supplies during any embargo situation.

We believe that new fuels refinery capacity is necessary to provide U.S. industry with the residual fuel required to burn in its factories—residual fuel that is in short supply and presently must be imported. Residual fuel is one product for which there is no short-term alternative, nor can it be conserved without threatening the rate of growth of the U.S. economy. In the view of authoritative studies which predict significant growth of residual fuel demand in the U.S., our reliance upon imported residual fuel will only increase in the absence of new, expanded or retrofitted refinery capacity.

The original purpose of the entitlements program was to equalize the cost of crude oil among domestic refiners. This enabled the independent domestic refiners, who in general have no access to price-controlled lower tier domestic crude oil, to compete with the major integrated companies who control this inexpensive oil. In addition, the crude oil entitlements program—together with price controls on domestic crude oil—allows the U.S. independent refiner to compete with foreign refiners who, despite higher average crude oil costs, have a net advantage over the U.S. independent because of fewer environmental restrictions, the ability to employ less expensive foreign flag shipping for the transportation of product, lower capital costs, and various exemptions from income taxes.

By granting full entitlements to imported residual fuel, DOE would be eliminating the one significant piece of protection that the U.S. refiner currently enjoys. The simple fact is that under the DOE proposal, no U.S. refiner could compete with the offshore refiners in the East Coast residual fuel market. Exhibit I contains our analysis of the competitive positions of both a new and old Gulf Coast refinery with that of an old Caribbean refinery delivery residual fuel to the East Coast.

You will note that even if there were no entitlements whatsoever on imported residual fuel, and the "reverse entitlement" penalty were eliminated, the Caribbean refiner would still have a cost advantage of approximately 90 cents per barrel in delivering residual fuel to the East Coast.* In the case of the new Gulf Coast refinery, the Caribbean advantage could approach $2.00 per barrel.

By increasing the entitlement benefit to 100% of a crude entitlement, DOE would give the Caribbean refiner a cost advantage of more than $2.00 per barrel over the existing Gulf Coast refiner in the East Coast residual fuel market. The comparable number for a new Gulf Coast refinery would be about $3.00.

Clearly, then, the DOE proposal would result in no refineries being built to supply the East Coast with residual fuel. Indeed, it is unlikely that, in this regulatory environment, any new refineries will be built at all.

New refineries provide jobs. Our refinery, athough smaller than many, will nonetheless employ nearly 200 skilled American workers at the peak of construction at the refinery site. Many more will be employed in manufacturing and transporting the material needed to construct the refinery. Indeed, Mr. A. F. Grospiron, President of the Oil, Chemical and Atomic Workers International Union, has estimated that:

". . . the practice of building refineries overseas deprives American workers of oil industry jobs. On the average it requires 12 refinery workers for each thousand barrels of crude processed daily . . . Additionally, according to a study done by Gulf Canada, each refinery job creates 3.5 jobs in closely allied service and manufacturing sectors, and it is that company's opinion that the same holds true in the U.S."

Hence, eliminating imports of refined products through the expansion of domestic refining capacity could result in as many as 150,000 to 200,000 permanent jobs for Americans in expanding and modernizing our existing refineries to supply this shortage. In effect, by relying on product imports we have exported these jobs, which is totally inconsistent with the national goals of reducing unemployment. In addition to providing jobs, new refineries would provide an expanded tax base for the nation and the states in which they are located. New refineries cost millions, in some cases hundreds of millions, of dollars. These dollars would remain in the United States rather than be exported to build additional, unneeded refinery capacity in the Caribbean.

3. Costs and Benefits of DOE's Proposal to Consumers:

Measuring the costs and benefits to consumers of DOE's proposal is a complicated procedure. There are a number of assumptions than can be made, any one of which can have a significant effect upon the magnitude of consumer costs or benefits.

One thing is clear. The issuance of additional entitlements on imports of residual fuel will reduce the per barrel entitlement benefits to U.S. refiners. Any such reduction in entitlement benefits equates to an increase in crude oil costs for refiners. This increase in crude oil costs would result in increases in prices for all products other than residual fuel We have estimated these increases to be approximately 10 cents per barrel (other companies have reportedly estimated them to be as high as 13 cents per barrel) and we would point out that this price increase would apply to products such as gasoline and home heating oil which are purchased directly by individual consumers. We would further emphasize that these increases in fuel costs would apply to East Coast consumers as well as the rest of the nation.

In addition to these costs on products other than residual fuel, there is the likelihood that residual fuel prices in areas outside the East Coast would increase by 10 cents per barrel as well. To the extent that competition precluded refiners from implementing such increases, they could, of course, simply increase gasoline and home heating oil prices by more than 10 cents per barrel.

The DOE proposal will increase the subsidy on imported residual fuel by 65-70 cents per barrel. DOE and the East Coast Congressional delegations state publicly that this subsidy will be passed on to the consumer in its entirety, and that the net result will be a 70 cents per barrel reduction in residual fuel costs on the East Coast. However, there is a significant degree of uncertainty as to how much, if any, of this subsidy would ever reach the consumer in the form of lower prices.

* This assumes that the adequate fee free licenses continue to be available so that no product import fee is paid on imported residual fuel. In the case where the importer must pay the 63 cent per barrel import fee the Caribbean refiner still enjoys a 27 cent advantage.

There have been two instances in which DOE has authorized entitlement subsidies on imported petroleum products. The first occasion was in 1976 when the current residual fuel entitlements became effective. The second occasion was in February of 1977, when DOE temporarily granted a subsidy of 5 cents per gallon ($2.10 per barrel) on imports of home heating oil. In both cases, there was substantial evidence that less than 100 percent of the subsidies was passed on to the consumer. The "Oil Buyer's Guide", a leading oil pricing publication, reported the following price behavior in the weeks immediately following the implementation of residual fuel entitlements in 1976:

APRIL 5, 1976—U.S. EAST COAST MARKET REPORT

"Upon hearing of the new regulations, U.S. Independents immediately began making inquiries regarding foreign oil availabilities to take advantage of the price break. European sellers, however, were quick to capitalize on their position and raised their asking prices instantly.

For example, early last week prior to Washington's action, a foreign cargo of 0.3 percent sulphur, low pour, No. 6 fuel was on offer at $12.45 bbl, delivered New York, and because of the soft market, did not sell. When word of the 30 percent product entitlement value hit the street, however, this seller raised his asking price to $12.90 bbl—a 45 cent bbl jump. . . .

One heavy fuel marketer said Washington's actions will, among other things (1) increase the balance of payments defict by discouraging imports; (2) make the price of imported oil more expensive; and (3) discourage domestic oil production by putting it in a less competitive position with foreign market."

APRIL 12, 1976—EUROPEAN PRICE WRAP-UP

U. S. buyers are looking for prompt low sulphur resid . . . This renewed call from the previously dormant U.S. East Coast has had the predictable effect of raising seller's price expectations."

APRIL 21, 1976—EAST COAST MARKET REPORT

"Washington's 30 percent 'product entitlement' on imported residual fuel has had the effect of boosting the value of imported oil. . . . Since imports carry about a 90 cent per barrel rebate, domestic buyers are naturally favoring foreign purchases. As a result, the past week has seen an upward adjustment in prices for foreign offerings. . . ."

Caribbean sellers also reacted to the advantage they now enjoy because of the 30 percent product entitlement regulation. Sellers there quickly raised their selling prices. . . ."

These price increases gain even more importance when one considers the period in question. These increases took place in April, normally the weakest time of the year for residual fuel prices. That is, instead of prices decreasing as is normally the case in the spring months, prices actually went up, so that an increase of 45 cents per barrel might really mean prices 80–90 cents higher than they otherwise would have been.

These are but a few indications that foreign refiners siphoned off the benefits of the subsidy intended for U.S. consumers. There were further indications later that summer of a shortage of residual fuel in the Caribbean, reinforcing the undesirability of increasing our dependence on imported product. "Oil Buyer's Guide" reported in its August 16, 1976 issue:

"That escalation in prices and the dearth of availabilities again is attributable to the reverse entitlements program which penalizes Gulf Coast refiners who ship resid to the East Coast; the product entitlement given on imports; and, finally, the generally lower world-wide refinery output."

We have seen substantial evidence that, in the case of heating oil entitlements, there were also price increases which prevented the consumer from realizing any benefit from higher subsidies (See Exhibit 2).

Therefore, given the above indications that product entitlement subsidies intended for consumers tend, in actuality to be absorbed by foreign refiners, there is no guarantee whatsoever of lower fuel prices on the East Coast. As a result of DOE's proposal, all the East Coast consumer can be sure of is higher prices on gasoline, home heating oil and other domestically produced products while he hopes that foreign refiners will allow him to enjoy some small part of the import subsidy. In many cases, East Coast consumers would end up spending more on gasoline and home heating oil than they would save on residual fuel.

4. Poor Timing of DOE's Proposal—Relation to National Energy Act:

International Processors would also contend that DOE's proposal is particularly ill-timed in view of the pending energy legislation. Should Congress adopt a crude oil equalization tax as part of its energy package, the entitlements program would thereby be completely phased out and DOE would be forced to come up with still another program.

The Administration is also currently contemplating the imposition of a substantial fee on imported crude oil in the absence of a crude oil equalization tax. Such a tariff would substantially increase the entitlements benefits to East Coast importers of residual fuel while at the same time significantly increasing the average cost of crude oil to U.S. refiners. For example, a $2 per barrel fee on imported crude oil with no accompanying fee on imported refined products would result, under the DOE proposal, in an increase in the average post-entitlement cost of crude oil to domestic refiners by 0.85 to $1.15 per barrel, depending on the proportion of imported and/or uncontrolled domestic crude oil included in DOE's calculations. At the same time, such a fee would result in an increase in the entitlement subsidy for imported residual fuel by the same amount. As a result, the competitive position of a U.S. refiner producing residual fuel for sale on the East Coast or in Michigan would be undermined by $1.90 to $2.30 per barrel! Clearly, under this scenario, economic realities would force DOE to modify its proposed program for residual fuel oil.

We would, therefore, strongly recommend that DOE postpone any such proposal until after the Congress has had time to finalize the pending energy legislation. Only then will it be possible for DOE to predict the effects of its proposal with any degree of accuracy whatsoever.

5. Poor timing of DOE's Proposal—Imperative Need for Comprehensive Refining/Consumer Legislation:

We have discussed earlier in our testimony the need for additional refinery capacity in the United States. If this much needed capacity is to be built, two questions must be addressed—immediately and thoroughly.

A. Why are no major refineries being built?

There are several factors underlying the lack of new refinery construction. First, companies and, as importantly, financial institutions, are extremely wary of the uncertainty which pervades those federal regulations which directly affect the refining industry. Few people are willing to spend the many millions of dollars to build a refinery which can be made totally inviable overnight as a result of changes in government regulations. The only major grass roots refinery project in the recent past, the 2000,000 barrel per day ECOL refinery in Louisiana, was built to fulfill the country's need for additional refinery capacity to convert high-sulphur, low gravity crude oil into low-sulphur residual fuel. The SCOL project represented an investment of several hundred million dollars and more than three years of effort by thousands of people. With the stroke of a pen the Federal Energy Administration rendered the project uncompetitive through the East Coast residual fuel entitlements program. The plant was subsequently bought by Marathon Oil Co., which is currently spending several hundred million dollars more to convert the plant to emphasize gasoline production. As a result, a new entrant to the refining industry has been eliminated and further, there will be no significant addition to U.S. residual fuel production from the refinery. ECOL remains a constant reminder of the threat of arbitrary and capricious regulatory actions to any refinery investment in the United States. Only by adopting comprehensive refinery legislation can this threat be mitigated.

A second reason for the current lack of refinery construction is, of course, the environmental regulations which in some cases prohibit the refineries from being built at all, and in other cases, result in a costly and time-consuming procedure to obtain the necessary permits for construction. There are currently two major refinery projects, the Pittston refinery in Maine and the Hampton Roads refinery in Virginia, which are stalled because of environmental problems. As they are stalled, costs of construction continue to escalate, and permits previously approved expire and must be approved all over again. While we understand and support the need for a responsible national environmental policy, it would be helpful to assign a lead agency which could operate to expedite the siting process for new, expanded, or retrofitted refinery projects.

Finally, there are economic considerations which preclude much of the needed refinery capacity from being built. One need only look at what refineries are being built today. They are, for the most part, small refineries of under 30,000 barrels per day which receive up to $2.00 per barrel in "small refiner bias" entitlements. It is only with this aid that many of these plants are economically viable.

Attached as Exhibit III is a copy of the Nelson Cost Index for refinery construction as it appeared in the July 3, 1978 issue of the Oil and Gas Journal. This chart, widely accepted as an accurate industry economic indicator, shows the extent to which all the compenents of refinery construction cost have increased over the past several years. According to Nelson, in the past five years, construction costs have increased more than 45 percent. Since 1962, these costs have risen by over 185 percent. Any new refinery, built at current costs, has to compete with older U.S. refineries which were built at significantly lower costs. Thus, competition prohibits a new refinery from realizing sufficient revenues to pay off its investment.

The costs of a new refinery in the United States are even greater when compared to foreign refiners—foreign refiners who are not required to comply with EPA and OSHA regulations and hence do not incur the higher construction costs associated with such compliance.

B. What is needed to encourage refinery construction?

Currently, the only significant economic incentive given to new or expanded refinery capacity is a five-year, 75 percent fee-free allocation on imports of crude oil. This amounts to 10–15 cents per barrel. Although this help is not insignificant, it is in no way sufficient to offset the regulatory uncertainty, environmental restrictions, and the extremely high construction costs of new, expanded and retrofitted capacity.

What is needed is a comprehensive policy based on the long range welfare of the U.S.

We believe this can be done without disadvantaging any geographical region of the U.S., without cutting off or bankrupting any of our traditional foreign suppliers, without creating competitive marketing disparities, and with creation of a strong, viable, modern refining industry including new capacity, especially for fuels, and retrofitting of existing capacity to process high sulphur crude oils.

Such a program should include the following principles:

1. Imports at very low or negative tariff levels should be restricted to historical levels.

2. The quantity of imports at low or negative tariff levels should be automatically expanded if and when domestic inventories fall significantly below their historical seasonal levels. Similarly, they should be contracted if and when domestic inventories rise significantly above their historical seasonal levels. Imports above these levels should be subject to a very high tariff but it should never be necessary to exceed these levels and the high tariff should never be incurred.

3. The targeted level of imports should decrease by small percentages annually as additional domestic refinery capacity becomes available.

4. Financial incentives to install capacity capable of producing required products and to retrofit low sulphur refineries to process high sulphur crudes should be provided in the form of government loan guarantees, accelerated depreciation, and expanded investment tax credits.

5. Most importantly, the legislation must be worded carefully to ensure that some future bureaucrat will not find a way to corrupt the intent and use it to accomplish some unintended or unforeseen purpose. Otherwise both investors and financial institutions will continue to be extremely wary. April Fool's Day, 1976 will be long remembered.

We would strongly recommend this type of comprehensive approach—and we believe that its enactment would serve the long term interests of all Americans, and of all the companies and interests represented here. But I must emphasize very strongly that implementation of the East Coast proposal by itself would be disastrous for many independent domestic refiners and would be harmful to most U.S. consumers.

Accordingly, I would urge this committee to bar the implementation of the East Coast residual proposal—as Senator Johnston's amendment of the EPPA would do—for at least a period long enough to enact the comprehensive refinery/consumer legislation the U.S. urgently needs. We believe Senator Johnston's amendment of the EPPA is a modest first step—it does not take away anything from anyone, but rather merely holds the current policies constant while the comprehensive refinery/consumer legislation is enacted.

We again praise this Subcommittee for its continued leadership in the area of refinery incentives legislation and thank you for this opportunity to present our views. We look forward to working with you to implement a program which will promote a healthy, competitive refining industry in this country.

EXHIBIT II

PRICE ANALYSIS—HOME HEATING OIL

For the months of February and March, 1977, FEA promulgated a rule granting a $2.10 per barrel entitlement for each barrel of home heating oil (No. 2 F.O.) imported into PAD I. That equates to 5c per gallon for each imported gallon.

To determine whether there was an ultimate passthrough of that cost benefit, three different sources of price information were reviewed. Recognizing the fact that seasonal reductions normally begin in February or March and the fact that although the 1976–1977 winter was severe (but not after February 7, 1977), there does not appear to be any evidence that the entitlement benefit was passed through to consumers.

The attached documents (A, B, & C) are as follows:

(A) Residential Heating Oil Prices by Region. This is an FEA–DOE compilation of prices paid by consumers by region. The underscored months of February and March, 1977, are the months when the $2.10 entitlement was issued. As can be seen, from February to the end of the reporting period, New England and Mid-Atlantic prices actually increased.

(B) Refined Product Prices in Gallons. This is a compilation of spot cargo prices for selected regions as reported by American Petroleum Institute in the Oil & Gas Journal. Again, from pre-entitlement periods in Januard through the entitlement months, there is a price increase for landed cargos.

(C) NY Harbor Spot Prices—No. 2 Fuel Oil (Foreign). This is a compilation of foreign prices for New York Harbor cargo prices laid out in comparable year columns. Looking at the differences in cargo prices from year earlier totals, price movements appear to reflect normal seasonal variations. However, even with favorable entitlement treatment, and of period year to year differences do not reflect a passthrough of entitlement benefits on foreign cargos.

DOCUMENT A

RESIDENTIAL HEATING OIL PRICES BY REGION

[Cents per gallon]

	New England	Mid-Atlantic	South Atlantic	East north-central	East south-central	West north-central	West south-central	Mountain	Pacific
1975:									
January	40.2	38.9	36.5	33.2	34.7	34.0	NA	37.5	38.9
February	39.2	38.4	36.8	33.4	34.7	33.3	NA	36.6	37.7
March	38.0	37.8	36.4	34.2	33.2	34.3	NA	NA	36.8
April	37.4	36.8	36.8	33.2	33.7	34.5	NA	38.9	36.8
May	37.6	36.9	36.4	35.1	34.7	35.4	NA	37.0	37.8
June	37.7	37.7	36.4	35.8	NA	35.9	NA	37.6	37.6
July	37.9	36.9	36.9	36.4	34.7	36.8	NA	NA	38.8
August	38.8	38.2	37.9	36.3	35.7	36.3	NA	41.3	39.3
September	39.4	38.7	37.6	36.5	35.7	36.8	NA	38.9	40.1
October	40.3	39.9	38.3	37.4	36.6	37.9	NA	39.0	41.0
November	41.0	39.6	38.7	37.9	NA	38.1	NA	40.2	41.3
December	41.0	41.1	39.0	38.5	34.1	38.0	NA	44.8	40.9
1976:									
January	41.5	40.0	39.6	38.3	37.8	38.2	35.0	41.2	41.6
February	41.4	40.3	39.4	38.0	37.7	38.3	34.4	41.0	42.1
March	41.5	39.8	39.2	37.0	36.7	37.6	34.5	40.4	41.9
April	41.2	40.0	38.9	37.1	35.9	37.3	34.6	40.3	40.8
May	41.1	39.7	38.2	37.1	36.6	37.3	34.0	40.4	42.1
June	40.9	41.1	39.1	37.7	37.2	37.3	34.3	40.3	42.8
July	40.7	39.8	39.1	37.9	36.9	37.3	34.4	40.1	45.0
August	41.8	40.3	39.5	38.2	37.2	37.7	34.3	39.7	44.7
September	41.9	40.8	37.5	38.3	38.0	38.8	34.8	41.1	46.0
October	42.3	41.4	40.4	39.0	38.5	38.7	35.1	42.1	46.0
November	43.3	42.4	42.1	40.1	39.8	39.5	36.3	42.8	46.5
December	44.4	43.6	42.9	41.5	41.0	41.9	36.3	42.7	43.8
1977:									
January	45.8	44.9	44.2	43.2	43.1	43.0	36.9	43.4	44.6
February	46.6	45.8	45.7	43.9	43.4	44.0	38.8	44.2	45.2
March	47.1	46.3	45.5	44.4	43.8	44.6	40.2	44.7	45.9
April	47.2	46.5	45.8	44.8	43.3	44.2	40.8	44.8	46.4
May	47.0	46.4	45.6	44.7	43.7	43.7	40.7	44.8	46.5
June	47.1	46.4	45.7	44.7	44.0	43.3	41.2	45.8	46.8
July	47.1	46.4	45.7	44.7	44.2	44.2	41.2	44.2	47.9
August	47.4	46.6	45.6	44.7	43.7	44.5	41.0	44.9	48.2
September	47.7	46.7	45.8	45.0	44.2	44.9	41.1	44.9	47.2
October	48.0	47.3	46.4	45.3	43.9	45.4	41.1	45.4	47.4

NA—Not available.

Note: Data for West south-central region are based on a sample of less than 4 reporting firms. Average regional distributor purchase prices for heating oil for the period January 1975 through February 1976 are published on page 70 of the October 1977 issue of the "Monthly Energy Review."

Sources: January through December 1975—form CLC-92 "No. 2 Heating Oil Monthly Price Adjustment Report;" January 1976 forward—FEA form P112-M-1 "No. 2 Heating Oil Supply/Price Monitoring Report."

REFINED PRODUCT PRICES*—REALISTIC SPOT PRICES FOR TUESDAY (INTRASTATE)

[In gallons]

	New York	Chicago	Gulf (cargoes)	Midcontinent
Jan. 18, 1977	33.40–36.00	33.60–36.00	34.25–34.50	32.25–33.25
Jan. 25, 1977	33.40–36.00	33.60–36.00	34.25–34.50	32.25–33.25
Feb. 1, 1977	33.40–37.00	33.60–36.00	34.75–35.50	32.25–33.25
Feb. 8, 1977	34.40–39.00	34.50–36.25	35.50–36.00	33.25–34.25
Feb. 15, 1977	34.40–39.00	34.50–36.25	36.00–37.00	33.25–34.25
Feb. 22, 1977	34.40–38.00	34.50–36.25	36.50–37.50	33.25–34.25
Mar. 1, 1977	34.40–38.00	35.50–37.00	36.50–37.00	33.25–34.25
Mar. 8, 1977	35.20–36.50	35.50–37.00	36.50–37.00	33.25–34.25
Mar. 15, 1977	35.20–36.50	35.50–37.00	35.25–36.75	33.25–34.25
Mar. 22, 1977	35.20–36.50	35.50–37.00	34.75–35.50	33.25–34.25
Mar. 29, 1977	35.60–36.75	35.50–37.00	34.90–35.50	33.25–34.25
Apr. 5, 1977	35.20 36.50	35.50–37.00	34.25–35.00	33.25–34.25
Apr. 12, 1977	35.20–36.50	35.50–37.00	34.25–35.00	33.00–34.00
Apr. 19, 1977	35.20–36.60	35.50–37.00	34.25–35.00	33.00–34.00

NEW YORK HARBOR SPOT PRICES—NO. 2 FUEL OIL (FOREIGN)

	1977	1976	Δ
Dec. 3	34.0	32.5	1.5
Dec. 10	34.75	32.25	2.5
Dec. 17	35.25	32.25	3.0
Dec. 24	36.00	32.25	3.75
Dec. 31	36.5	32.25	4.25
Jan. 7	37.80	32.25	5.55
Jan. 14	39.125	32.25	6.875
Jan. 21	41.75	32.25	9.50
Jan. 28	42.50	33.25	9.25
Feb. 4	43.50	34.00	9.50
Feb. 11	43.75	34.00	9.75
Feb. 18	42.75	33.75	9.00
Feb. 25	41.50	32.00	9.50
Mar. 4	39.75	31.50	8.25
Mar. 11	39.25	31.25	8.00
Mar. 18	39.00	31.25	7.75
Mar. 25	38.75	31.25	7.50
Apr. 1	35.50	31.25	4.25
Apr. 8	35.50	30.50	5.00
Apr. 15	35.375	30.25	5.125
Apr. 22	35.373	30.25	5.125
Apr. 29	35.125	30.25	4.875

SUMMARY

COMPARISON OF COST DIFFERENTIALS OF A U.S. GULF COAST REFINERY TO EXISTING OFFSHORE REFINERS

[U.S. dollars per barrel]

	U.S. gulf coast refinery commencing operations—		Offshore refinery (Bahamas) commencing operations prior to 1972
	Jan. 1, 1978	Prior to 1972	
1. Cost of capital expense	0.843	0.335	0.335
2. Transportation expense	2.804	2.804	1.338
3. Working capital expense	.125	.125	.057
4. Return on investment element	1.648	1.070	.435
5. Clean product realization advantage			(.450)
Subtotal (excluding fees/tariffs/entitlements)	5.420	4.334	1.715
Cost advantage/(disadvantage) versus offshore refinery	(3.705)	(2.619)	

	U.S. gulf coast refinery commencing operations—		Offshore refinery (Bahamas) commencing operations prior to 1972
	Jan. 1, 1978	Prior to 1972	
Case A: Reflects regulatory program currently in effect:			
1. Above subtotal	5.420	4.334	1.715
2. Fees/tariffs/entitlements	(.908)	(.803)	(.293)
Total	4.512	3.531	1.422
Cost advantage/(disadvantage) versus offshore refinery	(3.090)	(2.109)	
Case B: Reflects proposed amendments to current program:			
1. Above subtotal	5.420	4.334	1.715
2. Fees/tariffs/entitlements	(2.446)	(2.026)	(1.613)
Total	2.974	2.308	102
Cost advantage/(disadvantage) versus offshore refinery	(2.872)	(2.206)	

GASOLINE PRICES: SELECTED CITIES

(Regular grade, ex-tax, 14-month average through June 1977)

SOURCE: OIL AND GAS JOURNAL

[Per gallon in cents]

Birmingham	53.91
Phoenix	53.11
Little Rock	50.75
Los Angeles	51.06
San Diego	52.05
San Francisco	51.28
Denver	54.67
Chicago	52.28
Indianapolis	54.11
Des Moines	53.23
Wichita	52.11
Louisville	53.11
New Orleans	51.91
Boston	47.94
Minneapolis/St. Paul	52.23
Kansas City/St. Louis	53.24
Omaha	50.89
Albuquerque	51.10
Cleveland	53.11
Oklahoma City	50.53
Tulsa	52.63
Portland	51.15
Memphis	53.23
Dallas	47.65
Houston	46.08
San Antonio	45.15
Amarillo	47.15
Salt Lake City	50.77
Seattle	51.79
Spokane	52.31
Milwaukee	53.11
Cheyenne	56.27

Mr. JOHNSTON. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. RIEGLE). The Senator from Wyoming.

Mr. HANSEN. Mr. President, I yield to the distinguished Senator from Alaska for a unanimous-consent request.

Mr. STEVENS. Mr. President, I ask unanimous consent that Janet Rogozinski of my staff be permitted access to the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I want to compliment the junior Senator from Louisiana for his informative and succinct remarks this morning. I think he has spelled out clearly and forthrightly what the situation is.

I think what we need to understand is that the entitlements program is counterproductive. This point has been made very clearly and forcibly by the Senator from Louisiana. I see no purpose, useful purpose, being served for any part of the country in pursuing any longer a program that does not guide this Nation in a way that will best serve its long-term goals.

The Senator from Louisiana has pointed out that it increases our dependency upon foreign refineries, it increases our dependency upon foreign crude as it passes through those refineries; it tends to discourage the construction and bringing into being of sufficient domestic refinery capacity in this country to do the kind of job we need to have done.

I can be even more specific. In my State of Wyoming we have in the city of Casper several refineries. Because of the workings, the machinations, of the entitlements program, one of those refineries operated by a major oil company was almost on the verge of being shut down about 2 or 3 years ago, because that company was faced with the prospect of having to pay out, despite the fact that it

had its own crude, so much under the entitlements program as to bring into question, serious question, the economic feasibility of continuing to operate that refinery.

Fortunately, they concluded overall that they would weather the storm. While they had a very tough row to hoe insofar as the balance sheet of the Casper refinery is concerned, they are still in business.

The trouble with the program that is being endorsed by the administration, it seems to me, is that it is one directed more toward garnering sufficient and enough votes to get other legislation passed that I do not think is in the national interest either.

The trouble with this program is that it holds out hope to the northeast and to the State of Michigan that prices there for residual fuel oil will be less than would otherwise be the case by virtue of the transfer of some $200 million per month, to quote the Senator from Louisiana, from those sections of the country where the drawdown would occur into those areas that would benefit from the entitlements program, plus the fact that it greatly complicates and extends the redtape and the bureaucratic work that go into the administration of the entitlements program.

So I think what the Senate should do is, first, look at the direction this program will take us; decide if we want to encourage and bring about the expansion of our domestic refining capacity; if we want to do everything we can to encourage and expand the drilling for and the production of oil and gas within the United States; and whether or not we do not think it is time to call a halt to this increasingly complicated bureaucratic maze that prices, production and definition of oil and gas products have to be subjected to, and to let the law of supply and demand work in this industry as I am certain most of us know it continues to work in all other industries.

Despite our efforts here on the floor of Congress to legislate the law of supply and demand out of existence for the petroleum industry, we have not succeeded very well, and I am glad we have not, because we have by virtue of the, as yet, freedom of the intrastate market given real impetus to the search for, discovery of, and production of natural gas when it can go to satisfy the needs of the intrastate market.

That is one of the reasons why, Mr. President, I am opposed to the natural gas compromise that now has been before the conference of the House and Senate to try to resolve.

I think there is little question but what we can and will produce more, we will move the balance of payments problem in a positive direction as we encourage the production of domestic oil and gas, we will create additional jobs for Americans, we will reduce the dependency of our Nation upon uncertain foreign supplies, and it will remove us, to whatever extent we move affirmatively, from the whims and caprices of foreign governments in trying to take advantage of situations which may arise such as we have experienced in the last decade.

I hope we will stop and take a look at where we are headed, and decide if it is not time to take advantage of the yet unexplored and undiscovered natural resources we have in the United States.

If it is not time to give encouragement to the domestic refining needs of this country, and if it is not time to decide, once and for all, we are going to start doing away with regulations, bureaucratic red tape, and dictatorial decisions that oftentimes have been postponed not for months but for years, when requests for relief have been applied for.

My good friend Dr. Schlesinger, the Secretary of the Department of Energy, and I have talked on numerous occasions. I am disturbed and frustrated, as I know many people in the oil and gas business are, when we consider the number of times that price relief has been requested which, if granted, would bring about the necessary encouragement to permit the further extraction from the ground of oil and gas. All too often, the failure to respond in a timely fashion by the Department of Energy has simply resulted in the closing down of wells, and of our leaving in the ground unproduced oil and gas that could do much for America.

It could help our balance of payments. It could increase our self-sufficiency. It would tend to mitigate the dependency upon foreign sources of supply. It would add affirmatively to our national security.

These are all things that could result if we let the laws of supply and demand replace the very complex and complicated set of laws and regulations under which we are now working.

I am disturbed with the ramifications of the natural gas bill still under consideration by the Senate and House conferees, because it certainly does not move us in the direction that we ought to be going at all. It will add to the regulations. It will make very much more complicated the determining of the price that gas will sell for, if and when it is found.

There are perhaps not fewer than 17 kinds of gas that the bill now before the conferees identifies. No one, I repeat, no one drilling today, could with certainty say what price he would get for the gas that he would hope to discover.

Some of the provisions in the bill that seem particularly distressing are ones such as this example illustrates: And old well, let us say penetrated down to 10,000 or 12,000 feet, could be drilled even more deeply. If gas were discovered in that well, it would not necessarily qualify as new gas, unless earlier encountered in that same well was gas that had not been produced. It would deny the extension of a deep well that is extremely expensive to drill in order to test lower horizons, but would permit a driller to go offsite 50 yards, go through the very unnecessary and duplicative expense of drilling a new hole and then, if that hole resulted in a discovery of gas at a deeper elevation, it would qualify for new gas.

I think most reasonable people would have to conclude and admit that such a provision makes no sense at all. And yet that is a part of the provisions of this bill that we have before us. I think that if Members of the Senate could take the time to look over what is contained in the bill, if they could examine the good reasons to do away with the entitlements program, no matter where they are, whether they represent one of our New England States, the Southwest, the State of Michigan, or wherever, they would have to conclude that this must be the direction we should be moving.

I would hope very much that the Senate would examine closely the proposal of my good friend from Louisiana, and agree with him and me that it is time to do away with this entitlement program.

Mr. President, I realize that this is an extremely complicated subject. It is one that has been fraught with a lot of prejudice and sentiment, because of stories that have appeared in the media over the last half dozen or more years. Most people look upon anyone in the oil business as not the best kind of citizen; and I know it is difficult to separate prejudice from fact, but I think that the extremely critical situation that the country is in does demand that we take action, and that we take the right action.

In this morning's Wall Street Journal there is published a story by James Tanner, in which he calls attention to the fact that—

> On the surface, last month's news seemed favorable: Oil imports, a key villain in the huge U.S. trade deficit and the sinking fortunes of the dollar, were about 13% below last year's record levels. . . . But beneath the surface, the facts are a good deal gloomier.

Mr. President, I ask unanimous consent that the entire article, entitled "Barreling In; Oil Imports Are Rising After First-Half Drop; Record '79 Total Likely," be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BARRELING IN: OIL IMPORTS ARE RISING AFTER FIRST HALF DROP; RECORD '79 TOTAL LIKELY

(By James Tanner)

On the surface, last month's news seemed favorable: Oil imports, a key villain in the huge U.S. trade deficit and the sinking fortunes of the dollar, were about 13% below last year's record levels. President Carter went to Europe to promise a 2.5 million-barrel-a-day cut in oil imports by the mid-1980s, and a high U.S. Treasury official predicted that imports would be slashed by a million barrels a day by the end of the year.

But beneath the surface, the facts are a good deal gloomier: That 13% drop for the first half of the year was only temporary, and imports are starting to climb again. "We haven't solved the import problem," is the blunt opinion of John H. Lichtblau, executive director of the Petroleum Industry Research Foundation. "This import decline we have seen will start leveling off in the second half and will disappear altogether in 1979."

Even the administration is realizing that its hopes for cutting back on oil imports are fading. Indeed, Energy Department figures suggest the possibility that imports will actually rise this year. The major fear is that this will give the Organization of Petroleum Exporting Countries the evidence of a turnaround in the world oil market that it needs

to justify an intended price increase by the end of this year.

HEADING TOWARD 10 MILLION

There is general agreement that 1979 imports will reach record levels, exceeding last year's record of 8.7 million barrels a day. Forecasts vary for beyond 1979, but most oil-industry people believe that imports will continue a slow but gradual rise, eventually passing 10 million barrels a day, no matter what happens in Washington to President Carter's long-debated energy program. Imports will rise, they say, because petroleum demand will continue to outpace domestic oil output.

Why were oil imports down in the first half compared with the first six months of 1977? Oil-industry officials note that in the 1977 first half, imports were unusually high because the oil companies were building up inventories. This was largely because of pricing disagreements among the OPEC producers, which led to a company scramble for cheaper Saudi Arabian oil even while the companies were under pressure from the higher-priced producers to continue taking their oil. OPEC resolved its pricing split in mid-1977.

In this year's first half, imports were unusually low because the oil companies began using up their inventories. But for the rest of this year, the companies are expected to rebuild their U.S. inventories of crude oil and petroleum products, now at the relatively low level of 857 million barrels, down from about 921 million barrels a year ago. The inventories already are being built up with imports.

Another factor is cited for the decrease in the first half's imports: oil from the North Slope of Alaska. The oil began flowing in mid-1977, averaging in the second half of last year about 700,000 barrels a day from the Prudhoe Bay field. In this year's second half, production is close to the pipeline's capacity of 1.2 billion barrels.

Despite that increase, the significance of North Slope oil will diminish in the overall U.S. picture. This is because output from the fields in the Lower 48 States will continue to decline and U.S. demand for oil will continue to rise. Right now Americans are using about 3 percent more petroleum than they were last year. No one knows what the increase in demand will be for the year, although forecasts range from jumps of 1 percent to 5 percent.

A significant reason for the difficulty in trying to predict the course of oil imports is that a great amount of oil is being imported that isn't included in any official figures.

This is the oil that is being imported to be stockpiled in the strategic petroleum reserve, which was authorized by Congress in 1975 but which didn't get underway until the beginning of the second half of last year. The program calls for as many as one billion barrels of oil to be stored, mainly in underground salt domes, by 1985 to prevent disruptions in the event of any future embargo.

The target for the end of 1980 is 500 million barrels, and the oil now is going into the reserve at the rate of 150,000 barrels a day, most of it from Mexico, Saudi Arabia and elsewhere abroad. This is likely to have a considerable effect on the current half's import figures.

AN INCREASE THIS YEAR

It isn't known what the average daily imports for the strategic reserve will be for the whole year. But the petroleum research group's Mr. Lichtblau believes they could add as many as 500,000 barrels a day to the import figures for the second half. This could average out to more than 300,000 barrels a day for the entire year.

The Energy Department bases its estimates for the year's imports (not including the stockpile) on high, medium and low ranges of demand. Its medium-range estimate is that imports will average 8.6 million barrels a day for the year. If a possible 300,000 to 400,000 barrels a day of imports for the strategic reserve were added, this would bring 1978 imports to nearly 9 million barrels a day, compared with the 8.7 million for last year.

Even if imports for the reserve remain at the present 150,000-barrel-a-day rate, the Energy Department figures still suggest a total increase in imports for the year.

With so many predictions flying around, it's hardly surprising that Washington appears confused about what is happening to oil imports. On July 27, for example, Anthony M. Solomon, the U.S. Treasury under secretary, told reporters that the decline in oil imports would continue for the remainder of this year, contributing, he said, to a lower trade deficit and a stronger dollar. Oil imports, he predicted, should be down by one million barrels a day for the year.

But Mr. Solomon's optimism was deflated by figures from the Commerce Department projecting increases in the second half from the year-ago half. Indeed, the Energy Department had been projecting such an increase since June. Even Mr. Solomon's colleague at the Treasury, assistant secretary Fred Bergsten, told a House subcommittee last week that an increase in imports is expected in the second half.

(Asked for comment, a Treasury official explained that Mr. Solomon really meant to say that oil imports were running one million barrels a day lower during the first half.)

The administration does have support, however, in its view that oil imports will show a decline for all of 1978, although not nearly as great as the sharp decline of the first half would suggest.

Mr. Lichtblau's guess is that, not counting the strategic reserve, "this year we will bring in at least 8.1 million barrels a day." The Independent Petroleum Association of America estimates that the 1978 average, including imports for the reserve, will be slightly more than 8.5 million barrels a day.

Both of these estimates are conservative when compared with projections by Exxon Corp., whose figures are typical for the oil industry. Exxon believes that without provision for the reserve, the U.S. will import about 8.5 million barrels a day this year.

Certainly there is wide agreement that oil imports next year will rise to a record, whether or not the strategic reserve is included. Estimates that exclude the reserve: Mr. Lichtblau, 8.8 million barrels a day; Exxon, 9.3 million, and the Energy Department, about 9.1 million (medium range).

The renewal of the climb in imports obscures an important development concerning oil consumption in the U.S., however. Most energy experts agree that Americans are beginning to be less wasteful of petroleum, largely because of the increased cost but also because of improved automobile mileage. Frank G. Zarb, the former head of the Federal Energy Administration, now a general partner at the investment banking concern of Lazard Freres, observes. "The American (free-market) system is working despite the government's silly controls (on petroleum prices). Industry is using less energy per unit of output."

Evidence of this conservation trend is beginning to show up in the oil-demand forecasts. Generally, these forecasts suggest that oil demand will rise proportionately less, on a percentage basis, than the gross national product.

Generally, the estimates of 1978 demand range between 18.7 million and 19.4 million barrels a day, or increases of between 1% and 5% from the 18.4 million barrels a day of 1977.

Domestic petroleum production, including output from the North Slope, is estimated at between 8.7 million and 8.9 million barrels a day for 1978, up from about 8.2 million barrels a day in 1977. Natural-gas liquids and certain other domestic supplies account for the rest of the difference between demand and imports.

● Mr. MOYNIHAN. Mr. President, it is important that all Senators be aware of the inequitable effects on the east coast that would result from the enactment of the amendment of the Senator from Louisiana. If the Senate were to pass this amendment, prohibiting the Department of Energy's proposed modifications in the entitlements system for residual oil, it would be an action, startling in its insensitivity.

The current entitlements system for residual oil is a program of open discrimination against the east coast. The system has a built-in bias of over $1 per barrel of residual oil sold on the east coast. The current system also discourages domestic refiners from selling residual oil to east coast consumers.

The Secretary of Energy has proposed a fair program, a system that would remove some of the inequity and eliminate the disincentive on east coast sales. The program does not increase the subsidy to imports; the current differential of 42¢ per barrel between imported and domestic oil would be maintained.

The statistics that show the effects of DOE's proposed modifications in the entitlements system demonstrate the importance of this amendment to the east coast. Other Senators have spoken for their own States; New York uses more imported residual oil than does any other State. In 1975, New York imported 132 million barrels of residual oil, 30 percent of American residual oil imports in that year. New Yorkers derive 64 percent of their energy from petroleum products, as compared to 46 percent nationally.

New York, with its dependence on imported oil, will be one of the major beneficiaries of DOE's proposed action. The Northeast-Midwest Institute estimates that New Yorkers' residual oil costs would be reduced by approximately $90 million per year. The New York Energy Policy Office estimates a similar savings. These benefits are not savings just for industry; a large portion of the savings will be passed through directly to the customers of the Consolidated Edison Co. and the Long Island Lighting Co. which together provide electricity to all of southeastern New York—New York City, Westchester, Suffolk, and Nassau Counties. Con Ed and LILCO generate almost all of their electricity with imported residual oil. It is not surprising, therefore, that these two utilities have among the highest costs of electricity generation in the country.

The benefits for New York and the east coast are great, and there are those that would argue against giving us these benefits. But we must recognize that the proposed changes in the entitlements system would not be an act of largesse by DOE, but an attempt to correct the

inequities in the present system. As Secretary Schlesinger pointed out in his testimony before the Committee on Environment and Public Works, it is the east coast that is now subsidizing the rest of the country through the unintended effects of the current entitlements system. The proposed action will reduce the subsidy that we now pay; it will not increase the subsidy that we receive.

In a memorandum prepared for me, the Department of Energy stated:

All U.S. consumers benefit from lower priced domestic crude oil (through the entitlements program) as they consume domestically refined products, but East Coast consumers only partially benefit because most of their residual fuel oil needs cannot be met by domestic refineries. This inequity results in higher residual fuel oil prices for the East Coast than in other areas of the country.

That is the current situation, and the law is quite clear that such a situation should not exist. The Emergency Petroleum Act of 1973 (15 U.S.C. 751) provided the statutory authority for the entitlements program. The key passages indicate that there should be an—

(F) equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent marketers, branded independent marketers, and among all users; and . . .

(I) minimization of economic distortion, unflexibility, and unnecessary interference with market mechanisms.

The entitlements system is not for the benefit of oil refiners, as some would claim. It is a plan to equalize the prices of oil for consumers in different regions of the country. Our oil prices are not now equal, and the amendment now before the Senate would keep them that way.

Whenever we deal with energy issues in this body, regionalism and a parochial view of issues seem to dominate. But, here is a proposal on which the representatives of the oil producing regions should join east coast Senators. We certainly must have a mutual interest in removing obstacles to domestic refining sales, and that is precisely what this plan would do. The current system extends only a 50-percent entitlement to domestic refiners who sell residual oil on the east coast, an obvious disincentive for domestic refiners. It is proposed that this barrier to domestic sales in the East be removed by extending a full entitlement. This makes sense, and it is clearly in the interest of the producing States as well as the consuming States of the East to support such a plan.

DOE's proposal will obviously benefit the east coast; I am not hesitant to admit that. But it will do so by correcting a situation that is inequitable and inefficient. I hope that my colleagues will carefully consider this issue, an admittedly complex and perhaps baffling one, before they make their decisions.●

Mr. HANSEN. Mr. President, I ask for the yeas and nays on the amendment by the Senator from Louisiana.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I yield the floor.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HANSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I ask unanimous consent that Fred Craft and Carol Sacchi be granted the privileges of the floor during the consideration of and any votes on the legislation before the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask that the cloakrooms put out on the wire an inquiry whether or not there should be a vote up or down on the pending Johnston amendment at 11:30 a.m. today.

Mr. JOHNSTON. Mr. President, I am advised that an amendment has been prepared which will be a substitute to my amendment. I suppose it would not do any harm to put out that hotline to get them over here, but I did want to advise the leader of that fact.

Mr. ROBERT C. BYRD. Mr. President, I also ask that the cloakrooms urge the Senators who have amendments to the Johnston amendment to come to the floor at the present time. There is nobody on the floor who wishes to offer an amendment to the Johnston amendment. Consequently, if it were not for the honor and integrity and charitableness and fairness of the Senators who are on the floor, we would have a vote now—right now—up or down on the Johnston amendment. There is no one here to protect those who are not here, except those of us who are here, and we are reasonable men.

Mr. HANSEN. And fair.

Mr. ROBERT C. BYRD. And fair. We want to protect the rights of Senators, but I do think they ought to be asked to come to the floor and offer their amendments if they have such.

With that, I suggest a quorum call for the protection of Senators who may have an amendment to the Johnston amendment. Otherwise, the Chair would be constrained to put the question to a vote. Am I not correct, I ask the Chair?

The PRESIDING OFFICER. The Senator is absolutely correct.

Mr. ROBERT C. BYRD. The Chair would be constrained to ask for a vote on this amendment.

Mr. JOHNSTON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

The Chair would be required, as a matter of fact, to put the issue to a vote. Am I not correct?

The PRESIDING OFFICER. The Senator is not only correct, but he is really tempting the Chair to do exactly that.

Mr. ROBERT C. BYRD. I yield the floor to the distinguished Senator.

Mr. JOHNSTON. I have the amendment here and I could offer it and we could get a time agreement. We could make that much progress.

Mr. ROBERT C. BYRD. Certainly, the Senator may offer any amendment he wishes to. If he wants to offer an amendment, he has that right at any time. I yield the floor if he wishes to do that.

Mr. HANSEN. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HANSEN. I am not sure I understand what the Senator from Louisiana is saying. He is speaking about an amendment to his amendment?

Mr. JOHNSTON. That is correct. Yesterday, the Senator will recall, we discussed an agreement in concept which we had reached. We asked for unanimous consent to be able to put that on either this bill or the public works bill. That unanimous consent was not forthcoming. In the meantime, this amendment had been drawn.

I have it. It would be offered. I would vote for this amendment based on assurances I would expect to receive on the floor and put in the RECORD to the effect that this would be the final agreement and would not be subject to further erosion of any kind in the conference committee.

Mr. HANSEN. If the Senator will yield, how would the Senator assure the Senator from Wyoming that such an agreement could be ascertained and would be lived up to?

Mr. JOHNSTON. We would get those assurances from those concerned on the east coast.

Mr. HANSEN. And who are those concerned on the east coast?

Mr. JOHNSTON. All Senators from the east coast.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. ROBERT C. BYRD. Well, now, is the Senator stating explicitly that the majority leader, who happens to be chairman of the Appropriations Subcommittee on the Department of the Interior, and who would be chairman of the Senate conferees, would be bound hand and foot and gagged? Is that the kind of assurance the Senator is expecting from the Senator from West Virginia, who is not accustomed to that treatment?

Mr. JOHNSTON. If the majority leader would excuse me, please, do not make jokes. I have a hurt back and it hurts me to laugh.

I would not expect the Senator from West Virginia to be gagged, hogtied, and to lose his customary independence.

I would think, however, that there are two sides, in effect, to this issue. One such is the east coast which wants the entitlements, and if we have all of the east coast Senators signed over, the administration signed on, and they control the rulemaking, I would think the Senator from West Virginia, the distinguished majority leader, would not have difficulty in going along with not only the will of the Senate but the will of both sides to a controversy, and I would be confident that would be so.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. ROBERT C. BYRD. The Senator from West Virginia certainly wants to uphold the desire of the Senate, regardless of what the Senator from West Virginia's position may be on this amendment, if it is agreed to.

I have not made up my mind yet. I may be for it, I may not be for it.

But there comes a time in conference when, in order to get movement and get action, one House has to yield to the other body.

So I am afraid that the Senator should not be under any delusions as to the need for some flexibility when the issue reaches a point in time when there must be some give or take.

I would hope he would understand this Senator would not be bound by the administration, or anybody else. I can be bound by the Senate. But even instructions to Senators, as the Senator knows, even instructions can be disobeyed, and the instructions of the Senate can be disobeyed in conference. That has happened.

So I just do not want to leave anybody under any misunderstanding as to what my position would be in conference. I certainly want to uphold the Senate's position as far as I can. But I would like to see an Interior appropriations bill put on the President's desk at some point in time, which means somebody has to give on some of these issues that arise in conference.

Mr. JOHNSTON. If the Senator is seeking to persuade me not to go with the compromise, he has almost succeeded.

So, Mr. President, I would——

Mr. ROBERT C. BYRD. Mr. President, if the Senator has a substitute and he wishes to offer it, it is his right to do so.

Mr. JOHNSTON. I was going to be for a substitute only with the view this would be a compromise lived up to by all parties. But I think the Senator properly points out that would need to be flexible in conference and that it would be subject to further bargaining in conference.

Based on that, I do not believe at this point I could offer the amendment.

Mr. HANSEN. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes.

Mr. HANSEN. Mr. President, it occurs to me that, first, I should observe that I ascribe all good faith and sincerity to the remarks and observations by my friend from Louisiana. I would not want to be misunderstood in any fashion in that respect.

But I do want to make the point that despite his best intentioned efforts to make certain that all of the principals, or all of those as he may have implied, I am not quoting, who would be affected would be approached and talked to and their consent would have been secured in advance, I think it is presumptuous to assume that only the Northeastern Senators are interested in this. As I understand, the way the entitlements program is working now, and it has not been explained any better, in my opinion, than was explained earlier this morning by the Senator from Louisiana, it takes money from refiners and users in other parts of the country to minimize the cost of residual fuel oil in other parts of the country, in the Northeast as an example, and in the State of Michigan as a second example, because by the access to barge transportation the State of Michigan uses a lot of residual fuel oil.

But the point is that many sections of this country, in fact, I think there is not a single State that is not interested in this issue, it seems to me that to presume we could talk to a select number of Senators and know that whatever thought of compromise we might arrive here would be approved begs the point, because I submit that cannot be done.

I spoke yesterday about the impact this program has on my State of Wyoming. If I could presume to suggest what my colleague from Wyoming would say, I think I did so yesterday in saying that it does not make our voters very happy to think we live in a State that has felt the impact of industrial activity—when I say the impact of it, it has not all been adverse, by any means. We have a good, strong, booming economy out there, not only from oil and gas and uranium, but from coal, as well.

Nevertheless, if this program is changed, if the entitlements programs are expanded or increased, it will take additional dollars out of the pockets of Wyoming people to subsidize people in New England, and at least in the State of Michigan and maybe other States as well, but in that State at least, to make their fuel bill less.

So I do not think it follows at all that anyone can say we are going to get this all worked out and we are going to conference and there will not be any changes made.

I have not been in this Chamber as long as many Members have. But I have been here longer, I guess, than a majority of the Members. Those conferences on which I have participated almost—almost—Mr. President, without exception, have resulted in both sides making concessions. That is the whole idea of a conference. The House passes one bill and the Senate another and in order to reconcile those differences a conference is scheduled. It is not often that the actions of that conference result in one side making all of the concessions and agreeing in toto to what the other side has asked for.

I yield to the distinguished Senator from Oklahoma.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Wyoming.

I agree with him, with my limited experience, that the conferees from the House and the Senate generally reach a compromise somewhere in the middle—but not always. Often, many times are considered, and sometimes one set of conferees will support completely a position different from that of the other side, but that is generally counterbalanced by a reversal of that action on another item.

Mr. President, I support very strongly the amendment offered by the Senator from Louisiana (Mr. JOHNSTON). However, I think it is important to take a look at the background to the entitlements program and not be of the opinion that it is something that started from conditions that did not build up over the years.

It really had its beginning back in the 1950's. At that time, we started importing oil in significant quantities. We had excess productive capacity, but we decided to conserve our oil and gas by reducing the production of oil. We were very well served by this excess domestic capacity of some 2 million to 3 million barrels during two Mideast crises. During those crises, we were able to supply oil to our friends in Europe and in the Middle East.

However, during the late 1950's, President Eisenhower instituted a voluntary import program—this was in 1958—and a year later, a mandatory program. The whole purpose of the mandatory import program was to protect the domestic oil and gas industry from the importation of cheap foreign oil.

It is rather ironic to look upon that now, since the problem faced with the entitlements is the expensive imported foreign oil. However, at that time the problem that affected us was imported oil coming in at about $1 a barrel and competing with the domestic oil at $3 a barrel. The mandatory program worked to a degree and certainly did provide some protection to the domestic oil and gas industry. It also served our national security.

It was then agreed that our imports should be limited to approximately 10 percent of our domestic consumption, so that we would not be overreliant on imports to the extent that our national security would be threatened.

The mandatory import program also was used by administrations as a club over the head of the oil and gas industry. This was done by threatening to increase the amount permitted to be imported—the cheap, foreign oil—as a threat to domestic production, to prevent the domestic producers from raising the price of domestic oil and gas as the cost of production went up.

Thereafter, these efforts—this using of the import quota as a club—was responsible for squeezing the profits of the oil and gas industry. This profit squeeze took place over a considerable length of time and also resulted in less domestic oil production being found, developed, and made producible.

Then in 1973 we had the embargo by the OAPEC nations, in which we were cut off from a large part of our imports—but not all, thanks to the actions of the major oil companies. This, of course, put a lot of pressure on our Nation, both in-

dustrially, from a national security point of view, and individually on American citizens, who found it quite inconvenient to wait for long periods of time to fill their gas tanks, if they could fill them at all.

Later, we had the institution of entitlements. This came about as a necessary evil due to our price control system

It seems to me, in following this matter rather closely since 1973, that it is somewhat like a series of leaks in a dike. You arbitrarily provide a certain program to deal with a problem and put your thumb in one hole in the dike, and that leads to more pressure somewhere else and creates probably five more problems, and hence other mandatory controls become necessary.

So the real culprit in all this is our mandatory control system on the price of oil and gas. If this were eliminated, we would then eliminate any need at all for entitlements.

I remind my colleagues that an amendment identical to that offered by the distinguished Senator from Louisiana was adopted by the Senate Committee on Energy and Natural Resources by a vote of 17 to 1. Such an endorsement by the jurisdictional committee cannot be taken lightly.

Mr. President, the Johnston amendment is necessitated by the administration's proposal to increase dramatically the crude oil entitlement benefit for imported residual oil on the east coast. The proposal would increase the subsidy by 233 percent.

The effect of increasing this entitlement benefit would be threefold: First, gasoline and other refined product prices would rise for all consumers; second fuel oil imports would be encouraged; and third, the domestic refining industry would be adversely impacted, to the benefit of foreign refiners.

The intent of the proposed subsidy increase is to lower artificially the price of imported residual oil on the east coast. The effect of this lower price will be to encourage greater imports of foreign oil in preference to higher priced domestically refined fuel oil. If the subsidy were allowed to be absorbed by the importers, and not passed on to east coast consumers as intended, the greater profit incentive for imports would increase the imports further.

Implementation of this subsidy would not only discourage construction of new U.S. domestic refining capacity, it would put many existing refineries in a noncompetitive posture. This would result in a loss of American jobs, American security, and American economic strength; and it would weaken our domestic energy self-sufficiency at a time when we should do all we can to strengthen it.

Who pays for this subsidy? The answer is simple: everyone who is not benefited directly by the subsidy itself. That includes consumers in two-thirds of the States. It is unfair and illogical to require consumers in my State of Oklahoma to directly subsidize the importation of foreign-refined fuel oil on the east coast.

Mr. President, I have recounted the background that has led to the present situation of continued price controls on oil and gas and the entitlements program. Political muscle has been used from the very beginning, combined with shortsightedness by the people on the east coast not looking at the overall picture of our great need to keep a strong energy industry viable, alive, and looking to the future. This is the problem we have today.

This will be exacerbated further if this entitlements subsidy increase of 233 percent comes about.

The entitlements system is an evil. It has become a tool to achieve political goals. It is not in the best interest of a strong domestic energy industry. It is not in the best interests of this Nation.

I think everyone familiar at all with our energy plight recognizes that our Nation needs to invest in a stronger capability of producing energy, and the first place to look for an improvement and an increase is in the oil and gas sector.

I think it is obvious that we are now aware of the threat to our national security of our lack of domestic production of oil and gas. We have instituted an extremely expensive program of storing oil so that if we are cut off with another embargo as we were in 1973, we will have some time to prepare ourselves for the consequences of a shortfall on our national security and our economic and industrial well-being.

This is an extremely expensive thing to do. It seems to me so shortsighted to be willing to pay this large amount of money, estimated to be ultimately $20 billion, and which I am willing to pay, and not be willing to face the crisis in another way—and work to solve the problem—by lifting the controls on oil and gas.

This is the answer to this kind of unfairness. This is the answer to this kind of selfishness and provincialism that will take place if we have such a sizable increase in the entitlements subsidy program.

Mr. President, I yield to the Senator from Wyoming.

Mr. STONE and Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. BARTLETT. I was yielding at the request of the Senator from Wyoming. If the Senator from Wyoming is not ready, I am happy to yield the floor.

Mr. HANSEN. I am ready, but I am happy to defer in order that the Senator from Florida might ask a question.

Mr. STONE. No, I have no question. I have a few remarks but they will not take long, only about 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. HANSEN. Mr. President, I ask unanimous consent that the Senator from Florida be recognized next and that I follow him.

Mr. BARTLETT. Mr. President, I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

Mr. STONE. I thank the Senator from Wyoming.

Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Louisiana. I believe that the administration must have the authority to increase the current entitlement subsidy for imported residual oil products. Whatever may be the long-term goals for a national energy policy, there are pressing short-term energy problems the country must address. Historical market patterns and regional differences have complicated our efforts to solve these problems. The dependence of the East Coast, including Florida, on imported residual fuel oil is an example.

Florida has strongly supported the extension of the entitlements program to imported residual fuel oil since its inception. The reason is clear and simple—high utility rates. The consumers of my State—many on limited fixed incomes—pay utility bills which are among the highest in America.

Florida is the second largest consumer of residual fuel oil in PAD 1, with consumption of 89 million barrels in 1976, the latest year for whch DOE has final figures. About 83 percent of this total was used to generate electricity. Florida is overwhelmingly dependent on foreign suppliers because of history and geography, not chance. The supply system developed in response to confused energy policies of the past which discouraged domestic refining of residual fuel oil. As a result, by 1976, two-thirds of Florida's residual fuel oil was imported.

Unfortunately, dependence on foreign oil means that the price is set by OPEC. It also means that it does not reflect the benefits generally realized from the domestic crude oil price control and entitlements program.

Since 1973, the price of imported residual fuel oil has escalated much more than the prices of other petroleum products. Electric consumers in Florida, dependent on residual fuel oil for electricity generation, have realized a drastic increase in monthly electric bills.

It is estimated that a 100 percent entitlement for east coast importers of residual oil will save Florida electric consumers about $47,500,000 per year. Florida's utilities operate under the State public service commission's fuel adjustment clause which will have the effect of passing along directly to consumers any decreases in the cost of residual fuel.

In my opinion, Mr. President, raising the residual oil entitlement represents simple equity for those consumers whose electricity bills are vulnerable to the whims of the OPEC cartel. What is at stake is the economic well-being, in some cases the basic comfort, of millions of our citizens.

Mr. President, I ask unanimous consent that the testimony on this subject of Mr. William T. Mayo, chairman of the Florida Public Service Commission, before the Committee on Interstate and Foreign Commerce Subcommittee on Energy and Power be printed in the RECORD.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF WILLIAM T. MAYO

My name is William T. Mayo. I have been a member of the Public Service Commission of Florida for fourteen consecutive years, six of them as Chairman. I appreciate very much the opportunity to appear before you today on behalf of the Florida Public Service Commission and consumers of electricity throughout the State of Florida to present the official position of the State of Florida.

Florida's problem is a fundamental one. We are the second largest consumer of residual fuel oil in PAD I, with consumption of about 89 million barrels in 1976, the latest year for which DOE has final figures. Of this, about 74 million barrels, or 83%, was used to generate electricity. Florida is overwhelmingly dependent on foreign suppliers because of history and geography, not choice. The supply system was developed by the oil companies in response to the confused energy policies of the past which discouraged domestic refining of resid. As a result, by 1976 two-thirds of Florida's resid came from foreign refiners. This great dependence on foreign oil effectively means that the price is set in the world marketplace and very inadequately reflects domestic crude oil price control and entitlements program. In fact, the reverse entitlements program raises the price of resid in Florida. Since the domestic programs went into effect in 1973, the price of resid has escalated much more than prices of other petroleum products. As a result, electric customers in those areas substantially dependent on resid have seen drastic increases in monthly electric bills. Impacts in Florida have been even worse, because of its geography and climate, and because of the very large concentrations of retired persons and others on small and/or fixed incomes.

Florida has done everything we can to help ourselves, and I will go into specifics in a moment. The fact remains that no matter what we do, Florida will have a continuing heavy dependence on resid for many years. We will thus continue to be at the mercy of world market conditions, and we can only look to Congress and DOE to help, by correcting the inequities in the entitlements program.

Specifically, Florida supports the proposal recently publicized by DOE under which imported resid would receive the full $2.00 per barrel fractional entitlement less about $0.63 for domestic refinery protection. This proposal would help both direct and indirect Eastern consumers of resid by bringing the prices they pay into equality with prices consumers pay for oil products elsewhere in the United States.

According to preliminary figures published by DOE, this proposed change would reduce the price of imported resid by about $0.74 a barrel. Since the price of resid in this country is set by the world marketplace, the reduction would apply both to imported and domestic resid in much of the Eastern United States. The entitlements provided for imported resid under this program would be paid for out of the entitlements pool and would be spread evenly among all consumers of petroleum products throughout the country at a cost, according to DOE's estimates, of no more than 2/10 cents per gallon. The net savings to Florida consumers under such a program would be about $47,500,000 per year.

Some have questioned whether the substantial benefits of an increased entitlement for imported resid would be flowed through to the ultimate consumer. In Florida, as I have mentioned, over 80% of the residual fuel oil burned is used to generate electricity. Investor owned utilities in Florida all operate under the Commission's fuel adjustment clause which passes directly along to the consumer any increases or decreases in the cost of fuel and the municipal systems have similar clauses. Savings in the purchase of residual fuel oil from entitlements are passed directly to consumers through this clause which is policed by the Commission in monthly hearings.

DOE is also considering elimination of reverse entitlements. Under this aspect of the entitlements program, all refiners outside of PAD I producing oil for sale within PAD I must sacrifice a 50% entitlement for each barrel over and above 5,000 barrels a day. The bottom line is that resid produced by U.S. refiners outside of PAD I costs more if shipped into PAD I than if shipped anywhere else in the country. In effect, oil shipped to the East Coast carries a surcharge. Elimination of the reverse entitlement would eliminate this differential and free additional supplies for the East Coast market.

As I mentioned earlier, we in Florida have not been sitting on our hands and crying. In contrast, under the leadership of the Florida Public Service Commission, we have conducted an active program to reduce our consumption of resid as much as possible. We have had to use a number of methods, because our potential for converting generating units to coal is very limited; only two large units can be converted. Of these, one has been converted to coal and the other is in the process of being converted. The Commission staff studied the matter intensively and concluded that the cost of converting all plants above 20 megawatts, whether or not they are presently capable of burning coal, was between 9 and 13 billion dollars, which rather clearly says that to do so is a waste of resources, to say nothing of environmental and transportation problems. Of course, all new construction is coal, and when these baseload plants come on line it will make possible the retirement of older, less efficient oil units.

With the possibility of large scale coal conversion denied to us, Florida have actively pursued other alternatives. We tried seasonal pricing and concluded after a year's trial that it did not work and was not understood by consumers. We have conducted, and are conducting now, various experiments in time-of-day pricing and similar techniques with which this Committee is familiar, including an inverted rate for our largest utility. We have conducted very detailed studies in such areas as joint generation planning, power pooling and central dispatch, each of which cost a half-million dollars, which DOE is using as a model for what state commissions ought to be doing. The results of these studies are being implemented. These include energy audit programs for the customers of utilities under our jurisdiction, including life cycle analyses and home conservation and construction standards and active conservation programs. Our most exciting and immediate innovation is our "power broker" concept, which redispatches the state on an hourly basis to ensure that the most efficient generation mix is on the line at all times. The result is a fuel saving of over $1.5 million per month, which is entirely a saving in oil and therefore in the balance of payments as well. We expect this saving to continue to climb, because our concept will allow seasonal shutdown of older, less efficient units. Of course, these savings are passed directly to the rate-payers.

In conclusion, let me reiterate that Florida, in common with other Eastern states, has a problem. We have done and are doing everything we can to help ourselves. Now we need your help.

I appreciate very much the opportunity to present the official state position of Florida on this complex topic. I urge you to consider seriously the present inequities which have led to disproportionately high electric utility rates throughout much of the Eastern United States. We need fairer, more rational national policy and much needed relief for beleaguered electricity consumers in States such as Florida.

Mr. STONE. I yield.

Mr. TOWER addressed the Chair.

Mr. STONE. We had a unanimous-consent order that Senator HANSEN, of Wyoming, would be recognized, but I am sure he will yield to the Senator from Texas.

Mr. HANSEN. I am happy to yield to the Senator.

Mr. TOWER. May I have 3 minutes?

Mr. HANSEN. Yes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized and yields to the Senator from Texas.

Mr. HANSEN. Without losing his right to the floor?

The PRESIDING OFFICER. The Senator is correct.

Mr. TOWER. I am greatly honored to have the very distinguished Senator from Wyoming yield to me.

Mr. President, I am pleased to join my able colleague from Louisiana in support of this amendment to block implementation of the administration's east coast residual oil entitlements change. The plan cannot be justified in terms of need, or policy, or equity. It is, plain and simple, a major energy price subsidy which benefits one region of this country at the expense of everyone else.

I believe it is time for us to call a halt to the kind of regional favoritism by the administration's plan. More to the point, it is time that we put a stop to this oft-repeated myth that New Englanders and other Northeasterners are the only citizens of this country who pay high energy prices.

The fact is, of course, that Texans—along with others—pay among the highest energy prices in the Nation. Yet they ask for no subsidy and no special consideration. What is more, Texas—unlike some others—have contributed mightily toward the solution of this Nation's energy supply problems.

The administration's residual entitlements plan, however, not only subsidizes east coast oil consumers; it also has the effect of rewarding most a region of the country which has, on the whole, done little to share the national burden of energy production and supply. The States which would benefit most from this rules change have, in general, done all within their power over the years to prevent necessary development of new energy supplies, both within their respective State boundaries and in the Nation as a whole.

The entitlements change for residual fuel oil is only the most recent example in a pattern of Carter administration regional bias in energy policy. The original Carter national energy plan would have made the State of Texas little more than an energy colony for the benefit of the nonproducing areas of the country. In many important respects, the President's plan was little less than an attempt at Federal takeover and consfication of the precious energy resources of Texas. It would have artificially de-

pressed oil and gas prices below replacement levels while authorizing their allocation by Presidential action.

The Carter legislation would have required Texas industries and electric utilities—unreasonably and at great cost—to convert from the use of Texas oil and gas to coal—coal which, in many cases, would have to be purchased outside the State and transported at great cost.

The President's plan also imposed a heating oil tax credit that would have required all Americans to chip in to help pay the fuel bills of east coast consumers of home heating oil. This is entitlements proposal to subsidize residual fuel oil is a variation on that same theme.

The administration's plan will cost American oil consumers many millions of dollars. One study has estimated that Texans alone would pay about $28 million more per year in increased costs for gasoline and other refined petroleum products. Together, the four States of Texas, Louisiana, Oklahoma, and New Mexico would pay almost $47 million in increased fuel costs. All this to subsidize one region of the United States—a region which can claim little justification for special treatment.

I urge the Senate to adopt this amendment and thus express its disapproval of this kind of special interest, regionally-biased foreign oil subsidy scheme.

I thank my friend from Wyoming.

Mr. RIEGLE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HANSEN. I am pleased to yield to the distinguished Senator from Michigan.

Mr. RIEGLE. I thank the Senator. I ask unanimous consent that Dave Hansell of my staff have the privilege of the floor during the debates and votes on this measure.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

Mr. DURKIN. Mr. President, will the Senator yield for another unanimous-consent request?

Mr. HANSEN. I yield.

Mr. DURKIN. I ask unanimous consent that Ed Tanzman and Chris Burke of my staff have the privileges of the floor during the consideration of this measure and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Mr. President, Senator JOHNSTON has proposed an amendment to limit the use of funds by the Department of Energy to further subsidize imports of refined petroleum imports. The Johnston amendment should be adopted by the Senate for the following reasons:

First. Consumers may receive little, if any, of the new subsidy. The subsidy may be completely absorbed by foreign refiners who can raise their prices for residual oil in an amount equal to the new subsidy without changing the current cost of resid to U.S. importers. A Library of Congress study shows that when the 30 percent subsidy was adopted in 1976, very little of it was passed through to the consumer.

Second. The entitlements program is a complex bureaucratic scheme that should not be made more complicated. The entitlements funds, which transfer approximately $200 million each month among domestic firms, provide the DOE with a vast funding pool to distribute as it wishes among competing interests. The potential for abuse of this discretion is substantial.

Third. Because the entitlements program subsidizes imports of foreign crude oil and petroleum products, it effectively encourages continued reliance on foreign sources of energy. The new proposal relating to imported residual fuel oil could make the United States even more dependent on foreign refiners.

Fourth. Under the Emergency Petroleum Allocation Act, it is the responsibility of DOE to insure that there is distribution of residual fuel oil at equitable prices among all regions in the country. Although fuel oil prices are currently pegged at equitable levels, DOE states that it wants to use its power under the EPAA to give the east coast consumers residual fuel oil prices that are, in effect, equal to the lowest fuel oil prices in the Nation. In other words, at this time the east coast residual fuel oil prices are as low as prices in any region of the country except the gulf coast. And gulf coast prices are artificially low because they include no transportation costs. Therefore, this alteration in the entitlements program may exceed the grounds of the Agency's legislative directive.

Fifth. The DOE proposal will cause the costs of domestically refined products to rise in all regions of the country. Even in the area which will receive the new entitlement, the cost of domestically refined gasoline and distillate will rise.

Sixth. Inflation is the harshest of all the bills that the consumer must pay. Energy imports contribute greatly to the forces that push inflation upward. By maintaining or increasing energy imports, the DOE proposal may be trading one kind of a bill for a less obvious, but more devastating one.

Seventh. By subsidizing foreign refiners with this proposal, we undermine our own domestic refining industry. This proposal represents an extension of a U.S. fuels policy that has reversed the downward trend in residual fuel imports since the Arab embargo and stifled attempts to expand domestic refining capacity. Carribean refineries are required to adhere to fewer environmental constraints than U.S. plants, but enjoy significant tax advantages over their U.S. competitors. This proposal will just give foreign refineries an additional advantage.

Eighth. The current east coast residual fuel oil problem is not caused by an erroneous entitlements policy but rather, by an unsound domestic refinery policy. And it is not really a problem of subscribing to the "wrong" policy—the United States has no domestic refinery policy. We continue to stumble along, short almost 3 million barrels of refining capacity daily.

Ninth. The adoption of the DOE proposal will foster a regional approach to energy problems. This proposal may aid one region; however, it will surely disadvantage all others. This approach may be politically expedient, but it reflects bad policy and is inherently unfair.

Tenth. Consumers who do not reside on the east coast or in Michigan will not benefit from the increased subsidy, as some sources have suggested. Proponents of the regulation contend that residual fuel oil prices are set by east coast prices. As a result, as prices on the east coast decrease, prices elsewhere allegedly should follow. An examination of the average weighted prices of residual fuel oil used for residential purposes reflects that except for February through April 1977, the price for resid has been lower on the east coast than in areas outside of the east coast. The trend of shipment of resid refined elsewhere in the counrty to the east coast further disproves the assumption that east coast resid prices set prices for other regions. As less resid refined in other parts of the country is shipped to the east coast, the connection between the markets should diminish. For example, in 1975, 33.5 percent of gulf coast resid production was sent to the east coast. It has considerably declined since then. In 1976, gulf coast resid accounted for 26.8 precent of the east coast's total; by 1977, that percentage dropped to 13.6 percent. The percentage should continue to decline as utilities in the gulf coast area and other parts of the country increasingly turn to residual fuel oil.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, first let me congratulate the Senator from Wyoming on a very factual and logical presentation of this particular issue.

The entitlements program has become a mess of contradictions and conflicts, and is really understood only by a handful of economists, lawyers and DOE bureaucrats.

I am delighted to support Senator JOHNSTON's amendment, which would put some limits on the use of the entitlements program. When the entitlements program was first proposed in 1974, its sole purpose was to eliminate the competitive advantage that some refineries had over other refineries, because they had a greater quantity of artificially low priced domestic oil. It was to spread equally the burden of the cost of the imported oil, the very expensive oil that was coming into this country.

That was the original objective of the entitlements program. However, now it is used for a whole variety of purposes. It has become an extraordinarily complicated and very far-reaching program. Recently we have learned that the Department of Energy wants to use that entitlements program to further subsidize the cost of the imports of residual oil to the east coast.

I do not object to the Department's desire to lower residential heating bills. I think that is a very worthy objective, until they acknowledge that the effect of this proposal is to raise the heating bills for the residents of my State and the rest of the country; then it is a very unfair proposal.

Unless this amendment is adopted, that is precisely what is going to happen. They are going to lower the cost for heating residences on the east coast and they are going to raise it for Louisiana, Texas, and most of the rest of the Nation.

If those regulations become effective, we will find that the cost of refined products in every State will be increased by a corresponding amount, to pay for the additional fuel oil entitlements. In Texas, I am told, the entitlements change will cost consumers an estimated $18 million in higher gasoline costs alone. Most other States will be similarly affected.

Mr. President, we are all concerned about our rapidly growing balance-of-trade deficit which for the first 5 months of this year reached $8.2 billion, an increase of 79 percent over the previous 5 months. Imported crude and residual fuel oil contributed $15.9 billion to our total import expenditures during that same period of time.

Given these facts, and the obvious danger that they pose to our economic well-being, I just cannot understand why the Department of Energy would propose a program that would further subsidize the importation of foreign oil.

It is clear to me that the proposed entitlements changes will provide an incentive for increasing residual fuel oil imports, and further add to the drain on the dollar.

I do not believe there is any justification for providing relief to east coast consumers beyond that provided to citizens in all the other parts of this Nation. I have not been persuaded that the cost to east coast consumers is any higher than that experienced in other regions of this country. In fact, I would argue that the utility rates in my home State of Texas are as high, and frequently much higher, than they are on the east coast. Let me compare what is happening to utility rates in Texas and what is happening on the east coast.

Since 1967, electric utility rates have increased by 72 percent in Boston, Mass. During that same period of time, they increased by 88 percent in Houston, Tex. According to the Bureau of Labor Statistics, the retail price for all energy has increased by almost identical amounts in Houston and Boston.

The comparison of residual fuel oil prices reveals that the costs on the east coast are often no greater than those for the same quality of fuel in other parts of the country. If that is the case, everybody in this Nation is suffering from increased utility costs. Consumers all over the country are finding that their monthly utility costs are sometimes as high, or even higher, than the mortgage payments on their homes.

The east coast is in trouble; but so are the Southwest, the West, and the central part of the United States. We are in this problem together and it is no solution to help one section of the country at the expense of the rest of the Nation.

Mr. President, I want to help lower energy costs just as much as anyone. But I believe the Senate should consider these problems with the best interests of the entire Nation in mind. As individual Members of Congress, we have a responsibility to fight for programs that benefit our constituents, but we also have the responsibility to look beyond sectional differences and to create policies that will benefit the entire Nation as a whole.

Mr. President, I think that this particular approach is politically inspired. I think it is inequitable. I think the amendment of the Senator from Louisiana will do much to correct this situation, and I support it.

Mr. STENNIS. Mr. President, will the Senator yield to me for less than 1 minute?

Mr. BENTSEN. Yes, I yield.

Mr. STENNIS. I want to commend the Senator for the very fine factual statement he has made here. There may be disputed points in his factual statement; to some extent I suppose there are. But all told, I think it is a splendid statement that you can hie to and put your teeth in, and the Senator's logic is very convincing.

None of us want to cast a vote in a so-called sectional manner or provincial manner. We are one Nation; we are not divided, and this problem is common to all.

I believe the Senator's speech has thrown a clear factual light on this problem, showing it is not a sectional matter after all, and that one policy will have to cover the Nation as a whole.

I thank the Senator for his fine work on this subject.

Mr. BENTSEN. I thank the distinguished Senator from Mississippi, who has risen time and time again above sectional interests to support policies and programs which benefit the entire Nation as a whole.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. DURKIN and Mr. BROOKE addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire sought recognition first.

Mr. DURKIN. Mr. President, I will be happy to yield to the Senator from Massachusetts without losing my right to the floor.

The PRESIDING OFFICER. Does the Senator ask unanimous consent to do that?

Mr. DURKIN. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I thank my distinguished colleague from New Hampshire.

Mr. President, if I may have the attention of the distinguished proponent of this amendment, the distinguished Senator from Louisiana (Mr. JOHNSTON), I would like to propound some questions.

Mr. President, as I understand it, we have pending the so-called Johnston amendment, which amendment would, in effect, take down the rule which provides for the entitlements program. Is that not true?

Mr. JOHNSTON. Will the Senator repeat the question?

Mr. BROOKE. We have before the Senate——

The PRESIDING OFFICER. Will the Senator withhold for a moment? The Senate will be in order. Senators are engaging in colloquy and posing questions. There is difficulty in hearing. The Senate will please be in order.

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, I first ask unanimous consent that the Senator from Vermont be recognized without my losing the floor.

The PRESIDING OFFICER. Is there objection?

Mr. DURKIN. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DURKIN. I yielded the floor to Senator BROOKE without losing my right to the floor.

The PRESIDING OFFICER. That is correct. The Senator from New Hampshire has the right to the floor after Senator BROOKE concludes his speech.

Mr. DURKIN. So would the proper form be for me to yield to Senator LEAHY for the purpose of a unanimous-consent request without losing my right to the floor?

The PRESIDING OFFICER. The Senator is correct. Does the Senator make that request?

Mr. DURKIN. I do.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that in all actions today and into this evening, and throughout whatever time we are still on the Interior appropriations bill, Robert Paquin and Susan Brannigan, of my office, have all privileges of the floor during votes and deliberations.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. STEVENS. Will the Senator yield for a unanimous-consent request?

Mr. BROOKE. Without losing the right to the floor, which I understand I have by virtue of the right of the Senator from New Hampshire.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I will have to begin interposing objections to this business of fielding out to Senators who in turn field out to Senators who in turn field out to Senators. If this is going to be a filibuster, let us get through with it as soon as we can. I have no way of objecting to those requests which have already been entered, but I hope if I am not on the floor some other Senator will object to fielding out time to Senators who in turn field out time to Senators who in turn field out time. If a Senator wants to speak on his own, let him speak.

If he wants to yield the floor, let him yield the floor. If there is going to be a filibuster, I want to know about it.

The PRESIDING OFFICER. Is there objection to the last request? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that my administra-

tive assistant, Tim McKeever be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. BROOKE. If I may explain to the distinguished majority leader, I am merely yielding for the purpose of obtaining unanimous consent for a staff member to be granted the privileges of the floor. The Senator is correct, that Senators should not yield and yield and yield and yield.

My question to the distinguished Senator from Louisiana is this: As of the present time, we are now debating the amendment of the Senator from Louisiana which, in effect, would pull down the rule that would permit the entitlement program. Is that correct?

Mr. JOHNSTON. The Senator is correct. But for my amendment, the pending DOE rulemaking would go into effect on August 26, I believe, which would provide 100 percent on the east coast.

Mr. BROOKE. Is it not also true that throughout all of yesterday the dinstinguished Senator from Louisiana and I, together with other Senators, attempted to work out some agreement which would provide, rather than 100 percent, to take it from 30 percent to 50 percent? Is that true?

Mr. JOHNSTON. The Senator is correct.

Mr. BROOKE. Is it not further true that in the course of those negotiations we were unable to come forth with such an amendment with our colleagues because of some procedural difficulties?

Mr. JOHNSTON. The Senator is correct.

Mr. BROOKE. And is it not further true that in an attempt to resolve those difficulties we attempted to write legislative language that would be contained in the amendment which the Senator ultimately would present for consideration by the Senate?

Mr. JOHNSTON. The Senator is correct.

Mr. BROOKE. Now if I may ask the Senator from Louisiana, as of this time has that legislative language been perfected to the degree that we are now ready to present it to the Senate for its consideration?

Mr. JOHNSTON. The amendment was prepared. However, an error was found in it and that is being corrected now. That amendment should be ready momentarily.

Mr. BROOKE. Mr. President, my distinguished colleague from Louisiana has worked so diligently and sincerely in an effort to arrive at a compromise between the two sides.

My next question to him is this: Is it still the intention of the Senator from Louisiana, once this legislative language is perfected, to propose that language to the Senate for its consideration?

Mr. JOHNSTON. Let me say to my good friend from Massachusetts that it would be my intention to join in such an amendment, provided we have an agreement of minds between the parties as to the fact that this is the amendment, that this is the agreement, and it will be adhered to.

The distinguished Senator from Wyoming (Mr. HANSEN) brought up a very cogent question this morning. He asked how can we be assured that this amendment agreed to on the floor of the Senate will not be further eroded and compromised in the conference committee? That question, in turn, was put to the distinguished chairman of the Senate conferees, who said, yes, indeed, he would need flexibility. He would not be able to go into that conference with his hands tied.

Unless we can get some kind of assurance that this would be the amendment that would not be subject to further compromise, then I would have to reconsider cosponsorship of this amendment. I think its terms are fair. I think it represents a proper balancing of the fear of losing against the chance of winning. I think it treats the east coast fairly. Most importantly, it is only a temporary measure between now and July 1.

I think it is a fair amendment, a fair compromise. But we must work out mutual arrangements to assure that, as best we can, this amendment will be the final word, and that all parties will sign on to it.

Does the Senator have some ideas as to how we might incorporate such assurances into some kind of an agreement that would reassure all parties in this matter?

Mr. BROOKE. Let me say that I hope the distinguished Senator from Louisiana will continue to support the concept and the intent of what he has described as a fair and equitable compromise by both sides on this issue.

The distinguished Senator from Wyoming, in his customary manner, always makes cogent observations. I can understand the cogency of his most recent observation concerning this particular issue.

As I understand it, there is nothing in the House bill relative to the entitlement program at all.

If we did arrive at a compromise that could be accepted by the Senate, I do not see how there would be any flexibility so far as that portion of this bill is concerned when we go into conference with the House.

Maybe I have missed something and I certainly stand to be corrected. If there is anything in the House bill—let me ask that first. It is my understanding that there is nothing in the House bill that refers to the entitlements program.

Mr. JOHNSTON. Let me ask specifically, has the Senator from Massachusetts been in touch with the distinguished majority leader and/or the distinguished Speaker of the House, Mr. O'NEILL, who has a great interest in this bill?

Mr. BROOKE. To respond first to the question of my friend from Louisiana, I have not been directly in contact with the distinguished Speaker of the House, Mr. O'NEILL. There were members of that group who did contact the Speaker's office as of yesterday—I think in the course of our discussions—to ascertain if there were some possibility of getting a ruling from DOE as expeditiously as possible; because, as the Senator from Louisiana will recall, we were working on a very limited time limitation yesterday, hoping that we would be able to resolve this matter in time to have completed action on the Interior appropriations bill prior to the close of last night's session.

To my knowledge that is the only contact that was made with the Speaker of the House.

Mr. JOHNSTON. I should think the Speaker ought to be signed on to this compromise, and explicitly so, if we are to assure the Members of the Senate that this is a compromise and not simply a first shot at a bargaining arrangement.

Mr. BROOKE. I have been informed by my staff that the Speaker's staff called at some time and said that the Speaker did support the concept of the compromise. That may be some assurance to the distinguished Senator from Louisiana that the House would, perhaps, go along with it. If it did not go along with it, I would understand the concern of the Senator from Wyoming about this matter, which is that we might get into conflict, I assume, and he feels that if we got into conflict with this compromise language and the conference did not accept it, that would mean that the rule would stand and go into effect in August.

That is the Senator's fear, I take it.

Mr. HANSEN. If I may respond to the inqury made by the Senator from Massachusetts, let me say, Mr. President, that that is one of my concerns. The second one is that I think we are really naive—and I do not mean to use that adjective in any manner at all to criticize or to demean anyone in the Chamber at all.

But it seems that we are naive to take as tenuous an assurance as I gather the remarks for the Senator from Massachusetts imply, that it is information, I believe he said, conveyed to him by staff that the speaker goes along with the concept. It reminds me of a situation I was in last fall. We were debating one of the mining bills. I had some pretty positive assurances from sources at the White House that I thought could be counted upon and depended upon, that were telling us that the Secretary of the Interior would do certain things. His right-hand person in that area was right up here telling us what we could count on. But I found out, to my regret, that they did not deliver.

Now, even though the Speaker were persuaded that this compromise would clearly be in the interests of the State of Massachusetts and of the country as well, I pointed out earlier today, I say to my friend from Massachusetts, that there are other Senators, if we were to get it passed here, and there are other States represented that are concerned. It is not simply a matter of getting the Representatives and, indeed, with the Speaker's support in the House, to sign off on it. I think we could very well expect that if the bill goes to conference, as I know it would and everyone here knows it would, we may find a lot of interest, a lot of people around the country that reflect what the Senator from Louisiana said: that we are taking money from a larger group of people to give it to a smaller group of people to lower their fuel oil costs.

I agree with the Senator from Texas

(Mr. BENTSEN) that that is a laudable objecitve insofar as the administration's proposal to lower costs goes. He says it becomes less laudable, less supportable, when we are going to lower costs by having somebody else pick up part of the tab.

I just have to say that the Senator is right: I am concerned first by the assurance that I do not think is accurate, that we can count on passing a bill here and assuming that it is not going to be changed in conference. From what little experience I have had in conferences, I know if you start out with one body taking no position on something and another body taking a position, say, of 100, then I understand that it is within the conference's prerogative to consider anything between nothing and 100. That would be my fear and concern here, that we are giving away, as I said to the Senator from Louisiana earlier today in an aside, part of our trading horses before we ever get to the county fair.

I just cannot think that we can unilaterally decide here that this is the way it is going to be and it might be changed there.

Mr. BROOKE. Let me respond to my colleague from Wyoming. No. 1, I do not think there is anything to be gained by having a debate as to whether we are taking the cost from one section and putting it on another. We obviously differ on that. We feel that we have been paying the tab all these years for the other section of the country and this is some way, through the entitlements program, of bringing equity into this whole picture. Obviously, the Senator from Wyoming sees that differently. I want to address my remarks to the Senator more along the line of a practical procedural basis.

I was trying to understand the Senator's concern about this compromise proposal and what would happen to it in a conference between the House and the Senate.

Let us assume for a moment that we do not pass this compromise proposal which the Senator from Louisiana, after lengthy debate and discussion and research, himself believes is fair and equitable, and we pass the amendment of the Senator from Louisiana, which I think the Senator from Wyoming would support.

Mr. HANSEN. His original amendment, yes.

Mr. BROOKE. Which would pull down the rule. If we did that and went to conference with the House and there was nothing in the House conference on it at all, as there is not, then, of course, the House could stand firm and if the Senate did not stand firm, eventually, conceivably, the Senate could recede. The Senator from Wyoming, so far as his position is concerned, would be in a worse position then, because that would mean that the entitlements program as it is in the Register, the 100 percent where we get 70 percent, would go into effect in August.

What I am suggesting to the Senator from Wyoming is that, at least in his own interest, he is better off if the Senate went into that conference with a compromise position rather than the extreme position, which could very well be rejected by the House.

Mr. HANSEN. Would the Senator from Massachusetts yield for a question?

Mr. BROOKE. Certainly. I do not know what is going to happen in a conference. I do not want to mislead the Senator. I cannot give him assurance from the Speaker of the House of Representatives, he is quite right. I have been to conferences many times, as the Senator from Wyoming has, believing that things have already been cleared with conferees on the House side and find it is just the opposite. You just cannot rely on it, you have to wait and see, because there are many different interests and the Members of the House vote on their own individual thoughts and concerns about a particular issue.

Yes, I yield.

Mr. HANSEN. The question I was going to ask my friend from Massachusetts, Mr. President, is simply this: Under the Administrative Procedures Act, which is part of the route that a proposed regulation has to go, would not the Senator from Massachusetts think that the Secretary of Energy would be derelict if he were to ignore the sentiments of the Senate and unilaterally reject the proposal and go for the full 100 percent that he proposes to go? My understanding was that in this rulemaking business, the intention of the Department first has to be published in the Federal Register, and there is an appropriate time given for comment.

I should think, if the Secretary of Energy were to do what my friend from Massachusetts suggests might be done, it would be a display of arrogance that would not suit the American public very well.

Mr. BROOKE. I think I disagree with my colleague from Wyoming, and on what he said so far as the procedure is concerned is absolutely correct, it has been published in the registry and would go into effect, is open for comment and I am sure comments are being received.

But I am saying that if we pass an amendment to a bill which becomes law, then the Secretary will have to abide by that legislation that is passed by the Congress. That is what we were trying to do, to draft language that could be accepted by the Senate and, hopefully, then by the House in conference with the Senate, which would become law and that would clear up the procedural problems the Secretary of Energy would have.

I do not think the Secretary of Energy has in the past, or will in the future arrogantly disregard the intent of the Congress—even when he was in the Defense Department and since he has been in the Department of Energy.

I have personally found him most cooperative and most sensitive to the will of the legislative branch of this Government.

So I do not anticipate that at all.

The only thing I am trying to ascertain is if we do come up with legislative language that can be acceptable, I feel that the Senator from Wyoming and those who feel as he does, and there is a very respectable number of Senators on this floor——

Mr. HANSEN. Probably a majority, does the Senator think?

Mr. BROOKE. I would say possibly. I hope not probably. But I certainly have to say possibly a majority would agree with the Senator from Wyoming, and they may be in a better position in conference with the compromise language than they would be if the pure Johnston language were accepted by the Senate.

I do not know that. I certainly do not throw that out as any veiled threat. I talked to no Members of the House conferees.

I can say this, however, that there are many members of the Appropriations Committee, both in the House and the Senate, on which I serve, who feel very strongly and are getting very tired of legislation on appropriation bills, even if it can be so written to qualify by the Parliamentarian. We still know, whether it is ruled that it is not legislation on an appropriation bill, that it is, in effect, for all intents and purposes—and no disrespect intended to the Parliamentarian—that it is still legislation on an appropriation bill.

We get most of it, as I said yesterday, under the Labor-HEW. Now we are getting it under Interior. I understand the House just did things on a Defense bill, by a recent vote on the matter, not pertaining at all to defense.

So I think we are in for a rough road, both in the House and the Senate, if we continue to go down this road.

But the Congress, at least for the time being, is doing exactly that.

I say to my colleagues that there is a good likelihood the House conferees may feel very strongly about any legislation or attempt to put legislation on an appropriation bill and make it wait until the DOE bill comes up, which does not suit the Senator from Louisiana's strongest point, because I think a vote in that committee was 17 to 1.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. BROOKE. Yes, I am pleased to.

Mr. JOHNSTON. The Senator is anxious, I know, to get the fee-free license continued, to make the President make his declaration.

Mr. BROOKE. Yes.

Mr. JOHNSTON. What happens if the President does not amend that declaration and refuses to continue the fee-free license?

What would the Senator see as his obligation under this amendment? Is the deal off, or is the deal on, or just what happens?

Mr. BROOKE. Well, of course, the Senator from Louisiana well remembers yesterday we could not get an opinion from the White House because the President was in New York signing the loan guarantee bill. It is my understanding that the President is back in the White House today.

So I would hope that before the end of this day we would have some decision from the White House regarding the tickets, the guideline 1 issue we discussed at some length.

As the Senator from Louisiana will also remember in the discussion yesterday, as a part of this compromise, the compromise that the Senator from Louisiana

agreed to, it was silent on the question of the fees. But it certainly was made, I think, clear to the Senator from Louisiana that if we were not able to get a favorable decision from the White House relative to the fees that the effective rate would not be 50 percent, but considerably less. Therefore, it would be a wash so far as we—we being on the side of this issue—are concerned.

So there would be no real benefit to us unless we did get a favorable decision from the White House.

I am just waiting now to find out, as I am sure the Senator from Louisiana is himself, as to what the decision from the White House will be. What we will do after that, I am not prepared to say, because there are many of us who will have to make that decision.

But I can tell the Senator from Louisiana that I, for one, would feel it certainly would not be an agreement then that would have any particular benefit to us in New England and on the east coast.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum, without the Senator from Massachusetts, or whoever has the floor, losing his right to the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. STEVENS. Mr. President, reserving the right to object, I shall not object if the right of the preceding Senator to retain the floor will remain in effect.

The PRESIDING OFFICER. The Senator cannot reserve the right to object to calling off a quorum call.

Mr. MATHIAS. Mr. President, I will not affect the right to the floor——

The PRESIDING OFFICER. Debate is not in order.

Mr. MATHIAS. Mr. President, I ask unanimous consent that the floor return to the posture in which it was.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Mr. DeGenoa, of my staff, have the privilege of the floor during debate on this matter and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that the preceding order granting the floor to the Senator who held the floor at the time the quorum call was entered be restored, so that that Senator will have the floor when the quorum call I am going to request goes into effect.

The PRESIDING OFFICER. The previous order included not only that the Senator from Massachusetts would have the floor when the quorum call ended but also that the Senator from New Hampshire would have the floor after the Senator from Massachusetts. Does the Senator request that, also?

Mr. STEVENS. I seek to protect those two Members of the Senate, yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:05 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 12:55 p.m., recessed until 1:05 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. SARBANES).

The PRESIDING OFFICER. The Senate will come to order.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I ask unanimous consent that Henry Banta, Tom Susman, and Jerry Brady of Senator KENNEDY's staff may be granted the privilege of the floor for the balance of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, the Senate has before it H.R. 12932, the Interior and related agencies appropriation bill for fiscal year 1979.

As reported, the bill provides $11.5 billion in new budget authority. Outlays associated with the bill total $10.6 billion, including $5.1 billion in outlays from budget authority provided in prior years.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to the committee under the first budget resolution. The Appropriations Committee has allocated $13.3 billion in budget authority and $11.6 billion in outlays to the Interior Subcommittee.

The funds provided by the bill are under the subcommittee's section 302(b) allocation, for both budget authority and outlays. Funding of possible later requirements known at this time would add to the amounts appropriated in this bill but the total also would be under the allocation.

Mr. President, I ask unanimous consent that a table comparing the subcommittee's 302(b) allocation to the funding in this bill be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MUSKIE. As reported, the bill is within the targets of the first budget resolution.

This is due in large part to the efforts of the chairman of the Interior Appropriations Subcommittee, our distinguished majority leader. Indeed, a generous portion of the credit for the new congressional budget process taking hold in the Senate belongs to the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

As a member of the Senate Rules Committee, Senator BYRD played an instrumental role in the formulation of the bill that became the Congressional Budget and Impoundment Act of 1974. Better than most people, he understands the provisions of this complex and important measure. Both as majority whip and majority leader, the distinguished Senator has lent his considerate support to the budget process and, under his leadership, the Democratic Policy Committee has been most cooperative in securing compliance with the demanding provisions of the Budget Act.

This act provides us with a tool to affect the national economy. It gives us a way to deal with inflation: by holding down the expenditure of Federal dollars. But it takes discipline to do that, and our majority leader has shown once again with this bill that he has the sense of purpose, courage, and toughness to achieve this discipline. The distinguished junior Senator from West Virginia knows what inflation is doing to the people of this country. He knows that men and women, in West Virginia and every other State of the Union, are demanding a new sense of fiscal responsibility from the Congress and he is acting in accord with their wishes and in the best interests of this country.

I commend him for this bill, for his support of the budget process, and for the leadership he is providing to us all.

EXHIBIT 1

H.R. 12932, Interior and related agencies appropriation bill, 1979; relationship to subcommittee's section 302(b) allocation

[Dollars in billions]

	Budget authority	Outlays
Subcommittee's section 302(b)		
Allocation	13.3	11.6
H.R. 12932, as reported	11.5	10.6
Amount over (+) or under (−) Subcommittee allocation	−1.8	−1.0
Possible later requirements:		
Forest firefighting	0.2	0.2
National parks	0.1	0.1
Strategic petroleum reserves	0.4	---
Energy programs	0.4	0.2
Possible amount over (+) or under (−) Subcommittee allocation	−0.7	−0.5

Mr. DURKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHWEIKER. Mr. President, I

ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it s so ordered.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that David Winston, Mary Frances Lowe, and Robert J. Rubin of my staff; John Rother and Barbara Green of Senator JAVITS' staff; and Mary Block, Ginny Eby, Fran Pairs, and Bob Hunter of the Human Resources staff, be granted privilege of the floor during debate and consideration of S. 2466.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHWEIKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL INSTITUTES OF HEALTH CARE RESEARCH ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote by which S. 2466 failed passage be reconsidered, that the vote on the motion to advance the bill, S. 2466, to third reading be reconsidered, and that the vote on the motion agreeing to the committee substitute as amended be reconsidered, thus putting S. 2466 back before the Senate and on second reading.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, and I will not object. As I understand it, the bill would be open to further amendment.

Mr. ROBERT C. BYRD. Yes, it would.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered, and the motions, the various motions to reconsider, are agreed to en bloc.

Mr. SCHWEIKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCHWEIKER. Mr. President, I yield myself such time as I may consume.

Mr. ROBERT C. BYRD. Mr. President, there is no time limit on the bill, that is correct, is it not?

The PRESIDING OFFICER. The Chair would inform the Senator that the observation of the majority leader is correct, there is no time on the bill. Therefore, an amendment must be offered before there is time for debate.

Mr. ROBERT C. BYRD. All the time is yielded back or was consumed before the final vote on the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. There would be 1 hour on amendments in the first degree and 30 minutes on any amendment in the second degree of debate time, but there is no debate time on the bill itself.

UP AMENDMENT NO. 1626

(Purpose: To give the Office of Health Technology certain administrative responsibilities)

Mr. DOLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment numbered 1626.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the proper place, insert the following:

"SEC. 111. (a) The Assistant Secretary for Health, acting through the Office of Health Technology, shall have the responsibility (1) for developing the policies of the Department of Health, Education, and Welfare with respect to the rights to inventions of its employees, grantees and contractors, subject to applicable laws and regulations; (2) for issuing invention and patent administration policies and procedures; (3) for administering the receipt of land processing invention reports by employees, grantees and contractors, of the Department and maintaining records and documents incident to patent and invention administration; (4) for making determinations of rights in inventions and patents involving inventions of employees, grantees and contractors of the Department; and (5) for making determinations with respect to applications for licenses under patent applications and patents owned by the United States, as represented, and for accepting licenses issued to the United States as represented by the Department.

(b) All functions of the Office of General Counsel relating to patent administration and administration of invention reports by employees, contractors and grantees of the Department are transferred to the Office of Health Technology, provided, however, that all legal services and functions, relating to patents inventions by employees, grantees and contractors of the Department shall remain in the Office of General Counsel.

The PRESIDING OFFICER. This would be a first-degree amendment. Therefore, on this amendment there is 1 hour, 30 minutes to a side.

The Senator from Kansas.

Mr. DOLE. Mr. President, I am prepared to yield additionally to the distinguished Senator from Pennsylvania. one of the floor managers of the bill, if he would like 5 or 10 minutes at this time.

Mr. SCHWEIKER. I appreciate that.

I might say that the Senator from Kansas has played an instrumental role in developing these amendments, and that will unfold as he offers his amendment and we discuss the committee amendment.

I congratulate him for his help and support in working out this amended bill.

Mr. President, I support S. 2466 as amended. I believe the changes incorporated in the amendments reflect some of the concerns voiced by members of the Senate when the bill was previously before us. The bill as amended would:

First. Extend for 3 years the authorization of the National Center for Health Statisics.

Second. Extend for 3 years the authorization for the National Center for Health Services Research.

Third. Provide a legislative base for an existing administrative unit, the Office of Health Technology, which is located in the Office of the Assistant Secretary for Health.

Fourth. The authorizations have been significantly reduced.

The Subcommittee on Health and Scientific Research, of which I am the ranking Republican member, has conducted a series of hearings on federally supported research activities over the past year. In the course of these hearings, it has become clear that not enough research in the area of health services delivery is now being done. I have concluded that the current governmental research entities in many cases could not, and in other instances, would not, give this area the priority it deserves.

I want to stress that this bill does not envision the centralization of the functions of all existing public health service and health care financing administration efforts into one superagency. I recognize that the center for disease control has developed expertise in the field of epidemiology related to the control of infectious disease and the investigation of disease incidence and outbreaks, for example, and should retain its capabilities in such areas, and that the National Institutes of Health should continue its important epidemiological work in the disease-oriented institutes. The mandate in this bill is for clearer coordination, not the elimination of functions performed well and with great expertise by responsible existing agencies.

I do not in any way wish to suggest that the research currently being conducted is undesirable or unnecessary, but I am convinced that greater attention to health services research, epidemiological studies, and the assessment of medical technologies is warranted. In addition, current statistical activities supported by various agencies, within HEW have at times proved to be less useful than they could have been, due to problems of coordination and comparability of data. Perhaps as much as $200 million could be saved if statistical and data gathering activities could be effectively coordinated and duplication eliminated, according to one estimate.

I hope the bill before us today will go a long way toward improving our research and data-gathering capability by extending the National Center for Health Statistics and the National Center for Health Services Research.

In supporting the creation of a legislatively authorized Office of Health Technology I am aware of the concerns raised during the last debate regarding the creation of new bureaucracies and the concern about Government control of technology research. I think it is important to note that this bill does not create a new office—the office already exists within DHEW. The bill would specify that the office should be concerned about priorities for Federal research regarding

medical technologies, should promote and encourage studies of medical technologies; should develop better methodologies for conducting evaluations of medical technology; and act as a clearinghouse for information concerning medical technologies.

It is not my intention in supporting the Office of Health Technology to create a Federal agency which will regulate medical technology or medical practice. On the contrary, I think it is important to note that the Office would have no regulatory authority. Rather, I seek to creat a focal point for medical technology assessment activities, to evaluate appropriate technologies for safety and effectiveness and to share the result of these evaluations with the appropriate public and private entities.

One other aspect of the bill which I would like to highlight is the provision I introduced to require the Center for Health Services Research to conduct a study of the impact of the new United Mine Workers' collective-bargaining agreement, which requires copayment for health services, upon the utilization of health services and the health status of the mine workers and their families. It has been suggested by a number of very distinguished health experts that copayment would reduce utilization without adversely affecting health status. The new agreement ratified by the mine workers provides a unique opportunity for study which should not be lost. I am glad that my colleagues in the committee have agreed to this provision and concur with the need for the study. I think the results will be very useful as we continue to search for ways to control costs while assuring quality health care.

The bill currently before the Senate is designed to foster much needed research into health services and medical technologies without creating new Federal bureaucracies. I urge its adoption.

I compliment the distinguished chairman of my subcommittee, who is a prime author of this bill, Senator KENNEDY, on his work and leadership in this area; and I thank Senator DOLE and his colleagues for their willingness to work out this compromise bill.

Mr. DOLE. Mr. President, I ask unanimous consent that Sheila Burke and Barry Leskowitz, of my staff, have the privilege of the floor during the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the Senator from Kansas offered an amendment, an effort to move along and start the debate. I now withdraw that amendment, and I will reoffer it after Senator KENNEDY offers his amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The amendment is withdrawn.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the consideration of and votes on S. 2466: David Blumenthal, Larry Horowitz, Stuart Shapiro, Bob Wenger, Rebecca Beauregard.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1627

(Purpose: Reduce authorization levels; eliminate seventh Public Health Service agency)

Mr. KENNEDY. Mr. President, I call up my amendment, on behalf of myself and the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from New York (Mr. JAVITS).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself and others, proposes an unprinted amendment numbered 1627.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services Research, Health Statistics and Medical Technology Act of 1978".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SECTION 101. (a) The heading to section 304 is amended to read as follows:

"GENERAL AUTHORITY RESPECTING HEALTH STATISTICS, HEALTH SERVICES, MEDICAL TECHNOLOGY RESEARCH EVALUATIONS, AND DEMONSTRATIONS

(b) (1) Section 304 (a) is amended to read as follows:

"(1) The Secretary, acting through the National Center for Health Services Research, the National Center for Health Statistics, and the Office of Health Technology, shall conduct and support research, demonstrations, evaluations, and statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.

"(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research, demonstrations, evaluations, and statistical and epidemiological activities respecting—

"(A) the accessibility, acceptability, planning, organization, distribution, utilization, and financing of systems for the delivery of health care,

"(B) alternative methods for measuring and evaluating the quality of systems for the delivery of health care,

"(C) the collection, analysis, and dissemination of health related statistics,

"(D) alternative methods to improve and promote health statistical and epidemiological activities,

"(E) the safety, efficacy, effectiveness, cost effectiveness, and social, economic, and ethical impacts of medical technologies,

"(F) alternative methods for disseminating knowledge concerning health and health related activities,

"(G) the special health problems of low income and minority groups and the elderly to insure that these problems are assessed on a periodic regular basis, and

"(H) the prevention of illness, disability, and premature deaths in the United States.

"(3) The Secretary shall (through National Research Service Awards) undertake and support manpower training programs to provide for an expanded and continuing supply of individuals qualified to perform the research, evaluation, and demonstration projects set forth in sections 305, 306, and 306A.".

(2) Section 304(b)(1) is amended by (1) inserting ", when appropriate," before "enter into contracts" and (2) inserting a period after "entities and individuals" and striking all that follows.

(3) Section 304(b)(3) is amended by adding at the end thereof the following new sentence:

"In addition, the Director of the National Center for Health Services Research and the Director of the National Center for Health Statistics, in order to assist each of them in carrying out the functions set forth in sections 305 and 306 respectively, and without regard to any other provision of this Act, are each authorized to obtain the services of not more than fifteen experts or consultants who have appropriate scientific or professional qualifications.".

(4) Section 304(c) is amended to read as follows:

"(c) The Secretary shall coordinate all research, evaluation, demonstration, and statistical and epidemiological activities referred to in subsection (a) undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible, such coordination shall be carried out through the National Center for Health Services Research, the National Center for Health Statistics, and the Office of Health Technology.".

SEC. 102. (a) Section 305(b) is amended by—

(1) striking "technology," in paragraph (1);

(2) striking "and" after "manpower;" in paragraph (2);

(3) striking the period in paragraph (3) and inserting in lieu thereof ", and"; and

(4) adding at the end thereof the following new paragraph:

"(4) the uses of computer science in health services delivery and medical information systems.".

SEC. 103. (a) Section 306(b) is amended by—

(1) striking "; and" after "dissolution" in paragraph (1)(H) and inserting in lieu thereof a period;

(2) adding at the end thereof the following new paragraph:

"(3) undertake and support (by grant or contract or both) epidemiological research, demonstrations, and evaluations on the matters referred to in paragraph (1).".

(b) Section 306(c) is amended by—

(1) inserting "and epidemiological" after "statistical" each place it occurs; and

(2) striking "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

(c) Section 306(e) is amended by—

(1) inserting "to be known as the Cooperative Health Statistics System" after "levels" in paragraph (1), and

(2) striking "such cooperative system" each place it occurs and inserting in lieu thereof "such System".

(d) Section 306(1)(1) is amended by striking "United States".

(e) Section 306 is amended by adding at

the end thereof the following new subsection:

"(j) In carrying out the requirements of section 304(c) and paragraph (2) of subsection (e), the Secretary shall coordinate health statistical and epidemiological activities of the Department of Health, Education, and Welfare by—

"(1) developing in consultation with the National Committee on Vital and Health Statistics, promulgating by regulation, and maintaining the minimum sets of data needed on a continuing basis to fulfill the collection requirements of subsection (b)(1),

"(2) after consultation with the National Committee on Vital and Health Statistics, establishing, by regulation, standards to assure the quality of health statistical and epidemiological data collection, processing, and analysis,

"(3) reviewing periodically all existing health statistical data collections of the Department that were previously approved pursuant to the Federal Reports Act of 1942 to determine whether such collections conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (1) and (2). If any such collections are found not to be in conformance, the Secretary shall take the necessary action to assure that any future collections (effective ninety days after the review) are in conformance,

"(4) reviewing all proposed health statistical data collections of the Department that require approval pursuant to the Federal Reports Act of 1942 to determine whether such proposed collections conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (1) and (2). If any such proposed collections are found not to be in conformance, the Secretary shall take the necessary action to bring them into conformance before such proposed collections are initiated.".

SEC. 104. Title III is amended by adding after section 306 the following new heading and section:

"OFFICE OF HEALTH TECHNOLOGY

"SEC. 306A. (a) There is established in the Department of Health, Education, and Welfare the Office of Health Technology (hereinafter in this section referred to as the 'Office') which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal adviser to him for health programs).

"(b) The Secretary, acting through the Office, shall—

"(1) establish, in consultation with the Council for the Evaluation of Medical Technology, priorities for research, demonstrations, and evaluations of medical technologies as prescribed by paragraph (2)(A). In establishing such priorities, particular emphasis should be placed on—

"(A) the actual or potential risks and the actual or potential benefits to patients associated with the use of the medical technology,

"(B) per use and/or aggregate cost of the medical technology,

"(C) the rate of utilization of the medical technology, and

"(D) the stage of development of the medical technology; and

"(2) undertake and support (by grant or contract or both) research, demonstrations, and evaluations concerning—

"(A) the safety, efficacy, effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies;

"(B) the factors that affect the utilization of medical technologies throughout the United States;

"(C) alternative methods for disseminating information on medical technologies to health professionals;

"(D) alternative methods for measuring the quality of health services; and

"(E) the effectiveness, administration, and enforcement of quality assurance programs.

"(c) To assist in carrying out this section, the Secretary, acting through the Office, shall cooperate and consult with the National Institutes of Health, the Veterans' Administration and any other interested Federal departments or agencies and with State and local health departments and agencies.

"(d)(1) The Secretary, acting through the Office, shall, by grants or contracts, or both, assist public and/or private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers for multidisciplinary research, evaluations, and demonstrations respecting the matters referred to in paragraph (2) of subsection (b). To the extent practicable, the Secretary shall take such actions, in accordance with the requirements of this subsection and section 308, to assure that three such centers shall be operational by September 1, 1981.

"(2)(A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary, acting through the Office, determines that when it is operational it will meet the requirements listed in subparagraph (B), and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

"(B) Each center shall meet the following requirements:

"(i) there shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in research, demonstrations, and evaluations respecting the matters referred to in paragraph (2) of subsection (b), and there shall be such additional professional staff as may be appropriate;

"(ii) the staff of the center shall have expertise in the various disciplines needed to conduct multidisciplinary research, evaluations and demonstrations respecting the matters referred to in paragraph (2) of subsection (b);

"(iii) the center shall be located within an established academic or research institution with departments and resources appropriate to the programs of the center; and

"(iv) each center shall meet such additional requirements as the Secretary may by regulation prescribe.

"(e)(1) There is established in the Office a National Council for the Evaluation of Medical Technology (hereinafter in this subsection referred to as the 'Council') to be composed as follows:

"(A) The Surgeon General, the Director of the National Institutes of Health, the Chief Medical Director of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Chairman of the National Professional Standards Review Council (or their designees), and three other employees of the Department of Health, Education, and Welfare (or their designees) appointed by the Secretary, shall be ex officio members of the Council.

"(B) Eighteen members appointed by the Secretary. Six of the appointed members shall be selected from among leading medical or scientific authorities; two of the appointed members shall be practicing physicians; two of the appointed members shall be practicing hospital administrators; two of the appointed members shall be selected from members of the general public who are leaders in the field of economics; two of the appointed members shall be selected from members of the general public who are leaders in the field of law; and four of the appointed members shall be selected from outstanding members of the general public who, based on their interests, disciplines, and/or expertise, would be appropriate members of the Council.

"(2)(A) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(ii) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(B) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(C) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including travel-time; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the government service employed intermittently.

"(3) The Council shall annually elect one of its appointed members to serve as Chairman until the next election.

"(4) The Director of the Office shall (1) designate a member of the staff of the Office to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(5) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"(6) The Council is authorized to—

"(A) advise, consult with, and make recommendations to the Secretary and the Director of the Office with respect to carrying out the provisions of this section;

"(B) after consultation with appropriate public and private entities, advise the Secretary concerning the safety, efficacy, effectiveness, cost effectiveness, and the social and economic impacts of particular medical technologies;

"(C) after consultation with appropriate public and private entities, develop, when appropriate and to the extent practicable, exemplary standards, norms, and criteria concerning the utilization of particular medical technologies;

"(D) publish, make available and disseminate, through the National Library of Medicine, promptly in understandable form and as widely as possible, but, at a minimum, to each of the National Institutes of Health, to the Food and Drug Administration, to the Indian Health Service, and the Bureau of Medical Services of the United States Public Health Service, to all health systems agencies, to all Professional Standards Review Organizations, to all medical schools professional associations, State and local departments of public health, and to the Department of Medicine and Surgery of the Veterans' Administration and the Assistant Secretary of Defense for Health Affairs, the standards, norms, and criteria developed pursuant to paragraph (C); and

"(E) review and approve any grant that the Office proposes to make and any contract the Office proposes to enter pursuant to this sec-

tion if such grant or contract is in an amount exceeding $35,000 of direct costs.

"(f) For purposes of this section, medical technology means any discrete and identifiable medical or surgical regimen or modality used to diagnose or treat illness, prevent disease, or maintain patient well-being.".

SEC. 105. (a) The heading to section 308 is amended by inserting "306A," after "306,".

(b) Section 308(a)(1)(B) is amended by (1) striking "and" after "research" and inserting in lieu thereof "," and (2) inserting "and the evaluation of medical technology" after "statistics".

(c) Section 308(b)(1) is amended by inserting "306A," after "306".

(d) Section 308(d) is amended by (1) inserting "306A," before "or 307" and (2) by inserting "or epidemiological" after "statistical" in paragraph (1).

(e) Section 308(e) is amended by inserting "306A," after "306" each place it occurs.

(f) Section 308(f) is amended by striking "or 306" and inserting in lieu thereof "306, or 306A".

(g) Section 308(g)(2) is amended by striking "and 306" and inserting in lieu thereof "306, and 306A".

(h) Section 308(h)(1) is amended by striking "or 306" each place it occurs and inserting in lieu thereof "306 or 306A".

(i) Section 308(i)(1) is amended by—

(1) striking "and" after "1976," and inserting ", $32,600,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, and $40,000,000 for the fiscal year ending September 30, 1981" after "1978" in the first sentence thereof.

(2) amending the second sentence thereof to read as follows:

"Of the funds appropriated under this paragraph for any fiscal year, at least 15 per centum of such funds or $6,000,000, whichever is less, shall be available only for health services research, evaluation, and demonstration activities directly undertaken by the National Center for Health Services Reseach and at least 5 per centum of such funds or $1,000,000, whichever is less, shall be available only for dissemination activities directly undertaken by the Center.".

(j) Section 308(i)(2) is amended by—

(1) inserting "and epidemiological" after "statistical",

(2) striking "and" after "1976," and inserting ", $43,400,000 for the fiscal year ending September 30, 1979, $47,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for the fiscal year ending September 30, 1981" after "1978", and

(3) inserting at the end thereof the following new sentence:

"Of the funds appropriated under this paragraph for any fiscal year commencing after September 30, 1978, at least 15 per centum of such funds shall be available only for health statistical and epidemiological activities directly undertaken by the National Center for Health Statistics.".

(k) Section 308(i) is amended by adding at the end thereof the following new paragraph:

"(3) For medical technology research, evaluation, and demonstration activities undertaken or supported under secton 304 or 306A, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981. Of the funds appropriated under this paragraph for any fiscal year commencing after September 30, 1980, at least 15 per centum of such funds shall be available only for medical technology research, evaluation, and demonstration activities directly undertaken by the Office of Health Technology.".

SEC. 106. Section 472(a)(1)(A) is amended by—

(1) striking "and" after "private institutions," in clause (iii);

(2) redesignating clause (iv) as clause (vii); and

(3) inserting after clause (iii) the following:

"(iv) research at the National Center for Health Services Research, the National Center for Health Statistics, and/or the Office of Health Technology,

"(v) training at such Centers and Office to undertake such research,

"(iv) research on the matters set forth in section 304(a)(2) at public institutions and at nonprofit private institutions, and".

SEC. 107. Part K of title III is repealed in its entirety.

SEC. 108. Title IV is amended by adding at the end thereof the following new section:

"SEC. 477. The Director of the National Institutes of Health shall make available annually to the Office of Health Technology and the Council for the Evaluation of Medical Technology a list of all technologies (as defined in section 306A(g)) of which he is aware that are under development and that appear likely to be used in medical practice in the near future.".

SEC. 109. The Secretary, acting through the National Center for Health Services Research, shall arrange for the conduct of a study to evaluate the impact upon the utilization of health services by and the health status of members of the United Mine Workers and their dependents as a result of changes in the United Mine Workers' collective-bargaining agreements of March 1978, that require copayments for health services. Such study and a report thereon shall be completed and submitted to the Secretary, the Committee on Human Resources, the Committee on Appropriations, and the Committee on Finance of the Senate, and the Committee on Ways and Means, the Committee on Appropriations, and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than thirty months after the date of enactment of this section. Not more than $1,000,000 of the sums authorized to be appropriated for health services research, evaluation and demonstration activities by section 308(i)(1) of the Public Health Service Act shall be made available for such study.

SEC. 110. (a) The Secretary, in cooperation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, shall develop a plan for the collection and coordination of statistical and epidemiological data on the effects of the environment on health. Such plan shall include, but not be limited to, a review of the data now available on health effects, deficiencies in such data, and methods by which existing data deficiencies can be corrected. The plan shall be submitted to Congress not later than October 1, 1979.

(b) In carrying out the provisions of subsection (a), the Secretary, the Secretary of Labor, and the Administrator of the Environmental Protection Agency shall consult with the Committee on Human Resources and other appropriate committees of the Senate and the Committee on Interstate and Foreign Commerce and other appropriate committees of the House of Representatives.

I. GENERAL THEMES

Mr. KENNEDY. Mr. President, the amendments that we are today introducing will substantially alter S. 2466 as reported by the Committee on Human Resources. The amendments which we are making today incorporate and respond to many of the concerns raised by my colleagues during the earlier consideration of this legislation.

In particular, S. 2466 as amended, would create no new bureaucratic structures. Also, S. 2466 provides for modest and absolutely necessary increases in authorizations for the programs that we are renewing with this legislation.

Whereas the initial legislation created a new public health service agency, to be known as the National Institutes of Health Care Research, this amended version of S. 2466 merely extends existing programs. No new institutes and no new agencies are created.

I understand that many of my colleagues feel that this is not the time to be creating new institutions and new agencies. In particular, some felt that current plans for the research and statistical agencies with which we are dealing—current administration plans—should be allowed to run their course. It was argued that the administration has its own proposals from an organizational point of view and that these proposals deserved a chance to prove themselves.

We have in large measure accepted that point of view in this legislation. However, I want to make clear that the administration's plan for the National Center for Health Services Research and the National Center for Health Statistics remain very much on trial, and that we will continue to follow with extreme vigilance the progress of these two institutions, as well as the Office of Health Technology whose duties are defined in S. 2466 as amended.

II. THE MAJOR FEATURES OF S. 2466 AS AMENDED

The legislation extends for 3 years the authorization for the National Center for Health Services Research. Authorization for 1979 would be $1 million above the President's budget request, at a total of $32.6 million. The additional $1 million is specifically earmarked for study of the impact of recently introduced coinsurance and deductibles on the health care utilization of mineworkers under the revised plan resulting from their recent settlement. Authorizations for 1980 would be $35 million, in 1981 $40 million. These are bare bones authorizations, and I think every penny is justified.

The legislation would extend for 3 years the National Center for Health Statistics; 1979 authorization would be $43.4 million, which is the President's budget request. In 1980 authorization would be $47 million and in 1981 $50 million. The National Center for Health Statistics would acquire a somewhat expanded mandate for doing epidemiological research, and again, this is an absolutely minimal, cut to the bone, budget.

Finally, S. 2466 as amended would provide legislative authorization and definition to the Office of Health Technology. This is an existing administrative entity within the Office of Assistant Secretary for Health. The Secretary of HEW officially created this office within the last several months, and it is currently staffing up and about to begin functioning. This is not a new structure. It will, in keeping with the pending House legislation, be designated under this legislation as a Office of Health Technology. Its authorizations would be $15 million in 1979, of which only $5 million is new money; $10 million was previously authorized for studies in quality assurance. The mandate for the use of these moneys is incorporated into the new National Center; 1980 authorization is $25 million, and 1981 authorization is $30 million.

III. JUSTIFICATIONS FOR THE TWO EXISTING NATIONAL CENTERS:

The two existing national centers—the National Center for Health Statistics and the National Center for Health Services Research—perform critical functions for the operation of our health care system.

The National Center for Health Services Research is the only source of nontargeted research money for the perfection of our health delivery system. At our proposed authorization level of $32.6 million we are spending as a country less than 5 hundredths of 1 percent of our health care dollar on research and development aimed at improving the delivery of medical care. This compares with 3 to 4 percent in the area of biomedical research generally. We are pouring money into the provision of health care, but we are not doing the basic work needed to lay the groundwork for an improved system of health care delivery. No industry with a $55 billion dollar budget, like that of the Federal medicare and medicaid programs, would be content with that kind of paltry expenditure on research. This is a barebone budget. I intend to come back in the future with proposals for increases; at the appropriate time.

However, I would like to note that this year we have reversed a long period of decline in the budget of the National Center for Health Services Research.

In 1973 the authorization for this center was $80 million, and it declined to $28.6 million last year. This year we are advancing it, judiciously, to $32.6 million. I expect that this investment will be justified over time. The National Center has gotten little credit in the past for clear accomplishments: the development of the Professional Standard Review Organization prototypes, the early development of the cooperative health statistics system, pioneering work in the area of disease prevention and in the area of the design of rural health clinics.

The National Center for Health Statistics provides virtually all our information about the health of the American people, their health habits, their health needs, the costs of our health care system. Without its contributions, we would never know where we can save money and where we need to spend more. Our health planners would be at a complete loss to develop a rational health care system.

As we have noted, the budgets of these two centers are at the President's budget request, with the exception of the National Center for Health Services Research, which is $1 million above that budget. The reasoning for this added million dollars is that it will permit us to do a study of the changes in the health care utilization of the United Mine Workers whose policy has just recently come to include co-insurance and deductibles.

Our distinguished colleague from Pennsylvania was the principal sponsor of this provision, and I think it is a valuable and useful amendment to consider the coinsurance and deductible impact on utilization of services.

This study would have an important impact on our planning of future health care financing mechanisms. It would help us measure the effect of payments by consumers on their utilization of health services. One million dollars is allocated for this study.

We are not proposing, as we did previously, to move the two national centers out of the Office of the Assistant Secretary. However, I want to make clear that I continue to have grave reservations about the placement of these two centers. I think over the long term that their location in the Office of the Assistant Secretary will tend to undermine their legitimacy and their image as nonpolitical, completely objective sources of information about the health of Americans and about the way in which our health care delivery system should be structured. For that reason, I want to make clear that we will continue to follow with the utmost closeness the development of these centers, their health and their reputations. We share with the administration, I feel, a genuine concern to make these two centers function in the best possible way. However, we have a difference of opinion about whether their current situation is optimal.

In addition, I continue to have an ongoing concern about the general health of health services research, and whether it does not deserve the kind of institutional recognition, prestige, and integrity that has served the National Institutes of Health so well. We have an ongoing and successful model of how the Government can fund research to the overwhelming benefit of the American people. Yet in an area that is critically important, we reject as overly bureaucratic attempts to apply successful models to a problem area. The subcommittee will continue to study the best organizational approaches toward promoting health services research and health statistics. The administration has promised to study possible alternatives to the current locations of the two centers. We intend to see that they keep their word in scrutinizing those alternatives.

WHAT IS THE PLANNED OFFICE OF HEALTH INSURANCE?

We have changed the name of the agency originally mandated in S. 2466, so that it is now entitled an Office of Health Technology. This is to make clear the overall similarities between what we are proposing and what the administration is supporting and recently created.

The Office of Health Technology would have the function of improving coordination among agencies doing evaluations of medical technologies and health practices. It would also have the function of making certain that health care technologies which badly need study—or are of high priority—receive that scrutiny.

Its specific functions would include:

First. Setting priorities for the study of medical technologies in government agencies.

Second. Improving our methodology for studying the cost-effectiveness, efficacy and safety of medical technology.

Third. Acting as a clearinghouse for information on the effectiveness and cost-effectiveness of medical technologies.

The purpose of the center is to save on cost and to protect the quality of care. It can accomplish this goal with a minimal new Federal investment and without any new Federal regulation. Its goal is to disseminate information about which techniques work and which do not, about which are cost-effective and which are not. It will not be a policeman of medicine, but a servant of the physician and the consumer. It will make available to physicians, hospital administrators, and health care planners the very latest information, in a digested and easily understood form, the very most up-to-date information available from federally funded research.

It will increase the amount and the availability of knowledge about the effectiveness of clinical techniques and devices.

It has been argued that we do not really need a new Office of Health Technology. There is plenty of work, it is said, being done on the effectiveness of new medical practices and procedures.

But at least four separate studies, including the administration's own analysis, recommended setting up a center or office like the one mandated in S. 2466. These studies include reports from the National Academy of Sciences, the Boston University Health Policy Institute, the AMA National Commission on the cost of medical care, a forthcoming report by the Office of Technology Assessment, and a study by the Institute of Medicine. All these studies agree.

They agree on the following:

First. There is some research being done, but it is uncoordinated.

Second. Even then, not enough research is being done.

Third. Perhaps the most serious criticism made by the administration and by these studies is that the information generated by America's scientists and clinical researchers is not getting out to the public. It is not being presented in a uniform and systematic fashion, and for that reason, it is not having the effect it could have on the health and welfare of the American people.

We do not give our physicians the information they need to distinguish between the best new clinical procedures and those that do not work. New technologies and the increased use of existing technologies account for 40 percent of the annual increase in the cost of a day of hospital care. Since 1967, that comes to an increase of $10 to $12 billion in the cost of health care. We see numerous examples of clinical techniques that become widely and commonly used before their efficacy is studied. For instance, gastric freezing was used in the treatment of ulcer disease on the thousands of patients before it was discovered that it did not work and caused fatal side effects. We have heard testimony that coronary artery surgery, while it prolongs life and relieves pain in some patients, is vastly overutilized. It cost $1 billion a year. We know that we have 500 CAT scanners in this country while the British have a small fraction of that many.

Is anyone watching the shop? Who is looking to see that the expensive, or the

most beneficial, or the most highly utilized, or the most dangerous technology get close and careful scrutiny early on in their development. I am not talking about regulating them. I am talking just about studying them.

We have health care planners whose job it is to rationalize the distribution of health care. Where are they to turn for advice on which techniques should be more broadly available, and which less so? Who is the definer of health care needs? The answer is no one. That is why we need this office.

We will hear arguments that the $15 million provided, of which only $5 million is new money, is excessively costly. How shortsighted. Here we have medicare costs and medicaid costs going up by $6 or more billion a year, and we are fighting about $5 million set aside for the purpose of winnowing out (through noncoercive means) those medical practices and procedures which do not work, or which are of extremely limited effectiveness. These are cost-saving goals. We all scream about excessive costs, but no one wants to spend the minimal amount of money needed to control those expenditures.

Quotes from various studies supporting the need for an office of the kind we are proposing:

There should be a substantial expansion of efforts to assess health care technologies. . . . A national center should be established to serve as a central depository and clearinghouse for information on health care technologies. . . ." (The AMA Commission)

A mechanism for evaluating and reporting on the performance, costs, and benefits of. . . . technologies should be developed. A national coordinating body should be established. . . . (The NAS Committee)

"A new unit should be established in the office of the Assistant Secretary for Health . . . responsible for overall . . . coordination of Federal health technology policies. . . ." (The BU Health Policy Institute)

Mr. President, these remarks are typical of the comments made during review of these proposals in committee. I think there is ample justification for all the provisions of this legislation, as amended, and I urge swift passage of S. 2466.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. Presdent, I echo what the distinguished Senators from Pennsylvania and Massachusetts have said with reference to S. 2466. Amended S. 2466 is a marked improvement over the original bill. It goes far in alleviating many of the concerns I raised in my original floor statement on the bill. At that time, you may recall, I objected to the establishment of a new and very substantial bureaucratic entity, under the umbrella of a national institute. Establishment of this public health service agency consisting of two new institutes and a center has now been deleted. The bill's sponsors are now offering a much more modest proposal that authorizes the extension of the National Center for Health Services and the National Center for Health Statistics and Epidemiology, and provides legislative authorization for the Office of Health Technology.

Levels of authorization in the original bill have also been pared down considerably. No longer are we being asked to approve a 100-percent increment over the existing appropriation. Instead a more reasonable increase of about 30 percent is being requested. In light of the importance of the health care issues before the country, these new funds are not very much out of line, at least when measured in terms of the absolute dollars requested.

What caused me the greatest concern in the original bill was the creation of an entirely new center for the evaluation of medical technology. Although the present proposal only authorizes funding for an already established Office of Health Technology in HEW, I am not entirely comfortable with what I understand to be the responsibilities of the new office. There still exist potential problems of overlapping authorities with the existing research and development programs at the NIH, FDA, and CDC. I would like to point out that these agencies are devoting considerable resources, in excess of $120 million for the evlauation of the safety and efficacy of more than 30 important medical technologies. Considering the limited resources of the new office, I would anticipate that every effort would be made to avoid duplication of the ongoing projects of these established agencies.

A second concern raised in my previous statement on S. 2466 was the trepidation that, through its power to set standards, the office would be transformed into another regulatory agency in HEW. I am assured by the committee that no such regulatory authority is being assigned to the office. The stated purpose of the office is to coordinate and evaluate medical technology in collaboration with NIH, FDA, and CDC and other agencies and to transfer this information to the various State and Federal health agencies.

As clearly stated in the committee report on S. 2466, two major issues have been raised in connection with the management of medical technology. The first relates to the too-rapid application of insufficently evaluated technology. The second issue, commonly referred to as the "bench to bedside" problem refers to the inordinate lag in the transfer of knowledge from the laboratory to the patient. Additional attention might well be paid to this problem of transfer of technology.

With this in mind, and in order to strengthen the transfer of technology capability of DHEW, I will reoffer in a moment an amendment that previously had been offered. The amendment would create a focus for technology transfer activities within the Office of Health Technology. This will be accomplished by transferring the administrative responsibilities of the DHEW Patent Counsel, who presently serves as the principal technology transfer agent in DHEW, from the Office of the General Counsel to the Office of Health Technology.

To understand why this amendment is necessary, let me review briefly how biomedical technology developed with HEW funds reaches the public. All biomedical inventions and pharmaceuticals emanating from HEW extramural (that is, at universities) and intramural research programs are reported to the HEW Patent Counsel. These inventions are almost always in an early stage of development, requiring substantial additional development and evaluation before they can be introduced to the public.

The development process is very expensive, many times more expensive than the original research grant, and therefore requires the participation of the private sector. Establishing the necessary collaboration between the HEW-supported scientist at the University and the private sector firm is the responsibility of the HEW Patent Counsel. Through the allocation of patent rights to the university the Patent Counsel seeks to create a working relationship between the two sectors for the purpose of bringing the medical invention to the public.

Over the past 10 years the development of substantially all of the HEW inventions has been due to the transfer of technology activities of the Patent Counsel. This has been accomplished through the establishment by the Patent Counsel of a network of over 70 technology coordinators at many of the country's major university and medical research centers. Although the Office of the HEW Patent Counsel has not received very much publicity, it has been able to transfer to the public more than 75 lifesaving inventions and pharmaceuticals.

Notwithstanding the above accomplishments, HEW's efforts to transfer medical technology have not achieved all that might be expected on the basis of the $2 billion annual investment in biomedical research. In the main, this lack of performance is due to the underemphasis of transfer of technology within the DHEW. It is in an effort to correct this situation that the Senator from Kansas is introducing an amendment to the bill under consideration.

In addition, I point out that we are working on legislation that I will be introducing at a later time that will modify the present Federal patent policy. But the present amendment does not address policy.

This neglect of an absolutely crucial aspect of HEW's biomedical research programs is manifest in the low visibility and lack of resources assigned to the Office of the Patent Counsel. For example, in spite of the accomplishments of the Patent Counsel, HEW has permitted the staffing of the Office to be reduced from 16 to 7.

HEW's decision to deny to scientists at universities ownership rights to many of the inventions made with HEW support precludes the possibility of these potentially life-saving breakthroughs ever reaching the public.

I have been advised that there are now 29 cases where a university has been joined by the sponsoring institute of NIH in its petition to HEW's General Counsel for permission to develop the invention for introduction to the public. HEW's response has been to ig-

nore the petition—in an effort to "stonewall" the university—to "stonewall" its own department.

Who is served by a policy that holds back from development 29 life-sustaining inventions? Potential cures for cancer, hepatitis, muscular dystrophy. Methods for early diagnosis of cancer are being denied to the American public, because of the actions taken by the HEW General Counsel. The Senator from Kansas just does not understand these attitudes that now prevail in HEW.

Perhaps the major reason for the low visibility of the HEW Patent Counsel is it placement in HEW. The HEW Patent Counsel resides in the Office of the HEW General Counsel. Because the General Counsel has not viewed technology transfer as a primary mission he has consistently downgraded this function. In the last year, the situation has eroded still further through the introduction of an additional review by the General Counsel of all petitions submitted by universities for allocation of patent rights. In the last year, the failure of the General Counsel to even respond to any of these petitions, despite the positive recommendation by NIH, has done much to destroy the existing technology transfer programs at HEW.

The General Counsel's decision to intervene in the transfer of technology program is in clear violation of DHEW's regulations. According to chapter 1–901 of the DHEW organizational manual, "the Assistant Secretary for Health is responsible for evaluation and development of current patent policy, and shall make the determination of rights in inventions and patents involving important policy considerations."

It is abundantly clear that the Assistant Secretary for Health, who also serves as the chairman of HEW's patent board, is delegated the administrative authority for patent matters. The General Counsel's assumption of this delegated authority, which effectively undercuts the Assistant Secretary for Health, is totally contrary to DHEW regulations.

The natural home for the focus for transferring medical technology is clearly the Public Health Service where both the knowledge and development agencies, NIH, CDC, FDA, and the health action agencies are located. Coordination of the delivery of medical technology is generally acknowledged to be the responsibility of the Assistant Secretary for Health. I therefore recommend that the administrative responsibilities of the DHEW patent counsel be transferred to the proposed Office of Health Technology. Since this office will be placed under the auspices of the Assistant Secretary for Health and will have the mandated responsibility for encouraging the use of efficacious and cost-effective technologies, it is the obvious place to put the unit responsible for transferring medical technology. Consideration of S. 2466 presents an appropriate opportunity to make an organizational change that will, I feel, go far in improving the expeditious delivery of medical technology to the public.

Mr. President, I appreciate the distinguished Senator's yielding, and I will reoffer the amendment at the appropriate time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, will the distinguished Senator yield some time to me?

Mr. KENNEDY. I yield 5 minutes.

Mr. HATCH. I think I can use 7 or 8.

The PRESIDING OFFICER. The Senator from Utah is recognized for 8 minutes.

Mr. HATCH. Mr. President, I ask unanimous consent that Ron Docksai of my staff be accorded the privileges of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I thank the distinguished Senator from Massachusetts, who is my friend, and with whom I serve on three committees and the Technology Assessment Board.

I have been considering this legislation for quite a while. As a member of the Human Resources Committee, on which both of us sit, I recognize the need to improve the coordination of those Federal research programs dealing with health technology. My able colleague, the Senator from Massachusetts (Mr. KENNEDY) has described many of these programs in the past, programs found in the National Institute of Health, the Food and Drug Administration, and others. On a Government organizational chart, these various Federal programs resemble a plate of spaghetti. They resemble something that ought to be hanging in the new gallery of art's east wing. And they are a fact of life, and I am sure there is not a Senator here who does not want to see these programs made more sensible and responsive.

However, the bill we are again asked to consider today is not the answer. This bill, S. 2466, will only serve to increase the caloric intake of our overweight Federal bureaucracy. We are asked to approve what amounts to a minimum of $75 million for the next 3 years to set up another one of the innumerable national institutes which promises to have overlapping authorities with existing agencies of the Federal Government. And it will do more than spend a lot more money.

This new National Center for the Evaluation of Medical Technology presents us with a new unwarranted expansion of the bureaucracy. Its purpose is not clearly stated; and in fact becomes all the more vague in light of the most recent creation of an Office of Health Technology within the Department of HEW. That is, using his authority to establish such an intra-agency review mechanism, Secretary Califano has already set up an office reputed to do what this new institute claims to want to do. And the preexisting office within HEW will do it for less. It will do it for $3 million, money to be taken from HEW's existing resources. (And I might add that these HEW resources are considerable considering the $168 billion they have to work with.) If one accepts Senator KENNEDY's premise on the need for such a new health mechanism, then let us support the reauthorization—at the appropriate time—of the office already established within HEW, an office which apparently can do the job for many millions less.

It is absolutely not true that the Department of HEW has declared a sudden need for the new institute to be set up in S. 2466. In fact, Assistant Secretary for Health. Richmond, testifying before the House Commerce Committee spoke against it. He stated that, "* * * The conceptual, methodological and managerial underpinning of a coherent technology management strategy" is still a frontier of public administration; that it has not been so well developed that there is a call for a significant new legislative mechanism to run the Federal Government's program in this area. To do so, to set up an office to do something which has not yet even been formulated in theory is to waste money and to create further bureaucratic problems—problems of an even more profound character than those we currently confront.

Mr. President, I admire my friend and colleague from Massachusetts, and it is a pleasure to serve with him on many committees.

In fact, I believe he and I are the only two in the whole Congress who serve on all four entities: The Judiciary Committee, the Human Resources Committee, the Joint Economic Committee, and now the Assessment Board.

However, I am compelled to vote against this bill, S. 2466, and I hope a majority of my fellow Senators will do the same. If Lincoln's old adage that Government rests on public opinion means anything, it means that proposition 13 was in part a message to the people here in Washington—a message to us. I have heard the message, and I know that all of us who have will vote against this unfortunate bill.

I think the problem is that all we do around here, instead of really going through the maze of legislation which confronts all of us and is eating all of us alive allowing the bureaucracy to engulf all of us, and dominating every aspect of our lives, and revitalizing that legislation and making it better, what we do is keep coming up with more and more legislation, more and more budgetary requests, more and more expenditures of money, more and more overlapping, more and more costs to the taxpayers, and, in the end, less and less services that really amount to anything for the American people.

I think it is not right for us to fund this entity to the tune of $75 million for the next 3 years, when the whole thing can be done for somewhere near $3 million within the current budget of HEW, and within the $183 billion that HEW has to spend.

What we are doing, instead of coming up with more constructive legislation, is clouding the whole medical-technical field to the point where it suffers because of governmental interference, not just inflation, which itself is caused by gov-

ernmental interference and the printing of too many dollar bills at a time and under circumstances in which nationally the dollar is debilitating. This bill, in my opinion, is just one of these overlarge pieces of legislation which really will not do that much good for anybody, which could be handled within the framework of bureaucracy which already exists, and which is essentially going to cost the taxpayers unnecessary billions of dollars because we are so bill conscious around here that it looks as though we just want another bill.

I suggest to my colleagues in this matter that I do not believe HEW is really behind this matter, and I do not see how any of us can be, in the light of the fact that HEW, as it is, is against it, in the light of the fact that the present budget of HEW is adequate, and in the light of the fact that we just set up, a short while ago, another bureaucracy entitled, "The Office of Health Technology," just in the past few weeks, which negates the need for setting up another new endowed health institute.

This newly established office is being funded with existing HEW funds of $5 million, and therefore I would submit today that my colleagues in the Senate should vote against this new institute, and in doing so save the taxpayers $75 million, which is the authorized level over the next 3 years for this particular bill.

I like to support good legislation, but this, in my opinion, is not good legislation, and, in the end, really is another one of those devastations to the taxpayers of America of which we already have enough.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I thank the Senator from Massachusetts, and I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield myself such time as I may need.

Mr. President, the comments of the Senator from Utah fail to persuade me. I am sure he is not surprised by that. And hopefully he will not persuade the rest of our colleagues.

The fact of the matter is, Mr. President, that the American taxpayer in this body has paid an additional $10 billion to $12 billion over the period of the last 10 years because of new technology in the health area, and there is no mechanism, absolutely none today, to do an evaluation of the effectiveness of this technology in improving the health of the American people or endangering the health of the American people. Absolutely none.

The capacity for the United States to develop more and more and more technology is virtually unlimited. Some of it is going to be enormously valuable and helpful. Some much needed technology is not getting into the areas of the country where it could save lives. Other parts of the country and other population groups get excessive medical care and are subjected to excessive use of technology.

But if we were to accept the argument of the Senator from Utah, we would just say, "Go ahead, boys, put all the technology that you want on line, and the Federal Government, either through the medicare and medicaid programs or reimbursement mechanisms, will pick up the tariff for it."

Mr. President, some studies have estimated that 40 percent of the increase in the cost of a hospital day is due to the use of new technology. The Senator talks about getting a handle on cost control. Moderating the explosion of technology is one of the principal areas where we can get a handle on costs.

We are asking for $5 million; $5 million, when we are talking about $10 to $12 billion over the period of the last several years.

This is recognized as an important function by the National Academy of Sciences, by the prestigious Institute of Medicine, by the Boston University Health Policy Institute, and other organizations.

These organizations point to two goals for technology evaluation. One is improving the health of the American people, and the other saving money.

So, Mr. President, I fail to be persuaded by the distinguished Senator from Utah. He mentions what is being done in HEW. Let us review the record of what has happened in HEW. After we began studying this problem, we held hearings on the technology issue. We asked HEW to study the problem. They proposed, after 6 months, yet another study. After we actually proposed the legislation, HEW answered with their own proposal. When we set figures in terms of authorization, HEW then announced what they are going to do in terms of the amount of resources. The Congress has led, and they have followed, at every point. Now the Senator from Utah argues—after we have forced HEW into a critical and valuable new initiative—that we should sit back and let the administration work its will, that to do more would be "duplicative." I disagree. The Congress has precipitated this development, and has a role in defining its responsibilities.

Mr. President, we have a right here in Congress to recognize areas of important health policy issues and questions. I am satisfied that this proposal makes sense, both as a cost-saving device and as a quality of care device.

Finally, let me just say that the United States has no ability, even though we have virtually an automatic reimbursement for the use of technology, to do any kind of effective evaluation of what the cost of new technology is going to be, or what its impact is going to be on the health of the American people. Nowhere does that capacity exist. One result is that we are finding that the health care cost spiral has continued to go up, until the rate of inflation is now virtually 220 percent higher than the consumer price index.

We have no coordinated and effective mechanism that says when a technology is effective and worthwhile and valuable, that we are going to be able to get it out to doctors all over this country so they can treat their patients and bring them the best in terms of health technology. This function does not exist. When we get new technology that can help, we have absolutely no way to get it out.

Mr. HATCH. Will the Senator yield for a question?

Mr. KENNEDY. This is an important function, Mr. President. Brought together with all the other elements on statistics and health care research we believe that we can reduce the explosion of health care costs. We do not suggest we are going to be able to reverse the trend, but we are going to make it grow at a slower rate, and we believe it will have an important impact in improving health. I yield to the Senator.

Mr. HATCH. I thank the Senator.

What are the changes in this bill over the previous bill? The Senator has indicated that he has changes. Maybe I misunderstood, but I do not think so.

Mr. KENNEDY. Well, first of all, there is a reduction in terms of the authorization.

Mr. HATCH. That goes $46 million in the first year to $75 million in 3 years, is that correct?

Mr. KENNEDY. I am not certain to which figures the Senator refers. The Center for Health Statistics has existed for 10 years and health care research had an authorization in 1973 three times the amount proposed here. There has been a significant reduction, as stated by the Senator, since the Senate first considered this legislation.

There is also a fundamental difference in the fact that we are not creating any new institute. That is a major change. A major concern to members of this committee was the establishment of new institutes. We are not moving any agencies around or creating any new agencies. All these three centers and offices will remain in the Office of the Assistant Secretary for Health.

Let me just say very clearly why initially we put it outside that office, in a new Institute of Health Care Research. It seems to me that health care research ought to be separated from politics. Health statistics ought to be separated from politics. The Congress on health statistics to be unbiased and objective, I do not think it ought to be under the arm of a political office, as much as I support and respect many of HEW's officials. I think all the functions of this legislation belong in a nonpolitical setting, where their independence and objectivity are beyond dispute.

Because the membership felt the creation of a new institute was not appropriate, we have said all right, we will not do that, we will preserve the function on a significantly reduced basis within the Department of HEW and under the Assistant Secretary of Health.

I believe, as I mentioned earlier, we will observe these offices. We have every intention of doing that. If it becomes necessary at some future time, we can develop them in another way.

Mr. HATCH. Is the Senator representing that the $46 million in the first year and $75 million over the next 3 years are not funds? There is one other aspect of that question: Is this the only change between the old bill and the new bill, that it brings it from $100 million down to

$46 million in the first year? It is my understanding these are new funds. This will cost the taxpayer $75 million over the next 3 years. I think that is what the bill says. Is that the only change made from the prior bill?

Mr. KENNEDY. I do not know what figures the Senator is talking about. The National Center for Health Care Research under the current law is receiving $31 million. Under our proposal the authorization goes to $32.6 million. That is not even the inflation rate. The National Center for Health Statistics appropriation is $38.6 million and the authorization goes up to $43 million. In medical technology there is currently the authorization of $10 million which is increased by $5 million. Then the NCHCR authorization goes from $32 million to $35 million to $40 million, health statistics goes from $43 million to $47 million to $50 million, and medical technology goes $15 million, $25 million, $30 million. Those represent the increases in authorizations.

Mr. HATCH. Then they are new funds or increases?

Mr. KENNEDY. If the Senator wants to say——

Mr. HATCH. I am just asking.

Mr. KENNEDY. Will the Senator permit me to respond? There are modest new moneys in the legislation, just enough to perform vital and fully justified Federal functions. The funds allow us to know how many people die of heart disease and cancer each year. They allow us to determine infant mortality rates. They show the rate of hospitalization in different sections of the country, the rate of tonsillectomies, the medical procedures, and so on. Does the Senator have a better way of getting our infant mortality figures?

Sure, it is true these activities would continue under this legislation, and there would be a modest increase, though not as much as of an increase as we had in the previous bill.

Mr. HATCH. Am I correct in my assertion that HEW said that they could take care of this function within their present circumstances and that it would cost considerably less, we estimate $3 to $5 billion as contrasted to the many, many millions the distinguished Senator from Massachusetts is now going to saddle the taxpayers of America with?

Mr. KENNEDY. I reviewed earlier what has been the record of HEW in response to each step of the Health Subcommittee in this area.

I think our committee, quite frankly, has felt that the importance of this function needed the legislative authority which this provides because of the general lack of interest. I think there are people within HEW who understand the importance of it and believe in it deeply, and I am sure they can develop the capacity to carry it through effectively.

Mr. HATCH. Is it not true that we just established an Office of Health Technology within the last week or so that literally could take care of this whole problem without establishing this new bureaucracy?

Mr. KENNEDY. What is the new bureaucracy the Senator sees? It will be done within HEW. What is the new bureaucracy? Under the Assistant Secretary, what is the new one? The critical difference is that we are not establishing a new institute. We are giving legislative authorization to an existing office, an existing entity.

Mr. HATCH. It is going to be a national center for the evaluation of health technology, is it not? Is that what the Senator is establishing here?

Mr. KENNEDY. There is none in our legislation.

Mr. HATCH. I know, but we established just a week ago the Office of Health Technology within HEW. We seem to be duplicating the effort at a very high expense and cost to the taxpayers. That is the gripe I have.

I recognize the distinguished Senator from Massachusetts has great concern about health processes and systems in this country, but why do we have to keep duplicating in these areas which are already taken care of by recent legislation, within the past week or so?

Mr. KENNEDY. I am unfamiliar with the legislation the Senator refers to. We did not pass that in the last week.

Mr. HATCH. I am in error there. Secretary Califano did set up an interagency office about a week ago. I said it was legislation. I did not mean that. He said he could take care of this for considerably less than what this bill will cost and now we are going to saddle him with another bureaucracy with a tremendous cost to the taxpayers for the benefit, really, of hardly anybody.

Mr. KENNEDY. The Senator has not read the legislation.

Mr. HATCH. I am afraid I have.

(Mr. CANNON assumed the chair.)

Mr. KENNEDY. If the Senator would read the legislation, can he tell me where it establishes another one?

Mr. HATCH. Yes.

Mr. KENNEDY. Then find it, because it does not exist. What it does is it defines the authority and responsibility.

Mr. HATCH. On page 32 of the bill.

Mr. KENNEDY. That does not set it up. It establishes——

Mr. HATCH. It establishes a National Center for the Evaluation of Medical Technology.

Mr. KENNEDY. Mr. President, I am glad to continue to engage in further dialog, but the fact is we are defining the authority of an existing office. We are not creating a new office. This function which has been recommended as being a critical and important function from both the cost point of view and from a health benefit point of view by the Institute of Medicine and the National Academy of Science, and the others who have studied it.

Such distinguished individuals as Dr. David Hamburg of the Institute of Medicine have supported this legislation. This is the first piece of health legislation that he has ever testified on, in any Congress of the United States. He felt that it was that essential, from both a health point of view and a cost point of view. He feels that this particular approach warrants the support of the Members of Congress and the Senate.

The Senator from Utah thinks this function can be done in some different way. We have made a judgment that it was the best way to perform it and do it and I am hopeful that we will have the acceptance of the Senate.

Mr. HATCH. Will the Senator yield for just one more comment? Then I shall cease.

It is my understanding that the Assistant Secretary of HEW—the Assistant Secretary of Health for HEW—Mr. Richman, testified before the House Commerce Committee in February against developing this institute. So if you have conflict within HEW——

Mr. KENNEDY. Since the Senator is asking questions, we are not having a new institute. That was the previous bill, opposed by Senator DOLE.

Mr. HATCH. Well, he certainly spoke out against this concept.

Mr. KENNEDY. The Senator is incorrect. He spoke out in support of this concept and this office. He opposed a new institute of Health Care Research, not an Office of Health Technology.

Mr. HATCH. Not this man.

Mr. KENNEDY. The Senator is incorrect. I listened to Julie Richmond. I talked to him. I spent a lot of time as chairman of the subcommittee on this. The Senator is incorrect.

Mr. HATCH. If I happen to be correct, will the Senator withdraw his bill——

Mr. KENNEDY. The Senator is not correct. It is not a question of that.

Mr. HATCH (continuing). In the interest of bureaucratic creativity? I think this is just another expense proposed by the bureaucrats over in HEW, who, I think, have been arguing against what their own people have said. If the Senator will read Mr. Richman's testimony, he will find that he spoke out against the concept. I do not see why we allow the bureaucrats of Washington to tell us to keep funding them in a way that does not do anything for the taxpayers of the country. It is just costing more money.

I thank the Senator from Massachusetts for his courtesy in answering my questions and engaging in this discussion.

The PRESIDING OFFICER. The time of the Senator from Massachusetts has expired. Who yields time? The minority leader has 14 minutes remaining.

Mr. KENNEDY. We are prepared to yield time to the Senator from Kansas.

Mr. DOLE. I am prepared to yield back the time in order to have my amendment considered.

Mr. KENNEDY. We have to yield the time in order to consider that amendment.

UP AMENDMENT NO. 1626

(Purpose: To give the Office of Health Technology certain administrative responsibilities)

Mr. DOLE. I am prepared to yield back the time, the 14 minutes, and reoffer the amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment number 1626 to unprinted amendment numbered 1627 proposed by Mr. KENNEDY:

At the proper place, insert the following:

"SEC. 111. (a) The Assistant Secretary for Health, acting through the Office of Health Technology, shall have the responsibility (1) for developing the policies of the Department of Health, Education and Welfare with respect to the rights to inventions of its employees, grantees and contractors, subject to applicable laws and regulations; (2) for issuing invention and patent administration policies and procedures, (3) for administering the receipt of and processing invention reports by employees, grantees and contractors, of the Department and maintaining records and documents incident to patent and invention administration; (4) for making determinations of rights in inventions and patents involving inventions of employees, grantees and contractors of the Department; and (5) for making determinations with respect to applications for licenses under patent applications and patents owned by the United States, as represented, and for accepting licenses issued to the United States as represented by the Department.

(b) All functions of the Office of General Counsel relating to patent administration and administration of invention reports by employees, contractors and grantees of the Department are transferred to the Office of Health Technology, provided, however, that all legal services and functions, relating to patents inventions by employees, grantees and contractors of the Department shall remain in the Office of General Counsel.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I think the Senator from Kansas has 10 minutes remaining on the amendment and 15 minutes remaining on the other side.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. I shall take just a minute, since we have already discussed the amendment. I think the amendment is acceptable.

Mr. KENNEDY. The Senator is correct. I thank the Senator.

Mr. SCHWEIKER. Mr. President, I commend the Senator for his amendment.

Mr. DOLE. Mr. President, I have listened with interest to the discussion between the distinguished Senator from Utah and the Senator from Massachusetts. The Senator from Kansas is now supporting the bill, based on what I thought were some rather significant changes having been made. It is my hope that we come back from the conference not with the bill we had earlier this year, but something pretty much like the one which may pass today.

Second, it is the hope of the Senator from Kansas that we create an Office of Medical Technology that will serve technology, not suppress it. I do not share the view indicated by the Senator from Massachusetts on the cost of technology. It seems to me our concern should be whether or not we are making progress and what the technology is.

On that basis and on the basis of the amendment I am am offering, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. SCHWEIKER. Mr. President, I just want to say to the Senator that we appreciate his constructive role in this matter and his amendment, which we are supporting. I assure him that we will not come back from conference with the original bill, because the House bill is very similar to the amended bill that we have before us today. The Senator from Kansas can be reassured that we will not bring back anything that resembles the original bill. It should be something very close to the bill that we are considering here today.

Mr. DOLE. Mr. President, I ask unanimous consent that a table be printed in the RECORD at this point showing the difference in the funding under the original bill and the bill now before us, along with other changes that have been made in the original version and this version.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

[Dollars in millions]

	Orig. Bill	As Amend.
Health Research		
1978 28.6M		
1979	$40	$32.6
1980	45	35
1981	50	40
Health statistics		
1978 33.6M		
1979	60	43.4
1980	65	47
1981	70	50
Technology		
1979	25	15
1980	35	25
1981	50	35
Total	440	323

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas to the amendment of the Senator from Massachusetts to the committee substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Kennedy amendment as amended.

Mr. KENNEDY. I ask for the yeas and nays.

Mr. SCHWEIKER. I yield back all the time on the committee amendment.

The PRESIDING OFFICER. The time has expired on the committee amendment.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from Massachusetts, as amended, to the committee substitute. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, there has not been a response, has there?

The PRESIDING OFFICER. There has not been a response. The yeas and nays were requested and there was a sufficient second.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the yeas and nays that were ordered on the amendment be vitiated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question now is on agreeing to the amendment of the Senator from Massachusetts, as amended, to the substitute.

The amendment (UP No. 1627), as amended, was agreed to.

● Mr. GLENN. I commend the distinguished Senator from Massachusetts and his subcommittee for their continuing efforts to improve health research, statistics and technology.

I have been especially concerned about the problem of obtaining and coordinating data regarding occupational hazards in the workplace. I have encouraged the National Cancer Institute and the Social Security Administration to coordinate their statistics, subject of course to restraints of the Privacy Act.

For example, through the social security system workers who have been unknowingly exposed to carcinogens might be made aware of hazards so that prompt medical checks can be made.

I note that under your amendment to S. 2466 the Secretary of HEW will coordinate statistical activities within the Department. Do I corectly understand that this provision could help increase the cooperation between the Social Security Administration and the health agencies, to the end that social security data could be judiciously used to help workers protect their health, and help Federal agencies identify dangerous work environments?

Mr. KENNEDY. The Senator from Ohio is correct. Our legislation would require the Secretary to coordinate health statistical and epidemiological activities of all agencies of the Department of Health, Education, and Welfare. Any of the agencies which can contribute information that will help workers know of dangers to which they have been exposed should be utilized.

Mr. GLENN. I thank the Senator from Massachusetts. The Department and the National Cancer Institute plan to use the social security system to alert asbestos workers who may have been exposed to carcinogens. I have encouraged HEW to expand this kind of effort, and to undertake a pilot project to use the social security system to generate epidemiological data. Do I understand that your legislation seeks to reinforce our concern that notification of exposed workers be expanded and accelerated, and that innovative methods, including use of the social security system to generate epidemiological data, will be utilized?

Mr. KENNEDY. That is correct. The act provides additional authority and authorization of funds for such purposes.

Mr. GLENN. I thank the Senator, and I compliment him for his leadership in this area.

Mr. President, I ask unanimous consent to insert at this point in the RECORD my July 19, 1978, letters on these matters to Dr. Arthur C. Upton, Director of the National Cancer Institute, and Acting Commissioner Don I. Wortman, of the Social Security Administration.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C., July 19, 1978.

Mr. DON I. WORTMAN,
Acting Commissioner, Social Security Administration, Baltimore, Md.

DEAR MR. WORTMAN: I am sure you are aware of the increasing concern over workplace exposures that induce disabling and fatal disease conditions many years after employment began. In addition to the known occupational hazards, there are other situations in which an unusual disease prevalence has been noted in certain plants, industries and occupations or in particular geographic locales. The reasons for these observations are not always evident and additional research is needed to elucidate causative factors. In this regard, epidemiologic studies in which the disease experience of industrial populations is monitored over time, or studies of the occupational background of groups of persons with the same disease, are fruitful means of identifying high-risk occupations which, in turn, point toward possible etiologic agents.

A major determining factor in initiating epidemiologic studies is availability and accessibility of appropriate data to define exposed populations according to employment history and identify health outcomes such as fact and cause of death. For example, the National Cancer Institute conducts follow-up studies of various worker groups to determine their mortality status. Identifying information and employment data on individual workers are usually obtained from cooperating companies or labor unions. The ultimate fate of these workers is determined by reference to Social Security Administration earnings, benefits, and claims files, since these records are currently the only national follow-up resource available to the National Cancer Institute.

In one such study, the Social Security Administration identified 1,507 deaths among 5,742 men employed at a large U.S. copper smelter. Although the death information proved of great value, further use of SSA data could have been made if study subjects still alive (as verified from reported current earnings or receipt of claim payments) were identified in the returns. In this particular study, 82 percent of the workers not known to be dead were in reality alive but current SSA operating procedures do not permit them to be individually identified.

In some instances, employment data are not obtainable from the usual sources, either because permission to access has been denied, or because it has been lost, destroyed or is incomplete. In these cases, the Social Security Administration is in the unique position of being the only source of information as to who was employed where, when and for how long. In selected instances, these data may be vitally important to a research effort to identify high-risk industries. In the past, limited use has been made of SSA employment data by individual researchers and their studies have been recognized as important achievements in industrial epidemiology.

One other use of SSA employment files is in the compilation of lifetime employment histories for individuals afflicted with certain diseases—looking for unusual patterns compared to a random sample of nondiseased persons. The National Cancer Institute is currently conducting studies of persons with lung cancer in which prior employment data is obtained from death certificates and personal interviews with the patient or his next-of-kin. In one such study, it was found from interviews that a large proportion of lung-cancer victims had worked in certain shipyards during World War II but this was not reflected on their death certificates since it was not their "usual" or last employment. For this kind of study, SSA data would be very helpful in supplying a historical record of employment that by itself could provide clues to industrially-related disease and also supplement and verify information gained from personal interviews, particularly when reliance is placed on the memories of next-of-kin for persons already dead of the disease being studied.

I have attempted to outline briefly three general research uses of SSA data that would greatly assist other federal agencies in their environmental programs. I realize that these approaches must be used judiciously in the most important or critical situations so that SSA resources are not taxed beyond their limits. In addition, it is important in any use of SSA resources that the protection of individual privacy be maintained. Beyond this caveat however, I wish you would give these ideas careful thought and consider getting together with appropriate parties to work out collaborative arrangements for discrete well-defined projects of high priority to the federal environmental health research effort. I believe, in particular, that a pilot project involving the use of the Social Security system in identifying connections between work place environment and cancer would be particularly useful at the present time. I am sending an information copy of this letter to Dr. Arthur C. Upton, Director of the National Cancer Institute. I am also urging him (copy attached) to use the Social Security system not only for the purpose of carrying out a pilot project of the type I have outlined, but also for the purpose of notifying persons at risk to development of cancer due to exposures to environmental carcinogens. If you have any problems in this matter, I would appreciate information on their nature and alternatives for their solution in which I may be of assistance to you.

Best regards.
Sincerely,

JOHN GLENN.

JULY 19, 1978.

Dr. ARTHUR C. UPTON,
Director, National Cancer Institute, National Cancer Program, National Institutes of Health, Bethesda, Md.

DEAR DR. UPTON: It has been apparent to me for some time that the Social Security Administration could be of great potential value to the National Cancer Institute for the purpose of generating epidemiological data involving connections between work place environment and cancer. Once such connections have been made, the Social Security Administration can also be used to notify persons at risk to the development of cancer due to exposures to environmental carcinogens.

I understand that the HEW/NCI will utilize a Social Security mailing in early October to alert social security recipients of the possible health effects of asbestos exposure. I commend HEW/NCI and the Social Security Administration on this approach.

I realize that this first utilization of the system must be evaluated for any possible problems. I would also encourage NCI and other groups to consider this system as a means for notification of persons at risk to other environmental carcinogens. An example of such carcinogenic exposure might be benzidine, betanapthalamine and related dyes.

Beyond this, I would like to see a program begun, initially involving a pilot project, whereby the Social Security system would be used to generate new epidemiological data. I believe such a project would not only show the value of using the Social Security system for this purpose, but could be used to illustrate and alleviate some of the problems that may conceivably arise through utilization of the SSA. In particular, in any project involving the Social Security Administration, the protection of individual privacy must be maintained; and ways and means of providing such protection should be studied and incorporated into the project.

I am sending an information copy of this letter to Don I. Wortman, Acting Commissioner of the Social Security Administration. I am also urging him (copy attached) to work out collaborative arrangements with other federal agencies which need SSA data for their environmental programs consistent with the caveat on protection of individual privacy.

If you have any problems in this matter I would appreciate information on their nature and alternatives for their solution in which I may be of assistance to you.

Best regards.
Sincerely,

JOHN GLENN.●

The PRESIDING OFFICER. If there be no further amendments to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Is all time yielded back? There is no time remaining. The yeas and nays are automatic on reconsideration, the first vote on the bill having been a rollcall.

The bill having been read the third time, the question now is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Arizona (Mr. DECONCINI), the Senator from Colorado (Mr. HART), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Minnesota (Mrs. HUMPHREY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

The result was announced—yeas 74, nays 19, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—74

Anderson	Griffin	Nelson
Baker	Haskell	Nunn
Bayh	Hatfield, Mark O.	Packwood
Bellmon	Hatfield, Paul G.	Pearson
Bentsen	Hayakawa	Pell
Biden	Heinz	Percy
Brooke	Hodges	Randolph
Bumpers	Hollings	Ribicoff
Burdick	Inouye	Riegle
Byrd, Robert C.	Jackson	Sarbanes
Cannon	Johnston	Sasser
Case	Kennedy	Schweiker
Chafee	Leahy	Sparkman
Chiles	Long	Stafford
Church	Magnuson	Stennis
Clark	Mathias	Stevenson
Cranston	Matsunaga	Stone
Culver	McGovern	Talmadge
Danforth	McIntyre	Tower
Dole	Melcher	Wallop
Durkin	Metzenbaum	Weicker
Eagleton	Morgan	Williams
Eastland	Moynihan	Young
Ford	Muskie	Zorinsky
Glenn	Nelson	
Gravel	Nunn	

NAYS—19

Allen	Goldwater	Proxmire
Bartlett	Hansen	Roth
Byrd, Harry F., Jr.	Hatch	Schmitt
Curtis	Helms	Scott
Domenici	Laxalt	Stevens
Garn	Lugar	Thurmond
	McClure	

NOT VOTING—7

Abourezk	Hathaway	Javits
DeConcini	Huddleston	
Hart	Humphrey	

So the bill (S. 2466), as amended, was passed, as follows:

S. 2466

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services Research, Health Statistics and Medical Technology Act of 1978".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SECTION 101. (a) The heading to section 304 is amended to read as follows:

"GENERAL AUTHORITY RESPECTING HEALTH STATISTICS, HEALTH SERVICES, MEDICAL TECHNOLOGY RESEARCH EVALUATIONS, AND DEMONSTRATIONS".

(b)(1) Section 304(a) is amended to read as follows:

"(1) The Secretary, acting through the National Center for Health Services Research, the National Center for Health Statistics, and the Office of Health Technology, shall conduct and support research, demonstrations, evaluations, and statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.

"(2) In carrying out paragraph (1), the Secretary shall give appropriate emphasis to research, demonstrations, evaluations, and statistical and epidemiological activities respecting—

"(A) the accessibility, acceptability, planning, organization, distribution, utilization, and financing of systems for the delivery of health care,

"(B) alternative methods for measuring and evaluating the quality of systems for the delivery of health care,

"(C) the collection, analysis, and dissemination of health related statistics,

"(D) alternative methods to improve and promote health statistical and epidemiological activities,

"(E) the safety, efficacy, effectiveness, cost effectiveness, and social, economic, and ethical impacts of medical technologies,

"(F) alternative methods for disseminating knowledge concerning health and health related activities,

"(G) the special health problems of low income and minority groups and the elderly to insure that these problems are assessed on a periodic regular basis, and

"(H) the prevention of illness, disability, and premature deaths in the United States.

"(3) The Secretary shall (through National Research Service Awards) undertake and support manpower training programs to provide for an expanded and continuing supply of individuals qualified to perform the research, evaluation, and demonstration projects set forth in sections 305, 306, and 306A.".

(2) Section 304(b)(1) is amended by (1) inserting ", when appropriate," before "enter into contracts" and (2) inserting a period after "entities and individuals" and striking all that follows.

(3) Section 304(b)(3) is amended by adding at the end thereof the following new sentence: "In addition, the Director of the National Center for Health Services Research and the Director of the National Center for Health Statistics, in order to assist each of them in carrying out the functions set forth in sections 305 and 306 respectively, and without regard to any other provision of this Act, are each authorized to obtain the services of not more than fifteen experts or consultants who have appropriate scientific or professional qualifications.".

(4) Section 304(c) is amended to read as follows:

"(c) The Secretary shall coordinate all research, evaluation, demonstration, and statistical and epidemiological activities referred to in subsection (a) undertaken and supported through units of the Department of Health, Education, and Welfare. To the maximum extent feasible, such coordination shall be carried out through the National Center for Health Services Research, the National Center for Health Statistics and the Office of Health Technology.".

SEC. 102. (a) Section 305(b) is amended by—

(1) striking "technology," in paragraph (1);

(2) striking "and" after "manpower;" in paragraph (2);

(3) striking the period in paragraph (3) and inserting in lieu thereof ", and"; and

(4) adding at the end thereof the following new paragraph:

"(4) the uses of computer science in health services delivery and medical information systems.".

SEC. 103. (a) Section 306(b) is amended by—

(1) striking "; and" after "dissolution" in paragraph (1)(H) and inserting in lieu thereof a period;

(2) adding at the end thereof the following new paragraph:

"(3) undertake and support (by grant or contract or both) epidemiological research, demonstrations, and evaluations on the matters referred to in paragraph (1).".

(b) Section 306(c) is amended by—

(1) inserting "and epidemiological" after "statistical" each place it occurs; and

(2) striking "Labor and Public Welfare" and inserting in lieu thereof "Human Resources".

(c) Section 306(e) is amended by—

(1) inserting "to be known as the Cooperative Health Statistics System" after "levels" in paragraph (1), and

(2) striking "such cooperative system" each place it occurs and inserting in lieu thereof "such System".

(d) Section 306(1)(1) is amended by striking "United States".

(e) Section 306 is amended by adding at the end thereof the following new subsection:

"(j) In carrying out the requirements of section 304(c) and paragraph (2) of subsection (e), the Secretary shall coordinate health statistical and epidemiological activities of the Department of Health, Education, and Wefare by—

"(1) developing in consultation with the National Committee on Vital and Health Statistics, promulgating by regulation, and maintaining the minimum sets of data needed on a continuing basis to fulfill the collection requirements of subsection (b)(1),

"(2) after consultation with the National Committee on Vital and Health Statistics, establishing, by regulation, standards to assure the quality of health statistical and epidemiological data collection, processing, and analysis,

"(3) reviewing periodically all existing health statistical data collections of the Department that were previously approved pursuant to the Federal Reports Act of 1942 to determine whether such collections conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (1) and (2). If any such collections are found not to be in conformance, the Secretary shall take the necessary action to assure that any future collections (effective ninety days after the review) are in conformance,

"(4) reviewing all proposed health statistical data collections of the Department that require approval pursuant to the Federal Reports Act of 1942 to determine whether such proposed collections conform with the minimum sets of data and the standards promulgated pursuant to paragraphs (1) and (2). If any such proposed collections are found not to be in conformance, the Secretary shall take the necessary action to bring them into conformance before such proposed collections are initiated.".

SEC. 104. Title III is amended by adding after section 306 the following new heading and section:

"OFFICE OF HEALTH TECHNOLOGY

"SEC. 306A. (a) There is established in the Department of Health, Education, and Welfare the Office of Health Technology (hereinafter in this section referred to as the 'Office') which shall be under the direction of a Director who shall be appointed by the Secretary and supervised by the Assistant Secretary for Health (or such other officer of the Department as may be designated by the Secretary as the principal advisor to him for health programs).

"(b) The Secretary, acting through the Office, shall—

"(1) establish, in consultation with the Council for the Evaluation of Medical Technology, priorities for research, demonstrations, and evaluations of medical technologies as prescribed by paragraph (2)(A). In establishing such priorities, particular emphasis should be placed on—

"(A) the actual or potential risks and the actual or potential benefits to patients associated with the use of the medical technology,

"(B) per use and/or aggregate cost of the medical technology,

"(C) the rate of utilization of the medical technology, and

"(D) the stage of development of the medical technology; and

"(2) undertake and support (by grant or contract or both) research, demonstrations, and evaluations concerning—

"(A) the safety, efficacy, effectiveness, cost effectiveness, and social, ethical, and economic impacts of particular medical technologies;

"(B) the factors that affect the utilization of medical technologies throughout the United States;

"(C) alternative methods for disseminating information on medical technologies to health professionals;

"(D) alternative methods for measuring the quality of health services; and

"(E) the effectiveness, administration, and enforcement of quality assurance programs.

"(c) To assist in carrying out this section, the Secretary, acting through the Office, shall cooperate and consult with the National Institutes of Health, the Veterans' Administration and any other interested Federal departments or agencies and with State and local health departments and agencies.

"(d)(1) The Secretary, acting through the Office, shall, by grants or contracts, or both, assist public and/or private nonprofit entities in meeting the costs of planning and establishing new centers, and operating existing and new centers for multidisciplinary research, evaluations, and demonstrations respecting the matters referred to in paragraph (2) of subsection (b). To the extent practicable, the Secretary shall take such actions, in accordance with the requirements of this subsection and section 308, to

assure that three such centers shall be operational by September 1, 1981.

"(2)(A) No grant or contract may be made under this subsection for planning and establishing a center unless the Secretary, acting through the Office, determines that when it is operational it will meet the requirements listed in subparagraph (B), and no payment shall be made under a grant or contract for operation of a center unless the center meets such requirements.

"(B) Each center shall meet the following requirements:

"(i) there shall be a full-time director of the center who possesses a demonstrated capacity for sustained productivity and leadership in research, demonstrations, and evaluations respecting the matters referred to in paragraph (2) of subsection (b), and there shall be such additional professional staff as may be appropriate;

"(ii) the staff of the center shall have expertise in the various disciplines needed to conduct multidisciplinary research, evaluations and demonstrations respecting the matters referred to in paragraph (2) of subsection (b);

"(iii) the center shall be located within an established academic or research institution with departments and resources appropriate to the programs of the center; and

"(iv) each center shall meet such additional requirements as the Secretary may by regulation prescribe.

"(e)(1) There is established in the Office a National Council for the Evaluation of Medical Technology (hereinafter in this subsection referred to as the 'Council') to be composed as follows:

"(A) The Surgeon General, the Director of the National Institutes of Health, the Chief Medical Director of the Veterans' Administration, the Assistant Secretary of Defense for Health Affairs, the Chairman of the National Professional Standards Review Council (or their designees), and three other employees of the Department of Health, Education, and Welfare (or their designees) appointed by the Secretary, shall be ex officio members of the Council.

"(B) Eighteen members appointed by the Secretary. Six of the appointed members shall be selected from among leading medical or scientific authorities; two of the appointed members shall be practicing physicians; two of the appointed members shall be practicing hospital administrators; two of the appointed members shall be selected from members of the general public who are leaders in the field of economics; two of the appointed members shall be selected from members of the general public who are leaders in the field of law; and four of the appointed members shall be selected from outstanding members of the general public who, based on their interests, disciplines, and/or expertise, would be appropriate members of the Council.

"(2)(A) Each appointed member of the Council shall be appointed for a term of four years, except that—

"(i) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(ii) of the members first appointed after the effective date of this section, five shall be appointed for a term of four years, five shall be appointed for a term of three years, five shall be appointed for a term of two years, and three shall be appointed for a term of one year, as designated by the Secretary at the time of appointment.

Appointed members may serve after the expiration of their terms until their successors have taken office.

"(B) A vacancy in the Council shall not affect its activities, and twelve members of the Council shall constitute a quorum.

"(C) Members of the Council who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the functions of the Council compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) The Council shall annually elect one of its appointed members to serve as Chairman until the next election.

"(4) The Director of the Office shall (1) designate a member of the staff of the Office to act as Executive Secretary of the Council, and (2) make available to the Council such staff, information, and other assistance as it may require to carry out its functions.

"(5) The Council shall meet at the call of the Chairman, but not less often than four times a year.

"(6) The Council is authorized to—

"(A) advise, consult with, and make recommendations to the Secretary and the Director of the Office with respect to carrying out the provisions of this section;

"(B) after consultation with appropriate public and private entities, advise the Secretary concerning the safety, efficacy, effectiveness, cost effectiveness, and the social and economic impacts of particular medical technologies;

"(C) after consultation with appropriate public and private entities, develop, when appropriate and to the extent practicable, exemplary standards, norms, and criteria concerning the utilization of particular medical technologies;

"(D) publish, make available and disseminate, through the National Library of Medicine, promptly in understandable form and as widely as possible, but, at a minimum, to each of the National Institutes of Health, to the Food and Drug Administration, to the Indian Health Service, and the Bureau of Medical Services of the United States Public Health Service, to all health systems agencies, to all Professional Standards Review Organizations, to all medical schools, professional associations, State and local departments of public health, and to the Department of Medicine and Surgery of the Veterans' Administration and the Assistant Secretary of Defense for Health Affairs, the standards, norms, and criteria developed pursuant to paragraph (C); and

"(E) review and approve any grant that the Office proposes to make and any contract the Office proposes to enter pursuant to this section if such grant or contract is in an amount exceeding $35,000 of direct costs.

"(f) For purposes of this section, medical technology means any discrete and identifiable medical or surgical regimen or modality used to diagnose or treat illness, prevent disease, or maintain patient well-being.".

SEC. 105. (a) The heading to section 308 is amended by inserting "306A," after "306,".

(b) Section 308(a)(1)(B) is amended by (1) striking "and" after "research" and inserting in lieu thereof "," and (2) inserting "and the evaluation of medical technology" after "statistics".

(c) Section 308(b)(1) is amended by inserting "306A," after "306".

(d) Section 308(d) is amended by (1) inserting "306A," before "or 307" and (2) by inserting "or epidemiological" after "statistical" in paragraph (1).

(e) Section 308(e) is amended by inserting "306A," after "306" each place it occurs.

(f) Section 308(f) is amended by striking "or 306" and inserting in lieu thereof "306, or 306A".

(g) Section 308(g)(2) is amended by striking "and 306" and inserting in lieu thereof "306, and 360A".

(h) Section 308(h)(1) is amended by striking "or 306" each place it occurs and inserting in lieu thereof "306 or 306A".

(i) Section 308(1)(1) is amended by—

(1) striking "and" after "1976," and inserting ", $32,600,000 for the fiscal year ending September 30, 1979, $35,000,000 for the fiscal year ending September 30, 1980, and $40,000,000 for the fiscal year ending September 30, 1981" after "1978" in the first sentence thereof.

(2) amending the second sentence thereof to read as follows: "Of the funds appropriated under this paragraph for any fiscal year, at least 15 per centum of such funds or $6,000,000, whichever is less, shall be available only for health services research, evaluation, and demonstration activities directly undertaken by the National Center for Health Services Research and at least 5 per centum of such funds or $1,000,000, whichever is less, shall be available only for dissemination activities directly undertaken by the Center.".

(j) Section 308(1)(2) is amended by—

(1) inserting "and epidemiological" after "statistical",

(2) striking "and" after "1976," and inserting ", $43,400,000 for the fiscal year ending September 30, 1979, $47,000,000 for the fiscal year ending September 30, 1980, and $50,000,000 for the fiscal year ending September 30, 1981" after "1978", and

(3) inserting at the end thereof the following new sentence: "Of the funds appropriated under this paragraph for any fiscal year commencing after September 30, 1978, at least 15 per centum of such funds shall be available only for health statistical and epidemiological activities directly undertaken by the National Center for Health Statistics.". (K) Section 308(1) is amended by adding at the end thereof the following new paragraph:

"(3) For medical technology research, evaluation, and demonstration activities undertaken or supported under section 304 or 306A, there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30 1981. Of the funds appropriated under this paragraph for any fiscal year commencing after September 30, 1980, at least 15 per centum of such funds shall be available only for medical technology research, evaluation, and demonstration activities directly undertaken by the Office of Health Technology.".

SEC. 106. Section 472(a)(1)(A) is amended by—

(1) striking "and" after "private institutions," in clause (iii);

(2) redesignating clause (iv) as clause (vii); and

(3) inserting after clause (iii) the following:

"(iv) research at the National Center for Health Services Research, the National Center for Health Statistics, and/or the Office of Health Technology,

"(v) training at such Centers and Office to undertake such research,

"(vi) research on the matters set forth in section 304(a)(2) at public institutions and at nonprofit private institutions, and".

SEC. 107. Part K of title III is repealed in its entirety

SEC. 108. Title IV is amended by adding at the end thereof the following new section:

"SEC. 477. The Director of the National Institutes of Health shall make available annually to the Office of Health Technology

and the Council for the Evaluation of Medical Technology a list of all technologies (as defined in section 306A(g)) of which he is aware that are under development and that appear likely to be used in medical practice in the near future.".

SEC. 109. The Secretary, acting through the National Center for Health Services Research, shall arrange for the conduct of a study to evaluate the impact upon the utilization of health services by and the health status of members of the United Mine Workers and their dependents as a result of changes in the United Mine Workers' collective-bargaining agreements of March 1978, that require copayments for health services. Such study and a report thereon shall be completed and submitted to the secretary, the Committee on Human Resources, the Committee on Appropriations, and the Committee on Finance of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives no later than thirty months after the date of enactment of this section. Not more than $1,000,000 of the sums authorized to be appropriated for health services research, evaluation and demonstration activities by section 308(1)(1) of the Public Health Service Act shall be made available for such study.

SEC. 110. (a) The Secretary, in cooperation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, shall develop a plan for the collection and coordination of statistical and epidemiological data on the effects of the environment on health. Such plan shall include, but not be limited to, a review of the data now available on health effects, deficiencies in such data, and methods by which existing data deficiencies can be corrected. The plan shall be submitted to Congress not later than October 1, 1979.

(b) In carrying out the provisions of subsection (a), the Secretary, the Secretary of Labor, and the Administrator of the Environmental Protection Agency shall consult with the Committee on Human Resources and other appropriate committees of the Senate and the Committee on Interstate and Foreign Commerce and other appropriate committees of the House of Representatives.

SEC. 111. (a) The Assistant Secretary for Health, acting through the Office of Health Technology, shall have the responsibility (1) for developing the policies of the Department of Health, Education, and Welfare with respect to the rights to inventions of its employees, grantees and contractors, subject to applicable laws and regulations; (2) for issuing invention and patent administration policies and procedures; (3) for administering the receipt of and processing invention reports by employees, grantees and contractors, of the Department and maintaining records and documents incident to patent and invention administration; (4) for making determinations of rights in inventions and patents involving inventions of employees, grantees and contractors of the Department; and (5) for making determinations with respect to applications for licenses under patent applications and patents owned by the United States, as represented, and for accepting licenses issued to the United States as represented by the Department.

(b) All functions of the Office of General Counsel relating to patent administration and administration of invention reports by employees, contractors and grantees of the Department are transferred to the Office of Health Technology, provided, however, that all legal services and functions, relating to patents inventions by employees, grantees and contractors of the Department shall remain in the Office of General Counsel.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2466.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I send an amendment to the desk, on behalf of myself, Mr. SCHWEIKER, Mr. WILLIAMS, and Mr. JAVITS.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title so as to read as follows:

To amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1979

The PRESIDING OFFICER. The Senate will continue with the consideration of H.R. 12932, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12932) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

AMENDMENT NO. 3443

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Louisiana.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Roger Singlaub and John MacIlroy, of my staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I would like to ascertain what the situation is with respect to the Interior appropriation bill and the pending amendment thereto. Can any Senator inform me and the Senate as to just what is about to happen with respect to the Johnston amendment?

Mr. NELSON. Mr. President, may we have order? We cannot hear.

The PRESIDING OFFICER. The Senate will be in order.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BROOKE. If I may respond to the distinguished majority leader, an agreement has been reached, language has been prepared, and it is my understanding that the Senator from Louisiana (Mr. JOHNSTON) will call up immediately the substitute amendment.

There may be a question of germaneness which may require a vote of the full Senate. Depending upon the outcome of that vote, there will be a vote on the substitute amendment. If the substitute amendment should be rejected, then there would be consideration of the Johnston amendment.

I see the Senator from Louisiana in the Chamber, and he probably can explain it better, but that is my understanding.

Mr. ROBERT C. BYRD. I thank the Senator.

I yield to the distinguished Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I propose to do this: I will offer at this point a compromise amendment. The dimensions of that compromise amendment are as follows: Under present law——

Mr. ROBERT C. BYRD. Would the distinguished Senator withhold the details of the amendment and inform the majority leader as to what is contemplated procedurally?

Mr. JOHNSTON. I will offer this amendment; then the question of legislation on an appropriation bill will be raised. We will then raise the question of germaneness, which, under the rules, will be submitted to the Senate for a vote. If germaneness is sustained, then we will proceed to consider this amendment on its merits and vote on the amendment on its merits.

If the germaneness is not upheld, then the substitute amendment would be out of order, and we would go back to consideration of the original Johnston amendment.

So the next vote would be on the question of germaneness of the compromise amendment.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I hope the distinguished Senator will proceed to explain his amendment. Then, in a reasonably short time, if someone wishes to raise the point of order, I wish that would be done, and the question of germaneness could be raised. Of course, the vote would occur immediately, without debate on that question. So that the Senate could proceed to work its will on the procedural question.

Then, if it gets to the substantive question, that should be done as soon as reasonably possible, so that this bill may be completed and sent to conference at a reasonably early hour today.

Mr. HANSEN. Mr. President, will the distinguished majority leader yield the floor for a question or observation?

Mr. ROBERT C. BYRD. I yield.

Mr. HANSEN. It is my intention to raise a point of order on the amendment. While I have not seen the final drafting of it, if it still contains what earlier was identified as subparagraph (e) on page 2 of the handout, I shall raise the point of order that it does constitute legislation on an appropriations bill. I just wanted to inform my friend.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I yield the floor. I hope the Senator will proceed to explain his amendment.

Mr. JOHNSTON. Mr. President, I shall be very brief in explanation of this amendment and expect the vote to come momentarily.

Under the present law, Mr. President, the northeast coast, which is Petroleum Allocation District No. 1, receives a 30-percent entitlement for the importation of foreign refined residual fuel oil and other products. What that means is under the present law consumers of other

petroleum products across the country subsidize the northeast coast to the extent of about 60 cents per barrel on imported residual. The reason for that, according to DOE at that time, or FEA, which promulgated the rule at that time, was their recognition that fuel costs generally are higher in the Northeast and they are the principal users of residual fuel oil.

Now, the Department of Energy has proposed in lieu of the 30-percent entitlement to grant to the Northeast a 100-percent entitlement which would be a subsidy of about $2 per barrel. Along with granting that 100-percent entitlement DOE had proposed to eliminate the fee-free license.

There is an importation fee on foreign residual oil of 63 cents per barrel. But presently they have a fee-free license. So under the DOE proposal the Northeast would receive $2 as a subsidy but lose 63 cents under the fee-free license which would expire.

I felt that that was an unwise thing to do, to subsidize the Northeast at the expense of the rest of the country. I felt that it would stand in the way of coming up with an overall refinery policy, which we badly need.

After some negotiation on this matter, however, we have arrived at this compromise which does this:

First, in lieu of the 30-percent entitlement it would grant a 50-percent entitlement. In other words, our side, those of us who feel it is unfair to subsidize the northeast coast, would win five-sevenths of the victory, the northeast coast would win two-sevenths of the victory or, to state it differently, in lieu of the 70-percent entitlement, which will go into effect automatically under the DOE rulemaking without action of Congress, we would grant an additional 20 percent. That 20-percent entitlement would expire July 1 of next year. So it is a very temporary thing.

And the question of the continuation of the fee-free license would be left to the President to decide, and I understand that the President would probably extend the fee-free license.

Mr. HANSEN. Mr. President, will the Senator yield for one short observation?

Mr. JOHNSTON. I yield for a short observation, yes.

Mr. HANSEN. It is my understanding and I think the Senator from Louisiana said that this regulation proposed by DOE would go into effect immediately. Am I not correct in understanding that under the APA, the regulation as proposed, has to be published, hearings are to be held, or a time is given during which comments will be received, and only when that process has been gone through would DOE then be enabled to go through with the regulation? Am I not right about that?

Mr. JOHNSTON. The Senator is correct. However, there has been notice of rulemaking. They are in the process of those hearings now. As I understand it, the regulations would probably go into effect on or about August 26.

Mr. HANSEN. The point I want to make, Mr. President, is simply: I do not think it is accurate to say that after this legislation action here it is going to go into effect immediately or with great assurance that will be because I think that that presupposes that the whole Administrative Procedure Act will be ignored despite what the report may disclose. I think the Senator made an excellent record this morning in saying why the thing should not go in, and I hope that DOE is not so immune to the feelings of the people in the country that it will ignore the overwhelming evidence that I think condemns this concept.

Mr. BROOKE. Mr. President, will the Senator from Wyoming and the Senator from Louisiana yield?

Mr. HANSEN. I do not have the floor.

Mr. BROOKE. Only for a response to that, will the Senator yield?

Mr. JOHNSTON. If the Senator will permit, why does he not let me respond briefly to that and then get on with the question of germaneness?

Mr. BROOKE. I have only one point to make to the Senator because he brought this matter up on the floor earlier this morning and we discussed it. The present rule will go into effect within 2 weeks. As to the second rule he is talking about, he is quite correct. That will require comment and hearings, et cetera, before going into effect. But the present rule will go into effect within 2 weeks. That will make it about August 22.

Mr. HANSEN. What is the present rule?

Mr. BROOKE. The present rule gives us, as he said, seven-sevenths, rather than the compromise the Senator is talking about.

Mr. JOHNSTON. The Senator's observation with respect to that rule going into effect is correct. They have complied with the Administrative Procedure Act, and they have completed that hearing process. It is my understanding that it would go into effect automatically on August 26. I think it is wrong. That is the whole purpose of my amendment to prevent it from going into effect. But I think the process has been completed and that it would go into effect.

Mr. HANSEN. If the Senator from Louisiana will yield for a further inquiry, has DOE said, absent the expiration of the time which it is presumed to afford the public for comment, it has already determined what it is going to do?

Mr. JOHNSTON. That is my understanding.

Mr. HANSEN. And who made that statement?

Mr. JOHNSTON. I cannot tell the Senator who made the statement.

Mr. HANSEN. Did Secretary Schlesinger make this?

Mr. JOHNSTON. But this rulemaking has been pending for a matter of weeks. It has been published. There has been evidence taken.

Mr. HANSEN. I fully agree with all of those statements the Senator is making. But my question is: Has the executive branch of Government, DOE specifically, said that this is what it is going to do now prior to the expiration of the time?

Mr. JOHNSTON. It must have been an informal communication. That is simply my understanding.

Mr. HANSEN. It is very interesting that they would have decided short of the time that is provided by law to say that despite what anyone may say this is what they are going to do. I am just amazed, and if the Senator from Louisiana could identify the individual who is responsible for having made such a declaration I wish to know who it is.

Mr. JOHNSTON. I cannot identify any person specifically. I can tell the Senator when this was proposed I loudly protested and my protests fell on deaf ears, and they proceeded with the rulemaking. If it does not comport with the Administrative Procedure Act, it is news to me. In any event, I feel that it is necessary to put in my amendment to prevent the rulemaking from going into effect. If I thought we had the rulemaking otherwise defeated, I would not have to put in the amendment.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for a question?

Mr. JOHNSTON. I will yield for one more question and then I will offer the amendment.

I yield.

Mr. CURTIS. In times past there has been an entitlement program that had great interest in areas where a refinery did not have its own source of crude oil. The discussion today seems to center on New England and, I take it, primarily on heating oil. Does this proposal relate only to the Northeast States?

Mr. JOHNSTON. Well, the Petroleum Allocation District 1, which is the whole eastern seaboard plus the State of Michigan.

Mr. CURTIS. So it does nothing with reference to the problem I mentioned earlier, an entitlement program in which there was interest on the part of independent refiners who have no source, in other States who have no source, of crude oil?

Mr. JOHNSTON. Independent refiners in other States, it is my information, would oppose this rulemaking because it penalizes the domestic refiners, the rulemaking would penalize the domestic refiners, in favor of foreign refiners.

Mr. CURTIS. I hold here a sheet which appears to come from the Senator's office of States eligible for subsidy. Is this still a correct list in light of the compromise?

Mr. JOHNSTON. No. These figures on what the increase in cost would be related to the pending rulemaking and not to the compromise about to be offered.

Mr. CURTIS. If the figures are not the same in light of the compromise are the States the same?

Mr. JOHNSTON. The States would be the same; that is correct.

Mr. CURTIS. I thank the distinguished Senator.

UP AMENDMENT NO. 1628

(Purpose: To limit the use of funds under the act unless certain changes are made in the regulation under the Emergency Petroleum Allocation Act of 1973)

Mr. JOHNSTON. Mr. President, I have an amendment which I sent to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment. The second

assistant legislative clerk read as follows:

The Senator from Louisiana Mr. JOHNSTON (for himself, Mr. BROOKE, Mr. KENNEDY, Mr. MUSKIE, Mr. LEAHY, Mr. DURKIN, and Mr. PELL) proposes an unprinted amendment numbered 1628 as a substitute to amendment numbered 3443.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed, insert the following:

SEC. —. (a) No funds appropriated under this Act may be used to implement the provisions with respect to the allocation of domestic crude oil specified in 10 CFR 211.67 on the date of enactment of this section, unless the President within thirty days after such enactment has amended the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973 as provided in this section.

(b)(1) The amendment to the regulation required under subsection (a) shall provide that for the period between the effective date of such amendment and July 1, 1979 the provisions of the regulation specified in 10 CFR 211.67(a)(3) on the date of enactment of this section (relating to the issuance of entitlements to eligible firms importing residual fuel oil) shall be amended by replacing the words "thirty (30%) percent" wherever they appear by the words "fifty (50%) percent", except that for the purposes of this section the State of Michigan will be treated as if it were part of the East Coast market as defined in 10 CFR 211.62.

(2) Such amendment shall provide that on and after July 1, 1979 the provisions of the regulation referred to in paragraph (1) shall revert to those provisions in effect on the date of enactment of this section.

(c) The amendment required under subsection (a) shall amend the provisions of the regulation specified in 10 CFR 211.67(d)(4) on the date of enactment of this section (relating to the reduction in entitlement value for sales into the East Coast market) to delete the provisions exempting the first 5,000 barrels per day of a refiner's crude oil runs to stills from the operation of that subsection and to provide that 10 CFR 211.67(d)(4) is applicable only to domestic refiners that transport residual fuel oil for sale in the East Coast market in foreign flag tankers.

(d) The effective date of the amendment required under subsection (a) shall be July 1, 1978 unless the Secretary finds it impracticable to implement such amendment on such date.

(e) In promulgating the amendment required under subsection (a) and any related implementing or conforming amendment, the President shall not be subject to the provisions of section 553 of title 5 or of sections 7174 and 7191 of title 42 of the United States Code.

(f) Except as specifically provided in this section, nothing in this section affects the authority of the President to amend the regulation under section 4(a) of the Emergency Petroleum Allocation Act of 1973.

Mr. JOHNSTON. Mr. President, this is the amendment just referred to that eliminates the 100-percent entitlement and goes two-sevenths of the way that the northeast coast wants to go. We save five-sevenths, we lose two-sevenths, that is the rest of the country. The Northeast wins two-sevenths and they lose five-sevenths.

I think, considering the chances of winning as opposed to the chances of losing, this is a reasonable compromise, and I hope the question of germaneness, which I would raise, would be sustained and that we could pass the amendment.

Mr. HANSEN. Mr. President, before making a point of order, which I will do very shortly, let me observe that it is my understanding that when we talk about who will be affected and who will not be affected, it is going to affect every person in the United States, some favorably, and some not so favorably, and I am certainly inclined to believe that others will be affected more favorably than they are inclined to believe at the present time.

On the floor this morning it was brought out that this will result in moving $200 million per month around the country, and to penalize those areas that will not be recipients of the benefit of the entitlements program to help out New England and Michigan; am I not right about that?

Mr. JOHNSTON. No; the $200 million a month was the entire entitlements program.

Mr. HANSEN. That is what we are talking about, the entitlements program.

Mr. JOHNSTON. What the rulemaking would do would be to have the consumers of all petroleum products send $400 million a year to the importers of residual fuel oil. Two hundred and eighty million dollars of that would come from non-PAD 1 States. The $120 million would come from consumers of other petroleum products within Petroleum Allocation District No. 1.

Mr. HANSEN. If the Senator will just let me raise a question there. If the whole program takes $200 million per month now, and this compromise we are passing, which adds to the 30 percent another 20 percent, and if that only costs $400 million a year, I fail to understand how, on the one hand, it is costing $200 million per month when you add two-thirds of that amount and get only $400 million per year.

Mr. JOHNSTON. The $200 million per month referred to in the statement this morning was the entire entitlements program.

Mr. HANSEN. That is right.

Mr. JOHNSTON. The entire entitlements program is more than just the entitlement for 30 percent of the fuel oil. That is a program to equalize the cost of imported oil with the cost of the domestic oil.

Mr. HANSEN. But this is part of the entitlements program; is it not?

Mr. JOHNSTON. What is part?

Mr. HANSEN. This is part of the entitlements program; is it not?

Mr. JOHNSTON. What? This amendment?

Mr. HANSEN. No; the $200 million per month the Senator just spoke of. That is part of the entitlements program.

Mr. JOHNSTON. Yes; but that is not affected; not all of that program is affected by the rulemaking, this compromise, or the Johnston amendment. The only thing affected by the rulemaking is $400 million per year. That is the cost of paying to importers of residual fuel oil in Petroleum Allocation District No. 1, which is the eastern seaboard and mainly the northeast coast, because that is where they burn most of it.

Mr. HANSEN. But also the State of Michigan.

Mr. JOHNSTON. And also the State of Michigan. We would send from the consumers of all petroleum products all over the country to the importers of residual oil in PAD 1, plus Michigan, $400 million a year. Of that, $280 million would be paid by the consumers of all petroleum products outside of PAD 1. One hundred and twenty million dollars would be paid by consumers of other petroleum products within PAD 1. In other words, there is somewhat of a wash in some States such as Vermont, for example, which receives some benefit under the entitlements program but must also pay for the entitlements through other petroleum products, so they come out about even; in fact, it costs them a little bit of money in Vermont. But the effect of the proposed rulemaking is in 36 States they would pay $280 million to PAD 1.

Under the compromise instead of there being $280 million involved—excuse me, instead of being approximately $250 million involved, there would be only $70 million. So under the compromise we save $180 million, and we pay $70 million.

The spirit of the compromise is that you pay out two-sevenths and you are sure we stop the five-sevenths, which is a good deal for the rest of the country. If the Senator sees it differently and if he says he is sure this amendment, the Johnston amendment, will pass, perhaps he would oppose it.

Mr. HANSEN. Would it not be fair to observe that this eventuality that the Senator from Louisiana speaks about presupposes that the House, when we go to conference, will go along and may go for the changes in this. Earlier this morning the distinguished majority leader observed that as chairman of the Appropriations Subcommittee he could not guarantee—I am paraphrasing now what he said, but he could not guarantee—that he would be able to sell this proposition to the House.

So I think if we buy this compromise, which will call upon 36 States to subsidize 14 States, we are giving away part of the trading stock that we otherwise would have in going before the full conference with the House. We are making concessions already, and the Senator from West Virginia, the distinguished majority leader, said he could not guarantee at all—and he is here, and if I misquote him or misspeak the thrust of his remarks, I know he will help set me straight—but he said he could not guarantee at all that the House was going to buy with no changes the sort of compromise that could be worked out here.

I ask my friend from Louisiana if that is not essentially what the distinguished majority leader was saying this morning.

Mr. JOHNSTON. The Senator is correct.

I would simply point out that if we pass the unadulterated Johnston amendment

with no compromise we face the same eventuality.

Mr. HANSEN. But we start out from a better bargaining position.

Mr. JOHNSTON. Well, if there is to be bargaining we would start out with a better bargaining position. Under the compromise, however, we would have the support of both sides of the controversy, that is, the Northeast as well as the rest of country, and we would also have the support of the administration and the support of the Speaker of the House.

Mr. HANSEN. They may not necessarily be on the same side from the way I read the papers lately.

Mr. JOHNSTON. That is another problem.

Mr. HANSEN. That is not my problem, but I have an academic interest in it, nevertheless.

Mr. JOHNSTON. That is right. But the Senator points out problems with any bill when it leaves here. It is not absolutely certain that we would be able to pass the Johnston amendment. We may not have the votes.

The distinguished chairman of the subcommittee, the Senator who is handling this bill, might pull down the bill or it might go to the House and it might fail in the House. So in that spirit I think a five-sevenths victory makes a reasonable compromise. If the Senator sees it differently then he would vote against it.

● Mr. RIBICOFF. Mr. President, there are no energy resources of any significance in my region of the Nation. A substantial portion of Connecticut's energy supply, for example, is composed of direct foreign imports. These imports are largely residual fuels used predominantly for electricity generation. In 1964 residual fuels represented 56.9 percent of Connecticut's directly imported petroleum products. In 1969 residual oils increased to 76.9 percent of direct imports and by 1974 it had risen to approximately 80 percent. This is just an example of the extent to which we in the Northeast are dependent on imported oil.

Furthermore, we use oil more than other areas. Seventy-one percent of all New England's buildings are heated by oil and 74 percent of the population heat with oil. In my State 72 percent of the population—2.2 million people—depend on oil for space heating. Over 1 million buildings in Connecticut are heated with oil.

Finally, energy prices in our area are 31 percent higher than in the United States as a whole. Since the oil embargo the price of fuel has almost tripled. During the four preceding heating seasons the cost of heating oil has increased more than 150 percent.

Mr. President, I do not want to dwell on the mechanics of the entitlements program. Suffice it to say that a serious inequity presently exists. Residual oil is imported to the east coast as a finished product. Most of the east coast residual oil is produced by Caribbean refineries which are not eligible for full entitlements benefits under the current program. While a barrel of crude oil receives a full entitlement worth about $2, a barrel of residual oil receives only a 30-percent or 60-cent entitlement, even though both forms of oil are foreign in origin.

Thus, inasmuch as entitlements are not fully shared, east coast residual consumers are subisidizing the consumption of other products, such as gasoline, that are domestically refined from foreign crude. It is this imbalance which the Department of Energy hopes to correct with the proposed change in the residual oil entitlements programs—a change which will be especially critical should some administrative step be taken to raise domestic oil prices, such as an oil import fee or quotas.

We must also not ignore the fact that the current regulations violate the spirit if not the letter of the Emergency Petroleum Allocation Act of 1973. This law specifically requires the "equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States."

The proposed residual entitlements program will also eliminate the so-called reverse entitlement. This device penalizes domestic refiners selling residual oil into the east market by forcing them to forgo part of their normal entitlement. Removing the reverse entitlement would facilitate the redistribution of the domestically produced oil. This action will help to relieve the overabundance of oil on the west coast and aid in reducing the east coast's dependence on foreign oil.

Mr. President, some may claim that the new DOE residual oil entitlements regulations will benefit only the Northeast or the east coast. The fact is that other regions will gain under this proposal. I am informed, for example, that Michigan will benefit by $11 million, Indiana by $4.8 million, Louisiana by $20.2 million, and Illinois by almost $1 million. Thus, the new entitlements rules would not be a subsidy for one region at the expense of the rest of the Nation.

Mr. President, if the new entitlements rules are not implemented, consumers in many regions will be the losers because of higher electric bills and inflated industrial product costs. Residual oil prices will continue to rise—amounting to over $300 million.

Mr. President, equity in energy pricing must be achieved. One area or State cannot bear a disproportionate share of rising energy costs and the new entitlements rules will help to more justly distribute the burden.●

RESIDUAL OIL ENTITLEMENTS

● Mr. KENNEDY. Mr. President, I am pleased to support the compromise which was agreed upon today regarding residual oil entitlements and I wish to express my appreciation to Senator JOHNSTON and to my colleagues from the Northeastern States.

The elements of the compromise seem to me to be clearly fair to all participants and represent the best in the art of compromise.

Under the agreement, an entitlement for residual oil of 50 percent will be in effect from July 1, 1978 to July 1, 1979. The reverse entitlement would be eliminated. This will open the east coast to additional competition and make possible some movement of residual oil from the gulf States into the east coast.

This is the essence of the agreement we have reached. However, an important ingredient in this compromise is the willingness of the President to reissue a Presidential order which has been in effect for 2 years regarding a fee-free license for the import of residual oil. Without this Presidential agreement, the fees would gradually rise to 63 cents by 1980. Unless this Presidential declaration is made, the increase residual entitlements would be of no value.

I have spoken to Secretary Schlesinger. He has agreed to give our proposal consideration, and I believe he will be able to persuade the President of the rightness of this course.

The virtue of this agreement, among others, is that it will give certainty to the market and allow all participants to know what the market will be as far as entitlements treatment is concerned for more than a year. It will result in immediate benefits to consumers in Massachusetts of something over 30 cents and if all of the benefits are passed through to consumers additional benefits may be enjoyed from the increased competitiveness made possible by the change in the reverse entitlements provisions.

With regard to the pass-through of entitlements benefits, I note that the attorneys general in some States had been investigating oil prices and insuring that lower prices are passed on to consumers. I recommend this course of action to States in the Northeast and I want both the consumers in Massachusetts and those in the oil industry to know that I fully expect these lower costs will be passed on to consumers on a cent-for-cent basis.

Mr. President, I have heard the argument that New England is enjoying lower gasoline prices and lower residual oil prices, They do not need any relief; I say that argument is wrong and inaccurate.

Let us look at the facts:

First. Delivered coal costs in New England are 85 percent higher than the national average: $33.96 per ton versus $18.40.

Second. Our electricity costs are 45 percent higher—4.19 cents per kilowatt hour versus 2.89 national average. What is more, these costs have been steadily rising and will rise still further because oil is our primary fuel.

Third. Overall New England's energy costs 26 percent more per million btu's that national average—$4.06 versus $3.22.

Fourth. Moreover, 80 percent of New England's energy source is oil, compared to 47 percent nationally, and this is the fuel most threatened by international price rises.

Where we do have lower costs it is because of a more competitive market. New England is regarded as having a highly competitive gasoline market. As for resid, surplus capacity in European refineries have kept the price lower than in some other U.S. markets.

I have also heard the argument that

it is unfair for New England to seek this subsidy from the rest of the country.

My answer is that, what is unfair is the subsidy already going to the rest of the country.

U.S. oil prices are lower than elsewhere in the world because we produce our own oil under controls and because we do not capture energy values through taxes as do other countries. These national policies should benefit all citizens. The entitlements program was intended to distribute these benefits through all refineries and all consumers. Yet it does not work equitably.

The Rocky Mountains: Senator HANSEN and Senator MCCLURE's States, get 97 percent of the benefits of lower domestic oil.

The Gulf States: Senator JOHNSTON's area, get over 98 percent.

The Far Western States get 96 percent.

But Northeast gets only 81 percent.

If the administration's plan were enacted, New England would be brought up to rough parity—about 94 percent. With the compromise today, we will still be short of equity. The percentages cannot be calculated but New England would still be somewhere in the mid 80-percent range. ●

● Mr. BROOKE. Mr. President, I believe the oil refining interests have done a superb job of presenting an entirely biased picture of the New England energy situation to the American people and I have every intention of setting the record straight.

For example, the press has recently entertained its readers with the specter of a so-called battle between oil producing regions and oil-consuming regions. The people of the gulf coast are said to be at odds, for example, with those in the Northeast. Mr. President, the controversy here is between certain narrow oil-producing concerns, specifically the nonintegrated refiners, and users of residual oil everywhere in the Nation. Once again, powerful economic interests have managed to sell a false explanation to the media so as to mislead consumers. The truth is that we know from our recent experience that residual prices on the domestic markets drop when the price of imported resid drops. Gulf coast electric utility customers are going to save money when New Englanders or Michiganites save money. Some refiners, however, are most certainly going to see profits lowered.

Second, we are continually told this entitlement is a so-called subsidy to the east coast importers. Again, this is a distortion. For the moment, let me only reiterate that this entitlement is simply the mechanism chosen to spread the benefits of the U.S. price controls to users of industrial oil—the only product which comes to us chiefly from foreign refineries. These rules represent not a raid on the system, but an equalization of the system's benefits.

There are certainly subsidies in the entitlements program. And they were put there for what was considered to be national purposes. The $1.1 billion which is skimmed off for small refineries each year is hardly an aid to small businesses. But it is a subsidy to marginally efficient operations that are thought to have special merit because they are not part of major oil companies.

The proposed reforms do not undermine these intentional subsidies but they will put a stop to consumers underwriting a number of real financial windfalls to a few firms as the fraud-ridden "reverse entitlement" program ends and the Hess refinery advantage is reduced. The reforms will not only further equalize easterners' share of price control benefits, they will also increase the efficiency of the entire market. Larger, more efficient U.S. refineries and the Caribbean refineries which supply the east coast will be more competitive.

We have every reason to anticipate this healthier, less biased market is going to generate more supplies and thus the price competition necessary to get the new entitlements benefits passed through the consumer. Should anyone doubt the effectiveness of this measure, you have but to consider the fact that upon DOE's announcement of the rules which language would abolish gulf coast, that is, domestic, resid prices started dropping and are now lower than ever since the Mideast war.

Indeed, this entire controversy has been used not only to represent some imaginary war between the States but also to raise the old mythology about the alleged greed of the Northeast. We are said to want no part of energy production but to covet all the benefits that go to energy producers. This absurd misrepresentation must end. Northeasterners have always paid more for oil than other Americans. We have always been victimized by price and production control schemes designed solely to protect domestic producers. When domestic prices were low, we had tariffs. When resid was unprofitable, we had to go to foreign refiners. When OPEC struck, we were forced to depend on their products. We have conserved more energy than Americans in any other region. And we have offered to take our share of energy facilities—which we intend to locate in sites other than our prime tourist or fishing areas. For instance, the world seems to have forgotten that the Machiasport refinery was killed—despite New England support—by the Governors and Senators from the Gulf Coast States.

These are not simple matters. Like many issues involving complicated private market relationships, they are convoluted. Describing them so as to inflame audiences is virtually impossible. Yet billions of dollars which are redistributed from one set of consumers to another are at stake. The Congress owes it to users of oil everywhere in the Nation to deal with these tough, tedious choices. It is past time to reject the simple explanations, the glib phrase and facile fingerpointing.

Most important, it is past time to stop basing national energy policies on fratricidal conflicts between regions. The War Between the States should be over. Armistice was declared over a century ago. The interests of consumers in Texas or even Louisiana are far closer to the concerns of Massachusetts consumers than to the concern of Texas or Louisiana refiners. It is time to stop symbolic posturing which plays well to the press gallery and to start developing positions that put us on the undramatic but safe road to sound energy policies.

Mr. President, I have referred to my annoyance with the spurious contention that the East in general and New England in particular is in the habit of demanding special consideration in energy policy or that this set of regulations is a manifestation of some special benefit at other regions' expense.

First, it is important to recognize that, as a consuming area at the end of every pipeline and rail network—we have special energy problems.

I would like to cite some of the harsh facts prepared lately by DOE Region 1 and the New England Regional Commission:

D. NEW ENGLAND'S ENERGY PRICES

New England relies primarily on petroleum products to meet its energy requirements.

Comparing the energy prices to end-users between 1970 and 1976, residual fuel oil has had the greatest percentage increase in both New England (312 percent) and the U.S. (263 percent). Electricity prices have had the largest increase in terms of actual dollars per million BTU's—almost $6 in New England and $4 in the U.S.

In 1976, the price paid for energy by end-users was 26 percent higher in New England than in the U.S. as a whole—a price differential of $.84 per million BTU.

At $.84 more per million BTU, this represents a net outflow of $1.4 billion in real income than if New England energy prices were equivalent to the United States.

We pay substantially higher prices for natural gas and electricity compared with nationwide prices. In 1976, the price differential per million BTU was $1.71 for natural gas and $3.78 for electricity.

Factors contributing to New England's high natural gas prices are—transmission costs from gas fields to our region and the high price of supplemental fuels.

Approximately 15 percent of our natural gas consumption (as high as 45 percent on peak demand days) is made up of the supplemental fuels, LNG, SNG and propane. These fuels are approximately three times more expensive than domestic pipeline natural gas.

Principal factor for higher electricity prices is our electrical generation fuel mix, 59 percent of which is oil based vs. 16 percent for the U.S.

The weighted average cost of electricity in New England has been significantly above the National average.

In 1960 the cost differential was .9¢ per KWH or 53 percent more than the U.S. average cost.

In 1976, New England costs were 45 percent higher than the U.S. with a price differential of 1.3¢ per KWH.

Within New England, the states that depend most on petroleum for electricity generation have the highest electricity rates—conversely, those states with the highest rates of nuclear, coal, and hydro generated electricity have the lowest rates.

But, Mr. President, New England has responded to this price pressure by implementing the national energy policy which has even yet to become law. We have conserved more and used less.

B. NEW ENGLAND'S CONSUMPTION OF ENERGY

From 1965–1973, our consumption of energy increased 3.6 percent per year compared to a U.S. increase of 4.3 percent per year.

From 1973–1976, New England's energy consumption decreased 1 percent per year whereas energy consumption in the United States increased by .01 percent per year.

New England's oil consumption has increased from 29 barrels of oil equivalent per capita in 1960 to 40 barrels in 1976—an increase of 38 percent. The respective per capita figures for the U.S. were 42 barrels in 1960 and 59 barrels in 1976—an increase of 40 percent.

New England's energy consumption mix differs significantly from the nation as a whole.

Six percent of the Nation's population resides in New England, however, we consume 12 percent of the residual and 10 percent of the distillate fuel in the country. Our nuclear power consumption is 13 percent of the U.S. total, whereas our use of coal and natural gas is less than 2 percent of the U.S. total.

Furthermore, contrary to the mythology constructed by the oil interests, our region is willing to take its share of energy development.

Of course, we are not about to destroy our No. 1 industry, tourism. We will pay whatever it costs in added energy prices to keep our beaches and estuaries clean and our mountain air from deteriorating further. But we will explore Georges Bank; we will keep up the search for coal in the Narragansett Basin; we will take the risks of a threefold larger share of nuclear reactor and their wastes than any other part of the country. Indeed, if the Louisiana delegation will let us, we can build strategic storage and refineries.

Mr. President, we are often told that the people of the east coast in general, and of New England in particular, are themselves responsible for their dependence on foreign refineries. A number of my colleagues have suggested that we have failed in our obligation to help ourselves by failing to build our own refineries. Why, they ask, should the rest of the Nation subsidize the Northeast's lack of foresight and enlightened self-interest?

I would like to remind my colleagues of certain events that transpired 10 years ago, when objections to another New England proposal were allowed to carry the day.

At that time, a serious plan was advanced for a refinery and deep-water port complex at Machiasport, Maine. That refinery would have produced 300,000 barrels a day of refined product and 21 percent of New England's residual oil demand. The Governors of the six New England States supported it. The New England Regional Commission supported it. I worked for it. The two present Senators from Maine worked for it. But fierce opposition to the proposal prevented the Federal Government from granting the necessary approval.

It was not environmental opposition that killed Machiasport. It was not any zero growth movement either. Rather, we witnessed the spectacle of Congressmen and other Government officials from Louisiana, Texas, Wyoming, Oklahoma, and Kansas trooping to Portland, Maine, to protest the project.

A New England refinery they said, would threaten the domestic petroleum industry by bringing in cheap foreign oil to compete with the domestic market.

A new England refinery, they protested, would open the door to dependence on the crude supplies of unreliable Arab producers. National security, they maintained, would be jeopardized by allowing the foreign oil menance to get a toehold on American shores. And so Machiasport was not constructed.

Ten years later we see the folly of their arguments. We as a nation now import 50 percent of our petroleum needs, and Machiasport could have been a useful addition to the Nation's national security through assured domestic refinery capacity. But the oil producing areas didn't want it.

And now we hear precisely the same arguments that were once used against that New England refinery being resurrected to oppose residual oil entitlements. Again we hear that domestic refiners should not be forced to compete with those offshore. Again we hear that the supplies are unreliable. Again we hear that national security demands that the domestic oil industry be protected. I believe, Mr. President, that the ones who need protection now and who should have been protected 10 years ago, are the consumers of this entire Nation. They are the ones now being forced and who have always been forced to pay the freight for the oil producers and refiners.

But the resid entitlements reforms present the clearest possible case of distortion of the truth about the east coast energy situation and policy.

As far back as the comprehensive FEA reexamination we precipitated in 1976, the clear consensus of witnesses was that the amendments, particularly the reverse entitlements provision, produced significant operational and marketing difficulties for affected firms and in certain cases resulted in serious inequities among consumers of residual fuel oil, depending on where they were located. In general, FEA found that the reverse entitlements provisions created strong disincentives to sales of domestic residual fuel oil in the east coast.* It specifically found that—

The reverse entitlements provisions seem to be having the apparently anomalous effect of encouraging shipments into a marketing area where residual fuel oil is generally in surplus and which would not constitute a normal marketing outlet for the product. An analysis of residual fuel oil prices also shows that East Coast prices are higher than those prevailing in the rest of the United States, which is primarily due to the entitlement loss experienced for domestic product sold on the East Coast.

Following the hearing, on December 23, 1976, FEA issued a proposal which contained three alternative programs for residual fuel oil. Each was designed to provide a level of protection for domestic refiners and also to eliminate the reverse entitlements provision. Another hearing was then held on January 23, 1977, on the issue of east coast residual fuel oil entitlements. DOE found no clear consensus on these proposals and in light of the President's proposed crude oil equalization tax, which would significantly affect the entitlements program, the agency delayed taking any action.

In brief, despite a clear recognition that the March 1976 regulations have serious defects and anticompetitive effects, they have remained in place, without change, for more than 2 years.

In its recent proposal to amend the entitlements program DOE states that its primary objective is:

To correct the fundamental inequity resulting from the fact that some regions of the country are heavily dependent on certain imported refined products, particularly residual fuel oil, and therefore do not receive the full benefits of domestic crude oil price controls through the entitlements program that other regions not dependent on product imports receive.

The Department of Energy's new proposed changes for residual oil entitlements have been portrayed as a giveaway to the east coast at the expense of the rest of the country. The fact is, by creating domestic crude oil price controls Congress established a price differential between foreign and domestic oil.

Since almost 50 percent of our national oil consumption is from foreign sources, a mechanism was needed to spread the benefits of the domestic price control differential to all consumers. That mechanism is the entitlements program.

As Secretary James Schlesinger stated in announcing the proposed regulations on June 15, 1978, all the regional inequities will not even be corrected by the reforms:

In 1977 the percentage of East Coast Petroleum demands that received entitlements benefits was only 81%, compared to virtually complete benefits in other parts of the country. After the proposed action, the amount of East Coast petroleum demand being subsidized through the entitlements program would increase to 94%.

This compares to 97.1 percent for the Rocky Mountain area and 96 percent for the west coast and 99 percent for the gulf coast. I have a chart here I would like to read.

Percentage of total petroleum demand that receives subsidy (1977 DOE data)

	Today	After reforms
U.S. average	91.2	96.7
Gulf coast	98.9	98.9
Midwest	95.7	97.4
Rocky Mountain	97.1	97.1
West coast	96.0	96.0
East coast	80.7	94.2

The new regulations will allow full entitlements benefits to the gulf coast and Midwest as well as the east coast. At the present time the price of gulf coast residual oil serving that region and the Midwest is being set by the high price available on the east coast. Since imported east coast residual oil gets only a 30-percent entitlement, gulf and Midwest residual also receives only 30 percent. The new regulations will allow all three regions to receive 100 percent entitlements, less 63 cents domestic refinery protection.

The only difference between a barrel of imported residual oil and a barrel of oil imported as crude and refined domestically, as is 40 percent of all our crude oil, is that in the former case the refinery is located in the Caribbean while in the

* "Alternative Entitlement Program Adjustments for Imported Residual Fuel Oil", 41 F.R. 56821 (December 30, 1976).

latter case it is located on the gulf coast. Each barrel is equally foreign in origin yet the barrel of crude oil receives full entitlements whereas the barrel of residual oil does not. Who is subsidizing whom?

The proposed rules change can help keep the price of electric generation and institutional heating down, not only on the east coast, but everywhere east of California where resid is used. At the present time, resid sold by a gulf coast refiner to the non-PAD I market should be about a dollar cheaper than gulf coast resid sold into PAD I. This is not the case. The resid user in the Midwest is paying the same high price as those on the east coast and someone is making higher profits rather than passing along the entitlements. Two years ago, when a partial entitlement was given to imported east coast resid, prices not only dropped on the east coast but on the gulf coast domestic refinery market as well. The same thing is likely to occur this time resulting in lower residual oil costs east of the Rockies. I intend to pursue this later in much greater detail.

Who pays? The new entitlements regulations would result in an increased cost on all other petroleum products of between one-tenth and two-tenths of a cent. This small sum would be paid by all gasoline consumers, for example, be they in California, Texas, New York, or Massachusetts. The east coast also pays a part of the price. This is not an interregional ripoff.

Who is complaining? Refinery interests who would see their benefits from the entitlements program decrease. It is not clear that refiners are passing along the entitlements benefits on domestic resid to the final customer. This change in the regulations may force them to do so.

There has been much confusion generated regarding the overall effect of increasing import entitlements. The two main claims have been that it benefits the Northeast at the expense of the rest of the country and that foreign refiners will reap the benefits of the increased import entitlement. These concerns are based more on emotions than on a logical and objective assessment.

It is generally accepted that manipulations within the entitlements program just shift costs from one product to another. Therefore, the proposal to increase the import entitlements and lower the price of residual fuel would raise the price of gasoline and heating oil concurrently. District 1 consumes 53 percent of total U.S. residual fuel demand and therefore, would receive 53 percent of the benefits of this lowering of the fuel price. However, district 1 consumes almost 40 percent of the Nation's total demand for gasoline and heating oil, and accordingly would pay for 40 percent of the cost increase. Therefore, the net benefit to district 1 is closer to the 13-percent level—the difference between 53 and 40—than the 53-percent level. Our observation is that the emotional outcry has been as if it were a 100-percent level.

The second emotional claim is that the foreign refiners will benefit from the increased import entitlements. Fortunately we have solid data which allow us to refute this claim with a high degree of confidence, since this exact feature has already been implemented once before. When the 30-percent entitlement was granted about April 1, 1976, foreign prices for residual fuel remained constant, whereas domestic price dropped almost instantaneously to a level approximately $0.85 billion below foreign prices. This $0.85 billion represented the effective benefit of a 30-percent entitlement. We see no reason why the same effect would not occur in exactly the same manner should the current level of import entitlements be changed.

	Prior to import entitlements	Subsequent to import entitlement regulation	
	March 15, 1976	April 15, 1976	May 15, 1976
1% S No. 6 Oil, New York basis:			
Foreign price	11.40	11.35	11.35
Domestic price	11.40	10.55	10.50
Difference	0	0.80	0.85

The difference between these two price levels has continued to reflect the 30 percent entitlement value up to the present time.

Now, turning to the question of regional price parity, the current proposal places prime importance on historical import dependence as a criterion for import entitlement treatment. Historical performance should have no bearing on application of import entitlement treatment except in that it might give guidance as to future import dependent areas. Import entitlements should be granted on what is to happen; not what has already happened.

Historically—for the last 4 years—gulf coast has been a major supplier of residual fuel to the east coast. These supplies were not developed for the primary purpose of supplying the east coast. Instead they were the quantities of fuel produced in the gulf coast in excess of local demand and were disposed of on the east coast as the next most attractive market. This oversupply situation, as far as the gulf coast tributary area was involved, required that residual fuel be sold at competitive price, not in the tributary gulf coast area, but in the distant disposition area—namely, the east coast. Since the freight to move product to this nontributary area has been relatively expensive, residual fuel prices in the gulf coast area have been relatively low, as would be expected from an oversupply situation. It should be noted, though, that for portions of both the 1976–77 and 1977–78 winters, the oversupply situation was interrupted. Gulf coast consumption exceeded residual fuel manufacturing capability and gulf coast prices rose to levels much closer to east coast prices than the freight difference would have allowed. We believe that the growing demand in district III may soon consume the entire supply capability of this region and make the exception the rule. When this occurs, the gulf coast price will no longer have the relationship with the east coast price that has occurred historically. Further, when demand reaches levels that require supplementary supplies from outside district III, the price will have to rise to a level sufficient to attract oil from other domestic locations, or more likely, imports from foreign sources. When the situation reaches this point, district III will need the same protection as is now being considered for district I in order to achieve the stated purpose of price parity within geographical regions.

Mr. President, I would have liked to see our region get the support of the entire Nation for the DOE's proposed 100 percent entitlement. We deserve it in all equity.

But in the face of insuperable opposition. I think we have achieved a good compromise, one which puts us on the road to regional understanding across the Nation. And that is worth a great deal in and of itself.●

● Mr. CHILES. Mr. President, several years ago when the price of foreign petroleum products skyrocketed, certain areas of the country, most notably New England, the eastern seaboard, and Florida, suffered a dramatic and severe increase in consumer energy costs. These areas, which are largely dependent upon imported petroleum products for electrical generation and home heating, were placed under an economic burden which continues to this day. Because of traditional market patterns that involve a reliance on imported oil, persons living in these States have been forced to make greater sacrifices in meeting energy costs than their fellow citizens in other parts of the country.

Ever since this first drastic increase in prices, I and other Senators from similarly affected States have been attempting to seek relief for our consumers. We have not argued that somehow our constitutents should be spared the economic burden of increased energy costs. We fully realize the new energy reality means higher prices. What we have argued for is equity of treatment. We have argued that all regions should share equally in these higher costs. We have maintained that equal treatment must be the rule in our energy policy.

Regrettably there has not been a great deal of progress in this regard. Perhaps the only beacon of hope, and it has been a dim light indeed, has been the entitlements program. This program was established in the wake of the Arab oil embargo to equalize the cost of crude oil nationwide. Congress enacted this approach to allow those importing expensive foreign oil to gain access to the lower cost, price-controlled domestic oil. This, in effect, somewhat lowered the cost of imported oil in Florida and gave some small measure of relief to hard-pressed consumers.

The entitlements program, however, has been limited in its applicability to residual fuel oil. Residual oil is the heavy oil used in Florida primarily for electrical power generation. The present entitlements program provides that each barrel of residual oil receive only 30 percent of the amount of an old oil entitlement. Further, the program has included a "reverse entitlement" feature, which allows firms marketing residual oil in PAD I States to receive only a 50-percent entitlement benefit. Thus while the entitlements program has been of benefit to Florida and other States importing residual oil, we have received only a limited measure of its equalizing effect.

The Department of Energy proposed new regulations revising the entitlements program to grant a full entitlement for imports of residual fuel oil and to do away with the reverse entitlement. This proposal is long overdue and represents only the most modest of actions to provide some equity of treatment to Florida and other States heavily dependent on foreign imports. It would not only lower the cost of residual oil but would increase competition by suppliers to the Florida market by doing away with the disincentives restricting Florida's access to domestic refiners.

The Department of Energy proposal makes sense because, unique among all oil products used in this country, the majority of the supply of residual fuel oil is imported. Without participation in the entitlements program, the market price for the product is fully at the world level. All other oil products, such as gasoline, home heating oil, diesel, and jet fuel are held well below the world market by the domestic oil price control program. The proposal to grant a full entitlement to imports of residual oil is simply a move toward equity among all consumers of all oil products in all regions. It is fulfillment of the clear statutory mandate that all regions should share equally the burden of increased energy costs.

This proposal is not a "subsidy of imports" as some opponents of the proposed regulation have argued. It is no more such a subsidy than is the entire domestic oil price control program. While price controls remain in effect, Florida and other consumers of residual oil should be granted the same benefit presently accorded consumers of all other oil products.

As I have pointed out, this approach is of definite advantage to my State of Florida. It would mean a saving to Florida consumers in the neighborhood of about $47 million per year. Hardly a windfall when put on per capita basis but in the case of our many retired citizens for whom every dollar counts, these few extra dollars saved in energy costs will indeed be welcome.

I would hope that in deciding on this amendment, Senators will look not only to the parochial interest and support the amendment if their state is free of a dependence on imported residual oil. I would hope rather that a spirit of fair play would prevail in recognition that an inequity has existed and should be corrected. The cost to the Nation's consumers as a whole will not be great but the benefit to those consumers who have borne an extra burden these past years will be significant.●

Mr. HANSEN. Mr. President, I make the point of order that the compromise does contain legislative language on an appropriations bill.

Mr. JOHNSTON. I raised the question of germaneness, Mr. President.

The PRESIDING OFFICER. The Chair, under Senate rule XVI, now submits to the Senate the question raised by the Senator from Louisiana (Mr. JOHNSTON); namely, is the amendment germane or relevant to the subject matter of the House-passed bill?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question is not debatable. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Is a motion in order to lay the question of germaneness on the table?

The PRESIDING OFFICER. A motion is in order to lay the question of germaneness on the table.

Mr. JOHNSTON. Mr. President, in that case, I ask unanimous consent to vitiate the order for the yeas and nays on the question of germaneness, and ask for the yeas and nays on the motion to lay on the table.

Mr. ROBERT C. BYRD. Mr. President, I have not made that motion. I am simply interested in learning for my own edification whether it could be made, it never having happened, to the best of my knowledge, in my 20 years in the Senate; but I thought the need might arise some day.

The PRESIDING OFFICER. The Senator is correct.

The question is, Is the amendment germane or relevant to the subject matter of the House-passed bill? The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Maine (Mr. HATHAWAY) and the Senator from Minnesota (Mrs. HUMPHREY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The yeas and nays resulted—yeas 65, nays 31, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—65

Abourezk	Case	Dole
Allen	Chafee	Durkin
Bentsen	Chiles	Eagleton
Biden	Church	Eastland
Brooke	Cranston	Ford
Bumpers	Culver	Glenn
Burdick	Danforth	Gravel
Cannon	DeConcini	Griffin
Hart	McIntyre	Roth
Hatfield, Mark O.	Morgan	Sarbanes
Heinz	Moynihan	Sasser
Hodges	Muskie	Schweiker
Huddleston	Nelson	Sparkman
Inouye	Nunn	Stafford
Jackson	Packwood	Stennis
Johnston	Pearson	Stevens
Kennedy	Pell	Stevenson
Leahy	Percy	Stone
Magnuson	Proxmire	Talmadge
Matsunaga	Randolph	Williams
McGovern	Ribicoff	Young
	Riegle	Zorinsky

NAYS—31

Anderson	Garn	Long
Baker	Goldwater	Lugar
Bartlett	Hansen	Mathias
Bayh	Haskell	McClure
Bellmon	Hatch	Melcher
Byrd, Harry F., Jr.	Hatfield, Paul G.	Metzenbaum
Byrd, Robert C.	Hayakawa	Schmitt
Clark	Helms	Scott
Curtis	Hollings	Thurmond
Domenici	Laxalt	Tower
		Weicker

NOT VOTING—4

Hathaway	Javits	Wallop
Humphrey		

The PRESIDING OFFICER. (Mr. HODGES). On this question, the yeas are 65, the nays are 31. Therefore, the amendment is held germane.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was held germane.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I think the amendment has been thoroughly debated. I think it is a good compromise. I think it does not give everybody all they want, but I think it is a good compromise and I am ready to vote.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN. Mr. President, I shall not take long, but I do want to take a couple of moments, because there are a number of Senators here who are not here this morning and, as a consequence, missed the excellent presentation made against the entitlements program by my good friend, the distinguished Senator from Louisiana.

What we have done in this entitlements program is tax 34 or 36 of the States to subsidize the other 14 or 16, whichever it may be—I am not certain about what those figures are, but I know the Senator from Louisiana would agree with me on this. We are trying to make it better for them.

Just to go back a little bit on the entitlements program, we had a mandatory oil import program a long time ago, when there was concern in this country about the adequacy of fuel to take care of America. In order not to become unduly dependent upon foreign sources of supply, we said, let us not let be imported into this country more than 12½ percent of our needs. When they found oil in the Middle East and when it became available, New England wanted to do away with that program. They attempted to have it done away with.

The program was opened up to foreign residual oil and everybody was happy because New England could buy that cheap oil from the OPEC countries. That was just great for everybody until the Arab OPEC countries imposed an embargo on this country.

Then New England started saying, "We do not want to buy as much of that oil as we have been buying because we can buy the domestic oil more cheaply." So in order to keep everybody happy and placate them, we came up with this entitlements program, which has had the effect of encouraging the buying of more residual oil from the Caribbean.

I had in my office, just a few days ago, representatives of one of the smaller countries down there that said if we do not pass this entitlements program, we are going to have a lot of people out of work.

What we are doing is exporting American jobs to the Caribbean and to the Middle East in order that we can import more of that oil here and in order to subsidize those sections of the country that have grown to become dependent, as New England has, on this oil. We are asking about two-thirds of the States in the United States to tax our citizens more in order that they can buy the product cheaper than they would otherwise be able to buy it.

The thing that is wrong with the whole operation is simply this: We are exporting American jobs. We are keeping American oil in the ground through the whole ramification of these various laws we passed on energy, simply to try to win votes one way or another.

The Secretary of Energy is for this program. I think—I make this charge and I may be wrong and if I am, I will stand corrected. I think that, in order to try to help sell the Natural Gas Act and some other things such as the crude oil equalization tax, he has said to New England, "If you will go along with the gas bill and COET, we will increase your entitlements program."

It is wrong because it is exporting jobs, it is increasing our dependence upon foreign sources of supply. It ought to be done away with. We are not doing away with it.

My good friend from Louisiana is saying, "Let us not go to the House with a 30-percent entitlement, which we now have on the books; let us change it to 50," hoping they will buy it and will not make it worse. I think if the people in this country understand what is at issue, they are going to say, "Let us not make it any worse and, for heaven's sakes, let us not go into conference having given away two-sevenths of our trading stock before we get there."

This morning, when it was debated, the Senator from Louisiana held out the hope—he went even further than that in saying it was pretty well agreed upon—that this thing would go zinging through the conference. My good, good friend, the distinguished majority leader, said, "I cannot guarantee you, as chairman of this Appropriations Committee, that we are going to be able to sell the House conferees on what we agree to here." It is just that simple.

Mr. DURKIN. Will the Senator from Wyoming yield for just an observation?

Mr. HANSEN. For a short observation.

Mr. DURKIN. I should like to lay something to rest once and for all, unequivocally: There is absolutely no deal with the eastern Senators or the eastern conferees on natural gas. In fact, most of the eastern members of the gas conference are flatly opposed to the product of the conference committee. Most of the Congressmen on the conference committee from the East voted against the compromise that has been emanating from various rooms in this zip code. I should like to lay it to rest completely, once and for all: There is absolutely no deal with respect to natural gas pricing, or COET, the two parts of the President's energy plan which we all know are either dead or in an iron lung. I should like to make that clear to the entire Chamber.

I thank my colleague for giving me the opportunity.

Mr. McCLURE. Will the Senator from Wyoming yield?

Mr. HANSEN. I am happy to.

Mr. McCLURE. I appreciate what the Senator from New Hampshire said, because I think it draws rather starkly the contrast in the treatment which is being asked here by the New England States, because they are asking for a subsidy on the price of home heating oil, primarily, and residual oil, which runs utilities, while many of us in other areas of the country pay a very high price for imported natural gas. Sixty-nine percent of the supply in my State comes from Canada and we pay an unsubsidized price.

Are you fellows willing to give us entitlements on the natural gas so that we spread the cost of the natural gas over all of the States equally? You are asking my State to pay over a million dollars in subsidy so you can get cheaper oil while my people get no subsidy, no assistance on the price they pay for natural gas.

Mr. BROOKE. Will the Senator yield?

Mr. HANSEN. I am happy to yield to my friend from Massachusetts.

Mr. BROOKE. I think this is about the third time today we have had this discussion.

Mr. HANSEN. The only difference, if I may interrupt momentarily my good friend from Massachusetts, is to say that we have more listeners than he and I had this morning.

Mr. BROOKE. I think we have picked up two or three more listeners as I look around the room. We had a few before. At any rate, the Senator from Wyoming continues to say "the New England States." This is not just the New England States.

Mr. HANSEN. It includes the State of Massachusetts.

Mr. BROOKE. It includes the entire eastern seaboard, it includes the State of Michigan, it includes midwestern States as well, who will benefit indirectly.

Mr. HANSEN. What are the midwestern States?

Mr. BROOKE. Indiana, Illinois, and there are others that benefit indirectly from this entitlements program.

What the Senator fails to say is that, by accepting this compromise agreement, the Senator from Louisiana is doing all that can possibly be done in an effort to work out some agreement between all sections of the country. After all, this is a United States of America. It is not East against West; it is not oil-producing States against consumer States. We have been working for 2 days to try to come up with some kind of equitable agreement that could be passed through the Senate and through the conference.

I know the Senator is concerned about what might happen in the conference. We have reason to believe that this compromise certainly decreases what the eastern States and the midwestern States that I have named would benefit from, would really have a decrease from what they possibly could have if this rule goes into effect on August 22.

So, really, the Senator from Louisiana has performed a great service to the other 36 States that the Senator from Wyoming continues to talk about. I hope that he understands that.

In other words, I am saying to him that he is getting a good deal under the compromise agreement that we have worked out reluctantly with the Senator from Louisiana.

The Senator from Louisiana has certainly not sold him out. I think the Senator from Louisiana has been very strong, very stalwart, and has come up with the best agreement that he can possibly get under the circumstances.

As he very well knows, we have had this out before, that this rule would go into effect within 2 weeks. To avoid that and take the risk, and we have some risks because this is an appropriation bill, this is legislation, there is nothing in the House bill that has anything about that this is all. It could be knocked out in the House.

If it was knocked out in conference with the House, then by the time that would happen the rule would go into effect and we would get the 100-percent entitlements, which I am sure the Senator from Wyoming does not want to see happen.

All I am saying is that it is a good, sound compromise worked out after laborious negotiations, which tries to bring some kind of equity to it.

Mr. HANSEN. Before I yield to my friend from Idaho and to my friend from Connecticut, I wish to make this observation.

Mr. President, there is little question that a point of order can be made against the original Johnston amendment because it is not legislation on an appropriation bill. It is simply a limitation on an appropriation bill. There is that distinct difference.

So if we are concerned about what may happen when we go to conference, I hope Senators, including my good friend from Massachusetts, will keep in mind that a point of order can be made on this amendment here because it does say that the Administrative Procedures Act shall not apply, and to that extent the Parliamentarian has told me that it is legislation on an appropriation bill.

Now, the second point he made is that

it really is a good deal for everybody. It reminds me of an old judge I knew in Wyoming who came around a sharp bend and ran into a herd of cattle, hit a steer, knocked him over the barricade. One of our cowboys rushed up and the judge hopped out of his car and said, "Didn't hurt him a bit, he's perfectly all right." And before the cowboy had very much time, the judge repeated again how well the steer looked. Finally, the cowboy said, "Judge, if you think it did the steer any good, tell me right now."

If anyone thinks it does us good to have to pay more to the other parts of the country, I hope we are told right now, but I do not happen to say that.

Mr. BROOKE. I am telling the Senator now, they will have to pay less, not pay more, but they will have to pay less. if this rule goes into effect, they would have to pay more.

Mr. HANSEN. A point the Senator from Massachusetts makes is that he says despite the Administrative Procedures Act, Mr. President, which says a rule shall not go into effect until a certain period of time has elapsed, it has already been prejudged.

I made this point a little earlier, that, really, what we are talking about is that despite the fact that the Administrative Procedures Act says this decision, this determination, shall not be made until 2 weeks from now, apparently, those in the know, and I know my good friend from Massachusetts is because he is a good friend, I assume, of the powers that be downtown—I happen not to be—but they have already decided how they will find on this issue.

I think that is an interesting thing to know, and I asked my friend from Louisiana who said that. Well, he did not identify who said this is what we are going to do, but it certainly is extremely interesting. It is extremely interesting to me that Members of the Senate now know what a decision will be that legally cannot be made until 2 weeks from now.

I ask my good friend from Massachusetts on whose authority does he make a statement to me that that is going to happen 2 weeks from now? Can he help me on that?

Mr. BROOKE. Mr. President, my friend from Wyoming is one of the most effective and resourceful debaters on the floor.

Mr. HANSEN. I want a simple answer to the question.

Mr. BROOKE. The Senator is going to get that. He already raised his point of order. He spoke about a point of order. He raised the point of order and the germaneness question was voted upon by the Senate. So this has cured the problem the Senator was concerned about.

Mr. HANSEN. As far as Massachusetts is concerned, but not Wyoming.

Mr. BROOKE. They let the Senate work its will. The Senate did work its will and it found it was germane by a vote of 68 to something or other.

So, at any rate, that question has already been resolved, maybe not to the Senator from Wyoming's satisfaction, but it was resolved.

But insofar as who has given that, I do not think that is true.

Mr. HANSEN. How does the Senator know——

Mr. BROOKE. I think the Department of Energy has already gone through all of the steps it needed to go through as far as the present rule is concerned, and that is the rule that we say will become effective on August 22.

What the Senator really is referring to is the language under the substitute amendment, and that is the rule he raises, the point of order, or on the procedural grounds, and that is the rule that caused the vote on germaneness which the Senate has upheld.

Mr. STEVENS. Will the Senator yield for one observation without losing his right to the floor?

Mr. HANSEN. I wanted to yield to my friend from Idaho, but I will be happy to yield to the Senator for an observation.

Mr. STEVENS. Representing a State, as I do, that now produces one-eighth of the domestic production of the United States, I want to say that I do not understand this amendment yet. I intend to be in the conference and do everything I can to take it out, if it is on there, if it does not do what I have been told that it does.

This, I think, does disturb the entitlements program and it is going to cost New England more to get our oil in New England, if I understand it.

I admit I have not been able to study it yet and to ask questions. I am told the Secretary of Energy just had it read to him on the phone and I would question whether Mr. Schlesinger himself really knows what this means to the entitlements program.

As it applies to Alaska, crude oil entitlements are given to the Alaska North Slope crude as it enters the domestic market in order to equalize the price in New England.

I am going to oppose it. I voted it was germane, as I told my friend from Wyoming, because I wanted to demonstrate my honesty since I put a little of legislative language on this bill myself.

But from the point of view of understanding this, I challenge anybody to understand what is going on here in a bill on which we have not held hearings, have not heard arguments of the people that represent those who have appeared at the administrative public hearings, in terms of what the rule should be that will be issued in 2 weeks. Yet, we are asked to legislate on something today that I say, frankly, I have read but I still do not understand as it applies to Alaska North Slope crude.

I say that with due respect to my friend, if the Senate wants to pass it, fine, but I do not think it belongs on this bill until we do understand it.

I have not had time to send it home for study yet. It just came to us. How can I get hold of the people who manage this program for the State of Alaska and get a reply back when it just came out of an impromptu conference held off the floor an hour ago?

Mr. JOHNSTON addressed the Chair.

Mr. STEVENS. We are producing much more oil than the Senator is and I hope we will be partners in oil production in the future here. But again, my friends in New England in my opinion this will cost you more money than you think in the long run.

Mr. BROOKE. The Senator keeps saying "New England."

Mr. WEICKER. Regular order, Mr. President.

As I understand it, the Senator from Wyoming has the floor and questions are in order, but for those of us seeking the floor in our own right, it is impossible to get into the round table.

The PRESIDING OFFICER. The Senator is correct. The Chair was attempting to be lenient to save time.

The Senator from Wyoming has the right to the floor. He does not have a right to yield the floor except for a question, so that from now on, regular order having been asked, the Senator from Wyoming has the right to yield for a question, but no other right to yield the floor.

Mr. HANSEN. Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut was seeking recognition first.

Mr. WEICKER. Mr. President, I oppose the amendment. I suppose that ostensibly my position would seem to be in opposition to the regional interests of New England. I think, however, that the question which was posed is the overriding quesiton—whether or not we are going to pay less or are we going to pay more for our energy.

Make no mistake about it: Under this aberation that will call energy policy, we are going to be paying more, as we have been paying more, as we will continue to be paying more.

I think it is a good time to point out several things. Whether or not we pay less and whether or not our supplies are stable is a matter of national interest. It cannot be determined by regional interests. It cannot be determined by partisan interests, or philosophical interests, or special interests.

It is a simple matter as to whether or not we are going to produce more and use less. When that day comes we are going to have lower prices and we are going to have stable supplies.

Up to this point—and the Senator from Alaska alluded to it in his statement—we have managed to bend ourselves into a pretzel when it comes to energy policy, to the point that nobody, including the energy conferees, including the members of the Energy Committee—I cannot speak for the Finance Committee—knows what is going on in this Nation.

We have left the very basis that would make economic sense, the law of supply and demand: a free market to encourage production and mandatory rather than voluntary conservation we have to change our lifestyle and use less.

The reason why we in New England are battling with respect to the entitlements problem is simple. You would not have entitlement programs unless you have controls. Because we have controls, because that is against all laws of economic commonsense, we therefore have

to go ahead and take care of the unusual circumstances that this creates; so we develop a program of entitlements.

Now we are on the floor of the Senate, trying to doctor up the program of entitlements. No matter which way you cut it, you cannot make reality out of a mirage; you cannot bring substance out of mirrors. It will not happen.

We have to come to grips in this country as to what needs to be done. Anything that has value to it in the future is going to cost something in the way of lifestyle and dollars today. No politician, not the President, not Congress, not the House, will come to this realization. Every day that goes by that we do not have an energy policy, the economic situation worsens and the energy situation worsens. We cannot bring this country back to any sort of economic strength until we tackle this problem head on.

There is only one reason why any member of the energy conference should vote for the energy bill, and that is specifically to say that the United States has one. It has nothing to do with the content or substance of that legislation. Not one member of the conference could tell you today what is in that bill. Yet, it is going to be brought to the floor and voted upon.

Mr. President, I intend to vote against this entitlement compromise, because I honestly feel that it is not helping New England interests to keep on sticking a lollipop in their mouths.

Yes, provisions of this compromise—and the people should know this—have been specifically agreed to in order to satisfy oil and gas interests so they will not be hurt too much. Other aspects of the agreement have been agreed to so the Democratic Party can stick to its promises and the Republican Party can stick to its promises.

What we have in this country is still a lack of energy as well as an overconsumption of it. I will have no more part of the charade.

We have to get something before us that clearly delineates what needs to be done in the sense of encouraging American production in all its forms of energy—nuclear, oil, gas, coal, solar—everyone has to make his contribution, and it has to be done within the concept of a free market.

I am going to say the same thing I said when I was running for office. The heck with voluntarism. It will not work. There has to be some sort of mandatory conservation coupled with increased production. When we come to grips with those two tasks that are demanded of us, then you can talk about paying less, then you can go ahead and talk about stable supplies, then you can talk about an economy that has substance to it, then you can put an end to the deficit in balance of payments, then you can have a national security picture that is there in reality, rather than the dependence on foreign oil. Until those matters are taken care of, the so-called energy policy that this country will have will be a political sham that is perpetrated on the Nation.

Mr. BROOKE. Mr. President, will the Senator say it is a sham for those consumers who are paying high prices for their home heating oil along the east coast? Does the Senator really think that is a sham?

Mr. WEICKER. The amendment that has been agreed to will guarantee a greater dependence by New Englanders on OPEC oil. I ask the Senator from Massachusetts how that helps New Englanders, when those men are sitting in a cartel environment and jacking up prices whenever they wish. That is not helping New England. All that does is postpone the inevitable.

How do we in New England explain that for years we have been so environmentally concerned that we would not build our own refineries in New England? And we encouraged that. The political leadership in New England encouraged that. If we had those refineries available in New England, we would not be in this bind today, but that was politically dangerous at the time.

What I am saying to my fellow colleagues from New England is not that the fault is all ours. The energy bills here are helpful to interests in the Southwest and the West. We have the burden of failing to act, and we kid our constituents that we are going to make them feel they are going to get out of this bind by relying on an entitlements program. We kidded them about a controls program. Tell me how, in my own section of the country, controls brought about lower prices to New England, in any sense—natural gas, home heating oil, and so forth. Tell me about the lower prices that were guaranteed by a system of controls. It has not worked, and it will not work, and entitlements will not work.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. WEICKER. I yield for a question.

Mr. MUSKIE. I want to make a point for the record, and I will do it in the form of a question.

Is the Senator aware that the first refinery proposed in New England, at Machiasport, Maine, was killed not by the environmentalists but by the oil industry, which influenced the Johnson administration to deny the issuance of an import quota to fuel that inventory, and was denied a free port license, which, by the explicit language of the statute, assured a trade-free zone to any port in the United States that applied for one?

Those two decisions, which were made down here, killed the Machiasport refinery, not environmentalists. It was supported by me. It was supported by the then Governor of Maine. It was supported by every Senator from Maine in that generation, as I recall it. It was our attempt to contribute to the refinery capacity of this country and to do it by fueling it with the only oil available to us, which was from the Middle East, because the domestic oil industry was not interested in building a refinery in New England.

I come from the most energy poor State in an energy poor region. The State of Maine imports more than 90 percent of the energy it consumes. And the great bulk of the energy we import comes from sources outside the United States.

As the difficult work toward a national energy policy has proceeded in the Congress, I have been guided by two responsibilities. The first and most important has been the adoption of policies which balance out the cost of energy among areas which import oil and oil products and areas which produce it. The second has been the development of a national energy policy which treats all regions equally, because a policy which promotes regional competition is a policy doomed to fail.

Congress, reacting to the Arab oil embargo and the threat it posed to our economic future, agreed with those of us from New England and other energy importing regions that a policy which promotes economic benefit to some areas at the expense of others will in the end damage the American economy. We adopted a system of entitlements designed to roughly equalize the cost of all crude oil by spreading the cost of imported oil among all areas. We recognized that in our complex and interlocked economy a recession for some areas would in the end result in suffering for all. But the policy we adopted was incomplete on at least one major point. We did not spread the majority of costs of refined residual oil out across the country. I will not review the circumstances which led to that decision, but the decision was made.

Now, as we review a long-range energy policy which promotes the use of coal and alternatives to oil for fuel, the Energy Department has undertaken a review of our policy toward residual oil, and agreed that our region needs relief.

Yesterday and today, a group of Senators including myself and my distinguished colleague from Louisiana, Senator JOHNSTON, met to discuss that proposal.

I want to commend my colleague for his diligent efforts at helping shape a compromise which I believe will ease the cost of residual oil in the Northeast.

Federal energy policy after the Arab oil embargo helped my region avoid economic catastrophe. But I am convinced that it did not insulate my region from serious economic difficulty. The policy we agree to today recognizes this fact. And it recognizes that the Northeast must play an active part in our national drive toward energy independence.

Briefly, the agreement is this: That the value of entitlements for residual oil be increased to 50 percent of the difference in cost between foreign oil and domestically refined oil. Further, we have asked President Carter to waive the 63-cent per barrel import fee on residual oil. The net result will be a substantial easing of prices in the Northeast.

We have also agreed that energy independence means the abandonment of policies which discourage American producers from competing in portions of the American marketplace. Therefore, the so-called reverse entitlements program would also be eliminated. The effect of this would be to remove the barriers blocking east coast producers from competing in oil markets in the northeast.

Finally, we recommend a national refinery development policy which has several broad goals. First, we believe that Government policy should encourage new refinery and fuel desulfurization

capacity. Second, where possible, our demand for oil should be met by domestic refineries. Third, when new refineries are built to serve the U.S. market, they should be built in the United States. Fourth, the policy should recognize the difficulties independent refiners now face. Finally, and importantly, State and local policies for refinery siting should be developed consistent with environmental standards.

Mr. President, the development of siting, construction and operation guidelines consistent with environmental responsibility is not an easy task. But I am convinced it can be done, and that careful site selection and development can lead to domestic refineries whose benefits exceed their costs.

I think my region is willing to commit a portion of its resources to the national energy policy from which it also receives substantial benefit.

So when the Senator says that we are not supposed to defend ourselves in this region which has no indigenous energy sources, that we are not supposed to defend ourselves in the face of that kind of zig-zagging influence by this oil industry, I do not agree with it.

I have been fighting this fight when the oil industry was against refineries in New England, again when the oil industries were for refineries in New England, when the oil industry in this country was for imported oil, when it was against imported oil. I have been told over and over that what they really want is a free market, and I know that is not so.

What the Senator from Connecticut is arguing for is an application of free market principles. I have not seen it, not in 20 years, in this field.

Mr. WEICKER. Mr. President, I appreciate and accept the summation of the facts relative to Machiasport as stated by the distinguished Senator from Maine. On the other hand, that issue was resolved in the sixties, I believe. Here it is in the late 1970's.

Mr. MUSKIE. It was still an issue——

Mr. WEICKER. I do not yield.

Mr. MUSKIE. The Senator asked a question.

Mr. WEICKER. I accepted the statement of facts.

However, the bottom line is that there is no refining industry in New England today. Just now, just of late, have we decided that this is something we should get moving on. But the fact remains that today we have a program of controls—why should I have to defend a free market? It seems to me that those who have advocated controls have to defend a system of controls, in light of what the price of energy is in this country today.

I am talking about fossil fuels. Those who have advocated controls have to defend that program in light of the unstable supplies available to this country. But that has not occurred. All of a sudden those who want a change in the game plan, one which would take us to a free market, are the ones expected to stand up. If any track record had been established in any other way as has been established by the system of controls and entitlements, it would have been wiped off the boards a long time ago. But there is just a basic political dishonesty going on around here that makes people believe that in whatever section of the country, we can have cheap energy in the environment we live in today. We are Senators living in the year 1978. The world has changed entirely and we are unwilling to change with it.

I want to know how many men are going to go out on the campaign trail this year and advocate rationing and mandatory conservation, so no longer only elderly Americans, black Americans, poor Americans have to go ahead and ration or be rationed by price? How many are going to go out there and advocate some mandatory change in lifestyle?

Certainly, up to this point we have had a program of volunteerism, and again, as in the system of controls, how do you go ahead and justify the success of a program that has raised by 1,000 percent the consumption of oil? How do you justify that with a program of volunteerism? You cannot.

How do you justify the price of oil or an imbalance of payments in light of the control program?

No. I feel clearly the shoe should be on the other foot. But what I am warning all of you is this, and this is the point I am trying to make here today: Every step along the line requires one more bend of the pretzel and what you saw here today was a compromise negotiated between the Senator from Louisiana and some of my New England colleagues, and the reason why they put another bend in the pretzel was because it emanated from another pretzel-bending exercise, simply that of controls, and it goes on, and goes on.

Mr. LONG. Mr. President, will the Senator yield?

Mr. WEICKER. The difficulty is that once we pass whatever it is we are going to pass in Congress, Americans are going to believe we have an energy program. I think they have a right to believe that considering 100 responsible Senators, and the President are all affixing their name to it.

But the truth of the matter is it will not be an energy program. It will be a political program. It will be a philosophical program. It will be a special interest program. It will be every program in the world except an energy program. And that is what is killing this Nation, just as indeed the Nation is now suffering from the same disease, excessive politics, that we have suffered from in New England on the subject of energy.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. WEICKER. I yield first to the distinguished Senator from Louisiana for a question.

Mr. LONG. Mr. President, as a matter of trying to keep the history straight on the subject, let me say to the Senator that he is making a magnificent argument and basically the problem about the Machiasport refinery from the point of view of the Senator from Louisiana, and I spoke against the refinery at this point, is just the kind of thing that the Senator is talking about. We objected to treating the Machiasport refinery any different than you treat a refinery in Louisiana or any other State in the Nation. We do not want favoritism of a State industry over another State industry with which we had to compete.

I ask the Senator if he cannot recall at the time that controversy was going on some of us here were opposed to it for our own reasons, which we explained for the record, from my point of view? The Senator will recall the people of Machiasport had a chance to vote on it and they voted they did not want the refinery in Machiasport. That is my recollection.

Mr. BROOKE. Mr. President, will the Senator yield for a question?

Mr. WEICKER. I yield for a question from the distinguished Senator from Massachusetts and then I will yield to the distinguished Senator from Idaho, and then I intend to yield the floor.

Mr. BROOKE. Mr. President, I say to my colleagues who are advocating this that no one would disagree with what the Senator from Connecticut said about the need of this Nation to have a sound and forceful energy policy. We do not have one. I agree with that, and so many others agree with that. We do not have controls. We should have a free market. But having failed to get an energy policy, having failed to have a free market situation, being subjected to spiraling oil, energy, and utility costs not only in New England but generally along the whole eastern seaboard, the Secretary of Energy, recognizing this, filed in the Register an oil entitlements program to give some relief because obviously he found that the relief was needed on the eastern coast.

I cannot see how the Senator not just because he comes from Connecticut, and I think Connecticut is still in the East, is opposed to that, because he is opposed to controls and he is opposed to the fact that we do not have an energy policy. He is opposed to the loss of revenue. But certainly I cannot understand why the Senator from Connecticut is opposed to an entitlements program and now to an even weakened entitlements program which is a result of a compromise entered into by Senators from the oil-producing States and generally Senators from the consuming States of the East and the Northeast. That is the question I raised.

Mr. WEICKER. I shall be glad to answer the question of the Senator from Massachusetts. He has made my point. The compromise is between the Senators from the Eastern States and Senators from the oil-producing States. What about the United States? That is the whole problem with this energy bill.

When we come to the business of why did the Secretary of Energy propose these entitlements regulations, I have quite a good memory of exactly what happened because I was a part of the energy conference which was going on at the time the pronouncement was made by the Secretary of Energy. At that time there was some pretty heavy lobbying going on on the House members of the conference by the administration. So I take this an-

nouncement as just part of the then maneuvering, if you will, to go ahead and get an energy bill, and what I am saying here is——

Mr. BROOKE. Is the Senator suggesting there was no finding by the Department of Energy that some relief was due to the Eastern States and due to some of the Midwestern States as well in promulgating this rule?

Mr. WEICKER. I am saying the sooner we get away from controls and entitlements, the sooner the prospect will be that we can have lower prices in New England. All that we are doing by the present system of controls is to guarantee that we are going to live with today's prices or higher.

Mr. BROOKE. I agree with that. No one is disagreeing with that.

If the people are going to be compelled to pay high prices time after time and pass that on to their consumers, obviously they need some relief, and this was an attempt to give them some relief.

Mr. WEICKER. I have great respect for the Senator from Massachusetts.

Mr. BROOKE. And I agree.

Mr. WEICKER. There is no finer representative of the State of Masschusetts or indeed of the Nation than he is. But I have lived with this wheeling and dealing that has been going on in this energy conference now for a year, and we have no bill. All we have out there is a series of compromises among various philosophical, partisan, and special interests, and basically what I am saying out here today is, I will have no more of it. I would rather start from scratch, if you will, than to end up in an aberration that is going to be Rube Goldberg in nature and that is going to end us up in exactly the same position we are in today, which is that our destiny energywise and indeed diplomatically is dictated to us by those who have their hands on the spigot, and those are not Americans.

So I am sorry that this is the bottom line. But certainly anyone of commonsense, when he asks himself the questions concerning price and supply, can only come to the same conclusion. When was the embargo? Four years ago. What has happened to price and supply? Price has soared and supply is erratic. What has happened to consumption? It soared. What has happened to the price that we pay? It soared.

What has happened in the Congress of the United States? Nothing. That has to deliver some kind of message. Believe me, it just is not a peculiarity on my part. These are the facts and figures that confront this Nation and stare it in its face. However, we continue to avoid them.

Do you not think it was amazing the other day, regardless of what your position was on the Arab arms deal, that this town, in its editorials. all of them and, I might add, New York and all over, automatically made that quantum jump to the fact that we had to make that accommodation because of our weak position oilwise and energywise? That is a heck of a statement to make that all of a sudden our foreign policy is no longer based on facts but, rather, is based on the particular position we are in in relation to another foreign power.

It goes on and on. Economically, were you proud of your President at Bonn, pushing peanuts down the streets of Bonn, economic peanuts, the greatest Nation in the world? Why was he in that position? Because he could not stand on his own two feet energywise, and that was not just his fault. It is the fault of every Member of this Congress, House and Senate, Republican and Democrat, that that man could no longer represent the greatest Nation in the world.

So, you know, we can go on in this artificial world of controls and entitlements and compromises. But, believe me, the minute we really strike pay dirt, we will have the respect, we will have the prices, and we will have the supplies this Nation deserves.

I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I wonder if we could agree on a time to vote on this amendment. This is my poor little bill. My poor little bill has been in the deep freeze now for 2 days. Its pulse is just about stilled, its temperature is very low, its blood pressure cannot be measured. I would hope that someone would come to the rescue of my poor little bill.

Can we reach a time agreement on this? We have discussed it—

Mr. McCLURE. Mr. President, will the Senator yield for a comment?

Mr. ROBERT C. BYRD. No, I will only yield for a question.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Forty minutes ago the Senator from Connecticut made a point of order. Other Senators were making speeches, and I have been seeking recognition. Until I have gotten recognition on my own, there will be no unanimous consent.

Mr. ROBERT C. BYRD. Let me say I hope the unanimous consent might include the Senator for 30 minutes, so I hope he will not say there will not be any unanimous consent.

Mr. McCLURE. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. Would the Senator be willing to withhold the unanimous-consent request until after the Senator from Idaho has been recognized?

Mr. ROBERT C. BYRD. How long would the Senator want to talk?

Mr. McCLURE. I would like to be recognized on my own right, and I am sure the Senator from West Virginia will not be disappointed by the length of time that I take.

Mr. ROBERT C. BYRD. I am reassured, and I believe the Senator when he says that. I just do not want my poor little bill to stay in the deep freeze for very much longer. So I yield the floor. I hope the Senator from Idaho will get recognition and speak for a reasonably short length of time, and then let us see if we cannot vote on this amendment. We have had it before the Senate. We have had a vote on the question of germaneness which indicates that the votes are here to pass the amendment, and I hope the Senate will do that. Let us get on and get my little bill out of the deep freeze and get on with the agriculture appropriations bill.

I yield the floor.

Mr. McCLURE. Mr. President, I thank the Senator from West Virginia, and I am sure he understands my sense of frustration that led me to make that remark that I did.

I agree with what the Senator from Connecticut has been saying with regard to the patchwork nature of our—I was going to say—energy policy, but it is not a policy; it is a nonpolicy or, perhaps, I should say the policy that we have is one of dependence, dependence upon OPEC. That is the only policy we have been able to develop, and it has developed by default and not be design.

We do have a policy today of dependence upon OPEC oil. That is the only energy policy which fills the gaps. I would agree with my friend from Connecticut that when we finish work, if indeed we are successful in finishing work, on the natural gas compromise and the conference, and even if this Senate should adopt it, which does not look likely, and even if it should then go to the House and be adopted in the House, we still would not have an energy policy even if all the four bills that have passed the Senate and gone to conference were ultimately adopted.

We still would have only a part of a policy. I agree with my friend from Connecticut that by patchwork measures of this nature we are not going to solve the energy problems of this country. This is the product of not having a policy.

The bill we are talking about today is the product of failing to come to grips with energy policy. I agree with the criticism the Senator from Connecticut has made concerning our failure in Congress as well as in the administration to come to grips with energy policy.

I would agree with my friend from Connecticut, too, as to what the appropriate remedy for that policy is, for that policy failure, and that is to get back to the free market and allow the market to supply the energy needs.

I would caution, however, my friend from Connecticut and others from New England that if we get to a free market, that does not mean automatically that energy prices go down. It means that energy prices will be lower than they otherwise would be, and it might indeed mean they are higher than they are now but not as much higher as they would be if we did not have a freely operating market.

But that, Mr. President, is a sideligh of the question we are being asked to consider here today. The entitlements program grew out of and because of the attempt of the Government to control a portion of our economy. You can control what is domestic. You cannot possibly control that which is brought in from outside the United States unless you want to simply cut off the imports and do without.

We are not in a position, Mr. President, to do that. We all know what our dependency has been. It was slightly over 20 percent at the time of the embargo a

little over 4 years ago, and it is now nearly 50 percent.

It was nearly 30 percent actually in January of 1974, but we have gone from 30 percent to 50 percent in just 4 years in a time when we are addressing a crisis.

I agree with my friend from Connecticut that we have not done what we should. The only positive thing that has happened in those 4 years to make our problem today less severe than it otherwise would be is the passage by Congress of the Alaska Pipeline Act which allowed the Alaskan oil in Prudhoe Bay to reach the markets in this country. We are having problems with that, too, I might say, because of some of the restrictions that have been placed upon the shipment and the transshipment of that oil into the markets in the United States. But at least that was a positive increase in production that will aid this country.

We also, of course, as my friend, the Senator from Oklahoma knows, and as he reminded me, did free up the price of oil from stripper oil wells largely as a result of the efforts of my good friend, Senator BARTLETT, because he was dogged and determined and he finally managed to just by sheer weight of determination and pursuit of the issue get Congress to agree with that proposal.

But we have not come to grips with the energy problem. Why are we here today? Because the entitlements program was put in to equalize the position between people who have different sources of crude oil. That was the purpose of the entitlements program.

There were people, some refiners and marketers, in this country that had to depend upon domestic oil and some who had to depend upon imported oil. Domestic oil was controlled at artificially low prices. The imported oil went to much higher prices. There is no way that the importer, the refiner of imported oil, could compete with the marketing of the refiner of domestic oil because the base price of the crude was so much different. Therefore, in order to overcome some of the bad effects of the attempt to control the market, we installed this aberration which is called entitlements, and it was to equalize to the refiner the price of the crude oil that was going into the refinery so they could compete openly and fairly in the market.

What has happened since then is a perversion of the purposes of the entitlements program. Suddenly, the administration has found that they have a way to reward, cajole, or ease the plight of those who are otherwise affected by price imbalances in the marketplace—not what Congress decided in passing the entitlements program, not what was directed in the statute, and I would say to my friend from Massachusetts, Senator BROOKE, if he were still on the floor, that there is, as a matter of fact, a question as to whether the administration of the entitlements law is pursuant to the law. They have gotten a 30-percent subsidy from the rest of the country, which is probably in violation of the law, and they are not satisfied with that. They want a 100-percent subsidy on some items that were not included in the original entitlements act.

There is likely to be a court challenge of that subsidy, because not being satisfied with a $215 million subsidy that they are getting now, they want another $500 million, which would be given to them through the compromise. They would be getting nearly a billion dollar subsidy if they got their way.

If the Secretary of Energy is successful in doing what he has suggested in his proposal, the rest of the country will pay a billion dollars a year in order that the people in New England may have a lower price for home heating oil and for residual oils that are burned in utilities.

Mr. President, that may be fair. It may indeed be fair. But that is not what Congress voted for. The compromise would validate something that has been invalid. It would put a stamp of congressional approval on something Congress has not yet approved. It would say what is being done is done with congressional consent, when as a matter of fact it is a violation of current law, in my opinion.

It is not only a violation of current law that they get the 30 percent that they have now, but it is a violation of law that will permit them to have a $700 million subsidy on top of that.

Mr. President, that is wrong: A $700 million subsidy on one kind of energy to one section of the country.

In my section of the country we have to import our energy from Canada. There is no one to pay us a subsidy because we import that natural gas from Canada. We have not requested it. We have said, however, it is not fair for you to ask us to pay the full cost of imported natural gas for ourselves, and share with New England their cost for imported oil.

Mr. President, there is nothing fair about this proposal. I hope the Senate will turn it down. Then when we have turned it down, maybe we will begin to exercise some of the discretion the Senator from Connecticut has suggested we should with regard to fashioning a rational energy policy for this country—one that will begin to recognize that you cannot have low prices when you have short supply, that you cannot guarantee protection to the consumers by creating governmental controls that in turn create shortages; that would just drive prices up. We cannot have liberty, equality of opportunity, and a sound policy for this country, and we cannot presume to have a rational energy policy in this country that requires the marketplace to assign priorities in the use of energy.

The marketplace will provide conservation. I agree we can also stimulate conservation, and I have consistently voted for that and will continue to do so. But you cannot allocate supplies by Government edict without creating problems exactly like the one we are dealing with here now, and when we try, we end up with a Department of Energy that has a second-year budget in excess of the profits of all of the major oil companies combined.

How many people in America really realize just what DOE is doing today? We are building a massive bureaucracy to handle what could be handled in the marketplace. We are doing that to save money? Who is kidding whom?

We are advocating cutting back on the size, shape, and weight of Government, and then at the same time adding to the burden. We create a monstrous Department of Energy, which will consume more of the taxpayers' money rather than less, and they will do that without adding 1 barrel of supplies to alleviate the suffering of people in New England, the Midwest, Wyoming, Michigan, or Idaho.

I thank the distinguished Senator for yielding, and I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on this amendment occur in 15 minutes, with the remaining time to be divided 5 minutes to the Senator from Louisiana and 10 minutes to the managers of the bill.

Mr. BARTLETT. Mr. President, if the Senator will yield, will he make that 15 minutes?

Mr. ROBERT C. BYRD. Very well; 5 minutes to the Senator from Louisiana and 15 minutes to the opposition.

The PRESIDING OFFICER (Mr. BAYH). Is there objection? The Chair hears none, and it is so ordered.

Mr. BARTLETT. Mr. President, I wish the distinguished Senator from Maine were still on the floor. It is my recollection of Occidental's effort to locate a refinery in the free port zone of Machiasport, Maine—if I heard him correctly he said the refinery would willingly have purchased the oil domestically if it were available, but it was not available.

It is my recollection that at the time of the effort to locate a refinery at Machiasport, we had a surplus of oil in the Southwest, and that a part of the deal with Occidental was to be able to provide an additional outlet for their Libyan oil and sell it at a lower price than the price of domestic oil.

The mandatory controls that were on at that time were designed for the purpose of protecting the domestic industry from the cheap foreign imports, and it was recognized that it was important that the producers in this Nation have enough income to keep the oil and gas industry viable, alive, and productive.

The request of Occidental was to have a free port, and I believe to have a special area where, in addition to providing the jobs here for the processing of gas from oil, they would have been able to have shipped gasoline to this country rather than ship all the products outside. In addition, there was a request for an additional increase in the mandatory import allowable, so that Machiasport would have their oil industry, too.

I would have been in favor of regulations at that time which were in the interest of strengthening our economy and guaranteeing our national security by limiting the importation of crude or refined products. So I can see why the distinguished Senator from Maine would be very proud of this proposal in the State of Maine, but I am not so sure I know why he is so proud of it on a national basis, because the effort was certainly made in the best interests of Maine at the expense of the best interests of the remainder of this country.

I would like to ask the Senator from

Louisiana if paragraph (c) on the first page of the substituted matter of his amendment provides that gulf coast refineries must pay a penalty if they ship refined products to the east coast, unless they ship in American bottoms?

Mr. JOHNSTON. The answer to the Senator's question is that there are presently in effect reverse entitlements which would require that penalty. This amendment would take off the penalty if they ship in American bottoms, but would keep the penalty on if they do not ship in American bottoms.

Mr. BARTLETT. So the answer to my question is, "Yes," that the gulf coast refineries must pay a penalty if they ship refined products to the east coast unless they do it in American bottoms.

Under the Jones Act, gulf coast refiners which ship refined products from one part of America to another presently are required to ship in American bottoms.

Mr. BARTLETT. Does my good friend the Senator from Louisiana disagree with my statement that unless the gulf coast refineries, such as those of his own State, ship in American bottoms they would be assessed a penalty if they shipped refined products to the east coast?

Mr. JOHNSTON. If they violated the Jones Act, which they cannot do. By the provisions of the Jones Act, then, they would have a pay a penalty. The situation is such as that when you make moonshine whisky. You violate one law in doing it, but have to pay the excise tax on it if you do.

What we are trying to do is to take off the penalty, not to put it on. This takes away the penalty for gulf coast refiners who ship in American bottoms today. Now they have to pay a penalty if they ship in American bottoms. What this does is to remove that penalty from the gulf coast refiners who ship to the east coast. This is what the gulf coast refiners want.

Mr. BARTLETT. Let me ask, Is this going to result in a lowered cost for the delivery of refined products to the east coast or a higher cost? It is known that shipping in American bottoms is considerably more expensive than shipping in foreign bottoms, most of which are owned by U.S. interests.

Mr. JOHNSTON. Right now they have to ship in American bottoms. That is the law of the land under the Jones Act. Right now they are shipping very little, if any, refined products from the gulf coast to the east coast because under present law they have to pay a reverse entitlement on anything in excess of 5,000 barrels per month. They must pay that penalty now. They must ship in American bottoms now. What this amendment does is to take off the penalty if they ship in American bottoms. So this is very much a provision which is in favor of gulf coast refiners or, indeed, any domestic refiner.

Mr. BARTLETT. Is the Senator then saying that this will result in a reduction in the cost of delivered products laid down on the east coast?

Mr. JOHNSTON. As compared to what? A reduction compared to today's prices or the rulemaking to go into effect on August 26? Which one does the Senator mean?

Mr. BARTLETT. Reduction in the present regulations, in the present law.

Mr. JOHNSTON. Provided two things, provided the President continues the import fee licensing exemption, and further providing that the Caribbean refiners do not raise their price, this should result in a price decrease of about 60 cents a barrel.

Mr. BARTLETT. I am sorry, I could not hear the Senator.

Mr. JOHNSTON. A decrease in the price of imported resid on the east coast of approximately 60 cents a barrel, but there are the two provisos: The President to continue the import fee license exemption, and that the Caribbean refiners do not increase their price.

Mr. BARTLETT. This provision C is in the other amendment which would place the entitlement at 30 percent instead of increasing it to 50 percent.

Mr. JOHNSTON. The Senator is correct. That does include that. The elimination of the reverse entitlement is also included in the rulemaking.

Mr. BARTLETT. I thank the Senator from Louisiana.

I would like to compliment my distinguished friends from Wyoming and Idaho for their statements covering this amendment and covering the entitlement question in general. I think it is very important to realize that the reason for entitlement is political in nature and not done for the best interests of this Nation. It is not done out of a sense of fair play. I believe, as the distinguished Senator from Wyoming, that the original amendment by the distinguished Senator from Louisiana is preferable to this one. This one, of course, is a compromise.

I do think the equitable decision for this body to reach is to pass the original amendment by the distinguished Senator from Louisiana, which will be, as I understand it, the pending business if this is defeated. I urge my colleagues to defeat it.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, we are under a time agreement. I have only 5 minutes. I will use a little less than that and then we will vote.

First, I will yield 1 minute of my time to the distinguished Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise only to confirm the interests of the State of New York in this matter. There seems to have been, in the rhetoric of this debate, a focus on New England. This is a general eastern phenomenon. The State of New York consumes 30 percent of the residual oil imported into the United States. We are very concerned with the outcome of this debate. We accept the compromise, and I hope the distinguished Senator from Louisiana will understand my meaning when I say we see it as a compromise. It is not a matter which would reflect our sense of equity and what we would hope for and expect, but it is what we can obtain. We accept it and we will support it on those grounds. I thank the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we have had an interesting debate this afternoon—and I agree with almost every word which has been said—but none of it is really relevant to the issue before the Senate at this time.

The situation we are faced with is that the present law provides a 30-percent entitlement or a subsidy of about 60 cents per barrel, which is in the law now, for the eastern seaboard, principally the Northeast as the principal consumer of home heating oil. The Department of Energy presently has a rulemaking, which will go into effect in August of this year unless the Senate or the Congress takes action, which will increase that 30-percent entitlement to 100 percent, or grant a subsidy of about $2 a barrel. Unless this Senate and this Congress acts with a bill that winds its way through the whole process, that $2 subsidy goes into effect.

I have tried to stop that in the Energy Committee and in the Appropriations Committee. I can tell you, Mr. President, that I believe the original Johnston amendment ought to be agreed to. It prohibited anything more than what we have now in effect from going into effect. It prohibits the subsidy on the northeast coast.

However, in the spirit of compromise, recognizing that a lot of things can happen to an amendment before it gets to the President's desk, I thought it better to come up with a compromise that assures a savings to the rest of the country.

What can happen between here and the President's desk? Plenty. We lost this in the Appropriations Committee by 1 vote.

I might say to my friend from Connecticut that he voted against the Johnston compromise in the Appropriations Committee.

It is possible to lose this matter somewhere between here and the President's desk. For that reason, we came up with a compromise.

This compromise saves the consumers of petroleum products in the 36 States which are not included in PAD 1 a total of $180 million a year. It grants to PAD $70 million a year. In other words, two-sevenths we give and five-sevenths we get. That is the trade.

It is arbitrary, classic compromise.

I surrender nothing of my conviction that the original Johnston amendment is the best thing to have, but five-sevenths of a victory when we are reasonably sure of that, and when we are sure that all of this subsidy phases out on July 1 of next year and is not permanent as the present rulemaking is, I think is a real compromise and great progress over the present situation.

If we vote this compromise down, then we may not pass the Johnston amendment, or if we pass it, it may fail in conference.

Let me remind you, Mr. President, that the Speaker of the House is from Massachusetts and wants the full entitlement, and he has some influence on the floor of the House.

And let me remind you, Mr. President,

that the administration is strongly backing and indeed proposing the full 100 percent entitlement. It is in that spirit that a five-sevenths victory is, I think, a good and decent compromise. I believe all Senators who are parties to this negotiation have approached it in that sense of compromise, which is good and adequate. I hope the Senate will adopt the amendment.

Mr. President, I yield back the remainder of my time. Is there an order for the yeas and nays?

The PRESIDING OFFICER. The yeas and nays have been ordered. The time of the Senator from Louisiana has expired. The Senator from Oklahoma has 5 minutes; the Senator from New Hampshire has 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the privilege of the floor be granted during the remainder of consideration of the pending bill to Ron Shiflett of Senator McCLURE's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I ask unanimous consent that the privilege of the floor be granted to Marea Murray and David Thompson of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, this has been adequately debated. I am prepared to yield back the remainder of my time and vote.

I might point out that it is not necessary to debate in this Chamber, but the east coast, especially New England, has been discriminated against in Federal energy policy for at least the last 15 years. Many of those decisions were administrative, not legislative in nature. Nonetheless, the impact on my people has been the same. I urge adoption of the amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back the remainder of his time?

Mr. BARTLETT. Yes, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment in the second degree offered by the Senator from Louisiana. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD (after having voted in the negative). Mr. President, on this vote, I have a live pair with the distinguished Senator from Maine (Mr. HATHAWAY). If he were present and voting, he would vote "aye." I have already voted in the negative. I therefore withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK, the Senator from Delaware (Mr. BIDEN), the Senator from Maine (Mr. HATHAWAY), and the Senator from Minnesota (Mrs. HUMPHREY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The result was announced—yeas 53, nays 40, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—53

Allen	Ford	Moynihan
Brooke	Glenn	Muskie
Bumpers	Gravel	Nelson
Burdick	Hart	Nunn
Byrd, Harry F., Jr.	Heinz	Pell
	Hodges	Percy
Cannon	Huddleston	Proxmire
Case	Inouye	Randolph
Chafee	Jackson	Ribicoff
Chiles	Johnston	Roth
Church	Kennedy	Sarbanes
Clark	Leahy	Schweiker
Cranston	Long	Sparkman
Culver	Matsunaga	Stafford
Danforth	McGovern	Stevenson
DeConcini	McIntyre	Stone
Durkin	Metzenbaum	Talmadge
Eagleton	Morgan	Williams

NAYS—40

Anderson	Haskell	Melcher
Baker	Hatch	Packwood
Bartlett	Hatfield, Mark O.	Pearson
Bayh		Riegle
Bellmon	Hatfield, Paul G.	Sasser
Bentsen		Schmitt
Curtis	Hayakawa	Scott
Dole	Helms	Stennis
Domenici	Hollings	Stevens
Eastland	Laxalt	Thurmond
Garn	Lugar	Tower
Goldwater	Magnuson	Weicker
Griffin	Mathias	Young
Hansen	McClure	Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Robert C. Byrd, against.

NOT VOTING—6

Abourezk	Hathaway	Javits
Biden	Humphrey	Wallop

So the amendment in the second degree was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the yeas and nays on the amendment, as amended, be vitiated, because it would simply be voting on the same thing over again.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on agreeing to the amendment, as amended.

The amendment, as amended, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment, as amended, was agreed to.

Mr. HUDDLESTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. RIEGLE. Mr. President, I want to thank Senator ROBERT C. BYRD and the Interior Subcommitte for recognizing the importance of the Indian health service facility at Kincheloe Air Force Base in Michigan's upper peninsula by including in H.R. 12932 an appropriation of $947,000 for the clinic. These funds will open the first direct care, outpatient facility for Michigan Indians in the upper peninsula.

A unique aspect of this project is the immediate availability of the facility, which was constructed by the Air Force. Therefore, no new construction is necessary, and the unmet health needs of Michigan Indians can be served without delay.

In addition, putting the hospital back into operation as an outpatient clinic will be one more part of the economic revitalization of the Kincheloe area. It puts a vacant facility into productive use, and will provide economic stimulation to Chippewa County, which faced an unemployment rate of more than 32 percent after the Air Force Base was closed in October 1977.

These funds will be used largely for professional medical staff and other personnel, including a physician, a dentist and dental assistant, a registered nurse and a public health nurse, a mental health professional, and laboratory and X-ray technicians. Health care services available to Michigan Indians today is well below acceptable standards, and the opening of this facility will provide some very necessary care and services.

The entire community is very supportive of this Indian Health Service project, and has come to the aid of the Intertribal Council in their efforts to obtain funding. Endorsements have come from the Keweenaw Bay Indian community, the Saginaw Chippewa Indian Tribe, Bay Mills Indian community, Hannahville Indian Reservation, and the Sault Ste. Marie Tribe of Chippewa Indians. The State of Michigan has expressed its strong support of the project, and local governments have come to the aid of the council, including the city of Sault Ste. Marie, the Chippewa County Board of Commissioners, and the Economic Development Corp. of Chippewa County.

I am very pleased that these funds have been appropriated for the Indian Health Service Clinic, and that the Indians of the Upper Peninsula will have the facility and resources necessary for adequate outpatient health care.●

Mr. HARRY F. BYRD, JR. Mr. President, the bill before us, providing appropriations for 1979 for the Interior Department and related agencies, contained budget authority of $11,560 million as reported by the Committee on Appropriations. More than $65 million has been added to the bill by amendment on the floor.

The legislation as it now stands would increase appropriations by 8.5 percent over the level of the current year, 1978. The increase in dollars is $905 million.

This is a large increase.

I recognize that inflation can be expected to raise the cost of many Government programs, including the ones covered in this legislation.

Moreover, the vast majority of the programs included in this bill are important and worthwhile. Few things are more critical for the Nation than the energy program, and I have always attached great importance to the land and water conservation efforts of the Department of the Interior.

At the same time, some of the increases in funding included in this legislation are out of line.

Let me call to the attention of the Senate what some of these increases are:

For the historic preservation fund, $55 million, or 122 percent over 1978. This amount is $55 million over the budget and $40 million over the House bill.

For the Institute of Museum Services, a 100-percent increase, from $4 million to $8 million. This may be a small amount in dollars, compared to the total for the bill, but it is hard to see the necessity for doubling such a program at this time.

For the National Foundation on Arts and Humanities, $49 million over 1978 or 20 percent. I ask this, Is this program that must be greatly expanded in a time of high deficits and high inflation?

Other large percentage increases over 1978 include these:

Office of Territorial Affairs, 17 percent; Indian education, 20 percent; Pennsylvania Avenue Development Corporation, 29 percent; Fish and Wildlife Service, 21 percent; Office of Surface Mining Reclamation and Enforcement, 87 percent.

I do not quarrel with the merits of these programs. I do suggest, however, that we need to apply a sharper knife to the budget.

The No. 1 issue in this country is inflation. It is No. 1 in importance to our economic well-being, and it is No. 1 in the concerns of the public.

The huge deficits—$50 billion a year—which the Federal Government is continuing to run make a major contribution to that inflation. In fact, if the Government continues to follow its present stimulative policies, it is entirely possible that the present double-digit inflation which we are experiencing could continue for some time, and lead to a sharp recession in the future.

That is the biggest challenge which the President and the Congress face.

It is absolutely essential that the Government check its runaway spending.

So while this legislation supports a number of sound and needed programs, it also includes increases in spending which in my judgment cannot be justified in the light of present economic conditions.

I must, therefore, vote against the passage of H.R. 12932.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistance legislative clerk called the roll.

(Mr. LEAHY assumed the chair.)

Mr. ROBERT C. BYRD (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Maine (Mr. (HATHAWAY). If he were present and voting, he would vote, "yea." If I were at liberty to vote, I would vote, "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Maine (Mr. HATHAWAY), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from New York (Mr. MOYNIHAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Illinois (Mr. STEVENSON), are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY), would vote "yea."

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

The result was announced—yeas 85, nays 5, as follows:

[Rollcall Vote No. 304 Leg.]

YEAS 85

Allen	Goldwater	Melcher
Anderson	Gravel	Metzenbaum
Baker	Griffin	Morgan
Bartlett	Hansen	Muskie
Bayh	Hart	Nelson
Bellmon	Haskell	Nunn
Bentsen	Hatch	Packwood
Brooke	Hatfield,	Pearson
Bumpers	Mark O.	Pell
Burdick	Hatfield,	Percy
Cannon	Paul G.	Randolph
Case	Hayakawa	Ribicoff
Chafee	Heinz	Riegle
Chiles	Hodges	Sarbanes
Church	Hollings	Sasser
Clark	Huddleston	Schmitt
Cranston	Inouye	Schweiker
Culver	Jackson	Scott
Curtis	Johnston	Sparkman
Danforth	Kennedy	Stafford
DeConcini	Laxalt	Stevens
Dole	Leahy	Stone
Domenici	Long	Talmadge
Durkin	Magnuson	Thurmond
Eagleton	Mathias	Tower
Eastland	Matsunaga	Weicker
Ford	McClure	Williams
Garn	McGovern	Young
Glenn	McIntyre	Zorinsky

NAYS—5

Byrd,	Helms	Proxmire
Harry F., Jr.	Lugar	Roth

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Robert C. Byrd, against.

NOT VOTING—9

Abourezk	Humphrey	Stennis
Biden	Javits	Stevenson
Hathaway	Moynihan	Wallop

So the bill (H.R. 12932), as amended, was passed.

Mr. HUDDLESTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and technical corrections in the engrossment of the Senate amendments to H.R. 12932.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. LEAHY) appointed Mr. ROBERT C. BYRD, Mr. HOLLINGS, Mr. BAYH, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. STEVENS, Mr. YOUNG, Mr. MARK O. HATFIELD, and Mr. BELLMON conferees on the part of the Senate.

ORDER OF PROCEDURE

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, following the disposition of Calendar Order No. 922, the public works appropriations bill, the Senate proceed to the consideration of Calendar Order No. 989, the tuition tax credit bill, and that, following the disposition of that, the Senate proceed to the consideration of Calendar Order No. 585, the education grants bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, upon the disposition of the pending measure—if I may have the attention of my friends to my left—the Agriculture appropriation bill will come up next. So that Senators may be informed as to what the evening may appear to be like, I wonder if we could ascertain now how many amendments there will be on the Agriculture appropriations bill?

Mr. WEICKER, Mr. STEVENS, Mr. LUGAR, Mr. CLARK, Mr. MELCHER, Mr. METZENBAUM. Six amendments.

Mr. DOLE. I think there are nine all together.

Mr. ROBERT C. BYRD. There is a time agreement on the bill, so we will sail ahead for a while at least and see how things look.

I thank all Senators.

PRIVILEGE OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that if the Senate proceeds to the consideration of the agricultural appropriations bill this evening, Ken Pierce, of my staff, have the privilege of the floor during the debate and votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I make the same request for Ken Dameron of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CLARK. Mr. President, I make the same request for Bill Motes of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

(At this point, several Senators requested the privilege of the floor for staff members.)

The PRESIDING OFFICER. The Chair hears voices, but so many people are standing that the Chair does not know who is speaking.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

CONFEREES ON S. 2152

Mr. HARRY F. BYRD, JR. Mr. President, I would like to address a parliamentary inquiry to the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRY F. BYRD, JR. Would the Chair inform the Senate whether conferees have been appointed, on S. 2152 and, if so, who the conferees are and when the appointment was made?

The PRESIDING OFFICER. If the Senator will withhold for just a moment we will get that information.

Mr. HARRY F. BYRD, JR. I thank the Chair.

The PRESIDING OFFICER. Our records do not show any or do not have any indication that a conference has been requested, the Chair would advise the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I thank the Chair for that information.

I have been advised that the conferees had met and have made tentative decisions in regard to S. 2152. I note that the calendar of business for Wednesday, August 9, does not carry anything in regard to conferees on this bill, and the Chair has just indicated that no conferees have been appointed. It is a very unusual step for a conference to be held before conferees are appointed.

As one Senator, I would like to protest that.

BUDGET ACT WAIVER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 996, S. Res. 530.

The PRESIDING OFFICER. Without objection it is so ordered.

The resolution (S. Res. 530) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2640, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of that Act are waived with respect to the consideration of S. 2640, a bill to reform the civil service laws.

Such waiver is necessary to permit consideration of S. 2640, a bill to reform the civil service system. While the bill authorizes to be appropriated such funds as may be necessary, the Congressional Budget Office estimated the cost of the bill at $13,600,000 for the fiscal year beginning October 1, 1978.

The President only submitted the bill to Congress on March 3, and the number of hearings required and the complexity of the subject made it impossible for the committee to report the bill before the May 15 budgetary deadline.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AGRICULTURE, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 13125, which the clerk will state by title.

The assistant legislative clerk read as follows:

Calendar 982, H.R. 13125, an act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. THURMOND. Mr. President, I ask unanimous consent that Ed Twilly of my staff be allowed the privileges of the floor during the consideration of this bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that John MacIlroy of my staff be granted the privileges of the floor during the consideration of the Agriculture appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that Ned Leonard of Senator McGOVERN's staff may have the privilege of the floor during the consideration of and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. I ask unanimous consent that the following staff members, for the following Senators, be accorded the privilege of the floor during the consideration of this measure: Bill Seale of Senator HUDDLESTON's staff, Joe Kinney of Senator MORGAN's staff, and Tom Dougherty of Senator GLENN's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I ask unanimous consent that Mary Helen Miller of my staff have the privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I ask unanimous consent that Jennifer Oldfield of Senator HATFIELD's staff and Brad Gungoll of my staff be accorded the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, the bill before the Senate, the 1979 Agriculture appropriations bill, includes $23,362,064,000 in new budget authority, plus $1,411,575,000 in section 32 transfers to the Food and Nutrition Service, for total obligational authority of $24,773,639,000. Making adjustments to the House bill for full funding of Commodity Credit Corporation reimbursements, $5 billion of permanent new borrowing authority, and full funding of new watershed projects, the bill is actually $120,780,000 below the House-passed bill, but $271,912,000 above the 1979 budget request.

Let me emphasize that, Mr. President, for the purposes of the debate. When you do away with the funny business with figures, whether you include all the borrowing authority for the Commodity Credit Corporation, as well as reimbursement for losses when you look at it, in reality, our bill is roughly $120 million below the House-passed bill, but, in all candor, it is $271.9 million over the President's budget.

Mr. President, review of this bill has been a difficult task this year, made so by a tight budget request, the pressure to hold down Federal spending, and the many needs of the agricultural sectors of our economy. The committee held 20 hearings, including a special "appeals" hearing with the Secretary of Agriculture, and an indepth review of research facilities.

One of the hearings was devoted to testimony from Senators. Considering those who appeared at that hearing, plus other letters and written communications, the subcommittee received the views of 85 different Senators in over 200 letters and other communications. The interest in the bill was very substantial, and in every case, the desire was to add funding. Providing for all of the items requested by Senators would have added well over $900 million above the budget request to this bill.

Mr. President, many of the items requested have great merit. However, in view of the need to keep Federal expenditures down, as well as the strong hint of a Presidential veto of the bill should it be as high as the House bill, which was some $400 million again I add, above the budget, the committee attempted to fund only the highest priority items.

The committee report contains a section on pages 6 through 8 of highlights of major changes to the House bill, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the excerpt from the committee report was ordered to be printed in the RECORD, as follows:

HIGHLIGHTS OF MAJOR CHANGES RECOMMENDED TO HOUSE BILL

Highlights of major recommendations and changes to the House bill are:

Science and Education Administration (Agricultural Research Service).—The Committee does not concur in the House action shifting major new budgeted extramural—contractual—work to inhouse labs, but does propose to shift $2 million in-house. In addition, a $7.7 million reduction is recommended in the $55 million account for processing, storage and distribution research, as proposed in the budget but restored by the House. House increases for staffing of the Baylor child nutrition laboratory and staffing and construction of the Regional Veterinary School at Virginia Polytechnic Institute have been deleted.

Research Construction.—The Committee recommends deferral of all new construction starts proposed in the House bill except the North Central Dairy-Forage laboratory, soil erosion laboratory and planning for relocation of an animal disease laboratory. Also, construction of a new greenhouse/headhouse is proposed.

Animal and Plant Health Inspection Service.—The Committee has added $5.7 million for range caterpillar, noxious weed, and brucellosis eradication above the House bill, but deleted House add-ons above the budget for imported fire ant, tuberculosis in live-

stock, pink bollworm, cattle scabies, and fever tick.

Cooperative research.—The Committee recommends an appropriation for Hatch Act grants at a $114 million level. The Committee recommends funding a competitive grants program of $30 million, the same as the budget request, but has also recommended deleting $15 million of House-added special grants and $5.5 million of House increases for rural development, range caterpillar and solar research projects.

Extension Service.—The Committee deleted House-proposed increases for rural development, farm safety, urban gardening, expanded food and nutrition program, and farmer-to-consumer direct marketing, as well as solar farms. An increase of $11.6 million above the budget and House bill is recommended for formula grants.

Agricultural Stabilization and Conservation Service.—Reduces funds for county office staffing by $10 million pending review of workload by the General Accounting Office.

Commodity Credit Corporation.—Fully funds reimbursements for prior year losses, which the House had cut by $410 million. Also, provides $10.5 billion in new borrowing authority, which the administration has indicated it supports, even though the extra $5 billion has not been formally requested, nor included in the House bill.

Farmers Home Administration.—Generally concurs in House actions on Farmers Home programs, but does provide a $500 million above-moderate rural housing loan program and an additional 10,000 rural rent supplemental units above the House bill. Provides a total of $20 million ($13 million above the House) for 1,188 new FmHA positions.

Conservation.—Deletes House add-on of $7 million for new watershed planning because of large backlog, and fully funds $75 million in the President's budget for new Public Law 566 watersheds which the House had only partially funded. Provides $17 million for Resource Conservation and Development, instead of $32 million in House bill, and eliminates new area authorizations.

Agricultural conservation programs.—Provides $85 million for long-term enduring conservation practices, $105 million below the House level for the agricultural conservation program. Also, funds the new section 35 (section 208—Clean Water Act) agricultural conservation program at $100 million, with $75 million in an appropriation for nonpoint source pollution—grant agreements and technical assistance for the Soil Conservation Service, and the other $25 million in a separate appropriation for direct cost-sharing payments by the Agricultural Stabilization and Conservation Service. The Secretary of Agriculture is given authority to transfer up to 50 percent between each appropriation.

Feeding programs.—Deletes House add-on of $8 million for equipment assistance, and restores budget request to draw down section 32 to a balance of $225 million. Concurs in House bill and budget request for food stamps, food donations, special milk, and food program administration. Funds the special supplemental feeding program (WIC) at $550 million. Also restores the Department's authority to regulate use of formulated grain fruit products in feeding programs

Public Law 480.—Recommends deletion of the provision prohibiting Public Law 480 aid to Korea.

CCC export credit sales.—Proposes a limitation of $2.2 billion instead of the $1.7 billion level in the House bill.

Regulatory proceedings.—Deletes House provision prohibiting payment of expenses of parties intervening in agency regulatory proceedings.

Personnel ceilings and separate salaries accounts.—Deletes minimum ceilings stipulated in House bill and restores the budget approach of a combined salaries and expenses account.

Food and Drug Administration.—Restores $5 million reduced by House for salaries, since manyear requirements will more closely approximate budgeted levels.

Commodity Futures Trading Commission.—Deletes $900,000 of a budgeted increase for staffing that was approved by the House.

Mr. EAGLETON. Now, I would like to summarize what is in the bill by title. The largest items in title I, agricultural programs, include:

A sum of $358,541,000 for all appropriations associated with the Agricultural Research Service. This is $17 million less than the House and $27.5 million above the budget estimate. It includes many new items of in-house research, plus construction of new dairy-forage and soil erosion laboratories.

A sum of $228,150,000 for the Animal and Plant Health Inspection Service. This is $7.9 million above the budget, but $2.7 million less than the House bill. Included here are funds for plant and animal disease and pest control, including increases for brucellosis eradication, control of noxious weeds and other smaller control programs.

A sum of $271,104,000 for the activities of the Food Safety and Quality Service. This principally involves meat, poultry and egg inspection, as well as voluntary grading activities.

A sum of $179,520,000 for the Cooperative Research Service and $273,926,000 for the Extension Service. These appropriations are $21.8 and $11.9 million over the budget to fund a higher level of effort. Also included is $30 million for a competitive grant research program requested by the President but deleted by the House.

A sum of $217,527,000 for salaries and expenses of the Agricultural Stabilization and Conservation Service, principally to run the farm price support programs.

A sum of $10.5 billion in new borrowing authority for the Commodity Credit Corporation. These funds will be needed to implement the 1977 farm bill and associated programs.

A sum of $990.9 million to reimburse the Commodity Credit Corporation for all losses incurred through 1977. The House had deleted $411 million of this reimbursement, but it must be paid eventually.

In title II, rural development programs, the bill provides $4.3 billion in authority for loans from the Rural Housing Insurance Fund. This includes $800 million for moderate-income insured housing, $500 million for similar guaranteed housing. Low-income housing loans are also provided at a level of $2,067,000,000.

This title also provides $2,308,600,000 in authority for Agricultural Credit Insurance Funds. This includes $800 million for farm operating loans and such funds as may be necessary for emergency loans, which are estimated at $578 million.

For the rural development insurance fund, total loans of $2,250,000,000 are authorized in the bill consisting of $900 million for water and waste disposal loans, $250 million for community facility loans and $1.1 billion for business and industrial loans.

A number of grants for rural development programs are also contained in the bill including: First, $300 million for water and waste disposal grants, $38 million for farm labor housing grants, $24 million for home repair grants, and $5 million for rural development planning grants.

In addition to reimbursement for losses previously incurred by the rural housing insurance fund ($320.2 million), the agricultural credit insurance fund ($143.6 million) and the rural development insurance fund ($107.3 million) which are provided in the bill, a total of $219,566,000 is also provided for salaries and expenses of the Farmers Home Administration. This includes an increase of $20 million above the budget for approximately 1,200 new positions to aid Farmers Home in administration of loan and grant programs.

For the Rural Electrification Administration, the bill includes an authorization of $850 million in electric loans, $250 million in telephone loans, and $30 million for capitalization of rural telephone banks.

For the Soil Conservation Service, $255,296,000 is included for conservation operations and technical assistance. A total of $227,522,000 is included for watershed and flood prevention operations. This finances the installation of planned works of improvement for conservation and flood prevention as authorized by Public Law 566 and Public Law 534. The committee concurred in the budget proposal for full funding of new starts. Also included is $16.8 million for the resource conservation and development program. This is $10 million above the budget estimate but does not fund 10 new area authorizations that were included in the House bill. For nonpoint source pollution control, authorized by section 35 of the Clean Water Act, the committee recommended a total of $100 million with $75 million provided to the Soil Conservation Service for grant agreements and technical assistance and $25 million provided to the Agricultural Stabilization and Conservation Service for direct cost-sharing payments. Authority is included in the bill to transfer up to 50 percent of these appropriations between the two agencies involved.

The bill also provides $85 million for the agricultural conservation program. It includes language reforming the program to place emphasis on enduring conservation practices, as recommended by the administration, the General Accounting Office, and the 1977 Farm Bill. Other conservation programs in the bill operated by the Agricultural Stabilization and Conservation Service include $17.5 million for the forestry incentives program, $10 million for the Water Bank Act program and $10 million for emergency conservation measures.

For title III, the domestic food programs, the bill includes $7.9 billion in appropriations and $1.4 billion in transfers. Child nutrition programs are funded at a $2.7 billion level including transfers and finances the school lunch and school breakfast programs, equip-

ment assistance, State administrative expenses and the summer food services and child care food programs. Also included in the bill is $569.5 million for the special supplemental food programs, including the commodity supplemental food program and the program to provide food for women, infants and children (WIC). The special milk program is funded at a level of $142 million in the bill. The food stamp appropriation totals $5,779,200,000, the same amount as the budget estimate and House allowance. In addition, for administration of all the feeding programs, $74,275,000 is provided. Mr. President, we have received a letter from the Department indicating that although various reestimates have been made for the food stamps and child nutrition programs, they have reevaluated them and recommend that we remain with the budget estimate. Accordingly, no changes have been made.

Included in title IV, international programs, of the bill is $56,403,000 for the Foreign Agricultural Service to promote U.S. agricultural exports and development of foreign markets. In addition, this title provides $805.9 million for Public Law 480, food for peace, assistance consisting of $339.4 million for titles I and III credit sales and $466.5 million for title II loan programs. The committee recommended striking the House prohibition on use of Public Law 480 funds for aid to Korea.

Title V of the bill includes funding for related agencies consisting of $305.9 million for the Food and Drug Administration, $15 million for the Commodity Futures Trading Commission and $1.5 million for the National Alcohol Fuels Commission.

Title VI includes general provisions that have previously appeared in Agriculture Appropriations Acts. Also, in this title the committee recommends reform of general provisions relating to the agricultural conservation programs and the types of practices that will be permitted. A House provision (Sec. 613) which prohibited payment of expenses of parties intervening in agency regulatory proceedings has been recommended for deletion by the committee, in order to permit and encourage full participation by all those affected by agency decisions.

Mr. President, I yield to my distinguished ranking minority colleague, the Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. Mr. President, I would like to begin by thanking and congratulating the distinguished Senator from Missouri, chairman of the Agriculture, Rural Development and Related Agencies Subcommittee of the Senate Appropriations Committee. His leadership during our deliberations on the measure we have before us today can be characterized as nothing short of outstanding. This is apparent to anyone who has examined the bill.

Senator EAGLETON has taken over this responsibility only recently, and he has mastered the complexities of this highly complex legislation, and has done, in my judgment, an outstanding job in bringing us a fine bill. He has worked hard to take care of the highest priorities in this area, and has had tremendous pressures brought on him to add significant quantities of money to the bill, but has been able to reduce those and has brought out a bill that, in my judgment, is very tight.

This is the first time in my recollection that the Agriculture appropriations bill, as recommended by the committee, is less than the House passed bill. The bill as reported contains $23,362,064,000. The House bill, after adjustments for nonprogrammatic changes, amounts to $23,420,629,000. This is $58.6 million more than the Senate committee recommendation.

I would add that an unprecedented amount of pressure was brought to bear on the committee to increase funding for a wide variety of programs and special interests. Had the committee yielded to these pressures, this bill would exceed the House passed version by nearly a billion dollars.

Never has such a concerted effort been made to hold down the total size of this bill. Never before has each item in the bill received such a thorough and critical examination. Never before has the committee had to refuse increases for so many worthy programs. In short, never has our task been so difficult. I can add, however, that never have I been more impressed nor more satisfied with the strength and quality of the bill we have reported.

I commend the Senator from Missouri for his dedication and his forthright leadership. I would also note the continuing support and guidance of the Senators from Washington and North Dakota, who as chairman and ranking minority member of the full Appropriations Committee, have contributed greatly to the consideration of the bill.

Mr. President, the bill as recommended is $272 million more than was contained in the President's budget request. This increase is principally composed of modest adjustments in three critical areas: agricultural research, rural development and conservation.

For the Agricultural Research Service, the committee recommends a total increase of $27 million. Half of this increase is for critically needed facilities, the balance is for program adjustments. Other increases are $21 million for cooperative State research and $12 million for extension activities. As noted in the committee report, the President's budget is sorely deficient in addressing the critical need for agricultural research. Spending in the agriculture sector was to be reduced by 10 percent in real terms while space and defense research and development expenditures in current dollars were provided 7 and 10 percent increases, respectively. While the increases recommended by the committee for agricultural research will barely provide sufficient funding to keep pace with inflation, it was the maximum that could be provided in view of pressing budgetary constraints and repeated demands by the administration to not significantly exceed the budget estimate. It is our hope that in the future, the President's budget will more realistically reflect the high priority and value of agricultural research.

The committee also recommended increases for the critical rural development programs. Rural residents, especially those who are poor or elderly, endure many of the difficulties facing their urban counterparts. Often, however, they are denied many of the governmental assistance programs taken for granted by the urban residents. This disparity is greatest in housing, water facilities, and economic development. The bill as recommended makes modest adjustments toward rectifying some of the most critical of these. Also the committee has recommended an increase over the House bill to provide for increased staffing of the Farmers Home Administration to allow for more adequate program support, bringing the total increase for this agency to $78 million. Again, the committee was constrained in fully addressing these needs because of overall budgetary considerations.

The third major area of increase was $114 million for soil and water conservation programs. The committee has recommended $100 million to initiate the Rural Clean Water program. It has also recommended continuation of the Great Plains Conservation program and the Resource Conservation and Development program. These increases were offset by limiting the Agricultural Conservation program to enduring conservation practices. This program has in the past paid for both production oriented as well as conservation practices. The committee's recommendation of $85 million will maintain past years levels of funding for those activities which are of an enduring conservation benefit to the Nation. This is $15 million less than was included in the President's budget and $105 million less than was contained in the House bill.

The committee received requests to add over a billion dollars to the measure we have before us today. I understand that some of these requests will be offered as floor amendments during our consideration of the bill. This is ironic, in that I also understand that another amendment to delete 2 percent of the appropriations for nonmandatory activities will also be offered. This irony is characteristic of the consideration of the measure. The administration has on several occasions expressed its concern over the size of the bill and has indicated that it is likely to be vetoed if it is as large as the House passed version. On the other hand, many worthwhile and valuable programs have been denied funding.

I can only say that in my estimation, this is a fair and well balanced measure. The committee worked hard to assure that all the increases were only those absolutely critical to the soundness of programs of the Department of Agriculture and other agencies funded in the bill. As ranking minority member of the Budget Committee, I am satisfied that this measure reflects the intent of the congressional budget process in living within overall budgetary ceilings, while assuring that all available resources are put to the best possible use.

Mr. President, I would conclude by urging my colleagues to join in supporting this measure as we have it before us, and to resist efforts which will be made to add significant amounts of money to the bill.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. BELLMON. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I ask unanimous consent that George Dunlop of my staff be accorded the privilege of the floor during the consideration of the pending business and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of further amendment as original text, provided that no point of order shall be regarded to have been waived by reason of agreement to this request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 6, strike "$3,791,000" and insert "$4,310,000";

On page 2, line 17, strike "$2,340,530" and insert "$2,790,530";

On page 2, line 18, strike "$1,550,650" and insert "$1,844,650";

On page 2, line 22, strike "$7,721,170" and insert "$7,921,170";

On page 2, line 23, strike "$17,483,000" and insert "$18,647,000";

On page 3, line 22, strike "$22,945,000" and insert "$31,564,000";

On page 5, line 8, after "$100," insert "except that the foregoing limitation shall not apply to the acquisition of lands for the United States Biological Control Laboratory in Valbonne, France,";

On page 5, line 10, strike "$334,100,000" and insert "$337,791,000";

On page 5, line 11, strike ", of which $215,309,000 is for personnel compensation and benefits and $118,791,000 is for other expenses";

On page 6, line 9, after the colon, insert *"Provided further,* That the limitations on construction contained in this Act shall not apply to the establishment of a fruit and nut germ plasm repository at Corvallis, Oregon:";

On page 7, line 7, strike "$35,720,000" and insert "$15,000,000";

On page 8, line 10, strike "$230,817,000" and insert "$228,150,000";

On page 8, line 11, beginning with "(including" strike through and including "expenses)" in line 12;

On page 8, line 21, beginning with "That" strike through and including "further," in line 24;

On page 10, line 16, strike "$271,019,000" and insert "$271,104,000";

On page 11, line 14, strike the semicolon and insert "and";

On page 11, line 15, beginning with the semicolon, strike through and including "1961" in line 18;

On page 11, line 22, strike "$109,066,000" and insert "$113,866,000";

On page 12, line 9, strike "$16,360,000" and insert "$17,060,000";

On page 12, line 16, following the semicolon, strike through and including "expenses" in line 23, and insert in lieu thereof the following:

$37,398,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 4501), of which $5,398,000 is for special research grants, $30,000,000 is for competitive research grants, and $2,000,000 is for grants in accordance with Sec. 1419 of Public Law 95–113, including administrative expenses;

On page 13, line 10, strike "$163,057,000" and insert "$179,520,000";

On page 13, line 22, strike "$176,031,000" and insert "$186,831,000";

On page 13, line 24, strike "$53,060,000" and insert "$50,560,000";

On page 13, line 25, after the semicolon, strike through and including the semicolon in line 3 on page 14;

On page 14, line 4, strike "payments for the farm safety program under section 3(d) of the Act, $1,020,000;";

On page 14, line 9, after the semicolon, strike through and including the semicolon in line 13;

On page 14, line 17, strike "$10,013,000" and insert "$10,412,000";

On page 14, line 20, strike "$270,204,000" and insert "$267,383,000";

On page 14, line 21, strike "of which not less than $75,579,000 is for Home Economics";

On page 15, line 11, strike ", of which not less than $2,029,000 is for Home Economics";

On page 16, line 19, strike "$80,137,000";

On page 17, line 22, strike ", and for administration and coordination of payments to States";

On page 18, line 1, strike "$46,502,000" and insert "$49,070,000";

On page 18, beginning with line 8, strike through and including line 12;

On page 19, line 18, strike "$227,552,000" and insert "$217,527,000";

On page 18, line 24, strike "$327,417,000" and insert "$317,392,000";

On page 19, line 24, strike "of which $63,100,000 is for personnel compensation and benefits and $264,317,000 is for other expenses";

On page 22, line 16, strike "$5,500,000,000" and insert "$10,500,000,000";

On page 22, line 25, strike "$580,000,000" and insert "$990,900,000";

On page 23, line 2, strike "$50,100,000" and insert "$45,898,000";

On page 23, line 4, after the comma, strike through and including the comma in line 20;

On page 23, line 22, strike "$1,700,000,000" and insert "$2,200,000,000";

On page 24, line 20, strike "$3,774,200,000" and insert "$3,776,000,000";

On page 25, line 2, after "Act" insert a colon and the following: *"Provided,* That unsubsidized interest guaranteed loans of not to exceed $500,000,000 shall be in addition to these amounts";

On page 25, line 5, strike "20,000" and insert "$30,000";

On page 25, line 10, strike "$370,013,000" and insert "$555,000,000";

On page 26, line 10, after "loans" insert a colon and the following: *"Provided,* That of this amount, $250,000,000 shall be available provided legislation is enacted which would establish interest rates for farm ownership loans at rates equivalent to those charged the Government to borrow money: *Provided further,* That an amount not to exceed $100,000,000 shall be available at interest rates not in excess of 5 percent to limited resource borrowers as defined by the Secretary of Agriculture";

On page 27, line 14, strike "to remain available until expended, pursuant to section 306(d) of the above Act";

On page 28, beginning with line 4, insert the following:

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949 (42 U.S.C. 1490c) and related advances, $1,000,000, to remain available until expended.

On page 29, line 13, strike "$219,566,000" and insert "$230,582,000";

On page 29, line 16, following the comma, strike through and including the comma in line 18;

On page 31, line 16, strike "$24,905,000" and insert "$24,658,000";

On page 31, line 17, beginning with the comma, strike through and including "expenses" in line 18;

On page 32, line 8, strike "to remain available until expended,";

On page 32, line 8, strike "$262,491,000" and insert "$255,296,000";

On page 32, line 9, beginning with the comma, strike through and including "other expenses" in line 10;

On page 33, line 17, strike "to remain available until expended,";

On page 33, line 18, beginning with the comma after "$16,487,000", strike through and including "expenses" in line 20;

On page 34, line 5, strike "to remain available until expended, $12,587,000" and insert "$5,759,000";

On page 34, line 6, beginning with the comma, strike through and including "expenses" in line 7;

On page 34, line 22, strike "$169,607,000" and insert "$227,522,000";

On page 34, line 23, after the comma, strike through and including "which" in line 25, and insert "(of which $20,876,000";

On page 35, line 23, strike "including authorization of 10 new areas,";

On page 36, line 4, strike "$31,979,000" and insert "$16,797,000";

On page 36, line 4, beginning with the comma, strike through and including "expenses" in line 6;

On page 36, beginning with line 22, insert the following:

NONPOINT SOURCE POLLUTION CONTROL GRANT AGREEMENTS AND TECHNICAL ASSISTANCE

For making grants to conservation districts, State soil and water conservation agencies, and State water quality agencies for cost-sharing payments to landowners or operators for application of measures incorporating best management practices to control nonpoint source pollution for improved water quality and for technical assistance in accordance with the provisions of section 208(j) of the Federal Water Pollution Control Act of October 18, 1972, as amended (33 U.S.C. 1251, 1288) and regulations promulgated by the Secretary of Agriculture in 7 CFR 2.19 (f), (g), 7 CFR 2.62(a)(11), and 7 CFR 634–634.41, $75,000,000, to remain available until expended: *Provided,* That the Secretary of Agriculture may transfer up to 50 per centum of this amount to the appropriation "Nonpoint Source Pollution Control—Cost-Sharing" under the Agricultural Stabilization and Conservation Service head.

On page 38, line 21, strike "$190,000,000" and insert "$85,000,000";

On page 38, line 25, beginning with the comma, strike through and including "program" in line 14 on page 39, and insert in lieu thereof the following:

: *Provided further,* That such amounts shall be available for financial assistance to agricultural producers for carrying out enduring conservation and environmental enhancement measures and practices to be selected by the county committees and approved by the Secretary of Agriculture under programs provided for herein: *Provided further,* That primary emphasis of such financial assistance will be directed toward the solution of critical soil and water conservation problems and pollution abatement problems on farms and ranches, and such assistance will not be used for carrying out measures and practices that are primarily production oriented or that have little or no conservation or pollution abatement benefits

On page 41, line 8, after "channels" insert a colon and the following:

Provided further, That unexpended funds previously appropriated to liquidate outstanding obligations for the 1975 through 1978 Agricultural Conservation Programs shall be merged with the 1979 appropriation as of December 31, 1978

On page 41, beginning with line 14, strike through and including line 23, and insert in lieu thereof the following:

NONPOINT SOURCE POLLUTION CONTROL COST-SHARING

For necessary expenses for making cost-sharing payments to landowners or operators for application of measures incorporating best management practices to control nonpoint source pollution for improved water quality, in accordance with the provision of section 208(j) of the Federal Water Pollution Control Act of October 18, 1972, as amended (33 U.S.C. 1251, 1288), and regulations promulgated by the Secretary of Agriculture in 7 CFR 2.19 (f), (g); 7 CFR 2.62(a)(11), and 7 CFR 634–634.41, $25,000,000, to remain available until expended: *Provided*, That the Secretary of Agriculture may transfer up to 50 per centum of this amount to the appropriation, "Nonpoint Source Pollution Control—Grant Agreements and Technical Assistance" under the Soil Conservation Service head.

On page 42, line 20, after "in" strike through and including "1510)" in line 22 and insert in lieu thereof "section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103)";

On page 42, line 24, strike "$15,000,000" and insert "$17,500,000";

On page 43, line 19, strike "$2,786,300,000" and insert "$2,778,300,000";

On page 43, line 21, strike "$1,336,575,000" and insert "$1,411,575,000";

On page 44, line 3, strike "$28,000,000" and insert "$20,000,000";

On page 44, line 7, beginning with the colon, strike through and including "amended" in line 10;

On page 44, line 15, beginning with the comma, strike through and including "1981" in line 16;

On page 45, line 1, strike "$580,000,000" and insert "$569,500,000";

On page 45, line 1, strike ", to remain available until September 30, 1981";

On page 45, line 6, beginning with "That" strike through and including the comma in line 9;

On page 46, line 2, strike "to remain available until September 30, 1981";

On page 46, line 5, strike "$71,300,000" and insert "$74,275,000";

On page 46, line 21, strike "$53,645,000" and insert "$56,403,000";

On page 46, line 21, beginning with the second comma, strike through and including "Expenses" in line 23;

On page 47, line 24, after the comma, insert "not more than";

On page 47, line 25, after "which" insert "$339,400,000 is hereby appropriated and the balance";

On page 48, line 1, strike "$500,874,000 shall be";

On page 48, line 3, after the comma, insert "repayments on long-term credit sales and carryover balances; and";

On page 48, line 4, strike "and from repayments made on long-term credit sales; and";

On page 48, line 6, after "Act," insert "not more than";

On page 48, line 7, strike "$106,506,000 shall be derived" and insert "$466,500,000 is hereby appropriated and the balance to be derived by temporary financing from the Commodity Credit Corporation pending reimbursement in subsequent year or";

On page 48, line 11, beginning with the colon, strike through and including "Korea" in line 14;

On page 49, line 3, strike "$289,854,000" and insert "$295,454,000";

On page 49, line 15, strike "$15,804,000" and insert "$14,974,000";

On page 51, beginning with line 1, insert the following:

NATIONAL ALCOHOL FUELS COMMISSION

For necessary expenses of the National Alcohol Fuels Commission, $1,500,000.

On page 51, beginning with line 16, strike through and including the semicolon in line 17;

On page 51, line 18, strike "Resource Conservation and Development;";

On page 51, line 19, strike "Emergency Conservation Measures;";

On page 15, line 21, after "Service;" insert "Agricultural Conservation Program;";

On page 51, beginning with line 25, strike through and including page 52, line 11;

On page 52, line 12, strike "610" and insert "608";

On page 52, line 15, strike "611" and insert "609";

On page 52, line 19, strike "612" and insert "610";

On page 53, beginning with line 1, strike through and including line 7;

Mr. EAGLETON. Mr. President, I have just a few more words to add and then I believe the distinguished Senator from South Dakota (Mr. McGOVERN) has an amendment to offer.

I want to add my personal feelings in respect to the superb work Senator BELLMON has contributed to this bill. I have had some very fine working relationships in the Senate during my 9½ years in the body, Mr. President, but none have I treasured more than working with Senator BELLMON. Insofar as agriculture is concerned, I guess I might be considered a theoretician, maybe more bluntly a rank amateur, but as far as Senator BELLMON is concerned, he is a practicing professional. I leaned very heavily on him for his insight and knowledge into the actual day-to-day workings of our agricultural programs. It has been a relationship that I shall treasure for the rest of my life.

UP AMENDMENT NO. 1629

Mr. McGOVERN. Mr. President, on behalf of myself, Senators BURDICK, HATFIELD of Montana, CHURCH, MELCHER, WALLOP, CURTIS, ABOUREZK, and CLARK, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. McGOVERN), for himself and Mr. BURDICK, Mr. HATFIELD of Montana, Mr. CHURCH, Mr. MELCHER, Mr. WALLOP, Mr. CURTIS, Mr. ABOUREZK, and Mr. CLARK, proposes an unprinted amendment numbered 1629.

Mr. McGOVERN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 23, after the word "development" insert the following ", including authorization of 10 new areas,".

On page 36, line 4, strike out "$16,797,000" and insert in lieu thereof "$31,979,000".

Mr. McGOVERN. Mr. President, this amendment would restore funding for the resource conservation and development program to approximately the fiscal 1978 level, or more specifically to the level recommended in the other body in H.R. 13125.

I want to say first of all, Mr. President, that I realize the Subcommittee on Agriculture Appropriations under Senator EAGLETON's chairmanship, has considered this issue and rejected it. I know Senator BELLMON and others who sit on that committee have looked at this matter very thoughtfully. I appreciate that the committee's budget recommendation is actually $10 million more than recommended by the administration. But it ought to be pointed out that this amount is still $15 million less than the House has recommended, and approximately $15 million less than we appropriated for this program last year.

The administration's recommended reduction has disappointed a great many people who believe in this program, who have watched its success in rural communities across the country, and who can testify to the role R.C. & D. programs have played in improving the quality of life in their communities.

The administration was candid enough to say that the budget they submitted was meant to phase out the R.C. & D. program. Their budget was not designed as a reduction, really; it was designed to ultimately terminate the resource conservation and development program.

While I think we have to give credit to the administration's candor, the flood of constituent mail that I have received, and I am certain other Senators have received, indicates that this was not a popular recommendation or one supported where our constituents are familiar with the benefits of the program.

I can say to my colleagues in good conscience that in terms of improving our people's ability to coexist with their environment and properly utilize our land and water resources, in terms of our stewardship of resources, perhaps no other single USDA program has been as successful and as popular in rural areas as this one, which the Congress first authorized with the Food and Agriculture Act of 1962.

You may well ask, then, why does the administration propose to phase this program out of existence?

The USDA is taking this action in responsible to a document published in 1975 entitled "An Evaluation of Selected Impacts of the Resource Conservation and Development Program" prepared by the USDA's soil conservation service economics, program planning, and evaluation staff. The rationale used by USDA has been adopted by the subcommittee in its review of the program. What, then, did this report say and does the argument in the report stand up under scrutiny?

Detailed analysis of change over time in total employment, median income, and per capita income showed no statistically significant difference attributable to RC&D projects. This aspect of the study was somewhat limited by the availability of data and sensitivity of the methodology. It cannot be said that no increases in employment or income were generated in project areas, but it is clear that any such effects that may

have occurred did not have a statistically significant impact on total county employment or income levels.

It is a question, then, of economics. But what role is economics expected to play in measuring the success of the R.C. & D. program?

The purposes of the program, as defined by the USDA evaluation team are twofold. First, the R.C. & D. program is to promote the orderly development, improvement, conservation, and utilization of natural resources and thereby to provide employment and other economic opportunities to people of the project area. Second, the other principal objective of the program is to assist local leadership to utilize existing agricultural programs as well as new programs in planning and carrying out a program of natural resource development and conservation.

In other words, using employment and economic opportunities as a measure of the program's success is a secondary component of the program's primary objective. I sincerely believe that the program measures up to all other criteria.

Additionally, the committee's report on this agriculture appropriations bill says in reference to the R.C. & D. program that it has accomplished "little of national importance," yet I see no reference to the program having to have national impact. Perhaps even more importantly in addressing the economics question, the USDA evaluation team says this in their report:

The issue of program goals involves the relative status of economic growth versus resource development. If strengthening the rural economy is of paramount importance, actions that contribute substantially to that goal should receive special emphasis.

I must insert parenthetically at this point that USDA is not now emphasizing the economic growth possibilities of the program. The report goes on to say:

Alternatively, one may emphasize the need for measures that enhance the environment and maintain resource stocks whether or not any discernible economic impact results. It is suggested that more attention be given to identifying reasonable operational project goals to guide the utilization of RC&D technical and financial assistance.

USDA has not shown such a willingness to identify more reasonable operational project goals, either. In summary then, the R.C. & D. program has been placed in a "no win" situation and having not "won" is to be phased out.

I disagree very sharply with the circumstances in which the R.C. & D. program has been placed.

Mr. President, both the Department of Agriculture and the distinguished members of the Appropriations Committee have made much of the fact that the Department is currently performing an evaluation of all departmental soil and water conservation programs. They claim this evaluation will assist in making a determination of the appropriate future direction for the R.C. & D. program.

Based on the prospect that they will be able to come up with something better, hopefully in time for the next appropriations cycle, it is suggested this worthwhile and popular program be scrapped to make way for something else which is expected to come along.

I must say at this time that until the Congress has had a chance to see what the new program is, how it will work to supplant R.C. & D., and what the revised goals are, we would be premature and ill-advised to scrap this existing and ongoing program, or to even substantially reduce it below last year's level.

On the other hand, once we know what the proposed program is and are satisfied it can effectively supplant R.C. & D., only then should we phase it out.

If there is some attractive and practical and feasible alternative, I would be ready to look at that sympathetically as a replacement. However, at this time we do not know what that alternative is. Here we have an ongoing program, with strong testimony from the participants as to its effectiveness.

The question is, Why do I believe in the R.C. & D. program and support its continuation? I believe in it because I have heard from R.C. & D.'s not only from my own State but throughout the Nation as to their successes. Many of my colleagues who are familiar with the program have joined me in cosponsorship of this amendment.

Those who know of the program support it. That is important. As the USDA evaluation team writes:

The image of RC&D Councils is generally regarded as very favorable among those who know of their existence and activities. . . . Although widespread public recognition has not been achieved, the Council has been successful in building political support for the RC&D program locally and in communicating this support to the Congress.

These are not my words; they are the words of the evaluation team. I do not think we can ignore the message of local success that is coming to us. What are those successes?

In South Dakota my constituents write:

The RC&D has proved they are able to work with many different landowners, local units of government plus SCS and local sponsors. We only use RC&D projects for conservation practices that are too large and too expensive for private landowners or local units of government to finance. We have already done much with critical erosion areas. . . . Work done in local water development would alone justify the program.

In that example, the program fulfills its primary objectives.

This program is doing a good job in South Dakota in helping the farmers and ranchers to protect our most important resource, our agricultural lands. If American agriculture is to continue to produce at its present level or to increase production in the future, those programs which help the farmer to protect his land must be retained.

I believe this is an important point. This constituent is not saying R.C. & D. creates a boom economy, he is saying it is contributing to stabilizing production in his area, is stabilizing critical erosion problems and is stabilizing the rural economy in times of stress. That is an economic impact which does not show itself as a dramatic increase in economic activity or regional employment—but it is staving off a decline in both. This is in its way a significant economic impact and I do not see how USDA can overlook it in their effort to fulfill a secondary goal of the program.

There are examples of R.C. & D.'s contributing to a boom economy, however.

I received a telephone call from the Lincoln Hills R.C. & D. Council coordinator in Cannelton, Ind., who told me about the Citizens National Bank in Tell City, Ind.

In 1950, that bank had total assets of $5 million. Fourteen years later, when the Lincoln Hills R.C. & D. came into being, total assets were at the $7 million level. The bank president, Raymond Schulthise, says his bank's assets 14 years after that, in 1978, are now at $50 million and growing, and he attributes that growth to the activity of the R.C. & D. Council.

What did the R.C. & D. Council do? It certainly did not use its limited funds to alone spark economic development. The council, a group of local sponsors with a personal interest in their four-county, 100,000 population, 1-million acre rural community acted as a catalyst for community development. Mr. Schulthise says they were the only body working for furtherance of economic activity. They encouraged a local businessman to use a local product, pine trees, to build a $250,000 business in 1 year, selling treated wood poles and logs for cabins. His business dollars and success generated other successes in the region.

The R.C. & D. Council sponsored planting of 7 million trees on 10,000 acres of badly gullied farmland, areas of roadside erosion, and on abandoned farmland. This action staved off erosion of 200,000 tons of soil. By stabilizing their soil they stabilized their agricultural production by conserving their primary resource, their land.

They encouraged tourism, causing a 60-percent increase in tourist visitations.

In Springfield, Mo., the home State of the distinguished chairman of the Subcommittee on Agricultural Appropriations, the Southwest Missouri R.C. & D. Council prudently invested their limited funds in their local area and let me tell you what their projects sparked.

A $60,000 invested in a dam as part of the crane flood protection plan resulted in another $150,000 being invested by the FmHA, $40,000 in recreational development below the dam and another $40,000 in an industrial park protected from floods with their initial investment.

The local R.C. & D. knew an abandoned mine at Aurora was creating a ground water pollution problem. They found $55,000 to reclaim the mine site and that resulted in a $250,000 grant to improve sewers and streets in the area. Additional housing was added in an area that before the R.C. & D.'s bold action had started to become increasingly unfit to live in.

The Rockaway Beach bank stabilization project cost some $90,000 from the Bureau of Outdoor Recreation, but it resulted in water improvements which sparked a walnut industry in the area, accelerated technical help, and resulted

in another $70,000 grant from the Forest Service.

When train tank cars exploded in Noel, Mo., leveling three city blocks, it was the R.C. & D. Council who coordinated the disaster recovery. Soil surveys were performed, HUD housing units were brought in to house 50 families, water and sewer projects were begun, the SBA helped small businesses, and the EDA contributed to their economic recovery.

The R.C. & D. program can be a real catalyst. The examples go on and on and come in from all around the country.

Therein rests the fatal flaw in the USDA's analysis which the committee has so readily accepted. The R.C. & D. program is not, in a comparative sense, a "big budget item." The money for R.C. & D. alone does not cause an economic boom. But in the R.C. & D. council, we have a local mechanism in place to address local problems which may be remedied with local and State matching funds, USDA assistance, HUD, SBA, BOR, the Forest Service, EDA, or some other entity and its program which R.C. & D. seeks out and applies to their problem.

In this way, R.C. & D. is meeting one of its primary objectives. There is ample evidence it is meeting its other primary objective. What more can we demand of the program?

I urge my colleagues to accept my amendment, allow this program at least to go along as it has in the last few years, and when and if the USDA finds something better to replace it, then we can debate that question and that proposal on its merits.

I urge my colleagues not to vote against this program, not to vote to phase it out, not to vote to reduce it below last year's level. I hope that Members will recognize that they are doing the program a great disservice by settling on the committee's apparent compromise on this program's funding. Anything short of the fiscal year 1978 budget, some $32 million, is not really a compromise at all. It is instead a painfully crippling slash in this important program.

What the committee's recommendation really means is simply a slower death for the program than the sudden death proposed by the administration.

Mr. President, I hope that the committee will see fit to reconsider its action and accept this amendment restoring some $15 million to the program above the amount they have recommended. We are talking about a tax cut here, later on, designed to stimulate the economy. In my own judgment, it would be far better to look critically at the total size of that tax cut if its major purpose is to stimulate economic development and stimulate economic expansion, and to consider some of the alternatives that might be open to us, including this very modest amendment that I suggest here this afternoon.

Mr. EAGLETON. Mr. President, I ask unanimous consent that a staff member from Senator ALLEN of Alabama's staff, Mr. Tom Kay, have the privilege of the floor during consideration of this measure and during votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I am opposed to adding funding above the committee's recommendation for resource conservation and development (R.C. & D.). It should be noted that this entire amount is unbudgeted. The Carter administration proposal was to provide only $6.8 million for R.C. & D. in order to complete many of the ongoing project areas without starting new ones. To this amount, the committee recommended adding $10 million for additional financial assistance to help assist ongoing R.C. & D. areas. The reason for the committee's position was explained in the report, and I ask unanimous consent that page 63 relating to R.C. & D. be printed at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

Resource conservation and development

1978 appropriation	$31,033,000
1979 budget estimate	6,797,000
House allowance	31,979,000
Committee recommendation	16,797,000

The Soil Conservation Service has general responsibility for assisting local sponsoring groups accelerate planning and development of land and water resources in multiple county areas. Projects may include such measures as flood prevention; developing water resources for recreation, wildlife, agricultural, municipal, or industrial use; conservation planning and establishment on individual land units; improving recreation facilities, including historical and scenic attractions; encouraging new industries to locate in the area and to process products of the area; improving markets for crop and livestock products; upgrading and protecting the quality of the environment; and long-range planning to coordinate public efforts in the area.

Activities include investigations and surveys to help develop programs and plans of land conservation and utilization, technical services and financial assistance to sponsors, local groups, and individuals, and making loans for resource improvements and developments in approved projects. The Farmers Home Administration administers the loan program.

The Committee does not concur in the House recommendation for 10 new area authorizations and an increase of $25,182,000 above the budget request. Additional assistance of $10 million above that requested in the budget is provided in the bill. The Resource Conservation and Development program has accomplished little that is of national priority. Furthermore, there is very little evidence, and indeed some specific departmental evaluations which cast doubt on the ability of the program to achieve significant conservation objectives as compared to areas without a similar program.

The Committee notes that the Department is currently performing an integrated evaluation of all departmental soil and water conservation programs under the direction of the Senate Committee on Agriculture, Nutrition and Forestry. This evaluation should assist in making a determination of the appropriate future direction for the Resource Conservation and Development program. Accordingly, the Committee recommends an amount sufficient to maintain the ongoing operations of existing areas, and has deleted the balance of the House increase.

For Resource Conservation and Development for fiscal year 1979, the Committee recommends an appropriation of $16,797,000. This is $14,236,000 less than was appropriated for fiscal year 1978, $10 million more than the budget request and $15,182,000 less than the amount provided in the House bill.

Mr. EAGLETON. First, the Department's own evaluations cast doubt on the ability of the program to achieve its objectives. There are two departmental studies, one done in 1971 and one in 1975, neither of which demonstrates a significant increase in economic or conservation objectives in the areas with R.C. & D. projects compared with areas that do not have them.

The Department of Agriculture acknowledged this in hearings held before the Appropriations Committees. Assistant Secretary of Agriculture Cutler testified:

We are concerned about program results, particularly in generating measurable economic impacts, in its (R.C. & D.'s) current form.

Also, he said:

We have been unable to document clearly that the program leads to increased economic development or to reductions in soil erosion from levels that would otherwise have occurred.

At first, it appeared that the administration might be proposing to phase out or eliminate the program. However, in the hearings, they clarified that it was their intent to redesign the program, and simply to reduce the general levels of assistance and new starts until a study being done jointly by the Office of the Assistant Secretary for Rural Development and Dr. Cutler—Assistant Secretary for Conservation, Research, and Education—had been completed in order to determine how to reorient the program. The study and evaluation is not expected until the fall.

In this connection, I think the Senate should recognize that the Committee on Agriculture, Nutrition, and Forestry is also conducting, through the Department and with the assistance of the General Accounting Office, a study of the R.C. & D. program. The same problem of program results caused this study to be made.

With all of this emphasis on program reorientation, the committee just could not agree with the House proposal to begin 10 new area starts, and increase the budget estimate by $25,182,000—which is what the House did and what this amendment seeks to accomplish, if it is enacted. The committee recommendation does provide for $10 million above the budget request, to fund some additional financial assistance, recognizing that there are some unmet needs in existing areas where additional money could probably be utilized.

Mr. President, I urge defeat of this amendment.

Mr. EAGLETON. Mr. President, I yield to the Senator from Delaware. How much time does the Senator need?

Mr. ROTH. I think 2 minutes.

Mr. BELLMON. I yield 2 minutes to the Senator from Delaware.

Mr. ROTH. Mr. President, I ask unanimous consent that my remarks appear immediately before Senator LUGAR offers his amendment at a later stage in consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I yield such time as he may need to my colleague from Oklahoma.

Mr. BELLMON. I thank my friend, the Senator from Missouri.

Mr. President, as the chairman said, and I hope the Senator from South Dakota has noted, the bill contains $16.8 million for the R.C. & D. program.

The amount recommended by the committee is $10 million more than was requested in the President's budget. It is, however, $15.2 million less than passed the House of Representatives, and the level for fiscal year 1978.

I would like to make the point that we are trying to get a bill that will be signed and not be vetoed.

As ranking minority member of the Subcommittee on Agriculture, Rural Development and Related Agencies of the Senate Appropriations Committee, I recommended the $16.8 million level. I am very much aware that this reduction from the current level of operations will have an adverse effect on program operations. This amount, however, will allow existing R.C. & D. areas to continue construction activities though no new R.C. & D. areas will be authorized and no new project planning starts will be allowed.

For the past several years, it has been apparent that the funding of this program has been inadequate. The net result has unfortunately been like so many other Federal programs that got started with high hopes, but never allowed to really serve the need for which they were established. Consequently, we have a proliferation of partially funded efforts with overlapping goals and poor coordination.

The administration, in requesting a termination of this program, specifically cited this problem, and further claimed that it had no significant conservation benefits. The Soil Conservation Service's own evaluation of the program reaffirmed this point as did the General Accounting Office audit of the program. Under these circumstances, it was very difficult to justify maintenance of the program at its current level of operations.

The administration has also threatened to veto the Agriculture Appropriations bill on several occasions and identified the R.C. & D. program as being high on its list of programs to be terminated.

I appreciate the particular problem of established R.C. & D. areas which have been forced to wait on funding for projects, especially those where easements are about to expire or other matching funds will be lost unless construction is initiated. I am hopeful the additional $10 million accepted by the committee for fiscal year 1979 will cover much of the high priority projects currently awaiting funding. I think this is a concern of the Senator.

It was also our intent to force the administration to complete its comprehensive program evaluation within the next year so that the future of this program can be determined once and for all. If it is found that the purposes of the R.C. & D. program can be better served through other programs, then that is the way we should proceed. If, however, it is determined that R.C. & D.'s constitute the most effective means of assisting multicounty planning and coordination and delivery of development and conservation improvements, then it is my hope that the program be adequately supported to achieve those objectives. The goal of the committee's actions on the fiscal year 1979 budget for R.C. & D's is to keep the program alive, within the pressing budgetary constraints, until this evaluation can be completed.

If this amendment is adopted, it will merely continue the R.C. & D. program at last year's levels. This has been shown to be far from adequate to keep up with the growing backlog of projects now being planned and only defers the hard decision which must be made.

I urge the Senate to defeat this amendment.

Mr. McGOVERN. Will the Senator yield?

Mr. BELLMON. I am happy to.

Mr. McGOVERN. I have recognized what the Senator says is correct about the committee adding some $10 million above the administration request.

Is it the Senator's conviction that the committee's action will sustain the existing R.C. & D. programs?

It is $15 million below the authorized amount for fiscal year 1978.

Mr. BELLMON. Let me say to the Senator that it is our feeling that this amount of money that we put in, which is $16.7 million, continue the project areas that have already started construction and keep the program viable until the needed studies can be completed.

It will not start new program areas or new planning, but we feel we ought to go ahead and try to provide funding so the projects already under way can continue, but not go ahead and provide for more planning or new program areas until the Department finds out what it wants to do with the program.

Mr. McGOVERN. Did I hear the Senator say that it is his judgment, if this add-on I suggested here, and others that are proposed, were to be added to what the committee recommended, we stand in danger of a Presidential veto of the entire bill?

Mr. BELLMON. That is our concern.

Mr. McGOVERN. Mr. President, without in any way changing my own position on the importance of this program, I do not want to jeopardize the passage of the entire Agriculture appropriation by a veto. If this is an overriding factor in the committee's thinking, I would like to withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Does the Senator from Illinois seek recognition?

UP AMENDMENT NO. 1630

(Purpose: To earmark funds for research on industrial uses of agricultural products)

Mr. STEVENSON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. STEVENSON) proposes an unprinted amendment numbered 1630.

Mr. STEVENSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 11, strike out "$337,791,000" and insert in lieu thereof: "$340,791,000".

On page 5, line 24, insert after "research:" the following:

"Provided further, That of the appropriations hereunder, not less than $3,000,000 shall be available for research on industrial uses of agricultural products conducted by the Regional Research Centers:"

Mr. STEVENSON. Mr. President, my amendment would restore a portion of the funds cut from the research programs of the four USDA regional research laboratories which are located in Peoria, Ill., Wyndmoor, Pa., Albany, Calif., and New Orleans. The basic programs of these labs have been funded under the item "Industrial Uses of Farm Products."

The administration had recommended cuts in this category amounting to some $3.8 million—$1,996,000 from the lab at Peoria, $1,647,000 from the Wyndmoor, Pa., lab, and $164,000 from the lab in New Orleans. The House restored these amounts, but the Senate committee apparently agreed with the administration position and deleted them. I urge that we restore at least $3 million with the understanding that it will be allocated among the labs so as to restore the same percentage of the amounts cut from each of their industrial uses categories.

Mr. President, the rationale for cutting this research program was that much of the research could be carried on by industry. I am not familiar with the other regional research centers but I have visited the center in Peoria and I do have some understanding of the value of the research going on there. I am puzzled by the conclusion that industry will fill the void. It is certainly true that the Peoria lab has carried out much basic research that has led ultimately to industrial applications, but for a variety of reasons this kind of research is not initiated by industry. The term "industrial uses" covers a far broader range than it suggests. The Peoria center has generated fundamental knowledge of the composition and properties of natural components in grains and oilseeds. This knowledge is basic for both food and nonfood uses. It benefits the farmer, the processor, and the consumer alike.

Industrial research is carried only to the point where industry can develop commercial applications. The center does not compete with industry but does make its findings freely available through publications and patents. Thousands of visitors from science and industry come to Peoria each year, including many from other countries.

One outstanding accomplishment of the Peoria lab demonstrates the broad public interest as well as commercial and industrial value of this research—the development of a starch-derived product with unique properties for absorbing and retaining more than 1,000 times its weight in distilled water or about 500 times its weight in tap water.

It is called super slurper and it holds immense promise for agriculture, wastewater and sewage management, medical practice, and industry. Several companies are already manufacturing products based on super slurper, but no company had undertaken the basic research to develop the product. Its inventors have received several national awards, and in a recent letter to Dr. William Doane who directed the project, Dr. Wayman Spence, a medical doctor wrote:

I want to personally thank you for the tremendous contribution you and your associates have made to the field of medical care through the development of your absorption copolymers. We have just begun to tap the basic research you so generously gave to our country. I am speaking conservatively when I say that I feel this development may literally be worth the Nobel Prize someday. I am only jealous of you in that I wish I could say I had done the basic research because I think it will lead in the years ahead to great benefits for mankind in the medical field, not just in the agricultural field, which you may have originally been working with.

Mr. President, I ask unanimous consent that the letter from Dr. Spence be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. STEVENSON. Mr. President, although industry and medicine are already using super slurper, scientists at the center are working on variations that promise great benefits to agriculture and protection of the environment. Because it not only holds water but allows its uptake by plants, it has possibilities for soil amendment, seed coating, and the seeding of disturbed lands for restoration of vegetation and erosion control. And finally, research is underway to develop a super slurper that would absorb oils and other hydrocarbons. Such a product would be useful in cleaning up oil spills and in thickening gasoline, alcohols, and chemicals for safer transportation.

Mr. President, I could review several other research projects which are already shown promising results for agriculture as well as industry, such as insoluble starch xanthate for removing heavy metals from industrial effluent, encapsulated pesticides, herbicides, and fertilizers, and biodegradable plastics, which are not only a superior product for several purposes but which may reduce the consumption of petroleum based plastics. These are all "industrial uses," but they serve a wide range of public interests, not simply those of industry.

The cut in this appropriations bill will reduce the Peoria center's fundamental research program by nearly 20 percent. In my view this is a tragically shortsighted form of economy. The nation is falling behind in research and technology. That is an underlying cause of our persistent trade deficit. We cannot compete with other countries on the basis of cheap labor. We have acute problems with capital formation. In the past we have maintained our preeminence through technology. It is no longer easy, and here, in this small item in an appropriations bill, is one of the reasons. In the interest of cutting this year's budget by a few million dollars we are irreparably damaging or destroying some of the basic research that would put us ahead in the future.

Mr. President, the Senate in recent months has done a great deal of useful work on our trade deficit, the declining dollar, and the overall competitive position of the United States in the world. One of the strong conclusions that emerges from this work, much of it done through the Subcommittee on International Finance, some through the Subcommittee on Science, Technology, and Space, is that the United States for many years has been unable to compete with cheap labor. It now faces serious capital formation problems. It always has relied on a strong capacity for technological innovation, strong technology. Agriculture itself is based in the United States on technology. It has become a technology-intensive industry.

This cut is an example of what is wrong with the economy of the country. It strikes at research; it strikes at our capacity for technological innovation; and it is becoming harder in the world to maintain that capacity, as other countries make the investment in R. & D. that we are not beginning to make.

Mr. President, I could describe at some length the kind of work that is done in Peoria. That research, among other things—and I will not describe its activities at length—led to the development of the high-fructose sweeteners, which has opened up a vast new market throughout the world for corn. It is developing means of using a starch-based product to remove heavy metals from industrial effluents. It is producing means of encapsulating pesticides, herbicides, fertilizers—which I recounted earlier—and developing biodegradable plastics.

Recently, it produced a form of starch that will absorb 1,000 times its weight in water, with significant potentials in medicine and in industry, as well as in agriculture. The substance could be used to soak up oil spills.

This bill ignores these activities. It would cut the Peoria lab's fundamental research program by nearly 20 percent. In my view, this is a tragically shortsighted form of economy, and I hope, therefore, that the managers of the bill will look with favor on this amendment.

Mr. President, I should like to ask some questions of the managers about funding for research.

The funding for so-called industrial research has been cut, but in the case of the Peoria lab, $2 million has been put in for research on alcohol fuels. Alcohol fuels is another of the many subjects upon which this lab has done some very useful work. In fact, it is regarded as the leader in research on alcohol fuels.

The report of the committee says that it anticipates that a major portion of this research on alcohol fuels can be done with laboratory space, equipment, and a core of scientific expertise already available at the Northern Regional Research Center of Peoria.

I was very pleased that the committee recognized the center's expertise in this area, but I am perplexed about the meaning of the phrase "a major portion." Can the managers clarify that expression?

Is there any intention as to what proportion of this research and of the $2 million would be assigned to Peoria?

Mr. EAGLETON. If I may respond to my colleague from Illinois, although I cannot give a precise arithmetical definition of "major portion," that we had in mind. The alcohol fuels money I might add, was included at the suggestion of the Senator from Indiana (Mr. BAYH), who has taken the lead in this matter. He felt that not, all but a substantial portion of the $2 million would be done through that Northern Regional Research Center at Peoria, Ill.

Let me elaborate a little further, in order to tidy up this debate.

This account to which the Senator from Illinois is referring is not the only item on the bill on the subject of alcohol fuels. I direct the Senator's attention to page 23 of the committee report. Under "Cooperative State Research Service," we set forth $2 million to implement a competitive grant program on alcohol fuels for colleges and universities, in accordance with section 1419 of the 1977 farm bill.

Finally, to wrap it up and to show once again that the committee, through the leadership of Senator BAYH, is keenly interested in this area, I direct the attention of the Senator from Illinois to page 87 of the report. There he will find the item "National Alcohol Fuels Commission" and an appropriation of $1.5 million. This commission is to be made up of various Members of Congress and members of the public, and it will examine closely the potential for use of alcohol fuels and make policy recommendations to Congress not later than December 1979. This perhaps will be the most intense, specialized, and focused study on the question of alcohol fuels ever done in this country.

What I am trying to do is to weave together a cohesive picture, to show the Senator that we are not inattentive to this matter. Specifically with respect to Peoria, we want to retain the expertise that exists at the Peoria lab, but redirect it somewhat.

Mr. STEVENSON. I thank the Senator for that clarification.

My concern is not confined to Peoria. As chairman of the Subcommittee on Science, Technology, and Space, I am concerned with science, technology, and basic agricultural research, and I have a strong concern at the moment that basic research for agriculture may be subordinated to research on alcohol as a fuel and that the research on alcohol fuels may be narrowly defined.

Mr. EAGLETON. Will the Senator give me some illustrations as to what he would like to see encompassed under a somewhat broader definition of "alcohol fuel"?

Mr. STEVENSON. The report language indicates that some of the research will be directed toward identifying crops with high Btu content and developing harvesting techniques. I am told that identi-

fying crops is not the real problem, that scientists already know what crops have a high Btu content. But the research should be focused on low-costs, energy-efficient, conversion techniques.

Are they intended to be included within the phrase "alcohol fuels"?

Mr. EAGLETON. Will the Senator please repeat that? My attention was diverted elsewhere.

Mr. STEVENSON. I am told that the identification of high Btu crops, which is mentioned in the committee's report, is not the real problem, that scientists already know which crops and plants have a high Btu content. I am told that the research should be focused not on the identification of the plants as much as it should be on low-cost, energy-efficient conversion techniques—in other words, the extraction of the energy from the plants which are already identified.

Would the development of those techniques be within the meaning of this phrase?

Mr. EAGLETON. I think it certainly would. I believe that by the nature of this exchange, we will expand upon what the Senator is correct in pointing out—the apparently narrow, precise words on page 24 of the report.

Mr. STEVENSON. I thank the Senator again and ask also of him:

The report refers to utilization of forest products. Does the committee have any intention as to where research on forest products would be conducted and is the reference to forest products intended to exclude research on other agricultural sources of fuel?

Mr. EAGLETON. If the Senator could give me an illustration or two of what he is driving at perhaps we could agree.

Mr. STEVENSON. The report refers to research on utilization of forest products for alcohol. Other agricultural products can be used to produce alcohols. My question is twofold. Is there any intention of excluding other plants from this research?

Mr. EAGLETON. No.

Mr. STEVENSON. The second part then: Is there any intention on the part of the committee to locate that research on utilization for forest products at one lab or another?

Mr. EAGLETON. No; we did not intend to exclude other agricultural or other products related to forestry, and we did not intend to stipulate one lab or another, but we did place emphasis on Peoria.

Mr. STEVENSON. Then may I ask my good friend one more question? I understand that alcohol fuels research would produce information on hydrocarbons and chemical feedstocks. It would be unfortunate if alcohol fuels research were so narrowly construed that the research program could not include these related areas on hydrocarbons and chemical feedstocks. Is there any intention to exclude those related fields of research?

Mr. EAGLETON. No; there is no intention to exclude those related fields of research. May I say that I think I can speak for Senator BAYH in this regard. He thinks that alcohol fuel research has a bright potential in America. He wants to see it researched and tested from a wide range of possible approaches and perspectives, and I know he would fully agree, as do I now on his behalf, with the points that are well taken by the Senator from Illinois.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. EAGLETON. I yield to the Senator from Illinois 5 minutes on my side of the amendment.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 5 additional minutes.

Mr. STEVENSON. Mr. President, I thank the distinguished Senator from Missouri for the 5 minutes. I also thank him for clarifying the intent of the committee.

While the action of the committee would clearly terminate some research now loosely called research for industrial uses of farm products, it appears as a result of this colloquy that the inclusion of additional funds for alcohol fuels will pick up some of the research that is now conducted in that area and that, as the Senator indicated, not all but substantially all of his alcohol fuels research would be maintained or conducted at Peoria so as not to disband, dissipate, or waste an extremely important national resource.

With that clarification and my gratitude to the Senator——

Mr. EAGLETON. If the Senator will yield before he concludes his remarks, may I suggest this to the Senator from Illinois? This will be helpful to me. I ask that he might give us some additional views of his for inclusion in the statement of the manager's of the conference report to broaden what may have been the overly narrow definitions that he has pointed to on page 24 of the report. Then we can be precise while broadening the scope of this kind of research. I think his point is well taken.

Mr. STEVENSON. I accept that offer with enthusiasm and assume that there will be some accommodation of differences between the two bodies on industrial uses. With this colloquy and the invitation from the distinguished manager of the bill, Mr. President, I with draw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

EXHIBIT 1

UNIQUE PRODUCTS
FOR BETTER HEALTH

July 21, 1978.

Dr. WILLIAM DOANE,
U.S. Department of Agriculture, Northern Regional Research Center, Peoria, Ill.

DEAR DR. DOANE: I have enclosed with this letter some copies of literature explaining the new Spenco Absorption-Flakes. These have application in the ostomy care field, as well as the general incontinent field.

We are doing quite a bit of further research into the medical uses of the copolymers your department developed for absorption of fluids. I am highly optimistic that we may literally change the way medicine treats opened wounds and ulcers of the skin. I hope to present medical papers on this subject in 1979, and I will keep you posted as we make progress.

I want to personally thank you for the tremendous contribution you and your associates have made to the field of medical care through the development of your absorption copolymers. We have just begun to tap the basic research you so generously gave to our country. I am speaking conservatively, when I say that I feel this development may literally be worth the Nobel Prize someday. I am only jealous of you in that I wish I could say I had done the basic research because I think it will lead in the years ahead to great benefits for mankind in the medical field, not just in the agricultural field—which you may have originally been working with.

If I can help you in any way, please let me know. I'm looking forward to meeting you personally in the near future.

Sincerely,

WAYMAN SPENCE, MD.
President.

Mr. BENTSEN. Mr. President, I wish to make a unanimous-consent request.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BENTSEN. Will the Senator yield for a unanimous-consent request?

Mr. DOLE. I yield to the Senator.

Mr. BENTSEN. I ask unanimous consent that a member of my staff, Mr. Marty Clayton, be accorded the privilege of the floor during consideration of the appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1631

(Purpose: To provide $3,500,000 to the Animal and Plant Health Inspection Service for the eradication of cattle scabies)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes unprinted amendment numbered 1631:

On page 8, lines 10 and 11, strike out "$228,150,000 and insert in lieu thereof "$231,150,000".

Mr. DOLE. Mr. President, I shall take just about 1 or 2 minutes on this amendment.

Mr. President, the amendment would provide an additional $3 million for the Animal and Plant Health Inspection Service to carry out a program for the eradication of cattle scabies.

The incidence of scabies, according to our staff research, has risen dramatically in the past 2 years and has now become a major concern of the cattle industry. Six States which had previously been free of the disease for 10 to 20 years experienced outbreaks during fiscal year 1978. There are now scabies infestations in 15 States, and direct losses could approach $60 to $80 million annually, according to some estimates, within the next year or two if the disease is left unchecked.

The cattle industry has requested Federal involvement in a full-scale eradication program. The technical expertise already exists in the Animal and Plant Health Inspection Service, which has carried out many successful animal disease eradication programs over the years. No further studies or plans are needed, as provided by the Senate bill.

Mr. President, the amendment will permit APHIS to get on with the job of eradicating scabies from the cattle population of the United States.

Mr. President, I have discussed this particular amendment. I understand it

is not supported by the committee, and I am prepared to accept a voice vote.

Then I shall have one other amendment I can dispose of just as quickly.

Mr. EAGLETON. Mr. President, both on behalf of Senator BELLMON and myself we do respectfully disagree with Senator DOLE.

Mr. President, I am opposed to this amendment and support the committee position to provide funds for study of the eradication of cattle scabies at this time.

We have been informed by the Animal and Plant Health Inspection Service that although an eradication program is possible, it would be quite difficult to obtain the full cooperation of the cattle industry. Cattle in feedlots that have scabies need to be treated by "dipping." Apparently, this causes the disruption in their normal feeding and weightgain schedule. Accordingly, APHIS expects that it would be very difficult to obtain the needed cooperation in order to execute an eradication program effectively.

If some way could be found to insure cooperation so that eradication was possible, then a program of this sort might very well make sense. But at this time, including these funds in the bill which were not asked for in the budget request is inadvisable.

I urge the defeat of this amendment.

Mr. DOLE. I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas. (Putting the question.)

The noes appear to have it. The noes have it.

The amendment was rejected.

UP AMENDMENT NO. 1632

(Purpose: To provide a $3,000,000 for grasshopper control)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas Mr. DOLE (for himself, Mr. ZORINSKY, and Mr. DANFORTH) proposes unprinted amendment numbered 1632:

On page 8, lines 10 and 11, strike out "$228,150,000" and insert in lieu thereof "$231,150,000 of which $3,000,000 shall be for grasshopper control and other purposes,".

Mr. DOLE. Mr. President, the purpose of my amendment can be stated very simply: It is to provide $3 million to the Department of Agriculture for an expanded program of grasshopper control during the spring of 1979.

These additional funds are needed to combat a grasshopper infestation of major proportions that is now attacking nine States in the Great Plains region. Grasshopper populations that normally range from 3 to 10 per square yard, are now averaging 20 to 30 per square yard in many areas; in some cases even more than that.

Apparently the grasshoppers out in the Midwest do not know about our budget procedure and the appropriations process and they did not show up for the hearings. But they have now shown up in about 11 States throughout the Midwest, and we had a great infestation in my State and the States of Missouri, Oklahoma, Idaho, the Dakotas, Wyoming, Colorado, and Nebraska. There is a great deal of interest in this amendment.

I see the distinguished Senator from Nebraska now in the Chamber.

The full extent of crop damage has not yet been determined, but it is certain to reach the tens of millions of dollars. Damage caused by this infestation exceeds anything we have seen in recent decades, including the hopper outbreak of 1958.

More than 11 million acres of cropland are now infested principally in the States of Colorado, Iowa, Kansas, Nebraska, Oklahoma, Missouri, North Dakota, South Dakota, and Wyoming. Infested crops include alfalfa, flax, soybeans, corn, milo, and sugar beets.

Unfortunately, it is too late in the season for an expanded Federal grasshopper control program to have much effect this year. The existing program, which is operated by USDA's Animal and Plant Health Inspection Service (APHIS), involves less than 1 miliion acres of rangeland. Bv the time the program could be expanded into croplands, most of the damage would already have occurred.

Moreover, pesticides are far less effective this late in the season because the hoppers are mature, and because the leafy ground cover stops the pesticides from getting on the ground where hoppers breed.

It is too late for the Federal Government to take any further action this year. But it is not too late to provide for an expanded program next spring.

I might add that the winter wheat crop is just coming on and we can have a great impact in that area.

The Department of Agriculture predicts that we will have a major grasshopper infestation next summer unless massive control measures are undertaken next spring, soon after the hoppers begin to hatch. I might say to those Senators who have not yet experienced the grasshopper boom, they do not give any advance notice, they do not stay within any one State. They are spreading, and I would guess by next spring they will be in nearly every State.

My amendment provides an additional $3 million so that the Department of Agriculture may operate its grasshopper program not only on rangelands but also on 3 to 4 million acres of croplands where hoppers have laid their eggs.

We are not saying they have to spend the money. We hope they do not have to spend the money, but it would make that much additional money available.

An expanded program is needed next spring, because a major infestation will occur unless timely and coordinated control measures are taken. Greater involvement by the Department of Agriculture will make possible a coordinated control strategy and provide farmers and local governments with financial and technical assistance.

Greater involvement by the Department of Agriculture will mean that pesticides are used more effectively, and with more restraint.

My amendment adds $3 million, because $3 million represents the maximum Federal cost of a control program available to farmers in all affected areas. It provides enough funding for two separate treatments on 4 to 5 million acres of infested cropland.

Mr. President, I call your attention to the fact that my amendment does not require USDA to spend $3 million. It simply makes this money available on a cost-sharing basis to help farmers control the infestation early in the season with a degree of coordination and in a manner that is ecologically sound.

It makes more sense to spend a relatively small amount on preventive action now than to do nothing and wind up paying far more money on crop disaster payments next summer.

Mr. EAGLETON. Mr. President, I think Senator DOLE raises a very, very important subject matter. I realize that the grasshopper problem is a significant one which operates in nine States affecting many different crops. Among those nine States, I might add, obviously is the State of Kansas. I believe it is a problem in part of Oklahoma; it is a problem in a portion of Missouri, and perhaps in other States reflected by Senators here on the floor. The Department of Agriculture has told us that they have no way of knowing what the cropland grasshopper population will be in 1979, and further, that this year's problem was quite abnormal, being the first large grasshopper outbreak in 20 years. Of course, nothing we do in this bill could help the problem this year. We are talking about spending authority that commences October 1.

The bill before the Senate does include funds for survey work and reporting to farmers of population buildups of grasshoppers as they occur. However, there are no funds for a control program during fiscal year 1979.

One of the big problems is determining what next year's grasshopper problem will actually be. According to the Department of Agriculture, the grasshopper population is likely to return to normal, and under those circumstances, farmers can easily handle the problem. I have been advised that this depends to great extent on the weather conditions, and other factors not under our control.

But I, like this Senator from Kansas, am concerned about the need for action against the contingency that the grasshopper population does not return to normal. In such a case, consideration should be given to a program for control on croplands. I recognize that there is a potential problem here with Federal participation in routine farm control of insects, and a potential problem with agreements made over 25 years ago to discontinue cropland treatments.

Notwithstanding all of the potential problems, this is a matter that needs to be examined. Accordingly—I would like to see if the Senator from Kansas might consider this proposition—I would propose, say, an amount of $5 million in the animal and plant health inspection

service contingency fund for grasshopper control, with such funding to be available only after a program is formulated and the appropriate congressional committees are notified.

I would expect that any such program would be done on a shared-cost basis similar to the rangeland grasshopper control programs that the Department has operated. Under these programs, the States and the landowners each contribute one-third with USDA providing the remainder of the cost.

In effect, this $5 million provides for $15 million of control effort. Mr. President, I do not know if this is enough or too much. By taking this action today we provide the potential for a program, which could be implemented if the details are worked out, and if it is needed. Should additional efforts be required, once we know the extent of the problem and the outlines of a specific program solution, I would be very willing to examine possible supplementals.

Does the proposal that I have roughly outlined excite any interest on behalf of the Senator from Kansas?

Mr. DOLE. I might say I think it is exactly in accordance with my thinking and, I believe, the thinking of the distinguished Senator from Nebraska. It would be cost shared. It would apply to cropland just as the present program applies to rangeland. We hope we do not use $1 of it. We hope this is an abnormal year, and I would certainly support either that modification or however the Senator wishes, to substitute or whatever.

UP AMENDMENT NO. 1632, AS MODIFIED

Mr. President, I ask unanimous consent that the amendment be modified with the modification of the distinguished Senator from Missouri (Mr. EAGLETON).

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 8, line 10, strike out "$228,150,000" and insert in lieu thereof "$233,150,000".

On page 8, line 13, strike out "$3,000,000" and insert in lieu thereof "$8,000,000".

On page 8, line 15, after the word "conditions" insert ": *Provided*, That $5,000,000 of this amount shall be available for control of grasshoppers only after notification is provided to the Committees on Appropriations of the Congress;".

Mr. DANFORTH. Mr. President, I rise in support of the amendment offered by my colleague from Kansas. While I am firmly opposed to any unnecessary increases in Federal spending—as evidenced by my cosponsorship of various proposals to reduce the fat that surely exists in every Federal program—I am sensitive to those situations where there is a real need for Federal assistance. The grasshopper infestation that is sweeping throughout the Great Plains is such a case.

More than 11 million acres of cropland in Colorado, Iowa, Missouri, Kansas, Nebraska, Oklahoma, Wyoming, North Dakota, and South Dakota are now being attacked by uncommonly large swarms of grasshoppers. While no official estimates have been made yet, it is certain that the infestation will result in tens of millions of dollars worth of damage to this year's alfalfa, soybean, corn, and milo crops. Unfortunately, there is nothing that can be done to cut those losses this year. The farmer, the consumer, the Federal Government, and the taxpayer will have to suffer the consequences of the grasshopper infestation in the form of reduced yields, lower profits, higher food prices, and increased Federal disaster payments.

There is something, however, which we can do right now to help avoid what USDA believes will be a major grasshopper infestation next summer. We can make available for fiscal year 1979 an extra $3 million for a cost-sharing control program that will enable farmers and ranchers to protect 4 to 5 million acres of cropland from ravaging grasshoppers. That is a $3-million investment—a little over one/one hundredth of 1 percent of a $23-billion budget—that will save the U.S. Treasury four to five times that amount in disaster payments alone during the next fiscal year. I think those figures should speak very loudly to my colleagues who are really intent on saving the taxpayer money and at the same time maintaining the capability of the Federal Government to step in and help avert a natural disaster.

It goes against my grain to stand up and ask for more money than what the Appropriations Committee, under the guidance of my able friend, Senator EAGLETON, has seen fit to provide. I believe, however, that the modest amount that I request for the expansion of the grasshopper control program will reap large returns in the future if we only have the foresight to act now.

Mr. EAGLETON. I yield such time as the Senator from Nebraska may desire.

Mr. ZORINSKY. Mr. President, I thank my distinguished friend, the Senator from Missouri.

I strongly support the amendment offered by my colleague from Kansas, Senator DOLE, and I am pleased to be a cosponsor of it, and I hope to be a cosponsor of the modification, the amendment as modified.

The grasshopper infestation of some of our Nation's most fertile farmland reached crisis proportions this summer. My colleague from Kansas has cited grasshopper populations of 20 to 30 per square yard in many areas. Some regions of my own State of Nebraska have suffered with populations of over 50 grasshoppers per square yard.

The economic damage inflicted by these pests has been severe. In parts of Nebraska entire fields of alfalfa have been devoured by swarms of hoppers. Preliminary estimates indicate crop value loss may total as much as $17 million in the most severely affected areas of Nebraska alone. Damage to fall-seeded wheat and to late-cut alfalfa may be as much as 15 to 20 percent. Corn, milo, and other feed crops may be reduced by 8 percent in parts of Nebraska.

Drought and low prices have plaqued the farmers of America's Corn and Wheat Belts for the past several years. This year brought an additional hardship: The worst grasshopper infestation in two decades.

The grasshoppers now are in the egg-laying stage in many parts of the Great Plains, and ground cover reduces the effectiveness of available pesticides. It is too late to help these afflicted areas. The damage for this year has been done. Now we can only lessen the financial aftereffects with USDA crop disaster payments and low-interest loans. That process is beginning. The Secretary of Agriculture recently announced that producers in five Nebraska counties are eligible for Farmers' Home Administration emergency loans because of damage to their crops by grasshoppers.

More importantly we can prevent the recurrence of this disaster, multiplied tenfold next spring. The USDA estimates that 4 to 5 million acres of croplands, in addition to the usual breeding grounds in range areas, will be infested with grasshopper eggs this spring. An expanded Federal cost-sharing program for both range and cropland is the logical antidote. The Animal and Plant Health Inspection Service of the USDA has the necessary facilities. It has the statutory authority. APHIS needs only the funding we now can supply to avert another farm disaster next year.

The amendment Senator DOLE and I offer together with the modified amendment, would give APHIS adequate funding to accomplish this goal. The amendment would make available $5 million to combat the grasshopper emergency on a cost-sharing basis. Two-thirds of the cost would be borne by the Federal Government and the States, one third by the individual rancher or farmer. The expanded program will allow APHIS to treat not only rangeland as has been the practice since the 1930's, but also critical areas of cropland.

Under normal circumstances such action would be unnecessary. But we are faced this year with an extraordinary crisis; 2 years of drought have increased the hazard of grasshoppers. The more potent and residual pesticides used in the past are no longer available to our farmers. The Environmental Protection Agency has prohibited their use, which can be hazardous to the environment and to human health.

The EPA restrictions have tied our hands. The most cost-effective and sure remedy is unavailable. We must pursue the only other responsible course. A repetition of this summer's grasshopper onslaught is unacceptable. To prevent future crop damage and resulting high disaster payments, a coordinated, cost-share, spraying program must be funded now.

I thank the Senator from Missouri for the time allotted me.

Mr. DOLE. I ask unanimous consent that the name of the distinguished Senator from Nebraska (Mr. ZORINSKY) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of my time on the amendment.

Mr. DOLE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. Mr. President, I yield to the Senator from Rhode Island for a unanimous-consent request.

Mr. HELMS. Mr. President, I ask unanimous consent that Mrs. Cora Peterson and Mr. Peter Harris of my staff be accorded the privilege of the floor for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1633

(Purpose: To provide funds for carrying out animal health and disease research programs authorized by sections 1433 and 1434 of the Food and Agriculture Act of 1977)

Mr. MELCHER. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) for himself, Mrs. ALLEN, Mr. CLARK, Mr. HODGES, Mr. HANSEN, Mr. MCGOVERN, Mr. WALLOP, Mr. PAUL G. HATFIELD, Mr. HATCH, Mr. ZORINSKY, Mr. CURTIS, Mr. NELSON, Mr. GOLDWATER, Mr. STONE, Mr. STAFFORD, Mr. BENTSEN, Mr. TOWER, Mr. CHURCH, Mr. MCCLURE, Mr. LEAHY, Mr. DECONCINI, Mr. EASTLAND, Mr. WILLIAMS, Mr. BIDEN, Mr. GRAVEL, Mr. MOYNIHAN, Mr. LAXALT, and Mr. DOMENICI proposes an unprinted amendment numbered 1633.

Mr. MELCHER. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 23, strike out "$37,398,000" and insert "$57,398,000".

On page 13, after the semicolon in line 3, insert the following: "$15,000,000 for the support of animal health and disease research programs authorized by section 1433 of Public Law 95–113; $5,000,000 for the support of research on specific national or regional animal health or disease problems authorized by section 1434 of Public Law 95–113;".

Mr. MELCHER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BELLMON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MELCHER. I am delighted.

Mr. BELLMON. I ask unanimous consent that Michael Shorr of Senator JAVITS' staff have floor privileges during the debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, almost a score of years ago it became apparent that the total of our health research could be better utilized if the facilities and the opportunities available at veterinary colleges and agricultural experiment stations would have adequate funding for animal research in their veterinary research laboratories. In a variety of ways Congress has funded the broad field of health research—through the National Institutes of Health, the Animal Research Service, the Animal and Plant Health Inspection Service, and other methods. We have spent billions of dollars in this process. It is difficult to measure cost-effectiveness in basic health research. Our quest continues and we have consistently assigned high priority for this work.

The types of research that are involved embrace the whole broad spectrum: from basic research in chemistry, biology, virology, bacteriology, study of molds, funguses, and insects, experimentation—humanely—using laboratory animals, and the collection of statistics to discover facts in epidemiology. The United States has assumed world leadership in medicine because of this research coupled with modern engineering, thorough understanding, and application of physics. All of this has been American ingenuity intertwining of knowledge to prevent, cure or ease diseases. It has not always been that way. European and British Isles knowledge and research in medicine for decades overshadowed American capabilities.

But that work in the old or new countries has had notable breakthroughs in our understanding and application of medicine where a combination of animal and human medicine were addressed in the proper relationsnip of the various species of animals, including man, that populate our planet. The long line of discoveries of disease control—cure or prevention—where medical findings made through animal research, then applied to the human species, reads like a litany of marvelous accomplishments. Pasteur's development of a vaccine for rabies; Jenner's use of cowpox virus to immunize people against smallpox; pioneer work by Bruce and Bangs leading to the identification of Brucella as the cause of brucellosis in both animals and man; the brilliant findings of Budd, Gaffky, and Salmon to identify salmonella organisms as the cause of several diseases in animal and man; Kilborne's discovery that the contagious spread of the dreaded Texas fever of cattle was by a tick vector opened the scientific eyes of the world that the transmission of malaria and yellow fever was by mosquitoes; all of these developments have dramatically intertwined the knowledge and advancement of medicine of animals and man.

But these are only a few of the legendary medical breakthroughs that have made modern medicine what it is today. The findings that I briefly described could be documented with hundreds of additional examples where the knowledge and understanding of one species of animals regarding disease has helped to understand disease in other species. The patient work of medical research continues in thousands of laboratories which depend upon the ingeniousness and thoroughness of the scientist's work for successful results.

Each of us could list a dozen or more disease problems that we are anxious to see alleviated. Despite the marvelous accomplishments of the past, we are humbled when we think of the yet unsolved riddles of cure or prevention of: cancer, in its various forms; arthritis; diabetes; muscular dystrophy; nutritional deficiencies; and scores of others demand our attention.

Throughout recorded history, man has grappled with disease. One can assume that the common cold, defined by Webster as "a bodily disorder, popularly associated with chilling" was first inflicted upon Adam and Eve soon after they were dispossessed unclothed from the Garden of Eden; at least, all of their descendants—including the present occupants of Earth—are afflicted with the susceptibility to nasal discharge, sneezing and depression so loosely described as "a cold."

Our nomenclature of diseases often points to the ancient recognition and description of a particular ailment. Consider "influenza." This term correctly describes a disease that is acute, highly contagious, and is caused by a number of different viruses causing various serious diseases. But the word itself, "influenza," is derived from Medieval Latin when the scientific world believed that epidemics were due to the influence of the stars.

Veterinary medicine has its oddities in nomenclature of diseases, too. "Distemper," the title of specific respiratory diseases in dogs and cats, is also commonly used in referring to the respiratory diseases in horses and other species. Yet all have different causative agents and there are different characteristics and pathologies of the diseases in different species. The word itself is used to indicate "bad humor" which, in turn, traces back to ancient times when the Greeks identified any disfunction of the body due to disease as a change in fluids or "humors" of the body, such as the changes in blood or lymph within the body. A respiratory debilitating contagious disease often fatal, of cattle is graphically described as "shipping fever."

I have mentioned these few respiratory diseases to draw your attention to a few respiratory diseases of animals and man that are highly contagious and difficult to cure. An old saw relates of a doctor advising his patient, who was afflicted with a bad cold, to go out in the wet snow to get thoroughly wet and tired so he would develop pneumonia, which the doctor assured him he could cure. It reminds us that the specific cure or prevention of colds still escapes us. For humans we have had some success in developing immunizations against several strains of flu as is also the case with successful immunization of several species of animals to prevent distemper.

When and if we have a better understanding of any of these particular respiratory diseases—in any of these species—we shall be better able to treat respiratory diseases in the other species. It should be obvious that a breakthrough on man or on animals in just this one limited field will likely benefit other species.

The basis of this amendment to implement for the first time the Animal Health Research Act is a 50/50 cost-sharing to augment and enhance medical research in facilities that are now underfunded.

We have carefully documented that prior to both times that Congress has overwhelmingly passed Animal Health Research Act and authorized $46 million per year on a 50–50 Federal-State cost sharing as a modest sum to carry out its purpose.

Our amendment seeks only $20 million for the first year of implementation of the program. You will naturally be concerned during this period of budgetary restraints as to whether this money is really needed. You may ask, "Why are not we doing enough through programs already funded in the bill before us?"

The proper answer to that question is that animal research work accomplished through those two groups, Animal Research Service, Animal and Plant Health Inspection Service, which is principally done at Beltsville, Ames, and other U.S. Department of Agriculture facilities, should not be discounted nor criticized. But their work, as well as the work of other medical researchers, has been greatly expanded and enhanced with work that is done at non-Federal institutions throughout the various States.

If my memory is correct, pioneer work on swine erysipelas control occurred many decades ago at an agricultural experiment station in North Dakota. Hadleigh Marsh, at the Veterinary Research Laboratory at Montana State University, patiently but brilliantly delved into the diseases of sheep; swine cholera work at Ames, Iowa, at my alma mater, Iowa State University; dairy work at the University of Minnesota including Fenstermacher's work with a number of the diseases affecting both domestic and wild animals; Cornell and dog diseases; I could go on, but the proof of the value of these efforts and the contribution made at these non-Federal institutions is neither debated nor questioned among medical researchers.

You could logically ask, "How do they get their money?" My answer is that for 15 years States have had an increasingly difficult time funding not only their educational but also their research facilities. That has resulted in facilities and opportunities being underused and understaffed. To correct this is the purpose of the bill, with matching funds for selected research programs approved in a federally coordinated manner.

We will do better in our entire effort on animal research and we will get more mileage—in fact, twice as much—out of every Federal buck invested.

The argument may be offered during times of inflation, high unemployment, weakness of the dollar and Federal deficits, "Why consider this amount?" Read the letters of knowledgeable advocates of the bill.

The National Milk Producers Federation, in asking for approval of this amendment, states:

> Several herd health problems need attention * * * none cause greater loss than mastitis * * *. The annual loss runs into the hundreds of millions of dollars, resulting in increased production costs and higher consumer prices.

The National Cattlemen's Association points out that:

> The largest economic losses in cattle production today are due to disease and animal health related disorders * * * these losses clearly deny the consumer a larger supply of beef.

These kinds of losses are draining us annually and add up to the $4 billion annual loss in poultry and livestock that is so economically damaging to the producers and, at the same time, is also factored into the consumers' costs and directly contributory to inflation.

But there is even more than these values benefiting medical research and in its broadest scope benefiting human health.

And it goes beyond the economic values I have just briefly described to a question of humaneness.

The Animal Health Research Act specifically calls for improved "methods of controlling the births of predators and other animals." It is because of this that I direct attention to the letter of August 8 that all of you have received from the Society for Animal Protective Legislation, subscribed to by the Defenders of Wildlife, the Fund for Animals, Friends of the Earth, and the Washington Humane Society. We have it almost within our grasp to provide for humane methods of controlling predators, decreasing the population of unwanted and uncared-for dogs and cats. All of us who have dealt with either problem can attest to the need for humane improvements of control. We who are in sheep producing areas know that work in coyote depradation is imperative. Stray dogs and cats in almost all communities are a drain financially, a public health problem and humane control through lower birth rates is in my judgment a necessary and prime goal.

Then, there is the vast field of nutrition. In many respects I believe we have made better progress in the nutrition of animals than we have in the nutrition of humans.

Veterinarians trained in medicine have for the past several decades found that unless they understood nutrition and applied sound nutrition they had left out a big part of good application of medicine. It is a vital part in health research in both animals and man. Because of the shorter life spans, animal nutrition has more easily lent itself to experimentation, with dramatic results to prove nutritional values.

Pasteur began his life's work of brilliant accomplishments by providing the French winemakers a knowledge of the fermentation process that would result in a controlled safe method for the great winemaking industry of France. It was an economic problem. Pasteur moved on from the knowledge of fermentation and an understanding of yeasts and molds in relationship to temperature to apply to other problems connected with man's health. His genius led Pasteur into contributions of useful knowledge on numerous diseases of animals and man.

The path I ask you to follow today in approval of the amendment is a continuation of the same path Pasteur trod, to further advancement of knowledge through a basic research; to permit the use of the knowledge in basic research to be applied to animal and man; and to lead us to the control of diseases in animals and man that are not now controlled; to lead us to apply to the understanding of nutrition and its relationship to animals and man in preventing or curing diseases; to provide us with the understanding of better application of methods to advance the public health.

It is a path you shall not want to shirk.

I can assure you that you are following that path in a responsible and conscientious way with approval of this amendment. I can assure you that there is no doubt—none in the least—that the vote you cast—funding the Animal Health Research Act—will be a vote that benefits all mankind through the work that willl be accomplished.

Mr. President, I reserve the remainder of my time.

● Mr. DOLE. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Montana (Mr. MELCHER).

This amendment would add $20 million to fund the animal health research program—a cost sharing program in which the Department of Agriculture and States or producer groups equally share the cost of research projects carried out in the Nation's veterinary colleges and veterinary research laboratories.

A $20 million Federal investment will raise $40 million in research funds to combat diseases which annually cost the livestock and poultry industry $4 billion in losses. These staggering losses are passed on to the Nation's consumers in the form of higher prices for meat and meat products.

Research on animal diseases is costly because experimental animals cannot be salvaged. However, such research is absolutely necessary if our population is to be adequately nourished, and if we are to maintain world leadership in food production research. Twenty million dollars is a cheap enough price to pay for better means of treating and preventing livestock and poultry diseases.●

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, as I understand it, this amendment would add $15 million under a $25 million authorization in section 1433 of last year's farm bill for allocation to veterinary schools on a formula basis, and would be used for animal health and disease research, publishing results, administration and equipment and supply purchase. In addition, the amendment would provide $5 million out of a $15 million authorization in last year's farm bill for research on specific national or regional animal health or disease problems.

Mr. President, I am opposed to this amendment. No budget request was submitted for this, and the authorization was passed less than 1 year ago. Before a large sum of this nature is added for a new grant program, I would like the op-

portunity to have a detailed hearing with the Department and find out more about what they are doing in the area of animal health and determine in detail to what extent this authorization is needed.

I can tell you this: States are currently using part of their Hatch Act grant funds—about $5 million in 1978—for research on this same subject area. They could redirect more of the Hatch Act funding into this area if there are problems that are not currently being addressed. In addition to the grant funds, the Department of Agriculture has a very large in-house research program on animal health and diseases, amounting to some $42 million. This involves work on brucellosis, respiratory and intestinal diseases of newborn animals, reproductive diseases, and various exotic diseases.

The Department of Agriculture advised the subcommittee that the $47 million already being spent on research in this area is sufficient to address the priority needs, and there is no compelling reason, no significant reason, to add more funds.

During the course of consideration of this bill, many attempts have been and will be made to add various items.

Let me make a few remarks on that. Mr. President, this will now be the first amendment that we will take to a rollcall vote. I hope my colleagues will bear with me for the purpose of my repeating just an item or two from my introductory remarks.

We had before our committee, Mr. President, letters or requests from 85 Members of the Senate seeking amendments to this bill. Not one Senator wrote us a letter asking us to cut anything. Eighty-five wrote to us to add more money. Some of these, I might add, Mr. President, are some of the most tightfisted conservative spenders in this august body. Their message was add, add, add. If you add up the 85 letters, it is some $900 million above the budget that they want.

This is the first vote. Senator MELCHER will say, "Well, I only want $20 million, leave the $880 million to some others."

Senator HATHAWAY is back there. He has one for $105 million. I am looking around. I do not think Senator TALMADGE is going to hit us with a heavy one. I hope not.

But I think probably, in this body, we could have 200 million dollars' worth of amendments. We might as well realize it and face up to it on this first one: If we "open 'er up" for the $20 million Melcher amendment, it will be difficult to exclude others. We will then have HATHAWAY'S $105 million amendment and then some other ones. A total of some $900 million is what my colleagues asked be added to this bill over the budget.

You know, there are a lot of nice things in those 85 letters. I am for most of them. Who is not for protecting animals?

Senator MELCHER went beyond the veterinarian field and health research on animals. He refers to the Washington, D.C. Animal Protective Society. They wrote us a tearjerking letter: Please put in $20 million—I guess they said—in the U.S. Department of Agriculture bill to protect wayward pets in the District of Columbia.

Mr. MELCHER. Will the Senator yield?

Mr. EAGLETON. I shall be through in a minute.

Is that not a dandy endorsement to have in the Senate Agriculture appropriations bill?

I think this is the amendment that will test whether we are going to be able to hold this budget. I can assure you of this, Mr. President, and this is no idle threat: If we take the Melcher $20 million and the Hathaway $105 million, we shall be right at the House level which is $400 million over the budget. I am certain that once we go to conference, Mr. WHITTEN over there will want us to take some of their higher figures in return for their taking some of our higher figures. If this bill gets up over $400 million over the budget, it is veto-certain; not veto-risk, not veto-if, not veto-maybe; it is veto-certain.

In fact, I might even recommend, myself, that the President veto it. There is just no earthly reason to take the lid off on this bill. We have been extremely generous insofar as research is concerned.

Hatch Act formula grant funds are made available for the kind of research that Senator MELCHER desires and already, $42 million is being spent on research in the area within the Agricultural Research Service.

I say that this is the time to draw the line. We may as well just test the will of the body.

I am pleased to yield to my colleague from Montana.

Mr. MELCHER. May I ask the distinguished subcommittee chairman if the figure I read on page 32 out of the report is correct, $178,520,000 recommended to be appropriated under Hatch Act funds?

Mr. EAGLETON. Let me get the report. What is the page?

Mr. MELCHER. Page 32, Cooperative State Research Services.

Mr. EAGLETON. The Hatch Act is a part of that. The Hatch Act grants involve $113,866,000 of that amount.

Mr. MELCHER. I thank the distinguished chairman. I note that $5 million out of the Hatch Act funds identified for cooperative State programs for research on animals is the most compelling argument that could be presented tonight on this Senate floor for the need to fund the animal health research program. We are asking for $20 million to be cost shared, 50–50. Mileage out of the Federal dollar, mind you; twice as much mileage.

I might point out to the Members of this body that if it is a question of the hearings to be held on an authorization act of an authorizing committee, to be held by a subcommittee of the Appropriations Committee, they should take the initiative. We took the initiative in the Agriculture Committees, both the House and the Senate, on two occasions. We passed this act authorizing $46 million, in almost the exact same language as presently in the law, in 1974. President Ford thought it should not be voted. He vetoed it with his first veto. He called me up to tell me he was sorry, John, he had to veto my bill. He thought it was a new program.

Animal health research is not a new program.

Mr. EAGLETON. May I interrupt the Senator?

Mr. MELCHER. Yes.

Mr. EAGLETON. I am notified that the Senator from Montana has used up his time. I do not care to constrain him. How much time does he desire of my time?

Mr. MELCHER. Five minutes.

Mr. EAGLETON. I yield 5 minutes to the Senator.

Mr. MELCHER. I thank the Senator very much.

Animal health research is as old as land-grant colleges are. But doing it on this basis is new and it is bad—50–50 matching. The States are not utilizing their laboratory facilities, they are not utilizing all the proper personnel they should have at those laboratories doing veterinary research nor at our veterinary colleges. This is a cost-effective, money-saving, positive way of getting some research done in a sensible way. That is the only thing new about it: It is more sensible, more practical, and more conscious of taxpayers' dollars.

Yes, the Washington Humane Society supports this amendment, as do all of the other animal protective groups that I know of. They are specifically interested not in $20 million; they are interested in $1 million out of the $20 million to be directed at research in controlling birth in predators and other animals. And their interest, and we should applaud them for it, because I welcome their support in controlling coyotes, is a humane way of controlling coyotes and a humane way of controlling stray cats and dogs. I do not care which mayor or which county you talk to, they have a problem that cost them untold millions of dollars throughout this country because of too many stray cats and dogs. It is a very sensible approach.

My distinguished friend from Missouri says that his priority needs will be met by other funds in this bill for this type of research. We have been through that for at least 7 years that I know of, pointing out that the priority needs are not quite met. The dairy people, the National Cattlemen's Association, the poultry people continually come to us and tell us of their problems and what they need in research, and it is not being met.

They offer, sometimes, industry money as part of the matching funds for the States, and the States would like to accept it, and they do. It is a common practice. Accepting that industry money for this type of research enhances medical research for animals and the part it plays in human health is also enhanced. They can do it through the States and this is the very mechanism to provide that.

Mr. President, I think on all cases, on all criteria, this amendment is not only meritorious, it is absolutely essential. I not only ask for a majority of votes on this amendment; it is good enough to get every vote, including every vote of

the Appropriations Committee, of which a great number are cosponsors of this amendment, and I hope before the night is out we have every vote.

Mr. EAGLETON. Mr. President, I will be brief and we will go to the vote.

It is not a good enough amendment to get my vote. Perhaps others, but certainly not mine.

Just to summarize, this is the one that may well determine, Mr. President, whether we are prudent spenders or budget busters. The time for posturing is over. The time for gamesmanship is over.

This amendment may set the trend of the others yet to come: $105 million, $50 million, or others. It will test whether we mean what we say when we go back home and announce that we are for controlling inflation, bringing the budget down, and are fiscally prudent.

We all give those pious speeches to the Kiwanis Club and the Rotary Club. The question is whether we will then come back and vote for every Senator's pet project, which on this bill total $900 million.

Over $5 million of Hatch Act funds. The States can spend Hatch money any way they want. They just decided it was only worth $5 million in their priorities.

That is not my fault. That is not Senator MELCHER's fault. That is, the States themselves on the local level do not relate this to being a top priority need.

There is another $42 million in the Agricultural Research Service budget, Mr. President, for animal health research, respiratory, intestinal diseases of newborn animals, reproduction, as well as various other exotic diseases of animals.

This budget is not lacking in funds in the areas to which the Senator addressed his attention.

Mr. MELCHER. The Senator has been so kind, would he yield just for one question?

Mr. EAGLETON. One question, and then we will vote.

Mr. MELCHER. Is the distinguished Senator prepared to offer an amendment this evening, during the course of the consideration of this bill, as a substitute for the 2 percent Roth amendment that was anticipated and would, indeed, strip this of $100 million?

Mr. EAGLETON. We have a couple of concoctions hidden within secreted briefcases to offer as possible substitutes for a 2 percent reduction amendment.

We have a lot of secret packages here that I am not even permitted to divulge to the CIA.

Mr. MELCHER. I thank the Senator and compliment him on being prepared for the uncertainties of guiding an appropriation bill through this process.

Mr. EAGLETON. But we will offer no amendment to cut the Melcher amendment, or the Hathaway amendment. Once we vote, we lock those in.

Senator BELLMON and I will have to do a lot of razzle-dazzle and cut some other programs we have already put in this bill, including all these that other Senators are interested in.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to UP amendment No. 1633 offered by the Senator from Montana. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Delaware (Mr. BIDEN), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY), would vote yea.

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Delaware (Mr. ROTH), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The result was announced—yeas 68, nays 23, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—68

Allen	Hansen	Morgan
Anderson	Hart	Moynihan
Baker	Haskell	Nelson
Bartlett	Hatch	Nunn
Bayh	Hatfield, Mark O.	Packwood
Bentsen	Hatfield, Paul G.	Percy
Brooke	Hathaway	Riegle
Bumpers	Heinz	Sarbanes
Burdick	Hodges	Schmitt
Cannon	Hollings	Schweiker
Case	Jackson	Sparkman
Church	Johnston	Stafford
Clark	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Curtis	Mathias	Talmadge
DeConcini	Matsunaga	Thurmond
Dole	McClure	Tower
Domenici	McGovern	Weicker
Durkin	McIntyre	Williams
Eastland	Melcher	Young
Ford	Metzenbaum	Zorinsky
Goldwater		
Gravel		

NAYS—23

Bellmon	Garn	Muskie
Byrd, Harry F., Jr.	Glenn	Pearson
Byrd, Robert C.	Griffin	Pell
Chafee	Hayakawa	Proxmire
Chiles	Helms	Randolph
Danforth	Huddleston	Ribicoff
Eagleton	Kennedy	Sasser
	Lugar	Scott

NOT VOTING—9

Abourezk	Inouye	Roth
Biden	Javits	Stennis
Humphrey	Laxalt	Wallop

So Mr. MELCHER's amendment (No. UP 1633) was agreed to.

Mr. MELCHER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the chair.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize one of the two Senators there and have them yield to me?

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

AMENDMENT NO. 3439

(Purpose: To provide $200,000 to fund a National Academy of Science study to review the cotton dust standards promulgated by the Occupational Health and Safety Administration)

Mr. MORGAN. Mr. President, I call up amendment No. 3439 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) for himself, Mrs. ALLEN, and Mr. HELMS, proposes an amendment numbered 3439.

Mr. MORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 11, strike out "$337,791,000" and insert in lieu thereof "$337,991,000".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MORGAN. I yield to the majority leader.

The PRESIDING OFFICER. Will Senators please take their seats or retire to the cloakroom. The Senate is not in order. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time I consume not be charged against the Senator whose amendment is up.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I take the floor to ascertain the number of amendments that remain to be called up on this bill. Five amendments have been disposed of thus far with one rollcall vote. Will Senators please indicate if they have amendments. Mr. CURTIS, Mr. WEICKER, Mr. BELLMON, Mr. STEVENS, Mr. LUGAR. That is five. Mr. PELL, six; Mr. HATHAWAY, seven. Mr. MORGAN had one pending. Mr. LEAHY has one.

Mr. LEAHY. Mine can be dispensed with if I have about 3 or 4 minutes to speak on the matter.

Mr. ROBERT C. BYRD. All right. Mr. LEAHY has an amendment. That is eight.

Mr. PELL. Mine can be done in a 5-minute time limitation as far as I am concerned.

Mr. ROBERT C. BYRD. Let us see. I say to the Senator from Kentucky that the Senator from Rhode Island indicates he would be willing to proceed with a 10-minute time limitation on his amendment.

Mr. PELL. I had not yet had a chance to check with the Senator from Kentucky.

Mr. ROBERT C. BYRD. Check right now.

Mr. FORD. What is his amendment?

Mr. ROBERT C. BYRD. While the Senators are conferring in view of the fact we have nine amendments pending, now may I get a reading of how many Senators expect to ask for rollcall votes on their amendments.

Five rollcall votes.

Mr. FORD. May I ask the majority leader a question?

Mr. ROBERT C. BYRD. Yes.

Mr. FORD. How much time limit do we have on it?

Mr. ROBERT C. BYRD. Thirty minutes each equally divided.

Mr. FORD. Thirty minutes.

It is surprising how many amendments we get where we only have 15 minutes to a side. I understand the distinguished Senator from Rhode Island and what he is doing for his colleague because his colleague had endorsed other bills that would put the tobacco industry out of business. That is very, very important to us.

Mr. President, I ask unanimous consent that no time limit be given to the amendment by the distinguished Senator from Rhode Island.

Mr. ROBERT C. BYRD. I hope the Senator will not press that because I would be constrained to object. I see others who would, so I will not have to. I would not want to break the order.

Mr. FORD. Mr. President, let the Senator object to it then, and I understand why he is objecting, and if it is necessary, but I see other Senators here fighting for the life for their States, and I think that is just as important to Kentucky as d2 lands is to Alaska, and I know that there has been a lot of flipping and flopping around on the floor as to who is going to introduce this amendment. It all gets back on the so-called bootlegging bill and that will come up one of these days before long, too. If that is the way to play the game, I want you to know I am here ready to play it.

Mr. ROBERT C. BYRD. So there will not be a reduction on time on that amendment, Mr. President, I think we should have another rollcall tonight, and then if we could have someone immediately after that, or before we go out, lay down amendment so that in the morning we would have an amendment before the Senate on which we could start.

The Senator from North Carolina has an amendment now which he says—do I understand the Senator to say this probably will not require a rollcall vote?

The Senator from Maine is going to call up an amendment that will require a rollcall vote.

Mr. HATHAWAY. Yes, the Senator is correct.

Mr. STEVENS. What time are we coming in?

Mr. ROBERT C. BYRD. Nine o'clock tomorrow morning.

Who would lay down an amendment tonight for action in the morning?

Mr. STEVENS. I will call mine up.

Mr. ROBERT C. BYRD. Very well.

There will be one more rollcall vote tonight. I thank the Senator from North Carolina.

Mr. FORD. Only one more. Point of information to the majority leader, only one more vote tonight?

Mr. ROBERT C. BYRD. One more rollcall vote tonight.

Mr. FORD. That would be on what amendment?

Mr. ROBERT C. BYRD. That would be on what?

Mr. FORD. Senator MORGAN's amendment?

Mr. ROBERT C. BYRD. Mr. HATHAWAY's if Mr. MORGAN does not ask for rollcall vote on his.

Mr. FORD. Would the leader advise the junior Senator from Kentucky how many times the amendment to the second degree can be filed to the amendment by the distinguished Senator from Rhode Island?

Mr. ROBERT C. BYRD. It depends on how much of his amendment is affected by the second degree amendment. It will leave room for another change, depending what the status is.

Mr. FORD. I say to the distinguished majority leader it could be several amendments and a long period of time consumed as it relates to the amendment by the distinguished Senator from Rhode Island. That is 30 minutes.

Mr. ROBERT C. BYRD. I am in no position to answer the question.

Mr. FORD. It could be if it is parliamentarily correct.

Mr. ROBERT C. BYRD. It is possible.

Mr. STEVENS. Let us take 5 minutes on mine.

Mr. FORD. It is possible depending on the circumstances of which I am acquainted in connection with it.

Mr. GRAVEL. May I advise the distinguished Senator?

Mr. ROBERT C. BYRD. May we proceed?

The PRESIDING OFFICER. The Senator from North Carolina seeks the floor.

Mr. MORGAN. My amendment would add only $200,000 to the budget for fiscal year 1979. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate is not in order. Senators, please refrain from conversation and give attention to the Senator from North Carolina, who has the floor.

The Senator from North Carolina.

Mr. MORGAN. Mr. President, today I offer an amendment to H.R. 13125, the agriculture, rural development, and related agencies appropriations bill for fiscal year 1979. My amendment would increase the appropriations for the Agricultural Research Service by $200,000 for fiscal year 1979.

The purpose of this increase would be to fund a study, to be conducted by the National Academy of Sciences, which would make determinations as to whether the record made in connection with the cotton dust standard promulgated by the Occupational Safety and Health Administration on June 23, 1978 (43 Federal Register 27350) establishes conclusively that the standards are the most appropriate means of assuring safe and healthful workplaces for cotton industry employees and are technologically and economically feasible.

In this amendment, I anticipate that the National Academy of Sciences will attempt to establish conclusively, first, that byssinosis can definitely be diagnosed; second, that it is possible to identify the incidence and prevalence of byssinosis or other respiratory diseases that are caused by exposure to cotton dust as opposed to other agents; third, that the incidence of respiratory disease is greater in each sector concerned by the standard as promulgated by OSHA and the standards are both technologically and economically feasible; fourth, that the standards as promulgated are cost-effective means of assuring safe and healthful workplaces for cotton industry employees; fifth, that the state of the art in pulmonary function testing is sufficiently developed to ascertain whether a 5-percent daily change in pulmonary function, as measured by industrial screening procedures specified by OSHA, is abnormal or evidence of a significant health problem; sixth, that it is possible to accurately measure a 5-percent change in pulmonary function using industrial screening procedures as depicted by the training requirements of the standards; seventh, that the number of medical and health professionals with skills in pulmonary function testing is sufficient to allow industrywide compliance with the standards' medical surveillance provisions; eighth, that a questionnaire typically used by the medical profession (such as the questionnaire required by the standards) is appropriate for industrial screening applications which may be administered by nonmedical personnel; and ninth, that the state of the art in dust measurement is sufficiently developed to permit accurate measurement of worker exposure to lint-free respirable dust.

Mr. President, the cotton dust standard promulgated by OSHA has great importance for thousands of workers in my home State, North Carolina, and for industry and workers over much of the Nation. The study which shall be conducted by the National Academy of Sciences will determine with independence and scientific integrity if the standard promulgated by OSHA serves the interests of these workers and the Nation.

Some of my colleagues will no doubt think that OSHA has prepared the standard it reached in June with independence and scientific integrity. We know that OSHA received over 500,000 pages of testimony and supporting documents. If some of my colleagues believe that to be the case, I simply say that OSHA is not at dispute here, the purpose of this amendment is to have another body assess what OSHA has done.

There are plenty of precedents for the action I bring today. The Congress has insisted many times in the past that the National Academy of Sciences review the action of another agency. In fact, there is $5 million in the bill before the Senate today to have the Academy review standards that are being promulgated by the Environmental Protection Agency.

Mr. President, I have had discussions with officials of the National Academy of Sciences concerning the capacity of this institution to perform such a study in a brief period of time. I have had assurances from the Academy that it can conduct such an evaluation.

In closing, I would like to stress again that the health and safety of the workers of the State of North Carolina are of utmost importance to me and the standards set by OSHA are of utmost importance to those workers. Also, I

would like to stress that this amendment is in no way designed to provide an opportunity for delay in the implementation of standards promulgated by OSHA. The workers of the Nation deserve to know, from an impartial body, that the standards are scientifically correct and that if implemented they can be reasonably enforced.

Mr. President, I yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I appreciate the distinguished Senator from North Carolina yielding to me.

Mr. President, as chairman of the Committee on Agriculture, Nutrition and Forestry, I fully support the amendment offered by the Senator from North Carolina.

This amendment would appropriate funds for an intensive study by the National Academy of Sciences with respect to cotton dust standards which were set forth by the Occupational Safety and Health Administration in June.

It will be the purpose of this study to untangle a bureaucratic regulatory mess which has confused the American textile industry and Government officials alike.

The problem is this: We are confronted here with another example of Federal regulators rushing in to lay down standards and requirements before all the facts are clearly established, and before the impact of the new regulations upon the affected industry have been taken into account.

With respect to the cotton dust standards, what we have are stringent regulations based upon arbitrary standards that not even various departments and agencies of the Federal Government can agree on.

Because these standards are arbitrary and because there is so much disagreement about them—in Government and in industry—it is imperative that we have a study such as that proposed today to arrive at and sort out the facts and to resolve this controversy in the best interests of everyone concerned.

For decades, cotton production, processing, and marketing have been the heart of the agricultural economy in many of the Southern and Western States.

I can personally attest to the importance of the cotton industry in my own State of Georgia. It is not only of great economic importance to many Georgia farmers, it also is vital to the jobs and the security of tens of thousands of Georgians who earn their living by working in the cotton textile and related industries.

Ever since I have served on the Agriculture Committee, Congress has consistently supported the cotton industry through the enactment of various pieces of legislation designed to maintain production and to develop and promote new uses for cotton, domestically and on the export market.

Despite this, however, the cotton industry is struggling for survival and farmers and workers in the industry are severely threatened.

Cotton consumption has declined by a third over the past 10 years alone. Competition with synthetic fibers has made segments of the cotton industry only marginally profitable.

Textile manufacturers in my own State, for example, already are experimenting with fabric blends that would contain even more polyester, and less cotton.

If our Government persists in pursuing policies which have the dual effect of forcing textile manufacturers to use less and less cotton and make enormous capital outlays to meet unwarranted or arbitrary Federal regulatory requirements, we will be turning over our domestic textile market to the foreign manufacturer.

And, when I talk about turning our domestic market for a vital American industry like textiles and apparels over to foreigners, I should add: What there is left of it, what already has not been turned over to low-wage imports.

What we are talking about, Mr. President, are American jobs. I am talking about jobs that the United States has been exporting in the textile and apparel industries by allowing imports from abroad to flood the domestic market at a time when the American industry is having to knuckle under the Federal regulatory requirements which cost billions of dollars.

As my colleagues know, there has been considerable controversy surrounding the OSHA regulations that are intended to establish firm cotton dust standards in mills.

These regulations would require workers to wear a facemask in areas where the presence of cotton dust is found to be above certain levels.

I have here to show the Senate the kind of mask, specified by OSHA, that workers would have to wear at their work station.

It is designed to act as a filter and keep cotton dust out of the worker's nostrils. I have put one of these masks on—and while I do not know how good a job it does in keeping out cotton dust—I do know it does a pretty good job of keeping out air.

After wearing the mask for only a few minutes, labored breathing is required and I can only imagine what the situation would be like in a full 8-hour day.

At any rate, I am hopeful that safe and feasible alternatives to resolving the cotton dust problem can be found. That is the purpose of the amendment of the Senator from North Carolina.

Also, I understand that the Secretary of Agriculture has called a meeting for next week to permit representatives of the industries involved to discuss all aspects of this difficult matter, including the far-reaching effects and foreseeable results of OSHA's standards and requirements.

The health of American workers must be protected in any industry wherever a threat is found.

But, in order to do so we must first arrive at a better understanding of the problem so remedies can be devised that are both environmentally effective and economically realistic.

In short, we need better information about the cotton dust problem. We need more information on what is the best way to attack this problem.

We do not yet have this information. That is what this amendment would seek to find. I strongly urge its adoption by the Senate.

One of the problems, of course, we have in the textile industry is breathing cotton dust creates what is known as the brown lung disease, byssinosis.

Unfortunately OSHA has approached the problem with a mask that looks like this. I ask that all Senators look at it. Now, I have several on my desk. If you will come over here, I will be happy to give you one of them and ask you to put it on as I am putting it on at the present time and it has not only the capacity of cutting out cotton dust but it also has the capacity of cutting out oxygen. And we think that is an overkill. So what we are asking the committee to do and I hope the committee will agree to it is ask the National Academy of Science to study this problem so we can come up with a remedy to remedy the problem that we are confronted with in the textile industry of breathing cotton dust that creates what is known as brown lung disease and at the same time do it in a reasonable manner that will not asphyxiate the people who work in the textile industry.

And the textile industry is one of the great important industries in our country. It is under dire problems——

The PRESIDING OFFICER (Mr. HART). Will the Senator suspend until we have order in the Senate. The Senator has a right to be heard. There is no order in the Senate. Senators take their seats or retire to the cloakroom.

Mr. TALMADGE. It is undergoing problems at the present time because we have imports from foreign countries that do not have OSHA, that do not have a minimum wage, do not have health regulations, and do not have any of the things that we maintain here in the United States. I hope the distinguished managers of the bill will agree to this amendment. It addresses itself to serious problems with minimum cost and I think it is desirable that we do so.

Mr. MORGAN. I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, the inhalation of cotton dust does create a serious health problem and there are varying approaches on how best to cope with this dilemma. I know the Senator from Georgia (Mr. TALMADGE) and the Senator from North Carolina (Mr. MORGAN) do not take lightly the respiratory illnesses that can be engendered by the constant inhalation of cotton dust. We do not know how to cope with it, what kind of safety standards are needed, et cetera. That and a lot of other things. Perhaps we will know more if we had a study of the kind that is contemplated by my two colleagues. So on behalf of myself and Senator BELLMON, who is briefly away from the Chamber, we are willing to accept the amendment of the Senator from North Carolina.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. MORGAN. I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back the question

is on the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, the first order of business tomorrow is going to be the Hathaway amendment. I ask for the yeas and nays on the Hathaway amendment.

The PRESIDING OFFICER. That would require unanimous consent.

Mr. EAGLETON. I ask unanimous consent that we can garner the yeas and nays on the Hathaway amendment when he calls up the amendment tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS and Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, this debate will not take long. This will be the last rollcall vote tonight.

Mr. STEVENS. I shall ask for the yeas and nays, and I ask that the time be limited to 5 minutes to each side.

The PRESIDING OFFICER. Will the Senator submit his amendment?

UP AMENDMENT NO. 1634

(Purpose: To delete $1.6 million from office of Secretary and departmental administration)

Mr. STEVENS. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes unprinted amendment numbered 1634.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 6, strike "$4,310,000" and insert in lieu thereof "$3,791,000".

On page 2, lines 16 and 17 strike out "for Public Participation, "$220,000;".

On page 2, line 17, strike "2,790,530" and insert in lieu thereof "2,340,530".

On page 2, line 18, strike "$1,844,650" and insert in lieu thereof "$1,550,650".

On page 2, line 22 strike "$7,921,170" and insert in lieu thereof "$7,721,170".

On page 2, line 23 strike "$18,647,000" and insert in lieu thereof "$17,483,000".

Mr. STEVENS. Mr. President, I ask for rollcall vote on this amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask that the time be limited to 5 minutes on each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, this is a very simple amendment.

It was brought to my attention because I am a member of the Governmental Affairs Committee. We had a reorganization submitted to us. It was estimated that it would cost $276,000 for fiscal 1979 if the plan was approved.

This amendment would delete $1,683,000 that the committee has allowed for the Office of the Secretary and for Department administration.

This amendment would approve the amount that was approved by the House of Representatives but delete the Senate add-ons.

The amount that has been requested for the reorganization that we were told would cost $276,000 has been covered by a budget request of $5.2 million in this year's budget.

The Office of Assistant Secretary in the Department of Agriculture has increased their staffing by 55 percent in 18 months, a 55-percent increase despite the reorganization. This would result in a 12½-percent reduction in the staff and as I say it would come down to the House level. It would leave a 43-percent increase in staffing allowance for this area of the Department of Agriculture.

Mr. President, this amendment would delete $1,683,000 from the committee allowance for the Office of the Secretary and for Departmental Administration. My amendment would reduce the Senate figures to those allowed by the House. Even with these reductions, the net increase for the Office of the Secretary and Departmental Administration would be 25 percent over the comparable allowance for the current fiscal year.

Last year the Secretary of Agriculture presented a reorganization proposal to the Committee on Governmental Affairs. The Senate report on the reorganization proposal (95–598) provided the estimate of an additional cost of $276,000 for fiscal 1979 if the plan were approved. Well, we approved the proposal and were rewarded with a budget request of $5.2 million over last year's appropriation for these two activities.

Mr. President, as noted in the House report, the staff of the Offices of Assistant Secretaries within the Department of Agriculture has increased by 55 percent in the last 18 months—a 55-percent increase in an administration committed to streamlining the Federal bureaucracy. The reduction of $219,000 my amendment seeks in this area would only result in a 12.5-percent reduction in this staff, leaving an increase of 43 percent which is a far higher rate of growth than any other agency that I know of.

I, personally, view this extraordinary increase in executive staff as an attempt by the Secretary of Agriculture to establish his own executive corps within the Department. This is a concept which many of us find disturbing in the President's proposed civil service reform package, and I believe that the recent actions by the Department of Agriculture in this area lend credence to our fears that such action could lead to further politicize Federal agencies.

The Senate committee also saw fit to establish a new office of public participation at a cost of $200,000. There is no House allowance for this office and my amendment would delete this new layer of bureaucracy. From the numbers of farmers who were in Washington earlier this year, it appears to me that there is little justification for a program to encourage more public participation in the operation of the Department.

This amendment would delete the Senate increase of $200,000 providing the House allowance of $7,721,170 which should be more than sufficient for the Department to responsibly fulfill the requirements placed on this office by Congress and general public for information relating to departmental programs.

Last, I would propose returning to the House allowance of $1,550,650 for the Office of Equal Opportunity within the Department.

Mr. President, the Senate committee allowance currently provides for an increase in the office of the Secretary and departmental administration of 35.7 percent—more than a one-third increase within the space of 1 year. No matter what the worth of any one program, it is exceedingly difficult to justify such an increase—and when this increase is just for administration I find it unconscionable. As I stated earlier, adoption of my amendment will still provide the department with more than a 25-percent increase in funds available for administration.

I would urge my colleagues to act favorably on this amendment.

Again I point out this is a rifle and not a shotgun. This is a deserving decrease in the requests of the Department because we were told it would cost only $276,000 and now the budget request is for $5.2 million to do the same thing.

I yield back the remainder of my time.

Mr. EAGLETON. Mr. President, indeed this is a rifle, not a shotgun. This is a single bullet designed to emasculate the Secretary of Agriculture, from a bureaucratic point of view, that is, and that is clearly what Senator STEVENS has in mind. This cuts his personal staff operation by $1.6 million and takes the matter out of the scope of conference. So I am very much opposed to this amendment.

We considered this matter very carefully in committee. We held a special hearing that covered this matter.

We heard from the Secretary of Agriculture that these cuts represented a 12-percent reduction in the Office of the Assistant Secretaries, and a 25-percent reduction in certain functions of the Office of Government and Public Affairs. That is what is at stake in this amendment.

As the Secretary pointed out to us, the Agriculture Department runs 250 separate programs, employs 83,000 full-time employees, and spends over $20 billion in total, annually. We are going to add to their budget tonight and tomorrow.

The Secretary of Agriculture has traditionally maintained one of the smallest policy staffs in the executive

branch. That is who Senator STEVENS is taking a rifle shot at—the policy advisers to the Secretary of Agriculture.

Mr. CURTIS. What is wrong with that?

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. EAGLETON. No, I only have 5 minutes. You not only want to sock it to Bergland, but to use up my 5 minutes.

Mr. CURTIS. Good.

Mr. EAGLETON. This will cut out close advisors to the Secretary on basic agricultural policy. It would severely hamper him.

Mr. CURTIS. I like this amendment.

Mr. EAGLETON. So I think the amendment should be rejected. Nothing would do more to hamper the effectiveness of the Secretary of Agriculture than this amendment of the Senator from Alaska.

Mr. STEVENS. Mr. President, I ask for 30 seconds of my time back, to read from the House report.

The PRESIDING OFFICER. Without objection, the Senator from Alaska is recognized.

Mr. STEVENS. It reads as follows:

During the last 18 months, the personal staff employed by the various Assistant Secretaries has increased by 55 percent. From the committee's observation, there may be too many people between the Secretary and those in the agencies who are experienced in the Department's programs. These Assistant Secretaries should look to the expertise and experience available in the agencies and staff bureaus for much of the advice they need. Consequently, the Committee recommends a reduction of $219,000 in the funding requested for the Offices of the Assistant Secretaries, which leaves $1,511,335 available for those purposes. The Committee will expect the Department to give attention to, and expedite enforcement of existing law regarding transfer of funds and personnel.

Consequently, the House committees cut this money out, and I do not think it should be put back in.

I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Mississippi (Mr. STENNIS), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY), would vote "nay."

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Kansas (Mr. PEARSON), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 35, nays 51, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—35

Allen	DeConcini	Proxmire
Baker	Dole	Randolph
Bartlett	Domenici	Ribicoff
Bentsen	Garn	Roth
Brooke	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
	Hayakawa	Scott
Cannon	Heinz	Stafford
Case	Helms	Stevens
Chafee	Lugar	Stone
Curtis	Mathias	Thurmond
Danforth	McClure	Tower

NAYS—51

Anderson	Hatfield, Mark O.	Metzenbaum
Bayh		Morgan
Bellmon	Hatfield, Paul G.	Moynihan
Bumpers		Muskie
Burdick	Hathaway	Nelson
Byrd, Robert C.	Hodges	Nunn
Chiles	Hollings	Packwood
Church	Huddleston	Pell
Clark	Jackson	Percy
Cranston	Johnston	Riegle
Culver	Kennedy	Sarbanes
Durkin	Leahy	Sasser
Eagleton	Long	Sparkman
Ford	Magnuson	Talmadge
Glenn	Matsunaga	Williams
Gravel	McGovern	Young
Hart	McIntyre	Zorinsky
Haskell	Melcher	

NOT VOTING—14

Abourezk	Humphrey	Stennis
Biden	Inouye	Stevenson
Eastland	Javits	Wallop
Goldwater	Laxalt	Weicker
Griffin	Pearson	

So Mr. STEVENS' amendment (UP No. 1634) was rejected.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DURKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR HATHAWAY AMENDMENT TO BE PENDING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendment by Mr. HATHAWAY be the pending question on tomorrow as soon as we resume consideration of this bill.

The PRESIDING OFFICER (Mr. SPARKMAN). Without objection, it is so ordered.

RANGE CATERPILLAR CONTROL

Mr. SCHMITT. Mr. President, I would like to commend my colleagues on the Appropriations Committee for the excellent work they have done on this legislation. Obviously, there are amendments yet to be offered. I would particularly like to express my support for the increase in funds for range caterpillar control and the work done by my colleague from New Mexico, Mr. DOMENICI, in achieving that increase.

The range caterpillar poses a severe threat to agriculture in New Mexico and is spreading into Colorado, Oklahoma, and Texas. Losses this year in New Mexico alone are estimated to exceed $3 million.

Last year, a 5-year research program on long-term control of range caterpillars was established. The ultimate solution to this problem can come only from this kind of extensive research. In the meantime, however, it is essential to contain the spread of this pest to the extent possible with current methods, not only to restrict economic losses, but to facilitate long-term control programs that, of course, will be in part dependent on the area infested.

This year in New Mexico, the State Agriculture Department was forced to obtain emergency State funds for a spraying program because Federal funds were insufficient to meet the Federal share of a control program. Under normal procedure, the ranchers, the State and the Federal Government each pay one-third of the cost for control on State and private land. The Federal Government pays full cost for caterpillar control on Federal land.

I might add also that if you only control one part of the land and not on others, you have not done anything very worthwhile. The pest will spread very quickly.

Cost for the control program is $1.65 per acre. New Mexican acreage requiring control of range caterpillars this year approached 1½ million. Total Federal funds required were $1,033,750, of which only $350,000 was received out of an appropriation of $500,000 for fiscal year 1978. That, in itself, is some indication of the administrative cost of doing business.

Further spread of this pest into neighboring States is anticipated and monetary requirements for control will naturally increase. The Senate's addition of an appropriation of $1 million for range caterpillar control to the original $506,000 allocated by the House is crucial if we are to avoid extensive agricultural losses and give the research effort a chance to find a more permanent solution.

At a time when other insects such as the grasshopper and fire ant are devastating crops in Kansas, Nebraska, Missouri, Colorado, and the Dakotas, we simply cannot afford the spread of another destructive insect.

If this problem should continue into 1980, I hope that the Congress will continue control funding until adequate long-term solutions can be reached. I will continue to support this control program, Mr. President, and I hope my distinguished colleagues will do the same.

Once again, I thank them for their support in the committee.

Mr. BELLMON. Mr. President, I thank the distinguished Senator from New Mexico for his comments in support of the program on range caterpillars. The committee provided $1½ million for this purpose. This is three times last year's level; we are aware of this threat and attempting to respond in an effective way. I am not sure how fast the research efforts or control efforts can be accelerated, but we want to do all we can to be sure that this pest does not spread through the region.

The fact is that range caterpillars are spreading. They are now a multistate problem and the time to try to eradicate the pest or at least learn how to control it effectively, is before it spreads any further.

I want the Senator from New Mexico to know we are aware of the importance of this threat and the danger. I can give him my word that we will do all we can to make certain that whatever resources are necessary to bring about effective control will be provided.

Mr. SCHMITT. That is a very excellent word to have. I know my distinguished colleague (Mr. DOMENICI) is also very appreciative of this and will have further remarks. He has been one of the leaders in assuring that adequate control measures were enforced while we try to find out if they can, in fact, be eradicated. I am not an expert in this field of research, but I will say there is considerable interest in a number of techniques, not the least of them being the irradiated sterile male approach, which looks like it may be as effective here as it is on the screw worm.

Mr. EAGLETON. Mr. President, the committee has given some attention to this matter—perhaps not as much as the Senator from New Mexico would like, but it is a beginning and we do appreciate the insight the Senator from New Mexico has brought to this subject matter.

Mr. SCHMITT. I would say this year's effort is as much as the committee could hope to expect. Now, with a good solid control program started, and with its continuation in the successful research program within a few years, maybe even within 5 years, this particular pest will no longer be of significance to the Congress and, more specifically, no longer of significance to the ranchers that have to deal with it.

Mr. CRANSTON. Mr. President, I am pleased to note in the Senate report on H.R. 13125, the fiscal year 1979 Agriculture appropriations bill, that the Senate Appropriations Committee has directed the Department of Agriculture to continue to operate the Shafter Research Station in California in 1979 using funds provided for the Agricultural Research Service.

The Acala cotton seed breeding program conducted at Shafter is an essential agricultural program in the State. In fact, the program is mandated by California State law. For more than 50 years, California cotton farmers have successfully produced Acala cotton derived from seed developed at the Shafter station. California Acala cotton enjoys strong demand and premium prices in the international markets as well as the domestic textile markets and has been the source of millions of dollars in extra income to the cottongrowers in my State. More specifically, the success of the program is reflected in the fact that the growers have contributed over $4 million during the past 10 years. These producer contributions have accounted for a large amount of the cost of Shafter station operations over the years.

The Senate report states that the committee expects the Department of Agriculture to continue to operate the Shafter Research Station for 1 more year after which the State of California would take over. It is my understanding, however, that Secretary Bergland has given his assurances that the Department will continue to operate the research facility indefinitely, and that the Department will continue financing the Acala cotton seed breeding program until such time as the growers—not the State of California—can assume the full cost themselves. The California Planting Cotton Seed Distributors are willing to make such monetary contributions. However, it may take a little time to make the appropriate changes in the State of California's one variety cotton districts law. Thus, the Department will need to fund the Shafter research program fully in fiscal year 1979 and perhaps beyond. This is my understanding of the situation. I would like to ask the floor manager of the bill if this is also his current understanding, the report language aside.

Mr. EAGLETON. I thank the Senator from California for his comments. Secretary Bergland has indicated that such an agreement exists—that the Federal Government would continue to fund the research activities at Shafter, Calif., until such time as the growers can assume the total cost and California State law has been amended, even if it takes longer than 1 year. It is the committee's intent to be consistent with the Department's agreement.

Mr. CRANSTON. I thank the floor manager for this clarification. I am pleased to be assured that this is the case.

ROUTINE MORNING BUSINESS

(Routine morning business transacted and additional statements submitted are as follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:34 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 2424. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein; and

S. 2821. An act to authorize appropriations for certain insular areas of the United States, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. EASTLAND).

At 2:19 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House disagrees to the amendments of the Senate to H.R. 13467, an act making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MAHON, Mr. WHITTEN, Mr. BOLAND, Mr. FLOOD, Mr. STEED, Mr. SHIPLEY, Mr. SLACK, Mr. MCFALL, Mr. LONG of Maryland, Mr. YATES, Mr. MCKAY, Mr. CEDERBERG, Mr. MICHEL, Mr. CONTE, Mr. MCDADE, and Mr. ANDREWS of North Dakota were appointed managers of the conference on the part of the House.

At 3:59 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 2777, an act to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 12927, an Act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MCKAY, Mr. SIKES, Mr. MURTHA, Mr. STEED, Mr. FLYNT, Mr. LONG of Maryland, Mr. MAHON, Mr. MCEWEN, Mr. REGULA, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 10787. An act to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management.

The enrolled bills was subsequently signed by the President pro tempore (Mr. EASTLAND).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, August 9, 1978, he presented to the President of the United States the following enrolled bills:

S. 2424. An act to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein; and

S. 2821. An act to authorize appropriations for certain insular areas of the United States, and for other purposes.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying re-

ports, documents, and papers, which were referred as indicated:

EC–4119. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 4 construction projects to be undertaken by the Air National Guard; to the Committee on Armed Services.

EC–4120. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, on contract award dates for the period July 15, 1978 through October 15, 1978; to the Committee on Armed Services.

EC–4121. A communication from the Director, Office of Legislative Affairs, Department of the Navy, reporting, pursuant to law, on the intention of the Navy to donate certain surplus property to the Admiral Nimitz Center, Fredericksburg, Texas, a historical museum which is an instrumentality of the State of Texas; to the Committee on Armed Services.

EC–4122. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Lack of Authority Hampers Attempts to Increase Cosmetic Safety," August 8, 1978; to the Committee on Governmental Affairs.

EC–4123. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "An Overview of Benefit-Cost Analysis for Water Resources Projects—Improvements Still Needed," August 7, 1978; to the Committee on Governmental Affairs.

EC–4124. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 27, 1978, which would provide for the licensing by the District of Columbia of the business of selling, issuing or delivering checks, drafts and money orders as a service or for a fee or other consideration in the District of Columbia, and for other purposes (Act 2–241); to the Committee on Governmental Affairs.

EC–4125. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 11, 1978, which would provide that federally assisted housing make payments in lieu of real property taxes (Act 2–243); to the Committee on Governmental Affairs.

EC–4126. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 27, 1978, which would eliminate harassment and unfair practices in consumer lay-away plans, and for other purposes (Act 2–242); to the Committee on Governmental Affairs.

EC–4127. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders in the cases of aliens who have been found admissible to the United States under the Immigration and Nationality Act; to the Committee on the Judiciary.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–771. A joint resolution from a citizen relating to a constitutional amendment dealing with income taxes; to the Committee on the Judiciary.

POM–772. A resolution adopted by the American Library Association, relating to Extension of the ERA; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Appropriations, with amendments:

H.R. 13468. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes (Rept. 95–1076).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 2543. A bill to amend title 39 of the United States Code to provide better enforcement procedures for preventing fraudulent solicitations through the mails (Rept. No. 95–1077).

By Mr. RIBICOFF, from the Committee on Governmental Affairs, with an amendment:

S. 991. A bill to establish a Department of Education, and for other purposes (together with additional views) (Rept. No. 95–1078).

By Mr. BAYH, from the Select Committee on Intelligence, with amendments:

S. 2236. A bill to effect certain reorganization of the Federal Government to strengthen Federal programs and policies for combating international and domestic terrorism (together with minority and additional views) (Rept. No. 95–1079).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

James Dickson Phillips, Jr., of North Carolina, to be U.S. Circuit Judge for the Fourth Circuit.

Harry E. Claiborne, of Nevada, to be U.S. District Judge for the District of Nevada.

Thomas A. Wiseman, Jr., of Tennessee, to be U.S. District Judge for the Middle District of Tennessee.

Norma Levy Shapiro, of Pennsylvania, to be U.S. District Judge for the Eastern District of Pennsylvania.

By Mr. EASTLAND, from the Committee on the Judiciary:

Sidney I. Lezak, of Oregon, to be U.S. Attorney for the District of Oregon.

Edward R. Korman, of New York, to be U.S. Attorney for the Eastern District of New York.

(The two above nominations to be U.S. attorneys were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committed of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. WALLOP:

S. 3388. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income payments made under certain Federal and State cost-sharing programs; to the Committee on Finance.

By Mr. MUSKIE (for himself, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. DOMENICI, Mr. KENNEDY, and Mr. RIBICOFF):

S. 3389. A bill to amend title II of the Public Works Employment Act of 1976; to the Committee on Environment and Public Works.

By Mr. RIEGLE:

S. 3390. A bill for the relief of Sonia Maria Alvarado Marin and Maria Virginia Alvarado Marin; to the Committee on the Judiciary.

S. 3391. A bill for the relief of Rosa Del Carmen Sanchez Brenes and Alvaro Sanchez Brenes; to the Committee on the Judiciary.

By Mr. MATSUNAGA (for himself, Mr. ANDERSON, Mr. DOMENICI, Mr. DURKIN, Mr. MARK O. HATFIELD, and Mr. MATHIAS):

S. 3392. A bill to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WALLOP:

S. 3388. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income payments made under certain Federal and State cost-sharing programs; to the Committee on Finance.

Mr. WALLOP. Mr. President, today I am introducing legislation that will clarify the tax treatment of cost-share payments in two innovative and important environmental programs. This bill will change the tax treatment of cost-share payments given to landowners under the Clean Water Act of 1977 and the rural abandoned mines program. The Internal Revenue Service has notified the Soil Conservation Service that cost-share payments will be treated as taxable income. Participation in these voluntary programs will be severely restricted if the tax treatment intended for these payments is not clarified by Congress. This bill will exclude from gross income, payments made under the rural clean water program (section 208(j)) of the Federal Water Pollution Control Act (33 U.S.C. 1288(j)) and payments received under the rural abandoned mines program, which was authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

Mr. President, to demonstrate the importance of this bill, it would be useful to explain the intent of Congress in authorizing the cost-share program for the Rural Clean Water Act and the rural abandoned mines program.

The Senate Committee on Environment and Public Works took a large step forward in improving water quality in America by passing the Clean Water Act of 1977, Public Law 95–217. This bill paid attention not only to water pollution in our urban areas, but also to the growing problem of water pollution in rural and agricultural regions of the country. In an effort to reduce water pollution in rural areas, Congress approved a program to assist farmers and ranchers in implementing long-term soil conservation practices that will reduce nonpoint source pollution. Voluntary participation in this water pollution control program is encouraged by the Soil Conservation Service, which would provide cost share payments to farmers and ranchers. The SCS will provide payments of up to 50 percent of the cost of installing water control mechanisms, but only to farmers

in areas with approved water management plans.

Clearly, the cost share arrangements were intended to ease the financial burden of farm operators and owners in implementing soil conservation practices, specifically designed to improve water quality.

Regrettably, the Internal Revenue Service has indicated that cost share payments under the Clean Water Act of 1977 will be treated as taxable income. This tax treatment will push participating farmers and ranchers into higher income brackets, increase their tax liability, and create a penalty for participation.

Mr. President, I seriously doubt that Congress wished to establish a voluntary environmental program based on the principles of self help and incentive, only to have the IRS destroy the program by taxing the incentive away. I submit that the benefits derived from this program accrue to the public as a whole. A few ranchers and farmers should not be asked to pay the total cost of a program that benefits so many Americans. By exempting cost share payments from taxable income. Congress can help assure the successful implementation of the Clean Water Act of 1977.

The successful implementation of the rural abandoned mines program is threatened by the same tax problem concerning cost share payments. The rural abandoned mines program (RAMP) came into being as a part of Public Law 95–87, the Surface Mine Control and Reclamation Act of 1977.

The RAMP program is a long overdue effort to reclaim 1.1 million acres of abandoned coal mined lands in 29 States. Under the RAMP program, landowners are encouraged to reclaim abandoned surface mined lands through cost share payments provided by the Soil Conservation Service. Cost share payments are provided to participating owners of land and water rights for reclamation of up to 320 acres of surface mined lands. The Secretary of Agriculture determines what percentage of the total cost of reclaiming these lands will be covered. If the Secretary determines that the main benefits derived under the program are related to improving offsite water quality, aesthetic values, or other offsite benefits, then the Soil Conservation Service can cover a larger proportion of the reclamation cost.

Similarly, if the matching share requirement would burden the landowner financially to such an extent that participation would be withdrawn, the Secretary of Agriculture can authorize larger cost share payments. Under these administrative guidelines, Ramp reclamation projects receiving cost share payments are scrutinized as to the extent of the public benefit from the reclamation efforts.

As with the rural clean water cost shares, the IRS has determined that cost sharing under the rural abandoned mines program will be treated as taxable income. The result of this action is an increase in the tax burden of participating landowners, and inevitably it will deter participation in the voluntary RAMP program.

Mr. President, to give you an idea of the magnitude of this program, I ask unanimous consent that this list of States eligible for participation in the RAMP program be included in the appropriate place in the RECORD. As you can see, over 29 States have coal lands needing reclamation. Pennsylvania has the most acres of eligible lands, with 240,000 acres needing reclamation. My own State of Wyoming ranks 14th on this list, with 9,657 acres needing reclamation. It would be a tragedy if this program were to fail and over 1 million acres of land remained unreclaimed due to the capricious decision of the IRS.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Rural abandoned mine inventory data: Status of lands disturbed by surface mining in the United States

State	Rank	Coal lands needing reclamation (acres)
Pennsylvania	1	240,000
Ohio	2	196,709
Illinois	3	118,711
Kentucky	4	101,637
West Virginia	5	84,868
Alabama	6	72,292
Missouri	7	70,688
Kansas	8	41,256
Oklahoma	9	36,118
Tennessee	10	29,583
Indiana	11	25,882
Virginia	12	23,724
Iowa	13	13,997
Wyoming	14	9,657
Colorado	15	7,089
Arkansas	16	5,623
Texas	17	3,310
Maryland	18	2,804
Alaska	19	2,700
Montana	20	1,955
Georgia	21	1,680
North Dakota	22	1,050
South Dakota	23	890
Utah	24	635
Arizona	25	400
Michigan	26	142
Washington	27	42
New Mexico	28	22
California	29	10
Total		1,093,520

SOURCE.—Soil Conservation Service, 1977.

By Mr. MUSKIE (for himself, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. DOMENICI, Mr. KENNEDY, and Mr. RIBICOFF):

S. 3389. A bill to amend title II of the Public Works Employment Act of 1976; to the Committee on Environment and Public Works.

INTERGOVERNMENTAL ANTIRECESSION ASSISTANCE ACT OF 1976

● Mr. MUSKIE. Mr. President, I am introducing today, for myself, Mr. HATHAWAY, Mr. MOYNIHAN, Mr. DOMENICI, Mr. KENNEDY, and Mr. RIBICOFF, legislation to extend the Intergovernmental Anti-Recession Assistance Program Act—the so-called countercyclical assistance program.

When I first introduced the countercyclical aid bill 3 years ago, I had no idea that debate on the bill would become an annual congressional event.

Congress first enacted countercyclical assistance at a time of very high employment. Our purpose was to provide short-term aid to State and local governments whose budgets were squeezed by the pressures of recession. With this Federal help, we hoped to enable these governments to avoid tax increases and job lay-offs that only make recession worse.

Countercyclical was more than just another Federal aid program. It contained a unique feature: When the National economy improved, when unemployment dropped below 6 percent, the program was to shut itself off. Countercyclical was designed to put money into the economy fast, where it was needed most, and then terminate itself when the need no longer existed.

As we approach the termination point written into the law, there are two points I believe we should keep in mind.

First, countercyclical assistance is and has always been intended as an anti-recession tool. As the recession becomes a thing of the past, it is appropriate and fair that fewer governments receive countercyclical funds.

Second, even when national unemployment has bottomed out, there will be some communities which are left behind—communities where economic problems remain because of long-term structural ills. Were countercyclical aid to these governments to terminate abruptly, the budget consequences could be severe.

I have kept these two facts in mind in drawing up the legislation I am introducing today.

Under the proposed legislation, the current program would be extended as is, and allowed to terminate when national unemployment drops below 6 percent. To insure that the program does not shut on and off repeatedly as unemployment hovers around 6 percent, the new bill would require that unemployment remain below that mark for two consecutive quarters before the program shuts off.

The idea of a program which terminates when no longer needed is very important—and I believe it should be retained.

Yet at the same time the legislation I am introducing today recognizes that some States and communities have lagged behind the national recovery rate. To help those communities this bill would distribute aid to State and local governments whose unemployment remains above 6 percent when the national rate falls below that mark.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intergovernmental Antirecession Assistance Act of 1978".

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 2. Section 202 of the Public Works Employment Act of 1976 is amended—

(1) by striking out "five" in subsection (b) and inserting in lieu thereof "eight",

(2) by striking out "July 1, 1977" in subsection (b) and inserting in lieu thereof "October 1, 1978",

(3) by striking the period in subsection (b) and inserting in lieu thereof ", plus",

(4) by adding at the end of subsection (b) the following new paragraph:

"(3) such sums as may be necessary to implement section 210(c) of this Act.",

(5) by striking out "five" in subsection (c) and inserting in lieu thereof "eight" and by striking out "July 1, 1977" in subsection (c) and inserting in lieu thereof "October 1, 1978", and

(6) by striking out subsection (d), and inserting after subsection (c) the following new subsection:

"(d)(1) Suspension of Assistance.—Except to the extent necessary to make the payments required by paragraph (2), if the average rate of unemployment for the United States is less than 6 percent for each of 2 consecutive calendar quarters—

"(A) no amount may be appropriated under this Act for the fourth calendar quarter of the 4 calendar quarter period which begins with the first of such 2 calendar quarters, and

"(B) any amounts previously appropriated under this Act for such fourth calendar quarter shall be withheld from payment.

"(2) Whenever assistance is suspended under paragraph (1), it shall remain suspended until the fourth calendar quarter of the 4 calendar quarter period which begins with the first of 2 consecutive calendar quarters during which the average rate of unemployment is or exceeds 6 percent.".

ADJUSTMENTS FOR PAYMENTS

SEC. 3. Section 210(b) is amended to read as follows:

"(b) Adjustments.—

"(1) Payments under this title may be made with necessary adjustments on account of overpayments or underpayments.

"(2) For any previous quarterly payment allotted pursuant to sections 202 and 203 in which a local government's allocation has been reduced as a result of a change in the methodology used to calculate the local unemployment rate as determined or assigned by the Secretary of Labor, the Secretary immediately shall make available sufficient funds to assure that such local government receives a lump sum supplemental payment such that the total prior allocations made pursuant to this Act are not less than the amount that otherwise would have been allotted to such local government under the methodology used prior to January 1, 1978. For purposes of this paragraph, eligibility is limited to those units of government which encompass or are within a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment date prior to January 1, 1978.

"(3) For any quarterly payment allotted pursuant to sections 202 and 203 in which a local government's allocation would be reduced as a result of a change in the methodology used to calculate the local unemployment rate as determined or assigned by the Secretary of Labor, the Secretary immediately shall make available sufficient funds to assure that such local government receives a supplemental payment such that the allocation made pursuant to this Act is not less than the amount that otherwise would have been allotted to such local government under the methodology used prior to January 1, 1978. For purposes of this paragraph, eligibility is limited to those units of government which encompass or are within a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment date prior to January 1, 1978.".

ELIMINATION OF CUT-OFF FOR LOW UNEMPLOYMENT; REPEAL OF PROGRAM STUDIES AUTHORITY

SEC. 4. (a) Section 210 (c) of the Public Works Employment Act of 1976 is repealed.

(b) Section 215 of such Act is repealed.

AUTHORIZATION OF APPROPRIATIONS FOR PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS

SEC. 5 (a) Section 216 (a) of the Public Works Employment Act of 1976 is amended by—

(1) striking out "five" and inserting in lieu thereof "eight"; and

(2) striking out "July 1, 1977" and inserting in lieu thereof "October 1, 1978".

(b) Section 216 (b)(3)(C) of such Act is amended by striking out "206,".

TITLE II—SUPPLEMENTARY FISCAL ASSISTANCE

SEC. 201. This title may be cited as the "Supplementary Fiscal Assistance Act of 1978".

FINDINGS OF FACT AND DECLARATION OF POLICY

SEC. 202. (a) Findings.—The Congress finds and declares that—

(1) State and local governments represent a significant segment of the national economy whose sound fiscal and economic condition is essential to national economic prosperity;

(2) long-term economic decline has imposed considerable hardships on the budgets of many State and local governments;

(3) general purpose fiscal assistance can be especially helpful to those State and local governments suffering with long-term economic problems; and

(4) a targeted general assistance program which aids the State and local governments with the most severe fiscal problems is an essential component of a comprehensive urban policy.

(b) Policy.—The Congress declares it to be the policy of the United States and the purpose of this title to provide general purpose fiscal assistance to State and local governments with severe long-term economic problems, as measured by an unemployment rate above six percent in periods when the national unemployment rate is below six percent. It is the intention of the Congress that amounts paid to a State or local government under this title shall not be substituted for amounts which the State would have paid or made available to the local government out of revenues from State sources.

AUTHORIZATION OF PAYMENTS

SEC. 203. (a) In General.—Whenever the seasonally adjusted national unemployment rate is between 5 percent and 6 percent, the Secretary of the Treasury (referred to in this title as the "Secretary") shall, in accordance with the provisions of this title, make payments to State and local governments with unemployment rates above 6 percent.

(b) Payments to Recipient Governments.—The Secretary shall pay, not later than five days after the beginning of each calendar quarter, to each State and local government which has filed a statement of assurances under section 206, an amount equal to the amount allocated to such government under section 204.

(c) AUTHORIZATION OF APPROPRIATIONS.—Subject to the provisions of subsection (d), there are authorized to be appropriated for each of the consecutive calendar quarters beginning after September 30, 1978, $125,000,000 plus such sums as may be necessary to implement section 211, for the purpose of making payments to State and local governments under this title.

(d) SUSPENSION OF ASSISTANCE.—If the average rate of unemployment for the United States is in excess of 5.99 percent or below 5.0 percent for each of 2 consecutive calendar quarters—

"(1) no amount may be appropriated under this title for the fourth calendar quarter of the 4 calendar quarter period which begins with the first of such 2 calendar quarters, and

"(2) any amounts previously appropriated under this Act for such fourth calendar quarter shall be withheld from payment.".

ALLOCATION

SEC. 204. (a) RESERVATIONS.—

(1) ELIGIBLE STATES.—The Secretary shall reserve one-third of the amounts authorized to be appropriated under section 203 in each calendar quarter for the purpose of making payments to eligible State governments under subsection (b).

(2) ELIGIBLE UNITS OF LOCAL GOVERNMENT.—The Secretary shall reserve two-thirds of such amounts for the purpose of making payments to eligible units of local government under subsection (c).

(b) STATE ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a)(1) an amount for the purpose of making payments to each State equal to the total amount reserved under subsection (a)(1) for the calendar quarter multiplied by the applicable State percentage as defined in paragraph (2).

(2) APPLICABLE STATE PERCENTAGE.—For purposes of this subsection, the applicable State percentage is equal to the quotient resulting from the product of the State excess unemployment percentage multiplied by the State revenue sharing amount, divided by the sum of all such products for all the States.

(3) DEFINITIONS.—For the purposes of this section—

(A) the term "State" means each State of the United States;

(B) the State excess unemployment percentage is equal to the difference resulting from the subtraction of 6 percentage points from the State unemployment rate for that State, but such excess employment percentage shall not be less than zero;

(C) the State unemployment rate is equal to the rate of unemployment in the State during the appropriate calendar quarter, as determined by the Secretary of Labor and reported to the Secretary; and

(D) the State revenue sharing amount is the amount determined under section 107 of the State and Local Fiscal Assistance Act of 1972 for the most recently completed entitlement period, as defined in section 141 (b) of such Act.

(c) LOCAL GOVERNMENT ALLOCATION.—

(1) IN GENERAL.—The Secretary shall allocate from amounts reserved under subsection (a)(2) an amount for the purpose of making a payment to each local government, subject to the provisions of paragraph (4), equal to the total amount reserved under subsection (a)(2) for the calendar quarter multiplied by the local government percentage.

(2) Local government percentage.—For purposes of this subsection, the local government percentage is equal to the quotient resulting from the product of the local excess unemployment percentage, multiplied by the local revenue sharing amount, divided by the sum of such products for all local governments.

(3) Definitions.—For purposes of this subsection—

(A) the local excess unemployment percentage is equal to the difference resulting from the subtraction of 6 percentage points from the local unemployment rate, but such local excess unemployment percentage shall not be less than zero;

(B) the local unemployment rate is equal to the rate of unemployment in the jurisdiction of the local government during the appropriate calendar quarter, as determined or assigned by the Secretary of Labor and reported to the Secretary, except that in the case of a local government for which the Secretary of Labor cannot determine a local unemployment rate, he shall assign such local government the local unemployment

rate of the smallest unit or subunit of local government for which he has determined a local unemployment rate which is within the jurisdiction of which such local government is located, unless—

(i) the Governor of the State in which such local government is located has provided the Secretary of Labor with a local government rate for such local government, and

(ii) the Secretary of Labor finds that such local unemployment rate provided by the Governor has been determined in a manner consistent with the procedures and methods used by the Secretary of Labor in determining local unemployment rates,

in which case the Secretary of Labor shall assign such local government the local unemployment rate provided by such Governor,

(C) the local revenue sharing amount is the amount determined under section 108 of the State and Local Fiscal Assistance Act of 1972 for the most recently completed entitlement period, as defined in section 141(b) of such Act; and

(D) the term "local government" means the government of a county, municipality, township, or other unit of government below the State which—

(i) is a unit of general government, determined on the basis of the same principles as are utilized by the Bureau of the Census for general statistical purposes, and

(ii) performs substantial governmental functions.

The term "local government" includes the District of Columbia and also includes the recognized governing body of an Indian tribe or Alaskan Native Village which performs substantial governmental functions. Such term does not include the government of a township area unless such government performs substantial governmental functions.

(4) Special limitation.—If the amount which would be allocated to any unit of local government under this subsection is less than $250, then no amount shall be allocated for such unit of local government under this subsection.

USES OF PAYMENTS

SEC. 205. Each State and local government shall use payments made under this title for the maintenance of basic services customarily provided to persons in the area under the jurisdiction of such State or local government. State and local governments may not use payments made under this title for the acquisition of supplies and materials or for construction, except for normal supplies or repairs necessary to maintain such basic services.

STATEMENTS OF ASSURANCES

SEC. 206. (a) Statement Required.—Each State and local government may receive payments under this title only upon filing with the Secretary a statement of assurances, at such time and in such manner as the Secretary may prescribe by rule. The Secretary may not require any such government to file more than one such statement during each fiscal year.

(b) Contents of Statement.—Each statement of assurances required under subsection (a) shall contain assurances that—

(1) the requirements of section 205 will be complied with:

(2) the State or local government filing the statement will—

(A) use fiscal, accounting, and audit procedures which conform to guidelines established by the Secretary after consultation with the Comptroller General of the United States, and

(B) provide to the Secretary and to the Comptroller General of the United States access to and the right to examine such books, documents, papers, or records as the Secretary, after reasonable notice, may reasonably require for the purpose of reviewing and determining compliance with the provisions of this title;

(3) reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the provisions of this title;

(4) the requirements of section 207 will be complied with;

(5) the requirements of section 208 will be complied with; and

(6) such government will spend amounts received under this title only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

NONDISCRIMINATION

SEC. 207. (a)(1) In General.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State or local government which receives funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*) or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*) shall also apply to such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 (42 U.S.C. § 2000e(2)) or title VIII of the Act of April 11, 1968 (42 U.S.C. § 3601 *et seq.*), shall also apply to such program or activity.

(2) Exceptions.—

(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under this title.

(B) Construction projects in progress.—The provision of paragraph (1) relating to discrimination with respect to an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973 shall not apply to construction projects commenced prior to January 1, 1977.

(b) Enforcement and Remedies.—Subsection (a) of this section shall be enforced by the Secretary in the same manner and in accordance with the same procedures as are required by sections 122, 124, and 125 of the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. § 1221 *et seq.*), to enforce compliance with section 122 (a) of such Act. The Attorney General shall have the same authority, functions, and duties with respect to funds made available under this title as he has under section 122(g), 122(h), and 124(c) of such Act with respect to funds made available under such Act. Any person aggrieved by a violation of subsection (a) of this section shall have the same rights and remedies as a person aggrieved by a violation of subsection (a) of section 122 of such Act, including the rights provided under section 124 (c) of such Act.

LABOR STANDARDS

SEC. 208. All laborers and mechanics employed by contractors on all construction projects funded in whole or in part by payments under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. § 276a to § 276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan No. 14 of 1950 (15 C.F.R. 3176) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. § 276c).

LIMITATION OF PAYMENTS TO STATES

SEC. 209. (a) No State shall receive a payment for any calendar quarter under this Title which exceeds the amount of the payment such State received uder Title I of this Act for the most recent calendar quarter for which payments were made under such Title I.

(b) The Secretary shall reallocate any amounts withheld from payment under subsection (a) to units of local government in accordance with the provisions of Sec. 204 (c).

WITHHOLDING

SEC. 210. Except as otherwise provided by section 207(b), whenever the Secretary, after affording reasonable notice and an opportunity for a hearing, finds that a State or unit of local government has failed to comply substantially with any assurance contained in the statement filed pursuant to section 206 of this title, the Secretary shall notify such government that further payments will not be made under this title until he is satisfied that there is no longer any such failure to comply. The Secretary shall make no further payments to such government under this title until he is satisfied that the State or unit of local government is in substantial compliance with the provisions of this title.

ADJUSTMENTS FOR PAYMENTS

SEC. 211. Adjustments.—

(a) Payments under this title may be made with necessary adjustments on account of overpayments or underpayments.

(b) For any quarterly payment allotted pursuant to sections 203 and 204 in which a local government's allocation would be reduced as a result of a change in the methodology used to calculate the local unemployment rate as determined or assigned by the Secretary of Labor, the Secretary immediately shall make available sufficient funds to assure that such local government receives a supplemental payment such that the allocation made pursuant to this Act is not less than the amount that otherwise would have been allotted to such local government under the methodology used prior to January 1, 1978. For purposes of this paragraph, eligibility is limited to those units of government which encompass or are within a standard metropolitan statistical area or central city for which current population surveys were used to determine annual unemployment data prior to January 1, 1978.

RULEMAKING

SEC. 212. The Secretary is authorized to prescribe, after consultation with the Secretary of Labor, such rules as may be necessary to carry out his functions under this Act. Such rules shall be prescribed initially by the Secretary not later than ninety days after the date of enactment of this Act.

REPORTS

SEC. 213. The Secretary shall report to Congress as soon as is practical after the end of each calendar year during which payments are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to each State and unit of local government under the provisions of this title and any amounts withheld by the Secretary pursuant to sections 207 and 209.

● Mr. HATHAWAY. Mr. President, I am pleased to join with the senior Senator from Maine (Mr. MUSKIE) in introducing legislation to extend the Antirecession Fiscal Assistance Act.

The program was developed in 1976 as a Federal response to the fiscal plight of State and local government units during the recent recession. Countercyclical revenue sharing has been invaluable in maintaining vital Government functions

without raising local taxes during the financial dislocations caused by high unemployment and economic stagnation.

Senator MUSKIE helped introduce this concept to the Senate and saw through its enactment. I have had the opportunity to review the program as chairman of the Senate Finance Subcommittee on Revenue Sharing. We believe this program is essential to hard-pressed Government units during periods of high unemployment.

For this reason, I am introducing this bill as a reauthorization of the countercyclical assistance program with special provisions for those governments with excessive unemployment as the national program terminates.

The Senate Finance Committee plans to act on reauthorization this week. I am confident that this legislation will be favorably received by my colleagues.●

By Mr. MATSUNAGA (for himself, Mr. ANDERSON, Mr. DOMENICI, Mr. DURKIN, Mr. MARK O. HATFIELD, and Mr. MATHIAS):

S. 3392. A bill to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies; to the Committee on Energy and Natural Resources.

SOLAR PHOTOVOLTAIC ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1978

● Mr. MATSUNAGA. Mr. President, together with Senators ANDERSON, DOMENICI, DURKIN, HATFIELD, and MATHIAS, I am introducing legislation to provide for the establishment of a solar photovoltaic energy, research, development, and demonstration program in the Department of Energy.

The Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978, which I am proposing, is intended to accelerate the use of solar energy as a source of electricity throughout the country.

Much has been written and said in recent months concerning the virtues of solar energy, and the contribution it is expected to make toward solving our energy problem. Solar energy is attractive because it is universally available, abundant and renewable by nature. Its use poses minimal risks of damage to our environment, and its effects on our economy can be beneficial. While no one would suggest that solar energy is the only answer to our current energy problem, the contribution it can make to increasing our domestic reliance upon energy can be substantial indeed.

In order for solar energy to become a major source of energy, its technological and economic feasibility must be further advanced and demonstrated. This is especially true in the case of photovoltaic conversion, a concept which shows great promise for the future.

Photovoltaic conversion of sunlight to electricity is a technology which has already proven itself as a dependable method of providing power for our space vehicles during the past 20 years. The basic scientific principles are well known, and the technology for specialized uses, such as in remote terrestial applications, is now relatively advanced. However, widespread use has not been achieved because of the high costs associated with this technology, and its commercialization cannot be achieved, unless certain technical problems are resolved.

Mr. President, it is apparent that if photovoltaic conversion is to play a significant role in supplying energy to the Nation, the Federal Government must be an active participant, just as it has in the development of other energy sources.

The bill I am introducing today provides for the Federal Government to play an active part in assisting the emerging industry to advance the technology and achieve economies of scale. The strategies set forth in the bill are several: First, the bill commits the Nation to a 10-year research, development, and demonstration program in solar photovoltaic technologies. Second, it sets clear but adjustable goals for the program to meet. These goals relate to both advances in the State of the art of the technology and reduction in the cost per unit of energy produced. Third, the bill proposes to double the total U.S. production of photovoltaic systems each year for 10 years, starting in 1979, so that by fiscal year 1988, production will be 1,000 times what it is today. Thus, the production in the year 1988 will be 2 million peak kilowatts of photovoltaic capacity, with a cumulative total of 4 million peak kilowatts of photovoltaic capacity produced during that 10-year period. Fourth, the bill sets forth a predictable program that clearly declares that the Federal Government is serious about this technology, and is dedicated to facilitating its adoption by the private sector.

Mr. President, I am pleased to report that a similar bill, H.R. 12874, has already been adopted by the House, which passed the measure without opposition on June 28, 1978, under the leadership of Congressmen MCCORMACK, TEAGUE, and GOLDWATER. This body should do likewise.●

ADDITIONAL COSPONSORS

S. 1587

At the request of Mr. STONE, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 1587, a bill to amend the Internal Revenue Code of 1954 to exempt certain State and local government retirement systems from taxation, and for other purposes.

S. 2860

At the request of Mr. MELCHER, the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2860, the Solar Satellite Research, Development and Demonstration Program Act of 1978.

S. 2867

At the request of Mr. GOLDWATER, the Senator from Georgia (Mr. TALMADGE) was added as a cosponsor of S. 2867, a bill to remove residency requirements and acreage limitations applicable to land subject to reclamation law.

S. 3027

At the request of Mr. HART, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 3027, a bill to provide for a program of review of State laws with regard to solar energy.

S. 3037

At the request of Mr. DECONCINI, the Senator from Wisconsin (Mr. NELSON) was added as a cosponsor of S. 3037, a bill to provde for the administration of the Internal Revenue Code of 1954 without regard to certain Revenue Rulings relating to the definition of the term "employee."

S. 3111

At the request of Mr. PACKWOOD, the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 3111, a bill to allow taxpayers to deduct charitable contributions whether or not they use the standard deduction.

S. 3285

At the request of Mr. TOWER, the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of S. 3285, a bill to extend the investment tax credit to certain agricultural structures.

S. 3330

At the request of Mr. CULVER, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 3330, to require agencies to consider alternative proposals in the promulgation of agency rules, regulations, and reporting requirements.

SENATE JOINT RESOLUTION 146

At the request of Mr. GLENN, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Joint Resolution 146, to authorize and request the President to proclaim October 7, 1978, as "National Guard Day."

SENATE RESOLUTION 536—SUBMISSION OF A RESOLUTION RELATING TO CERTAIN INTERNATIONAL AGREEMENTS

Mr. GLENN (for himself and Mr. CLARK) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 536

Resolved, That this resolution may be cited as the "International Agreements Consultation Resolution".

SEC. 1. It is the sense of the Senate that, in determining whether a particular international agreement should be submitted as a treaty, the President should, prior to and during the negotiations of such agreement, seek the advice of the Committee on Foreign Relations.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

● Mr. GLENN. Mr. President, the Senate recently addressed the problem of the use of executive agreements to circumvent the power the Senate is given under article II, section 2 of the Constitution to advise and consent in the making of treaties. It was the clear intent of the framers of the Constitution that the Sen-

ate should participate in the making of major international commitments. In order to ensure that the President should seek the advice of the Senate in making such commitments, as the Constitution presumes, the Senate adopted without objection an amendment to the State Department authorization bill which provided that it is the sense of the Senate that the President should seek the advice of the Committee on Foreign Relations, prior to and during the negotiation of international agreements, in determining whether a particular agreement should be submitted as a treaty.

On Monday, however, the provision was dropped from the State Department authorization bill by House-Senate conferees. Since I believe it is crucial that we maintain consultation between the President and the Senate in the making of major international agreements, today I am submitting the text of the provision as a Senate resolution.

I am sure my colleagues share my concern and hope they will again support the principle of consultation as they did when the text of this resolution was adopted as an amendment to the State Department authorization bill. I sincerely hope the administration will support it as well. Commendably, this administration has committed itself to consultation and cooperation with Congress in this area. In an exchange of letters with Senator SPARKMAN, chairman of the Committee on Foreign Relations, Douglas T. Bennett, Assistant Secretary for Congressional Relations of the Department of State, has expressed the State Department's willingness to consult on the form of any significant international agreement. Passage of this resolution would be useful in reinforcing that understanding, insuring that this administration adheres to its commitments, and paving the way for similar commitments by future administrations.

Mr. President, I have on prior occasions on the Senate floor discussed this problem with my colleagues, citing the recent growth in total numbers of executive agreements and in the important commitments made by executive agreements. Passage of this resolution would be an important step in reaffirming for the future the Senate's proper role in the constitutional powers shared by the executive and the legislative branches. One of the most important of these powers is that of determining the course which this Nation will take in its relations with other nations.●

AMENDMENT SUBMITTED FOR PRINTING

THE MILLER ACT—S. 3359

AMENDMENT NO. 3444

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. HEINZ submitted an amendment intended to be proposed by him to S. 3359, a bill to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000.

TUITION TAX CREDIT—H.R. 12050

AMENDMENT NO. 3445

(Ordered to be printed and to lie on the table.)

Mr. GOLDWATER (for himself, Mr. HATCH, and Mr. MCINTYRE) submitted an amendment intended to be proposed by them, jointly, to H.R. 12050, an act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

FEDERAL-AID HIGHWAY AUTHORIZATIONS—S. 3073

AMENDMENT NO. 3446

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH (for himself and Mr. HUDDLESTON) submitted an amendment intended to be proposed by them, jointly, to S. 3073, a bill to amend title 23, United States Code, to authorize Federal-aid highway programs through fiscal year 1980, and for other purposes.

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES APPROPRIATIONS, 1979—H.R. 13125

AMENDMENT NO. 3447

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted an amendment intended to be proposed by him to H.R. 13125, an act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1979, and for other purposes.

AMENDMENT NO. 3448

(Ordered to be printed and to lie on the table.)

Mr. CURTIS submitted an amendment intended to be proposed by him to H.R. 13125, supra.

NOTICES OF HEARINGS

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs will hold meetings on August 21 and 22 on new types of mortgage instruments. The hearings will focus on S. 2455, the Home Owners' Equity Act of 1978, S. 70, the Homebuyers Assistance Act of 1977, and regulations recently proposed by the Federal Home Loan Bank Board to permit federally chartered savings and loan associations to offer alternative mortgages in States which permit them under State law. The committee's inquiry will particularly examine the variable interest rate mortgage and its derivatives.

The hearings are scheduled for 10 a.m. each day, in room 5302 of the Dirksen Senate Office Building.

The committee would welcome statements for inclusion in the hearing record the week of the 7th.

SUBCOMMITTEE ON LABOR

● Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor will be conducting a hearing on S. 517, a bill to authorize employees and agencies of the Government of the United States to experiment with flexible and compressed work schedules. The hearing will be held on August 21, 1978, at 11 a.m. For further information you may contact the Labor Subcommittee office on 224–3674.●

ADDITIONAL STATEMENTS

POPE PAUL VI

● Mr. RIEGLE. Mr. President, His Holiness, Pope Paul VI, Bishop of Rome and religious leader of 600 million is dead. All the world, Roman Catholic or not, mourns the death of a man of peace, a man of gentleness, and a man of very real courage.

Born 80 years ago in Concessio, Italy, Giovanni Montini, who took the name Paul upon his election to the papacy in 1963, sought peace both within his church and among the nations and peoples of the world. He used the offices of the church in a quest for peace and understanding that brought deserved praise to him, and hope to multitudes.

His Holiness was a gentle man, full of compassion and mercy. His concern for the poor, the powerless, and the forgotten of the Earth was real and in the highest tradition of the church and humanity.

And Paul VI was a man of courage, daring to break new ground in seeking to make the teachings of Christ relevant to today's Christians; in fighting for recognition of the world's oppressed, challenging abuses of power within the church and within temporal governments he demonstrated the mixture of love and courage that won the admiration of men and women of all faiths, of all political beliefs, of all nationalities.

We in the United States feel a particular closeness for this man, the first Pope to visit our country. But the high regard which the world felt for him is seen in the act of the Polish Government, which sent flowers to Stefan Cardinal Wyszynski in sympathy for his grief, a most unusual action for a Communist state. Rabbi Marc Tanenbaum, of the American Jewish Committee, noted: "It was during his papacy that major strides forward took place in advancing understanding and mutual respect between Catholics and Jews."

This man was a giant among us, and his shadow is with us still.●

DWINDLING RESPECT FOR THE UNITED STATES

● Mr. GOLDWATER. Mr. President, appearing in the New York Times of Monday, July the 24th, is a column by Mr. Henry Scott-Stokes that expresses very vividly a concern that many Americans are carrying with them and the concern is growing and rightly so. Mr. Stokes speaks of the dwindling respect for the United States by the Japanese, but many Americans, including myself, who have reasons to travel or study other parts of the world, feel that this lack of respect for the United States is not confined to Japan, but is growing worldwide.

We seem to be a weak country. We do not appear to have any real reason in our policies or to have outlined for our country any road to travel that will lead to the solutions of the problems bothering this world. I ask that this article be printed in the RECORD.

The article follows:

JAPANESE VIEW OF U.S.: DWINDLING RESPECT

(By Henry Scott-Stokes)

TOKYO, July 20.—Two weeks ago a Japanese Cabinet minister spoke out in criticism of the United States in a way that one has come not to expect from the Japanese since World War II. Kiichi Miyazawa, head of the Economic Planning Agency and the man who more than anyone else runs the Japanese economy, accused President Carter of inadequate leadership in advance of the economic summit meeting in Bonn, tore into Congress for "dragging its feet on the energy bill" and said Washington was mismanaging the American economy.

Since the end of the Allied military occupation in 1952, Japanese Government spokesmen—among whom Mr. Miyazawa now ranks only one rung below Prime Minister Takeo Fukuda—have usually been extremely cautious in offering even the most veiled criticisms of the United States.

"It is a great disappointment that President Carter seems to be coming to Bonn empty-handed," Mr. Miyazawa said in an interview with The New York Times. "It's not his doing. Congress is dragging its feet on the energy bill, particularly Part 5, but the bill is long overdue, and I certainly hope that the President will tell the Bonn meeting that by a certain date the U.S. will have its own comprehensive energy program."

DEFICIT AND INFLATION NOTED

He continued: "Our Government has been doing its best under given circumstances to behave well while none of the fundamentals are being tackled in the U.S. Not only does your Government have the energy bill to complete, but you have a budget deficit of $60 billion, which is going to climb further, and you now have inflation of 7 percent, which is also going up."

The toughness of Mr. Miyazawa's remarks points to a change in Japanese opinion. In recent years, and especially since the end of the Vietnam War in 1975, many Japanese in government and in business have lost much of their old respect for all things American.

In private conversations senior officials ask brutal questions such as, "Is America really to be relied on in the future as a kind of big brother, guarantor of our security? Is the United States not withdrawing from the Far East as a whole in military terms, all protests notwithstanding?"

Business leaders are even sharper in their attacks, though always declining to be quoted by name. They have come to regard most of American industry as chronically noncompetitive and American workers as habitually lazy. Some go so far as to ask whether America, in view of its economic weakness, is "finished" as the leader of the democratic forces in the world.

"HIGH TIME" FOR SUCH CRITICISM

"In a sense, it was high time that someone gave voice to this undercurrent of vicious criticism," said a close associate of Mr. Miyazawa. "It's just unhealthy that the Americans should remain in a state of ignorance about the way many Japanese actually feel."

The vehemence of Mr. Miyazawa's statements is explained in part by the timing. He was eager to influence the outcome of the Bonn meeting by putting the Japanese case in advance, encouraging the President to commit himself to getting an energy bill through Congress "by a certain date" and joining ranks with the West Germans. Chancellor Helmut Schmidt has been just as outspoken in bringing pressure on the United States.

This was purely tactical and may have contributed somewhat to the promise made by President Carter at Bonn to strengthen the dollar by saving oil and fighting inflation. But the more important feature of Mr. Miyazawa's remarks was that they were designed to lay bare long-term and keenly felt Japanese concerns.

RISE IN OIL PRICE FEARED

The lack of Congressional approval of energy legislation has a dual effect in Japanese eyes. First, it detracts from efforts to get the American balance of payments under control and hence helps to undermine the dollar. Second, it tends to reinforce those within the Organization of Petroluem Exporting Countries who want higher oil prices. Both these tendencies are of great concern to Japan, which would "lose more than anyone else from a rise in the oil price," according to Mr. Miyazawa.

This country is 99 percent dependent on imported oil, mainly from the Middle East, Japan paid $23.6 billion for its oil last year, and this accounted for one-third of all its imports. A 10 percent rise in the price of crude oil would cost Japan well over $2 billion a year.

The plunge in the dollar is crucial to Japan in other ways. It tends to snuff out economic growth in Japan, because it discourages companies from investing. Japan has committed itself to a 7 percent real growth rate this year, the highest target of any major industrial country. Prime Minister Fukuda repeated that commitment at the Bonn meeting.

But it is already certain that Mr. Fukuda will have to propose a big supplementary budget this fall to keep the Japanese economy fueled up. Wtihout that extra budget the economy could go languid in the middle of this fiscal year as it did last fall.

RECORD TRADE SURPLUS

Japan's biggest concern, however, is that the United States could slip back into economic protectionism after the November elections. This could hit Japan much harder than an oil-price increase or even a further rise in the yen, which still looks enormously strong given that Japan is running a record trade surplus estimated at $23 billion this year and a surplus on current account estimated at $18 billion. The current account surplus last year was a record $14 billion.

For Japan it is just as vital that Robert S. Strauss, the President's trade negotiator, should be successful in his efforts first in getting a package of tariff cuts and other measures under the current "Tokyo round" of talks on the General Agreement on Tariffs and Trade and then in persuading the new Congress in early 1979 to vote for the package. "If Congress goes against the package, then the whole thing will collapse there," said Mr. Miyazawa in his interview.

From a Japanese viewpoint, the problem is that this country is running a record trade surplus with the United States, a surplus of $8.9 billion in the last fiscal year and probably considerably more in fiscal 1978, which ends next March 31. Japan has to make its contribution to international economic stability by reducing its overall surplus. The flood of Hondas and Toyotas into the United States has to be checked. Only then will Congress be impressed.

REGULATING MAJOR EXPORTS

"We are regulating exports of eight major items that account for over 50 percent of our exports to the U.S.," Mr. Miyazawa said. "This regulation is without any strict legal basis and is admittedly hard for the Ministry of International Trade and Industry, but still we've been doing it since April this year, and the record for April-May-June shows that we've been able to restrict quantity exports of six out of the items and only two, cars and motorcycles, have gone up slightly over April-June last year.

"The rub is that pricing in the U.S. of export items tends to rise because of inflation in America, and our exporters have every motive to try to jack up prices, which Toyota has done six times in the past 18 months and is preparing to do for a seventh time, making a total price rise of about 26 percent," he continued.

"There's got to be a limit beyond which Americans cease to buy and switch to American cars. And this must eventually diminish our dollar intake at long last."

A glance at the overall trade figures shows why the Japanese are primarily concerned about this aspect of American-Japanese relations. In fiscal 1977 Japan had a trade surplus on customs clearance figures of $12.9 billion, of which $8.9 billion, equivalent to two-thirds of the whole, was with the United States.

Meanwhile, Japan exported in the last fiscal year 1.89 million vehicles to the United States and imported from the United States only about 15,000 cars—a disparity of over 100 to one in favour of the Japanese car makers.

JAPANESE SURPLUS WILL RISE

What disturbs men like Mr. Miyazawa and accounts primarily for his outburst may be the prospect that these figures will be still more unbalanced this year. The Japanese trade surplus with the United States is certain to leap once again to new records. Sales of Japanese autos are no longer rising, but in dollar terms they will be worth much more than last year's $5 billion plus.

The ultimate source of Mr. Miyazawa's concern is that Americans may observe that there is a relationship between trade and jobs. On a rough rule of thumb, $1 billion in trade is worth 100,000 jobs, though the figure varies greatly according to the industry involved. On this basis the loss of jobs in the United States because of Japanese products runs close to a million.●

A BUILDING WITHOUT FRILLS

● Mr. CLARK. Mr. President, during consideration of the legislative appropriations bill last Friday, there was considerable debate over continued funding for the new Philip A. Hart Senate Office Building, now under construction. As I was necessarily absent on Friday—due to a long-standing commitment to visit a number of important Iowa projects with Interior Secretary Andrus—I wanted to take this opportunity to briefly explain my position on the new building.

No one can dispute that, with inflation climbing toward double digit levels, the need to cut wasteful and unnecessary Government spending is greater than ever. However, in the search for appropriate places to cut "fat" out of the budget, we must be careful not to be "penny wise, but pound foolish."

That was the problem with Senator CHAFEE's amendment to halt construction of the Hart Building, in my judgment, and that is why I announced in favor of tabling the amendment.

I was not a member of the Senate in 1972 when the decision to construct this

building was made. However, I believe few would dispute the pressing need to relieve the overcrowded conditions in existing Senate office buildings. Presently, Senate employees have an average of only 67 square feet of office space each, compared to a standard of 150 square feet in the private sector. It is not uncommon to find seven or eight aides crammed into one small room, with typewriters clattering and phones ringing constantly. Clearly, if we expect Senate employees to conduct the public's business in a more efficient, effective manner, then these conditions simply must be improved. Under the circumstances, additional office space is the only feasible alternativc.

Under the Chafee amendment, the $16 million that has already been spent on construction of the new building would have been wasted. So would an additional $15 million necessary to close out existing contracts. After spending $31 million, we would have been left with a mass of steel girders and a huge hole in the ground.

If we had followed Senator CHAFEE's additional proposal to convert the site to a park and an underground garage, the cost would have reached nearly $50,000,000—an incredible $100,000 per parking space. That's not my idea of fiscal responsibility.

But while the sensible alternative may be to complete the building, rising construction costs must continue to be a matter of real concern. Some estimates for completion now run as high as $200 million, a figure that is clearly unacceptable.

That is why I announced in favor of the amendment of Senator MAGNUSON, placing a $135 million ceiling on the cost of the building. As far as I am concerned, that should be the last we hear about additional construction costs; I intend to oppose any further appropriations for completing the Hart Building.

In addition, I believe it is necessary to look further at cuts that should be made in the cost of the new facility. Taxpayers will support additional office space if they know it is necessary. But they will not and should not be expected to—tolerate frills like a new Senators' gym, a new Senators' rooftop restaurant, and expensive wood paneling in Senators' offices. They will support a reasonable building—not a luxury high-rise. I urge my colleagues on the Senate Office Building Commission to implement design changes to eliminate these excesses at the earliest opportunity. If such changes are not forthcoming, I will certainly support efforts to cut all unnecessary items from the building, through legislation if necessary.●

MINORITY ENTERPRISE INVESTMENTS

● Mr. TOWER. Mr. President, the select Committee on Small Business is to be commended for reporting H.R. 11318 which is designed to improve the Small Business Administration's aid to minority enterprise. Title I of the Senate version of the bill contains an important provision which would enhance the Minority Enterprise Small Business Investment Co. (MESBIC) program as a means for Hispanic Americans and blacks to become owners of new businesses in their communities.

The need has long been recognized in our country for the formation of capital in disadvantaged minority communities, if the harsh cycle of poverty is to be broken and its victims are to have a chance to work their way to decent standards of living and to the dignity that accompanies self-reliance and self-support. The MESBIC program is one of the means to facilitate capital formation in the minority community generally, and is a self-help approach to curing poverty and unemployment.

A MESBIC is a private investment corporation licensed by the Small Business Administration to provide long-term venture capital and management assistance to economically disadvantaged entrepreneurs. Initial capital for a MESBIC is provided by private sector sources such as banks and corporations which become stockholders in the MESBIC. Funds thus generated are invested directly in the minority enterprise as stocks or loans. Because of the extraordinary risk involved in funding new enterprises, the Federal Government aids the MESBIC through low cost loans and stock purchases.

The MESBIC program has not lived up to the expectations we had for it when we passed the Minority Enterprise Business Investment Act in 1972 because of confusion in its administration. Title I of H.R. 11318 as reported by the committee has as an important purpose of curing some of the defects in the program by providing improved borrowing terms for MESBIC's to create a favorable venture capital investment. It is designed to eliminate confusion in the program.

This proposal is of particular interest to me because it closely follows S. 2613 which I sponsored in the 94th Congress as a result of testimony given by my constituent, Walter W. Durham, president, MESBIC Financial Corp. of Dallas.

The importance of the MESBIC program may be seen by some of the activities of the Dallas MESBIC.

Recently, the MESBIC Financial Corp. of Dallas with a group of private investors joined in financing to assist in the establishment of the first minority owned cosmetic business in the Southwest.

In 1977, the Dallas MESBIC aided in the financing of the first minority-owned wholesale distributor of oilfield equipment in North Central Texas. That same year it participated in the financing of the first minority-owned wholesale distributor of electronic components in the Southwest. It also participated in the joint financing of a plate glass firm which has now become one of the largest black-owned businesses in Texas.

Mr. President, the Governmental Affairs Committee has asked for sequential referral of H.R. 11318. Because of the importance of this legislation to the black and the Hispanic communities I urge that that committee and this body promptly take action on this legislation in order that a conference may resolve differences between the Senate and House versions of other titles in the bill prior to adjournment of this body.●

ALASKAN WILDERNESS BILL

● Mr. FORD. Mr. President, I ask that three newspaper articles relative to the Alaska wilderness issue be printed in the RECORD.

The articles follow:

[From the Lexington, (Ky.) Herald, May 30, 1978]

ALASKAN WILDERNESS BILL A CHANCE TO PRESERVE VAST, UNSPOILED LAND

The Alaska wilderness bill now before the Senate deserves all the support Sens. Walter Huddleston and Wendell Ford can give it.

If passed in its present form, the bill will protect 100 million acres. "There will be no greater land-conservation decision made in our lifetime," says Dr. Edgar Wayburn, chairman of the Sierra Club's Alaska Task Force.

It has passed the House but faces stiff cpposition in the Senate. The opposition comes from many Alaskans and the mining and oil industries as well as other business interests.

It is a now-classic confrontation. Environmentalists want to ensure that the land is preserved. Mining and oil people want to be able to go after the natural resources that may be there.

Actually it is not an all or nothing argument. The dispute will be over exactly how much land will be protected and in what ways. The questions involve the amount of land—federal land, by the way—to be set aside in national parks, national forests, wildlife refuges and wilderness areas and which rivers to designate as wild and scenic.

The Senate should approve a bill preserving no less than the House bill does. There is plenty of federal land not included in the bill, sufficient acreage to keep the mining and oil companies busy for years. Furthermore, the lands with the most potential for natural resources have been excluded from the bill.

Alaska's lands provide the nation with an cpportunity to preserve some of the world's largest remaining areas of unspoiled wilderness. Too often in the past, this nation has made the wrong choices when it came to the environment. A drive for more energy shouldn't be allowed to ruin Alaska's wilderness.

Obviously, once the land is spoiled, the opportunity to save it is gone. That's why the Senate should pass the bill. That's why Huddleston and Ford should do their part.

[From the Paducah (Ky.) Sun-Democrat, June 21, 1978]

A BALANCED PROPOSAL FOR ALASKAN LAND

In most disputes over conservation we have urged that a balance be struck between legitimate development interests and the need to preserve some of the native splendor of this country.

In what may be the most important decision on conservation of this generation it seems the balance already has been struck, but many are fighting it. We are speaking of the Alaska Lands legislation now before the Senate.

The House of Representatives has passed a compromise bill designating 102 million acres of Alaska as national parks, national wildlife refuges and wild and scenic rivers areas. These areas would be protected from future development. In addition, another 23

million acres in the North Slope National Wildlife Refuge would be used primarily for oil and gas exploration.

That might sound like an awful lot of land and it is. But one should consider Alaska's huge size; the land in question is only about one-third of the 49th state's total mass.

When admitted to statehood, Alaska was given the right to select for its own use 104 million acres after the federal government designated various parks and refuges (the federal government at one time owned almost the entire state). There is another one million acres in private ownership, and native Alaskans (Indians and Eskimos) are to be given the right to select another 44 million acres for their purposes once the federal government picks the land it wants. The government must make its decision this year.

That still leaves open to development by private interests more than 100 million acres. But various mining, oil and timber interests aren't happy. They want more.

It seems to us these private interests are being a little greedy. Their interests already have been taken into consideration.

Approximately 70 percent of the hard rock mineral deposits in Alaska would be left out of the protected lands, along with 95 percent of the potential oil and gas reserves. Boundaries are drawn in the bill (HR39) so that, whenever possible, the deposits would be left out of the protected areas.

Then there's the fact that the bill would place in conservation many acres that are already federal lands. Nobody is really "losing" anything. People who presently draw their living from the land would be able to continue to do so, at least for a while.

Should there be a national emergency or other reason to develop the land, Congress could change the law. Even as it stands now, there is room for limited development at the discretion of the Secretary of the Interior.

Meanwhile, America will get some truly great national parks if the bill is approved. Among these are the Gates of the Arctic, 8.1 million acres of rugged peaks and valleys in the Brooks range in north central Alaska; Lake Clark, often called the "Switzerland of Alaska" because of its glacier-created lakes, lush vegetation and wildlife; Wrangells-St. Elias, which encompasses most of three mountain ranges and contains 10 of the highest peaks in North America; and a 3.4 million acres expansion of Mt. McKinley National Park.

It seems a good ideas to pass HR 39 pretty much intact. Nobody would lose much and we would be preserving part of this nation's greatest natural heritage. We hope the Senate feels the same way.

[From the Sebree (Ky.) Banner, May 25, 1978]

THE GREENING OF ALASKA

Alaska is a vast piece of real estate. It is appropriate, therefore, that the House Interior Committee has put in a vast amount of time writing a bill that will be fateful for Alaska's future. The full House is now preparing to decide what will become of millions of acres of federal land that still lie virtually untouched in our remote northern state.

Secretary of Interior Cecil Andrus has referred to Alaska as the "crown jewels" of our nation—an apt description of its mountain ranges and forests teeming with wildlife. The jewel box, however, also contains oil, gas, minerals and timber resources which the country needs

Although the issue of an oil pipeline route through Alaska was settled several years ago, echoes of that battle will be heard in the debate on the proposed Alaska National Interest Lands Conservation Act. Again, Congress faces the question of where to draw the line between preservation of unspoiled wilderness and development of natural resources important to the Alaskan economy and the nation as a whole.

Compromises are inevitable, but most of them have been made in the years of deliberation now coming to a head. The bill which emerged from the House committee strikes us as a rational balance between the interests of conservation and jobs, the two forces in a familiar tug-of-war.

The statistics of the Alaska bill are mindboggling. It would expand the state's three national parks and create 10 new ones, increasing park area from 7.5 million to 50.2 million acres. It would add 25.1 million acres to four existing wildlife refuges and create new ones totaling another 25.7 million acres. Segments of 22 rivers would be protected by the National Wild and Scenic Rivers System.

The point of greatest controversy is the designation of 74.2 million acres within those parks and refuges as wilderness, off-limits to any further incursion by roads or other facilities. Significantly, however, none of the known oil, gas and mineral deposits in Alaska is included in the protected areas. The bill does not appear to be "locking up" a significant amount of underground resources.

Alaska provides an opportunity for America to avoid mistakes that were made by previous generations in the rush to settle and develop the pristine wilderness of the "lower 48" states. The bill now before Congress does not affect the 148 million acres placed under state and tribal jurisdiction when Alaska joined the Union, and the fate of that considerable area remains in Alaskan hands. What is at issue is the future of "unreserved federal lands," which are a national heritage. They have come down to us with their desolate majesty unspoiled, and it is now up to Congress to assure that this priceless treasure is passed on to generations yet to come.●

SOLAR POWER SATELLITE PROGRAM—S. 2860

● Mr. GOLDWATER. Mr. President, the future of mankind requires the development of new sources of socially acceptable energy at reasonable costs. I believe America can do the job, and even become a net exporter of energy within one or two generations.

As matters now stand, there are only two real candidates to supply our long-range energy needs: nuclear fusion and solar energy. Because we do not know which of these candidates will be a winner, we need to keep several horses in the race until we see which one can run the fastest.

Where solar energy is concerned, there is a debate on how to tap this limitless source of energy. Some would place collectors on individual buildings and houses. Others advocate solar farms on Earth. For some years now, there have been advocates of solar energy collecting satellites.

While the initial cost of these satellites would be great, so would the yield. Cloud cover and the Earth's atmosphere can greatly reduce the amount of solar energy reaching the Earth. A satellite would capture the Sun's energy nearly 365 days a year and would not be subject to the Earth's atmosphere and day and night cycles. Little maintenance would be required.

For the foregoing reasons, I believe the Department of Energy should get going with a program to demonstrate the capability of a solar energy satellite. I congratulate the Senator from Montana (Mr. MELCHER) for introducing S. 2860 and I ask to be added as a cosponsor.●

AUGUST 21, 1978—10 YEARS LATER

● Mr. BAYH. Mr. President, on August 21 all who are truly committed to the internationally recognized political right of self-determination will observe a most solemn occasion. Ten years ago on that date tanks of the Soviet-dominated Warsaw Pact rumbled into the streets of Prague, Czechoslovakia, and other cities of that country to put down in brutally short order the Czech movement for a more liberal style of socialism. The "Prague Spring" sought to openly accommodate divergent views and honestly debate political differences. It was also based on the proposition that democracy can only thrive when the rights of those committed to peaceful change are protected. However, such a notion of political rights struck at the heart of the Marxist-Leninist dogma that there can be no democracy for those who challenge in any manner the authority of the Communist Party to rule. To the Soviets, such a thought represented a stark, fundamental, and alarming departure from the "traditional" thinking on political "rights."

In asserting the doctrine of the "socialist commonwealth," the Soviet Union was successful in extinguishing the immediate threat to the Soviet-style rule in Czechoslovakia. However, the brutal Soviet aggression and occupation did violate a number of provisions of the United Nations Charter. Specifically, the invasion put the U.S.S.R. in violation of:

First. Article 2, section 1, relating to the sovereignty of a member state of the United Nations;

Second. Article 2, section 4, prohibiting the use of military force in the relations between individual members of the United Nations;

Third. Article 1, section 2, regarding the principle of self-determination of peoples;

Fourth. Article 2, section 7 prohibiting outside intervention in matters essentially within the domestic jurisdiction of any State; and

Fifth. A number of resolutions of the General Assembly of the United Nations, particularly resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in the domestic affairs of any state and guaranteeing its independence and sovereignty.

We are reminded at this time that the Soviet invasion not only meant an end to the short-lived resurgence along a path toward restoration of human rights, it also signaled the beginning of the Brezhnev doctrine of the "Socialist Commonwealth" which provided the Soviet Union with the unilateral right to intervene in the internal affairs of another socialist state. In view of such a declaration of "principle" it is particularly interesting that President Brezhnev recently chose Czechoslovakia as the country from which to criticize President Carter for

the administration's proper concern over Soviet-inspired Cuban activities in Africa. Such an exercise pioneered a new concept in the meaning of hypocrisy in international affairs.

However, such hypocrisy and brutality can at most only delay the desire for political liberty by the brave people of Czechoslovakia. The spirit of the charter '77 group affirms once again the determination of the Czech and Slovak peoples to rid themselves of outside political domination. Despite renewed repression by the Husak regime, the memory of the 10-year-old Prague Spring lives on. In an interesting way this particular anniversary recalls the early struggles of the labor movement in this country confronted by adversity and brutality in the quest to realize certain basic human rights. Fortunately, the American system permitted and facilitated such movements and continues to do so today in contrast to countries of the authoritarian right and totalitarian left. However, in the words of that old labor ballad about the "Poet Laureate of the Working Class," Joe Hill, we find a message which might be suited to Czechoslovakia today. Three stanzas for that ballad might be appropriate to recall on this occasion:

I dreamed I saw Joe Hill last night alive as you and me,
Said I, "But Joe you're ten years dead,"
"I never died" says he.
"I never died" says he.

"The copper bosses killed you, Joe
They shot you, Joe," says I.
"Takes more than guns to kill a man,"
Says Joe, "I didn't die."

And standing there as big as life,
And smiling with his eyes,
Joe says, "What they forgot to kill
Went on to organize."

The yearning for freedom in Czechoslovakia is not 10 years dead. It has gone on to organize and as free men and women, we have every right and obligation to lend our voices in support of this most worthy cause.●

A TIME FOR TRUTH

● Mr. HATCH. Mr. President, I would like to bring to the attention of the Senate Hon. William Simon's speech at the annual meeting of the Committee for Monetary Research and Education. This distinguished American points out that we have an unprecedented degree of freedom. We are free to deal in drugs and pornography, criticize our country, and print anything we want. But we are not free to produce. With the Government claiming 40 percent of the national income we are not free to save, invest, or even decide where those confiscated dollars will be handed out. Therefore, Simon points out, we are morally free, but economically dependent.

To what can we attribute this fatal state of affairs? To the Government and its layers of bureaucrats who, acting in the name of humanity, rob productive Americans of their economic freedom. We have created a system whereby those who are productive are punished and those who are not are rewarded. In effect, Simon says, the producing members of this country are no better than slaves or serfs—working hard while others reap their profits. Is this freedom?

I ask that excerpts from William Simon's speech be printed in the RECORD.

The excerpts follow:

A TIME FOR TRUTH

(By William E. Simon)

ECONOMICS: THE BUSINESS OF EVERYDAY LIFE

I would like to share with you some of the thoughts and fears about the direction in which our country is headed and a little about my experiences in Washington. It is the only city I've ever been in where sound travels faster than light. Therefore it defies the conventional wisdom one might have in attacking the problems that we all must attack in our different missions down there.

I found Washington to be, among other things, a very lonely place; lonely, that is, if you choose to attack the conventional wisdom and fight for fiscal and financial responsibility, for individual freedom and for limited government.

Indeed, anyone who wishes to attempt to reverse the disastrous direction that our country is headed in is held to be, at best, a 19th century thinker, a Neanderthal. Yet we must quickly begin to slow down and reverse the drift to the welfare state. This drift, while it may have its own special "Made in U.S.A." label, is still, in Hayek's chilling phrase, the road to serfdom.

I like to look at economics the way Marshall did, as the business of everyday life. It is not a subject that ought to bore you, because, while it is boring you, it is shaping your everyday life. Most people have forgotten, or they never learned or understood, that economic and personal freedom are indivisible. They don't understand that there are two types of threats to our freedoms. One is the quite obvious threat that we have always marshalled our resources and mobilized to repel in the wars. But the other is so insidious that not one in a million recognizes that it is occurring. That is the threat to freedom from the all-pervasive government that is dominating our lives.

Despite all the rhetoric—and I devoutly hope the Proposition 13's of this world signify a trend in this country—nothing has changed yet. The budget remains completely out of control, growing at three and four times the rate of our real gross national product. Government consumes 40% of national income. The federal debt doubled in the past ten years. The American people had to work until May 11 of this year just to pay their federal, state and local taxes before they could begin to keep the fruits of their own labors. Anyone who pays that much of his income for the munificences of this all-powerful government, and who doesn't believe he has lost his freedoms, obviously doesn't understand the problem.

THE FUTURE OF THE SYSTEM

We now have regulations coming out of Washington at a 25% faster rate than just two years ago. These regulations cost approximate $150 billion a year. In a nutshell, goverment domination continues unabated, with inflation dominating our economic affairs. It is ultimately going to destroy our society unless we overcome it.

This is the point that is so difficult to explain. When we speak of inflation and recession brought on by the all-powerful government, we are speaking not of narrow economic issues, but of fundamental issues of equity and social stability. Throughout history, whenever government dominated the economic affairs of its citizens, a free society was eroded and destroyed and a minority government ensued. The most important point to be derived is that the free enterprise system and a free society are indivisible. It is impossible to have a politically free society unless the major portion of its economic resources are operating under the free enterprise system. The real issue in human freedom, recognizing that the future of the system is also the future of a free society.

The question we have to ask ourselves in analyzing our situation here in America is: Are we going to reverse the trend of the last forty years toward a collectivist society or are we going to ignore history and suffer the inevitable fate of all the countries throughout history with all the tragic consequences?

I left Washington a freightened man, as I said in my book. I'm no less frightened today. That is the main reason why I decided to write the book. It is dedicated to my children, meaning all the children of the world, so they could not look back on my stewardship and ask: "Why weren't we told?".

The fact is that we have been told, and we've been told and told again. In attempting to express my fears and support them intellectually with facts and from personal experience, the book goes to a larger point, namely that we in the United States are far down the road to losing our freedoms.

That is a preposterous charge, it is often said by people who receive these warning about declining freedom in America. This is impossible. There is no freer society on earth.

In a sense that it true, but it is immensely deceptive. I agree, there never has been such freedom before: to speak freely, to wag one's tongue to the entire nation, to publish anything and everything, to take drugs, to propagandize for bizarre sexual practices, to watch bloody and obscene entertainment. Conversely, compulsion rules the world of work and there never has been so little freedom in America before to plan, to save, to invest, to build, invent, hire, fire, to resist coercive unionization, to exchange goods and services, to risk, to profit, to grow. Yes, even to fail.

The strange fact is Americans are constitutionally free today to do almost anything our cultural traditions have previously held as immoral and obscene, while the police powers of the state are being invoked against almost every single aspect of the productive process.

PLANNING AND ECONOMIC CHAOS

Some years ago, Arthur Krock, who is retired editor of the Washington bureau of the *New York Times*, wrote that the U.S. merits the dubious distinction of having discarded its past and its meaning in one of the shortest spans in history. In recognizing this truth in writing my book, it became my judgment that the single most important job I could do in the realm of American political life was to make Americans aware of what is happening: that the fundamental principles of American life have been reversed and that we are careening with frightening speed toward collectivism and away from individual sovereignty; toward coercive centralized planning and away from free individual choice. In every case, the bureaucrats, politicians, and the government itself, don't know what they do when they intervene in our economy. The operations of our free market are so incredibly complex that no small group of men can possibly anticipate the effects of their actions. Furthermore, they never do and they never have. They have been engaging in intellectual fraud.

Another important point is that the chaos caused by this ignorant and fraudulent intervention is always remedied by more intervention. Sages in government never admit to the people that they don't know what they are doing. Since Liberals, who dominate our culture, believe in the state as some omniscient god, all failures of state intervention are attributed to insufficient intervention. Yet, the result of piling intervention on intervention creates further chaos and greater economic destruction and a steady and inexorable trend toward state control of all aspects of our lives.

When will we learn that the extraordinary wealth of our nation emerges from the lack of any direction of the economic process; from the lack of economic control; from the lack of state-imposed or so-called national goals. The capitalist miracle occurred in the United States, the most politically free nation in the world, precisely because this explosion of wealth is the unique result of individual liberty.

Today our state is a redistributionist machine which has run amuck and in which a relatively small group of people keep taking the wealth from everybody's pockets to redistribute it for a variety of reasons only they deem important.

Allegedly this redistribution process has humanitarian goals but actually it simply gives a small group of people the power to run the lives of their countrymen. What is actually going on in the process is coercive egalitarianism, the political curse of our era. It pretends to draw its moral force from the Constitution which talks of equality, but it is not equality of the Constitution which is really being sought. Constitutional equality means every man in liberty is entitled to go as far in life as his wit, ambition, desire to work and ability will take him. That is simply equality of opportunity.

Egalitarianism is the precise opposite. It punishes the hard working and ambitious and rewards those who are not. It seeks equality of results regardless of individual differences. One of the most serious falsehoods being told the American people is that our present system represents the Constitutional vision of equality.

REGAINING OUR BALANCE

There is only one way to generate a public awareness of the issues I have listed and to launch a broad challenge of the assumptions and goals presently underlying our political life. It can't and will not emerge from the ruling intellectuals because they have no interest in challenging their own assumptions and goals.

What we desperately need in America today is a powerful counter-intelligencia that will issue the challenges. There are many thousands of authentic intellectuals who are not of the authoritarian breed, who don't aspire to dictate the course of the lives of their fellow citizens. Millions of people in every trade and craft have come to distrust big government and the ruling intellectuals. This powerful group can and must be organized to challenge the so-called "ruling new class." This counter-intelligencia must be dedicated consciously to the political value of individual liberty above all and must understand its relationship to meritocracy. It must be consciously aware of the value of private property and the free market in generating innovative technology, jobs and wealth.

Business would also do well to take up the cudgel and practice free enterprise instead of just preaching it. Funds generated by business have to rush to the aid of liberty where she is beleaguered. Business has to cease the mindless subsidy to colleges' and universities' departments of economics, government and the social sciences that are hostile to free enterprise and whose faculties won't hire scholars whose views are otherwise. Business money should flow away from the media that serve as megaphones for anti-capitalist opinion and to the media that are either pro freedom or at least professionally capable of fair and accurate treatment of pro capitalist ideas, values and arguments. Above all, business, individuals—everyone has to stop asking the government for free goods and services, however desirable and necessary they may seem to be. They aren't free. They are simply extracted from the hide of your neighbors and they can be extracted from you by force.

In these times our balance has been lost, mainly because politicians, for selfish reasons, have misled people into believing the system can deliver more than is being put into it. The pursuit of political favor by these leaders has tilted the balance in favor of narrow, organized concerns at great cost to the questing, productive spirit which gave this nation its momentum. We can regain this spirit and regain the balance and momentum, but it is going to take a lot of straight thinking, and more importantly, a lot of straight talk.

In my judgment, the American who chooses to fight for the sanctity of the individual and for limited federal government, has nothing for which to apologize.●

MINI-CARRIERS FOR THE NAVY

● Mr. BAYH. Mr. President, during the Senate's debate on the Department of Defense authorization bill, I supported amendments which would promote the study and development of alternatives to future large-deck carriers designed to accommodate fixed-wing aircraft which will improve our ability to protect the sea lanes for ourselves and our allies. It is especially important that we carefully examine the probems inlvolved in proceeding in this direction with full knowledge that the large-deck carriers now in inventory should be retained and their missions tailored to protecting the sea-lanes vital to the resupply and replenishment of our ground forces in Europe and elsewhere in the event of an emergency as well as projection of power ashore, where necessary. These considerations led me to support the vertical/short take-off and landing (VSTOL) AV–8B+ Sea Harrier program and oppose the fixed-wing F–18 single-seat Hornet fighter/attack aircraft.

The Soviet submarine and antiship cruise missile threat to the fleet requires us to take appropriate steps to maximize our ability to meet this growing challenge. I am concerned that we take the necessary steps to insure that our Navy continues to be fully capable of fulfilling its important role. Because of this concern, I was especially interested in an article which appeared in the most recent issue of the American Legion magazine by Calvin E. Patton discussing the ARAPAHO concept in basing anti-submarine helicopters and aircraft to provide us with greater numbers of platforms for our ASW efforts. At this time, I ask that this article be printed in the RECORD.

The article follows:

MINI-CARRIERS FOR NAVY?

As dollars and politics point to fewer aircraft carriers and a smaller surface fleet, Navy men are concerned about the reduced number of tactical aircraft—strike, ASW, reconnaissance—that can be deployed at sea.

Their concern grows as they consider Soviet gains and development of KIEV-class and MOSKVA-class aviation ships with helicopter and V/STOL aircraft capability. And it becomes critical when Navy planners study U.S. petroleum imports and the long, vulnerable sea lanes tankers must travel to reach American ports.

A number of alternatives are being studied.

One involves our merchant marine and it makes sense from a cost standpoint. The Navy calls it Project ARAPAHO. It envisions construction of small, modular air facilities—hangars, shops, living quarters, flight decks and fueling provisions—that can be cheaply procured and distributed to Navy and Marine Corps air units at their bases ashore. Individual steel modules are dimensionally identical to the standard 40-foot and 20-foot freight containers in use on railroads and highways throughout the world. Their interiors are modified to support aircraft maintenance, repair and servicing. With a light steel "roof" and doors, they form hangars that can house four or more large helicopters or new, high-performance V/STOL (vertical short takeoff or landing) fighter-attack aircraft. Flight personnel and support crews would live in self-contained modules configured with bunks, heads, galleys, a small dispensary and other facilities. The flight decks, consisting of modular sections of steel grid, are equally mobile, strong enough for most tactical helos and V/STOLS. They could be moved by truck, train or cargo aircraft.

This opportunity to take additional aircraft to sea lies in a revolutionary transition in merchant ship design. Today's modern freighters are the size of Essex and Midway-class aircraft carriers. They steam at 28 to 33 knots and are manned by small crews, as few as 24 persons. They are highly automated, efficient and well-equipped. Newer container ships are virtually free of the topside cargo handling gear that has always precluded serious consideration of aircraft usage. Instead, they offer a vast expanse of open, clear deck. Since container-type cargo ships are already fitted for standard freight containers over main-deck hatch covers, it is relatively simple to design and develop an aviation facility that attaches in the same manner. Planners estimate that an entire, self-sustaining air facility—compatible with container ships, bulk carriers and even huge 500,000-ton tankers—can be installed in less than 24 hours at a total cost of $5 million to $7 million.

Such a capability could permit the United States and its allies to maintain and train air groups at home, yet rapidly deploy them abroad a range of commercial ships. Aircraft would be used for convoy and sea lane defense or mine sweeping. Marine amphibious forces could use merchantmen to deploy "Harrier" V/STOL fighter-attack aircraft. These moves would reduce the burden now imposed on the Navy's few remaining carrier task forces.

The idea is definitely no substitute for the aircraft carrier and the Navy's surface strike forces, but it opens a new range of tactical alternatives. In today's unsettled world, we can't afford to ignore any such alternatives.●

PUBLIC HOUSING AS SEEN BY TENANTS

● Mr. HATCH. Mr. President, many aspects of the lives of lower-income people in this country are directly affected by Government intervention. On major area in which the Government has provided aid is public housing. This area has existed since the depression and as the years have passed its purpose has changed, creating a more negative image than ever before.

There never seems to be any question about the problems of public housing. One needs only to look at slovenly yards and dilapidated houses to see problems. There has not been much dispute con-

cerning the cause of these problems either, but a new study reveals that there should have been. A book entitled "Case Workers or Police? How Tenants See Public Housing" coauthored by Alvin Rabushka and William G. Weissert presents a new view of the problems and their causes—the occupants view.

This book destroys our preconceived notions of what the tenants in public housing want. When we think about public housing we make the mistake of judging that standard of living by our own. We suppose that everyone detests public housing. Many people may, but most of the people who occupy these houses like them. These houses are of a lower standard than our own, but for the vast majority of those who live in them they are of a higher standard than the housing they previously occupied. Public housing is also inexpensive compared to the market prices of regular housing which most tenants of public housing are unable to afford.

Although those occupying public housing have a lower standard of living, their preferences concerning social services are not really different from those of the upper income groups. Rabushka and Weissert base this conclusion in interviews conducted with more than 1,000 tenants of public housing in Wilmington, Calif. These tenants were not surveyed once—they were interviewed repeatedly as different programs were implemented. Rabushka and Weisserts' findings destroy many of our negative perceptions of public housing.

The tenants themselves were both elderly and young, both families and single persons. The image they entertain about public housing is far from negative. Only 1 in 40 elderly persons feels ashamed to live in public housing. Less than 30 percent of the nonelderly find their neighborhood unattractive. In fact, the elderly have virtually no complaints about their apartments, and the families have complaints dealing only with the maintenance of their houses. Both groups complain about security, but neither group has any complaints concerning social services. This would seem to indicate that all the people and money involved in producing social services are operating at their full potential. Rabushka and Weissert prove, however, that the tenants of public housing do not value these social services, so no matter how effectively these resources are utilized they are but another bureaucratic waste.

They found that although the resident services division cut back its staff by nearly three-quarters because the State terminated funds, the tenants exhibited no increasing need for social services. They did, however, continue to demonstrate a desire for security. In compliance with these requests a program was implemented which employed off-duty policemen to patrol public housing for a year. This program had a great effect on the tenants of public housing, as their feelings illustrated when the program was gradually forced out of action due to insufficient funds.

As the police protection tapered off there was a huge increase in the tenants' fear of crime. Fear of drugs and rape tripled, and fear of car theft doubled. Fear of assault, vandalism, and robbery also rose appreciably. With the termination of the security force the tenants were generally less satisfied with their housing and management.

Thus, the tenants of public housing demonstrated a definite need for police, but not one for social services. These tenants were only a small cross section of all the tenants of public housing in this country, so their preferences are not necessarily representative of the preference of all others. Their preferences clearly suggest, however, that the occupants of public housing prefer protection to caseworkers. But the Government prefers to provide "social services" instead of protection. From the standpoint of the occupants, if public housing is to become a success, resources must be allocated differently. More police are needed and less caseworkers.

Rabushka's and Weissert's book points out the fact that those who occupy public housing, like you and I, want protection, not caseworkers and internal interference.●

MR. JACK COHEN

● Mr. MATHIAS. Mr. President, in this day, when cynicism and selfishness seem so prevalent, I never cease to be proud of the good works of Marylanders. Mr. Jack Cohen, of Silver Spring, Md., has been helping poor people in Montgomery County and the District of Columbia for decades.

Although crippled with polio, Mr. Cohen formed a charitable fund in his name 50 years ago, and has since trudged through the streets of Washington, D.C., in search of food, furniture, and clothes for others. He used his talents as a salesman to convince city merchants to donate vegetables and meats to his charity campaign and persuade dry cleaning establishments to turn over to him clothes which were abandoned in their shops. An unfortunate accident now prevents Mr. Cohen from crusading as actively, but he still seeks furniture and clothing donations.

Jack Cohen has received more than 20 awards in appreciation of his years of work for the poor and needy. Among them is the State of Maryland's certificate of distinguished citizenship, and certificates of appreciation from the Maryland House of Delegates and the Knights of Columbus.

It is truly inspiring to know of Mr. Cohen's efforts. His work should serve as a fine example to all citizens.

In order that my colleagues may fully appreciate Mr. Cohen's efforts, I ask that an article which appeared in the Baltimore Afro-American be printed in the RECORD.

The article follows:

[From the Afro-American, Nov. 12, 1977]

JACK COHEN HONORED BY UPO

The mentioning of the name Jack Cohen often brings to the minds of many Washington area residents visions of a person devoted to the services of others.

A man who has, for the past 15 years been partially disabled, Cohen is well known in southeast, northeast and northwest Washington, and in many of the surrounding surburan communities.

Jack Cohen was again honored recently by one of many citizens organizations which recognized him as a person with a "good heart." Last Wednesday, the United Planning Organization's (UPO) Neighborhood Development Center 1, 1336 8th St., N.W. held a citizens appreciation awards night at the Miles Memorial Church.

Cohen was honored for his most recent work collecting and distributing clothing to those in need.

Cohen has, in the past, been honored by the city of Hyattsville, supplied a house full of furniture to a northwest family burned out of their previous dwelling and honored by the Department of Human Resources' Anacostia Project for his "one man crusade" to help the needy.

"We are all human beings," Cohen stated recently, adding, "We must all help each other."

Jack Cohen, along with his parents, came to the United States from Russia over half a century ago. He left school at the age of twelve to help support his family, and worked at a laundry for $3 a week.

Although an unsuccessful fight against polio left him partially crippled years ago, Cohen has over the years appealed to Washington-Maryland area clothing, laundry and warehouse establishments to benefit over 20,000 needy families.

"God has been good to me," Cohen stated following the most recent honoring by UPO. "For 14 years I've worked with the blind and crippled at St. Elizabeths. I care less about race, nationality or religion. We're all God's children."

Cohen now uses a support to get around. He insists that he will continue to work to help those who need assistance. When asked what keeps him going, Jack Cohen does not hesitate to say what he believes the contributing factor to his continued work.

"I never smoked in my life. I never drank in my life," he stated, then repeated a statement that has become a phrase often uttered by the "man with a heart:"

"God has been good to me," Jack Cohen, active citizen, concluded.●

U.S. VISA POLICY

● Mr. McGOVERN. Mr. President, on July 26 the Senate dealt a potentially serious blow to our human rights efforts abroad by moving to restore the requirement that the Secretary of State must decide on a waiver whenever a member of a Communist party applies for a visa to visit the United States. We effectively dropped that obstacle in 1977 when the Congress accepted my amendment as a step to conform our own practices to the freedom of travel emphasis of the Helsinki Final Act. After just 1 year the Senate has now accepted an alternative amendment that amounts to backtracking on our own human rights standards. The matter will come up next in a Senate-House conference which will be meeting tomorrow to resolve the differences between the two versions of the security assistance bill.

In my view the recent Senate action was ill-considered. We acted in the charged atmosphere that understandably followed the Shcharansky and Ginzburg trials in the Soviet Union. But we chose a completely inappropriate and self-defeating method of demonstrating

our displeasure toward the Soviets' sorry approach on human rights.

The nature of that mistake is described most succinctly in today's New York Times in a column by Mr. Daniel Yergin, a lecturer at the Harvard Business School. He points out, among other things, that the Senate amendment—

Would re-erect a barrier to increased contacts, undercutting American credibility and indeed our claim to the very Helsinki principles from which we argue.

Mr. Yergin further notes that while the recent Senate action was aimed at the Soviet Union, it will fall most heavily on members of the more flexible Western parties who will likely be excluded, thus undermining our relations with the European left at a time when we should be seeking to increase their exposure to our values.

Because I regard it as an extremely useful and helpful analysis of an issue before the Congress, I ask that the column I have described be printed in the RECORD.

The column follows:

LETTIN' IN THE COMMIES

(By Daniel Yergin)

PARIS.—It is not surprising that the recent show trials in the Soviet Union have stimulated Congress to look for appropriate responses. But those responses should be chosen with care. For actions generated in a burst of self-righteousness could end up advancing Soviet interests at the expense of America's.

That certainly would be the paradoxical result of a little noticed amendment added by Senator Howard Baker to the military-assistance bill. Given its intent, the amendment could end up providing Moscow with a powerful propaganda victory.

The Baker amendment concerns visa policy for visitors to the United States, which may sound like a rather technical matter. In this case, it is not. It is of primary political importance.

Until 1977, a legislative relic of the McCarthy era made it very difficult for foreign Communists to visit the United States. They were not allowed in unless the State Department requested a special waiver. A Leonid Brezhnev could always get in, could even get invited to the House. But not the Italian or Spanish Communists who had publicly criticized his doctrine—and his regime. It was odd—the rigid ruling Communists could visit but not the non-ruling Western Communists somewhat closer to Western pluralist values. This was changed in 1977 with passage of the McGovern amendment, which permitted Communists to enter on the same basis as other visitors, unless the State Department requested otherwise.

But now comes the Baker amendment, which would effectively revoke the McGovern amendment and return to the former restrictive practice. The Baker amendment was passed two weeks ago by the Senate, with the A.F.L.-C.I.O's support, and is scheduled for discussion in a Senate-House conference committee tomorrow.

Howard Baker explains that his amendment would be a "visible reminder to the Soviet Union" of American concern about repression. But much of this concern is couched in terms of the Helsinki agreement, which is supposed to promote increased contacts between peoples and ideas, East and West. Yet the amendment would re-erect a barrier to increased contacts, undercutting American credibility and indeed our claim to the very Helsinki principles from which we argue.

The amendment would also unnecessarily complicate the conduct of our foreign policy. Each decision on each application by Communists would be read as a political statement in his home country. Granting a visa would be seen as a form of approval; rejection, as a sign of unmitigated hostility; either way, the decision would embarrassingly end up on the front pages of local newspapers. The resurrection of the barrier would be regarded as offensive in Western Europe, not only by Communists but by Socialists, centrists, even by some conservatives—fulfilling old stereotypes about McCarthyism.

While the amendment is supposedly aimed at the Soviet Union, its most ill effect would be on our relations with those Western European countries where the left—composed variously of Communists and Socialists—is strong and could become stronger if there is no economic recovery.

Italy is the most obvious and important example. Its Communist Party, representing about a third of the electorate, is, along with the Christian Democrats, one of the two key parties in the parliamentary majority that runs the country. Virtually everyone who has examined the question agrees that the party has been evolving away from the Soviet model, from Stalinism. Considerable disagreement exists even among the most informed analysts as to how far, sincere, and deep—and how beneficial—that evolution is. We should want to find out. We should want to increase communication, without having each exchange appear to be graced with our seal of approval. No purpose is served by excluding Italian and other Western Communists. It will not lose them votes, and may well win them some. The amendment would hardly keep out genuinely subversive elements.

Western European Communists should have the opportunity to see American society as it is. Their vision of America has been doubly distorted—first by our habit of being the most self-critical society in the world, then refracted yet again through the ideological prisms of the left. Many, though not all, in the Italian Communist Party are deeply curious about the United States. To exclude them is to deny one possible influence on the evolution of their party, and to strengthen the position of the Stalinists and, in so doing the hand of the Soviet Union itself.

We have nothing to fear from letting Western Communists make the comparison themselves between the realities of Soviet and American societies, and perhaps even something to gain. This will be better done through a normalized visa process, and not through the self-defeating mechanism of the Baker amendment, which would turn each application, at the very least, into an awkward Federal case.●

LNG TRANSPORT NEEDS NEW SAFETY STANDARDS

● Mr. KENNEDY. Mr. President, I would like to call the attention of my colleagues to an article in the August 7 edition of the New York Times, "Liquid Propane Tank Car Derails and Explodes Near Illinois Town." It describes an accident in which a railroad car carrying liquefied petroleum gas (LPG) exploded, injuring two bystanders and forcing the evacuation of 200 people.

I have long been concerned about the potential danger to the public posed by unsafe handling of hazardous materials such as LPG and liquefied natural gas (LNG). In fact, the Office of Technology Assessment, for which I serve as chairman, reported last September that rigorous new safety standards are needed for LNG transport, particularly in vessels. More recently, I was shocked to read in a July 31 General Accounting Office report that present standards for safe transport of liquefied energy gases in ships, trucks, and trains are vastly inadequate.

Last week, I asked the Secretary of Transportation to come up with a series of firm new safety standards governing the safe transport of hazardous cryogenic materials. I am awaiting his reply.

The accident which occurred last Sunday in Collinsville was not an isolated incident. According to the GAO, LPG cars are involved in many of the 10,000 rail accidents which happen in this country each year. About 10 percent of our 1.7 million freight cars carry hazardous materials. This most recent LPG accident only hinted at the potential damage an LPG explosion could cause. When an LPG railcar was punctured in a 1974 accident in Decatur, Ill., the resulting explosions killed 7 people, injured 349, and wreaked $24 million in damages.

I hope that every member of Congress will take an interest in this vital matter of public safety. Without objection, I ask that the New York Times article be printed in the RECORD.

The article follows:

LIQUID PROPANE TANK CAR DERAILS AND EXPLODES NEAR ILLINOIS TOWN

COLLINSVILLE, Ill., Aug. 6.—About 200 residents were evacuated from their homes early today because of an explosion and fire in a derailed railroad tank car carrying liquid propane gas.

Two persons were injured, one of them seriously, in the explosion a few minutes before midnight north of the city limits. Flames were visible as far as 30 miles to the west across the river in St. Louis County.

The authorities evacuated residents from nearby homes for fear that three other derailed cars containing propane would explode. No serious property damage was reported, although several homes are within a few hundred feet of the railroad tracks. A number of trees caught fire and were extinguished by firemen. The cause of the derailment was under investigation.

Firemen stood by during the day and let the contents of the tanker burn out. They hoped to prevent three other derailed tank cars from rupturing by pouring water on them to keep them cool.

5 TANK CARS WITH GAS

The authorities said five tank cars carrying the propane gas were among the 69 cars of the train. One tanker exploded and three others turned on their sides but did not explode. The fifth tanker remained upright.

The explosion injured the two occupants of a pickup truck stopped at a crossing. Wilburn Alford, 37 years old, of Troy was hospitalized with burns and was reported in serious condition. Another occupant of the truck, Gina Pendleton, 17, was released from a hospital.

The train was operated by the Illinois Terminal Railroad, which handles switching operations on the Illinois side of the St. Louis area.

The General Accounting Office said last week in a report to Congress that trains and trucks carrying liquefied natural gas. propane or butane should be banned from highly populated areas because accidents or sabotage could cause disasters.

On July 11, a truck carrying liquid propylene gas overturned and exploded in Spain, killing at least 170 people and injuring 150.●

GAO REPORT ON FEDERAL FUNDING FOR BARNWELL NUCLEAR FUEL PLANT

Mr. THURMOND. Mr. President, on July 25 of this year, the General Accounting Office released a report entitled "An Evaluation of Federal Support of the Barnwell Reprocessing Plant and the Department of Energy's Spent Fuel Storage Policy." The GAO was requested to prepare this report by Senator GLENN, chairman of the Energy, Nuclear Proliferation and Federal Services Subcommittee on the Committee on Governmental Affairs.

The report specifically concludes that Congress should continue to fund short-term research at Barnwell until the international study on alternative fuel cycles is completed. The International Nuclear Fuel Cycle Evaluation (INFCE) is a 2-year, 40-nation study initiated by the administration to evaluate alternative fuel cycles which will reduce the danger of nuclear proliferation. Congress, in appropriating $12 million for research at Barnwell in fiscal year 1978, directed that the results from that program be input into the INFCE.

The GAO report supports continued funding for Barnwell because this course of action would keep the facilities and key people available in the event the United States decides, as a result of the INFCE, that some method of reprocessing is consistent with nonproliferation concerns. If funding is not provided for research so that this unique, modern facility may remain in operational status, the owners of the plant may be forced to "mothball" their entire operation.

While the plant could be brought from mothballed to operational status, the GAO report states that this would probably take about 4 years and cost between $75 million and $115 million. Recently, in hearings held by the Energy, Nuclear Proliferation and Federal Services Subcommittee, Senator GLENN informed Deputy Secretary of Energy John O'Leary that he wanted the Barnwell facility alive at the time the INFCE releases its results.

Mr. President, aside from simply keeping this plant in operational status, continued funding for Barnwell for research is a good investment and is producing results. Recently, I announced on the floor of the Senate a technological breakthrough achieved through the Barnwell R. & D. program for fiscal year 1978. The very talented staff there has developed a method of making the nuclear fuel cycle less susceptible to the threat that terrorist groups will be able to fashion crude nuclear explosives from the end products of that cycle. This new fuel cycle has been submitted to the INFCE for further evaluation.

On Monday of this week, the Appropriations Committee approved $18.5 million for fiscal year 1979 research at Barnwell. I urge my distinguished colleagues in the Senate to support continued funding for this unique facility, and I recommend to them the recent GAO report which supports my position on this matter.

Mr. President, I ask unanimous consent that the parts of the GAO report evaluating Federal funding for Barnwell Nuclear Fuel Plant be placed in the RECORD.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

AN EVALUATION OF FEDERAL SUPPORT OF THE BARNWELL REPROCESSING PLANT AND THE DEPARTMENT OF ENERGY'S SPENT FUEL STORAGE POLICY

In April 1977 the President deferred indefinitely the commercial reprocessing of nuclear spent fuel to (1) minimize the availability of plutonium and (2) reduce the risks of nuclear weapons proliferation. To carry out the policy, the President proposed that neither Federal funding nor support should be given to complete a large commercial reprocessing facility being constructed at Barnwell, South Carolina. Later in 1977 the Department of Energy announced that the Federal Government would, at some unspecified future date, begin accepting and taking title to spent nuclear fuel that previously was to be reprocessed.

GAO concludes that (1) Federal funding of short-term research activities at the Barnwell reprocessing plant should continue until the completion of a major international study of alternative fuel cycle technologies and (2) the Department of Energy should not build a Government financed spent fuel storage facility until other alternatives are fully explored and the work of an interagency task force on waste management is completed.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

Hon. JOHN GLENN,
Chairman, Subcommittee on Energy, Nuclear Proliferation and Federal Services, Committee on Governmental Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: In response to your requests of November 22, 1977, and January 3, 1978, here are the results of our evaluation of the Barnwell reprocessing plant and the Department of Energy's spent fuel storage policy. As both topics are outgrowths of the President's April 1977 policy decision to defer indefinitely the commercial reprocessing of spent nuclear fuel, we decided to respond to the two requests in one report. This report, as we agreed with your staff, will be available for unrestricted distribution.

We provided selected officials of the Department of Energy and the Nuclear Regulatory Commission an opportunity to review a draft of this report. Their oral comments have been incorporated in the report as we believe appropriate.

The report contains recommendations to the Secretary of the Department of Energy on page 23. As you know, section 236 of the Legislative Reorganization Act requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

COMPTROLLER GENERAL'S REPORT TO THE SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES, COMMITTEE ON GOVERNMENTAL AFFAIRS, U.S. SENATE

DIGEST

For many years, the Government and utilities assumed that spent nuclear fuel from commercial reactors would be routinely reprocessed to separate the nuclear wastes and recover the residual uranium and plutonium. The radioactive wastes would be concentrated, packaged, and turned over to the Federal Government for disposal while the uranium and plutonium would be used again to fuel either light water or breeder reactors.

In April 1977, however, the President announced a new policy on nuclear power which deferred indefinitely the commercialization of technologies that reprocess or depend on the recycle of plutonium. The reason for the policy was to reduce the availability of plutonium and to minimize the risks of nuclear weapons proliferation.

To carry out the policy, the President has proposed to indefinitely defer the development of the Liquid Metal Fast Breeder Reactor and has said that Allied-General Nuclear Services, Inc., would not receive either Federal funding or support to complete a large commercial reprocessing facility being constructed at Barnwell, South Carolina.

Later in 1977 the Department of Energy announced that the Federal Government would, at some unspecified future date, begin accepting and taking title to spent nuclear fuel from utilities that previously was to be reprocessed. Under this policy, spent fuel from utilities would be accepted upon payment of a one-time fee. The fee would cover the full cost to the Government for interim storage and final disposal of the spent fuel.

FEDERAL SUPPORT OF THE BARNWELL REPROCESSING PLANT

Barnwell is the first large-scale commercial reprocessing venture in the United States. It is designed to reprocess 1,500 metric tons of spent reactor fuel per year. The Nuclear Regulatory Commission approved construction of some of the facilities before 1970 and three of the five major facilities at the complex are essentially complete.

Allied-General has already invested about $250 million in the Barnwell complex. A recently completed Department study on alternative uses at Barnwell estimates that before the plant could operate continuously at design capacity, an additional capital investment of $380 million to $585 million would be needed. It is possible, however, that spent fuel could be reprocessed prior to the completion of the entire complex.

Barnwell, as well as other reprocessing plants here and abroad, separates spent fuel into almost pure streams of uranium and plutonium. The Administration considers this unacceptable from a nuclear weapons proliferation standpoint and has taken initiatives to study, along with other countries, alternative fuel cycles and methods of reprocessing that might prevent proliferation. Until this international study is complete, Allied-General has said there is very little it can do to complete the Barnwell facility.

The President's decision to indefinitely defer commercial reprocessing reflects a major change in the Federal attitude toward Barnwell. While the Government did not provide any direct financial support to Allied-General, it created—through its previous policies and programs on nuclear power—an atmosphere favorable to reprocessing. The former Atomic Energy Commission, for example, offered verbal encouragement to Allied-General, provided it access to reprocessing technology, and sold it land on which to build the reprocessing complex. Likewise, the Nuclear Regulatory Commission, while imposing strict requirements, had not previously given Allied-General reason to believe that reprocessing and recycling activities could not eventually meet safety and environmental licensing criteria.

Faced with the withdrawal of official Government support for conventional reprocessing and the termination of licensing proceedings, Allied-General's position was improved—at least temporarily—when Congress required the Department of Energy to

spend $13 million of its fiscal year 1978 research budget at Barnwell. Congress said, however, that the work at Barnwell should be consistent with the Administration's nonproliferation objectives and that the money not be used to further prepare the plant for reprocessing. In addition, committees in both houses of Congress have tentatively added between $13 million and $18 million to the Department's current budget request to continue work at Barnwell through fiscal year 1979.

The Department, after receiving the money from Congress, contracted with Allied-General for several studies and research activities relating to (1) spent fuel transportation, receiving, handling, and storage; (2) security and safeguards; and (3) alternative fuel cycles. The Administration believes this work duplicates other research efforts and should not be continued. GAO, during its review, discussed this with Department officials. Generally, high-level management agreed with and even helped develop the Administration's position. Other staff levels, however, do not believe that the work at Barnwell is duplicative but recognize that the Department should do a better job of matching any future work to its program objectives.

If Congress agrees with the Administration's position and discontinues funding, Allied-General has said that it will decrease operations and consider putting the plant in a mothballed status. While the plant could be brought from mothballed to operational status at some future time, the Department estimates that it would take about 4 years and cost between $75 million and $115 million. It is also an option, according to Allied-General, that it would eventually dismantle the plant and take legal action to recoup its losses from the Federal Government. In any event, the lack of continued Government funding is likely to result in the termination of some or all activities at the plant and the loss or transfer of people key to the reprocessing operation.

If funding is continued by the Congress, money could be used to continue research activities, assist in the development of other facilities at the plant, expand the onsite spent fuel storage facility, or purchase Barnwell for use either as a national or international fuel cycle center. The Administration believes, however, that such funding would hinder its international nonproliferation objectives and cause other countries to doubt the U.S. commitment to the deferral of commercial reprocessing technologies.

GAO believes that the Congress should continue to fund short-term research studies at Barnwell until the completion of the international study on alternative fuel cycle technologies. This will keep the facilities and key people available in the event the United States decides, as a result of the study, that some method of reprocessing is consistent with its nonproliferation objectives.

GAO believes, however, that it is important that the Department not wait on congressional initiatives to plan work at Barnwell and make it compatible with existing programs. Also, GAO emphasizes that this should be a short-term option only. If, at the completion of the international study, the Administration maintains its current policies, GAO would recommend that the Congress terminate its funding initiatives. At that time it would be Allied-General's decision to either maintain or reduce the operating status at Barnwell.

CHAPTER 1

Introduction

For many years, the Government and utilities assumed that spent nuclear fuel from commercial reactors would be routinely reprocessed to separate the nuclear wastes and recover the residual uranium and plutonium. The radioactive wastes would be concentrated, packaged, and turned over to the Federal Government for disposal while the uranium and plutonium would be used again to fuel either light water or breeder reactors. This was desirable as a means of conserving fuel and because it was considered more cost effective to recover the uranium and plutonium than to dispose of the spent fuel as nuclear waste.

By the mid-1970s, however, the attitude toward commercial reprocessing was beginning to change. Some studies predicted that existing uranium supplies would last until at least the end of the century; the high cost of commercial reprocessing raised questions about the benefits of reprocessing except to fuel advanced breeder reactors; a Federal court prohibited the interim licensing of facilities that use plutonium until a rulemaking proceeding on environmental issues was completed; Nuclear Fuel Services, Inc. closed down its small commercial reprocessing operations in West Valley, New York; and during October 1976 President Ford decided to delay commercial reprocessing in the United States until uncertainties regarding nuclear weapons proliferation were resolved.

New Nuclear Policy

On April 7, 1977, President Carter announced a new policy on nuclear power which deferred indefinitely the commercialization of technologies that reprocess or depend on the recycling of plutonium. This was done to limit the spread of these technologies to other countries and to minimize the further proliferation of nuclear weapons. The key points of the policy were to increase support for current light water reactors and the once-through fuel cycle but to defer further development and support for the liquid metal fast breeder reactor and the reprocessing plants needed to fuel it with plutonium.

To carry out the policy, the President has proposed to terminate the construction of the Clinch River Breeder Reactor and has said that Allied-General Nuclear Services, Inc., would not receive Federal funding or support for completing a large commercial reprocessing facility being constructed at Barnwell, South Carolina. Last year, the Department of Energy (DOE) announced that the Federal Government would, at some unspecified future date, begin accepting and taking title to the spent nuclear fuel that previously was to be reprocessed and which is accumulating at reactor sites. The intent of DOE was to store spent fuel until either a decision on reprocessing is made or geologic disposal is available. Under this policy, spent fuel from utilities would be accepted upon payment of a one-time fee. The fee would cover the full cost to the Government for interim storage and disposal of the spent fuel.

Previously, we have prepared two reports which have application toward the new nuclear policy and the spent fuel storage and disposal policy. The first report examined the problems of safely disposing of hazardous radioactive wastes including spent fuel elements.[1] The report concluded that it may be optimistic to expect a repository by 1985 because of social, geological, and regulatory obstacles. The second report evaluated the Administration's proposed nuclear nonproliferation strategy.[2] It recommended that Congress not authorize funds to commercially demonstrate or to commercialize reprocessing technology until alternatives are evaluated. On the other hand, the report recognized the continued need for a viable research and development program for nuclear fuel reprocessing. Also, it recommended that Congress be consulted before the United States announces any policy, concerning the return of foreign spent fuel or participation in international spent fuel storage centers.

Scope of Review

During our review, we evaluated a DOE contract with Allied-General Nuclear Services, Inc., in Barnwell, South Carolina. The contract provided for studies of spent fuel transportation, receipt, handling, and storage. We reviewed the options available for the Barnwell facility in light of the new nuclear policy.

We also evaluated the domestic storage aspect of DOE's spent fuel storage and disposal policy. We reviewed the present spent fuel situation in the United States to determine if there is a storage problem and we examined the alternative strategies being considered by DOE to resolve the problem.

The following chapters highlight our evaluation of each of these areas as well as our observations on related matters. Comments from selected officials of DOE and the Nuclear Regulatory Commission (NRC) have been incorporated and in the report as we believe appropriate.

CHAPTER 2

Federal support of the Barnwell reprocessing plant

Allied-General Nuclear Services, Inc. has partially constructed a large nuclear fuel reprocessing complex in Barnwell, South Carolina. If completed, this plant, known as the Barnwell Nuclear Fuel Plant, would chemically separate the plutonium and unused uranium in spent nuclear fuel so it could be recycled and used again in current or future generation commercial powerplants.

On April 7, 1977, however, the President announced that due to the risks of worldwide nuclear weapons proliferation, the United States would indefinitely defer reprocessing and the recycling of plutonium. In response, NRC terminated licensing proceedings for Barnwell and all work toward completing the complex was stopped. In the interim, the United States has taken initiatives to (1) study alternative fuel cycles and methods of reprocessing that might be more acceptable from a proliferation standpoint and (2) seek an international consensus on the ways to minimize the proliferation risks associated with reprocessing.

Allied-General, faced with the loss of its $250 million investment, believes that it should receive Federal support at least until national and international studies on alternative fuel cycles are complete and the U.S. position on reprocessing is finalized. Congress, apparently in agreement with Allied-General, required DOE to spend up to $13 million of its fiscal year 1978 fuel cycle budget at Barnwell. This is enough, according to Allied-General, to maintain the current staffing and operating levels at the plant through September 1978. In addition, Congress provided DOE with $1 million to study potential uses for Barnwell that would be consistent with this country's nonproliferation objectives. Also committees in both houses of Congress have tentatively added between $13 million and $18 million to continue work at Barnwell through fiscal year 1979.

A $13 million cost type contract was awarded in January 1978 to Allied-General. The Administration and DOE believe that this and any future work at Barnwell will be only marginally beneficial in the near term. Additionally, the Administration believes that continued congressional funding of Barnwell could cause other countries to doubt this country's commitment to its nonproliferation objectives and refuse to fol-

[1] Nuclear Energy's Dilemma: Disposing of Hazardous Radioactive Waste Safely, September 9, 1977 (EMD-77-41).

[2] An Evaluation of the Administration's Proposed Nuclear Non-Proliferation Strategy, October 4, 1977 (ID-77-53).

low our leadership in restricting the widescale recycling of plutonium.

The remainder of this chapter provides a history and status of Barnwell and discusses present and future funding arrangements for the complex.

History and Status of Barnwell

Barnwell is the first large-scale commercial reprocessing venture in the United States.[1] It is designed to reprocess 1,500 metric tons of spent reactor fuel per year and, if completed, would consist of five major facilities: (1) a spent fuel storage facility capable of storing between 400 and 750 metric tons of spent fuel; (2) a separations facility which chemically processes spent light water reactor fuel assemblies into liquid uranium, liquid plutonium, and liquid waste; (3) a uranium hexafluoride facility which converts the liquid uranium into uranium hexafluoride for re-enrichment by the Government; (4) a plutonium conversion facility to convert the liquid plutonium to an oxide and store it for eventual use as a light water reactor fuel or in breeder reactors; and (5) a waste solidification facility to solidify the liquid wastes and temporarily store them before shipment to a permanent repository.[2]

NRC approved construction of some of the facilities before 1970 and the spent fuel storage, separations, and uranium hexafluoride facilities are now essentially complete. Conceptual designs have been partially prepared for the plutonium conversion facility and waste solidification plant, but these are unproven parts of a reprocessing complex and have not yet been submitted for NRC review. More importantly, Allied-General does not believe that either of these two facilities can be built and licensed in today's environment without extensive involvement and funding by the Federal Government. It believes that such facilities should first be built and operated by the Government as large-scale demonstration projects.

In a previous report on the Administration's nuclear nonproliferation strategy (ID-77-53, October 4, 1977), we reported that prior to the President's April 1977 policy statement, the Energy Research and Development Administration (now part of DOE) had studied the problems of waste and plutonium solidification and requested authorization of $30 million to begin the design of commercial-sized waste solidification and plutonium conversion facilities. There was speculation at the time that these plants would have been constructed at Barnwell and that the total complex would have been used to demonstrate, under tightly controlled conditions, the various technical, economic, and safeguards uncertainties of reprocessing. With the President's policy statement, however, these plans were dropped and the request for authorization of $30 million was withdrawn.

Allied-General has already invested about $250 million in the Barnwell complex. The recently released $1 million DOE study on alternative uses of Barnwell estimates that before the plant could operate continuously at design capacity, an additional capital investment of $380 million to $585 million would be needed. This includes the cost to design and construct the remaining two facilities. It is possible, however, that spent fuel could be reprocessed (or chemically separated) prior to the completion of the entire complex.

Licensing requirements would have permitted the separations facility to operate for 5 years before a waste solidification plant is available. Because plutonium cannot be shipped in liquid form, this would have to be stored at Barnwell until the necessary facility is completed.

Barnwell and the Administration's Attitude Toward Reprocessing

Barnwell, as well as other reprocessing plants here and abroad, separates spent fuel into streams of almost pure uranium and plutonium. The Administration considers this unacceptable from a nuclear weapons proliferation standpoint and has taken initiatives to study alternative fuel cycles and methods of reprocessing that might prevent proliferation.

The major study is the International Nuclear Fuel Cycle Evaluation (INFCE)—a multinational study of alternative fuel cycles that is aimed at minimizing the danger of nuclear weapons proliferation without jeopardizing energy supplies or the development of nuclear energy for peaceful purposes. There are 50 participating nations in the INFCE study, but the United States is the main contributor and will have a major technical input to the study results. While this study will not commit any nation to a specific course of action, it is viewed by this country to be very important to the future direction of nuclear energy programs, both here and abroad. It is investigating the full range of nuclear problems and could result in a consensus on the future role of peaceful nuclear energy.

In technical support of the INFCE study, the United States has also initiated the Nonproliferation Alternative Systems Assessment Program (NASAP). This is a major review and analysis of a wide variety of reactors and reactor fuel cycle systems, emphasizing the proliferation risks of each but also considering their safety and their technical, environmental, and commercial feasibility. The specific focus of both of these studies is to identify fuel cycle or reprocessing alternatives which will combine superior proliferation resistance with effective use of uranium resources.

These studies are scheduled to be completed in late 1979, and until then Allied-General has said there is very little it can do to complete the Barnwell facility. The President has indefinitely deferred commercial reprocessing and recycling of plutonium in this country, and he has said that the Barnwell plant would not receive either Federal encouragement or funding for its completion as a fuel reprocessing complex.

In addition, NRC, in consideration of the President's policy, has terminated all licensing proceedings at Barnwell and said it will not consider reopening them until after these major studies are completed.[1] NRC justifies this decision by noting that

Continued licensing could lead other nations to question the U.S. commitment to defer commercial reprocessing and plutonium recycle,

Congressional actions appear to support the President's nonproliferation objectives and policy on plutonium recycling,

Previous court decision and existing regulations give the Commission broad authority to terminate licensing proceedings, and

Final environmental and safety considerations cannot be completed until the INFCE and NASAP studies are completed and all viable alternatives to plutonium recycling are known and evaluated.

These policies reflect a major change in the Federal attitude toward Barnwell. While the Government did not provide any direct financial support to Allied-General, it created—through its policies and programs on nuclear power—an atmosphere

* * * * *

$1 million study commissioned by Congress (1) did not define a single reprocessing related activity that could be done at Barnwell that would aid the present U.S. nonproliferation effort or (2) find any support for changing the decision not to support the completion of Barnwell as a reprocessing facility;

Funding of Barnwell could seriously damage U.S. leadership in general, and the U.S. position in the INFCE study; and

Existing DOE fuel cycle and safeguards wasteful to duplicate these programs at Barnwell.

While this is an extremely strong position and leaves no doubt about where the Administration stands, it fails to recognize two important considerations. First, does the Federal Government have any responsibility to the developers of Barnwell, considering the encouragement given to start a commercial reprocessing industry? Second, will the other nuclear developing countries follow the U.S. lead on proliferation and stop or defer their reprocessing programs? Early indications are that—even with a total U.S. commitment—other countries view the development of breeder technologies and reprocessing as vital to their economic stability, and may not be willing or able to follow the U.S. lead. For instance, Japan, France, West Germany, United Kingdom, and the Soviet Union all have ongoing breeder reactor development programs as well as planned or operating reprocessing facilities. They have not, as of yet, indicated a desire to discontinue these programs.

The Value of Work at Barnwell

Before the President's announcement on the deferral of reprocessing, Barnwell was a commercial facility in the process of being licensed. Therefore, DOE had not developed any plans to use Barnwell for research and development. When money was provided by Congress in August 1977, a program was developed rather quickly to spend the appropriated money before the close of the 1978 fiscal year. On January 12, 1978, a contract was awarded (without profit or fee) to Allied-General with a cost ceiling of $13 million. Included in the contract were studies and research activities relating to (1) light water reactor spent fuel transportation, receiving, handling, and storage; (2) security and safeguards; (3) alternative fuel cycles; and (4) maintenance and mothballing of the facility. According to DOE officials, much consideration went into developing a contract effort to insure it was consistent with authorizing legislation and would not further prepare the plant for reprocessing.

There are some differences of opinion, however, on the value of the work at Barnwell. As mentioned previously, the official Administration position is that the work at Barnwell duplicates other DOE research efforts. High-level DOE management agreed with this assessment and even helped develop the Administration position. Other DOE staff levels, however, do not believe the work is duplicative but recognize that if money is again provided by Congress in 1979, DOE should do a better job of matching the work to its program objectives.

Potential Uses of Barnwell

At the same time the Congress appropriated the $13 million for Barnwell, it also provided $1 million for DOE to study potential uses for Barnwell that would be consistent with U.S. nonproliferation objectives. The results of this study, issued in April 1978, concluded that in addition to

[1] A much smaller commercial reprocessing plant at West Valley, New York, operated between 1966 and 1972. It terminated operations when its owners were unable to economically justify plant modifications necessary to meet new licensing requirements. About 640 metric tons of spent fuel were reprocessed at this plant during its operation.

[2] DOE estimates that a permanent Federal respository for high-level nuclear waste will not be available until at least 1988.

[1] With the exception of the spent fuel storage facility.

reprocessing spent reactor fuel, Barnwell could be used in the short-term to

*—train national and international safeguards and security inspectors and fuel cycle operators;

*—conduct research, development, and demonstration on more proliferation-resistant fuel cycle technologies; and

*—store domestic or foreign spent fuel.

Longer term options include using Barnwell (1) to reprocess spent fuel in ways that do not involve the separation of pure plutonium, such as coprocessing or spiking,[1] (2) as a model for the establishment of an international fuel cycle center, or (3) to reprocess spent fuel from a Government-owned reactor at Richland, Washington. According to DOE's report, these options depend on the Administration deciding that some form of reprocessing can meet this country's nonproliferation objectives.

Barnwell is the only large-scale reprocessing plant in the United States and has not yet been contaminated by nuclear material. Therefore, it could be useful for conducting plant in the United States and has not ties. A DOE official said, however, that there were other less costly ways of conducting research and that the large annual operating costs at Barnwell prohibit DOE from efficiently using it solely as a research and development facility.

If continued Government funding or support is not provided at Barnwell, it is probable that Allied-General will choose to mothball or eventually dismantle the facility. Annual operating costs at the current level of activity are about $19 million and Allied-General has said that it cannot continue this expenditure for very long without Federal support.

Mothballing could be a viable option in certain situations and was considered by DOE in its $1 million study. In effect, the plant would be closed but maintained in some degree of standby condition. This would give time to make decisions on the future of reprocessing without seriously jeopardizing the operability of the plant. DOE has estimated that 18 months and $15 million would be needed to put the plant into a mothballed status. Annual maintenance costs would then range from $3 million to $4.5 million.

Later, if decisions are favorable toward reprocessing, the existing facilities could be brought from mothballed status to operational status in about 4 years at a cost estimated between $75 million and $115 million. Allied-General, however, still believes that reprocessing can be a profitable commercial venture if decisions are made quickly on such pivotal problems as coprocessing and waste disposal and if the Government assists in the development and demonstration of plutonium and waste solidification. Therefore, Allied-General is attempting to keep key people at Barnwell and maintain the plant in a ready state in the event the INFCE and NASAP studies produce some favorable change in the Administration's position.

Conclusions

The United States has embarked on a program to prevent the further proliferation of nuclear weapons. To help accomplish this goal, the President has decided to defer the commercialization of the liquid metal fast breeder reactor and the reprocessing technology that is needed to fuel it with plutonium, This, the President hopes, will convince other conutries to do the same and encourage them to look for alternatives to the recycling of plutonium.

[1] According to the DOE report, Barnwell can be easily adapted in most cases to coprocess or produce combination streams of plutonium and uranium (or nuclear wastes) that are not as susceptible to diversion as conventional reprocessing modes.

The rest of the world, however, does not agree with U.S. positions on breeder reactors and reprocessing. Other countries view these technologies as necessary for economic survival, and they tend to believe that proliferation problems can be solved through such institutional controls as increased inspections and advanced safeguards instrumentation. They have, however, cooperated with the United States in creating INFCE, controlling the spread of reprocessing technology, and looking at technological alternatives to breeders and conventional reprocessing. At this stage it is difficult to judge where the INFCE and other studies will lead. Some DOE officials doubt whether other countries will easily give up or defer technologies they have been developing for many years.

Until the INFCE study is complete, therefore, it is hard to predict what the future of reprocessing will be in this country. In the meantime, Congress is faced with the decision of whether to continue the funding of Barnwell or to cooperate with the Administration and end all financial support.

If funding is not provided, Allied-General has said that it will decrease operations at the plant and consider putting it in a mothballed status. It is also possible, according to Allied-General, that it would eventually dismantle the plant and take legal action to recoup its losses from the Federal Government. In any event, the lack of continued Government funding is likely to result in the termination of activities at the plant and the loss of transfer of key people to the operation. While the existing facilities could be brought from mothballed to operational status at some future time, DOE estimates that it would take about 4 years and cost between $75 million and $115 million.

If funding is continued by Congress, it could be provided in several ways. First, the current operating costs at Barnwell are about $9 million per year. Congress could decide to continue to fund certain types of research activities and studies as was done in 1978. This will help keep the Allied-General staff together and the options open for future long-term uses of Barnwell. The $1 million study performed by DOE identified several possibilities for using Barnwell in this way, but DOE considers them to be relatively inefficient uses of its research funds.

Secondly, money could be provided to assist in the development of waste solidification and plutonium conversion facilities at the plant. These are unproven parts of the reprocessing technology and too risky—according to Allied-General—to design and build without Federal support. This was being considered by DOE at one time, but dropped when the President developed his policy.

Thirdly, money could be provided to expand Barnwell's spent fuel storage pool. As discussed in the next chapter, utilities are running out of spent fuel storage space at nuclear powerplants and DOE is looking at options for providing some type of away-from-reactor storage. At present, Barnwell—depending on the type of storage racks used—could store between 400 and 750 metric tons of spent fuel. Allied-General has estimated that this could be expanded to 5,000 metric tons at a cost of $109 million, but is not interested in commercially operating Barnwell as a spent fuel storage facility. Therefore, any such use would probably involve Federal financing or purchase.

Finally, the Government could decide to purchase Barnwell for use either as a national or an international fuel cycle center. This would, of course, involve substantial costs and be in direct opposition with existing Administration policies.

Whatever decsion Congress makes with respect to Barnwell involves a number of advantages and disadvantages. If funding is terminated, the Federal Government would naturally save whatever money that would have been spent. It is probable, however, that such termination would result in either the temporary or permanent loss of the experienced people and the facilities at Barnwell. This would limit potential uses of Barnwell should the United States subsequently decide that reprocessing is needed or can be consistent with its nonproliferation objectives.

On the other hand, continued funding would keep the key people and the facilities available but might hurt U.S. nonproliferation initiatives abroad. It is also questionable if any short-term use of Barnwell would be worth the $15 million to $20 million needed to keep the Barnwell staff and facilities in a ready state. Continued funding, however, would provide the United States with the greatest degree of latitude if the INFCE study results in any policy change on reprocessing. It also recognizes that Allied-General might have some rights that deserve consideration, at least until major questions on reprocessing have a chance to be resolved.

Therefore, while we did not attempt to evaluate all the available alternatives and determine which would be the most cost effective, we believe that Congress should continue to fund short-term research efforts and studies at Barnwell until the completion of the INFCE study. We believe, however, that it is important that DOE not wait on congressional initiatives to plan work at Barnwell and make it compatible with existing programs. Also, we emphasize that this should be a short-term option only. If the Administration maintains its current policies when the INFCE study is completed, we would recommend that Congress terminate its funding initiatives. At that time it would be Allied-General's decision to either maintain or reduce its operating status at Barnwell.

NEED FOR ADMINISTRATION TO ACCELERATE DEVELOPMENT OF MX MISSILE

Mr. THURMOND. Mr. President, it is with great reassurance that I have read in the newspaper in recent days strong statements by our top ranking Air Force officers urging that the U.S. expedite development of the MX mobile missile.

In the posture hearings before the Senate Armed Services Committee in 1977 then chairman of the Joint Chiefs, Gen. George Brown, warned that our Minuteman missiles in their fixed silos would become vulnerable in the early 1980's to a Soviet attack.

The last budget of the former administration recognized the urgency of this problem and proposed funding development costs of the MX missile at a rate of $294 million in fiscal year 1978 and $1.5 billion in fiscal year 1979. The new administration cut back these efforts sharply, favoring $134 million in fiscal year 1978 and $158 million in fiscal year 1979. The cut of about $1.5 billion in MX spending entails serious risks for the United States.

The excuse used by the Defense Department to date is that studies were inadequate to determine the basing mode of the new missiles. If this is the case they had better double their study efforts, as time is now running against us.

In any event I have noticed the lack of a firm commitment by the administration to the MX missile itself. Now, two of our top military leaders have come out strongly for accelerated development, a

step of some importance in the current environment.

I think these statements are important. While they address to some degree the basing mode, on which we have not had specific testimony, the public pronouncement that we need this misssile and need to get moving is a significant and overdue action.

Mr. President, I ask unanimous consent that two articles be printed in the RECORD at the conclusion of my remarks. They include an article in the July 31, 1978, issue of Aviation Week magazine entitled "MX Missile, Vertical Shelters Urged by U.S. Defense Chief" and an article in the August 6, 1978, issue of the New York Times entitled "Strategic Air Command Chief Endorses MX Missile."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Aviation Week & Space Technology, July 31, 1978]

MX MISSILE, VERTICAL SHELTERS URGED BY U.S. DEFENSE CHIEF

(By Edward W. Bassett)

WASHINGTON.—Gen. David C. Jones, chairman of the Joint Chiefs of Staff, last week urged expediting the development of the MX missile and using vertical shelters within the multiple aim point concept to counter the increasing Soviet capability to knock out the U.S. intercontinental ballistic missile force.

Gen. Jones stated his position clearly on the same day Maj. Gen. Timothy I. Ahern, the Air Force's assistant deputy chief of staff for research, development and acquisition, argued in favor of such an MX system during a speech before the Aero Club of Washington.

The Congressional Budget Office (CBO) recently estimated that procuring 200 MX missiles, building 5,800 shelters for them and operating such a system would cost $28.3 billion through Fiscal 2000. A force of 300 MX missiles dispersed among 8,500 shelters and operated through Fiscal 2000 would cost $37.6 billion, the CBO said (AW&ST July 17, p. 2).

The first option provides for one MX missile for every 29 shelters while the second option plans one missile for every 28 shelters. This is a somewhat lower ratio than that proposed by the Defense Dept., which suggested that there should be one missile for every 20 to 25 shelters.

The Ahern speech and the remarks by Gen. Jones, who also suggested that a new manned bomber was needed, came at the same time the White House called for "a $5-billion cut in the [overall] 1979 budget."

A White House spokesman said: "The President has repeatedly said it's going to be a tight budget year in Fiscal 1980." An Office of Management and Budget official concurred, saying, "We have sent the various departments and agencies their tentative ceilings under which to submit their 1980 budget requests and they [the ceilings] are obviously tight."

Gen. Jones said, "With or without a SALT [strategic arms limitation talks] agreement, the ICBM force will become vulnerable in the days ahead. What we advocate primarily is proceeding with an MX program, because we have two problems—we've got vulnerablity and we've got a great imbalance in throw weight—and we need to address both of these."

In order to insure the survivability of the U.S. ICBMs, "The best solution we see is a multiple aiming point [system]," he said. Confirming an earlier AVIATION WEEK & SPACE TECHNOLOGY report (June 19, p. 22), Gen. Jones said, "As of now, from a cost standpoint and from some other factors, what we call the vertical shelter appears to be the most attractive [system]."

With regard to a new SALT treaty, Gen. Jones emphasized that he "would have deep reservations about not being able to proceed with a survivable ICBM. And my interpretation is that the MAP concept is the very end of the mobile [missile concept]. And therefore, I consider that mobiles are authorized and that therefore the MAP is authorized."

Using fiscal arguments to support his position, the general said it would be cheaper for the U.S. to build vertical shelters than for the Soviets to build enough reentry vehicles to cover these shelters

"In my judgment, depending on the agreement, we may end up spending less than without an agreement," Gen. Jones said: "I just want to dispel any idea that SALT is going to mean a reduction in the strategic force budget in the days ahead."

In detailing the need for an MX system, Gen. Ahern cited "the unprecedented buildup we are seeing in Soviet ICBM force capability. The end result of these improvements is that the Soviets will be able to attack all of the U.S. ICBMs in their hardened silos, with more than one reentry vehicle, if they choose, and inflict heavy damage on the entire force. This means that by the early to mid-1980s U.S. ICBM survivability will approach unacceptable limits."

Improvements in the Soviet ICBM force, Gen. Ahern continued. are a growing problem for U.S. strategic planners. He noted: "The nature of these improvements is such that in the early to mid-1980s the Soviet ICBM force could have sufficient weapons and capabilities to effectively negate the U.S. ICBM force in a first strike, leaving the Soviets a large residual force of ICBM weapons for unhampered use against U.S. cities and industries, U.S. bombers and submarines and U.S. allies."

Gen. Ahern also warned that the Soviets now have a slight edge in boosters and in reentry vehicles along with a substantial lead in throw weights, and added:

"The Soviets are tending toward an ICBM force with the ability to place at risk time-urgent hard targets, specifically the U.S. ICBM force."

With regard to the Soviet Tupolev Backfire bomber, Gen. Jones said the Joint Chiefs of Staff were continuing to recommend that it be counted in any SALT agreement. "One thing we have been concerned about is that some of the restrictions that would be put on the Backfire would not be, in our judgment, realistic restrictions because they could be changed overnight."

If the Backfire is not counted under such a treaty, Gen. Jones said the U.S. has two alternatives: "One is to improve our air defenses" sufficiently and the other "is for us to have an option for our own Backfire."

He added he believes "the manned bomber is required as far into the future as I can see. We are improving the [Boeing] B–52, and I am not talking about just with a cruise missile. I would hope that some day we would have a new manned bomber in this country."

The Defense Dept. has said that a study is in process with the aim toward "maintaining a production option for strategic penetrating bombers. The study is looking at the B–52, the [Rockwell International] B–1 and variants, the [General Dynamics] FB–111H and a conceptual new bomber."

The Strategic Air Command has already provided inputs for the study, which began last February. SAC wants any follow-on bomber to be capable of mixed internal payloads, auto-terrain following flight, high subsonic airspeeds at sea level and intercontinental unrefueled range.

[From the New York Times, August 6, 1978]

STRATEGIC AIR COMMAND CHIEF ENDORSES MX MISSILE

Gen. Richard H. Ellis, chief of the Strategic Air Command, has recommended to Secretary of Defense Harold Brown that "full-scale development" of the mobile MX missile begin this fall.

"There will be a period of time in the early to mid-1980's," the general said, elaborating on his recommendation in a recent interview, when the United States' force of 1,054 intercontinental ballistic missiles "could be at risk," and the military's confidence "in its ability to survive an enemy attack would be low."

He contended that the solution to this problem was the MX missile, which he described as "the most capable advanced missile that American technology can provide."

General Ellis is the second senior officer in recent days to give a vigorous endorsement to development of the MX, which stands for mobile experimental. Gen. David C. Jones, Chairman of the Joint Chiefs of Staff, said in Washington earlier last week, "I consider the mobiles are authorized and therefore M.A.P. is authorized." The chairman added, "To me this is not a matter for discussion or negotiation."

SYSTEM DESIGNED TO CONFUSE TARGETERS

M.A.P. stands for multiple aim point, a system General Ellis described as one that presents Soviet targeters "with so many possible aiming points that they would not be able to afford the expenditure in missiles to attack one target."

The Air Force rationale for deploying the mobile missile is based on the increasing vulnerability of its present force of intercontinental ballistic missile, which, resting in their launching silos, are seen as easy prey to a new generation of Soviet missiles of greater weight and accuracy. The MX missile, which is more elusive to Soviet targeters, is considered much less vulnerable in an attack.

In the multiple-aim-point system, each missile and its launcher could be moved among 20 launching sites, either shelters or trenches. A force of 200 to 300 MX missiles then, according to an Air Force estimate would require a comparable force of 4,000 to 6,000 Soviet missiles to insure its destruction. The system has been compared to a "shell game," in which one has to guess which of several shells hides a single pea.

Air Force intelligence and planning officers doubt that the Soviet Union would be able thus to "cover" the mobile missiles, and that consequently Moscow would be extremely reluctant to launch a first strike against the United States missile force because its retaliatory capability would be largely undiminished.

General Ellis suggested that to limit costs of the new program, a hybrid missile might be developed that could be launched from land or from a nuclear submarine. As it is, he said, the Soviet Union has "a tremendous advantage in throw weight and capitalizes on its high number of warheads." Throw weight is the total weight of a ballistic missile that can be directed to a given target.

Both generals emphasized the importance of the mobile missile, while at the same time stressing the importance of current negotiation to limit strategic arms."To me," General Ellis said, "the alternatives to a SALT agreement are unacceptable: appeasement, economic exhaustion resulting from an arms race or a nuclear holocaust."

The startegic air group's commander sees the the key to any workable strategic arms-limitation agreement the improvement of satellite-surveillance procedure for gathering intelligence on Soviet military moves, he

said, will become increasingly more difficult as technology advances. The long-range cruise missile, for example, is small enough to elude identification by satellites or reconnaissance aircraft.

DEPARTMENT OF DEFENSE COMPETITIVE RATE PROGRAM

Mr. EAGLETON. Yesterday Mr. President, the House passed by an overwhelming majority—269–96—an amendment offered by Congressman CONTE which will allow the Department of Defense to continue to use the competitive rate program in shipping household goods of military personnel overseas. This amendment will allow the Department of Defense—using their own estimates—to save over $50 million annually.

Mr. President, I have often stood on the Senate floor and criticized the Department of Defense for wasting and/or misspending taxpayers dollars, but on this issue I want to go on record as strongly praising the Department of Defense efforts on holding down the cost of moving household goods. I am hopeful that the Senate will not see fit to open a loophole that has recently been closed by the House of Representatives by an overwhelming vote.

In order to further explain the competitive rate program, I ask unanimous consent that the following summary prepared by the Department of Defense be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

COMPETITIVE RATE PROGRAM

The Competitive Rate Program (CRP) for shipping household goods overseas was established to increase competition and reduce costs.

Historically, carriers participating in this $250 million a year business shared equally if they met the established low rate, which most did. This generally led to increasingly higher rates and marginal service. In a 1976 report the General Accounting Office (GAO) recommended that additional competition be introduced to bring the carriers' rates more in line with the reasonable cost of providing this service.

The CRP does this by awarding carriers a prescribed percentage of tonnage on the routes for which they set the low rate. The remaining tonnage is distributed among the others according to the level of their rates.

This program started in January 1975 with Okinawa and, because of appreciable savings, shorter transit time, and reduced loss and damage, was expanded to Germany. Thus far, it has saved DoD approximately $34 million. On May 1, 1978, the CRP was expanded to five additional overseas areas, and others are scheduled to be included on November 1. It is estimated that total savings from this program would exceed $50 million a year, if expanded world-wide. In a July 7, 1978, letter to the Chairman of the House Merchant Marine and Fisheries Committee, the Deputy Comptroller General advised that GAO's preliminary evaluation of DoD's estimate of savings achieved under this program, which was made at the Chairman's request, indicates that both the estimate and the methodology used are sound.

Allegations have been made that the CRP adversely affects small business, causes widespread unemployment, and makes it possible for a few carriers to monopolize the business by filing predatory rates.

Since November 1, 1976, the number of small business carriers in this program has increased from nine to 53, and their share of the total revenue has increased from 23 to 35 percent. Expanding the CRP should have little, if any, effect on overall employment since it will not affect the total workload, which is dependent upon troop strengths and rotation policies, rather than the type of program in effect. Finally, all participating carriers are required to certify that their rates provide equitable and reasonable payment for the services performed.

DoD has two basic responsibilities in administering its household goods shipping program: (1) to provide high-quality service to its members, and (2) to obtain this service at a fair and reasonable price. The CRP fulfills these responsibilities and is consistent with the Congressional mandate that the maximum feasible degree of competition be achieved in the procurement of goods and services.

In view of the foregoing the DoD strongly opposes any effort to restrict the CRP to Okinawa and Germany or to prohibit its further expansion, or establish other restrictions on the DoD household goods shipping program.

EXTENSION OF TIME FOR PRINTING REPORT OF THE INTELLIGENCE COMMITTEE (REPT. NO. 95–1079)

Mr. BAYH. Mr. President, if the leader will yield, I was prepared to submit our report at this time, but I ask unanimous consent that the printing of this report be postponed until midnight, Thursday, August 10, of this year, so that additional and minority views may be included in the report.

Mr. STEVENS. Reserving the right to object, may I inquire what the subject is of the bill?

Mr. BAYH. That is the terrorism bill that was referred to our committee. We have now reported it out with some amendments that have been pretty well agreed to, I think, between our committee and Senator RIBICOFF.

Mr. STEVENS. Is the time reserved in order to file the report?

Mr. BAYH. That is accurate.

Mr. STEVENS. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 9 a.m. tomorrow morning. There are no orders for recognition of Senators, are there?

The PRESIDING OFFICER. There are not.

Mr. ROBERT C. BYRD. I ask unanimous consent—and this is not needed, but I shall ask it anyhow—that when the two leaders or their designees have been recognized under the standing order, the Senate resume its consideration of the Agriculture appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. It is correct, is it not, that at that time the pending business will be the amendment by Mr. HATHAWAY?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Have the yeas and nays been ordered on that?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. A vote will likely occur as early as 9:30 or 9:45 a.m. tomorrow, then.

The PRESIDING OFFICER. That is correct.

RECESS UNTIL 9 A.M. TOMORROW

Mr. EAGLETON. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 9 o'clock tomorrow morning.

The motion was agreed to, and, at 8:10 p.m., the Senate recessed until Thursday, August 10, 1978, at 9 o'clock a.m.

NOMINATIONS

Executive nominations received by the Senate August 9, 1978:

DEPARTMENT OF STATE

Nicholas A. Veliotes, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemite Kingdom of Jordan.

THE JUDICIARY

Harold A. Baker, of Illinois, to be U.S. district judge for the eastern district of Illinois vice Henry S. Wise, retired.

INTERNATIONAL COMMUNICATION AGENCY

James David Isbister, of Maryland, to be an Associate Director of the International Communication Agency (new position).

Harold F. Schneidman, of Pennsylvania, to be an Associate Director of the International Communication Agency (new position).

HOUSE OF REPRESENTATIVES—*Wednesday, August 9, 1978*

The House met at 10 a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Lead me, O Lord, in Thy righteousness, make Thy way straight before my face.—Psalms 5: 8.

Eternal God, who has brought us to the beginning of another day, draw near to us as we worship Thee in spirit and in truth.

Bring to our troubled minds, uncertain and afraid,
The quiet of a steadfast faith, the calm of a call obeyed.

Bring justice to our land, that all may dwell secure,
And finely build for days to come foundations that endure.

Bring to our world of strife Thy sovereign word of peace,
That war may haunt the Earth no more and desolation cease.

So may we walk with Thee this day and all our days.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to the amendment of the Senate to a bill of the House of the following title:

H.R. 10787. An act to authorize appropriations for activities and program carried out by the Secretary of the Interior through the Bureau of Land Management.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12028. An act to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2701) entitled "An act to amend the Water Resources Planning Act (79 Stat. 244, as amended)," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRAVEL, Mr. RANDOLPH, Mr. MUSKIE, Mr. DOMENICI, and Mr. STAFFORD to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 3092. An act to amend the Federal Meat Inspection Act to require that meat inspected and approved under such act be produced only from livestock slaughtered in accordance with humane methods, and for other purposes; and

S. Con. Res. 101. Concurrent resolution to correct the enrollment of H.R. 10732.

ADDITIONAL WESTERN HEMISPHERE IMMIGRANT VISAS

(Mr. EILBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EILBERG. Mr. Speaker, I would like to draw the attention of my colleagues to pending litigation whose disposition will undoubtedly have far-reaching effects on U.S. immigration policy and procedures for years to come. I am referring to the class action, filed in the U.S. District Court for the Northern District of Illinois, entitled "Silva against Levi."

That case involves the issue of whether immigrant visas issued to Cubans in the past or now to other aliens from the Western Hemisphere should be counted against the 120,000 visa limit for the Western Hemisphere. The Department of Justice "gave in" to plaintiff's demand that some 144,000 visas shall be issued over and above the 120,000 limit established by the Congress in 1965.

When I became aware of the pending litigation and of the intention of the Government to "throw in the towel" on this issue, I communicated with the Attorney General expressing my view that only the Congress, pursuant to its plenary authority to regulate immigration, can decide the number of immigrants to be admitted to this country in any given year. Nevertheless, the legal point was conceded.

This is a clear example of executive action, significantly affecting U.S. immigration policy, that has been taken without congressional input. This lack of cooperation on the part of INS has resulted—too often—in the establishment of immigration policies and procedures which do not reflect the intent of Congress as set forth in our immigration and naturalization laws.

The issuance of an "extra" 144,000 visas greatly erodes the effect of laws passed by the Congress to numerically regulate immigration from the Western Hemisphere and it is regrettable that our Department of Justice did not "see fit" to defend this congressional viewpoint.

TERMINATION OF VIETNAM HOSTILITIES FOR NATURALIZATION PURPOSES

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, the Subcommittee on Immigration, Citizenship, and International Law has for a year-and-a-half now been seeking to obtain executive action which would close an existing loophole in our naturalization law. I am referring to the provision of the Immigration and Nationality Act which permits expeditious naturalization for aliens serving in the U.S. Armed Forces during time of war or other military hostilities. That section—section 329—was amended in October 1968 to provide this benefit to aliens who served honorably on a date beginning in February 1961 and ending on a date designated by the President by Executive order as the date of termination of the Vietnam hostilities. Here we are in August of 1978 and that Executive order has yet to be issued.

As a result, aliens who currently serve in the Armed Forces are still provided the naturalization benefits intended by Congress to be provided to service men and women who served during our involvement in Vietnam.

In addition, a newspaper report has indicated that a substantial number of illegal aliens are utilizing this provision of law to get expeditious naturalization by illegally enlisting in the armed services and subsequently obtaining honorable discharges.

The subcommittee chairman, the gentleman from Pennsylvania (Mr. EILBERG), has written to the Attorney General on several occasions on this matter and recently has communicated directly with the President, asking him to issue the needed Executive order at the earliest possible time.

To date, nothing has been done and the loophole in our naturalization law remains in effect.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 12935, LEGISLATIVE BRANCH APPROPRIATION ACT, 1979

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 12935) making appropriations for the legislative branch for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 13467, SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1978

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I take this time to ask my esteemed colleague and chairman if this is the bill that has funds for the Senate office "palace," or whatever it is called. Is that where the funding for that palace is squeezed in?

Mr. MAHON. I believe that the construction in which the gentleman is interested is in the Senate version of the supplemental bill.

Mr. ASHBROOK. I understand it is not in the House version.

Mr. MAHON. It is not in the House version.

Mr. ASHBROOK. Could the chairman give us any idea whether comity by the House is required, that we roll over and let them spend that money? What is the House position?

Mr. MAHON. Well, as the gentleman knows, normally the Senate does not in-

terfere in so-called housekeeping or such projects for the House, and normally the House does not seek to interfere in programs and construction proposed by the other body. Of course, this does not mean that the matter should not and will not be considered, because the matter will no doubt be considered and discussed in the conference with the Senate.

Mr. ASHBROOK. Further reserving the right to object, I guess the bottom line to what my esteemed colleague is saying—and this does not apply to him, because over the years he has an established record for the taxpayer—but where comity between Houses is involved, the taxpayers really have little input. I can well recall the Rayburn Building. I presume there was comity—or comedy—in that project. At first, it was only going to cost $40 million, but before the comedy was done it had cost about $120 million.

Mr. Speaker, I withdraw my reservation of objection.

Mr. MAHON. I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas? The Chair hears none, and without objection, appoints the following conferees: Messrs. MAHON, WHITTEN, BOLAND, FLOOD, STEED, SHIPLEY, SLACK, MCFALL, LONG of Maryland, YATES, MCKAY, CEDERBERG, MICHEL, CONTE, MCDADE, and ANDREWS of North Dakota.

There was no objection.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, it is anticipated that the House will continue consideration under the 5-minute rule of the Defense appropriation bill for the fiscal year 1979, H.R. 13635.

In connection with that matter, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill H.R. 13635, making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

INVESTIGATE MUZZLING OF INFLATION FIGHTER

(Mr. ANDERSON of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON of Illinois. Mr. Speaker, I have today written to the chairman of the House Banking Subcommittee on Economic Stabilization requesting immediate hearings into the reported muzzling of our Nation's top inflation whistleblower, Barry Bosworth, Director of the Council on Wage and Price Stability.

According to reports in yesterday's press, Secretary of Labor Ray Marshall told the executive council of the AFL–CIO in Chicago that Bosworth would no longer be permitted to speak out on pending wage contracts without clearance by a new wage inflation censorship board to be headed by Marshall himself.

Mr. Speaker, I find it a little curious that President Carter, that self-professed champion of Government whistleblower is now putting the muzzle on his own inflation whistleblower, apparently to placate the labor bosses. I guess the lesson in all this for future whistleblowers is that it is fine to blow your whistle as long as the President and George Meany are calling the tune.

PERSONAL EXPLANATION

(Mr. DICKINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKINSON. Mr. Speaker, those who have been participating in the defense appropriation bill debate for the past couple of days will probably acknowledge the fact that I have been rather diligent in my attendance here, and have been participating in debate. On the occasion of the motion to strike the funds, rollcall No. 654, for the nuclear carrier I was on the floor. I inserted my card into the machine. I depressed the button indicating my vote against striking the funds, but for some reason it did not register, according to the CONGRESSIONAL RECORD.

So at this point I would like to go on record, and have it part of the RECORD, as saying that I support the nuclear carrier and I opposed the striking of the funds. I refer, of course, to the Yates amendment to strike the funds for the CVN nuclear aircraft carrier.

The SPEAKER pro tempore. The gentleman's statement will appear in the RECORD.

TAX CUT LEGISLATION

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, there is a current song that contains the words: "Time keeps on slipping, slipping, slipping into the future." It is apparent that the tax cut legislation necessary this year is suffering the same fate.

The Ways and Means Committee started markup of this legislation on April 17, suspended its consideration on April 24 and did not resume its markup until July 20. The 3-month hiatus was supposed to give all parties—including the Carter administration and its Treasury Secretary—the time to come up with a bill acceptable to the committee. They failed to do so and a coalition of 13 Democrats and 12 Republicans forged a bill which the committee ultimately reported.

Now Secretary Blumenthal—unhappy with the product—is desperately trying to untrack the committee bill with 13th-hour proposals which have never been seen by the committee. His unprecedented intervention into the orderly procedure of the House could result in further delay of this critical legislation. It is time the Democratic leadership got on with this legislation. They should let Secretary Blumenthal and his proposals—not the tax bill—slip into the future.

LUNCHEON FOR EXILED ARCHBISHOP OF EQUATORIAL GUINEA

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I would like to invite my colleagues this noon to a luncheon I am hosting, here in the Capitol Building in room H–128, for the archbishop of Equatorial Guinea who is under a death sentence by the Marxist dictator of his tragic little country.

When I asked one of my colleagues on our side of the aisle to meet the archbishop on Monday, he said: "I have no interest in this matter at all," referring to the genocide in Equatorial Guinea, a genocide in which the population percentile murdered is worse than the holocaust in Nazi Germany, Uganda, or Cambodia.

This uninterested colleague has taken the well to discuss the tragic and wrongful death of Mr. Steve Biko in South Africa but has no desire to inform himself about the murder of tens of thousands. Sad. Again. I point out how cruel it is that people will focus on the slaughter of one human being but have no interest whatever in awesome genocides taking place in other African nations.

I am hoping that those Members who can come to today's luncheon will remember the agony of this Catholic archbishop of Equatorial Guinea, a shepherd whose flock is being decimated while he is in forced exile himself under a sentence of death—sentenced to die for his fellow man—for Jesus Christ.

Mr. Speaker, I cannot tell you how impressed I am with this brave and kindly man. He is aware of the fact that his outspoken protests against the genocide in his country gravely endanger his family. Nevertheless, Bishop Abuy, as with every true man of God, knows his primary duty is to the welfare of his flock.

The events in Equatorial Guinea must be brought to the attention of the civilized world. Unless we shout out a forceful condemnation of these atrocities, they will continue unabated.

Tomorrow, I will be introducing a resolution to the House, calling attention to the continuing murder of black Catholics and all other Christians in this tiny African country. I plead for the support of every one of you, my colleagues.

MILITARY-FUNDED ABORTIONS

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, I guess sometime today we will be called

upon to vote an amendment that could deny the right of a Congressional Medal of Honor winner's daughter getting an abortion if she is raped. I do not think we should do that to the daughter of a Congressional Medal of Honor holder.

DEPARTMENT OF DEFENSE APPROPRIATIONS, 1979

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for further consideration of the bill (H.R. 13635) making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 367, nays 4, answered "present" 1, not voting 60, as follows:

[Roll No. 663]

YEAS—367

Addabbo	Burke, Fla.	Duncan, Oreg.
Akaka	Burke, Mass.	Duncan, Tenn.
Alexander	Burleson, Tex.	Early
Ammerman	Burton, John	Eckhardt
Anderson, Calif.	Burton, Phillip	Edgar
Anderson, Ill.	Butler	Edwards, Ala.
Andrews, N. Dak.	Byron	Edwards, Calif.
Annunzio	Carney	Eilberg
Applegate	Carr	Emery
Archer	Carter	English
Armstrong	Cavanaugh	Erlenborn
Ashbrook	Cederberg	Ertel
Ashley	Chappell	Evans, Ga.
Aspin	Clausen, Don H.	Evans, Ind.
AuCoin	Clawson, Del	Fary
Badham	Cleveland	Fascell
Bafalis	Cochran	Fenwick
Baldus	Cohen	Findley
Baucus	Coleman	Fish
Bauman	Collins, Ill.	Fisher
Beard, R.I.	Collins, Tex.	Fithian
Beard, Tenn.	Conable	Flippo
Bedell	Conte	Flood
Benjamin	Corcoran	Florio
Bennett	Corman	Flynt
Bevill	Cornell	Foley
Biaggi	Cornwell	Ford, Tenn.
Bingham	Cotter	Forsythe
Blanchard	Coughlin	Fountain
Blouin	Crane	Fraser
Boggs	Cunningham	Frenzel
Boland	D'Amours	Fuqua
Bolling	Daniel, Dan	Gammage
Bonker	Daniel, R. W.	Gaydos
Bowen	Danielson	Gibbons
Brademas	de la Garza	Gilman
Breaux	Delaney	Ginn
Breckinridge	Dellums	Glickman
Brinkley	Derrick	Gonzalez
Brodhead	Derwinski	Goodling
Brooks	Devine	Gore
Broomfield	Dickinson	Gradison
Brown, Ohio	Dicks	Grassley
Broyhill	Dingell	Green
Buchanan	Dodd	Gudger
Burgener	Dornan	Guyer
Burke, Calif.	Downey	Hagedorn
	Drinan	Hall
		Hamilton
Hammer-schmidt	Metcalfe	Sawyer
Hanley	Meyner	Scheuer
Hannaford	Michel	Schroeder
Harkin	Mikulski	Schulze
Harris	Mikva	Sebelius
Harsha	Miller, Ohio	Seiberling
Hawkins	Mineta	Sharp
Heckler	Minish	Shipley
Hefner	Mitchell, N.Y.	Shuster
Heftel	Moakley	Sikes
Hightower	Moffett	Simon
Hillis	Mollohan	Skubitz
Hollenbeck	Montgomery	Slack
Holt	Moore	Smith, Iowa
Holtzman	Moorhead, Calif.	Smith, Nebr.
Horton	Moorhead, Pa.	Snyder
Howard	Moss	Solarz
Hubbard	Mottl	Spellman
Huckaby	Murphy, Ill.	Spence
Hughes	Murphy, N.Y.	Staggers
Hyde	Murphy, Pa.	Stangeland
Ichord	Murtha	Stanton
Ireland	Myers, Gary	Stark
Jacobs	Myers, John	Steed
Jeffords	Myers, Michael	Steers
Jenrette	Natcher	Steiger
Johnson, Calif.	Nedzi	Stockman
Johnson, Colo.	Nichols	Stokes
Jones, N.C.	Nolan	Stratton
Jones, Okla.	Nowak	Studds
Jones, Tenn.	O'Brien	Stump
Jordan	Oakar	Symms
Kastenmeier	Oberstar	Taylor
Kazen	Obey	Thompson
Kelly	Ottinger	Thone
Kemp	Panetta	Thornton
Keys	Patten	Traxler
Kildee	Patterson	Treen
Kindness	Pease	Trible
Kostmayer	Pepper	Tucker
Krebs	Perkins	Udall
Krueger	Pettis	Ullman
Lagomarsino	Pickle	Van Deerlin
Latta	Pike	Vander Jagt
Leach	Poage	Vanik
Lederer	Pressler	Vento
Lehman	Preyer	Volkmer
Lent	Price	Waggonner
Levitas	Pritchard	Walgren
Livingston	Pursell	Walker
Long, Md.	Quie	Walsh
Lott	Quillen	Wampler
Lujan	Rahall	Watkins
Luken	Railsback	Waxman
Lundine	Rangel	Weaver
McClory	Regula	Weiss
McCloskey	Reuss	Whalen
McCormack	Rinaldo	White
McDade	Roberts	Whitehurst
McEwen	Robinson	Whitley
McFall	Rogers	Whitten
McHugh	Rooney	Wiggins
McKay	Rosenthal	Wilson, C. H.
McKinney	Rostenkowski	Wilson, Tex.
Madigan	Rousselot	Winn
Maguire	Roybal	Wirth
Mahon	Rudd	Wolff
Mann	Runnels	Wright
Markey	Ruppe	Wydler
Marks	Russo	Wylie
Marlenee	Ryan	Yates
Marriott	Santini	Yatron
Martin	Sarasin	Young, Fla.
Mazzoli	Satterfield	Zablocki
		Zeferetti

NAYS—4

Lloyd, Calif.	Quayle	Wilson, Bob
Mitchell, Md.		

ANSWERED "PRESENT"—1

Caputo

NOT VOTING—60

Abdnor	Evans, Colo.	Le Fante
Ambro	Evans, Del.	Leggett
Andrews, N.C.	Flowers	Lloyd, Tenn.
Barnard	Ford, Mich.	Long, La.
Beilenson	Fowler	McDonald
Bonior	Frey	Mathis
Brown, Calif.	Garcia	Mattox
Brown, Mich.	Gephardt	Meeds
Burlison, Mo.	Giaimo	Milford
Chisholm	Goldwater	Miller, Calif.
Clay	Hansen	Neal
Conyers	Harrington	Nix
Davis	Holland	Pattison
Dent	Jenkins	Rhodes
Diggs	Kasten	Richmond
Edwards, Okla.	LaFalce	Risenhoover
Rodino	Sisk	Tsongas
Roe	Skelton	Young, Alaska
Roncalio	St Germain	Young, Mo.
Rose	Teague	Young, Tex.

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 13635, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, August 8, 1978, the Clerk had read through line 15 on page 58.

Mr. SIKES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it will be noted that this year's defense appropriation bill carries no restriction on contracting out by the Department of Defense. Last year the committee approved language—later accepted by the Congress—to limit the growth of contracting out. The committee rejected similar language this year. This may prove to be a serious mistake.

The fact is that, despite restrictions, there has been a very significant increase in service support contracts is disturbing. The overall increase between fiscal year 1977–79 is over $600,000. It can be anticipated that without congressional restraints contracting out may balloon.

There is a continuation and extension of the policy of contracting out some functions previously performed by Government employees such as food service, laundry operations, automotive repair, et cetera. There is also an increase in contracting out for services which previously were performed in-house. These services include studies and analysis, management support and consultant services. Our committee is particularly concerned with the growth of the last type of contracting out because these services can be used to reduce headquarters manning and can be used by management to avoid or postpone difficult decisions.

The subject of contracting out is discussed in detail in the committee report under the heading "Service Supports Contracts." It begins on page 157. The report goes into detail on the subject and expresses concern about the continued expansion of contracting out. It is difficult to comprehend that this "concern" can be expected to keep contracting out at a reasonable level in view of the rapid growth in recent years in this practice.

Contracting out is one means of concealing the number of people who are in fact paid by the government. It makes the budget look better to those who are critical. Additionally, it discourages the retention of skilled individuals who are particularly needed in times of emergency.

The report states that the committee has very little confidence in the overall accuracy of the estimates provided by the Department of Defense for support service contracts. To me this is an indication that we may expect continued

rapid growth of contracting out, which was programed last year and which was checked by the language in the bill. This is a situation which should be watched carefully by Congress.

It is worthy of some note that the committee has made a reduction of $40,000 in studies and analysis, management support and employment of consultants. This results from an obvious excess in studies by the Department of Defense. It is an attempt to bring more realism in the Department's practice of having studies on top of studies which are never ending. It has been obvious for years that there are careerists in the government who do nothing but carry on studies, many of which are nonproductive. They simply result in more paper work which require more files for more storage. In my opinion, there should have been more reduction.

Mr. BOB WILSON. Mr. Chairman, will the gentleman yield?

Mr. SIKES. I yield to the gentleman from California.

Mr. BOB WILSON. Mr. Chairman, I want to strongly commend my colleague, Mr. HILLIS, for his outstanding efforts to restore the CHAMPUS reimbursement rate to the 90th percentile.

This is a belated and much-needed improvement in the military health care system. The 90th percentile rate has been strongly endorsed by the House Armed Services Committee after an extensive series of hearings on military medical care conducted by our Military Personnel Subcommittee. I think it is important to note that this level of reimbursement was recently approved by both the House and Senate as a part of the defense authorization bill for fiscal year 1979, presently awaiting signature into law at the White House.

In 1966 Congress established the CHAMPUS program in order to assure medical care to eligible beneficiaries who were unable to receive health care at uniformed services medical facilities. As doctor and other shortages at military facilities have accelerated in the succeeding years, an increasing number of dependents and retirees have found that they must seek treatment from civilian sources under CHAMPUS.

By contrast, the thrust of recent defense appropriations bills has been to restrict CHAMPUS access, limit the rate of reimbursement, and send beneficiaries to uniformed services facilities. While I fully share the concern of the distinguished members of that committee with respect to the need to tighten our belts on all Government-funded programs, I feel that the course on which they have set CHAMPUS afloat over the past few years is ill advised.

At the behest of the Appropriations Committee, the Defense Department several years ago reduced the level of reimbursement from the 90th percentile of the customary charges made for similar services in the same locality to the 75th percentile. What this means in dollars and cents is a substantial increase in the out-of-pocket expenses for CHAMPUS beneficiaries. In these days of rapidly escalating medical costs, the dependents of low-grade enlisted personnel and older retirees are particularly hard hit. By the time that CHAMPUS pays, after the deductible, either 80 or 75 percent (depending on whether the beneficiary is an active duty dependent or retiree) of the reasonable or customary charge, based on the 75th percentile reimbursement rate and fee schedules several years out of date, the CHAMPUS beneficiary is lucky to be reimbursed for even half the bill. This is a cruel hoax at best.

This year the Appropriations Committee had recommended an increase in the percentile rate to 80 percent. Additionally, the committee made special note of the need to use more current fee schedules and provide for greater responsiveness on the part of the fiscal intermediaries who handle CHAMPUS claims. These were overdue steps in the right direction, but they did not go far enough. Simple equity requires no less than the restoration of the 90th percentile rate and I want to congratulate the gentleman from Indiana (Mr. HILLIS) for his fine attention to this problem.

AMENDMENT OFFERED BY MR. ANDERSON OF CALIFORNIA

Mr. ANDERSON of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of California: Add on page 58, after line 15, a new title VIII, section 863, the following: "No funds in this legislation shall be expended after April 1, 1979, for the installation of asbestos in Naval ship construction, unless and until the Secretary of the Navy has submitted to the President and the Congress a study analyzing the effects of asbestos on Naval shipyard and military personnel, evaluating present standards of permissible levels of asbestos in the shipyards and the need for asbestos in new ships, the feasibility of removing asbestos in presently commissioned ships, and promulgating a possible timetable for implementing this removal.".

Mr. MAHON. Mr. Chairman, I reserve points of order on the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. MAHON) reserves points of order on the amendment.

The gentleman from California (Mr. ANDERSON) is recognized for 5 minutes in support of his amendment.

Mr. ANDERSON of California. Mr. Chairman, the problem of indiscriminate use of asbestos in the workplace is one that has been with us for some time. It is a problem that is particularly severe in our Nation's shipyards.

I have urged our Government to impose much stricter standards than presently exist over the use of asbestos in the private sector workplace. I hope these standards will soon be promulgated. It occurs to me, though, that for the Federal Government to expect private employers to abide by stricter health standards, we must first clean up our own shops, if, indeed, they need to be cleaned up.

My amendment would constitute but a first step toward protecting Federal shipyard employees. It asks only that the Navy conduct a study to determine the effects that the current asbestos standards have on these Government workers, and to study the feasibility of removing all shipboard asbestos insulation.

We do know that asbestos is a carcinogen, a cancer-causing agent. We have known that it was a dangerous material for decades. As early as 1918, some Canadian and American insurance companies refused to insure asbestos workers due to the hazardous working conditions in the industry. The principal dangers are asbestosis, lung cancer, and mesothelioma, the last being a disease which is virtually nonexistent among those not exposed to asbetsos.

Even though these dangers have been known, it was not until 1973 that the Navy decided not to contract for the future installation of asbestos as an insulating material. According to the Navy, recently commissioned ships containing asbestos insulation will be the last new ships containing the material for that function.

There are still, of course, hundreds of naval ships at sea which use asbestos for insulation when other materials are readily available. The Navy refuses to remove this material, even in the course of regularly scheduled overhauls, unless it poses an immediate danger. So these ships are returned to sea containing the material that will eventually threaten the well-being of not only shipyard workers, but our naval military personnel as well. That is because the asbestos that appeared safe in port, can easily become dislodged at sea.

A similar study to the one we are asking for today has already been agreed to in a letter of June 29, written to me by Assistant Secretary Pyatt, which I will make a part of the RECORD. He said a study would be conducted comparing the price of partial removal of asbestos from the U.S.S. *Anchorage*, with the amount that total removal would have cost. I hope this study will consider the amount of workman's compensation that will have to be paid by DOD for asbestos-related diseases. Already, HEW has estimated that 11 million Federal workers may have received asbestos poisoning. It has been reported that the Navy is currently facing $300 million in claims from Government shipyard workers injured as a result of working with asbestos. And a study conducted at the Long Beach Naval Shipyard, which is located in the district which I represent, showed that 31 percent of all their employees with 17 or more years of experience; and this is all employees, not just those working directly with asbestos, are suffering from asbestosis.

We cannot afford, financially or morally, not to, at the very least, study this problem.

Present naval standards require that the asbestos level in our Federal shipyards not exceed 2 fibers per cubic centimeter of air. Unfortunately, this is the same as our current private workplace standard. OSHA recommended reducing this level to 0.5 fibers per cubic centimeter. Many feel this is a realistic goal.

It is certainly one that the Navy should investigate. The Nation's largest asbestos manufacturer, Johns-Manville, is to be commended for their efforts to attain this level and, indeed, it has almost been reached in their plants. More recently, the National Institute for Occupational Safety and Health has recommended that the Government not allow occupational exposure to asbestos to exceed 0.1 fibers per cubic centimeter. Let me say again, that if we are to expect private employers to make the effort to protect their workers, we must expect the Federal Government to set the example.

But I am asking for this study with the hope that the Government will do more than set the example. I am asking for a study that may save lives.

Mr. Chairman, the letter from the Assistant Secretary of the Navy, Mr. Pyatt, is as follows:

DEPARTMENT OF THE NAVY,
Washington, D.C., June 29, 1978.

Hon. GLENN M. ANDERSON,
House of Representatives,
Washington, D.C.

DEAR MR. ANDERSON: This is in reply to your letter of April 19th, concerning the Navy's asbestos replacement policy, the costs associated with the various ways of conducting insulation work, and a comparison of such costs with respect to work in U.S.S. *Gridley*.

Your understanding of the Navy's current practice is correct. Asbestos insulation is only removed where it is necessary for the accomplishment of other work or for repairs to the insulation itself. When it is removed for these repairs, it is replaced with non-asbestos insulation.

Unfortunately, cost data from work performed on U.S.S. *Gridley* do not contain the detail necessary to make a valid economic trade-off comparison on this practice versus total removal and replacement. However, the U.S.S. *Anchorage* overhaul underway at the Long Beach Naval Shipyard will produce this type of data. Preliminary analysis indicates that the cost of total thermial asbestos replacement in one engineering space ($300,000) exceeds the cost of apply current practice ($30,000) by a factor of 10. This high cost differential tends to discourage wholesale insulation replacement. Nevertheless, the Navy will correlate data obtained from the U.S.S. *Anchorage* overhaul with other factors, such as potential exposure, total cost, and ship completion schedules, to give you a more definite response within three months.

In implementing an asbestos-control program, the Navy has established airborne asbestos exposure limits which meet or exceed those established by the Occupational Safety and Health Administration. Thus, regardless of the ultimate decision on the degree of asbestos replacement, adverse personnel exposure will be averted.

I certainly agree with you that it is desirable to remove as much asbestos today as is practical to eliminate the problems of potential exposure to asbestos in the future, and the Navy will continue to do so.

Sincerely,

EVERETT A. PYATT,
Assistant Secretary of the Navy (Logistics).

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, I want to commend the gentleman from California for bringing this matter to the attention of the House. There is merit in the proposal he has made. I just want to express interest in what he has brought to the attention of the House. I have already reserved a point of order on the amendment, but I will not make the point of order until the gentleman has concluded.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding, and I would like to associate myself with the remarks of the gentleman.

Mr. Chairman, I have had a bill in for over a year, concerned with asbestos-related diseases. It is most important. Every shipyard from California to Virginia has had this problem, and I am most happy to see it being addressed.

Mr. ANDERSON of California. Mr. Chairman, I thank the gentlewoman for her contribution.

POINT OF ORDER

The CHAIRMAN. The gentleman from Texas (Mr. MAHON) is recognized on his point of order.

Mr. MAHON. Mr. Chairman, I make a point of order on the amendment because it requires the Secretary of the Navy to make a report to the President and to the Congress that will impose additional duties on the executive branch. This constitutes legislation on an appropriation bill.

The CHAIRMAN. Does the gentleman from California (Mr. ANDERSON) wish to be recognized on the point of order?

Mr. ANDERSON of California. I do, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized.

Mr. ANDERSON of California. Mr. Chairman, while I recognize the gentleman's good intentions in making this point of order, I would like to bring to the Chair's attention the overriding importance of this amendment. It is an amendment I surely would have offered during our consideration of the defense authorization bill in May, but information which we currently have available, was unknown to this body, and this Member at the time. This is also information that was not available to the committee when it was marking up the bill we have before us today.

Further, Mr. Chairman, the study which we would be requesting is already being conducted by the Navy. In a letter which I received from Secretary Pyatt, dated June 29, he indicated to me that the Navy would be correlating data on a very related matter, and report to me within 3 months. I am merely placing a time limitation, a liberal one, on their ongoing study. I am not requiring that an executive official take on a new or burdensome responsibility that he had not already assumed.

Further, I feel certain that the Secretary of the Navy has legislative responsibility for the health of those in his Department. I am merely asserting that he should be required to conduct this study, a study on a widely recognized problem, in pursuit of this responsibility.

Finally, Mr. Chairman, let me cite from Jefferson's Manual and Rules of the House of Representatives, rule XXI, section 843.

The House may specify that no part of the appropriation shall go to recipients lacking certain qualifications.

We would be placing as a qualification that the asbestos study to completed.

Mr. Chairman, it is about time we got to the bottom of this asbestos problem, and I would suggest that today we can do it under the rules of the House.

The CHAIRMAN (Mr. ROSTENKOWSKI). The Chair is ready to rule.

The language in the amendment to which the gentleman from Texas (Mr. MAHON) refers, "unless and until the Secretary of the Navy has submitted to the President and the Congress" has consistently been held to be legislation on an appropriation bill.

Based on a long line of precedents, the Chair sustains the point of order.

Mr. ADDABBO. Mr. Chairman, I move to strike the last word.

UNOBLIGATED BALANCES

Mr. Chairman, it would have been my intention at this point to offer an amendment to cut unobligated balances by $3 billion, but in view of the House action on the 1-percent cut and 2-percent cut, I realize that this would be an amendment in futility. But, I would ask my colleagues to look at the defense budget next year, and they will see that unobligated balances will be $3 billion higher, and unexpended funds will be increased by $9 billion.

Mr. Chairman, on Friday, Chairman MAHON cited an interesting as well as alarming statistic. The amount of the first defense appropriations bill he presented to this House was $13 billion. In the bill we have before us today, not only is the total much, much higher but the amount of the Pentagon's unobligated balances fund is well over $16 billion. Today, that one fund is more than $3 billion higher than the total defense budget of 1949.

My amendment would have done one simple thing. It would reduce the amount of the unobligated balances fund by $3 billion. That, in turn, would reduce the total dollar figure in the bill, reducing the overall budget deficit somewhat.

It would seem to me that all Members of this House who are worried about deficit spending and the taxpayer revolt that is spreading throughout the country could support my amendments no matter how enthusiastically they support the defense budget itself.

These moneys do not go to buy ships or planes. These moneys do not contribute whatsoever to national defense. What they do contribute to is the comfort and the well-being of the movers and shakers within the Pentagon. This is their "goodie" fund and they are understandably anxious to keep it. But since we allow them to keep $13 billion out of their present $16 billion, even the

generals and admirals should not complain too much.

As a matter of practice, by the time actual figures are compiled, the Pentagon might wind up with $16 billion, even with a $3 billion cut. With all due respect to the military accountants, their estimates have always been shamefully smaller than the actual amount of money at the Pentagon's disposal. The original estimate for fiscal year 1978 was $14.3 billion, the revised estimate is $16.3 billion and there is good evidence to suggest the actual figure might well be over $18 billion.

Since the amount of money contained in the unobligated balances fund has doubled since 1972, we in the Congress can only blame ourselves for letting this unsupervised fund grow so quickly and so large.

This unobligated balances fund contains only money that the Department of Defense has not contracted to spend. These dollars are assigned to no specific project. These dollars often represent "found money" for the fertile imaginations of the Pentagon, and can be used for purposes that it might not be wise to include in a regular budget proposal. We have seen many instances of this in the past and we will see this again, unless the Congress asserts itself and takes control of military spending once more.

I cannot emphasize too much that by cutting this fund back, even so slightly as this amendment would have, we do not pare any program, undercut any approved project or scuttle any weapons system. We simply would say to the Pentagon that the Congress believes that in a period of tight money, a $16 billion slush fund is unseemly and will not be tolerated.

Mr. Chairman, the Defense Appropriations Subcommittee has not been stingy with the military appropriations budget this year. In my nearly 18 years of service in this body, it has rarely, if ever, been stingy. Just the opposite is generally true.

There is perfect justification for having a small fund for unobligated balances. Plans change, projects halt. But there is no justifiable cause for that budget to escalate to become a $16 billion monstrosity. That is too large and it is too difficult to justify, even for the most ardent defense supporter. There comes a time when we have to pull the reins on runaway spending, and I believe my amendment would have done just that. I feel sure that if this action were taken, we would have taken one small step toward honesty in budget planning, not only for the Pentagon but for all Federal agencies as well, but as I have previously stated I do not believe I should take the time of the House in view of its turning down 1- and 2-percent cuts on yesterday.

Mr. MAGUIRE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I regret very much that the amendment offered by the gentleman from California a moment ago was not in order. I simply wanted to commend the gentleman for offering the amendment, and to express the hope that we can find some other way to accomplish this very worthy objective. Asbestosis and cancer of the lung and mesothelioma have proven to be most serious problems for workers in our shipyards. It does require, in my judgment, our action.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, it might be well for the gentleman to know that the Military Construction Subcommittee is already in the process of trying to deal with this in safety standards and buildings and other factors. The Appropriations Committee deals with that, so that the problem the gentleman is working on is already in process. We have anticipated it, and pushed the Department of Defense into a program of safety equivalent to what we have imposed on the rest of the country.

Mr. MAGUIRE. I thank the gentleman for his contribution. I am delighted to hear that the matter is proceeding in that fashion.

(Mr. MAGUIRE asked and was given permission to revise and extend his remarks.)

AMENDMENT OFFERED BY MR. DORNAN

Mr. DORNAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORNAN: Page 58, after line 15, insert the following new section:

SEC. 863. None of the funds appropriated by this Act may be used to pay for abortions performed by any means except where the life of the mother is in danger if the fetus is carried to term nor may any of such funds be used to promote or encourage abortions.

Mr. DORNAN. Mr. Chairman, my colleagues, it goes without saying that this is the most emotional subject we have debated in the 95th Congress. I burned the midnight oil on researching this issue last night but I will try to be brief.

In a recent article in Legal Aspects of Medical Practice, the journal of legal medicine, there is a fascinating paragraph about the planned increase of abortions in the military. It is rather annoying that it was so difficult for me to find out exactly what is the yearly cost of military abortions. It is difficult for me to think in terms of dollars and cents when we discuss human lives and the cost of death in this House. We have baby Louise Brown alive at home in England, which obviously means that with abortion we are discussing life, human life, in the womb and not an abcessed tooth or a diseased organ.

When we talk about double standards in the military and the fact that I am not able to get from the Surgeon General's Office any funding figures it is infuriating. I have, however, been able to find out that there are 26,000 abortions performed by our military using Defense dollars. I am sure the irony of the word "Defense" in this case comes home to all of us.

Let me quote a paragraph from Legal Aspects of Medical Practice:

DOUBLE STANDARD ON ABORTIONS

Although the federal government has stopped paying for Medicaid abortions, military personnel and their families can still receive abortions at government expense.

And to further create a curious double standard, the Defense Department is currently revising guidelines that will broaden abortion eligibility for military personnel and their dependents.

Since 1971, when the U.S. Supreme Court ruled that states may allow abortions, Defense Department policy has been to pay for elective abortions. This policy includes not only military personnel, active and retired, who use military hospitals, but also military dependents in civilian hospitals who use the Pentagon's CHAMPUS Program (Civilian Health and Medical Program of the Uniformed Services).

I think it is obvious that what we are going to vote on in a moment is the Hyde HEW amendment only applied to the military. I found it unfortunate last spring and last year that the motive of many of us who are opposed strongly to abortion was questioned during that HEW debate. We were characterized with the stupid and ugly charge that we were merely trying to get at the poor. Nothing could be further from the truth. Every single Member that took this well to speak out against abortion has been a consistent fighter for life.

However, here and now, is the clear vote. We are not discussing indigent people or poor people frightened into abortions because of their shaky economic position in life. We are talking about middle-class officers' wives and NCO's wives and other dependents.

We were not willing to cut yesterday in this House, even 1 percent of military money, so why should Congress ask taxpayers to fund any kind of elective surgery—plastic surgery or breast lifting or nose jobs and other types of cosmetic surgery. Let our military people go to civilian hospitals at their own expense. Please, we ask them, spend your own money on elective surgery, do not kill human life with tax dollars out of the U.S. Treasury.

Mr. Chairman, I hope Members will please read in the RECORD tomorrow several articles that in the interest of brevity I will not read.

Mr. Chairman, I submit this amendment, to stop all abortions paid for with Defense funds in full sense of deep responsibility—not only for the preborn children killed with "Defense" money—what irony here in the use of that word "Defense"—but also with high regard for our national policy which should be uniform in spending the people's tax money. Abortions—26,000—in our military hospitals is a disgrace—and that figure was very difficult for me to obtain.

This House has already passed legislation to stop the flow of tax dollars

through HEW for killing unborn life. And the House was critized for this on the grounds that we were denying to the poor the abortion clinics of the rich. Well, let us right now get rid of that criticism.

I point to an article in Legal Aspects of Medical Practice, November 1977, which writes about "Double Standard on Abortions." The article goes on to say that the Department of Defense is currently revising guidelines that will broaden abortion eligibility for military personnel and their dependents. This will include not only abortions in military hospitals but also abortions for military dependents in civilian hospitals—the Pentagon's CHAMPUS program (civilian health and medical program of the uniformed services).

We know that the Defense Department is using tax dollars to perform abortions. I believe one abortion is one too many for rich or poor, and abortion with dollars allocated to keep our Nation strong and our military people healthy is a horrendous act.

However, when our Defense Department takes the killing of the unborn so lightly that it does not even know which facilities are being used, nor does DOD know how many unborn babies are killed. That is incredible. The Defense Department keeps records on all other casualties resulting from Defense actions—why so callous that they do not care about preborn children killed in military facilities through DOD administration.

Nor does the President appear to care. He has repeatedly been informed of his responsibility to issue an Executive order to apply to all executive departments. When March For Life officials met with Mr. Stuart Eisenstadt on January 23, 1978, he was forcefully reminded of the responsibility and power of the Chief Executive to stop the funding of abortions throughout the administration. Because the Chief Executive has chosen to ignore the power of his office and the proper exercise of his office to stop abortions, it is incumbent on this House to show the way, and stop tax dollars from Defense appropriations being used for abortions increasing monthly the casualty list of preborn Americans being killed on domestic and foreign soil.

Mr. Chairman, I know some Members express pity for the viewpoint of those of us who take the floor to fight for the prolife defense of more than 1 million American children being killed in their mothers' wombs. Well, let me express pity for their tragic appeal for death. Little Louise Brown, the test-tube baby born last week in England proves again we are dealing with living human beings in these wombs, not "unwanted" organs. There is a curse upon any military force that funds the killing of its soldiers' young. I plead for your support of the Dornan amendment.

I insert in the RECORD a letter to Mrs. Judie Brown of Washington, D.C., from the Office of the Surgeon General signed by Lt. Col. Joseph F. Constable, MCS, Chief, Patient Administration Office at this point:

DEPARTMENT OF THE ARMY,
OFFICE OF SURGEON GENERAL,
Washington, D.C., November 29, 1977.

Mrs. JUDIE BROWN,
Director of Public Relations, National Right to Life Committee, Inc., National Press Building, Washington, D.C.

DEAR MRS. BROWN: This is in response to your request for information concerning abortions for women in the military service.

Abortion procedures are provided service women in Army medical treatment facilities in accordance with the Supreme Court decision in *Roe* v. *Wade* (1973) as follows:

a. Abortions may be performed during the first three months of pregnancy (the stage prior to the end of the first trimester) by agreement between the patient and her attending physician.

b. Abortions may be performed during the second trimester up to the twentieth week of pregnancy. Concurrence of one qualified obstetric physician consultant is required before an abortion can be performed after the first trimester of pregnancy.

c. Abortions following the twentieth week of pregnancy are performed only for the most stringent of life-threatening medical and psychiatric reasons recognizing that a viable infant may result from the abortion. Concurrence of one qualified physician consultant whose specialty is in the area of the patient's primary disease and one qualified obstetric physician consultant are required before such an abortion is performed. Physicians and other Army Medical Department personnel are not required to perform or directly participate in surgical procedures which violate their moral or religious principles. Because of the policy, the performance of abortions varies with the assignment and reassignment of physicians within the Army system. We are unable, therefore, to maintain a listing of Army medical facilities with obstetrical capability which are providing abortons to service women.

The Army has no special reporting forms for abortions. They are reported on our coding abstracts which are used to report all hospital dispositions.

I trust this information will be of assistance in your research effort.

Sincerely,
JOSEPH F. CONSTABLE,
Lieutenant Colonel, MSC, Chief, Patient Administration Office.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DORNAN. I gladly yield to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I just want to commend the gentleman from California for offering this precise amendment. I think it shows the consistency of those of us who believe that tax dollars should not be used for any abortions. The military people are no different than medicaid users or any others that use tax dollars.

I commend the gentleman.

Mr. DORNAN. I commend the gentleman from Illinois for the courage he has shown over his 3½ years in this House. His constant unrelenting courage in taking the leadership on this critical issue has been nothing short of heroic. We who take the well on this issue fear for our country when we see the lives of hundreds of our citizens, way over a million each year snuffed out in their mothers' wombs. I believe we would place a curse on the Army of this free country if we continue to allow 26,000 military wives and dependents to have their children killed in their wombs.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield so that I may offer an amendment to his amendment?

Mr. DORNAN. I yield to the gentleman from California.

There was a grammatical error or clause error in my amendment.

The CHAIRMAN. The gentleman must offer the amendment on his own time after the gentleman from California (Mr. DORNAN) yields the floor.

AMENDMENT OFFERED BY MR. ROUSSELOT TO THE AMENDMENT OFFERED BY MR. DORNAN

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT to the amendment offered by Mr. DORNAN: In line 3 of the amendment strike out the word "is" and insert the words "would be".

Mr. ROUSSELOT. Mr. Chairman, all this does is change the language to conform to the present HEW language. That is all I seek to do.

Mr. DORNAN. Mr. Chairman, if the gentleman will yield, I thank the gentleman from California (Mr. ROUSSELOT) for clarifying that point.

Mr. MAHON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, last year on the HEW appropriation bill we had a total of 11 votes in the House on the issue of abortion. The other body had 17 votes. We have held extensive hearings, given extensive consideration and held extensive conferences on the issue. I think everyone in this House knows what his or her position is on this issue.

Earlier this year we had, on the HEW appropriation bill, an amendment which was more moderate than the one that is offered here in connection with abortions. We tried to get it adopted in the HEW bill this year, the same amendment that was finally worked out last year, in the 1978 appropriation bill for HEW, but, by a narrow margin we were defeated. Last evening, the gentleman from California, the author of the amendment, gave me a copy of it indicating that he would offer it at the proper time. The amendment was printed in the RECORD in the proceedings of yesterday.

Let me read the amendment.

None of the funds appropriated by this act may be used to pay for abortions performed by any means nor may any of such funds be used to promote or encourage abortions.

This is slamming the door if the mother is dying and needs an abortion, let her die, that is what this amendment says. It does not leave any exemption at all, it does not leave any escape at all. It is a cruel amendment. It is an unconscionable amendment. It ought not to be adopted.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I will yield to the gentleman from California (Mr. ROUSSELOT) for a question.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman yielding.

Mr. Chairman, first of all I am not sure the gentleman understood the amendment that was offered. There is a statement in the amendment that says:

* * * except where the life of the mother would be endangered if the fetus were carried to term.

That is a clear exception, just as it is now in the HEW legislation, so that the incident the gentleman just suggested would be properly excepted.

Mr. MAHON. The original amendment that was read did not so state.

Mr. ROUSSELOT. No, it did say "except where the life of the mother would be endangered * * *." We amended that to make sure the language conformed with the HEW language.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I apologize. This was my fault. I had not added this very important clause, and I accept the critcism based on this clause. And I should have shown the courtesy to the chairman to have gone over at the last minute and shown it to the chairman. I apologize. But that language is in there.

Mr. MAHON. But as I understood it the amendment as read did not include the language.

Mr. DORNAN. He did read it but we did not perceive that change in the reading. Again I apologize to the gentleman.

Mr. MAHON. I regret the confusion surrounding this amendment and the fact that the committee was not notified of the change in the amendment. But, this does not change my opposition to the amendment.

This issue ought to be fought out on the HEW bill, it ought not to be attached to all other bills which are presented to the House.

Let us get this issue behind us so that we can go forward and finish this defense bill and send it to the Senate without this abortion amendment and settle this issue and get the Defense Department going with its program for the forthcoming fiscal year.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for his graciousness in yielding.

Mr. Chairman, this same issue arose in the defense authorization bill, but the House resoundingly defeated a similar amendment because of its effect on our military capability. This amendment—which would prohibit all abortions in military hospitals or by military doctors except where the mother's life was endangered—will adversely affect women in the Armed Forces. It will adversely affect the wives and dependents of our men in the Armed Forces. It will discourage women and married men from entering our Armed Forces. Therefore it will affect the security of the United States. I cannot imagine the gentleman from California would want to do that. I would urge the House to repeat what it did on the defense authorization bill and resoundingly defeat this amendment which will undermine our country's ability to recruit people into our Armed Forces.

The CHAIRMAN. The time of the gentleman from Texas (Mr. MAHON) has expired.

(By unanimous consent, Mr. MAHON was allowed to proceed for 1 additional minute.)

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto do now close.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT) to the amendment offered by the gentleman from California (Mr. DORNAN).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DORNAN), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. DORNAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Ninety-two Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand by the gentleman from California (Mr. DORNAN) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 163, not voting 43, as follows:

[Roll No. 664]

AYES—226

Ammerman	Annunzio	Armstrong
Andrews, N. Dak.	Applegate	Ashbrook
	Archer	Aspin
Badham	Gibbons	Nolan
Bafalis	Ginn	Nowak
Baldus	Goldwater	O'Brien
Bauman	Goodling	Oakar
Beard, R.I.	Gore	Oberstar
Beard, Tenn.	Gradison	Obey
Bedell	Grassley	Patten
Benjamin	Guyer	Perkins
Bennett	Hagedorn	Poage
Bevill	Hall	Pressler
Biaggi	Hamilton	Quayle
Blouin	Hammer-schmidt	Quie
Boggs	Hanley	Quillen
Boland	Harkin	Rahall
Bonker	Harsha	Railsback
Bowen	Heckler	Regula
Breaux	Hightower	Rinaldo
Broomfield	Hillis	Risenhoover
Buchanan	Holt	Roberts
Burgener	Hubbard	Robinson
Burke, Fla.	Huckaby	Rooney
Burke, Mass.	Hyde	Rostenkowski
Burleson, Tex.	Ichord	Rousselot
Burlison, Mo.	Ireland	Rudd
Byron	Jacobs	Runnels
Caputo	Kazen	Ruppe
Carney	Kelly	Russo
Carter	Kemp	Santini
Cavanaugh	Kildee	Satterfield
Cederberg	Kindness	Sawyer
Chappell	LaFalce	Schulze
Clausen, Don H.	Lagomarsino	Sebelius
Clawson, Del	Latta	Sharp
Cochran	Leach	Shipley
Cohen	Lederer	Shuster
Coleman	Lent	Skubitz
Collins, Tex.	Livingston	Smith, Iowa
Conte	Long, La.	Smith, Nebr.
Corcoran	Lott	Snyder
Cornell	Lujan	Spence
Cornwell	Luken	St Germain
Cotter	McClory	Staggers
Crane	McDade	Stangeland
Cunningham	McEwen	Stanton
D'Amours	McHugh	Steiger
Daniel, Dan	McKay	Stratton
Daniel, R. W.	Madigan	Stump
de la Garza	Markey	Taylor
Delaney	Marks	Thone
Dent	Marriott	Traxler
Derwinski	Mazzoli	Treen
Devine	Michel	Trible
Dornan	Milford	Vanik
Duncan, Tenn.	Miller, Ohio	Vento
Early	Minish	Volkmer
Edwards, Ala.	Mitchell, N.Y.	Waggonner
Edwards, Okla.	Moakley	Walker
Eilberg	Montgomery	Walsh
Emery	Moore	Wampler
English	Moorhead, Calif.	Watkins
Erlenborn	Moorhead, Pa.	Whalen
Ertel	Mottl	White
Evans, Ga.	Murphy, Ill.	Whitehurst
Evans, Ind.	Murphy, N.Y.	Whitten
Fary	Murphy, Pa.	Wilson, Bob
Fish	Murtha	Winn
Fithian	Myers, Gary	Wright
Flood	Myers, John	Wydler
Flynt	Myers, Michael	Wylie
Fountain	Natcher	Yatron
Fuqua	Nedzi	Young, Fla.
Gammage	Nichols	Zablocki
Gaydos		Zeferetti

NOES—163

Addabbo	Burton, John	Evans, Colo.
Akaka	Burton, Phillip	Fascell
Alexander	Butler	Fenwick
Anderson, Calif.	Chisholm	Findley
	Cleveland	Fisher
Anderson, Ill.	Collins, Ill.	Flippo
Ashley	Conable	Florio
AuCoin	Conyers	Foley
Baucus	Corman	Ford, Mich.
Bingham	Coughlin	Ford, Tenn.
Blanchard	Danielson	Forsythe
Bolling	Dellums	Fraser
Brademas	Derrick	Frenzel
Breckinridge	Dicks	Garcia
Brinkley	Dingell	Giaimo
Brodhead	Dodd	Gilman
Brooks	Drinan	Gonzalez
Brown, Calif.	Duncan, Oreg.	Green
Brown, Ohio	Eckhardt	Gudger
Broyhill	Edgar	Hannaford
Burke, Calif.	Edwards, Calif.	Harrington

Harris	McKinney	Rangel
Hawkins	Maguire	Reuss
Hefner	Mahon	Rogers
Heftel	Mann	Roncalio
Hollenbeck	Marlenee	Rose
Holtzman	Martin	Rosenthal
Horton	Meeds	Roybal
Howard	Metcalfe	Ryan
Hughes	Meyner	Sarasin
Jeffords	Mikulski	Scheuer
Jenrette	Mikva	Schroeder
Johnson, Calif.	Mineta	Seiberling
Johnson, Co.o.	Mitchell, Md.	Sikes
Jones, N.C.	Moffett	Simon
Jones, Okla.	Mollohan	Slack
Jones, Tenn.	Moss	Solarz
Jordan	Neal	Spellman
Kastenmeier	Nix	Stark
Keys	Ottinger	Steed
Kostmayer	Panetta	Stockman
Krebs	Patterson	Stokes
Krueger	Pattison	Studds
Leggett	Pease	Thompson
Lehman	Pepper	Thornton
Levitas	Pettis	Tucker
Lloyd, Calif.	Pickle	Udall
Long, Md.	Pike	Ullman
Lundine	Preyer	Van Deerlin
McCloskey	Price	Walgren
McCormack	Pritchard	Waxman
McFall	Pursell	Weaver
Weiss	Wilson, C. H.	Wolff
Whitley	Wilson, Tex.	Yates
Wiggins	Wirth	

NOT VOTING—43

Abdnor	Fowler	Richmond
Ambro	Frey	Rodino
Andrews, N.C.	Gephardt	Roe
Barnard	Glickman	Sisk
Bellenson	Hansen	Skelton
Bonior	Holland	Steers
Brown, Mich.	Jenkins	Symms
Carr	Kasten	Teague
Clay	Le Fante	Tsongas
Davis	Lloyd, Tenn.	Vander Jagt
Dickinson	McDonald	Young, Alaska
Diggs	Mathis	Young, Mo.
Downey	Mattox	Young, Tex.
Evans, Del.	Miller, Calif.	
Flowers	Rhodes	

The Clerk announced the following pairs:

On this vote:

Mr. Le Fante for, with Mr. Miller of California against.

Mrs. Lloyd of Tennessee for, with Mr. Richmond against.

Mr. Young of Missouri for, with Mr. Diggs against.

Mr. McDonald for, with Mr. Bonior against.

Mr. Kasten for, with Mr. Clay against.

Messrs. BROOKS, RONCALIO, LONG of Maryland, PATTERSON of California, and HANNAFORD changed their vote from "aye" to "no."

Mr. HARKIN and Mr. RISENHOOVER changed their vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

● Mr. MAHON. Mr. Chairman, under permission granted for Members to extend their remarks on the defense appropriations bill and to include extraneous material, I submit a tabulation showing the dollar amounts in the bill as passed by the House. I thought it would be helpful to the Members to have the figures which reflect actions taken during the consideration of the bill.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

[Fiscal years]

	New budget authority			House bill compared with—	
	Enacted, 1978	Estimates, 1979	House, 1979	1978 enacted	1979 estimate
TITLE I—MILITARY PERSONNEL					
Military personnel, Army	$8,741,800,000	$9,180,000,000	$9,123,499,000	+$381,699,000	−$56,501,000
Military personnel, Navy	6,169,662,000	6,463,000,000	6,456,450,000	+286,788,000	−6,550,000
Military personnel, Marine Corps	1,918,400,000	2,016,500,000	2,015,900,000	+97,500,000	−600,000
Military personnel, Air Force	7,199,900,000	7,576,000,000	7,507,195,000	+307,295,000	−68,805,000
Reserve personnel, Army	555,600,000	532,600,000	546,650,000	−8,950,000	+14,050,000
Reserve personnel, Navy	206,075,000	179,000,000	226,825,000	+20,750,000	+47,825,000
Reserve personnel, Marine Corps	78,700,000	81,200,000	83,725,000	+5,025,000	+2,525,000
Reserve personnel, Air Force	171,400,000	183,600,000	186,325,000	+14,925,000	+2,725,000
National Guard personnel, Army	782,500,000	747,100,000	788,900,000	+6,400,000	+41,800,000
National Guard personnel, Air Force	231,800,000	252,200,000	256,477,000	+24,677,000	+4,277,000
Total, title I, new budget (obligational) authority, Military personnel	26,055,837,000	27,211,200,000	27,191,946,000	+1,136,109,000	−19,254,000
TITLE II—RETIRED MILITARY PERSONNEL					
Retired pay, Defense	9,010,000,000	10,148,938,000	10,139,838,000	+1,129,838,000	−9,100,000
TITLE III—OPERATION AND MAINTENANCE					
Operation and maintenance, Army	8,139,413,000	9,233,400,000	9,115,421,000	+976,008,000	−117,979,000
Operation and maintenance, Navy	10,743,263,000	11,843,000,000	11,691,754,000	+948,491,000	−151,246,000
Operation and maintenance, Marine Corps	615,628,000	744,100,000	733,475,000	+117,847,000	−10,625,000
Operation and maintenance, Air Force	8,335,279,000	9,415,200,000	9,243,892,000	+908,613,000	−171,308,000
Operation and maintenance, Defense agencies	2,830,974,000	3,094,000,000	3,034,350,000	+203,376,000	−59,650,000
Operation and maintenance, Army Reserve	380,796,000	420,100,000	416,900,000	+36,104,000	−3,900,000
Operation and maintenance, Navy Reserve	316,290,000	379,300,000	386,500,000	+70,210,000	+7,200,000
Operation and maintenance, Marine Corps Reserve	16,528,000	20,000,000	19,900,000	+3,372,000	−100,000
Operation and maintenance, Air Force Reserve	374,439,000	395,300,000	386,500,000	+12,151,000	−8,800,000
Operation and maintenance, Army National Guard	745,666,000	795,700,000	789,700,000	+44,034,000	−6,000,000
Operation and maintenance, Air National Guard	825,207,000	938,600,000	932,700,000	+107,493,000	−5,900,000
National Board for the Promotion of Rifle Practice, Army	365,000	352,000	365,000		+13,000
Claims, Defense	82,500,000	89,500,000	87,500,000	+5,000,000	−2,000,000
Contingencies, Defense	2,500,000	5,000,000	2,500,000		−2,500,000
Court of Military Appeals, Defense	1,735,000	1,948,000	1,648,000	−87,000	−300,000
Secretary of Defense Readiness Fund	100,000,000			−100,000,000	
Foreign currency fluctuations, Defense			500,000,000	+500,000,000	+500,000,000
XIII Olympic Winter Games			2,000,000	+2,000,000	+2,000,000
Total, title III, new budget (obligational) authority, Operation and maintenance	33,510,493,000	37,376,200,000	37,345,105,000	+3,834,612,000	−31,095,000
TITLE IV—PROCUREMENT					
Aircraft procurement, Army	657,100,000	1,017,800,000	917,401,000	+260,301,000	−100,399,000
Missile procurement, Army	536,883,000	773,200,000	738,100,000	+201,217,000	−35,100,000
Procurement of weapons and tracked combat vehicles, Army	1,421,200,000	1,636,600,000	1,528,400,000	+107,200,000	−108,200,000
Procu ement of ammunition, Army	1,179,300,000	1,420,100,000	1,071,456,000	−107,844,000	−348,644,000
Transfer from other accounts	(57,500,000)		(59,400,000)	(+1,900,000)	(+59,400,000)
Other procurement, Army	1,403,325,000	1,789,200,000	1,591,000,000	+187,675,000	−198,200,000
Transfer from other accounts	(2,700,000)		(40,000,000)	(+37,300,000)	(+40,000,000)
Other procurement, Army, 1973/1975 (liquidation of deficiency)	(21,000,000)			(−21,000,000)	
Aircraft procurement, Navy	3,552,900,000	4,078,800,000	4,381,100,000	+828,200,000	+302,300,000
Weapons procurement, Navy	2,181,900,000	2,047,500,000	1,983,800,000	−198,100,000	−63,700,000
Transfer from other accounts	(52,700,000)			(−52,700,000)	
Shipbuilding and conversion, Navy	5,760,500,000	4,712,400,000	5,688,000,000	−72,500,000	+975,600,000
Transfer from other accounts	(42,000,000)			(−42,000,000)	
Other procurement, Navy	2,176,410,000	2,708,600,000	2,617,150,000	+44,0740,000	−91,450,000
Transfer from other accounts	(10,000,000)			(−10,000,000)	
Procurement, Marine Corps	440,400,000	371,900,000	349,000,000	−91,400,000	−22,900,000
Transfer from other accounts	(9,800,000)			(−9,800,000)	
Aircraft procurement, Air Force	5,833,000,000	6,897,700,000	6,966,507,000	+1,133,507,000	+68,807,000
Transfer from other accounts	(34,400,000)			(−34,400,000)	
Missile procurement, Air Force	1,763,200,000	1,676,800,000	1,595,700,000	−167,500,000	−81,100,000
Transfer from other accounts	(44,600,000)			(−44,600,000)	
Other procurement, Air Force	2,337,234,000	2,516,100,000	2,294,750,000	−42,595,000	−221,350,000
Transfer from other accounts	(4,800,000)		(37,000,000)	(+32,200,000)	(+37,000,000)
Procurement, Defense agencies	327,826,000	280,900,000	266,800,000	−61,026,000	−14,100,000
Total, title IV, Procurement:					
New budget (obligational) authority	29,571,289,000	31,927,600,000	31,989,164,000	+2,417,875,000	+61,564,000
Transfer from other accounts	(258,500,000)		(136,400,000)	(−122,100,000)	(+136,400,000)
Liquidation of deficency	(21,000,000)			(−21,000,000)	

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY—Continued

[Fiscal years]

	New budget authority			House bill compared with—	
	Enacted, 1978	Estimates, 1979	House, 1979	1978 enacted	1979 estimate
TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION					
Research, development, test, and evaluation Army	2,417,882,000	2 721,400,000	2,652,304,000	+234,422,000	−69,096,000
Research, development, test, and evaluation, Navy	3,991,791,000	4,490,500,000	4,463,860,000	+472,069,000	−26,640,000
Transfer from other accounts			(15,000,000)	(+15,000,000)	(+15,000,000)
Research, development, test, and evaluation, Air Force	4,158,266,000	4,339,100,000	4,155,700,000	−2,566,000	−183,400,000
Transfer from other accounts			(8,800,000)	(+8,800,000)	(+8,800,000)
Research, development, test, and evaluation, Defense agencies	754,278,000	889,400,000	885,144,000	+130,866,000	−4,256,000
Director of Test and Evaluation, Defense	25,000,000	27,600,000	27,600,000	+2,600,000	
Total, title V, new budget (obligational) authority, Research, development, test, and evaluation	11,347,217,000	12,468,000,000	12,184,608,000	+837,391,000	−283,392,000
Transfer from other accounts			(23,800,000)	(+23,800,000)	(+23,800,000)
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM					
Special foreign currency program	2,480,000	14,362,000	13,092,000	+10,612,000	−1,270,000
TITLE VII—WORKING CAPITAL FUNDS					
Army stock fund	100,000,000	74,000,000	74,000,000	−26,000,000	
Navy stock fund	30,000,000			−30,000,000	
Marine Corps stock fund	1,900,000			−1,900,000	
Air Force stock fund	34,600,000	26,800,000	26,800,000	−7,800,000	
Defense stock fund	4,300,000			−4,300,000	
Total, title VII, new budget (obligational) authority, Working capital funds	170,800,000	100,800,000	100,800,000	−70,000,000	
TITLE VIII—GENERAL PROVISIONS					
Additional transfer authority, sec. 833	(750,000,000)	(750,000,000)	(750,000,000)		
TITLE IX—RELATED AGENCIES					
Intelligence Community Staff	8,950,000	9,683,000	11,225,000	+2,275,000	+1,542,000
Payment to the CIA retirement and disability fund	35,100,000	43,500,000	43,500,000	+8,400,000	
Office of Federal Procurement Policy	1,000,000			−1,000,000	
Total, title IX, new budget (obligational) authority, related agencies	45,050,000	53,183,000	54,725,000	+9,675,000	+1,542,000
RECAPITULATION					
Title I—Military personnel	26,055,837,000	27,211,200,000	27,191,946,000	+1,136,109,000	−19,254,000
Title II—Retired military personnel	9,010,000,000	10,148,938,000	10,139,838,000	+1,124,838,000	−9,100,000
Title III—Operation and maintenance	33,510,493,000	37,376,200,000	37,345,105,000	+3,834,612,000	−31,095,000
Title IV—Procurement	29,571,289,000	31,927,600,000	31,989,164,000	+2,417,875,000	+61,564,000
Transfer from other accounts	(258,500,000)		(136,400,000)	(−122,100,000)	(+136,400,000)
Liquidation of deficiency	(21,000,000)			(−21,000,000)	
Title V—Research, development, test, and evaluation	11,347,217,000	12,468,000,000	12,184,608,000	+837,391,000	−283,392,000
Transfer from other accounts			(23,800,000)	(+23,800,000)	(+23,800,000)
Title VI—Special foreign currency program	2,480,000	14,362,000	13,092,000	+10,612,000	−1,270,000
Title VII—Working capital funds	170,800,000	100,800,000	100,800,000	−70,000,000	
Title VIII—General provisions (additional transfer authority, sec. 833)	(750,000,000)	(750,000,000)	(750,000,000)		
Title IX—Related agencies	45,050,000	53,183,000	54,725,000	+9,675,000	+1,542,000
Total, Department of Defense (NOA)	109,713,166,000	119,300,283,000	119,019,278,000	+9,306,112,000	−281,005,000
Transfer from other accounts	(258,500,000)		(160,200,000)	(−98,300,000)	(+160,200,000)
Total funding available	109,971,666,000	119,300,283,000	119,179,478,000	+9,207,812,000	−120,805,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)		
Liquidation of deficiency	(21,000,000)			(−21,000,000)	
Distribution by organizational component:					
Army	27,061,830,000	30,342,252,000	29,354,096,000	+2,292,266,000	−988,156,000
Transfer from other accounts	(60,200,000)		(99,400,000)	(+39,200,000)	(+99,400,000)
Liquidation of deficiency	(21,000,000)			(−21,000,000)	
Navy	38,200,347,000	40,135,800,000	41,097,439,000	+2,897,092,000	+961,639,000
Transfer from other accounts	(114,500,000)		(15,000,000)	(−99,500,000)	(+15,000,000)
Air Force	31,264,346,000	34,217,400,000	33,552,546,000	+2,288,200,000	−664,854,000
Transfer from other accounts	(83,800,000)		(45,800,000)	(−38,000,000)	(+45,800,000)
Defense agencies/OSD	4,131,593,000	4,402,710,000	4,820,634,000	+689,041,000	+417,924,000
Retired military personnel	9,010,000,000	10,148,938,000	10,139,838,000	+1,129,838,000	−9,100,000
Related agencies	45,050,000	53,183,000	54,725,000	+9,675,000	+1,542,000
Total, Department of Defense (NOA)	109,713,166,000	119,300,283,000	119,019,278,000	+9,305,112,000	−281,005,000
Transfer from other accounts	(258,500,000)		(160,200,000)	(−98,300,000)	(+160,200,000)
Total funding available	109,971,666,000	119,300,283,000	119,179,478,000	+9,207,812,000	−120,805,100
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)		
Liquidation of deficiency	(21,000,000)			(−21,000,000)	

● Mr. PANETTA. Mr. Chairman, I am pleased that the House Appropriations Committee has recognized the importance of professional education in today's military by singling out for special praise the Naval Postgraduate School at Monterey. The committee has recommended that the Navy school be utilized by the services to a much greater extent than is now the case. On August 4, 1978, the distinguished chairman of the Appropriations Committee stated on the floor that the committee is primarily concerned with the use by the services of civilian facilities instead of defense-run institutions like the Naval Postgraduate School. The chairman made it clear that the recommended 10-percent cut in professional education was not aimed at the service schools. The chairman stated:

* * * the reduction is not aimed at the school at Monterey * * * Some reduction might possibly be made at the service schools, but this is aimed at the contracting out that is being done by the Armed Forces.

But the committee also highlighted some weaknesses in the current professional education programs in the services, pointing out with aggregate data the apparent underutilization by the services of professionally trained manpower. Based on these data, the committee draws the conclusion that the services already have an emormous surplus of professionally trained personnel and that a 10-percent reduction in professional education is, therefore, in order. It is to this larger question of professional education within the services that I would now like to turn my attention.

I applaud the committee's desire to contain waste within the Department of Defense. I am not convinced, however, that advanced education for our officer corps—the frontline of our defenses in modern warfare—is the best place to cut back. While better management practices are certainly called for, I am con-

cerned that a cut of this magnitude may have an adverse impact on our ability to perform with the requisite degree of precision and competence in this age of highly complex technological warfare. The current level of graduate education provided in the Navy, for instance, will result in serious shortfalls in officers qualified to supervise and manage the design, development, acquisition and operation of complex and technically sophisticated weapons systems. It has also been pointed out to me that conclusions based on aggregate inventory data, as was used by the committee, fail to recognize the age, rank, and usability of the inventory.

Inventories of officers with graduate education in the Navy have historically constituted about 20 to 25 percent of the Navy Officer Corps. Currently, the figure stands at about 18 percent, with a projected decline to about 6 to 8 percent within the next decade unless prompt action is taken to reverse this trend. I might point out that this decline to less than 10 percent of the Navy Officer Corps with graduate education compares very unfavorably with the figures for the Soviet Navy, which provides graduate-level education to 50 percent of its officers. The Federal German Armed Forces, incidentally, provide 100 percent of their career officers with graduate-level education.

Furthermore, the recommended 10 percent cut ignores substantial and ongoing changes that the Navy has incorporated into the management of its graduate education program. These changes include: Improved utilization policies, reduction of the length of graduate programs, improved billet validation procedures, and development of detailed educational skill objectives for each subspecialty area. It is indeed unfortunate that the committee apparently has not seen fit to take these improvements into account before approving this 10 percent reduction.

In conclusion, let me simply reiterate my main point. Anticipated changes in both technology and force levels necessitate the continued dependence on technology as a force multiplier. It is highly unreasonable to expect the service to operate and utilize the full capacities of our weapons systems without increasing the numbers of officers technically trained at the graduate level to use them. It is because I share the committee's commitment to quality education for our military personnel—provided management is improved to prevent abuses—that I believe this Nation must strongly support and increase its commitment to professional defense education.●

● Mr. BROOKS. Mr. Chairman, I was greatly concerned to read that portion of the defense appropriations report dealing with Federal automatic data processing procurements. This report seems to suggest that the premises underlying enactment of Public Law 89–306 are no longer valid. I cannot agree with this.

Public Law 89–306 provides that Federal agencies shall procure their ADP services in the most economical and efficient manner possible. Throughout its life, enforcement of the act has been premised on the basis that the Government can acquire its ADP services most economically through full and open competition and that this process will provide the most modern technology required to sustain efficient Government operation.

The defense appropriations report appears to reject this position—seemingly advocating sole-source or other noncompetitive procurements. This approach could lock in the use of antiquated software applications and actually retard the acquisition of modern technology.

Mr. Chairman, I ask unanimous consent to revise and extend my remarks in order that I may fully explain this matter.

I have always held the Appropriations Committee in respect. I have viewed this committee as possessing expertise in the operations of Government. It was therefore with dismay that I read the current Defense appropriation report's discussion on Automatic Data Processing Activities. If the advice contained in this part of the report were followed I fear it would seriously undermine the Government's policies and practices in the efficient and economical procurement and utilization of ADP/telecommunications resources. What is worse, I am greatly concerned that if the philosophy underlying the report is widely accepted, the effect would be to impair procurement of all goods and services and not ADP alone.

The Appropriations Committee report challenges the current Government policies and practices of procuring ADP resources on the basis of full and open competition. It suggests that money can be saved by procuring through noncompetitive methods, such as sole-source and brand name or equal. It further states that failure of agencies to take software conversion costs into consideration when procuring new ADP systems conceals the fact that competitive procurements are not as economical as noncompetitive ones. Finally, the report implies that requiring agencies to rely upon procurement policies promoting competition impedes their opportunity to acquire the most advanced technological equipment. If, in fact, these represent the views of the committee, they regretfully represent a lack of appreciation of the true conditions underlying ADP procurement policies and practices in the Federal Government.

Turning to the first charge, it is stated that agencies are procuring their ADP requirements primarily on the basis of competition, without adequate attention being given to significant cost factors. In particular, the report singles out the agencies' failure to apply software conversion costs when considering total procurement costs. When agencies are attempting to operate in nonstandard, low-level languages, the one-time cost of conversion to standard high-level languages can be costly. But the fact which the report loses sight of is the true long-term life-cycle costs savings that will inevitably be realized by converting to a high-level language.

One such cost saving would be the ability of an agency thereafter to utilize any brand name of equipment without being locked into a particular brand which inevitably costs more money when procured on a noncompetitive basis. Even more important is the fact that those agencies which continue to rely upon these low-level, nonstandard languages are retarded from effectively gaining the benefit of modern hardware technology or of utilizing ADP to enhance the management of Federal programs.

The effect of this is that agencies are trying to manage today's programs on technologically sophisticated machines controlled by software which is all to frequently antiquated, fragmented and unusable garbage. As the GAO documented in a recent report, hundreds of millions of dollars are being lost annually as a result of mismanagement of software. Unless agencies are required to properly manage their software, including conversion to standard high-level languages, they will, to an increasing rate, be required to rely on the costly sole-source method of harware procurement. As a result, agencies will become even more inefficient managers of Federal programs.

Of even greater concern to me is the fact that the report suggests that the longstanding national policy of open competition is no longer applicable to today's environment. I find it hard to believe that the Appropriations Committee would support this. The House Government Operations Committee, General Services Administration, General Accounting Office and others have consistently documented that procurement of ADP hardware through full and open competition has saved billions of dollars over time.

The Appropriations Committee report has suggested that in private industry full competition is only attempted when it is cost beneficial to do so. Regardless of what the management of an individual company may conclude as to short-term savings through sole-source procurements, the Federal Government has a far greater array of responsibilities to take into consideration. Primary among these is the national policy of promoting free and open competition which is founded on the proposition that such is not only more economical in the long run, but more conducive sociologically and politically to promoting our free-enterprise system.

With regard to the report's contention that competitive requirements have forced agencies to settle for technologically inferior equipment, the facts once again do not support the conclusion. It is widely recognized that many agencies continue to use older equipment. They do so either because such equipment continues to serve their needs on a cost-benefit basis or because they lack the managerial capability to use more highly advanced categories of equipment.

As pointed out above, continued reliance on outmoded, fragmented, nonstandard low-level languages is a reflection of an agency's managerial sophistication. For that matter, if some agencies, who cannot efficiently manage their present, less complex system, were to be permitted to acquire "leading-edge" equip-

ment, the disruption through mismanagement would probably set the taxpayer back even greater millions of dollars.

However, when an agency has demonstrated its need for and capability to operate an advanced system, they are authorized under existing guidelines to acquire the same and at a far cheaper price competitively than would be solesource. A good example of this is the Navy which recently acquired several of Sperry-Univac's latest advanced model computer system for its Data Processing Service Center (DIPSI) at a 71-percent price discount. What is particularly astounding is that the committee report supports denying the Army money for project VIABLE which is designed to replace its outmoded base operations system with new technology—suggesting that the Army could satisfy its need through emulation. In fact, by requiring the Army to meet its needs through this emulation requirement on a noncompetitive basis it would have the effect of locking them into their old antiquated software and thereby cause the Army to forfeit the benefits it could derive through the new technology and through full and open competition. What the report recommends here is acquiring a racehorse to pull a milk wagon. In sum, if the policies laid down by this report were to be followed, the result would be even more costly and more inefficient ADP operations, causing disruption and not enhancement to Federal program operations.

Mr. Chairman, I understand that the findings and conclusions expressed in the committee report were formulated by the committee's investigative staff. In light of the deficiencies I have found, it is particularly disturbing to note that neither the investigative staff report nor the committee report is supported by firm analyses. In fact, the investigative report, in particular, appears to be a superficial project prepared by individuals drawn from Federal agencies who conducted this review and wrote this report without management control and direction from the full committee to insure accuracy and objectivity of the data presented. This is particularly distressing since the White House ADP reorganization staff, the GAO, and others are in the process of recommending further strengthening of existing competitive practices. I can only say, Mr. Chairman, that if the recommendations, suggestions, and implications of the ADP part of this report are implemented, the taxpayers are in for a heap of trouble.●

● Mr. SIKES. Mr. Chairman there has been considerable dissatisfaction with the requirement that civilian personnel in the Department of Defense use government quarters when on travel status. The purpose obviously is to reduce costs to the Department of Defense in that the rates on government quarters are much lower than those of public facilities. The complaints, and there have been many, are varied. Some of the objections are on the quality of the quarters that are available such as occasional open bay barracks; a lack of satisfactory toilet and bath facilities, lack of access to recreational and entertainment activities, and even overcrowding.

The committee has made a careful study of this matter. It is discussed in detail beginning on page 161 of the committee report. The committee has assumed that there would be some administrative difficulties when this provision was added to the bill but did not anticipate the degree of dissatisfaction which has arisen. It is the committee's desire to save money. This is commendable. The committee has been unwilling to forego that goal when the difficulties that have arisen apparently center on unwillingness or inability by the Department of Defense to define what is adequate quarters and the unwillingness or inability of the services to administer these facilities in a more reasonable manner. The committee has determined that the effort to utilize the Government quarters should be continued but proper guidelines should be established to avoid hardship or the use of inadequate quarters.

This problem is one which should be given careful scrutiny in the ensuing months. The committee expects the Department of Defense to establish realistic policies which are spelled out in the committee report and which should insure satisfactory quarters if civilian employees are to continue to utilize Government facilities while on temporary duty.

Unless an improvement can be made in this requirement, it should be dropped. There should be no delays in seeking a better policy.●

● Mr. GARCIA. Mr. Chairman, I am thoroughly aware of the need for a strong national defense program. And I believe that program should be supported by the most effective, appropriate use of technology available for our strategic defense and equitably treated Armed Forces. And, paradoxically, it is for these reasons that I shall vote against final passage of the Defense Department appropriations for fiscal year 1979.

One of the major reasons for my opposition is the scandalous approval by this body of another nuclear-powered aircraft carrier at a time when we are talking about cost-effectiveness and preventing needless waste. In his testimony to the Subcommittee on Defense Appropriations, Secretary Brown himself told us that this purchase was not necessary and is strategically unwise. And instead of heeding his professional opinion to maintain our strategic alternatives and listening to our own commonsense we went ahead and funded the most expensive carrier in history. Do you know what $2 billion would buy for the south Bronx?

Then, after we wasted $2 billion, we started practicing economics and cut funds for abortions in the armed services. It is ironic that, with his amendment which mandates that women shall bear the responsibility of giving birth to children, Mr. DORNAN did not offer a companion amendment appropriating funds to provide support services for those children.

Mr. Chairman, until my colleagues are willing to take a more realistic look at both national security and constitutional liberties I shall continue to vote against any legislation that contains such reprehensible provisions.●

● Mr. PATTISON of New York. Mr. Chairman, I voted today against the Department of Defense appropriations bill. I regret that such a vote was necessary on my part. I would have much rather supported a bill which would meet our Nation's defense needs at a reasonable cost. The bill which passed however, is a statement to the American people that inflated, and worse, wasteful Government spending is acceptable when it is in the name of national security.

We need a strong national defense program. No one can argue that. What I do argue is that we cannot shed fiscal responsibility when considering defense. Waste buys no defense.

Proposition 13 has focused considerable attention on Government spending; attention from which we can certainly benefit. It is a call for us to scrutinize the budget far more carefully, to weigh the merits of programs and to decide where cuts should be made. It is a call for fiscal responsibility which unfortunately some of my colleagues have ignored. The device often employed is to vote for every specific add-on to please the special interest affected but then to vote for nonspecific percentage cuts in each appropriation bill. The times require surgery, not butchery.

Money spent in the name of national security seems immune to any cutbacks. My colleagues who previously exhibited such zeal in pursuing lean appropriations and authorizations, became strangely silent when considering defense, the largest single portion of the budget. A myth exists that the more money we spend on defense the safer we will be. Not true. The complaint that politicians think they can solve problems by "throwing money at them" is as valid in defense as in other programs. All spending should be subject to the same cost-benefit analysis and efficiency studies—defense included. I realize that defense does not come cheap, but it is our responsibility to be economical. It is our responsibiity to provide the American people with the greatest possible defense at the lowest possible cost. We have not done that in the bill just passed.

The defense program President Carter sent to Congress was a fairly reasonable one. The appropriations bill which emerged from committee, millions above the administration's request, was not. The most obvious example of its wasteful spending was the nuclear carrier.

After listening to hours of debate, I remain unconvinced that the nuclear carrier is an effective way to spend American tax dollars. At a time when the Secretary of Defense and the Secretary of the Navy agree that a greater number of smaller vessels is needed to assure adequate combat power of our fleet, we are denying ourselves this flexibility and sinking approximately 1.8 percent of our defense budget into the most expensive ship ever built. Chance of losing our investment in the carrier are high, should war with another superpower occur. As the Soviet ability to sink it increases, its vulnerability may reach the point where it is obsolete before it even reaches water. Even for normal, operational security,

the nuclear carrier requires escort ships which we do not have at present. Thus we are committing ourselves to enormous costs of questionable value for the future, well beyond the initial price of the carrier itself. The carrier's proponents state that the ship is an answer to the threat of the Soviet buildup, but chances are good that if we ever entered into conflict with the Soviets, it would involve missiles, not carriers. We have 13 afloat and 1 being built. While the Soviets have two carriers which can launch small VSTOL aircraft and helicopters, they have no carriers which have anywhere near the same strike force as ours.

The Appropriations Committee report accompanying this bill states that there is "no single weapons system or single program presented in the defense budget, which if denied, would lead to the military destruction of the United States." Both the chairman of the committee and the ranking Republican member of that committee, both advocates of military security with impeccable credentials, argued against including the carrier. I agree with this and feel that the removal of such a wasteful expenditure as the nuclear carrier would have shown to the American people the fiscal responsibility of Congress in cutting out the unnecessary and unwise in the defense budget. It is easy for us to lose sight of the effectiveness of our defense spending in our effort to assure ourselves that we have the biggest and best defense on the planet.

We are experiencing the serious problem of inflation. Our national debt and trade deficits are both critically high and the value of our currency continues to drop on foreign markets. These are facts I consider painfully obvious but these concerns have been neglected in the passing of this defense appropriations bill. A point often raised in response is that a large military budget is good for the national economy. This argument died with World War II. Military spending is unquestionably the most inflationary form of Government spending. It pumps high wages into the economy without creating any goods for those wages to purchase. The result: More dollars chasing fewer goods.

In the past few months, we have tried to deal with some of the problems stated earlier by curbing our spending. The result has been some painful cuts to social services programs, and a bloated defense budget. We cannot isolate military expenditures from the scrutiny with which we consider the rest of the budget. As I have said before, we cannot continue to fund wasteful military projects and still hope to maintain a strong military posture and a sound economy. Our defense program and our national economy cannot be considered independently of one another. I feel we have done this in our consideration of the defense appropriations bill, and this is why I opposed it.●

The CHAIRMAN. The Clerk will read.

The Clerk concluded the reading of the bill.

(By unanimous consent Mr. PICKLE was allowed to speak out of order.)

TRIBUTE TO THE HONORABLE GEORGE H. MAHON

Mr. PICKLE. Mr. Chairman, I take this time to point out to the House that this is a significant moment in the history of the Congress of the United States. Upon the passage of this Defense appropriation bill, it may be the last time that the Honorable GEORGE HERMAN MAHON will serve as the chairman of the committee which handles directly appropriation matters affecting the defense of this country.

GEORGE MAHON was elected to the Congress in 1934. He went on the Appropriations Committee in 1939. He was assigned to the defense appropriations section of the subcommittee in the days when we had an appropriation for the War Department and for the Navy Department. He was assigned to the Appropriations Subcommittee on Defense in 1949 when the Department of Defense was created. He has handled every Defense measure before this House, except for one small hiatus, and has served as chairman of this Appropriations Subcommittee for 29 years. During that time the appropriations for Defense have exceeded over $1.7 trillion.

I think the House ought to observe this moment and pay our respects to this man who has handled the Defense matters of this Nation so well. Over and above that, although there will be other times to pay our plaudits to this great man, it is good for us to know that here is a man who is the very symbol of what we all think a legislator should be. Gentleman GEORGE MAHON is the finest our country has ever sent to Congress. Surely we can say that we are blessed because this good man, this good Christian man has served this Nation in such a strong capacity. I do not know of another man in America who is more gentle, more kindly, and yet more firm and dedicated in the defense of this Nation than GEORGE HERMAN MAHON.

At this time the House simply ought to recognize that this may be the last time he will ever be handling this appropriations subcommittee bill. We love you, GEORGE MAHON.

[Applause, the Members rising.]

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I also point out that this is the last time we will have in the presentation of an original Defense appropriation bill the services of the distinguished gentleman from Florida, the ranking majority member, Mr. BOB SIKES, and our other colleague, the distinguished gentleman from Georgia, Mr. JACK FLYNT. Between the gentleman from Texas, Mr. GEORGE MAHON and the gentleman from Florida, Mr. BOB SIKES, and the gentleman from Georgia, Mr. JACK FLYNT, we will be losing 100 years of expertise and dedicated service to the defenses of our Nation, the people of America, and the Congress. They all will be long remembered and missed.

Mr. PICKLE. Mr. Chairman, I propose we give those great gentleman a hand also.

[Applause, the Members rising.]

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ROSTENKOWSKI, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13635) making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en bloc.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FORSYTHE

Mr. FORSYTHE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. FORSYTHE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FORSYTHE moves to recommit the bill H.R. 13635 to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. EDWARDS of Alabama. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 339, nays 60, not voting 33, as follows:

[Roll No. 665]

YEAS—339

Addabbo	Aspin	Bonker
Akaka	Badham	Bowen
Alexander	Bafalis	Brademas
Ambro	Baucus	Breaux
Ammerman	Bauman	Breckinridge
Anderson, Calif.	Beard, R.I.	Brinkley
	Beard, Tenn.	Brodhead
Anderson, Ill.	Benjamin	Brooks
Andrews, N. Dak.	Bennett	Broomfield
	Bevill	Brown, Ohio
Annunzio	Biaggi	Broyhill
Applegate	Blanchard	Buchanan
Archer	Blouin	Burgener
Armstrong	Boggs	Burke, Calif.
Ashbrook	Boland	Burke, Fla.
Ashley	Bolling	Burke, Mass.

Burleson, Tex.	Heftel	Pepper
Burlison, Mo.	Hightower	Perkins
Butler	Hillis	Pettis
Byron	Holland	Pickle
Caputo	Hollenbeck	Pike
Carney	Holt	Poage
Carter	Horton	Pressler
Cavanaugh	Howard	Preyer
Cederberg	Hubbard	Price
Chappell	Huckaby	Pritchard
Clausen, Don H.	Hughes	Quayle
	Hyde	Quie
Clawson, Del	Ichord	Quillen
Cleveland	Ireland	Rahall
Cochran	Jacobs	Railsback
Cohen	Jeffords	Regula
Coleman	Jenrette	Rinaldo
Collins, Tex.	Johnson, Calif.	Risenhoover
Conable	Johnson, Colo.	Roberts
Conte	Jones, N.C.	Robinson
Corcoran	Jones, Okla.	Rogers
Corman	Jones, Tenn.	Roncalio
Cotter	Jordan	Rooney
Coughlin	Kazen	Rostenkowski
Crane	Kelly	Rousselot
Cunningham	Kemp	Rudd
D'Amours	Keys	Runnels
Daniel, Dan	Kildee	Ruppe
Daniel, R. W.	Kindness	Russo
Danielson	Kostmayer	Ryan
de la Garza	Krebs	Santini
Delaney	Krueger	Sarasin
Dent	LaFalce	Satterfield
Derrick	Lagomarsino	Sawyer
Derwinski	Latta	Schulze
Devine	Leach	Sebelius
Dicks	Lederer	Sharp
Dingell	Leggett	Shipley
Dodd	Lehman	Shuster
Dornan	Levitas	Sikes
Downey	Livingston	Simon
Duncan, Oreg.	Lloyd, Calif.	Skelton
Duncan, Tenn.	Long, La.	Skubitz
Eckhardt	Long, Md.	Slack
Edgar	Lott	Smith, Iowa
Edwards, Ala.	Lujan	Smith, Nebr.
Edwards, Okla.	Luken	Snyder
Eilberg	McClory	Solarz
Emery	McCloskey	Spellman
English	McCormack	Spence
Erlenborn	McDade	St Germain
Ertel	McEwen	Staggers
Evans, Colo.	McFall	Stangeland
Evans, Ga.	McKay	Stanton
Evans, Ind.	McKinney	Steed
Fary	Madigan	Steiger
Fascell	Mahon	Stockman
Findley	Mann	Stratton
Fish	Marks	Stump
Fisher	Marlenee	Symms
Fithian	Marriott	Taylor
Flippo	Martin	Thone
Flood	Mazzoli	Thornton
Florio	Meeds	Traxler
Flynt	Meyner	Treen
Foley	Michel	Trible
Ford, Mich.	Mikulski	Tucker
Ford, Tenn.	Milford	Udall
Fountain	Miller, Ohio	Ullman
Frenzel	Mineta	Van Deerlin
Fuqua	Minish	Volkmer
Gammage	Mitchell, N.Y.	Waggonner
Gaydos	Moakley	Walgren
Giaimo	Mollohan	Walker
Gibbons	Montgomery	Walsh
Gilman	Moore	Wampler
Ginn	Moorhead, Calif.	Watkins
Glickman		Waxman
Goldwater	Moorhead, Pa.	Whalen
Gonzalez	Moss	White
Goodling	Mottl	Whitehurst
Gore	Murphy, Ill.	Whitley
Gradison	Murphy, Pa.	Whitten
Grassley	Murtha	Wiggins
Green	Myers, Gary	Wilson, Bob
Gudger	Myers, John	Wilson, C. H.
Guyer	Myers, Michael	Wilson, Tex.
Hagedorn	Natcher	Winn
Hall	Neal	Wolff
Hamilton	Nedzi	Wright
Hammer-schmidt	Nichols	Wydler
	Nix	Wylie
Hanley	Nowak	Yatron
Hannaford	O'Brien	Young, Fla.
Harris	Oakar	Young, Mo.
Harsha	Panetta	Young, Tex.
Hawkins	Patten	Zablocki
Heckler	Patterson	Zeferetti
Hefner	Pease	

NAYS—60

AuCoin	Bingham	Carr
Baldus	Brown, Calif.	Chisholm
Bedell	Burton, John	Clay
Bellenson	Burton, Phillip	Collins, Ill.
Conyers	Kastenmeier	Reuss
Cornell	Lundine	Rosenthal
Cornwell	McHugh	Roybal
Dellums	Maguire	Schroeder
Diggs	Markey	Seiberling
Drinan	Metcalfe	Stark
Early	Mikva	Steers
Edwards, Calif.	Mitchell, Md.	Stokes
Fenwick	Moffett	Studds
Forsythe	Nolan	Thompson
Fraser	Oberstar	Vanik
Garcia	Obey	Vento
Gephardt	Ottinger	Weaver
Harkin	Pattison	Weiss
Harrington	Pursell	Wirth
Holtzman	Rangel	Yates

NOT VOTING—33

Abdnor	Hansen	Rhodes
Andrews, N.C.	Jenkins	Richmond
Barnard	Kasten	Rodino
Bonior	Le Fante	Roe
Brown, Mich.	Lent	Rose
Davis	Lloyd, Tenn.	Scheuer
Dickinson	McDonald	Sisk
Evans, Del.	Mathis	Teague
Flowers	Mattox	Tsongas
Fowler	Miller, Calif.	Vander Jagt
Frey	Murphy, N.Y.	Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Davis for, with Mr. Richmond against.

Mrs. Lloyd of Tennessee for, with Mr. Miller of California against.

Until further notice:

Mr. Murphy of New York with Mr. Abdnor.

Mr. Rodino with Mr. Brown of Michigan.

Mr. Bonior with Mr. Lent.

Mr. Jenkins with Mr. Mattox.

Mr. McDonald with Mr. Young of Alaska.

Mr. Teague with Mr. Kasten.

Mr. Le Fante with Mr. Hansen.

Mr. Rose with Mr. Andrews of North Carolina.

Mr. Roe with Mr. Barnard.

Mr. Flowers with Mr. Dickinson.

Mr. Mathis with Mr. Evans of Delaware.

Mr. Sisk with Mr. Frey.

Mr. Tsongas with Mr. Vander Jagt.

Mr. Fowler with Mr. Scheuer.

Mr. MITCHELL of New York and Mr. EDWARDS of Oklahoma changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO CORRECT SECTION NUMBERS, PUNCTUATION, AND CROSS REFERENCES IN THE ENGROSSMENT OF H.R. 13635

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to correct section numbers, punctuation, and cross references in the engrossment of the bill H.R. 13635, defense appropriations, 1979.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL EXPLANATION

Mr. DOWNEY. Mr. Speaker, I would like the RECORD to show that I was at a press conference during the vote on the Dornan amendment to H.R. 13635 today.

Mr. Speaker, had I been present, I would have noted "no."

PERSONAL EXPLANATION

Mr. CARR. Mr. Speaker, I would like the RECORD to reflect that I was at a press conference during the vote on the Dornan amendment to H.R. 13635 today.

Mr. Speaker, had I been present, I would have voted "no."

PERSONAL EXPLANATION

Mr. GLICKMAN. Mr. Speaker, I would like the RECORD to show that I, also, would have voted "no" on the Dornan amendment to H.R. 13635.

Mr. Speaker, I got confused by the number of bells ringing for fire alarms and for an air raid.

Mr. Speaker, had I been present, I would have voted "no" on the recorded vote.

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the defense appropriations bill just passed, and on the subject of the service and retirement of the gentleman from Texas (Mr. MAHON).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

REQUEST TO MAKE IN ORDER CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 683, SECOND CONCURRENT RESOLUTION ON THE BUDGET, ON TUESDAY NEXT OR ANY DAY THEREAFTER

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday, August 15, 1978, or any day thereafter, to consider House Concurrent Resolution 683, the second concurrent resolution on the budget for fiscal year 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, last night the gentleman from Connecticut (Mr. GIAIMO) was kind enough to discuss this request with me. Having had the chance to think it over, overnight, it occurs to me that if the House grants this request, it at least establishes a major part of the legislative schedule prior to the recess the House is scheduled to take next week. However, it does so without any assurances that, for instance, the tax cut bill will come up or that the ERA extension will or will not be considered.

It also occurs to the gentleman that in the absence of any word from the majority leadership as to what the schedule is to be, we should withhold this request.

I do not wish to discommode the gentleman. I know the matter has to be settled, but I also think the House has the right to know, if the budget resolution is going to be considered, what other matters are going to be considered, including the tax bill, which is intimately connected to the budget resolution.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, I cannot, of course, give any assurances to the gentleman as to what the schedule would be. The gentleman would have to check that with the leadership.

It is my hope certainly that the tax bill would come up before the budget resolution. I believe the gentleman understands the purpose of this unanimous-consent request is to do away with the requirement of having a layover before we can bring up the budget resolution.

Speaking just as a Member, it seems to me that there is a great deal of legislation scheduled on the calendar. I am sure it is the intent of the leadership to be as busy as possible between now and the recess, and this is one of the items of importance that will have to be taken up.

Mr. Speaker, I would hope the gentleman will not press his objection.

Mr. BAUMAN. Mr. Speaker, I certainly would in no way want to interfere with the gentleman or his committee's deliberations, but I think the House has a right to know whether the tax bill would be considered before the budget resolution.

Mr. Speaker, if the gentleman would withhold his request, I would not object, but if he wishes to make it now, with no offense to the gentleman, I would object.

Mr. GIAIMO. Mr. Speaker, I withdraw my request.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. GIAIMO) withdraws his request.

CONFERENCE REPORT ON H.R. 2777, NATIONAL CONSUMER COOPERATIVE BANK ACT

Mr. ST GERMAIN. Mr. Speaker, I call up the conference report on the bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. BAUMAN. Mr. Speaker, with that announcement of the program, I withdraw by reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of July 28, 1978.)

Mr. ST GERMAIN (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the statement be dispensed with. I shall endeavor to explain the contents of the conference report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, did my colleague, the gentleman from Texas (Mr. WRIGHT), wish to speak?

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, I would like to suggest, for the benefit of those who have raised the question with respect to the tax bill, that it is the purpose and the plan of the leadership to bring the tax bill tomorrow, assuming that a rule has been granted today. I hope that satisfies the gentleman's curiosity—and I can understand his curiosity—and that he will remove his objection to the request of the gentleman from Connecticut.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I yield to my colleague, the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the concern of the gentleman from Maryland is that the tax bill be considered first so that the appropriate changes can be made in the second budget resolution, if that is required. In the absence of a rule on the tax bill having been granted, I think it would be prudent to delay the request of the gentleman from Connecticut until later in the day.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield further?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Speaker, the recommendation of the gentleman from Maryland is exactly on track with the plans of the leadership to consider and complete action on the tax bill tomorrow and/or Friday, in order that we will know those figures when we come—and indeed we must come—on next Tuesday, and no later, with the budget resolution, if we are to comply with the law.

Mr. BAUMAN. I thank the gentleman.

Mr. Speaker, I would only say that we should wait and see what the Committee on Rules does. Occasionally, once or twice in the session, it is allowed to become an unpredictable body.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, I do not believe the gentleman on the other side of the aisle heard the gentleman's last statement.

Mr. BAUMAN. If the gentleman will yield. I see no problem with waiting until the Committee on Rules acts, and then the gentleman from Connecticut can obtain his request.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, is it the intention of my colleague, the gentleman from Rhode Island, to split the time equally on this conference bill?

Mr. ST GERMAIN. Oh, absolutely.

Mr. ROUSSELOT. Mr. Speaker, I appreciate the gentleman's statement, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The SPEAKER pro tempore. The gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 30 minutes and the gentleman from Ohio (Mr. STANTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, this conference report is the culmination of 3 years of legislative efforts to provide a credit facility for consumers willing to roll up their sleeves, go to work and form their own cooperative organizations.

The National Consumer Cooperative Bank is Federal seed money—combined with local action and local decisionmaking by local people. It is the American principle of self-help.

We have attempted to shape a final legislative product which can command the support of a broad consensus of the House—a consensus drawn from both sides of the aisle.

Your conferees have agreed to pare down the size of the entities created under this legislation—to sharply reduce the funding levels.

Briefly—we have cut the capital for the bank from $500 million over 5 years as contained in the House bill to the $300 million provided in the Senate bill. We have also accepted the Senate's lower figures for the self-help development fund from the 5-year $250 million program envisioned in the House bill to a 3-year $75 million authorization in the Senate bill.

To put it in clear terms—the conferees have accepted the Senate amendments cutting $375 million from the House-passed bill. We have economized to the maximum.

The National Consumer Cooperative Bank Act has the full endorsement of President Carter and his administration. At this point I will include a letter from the Secretary of the Treasury, W. Michael Blumenthal, dated August 9, 1978:

THE SECRETARY OF THE TREASURY,
Washington, D.C., August 9, 1978.

Hon. FERNAND J. ST GERMAIN,
Chairman, Subcommittee on Financial Institutions Supervision, Regulation and Insurance, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to reaffirm our support for the National Consumer Cooperative Bank Act (H.R. 2777) as set forth in the Conference report. As Assistant Secretary Altman indicated in his testimony before the Subcommittee on Financial Institutions of the Senate Committee on Banking, Housing and Urban Affairs, "we have concluded that a program of loans and technical assistance [to Consumer Cooperatives] is desirable and that such a program would be most effectively administered by an independent Bank."

The Treasury supported an authorization for the Federal government to invest $300

million in the Bank's preferred stock and $75 million in the Self-Help Development Fund. These amounts are now incorporated in the conference report. The Treasury strongly supports these revised appropriation figures for the Bank.

The Department has been advised by the Office of Management and Budget that this letter is in accord with the program of the President.

Sincerely,

W. MICHAEL BLUMENTHAL.

The National Consumer Cooperative Bank has the full endorsement of President Carter and his administration. Witnesses for the Treasury Department have supported the funding levels contained in the conference report and, as my colleagues are aware, the congressional budget resolution adopted May 17 includes initial funding for the program.

Mr. Speaker, the capital being provided this bank is in the form of a temporary loan—money which will be repaid in full with interest by the cooperatives which use the Consumer Cooperative Bank. This is the same approach which worked so successfully in the farm credit system—all the entities of this system have repaid their capital including the funds advanced for the formation of the bank for "farm" cooperatives.

Like the farm credit system, this bank will be able to borrow funds from the private markets and the Senate accepted the House's provisions empowering the bank to borrow up to 10 times its capital in the market. We believe the 10-to-1 ratio will facilitate the bank's entry into the market, speed the repayment of the Government's capital and hasten the day when the institution becomes totally private, controlled and operated by its cooperative members.

This conference report has broad support—religious leaders, virtually every consumer organization in the Nation, a variety of rural and urban groups, senior citizens, cooperatives—and innumerable individual citizens who want an opportunity to do things for themselves through self-help organizations at the local level.

This bill has enjoyed wonderful bipartisan support—my friends CHALMERS WYLIE and STEW MCKINNEY have done an outstanding job promoting the idea among their colleagues. Our original bill had 100 cosponsors from every region of the Nation. And as the 60-to-33 vote in the Senate indicated, the legislation enjoyed wide support on both sides of the asile in the other body.

Mr. Speaker, I am convinced that this will be landmark legislation—one of those instances when the Congress addressed a specific economic need and demonstrated its faith in the self-help concept which has made this Nation great.

This legislation is different. It is a change—a welcome change—from the hat-in-hand demands that the Congress faces all too often from all too many special interests.

It is a request for a helping hand, not a handout. This legislation asks for a partnership—albeit a temporary partnership—between the Federal Government and its people—people willing to provide the hard work necessary to form a cooperative serving a variety of consumer needs—health, housing, food, repair, and others. All the consumers ask is seed money for a lending institution—seed money that will be repaid in full with interest.

The need for a lending institution for consumer cooperatives is overwhelming. We received much testimony on this in the last Congress and our hearing record in the House for both 1976 and 1977 is filled with examples of credit-worthy consumer cooperatives denied credit by private lending institutions. Commercial banks for a variety of reasons—including their general unfamiliarity with the cooperative structure and their natural bias toward profitmaking enterprises—have redlined the consumer cooperatives all over this Nation.

We are not here to criticize the private lending institutions for this failure—but to recognize that a tremendous gap does exist—one which can be filled at this juncture only with an infusion of Federal seed money on a fully repayable basis.

The cooperatives will take over responsibility for operating the Consumer Cooperative Bank as the Government's seed money capital is repaid. And long before this occurs, it will be in the private markets, raising its own funds on the basis of its established record and credit worthiness.

Unlike a straight Federal loan program, the Consumer Cooperative Bank provides a double check against waste, misuse, and mismanagement: First, through its Board of Directors and second, in the private markets in which it must raise funds. If the Board of Directors makes poor decisions, wastes money or becomes corrupt, the private marketplace will serve as a check, as a disciplinarian and the bank will not be able to raise funds.

We must recognize that some cooperatives, serving the poor in both urban and rural areas, will not be able to meet the market interest rate requirements of the Consumer Cooperative Bank. For these specialized cooperatives—serving a specific mission in low-income areas—we provide a separate mechanism—a self-help development fund.

But, again, this fund—while empowered to adjust terms—must be administered on a loan basis—fully repayable. This fund is established on a revolving basis with the repayments available for future lending to low-income cooperatives.

We are convinced that cooperatives nurtured under this self-help fund can have large meaning for the revitalization of communities, neighborhoods and rural areas. We believe that people forming these cooperatives can help bring neighborhoods together and to provide services not now present in many inner-city and depressed rural communities. I am firmly convinced that this type of self-help program, built on the cooperatives' members own organization and hard work is far superior to much of the aimless aid that is pushed on these areas from on high. These cooperatives would be local initiative, based on local need, and run by local people.

Many of these low-income cooperatives will, after gaining their start from the self-help fund, be able to gain sufficient strength to become eligible for future loans from the Consumer Cooperative Bank.

Technical assistance, I am convinced, is essential to make certain that those programs work—both the Consumer Cooperative Bank loans and those emanating from the self-help fund. Technical assistance has been one of the ingredients that has made farm credit, rural electrification and rural telephone programs work and has contributed greatly to these programs' fantastically good credit records.

President Ford's former press secretary and long-time news columnist Gerald ter Horst wrote in the Washington Post last September:

> Cooperative action is as American as the Boston Tea Party, the winning of the West and rural electrification. . . . As one who grew up around co-ops, I can attest to their ability to aid the development of communities ignored by commercial banks, to keep prices competitive and to give consumer-members more bargaining power in the marketplace.

Mr. Speaker, I urge adoption of the conference report.

Mr. STANTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Members of the House, I rise in strong opposition to the conference report that is before the House at the present time. I think that it would be appropriate for the few of us who are here at the moment, and perhaps hopefully more of those who are watching on television, to recheck this vote which was originally taken in the House here in July of 1977, in which over 200 Members of the House voted against this legislation at that time. Mr. Speaker, of course there are many reasons why 200 Members of this very distinguished body would vote against something.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to my colleague from Ohio.

Mr. WYLIE. I think there were 198 votes against it. I do not want the gentleman to mislead his colleagues in the House.

Mr. STANTON. I appreciate being corrected. I guess I was looking to the future.

Mr. LAFALCE. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from New York.

Mr. LAFALCE. Was the gentleman referring to prior to changes, or after changes?

Mr. STANTON. I am sure, prior. One reason that 198 Members, I would presume, would vote against this legislation probably could best be reiterated with the points that the Deputy Secretary of the Treasury, George Dixon, made before our committee. Ladies and gentle-

ment, this is something to think about when we vote on the conference report.

Secretary Dixon said the following:

This legislation is unique in our experience because it ties Federal subsidies and assistance not to the attainment of specific objectives—for example, more housing units, development of new energy resources—but rather to the form of the organization involved, irrespective of the functions it performs.

That is something to think about.

He says further:

As such it must represent a judgment that the cooperative form of organization is inherently superior to other business forms: corporations, partnerships and individual proprietorships . . . we are not prepared to accept the judgment that profit-oriented enterprises are less likely to meet the public demand for better goods and services at lower prices.

So I give the Members that. The Secretary of the Treasury, at that time Mr. Dixon, rightfully expressed the fears of the Secretary of the Treasury and the White House, and I hope the Congress would act to express their strong opposition to this particular legislation.

Second, I would point out to the Members that this legislation met strong opposition from the National Federation of Independent Businesses. I would point out that probably the best I could ever quote as to why one should not vote for this legislation would be the remarks of our good colleague, the gentleman from Texas (Mr. GONZALEZ), who in words before the committee said, and I quote from our good friend, the gentleman from Texas (Mr. GONZALEZ):

The small businesses of this country—the independent grocers, the neighborhood garages, and the radio and TV repair shops would bear the brunt of the competition financed by this bank . . . There is some irony in this: with one hand, through the Small Business Administration, the Office of Minority Business Enterprise, and through other devices, Congress encourages the creation of small business. Now we propose to create a bank with a billion dollars worth of tax resources to set up operations to take over or compete directly with those very same businesses.

A further point I would make to the Members is that for the first time in history we are taking a tax exempt—tax exempt—enterprise in our country, the small business enterprises and the black-oriented businesses in this country and all the other people we have tried to help and who do not have that tax advantage, but we take this and not only give a tax advantage on the one hand but also take federally subsidized tax dollars from these very small businessmen on the one hand—and what for? To give to some form of enterprise, some kind of cooperative, instead of cooperating and worrying and looking at where we can help the people of this particular country, in the height of all the weight of the foreign government involvement that they have at the present time.

Last but not least, I will make this point, because there are several of us on our side who want to speak on this. If there were 198 people who voted against this legislation over a year ago, then obviously there are going to be more than 200 who will vote against it today under the simple premise that in the last few months it has been brought home to this House, and in a little over 2 months and a few days it will be brought home on election day, that the last thing, the last mandate that this Congress has been asked by the American people, this 95th Congress, is that in the last 2 months of its existence we should not go home to the American people and brag: "I have started a new Federal program that is only going to cost, some say, $300 million." It has been reduced to this, but what is the leverage? It is 10 to 1, so we are speaking about $3 billion in the next 5 years. I want people to go to their congressional districts in Rhode Island or in Wisconsin or wherever it may be and brag: "I voted for this bill. I got a new Federal program for you."

Especially do this before the small businesses and the chambers of commerce. Stand up and look them in the face and say: "Once again the Federal Government has come to your help."

So once again I hope Members will consider a "no" vote. I know those who voted against it before will vote against it now, but those who may reconsider their position will be most welcome to this side.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the full Committee on Banking, Finance and Urban Affairs, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Speaker, I thank the gentleman from Rhode Island (Mr. ST GERMAIN) whose name is so indelibly linked with this excellent piece of legislation, for yielding to me.

Mr. Speaker, by acting favorably on this conference report, the 95th Congress will be long remembered for its foresight in providing consumers with an effective voice in the marketplace through their own self-help cooperatives.

Not only does this legislation provide the American consumer new tools with which to combat inflation it holds out great hope for our inner city neighborhoods. The cooperatives formed through this bill's self-help development fund will pull people together in urban neighborhoods, opening the way for new economic activity and new hope. This is something which will help not only consumer cooperatives, but small businesses and others dependent on a rebirth of our urban communities.

The conference has adopted a reasonable approach to the establishment of a National Consumer Cooperative Bank and its self-help and technical assistance divisions. We have cut the funding by almost 50 percent over the House version, and the final product meets the desires of those who seek to aid the consumer in the battle against inflation and those who seek to keep expenditures to a minimum.

This will be the 95th Congress major effort for the consumer. I urge my colleagues to adopt the conference report.

Mr. Speaker, I have listened to the always charming and always interesting ranking minority member of our committee, the gentleman from Ohio (Mr. STANTON) who has pointed out that on Bastille Day—an unfortunate choice of days—last year, some 198 Members—a minority—did vote against the bill. But I hope that that number—and I am confident that that number—will greatly diminish this afternoon because of two important facts.

On July 14, 1977, when, admittedly, there were quite a few negative votes, the great administration of this country was not only against the bill, but performed a miracle of lobbying that it has seldom since achieved. It really put the heat on, and it succeeded quite magnificently. Since then, like Saul on the road to Damascus, the light has been seen, and the administration is now four-square and 100 percent behind the conference report today, and that should make some difference.

Second, and perhaps most importantly, the conferees, led by the gentleman from Rhode Island (Mr. ST GERMAIN) were, if I may say so, if anything, too willing to cut the dollar amount that had been voted in the House. I think the conference report before us today gives us an adequate amount, but every ounce of adipose tissue has been removed from the bill. Its dollar amount has been practically halved.

So, in answer to my friend the gentleman from Ohio (Mr. STANTON) while I do not propose to go back to Wisconsin and brag about the bill that I hope we will send to the White House today, and shortly see signed into law, I propose to be very, very proud of it indeed, as perhaps the finest expression in this Congress of interest in the consumer and his never-ending battle against inflation, and as an affirmation by this Congress of the principle, at least as old as Thomas Jefferson, that this country is made great by cooperation.

So I hope the Members on both sides of the aisle will join in giving a resounding vote for the conference report.

Mr. STANTON. Mr. Speaker, I yield 5 minutes to our distinguished colleague, the gentleman from Ohio, Mr. CHALMERS WYLIE, a very important member of this committee.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in enthusiastic support of the conference report. When the idea of a consumer cooperative bank was first broached to me, I had serious reservations which coincide with some of the arguments of the opponents today. I agreed to cosponsor H.R. 14512 with Congressman ST GERMAIN, Chairman REUSS, and others as a vehicle for discussion and debate, on the theory that we need to look for new ways to get people off welfare, assist the elderly and those on fixed income, as well as low- and moderate-income people to provide the necessities for daily living at affordable costs to fight inflation which is caus-

ing so much trouble for so many people in all our districts.

After studying the concept of the National Consumer Cooperative Bank bill for 3 years now, I am more convinced than ever that this bill could provide the means, whereby millions of Americans faced with financial problems because of inflation and their inability to get money from conventional sources, could help themselves through a cooperative arrangement with others similarly situated. H.R. 2777 establishes a loan program—not another giveaway program. Congress has established subsidy programs for sugar growers, cotton growers, farmers, fishermen, cattlemen, small businesses, shipowners, and a multitude of others. The funds provided by H.R. 2777 are to be repaid with interest through the sale of debentures in the money markets. A National Consumer Cooperative Bank is in the finest traditions of the free enterprise system. It will allow people with only moderate and even low incomes to invest in organizations to help themselves because their relatively small individual investments in equities in the co-op can be supplemented by sound loans.

More and more people investing in their own co-op by buying shares can provide themselves living quarters, goods and services, and, at the same time, increase their stake in the free enterprise system. They can have a piece of the free enterprise self-help type action, and, in the process, become stronger promoters of the free enterprise system rather than hostile victims of inflation looking to the Federal Government for help. I honestly feel this bill will provide an opportunity for grassroots enterpreneurship among a group of people who could not otherwise experience that feeling of participating in our free enterprise system in any other way.

Senator HAYAKAWA during floor debate in the Senate in support of this bill mentioned the Hyde Park Cooperative store in Chicago. He said:

> It has been the principal magnet drawing trade to other stores in the shopping center it occupies.

During testimony an example was cited of where a housing cooperative was formed which built a high rise apartment building. Many small businesses sprung up around the housing unit such as grocery stores, drycleaning establishments, clothing shops, and others to provide the necessities for the occupants of the housing unit. In other words, the housing unit built by the co-op was the catalyst for the establishment of Mom and Pop type stores.

The Puget Sound Group Health Cooperative in Seattle, Wash., which now has 200,000 members has frequently been cited as an example of what can happen when resourceful elderly people form a co-op to counter health care inflation. This health care co-op provides high-quality health care to senior citizens at about one-half the cost to others in the area.

In Detroit, co-ops offer eye examinations for $9—down from $25 elsewhere in Detroit.

Years ago, I saved money on textbooks and supplies as a member of the Harvard Cooperative. My own son just bought a calculator at an Ohio State University co-op at less than I could buy it at our own House of Representatives co-op—the Longworth stationery store.

There are numerous other examples I could cite. Farm cooperatives numbering in the thousands, that have long had their own banks for cooperatives and technical assistance that this legislation would provide for consumers, have been a highly important factor in helping our farmers become the world's most efficient producers.

The need for consumer co-ops is most obvious in fields where costs are rising so rapidly because of inflation such as in health care, housing, auto repair and food. But the possibilities for consumers to help themselves rather than always turning to government for costly regulated programs are almost limitless. I am serious when I say I feel cooperatives could bridge the gap between traditional sources of private funds and removing people from public fund programs. In one instance persons receiving food stamps were encouraged to form a food co-op. I think it was Father Baroni, Assistant Secretary of HUD, who mentioned this example. Within a short period of time the cost of food stamps in that area was cut in half.

When I started on this I discussed the bill with some banker friends in Columbus. They were not too pleased with what they supposed at first to be another banking system. They came around to a position of no opposition when I explained that this bank will not compete with them. It will not take deposits and it will lend money only in an area not within bankers' expertise. It does not provide the kind of motivation in a business that they are used to. The area of Columbus which could benefit from one or more cooperatives needs revitalization, better housing, better health care, food at affordable prices. It could relieve some of the redlining pressures bankers feel.

There are no Mom and Pop stores in the area and the chainstores have moved to the suburbs. I pointed out to the representatives of the banks that these loans will not be subsidized loans. If all goes well, and I have no reason to suspect that it will not, the Government will get its investment back, just as it did with the Cooperative Farm Credit System and the Export-Import Bank. I think it is fair to say that the officials of the commercial banks and thrift institutions in Columbus have no serious objections to this bill now.

One of the frequent complaints is that cooperatives will compete with small neighborhood businesses. It is more likely that a cooperative would compete with big business. European countries have had cooperatives for years. In Europe, they have no antitrust laws, and co-ops have been a hedge against cartels.

In its effort to start and help other types of small businesses, the Government currently has $7 billion of SBA loans outstanding—much of it subsidized by the Government. The loss rate on Government loans to small business in a Government loan program is 6.5 percent. But the 45-year losses of the farmers' Banks for Cooperatives are only one-tenth of 1 percent. And those small losses have been paid out of the banks' income—not by the Government.

In Switzerland, which has one of the most stable economies in the world, cooperatives operate under a system similar to that envisioned in this bill.

Cooperatives keep money circulating in the community rather than draining it off to investment centers. Co-ops are community builders.

Mr. ROUSSELOT and Mr. STANTON put out a letter saying "Remember Proposition 13." This is in the spirit of Proposition 13. In the first place, Proposition 13 concerned a property tax. We did what Proposition 13 does for California in Ohio more than 50 years ago—limited the amount of tax which can be levied on real estate. But the ripple effect says that people want less taxes and less bureaucracy. H.R. 2777 is a move in that direction because it provides an investment in private enterprise, it is not a giveaway program, and it will result in lower public housing costs, lower food stamp costs, and lower welfare costs to the taxpayers.

I urge adoption of the conference report.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PRITCHARD. Mr. Speaker, I yield 1 additional minute to the gentleman from Ohio.

Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentleman for yielding.

I want to associate myself with the remarks of the gentleman from Ohio. I want to congratulate him on the leadership he has given this bill. It is a sound approach. It is necessary, particularly in the major cities of America, and I strongly support this bill.

Mr. WYLIE. I thank the gentleman very much for his comments.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. STANTON. Mr. Speaker, I yield 3 additional minutes to the gentleman from Ohio.

Mr. Speaker, will the gentleman yield?

Mr. WYLIE. I yield to the gentleman from Ohio.

Mr. STANTON. I thank the gentleman for yielding.

We are not opposed to cooperatives. I do not think anybody has spoken on this yet—and I am sure we are going to hear more from the gentleman from California—but the thing that gets us about this particular bill is the looseness of its provisions, including eligibility. Now, the gentleman represents Ohio State University?

Mr. WYLIE. That is right, all 54,000 students.

Mr. STANTON. There is nothing in this bill to stop a group of students in Ohio State University, five or six of them, from getting together to go out to buy some Cadillacs or Lincoln Continental automobiles, high-luxury automobiles, at

a big discount or, to go out and buy a group of color television sets at a discount, and get the money from the Federal Government through a consumer cooperative bank loan. According to the Senate report which nobody refuted, it says they are eligible. So part of our objection to it is there is no credit-elsewhere test. There is nothing here that the gentleman refers to that says a man has to get turned down by a bank before he can get this loan.

Mr. WYLIE. The gentleman has not read the bill.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ST GERMAIN. Mr. Speaker, I yield 2 additional minutes to the gentleman from Ohio, Mr. WYLIE, to reply to the remarks of the gentleman from Ohio, Mr. STANTON. I will ask the gentleman to yield to me.

Mr. WYLIE. I will be glad to yield to the distinguished gentleman from Rhode Island.

Mr. ST GERMAIN. I thank the gentleman for yielding.

I have deep respect for my distinguished colleague, the gentleman from Ohio, Mr. STANTON, but the statement he just made about students borrowing money to purchase Cadillacs is a little far-fetched. This bank will loan funds to and offer technical assistance to a variety of consumer co-ops. Its program will be directed by a board initially controlled by the Government. It will have rules, regulations, and guidelines to determine the need for and purposes of its loans. I know that SBA operates similarly. SBA loans are not granted to purchase Cadillacs or Lincoln Continentals. So I am afraid that I have to disagree.

I would like to bring up another point for the gentleman from Ohio, my distinguished colleague, Mr. WYLIE, who has been a right and a left hand in assisting the guidance of this legislation through the Congress. My daughter goes to Oberlin College in Ohio. She was lucky enough to draw the right number and got into a co-op dormitory this past year, her sophomore year at college. Frankly, the savings she realized is not the important thing, but what that young lady and the other members of the co-op learned from being members of the co-op I feel is as important as that which was learned in the classroom, to wit: to work with each other for each other.

She learned how to cook for 80 people at one sitting, something she would have never learned at home, unfortunately; she learned to feel for other people and to want to do for other people.

I think the gentleman would agree with me that there is an important concept involved here, people working with each other to help each other.

Mr. WYLIE. That is a concept that was envisioned by the original bill when you, Chairman REUSS, and I introduced it. And, of course, we would not be here without your motivation and the role Mr. REUSS, our chairman, undertook.

Mr. Speaker, the gentleman from Ohio (Mr. STANTON) made another statement that is misleading, and I do not think the gentleman wants to mislead the House, when the gentleman said that cooperatives do not pay taxes. All consumer co-ops pay taxes on the same basis as any other business. They pay no taxes on the refunds to their membership.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. ST GERMAIN. Mr. Speaker, I yield 30 additional seconds to the gentleman from Ohio.

Mr. WYLIE. Mr. Speaker, I thank the gentleman; but any earnings which are not refunded by the co-op to their members are taxable. Any business, including co-ops, can accumulate capital by making refunds of stock or debt instruments if they want to. A car dealer can make a refund or a rebate on an automobile and does not have to pay taxes on that. That is the same principle; but co-ops are taxed on the same basis as any other business, I submit to my friend, the gentleman from Ohio.

Mr. STANTON. Mr. Speaker, I yield myself 1 minute.

We certainly want to keep this record straight. I do not want to misquote anybody, but I would like to say something. We have here a statement by Mr. Arthur Roth. Mr. Roth happens to be the National Tax Equalization Association president. I would like to read a little bit of what Mr. Roth had to say in regard to the same recommendation:

> In our opinion, the government should never make funds available to create tax-exempt businesses. We need to create businesses which will pay their full share of taxes. We are driving tax-paying businesses out of business with tax-exempt business and thereby increasing the government deficit.

Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Speaker, I would point out that the gentleman just quoted by the gentleman from Ohio (Mr. STANTON), Mr. Roth, was a former president of the Franklin National Bank in New York. We all know what happened to Franklin National; so I would not put too much faith and confidence in any statements Mr. Roth makes about business.

Mr. McKINNEY. Mr. Speaker, I spent most of my adult life working within the cities in my area, particularly Bridgeport. I have heard a great many arguments that this bank is not going to help the cooperatives that exist which is simply not true. It will greatly facilitate their borrowing.

I have heard the argument made that this bank is going to put small business out of business. I would suggest that in the cities I represent in areas where we want to start these co-ops, there is no small business. There are neighborhoods with as many as 3,000 people in them in public housing without a laundry, without a grocery store, without a cleaners, without transportation. The only way we have been able to satisfy and serve any of these needs is to set up cooperatives.

I have personally taken these cooperatives to banks. I sat before I came into politics on a board of a bank. Many bankers do not understand the risk equity situation in cooperatives.

Mr. ANNUNZIO. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Speaker, I appreciate the gentleman yielding.

As chairman of the Subcommittee on Consumer Affairs of the Committee on Banking and Currency, I rise in strong support of the conference report and I congratulate the chairman of the committee for the gentleman's leadership in bringing this legislation to the floor.

Mr. Speaker, I want to remind the Members that this bill has already passed the House and the Senate, and we will now be voting on the conference report. This is a good consumer bill, and I for one will be happy to brag that I voted for the legislation and for the conference report.

Mr. Speaker, the National Consumers League, the oldest consumer organization in the United States, supports the adoption of the conference report on the National Consumer Cooperative Bank.

In a letter sent to all Members of the House last week, Sandra L. Willett, executive vice president of the league said:

> The Co-Op Bank Bill is badly needed to revitalize the marketplace in urban areas and stimulate essential services in remote rural regions. Citizens in low-income and hard-to-reach areas do not have access to reasonably priced basic necessities such as food, transportation, health care and housing.
>
> This legislation will stimulate private enterprise and public participation in the marketplace. The Co-Op Bank does not increase government spending. Borrowing initially from the Treasury, it establishes a realistic repayment schedule so that citizens buy shares in the cooperatives, thereby turning to private ownership.

Mr. Speaker, I would like to insert this letter of support from the National Consumers League in the RECORD:

NATIONAL CONSUMERS LEAGUE,
Washington, D.C., August 1, 1978.

DEAR MEMBER OF CONGRESS: This week you will be voting on the Conference Report on the National Consumer Cooperative Bank Bill. National Consumers League, the oldest consumer organization, joins over 190 groups in supporting the Conference Report which was accepted by the Senate last week.

The Co-Op Bank Bill is badly needed to revitalize the marketplace in urban areas and stimulate essential services in remote rural regions. Citizens in low-income and hard-to-reach areas do not have access to reasonably priced basic necessities such as food, transportation, health care and housing.

A bank providing currently unavailable seed money and technical expertise is crucial so that together consumers can organize retail and service outlets in order to defend themselves against the pernicious increases in inflation. A projected 10% inflation rate makes the self-help effort even more important.

This legislation will stimulate private enterprise and public participation in the marketplace. The Co-Op Bank does not increase government spending. Borrowing initially from the treasury, it establishes a realistic repayment schedule so that citizens buy shares in the cooperatives, thereby turning to private ownership.

Cooperatives providing reasonably priced, accessible goods and services are needed now.

Our current system is not meeting this need. In Washington, D.C., for example, where only two chains accounted for 62 percent of sales in 1974, families spending $3,000 per year on food paid $207 more than comparable families shopping in more competitive markets. (The Profit and Price Performance of Leading Food Chains—1970–1974, Bruce Marion, Willard Mueller, University of Wisconsin. The Co-op Bank Bill could provide the needed funds for viable food cooperatives.

As agreed upon in conference, this bill will be less costly than the measure previously approved by the House. The amount of money for loans has been reduced 40 percent, and the amount for self-help funds reduced 75 percent. Nevertheless, we feel this legislation will still be very beneficial to many consumers throughout the country.

As we face the threat of double digit inflation, the National Consumers League urges your support of the conference report. Thank you for your consideration.

Sincerely yours,

SANDRA L. WILLETT,
Executive Vice-President.

Mr. McKINNEY. Mr. Speaker, I thank the gentleman very much for his contribution.

The question has often been brought up in these days of proposition 13 as to whether we want to set up a new Federal agency or whether we want to load the taxpayer down with new obligations.

This bill specifically calls for final return of equity to the Federal Government. This bill is one that is going to make money in the long run for the Federal Government. When this bank becomes an interest-paying asset.

I am quite surprised to see my good friend, the gentleman from Ohio (Mr. STANTON), the ranking minority member of the committee, is opposed to this conference report, since we are all strong supporters of all the other governmental financial institutions which return a profit or return money either into the system or back to the Government.

Basically, let us talk about this bill as an urban tool. This Bank provides a way in which we can get leverage capital into the cities. It is a way in which we can get leverage capital into areas where private business does not want to go and where the banking industry does not understand the problem. I will give the Members a perfect example of that.

P. T. Barnum Village in Bridgeport, Conn., is totally isolated; it is an area typical of where we put most public housing down by the town dump. There are 3,000 people there, and there is not a single available service except for a cooperative grocery store. The only way that cooperative grocery store could be built was to have private individuals and corporations, quite frankly, give money to it to have it built.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The time of the gentleman from Connecticut (Mr. McKINNEY) has expired.

Mr. ST GERMAIN. Mr. Speaker, I yield 1 additional minute to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Speaker, in this situation of which I was speaking, there was no way in the world that the banking system as it exists or that a bank president under his fiduciary responsibilities in commercial banking or in the savings and loan business could go in and lend money to that operation. It was only because they begged and borrowed from well-meaning private individuals that they got started.

I think this is demeaning, unnecessary, and wrong. This bill provides a very inexpensive way and in fact a profitable way for us to help our inner cities in providing housing, services, and business needs.

Mr. ST GERMAIN. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Speaker, I vigorously opposed this bill when it was before the House a year or so ago. I do not think any of the substantive arguments for or against it have changed.

The conference report before us is not different in kind; it is different only in degree and in size. The only significant factor that has changed is the position of the administration, but their rationale is not enough to persuade me. I do not know what effect it will have upon our other Members.

Mr. Speaker, I, therefore, continue to oppose this bill.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Speaker, I rise in support of the conference report, and I also wish to state that as a Representative from Rhode Island I am very proud of the achievement of the gentleman from Rhode Island (Mr. ST GERMAIN) on behalf of the consumer over the years.

As one Member, I certainly have given full support to this effort, and also as a member of a credit union and as a consumer, I wish to say that I think the gentleman has done a tremendous job on our behalf.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I thank the subcommittee chairman for yielding this time to me.

I commend the gentleman from Rhode Island (Mr. ST GERMAIN) for his success in bringing us this conference report and winning the support of the administration for the bill.

I strongly, as a member of the committee and a cosponsor of the bill, support the bill. Our success with cooperatives in our society is uniquely American, and these cooperatives have served the best interests of the people in our region and in many regions of this country. This will make credit available in markets where it is not available, and it will provide the self-help type of programs that we recognize are necessary today.

This measure, has a unique impact in urban programs and in poor rural districts, and it will be of benefit in many other ways. This bill does strike down the regional bank provision the cooperative bank bill had originally contained.

The $300 million credit extended in this measure will be insured by the Federal Government and paid back fully with interest by the co-ops. The modest amounts for technical assistance will insure that the necessary expertise is available to the co-ops adding a solid basis of information and council. This measure is a good start toward implementing new credit facilities for people who need them the most. It will encourage the co-op facilities so successful in our free enterprize and extend to new entrepeneurs credit capacity. The House should vote positively on this conference report here today and provide alternative credit to consumer cooperatives that will serve the people we represent.

Mr. STANTON. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. McCLOSKEY).

Mr. McCLOSKEY. Mr. Speaker, I rise in support of this conference report for one reason, and one reason alone. Ordinarily, I would oppose the creation of any new Government agency that was not accompanied by the abolition of one of the many agencies of Government that have proven ineffective. I hope, in gaining our support for this bill, that the Committee on Banking, Finance and Urban Affairs, in particular, will pay attention to those programs in HUD that can be abolished and those agencies within HUD that can be abolished next year. But there is a reason for a governmental agency when the free enterprise system and market system does not provide a badly needed service. In the case of the housing cooperatives today, the owner of a federally financed older housing cooperative unit is badly prejudiced.

Let me give the Members an example from my district. A person who 10 years ago bought a cooperative unit for $30,000, with a $5,000 downpayment, has now had his mortgage reduced to say, $20,000, but the value of that cooperative unit has increased to $100,000. There is an $80,000 equity. Anywhere but in a housing co-op that unit could be sold for $100,000. But because there is no bank financing for a co-op similar to what a bank would give to a non-co-op, privately owned unit, instead of being able to borrow $80,000 against the co-op unit, a purchaser may be able to get only a $50,000 loan. For that reason, the value of that co-op unit drops to perhaps $75,000. It is absolutely unfair to have a unit worth $100,000 owned privately next to a co-op unit of the same value and yet the co-op owner must sell for $25,000 less because of the unavailability of financing.

Since this bill provides that financing, I think we ought to enact it.

The SPEAKER pro tempore (Mr. EVANS of Colorado). The time of the gentleman from California (Mr. McCLOSKEY) has expired.

Mr. STANTON. Mr. Speaker, I yield 1 additional minute to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, the gentleman is aware that the FHA has the capability of refinancing cooperative projects?

Mr. McCLOSKEY. I am.

Mr. ROUSSELOT. And the gentleman is also aware, because we have discussed it before, that there are basically 17 different ways under present HUD activities where cooperatives can be financed. If they qualify for additional financing, FHA can accommodate that, and I would be glad to work with the gentleman on the project in his district if they are not being fairly treated by FHA. That does not have anything to do with this bill.

Mr. McCLOSKEY. Yes, it does, because the 140 co-op units in my district cannot get the financing through FHA. They tried to get financing through FHA and not one of them was successful.

Mr. ROUSSELOT. Why can they not qualify? Maybe they are just bad credit risks. Was that a possibility?

The SPEAKER pro tempore. The time of the gentleman from California (Mr. McCLOSKEY) has expired.

Mr. STANTON. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I rise in opposition to this conference report, which is no surprise, I am sure, to anyone. It has not been improved over the product that left this House on a very narrow vote of 1 vote.

A famous statesman once said, "Watch what we do, not what we say." These words have never applied with greater force than to the Carter administration and to its position on H.R. 2777, the National Consumer Cooperative Bank Act. From the time the bill was introduced until the first day of the Senate hearings, the administration opposed this legislation on the ground that it was not needed. When the bill was considered on the House floor, the administration called for a 2-year study and a $20 million pilot program to determine whether there is a need for additional assistance programs which exist throughout the Federal establishment. After the House bill passed by one vote, the administration conducted a mysterious and inconclusive series of interviews and announced on the first day of the Senate hearings that, for reasons which have never been satisfactorily explained, this legislation was "needed" and the administration would support it.

This legislation belies a number of assertions regarding domestic policy which the administration has been making since "the campaign" and which, in this year of proposition 13 it would very much like people to believe:

First. Those who have been reading about the Carter administration's determination to cut the fiscal 1980 budget to the bare minimum should bear in mind that this bill would authorize hundreds of millions of dollars of appropriations and new Federal borrowing during the 4 years following enactment of this bill, including fiscal year 1980. The administration's support for this legislation is particularly alarming in view of the lack of any convincing showing of need. The 95th Congress has seen a proliferation of proposals to create new Federal banks such as a "Domestic Development Bank" and a "Solar Energy Development Bank," in order to allocate credit for various purposes. If Congress is willing to create a new Federal bank on as little evidence of need as there is for this one, then every pressure group in the country can be expected to demand a Federally-funded bank of its own.

Second. Those who believe that the Carter administration is committed to the principle of streamlining the Federal bureaucracy should know that this bill creates an entirely new Federal banking system, complete with branches, to assist cooperatives. This new system would be added to the myriad of programs which already exist to assist cooperatives. Despite the fact that the failure of many of these existing programs, particularly in the area of housing, is given as one of the main arguments in favor of this legislation, not one of those programs is abolished. Instead, we are piling a new Federal program on top of the ones which have failed.

Third. Those who believe that the Carter administration is committed to reducing the burden of Government on the middle-class taxpayer by concentrating Federal assistance on those who truly need it and avoiding the provision of benefits to the well-to-do should look at the housing provisions of this bill. Up to 30 percent of the funds in this bill may be used to finance cooperative housing, and only 35 percent of that must go to meet the needs of low-income people. Supporters of the bill successfully opposed an amendment offered by Senator LUGAR which would have raised this percentage to 50. That means that the majority of recipients of assistance are likely to be middle-class residents of a few major urban areas, such as New York's "Co-op City," where cooperative housing is prevalent, who will be subsidized by their fellow middle-class citizens who are having trouble meeting their mortgage payments because of the tremendous tax burden which results from having to pay for needless, expensive Government programs such as this one. This bill is supported by the same administration which opposed the Kemp-Roth bill, which would reduce Federal taxes by 30 percent across the board over 3 years and give all middle-class taxpayers a fighting chance to make ends meet. We are told that Kemp-Roth would cut too deeply into Federal revenues needed to finance Government programs.

Fourth. Those who believe that the Carter administration is committed to the principle of fairness in Federal taxation should know that the hundreds of millions of dollars of Federal assistance provided under this bill would be made available to entities whose eligibility is based on an essentially "nonprofit," cooperative character which enables cooperatives to virtually avoid paying Federal income taxes—in other words, to avoid contributing to the very system which makes this assistance possible. How ironic.

Although I am opposed to this bill, I am almost glad to see it enacted with administration support because it will serve as a dramatic illustration of the true nature of the Carter administration as just another in a long line of big-spending administrations, much to the chagrin of millions of people who thought they were voting for balanced budgets and smaller Government.

An article by Tom Bethell, entitled "The Liberal Carter—Wooing the Recipient Class," provides a thoughtful analysis of the record of the Carter administration on the issue of spending and big government. Let me quote from that article, which appears in the current (August) issue of Harper's:

President Carter a liberal? Some will question that, and Carter himself astutely managed to shun the label throughout his campaign. Poor Morris Udall found himself saddled with it instead. The general consensus seems to be that Mr. Carter is a man with no ideology, a judgment that may have some truth to it. Still, it is always possible to judge a man by what he does rather than by what he says or fails to say, and his record is turning out to be indistinguishable from that of an old-fashioned FDR-inspired liberal, complete with seal of approval from Americans for Democratic Action.

Let us not forget, incidentally, that the New Deal years were formative ones for Mr. Carter. It was a period, he writes in "Why Not the Best?" when "we learned to appreciate the stability of the agricultural programs brought about by federal government action." A few pages later he adds: "During the Depression years, political decisions in Washington had an immediate and direct effect on our lives. Farm programs, rural electrification, Work Progress Administration, Civilian Conservation Corps, and others were of immense personal importance." In short, the virtue of government intervention was absorbed along with other childhood lessons. Later on he went into the peanut business, where he put this lesson to good use. As William E. Simon, former Secretary of the Treasury, points out in his remarkably outspoken book "A Time for Truth," Mr. Carter "made his money in a regulated, subsidized industry."

Thus instructed, Mr. Carter quite plainly came to the Presidency with the firm (although private) conviction that, whatever else might be uncertain in this world, government at least was good for people.

Mr. Carter's ideological inclinations are indicated better than anything by the identity of those who have supported his programs on Capitol Hill. David S. Broder, associate editor of the Washington Post, commented earlier this year that these turn out to have been "card-carrying (and in some cases even knee-jerk) liberals. There has been a kind of conspiracy of silence to keep this fact unpublicized. Members of the White House's Congressional liaison staff checked the voting records a few months ago and discovered, as one of them said, that "the Northeast and Midwest liberals are the backbone of Carter's support.' "

More recently, Martin Schram has reported in Newsday that "the Senator who voted with Carter more than any other was Sen. Edward M. Kennedy."

In an attempt to confirm these findings, I called someone I knew at the White House and asked if I could see the Congressional liaison report. He said he thought that there would be no problem. He would call me back. He did—apologetically. "Sorry," he said, "it's not a public document." I felt that I had not come close to winning my Woodstein spurs, but it was interesting to discover, nevertheless, that the Administration is apparently anxious to conceal the identity of its own

supporters. Secrecy in government has taken a new twist! In Nixon's time, it was the Enemies List. Now it's Friends.

My uncommunicative friend at the White House pointed out that Congressional Quarterly had done a similar study. Mr. Carter's most consistent supporters, as reported by CQ, turn out in almost every instance to be liberals with high ADA ratings. His biggest opponent on Capitol Hill, on the other hand, has been fellow Georgian Larry McDonald (1976 ADA rating: 0).

It seems to me that Mr. Carter has so far avoided categorization as an FDR understudy on the basis of talk alone. His aides have occasionally let drop the remark (as it were, ruefully), "Basically, Jimmy is a fiscal conservative." Or something like: "I know it sounds old-fashioned, but Jimmy is in favor of balanced budgets. There's nothing we can do about it—he's as tight as a tick." Thereupon people such as Joseph L. Rauh (a founder and vice-president of ADA) could say that the Democrats had elected a Republican in disguise, and somehow everyone seemed to forget about the $60 billion budget deficit. But word can easily overshadow deed, which I suppose is one of the realities of the media age. (In fact, as Mr. Carter truly remarked last year. Presidential words are indistinguishable from deeds.)

It is becoming clearer every day, nevertheless, that Mr. Carter can say something and not really mean it at all. One afternoon, for example, he set forth from the White House and launched an unexpected attack on doctors and lawyers. No doubt it was good politics. The doctors could be expected to vote Republican anyway, and as for the lawyers, they no doubt forgave him immediately. (Ralph Nader, perhaps the most litigious man in the country, thought "it was a very good speech.") The main growth area for lawyers in recent years has, of course, been government, and since assuming office Mr. Carter has scarcely missed an opportunity to expand the role of government, his campaign obfuscation notwithstanding.

By the way, this bank has become known as the "Nader Bank." Many of us urge the defeat of this bill.

I say to my colleague from California there are all kinds of cooperative housing programs that can be financed under the various HUD programs. On page 42 of our committee report from this committee, we listed those programs. Let me review those housing programs:

PROVISIONS FOR HOUSING COOPERATIVES IN EXISTING HOUSING STATUTES

NATIONAL HOUSING ACT

Section 203(n).—Insurance of mortgages: Authority of HUD Secretary to insure individual units of cooperative housing projects covered by blanket insurance under this act.

Section 213.—Cooperative housing insurance: Authority of HUD Secretary to insure mortgages of cooperatives and, under subsection (j), to insure supplemental cooperative loans for improvements and additions.

Section 213(i).—Cooperative housing insurance: Authority of HUD Secretary to furnish technical advice and assistance in organization, planning, development, construction, and operation of cooperative housing projects.

Section 221(d)(3).—Housing for moderate income and displaced families: Authority for blanket mortgage insurance for qualified housing cooperatives.

Section 235.—Homeownership for lower income families: Authority of HUD Secretary to make periodic assistance payments.

Section 236.—Rental and cooperative housing for lower income families: Authority of HUD Secretary to make periodic interest reduction payments.

Section 241.—Supplemental loans for multifamily projects: Authority of HUD Secretary to insure loans for multifamily projects or group practice facilities, improvements and additions.

Section 243.—Homeownership for middle-income families: Authority of HUD Secretary to make periodic interest payments and to insure mortgages.

Section 246.—Sale of acquired property to cooperatives: Authority of HUD Secretary to sell to cooperatives multifamily housing projects acquired as a result of default.

Section 313.—Interim authority to purchase certain mortgages: Authority of Federal National Mortgage Association to purchase mortgages of housing cooperatives.

HOUSING AMENDMENTS OF 1955

Section 102(h).—Special Assistant Commissioner for Cooperative Housing: To expedite operations under such sections and to eliminate obstacles to the full utilization of such sections under the direction and supervision of the Commissioner.

Section 202.—Loan program: Authority of HUD Secretary to make loans to any corporation, as defined, to any approved limited profit sponsor, to any consumer cooperatives, or to any public body or agency for the provision of rental or cooperative housing related facilities for elderly or handicapped families.

HOUSING AND URBAN DEVELOPMENT ACT OF 1965

Title I.—Special provisions for disadvantaged persons: Authority of HUD Secretary to make annual supplement payments to housing owners on behalf of qualified tenants.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Section 8.—Lower income housing assistance: Authority of HUD Secretary to enter into annual contribution contracts.

APPALACHIAN REGIONAL DEVELOPMENT ACT

Section 207.—Assistance for planning and other preliminary expenses of proposed low- and moderate-income housing projects: Authority of HUD Secretary to make grants and loans for the Appalachian housing fund.

FOREIGN ASSISTANCE ACT OF 1961

Section 224.—Housing projects in Latin American countries: Authority of President to assist development of self-liquidating housing projects in the American Republics.

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Section 215.—Planning and other preliminary expenses for additional housing: Authority of Federal agencies to make loans to housing cooperatives for planning and financing of housing for displaced persons.

Source: Basic Laws and Authorities on Housing and Community Development, committee print of House Committee on Banking, Currency and Housing.

If there is some problem the gentleman from California is having, it is because the applicants probably do not qualify on a credit basis.

Mr. Speaker, it is hard for me to believe that this House wants to open up a whole new method of financing. My judgment is that this bill really should be called the Nader bank. Ralph Nader is the principal sponsor of this effort.

I know that my colleague, the gentleman from Rhode Island, has worked very hard on this bill.

I know my colleague from Ohio (Mr. WYLIE) has worked very hard. I am convinced that the bill would not have passed without Congressman WYLIE's support. He provided the extra oomph on our side of the aisle. He clearly, obviously, was the extra force which made it pass in the House, and I know that he lobbied several of his good friends in the House to support this bill. It would not have passed without CHALMERS WYLIE's effort. I think the people in his district who have aggressively worked for this legislation should compliment him on the outstanding job he has done to see that this legislation is passed. He should get an award for that effort.

But, I still say that this basically is the Ralph Nader Bank. This is another instance, I think, where we create, and he is asking us to create, a gigantic bureaucracy—another one. I am surprised that the administration changed its mind. As all the Members know, the administration told us very decisively when this bill was before the House and before the committee that it did not want this legislation, that it was not needed. And by the way, if Members will read the administration's arguments against the bill, which are in the House report, they were excellent then and they apply now.

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to my colleague from Ohio, briefly.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding, but I fear my friend has lapsed into what we call ad hominem debate—which is the weakest form of debate.

Mr. ROUSSELOT. No, I was lobbied by Ralph Nader's people and all his groups for the Ralph Nader Bank.

Mr. WYLIE. It is my understanding that the idea was conceived by a Mr. Frank Sollars, a farmer, banker and businessman from Washington Court House, Ohio. Mr. Sollars and Mr. George Dunlop camt to my office and brought the idea to my attention.

Mr. ROUSSELOT. I appreciate the gentleman suggesting that——

Mr. WYLIE. I will explain what happened.

Mr. ROUSSELOT. The gentleman had 10 minutes and as he knows, I did not get up and try to churn into his time.

Mr. Sollars and Mr. Nader should get credit.

Mr. WYLIE. But the gentleman is mistaken about where the idea came from.

Mr. ROUSSELOT. Mr. Sollars and Mr. Nader were the creators of this bank, then. That is fine. It is still bureaucracy no matter how you slice it. It is $300 million worth of bureaucracy.

Do not tell me this is just a slight, little new bureaucracy that is going to come down the pike. This is going to grow, because the advocates have told us that they are going to ask for more. Originally they asked for a billion and a quarter but the Senate cut that down. The upper body finally showed some good sense.

But they are going to be back for more. We have not seen the end of this. Let me review with the Members what other credit sources are available for cooperatives today. One of the largest ones in this country is the Southern Cooperative Development Fund, which has 10 billion dollars' worth of assets, loaning to cooperatives in Southern States. This fund has 10 billion dollars' worth of assets.

In my own State of California the bankers I have polled have said, "We

loan to cooperatives, mostly farm cooperatives, but we loan to all of them in the State of California," and they do. I support that attitude because I believe the farm cooperatives have served this country very well. I support them, but do not be beguiled by the arguments that this helps farm cooperatives. That is pure bunk. My colleague from Connecticut told us that this was going to help inner cities, but the record of cooperatives indicates otherwise and nothing in this bill requires the bank to concentrate on inner cities.

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. STANTON. Mr. Speaker, I yield 2 additional minutes to the gentleman from California.

Mr. ROUSSELOT. This has nothing to do with farm cooperatives or helping housing. There are already more than adequate facilities at HUD, and if we need to stimulate that operation, fine.

I would like to read to the Members briefly from the National Federation of Independent Business, who polled their some 535,000 members all over the country. This is basically competition for the small businessman who tries to operate at a profit, or to break even.

Let me share with you the views of the National Federation of Independent Business:

The National Federation of Independent Business (NFIB) has consistently opposed authorization of a National Consumer Cooperative Bank. We remember and appreciate your vote against this legislation when it passed the House by a one vote margin last summer.

The conference report on H.R. 2777 has now been completed and may be brought to the House any day. NFIB and its 535,000 small and independent business members continue to strongly oppose this bill for the following reasons:

Cooperatives already enjoy a tremendous competitive edge over other businesses because coops pay no income taxes,

The bill has no significant mechanism to ensure that the federal monies will go to small coops serving genuinely disadvantaged areas, rather than suburban middle class neighborhoods already being well served by existing businesses; and

The bill authorizes $75 million in grants and $300 million (to be leveraged to $3 billion) in loan funds. This wholly new layer of banking bureaucracy is far too large and expensive for the federal government to start up at a time when the public is sensitive to creation of new costly programs.

It is very important for small businesses and for all taxpayers that this conference report not be allowed to slip quietly through the House. We believe this program is still as unnecessary and unfair to taxpaying small businesses as it was when the House debated it last year. NFIB urges you to maintain your opposition to this program and vote against the conference report on H.R. 2777.

This is a whole new banking system. Make no mistake about it, it is a brand-new bureaucratic banking system. It is against the spirit of Proposition 13, I say to my colleague from Ohio, and I know very much what that issue is all about. It was the people of California saying in an overwhelming vote, "We do not want to create a lot of new bureaucracies, especially where they are not needed."

I say to the Members, and I have listened to all the debate on this issue through the subcommittee and the committee: It just is not needed. All the arguments the administration originally gave before our committee are still valid. We do not need this institution. It is excessive bureaucracy, excessive money out of the Treasury.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Speaker, I appreciate the gentleman yielding.

In closing the debate on our side I would like to conclude my three observations that I would leave with the Members as they cast their votes.

First of all, the gentleman in the well mentioned Mr. Nader and his bank. I have part of his testimony before our subcommittee, and this sort of surprised me.

Mr. ROUSSELOT. This is on Nader?

Mr. STANTON. Nader.

Since the development of consumer cooperatives has been limited in this country * * * we must look to Europe to see the significant impact that cooperatives can have in the marketplace. Cooperatives are central to the Swedish economy for example.

Sweden basically is a socialist country.

Mr. ROUSSELOT. It is.

Mr. STANTON: Continuing the quotation:

Over half of all Swedish households belong to co-ops. The consumer cooperatives control about 18 percent of the retail trade of the country. The federation of cooperatives is the largest business in the country accounting for 3.3 billion in sales in 1974 and employing over 67,000 employees. Cooperatives span the breadth of industry including petroleum, insurance, housing, fishing, travel and consumer goods.

Although this kind of cooperative development cannot be expected overnight, these figures illustrate that we are considering a bill with a potential impact that is tremendous.

Think about that.

Second, let me point out that we are talking about it the next 5 years over $3 billion. We are talking about $300 million with a leverage of 10, which is $3 billion. What we have given to the small businessmen in all the years, I have forgotten the figures, but in 1976 we gave 2,644 loans to small businessmen in this country and only helped them to the extent of $109 million.

And later on today we will vote on a bill that just 2 years ago was a $1 billion authorization and appropriation, and rightfully so, to help the unemployed. Today the gentleman in the well will confirm that we are back 2 years later and the bill is for $10 billion. We are back with that today. If we had stopped and thought out how best to work that program, it may have been a little different. Now it is here to stay. Nobody, including me, wants to vote to cut that out.

On the consumer cooperative we could have had a chance to vote this down and cut it back and have probably a pilot test program, but let us not go out with $10 billion, or $3 billion overall without knowing how we are going to help and whom we are going to help.

Mr. ROUSSELOT. I yield now to my colleague, the gentleman from California (Mr. MCCLOSKEY), who is so insistent that I yield.

Mr. MCCLOSKEY. I know the gentleman would not want to beat a dead horse.

I respectfully ask the gentleman, would not the gentleman agree that Nader is a dead horse?

Mr. ROUSSELOT. A dead horse? Of course that is a good definition.

Mr. ST GERMAIN. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Speaker, I thank the gentleman from Rhode Island for yielding.

One thing we never seem to hear from some people on the other side is an important point about inflation—I am speaking not of all the people on the other side but some of the people on the other side. We have inflation that is very serious, as we all know, but we do not seem to hear too much about the inflation really hurting people most: in energy and health and food and housing—the Big Four, so to speak.

We do not seem to hear the extent to which that terrible inflation is caused by economic concentration of power. That brings out the inconsistency of those who talk about the free enterprise system and then come out against a proposal that would allow people to use that free enterprise system in a self-help program to combat inflation in those areas.

Some people think that, right now, in this House, we cannot pass any measure that represents any shift, even the smallest shift, in economic and political power. And, after all, there are those on the other side of the aisle who do not want to pass anything that represents any shift in economic or political power. And I can understand that.

Some of them are clearly representing people in this country who have amassed a great amount of economic power who do not want anyone cutting in on their economic power and they are against this bill, and naturally so. They do not want anybody to have a piece of the action, even if it means employing the free enterprise and self-help principle that made this country great.

I think we have to try to be consistent. Let us not treat this like it is a big grant program, a big giveaway. The gentleman from California (Mr. ROUSSELOT) is always talking about the principles of free enterprise and is usually consistent on that point.

Mr. MCKINNEY. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Connecticut.

Mr. MCKINNEY. Mr. Speaker, I would like to remind my colleague from California that it was that great American conservative, Bob Taft, who said that the cooperative is as American as apple pie.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to clear up a few points before the vote and I shall be very brief.

From the annual report of the SBA, let us take a look at what the real numbers are. Since 1970 they have approved $11 billion in business loans. In 1976 they passed the $20 billion mark. In 1976 they had 233,165 loans outstanding totaling $7.4 billion. In 1976 they made 26,078 loans for $2.1 billion. In 1976 they sent out over 5 million copies of 250 different business-management publications.

As to who supports this bank, frankly it is the gentleman from Wisconsin (Mr. REUSS), the gentleman from Ohio (Mr. WYLIE), and the gentleman from Rhode Island now speaking, who are the initial sponsors of this bill. But, in addition to that, the gentleman from Ohio (Mr. WYLIE) put into the RECORD this past week a list of the 200 national, State, and local organizations that actively endorsed and support this bill. So that to state that it does not have broad support is erroneous.

As to the protection of small businesses, that is included in the legislation. The bank contains numerous safeguards such as:

One, the loans from the bank will be at market interest rates.

No. 2, section 108 of the conference report requires the bank to assess the impact of any loan on existing small businesses in the market area for which the loan is being made.

No. 3, the last presidentially appointed Director to the bank board must be a proprietor of a small business concern, in order to watch over the interests of small businesses.

As to creating a permanent new Federal program, that is not true. We are providing a mechanism to lend money that will be repaid with interest to the Treasury; it will be completely repaid by the cooperatives and the bank will become a private institution. The figure of $3 billion used by the opposition is misleading. It is $300 million that will be the capital of the bank—capital that will be repaid. The 10-to-1 ratio is the borrowing authority in the private market. We are talking about private money from the private marketplace that will be invested in this bank. The $3 billion figure is the maximum potential borrowing authority and has nothing to do with Federal outlays.

Mr. Speaker, I urge the adoption of the conference report. The conferees have accepted reduced funding. We have accepted the funding in the Senate bill. We have reduced the authorization for the bank itself and for the self-help fund to a degree where everyone should be able to support it.

We now have the total support of the administration as evidenced by the letter from Secretary of the Treasury Blumenthal that was put in the RECORD earlier by myself and the letter from Esther Peterson on behalf of the administration.

● Mr. PEPPER. Mr. Speaker, very shortly we are going to be asked to take action on H.R. 2777, the consumer cooperative bank bill. This bill provides the distinguished Members of this body with the unique opportunity of paving the way for many extremely important members of our Nation to directly help themselves.

For many years countless self-help, cooperative groups throughout the Nation, both in rural and urban areas, have been engaged in diligent attempts at getting the most out of their hard-earned dollars by combining their rather limited resources. These attempts are marked by very limited success. The people engaged in these ventures are generally from working and middle-class backgrounds, and, consequently, their expertise and resources in the areas of technical and financial capabilities are astonishingly deficient. In a word, their attempts at self-help cooperation have been painful, slow, and guided basically by trial and error.

This bill would cut through these major deficiencies and provide funding on a grassroots level so that professional consultations can be obtained in order to develop adequate markets for the self-help groups. The bill will bolster the scarce monetary resources they have available. The areas this bill proposes to serve are those where conventional business practices restrict the purchasing power of the people of the community. This bill provides alternative sources of shopper preference.

The people in these cooperative groups are in dire need of relief of their present situation, and it is important for us to note that they are not requesting relief in the form of welfare payments, but rather they are requesting from their elected representatives the opportunity to borrow money to administer their own programs, and, in effect, help themselves.

The spirit is there; these people desire to make a better life for themselves; the potential exists for more people to become interested in this form of alternative shopper preference. The decision is now in our hands.

I ask you to join me in voting for H.R. 2777.●

● Mr. FRENZEL. Mr. Speaker, I oppose the passage of the conference report on H.R. 2777, the Consumer Co-op Bank. I do so because I question both the cost and the need for the Bank.

The Consumer Co-op Bank is an expensive proposal. It will require the Treasury to outlay up to $300 million to capitalize the Bank, and it will cost the taxpayers over $75 million to operate it over the first 3 years of its existence. At a time when one of our most important priorities is to reduce the Federal budget, I do not think we should begin funding expensive new programs like the Consumer Co-op Bank.

What makes these expenditures worse, though, is that the need for a $300 million bank is still unproven. Although cases have been cited that indicate that some co-ops have had problems in obtaining financing, no one knows how large the financing problem is. We are, therefore, playing a guessing game with the taxpayers' money in capitalizing the bank.

Cooperatives are a legitimate form of business. They have great tax advantages over corporations or individual enterprises. If we give cooperatives this additional benefit, the people who will suffer competitively are the small businesses, grocery stores, gas stations, and so forth, which are now providing goods and services to customers all over our country.

The Consumer Cooperative Bank is another new bureaucracy for which insufficient need has been demonstrated. I doubt that our constituents want us to create another agency of Government, especially one which will be managed by people who have had no credit experience.●

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 236, nays 164, answered "present" 3, not voting 29, as follows:

[Roll No. 666]

YEAS—236

Addabbo	Cohen	Glickman
Akaka	Collins, Ill.	Green
Alexander	Conte	Guyer
Ambro	Conyers	Harkin
Ammerman	Corman	Harrington
Anderson, Calif.	Cornell	Harris
	Cotter	Harsha
Anderson, Ill.	D'Amours	Hawkins
Andrews, N. Dak.	Danielson	Heckler
	Delaney	Heftel
Annunzio	Dellums	Hightower
Aspin	Derrick	Holland
AuCoin	Dicks	Hollenbeck
Baldus	Dingell	Holtzman
Baucus	Dodd	Horton
Beard, R.I.	Downey	Howard
Bedell	Drinan	Hubbard
Bellenson	Duncan, Oreg.	Hughes
Benjamin	Early	Jeffords
Biaggi	Eckhardt	Jenrette
Bingham	Edgar	Johnson, Calif.
Blanchard	Edwards, Calif.	Jordan
Blouin	Ellberg	Kastenmeier
Boggs	Emery	Keys
Boland	Ertel	Kildee
Bolling	Evans, Colo.	Kostmayer
Bonior	Evans, Ga.	Krebs
Bonker	Evans, Ind.	Lederer
Brademas	Fary	Leggett
Breaux	Fascell	Lehman
Breckinridge	Fenwick	Lent
Brodhead	Findley	Lloyd, Calif.
Brooks	Fisher	Long, La.
Brown, Calif.	Flood	Long, Md.
Brown, Ohio	Florio	Lujan
Burke, Calif.	Foley	Lundine
Burke, Mass.	Ford, Mich.	McCloskey
Burton, John	Ford, Tenn.	McCormack
Burton, Phillip	Fowler	McDade
Caputo	Fraser	McFall
Carney	Garcia	McHugh
Carr	Gaydos	McKay
Chisholm	Gephardt	McKinney
Clay	Gibbons	Madigan
Cleveland	Gilman	Maguire

Markey	Pressler	Steers
Mazzoli	Price	Steiger
Meeds	Pritchard	Stokes
Metcalfe	Pursell	Stratton
Meyner	Quie	Studds
Mikulski	Rahall	Thompson
Mikva	Railsback	Thornton
Mineta	Rangel	Traxler
Minish	Reuss	Tucker
Mitchell, Md.	Richmond	Udall
Moakley	Rinaldo	Ullman
Moffett	Roe	Van Deerlin
Moorhead, Pa.	Rogers	Vanik
Moss	Roncalio	Vento
Mottl	Rooney	Volkmer
Murphy, Ill.	Rose	Walgren
Murphy, N.Y.	Rosenthal	Waxman
Murphy, Pa.	Rostenkowski	Weaver
Murtha	Roybal	Weiss
Myers, Michael	Russo	Whalen
Nedzi	Ryan	White
Nix	Santini	Wilson, C. H.
Nolan	Sarasin	Wilson, Tex.
Nowak	Scheuer	Wirth
Oakar	Schroeder	Wolff
Oberstar	Seiberling	Wright
Obey	Shipley	Wylie
Ottinger	Simon	Yates
Panetta	Slack	Yatron
Patten	Smith, Iowa	Young, Mo.
Patterson	Solarz	Young, Tex.
Pattison	Spellman	Zablocki
Pease	St Germain	Zeferetti
Pepper	Staggers	
Pike	Stark	

NAYS—164

Andrews, N.C.	Forsythe	Moore
Applegate	Fountain	Moorhead, Calif.
Archer	Frenzel	Myers, Gary
Armstrong	Fuqua	Myers, John
Ashbrook	Gammage	Natcher
Ashley	Giaimo	Neal
Badham	Ginn	Nichols
Bafalis	Goldwater	Perkins
Barnard	Gonzalez	Pettis
Bauman	Goodling	Pickle
Beard, Tenn.	Gore	Poage
Bennett	Gradison	Preyer
Bevill	Grassley	Quayle
Bowen	Gudger	Quillen
Brinkley	Hagedorn	Regula
Broomfield	Hall	Risenhoover
Brown, Mich.	Hamilton	Roberts
Broyhill	Hammer-schmidt	Robinson
Buchanan	Hanley	Rousselot
Burgener	Hannaford	Rudd
Burke, Fla.	Hefner	Runnels
Burleson, Tex.	Hillis	Satterfield
Burlison, Mo.	Holt	Sawyer
Butler	Huckaby	Schulze
Byron	Hyde	Sebelius
Carter	Ichord	Sharp
Cavanaugh	Ireland	Shuster
Cederberg	Jacobs	Sikes
Chappell	Johnson, Colo.	Skelton
Clausen, Don H.	Jones, N.C.	Skubitz
Clawson, Del	Jones, Okla.	Smith, Nebr.
Cochran	Jones, Tenn.	Snyder
Coleman	Kazen	Spence
Collins, Tex.	Kelly	Stangeland
Conable	Kindness	Stanton
Corcoran	LaFalce	Steed
Cornwell	Lagomarsino	Stockman
Coughlin	Latta	Stump
Crane	Leach	Symms
Cunningham	Levitas	Taylor
Daniel, Dan	Livingston	Thone
Daniel, R. W.	Lott	Treen
de la Garza	Luken	Trible
Derwinski	McClory	Vander Jagt
Devine	McEwen	Waggonner
Dickinson	Mahon	Walker
Dornan	Mann	Wampler
Duncan, Tenn.	Marlenee	Watkins
Edwards, Ala.	Marriott	Whitehurst
Edwards, Okla.	Martin	Whitley
English	Michel	Whitten
Erlenborn	Miller, Ohio	Wilson, Bob
Fithian	Mitchell, N.Y.	Wydler
Flippo	Mollohan	Young, Fla.
Flynt	Montgomery	

ANSWERED "PRESENT"—3

O'Brien	Walsh	Winn

NOT VOTING—29

Abdnor	Fish	Kasten
Davis	Flowers	Kemp
Dent	Frey	Krueger
Diggs	Hansen	Le Fante
Evans, Del.	Jenkins	Lloyd, Tenn.
McDonald	Miller, Calif.	Teague
Marks	Rhodes	Tsongas
Mathis	Rodino	Wiggins
Mattox	Ruppe	Young, Alaska
Milford	Sisk	

The Clerk announced the following pairs:

On this vote:

Mr. Le Fante for, with Mr. McDonald against.

Mr. Miller of California for, with Mrs. Lloyd of Tennessee against.

Mr. Diggs for, with Mr. Teague against.

Until further notice:

Mr. Dent with Mr. Kasten.
Mr. Davis with Mr. Ruppe.
Mr. Flowers with Mr. Wiggins.
Mr. Jenkins with Mr. Young of Alaska.
Mr. Krueger with Mr. Kemp.
Mr. Mathis with Mr. Evans of Delaware.
Mr. Mattox with Mr. Fish.
Mr. Sisk with Mr. Hansen.
Mr. Tsongas with Mr. Abdnor.
Mr. Rodino with Mr. Frey.
Mr. Milford with Mr. Marks.

Mr. STEED changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 12927, MILITARY CONSTRUCTION APPROPRIATION ACT, 1979

Mr. McKAY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12927) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Utah? The Chair hears none, and, without objection, appoints the following conferees: Messrs. McKAY, SIKES, MURTHA, STEED, FLYNT, LONG of Maryland, MAHON, MCEWEN, REGULA, and CEDERBERG.

There was no objection.

HOUSE RESOLUTION 1201—TO DISAPPROVE REORGANIZATION PLAN NUMBERED 2

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1201) to disapprove Reorganization Plan Numbered 2 transmitted by the President on May 23, 1978; and pending that motion, Mr. Speaker, I ask unanimous consent that debate on the resolution be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from New York (Mr. HORTON) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 1201) with Mr. AMMERMAN in the chair.

The Clerk read the title of the resolution.

By unanimous consent, the first reading of the resolution was dispensed with.

The CHAIRMAN. Pursuant to section 912 of Public Law 95–17 and the unanimous-consent request, the gentleman from Texas (Mr. BROOKS) will be recognized for one-half hour, and the gentleman from New York (Mr. HORTON) will be recognized for one-half hour.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, Reorganization Plan No. 2 of 1978 is the structural framework of President Carter's proposed civil service reform. It deals entirely with organization, not with the policy reforms that the President is seeking, and which are addressed in separate legislation that will be coming before the House shortly.

I emphasize this distinction because while the policy reforms have stirred up a lot of controversy and will be the subject of much debate when they come to the floor, the reorganization plan has met with little or no opposition. Our committee has recommended unanimously that the pending resolution disapproving the plan be defeated, which is the upside-down procedure we have to follow to approve a plan under the reorganization authority we have given to the President.

We did have requests from the Post Office and Civil Service Committee that we hold up the reorganization plan until the reform legislation had been enacted. We did get the administration to delay submitting the plan for as long as it could, but once the plan was submitted, the 60-day clock started running and the plan will now take effect automatically at the end of this week unless the House or Senate reject it.

Although the plan is designed to provide the organizational structure to carry out the proposed civil service reforms, not only can it stand alone, it will produce necessary and desirable changes by itself in the existing Federal personnel system.

The primary purpose of the reorganization plan is to change the Civil Service Commission. That agency has

had so many duties and functions added to it over the 110 years of its existence that its original purpose has become obscured and it is now called on to play many conflicting roles.

The Commission would be replaced by a Merit Systems Protection Board, which would give Federal employees an independent, impartial board to protect them against abuses of the merit system. The board would be bipartisan, with it three members appointed by the President and confirmed by the Senate.

The managerial functions of the Civil Service Commission would be taken over by a new executive branch agency, the Office of Personnel Management, headed by a director appointed by the President and confirmed by the Senate. The President, as Chief Executive, would thus have an administrative arm, directly responsible to him, to develop and administer Federal personnel policy.

A third new agency created by the plan is the Federal Labor Relations Authority, which would be responsible for administering Federal labor-management policy. It would be a bipartisan board with three members appointed by the President and confirmed by the Senate, and it would take over functions now handled by Executive order on a part-time basis. The authority would have a general counsel to investigate and prosecute complaints of unfair labor practices.

Those are the essential features of the plan, Mr. Chairman. Its purpose is to correct long standing organizational deficiencies that have greatly reduced the effectiveness and credibility of the Civil Service Commission and helped undermine the morale of Federal workers. It will also strengthen merit protection for Federal employees, improve personnel management, and provide an effective framework for labor-management relations. These are all worthwhile objectives, separate and apart from the policy reforms we will be debating later, and I urge support for the plan.

Mr. HORTON. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, I rise in opposition to House Resolution 1201 and in support of Reorganization Plan No. 2 of 1978.

And again I want to emphasize that if the Members are for the plan, they should vote no, because the resolution is worded, "Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 2 transmitted to the Congress by the President on May 23, 1978."

So if the Members favor the plan, they should vote no because of the way in which the resolution is worded.

Reorganization Plan No. 2 of 1978 is but one part of a comprehensive and complex package of recommended reforms stemming from the Federal personnel management project. This project was headed up by Dwight Ink, who served as executive director. Dwight Ink is a career public servant whom I have known for many years, and many other Members of the House know of his dedicated and loyal service. He has done a tremendous job in heading up this project.

The project was established in June 1977 as part of President Carter's reorganization efforts and made its final staff report in December of 1977. In general, I support the proposed reforms and applaud the President's recognition of the need for making the civil service system more effective.

Implementation of the 125 recommendations of the report called for, in addition to the reorganization plan, "appropriate legislation, policies, rules, regulations, processes, and organizational solutions." The entire package was substantially included in President Carter's proposal which was unveiled on March 2, 1978 as the "most sweeping reform of the civil service system" since 1883.

Except for the reorganization plan which was sent to Congress on May 23, 1978, all of the proposals are within the jurisdiction of forums other than the House Committee on Government Operations, and the portions requiring legislation were referred to the Committee on Post Office and Civil Service on March 3 as H.R. 11280, the "Civil Service Reform Act of 1978" which was reported as amended by that committee on July 31, 1978.

It is not my function today to come to grips with the whole complex and interrelated mass of provisions which are incorporated in that act. Rather I want to focus your attention on the structural aspects of the President's reorganization efforts that are dealt with in this plan and are within the jurisdiction of the Committee on Government Operations.

Much of the recommended legislation is based on the assumption that the division of the U.S. Civil Service Commission into an "Office of Personnel Management" and a "Merit Protection Board" will be effected.

Therefore, this reorganization proposal is regarded by the President as vital to the improvement of Federal personnel management.

However, the reorganization plan need not stand or fall with H.R. 11280 and can be approved or disapproved independently of it. I agree with the President that the provisions of the plan are necessary and desirable in and of themselves.

The plan in outline is simple. The Civil Service Commission would be abolished and would be replaced by two separate agencies—first, an Office of Personnel Management, to advise the President, develop personnel programs, and administer central personnel programs, and second, a Merit Protection Board headed by a bipartisan panel of three members to investigate and review claims of merit abuses and grievances and to adjudicate appeals. Investigation and prosecution of political abuses and merit system violations will be conducted by a presidentially appointed special counsel within the Board.

The plan would also establish an independent Federal Labor Relations Authority in the executive branch for central administration of the labor relations program now vested in a number of entities. The Federal service impasses panel will be continued as a distinct organizational entity within the authority to resolve negotiating impasses between Federal employee unions and agencies.

The proposed reorganization plan is designed to resolve, among other problems, conflicting roles of the existing Civil Service Commission, inadequate protections against political and other forms of abuse, and inadequate authority of program managers to hire and discipline employees.

At the time of our hearings on this plan I expressed the concern that separating the conflicting roles of the existing Civil Service Commission into two separate agencies—one responsible for the management of human resources and the other responsible for enforcement of merit practices and the resolution of disputes—while it might solve the problem of conflicting roles, would be a solution at the cost of certain public access to the public's business.

The effect of the removal of the personnel management functions from an agency headed by a collegial body to an office headed by a single director is to exempt personnel management from the requirements of Public Law 94–409, the "Government in the Sunshine Act" which was reported from this committee in the last Congress. The public's faith in the integrity of Government rests on public understanding of the reasons for Government decisions, and the purpose of that law is to provide that meetings of multimember Federal agencies shall be open to the public, with the exception of discussions of several narrowly defined areas.

Responding to my expression of concern, the President on July 11 submitted an amendment to section 104 of the plan. That section articulates the director's responsibility for executing, administering and enforcing the civil service rules and regulations and the amendment required him to provide the public, where appropriate, a reasonable opportunity to comment and submit written views on the implementation and interpretation of such rules and regulations.

With the added emphasis on appropriate administrative procedures, the plan now has my approval and I urge the rejection of House Resolution 1201.

There is widespread public dissatisfaction with the performance of Government and a concomitant public demand for improvement. Reorganization Plan No. 2 of 1978 gives the President the means to make more effective use of personnel throughout the Government and presents solutions to long-identified problems in the Federal personnel management structure.

The aim of the administration is not essentially different from that of every administration. Every President since Theodore Roosevelt has created a commission, committee panel, or task force to recommend changes to improve the administrative structure.

The proposal to separate the Civil Service Commission into two agencies, one to advise the President and develop and administer personnel programs, and the other to investigate and review merit abuses and grievances is not a new idea. In the 40 years beginning with the Presi-

dent's Committee on Administrative Management—Brownlow Committee—in 1937 and culminating in the Federal personnel management project of the President's reorganization project in 1977, a score or more of studies, both private and public including the first and second Hoover Commissions, have focused on the conflicting responsibilities of the Civil Service Commission and several have recommended the assignment of these functions to seperate entities and the abolition of the Civil Service Commission in its present form.

Moreover while the proposal is in partial fulfillment of a campaign pledge of President Carter to reorganize the Government and streamline functions and operations, it is not a partisan issue. Presidents of both parties, in the interest of productivity, efficiency, and economy have sought to increase management flexibility—a goal supported by almost all management studies through the years most of which have recommended, as does Reorganization Plan No. 2, an agency headed by a single director reporting to the President.

Approval of this plan requires a vote against the resolution of disapproval and will signify the willingness of Congress to contribute to the restoration of public confidence in Government.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, I thank the gentleman for his remarks on this very important issue, and it is a very complex issue.

Might I ask the gentleman, in his opinion is the administration getting the cart before the horse in the sense that the statement has been made that the plan could stand, whether or not the Reform Act is passed, but is it not designed to complement that act and is it not premature perhaps to act at this time on the plan, rather than wait until we see what Congress does on the other proposals for reform?

Mr. HORTON. As I said, this plan can stand or fall on its own merits and it should not be tied into the substantive changes. The substantive changes are another matter. As I have indicated, based on the study I have made and the staff has made on this, and based on the hearings, it is my judgment that the separation into these two bodies, rather than the Civil Service Commission, is a step forward.

The idea of having the abuses and grievances handled by the Civil Service Commission, by one body, in my judgment is not a good thing.

So I personally feel that this reorganization plan is a good plan now that the amendment has been sent up, which is a qualifying statement that I made during the course of my prepared statement. But I do feel that this is not dependent upon the substantive changes which can take place at a later time and which I presume will be brought up.

Mr. HILLIS. I thank the gentleman.

Mr. HORTON. Mr. Chairman, I yield 10 minutes to the gentleman from Maryland (Mr. STEERS).

Mr. STEERS. Mr. Chairman, I want to first thank the chairman of the full Committee on Government Operations, the gentleman from Texas (Mr. BROOKS) for calling my office Friday and alerting me to the fact that this resolution would be coming up shortly. I regret that I am in total opposition to the view taken by the gentleman from Texas (Mr. BROOKS) and to the position taken by my esteemed colleague, the gentleman from New York (Mr. HORTON).

Second, I want to tell the House that the delegates to the American Federation of Government Employees Convention in Chicago voted overwhelmingly to withdraw any and all prior support that their national organization had given to the Carter administration's proposals to "reform the civil service system."

In addition, apparently expressing strong dissatisfaction with the President's proposals in this and other areas, the convention voted to censure Mr. Carter, as stated in a motion that read in part as follows:

Whereas, his actions since his inauguration have clearly demonstrated that he has lied not only to Federal workers but to the American people as a whole, therefore be it resolved that this body censures Jimmy Carter, President of the United States, for his blatant lies to Federal workers and the American people. * * *

My distinguished colleagues, I want to share with you my thoughts on why the House disapproval resolution on the President's reorganization plan should be passed and approved. It is needed to preserve the integrity of the independent Federal civil service. Whatever the intent, the result of the administration's program would be to politicize the machinery of government. There are two key reasons for my opposition to this plan, two reasons why I support the disapproval resolution.

First, it is my opinion that the very substantive structural reorganization and accompanying authority should be considered legislatively in the traditional manner. And I submit to you that abolition of the Civil Service Commission, splitting it in two, is not merely structural, certainly, not procedural, it is substantive in the strongest sense of that word.

Mr. HORTON. Mr. Chairman, if the gentleman will yield, the gentleman knows that the Committee on Government Operations has jurisdiction with regard to reorganization plans whether they come by this reorganization authority or whether they come in as new reorganization plan.

For example, the Department of Energy was handled by the Committee on Government Operations.

Mr. STEERS. Yes, I do know that.

Mr. HORTON. The substantive law comes from the Committee on Interstate and Foreign Commerce. In this particular instance the gentleman is suggesting that the reorganization plan be hooked on to or attached to the substantive legislation.

Mr. STEERS. Yes, that is correct.

Mr. HORTON. That goes through another committee. This committee, the Committee on Government Operations, which has jurisdiction, did hold hearings on this reorganization plan, held full hearings on it and gave the opportunity for everyone to come in and testify. As a matter of fact, the gentleman from Maryland (Mr. STEERS) came in and testified.

If this matter were hooked on to legislation that was introduced at one time, it would be sequentially referred to the Post Office and Civil Service Committee and then also to the Committee on Government Operations. So we are acting now within the jurisdiction of the Committee on Government Operations which is the appropriate way to handle it as far as the House is concerned.

Mr. STEERS. I have not in any way impugned the right of your committee to consider this matter. I am definitely saying, however, that it should have been considered legislatively and not through this back-door method of a one-House vote.

Mr. HORTON. Mr. Chairman, will the gentleman yield further?

Mr. STEERS. I will yield further to the gentleman.

Mr. HORTON. Also the gentleman has referred to the resolution, which the gentleman has read, from the AFGE convention. It is my understanding that it was introduced against the bill, not against the reorganization plan.

Mr. STEERS. The fact is that the AFGE had previously indicated its support for both the bill and the plan, but now it has withdrawn its support of both.

Let me go on, if I may, Mr. Chairman.

There is, of course, the constitutional question implicit in delegating legislative authority.

This point was raised by the gentleman from Texas (Mr. BROOKS) during the Nixon years. Further, the Carter administration anticipated difficulty in having all of its proposals to reform the civil service system legislated by this Congress, and for good reason. Virtually the same proposals were sought only a few years ago by another President and his administration and were rejected out of hand by an astute Congress which pierced the veil of the reform rhetoric to see the recommendations for what they were, an attempt to politicize the Federal Civil Service. The rejection was sound then and it is now.

The administration, anticipating problems in gaining approval of its legislative requests contained in H.R. 11280, proposed Reorganization Plan No. 2 of 1978. With the authority granted in the plan, the administration would have the ability to effectuate most, though not all, of what it seeks in the legislation.

One of the dangers in the plan is that it would vest such great power in the Director of the Office of Personnel Management. The Director of OPM would have full authority, by our lack of positive action, to promulgate all rules and regulations governing the Federal work force, with no legislative guidelines whatsoever.

This Director—perhaps Dr. Alan Campbell—would report only to the President of the United States. Such a

proposal was also made by Mr. Alan May in the Nixon administration as part of the Malek manual, a manifesto for the political takeover of the Federal bureaucracy.

The Members will also recall that Mr. May is the only individual ever to be found guilty of violating civil service statutes.

Mr. Chairman, this bears on why the plan should not be allowed to go forward with no legislative guidelines.

The Congress may, if in its wisdom it decides to do so, pass the legislative portion of the President's so-called reform package, and include in such legislation the contents of Reorganization Plan No. 2 as amendments to this bill. This would be a relatively simple process, as just outlined by my colleague, the gentleman from New York (Mr. HORTON).

Mr. Chairman, I urge on that basis that this House approve the disapproval resolution before it now, and to amend H.R. 11280 to encompass the elements of the Reorganization Plan, if it is the will of the House to enact such legislation in this Congress. I urge the Members to preserve the integrity of the independent Federal civil service.

Simply put, Mr. Chairman, there is no reason not to support this disapproval resolution. Even if the Members favor the so-called reform, the elements of the plan should be approved as a legislative measure, lest the plan be put into effect without guidelines and despite the failure of H.R. 11280.

Mr. Chairman, the second point that I wish to raise today is one about which I have written to each Member over the last several weeks. On June 22, 1978, a contract for the independent investigation of civil service abuses, as alleged in the Lyle report, was amended by the parties to that contract, the Civil Service Commission and the law firm of Rogovin, Stern, and Huge. The amendments would allow the contractor, the Rogovin law firm, to destroy products of its investigation which it deemed to be irrelevant.

Mr. Chairman, I have questioned such a practice as probably violating the Federal Records Act, which prohibits destruction of Federal Government documents which could potentially be used in a subsequent criminal action. In any case, I believe it imperative that we insist on knowing to what extent past abuses have existed in the merit system before we proceed to expand the political influence that any administration has over the civil service.

In summary, then, we should disapprove this reorganization plan. If we do not, much of what is contained in the legislation fails. Further, the illegalities alleged in the Lyle report should be exposed, verified, or shown to be untrue, before we authorize and legalize what is, fortunately for the civil service, now illegal.

● Mr. HARRIS. Mr. Chairman, I am opposed and will vote against the bill before us today that will abolish the Civil Service Commission and create in its place the new Office of Personnel Management, the Merit System Protection Board, and the Federal Labor Relations Authority.

The administration's plan to "reorganize" the responsibility for civil service in the Federal Government is ill timed since the Congress has not yet enacted the companion legislation, H.R. 11280, the "civil service reform" bill. It makes no sense to me for Congress to be creating three new offices when we have not made the changes in civil service laws proposed by the administration. Thus, I believe Congress should act on the "civil service reform" legislation—the vehicle for making the changes in the law—before setting up three new agencies.

I believe there is merit in separating the dual but conflicting roles the Commission now has, that is the role of manager of employees and employee defender. No agency can effectively handle such conflicting responsibilities, and clearly there is a need for an independent body to adjudicate employee complaints, a nonpartisan, impartial body that the employee can look to for fair treatment and justice.

However, H.R. 11280 is the vehicle which delineates the new agencies' functions and responsibilities. What we seem to be doing today is setting up three new but empty boxes.

Since the administration's "civil service reform" proposal came to Congress on March 3, I have spent hours listening, studying, and working on its provisions. In an effort to develop a sound bill, I participated in 15 hearings—12 in Congress and 3 in agencies here in Washington. I participated in 10 days of committee markup and personally held three "town meetings" in my district, in which administration officials participated, at my invitation. This means I have had a total of 28 meetings on this issue, plus numerous meetings in my office with organizations, individuals, and administration officials. In these sessions, we heard from people in and out of government, Washington area residents very familiar with the operations of our Government. The persistent thread from these citizens' comments was that the "civil service reform" proposals could weaken the morale and structure of a nonpartisan, professional civil service system.

Unfortunately, the bill as reported from the Post Office and Civil Service Committee, H.R. 11280, does not address sufficiently these very serious concerns. In the committee, I offered a number of amendments to strengthen and preserve the merit system. Many were not adopted. I will offer these amendments in the House to prevent political manipulation in the career civil service. And until a strong prohibition against improper political influences in our impartial merit system is in place, I cannot support this bill or the "reform" bill.

In short, under the popular slogan of "civil service reform," this Congress is close to producing civil service chaos.

The Federal employee should be assured fair treatment and personnel decisions should be made on the basis of merit.

The taxpayer deserves a government in which decisions are made based on justice, not politics.

This has been my goal and will continue to be my goal as we strive to make Government work better for our citizens.●

Mr. BROOKS. Mr. Chairman, I yield myself 1 minute. I just want to remind the Members that since the resolution is worded to disapprove the plan, those who support the reorganization would vote "no." I would urge a "no" vote on the resolution.

Mr. Chairman, I have no further requests for time.

Mr. HORTON. I have no further requests for time.

The CHAIRMAN. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 1201

Resolved, That the House of Representatives does not favor the Reorganization Plan Numbered 2 transmitted to the Congress by the President on May 23, 1978.

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise and report the resolution back to the House with the recommendation that the resolution be not agreed to.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BROWN of California) having assumed the chair, Mr. AMMERMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H. Res. 1201) to disapprove Reorganization Plan No. 2 transmitted by the President on May 23, 1978, had directed him to report the resolution back to the House with the recommendation that the resolution be not agreed to.

The Clerk reported the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. HORTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 19, nays 381, not voting 32, as follows:

[Roll No. 667]

YEAS—19

Armstrong	Eilberg	Myers, Gary
Ashbrook	Gilman	Quillen
Bauman	Hammer-schmidt	Rudd
Caputo	Harris	Steers
Collins, Tex.	Heckler	Symms
Duncan, Tenn.	Holt	Walsh
Edwards, Okla.		

NAYS—381

Addabbo	Aspin	Bingham
Akaka	AuCoin	Blanchard
Alexander	Badham	Blouin
Ambro	Bafalis	Boggs
Ammerman	Baldus	Boland
Anderson, Calif.	Barnard	Bolling
	Baucus	Bonior
Anderson, Ill.	Beard, R.I.	Bonker
Andrews, N.C.	Beard, Tenn.	Bowen
Andrews, N. Dak.	Bedell	Brademas
	Bellenson	Breaux
Annunzio	Benjamin	Breckinridge
Applegate	Bennett	Brinkley
Archer	Bevill	Brodhead
Ashley	Biaggi	Brooks

Broomfield	Grassley	Murtha
Brown, Calif.	Green	Myers, John
Brown, Mich.	Gudger	Myers, Michael
Brown, Ohio	Guyer	Natcher
Broyhill	Hagedorn	Neal
Buchanan	Hall	Nedzi
Burgener	Hamilton	Nichols
Burke, Calif.	Hanley	Nix
Burke, Fla.	Hannaford	Nolan
Burke, Mass.	Harkin	Nowak
Burleson, Tex.	Harsha	O'Brien
Burlison, Mo.	Hawkins	Oakar
Burton, John	Hefner	Oberstar
Burton, Phillip	Heftel	Obey
Butler	Hightower	Ottinger
Byron	Hillis	Panetta
Carney	Holland	Patten
Carr	Hollenbeck	Patterson
Carter	Holtzman	Pattison
Cavanaugh	Horton	Pease
Cederberg	Howard	Pepper
Chappell	Hubbard	Perkins
Chisholm	Huckaby	Pettis
Clausen, Don H.	Hughes	Pickle
Clawson, Del	Hyde	Pike
Clay	Ichord	Poage
Cleveland	Ireland	Pressler
Cochran	Jacobs	Preyer
Coleman	Jeffords	Price
Collins, Ill.	Jenrette	Pritchard
Conable	Johnson, Calif.	Pursell
Conte	Johnson, Colo.	Quayle
Conyers	Jones, N.C.	Quie
Corcoran	Jones, Okla.	Rahall
Corman	Jones, Tenn.	Railsback
Cornell	Jordan	Rangel
Cornwell	Kastenmeier	Regula
Cotter	Kazen	Reuss
Coughlin	Kelly	Richmond
Crane	Kemp	Rinaldo
Cunningham	Keys	Risenhoover
D'Amours	Kildee	Roberts
Daniel, Dan	Kindness	Robinson
Daniel, R. W.	Kostmayer	Roe
Danielson	Krebs	Rogers
Davis	Lagomarsino	Rooney
Delaney	Latta	Rose
Dellums	Leach	Rosenthal
Dent	Lederer	Rostenkowski
Derrick	Leggett	Rousselot
Derwinski	Lehman	Roybal
Devine	Lent	Runnels
Dickinson	Levitas	Russo
Dicks	Livingston	Ryan
Dingell	Lloyd, Calif.	Santini
Dodd	Long, La.	Sarasin
Dornan	Long, Md.	Satterfield
Downey	Lott	Sawyer
Drinan	Lujan	Scheuer
Duncan, Oreg.	Luken	Schroeder
Early	Lundine	Schulze
Eckhardt	McClory	Sebelius
Edgar	McCloskey	Seiberling
Edwards, Ala.	McCormack	Sharp
Edwards, Calif.	McDade	Shipley
Emery	McEwen	Shuster
English	McFall	Sikes
Erlenborn	McHugh	Simon
Ertel	McKay	Skelton
Evans, Colo.	McKinney	Skubitz
Evans, Ga.	Madigan	Slack
Evans, Ind.	Maguire	Smith, Iowa
Fary	Mahon	Smith, Nebr.
Fascell	Markey	Snyder
Fenwick	Marks	Solarz
Findley	Marlenee	Spellman
Fisher	Marriott	Spence
Fithian	Martin	St Germain
Flippo	Mattox	Staggers
Flood	Mazzoli	Stangeland
Florio	Meeds	Stanton
Flynt	Metcalfe	Stark
Foley	Meyner	Steed
Ford, Tenn.	Michel	Steiger
Forsythe	Mikulski	Stockman
Fountain	Mikva	Stokes
Fowler	Miller, Ohio	Stratton
Fraser	Mineta	Studds
Frenzel	Minish	Stump
Fuqua	Mitchell, Md.	Taylor
Gammage	Mitchell, N.Y.	Thompson
Garcia	Moakley	Thone
Gaydos	Moffett	Thornton
Gephardt	Mollohan	Traxler
Giaimo	Montgomery	Treen
Gibbons	Moore	Trible
Ginn	Moorhead, Calif.	Tucker
Glickman	Moorhead, Pa.	Udall
Goldwater	Moss	Ullman
Gonzalez	Mottl	Van Deerlin
Goodling	Murphy, Ill.	Vander Jagt
Gore	Murphy, N.Y.	Vanik
Gradison	Murphy, Pa.	Vento
Waggonner	Whitley	Volkmer
Walgren	Whitten	Wylie
Walker	Wiggins	Yates
Wampler	Wilson, Bob	Yatron
Watkins	Wilson, Tex.	Young, Fla.
Weaver	Winn	Young, Mo.
Weiss	Wirth	Young, Tex.
Whalen	Wolff	Zablocki
White	Wright	Zeferetti
Whitehurst	Wydler	

NOT VOTING—32

Abdnor	Jenkins	Rhodes
Cohen	Kasten	Rodino
de la Garza	Krueger	Roncalio
Diggs	LaFalce	Ruppe
Evans, Del.	Le Fante	Sisk
Fish	Lloyd, Tenn.	Teague
Flowers	McDonald	Tsongas
Ford, Mich.	Mann	Waxman
Frey	Mathis	Wilson, C. H.
Hansen	Milford	Young, Alaska
Harrington	Miller, Calif.	

The Clerk announced the following pairs:

On this vote:

Mr. McDonald for, with Mr. Rodino against.

Until further notice:

Mr. Diggs with Mr. Ruppe.
Mr. Harrington with Mr. Young of Alaska.
Mr. Le Fante with Mr. Abdnor.
Mr. Teague with Mr. Cohen.
Mr. Sisk with Mr. Kasten.
Mr. de la Garza with Mr. Fish.
Mr. Flowers with Mr. Evans of Delaware.
Mr. Ford of Michigan with Mr. Frey.
Mr. Jenkins with Mr. Hansen.
Mr. LaFalce with Mr. Krueger.
Mrs. Lloyd of Tennessee with Mr. Milford.
Mr. Mathis with Mr. Roncalio.
Mr. Waxman with Mr. Charles H. Wilson of California.
Mr. Miller of California with Mr. Mann.
Mr. Tsongas with Mr. Rhodes.

Messrs. DENT, MEEDS, BOLAND, and MARTIN changed their vote from "yea" to "nay."

Mr. CAPUTO changed his vote from "nay" to "yea."

So the resolution was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the resolution just considered, House Resolution 1201.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION OF COMMITTEE ON GOVERNMENT OPERATIONS TO MEET AUGUST 10, 1978, WHILE HOUSE IS IN SESSION

Mr. JOHN L. BURTON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Government Activities and Transportation of the Committee on Government Operations may meet tomorrow, Thursday, August 10, 1978, while the House is in session.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMPREHENSIVE EMPLOYMENT AND TRAINING AMENDMENTS OF 1978

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1294 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1294

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12452) to extend and amend the Comprehensive Employment and Training Act of 1973, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI, clause 5, rule XXI, and section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from California (Mr. DEL CLAWSON), pending which I yield myself such time as I may consume.

Mr. Speaker, the resolution (H. Res. 1294) makes in order the consideration of the bill (H.R. 12452) to extend and amend the Comprehensive Employment and Training Act of 1973, and for other purposes.

It is a 2-hour open rule which provides certain waivers of points of order which lie against the committee amendment in the nature of a substitute.

Section 401(a) of the Congressional Budget Act of 1974 prohibits consideration of any legislation providing contract authority unless such authority is limited to the extent provided in appropriation acts. Several provisions of the bill violate that requirement. In all instances, the Committee on Education and Labor will offer floor amendments to cure the violations. Under that agreement, the Committee on the Budget has recommended that the waivers be granted to permit the consideration of the bill.

Clause 5 of rule XXI prohibits legislative committees from reporting appropriations. Certain provisions of the committee substitute effectively violate this requirement. In all cases the violations are of a technical nature and take the form of contract and program requirements which have the effect of appropriations. In this regard it must be noted that the Committee on Appropriations intends to report a supplemental appropriation providing the funds here authorized. If any difference between the the committees occur, it will be possible for that committee to address the matter in the appropriation measure.

The rule also contains several procedural matters which are common in the case of a committee substitute. The rule waives points of order against the committee substitute for failure to comply with clause 7 of rule XXI, the germaneness rule. Since this point-of-order would not apply if the committee had reported an identical text as a clean bill, the waiver is regarded as technical. In addition the rule provides that the committee substitute will be considered as an original bill to protect amendments to amendments (which would otherwise be ruled out of order as tertiary). It enables any Member to demand separate votes on amendments to the substitute. And it provides that the motion to recommit may contain instructions. These provisions insure that the House, and particularly the minority, will have all the rights which would be available in the case of a clean bill.

Mr. Speaker, the Committee on Education and Labor has worked tirelessly on this legislation and has produced a fair and equitable bill. While extending this useful and vital program to meet the national problem of unemployment, the committee has provided many structural reforms which should enjoy broad bipartisan support.

This is crucial legislation and I believe there is wide agreement that the rule provides a fair and orderly way for the House to work its will.

Mr. Speaker, I urge the adoption of the bill and the rule.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1294 provides 2 hours of general debate for the consideration of H.R. 12452, the Comprehensive Employment and Training Amendments of 1978. This is a rule that is heavy with waivers. It provides for consideration of a CETA program which is straining under the weight of infinite abuses.

Mr. Speaker, before explaining the waivers contained in House Resolution 1294 several quotes from the August 1978 issue of Reader's Digest might be of interest. The article by Ralph Kinney Bennett, entitled, "CETA: $11 Billion Boondoggle," first states:

> This federal plan to help the hard-core unemployed has become a grotesque Lazy Susan of programs that are rife with waste and mismanagement as funds are dispensed in everything-for-everybody style.

Mr. Bennett goes on to cite several instances of this waste and mismanagement. Quoting further,

> In Miami, Florida, CETA dollars paid for a "nude sculpting workshop" in which naked men and women ran hands over one another's bodies. "This was to help them discover that they had both male and female qualities."

Mr. Bennett continues with another incident in Atlanta, Ga. Again I quote:

> CETA funds paid the former leader of the Black Panther Party, an avowed Marxist-Leninist, $475 a month to, as he says, "keep an eye on city, county and state governments and their jiving of the masses."

Mr. Speaker, there are serious doubts that any new CETA bill could sufficiently correct the pitfalls inherent in the program, to prohibit further abuses such as these.

House Resolution 1294 first waives clause 5 of rule XXI. This rule prohibits legislative committees from reporting a bill containing appropriations. H.R. 12452 violates this rule at least five times, by reallocating and transferring funds to new purposes.

The rule also waives section 401(a) of the Congressional Budget Act of 1974. Section 401(a) states that it shall not be in order to consider any bill which provides new contract authority unless that bill also provides that such new authority is to be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation acts.

Sections 126(b), 305(a), and various other sections of the bill authorize the Secretary of Labor to enter into contracts as deemed necessary to carry out the provisions of the new legislation. Since these sections fail to limit the availability of such contract authority, the bill would be subject to points of order under section 401(a) of the Budget Act.

This is an example of back door spending by use of contract authority. The rule was created to provide for orderly, responsible management of funds. A letter, however, from the chairman of the Committee on the Budget to the chairman of the Rules Committee, dated July 31, states that this problem will be alleviated by amendment.

The final waiver is a waiver of clause 7, rule XVI. This is the rule dealing with germaneness. This waiver is necessary because the original bill was a mere 10 lines. Therefore the current bill is simply a massive nongermane amendment to those few original lines. Hence the need for the waiver.

Mr. Speaker, the CETA program has grown from a relatively modest $1.5 billion in outlays in 1974 to almost $10 billion in outlays in 1978, just 4 years later. Neither the Department of Labor nor CETA prime sponsors have been able to keep up with this overly generous influx of money. Such massive doses of new money invite abuse, misuse, and profligate spending.

Another major problem is the overwhelming emphasis this bill continues to place on public service employment. Seventy-five percent of the money allotted to prime sponsors, nearly $6 billion, could go to PSE type activities. The history of this program is replete with evidence that PSE is the least effective, most costly and most abused program of CETA.

Public Service employment has three outstanding difficulties. First, Federal funds have often been used to replace local funds. This is indicated by the phenomenon known as "substitution." Second, PSE has not helped those most in need. A fiscal 1977 report of the Department of Labor on CETA PSE client characteristics shows that almost 80 percent had either a high school education or better, almost two-thirds were male, and only 20 percent were nonwhite. Third, public service employment has almost completely failed as a means of moving, individuals into unsubsidized private employment. The transition rate is less than 3 percent by some estimates. By the end of 1978, we will have spent nearly $12½ billion in 4 years on public service employment with no evidence that it has contributed significantly to resolving the nation's unemployment problems.

One final observation. In 1974, when CETA was enacted, the unemployment rate was 4.5 percent. Today the unemployment rate is approximately 6 percent. The members of this body have the responsibility to question the continued expenditure of funds to achieve such dubious results.

Disregarding the waivers, House Resolution 1294 is an open rule that allows this body to work its will on the bill.

Mr. Speaker, to my knowledge there is no organized opposition to the rule, but I will vote against it.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I am happy to yield to my friend, the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, this is not the time to debate the merits of the legislation. However, since the gentleman quoted the Reader's Digest, I think one of the points which our colleague should know—and I have not read that particular article, and frequently that publication has some excellent articles in it—is that the Reader's Digest is one of the few publications in the entire free world which never corrects an error that it makes and never publishes a letter to the editor.

For that reason, I think what they have to say should be taken with a considerable grain of salt.

I thank the gentleman for yielding.

Mr. DEL CLAWSON. I appreciate the gentleman's comment. He is certainly not challenging either one of the quotes that I gave.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. DEL CLAWSON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I do not know precisely what point was made in the reference to the Reader's Digest and its letters-to-the-editor policy.

If anyone in the House has information to refute these specific citations of corruption and scandals in the CETA program, which appeared in Mr. Bennett's article, should come forward and

tell us. I happen to know Mr. Bennett; he is a professional journalist who has written many articles for this respected publication, and it is a well-thought-of publication. Anyone with such information ought to come forward and say in what respects the Reader's Digest article was wrong. I doubt that they can do so.

However, to try to disparage the Reader's Digest in any way seems to me to miss the point. We ought to be cleaning up the program itself and this article shows how CETA has failed.

Mr. DEL CLAWSON. Mr. Speaker, I thank the gentleman from Maryland for his contribution.

I have no further requests for time, and I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that we will be going into general debate on the CETA bill, and it is anticipated that we will finish the bill. Consequently, we could very well be here very late, until 11 o'clock or midnight.

Of course, under the rules, a Member has the right at any time to object to a vote on the ground that a quorum is not present, if the Member so chooses. The Chair hopes, however, that we will be able to expedite this matter as we go forward with it during the course of the day.

Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 376, nays 20, not voting 36, as follows:

[Roll No. 668]

YEAS—376

Addabbo	Bonker	Collins, Ill.
Akaka	Bowen	Conable
Alexander	Brademas	Conte
Ambro	Breaux	Conyers
Ammerman	Breckinridge	Corcoran
Anderson, Calif.	Brinkley	Corman
	Brodhead	Cornell
Anderson, Ill.	Brooks	Cornwell
Andrews, N.C.	Broomfield	Cotter
Andrews, N. Dak.	Brown, Mich.	Coughlin
	Broyhill	D'Amours
Annunzio	Buchanan	Daniel, Dan
Applegate	Burgener	Daniel, R. W.
Ashley	Burke, Calif.	Danielson
Aspin	Burke, Fla.	Davis
AuCoin	Burke, Mass.	de la Garza
Bafalis	Burleson, Tex.	Delaney
Baldus	Burlison, Mo.	Dellums
Barnard	Burton, John	Dent
Baucus	Burton, Phillip	Derrick
Beard, R.I.	Butler	Derwinski
Beard, Tenn.	Byron	Devine
Bedell	Caputo	Dickinson
Bellenson	Carney	Dicks
Benjamin	Carr	Diggs
Bennett	Carter	Dingell
Bevill	Cavanaugh	Dodd
Biaggi	Cederberg	Dornan
Bingham	Chappell	Downey
Blanchard	Chisholm	Drinan
Blouin	Clay	Duncan, Oreg.
Boggs	Cleveland	Duncan, Tenn.
Boland	Cochran	Early
Bolling	Cohen	Eckhardt
Bonior	Coleman	Edgar
Edwards, Ala.	Lederer	Rinaldo
Edwards, Calif.	Lehman	Risenhoover
Edwards, Okla.	Lent	Roe
Eilberg	Levitas	Rogers
Emery	Livingston	Roncalio
English	Lloyd, Calif.	Rooney
Erlenborn	Long, La.	Rose
Ertel	Long, Md.	Rosenthal
Evans, Colo.	Lott	Rostenkowski
Evans, Ga.	Lujan	Roybal
Evans, Ind.	Luken	Runnels
Fary	Lundine	Ruppe
Fascell	McClory	Russo
Fenwick	McCormack	Ryan
Findley	McDade	Santini
Fisher	McEwen	Sarasin
Fithian	McFall	Sawyer
Flippo	McHugh	Scheuer
Flood	McKay	Schroeder
Florio	McKinney	Schulze
Flynt	Madigan	Sebelius
Ford, Mich.	Maguire	Seiberling
Ford, Tenn.	Mahon	Sharp
Forsythe	Mann	Shipley
Fountain	Markey	Sikes
Fowler	Marks	Simon
Fraser	Marlenee	Skelton
Frenzel	Marriott	Skubitz
Fuqua	Martin	Slack
Gammage	Mazzoli	Smith, Iowa
Garcia	Meeds	Smith, Nebr.
Gaydos	Metcalfe	Snyder
Gephardt	Meyner	Solarz
Gibbons	Michel	Spellman
Gilman	Mikulski	Spence
Ginn	Mikva	St Germain
Glickman	Miller, Ohio	Staggers
Gonzalez	Mineta	Stangeland
Goodling	Minish	Stanton
Gore	Mitchell, Md.	Stark
Gradison	Mitchell, N.Y.	Steed
Grassley	Moakley	Steers
Green	Moffett	Steiger
Gudger	Montgomery	Stokes
Guyer	Moore	Stratton
Hagedorn	Moorhead, Calif.	Studds
Hall		Stump
Hamilton	Moorhead, Pa.	Thompson
Hammer-schmidt	Moss	Thone
	Mottl	Thornton
Hanley	Murphy, Ill.	Traxler
Hannaford	Murphy, N.Y.	Treen
Harkin	Murphy, Pa.	Trible
Harrington	Murtha	Tucker
Harris	Myers, John	Udall
Harsha	Myers, Michael	Ullman
Hawkins	Natcher	Van Deerlin
Heckler	Neal	Vander Jagt
Hefner	Nedzi	Vanik
Heftel	Nichols	Vento
Hightower	Nix	Volkmer
Hillis	Nolan	Waggonner
Holland	Nowak	Walgren
Hollenbeck	O'Brien	Walker
Holtzman	Oakar	Walsh
Horton	Oberstar	Wampler
Howard	Obey	Watkins
Hubbard	Ottinger	Waxman
Huckaby	Panetta	Weaver
Hughes	Patten	Weiss
Hyde	Patterson	Whalen
Ichord	Pattison	Whitehurst
Jacobs	Pease	Whitley
Jeffords	Pepper	Whitten
Jenrette	Perkins	Wiggins
Johnson, Calif.	Pettis	Wilson, Bob
Johnson, Colo.	Pickle	Wilson, C. H.
Jones, N.C.	Pike	Wilson, Tex.
Jones, Okla.	Poage	Winn
Jones, Tenn.	Pressler	Wirth
Jordan	Preyer	Wolff
Kastenmeier	Price	Wright
Kazen	Pritchard	Wydler
Kelly	Pursell	Wylie
Kemp	Quie	Yates
Keys	Quillen	Yatron
Kildee	Rahall	Young, Fla.
Kostmayer	Railsback	Young, Mo.
Krebs	Rangel	Young, Tex.
Lagomarsino	Regula	Zablocki
Latta	Reuss	Zeferetti
Leach	Richmond	

NAYS—20

Archer	Collins, Tex.	Robinson
Armstrong	Crane	Rousselot
Ashbrook	Cunningham	Rudd
Badham	Holt	Shuster
Bauman	Kindness	Symms
Brown, Ohio	Myers, Gary	Taylor
Clawson, Del	Quayle	

NOT VOTING—36

Abdnor	Jenkins	Mollohan
Brown, Calif.	Kasten	Rhodes
Clausen, Don H.	Krueger	Roberts
	LaFalce	Rodino
Evans, Del.	Le Fante	Satterfield
Fish	Leggett	Sisk
Flowers	Lloyd, Tenn.	Stockman
Foley	McCloskey	Teague
Frey	McDonald	Tsongas
Giaimo	Mathis	White
Goldwater	Mattox	Young, Alaska
Hansen	Milford	
Ireland	Miller, Calif.	

The Clerk announced the following pairs:

Mr. Rodino with Mr. Young of Alaska.
Mr. Le Fante with Mr. Abdnor.
Mr. Teague with Mr. Kasten.
Mr. Sisk with Mr. Fish.
Mr. Flowers with Mr. Don H. Clausen.
Mr. Jenkins with Mr. Frey.
Mrs. Lloyd of Tennessee with Mr. Hansen.
Mr. Mathis with Mr. Milford.
Mr. Miller of California with Mr. Evans of Delaware.
Mr. Tsongas with Mr. McCloskey.
Mr. Giaimo with Mr. Stockman.
Mr. Foley with Mr. Goldwater.
Mr. Ireland with Mr. Krueger.
Mr. LaFalce with Mr. Leggett.
Mr. McDonald with Mr. Mattox.
Mr. Roberts with Mr. Rhodes.
Mr. Mollohan with Mr. White.
Mr. Satterfield with Mr. Brown of California.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HAWKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12452) to extend and amend the Comprehensive Employment and Training Act of 1973, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. HAWKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12452, with Mr. NATCHER in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

Under the rule, the gentleman from California (Mr. HAWKINS) will be recognized for 1 hour, and the gentleman from Connecticut (Mr. SARASIN) will be recognized for 1 hour.

The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill, H.R. 12452, the Comprehensive Employment and Training Amendments of 1978.

This bill does not merely reauthorize the Nation's employment and training programs. It is a totally reshaped and restructured measure, the product of extensive oversight and bipartisan effort in

the Education and Labor Committee stretching back through the last Congress. I am particularly grateful for the leadership which Chairman PERKINS has shown in moving this measure to the floor. I also want to applaud the strong support and innovative contributions which the minority, particularly Congressman SARASIN, ranking minority member of the Subcommittee on Employment Opportunities, has contributed to this reform bill.

The Comprehensive Employment and Training Act is an essential tool to reaching full employment. Through its programs to target employment and training services to the structurally unemployed and to provide a triggered response to countercyclical unemployment, CETA is the Federal Government's single most effective, and least inflationary, employment program. Other factors including monetary and fiscal policies, must, of course, be employed in the Government's overall attack on high unemployment. But CETA has been credited as an important factor in the decline in unemployment over the past year. The amendments in the bill before the House today will strengthen CETA's ability to respond effectively both to structural and countercyclical unemployment for the long-term unemployed or those without skills. By emphasizing training, CETA programs can increase productivity, thereby reducing the inflationary pressures of current low productivity. This increased productivity can also be expected to substantially assist in balancing our unfavorable trade deficit.

The number of persons who are in need of and can benefit from CETA programs remain substantial. Overall, it is estimated that this needs population numbers at least 10 million men and women who comprise the long-term unemployed, the working poor, involuntary part-time workers and discouraged workers who believe there are no jobs for them.

Those who have been arguing that we no longer need public service jobs because unemployment was declining had a sobering jolt last Friday when it was announced that the jobless rate jumped from 5.7 percent in June to 6.2 percent in July, the largest monthly jump in unemployment since January 1975. Moreover, this national rate masks substantially higher rates of unemployment in certain areas of the country, including my own district in Los Angeles, and among some groups in the population: unemployment among adult women rose from 6.1 to 6.5 percent; among minorities from 11.9 to 12.5 percent; and for minority teenagers unemplovment maintained the depressing level of 37 percent.

Leading economic indicators suggest the possibility of an economic downturn in 1979–80. Should this occur, countercyclical PSE efforts as provided in this bill must be available to respond quickly to need. If this effort is reduced now, Congress would be faced with a certain delay in enacting legislation to deal with a possible recession. The committee bill provides a measured and responsible method of addressing countercyclical unemployment in a timely fashion.

Major criticisms have been raised against the CETA program in recent months: that the jobs and services do not go to those most in need; that there have been numerous instances of fraud and abuse in CETA programs; that CETA funds and workers have been used to substitute for local revenues and employees in the provision of basic municipal services; that inadequate attention has been placed on training and preparation for permanent unsubsidized employment; and that insufficient attention has been given to providing training and employment opportunities in the private sector.

The Education and Labor Committee has directly addressed these concerns.

First, tight restrictions have been placed on public service employment, including limits on the types of jobs which can be funded, limits on job duration to 18 months, sharp restrictions on supplementation of Federal wages by local governments, requirements that regular PSE jobs include training and support services and lead to unsubsidized employment, and the mandate that half the countercyclical PSE jobs be in projects of limited duration which are in addition to and apart from existing services.

Second, the committee bill restricts eligibility to those most in need. The bill establishes a permanent training and employment title for the structurally unemployed, those with limited education and skills and little or no incomes do not exceed 70 percent of the BLS lower living standard budget, or approximately $7,000 annual income. While the bill allows up to 50 percent of the funds for this title to be used for public service employment, sharp restrictions are placed on the type of employment and wages, and these jobs must include training and support services, and lead to unsubsidized jobs. Eligibility under the countercyclical public service employment, title VI, is limited to those who have been unemployed at least 8 weeks and whose family incomes do not exceed 100 percent of the BLS lower living standard budget. Half of these jobs must be in projects of a limited duration.

Third, the committee bill provides a flexible response to countercyclical unemployment by authorizing in title VI a public service employment program which will fluctuate in size with the rate of national unemployment. The intent of this title is to provide the means to quickly create new jobs when the regular market does not produce enough for those seeking work and to phase down when unemployment declines.

Fourth, the committee, in close cooperation with the administration, has taken a number of steps to address the charges of fraud and abuse in the CETA program. The bill authorizes the establishment of an independent Inspector General-type Office of Audits, Investigations and Compliance in the Department of Labor to investigate and prevent abuses; it establishes new criminal penalties for fraud and abuse, makes bonding of certain employees compulsory, and expands the Secretary of Labor's authority to withhold funds and take action against grantees.

Many of the press stories recently printed about fraud and abuse in the CETA program reflect this administration's determination to crack down on such abuses. The Department of Labor has already recovered $23 million in misused CETA funds and an additional $52 million are under investigation. While any such misuse of CETA funds detracts from the ability to provide jobs and training to those most in need, it should be remembered that there are tens of thousands of CETA grantees nationally, and that the questioned funds amount to only a fraction of 1 percent of total CETA funds.

Fifth, the committee has taken steps to assure greater participation by private sector employers in CETA programs and to provide increased employment opportunities in the private sector for CETA participants. A new title VII authorizes the private sector initiative program to place disadvantaged persons in private sector employment. The program will make additional funds available to CETA prime sponsors to enable them to expand and improve private sector employment and training services. In describing title VII, the U.S. Chamber of Commerce points out that,

> The proposed private sector initiative program has two very important functions. The first, a somewhat advisory role, is to assure increased private sector involvement in all employment and training programs. The second, an operational role, is to provide an effective delivery mechanism for placing CETA clients in private sector jobs.

These two functions are to be accomplished through the establishment of Private Industry Councils (PIC's) by local prime sponsors. The PIC's will be composed primarily of local business leaders, including small businesses and minority businesses. In addition to title VII, the committee bill includes a number of provisions to increase private sector participation in planning for all employment and training activities and for reduction of the paperwork burden which has restricted private employer participation in the past. The committee has received the strongest possible commitment from the private sector through organizations such as the National Alliance of Businessmen and private concerns including Chrysler Corp. and Control Data Corp.

Finally, while much of the criticism of CETA has been leveled at public service jobs, over a million persons are served by other CETA programs including 470,000 in classroom, on-the-job training, and work experience; 23,000 in Job Corps; and 230,000 in youth employment programs. An additional 1,165,000 are enrolled in summer youth programs. The committee bill continues the Job Corps, Young Adult Conservation Corps, skill training, on-the-job training, and other programs, and it emphasizes that public service employment must be designed to improve the employability of the participant and to lead to unsubsidized employment.

The CETA program is the Federal Government's single most effective means of addressing structural unemployment and providing a prompt and effective means of counteracting cyclical unemployment. I urge the House to support the reforms adopted in the committee bill and the new direction which this bill takes.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I would like to compliment the gentleman on his statement. I certainly think the committee is to be commended for the excellent job it has done. I have a couple of questions I would like to ask the gentleman which do not pertain particularly to the House bill, but rather to the corresponding Senate bill and the concerns that could arise pursuant to a current provision in that Senate bill.

In that Senate bill there is a section which would provide for a new Assistant Secretary of Legislation in Intergovernmental Relations in the Department of Labor. The person now holding that position would not have to be presidentially appointed to that job with the advice and consent of the Senate. I am wondering if there is anything like this in the House bill.

Mr. HAWKINS. There certainly is such a provision in section 8 of S. 2570. There is no such provision in the bill before us, H.R. 12452.

Mrs. SCHROEDER. I am delighted to hear the gentleman's response because, as the gentleman knows, I am chairman of the Subcommittee on Post Office and Civil Service. We have been struggling desperately to get these groups under a special policy so that we have some control and so that the Office of Management and Budget has some control over the number of supergrades.

Is the gentleman aware of the administration's position on this, or has the Office of Management and Budget made any request to the gentleman to put this provision in the House bill?

Mr. HAWKINS. No, OMB has made no such request. My understanding is that the Office of Management and Budget has raised some objections.

Mrs. SCHROEDER. The final question I have is, I believe that because the House is acting on the CETA bill first, if the Senate retains language dealing with changing this position, there might be no opportunity for the House Post Office and Civil Service Committee to offer its expertise on this matter unless some of its members have an opportunity to be conferees on this bill. Alternatively, the House rules would permit us to seek a separate vote on the provision if it appeared in the conference report, since it would be nongermane to the CETA bill as passed by the House of Representatives. I have discussed this issue with the chairman and the ranking minority member of the Committee on Post Office and Civil Service and they think, as I do, that some of our members should be conferees if any form of section 8 remains in the Senate bill. Would you object to such a request?

Mr. HAWKINS. It is always the practice, and certainly it is of this subcommittee, and I will speak to the chairman of the full committee, and I am certain he will agree, that it is always the position and we attempt in every instance to protect the jurisdiction of the House committees.

Mrs. SCHROEDER. I thank the gentleman very much for his responses.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from New York.

Mr. RICHMOND. Mr. Chairman, I rise in support of H.R. 12452, the Comprehensive Employment and Training Amendments of 1978.

Today we have the opportunity to approve legislation that will truly help hundreds of thousands of Americans and I urge my colleagues to support this measure and to oppose all crippling amendments.

I wish to commend my good friends, the distinguished chairman of the Education and Labor Committee (Mr. PERKINS), the chairman of the subcommittee on Employment Opportunities (Mr. HAWKINS), and my colleagues on the committee, for the meticulous consideration they have given this complex and important legislation over many, many months.

As the representative of the third poorest district in the State of New York, a district experiencing an appalling level of unemployment, I cannot stress too strongly the need for a national commitment to the training and employment of the disadvantaged, the minorities, the poor, the underemployed, and the long term unemployed.

In my district the unemployment rate is now 16 percent, and joblessness among minority youth is a staggering 30 percent. Unemployment on this scale is a national crisis.

When we deny to the youth of our Nation and to the poor the chance to be productive citizens who can participate fully in the economic mainstream, we turn our backs on an entire generation.

The CETA program, as initially intended by Congress and as it appears in the legislation before us, is a major step toward providing that generation and the disadvantaged men and women, especially in inner-city communities across our Nation, the training and employment opportunities necessary to help them become productive, proud, and self-supporting members of society.

I believe that the CETA program is the most effective mechanism we have for improving the lot of both the "structurally unemployed"—men, women, and young people whose lack of education, training or job experience foreclose them from participating in the labor market—and those unemployed individuals who are victims of fluctuations in the local or national economy.

The legislation before us builds on the experience of the first 4 years of the CETA program. It strengthens the areas in which past abuses have occurred. It is true that there have been some highly publicized incidents of abuse in the program. However, the strict eligibility requirements, the wage ceiling, the limitations on wage supplementation, and the time limits on participation in the legislation before us all address the problems of past abuse.

Most importantly, this legislation clearly refocuses the program on reducing the unemployment rate by providing training and employment opportunities for the disadvantaged and requiring that after a time-limited period, the CETA placement must lead to unsubsidized employment.

We need a strong, flexible, carefully targeted CETA program, which will help the disadvantaged of our Nation overcome the effects of unemployment, poverty, and discrimination. We need a CETA program which corrects and controls the abuses of the past. We need the CETA program desperately—without crippling amendments—before the national crisis of unemployment becomes a national disaster.

Mr. SARASIN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the Comprehensive Employment and Training Act. It has come under a great deal of attack of late. However, I sincerely believe that the abuses so widely reported in the press have given us a false impression. Admittedly, CETA is not a perfect program, but it is still a good one, and it deserves our support.

Beyond this, the people who should have benefitted from CETA deserve our support. They deserve our full attention to the most important national manpower program in 4 decades. and they deserve our every effort to improve the program before us today.

It has been over a year since I concluded, as a member of the then Subcommittee on Manpower, Compensation, Health and Safety, an exhaustive, across-the-country survey of the CETA program under the leadership of former chairman Dominick Daniels.

This survey produced nearly 4,000 pages of printed testimony, the primary thrust of which was to show that CETA was then suffering from severe management problems and program overkill. Under the leadership of our new chairman, Congressman HAWKINS, we have made susbtantial efforts in this bill to rectify the problems besetting the program.

Understanding the source of CETA's difficulties is essential to our overall understanding of the bill. First, a tremendous overload was placed on this young program by the passage of three-fourths of a million public service jobs and the intense pressure placed on local governments to reach this goal as soon as possible.

Second, this massive buildup almost necessitated a total lack of attention to any of the management problems that had developed. Third, there has really been a lack of defined purpose for CETA, largely caused by Congress' willingness to rapidly add new programs in an effort to solve new problems.

While problems of nepotism, patronage, and downright fraud—those most frequently cited by the newspapers—were solely the fault of the prime sponsors and program administrators, the

real culprit in this situation is the Congress. It was all too willing to fund the buildup of the 750,000 jobs recommended by the administration without giving the local governments the necessary support services to make the program work. In part, too, the severe problems can also be attributed to the administration's myopia in terms of building such a massive program—and expecting it to work—in a fortnight. This emphasis on rapid job creation severely undermined local management capabilities and has distracted local administrators.

No system of management could have survived this rapid increase without some fraud, some abuse, and some terrible cases of mismanagement. Indeed, it is something of a minor miracle that there were not more problems than we have already witnessed.

Fortunately, the committee did not overreact to these charges. We could have decimated this program; we could have centralized it under the Department of Labor; we could have severely restricted local authority and flexibility; we could have mandated unrealistic goals for prime sponsors. We did not, however, for several reasons.

The challenge of unemployment and underemployment can be met successfully only at the local level. It is there that an intimate understanding of employment opportunities exists. It is at the local level that an understanding of educational and training resources exists. It is at the local level that an understanding of the types of jobs needed by government and the private sector exists. The Federal Government simply cannot respond effectively to such localized problems.

While preserving State and local control over the program, we have made some significant changes in the rules governing CETA. Of particular importance are the changes included in the bill to address the problems of abuse, fraud, waste, and mismanagement. As we explained in our bipartisan Dear Colleague letter, these improvements include strict new criminal and civil sanctions against prime sponsors and subcontractors for misuse of program funds. We have established an Office of Audit, Investigation and Compliance that is patterned after the Inspector General. An Office of Management Assistance was developed to assist prime sponsors in improving their programs' effectiveness and in overcoming the lack of technical assistance that has given rise to so many of the difficulties. Finally, and of great note, we have added stringent restrictions to prevent substitution and abuse of public service employment funds.

The new legislation also responds to the special needs of citizens in this country. Displaced homemakers, Native Americans, the handicapped, migrant workers, veterans, and ex-offenders all have unique problems that must be addressed on a special basis. Title III adequately deals with these needs, and does so on a national level.

Title IV should command the support of the entire House. It is identical to the Youth Employment and Demonstration Projects Act which passed by such a wide margin several months ago. I can assure you that from all reports, it is undoubtedly the most successful and well run of all manpower efforts. Job Corps, too, has been included in this section, and it, too, has been operated relatively efficient and with good results.

Ttle VII, Private Sector Opportunities for the Economically Disadvantaged, is, for many of us, a long-awaited initiative. It recognizes that we must have private sector involvement in any manpower program if we want it to be a success. This is particularly important since 5 out of every 6 jobs in this country are found in the private sector and since the private sector now seems ready to work in partnership with the Governmnt to solve the problems of unemployment and underemployment.

The greatest cause for concern lies in the emphasis on public service employment and on wages affecting workers under titles II and VI. Despite the many improvements made, there are some who feel we have not gone far enough. Members of both the House and Senate Appropriation Committees have voiced serious concerns, and it is my hope that we will answer their reservations with reasonable changes.

Even under the much improved measure, 75 percent of the money allotted to prime sponsors—or nearly $6 billion—could go to PSE type activities. While public service employment should play an important role in any national manpower program, the question is one of degree. The history of this program is replete with evidence that PSE is the least effective and most costly program of all. Substitution has been a major problem estimated to run as high as 90 percent during the program's first years of operation. Even with the restrictions adopted in the last Congress, a recent Brookings report shows that over 50 percent of PSE slots continue to go toward sustaining existing services.

The most severe effect of PSE is the lack of assistance it provides participants. It has decidedly not gone to those most in need of services. The fiscal 1977 report of the Department of Labor on CETA client characteristics shows that of those employed under title VI PSE almost 80 percent had either a high school education or better, almost two-thirds were male, and only 20 percent were nonwhite. In comparison, of participants under title I, the current structural program which places heavy emphasis on training, nearly 50 percent had not completed high school, 50 percent were female, and over 40 percent were nonwhite. Then, too, while it has been difficult to secure accurate statistics, it appears that title VI placement in unsubsidized employment has been less than 3 percent, while those under title I have entered such employment at a far greater rate.

We must consider amendments to reduce title VI public service employment. We most certainly cannot eliminate it, quite simply because the local manpower programs would be thrown into complete disarray and our goal of fighting unemployment would suffer a serious setback.

We might want to consider restricting PSE under title II, thereby insuring greater emphasis on training for the structurally un- or underemployed.

We should focus our attention on both indexing and the supplementation of wages.

Whatever we decide to do today, however, I urge my colleagues to do so remembering that our first obligation is to meet what is still a very real problem for the unemployed and the underemployed. We must also do so with complete awareness of the problems facing local deliverers and those facing the economy as a whole.

I sincerely believe that CETA can be improved with a view toward maximizing its effectiveness for those in need as well as maximizing the return on the dollar of the American taxpayer.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I am happy to yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I appreciate the distinguished gentleman from Connecticut's yielding, and I congratulate the gentleman from Connecticut (Mr. SARASIN) for a thoughtful statement on behalf of the bill.

Mr. Chairman, may I ask the gentleman from California (Mr. HAWKINS) to comment on one part of the committee report on H.R. 12452?

On page 8 of the report the relationship between the Employment Service and CETA prime sponsors is discussed. It points out that the Department of Labor is presently conducting demonstration projects on methods to coordinate the activities of these two systems, and that the Secretary will be required to report to the Congress on these activities. Is it not true that the bill also contains in section 308 authority for the Secretary to continue to fund programs to promote the development of partnership agreements between the Employment Service and CETA prime sponsors and authorizes the Secretary to reimburse prime sponsors for costs associated with the implementation of a partnership and to provide incentives to insure that employment security agencies may participate on an equitable basis?

Mr. HAWKINS. If the gentleman will yield, Mr. Chairman, the answer is "Yes," and a very definite "Yes."

Mr. Chairman, I do take this opportunity to commend the gentleman from Wisconsin (Mr. STEIGER) for seeking the answer to this question. The contribution that he has made to this section of the bill, I think, is one of the far-reaching ones to bring the Employment Service into greater involvement and to encourage greater cooperation between local prime sponsors and the Employment Service.

Mr. Chairman, with that contribution I think the gentleman has made a very distinct addition to the bill.

Mr. STEIGER. If my colleague will yield further, I thank the chairman very, very much.

Mr. Chairman, given the fact that Congress will not be able to address changes in the Wagner-Peyser Act and

the relationship between the Employment Service and CETA until next year, I urge the Secretary to fully utilize his authority under section 308 and to continue to provide technical and financial assistance to CETA prime sponsors and local and State employment security offices which want to voluntarily pursue closer cooperation and coordination through partnership agreements. I would like permission to include at this point in the RECORD a statement as to why I further believe section 308 is important.

Mr. Chairman, the Federal Government supports two separate systems to assist individuals in finding employment. The U.S. Employment Service, established in 1933 by the Wagner-Peyser Act, is operated by the States and serves primarily as a labor exchange to help individuals seeking jobs and employers seeking workers. CETA, established in 1973, is operated by both States and local units of government primarily to plan, coordinate and operate concentrated employment and training programs for the economically disadvantaged and hard to employ. Prior to the establishment of CETA the Employment Service often operated similar programs under the old Manpower Development and Training Act. For a number of reasons Congress decided to create a separate system for delivering employment and training services to the hard to employ.

CETA and the Employment Service do not have exactly the same functions, but they do have related functions. At the time CETA was enacted there was much discussion as to how the Employment Service should be coordinated with it. Should CETA be required to utilize the Employment Service for job placement? Did the Employment Service lack credibility with the disadvantaged? How effective was the Employment Service? Finally, it was decided that CETA would not be required to use the Employment Service, but should strongly consider using it.

Needless to say this produced varying results throughout the country. In some areas there has been steady improvement between the two. In others there have been continued problems. There is no getting around the fact that the Federal Government is still sponsoring two organizations to deliver employment and training services and that neither Congres or successive administrations have really dealt effectively with the responsibilities and relationship between the two.

Frankly, I think there is merit to combining the two agencies, and on September 28, 1977, I introduced legislation, H.R. 9358, to abolish CETA and the Employment Service and create a new Comprehensive Employment Services Administration.

However, I realize such a step should involve much discussion, thought and planning on the part of a great many people. Thus, I was encouraged when the Labor Department decided to utilize some of its research money to fund eight demonstration projects to explore ways to improve the working relationship between CETA and the Employment Service.

A full report on the results of the demonstration projects is due this month I am told. Preliminary briefings indicate that they met with varying results. One in Suffolk County, N.Y. apparently fell completely apart. In other areas it was the first time CETA and Employment Service personnel in the community were able to sit down in the same room and discuss common problems and objectives—the relationships were that bad. In other areas while both systems had been trying to coordinate their operations the different organizational structures, funding mechanisms, planning cycles, definitions and reporting requirements made coordination difficult. The demonstration projects helped them make a concentrated effort to overcome these obstacles. There seemed to be one common denominator in all the projects. Not only did success require commitment and goodwill on the part of the personnel involved, it also required an investment of time and money. Those familiar with CETA and the Employment Service know that their budgets and personnel are generally targeted to specific projects and activities. This is why I believe it is necessary to make technical assistance and extra funds available to assist those prime sponsors and employment security agencies who want to put together more closely coordinated systems.

Legislative work still needs to be done on the relationship between the two systems, but until Congress makes the necessary legislative adjustments, I feel the Labor Department should continue to assist prime sponsors and employment security agencies who voluntarily want to work on improving their relationships and integrating their operations. This is what section 308 is designed to do, and I urge the Secretary to fully utilize the authority available to him under this section.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. PERKINS), the chairman of the full Committee on Education and Labor.

Mr. PERKINS. Mr. Chairman, today we begin consideration of H.R. 12452, the CETA reform and reauthorization bill. This bill reforms, streamlines, and reauthorizes a variety of employment and training programs which have served our Nation well over the past several years.

This is a bipartisan bill developed under the leadership of my good friend and distinguished colleague, GUS HAWKINS, chairman of the Subcommittee on Employment Opportunities. He and his colleagues on both sides of the aisle deserve congratulations for the months of hard work they have put into this truly comprehensive legislation.

The CETA reauthorization bill is designed to build on the accomplishments of the CETA program and to correct the weaknesses that have become apparent in the last few years. Since 1973 the CETA program has grown enormously, and that growth has led to some problems—which are directly dealt with in the reform bill reported by the committee.

One problem has been a confusion between the need for serving the hard core unemployed and for providing jobs for others who lost their jobs during the recent recession.

The committee bill deals with this problem by setting up two distinct programs: A program for the structurally unemployed in title II and a countercyclical program in title VI.

Each program is adjusted to meet its objectives in eligibility requirements, program content and funding arrangements. Eligibility for title II is limited to the economically disadvantaged; all components of the program, including public service employment, must have a training component and be designed to lead to unsubsidized employment, and the funding level is not related to the level of national unemployment.

Title VI has a less restrictive eligibility requirement in recognition of the fact that jobs in a recession are needed by a broader range of persons; the jobs are not required to have a training component because many enrollees will be able to return to their former jobs when conditions improve, and funding is contingent on the extent of unemployment. When full employment is reached, the need for this program will disappear.

This restructuring into two programs with distinct objectives and clientele will solve the confusion of roles that now pervades the different CETA programs.

Another problem encountered by the CETA program has been the widespread suspicion of fraud and abuse. I am concerned that insufficient manpower has been devoted to supervision, audit, and monitoring of prime sponsor programs during this rapid growth period and I am pleased that the committee establishes a special office of audits, investigation, and compliance in the Secretary of Labor's Office to monitor the CETA program, and the committee expects substantial resources to be devoted to it. Though this office will be incorporated in the Inspector General's Office when that Office is created under legislation that has already passed the House, the mandate in the bill to closely monitor this program will remain.

The bill as reported by the committee has eight substantive titles under which all existing programs are reauthorized and reformed.

Title I contains the general provisions and definitions applicable to the act. It provides an authorization for the programs through fiscal year 1982, except for the youth programs authorized by part A of title IV and the private sector initiatives authorized by title VII, which are only authorized through fiscal year 1980. The title also establishes the Office of Audits, Investigations, and Compliance and the Office of Management Assistance within the Office of the Secretary.

This title also contains new provisions governing the submission of comprehensive plans for all programs under the act and the general conditions governing wages and other conditions of employment and participation in the programs.

The bill makes very clear that the process of plan submission and plan approval is the key to an effective program—and the essence of the process is that the Secretary evaluate the program in the light of performance standards appropriate to the local labor market conditions.

This title also contains the basic reforms of the Public Service Employment program: A limit on duration of enrollment to 18 months; a wage maximum of $10,000 that may be adjusted up to $12,000 in high wage areas; an effective mechanism for limiting average wages in each prime sponsor area and a general prohibition on supplementing wages from local funds (this restriction is not applicable to all title VI slots).

Title II of the bill authorizes the comprehensive employment and training services which provide the permanent core of the CETA program. These services are targeted upon the structurally unemployed or underemployed and are to be provided regardless of national unemployment rates. The purpose of all activities—institutional or on-the-job-training, work experience, support services or public service employment—is to improve the employability and the earning potential of individuals who through the lack of skills, experience, or proper work habits, are unable to secure and retain employment or to earn enough to achieve economic selfsufficiency.

All title II activities must lead to unsubsidized employment. Expenditures for public service employment wages under this title are limited to not more than 50 percent of the total title II Allotment. Public service employment must be at entry level, be combined with training and supportive services and lead to unsubsidized employment. The bill prohibits supplementation of wages received under this program.

Eligibility for participation in these programs is limited to individuals whose family income is at or below 70 percent of the BLS lower living income budget. In addition, for entry into a public service employment program under this title, participants must not have been employed for more than 200 hours in the previous 10 weeks. Such criteria will target the program to those most in need without excluding individuals who are underemployed.

The bill includes a distribution formula that is designed to provide a minimum disruption in the continued funding of CETA programs and to reflect as closely as possible the funding provided under existing law. Since the committee has combined two existing titles into one, the revised formula established a ratio that is closely alined to the existing distribution of funds.

Simply put, two-thirds of the funds appropriated for the new title II (outside of 10 percent that is reserved for the Secretary's discretion) will be distributed under the "old" title I formula. This includes 50 percent based on a prime sponsor's prior year "manpower allotment," 37½ percent on general unemployment, and 12½ percent on low income. One-third of the funds will be distributed under the old title II formula on the basis of the number of unemployed in areas of substantial unemployment, defined as those areas where average unemployment over the highest 3 consecutive months of the year exceeds 6.5 percent.

The title also includes an upgrading and retraining program, designed to assist persons operating at less than their full skill potential.

Title III contains special programs for persons who have a particular disadvantage in the labor market, including Indians, migrants and seasonal farmworkers, the handicapped, and displaced homemakers. The title also authorizes welfare demonstration projects, a veterans information and outreach program, and partnership demonstration programs between prime sponsors and State employment security agencies. Funds available for this title are limited to an amount equal to 20 percent of the funds appropriated for title II.

Title IV authorizes all the youth programs except the Young Adult Conservation Corps, which is authorized under title VIII. Programs under title IV include the youth employment and demonstration projects. Job Corps, and the summer youth programs, the youth employment and demonstration programs were originally authorized for only 1 year because Congress wanted to test the efficacy of each approach. Since most of these programs have only recently begun to operate. the committee has recommended that their authorization be extended for 2 more years. This will enable Congress to properly evaluate the results of these programs. The programs authorized in this part are exactly those which were included in Public Law 95–93, except for the addition of integrated pest management as an eligible activity under the youth employment and training programs.

Title V authorizes a National Commission for Employment and Training Policy.

Title VI authorizes a countercyclical public service employment program. The key concept embodied in title VI is that the level of countercyclical public service employment should vary with the rate of national unemployment. It should increase as unemployment goes up and, just as important, it should be phased out as we reach full employment. The committee found no practical way to vary the appropriation or authorization level directly with variations in the unemployment rate. Instead of such an automatic trigger, the bill contains a declaration of purpose that the level of public service employment under this title should be sufficient to fund jobs equivalent to 25 percent of the number of unemployed in excess of percent of the labor force.

The Secretary of Labor is required to report quarterly to the Congress on his estimate of unemployment for the following fiscal year and to translate the congressional intent into a budget estimate. The committee hopes and intends that the Congress will through the appropriations process, provide sufficient funds to fulfill the goal stated. As this goal will vary, the bill contains no specific authorization level for title VI. This title retains the allocation formula in current law.

Title VII provides a 2-year demonstration program to test the effectiveness of a variety of approaches to increase the involvement of the business community in employment and training activities supported under this act, and to increase the private sector employment opportunities for economically disadvantaged persons.

This new title has received an enthusiastic response by almost every sector of private industry. Let me quote from a letter sent to me last week by Mr. Ruben F. Mettler, chairman of the National Alliance of Busines:

> Title VII is the product of many parties in the manpower community working together to pool our knowledge and experience for reducing structural unemployment. These parties include the National Alliance of Business, representatives of the AFL–CIO, various small business organizations, the business roundtable, the committee for economic development, the U.S. Chamber of Commerce, the National Association of Manufacturers, the Business, Council, the Departments of Labor, Commerce and Housing and Urban Development, and the domestic policy staff at the White House.
>
> The title VII concept, as embodied in the marked-up version of H.R. 12452, is already a proven concept in a few communities. We now ask your support to preserve Title VII intact so we can expand a workable concept across the entire CETA prime sponsor network.

Title VIII as mentioned before reauthorizes the Young Adult Conservation Corps in the Department of Labor.

With the changes made in this bill, the CETA program can provide help to the unskilled, the unemployed and to the Nation. I hope all Members will support this constructive reform.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 12452. I would like to address my remarks to two major issues which the Members will consider today: Reducing CETA wages and limiting the number of positions in title VI.

REDUCING WAGES WILL ALLOW ONLY THE MOST MENIAL OF JOBS IN THE PROGRAM

The committee's bill contains the following wage provisions: a $10,000 maximum federally subsidized wage which may be adjusted up, to 20 percent for high wage areas; a national average wage of $7.800, adjusted for high wage areas and increased annually by changes in the consumer price index; and supplementation of the Federal wage of up to 25 percent of the maximum contribution.

Under the amendment which will be offered by the gentleman from Wisconsin (Mr. OBEY) the following would be implemented as I understand it:

A $10,000 maximum Federal contribution; supplementation only for high wage areas and only up to 20 percent of the maximum; the average wage would be set at $7,000, adjustment is not provided for except at the discretion of the Secretary of Labor.

On the surface this may appear to be an attractive proposal. I ask each Member to look beyond the surface to see what effect it will have in your district.

Remember that CETA is a 4-year bill, ending in 1982. At the end of 4 years, the maximum wage would be $10,000 or $12,000—if supplemented by the locality. That is in 1982, the highest CETA wage will be the same as in 1979.

Consider the effect that this amendment will have on the position of grade I file clerk, currently one of the lowest paid CETA jobs.

According to figures released by the Labor Department last month, the average annual salary, nationwide, of a grade I file clerk is $6,621, as of March 1978. This salary increased 7.6 percent since March of 1977 and has increased annually by an average of 7.8 percent since March of 1973. The latest yearly consumer price index—March 1977–78—has increased by 6.5 percent.

If we take the current annual salary for grade I file clerk and apply the same rate of salary increase, we have the following situation:

In the first year of the program, the clerk will earn $7,124; this is $124 above the nationwide average of $7,000. Even if the national average is adjusted for the next 3 years of the program—and the amendment does not require this—the national CETA would reach only $8,456 by 1982, assuming the current CPI rate. By that time, the salary of the file clerk will be $8,873, or over $400 above the national average wage for CETA.

The question we must ask ourselves is: If the current lowest paid CETA position will be above the national average by 1982, what kind of position can be created in our districts below the national average to provide the balance?

If we take a more advanced clerical position such as secretary, level I, the situation worsens. According to DOL figures, a secretary earns $9,801 annually; that is a private sector level 1 position. Adjusted by the 7.6 percent average increase in clerical salaries, by the third year of the program, a starting secretarial position will be over the allowable wage even when supplemented by the locality; it will be $12,209.

In the 4th year of the program, a level I secretary—using today's projection—will be making $1,137 more than the allowable CETA maximum wage when supplemented; that is $13,137 annually.

These are the kinds of positions that the committee has in mind to create employment opportunities. They will not take CETA into the newspapers and the newsmagazines. We are not talking about jobs for policemen, firemen, teachers, chemists, engineers, or scientists; they are gone as a result of the committee bill.

If this amendment prevails, the CETA system will not be able to provide employment opportunities but for the most menial positions; only a few clerk positions and no secretarial positions by the third year of the program. This is not reform. It will render the program useless.

REDUCING TITLE VI WILL HURT MORE THAN HALF OF THE PRIME SPONSORS IN THE NATION

Amendments are expected to be proposed to reduce title VI of CETA. The committee bill provides for funding for positions for 25 percent of the unemployed in excess of a 4-percent unemployment rate in title VI. An amendment may be offered to alter this trigger. The net effect of proposed amendments to the trigger would be to reduce by up to haif of the number of jobs available under title VI.

I know that a great many Members have expressed interest in cutting title VI positions. Again, I ask the Members to look at the situation in each prime sponsor area in your district to see what effect such an amendment would have.

This title is intended to assist those areas still suffering from high unemployment; in these areas the recession has not abated nor has the need for title VI. If your district has suffered from factory closings or mill closings, it will need title VI.

Of the 450 prime sponsors, 226—half plus one—still have unemployment rates, for the first 3 months of this year, in excess of 6.5 percent; 269 of the 450 have unemployment rates in excess of 6 percent. In bringing this to your attention, I am not just speaking about New York City—which has an unemployment rate of 9.7 percent, but also of prime sponsors in every region in the Nation.

The State of Alabama, for instance, this year still has a statewide unemployment rate of 6.5 percent; within the State of Alabama, the Huntsville and balance of State prime sponsors have unemployment rates reaching 8.4 percent. Under the amendments to change title VI, the State of Alabama with its substantial unemployment could lose more than half of its title VI funds. The same will happen in New York and New Jersey, Delaware, Pennsylvania, California, Illinois, Indiana, Georgia, Louisiana, North Carolina, to name just a few.

The Members who are proposing the cut in title VI say that the current program is not reaching those who are most in need and—citing current experience—that this title is ripe for abuse.

It may be that current law is too flexible. The committee's bill, however, is a strict document. There are new eligibility requirements in title VI which will allow only persons from families with incomes at 100 percent of the lower living standard who have been unemployed for at least 8 weeks to have these jobs. There is not only a limit on the wages to be paid, but there is a limit on the number and percentage of jobs which may be supplemented.

The proponents of these amendments say that they would like to see more transitioning of CETA employees into the private sector. The members of the committee would like to see the same which is why this legislation contains a $400 million private sector component.

But for those areas which have a shortage of private sector jobs—half of the prime sponsors—what is the alternative to title VI?

The CETA system in the 1978 amendments provides some relief for our national unemployment situation. Further cutbacks will cripple CETA's ability to help people to obtain unsubsidized employment. They will, in fact, increase their dependence on other public services.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Missouri.

Mr. CLAY. I thank the gentleman for yielding.

● Mr. Chairman, the Comprehensive Employment and Training Amendments of 1978 would affect offenders through improvements in the general workings of CETA, and through its provisions relating to the reduction of artificial barriers to employment.

Since 1973, DOL's national office strategy for offenders has consisted of model development and technical assistance to prime sponsors. No direct funds for continuing programs, such as existed under MDTA, have been available for offender programs. What little assistance that has been available has rarely gone to prime sponsors. Previous efforts to assist the States in gaining a planning capability have not been followed up, nor were these well developed efforts at the time of implementation.

A review of the CETA experience shows that the existing legislation is not enough. For this reason, I introduced several amendments in full committee that would require prime sponsors to provide for the needs of offenders. The prime sponsor structure is geared to localities where most criminal justice service is provided. Prime sponsors at the balance of State can deal directly with State CJA's. The Governors coordination and special activities unit can deal directly with State CJA's. Prime sponsors in cities and counties can deal with both State and local CJA's, including nonprofit and community-based organizations.

In addition, prime sponsors have the resources to provide a broader set of service options to an ex offender than other existing agencies, including vocational rehabilitation. Outreach efforts are particularly needed to assist offenders who are in prisons, jails, or under community supervision by criminal justice agencies.

Where offender programs do exist, they are often fragmentary in scope and effect. Coordination between correctional institutions and community supervision is still lacking in most jurisdictions and even less common between criminal justice and CETA. This is an additional reason for encouraging primes and CJA's to work together. A means to increase such cooperation is to provide special funds under title III of CETA for comprehensive coordinated progarms. Developing coordinated actions among the Federal Government, the States, and the prime sponsors should be a title III responsibility of the Secretary. I would also encourage the use of such activities as mutual agreement parole (coordinating corrections, parole and service providers) and multiservice centers in urban areas (one location for employment and training assistance, drug and alcohol treatment, legal aid, et cetera).

DOL should not fund criminal justice agencies directly, except in cases where

the local prime sponsor refuses to provide services; then DOL could fund other agencies (CJA or nonprofit) for that locality.

Existing provisions relating to artificial barriers are not adequate. Both the Secretary and primes should be given more specific responsibilities to reduce barriers to employment. Criminal records should be explicitly recognized in the amendments as being a barrier. Each party to CETA (DOL, primes, contractors, et cetera) should be required to review all activities that result in artificial barriers to employment, to develop programs, and to report on the results of the activities designed to reduce such barriers.

Mr. Chairman, the amendment to the eligibility criteria in section 125, subsection 25 is expressly designed to insure that offenders incarcerated in prisons, jails, and other correctional facilities will be eligible for all services without having to pass any durational test and without having to demonstrate availability for work.

Owing to disparities in eligibility criteria among the different titles under current statute, there was an ambiguity about incarcerated offenders' eligibility for title VI services because they were technically not available for work. That ambiguity evidently resulted in some prime sponsors refusing to certify offenders as eligible for public service employment until 15 weeks after their release.

The proposed amendment was fashioned precisely to clarify the ambiguity by precluding an interpretation which would bar offenders' access to CETA services during incarceration or immediately on release.

Some argue that we are granting more liberal eligibility criteria for offenders and ex offenders, than for others who have employment and training needs.

Mr. Chairman, that is perhaps best addressed if we think for a moment of the relationship between recidivism and unemployment. We are all painfully aware of the alarmingly high rate of recidivism and that unemployment contributes very heavily to it. The costs associated with the provision of training, skill development and job placement are no where near the cost to the public of maintaining an individual in a penal institution or facility. Moreover, there is no question that the benefits to the offender and to society are greater if resources are applied to increasing the individual's ability and aspirations in becoming a productive member of society, rather than a continuing liability. Former inmates need help in locating or preparing for employment the very day they are released—not several weeks or months later when it may well be too late. Delaying employment and training assistance is a disservice to offenders and to society, and I believe it would be a continuing inconsistency with the notion of serving those who are most in need of assistance first.

Mr. Chairman, it appears that the current performance indexes very often serve as disincentives to prime sponsors in the provision of services to certain segments of our population who are viewed or believed to be "difficult to place." My concern with current performance standards or indexes is that they do not allow prime sponsors to be credited for expenditures of time and resources directed toward individuals who have severe skill limitations, poor work history, or who suffer unduly from real and artificial barriers to employment. Although prime sponsors are encouraged to work with such segments of the population, they are in effect penalized when the yearend tally is made. Clearly, it takes more time and often more money to train and impart necessary skills to some groups than others. Current performance indexes fail to take this factor into account.

Therefore, it would seem appropriate and desirable to develop a measuring instrument to gage prime sponsor's performance with respect to successfully serving population segments as offenders, ex offenders, handicapped, and others.

Perhaps this could be one of the tasks of the National Commission for Employment and Training Policy, as provided for in title V of the act.

Mr. Chairman, the proposed legislation deletes previous wording from section 454 that pertains to the special screening of prospective recruitees having histories of serious and violent behavior against people or property. Some have asked if it is necessary to the protection and interest of Job Corps and those communities surrounding Job Corps centers that the programs maintain a waiver procedure for these serious law violators?

It is my understanding that the Job Corps experience strongly suggests that subsequent to enrollment, there is very little behavioral difference between persons who have serious records of antisocial behavior and those who do not. Until and unless strong evidence is presented to support the contention that the two groups need to be addressed differently, there is no justification to raise needless barriers to participation in Job Corps. Moreover the extra time, effort, and money required to undertake background searches and to seek waivers seems to me a poor use of resources that could otherwise be applied to expand programing.

Mr. Chairman, for the record, I offer the following clarification of those amendments adopted in full committee which pertain to offenders:

LEGISLATIVE INTENT OF OFFENDER AMENDMENTS ADOPTED BY THE FULL COMMITTEE ON EDUCATION AND LABOR

Section 103(b)(2)(B) would require sponsors to describe plans that address the needs of persons who face particular disadvantages as identified in Title III, particularly offenders who constitute a potentially large client population of the prime sponsors. Given the decentralization which is inherrent in CETA, this can best be accomplished by integrating the provisions of the Act [i.e., Sections 103(b)(2)(B) with Section 301(c)]. Maximum flexibility would still remain with the prime sponsors who can bring the most resources and experience to bear on the problems.

Section 103(b)(2)(C) would require prime sponsors to eliminate all artificial barriers under their control since PSE job holders can be expected to seek permanent jobs with the prime sponsor's managing agency, the political units making up the prime or with the agencies contracting with the prime for PSE job placement positions. This logic would also lead the prime to require that any contractor with the political units making up the prime, review and eliminate any artificial barrier to employment that it might have. This is not an onerous burden on employers, since it merely asks the prime to enforce existing law under EEOC or state and local human rights laws. Similar provisions relating to artificial barriers can be found in Sections 109(e), 121(a)(4), and 311(h).

The phrase "artificial barriers to employment" [Section 125(3)] includes obstacles to employment (faced by persons such as offenders) which prohibit or restrict employment for reasons unrelated to an individual's fitness or ability to perform a patricular task, generally because of reactions to his or her status or past misconduct. An artificial barrier would refer to job requirements, policies, or practices which do not bear a direct relationship to requirements of the position or license sought.

The definition of "offender" [Section 125(17)] would spell out that employment and training assistance includes help in overcoming an artificial barrier to employment. This means that traditional manpower services are not complete in themselves with respect to offenders, and program placement rates may suffer if employment barriers are not dealt with. Yet, few prime sponsors are aware that many of their clients are offenders. Thus prime sponsors must deal with the consequences in the labor market of past criminal contact, including mere arrests. One rationale for using arrest as the basis of the offender definition is that arrest information, even absent conviction, can result in a substantial barrier to employment. The definition would also include those "court eligible," meaning those subject to any stage of the judicial process, pre or post conviction.

Subsection 125(25) adds to the definition of "unemployed" those persons institutionalized in prisons and who are seeking work. The omission of this language would have overruled the existing practice of using PSE jobs as a mechanism for temporary transition to labor market reentry on behalf of offenders.

Section 301(c) is designed to clarify the intent of Congress by insuring that emphasis will be placed on offenders, particularly those who are currently under the jurisdiction of the criminal justice system or who were recently released from custody or supervision. The language emphasizes programs that provide comprehensive services, and opts for program models that build linkages with other social and employment agencies. Offender clearinghouses and multi-service centers are two such examples.

Discretionary grants under Title III may also be used to underwrite the start-up and planning/evaluation costs associated with state or local prime sponsor offender initiatives. This grant-making ability would also apply to community groups and other private organizations, but nevertheless, the primary focus would be on the state (Governor's office) and the prime sponsors.

Finally, in order to monitor the implementation of this provision, the national offender office shall conduct an annual survey of prime sponsors and states receiving CETA funds for the purpose of assessing the scope and implementation of offender programs. This provision would complement Subsections 103(b)(2)(B) and (C) by allowing the national office to monitor the implementation of prime sponsor plans for Title III recipients.

The intent of prohibiting the use of criminal histories in Section 454(b) as the sole criteria for a position with Job Corps is twofold: (a) it is an artificial barrier and (b) it

has been used to screen out individuals with relatively minor offenses whose continued experiences in the community may lead to greater criminal involvement.

An individual should be considered acceptable to Job Corps until that individual's conduct proves itself inimical to the Job Corps, assuming the Job Corps will help to overcome the individual's problem.●

Mr. SARASIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I first want to commend the chairman of the subcommittee for his most excellent work on this bill. I would also state that the bill we have come out with so far exceeds the present law that I would hope that in the final analysis Members would support the bill regardless of what happens.

Mr. Chairman, the CETA program has had a lot of problems over the last few years. I feel that many constructive and important changes were made during subcommittee and full committee markup by the Education and Labor Committee. The committee bill consolidated all of the administrative provisions into title I, greatly simplified the reporting procedures and the amount of paperwork required of prime sponsors, placed time limits on the length of enrollment in CETA, and separated out programs which deal with countercyclical unemployment from those which deal with structural unemployment. An effort was made to reduce the widespread fraud and abuse in this program by strengthening the management and auditing procedures, and by creating an Office of Audits, Investigations, and Compliance in the Department of Labor. The bill contains sanctions and remedies against prime sponsors and contractors who misuse funds. Technical assistance from DOL, almost totally lacking at present, will be provided by the new Office of Management Assistance.

I commend my colleagues on the Education and Labor Committee, especially the gentleman from California (Mr. HAWKINS) and the staff members from both the minority and majority sides for their cooperation and constructive approach to this bill.

However, this legislation is far from perfect. One of the major problems is that the funding under this act does not target the population most in need of employment and training assistance, youth. The most recent Bureau of Labor Statistics report shows that overall teenage unemployment rose from 14.2 percent in June to 16.3 percent in July. This represents 1.5 million youths, aged 16–19, who are actively looking for work and cannot find any. The unemployment rate in the age 20–24 bracket is slightly better, at 9.9 percent, but the numbers are the same: an additional 1.5 million young people are looking for work. A look at black teenage unemployment is even more dismal: BLS reports that the unemployment rate for this group is 37 percent.

With these kinds of statistics, it would seem that this bill would target its funds in the area of youth unemployment. But a look at funding for the past 2 years shows us that in 1977, we spent almost four times as much on public service employment as on all the youth programs in the bill. In 1978, we spent almost three times as much on PSE as on youth—even though youth unemployment rate is nearly three times as great as overall national unemployment.

PSE has grown from a $440 million program in 1974 to an anticipated $6.2 billion program for fiscal year 1979. It is too big. It is wasteful. It is inflationary. It directs money away from those who are most in need of employment assistance—our Nation's youth, minorities, and disabled.

Transition into private sector employment from PSE has been abysmally low. A March 1978, GAO report points out that during fiscal year 1977—during which we spent almost $3 billion on PSE—only 22 percent of the VI PSE enrollees nationwide were terminated from the program. Of this 22 percent, only 43 percent found unsubsidized employment upon leaving CETA. Of the 22 percent, only 38 percent found unsubsidized employment in the private sector.

I plan to offer an amendment which I feel will help us emphasize our true employment priorities by restoring balance to the funding under this bill. Simply stated, the amendment will reduce funding for PSE to about the same amount spent on the youth programs in titles IV and VIII, and the private sector initiatives for the economically disadvantaged in title VII. This will result in an overall reduction in spending of over $1 billion on PSE, half of which will be channeled into the youth and private sector programs. This takes over $1 billion out of the inflationary part of this bill, and reduces total expenditures by over $500 million in fiscal year 1979, and probably more in subsequent years. The amendment would cap title VI except as set forth below.

This amendment provides, however, that in the event that the Secretary of Labor projects unemployment in excess of 6.5 percent for the next fiscal year—pursuant to the provision in section 602—then the wording of the current bill would apply, and the ceiling would be lifted. Such sums as are necessary would be authorized consistent with that section.

On the other hand, should unemployment be reduced as projected by the committee report, such that sections 601 and 602 would indicate a lower authorization, such lower authorization shall apply.

This amendment gets at many of the key problems in CETA—the need for increased targeting of the youth population, the need for more private sector involvement, and the need to reduce PSE, a program which not only has not proven to be successful in training people for unemployment in the private sector, but also has contained most of the fraud and abuse in the bill.

Another population which faces many barriers to employment and training is the handicapped.

The committee felt that the handicapped had not been adequately served under CETA in the past, and therefore adopted several of my amendments which strengthened the commitment of the CETA program to serving the handicapped. Enrollment rates for handicapped persons represent only 4 percent of all persons enrolled in title I programs and 2.8 percent of PSE slots under titles II and VI during the 15-month period ending September 30, 1976. More recent DOL statistics indicate that for the first three-quarters of fiscal year 1977, the participation of handicapped individuals was 4.7 percent for title I and 3.2 percent for titles II and VI.

Census information indicates that there are several million employable but unemployed handicapped. Most of these individuals are in the "discouraged worker" group. They create a high social cost. It is obvious that the present CETA program has not reached out successfully to this group. My three technical amendments clarified the definition of "handicapped individual," included "rehabilitation facilities" in the listing of "community-based organizations," and clarified the status of handicapped individuals working in sheltered workshops. My two major amendments which the committee adopted were an affirmative action program and a title III program for training aides to assist the handicapped.

These provisions represent a large step ahead in the participation of the handicapped in the CETA program, but there is another side to the issue. In the last few years, Congress has passed several mandates to end discrimination against the handicapped: The Education for All Handicapped Children Act (PL 94–142), The Education Amendments of 1976 (PL 94–482), and the Vocational Rehabilitation Act of 1973, sections 503 and 504 (PL 94–112). These Federal mandates will create jobs in the handicapped-services field, and by training people to perform such tasks as interpreting for the deaf, reading for the blind, working as teacher's aides, we are helping the handicapped overcome many of the barriers to their employment, as well as providing employment for a number of other people.

There is a demonstrated need across the country for services of this kind. The last census estimated that there are nearly 12 million handicapped individuals in this country between the ages of 16 and 64 of which about are employable but unemployed. The two greatest barriers to the employment of the handicapped are the lack of qualified persons to provide special services, and the still-prevalent and widespread occurrence of architectural barriers. These two problems represent the communication and physical barriers which restrict the employment of the handicapped, and in turn create attitudinal barriers in the minds of employers, who shy away from what they feel will be large costs with minimal returns.

The aim, then, of my title III demonstration program is to train people to meet one of our national priorities, services for the handicapped, as well as to train people for existing jobs in the pri-

vate sector. I plan to offer an amendment which would guarantee funding for this program.

Another such area, where we know jobs will be available is the development, use, and repair of alternative energy and conservation technologies. There has already been some training of this type within the CETA program, such as weatherization projects for low-income elderly. Technologies of this sort have a greater jobs-impact than large-scale technologies, and I was able to add three amendments to the CETA bill which would add programs in this field to the demonstration titles.

Another area in which this bill should expand is in training people for self-employment. I plan to offer amendments which would set up programs to train people in management techniques, business communication skills, motivational training, special problems in business operation, preparation of financial statements and loan applications, record-keeping, and other skills necessary in setting up a small business. These programs would be closely connected with the private sector, and will ultimately prepare a person not only to be employed, but to employ others.

There are still a few areas of this bill which need some attention. I have developed amendments to further deal with duration, funding, and eligibility for PSE programs.

One amendment established a priority in the bill that those most in need of employment and training shall be served first. Another limits the length of "special projects" in title VI. Currently, they may be "of limited duration," and I can see no reason to have a project exist longer than 2 years. A project has a beginning and end by definition, and is supposed to complete a task, such as neighborhood cleanup, which is not being performed by existing government programs. To have an open-ended time requirement, again, can easily lead to the abuses which we are trying to weed out of this bill.

I will offer an amendment to limit participation in any public service employment program to 18 months in any 5-year period, rather than the 18 months in and 3-year period now in the bill. This is an equal opportunity amendment which gives more people a chance to participate in the CETA program. It will also increase transition from the program into unsubsidized employment by preventing the movement of participants from one title to another in the bill.

Another amendment will reduce the amount of funds that can be made available for PSE under title II, the structural unemployment title. PSE will be phased down on a gradual basis from 50 percent to 25 percent over a 4-year period. The total possible allocation for PSE under titles II and VI exceeds $6.2 billion. I would rather see this title II money—$2 billion—spent on structural employment and training programs than on PSE.

I feel that with the inclusion of these amendments, the CETA bill will be an effective mechanism for combating the Nation's unemployment. These amendments not only improve the content of the bill by adding necessary programs and priorities, but they greatly reduce the inflationary impact of this bill.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I rise in support of this legislation.

Mr. Chairman, I wish to identify myself with the remarks of the other members of our committee who have spoken about the tremendous effort put into this legislation by the gentleman from California (Mr. HAWKINS) as the chairman of the subcommittee and by the gentleman from Kentucky (Mr. PERKINS) as the chairman of the full committee.

Mr. Chairman, as a member of the Education and Labor Committee and Task Force to insure CETA reauthorization, I urge swift passage with no weakening amendments of the Comprehensive Employment and Training Act Amendments of 1978. This bill, which would correct many of the deficiencies in the program, will extend authorization for another 4 years.

The bill, as reported by the committee, is supported by the U.S. Conference of Mayors, the National League of Cities, the National Governors Association, the National Association of Counties, the AFL–CIO, AFSCME, CWA and the Council of Great City Schools.

With the unacceptably high unemployment rate this month of 7.3 percent in Michigan and the recent upturn in the national unemployment rate, reenactment of this program should be one of our highest priorities. CETA has been especially important for my own State of Michigan, whose economy is often particularly sensitive to cyclical economic downturns.

CETA was enacted in 1973 and reorganized the delivery system for the employment and training programs that had developed under the Manpower Development and Training Act, the Economic Opportunity Act and the Emergency Employment Act. These programs were decategorized and a system of 450 prime sponsors at the local level was created as the backbone for local delivery of services. This partnership between the Federal Government and local governments has proven to be the single most important effort this country has mounted to ameliorate the problems of unemployment for both the structurally and temporarily unemployed.

CETA had hardly been put into place when it was faced with the new and difficult challenges created by an almost doubling of unemployment rates from 1973 to 1975. In response to this rising unemployment, Congress called on the relatively young and inexperienced program to carry the brunt of the Government's response to reducing unemployment. Changes in law, unpredictable appropriations, and lack of clarity in the intent of the law significantly contributed to management problems for both the Federal and local governments. While the much publicized, but isolated abuses of the CETA program were almost inevitable considering the rapid growth and modifications of the program made necessary by the recession, CETA has proven to be an effective and indispensable tool in providing training and employment for many Americans, while at the same time supplementing important community services. For every news editorial criticizing CETA, often with half truths, I have received hundreds of letters from CETA and former CETA employees praising the program for the opportunities it has opened up for them.

It has not been an easy task to attempt to modify CETA in order to minimize future abuses of the program without seriously undermining the flexibility necessary for the system of local planning and delivery. But the subcommittee under the leadership of Mr. HAWKINS with the support of Chairman PERKINS and the committee have worked long and hard in a sincere effort to reach that balance, while providing for an effective, efficient, and workable CETA program.

The bill as reported makes significant changes and reforms in the program. It establishes two distinct employment programs: A program for the structurally unemployed in title II and a countercyclical program in title VI. The tension between these goals, which often led to countercyclical objectives overwhelming the structural unemployment component, should be ended. It places eligibility requirements on participation in both the title II and title VI public service employment (PSE) programs, limits the length of time an individual can be enrolled in a CETA program, prohibits all wage supplementation title II PSE programs and sharply restricts it in title VI programs, and restricts funding for title II PSE jobs to 50 percent of the title II allotment. It requires 50 percent of all title VI PSE to be in projects and all nonproject PSE jobs to be entry level positions. In addition, it requires that all title II PSE jobs lead to regular unsubsidized employment and be combined with training.

While some have claimed that these changes have gone too far, many others are mounting a strong effort today to pass amendments that restrict the program even further. These amendments, if passed, would seriously threaten the ability of prime sponsors to effectively carry out the program.

Amendments that would either decrease the maximum wage further, eliminate the area indexing of wage levels, eliminate future cost-of-living adjustments in the average wages, establish additional prohibitions to wage supplementation, eliminate the provision of fringe benefits to PSE workers, or provide subminimum wages to youths should be rejected. Such amendments would guarantee a double-track public employment system: a higher track for regular public service employees and a lower one for CETA workers.

Two very unfortunate results would occur. First, hard-pressed municipalities

would face intolerable pressures to displace current civil servants and substitute CETA workers in their place, in an effort to preserve local funds. Second, CETA employees would be looked at as low-ranking and stigmatized employees, thereby robbing them of the dignity that experience in CETA work is supposed to engender. Consequently, the bill should retain the fundamentally fair principle of equal pay for persons doing equal work—a principle that is best achieved by retaining the wage structure in the committee's bill.

Other amendments that are anticipated today seek: to further limit public service employment salaries from $15,000 to $12,000 in high wage areas and $12,500 to $10,000 in low wage areas; to cut the average CETA salary from $7,800 to $7,000; to cut the number of PSE job slots; and to phase out entirely title VI countercyclical job slots.

Unless these amendments are defeated, existing local government operations will be seriously disrupted and the CETA program itself could be endangered. The greatest tragedy, however, would be for the thousands of unemployed and underemployed Americans that seek to live productive lives, should this vital program be undermined. CETA offers these Americans the chance—sometimes the last chance—of significantly reducing the human misery that often results from lack of skills, experience and meaningful work opportunities.

I ask my colleagues to join me in opposing these amendments and in strongly supporting this legislation.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Chairman, I join my colleagues in supporting H.R. 12452. I think Chairman HAWKINS of our distinguished committee has done an outstanding job and worked very, very hard to bring this bill to this point.

Certainly support has to also go to Chairman PERKINS of our full committee.

Mr. Chairman, I think the issue here today is the destiny of the 750,000 individuals that are working under this program.

I think this is the main consideration. There will be a good many amendments offered later on in the proceedings after general debate. Some of the amendments will be accepted, but some of them will be just "demagoguing" the bill, offered by Members trying to get publicity back home. Those amendments should be rejected.

I think what we must consider is what would happen if this bill were scuttled. What would happen to unemployment in various States? In my own State it would be catastrophic.

We know there have been some abuses in some areas, but the chairman and the members of the committee did something about that. There is allowance in the bill that strengthens the law to cut down on possible abuses. I think this was needed, and this is one of the strong points of the bill.

But, Mr. Chairman, the main thing is that we must consider the people who are presently working and those people who will work under this program.

As I say, the bill is not perfect, but it will help to bring the bread home. It will help the young people, the old people, and the handicapped who fall under this bill by providing them with meaningful jobs.

I think certainly this legislation is one of the most important bills we have considered in the past 4 years. Certainly providing the funding for this bill is the most important thing we could do for the unemployed people of this Nation.

So I join with many other Members, as I stated in the beginning, in supporting the chairman of the subcommittee, the gentleman from California (Mr. HAWKINS), in his fine efforts, and I commend him for his tremendously hard work in trying to bring this bill together. As I said, it is not a perfect bill, but I have not seen a bill passed through this House yet that could be considered perfect.

So, Mr. Chairman, let us get behind this legislation. Let us make sure that the people who need help will receive it. If there is an amendment offered that is worthwhile, I am sure the support will be there, and I know the subcommittee chairman will accept some of the amendments that are offered. Some will, of course, be rejected, and those will be the ones that are put forth just to get publicity. We want to pass a bill that will be beneficial to the people who need the help, the 750,000 people who are depending on it and who are watching this Congress today for our decision.

Mr. Chairman, that is all I have to say on this matter. I will certainly be one of the first Members to get my card in, when final passage comes, to vote for this legislation.

Mr. SARASIN. Mr. Chairman, I yield 7 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, when the Comprehensive Employment and Training Act was first enacted, it was as a substitute for the old manpower training programs. The emphasis, in other words, was on training—training the economically disadvantaged for productive long-lasting jobs.

In the past couple of years, however, we have seen a significant shift in emphasis, away from job training and in the direction of public service employment. There has been so much concentration on public service jobs, in fact, that at times it seems like the training component of CETA has been forgotten. Whenever the Secretary of Labor talks about CETA, he talks about public service jobs. In a recent speech to an AFL–CIO convention, the Secretary spent the whole time extolling the virtues of public service employment, and uttered not one word about the importance of job training.

This bill, with one notable exception, continues the same general trend. The new private sector initiative program is a positive development in that it is designed to more intensively involve private employers in the job training arena. Beyond this, however, the training component gets the short end of the stick vis-a-vis public service jobs.

The old title I job training section would under this bill be merged with public service jobs to form a new title II. According to the committee's financial estimates, there would be no additional funding for job training over what we have now. More significant, however, is the fact that while not more than 50 percent of the title II allotment can be used for public service employment wages, this does not cover employment benefits, which may amount to as much as 15 percent of wages. This additional 15 percent could be taken out of job training funds, and the result will be even fewer dollars for job training than the current level.

Public service jobs do not represent the answer to our unemployment problem. The fact of the matter is that despite the claims of Secretary Marshall, public service jobs have not played a significant role in the reduced unemployment rate during the past year and a half. A little over 6 million additional jobs have been created during that period of time, and of that, only about 500,000 represent public service jobs. That is only about 8 percent, and impacts on the unemployment rate by less than one-tenth of 1 percent. And even this does not take into consideration those public service jobs that are substitutions and not new creations.

Public service jobs are dead-end jobs. They are temporary in nature, and in most cases do not provide any built-in incentives for participants to seek jobs in the private sector. Most public service job holders stay in those jobs for their entire duration because such jobs are both better and higher paying than many private sector jobs. One of the dear colleague letters circulating around expresses concern that a lower wage ceiling "would necessitate the creation of only the most menial types of jobs." That "concern" states the problem in a nutshell. Because we are not seeking to provide simply menial-type jobs, we are removing the incentive for people to seek and take lower paying jobs in the private sector.

It has never made sense to me why we set a minimum wage that we apparently deem good enough for the private sector, but yet set higher wage levels for these Government jobs. This bill sets an average wage of $7,800 for PSE jobs, and allows as much as $15,000 to be paid for such jobs. This compares with an annual salary at the minimum wage of $5,500.

You know, there are some 14 million Americans currently working full-time and earning less than $8,000 a year. What kind of message are we sending to these people when we pay thousands of CETA employees at higher wage rates? Are we not telling them that their jobs are menial when even the Government make-

work jobs are at a higher level and with better pay? Why should they not quit their private sector jobs and apply for PSE jobs? After all, the waiting period under this bill is only 2 months.

If public service jobs are to be truly transitionary in nature, they should not pay more than the lowest paying private sector jobs. This so-called equal pay for equal work standard is nonsense. As long as that standard applies, we are never going to move people from the Government rolls into the private sector.

If we are to have public service jobs, they should be supplementary to the goal of preparing people for private sector employment, not end-alls in and of themselves. Title II in the bill contains some sensible limitations on PSE jobs, particularly with respect to eligibility, State supplementation, and training requirements. It directs such jobs more toward the economically disadvantaged, and that is the way it should be. The wage levels, however, are still out of line, and we also ought to reduce the percentage of title II funds which can be spent for PSE thereby insuring the availability of more funds for training.

The new title VI, which provides public service jobs for countercyclical purposes, is entirely another story, however. This is the area where most of the abuses have occurred and where the greatest substitution takes place. A recent Brookings study indicates that as many as 50 percent of the PSE jobs may be substitutions of one form or another.

Yet the bill extends the countercyclical program at a high dollar level with little more than lipservice in the direction of tightening it up. It would be triggered by an unemployment rate of 4 percent, which is too low; it allows families of over $10,000 in other income to be eligible which is too high; it allows wages of up to $15,000, which is way too much; it allows eligibility after only 8 weeks of unemployment, which is too low; it allows people to remain in these jobs for 18 months, which is excessive; and it requires only 50 percent of the jobs to be project in nature, which is too small.

Frankly, there is currently very little justification for keeping title VI at all, but if it is retained, it certainly should not be more loosely structured than the title II PSE component.

There will be several amendments offered which will limit and tighten up PSE in a number of respects, and I urge their adoption. We need to get back to a CETA program that gives highest priority to job training and preparation for meaningful, long lasting, unsubsidized employment, rather than high-priced, dead end government jobs. To the extent that we have public service employment, it should be strictly limited and should be so structured so that every incentive exists to seek private sector employment, not vice versa.

A successful CETA program will be one geared to private sector employment, because that is where the vast bulk of permanent jobs are located. Failure to recognize this basic fact of economic life will result in a substantial waste of tax dollars at a time when we can least afford it.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding, and I want to associate myself with the thrust of the gentleman's remarks.

Mr. Chairman, I am distressed with the divergence between reality and rhetoric in this program.

A year ago I did a special order in which I warned the Congress that we are getting into a major revenue-sharing type of program which did not in fact live up to rhetoric of helping the hardcore unemployed. I said this program is absorbing a very substantial part of the cost of growth in local government.

As I see this bill, it provides some improvement, but still we are likely to have, to a very substantial extent, essentially a revenue-sharing bill when we get through. The longer we leave the program without phaseout, the more difficult it will be to control, because it has such a mixed constituency—none of them the underprivileged constituency to which we originally addressed the program. I am distressed about this, and I would like to ask the gentleman if he does not think it is time to phase down this program if we do not want it to be a permanent part of the political landscape?

Mr. MICHEL. I could not agree more with the gentleman.

When we had our hearings on the supplemental appropriation bill, I asked a witness, "How many former public service jobs employees are currently on unemployment compensation?" And the answer was, "Over 100,000."

In other words, they were getting public service employment for a temporary period of time, then after fulfilling that requirement, coming back on unemployment compensation and then, after that period has expired, going back to public service jobs employment again. And that is not the answer. This Member is going to be supporting several of the amendments that will be offered to the bill later to correct these abuses.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. SARASIN. Mr. Chairman, I yield 3 additional minutes to the gentleman from Illinois.

Mr. CONABLE. Mr. Chairman, if the gentleman will yield further, I do support revenue sharing as a general principle, but I do not support it if it is being arrived at deviously on the theory that we are somehow helping the hardcore unemployed. We help neither local government, by creating a new dependenecy, nor the hardcore unemployed, by rhetoric good only for creating an unfulfilled expectancy.

Mr. MICHEL. The gentleman is so right. Frankly, there are some very good examples we can point to and some very bad ones. I happen to think the program in my home community, where two-thirds of those who have gone into a training program under this program have gone into the private sector, is well run. That is far above the average nationally, so I have to commend those locally who have run the program in my home community. It does ire the general taxpaying public, however, when they read stories, for example, of what has taken place in the District of Columbia with respect to the CETA program and those numbers of City Council employees being employed and subsidized by the Federal Government. That means, of course, the taxpayers throughout the country pay for it.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 12452, the Comprehensive Employment and Training Act Amendments of 1978. First of all, I would like to congratulate the chairman of the committee, Mr. PERKINS; the chairman of the subcommittee, Mr. HAWKINS; and the ranking minority members, Mr. SARASIN and Mr. JEFFORDS for their excellent work in managing this bill during the committee's deliberations.

I believe, Mr. Chairman, that on the whole, we are being presented with a very balanced bill which has built-in adequate safeguards, which in my opinion will preclude any abuses that may have been committed in the past under this legislation.

In this regard Mr. Chairman, I would like to point out to my colleagues that while it may be true that there have been abuses in the past, particularly in the form of substituting permanent jobs with PSE jobs, these have been the exception rather than the rule. As some of my colleagues may know, the PSE (Public Service Employment) component of the CETA program is at the present time approximately one-third of the program. This percentage will be reduced under the bill now under consideration.

I do not think it would be appropriate to restrict the program any more than is contemplated under H.R. 12452, particularly in view of the fact that contrary to expectations we have seen that unemployment last month suffered a substantial increase, an increase which was felt in all categories.

Again, Mr. Chairman, I think that this is a very balanced bill, that it provides for safeguards against substitutions, adequate trigger mechanisms and takes into account differences not only in the employment and unemployment rates but also differences in cost of living and entry levels which we know vary considerably throughout the country.

I believe, Mr. Chairman, that attempts to further restrict the programs under this bill would be harmful and in many ways render the programs authorized by it basically ineffective in some areas of the country. I urge my colleagues to support H.R. 12452 as reported by the Committee on Education and Labor.

Mr. SARASIN. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, today we begin consideration of legislation amend-

ing one of the biggest single Federal programs in existence, the Comprehensive Employment and Training Act. In its few short years of existence, CETA has become a fact of life for local governments, but in many ways which were never intended. The fact that it has come to be depended on—for many of the wrong reasons—should not prevent us from making sincere efforts to amend the law in ways which will redirect the program back to the intended purpose.

The committee bill takes great strides toward this end, bipartisan cooperation produced a bill which attempts to streamline administration and prevent misuse of CETA funds.

Despite these efforts, additional changes are necessary if CETA is to be an effective tool in addressing the employment needs of those who remain unemployed. We must be cautious, however, that the changes we make will actually affect a difference—cutting funds from effective programs such as the title I training program in reaction to a nationwide cry for less spending will not affect the changes we desire. Title I has proven effective in preparing those most in need for entry into private employment; public service employment, on the other hand, has become self-perpetuating, and the transition rate from PSE to private employment has been estimated by prime sponsors as low as 3 percent.

Amendments will be offered which will cut funding for areas which add unnecessarily to the cost of CETA without providing any direct assistance for participants, such as retirement benefits. Other amendments will be offered which redirect the emphasis of CETA from PSE to training, a more cost effective and beneficial aspect of the program. Had these amendments been accepted years ago, we would not be in need of such total overhaul today; I hope it is not too late to turn CETA into an effective, respectable program, responsive to the Nation's continuing employment needs and clearly distinguishable from revenue sharing and other Federal assistance programs.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I appreciate first of all the leadership of the chairman of the committee, my distinguished neighbor and colleague, the gentleman from Kentucky (Mr. PERKINS); and the chairman of the subcommittee, the gentleman from California (Mr. HAWKINS), who has labored not only on this bill but also on other bills affecting employment; and the leadership on the Republican side, the gentleman from Connecticut (Mr. SARASIN), whose remarks made earlier I thought were excellent; and the distinguished leadership of the minority and the full committee, the gentleman from Minnesota (Mr. QUIE); and the senior member of the Vermont delegation, whose remarks I appreciated also with their stress on the need for moving on structural unemployment.

My distinguished colleague, the gentleman from Illinois (Mr. MICHEL), whom I do not see on the floor right now, mentioned that in Peoria the program was excellent but nationally it was not good. It is a little bit like Congress: one's own Congressman is excellent but nationally Congress is not so good. Unfortunately there are abuses and this bill addresses those abuses. I was just told by one of the staff members that within the last quarter 243,000 people have been placed in private sector jobs through the CETA program, and that is all to the good.

My distinguished colleague, the gentleman from Maryland (Mr. BAUMAN), and I both had a few remarks about the Reader's Digest article, and I have asked the staff about that. I have pointed out, incidentally, that the Reader's Digest is one of the few magazines in the free world that never prints a correction and never has a letter to the editor. It is one of those things that suggests maybe we ought to take with a little bit of caution what they have to say.

This particular article was extremely critical of CETA. The article fails to mention that some of these programs that they criticize have been investigated by the Department of Labor, and the Department has acted. We should commend Secretary Marshall and his staff for moving aggressively. Some of the allegations have proven to be unfounded and in other cases the funds have been recovered. For example, a recent Labor Department investigation of the program in Baltimore, mentioned in the Digest article, gave that program a clean bill of health. The Atlanta program, also criticized, was also investigated by the Department and that resulted in the indictment of 11 people. There are a number of other instances.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Chairman, I thank the gentleman from Illinois for yielding. Let me quote to the gentleman exactly what the article in the Readers' Digest had to say about the CETA situation in Baltimore:

> In Baltimore, loose eligibility guidelines resulted in CETA jobs going to the wife of a state-supreme-court judge, the daughter of a U.S. Court of Appeals judge, the son of the vice president of a large brewing company, the son of a city public-works superintendent, and the son of a member of the Maryland House of Delegates.

Now Mr. Chairman, the gentleman still is failing to respond to the statement I made earlier when I first mentioned the situation in Baltimore. It is true the Labor Department investigated, but none of the statements made in the article about the Baltimore program are untrue. The jobs went to politicians' relatives and friends who certainly do not qualify as unemployed needing job training. That is not what the program is for, yet it was all legal under this program.

If I may continue for a moment, will the gentleman yield?

Mr. SIMON. The gentleman may continue for a moment on my time.

Mr. BAUMAN. I appreciate the gentleman yielding.

In one of the large counties in Maryland it was shown that funds were misused to the point where, after hearing from me and others with complaints, the Labor Department took the program out of the county's hands and put it in the hands of a consortium in Baltimore, the same one to which the Reader's Digest refers. If these incidents are any example of how the program is working nationally, I believe this indicates the need for drastic action now.

Mr. SIMON. What we have under this bill is a much, much tighter law, if it is enacted, than we have at the present time, so that the occasions for abuses will be much fewer. But again, even under the present law, the very abuses that the gentleman cited have been corrected, to the credit of the Labor Department.

I would add one other thing and that is that we are dealing with a relatively new program that has emerged and in the process of new programs where we are dealing with people, there will be abuses, while if you are building a highway you know precisely how to do it and you know precisely how the concrete will act but when you are dealing with human beings, some of whom have had problems of one kind of another, you are going to have problems. So we have had some problems but the bill that is proposed has sections in it to tighten it up. It calls for new auditing procedures, new investigative procedures. These are all extremely important.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIMON. Would the gentleman yield me additional time?

Mr. HAWKINS. Mr. Chairman, I yield 3 additional minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I thank my colleague, the gentleman from California (Mr. HAWKINS) for yielding me this additional time.

One other point is important and should be mentioned. My colleague from Illinois (Mr. MICHEL) talked about public service jobs as though these were bad things. We have to recognize that in our society we have moved beyond the point where we are going to just let people starve. So, when people are out of work, we are going to pay them for being productive and for doing something to enrich our society, either that, or we are going to have to pay them for doing nothing. It makes infinitely more good sense to pay them for doing something so that they can use their abilities to enrich our society and so that we can make assets out of liabilities. That is what this bill does. That is what the Humphrey-Hawkins bill does. I think it is extremely important.

We have just seen the latest unemployment figures rise from 5.7 to 6.2 percent of unemployment, and the unemployment rate among the structurally unemployed, particularly among youths, as my good colleague, the gentleman from Vermont (Mr. JEFFORDS) has pointed out, remains extremely high. We cannot expect to be a good, healthy Nation with millions of people unemployed.

I am a fiscal conservative in many ways. I am willing to cut on many, many

programs, but when it comes to putting people to work and to let them be a productive part of this Nation, then I think we ought to move ahead.

I hope we can do that with this bill. I hope we do not adopt amendments to the legislation that are unduly restrictive.

Mr. SARASIN. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, due to recent experiences with the Roanoke Manpower Consortium in my district, I have become more familiar with the operation of the CETA program and quite disillusioned.

In my judgment, many of the problems are the direct result of the rapid and ill-conceived buildup of the public service employment program in the past year, accompanied by inadequate administrative support and almost nonexistent financial monitoring by the U.S. Department of Labor.

There are several glaring weaknesses: An overemphasis at the Department of Labor on numbers, while ignoring training needs; inadequate technical assistance, nationally and regionally, with almost nonexistent financial monitoring by the regional office and dubious reporting practices or guidelines for the prime sponsors; frequent substitution of CETA employees for regular employees contrary to the intent of the law; frequent use of CETA employees in jobs for which there are no comparable positions in the private sector; and finally, a very limited involvement by the private sector which provides the overwhelming number of jobs in this country.

CETA has proven quite valuable, however, as an aid to the unemployed and underemployed who required training to sharpen job skills.

Unfortunately, the opportunity for training has been quite limited under this program.

The program has also been useful in providing temporary workers to accomplish creative and useful special projects.

I am hopeful that the new legislation will tighten up the accounting and management provisions of the law; emphasize that public service employment is an interim step to unsubsidized employment and that job development is to be given the highest priority; that those who substitute CETA employees for regular employees contrary to the intent of the law will be required to restore the funds extended for that purpose; that high priority will be given to the needs of older workers; and that time limits for participation in CETA will be established.

In my district we were abruptly informed that the Roanoke Manpower Consortium faced a $1.6 million deficit; 379 people who were assured of employment by the Federal Government were thus threatened with sudden layoff through no fault of their own.

A major cause of the deficit was the bookkeeping system used by the consortium which failed to reflect accurately its financial status.

I will offer two amendments designed to increase the management responsibilities of the local prime sponsors as well as the Secretary of Labor.

I will offer an amendment to require prime sponsors to keep their books in a manner sufficient to insure that adequate supervision and monitoring by the Secretary of Labor can be accomplished.

I will offer an amendment to require the Secretary of Labor, prior to approval of a prime sponsor's plans, to determine if the prime sponsor has adopted an accounting system which allows for adequate supervision and monitoring.

In order to require that prime sponsors give the appropriate attention in the planning process to moving public service employees into private sector employment, I will offer an amendment to require prime sponsors and their subgrantees to establish local goals for moving public service employees into unsubsidized employment.

The amendment would require prime sponsors to give preference to subgrantees who have provided the highest percentage of placement of public service employees in unsubsidized employment.

No subgrantee shall be refunded if he has substantially failed to meet the goal outlined in his plan of moving public service employees into unsubsidized employment.

I strongly support an amendment, which I understand will be offered, to provide the same incentive for prime sponsors to provide training.

Existing law lacks sufficient penalties for those who have used public service employees as substitutes for regular employees in clear violation of the intent of the law.

I will offer an amendment to require prime sponsors to refund to the Department of the Treasury any funds found to have been expended for employees used as substitutes for regular employees.

I am hopeful that these amendments, along with others which will be offered, will restore CETA to its original purpose of providing training and temporary jobs for the unemployed.

Mr. HAWKINS. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. Chairman, I rise in very strong support of this legislation.

There is something which is very much alive in this country yet, and that is the work ethic. Anyone who doubts it should check out the newspapers. When we see announcements about 50 jobs being offered some place and 2,000 people lining up to get those jobs or 500, in some instances, applying for just 10 jobs.

So, Mr. Chairman, the work ethic which is so important in this democratic process is very much alive.

Mr. Chairman, I think it is incumbent upon us to keep this program going because it does offer hope to those who want to work, and most people do want to work.

I said in the Committee on the Budget the other day—and I committed a kind of heresy—that ultimately I would like to see all of these jobs ended. I do think that the private sector will offer better opportunities; but until such time as the private sector is prepared to absorb those who are unemployed, we have to keep these programs going.

Mr. Chairman, there has been a lot of criticism about abuses in the program. I submit to my colleagues that whenever we get a large group of people together, there are going to be some abuses.

Over the past 2 or 3 years, I have read about the heads of our great corporations being indicted and being fined or jailed for wrongdoing.

But we do not suggest that we destroy the corporate structure in America, do we?

I read over the last couple years about those in organized labor, some of the leaders, being indicted and imprisoned for wrongdoing, but no one would suggest that we destroy the trade union movement in this country. I would suspect that most people would not suggest that we destroy the trade union movement in this country. I would guess that in the 79th Congress—I do not think that many of us served in the 79th Congress—there were some rascals who probably did some wrong things and probably were punished for it, but no one suggested that we destroy the Congress because of some abuses that took place in the 79th Congress.

I think it would be absolutely stupid to try to pass a lot of amendments in a vengeful kind of mood against this important piece of legislation.

I have criticized my own CETA program in Baltimore. I conducted my own hearings about the CETA program in Baltimore. Those hearings revealed that the allegations made against the CETA program were not at all valid simply because the law permitted certain things to be done. Under this new legislation we will now correct those defects in the law. Let me quote from an editorial in this morning's local press in Baltimore.

The Baltimore area offers an excellent example of how local governments have used CETA to do what they otherwise could not have done. CETA employees have repaired the homes of indigent, handicapped and elderly people, built curb ramps for the handicapped, and weatherized the homes of the poor, among other things. Some 30,000 people move through the local program annually. Of the 14,000 who are not students holding summer jobs, more than half move into private sector jobs.

The program can be made to work, and it is certainly working in the city of Baltimore.

I hope that we will vigorously oppose all destructive amendments. All destructive amendments have got to be voted down. On the other hand, I take this opportunity to reiterate my position with regard to the importance of this piece of legislation. It is important because, as the Members well know, if we destroy the concept of the ethic of work for some people, we will have destroyed a very large and important part of our democratic process.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. MITCHELL) has expired.

Mr. SARASIN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. I thank the gentleman for yielding.

Mr. Chairman, I, too, want to support the CETA program. I am hopeful that today we can have constructive amendments that are not destructive in philosophy, but maybe in the direction of tightening up the bill in some sections that need additional work.

Generally, as a member of the subcommittee, I wish to note the committee has spent endless long hours—both the majority and the minority—and I want to congratulate the gentleman from Kentucky (Mr. PERKINS), the gentleman from California (Mr. HAWKINS), the members of the subcommittee, the gentleman from Connecticut (Mr. SARASIN), the gentleman from Vermont (Mr. JEFFORDS), and others who have spent a lot of time in tightening up the fraud and abuse section, strengthening it, and making it enforceable.

I travel back home probably as much as many of the Members of Congress—every week. I do not live here. On the weekends I travel, and I have had hundreds and hundreds of meetings. When I talk to CETA young boys and girls, mostly dropouts, and people who are in CETA programs, I ask them if they are happy with their jobs and are learning something. If I could say something about the whole CETA program, it is my concern that when a mayor or a prime sponsor puts an employee on a job, that from a supervisory standpoint it would be my hope that one day we could develop this legislation so that the young person would work maybe 6 hours a day and spend 2 hours in the afternoon going to a class, whether it be auto mechanics or a young lady taking clerical work, so that at the end of the day they could walk away and say, I have learned something today besides having a kind of job where I just have a broom and I am cleaning up or I am putting books on a shelf.

It would be my hope someday that the educational aspects of the training program be strengthened in this bill. We have tried to do that to some extent in the CETA Subcommittee. I would be hopeful we would continue in that direction so that the young person in America who is on this program should be getting off sometime in their lifetime after the 18 months and can go out and say, "Yes, I have a skill. I have the kind of thing that can be productive to myself and to society."

I would also like to say to my fellow Republicans that in 1973 this bill was on the floor. I went back and checked the vote. Only 19 Republicans voted against this bill. I think on the majority side it was only 12; so I would like to say, after the full debate today, looking at each amendment constructively and welfare. I am hopeful the majority would hope we would be supportive of these amendments; that until we find a better alternative to unemployment and welfare. I am hopeful the majority and the minority will make a constructive effort today.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I commend the gentleman for his statement. It provides some insights we all need to see.

In terms of the program, there are aspects of the program today dealing with job training and others that deal with the world of work and training young people. I do want to commend the members of the subcommittee and the minority and the majority for working on this so hard. I think it is a good proposal.

Mr. Chairman, I rise in support of H.R. 12452 as reported by the Committee on Education and Labor. Before I proceed with my specific remarks on this legislation, I would like to commend the chairmen, Mr. PERKINS and Mr. HAWKINS, and the members of the Education and Labor Committee, for their good work on this legislation. The CETA reauthorization has won the support of almost every major group that has an interest in its passage. This includes such diverse groups as the Council of Great City Schools and the National League of Cities, AFL–CIO, and the Chamber of Commerce. This is an admirable task in and of itself.

When the Comprehensive Employment and Training Act was first enacted in 1973, the unemployment rate was 4.5 percent and the primary purpose of CETA was to provide coordination of existing manpower and training programs. Shortly after it was established, our economy went into a recession and the unemployment rate jumped above 8.5 percent. A stronger leadership role by the Federal Government was needed to address the problem of unemployment.

In response to an increased demand for a Government role in job creation, CETA funding increased from $1.8 billion to $9.5 billion in 4 years. CETA provided public service employment to 200,000 unemployed individuals in 1974 and in 1978 more than 725,000 people are employed through public service jobs. On a national level CETA has played an indispensable role in our efforts to provide employment for those individuals who are willing to work, but cannot find, or do not possess the skills to find a job.

The CETA program has been instrumental on the local level as well. In the first half of this year the CETA program for the city of St. Paul has served a total of 4,255 individuals. An examination of the clients served will demonstrate that CETA has been targeted to those individuals who require its services most. Eighty percent of the clients were economically disadvantaged, with income less than $3,000 per individual or less than $6,000 per year for a family of four. Forty-two percent of the clients were women and 32 percent were minorities. The CETA program in Ramsey County and the city of St. Paul has played a major role in the increase of employment opportunities and the reduction of unemployment in my district.

Mr. Chairman, I think that Congress can be proud of programs such as these. The legislation reported by the committee will allow the continuation and also provide for the needed fine tuning of these programs. I urge my colleagues to support the committee bill and oppose the crippling amendments we will see today.

I feel that much of the impetus for these amendments is a direct result of the excessive publicity generated by cases of abuse of CETA funds. While CETA is far from free of problems which must be corrected, a major portion of these problems can be attributed to the dramatic increase in purpose, scope, and funding level of CETA since 1974. Funding has increased 500 percent and clients served by public service jobs has increased by 360 percent in the last 4 years. Any program undergoing this magnitude of expansion is expected to experience some problems.

Another factor contributing to the perception of widespread abuse in CETA is its decentralized structure. If there was one nationwide central office to administer and develop projects; and one type of public service job or training program available, the supplanting/substitution problems might be reduced. However, there are 450 prime sponsors throughout the Nation and a major strength of the CETA programs results from that diversity. Local governments, businesses, and community organizations have an input into the development of projects designed to meet local needs.

The committee bill has addressed these problems in a responsible and direct manner.

This legislation places limits on the duration of employment. Public Service Employment cannot exceed 18 months in any 3-year period. Additionally, the bill limits participation in any CETA program to 30 months in any 5-year period. This is an attempt to prevent the shuffling of clients from one CETA project to another.

Wages for public service jobs cannot exceed $10,000 per year—$12,000 in high wage areas—and the average wage in any prime sponsor area cannot exceed $7,800 per year.

To control the problem of using CETA employees to provide services that normally would have been provided in the absence of CETA funds, the committee has:

Limited employment to entry level jobs.

Required that 50 percent of the jobs in the countercyclical program—title VI—are to be in short-term projects.

Eliminated wage supplementation in structural programs—title II—and sharply limited wage supplementation in countercyclical programs.

And the committee has required that jobs in the structural unemployment programs must be combined with train-

ing and lead to regular unsubsidized employment.

The committee bill also contains provisions to strengthen the Department of Labor's ability to combat fraud and abuse.

First. H.R. 12452 establishes an independent Office of Audits, Investigations and Compliance to conduct investigations of CETA programs.

Second. The committee has created a program to provide management and technical assistance to CETA prime sponsors.

Third. This legislation expands the authority of the Department of Labor to investigate CETA programs and withhold funds, establishes new penalties for misuse of funds and requires bonding of certain CETA employees.

No program will be totally free from abuse, but the committee has made the necessary revisions to insure more effective programs.

The committee has completed an exhaustive review of the Comprehensive Employment and Training Act. The funding mechanism for the countercyclical program has been tied to the increase in unemployment. The structural program has been strengthened by providing increased training for those individuals without marketable skills. Because of these changes, the CETA legislation will more accurately address the needs of our citizens.

The committee has also recognized where the potential for abuse exists and has made substantial changes which will insure the more efficient operation of CETA. I strongly urge my colleagues to vote in support of the committee version of H.R. 12452.

Mr. PURSELL. Mr. Chairman, I have one last quick comment. I went back and looked at the National Alliance of Businessmen. It says two things fundamentally. It was all white, which disturbed me, and I have to congratulate our current President; there were no women, no blacks in the NAB program.

Secondly, it was all big business. I think the future of this country is not so much with big business, but with small business and taking these young people and helping them to learn a trade.

Mr. Chairman, I have offered some amendments in the committee that were adopted to include the small businessman.

We need to put the "T" back in CE"T"A for training. Let this be a partnership between our business and labor community with our young people who need help.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. PURSELL) has expired.

Mr. SARASIN. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. PURSELL).

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, along the lines of the existing law, the Virginia Council for the Business Community already has a representative. The private sector council that appears in this bill would appear to duplicate the efforts of the already-established planning council.

My question is, While I certainly share a concern that the private sector should be more heavily involved in CETA, would it not be more appropriate either to insure them as a planning council with adequate representation from the businesss community, instead of creating another council; or can the gentleman assure me there is no objection to their duplicating one another in membership?

Mr. PURSELL. These organization, these private sector councils, should be properly balanced with both small and large business because I think there is a relationship that they need each other. Frankly, I would not like to see duplicated efforts with other councils.

I agree the gentleman's position, and I refer him to page 21 of the committee report which provides for funding existing councils commend the gentleman from Virginia for his work and effort in this area and clarifying this matter.

Mr. HAWKINS. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. LEHMAN).

Mr. LEHMAN. Mr. Chairman, I will support H.R. 12452, the Comprehensive Employment and Training Act Amendments of 1978, but with some serious reservations. I have been increasingly dismayed by the reports of abuses and fraud which have occurred throughout the country. Especially disappointing to me have been the highly publicized accounts of abuses in Florida's Dade and Monroe Counties.

Favoritism in hiring and payments to employees who fail to show up for work are examples of the mismanagement which has been allowed to develop during the life of the CETA program. Beyond such flagrant abuses, however, there has been the simple failure of the program to meet the needs of the poor and poorly educated jobless. A recent report prepared for the Dade County grand jury cited three specific faults in the local CETA program. The program has not given jobs to those most in need. More than half of the employees hired for a special CETA program designed to hire the hardcore jobless had attended college, and few CETA jobs are transitional to private sector or non-CETA government jobs.

I am encouraged that the committee has included several necessary reforms in this CETA reauthorization bill. Based on our past experience, however, I cannot be fully convinced that these reforms will eradicate the many problems which have beset CETA.

In order to insure the development of a better employment and training program, we should attempt to wean State and local governments from CETA money for the provision of Government services. CETA ought to be, first and foremost, a training program.

It must be a means for the unemployed to eventually find suitable employment in the private sector. It is not the equivalent of revenue sharing or an LEAA grant. Only this past week, a Dade County school official gave assurance that a proposal to employ persons to combat violence in the schools "would not cost a penny of School Board money" because CETA would pick up the tab. Controlling violence in schools is a worthy objective which I completely support, but I do not think CETA is the proper funding source for a safety program requiring a minimum of training.

The committee's emphasis on the hiring of the economically disadvantaged is to be commended and I applaud the measures to deter substitution and limit wage supplementation. The key, however, to a well-run program is accountability, both to the Federal Government and to the community being served.

The improvement of the Department of Labor enforcement capabilities will help to insure accountability to the Federal Government and the American taxpayer. Greater accountability to the community can be accomplished by strengthening the role of the Prime Sponsor's Planning Council.

If we are to reach out into the community to provide jobs and training to the hard-core unemployed, we have to better utilize community organizations. These groups must have a larger voice in the operations of the prime sponsor and I believe that the appropriate forum is the planning council.

The membership of the planning council is composed of representatives from labor, business, veterans' organizations, and other groups in addition to community-based organizations. By representing a cross-section of the community, the planning council can provide meaningful direction to the prime sponsor in its decisionmaking role. The operation of a smooth planning process should eliminate some of the mismanagement which has plagued certain prime sponsors. Certainly accountability to the community will encourage stricter program standards and cut down on the abuses.

While the committee is more specific in the current legislation in defining the function of the planning council, I do not believe that it goes far enough. Having set forth what the planning council ought to accomplish, there is little assurance that the prime sponsor will seriously consider the recommendations of the council.

The members of the planning council must be well informed and continually advised of new developments within the local CETA program. This legislation requires the planning council to meet no less than four times a year. It should be emphasized that this is an absolute minimum. In south Florida with a consortium the size of the Dade-Monroe consortium, meetings should be held every month with working committees of the council meeting additionally in order to do some of the more detailed work. The local master plan should be based upon the planning council's recommendations which assist the prime sponsor in understanding what the

community feels is the proper direction for the distribution of local CETA funds.

The planning council should be the guiding force behind the local CETA program, and it should represent the interests of the community by voting on its recommendations prior to presenting them to the prime sponsor. Small cliques must not dominate the decisions of the council, and the requirement that meetings be publicly announced, and open and accessible to the general public must be carried out faithfully.

It is my hope that the committee will find the time during the next Congress to more carefully review the workings of the planning councils and seek ways in which they could become more effective. I would like to ask the gentleman from California if it is his intention to hold hearings in the next Congress on the role of the prime sponsor's planning councils.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, the gentleman in the well may be definitely assured that it is the intent of the subcommittee to conduct very thorough investigations and hearings on this and other matters, and certainly this subject of the planning councils will definitely be included in hearings and the oversight responsibilities of the subcommittee.

Mr. LEHMAN. Mr. Chairman, I thank the gentleman from California (Mr. HAWKINS.)

I would like also to say that I have discussed with the gentleman the problems laid before us with regard to low-income industry.

Mr. Chairman, I would like to mention two additional concerns I have regarding CETA. The first is a provision in the law, which this bill leaves intact, which prohibits CETA funding for any employment and training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high. This provision effectively rules out the training of sewing machine operators in the garment industry. I believe that it is unfortunate that CETA has neglected the training needs within this industry which offers ongoing employment opportunities. I understand, however, that some provision has been made within the Department of Labor to remedy this shortcoming outside of CETA.

My second concern involves the ability of community-based organizations to apply for CETA funds. More assistance is needed to help these groups become aware of application dates and to learn how to apply to CETA. Even more important is the need for ongoing technical assistance in order to carry out an effective program. The establishment of an Office of Management Assistance is an important step toward the improvement of the management of local CETA programs.

In the future, I will be watching carefully to see the much hoped for effects of this reform legislation. I want to see CETA employees who come from disadvantaged backgrounds and who are not the sons and daughters of the middle-class and the affluent. I want to see these CETA employees being trained sufficiently to obtain meaningful work in the private sector and not find them back on unemployment rolls and trying to get still another CETA job. I want to see an end to the use of CETA employees as substitutes for city and county employees. I want to see CETA carry out its primary purpose to "provide job training and employment opportunities for economically disadvantaged persons, unemployed or underemployed persons * * * and to assure that training and other services lead to maximum employment opportunities * * *."

If these goals are not met, my future support for CETA cannot be taken for granted. If the abuses go on and local governments continue to view CETA as simply a form of revenue-sharing, I will vote against the future funding and authorizing of the program.

Mr. MICHAEL O. MYERS. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Pennsylvania.

Mr. MICHAEL O. MYERS. Mr. Chairman, I rise in support of H.R. 12452, the Comprehensive Employment and Training Act (CETA) Amendments of 1978. There is not a Member of this House who is not familiar with the CETA program to some extent. Unfortunately, however, many of you may only be familiar with the problems that have been encountered with CETA. I hope you will not allow yourselves to be unjustly influenced by the bad press that CETA has received recently. These instances of abuse are the exception rather than the rule of an otherwise excellent and most needed jobs program.

For every incident of abuse and fraud in the CETA program, there are dozens of success stories that usually go unmentioned. For those of you who have the time, I suggest you read my CONGRESSIONAL RECORD remarks of Thursday, May 11, 1978. These remarks tell the story of a CETA program in my city of Philadelphia that has been most successful in benefiting the community and the senior citizens of my area. I bring this article to your attention solely to remind you that there is another side to the coin.

Nevertheless, because of the concern that has been expressed over occurrences of abuse, the Committee on Education and Labor directly addressed these concerns in the reauthorization bill before us today.

H.R. 12452 is the end product of extensive hearings held in Washington and in the field. As a result of these proceedings the committee has completely restructured the CETA program to insure that the needs of the unemployed and underemployed are met in a responsible and effective manner. Strict eligibility requirements for employment have been imposed. Several provisions have been included to prevent further cases of substitution. And criminal and civil penalties have been increased to insure that prime sponsors and subcontractors who misuse the program will be punished in a timely and effective manner. The reauthorization bill also provides legal authority for the establishment and full staffing of an Office of Audits, Investigation, and Compliance to enforce the CETA program regulations. Finally, to improve the management and efficiency of this most important jobs program, an Office of Management Assistance has been created.

The concept behind CETA is sound. It is a good program and it is a most necessary program for our citizens. There are many areas and segments of our Nation that are still suffering from severe unemployment. My city of Philadelphia continues to suffer from an unemployment rate of 8.5 percent, and among young people that rate is several times worse.

The people of Philadelphia and of other areas of substantial unemployment desparately need the continuation of the job programs offered in CETA. I urge my colleagues not to turn their backs on the needs of our unemployed and underemployed.

H.R. 12452 is a strong reform measure that closes the loopholes which have allowed abuses in the past. I urge all of my colleagues to fully support the committee bill and to oppose all amendments which will weaken a sound employment program.

Mr. BEARD of Rhode Island. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. Mr. Chairman, I join the gentleman from Florida (Mr. LEHMAN) in his remarks and with the chairman of the subcommittee, and I will certainly look forward to the hearings that will be held on these issues.

Mr. SARASIN. Mr. Chairman, I yield 4 minutes to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, we are dealing with one of the most difficult bills we have scheduled, and the committee has done a magnificent job.

But we all know what we are up to, do we not? We are again doing something that we really should not do in this House, but it is something that we do repeatedly. We put into a bill that is popular and has become useful other things which do not belong in the legislation at all.

This bill has become the lifeblood of many of our central citizens, and we know it. It is being used that way. It is being used to augment the salaries of policemen who would otherwise perhaps have to be laid off. It is being used to perform services that the cities cannot provide and that their budgets cannot cover. We keep on doing it because countercyclical funds are not popular and revenue sharing does not seem to be very popular either.

So we put the whole thing into a basket that has a good name. That is very demoralizing. It contributes to the lack of confidence that the public has in Congress. If we are doing something, we ought to admit we are doing it.

Mr. Chairman, I listened this morning to the mayors of three of the largest cities in my State. This is what they are telling us. They are good men, who are trying to keep down property taxes in their cities—which are already too high—and I thank CETA for that. Well, if that is necessary, we ought to face it. We ought to do it in countercyclical funding, targeted to places that need that kind of help. We should not do it in what is supposed to be a training act for skills that are useful in the real world, not the public sector world.

I differ from some of my colleagues—and I am sorry the gentleman from Maryland is not here. Because when you are handling other people's money, you should be careful. Maybe it is not our concern if an elected union official makes off with the pension funds. That is not our business. That is the union's money. The same thing applies to a company where there is corporate corruption. It happens there, just as it does in labor. But we are dealing here with other people's money, and that puts a public responsibility on us that we have to acknowledge.

Mr. Chairman, I am sure amendments will be offered. Every amendment is not destructive. I do not understand this defensive attitude. It is our hope to handle other people's money more responsibly. That is our purpose in proposing amendment.

I have some amendments myself which I will refer to later. But I do wish, above all, that we would get away from the habit we have fallen into of not calling things by their proper names. If we need to help the cities, we ought to say so. If we want to train young people for employment, we ought to say that and make it our only objective.

I think nothing would do more to restore the confidence of the people in the Congress than for us to be honest about what we are up to. People are not fooled. They are not fooled. They know what goes on in their towns. They write me, and I read their letters. They know what is going on. They know perfectly well that this is not an employment training act. They know perfectly well what it is. And this contributes to the erosion of confidence in Government. We must reverse that trend.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise in support of H.R. 12452, the CETA reauthorization bill, and would like to commend the distinguished chairman of the subcommittee (Mr. HAWKINS) and other members of the committee for putting together a thorough and thoughtful set of revisions to this program. I hope the House will see the value of these proposals, and approve the reauthorization without crippling amendments.

Major changes in CETA recommended by the committee are aimed at preventing abuse and eliminating tendencies to use CETA funds for jobs State and local governments would have provided anyway. In addition, the committee, responding to current economic needs, more clearly separates the "structural" from the "countercyclical" functions of CETA, to assure better targeting of program resources to the poor and the disadvantaged. I am hopeful that the revisions will not provide cumbersome and that prime sponsors will retain sufficient flexibility to adapt the programs to local conditions. I can certainly understand, however, why the steps taken by the committee are necessary.

While supportive of these improvements in CETA, I see a continuing need to evaluate the programs, to learn from their successes and mistakes. It is clearly crucial that CETA programs equip participants with the kind of training and experience that enables them to move to permanent jobs.

For this reason, I am particularly encouraged by title VII of the bill, dealing with private sector initiatives. Its purpose, in encouraging the formation of local private industry councils, is to carve out a much larger role for private employers in the provision of CETA services.

Title VII would make available $400 million to CETA prime sponsors who establish these councils and develop suitable plans for private sector involvement. We could usefully supplement these activities, I believe, with some measure of Federal support to the local councils themselves. At the very least, these councils must have a degree of integrity which allows them to accomplish their purpose without interference from the prime sponsor.

In the Senate, my distinguished colleague from New York (Mr. JAVITS) has added a very constructive amendment to title VII, which authorizes Federal assistance for a variety of voluntary labor-management activities. As there might be some question about its relevency under House rules, I do not intend to offer the amendment here. But I would like to note that the House—recognizing the contributions of cooperative labor-management efforts in stimulating employment and revitalizing local economic conditions—endorsed the basic concept in an amendment to the Humphrey-Hawkins bill last March.

I realize that there has been some disillusionment with the idea of labor-management collaboration at the national level, and that we have recently witnessed serious clashes between the two sides over national policy. But at the local level, in individual industries and communities, I have seen how well labor and management can work together to improve employment opportunities and explore solutions to mutual economic concerns.

From Haverhill, Mass., to San Bernardino, Calif., promising labor-management efforts are just getting underway. For modest expenditures of Federal funds, financial and technical assistance could be offered to such projects in the early stages. By encouraging cooperative efforts to improve working conditions and organizational effectiveness, we would be enabling private industry to expand job opportunities in a noninflationary way.

Labor-management committees have, above all, proved a valuable source of new ideas, of suggestions straight from the workplace about how to utilize workers effectively and do a better job. Such innovation and experimentation are major objectives of title VII, and I would hope that ultimately additional support for cooperative labor-management activities can be a part of this important legislation.

Mr. SARASIN. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, during consideration of H.R. 12452, the Comprehensive Employment and Training Act Amendments of 1978, there will be much debate on whether the CETA program has been successful. The press recently has reported incidents of fraud and abuse in many CETA programs throughout the country.

Notwithstanding the failures of the program, there are State and local CETA programs that are working well. The Birmingham area programs are fine examples of the how CETA can and does operate successfully. I would like to highlight those programs in the Birmingham area.

In the Birmingham area, CETA is a consortium located within the county. The total budget for the current year is $26,150,000. Under title I, it is a $6 million budget for the current year. To date, with a thousand training slots, we have reached 2,700 citizens, 2,200 of whom were disadvantaged of which 500 were AFDC mothers. During the year 1977, 3,700 persons were trained of which 3,100 came from disadvantaged families, and 700 were AFDC mothers. The figures for 1978 are lower because they are figures to date and do not represent the full year; and too, the amount of money allocated to title I was reduced and thus, there are fewer training slots available.

Under title II, which is a $3 mililon program of PSE jobs, we have approximately 386 slots with which we have reached 600 persons of whom 150 were disadvantaged families. Last year we reached 860 persons, 315 of which came from disadvantaged families, and 25 of which were AFDC mothers.

This year under title III our budget is $2 million and is reaching 2,500 Birmingham area youth—all 2,500 of which come from disadvantaged families, in cluding 900 children from AFDC families. In addition, this year we have a program which is designed to work with industry in providing special training for specific industry spots. Our budget for that program is $550,000 at approximately 60 slots. We also have $350,000 in our hire program for Vietnam veterans of whom we have reached 25 as of this date. We have a youth employment training program operating with a budget of about $1 million, part of which is classroom and part of which is on-the-job training. It is now reaching approximately 250 young people.

Under title VI public employment jobs and public employment projects, thus far this year, we have reached 1,800 persons of whom 1,100 were from disadvantaged families and 375 were AFDC mothers. Last year the program was somewhat smaller. We reached 1,650 people, 1,400 from disadvantaged families, 180 of whom were AFDC mothers.

We also have two new programs, the youth community conservation initiative program which is contracted to the Urban League and is working on problems such as insulation of houses. There are 45 young people in this program. We also have a planning grant under the private sector in the initiative program where Birmingham is 1 of 34 cities.

Many of the problems with CETA have been corrected by the committee bill. With enlightened and conscientious local action, as is evidenced by the Birmingham area prime sponsors, I believe that CETA can be an effective tool for reducing unemployment and providing training for the unskilled.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, as has been made clear by others who have already made their views known on these amendments to the CETA program, the committee has made a considerable number of reforms which, I hope, will lead to a more effective program and one which will not be subjected to the abuses which have been so widely reported. As debate progresses, both on the bill itself and on the numerous amendments which have been proposed, I am sure that those issues will be fully aired.

Time after time the point has been made that we need to do everything we possibly can to make this program one that leads to long-term, unsubsidized work. One way we can go with considerable promise of success is to facilitate the process of bringing workers and jobs together. Two sections of the bill reported by the Committee on Education and Labor address this issue, and I will be offering amendments to reemphasize and clarify these provisions. I am pleased that Chairman HAWKINS and his staff have taken the time to review my amendments and have found no objection to them.

By way of background, I think you will be interested to know that the Department of Labor has been conducting a pilot project in its southeastern region which has successfully helped relocate over 850 jobless people from that part of the country to jobs in 33 States across the country that had remained vacant for considerable lengths of time. The jobs those people went to were unsubsidized positions. The average cost to the Federal Government in assisting with relocation was approximately $1,210. That figure is about what it costs to fund one public service job through CETA for just 2 months. As a trade off, the investment to move those people off the public rolls certainly means lowered Federal costs.

Section 305 of the bill before us provides the Secretary of Labor authority to assist unemployed individuals relocate to areas where they have bona fide offers of employment of more than temporary or seasonal nature. Section 312 (f) of the bill directs the Secretary to establish and administer a nationwide computerized job bank and matching program. As I see it, those programs should be tied together. The information from the job bank should be made available to those administering the relocation program so they can maximize their efforts to bring the unemployed they are trying to serve to jobs for which they might qualify. In short, coordination of the two programs should enhance the value and implementation of both. That kind of coordination is provided for in my amendment to title III.

Beyond that, the amendment I will be offering to that title will clarify that relocation efforts should focus on moving unemployed people to places where there are relatively consistent job surpluses. Some might say that this states the obvious, but I think it makes sense for the Congress in authorizing this program—which I think you can tell from my earlier remarks I feel is a particularly good one—to make it clear that the Federal Government should not be in the business of moving people into areas where they would be competing with qualified people already there.

Finally, my title III amendment provides for consultation—in advance—with appropriate local, State and Federal agencies to determine what impact a relocation involving a considerable number of people could be expected to have on the ability of a locality to provide necessary services and what steps might be taken to ameliorate any adverse impacts. That consultation should minimize the chances of the Government helping to relocate people to areas where housing, medical and other services might be in tight supply, thereby creating other problems for those areas.

I will also address this issue of relocation in an amendment I have prepared to offer to title VII of the bill. That title in establishing private industry councils will go a long way toward assuring meaningful cooperation with the private sector where, after all, most of the unsubsidized jobs exist. My amendment at that point merely adds encouragement of relocation by unemployed individuals to areas where there are generally job surpluses to the list of purposes to be addressed by prime sponsors and their private industry councils.

As I said earlier, I do appreciate the fact that floor manger HAWKINS has agreed to accept these amendments and the others I plan to offer today. I am convinced that they add clarity and emphasis to these two programs.

● Mr. SEIBERLING. Mr. Chairman, today we are considering legislation which makes significant headway in lessening the problem of unemployment for Americans who are either unskilled and economically disadvantaged or who have job skills but are temporarily out of work due to cyclical downturns in the national economy. Putting Americans back to work remains a priority of this Congress and I believe that the CETA amendments of 1978 demonstrates just how strong our commitment to that goal is.

However, the CETA program has become somewhat controversial, primarily due to isolated but highly publicized incidents of waste and misuse of funds. True, problems of abuse and mismanagement have occurred in some areas, but the committee has duly examined such problems and has drawn up a bill containing tight protection and strict sanctions against further program abuse.

So, while these charges may have placed an undeserved blot on CETA's reputation, the program can surely stand on its own successful record as one of the critical factors in not only reducing nationwide unemployment in the past year, but also in providing important community services and manpower training.

Numerous testimonies to the merit and necessity of the CETA program have come to me from my constituents who have seen CETA at work and know firsthand of the progress the Akron area has made because of it.

In Akron, as part of the Metropolitan Housing Authority and senior workers action program, public service employees go into the homes of low income or handicapped elderly and do heavy housework. Because of this program, the elderly can remain in their own homes or apartments rather than being institutionalized.

Easter Seals runs another program using CETA workers in the Akron area to help the handicapped. Staff goes into public buildings and reviews the facilities to determine if they are accessible; to see if drinking fountains should be lowered, curbs cut down and the like.

The city government is using public service employees to renovate sidewalks by putting in reclaimed brick in place of unsightly dirt and weeds.

The CETA training programs in the Akron area have been extremely successful. For example, at Akron's Skills Center and at the National Tool & Die Center, CETA is making possible expanded training in machine trades. Small machine shops are very important to the Akron area and the existence of these training programs which provide skilled machinists help insure that an adequate supply of machine tool operators are available to this small business in the Akron area.

The youth work experience program in Akron has also been an important success. This program, which aids low-income youth who might otherwise be out on the streets, has a drop out rate which is only one-third that of the Akron schools.

In Springfield Township, for example, CETA title VI workers have cleared hazardous drainage areas that had not been touched since the depression era, 40 or 50 years ago. Social services are provided to senior citizens, and young people benefit from a summer recreation program, all with the help of CETA workers. In several smaller communities, CETA workers helped the town survive the winter of 1977–78 by helping road

crews keep pace with the extraordinary amounts of snow. In Portage County, the number of children receiving aid to dependent children (ADC) has been substantially reduced because the county CETA program has been so successful in removing the parents of these children from the welfare rolls and placing them in productive jobs. In 2 years, the number of ADC children dropped from 658 to 494—almost 25 percent.

The Summit County Department of Diversion Services, which is active in reducing jail overcrowding and incarceration costs is staffed by CETA employees. The department, with an annual budget of $90,000, estimates that it has brought about savings of between $800,000 and $1.2 million in incarceration expenses that the county would otherwise have had to pay for. The mayors of the villages of Reminderville, Twinsburg, and Lakemore have all praised CETA for enabling them to provide much-needed services such as street repairs, tree clearing, emergency snow removal, and emergency fire and police dispatch services. In many cases, the CETA employees who have provided these services have acquired enough skills to enable them to obtain full-time nonsubsidized employment.

The point is clear. CETA has worked and I am confident that with the reforms contained in this legislation it is going to work even better.

While my support for the bill is wholehearted, I am concerned about one particular problem which I do not think has been thoroughly dealt with in the committee bill. That problem concerns retirement benefits.

Current law requires that CETA employees receive the same benefits as non-CETA employees. Originally, employer contributions to retirement plans on behalf of CETA participants were generally considered to be one of those benefits covered by that law. Such contributions were therefore paid out of CETA funds. However, Department of Labor regulations promulgated in 1977 announced that since the program involves temporary training and employment, membership in a retirement system was not generally encouraged and therefore, CETA funds could no longer be used to pay retirement benefits except for those participants who would ultimately vest. However, many States had already established retirement as a condition of employment because their State laws did not permit the exclusion of employees from membership in a retirement plan. In these States, the DOL regulation meant that, unless State law could be amended, the State and local governments and private, nonprofit agencies would be forced to pay retirement contributions for CETA enrollees. Fortunately, the effect of that regulation was delayed until this October, and would be extended by the bill until next January, in order to enable the affected States to change their laws. But the problem cannot be solved that easily.

In Ohio, for instance, the State law has not been amended, although there has been significant State activity attempting to reconcile the State retirement system with the Federal law. But at this point, it appears unlikely that the State law can be changed before the deadline passes. This means that the State and its political subdivisions would have to use their own funds to make employer contributions to the appropriate retirement system. Last May, the employment and training consortium in my district sent out an inquiry to PSE employers asking whether they would be able to absorb the cost of the employer contribution. The response was troubling—as many as 1,477 CETA employees would have to be laid off because the employers do not have the funds to make the necessary contribution of 14 percent of the PSE payroll costs.

This situation with regard to retirement benefits threatens the full-fledged continuation of the CETA programs in my district, in other parts of Ohio, and in approximately 30 other States. I understand why the Department of Labor and the committee have taken the position they have against the use of CETA funds for retirement coverage. Due to the temporary nature of the public jobs program, and the 18-month limit provided in this bill, the chances of a CETA employee ever becoming vested in a retirement program is quite remote. CETA funds should be used to provide jobs and not subsidize State and local retirement systems. But neither should the States and local governments be saddled with these payments which many of them simply cannot afford and which would not accrue to the employees in any event.

Congressman KREBS has proposed an amendment which provides a fair solution to the problem. The Krebs amendment would allow PSE participants to be distinguished from other employees for retirement purposes only. This, in no way, is an attempt to allow an open ended reclassification of CETA employees, for CETA participants would still be entitled to the same benefits as regular employees similarly employed. But in circumstances where the PSE employee has no opportunity to accrue vested retirement benefits, contributions to a retirement system would not be required and the State and local governments will not then be forced to pay for such coverage.

I urge passage of the Krebs amendment.●

● Mr. EDGAR. Mr. Chairman, the CETA program has been praised for its achievements and blasted for its limitations. It has succeeded in putting over 700,000 persons to work and has achieved some noteworthy successes in supporting local governments and worthwhile public projects. But in the rush to achieve numerical targets and the pressing needs of local public bodies, the program has been short on ingenuity and linkages to private industry, and long on improvisation and local manipulation. With the decline of national unemployment rates and the maturation of the program, it is time that we looked to a higher standard of aspiration and achievement for the CETA program.

An example of the sort of innovative program that I hope will increasingly typify CETA programing in the future is the proposal being prepared by the Federal Manpower Office in Delaware County, Pa., to establish a National Railroad Training Center in the county. Congress has, through the northeast corridor improvement program, established a statutory commitment to the massive improvement of the railroads of the Northeast. This $2 billion commitment is threatened by a shortage of trained manpower. The national railroad labor force has declined from 1,351,961 in 1947 to 482,882 in 1976. This smaller labor force is also an increasingly older labor force. In 1974, 32 percent of the railroad employees were 55 years of age or older. With full railroad retirement now possible at age 60, one out of every three current railroad workers can retire by 1979, if they so choose. So if we are to achieve the goals of the northeast corridor improvement program, we will need to develop a trained work force.

Simultaneous with this need for manpower, we have the Delaware Valley area, which has suffered the loss of thousands of manufacturing jobs in the past few years and confronts an unemployment rate significantly higher than the national average. Many of these unemployed workers have the basic mechanical and industrial skills which would make them excellent material for railroad jobs.

Noting these facts, the Federal Manpower Office in Delaware County has pulled together a program using a presently unused industrial plant with extensive railroad siding, the skills of retired and semiretired railroad people, and the cooperation of Amtrak and the Federal Railroad Administration to establish a national training center. This proposal has been put together with the participation and support of the Delaware County Economic Development Committee, which brings together labor and management, and public and private sectors. This proposed center anticipates training and placing more than 2,000 persons each year in jobs ranging from trackman to structural welder. In its capacity to match opportunity to need, and its ability to combine the resources of various Government agencies to execute a program, this proposal appears to me to be precisely the sort of innovative approach to the problems of unemployment that CETA should be encouraged to focus on in its future programing.●

● Mr. RODINO. Mr. Chairman, I strongly support H.R. 12452, the CETA amendments bill of 1978, as reported to the House.

Our Nation suffers from a chronic unemployment problem, and the job training and employment opportunities provided under CETA programs have proven their value in the years since the legislation was enacted in 1973. In fiscal year 1977, prime sponsors provided job training to 1,415,000 persons under title I. These included classroom training, on-the-job experience, and some public service employment. Public service employment under titles II and VI reached 753,000 by the first week of March this year.

The economy of New Jersey is still experiencing one of the Nation's highest unemployment rates, and unfortunately my own congressional district, comprising parts of Essex and Hudson Counties, has an unemployment rate considerably higher than the national average. During calendar year 1977 the unemployment rate for Hudson County was 13.1 percent, while in Essex County it averaged 11.1 percent. The latest available data for May of this year reveal that more than 64,000 persons in these two counties are suffering from the effects of unemployment.

The situation would be even more severe without the assistance of CETA programs. In the last fiscal year, prime sponsors in Essex and Hudson Counties provided employability development services to almost 19,000 individuals as part of their title I activities. An additional 7,600 individuals participated in public service employment programs under title II and title VI activities of these prime sponsors.

This year, the city of Newark alone estimates that it will enroll 7,000 participants in title I programs. Currently 2,000 persons are participating. Under titles II and VI, Newark will employ about 2,400 individuals, and 7,600 under title III.

It is clear to me that CETA has worked well in the State of New Jersey, and it is vital to the economy of my congressional district, particularly in the help it provides to minorities and the disadvantaged.

We all recognize that there have been defects resulting in fraud and abuse in operations of CETA programs. However, this should not deter us from trying to correct the deficiencies and moving ahead to continue these programs. I am pleased that the bill before us contains a number of provisions designed to eliminate fraud and abuse and to assure that CETA programs will be properly and efficiently run.

Mr. Chairman, it is only wise and compassionate to assist the economically disadvantaged, the unemployed and the underemployed, and I believe the CETA programs authorized under H.R. 12452 are crucial in our effort to try to assure employment for all our citizens who seek the security and dignity of work.●

● Mr. BEDELL. Mr. Chairman, I rise in support of H.R. 12452, the CETA Reauthorization Act, and ask permission to revise and extend my remarks.

Mr. Chairman, the Comprehensive Employment and Training Act (Public Law 93–203) is an extremely important statute. Enacted in 1973, its purpose is to take untrained, disadvantaged individuals and provide them with vocational education, on-the-job training and entry level employment in the public service sector in order to give them the experience necessary to obtain reasonable private sector jobs. In addition to combating unemployment, the CETA program also holds great potential for community development since its intent is to put people to work on useful public projects.

I believe that, on balance, the CETA program has proven its worth during its 5-year history. At the same time, however, there can be little question that it is appropriate at this juncture to correct the problems which have arisen during the early years of the program and to amend the CETA statute to meet changing economic conditions.

In 1973, when CETA was enacted, the unemployment rate was 4.5 percent. Soon after the program was implemented, the economy experienced a recession, and, as the national unemployment rate rose, CETA was expanded and modified. In particular, the program placed increased emphasis on public service employment. Also, new programs and increased enrollment have led to a degree of administrative and jurisdictional confusion which, in turn, has led to inefficiency, mismanagement and eventually to charges of fraud and abuse in certain instances.

Many Members of Congress, including myself, are concerned about such developments and about the need to revise and reform the CETA program. I believe that the bill we are considering today, H.R. 12452, focuses in squarely on the major problems that have arisen within the old program and constitutes a welcome and necessary improvement over existing law.

Since one of the primary objectives of the public service programs is to create new jobs, there has been much concern generated over the problem of "substitution." This is where Federal funds are not used to create new jobs, but rather to subsidize ones that would have otherwise been supported by State and local governments. Many of the charges of abuse have centered around local authorities using CETA funds to pay their full-time employees, thus cutting their costs. Often, though, substitution is unintentional, caused by oversight or poor administration. It is clear, however, that substitution is stunting the growth of new forms of employment, and it is hurting Americans in need of work.

Few things can hurt a program as badly as dishonesty or simply incompetent management. Though some charges are not widespread, they are audible and should be given attention. Problems such as substitution, in many cases, could easily be avoided given proper and more extensive supervision. The bill contains a number of provisions that strengthen the Labor Department's ability to combat fraud and abuse. It establishes an Independent Office of Audits, Investigation, and Compliance within the Labor Department to conduct audits and investigations relating to CETA programs and recommend policies to promote economy and efficiency. It also establishes an Office of Management Assistance to enable the Department to offer complete management and technical advice to prime sponsors where needed, and it imposes new criminal and civil penalties for prime sponsors and subcontractors who misuse program funds. Though no program is flawless, I feel confident that the new bill will successfully silence misconduct on the part of prime sponsors, contractors or any CETA administrator.

H.R. 12452 also seeks to resolve the confusion that has grown between structural and countercyclical employment programs. There has been a tendency for countercyclical efforts, which are programs for the temporarily unemployed, to overshadow structural programs—that is, those designed exclusively for the economically disadvantaged. To deal with this, the CETA Reauthorization Act organizes structural and countercyclical plans under separate titles. This separation distinguishes the purpose of these two concepts, and relieves the confusing overlap between them.

In an effort to reduce needless and wasteful paperwork, the bill decreases the number of applications and reports that must be completed. I believe that this is an important feature of the bill, coming at a time when Government costs are swelling so high.

Mr. Chairman, I support the CETA concept. It offers a sensible means of putting people back into the private competitive job market, and it is valuable to the cities and local communities. We have learned through experience the faults and weaknesses of the old program, and we have addressed them in the new legislation. CETA has been successful and popular in America, and I urge that we continue our support for the disadvantaged and unemployed.●

● Mr. HOLLENBECK. Mr. Chairman, I rise in support of H.R. 12452, the bill to improve and extend the Comprehensive Employment and Training Act. I feel congratulations are in order for the distinguished chairman of the committee, the esteemed chairman of the Subcommittee on Employment Opportunities, and the members of the full committee. They have done yeoman's work in producing a bill that should effectively solve the problems that have plagued CETA, while at the same time maintaining the integrity of the principal Federal employment and training initiative.

We all have heard the stories of fraud and abuse in CETA. Many have come to accept it as a matter of course that these funds will be used improperly. But for every tale of mismanagement, there are thousands of untold stories of Americans who have gotten a fresh start because of the employment and training they received in the CETA program.

The bill gives us a chance to aid those most in need in our society. The victims of inadequate education and training, those affected by spiraling unemployment, the young, the old, and veterans. Due to the diligent efforts of the gentleman from Vermont (Mr. JEFFORDS), the handicapped will greatly benefit from this bill. In addition, a new title has been added, which will return the expertise and experience of the private sector to the decisionmaking process. While public service employment has been the most abused area in CETA, it has provided thousands of Americans with work experience and job history, while at the same time providing valuable services to many communities.

In my district, CETA has been important both as a training program, and as a weapon in the battle against high unemployment. I am proud to state that the Bergen County CETA program has been hailed by the Assistant Commis-

sioner of Human Resources as being the finest CETA program in the Garden State, with the Hudson County program not far behind. In the last fiscal year, these two programs have provided employment and training services to almost 8,800 people, while another 5,500 individuals participated in public service employment programs.

Mr. Chairman, the "proposition 13 mentality" has affected this House since June. Many are zeroing in on CETA, ready to start "hacking" away. While I have long been in favor of easing the burden on the taxpayers, reductions merely for their own sake are not examples of responsible legislating. CETA has accomplished a great deal since its creation, but one look at our continuing high unemployment rate shows that there is still much to be accomplished. The bill before us now is basically a reform bill. Let us give these reforms a chance before we adopt amendments that could radically change the nature of CETA programs. I urge my colleagues to support the committee bill, so that our assault on unemployment will not be interrupted.●

● Mr. EDGAR. Mr. Chairman, based on my familiarity with the CETA prime sponsor in my congressional district, the seventh of Pennsylvania which includes most of Delaware County, I have been concerned with possible CETA abuses for quite some time. In the summer of 1975, the U.S. Department of Labor investigated the Delaware County CETA program and found that recruitment and selection procedures for CETA-funded jobs were seriously flawed and thus could not assure fair treatment of applicants. The Department ordered the county's program to develop a uniform recruitment policy and methods for making objective choices from among applicants.

In July 1977, a Delaware County council member and I filed a formal complaint with the U.S. Department of Labor alleging political discrimination in the hiring process of the Delaware County CETA program. The Department of Labor undertook a 5-month investigation of the program and submitted a report on February 10, 1978. The report stated that—

> Individual CETA applicants are not being serviced based upon date of application, length of unemployment, CETA priority group, veterans status, etc.

The report also said the hiring system "is subject to charges of abuse, favoritism, and political discrimination." However, despite confirming that over 80 percent of the CETA enrollees were from one political party, the Labor Department was unable to find any individual case of outright discrimination based on political affiliation.

The council member and I were not satisfied with this report when it came out, partly due to the manner in which the investigation was conducted. The investigators interviewed only people who administered the CETA program and those who had successfully landed CETA jobs. The investigators talked to no one whose application had been turned down, and the report and its conclusion that no one had clearly been discriminated against was based only on information from people involved in the program and ignored information from those who were not selected to work in the program.

I mention this bit of history to highlight some of my major concerns about the CETA program. The charges of abuse of the program which have recently been getting close public attention around the country are not new; the same problems have existed since the inception of the program. Certainly in any large nationwide program, some projects will be well run, some will be sloppily run, and some will slip from sloppiness into outright abuse. I am terribly disappointed in the failure of the Department of Labor to act as a careful steward of the public's funds as it administers the CETA program.

The trite way to put it is "an ounce of prevention is worth a pound of cure." This CETA reauthorization bill before us is the pound of cure; among other provisions, an investigative staff of 200 people to look into and resolve the sorts of abuses which we have read about lately. Because of the condition the Labor Department has permitted CETA to get into, I support this new investigative staff. But would not it have made far greater sense to have prevented the need for this pound of cure by carefully administering the program in the first place: reviewing prime sponsors' proposals to assure that they comply with program standards; routinely monitoring prime sponsors' programs to assure that plans and procedures are being adhered to and expectations achieved; providing regular technical assistance to sponsors who need help on particular phases of their operations?

Those steps seem to be common sense, but if my personal experience with the Delaware County CETA program is any test, common sense and prudent management have not reigned. In 1978 the Labor Department found precisely the same sort of deficiencies in the Delaware County program that they had found 2½ years earlier. They had done nothing in the interim to work with the prime sponsor to assure that procedures were brought up to par, despite their statements after the earlier investigation that—

> Regular monitoring by the administration will continue. Our people will keep in close contact and if any further corrective action should become necessary, they will notify them right away.

If it is impractical to provide close attention to every local CETA program, there is no excuse for not providing close attention at least to those programs which you know need it. So I am dismayed by the Labor Department's record of management of the CETA program, and I could not hope more fervently that Secretary Marshall will tighten his regional offices' monitoring of prime sponsors' projects to prevent problems rather than merely react to them with his new enormous investigative staff.

Another issue crucial to the success and public support of the CETA program is whether the CETA participants are able to secure nonsubsidized employment after leaving the program. The CETA experience, whether in the form of training or a public service job, should give the individual significant skills to enter the regular private sector job market. I applaud the provisions in the bill before us today to test the effectiveness of a variety of approaches to increase the involvement of the business community in employment and training activities supported under this bill, and to increase private sector employment opportunities for economically disadvantaged persons. The bill authorizes $400 million to prime sponsors for the establishment of private industry councils, and I have been informed that top labor and business executives in the Philadelphia area have already started meeting to discuss the establishment of such a council. I fully support legislation which includes private business in efforts to include more people in the job market.

It seems we have forgotten about the "T" in CETA. Currently, $8 billion of CETA's $11.5 billion budget is spent to fund 725,000 public service jobs. The crucial question in this area is what is the best way of providing people with additional skills, experience, and references so that their chances of entering the private sector will be maximized. I believe the emphasis of the CETA program should be redirected from public service jobs toward training and development programs.

A question related to whether CETA enrollees are learning marketable job skills is whether the billions we have pumped into CETA are in fact creating new jobs. I would like to commend my coleague from the eighth district of Wisconsin, the Honorable ROBERT J. CORNELL, for offering an amendment which addresses the problem of substitution of Federal funds for local and State funds. Under his amendment, when it is discovered that CETA jobs are created that otherwise would have been financed by State and local governments, the Secretary of Labor would be required to take punitive actions. His amendment is based on the notion that when Congress authorizes and appropriates funds for the creation of jobs, the administering agency has the right and the duty to suspend those funds when it is learned that jobs are not being created. This amendment would encourage local governments to comply with the intent of the CETA program.

A final issue I am very concerned with is the targeting of CETA jobs to the most needy. Can this be done with the Federal Government providing the money and giving local governments complete discretion in hiring? It depends. It is necessary, and has been wisely decided by the Education and Labor Committee, to make the eligibility rules reflect the intent of Congress that the CETA jobs should go to the neediest. But the local governments have great discretion in hiring, and the fact remains that some local governments are not committed to the needs of the disadvantaged and long-term unemployed.

The central question for me in deciding how to vote on the CETA reauthori-

zation bill is whether directives from Washington in the form of tighter eligibility requirements and better oversight and management by the Labor Department's regional offices can change the orientation of a local government toward the needs of the disadvantaged and long-term unemployed. If we cannot meet that test, we will have to find a better way of combating cyclical and structural unemployment.

The importance of getting people jobs pushes me to vote for this program despite the reservations I have voiced, until a better solution is found to the unacceptably high rate of unemployment.●

● Mr. SYMMS. Mr. Chairman, the CETA reauthorization bill will be taken up very soon, and I thought this column by James J. Kilpatrick was quite enlightening in its descriptive account of how some of the CETA funds have been used.

Mr. Kilpatrick states that the original intent of the CETA program was "to train the hardcore unemployed for productive jobs in the private sector." Unfortunately, the hardcore unemployed have not been helped by this program, and instead more jobs have been created in the public sector on temporary bases. Some of the funds have been allocated for some real boondoggles, such as a "nude sculpting workshop" in Miami.

The Kilpatrick column reads as follows:

THE CETA BOONDOGGLE SHOULD BE STOPPED

(By James J. Kilpatrick)

Sometime this week, if everything goes on schedule, the House will take up the CETA Reauthorization Bill. The bill ought to be shouted down and stomped on. Instead, the bill is likely to be wafted toward the Senate on waves of hot air and good intentions. Barring a fullscale revolt, another $10 billion to $12 billion of your money is about to gurgle down the drain.

CETA is the Comprehensive Employment and Training Act of 1973. It is now set to expire Sept. 30. The pending bill would rewrite portions of the original act in an effort to prevent multiple abuses, and would extend the program for four more years.

The authors of this grotesque imposition on the taxpayers could not prevent abuses if they kept at the rewriting job till Christmas. Nothing in my experience—not food stamps, nor foreign aid, nor the old Job Corps, nor the follies of the arts and humanities people—nothing has approached the sheer mind-boggling, boondoggling waste and corruption of the CETA billions.

That is not even the worst that can be said of the program. The original idea was to train the hardcore unemployed for productive jobs in the private sector. The original idea was to rely upon public service jobs in local government only as temporary expedients.

Those original ideas have been reduced to imbecility. The act has done virtually nothing toward solving the problems of the hardcore unemployed—their plight is as pathetic as ever—but the act has provided some glorious new revenue-sharing for the municipalities.

What CETA has accomplished—about all it has accomplished—is to transfer a few hundred thousand jobs from the private sector of our economy to the public sector. This is marvelous, is it not?

In Massachusetts, newsman Warren T. Brookes has reported, between July 1974 and January 1978 government employment rose by 23,500 jobs (mostly CETA), while the state's private sector actually lost 26,700 jobs. The effect of the program is to damage the very private employers who in the past have supplied the most employment to marginal workers.

Brookes has some figures on CETA employment in public service. In May 1977, for example, Boston had 1,221 CETA jobs under the city government. By March 1978, the number had grown to 3,207. In New Bedford-Fall River, city jobs under CETA swelled from 402 to 2,106 in the same period. The jobs pay an average salary of $10,000, far above what an untrained 18-year-old could get in private employment, but the jobs have no performance and few of them provide serious training.

Doubtless, the CETA outlays have helped some jobless men and women. It would be incredible, considering the billions that have been spent, if some persons had not been constructively assisted. But the program is riddled with abuse.

Here in Washington, a spendthrift District government used $480,000 in CETA funds (translation: your tax funds) to set up a massive bureaucracy staffed in large part by relatives and cronies of City Council members. The 56 CETA recipients on the council's payroll averaged $18,000 a year for jobs that paid only $8,571 in other government agencies.

Writing in Reader's Digest, Ralph Kinney Bennett chronicles other outlays of your money. There was the payment in Atlanta of $475 a month to a former leader of the Black Panthers just "to keep an eye on city, county and state governments and their jiving off the masses." There was the $640,000 turned over to the Gay Community Service of Los Angeles, "to provide education about gay people's problems." Another $34,000 went to the Gay Alliance of Rochester, N.Y., to provide speakers at local campuses so that students could learn about homosexual lifestyles. And then there was the grant in Miami for a "nude sculpting workshop" in which naked men and women "ran hands over one another's bodies . . . to help them discover that they had 'both male and female qualities.' "

There is no way—no way on earth—that this miserable boondoggle can be retrieved for socially useful purposes. The House amendments make some feeble gestures toward reform, but a close reading of the changes suggests that local sponsors will evade the tighter requirements with ease. The CETA program, launched with good intentions five years ago, has come to a woefully bad end. If the House has any regard for the people's taxes, the House will let CETA die right there.

● Mr. BIAGGI. Mr. Chairman, as a member of the Education and Labor Committee I rise in general support of H.R. 12452 providing for the reauthorization of the Comprehensive Employment and Training Act. I would be less than candid if I were not to mention that this program has grown far beyond our wildest expectations—for reasons within and outside of our control. We come upon this legislation at a critical time. Unless we streamline, and strengthen its accountability features, we will have simply established another permanent fat-ridden Federal program.

I feel title I of the bill does provide the foundation for a more carefully administered CETA program. For the first time there are time limits placed on jobs—no longer is CETA going to be the source of permanent employment for persons. We have established better measures to prevent fraud and abuse—a problem which is rampant in many CETA projects. Travesties ranging from no work jobs to nepotism to outright fraud and misuse of funds are too often reported.

I was proud to have sponsored amendments to sections 109 and 110 of this legislation. My amendment corrects a longstanding inequity inherent to this program—namely the failure of the elderly of this Nation to fully participate in the employment and training programs in the act. My amendment adds participation by organizations of the elderly in both the prime sponsor's planning councils and the State employment and training councils. This means the elderly will be represented when the decisions on how to spend CETA funds on the State and local level are made. I should point out to my colleagues that the CETA program was named as one Federal program which discriminates against the elderly. This must be stopped.

I support other features of this legislation. I believe the emphasis placed on expanding employment opportunities for the youth of this Nation under title IV is absolutely essential if we are to rid our Nation of one of its most chronic unemployment problems—namely that affecting youth.

Title IV, the countercyclical employment program section is absolutely essential to assist those areas in the Nation which are enduring unemployment rates above that of the national average. New York State's unemployment rate is some 1.5 percent higher than the national average and New York City's continues in excess as well. This program triggers public service jobs into these depressed areas to help lower the unemployment rate. What is important to note in this legislation is the intent of the committee to insure that once the unemployment rate drops so too will be the CETA commitment. This will prevent the kind of situation which has happened in a number of localities whose unemployment rates have been in a sense artificially lowered exclusively by CETA and to keep it low CETA workers have been kept on almost permanently.

Finally, a brief word about title VII—it is long overdue. We must come to grips with the economic fact of life that the public service job is the least cost effective of all possible ways to provide employment. Title VII establishes a new program for closer partnership between the public and private sector so that at the termination of the CETA contract a more permanent job will follow. It is a vital new feature of this bill which merits support.

CETA was conceived with the best of intentions. In fact it responded when our unemployment rate reached dangerous levels. Yet now, it must be monitored more closely. Economic times are improving, jobs are more plentiful. Let us keep CETA was conceived with the best of also lessen our dependency before we go too far.●

● Mrs. BURKE of California. Mr. Chairman, I rise in support of H.R. 12452, the CETA Amendments of 1978, which contains provisions which will enable displaced homemakers to receive essential training, counseling, and support services during the transitional period from

homemaking to employment in the paid labor market.

The typical displaced homemaker is a woman in her middle years or older who has spent most of her adult life as a homemaker. She may never have worked outside the home. As a young woman, she followed the tradition of the times and put aside any thought of a career outside the home for herself. Instead, she raised a family or made a home for herself and her husband, in return for which she was taken care of financially. Today, after years of being dependent upon the income of the family breadwinner, she finds that because of a divorce or widowhood or the loss of the breadwinner's income because of unemployment or disability, she must find employment.

One of the first questions I am asked is how many displaced homemakers there are. The number is difficult to pinpoint. One of the major obstacles we faced in preparing H.R. 10270, the predecessor to the amendments in the current CETA bill, is the lack of data from the Federal Government or any other source. Displaced homemakers as a group are so overlooked that the statistical data is almost nonexistent. It is therefore difficult to document the precise numbers of women who fall into this category although there is ample data to substantiate the existence of this group and information which indicates that the size of the group is extensive.

According to the U.S. Bureau of the Census, in March 1976, there were 3,162,000 widows between the ages of 35 and 64. There were also 2,435,000 divorced women, one-fourth of whom were divorced after 15 years of marriage. There is also a sizable number of potential displaced homemakers: 15 million women are not in the labor force who now have minor children and who will be without income security benefits when their children reach age 18.

To a great extent, the problems of displaced homemakers reflect the dramatic changes in our society. Today, nearly 1 out of 3 marriages ends in divorce. With the continuing trend to no-fault divorce, many women are suddenly finding themselves possessed of an independent status for which they are completely unprepared. Alimony is becoming a relic of the past. The National Commission on the Observance of International Women's Year discovered that only 14 percent of divorced women receive alimony and within this group, only 46 percent receive alimony payments on a regular basis. The trend in many no-fault States is toward limited alimony—alimony which is granted for a specific period of time, for example, 3 years, at the conclusion of which the women are expected to be self-supporting.

Widowhood presents other difficult problems. Survivors benefits vary enormously. Often the very carefully developed plans for retirement are found painfully inadequate in the face of galloping inflation. Insurance money ordinarily covers only a few years' living expenses. Presently, there are four times as many widows as widowers. The life expectancy for women is 75 years compared to 67 years for men. The painful reality is that the older women become, the more likely it is that they will be on their own.

This tragic situation is compounded by a marked departure in the customs of previous generations when widows would be taken in by relatives or friends. Today, because of the mobility of families, differences in life styles, smaller homes and with incomes often stretched to the limits, this solution is impractical.

The displaced homemaker cannot turn to the usual sources for temporary financial assistance. Even though she is unemployed, she does not qualify for unemployment compensation benefits. If she is divorced, she may not qualify for social security benefits through her former husband's earnings. If she has no children under age 18 or if she is not physically disabled, she is ineligible for Federal welfare assistance. She may also have lost her rights as a beneficiary under her husband's pension and health plans. Private health insurance is out of her price range. For example, here in Washington, Blue Cross would charge a displaced homemaker between $41 and $56 per month for coverage. Many displaced homemakers must do without.

Having fallen through the cracks of every income security program devised, displaced homemakers are left to fend for themselves in the marketplace. I need not tell you that the middle-aged woman who has spent her adult life in the traditional role of homemaker finds it extremely difficult to make the transition from dependence on a family breadwinner to being self-supporting. Aside from the psychological adjustments, she may not be able to overcome the obstacles of the job market. Her lack of recent paid work experience combined with her age, sex, and race may make her chances of immediate employment dim in a youth-dominated culture. She may never have had to look for a job in her life and is confronted with such problems as conducting a job search, writing a résumé, competing with younger workers and mastering a changing technology.

The scope of the problem is obscured by unemployment statistics compiled by the Bureau of Labor Statistics. The data for June 1977 indicates an unemployment rate for women over age 55 of only 4.6 percent. That figure, however, includes only those who are actively seeking work. Many displaced homemakers are so traumatized by their first ventures into the job market that they retreat into lives of quiet desperation. Some turn to alcohol, others to prescription drugs to ease the burden that has been placed so unexpectedly on them.

Displaced homemakers have, for some time, been isolated individuals in need of assistance. However, many have recently found an organizational vehicle in the Alliance for Displaced Homemakers, whose coordinators, Tish Sommers and Laurie Shields, are themselves displaced homemakers.

Tish and Laurie have forged a network of displaced homemakers that stretches across this country and into every State in the Union. It is small wonder that displaced homemaker legislation has been introduced in 30 States and that 21 States have adopted legislation.

I am pleased that my distinguished colleague, AUGUSTUS HAWKINS, chairman of the Employment Opportunities Subcommittee, has included displaced homemakers as a special target group under title III of H.R. 12452. Under the committee bill, which closely parallels the legislation which I introduced, H.R. 10270, job training, counseling, and placement services will be offered. The programs and services are to be tailored to the specific needs and available services of the particular community and duplication of existing services is to be avoided.

I realize that our financial resources are limited and that they must be deployed as efficiently as possible. However, the assistance afforded to displaced homemakers is a constructive solution to the problems these women face. It is not a welfare program, but a self-help program. It is small recompense for women who have raised families and given freely of their time and talents to civic and volunteer projects in their communities. It is a positive alternative to welfare or to long-term care for women who have destroyed themselves through alcohol or prescription drugs because their problems have overwhelmed them.

The legislation we are considering today is not a panacea. What it will do is eradicate some of the immediate problems which displaced homemakers encounter: specifically, the need for reentry services and assistance in developing job skills so that they can take their place in the paid labor force.

I commend Mr. HAWKINS and the other members of the committee, particularly Mr. WEISS, Mr. BLOUIN, and Mr. CORNELL, who have taken a special interest in the needs of displaced homemakers.●

● Mr. BINGHAM. Mr. Chairman, I rise to express my support for H.R. 12452, the Comprehensive Employment and Training Act (CETA) Amendments of 1978, as reported by the House Education and Labor Committee. H.R. 12452 restructures and reforms existing CETA programs and, with the exception of the recently enacted youth programs under title IV and the newly proposed private sector initiative program under title VII, extends them for 4 years—fiscal year 1979 through fiscal year 1982.

The House Education and Labor Committee has done a remarkable job of reforming the CETA law to deal with the various abuses which have come to light since its enactment in 1973, while at the same time remaining true to the original CETA mandate:

> To provide job training and employment opportunities for economically disadvantaged, unemployed and underemployed persons . . . and to establish a flexible and decentralized system of federal, state and local programs.

The committee's bill also reflects a new understanding of the complexity of the unemployment problem and our economy as a whole gleaned from its extensive hearings in connection with welfare reform, the Humphrey-Hawkins full em-

ployment bill, and the CETA extension. In looking over the records of these hearings, one is once again reminded of the diversity of our people and our country. The reasons for unemployment differ greatly from individual to individual as do the solutions which reverse that condition.

To further complicate matters, economic forces and circumstances also very from place to place, and time to time. I urge my colleagues to remember this as they consider various amendments which will be offered to take away some of the flexibility which the committee has carefully crafted into this complex employment training and placement system. I also caution Members who may be tempted to vote for such amendments that placement of the unemployed in unsubsidized permanent jobs—the central goal of CETA—cannot be accomplished without considering the chain reaction nature of job markets. Workers in entry level and higher level jobs must be upgraded to make room for new employees at the entry level. Underemployment of the educated and advantaged can be a central cause of unemployment of the unskilled and economically disadvantaged. Flexibility in eligibility requirements in regard to existing skills, income and the amount of wages to be paid is essential to any permanent solution to unemployment. To unnecessarily target and restrict the CETA system is self-defeating in the long run and a "penny-wise, pound-foolish" approach. So I urge opposition to the Obey amendment or any similar effort to place further restrictions on the scope of the CETA system.

Many persons inside and outside Congress have criticized the present CETA program for trying to serve two, sometimes conflicting, purposes, of providing training and job experience for the unemployed, while helping local governments and nonprofit groups provide essential public services during a recession. This dual purpose of CETA first began in 1974 when public service employment was added to the CETA law which was originally designed to deal with structural unemployment of the economically disadvantaged. The change reflected congressional concern over the rise in national unemployment from 4.9 percent in 1973 to 8.5 percent in 1975, and the recognition that local governments hit hard by the recession could ill afford to maintain and expand public services to meet the rising demand for such services. CETA plus counter-cyclical aid enacted since 1974 saved many economically depressed cities and rural areas from cutbacks in essential public services and happily resulted in the creation of new and innovative public services such as home health care.

During the 1974 to 1975 recession about 200,000 public service jobs were created and since then these programs under title II and VI have been expanded to 725,000 jobs. Corresponding with this expansion and the ripple-effect on local private sector jobs, the unemployment rate has gone from the 8.5 percent high in 1975 to the low June 1978 rate of 5.7 percent. As economic recovery has occurred, Congress rightfully has sought to readjust the emphasis of the CETA system back to the structurally unemployed and economically disadvantaged while not forgetting the lingering need for a countercyclical public service employment program to help localities still in stress.

In 1976 new restrictions on the expanded emergency job program, title VI, were imposed and Congress required the Federal Government to study and attack the problem of "substitution"—the replacement of locally paid workers for CETA paid workers. Press reports to the contrary, these studies show that the substitution problem only involves about 20 percent of the public service jobs and that by and large these jobs are new and are being filled by the low-income, long-term unemployed. A study by the Brookings Institute further showed that when CETA sponsors do substitute with CETA dollars, they relieve pressure on local tax bases and help the local governments stem the outflow of residents as well as stimulate new development.

H.R. 12452 represents the second, but major, stage of this readjustment process drawing on the lessons learned from the past CETA experience. For the first time it establishes two distinct employment programs: a program for the structurally unemployed in title II and for the countercyclically unemployed in title VI. The training emphasis of the old CETA title I program is combined in the new title II and the public service job experiences provided under this title are limited to 50 percent of its allotment funding. The new title II is targeted to the low-income long-term unemployed who have a family income at or below 70 percent of the BLS lower living standard, and wages are restricted on an individual and average basis with local supplementation of salaries forbidden. This is quite a departure from the present title II program which allows unrestricted public service employment of the higher income and skilled short-term unemployed with unlimited local supplementation of salaries. Also the new title II includes a restricted authorization for local prime sponsors to conduct upgrading and retraining programs to allow for the opening up of entry level positions for the lesser skilled.

The new title VI countercyclical program under H.R. 12452 is keyed to national and local unemployment rates. It is aimed at enabling individuals to enroll temporarily in public service employment during periods of local high unemployment. To prevent substitution, public service jobs created under this title must be entry level positions, as in the PSE portion of the new title II, wage supplementation is restricted and 50 percent of the public service jobs must be in projects of limited duration. Eligibility for participation in title VI is limited to persons with family incomes below 100 percent of the BLS lower living standard who have been unemployed at least 8 weeks.

As I mentioned before, H.R. 12452 as reported by the committee wisely allows for differing local conditions in imposing these restrictions on public service employment. Under title II, the present maximum federally subsidized public service job wage of $10,000 is allowed to be adjusted for high wage areas up to 20 percent or $12,000 and the enforceable average wage per prime sponsor of $7,800 is allowed to be adjusted by the ratio of local wages to national wages, and then further adjusted annually by increases in the CPI over the 4-year life of the bill. Under title VI an individual's salary can be supplemented by the local prime sponsor up to 25 percent over the Federal base—$10,000 to $12,000—which means a maximum wage of $15,000 for the highest wage areas. To limit this practice, a prime sponsor may use no more than 10 percent of its title VI grant for this purpose. I know $15,000 seems too high a wage to many of my colleagues, but remember, since the $10,000 limit was set in 1973, there has been almost 50 percent inflation. Also, that new $15,000 maximum will remain in force through the end of fiscal year 1982. Even now entry level jobs in certain types of employment in the high cost-of-living areas such as New York are close to that $15,000 maximum. I urge my colleagues to resist the temptation to lower this figure and maintain the principle which Congress has wisely followed of providing equal pay for equal work.

Added to these restrictions for public service employment, the committee's bill further strengthens the antifraud and abuse provisions under the CETA law. It establishes an Independent Office of Audits, Investigation and Compliance within the Labor Department with clear authority to review, investigate, and prosecute fraud where ever it may occur. It requires the bonding of certain employees under the program, provides for new criminal and civil penalities for prime sponsors and subcontractors who misuse program funds and expands Labor Department authority to withhold funds for noncompliance with Federal regulations. Finally, it includes a specific complaint procedure for processing allegations by local groups and individuals of violations of the CETA law. These provisions developed by the committee, coupled with new short-term and long-term planning requirements, I believe are sufficient to prevent future abuse of the programs.

I have concentrated my remarks on the public service employment aspects of the new CETA legislation because that is where proposed amendments and criticism in Congress have seemed to focus. I believe the committee's bill adequately deals with these criticisms and provides an absolutely essential flexibility in the CETA system. I hope my colleagues will agree and will support the bill as reported by the House Education and Labor Committee.●

● Mr. RUDD. Mr. Chairman, the news media have made us all aware of the many problems—and in some instances shocking abuses and scandal—that are widespread in the CETA program throughout the Nation.

In my own State of Arizona, there has been unconscionable waste, misuse of public funds, and outright fraud by federally funded CETA officials.

CETA people have been discovered and exposed as smugglers in the trafficking of illegal aliens from Mexico into the United States via the Arizona border.

Mr. Chairman, I cannot support, and do not believe that the Congress should support, a continuation of this program for this reason alone. It is a boondoggle.

There are many other problems with the CETA program—including the tremendous unnecessary growth of State and local government it has brought into being through program requirements—that make it necessary to terminate this waste of taxpayer dollars.

Investigative reporters for the Arizona Republic, Arizona's largest statewide daily newspaper, have done an excellent job uncovering and publicizing the abuses and illegal activity associated with the CETA program in my State.

These problems, I know, are duplicated in probably every State of the Union.

I would like to include an editorial and two articles from the Arizona Republic at this point in the RECORD, and urge my colleagues to vote "no" on continuation of the CETA program:

[From the Arizona Republic, May 26, 1978]

CETA's WOES

Republic reporter Jerry Seper has discovered a confidential report that casts some serious reflections on the CETA programs conducted by Maricopa County.

CETA stands for the federal Comprehensive Education and Training Act, one of the carryovers from President Johnson's Great Society. Congress voted the money to provide training programs for the hard-core unemployed. It was hoped that the unemployed would be taught how to get and hold jobs.

The good intentions of CETA are unquestioned. But obviously, in at least some of the programs, the results have not measured up to the early hopes.

There are about 2,300 persons engaged in the programs, which receive $22 million in federal funds. Some 185 programs have been investigated, and such abuses have been found as:

A grant to help divorced people survive the trauma of separation was used to help publish a newspaper aimed at single persons.

A program designed to help alcoholics had an employee who was paid for 32 hours of work a week in Phoenix while she was attending the University of Arizona in Tucson.

A home beautification program was used to beautify the home of a well-paid public official.

There is no point in extending the list. And it would be a mistake to conclude that all CETA programs were failures. However, there is enough evidence to persuade the county supervisors to make a thorough investigation of CETA programs in Maricopa County.

One difficulty with the Great Society, of course, was that it often mixed welfare with civic development. Training people for nonexistent jobs is expensive and frustrating. A government that devotes itself to creating conditions under which the economy can flourish will be of more value to its citizens than a government that throws money into makework proposals.

CETA failures are not limited to the programs launched by the Maricopa County government. Similar irregularities have developed across the nation. They should be weeded out and if CETA is unworkable, it should be discarded.

[From the Arizona Republic, May 26, 1978]

PATRONAGE, FRAUD FOUND IN JOBS PLAN

(By Jerry Seper)

Confidential monitoring reports on Maricopa County's $22 million federal jobs program show that taxpayers may be getting gouged by a project laced with misuse, political patronage, inefficiency, duplication and outright fraud.

The reports, copies of which have been obtained by The Arizona Republic, are required by federal law. They are designed to monitor the progress of individual Comprehen-ive Education and Training Act programs administered by the county.

Although 185 CETA contract programs have been monitored in the past six months, reports outlining the various findings have been closely guarded by county manpower director Bill James. Some members of the Board of Supervisors also have been unable to obtain them.

County personnel staff members compiled the monitoring reports. They were then submitted to James.

Funded by federal tax monies and administered by James, the county's CETA program is aimed at putting unemployed persons to work in meaningful jobs that eventually will lead to permanent positions. There are about 2,300 persons involved in the program.

Some officials, however, suspect there may be abuses of the overall program.

Supervisors' Chairman George Campbell, has demanded an outside investigation of the program, as has Supervisor-designate Tom Freestone, whose inquiry last week into the county project brought to light the existence of the reports.

And, according to a review of the reports, their concern may be justified. There have been abuses and a considerable amount of money has been spent on projects that do not appear to be in line with state CETA goals.

For example:

Divorce Recovery: The purpose of this program is to help people get through the "trauma of divorce." It is directed by Harlan Jacobson, owner of the newspaper "Singles Scene" and operator of the Singles Dance program.

Jacobson was given four CETA positions to develop the program, but the monitoring report said none were being used in that capacity. Their main activities have been to work in Jacobson's newspaper and dance activities, the report said. No divorce counseling had been accomplished.

The four employees are being paid from $126 to $192 a week.

According to the report, Jacobson also used CETA funds ($165) to buy a camera, which was being used to make slides for his singles dances.

Chandler Receiving Center: This program is aimed at helping alcoholics and drug users through counseling and transportation to "live-in" treatment centers.

The report showed that personnel records were not maintained, but a person known only as Miss Milodragovich had been carried on the payroll and had been credited with 32 hours work—while also attending classes at the University of Arizona in Tucson. Other CETA employees told investigators they never saw the woman on the job.

An agreement between Miss Milodragovich and project director Karen Warder is outlined in the report, in which CETA checks to Miss Milodragovich were to be endorsed and turned back to Ms. Warder. The director later was fired.

The program was allocated 11 CETA positions, each earning between $120 and $192 a week.

Fountain Hills School District: This program is to conduct a beautification work project of the undeveloped park and playground areas around Fountain Hills School.

The report said one CETA worker, Richard P. Capozzi, was the brother of the school's principal, Philip A. Capozzi Jr. Also, it noted that another CETA worker, Barbara McCracken, was the sister of Fountain Hills School Board member Carole O'Day.

According to the report, some of the CETA workers observed during an on-site inspection of the program had nothing to do and told investigators they had not received any training or been assigned any duties.

The school district has 30 CETA workers, earning between $89 and $175 a week each.

Buckeye Home Beautification Project: This program is designed to repair and paint homes in the Buckeye area belonging to senior citizens and disabled Social Security recipients.

The report said a CETA crew was used to repair the roof of a house owned by Constable Joe Johnson, who does not meet eligibility criteria for the work.

The Buckeye project has 30 CETA slots, each earning $140 to $192 a week.

San Lucy: The purpose of the project is to construct a community building on the Papago Indian Reservation in Sells.

The report said that during an inspection of the CETA program, project supervisor J. J. Bandy was found drunk and CETA workers were found standing around with nothing to do. (Bandy later was fired by the Tribal Council.)

According to the report, a second trip to the project site showed "only half of the laborers were doing nothing." By this time, Bandy had been fired.

The program has 34 CETA positions. They earn between $120 and $160 a week each.

Arizona Ballet: The purpose of this program is to establish a professional ballet company based in Phoenix.

The report noted that four CETA workers assigned to the project admitted they lied on their applications to get the job because they believed it would be advantageous to use a Mesa address.

All four "professional dance trainees" earn $192 a week.

The calendar of scheduled appearances for the ballet group, outlined in the report, listed the Scottsdale Center for the Arts, Phoenix Art Museum, Saks Fifth Avenue, Circle K gas pumps and Bennie's Topless Go Go Pub.

City of El Mirage: The purpose of this city-sponsored project was to work on a federally funded home-insulation program and to remodel a donated building into a recreation center.

The report said the five allocated CETA workers for this project have not been allowed to work on insulating or remodeling because (1) the building is under contract through the Economic Development Administration and CETA workers are forbidden to enter it for work purposes, and (2) the insulation program is being accomplished through another federally funded program

They have been assigned to beautification programs in the city, which the report said is contrary to the intent of the CETA proposal submitted by El Mirage.

The five workers are each paid between $127 and $134 a week.

Central Arizona Regional Epilepsy Society: The purpose of this project is to conduct an "employer awareness program" designed to educate the business community about epilepsy.

The report said the lone CETA participant in the program never filled out an application blank, but still was given a job

The job pays $192 a week.

Valley Big Brothers: The project is aimed at organizing and conducting group recreational programs for boys awaiting Big Brother assignments. Two CETA workers have been assigned.

The report noted, however, that the CETA project has headquarters in Scottsdale, the caseworker is in an office in Glendale and the recreation aide works the program from an office in Phoenix.

The caseworker earns $192 a week, and the recreation aide is paid $144 a week.

In addition to project reviews, the county has undertaken a series of financial audits of the programs. The audits, however, are conducted for informational purposes only and no prosecutions are sought if irregularities are found.

Some of the irregularities noted in the financial reports included:

(1) unreconciled bank statements for three of Avondale's CETA programs, which cost taxpayers $426,000 annually; (2) unauthorized medical expenditures for the Buckeye Beautification program, which has an annual price tag of $253,459; (3) unauthorized expenditures for travel, telephone bills and supplies for the Tempe Community Council's three CETA programs, all of which cost $115,900.

Also, (4) unauthorized expenditures for refreshments and a Christmas party for the Community Leadership for Youth Development program, which costs $49,000 annually; (5) unauthorized expenditures for the Tempe Girl's Club, which has a $34,000 CETA program; (6) questionable expenditures for dinners and membership cards for the Boys Clubs of Tempe, which has a $22,000 CETA program, and (7) unauthorized expenditures for supplies and telephone services for the Human Action for Chandler program, which has an annual price tag of $19,000.

The monitoring reports are expected to be a matter of discussion for the supervisors during the coming week. However, there is no formal board session scheduled until June 5.

[From the Arizona Republic, May 26, 1978]

BORDER FLIGHT: PERIL, FEAR, UNCERTAINTY TRAVEL WITH ALIENS

(By Tom Kuhn)

SCHUCHULI.—Three hours after dark, the smugglers returned. They flashed the headlights twice and sounded the horn. That was our signal. We left our hiding places in the palo verde bushes and ran through the darkness to the waiting car.

After approaching cautiously, we got in. A tense mixture of excitement and apprehension made my insides tingle. I wondered what would happen if the smugglers discovered I wasn't a Mexican.

Disguised as a field hand, I had traveled with five Mexican laborers 350 miles through northern Mexico to the sparsely patrolled border fence, where they entered the United States illegally.

We had crossed near the Mexican town of Sonoyta, then had walked 40 miles through the desert, where temperatures soared during the day and plummeted to near freezing at night, until we had reached Schuchuli, a Papago Indian settlement 100 miles west of Tucson. The Mexicans said they knew of a smuggler there who would drive us to Phoenix.

Schuchuli lies in the notch of Gunsight Pass, an area stretching from the border to U.S. Highway 86, where bandits and smugglers prey on the daily migrations of Mexicans trying to get through to jobs in the north. I was warned we might be robbed. As a precaution, we had hidden our money in our boots.

My companions were Eugenio, Humberto, Guillermo, Antonio and Marco. Marco is only 16.

Guillermo and Antonio had been caught by the Border Patrol during the second day of our walk across the wilderness of Organ Pipe Cactus National Monument after becoming separated from us.

All five had worked in the United States before, been caught by "Las Migras"—the Border Patrol—and had "voluntarily departed" back to Mexico. Guillermo, the informal leader of the group, had been caught and returned five times previously.

We had walked across the desert with animal caution. Now, as Eugenio, Humberto, Marco and I stepped onto Highway 86, I felt strangely conspicuous. Suddenly, the smugglers appeared. They had spotted us. Two Indian women sat in the front and an Indian man in the back of the 1973 Chevrolet sedan.

"You looking for a ride?" the woman driver asked in English.

"Drive us to Phoenix?" Humberto asked, struggling with the English he had learned as a jackhammer operator in Nebraska. "We can pay. How much you want?"

"A hundred dollars," the woman said.

Humberto said that was too much.

In Spanish, Marco said, "Tell them we can pay $80."

"Ochenta dolares," I seconded, drawing my Anglo face closer to the recesses of my coat collar.

Being so visible on the busy highway as we dickered over price made the smugglers and Mexicans anxious. The Border Patrol, they knew, came by frequently.

The Mexicans agreed to pay the $100, even though it was $20 more than the usual fare.

"We'll be back in a little while," the driver said. She seemed to be in charge. "Don't go away," she ordered, driving off.

Had they gone for help to rob us? The thought made us fearful during the two hours we waited before the smugglers returned.

The Mexicans told me that immigrants like themselves are ideal victims of robbers. The robbers know the Mexicans are carrying money and that they cannot go to the police because they will be deported.

When the smugglers returned they parked 150 yards from the main highway on a side road with the parking lights on. At the signal, we dashed blindly over the desert cobble and across a dry wash toward the dim beacon lights.

How many were inside? I couldn't see.

"Ten cuidado (Be careful)" I whispered to Humberto as a window was rolled down.

"You got the money?" It was a woman's voice. Humberto nodded. "Get in," she commanded.

The voice belonged to Barbara Ramon, 21, of Kerwo, she acknowledged later. Miss Ramon said the other woman in the car that night was her 19-year-old sister, Jane.

The sisters are job-training counselors at the Papago tribal offices in Sells. Their salary is paid by a federal Comprehensive Education and Training Act grant.

The Chevrolet sedan was licensed to Mary D. Juan, 23, of Sells, who worked in the same program with the Ramon sisters, but who now works in a CETA-funded child-care program. Mrs. Juan said she loaned her car to Miss Ramon.

Miss Ramon said "It was the first time that I did it. I was just going by." She said she got the idea of driving Mexicans for money from a relative.

"One of my brothers-in-law did it, but he got caught," she added. "He doesn't do it any more."

That night, miles from the nearest telephone and help, the Ramon sisters seemed threatening.

Humberto was invited up front. Eugenio, Marco and I climbed into the back seat. The Indian man was there, only now he was drunk and unconscious.

"You got it?" Miss Ramon repeated more stressfully.

"Wait for money at Phoenix," Humberto said.

Smugglers, known disdainfully on both sides of the border as "coyotes," sometimes collect fares at the other end. That way, if stopped by immigration authorities, they can claim to be driving hitchhikers.

"No, we want it all now," Miss Ramon demanded. Her insistence on being paid immediately alarmed me.

We took the $20 bills out of hiding. Walking on the notes in our boots had rubbed their green ink off one side.

Humberto handed over his stash. Miss Ramon's sister counted the money in the faint glow of the dashboard lights.

"A hundred," the smuggler said. The bills disappeared into Barbara Ramon's sweater pocket.

My five 20s were counted next, then Eugenio's and Marco's. Four hundred dollars altogether.

"It's all here," the counter said. The Chevy rolled along the dirt road that proved to be a back way into Senuchuli. I perked up from a sudden flow of adrenalin. Were we being setup for a robbery?

Village dogs hounded us as we drove along the deserted settlement street to Highway 86. We turned west. Humberto frantically pointed east. "Phoenix," he repeated twice. "That way."

"This is another way," Miss Ramon said.

Both women were half drunk. The speeding car straddled the center line and yielded to oncoming traffic reluctantly. At Ajo, Miss Ramon bought two more six-packs of beer for the drive through Gila Bend, Buckeye and Phoenixs west side.

The Mexicans directed the smugglers to drive to Arrowhead Ranch Inc. at 59th Avenue and Union Hills. The Border Patrol considers the ranch a major employer of illegally immigrated farm workers. Arrowhead Ranch and neighboring citrus groves are raided frequently by the patrol.

It was on such a raid April 4 that the five Mexicans who had crossed the border with me had been caught last, along with 17 others. They said many more had fled into the citrus groves. Those caught had been taken on a Border Patrol bus to Nogales, 185 miles south of Phoenix, and released into Mexico.

Two days later, they were planning to cross the border illegally again.

That's when I had met the Mexicans in the Orizaba Hotel, a cheap, clean flop in Nogales, Sonora. It was Thursday, April 6. A member of the Maricopa County Organizing Project, a labor organization that represents Mexican and other farm workers, had introduced me to them.

They said some of the others who had been caught with them at the Arrowhead Ranch already had returned to the United States, and "some have gone home."

The Mexicans had agreed to take me along when they slipped back into the United States.

Guillermo, 39; Eugenio, 20; Antonio, 35, and young Marco are from Abucatlan, in Guerrero state. Humberto, 24, said he is from Chichihualco. They asked that their surnames not be disclosed because of the number of times they had been caught working in the United States.

During our first meeting, Eugenio had suggested we get acquainted over a beer. We

were climbing over some Ferrocaril de Pacifico rail cars on a Nogales siding on our way to a bar when two "locales"—city policemen—halted us.

"What are you doing with the norteamericano?" the older of them demanded in Spanish. Was I a "coyote"?

Of course I wasn't.

Were they planning to rob me, then?

No, of course not.

The second cop, with boyish features and hard eyes, watched our reactions. He did not believe the answers.

I tried then, "These are my friends. We are going for a beer."

"Friends?" the older cop said with sarcastic disbelief.

The Mexicans were ordered to empty their pockets. Guillermo's yielded a four-inch blade-folding knife.

"We're going to jail," I thought to myself. The young cop opened and closed the knife, intermittently stroking it against a concrete litter barrel. To my relief, we were released. We had our beer. But when we returned to the Orizaba, we discovered the police had searched our belongings.

On Friday morning, a church bell on Nogales' Juarez Street sounded reveille for the "mojados" ("wetbacks") lodged in the hotel. Someone played a dolorous campesino ballad on a steel-string guitar. Two men stirred in their bedrolls on the hall floor outside my door.

We boarded a second-class bus at the depot next door and rode to Santa Ana, then to Caborca and Sonoyta, on the border.

The sprung beds of the Hotel Desert Sun in Sonoyta received us, but the plumbing didn't work. We slept, two to a bed, in our traveling clothes.

On Saturday, we bought supplies. Sonoyta is a provisioning town for Mexicans going north. We saw others carrying plastic gallon milk bottles for water and plastic-mesh shopping bags tied with twine for packing food.

We took a taxi to a spot 500 yards from the border. The driver charged us $4 each, five times the usual fare.

A Border Patrol cruiser went by as we approached the border fence. We retreated into some mesquite for cover. After a two-hour wait, we crawled under the barbed-wire boundary fence and disappeared into El Tajana Arroyo on the U.S. side.

At the head of the arroyo, the arid Ajo Range slopes to form the broad valley of Gunsight Pass. It seemed unattainably far in the shimmering afternoon heat.

We walked all Saturday and into Sunday morning. It rained and stopped twice. The sky cleared, but there was no moon. It turned bitter cold. As we felt our way through the darkness, I fell painfully into a deep wash. The three water jugs I was packing crashed down on me.

The big dipper had nearly traveled full axis around the North Star when we stopped, bone-tired, in a wash near Montezuma's Head, a distinctive Buddha-like landmark in the Organ Pipe reserve.

I lay on a creosote bush, letting its bows form a bed under me until the cold reached me through clothing damp from sweat and rain.

A fire was built, and we crowded around on pallets of brush to snatch fits of sleep. Our kneebones were bruised from the rough walk. When the sun peered over the Ajos, we arose clumsily, like sleepwalkers.

Guillermo had sprained his back a month before. It was giving him difficulty now. He fell behind. Antonio, his friend, fell back with him.

The water I carried weighed about 30 pounds. The tie cords cut my shoulders. Everyone else was carrying as much, or more weight in food.

Somewhere between Montezuma's Head and Schuchuli we became separated from Guillermo and Antonio. We never saw them again. I learned later they had been caught and returned to Mexico.

With Guillermo gone, no one knew where in Schuchuli the smuggler lived. Eugenio and Humberto knocked on doors in random inquiry. The residents threatened to go for the police.

Frightened off, the Mexicans decided to hitchhike on Highway 86 where it passes near Schuchuli. It was a gamble. We had seen Border Patrol movements earlier in Gunsight Pass.

We had been on the highway for about five minutes when the two women smugglers showed up. I was grateful for them at that moment. I anticipated sleeping in a warm bed.

"This is good luck," Marco said. He had a different reason. "Tomorrow, we will work," he said.

But after the long drive to Glendale, the Mexicans slept that night on the ground in the Arrowhead Ranch citrus groves. They said it would take weeks of work to recoup the $130 to $160 they had paid to get back to the ranch.

"And maybe tomorrow, the immigration will pick us up," Eugenio said. He shrugged and smiled. That would be fate.

The threat of bandits, the high cost of the "coyotes," the agonies and danger of the desert crossings where an accident could be fatal . . . "is not that bad," Eugenio said. "And the money is better than in Mexico."

Mr. SARASIN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HAWKINS. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Employment and Training Amendments of 1978".

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT REAUTHORIZATION

SEC. 2. The Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"SHORT TITLE

"SECTION 1. This Act, with the following table of contents, may be cited as the 'Comprehensive Employment and Training Act'.

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"Sec. 103. Comprehensive employment and training plan.
"Sec. 104. Review of plans and performance standards and goals.
"Sec. 105. Governor's coordination and special services plan.
"Sec. 106. Complaints and sanctions.
"Sec. 107. Judicial review.
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"Sec. 128. Services and property.
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"Sec. 133. Records, audits, and investigations.
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"STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this Act to provide job training and employment opportunities for economically disadvantaged persons, unemployed or underemployed persons which will result in an increase in their earned income, and to assure that training and other services lead to maximum employment opportunities and enhance self-sufficiency by establishing a flexible, coordinated and decentralized system of Federal, State, and local programs. It is further the purpose of this Act to provide for the maximum feasible coordination of plans, programs, and activities under this Act with economic development, community development and related activities such as vocational education, vocational rehabilitation, and social service programs.

"TITLE I—ADMINISTRATIVE PROVISIONS

"PART A—ORGANIZATIONAL PROVISIONS

"PRIME SPONSORS

"SEC. 101. (a) The Secretary may make financial assistance available to a prime sponsor to enable it to carry out all or a substantial part of a comprehensive employment and training plan. A prime sponsor shall be—

"(1) a State;

"(2) a unit of general local government which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available to the Secretary;

"(3) any consortium of units of general local government which includes any unit of general local government qualifying under paragraph (2) of this subsection;

"(4) any unit of general local government or any consortium of such units, without regard to population, which, in exceptional circumstances, and after consultation with appropriate State and local officials, is determined by the Secretary—

"(A) (i) to serve a substantial portion of a functioning labor market area, or (ii) to be a rural area having a high level of unemployment; and

"(B) to have demonstrated (i) that it has the capability for adequately carrying out programs under this Act, (ii) that there is a special need for services within the area to be served, and (iii) that it will carry out such programs and services in such area as effectively as any larger unit of general local government in which it is located or as the State;

"(5) a limited number of existing concentrated employment program grantees serving rural areas having a high level of unemployment which the Secretary determines have special capabilities for carrying out programs in such areas and are designated by the Secretary for that purpose; or

"(6) any unit of general local government previously designated as a prime sponsor under the provisions of this Act (as in effect prior to the effective date of the Comprehensive Employment and Training Amendments of 1978) which has demonstrated its effectiveness to serve the purposes of this Act, regardless of any subsequent population decline below one hundred thousand persons.

"(b)(1) A State shall not qualify as a prime sponsor for any geographical area within the jurisdiction of any prime sponsor described in paragraph (2), (3), (4), (5), or (6) of subsection (a) unless such prime sponsor has not submitted an approvable comprehensive employment and training plan for such area.

"(2) A larger unit of general local government shall not qualify as a prime sponsor with respect to the jurisdiction within its area of any smaller eligible unit of general local government unless such smaller unit has not submitted an approvable comprehensive employment and training plan for such area.

"(c) An applicant must submit to the Secretary a notice of intent to be a prime sponsor for a fiscal year by such date as the Secretary shall prescribe. The Secretary shall designate as prime sponsors any applicant submitting such a notice unless the Secretary determines that such applicant does not qualify under this section.

"(d) State prime sponsors shall make appropriate arrangements for appropriate area planning bodies to serve subareas within the State prime sponsor's area for the purpose of assisting in the effective planning and delivery of comprehensive employment and training programs in such subareas, in accordance with such regulations as the Secretary may prescribe.

"AUTHORITY OF SECRETARY TO PROVIDE SERVICES

"SEC. 102. In any area for which no prime sponsor has been designated under section 101(c), or where the Secretary has taken an action under section 104 or section 106 which results in employment and training services not being provided in such area, the Secretary shall use funds allocated to such prime sponsor to make payments directly to public agencies or private nonprofit organizations as if the Secretary were the prime sponsor for that area.

"COMPREHENSIVE EMPLOYMENT AND TRAINING PLAN

"SEC. 103. (a) In order to receive financial assistance under this Act, a prime sponsor designated under section 101(c) shall submit to the Secretary a comprehensive employment and training plan. Such plan shall consist of a master plan and an annual plan. The master plan shall serve as the long-term charter under which the programs of such prime sponsor shall be operated. Such plan shall be sufficiently detailed to provide the Secretary and the prime sponsor with a thorough understanding of the economic conditions of the area and of the prime sponsor's long-term programmatic and administrative arrangements to ensure that each annual program is designed and implemented in a manner best suited to such conditions and in a manner consistent with the requirements of this Act. The formulation of such plan by the prime sponsor shall involve the active participation of the prime sponsor planning council, and such plan shall—

"(1) include (A) a detailed analysis of the area to be served, including geographic and demographic characteristics of significant segments of the population to be served (with data indicating the number of potential eligible participants and their income and employment status), and (B) a comprehensive labor market analysis and assessment of the economic conditions in the area, identifying the availability of employment and training in various public and private labor market sectors in such area and the potential for job growth in such sectors;

"(2) include a statement of the long-term goals of the prime sponsor for the improvement of such labor market and economic conditions;

"(3) include a description of the methods and institutional arrangements which will be used to involve community-based organizations in the development and implementa-

tion of the programs assisted under this Act;

"(4) include a description of the methods and arrangements which will be used to ensure the fullest possible utilization, consistent with the education and training needs identified in the plan, of public vocational education facilities and programs, and of other facilities of local education agencies in the provision of instruction in basic cognitive skills and in the development and implementation of programs assisted under this Act;

"(5) provide evidence that in the development of such plan there has been a continuing process of consultation with interested groups in the area not directly represented on the prime sponsor's advisory council, including local advisory councils established under section 105(a) of the Vocational Education Act of 1963 and the private industry council established under section 703 of this Act, representatives of local education agencies, and representatives of postsecondary education agencies;

"(6) include a detailed description of—

"(A) the prime sponsor's administrative arrangements and the procedures and criteria to be used (i) to select and supervise deliverers of service (including criteria for determining that a program has 'demonstrated effectiveness'), (ii) to evaluate and audit the operation of such programs, and (iii) to process complaints and grievances with respect to such programs;

"(B) the methods to be used to identify and place participants in such programs and the arrangements made with respect to providing such participants with job search assistance, counseling, and other services; and

"(C) the procedures for the selection of and the arrangements made with respect to consultation with the prime sponsor planning council;

"(7) include a description of arrangements to ensure that employment and training services, including the development of job opportunities, will be provided to those most in need of them, including low-income persons, handicapped persons, and persons of limited English-speaking ability, and that the need for continued funding of programs of demonstrated effectiveness is taken into account in serving such groups and persons;

(8)(A) provide a description of appropriate arrangements with community-based organizations serving the poverty community which are not represented on the prime sponsor planning council, and other special target groups, for their participation in the planning of programs included in the plan; (B) provide a description of the extent to which those services and facilities which are available, with or without reimbursement of the reasonable cost, from Federal, State, and local agencies are utilized by the prime sponsor, based upon a written evaluation of the local effectiveness of such existing services and facilities, including, but not limited to, the State employment service, State vocational education and vocational rehabilitation agencies, area skills centers, local educational agencies, postsecondary training and education institutions, and community action agencies, but nothing contained herein shall be construed to limit the utilization of services and facilities of private agencies, institutions, and organizations (such as private businesses, labor organizations, private employment agencies, and private educational and vocational institutions) which can, at comparable cost, provide substantially equivalent training or services or otherwise aid in reducing more quickly unemployment or current prospective labor shortages; (C) provide a description of arrangements for (i) the use of skills centers established under the authority of section 231 of the Manpower Development and Training Act of 1962, and (ii) the use of other public vocational education facilities in such area; (D) provide a description of arrangements to coordinate services for which financial assistance is provided under programs administered by the Secretary relating to employment and training and related services; and (E) provide a description of arrangements to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code;

"(9) provide for and include a description of arrangements made to insure the participation of and consultation with local educational agencies, vocational education agencies, community based organizations, Federal and State agencies, organized labor, business, and other institutions and organizations in the conduct of programs under this Act;

"(10) include a description of the methods for coordination between the prime sponsor and the local State employment security agencies and delineate the specific responsibilities of each in the delivery of employment and training services for participants funded under this Act and under the Wagner-Peyser Act, with the goal of maximizing the level of coordination between the prime sponsor and the local employment security agency and minimizing duplication;

"(11) include a description of the procedures concerning academic credit developed in conjunction with the appropriate local education agency or institution of higher education and approved by the appropriate State educational agency (including State agencies responsible for postsecondary education), or, where a prime sponsor's area includes more than one local education agency, developed in conjunction with, and approved by, the appropriate State educational agency;

"(12) include a description of procedures for the consideration of any changes in the plan required by this subsection or in the plan required under subsection (b), including review of such changes by the prime sponsor planning council;

"(13) include a description of recommendations of members of the prime sponsor's planning council which were not included in the plan, together with the reasons for rejecting them;

"(14) include a description of actions to ensure compliance with personnel procedures and collective bargaining agreements;

"(15) include a description of efforts to remove artificial barriers to employment;

"(16) include a description of procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to individuals of the opposite sex;

"(17) include a description of plans and activities to coordinate, strengthen, and expand employment and training activities under this Act with economic development activities in the private sector; and

"(18) include adequate assurances of compliance with this Act, regulations issued thereunder, and the comprehensive employment and training plan.

"(b) To receive funds for any fiscal year a prime sponsor shall submit an annual plan which shall include—

"(1) any significant changes from the information provided in the master plan;

"(2)(A) a description of the eligible population, including geographic and demographic characteristics of significant segments of such population;

"(B) a description of plans made to provide for the needs of persons who face particular disadvantages as identified in title III of this Act; and

"(C) a description of the procedures which will be used to promote the objectives of section 121(a)(4), including the hiring, licensing, and contracting activities of the political units, subgrantees, and contractors of such prime sponsor;

"(3) the prime sponsor's program and performance standards and goals for the program year, any changes in such program and performance standards and goals from those established for the preceding year and a summary of the results achieved with respect to such program standards and goals for prior years, and a description of any problems encountered in meeting the program and performance standards and goals for such preceding years;

"(4) the method for determining priorities for service under title II based on objective locally established criteria to assist the prime sponsor in assuring service to those most in need; such priorities shall be based on locally determined factors such as employment status, household status, level of employability development, handicap, veteran status, age, race, sex, or other criteria deemed viable by the prime sponsor;

"(5) the proposed budget for the program year, including a detailed summary of the expenditures made during the preceding year, results achieved, and changes made in the annual plan for the program year;

"(6) a summary of any evaluation conducted of the prime sponsor's programs during preceding program years and a description of any use made of such evaluation in the modification or alteration of the prime sponsor's program;

"(7) a description of an affirmative action program for outreach to and training, placement, and advancement of handicapped individuals in employment and training programs under this Act, including—

"(A) a description of the extent to which and the methods whereby the special needs of the handicapped are to be met; and

"(B) a description of the number of handicapped individuals who were served each of the preceding two years, the types of training or employment in which they were placed, and the number of such individuals who were moved into unsubsidized employment;

"(8) a description of the prime sponsor's intention to apply for and utilize funds provided under this Act which are not allocated by formula;

"(9) the wages or salaries to be paid persons employed in public service jobs under this Act and a comparison with the wages paid for similar public occupations by the same employer; and

"(10) a copy of all agreements made pursuant to sections 203(c) and 605(c) of this Act.

"(c) The Secretary shall establish procedures for submittal, approval, and implementation of changes in the comprehensive employment and training plan, together with any reports required under this Act, not more than once each fiscal quarter.

"REVIEW OF PLANS AND PERFORMANCE STANDARDS AND GOALS

"SEC. 104. (a) The Secretary shall approve any comprehensive or annual employment and training plan only if it (1) meets the requirements of section 103; (2) has been submitted for comment (at least 45 days before it was submitted to the Secretary) to the Governor, the State employment and training council, the prime sponsor planning council, appropriate local units of general local government, and labor organizations in the area representing employees engaged in work similar to that proposed to be funded; and (3) has been made available to the chairperson of the appropriate committee in each House of the State legislature with primary responsibility for vocational training and job development programs and to the public (including appropriate community based organizations). The Secretary shall not approve or disapprove any such plan solely on the basis of the proposed allocation of funds to be devoted to a particular program or activity, unless such allocation is required by this Act. In reviewing such plans,

the Secretary shall insure that the plans adequately describe, and the prime sponsor demonstrates a thorough understanding of, labor market and economic conditions in the area served, that the plan is reasonably designed to respond to such conditions, that the administrative arrangements and procedures are adequate for the performance of the program and will insure that professional standards of management will be attained, and that the plans provide for adequate relationships with existing community efforts and maximize the use of existing resources.

"(b) The Secretary shall assess the adequacy of each prime sponsor's proposed performance standards and goals in accordance with criteria recognizing that performance will vary with local conditions. Review standards shall provide appropriate recognition of differences associated with the degree of disadvantage or handicap of the eligible population, as well as such factors as—

"(1) the local labor market conditions, including, but not limited to, the levels of employment and unemployment, and the current and projected labor market needs;

"(2) the economic base of the community, including, but not limited to, the growth or decline of industry within the community;

"(3) the distribution of available employment opportunities, by industry division, for persons residing within the prime sponsor's area; and

"(4) the differing needs of the eligible population which will vary the costs for services and which will require setting different performance standards depending on the disadvantage of the eligible population.

"(c)(1) The Secretary shall, not later than March 31 of the fiscal year preceding the fiscal year for which an annual plan is to take effect, establish a date for the submission of such annual plan. The Secretary shall make available to each prime sponsor a complete and final set of all applicable regulations and necessary application materials no later than May 15 of the fiscal year preceding the fiscal year for which such plan is to take effect. With respect to funds allocated under this Act on the basis of a formula, the Secretary shall also provide prime sponsors with a preliminary planning estimate based on the amounts available in the budget of the President or in the most recent concurrent budget resolution under the Congressional Budget Act applicable to such year. If for any reason the Secretary cannot provide a complete and final set of all applicable regulations and necessary application materials by such May 15 prior to the date established under the first sentence of this subsection, the Secretary shall extend the date for submittal of such plan to allow the prime sponsor to review such regulations and to complete such materials prior to submittal.

"(2) During the period of time after May 15 and the date for submittal of the plan, the Secretary shall not issue any regulations or guidelines or interpretations thereof that require any change in the prime sponsor's plan, which is a condition for the Secretary's approval or disapproval of the plan. If the Secretary deems that a plan change is required during this period, the Secretary shall allow at least one fiscal quarter for the prime sponsor to submit such change, except that the sponsor may at its own discretion submit the required change as part of its plan submittal under paragraph (1).

"(d) Any prime sponsor aggrieved by any determination made under subsection (a) shall submit notice to the Secretary on the grounds for its objection, and the Secretary shall, within 30 days after receipt of such notice, reverse, amend, or affirm such determination and provide notice thereof and an opportunity for a hearing to such prime sponsor.

"(e) To the extent necessary to provide for the orderly transition to the provisions of section 103 and this section the Secretary may waive any provisions of such sections which are inconsistent with the comparable provisions of this Act prior to the enactment of the Comprehensive Employment and Training Amendments of 1978 and allow prime sponsors to submit plans and applications for assistance consistent with such comparable provisions during the period beginning on the effective date of such Amendments and ending December 31, 1978.

"GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN

"SEC. 105. (a) Any State seeking financial assistance under this Act shall submit a Governor's coordination and special services plan to the Secretary.

"(b) Governor's coordination and special services activities shall consist of, but need not be limited to, the following:

"(1) coordinating all employment and training and related services provided by the State, by prime sponsors, and by other providers of such services within the State;

"(2) coordinating programs financed under the Wagner-Peyser Act and this Act, including assisting in the negotiation of any agreements (including partnership arrangements described in section 308) between prime sponsors and State employment security agencies;

"(3) assuring that comprehensive employment and training plans do not unnecessarily result in the duplication of services;

"(4) assisting the Secretary in enforcing the requirements for Federal contractors and subcontractors to list all suitable employment openings with local officers of the State employment service agencies and to take affirmative action, as required in section 2012(a) of title 38, United States Code;

"(5) assuring the promotion of price sponsor planning that takes into account conditions prevailing in labor market areas covering more than one prime sponsor area, as well as related activities such as community development, economic development, vocational education, vocational rehabilitation, and social services;

"(6) exchanging information between States and prime sponsors with respect to State, interstate, and regional planning for economic development, human resource development, education, and other subjects relevant to employment and training planning;

"(7) developing and providing to prime sponsors information, on a State and local area basis, regarding economic, industrial, and labor market conditions;

"(8) making available to prime sponsors, with or without reimbursement and upon request, appropriate information and technical assistance to assist them in developing and implementing their programs;

"(9) carrying out special model training and employment programs and related services, which may include programs for offenders similar to programs described in section 301(c); and

"(10) providing financial assistance for special programs and services designed to meet the needs of rural areas outside major labor market areas.

"(c) A Governor's coordination and special services plan shall be approved by the Secretary only if the Secretary determines that the plan satisfactorily implements subsection (b) of this section, and has been reviewed by the State employment and training council.

"COMPLAINT AND SANCTIONS

"SEC. 106. (a) Each recipient of financial assistance under the Act shall establish and maintain a grievance procedure, including provisions for hearings within 30 days after filing of a grievance, for handling complaints about the program arising from its participants, subgrantees, and contractors, and other interested persons. Hearings shall be conducted expeditiously and decisions shall be promptly made. With the exception of grievances alleging fraud or any criminal activity, filing of a grievance must be made within one year of the alleged occurrence.

"(b) Whenever the Secretary receives a complaint from any interested person or organization (which has exhausted the prime sponsor's grievance system established pursuant to subsection (a)) which alleges, or whenever the Secretary has reason to believe (because of an audit, report, on-site review, or otherwise) that a recipient of financial assistance under this Act is failing to comply with the requirements of this Act, the regulations under this Act, or the terms of the comprehensive employment and training plan, the Secretary shall investigate the matter. If, after such investigation, the Secretary determines that there is substantial evidence to support such allegation or belief that such a recipient is failing to comply with such requirements, the Secretary shall, after due notice and opportunity for a hearing to such recipient, determine whether such allegation or belief is true.

"(c) The Secretary may revoke all or any part of a prime sponsor's comprehensive employment and training plan and terminate in whole or in part financial assistance thereunder, provided that prior notice and opportunity for a hearing is given, if the Secretary concludes that the prime sponsor is—

"(1) maintaining a pattern or practice of discrimination in violation of section 121(a)(1) or 132, or otherwise failing to make opportunities available equitably among the significant segments of the population in the area it serves;

"(2) incurring unreasonable administrative costs in the conduct of activities and programs, as determined pursuant to the Secretary's regulations;

"(3) failing to give due consideration to continued funding of programs of demonstrated effectiveness; or

"(4) otherwise materially failing to carry out the purposes and provisions of this Act or the regulations promulgated under it, or materially failing to expend funds provided under this Act in accordance with this Act.

"(d) In emergency situations, as determined by the Secretary, when it is necessary to protect the integrity of the funds or ensure the proper operation of the program, the Secretary may immediately terminate or suspend financial assistance in whole or in part, provided that prompt notice and opportunity for a subsequent hearing are given to the recipient. The Secretary shall not delegate any of the functions or authority specified in this subsection other than to an officer whose appointment was required to be made by and with the advice and consent of the Senate.

"(e) If the Secretary concludes that any recipient of funds under this Act is failing to comply with any provision of this Act or any regulations under this Act, the Secretary may terminate or suspend financial assistance in whole or in part or order such sanctions or corrective actions as are appropriate including, but not limited to, the repayment of misspent funds from funds other than funds under this Act, and the withholding of future funding, provided prior notice and an opportunity for a hearing are given to the recipient. Whenever the Secretary orders termination or suspension of a subgrantee or subcontractor, the Secretary may take whatever action is necessary, including direct legal action against the subgrantee or subcontractor (including operators under a nonfinancial agreement) or an order to the primary recipient that it take legal action to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the program.

"(f) If the Secretary concludes that any recipient under this Act (1) has discharged

or in any other manner discriminated against a participant, or against any person in connection with the administration of the program, or against any person because such person has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified or is about to testify in any such proceeding or investigation, or (2) has otherwise unlawfully denied to any person a benefit to which that person is entitled under the provisions of this Act or the Secretary's regulations, the Secretary may take such appropriate corrective action under this section as is necessary with respect to both the recipient and the person aggrieved.

"(g) The Secretary may withhold funds otherwise payable under this Act in order to recover any amounts expended in any fiscal year in violation of any provision of this Act, any regulation, or any term or condition of assistance under this Act.

"(h) Nothing in this section shall be deemed to reduce the responsibility and full liability of the prime sponsors and other recipients which receive funds directly from the Secretary.

"(i)(1) Except as otherwise provided in subsection (d), the Secretary shall not revoke a prime sponsor's plan, in whole or in part, nor institute corrective action or sanctions against a prime sponsor under this section or any other section under this Act, without first providing the prime sponsor with notice by the Secretary of his intended actions and the reasons upon which those intended actions are based, and also providing the prime sponsor—

"(A) with an opportunity to informally resolve those matters contained in the Secretary's notice; and

"(B) in the event that the prime sponsor and the Secretary cannot informally resolve any matter pursuant to class (A), with a notice that (i) efforts to informally resolve matters contained in the Secretary's original notice have been unsuccessful; (ii) lists those matters upon which the parties continue to disagree; and (iii) informs the prime sponsor of any sanctions, corrective action, or any other alteration or modification of the prime sponsor's plan or program intended by the Secretary.

"(2) Within ten days of receipt of the Secretary's notice under paragraph (1)(B), the prime sponsor may request a hearing, but in no event shall the Secretary proceed under this Act without first fulfilling all the requirements under this subsection.

"JUDICIAL REVIEW

"SEC. 107. (a) If any prime sponsor is dissatisfied with the Secretary's final action with respect to the disapproval of its comprehensive employment and training plan under section 104 or if any recipient is dissatisfied with the Secretary's final action with respect to a sanction under section 106, such prime sponsor or recipient may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the prime sponsor is located a petition for review of that action.

"(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may, in whole or in part, set aside the findings of the Secretary or remand the case to the Secretary in whole or in part to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action, and shall certify to the court the record of the further proceedings.

"REALLOCATION

"SEC. 108. (a) The Secretary is authorized to reallocate any amount of any allocation under this Act to the extent that the Secretary determines that the recipient will not be able to use such amount within a reasonable period of time.

"(b)(1) Any allocations to a prime sponsor designated under section 101(c) may be reallocated only if the Secretary has provided thirty days advance notice to the prime sponsor, to the Governor, and to the general public. During such period comments may be submitted to the Secretary.

"(2) After considering any comments submitted during such period, the Secretary shall notify the Governor and the affected prime sponsor of any decision to reallocate funds, and shall publish such decision in the Federal Register.

"(3) In reallocating any such funds, the Secretary shall give priority first to other prime sponsor areas within the same State and then to prime sponsor areas within other States.

"PRIME SPONSOR'S PLANNING COUNCIL

"SEC. 109. (a) Each prime sponsor designated under section 101(c) shall establish a planning council.

"(b) Such council shall consist of members who are representative of the eligible population (including significant segments thereof), organized labor, employees who are not represented by organized labor, community-based organization, the State employment service, veterans organizations, organizations of the elderly, vocational education agencies, other education and training agencies and institutions, business, and, where appropriate, agricultural employers and workers.

"(c) The prime sponsor shall appoint the members of the council and designate a nongovernmental member as chairperson.

"(d) The planning council shall meet no less than four times per year. The meetings shall be publicly announced, and, to the extent appropriate, open to and accessible to the general public.

"(e) The council shall participate in the development of, and submit recommendations regarding, the prime sponsor's comprehensive employment and training plan and the basic goals, policies, and procedures of the prime sponsor's programs and other employment and training programs in the prime sponsor's area; monitor, and provide for objective evaluations of, employment and training programs conducted in such area; and provide for continuing analyses of the need for employment, training, and related services in such area, including efforts to reduce and eliminate artificial barriers to employment. Any final decision with respect to such recommendations shall be made by the prime sponsor.

"STATE EMPLOYMENT AND TRAINING COUNCIL

SEC. 110. (a)(1) Any State which desires to receive financial assistance under this Act shall establish a State employment and training council. Funding for the council shall be provided pursuant to section 202(c).

"(2) The council shall be appointed by the Governor, who may be chairperson of the council or may designate one nongovernmental member thereof to be chairperson.

"(3) The council shall be composed as follows:

"(A) one-third of the voting members of such council shall consist of—

"(i) representatives of units of general local government in the State, including such units or consortia thereof who are designated as prime sponsors, which representatives shall be nominated by the chief executive officers of units of general local government within the State;

"(ii) one representative of the State board of vocational education;

"(iii) one representative of the State advisory council on vocational education established pursuant to section 105 of the Vocational Education Act of 1963;

"(iv) one representative of the State employment security agency;

"(B) one-third of the voting members of such council shall consist of representatives of organized labor, business, agricultural employers and workers, community-based organizations, veterans organizations, and organizations of the elderly;

"(C) one-third of the voting members of such council shall consist of representatives of the eligible population (including significant segments thereof) and of the general public; and

"(D) such additional nonvoting ex officio members of such council as the Governor may designate to represent State agencies having a direct interest in overall employment and training and human resource utilization within the State.

"(4) The council shall meet at such times (but at least four times each year) and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(b) The council shall—

"(1) review continuously the operation of programs conducted by each prime sponsor, and the availability, responsiveness, and adequacy of State services, and make recommendations to the prime sponsors, to agencies providing employment and training services, to the Governor, and to the general public with respect to ways to improve the effectiveness of such programs or services;

"(2) make an annual report to the Governor which shall be a public document, and issue such other studies, reports, or documents as it deems advisable to assist prime sponsors or to otherwise help carry out the purposes of this Act;

"(3)(A) identify, in coordination with the State advisory council on vocational education, the employment and training and vocational education needs of the State and assess the extent to which employment, training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment at least once annually on the reports of the State advisory council on vocational education, which comments shall be included in the annual report submitted by the council pursuant to section 105 of the Vocational Education Act of 1963;

"(4) review the comprehensive employment and training plans for prime sponsors pursuant to section 104, especially with respect to nonutilization or duplication of existing services; and

"(5) review plans of all State agencies providing employment, training, and related services, and provide comments and recommendations to the Governor, the State agency, and the appropriate Federal agency on the relevancy and effectiveness of employment and training and related service delivery systems in the State.

"CONSULTATION

"SEC. 111. (a) The Secretary of Labor shall consult with the Secretary of Health, Education, and Welfare with respect to arrangements for services of a health, education, or welfare character under this Act, and the Secretary of Health, Education, and Welfare shall solicit the advice and comments of appropriate State agencies with respect to such health, education, and welfare services. Such services include, but are not limited to, basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive; services; and new careers and job restructuring in the health, education, and welfare professions.

"(b) The Secretary of Labor, in carrying out or supporting programs under this Act,

shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, the Director of the Community Services Administration, the Administrator of Veterans Affairs, and such other agencies as appropriate.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 112. (a)(1) Except as provided in paragraph (3), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the three succeeding fiscal years for carrying out the provisions of this Act, other than part A of title IV and title VII.

"(2) Except as provided in paragraph (3), there are authorized to be appropriated such sums as may be necessary for the fiscal year ending September 30, 1979, and for the succeeding fiscal year for carrying out the provisions of part A of title IV and title VII.

"(3) For the fiscal year ending September 30, 1979, there are authorized to be appropriated not to exceed—

"(A) $4,000,000,000 for carrying out the provisions of title II;

"(B) $1,900,000,000 for carrying out the provisions of title IV; and

"(C) $400,000,000 for carrying out the provisions of title VII.

"(b) Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds appropriated to carry out this Act, which are not obligated prior to the end of the fiscal year for which such funds were appropriated, shall remain available for obligation during the succeeding fiscal year, and any funds obligated in any fiscal year may be expended during a period of two years from the date of obligation.

"(c)(1) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are first available for obligation.

"(2) In order to effect a transition to the advance funding method of timing appropriation action, the provisions of this subsection shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

"(d) Of the amount appropriated to carry out this Act for any fiscal year, the amount available for carrying out title III shall not exceed 20 per centum of the amount available for carrying out title II. From any amount made available for title III activities, the Secretary shall transfer an amount equal to not less than $3,000,000 nor more than $5,000,000 for any fiscal year to the National Occupational Information Coordinating Committee established pursuant to section 161(b) of the Vocational Education Act of 1963, for purposes described in section 438(c) of this Act.

"PART B—GENERAL PROVISIONS

"CONDITIONS APPLICABLE TO ALL PROGRAMS

"SEC. 121. Except as otherwise provided, the following conditions are applicable to all programs under this Act:

"(a)(1) No person shall be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any such program because of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief.

"(2) Participants shall not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

"(3) Every participant, prior to entering upon employment or training, shall be informed of that individual's rights and benefits in connection with such employment or training; acceptance of family planning services shall be voluntary on the part of the individual, and shall not be a prerequiste to eligibility for, or receipt of, any benefit under the program.

"(4)(A) Programs shall contribute, to the maximum extent feasible, to the elimination of artificial barriers to employment and occupational advancement.

"(B) Prime sponsors and their subgrantees and contractors shall analyze and reevaluate job descriptions to remove artificial barriers to the public service employment of participants, and, where necessary, revise, or assist in the revision of, qualification requirements, including civil service and licensing requirements and practices relating thereto.

"(5) Prime sponsors shall make efforts to remove architectural barriers to employment of the handicapped.

"(b)(1)(A) Only persons residing within the area qualifying for assistance shall be employed, and the public services provided by such jobs, to the extent feasible, shall be designed to benefit the residents of such area.

"(B) Employment and training opportunities for participants shall be made available by prime sponsors on an equitable basis in accordance with the purposes of this Act among significant segments of the eligible population giving consideration to the relative numbers of eligible persons in each such segment.

"(C) In the administration of programs under this Act, members of the eligible population to be served shall be provided maximum employment opportunities, including opportunities for further occupational training and career advancement. Prime sponsors shall make special efforts to recruit and hire qualified persons reflecting the significant demographic segments of the population residing in the area.

"(D) Special consideration in filling public service jobs shall be given to eligible persons who are the most severely disadvantaged in terms of their length of unemployment and their prospects for finding employment.

"(2)(A) Special consideration shall be given to unemployed persons who served in the Armed Forces in Indochina or Korea on or after August 5, 1964, in accordance with procedures established by the Secretary, and special emphasis shall be given to the development of jobs which will utilize, to the maximum extent feasible, the skills which such veterans acquired in connection with their military training and service.

"(B) Special efforts shall be made to acquaint such veterans with the employment and training available under this Act, and to coordinate efforts in behalf of such veterans with those activities authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment services for veterans), and other similar activites carried out by other public agencies or organizations.

"(C) Prime sponsors shall provide such arrangements as may be appropriate to promote maximum feasible use of apprenticeship or other on-the-job training opportunities available under section 1787 of title 38, United States Code.

"(c)(1)(A)(i) No wages shall be paid from funds under this Act to any participant for any week of public service employment under this Act in excess of seventy-eight weeks in any three-year period. For purposes of this division, no more than twenty-six weeks of public service employment financed in whole or in part under this Act prior to October 1, 1978, shall be considered as part of the seventy-eight weeks.

"(ii) The Secretary may waive the provisions of division (i) or of paragraph (2)(B) to provide a temporary extension of time for a limited number of persons who were originally hired in a public service employment program prior to April 1, 1978, and who continue to be so employed on September 30, 1979, in the case of a prime sponsor which the Secretary determines has faced unusually severe hardships in its efforts to transition public service employees into regular public or private employment not supported under this Act.

"(B) Funds under this Act shall not be used to pay wages to any person employed in a public service job in any fiscal year under this Act at a rate in excess of $10,000 per year, but such maximum shall be adjusted upward by the ratio that the annual average wages within the area served by the prime sponsor exceed the average of the total of such wages nationally in accordance with a wage adjustment index to be published annually by the Secretary. In no event shall such maximum be increased by more than 20 per centum.

"(C) In order to provide the number of public service job opportunities for which funds are made available under this Act, the Secretary shall issue appropriate standards to be maintained with respect to average federally supported wage rates for public service jobs on an area basis, on the basis of an index to be published annually by the Secretary, taking into account average wages in regular employment not supported under this Act in various areas, for the purpose of maintaining nationwide annual average federally supported wage rates in the fiscal year ending September 30, 1979, equivalent to $7,800 per public service jobholder (consistent with the maximum annual federally supported wage rate under section 121(c)(1)(B)). Such national average shall thereafter be annually adjusted in accordance with changes in the Consumer Price Index, determined at the beginning of each fiscal year.

"(D) Notwithstanding any eligibility limitation on public service employment in this Act, a person who on September 30, 1978, held a public service employment position under this Act may continue in such position subject to subparagraph (A) of this paragraph.

"(E)(i) Except as otherwise provided in section 608, no public service employment participant may be provided wages for any public service employment job from sources other than this Act.

"(ii) Notwithstanding division (i), any person in public service employment on September 30, 1978, receiving wages from sources other than this Act may continue to receive such wages.

"(2)(A) All persons participating in work experience under this Act shall receive wages, and all persons participating in training shall receive allowances, pursuant to section 123; except that, subject to section 212(b), no wages or allowances shall be paid from funds under this Act to any participant for any week of institutional or classroom training, or for any week of work experience, in excess of one hundred and four weeks in any three-year period.

"(B) Subject to section 212(b), no individual shall participate in programs receiving financial assistance under this Act for longer than a total of thirty months in any five-year period. For purposes of this subparagraph, no period of participation prior to October 1,

1978, shall be included in the computation of such thirty months.

"(3)(A) Appropriate workers' compensation or equivalent protection shall be provided to all participants.

"(B) All persons employed in public service jobs shall be provided workers' compensation, health insurance, unemployment benefits, and other benefits and working conditions at the same level and to the same extent as other employees working a similar length of time, doing the same type of work, and similarly classified. Any such classifications under any applicable civil service or merit law or regulation must be reasonable and must include nonfederally financed employees.

"(4) Funds available for employment benefits under this Act may be used for contributions on behalf of participants enrolled in retirement systems or plans prior to January 1, 1979. With respect to participants enrolled in retirement systems or plans on or after such date, or such later date as the Secretary may specifically provide, no funds under this Act may be used for contributions to retirement systems or plans unless such contributions bear a reasonable relationship to the cost of providing benefits to participants.

"(d)(1) Conditions of employment and training shall be appropriate and reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant.

"(2) Appropriate health, safety and other standards for work and training shall be established and maintained.

"(3) Household support obligations shall be taken into account, and special consideration shall be given alternative working arrangements such as flexible hours of work, work-sharing arrangements, and part-time jobs, particularly for parents of young children and for older persons.

"(e)(1) The program shall result in an increase in employment and training opportunities over those opportunities which would otherwise be available.

(2) No currently employed worker shall be displaced by any participant (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits).

"(3) No person shall be employed or job opening filled (A) when any other person not supported under this Act is on layoff from the same or any substantially equivalent job, or (B) when the employer has terminated the employment of any regular employee not supported under this Act or otherwise reduced its workforce with the intention of filling the vacancy so created by employing a public service employee.

"(4) No jobs shall be created in a promotional line that will infringe in any way upon the promotional opportunities of persons currently employed in jobs not subsidized under this Act.

"(5) No public service jobs shall be substituted for existing federally assisted jobs.

"(6) No program shall impair existing contracts for services.

"(7) No funds shall be used to assist in relocating establishments, or parts thereof, from one area to another or locating new branches, subsidiaries, or affiliates unless the Secretary determines that such relocation or location will not result in an increase in unemployment in the area of original location or in any other area.

"(f)(1) All programs, to the maximum extent feasible, shall contribute to occupational development, upward mobility, development of new careers, and overcoming sexstereotyping (including procedures which will lead to skill development and job opportunities for participants in occupations traditionally limited to the opposite sex).

"(2) No person shall be trained for an occupation which requires less than two weeks of preemployment training unless there are immediate employment opportunities available in that occupation.

"(3) All programs shall be designed, to the maximum extent practicable, consistent with every individual's fullest capabilities, to lead to employment opportunities enabling participants to increase their earned income and to become economically self-sufficient.

"(4) No person shall be referred for training unless there is a reasonable expectation of employment in the occupation for which such person is being trained. To the extent feasible, public service jobs shall be provided in occupational fields which are most likely to expand within the public or private sector.

"(5) Programs of institutional training shall be designed for occupations in which skill shortages exist.

"(6) The Secretary, through State employment security agencies, shall inform unemployment compensation recipients, and other applicants for assistance from the employment security agency, of any available public service jobs for which they may be eligible.

"(g)(1)(A) No program shall substitute funds under this Act for other funds in connection with work that would otherwise be performed.

"(B) No funds for public service employment programs under this Act may be used to provide public services, through a private organization or institution, which are customarily provided by a State, a political subdivision, or a local educational agency in the area served by the program.

"(C) Jobs shall be created that are in addition to those that would be funded in the absence of assistance under this Act.

"(D) Funds shall be used to supplement, and not to supplant, the level of funds that would otherwise be made available from non-Federal sources for the planning and administration of programs.

"(2) Programs shall use services and facilities available (with or without reimbursement) from Federal, State, and local agencies to the extent they are deemed effective by the prime sponsor.

"(3) Financial records relating to public service employment programs, and records of the names, addresses, positions, and salaries of all persons employed in public service jobs, shall be maintained and made available to the public.

"(h)(1) No nongovernmental individual, institution, or organization shall be paid funds provided under this Act to evaluate any program under this Act if such individual, institution, or organization is associated with that program as a consultant or technical advisor, or in any similar capacity.

"(2) No member of any council under this Act shall cast a vote on any matter which has a direct bearing on services to be provided by that member (or any organization which that member directly represents).

"(i) Small and minority-owned businesses shall be provided maximum reasonable opportunity to compete for contracts for supplies and services including, where appropriate, the use of set-asides.

"(j) Payments to employers organized for profit shall not exceed the difference between (1) the costs of recruiting, training, and supportive services, and the costs of low productivity (as defined by regulations of the Secretary) for participants and (2) the comparable costs incurred for those regularly employed.

"(k) Prime sponsors shall provide, where employment opportunities already exist or where there is a reasonable expectation of near-term expansion of such employment potential, employment and training opportunities in the development and use of solar, geothermal, hydroelectric, and other alternative energy technologies, and conservation, especially those clean, safe, renewable resources which may assist communities in resolving energy demand problems, thereby reducing their reliance on conventional nonrenewable fuels. For purposes of this section, solar energy sources has the meaning set forth in section 3 of the Solar Energy Research, Development and Demonstration Act of 1974.

"SPECIAL PROVISIONS

"SEC. 122. (a) No authority conferred by this Act shall be used to enter into arrangements for, or otherwise establish, any employment and training programs in the lower wage industries in jobs where prior skill or training is typically not a prerequisite to hiring and where labor turnover is high.

"(b) The Secretary shall provide for the sharing of the comprehensive employment and training plan and other plans and proposals between the prime sponsors and other recipients of financial assistance in the prime sponsors' area under this Act in order to assure maximum feasible coordination of activities and programs within the area and to minimize duplication.

"(c)(1) Notwithstanding any other provisions of law, employment and training furnished under this Act in connection with weatherization projects may include work on projects for the near poor, including families having incomes which do not exceed 125 per centum of the poverty level as determined in accordance with the criteria established by the Director of the Office of Management and Budget, and projects approved by the Community Service Administration pursuant to section 222(a)(12) of the Economic Opportunity Act or the Department of Energy pursuant to title IV of the Energy Conservation and Production Act of 1976.

"(2) Projects permitted under this subsection shall be subject to the direction of an adequate number of supervisory personnel, who shall be adequately trained in skills needed to carry out the project and to instruct participants in skills needed to carry out a project.

"(d) All allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary.

"(e) Where the Secretary determines that a Native American entity otherwise qualified under section 302(c)(1) is unable to apply for or use any financial assistance for which it may be eligible under this Act, the Secretary may assist such entity in applying for or using such financial assistance.

"(f) For purposes of eligibility for participation in a program under this Act, no person shall be considered as unemployed unless such person has been unemployed for at least seven consecutive days.

"(g) All funds received under any title of this Act, which are allowed to be used for administrative costs under the provisions of the title under which they were received, may be pooled by the recipient so that they may be used to administer all programs under this Act, and may be used to plan for the administration of title VI programs without regard to present funding for such programs.

"(h) The Secretary, by regulation, shall establish such standards and procedures for recipients of funds under this Act as are necessary to assure against program abuses including, but not limited to, nepotism; conflicts-of-interest; the charging of fees in connection with participation in the program; the improper commingling of funds under the Act with funds received from other sources; the failure to keep and maintain sufficient, auditable, or otherwise adequate records; kickbacks; political patronage; violations of applicable child labor laws; the use of funds for political, religious, anti-religious,

unionization, or antiunionization activities; the use of funds for lobbying local, State, or Federal legislators; and the use of funds for activities which are not directly related to the proper operation of the program.

"(i) Pursuant to regulations of the Secretary, income generated under any program may be retained by the recipient to continue to carry out the program, notwithstanding the expiration of financial assistance for that program.

"(j) Pursuant to regulations which the Secretary shall prescribe, each recipient of financial assistance under this Act shall make satisfactory provisions for determining and verifying whether individuals are eligible for participation in programs supported under this Act.

"(k) Every recipient which receives funds directly from the Secretary shall have responsibility to take action against its subcontractors, subgrantees, and other recipients to eliminate abuse in their programs and to prevent any misuse of funds by such subcontractors, subgrantees, and other recipients.

"WAGES AND ALLOWANCES

"SEC. 123. Except as otherwise provided in this Act, the following allowances and wages shall apply to all activities financed under this Act:

"(a)(1) The Secretary shall establish a basic hourly allowance for an individual receiving training for which no wages are payable at a rate which, when added to the amounts of unemployment compensation, if any, received by the trainee, shall be no less than the hourly minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, or, if higher, under the applicable State or local minimum wage law.

"(2) Pursuant to regulations of the Secretary, the prime sponsor may increase, decrease, prorate, or waive the basic allowance.

"(3) A trainee receiving pubic assistance, or whose needs or income is taken into account in determining such public assistance payments to others, shall receive an incentive allowance for each hour spent in training at the rate of $30 per week. Such allowance shall be disregarded in determining the amount of public assistance programs.

"(4) A trainee shall receive no allowances for hours during which the trainee fails to participate without good cause.

"(b) A person in public service employment or similar employment shall be paid wages which shall not be less than the highest of (1) the minimum wage under section 6(a)(1) of the Fair Labor Standards Act of 1938, (2) the minimum wage under the applicable State or local minimum wage law, or (3) the prevailing rates of pay for persons employed in similar occupations by the same employer.

"(c) Persons in on-the-job training shall be compensated by the employer at such rates, including periodic increases, as may be deemed reasonable under regulations prescribed by the Secretary, considering such factors as industry, geographical region, skill requirements, and individual proficiency, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"(d) Persons in work experience shall be paid wages not less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 or the applicable State or local minimum wage law.

"LABOR STANDARDS

"SEC. 124. All laborers and mechanics employed by contractors or subcontractors in any construction, alteration, or repair, including painting and decorating of projects, buildings, and works which are federally assisted under this Act, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary in accordance with the Davis-Bacon Act (40 U.S.C. 276a—276a-5). The Secretary shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 1, 1934 (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

"DEFINITIONS

"SEC. 125. As used in this Act—

"(1) The term 'academic credit' means education, training, or work experience applicable toward a secondary school diploma, a postsecondary degree, or an accredited certificate of completion, consistent with applicable State law, regulation, and policy and the requirements of an accredited educational agency or institution in a State.

"(2) The term 'area of substantial unemployment' means any area of sufficient size and scope to sustain a public service employment program and which has an average rate of unemployment of at least 6.5 per centum (A) for any three consecutive months within the preceding year for purposes of title II, or (B) for the most recent four quarters for purposes of title VI. Determinations of areas of substantial unemployment shall be made once each fiscal year by the Secretary.

"(3) The term 'artificial barriers to employment' refers to limitations in the hiring, firing, promotion, licensing, and other terms and conditions of employment which are not directly related to the individual's fitness or ability to perform the duties required by the employment position.

"(4) The term 'community-based organizations' means private nonprofit organizations which are representative of communities or significant segments of communities and which provide employment and training services (for example, Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, community development corporations, rehabilitation facilities (as defined in section 7(10) of the Rehabilitation Act of 1973), union-related organizations, and employer-related nonprofit organizations).

"(5) The term 'Consumer Price Index' means the 'All Urban Consumer Index' as determined by the Secretary of Labor.

"(6) The term 'disabled veteran' means those veterans described in section 2011(1) of title 38, United States Code.

"(7) The term 'economically disadvantaged' means a person who (A) receives, or is a member of a family which (i) receives cash welfare payments under a Federal, State, or local welfare program, or (ii) had a family income during the six-month period prior to application for the program which would have qualified such family for such cash welfare payments, subject to regulations of the Secretary; (B) has, or is a member of a family which has, received a total family income for the six-month period prior to application for the program (exclusive of unemployment compensation and welfare payments) which, in relation to family size, was not in excess of the higher of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget or 70 per centum of the lower living standard income level; (C) is a foster child on behalf of whom State or local government payments are made; or (D) in cases permitted by regulations of the Secretary, is a handicapped individual living at home or is an individual who is institutionalized or receiving services in, or is a client of, a sheltered workshop, prison, hospital, or similar institution or in community care. Except for persons who would be eligible for assistance under title IX of the Older Americans Act, any person claimed as a dependent on another person's Federal income tax return under section 151(e) of the Internal Revenue Code of 1954 for the previous year shall be considered part of the person's family for the current year.

"(8) The term 'entry level' means the lowest position in any promotional line, as defined locally by collective-bargaining agreements, past practice, or applicable personnel rules.

"(9) The term 'Governor' means the chief executive of any State.

"(10) The term 'handicapped individual' means any individual who (A) has a physical or mental functional limitation or impairment which constitutes or results in an inability to perform any substantial gainful employment, and (B) can be reasonably expected to benefit, in terms of employability, from services provided pursuant to this Act.

"(11) The term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now consists of the Hawaiian Islands.

"(12) The term 'health care' includes, but is not limited to, preventive and clinical medical treatment, family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services, to the extent any such treatment or services are necessary to enable the recipient of employment and training services to obtain or retain employment.

"(13) The term 'institutions of higher education' and 'post-secondary institutions' means those institutions defined as institutions of higher education in section 1201(a) of the Higher Education Act of 1965.

"(14) The term 'local educational agencies' means those agencies so defined in section 195(10) of the Vocational Education Act of 1963.

"(15) The term 'low-income level' means $7,000 with respect to income in 1969, and for any later years means that amount which bears the same relationship to $7,000 as the Consumer Price Index for that year bears to the Consumer Price Index for 1969, rounded to the nearest $1,000.

"(16) The term 'lower living standard income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living family budget' issued by the Secretary.

"(17) The term 'offender' means any adult or juvenile who is or has been subject to any stage of the criminal justice process for whom employment and training services may be beneficial or who require assistance in overcoming artificial barriers to employment stemming from a record of arrest or conviction.

"(18) The term 'project applicants' includes States and agencies thereof, units of general local government and agencies thereof or combinations or associations of such governmental units when the primary purpose of such combinations or associations is to assist such governmental units to provide public services, special purpose political subdivisions having the power to levy taxes and spend funds or serving such special purpose within an area served by one or more units of general local government, local educational agencies, institutions of higher education, community-based organizations, community development corporations, nonprofit groups and organizations serving Native Americans, and other private nonprofit organizations or institutions engaged in public service.

"(19) The term 'public assistance' means Federal, State, or local government cash payments for which eligibility is determined by a need or income test.

"(20) The term 'public service' includes, but is not limited to, work, including part-time work, in such fields as environmental quality, health care, education, child care, public safety, crime prevention and control, prisoner rehabilitation, transportation, rec-

reation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans outreach, and other fields of human betterment and community improvement.

"(21) The term 'recipient' means any person, organization, unit of government, corporation, or other entity receiving financial assistance under this Act whether directly from the Secretary, or through another recipient by subgrant, contract, subcontract, agreement, or otherwise.

"(22) The term 'Secretary' means the Secretary of Labor.

"(23) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Marianas, American Samoa, and the Trust Territory of the Pacific Islands.

"(24) The term 'underemployed persons' means—

"(A) persons who are working part time but seeking full-time work;

"(B) persons who are working full time but receiving wages below the higher of either (i) the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget or (ii) 70 per centum of the lower living standard income level;

"(C) in cases permitted by regulations of the Secretary, persons who are institutionalized or receiving services in a sheltered workshop, prison, hospital, or similar institution, or in community care; or

"(D) adults who, or whose families receive, supplemental security income or money payments pursuant to a State plan approved under title I, IV, X, or XVI of the Social Security Act or would, as defined in regulations to be issued by the Secretary, be eligible for such payments but for the fact that both parents are present in the home (i) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work and (ii) who are either persons without jobs, or persons working in jobs providing insufficient income to support their families without welfare assistance.

"(25) The term 'unemployed persons' means persons who are without jobs and who want and are available for work, and shall, for purposes other than allocation formulas, include persons who are institutionalized or receiving services in a sheltered workshop, prison, hospital, or similar institution, or in community care. The determination of whether persons are without jobs shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed, but such criteria shall not be applied differently on account of a person's previous employment.

"(26) The term 'unit of general local government' means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision which has the power to levy taxes and spend funds, as well as general corporate and police powers.

"(27) The term 'veterans outreach' means that veterans outreach services program carried out under subchapter IV of chapter 3 of title 38, United States Code, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such title 38, and the services described in section 305 of this Act.

"SECRETARY'S AUTHORITY

"SEC. 126. (a) The Secretary may, in accordance with chapter 5 of title 5, United States Code, prescribe such rules, regulations, guidelines, and other published interpretations under this Act as he deems necessary. Rules, regulations, guidelines, and other published interpretations or orders may include adjustment authorized by section 204 of the Intergovernmental Cooperation Act of 1968. For purposes of chapter 5 of such title any condition or guideline for receipt of financial assistance shall be deemed a rule to which section 553 applies. All such rules, regulations, guidelines, and other published interpretations or orders under this Act shall be published in the Federal Register at least thirty days prior to their effective date. Copies of all such rules, regulations, guidelines, and other published interpretations or orders shall be transmitted to the appropriate committees of the Congress at the same time and shall contain with respect to each material provision of such rules, regulations, guidelines, and other published interpretations or orders, citations to the particular substantive section of law which is the basis therefor.

"(b) The Secretary may make such grants, contracts, or agreements, establish such procedures and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as deemed necessary to carry out the provisions of this Act, including (without regard to the provisions of section 4774(d) of title 10, United States Code) expenditures for construction, repairs, and capital improvements, and including necessary adjustments in payments on account of overpayments or underpayments.

"REPORTS

"SEC. 127. (a) The Secretary shall make such reports and recommendations to the President as the Secretary deems appropriate pertaining to employment and occupational requirements, resources, use, and training, and the President shall transmit to the Congress a report on the same topics not later than April 1 of each year. The first such report submitted after the effective date of the Comprehensive Employment and Training Amendments of 1978 shall include recommendations with respect to necessary legislative or administrative changes required to simplify on-the-job training contracting procedures under title II.

"(b) The Secretary and the Secretary of Health, Education, and Welfare shall report to the Congress on the extent to which social services, community colleges, area vocational and technical schools and other vocational education agencies and institutions, and vocational rehabilitation agencies are being utilized to carry out training programs supported in whole or in part under this and related Acts; the extent to which administrative steps have been taken or are being taken to encourage the use of such facilities and institutions and agencies in the carrying out of the provisions of this Act; and any further legislation that may be required to assure effective coordination and utilization of such facilities and agencies to the end that all federally supported employment and training, vocational education, and vocational rehabilitation programs can more effectively accomplish the objective of providing employment and training opportunities to all persons needing such employment and training.

"(c) The Secretary shall transmit to the Congress, as a part of the report required by subsection (a), a detailed report setting forth the public service employment activities conducted under this Act and information on the extent to which (1) participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, and (2) segments of the population of unemployed persons are provided public service opportunities. No later than March 1, 1980, the Secretary shall report to Congress proposals for the integration and consolidation of the programs established by part A of title IV and title VII with the program established by title II.

"(d) The Secretary shall transmit to the Congress, as a part of the report required by subsection (a), a detailed report on the evaluations and pilot and demonstration projects conducted with funds made available under this Act, including employment service/prime sponsor demonstration projects.

"(e) The Secretary shall in consultation with the Director of the Office of Management and Budget, submit a report once each quarter to the Congress on efforts being taken to reduce paperwork and reporting and comply with the requirements of the Federal Reports Act and management directives of the Office of Management and Budget.

"(f) The Secretary may require each prime sponsor to prepare, and make available to the public, periodic reports on its activities under the Act. Such reports shall contain such information as the Secretary may require.

"SERVICES AND PROPERTY

"SEC. 128. The Secretary is authorized, in carrying out functions and responsibilities under this Act, to accept purchase, or lease in the name of the Department, and employ or dispose of in furtherance of the purposes of this Act, or any title thereof, any money or property, real, personal, or mixed, tangible or intangible received by gift, devise, bequest, or otherwise; and to accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes of the United States.

"UTILIZATION OF SERVICES AND FACILITIES

"SEC. 129. (a) In addition to such other authority as the Secretary may have, the Secretary is authorized, in the performance of functions under this Act, and to the extent permitted by law, to utilize the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized to accept and utilize the services and facilities of the agencies of any State or political subdivision of a State, with its consent.

"(b) The Secretary shall carry out responsibilities under this Act through the utilization, to the extent appropriate, of all resources for skill development available in industry, labor, public and private educational and training institutions, vocational rehabilitation agencies, and other State, Federal, and local agencies and other appropriate public and private organizations and facilities, with their consent.

"INTERSTATE AGREEMENTS

"SEC. 130. In the event that compliance with provisions of this Act would be enhanced by cooperative agreements between States, the consent of Congress is hereby given to such States to enter into such compacts and agreements to facilitate such compliance, subject to the approval of the Secretary.

"PROHIBITION AGAINST POLITICAL ACTIVITIES

"SEC. 131. (a) The Secretary shall not provide financial assistance for any program under this Act which involves political activities.

"(b) Neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities in contravention of chapter 15 of title 5, United States Code.

"NONDISCRIMINATION

"SEC. 132. (a) No person in the United States shall on the ground of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of or in connection with any program or activity funded in whole or in part with funds made available under this Act.

"(b) Whenever the Secretary determines that a recipient of financial assistance has failed to comply with subsection (a) or an applicable regulation, the Secretary, in addition to exercising the powers and functions provided in section 106, is authorized (1) to refer the matter to the Attorney General with a recommendation that had an appropriate civil action be instituted; (2) to exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or (3) to take such other action as may be provided by law. In any case in which the Secretary receives a complaint from any interested person or organization under section 106 with respect to an alleged violation of subsection (a) of this section, the Secretary shall make the determination referred to in the preceding sentence no later than 120 days after receiving such complaint.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever the Attorney General has reason to believe that a recipient is engaged bezzles, willfully misapplies, steals, or obtains by fraud any this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

"(d) In addition to other remedies, the Secretary is authorized to enforce the provisions of subsection (a) dealing with discrimination on the basis of race, color, religion, sex, national origin, age, handicap, or political affiliation or belief, in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such provisions of such subsection. This section shall not be construed as affecting any other legal remedy that a person may have if that person is excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in the administration of or in connection with any program or activity receiving assistance under this Act.

"(e) No participant under this Act shall be discriminated against by reason of citizenship. Participation shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, and lawfully admitted refugees and parolees.

"(f)(1) The Secretary shall provide a focus for the employment and training of handicapped individuals under this Act, and shall review, on a periodic basis, the adequacy of outreach, training, placement, and advancement practices with respect to handicapped individuals by each prime sponsor pursuant to section 103(b)(7) and shall insure that the special needs of such individuals are being met.

"(2) The Secretary shall include in each annual report pursuant to section 127(a) a complete evaluation of the conduct of and achievements in outreach, training, placement, and advancement practices with respect to handicapped individuals by prime sponsors pursuant to section 103(b)(7), including a comparison of such practices and achievements with those of the two preceding years.

"RECORDS, AUDITS, AND INVESTIGATIONS

"SEC. 133. In order to assure that funds provided under this Act are used in accordance with its provisions—

"(a) Every recipient of funds under this Act shall make, keep, and preserve such records as the Secretary shall require with regard to each employee and each participant. Such records, including periodic reports, audits, and examinations, shall be preserved for such time as the Secretary establishes and shall be made available to the Secretary at such time and in such form, including periodic reports, audits, and examinations as the Secretary may require by regulation or order.

"(b) The Secretary may investigate such facts, conditions, practices, or other matters the Secretary deems necessary to determine whether any recipient of funds or any official of such recipient has violated any provision of this Act or of the regulations. Such investigations may include, but need not be limited to, inspecting all records of the recipient (including making certified copies thereof), questioning employees, and entering any premises or onto any site in which any part of the recipient's program is conducted.

"(c) For the purpose of any hearing or investigation authorized under this Act, the provisions of section 9 of the Federal Trade Commission Act, 15 U.S.C. 49, relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the Secretary of Labor.

"CRIMINAL PROVISIONS

"SEC. 134. (a) Chapter 31 of title 18, United States Code, is amended by striking out section 665 and inserting in lieu thereof the following:

"'THEFT OR EMBEZZLEMENT FROM EMPLOYMENT AND TRAINING FUNDS: IMPROPER INDUCEMENT

"'SEC. 665. (a) Whoever, being an officer, director, agent, or employee of, or connected in any capacity with any agency receiving financial assistance under the Comprehensive Employment and Training Act of 1973 embezzles, willfully misapplies, steals, or obtains for fraud any of the moneys, funds, assets, or property which are the subject of a grant or contract of assistance pursuant to this Act shall be fined not more than $10,000 or imprisoned for not more than two years, or both: but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, such person shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"'(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act of 1973, induces any persons to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than $1,000 or imprisoned not more than one year, or both.

"'FRAUD AND OBSTRUCTION IN EMPLOYMENT AND TRAINING PROGRAMS

"'SEC. 665a. (a) Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry or to produce documentary evidence, if in his power to do so, in obedience to the subpena or lawful requirement of the Secretary, shall be guilty of an offense and upon conviction thereof by a court of competent jurisdiction shall be punished by a fine of not less than $1,000 nor more than $5,000, or by imprisonment for not more than one year, or by both such fine and imprisonment.

"'(b) Any person who shall willfully make, or cause to be made, any false entry or statement of fact in any report required to be made under this Act, or who shall willfully make, or cause to be made, any false entry in any account, record, or memorandum kept by any recipient of funds under this Act, or who shall willfully neglect or fail to make, or to cause to be made, full, true, and correct entries in such accounts, records, or memorandums of all facts and transactions appertaining to the business of such recipients, or who shall willfully remove out of the jurisdiction of the United States, or willfully mutilate, alter, or by any other means falsify any documentary evidence of such recipient, or who shall willfully refuse to submit to the Secretary or to any of the Secretary's authorized agents, for the purpose of inspection and making copies, any documentary evidence of such recipient in such person's possession or within such person's control or who shall deny access to the Secretary or any of the Secretary's authorized agents who wish to examine, audit, inspect, or otherwise view the records, shall be deemed guilty of an offense against the United States, and shall be subject, upon conviction in any court of the United States of competent jurisdiction, to a fine of not less than $1,000 nor more than $5,000 or to imprisonment for not more than one year, or by both such fine and imprisonment.'

"(b) The analysis of chapter 31 is amended by adding at the end thereof the following new item:

"'665a. Fraud and obstruction in employment and training programs.'

"BONDING

"SEC. 135. Every officer, director, agent, or employee of a recipient of funds under this Act who handles funds or other property thereof shall be bonded to provide protection against loss by reason of acts of fraud or dishonesty on such person's part directly or through connivance with others. The Secretary shall establish the amount and other bonding requirements by regulation.

PART C—AUDITS, INVESTIGATIONS, AND COMPLIANCE

"PURPOSE; ESTABLISHMENT

"SEC. 151. In order to create an independent and objective unit—

"(1) to conduct and supervise audits and investigations relating to programs and operations under this Act;

"(2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy and efficiency in the administration of and (B) to prevent and detect fraud and abuse in, such programs and operations; and

"(3) to provide a means for keeping the Secretary and the Congress fully and currenty informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;

there is hereby established in the Office of the Secretary an Office of Audits, Investigations, and Compliance.

"APPOINTMENT OF OFFICERS

"SEC. 152. (a) There shall be at the head of the Office a Director who shall be appointed by the Secretary without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Director shall report to and be under the general supervision of the Secretary or, to the extent such authority is delegated, the officer next in rank below the Secretary, but shall not be under the control of or subject to supervision by, any other officer of the Department.

"(b) There shall also be in the Office, a Deputy Director appointed by the Secretary, without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Deputy shall assist the Director in the administration of the Office and shall, during the absence or temporary incapacity of the Director, or during a vacancy in that office, act as Director.

"(c) For the purposes of section 7324 of title 5, United States Code, no Director or Deputy Director shall be considered to be an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws.

"(d) The Director shall, in accordance with applicable laws and regulations governing the civil service—

"(1) appoint an Assistant Director for Auditing who shall have the responsibility for supervising the performance of auditing activities relating to programs and operations under this Act; and

"(2) appoint an Assistant Director for Investigations who shall have the responsibility for supervising the performance of investigative activities relating to such programs and operations.

"DUTIES AND RESPONSIBILITIES

"SEC. 153. (a) It shall be the duty and responsibility of the Director, with respect to the programs and operations under this Act—

"(1) to supervise, coordinate, and provide policy direction for auditing and investigative activities relating to such programs and operations;

"(2) to recommend policies for, and to conduct, supervise, or coordinate other activities carried out or financed under this Act for the purpose of promoting economy and efficiency in the administration of, or preventing and detecting fraud and abuse in, such programs and operations.

"(3) to recommend policies for, and to conduct, supervise, or coordinate relationships between the Department and other Federal agencies, State and local governmental agencies, and nongovernmental entities with respect to (A) all matters relating to the promotion of economy and efficiency in the administration of, or the prevention and detection of fraud and abuse in, such programs and operations, or (B) the identification and prosecution of participants in such fraud or abuse; and

"(4) to keep the Secretary and the Congress informed, by means of the reports required by section 154 and otherwise, concerning fraud and other serious problems, abuses, and deficiencies relating to the administration of such programs and operations, to recommend corrective action concerning such problems, abuses, and deficiencies, and to report on the progress made in implementing such corrective action.

"(b) In carrying out the responsibilities specified in subsection (a)(1), the Director shall have authority to establish standards for the use of outside auditors and to take other appropriate steps to insure the competence and independence of such auditors.

"(c) In carrying out the duties and responsibilities provided by this Act, the Director shall give particular regard to the activities of the Comptroller General of the United States with a view to avoiding duplication and insuring effective coordination and cooperation.

"(d) In carrying out the duties and responsibilities provided by this Act, the Director shall report expeditiously to the Secretary whenever the Director has reasonable grounds to believe there has been a violation of Federal criminal law.

"REPORTS

"SEC. 154. (a) The Director shall, not later than April 30 and October 31 of each year, prepare and submit to the Congress semiannual reports summarizing the activities of the Office during the immediately preceding 6-month periods ending March 31 and September 30. Such reports shall include, but need not be limited to—

"(1) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations under this Act disclosed by such activities during the reporting period;

"(2) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified pursuant to paragraph (1);

"(3) an identification of each significant recommendation described in previous semiannual reports on which corrective action has not been completed;

"(4) a summary of matters referred to prosecutive authorities and the prosecutions and convictions which have resulted;

"(5) a summary of each report made to the Secretary under subsection (c) during the reporting period;

"(6) a summary of each report made to the Secretary under section 155(b)(2) during the reporting period; and

"(7) a listing of each audit and investigative report completed by the Office during the reporting period.

"(b) Notwithstanding any other provision of law, the reports, information, or documents required by or under this section shall be transmitted to the Secretary and the Congress, or committees or subcommittees thereof, by the Director without further clearance or approval. The Director shall, insofar as feasible, provide copies of the reports required under subsection (a) to the Secretary thirty days in advance of the due date for their submission to Congress to provide a reasonable opportunity for comments of the Secretary to be appended to the reports when submitted to Congress.

"(c) The Director shall report immediately to the Secretary whenever the Director becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs and operations under this Act. The Deputy and Assistant Directors shall have particular responsibility for informing the Director of such problems, abuses, and deficiencies.

"AUTHORITY; ADMINISTRATION PROVISIONS

"SEC. 155. (a) In addition to the authority otherwise provided by this Act, the Director, in carrying out the provisions of this part, is authorized—

"(1) to have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to programs and operations under this Act;

"(2) to make such investigations and reports relating to the administration of such programs and operations as are, in the judgment of the Director, necessary or desirable;

"(3) to request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this part from any Federal, State, or local governmental agency or unit thereof;

"(4) to require by subpena the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this part, which subpena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided*, That procedures other than subpenas shall be used by the Director to obtain documents and information from Federal agencies;

"(5) to have direct and prompt access to the Secretary when necessary for any purpose pertaining to the performance of functions and responsibilities under this part;

"(6) to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

"(7) to obtain services as authorized by section 3109 of title 5, United States Code, at daily rates not to exceed the equivalent rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

"(8) to the extent and in such amounts as may be provided in advance by appropriations Acts, to enter into contracts and other arrangements for adults, studies, analyses, and other services with public agencies and with private persons, and to make such payments as may be necessary to carry out the provisions of this part.

"(b)(1) Upon request of the Director for information or assistance under subsection (a)(3), the head of any Federal agency involved shall, insofar as is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency from which the information is requested, furnish to the Director or to an authorized designee, such information or assistance.

"(2) Whenever information or assistance requested under subsection (a)(1) or (a)(3) is, in the judgment of the Director unreasonably refused or not provided, the Director shall report the circumstances to the Secretry without delay.

"(3) In the event any record or other information requested by the Director under subsection (a)(1) or (a)(3) is not considered to be available under the provisions of section 552a(b)(1), (3), or (7) of title 5, United States Code, such record or information shall be available to the Director in the same manner and to the same extent it would be available to the Comptroller General.

"(c) The Secretary shall provide the Office with appropriate and adequate office space at central and field office locations of Department together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

"TRANSFER OF FUNCTIONS

"SEC. 156. (a) At such time as there is established within the Department of Labor an Office of Inspector General, the functions of the Office of Audits, Investigations, and Compliance, shall be transferred to and vested in the Inspector General.

"(b) The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available or to be made available, of the Office shall be transferred to the Office of Inspector General at the time of any transfer under subsection (a).

"(c) Personnel transferred pursuant to subsection (b) shall be transferred in accordance with applicable laws and regulations relating to the transfer of functions except that the classification and compensation of such personnel shall not be reduced for one year after such transfer.

"(d) Upon completion of the transfer pursuant to this section, the Office shall lapse. Any person who, on the effective date of this Act, held a position compensated in accordance with the General Schedule, and who, without a break in service, is appointed in the Office of Inspector General to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

"DEFINITIONS

"SEC. 157. As used in this part—

"(1) the term 'Director' means the Director of the Office;

"(2) the term 'Deputy' means the Deputy Director of the Office;

"(3) the term 'Office' means the Office of Audits, Investigations, and Compliance; and

"(4) the term 'Federal agency' means an agency as defined in section 552(e) of title 5, United States Code, but shall not be construed to include the General Accounting Office.

"OFFICE OF MANAGEMENT ASSISTANCE

"SEC. 158. The Secretary shall establish, in the office of the Secretary, an Office of Management Assistance and shall assign to such

office such especially qualified accountants, management specialists, and other professionals as may be necessary and available to provide management assistance to any prime sponsor—

"(1) seeking the service of such office on its own initiative to assist it in overcoming problems in the management, operation, or supervision of any program or project under this Act;

"(2) identified, pursuant to a complaint investigation, internal audit, or audit or investigation conducted by the Office of Audits, Investigations, and Compliance, or by any entity to which are transferred the functions of such office, as not being in compliance with any important requirement of this Act, of regulations issued thereunder, or of the comprehensive employment and training plan.

Services provided under this section shall be on a reimbursable or nonreimbursable basis, as determined by the Secretary, and shall be allocated in a manner to assure equitable but effective distribution thereof. The Secretary shall periodically publish any proposals for corrective action made by the office which may be useful to other prime sponsors.

"TITLE II—COMPREHENSIVE EMPLOYMENT AND TRAINING SERVICES

"PART A—FINANCIAL ASSISTANCE PROVISIONS

PURPOSE OF PROGRAM

"SEC. 201. It is the purpose of this title to establish programs to provide comprehensive employment and training services throughout the Nation. Such programs shall include the development and creation of training, upgrading, retraining, education, and other services needed to enable individuals to secure and retain employment at their maximum capacities so as to increase their earned incomes.

"ALLOCATION OF FUNDS

"SEC. 202. (a)(1) From the amount available for purposes of this title—

"(A) 60 per centum of such amount shall be allocated in accordance with the provisions of paragraph (2); and

"(B) 30 per centum of such amount shall be allocated in accordance with the provisions of paragraph (3).

"(2)(A) Subject to the provisions of subparagraph (B)—

"(i) 50 per centum of the amount allocated under this paragraph shall be allocated on the basis of the amount allocated to the prime sponsor under this paragraph (or under the comparable provision of this Act prior to the effective date of the Comprehensive Employment and Training Amendments of 1978) in the fiscal year prior to the year for which the determination is made compared to the amount so allocated to all prime sponsors in that year;

"(ii) 37½ per centum of the amount allocated under this paragraph shall be allocated on the basis of the relative number of unemployed persons within jurisdiction of the prime sponsor as compared to such numbers in all such jurisdictions;

"(iii) 12½ per centum of the amount allocated under this paragraph shall be allocated on the basis of the relative number of adults in families with an annual income below the low-income level within the jurisdiction of the prime sponsor compared to such total numbers in all such jurisdictions; and

"(iv) not less than $2,000,000 shall be allocated among Guam, the Virgin Islands, the Northern Marianas, American Samoa, and the Trust Territory of the Pacific Islands, in accordance with their respective needs.

"(B) No prime sponsor shall be allocated an amount which is in excess of 150 per centum of the amount received by the area served by that prime sponsor in the fiscal year immediately preceding the fiscal year for which the determination is made, except that, if the amount so allocated is less than 50 per centum of the amount to which such prime sponsor is entitled under subparagraph (A) in the fiscal year for which a determination was made, then such allocation shall be increased to 50 per centum of the amount of such entitlement.

"(3) The amount allocated under this paragraph shall be allocated among prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all such areas.

"(b) Three per centum of the funds available for this title shall be used only for supplemental vocational education assistance under section 204.

"(c) One-half of 1 per centum of the amount allocated under this title shall be available to the Secretary to be allocated in the same manner as provided under subsection (a) to States for the costs of the State employment and training council incurred in carrying out the provisions of section 110, except that no State shall receive an allocation of less than $50,000. If any State does not need the amount allocated under this subsection for any fiscal year, that amount shall be available for the Governor's coordination and special services under section 105.

"(d) Two per centum of the amounts available for this title shall be available to each Governor in the same proportion as that State's allocation under subsection (a) for the Governor's coordination and special services under section 105, and, where deemed necessary by the Governor, for additional support of State employment and training councils.

"(e)(1) Eighty-five per centum of the remainder of the funds shall be available in the Secretary's discretion to be distributed among prime sponsors (or where a prime sponsor's comprehensive employment and training plan has not been approved, an area served by the Secretary under the authority in section 102.) The Secretary shall first utilize such funds to assure that each prime sponsor is provided with (A) an amount for any fiscal year beginning on or after October 1, 1979, equal to 90 percent of the funds allocated to the prime sponsor under subsection (a)(2) of this section for the preceding fiscal year, or (B) an amount for the fiscal year ending September 30, 1979, equal to 90 per centum of the sum of the funds available for expenditure during the fiscal year ending September 30, 1978, by such prime sponsor under sections 103 (a)(2), (f), and (g), and 202(a) (as in effect prior to the effective date of the Comprehensive Employment and Training Amendments of 1978). In utilizing such funds, the Secretary shall provide continued support for concentrated employment program grantees serving rural areas having high levels of unemployment, shall take into account the need for continued funding of programs of demonstrated effectiveness, and shall use such funds to encourage, after consultation with and receiving recommendations from the Governor of the appropriate State, voluntary consortia (formed under section 101(a)(3)) where the Secretary determines, pursuant to regulations, that such consortia demonstrate advantages in delivering employment and training services to substantial portions of functioning labor market areas.

"(2) Not more than 15 per centum of the remainder shall be allocated among the prime sponsors within the jurisdiction of those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual average rates of unemployment prior to, but not after, January 1, 1978, in proportion to the extent to which such prime sponsors allocations under subsection (a) are reduced as a result of termination of the use of such surveys. This provision shall be in effect until such time as the National Commission on Employment and Unemployment Statistics makes its report to Congress.

"(f) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the allocations made pursuant to this section.

"(g) Prime sponsors are authorized to use funds allocated under this title to support prime sponsor planning councils established pursuant to section 109.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 203. (a) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor submits a satisfactory comprehensive employment and training plan pursuant to section 103.

"(b) Not more than 4 per centum of each prime sponsor's allocation under section 202(a) may be used for programs and activities under part C of this title.

"(c)(1) The Secretary shall not provide financial assistance for any fiscal year to a prime sponsor unless the prime sponsor provides assurances that (consistent with needs identified in the prime sponsor's plan submitted under section 103(a)) it shall make agreements with State or local educational agencies or postsecondary educational institutions for the conduct of employment and training programs, which programs may consist of—

"(A) vocational training designed to prepare individuals for employment;

"(B) instruction in basic cognitive skills necessary to obtain employment or pursue further education or training designed to prepare individuals for employment;

"(C) employment of persons in schools controlled by such agencies or in postsecondary institutions; and

"(D) such other employment and training activities as may be consistent with the purposes and provisions of this title.

"(2) Each such agreement entered into under this subsection shall describe in detail the employment opportunities and appropriate educational, training, or other services to be provided, and shall contain provisions to assure that funds utilized pursuant to the agreement will not supplant State or local funds expended for the same purpose.

"(3) In the event a prime sponsor is unable to reach agreements with the appropriate educational agencies or institutions, or in the event such agencies or institutions are dissatisfied with the utilization of their facilities proposed by the prime sponsor, either may request the Secretary to review such arrangements and the Secretary, after affording an opportunity for a hearing and taking into consideration such factors as he considers relevant, may take such action as he deems appropriate within 90 days after receiving such a request.

"SUPPLEMENTAL VOCATIONAL EDUCATION ASSISTANCE

"SEC. 204. (a) From the funds available to him for this section, the Secretary shall make grants to Governors to provide financial assistance, through State vocational education boards, to provide needed vocational education services in areas served by prime sponsors.

"(b) All of the sums available to carry out this section shall be allocated among the States in the manner provided for allocating funds under section 202(a).

"(c)(1) Funds available under this section shall be used only for providing vocational education and services to participants in programs under this title in accordance with an

agreement between the State vocational education board and the prime sponsor.

"(2) The State vocational education board, prior to making any agreement with a prime sponsor as provided in paragraph (1), shall consult with and obtain the advice and comment of the designated representatives of the State agencies and councils which are required to be involved in the formulation of the five-year State plan for vocational education pursuant to section 107(a)(1) of the Vocational Education Act of 1963.

"PART B—SERVICES FOR THE ECONOMICALLY DISADVANTAGED

"DESCRIPTION OF PROGRAM

"SEC. 211. Comprehensive employment and training services may include, but need not be limited to, the following:

"(1) job search assistance, including orientation, counseling, and referral to appropriate employment training or other opportunities;

"(2) outreach to make persons aware of the availability of, and to encourage them to use, employment and training services;

"(3) assessment of the individual's needs, interests, and potential in the labor market;

"(4) education and institutional skill training to prepare persons to enter the labor market, or to qualify for more productive job opportunities and increased earnings;

"(5) on-the-job training;

"(6) transitional entry-level public service employment opportunities or work experience;

"(7) payments or other inducements to public or private employers to expand job opportunities;

"(8) services to individuals to enable them to retain employment;

"(9) payment of allowances to persons in training for which they receive no remuneration, and payment of such allowances for transportation, subsistence, or other expenses incurred in training or employment;

"(10) supportive services, including necessary health care, child care, residential support, or assistance in securing bonds, needed to enable individuals to participate in employment and training;

"(11) development of labor market information;

"(12) job development and related activities such as job restructuring designed to make employment opportunities more responsive to the needs of economically disadvantaged persons;

"(13) displaced homemaker employment assistance programs as described in section 307;

"(14) training, employment opportunities, and related services conducted by community based organizations; and

"(15) any programs or activities authorized by part A of title III, title IV, and title VII of this Act.

"LIMITATIONS ON USE OF FUNDS

"SEC. 212. (a) No prime sponsor shall use more than 50 per centum of the funds allocated to it under section 202(a) to pay wages for public service employment.

"(b)(1) Public service employment under this part—

"(A) shall be designed to lead to unsubsidized employment;

"(B) shall be entry level;

"(C) shall be combined with training and supportive services if such training and services are reasonably available in the area; and

"(D) shall be available only to eligible participants who have been employed for not more than two hundred hours during the preceding ten weeks unless such employment is in connection with a program supported under this title.

"(2) Work experience programs conducted under this part, except for in-school youth, shall—

"(A) be designed to lead to unsubsidized employment, and

"(B) be subject to the limitation on duration specified in section 121(c)(2),

unless the prime sponsor's plan as approved by the Secretary states that the lack of alternative job opportunities in the area makes such progress and duration impractical.

"ELIGIBILITY FOR PARTICIPATION

"SEC. 213. A person shall be eligible to participate in a program receiving financial assistance under this part only if such person is economically disadvantaged and either unemployed, underemployed, or in school.

"PART C—UPGRADING AND RETRAINING

"PROGRAM AUTHORIZED

"SEC. 221. (a) Pursuant to regulations of the Secretary, prime sponsors may conduct occupational upgrading programs, including supportive services, through agreements with public and private employers for employees of such employers. Individuals eligible for such programs shall be those operating at less than their full skill potential, primarily those in entry level positions or positions with little normal advancement opportunities. In any program receiving financial assistance under this section—

"(1) the positions for which employees are being upgraded shall be positions not regularly available to entry level employees, and for which adequately trained persons are not available;

"(2) the selection of employees for upgrading shall be based upon potential and the lack of availability for advancement in a normal promotional line;

"(3) the education and skill training content of the upgrading program shall provide employees with a reasonable progression resulting in qualification for a recognized position of greater skill, responsibility, remuneration, or career advancement in the service of that employer;

"(4) the training period for upgrading shall be reasonable and consistent with periods customarily required for comparable training;

"(5) adequate personnel, attendance and progress records shall be maintained;

"(6) the program shall be designed, to the extent feasible, so that additional vacancies are created for new entry level employees;

"(7) the employees shall receive such wages, including periodic increases, as the Secretary deems reasonable, considering such factors as industry practice and individual proficiency, but not less than received before upgrading; and

"(8) successful completion shall be expected to result in employment with the employer in the occupation for which he or she has been upgraded and at not less than prevailing wages.

"(b)(1) Pursuant to regulations of the Secretary, prime sponsors may conduct retraining programs, including supporting services, directly or through agreements with public and private employers or other organizations or agencies.

"(2) Entry into retraining programs shall be only for individuals who have previously received a bona fide notice of impending layoff, and who are determined, pursuant to regulations of the Secretary, to have little opportunity to be reemployed in the same or equivalent occupation or skill level within the labor market area.

"(3) Retraining programs shall meet such standards as the Secretary shall establish by regulation.

"(c) If upgrading or retraining is for or from jobs covered by collective bargaining agreements, agreements with employers to carry out such program shall have the concurrence of labor organizations representing employees in those jobs.

"TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

"PART A—SPECIAL NATIONAL PROGRAMS AND ACTIVITIES

"SPECIAL PROGRAMS AND ACTIVITIES

"SEC. 301. (a) The Secretary shall use funds available under this title to provide additional employment and training services as authorized under title II to segments of the population that are in particular need of such services, including youth, offenders, handicapped individuals, single parents, persons of limited English-speaking ability, older workers, and other persons which the Secretary determines have particular disadvantages in the labor market. The Secretary shall take into account the need for continued funding of programs of demonstrated effectiveness.

"(b) With respect to programs for persons of limited English-speaking ability under this Act, the Secretary shall establish appropriate procedures to ensure that participants are provided with employment and training and related assistance and supportive services (where feasible, at times designed to meet the needs of individuals unable to attend during normal working hours) designed to increase the employment and training opportunities for unemployed and underemployed persons of limited English-speaking ability, including (1) the teaching of occupational skills in the primary language of such persons for occupations which do not require a high proficiency in English, and (2) developing new employment opportunities for limited English-speaking persons and opportunities for promotion within existing employment situations for such persons, including programs for the dissemination of appropriate information, and job placement, and counseling assistance, and the conduct of training and employment programs, in the primary language of such persons, as well as programs designed to increase the English-speaking ability of such persons.

"(c) The Secretary shall make financial assistance available to conduct a program for offenders to provide employment, training, and related assistance and supportive services (including basic education, drug addiction or dependency rehabilitation, health care, and other services) which will enable them to secure and obtain meaningful employment. Emphasis shall be placed upon serving offenders in contact with the criminal justice system or recently released from criminal justice custody or supervision, providing services that will be comprehensive, and ensuring that recipients of funds will coordinate their activities with other providers of employment and training assistance. Grants may also be provided to the States or prime sponsors for the establishment of units for planning and evaluation of correctional employment and training assistance to offenders. To ensure the objectives of this subsection, the Secretary may, wherever feasible, provide for appropriate arrangements with employers and labor organizations, appropriate parole, probationary and judicial authorities, and for the utilization of training equipment comparable to that currently used for the job in which training is furnished. To support such programs the Secretary shall develop information concerning the special needs of offenders for such services, including special studies regarding the incidence of unemployment among offenders and the means of increasing employment opportunity for offenders. As part of the reporting requirements under section 127(a), the Secretary shall also conduct an annual survey of prime sponsors and States receiving assistance under this Act for the purpose of assessing the scope and implementation of offender programs.

"(d) The Secretary shall carry out fully and effectively his responsibilities for the

assignment of assistant veterans employment representatives under section 2003 of title 38, United States Code, and the Secretary's other responsibilities under chapter 41 of such title and for the listing of all suitable employment openings with local offices of the State employment services by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of such title.

"(e) The Secretary is also authorized to provide employment and training programs that—

"(1) are most appropriately administered from the national level, such as programs sponsored by public agencies or private organizations that conduct federally assisted activities in more than one State;

"(2) foster new or improved linkages between Federal, State, and local employment and training agencies and components of the private sector, such as the business community, organized labor, and community-based organizations;

"(3) provide continued support for programs of demonstrated effectiveness;

"(4) eliminate or reduce critical skill shortages in the Nation's labor force; or

"(5) serve those who become unemployed as a result of a large-scale loss of jobs in a locality, caused by such things as the closing of a facility, mass layoffs, or natural disasters.

"(f) Notwithstanding any other provisions of this Act, eligibility requirements for programs for workers age fifty-five and older, which were established under title X of the Public Works and Economic Development Act, and which thereafter have been funded under section 304 of this Act prior to the enactment of the Comprehensive Employment and Training Amendments of 1978, shall be those which applied when the programs were established under title X.

"(g) To the extent appropriate, programs financed under this part shall be coordinated with programs conducted by prime sponsors under this Act, and the Secretary shall notify such prime sponsors of the funding of an employment and training program under this part.

"NATIVE AMERICAN EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 302. (a) The Congress finds that (1) serious unemployment and economic disadvantage exist among members of Indian, Alaskan Native, and Hawaiian Native communities; (2) there is a compelling need for the establishment of comprehensive employment and training programs for members of those communities, and Hawaiian Natives; (3) such programs are essential to the reduction of economic disadvantage among individual members of such communities and to the advancement of economic and social development in such communities consistent with their goals and life styles.

"(b) The Congress therefore declares that, because of the special relationship between the Federal Government and most of those to be served by the provisions of this section, (1) such programs can best be administered at the national level; (2) such programs shall be available to federally recognized Indian tribes, bands, and individuals, and to other groups and individuals of Native American descent such as, but not limited to, the Lummis in Washington, the Menominees in Wisconsin, the Klamaths in Oregon, the Oklahoma Indians, the Passamaquoddys and Penobscots in Maine, and Eskimos and Aleuts in Alaska, and Hawaiian Natives; and (3) such programs shall be administered in such a manner as to maximize the Federal commitment to support growth and development as determined by representatives of the communities and groups served by this part.

"(c)(1) In carrying out responsibilities under this section, the Secretary shall, wherever possible, utilize Indian tribes, bands, or groups (including Alaska Native villages or groups as defined in the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688)) having a governing body and such public and private nonprofit agencies as the Secretary determines will best serve Hawaiian Natives, for the provision of employment and training services under this title. To the extent the Secretary determines that such tribe, band, or group has demonstrated the capability to effectively administer a comprehensive employment and training program, he shall require such tribe, band, or group to submit to him a comprehensive plan meeting the requirements of section 103.

"(2) In carrying out his responsibilities under this section the Secretary shall make arrangements with prime sponsors and organizations (meeting requirements prescribed by the Secretary) serving nonreservation Indians for programs and projects designed to meet the needs of such Indians for employment and training and related services.

"(d) Whenever the Secretary determines not to utilize Indian tribes, bands, or groups for the provision of employment and training services under this section, the Secretary shall, to the maximum extent feasible, enter into arrangements for the provision of such services with public or private nonprofit agencies which meet with the approval of the tribes, bands, or groups to be served.

"(e) The Secretary is directed to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of Indian employment and training programs authorized under this Act.

"(f) Funds available for this section shall be expended for programs and activities consistent with the purposes of this part, including but not limited to such programs and activities carried out by eligible prime sponsors under other provisions of this Act.

"(g) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 3 percent of the amount allocated pursuant to section 202(a).

"(h) No provision of this section shall abrogate in any way the trust responsibilities of the Federal Government to Indian bands or tribes.

"MIGRANT AND SEASONAL FARMWORKERS EMPLOYMENT AND TRAINING PROGRAMS

"SEC. 303. (a) The Congress finds and declares that—

"(1) chronic seasonal unemployment and underemployment in the agricultural industry, substantially affected by recent advances in technology and mechanization, constitute a substantial portion of the Nation's rural employment and training problem and substantially affect the entire national economy; and

"(2) because of the special nature of certain farmworker employment and training problems such programs can best be administered at the national level.

"(b)(1) Funds available for this section shall be expended for programs and activities consistent with the purposes of this section, including but not limited to programs and activities carried out under other provisions of this Act.

"(2) In carrying out programs and activities under this section, the Secretary shall continue in operation any program which is in existence on the effective date of this paragraph and—

"(A) which is—

"(i) operated through the use of the facilities of any institution of higher education; and

"(ii) designed to assist migrant and seasonal farmworkers who are beyond the age of compulsory school attendance in the State in which the institution is located, through tutoring, counseling, and other similar assistance, in the completion of courses necessary to receive a high school diploma or its equivalent; or

"(B) which serves migrant and seasonal farmworkers who are enrolled in a full-time basis in the first academic year of an undergraduate program at any institution of higher education, and the dependents of migrant and reasonal farmworkers if such dependents are so enrolled, by—

"(i) aiding such individuals in carrying out the transition from secondary school to postsecondary school programs;

"(ii) generating motivation necessary for success in education beyond secondary school; and

"(iii) providing counseling, tutorial, and similar educational services designed to assist such individuals during their first academic year at such institution.

The Secretary shall continue the operation of any such program for so long as such program is consistent with the purposes of this section, as determined by the Secretary.

"(3) For the purpose of carrying out this section, the Secretary shall reserve from funds available for this title an amount equal to not less than 2.6 percent of the amount allocated pursuant to section 202(a). Of the funds reserved under this paragraph, such sums as may be necessary shall be used for the operation of the programs specified in subparagraph (A) and subparagraph (B) of paragraph (2).

"PROGRAMS FOR THE HANDICAPPED

"SEC. 304. (a)(1) The Congress finds and declares that due to the rapid implementation of programs to assist handicapped individuals mandated under the Education for All Handicapped Children Act and section 504 of the Rehabilitation Act of 1973, there is a need for people to provide the special supportive services and removal of architectural barriers required by these Acts.

"(2) The Congress further declares that the individuals to be served under this section represent a large percentage of the unemployed, and that these services will provide meaningful improvement of the lives of the handicapped individuals served.

"(b) The Secretary is authorized to establish programs throughout the Nation which shall train personnel to work with and assist handicapped individuals. These programs may be in any areas of training or education which provide individuals with skills necessary to train or provide assistance to handicapped persons, including, but not limited to, interpreters for the deaf and aides in classrooms to assist in the education of the handicapped.

"(c) The Secretary is authorized to take appropriate action to establish administrative procedures and machinery (including personnel having particular competence in this field) for the administration of programs authorized under this section.

"RELOCATION ASSISTANCE

"SEC. 305. (a) The Secretary is authorized to provide special relocation assistance for unemployed persons who desire such assistance through agreements with States, prime sponsors, or public or private agencies under this section.

"(b)(1) Relocation assistance may be provided in the form of loans or grants, or both, subject to such standards as the Secretary establishes.

"(2) Relocation assistance shall be available only to involuntarily unemployed indi-

viduals who cannot reasonably be expected to secure full-time employment in the community in which they reside, and have bona fide offers of employment (other than temporary or seasonal employment).

"VETERANS INFORMATION AND OUTREACH

"SEC. 306. The Secretary, in consultation and cooperation with the Administrator of Veterans Affairs and the Secretary of Health, Education, and Welfare, shall provide for an outreach and public information program utilizing, to the maximum extent, the facilities of the Departments of Labor and Health, Education, and Welfare and the Veterans' Administration to exercise maximum efforts to develop jobs and job training opportunities for disabled and Vietnam era veterans, and inform all such veterans about employment, job training, on-the-job training and educational opportunities under this Act, under title 38, United States Code, and other provisions of law; and inform prime sponsors, Federal contractors and subcontractors, Federal agencies, educational institutions, labor unions, and employers of their statutory responsibilities toward such veterans, and provide them with technical assistance in meeting those responsibilities.

"DISPLACED HOMEMAKER EMPLOYMENT ASSISTANCE PROGRAM

"SEC. 307. (a) The Secretary shall make available financial assistance to enable private nonprofit organizations and public agencies, including prime sponsors designated under section 101(c), to provide employment opportunities and appropriate training and supportive services to displaced homemakers. Such training and supportive services shall include, but need not be limited to—

"(1) job training, job readiness services, job counseling, job search, and job placement services;

"(2) outreach and information services, including information on available educational opportunities; and

"(3) referrals (through cooperative arrangements, to the maximum extent feasible) to health, financial management, legal, public assistance, and other appropriate supportive services in the community being served.

"(b) To the maximum extent feasible, activities supported under this section shall be coordinated with and supplement, but not supplant, activities supported under other titles of this Act and shall emphasize training and other employment related services for participants that are designed to enhance their employability and earnings. Programs shall concentrate on creating new jobs in the private sector for displaced homemakers in order to meet identified needs within the community.

"(c) To the maximum extent feasible, supervisory, technical, and administrative positions with the program shall be filled by displaced homemakers.

"(d) No funds available under this section shall be used for the purchase, construction, or major rehabilitation of facilities.

"(e) For the purposes of this section, the term 'displaced homemaker' means an individual who—

"(1) has been providing as a predominant activity unpaid services for family members for a substantial number of years;

"(2)(A) has been dependent on the income of another family member but is no longer supported by that income, (B) is receiving public assistance on account of dependent children in the home, or (C) is receiving spousal support; and

"(3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(f) For the purposes of carrying out this section, the Secretary shall reserve not more than 2 per centum of the funds made available to carry out this title.

"PARTNERSHIP PROGRAMS

"SEC. 308. (a) From funds available under this title the Secretary is authorized to promote the development of partnership arrangements between prime sponsors and employment security agencies. Such partnerships shall constitute a segment of an integrated and comprehensive intake, service and placement system and shall be designed to achieve an employability plan and comprehensive program of job preparation and job search assistance for all participants under this Act. Such partnerships may also include other related public and private nonprofit agencies and organizations, including community-based organizations.

"(b) Such partnerships may result in—

"(1) the creation of a joint-planning, administrative, and operational entity;

"(2) combining and colocation of staff; and

"(3) a joint data base and information system.

"(c) The Secretary is authorized to reimburse prime sponsors for costs associated with the implementation of a partnership and to provide incentives to ensure that employment security agencies may participate on an equitable basis.

"PART B—RESEARCH, TRAINING, AND EVALUATION

"RESEARCH

"SEC. 311. (a) To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it, the Secretary shall establish a comprehensive program of employment and training research utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the Nation's employment and training problems. This program may include, but need not be limited to, studies, the findings of which may contribute to the formulation of employment and training policy; development or improvement of employment and training programs; increased knowledge about labor market processes; reduction of unemployment and its relationships to price stability; promotion of more effective worker development, training, and utilization; improved national, regional and local means of measuring future labor demand and supply; enhancement of job opportunities; skill training to qualify employees for positions of greater skill, responsibility, and remuneration; meeting of worker shortages; easing of the transition from school to work, from income transfer payment dependency to employment, from one job to another, and from work to retirement; usefulness of sheltered employment for the difficult to employ; opportunities and services for older persons who desire to enter or reenter the labor force; and for improvement of opportunities for employment and advancement through the reduction of discrimination and disadvantage arising from poverty, ignorance, or prejudice.

"(b) The Secretary shall establish a program of experimental, developmental, demonstration, and pilot projects, through grants to or contracts with public agencies or other private organizations, for the purpose of improving techniques and demonstrating the effectiveness of specialized methods in meeting the employment and training problems; however, nothing in this subsection shall authorize the Secretary to carry out employment programs experimenting with subsidized wages in the private sector or wages less than those established by the Fair Labor Standards Act of 1938, for employment subject to that Act. In carrying out this subsection, the Secretary shall consult with such other agencies as may be appropriate. Where programs under this section require institutional training, appropriate arrangements for such training shall be agreed to by the Secretary of Labor and the Secretary of Health, Education, and Welfare.

"(c) The Secretary is authorized to conduct supportive employment and training projects of an experimental and demonstration nature as part of, or coordinated with, experimental or demonstration programs of a similar nature that the Secretary has been conducting for unemployed persons with serious problems in the labor market, such as juvenile delinquents, mentally and emotionally handicapped individuals, alcoholics, ex-addicts, ex-offenders, and recipients of aid to families with dependent children, to enable them, through temporary, highly structured and supervised work experience, to make the transition to employment. Such programs shall provide for skill training as required to effect such transition.

"(d) The Secretary is authorized to carry out a special program to demonstrate the efficacy of providing vouchers to economically disadvantaged persons who are unemployed or underemployed. Such vouchers shall entitle private employers who provide employment or training to such individuals to payment in amounts equal to the value of the voucher during periods when, and to the extent that, such persons are not fully productive, pursuant to regulations of the Secretary.

"(e) The Secretary is authorized to undertake research programs to (1) investigate the applicability of job-sharing, work-sharing and other flexible hours arrangements in various settings, and of the incentives and technical assistance required by employers to implement such alternative working arrangements; (2) investigate the extent to which job and wage classification systems undervalue certain skills and responsibilities on the basis of the sex of persons who usually hold the positions.

"(f) The Secretary shall conduct a variety of demonstration and experimental projects to test the best methods of assisting persons, who might otherwise rely on public assistance or other income assistance, to find nonfederally assisted employment in the private and public sectors, and to provide federally assisted work and training opportunities for any such persons who are unable to find nonfederally assisted work or training opportunities.

"(g) The Secretary is authorized to conduct demonstration programs and projects, which provide expanded guidance and counseling services to participants under this Act through community vocational resource centers established in economically distressed communities or areas pursuant to section 132(a)(7) of the Vocational Educational Amendments of 1976. Such programs shall provide State boards of vocational education, which establish such community vocational resource centers, with funding for up to 50 per centum of the cost of such projects. The Secretary may make such funds available to a State board of vocational education when such board reaches agreement with the prime sponsor to assist out-of-school individuals in reentering school at the secondary or postsecondary level, to take advantage of vocational skill training opportunities including cooperative education and work-study programs, and to be offered referral to other training programs, apprenticeship programs, and on-the-job training for which academic credit may be available. Projects shall include provisions for outreach to inform the economically disadvantaged of the assistance available through the community resource centers and to provide assurances that programs will be coordinated with other guidance and counseling activities of the prime sponsor, including activities under section 445(c), other in-school guidance and coun-

seling programs in the area, State employment service offices, and the activities of the private industry councils established pursuant to title VII of this Act.

"(h) The Secretary shall conduct educational and assistance programs designed to eliminate artificial barriers to employment based upon race, sex, national origin, age, records of arrest or conviction, handicaps, marital status, or other criteria. To support such programs, information shall be developed identifying all such artificial barriers, the numbers of persons affected, the manner in which such barriers operate and how such barriers can best be eliminated. In complying with the requirements of this subsection, the Secretary shall consult with the Department of Health, Education, and Welfare, the United States Civil Rights Commission, and the Equal Employment Opportunity Commission.

"LABOR MARKET INFORMATION AND JOB BANK PROGRAM

"SEC. 312. (a) The Secretary shall develop a comprehensive system of labor market information on a national, State, local, or other appropriate basis, which shall be made publicly available in a timely fashion.

"(b) In addition to the monthly national unemployment statistics, the Secretary shall develop reliable methods, including the use of selected sample surveys, to produce more statistically accurate data on unemployment by State and local areas, and shall investigate alterntive methods to produce more accurate data on underempolyment and labor demand by State and local areas.

"(c) The Secretary shall develop data for an annual statistical measure of labor market related economic hardship in the Nation. Among the factors to be considered in developing such a measure are unemployment, labor force participation, involuntary part-time employment, and full-time employment at wages less than the poverty level.

"(d) The Secretary shall develop methods to establish and maintain more comprehensive household budget data at different levels of living, including a level of adequacy, to reflect the differences of household living costs in regions and localities, both urban and rural. The Secretary, in cooperation with the Secretary of Energy and the Secretary of Housing and Urban Development, shall develop methods to ascertain, and shall ascertain, annual energy development and conservation jobs impact data by type and scale of energy technologies used.

"(e) The Secretary shall set aside, out of sums available to the Department for any fiscal year including sums available for this title, an amount which the Secretary determines is necessary and appropriate to carry out the provisions of this section, and shall, no later than sixty days after such sums are appropriated and made available, notify the appropriate committees of the Congress of the amount so set aside and the basis for the determination of need and appropriateness.

"(f) The Secretary shall establish and carry out a nationwide computerized job bank and matching program (including the listing of all suitable employment openings with local offices of the State employment service agencies by Federal contractors and subcontractors and providing for the affirmative action as required by section 2012(a) of title 38, United States Code) on a regional, State, and local basis, using electronic data processing and telecommunications systems to the maximum extent possible for the purpose of identifying sources of available persons and job vacancies, providing an expeditious means of matching the qualifications of unemployed, underemployed, and economically disadvantaged persons with employer requirements and job opportunities, and referring and placing such persons in jobs.

"(g) In carrying out responsibilities under this section the Secretary of Labor shall, in cooperation with the National Occupational Information Coordinating Committee, give special attention to the labor market information needs of youth, including activities such as, but not limited to—

"(1) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

"(2) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service offices and to improve the match of youth career desires with available and anticipated labor demand;

"(3) assisting and encouraging the development of State occupational information systems, accessible to local schools, including pilot programs in the use of computers to facilitate such access; and

"(4) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions.

"EVALUATION

"SEC. 313. (a) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this Act, including their cost-effectiveness in achieving the purposes of this Act, their impact on communities and participants, their implication for related programs, the extent to which they meet the needs of persons by age, sex, race, and national origin, and the adequacy of the mechanism for the delivery of services. In conducting evaluations the Secretary shall compare the effectiveness of programs conducted by prime sponsors of the same class and of different classes, and shall compare the effectiveness of programs conducted by prime sponsors with similar programs carried out by the Secretary under the Act. The Secretary shall also arrange for obtaining the opinions of participants about the strengths and weaknesses of the programs.

"(b) The Secretary shall evaluate the effectiveness of programs authorized under this Act and part C of title IV of the Social Security Act with respect to the statutory goals and objectives, including increases in employment and earnings for participants, duration in training and employment situations, information on the post-enrollment labor market experience of program participants for at least a year following their termination from such programs, and comparable information on other employees or trainees of participating employers.

"(c)(1) The Secretary shall—

"(A) develop standard definitions of 'enrollments', 'completions', 'job placements', and 'training-related job placements' for classroom and on-the-job training programs funded under this Act;

"(B) establish procedures for the uniform reporting by prime sponsors of information on enrollments, completions, job placements, and training related placements by detailed occupational or training code for classroom and on-the-job training programs funded under this Act; and

"(C) make a report to the Congress not later than September 30, 1979, and annually thereafter, containing a summary of the information described in subparagraph (B) together with such analysis and recommendations as the Secretary deems advisable.

"(2) For the purposes of this subsection, the term 'detailed occupational or training code' shall mean any occupational or training code equivalent in detail to the Dictionary of Occupational Titles at the six-digit level.

"TRAINING AND TECHNICAL ASSISTANCE

"SEC. 314. The Secretary, in consultation with the Secretary of Health, Education, and Welfare, or other appropriate officials, shall provide directly or through grants, contracts, or other arrangements, appropriate preservice and inservice training for specialized, supportive, supervisory, or other personnel, and appropriate technical assistance with respect to programs under this Act.

"TITLE IV—YOUTH PROGRAMS

"INTENT

"SEC. 400. It is the intent of this title to provide a broad range of coordinated employment and training programs for eligible youth in order to provide effectively for comprehensive employment and training services to improve their future employability and to explore and experiment with alternative methods for accomplishing such purposes.

"GENERAL PROVISIONS

"SEC. 401. (a) For purposes of parts B and C, the term 'eligible youth' means an economically disadvantaged youth who is (1) either unemployed, underemployed, or in school, and (2) either age 16 to 21 inclusive, or if authorized under regulations of the Secretary, age 14 to 15 inclusive. Nothing in this section shall be construed to prohibit the provision of day care for the children of eligible youths.

"(b) Notwithstanding subsection (a), an 'eligible youth' for purposes of subpart 1 of part A means a youth between the ages of 16 and 19 inclusive, the income of whose family is at or below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

"(c) Earnings and allowances received by any eligible youth under this title shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted program.

"PART A—YOUTH EMPLOYMENT DEMONSTRATION PROGRAMS

"STATEMENT OF PURPOSE

"SEC. 410. It is the purpose of this part to establish a variety of employment, training and demonstration programs to explore methods of dealing with the structural unemployment problems of the Nation's youth. The basic purpose of the demonstration programs shall be to test the relative efficacy of different ways of dealing with these problems in different local contexts, but this basic purpose shall not preclude the funding of programs dealing with the immediate difficulties faced by youths who are in need of, and unable to find, jobs. It is explicitly not the purpose of this part to provide make-work opportunities for unemployed youth; instead, it is the purpose to provide youth, and particularly economically disadvantaged youth, with opportunities to learn and earn that will lead to meaningful employment opportunities after they have completed the program.

"Subpart 1—Youth Incentive Entitlement Pilot Projects

"ENTITLEMENT PILOT PROJECTS AUTHORIZED

"SEC. 411. (a) The Secretary shall enter into arrangements with prime sponsors selected in accordance with the provisions of this subpart for the purpose of demonstrating the efficacy of guaranteeing otherwise unavailable part-time employment, or combination of part-time employment and training for economically disadvantaged youth between the age of sixteen and nineteen, inclusive, during the school year who resume or maintain attendance in secondary school for the purpose of acquiring a high school diploma or in a program which leads to a certificate of high school equivalency and full-time employment or part-time employment and training during the summer months to each such youth.

"(b) Each prime sponsor who applies for and is selected by the Secretary to carry out a pilot project under this subpart shall guarantee such employment to each such unemployed youth who resides within the area or

a designated part thereof served by the prime sponsor and who applies to that prime sponsor for employment. The Secretary shall provide to each prime sponsor, from funds appropriated for carrying out this subpart, in combination with any funds made available by such prime sponsor according to an agreement made pursuant to section 413(a)(4)(F), the amount to which that prime sponsor is entitled under subsection (c).

"(c) Each prime sponsor shall be entitled to receive, for each youth who is provided employment by that prime sponsor, the costs associated with providing such employment. Such costs shall take into account funds made available by such prime sponsor under section 413(a)(4)(F).

"EMPLOYMENT GUARANTEES

"SEC. 412. Employment opportunities guaranteed under this subpart shall take the form of any one of the following or any combination thereof:

"(1) Part-time employment or training or combination thereof during the school year, not to exceed an average of twenty hours per week for each youth employed, and not to last less than six months nor more than nine, on projects operated by community-based organizations of demonstrated effectiveness which have a knowledge of the needs of disadvantaged youth; local educational agencies (as defined in section 801(f) of the Elementary and Secondary Education Act of 1965); institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965); nonprofit private organizations or institutions engaged in public service; nonprofit voluntary youth organizations; nonprofit private associat'ons, such as labor organizations, educational associations, business, cultural, or other private associations; units of general local government; or special purpose political subdivisions either having the power to levy taxes and spend funds or serving such special purpose in two or more units of general local government.

"(2) Part-time employment on an individual basis in any of the institutions and under the same conditions provided for in clause (1).

"(3) Part-time employment on either a project or individual basis in any of the institutions and under the same conditions as provided in clause (1) which includes as part of the employment on-the-job or apprenticeship training.

"(4) Full-time employment during the summer months, not to exceed forty hours per week for each youth employed, and not to last less than eight weeks in any of the institutions described in clause (1) of this section.

"SELECTING PRIME SPONSORS

"SEC. 413. (a) In selecting prime sponsors to operate youth incentive entitlement projects, the Secretary shall—

"(1) select prime sponsors from areas with differing socioeconomic and regional circumstances such as differing unemployment rates, school dropout rates, urban and rural variations, size, and other such factors designed to test the efficacy of a youth job entitlement in a variety of differing locations and circumstances;

"(2) take into consideration the extent to which the prime sponsors devote funds made available under title II for the purpose of carrying out a youth incentive entitlement project or for supportive services;

"(3) take in consideration the extent to which new and different classifications, occupations, or restructured jobs are created for youth;

"(4) select only prime sponsors which submit proposals which include—

"(A) a description of the procedure to be utilized by the prime sponsor to publicize, consider, approve, audit, and monitor youth incentive projects or jobs funded by the prime sponsor under this part, including copies of proposed application materials, as well as examples of audit and client characteristics reports;

"(B) a statement of the estimated number of economically disadvantaged youth to be served by the prime sponsor, and assurances that only such disadvantaged youth will be served;

"(C) assurances that the provisions of sections 442 and 443 are met relating to wage provisions and special conditions;

"(D) assurances that the prime sponsor has consulted with public and private nonprofit educational agencies including vocational and post-secondary education institutions and other agencies which offer high school equivalency programs; public employers, including law enforcement and judicial agencies; labor organizations; voluntary youth groups; community-based organizations; organizations of demonstrated effectiveness with a special knowledge of the needs of such disadvantaged youth; and with the private sector in the development of the plan, and assurances that arrangements are made with appropriate groups to assist the prime sponsor in carrying out the purposes of this subpart;

"(E) assurances that arrangements are made with the State employment security agencies to carry out the purposes of this subpart;

"(F) an agreement that title II funds planned for economically disadvantaged youth employment programs and funds available for the summer youth program under part C of this title for youth eligible under subsection (a) will be used in support of the project authorized under this subpart;

"(G) assurances that the employment of eligible youth meets the requirements of eligible activities under section 414;

"(H) assurances that participating youth shall not be employed more than an average of twenty hours per week during the school year and not more than forty hours per week during the summer;

"(I) assurances that a participating youth is not a relative of any person with responsibility for hiring a person to fill that job;

"(J) assurances that whenever employment involves additional on-the-job, institutional, or apprenticeship training provided by the employer, and if such training is not paid for in full or in part by the prime sponsor under any other program authorized under this Act, wages may be paid in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938, and with the balance being applied to the cost of training;

"(K) assurances that arrangements have been made with the appropriate local education agency or with the institution offering a certified high school equivalency program that such youth is enrolled and meeting the minimum academic and attendance requirements of that school or education program and with employers that such youth meet the minimum work and attendance requirements of such employment and that any employment guarantee is conditioned on such enrollment; and

"(L) assurances that the prime sponsor will make available the data necessary for the Secretary to prepare the report required by section 415.

"(b) In approving a prime sponsor to operate a youth incentive entitlement pilot project under this subpart the Secretary may also test the efficacy of any such project involving—

"(1) the use of a variety of subsidies to private for profit employers, notwithstanding the provisions of sections 412 and 414(a), to encourage such employers to provide employment and training opportunities under this subpart, but no such subsidy shall exceed the net cost to the employer of the wages paid and training provided;

"(2) arrangements with unions to enable youth to enter into apprenticeship training as part of the employment provided under this subpart;

"(3) a variety of administrative mechanisms to facilitate the employment of youths under an entitlement arrangement;

"(4) the inclusion of economically disadvantaged youths between the ages of nineteen and twenty-five who have not received their high school diploma;

"(5) the inclusion of occupational and career counseling, outreach, career, exploration, and on-the-job training and apprenticeship as part of the employment entitlement; and

"(6) the inclusion of youth under the jurisdiction of the juvenile or criminal justice system with the approval of the appropriate authorities.

"SPECIAL PROVISIONS

"SEC. 414. (a) Employment and training under this subpart shall develop the participant's role as a meaningful member of the community, and may include, but is not limited to, employment and training in such fields as environmental quality, health care, education, social services, public safety, crime prevention and control, transportation, recreation, neighborhood improvement, rural development, conservation, beautification, and community improvement projects.

"(b) No funds for employment under this subpart shall be used to provide public services through a nonprofit organization, association, or institution, or a nonprofit private institution of higher education, or any other applicant, which were previously provided by a political subdivision or local educational agency in the area served by the project of where the employment and training takes place, and no funds will be used under this subpart to provide such services through such an organization or institution which are customarily provided only by a political subdivision or local educational agency in the area served by such project or where the employment and training takes place.

"REPORTS

"SEC. 415. The Secretary shall report to the Congress not later than March 15, 1979, on his interim findings on the efficacy of a youth incentive entitlement. The Secretary shall submit another report not later than December 31, 1979, concerning the youth incentive entitlement projects authorized under this subpart. Included in such reports shall be findings with respect to—

"(1) the number of youths enrolled at the time of the report;

"(2) the cost of providing employment opportunities to such youths;

"(3) the degree to which such employment opportunities have caused out-of-school youths to return to school or others to remain in school;

"(4) the number of youths provided employment in relation to the total which might have been eligible;

"(5) the kinds of jobs provided such youths and a description of the employers—public and private—providing such employment;

"(6) the degree to which on-the-job or apprenticeship training has been offered as part of the employment;

"(7) the estimated cost of such a program if it were to be extended to all areas;

"(8) the effect such employment opportunities have had on reducing youth unemployment in the areas of the prime sponsors operating a project; and

"(9) the impact of job opportunities provided under the project on other job opportunities for youths in the area.

"Subpart 2—Youth Community Conservation and Improvement Projects

"STATEMENT OF PURPOSE

"SEC. 421. It is the purpose of this subpart to establish a program of community conservation and improvement projects to provide employment, work experience, skill training, and opportunities for community service to eligible youths, for a period not to exceed twelve months, supplementary to but not replacing opportunities available under title II of this Act.

"DEFINITIONS

"SEC. 442. As used in this subpart, the term—

"(1) 'eligible applicant' means any prime sponsor qualified under section 101 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworkers programs qualified under section 303 of this Act;

"(2) 'project applicant' shall have the same meaning as in section 125(18) of this Act;

"(3) 'eligible youths' means individuals who are unemployed and, at the time of entering employment under this subpart, are ages sixteen to nineteen, inclusive; and

"(4) 'community improvement projects' means projects providing work which would not otherwise be carried out, including, but not limited to, the rehabilitation or improvement of public facilities; neighborhood improvements; weatherization and basic repairs to low-income housing; energy conservation including solar energy techniques, especially those utilizing materials, and supplies available without cost; and conservation, maintenance, or restoration of natural resources on publicly held lands other than Federal lands.

"ALLOCATION OF FUNDS

"SEC. 423. (a) Funds available to carry out this subpart for any fiscal year shall be allocated in such a manner that not less than 75 per centum of such funds shall be allocated among the States on the basis of the relative number of unemployed persons within each State as compared to all States, except that not less than one-half of 1 per centum of such funds shall be allocated for projects under this subpart within any one State and not less than one-half of 1 per centum of such funds shall be allocated in the aggregate for projects in Guam, the Virgin Islands, American Samoa, the Northern Marianas, and the Trust Territory of the Pacific Islands.

"(b) Of the funds available for this subpart 2 per centum shall be available for projects for Native American eligible youths, and 2 per centum shall be available for projects for eligible youths in migrant and seasonal farmworker families.

"(c) The remainder of the funds available for this subpart shall be allocated as the Secretary deems appropriate.

"COMMUNITY CONSERVATION AND IMPROVEMENT YOUTH EMPLOYMENT PROFITS

"SEC. 424. The Secretary is authorized, in accordance with the provisions of this subpart, to enter into agreements with eligible applicants to pay the costs of community conservation and improvement youth employment projects to be carried out by project applicants employing eligible youths and appropriate supervisory personnel.

"PROJECT APPLICATIONS

"SEC. 425. (a) Project applicants shall submit applications for funding of projects under this subpart to the appropriate eligible applicant.

"(b) In accordance with regulations prescribed by the Secretary, each project application shall—

"(1) provide a description of the work to be accomplished by the project, the jobs to be filled, and the approximate duration for which eligible youths would be assigned to such jobs;

"(2) describe the wages or salaries to be paid individuals employed in jobs assisted under this subpart;

"(3) set forth assurances that there will be an adequate number of supervisory personnel on the project and that the supervisory personnel are adequately trained in skills needed to carry out the project and can instruct participating eligible youths in skills needed to carry out a project;

"(4) set forth assurances that any income generated by the project will be applied toward the cost of the project;

"(5) set forth assurances for acquiring such space, supplies, materials, and equipment as necessary, including reasonable payment for the purchase or rental thereof;

"(6) set forth assurances that, to the maximum extent feasible, projects carried out under this subpart shall be labor intensive; and

"(7) set forth such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"PROPOSED AGREEMENTS

"SEC. 426. (a) Each eligible applicant desiring funds under this subpart shall submit a proposed agreement to the Secretary, together with all project applications approved by the eligible applicant and all project applications approved by any program agent within the area served by the eligible applicant. With its transmittal of the proposed agreement, the eligible applicant shall provide descriptions of the project applications approved by the eligible applicant and by any program agent within the area served by the eligible applicant, accompanied by the recommendations of the eligible applicant concerning the relative priority attached to each project.

"(2) The functions of a program agent shall be as set forth in section 606(b)(2) of this Act.

"(b) The proposed agreement submitted by any eligible applicant shall—

"(1) describe the method of recruiting eligible youths, including a description of how such recruitment will be coordinated with plans under other provisions of this Act, including arrangements required by section 105 of this Act, and also including a description of arrangements with school systems, the public employment service (including school cooperative programs), and the courts of jurisdiction for status and youthful offenders;

"(2) provide a description of job training and skill development opportunities that will be made available to participating eligible youths, as well as a description of plans to coordinate the training and work experience with school-related programs, including the awarding of academic credit; and

"(3) set forth such other assurances as the Secretary may require to carry out the purposes of this subpart.

"(c)(1) In order for a project application submitted by a project applicant to be submitted to the Secretary by any eligible applicant, copies of such applicant shall have been submitted at the time of such application to the prime sponsor's planning council established under section 109 of this Act (or an appropriate planning organization in the case of sponsors of Native American programs under section 302 of this Act or migrant and seasonal farmworker programs under section 303 of this Act) for the purpose of affording such council (and the youth council established under section 436) an opportunity to submit comments and recommendations with respect to that application to the eligible applicant. No member of any council (or organization) shall cast a vote on any matter in connection with a project in which that member, or any organization with which that member is associated, has a direct interest.

"(2) Consistent with procedures established by the eligible applicant in accordance with regulations which the Secretary shall prescribe, the eligible applicant shall not disapprove a project application submitted by a project applicant unless it has first considered any comments and recommendations made by the appropriate council (or organization) and unless it has provided such applicant and council (or organization) with a written statement of its reasons for such disapproval.

"APPROVAL OF AGREEMENTS

"SEC. 427. (a) The Secretary may approve or deny on an individual basis any of the project applications submitted with any proposed agreement.

"(b) No funds shall be made available to any eligible applicant except pursuant to an agreement entered into between the Secretary and the eligible applicant which provides assurances satisfactory to the Secretary that—

"(1) the standards set forth in subpart 4 of this part will be satisfied;

"(2) projects will be conducted in such manner as to permit eligible youths employed in the project who are in school to coordinate their jobs with classroom instruction and, to the extent feasible, to permit such eligible youths to receive credit from the appropriate educational agency, postsecondary institution, or particular school involved; and

"(3) meet such other assurances, arrangements, and conditions as the Secretary deems appropriate to carry out the purposes of this subpart.

"WORK LIMITATION

"SEC. 428. No eligible youth shall be employed for more than twelve months in work financed under this subpart, except as prescribed by the Secretary.

"Section 3—Youth Employment and Training Programs

"STATEMENT OF PURPOSE

"SEC. 431. It is the purpose of this subpart to establish programs designed to make a significant long-term impact on the structural unemployment problems of youth, supplementary to but not replacing programs and activities available under title II of this Act, to enhance the job prospects and career opportunities of young persons, including employment, community service opportunities, and such training and supportive services as are necessary to enable participants to secure suitable and appropriate unsubsidized unemployment in the public and private sectors of the economy. To the maximum extent feasible, training and employment opportunities afforded under this subpart will be interrelated and mutually reinforcing so as to achieve the goal of enhancing the job prospects and career opportunities of youths served under this subpart.

"PROGRAM AUTHORIZED

"SEC. 432. (a) The Secretary is authorized to provide financial assistance to enable eligible applicants to provide employment opportunities and appropriate training and supportive services for eligible participants including but not limited to—

"(1) useful work experience opportunities in a wide range of community betterment activities such as rehabilitation of public properties, assistance in the weatherization of homes occupied by low-income families, demonstrations of energy-conserving measures including solar energy techniques (especially those utilizing materials and supplies available without cost), park establishment and upgrading, neighborhood revitalization, conservation and improvements and related activities;

"(2) productive employment and work experience in fields such as education, health

care, neighborhood transportation services, crime prevention and control, environmental quality control (including integrated pest management activities), preservation of historic sites, and maintenance of visitor facilities;

"(3) appropriate training and services to support the purpose of this subpart, including but not limited to—

"(A) outreach assessment, and orientation;

"(B) counseling, including occupational information and career counseling;

"(C) activities promoting education to work transition;

"(D) development of information concerning the labor market, and provision of occupational, educational, and training information;

"(E) services to youth to help them obtain and retain employment;

"(F) literacy training and bilingual training;

"(G) attainment of certificates of high school equivalency;

"(H) job sampling, including vocational exploration in the public and private sector;

"(I) institutional and on-the-job training, including development of basic skills and job skills;

"(J) transportation assistance;

"(K) child care and other necessary supportive services;

"(L) job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders or new job opportunities for youths, in order to improve work relationships between employers and youths;

"(M) community-based central intake and information services for youth;

"(N) job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

"(O) programs to overcome sex-stereotyping in job development and placement; and

"(P) programs and outreach mechanisms to increase the labor force participation rate among minorities and women.

"(b) In order to carry out this subpart, a Governor or a prime sponsor may enter into contracts with project applicants (as defined in section 125(18)) or employers organized for profit, but payments to such employers shall not exceed the amounts permitted under section 703, or may operate programs directly if, after consultation with community-based organizations and nonprofit groups, a Governor or prime sponsor determines that such direct operation will promote the purposes of this subpart.

"ALLOCATION OF FUNDS

"SEC. 433. (a) From the sums available for this subpart—

"(1) an amount equal to 75 per centum of such funds shall be made available to prime sponsors for programs authorized under section 432 of this Act;

"(2) an amount equal to 5 per centum of the amount available for this subpart shall be made available to Governors for special statewide youth services under subsection (c) of this section;

"(3) an amount equal to not less than 2 per centum of the amount available for this subpart shall be made available for employment and training programs for Native American eligible youths (deducting such amounts as are made available for such purposes under section 423(b) of this Act);

"(4) an amount equal to not less than 2 per centum of the amount available for this subpart shall be made available for employment and training programs for eligible youths in migrant and seasonal farmworker families (deducting such amounts as are made available for such purposes under section 423(b) of this Act); and

"(5) the remainder of the funds available for this subpart shall be available for the Secretary's discretionary projects authorized under section 438.

"(b)(1) Amounts available for each of the purposes set forth in paragraphs (1) and (2) of subsection (a) shall be allocated among the States in such a manner that—

"(A) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons within each State as compared to the total number of such unemployed persons in all States;

"(B) 37.5 per centum thereof shall be allocated in accordance with the relative number of unemployed persons residing in areas of substantial unemployment (as defined in section 125(2) of this Act) within each State as compared to the total number of unemployed persons residing in all such areas in all States; and

"(C) 25 per centum thereof shall be allocated in accordance with the relative number of persons in families with an annual income below the low-income level (as defined in section 125(15) of this Act) within each State as compared to the total number of such persons in all States.

"(2) In determining allocations under this subsection the Secretary shall use what the Secretary determines to be the best available data.

"(3) Amounts available to prime sponsors under paragraph (1) of subsection (a) of this section shall, out of the total amounts allocated to each State under such paragraph, be allocated by the Secretary among prime sponsors within each State, in accordance with the factors set forth in paragraph (1) of this subsection.

"(c) The amount available to the Governor of each State under paragraph (2) of subsection (a) of this section shall be used in accordance with a special statewide youth services plan, approved by the Secretary, for such purposes as—

"(1) providing financial assistance for employment and training opportunities for eligible youths who are under the supervision of the State;

"(2) providing labor market and occupational information to prime sponsors and local educational agencies, without reimbursement;

"(3) providing for the establishment of cooperative efforts between State and local institutions, including occupational and career guidance and counseling and placement services for in-school and out-of-school youth;

"(4) providing financial assistance for expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in concert with appropriate businesses and labor unions or State apprenticeship councils;

"(5) carrying out special model employment and training programs and related services between appropriate State agencies and prime sponsors in the State, or any combination of such prime sponsors, including subcontractors selected by prime sponsors, with particular emphasis on experimental job training within the private sector.

"(d)(1) Not less than 22 per centum of the amount allocated to each prime sponsor under paragraph (1) of subsection (a) of this section shall be used for programs under this subsection.

"(2) The amount available to each prime sponsor under paragraph (1) of this subsection shall be used for programs for in-school youth carried out pursuant to agreements between prime sponsors and local educational agencies. Each such agreement shall describe in detail the employment opportunities and appropriate training and supportive services which shall be provided to eligible participants who are enrolled or who agree to enroll in a full-time program leading to a secondary school diploma, a junior or community college degree, or a technical or trade school certificate of completion. Each such agreement shall contain provisions to assure that funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose.

"(e) Programs receiving assistance under paragraph (1) of subsection (a) of this section shall give special consideration in carrying out programs authorized under section 432 of this Act, to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

"ELIGIBLE APPLICATIONS

"SEC. 434. Eligible applicants for purposes of this subpart, except section 438, are prime sponsors qualified under section 101 of this Act, sponsors of Native American programs qualified under section 302(c)(1) of this Act, and sponsors of migrant and seasonal farmworker programs qualified under section 303 of this Act.

"ELIGIBLE PARTICIPANTS

"SEC. 435. (a) Eligible participants for programs authorized under this subpart shall be persons who—

"(1)(A) are unemployed or are underemployed or are in school and are ages sixteen to twenty-one, inclusive; or (B) if authorized under such regulations as the Secretary may prescribe, are in school and are ages fourteen to fifteen, inclusive; and

"(2) are not members of households which have current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 85 per centum of the lower living standard income level, except that, pursuant to regulations which the Secretary shall prescribe, persons who do not meet the requirements of this subparagraph but who are otherwise eligible under this subpart may participate in appropriate activities of the type authorized under paragraph (3) of section 432(a).

Notwithstanding the provision of this subsection, 10 per centum of the funds available for this subpart may be used for programs which include youths of all economic backgrounds to test the desirability of including youths of all economic backgrounds.

"(b) For purposes of this section, the term 'lower living standard income level' means that income level (adjusted for regional and metropolitan and urban and rural differences and family size) determined annually by the Secretary based upon the most recent 'lower living standard budget' issued by the Bureau of Labor Statistics of the Department of Labor.

"CONDITIONS FOR RECEIPT OF FINANCIAL ASSISTANCE

"SEC. 436. (a) The Secretary shall not provide financial assistance to an eligible applicant for programs authorized under section 432 unless such eligible applicant provides assurances that the standards set forth in subpart 4 of this part will be met and unless such eligible applicant submits an application in such detail as the Secretary may prescribe.

"(1) describe the programs, projects or activities to be carried out with such assistance, together with a description of the relation-

ship and coordination of services provided to eligible participants under this subpart for similar services offered by local educational agencies, postsecondary institutions, the public employment service, other youth programs, community-based organizations, businesses and labor organizations consistent with the requirements of sections 121 and 203 of this Act, and assurances that, to the maximum extent feasible, use will be made of any services that are available without reimbursement by the State employment service that will contribute to the achievement of the purposes of this subpart;

"(2) include assurances that the application will be coordinated to the maximum extent feasible, with the plans submitted under title II, but services to youth under that title shall not be reduced because of the availability of financial assistance under this subpart;

"(3) provide assurances, satisfactory to the Secretary, that in the implementation of programs under this subpart, there will be coordination, to the extent appropriate, with local educational agencies, postsecondary institutions, community-based organizations, businesses, labor organizations, job training programs, other youth programs, the apprenticeship system, and (with respect to the referral of prospective youth participants to the program) the public employment service system;

"(4) provide assurance satisfactory to the Secretary that allowances will be paid in accordance with the provisions of section 123 of this Act and such regulations as the Secretary may prescribe for this subpart;

"(5) provide assurances that the application will be reviewed by the appropriate prime sponsor planning council in accordance with the provisions of section 109;

"(6) provide assurances that a youth council will be established under the planning council of such eligible applicant (established under section 109 of this Act) in accordance with subsection (b) of this section;

"(7) provide assurances satisfactory to the Secretary that effective means will be provided through which youths participating in the projects, programs, and activities may acquire appropriate job skills and be given necessary basic education and training and that suitable arrangements will be established to document the competencies, including skills, education and training, derived by each participant from programs established under this subpart;

"(8) provide assurances that the eligible applicant will take appropriate steps to develop new job classifications, new occupations, and restructured jobs;

"(9) provide that the funds available under section 433(d) shall be used for programs authorized under section 432 for in-school youth who are eligible participants through arrangements to be carried out by a local educational agency or agencies or post-secondary educational institution or institutions; and

"(10) provide such other information and assurance as the Secretary may deem appropriate to carry out the purposes of this subpart.

"(b) Each youth council established by an eligible applicant shall be responsible for making recommendations to the planning council established under section 109 of this Act with respect to planning and review of activities conducted under this subpart and subpart 2. Each such youth council's membership shall include representation from the local educational agency, local vocational education advisory council, postsecondary educational institutions, business, unions, the public employment service, local government and nongovernment agencies and organizations which are involved in meeting the special needs of youths, the community served by such applicant, the prime sponsor, and youths themselves.

"(c) No program of work experience for in-school youth supported under this subpart shall be entered into unless an agreement has been made between the prime sponsor and a local educational agency or agencies, after review by the youth council established under subsection (b) of this section. Each such agreement shall—

"(1) set forth assurances that participating youths will be provided meaningful work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment not subsidized under this in-school program;

"(2) be administered, under contracts with the prime sponsor, by a local educational agency or agencies or a postsecondary educational institution or institutions within the area served by the prime sponsor, and set forth assurances that such contracts have been reviewed by the youth council established under subsection (b) of this section;

"(3) set forth assurances that job information, counseling, guidance, and placement services will be made available to participating youths and that funds provided under this program will be available to, and utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

"(4) set forth assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

"(5) set forth assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources provided under this Act, and other resources available in the local community to assist such youths in obtaining employment;

"(6) set forth assurances that youth participants will be chosen from among youths who are eligible participants who need work to remain in school, and shall be selected by the appropriate educational agency or institution, based on the certification for each participating youth by the school-based guidance counselor that the work experience provided is an appropriate component of the overall educational program of each youth.

"REVIEW OF PLANS BY SECRETARY

"SEC. 437. The provisions of sections 102, 104, and 107 of this Act shall apply to all programs and activities authorized under 432.

"SECRETARY'S DISCRETIONARY PROJECTS

"SEC. 438. (a)(1) The Secretary of Labor is authorized, either directly or by way of contract or other arrangement, with prime sponsors, public agencies and private organizations to carry out innovative and experimental programs to test new approaches for dealing with the unemployment problems of youth and to enable eligible participants to prepare for, enhance their prospects for, or secure employment in occupations through which they may reasonably be expected to advance to productive working lives. Such programs shall include, where appropriate, cooperative arrangements with educational agencies to provide special programs and services for eligible participants enrolled in secondary schools, postsecondary educational institutions and technical and trade schools, including job experience, counseling and guidance prior to the completion of secondary or postsecondary education and making available occupational, educational, and training information through statewide career information systems. When funds are provided for the development or implementation of statewide career information systems, the occupational data contained within such systems shall be subject to the approval of the appropriate State occupational information coordinating committee established pursuant to section 161(b)(2) of the Vocational Education Act of 1963.

"(2) In carrying out or supporting such programs, the Secretary of Labor shall consult, as appropriate, with the Secretary of Commerce, the Secretary of Health, Education, and Welfare, the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Director of the ACTION Agency, and the Director of the Community Services Administration.

"(3) Funds available under this section may be transferred to other Federal departments and agencies to carry out functions delegated to them pursuant to agreements with the Secretary.

"(b) The Secretary and prime sponsors, as the case may be, shall give special consideration in carrying out innovative and experimental programs assisted under this section to community-based organizations which have demonstrated effectiveness in the delivery of employment and training services, such as the Opportunities Industrialization Centers, the National Urban League, SER-Jobs for Progress, United Way of America, Mainstream, the National Puerto Rican Forum, neighborhood organizations, community action agencies, union-related organizations, employer-related non-profit organizations, and other similar organizations.

"(c)(1) In carrying out its responsibilities under this subsection and under section 161 of the Vocational Education Act, the National Occupational Information Coordinating Committee shall give special attention to the problems of unemployed youths. The Committee shall also carry out other activities consistent with the purposes of this title, including but not limited to the following:

"(A) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

"(B) assisting and encouraging the development of State occupational information systems, to be used in the maintenance of local job banks and job vacancy reports, accessible to local schools, and including pilot porgrams in the use of computers to facilitate such access;

"(C) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions;

"(D) providing technical assistance for programs of computer on-line terminals and other facilities to uitlize and implement occupational and career outlook information and projections supplied by State employment service offices and to improve the match of youth career desires with available and anticipated labor demand;

"(E) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to make available employment and career counseling to presecondary youths; and

"(F) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs, local public employment services offices and to encourage cooperation and contact among such eligible applicants, employers, and offices.

"(2) All funds available to the National Occupational Information Coordinating Committee under this Act and under section 161 of the Vocational Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

"Subpart 4—General Provisions

"DISTRIBUTION OF FUNDS

"SEC. 441. Of the sums available for carrying out the provisions of this part—

"(1) 15 per centum shall be available for subpart 1;

"(2) 15 per centum shall be available for subpart 2; and

"(3) 70 per centum shall be available for subpart 3.

"WAGE PROVISIONS

"SEC. 442. Rates of pay under this part shall be no less than the higher of—

"(1) the minimum wage under section 6 (a)(1) of the Fair Labor Standards Act of 1938, but in the case of an individual who is fourteen or fifteen years old, the wage provided in accordance with the provisions of subsection (b) of section 14 of the Fair Labor Standards Act of 1938;

"(2) the State or local minimum wage for the most nearly comparable employment, but in the case of an individual who is fourteen or fifteen years old the wage provided in accordance with the applicable provisions of the applicable State or local minimum wage law; or

"(3) the prevailing rates of pay, if any, for occupations and job classifications of individuals employed by the same employer, except that—

"(A) whenever the prime sponsor has entered into an agreement with the employer and the labor organization representing employees engaged in similar work in the same area to pay less than the rates provided in this paragraph, youths may be paid the rates specified in such agreement;

"(B) whenever an existing job is reclassified or restructured, youths employed in such jobs shall be paid at rates not less than are provided under paragraph (1) or (2) of this section, but if a labor organization represents employees engaged in similar work in the same area, such youths shall be paid at rates specified in an agreement entered into by the appropriate prime sponsor, the employer, and the labor organization with respect to such reclassified or restructured jobs, and if no agreement is reached within thirty days after the initiation of the agreement procedure referred to in this subparagraph, the labor organization, prime sponsor, or employer may petition the Secretary of Labor who shall establish appropriate wages for the reclassified or restructured positions, taking into account wages paid by the same employer to persons engaged in similar work;

"(C) whenever a new or different job classification or occupation is established and there is no dispute with respect to such new or different job classification or occupation, youths to be employed in such jobs shall be paid at rates not less than are provided in paragraph (1) or (2) of this section, but if there is a dispute with respect to such new or different job classification or occupation, the Secretary of Labor shall, within thirty days after receipt of the notice of protest by the labor organization representing employees engaged in similar work in the same area, make a determination whether such job is a new or different job classification or occupation; and

"(D) in the case of projects to which the provision of the Davis-Bacon Act (or any Federal law containing labor standards in accordance with the Davis-Bacon Act) otherwise apply, the Secretary is authorized, for projects financed under subparts 2 and 3 of this part under $5,000, to prescribe rates of pay for youth participants which are not less than the applicable minimum wage but not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe the appropriate ratio of journeymen to such participating youths.

"SPECIAL CONDITIONS

"SEC. 443. (a) The Secretary shall provide financial assistance under this part only if he determines that the activities to be assisted meet the requirements of this section.

"(b) The Secretary shall determine that the activities assisted under this part—

"(1) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

"(2) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits);

"(3) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed;

"(4) will not substitute jobs assisted under this part for existing federally assisted jobs;

"(5) will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area; and

"(6) will not be used to employ any person to fill a job opening created by the act of an employer in laying off or terminating employment of any regular employee, or otherwise reducing the regular work force not supported under this part, in anticipation of filling the vacancy so created by hiring a youth to be supported under this part.

"(c) The jobs in each promotional line will in no way infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public services not subsidized under this Act and no job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective-bargaining agreements have been complied with.

"(d) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program for which an application is being developed for submission under this part, such organization shall be notified and shall be afforded a reasonable period of time prior to the submission of the application in which to make comments to the applicant and to the Secretary.

"(e) Activities funded under this part shall meet such other standards as the Secretary may deem appropriate to carry out the purposes of this Act.

"(f) Funds under this part shall not be used to provide full-time employment opportunities (1) for any person who has not attained the age with respect to which the requirement of compulsory education ceases to apply under the laws of the State in which such individual resides, except (A) during periods when school is not in session, and (B) where employment is undertaken in cooperation with school-related programs awarding academic credit for the work experience, or (2) for any person who has not attained a high school degree or its equivalent if it is determined, in accordance with procedures established by the Secretary of Labor, that there is substantial evidence that such person left school in order to participate in any program under this part.

"SPECIAL PROVISIONS FOR SUBPARTS 2 AND 3

"SEC. 444. (a) Appropriate efforts shall be made to insure that youths participating in programs, projects, and activities under subpart 2 and 3 of this part shall be youths who are experiencing severe handicaps in obtaining employment, including but not limited to those who lack credentials (such as a high school diploma), those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special need, as determined by the Secretary.

"(b) The Secretary is authorized to make such reallocation as the Secretary deems appropriate of any amount of any allocation under subparts 2 and 3 of this part to the extent that the Secretary determines that an eligible applicant will not be able to use such amount within a reasonable period of time. Any such amount may be reallocated only if the Secretary has provided thirty days' advance notice of the proposed reallocation to the eligible applicant and to the Governor of the State of the proposed reallocation, during which period of time the eligible applicant and the Governor may submit comments to the Secretary. After considering any comments submitted during such period of time, the Secretary shall notify the Governor and affected eligible applicants of any decision to reallocate funds, and shall publish any such decision in the Federal Register. Priority shall be given in reallocating such funds to other areas within the same State.

"(c) The provisions of section 121(g)(1)(D) of this Act shall apply to subparts 2 and 3 of this part.

"ACADEMIC CREDIT, EDUCATION CREDIT, COUNSELING AND PLACEMENT SERVICES, AND BASIC SKILLS DEVELOPMENT

"SEC. 445. (a) In carrying out this part, appropriate efforts shall be made to encourage the granting by the educational agency or school involved of academic credit to eligible participants who are in school.

"(b) The Secretary, in carrying out the purposes of this part, shall work with the Department of Health, Education, and Welfare to make suitable arrangements with appropriate State and local education officials whereby academic credit may be awarded, consistent with applicable State law, by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"(c) All activities assisted under this part, pursuant to such regulations as the Secretary shall prescribe, shall provide appropriate counseling and placement services designed to facilitate the transition of youth from participation in the project to (1) permanent jobs in the public or private sector, or (2) education or training programs.

"DISREGARDING EARNINGS

"SEC. 446. Earnings received by any youth under this part shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

"RELATION TO OTHER PROVISIONS

"SEC. 447. The provisions of title I of this Act shall apply to this part, except to the extent that any such provision may be inconsistent with the provisions of this part.

"PART B—JOB CORPS

"STATEMENT OF PURPOSE

"SEC. 450. This part establishes a Job Corps for economically disadvantaged young men and women, sets forth standards and procedures for selecting individuals as enrollees in the Job Corps, authorizes the establishment of residential and nonresidential centers in which enrollees will participate in intensive programs of education, vocational training, work experience, counseling and other activities, and prescribes various other powers, duties, and responsibilities incident to the operation and continuing development of the Job Corps. The purpose of this part is to assist young persons who need and can benefit from an unusually intensive program, operated in a group setting, to become more responsible, employable, and productive citizens; and to do so in a way that contributes,

where feasible, to the development of National, State, and community resources, and to the development and dissemination of techniques for working with the disadvantaged that can be widely utilized by public and private institutions and agencies.

"ESTABLISHING OF THE JOB CORPS

"SEC. 451. There is established within the Department of Labor a 'Job Corps'.

"INDIVIDUALS ELIGIBLE FOR THE JOB CORPS

"SEC. 452. To become an enrollee in the Job Corps, a young man or woman must be an eligible youth who—

"(1) requires additional education, training, or intensive counseling and related assistance in order to secure and hold meaningful employment, participate successfully in regular school work, qualify for other suitable training programs, or satisfy Armed Forces requirements;

"(2) is currently living in an environment so characterized by cultural deprivation, a disruptive homelife, or other disorienting conditions as to substantially impair prospects for successful participation in other programs providing needed training, education, or assistance;

"(3) is determined, after careful screening as provided for in sections 453 and 454 to have the present capabilities and aspirations needed to complete and secure the full benefit of the Job Corps and to be free of medical and behavioral problems so serious that the individual could not adjust to the standards of conduct, discipline, work, and training which the Job Corps involves; and

"(4) meets such other standards for enrollment as the Secretary may prescribe and agrees to comply with all applicable Job Corps rules and regulations.

"SCREENING AND SELECTION OF APPLICANTS—GENERAL PROVISIONS

"SEC. 453. (a) The Secretary shall prescribe specific standards and procedures for the screening and selection of applicants for the Job Corps. To the extent practicable, these rules shall be implemented through arrangements with agencies and organizations such as community action agencies, public employment offices, professional groups, labor organizations, and agencies and individuals having contact with youth over substantial periods of time and able to offer reliable information as to their needs and problems; and shall provide for necessary consultation with other individuals and organizations, including court, probation, parole, law enforcement, education, welfare, and medical authorities and advisers. The rules shall also provide for the interviewing of each applicant for the purpose of—

"(1) determining whether the applicant's educational and vocational needs can best be met through the Job Corps or an alternative program in the applicant's home community;

"(2) obtaining from the applicant pertinent data relating to background, needs, and interests for determining eligibility and potential assignment; and

"(3) giving the applicant a full understanding of the Job Corps and what will be expected of an enrollee in the event of acceptance.

"(b) The Secretary shall make no payments to any individual or organization solely as compensation for referring the names of candidates for Job Corps.

"(c) The Secretary shall assure that Job Corps enrollees include an appropriate number of candidates selected from rural areas, taking into account the proportions of eligible youth who reside in rural areas and the need to provide residential facilities for such youth.

"SCREENING AND SELECTION—SPECIAL LIMITATIONS

"SEC. 454. (a) No individual shall be selected as an enrollee unless there is reasonable expectation that the individual can participate successfully in group situations and activities, is not likely to engage in behavior that would prevent other enrollees from receiving the benefit of the program or be incompatible with the maintenance of sound discipline and satisfactory relationships between the center to which the individual might be assigned and surrounding communities, and unless the individual manifests a basic understanding of both the rules to which the individual will be subject and of the consequences of failure to observe those rules.

"(b) No individual shall be denied a position in the Job Corps solely on the basis of that individual's contact with the criminal justice system.

"ENROLLMENT AND ASSIGNMENT

"SEC. 455. (a) No individual may be enrolled in the Job Corps for more than two years, except as the Secretary may authorize in special cases.

"(b) Enrollment in the Job Corps shall not relieve any individual of obligations under the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

"(c) After the Secretary has determined whether an enrollee is to be assigned to a Job Corps Center or a Job Corps Civilian Conservation Center, the enrollee shall be assigned to the center of the appropriate type which is closest to the enrollee's home, except that the Secretary may waive this requirement for good cause, including to insure an equitable opportunity for youth from various sections of the country to participate in the program, to prevent undue delays in assignment, to adequately meet the educational or other needs of an enrollee, and for efficiency and economy in the operation of the program.

"JOB CORPS CENTERS

"SEC. 455. (a) The Secretary may make agreements with Federal, State, or local agencies, or private organizations for the establishment and operation of Job Corps centers. Job Corps centers may be residential or nonresidential in character, or both, and shall be designed and operated so as to provide enrollees, in a well-supervised setting, with education, vocational training, work experience (either in direct program activities or through arrangements with employers), counseling, and other services appropriate to their needs. The centers shall include Civilian Conservation Centers, located primarily in rural areas, which shall provide, in addition to other training and assistance, programs of work experience to conserve, develop, or manage public natural resources or public recreational areas or to develop community projects in the public interest. The centers shall also include training centers located in either urban or rural areas which shall provide activities including training and other services for specific types of skilled or semi-skilled employment.

"(b) To the extent feasible, Job Corps centers shall offer education and vocational training opportunities, together with supportive services, on a nonresidential basis to participants in other programs under this Act. Such opportunities may be offered on a reimbursable basis or through such other arrangements as the Secretary may specify

"PROGRAM ACTIVITIES

"SEC. 457. (a) Each Job Corps center shall provide enrollees with an intensive, well-organized and fully supervised program of education, vocational training, work experience, planned vocational and recreational activities, physical rehabilitation and development, and counseling. To the fullest extent feasible, the required program shall include activities to assist enrollees in choosing realistic career goals, coping with problems they may encounter in home communities, or in adjusting to new communities, and planning and managing daily affairs in a maner that will best contribute to long-term upward mobility. Center programs shall include required participation in center maintenance work to assist enrollees in increasing their sense of contribution, responsibility and discipline.

"(b) The Secretary may arrange for enrollee education and vocational training through local public or private educational agencies, vocational educational institutions, or technical institutes, whenever such institutions provide training substantially equivalent in cost and quality to that which the Secretary could provide through other means.

"(c) To the extent feasible, arrangements for education both on and off center shall provide opportunities for qualified enrollees to obtain the equivalent of a certificate of graduation from high school. The Secretary, with the concurrence of the Secretary of Health, Education, and Welfare, shall develop certificates to be issued to each enrollee who satisfactorily completes his or her service in the Job Corps and which will reflect the enrollee's level of educational attainment.

"ALLOWANCES AND SUPPORT

"SEC. 458. (a) The Secretary may provide enrollees with such personal, travel, and leave allowances, and such quarters, subsistence, transportation, equipment, clothing, recreational services, and other expenses as he may deem necessary or appropriate to their needs. Personal allowances shall be established at a rate not to exceed $60 per month during the first six months of an enrollee's participation in the program and not to exceed $100 per month thereafter, except that allowances in excess of $60 per month, but not exceeding $100 per month, may be provided from the beginning of an enrollee's participation if it is expected to be of less than six months' duration and the Secretary is authorized to pay personal allowances in excess of the rates specified herein in unusual circumstances as determined by him. Such allowances shall be graduated up to the maximum so as to encourage continued participation in the program, achievement and the best use by the enrollee of the funds so provided and shall be subject to reduction in appropriate cases as a disciplinary measure. To the degree reasonable, enrollees shall be required to meet or contribute to costs associated with their individual comfort and enjoyment from their personal allowances.

"(b) The Secretary shall prescribe specific rules governing the accrual of leave by enrollees. Except in the case of emergency, he shall in no event assume transportation costs connected with leave of any enrollee who has not completed at least six months' service in the Job Corps.

"(c) The Secretary may provide each former enrollee upon termination, a readjustment allowance at a rate not to exceed $100 for each month of satisfactory participation in the Job Corps. No enrollee shall be entitled to a readjustment allowance, however, unless he has remained in the program at least ninety days, except in unusual circumstances as determined by the Secretary. The Secretary may, from time to time, advance to or on behalf of an enrollee such portions of his readjustment allowances as the Secretary deems necessary to meet extraordinary financial obligations incurred by that enrollee; and he may also, pursuant to rules or regulations, reduce the amount of an enrollee's readjustment allowance as a penalty for misconduct during participation in the Job Corps. In the event of an enrollee's death during his period of service, the amount of any unpaid readjustment allowance shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

"(d) Under such circumstances as the Secretary may determine, a portion of the readjustment allowance of an enrollee not ex-

ceeding $50 for each month of satisfactory service may be paid during the period of service of the enrollee directly to a spouse or child of an enrollee or to any other relative who draws substantial support from the enrollee, and any sum so paid shall be supplemented by the payment of an equal amount by the Secretary.

"STANDARDS OF CONDUCT

"SEC. 459. (a) Within Job Corps centers standards of conduct shall be provided and stringently enforced. If violations are committed by enrollees, dismissal from the Corps or transfers to other locations shall be made if it is determined that retention in the Corps, or in the particular center, will jeopardize the enforcement of such standards or diminish the opportunities of other enrollees.

"(b) To promote the proper moral and disciplinary conditions in the Job Corps, the directors of Jobs Corps centers shall take appropriate disciplinary measures against enrollees including, but not limited to, dismissal from the Job Corps, subject to expeditious appeal to the Secretary.

"COMMUNITY PARTICIPATION

"SEC. 460. The Secretary shall encourage and cooperate in activities to establish a mutually beneficial relationship between Job Corps centers and nearby communities. These activities shall include the establishment of community advisory councils to provide a mechanism for joint discussion of common problems and for planning programs of mutual interest. Youth participation in advisory council affairs shall be encouraged and separate youth councils may be established composed of enrollees and young people from the communities. The Secretary shall assure that each center is operated with a view to achieving, so far as possible, objectives which shall include—

"(1) giving community officials appropriate advance notice of changes in center rules, procedures, or activities that may affect or be of interest to the community;

"(2) affording the community a meaningful voice in center affairs of direct concern to it, including policies governing the issuance and terms of passes to enrollees;

"(3) providing center officials with full and rapid access to relevant community groups and agencies, including law enforcement agencies and agencies which work with young people in the community;

"(4) encouraging the fullest practicable participation of enrollees in programs for community improvement or betterment, with appropriate advance consultation with business, labor, professional, and other interested community groups;

"(5) arranging recreational, athletic, or similar events in which enrollees and local residents may participate together;

"(6) providing community residents with opportunities to work with enrollees directly as part-time instructors, tutors, or advisers, either in the center or in the community;

"(7) developing, where feasible, job or career opportunities for enrollees in the community; and

"(8) promoting interchanges of information and techniques among, and cooperative projects involving, the center and community schools, educational institutions, agencies serving young people and recipients of funds under this Act.

"COUNSELING AND JOB PLACEMENT

"SEC. 461. (a) The Secretary shall counsel and test each enrollee at regular intervals to measure progress in educational and vocational programs.

"(b) The Secretary shall counsel and test enrollees prior to their scheduled terminations to determine their capabilities and shall make every effort to place them in jobs in the vocation for which they are trained or to assist them in attaining further training or education. In placing enrollees in jobs, the Secretary shall utilize the public employment service system to the fullest extent possible.

"(c) The Secretary shall determine the status and progress of terminees and make every effort to assure that their needs for further education, training, and counseling are met.

"(d) The Secretary shall arrange for the readjustment allowance to be paid to former enrollees (who have not already found employment) at the State employment service office nearest the home of any such former enrollee who is returning home, or at the nearest such office where the former enrollee has indicated an intent to reside. If the Secretary uses any other public agency or private organization in lieu of the public employment service system, the Secretary shall arrange for that organization or agency to pay the readjustment allowance.

"EXPERIMENTAL AND DEVELOPMENTAL PROJECTS

"SEC. 462. (a) The Secretary may undertake experimental, research, or demonstration projects to develop or test ways of better using facilities, encouraging a more rapid adjustment of enrollees to community life that will permit a reduction in their period of enrollment, reducing transportation and support costs, or otherwise promoting greater efficiency and effectiveness in the program. These projects shall include one or more projects providing youths with education, training, and other supportive services on a combined residential and nonresidential basis. The Secretary may undertake one or more pilot projects designed to involve youth who have a history of serious and violent behavior against persons or property, repetitive delinquent acts, narcotics addiction, or other behavioral aberrations. Projects under this subsection shall be developed after appropriate consultation with other Federal or State agencies conducting similar or related programs or projects and with the prime sponsors in the communities where the projects will be carried out. They may be undertaken jointly with other Federal or federally assisted programs, and funds otherwise available for activities under those programs shall, with the consent of the head of any agency concerned, be available for projects under this section to the extent they include the same or substantially similar activities. The Secretary may waive any provision of this part which the Secretary finds would prevent the carrying out of elements of projects under this subsection essential to a determination of their feasibility and usefulness. The Secretary shall, in the annual report of the Secretary, report to the Congress concerning the actions taken under this section, including a full description of progress made in connection with combined residential and nonresidential projects.

"(b) In order to determine whether upgraded vocational education schools could eliminate or substantially reduce the school dropout problem, and to demonstrate how communities could make maximum use of existing educational and training facilities, the Secretary, in cooperation with the Secretary of Health, Education, and Welfare, may enter into one or more agreements with State educational agencies to pay the cost of establishing and operating model community vocational education schools and skill centers.

"ADVISORY BOARDS AND COMMITTEES

"SEC. 463. The Secretary may make use of advisory committees in connection with the operation of the Job Corps, and the operation of Job Corps centers, whenever the Secretary determines that the availability of outside advice and counsel on a regular basis would be of substantial benefit in identifying and overcoming problems, in planning program or center development, or in strengthening relationships between the Job Corps and agencies, institutions, or groups engaged in related activities.

"PARTICIPATION OF THE STATES

"SEC. 464. (a) The Secretary shall take action to facilitate the effective participation of States in the Job Corps programs, including, but not limited to, consultation with appropriate State agencies on matters pertaining to the enforcement of applicable State laws, standards of enrollee conduct and discipline, the development of meaningful work experience and other activities for enrollees, and coordination with State-operated programs.

"(b) The Secretary may enter into agreements with States to assist in the operation or administration of State-operated programs which carry out the purpose of this part. The Secretary may, pursuant to regulations, pay part or all of the costs of such programs.

"(c) No Job Corps center or other similar facility designed to carry out the purpose of this part shall be established within a State unless a notice setting forth such proposed establishment has been submitted to the Governor, and the establishment has not been disapproved by the Governor within thirty days of such submission.

"(d) All property which would otherwise be under exclusive Federal legislative jurisdiction shall be under concurrent jurisdiction with the appropriate State and locality with respect to criminal law enforcement as long as a Job Corps center is operated on such property.

"APPLICATION OF PROVISIONS OF FEDERAL LAW

"SEC. 465. (a) Except as otherwise provided in this subsection and in section 8143(a) of title 5, United States Code, enrollees in the Job Corps shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.) enrollees shall be deemed employees of the United States and any service performed by an individual as an enrollee shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter I of chapter 81 of title 5 of the United States Code (relating to compensation to Federal employees for work injuries), enrollees shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows:

"(A) the term 'performance of duty' shall not include any act of an enrollee while absent from his or her assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Job Corps;

"(B) in computing compensation benefits for disability or death, the monthly pay of an enrollee shall be deemed that received under the entrance salary for a grade GS–2 employee, and sections 8113 (a) and (b) of title 5, United States Code, shall apply to enrollees; and

"(C) compensation for disability shall not begin to accrue until the day following the date on which the injured enrollee is terminated.

"(3) For purposes of the Federal tort claims provisions in title 28, United States Code, enrollees shall be considered employees of the Government.

"(b) Whenever the Secreary finds a claim for damages to persons or property resulting

from the operation of the Job Corps to be a proper charge against the United States, and it is not cognizable under section 2672 of title 28, United States Code, the Secretary may adjust and settle it in an amount not exceeding $1,500.

"(c) Personnel of the uniformed services who are detailed or assigned to duty in the performance of agreements made by the Secretary for the support of the Corps shall not be counted in computing strength under any law limiting the strength of such services or in computing the percentage authorized by law for any grade therein.

"SPECIAL PROVISIONS

"SEC. 466. (a) The Secretary shall immediately take steps to achieve an enrollment of 50 per centum women in the Job Corps consistent with (1) efficiency and economy in the operation of the program, (2) sound administrative practice, and (3) the socioeconomic, educational, and training needs of the population to be served.

"(b) The Secretary shall assure that all studies, evaluations, proposals, and data produced or developed with Federal funds in the course of the Job Corps program shall become the property of the United States.

"(c) Transactions conducted by private for-profit contractors for Job Corps centers which they are operating on behalf of the Secretary shall not be considered as generating gross receipts.

"GENERAL PROVISIONS

"SEC. 467. The Secretary is authorized to—

"(1) disseminate, with regard to the provisions of section 4154 of title 39, United States Code, data and information in such forms as the Secretary shall deem appropriate, to public agencies, private organizations, and the general public;

"(2) collect or compromise all obligations to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of obligations until such time as such obligations may be referred to the Attorney General for suit or collection; and

"(3) expend funds made available for purposes of this part—

"(A) for printing and binding, in accordance with applicable law and regulation; and

"(B) without regard to any other law or regulation, for rent of buildings and space in buildings and for repair, alteration, and improvement of buildings and space in buildings rented by the Secretary; but the Secretary shall not utilize the authority contained in this subparagraph—

"(i) except when necessary to obtain an item, service, or facility, which is required in the proper administration of this part, and which otherwise could not be obtained, or could not be obtained in the quantity or quality needed, or at the time, in the form or under the conditions in which it is needed; and

"(ii) prior to having given written notification to the Administrator of General Services (if the exercise of such authority would affect an activity which otherwise would be under the jurisdiction of the General Services Administration) of the Secretary's intention to exercise such authority, the item, service, or facility with respect to which such authority is proposed to be exercised, and the reasons and justifications for the exercise of such authority.

"UTILIZATION OF FUNDS

"SEC. 468. Notwithstanding the limitations of title II and part C of this title, financial assistance under title II and part C of this title which is used for the Job Corps program, may be used in accordance with the provisions of this part.

"PART C—SUMMER YOUTH PROGRAM

"ESTABLISHMENT OF PROGRAM

"SEC. 480. (a) The Secretary shall provide financial assistance to prime sponsors to conduct programs for eligible youth during the summer months.

"(b) Programs shall provide eligible youth with useful work and sufficient basic education and institutional or on-the-job training to assist these youths to develop their maximum occupational potential and to obtain employment not subsidized under this Act.

"PRIME SPONSORS

"SEC. 481. Prime sponsors eligible for assistance under this part shall be prime sponsors designated under section 101(c) and Native American entities described in section 302(c)(1).

"FINANCIAL ASSISTANCE

"SEC. 482. (a) In order to receive financial assistance under this part, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 103.

"(b) The funds appropriated for this part in any fiscal year shall be allocated according to the procedures set forth in subsection (c) except that the Secretary may reserve up to 5 percent of the appropriated funds to be used in the Secretary's discretion.

"(c)(1) In allocating funds under this part, the Secretary shall add to the new appropriation the total amount of summer funds unspent in the previous year's summer program.

"(2) Funds for prime sponsors designated under section 101(c) shall be allocated as follows:

"(A)(i) 50 percent of such funds shall be allocated on the basis of each prime sponsor's proportion of the funds allocated for the previous year's summer programs;

"(ii) 37½ per centum of the funds shall be allocated based on the ratio of the annual average number of unemployed persons in the prime sponsor's area to the total annual average number of unemployed persons in the United States;

"(iii) 12½ per centum of the funds shall be allocated based on the ratio of the number of adults in low-income families in the prime sponsor's area to the total number of adults in low income families in the United States; except that—

"(B) each prime sponsor shall receive an allocation which, when added to its unexpended allocation for the previous fiscal year, shall be at least equal to the amount available to it for its summer program in the previous fiscal year.

"(3) Funds for Native American entities described in section 302(c)(1) shall be allocated based on the ratio of the number of Native American youths 14 through 21 years of age inclusive in the eligible prime sponsor's area to the total number of Native American youths 14 through 21 years of age inclusive in all Native American entity areas, except that each Native American entity shall receive an amount of funds equal to the amount allocated to it is the previous fiscal year.

"(4) The total allocation to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands shall be equal to the same percentage of the funds allocated to Guam, the Virgin Islands, American Samoa, Northern Marianas, and the Trust Territory of the Pacific Islands under the previous year's summer program.

"SECRETARIAL AUTHORITY

SEC. 483. Programs under this part shall meet such regulations, standards, and guidelines as the Secretary shall establish.

"TITLE V—NATIONAL COMMISSION FOR EMPLOYMENT AND TRAINING POLICY

"STATEMENT OF PURPOSE

"SEC. 501. The purpose of this title is to establish a National Commission for Employment and Training Policy which will have the responsibility for examining broad issues of development, coordination and administration of employment and training programs, and for advising the Secretary on national employment and training issues.

"COMMISSION ESTABLISHED

"SEC. 502. (a) There is established a National Commission for Employment and Training Policy (formerly known as the National Commission for Manpower Policy and hereinafter referred to as the 'Commission') which shall consist of twenty-seven members selected as follows—

"(1) The Secretary of Labor, the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Secretary of the Interior, the Secretary of Energy, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Administrator of Veterans Affairs, the Chairman of the Equal Employment Opportunity Commission, and the Director of the Community Services Administration; and

"(2) A representative of the National Advisory Council on Vocational Education created pursuant to section 162 of the Vocational Education Act of 1963; and

"(3) Fourteen members broadly representative of labor, industry, commerce, education (including vocational and technical education), veterans, State and local elected officials (including two Governors, two county officials, and two city officials who are currently serving in a prime sponsor area), community-based organizations, persons served by employment and training programs and of the general public appointed by the President for terms of two years beginning at the start of a fiscal year, except that (A) appointments to fill the unexpired portion of any term shall be for such portion only and (B) the terms, for which the first members are appointed, shall begin October 1, 1978, of which seven terms shall be for one year, and seven for two years.

"(b) The Commission shall meet not fewer than three times a year at the call of the Chairperson who shall be selected by the President and who shall be one of the 14 appointed public members.

"(c) The Chairperson (with the concurrence of the Commission) shall appoint a Director, who shall be chief executive officer of the Commission and shall perform such duties as are prescribed by the Chairperson. The Director may appoint, with the concurrence of the Chairperson and the Secretary of Labor, such clerical staff as are necessary. The Commission may utilize such staff from the Department of Labor, the Department of Health, Education, and Welfare, and such other Federal agencies as may be available to assist the Commission in carrying out its responsibilities.

"(d) The Commission may accept in the name of the Department of Labor and employ or dispose of gifts or bequests, to carry out its responsibilities under this title.

"(e) Members of the Commission who are not officers or employees of the Federal Government shall be paid compensation at a rate of up to the per diem equivalent to the rate for GS–18 when engaged in the work of the Commission, including travel time, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

"FUNCTIONS OF THE COMMISSION

"SEC. 503. The Commission shall—

"(1) identify the employment and training goals and needs of the Nation and assess the extent to which employment and training, vocational education, institutional training, vocational rehabilitation, economic opportunity, and other programs under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs and achieving such goals;

"(2) conduct such studies, hearings, research, or other activities as it deems necessary to enable it to formulate appropriate recommendations;

"(3) examine and evaluate the effectiveness of any federally assisted employment and training programs (including those assisted under this Act), with particular reference to the contributions of such programs to the achievement of objectives sought by the recommendations under clause (2) of this section;

"(4) examine and evaluate major Federal programs which are intended to (or potentially could) contribute to achieving major objectives of existing employment and training and related legislation or those set forth in the recommendations of the Commission and particularly the program which are designed (or could be designed) to develop information and knowledge about employment and training problems through research and demonstration projects or to train personnel in fields (such as occupational counseling, guidance, and placement) which are vital to the success of employment and training programs;

"(5)(A) identify, after consultation with the National Advisory Council on Vocational Education, the employment and training and vocational education needs of the Nation and assess the extent to which employment training, vocational education, vocational rehabilitation, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs; and (B) comment, at least once annually, on the reports of the National Advisory Council on Vocational Education which comments shall be included in one of the reports submitted by the National Commission pursuant to this title and in one of the reports submitted by the National Advisory Council on Vocational Education pursuant to section 162 of the Vocational Education Act of 1963; and

"(6) evaluate and continue to study and make recommendations to the Congress on the impact of energy shortages and new energy developments upon employment and training needs and include these findings and recommendations with respect thereto in the reports required by section 504.

"REPORTS

"SEC. 504. The Commission shall make at least annually a report of its findings and recommendations to the President and the Congress. The Commission may make such interim reports or recommendations to the Congress, the President, Secretary of Labor, or to the heads of other Federal departments and agencies, and in such form, as it may deem desirable.

"TITLE VI—PUBLIC SERVICE EMPLOYMENT PROGRAM

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this title to provide for temporary employment in public service employment during periods of high unemployment. It is the intent of Congress that such employment be provided during periods when the national rate of unemployment is in excess of 4 per centum and that the number of jobs funded shall be sufficient to provide jobs for 25 per centum of the unemployed in excess of 4 per centum of the labor force.

"REPORT ON APPROPRIATIONS

"SEC. 602. (a) On or before March 1 of each year, the Secretary of Labor shall report to the Congress the amount that would need to be appropriated in order to achieve the level of public service employment specified in section 601. Such report shall contain the Secretary's estimate of the unemployment rate for the following fiscal year, the number of unemployed that he estimates in excess of 4 per centum of the labor force, and the average man-year cost of each public service employment opportunity.

"(b) The Secretary shall submit supplemental reports every three months thereafter containing any necessary revisions in the report required under subsection (a) due to changes in his estimates of unemployment or the cost of providing public service jobs under this title.

"(c) The Secretary shall, as soon as practicable after submission of the report required under subsection (a), inform each prime sponsor of its estimated allocation on the basis of the appropriation proposed in such report. Each prime sponsor's annual plan for using funds provided under this title shall contain provisions for an orderly transition from the number of jobs funded for the current year to the number of jobs which would be funded under such proposed appropriation.

"FINANCIAL ASSISTANCE

"SEC. 603. (a) In order to be eligible to receive financial assistance under this title for any fiscal year, a prime sponsor shall submit to the Secretary an annual plan pursuant to section 103.

"(b) Not more than 15 per centum of the funds allocated in accordance with the provisions of this title may be used for administrative and other allowable costs (such as supplies, materials, and equipment) incurred by the prime sponsor, program agents, project applicants or subgrantees or contractors, in accordance with such regulations as the Secretary may prescribe.

"(c) In filling teaching positions in elementary and secondary schools with financial assistance under this title, each prime sponsor shall give special consideration to unemployed persons with previous teaching experience who are certified by the State in which that prime sponsor is located and who are otherwise eligible under the provisions of this title.

"ALLOCATION OF FUNDS

"SEC. 604 (a)(1) The Secretary shall reserve an amount equal to not less than 2 per centum of the amounts made available pursuant to section 602 for any fiscal year to enable Native American entities which are eligible entities under section 606(a)(2) to carry out public service employment programs. Such funds shall be allocated by the Secretary in accordance with paragraph (3).

"(2) Not less than 90 per centum of the amounts made available pursuant to section 602 for any fiscal year shall be allocated among eligible prime sponsors by the Secretary in accordance with the provisions of paragraph (3).

"(3)(A) Fifty per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors in proportion to the relative number of unemployed persons who reside within the jurisdiction of each such prime sponsor as compared to the number of unemployed persons who reside in all the States.

"(B) Twenty-five per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors in accordance with the number of unemployed persons residing in areas of substantial unemployment within the jurisdiction of the prime sponsor compared to the number of unemployed persons residing in all areas of substantial unemployment.

"(C) Twenty-five per centum of the amount allocated under this subsection shall be allocated among eligible prime sponsors on the basis of the relative excess number of unemployed persons who reside within the jurisdiction of the eligible prime sponsor as compared to the total excess number of unemployed persons who reside within the jurisdiction of all eligible prime sponsors. For purposes of this subparagraph, the term 'excess number' means (i) the number of unemployed persons, residing in the jurisdiction of the eligible prime sponsor, in excess of 4½ per centum of the labor force residing in such jurisdiction or (ii) in the case of an eligible prime sponsor which is a State, the greater of the number determined under clause (i) or the number of unemployed persons in excess of 4½ per centum of the labor force in areas of substantial unemployment located in the jurisdiction of such eligible prime sponsor.

"(b)(1) Eighty-five per centum of the remainder of the amount made available pursuant to section 602 shall be available to the Secretary for financial assistance to prime sponsors as the Secretary deems appropriate, taking into account changes in rates of unemployment.

"(2) Whenever the Secretary allocates such funds through a formula, the Secretary shall, not later than thirty days prior to such allocation, publish the formula in the Federal Register for comment along with the rationale for the formula, and the proposed amount to be distributed to each prime sponsor. After consideration of comments received under the preceding sentence, the Secretary shall public final allocations.

"(c) Not more than 15 per centum of the remainder shall be allocated among the prime sponsors within the jurisdiction of those standard metropolitan statistical areas and central cities for which current population surveys were used to determine annual average rates of unemployment prior to, but not after, January 1, 1978, in proportion to the extent to which such prime sponsors allocations under subsection (a) are reduced as a result of termination of the use of such surveys. This provision shall be in effect until such time as the National Commission on Employment and Unemployment Statistics makes its report to Congress.

"Expenditure of funds

"SEC. 605. (a) Fifty per centum of the funds available to any prime sponsor under this title may be used only for employment in projects (carried out by project applicants) of a limited duration established by the prime sponsor for each project. Employment that is not in such projects must be at entry level.

"(b) Each project applicant shall submit a project application to the appropriate program agent or prime sponsor. Such application shall contain such information as required by the Secretary's regulations.

"Prime Sponsors and program agents

"SEC. 606. (a) The Secretary shall provide financial assistance under this title only to—

"(1) prime sponsors designated under section 101(c), and

"(2) Native American entities described in section 302(c)(1).

"(b)(1) Whenever a unit of general local government or combination of such units having a population of fifty thousand or more (but less than that necessary to qualify as a prime sponsor under section 101) is within a prime sponsor's area, the prime sponsor shall if such unit or units so desire, subgrant to such unit or units of general local government the functions of program agent with respect to the funds allocated to such prime sponsor on account of the area served by the program agent.

"(2) For purposes of this subsection, the functions of program agent include the administrative responsibility for developing, funding, overseeing, and monitoring programs within the area, but such functions shall be consistent with the annual plan, which shall be developed by the prime sponsor in cooperation with the program agent.

"(3) Whenever two or more units of general local government qualify as program agents with respect to the same area qualifying assistance, the provisions of section 101(b)(2) shall be applicable.

"ELIGIBILITY

"SEC. 607. An individual eligible to be employed in a position supported under this title shall be a person who has been unemployed for at least eight weeks and who is not a member of a household which has a current gross family income, adjusted to an annualized basis (exclusive of unemployment compensation and all Federal, State, and local income-tested or needs-tested public payments) at a rate exceeding 100 per centum of the lower living standard income level. For purposes of this section, family income shall be determined on the basis of the income over the three-month period prior to application for participation.

"WAGE SUPPLEMENTATION

"SEC. 608. The wages of public service employees under this title may be supplemented by a prime sponsor from sources other than this Act subject to the following conditions:

"(1) the total amount of funds which may be used to provide such supplemented wages may not exceed a sum equal to 10 per centum of such prime sponsor's allocation under this title;

"(2) the number of such employees whose wages are supplemented shall not exceed—

"(A) 25 per centum to the total number of employees under this title in the fiscal year ending September 30, 1979;

"(B) 20 per centum of such total in the fiscal year ending September 30, 1980;

"(C) 15 per centum of such total in the fiscal years ending September 30, 1981 and September 30, 1982; and

"(3) no employee whose wage is supplemented under the authority of this section shall be paid at a rate in excess of 125 per centum of the permissible maximum under section 121(c)(1)(B).

"UTILIZATION OF FUNDS

"SEC. 609. Funds available under this title to a prime sponsor may be used, with respect to individuals qualifying for assistance under this title, for programs authorized under title II (other than public service employment), part A of title III, title IV, and title VII.

"TITLE VII—PRIVATE SECTOR OPPORTUNITIES FOR THE ECONOMICALLY DISADVANTAGED

"STATEMENT OF PURPOSE

"SEC. 701. It is the purpose of this title to demonstrate the effectiveness of a variety of approaches to increase the involvement of the business community, including small business and minority business enterprises, in employment and training activities under this Act, and to increase private sector employment opportunities for economically disadvantaged persons.

"FINANCIAL ASSISTANCE

"SEC. 702. (a) The Secretary shall provide financial assistance to each prime sponsor designated under section 101(c) which includes satisfactory provisions in its annual plan for title II activities for carrying out the purposes of this title. Funds made available for carrying out this title shall be allocated by the Secretary on an equitable basis among such prime sponsors, taking into account the factors used in allocating funds under title II.

"(b) The Secretary shall establish appropriate procedures to assure that the Department of Labor will review at the national level any proposal to make payments to private for-profit employers for any activities which are not covered by regulations under this Act.

"PRIVATE INDUSTRY COUNCILS

"SEC. 703. (a) Any prime sponsor receiving financial assistance under this title shall establish a private industry council. Such council shall consist of representatives from industry and the business community (including small business and minority business enterprises), organized labor, and educational institutions and may include representation from community-based organizations which have demonstrated their effectiveness in working with the private sector. In no event shall representatievs of industry and business haev less than a majority on the council, at least half of such industry and business representatives shall be representatives of small business. Such council may consist of an existing or a newly formed organization and may be established to cover two or more prime sponsor areas pursuant to arrangements between the prime sponsors for such areas and the council. For purposes of this subsection, the term 'small business' means any private, for profit enterprise employing five hundred or fewer employees.

"(b) Such council shall participate with the prime sponsor in the development and implementation of programs under this title. In carrying out its responsibilities, such council shall utilize, to the extent appropriate, community based organizations, labor organizations, educational agencies and institutions, and economic development programs.

"(c) The Secretary shall not, by regulation or otherwise, require that any prime sponsor, in establishing such council, give a presumptive role to any particular organization.

"PRIVATE SECTOR PROGRAM

"SEC. 704. Each prime sponsor desiring to receive financial assistance under this title, as part of its plan for title II activities, shall describe its proposed private sector initiatives under this title and the integration of such initiatives with other training and placement activities under this Act. The description shall include an analysis of private sector job opportunities, including estimates by occupation, industry, and location utilizing information provided by the private industry council.

"PRIVATE ACTIVITIES

SEC. 705. Prime sponsors receiving assistance under this title shall, consistent with section 702(b), carry out private sector initiatives to demonstrate the purposes of this title. Such activities shall augment private sector-related activities under title II, including arrangements for on-the-job training with private employers, and may include—

"(1) coordinating programs of jobs and training and education enabling individuals to work for a private employer while attending an education or training program;

"(2) developing relationships between employment and training programs, educational institutions, and the private sector;

"(3) developing useful methods for collecting information about Federal Government procurement contracts with private employers, new and planned publicly supported projects such as public works, economic development and community development programs, transportation revitalization, alternative energy technology development, demonstration, and utilization projects, energy conservation projects, and rehabilitation of low income housing as part of a community revitalization or stabilization effort, which provide work through private sector contractors;

"(4) developing and marketing model contracts designed to reduce the administrative burdens on the employer and model contracts to meet the needs of specific occupations and industries;

"(5) coordinating programs under this title, with other job development, placement, and employment and training activities carried out by public and private agencies;

"(6) providing on-the-job training subsidies on a declining ratio to wages over the period of training;

"(7) providing followup services with employees placed in private employment and employers who hire recipients of services under this Act;

"(8) encouraging employers to develop job skill requirement forecasts and to coordinate such forecasts with prime sponsors;

"(9) using direct contracts for training and employment programs with private for profit and private nonprofit organizations;

"(10) developing apprenticeship or comparable high-skill training programs for workers regardless of age in occupations where such programs do not exist presently in the area;

"(11) increasing opportunities for upgrading from entry level jobs by providing counseling and other services to employees and employers beyond initial training periods;

"(12) providing technical assistance to private employers to reduce the administrative burden of employment and training programs; and

"(13) disseminating information to private employers so that they may more fully utilize programs under this Act.

"REPORT

"SEC. 706. (a) The Secretary shall provide to the Congress by March 1, 1980, an evaluation of the activities conducted under this title accompanied by recommendations for legislation.

"(b) The Secretary shall disseminate among prime sponsors information concerning successful programs under this title.

"TITLE VIII—YOUNG ADULT CONSERVATION CORPS

"STATEMENT OF PURPOSE

"SEC. 801. It is the purpose of this title to establish a Young Adult Conservation Corps to provide employment and other benefits to youths who would not otherwise be currently productively employed, through a period of service during which they engage in useful conservation work and assist in completing other projects of a public nature on Federal and non-Federal public lands and waters.

"ESTABLISHMENT OF YOUNG ADULT CONSERVATION CORPS

"SEC. 802. To carry out the purposes of this title, there is hereby established a Young Adult Conservation Corps to carry out projects on Federal or non-Federal public lands or waters. The Secretary of Labor shall administer this title through interagency agreements with the Secretaries of the Interior and Agriculture. Pursuant to such interagency agreements, the Secretaries of the Interior and Agriculture shall have responsibility for the management of each Corps center, including determination of Corps members' work assignments, selection, training, discipline, and termination, and shall be responsible for an effective program at each center.

"SELECTION OF ENROLLEES

"SEC. 803. (a) Enrollees of the Corps shall be selected by the Secretaries of the Interior and Agriculture only from candidates referred by the Secretary of Labor.

"(b)(1) Membership in the Corps shall be limited to individuals who, at the time of enrollment—

"(A) are unemployed;

"(B) are between the ages 16 to 23 inclusive;

"(C) are citizens or lawfully permanent residents of the United States or lawfully admitted refugees or parolees; and

"(D) are capable, as determined by the Secretary of Labor, of carrying out the work of the Corps for the estimated duration of each such individual's enrollment.

"(2) Individuals who, at the time of enrollment, have attained age 16 but not attained age 19 and who have left school shall not be admitted to membership in the Corps

unless they give adequate assurance, under criteria established by the Secretary of Labor, that they did not leave school for the purpose of enrolling in the Corps and obtaining employment under this title.

"(c) The Secretary of Labor shall make arrangements for obtaining referral of candidates for the Corps from the public employment service, prime sponsors designated under section 101 of this Act, sponsors of Native American programs designated under section 302 of this Act, sponsors of migrant and seasonal farmworker programs under section 303 of this Act, the Secretaries of the Interior and Agriculture, and such other agencies and organizations as the Secretary may deem appropriate. The Secretary of Labor shall undertake to assure that an equitable proportion of candidates shall be referred from each State.

"(d) In referring candidates from each State in accordance with subsection (c), preference shall be given to youths residing in rural and urban areas within each such State having substantial unemployment including areas of substantial unemployment determined by the Secretary of Labor under section 125 of this Act to have rates of unemployment equal to or in excess of 6.5 per centum.

"(e)(1) No individual may be enrolled in the Corps for a total period of more than twelve months, with such maximum period consisting of either one continuous twelve month period, or three or less periods which total twelve months, except that an individual who attains the maximum permissible enrollment age may continue in the Corps up to the twelve-month limit provided in this subsection only as long as the individual's enrollment is continuous after having attained the maximum age.

"(2) No individual shall be enrolled in the Corps if solely for purposes of membership for the normal period between school terms.

"ACTIVITIES OF THE CORPS

"SEC. 804. (a) Consistent with each interagency agreement, the Secretary of the Interior or Agriculture, as appropriate, in consultation with the Secretary of Labor shall determine the location of each residential and nonresidential Corps center. The Corps shall perform work projects in such fields as—

"(1) tree nursery operations, planting, pruning, thinning, and other silviculture measures;

"(2) wildlife habitat improvements and preservation;

"(3) range management improvements;

"(4) recreation development, rehabilitation, and maintenance;

"(5) fish habitat and culture measures;

"(6) forest insect and disease prevention and control;

"(7) road and trail maintenance and improvements;

"(8) general sanitation, cleanup, and maintenance,

"(9) erosion control and flood damage;

"(10) drought damage measures;

"(11) other natural disaster damage measures; and

"(12) integrated pest management, including activities to provide the producers of agricultural commodities with information about the appropriate amount of chemical pesticides which, when used in conjunction with nonchemical methods of pest control (A) will provide protection against a wide variety of pests, (B) will preserve to the greatest extent possible the quality of the environment, and (C) will be cost effective.

"(b)(1) The Secretary of the Interior and the Secretary of Agriculture shall undertake to assure that projects on which work is performed under this title are consistent with the Forest and Rangeland Renewal Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and such other standards relating to such projects as each Secretary shall prescribe consistent with other provisions of Federal law.

"(2) The Secretary of the Interior and the Secretary of Agriculture shall place individuals employed as Corps members into jobs which will diminish the backlog of relatively labor intensive projects which would otherwise be carried out if adequate funding were made available.

"(c) To the maximum extent practicable, projects shall—

"(1) be labor intensive;

"(2) be projects for which work plans could be readily developed;

"(3) be able to be initiated promptly;

"(4) be productive;

"(5) be likely to have a lasting impact both as to the work performed and the benefit to the youths participating;

"(6) provide work experience to participants in skill areas required for the projects;

"(7) if a residential program, be located, to the maximum extent consistent with the objectives of this title in areas where existing residential facilities for the Corps members are available; and

"(8) be similar to activities of persons employed in seasonal and part-time employment in agencies such as the National Park Service, United States Fish and Wildlife Service, Bureau of Reclamation, Bureau of Land Management, Bureau of Indian Affairs, Forest Service, Bureau of Outdoor Recreation, and Soil Conservation Service.

"(d)(1) The Secretary of the Interior and the Secertary of Agriculture, pursuant to agreements with the Secretary of Labor, may provide for such transportaiton, lodging, subsistence, medical treatment, and other services, supplies, equipment, and facilities as they may deem appropriate to carry out the purposes of this title. To minimize transportation costs. Corps members shall be assigned to projects as near to their homes as practicable.

"(2) Whenever economically feasible, existing unoccupied or underutilized Federal, State, and local government facilities and equipment of all types shall, where appropriate, be utilized for the purposes of the Corps centers with the approval of the Federal agency, State, or local government involved.

"(e) The Secretary of Labor, in carrying out the purpose of this title shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through programs established under this title.

"CONDITIONS APPLICABLE TO CORPS ENROLLEES

"SEC. 805. (a) Except as otherwise specifically provided in this subsection, Corps members shall not be deemed Federal employees and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits:

"(1) For purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), Corps members shall be deemed employees of the United States and any service performed by a person as a Corps member shall be deemed to be performed in the employ of the United States.

"(2) For purposes of subchapter 1 of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in section 8101 of title 5, United States Code, and provisions of that subchapter shall apply, except that the term 'performance of duty' shall not include any act of a Corps member while absent from the member's assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction and supervision of the Secretary.

"(3) For purposes of chapter 171 of title 18 of the United States Code, relating to tort claims procedure, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee of the Government" as defined in section 2671 of title 28, United States Code, and provisions of that chapter shall apply.

"(4) For purposes of section 5911 of title 5 of the United States Code, relating to allowances for quarters, Corps members shall be deemed civil employees of the United States within the meaning of the term 'employee' as defined in that section, and provisions of that section shall apply.

"(b) The Secretary of Labor shall, in consultation with the Secretaries of the Interior and Agriculture, establish standards for—

"(1) rates of pay which shall be at least at the wage required by section 6(a)(1) of the Fair Labor Standards Act of 1938;

"(2) reasonable hours and conditions of employment; and

"(3) safe and healthful working and living conditions.

"STATE AND LOCAL PROGRAMS

"SEC. 806. (a) Consistent with interagency agreements with the Secretary of Labor, the Secretaries of the Interior and Agriculture may make grants or enter into other agreements—

"(1) after consultation with the Governor, with any State agency or institution;

"(2) after consultation with appropriate State and local officials, with (A) any unit of general local government, or (B)(i) any public agency or organization, specifically including the Federal Extension Service and the cooperative extension service of any State with respect to projects described in section 804(a)(12), or (ii) any private nonprofit agency or organization which has been in existence for at least two years;

for the conduct under this title of any State or local component of the Corps or of any project on non-Federal lands or waters or any project involving work on both non-Federal and Federal lands and waters.

"(b) No grant or other agreement may be entered into under this section unless an application is submitted to the Secretary of the Interior or the Secretary of Agriculture, as the case may be, at such times as each such Secretary may prescribe. Each grant application shall contain assurances that individuals employed under the project for which the application is submitted—

"(1) meet the qualifications set forth in section 803(b);

"(2) shall be employed in accordance with section 805(b); and

"(3) shall be employed in activities that—

"(A) will result in an increase in employment opportunities over those opportunities which would otherwise be available,

"(B) will not result in the displacement of currently employed workers (including partial displacement such as reduction in the hours of nonovertime work or wages or employment benefits),

"(C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed,

"(D) will not substitute jobs assisted under this title for existing federally assisted jobs, and

"(E) will not result in the hiring of any youth when any other person is on layoff

from the same or any substantially equivalent job.

"(c) Thirty percent of the sums appropriated to carry out this title for any fiscal year shall be made available for grants under this section for such fiscal year and shall be made on the basis of total youth population within each State.

"SECRETARIAL REPORTS

"SEC. 807. The Secretary of Labor, the Secretary of the Interior, and the Secretary of Agriculture shall jointly prepare and submit to the President and to the Congress a report detailing the activities carried out under this title for each fiscal year. Such report shall be submitted not later than February 1 of each year following the date of enactment of this Act. The Secretaries shall include in such report such recommendations as they deem appropriate.

"ANTIDISCRIMINATION

"SEC. 808. The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications.

"TRANSFER OF FUNDS

"SEC. 809. Funds necessary to carry out their responsibilities under this title shall be made available to the Secretaries of the Interior and Agriculture in accord with interagency agreements between the Secretary of Labor and the Secretaries of the Interior and Agriculture.".

Mr. HAWKINS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title I be dispensed with and that title I be considered as read and printed in the RECORD and open to amendment at any point.

The CHAIRMAN. The Chair would like to advise the gentleman from California that, as the gentleman knows, the bill is now being read by sections, and section 2 extends to page 225 of the bill. Does the gentleman from California ask unanimous consent to dispense with further reading as to section 2?

Mr. HAWKINS. Yes, Mr. Chairman, I do.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. SARASIN. Mr. Chairman, I want to be sure I followed that request. I am not sure I understood.

The CHAIRMAN. Will the gentleman from California (Mr. HAWKINS) state his request again, please?

Mr. HAWKINS. Mr. Chairman, I ask unanimous consent that further reading of section 2 be dispensed with and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

AMENDMENT OFFERED BY MR. CORNELL

Mr. CORNELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORNELL: Page 26, line 25, insert "(1)" immediately after "(c)"; on page 27, lines 6, 11, 14, and 16, redesignate paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively; and after line 20 insert the following new paragraph:

(2) If the Secretary finds that a public service employment program is being conducted in violation of section 121 (e)(2), (e)(3), or (g)(1), the Secretary shall, after notice and opportunity for a hearing, revoke all or any part of that portion of the affected prime sponsor's comprehensive employment and training plan pertaining to such program and terminate financial assistance with respect to such portion.

Mr. CORNELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. CORNELL. Mr. Chairman, this amendment would establish a firm enforcement policy for the most frequently abused provision in CETA—substitution. Simply stated, my amendment would require the Secretary of Labor to suspend all or a portion of the prime sponsor's public service employment funds if he determines that the prime sponsor is violating provisions of the act.

Mr. Chairman, I doubt whether there is a single Member in this Chamber who has not heard complaints about the breakdown of the maintenance of effort provisions in CETA. The committee has certainly recognized the problem and has prominently mentioned the issue on page 2 of the committee report:

The growth of the public service employment program in response to the need for alleviating excessive unemployment has been accompanied by widespread concern that the programs may not achieve their objective of creating new jobs. This is the case if Federal dollars are not buying new jobs but are merely financing jobs that would have been otherwise funded by State or local governments. The objective evidence on the extent of such substitution in the program is by no means good, with estimates running from almost zero to almost 100 percent in the long run.

Although various studies have been conducted on the extent of substitution, there is a wide discrepancy in the actual percentages of violations of this provision in the law. There is no question, however, that millions of dollars, originally earmarked for job creation, are being misspent at the local level because of substitution.

The facts show that CETA workers make up about 16 percent of the municipal work force in 48 major cities (according to a Treasury report). In two cities, Miami and San Diego, this percentage is as high as 47 percent. The law clearly forbids local governments from using CETA money in place of their own funds to pay employees they would have hired anyway, but these figures strongly suggest that the law is being widely violated in this respect. Unlike several of the speakers that we heard, during the general debate, who condemned violations of CETA but found no such violations in their own cities or areas, I find that in my own district and my own State there have been such violations.

The unfortunate part of such a situation is that the hard core unemployed, whom this program was designed to help, are being lost in the shuffle and the CETA program, which was created primarily as a transitory program to be curtailed when unemployment declines, is beginning to look more and more like a permanent supplement to revenue sharing. If localities need Federal funds to assure essential serviecs, let us vote on that as a separate issue and put an end to the false hope that we hold out to the jobless that this bill will somehow help them.

In all fairness this bill does contain additional prohibitions that are designed to control substitution. I applaud the chairman and members of the Employment Opportunities Subcommittee for their efforts to reduce substitution. My concern, however, is that prohibitions are not worth the paper they are printed on without an effective enforcement remedy. I suggest that my amendment provides that remedy. In the absence of such an enforcement provision, I am afraid that local officials, wanting to appease those citizens with tax revolt on their minds, will not be able to resist the temptation to substitute CETA workers for regular employees. Currently local officials hardly have to worry about penalties if they violate the substitution provisions in the law. The Department of Labor has developed an abysmal record of enforcement with respect to substitution. Consider, for example, the fact that the Department of Labor, in a letter to the subcommittee, has stated that only "about $1.4 million has been disallowed as a result of maintenance of effort violations." Although this amount is in a context that implies "a number of cases where penalties have been imposed," it is almost equal to the amount that the city of Chicago had to repay ($1 million) for allegedly misusing CETA funds. What about the other 47 major cities with high percentages of CETA workers? The Department of Labor openly admits that substitution "may be as low as 18 percent" but 18 percent of a multibillion-dollar program equals millions and millions of dollars and makes the $1.4 million enforcement effort look like a mere pittance. These statistics strongly indicate that only a fraction of those who violate the maintenance of effort provisions are penalized.

My amendment will correct this situation by providing a clear and effective enforcement policy. Support for this amendment will inform the prime sponsors that if substitution continues, such action will be interpreted as a sign that there is no interest in or need for Federal funds to create new jobs and funds will be suspended.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. CORNELL. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, I wish to commend the gentleman in the well for offering his amendment. I would like to indicate that we on this side are willing to accept the amendment.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. CORNELL. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, I thank the gentleman for yielding. I have no

basic objection to the gentleman's amendment and would be willing to accept it. I would like to ask whether the gentleman does not think that section 4 on page 27, in connection with line 25 on page 26 gives the Secretary almost the same power?

Mr. CORNELL. As I understand it, it gives the Secretary more discretionary power, rather than this which requires the Secretary to take such action. I am afraid, under the wording of the bill, that the Secretary of Labor, in some instances, would be under tremendous political pressure, whereas, in this way, it would remove a lot of that discretionary power on the part of the Secretary of Labor and would require him to take action.

I know, in the particular instance in my area, where I had complained of alleged violations, I found out from the prime sponsor that they had been told that they should not do it and that was all the action that was taken.

Mr. SARASIN. Again, I commend the gentleman in the well, and we will accept the gentleman's amendment on our side.

AMENDMENT OFFERED BY MR. BUTLER TO THE AMENDMENT OFFERED BY MR. CORNELL

Mr. BUTLER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER to the amendment offered by Mr. CORNELL:

Strike the period in the second paragraph and insert: "and shall require the prime sponsor to refund to the Department of the Treasury any and all funds found to have been expended in violation of such section."

Strike the last "and" which appears in the second paragraph and insert in lieu thereof a comma.

Mr. BUTLER. Mr. Chairman, I will not take the full 5 minutes allotted to me.

Mr. Chairman, I applaud the efforts of the gentleman from Wisconsin (Mr. CORNELL) in offering his amendment. The purpose of offering my amendment is to strengthen somewhat the gentleman's amendment.

I believe the language is self-explanatory, it says "and shall require the prime sponsor," in addition to the other things, "to refund to the Department of the Treasury any and all funds found to have been expended in violation of such section."

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I would like to commend the gentleman for his addition to the amendment offered by the gentleman from Wisconsin (Mr. CORNELL) because I think it is very effective and important.

I am, as you know, one of the many Members in the House in whose district some of the misappropriations of funds have occurred. I am concerned that if we do not have this amendment, we might leave it open for plea bargaining that is very common in our courts now, of having some arrangement made outside of the sphere of the Department of Labor. If you put it in the law that any funds that are misappropriated shall be repaid I think it would strengthen what the gentleman from Wisconsin (Mr. CORNELL) is trying to do.

So, Mr. Chairman, I am very happy to join the gentleman from Virginia in supporting his amendment. I hope that the Members of the Committee will accept the amendment because I believe it helps get at some of the wrongs and to know that if you have such a situation—and, hopefully, none will occur—but if you do, then those involved know that they will have to pay that money back in addition to any criminal penalties assessed by a court.

Mr. BUTLER. Mr. Chairman, I thank the gentleman for his support, and I urge the House to accept the amendment and proceed to other business.

Mr. HAWKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to commend the gentleman from Virginia (Mr. BUTLER) on his amendment. The amendment is acceptable on this side, and again, I commend the gentleman for offering the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER) to the amendment offered by the gentleman from Wisconsin (Mr. CORNELL).

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. CORNELL), as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CORNELL. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair would like to advise the gentleman from Wisconsin that the ayes prevailed and the amendment was agreed to.

Mr. CORNELL. I am aware of that, Mr. Chairman, but I still make the point of no quorum, pending my demand for a recorded vote.

The CHAIRMAN. The Chair will count. Thirty-four Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

The CHAIRMAN. A quorum of the Committee of the Whole has not appeared.

The Chair announces that a regular quorum call will now commence.

Members who have not already responded under the noticed quorum call will have a minimum of 15 minutes to record their presence. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 669]

Abdnor	Goldwater	Murphy, Ill.
Andrews, N.C.	Hansen	Murphy, N.Y.
Annunzio	Harrington	Nix
Archer	Harsha	Pettis
Armstrong	Heckler	Pike
Bellenson	Huckaby	Railsback
Brown, Calif.	Jacobs	Rhodes
Buchanan	Jenkins	Rodino
Burke, Mass.	Johnson, Colo.	Rosenthal
Burton, John	Kasten	Runnels
Burton, Phillip	Keys	Ruppe
Byron	Krueger	Santini
Carney	LaFalce	Scheuer
Cederberg	Le Fante	Shuster
Cochran	Leggett	Sisk
Conyers	Lloyd, Tenn.	Skubitz
Cornell	Lujan	Slack
Cornwell	McCloskey	Staggers
Davis	McDade	Stark
Diggs	McDonald	Teague
Dingell	McFall	Tsongas
Evans, Ga.	Mathis	Udall
Flowers	Mazzoli	Waxman
Fowler	Milford	Wiggins
Frey	Miller, Calif.	Wilson, Tex.
Gammage	Moorhead, Pa.	Yatron

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, H.R. 12452, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 354 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin (Mr. CORNELL) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 407, noes 1, not voting 24, as follows:

[Roll No. 670]

AYES—407

Addabbo	Blouin	Clausen, Don H.
Akaka	Boggs	Clawson, Del
Alexander	Boland	Clay
Ambro	Bolling	Cleveland
Ammerman	Bonior	Cochran
Anderson, Calif.	Bowen	Cohen
Anderson, Ill.	Brademas	Coleman
Andrews, N.C.	Breaux	Collins, Ill.
Andrews, N. Dak.	Breckinridge	Collins, Tex.
Annunzio	Brinkley	Conable
Applegate	Brodhead	Conte
Archer	Brooks	Conyers
Armstrong	Broomfield	Corcoran
Ashbrook	Brown, Mich.	Corman
Ashley	Brown, Ohio	Cornell
Aspin	Broyhill	Cornwell
AuCoin	Buchanan	Cotter
Badham	Burgener	Coughlin
Bafalis	Burke, Calif.	Crane
Baldus	Burke, Fla.	Cunningham
Barnard	Burke, Mass.	D'Amours
Baucus	Burleson, Tex.	Daniel, Dan
Bauman	Burlison, Mo.	Daniel, R. W.
Beard, R.I.	Burton, John	Danielson
Beard, Tenn.	Burton, Phillip	Davis
Bedell	Butler	de la Garza
Bellenson	Byron	Delaney
Benjamin	Caputo	Dellums
Bennett	Carney	Dent
Bevill	Carr	Derrick
Biaggi	Carter	Derwinski
Bingham	Cavanaugh	Devine
Blanchard	Cederberg	Dickinson
	Chappell	Dicks
	Chisholm	

Diggs	Keys	Rinlado
Dingell	Kildee	Risenhoover
Dodd	Kostmayer	Roberts
Dornan	Krebs	Robinson
Downey	Lagomarsino	Roe
Drinan	Latta	Rogers
Duncan, Oreg.	Leach	Roncalio
Duncan, Tenn.	Lederer	Rooney
Early	Leggett	Rosenthal
Eckhardt	Lehman	Rostenkowski
Edgar	Lent	Rousselot
Edwards, Ala.	Levitas	Roybal
Edwards, Calif.	Livingston	Rudd
Edwards, Okla.	Lloyd, Calif.	Runnels
Eilberg	Long, La.	Ruppe
Emery	Long, Md.	Russo
English	Lott	Ryan
Erlenborn	Lujan	Santini
Ertel	Luken	Sarasin
Evans, Colo.	Lundine	Satterfield
Evans, Del.	McClory	Sawyer
Evans, Ga.	McCloskey	Scheuer
Evans, Ind.	McCormack	Schroeder
Fary	McDade	Schulze
Fascell	McEwen	Sebelius
Fenwick	McFall	Seiberling
Findley	McHugh	Sharp
Fish	McKinney	Shipley
Fisher	Madigan	Shuster
Fithian	Maguire	Sikes
Flippo	Mahon	Simon
Flood	Mann	Skelton
Florio	Markey	Skubitz
Flynt	Marks	Slack
Foley	Marlenee	Smith, Iowa
Ford, Mich.	Martin	Smith, Nebr.
Ford, Tenn.	Mattox	Snyder
Forsythe	Mazzoli	Solarz
Fountain	Meeds	Spellman
Fowler	Metcalfe	Spence
Fraser	Meyner	St Germain
Frenzel	Michel	Staggers
Fuqua	Mikulski	Stangeland
Gammage	Mikva	Stanton
Garcia	Miller, Ohio	Stark
Gaydos	Mineta	Steed
Gephardt	Minish	Steers
Giaimo	Mitchell, Md.	Steiger
Gibbons	Mitchell, N.Y.	Stockman
Gilman	Moakley	Stokes
Ginn	Moffett	Stratton
Glickman	Mollohan	Studds
Goldwater	Montgomery	Stump
Gonzalez	Moore	Symms
Goodling	Moorhead, Calif.	Taylor
Gore	Moorhead, Pa.	Thompson
Gradison	Moss	Thone
Grassley	Mottl	Thornton
Green	Murphy, Ill.	Traxler
Gudger	Murphy, N.Y.	Treen
Guyer	Murphy, Pa.	Trible
Hagedorn	Murtha	Tucker
Hall	Myers, Gary	Udall
Hamilton	Myers, John	Ullman
Hammerschmidt	Myers, Michael	Van Deerlin
Hanley	Natcher	Vander Jagt
Hannaford	Neal	Vanik
Harkin	Nedzi	Vento
Harrington	Nichols	Volkmer
Harris	Nix	Waggonner
Harsha	Nolan	Walgren
Hawkins	Nowak	Walker
Heckler	O'Brien	Walsh
Hefner	Oakar	Wampler
Heftel	Oberstar	Watkins
Hightower	Obey	Waxman
Hillis	Ottinger	Weaver
Holland	Panetta	Weiss
Hollenbeck	Patten	Whalen
Holt	Patterson	White
Holtzman	Pattison	Whitehurst
Horton	Pease	Whitley
Howard	Pepper	Whitten
Hubbard	Perkins	Wiggins
Huckaby	Pettis	Wilson, Bob
Hughes	Pickle	Wilson, C. H.
Hyde	Pike	Wilson, Tex.
Ichord	Poage	Winn
Ireland	Pressler	Wirth
Jacobs	Preyer	Wolff
Jeffords	Price	Wright
Jenrette	Pritchard	Wydler
Johnson, Calif.	Pursell	Wylie
Johnson, Colo.	Quayle	Yates
Jones, N.C.	Quie	Yatron
Jones, Okla.	Quillen	Young, Alaska
Jones, Tenn.	Rahall	Young, Fla.
Jordan	Railsback	Young, Mo.
Kastenmeier	Rangel	Young, Tex.
Kazen	Regula	Zablocki
Kelly	Reuss	Zeferetti
Kemp	Richmond	

NOES—1

Kindness

NOT VOTING—24

Abdnor	Krueger	Milford
Bonker	LaFalce	Miller, Calif.
Brown, Calif.	Le Fante	Rhodes
Flowers	Lloyd, Tenn.	Rodino
Frey	McDonald	Rose
Hansen	McKay	Sisk
Jenkins	Marriott	Teague
Kasten	Mathis	Tsongas

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 177, line 3, after "or local agencies," insert: "including a State board or agency designated pursuant to section 104(a)(1) of the Vocational Education Act of 1963 which operates or wishes to develop area vocational education school facilities or residential vocational schools (or both) as authorized by such Act,".

Mr. QUIE. Mr. Chairman, this is an amendment to the Job Corps section of the bill which would enable, if the Secretary deems fit, to work out an arrangement for a Job Corps center in area vocational technical school. If the residential facilities are added to the AVTI, the Job Corps enrollees could attend on an integrated basis along with those that are not economically disadvantaged. If there is going to be further expansion of Job Corps opportunities, this might be one option the Department of Labor might want to utilize.

I know in Minnesota the Native Americans are considering applying for a Job Corps center and it may be an option they might want to utilize to deal with an area vocational technical school.

Mr. Chairman, that is an explanation of what the amendment does. I have talked to the chairman of the subcommittee about it.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, I wish to state that it is true the gentleman from Minnesota has discussed this amendment with us. I think it is a very excellent one and we are delighted to accept it.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, we are also happy to accept the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Chairman, I offer amendments which are technical in nature.

The Clerk read as follows:

Amendments offered by Mr. HAWKINS: Page 3, strike out "SEC. 211. Eligibility for participation." and insert in lieu thereof the following: "SEC. 221. Eligibility for participation."

Page 5, insert immediately after the item pertaining to section 446 the following new item: "SEC. 447. Relation to other provisions.".

Page 6, insert immediately after the item pertaining to section 705 the following new item: "SEC. 706. Report.".

Page 12, line 3, strike out "advisory" and insert in lieu thereof "planning" and on line 7 strike out "education" and insert in lieu thereof "educational".

Page 15, line 2, strike out "community based" and insert in lieu thereof "community-based".

Page 19, strike out line 11 and insert in lieu thereof the following: "section 203(c) of this Act.".

Page 20, line 7, strike out "community based" and insert in lieu thereof "community-based".

Page 22, line 14, strike out "after" and insert in lieu thereof "between".

Page 25, line 24, strike out "recipient of" and insert in lieu thereof "prime sponsor receiving".

Page 27, line 4, strike out "is" and insert in lieu thereof "are".

Page 31, line 4, insert "or recipient" immediately after "prime sponsor".

Page 35, beginning on line 14, strike out "with respect to the general public".

Page 36, line 16, strike out "State agency" and insert in lieu thereof "State agencies".

Page 37, line 13, strike out "agencies" and insert in lieu thereof "officials".

Page 43, line 25, strike out "section 121(c)(1)(B)" and insert in lieu thereof "subparagraph (B) of this paragraph".

Page 61, line 7, strike out "require" and insert in lieu thereof "requires".

Page 65, line 4, strike out "126," and insert in lieu thereof "126.".

Page 66, immediately after line 8, insert the following new subsection:

"(c) Notwithstanding any other provision of this Act, no authority to enter into contracts under this Act shall be effective except to such an extent or in such an amount as are provided in advance in appropriations Acts.

Page 68, line 7, insert a comma after "shall", and on line 10, insert "to" immediately before "comply".

Page 71, strike out line 14 and insert in lieu thereof the following: "in a pattern or practice in violation of the provisions of".

Page 74, line 14, strike out "obtains for" and insert in lieu thereof "obtains by", and on line 16, strike out "this Act" and insert in lieu thereof "such Act".

Page 75, line 11, strike out "Secretary" and insert in lieu thereof "Secretary of Labor"; on line 18, strike out "this Act" and insert in lieu thereof "the Comprehensive Employment and Training Act of 1973"; and on line 21 strike out "this Act" and insert in lieu thereof "such Act".

Page 76, line 3, strike out "Secretary" and insert in lieu thereof "Secretary of Labor"; on lines 4 and 8 strike out "the Secretary's" and insert in lieu thereof "such Secretary's"; and on line 7 strike out "the Secretary" and insert in lieu thereof "such Secretary".

Page 84, line 22, strike out "adults" and insert in lieu thereof "audits".

Page 98, line 8, strike out "setcion" and insert in lieu thereof "section".

Page 98, line 18, strike out "been employed for not more" and insert in lieu thereof "not been employed for more", and on line 21, strike out "title" and insert in lieu thereof "Act".

Page 101, line 1, strike out "not less than" and insert in lieu thereof "at not less than the rate".

Page 102, line 12, strike out "which" and insert in lieu thereof "who".

Page 106, line 16, strike out ", and Hawaiian Natives".

Page 107, line 10, strike out "part" and insert in lieu thereof "section", and on line 19, strike out "title" and insert in lieu thereof "section".

Page 117, line 14, insert "testing the" immediately before "usefulness", and on line 23, strike out "other".

Page 127, strike out lines 13 and 14 and insert in lieu thereof the following:

"(b) for the purposes of subpart 1 of part A, the term 'eligible youth' means a youth".

Page 134, line 25, strike out "report" and insert in lieu thereof "reports".

Page 148, line 21, strike out "section 703" and insert in lieu thereof "section 121(j)".

Page 150, line 13, strike out "section 125 (2)" and insert in lieu thereof "section 125 (2)(A)".

Page 158, line 21, strike out "contracts" and insert in lieu thereof "agreements".

Page 200, line 19, insert "for the following fiscal year" immediately after ""appropriated".

Page 210, lines 7 and 8, strike out "community based" and insert in lieu thereof "community-based".

Page 215, line 10, strike out "estabilshed" and insert in lieu thereof "established".

Page 216, line 5, strike out "section 125" and insert in lieu thereof "section 125 (2)(A)".

Mr. HAWKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HAWKINS. Mr. Chairman, these are purely technical amendments coming out of the committee, one which complies with one of the waivers of the Budget Act provided in the rule which was brought to our attention in a letter which was submitted to the committee by the Budget Committee.

The other amendments are purely technical. They have been seen by the minority and I believe they have no objection to the amendments.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, the amendments offered by the gentleman from California are technical in nature. We would certainly accept them on this side.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. HAWKINS).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 45, strike out line 8 and everything that follows through line 16, and insert in lieu thereof the following:

(B) All persons employed in public service jobs under this title will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to working conditions and promotional opportunities neither more nor less favorable than such other employees enjoy. Nothing in this subparagraph or in paragraph (4) shall be deemed to require the enrollment of persons employed in public service jobs in retirement systems or plans for the purpose of providing retirement benefits based on age or service, or both.

Page 45, beginning on line 20, strike out "1979" and insert in lieu thereof "1980"; and beginning on line 20, strike out "With respect to" and everything that follows through line 25 and insert in lieu thereof the following: "With respect to participants other than those described in the preceding sentence, funds under this Act may, notwithstanding paragraph (3)(B), be used for contributions to retirement systems or plans (other than pursuant to the Social Security Act) only to the extent such contributions are used to provide benefits such as health and death and disability and are not used for retirement benefits based on age or service, or both."

Mr. ERLENBORN (during the reading). Mr. Chairman, since this amendment has previously been published in the RECORD, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, the major purpose of the CETA is to provide training to the unemployed and to those who need new jobs skills to become employable and employed. Unfortunately, most of it has gone to hire public service employees into make work jobs.

And the fact is that a certain portion of the funds that have been made available have been paid to State and local retirement funds for these employees because of the requirements of the law that the employees not be classified separately, and, therefore, they must be treated the same as full-time public employees. But CETA participants are limited to participation of 18 months. The fact is that there are to my knowledge no plans—and certainly if there are any, they are extremely few—where an employee could gain any vested right in the 18-month period while the employee is a public employee under the CETA program. What is the point of providing benefits to individuals we limit to 18 months, and who are expected to move from public service employment to full-time private employment in the private sector.

The prohibition against classification of the employees and their treatment as full-time regular public employees mean that the contributions made on their behalf into the retirement funds become a windfall to the employer, and in fact this has become a backdoor revenue sharing program.

It is my purpose through this amendment to see that the funds that were meant for job training are used for job training in the CETA program and not as backdoor revenue sharing. My amendment would accomplish the following:

It would direct the CETA dollars to the purpose of employing people rather than subsidizing the retirement system. It would allow those States that require local governments to include CETA employees in their retirement plans sufficient time to change their laws accordingly, because the full effect of this will not take place until January 1, 1980.

It would allow the use of CETA funds to continue to be made for contributions for disability, death, and health insurance.

I know there are other Members who have been concerned about this same problem, and there probably will be another amendment offered. I will address myself to that amendment if and when it is offered.

Let me explain the magnitude of this problem just a little further. This applies to my amendment, and it would apply to the other amendment as well that may be offered.

In Illinois, my home State, for example, 3.4 percent of the payroll is paid to the retirement plan for each employee. Thus the annual contribution for one $10,000 employee is $343. If there are, say, in Illinois, 10,000 such workers, the annual contribution then amounts to $3,430,000. So we are talking about substantial sums of money that are being diverted from employing the unemployed and that are going into the retirement plans, thus relieving the State and local sponsors of the burden of supporting those retirement plans, the necessity for making the contributions themselves, because these funds would escheat to the plans to make the payments to workers, to full-time workers, who do vest and ultimately draw benefits.

There have been some concerns about the tax qualifications of these public plans because there is a nondiscrimination provision in the Internal Revenue Code. Let me assure those who might be concerned that this is not a problem.

First of all, there is a moratorium at the present time by the Internal Revenue Service relative to planned qualification for public retirement plans. I do not necessarily think that is right, but that happens to be the fact.

The fact is that public plans are not now required by the Internal Revenue Service to comply with the Internal Revenue Code to be treated as a qualified plan under the Internal Revenue Code provisions. So if there is classification of employees and thus discrimination under the code, it will not affect the tax status of these public employee plans.

To sumarize, Mr. Chairman, I think it is absolutely necessary that we adopt this amendment to redirect these Federal funds to the employment of those who are unemployed rather than to use the funds for subsidizing the system.

AMENDMENT OFFERED BY MR. GOODLING TO THE AMENDMENT OFFERED BY MR. ERLENBORN

Mr. GOODLING. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING to the amendment offered by Mr. ERLENBORN: On line 5, strike out "unemployment insurance."

On line 13, strike the period and insert "; or the payment of unemployment insurance benefits to such persons."

Mr. GOODLING. Mr. Chairman, with this amendment I am merely saying that the prime sponsor has the option whether to or not to provide unemployment insurance.

At the present time the bill says they must. I think the danger of saying they must would lead people to believe that this is some kind of a permanent job.

I think all I am saying here is that it is not supposed to be considered a permanent job. We do not want to get into the business of 18 months' training, then on unemployment, and then back to the business of 18 months' training again.

Mr. Chairman, some will quickly say, "Well, what happens after they are trained if there is no job available? Do they then become a part of the welfare system?"

Well, yes, either way they do. If there is no job and we come to unemployment insurance, it is tax dollars that have provided that. If in fact they go to the regular welfare programs, it is again tax dollars that are involved.

So, basically, what I am saying is that we do not want to give anyone any kind of encouragement that this is in fact some kind of a full-time job that they are involved in; that there should not be necessarily the requirement that the prime sponsor must in fact provide unemployment insurance.

AMENDMENT OFFERED BY MR. KREBS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ERLENBORN

Mr. KREBS. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. KREBS as a substitute to the amendment offered by Mr. ERLENBORN: Page 45, strike out lines 8 through 25 and insert in lieu thereof the following:

"(B) All persons employed in public service jobs shall be provided workers' compensation, health insurance, unemployment benefits, and other benefits and working conditions at the same level and to the same extent as other employees working a similar length of time, doing the same type of work, and similarly classified. Any such classifications under any applicable civil service or merit law or regulation must be reasonable, and must include nonfederally financed employees, but within any single classification a distinction may be made between public service employees and other employees for purposes of determining eligibility for participation in retirement systems or plans which provide benefits bases on age or service or both. Nothing in this subparagraph or in paragraph (4) shall be deemed to require a contribution to a retirement system or plan for the purpose of providing retirement benefits based on age or service, or both, to a public service employee unless funds under this Act are available, pursuant to paragraph (4), to make such contribution."

Mr. KREBS (during the reading). Mr. Chairman, in view of the fact that this amendment was printed in the RECORD, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. KREBS. Mr. Chairman, this subject of retirement for CETA employees is rather involved, and I hope that I will be able to outline the difference here that exists between the bill as it is before us, the amendment offered by the distinguished gentleman from Illinois (Mr. ERLENBORN), and my own amendment.

Mr. Chairman, let me state at the outset, before I do this, that my amendment is designed to represent a reasonable compromise—as self-serving as this may sound—between the spirit of the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) and the retirement as it is outlined in the legislation as it came out of the committee. It has the support of the National Association of Counties, the League of Cities, various labor unions, and it will give us an opportunity to save substantial amounts of money and yet, for lack of a better description, we will not throw the baby out with the bath.

Under the legislation that is now before us, namely, the committee bill, retirement benefits would continue to be paid out of CETA funds for all employees under CETA until the first of 1979.

Under my amendment, such payment would continue until June 30, 1979.

Under the Erlenborn amendment, as I understand it, such payment would continue until the first of 1980.

Under the committee bill, however, the requirement still is in it which requires equal pay for equal work.

Under the committee bill, subsequent to the cut-off dates that I just mentioned a minute ago, CETA funds will only be used for the payment of retirement in those situations where there is a reasonable likelihood of vesting of the retirement, or in the situation where the CETA employee lands a permanent job and opts to buy into the retirement system.

This would mean, in turn, that local and State governments would end up footing the bill for CETA employees in those situations where the CETA funds will no longer be available after the cut-off date.

What my amendment is designed to do is to take this burden away from the State and local government and to provide that CETA retirement benefits will be available out of CETA funds until, as I said a minute ago, June 30, 1979, but after that date only in those situations where there is a high likelihood of vesting or where the CETA employee lands a permanent job.

In all other cases, there will be no retirement pay. Mr. Chairman, I sincerely believe that this does represent an opportunity for us to save substantial amounts of money. Let me specifically mention here that over a 21-month period beginning in July 1974, $109 million was paid in retirement funds. Most of these funds accrued to local and State retirement systems without the CETA employee ever benefiting from these retirements.

So, under the amendment I am proposing as a substitute, the involvement of the Federal Government would be substantially reduced by only limiting it to those cases where there is a high likelihood of vesting. It would, indeed, relieve State and local governments of a substantial burden without having the Federal Government pick up the tab. So, Mr. Chairman, I urge the committee to adopt this substitute over the amendment proposed by the gentleman from Illinois (Mr. ERLENBORN).

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. PATTERSON of California and by unanimous consent, Mr. KREBS was allowed to proceed for 3 additional minutes.)

Mr. PATTERSON of California. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to my colleague from California.

Mr. PATTERSON of California. Mr. Chairman, I thank the gentleman for yielding to me, and commend him on his amendment. It appears to me that it very ably takes care of a problem in my home State of California, and I am sure in others, by preserving and clarifying congressional intent that the Federal Government not pay retirement benefits for CETA employees in short-term public service jobs unless those benefits accrue directly to the benefit of the CETA participant.

I have an amendment to the gentleman's amendment which I have shown to the gentleman and which is available at the desk. I would ask him if he has read it and if he would accept it at this point. The amendment would merely add one sentence to the end of the gentleman's amendment. That sentence would be:

Pursuant to sections 158 and 314 of this Act, the Secretary shall provide technical assistance to recipients to enable retirement systems or plans to comply with paragraphs (3)(B) and this paragraph.

This would insure that the Department of Labor will cooperate in a timely and responsible manner to assist the States and prime sponsors in meeting the requirement of the law as it directly relates to the payment of retirement benefits, and would actually, I think, blend quite well with the gentleman's amendment.

Mr. KREBS. I did read the amendment and I discussed it with my colleague from California. I think it will indeed help, for lack of a better description, the working relationship between the Labor Department and the local and State governments. I am willing to accept the amendment.

The CHAIRMAN. Does the gentleman from California ask unanimous consent to modify his amendment?

Mr. KREBS. Yes, Mr. Chairman, I ask unanimous consent that I be permitted to modify the amendment.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

At the end of the Krebs amendment to section 121(c)(4) insert immediately after the period the following:

"Pursuant to sections 158 and 314 of this Act, the Secretary shall provide technical as-

sistance to recipients to enable retirement systems or plans to comply with paragraph (3)(B) and this paragraph."

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. KREBS)?

Mr. SARASIN. Mr. Chairman, reserving the right to object, is it my understanding that the gentleman in the well is expanding his amendment so that amendments will still be in order to his substitute?

The CHAIRMAN. That is correct.

Mr. SARASIN. I thank the chairman.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. KREBS)?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman from California (Mr. KREBS) for yielding.

I commend the gentleman on his amendment. As the gentleman knows, some of us from California have been serving on an ad hoc task force on proposition 13.

The CHAIRMAN. The time of the gentleman from California (Mr. KREBS) has expired.

(On request of Mr. LAGOMARSINO, and by unanimous consent, Mr. KREBS was allowed to proceed for 3 additional minutes.)

Mr. LAGOMARSINO. Mr. Chairman, if the gentleman will yield further, as I said, the gentleman from California (Mr. KREBS) and I and others have been acting on an ad hoc task force trying to determine what effects proposition 13 would have or will have on certain Federal programs, including the CETA program. We have discussed the content of this statement in our discussions of that ad hoc committee.

I must say to the gentleman from California, I have received word from the people who operate the CETA program in my district. They are strongly in favor of the Krebs amendment. They feel it will bring the program in line with the Labor Department policy requiring retirement coverage only for those who will be able to benefit from it and it will provide strong incentives to make changes in their retirement laws and insure, most important of all, that Federal funds go for the purposes intended, not for retirement assistance to those who already have jobs. So I hope the committee will adopt the gentleman's amendment.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of the amendment.

A number of my own constituents and political subdivisions have written to me indicating their support for the amendment.

Mr. Chairman, I would like to commend my colleague from California (Mr. KREBS) for his foresight in drafting this amendment. It addresses a very serious problem facing our local governments and provides a reasonable and straightforward solution. I would also like to concur in the remarks of my other colleague from California (Mr. LAGOMARSINO) who is also supporting this amendment.

My colleagues and I are all members of the special ad hoc committee on proposition 13. As such, we have been conducting hearings to ascertain the precise impact of certain programs on California as a result of proposition 13. The CETA program has come up quite often during the course of our discussions, and we have reviewed the effect of this amendment. As a result, it has bipartisan support in the California delegation.

The purpose of the amendment is to address the Department of Labor regulations and the Federal requirement of providing retirement coverage for public service employment participants.

In discussions with elected officials in my congressional district, it has been pointed out to me that the DOL regulations are in direct conflict with the State retirement law.

Jim Howard and Ernest Cobine, both of the Eureka City Council, outlined the problem saying:

Up until now this benefit (retirement) has been paid for out of CETA funds. The regulations require cities to provide all employee benefits to CETA employees as they do regular employees. Obviously, regular employees receive retirement benefits. The Department of Labor has concluded that since CETA is temporary employment, the employees would never be able to vest in a retirement program; therefore, they will no longer pay the contributions into the retirement system. (Section 98125) The State PERS retirement system requires all full-time employees must be a member of the retirement system. Obviously, there is a conflict here beyond the control of local governments.

They went on to emphasize the seriousness of the problem by saying that if it is not resolved "many California cities will have to discontinue participation in the program due to the additional financial burden. This action not only defeats the purpose of CETA but penalizes the participants in it."

I was also directly contacted by Sara Parsons, a member of the Humboldt County Board of Supervisors, and the city of Blue Lake specifically asking for my help in resolving this dilemma. In addition, I have also received comments from the city of Petaluma, the city of Arcata, and Mendocino and Sonoma Counties regarding the CETA program in general. I am grateful to them for their advice and assistance.

I will be voting for the amendment as offered by my colleague from California (Mr. KREBS). I understand that there will also be a revised amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to provide benefits such as health, death, and disability for these employees but no funds can be used for retirement benefits and nothing shall be deemed to require the enrollment of persons employed in public service jobs in the retirement systems or plans for the purpose of providing retirement benefits. I agree that these basic benefits should be provided.

Both amendments are structured as to address a problem of serious consequence presented to me by a number of the cities and counties in my congressional district.

Our objective is to bring into line with the Department of Labor policy the Federal requirement of providing coverage for PSE participants to insure that no State or local governments will be forced to pay retirement contributions for enrollees.

I urge my colleagues to support the amendment.

Mr. KREBS. Mr. Chairman, as a distinguished former supervisor, the distinguished gentleman from California (Mr. DON H. CLAUSEN) is certainly aware of the problems of the local governments.

I certainly appreciate his support.

Mr. ERLENBORN. Mr. Chairman, I rise in opposition to the Krebs amendment.

I know that the gentleman has tried very hard to arrive at an amendment that would be acceptable to everyone, but I think the final result is that it does satisfy the National League of Cities and the National Association of Counties and other public employers, because the net effect of the Krebs amendment is to allow this current situation to continue, and that is the use of CETA funds for making contributions to retirement plans.

Let me tell the Members why I think that is true. It is true because in one part of the amendment, part (B) it says:

Nothing in this subparagraph or in paragraph (4) shall be deemed to require a contribution to a retirement system or plan for the purpose of providing retirement benefits. . . .

So it still makes it optional, apparently at this point the amendment says it is no longer required.

But that is qualified. It goes on to say:

. . . unless funds under this Act are available, pursuant to paragraph (4), to make such contributions.

So that means if such funds are available under paragraph (4), then the contribution is required.

What does the paragraph (4) say? It has two provisos. The first proviso says:

Funds available for employment benefits under this Act may be used, for the duration of participation, for contributions on behalf of participants who are, prior to July 1, 1979, enrolled. . . .

I find no fault with that. What happens after that? Are funds going to be available? Here is what it says:

With respect to participants enrolled in retirement systems or plans on or after such date, no funds under this Act may be used for contributions to retirement systems or plans. . . .

It sounds like we are taking the money away again, but then it goes on to say:

. . . unless such contributions bear a reasonable relationship to the cost of providing benefits to participants.

How do you decide whether there is a reasonable relationship to the cost of the contributions to the cost of providing the benefits? I submit the only way you can do that is to see what it costs the others who are participating in the system. So when you get through reading it, unless you are charging more for CETA employees than you are for your own permanent employees, you are then required to make the contribution for retirement purposes.

So twice in the amendment you have taken something away then you have given it back. One says that there is no requirement unless funds are available, and then in the next paragraph it makes those funds available.

I do not know whether the gentleman from California (Mr. KREBS) is aware that that is the effect of his amendment or not, but I have read it very carefully. If any of the Members have copies of the amendment, I wish they would look at it carefully because I think it is not capable of any other interpretation.

It clearly says, in the first place, that nothing is required unless funds are made available, and then in paragraph 4, you would be required, if there is a reasonable relationship of the benefits to the cost of providing the benefits. If you are making the same contribution for CETA employees as you are your regular employees, you have to make the contribution, it is still going to be required as it is under present law.

It is understandable why the cities and States and other employers would want to support the Krebs amendment because it does not change a darned thing, and they continue to get their windfall of back-door revenue sharing.

Mr. KREBS. Mr. Chairman, if the gentleman will yield, let me point out to the gentleman that under the terms of the amendment he says, "I have read it," and he says, "Others who have read it agree with me." But, under the terms of this amendment, after the copperplate, the only obligation the local governments are to have is in those States where local or State governments are in a position to adjust their rules and regulations because of contractual relationships.

Mr. ERLENBORN. I see nothing in the amendment that says that.

Mr. KREBS. If the gentleman will excuse me, I have not finished. Maybe the things that are giving the gentleman from Illinois (Mr. ERLENBORN) some difficulty—and I do not blame him, it gave me some difficulty too, but it says, "Unless such contributions bear a reasonable relationship to the cost of providing benefits to participants," and this "reasonable relationship" will be determined on the basis of actuarial studies to determine what probability does exist that such a reasonable relationship does exist.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. KREBS, and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 1 additional minute.)

Mr. KREBS. If the gentleman will continue to yield, only in cases where the actuarial studies will show that there is a reasonable relationship to the cost of the retirement, only in those situations, in those very limited situations, on the basis of those actuarial studies, will retirement benefits be paid, in those situations only.

Mr. ERLENBORN. I thank the gentleman for his explanation, but I am afraid that the reading of the amendment does not necessarily lead one to the conclusion that that is what the amendment says because a reasonable relationship of such contributions to the cost of providing benefits to the participants does not necessarily mean that we are going to have such actuarial studies, but let me add, if the actuarial study concludes, however, that permanent employees are getting a pretty fair shake for the cost to them, then that would bear a reasonable relationship to the cost of providing benefits and the same contribution for permanent employees could be made for these employees.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. ASHBROOK and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I am wondering if my colleague, the gentleman from Illinois (Mr. ERLENBORN) would agree with an amendment I want to offer that seems to be in line with what he is talking about on page 2 of his amendment, just strike that last sentence with respect to "enrolled in retirement systems or plans on or after such date, no funds under this act may be used for contributions to retirement systems or plans unless such contributions bear a reasonable relationship to the cost of providing benefits to participants."

If we just knock that sentence out, I think that would cure the situation.

Mr. ERLENBORN. I think if that were removed, it would be quite clear that CETA funds would not be used for retirement purposes, which is the purpose of my amendment. My amendment is also pending, and this amendment is a substitute to my amendment. I think, however, that my amendment is more artfully drawn.

Mr. ASHBROOK. I thank the gentleman.

AMENDMENT OFFERED BY MR. GOODLING TO THE AMENDMENT, AS MODIFIED, OFFERED BY MR. KREBS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ERLENBORN

Mr. GOODLING. Mr. Chairman, I offer an amendment to the amendment, as modified, offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING to the amendment, as modified offered by Mr. KREBS as a substitutes for the amendment offered by Mr. ERLENBORN: On line 5, strike out "unemployment insurance."

On line 21, strike the period and insert "; or the payment of unemployment insurance benefits to such persons."

Mr. GOODLING. Mr. Chairman, I do not think that I have to repeat.

I am just merely being protective so that if the substitute passes, my amendment is also available. If it does not, the amendment is also attached to the Erlenborn original amendment. All I am trying to do, of course, is to again say that we want to make sure that the prime sponsors have that option as far as unemployment insurance is concerned; and we want to make sure that we do not encourage people to think that these are full-time, long-term jobs and that we do not get caught in the bind of 18 months' training and then unemployment compensation and then back again for 18 months more.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GOODLING) to the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. SIMON) there were—ayes 17, noes 20.

RECORDED VOTE

Mr. GOODLING. Mr. Chairman I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 211, not voting 24, as follows:

[Roll No. 671]

AYES—197

Ambro	Derwinski	Ireland
Anderson, Ill.	Devine	Jeffords
Andrews, N.C.	Dickinson	Jones, N.C.
Andrews, N. Dak.	Dornan	Jones, Okla.
Archer	Duncan, Oreg.	Jones, Tenn.
Armstrong	Duncan, Tenn.	Jordan
Ashbrook	Edwards, Ala.	Kazen
Badham	Edwards, Okla.	Kelly
Bafalis	Emery	Kemp
Barnard	English	Kindness
Bauman	Erlenborn	Kostmayer
Beard, Tenn.	Ertel	Lagomarsino
Bennett	Evans, Colo.	Latta
Bevill	Evans, Del.	Leach
Biaggi	Evans, Ga.	Lehman
Bowen	Fenwick	Lent
Breaux	Findley	Levitas
Brinkley	Fish	Livingston
Broomfie'd	Flippo	Long, Md.
Brown, Ohio	Foley	Lott
Broyhill	Forsythe	Lujan
Burgener	Fountain	Luken
Burke, Fla.	Fowler	McClory
Burleson, Tex.	Frenzel	McCormack
Butler	Fuqua	McEwen
Byron	Gammage	McKinney
Cederberg	Ginn	Madigan
Chappell	Goldwater	Mahon
Clausen, Don H.	Gonzalez	Mann
Clawson, Del	Goodling	Marlenee
Cleveland	Gradison	Marriott
Cochran	Grassley	Martin
Cohen	Guyer	Mattox
Coleman	Hagedorn	Michel
Collins, Tex.	Hall	Milford
Conable	Hammer-schmidt	Miller, Ohio
Corcoran	Hanley	Mitchell, N.Y.
Cornwell	Harsha	Montgomery
Coughlin	Hefner	Moore
Crane	Hightower	Moorhead, Calif.
Cunningham	Hillis	Myers, Gary
D'Amours	Holt	Myers, John
Daniel, Dan	Horton	Neal
Daniel, R. W.	Hubbard	Nichols
de la Garza	Hughes	O'Brien
Delaney	Hyde	Pettis
	Ichord	Pickle

Pike	Sarasin	Thone
Poage	Satterfield	Treen
Preyer	Sawyer	Trible
Pritchard	Schulze	Vander Jagt
Pursell	Sebelius	Waggonner
Quayle	Shuster	Walker
Quie	Sikes	Walsh
Quillen	Skubitz	Wampler
Railsback	Smith, Nebr.	Watkins
Regula	Snyder	White
Roberts	Spence	Whitehurst
Robinson	Stangeland	Whitley
Rogers	Stanton	Whitten
Rousselot	Steed	Wiggins
Rudd	Steiger	Wilson, Bob
Runnels	Stockman	Wilson, Tex.
Ruppe	Stump	Winn
Russo	Symms	Wydler
Ryan	Taylor	Young, Fla.

NOES—211

Addabbo	Florio	Nowak
Akaka	Ford, Mich.	Oakar
Alexander	Ford, Tenn.	Oberstar
Ammerman	Fraser	Obey
Anderson, Calif.	Garcia	Ottinger
	Gaydos	Panetta
Annunzio	Gephardt	Patten
Applegate	Giaimo	Patterson
Ashley	Gibbons	Pattison
Aspin	Gilman	Pease
AuCoin	Glickman	Pepper
Baldus	Gore	Perkins
Baucus	Green	Pressler
Beard, R.I.	Hamilton	Price
Bedell	Hannaford	Rahall
Beilenson	Harkin	Rangel
Benjamin	Harrington	Reuss
Bingham	Harris	Richmond
Blanchard	Hawkins	Rinaldo
Blouin	Heckler	Risenhoover
Boggs	Heftel	Roe
Boland	Holland	Roncalio
Bolling	Hollenbeck	Rooney
Bonior	Holtzman	Rosenthal
Bonker	Howard	Rostenkowski
Brademas	Huckaby	Roybal
Breckinridge	Jacobs	Santini
Brodhead	Jenrette	Scheuer
Brooks	Johnson, Calif.	Schroeder
Brown, Calif.	Johnson, Colo.	Seiberling
Brown, Mich.	Kastenmeier	Sharp
Buchanan	Keys	Shipley
Burke, Calif.	Kildee	Simon
Burke, Mass.	Krebs	Skelton
Burlison, Mo.	Lederer	Slack
Burton, John	Leggett	Smith, Iowa
Burton, Phillip	Lloyd, Calif.	Solarz
Caputo	Long, La.	Spellman
Carney	Lundine	St Germain
Carr	McCloskey	Staggers
Carter	McDade	Stark
Cavanaugh	McFall	Steers
Chisholm	McHugh	Stokes
Clay	McKay	Stratton
Collins, Ill.	Maguire	Studds
Conte	Markey	Thompson
Conyers	Marks	Thornton
Corman	Mazzoli	Traxler
Cornell	Meeds	Tucker
Cotter	Metcalfe	Udall
Danielson	Meyner	Ullman
Davis	Mikulski	Van Deerlin
Dellums	Mikva	Vanik
Derrick	Mineta	Vento
Dicks	Minish	Volkmer
Diggs	Mitchell, Md.	Walgren
Dingell	Moakley	Waxman
Dodd	Moffett	Weaver
Downey	Mollohan	Weiss
Drinan	Moorhead, Pa.	Whalen
Early	Moss	Wilson, C. H.
Eckhardt	Mottl	Wirth
Edgar	Murphy, Ill.	Wolff
Edwards, Calif.	Murphy, N.Y.	Wright
Eilberg	Murphy, Pa.	Yates
Evans, Ind.	Murtha	Yatron
Fary	Myers, Michael	Young, Alaska
Fascell	Natcher	Young, Mo.
Fisher	Nedzi	Zablocki
Fithian	Nix	Zeferetti
Flood	Nolan	

NOT VOTING—24

Abdnor	Kasten	Rhodes
Dent	Krueger	Rodino
Flowers	LaFalce	Rose
Flynt	Le Fante	Sisk
Frey	Lloyd, Tenn.	Teague
Gudger	McDonald	Tsongas
Hansen	Mathis	Wylie
Jenkins	Miller, Calif.	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. McDonald for, with Mr. Rodino against.

Mrs. Lloyd of Tennessee for, with Mr. Krueger against.

Mr. Teague for, with Mr. Miller of California against.

Mr. Flynt for, with Mr. Le Fante against.

Mr. HOWARD and Mr. GARCIA changed their vote from "aye" to "no."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GOODLING) to the amendment, as modified, offered by the gentleman from California (Mr. KREBS) as a substitute for the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment to the amendment, as modified, offered as a substitute for the amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK TO THE AMENDMENT, AS MODIFIED, OFFERED BY MR. KREBS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to the amendment, as modified, offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK to the amendment, as modified, offered by Mr. KREBS as a substitute for the amendment offered by Mr. ERLENBORN: On page 2, line 4, strike all that follows after period.

Mr. ASHBROOK. Mr. Chairman, for the 30 or 40 Members who were here when my colleague, the gentleman from Illinois (Mr. ERLENBORN), made his very intelligent, articulate statement, I think he clearly pointed out some of the problems in the amendment of my friend and colleague, the gentleman from California (Mr. KREBS).

Mr. Chairman, I, of course, would prefer that the amendment of my colleague, the gentleman from Illinois (Mr. ERLENBORN), would prevail. But judging by the last vote, I would have to say that at this point we probably should amend the Krebs amendment just in case the Erlenborn substitute, which is highly preferable, does not prevail.

As was pointed out, there is a defect in the Krebs amendment. It says, on page 2:

Funds available for employment benefits under this Act may be used, for the duration of participation, for contributions on behalf of participants who are, prior to July 1, 1979, enrolled in retirement systems or plans.

That would seem to cover the situation, but we get down to the bottom of the gentleman's amendment and we have words tucked in there which say,

Unless such contributions bear reasonable relationship to the cost of providing benefits to participants.

I would point out in all fairness that the amendment does not do what it purports to do, because those words—and I read them again—

Unless such contributions bear a reasonable relationship to the cost of providing benefits to participants.

Those words negate the entire thrust of subsection (4).

Mr. PATTERSON of California. Mr. Chairman, will the gentleman yield? I would be happy to explain the intent of this language.

Mr. ASHBROOK. I would be very glad to yield to my colleague.

Mr. PATTERSON of California. I thank the gentleman for yielding. The purpose of that language in the last sentence was to apply to those States where they have within their retirement programs other sorts of benefits, which might be unemployment insurance, disability insurance, health benefits. The intent of this language is so that we will not have to unravel all of the different plans that a State or locality might have in order to assess the portion that might go to retirement. So, the wording says that no funds may be used for contributions to retirement systems or plans unless they bear reasonable relationship to the cost of providing benefits to participants.

So, I would say that by eliminating that language, we would eliminate any benefits at all for CETA employees, which really takes us back to the Erlenborn amendment. With the language in there, we allow those States that have a multipurpose fringe benefits program to retain CETA employees within that program.

Mr. ASHBROOK. Could my colleague tell me for the record how many States are involved? It is my recollection that it would be most States.

Mr. PATTERSON of California. I think that roughly half of the States would be involved. So, what the Krebs language would do would be to allow those States to basically review their programs, and they would not have to have a different program for CETA. The CETA employees could be classified in a manner that would exclude them from retirement benefits. The way it would be determined is whether the plan provides any actual, direct benefit to the employees. If it does not, then there would be no CETA funds used in that retirement program.

Mr. ASHBROOK. I appreciate what my colleague is saying, but the bottom line is that the amendment, in effect, after July 1, 1979, will be business as usual. Then, the gentleman goes on to say that the funds for retirement systems will be blocked except in the very States he is talking about, which adds up to most States. This means, in effect, that there is really nothing in the amendment cutting back on the very abuses Mr. KREBS indicated he wanted to restrain.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, I thank the gentleman for yielding. Again, I am afraid that though the sponsor's intent may be quite good, the amendment is not drawn properly to carry it out.

There is no differential made in the Krebs amendment between health, death, disability benefits, and retirement benefits. As a matter of fact, in my amendment it says specifically that funds may be used to the extent that such contributions are used to provide benefits such as health and death and disability, and are not used for retirement purposes.

So we have carefully distinguished between the two types of benefits. We allow CETA funds for death, health, and disability, but prohibit them for retirement.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(On request of Mr. ERLENBORN, and by unanimous consent, Mr. ASHBROOK was allowed to proceed for 3 additional minutes.)

Mr. ASHBROOK. This is precisely why I say to my colleague that I support his amendment. I have offered this amendment in case his amendment does not pass, so at least to try to perfect some of the shortcomings I see in the Krebs amendment.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield further, as to the interpretations of the Krebs amendment, may I read? The amendment says:

Nothing in this subparagraph or in paragraph (4) shall be deemed to require a contribution to a retirement system or plan for the purpose of providing retirement benefits * * *

That is what we are talking about—not the health, disability, or anything else. It is the retirement benefits. It says:

* * * unless funds under this Act are available, pursuant to paragraph (4) * * *

Then section 4 says that funds are available unless they do not bear a reasonable relationship to the cost. How do we determine cost in a pension system? The gentleman suggested earlier if they do not vest, it would not be reasonable. That is not the way it is determined.

This is the same way as it is with insurance. One can buy fire insurance on his house and pay for that fire insurance and never collect a dime. One may not have a fire and he never collects a dime. The same thing is true in determining reasonable costs of retirement benefits. The person may pay in for 3 or 4 years, not vest, and never get a dime out, and yet that is a reasonable cost. What we are saying is if somebody is going to be hired for only 18 months, he is not going to vest, then do not pay in at all.

If we adopt my amendment or the Ashbrook amendment to the Krebs amendment, we will accomplish that purpose.

Mr. ASHBROOK. One might say that in the 30 or more States which would allow this payment, if the amendment passes as the Krebs amendment stands, it will simply make it possible to do the same thing sooner or later in the other States. It is holding out a carrot to them. They are smart enough to change their laws to get the Federal funds.

Mr. ERLENBORN. I do not say it is only 30 States. I say the Krebs amendment would allow, in fact require contributions in all States as long as they are not charging CETA employees more than permanent employees.

Mr. ASHBROOK. I think the gentleman may be right.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) to the amendment, as modified, offered by the gentleman from California (Mr. KREBS) as a substitute for the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The question was taken; and on a division (demanded by Mr. ASHBROOK) there were—ayes 50, noes 48.

RECORDED VOTE

Mr. KREBS. Mr. Chairman I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 209, noes 194, not voting 29, as follows:

[Roll No. 672]

AYES—209

Ammerman	Fuqua	Murtha
Anderson, Ill.	Gammage	Myers, Gary
Andrews, N.C.	Gibbons	Myers, John
Andrews, N. Dak.	Gilman	Neal
	Ginn	Nichols
Archer	Glickman	O'Brien
Armstrong	Goldwater	Patten
Ashbrook	Goodling	Pettis
Ashley	Gradison	Pickle
AuCoin	Grassley	Pike
Badham	Gudger	Poage
Bafalis	Guyer	Preyer
Barnard	Hagedorn	Pritchard
Bauman	Hall	Pursell
Beard, Tenn.	Hammer-schmidt	Quayle
Bennett		Quie
Bevill	Hanley	Quillen
Biaggi	Harrington	Railsback
Bowen	Heckler	Regula
Breaux	Hefner	Roberts
Brinkley	Hightower	Robinson
Broomfield	Hillis	Rousselot
Brown, Ohio	Hollenbeck	Rudd
Broyhill	Holt	Runnels
Buchanan	Horton	Ruppe
Burgener	Hubbard	Russo
Burke, Fla.	Hughes	Sarasin
Burleson, Tex.	Hyde	Satterfield
Butler	Ichord	Sawyer
Byron	Ireland	Schulze
Carter	Jeffords	Sebelius
Cavanaugh	Johnson, Colo.	Shuster
Cederberg	Jones, N.C.	Sikes
Chappell	Jones, Okla.	Skubitz
Clawson, Del	Jones, Tenn.	Slack
Cleveland	Kazen	Smith, Iowa
Cochran	Kelly	Smith, Nebr.
Cohen	Kemp	Spence
Coleman	Kostmayer	Stangeland
Collins, Tex.	Latta	Stanton
Conable	Leach	Steed
Conte	Lent	Steiger
Corcoran	Livingston	Stockman
Cotter	Long, Md.	Stump
Coughlin	Lott	Symms
Crane	Lujan	Taylor
Cunningham	McClory	Thone
Daniel, Dan	McCloskey	Treen
Daniel, R. W.	McDade	Trible
Danielson	McEwen	Vander Jagt
de la Garza	McKay	Waggonner
Derwinski	McKinney	Walker
Devine	Madigan	Walsh
Dickinson	Mahon	Wampler
Duncan, Tenn.	Mann	Watkins
Edwards, Ala.	Marks	White
Edwards, Okla.	Marlenee	Whitehurst
Emery	Marriott	Whitley
English	Martin	Whitten
Erlenborn	Mattox	Wiggins
Ertel	Michel	Wilson, Bob
Evans, Colo.	Milford	Wilson, Tex.
Evans, Del.	Miller, Ohio	Winn
Fenwick	Minish	Wirth
Findley	Mitchell, N.Y.	Wolff
Fish	Mollohan	Wydler
Flippo	Montgomery	Yatron
Florio	Moore	Young, Alaska
Forsythe	Moorhead, Calif.	Young, Fla.
Fountain		Zeferetti
Frenzel	Mottl	

NOES—194

Addabbo	Fisher	Oberstar
Akaka	Fithian	Obey
Alexander	Flood	Ottinger
Ambro	Foley	Panetta
Anderson, Calif.	Ford, Mich.	Patterson
	Ford, Tenn.	Pattison
Annunzio	Fowler	Pease
Applegate	Fraser	Pepper
Aspin	Garcia	Perkins
Baldus	Gaydos	Pressler
Baucus	Gephardt	Price
Beard, R.I.	Gonzalez	Rahall
Bedell	Gore	Rangel
Bellenson	Green	Reuss
Benjamin	Hamilton	Richmond
Bingham	Hannaford	Rinaldo
Blanchard	Harkin	Risenhoover
Blouin	Harris	Roe
Boggs	Harsha	Rogers
Boland	Hawkins	Roncalio
Bolling	Heftel	Rooney
Bonior	Holland	Rose
Bonker	Holtzman	Rosenthal
Brademas	Howard	Rostenkowski
Breckinridge	Huckaby	Roybal
Brodhead	Jacobs	Ryan
Brooks	Jenrette	Santini
Brown, Calif.	Johnson, Calif.	Scheuer
Brown, Mich.	Jordan	Schroeder
Burke, Calif.	Kastenmeier	Seiberling
Burlison, Mo.	Keys	Sharp
Burton, John	Kildee	Shipley
Burton, Phillip	Kindness	Simon
Caputo	Krebs	Skelton
Carney	Lagomarsino	Snyder
Carr	Lederer	Solarz
Chisholm	Lehman	Spellman
Clausen, Don H.	Levitas	St Germain
	Lloyd, Calif.	Staggers
Clay	Long, La.	Stark
Collins, Ill.	Luken	Steers
Conyers	Lundine	Stokes
Corman	McCormack	Stratton
Cornell	McFall	Studds
Cornwell	McHugh	Thompson
D'Amours	Maguire	Thornton
Davis	Markey	Traxler
Dellums	Mazzoli	Tucker
Dent	Meeds	Udall
Derrick	Metcalfe	Van Deerlin
Dicks	Meyner	Vanik
Diggs	Mikulski	Vento
Dingell	Mikva	Volkmer
Dodd	Mineta	Walgren
Downey	Mitchell, Md.	Waxman
Drinan	Moffett	Weaver
Duncan, Oreg.	Moorhead, Pa.	Weiss
Early	Murphy, Ill.	Whalen
Eckhardt	Murphy, N.Y.	Wilson, C. H.
Edgar	Murphy, Pa.	Wright
Edwards, Calif.	Myers, Michael	Wylie
Eilberg	Natcher	Yates
Evans, Ga.	Nedzi	Young, Mo.
Evans, Ind.	Nolan	Zablocki
Fary	Nowak	
Fascell	Oakar	

NOT VOTING—29

Abdnor	Kasten	Moss
Burke, Mass.	Krueger	Nix
Delaney	LaFalce	Rhodes
Dornan	Le Fante	Rodino
Flowers	Leggett	Sisk
Flynt	Lloyd, Tenn.	Teague
Frey	McDonald	Tsongas
Giaimo	Mathis	Ullman
Hansen	Miller, Calif.	Young, Tex.
Jenkins	Moakley	

The Clerk announced the following pairs:

On this vote:

Mr. Flynt for, with Mr. Rodino against.

Mrs. Lloyd of Tennessee for, with Mr. Miller of California against.

Mr. McDonald for, with Mr. Krueger against.

Mr. Teague for, with Mr. Le Fante against.

Mr. Nix for, with Mr. Burke of Massachusetts against.

So the amendment to the amendment, as modified, offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am only going to take a moment. I am sensitive to the fact that we have spent too much time on this issue already and we are going to be here late tonight.

The parliamentary situation is that the Krebs amendment has been amended by the Ashbrook amendment; so it clearly prohibits the use of CETA funds for contribution to retirement plans.

I think the next question will come on the Krebs amendment, which is a substitute for my amendment.

Mr. Chairman, I urge a vote against the Krebs amendment for this reason. My amendment specifically allows contributions for health, death, and disability benefits.

The Krebs amendment is silent on that point. They both do the same thing relative to retirement; so if you want to be sure the CETA employees have health, death, and disability insurance, please vote for my amendment and against the Krebs amendment.

The CHAIRMAN. The question is on the amendment, as modified, as amended, offered by the gentleman from California (Mr. KREBS) as a substitute for the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment, as amended, as modified, offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 254, noes 148, answered "present" 1, not voting 29 as follows:

[Roll No. 673]

AYES—254

Alexander	Butler	Duncan, Oreg.
Ammerman	Byron	Duncan, Tenn.
Anderson, Ill.	Carter	Edwards, Ala.
Andrews, N.C.	Cavanaugh	Edwards, Okla.
Andrews, N. Dak.	Cederberg	Emery
Annunzio	Chappell	English
Archer	Clausen, Don H.	Erlenborn
Armstrong	Clawson, Del	Ertel
Ashbrook	Cleveland	Evans, Colo.
Ashley	Cochran	Evans, Del.
AuCoin	Cohen	Evans, Ga.
Badham	Coleman	Fary
Bafalis	Collins, Tex.	Fenwick
Barnard	Conable	Findley
Baucus	Conte	Fish
Bauman	Corcoran	Fithian
Beard, Tenn.	Cornwell	Flood
Bennett	Cotter	Florio
Bevill	Coughlin	Murtha
Blaggi	Crane	Ford, Tenn.
Boland	Cunningham	Forsythe
Bowen	D'Amours	Fountain
Breaux	Daniel, Dan	Fowler
Brinkley	Daniel, R. W.	Frenzel
Brooks	Davis	Fuqua
Broomfield	de la Garza	Gammage
Brown, Mich.	Delaney	Gibbons
Brown, Ohio	Dent	Gilman
Broyhill	Derwinski	Ginn
Buchanan	Devine	Glickman
Burgener	Dickinson	Goldwater
Burke, Fla.	Dornan	Gonzalez
Burleson, Tex.	Drinan	Goodling
		Gore
Gradison	Marlenee	Sawyer
Grassley	Marriott	Schulze
Gudger	Martin	Sebelius
Guyer	Mattox	Sharp
Hagedorn	Michel	Shipley
Hall	Milford	Shuster
Hammer-schmidt	Miller, Ohio	Sikes
Hanley	Minish	Skubitz
Harrington	Mitchell, N.Y.	Slack
Heckler	Moffett	Smith, Iowa
Hefner	Mollohan	Smith, Nebr.
Hightower	Montgomery	Snyder
Hillis	Moore	Spence
Holland	Moorhead, Calif.	Staggers
Hollenbeck	Mottl	Stangeland
Holt	Murphy, Ill.	Stanton
Horton	Murtha	Steed
Hubbard	Myers, Gary	Steiger
Hughes	Myers, John	Stockman
Hyde	Natcher	Stump
Ichord	Neal	Symms
Ireland	Nichols	Taylor
Jeffords	O'Brien	Thone
Jenrette	Patten	Thornton
Johnson, Colo.	Pettis	Treen
Jones, N.C.	Pickle	Trible
Jones, Okla.	Pike	Udall
Jones, Tenn.	Poage	Van Deerlin
Kazen	Preyer	Vander Jagt
Kelly	Price	Volkmer
Kemp	Pritchard	Waggonner
Keys	Quayle	Walgren
Kindness	Quie	Walker
Kostmayer	Quillen	Walsh
Latta	Railsback	Wampler
Leach	Regula	Watkins
Lent	Reuss	White
Levitas	Rinaldo	Whitehurst
Livingston	Risenhoover	Whitley
Long, Md.	Roberts	Whitten
Lott	Robinson	Wilson, Bob
Lujan	Rogers	Wilson, Tex.
McCory	Rose	Winn
McCloskey	Rostenkowski	Wirth
McDade	Rousselot	Wydler
McEwen	Rudd	Wylie
McKay	Runnels	Yatron
McKinney	Ruppe	Young, Alaska
Madigan	Russo	Young, Fla.
Mahon	Ryan	Zablocki
Mann	Sarasin	Zeferetti
Marks	Satterfield	

NOES—148

Addabbo	Foley	Oberstar
Akaka	Ford, Mich.	Obey
Ambro	Fraser	Ottinger
Anderson, Calif.	Garcia	Panetta
Aspin	Gaydos	Patterson
Baldus	Gephardt	Pattison
Beard, R.I.	Green	Pease
Bedell	Hamilton	Pepper
Beilenson	Hannaford	Perkins
Benjamin	Harkin	Pressler
Bingham	Harris	Pursell
Blanchard	Harsha	Rahall
Blouin	Hawkins	Rangel
Boggs	Heftel	Richmond
Bolling	Holtzman	Roe
Bonior	Howard	Roncalio
Bonker	Huckaby	Rooney
Brademas	Jacobs	Rosenthal
Breckinridge	Johnson, Calif.	Roybal
Brodhead	Jordan	Santini
Brown, Calif.	Kastenmeier	Scheuer
Burke, Calif.	Kildee	Schroeder
Burlison, Mo.	Krebs	Seiberling
Burton, John	LaFalce	Simon
Burton, Phillip	Lagomarsino	Skelton
Caputo	Lederer	Solarz
Carney	Lehman	Spellman
Carr	Lloyd, Calif.	St Germain
Chisholm	Long, La.	Stark
Clay	Luken	Steers
Collins, Ill.	Lundine	Stokes
Conyers	McCormack	Stratton
Corman	McFall	Studds
Cornell	McHugh	Thompson
Danielson	Maguire	Traxler
Dellums	Markey	Tucker
Derrick	Mazzoli	Ullman
Dicks	Metcalfe	Vento
Diggs	Meyner	Waxman
Dingell	Mikulski	Weaver
Dodd	Mikva	Weiss
Downey	Mineta	Whalen
Early	Mitchell, Md.	Wilson, C. H.
Eckhardt	Moorhead, Pa.	Wolff
Edgar	Murphy, N.Y.	Wright
Edwards, Calif.	Murphy, Pa.	Yates
Ellberg	Myers, Michael	Young, Mo.
Evans, Ind.	Nedzi	
Fascell	Nix	
Fisher	Nowak	
	Oakar	

ANSWERED "PRESENT"—1

Applegate

NOT VOTING—29

Abdnor	Krueger	Nolan
Burke, Mass.	Le Fante	Rhodes
Filippo	Leggett	Rodino
Flowers	Lloyd, Tenn.	Sisk
Flynt	McDonald	Teague
Frey	Mathis	Tsongas
Giaimo	Meeds	Vanik
Hansen	Miller, Calif.	Wiggins
Jenkins	Moakley	Young, Tex.
Kasten	Moss	

The Clerk announced the following pairs:

On the vote:

Mrs. Lloyd of Tennessee for, with Mr. Burke of Massachusetts against.

Mr. Teague for, with Mr. Rodino against.

Mr. Flynt for, with Mr. Krueger against.

Mr. McDonald for, with Mr. Le Fante against.

Mr. TUCKER changed his vote from "aye" to "no."

Messrs. WALGREN, NATCHER, and DON H. CLAUSEN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I have five amendments at the desk, four of them to be considered later en bloc, but I offer one amendment, labeled No. 1, for consideration now.

The Clerk read as follows:

Amendment offered by Mr. OBEY: Page 26, beginning on line 5, strike out "promptly made" and insert in lieu thereof "made not later than 60 days after the filing of the grievance involved".

Page 26, line 18, insert after the period the following: "The Secretary shall conduct such investigation, and make the final determination required by the following sentence regarding the truth of the allegation or belief involved, not later than 120 days after receiving the complaint.".

Mr. OBEY (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBEY. Mr. Chairman, I understand this amendment will be accepted by the committee. It is a very simple amendment. All it does is to put a specific period of time in the bill during which the prime sponsor must answer a complaint lodged against it for violations of the conditions under which the CETA program exists in the first place, and also it establishes a 120-day time limit on the time during which the Labor Department can consider a complaint before it has to proceed.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Chairman, we have seen the amendment. We accept the amendment.

If the gentleman would further yield, do I understand from the gentleman from Wisconsin (Mr. OBEY) that if the determination is not made in a speci-

fied time it shall not affect the Secretary's jurisdiction in the matter?

Mr. OBEY. That is correct.

Mr. HAWKINS. With that understanding we do accept the amendment.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, let me say that we have considered this on this side. This is a very good amendment and we certainly would accept it.

Mr. OBEY. I thank both gentlemen.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. OBEY).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. OBEY: Page 43, line 7, strike out ", but such maximum" and all that follows through "upward by the" and insert in lieu thereof a period.

Page 43, strike out line 8 and all that follows through line 12.

Page 43, line 23, strike out "$7,800" and insert in lieu thereof "$7,000".

Page 43, line 25, after the period strike out "such" and all that follows down through line 3 on page 44 and insert in lieu thereof the following:

"Such national average may, to the extent deemed necessary by the Secretary, be adjusted annually by a percentage not to exceed the percentage change in the Consumer Price Index."

Page 208, strike out lines 1 and 2 and insert in lieu thereof the following: "in excess of the permissible maximum under section 121(c)(1)(B), except that such rate shall be adjusted upward, not to exceed 20 per centum, by the ratio that the annual average wages within the area served by the prime sponsor exceed the average of the total of such wages nationally in accordance with a wage adjustment index to be published annually by the Secretary.".

Mr. OBEY. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. OBEY. Mr. Chairman, while I think these amendments will be quite controversial, I think that their effect is fairly clear.

The present bill provides that with Federal money there is a limitation on CETA salaries of $10,000, and it provides that that can be augmented in high wage areas by up to $2,000. In addition, it provides that any prime sponsor may supplement those wages up to 25 percent of their particular limit.

For example, if you have a limitation of $10,000 you could supplement it by $2,500. If you have a limit of $12,000, you could supplement this up to $3,000.

This amendment is very simple. What we are trying to do here—and I should say that I am offering this amendment in behalf of the gentleman from Connecticut (Mr. SARASIN), the gentleman from Illinois (Mr. MICHEL), the gentleman from Connecticut (Mr. GIAIMO), and the gentleman from Ohio (Mr. ASHLEY), Mr. SHUSTER, Mr. ASHBROOK, Mrs. PETTIS, Mr. ERLENBORN, Mr. PIKE, Mr. GOODLING, Mr. CONTE, and Mr. MATTOX; but, as I say, it is a simple amendment. It simply says we will put a limit of $12,000 for any CETA job in high-wage areas and $10,000 in any low-wage area rather than the $15,000 and the $12,000 which we have in the bill.

We further provide that the average wage for CETA should be, as is the present law, $7,000 rather than $7,800, which we have in the bill.

I know that some Members will say, and some have said with considerable force, that the figure which we have in these amendments is too low.

Let me point out here that on the CETA issue I am no enemy of CETA and I have not tried to kill and am not trying to kill CETA.

I have four times in the last 5 years offered amendments in the Committee on Appropriations or on the floor—in fact, twice I offered amendments on the floor—to add to the funding level of the Committee on Appropriations for CETA.

Those amendments carried. Therefore, I come to this debate as a friend of CETA, and I do not want to be in a position where, after this amendment or after this bill is passed, we face in the Committee on Appropriations, very frankly, an effort to limit CETA jobs to the minimum-wage level.

Mr. Chairman, if I can use the name of the gentleman from Illinois (Mr. MICHEL) in vain to make a point, I can recall just a year ago when the gentleman from Illinois (Mr. MICHEL) succeeded in attaching to the bill in the Committee on Appropriations an amendment which limited unemployment compensation to the minimum-wage level. I would submit that he would have a good chance of attaching that same kind of amendment in the Committee on Appropriations to CETA funding later on in the year.

I do not want to see that happen because I do not think we ought to be limited to minimum-wage levels at all times; but I do think a $15,000-a-year job for CETA is simply, in plain English, politically indefensible. I do not think our constituents understand why we ought to be paying people that large a salary for a CETA job. If we look at the facts, in New York, which is one of the cities understandably troubled by this amendment, one-third of the workers earn less than $10,000.

I would point out to those who say that this dollar limit is too low that the $12,000 limit in this bill is higher—is higher, I repeat—than the national average for non-CETA jobs in all sectors of the economy, which is $11,000. I would point out to those who say that the $7,000 figure is too tight one simple fact: This bill is presented to the House as a bill which tightens up considerably on CETA. It really does, and I give the committee great credit for doing that. I know that with all the pressures on them, it is a very difficult job to do. However, I submit that the pressures are going to be even greater when we come to the appropriations process than they are on this bill. If the Members think we have trouble in passing this bill, I invite them to watch the trouble we are going to have in funding the appropriation down the line. I want us to be in a position where we can intellectually and politically defend CETA. I do not think we can do it if, under the guise of tightening up the average wage under this bill, we, in fact, raise the average wage to $7,800, as the committee bill does. I think we ought to return it to the $7,000 level. That is what this amendment does.

Mr. Chairman, I want to point out one other thing: A great number of people have said to me, "Your intention of limiting the amount of time during which someone who is grandfathered in under a higher salary under this bill can stay on the public rolls at a higher salary, your intention of limiting that grandfathering to 6 months is too tough." As a consequence, what I have done is that I have eliminated that portion from my amendment. I do not any longer try to limit that grandfathering to 6 months. They have longer than that. They have as long as the bill allows to get off the sauce.

However, I do think that the cities have to get off the sauce because if they do not, they are going to continue to make the CETA program the second most unpopular program in the country after welfare. Then, in the long run, we will not be able to sustain it, and I think that will be economically disastrous to the country.

Mr. Chairman, I urge the Members to support my amendments.

Mr. HAWKINS. Mr. Chairman, I rise in opposition to the amendments.

Mr. Chairman, this amendment, I think, is a very destructive one. I think it is well intended, and I think that it sounds very reasonable.

In support of it, it has been said that this individual or some other individual is earning $12,000 or $15,000 in the program. There are, obviously, such individuals; but we are not told that even under the current law, that is a very rare occasion. We are not given the reason for it.

Mr. Chairman, the $10,000 ceiling is in the law at the present time; and it has been in the present law since 1973, but it is not indexed in accordance with wage differentials. Under the Obey amendment we would lose the flexibility in the committee bill which allows higher rates in high-wage areas. We would have what approaches a uniform system across the country, regardless of the wage differentials which prevailed.

Mr. Charman, I think the Obey approach is very unfair. It is very unreasonable, and I think it is most unworkable. I think we need the flexibility which the committee bill is asking for. In the operation of the current law the average wage today is in the neighborhood of $7,000. It adds up to simple arithmetic. In order to meet the average wage mandated under the bill it would be necessary to have at least six enrollees at the minimum wage for every person paid $12,000. Any local prime sponsor who is attempting to have any appreciable number of individuals at the higher

bracket would be discouraged because they would be using up their allocation and obviously would not be able to get the average down. It is the average we should be looking at rather than the maximum ceiling.

There is a reason also for allowing a few individuals to earn the higher wage. As I say, it is only a few. Under the Obey amendment we are talking about only 7,000 altogether in a program today of 725,000 persons. There is obviously a feeling in this House that these individuals should be trained. They should not remain on the program. During that training period they should be encouraged to seek higher wages, to seek more skill, and to prepare themselves for entrance into the labor market. This is not going to be done if we discourage them through keeping the wage down to the minimum wage. In addition to that, it is obvious that if they are going to be trained and going to be engaged in useful activity, a few responsible individuals as lead persons, for example supervisors and trainers, will be required on these programs and these individuals are not going to be those that we could compensate with a $6,000 or $7,000 income or a minimum wage. Can the Members imagine a group of individuals going out to weatherize the homes of individuals, elderly citizens, and others, and not having someone in that group who knows something about weatherizing techniques? Do we intend to pay that individual at this lower wage? Probably in many instances we will have 1 or 2 persons in a group of 15 or 20 or even 30 or 40 who would be paid this higher wage, and we would have people who would obviously be responsible for the accounting system that we insist upon in this particular bill.

When we begin to look at the actual situation, it is very different from those who would take an individual situation, use a lot of rhetoric to blow it up and put it in magazines to sell and to be listened to over radio and television in order to excite people, without explaining what the program is all about.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HAWKINS was allowed to proceed for 1 additional minute.)

Mr. HAWKINS. I say this, that if we intend for this program to be something more than training individuals for menial, low-paying jobs and to get them out of the program into subsidized employment, this is not the way to do it. The Obey amendment will certainly not accomplish it.

I hope that the Members will stick with the committee. The committee has taken the present situation where a $10,000 ceiling is allowed, but remember that we also today allow supplementation so that the $10,000 limit can be supplemented. The committee has eliminated, has prohibited that altogether in title II and limited it in title VI, so that in effect we have said you cannot supplement. Having taken away supplementation, it is the Federal payment that then becomes the wage rate and not the Federal wage rate supplemented at the local area. I think this amendment, as I say, is a very destructive one, and I hope the Members will reject it.

Mr. SARASIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, I rise in very strong support of the Obey amendment. I think what we are looking at here is an attempt to do some economic justice to provide for the individual who will become part of the CETA program and also at the same time to provide for equity and justice for the taxpayers who will foot the bill for this program.

We have ended up with the situation in CETA where unfortunately it is much more attracive to be in this program than it is to be in the real world; than it is to be part of the working poor; than it is to be out there and trying to earn a living for your family, than what the Government says you must have, which is at least a minimum wage; so we find more and more people who are making their career ladder one step after another through the CETA program. That is not what CETA was intended to do. It is an employment and training program, not a career opportunity. It is designed to take care of the unemployed and the underemployed to give them some skills they did not have before and to allow them to be in a better position to make their way in the real world.

Instead, we have made it more attractive, not lucrative by any means, but more attractive, so attractive that they are encouraged to stay within the system, rather than to go out and take their chance in the real world in the private sector or in the unsubsidized public sector.

I think what we find in the Obey amendment is certainly an advantage to the individual who becomes a CETA participant; the incentive is there to go and learn to earn and become a productive part of society. At the same time, it is a great advantage to the taxpayers, because we will be able to handle more people. God knows we are not taking care of all those individuals who are eligible for the CETA program. If we are able to limit the dollars spent, we can apply these services and that training to skills improvement, and there are many people out there looking for that kind of help. So from all aspects, it is a serious attempt to provide equity and justice. On that basis, I support it very strongly.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to respond to a couple of points made by the gentleman from California.

First of all, the Manpower Advisory Commission which we established recommended that supplementation be limited to no more than 15 percent of a $10,000 base. We are being $500 more generous than that Commission.

Second, I want to point out, I simply do not want to have any more stories appearing in newspapers, such as the column by Mr. Kilpatrick, which indicates that the Washington City Council hired 56 CETA people at an average wage of $18,000 a year for jobs that paid only $8,500 in other Government agencies.

Third, I want to point out that this amendment does not require people to take only menial jobs, because as I pointed out earlier, this level is higher than the average wage for all American workers in this country, and I do not think that half of the American people have menial jobs.

Mr. SARASIN. Mr. Chairman, I certainly agree with the gentleman.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I rise in strong suppport of the Obey amendment.

The point that the gentleman from Wisconsin (Mr. OBEY) just made is one we should really be stressing a lot here. The public is not all that happy with the CETA program, anyway. It resents the high-paid public payroll jobs that are higher, as the gentleman pointed out, than many jobs in the private sector and it is not the kind of image we should be projecting in this legislation.

I urge my colleagues to vote for this amendment. It substantially improves the legislation.

Mr. SARASIN. Mr. Chairman, I thank the gentleman.

Certainly there is not any attempt by me or by the gentleman from Wisconsin (Mr. OBEY) to kill the CETA program. That is not our intention at all, but what we are trying to do with this amendment is to try to make some sense out of it and try to make it more attractive for the people, not only who are participants, but the people paying for it. CETA is a training instrument, to provide upgrading for people who need training and skills in the labor market and also the public service employment aspect that is connected with it.

Again, I strongly support the amendment of the gentleman from Wisconsin.

Mr. WEISS. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendments.

Mr. Chairman, I appreciate the past commitment that the gentleman from Wisconsin (Mr. OBEY) has to this legislation, and my concern is that this time around he may not really have read fully what it is that the committee has done to meet some of the very objections that he had and which he suggests his amendment would cure. I think the Members ought to know that in an effort to cure some of the very serious complaints about how these jobs are becoming permanent public service employment positions, the committee included a provision in the bill before us which limits participation and limits the length of time which a particular CETA employee can serve under title VI to 18 months. So far starters there is no longer the possibility of a long-term, continuing participation.

Beyond that, I would remind the Members that there are many ways of killing legislation, even when one is doing it out of the best of motives.

In the high-cost areas of this country, if we set the standards we would set in this proposed amendment, we are going to be prohibiting participation because the entry level for most jobs will shortly, and many already exceed what the average limits are here. The fact is that right now the average CETA wage, on a nationwide basis, is only $7,000. There are only a few areas in which it is above that figure. Ninety percent of CETA workers earn less than $10,000. The exceptions are in the very high-cost areas, and those areas and the people who live in them would be excluded from this program, under the gentleman's amendments.

I think we also ought to bear in mind that, with all the talk about minimum wages, currently minimum wages provide for $5,500 a year. As of January 1979, a scant few months away, minimum wages will provide $6,000 a year. We are not that far apart; we really are not. Indeed, there is the very real likelihood that in order to meet the $7,000 average, many employees of CETA would have to be paid less than an annual minimum wage.

As the distinguished chairman of the subcommittee explained, with the average included in the legislation, we cannot have any large numbers of people who are earning around the $10,000 level because we have to have people below the average in order to make up the balance.

It seems to me that the choice we have is of providing such a balance that it will not be more attractive for people to go on welfare rather than to seek jobs, because with all the benefits that are concomitant to welfare, including medicare and medicaid, day care provisions, et cetera, we can very easily reach a point where a prospective employee of CETA will say, "It's not worth my while. It is going to cost my family in care and money if I take that job."

It seems to me that we really must to keep that balance in mind.

I happen to have the privilege as a member of the subcommittee to serve on the Ad Hoc Welfare Reform Committee. We were considering a jobs opportunities program which the President asked of us, and we were talking about creating on top of the 725,000 CETA jobs some 800,000 jobs. The purpose of that was to encourage people to leave welfare and to take jobs.

It now seems to me we are just throwing all of our thinking out the window and because of horror stories, which I deplore as much as anybody else, without recognizing that those very horror stories are proof that the system is working, because those people were caught, we are ready to throw the baby out with the bathwater. Say what you will, for all practical purposes, in the high-cost areas of this country where we have a large number of the poor unemployed, we are in fact going to be killing the CETA program.

Mr. Chairman, I could not urge any more strongly, if we want CETA to survive, with all the stringencies already built into this legislation by the committee, that we should defeat these amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wisconsin (Mr. OBEY).

The question was taken; and the chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 230, noes 175, not voting 27, as follows:

[Roll No. 674]

AYES—230

Alexander	Forsythe	Myers, Gary
Ambro	Fountain	Myers, John
Ammerman	Fowler	Natcher
Anderson, Ill.	Frenzel	Neal
Applegate	Fuqua	Nichols
Archer	Gammage	Obey
Armstrong	Giaimo	Panetta
Ashbrook	Gibbons	Pettis
Ashley	Ginn	Pickle
Aspin	Glickman	Pike
Badham	Goodling	Poage
Bafalis	Gradison	Preyer
Barnard	Grassley	Pritchard
Baucus	Gudger	Quayle
Bauman	Guyer	Quie
Beard, Tenn.	Hagedorn	Quillen
Bedell	Hall	Railsback
Bennett	Hamilton	Regula
Bevill	Hammer-schmidt	Risenhoover
Biaggi	Hanley	Roberts
Bowen	Harkin	Robinson
Breaux	Hefner	Rogers
Brinkley	Hightower	Rose
Brooks	Hillis	Rostenkowski
Broomfield	Holt	Rousselot
Brown, Ohio	Hyde	Roybal
Broyhill	Ichord	Rudd
Buchanan	Ireland	Runnels
Burgener	Jacobs	Ruppe
Burke, Fla.	Jeffords	Russo
Burleson, Tex.	Jenrette	Santini
Burlison, Mo.	Johnson, Colo.	Sarasin
Butler	Jones, N.C.	Satterfield
Byron	Jones, Okla.	Sawyer
Carter	Jordan	Sebelius
Chappell	Kazen	Shuster
Clausen, Don H.	Kelly	Sikes
Cleveland	Kemp	Skubitz
Cochran	Keys	Slack
Cohen	Kindness	Smith, Iowa
Coleman	Krebs	Smith, Nebr.
Collins, Tex.	Lagomarsino	Snyder
Conable	Latta	Spence
Conte	Leach	St Germain
Corcoran	Lehman	Staggers
Cornwell	Lent	Stangeland
Cotter	Livingston	Stanton
Coughlin	Long, Md.	Steed
Crane	Lott	Steiger
Cunningham	Lujan	Stockman
Daniel, Dan	McClory	Stump
Daniel, R. W.	McCloskey	Symms
de la Garza	McDade	Taylor
Delaney	McEwen	Thone
Dent	McKay	Treen
Derwinski	Madigan	Trible
Devine	Mahon	Udall
Dickinson	Mann	Ullman
Dornan	Marlenee	Waggonner
Duncan, Tenn.	Marriott	Walker
Edwards, Ala.	Martin	Walsh
Edwards, Okla.	Mattox	Wampler
Emery	Mazzoli	Watkins
English	Michel	White
Erlenborn	Milford	Whitehurst
Ertel	Miller, Ohio	Whitley
Evans, Colo.	Minish	Whitten
Evans, Del.	Moffett	Wiggins
Evans, Ga.	Mollohan	Wilson, Bob
Fascell	Montgomery	Wilson, Tex.
Fenwick	Moore	Winn
Findley	Moorhead, Calif.	Wirth
Fish	Moorhead, Pa.	Wolff
Fithian	Mottl	Wright
Flippo	Murphy, Ill.	Wydler
Florio	Murphy, N.Y.	Young, Fla.
Flynt		Zablocki

NOES—175

Addabbo	Flood	Nix
Akaka	Foley	Nolan
Anderson, Calif.	Ford, Mich.	Nowak
Andrews, N.C.	Ford, Tenn.	O'Brien
Andrews, N. Dak.	Fraser	Oakar
Annunzio	Garcia	Oberstar
AuCoin	Gaydos	Ottinger
Baldus	Gephardt	Patten
Beard, R.I.	Gilman	Patterson
Bellenson	Gonzalez	Pattison
Benjamin	Gore	Pease
Bingham	Green	Pepper
Blanchard	Hannaford	Perkins
Blouin	Harrington	Pressler
Boggs	Harris	Price
Boland	Harsha	Pursell
Bonior	Hawkins	Rahall
Bonker	Heckler	Rangel
Brademas	Heftel	Reuss
Breckinridge	Holland	Richmond
Brodhead	Hollenbeck	Rinaldo
Brown, Calif.	Holtzman	Roe
Brown, Mich.	Horton	Roncalio
Burke, Calif.	Howard	Rooney
Burton, John	Hubbard	Rosenthal
Burton, Phillip	Huckaby	Ryan
Caputo	Hughes	Scheuer
Carney	Johnson, Calif.	Schroeder
Carr	Jones, Tenn.	Schulze
Cavanaugh	Kastenmeier	Seiberling
Cederberg	Kildee	Sharp
Chisholm	Kostmayer	Simon
Clay	LaFalce	Skelton
Collins, Ill.	Lederer	Solarz
Conyers	Levitas	Spellman
Corman	Lloyd, Calif.	Stark
Cornell	Long, La.	Steers
D'Amours	Luken	Stokes
Danielson	Lundine	Stratton
Davis	McCormack	Studds
Dellums	McFall	Thompson
Derrick	McHugh	Traxler
Dicks	McKinney	Tucker
Diggs	Maguire	Van Deerlin
Dingell	Markey	Vander Jagt
Dodd	Marks	Vento
Downey	Meeds	Volkmer
Drinan	Metcalfe	Walgren
Duncan, Oreg.	Meyner	Waxman
Early	Mikulski	Weaver
Eckhardt	Mikva	Weiss
Edgar	Mineta	Whalen
Edwards, Calif.	Mitchell, Md.	Wilson, C. H.
Eilberg	Mitchell, N.Y.	Wylie
Evans, Ind.	Moakley	Yates
Fary	Murphy, Pa.	Yatron
Fisher	Murtha	Young, Alaska
	Myers, Michael	Young, Mo.
	Nedzi	Zeferetti

NOT VOTING—27

Abdnor	Kasten	Rhodes
Bolling	Krueger	Rodino
Burke, Mass.	Le Fante	Shipley
Clawson, Del	Leggett	Sisk
Flowers	Lloyd, Tenn.	Teague
Frey	McDonald	Thornton
Goldwater	Mathis	Tsongas
Hansen	Miller, Calif.	Vanik
Jenkins	Moss	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Burke of Massachusetts against.

Mr. McDonald for, with Mr. Rodino against.

Messrs. GONZALEZ, DOWNEY, FORD of Tennessee, and Mrs. HECKLER changed their vote from "aye" to "no."

Mr. LEHMAN changed his vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 43, line 4, strike out "Funds" and insert in lieu thereof "(i) Except as provided in division (ii), funds" and immediately after line 12 insert the following:

"(ii) Notwithstanding division (i) of this subparagraph, the Secretary may, with respect to any State—

"(I) in which the average wage (during the calendar year preceding the beginning of the applicable fiscal year) in employment covered under Federal or State unemployment compensation laws (without regard to any limitation on the amount of wages subject to contribution under such law) exceeds the national average wage in such employment by more than 50 per centum, and

"(II) in which employees of the Government receive allowances pursuant to section 5941 of title 5, United States Code,

waive the maximum which would otherwise apply to wages paid to persons employed in public service positions in such State and establish, in lieu thereof, limitations consistent with the purposes of this Act and with the requirements of programs under this Act in such State.

Mr. YOUNG of Alaska. Mr. Chairman, the amendment I am offering allows the Secretary of Labor to waive the maximum limitation on wages for CETA public service employees in jurisdictions identified in 5 U.S.C. 5941, where the annual average wage covered by unemployment compensation laws exceeds the national average by more than 50 percentum. Alaska is the only State which qualifies under the provisions of this amendment.

For many months now, as this bill was sidered by the Subcommittee on Employment Opportunities and by the Committee on Education and Labor, we have attempted to convince Congress that H.R. 12452 is too restrictive to work effectively in Alaska. At each step of the way, I have been assured that everyone understands that Alaska needs some exemptions because of its unique problems. Chief among them are that Alaska is the only State with double digit unemployment—11.4 percent—and it has the highest wage rates in the entire country. Alaska's average annual wage covered by unemployment insurance is 250 percent of the national average.

But in spite of all the assurances that Alaska's problems are recognized and would be taken care of, nothing has yet been done to provide the flexibility we need to carry out the intent of this Act. So here I am today, down to the wire so to speak, with a solution to the problem that is agreeable to my State and to committee members of both parties. It is certainly not a final solution because all it does is take the problem out of the hands of Congress and put it before the Secretary of Labor for further study. It is assumed that the Secretary will carry out the intent of Congress in determining a fair wage rate for Alaska's public service employees. Unless a waiver is granted, there will be little incentive for Alaska's unemployed persons to make any effort to work in CETA programs since a welfare family of four qualifies for at least $13,500 in benefits—$1,500 more than the highest PSE salary permitted under this bill.

It would be ironic if the State most in need of a strong employment and training program would be unable to effectively participate in the proposed public service employment program. Without the flexibility that could be granted to Alaska by my amendment, it will be extremely difficult for Alaska prime sponsors to operate an effective public service employment program.

I would like to make it very clear that this amendment is not intended to tie any wage adjustment to the cost of living index. Title 5 of the United States Code was cited simply to identify by statute jurisdictions eligible under this waiver. The amendment represents a rational method for dealing with Alaska's excessively high wage rate structure.

I urge my colleagues to adopt my amendment to allow the Secretary of Labor to look at Alaska's situation in more depth and determine a wage limitation consistent with the purposes of the act.

The committee bill recognizes that entry level public service wage rates in a number of high wage areas exceed the current ceiling of $10,000 and therefore allows an adjustment to this ceiling of up to 20 percent. This is insufficient for Alaska, however. No other State or territory experiences as high a wage structure as Alaska. In 1977, for example, the average weekly wage covered by unemployment insurance was $493.51. Compare this to the next highest State, Michigan, where the figure was $247.71 and to the national average which was $203.88. An analysis of entry level public service wage classifications indicates that the lowest entry level classification for a State of Alaska employee pays a statewide average of $12,876 per year while the average entry level wage for State workers is estimated at $17,000. As H.R. 12452 is written, the salary limitations would put a large part of the PSE program in the position of undermining the existing wage rate structure and ignoring the concept of equal pay for equal work.

The intent of CETA is that workers be treated equitably and given the same benefits for performing the same work as other employees of the same employer. As a general rule, CETA workers are to be placed in existing job titles. In order to comply with this intent, the State of Alaska has had to supplement over half—55 percent—of the PSE—titles II and VI—employees in Alaska at an average of over $4,000. Yet the provisions in this reauthorization severely restrict the State's flexibility in supplementing wages. The majority of public service employees in Alaska are currently receiving wages in excess of the limitations imposed by H.R. 12452.

This amendment will accommodate a real need in Alaska and insure that the equal pay for equal work provisions of the act are maintained. The Secretary will be authorized to study the wage structure in Alaska and determine what wage rates are necessary to maintain the integrity of the program. I might also add that H.R. 12452 defines economically disadvantaged in relation to a person whose family income is at or below 70 percent of the BLS lower budget. For Alaska, 70 percent of the lower budget is approximately $12,000. The current provisions in the bill would limit the earnings of PSE participants in Alaska to $12,000, or to a level of earning at or below that considered to be economically disadvantaged. This fact would appear to violate the intent of the act and serve as a disincentive to work if one considers that a welfare family of four can receive more benefits under welfare than they can earn under CETA.

The May 1978 unemployment rate in Alaska was 11.2 percent, which represented a dramatic increase over the 9.4 percent unemployment rate of the previous year. These figures are even more important if one considers that the unemployment rate nationally has decreased during the last 12 months, For the rural areas of Alaska where the structural unemployment problem is most severe, there are pockets of unemployment as high as 50 percent. Yet it is in these very same areas where costs-of-living and wage rates are highest in the State. Allowing the Secretary to use his discretion to waive wage limitations is the most appropriate way for Congress to deal with the unique set of circumstances under which Alaska's prime sponsors must operate.

Mr. Chairman, as I said, I talked with the chairman of the subcommittee and the chairman of the full committee and also with the ranking member on the minority side. They have indicated they would accept my amendment.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, the gentleman from Alaska (Mr. YOUNG) is exactly right. We have discussed his amendment, and we are willing to accept it.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, we have discussed the amendment with the gentleman, and certainly we do support it on this side.

Mr. YOUNG of Alaska. Mr. Chairman, I thank both gentlemen.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. The Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JEFFORDS: Page 38, strike out line 1 and all that follows through line 8 and insert in lieu thereof the following:

"(3) For the fiscal year ending September 30, 1979, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,000,000,000 for carrying out the provisions of title II;

"(B) $2,250,000,000 for carrying out the provisions of title IV;

"(C) $3,200,000,000 for carrying out the provisions of title VI, except that (i) if the rate of unemployment projected by the Secretary pursuant to section 602 exceeds 6.5 per centum, such authorization shall be such sums as may be necessary; or (ii) if the rate of unemployment is such that the number of jobs projected by the Secretary under section 602 requires less than such authoriza-

tion, then such authorization shall be reduced to take into account such projection by the Secretary;

"(D) $500,000,000 for carrying out the provisions of title VII; and

"(E) $267,000,000 for carrying out the provisions of title VIII.

"(4) For the fiscal year ending September 30, 1980, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,290,000,000 for carrying out the provisions of title II;

"(B) $2,400,000,000 for carrying out the provisions of title IV;

"(C) $3,200,000,000 for carrying out the provisions of title VI, except as provided for in paragraph (3)(C);

"(D) $525,000,000 for carrying out the provisions of title VII; and

"(E) $290,000,000 for carrying out the provisions of title VIII.

"(5) For the fiscal year ending September 30, 1981, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,583,000,000 for carrying out the provisions of title II; and

"(B) $3,200,000,000 for carrying out the provisions of title VI, except as provided for in paragraph (3)(C).

"(6) For the fiscal year ending September 30, 1982, there are authorized to be appropriated for carrying out the provisions of this Act an amount not to exceed—

"(A) $4,876,000,000 for carrying out the provisions of title II; and

"(B) $3,200,000,000 for carrying out the provisions of title VI, except as provided for in paragraph (3)(C)."

Page 37, line 21, strike out all after "Except as provided in" and insert in lieu thereof "paragraphs (3) through (6), there are".

Mr. JEFFORDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD. It is substantially the same as the amendment previously printed in the RECORD, and I will explain it.

The CHAIRMAN. Is there objection to the request of the gentleman from Vermont?

There was no objection.

Mr. JEFFORDS. Mr. Chairman, this amendment attempts to reorient our priorities somewhat within the funding parameters of the bill. What it says is that our biggest problem in unemployment is with youth unemployment, and that is where we ought to restore balance to the program by rechanneling money into programs which help young people.

The controversy and the problems have been in the area of public service employment. That is where the problems have arisen, and that is where the programs have become so large, so fast, that the program has almost gone out of control.

Mr. Chairman, what this amendment would do would be to take approximately $1 billion out of title VI and take a half of that, put approximately $400 million into youth unemployment programs and $100 million into the new title VII program, private sector opportunities for the economically disadvantaged.

It would cap title VI, which is public service employment, at $3.2 billion, except—and this is an important exception—that if unemployment does reach a critical level, that is, if the Secretary projects that unemployment will rise above 6.5 percent, then the Committee on Appropriations could appropriate such sums as were necessary under the guidelines established in the bill.

Second, if unemployment should go down to such an extent that less than $3.2 billion would be required for this title, then that lesser sum should be provided.

As I said, the real problem with unemployment, from all statistics, is with young people. Out of the 6 million people who are unemployed in this country right now, 3 million, or 50 percent, of those people are 24 or younger. Yet we only put about 20 percent of our funding into youth unemployment.

Moreover, Mr. Chairman, we can get more jobs for the dollar. Because of different costs per person put to work for youth we can almost end up with the same number of people getting employment. We still can save over $500 million. The bill also recognizes that we have a serious problem with transition from public service employment into private sector employment. Experience has shown us that the transition level in our youth unemployment programs is better than it is under title VI. Also the bill would increase the funding which will go into the experimental programs under title VII by $100 million to further assist us to find better ways for the transition of the public into the private sector.

Also from an inflationary point of view, as pointed out in the committee report, this will take money from the inflationary programs in title VI and put it into the noninflationary programs of youth employment in the other programs because we have different economic principles involved and, thus, we will also be reducing inflationary pressures by this amendment.

In total what we will be doing here, as I see it, is we will be attempting to cut inflation, cut waste, and help our young people, who have the most serious problem with unemployment. We will help them find employment that they badly need at this time, at a time when statistics show that more young people are coming into the youth market than at any time in history.

I urge the Members to support the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. I thank the gentleman for yielding. I should like to congratulate the gentleman in the well for introducing this amendment. I think that the statistics that he has given speak for themselves when there are 3 million young people between 16 and 24 who cannot find work. This is the problem. With respect to black teenagers, I am told that the unemployment rate is 2½ times that for white teenagers, something like 40 percent in some of the metropolitan areas of this country.

I think the gentleman's amendment would have the effect of prioritizing this program in a way so we would be addressing the greatest need, which is youth unemployment. I congratulate the gentleman on his amendment. I hope it is adopted.

Mr. JEFFORDS. I thank the gentleman. I would also point out relative to that, that the recent rise in unemployment was due almost entirely to youth unemployment. Youth unemployment went from 14.2 to 16.3 percent, which almost totally accounts for the recent increases we had this past month in unemployment statistics. This is the area of need, and this is the area where we should put our money.

Mr. HAWKINS. Mr. Chairman, I rise to oppose the amendment. Mr. Chairman, may I place this amendment in its proper perspective. It sounds very good, and I think anyone not paying too much attention would be misled by what has been said. It is true that a great number of young people are unemployed, but to say that we should shift the attention from the parents to the young people and put them to work and put the parents out of jobs accomplishes absolutely nothing. In a sense this is what this amendment is going to do. It says that it is shifting the money from one title to another. It pretends to shift it to the youth title, title IV.

We have had testimony before the committee from the Secretary of Labor that they already have adequate funding in that title, all they can reasonably use in this next fiscal year. So to say that we are going to give them more money when they have already testified that they have adequate funding in that title is, I think, simply misleading the House into believing that they are shifting this money from an unpopular program to something which is popular.

The other shift is supposed to occur to the private sector, and that is title VII.

We have already earmarked $400 million for that title.

In the testimony of the National Alliance of Business and the other business interests of this country, as well as the Labor Department, it is a pilot program. It is to demonstrate in a 2-year period, and there is only a 2-year authorization of this program, what can be done. It is going to take time to tool up for that program.

Now, if they wish additional money, I call attention of the Membership that under section 609 of the bill on page 208, it provides that the money available in title VI can be used, too, in title VII. In other words, if there is a demonstration that the business groups of this country under title VII can demonstrate the need for additional money, that money is already available; so this amendment will certainly be useless.

Mr. Chairman, it adds up to this. The effect of the amendment is merely to knock out of the program 100,000 jobs next year. That is the practical effect of this amendment. That is what it is designed to do.

Now, if you want to do that and create a disastrous situation in many parts of the country, with an unemployment rate which is likely to rise and certainly did rise this month, then that is what this amendment would do.

I urge that we look thoroughly

through this and not be misled that by this amendment you are helping the youth of this country. I think we all want to do that, but this will not do that. It is simply sacrificing the parents of these youths, who if they had jobs many of these young people could go back to school, rather than seeking employment, and that would be in many instances if the parents had decent jobs. I say that would be a disastrous situation.

Mr. Chairman, I hope we reject this amendment.

The CHAIRMAN. The time of the gentleman from California (Mr. HAWKINS) has expired.

(At the request of Mr. PERKINS, and by unanimous consent, Mr. HAWKINS was allowed to proceed for 2 additional minutes.)

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. HAWKINS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I think the contention of the gentleman from Vermont is absolutely erroneous; but I would like to ask the gentleman from California this question. Under title VI, where the gentleman proposes to cut out 100,000 slots and claims he is saving a billion dollars by transferring it to title VII and other titles, do we not have at the present time 600,000 slots under title VI, and we are only proposing, before the Jeffords amendment, that we have 490,000 slots under title VI in this bill?

Mr. HAWKINS. That is correct. It is 600,000 in the existing law and the committee bill entitles them to 500,000.

Mr. PERKINS. And the unemployment rate has just risen again to 6.2 percent?

Mr. HAWKINS. That is correct, so we already adjusted for the gentleman's argument that this is expanding, rather than being made more stringent, and we have already transferred those to the other titles the gentleman speaks of.

Mr. PERKINS. Mr. Chairman, if the gentleman will yield further, all of the funds that the administration requested for title IV and title VII have been put in there, have they not?

Mr. HAWKINS. That is correct; there has been no testimony in any of the hearings in support of this type of program.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I am informed, and I ask the gentleman from California if it is not correct, that even with the amendment proposed by the gentleman from Vermont (Mr. JEFFORDS) that it would be still there. There will be under title II no less than $2 billion that would be available for public services employment. About $3.2 billion will be available for public service employment under title VI, and with the adoption a few minutes ago of the Obey amendment, this means there would be a total of about 666,000 public service employment jobs that would be available under these two titles.

Mr. HAWKINS. Mr. Chairman, may I explain it this way. That is an authorized limit. It does not mean you would have that amount available in title II. That is the largest amount that could be made available.

Mr. ANDERSON of Illinois. Of course, we have to get that funded. We understand that.

Mr. HAWKINS. The amount would be set through the appropriation process and if the appropriating committees would determine they needed less, they would obviously appropriate less. We only say that is the top limit. We have limited, rather than authorized that amount.

The CHAIRMAN. The time of the gentleman from California (Mr. HAWKINS) has expired.

(On request of Mr. ANDERSON of Illinois, and by unanimous consent, Mr. HAWKINS was allowed to proceed for 1 additional minute.)

Mr. ANDERSON of Illinois. Mr. Chairman, if the gentleman will yield further, I accept everything that the gentleman from California (Mr. HAWKINS) has said, but the fact remains that under the authorizations provided for in these two titles there would be that many public service jobs available.

Mr. HAWKINS. Yes, if the Committee on Appropriations agreed to appropriate the money. These are only guidelines; they are not mandatory requirements. We have not actually appropriated anything. We have set these as maximum limits. If the Committee on Appropriations agreed with us and it was within the budget resolution, obviously, the gentleman would be correct, but I say that is still subject to the will of this House.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield further?

Mr. HAWKINS. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Chairman, I have just been handed some figures that indicate that back in June of 1975, which was, I think the gentleman would agree, at a time when we were just coming out of the depths of the 1974–75 recession in the economy, we had at that time 277,900 public service employment jobs.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I, as one Member of this House, will not take second place to any other Member in this House in terms of fighting for youth employment. Particularly, for black youth, the unemployment figures are absolutely horrendous.

Those Members who serve on the Committee on the Budget with me and those who have been around the House for some time have known I have fought as hard as I could to put our young people to work.

Very often, however, the best-intentioned legislation can have disastrous results. If we are looking just at the matter of putting youth back to work, if we do that in a vacuum, that is a mistake.

In my city of Baltimore, we were lucky enough to be chosen as one of the cities to participate in the youth entitlement program where youth can work and go to school.

The sad fact of the matter is that the children are working and the parents are not. I would implore my colleagues to look at what that does to family life when the father comes to the son and says, "Let me borrow 2 bucks from you so I can go out and look for work." Do we not see the kind of damage we would in that type of situation?

In addition to that, the amendment is totally diastrous in terms of black unemployment. The black male rate of unemployment is still astronomically high. I think it is around 9.5, almost 10 percent. We cannot just write off that problem and say we are going to focus all our attention on youth.

I argue against the amendment primarily because of the damage it does to the stability of family life. I argue against the amendment because what we are doing, with special reference to the black community, is pitting one group of unemployed against another. I argue against the amendment, despite the fact it is well-intentioned, simply because it will not in my area benefit the groups that need it the most. It would benefit only a portion of it, not the total.

Mr. Chairman, I hope we vote down the amendment.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I think the gentleman will agree with me, though, that the rate of unemployed black youth is about 37 percent. At least, that is the statistical information I have. The gentleman indicated that the rate of black male unemployed is about 9 percent. So we have a rate of unemployment that is almost 4 times higher among black youth than among black adults.

Mr. MITCHELL of Maryland. I agree.

Mr. JEFFORDS. Yet the program is tilted in the other direction.

Mr. MITCHELL of Maryland. Mr. Chairman, I agree with the gentleman's data, but let me lay that data against a real living family. That is my argument. My argument is that we should not take the whole statistics and say, "OK, son, you to to work, but Dad you can't work."

It seems to me there is another danger to this amendment. What in fact we are doing by this is writing off a part of the structurally unemployed that has been in the black community since the end of World War II. Once again, by this amendment we are discounting the importance of trying to move those people back into the job market, and again we are saying, "We will start with another generation, but with you, we write you off."

Mr. Chairman, this is a bad amendment, and I urge its defeat.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, if I may, I will just suggest another answer to the question. Yes, the unemployment rate among black youth in this country is somewhere around 40 percent, but we are talking about approximately 400,000 youths. When we look at the number of black male and female workers out of work, we see that that number far exceeds 400,000.

So if we attempt to compare the 40 percent with the 9 percent and try to find where the emphasis is, we should first look at the numbers.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. Mr. Chairman, I will recapture my time.

I want to make one other statement. I want to make it very clear to the distinguished gentleman that I am not denigrating his effort. But so often in this House we think we are doing the right thing, not we are really creating additional problems.

I want to stress again and again that it is not simply a matter of putting a young person to work. You have to weigh that alongside the stability of the family, alongside the role model of the father in that family, you have to weigh that alongside the whole area of factors that enter into a sense of security in work for my community.

Mr. Chairman, I urge that the Committee defeat the amendment.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think this may be one of the most, if not the most, important amendments that we have before us tonight, and I hope that other Members who feel the importance of it might express themselves.

Mr. Chairman, I have always been a supporter of the CETA program, and I think it affords a good opportunity for local communities. I have been as unhappy as many people have been about the abuses that occurred across the country, and I want to do something about it. But I think, basically, the Federal Government is saying we are going to provide the training and we are looking to the cities and the counties of the State to say, "You be the deliverer of these jobs and you give the training."

Mr. Chairman, we have two types of programs now, the structurally unemployed and the countercyclical. I think the probable goals of the two have been somewhat in conflict. I do not think under the present operation of the bill we give local sponsors enough mix to allow a better balance of work and training.

What the gentleman from Maryland has said may be true in Baltimore, but it is not true in my part of the country. It seems to me that what the gentleman from Vermont (Mr. JEFFORDS) is doing is trying to put emphasis on youth employment and private initiative. It seems to me that too great an emphasis has been on public service employment, and that is what we need to correct. I do not think we are doing it enough by this bill.

Mr. Chairman, public service employment is supposed to be a countercyclical component of CETA. And if it is a countercyclical program, then it ought to diminish as the economy improves.

In my part of the country the economy is better than it is in Baltimore or in other parts of the country. And yet the emphasis is still on public service employment, not on the training. It seems to me that if we are going to get a proper mix, we ought to be willing to put a cap on PSE.

I do not think the cap destroys or endangers public service employment. There is a lot of money in it still for cities like Baltimore and other areas. It does not give a proper opportunity for other parts of the country to give our youth the best mix for training and experience for work. If we are going to expect our cities to be the deliverer of these jobs—and they ought to be—then we ought to put the emphasis more on training and more away from public service employment.

If it is true, as the gentleman from Illinois (Mr. ANDERSON) pointed out, that there are $2 billion still left in the public service, or at least the authorization is there, I would say that we are really not hurting public service employment that much.

What the gentleman from Vermont (Mr. JEFFORDS) attempts to do is take $1 billion and put one-half of that over into youth training and the private sector.

What we need to do is get the people trained so that they go into private employment and not stay on public service employment.

So it seems to me that the amendment does not hurt the bill. I do not think the cap hurts the PSE program that much. I would think it is an amendment that we can support, and it really goes to the heart of the CETA program, that is, having a proper mix in the entire program.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

Mr. Chairman, would not the gentleman agree with me that it is disastrous to write off a group of people?

Mr. PICKLE. What is the writing off?

Mr. MITCHELL of Maryland. Let me just try to point out how it is. I am not talking about just Baltimore. I am talking about every major metropolitan area where we have heavy concentrations of minorities, blacks, and others. We have the problem of high unemployment. When we start shifting in terms of priorities, then we are writing off a group of adults who are unemployed. That is a mistake we made since 1945 and 1946, since the end of World War II. That is one of the reasons why we have structurally unemployed in this country.

Mr. PICKLE. I submit to the gentleman that if we continue on our present course, we are going to then be giving continued emphasis on public service employment. I assume there are ample funds to take care of the situation the gentleman mentions. I hope that he would feel that way.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. DELLUMS and by unanimous consent, Mr. PICKLE was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I will be happy to yield.

Mr. DELLUMS. Mr. Chairman, I respect the kindness and the rationality of the gentleman's arguments, but I would like to ask two questions. Is the gentleman aware of the fact that this committee received testimony from the administration that indicated that as of this very moment, they are having difficulty attempting to spend the resources that they presently have, and the administration indicated in the testimony before this committee that they had more than enough money to spend in the next fiscal year in the youth program category?

Question two: Is the gentleman aware of the fact that moneys can be used now from title VI for certain title VII programs if they are experimental or demonstration in nature?

My question to the gentleman is, if he answers both those questions, why make this effort to put money into a program where the administration cannot spend the money they already have, and there are ample resources in the private sector?

Why are we putting money in there? I ask this in a very rational, logical, and kind manner.

Mr. PICKLE. I am mindful that the administration has stated that, by listening to debate earlier, that they had ample funds to employ youth. I had not heard that until just a few minutes ago. I am mindful of the administration position. I speak, though, from a part of the country that is not looking at the program just strictly as Baltimore or San Francisco, but also from the Southwest. I submit to the gentleman that I think it is eminently fair and important that we put emphasis on training, including youth.

If we were doing damage to the older employees who were structurally unemployed, I would say that would be unfair, but I think there are ample funds in there for those kinds of programs. I cannot understand why there would be this much objection to just shifting over one-half the funds into the private sector.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from California.

Mr. HAWKINS. I wonder if the gentleman is aware of the fact that the title II program that he is speaking of—the $2 billion, I think he referred to—that under title II, which is the structurally unemployed title, that training is mandated and is required of every prime sponsor, and that it is spelled out? I wonder if the gentleman is aware of the

fact that under the other title, title VI, the so-called countercyclical title—and we have separated those two for the first time so that we can deal with countercyclical as those programs should be dealt with, we have provided that assuming the unemployment rate goes down, the number of public service jobs must go down.

I wonder if the gentleman is aware of that, because he indicated it should phase down as things get better, and we hope that they will.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(By unanimous consent Mr. PICKLE was allowed to proceed for 1 additional minute.)

Mr. PICKLE. I am advised that title II does have training. Title II, though, has it for the structurally unemployed. We have got training also in title VI. I am saying to the gentleman that there are funds in it for the structurally unemployed, but when we get to the countercyclical, that is where I think we put too much emphasis on the public service employment and not enough on the training.

That is what I think that amendment would accomplish.

Mr. HAWKINS. That is the purpose of the countercyclical programs under title VI, and that is what it was designed for, to take care of the recession which we had experienced and still have. After 3 months of so-called recovery, we still have almost 10 million persons unemployed. I think the gentleman would agree that certainly there is still a need for a countercyclical program such as we have in title VI. When times get better, and we hope they do, the phasing down of it is automatically taken care of.

The CHAIRMAN. The time of the gentleman from Texas (Mr. PICKLE) has expired.

(On request of Mr. SARASIN, and by unanimous consent, Mr. PICKLE was allowed to proceed for 2 additional minutes.)

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, I would like to go back to a statement made earlier, supposedly on the administration's claim that they have more than enough money to take care of the youth program. My understanding was their statement was they had never gotten their act together quickly enough, so they had more money than they spent, but certainly they did not have more than enough to meet the problem of the Nation's youth. I did not believe they took that position at all.

Mr. PICKLE. I cannot believe the administration said: "We have ample money to do that. We do not need more funds for youth training." I cannot quite believe that. I cannot debate that because I am not familiar with the situation.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. ANDERSON of Illinois. Mr. Chairman, I am absolutely confident that there is not one Member of this body who does not have his or her favorite CETA "horror story." Some of these woeful tales, like those described in the August 1978 issue of Reader's Digest, are barely printable. But my favorite is the 30-foot high mountain of steel-reinforced concrete for aspiring rock climbers in Salem, Oreg. With all due respect to those who conceived and executed the project, I would suggest that there are more effective ways to spend the Federal manpower dollar. Yet Salem's new mountain is a molehill compared to CETA scandals we have read about lately: To wit, charges of CETA funds finding their way into political patronage jobs in Baltimore, the Westchester County (N.Y.) district attorney's description of "pervasive corruption" of their job-relief programs, and—right here in the Nation's Capital under the very nose of the Government which created the CETA program—"the extensive (in the words of a recent Washington Star article) and sometimes illegal use of Federal job funds to create one of the largest city council staffs in the country," the New York Times recently summed up this farrago of good intentions and bad management thusly:

> Just as CETA workers were becoming part of the fabric of almost every community, however, there were reports of improper hiring, nepotism, kickbacks, bogus jobs and unsupervised work in a number of cities . . . (May 14, 1978)

These reports notwithstanding, I am encouraged by the action taken by the committee to tighten up on the fraud, waste, and mismanagement that plague our Federal employment and training program. The new law provides for stringent criminal and civil sanctions against program abuse by prime sponsors and subcontractors, a new Office of Audit, Investigation and Compliance to zero in on charges of mismanagement, a new Office of Management Assistance to help prime sponsors improve the effectiveness of their programs, and new restrictions to prevent substitution and abuse in public service employment. I am hopeful that these four basic reforms will help us get the "biggest bang for our CETA buck" and that they will ultimately address the concerns outlined earlier this year in a minority staff report of the House Budget Committee which found that many State and local governments use Federal funds for jobs they would pay for anyway—that CETA helps the most employable at the expense of those most in need of training—and that CETA does pitifully little to help those at the bottom of the employment ladder to find permanent, private sector jobs.

Yet I would suggest to my distinguished colleagues that neither Salem's manmade mountain nor the truly horrific stories of abuse and scandal typify the veritable outrage that is, to me, synonymous with CETA. I am as distressed as the next person over reports of money misspent—there is absolutely no excuse for some of the stories we have heard. Indeed, they beggar the imagination! But as misguided as some of CETA's projects are, as patently dishonest as others may be, the real scandal of the Federal Government's employment and training effort is not how the $25½ billion has been spent since CETA's inception in 1973, but how it has not been spent. We are not just wasting the taxpayer's dollar—we are wasting a precious national resource that grows less and less recoverable with each passing day. I am speaking about the young people of our Nation.

Ask the youth of this Nation, Is the Government's jobs-relief program "comprehensive"?

Ask them, Does it mean "employment" for them?

Ask them, Does it mean "training" for them?

The answer in each case is for the most part a lamentable, heart-rending "No." The real scandal of CETA is not fraud, abuse, or mismanagement. It is youth unemployment.

In this respect, I am reminded of the remarks of a colleague of ours (Mr. DELLUMS) whose concern and expertise in the area of youth unemployment is well known in this body:

> The challenge of youth unemployment is probably one of the most difficult questions of economic policy we face today. It seems unresponsive to traditional economic policy. It does not have an organized and politically sophisticated interest group pressing for solutions: on the contrary, it is a source of alienation and hopelessness. It is a social time bomb for the future, and an economic waste today.

Since Congressman DELLUMS made that observation in the March 30, 1977 CONGRESSIONAL RECORD, the overall unemployment rate for all workers has dropped from 7.4 percent to 6.2 percent. Yet during the same time period, teenage unemployment has remained scandalously high: It now stands at 16.3 percent—2.4 percentage points below the March 1977 high of 18.7 percent. As jarring as these figures are, they tell only part of the story. While youth unemployment is shamefully high, particular categories of American young people bear the brunt of our economy's indifference. In particular, I am speaking of our black youth and other minorities. The July 1978 unemployment rate for black youngsters is a mind-boggling 37 percent. While the overall youth unemployment rate has dropped significantly since the 1975 recession, the unemployment rate for nonwhite teenagers has actually risen.

As agonizing as it is for us to contemplate, the severest aspects of the youth unemployment problem in this Nation break down along racial lines. According to a recent report of the Congressional Budget Office, if you were a white high school graduate in 1976, your chances of being unemployed would have been 1 in 8. If your skin was black, you automatically doubled your chances of not being able to find a job. If you were black and lived in the central area of a large city, your chances of being jobless would mount to 2 in 5. And what is worse, since 1976, the outlook has not improved one whit—instead, it has deteriorated.

It is not just statistics that document our miserable failure. Listen to the assessments of some of the prime sponsors of public service employment programs as cited earlier this year in the RECORD by my colleague from New York (Mr. CONABLE):

Baltimore: While there has been limited success in bringing about the transition to unsubsidized employment, the balance of those individuals unable successfully to meet the transition is great and troubling to economic planners.

Detroit: The public service employment programs as currently enacted are ineffective in resolving unemployment problems.

Kansas City: We do not feel these programs are effective in attacking unemployment. The long-term unemployed need training, not just a job.

In my own district, my home town of Rockford has had equally unsatisfactory experience with CETA's public service employment programs. Indeed, I am told by Rockford's director of comprehensive employment training that the city cannot effectively use all of the "pse" funds allocated to it and would greatly appreciate the flexibility of devoting some of these funds to youth employment and training.

We have an opportunity today to address what I see as the real scandal of CETA by focusing more of the Federal Government's jobs-relief activity on our young people, and it is for that reason that I rise in strong support of the amendment offered by the gentleman from Vermont.

As the gentleman from Texas reminded us a moment ago, we have got to look in greater measure to the private sector if we are going to do something about this problem. One of the benefits from the amendment of the gentleman from Vermont is under a reallocation of the funds that it would provide $1 million which would go to the new title VII program, the so-called private sector initiative program. I got, and perhaps the Members got the same letter a few days ago from the National Alliance of Businessmen. Let me quote from that letter:

The business community in general has had limited participation in CETA. Last year, for example, only $147 million was spent with private industry out of a total appropriation in excess of $8 billion. That is incredibly low when you consider that 5 out of 6 jobs in our economy are in the private sector. The private sector support represents the best hope for addressing the structural problem that CETA was originally set up to solve.

That is why I would plead with this House this evening to consider the amendment that has been offered by the gentleman from Vermont and to vote for that amendment because I think it is the last best hope we have of really doing something meaningful about this program of youth unemployment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to my friend, the gentleman from California, whose name I mentioned a moment ago.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman for yielding.

I also thank the gentleman for repeating my remarks. I meant them then and I mean them now.

The gentleman from Connecticut (Mr. SARASIN) is precisely correct. They have not been able to get their act together and spend the money they presently have.

My point is this: It defies logic to put $400 million into a program where they are not capable at this point of even putting in place the programs they already have funded.

We certainly could use this money in the youth category, because they are geared up to do it.

I am not suggesting in any way that we have addressed in this body the significant needs of the unemployment of our youth in this country, because we are too busy building submarines and playing war games.

My point is that the present administration is not geared up enough so that they can fund the program, so why push more money into a program where they cannot spend it, and, put it into a program where it can be spent and where there are young people who are desperately needing the money in a program that can be funded? That is the question I raise.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, let me point out that when we are talking about the administration's inability to spend funds on the Youth Demonstration Act, that is a program to provide on a pilot basis a job program for young people but they did not get it together quickly enough, not that there are not needy youth in the country who need to be addressed.

If you want to look at a program that is not working just look at the public service employment because the transition rate, your rate of moving from the public service employment program into the real world is about 3 percent and yet billions of dollars are being spent. So, if there is a failure somewhere it is not in the youth program. So let us try to improve those. Let us try to deal with the young people who are unemployed and keep the young people from becoming tomorrow's adult unemployed. Let us deal with that area with greater emphasis than we have in the past.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. ANDERSON of Illinois was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I want to thank the gentleman from Illinois, Mr. ANDERSON, for yielding.

Mr. Chairman, I think this colloquy is important. The gentleman from Connecticut made the comment a few minutes ago, that as I understood it, that the administration had not "gotten their act together." If they have not gotten their act together enough to spend this additional $400 million, that may be one thing, but the gentleman did not respond to my question.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me say to the gentleman from California (Mr. DELLUMS) that the program is still ongoing, the pilot projects are still being conducted and certainly those dollars will be in a position to be spent because we are talking about the next fiscal year, yes, I think they will be, without any problem.

Mr. DELLUMS. That is just speculation.

Mr. SARASIN. And if they are not able to it is still a better investment.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I would like to point out that there is still $5.2 billion plus in this bill for public service employment. Almost half the bill is still going in that area. All we are doing is cutting $1 billion out of that area and we will still have 660,000 public service jobs. We add probably an equal amount of jobs to the other programs where money is shifted.

● Mr. Chairman, let me describe again how this amendment to the CETA bill works. First, let me say that the net effect is to create more jobs than were projected by the committee for the original bill, service many more people, and yet spend one-half billion less dollars. One billion dollars will be cut from the title VI public service employment (PSE) program, which the committee proposed funding at $4.2 billion for fiscal year 1979. This ceiling of $3.2 billion will be in effect for title VI unless the unemployment rate becomes critically high, or low enough to require less public service employment expenditures. If unemployment is projected by the Secretary of Labor—pursuant to section 602—to be greater than 6.5 percent, then the $3.2 billion ceiling would be lifted, and "such sums as are necessary" would be in effect.

On the other hand, if unemployment decreases according to the administration's projections to a level which would not require $3.2 billion to fund public service employment—pursuant to section 601—then the authorization will be reduced to take into account the Secretary's projection.

The 6.5 percent figure was picked as it generally represents the point at which unemployment is considered critical. For instance the 6.5 percent critical unemployment figure can also be found in the funding allocation formulas in both titles II and VI in the "areas of substantial unemployment" (ASU) factor.

It should also be pointed out that in addition to the $3.2 billion in title VI for PSE after the amendment, there is

an additional $2 billion for PSE in title II, for a total of $5.2 billion.

Of the $1 billion which is cut from title VI public service employment, $500 million will be directed into youth and private sector programs in the following proportions: $350 million to title IV youth programs, $100 million to title VII private sector opportunities for the economically disadvantaged programs, and $50 million into the title VIII youth program.

The effect of this funding shift will be an emphasis on the programs which have better transition rates, serve our nation's youth, and are the most targeted on the economically disadvantaged. It will reduce funds for public service employment, which is too big, too wasteful, too inflationary—and has an extremely poor transition rate. It is the area of the bill in which most of the fraud and abuse takes place.

Let us take a look at the jobs impact of my amendment. The committee requested funding for 725,000 public service employment slots for fiscal year 1979. Under my amendment—taking into consideration the effect of the Obey amendment to hold the cost of the average public service employment salary for next year to $7,000—we will create 642,451 PSE jobs. This is a net reduction of 82,549 PSE jobs. However, by channeling $500 million into titles IV, VII, and VIII, we will create 110,061 new jobs. Overall, then, we have increased the number of job slots in the bill by 27,512. If we look at the number of participants who could be served under the lost PSE jobs compared with the amount who can be served by the new distribution of the $500 million, those figures are 158,748 participants, and 349,162 participants. In other words, we can serve over 190,000 more people by distributing the money into these programs rather than PSE.

Again, I would like to mention that this job increase is coupled with an actual cut in overall expenditures of half a billion dollars.

In order to calculate the number of new youth jobs in title IV, the assumption was made that the $350 million would be distributed in the same proportion as exists in present expenditures. This assumption was made to reduce any subjective approach to the division of funds, and to arrive at a more realistic estimate.

However, the Department of Labor, in implementing this change, may be advised that certain factors should be taken into consideration when this $350 million is distributed throughout the five programs in title IV. The programs which target the economically disadvantaged and transition the most participants into unsubsidized employment should receive a higher percentage of the money available by this funding shift. I call your attention to the following analysis and table from an August 1978 Congressional Budget Office study of CETA—background paper: CETA reauthorization issues, page 38, 41–43:

Summer Youth Program. The eligibility rules for the Summer Youth Program appear relatively well targeted in relation to the characteristics of youth with labor-market difficulties. In fact, the characteristics of participants served during the last quarter of fiscal year 1976 are more in line with labor-market problems than those of the eligible population, with the exception of those from families receiving cash assistance benefits.[7]

In many ways, the characteristics of program eligibles and participants suggest that the Summer Youth Program is operated to reduce the "riot potential" in large cities. Jobs are generally filled by males who are currently attending high school (Table 10). Females are underserved relative to their proportion in the eligible population. 33.8 percent of the 7.5 million eligibles in fiscal year 1976 were nonwhite, but 49 percent of program participants were nonwhite. While 14 percent of those eligible for jobs were unemployed, about 41 percent of program participants had been unemployed prior to entry.[8] More than 70 percent of program eligibles had not completed high school compared with 83 percent of participants.

Recipiency rates for cash assistance benefits differed substantially between eligibles and participants, except for the Food Stamp Program. While 34 percent of eligibles were AFDC recipients, only 25 percent of participants were. Thirteen percent of eligibles were from SSI recipient families compared with 6 percent of participants. Nearly equal proportions of eligibles and participants were food stamp recipients.

Other Youth Programs. The characteristics of those eligible for the various other youth programs differ widely as a result of eligibility rules (Table 11). Disadvantaged youths are most prevalent in the populations eligible for the Summer Youth Program, the youth entitlement, program, and the Job Corps. Eligible populations for the Youth Community Conservation and Improvement Projects (YCCIP), Youth Employment and Training Program (YETP), and Young Adult Conservation Corps (YACC) programs are less numerous and have higher family incomes.

The racial composition of the eligibles for all youth programs varies from two-thirds to three-fourths white. Because of varying age restrictions, there are large differences among the programs in the proportion of eligibles who have not completed high school. Fewer than 30 percent of Summer Youth Program eligibles, who must be 14–21 years old and economically disadvantaged, have completed a high school education. On the other hand, about half of the youths eligible for Youth Incentive Entitlement Pilot Projects (YIEPP) and the Youth Employment and Training Program have finished at least 12 years of school.

The incidence of cash assistance recipients is considerably higher in those programs (for example, the Summer Youth Program) that base eligibility in part on being economically disadvantaged. In the Youth Community Conservation and Improvement Projects (YCCIP), for which eligibles need only be 16–19 years old and unemployed, fewer than one in five eligibles receives cash welfare benefits. The effect of different eligibility is large variation across programs in the number of eligibles; more than 8 million youths would have been eligible for the youth entitlement program (YIEPP).

Different eligibility rules also result in considerable variation in the family income of eligibles across the various youth programs (Table 12). While less than 2 percent of eligibles for the Summer Youth Program, Job Corps, and YIEPP have family incomes of $15,000 or more, 37 percent of YETP and YACC eligibles and 41 percent of YCCIP eligibles do. The characteristics of eligibles for YETP, YACC, and YCCIP make skimming for the best qualified candidates more feasible than in the other three programs. And while it is true that youths must be unemployed to be eligible for YETP and YACC, the characteristics of those eligible for these programs and YCCIP are not consistent with those of youths with labor-market difficulties.

Although youths eligible under the Summer Youth Program, Job Corps and YIEPP account for 71 percent of those eligible for all CETA youth programs, the President's proposed fiscal year 1979 budget would allocate only 55 percent of youth program funds to these activities.[9]

[7] The conclusions also hold relative to the population eligible for the program before the changes in regulations that occurred during fiscal year 1976. The change in definition of economically disadvantaged increased the eligible population by 1.1 million youths.

[8] To the extent that the Summer Youth Program serves in-school youths, the March unemployment rate of program eligibles would be expected to be lower than that prevailing during the summer months.

[9] Unpublished data, U.S. Department of Labor, Office of Administration and Management, Budget Division.

TABLE 11.—ELIGIBLES FOR CURRENT YOUTH PROGRAMS: PERCENT DISTRIBUTION, 1975

Characteristics	Summer Youth	Job Corps	YIEPP[1]	YCCIP[2]	YETP[3]	YACC[4]
White	66.1	66.9	69.5	74.4	73.9	74.4
Male	30.3	29.9	31.5	38.1	38.0	38.9
Female	35.8	37.0	37.9	36.3	36.0	35.4
Nonwhite	33.8	33.1	30.5	25.6	26.0	25.6
Male	15.7	15.1	13.1	13.2	13.2	12.5
Female	18.1	18.0	17.4	12.4	12.8	13.1
Less than high school graduate	71.1	60.4	50.3	64.8	52.1	46.7
In labor force	44.3	54.4	58.4	100.0	100.0	100.0
Employed	30.4	37.5	42.1	----------	6.3	----------
Unemployed	13.9	17.0	16.4	100.0	93.7	100.0
Age:						
14 to 15	27.1	----------	----------	----------	----------	----------
16 to 19	50.5	69.2	45.8	100.0	67.8	54.3
20 and over[5]	22.4	30.8	54.2	----------	32.2	45.7
Primary earner	12.0	16.1	26.7	3.2	7.5	11.1
Cash assistance:						
AFDC	34.1	32.2	29.0	14.4	14.3	12.7
SSI	12.7	12.0	10.8	4.7	5.0	4.5
Food stamps	30.0	27.4	27.1	12.0	12.4	12.4
Region:						
Northeast	18.9	18.9	19.0	24.7	24.3	24.9
Midwest	23.4	23.7	23.3	25.0	25.6	25.1
South	39.9	39.5	37.7	31.8	31.4	30.6
West	17.8	17.9	19.9	18.5	18.7	19.4
Total (in thousands)	7,544.8	5,502.4	8,306.2	1,950.9	3,060.6	3,593.5

[1] Youth incentive entitlement pilot projects.
[2] Youth community conservation and improvement projects.
[3] Youth employment and training program.
[4] Young Adult Conservation Corps.
[5] The upper age limit is 21 yrs. for Summer Youth Corps, Job Corps, and YETP; 23 for YACC; and 25 for YIEPP.

Source: CBO tabulation of the 1976 SIE.

These figures should be contrasted with the characteristics of participants in the title VI PSE program, which can be found on page 37 of the GAO report. The report shows for example, that out of a possible 52 percent AFDC eligibles, only 4 percent were served in title VI of CETA.

In this reauthorization of the CETA program, one of the most important things we can do for the health of the program is to effectively target our money. The House's decision to reduce PSE spending and channel some of this money into youth and private sector programs is a major one. However, a further step must be taken by the Department of Labor of targeting this money into the programs which best meet the goals defined by the Congress.

It is interesting to note that the title VI public service program began with a $400 million appropriation, and this year is expected to cost about $5.3 billion. Although the employment rate has been decreasing fairly steadily since 1974, PSE enrollments have increased at an extremely rapid rate. This is unusual, as the program was designed as a means to fight countercyclical unemployment—see table:

PSE and unemployment

Quarter	*Enrollment* [1]	*Unemployment* [2]
Dec. 1974	55,200	7.2
Mar. 1975	242,900	8.6
June 1975	277,900	8.7
Sept. 1975	299,900	8.5
Dec. 1975	329,300	8.2
Mar. 1976	344,500	7.6
June 1976	300,400	7.5
Sept. 1976	289,100	7.7
Dec. 1976	271,400	7.8
Mar. 1977	306,600	7.4
June 1977	361,200	7.1
Sept. 1977	532,900	6.8
Dec. 1977	615,100	6.4
Mar. 1978	759,278	6.2
(May 1978)	736,456	6.1

[1] Represents enrollment in PSE in titles II and VI of CETA.

[2] BLS National Unemployment Rate (percent).

We spent almost four times as much money on public service employment as youth programs in 1977, and almost three times as much money on public service employment programs as youth programs in 1978, although half of the unemployed people in this country are under 24 years old. The July BLS estimates show that there are 6,193,000 unemployed people in this country The number of unemployed teenagers—aged 16 to 19—is 1,538,000; the number of unemployed aged 20 to 24 is 1,477,000, for a total of 3,061,000, or about half our total unemployed. To spend three times as much, then, on PSE as youth programs in CETA, is ridiculous, especially when the program's impact is questionable at best. The CBO report sums it up like this:

About 9.5 percent of CETA Title VI participants during fiscal year 1977 left the program to enter unsubsidized employment, mostly in the public sector. According to the NPA study of PEP, those most likely to obtain permanent public sector jobs were white, professional or clerical workers, and highly educated. (p. 19)

Thus, Mr. Chairman, support for this amendment is well justified.●

The CHAIRMAN. The time of the gentleman has again expired.

The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS).

The question was taken and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HAWKINS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 221, noes 181, not voting 30, as follows:

[Roll No. 675]

AYES—221

Ambro	Foley	Moorhead, Calif.
Anderson, Ill.	Forsythe	Myers, Gary
Andrews, N.C.	Fountain	Myers, John
Andrews, N. Dak.	Fowler	Neal
Applegate	Frenzel	Nichols
Archer	Fuqua	O'Brien
Armstrong	Gammage	Panetta
Ashbrook	Gephardt	Pattison
AuCoin	Gibbons	Pettis
Badham	Ginn	Pickle
Bafalis	Glickman	Pike
Barnard	Goodling	Pressler
Baucus	Gore	Preyer
Bauman	Gradison	Pritchard
Beard, Tenn.	Grassley	Pursell
Bedell	Gudger	Quayle
Bennett	Guyer	Quie
Bevill	Hagedorn	Quillen
Bowen	Hall	Railsback
Breaux	Hamilton	Regula
Breckinridge	Hammer-schmidt	Roberts
Brinkley	Harkin	Robinson
Brooks	Hefner	Rogers
Broomfield	Heftel	Rose
Brown, Mich.	Hightower	Rousselot
Brown, Ohio	Hillis	Rudd
Broyhill	Holt	Runnels
Burgener	Hubbard	Ruppe
Burke, Fla.	Hyde	Ryan
Burleson, Tex.	Ireland	Santini
Butler	Jacobs	Sarasin
Byron	Jeffords	Satterfield
Cederberg	Jenrette	Sawyer
Chappell	Johnson, Colo.	Schulze
Clausen, Don H.	Jones, N.C.	Sebelius
Clawson, Del	Jones, Okla.	Sharp
Cleveland	Jones, Tenn.	Shuster
Cochran	Kazen	Simon
Cohen	Kelly	Skelton
Coleman	Kemp	Skubitz
Collins, Tex.	Keys	Smith, Iowa
Conable	Kindness	Smith, Nebr.
Conte	Kostmayer	Spence
Corcoran	LaFalce	Stangeland
Cornwell	Lagomarsino	Stanton
Coughlin	Latta	Steed
Crane	Leach	Stockman
Cunningham	Lehman	Stump
Daniel, Dan	Lent	Symms
Daniel, R. W.	Levitas	Taylor
Davis	Long, Md.	Thone
de la Garza	Lott	Treen
Derwinski	Lujan	Trible
Devine	Luken	Tucker
Dickinson	McClory	Ullman
Dicks	McCloskey	Vander Jagt
Dornan	McCormack	Volkmer
Duncan, Oreg.	McEwen	Waggonner
Duncan, Tenn.	McKay	Walker
Edwards, Ala.	Madigan	Walsh
Edwards, Okla.	Mahon	Wampler
Emery	Mann	White
English	Marlenee	Whitehurst
Erlenborn	Marriott	Whitley
Ertel	Martin	Wiggins
Evans, Colo.	Mattox	Wilson, Bob
Evans, Del.	Mazzoli	Wilson, Tex.
Fenwick	Michel	Winn
Findley	Milford	Wirth
Fish	Minish	Wydler
Fisher	Mitchell, N.Y.	Wylie
Fithian	Mollohan	Young, Fla.
Flippo	Montgomery	Young, Mo.
Florio	Moore	

NOES—181

Addabbo	Ford, Mich.	Nix
Akaka	Ford, Tenn.	Nolan
Alexander	Fraser	Nowak
Ammerman	Garcia	Oakar
Anderson, Calif.	Gaydos	Oberstar
Annunzio	Giaimo	Obey
Ashley	Gilman	Ottinger
Aspin	Gonzalez	Patten
Baldus	Green	Patterson
Beard, R.I.	Hanley	Pease
Benjamin	Hannaford	Pepper
Biaggi	Harrington	Perkins
Bingham	Harris	Poage
Blanchard	Harsha	Price
Blouin	Hawkins	Rahall
Boggs	Heckler	Rangel
Boland	Holland	Reuss
Bolling	Hollenbeck	Richmond
Bonior	Holtzman	Rinaldo
Bonker	Horton	Risenhoover
Brademas	Howard	Roe
Brodhead	Huckaby	Roncalio
Brown, Calif.	Hughes	Rosenthal
Buchanan	Ichord	Rostenkowski
Burke, Calif.	Johnson, Calif.	Roybal
Burlison, Mo.	Jordan	Russo
Burton, John	Kastenmeier	Scheuer
Burton, Phillip	Kildee	Schroeder
Caputo	Krebs	Seiberling
Carney	Lederer	Shipley
Carr	Leggett	Slack
Carter	Livingston	Snyder
Cavanaugh	Lloyd, Calif.	Solarz
Chisholm	Long, La.	St Germain
Clay	Lundine	Staggers
Collins, Ill.	McDade	Stark
Conyers	McFall	Steers
Corman	McHugh	Steiger
Cornell	McKinney	Stokes
Cotter	Maguire	Stratton
D'Amours	Markey	Studds
Danielson	Marks	Thompson
Delaney	Meeds	Thornton
Dellums	Metcalfe	Traxler
Dent	Meyner	Udall
Derrick	Mikulski	Van Deerlin
Dingell	Mikva	Vanik
Dodd	Miller, Ohio	Vento
Downey	Mineta	Walgren
Drinan	Mitchell, Md.	Watkins
Early	Moakley	Waxman
Eckhardt	Moffett	Weaver
Edgar	Moorhead, Pa.	Weiss
Edwards, Calif.	Mottl	Wolff
Eilberg	Murphy, Ill.	Wright
Evans, Ga.	Murphy, N.Y.	Yates
Evans, Ind.	Murphy, Pa.	Yatron
Fary	Murtha	Young, Alaska
Fascell	Myers, Michael	Zablocki
Flood	Natcher	Zeferetti
	Nedzi	

NOT VOTING—30

Abdnor	Kasten	Rooney
Beilenson	Krueger	Sikes
Burke, Mass.	Le Fante	Sisk
Diggs	Lloyd, Tenn.	Spellman
Flowers	McDonald	Teague
Flynt	Mathis	Tsongas
Frey	Miller, Calif.	Whalen
Goldwater	Moss	Whitten
Hansen	Rhodes	Wilson, C. H.
Jenkins	Rodino	Young, Tex.

The Clerk announced the following pairs:

On the vote:

Mrs. Lloyd of Tennessee for, with Mr. Burke of Massachusetts against.

Mr. McDonald for, with Mr. Rodino against.

Mr. Sikes for, with Mr. Rooney against.

Mr. Flynt for, with Mrs. Spellman against.

Mr. Teague for, with Mr. Miller of California against.

Mr. Whitten for, with Mr. Krueger against.

Mr. MOORE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: Page 16, line 23, insert immediately before the period the following: ", including adequate assurances that books of accounts on the expenditure of funds provided under this Act will be maintained in a manner sufficient to assure adequate supervision and monitoring".

Mr. DE LA GARZA. Mr. Chairman. I have another amendment that I wish to offer which goes to page 20, line 11. That amendment is the same amendment as the one just read, but it is to another section.

Mr. Chairman, I ask that the other amendment be reported, and I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. The Clerk will report the additional amendment.

The Clerk read as follows:

Amendment offered by Mr. DE LA GARZA: Page 20, line 11, insert immediately after the period the following: "The Secretary shall, prior to approval of any plan, require the inclusion in such plan of specific management and accounting procedures to assure adequate supervision and monitoring of the programs to be conducted pursuant to such plan, and shall require the adoption of specific procedures (such as accrual accounting procedures) where necessary for such purpose."

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, the gentleman from Virginia (Mr. BUTLER) and I have collaborated on these amendments. I offer them in the spirit of trying to strengthen this legislation and to make it a workable, viable piece of legislation for the people of this country.

The reason I am interested in these amendments is that some of the abuses of the program happened in my congressional district. One of them came about directly because of a lack of rules or law, which is what I am trying to provide by offering these amendments.

The problem was that there was no adequate provision for monitoring the auditing procedures of the grantee of the prime sponsor. The prime sponsor retained an auditor. The Labor Department was satisfied and accepted the reports of the auditor. Later we found out that the sponsor and the auditor were working together and in effect defrauded the Government of several thousand dollars.

When I looked at the legislation, I found that, in all of the directives to the Secretary as to what he shall do and the requests that he shall make on the prime sponsor, there was nothing about accounting procedure. All this says is that the Secretary shall ask what type of accounting you have. That is simply what it does, Mr. Chairman, in both instances—that the Secretary provide the necessary request to the sponsor that the books be made and kept in a manner in which they can be monitored and audited by the Secretary. I think it enhances the legislation. A quick perusal of the requirements does not show that there is anything relating to the books, and I think that this would help and would give the Secretary the needed authority to try to prevent situations such as those that happened in my district, where they have no provision for monitoring the auditing that was being done of the sponsoring agency.

Mr. Chairman, I would hope that the Members would support these amendments in order to strengthen the legislation.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

Mr. Chairman, I appreciated the opportunity to work with the gentleman on these amendments. His experience parallels an experience we had in our district. I think the solution will require more accountability at the local level and will strengthen the legislation.

Mr. Chairman, I urge support of the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Texas (Mr. DE LA GARZA).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. QUIE: Page 123, beginning with line 17, strike out everything through line 13 on page 124, and after line 20 on page 126 insert a new section as follows:

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

"SEC. 315. (a) In carrying out its responsibilities under this Act and under section 161 of the Vocational Education Act, the National Occupational Information Coordinating Committee shall give special attention to the problems of unemployed youths. The Committee shall also carry out other activities consistent with the purposes of this title, including but not limited to the following:

"(1) assisting and encouraging local areas to adopt methods of translating national aggregate occupational outlook data into local terms;

"(2) assisting and encouraging the development of State occupational information systems, to be used in the maintenance of local job banks and job vacancy reports, accessible to local schools, and including pilot programs in the use of computers to facilitate such access;

"(3) in cooperation with State and local correctional agencies, encouraging programs of counseling and employment services for youth in correctional institutions;

"(4) providing technical assistance for programs of computer on-line terminals and other facilities to utilize and implement occupational and career outlook information and projections supplied by State employment service offices and to improve the match of youth career desires with available and anticipated labor demand;

"(5) in cooperation with State and local educational agencies, and other appropriate persons and organizations, encouraging programs to make available employment and career counseling to presecondary youths; and

"(6) providing technical assistance for programs designed to encourage public and private employers to list all available job opportunities for youths with the appropriate eligible applicant conducting occupational information and career counseling programs, local public employment services offices and to encourage cooperation and contact among such eligible applicants, employers, and offices.

"(b) All funds available to the National Occupational Information Coordinating Committee under this Act and under section 161 of the Vocational Education Act may be used by the Committee to carry out any of its functions and responsibilities authorized by law.

And conform the Table of Contents accordingly.

Page 39, line 13, strike out "438(c)" and insert in lieu thereof "315".

Page 162, beginning with line 5, strike out everything through line 24 on page 163.

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Mr. Chairman, these are amendments to which there would be no objection.

There are two conflicting references in the bill to the National Occupational Information Coordinating Committee. This is a technical amendment, with several conforming amendments, to combine these provisions into a single directive for NOICC, which was established under the Vocational Education Act Amendments of 1976, and was funded under both that act and CETA.

Mr. Chairman. I do not believe there is any objection to it.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, the gentleman in the well is correct. We accept the amendments.

Mr. SARASIN. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, we accept the amendments on this side.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. QUIE).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. MAGUIRE

Mr. MAGUIRE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAGUIRE: Page 52, line 19, insert "(1)" immediately after "(g)" and immediately after line 25 insert the following new paragraphs:

"(2) Nothing in section 121 or this section shall be deemed to authorize the Secretary to pre-approve the selection of legal counsel by a prime sponsor, but the Secretary shall assure that no funds available for administrative costs under any title of this Act are used by a prime sponsor for making payments on contracts for legal or other associated services unless substantively comparable services are not available from the Department of Labor (provided use of such services would not cause a conflict of interest within the Department of Labor) and the prime sponsor certifies that—

"(A) the payments are not unreasonable in relation to the fees charged by other con-

tractors providing similar services, and in any event, do not exceed the rate of pay of GS–18; and

"(B) the services could not be competently provided through employees of the prime sponsor or other available State or local governmental employees.

"(3) Where a prime sponsor has incurred legal costs in litigation with the Department of Labor, and such costs are questioned in a Department audit, the allowability shall be determined in the office of the Assistant Secretary of Labor for Employment and Training.

Mr. MAGUIRE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. MAGUIRE. Mr. Chairman, I have a number of amendments, some of which will be offered later en bloc since they are going to be acceptable to both sides. I would like to proceed with this amendment now because of its importance and the lateness of the hour.

Mr. Chairman, I think the public rightly demands that we tighten up the CETA program, eliminate fraud and abuse, and make sure that the program reaches the people for whom it is intended. The committee, I think, has done an admirable job, and the amendments which I offer, Mr. Chairman, are really in the same spirit as some of the things that the committee has already done. They emerge from some investigative work that was done by the Subcommittee on Manpower and Housing of the Committee on Government Operations, chaired very ably by Congresswoman CARDISS COLLINS.

The amendment to which I draw the committee's attention now is an amendment which provides minimum standards for allowable expenditures for outside consultants. Under my amendment, a prime sponsor may use an outside consultant for legal or associated services if the fees are reasonable, if the prime sponsor's own employees that are already on the staff, or those that are available to him from the locality, the State, or the Department of Labor, are not already available and competent.

Finally, if there is any conflict of interest question whatsoever about having an already available and competent person represent the prime sponsor in, for example, a dispute with the Department of Labor, then under my amendment an outside legal consultant could be retained. What the amendment does is simply establish some minimum standards for allowable expenditures.

The evidence indicates that there have been ripoffs of the CETA program, and what I am asking for here is simply that we limit the outside consulting expenditures to those that are necessary, and not permit the kind of billing that has unfortunately gone on in all too many locations for outside consultants to do the sort of administrative and other work which ought to be done under this program by people who are in fact already being paid to do that work.

So, Mr. Chairman, that is my amendment. I have discussed it with the able chairman of the subcommittee, the gentleman from California.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE. I will be happy to yield to the gentleman from California.

Mr. HAWKINS. An earlier version, I thought, had in the paragraph 2, the line beginning with "prime sponsor" for making payments on contracts for legal or other "personal services."

Mr. MAGUIRE. No, we changed it to "and associated services" so it would be more narrowly drawn.

Mr. HAWKINS. Will the gentleman explain the reason for that, because we certainly had no objection to the words "personal services." I do not know whether or not the gentleman has substantially changed the meaning. That is the only thing I question.

Mr. MAGUIRE. If the gentleman would permit, I think the drafting of it was tightened up a little bit so that we were not talking about every conceivable thing, but rather legal and any other associated services.

Mr. HAWKINS. Associated with legal services?

Mr. MAGUIRE. Yes.

Mr. HAWKINS. With legal services?

Mr. MAGUIRE. Yes, because this appears to be the area in which there has been a problem. I would be happy to accept the original language, however.

Mr. HAWKINS. If that is the explanation of the meaning of it, I think that is the same. I would accept it on the basis of that as the intent.

Mr. MAGUIRE. I thank the gentleman.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. MAGUIRE I yield to the gentleman of California.

Mr. DELLUMS. The gentleman is just talking about legal association, and is not talking about programmatic competency?

Mr. MAGUIRE. No; I am talking about people who are retained as legal consultants to do a variety of tasks which really are not tasks that should be reimbursed.

Mr. DELLUMS. I understand. I thank the gentleman.

Mr. SARASIN. Mr. Chairman, I rise in opposition to the amendment.

I would like to direct the attention of the gentleman from New Jersey to what I think is a copy of his amendment. Do I read it as saying that no funds under the act are to be used by a prime sponsor for making payments for legal or other personal services?

Mr. MAGUIRE. Mr. Chairman, if the gentleman would permit me, the amendment as it was finally read and presented at the desk did have a word change, so that it reads:

. . . legal or other associated services . . .

Mr. SARASIN. How does the gentleman define "associated"?

Mr. MAGUIRE. So that the amendment is more narrowly drawn, which I think the gentleman would be more sympathetic to.

Mr. SARASIN. How does the gentleman define "associated"?

Mr. MAGUIRE. It is associated with legal so that a lawyer could not be hired to perform a whole raft of services such as administrative and reviewing of audits, and so forth, which has, in fact, occurred in all too many instances and conducting administrative business representing the CETA program at meetings at which already employed administrative personnel could be representing CETA rather than a high-priced lawyer with expensive travel, and so forth.

Mr. SARASIN. My opposition to the amendment would still stand.

I do not understand what the gentleman's fear is here. Obviously, the Department of Labor is not in a position to provide all the counsel necessary for the primes to do their jobs and we cannot make it as a matter of fact that the prime sponsors have on their staff full-time attorneys to do all the work that has to be done.

Mr. MAGUIRE. If the gentelman will yield, my amendment does allow specifically for the instance that the gentleman has described in which the personnel would not be available and competent, but the amendment is designed to eliminate the situation which has occurred where people have been in effect on $3,000 a month retainers to do anything and everything without much supervision. Unfortunately too many such instances are there and can be documented. If the gentleman feels there would be a case in which there would not be an available or competent person to represent the prime sponsor, then the prime sponsor under my amendment could go and get that special assistance only for that special case, but only for that case and not as a general rule.

Mr. SARASIN. I think I could perhaps look more favorably if the gentleman were somehow limiting the ability of the Labor Department rather than the prime sponsor to go out and hire consultants, because of what I think has been a Labor Department ripoff. But I think we ought to allow the prime sponsor to get the help he needs to do his job better. I do not think this is a laudatory amendment and therefore I oppose it.

Mr. MAGUIRE. If the gentleman will yield further, I would be glad to share with the gentleman a whole raft of vouchers about these problems that have taken place and the gentleman would, I think, then agree that the amendment is very worthwhile and necessary.

Mr. STEIGER. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, the gentleman from New Jersey was kind enough to show me a copy of the amendment and talk with me about this.

I must say I come in this with a perspective that may somewhat be different because while I am not on the Committee on Education and Labor any more, I was at one point rather deeply involved in the Comprehensive Employment and Training Act.

There are two problems with the Maguire amendment. One is that it is a restriction on prime sponsors in a way that I frankly do not think is appropriate.

The Members of the House will remember, I am sure, that we began this process of changing the Manpower De-

velopment and Training Act and all of its predecessor acts in an effort to insure that we would give decentralized administration to prime sponsors and limit the ability of the Labor Department to have to go through the endless contract by contract settlement procedure and negotiation.

What the Maguire amendment does is to impose a further restriction upon the ability of prime sponsors to maintain their own ability to run their own programs. I think that is wrong.

There is a second problem with where the Maguire amendment goes from my perspective and that is that one ought not to limit the ability of prime sponsors to seek legal counsel and rather have to rely more on the Labor Department, in effect, to represent them.

So that the amendment falls for two reasons and I hope it can be rejected.

I would urge the Members to maintain the ability of the comprehensive employment and training program to do what we started out to do and that is to limit the ability of the Labor Department to control prime sponsors and to allow the prime sponsors, even when, at times, they may make mistakes, to be able to be fully free to do their own jobs.

There is always a tendency in a situation like this—and I must say I am somewhat distressed at some of the amendments that have already been adopted and in fact were agreed to by the committee—the tendency is that we will keep chipping away at that basic thrust of what CETA was all about. And by the time we are through tonight, in spite of some of the improvements that have been made in this bill, what we are doing is further limiting the ability of the prime sponsors. We are imposing Federal restrictions upon the ability of the prime sponsors. We are creating all kinds of new national emphasis programs and that is not the way we ought to be operating. So I think that the Maguire amendment does not belong in this bill, is wrongly directed and does not serve the public interest in our efforts to insure that prime sponsors remain free from the kinds of letters that are imposed on them by this amendment.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I hear what the gentleman from Wisconsin (Mr. STEIGER) is saying, but I am wondering if the gentleman would feel that that freedom ought to be totally unrestricted if in fact a situation exists in which public funds are being misappropriated or being spent for unnecessary and unessential purposes at exorbitant rates of payment. Would the gentleman feel the same way, or would he feel that some minimum standards ought to be put into force within which it would be possible for prime sponsors to continue to do anything which is really necessary, which is what my amendment provides?

Mr. STEIGER. Mr. Chairman, what I am saying to my friend, the gentleman from New Jersey (Mr. MAGUIRE) is that I am exceedingly hesitant to make the kind of judgment the gentleman is making about whether or not those payments are "exorbitant," are "unnecessary," and all of the other words that the gentleman has used. The kind of judgment that we are leaving with the locally elected officials as prime sponsors is one point I believe that ought to be preserved jealously. If there are mistakes to be made, if there are in fact payments to be made that were made that are not appropriate under the law, then there is already a mechanism under the law to correct that kind of mistake. But the direction in which the gentleman is taking us is the direction that, in my view, is not one that is appropriate and we ought to resist it.

Therefore I hope we reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. MAGUIRE).

The question was taken; and on a division (demanded by Mr. MAGUIRE) there were—ayes 22, noes 28.

RECORDED VOTE

Mr. MAGUIRE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 198, not voting 34, as follows:

[Roll No. 676]

AYES—200

Addabbo	Ertel	Mattox
Alexander	Fascell	Meeds
Ambro	Fisher	Metcalfe
Ammerman	Fithian	Meyner
Anderson, Calif.	Flippo	Mikulski
Anderson, Ill.	Flood	Mikva
Andrews, N.C.	Florio	Miller, Ohio
Applegate	Foley	Minish
Aspin	Ford, Mich.	Mitchell, Md.
AuCoin	Ford, Tenn.	Moffett
Bafalis	Fraser	Mollohan
Baldus	Fuqua	Moorhead, Pa.
Barnard	Gammage	Murphy, Pa.
Baucus	Garcia	Murtha
Beard, R.I.	Gaydos	Myers, Gary
Beard, Tenn.	Gephardt	Myers, Michael
Bedell	Gibbons	Natcher
Bellenson	Glickman	Neal
Benjamin	Gonzalez	Nedzi
Bennett	Gore	Nolan
Biaggi	Gudger	Nowak
Bingham	Hanley	O'Brien
Blanchard	Hannaford	Oberstar
Blouin	Harkin	Obey
Boland	Harris	Ottinger
Bolling	Harsha	Panetta
Bonior	Hawkins	Patten
Brademas	Heckler	Pattison
Breckinridge	Hightower	Pease
Brodhead	Hollenbeck	Pepper
Brooks	Holtzman	Pickle
Brown, Calif.	Howard	Preyer
Burke, Calif.	Huckaby	Price
Burton, John	Hughes	Pursell
Caputo	Ichord	Rahall
Carney	Jacobs	Rangel
Carr	Johnson, Calif.	Reuss
Cavanaugh	Jones, Okla.	Richmond
Chisholm	Jordan	Rinaldo
Clay	Kastenmeier	Rogers
Collins, Ill.	Kazen	Rose
Conyers	Keys	Rosenthal
Corman	Kildee	Roybal
Cornell	Kostmayer	Russo
Cornwell	Krebs	Santini
D'Amours	LaFalce	Scheuer
Danielson	Lederer	Schroeder
de la Garza	Lehman	Seiberling
Dent	Levitas	Simon
Derwinski	Long, Md.	Smith, Iowa
Dicks	Lujan	Snyder
Dingell	Luken	Solarz
Downey	Lundine	Spellman
Drinan	McCormack	St Germain
Duncan, Oreg.	McFall	Staggers
Early	McHugh	Stangeland
Eckhardt	McKay	Stark
Edgar	Maguire	Steed
Edwards, Calif.	Mahon	Stokes
Eilberg	Mann	Stratton
	Markey	Studds
Thompson	Volkmer	Wolff
Udall	Walgren	Wright
Ullman	Waxman	Yates
Van Deerlin	Weaver	Yatron
Vanik	Wilson, Tex.	Young, Alaska
Vento	Wirth	Young, Mo.

NOES—198

Akaka	Forsythe	Patterson
Andrews, N. Dak.	Fountain	Perkins
	Fowler	Pettis
Annunzio	Frenzel	Pike
Archer	Giaimo	Poage
Armstrong	Gilman	Pressler
Ashbrook	Ginn	Pritchard
Ashley	Goodling	Quayle
Badham	Gradison	Quie
Bauman	Grassley	Quillen
Bevill	Green	Railsback
Boggs	Guyer	Regula
Bowen	Hagedorn	Risenhoover
Breaux	Hall	Roberts
Brinkley	Hamilton	Robinson
Broomfield	Hammer-schmidt	Roe
Brown, Mich.		Rostenkowski
Brown, Ohio	Harrington	Rousselot
Broyhill	Hefner	Rudd
Buchanan	Heftel	Runnels
Burgener	Hillis	Ruppe
Burke, Fla.	Holland	Ryan
Burleson, Tex.	Holt	Sarasin
Burlison, Mo.	Horton	Satterfield
Burton, Phillip	Hubbard	Sawyer
Butler	Hyde	Schulze
Byron	Ireland	Sebelius
Carter	Jeffords	Sharp
Cederberg	Jenrette	Shuster
Chappell	Johnson, Colo.	Skelton
Clausen, Don H.	Jones, N.C.	Skubitz
	Jones, Tenn.	Slack
Clawson, Del	Kelly	Smith, Nebr.
Cleveland	Kemp	Spence
Cochran	Kindness	Stanton
Cohen	Lagomarsino	Steers
Coleman	Latta	Steiger
Collins, Tex.	Leach	Stockman
Conable	Lent	Stump
Conte	Livingston	Symms
Corcoran	Lloyd, Calif.	Taylor
Cotter	Long, La.	Thone
Coughlin	Lott	Thornton
Crane	McClory	Traxler
Cunningham	McCloskey	Treen
Daniel, Dan	McDade	Trible
Daniel, R. W.	McEwen	Tucker
Davis	McKinney	Vander Jagt
Delaney	Madigan	Waggonner
Dellums	Marks	Walker
Devine	Marlenee	Walsh
Dickinson	Marriott	Wampler
Dodd	Martin	Watkins
Dornan	Mazzoli	Weiss
Duncan, Tenn.	Michel	Whalen
Edwards, Ala.	Mineta	White
Edwards, Okla.	Mitchell, N.Y.	Whitehurst
Emery	Montgomery	Whitley
English	Moore	Wiggins
Erlenborn	Moorhead, Calif.	Wilson, Bob
Evans, Del.		Winn
Evans, Ga.	Motti	Wydler
Evans, Ind.	Murphy, Ill.	Wylie
Fary	Murphy, N.Y.	Young, Fla.
Fenwick	Myers, John	Zablocki
Findley	Nichols	Zeferetti
Fish	Nix	
Flynt	Oakar	

NOT VOTING—34

Abdnor	Krueger	Roncalio
Bonker	Le Fante	Rooney
Burke, Mass.	Leggett	Shipley
Derrick	Lloyd, Tenn.	Sikes
Diggs	McDonald	Sisk
Evans, Colo.	Mathis	Teague
Flowers	Milford	Tsongas
Frey	Miller, Calif.	Whitten
Goldwater	Moakley	Wilson, C. H.
Hansen	Moss	Young, Tex.
Jenkins	Rhodes	
Kasten	Rodino	

Messrs. CARNEY, LONG of Maryland, MOORHEAD of Pennsylvania, ULLMAN, BARNARD, and JACOBS changed their vote from "no" to "aye."

Messrs. LIVINGSTON, BREAUX, WATKINS, BEVILL, and GILMAN changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MRS. FENWICK

Mrs. FENWICK. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mrs. FENWICK: Page 18, after Line 9, insert the following:

"(6) a list of the specific contracts from the previous year with those institutions providing training programs including information and date of job placement for those who have completed such programs;

Redesignate the subsequent paragraphs accordingly.

Page 20, Line 11, after the period insert the following:

Prior to approval of any plan, the Secretary shall review the success of any training program which is to be refunded and be satisfied that such program has achieved sufficient results in job placement to merit continuation. The Secretary can require modification of such funding where necessary.

Page 20, line 11, after the period, insert the following: "The Secretary shall, prior to approval of any plan, insure that the prime sponsor has demonstrated a recognizable and proven method of verifying eligibility of all recipients. The Secretary can require modification or the adoption of specific procedures where necessary for such purposes. The Secretary shall also develop recognizable penalties and inform the prime sponsors of such penalties to be applied upon a finding of the ineligibility of any recipient."

Page 53, line 25, immediately after the word "Secretary" insert the following: "shall be responsible for the allocation of such funds and the eligibility of those enrolled in the program and"

Page 54, at the end of line 4 insert the following: "Prime sponsors may delegate the responsibility for determination of eligibility under reasonable safeguards, including provisions for reimbursement of cost incurred because of erroneous determinations made with insufficient care, provided that the Secretary has approved such an arrangement pursuant to the provisions of section 104 (a)."

Mrs. FENWICK (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

Mr. ASHBROOK. Mr. Chairman, reserving the right to object, I did not hear what the unanimous-consent request was.

Mrs. FENWICK. Mr. Chairman, if the gentleman will yield, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

Mr. ASHBROOK. I thank the gentlewoman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mr. HAWKINS. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Chairman, I did not understand which of the three amendments we are considering at this time. Could the gentlewoman so indicate?

Mrs. FENWICK. Yes. On page 18, after line 9.

The next one is page 20, line 11.

They provide for the verification of the competence of the educational institutions that are being used. The point is to make sure that the institutions that have been used have been able to do something for the people who were trained there.

Mr. HAWKINS. If the gentlewoman will yield further, I am not really addressing myself to the substance of the amendments. If they are the three that I think they are, we will accept them and save time. I am simply trying to identify the amendments.

Mrs. FENWICK. Page 18, line 9; page 20, line 11; also on page 20, line 11, I have another amendment referring to eligibility; and page 53, line 25.

Mr. HAWKINS. I thank the gentlewoman.

Mrs. FENWICK. These amendments have to do with an effort to make sure that the educational institutions can really do something for the individuals who are being trained there. The institutions which have had previous contracts with CETA should report the results of those contracts. That is one set of amendments.

The other pair deals in the same way with responsibility for the eligibility of recipients.

Since it is very late, I do not wish to take the time of the Committee, but I believe the Members on both sides of the aisle will find these amendments satisfactory.

Mr. Chairman, I urge the adoption of these amendments.

Mr. SARASIN. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Chairman, I want to be sure we are talking about the same amendments. May I address this question to the gentlewoman from New Jersey: Does the gentlewoman say that on page 20, line 11, she has an amendment?

Mrs. FENWICK. Yes.

Mr. SARASIN. Mr. Chairman, I have 2 amendments for page 20, line 11, and I am wondering if we are talking about both of them or one of them.

Mrs. FENWICK. Mr. Chairman, they are 2 different amendments, as the gentleman will see. One has to do with the success of the training program, and the other has to do with the eligibility of the recipients. Like the excellent amendments offered by the gentleman from Texas (Mr. DE LA GARZA), they are all on page 20, line 11, because they are put in at the same place.

Mr. SARASIN. Both amendments are to be inserted at that place?

Mrs. FENWICK. Yes.

Mr. SARASIN. I thank the gentlewoman.

Mr. Chairman, we accept the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 50, after line 25, add the following new paragraph:

"(1) No funds under this Act shall be used to aid the efforts of any labor organization to organize, to engage in collective bargaining, or to engage in any political activity. Without limiting the powers otherwise granted to the Secretary, funds found by the Secretary or by a court of law shall be refunded promptly to the United States Treasury."

Mr. ASHBROOK. Mr. Chairman, I feel this amendment is absolutely necessary because of an outrageous grant of $683,000.

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. Yes; I will be glad to yield to my colleague.

Mr. HAWKINS. I wonder if the gentleman would kindly furnish us with a copy of the amendment.

Mr. ASHBROOK. Maybe my desk over here has failed. I thought we had. I am sorry.

Mr. Chairman, this amendment, I believe, is necessary because of an outrageous grant of $683,000 to the National Farm Workers Center. The National Farm Workers Service Center located in La Paz, Keene, in Kern County, Calif., is a separately incorporated nonprofit corporation set up by the United Farm Workers of America, AFL–CIO. The same location is headquarters of the Farm Workers Union, and the president of both organizations is Caesar Chavez. The center is an affiliate of the Farm Workers Union.

At the table I have the proposals that were made by the United Farm Workers for the attention of the Secretary of Labor. I think it is particularly interesting to note that while our colleague, the late William Ketchum, was alive and investigating this, he kept the heat, so to speak, on this particular project. It was not funded.

On August 1, this $683,000 grant—that is exactly what it is—was given to the service group.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield a moment?

Mr. ASHBROOK. I yield to the gentleman from New Jersey.

Mr. THOMPSON. I thank my friend for yielding. Would this center be held up, I say to my distinguished friend from Ohio, until he and I return from that study trip we are going to take?

Mr. ASHBROOK. The difference is that I do not dare go near that territory.

Mr. THOMPSON. I will cover it and report to the gentleman back at the hotel.

Mr. ASHBROOK. Listen to the amendment, and let us take a look.

Mr. THOMPSON. All right.

Mr. ASHBROOK. Here are some of the things involved in the grant request: Workers' education will be stressed to include union contract implementation, grievance procedures, public speaking, parliamentary law, California farm labor history, and so forth and so on.

The AFL–CIO wrote Mr. Chavez as follows:

AMERICAN FEDERATION OF
LABOR AND CONGRESS OF
INDUSTRIAL ORGANIZATIONS,
Washington, D.C., Sept. 8, 1977.

Mr. CAESAR CHAVEZ,
President, National Farm Workers Service Center, Inc., La Paz, Keene, Calif.

DEAR CAESAR: The AFL–CIO Department of Education has reviewed your plans to operate a Residential Center to train Farm Workers in various skills under the President's Economic Stimulus Act.

We will be available to assist you in establishing the Center. We will also be glad to offer suggestions regarding the type of educational equipment you may need. As in the past, we stand ready to assist in program development leading to the training of your teachers in modern methods of adult education. Moreover, we would also help evaluate, periodically, the progress made in reaching your goals.

I wish you the best of success in developing the Center. It will provide both higher skills for Farm Workers and a better understanding of the role of the union in the agricultural economy of the nation.

Warm personal regards.

Fraternally yours,

WALTER G. DAVIS,
Director, Department of Education.

The documents are there for everybody to examine. I think we all understand that certain money is time and time again used for these purposes. My amendment, very simply, would prevent this act from being used to aid the efforts of any labor organization to organize, engage in collective bargaining, or any political activity.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman from Illinois.

Mr. ERLENBORN. I thank the gentleman. Just this afternoon a copy of the contract which has been signed, the grant award, was delivered to my office. I had a chance to look at it. Is this the same one that provides that the skilled training will be in having these—I think some 80 or 81 people—under the $683,000 contract work at improving the buildings at the site where their residence is?

Mr. ASHBROOK. No; basically it is in communications. I think we know what that is a euphemism for. It is a communication to the workers of their rights to organize, and union responsibilities, and so forth.

Mr. ERLENBORN. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Illinois.

Mr. ERLENBORN. Mr. Chairman, in the proposal of the grant award I saw there was also the statement that they were going to establish microwave communications between La Paz and the various sites in California where migrant workers are employed, so that they could have better communication with the workers.

Mr. ASHBROOK. That is correct. It is strictly communications.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. ASHBROOK was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. It talks in terms as a cover. It says communication facilities. What they are talking about are technicians, offset presses, camera workers, binders, and so forth. But basically that is the thrust of it, and it is very clear if we read the letters and who is on the committee. It is a great nonpartisan committee. They indicate their professional technical assistance will come from Walter Davis, director of AFL-CIO's Department of Education; Fred Hoehler, executive director of the George Meany Labor Studies Center; and Dr. John Sloan, director of the Center for Labor Research and Education, Institute for Industrial Relations, University of California at Berkeley.

Let us be honest about it. We know exactly what is happening in that. It is $683,000 that is going to the Chavez forces for nothing more—and they put it in as unblemished as they can—union contract implementation, grievance procedures, administrative procedures, public law, farm labor history.

I think as a body we have to decide whether or not we want CETA money to go for those purposes. I think our taxpayers do not. How we will vote may be something else again.

Mr. ERLENBORN. Mr. Chairman, if the gentleman will yield, I have this information on the grant award. It shows the number 98–8–1736–15–44. Let me read one paragraph.

A low-cost, Statewide, rural communications system is needed to effectively link all elements of the farmworkers organizations together into an effective operation. The NFWFC is currently building just such a system, which functions on the microwave principle, establishing a series of mountain top stations that can relay message channels up and down the length of California. Two Communications Technicians will be trained according to the requirements as specified in DOT Code No. 825.281.

Apparently this is where part of these funds are going.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ASHBROOK) has expired.

(On request of Mr. WEISS, and by unanimous consent, Mr. ASHBROOK was allowed to proceed for 3 additional minutes.)

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. In just one second.

The only thing I would add to what my colleague, the gentleman from Illinois, said about all the abuses, they have been discussed as if they were in the long distant past. What I would like to mention is this contract was issued at the present time, on August 1, 1978. It was not in the long distant past. It is in 1978, on August 1.

Mr. Chairman, I yield now to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I thank the gentleman for yielding.

Would the gentleman advise me as to whether or not in his opinion if the amendment were adopted there is any kind of CETA placement which would be permissible if the placement were to a labor organization?

Mr. ASHBROOK. If the gentleman is talking about a labor organization, that is different from organizing activities. That is what we are talking about in this amendment.

Mr. WEISS. Mr. Chairman, if the gentleman will yield further, if I read his amendment correctly, he says that no funds under this act shall be used to pay the efforts of any labor organization to organize, as set forth, and then he read from a contract which said that these people are going to be taught collective bargaining procedures, grievance procedures, parliamentary procedures, and so forth. Does he consider those descriptions within the contract to be within the prohibition he is offering in the amendment?

Mr. ASHBROOK. I would be frank to say to my friend, the gentleman from New York, I have researched this, and I doubt whether my amendment would stop the abuse of the Secretary of Labor in awarding this contract.

Mr. WEISS. Then, if the gentleman will yield further, why is he raising that contract if the amendment does not reach it?

Mr. ASHBROOK. Because in the future, if we can just send a message to the Secretary of Labor that: "No funds under this act shall be used to aid the efforts of any labor organization to organize, to engage in collective bargaining, or to engage in any political activity * * *" if we can only do that, that would be something that would be beneficial.

The original question was whether or not one could work for a union.

Of course you could work for a union.

Mr. WEISS. All right.

Mr. ASHBROOK. You could be in an apprentice program, you could do anything as long as you were not organizing or engaging in collective bargaining or political activity.

Mr. WEISS. Would the gentleman yield further?

Mr. ASHBROOK. I would be glad to.

Mr. WEISS. If I understand the gentleman correctly, then, he is telling us that all of the people who were placed in the contract that was entered into on August 1, were, in the gentleman's judgment, not violative of the law, legitimate and proper, and would not be subject to any charge of violation of the law we have before us?

Mr. ASHBROOK. I do not feel that they violate the law, it is a violation of policy. I am only saying in my amendment that we should prevent this from happening in the future. We have had many amendments that have dealt with many abuses, the abuses were not always illegal and not always stretching the law, they were merely improper.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. GLICKMAN

Mr. GLICKMAN. Mr. Chairman, I offer two amendments and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. GLICKMAN: Title III is amended by adding new subsections 305 (c), (d), and (e), at the end of page 112, as follows:

"(c) Relocation efforts shall focus on shifting unemployed individuals to employment surplus areas where their skills could be suitably employed, provided that such relocation does not result in residents of the area to which persons are relocated not securing jobs for which they would also qualify.

"(d) In instances where a proposed relocation would likely result in a sizable influx of persons into a particular area, the Secretary shall consult, in advance of authorizing assistance, with appropriate Federal, state and local officials with regard to the potential impact on provision of housing and other services to area residents, including the new population anticipated as a result of the proposed relocation.

"(e) The Secretary shall coordinate, to the maximum extent feasible, the relocation assistance programs authorized under this section and the job bank and matching program authorized under Section 312(f) of this Act.";

And by adding the following to section 312(f) after line 16 on page 123: "The information gathered under this subsection with regard to available persons and job vacancies shall be coordinated, to the maximum extent feasible, with the relocation assistance programs authorized under Section 305 to permit those relocation programs to be utilized, when necessary and appropriate, in facilitating the match of available persons and job vacancies sought under this subsection."

and in

Section 705 is amended by deleting the period at the end of line 10 on page 213, and inserting in its place the following: "; and,

"(14) encouraging unemployed individuals to relocate to areas of the country where employment opportunities appropriate to their skills generally exist which cannot reasonably be expected to be filled from within those areas' job markets."

Mr. GLICKMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. GLICKMAN. Mr. Chairman, the committee did a very innovative thing in this bill in section 305 on page 112, the bill contains a provision providing for relocation assistance. Through this program the Secretary of Labor is given the authority to provide relocation assistance to move people where jobs are available. The amendments I offer, and I have talked with the committee on this, gives some greater strength to that section to provide the Secretary of Labor in moving people where jobs are.

I became interested in this section when I looked at the job services, occupation and demand brochure the Department of Labor puts out every month. If you look through this list you will see several hundred thousand jobs in this country that go unfilled every month at medium pay, at low pay and at high pay, all over this country.

For example, let us take the computer program, they had about 4,000 jobs in the United States available in June in places like Newark, New York City, Philadelphia, Milwaukee, Houston, Dayton, Phoenix, and Denver.

One of the things that struck me, Mr. Chairman, is that there does not seem to be any incentive any more to move where jobs are available. I would say that 15, 20, or 25 years ago if you did not move where the jobs were that you probably would starve to death but today because of a variety of reasons, such as inflation, the incentive is to stay where you are. There is no incentive to move where the jobs are available.

Mr. Chairman, there are in fact several hundred thousand available jobs both public and in the private sector all over this country.

The question is how do we try to relocate those people, using good judgment so as not to take jobs away from people who live in those areas.

They have a pilot program that is headquartered in Georgia. In this organization they have relocated approximately 850 people to 33 States in this country, primarily they are located in the Southeast part of the country and, while they have not reached any final determination yet, they have moved people into productivity, both in private sector and public sector jobs.

All I am saying is that we know there are thousands and thousands of jobs in this country, and they are in New York, in Pennsylvania, in California, in Kansas. The least we ought to do is to beef up the ability of the Secretary of Labor so as to give him flexibility to see whether these relocation programs work.

My amendment just builds on the relocation amendments in the bill. It provides that the relocation shall not result in residents of the area to which persons are relocated not securing jobs for which they would qualify. Therefore, it does not take away from jobs in the particular area where the relocation is occurring. It requires coordination with local authorities to make sure there is enough housing impact on population, and it requires the Secretary to coordinate this program with the National Job Data Bank, which is also beefed up through this bill.

I commend the chairman of the subcommittee for putting in a provision which I think is positive, and I think will substantially contribute to the real issue we are dealing with today, and that is how to provide people long-term, unsubsidized jobs.

Mr. Chairman, I offer these amendments in order to strengthen those sections.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman, I thank the gentleman for yielding.

Of course, I have no argument with the parts of the program aimed at providing jobs for people.

My only question to the gentleman is this: In every area the gentleman mentioned there are literally tens of millions of dollars flowing into that area out of the CETA program to provide make-work jobs for people in that area. Why should we then have to use CETA money to transfer other people into those areas so that they can try to pick up these jobs?

Mr. GLICKMAN. We should not because in those particular cases, where jobs are available, then the CETA people, the manpower people in those areas should not place people from outside the area in the jobs.

That is one of the provisions in this amendment, in which I preclude the ability to place people in jobs where there are otherwise available people.

Mr. GARY A. MYERS. I do not know of one section of the country that is not getting CETA funds now. How can the gentleman say that? If the gentleman could show me sections of the country which are not getting CETA funds, he could then make me believe that there is no labor surplus there. In that event, I could see the argument for transferring people into the area.

The CHAIRMAN. The time of the gentleman from Kansas (Mr. GLICKMAN) has expired.

(On request of Mr. GARY A. MYERS and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. To continue, Mr. Chairman, that is the problem I have in understanding. I think that there is a need to try to move people into private jobs, but I think the emphasis ought not to be so much on transferring people from one section of the country to another, but, rather, in each area or in each district, to confront them with the job opportunities that are there. If the CETA workers do not want to take those jobs, they ought not to be given the CETA option.

Mr. GLICKMAN. In many places in the country the issue is one of job training, and perhaps the CETA people in the localities need to do a better job of job training and placement.

All my amendment does is to permit the Secretary of Labor to have a bit more flexibility in these relocation programs.

There are many areas of this country where unemployment may be high, but in certain areas there may be no justification for employment in that area for some reason or another.

Mr. GARY A. MYERS. If the gentleman will yield further, the part of this program that is important, then, is the training aspect, not to bring somebody else in, but to train people or improve skills in that district. I thought that was the objective of the program.

Mr. GLICKMAN. The objective of what program, relocation?

Mr. GARY A. MYERS. No, the CETA program the basic objective was to train people.

Mr. GLICKMAN. It may be that we may have some cross-fertilization on the training with respect to people moving into other areas. All I am saying is that this should be part of the national policy so as to give the Secretary of Labor discretion. I merely provide that it be coordinated with the national job data bank, that local officials be consulted before it is done, and give it some teeth in the process.

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Chairman, I just want to ask a couple of questions and to express a caution.

The gentleman stated that the Labor Department is presently doing an experimental program on this matter.

Mr. GLICKMAN. That is correct.

Mr. MITCHELL of Maryland. I would want to go slowly with this approach until we see how that works out.

The CHAIRMAN. The time of the gentleman from Kansas (Mr. GLICKMAN) has expired.

(On request of Mr. MITCHELL of Maryland and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. MITCHELL of Maryland. Mr. Chairman, will the gentleman yield further?

Mr. GLICKMAN. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I am thinking primarily of the inability of this Nation up to this point to provide the new housing that is needed in communities. I am thinking of maybe a group of people that we train in Bedford-Stuyvesant who have highly technical skills and we move into Phoenix, Ariz., where the community is ready to absorb them. I am thinking of getting higher-skilled trained people in Watts for example, and moving them into the Midwest or Phoenix, Ariz., or somewhere like that.

I am cautioning that while the intent is good, let us hold it and see what happens with the demonstration program.

Mr. GLICKMAN. I agree entirely with the gentleman. I have talked with the Department of Labor. They do not intend to give substantial expeditious emphasis on this program. They have no objection to my language because it tightens it, but my language does indicate that the Secretary before he can implement this program must take into account housing problems, local problems, school problems, and must determine the impact in all of these areas, on all of these social issues, before he can do any massive relocation. Let me just point out one thing: The effort of the pilot project has been on an individual basis. Let us say an individual comes in with a peculiar skill and cannot get a job in his area, but there is a job 75 or 200 miles away. I think the Department of Labor needs the flexibility to try to place that person there.

Mr. MITCHELL of Maryland. I thank the gentleman for his explanation. Let me add I will try to get a little group together of peculiarly skilled people and move them into Grand Rapids, Mich., if I can.

Mr. GLICKMAN. That will be fine.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the chairman of the committee, the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding. Let me say to the gentleman in the well that we have spent hundreds of millions of dollars on relocation ever since we enacted the law back in 1961 or 1962. If the gentleman will turn to page 112 of the bill, he will find relocation assistance, section 305(a).

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. PERKINS, and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. PERKINS. If the gentleman will yield further, that section provides that—

The Secretary is authorized to provide special relocation assistance for unemployed persons who desire such assistance through agreements with States, prime sponsors, or public or private agencies under this section.

(b)(1) Relocation assistance may be provided in the form of loans or grants, or both, subject to such standards as the Secretary establishes.

(2) Relocation assistance shall be available only to involuntarily unemployed individuals who cannot reasonably be expected * * *

And we go on there. But I want to make the point that relocation assistance has been provided by hundreds of millions of dollars since we originally enacted the Manpower Development and Training Act.

Of course, the gentleman's amendment, I take it, goes a little farther and spells it out more fully. I do not know. I presume that is the intent of his amendment; is that correct?

Mr. GLICKMAN. Yes, but the intent is not to change the basic thrust of section 305(a) as it is in the law.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Kansas (Mr. GLICKMAN).

The question was taken; and on a division (demanded by Mr. GLICKMAN) there were—ayes 26, noes 29.

Mr. GLICKMAN. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. One hundred and forty-eight Members are present, a quorum.

The pending business is the demand of the gentleman from Kansas (Mr. GLICKMAN) for a recorded vote.

A recorded vote was refused.

So the amendments were rejected.

PREFERENTIAL MOTION OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. DELLUMS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. DELLUMS. Mr. Chairman, I do not seek this vehicle as a parliamentary tactic. I make it with deadly seriousness. Whether one is on the winning side or the losing side of these many amendments is not important. I have been on the losing side of many of these amendments.

I dare say I am the only Member of the House of Representatives that has ever administered a manpower program. I would say to you from that area of competence that we have done a grave disservice this evening. I am horrified that the leadership would even put a CETA bill, "A Democratic program" on the schedule to be made a mockery of after 9 o'clock at night.

Mr. Chairman, whether you are on the winning side or on the losing side, the issue, I think, if I were to ask each of you seriously alone, you would all agree with me that virtually no one in this Chamber knows what we have done this evening. I would suggest that we are making a mockery of the legislative process. We came in at 10 o'clock this morning. People who labor go home after 8 hours. People who type letters get off after 8 hours. What makes us think we are so super intelligent that we can make complicated decisions at this hour of night, when no one on the floor even understands what we are doing?

Mr. Chairman, this piece of legislation speaks to people who are in pain and suffering in our community, and what are we doing? We are laughing, joking, playing games. Members come on the floor and ask, "Which amendment are you talking about, which line are you striking?"

If the committee does not know, how would those of us not on the committee understand?

We are tearing this legislation apart. This committee has worked for months on this legislation and right before our weary eyes, some are sleepy, others just bored to death—but many of us do not understand what is going on.

I would suggest that you vote for this preferential motion and get out of here and go home and save the taxpayers some misery and save the poor people in our various communities their hopes and dreams and their aspirations, which are tied up and locked up in this legislation. Let us not rip it apart playing games. I know people want to go home and campaign and win, to seek high office; but there are tiny people not running for political office, who just want a job and just want a decent way of life.

I suggest, if I were sitting in the galleries, I would realize this is just playing games. People in the galleries are looking at this like they are watching a peak-time television program. This is not a serious debate.

Mr. Chairman, let us vote for this preferential motion. Let us get out of here and vote for our families and children and not mess up our lives dealing with this kind of legislation.

Mr. SARASIN. Mr. Chairman, I rise in opposition to the preferential motion.

The CHAIRMAN. The gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

Mr. SARASIN. Mr. Chairman, I rise in opposition to the preferential motion offered by the gentleman from California (Mr. DELLUMS).

I think I speak for the vast majority of Members in the House, who do feel they know what they are voting on, who have taken the time to go through the "Dear Colleague" letters, and who have taken the time to try to understand this very complicated piece of legislation.

I would suggest that this committee has put in a great deal of time trying to develop the program that was brought initially to the floor. We have not done violence to this bill. The amendments that have been offered have been offered in great seriousness, not in jest.

We are talking about a bill that would be a massive, major improvement over what we already have even if we had not added any amendments to it. I think we have improved it, and I have been on the winning and the losing side of that issue as well.

I do not see people playing games with this, and I do not see any people intoxicated among the Members on the floor of the House. I am offended by the comments of the gentleman from California (Mr. DELLUMS) when he makes that accusation against Members of the House.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield briefly?

Mr. SARASIN. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I really did not say that. If I had said it, I would be man eough to say that I did and I would take my blows, but I did not say that.

Mr. SARASIN. Mr. Chairman, as I understood the gentleman, he talked about some people who were asleep and maybe intoxicated; then he made a couple of little extra moves, and I am offended by it. I do not think that was a proper comment.

Mr. DELLUMS. Mr. Chairman, if the gentleman is offended, I will ask unanimous consent to remove that line. I am not interested in that. What I am interested in is something that many people are not interested in, and that is dealing with a piece of legislation that seriously concerns the lives of thousands of people.

Mr. SARASIN. Mr. Chairman, if I may, I will state to the gentleman from California (Mr. DELLUMS) that I wish to reclaim my time.

Mr. Chairman, I understood the point the gentleman is making, but I do feel that the Members are very serious about this. They put a great deal of time and effort into their amendments, and they are trying to make the best possible explanation of them. If all the Members in this group would provide them with the audience and the attentiveness that is necessary, we could finish this business.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield briefly to me?

Mr. SARASIN. Just briefly.

Mr. DELLUMS. Mr. Chairman, the last amendment, for example, offered by the gentleman from Ohio (Mr. ASHBROOK) may have been offered in great wisdom, but I am sure that many Members of the House have no idea as to the ramifications of that particular amendment. All they talked about was excessive union activities in California. They fought that fight in California, and we should not be fighting it on the floor of Congress. I think that when we have legislation with such great ramifications and make our political statements on the floor, we do not do the people a great service.

Mr. SARASIN. Mr. Chairman, I will reclaim my time.

Mr. DELLUMS. Mr. Chairman, why does the gentleman not make a motion that the committee do now rise?

The CHAIRMAN. The Chairman will state that the time is controlled by the gentleman from Connecticut (Mr. SARASIN).

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I would merely point out that the Chair has not restrained any Member from being recognized. Our honorable friend, the gentleman from California, has not moved to close any debate. Any Member can stand at any time he so desires and ask any question, and if the propounder of the amendment cannot respond to it or cannot answer the question correctly, the amendment should rise and fall on that basis.

Mr. Chairman, I think we have had an orderly debate across the board.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. SARASIN. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, let me ask the gentleman, when does he think we can finish the bill tonight.

Mr. SARASIN. Mr. Chairman, I cannot give the gentleman a time. There are a number of amendments at the desk. However, I think if we would spend our time trying to debate those amendments rather than argue motions that are only going to delay us, we could move this bill tonight and get out a good piece of legislation. I am interested in doing that.

Mr. JOHN L. BURTON. Mr. Chairman, I will ask the gentleman, when was the last piece of good legislation gotten out after the hour of 11 o'clock?

Mr. SARASIN. The gentleman asks, when was the last piece of legislation gotten out after 11 o'clock.

I will state that we do not run the calendar on this side. I have often thought that the best thing the Congress could do for the people of the United States would be to adjourn, but we are now in the middle of a very important piece of legislation, and I would like to see us finish it.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from California (Mr. DELLUMS).

Mr. HAWKINS. Mr. Chairman, I rise in opposition to the preferential motion.

The CHAIRMAN. The Chair will state that all time for debate on the preferential motion has expired.

The question is on the preferential motion offered by the gentleman from California (Mr. DELLUMS).

The preferential motion was rejected.

The CHAIRMAN. For what purpose does the gentleman from California (Mr. HAWKINS) rise?

Mr. HAWKINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had earlier consulted both the minority and other Members of the House, including the Speaker. I had indicated that I would make a motion to rise at 10 o'clock. I am sorry that there has been this interruption in the debate, and without prejudice one way or the other, I will state that my motion that the Committee rise at this time is not going to be made as a result of anything that has been said in the last 10 or 15 minutes.

We have tried to hold the debate within certain limits and to structure it in such a way that we would give due consideration to both viewpoints, and if our efforts have not resulted in that, I certainly hope that the Committee will not be held responsible.

I do think that, as a result of the various suggestions from Members on both sides of the aisle, they have generally agreed that it would be in the best interest of the Nation, for that matter, and certainly for this legislative process, that we do rise.

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Louisiana.

Mr. WAGGONNER. I thank the gentleman for yielding.

Mr. Chairman, I think it needs to be said that the distinguished gentleman from California (Mr. HAWKINS), the chairman of this subcommittee, has come here, as he always does, in totally good faith. The gentleman has worked hard to bring this bill out of committee, whether the individual Members agree or disagree with it.

Mr. Chairman, I am just one Member of this House, but I think I express the opinions of a number of other Members. I want to say that I appreciate the effort that the gentleman has put forth on this legislation and the manner in which he has proceeded during this debate. I just want to express my confidence and appreciation to the gentleman from California.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Hawaii.

Mr. HEFTEL. I thank the gentleman for yielding.

Mr. Chairman, just quickly I would like to observe that CETA was developed as a legislative concept for the employment of those who are basically structurally unemployable. Unfortunately, CETA jobs have basically fallen to those who were not the people originally intended. To the extent that this legislation can be improved to reach its objective, I think that this body and the chairman have worked diligently, and we should not compromise the objective which I think was set out by the chairman and by this body tonight.

Mr. HAWKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee arose; and the Speaker having resumed the chair (Mr. NATCHER) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12452) to extend and amend the Comprehensive Employment and Training Act of 1973, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13511, REVENUE ACT OF 1978

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1461) on the resolution

(H. Res. 1306) providing for consideration of the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REQUEST TO MAKE IN ORDER ON MONDAY NEXT OR ANY DAY THEREAFTER CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 683 SECOND BUDGET RESOLUTION FOR FISCAL YEAR 1979

Mr. ROUSSELOT. Mr. Speaker, notwithstanding the provisions of clause 2 (1)(6) of rule XI or section 305(a)(1) of Public Law 93-344, I ask unanimous consent that it shall be in order to consider House Concurrent Resolution 683 on Monday, August 14, 1978, or any day thereafter.

Mr. Speaker, the reason I make this request is that the gentleman from Connecticut had asked unanimous consent earlier today for the Budget Committee to be able to bring the resolution to the floor on Monday, August 14, 1978, and I would like to make that unanimous-consent request.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. LEVITAS. Mr. Speaker, reserving the right to object, I do so for the purpose of making an inquiry of the gentleman from California.

Mr. ROUSSELOT. That would be fine.

Mr. LEVITAS. What is the purpose of the request that the gentleman is making?

Mr. ROUSSELOT. The reason for the request is that previously today my colleague from Maryland objected when unanimous consent was asked to have the budget resolution brought up. So, I was just asking unanimous consent to bring it up on Monday, waiving the 10-day rule, or any day thereafter.

Mr. LEVITAS. I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROSTENKOWSKI. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

NUCLEAR FUEL CYCLE OPTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, the Department of Energy's Los Alamos Scientific Laboratory in Los Alamos, N.M., publishes technical digests called Mini-Reviews on a regular basis. I have found that these publications provide useful background on many energy technology issues before the Congress.

A recent Mini Review from LASL "Nuclear Fission Energy Fuel Cycle Options" is particularly useful in assessing alternatives to the present "once-through" nuclear fuel cycle. This review article points out what new concepts are being studied as well as the status of available technology for reprocessing and enriching. It is worth noting that from the perspective of both new and on-hand technology that the "back-end" wastes from nuclear fuel are potentially very valuable. I recommend this article to my colleagues and remind them that the administration has chosen to indefinitely defer nuclear reprocessing.

NUCLEAR FISSION ENERGY FUEL CYCLE OPTIONS

INTRODUCTION

As world reserves of conventional energy sources decrease, we must develop alternate sources. During the transition period until ultimate sources are developed, nuclear fission and coal are the most likely sources. The question marks are that it is not known to what extent coal and nuclear will be used to close the transition-period energy gap, because economic, environmental, and sociopolitical considerations are still being debated.

In this mini-review we focus on nuclear fission energy and discuss the present cycle as well as several options that have not been fully explored.

NUCLEAR FISSION

In the fission reaction, if certain kinds of heavy atoms (called fissile fuels) such as uranium-235 (U-235) capture a stray neutron, they split into lighter atoms (called fission fragments) and emit more than one neutron of their own in the process, along with considerable energy. Expressed as a formula, this reaction is

U-235 + neutron—fission fragments + 2.5 neutrons (av) + energy.

The emitted neutrons in turn can be captured by other U-235 atoms, thus causing additional splits and releasing more and more neutrons. Repeated capturing and splitting is called a chain reaction. It is sustained if there are enough fissile fuel atoms close enough together that the emitted neutrons will be recaptured. Having enough fissile atoms close together is called having a critical mass.

Sometimes the emitted neutrons are captured by different kinds of heavy atoms such as Uranium-238 (U-238) and thorium 232 (TH-232) which aren't readily fissionable. These atoms once altered, can be used as fissile fuel; the process of transforming them is called converting, or breeding. Expressed as formulas, these reactions are:

U-238 + neutron— . . . —plutonium-239 (Pu-239)

Th-232 + neutron— . . . —Uranium-233 (U-233)

REACTORS

A reactor that simply "burns" fissile fuels such as U-235 is called a "burner." A reactor that also has atoms like U-238 and Th-232 in or near its core, so that those atoms can be bred into fissile fuel, is called a "converter." If the conversion proceeds so well that more fuel is produced than is consumed, the reactor is then called a breeder. At present, the 68 commercial reactors in the United States are only burners of U-235. Some Pu-239 is produced in them, but the reactor designs aren't optimized for breeding, nor is the Pu-239 currently recycled.

TODAY'S NUCLEAR FUEL CYCLE

The present nuclear fuel cycle is simply described. Naturally occurring uranium is found in ores as a mixture of U-238 (99.3%) and U-235 (0.7%). At the beginning of the fuel cycle, the ore is mined, milled, leached with chemicals, and processed into a form called yellow cake. The waste products of this process, called mill tailings, (about 99% of the original ore mass) currently are disposed of in tailings ponds (called tailings piles in the industry).

The yellow cake (1 lb produces about the same amount of energy as 7.5 tons of coal) is shipped to conversion plants where it reacts chemically with fluorine to form the gas uranium hexafluoride (UF_6). The slight difference between the weight of the U(235) F_6 molecules and the U-238F_6 molecules enhancement of the U-235F_6 concentration of the mixture in the next step of the process.

The historical technique for U-235 enrichment is called gaseous difussion, but other techniques such as the centrifuge process are being developed, and new techniques using lasers are under research. The United States Government controls all domestic U-235 enrichment.

The amount of fuel enrichment done depends on the need or reactor type for which the U-235/U-238 will be used. In general, the higher the concentrations of U-235 (the fissile part) the more flexibility there is in reactor design, but most current reactors need fuel enriched to only about 3%. The fluorine in the enriched UF_6 mixture is then chemically replaced with oxygen, and the enriched uranium oxide is fabricated into fuel pins clad in metal.

The byproducts of the enrichment process are called uranium enrichment tails, depleted in U-235 (conversely, enriched in U-238). These are currently stored for possible use in a breeder reactor in the future. If the enrichment tails in storage now were bred into Pu-239, the energy from burning the Pu-239 could supply this country's electrical needs for many decades.

At the reactor, the fuel pins are placed into rods, and enough fuel rods, along with neutron-absorbing control rods, are inserted into the reactor core, close enough together so that a critical but manageable mass of fissile fuel results. The nuclear chain reaction begins, liberating neutrons, fission fragments and energy. The fission fragments remain trapped inside the fuel pins. The released energy is used to heat water, converting it into steam that turns turbines for generating electricity.

As the fuel "burns," it becomes depleted in U-235, and eventually the U-235 concentration becomes too low for effective reactor operation. The fuel pins must be replaced about every three years, usually one-third of them every year.

The "spent" fuel pins still contain some U-235, as well as fission fragments, U-238, and some Pu-239 bred from U-238. If the pins were reprocessed, the U-235 and Pu-239 could be reused as fuel, and the U-238 could be used in a breeder to breed more Pu-239. However, reprocessing isn't currently done in the United States.

Instead, the spent fuel pins are sent to interim storage. They are called reactor nuclear waste, but as mentioned above, that is a poor choice of words because of the valuable U-235, U-238, and Pu-239 content of the pins. Storage is a problem, however, because the pins are radioactive. The Pu-239 has a decay time of thousands of years. Fission fragments most dangerous to man, strontium-90 (Sr-90) and cesium-137 (Cs-137), have decay times of hundreds of years.

Research is underway on the suitability of deep underground sites for permanent storage of nuclear fuel cycle byproducts. They would likely be stored in solid form, for example melted with and solidified into glass—a process called vitrification.

The discussion above outlined the nuclear fuel "cycle" that is now used in this country. However, in fact it isn't a cycle—it is a one-pass system. It would be a cycle, though, if spent fuel pins were reprocessed.

OPTIONS

There are other potential pathways for developing nuclear fission energy with continued mining of raw high-grade uranium ore, our supplies will be depleted in just a few decades. Even without breeding, one pathway is the use of reprocessed U-235 and Pu-239, separately or combined as so-called

mixed oxide fuels (MOX), in burners. Reprocessing would save between 20 and 40% on the amount of raw uranium that would need to be mined for a reactor. Reprocessing would also change the mixture of byproducts put into permanent storage, because most of the U-235 and U-238, and Pu-239 would be removed for reuse. A chemical reprocessing method, called PUREX, recovers 99.9% of the uranium and plutonium, but it is now used only on nuclear weapons program byproducts, not commercial reactor byproducts.

Use of breeders to create Pu-239 from U-238, or U-233 from Th-232, is another option that could supply the United States with fission/electric power for centuries.

The term "conventional" breeder is a misnomer in that this country doesn't have a "ready to order" U-238 breeder yet; further research and development is needed before breeders become a real commercial option.

Two other potential (but no commercially real) breeder options are possible. Electronuclear breeding would use accelerated hydrogen atoms to knock neutrons out of targets, and the neutrons then would bombard Th-232 to breed U-233. The conceptal fusion/fission hybrid would use neutrons from fusion reactions to cause fission reactions and additional energy release in a subcritical fissile-fuel blanket surrounding the fusion core.

The kind of reactor used (burner, breeder, hybrid) would dictate the pathways up to the reactor—the so-called front end of the cycle—and would, in part, dictate the pathway used after the reactor—to so-called back end of the cycle.

Note the options currently bypassed in the back end of the cycle. As mentioned, chemical/metallurgical reprocessing would provide substantial fuel recovery. But what about the other radioactive fission fragments? One option is laser photochemical separation (a technique that allows activation and separation of just one kind of atom or molecule in a mixture of several kinds), which may provide:

Separation of uranium and plutonium from liquid waste for fuel recycling.

Separation of long-lived fission products, such as iodine-129, zirconium-93 and technitium-99, that could be returned to a reactor where nuclear transmutations would reduce them to stable nonradioactive isotopes.

Separation of heat-generating radioactive elements, such as Sr-90 and Cs-137. Removal would reduce the heat load of the remaining byproducts. Such isolated elements might profitably be used to supply process heat (heat for an industrial process) during their decay (half-life about 30 years). Also, research is underway to use Cs-137 to irradiate municipal sewage sludge to make the sludge biologically inactive and thus suitable for fertilizer.

Recovery of valuable metals such as rhodium and palladium that could be sold.

If laser photochemical separations were done, the remaining toxic wastes could be much more easily stored; after 700 years, less than one ten-millionth of the initial toxicity would remain.

Laser photochemistry is a new field, and little work has been done on the use of lasers at the back end of the cycle. This option needs further study.

In the meantime, these fuel cycle back-end wastes should be viewed as potentially very valuable, and perhaps a "permanent" storage facility should be designed for retrieval.●

EXPLANATION OF CALIFORNIA SSI/FOOD STAMP BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Califorina (Mr. CORMAN) is recognized for 5 minutes.

● Mr. CORMAN Mr. Speaker, the purpose of this statement is to explain a bill I am introducing today that would allow the State of California to continue to pay cash in lieu of food stamps to SSI recipients.

Currently, recipients of supplemental security income (SSI) benefits in California are ineligible for food stamps. When the SSI program began in 1974, California included in its State supplementary cash payment an amount equal to the bonus value of food stamps that SSI recipients in the State generally would have been eligible to receive. In other words, the State provided SSI recipients with an additional amount of cash generally equivalent to, and in place of, food stamps, and in this sense "cashed-out" food stamps for SSI recipients. California was able to maintain this "cash-out" status as long as the Federal Government was contributing to the cost of the State supplementary payment through the hold harmless provision of section 401 of Public Law 92-603.

In 1976, as a result of increases in the Federal SSI benefit level, California became ineligible for Federal hold harmless payments and, consequently, would have lost the "cash-out" status allowed under the provisions of Federal law then in effect. At that time, at the request of the State of California, Congress enacted legislation (Public Law 94-379) that allowed California to continue its "cash-out" status as long as it met two conditions: beginning June 1976, and for every month thereafter, the States nad to: First, pass through to SSI recipients any cost-of-living increases provided in the Federal SSI benefits and Second, provide a yearly cost-of-living increase in the State supplementary payment. California has continued to meet these two conditions up to this time and, therefore, SSI recipients in the State are ineligible for food stamps.

Beginning in September 1978, however, California will cease to meet the second of these statutory conditions because the State suspended, as of September 1, 1978, the cost-of-living increase in its SSI supplementary payment. As of this date, because the State will no longer satisfied the second condition stated above, the State will lose its 'cash-out" status. SSI recipients will then be entitled to apply for food stamps, and most noninstitutionalized, single, aged or disabled individuals who apply will qualify for the minimum food stamp allotment of $10 per month. SSI couples and most single, blind recipients will not qualify for food stamps because the level of their SSI payments exceed the income limits under the food stamp program. Institutionalized SSI recipients will not qualify for food stamps because they do not constitute an eligible household under the provisions of the food stamp law.

At this time, California has reached an oral agreement with the Department of Agriculture under which, at least until December 1978, food stamps will be distributed to eligible SSI recipients under a demonstration project system which will greatly simplify the eligibility determination and food stamp distribution procedures. The State estimates that during these 4 months approximately 90 percent of the noninstitutionalized, single, aged, and disabled individuals who would be entitled to $10 a month of food stamps will participate in the program. The estimated annual cost under the demonstration project system is $51 million for food stamp benefits and $6 million for administration.

According to the State, as of January 1, 1979, they will have to begin converting SSI recipients from the demonstration project system to the regular food stamp eligibility determination and distribution procedures. SSI recipients will then have to make application for stamps at the local welfare offices and pick up the stamps at designated locations. After conversion to the regular food stamp system, the State estimates that the participation rate will drop to 42 percent and, on an annual basis, $25 million will be paid in food stamp benefits with administrative costs increasing to approximately $75 million. Of the total cost of $100 million, the Federal Government will pay all of the costs of the benefits and one-half of the administrative costs, with the State paying the other half.

The objective of the bill I am introducing today, which amends section 8(d) of Public Law 93-233, is to provide SSI recipients in California who would be eligible for food stamps an amount in cash equivalent to the value of their food stamp entitlement, and to do so in a manner that minimizes administrative procedures and costs. Under this legislation, if requested by the State of California, the Secretary of Health, Education, and Welfare would make an additional monthly cash payment of $10 (the minimum food stamp allotment for an eligible one person household) to noninstitutionalized, single SSI recipients. This additional payment would be included in or with the individual's SSI check. Eligible SSI individuals would receive this cash payment in place of food stamps.

The amendment would allow California to resume "cash-out" status beginning with the first month in which the additional payments in lieu of food stamps provided under this bill are actually made by the Secretary of HEW. These additional payments would end with the first month California comes back into compliance with the two conditions contained in Public Law 94-379. Thus if California should resume including cost-of-living increases in its supplementary payments, including amounts necessary to reflect all increases in the cost of living which have occurred since June 1976, the special $10 payments would cease and the State could continue its "cash-out" status under the provisions of current law. The amendment also specifies that the requirements of paragraph (2) of section 8(d) will be considered to have been met when California does make the required cost-of-living increases. This language is necessary to make clear that, when California does resume making annual cost-of-living increases in its State supplementary payment as required under Public Law

94–379, the State will be considered to have satisfied the requirement of paragraph (2) of section 8(d) that such increases have been paid for all months since June 1976.

Under the proposed legislation, non-institutionalized, single SSI recipients in the State would receive the monthly $10 additional cash payment in lieu of food stamps. It is estimated that the total annual cost under this bill, benefits plus administration, will be approximately $60 million; or about the same as under the food stamp demonstration project system scheduled to begin on September 1, 1978. Benefit costs will be somewhat higher but administrative costs should be less. It should be noted, however, that this is $40 million less than the total estimated cost (benefits plus administration) after conversion to the regular food stamp program. Under the regular food stamp program, the State estimates that it will cost about $75 million to administer $25 million worth of food stamps, and the total yearly cost to the Federal Government will exceed $60 million. Under this legislation, approximately $60 million in benefits will be provided to needy aged, blind and disabled individuals with negligible administrative costs. In other words, twice as many individuals will receive benefits under this bill at essentially the same cost to the Federal Government.●

A BASIC GUIDELINE FOR FREEDOM: THE ANNUAL CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, in one of the numerous rallies about the country the 1978 Captive Nations Week was aptly described as a basic guideline for freedom. This is a concise but exquisite expression of this annual national observance. And how fundamentally true in thought and essence it is. Since World War II, for instances, we have encountered the Korea crisis, the Cuba one, the Vietnam war and now face an indirect confrontation in both Africa and the Mideast. These are all fluctuations about the norm of Soviet Russian imperialist aggression, resulting at times and with bitter cost in lives and treasure, not to mention our national prestige and leadership. But none of these sets a guideline in total perspective for freedom as does the annual Captive Nations Week, along with the congressional resolution and the main indicator, the CNL—the Captive Nations List.

For further examples of the scope and intensity of the 20th observance, I submit in my report the following: First, the statement by Governor Pierre S. DuPont of Delaware and the proclamation by Mayor John Seymour of the city of Anaheim; second, a report in the July 12 Oakland Tribune; third, "Human rights held focus of Captive Nations Week" in the July 15 AFL–CIO News; fourth, the declaration of the 1978 Captive Nations Week rally of the Republic of China; and fifth, "Captive Lands Remembered" in the July 19 Newark Star Ledger:

STATEMENT BY GOVERNOR PIERRE S. DU PONT IN OBSERVANCE OF CAPTIVE NATIONS WEEK

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Ccmmunist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations:

Now, therefore, I, Pierre S. du Pont, Governor of the State of Delaware, do hereby proclaim the week of July 16–22, 1978, as Captive Nations Week in Delaware, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

PIERRE S. DU PONT,
Governor.

A PROCLAMATION

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecholovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as a citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, thousands of Americans have lost their lives fighting Communist aggression in Vietnam and the world over;

Now be it therefore proclaimed by the Anaheim City Council that the period which began July 16, 1978, extending to July 31, 1978, be designated as "Captive Nations Weeks in Anaheim" and further calls upon the citizens of our community to join with the Congress of the United States and others in observing this period by offering prayers and dedicating efforts for the peaceful liberation of the oppressed and subjugated peoples all over the world.

CAPTIVE NATIONS WEEK

WASHINGTON.—President Carter yesterday set aside the week beginning Sunday as Captive Nations Week and invited Americans to renew their dedication "to the cause of all people who seek freedom, independence and basic human rights."

HUMAN RIGHTS HELD FOCUS OF CAPTIVE NATIONS WEEK

Nations and people of the Free World must redouble their efforts on behalf of individuals who are denied their basic freedoms and liberties, AFL–CIO President George Meany said in a statement marking observance of Captive Nations Week, July 16–20.

Meany noted that the American labor movement has consistently supported the struggle for human rights and that it applauds groups that speak out on behalf of the oppressed.

"We must not permit political or economic expediency to dull our words," he stressed. "Those individuals actively involved in this struggle look to us for support and assistance. They must be continually assued that their trust is not misplaced."

In proclaiming the Captive Nations Week observance, President Carter urged Americans to renew their dedication "to the cause of all people who seek freedom, independence and basic human rights."

Meany also noted that a statement adopted at the AFL–CIO convention last year expressed concern that "abuses and threats to basic human rights are the most searching issues that divide the world today, and the clearest tests of American ideals and resolve. Where these issues are concerned—whether in Southern Africa, Chile, Uganda or the Soviet Union—there are no longer any purely internal affairs."

DECLARATION—1978 CAPTIVE NATIONS WEEK RALLY OF THE REPUBLIC OF CHINA

To provide further assistance to the Iron Curtain peoples' struggle for freedom, we the people from the Republic of China's various circles have gathered for a Captive Nations Week Rally in Taipei on this 21st day of July 1978 together with freedom-fighter leaders and anti-Communist youth representatives from the Americas, Europe, Africa, the Middle East and various other Asian countries.

The assembly is aware that the world situation today still is fundamentally a bi-polar confrontation between freedom forces and those bent on perpetuating Communism. The unceasing expansionist race of international Communists in Asia and Africa and their fanatic instigation of wars and disturbances have shattered free nations' wishful hopes to coexist with them. Their unchanged scheme of world communization and human enslavement has been thoroughly exposed.

The assembly also is aware that international politics cannot contradict man's basic need of survival, that free peoples' demands for protection of human rights and freedom are now tied closely with the Iron Curtain peoples' steps to end slavery and win liberty, and that the tide of will power thus forged is steering politics in the direction of justice, righteousness and morality. No politician can resist or turn this trend.

The assembly furthermore is aware that because of the excessive fear of nuclear holocaust, certain free nations still are vainly seeking power equilibrium, ready to settle with even the most precarious of peace, and mistakenly attempting to pit Peking against Moscow. This strategic deviation is being positively used by the international Communists as a gap for nuclear blackmail and attempts to isolate individual free nations, employ secondary enemies as proxies against primary targets, then one after another defeat all those who stand against Communism.

The assembly moreover is aware that the

Republic of China not only is a model of free world anti-Communism by dint of her staunch stand for freedom and democracy as well as unflinching struggle but more importantly also is functioning as an effective shield and stabilizing force in crisis-ridden Asia. The ROC has long been the hope of all Chinse and a major guardian of Asian-Pacific security.

Basing our reasoning on the above-mentioned developments, we the rally participants hereby reiterate the oft-stated fact that the destiny of mankind has closely to do with the future of the 800 million Chinese mainland people and that the ROC security and the entire free world security are inseparably interdependent. Furthermore, this Captive Nations Week Rally declares the following and solemnly urges commensurate steps by all:

First, the Chinese traditionally have been a freedom-loving, justice-respecting people, and the Republic of China is strongly anti-Communist. China's 5,000-year-old outstanding cultural tradition is the weapon the Chinese through the centuries have used for emerging victorious from ordeals under tyrants. The Chinese now face destruction by an ever more intense brute force, but we are confident that the destiny of China is firmly in the Chinese grasp and that righteous joint endeavor will give full play to our cultural strength for the overpowering of Communists. The mainland will be recovered and our compatriots restored to freedom and human rights. Our political system based on the Three Principles of the People will enable all the people of our nation to enjoy liberty, democracy, prosperity and well-being.

Second, the Republic of China's national reconstruction bases—the islands of Taiwan, Penghu, Kinmen and Matsu—are controlling important anti-Communist strategic points in the Western Pacific, blocking eastward Chinese Communist expansion by sea or air, and harnessing Peiping's aggressive moves against Southeast Asia. Ours are democratic open political and social systems. Our economic construction has been well in progress for growing prosperity. We furthermore possess strong defense capabilities and unity of mind for anti-Communism. Never shall we permit infiltration and sabotage by Communist elements, nor shall we ever allow any international force to harm our national position, right or interest. Persisting in our confidence and determination, we will continue to support our government, unite forces for freedom and democracy, carry out epochal mission to safeguard the freedom and security of all Asians, and deal fatal blows to our common enemy.

Third, the United States as a Pacific nation cannot dodge her historic responsibility to maintain Asian-Pacific common security as she strives to bring lasting freedom and human rights to all mankind. President Carter's human rights campaign, moral principles and open diplomacy are the most powerful calls America has issued on the stage of international affairs in the present decade. As such, their values and standards should never be damaged or lowered, not by Americans above all. We therefore earnestly urge the U.S. Government to face the stark fact that the international Communists, bent on world communization, still treat and will keep on regarding America as their major enemy and that therefore absolutely no "common interest" exists between the U.S. and any Communist regime. For the protection of her own benefit and security and for the boosting of the morale of all those who are striving to free themselves from bondage, America has to cast aside any illusory hope that Peiping may be won over for the checking of Moscow, stop moving towards "normalization of relations" with the Chinese Communists, start vigorous leading of free nations, and with a renewed dedication actively assist seekers of freedom, independence and fundamental human rights.

Fourth, the security of Asia, Africa and Latin America is in a state of emergency. Long a source of Latin American turmoil, Cuba under the direction of Russians has grown as an aggressor against Africa and a force of threat to Middle East peace. Because of the multifront expansionist attempts of the North Korean, Vietnamese, Cambodian and Loatian Communists, not to mention the Chinese Communist moves, Asia's free nations are under heavy Red menace of war. We therefore urgently ask that a consolidated security system be formed by the free nations of Northeast Asia and Southeast Asia so that the region can be saved from wholesale communization. We furthermore call upon the free nations of Africa, Latin America and the Middle East to reject Communist economic baits, foil Red tactics of alienation, stand together on a clearly-drawn anti-Communist front line, and jointly exert themselves to keep their independence and freedom intact.

Fifth, Japan as the center of viable Asian-Pacific economy and as a country under America's nuclear umbrella has the solemn duty to combat Communism. Our expectation is ardent that the Japanese Government, acting in the name of justice, will resolutely suspend its negotiation with the Chinese Communists about a so-called "treaty of peace and amity." Japan furthermore should strengthen her cooperation with the Republic of China and the Republic of Korea for stronger common defense, for effective checking of the Communist race for expansion and hegemony in Asia and the Pacific, and for an early return to freedom of all captive Asians.

Sixth, our call to the masses of enslaved people in North Korea, Indochina, Communist-ruled African countries, Cuba, the USSR and East European states is that, in view of the steady decline of Communism and the aggravating split and withering of Red Forces, all should rise in unity for the ignition of a huge anti-Communist torch behind the Iron Curtain and for the puncturing of the Communist stronghold from within. When their strength is combined with that of all those outside who similarly stand for freedom, a decisive end will be put to Communist rule everywhere.

Seventh, even more strongly we now urge our 800 million compatriots on the Chinese mainland—military personnel, party cadres, gallant youthful anti-Communist fighters and all the others behind the enemy line—to see clearly that collective resistance wherever they are is a sure short cut to destruction of tyranny and assurance of freedom. Now that the regime is split into pieces as a result of its endless cycle of power struggle, the time is ripe for an all-out anti-Communist revolution to pull down tyranny and gain a sweeping victory.

Be it known to all those who are strongly for human rights and freedom, those of the younger generation in particular, that the will power of mankind to gain liberty and remain free has now been brought to a climax and that Communist rampancy is quickly going through its final stage. Without distinction of race, nationality, region or religion, let us unite as one and fight on shoulder to shoulder until Communism gets defeated and replaced by lasting freedom and human rights for all.

CAPTIVE LANDS REMEMBERED

DEAR EDITOR: In this 20th observance of "Captive Nations Week," enacted into law as the third week in July and signed by President Dwight D. Eisenhower, the world is again reminded to cherish the freedoms which are its inalienable right, and to note with apprehension the loss of the basic freedoms of speech, assembly and religion in oppressive dictatorships.

In totalitarian regimes, service to the state is primary, thus relegating individual freedoms meaningless; voting is a farce where only one candidate appears on the ballot, and "kangaroo court" trials of dissidents render justice insensately.

At present, there are over 30 captive nations, mostly under the domination of the Soviet Union, with the list still growing. Among them is the Ukraine, with people such as Valentyn Moroz, Mykola Rudenko and Oleska Tykhy, daring to demand self-determination for the Ukraine and freedom for people of all nations.

As the struggle for human rights moves forward, an increasing awareness of personal and cultural identity is emerging as people are displaying a renewed interest in their national roots. Observing "Captive Nations Week" serves to lay bare the Soviet version of the Promised Land as a fraud, and warns the world to counter oppressive tactics by standing up for basic human freedoms.

MICHAEL CIAPKA,
Irvington.●

ANNOUNCEMENT OF HEARINGS ON GROUP LIFE INSURANCE FOR PUBLIC SAFETY OFFICERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

● Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will begin public hearings Wednesday, August 16, on H.R. 6845, a bill which I have introduced to provide group life insurance for public safety officers.

The hearing will be held in room 2226, Rayburn House Office Building, and will commence at 9:30 a.m.

Testimony will be received from the Department of Justice, various police unions, and representatives from the life insurance industry. Members of Congress interested in testifying at such hearing, please address their request to my Subcommittee on Immigration, Citizenship, and International Law, Rayburn House Office Building 2137, or call my subcommittee staff at 225–5727.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, on rollcall 661 and 662 yesterday, both amendments to cut defense appropriations, I was absent because the Speaker had announced that the House was going out of session at 8 p.m., both votes were taken after that hour and I had left in reliance on the Speaker's announcement. Had I been present, I would have voted, "aye", on both amendments.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, yesterday I was unable to be in the Chamber of the House of Representatives during two recorded votes.

Had I been present, I would have voted "aye" on rollcall No. 661, the Mitchell amendment in the nature of a substitute to reduce the Department of Defense appropriation by 1 percent. I also would have voted "aye" on rollcall No. 662, the Harkin amendment to reduce the Defense appropriation by 2 percent.●

"AN ARREST IN MOSCOW: WHAT'S AT STAKE FOR U.S. BUSINESS"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 10 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, on Monday, in a speech on the House floor, I expressed my concern with the pending swap involving the two Soviet espionage agents now facing trial in the United States, for the imprisoned Soviet dissident Anatoly Shcharansky. I urged the administration to continue to give first priority to obtaining the release of Mr. F. Jay Crawford who is, after all, an American citizen.

In this morning's Washington Post, I read an excellent article by Mr. Barrett Prettyman, Jr., entitled "An Arrest in Moscow . . ." Mr. Prettyman is a noted Washington attorney who recently returned from a six-nation factfinding trip that took him to the Soviet Union. Together with six of his colleagues, he was able to arrange a private meeting with Mr. Crawford that lasted over 4 hours.

After reading his article, my concerns have intensified. This morning, a member of my staff was in direct contact with Mr. Prettyman, who informs us that despite Crawford's usual optimism, he has expressed a deep concern over the outcome of his trial. Feeling "lost and left out," he asked Prettyman to do what he could to draw attention back to his case, which he feels has been eclipsed by the recent international coverage of the Shcharansky case and the trial of the two American newsmen.

Mr. Prettyman then related an episode that seems to shed more light on the situation. He revealed that the top trial lawyers in the Soviet Union were completely unaware of the Crawford case. When asked to comment on a hypothetical in which a man is dragged from his car, the attorneys responded that it would be a clear case of "hooliganism" under Soviet law. Asked if this would still be the case if the KGB was involved in pulling the man out—a clear reference to what occurred to Crawford in June—they responded affirmatively. Had they been aware of the case, they would probably have had a different answer. The fact that these lawyers were in the dark indicates that the Soviets do not intend to prosecute the case in the normal manner, and points to the high-level involvement of the Soviet Government.

Frankly, Mr. Speaker, I think Crawford has good reason to feel "lost and left out": he continues to be a pawn in a larger case involving the two Soviet espionage agents who are now in American custody. Crawford's trial date has now reportedly been set for September, coinciding with the time the two Soviets face spy charges in New Jersey. The connection is inescapable.

Mr. Speaker, I believe that more can be done to bring this case to a speedy resolution. I enclose a copy of the Prettyman article for the RECORD.

[From the Washington Post, Aug. 9, 1978]

AN ARREST IN MOSCOW: WHAT'S AT STAKE FOR U.S. BUSINESS

(By E. Barrett Prettyman Jr.)

American business either is insufficiently aware of a series of events now taking place in Moscow, or does not understand the implications of those events for all persons seeking to do business with the Soviet Union. I refer to the arrest, continued interrogation and probable trial of Francis ("Jay") Crawford, the American senior manager for the Soviet Union of International Harvester Export Company.

On June 12, a number of plainclothes members of the KGB forcibly dragged Crawford from his car in downtown Moscow, gashing his head and bruising his arms and legs in the process. Thereafter, they held him for an initial period of 15 days for questioning. His fiancée, the secretary to an American embassy official, was with him at the time of his arrest, and she, too, was manhandled and hurt, although she was allowed to drive off after Crawford was placed under KGB control.

During a just-completed trip to six cities in Europe to study economic policies and international antitrust problems, a contingent of seven out of 32 American attorneys made a side trip one evening to meet secretly for almost four hours with Crawford, who by then had been placed under the restricted custody of our ambassador, at the apartment of a U.S. official. Crawford was forthright and even vigorous in defense of all his actions and adamant about his innocence.

Immediately after his arrest, he said, he asked to call the American embassy. His request was denied. The Russians notified our embassy the day after his arrest, and an embassy official was allowed to visit him briefly, but the two were not permitted to speak alone.

The single possible charge against Crawford mentioned to him at the outset of his interrogation related to alleged customs or smuggling violations. No details were given to him. Although Crawford is prohibited by the terms of his release from discussing precisely what was done to him while in custody, it was obvious from his recitation that during the next five days, various types of psychological stresses—the "good guy, bad guy" approach in particular—were used against him, and he was forced to trace in detail all aspects of his life while working for International Harvester in the Soviet Union.

Among other things, he told the KGB how, some two years before, the curtains in his office were discovered to be of unequal length, and he sought out a seamstress to correct the problem. He was introduced to a Russian seamstress and her husband, and the wife performed the necessary cutting and weaving, at the same time refusing to take any money for her work.

Over the succeeding two years, Crawford saw the same couple on a number of occasions, including social ones. The seamstress performed various small sewing tasks for him, each time refusing payment, and he in turn gave the couple several small gifts, none of any substantial value, in return for the couple's friendship and generosity.

At the end of five days of interrogation and his recitation of those facts among many others, the case took a dramatic turn. Crawford was confronted with a sworn statement from the seamstress. A few days later, he was shown a second statement, from her husband. The statements alleged that Crawford had given the couple 8,500 American dollars in exchange for from 20,000 to 24,000 Soviet rubles. As a result of those statements, the possible charges against Crawford were changed from those relating to customs to alleged currency violations.

Crawford strongly ridiculed the charges to our group, claiming that they were absurd on their face. Anyone even vaguely familiar with the Soviet black market knows that Crawford, if he had been interested in profiteering, could have obtained a much better exchange rate from any cab driver or from any of the hordes of black marketeers who roam the streets of Moscow. Moreover, all of his finances were so carefully monitored by his employer and the company's accountants that such trading would have been impossible.

Crawford said that after he had initialed pages summarizing his five-day interrogation—no verbatim transcript was made or at least shown to him—all questions about currency violations ceased, and he was thereafter asked solely about such matters as the makeup, layout and operation of the American embassy. Ten more days were spent in that type of ordeal.

In response to a question from me, Crawford said the first thought that went through his mind when he was arrested was that he was being taken as a hostage for the two Soviet government employees who had been arrested in Newark, N.J., for allegedly seeking to buy intelligence information. Crawford feels that he will be found guilty if they are, despite his innocence. His trial has been set for September to coincide with the New Jersey proceedings. If convicted, he faces eight years of hard labor and three years of exile. In the meantime, he continues to be questioned on an intermittent basis for many hours at a time by the KGB.

This small, portly, unimposing man, whom all American officials in Moscow described to us as the least likely person to commit any type of criminal offense, asks in wonder why he should become a pawn in international politics, why his life should be ruined as a result of events thousands of miles away and having nothing to do with him. These are, of course, personal and highly understandable concerns.

But there are other aspects of the case that are less understandable. An informal poll by the Associated Press of 25 firms doing business in Moscow following a plea for support by International Harvester's president resulted in only five direct expressions of such support. Three firms expressed no interest, seven were noncommittal and the remaining seven refused all comment. No discernible reaction has come from business in the United States outside of International Harvester itself.

That, I submit, reflects either a dangerous lack of knowledge of the affair or a total failure to recognize what is at stake for every American who is conducting business with the Soviet Union, or who is contemplating the possibility of doing so.

It is clear from the Crawford case and similar incidents that incriminating statements against American citizens can easily be obtained by the KGB from Russians who themselves fear for their lives. Moreover, Soviet currency laws are so complicated that technical violations can be conjured up virtually at will.

But it is also clear that Russians respect and react to a show of force and to group pressure. If American business made it unmistakably clear that it would not stand for the kind of treatment being accorded Crawford, even if such a stand meant a slowdown or cessation of Soviet-American

business transactions, such incidents would be far less likely to occur. But if it is to be "business as usual," as the Russians made clear to us they fully expect it to be, then these incidents will escalate, and the personal safety of all Americans who find themselves in the Soviet Union for whatever purposes will increasingly be jeopardized.

Jay Crawford's case should make it clear that anyone can become an unwitting and unwilling pawn in the Soviet-American political chess game, even if he does nothing but go about his daily business. Only a show of absolute abhorrence for brutal arrests, extended and secret interrogations, and manufactured charges will have any effect on the Russians in the future.

Our group of 32 did its part. We spoke out with vigor at each of our limited opportunities. But we felt very much alone.●

CONGRESSIONAL INTERPRETATION OF STATE "SUPER-MAJORITY" LAWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 15 minutes.

● Mr. LAFALCE. Mr. Speaker, today I have introduced House Joint Resolution 1110 which, if enacted by both Houses, would establish fundamental congressional policy with respect to the ratification of pending and future amendments to the U.S. Constitution. Article V of the Constitution prescribes for the Congress a prominent role in the formulation of amendments as well as the determination of the mode of ratification to be followed by the States. My resolution represents an attempt to assert our constitutional role, and express congressional intent with respect to the requisite majority within an individual State legislature necessary to secure that State's ratification.

Specifically, the resolution provides that a simple majority affirmative vote of each house of a legislature is sufficient to constitute ratification of a proposed constitutional amendment. The Congress has never adopted an official position on this critical procedural issue, and in the absence of congressional guidance or directives in the past, a number of States have implemented laws which require their respective legislatures to accept Federal constitutional amendments by greater than a simple majority to effectuate ratification.

At the present time, seven States require a "super-majority" of the legislature to ratify. Arkansas, Colorado, Georgia, Idaho, and Kansas require a two-thirds vote of each House; Illinois requires three-fifths in each House; and Alabama requires a three-fifths vote in the lower chamber.

There is convincing evidence that the framers of the Constitution assumed that State legislatures would act by majority vote in considering ratification. Patrick Henry lamented that a "bare majority" in a few small States might hinder the adoption of amendments, and nowhere in the Convention debates is a "super-majority" contemplated. It is likely that the framers never addressed the issue because they assumed that simple majorities in the several State legislatures would be the accepted legislative practice.

It is also readily understandable why the issue has remained dormant for so many years. Never has the presence of extraordinary majority rules interfered with previous amendments to the Constitution—until now. Illinois' three-fifths majority requirement has been the only perceived impediment to ratification of the equal rights amendment by that State's legislature to date. In fact, were the resolution I have today submitted enacted tomorrow, we would be 2 States and not 3 short of the 38 necessary for final ratification of the Equal Rights Amendment.

Any constitutional amendment must be approved by three-fourths of the States, and there is no doubt that the framers had every intention of making the amending process a difficult one which would assure a true national consensus when completed. But States should not be granted the capacity to set up additional roadblocks to the ratification of amendments—it is a tortuous enough route under the article V requirements alone. State "super-majority" requirements are just that—unnecessary, undesirable, and unfair roadblocks to a uniquely national amendment process. As the Supreme Court stated in *Leser* v. *Ferguson* (1921), "The function of a State legislature in ratifying a proposed amendment to the Federal Constitution, like the function of Congress in proposing the amendment, is a Federal function derived from the Federal Constitution; and it transcends any limitations sought to be imposed by the people of a State."

I requested the American Law Division of the Library of Congress to analyze the full scope of congressional authority to interpret the ratification votes taken in individual State legislatures, and to prescribe ratification procedures in the legislatures that may differ from existing State practices. At this point, I would like to insert the Library of Congress memorandum, which concludes that Congress does have the constitutionally derived authority to dictate the mode of ratification to be employed by State legislatures.

LIBRARY OF CONGRESS, AMERICAN LAW DIVISION

CONGRESS AUTHORITY TO DETERMINE WHEN AN AMENDMENT TO THE U.S. CONSTITUTION IS RATIFIED

Our examination of the relevant case law in the area has led us to conclude that in view of the "political question" doctrine as formulated in *Coleman* v. *Miller*, 307 U.S. 433 (1939), and applied in subsequent cases by the Supreme Court, Congress would have the authority to determine in an individual case that a majority vote in a single state will suffice for ratification purposes, notwithstanding contrary provisions in the state legislature's rules of procedure. *Baker* v. *Carr*, 369 U.S. 186 (1962); *Powell* v. *McCormack*, 395 U.S. 486 (1969); and *Gilligan* v. *Morgan*, 413 U.S. 1 (1973).[1]

Several questions were presented to the Court in *Coleman* including whether the Lieutenant Governor of a State, as presiding officer of its Senate, could break a tie on a federal constitutional amendment; what length or lapse of time could cause a pending constitutional amendment to lose its vitality; and whether a legislature having once rejected a proposed amendment could thereafter vote to ratify it. The eight Justices on the Court split evenly with respect to whether the Lieutenant Governor's tie-breaker presented a judicial question for the Court to decide or a political question for Congress to decide. But six of the eight were in agreement that the other questions were political and that Congress' discretion to decide the issues was final and unreviewable by the courts. It would appear that Congress' decision to accept a State's ratification of a proposed amendment to the U.S. Constitution based upon its passage by a majority vote in face of its legislature's own extraordinary majority procedural rules, e.g. Illinois, is a political question and not a judicial one. There is no court precedent holding to that effect; however, it does appear that Congress as the body with the responsibility for proposing constitutional amendments is charged with the responsibility for determining the resolution of questions arising in the course of the process. Furthermore, if there are political considerations involved in the issue, then under the political question doctrine, Congress is charged with the responsibility of acting. In this instance once Congress decided to accept the state's majority vote as adequate for ratification purposes and expressed this decision in the form of a resolution such action would be unreviewable by the courts. Congress, of course, may not act outside the Constitution.

In addition to the political question doctrine upon which Congress' authority to act in this situation woud probably be derived, there is also the historical precedent of the 39th Congress' determination that the Fourteenth Amendment was duly ratified by the necessary three-fourths of the States. When the 39th Congress was confronted with the issue of determining whether the requisite three-fourths of the States had ratified the Fourteenth Amendment so that it could be deemed duly adopted, the Congress simply acted by adopting a concurrent resolution expressing that there was in fact the necessary three-fourths. U.S. Statutes-At-Large, Vol. 15, Part 2, Appendix, at 709–710. While the example of the Fourteenth Amendment is not entirely identical to the situation of Congress determining in an individual case that a majority vote in a single state is sufficient for ratification purposes, notwithstanding contrary provisions in the state legislature's rules of procedure, it is similar enough that it can be cited as persuasive precedent. Both situations are similar in the sense that they relate to Congress' considering a problem regarding a proposed constitutional amendment but not relating at all to the actual content of the amendments. In each instance, Congress is reviewing the validity of a state's action and determining whether in fact its legislature has ratified. In the case of the Fourteenth Amendment, Congress decided that the rescissions of Ohio and New Jersey were invalid, and it did this by simply including these two States in the list of all the other States which had ratified the amendment without having rescinded and announced that three-fourths of the States had approved the Fourteenth Amendment and it was part of the U.S. Constitution. This action by Congress was final and unreviewable by the courts.

[1] In *Dyer* v. *Blair*, 390 F. Supp. 1291, 1299–1303 (D.C.N.D. Ill. 1975) (three-judge court), then-Judge Stevens concluded that not all such issues are political questions and proceeded to adjudicate the validity of a legislative requirement of an extraordinary majority to ratify. His rationale was, however, that unlike those matters treated in *Coleman*, the question at issue was not one previously considered and decided by Congress. In the situation posed by the issue addressed in this memorandum, as part of its Article V power to determine when an amendment has been ratified, Congress will be "speaking," i.e. making a determination as to what type of vote by a state legislature is adequate for ratification.

With respect to the situation where Congress would decide to accept a majority vote in a single state as adequate for ratification even though the state legislature's rules required a supermajority for approval, Congress could pass a concurrent resolution by majority vote indicating that the action in the state legislative body was sufficient. Unlike the instance of the Fourteenth Amendment, Congress in the situation presented in this memorandum would be acting prematurely, i.e. the question whether a proposed amendment to the U.S. Constitution has been adopted is determined at the time that three-fourths of the States (38) have ratified. Of course, questions of "ripeness" and "justiciability" are terms that are crucial to the courts. A court cannot rule on a matter until the issue is "ripe" or when there is clearly a "justiciable controversy" because a court cannot render an advisory opinion. Congress, the political branch, is different and not governed by these rules. It can express its intent at any time by passing a resolution. However, it should be kept in mind that the actions of one Congress cannot bind a future Congress. Therefore, it is conceivable that a subsequent Congress, when actually confronted with deciding whether three-fourths of the States have in fact ratified a proposed constitutional amendment, could decide *not* to accept a majority vote in a single state as sufficient for ratification purposes in the fact of a contrary provision for a supermajority in the state legislature's rules of procedure.

The full text of H.J. Res. 1110 follows:

H.J. RES. 1110

Joint resolution making the congressional determination that a simple majority of each body of a State legislature is sufficient for the purposes of proposed constitutional amendments for which the mode of ratification is by State legislatures

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress determines that, notwithstanding any provision of the constitution or laws of a State to the contrary, a simple majority affirmative vote of each body of the legislature of a State is sufficient to constitute ratification of a proposed amendment to the Constitution of the United States for which the mode of ratification proposed under article V of the Constitution of the United States is by the legislatures of three-fourths of the several States.

Sec. 2. This joint resolution applies to all votes in a body of a legislature of a State on the question of ratification of any proposed amendment to the Constitution of the United States pending on or after the date of the adoption of this resolution.

The language in the resolution calling for "a simple majority affirmative vote" is intended as a Federal requirement that still permits some flexibility on the part of a State legislature to determine whether it will require a simple majority vote on the part of those legislators present and voting; or 50 percent plus one of all elected legislators; or a majority of legislators when a quorum is present. Any one of those alternative "simple majorities" would satisfy the requirement contained in the resolution.

The resolution takes no position whatever on the alternative ratification route expressed in article V—that of ratification by conventions in three-fourths of the States. Finally, the resolution pertains to presently pending and future proposed amendments to the Constitution. The term "pending" is intended to refer exclusively to the equal rights amendment, and does not embrace the three amendments proposed in the late 1700's or the child labor amendment of this century, all of which were proposed without limits on the time required for passage, but which are no longer "ripe" for ratification.

In conclusion, Mr. Speaker, I urge my colleagues to give this measure their full attention and support so that Congress may perform its vital constitutional role in establishing modes of ratification that do not exalt a minority over a majority in any State legislature. Amending the Federal Constitution is too critical a Federal process to permit any State to erect substantial legislative roadblocks to hamper passage.

THE PROMISE OF MHD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 5 minutes.

● Mr. BAUCUS. Mr. Speaker, magnetohydrodynamics (MHD) is rapidly emerging as the most promising technology for generating electricity from coal cleanly, efficiently, and economically.

As Congressman from the western District of Montana, which includes Butte, where a major MHD test facility is being constructed by the U.S. Department of Energy (DOE), I think the benefits of this exciting technology should receive wider attention. I would like to recommend to my colleagues an excellent article by Peter Britton that appeared in the August issue of Popular Science:

MHD GENERATORS—MORE KILOWATTS FROM A TON OF COAL

(By Peter Britton)

EVERETT, MASS.—Dr. Arthur Kantrowitz peered through his office-window drapes at white smoke billowing from a distant shed. "Yup. She's still going strong. Want to take a look?" he asked.

I did indeed. "She" was Avco Everett Research Laboratory's off-again/on-again magnetohydrodynamic (MHD) generator, now halfway through an important 250-hour test run. A short time later we were nearing the device, which was cordoned off to protect workers from high-voltage electricity. I heard a loud humming sound.

The generator, about the size of a large automobile, bristled with tubes, wires, pipes; near its middle was the hump of a large water-cooled magnet.

There was little to suggest the enormous potential of this advanced energy source. Yet its backers are convinced that the technology it represents could be critically important in years to come.

"This machine," said Dr. Kantrowitz, feisty Avco chairman and longtime MHD advocate, "could be a key element in the country's energy program in just a few years—if industry could get the half-billion dollars it needs to develop a pilot plant. But the government's too damn timid to take that vital step. We're way behind schedule in this and other energy matters."

MHD backers think the technology is vital because it offers important advantages. It promises to wring up to 50 percent more kilowatts from each ton of coal, barrel of oil, or cubic foot of gas used to generate electricity. Even using high-sulfur coal, it could still meet stringent EPA antipollution requirements.

With advantages such as these, why isn't MHD now at work producing power? Because the technology also involves a number of ferocious problems. Since Popular Science last reported on MHD (Mar. 1978), there's been much research aimed at solving these problems. And, as I learned in recent visits to some of the country's leading research centers, considerable progress has been made in a number of critical areas.

NO MOVING PARTS

MHD generation is as simple in principle as it is difficult in execution. To generate electricity, move a conductor through a magnetic field. In a conventional generator, the conductor is a coil of copper wire. In an MHD machine, it is a stream of fast-moving plasma—gas that has been heated to the point where its electrons have been stripped from the atoms. As this conducting gas moves through the magnetic field, positive ions and free electrons separate. These charged particles are trapped by electrodes along opposite sides of the channel through which the gas moves, and direct current flows.

This simple process has certain attractive features. First, it eliminates moving parts, which makes the generator simpler and more trouble-free—at least in principle. Second, it is inherently far more efficient than the process currently used to generate electricity. Present conventional power plants go through a clumsy, complex process: First, fuel (coal, oil, gas, or other) is burned to create heat. The heat boils water and makes steam. The steam drives a turbine which is connected to a generator. The generator turns and makes electricity. At each step, some energy is wasted.

A given amount of fuel contains a specific amount of chemical energy. But the laws of physics dictate that the efficiency of a heat cycle that extracts this energy is limited by the temperature differential between the hottest and coolest parts of the cycle. The greater the temperature drop, the higher the efficiency. Modern high-temperature generating plants make superheated steam at around 1000° F, but even at this level the final efficiency of the plant is only about 35 percent.

An MHD generator neatly sidesteps this built-in limitation because it is not a thermal engine at all. It simply heats the gases to make them conductive and to propel them through the magnetic field. Since the system goes directly from moving gas to electricity, its energy efficiency is potentially very high.

Further, after an MHD generator has converted some of the kinetic energy in the moving plasma stream into electricity, the gas is still very hot. So it can now be used to boil water, which can run a conventional generator, and more electricity can be extracted. This two-stage process—MHD plus turbine—can turn 50 or even 60 percent of the potential energy in fuel into electricity rather than 35 percent managed by conventional plants.

But with MHD's advantages comes a package of problems. To ionize the gas, temperatures in the region of 5,000° F must be created. To do that, coal is pulverized and burned in a special combustor. But the ionized gas, while conductive, is not conductive enough for efficient power production. So metal ions of potassium or cesium are added. Then the ionized, seeded gas is blasted at about the speed of sound through a rectangular channel mounted in a magnet field. Several tough engineering problems grow out of the attempt to get the whole process working.

ELECTRODE LIFE

The biggest problem to date has been electrode erosion. The nearly supersonic blast of 5,000-degree plasma can eat away electrodes in a matter of hours. And you can't have a power plant that has to shut down for major repairs every couple of hours. At Avco, I saw how much progress has been made toward the solution of this one.

As we ducked into the control room, Dr. Kantrowitz showed me a circular chart recording the steady 220-kW output of the MHD generator. "This is quite a significant test," he said. "Two hundred and fifty hours. That is approaching the time that begins to arouse the interest of the electric-power utilities."

Near the thick glass panel of the control room, I watched the needles of hundreds of monitors flicker, registering the currents and voltages being recorded simultaneously by a nearby computer. To simulate burning coal, Avco researchers were burning fuel oil injected with fly ash and a potassium-carbonate seed. The test, which was costing about $1000 an hour, achieved much higher interior current density and electric fields than had been found before in equipment operated for such long duration. Most important, the 250-hour test indicated that electrode design was progressing nicely, if slowly.

Avco has developed anodes made of copper with 0.02-inch-thick platinum caps. The cathodes were made of copper with 1/16-inch-thick tungstein-copper caps. Significantly, the electrodes were undamaged after the test.

Projects elsewhere are attacking the electrode-erosion problem in completely different ways. The Avco MHD generator is what engineers call an open-cycle machine. The working fluid is seeded coal gas, and after a single pass through the channel, the hot gases are exhausted. Researchers at the General Electric Space Sciences Laboratory in Valley Forge, Pa., are using quite a different approach. The machine there uses a closed cycle. Argon gas is the working fluid. It is heated, then constantly recycled through the channel in a closed loop. (Closed-cycle plants might ultimately be used with nuclear reactors to increase the efficiency of that process.) This cycle works efficiently at a somewhat lower temperature than the open cycle—about 3000° F as opposed to 5000° F. Also, the gas is less corrosive. The result is that electrode erosion bcomes much less of a problem. (See box, pp. 78–79, for detailed explanation of the operation of the two cycles.)

Dr. Bert Zauderer, who heads the GE program, explained some differences between the systems. "Open-cycle systems present mainly a materials problem," he says. "With a closed-cycle system the problem is more one of economics. The much lower temperature is easier on the electrodes, but the cost of maintaining argon purity creates an engineering problem. In open cycle, I think that the big problems are still going to be in the combuster, the generator, and the radiant boiler seed-recovery system. All in all, however, we're a hell of a lot further along in trying to understand what makes both MHD systems work."

MAGNETIC FIELDS

MHD generators require enormously powerful magnetic fields if they are to be efficient enough to be practical. The Avco generator I saw has the channel mounted in a huge water-cooled magnet. But everyone agrees that commercial-size machines will have to use superconducting magnets. These devices are wound from metals that lose all resistance to electric current when cooled to a temperature near absolute zero. The magnet can generate high magnetic fields with nearly zero power consumption. Such magnets are now being designed and built. General Electric, under a Department of Energy (DOE) and Massachusetts Institute of Technology contract for $7 million, will build a 24-foot-long, 14-foot-high superconducting magnet that can generate the high-density fields needed for MHD.

Last year, a smaller (40-ton) magnet made by Argonne National Laboratory was airlifted to Moscow in an MHD scientific exchange program for experiments with the U–25, a 20-MWMHD generator combined with a 50-MW steam generator. The Russians use natural gas as a fuel.

Research on these and many other aspects involved in the development of MHD is underway in scores of centers around the world, and interest is clearly growing. Among recent significant developments:

The DOE budget for MHD has jumped from $6 million to $72 million in four years. DOE has a $37-million center underway in Butte, Mont. There we will build a modest-size MHD generator, then an engineering test facility and much larger demonstration plant.

The world's first commercial MHD power plant—500 MW—may be built soon by the Soviets. They have been developing MHD assiduously since 1966.

Electric utilities, through the Electric Power Research Institute (EPRI) and its annual $500,000 MHD budget, are investigating serveral areas of MHD power.

For example, the EPRI's Palo Alto research facility is working with Stanford University to investigate slag behavior in MHD channels, the process of transporting current, and pollution problems.

At the University of Tennessee's Space Institute, Dr. John Dicks has been using his 100-kW coal-fired MHD generator to test combustion at various temperatures, aspects of slag formation, and other problems. Dr. Dicks and his group have found that chemical recovery of the potassium seed used is critical for economic MHD operation.

There are a number of other countries, corporations, and groups studying MHD. Japan, Germany, and Poland, as well as UNESCO, are involved in MHD programs. MIT and Reynolds Metals Co. are looking at an advanced system called the MHD disc generator, whose main feature is the use of only two electrodes. Argonne National Laboratory is constructing a large MHD channel for further testing with the Soviets. TRW has an extensive program in combustor research. Stanford University and Westinghouse Electric are engaged in various aspects of MHD.

MHD development seems at a crucial point today—a go or no-go stage. The ascendancy of coal, the need to decrease dependency on foreign oil, environmental cleanliness, health, natural resource conservation, consumer costs—these all argue persuasively for MHD. And there appears to be rekindled enthusiasm throughout the MHD community.

"I see more interest in MHD now than a few years ago," says Vance Cooper, EPRI's power-generation program manager. "But even so we figure we won't see the first commercial plant of about 500 megawatts in place until 1995 or 2000."

It may not even be that soon. Today MHD is in the same R&D bag with other advanced alternative-energy systems. Some day the enormous problems of developing MHD are too knotty to solve economically. The government thinks there's a good chance of solving the problems, but says go slow. Yet another school has MHD, with its enormous payoffs, virtually up and running. "We're ready to move on a commercial track," says Dr. Dicks. "I think MHD should move ahead twice as fast as the government projects." He adds that TVA has volunteered to host a 250-MW demonstration plant that could be built after an intermediate 100-MW MHD plant.

While still on a meager budget, MHD seems to have some powerful friends. At a recent talk at Princeton University, Energy Secretary James Schlesinger noted: "We're greatly in favor of MHD. Next year's budget will likely be over $100 million."

Mr. Speaker, there is a widespread misconception that MHD is a Montana project. This could not be further from the truth. In fact, many areas of the country have benefited from MHD research and, to date, Montana has received only a small portion of the program's total expenditures.

To document this, I would like to include in the RECORD the following figures, which were supplied by DOE:

MHD budget by State, Feb. 24, 1978

[Dollars in thousands]

	Estimated contracts in place total fiscal year 1978	Estimated contracts in place total fiscal year 1979
Alabama	$305	------
California	7,279	$1,075
District of Columbia	933	990
Illinois	4,610	4,674
Massachusetts	13,210	11,507
Mississippi	817	1,200
Montana	3,355	[1] 3,000
New Mexico	200	200
New York	53	
Ohio	1,500	1,353
Pennsylvania	9,200	6,532
Tennessee	3,917	------
Virginia	95	------
Washington	535	515
Totals by State	46,009	31,046
Additional in progress	26,141	39,454
Total budget	[2] 72,150	70,500

[1] Capital construction funds.

[2] Includes $650,000 carryover of fiscal year 1977 funds.

Mr. Speaker, I was gratified that the House authorized fiscal year 1979 funding for MHD at $92 million, $20 million more than recommended by the Carter administration. Unfortunately, the House appropriated only $72 million. The Senate is expected to appropriate at least $100 million, however, and I hope House-Senate conferees will be able to agree on a level of funding that is close to what the House authorized.

I would like to note that DOE has developed capability plans for fiscal year 1979 programs of both $92 million and $110 million.

DOE's MHD Division, under the capable direction of Dr. Richard Shanklin, is developing plans that could lead to commercialization in the late 1980's, instead of the 1990's as envisioned under the present baseline development program. The accelerated program would call for an engineering test facility (ETF) the next step after the component development and integration facility (CDIF), which is being built in Butte as the topping cycle on an existing or new steam powerplant. This would eliminate need for a demonstration plant after the ETF and involve financial participation by utilities at an earlier date.

While this accelerated program will cost more over the next few years than the baseline approach, it will result in substantial savings to the Federal Government in the long run.

Next year, Congress must reduce the Federal deficit. In the area of energy, this will be extremely difficult because of the many worthwhile technologies, all of which will demand increased funding if

they are to be developed to their full potentials. We face some hard choices, but we must make them. We would be making a grave mistake if we attempt to fund all these technologies at reduced levels.

Only a few weeks ago, the U.S. Environmental Protection Agency denied permits for two large coal-fired powerplants in Montana—Colstrip 3 and 4—because they would degrade air quality at a nearby Indian reservation. Some cite this as evidence that we should relax our clean air standards. I think it shows that we must work harder to develop a technology for burning coal that is environmentally acceptable.

MHD is such a technology. Research in recent years has brought us a long way toward making it workable. The Federal Government must increase its funding commitment to MHD, not cut it back at this critical time.

This will be the hardest choice next year: Deciding to push some technologies at the expense of others. I believe our energy situation is critical enough to require those choices. We must develop better ways to use coal; technologies that can be commercialized in the near future. MHD can produce electricity for the lowest cost, achieve at least 50 percent overall efficiency and meet all environmental standards. It is within our grasp if we will only commit adequate funds to complete research and development.●

CIVIL CONTEMPT PROCEEDINGS AGAINST HANCHO C. KIM

(Mr. FLYNT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FLYNT. Mr. Speaker, I take this time to advise Members that it is my intention to call up for consideration during the week of September 11, 1978, House Report 95–1214 and an accompanying resolution relating to civil contempt proceedings against Hancho C. Kim for refusal to answer a question in proceedings before the Committee on Standards of Official Conduct.

Counsel for the respondent has requested the committee to include a brief submitted on behalf of the respondent to be published in the RECORD. In the interested of fairness this appears to be a reasonable request.

The brief follows:

[Before the U.S. House of Representatives, H. Rept. 95–1214]

PROCEEDINGS AGAINST HANCHO C. KIM

BRIEF OF HANCHO C. KIM

On May 24, 1978, the Committee on Standards of Official Conduct filed a Report, H. Rept. 95–1214, recommending that Hancho C. Kim be cited for contempt of Congress and that the charge be referred to the Department of Justice for prosecution. The Report of the Committee on Standards of Official Conduct is now before the United States House of Representatives.

This Report, and the proceedings which led to its approval by the Committee on Standards of Official Conduct, represent an unfortunate and altogether misguided attempt by the Special Staff of the Committee to influence an ongoing judicial proceeding to the detriment of Hancho C. Kim. In its efforts, the Special Staff has (1) committed an avowed breach of the lawful Immunity Order of the United States District Court for the District of Columbia, (2) undercut Mr. Kim's rights under the Fifth Amendment to the United States Constitution, (3) ventured outside the zone of permissible Legislative Branch investigatory power, and (4) impinged upon the wholly separate judicial power of the District Court and executive power of the United States Attorney.

Hancho C. Kim has become the punching bag for "Koreagate." Tongsun Park has escaped all punishment and has left the country. Sang Keun Kim has full immunity and is under the protective custody of the United States Government. Kim Dong Jo is unavailable and apparently unreachable. Hancho C. Kim, an American citizen, is the only Korean face left.

Hancho C. Kim has already been convicted of two criminal offenses in the United States District Court for the District of Columbia. He has been sentenced to a term of incarceration as a result of these convictions. In addition, Hancho C. Kim faces trial on a two-count indictment in the United States District Court for Maryland. If convicted, he could be sentenced to serve additional time in jail.

Yet, the Department of Justice conceded at the outset of Mr. Kim's trial and in its closing argument to the jury that there is no evidence that Hancho C. Kim bribed or attempted to bribe any Members of Congress. Indeed, there is no evidence in the possession of the Department of Justice or the Committee on Standards of Official Conduct that Mr. Kim improperly influenced the acts of any government official.

This brief is submitted in the hopes that it may convince the United States House of Representatives not to add an unwarranted contempt of Congress charge to the burdens Mr. Kim has already shouldered.

Statement of facts

On September 27, 1977, a United States Grand Jury in the District of Columbia returned a two-count indictment against Hancho C. Kim. Count I charged that Mr. Kim conspired with others to defraud the United States and the Congress of the United States of their respective rights to function free from corrupt and improper influence in violation of Title 18, United States Code, Section 371. Count II charged Mr. Kim with violating Title 18, United States Code, Section 1623 by making a false declaration before the Grand Jury. Specifically, Mr. Kim was accused of testifying falsely when he denied having received money from Sang Keun Kim, an agent of the Korean Central Intelligence Agency. *See* H. Rept. 95–1214, Exhibit I to Appendix III, pp. 22–27.

On the same day, a United States Grand Jury in Baltimore, Maryland also returned an indictment. This indictment charged Mr. Kim and his wife, Soonduk E. Kim, with two counts of tax evasion in violation of Title 28, United States Code, Section 7201. The indictment was based upon the theory that Mr. and Mrs. Kim failed to report and pay taxes on $600,000 that Mr. Kim allegedly received from Sang Keun Kim. *See* H. Rept. 95–1214, Exhibit 2 to Appendix III, pp. 28–29.

On November 17, 1977, as Mr. Kim and his attorneys were preparing for trial on the District of Columbia charges, Mr. Kim was served with a subpoena from the House Committee on Standards of Official Conduct. The subpoena ordered Mr. Kim to appear before the Committee and testify.[1] *See* H. Rept. 95–1214, Appendix I, p. 9.

Prior to serving the subpoena on Mr. Kim the Committee sought an Order granting Hancho C. Kim immunity for his testimony before the Committee. On October 13, 1977, the United States District Court for the District of Columbia issued an Order conferring immunity upon Hancho C. Kim for his testimony before the Committee on Standards of Official Conduct. *See* H. Rept. 95–1214, Appendix VII, p. 44.

For present purposes, it is important to note that the District Court's Order required "that no testimony or other information compelled under this ORDER may be used against [Hancho C. Kim] in any criminal case, except a prosecution for perjury, giving a false statement, or failing to comply with this ORDER."

Hancho C. Kim appeared before the Committee on Standards of Official Conduct on no fewer than four occasions.[2] He answered all questions directed to him on those occasions. He testified fully about all dealings with Members of Congress. He responded to all inquiries about possible gifts to Congressmen, contacts with Congressmen, meetings with Congressmen, and discussions with Congressmen. His testimony covered the full range of the Committee's interest. Indeed, at the close of one of the latter sessions, attorneys for Mr. Kim were informed that the Committee's questioning was "ninety-nine percent" completed.

During the appearances before the Committee, Hancho C. Kim was not asked about his dealings with Sang Keun Kim or about the alleged receipt of $600,000 from Sang Keun Kim. Since the Special Staff knew that Mr. Kim was facing two trials involving these very issues, it is apparent that the avoidance of questioning in this area was both intentional and entirely proper.

On April 8, 1978, a jury in the United States District Court for the District of Columbia found Hancho C. Kim guilty of the charges of conspiracy and perjury. The jury found, *inter alia*, that Mr. Kim had lied when he denied receiving money from Sang Keun Kim. Sentencing was set for May 19, 1978.

After failing to hear from the House Committee for several months, and anticipating that his questioning by the Committee may have been completed, Mr. Kim was suddenly summoned to appear again before the Committee on May 15, 1978—four days before he was to be sentenced the District Court. When Mr. Kim appeared before the Committee, he was asked a single question. A member of the Committee's Special Staff[3] asked Mr. Kim, "Did there come a time when you received some money from Kim Sang Keun?" This was, of course, the *same* question which had led to Mr. Kim's perjury conviction.

Mr. Kim was placed in an impossible situation by the Special Staff. The Special Staff sought to force Mr. Kim either (1) to repeat the testimony which had already resulted in a perjury verdict or (2) to change his answer and confess his guilt to the perjury (for which he was soon to be sentenced) and the tax evasion charge (which was soon to come to trial). Since Mr. Kim has steadfastly maintained that he did not receive $600,000 from Sang Keun Kim, and the Special Staff knew that he would continue to deny receipt of the money from Sang Keun Kim,[4] the question served no useful, legislative purpose. However, the question placed Mr. Kim in an untenable position.

The Special Staff was frank to admit that it was asking the question for a purpose unconnected to the investigatory function of the Committee on Standards of Official Conduct. If Mr. Kim denied receipt of the funds from Sang Keun Kim (as he certainly would do), the Special Staff intended to appear before the sentencing judge in the United States District Court and inform the judge that Mr. Kim had repeated his allegedly perjurious testimony. In this way, the Special Staff hoped to influence the sentencing of Mr. Kim by the United States District Court. The Special Staff, apparently dissatisfied with Mr. Kim's cooperation, hoped to ensure that Mr. Kim received a stiff sentence.

Footnotes at end of article.

Mr. Kim did not answer the question directed to him by the Special Staff. He remained silent. His attorneys asserted Mr. Kim's Fifth Amendment privilege against compulsory self-incrimination and asked to appear before the full Committee.

On May 17, 1978, the Committee on Standards of Official Conduct met in executive session. Counsel for Hancho C. Kim appeared before the Committee and argued that Mr. Kim should not be required at this time to answer the question propounded to him by the Special Staff. Counsel told the Committee that the Special Staff was asking the question in an attempt to improperly influence the forthcoming sentencing of Mr. Kim. Nevertheless, the Committee adopted a Resolution directing the Chairman of the Committee to submit a contempt resolution to the House of Representatives.

The Resolution contained a curious clause. The Resolution gave Mr. Kim the opportunity to purge his alleged contempt by submitting to "a full and complete deposition prior to Friday, May 19, 1978"—the day of his sentencing. Once again, the Special Staff demonstrated that the questioning of Mr. Kim was directly tied to the forthcoming sentencing.

On May 18, 1978, Mr. Kim and his attorneys appeared before the Committee. The Special Staff asked Mr. Kim the same question. Mr. Kim again remained silent. Through his counsel, he asserted his Fifth Amendment privilege against compulsory self-incrimination and advanced the arguments discussed below.

On May 24, 1978, the Committee on Standards of Official Conduct filed a Report, H. Rept. 95–1214, recommending that Hancho C. Kim be cited for contempt of Congress and that the matter be referred to the Department of Justice for prosecution pursuant to Title 2, United States Code, Sections 192 and 194. That Report is before the House of Representatives at this time.

Argument

I. The actions of the special staff constituted an avowed breach of the district court's immunity and entitled Hancho C. Kim to reassert his fifth amendment privilege

On October 13, 1977, the United States District Court for the District of Columbia issued an "Order Conferring Immunity Upon and Compelling Testimony and Production of Information from Hancho C. Kim" (hereinafter "Immunity Order"). *See* H. Rept. 95–1214, Appendix VII, p. 44. This Order was issued at the request of the Committee on Standards of Official Conduct pursuant to Title 18, United States Code, Sections 6002 and 6005. The Immunity Order provided that Mr. Kim would not be excused from testifying before the House Committee by asserting his Fifth Amendment privilege against compulsory self-incrimination. However, the Immunity Order guaranteed Mr. Kim that any testimony or other information provided to the Committee could not "be used against [Mr. Kim] in any criminal case, except a prosecution for perjury,[5] giving a false statement, or failing to comply" with the Immunity Order.

Immunity provisions, like those found in Title 18, United States Code, Sections 6002 and 6005, displace the Fifth Amendment privilege. *See Hale* v. *Henkel*, 201 U.S. 43 (1906).[6] By requiring a witness to answer questions and provide information, immunity statutes "seek a rational accommodation between the imperatives of the privilege and the legitimate demands of government to compel citizens to testify." *Kastigar* v. *United States*, 406 U.S. 441, 446 (1972). As Mr. Justice Frankfurter once observed, such statutes have "become part of our constitutional fabric." *Ullman* v. *United States*, 350 U.S. 422, 438 (1956).

However, to satisfy constitutional requirements, the immunity granted to a witness must provide the witness with the *same* protection which the Fifth Amendment would provide. "[P]rotection coextensive with the privilege is the degree of protection which the Constitution requires. . . ." *Kastigar* v. *United States*, 406 U.S. 547 (1892); *see Brown* v. *United States*, 359 U.S. 41 (1959).

The United States Supreme Court has held that a witness is provided with sufficient protection, and may be compelled to testify over a claim of Fifth Amendment privilege, only if the immunity granted to the witness "prohibits the prosecutorial authorities from using the compelled testimony in *any* respect. . . ." *Id.* at 453. That is why the Immunity Order issued by the United States District Court in this case prohibited the Committee on Standards of Official Conduct from using Mr. Kim's testimony against him. Without that guarantee, Mr. Kim could not be required to testify before the Committee.

Despite the lawful Order of the United States District Court preventing the House Committee from using Mr. Kim's testimony against him in any way, the Special Staff apparently decided that they *could* use Mr. Kim's testimony against him. Specifically, they decided that his answer to the single question posed to him by the Special Staff could be conveyed to the District Court at the time of sentencing in the still unadjudicated criminal case.[7] They decided that the answer could be used to influence the District Court to impose a sterner sentence on Mr. Kim.

During a recess of an executive session of the Committee on Standards of Official Conduct on May 17, 1978, counsel for Hancho C. Kim was bluntly told by the Special Staff that Mr. Kim's answer to the Special Staff's question would be communicated to the District Court prior to the time of sentencing. This fact was communicated to the Committee during the executive session on May 17, 1978. Counsel for Mr. Kim argued:

"I think some people are trying to influence the judicial process in this way. It is not any of you, but I think it is your staff; it may be some members, but I think unfortunately there is a misguided attempt here to influence the ongoing judicial process.

"Let me tell you what I mean. The judge has not asked Hancho Kim, 'Did you receive the money from S. K. Kim?' The probation officer has not asked Hancho Kim, 'Did you receive the money from S. K. Kim?' But this committee has asked it and I believe, if you will question your staff, it is with the full expectation that they will then go to the judge and say, 'The man is now admitting his crime, so go hard on him' or 'The man is being uncooperative, so go hard on him.' . . .

"But I feel this is an improper way, that this is a very improper way for the congressional branch, the legislative branch, to impose itself on the ongoing judicial process." H. Rept. 95–1214, p. 57, Transcript of May 17, 1978 Session.

The Special Staff admitted that the scheduling of Mr. Kim's testimony was deliberate. The Special Staff said, "[W]e desired to bring this matter on before sentencing so the judge could be informed." *Id.* at 59. In addition, the Special Staff admitted that the Special Staff intended to communicate with the District Court. A member of he Special staff stated to the Committee:

"There has been an indication here that we are attempting to affect the judiciary in some way. We very frankly are." *Id.* at 57.[9]

At another session of the Committee on May 18, 1978, counsel for Hancho C. Kim told the Committee that the Special Staff contemplated communicating Mr. Kim's answers to the District Court in violation of the Immunity Order.

"I am told by my associates that the question was put to Mr. Kim, precisely the question which was the subject matter of the perjury in the indictment on which he now stands convicted. We are here now presumably because that question will be put to him again.

"I am further told, Mrs. Fenwick, that my associates were told that what Mr. Kim did here would be reported to the judge." *Id.* at 69.

A member of the Special Staff again confirmed that any contempt of Congress charge would be communicated to the District Court. The Special Staff also indicated that Mr. Kim's *answer* to the question could be communicated to the District Court.

"[I]f the witness were to answer a question in a manner which has already been determined by a jury to be perjurious beyond a reasonable doubt, I must say to you quite frankly that I don't know whether or not that could properly be communicated to a judge, *although my reaction is that it could.*" *Id.* at 71 (emphasis supplied).

So there could be no mistake, counsel for Mr. Kim restated on the record his understanding that the Special Staff intended to breach the Immunity Order.

"[I]f he answers the same way that he answered heretofore, it will be the contention of the counsel here that he has committed perjury. They have already said to you that they would take that to the judge." *Id.*

The Special Staff did not deny that this was intended.

Given the fact that the Special Staff had announced that it would use Mr. Kim's answer against him, in violation of the District Court's Immunity Order, Mr. Kim properly reasserted his Fifth Amendment privilege against compulsory self-incrimination. Because the Special Staff had informed Mr. Kim and his attorneys that Mr. Kim's testimony would be used against him, Mr. Kim no longer was protected by immunity which was "coextensive with the [constitutional] privilege," *Kastigar* v. *United States*, 406 U.S. 441, 459 (1972), and satisfied constitutional requirements. The Special Staff had unilaterally abrogated the Immunity Order. Under these circumstances, Mr. Kim properly reinvoked his Fifth Amendment privilege until he could be assured that the privilege was adequately protected by coextensive immunity.

II. Hancho C. Kim was entitled to rely upon his 5th amendment privilege because the district court's immunity order did not provide adequate protection

Despite its unilateral breach of the Immunity Order, the Special Staff argued that a reassertion of the Fifth Amendment privilege was nevertheless improper. The Special Staff argued that, rather than remain silent in the face of the Staff's question, Mr. Kim should answer the question. Then, if the Special Staff sought to use that answer against Mr. Kim before the District Court at the time of sentencing, counsel for Mr. Kim could object and seek to suppress this improper use of Mr. Kim's immunized testimony.

A member of the Special Staff argued as follows:

"If the witness gave that answer under oath then you could certainly argue to us that pursuant to the grant of immunity it should not be considered by the judge, you could argue to the Department of Justice or to the judge. That would come at a future time." H. Rept. 95–1214, p. 71, Transcript of May 18, 1978 Session.

Unfortunately, this remedy is insufficient. Prevention of improper use of an immunized answer through suppression of that answer does not adequately protect Mr. Kim's Fifth Amendment privilege in this case.

Hancho C. Kim testified before a Grand Jury in the District of Columbia that he did not receive money from Sang Keun Kim. Perjury charges were brought against Mr. Kim as a result of that answer. Eventually,

Footnotes at end of article.

Mr. Kim was convicted of perjury, pursuant to Title 18, United States Code, Section 1623, for that answer.

Mr. Kim has steadfastly maintained that he did not receive money from Sang Keun Kim. Despite the perjury conviction, Hancho C. Kim believes his answer to be truthful. Hancho C. Kim continues to assert that he did not receive money from Sang Keun Kim.

A Grand Jury has found that answer to be untruthful and issued a perjury indictment. The Department of Justice viewed the answer as untruthful and so argued when prosecuting Mr. Kim. Similarly, a petit jury has found that answer to be untruthful by finding Mr. Kim guilty of perjury. Additionally, the Special Staff of the House Committee on Standards of Official Conduct has clearly indicated that it believes the answer to be untruthful.[10]

While the Immunity Order of the United States District Court protects Hancho C. Kim from having his testimony used against him, the Immunity Order *does not* protect Mr. Kim from a prosecution for perjury for his answers before the House Committee. The Order explicitly excepts "a prosecution for perjury [of] giving a false statement" from its protections. This is not unusual. Grants of immunity do not normally protect a witness from a subsequent perjury prosecution. *Glickstein* v. *United States*, 222 U.S. 139 (1911); *United States* v. *Moss*, 522 F.2d 155 (2nd Cir. 1977); *United States* v. *Patrick*, 542 F.2d 381 (7th Cir. 1976); *In re Grand Jury Proceedings*, 509 F.2d 1349 (5th Cir. 1975).

Thus, even if counsel for Mr. Kim were successful in preventing the Special Staff from using Mr. Kim's testimony against him before the District Court at the time of sentencing, Mr. Kim's constitutional rights would not have been adequately protected. Mr. Kim would have been compelled to give self-incriminatory testimony without having been insured "that the testimony cannot lead to the infliction of criminal penalties on the witness." *Kastigar* v. *United States*, 406 U.S. 441, 453 (1972). He would have been compelled to repeat an answer which he believes to be truthful but others believe to be perjurious.

Since Mr. Kim had already answered the question posed by the Special Staff and had been prosecuted and found guilty of perjury for that answer, Mr. Kim would certainly have been susceptible to another perjury prosecution for the same answer. Mr. Kim was placed in an intolerable "Catch-22" situation. By giving an answer he believes to be truthful, albeit an answer that a Grand Jury, the Department of Justice, a petit jury, and the Special Staff believe to be untruthful, he would be subject to additional criminal penalties for his answer. Because the Immunity Order of the District Court did not protect Mr. Kim from a prosecution for perjury, he would be compelled to give self-incriminatory testimony in violation of his Fifth Amendment rights.

Of course, Mr. Kim could have changed his answer and testified that he *had* received money from Sang Keun Kim. However, Mr. Kim does not believe that answer to be truthful and was unwilling to lie under oath to satisfy the Special Staff. As the Supreme Court has noted, "Our legal system provides methods for challenging the Government's right to ask questions—lying is not one of them." *Bryson* v. *United States*, 396 U.S. 64, 72 (1969).

This is truly a unique situation. While a perjury prosecution arising out of the testimony before the Committee might be prevented by the doctrines of double jeopardy, *res judicata*, or collateral estoppel if Mr. Kim had been *acquitted* of the first perjury charge, such is not the case here. *See In re Boyle*, 527 F.2d 120 (7th Cir. 1975). Similarly, the Immunity Order would prevent the Government from using Mr. Kim's answer before the Committee to prosecute Mr. Kim for perjury for a *prior*, inconsistent statement. *See Kronick* v. *United States*, 343 F.2d 436 (9th Cir. 1965).

In this instance, however, Mr. Kim is being asked a question, and will be required to give an answer, which has already been the basis for a perjury indictment and a perjury conviction. He will be subjected to a possible criminal penalty for telling what he believes to be the truth.[11] The District Court's Immunity Order does not afford him adequate protection under these unique circumstances. Mr. Kim is entitled to rely upon his constitutional privilege against compulsory self-incrimination.

III. The question posed to Hancho C. Kim by the special staff exceeded the committee's legitimate investigatory power and violated separation of powers.

Congress has broad investigatory powers. Indeed, "[t]he power of the Congress to conduct investigations is inherent in the legislative process." *Watkins* v. *United States*, 354 U.S. 178, 187 (1957). However, the power is not without limits. The outermost boundaries of the investigatory power are marked by the outermost boundaries of congressional power under the Constitution. As the United States Supreme Court has noted,

"[T]he power actually possessed is limited to inquiries relating to matters of which the particular house 'has jurisdiction' and in respect of which it rightfully may take other action . . ." *McGrain* v. *Daugherty*, 273 135, 170 (1927).

Moreover, the investigatory powers invested in a particular Committee of the Congress is defined in the legislation or resolution establishing the Committee and assigning investigatory duties to it. A congressional committee possesses only those powers delegated to it by its parent body. The enabling resolution which gives the committee its life also contains the grant of, and limitations on, the committee's power. *United States* v. *Rumely*, 345 U.S. 41, 44 (1953).

There is no question that the Legislative Branch has broad investigatory power. Because almost anything within the mind of man can be the subject of legislation, almost anything can be the subject of a congressional investigation. However, the power to investigate does have limits. When a congressional investigation seeks to interfere with the duties properly assigned to a coordinate branch of government, or seeks to perform a function properly assigned to a coordinate branch of government, the investigation has gone beyond the limits of congressional power.

The Judicial Branch adjudicates criminal cases. The Judicial Branch assigns an appropriate sentence when a defendant is found guilty. The Executive Branch investigates and prosecutes criminal cases. The Executive Branch may recommend an appropriate sentence after a defendant is found guilty.

Here, the Legislative Branch, under the guise of a congressional investigation, is seeking to perform and influence the tasks of the other branches of government. Here, we have a congressional investigation boldly and unashamedly seeking to influence a judicial proceeding.

House Resolution 252, unanimously adopted by the House of Representatives on February 9, 1977, directs the Committee on Standards of Official Conduct to conduct a "full and complete inquiry and investigation to determine whether Members of the House of Representatives, their immediate families, or their associates accepted anything of value, directly or indirectly, from the Government of the Republic of Korea or representatives thereof." *See* H. Rept. 95-1214, Appendix II, p. 11. This investigation is clearly within the constitutional province of the House of Representatives. By conducting this investigation, the House may be deciding "to legislate or . . . not to legislate," *Barenblatt* v. *United States*, 360 U.S. 109, 111 (1959), or deciding whether to discipline a Member, *In re Chapman*, 166 U.S. 661 (1897).

However, when the Special Staff called Hancho C. Kim before the Committee four days before his sentencing to ask Mr. Kim whether he had received money from Sang Keun Kim, with the avowed purpose of using his answer, or his refusal to answer, to influence his sentencing in the United States District District Court, the Committee moved beyond the legitimate range of "the legislative function." *Kilbourn* v. *Thompson*, 103 U.S. 168, 189, (1881).[12] The Committee roamed outside the boundaries of permissible Legislative Branch investigatory power and beyond the authority granted to the Committee by House Resolution 252.[13] By seeking to influence a pending criminal case, the Special Staff violated separation of powers.

The United States Supreme Court has clearly noted that, if an inquiry "relates to 'a matter wherein relief or redress could be had only by judicial proceeding' it is not within the range of [congressional investigatory] power, but must be left to the courts, conformably to the constitutional seperation of government powers. . . ." *McGrain* v. *Daugherty*, 273 U.S. 135, 170 (1927). By seeking to intrude upon the legitimate sentencing prerogatives of a United States District Court, the Special Staff violated separation of powers principles. While the Committee may investigate with an eye toward legislation or the discipline of Members of the House, it may not investigate to influence a judicial proceeding.

"[T]he power to investigate must not be confused with any of the powers of law enforcement; those powers are assigned under our Constitution to the Executive and the Judiciary." *Quinn* v. *United States*, 349 U.S. 155, 161 (1955).

Moreover, there is a real question whether the information sought from Hancho C. Kim was necessary to the Committee.[14] The Committee had questioned Hancho C. Kim on four occasions. On all four occasions, the Committee has refrained from asking him about dealings with Sang Keun Kim. The Committee had full information on Mr. Kim's dealings with Sang Keun Kim from its questioning of Sang Keun Kim and had access to the full transcript of the conspiracy-perjury trial. More than five months had elapsed since the Committee last questioned Mr. Kim. Then, on the eve of his sentencing in the United States District Court, the Special Staff called Mr. Kim and asked him but one question—the very same question for which he had been found guilty of perjury.

If Mr. Kim adhered to his prior testimony, as the Special Staff knew he would,[15] the Committee would gain no new information. The Special Staff already had access to Mr. Kim's Grand Jury testimony. If Mr. Kim admitted receiving $600,000 from Sang Keun Kim, this would merely corroborate the information the Committee already had from Sang Keun Kim and already believed. Moreover, since Mr. Kim had testified fully that he had not sought to influence Members of Congress, and the Special Staff had no contradictory evidence, this testimony about money from Sang Keun Kim would not have aided the Committee. "Whichever course the witness should take, what aid to the legislative purpose could be hoped for by the Committee?" *United States* v. *Cross*, 170 F. Supp. 303, 309 (D.D.C. 1959).

These circumstances, standing alone, demonstrate that the Committee did not truly need the information sought from Mr. Kim and must have had an improper purpose in mind. However, the Special Staff went further. The Special Staff boldly *announced* that the information was sought for the

purpose of influencing Mr. Kim's sentence. The Special Staff admitted that it "desired to bring this matter on before sentencing so the judge could be informed." H. Rept. 95–1214, p. 59, Transcript of May 17, 1978 Session. The Special Staff said, "There has been an indication here that we are attempting to affect the judiciary in some way. We very frankly are." *Id.* at 58.

Under these circumstances, the Committee moved beyond its proper jurisdiction and violated separation of powers. Under these circumstances, Mr. Kim properly remained silent in the face of the Special Staff's question. A concept citation is therefore not appropriate. *See Bursey* v. *United States*, 466 F.2d 1059, 1080 (9th Cir. 1972); *Brown* v. *United States*, 245 F.2d 549 (8th Cir. 1957); *United States v. Cross*, 170 F. Supp. 303 (D.D.C. 1959); *United States* v. *Icardi*, 140 F. Supp. 383 (D.D.C. 1956).[16]

Conclusion

Hancho C. Kim was placed in an impossible situation by the Committee on Standards of Official Conduct. Mr. Kim's dilemna was described by his counsel in this way:

". . . [T]his proceeding is an intrusion into the function of the judiciary. I have concluded that it is a breach of Mr. Kim's immunity grant, a breach of the contract between Mr. Kim and the government of the United States. And I have further concluded this; that Mr. Kim stands in an absolutely incredible position before you here.

"He has three options. He can answer the question in accordance with his understanding of a truthful answer, which answer has already been adjudicated perjurious, so that he would be susceptible to another perjury conviction if he answers truthfully.

"He can refuse to answer, in which instance he has been threatened with an adjudication of contempt under section 192 of Title 2, and also potential contempt of the House via a proceeding conducted in the very Chambers of the House.

"Thirdly, his third option, and apparently this is the only other option, is to give an answer which he believes to be false, to commit perjury here, under oath—he has just been sworn to tell the truth—and if I may coin a phrase, that is a 'trilemma' on which no American was ever intended to be hoisted." H. Rept. 95–1214, p. 70, Transcript of May 18, 1978 Session.

Therefore, Hancho C. Kim, by undersigned counsel, respectfully requests that the House of Representatives disapprove the Resolution, proposed by the Committee on Standards of Official Conduct, citing Mr. Kim for contempt and referring the matter to the Department of Justice.

Respectfully submitted,

DAVID POVICH,

ROBERT B. BARNETT,

Williams & Connolly, 1000 Hill Building, Washington, D.C. Counsel for Hancho C. Kim.

FOOTNOTES

[1] The Committee was acting pursuant to H. Res. 252 which directed the Committee to conduct a "full and complete inquiry and investigation to determine whether Members of the House of Representatives, their immediate families, or their associates accepted anything of value, directly or indirectly, from the Government of the Republic of Korea or representatives thereof." *See* H. Rept. 95–1214, Appendix II, pp. 10–12.

[2] Prior to the first appearance, Mr. Kim, through his attorneys, raised various objections to the testimony. Mr. Kim also filed Briefs entitled "Memorandum Setting Forth the Constitutional and Practical Reasons Why Hancho C. Kim Should Not be Compelled to Testify" and "Memorandum in Response of Special Counsel with Respect to Claims of Hancho Kim." *See* H. Rept. 95–1214, pp. 13–21 and pp. 39–42. These objections are reasserted here, and the Brief is incorporated herein by reference.

[3] The Committee hired a Special Staff to conduct this inquiry. *See* Committee Resolution Defining Scope and Procedures for Korean Investigation, Feb. 8, 1977.

[4] *See* H. Rept. 95–1214, pp. 45–53, Transcript of May 15, 1978 Session.

[5] The "perjury" excepted from the immunity grant was, of course, not the perjury of which the jury had found Mr. Kim guilty, but only such perjury as he might commit in the testimony for which he was being immunized. *See Glickstein* v. *United States*, 222 U.S. 139 (1911).

[6] A witness before a congressional committee may rely upon the Fifth Amendment privilege. *Watkins* v. *United States*, 354 U.S. 178 (1957); *Quinn* v. *United States*, 349 U.S. 155 (1955).

[7] A criminal trial is concluded by the imposition of sentence, not by the verdict.

[8] *See* H. Rept. 95–1214, p. 69, Transcript of May 18, 1978 Session.

[9] By this time, however, the Committee was considering a contempt of Congress citation. Therefore, the Special Staff shifted gears and told the Committee it would communicate the *contempt charge* to the District Court.

"We think the judge should know on Friday if this man has been contemptuous to the Congress and has refused to answer a very simple question. . . ." H. Rept. 95–1214, p. 58, Transcript of May 17, 1978 Session.

[10] *See* H. Rept. 95–1214, p. 54, Transcript of May 17, 1978 Session: *Id.* pp. 72–73, Transcript of May 18, 1978 Session.

[11] The conduct of the Special Staff in this instance might constitute "governmental tactics or procedures so inherently unfair under all the circumstances as to constitute a prosecution for perjury a violation of the Due Process Clause of the Fifth Amendment." *United States* v. *Mandujano*, 425 U.S. 609 (Stewart, J. concurring).

[12] The Special Staff clearly acknowledged that it was seeking to influence the judicial process.

"There has been an indication here that we are attempting to affect the judiciary in some way. We very frankly are." H. Rept. 95–1214, p. 58, Transcript of May 17, 1978 Session.

Although the Special Staff sometimes indicated that Mr. Kim's *answers* would be reported to the District Court and sometimes indicated that only his *refusal* to answer would be reported to the District Court, the Special Staff was clearly seeking to influence the sentencing of Hancho C. Kim. *See also Id.* at 57, 58, 70, 71.

[13] Not only did the Committee intrude upon separation of powers by its actions, it also exceeded the specific jurisdiction assigned to it by the House of Representatives. Nowhere in House Resolution 252, which authorized the Committee's investigation, is there authority for the Committee to act to influence a judicial proceeding. *See Gojack* v. *United States*, 384 U.S. 702 (1966); *Watkins* v. *United States*, 354 U.S. 178 (1957); *United States* v. *Rumley*, 345 U.S. 41 (1953). Indeed, such a grant of authority would be of questionable constitutional validity.

[14] Assuming *arguendo* that the information sought from Hancho C. Kim, *i.e.*, whether Mr. Kim received $600,000 from Sang Keun Kim, could have served the Committee's legitimate and proper investigatory purposes, the Special Staff lost its right to seek this information by its improper purpose.

"It has been recognized that a legislative committee, although duly authorized to investigate adequately defined subjects in a field where it may legislate, has no power to compel the testimony of a witness for other than a bona fide legislative purpose, even though the testimony be relevant to the subject matter of the authorized investigation. *Watkins* v. *United States*, 354 U.S. 178 . . ." *United States* v. *Cross*, 170 F. Supp. 303 (D. D.C. 1959).

[15] *See* H. Rept. 95–1214, pp. 46–47, Transcript of May 15, 1978 Session.

[16] Mr. Kim should not be required to raise these arguments before the District Court at the time of sentencing or as a defense to a perjury charge. *See* Section II of this Memorandum. They are properly raised at this time before this tribunal.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 18, 1978.

Re Proceedings Against Hancho C. Kim, House Report 95–1214.

Hon. JOHN J. FLYNT, Jr.,
Chairman, Committee on Standards of Official Conduct, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing you this letter to respond briefly to the arguments made by lawyers for Hancho C. Kim ("Kim") as to why the House should refuse to follow your Committee's Recommendation to refer to the U.S. Attorney for criminal prosecution the contempt committed by Kim. These arguments were made to and rejected by the Committee and were fully set forth in House Report 95–1214. Nonetheless, they are now reiterated in a voluminous "Brief" that Kim's attorneys request that you insert in the Congressional Record.

As you know, a jury has found beyond a reasonable doubt that Hancho Kim received $600,000 in 1974 and 1975 from Kim Sang Keun, an operative of the Korean Central Intelligence Agency, as part of a scheme in which the KCIA sought to influence Members of Congress by paying them off. Kim told Kim Sang Keun the names of five members of the current Congress whom he said he paid off. The Committee must have and is entitled to have Kim's truthful testimony as to whether he in fact used the $600,000 he received to bribe these Members of Congress, as he claimed, or whether he kept it and defrauded the Korean government. Without Kim's testimony the true facts concerning the Korean government's scheme to influence the Congress can never be learned and, just as importantly, the cloud over the Members of the House whom Kim has claimed he bribed can never be removed.

As you know, to this end the Committee obtained an immunity order from the United States District Court and conferred immunity upon Kim. Notwithstanding the grant of immunity Kim still has refused to answer the Committee's questions.[1]

Kim argues that the staff violated the order which granted him immunity from the use of his testimony against him in a criminal proceeding because the staff told Kim's lawyers that if Kim committed either contempt or perjury before the Committee they might inform the judge who presided over a trial of Kim on conspiracy and perjury charges in the United States District Court and who was to sentence Kim.[2] Though there appears to be little question that Kim's contempt or perjury, had he committed it, could properly have been considered by the court at the time of Kim's sentence,[3] the simple answer to Kim's claim is that it is not a matter the Committee or the House need consider. Whether the court in the course of a criminal proceeding could properly consider Kim's refusal to testify or his false testimony if he did testify was, and is, a matter for the court to decide. The Committee was, in any event, entitled to Kim's testimony.

What the Committee did, quite simply, was to create a situation which would maximize the likelihood that Kim would tell the truth. This was the reason for trying to complete Kim's testimony before the date he was sentenced on the criminal charge. If Kim's apprehension that the court might

have taken his refusal to testify or his perjurious testimony into account increased the likelihood that Kim would testify and tell the truth, so much the better. The dilemma that Kim's lawyers have repeatedly said he faces simply does not exist and has never existed: if Kim tells the truth, his truthful testimony can never be used against him. Kim faces a dilemma only if he desires to continue to conceal the KCIA's scheme to influence Congress. To do that, he must either lie to the Committee or refuse to answer its questions. Kim's argument with the Committee and its staff arises only because the Committee has quite properly refused to accept either of the alternatives offered it by Kim.[4] As one court has put it:[5]

"The immunity granted by the Constitution does not confer upon the witness the right to perjure himself or to withhold testimony. The very purpose of the granting of immunity is to reach the truth, and when the testimony is incriminatory, it cannot be used against him. If the witness thwarts the inquiry by evasion or falsehood . . . such conduct is not entitled to immunity. In fact, another crime not existing when the immunity was offered is thereby committed."

Mr. Chairman. I thank you for this opportunity to briefly express my views on this important matter, and I would request that if Kim's papers are reprinted in any fashion, this letter be reprinted along with them.

Sincerely,

LEON JAWORSKI.

FOOTNOTES

[1] Kim's attorneys correctly point out that Kim did answer *some* questions: for example, denying that he gave any money to Members of Congress. Unfortunately these denials are not particularly helpful or credible, as Congressman Flowers pointed out when this issue was raised before the Committee (H. Rep. 95–1214 at page 62), because Kim so far also denies having received the money in the first place.

[2] Kim's attorneys try to insinuate that the staff was acting improperly because during the first four sessions Kim was not asked any questions concerning whether he received money from Kim Sang Keun. As Kim's attorneys are aware, these questions were not asked at their request in an attempt to reach an accommodation with Kim. They are also aware that the staff reserved the right to ask these questions *at any time*.

[3] Kim's contempt would have been relevant to Kim's sentencing for two reasons. First, it is evidence of a separate crime which the judge could take into account. *Williams* v. *Oklahoma*, 358 U.S. 576 (1959); *Williams* v. *New York*, 337 U.S. 241 (1949); *United States* v. *Needles*, 472 F. 2d 652, 655 (2d Cir. 1973); *United States* v. *Cifarelli*, 401 F. 2d 512, 514 (2d Cir.) (*per curiam*), *cert. denied*, 393 U.S. 987 (1968); *United States* v. *Doyle*, 348 F. 2d 715, 721 (2d Cir.), *cert. denied*, 362 U.S. 843 (1965). More importantly, it was evidence of Kim's refusal to cooperate with our investigation. Cooperation or non-cooperation in an investigation such as ours has frequently been considered as a relevant factor in sentencing. Thus, in a leading case, *United States* v. *Sweig*, 454 F. 2d 181 (2d Cir. 1972), the sentencing judge told Martin Sweig, former administrative assistant to Speaker McCormack, that he would reduce his sentence if Sweig cooperated with the government investigators. Sweig refused and challenged the propriety of the sentence. The Court of Appeals found Sweig's argument "without merit" and affirmed the sentence. To the same effect are: *United States* v. *Stein*, 554 F. 2d 96, 102 (2d Cir. 1976); *United States* v. *Vermeulen*, 436 F. 2d 72 (2d Cir. 1970); *United States* v. *Malcolm* 432 F. 2d 808, 815 (2d Cir. 1970); Am Bar Ass. Project on Standards for Criminal Justice, *Standards Relating to Pleas of Guilt* § 1.8(a)(v) Approved Draft 1968). The Committee has in other cases, for example, that of former Congressman Richard Hanna, informed the Court where defendants about to be sentenced have cooperated with the Committee's inquiry.

Similarly, it appears that if Kim gave *false* testimony his *false* testimony could be used against him at sentencing. Thus, in *United States* v. *Tramunti*, 500 F. 2d 1334, 1342 (2d Cir.), *cert. denied*, 419 U. S. 1047 (1974) the Court of Appeals for the Second Circuit held that *false* testimony given pursuant to a grant of immunity could be used against a defendant even at trial, stating:

"The theory of immunity statutes is that in return for his surrender of his fifth amendment right to remain silent lest he incriminate himself, the witness is promised that he will not be prosecuted based on the inculpatory evidence he gives in exchange. However, the bargain struck is conditional upon the witness who is under oath telling the truth. If he gives false testimony, it is not compelled at all. In that case, the testimony given not only violates his oath, but is not the incriminatory truth which the Constitution was intended to protect. Thus, the agreement is breached and the testimony falls outside the constitutional privilege. Moreover, by perjuring himself the witness commits a new crime beyond the scope of the immunity which was intended to protect him against his past indiscretions. This is not only a rational explanation of the accommodation between the competing interests and rights of the parties, but it is supported by authority." (Citations omitted.)

Though Kim plainly wishes it weren't so, the immunity order only protects him from the use of *truthful* testimony against him.

It should be pointed out in passing that the facts constituting Kim's contempt were, in fact, *not* communicated to the judge who sentenced Kim.

[4] Kim's argument that the Committee has, in attempting to get the truth from Kim about whether he bribed members of the current Congress, exceeded its legislative function and impinged upon the power of the courts and the executive is so frivolous so as not to require a response.

[5] *United States* v. *Tramunti*, 500 F. 2d 1334, 1343–44 (2d Cir.), *cert. denied*, 419 U.S. 1047 (1974) (footnote omitted.)

CONFERENCE REPORT ON H.R. 12935

Mr. SHIPLEY submitted the following conference report and statement on the bill (H.R. 12935) making appropriations for the legislative branch for the fiscal year ending September 30, 1979, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–1457)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12935) making appropriations for the legislative branch for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 54.

That the House recede from its disagreement to the amendments of the Senate numbered 40, 41, 42, 43, 44, 48, 51, 53, and 55, and agree to the same.

Amendment numbered 49: That the House recede from its disagreement to the amendment of the Senate numbered 49, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$126,500"; and the Senate agree to the same.

Amendment numbered 50: That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$47,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 45, 46, 47, and 52.

GEORGE E. SHIPLEY,
ADAM BENJAMIN, Jr.,
ROBERT N. GIAIMO,
JOHN J. MCFALL,
BILL CHAPPELL,
JOHN P. MURTHA,
GEORGE MAHON,
WILLIAM L. ARMSTRONG,
LAWRENCE COUGHLIN,
ELFORD A. CEDERBERG,
Managers on the Part of the House.
JIM SASSER,
WALTER D. HUDDLESTON,
DALE BUMPERS,
WARREN G. MAGNUSON,
RICHARD S. SCHWEIKER,
LOWELL P. WEICKER, Jr.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12935) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1979 and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

Amendments Nos. 1 through 39: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs therein without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 1 through 39.

HOUSE OF REPRESENTATIVES

ADMINISTRATIVE PROVISIONS

Amendments Nos. 40 through 42: Change section numbers and clarify page number references as proposed by the Senate.

CONGESSIONAL BUDGET OFFICE

Amendment No. 43: Appropriates $11,368,000 for salaries and expenses as proposed by the Senate instead of $11,172,000 as proposed by the House.

Amendment No. 44: Increases the limitation of employees to 218 as proposed by the Senate instead of 208 as proposed by the House.

ARCHITECT OF THE CAPITOL

Office of the Architect of the Capitol

Salaries

The conferees are agreed that, within the funds provided, the Architect may add one additional central-office staff assistant over the House recommendation instead of the two additional staff assistants recommended in the Senate report.

Senate Office Buildings

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and

concur in the amendment of the Senate appropriating $10,328,600 for Senate Office Buildings for fiscal year 1979, of which $210,000 shall remain available until expended.

Senate Garage

Amendment No. 46: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $164,000 for the Senate Garage.

LIBRARY OF CONGRESS

Congressional Research Service

The conferees are agreed that, within the funds provided, nine additional positions over the House allowance may be added to improve and strengthen the Congressional Research Service, as recommended in the Senate report.

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate that provides that the distribution of bi-weekly and annual hardcover bound sets of the Congressional Record shall be limited to Members who make a request in writing.

TITLE II—RELATED AGENCIES

LIBRARY OF CONGRESS

Salaries and Expenses

The conferees are agreed that, within the funds provided, the following additions over the recommendations contained in the House report are allowed:

1. Thirteen positions for automated systems support;

2. Four positions and $143,000 for the exhibit program;

3. One additional position and $49,000 for the American Television and Radio Archives;

4. One additional position and $49,000 for the American Folklife Center.

In order to finance the above additions, the Library is directed not to divert funds from approved programs but may use unobligated balances from activities that require less funding than originally expected.

The conferees have denied any additional resources for the Library to expand its experimentation with a computerized, on-line nationwide network to share bibliographic material. Instead, as a predecessor to costly new experimentation, the Library is encouraged to conduct a feasibility study of the alternatives available to accomplish an efficient exchange of bibliographic material with other libraries and to determine for each alternative the costs, benefits, service impact, and the impact on the other components of the Library's automated systems workload, particularly those that service Congressional users. These alternatives should include offline computer tape operations, a stand-alone communications terminal dedicated to online storage of bibliographic data, manual processes, and other feasible possibilities. The General Accounting Office should be consulted in regard to the methodology to be used in conducting such a study and should be asked to validate the results.

COPYRIGHT OFFICE

Amendment No. 48: Provides that $4,600,000 of the funds credited to the salaries and expenses appropriation during fiscal year 1979 under 17 USC 708(c) shall be available for obligation during such fiscal year instead of $4,100,000 as provided by the House.

ADMINISTRATIVE PROVISIONS

Amendments Nos. 49 and 50: Provide $126,500 to the Library of Congress for attendance at meetings instead of $116,500 as proposed by the House and $136,500 as proposed by the Senate; of which $47,000 is for the Congressional Research Service instead of $37,000 as proposed by the House and $57,000 as proposed by the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 51: Deletes language proposed by the House that would require withholding from obligation and expenditure five percentum of the budget authority provided in the Act for payments not required by law, provided that of the amount provided in the Act for each appropriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed ten percentum.

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate extending the reform of the longevity pay system for Senate employees contained in Section 110 of the Act to telephone operators on the United States Capitol telephone exchange and members of the Capitol Police whose compensation is disbursed by the Clerk of the House.

Amendment No. 53: Provides that, of the total budget authority provided in the Act, for payments not required by law, five percentum shall be withheld from obligation and expenditure, as proposed by the Senate.

The conferees are agreed that the effect of this provision should be applied by the various agencies, offices, and other bodies encompassed by the Legislative Branch Appropriation Act, 1979, by withholding from obligation and expenditure five per centum of the budget authority, for payments not required by law, contained in the Act. The five percent withholding shall be applied to each of the following: the combined appropriations to the House of Representatives and Joint Items that are disbursed by the Clerk of the House; the combined appropriations to the Senate and Joint Items that are disbursed by the Secretary of the Senate; the Office of Technology Assessment; the Congressional Budget Office; the combined appropriations to the Architect of the Capitol and Botanic Garden; the combined appropriations to the Library of Congress (including the Congressional Research Service); the combined appropriations to the Government Printing Office; the Copyright Royalty Tribunal; and the combined appropriations to the General Accounting Office and the Cost-Accounting Standards Board. The actual withholding of obligations and expenditures shall be applied to the above categories with due compliance to the orderly conduct of legislative missions and management prudence. Accordingly, the funds to be withheld from obligation and expenditure in each of the above categories shall be determined and administered by the Clerk of the House; the Secretary of the Senate; the Director of the Office of Technology Assessment; the Director of the Congressional Budget Office; the Architect of the Capitol; the Librarian of Congress; the Public Printer; the senior Commissioner of the Copyright Royalty Tribunal; and the Comptroller General, respectively.

The Conferees are agreed that the Librarian of Congress, in the implementation of the 5 percent cutback provision, shall make no cuts in the MARC program or other bibliographic services to libraries around the country, nor shall he reduce the hours of operation of the Library, nor the books for the blind and handicapped program, nor the copyright program, nor other services to the public, until maximum reductions are made in non-essential Library services such as excessive overhead in the Librarian's immediate office and the office of the Director of the Congressional Research Service and maximum efforts are made to reduce duplication, overlap and waste in Library programs.

Amendment No. 54: Deletes language proposed by the Senate that stipulated: "Notwithstanding the preceding provisions of this Act, of the total budget authority provided in this Act, five percentum shall be withheld from obligation and expenditure."

Amendment No. 55: Inserts short title of the Act as proposed by the Senate.

Conference total—with comparisons

The total new budget (obligational) authority for the fiscal years 1978 and 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, and the House and Senate bills for 1979 follows:

New budget (obligational) authority, fiscal year 1978	$990,247,800
Budget estimates of new (obligational) authority, fiscal year 1979	1,143,824,100
1978 supplemental	13,056,600
House bill, fiscal year 1979	922,491,800
1978 supplemental	0
Senate bill, fiscal year 1979	[1] 1,118,244,400
1978 supplemental	[1] 12,801,700
Conference agreement	[1] 1,118,244,400
1978 supplemental	[1] 12,801,700
Conference agreement compared with:	
New Budget (obligational) authority, fiscal year 1978	+127,996,600
Budget estimates of new (obligational) authority, fiscal year 1979	−25,579,700
1978 supplemental	−254,900
House bill, fiscal year 1979	+195,752,600
1978 supplemental	+12,801,700
Senate bill, fiscal year 1979	0
1978 supplemental	0

[1] Includes $195,566,000 for fiscal year 1979 and $12,801,700 for fiscal year 1978 for Senate items not considered by the House. Conforming to long practice, funds exclusively for operations and activities of the Senate—including two items jurisdictionally under the Architect of the Capitol—are left for decision and insertion by that body.

GEORGE E. SHIPLEY,
ADAM BENJAMIN, Jr.,
ROBERT N. GIAIMO,
JOHN J. MCFALL,
BILL CHAPPELL,
JOHN P. MURTHA,
GEORGE MAHON,
WILLIAM L. ARMSTRONG,
LAWRENCE COUGHLIN,
ELFORD A. CEDERBERG,
Managers on the Part of the House.
JIM SASSER,
WALTER D. HUDDLESTON,
DALE BUMPERS,
WARREN G. MAGNUSON,
RICHARD S. SCHWEIKER,
LOWELL P. WEICKER, Jr.,
MILTON R. YOUNG,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. RODINO (at the request of Mr. WRIGHT), for August 9, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. JEFFORDS) to revise and extend his remarks and include extraneous material:)

Mr. GOLDWATER, for 5 minutes today.

(The following Members (at the request of Mr. KILDEE) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. CORMAN, for 5 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. EILBERG, for 5 minutes, today.
Mr. OTTINGER, for 5 minutes, today.
Mr. DRINAN, for 5 minutes, today.
Mr. ROSTENKOWSKI, for 10 minutes, today.
Mr. LAFALCE, for 15 minutes, today.
Mr. BAUCUS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FLYNT, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,149.75.

(The following Members (at the request of Mr. JEFFORDS) and to include extraneous matter:)

Mr. ANDERSON of Illinois in five instances.
Mr. SARASIN.
Mr. FRENZEL in three instances.
Mr. ARCHER.
Mr. QUAYLE.
Mr. DORNAN.
Mr. FINDLEY.
Mr. BROOMFIELD.
Mr. MICHEL.
Mr. HILLIS.
Mr. KINDNESS.
Mr. MCCLORY.
Mr. COLLINS of Texas in three instances.
Mr. RAILSBACK.
Mr. BROWN of Ohio in two instances.
Mr. SYMMS in three instances.
Mr. STEIGER.
Mr. LAGOMARSINO.

(The following Members (at the request of Mr. KILDEE) and to include extraneous material:)

Mr. RONCALIO in five instances.
Mr. RYAN in two instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. SIMON.
Mr. HANNAFORD in two instances.
Mr. SANTINI.
Mr. ROSE.
Mr. MOAKLEY.
Mr. HAMILTON.
Mr. DOWNEY in two instances.
Mr. OTTINGER.
Mr. FRASER in five instances.
Mrs. BURKE of California.
Mr. VOLKMER.
Mr. WOLFF.
Mr. MAZZOLI in two instances.
Mr. DODD.
Mr. PATTISON of New York.
Mr. BENNETT.
Mr. STARK.
Mr. HUCKABY.
Mr. FASCELL.
Mr. BAUCUS.
Mr. ROGERS.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2777. An act to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes; and

H.R. 10787. An act to authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management.

ADJOURNMENT

Mr. KILDEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 9 minutes p.m.) the House adjourned until tomorrow, Thursday, August 10, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4732. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of August 1, 1978, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 95-374); to the Committee on Appropriations and ordered to be printed.

4733. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be undertaken by the Army Reserve, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4734. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of a certain naval vessel, and for other purposes; to the Committee on Armed Services.

4735. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of certain naval vessels, and for other purposes; to the Committee on Armed Services.

4736. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of a certain naval vessel, and for other purposes; to the Committee on Armed Services.

4737. A letter from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of a certain naval vessel, and for other purposes; to the Committee on Armed Services.

4738. A letter from the Secretary of Health, Education, and Welfare, transmitting the family contribution schedules for the basic educational opportunity grant program for academic year 1979-80, pursuant to section 411(a)(3)(A)(ii) of the Higher Education Act of 1965, as amended (90 Stat. 2091); to the Committee on Education and Labor.

4739. A letter from the Assistant Secretary of the Treasury for Administration, transmitting notice of proposed changes in three existing records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4740. A letter from the Assistant Secretary of Housing and Urban Development for Administration, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4741. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Morrison-Knudsen Co., Inc., Boise, Idaho, for a research project entitled "Evaluation, Modification, and Application of Roadheaders in Underground Uranium Mining," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

4742. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with Science Applications, Inc., La Jolla, Calif., for a research project entitled "A Borehole Probe for In Situ X-Ray Diffraction Analysis," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

4743. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Harold E. Horan, Ambassador-designate to Malawi, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

4744. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of a proposed license for the export of certain defense equipment sold commercially to Iran (MC-29-78), pursuant to section 36(c) of the Arms Export Control Act; to the Committee on International Relations.

4745. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Israel (transmittal No. 78-69), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4746. A letter from the Comptroller General of the United States, transmitting a report on problems in planning host nation support for U.S. forces in Europe (LCD-78-402, August 9, 1978); jointly, to the Committees on Government Operations, Armed Services, and International Relations.

4747. A letter from the Comptroller General of the United States, transmitting a report on the criteria and methods used by the Bureau of Reclamation, Corps of Engineers, and Soil Conservation Service in making benefit-cost analyses for Federal water resources projects; jointly, to the Committee on Government Operations, Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHIPLEY: Committee of conference. Conference report on H.R. 12935 (Report No. 95-1457). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 13702. A bill to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the U.S. House of Representatives, and for other purposes; with amendment (Rept. No. 95-1458). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 11894. A bill to amend certain laws relating to the Osage Tribe of Oklahoma and for other purposes; with amendment (Rept. No. 95-1459). Referred to

the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 12026. A bill to create the Indian Peaks Wilderness Area and the Arapaho National Recreation Area and to authorize the Secretary of the Interior to study the feasibility of revising the boundaries of the Rocky Mountain National Park; with amendment (Rept. No. 95–1460). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1306. Resolution providing for the consideration of H.R. 13511. A bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes (Rept. No. 95–1461). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 13059. A bill authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes; with amendment (Rept. No. 95–1462). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PHILLIP BURTON (for himself, Mr. FOWLER, Mr. EDWARDS of Oklahoma, Mr. STOKES, Mr. GINN, Mr. ST GERMAIN, Mr. FLOOD, Mr. SLACK, Mr. ZEFERETTI, Mr. TRAXLER, Mr. WHALEN, Mr. MAGUIRE, Mr. MURPHY of Illinois, Mr. THOMPSON, Mr. ANNUNZIO, Mr. SIMON, Mr. RICHMOND, Mr. CLAY, Mr. GONZALEZ, Mr. STRATTON, Mr. OBERSTAR, Mr. MICHAEL O. MYERS, Mr. LEHMAN, and Mrs. FENWICK):

H.R. 13801. A bill to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the U.S. House of Representatives, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BRINKLEY (for himself, Mr. HYDE, Mr. CORRADA, Mr. FISHER, Mr. NOLAN Mr. DRINAN, Mr. SARASIN, Mr. DODD, Mr. EARLY, Mr. MOFFETT, Mr. BURKE of Massachusetts, Mrs. HECKLER, and Mr. D'AMOURS):

H.R. 13802. A bill to incorporate the Gold Star Wives of America; to the Committee on the Judiciary.

By Mr. DUNCAN of Oregon:

H.R. 13803. A bill to terminate the authorization of the navigation project on the Columbia Slough, Oregon; to the Committee on Public Works and Transportation.

By Mr. FINDLEY:

H.R. 13804. A bill to amend the Social Security Act to make needed improvements in the programs of supplemental security income benefits, aid to families with dependent children, child welfare services and social services, and for other purposes; to the Committee on Ways and Means.

By Mr. FLORIO (for himself, Mr. AUCOIN, Mr. BADHAM, Mr. BRECKINRIDGE, Mr. BURGENER, and Mr. GIAIMO):

H.R. 13805. A bill to repeal section 3402(q) of the Internal Revenue Code of 1954 which requires, for income tax purposes, amounts to be withheld from certain gambling winnings; to the Committee on Ways and Means.

By Mr. HUCKABY:

H.R. 13806. A bill to authorize and direct the Secretary of Agriculture to make loans providing for annual payments to owners of nonindustrial private forest lands; to the Committee on Agriculture.

By Mr. LEGGETT:

H.R. 13807. A bill to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981 and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. ROBERTS (for himself, Mr. BROOKS, Mr. HIGHTOWER, Mr. CHARLES WILSON of Texas, Mr. POAGE, Mr. WRIGHT, and Mr. PICKLE):

H.R. 13808. A bill to designate the "Omar Burleson Federal Building"; to the Committee on Public Works and Transportation.

By Mr. ROBERTS (for himself, Mr. HIGHTOWER, Mr. CHARLES WILSON of Texas, Mr. POAGE, Mr. WRIGHT, and Mr. PICKLE):

H.R. 13809. A bill to designate the "George H. Mahon Building"; to the Committee on Public Works and Transportation.

By Mr. YOUNG of Florida (for himself and Mr. GOLDWATER):

H.R. 13810. A bill to authorize the Secretary of the Treasury to reimburse State and local law enforcement agencies for assistance provided at the request of the U.S. Secret Service; to the Committee on the Judiciary.

By Mr. BOWEN (for himself and Mr. BEVILL, Mr. BREAUX, Mr. BUCHANAN, Mr. COCHRAN of Mississippi, Mr. DICKINSON, Mr. DUNCAN of Tennessee, Mr. EDWARDS of Alabama, Mr. FLIPPO, Mr. FLOWERS, Mr. GUDGER, Mr. JONES of Tennessee, Mrs. LLOYD of Tennessee, Mr. MARRIOTT, Mr. MARTIN, Mr. MATHIS, Mr. MONTGOMERY, Mr. NICHOLS, Mr. SIKES, Mr. WATKINS, and Mr. WHITTEN):

H.R. 13811. A bill to amend the Endangered Species Act of 1973 to clarify congressional findings, intent, policy and purpose; to provide for economic and inflationary assessment of proposed listings; to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions; to establish an Endangered Species Committee to review those actions; and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. COHEN:

H.R. 13812. A bill to amend title 28 of the United States Code to eliminate the divisions of Maine's judicial district; to the Committee on the Judiciary.

By Mr. COLEMAN:

H.R. 13813. A bill to modify the Smithville Lake project, Little Platte River, Mo., to establish a memorial to former Congressman Jerry L. Litton and redesignate the Smithville Lake project visitor center as the "Jerry L. Litton Memorial Visitor Center"; to the Committee on Public Works and Transportation.

By Mr. CORMAN:

H.R. 13814. A bill to amend section 8 of Public Law 93–233 to permit California to continue cash payments to SSI recipients in lieu of food stamps; to the Committee on Ways and Means.

By Mr. KINDNESS:

H.R. 13815. A bill to provide for the safeguarding of taxpayer rights, and for other purposes; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 13816. A bill to amend the Internal Revenue Code of 1954 to provide tax incentives for investment in labor surplus areas; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI (for himself and Ms. KEYS):

H.R. 13817. A bill to amend the Social Security Act with respect to the health programs authorized under it and for other purposes; to the Committee on Ways and Means.

By Mr. SMITH of Iowa:

H.R. 13818. A bill to assist in the handling of reserves of agricultural commodities and for other purposes; to the Committee on Agriculture.

By Mr. CLEVELAND:

H.J. Res. 1108. Joint resolution to authorize the President to proclaim the last Friday of April each year as "National Arbor Day"; to the Committee on Post Office and Civil Service.

By Mr. KAZEN:

H.J. Res. 1109. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying of the national debt; to the Committee on the Judiciary.

By Mr LAFALCE:

H.J. Res. 1110. Joint resolution making the congressional determination that a simple majority of each body of a State legislature is sufficient for the purposes of proposed constitutional amendments for which the mode of ratification is by State legislatures; to the Committee on the Judiciary.

By Mr. CLEVELAND (for himself, Mr. D'AMOURS, Mr. ASHBROOK, Mr. BEARD of Tennessee, Mr. BENNETT, Mr. BROWN of Ohio, Mr. DON H. CLAUSEN, Mr. COHEN, Mr. ERLENBORN, Mr. FRENZEL, Mr. GINN, Mr. HARSHA, Mrs. HOLT, Mr. HYDE, Mr. ICHORD, Mr. JOHNSON of California, Mr. JOHN T. MYERS, Mr. MARTIN, Mr. MICHEL, Mr. ROBERTS, Mr. ROBINSON, Mr. SARASIN, Mr. STEED, Mr. WHITEHURST, and Mr. YOUNG of Florida):

H. Con. Res. 685. Concurrent resolution expressing the sense of Congress that all remaining proceedings with respect to the Seabrook Nuclear Station project should be expedited and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures; to the Committee on Interior and Insular Affairs.

By Mr. CLEVELAND (for himself, Mr. D'AMOURS, Mr. ANDERSON of Illinois, Mr. BAFALIS, Mr. BREAUX, Mr. BROYHILL, Mr. BURLISON of Missouri, Mr. COLLINS of Texas, Mr. CONABLE, Mr. CUNNINGHAM, Mr. DAVIS, Mr. EDWARDS of Oklahoma, Mrs. FENWICK, Mr. FLOOD, Mr. GILMAN, Mr. LAGOMARSINO, Mr. MCCLORY, Mr. ROUSSELOT, Mr. RUPPE, Mr. SATTERFIELD, Mr. SAWYER, Mr. STOCKMAN, Mr. STRATTON, Mr. WALSH, and Mr. WAMPLER):

H. Con. Res. 686. Concurrent resolution expressing the sense of Congress that all remaining proceedings with respect to the Seabrook Nuclear Station project should be expedited and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures; to the Committee on Interior and Insular Affairs.

By Mr. QUIE:

H. Res. 1305. Resolution urging the United States and Canada to cooperate in their efforts to improve the quality of air in the boundary regions; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HOLLENBECK introduced a bill (H.R. 13819) for the relief of Jack George Makari, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12452

By Mr. BUTLER:

—On page 111, after line 10, add the following:

"(c) In awarding contracts for services administered under this section, in States where State level prime sponsors are obligated to provide such services, the Secretary shall accord priority treatment to such State-level prime sponsors in those cases in which they are applicants for such contracts."

—Page 116, insert immediately following line 15, the following new section:

"SERVICES FOR OLDER WORKERS

"SEC. 308 (a) Services for older workers under this part shall be designed to assist eligible participants in overcoming the particular barriers to employment experienced by older workers, including skills that are obsolete or no longer needed in the community, changing physical characteristics associated with aging, employer reluctance to hire older workers, financial barriers to labor force participation, and lack of appropriate job opportunities.

"(b) The Secretary shall insure that each prime sponsor's plan for serving eligible older workers under this part includes provisions for—

"(1) assisting older workers to develop skills necessary for taking advantage of opportunities to continue in or reenter the labor force;

"(2) facilitating the transition of older workers from one occupation to another within the labor force and from nonparticipation to participation in the labor force, including, but not limited to—

"(A) outreach, assessment, and orientation to the local labor market and to occupational and training opportunities available in the community;

"(B) community-based central intake and information services;

"(C) counseling, placement assistance, and job placement;

"(D) technical assistance to employers for establishing flexitime, job-sharing, and other innovative arrangements suited to the older worker;

"(E) programs to overcome sex and age stereotyping job placement and development; and

"(F) outreach mechanisms and other efforts to increase labor force participation rates among eligible participants who are able and willing to work but have been unable to secure employment or have been discouraged workers; and

"(3) coordinating services for older workers under this part with programs and services provided by senior centers, area agencies on aging, and State agencies on aging (as designated under the Older Americans Act of 1965).

"(c) Prime sponsors may make agreements with State and area agencies on aging and other public agencies and private nonprofit organizations for service for older workers to meet the purposes of this section.

H.R. 12452

By Mr. WAXMAN:

—Page 116, after line 15, insert the following new section:

"PROJECTS FOR MIDDLE-AGED AND OLDER WORKERS

"SEC. 309. (a) The Secretary shall—

"(1) develop and establish employment and training policies and programs for middle-aged and older workers which will reflect appropriate consideration of these workers' importance in the labor force and lead to a more equitable share of employment and training resources for middle-aged and older workers;

"(2) develop and establish programs to assist workers over forty years of age in pursuing second careers, including, but not necessarily limited to, work experience, vocational education, public service employment, on-the-job training; occupational upgrading, and job search and placement; and

"(3) conduct research on the relationships between age and employment and insure that the findings of such research are widely disseminated in order to assist employers in both the public and the private sectors better understand and utilize the capabilities of middle-aged and older workers.

"(b) in carrying out the provisions of subsection (a) the Secretary shall provide for appropriate arrangements to be made with prime sponsors, members of the business community (including small business), labor organizations, local educational agencies, and community-based organizations as defined in section 125(4) of this Act. Such arrangements may include, but need not be limited to—

"(1) an analysis of the local labor force on the basis of such factors as age, educational background, income, race, and sex, focusing particularly on comparative rates of labor force participation and of unemployment and underemployment among the various demographic groups studied;

"(2) an assessment of each participant's skills and work experience for purposes of formulating realistic second career objectives, including formal vocational testing instruments supplemented by such functional assessment methods and techniques to detect those skills and abilities of a participant as may be related to desired second career and occupational upgrading objectives;

"(3) second career and occupational upgrading counseling by individuals knowledgeable about the employment and training needs of middle-aged and older workers;

"(4) the establishment of second career objectives which will—

"(A) provide reasonable assurances to the participant that public and private sector demand exists for the skills developed in the second careers program; and

"(B) enable the participant to compete successfully in the job market; and

"(5) establishment of formal second careers training agreements, between participants and program sponsors, which—

"(A) set forth the career objectives of the participants and the steps required of each participant and prime sponsor to achieve these objectives;

"(B) will remain in force until its terms are fulfilled, or renegotiated or terminated according to such procedures as shall be prescribed by the Secretary; and

"(C) may be renegotiated or terminated, at any time, by the participant, or by the program sponsor for good cause.

"(c) The Secretary is hereby authorized to pay program sponsors reasonable training costs to participants in second careers programs to the extent necessary to achieve the objectives of such programs in accordance with regulations prescribed by the Secretary, but in no case shall such payment exceed the permissible maximum under section 121(c)(1)(B). Such costs may include reasonable tuition for participants engaged in technical or other institutional training and payments to program sponsors providing on-the-job training, provided that such payments are based on the actual number of hours of such training given to the second careers program participant. The Secretary is authorized to pay for equipment, materials, and such other costs necessary for a participant to achieve the objectives of his second careers program.

"(d) Programs assisted under this section may provide for participation in employment and training programs on a part-time or flexible-time basis.

"(e) Participants in programs authorized under this section shall be individuals over the age of forty who are unemployed, underemployed, or economically disadvantaged, who have a family income (exclusive of any income received under a Federal or State welfare or unemployment program) which is not in excess of 125 percent of the Bureau of Labor Statistics lower living income level.

"(f) For the purposes of carrying out this section, the Secretary shall reserve from funds available for this title not more than 10 percent of the amount allocated pursuant to section 202(a).

"(g) No provision of this section shall be construed as intending any diminution of the employment and training opportunities available to workers over 40 years of age under titles II, VI, and VII of this Act.

Conform the table of contents accordingly.

H.R. 13511

By Mr. JEFFORDS:

—At the end thereof, add the following:

TITLE V—TAX INCENTIVES FOR THE PRODUCTION AND CONSERVATION OF ENERGY AND FOR CONVERSION TO ALTERNATIVE ENERGY SOURCES

SEC. 501. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures, plus

"(3) the qualified hydrogen energy expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified energy conservation expenditures are 20 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCES.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(3) HYDROGEN ENERGY.—In the case of any dwelling unit, the qualified hydrogen energy expenditures are 20 percent of so much of the hydrogen energy expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(4) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior taxable year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1),

(2), or (3), (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(5) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURE.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States, the Virgin Islands, or Guam,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'renewable energy source expenditure' includes only expenditures for—

"(i) renewable energy source property,

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of renewable energy source property, or

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable' energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a function other than the function of such storage.

"(3) HYDROGEN ENERGY EXPENDITURES.—

"(A) IN GENERAL.—The term 'hydrogen energy expenditures' means an expenditure made on or after April 20, 1977, by the taxpayer for hydrogen energy property and installation installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'hydrogen energy expenditures' includes only expenditures for—

"(i) hydrogen energy property, and

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of hydrogen energy property, or to the modification of conventional property for the use of hydrogen as a fuel.

"(4) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisiton of the item.

"(5) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iii) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(iv) a storm or thermal window or door for the exterior of the dwelling,

"(v) an automatic energy-saving setback thermostat,

"(vi) caulking or weather stripping of an exterior door or window,

"(vii) a heat pump which replaces an electric resistance heating system,

"(viii) meters which display the cost of energy usage,

"(ix) a replacement fluorescent lighting system,

"(x) an evaporative cooling device,

"(xi) is an item (other than a fireplace) which is designed to use wood and peat as a fuel for space heating, the heating of water or cooking of food, or any combination thereof, including any controls, ducts, stovepipes, footing or other item (other than a chimney) necessary for the safe and efficient operation of any such item, or

"(xii) an item of the kind which the Secretary specifies by regulations as increasing (by conversion or otherwise) the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

In establishing regulations under this paragraph, the Secretary shall prescribe (i) guidelines setting forth the criteria which are used in the determination of whether an item is an energy-conserving component, and (ii) a procedure under which a manufacturer of an item may request the Secretary to specify or certify that item as an energy-conserving component.

"(6) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses solar energy in either an active or passive method the primary purpose of which is heating or cooling such dwelling or providing hot water for use within such dwelling, or in the production of electricity,

"(ii) uses wind energy for nonbusiness residential purpcses,

"(iii) is necessary to distribute or use geothermal deposits (as defined in section 613 (e)) which provide geothermal energy to heat or cool such building or provide hot water for use within such building, or

"(iv) uses any other form of renewable energy which the Secretary specifies by regulations,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(7) HYDROGEN ENERGY PROPERTY.—The term 'hydrogen energy property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses hydrogen as a fuel for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

"(ii) is used in the electrolysis of water for the production of hydrogen,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(8) CONSULTATION IN PRESCRIBING STANDARDS.—Performance and quality standards shall be prescribed by the Secretary under paragraphs (4), (5), (6), and (7) only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal agencies.

"(9) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) The amount of any expenditure shall be the cost thereof.

"(D) If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of the preceding sentence, use for a swimming pool shall be treated as use which is not for residential purposes.

"(10) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(11) ENVIRONMENTAL RESTRICTIONS ON CERTAIN WOOD AND PEAT BURNING ITEMS.—No credit shall be allowed under subsection (a) for expenditures with respect to any item described in paragraph (5)(A)(xii) which are to be installed in any metropolitan or other area after the date on which—

"(A) the Administrator of the Environmental Protection Agency certifies to the Secretary that the emissions from such items would cause air quality in such area to be in violation of any Federal law, or

"(B) the Secretary of Agriculture certifies to the Secretary that additional consumption of wood in connection with such items would endanger forests in that area.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit

which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of paragraph (5) of subsection (b)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985.".

(b) CARRYOVER OF UNUSED CREDIT.—If the amount of the credit determined under this section for the taxable year exceeds the liability for the taxpayer for the tax under this chapter for the taxable year, the excess shall be carried over to each of the two taxable years succeeding that taxable year. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the two taxable years to which it may be carried, and then to the succeeding taxable year to the extent that it may not be added for a prior taxable year to which it might be carried.

(c) INSPECTION.—To the extent not presently authorized and utilized by any agency of the United States in the assessment and collection of income taxes, no procedure or practice which utilizes onsite inspection of the residence of an individual shall be employed to determine if that individual is entitled to a credit under section 44C of the Internal Revenue Code of 1954, as added by subsection (a), unless such procedure or practice provides that such inspection shall take place only with the written consent of such individual.

(d) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item: "Sec. 44C. Residential energy credit.".

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, 43, 44C, 44E, 44F, 44G, 44H, 44I, and 44J.".

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C;".

(4) Subsection (b) of section 6096 (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

H.J. RES. 638

By Mr. RAILSBACK:

—On the first page, line 10, strike the period and insert the following: ", *Provided, however*, That any legislature which shall have ratified the article of amendment within the first seven years of this period may, by the same vote and procedure required for ratification, rescind that action at any time after this resolution becomes effective and prior to adoption of the amendment. The Administrator of the General Services Administration shall certify to Congress all resolutions of ratification or rescission of this amendment as received from the several States for final determination by the Congress as to whether the amendment shall have been adopted."

EXTENSIONS OF REMARKS

THE SUPREME COURT'S 1977–1978 TERM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for August 9, 1978 into the CONGRESSIONAL RECORD:

THE SUPREME COURT'S 1977–1978 TERM

As government institutions go, the United States Supreme Court ranks high in the eyes of Americans, certainly far above Congress and the President. To be sure, the nine Justices have several things going for them. They never give press conferences or get into nasty arguments in public. They wield great power without having to run for election. Most citizens stand in almost reverntial awe of the black robes of the Justices and the marble halls and draped chambers of the Supreme Court building.

The Burger Court has just completed its 1977–1978 session with no striking changes from previous years. It continues to be centrist and fragmented. No dominant personality or philosophical majority guides it. The ideological labels of "conservative" or "liberal" do not seem to apply to most of its decisions. Supporters of the Burger Court salute it for its moderation and restraint, but critics contend that it is a troubled state, confused in its values and unconvincing in its opinions.

The Burger Court often shapes its rulings amid sharp divisions and constantly shifting alliances among the Justices. In this term alone 19 cases were decided by a five-to-four vote. On the "conservative" side there are two men (Justices Burger and Rehnquist) and on the "liberal" side also two (Justices Brennan and Marshall), but the five other Justices regularly swing between the two extremes. The diversity of the Burger Court is aptly illustrated by the most famous case of the session, the Bakke case. There were six separate opinions spread over 150 pages of commentary. The Justices split into two groups of five—with Justice Powell casting the deciding votes—making possible two majorities. One majority upheld affirmative action programs as remedies for past discrimination while the other rejected the use of racial quotas and admitted Mr. Bakke to medical school.

In the important area of criminal law, the Burger Court has generally strengthened the hand of the law enforcement officer at the expense of the rights of the accused. In the past it has favored the police about two-thirds of the time, but in this term it sided with the suspect in slightly more than half of all cases. The Justices made it more difficult to impose the death sentence, an action which willl cause many states to rewrite their capital punishment laws. In wiretapping cases, the Burger Court continued to support the prosecutor. A related but highly controversial law enforcement decision raised questions about freedom of the press. The Burger Court authorized the police to make a court-approved, surprise search for evidence in a newsroom, arguing that press freedom did not require the additional protections of prior notice and a chance to dissent in court. Expert observers are saying that the ruling will inhibit the news media and limit free expression.

Unlike some of its predecessors, the Burger Court has shied away from "judicial legislation" and has taken the position that Congress and the state legislatures should decide matters of public policy. In halting the completion of a $120-million water project to preserve a tiny fish known as the snail darter, the Justices put aside their own appraisal of the wisdom of the law, deferred to the judgment of Congress and said that where a statute was clear, the judicial process would come to an end and the intent of Congress would stand.

Although the Burger Court has tended to favor business over government, the balance has been close. This term the Justices sent down no thunderbolts, but they did consolidate and refine the law with respect to particular business problems. The Justices held that the Occupational Safety and Health Administration could no longer make warrantless searches of business premises, but then suggested that warrants might be easily obtainable. They supported the nuclear power industry in two cases and strengthened the ability of corporations to defend themselves

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Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

in class action suits. They also recognized for the first time the right of corporations to participate in political discussion. The Justices, however, did not side with business in some instances. They ruled against television manufacturers by refusing to require the government to impose import duties on Japanese electronic equipment. They enlarged the power of states to tax interstate business and backed the right of states to work together in the taxing of interstate corporations. They also expanded consumer rights to include utility service by holding that a customer cannot be deprived of utility service without due process of law.

It is hard to find strong trends in the decisions of the Burger Court during the past term. The Justices avoided extremes, often deferred to the judgment of Congress and sometimes ducked tough issues (such as the constitutionality of the legislative veto). By and large, the Burger Court neither pleased nor offended the various special interest groups affected by its decisions. The Justices were roundly criticized on some occasions, but much of the criticism was muted.●

SALLE CASTLE AND MUSEUM IN SALLE, ITALY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. BIAGGI. Mr. Speaker, I have been asked by friends and constituents, who have great pride in and special affection for their glorious and noble Italian heritage and its legacy, and which I share with them, to highlight for you and our colleagues here today the particular efforts of Italian-Americans, whose forebearers came from Salle, Italy, to keep alive their ancestry and history through the reconstruction and establishment of the Salle Castle and Museum in Salle, Province of Pescara, in the Abruzzo region of Italy.

The Salle Castle and Museum Restoration project site includes three main areas of interest, namely, the castle and museum, the courtyard and fountain, and the Church, which houses the shrine of the patron Saint Roberto di Salle. There are specific plans for each division which I would like to mention for your benefit and that of our constituencies throughout the Nation, so that all may be aware of and appreciate the dedication of these individuals, and the excellence of their pursuits.

The castle will house the museum proper. Among the antique articles to be exhibited within this section are the following: An embroidered medieval coat of arms to be displayed as a wall hanging in the entrance foyer; many framed oil portraits of the ancestors of the di Genova family; books on the history of Italy and the Salle district to be contained in a library; charts dating back to 1650 for featuring in a map room; period costumes depicting the dress of a 17th century herald. Additionally, the edifice, which is constructed of stone indigenous to the area (comancini), is ornamented with assorted stone carvings dating back to the mid-16th century.

We can also picture a remarkable 15th-century carved stone fountain standing in the courtyard, along with three mounted vintage cannons with pedestals and munitions. This section of the site is proposed for future open-air entertainments, such as music and song festivals held during the summer months.

Within the church is the chapel of St. Roberto di Salle. This local patron saint was revered recently at a large reception held in New York. Eventually, a permanent shrine for the relic of St. Roberto will be contained in the chapel. Antique altar pieces, including candlesticks, altar cloths, vestments, and assorted artifacts are placed in the chapel as well. The chapel will soon be made available for regular religious services, conducted by the local priest, and attended by the inhabitants of Salle.

And it is the Salle Castle and Museum trust, of 565 Park Avenue, New York, N.Y. 10021, that is being created, through and with the inspiration of Baron Mario di Genova as trustee and sole benefactor, to promote and further the activities of the Salle Castle and Museum, to be beneficial to the city of Salle in religious, cultural, scientific, and historical advancements.

I want to congratulate Baron Mario di Genova for his expertise and leadership in the development of the trust organization, which began in 1976. The Salle Social Club in my home district of Queens, N.Y., with Mr. Remo Salerni as the president, is associated with the trust. Mr. Salerni and the membership, my dear friends, should also be commended for their fine efforts. The Salle Social Club is part of the Federal of the Italian-American Societies of Queens, which is spearheaded by Mr. Vincent Iannece as president, and also guided by Mr. Salerni as federation trustee.

The magnificance of the culture of Salle, enjoyed as far back to the year 891 as noted in a reference to the town, and the spendor of the medieval Salle Castle, can now be viewed. I know all will agree that it is both noteworthy and commendable that all the efforts mentioned will enable future generations to reap and enjoy the benefits of the knowledge of antiquity. I am certain that all who have an interest in this significant and worthwhile project would want to contribute their talents and support.●

POPE PAUL VI

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 7, 1978

● Mr. OTTINGER. Mr. Speaker, I want to join the 600 million members of the Roman Catholic Church in mourning the death of Pope Paul VI.

One of the most significant facets of Pope Paul's 15-year reign was his extensive travels throughout the world. He visited 16 countries on six continents, where he consistently called for social and economic justice and greater cooperation in an increasingly turbulent world. He is the only Pope ever to visit the United States. He was always anxious about the future of global peace and worked hard toward the dissolution of violence and war.

All who knew Pope Paul make special note of the gentleness and compassion of the man. It was these qualities which made Pope Paul an exceptional human being and distinguished world leader.●

USE OF OUR NATIONAL FORESTS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. RONCALIO. Mr. Speaker, last week my colleague from Montana, MAX BAUCUS, addressed the National Symposium on RARE II held on the campus of the University of Montana. The RARE II program is being conducted by the Forest Service on roadless areas on our national forests. The success or failure of this review will have a profound impact in many areas, particularly the West.

Representative BAUCUS' remarks summarize the progress of the RARE II program to date and the need for consensus among the various users of our national forests. His address is insightful and informative. For these reasons, I would like to include in the RECORD MAX'S remarks for the benefit of my colleagues.

The address follows:

REMARKS BEFORE THE NATIONAL SYMPOSIUM ON RARE II

(By Congressman Max Baucus)

Secretary Cutler, Chief McGuire and participants of the Conference on the Draft EIS for the RARE II process. I welcome each of you to Western Montana. May this symposium be stimulating and informative. Speaking of RARE experiences, what could be better than two days in Montana.

I have been assigned the task of presenting a Congressional perspective concerning the RARE II process. When I was asked, on rather short notice, to address you this evening, the old tale of the man who was attempting to cross the river only to find himself waist-deep in alligators immediately came to mind. Since the RARE II process was initiated last year, I am certain that Chief McGuire can identify with my analogy.

This evening I want to reinforce two basic points I have stressed since the beginning of the RARE II process. As I see it, the whole objective of the RARE II program is to arrive at some final decisions about the future use of the remaining roadless areas in the National Forest System. To the degree that the process can resolve the allocation decisions of some of these areas, two equally important objectives are achieved. First, we remove some of the uncertainty concerning the land base for non-wilderness forest uses, such as timber harvest, and secondly, we assure that wilderness values of key areas are, in fact, recognized, and these areas are included in the National Wilderness Preservation System.

From my perspective, RARE II will be an exercise in futility if the basic issues we con-

front in resource management are narrowly perceived and defined.

We must all recognize that decisions to allocate land and resources to specific use are meaningless if that use is not viewed in terms of its impact on people. We must understand that resource use is a dynamic rather than a static process.

For instance, how do we meet the ever increasing demands which are being placed upon the National Forest system for timber, grazing, wilderness and mineral exploration. In short, the demand for scarce resources by a variety of users is escalating at an alarming rate. How do we allocate the remaining roadless areas in an equitable fashion? In my opinion, this is the crust of the RARE II process.

We cannot isolate wilderness from the related issues. They are as closely linked as the roots, trunk and limbs of a ponderosa pine. The whole resource management process is linked and it would be folly to narrowly define or limit any of these issues.

There are some who want assurances now on exactly how this review process will effect them before it is complete. For them, there is little hope. No one knows what the eventual outcome of this process can be.

The inventory phase of this program, completed last November, identified some 66 million acres of roadless land. I am hopeful that the current phase of public evaluation of the program will generate enough information to foster consensus among forest user groups sufficient to settle, once and for all, a large portion of this total.

However, expectations that RARE II will solve the entire roadless area issue in one fell swoop, are unrealistic.

It is my hope that a majority of the inventoried roadless areas will be allocated either to non-wilderness or wilderness categories and that very few areas will be placed in the further study category.

We need to make management decisions based on a thorough and objective assessment of the factual information which this process should generate.

Once those decisions are made, each of us must be willing to endeavor to make them a reality with a minimum of red tape, appeals, litigation, and legislative procrastination.

Many of you attending this symposium will play a significant role in the eventual success or failure of the RARE II process. Whether or not accurate information is used to arrive at final decisions, whether or not we can arrive at a consensus on specific roadless areas are critical questions which can only be answered by each of us.

Many of you hold positions of responsibility in the executive branch, as Congressional assistants, as representatives of recreational and environmental groups, as foresters, as representatives of timber, agricultural and mineral industries. To a great extent, the decisions or non-decisions resulting from the RARE II process will be shaped by you and others like you.

Hopefully, we can avoid the tendency of resorting to extravagant rhetoric in the face of this heated controversy. Misinformation, rumor, and innuendo only serve to obscure the critical issues and result in increased polarization which permeates many of the relationships between forest user groups.

I counsel coolness, consensus, and resolution with reasonable and not excessive expectations. If we are to arrive at timely decisions in this process, all sides must take off the blinders and give some attention to the other side's view point.

The final RARE II recommendations of the Forest Service are scheduled to be presented to the Congress in January. We have been assured that this timetable will be met. It is my hope that Congress will consider these recommendations in a timely and expeditious fashion.

This brings me back to my initial point—that we must look at the total picture concerning resource management—all the factors are inter-related. RARE II is only one facet of the entire picture.

When the RARE recommendations are presented by the Forest Service next January, I hope the Administration will be prepared to make the budget investments necessary to carry out the goals of the Resource Planning Act and the management decisions which will result from the RARE II process.

It is in this area that the actions of Congress have been several steps ahead of the budget requests presented by any president over the past decade. However, despite the continuing efforts by the Congress over the past several years to upgrade both the quality and the quantity of management on the National Forests, considerable shortcomings persist. This situation is largely the result of inadequate budget proposals from the Department of Agriculture.

The Administration, working in harmony with Congress, should call for increased funding for the Resources Planning Act programs. The RPA should be funded at no less than 85% of the ideal level in the years ahead.

Regardless of the eventual outcome of RARE II, the vast majority of the acreage on the National Forest System will remain in the multiple use category. There is consensus among virtually all forest user groups that more effective forest management in these areas is essential if we are to meet the RPA goals.

Inadequate budget requests and manpower ceilings have consigned far more public acres to an economic and social wilderness than all of the statutorily created wilderness in the system. What we need is investments in productive resources not continued debate over one area of National Forest management.

I view this meeting as a tremendous opportunity for those who manage the National Forest to describe how they intend to facilitate the decisionmaking process affecting our National Forests. I commend those responsible for making this symposium on RARE II possible. May your discussions today and tomorrow be informative and stimulating. May this symposium lay the groundwork for consensus and the eventual resolution of the roadless area issue. This is a tall order: The eventual size of the National Wilderness System, the economic vitality of many local communities and the equitable management of our forest resources hang in the balance.●

WORLD HUNGER

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. DOWNEY. Mr. Speaker, I would like to share with my colleagues a very cogent article which appeared in this week's Christian Science Monitor concerning world hunger. The article follows:

AID THE RIGHT TO FOOD AS WELL AS FREEDOM

(By Patricia Weiss Fagen)

President Carter's concern with human rights has gone beyond the traditional foreign policy dialogue in the United States. The administration has affirmed that the right "to the fulfillment of such vital needs as food, shelter, health care, and education" has equal weight with the right "to be free from government violation of the integrity of the person," and the right "to enjoy civil and political liberties."

But the links between vital needs and other rights have yet to be clarified in practice. The Carter administration has begun to evaluate the performance of aid recipients not only on the degree to which their governments engage in mass arrests and mistreatment or limit free speech and the right to oppose but also on the policies and programs that affect the poor. It is logical to assume that governments whose policies bring additional suffering to their poorer citizens should not receive aid.

This logic, however, is not reflected in U.S. policy.

In the first place, the relevant human rights legislation (the Harkin Amendment, 1975, and the Harkin-Badillo Amendment, 1977) does not address the problem of repressive economic practices. It requires that economic aid be terminated to a country which "engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment, prolonged detention without charges or other flagrant denial of the right to life, liberty and the security of person, unless such assistance will directly benefit the needy people in such country." Thus, while the legislation suggests concern for the whole range of human rights, Congress has said that it is specifically interested in violations of the rights of the person. Nor is the termination of aid on human rights grounds intended to affect aid that reaches the poor, even if the government itself is responsible for worsening their plight and increasing their numbers.

In the second place, the decisionmaking procedures with regard to aid do not require that basic needs loans be evaluated according to government performance in promoting economic and social human rights. A proposed loan or project is judged in the Treasury Department on whether or not it will meet basic human needs. At the same time, in the State Department, a country for which an aid project is proposed is evaluated as to whether it meets minimum standards in the three human rights categories. The two sets of assessments are then weighed against each other. The aid givers often argue in favor of loans with basic need components even to countries where all three human rights categories are massively violated.

Basic needs loans are not justified as philanthropy but as development aid which will help the poor acquire their own income generating capacity and make the national economy more dynamic. If bilateral and multilateral aid programs to poor countries are to make even a minimum impact on poverty, local government cooperation is essential. Therefore aid and lending agencies place a great deal of emphasis on the necessity for national programs in line with basic needs priorities: agricultural production by small farmers, and programs in nutrition, health care, family planning and basic education for the poor majority.

Socialist governments are criticized when they justify the subordination of political liberties in terms of the need to implement economic plans that raise the standard of living of the majority. But today in Latin America there is a "trade-off" which is far more costly in human rights terms: right-wing military rulers such as those in Argentina, Chile, Uruguay, Brazil, subordinate the economic rights of the majority and maintain their regimes by denying political liberties while massively violating the personal rights of real and potential opponents.

Certain of their economic policies consistently worsen the social and economic conditions of the poor, and usually deprive them of benefits they previously enjoyed. These governments attempt to control inflation, improve the balance of payments, and remove restrictions on capital and trade. They

do so by drastically reducing the buying power of wage earners and eliminating many previously free public services. Their policies also make it difficult, if not impossible, for many unprotected local businesses and industries to survive when faced with competition from giant multinational corporations. But the international banking and financial communities, as well as the economic spokesmen for the U.S. Government, justify and encourage precisely these anti-human rights measures.

A U.S. basic needs policy which pretends to attack poverty, but which does not take into account the negative impact on the lives of the poor of the economic measures favored by the U.S. Government, the major U.S. investors, and the international financial institutions is a mockery. Consider the deterioration in living standards suffered by millions in Latin America since the military coups in Argentina, Uruguay, and Chile. Add to this the terror in which hundreds of thousands live because of the generally repressive practices of the governments in question. Can a basic needs aid program in any way compensate these people for the losses they have suffered and will continue to suffer owing to the acts of their governments?

The U.S. cannot promote economic and social human rights in other countries through a basic needs program unless it also encourages the governments of these countries to implement policies based on a greater concern for social justice and less immediate concern with producing a more "healthy business climate." The Carter administration should not claim that its aid to repressive governments is help for the needy when it is clear that such governments deprive their own citizens of food, shelter and health care, just as they deprive them of political and personal rights.

Patricia Weiss Fagan is an associate professor at San Jose State University.●

THE GOP IS BORN AGAIN

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. MICHEL. Mr. Speaker, the American people for the past 20 years have become addicted to government. Now they seem ready to take the cure. They have seen what an overdose of bureaucracy can do to their pocketbooks, to their freedom, and to their way of life. They were once lured by those in Congress who took from them everything they had and returned only the horrors of high taxes, inflation, waste, and regulation—but no more.

The national mood is changing. Republicans, who have always been on the defensive, fighting against the excesses of government, are now on the offensive, armed with the principles of limited government that the American people are responding to. The GOP has arrived.

Columnist Patrick Buchanan recently wrote about this new phenomenon and the resulting reversal of roles in the two political parties. It is an incisive look at one of the most significant political trends in decades, and I place the article in the RECORD:

THE GOP IS BORN AGAIN

(By Patrick J. Buchanan)

WASHINGTON.—For the first time since the New Deal, the locus of intellectual ferment, the "action" in national politics, is within the Republican Party.

For decades, the GOP has suffered the perception that it was the party of unthinking negativism, the stodgy domicile of me-too liberals and country club conservatives. Republican energies on Capitol Hill seemed ever bent toward balancing federal budgets unbalanced by compassionate, caring Democrats —the party of the people.

In the last dozen months, the roles have been reversed. It is Republicans launching the assaults upon the conventional wisdom, Democrats holding the fort.

While the left wing of the Democratic Party is fretting publicly about a balanced budget, Republicans like Roth and Packwood in the Senate, Kemp and Steiger in the House, are prodding Congress to take a roll of the dice.

The three ideas causing consternation in the Carter camp are the Kemp-Roth across-the-board tax cuts, the Steiger amendment to cut capital gains taxes back to Kennedy-Johnson era levels, and the Moynihan-Packwood-Roth tuition tax credit.

The apocalyptic arguments being hurled against these proposals are reflective of the intellectual exhaustion of liberalism. Take the Steiger amendment.

Many economists believe it would channel billions into capital investment, trigger a mini-boom in the stock market, and more than compensate in federal revenues for what is lost in tax cuts.

But Treasury Secretary Blumenthal, who believes that a $60 billion budget deficit is just what the doctor ordered for the economy, apparently thinks that a $2 billion tax cut—worst case scenario of the Steiger amendment—is too great a risk.

Consider the tuition tax credit.

Even if the proposal is funded at maximum levels, the revenue loss by the early '80s would not amount to 1 percent of federal income. Yet, the Democratic Party is denouncing the plan as an intolerable raid on the public treasury, a fiscally irresponsible act that breaks the federal budget—the balancing of which must be our highest concern.

Others argue that even a credit of a few hundred dollars for parents of a child in private or religious schools would be the beginning of the end of public education in America.

But if a modest tax credit would mean wholesale abandonment of the public schools, what a mess must have been made of them in the two decades during which they have served as social laboratories for educational reformers and federal bureaucrats.

But the argument of Sen. Ernest Hollings is perhaps the most instructive. Tuition tax credits, he declared, are nothing more than "segregation subsidies."

Here we have a pristine example of liberal paternalism. What Sen. Hollings is suggesting is that black parents are either too indifferent to their children's education, or too dumb, to avail themselves of a tax credit extended to every American family.

And Fritz Hollings' concern about segregation seems to be a worry of fairly recent vintage. If my research is correct, he attended a segregated college and a segregated law school. He was at the apex of political power in South Carolina during the good old days of massive resistance. He was named to the Senate in 1966, voted against the nomination of Justice Thurgood Marshall in 1967, opposed the Civil Rights Act of 1968 and extension of the Voting Rights Act in 1969.

What all these Democratic arguments against tax relief for Middle America reflect is not some sudden concern over fiscal responsibility. Tax reduction, of whatever kind, goes against the grain of the Fabian Socialism that has become the dominant ideology of the Democratic Party.

The Carterites and their allies in Congress want to see government consume more and more of the private sector. The New Republicans believe the private sector pulls the train, the government sector is the baggage car.

The latter want the individual's share of the national income increased, the government percentage reduced. That is the difference. If Republicans can get it across, they may be on the way back.●

"A TRIBUTE TO SCOTT PROBERT"

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. SANTINI. Mr. Speaker, fellow colleagues, many of us were deeply saddened to learn of the untimely death of an exemplary young Nevadan, William Scott Probert.

Year after year Scott struggled hard with his physical infirmities and did his very best to overcome them. It was not easy for him, but he always seemed to find a way to persevere.

Scott made many contributions during his 26 years, and achieved goals where a lesser person would have failed. An excellent scholar, Scott was also active and devoted to his family, his church, and his community. He possessed a keen sense of personal commitment that enabled him to succeed with many of his ambitions and endeavors.

While in high school, Scott served as a member of the Governor's Advisory Council on Children and Youth in Nevada. During this time, he also was appointed as a delegate to Nevada Boys State and was the only person from his area ever to attend Boy's Nation here in Washington.

Scott was also a member of President Nixon's Youth Advisory Committee, and, at the time of his death, was serving on the Nevada State Rural Housing Authority. His community and his beloved State of Nevada will greatly miss him.

I shall greatly miss him, too, for Scott was a personal friend. He was among the first in the Elko, Nev., area to come to my campaign aid back in 1974. True friends and supporters like Scott can never be forgotten.

WILLIAM PROBERT

ELKO.—William Scott Probert, a resident of Elko for most of his life, was found dead at the home of his parents Thursday night. He was 26.

Probert died of an apparent self-inflicted gunshot wound, said E. S. Lunsford, Elko County coroner.

Probert was born Aug. 9, 1951, in Tooele, Utah, and, at the time of his death, had been a student in Salt Lake City, and had worked for Elko Enterprises Co. He was visiting in Elko with his parents.

He was active in the Church of Jesus Christ of Latter-day Saints and served in various positions in the church.

As a student at Elko High School, he was a member of the Governor's Advisory Council on Children and Youth, a delegate to Nevada Boys State, and the only person from Elko County ever to have attended Boys Nation in Washington, D.C.

He had been on President Nixon's Youth Advisory Committee and at the time of his death was a member of the Nevada State Rural Housing Authority.

He also had been a political writer for the Westminster Parson, a college newspaper in Salt Lake City.

Survivors include his parents, Mr. and Mrs. Oren Probert of Elko; sister, Pat, attending school in Salt Lake City; grandmother, Sophronia LaBelle, Elko, and an uncle.

A graveside funeral is scheduled for 2 p.m. Monday in Tooele. Burns Funeral Home of Elko is in charge of arrangements.●

SARASIN URGES FUNDING FOR POUGHKEEPSIE RAILROAD BRIDGE

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. SARASIN. Mr. Speaker, on Tuesday, August 1, the Senate passed by a vote of 48 to 45 an amendment offered by the senior Senator from Connecticut, the Honorable ABRAHAM RIBICOFF, which would authorize the expenditure of up to $9 million for the repair and reactivation of the Poughkeepsie railroad bridge.

I applaud that action by the Senate and would like to urge my colleagues to enact similar language when the ConRail authorization comes before us for consideration. I will be cosponsoring an amendment offered by my colleague, the Honorable BENJAMIN GILMAN of New York, which will provide for similar authorization language as that contained in the Senate bill.

The Poughkeepsie railroad bridge was closed to rail traffic by a fire in May 1974. The bridge was the only rail link across the Hudson River south of Albany. A mere look at the map shows that the closing of this bridge effectively cut off all of Connecticut and Rhode Island from rail traffic with the rest of the Nation and wreaked havoc upon the rail shippers in southeastern New York. Simple commonsense would have dictated that this vital rail link should be repaired in the shortest reasonable time.

Unfortunately, that has not been the case. The leaders of the Penn Central Corp. which led the company into bankruptcy now comprise a major component of the leadership of the Consolidated Rail Corporation (ConRail). Since ConRail came into operation on April 1, 1976, this quasi-private, quasi-public agency has defied commonsense; indeed, defied the will of the people by refusing to repair this vital rail link despite entreaties from Members of Congress, rail shippers, chambers of commerce, and the State governments of New York and Connecticut.

In all likelihood, a good deal of the former and potential rail traffic of southern Connecticut and New England has already been lost to the trucking industy. We cannot afford to continue this trend which just exacerbates our dwindling fuel supply problem and unnecessarily jams our already overcrowded roadways.

The rehabilitation and reactivation of the Poughkeepsie railroad bridge has long been a concern of mine. In the 94th Congress, I introduced legislation, H.R. 10152, which would have provided funding for the repair of the bridge alone. Since that time ConRail has stated that additional moneys would be necessary to make the bridge a truly operational entity and this is the reason for the authorization of the $9 million amount.

I plan to work with the New England congressional caucus as cochairman of the transportation task force in attempting to secure passage of this amendment. I am hopeful that Members from other regions of the United States do not view this matter as a "porkbarrel" issue since reconstruction of this bridge will provide the producers of commodities with an accessway to a most important marketplace. For example, at the present time a shipment of freight from Washington, D.C., to New Haven takes 59 hours. If the Poughkeepsie railroad bridge was opened it would take 17 hours.

Mr. Speaker, we simply cannot afford to wait any longer on this matter. If we are to insure that ConRail is a worthwhile investment for the Nation's taxpayers we must approve this most critical amendment.●

DEAN ALEXANDER WHITE PRAISED FOR 10 YEARS OF DEDICATION TO THE UCLA GOVERNMENT INTERNSHIP PROGRAM

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. MOAKLEY. Mr. Speaker, each year the colleges and universities of our country send a substantial number of their students to participate in the legislative process and serve in our offices as interns. Thanks to the maintenance of Washington internship programs at academic institutions, these students are given an opportunity to enrich their learning careers in a laboratory of experience which complements the tools of knowledge they have acquired in the classroom. I applaud today the dedication of one man in particular who has given especially generously of himself so that students may continue to benefit from this unique and rewarding activity. His name is Alexander White, a dean at the University of California at Los Angeles and head of that university's strong government internship program.

Dean White is celebrating his 10th anniversary in charge of one of the largest and most respected internship programs in the Nation. This year, almost 80 Bruins are interning in Washington. During his tenure at UCLA, Dean White has sent more than 1,400 students off to work with numerous State legislative and congressional offices, committee staffs, governmental agencies, and public and private interest research groups. I know that I may speak for at least 90 of my current and former colleagues when I say that UCLA students, bearing Dean White's dedication and drive with them, have distinguished themselves on Capitol Hill. Those of us who have had the pleasure of accepting UCLA interns through the years have been impressed with both the soundness of the program's management and with the quality of intern it produces.

However, Mr. Speaker, Dean White's skill in guiding the UCLA internship program is but a supplementary element in my recognition of him today. Even more important than this attribute is his emphasis on the personal relationships he strives to cultivate with and among his students. The dean is above all remarkable for the weight he places upon seeing that his students grow and mature as interns. In blending the goals of education and personal development, he acts as a counselor who shares in their challenges, their setbacks, and, in the end, their successes. Few persons can match Dean White's patience, compassion, and dexterity at looking out for every participant in the UCLA government internship program.

I point to a recent statement Dean White made on the subject of the intern experience and his role in it. He said:

As I have watched group after group of students return from the field each year, it is in their personal growth that I have always found my deepest satisfaction as an educator.

Surely, if this is the spirit that men like Dean White lend to the guidance of the Nation's internship programs, then we may rest assured that the aims of higher education—both theoretical and practical—will be well served among students for a long time to come.●

TESTIMONY BEFORE THE HOUSE ARMED SERVICES COMMITTEE CONCERNING THE GENERAL DYNAMICS/NAVY SETTLEMENT

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. DODD. Mr. Speaker, on August 3, 1978, I testified before the House Armed Services Committee in support of the settlement reached between the Navy and the General Dynamics Corp. reforming two contracts for the construction of 18 688-class nuclear attack submarines. I would like to take this opportunity to submit my testimony for the RECORD in order to allow my colleagues who are not members of the Armed Services Committee a chance to examine the reasons I believe congressional approval of the settlement is so necessary.

The testimony follows:

TESTIMONY OF CONGRESSMAN DODD

Thank you very much, Mr. Chairman. I appreciate the opportunity, this morning, to appear before the committee on this matter. I have a prepared statement, and I will read some of it, and I may deviate and speak extemporaneously, if I may. I want to thank you and the committee, for giving me the opportunity to testify before the committee, during consideration of the claims settlement reached between the Navy and the General Dynamics Corporation on June 9, 1978.

I am here today for two fundamental reasons:

The settlement concerns my district where the Electric Boat Company has it primary facility and because I believe that the settlement is in the best interests of the national defense. I suppose I could say that if this facility were not located in my district, I probably would not be testifying before you today, in all candor, but having looked over the settlement agreement, I can say, with assurance to you, that I would be supportive of the settlement reached between the parties.

The settlement would "facilitate the national defense" as Public Law 85-804 requires because the submarines which Electric Boat builds, are absolutely necessary to our national security. We must not lose sight of the fact that Electric Boat builds the finest submarines in the world. EB has been the principal designer and builder of almost all the nuclear submarine classes in the U.S. Navy, and although the U.S.-Soviet submarine numerical balance heavily favors the Soviet Union, there is no question that our submarines enjoy a technological edge. This qualitative advantage is due in large part to the experience and expertise at Electric Boat, and the skilled and dedicated workers employed there. EB is indeed a valuable national asset to our national security.

Since I came to Congress four years ago, Electric Boat has been one of my major concerns. It is by far the largest employer in my district, with a total workforce of about 23,000 people. I would not deny that there have been many problems at the shipyard over the past few years. Not too long ago, the company went through a five month strike—the longest in the history of the state of Connecticut. Just last October, 3,000 workers were laid off with practically no notice, and of course, the claims which the company had filed against the navy were always in the background, threatening to disrupt the entire company. So obviously the future of the Electric Boat Company and the future economic health of the region in which I live, are of the utmost importance to me.

The settlement which you are considering today, calls for the expenditure of $484 million of the taxpayers' money to one of the nation's largest defense contractors. The real issue today, and one that is raised quite often by a variety of different groups, is whether or not this settlement is a bail-out, to put it very frankly. I do not think that it is. But in order to address that issue, it is necessary to fully understand how the problems at the shipyard and the the resulting claim arose.

First, cost growth in the shipbuilding industry is not a problem unique to Electric Boat. It is a nation-wide problem. As the members of this committee well know, there are two other pending claims—major claims by the two other major private shipbuilders. One of them, Litton's, has also been settled by the Navy, and is before you today as well. The three claims by the Navy's three primary private shipbuilders, which produce over 75 percent of the industry's output, total $2.7 billion. There are a number of reasons why the shipbuilding industry has been so troubled.

For purposes of my testimony, Mr. Chairman, I would like to limit my remarks to the problems that have occurred at Electric Boat.

First is the type of contacts let on these ships. They were fixed-price incentive contracts with a very narrow range between the target and ceiling price. The Navy now recognizes that these contracts should only be let when the costs and schedule of a construction program have been well defined and proved out through long-term experience. That was obviously not the case with the 688-class submarine program.

Second, Naval vessels are among the most complex and lengthy products to complete. The period of time between contract and delivery normally runs several years. In fact, I think the only project which would exceed that construction time, is an aircraft carrier.

Because there will be technological improvements to incorporate, many changes and revisions will be made during ship construction, and because EB was not the design agent for the 688 program as it had been for every other nuclear submarine, it had to rely on the design plans drawn up by another company.

Third, the effects of inflation have been particularly devastating to the shipbuilding industry. EB's two 688-class submarine contracts were signed in 1971 and 1973 and simply could not predict the extent of double-digit inflation which followed. But every company and every American has been seriously affected by inflation. Why should a shipbuilder get special treatment because of inflationary cost growth? It is the combination of factors—contracts with insufficient escalation clauses and the length of time needed to build a submarine—which when coupled with double-digit inflation, led to the kind of unanticipated cost growth we see today, in this particular situation.

Fourth, there have been unprecedented problems stemming from the lack of cooperation between the Navy and its shipbuilders. Government furnished information and equipment was often late in getting to the shipbuilder, which held up production schedules, and of course also contributed to the inflationary effects.

Fifth, there have been problems with the management and productivity at Electric Boat. I would, in this particular situation, Mr. Chairman, be speaking more from personal information rather than specific information, which is in the public domain.

It has often seemed to me that shipyard decisions which should be made at the yard itself had to be made at corporate headquarters in St. Louis. We had, in effect there, for too many years, an absentee landlord.

Until October, when a new management team came on board, there had not been a complete inventory of the shipyard in decades. I should add that I think that most of the most severe management problems are now behind EB, but the corporation does have to share its responsibility in the cost growth of the 688 program.

I would like to emphasize that regardless of the multiple reasons EB, and the shipbuilding industry as a whole, have been unable to meet the ceiling prices of the original contracts, EB is only one of two shipyards able to build nuclear submarines. If either EB or Newport News, the other 688 Contractor, were unable to complete the contracts, we would find ourselves sorely pressed to build the submarines this country needs for its defense. This is a particularly important concern because of the fact that only EB is equipped to build the Trident submarines, which are vital if we are to maintain a credible deterrent in our nuclear triad.

Mr. Chairman, I have outlined very briefly some of the problems the shipbuilding industry, and Electric Boat in particular, have faced over the past several years. But I must now address the more important question of why I believe the proposed settlement is an appropriate way of settling those problems.

First, as I hope the foregoing discussion has illustrated, the blame for the cost overruns cannot simply be laid at the door of either the Navy or Electric Boat. Part of it is the Navy's fault and part the fault of the company. Some of the blame can also be attributed to events over which neither party had control—like inflation. It is impossible to assign, at least for this member anyway, an accurate percentage of the blame on either party. General Dynamics stands to lose, if this settlement is not agreed to, some $843 million, a figure that I understand is agreed to by the Navy, and a figure which was supplied originally, by the corporation, over the life of these contracts if the settlement is not approved. Even under the terms of the settlement, Mr. Chairman, Electric Boat stands to lose more money than the company's gross profit, since 1937, some $340 million. Navy has agreed to pay, under the terms of this settlement, $125 million of the $544 million claim on the basis of strict entitlement, and the remaining $718 million will be split 50/50 by the Navy and General Dynamics. I will not go into a more detailed explanation of the terms of the settlement, because I feel that the Navy is better equipped to do that, but I will just say that the proposed 50/50 split on the corporation's losses appears reasonable to me considering the difficulty in determining exactly who or what is responsible for which cost increases.

If the committee and the Congress decides to turn this settlement down, the claims will not simply go away. In fact, under the terms of the settlement, General Dynamics releases all further claims on the 688 program and on any potential claims on the Trident Program which are caused by the 688 contracts. If the settlement were not approved, then we could without a doubt, expect substantial future claims to be filed, down the road.

Thirdly, the committee must also consider the probable alternatives to approving the settlement. First, there is the option of renegotiation. But considering the fact that General Dynamics has already agreed to accept an unprecedented $359 million loss, it is likely that they would choose the path of litigation to renegotiation.

That second option, litigation, would be an extremely high risk, complex, and long-term process. And there is a very real possibility that a court decision could prove more costly to the American taxpayer than the settlement, which you have before you today.

A government takeover of the shipyard would be a third alternative. However, the long delay in production such a takeover would cause, its complexity and cost would make it the worst possible option. Any of the three alternatives: Renegotiation, litigation or takeover would almost certainly involve a break in submarine production that would delay the schedule and result in higher costs to complete the program. I might also point out that in the potential takeover problem of that particular contract, that you do not have a division of labor at Electric Boat. You have people working on both of these contracts, and to someone envision the takeover of just 688 and not have an impact on Trident, is really impossible.

Furthermore, Mr. Chairman, I believe that this settlement is the best alternative we have to resolving the problem. We cannot let the claims issue drag on forever. It is time for the Navy and General Dynamics to put their disagreements behind them and get on with the vital business of building nuclear submarines for the defense of the United States in an atmosphere free of bitterness and suspicion. It is time for the workers at Electric Boat to be able to do their jobs without the threat of an imminent layoff looming in the background. It has been my experience in talking to many of the labor leaders and workers, and management personnel at Electric Boat, that low productivity in the shipyard was often the result of the great apprehension among the workers over whether they would still have a job in a month. I do not think this is unique to this particular company, and when you have an unsettled situation, and you have workers discussing whether they will have a job the next day or next month, productivity suffers, and suffers terribly. For that reason as well, I think the resolution of this particular problem will enhance the future construction program for this vitally needed piece of our arsenal.

I think the settlement will go a long way

toward increasing morale in that yard. I urge, Mr. Chairman, that the committee, in light of these considerations, would support the settlement reached between these two parties. They were very difficult and long negotiations. They were trying negotiations, and, to be parochial for a moment—certainly we all are from time to time—as I stated at the outset, I would not be before you had I not thought it was of vital interest to our national security. This is just not my district involved. We are talking about southern New England. Rhode Island is severely impacted as well by a decision of this magnitude, as well as the rest of the state of Connecticut.

I would also add—and I think this committee is also cognizant of it—that the contribution of Electric Boat Company over the past 25 years and more beginning with the Nautilus submarine up to date, has made a tremendous contribution to this country, in its efforts to remain at a level equal, if not ahead, of our potential adversaries. I think that should be taken into consideration, when discussing this particular issue.

I would be glad to try to respond to questions that you or any of the other committee members may have.●

TAXPAYERS' BILL OF RIGHTS ACT

HON. THOMAS N. KINDNESS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. KINDNESS. Mr. Speaker, the American citizen is becoming increasingly disenchanted with the tax situation. Taxes have been consistently going up; the 20 to 40 percent or more of his income that the American taxpayer is required to turn over to the Government today is quite a change from the 2 or 3 percent he contributed when our tax system was first established. We, as Members of Congress, have been working hard to relieve the present tax burden, but in our attempts to come up with a workable solution to the tax problem, we have overlooked an important concern: That of the taxpayers' rights.

I believe that the amount of taxes the American worker is contributing to our Government today entitles him to a guarantee that his rights, in matters dealing with taxation, will be fully observed. That is why I am introducing today a measure, first introduced in the other body by Senator JESSE HELMS of North Carolina, entitled "The Taxpayers' Bill of Rights Act."

This "taxpayers' bill of rights" requires IRS officials, at the beginning of any conference held with a taxpayer, to advise him of his full rights to counsel and to remain silent, and that any statement made may be used against him. However, the IRS is not required to provide counsel for the taxpayer or to exclude any statement made by the taxpayer because a warning was not completely given. The bill specifies that the taxpayer be able to set a reasonable time and place for any required interview with an IRS agent. At present, the IRS has full authority to set the time and place of the meeting.

An Office of Taxpayer Services, to be overseen by the Assistant Commissioner of the Internal Revenue Service for Taxpayer Services, is created by the Taxpayers' Bill of Rights Act. The office would serve as an ombudsman to the taxpayer, answering questions and resolving taxpayers' complaints. The bill also provides for taxpayer assistance orders, which would postpone seizures or other actions by the IRS that would impose unjust hardships on the taxpayer involved.

The "taxpayers' bill of rights" requires the IRS to publish clearly written pamphlets which outline the taxpayers' rights in cases of audits, assessments, and appeals. It limits IRS investigations to those dealing directly with enforcement of the tax code, except in specified cases, and it provides that a taxpayer who believed himself a victim of a "harassment investigation" could seek civil penalties against IRS officials who were responsible for conducting that investigation. The bill also stipulates that if a taxpayer wins any case before the tax court, he will be awarded attorney's fees for that case.

Finally, the authority of the General Accounting Office to conduct regular audits of the IRS, as well as investigations of IRS practices, is confirmed by the "taxpayers' bill of rights." The bill requires an annual report on the efficiency, uniformity, and equity of IRS operations.

The services provided for in this bill would entail additional cost to the IRS, but they would also assist the taxpayer in his struggle to comply with our complex tax system. Taxes represent the most direct link our Government has with its people; that is why we should make a concerted effort to insure that the taxpayer is being treated fairly in his dealings with the IRS. The Taxpayers' Bill of Rights Act insures just and equitable treatment of the taxpayer under present tax laws. I urge you to consider it carefully as a set of guarantees that the American taxpayer rightly deserves.

The full text of the bill can be found in the CONGRESSIONAL RECORD of April 17, 1978, pages 10317–10319.●

BILL TO END WELFARE ABUSES BY ALIENS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. FINDLEY. Mr. Speaker, today I am introducting legislation to curb an ever-increasing abuse of the welfare system by newly arrived aliens who take advantage of public assistance funds. I not speaking of the problem of illegal aliens; rather I address my remarks to those aliens legally admitted into the United States who, according to figures supplied by GAO, receive over $72 million under the supplemental security income program each year.

Supplemental security income, or SSI for short, is a joint Federal-State welfare program for poor people who are aged, blind, or disabled. Over $6 billion is distributed annually to individuals who do not have enough quarters to be eligible for social security disability benefits or old-age and survivor insurance. Funds for SSI come from the general revenue fund, and in order to qualify for assistance, it is not necessary for an individual to have made any contributions to social security.

Although SSI has been used by some aliens with legitimate need, there are many exceptions. Frequently, the following type of situation occurs: An alien who wishes to immigrate to the United States must find an American sponsor who will be legally responsible for that person's initial stay in the country. This sponsor is required to sign an affidavit of support agreeing to provide for the alien's needs should that individual become indigent within 30 days after arrival in the United States. Unfortunately, such affidavits are not legally enforceable under current law, therefore, some aliens have applied for SSI payments prior to the termination of the 30-day requirement. A recent GAO report indicates that of those aliens receiving SSI payments, 15,000 began collecting within 6 months of their arrival in the United States, 23,000 collected within a year, and more than 35,000 collected within 3 years.

To help correct this problem, Mr. Speaker, the bill I am introducting provides a 5-year residency requirement before most aliens can qualify for SSI benefits. It would also change the legal status of the affidavit of support signed by the alien's sponsor. The affidavit would be treated as a legally binding contract.

At a time when taxpayers are revolting against the fraudulent and wasteful use of tax dollars, this bill will help to correct a major deficiency in the current law.●

FRASER-VENTO RESOLUTION CALLING FOR IMPROVED PROCEDURES FOR RESOLVING UNITED STATES-CANADIAN AIR POLLUTION DISPUTES

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. FRASER. Mr. Speaker, we recently introduced legislation aimed at improving procedures for resolving United States-Canadian disputes about air pollution (H. Res. 1275). The Fraser-Vento resolution calls on the United States and Canadian Governments to push for the establishment of a joint task force to examine and report to the President and the Congress and the Canadian Government on options for dealing with air pollution issues along and across the boundary.

Air quality issues are becoming more important as both the United States and Canada become increasingly reliant on coal as a major energy source. Since the

United States-Canadian International Joint Commission (IJC) has no authority over air issues, disagreements over air pollution must be handled on a case-by-case basis. We cannot effectively solve transboundary air quality issues if we continue to proceed on an ad-hoc fashion.

At this point, I would like to insert into the RECORD an adaptation of a recent article by Alice Brandeis Popkin, associate administrator for EPA International Activities, on United States-Canadian clean air problems and related matters. One of the main points made by Ms. Popkin is that we at the present do not have effective diplomatic institutions and instruments for dealing with United States-Canadian clean air problems.

[Adapted from the June 1978 issue of EPA Journal]

INTERNATIONAL COOPERATION BEGINS AT HOME

(By Alice Brandeis Popkin)

We need to remind ourselves constantly that environmental protection begins at home. In this case, "home" means working with our close neighbor, Canada, to solve pollution problems.

On the national level, the U.S.-Canadian International Joint Commission works continuously to monitor or develop solutions to pollution problems. The Commission, or "IJC" as it is called, is a mixed Canadian-American body empowered by the two governments to look into specific environmental or other boundary waters problems (the Garrison diversion project in North Dakota is a recent example). The IJC's recommendations to governments, while not legally binding, are seldom thwarted or ignored.

When we successfully resolve an air or water quality problem with Ottawa, we also help achieve U.S. environmental objectives of direct, practical benefit to Americans.

But it is not always an easy process. Even though the issues involve many of the same difficulties we experience domestically, they are frequently complicated by questions of national sovereignty.

PHILOSOPHICAL POLITICAL DIFFERENCES

Pollution control problems between the U.S. and Canada are directly traceable to differences in governmental philosophy and the legal/political systems found in the two countries. U.S. laws require the use of best available control or treatment technologies, as well as control of source location, to achieve air and water quality objectives. The philosophy of minimum treatment and emission control at the source is becoming well-established in our regulatory practice.

Canadian Federal authorities, while sharing many U.S. environmental objectives, have little control over pollution, which Canada's constitutional system entrusts largely to its Provinces. This means that the U.S. must cope with two separate political jurisdictions when seeking redress on specific problems. For example, in recent negotiations over pollution controls on the Atikokan generating station just north of Minnesota's Boundary Waters Canoe Area, the U.S. confronts not Canadian Federal but Ontario Provincial regulations and practices. A similar situation exists with the Poplar River generating plant north of Montana which comes under Saskatchewan's jurisdiction. It takes little imagination to picture the complexity and unpredictability of bargaining in these circumstances.

IJC PROCEDURES

As mentioned earlier, the International Joint Commission (IJC) is the major institutional mechanism for bridging bilateral environmental disputes with Canada. To date the IJC has focused mainly on water quality problems, notably in the Great Lakes, but also in other lakes (e.g. Champlain) and in the Red, Rainy, Souris, Richelieu, St. John, and Niagara rivers, to name a few. The procedure for referring a problem to the IJC is relatively simple in concept if not in practice. When the governments cannot solve a problem, they negotiate a formal "Reference" to the Commission. The six Commission members (three from each country) then appoint a Board composed equally of members from each country to study the problem and recommend a solution to the Commission, which in turn reviews the findings, modifies them if it sees fit, and reports its recommendations to the governments.

Of particular interest is the requirement that the board members, whose duties are in addition to their regular work, serve as individuals and are asked not to be bound by agency positions on the issue under study. This procedure helps to make IJC findings more objective, authoritative, and in the end, more acceptable to governments.

WATER RESOURCES A WELL-ESTABLISHED CONCERN

In the past, most U.S. trans-boundary pollution problems were concerned with shared water resources—at first with use and quantity, and more recently with quality. Our first major water agreement with Canada, the Boundary Waters Treaty, was signed in 1909. Its emphasis is on joint use, but Article IV, probably the first environmental clause in any international treaty, also commits each party not to pollute the other.

By and large then, we have institutions and procedures for dealing with Canada on problems of water pollution, however imperfectly. Unfortunately, we do not yet have such "handles" for solving air pollution problems. Over the years, as industrial development has spread into transfrontier areas, both countries have increasingly experienced transboundary air pollution problems.

NEED TO IMPROVE RESOLUTION OF AIR QUALITY ISSUES

Although cumbersome at times, the slow but sure IJC procedures for resolving water pollution problems have not yet proved effective for air issues. While we and Canada have informally agreed to extend the "thou shalt not pollute thy neighbor" provision of Article IV in the 1909 Treaty to include transboundary air pollution, the Canadian government has not yet been able to agree to requests for specific air pollution. References to the IJC. The two existing air pollution References, covering Michigan-Ontario air issues and a general transboundary air pollution monitoring mandate cannot be used to resolve particular point-source problems. These still are being handled directly by the two governments with as yet few positive results. The two current air issues on the Canadian side, Atikokan and Poplar River, are at an impasse over Canadian unwillingness to install sulfur dioxide scrubbers on either of these coal-fired installations. The Poplar River issues also includes water quantity and quality problems. These the Canadians have consented to refer to the IJC. The people of Minnesota and Montana fear that unscrubbed emissions from the two plants will produce long-term, cumulative harmful effects on the U.S. side of the border. We are continuing to press vigorously for better sulfur controls, but as yet without success.

While there are few specific air pollution complaints from Canada regarding U.S. sources, the Canadian government has recently begun to make inquiries into a problem believed to emanate from the fluoride emissions of the Reynolds Metals aluminum smelter along the St. Lawrence River in Massena, New York.

DIFFERENCES NEED TO BE BRIDGED

Because we live in such intimate contact along our borders, we are obliged to seek ways to bridge air quality differences with Canada. We hope over time that cooperative practices will multiply, erasing our disparities of system or practice, to the mutual benefit of the people in both countries.

LEGISLATION TO IMPROVE THE RESOLUTION OF U.S.-CANADIAN AIR QUALITY DISPUTES

To better deal with a growing array of air quality problems, we need to expand our dialogue at all levels between the governmental entities and the people of the U.S. and Canada. Beyond that, institutional innovations are likely to be needed as well.

As a first step toward improving procedures for resolving United States-Canadian air pollution disputes, the Fraser-Vento resolution calls for the establishment of a new air quality task force under IJC auspices. The new study group, composed of public and private representatives from both the State and Federal level, would investigate existing and proposed activities causing air pollution along the international border, evaluate the need for a United States-Canadian clean air agreement and recommend other ways for resolving disputes.

If you are interested in cosponsoring the resolution, printed below, please call Mark Carlson of my staff at 225–4755:

HOUSE RESOLUTION 1275

Whereas the United States and Canada share a common frontier along a 5,500 mile border;

Whereas the United States and Canada are becoming increasingly concerned about the effects of air pollution on agricultural and marine resources and the environment in the region along and across the boundary;

Whereas the United States and Canada have subscribed to international conventions and joined in the environmental work of the United Nations, the Organization for Economic Cooperation and Development. and other international forums; and

Whereas the International Joint Commissions of the Boundary Waters Treaty entered into by both Governments in 1909, has a strong tradition of helping resolve environmental issues of mutual concern: Now, therefore, be it

Resolved, That the House of Representatives urges that—

(1) the Governments of the United States and Canada prepare a reference to the International Joint Commission instructing it to set up a bilateral task force to conduct a prompt evaluation of (A) the desirability of formulating a United States-Canadian clean air agreement, and (B) the international principles and instruments that could appropriately be used for such an agreement;

(2) the International Joint Committee appoint members to such task force who represent governmental and nongovernmental organizations, including: the Environmental Protection Agency, the Departments of Energy, State, Interior, Commerce, and Agriculture, the National Governors' Association, the Canada-United States Interparliamentary Group, and private nonprofit organizations involved in environmental quality work of the United States and of Canada;

(3) such task force prepare recommendations and a report to be submitted to the two governments including the executive and the legislative branches no later than 9 months after the date of the adoption of this resolution. The task force report should include:

(a) An identification of existing and planned activities causing air pollution from both point and non-point sources and measures contemplated within each government to deal with them.

(b) The desirability of an international agreement to deal with U.S.-Canadian air quality.

(c) The drafting of general and specific air quality objectives for border areas.

(d) Suggestions for means and mechanisms to resolve disputes involving transfrontier air quality both on an *ad hoc* and systematic basis including the establishment of a permanent Board under the IJC.

(e) Consideration of the appropriateness of submitting disputes to binding arbitration, or the establishment of agreements or reciprocal legislation allowing citizens of each nation equal access to the domestic agencies and remedies of the other country.

(4) the President, working in concert with interested Federal agencies and affected States, take any diplomatic action necessary to reduce or eliminate any undesirable impact on both countries resulting from air pollution from any source.●

THERE IS NO PANAMA CANAL TREATY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. SYMMS. Mr. Speaker, although the Panama Canal treaties have been passed by the Senate the actual interpretation of the language is still in question. In a recent article by M. Stanton Evans in Human Events he states that "Panama has repudiated virtually all of these reservations, and in particular has repudiated our official interpretation of the Nunn and DeConcini reservations bearing on the right of military intervention. The article reads as follows:

[From the Human Events, July 15, 1978]

THERE IS NO PANAMA CANAL TREATY

(By M. Stanton Evans)

After all the fuss and feathers and acrimonious debate, there is no treaty on the Panama Canal.

Oh, there is a document all right—two documents, in fact—debated at length in the U.S. Senate and celebrated by President Carter and Panama dictator Torrijos in an exchange of pleasantries a couple of weeks ago. In that sense, there is a treaty. But in the sense that really matters, meaning an understanding that is mutually agreed to and mutually binding on the contracting parties, there is no treaty.

The point was made in a speech last month by Sen. Jesse Helms (R.-N.C.). He noted that the problem which had plagued the treaty negotiations from the beginning had persisted through the period of ratification: The documents were taken to mean one thing in Washington and quite another in Panama City. And since the point of a treaty is to define and govern the rights of the contracting parties, such chronic ambiguity undercuts the very purpose of the exercise.

The most recent, and most serious, manifestation of this problem concerns the reservations added to the treaties by the Senate. These provisos, revolving around such matters as the procedure for keeping American troops in Panama and the right of the United States to intervene to protect the canal, were essential to the passage of the treaties. If they had not been adopted, the Administration could not have mustered the votes required for ratification.

"Ironically," Helms observes, "the treaties could not have passed without the very Senate amendments which Panama now repudiates. Most of the Senate sponsors of these changes announced publicly that their support of the treaties was conditional upon acceptance of the changes in question. Without the votes of the sponsors, there would have been five or six fewer votes for the treaties themselves. And, of course, it is a matter of record that each treaty passed with only one vote to spare."

Moreover, it was stressed in floor debate by such treaty supporters as Sam Nunn of Georgia, Edward Kennedy of Massachusetts and Paul Sarbanes of Maryland that only if Panama accepted the reservations tacked on by the Senate could the treaties go into force. Sarbanes, for instance, quoted one authority on international law who stated, "that any changes or amendments inserted by one party as a condition of ratification must be accepted by the other party if the treaty is to come into legal effect."

On this explicit basis, the Senate adopted a series of treaty reservations, the most famous being the language proposed by Sen. Dennis DeConcini (D.-Ariz.) reserving to the United States the right of acting "independently" to keep the canal open to international traffic.

Other reservations included Sen. Nunn's proviso for keeping troops in Panama after 1999, reservations by Sen. Howard Cannon (D.-Nev.), Ernest Hollings (D.-S.C.), John Heinz (R.-Pa.) and Henry Bellmon (R.-Okla.) concerning finances, and the reservation by Sen. Edward Brooke (R.-Mass.) asserting that the articles of ratification could not be exchanged until implementing legislation passed the House of Representatives (already violated).

Now it develops, with no fanfare to speak of, that Panama has repudiated virtually all of these reservations, and in particular has repudiated our official interpretation of the Nunn and DeConcini reservations bearing on the right of military intervention. In an official state document published April 26, the Panamanian Foreign Ministry revealed its own interpretation of the treaty reservations, in every instance denying or strongly modifying the reading of these documents by our Senate.

The most ominous of these repudiations concerns the DeConcini reservations, which the Panamanians find to be without real meaning because of other language adopted by the Senate. Panama says the Church amendment affirming the principle of nonintervention negates the impact of DeConcini's motion: "With it, the DeConcini reservation has been rid of its imperialistic and interventionist claws, and the enforcement of the principle of nonintervention has been re-established. The specter of new interventions at the end of the 20th Century, which rightly caused concern to all Panamanians, has been eliminated."

In other words, we think we have a right of intervention to protect the canal, against any and all threats (including threats from Panama), and the Panamanians think we don't. Similar ambiguity afflicts the Nunn reservation, the amendments concerning finances, and so on. What we have here is not a treaty, but a standing invitation to further conflict.●

SOVIET HARASSMENT OF FRANCIS JAY CRAWFORD

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. QUAYLE. Mr. Speaker, the bizarre case of Francis Jay Crawford, an American citizen who is International Harvester's service representative in Moscow, deserves accelerated action by the President and the State Department. Mr. Crawford, a resident of Mobile, Ala., continues to be harassed through an on-and-off again process by Soviet police.

Even though he has been released to the surety of U.S. Ambassador Malcolm Toon, he was summoned three times last week to KGB Headquarters in Moscow for prolonged questioning. Consular officers and other legal representatives for Mr. Crawford have been denied access to the room where the inquisition is being conducted.

Mr. Crawford was arrested suddenly on June 12 on apparent charges of currency violations. However, we are told by State Department officials that the case is still in the pretrial investigation stage and no formal charges have yet been lodged against Crawford.

It is obvious he is being hostage for the May 20 arrest in New Jersey of two Russian employees of the United Nations on espionage charges. However, they were formally arraigned with bail set prior to their release to the custody of the U.S.S.R. Ambassador in the United States.

Mr. Speaker, in recent weeks freedom-loving people everywhere have protested and agonized over the trials of Soviet dissidents and the increased flaunting of human rights by the Russian Government. We should continue to raise our voices for those in the Soviet Union who fight for human rights—but it is also time to demand an end to the harrassment of Francis Jay Crawford, an American citizen, and seek his freedom.

On August 1, 1978, I sent telegrams to President Carter and Secretary of State Cyrus Vance urging that any negotiations to secure freedom for Soviet freedom-fighters should surely include Mr. Crawford on the priority list for any exchange. He certainly is entitled to first consideration and the full and complete support of our Government as an American citizen.

Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following editorial from the Fort Wayne Journal Gazette which is pertinent and makes the point well that we must not forget Jay Crawford.

BUT WHAT ABOUT CRAWFORD?

The good news that the United States is negotiating for, and may very well obtain, the release of convicted Soviet dissident Anatoly Scharansky is clouded by the fact that virtually nothing has been done in behalf of Francis J. Crawford, the International Harvester executive arrested by the Soviets last June for alleged currency violations.

Originally, Mr. Crawford was accused of buying 1,500 rubles from a seamstress for $700, about a third of what they're worth at regular exchange rates. No official charges were brought, since Soviet law allows the government nine months from the time of arrest to do so.

Meanwhile, Mr. Crawford was detained for 15 days in a cramped cell in Moscow's Lefortovo prison following his June 12 arrest, then released into the surety of U.S. Ambassador Malcolm Toon—but only after the United States agreed to let Soviet Ambassador Anatoly Dobrynin take custody of two Soviet employees of the United Nations being held in New Jersey on espionage charges. More recently, Mr. Crawford has been the subject

of questioning—or rather, harassment—by Soviet investigators assigned to the case.

There's no doubt that the premier Soviet dissident—in fact, any Soviet dissident—deserves as much help and support as he can get from the U.S. government. But why has the latter stalled where the welfare of a U.S. citizen is involved?

If the Carter administration has been waiting to see whether Harvester could bring enough economic pressure to bear on the Soviets, the time is up. The Soviets aren't fazed by the company's suspending any deals that were in the works—even if breaking commercial ties complicates Soviet plans for building a Siberian railroad, a project that Harvester was heavily involved in. In any case, the State Department should not be leaving foreign policy up to American businesses.

And if the delay reflected doubts as to Mr. Crawford's innocence, those doubts should never have been entertained. It's obvious the Soviets arrested Mr. Crawford in retaliation to the May 20 detention of the two Russians, Viktor Enger and Rudolf Chernyayev, accused of trying to buy anti-submarine warfare secrets for $20,000. The Soviets also were furious with the State Department for having made so much of their attempt to bug the U.S. embassy in Moscow in June—and just three days before the Crawford arrest, they were threatening to get even by exposing American espionage in the Soviet Union.

No one knows if the Soviets tried to pin spying charges on Mr. Crawford. In any case, the best they could come up with was currency violation. Even then, it was five days before officials could clear up the confusion over whether Mr. Crawford had violated Article 78, prohibiting smuggling, or Article 88, which applies to illegal currency exchanges. Since then, investigators have been trying to substantiate the accusation, and according to a Moscow friend of Mr. Crawford, KGB agents tore up his room in the Intourist Hotel in search of black market purchases, but found no incriminating evidence.

Moreover, even the sworn testimony of the Soviets' star witness is suspect. At first, seamstress Lusya Valodia indicated that Mr. Crawford had bought 1,500 rubles for $700. But when the Harvester executive said he wouldn't have bought the Russian currency for that much since far better rates were known to be available on the black market, Mrs. Valodia's statement changed—to 20,000 rubles for $8,500.

Clearly, there was no valid reason for the arrest. And there's no valid reason for the State Department not to make Mr. Crawford's freedom a matter of the highest priority. It should be remembered that, if he is left to stand trial and is, like Mr. Scharansky, convicted of trumped-up charges, he faces an eight-year prison term. Rather than hope the Soviets will stop harassing Mr. Crawford just because the government has canceled high-level official visits to the Soviet Union, the State Department should be negotiating a swap. It's the only solution.●

ALICE M. RIVLIN SUMMARIZES THE DIALOGUES ON AMERICA'S FUTURE SERIES—PART I

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. ROSE. Mr. Speaker, recently Alice Rivlin, Director of the Congressional Budget Office, gave a summary of the Dialogues on America's Future series sponsored by the Congressional Clearinghouse on the Future.

Over the past 2 years 15 well-known thinkers have spoken with us about the future. Dr. Rivlin's summary of their remarks was enlightening and provocative, and it is my pleasure to include her remarks in the RECORD today.

CLEARINGHOUSE ON THE FUTURE

(By Alice M. Rivlin)

It is with considerable trepidation that I approach the task of summarizing the contributions of 15 "futurists" and figuring out what they said that has relevance for the Congress. As you remember, our speakers were a stimulating group of social philosophers. They were all generalists—"big picture" people. None was engaged in detailed analysis or projections of specific sectors of the economy or the world.

They came from diverse backgrounds, including religion, physics, and anthropology. There was a heavy representation of physical scientists in the group; indeed, it is my impression that people concerned with technology rather than social interaction are more fearless about speculating on the future. All of the speakers made sweeping generalizations about national and international economic trends, but I believe only John Kenneth Galbraith had formal training in economics. (It occurs to me that economists might draw larger audiences if they confined their pronouncements to subjects they knew very little about—like nuclear physics.)

The pessimists far outnumbered the optimists, although even some of the pessimists believe that the human race may have a chance if the right steps are taken. A Cassandra complex is not a prerequisite for admission to the Futures Club, but it certainly helps to get attention. The average age of these speakers was quite high, which may explain their need to pass on dire warnings to the younger generation.

Rather than to attempt to summarize the views of individuals, I would like to dwell on several recurrent themes. Some of these themes have to do with what is likely to happen in the future, others with what ought to happen. I will review six of these themes and then turn to what the Congress—or the Clearinghouse on the Future—might conclude from all this.

Theme 1: The Crossroads of History or Why This Moment Has Special Significance.

Almost all of the speakers alleged that we are living at a moment of transition—from fast to slow growth, from material to human values, from industrial to post-industrial society, and so on. This theme should not be taken too seriously. First, all of us like to hear that our little moment in the sweep of time is special or that our group bears a heavier responsibility than others, so we say this to each other. Second, if anyone did say "nothing important is happening this year" or "the big decisions were made in the last decade" or "they can't be made until the next," he would never be invited to speak again at the Clearinghouse.

Theme 2a: Society as We Know It Is Coming Apart at the Seams.

This is the Chicken Little view of the world. The sky is falling or—at the very least—things will get a lot worse before they get better. Carter Henderson gave the most extreme version. "Let me begin by saying that I believe the industrial age is dying. At present, we are the product of a linear, materialistic, production-line mentality. Although the GNP hit the $2 billion mark last month, it is now more a measure of decline than of growth. Two-thirds of that figure represents inflation; and it is my impression that the remaining one-third is due to the work required to deal with the 'bads' of our society—such as crime, pollution, ill-health, stress, etc." I do not know what that last sentence can possibly mean, but taken literally it implies that the U.S. economy does not produce anything useful at all!

Alvin Toffler began with: "It is my belief that our industrial society is in the early stages of breakdown and regeneration."

David Dodson Gray said: "As growth slows we are seeing a loss of jobs and, as a result, a loss of an important center of meaning in our lives. We are seeing a loss of purchasing power. There is also a loss of confidence as growth slows. There is a sense that the society, the system, is not working as it used to work."

Hazel Henderson put it this way: "I believe that industrial societies have reached an evolutionary cul-de-sac."

Jay Forrester started off: "I would like to begin by saying that the industrial countries are in a period of growing economic instability." This was a fairly mild statement, but his "limits-of-growth" thesis, not stressed in his talk to the Clearinghouse, predicts dire consequences as population increase and economic growth run up against scarce resources and as society smothers in its own pollution.

Some of this gloom and doom talk is too vague to deal with, but the limits-of-growth model is specific enough so we can say specifically what is wrong with it. Basically, the limits-of-growth model and other similar efforts assume that we will go on using fixed resources at current or increasing rates per person, that we will go on polluting, and that population will go on increasing. One hardly needs a computer to realize that, under this set of assumptions, we will run out of land and resources and places to dump the waste, and that the standard of living will drop drastically.

Fortunately, the world does not work that way. As resources become scarce, their prices rise. As prices rise, people begin to economize and shift to other resources and new technologies. If pollution is made expensive, less of it will occur. Population need not go on increasing; indeed, affluence appears to slow it up.

The substance of these gloom and doom predictions is perhaps less important than the fact that they strike a responsive chord in many Americans. Determining the reasons for this may well be more important than analyzing what the doomsayers actually believe.

I recently spent three weeks in the People's Republic of China, where the atmosphere is extremely different. I do not believe that a gloom and doom speaker could hold an audience even if he were allowed a platform. Excitement about the future of the country and optimistism about its potential are pervasive and contagious.

Theme 2b: Future Economic Growth in Industrial Countries Is Likely to Be Slower than in the Past.

This less apocalyptic view was widely held by our various speakers, although for different reasons. A slowing of growth could come from a slowing of demand. People in the future might not want so many material goods or services or might want them produced in far more costly ways. For example, they might want production of goods by hand and in small quantities so that the process of production itself was more enjoyable. In other words, they might agree with E. F. Schumacher that "small is beautiful" and be willing to sacrifice some economic growth to get production in smaller, more self-sufficient units. It is certainly possible that advanced countries will opt for slower growth, although this seems unlikely in the Third World for a long time.

Alternatively, the constraints on growth could come on the supply side. Absent major breakthroughs in technology and discovery

of new energy sources, it will be necessary to use resources that are more and more costly. Almost everyone now realizes that this will be true with respect to fossil fuels. It follows—and several of the speakers emphasized this point—that fossil fuels should be priced at their replacement cost and conserved for their most valuable uses and that work should proceed on developing new energy sources. Arthur Clarke and Isaac Asimov were both optimistic about future energy sources, since both see the development of space as possibly leading to new and limitless sources of energy.

Although many of our "futurists" anticipate slower economic growth in the future, two points should be noted. First, no one can say for sure that economic growth will slow down or, if it does, that it will not accelerate again. We have shifted energy sources in the past, discovered new materials such as plastics and synthetic fibers, and made technological breakthroughs at unexpected times. Some or all of these things are likely to happen again, but it is impossible to tell when. (Arthur Clarke pointed out that it is much more difficult to predict the timing of technological change than to predict its nature.)

Forrester subscribes to the idea that there is a 50-year cycle in capital formation. He believes that the current long cycle moved into a rapid upswing after World War II because capital stock had been severely depleted by the Depression and the war. This growth phase continued through the 1960s but has now slowed down.

Although some statistical evidence suggests 50-year cycles, I for one would want to reserve judgment. The diverse nature of events, such as war and scientific development, that affect capital formation makes it inherently implausible to expect regular 50-year cycles. In any case, I presume that one would want to have seen at least three or four such cycles occur with reasonable regularity before accepting the notion that they were inevitable. That would mean at least 150 or 200 years of pretty good data on capital formation and economic growth, and we simply do not have that at the moment.

Second, slowed growth does not mean that the standard of living will fall, unless the population grows more rapidly than economic output. That is certainly not necessary, even in developing countries.

The argument that economic growth is likely to slow down in the future is quite different from the argument that growth should slow down. The latter, of course, is a moral statement which has ancient origins in Christianity and other religions and more modern counterparts. It is based on the notion that materialism is antithetical to Godliness, human values, and human contact. Elise Boulding told the story about an American anthropologist talking with women who gathered each morning to get water in a primitive village. One of them asked the anthropologist how she got water in her own country and she replied that she simply turned a spigot in her kitchen. Far from being impressed, the primitive women said how lonely it must be for you. This story illustrated a point made by a number of the speakers that Americans are isolated from human contact by their high standard of living. On the other hand, as Herman Kahn points out, it is well-educated, affluent Americans (his "new class") that sneer at growth and improving standards of living. It is not middle America, nor the Third World.

Let me turn now to several themes about what ought to be in the future.

Theme 3: We Should Break our Society into Smaller Units so that Individuals Are Not so Lost, Isolated, and Alone.

Margaret Mead was especially eloquent about this. Pointing out that we tend to cope with the impersonality of our institutions by starting new ones, not by making the existing ones less impersonal. Junior high schools, she alleges, were started because our high schools were too big and impersonal. It would have been better to break the high schools into smaller and more humane units. She favors breaking cities into smaller units where people can care for each other. The neighborhood or the community, she believes, should be a substitute for the extended family. People should be free to choose whether or not they want to live with their relatives, but they should not be without support if they choose to live alone.

E. F. Schumacher sounded a similar theme in advocating "intermediate technology." To him, intermediate technology implies both less technical sophistication and smaller units of production. He believed intermediate technology to be more appropriate to the education level and capital of developing countries, with applications in advanced countries as well. He pointed out that locally baked bread is of higher quality than bread baked in large bakeries and shipped long distances, and that the small bakery is less impersonal and allows a more creative production process. He put great emphasis on self-sufficiency of small areas and suggested treating sections of cities as islands and creating jobs where the people are. Most economic evidence would suggest that local self-sufficiency and small unit production would mean a lower standard of living by denying everyone the benefits of specialization and trade. Schumacher believed that small could be not only beautiful but efficient, if we would just apply ourselves to developing the right intermediate technology. This seems unlikely to me, but it would be perfectly understandable for society to opt for smaller units even if this meant a lower standard of living.

Willis Harmon also sees "modernization" as implying centralization and minorities overrun by the mainstream economy. The gathering counterforces, of which he clearly approves, include decentralization and self-determination of minorities.

The Dodson Grays also emphasized support of communities and neighborhoods where people help each other, and both Hendersons advocated going back to the family as the center of production as well as consumption and emphasized decentralization. Hazel Henderson views labor-intensive production as desirable since, in her view, too much capital is costly both to jobs and to the environment. Substituting labor for capital, she believes, will lower energy consumption. This may be true in general, but one can certainly think of counter-examples. Railroads are less labor-intensive ways of moving people and goods than highways on which everyone drives his own car or truck, but I do not think even Hazel Henderson would allege that railroads use more energy or cause more pollution. If everyone made steel in his own backyard—and the Chinese tried this in the Great Leap Forward—I, for one, would expect more pollution, more energy use, and poorer quality steel.

Among our group of futurists, the chief dissenter on decentralization was Isaac Asimov. He pointed out that reducing the Federal Government is likely to increase local government and that he had "always felt safer with somebody at a distance."

Theme 4: The Congress and the Nation Should Engage in More Participatory Planning.

There are two separate ideas here. First, it would be desirable to have more organized discussion of alternative futures and to make present decisions in the light of a general, albeit flexible, plan for where the nation should be heading. Second, this planning process should involve more interaction between individuals and small groups, on the one hand, and decision-makers, such as the Congress, on the other.

Toffler made participatory planning his main message. He mentioned the Swedish experience with the televised energy course and citizen input into energy policy, as well as efforts in the State of Washington, Hawaii, and other states, to involve citizens in statewide planning for the future. He advocated widespread and frequent discussions about alternative futures in town meetings, schools, and other institutions.

Kahn felt that the "new class" is out of touch with what most people want. The new class is anti-growth and most people are not; the new class makes a religion of environmentalism—desiring zero pollution and protection of all endangered species. The public, and of course Herman Kahn, are more practical. You may remember his rule on endangered animals: "Protect species that are small and cuddly or large and ugly with big wings," and let the rest go. He was also willing to forget the tundra—even the Caribou do not like it. I remember Congressman Wirth wincing as Kahn advocated turning a large part of Colorado into a national industrial resource park and mining the shale in it.

Elise Boulding described planning sessions in which the participants started with a discussion of what they wanted their world to be like in some distant year N and then asked themselves what had to be done in year N-1, N-2, and so on, in order to bring about their vision. She also pointed out that women and children rarely get to voice their views about the future and that children's views are particularly important since they will be around for more of the future than their elders.

Theme 5: We Should Emphasize the Human Values of Caring, Cooperation, and Self-realization Rather than Material Values.

Mead, Harmon, both Hendersons, Barbara Hubbard, both Dodson Grays, and Boulding all delivered eloquent sermons on this general theme. But who could be against it?

To some, the emphasis on human values implies smallness and decentralization. To others, it implies bigger units—for example, international cooperation on projects in space.

Incidentally, those who stressed human values frequently took potshots at economics and economists. The idea that economists are anti-human because they work with costs and things that can be counted seems to be widespread among futurists.●

PUTTING AN END TO THE TAXATION OF INFLATION

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. ARCHER. Mr. Speaker, for the first time in the history of Congress, a bill to provide for the indexation of the tax system will reach the House floor. I urge all Members to support this important legislation. The intent of the tax system is to tax real income—actual increases in buying power. The intent should not be to levy charges on nominal gains—paper increases resulting from capricious inflation. Unfortunately, present law makes no distinction between real increases in income and the illusory gains of inflation. Through indexation we now have a chance to eliminate this serious flaw in the Tax Code. The Archer amendment, which indexes capital gains taxes on the sale of an asset such as stocks or a personal residence, is the first step toward the elimination of "taxflation."

As Henry Sweeney said:

The truthfulness of accounting depends largely on the truthfulness of the dollar—and the dollar is a liar.

Our tax system cannot be honest as long as inflation continues to overstate the value of each dollar. And the degree of overstatement is tremendous. The cumulative rate of inflation since 1969 has been 76 percent. It is no wonder the vast majority of Americans consider inflation their prime economic concern. With the recent double-digit inflation, literally billions of dollars have been lost to inflation by American investors and hundreds of millions more paid out in taxes on "gains" due to inflation. Donald T. Regan, chairman and chief executive officer of Merrill Lynch, Inc., pointed out the facts of the problem in the May 21, 1978 issue of the New York Times:

A recent study by two Harvard University researchers for the National Bureau of Economic Research concludes that our theoretical taxpayer is far from alone in losing money in real terms—partly because of inflation and partly because of the capital gains tax on the phantom profits he records when selling his investment. The study concludes that the $4.5 billion of nominal capital gains by individuals on corporate stock sold in 1973 becomes a real capital loss of nearly $1 billion when inflation is taken into account. And to add insult to injury, the study says the individuals paid nearly $500 million of capital gains taxes because of the distorting effect of inflation."

Mr. Regan further noted the capriciousness of a capital gains tax that makes no allowance for inflation: individuals with similar real capital gains were often subject to totally different tax liabilities. Such an arbitrary tax on capital gains can hardly be conducive to investment. Arthur Burns has often lamented the unhealthy environment for investment. Even Treasury Secretary Michael Blumenthal said:

The facts are indisputable. Our financial system is providing insufficient equity capital. We aren't investing nearly enough in productive plant, equipment, and technological innovation.

The administration is fond of attacking capital gains relief as a windfall to the wealthy. In fact, the inflationary distortion of capital gains taxes falls most heavily on those with incomes below $100,000. Martin Feldstein, president of the National Bureau of Economic Research and professor of economics at Harvard has given the following testimony to the Joint Economic Committee of Congress:

Although adjusting for the price change reduces the gain at every income level, the effect of the price level correction is far from uniform. In particular the mismeasurement of capital gains is most severe for taxpayers with incomes under $100,000. In the highest income class, there is little difference between nominal and real capital gains; in contrast, taxpayers with incomes below $100,000 suffered real capital losses even though they were taxed on positive nominal gains. In each income class up to $50,000, recognizing real capital gains makes the tax liability negative. At higher income levels, tax liabilities are reduced but remain positive on average; the extent of the current excess tax decreases with income.

It is not only the millions of stockholders who are ravaged by taxes on phantom gains. The average American homeowner knows all too well the extent of inflation in the housing market. It has been calculated that a couple buying a home in 1975 for $45,000 would need to sell it for $208,743 after 20 years of 8 percent inflation to recoup their real investment. They would owe $40,000 in capital gains tax on their $164,743 "profit."

My amendment would stop the taxation of such capital gains profit which is merely a manifestation of inflation. To illustrate; if the Archer amendment were in effect, the tax liability on a home sold today would be significantly less than under present law. The median single-family home in 1970 cost $23,000, and in 1978, the cost has risen to $47,800. Under present law, the capital gain realized would be $24,800 and the tax for a family of median income ($18,043) would be $1,950. From 1970 to 1978, the Consumer Price Index rose from 116 to 193.

When this inflation is taken into account in the determination of tax liability, as provided in the Archer amendment, the results are quite different. The purchase price in 1978 of the home adjusted for inflation would be $38,267, and would result in a capital gain of $15,267 and a tax of $641. The Archer amendment would afford the homeowner a $1,309 reduction in his tax liability. In the West, where housing inflation is the most pronounced, the difference in capital gains tax liability between the present law and the Archer amendment would be $4,315.

The homeowner knows the price of his home is grossly inflated, the stockholder realizes his gains are only nominal, and every American is well aware that his buying power is greatly reduced by inflation. It is time that the Congress faces up to these facts. The problem is clear and the solution is obvious. Adjustment for inflation is not a new concept. For instance, union wage escalators are commonplace; nearly 5.1 million workers have cost of living escalator clauses in their contracts. Twenty-nine million social security beneficiaries and 13 million food stamp recipients have their benefits indexed for inflation. It is time to extend that protection against inflationary distortions to our tax system. Noted economists such as Milton Friedman and Martin Feldstein have endorsed indexation of the tax system, and the concept has already been put into practice in several countries such as Canada and Brazil, where it has not only insulated taxpayers from inflation but also seems to have improved the economy.

The Congress should give serious consideration to this evidence. My amendment is a realization of the ravages of inflation and a long awaited means to protect the taxpayer from them.●

THE BIKINI ISLANDS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. FRASER. Mr. Speaker, in 1946 when the United States removed the natives from their homes on Bikini Island, we assumed a special responsibility for their welfare which we have yet to adequately fulfill. Our actions have not reflected a concern for the native's welfare or their human rights. We have not lived up to the 1947 United States-United Nations Trusteeship Agreement which made us responsible for the Bikinians health and well-being.

Article 77 of the UN Charter declares that one of the basic objectives of the trusteeship system is "To encourage respect for human rights and for fundamental freedoms for all." We ratified the charter in 1945 and today reaffirm our commitment. I hope that in the future we show more wisdom and sensitivity in our actions and that the wrongs done to the Bikinians can be righted, and I ask that the following article tracing the Bikinian's history be inserted into the RECORD.

[From the Los Angeles Times, July 23, 1978]

BIKINI ISLAND: LOST AGAIN TO RADIATION

(By Jerry Belcher)

BIKINI, MARSHALL ISLANDS.—When the Americans made him leave Bikini for the first time, in 1946, Andrew Jakeo was 34 years old.

When, after using the fragile Pacific atoll for 23 nuclear test blasts, the Americans in the person of President Lyndon B. Johnson assured him, his fellow islanders and the rest of the world that Bikini once again was safe for human life, Andrew Jakeo was 56.

Now Andrew Jakeo is 66 and, above all else, he wants to live out the days that remain to him on this tiny curve of coral, sand and coconut palms with his family and friends.

Then, when his time comes, he wants to be buried here among his ancestors.

But the old man will not be permitted to end his days where he wishes.

For one day next month—federal officials say about Aug. 22, although official plans dealing with this place and these people seem to go awry more often than not—the Americans will remove Andrew Jakeo and the 140 others living on 449-acre Bikini Island, largest of the 26 islets that make up Bikini Atoll.

They will be transported to "temporary" quarters in Kili, a single island with a land area one-sixth that of their 2.2-square-mile home atoll. Kili, without a lagoon, lies nearly 500 miles southeast. It is an island some Bikinians habitually refer to as "the prison."

The Bikinians must leave their ancestral home and its beautiful, fish-teeming lagoon because the Americans, as they themselves now admit, made a regrettable error 10 years ago.

Despite what the scientists and the President said—despite an investment of $3.25 million for cleanup and rebuilding—Bikini is not safe after all.

Andrew Jakeo and the others living on Bikini Island are being subjected to unacceptably high doses of radiation left behind by atomic and hydrogen bomb blasts that seared the atoll during 12 years of testing.

Some younger Bikinians may live to see their homeland again, but Andrew Jakeo will not. It may be 50 years before Bikini is fit for human habitation.

Andrew Jakeo is bitter and angry, although like most Marshallese he veils his emotions from outsiders.

"The Americans told us in 1946 that they had come to test a bomb," he said not long ago. "They told us they did not know how much the bomb would hurt Bikini. They told us that after they tested the bomb, and Bikini is good again, they will bring

us back. They did not say how long it would be."

But Andrew—Marshallese address one another by first names and expect outsiders to do the same—believed, along with the 165 others the U.S. Navy removed in 1946, that they would be back within a year or so.

Meantime, he was convinced, the Americans would provide for him and the other people of Bikini.

The first American promise to the Bikini people was made by the Navy after President Harry S Truman had, on Jan. 10, 1946, at the recommendation of the Joint Chiefs of Staff, given the go-ahead for Operation Crossroads, the first post-World War II test of nuclear weapons.

In simplest terms, the promise went something like this: We have decided to use your atoll to test a powerful new weapon. For your own safety,you will be moved to another place. We will take care of you there. When we're through using your atoll, we will bring you back.

Few now question that the Navy had the legal right to appropriate Bikini Atoll for military purposes.

Bikini is part of the Marshall Islands, which is part of Micronesia, which in turn was established as a U.N. Trust Territory under U.S. administration by terms of the U.N. Charter of 1945.

Specifically, it was designated a "strategic trust," which permitted the United States to set aside certain areas of the former Japanese mandate territory for military security purposes.

Bikini seemed a logical choice geographically, too. The idea of Operation Crossroads was to see what the atomic bomb would do to a naval fleet. The three A-bombs of World War II had been exploded in the New Mexico desert and over the Japanese cities of Hiroshima and Nagasaki.

Other sites were considered. But according to Crossroads historian Neal Hines, "Bikini fulfilled all the conditions of climate and isolation. It was . . . 2,500 miles west southwest of Honolulu . . . but it also was accessible. . . . Its inhabitants who then numbered 162, could be moved to another atoll."

(Most other sources say the population then was 166. Since then there has been a population explosion. Today 860 persons claim land rights in Bikini Atoll—140 now living on Bikini Island, 450 on Kili, and the others scattered throughout the Marshalls.)

"In retrospect . . . you'd have to say the removal was the 'right of the conqueror,'" said Jim Winn, a transplanted Kansan who is district attorney of the Pacific Trust Territory's Marshall Islands District.

"Our attitude must have been that we, at the cost of several thousand American lives, took the Marshalls . . . took this whole area of the Pacific from the Japanese. And . . . part of it was the attitude. 'Well, they (the Bikinians) are just little brown people anyway. They don't need their atoll. We'll just move 'em off someplace else'."

Certainly the Bikinians were in no position to seriously oppose the Navy when, on Feb. 10, 1946, Commodore Ben Wyatt, then the military governor, arrived by seaplane and announced that they must go elsewhere.

In effect, the islanders then and there adopted the United States as their iroij-alap—their paramount chief, the power over and beyond their local island chief, Juda. And, in Marshallese tradition, this meant that henceforward the United States was responsible for the protection and well-being of the Bikini people.

Althought to American eyes the atolls of the Marshalls look much the same, the removal was deeply painful and culturally destructive to the Bikinians.

For, as many anthropologists have observed, there is among Micronesian peoples a profound, mystical attachment to the particular, tiny plots of land owned by their families or clans.

"In those islands, a man without land is no man."

By a split vote of the atoll's leaders, the Bikinians chose to go to Rongerik Atoll, 128 miles east of their home atoll. The Navy, which put out press releases at the time indicating that "the natives were delighted" by the move, was only slightly more restrained a year later in its official history of Crossroads, "Bombs at Bikini."

"The Bikinians convinced that the (A-bo) tests would be a contribution to world peace, indicated their willingness to evacuate," the Navy historian wrote.

It wasn't quite that way, according to Tobin, emeritus professor of anthropology at University of Hawaii.

"They did not go willingly," Tobin said. "They were forced to go . . . They agreed because they had to, just as they had agreed to do things when the Japanese had bayonets in the background.

"Put yourself in their shoes: You've been told what to do by the Japanese for a quarter-century . . . and told by the Japanese military the Americans were weak. So when the Americans wiped out the Japanese . . . all those American ships appearing, the natural reaction . . . would be to go along with what they are told."

On the afternoon of March 7, 1946, the 166 men, women and children of Bikini were loaded aboard Navy LST 1108. As the awkward landing craft backed off the beach at Bikini Island and churned out of the blue-green lagoon, the people gathered on the main deck to sing traditional songs of farewell. The next morning they were unloaded at Rongerik.

On the morning of July 1, a B-29 bomber called Dave's Dream dropped a "nominal yield" 20-kiloton (the equivalent of 20,000 tons of TNT) atomic bomb over the fleet of 70 obsolete U.S. and captured Japanese and German warships moored just off Bikini Island. It exploded 500 feet above the fleet, sinking five ships, twisting and crushing others like cheap toys—and initiating the radiation poisoning of Bikini.

Rongerik was a disaster. It was too small. There was too little food. And, according to legend, it was haunted by an evil witch named Liborka, who poisoned the fish of the lagoon. In fact, certain fish of the lagoon were poisonous which was why Rongerik had been uninhabited for years.

But it was close to Bikini and the people had chosen it for that reason. They thought they could bear up under the hardships until they went back to their home atoll. That, they were convinced, would be in a couple of years at most.

Severe food shortages developed during the winter of 1946–47. In spring of 1947, fire destroyed a third of Rongerik's coconut trees. The people pressed for a return to Bikini, but a radiological survey indicated that it was too "hot" for permanent occupancy and would be for many years.

In October, the Navy announced that the Bikinians would be relocated on Ujelang. But two months later, the Pentagon announced a new series of nuclear tests would be held, this time at Eniwetok, another atoll in the Marshalls. The Eniwetok people would go to Ujelang instead of the Bikinians. The Bikinians had to wait.

Andrew Jakeo remembered the Rongerik period well. "I was a big man then," he said, "but I got skinny." He held up the little finger of his left hand. "Skinny like this. One old woman died from hunger . . . For a year and a half, we did not have enough food, (sometimes) got our food by cutting open the coconut tree and eating the heart of the tree. This killed the tree."

Jeladrik Jakeo, Andrew's 48-year-old brother, was a teen-ager on Rongerik. "It was terrible," he remembered. "We ate things that were not good, gathered coconuts that floated in from the sea. Bad food; we got sick. Arms and legs swelled up, and we got blisters on the arms and we had diarrhea."

Late in January, 1948, the Navy dispatched anthropologist Leonard Mason, now of the University of Hawaii, to investigate. He found the exiles at the point of starvation, living on raw flour diluted with water.

In strong terms, Mason recommended that the people be removed from Rongerik as soon as possible. He also recommended Kili Island, although he admitted it had many disadvantages, as the best available place to relocate the Bikinians.

In March, 1948, they were moved to a tent camp at Kwajalein. In September, the Bikinians voted to resettle on Kili, and in November, they were finally settled on Kili and began building a new and bigger village than they had had on Bikini.

Kili was without question better than Rongerik. But it also was small and worse yet it had no lagoon. The island was constantly pounded by the Pacific. Fishing was far more difficult than at Bikini. Supply ships could neither land food nor take away copra—dried coconut, the only cash crop—for months at a time because of the heavy surf. Sometimes six months passed before a ship could unload.

In an attempt to relieve the isolation, the Navy turned over a 40-foot power whaleboat to the Bikinians. It sank in high seas in 1951.

On March 1, 1954, test shot Bravo, an H-bomb 750 times more powerful than the first atomic bomb, had been exploded at Bikini with tragic results.

An unpredicted wind shift after the blast had sent the 20-mile-high cloud of radioactive particles drifting in the wrong direction, across Bikini Island and beyond. The plume stretched 240 miles long and 40 miles wide, over an area far outside the restricted danger zone.

Rongelap, Rongerik and Utirik atolls, all inhabited by Marshallese and U.S. military personnel, were in the path of the fallout, which in some places fluttered down like snowflakes.

Twenty-eight Americans, 244 Marshallese and—although it was not known until sometime later—23 crewmen of the Japanese fishing boat Fukuryu Maru (Lucky Dragon) were seriously irradiated. One crewman died of complications. The rest spent a year in hospitals.

On Aug. 12, 1965, President Johnson announced that Bikini was safe, that it would be rehabilitated and resettled "with all possible dispatch."

Glenn T. Seaborg, AEC chairman, explained that the President's final decision had been based on the recommendation of "eight of the most highly qualified experts available" after studying the 1967 survey results and unanimously concluding that Bikini Island and Eneu Island, 10 miles away, were radiologically safe enough to allow reestablishment of the Bikinians there.

The experts—all either AEC employes or employes of AEC contractors—warned that the coconut crabs should not be eaten because of their high content of strontium 90. There were no warnings about any other local foods. They recommended that radiological checks be made periodically to determine how much radiation the people were being exposed to from external environmental sources and from their diet.

Chief Juda did not live to hear the news. He had died—shortly before the Johnson announcement—of cancer, which he believed had been caused by his exposure to the first A-bomb test in 1946, a claim scientists are inclined to discount.

Ironically, especially in view of what was to be learned 10 years later, several Bikinians expressed suspicion about the food growing on the contaminated atoll during a tour of

the islands a few weeks after the Johnson announcement.

One of the Bikinians, named Jibaj, even refused to touch food from the atoll, insisting it was poisonous.

Another, Laijo, made a forecast that, from the perspective of 1978, seems far more acute and accurate than the predictions of any of the U.S. bureaucrats or scientists. "It will take 100 years before the islands are back in shape again." Tobin reported him as saying ". . . The islands are completely ruined now."

Still, despite their suspicions and the obvious enormity of the job, the Bikinians on the tour apparently were convinced by the officials and scientists that at least the islands of Bikini and Eneu, 10 miles away, could be made livable.

The Bikinians reported the conditions they had seen and the plans that were being made for rehabilitation to their fellow islanders on Kili. Only two or three of the 300 then living there voted against the idea of an eventual return to Bikini.

The cleanup began in February, 1969, using some Bikinians on the work crew. The rest of the rehabilitation project—plowing up Bikini and Eneu Islands, replanting them with food crops, began later the same year. A few families began moving back to Bikini.

By 1974, the $325,000 cleanup and the $3 million rehabilitation program was through its first phase. Forty of the planned 80 homes had been erected.

Then, as planning for the second phase was beginning, the Bikinians said they wanted to locate some of the new structures in the interior of the island.

The following year, another AEC radiological survey was made, this time in more detail. It was found that radiation levels in the interior of the island were too high to permit people to build and live in homes there.

"We didn't really find any surprises in that external radiation field," said Tommy McCraw, who had been involved in both the 1967 and the 1975 surveys.

However, at the same time, it was determined for the first time that locally grown breadfruit and pandanus—two popular items of diet—were too radioactive to be safely consumed over the long term. Coconuts, even more of a staple in the local diet, were reported to be safe.

Then last summer, a Lawrence Livermore Laboratory study done for the Energy Research and Development Agency, an AEC successor agency, found that well water on Bikini exceeded federal standards for radioactive strontium 90.

Other levels of radiation on the island were so high, according to the report, that there was little margin for safe absorption of any additional doses from the food chain.

But, at the same time, ERDA environmental safety official Roger Ray said it would be premature to say that the Bikinians should be moved off their atoll.

By fall, though, there no longer was any question: Ray told a meeting of the Bikini-Kili Council in Majuro that Bikini Island "should no longer be considered a permanent settlement" and advised that consideration be given to moving the settlement to Eneu.

It seemed the scientists had now determined that the Bikinians were absorbing radiation at a rate substantially above the federal safety standard of .5 rem per year, a measurement of radiation dosage of any kind producing biological effects in man.

According to the Department of Energy (successor to ERDA) the external dose on Bikini Island in 1977 was .2, the same as in 1974. But the internal dose, measured by an instrument called the whole body counter, had risen dramatically in three years—from a top reading of .067 in 1974 to a top of .538 in 1977.

And the coconut was named as the radioactive "villain," since it was the only locally grown food then being consumed in any quantity. As one scientist put it, the coconut palms were "sopping up" radioactive cesium 137 and strontium 90 at a much greater rate than anyone predicted.

High doses of radiation from these isotopes are known to cause various types of cancer in man, but scientists debate the cancer risk from relatively low doses such as those to which the Bikinians have been exposed. In general, scientists have found that the lower the dose, the lower the risk that cancer will develop over a period of years.

The people living on Bikini were ordered either to eat no coconuts or to ration themselves to one a day. But they were told the coconuts from Eneu were still safe.

The Trust Territory government initiated a feeding program. Except for fish and fowl, the people were to eat nothing but U.S. Department of Agriculture surplus food.

By February of this year, it was official policy: Bikini was unfit for people to live on.

In contrast to 1968, the news was *not* announced to the world by the President of the United States.

It was rather quietly passed along to Congress in the form of a money request. Undersecretary of the Interior James A. Joseph, in asking Congress for a $15 million appropriation to relocate the people of Bikini, explained the tragedy in low-key, bureaucratic style:

"It became evident that radionuclide intake in the plant food chain had been significantly miscalculated in terms of human consumption. . . . The restriction on the use of coconut products produced on Bikini Island for food and export make (it) . . . unrealistic as a permanent place of settlement.

When the naval officer had told the people they must leave the island a generation ago, he had compared them "to the children of Israel whom the Lord saved from their enemy and led into the promised land."

It had not worked out that way.

"We are more akin to the children of Israel when they left Egypt and wandered through the desert for 40 years," the dark-skinned, dignified Bikinian said. "We left Bikini and have wandered through the ocean for 32 years, and we will never return to our promised land."

In fact Tomaki was back on Bikini on June 1, along with High Commissioner Winkel, but only to break the news to the people and to discuss with them where they wanted to go.

Winkel's recommendations were read into the record at the June 19 meeting of the Yates subcommittee. He noted that those living on Bikini island told him that if they could not remain there, or at least on Eneu, they preferred to move to "public domain" land in Hawaii or to the mainland of the United States.

He said the majority of those living on Kili apparently preferred to remain there. But, he added, some wanted to join the Bikini residents wherever they might be relocated.

Further tests on Eneu foodstuffs would be required before the island could be finally ruled out, Winkel said. But he was not optimistic. And, without quite spelling it out, he seemed to dismiss the thought of relocating the Bikinians in Hawaii or on the mainland.

"On the basis of all the factors," Winkel summed up, "it is my decision that the people of Bikini Island should be relocated to Kili Island at this time."

Winkel's statement to the subcommittee on the Bikinians' preferences was accurate as far as it went.

But, from Times interviews with more than a dozen Bikinians on their condemned island last month, it was apparent the high commissioner failed to convey the depth of their feelings, especially their reluctance to be resettled in the Marshalls, particularly on Kili. "Kili," they said again and again, "is bad, Kili is no good."

With only one exception, they said they wished to be resettled in Hawaii or Florida.

Milton Anien, born on another island but married into a Bikini family, put it this way:

"We would like to be with you in America always. We like you. We would like you to keep your promise to the Bikini people, to take care of us.

"You made a promise to the Bikini people, so we would like to come live with you—and you can support the people of Bikini as much as you can—live with you so the American doctors can watch me and my family because I worry about the radiation, worry about the radiation night after night. . . . Everybody here says this."

Magistrate Tomaki Juda, appearing before the subcommittee once again, said that although there was deep sorrow and bitterness among his people and although "life on Kili is difficult," he concurred in the high commissioner's decision to relocate them at least temporarily on that island.

Then he suggested practical measures which he said were necessary to make Kili livable—construction of a 2,000-foot airstrip and an all-weather, all-season pier, establishment of a medical dispensary, a new school, renovation of homes and community facilities. Consideration also should be given, he said, to relocating some of the people on Jabwor Island at Jaluit Atoll.

The Bikini leader also made it clear that in addition to relocating the people, and making their new homeland livable, the United States had further financial obligations.

It was too soon to discuss details, he said, but, "we feel that our people, especially the elderly ones, are entitled to compensation from the United States, for their removal from Bikini and for the virtual destruction of Bikini and other islands."

Congress has now approved the $15 million for relocating the Bikinians, and building materials are being purchased for the temporary housing for them on Kili.

Plans are under way for the Kili pier, although some persons familiar with the surf conditions do not believe it is feasible.

Planning also goes ahead for the final removal of the people from Bikini next month.

One last matter: Ruth Van Cleve said in Washington that, although old Andrew Jakeo cannot continue to live on Bikini, it is possible that after his death he could be buried there with his ancestors.

But she added, "I think we would want to get firm word on that from the scientists."●

AMENDMENT TO HOUSE JOINT RESOLUTION 638

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. RAILSBACK. Mr. Speaker, when the the House of Representatives considers House Joint Resolution 638, a bill to extend the deadline for ratification of the equal rights amendment, Congressman ERTEL and I will offer a bipartisan amendment as an attempt at compromise and fundamental fairness. For the information of our colleagues, we would like to insert the text of the amendment we intend to offer:

AMENDMENT TO HOUSE JOINT RESOLUTION 638 OFFERED BY MESSRS. RAILSBACK AND ERTEL

On the first page, line 10, strike the period and insert the following: ", provided, however, that any legislature which shall have ratified the article of amendment within the first seven years of this period may, by the same vote and procedure required for ratification, rescind that action at any time after this resolution becomes effective and prior to adoption of the amendment. The Administrator of the General Services Administration shall certify to Congress all resolutions of ratification or rescission of this amendment as received from the several States for final determination by the Congress as to whether the amendment shall have been adopted."●

HUMAN RIGHTS AND FOREIGN BUSINESS OPERATIONS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. SIMON. Mr. Speaker, Forest Frank of the House International Relations Committee staff, recently spoke to a meeting of the Council of Americas, at which he had some advice for American corporations and their overseas operations.

His advice is both practical and sound, and I am reprinting it here in the CONGRESSIONAL RECORD so that my colleagues may see it and pass it along to friends in the business community who have some very legitimate concerns in regard to human rights and their business operation.

SPEECH BEFORE HOUSE INTERNATIONAL RELATIONS COMMITTEE

(By Forest Frank)

One of the most important steps companies can take is to do all they can to support the growth and extension of a legal system. This may mean that all employees of American subsidiaries are covered under some sort of legal services benefit plan and that plan is registered with local authorities. The objective in developing this kind of fringe benefit protection is threefold: First, it is a concrete step to promote human rights. Second, it supports the development of legal systems. Third, it protects employees from some of the worst abuses of repressive judicial systems based on police brutality, torture, physical abuse, and reprisals against family members to the degree that a company sponsored bail fund, company-sponsored lawyers, etc. are able to win rapid release of company employees arrested for participation in demonstrations or nonviolent civil disobedience.

Another type of activity the companies could engage in are efforts to protect the fundamental human right of association by seeking to protect efforts to organize trade associations, labor organizations, and political organizations by promoting foreign adoption of laws analogous to our Wagner Act. Similarly laws which establish fair wage, hour and labor practices, health and safety conditions, and environmental protection controls can all promote human rights. Rather than resist such activities, one might argue that American companies' experience with such matters would place them at a competitive advantage over other companies without similar experience.

In general terms, then, I believe companies should pursue a broad strategy premised on the belief that there are many human rights which can be and should be supported by American firms operating overseas. First, those human rights which are wholly compatible with good business practices must be identified. Documents such as the Universal Declaration on Human Rights, the International Labor Organization human rights convernants, the Western European Economic Union's Declaration on Human Rights, and the Organization of American States Declaration on Human Rights, are all valuable reference documents which should be obtained.

Second, companies, individually and collectively, need to identify a range of business practices that could be undertaken in support of specific human rights promotion. For example, efforts by individual companies to expand career opportunities to ethnic minorities, improve overall working conditions, improve provision of legal services to all company employees for both business and nonbusiness legal problems, etc.

Third, companies should identify which specific strategies to improve human rights will work in specific countries in light of local practices, legal systems, and other restrictions.

There are, I believe, compelling reasons for companies to adopt this rather aggressive counter-offensive on behalf of human rights.

First, as I indicated above, the near term prospects of significant change in current U.S. policy and law away from support of human rights is most unlikely.

Second, the administration and many Members of Congress are looking for a variety of new ways to promote human rights. There is, I believe, a great deal of receptiveness to new ways of thinking about the problem of promoting human rights.

Third, the law allows the administration a great deal of flexibility in implementing human rights actions. The Export-Import Bank Act requires the Board of the Directors to consider the effect of exports on human rights. I believe that efforts on the part of companies to promote human rights could be a major, positive factor which would cause the Department of State to favorably recommend to the Export-Import Bank Board of Directors that applications for loans or credits be approved.

Fourth, I believe efforts to promote human rights by American companies will substantially improve the overall climate in which business operates, both at home and abroad. While the Department of State would undoubtedly be a bit more sympathetic to business interests if those same interests were not actively attempting to undercut policy overseas, I believe that State, Commerce, Treasury, the Ex-Im Bank, and especially the Congress would respond favorably to a concerted effort by business to promote those human rights which are especially important to the conduct of international trade and commerce.●

CAESAR CREEK DEDICATION

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. BROWN of Ohio. Mr. Speaker, recently I attended the dedication of an undertaking which began more than 50 years ago. This project, the Caesar Creek Multi-Purpose Reservoir, will be used for flood control, provide the water supply needed in surrounding communities, and provide for recreational facilities of fishing, boating, swimming, and general land enjoyment.

But, it was not until 1964, with the help of my father who then represented the area, that Congress appropriated funds to permit Caesar Creek's building. As the years have passed, I have had the opportunity to watch this deserving project unfold and take shape.

Though the pursuit of this aim has been long and hard, it has been met with a determined hand by all who played a part in its evolution. One man specifically should be recognized, as he is to be commended on his patience and dedication. J. E. Carnahan, the honorary president of the Little Miami Valley Development Association, has worked hard on this project, guiding and offering assistance with each step. I am sure his unyielding efforts will be much appreciated by all those who will now be able to benefit from his endeavors.

Thus, I would like to enter Mr. Carnahan's remarks from the Caesar Creek dedication so we may be reminded of the perseverance that enabled its completion. The text of the speech follows:

CAESAR CREEK LAKE DEDICATION

"Only God can grow a tree. Why should the spirit of mortal be proud . . . Only God is Great . . . Only God can grow a tree."

Without the authority vested in Congressmen—Gordon Scherer—Clarence J. Brown Sr. and Junior—Michael Kirwan—William H. Harsha—the venerable statesman, Frank J. Lausche and others dedicated to the cause . . . The Caesar Creek and East Fork Lakes could not have become realities. Equally true—without my contributions, the two projects would not have been realized. The moral of the saga is—simple . . . we are dependent on each other.

In retrospect, I recognize Destiny as the principal in our episode. On more than one occasion, destiny has intervened to save my life. Automatically, destiny has placed me in the right place at the right time with the right people and the challenge to carry through.

This space whereon we are assembled was—not too long ago, as time is measured—inhabited by real Americans—the American Indians . . . true conservationists.

With the advent of the white man came development, which—per se—is good. Simultaneously, with development came exploitation . . . centered on the dollar, which is not good.

Fortunately, for future generations—the many who strongly believe in conserving our natural resources are organized to and do oppose exploitation. Unfortunately, for this segment of good people—the pendulum at its highest arc toward conservation begets extremists, which if allowed to dominate—would destroy the balance between what has to be and that which we would like it to be. The extremists seem unable to reach a balance or harmony between the essentials and the aesthetic—by putting first things first.

My fellow-Americans . . . or the United States of America—the time is now to stop "putting off" . . . putting first things first."

Genesis—1:28 reads in part:—And God blessed them, and God said unto them, Be fruitful, and multiply, and replenish the earth and subdue it: and have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth.

A wild rose—at a distance, is rather pretty; brought close, it is not so pretty. However, the wild rose was developed by man to be amongst the most beautiful of all flowers. Therefore, we can rationally and with certainty conclude: The desired environment is BEST attained by MAN . . . working with nature.

At the outset, to get construction of the two lakes, the Little Miami Valley was most fortunate to have the Milford Area Chamber Of Commerce as the instrument through which to initiate action. That the municipalities in the valley, effected, might be involved in the action—The Chamber on March 17, 1962, organized "The Little Miami Valley Development Association."

The over-all purpose of the association was to have the Little Miami Valley as secure against major floods as is the Great Miami Valley.

The immediate objective was to get a nucleus or core of a flood control system in the valley through construction of an impoundment on Caesar Creek and one on East Fork knowing—that total security required an impoundment on Todd's Fork and another further upstream.

When completion of The Caesar Creek and East Fork Projects seemed assured—an Ad Hoc Committee directed by Earl J. Maag and Gerald Mengle circulated petitions throughout the Todd's Fork area for measurement of the sentiment in respect to an impoundment on Todd's Fork. 1122 signatures were readily obtained. You know . . . one thousand one hundred twenty two signatures is a lot of names.

At this point, opposition had arisen, as it so often does, and through court action was delaying construction of the projects. In the interim preceding the decision of the court to order continuation and completion of construction—the delays had cost thousands of dollars, unnecessarily.

With the completion of The Caesar Creek and East Fork Lakes—the *nucleus* of a flood control system for The Little Miami Valley is secure. The life of nearly a generation has been involved. It therefore, seems fitting that the future of conservation should become the responsibility of the youth of today and tomorrow * * * and that The Little Miami Valley Development Association be disbanded with the dedication of The Caesar Creek and East Fork Lakes.

It might be of interest to the general public to know—that during its nearly twenty years of existence—The Association has paid out no salaries—no wages. It has been, strictly, a matter of "service above self." Service above self * * * Ladies and gentlemen: Is not the remedy for inflation and its related ills, "more service and less self?"

One of the most unselfish and dedicated to worthy causes is the Honorable Earl J. Maag * * * Mr. Maag loves the people of his home town and The Little Miami Valley. For 40 years, he has served his community—most of the time as Mayor of Morrow. He has worked hard and long for the flood control system now established in The Little Miami Valley. For him, this is a great day. Ofttimes, he and I have wondered, "Would we make it?" Fellow Citizens, meet Mr. Maag.

Throughout the effort to achieve—we have lost 6 of our stalwarts:—Clarence J. Brown, Sr.—William H. Shawhan—Carl Bernges—Frank Minges—Eugene J. Cramer—Hudson Biery of The-ovia.

For nearly 20 years we have been closely associated with the U.S. Army Corps of Engineers. We would be remiss were we not to pay tribute to this gallant troop of professionals—able—competent and dedicated to the conservation of our water and land resources.

Ofttimes—too often * * * the Corps is unjustly criticized—even abused—by the uninformed. To get a Federal Water Project, it takes initiative action on the part of the citizens of the area involved. The uninformed criticize the Corps for this initiative. The informed—know better. The Corps is a Department of the U.S. Army—under the Executive Branch of the Federal Government and takes its orders from the "boss."

Today, Saturday, July 29, 1978—the older of my colleagues and myself stand in shadows—ever lengthening. We hope for a home in that "celestial" city from which to look down on lofty mountain grandeur—on verdant woodlands—on the babbling brooks—on crystal clear lakes and on fertile fields—cultivated by tender loving hands * * * providing for mankind the essence of the good life.

And on most days the sun will rise * * * and shine and set on The Caesar Creek and East Fork Lakes; on other days, the clouds will at time let fall a few drops of rain causing ripples on the placid waters; at other times, the rain will come down in great torrents—to replace the millions of gallons used by man in his daily endeavors; sometimes, strong winds will pile high great waves to dash against the rip-rap protecting the dams; and, after the storm * * * the calm, the sunshine and renewed life—with workers seeking rest after the day of toil—youngsters, playing and having fun * * * and others continuing our efforts to conserve our water and land resources.●

NORTHWEST AIRLINES AND THE MUTUAL AID PACT

HON. WILLIAM S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. BROOMFIELD. Mr. Speaker, I was shocked to learn today that Northwest Airlines reported second quarter earnings of more than $20 million despite a 3-month work stoppage which has caused great personal and economic hardship to the people of Michigan and other communities along Northwest routes.

While I am always reluctant to interfere in the collective-bargaining process, this situation merits special consideration by the Congress and the agencies charged with administering Federal air transportation policy.

Although its pilots walked off their jobs on April 29, Northwest has been able to continue making money because of the Airlines Mutual Aid Pact. Under this agreement, a grounded airline is guaranteed 35 percent of its usual weekly operating costs without having to share any of these funds with striking employees. The funds are paid by other airlines enjoying windfall profits because of the work stoppage.

Under these conditions, there is little incentive for an early settlement of the issues involved in the strike. This is supported by the fact that Northwest has been involved in five work stoppages since 1970 resulting in almost 1 full year of lost service to its customers.

While the Airlines Mutual Aid Pact technically expired on February 27, 1978, it remains in effect while the Civil Aeronautics Board debates renewing it for another 5 years.

Such a renewal would be a mistake serving only to encourage future service interruptions. I have joined today as a cosponsor of H.R. 13735, introduced by the gentleman from Ohio (Mr. MOTTL), directing the Civil Aeronautics Board to disapprove any extension of the pact and preventing the Board from approving similar pacts in the future.

In addition, the Civil Aeronautics Board, the National Mediation Board, and the Department of Transportation should step up efforts to help bring about an early resolution of this serious situation.

Further, I would urge a careful review of the routes now served by Northwest Airlines with consideration toward allowing other carriers to serve some of the areas now almost exclusively handled by Northwest.

The toll in lost revenues to business and governments already has mounted into the millions of dollars, and the costs in personal hardship are incalculable. Clearly, the public interest is the only interest that has been neglected. I urge my colleagues to join with me and other Members from the northern tier of States in these efforts to bring about an early end to the Northwest strike and a prompt resumption of service to the public.●

ERA EXTENSION TWO-THIRDS OR MAJORITY

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. VOLKMER. Mr. Speaker, the proponents of a majority vote on House Joint Resolution 638, to extend the time for ratification of the equal rights amendment, have created a legislative vehicle which is unique in the constitutional history of our Government: A joint resolution passed by a majority vote which may or may not be submitted for Presidential signature.

Proponents of a majority vote state that a joint resolution was chosen as the legislative vehicle as to parallel the procedure of the original equal rights amendment, House Joint Resolution 208—92d Congress. In doing so it would seem that procedures as to passage of the measure would also be parallel, two-thirds majority for final passage—yet, the proponents say that only a simple majority is needed. In addition they argue that the resolution need not be sent to the President for signature and any Presidential signature would be purely symbolic.

The supporters of House Joint Resolution 638 are caught on the horns of a dilemma. There is no precedent for such a legislative vehicle, if it is to be binding. The Constitution—article 1, section 7—the statutes—title I, sections 106 and 106(a)—and our precedents—Jeffersons Manual, section 397—all require a joint resolution to be passed by a majority vote to be submitted to the President.

The framers of our Constitution, the Supreme Court (*Hollingsworth* v. *Virginia*, 3 Dall 378 (1798)) and a careful reading of article V clearly demonstrates the President plays no role in proposing or adopting a constitutional amendment. Justice Chase, in Hollingsworth stated:

He (the President) has nothing to do with the proposition or adoption of amendments to the Constitution.

The proponents of a majority vote recognize this fact, so they say Presidential signature is unnecessary. However, this position ignores title I, section 106 of our statutes and article I, section 7 of the Constitution which say that a joint resolution is a bill to be signed by the President. The only exception to this rule is the constitutional amendment process which under article V requires passage by a two-thirds majority.

If the resolution was submitted to the President for signature, are we violating constitutional procedure? Yes. What would happen if the President vetoed the resolution? A two-thirds vote of both Houses is required to override a veto. If two-thirds could not be obtained, then the President would be determining the amendment process. He has no power to do this under our Constitution.

What are we accomplishing by proceeding in this manner? The answer is that we will accomplish nothing binding. A "joint resolution" passed by a majority vote without signature of the President will have only the effect of a concurrent resolution, not binding beyond the life of this Congress. I cannot bring myself to vote for legislation which purports to perform one function, but clearly does not.

A two-thirds vote on House Joint Resolution 638 would be constitutional and binding.●

PAN AM EMPLOYEES SUPPORT H.R. 8729, AIRPORT AND AIRCRAFT NOISE REDUCTION ACT

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. DOWNEY. Mr. Speaker, I wish to bring to the attention of my colleagues a letter from representatives of the 27,000 employees of Pan American World Airways supporting the Airport and Aircraft Noise Reduction Act. The letter follows:

JULY 28, 1978.

DEAR CONGRESSMAN: The 27,000 employees of Pan Am want your support for HR 8729 and HR 11986 for the following reasons.

This legislation provides all airlines with a portion of the necessary funds to replace equipment that has been effectively condemned by already enacted anti-noise legislation and FAA rules.

While aiding airlines in the acquisition of new fuel efficient aircraft, this legislation does not place the burden on the ordinary taxpayer. The funds are to be collected only from airline passengers.

There will be no increase in the tax on domestic passengers. A portion of the monies now collected will be earmarked for the fund that will aid the carriers. There will be a $10.00 departure tax collected from international passengers instead of the current $3.00 departure tax now in effect.

We need your support of this legislation as it now stands, complete with the financing provisions. The funds provided will help the airline buy new, less polluting aircraft which in turn will bolster the U.S. aircraft manufacturing industry.

The employees of Pan Am greatly appreciate the legislative help that has aided our company over the last four years but we need your help perhaps even more now. While the airlines are today in a stronger position than they've been in the last four years the future is uncertain at best.

The cost of new equipment is extremely high. Even this year's rate of return is not enough to secure the amount and type of financing required to buy the new planes in the future.

Respectfully,

FELICIA FAIRCHILD,
Chairman.

MIKE LYON,
Political Action Coordinator.●

THE TOTAL FORCES ACT

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. BENNETT. Mr. Speaker, I recently introduced a bill to strengthen our military Reserve Forces. Our distinguished colleague MEL PRICE, chairman of the Armed Service Committee, joined with me in introducing this important legislation. The bill (H.R. 13164) is entitled "The Total Forces Act." It is designed to prevent dangerous neglect of our Reserve Forces and to insure that the Reserves can play the vital role in our national defense which is essential to complement our Active Duty Forces, each an essential part of the total force plan.

I would like to explain the background and the purpose of this needed legislation, and then provide a concise analysis of the bill.

The role of the citizen-soldier, or the militia, has been of paramount importance throughout the history of the United States and predates the American Revolution. As I pointed out in remarks to the 1978 Mid-Winter Conference of the Reserve Officers Association.

The Minute Man principle exists today; our armed forces are a very small minority of our population. But without adequate reserves our defenses would be inadequate for national security. . . .

For financial reasons we absolutely have to rely upon the willingness of Minute Men throughout the United States to serve our country in time of need. The cost of a Reservist is now one-fifth that of a man on active duty.

The Minute Men of the 20th century cannot simply pick up their turkey guns and sally forth to effective combat. Weapons today are much more complex and require a much higher degree of education and training; so the Minute Man of today has to prepare for his obligation to his country by spending time and effort outside of his regular occupation in order to be ready when called on for military duty. This requires long-term sacrifice, which the government must encourage.

Regrettably there has not always been a clear policy for the Reserve coming from the administration through the years. There has not always been commitment to full and competent use of the Reserves.

I believe that now is the time to take action in Congress which will enhance the policymaking structure affecting Reserve Forces and lead to their better management and enhanced readiness.

With the wisdom of hindsight based upon our unhappy experience in Southeast Asia when we failed to mobilize and deploy Reserve Forces in significant numbers. then Secretary of Defense Melvin Laird promised full reliance on "Total Force" in 1972. While this term had been used as early as 1969, Mr. Laird brought it into sharp focus as the Nation prepared to end the draft and scrap the highly effective selective service mechanisms which brought young men into the Armed Forces.

Under the Laird policy, "Total Force" meant a reduced active establishment and heavy reliance on properly equipped, well trained, and adequately manned Reserve Forces. Future emergencies would be handled by this Active/Reserve combined Force; and "draftees" would not be available except under conditions something like a world war III and then not for months after M-day.

While the Laird concept was commendable, implementation has failed in critical areas primarily because of benign or deliberate neglect in the Office of the Secretary of Defense, probably motivated from fiscal constraints. For this reason the Army Reserve components are now woefully short of their mobilization requirements in personnel, despite planned utilization within days or weeks in an emergency. For example: In 1972, the Army Individual Ready Reserve had a strength of approximately 1,000,000 and it is now about 140,000 while requirements are three or four times that number; the Army National Guard has a shortage of nearly 80,000; and the units of the Army Reserve are short 90,000. The Navy's Selected Reserve has dropped from 129,000 to a present strength of 87,000, while the CNO has shown that over 100,000 would be required.

The Marine Reserve has dropped from the 45,000 level to around 32,000.

Aside from the very small but effective Coast Guard Reserve, which is not under the administration of the Department of Defense, the Air Force Reserve elements are the most successful in the "Total Force" program. It is apparent that their relative success is due to an appropriate command structure in that service; appropriate full-time support; and a much lower personnel requirement than the Army.

With the increase of tensions vis a vis the U.S.S.R. and turbulence in the Middle East and Africa, it is time for positive steps to be taken aimed at transforming the theory of "Total Force" to hard reality. Higher level attention to Reserve problems is obviously needed throughout the Secretariat of the Defense Department, and the command structure of the Air Force should be emulated in other services. The probable need for an Assistant Secretary of Defense in the mobilization and Reserve function was recognized by the House in 1967, and Senator STENNIS then stated that such a position should be established if the prevailing organization fails to be viable.

In commenting on serious deficiencies contained in the 1979 Defense authorization bill as proposed by Secretary Harold Brown, the House Armed Services Committee pointed out in its report the possible need for legislation to correct these problem areas.

H.R. 13164, Total Forces Act, has been drafted upon a comprehensive approach, which included the review of United States Code, titles 10 (Armed Forces), 14 (Coast Guard), and 32 (National Guard).

The Total Forces Act spells out the purpose of the Reserve component (RC), and mandates that RC is an element of partnership with the Active component (AC) in the Nation's defense; and as such, except for competent military reasons, calls for placing a major segment of the country's total military force in the Reserve component and for the proper funding and sustaining of readiness in the Reserve Forces.

It significantly increases Congress role in Defense, giving Congress positive overview by mandating timely reporting by RC chiefs as well as SECDEF on status of RC manpower, equipment, funding, readiness, and requirements.

In order for the RC to have a voice at the highest level in Department of Defense, the act calls for the establishment of an Assistant Secretary of Defense for Mobilization and Reserve Readiness. It mandates such a position and places the Assistant Secretary third in precedence in the office of Secretary of Defense but eliminates the existing Deputy Assistant Secretary of Defense for Reserve Affairs.

The bill further calls for the establishment of Assistant Secretary positions in each service except Coast Guard for Reserve affairs as follows: Army—Assistant Secretary of the Army for Mobilization and Reserve Readiness; Navy and Marine Corps—Assistant Secretary of the Navy for Mobilization and Reserve Readiness; Air Force—Assistant Secretary of the Air Force for Mobilization and Reserve Readiness.

It also establishes a wartime chain of command for all forces, AC and RC, during peacetime and sets out the minimum elements for such an affiliation of AC and RC forces.

The Total Forces Act will fix the selected Reserve unit strength structure at the following levels: Army Reserve, 276,000; Army National Guard, 430,000; Air Force Reserve, 80,000; Air National Guard, 100,000; Navy Reserve, 102,000; Marine Corps Reserve, 34,000; and Coast Guard Reserve, 15,000.

The National Guard Bureau receives new impetus under the bill. The Bureau is clearly defined as the principal supervisory and administrative agency for Guard offices and is entitled more direct access to Congress and the services' Secretaries. Senior positions in the Bureau will be filled by National Guard officers of general rank.

The bill further establishes similar Reserve offices for all services which shall be directly responsible for coordinating their respective Reserve affairs. The Chiefs of these offices shall be general or flag-rank officers. RC forces and costs shall be clearly portrayed and appropriated funds timely dispatched to the Chiefs by the Department of Defense and individual services.

A formal career development program with an appropriate mix of formal schooling and unit assignments is established in order to improve the individual effectiveness of Reserve officers and enlisted personnel.

The importance of the Reserve component to our country's national defense is indisputable. H.R. 13164 finally establishes this fact in statute. The legislation to improve and strengthen our Reserve Forces is vitally needed and long overdue. I am very hopeful that this bill can move quickly to enactment.●

TAXPAYER'S RIGHTS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. WOLFF. Mr. Speaker, I rise today to speak on behalf of H.R. 13326, which I introduced and which has received the support of 99 of my colleagues, representing both parties and all shades of the political spectrum. This legislation strikes out against both inefficient government and excessive taxation. It seeks to bring the bureaucracy under control and make it respond to the people. It can be one of the blades of the cutting edge of the taxpayer's revolt.

H.R. 13326 is designed to make sure that a taxpayer who seeks assistance from the Internal Revenue Service is not charged interest or assessed a penalty if he or she underpays their income taxes as the result of being given erroneous written advice by the IRS. This is not a question of a new-fangled tax gimmick which will cost the Treasury money. Rather, it is a question of old-fashioned justice. Simply stated, the taxpayer should not have to pay for the errors of the IRS. Taxes are high enough as it is.

This may seem to many to be a simple idea. Others may assume that it is already law. However, any person who has been the victim of incorrect IRS advice in this manner has bitterly discovered the contrary. It is uncertain how frequently this "entrapment into underpayment" occurs. However, any occurrence is intolerable and must be halted.

Moreover, many other individuals who have dealt with the IRS have learned that the information which they were "assured" was correct was in fact erroneous. True, these taxpayers may have learned that the information was incorrect before any damage was done. But a government which assesses substantial taxes by means of complicated forms and which sets up a taxpayer's service has a duty to make sure that a service and not a disservice is rendered. By increasing the accountability of the IRS in the area of underpayments, this legislation, thus, also has the goal of improving the quality of any and all the taxpayer aid offered by the IRS.

In conclusion, Mr. Speaker, I hope that the House of Representatives will soon direct its attention to this legislation. Justice compells it. The taxpayer commands it.

LIST OF COSPONSORS FOR H.R. 13326

Addabbo, N.Y.; Anderson, Calif.; Annunzio, Ill.; Bafalis, Fla.; Baucus, Mont.; Bauman, Md.; Beilenson, Calif.; Bevill, Ala.; Blanchard, Mich.; Brodhead, Mich.; Brown, Mich.; Burke, Fla.; Butler, Va.; Carr, Mich.; Cederberg, Mich.; Chappell, Fla.; Chisholm, N.Y.; Clay, Mo.; Cleveland, N.H.; and D'Amours, N.H.

Daniel, Robert, Va.; Daniel, Dan, Va.; Derwinski, Ill.; Dornan, Calif.; Drinan, Mass.; Duncan, Tenn.; Edwards, Calif.; Edwards, Okla.; Eilberg, Pa.; Fary, Ill.; Fish, N.Y.; Forsythe, N.J.; Fraser, Minn.; Frenzel, Minn.; Fuqua, Fla.; Gilman, N.Y.; Glickman, Kans.; Gudger, N.C.; Guyer, Ohio; and Hagedorn, Minn.

Hall, Tex.; Harkin, Iowa; Harrington, Mass.; Heftel, Hawaii; Horton, N.Y.; Hughes, N.J.; Johnson, Colo.; Keys, Kans.; Kildee, Mich.; Kindness, Ohio; LaFalce, N.Y.; Lagomarsino, Calif.; Lloyd, Calif.; Lott, Miss.; McDade, Pa.; McDonald, Ga.; McHugh, N.Y.; Neal, N.C.; Nichols, Ala.; and Nolan, Minn.

Ottinger, N.Y.; Pattison, N.Y.; Pursell, Mich.; Robinson, Va.; Rousselot, Calif.; Ryan, Calif.; Santini, Nev.; Sharp, Ind.; Simon, Ill.; Steers, Md.; Stump, Ariz.; Symms, Idaho; Thompson, N.J.; Watkins, Okla.; Winn, Kans.; Bedell, Iowa; Benjamin, Ind.; Burgener, Calif.; Dicks, Wash.; and Ford, Mich.

Goldwater, Calif.; Grassley, Iowa; Hansen, Idaho; Kemp, N.Y.; Lloyd, Tenn.; Meyner, N.J.; Moorhead, Calif.; Richmond, N.Y.; Roberts, Tex.; Skubitz, Kans.; Stanton, Ohio; Traxler, Mich.; Rogers, Fla.; Cornwell, Ind.; Rose, N.C.; Fountain, N.C.; Price, Ill.; Panetta, Calif.; and Young, Alaska.●

OLIN E. TEAGUE

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. HEFNER. Mr. Speaker, before I came to Congress the name of OLIN E. "TIGER" TEAGUE was lengendary in the State of North Carolina. Among veterans, TIGER TEAGUE was referred to as Mr. Veteran in the Congress. As the most decorated Member of Congress following World War II, TIGER TEAGUE served on the Committee on Veterans' Affairs and was its chairman for about 18 years.

I was, therefore, extremely pleased and highly honored to be elected to serve as a member of the House Veterans' Affairs Committee at the beginning of the 94th Congress and to be a member of the Subcommittee on Education and Training which is chaired by TIGER TEAGUE. During this short period that I have served under the leadership and guidance of Chairman TEAGUE, I have come to know and admire his experience and leadership in the consideration of legislation and programs for veterans and their dependents. It is most appropriate, therefore, that we have a bill before us today to honor the service to the Nation of OLIN E. TEAGUE by naming the Veteran's Administration Center in Temple, Tex., in his honor. I say most appropriate because it was from this hospital that TIGER TEAGUE ran for Congress and left in 1946 to become a Member of

this body. The naming of this center in his honor will be a lasting tribute to a most distinguished Member, who is known throughout the Nation as Mr. Veteran.●

JACK ANDERSON'S CHARGES CHALLENGED BY ROUDEBUSH

HON. ELWOOD HILLIS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. HILLIS. Mr. Speaker, approximately 1 week ago, nationally known columnist Jack Anderson wrote an article entitled "Roudebush's VA Benefits Case." In that article, Mr. Anderson states that Richard Roudebush, a rotund politico, used the Veterans' Administration to wrangle a $56-a-month increase in his own benefits.

I have known Dick Roudebush for a number of years and am certain that the allegations made by Mr. Anderson are unfounded. In order that both sides of this issue can be equally aired, I include the following article which appeared in the Noblesville Daily Ledger in response to Jack Anderson's column at this point:

JACK ANDERSON'S CHARGES CHALLENGED BY ROUDEBUSH

(By Ellen Bugher)

Syndicated columnist Jack Anderson has charged that an increase in former Veterans' Administration head Richard Roudebush's own veterans benefits was due to political pressure.

Anderson's column appeared locally in the July 31 Indianapolis Star and he claims Roudebush, who left the post Feb. 28, 1977, "wangled a $56-a-month increase in his own benefits." Anderson says two V.A. officials, whom he says were Roudebush appointees, threatened reluctant rating board members with dismissal if they failed to approve the increase.

The columnist wrote that Roudebush's claim was turned down by four review boards, and Percharsky and Hornbarger used pressure until the increase was finally approved by a new board.

Roudebush denies this, and said of Percharsky, who was national director of compensation, and Hornbarger, adjudication officer at the Indianapolis regional headquarters: "Neither are political appointees."

Anderson said the $216 was a result of arthritic knees "acquired ingloriously during World War II." Roudebush called it a "typical Jack Anderson cut-up."

"I'm proud of my service to the Nation. M; service was 'inglorious' if you can call combat against the German African Corps inglorious. If they (Anderson and his reporters) would have dug further, they would have found that I was reprimanded for not revealing my condition sooner. I did everything I could to remain on duty," he said.

"It is a serious condition. It's not like old-age arthritis. I was only about 23 years old when I got it—I was as strong as a bull."

Roudebush was rated 50 percent disabled at that time.

"I had been 50 percent disabled for over 30 years. My condition gets progressively worse, and it only raised 10 percent. I've been told that my rating of 60 percent is very conservative," he said.

His case was opened automatically, he said, based on outpatient records from orthopedic treatments and hospital stays at Washington D.C. Veterans' Hospital during his term as head of the VA.

"The records were sent back to Indianapolis and the first action was to change the disability rating," Roudebush said.

"I'm aware of the charges and I deny that I've ever committed any unethical, immoral or illegal acts," he said.

Roudebush denies knowledge of an "adverse file" that Anderson says "mysteriously disappeared."

Anderson's allegations involve the $56-a-month increase Roudebush receives since his percentage of disability was raised from 50 to 60 percent. He had previously collected $216 a month.

Roudebush said that since leaving the V.A., he hasn't worked at all.

"Arthritis is a very painful condition. I have difficulty in walking just a short distance. I only do menial tasks—maintenance around the house," he said.

In addition to denying Anderson's charges, Roudebush added that he believes he has been legally wronged. Release of his medical records to Anderson's reporter was a violation of his privacy, he said.

"It was a violation of the Privacy Act to release my medical records. It was given to a reporter by a paranoid personality in the V.A. who tried to make an issue of something. If an investigation is made, I hope Anderson will name his sources," he said.

He said he was sure the V.A. would look into the matter and he was also sure they would "find nothing wrong with the case."

"If I weren't a former member of Congress and in public life, this would be a routine case," Roudebush said.●

WELCOME TO ORANGE COUNTY, LOS ANGELES RAMS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. PATTERSON of California. Mr. Speaker, last month, Mr. Carroll Rosenbloom announced that he will move the Los Angeles Rams football team to Orange County, Calif., commencing with the 1980 season.

Carroll Rosenbloom's dramatic announcement was the culmination of a dream which many of us in Orange County have shared for years. Since the construction of Anaheim Stadium, we have all looked forward to the day when major league football would be played in Orange County. Having a team of the Ram's caliber is a fulfillment of that dream beyond our wildest expectations.

There is no doubt that both the Rams and their fans will benefit from the move. An expanded Anaheim Stadium, with seating for over 70,000 fans will provide an intimate environment for fans to watch professional football. The intimacy of the stadium, with the resulting increase in fan involvement in the games, should provide the necessary edge to propel the Rams into the Super Bowl in 1980.

I am certain, too, that with the tremendous support for professional football that exists in Orange County, every Ram game will be sold out. Sellout crowds, of course, will mean local television coverage of Rams games which will directly benefit all football fans in the Los Angeles metropolitan area.

Finally, the Rams move to Orange County in 1980 will provide a boom to commerce and a catalyst directly benefiting the entire Orange County economy.

Mr. Speaker, it is with a great deal of pride that I join the entire Orange County community in extending a hearty welcome to Carroll Rosenbloom and the entire Rams organization and wish them every success in their new home.●

CAMBODIA

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, I would like to place in the RECORD accounts of life in the new Democratic Kampuchea given by two Cambodians who escaped to Thailand:

INTERVIEW WITH CAMBODIAN REFUGEE IN BURIRAM, THAILAND, CONDUCTED BY AMERICAN EMBASSY OFFICER IN JUNE 1978

ACCOUNT OF SOURCE E*

Source E, 38, ran a clothing store, was a fortune teller, and was a general security soldier in Phnom Penh until April 1975. He was forced to go on April 17 to Kompong Speu, where he stayed for six months, then Takeo Province, for three months and finally to Battambang. He was turned into a farmer in Battambang. He arrived in Thailand November 30, 1977. His account follows:

Conditions of Life in Democratic Kampuchea. "For the last year and a half I was in Cambodia, we had one tin of porridge (250 grams) for ten to fifteen persons. Some times a wild potato would be thrown in the vat of porridge. My first thought in coming to Thailand was to relieve my hunger."

Executions. "The Khmer Rouge killed all the soldiers and former government officials they could identify. Many students and officials also died from starvation. Former military people were frequently killed with AK-47's. My brother was killed. He was a soldier but he told the Khmer Rouge he was a businessman. I think that 90 percent of the former government officials are dead. The rest are farmers now."

Human, Civil and Political Rights. "There are no such things as human, civil and political rights in Democratic Kampuchea. There are no rights at all except for the privileged Khmer Rouge cadres. There is no liberty at all. The government is fascist, and very proud of such innovations as no market and no money. The first human right needed in Cambodia is to avoid starvation."

INTERVIEW WITH CAMBODIAN REFUGEE IN BURIRAM, THAILAND, CONDUCTED BY AMERICAN EMBASSY OFFICER IN JUNE 1978

ACCOUNT OF SAM DAMAWONG**

Sam Damawong, 26, is a student from Siem Reap. He completed 11 years of study prior to the victory of the Khmer Rouge. He fled to Thailand because, as a former student, he was vulnerable. He arrived in Thailand January 14, 1978. His account follows:

Conditions of Life in Democratic Kampuchea. "All the 345 people in my village ate together. Many of the villagers were women and children who had been brought to the

* The name of the individual refugee who provided this account has been excised to protect the identity of family members or friends still in Cambodia.

**Refugee agreed to use of his name in public document.

village in 1977 from Oddar Meanchey. The men had escaped to Thailand because of its nearness to the border. The Khmer Rouge wanted to clear the border to prevent further escape.

"Food rations were about the same from 1975 to 1978. We each received about one or two tins of rice per person, per day (250–500 grams). I estimate that we raised about 3 tons of paddy per hectare in 1976–78 despite the fact that the Khmer Rouge claimed that by 1978 we were raising six tons per hectare. We worked like animals. If you didn't work, you got no food."

System of Administration and Discipline. "For a minor error, you were reprimanded and received no food ration. The third time you committed a minor error, you were killed. For a serious mistake such as making propaganda against the new regime, you were killed immediately. For example, if you compared the communist and the free system, the punishment was death. Only minor mistakes were committed in my village.

"In the political meetings held every ten days, you could only listen. You could not criticize or make suggestions.

Executions. "Former GKR soldiers were killed from 1975 to 1978. In 1977, they started killing capitalists, students, monks and even Chinese and Vietnamese, even if they could speak Cambodian. These classes were killed by being beaten to death with poles.

"The husband of my sister was killed because he was a former GKR soldier.

"I often saw cadavers of former soldiers and others thrown into the market place as a warning to the other villagers. Usually, there would be five or six bodies in the market. I saw such over ten times. Afterward, the villagers were told to carry the decomposing bodies to the fields for fertilizer.

"I overheard a meeting where the Khmer Rouge cadres told the 'Old Cambodians' (those who were under Khmer Rouge cadres' rule before April 1975), that 'New Cambodians' (those who were under the Lon Nol Government) were 'the enemy who would eventually all be killed.' I guess that maybe 90 percent had already been killed in my village.

"A friend of mine, an 'Old Cambodian', who worked for the Khmer Rouge since 1970, was very dissatisfied with the Khmer Rouge. He warned me that I was about to be killed because I had been a student.

Human, Civil and Political Rights. "There is no such thing as human rights or civil rights in Cambodia. There are no rights. I don't know how to imagine what political rights could be in such a system. I know nothing of the central government or its policies. We were not allowed to know."●

H.R. 12326, DEVELOPMENTAL DISABILITIES ACT OF 1978

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. ROGERS. Mr. Speaker, I want to inform my colleagues that the Committee on Interstate and Foreign Commerce has requested a suspension of the rules to consider H.R. 12326, the Developmental Disabilities Act of 1978 at the earliest possible date. It is my intention to seek consideration of this legislation with the following amendment, which is technical in nature and required to bring the legislation into conformity with the requirements of the Budget Act:

Page 34, insert after line 15 the following new paragraph:

"(3) The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.●

THE ROAD TO PROSPERITY—PART XVII—MORE COMMENTS FROM THE NATION'S PRESS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. STEIGER. Mr. Speaker, yesterday, I inserted in the RECORD editorials and commentaries by various newspapers from around the country. Today, I would like to include additional comments by other newspapers. They are writing in support of the Investment Incentive Act. The articles follow:

TAXING CAPITAL ACCUMULATION

The major source of capital accumulation in any country is the personal savings of individuals, and the fact that personal savings have been declining in the United States over the last decade or so poses a real threat to business expansion.

Americans, who enjoy the highest standard of living on earth, currently are saving only 5 percent of their income whereas the French save 15 percent and the Japanese over 20 percent.

A number of Congressmen, led by Wisconsin's Bill Steiger, believe that the severe capital gains tax now imposed on savings is a major deterrent. Sen. Clifford Hansen of Wyoming has now sponsored a bill identical to Steiger's in the U.S. Senate. The legislation would lower the maximum rate on capital gains from today's high level of 50 percent for individuals and 30 percent for corporations to the 25 percent level which existed prior to 1970.

Tax collections have steadily declined since Congress acted in 1969 to raise the rates. The number of individual investors has declined from 31 million to 21 million. Hansen estimates the net loss of risk capital to our economy has been running at about $6 billion a year.

On the other hand, Hansen declares that lowering the capital gains tax would encourage investment activity enough between now and 1985 to create 440,000 new jobs and increase the federal government's revenue by as much as $45 billion.

The normal assumption is that the capital gains tax affects only upper-income taxpayers, but Hansen has uncovered statistics which reveal that more than 50 percent of the taxpayers reporting capital gains have adjusted gross incomes below $15,000.

Actually the capital gains tax is particularly onerous to senior citizens who may be forced to cash in on investments to supplement their income in later years. The individual who has made a lifetime habit of saving for a rainy day finds the government taking up to half his savings when he wishes to make use of them.

President Carter talked much about tax reform during his election campaign. Here is a reform that he could support right now to everyone's benefit.

TAXING CAPITAL GAINS

Talk about flipflop. Not too long ago the economic talk in Washington was all about a tax cut and tax reform. Now the proposed tax cut has been slimmed down, tax reform has fallen overboard and, in one of the craziest switches yet, Congress is warming up to a bill that would reduce the maximum tax on capital gains even while President Carter wanted to raise it. In light of current economic trends, however, the reversal is understandable—and justifiable.

We are not prepared to say that the Steiger bill, which would slash the current capital gains rates for individuals from 50 percent to 25 percent and for corporations from 30 percent to 25 percent (the pre-1969 rates), ought to go through in its present form. The figures can be argued about. But we do think that because of the negative impact of inflation on individuals and businesses the time has come to give them some relief. Today the capital gains tax bites not only into profits from the sale of such assets as stocks or real estate but into the capital wealth itself.

Let's take an example, one cited by the Citibank of New York. A family buys a home in 1966 for $24,000 and sells it ten years later for $46,000. The capital gain is $22,000 and, if this is taxed at half a 30 percent marginal tax rate, the family would pay $3,300 in taxes. But inflation accounted for $17,600 of the gain and the house purchased in 1966 would cost $41,600 in 1976 prices. So, as Citibank points out, the real capital gain was only $4,400 and the capital gains tax, eliminating the inflation effect, should be $660—only one-fifth the liability under present law.

Nevertheless, inflation has skewed the basic rationale of the capital gains tax. As a result, the tax acts as a disincentive to investment, contributes to lower productivity, reduces the mobility of capital, and discourages potential investors.

President Carter seems to stand unalterably opposed to a capital gains tax cut because it would help primarily the small percentage of American taxpayers who earn more than $100,000 a year. This does not take account of the millions of Americans with smaller incomes who would benefit from the potential rise in the value of stocks held by pension funds and mutual funds. Nor does it consider the possibility of corporations using tax savings to boost the productivity of their plants, which would permit larger real incomes for workers.

Capital investment has registered some healthy gains in recent years but a relatively high proportion has gone into environmental and safety measures rather than into expanding industrial capacity. Now the economy is nearing a point of full production capacity and investment capital will be needed for further economic growth. A lowering of the capital gains tax would free up capital, spur stock investors and, in the long run, provide more jobs—a benefit to everyone.

Americans might be surprised to learn that other advanced industrial countries, some of which are politically to the left of the U.S., do better than the United States in their treatment of gains. West Germany, Japan, Australia, Belgium, Italy, and the Netherlands do not tax capital gains at all. Canada, Britain, and Sweden tax capital gains at lower rates.

With high inflation rates expected to stay around for at least a few years, we feel the time has come to follow the west European lead.

[From the Wall Street Journal, May 8, 1978]

MAKING US POORER

The classic debate of economic growth versus income redistribution now turns on the fulcrum of the Steiger amendment before the House Ways and Means Committee. Mr. Steiger wants to reduce the capital gains tax to provide incentives and spur economic growth, and seems to be gaining rather than losing support during the delay designed to head off his proposals. The administration wants to increase the effective rate on capital gains to further "tax reform" and in-

come redistribution, and threatens to veto any tax bill with the Steiger amendment.

There is one simple reason why the capital gains proposal has become the fulcrum of this epic debate, and why Mr. Steiger has gained such impressive support. This is the growing concensus among nearly everyone who has looked at the matter seriously that a reduction in capital gains rates, because of its powerful effect in spurring economic growth, will actually result in an increase in government tax revenues.

Chase Econometric Associates, for example, has explicitly studied the Steiger proposals. Their Michael K. Evans writes, "The reduction in the maximum rate on capital gains taxes from the current level of 49.125 percent to 25 percent on January 1, 1980 would have a positive effect on economic growth while reducing the federal budget deficit. . . . An additional 440,000 jobs would be created by 1985. . . . The federal budget deficit would be $16 billion less by 1985 than would be the case without this reduction in the capital gains tax."

Data Resources Inc., agrees. It studied various tax proposals for the Securities Industry Association. One of the alternatives was the total elimination of all taxes on capital gains. It found that under this proposal, "Tax receipts are lower by $5.1 billion in 1978. In subsequent years, receipts are higher than in the baseline. The net gain in revenues for the five-year period is about $38 billion."

Nor do you need powerful econometrics to come to this conclusion. After simply looking at the actual results of the higher capital gains treatment since 1970, Oscal S. Pollock of Ingalls & Snyder concludes, "The record of receipts from the capital gains tax, related to changes in the tax, certainly suggests that going back to the provisions that were in effect before 1970 would be more likely to add to government receipts than to lower them."

The studies above concentrate on the effect of the capital gains rate on stock prices, and the powerful secondary effects of the stock market on the economy. The capital gains tax is also especially important to one particular economic engine, the high-risk enterprises so important in technological advance. It gives prospective entrepreneurs a big incentive to form their own companies, and investors a big incentive to back them with equity capital.

The American Electronics Association concentrated on these effects in surveying its own members on capital availability, job creation and tax generation by small but growing enterprises. Its task force chairman, Edwin V. W. Zschau, testified to Ways and Means, "Because of the unique ability of long-term investment to generate jobs and economic growth, reducing capital gains taxes may not decrease federal tax revenues at all." In fact, data from the AEA survey indicate that a significant reduction in the capital gains tax rates could actually *increase* rather than decrease federal tax revenues.

Theodore Levitt of Harvard Business School writes in The New York Times, "Tax 'reform' has so drastically cut capital gains and income-offsetting incentives that the flow of venture capital for nascent purposes has virtually dried up. In 1968 over 300 high-technology companies were founded in the United States; in 1976, none."

Rep. Steiger has this mounting array of evidence. Against it, the tax "reformers" offer their ideological bagatelle: All income, however derived, must be taxed equally. Yet the tax "reformers" typically refuse to take their own shining principle seriously. They want capital gains counted as ordinary income, but they do not want capital losses fully and simply offset against ordinary income. While the administration watered down this pristine proposal into jiggering to boost some capital gains rates, the principle remains its guiding light and explains its fervent opposition to Mr. Steiger. But the principle is naive in conception and hypocritical in application.

So the debate is clearly focused. Shall we cut the capital gains tax, spurring growth, creating jobs, boosting government revenues and otherwise building a bigger pie for all to divide? Or shall we boost the capital gains tax, closing a "loophole" and redistributing income, even if it makes us all poorer?

FOOTNOTES TO THE ABOVE

Our original capital gains editorial, "Stupendous Steiger," April 26, has left a couple of points to be cleared up.

The first concerns the position of the National Association of Manufacturers and the Business Roundtable; the NAM objects in a letter today. We have often watched powerful corporations scuttle proposals they nominally favor by subtle shadings of their support—the auto catalyst and oil deregulation issues come especially to mind—and have later seen that the scuttling corresponds to their interests vis-a-vis competitiors. So sad experience has taught us to watch not what business lobbyists say but what they do. Our description of the NAM and the Roundtable as standing silent was based on reports from the trenches, and we do not believe any injustice was done. We are of course delighted to welcome them aboard.

Our original editorial did, however, repeat an error in some of the literature in saying that higher effective tax rates on capital gains took effect in 1969, and were responsible for the drop in capital gains tax receipts that year. The Tax Reform Act of 1969 actually applied to income during the year 1970.

We have also since discovered some better figures on capital gains receipts; Oscar S. Pollock, author of the Ingalls & Snyder study cited above, obtained internal Treasury figures not formerly available. Federal tax receipts from capital gains taxes on individuals for calendar years were:

[In billions]

Year:	receipts
1965	$4.1
1966	4.0
1967	5.5
1968	7.2
1969	5.9
1970	3.6
1971	5.3
1972	6.9
1973	6.8
1974	5.6-p
1975	5.5-p

Mr. Pollock also has an illuminating table on tax treatment of capital gains by various countries, with maximum rates on long-term gains, and holding periods to qualify for long-term treatment:

Country, top rate, and holding period:
U.S. just over 49%*, one year.

Australia, exempt, one year.
Belgium, exempt, none.
Canada, 22%*, none.
Germany, exempt, six months.
Italy, exempt, none.
Japan, exempt, none.
Netherlands, exempt, none.
Sweden, 23%*, two years.
U.K., 30%, none.

[From the Dallas Morning News, June 11, 1978]

A CAPITAL IDEA

You would suppose that the federal government had something against making money. (As maybe it does, only let's not get into that now.)

Anyway, the capital gains tax now stands nearly twice as high, at nearly 50 percent, as it stood in 1969—much to the discouragement of enterprise and capital formation.

A capital gain is the money earned on the sale of assets like securities and real estate. Such income was once regarded as socially useful enough that it was not taxed too severely. But congressional tax reformers raised the hue and cry against encrusted wealth and got the rate boosted to the present level.

The result has been wholly predictable: Fewer purchases of assets subject to capital gains, fewer sales of assets already held. And to speak in broader terms, weakened growth rates in investment, employment and productivity. It is money that creates jobs. High taxes, like the capital gains taxes, make people hold onto their money.

Enter Rep. William Steiger grimacing. Steiger, a Wisconsin Republican, would have his colleagues undo the damage of the past nine years. He would put the capital gains rate back where it was in 1969, at a maximum of 25 percent—a reactionary move in the purest and most admirable sense. Not to react against the present state of affairs is unthinkable.

This is not a matter of mere opinion. Data Resources and Chase Econometrics, the country's leading econometric firms, both predict that the Steiger amendment (as it's called) would boost productivity and investment much higher than they have been in years.

Here is Chase's prediction: A 3.6 percent annual growth rate in Gross National Product (vs. 3.4 percent now) and the creation of 440,000 new jobs; an increase in federal revenue of $45 billion; a $16 billion drop in the budget deficit.

Is there anything to object to in the Steiger amendment? Well, as a matter of fact, the White House professedly is disturbed at the idea of losing $2 billion in revenue. The idea that lower capital gains rates would bring much more money into the Treasury over the long haul seems not to have penetrated the thick skulls of the Treasury's economic analysts, who reason, incredibly enough, that people will buy and sell assets at the same clip regardless of the tax rate. What likewise bothers the watchdogs of the public purse is that upper-income families would pay 3 percent less in taxes.

It would be pleasant if the Treasury people were to poke their heads outside and see what is happening in the real world. The politicians, whole business it is to look around, think their colleague Steiger may well have something. The amendment enjoys wide support in the House. A companion proposal in the Senate has 60 co-sponsors.

Do our eyes deceive us, or is Congress about to do something that makes economic sense? Let's hope so, for the matter is urgent and the hour very late. Our representatives need our encouragement, and the White House, for its hardheadedness, needs our plain-spoken remonstrances.

[From the New York Daily News, July 5, 1978]

THEY'RE TAKING CARTER'S TAX JOKES SERIOUSLY

(By Louis Rukeyser)

An open letter to Jimmy Carter; Dear Mr. President,

Hey, it must really be tough for a topflight humorist like you to operate in Washington, where everybody insists on taking you so seriously all the time.

Take that truly clever put-on the other day, when you were pretending that a cut in the capital-gains taxes would only help the rich folks. I was laughing my head off, as you surely must have intended, but the Washington press corps didn't seem to realize that you were just running through your terrific George McGovern parody for our amusement. Even old Mike Blumenthal appeared to have been misled into thinking you wanted him to follow up on the issue, as if you had been on the level—though a lot of folks over at the Treasury Department think that Mike must

*Excluding state and local taxes.

have been having a hard time keeping a straight face himself.

You'd think, though, that at least somebody in the capital would have recognized that a fellow as smart as Jimmy Carter had to know the real facts about capital-gains taxes, as confirmed by every single independent study: that pushing them up over the last decade has been a disaster for investment and economic growth, and that the true beneficiaries of a rollback would include the poor (for whom jobs would be created) and the middle class (whose opportunities to raise their own living standards would be significantly enhanced). But why am I telling you this? I know you've been acquainted with these realities for months—by, among others, your hand-picked chairman of the Securities and Exchange Commission, Harold Williams. How dumb do those humorless Washingtonians think we are, anyway?

Incidentally, I thought your funniest one-liner of all was the one they reported so straight: you know, the one about how reducing the top rate on capital gains from 49% to 25% would provide "huge tax windfalls for millionaires and two bits for the average American." What a sensational rib-tickler that was! Tell the truth, now, Mr. President: who's writing those screamers for you—the staff of "Saturday Night Live"?

Golly, you'd think those reporters and congressmen who listened without guffawing either knew no economics themselves or figured you didn't. After all, who knows better than you that the big rich of this country are roughly as concerned with capital-gains tax relief as they are whether or not it's going to rain tomorrow? They'll do fine, as always. They've got the capital, and they'll put it where the tax laws make it most desirable. Leave the capital-gains laws untouched, and they'll leave their capital untouched: in things like municipal bonds, which you don't tax at all, and which encourage the growth of tax-consuming government at the expense of tax-producing private enterprise.

Even the economists in your own Administration had trouble suppressing their smirks at the mock "arithmetic" you pretended to use in opposing capital-gains tax reductions. You know, howlers like the assumption that cutting the tax in half wouldn't encourage a single person to take more capital gains—and that marvelously sly one about including in the "$100,000 incomes and up" category somebody who actually earns $15,000 a year but makes a one-time sale of his house for an $85,000 paper profit. What a side-splitter—especially for the guy who gets socked!

By now, of course, many of our legislators are beginning to catch on that all that ludicrous talk about helping the little guy by increasing (!) the capital-gains tax was just an election-year comedy bit. After all, more than 60 Senators are already committed to reducing the tax and thereby spurring investment, hiring and personal income. They know you must see, as they finally do, that the misguided "populism" of the last decade really slowed things down for those at the bottom of the ladder. But I guess your marvelous subtlety is too elusive; so why not just 'fess up, straight out, that you've been gently kidding us all this time. Admiringly yours.

[From the Richmond Times-Dispatch, July 4, 1978]

OVER ECONOMIC POLICY RISES THE GHOST OF HERBERT HOOVER

(By Patrick J. Buchanan)

WASHINGTON.—President Carter's denunciation of the Steiger Capital Gains Amendment is one more manifestation of the intellectual poverty of his administration.

Ignoring the powerful economic arguments for cutting the capital gains tax back to 25 percent—from the present 50 percent level—the president resorted to rank demagoguery. I will veto this measure, he declared, because it would benefit the rich.

"Eighty percent of its tax benefits would go to one-half of 1 percent of the American taxpayers who make more than $100,000 a year. Three thousand millionaires would get reductions averaging $214,000. The other 99.5 percent of our taxpayers would not do quite so well. . . .

"The American people want some tax relief from the heavy burdens of taxation on their shoulders. But neither they nor I would tolerate a plan that provides huge windfall profits for millionaires and two bits for the average American. That underestimates the intelligence of the American people."

Meaning no disrespect, it is Carter who is constantly insulting the intelligence of the American people, with his phony populism.

Is he seriously suggesting that the black mayor of Los Angeles, countless black bankers and 60 members of the U.S. Senate have endorsed the Steiger Amendment in order to provide "windfall profits" for the Rockefeller family?

Is the president ignorant of the study done by Michael Evans of Chase Econometric Association, Inc. which forecasts between 1980 and 1985 some 440,000 new jobs and a $16 billion reduction in the federal deficit if the Steiger Amendment is enacted?

If so, why did he ignore the job side of the picture? Why did he simply repeat Treasury's in-house protection of a loss of $2 billion in federal revenue?

Like the Kemp-Roth bill, the Steiger Amendment is one of the more hopeful and innovative ideas to avert the recession so many economists are projecting for 1979.

The purpose is to encourage individuals and institutions with money to shift their capital into enterprises that will guarantee expansion, growth and jobs.

For Jimmy Carter to dismiss the Steiger Amendment as a rip-off for the country club crowd comes dangerously close to being an act of calculated intellectual dishonesty.

Few other nations tax capital gains at the rate levied in the United States. In many Western countries, there is no tax on capital gains, because governments have come to recognize the correlation between capital investment and economic growth.

There are other facts of which Carter must have been aware, yet which he chose consciously to ignore in his press conference outburst.

In 1968, the last year in which the capital gains tax stood at 25 percent, the federal government collected more than $7 billion. The following year, when the rate rose by 40 percent (up to a 35 percent maximum), government revenues plunged below $5 billion.

What happened was that those rich whom Carter appears to despise—despite the presence of so many in his Cabinet—simply took their money out of the investment markets. As a consequence, the nation suffered.

A decent but stubborn man, Carter in many ways resembles the late Herbert Hoover.

Faced with an economic depression, which called for tax reductions across the board, Hoover fell back upon *his* ideology—the balanced budget and the high tariff. The consequences: An economic crunch became an economic catastrophe.

The only beneficial side effect to Carter's apparent animosity toward the wealthy and the large corporations is that the principal political victim of his antiquated economic police policies is almost certain to be Jimmy Carter himself.

[From the Plain Dealer, June 27, 1978]

WAY TO SPUR INVESTMENT

During his 1976 campaign for the presidency Jimmy Carter proposed a "complete overhaul" of the Federal tax system. One change he advocated was treating capital gains just like wages, interest or other regular income: Tax every dollar of it.

But he has retreated from that reform plan. Congress and an impressive army of economic experts are eager instead to expand the tax advantages for capital gains.

If you sell a piece of property or the 50 shares of stock your uncle left you, you figure your profit, you divide that by two and that is how much you add into your total income.

The tax on capital gains therefore ranges from 7 percent to 35 percent instead of the 14 percent to 70 percent you pay on regular earned income. It is an important advantage. Tax expert Joseph A. Pechman of the Brookings Institution says it stimulates investment and taking risks.

America urgently needs to stimulate investment. Treasury Secretary W. Michael Blumenthal acknowledged that in a speech May 8. Investment in this country has slowed to where it might not keep step with the growth of the American work force.

In the five-year period ended in 1968, when the maximum capital gains tax rate was 25 percent, real business investment increased at an average rate of 8 percent. But in the five-year period ended in 1977, when the maximum capital gains tax rate was up to 49 percent, investment rose only an average of 1.7 percent.

Rep. Charles A. Vanik, D–22, calls the capital gains advantage "fat cat delight." And indeed only 370,000 out of the 88.5 million taxpaying households would get any advantage from still further preferential rates for capital gains.

But the United States is far behind other advancing industrial countries in risking capital on new ventures. As a percentage of gross national product, business investment is 17.5 percent in this country, less than in Japan, France, the Netherlands, Belgium or West Germany. In Japan it is 32 percent.

Without letting "fat cats" get away with paying zero tax on big returns, Congress should cut back the tax rate on capital gains. It is at a maximum of 49.1 percent now. The Carter tax reform would now increase it to 52.5 percent. It would be better to return the rate to the 25 percent in force until 1969.

That return to 25 percent is packed into a tax bill shaped by Chairman Al Ullman of the House Ways and Means Committee with the help of Reps. William A. Steiger, R-Wis., and James R. Jones, D-Okla.

President Carter attacked the Steiger tax bill yesterday, saying it would benefit mainly "30,000 millionaires." But that bill has strong economic arguments on its side.

One economist says it would lift stock prices, create 440,000 new jobs and decrease the Federal deficit by $16 billion.

Whether the result would be that rosy or not, the need for capital formation and new zest in American investment makes the Ways and Means Committee tax legislation look very sensible.

[From the Charlotte Observer, June 28, 1978]

FOR MORE JOBS PASS THE STEIGER TAX CUT

President Carter's outburst against the Steiger Amendment was petty. The president said, of the proposal to cut the capital-gains tax, that it "provides huge tax windfalls for millionaires and two bits for the average American." That is classic politicking, cussing the rich, and it slides around the critical U.S. problem of finding the dollars to establish business and create jobs.

The Steiger Amendment, proposed by Wisconsin Congressman William Steiger, would cut the capital-gains tax back to 25 percent, its 1969 level. A capital-gains tax is what the government collects when you sell a share of stock for more than you paid for it, or when you sell your house for more than you paid for it (and don't buy another). It was doubled, in the name of tax reform, in 1970, and it was then that U.S. investment dollars be-

gan disappearing. Investors began putting their dollars elsewhere.

The scarcity of such dollars means the United States isn't spending enough on new machinery, factories, research. That hurts productivity, so when you go out to find a job there are fewer available.

"The facts are inescapable," the administration's own Treasury Secretary, Michael Blumenthal, said recently. "We aren't saving enough. Our financial system is providing insufficient equity capital. We aren't investing near enough in productive plant, equipment and technological innovation."

Now there may be better ways of stimulating investment than cutting the capital-gains tax rate. But the Steiger Amendment has the virtue of simplicity, and has attracted a lot of support, including that of a majority in the House Ways and Means Committee. That simplicity, in an election year, has much to recommend it.

The administration, aside from President Carter's cheap-shotting about rich so-and-sos, says the Steiger tax cut would cost the Treasury about $2.2 billion a year. The studies we have seen conclude the opposite, that investment would be so strongly stimulated that the federal revenues would increase. Indeed, the Treasury's own figures are revealing:

Federal tax receipts from capital gains taxes on individuals in 1969 were $5.9 billion. In 1970, when the higher tax rate took effect, the federal take dropped to $3.6 billion. A lot of dollars had fled, obviously, and they are still gone. Would the Steiger Amendment bring them back? Chase Econometric Associates, a leading economic forecasting organization, concluded that it would create 440,000 jobs within four years and reduce the federal deficit by $16 billion.

In West Germany, capital gains are untaxed. They are untaxed in Australia, Belgium, Japan and the Netherlands. The Canadians tax them at 22 percent, compared with the U.S. 49 percent. The evidence, overwhelmingly, is that the U.S. tax rate has gone far beyond the point of diminishing returns.

Yet President Carter threatens a veto. He still has room to extricate himself from the tangle of his own words, however, and we believe he is a large enough man to do so. The country needs investment, the country needs jobs, and the Steiger Amendment is a simple and workable approach to both.●

A TRIBUTE TO MR. AND MRS. WILLIAM H. NEWELL

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. STARK. Mr. Speaker, it is with great honor that I ask my colleagues to join me in honoring Mr. and Mrs. William H. Newell, a couple who has done more for the community of Oakland than can be documented by words alone. They are being honored this night at a testimonial dinner, an acknowledgement of their selfless actions performed throughout their lives, public recognition which is long overdue.

I could merely list what the Newells have done for the community of Oakland, which ranges from Head Start programs and PTA to juvenile counseling and planned parenthood. But I would not be presenting a true picture of the love the Newells have for the people of Oakland by listing the numerous organizations and programs they have been part of. Rather, I would like to focus on that aspect of love which the Newells have which goes above and beyond the normal call of civic duty.

Specifically, I am concerned with how the Newells have opened their family ranks as well as donated their time to the people of Oakland. Not only did the Newells raise 5 fine children of their own, they also reared over 30 foster children in the last 28 years. Their love and concern for these children was like that of parents to their own progeny. When some of their foster children were behind in school, the Newells fought for them as well as all foster children, assuring that they would have a public education equal to that of other schoolchildren. The ties these children have with the Newell family have remained strong even after they had succeeded in life and were no longer dependent on the Newell's support. The ties between these children and their foster parents went beyond mere fiscal dependence—it extended into the bounds of love, ties which can never be broken.

The Newells are worthy of any honor they receive and I was pleased to discover that their humanitarian actions were being acknowledged tonight. I am certain that my colleagues agree with me and will join me in wishing the Newells the best of luck in their future life.●

LET'S NOT TORPEDO OUR NAVY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. SYMMS. Mr. Speaker, J. William Middendorf, II, former Secretary of the Navy, has written and spoken extensively since retiring from the Navy on the strategic balance, and the future role of the U.S. Navy. I wish to commend former Secretary of Navy Middendorf for his continued efforts to inform the American people of the need to maintain a strong military posture.

Mr. Middendorf reminds Americans that "our freedom is not preordained, and that without a strong defense we would not be able to keep it."

The article reads as follows:

LET'S NOT TORPEDO OUR NAVY

(By J. William Middendorf II)

Since retiring as Secretary of the Navy last year, I have been haunted by the feeling that my obligation to the American people won't be fully discharged until I deliver a final word, my own view of our ability to continue to safeguard our freedom. As a private citizen, I have no ax to grind, save the ax all Americans ought to be grinding—that we maintain the military posture it takes to deter war, to ensure our vital interests, to protect freedom and to prevail if war comes.

That is the posture we began keeping in the early 1950s and which for several years now has been in serious decline. Indeed, so severe is the decline that I fear we are fast approaching a time of testing such as the United States has never had to endure. Unless we move fast on a Naval rebuilding program, I'm convinced that the next ten years will see the end of U.S. ability to deter and prevail, with all the grave consequences that implies for free people everywhere.

We've had warnings:

During the 1973 Middle East War, the Soviet navy was quickly able to double its Mediterranean fleet to 96 ships on station. And this wasn't even an all-out effort by the Soviets. Against it, we went all out to reinforce our Sixth Fleet to a peak strength of 66 units. The Soviets were armed with deadly anti-ship cruise missiles, a weapon not then in our own inventory. Knowledgeable professionals differ as to who would have prevailed in a Soviet-American shoot-out. Fortunately, we didn't have to find out, but Moscow's boldness during that crisis brought us to the brink of World War III.

Huge Soviet navy war games were held in 1970 and 1975. Called Okean (Ocean) 70 and Okean 75, they are full of ominous meaning for the future. In Okean 75, hundreds of Soviet air, surface and undersea combatants were deployed over the world's seas with intelligence collectors, oilers, repair ships and merchant convoys and put through intensive, coordinated maneuvers. It was the greatest show of naval strength in history.

Five major shipyards in the U.S.S.R. produce submarines—with six more building large surface ships. All these huge yards have been expanded and modernized in the last five years, to produce a steady stream of new ships.

STRATEGIC THREAT

In short, there has been an alarming shift in the balance of naval power and the abilities of the Soviet and American navies to perform their different missions. Though many of our ships are superior in quality and our sailors are more experienced, the Soviet navy now is more than triple the size of our fleet and its overall effectiveness is increasing.

Our way of life depends on the unimpeded flow to us of essential raw materials and energy—we now import *all* our rubber, chromite, cobalt and manganese ore and *half* our oil. Ninety-nine percent of our overseas trade is carried by ship. Our survival depends upon a Navy competent to keep open the sea lanes, pose a believable deterrent and enable us to support our allies in the event of war.

By contrast, the U.S.S.R. is relatively self-sufficient in raw materials and energy. The Soviet Union can support itself and provide most of its allies with economic and military aid without crossing a major body of water. A truly peaceful Soviet government would be content with adequate coastal-defense forces—the kind of naval force the Kremlin kept until 15 years ago. Since then, it has sought to create a navy of such speed and devastating fire power (at the expense of cruising range) that it can overwhelm any U.S. Naval force. It has created a "first strike" navy.

This explains the enormous Soviet naval buildup of the past decade and a half. The Kremlin became aware in the late 1950s that without a blue-water navy it could not influence world events. The Soviets were embarrassed at their impotence in 1956 when a British and French naval expedition invaded Suez; and in 1958, when the U.S. Navy moved strong forces into the eastern Mediterranean to discourage communist interference in Lebanon's disorders. The last straw was the 1962 Cuban missile crisis, when a U.S. Naval blockade and threat of overwhelming American nuclear retaliation forced the U.S.S.R. to remove nuclear missiles it had been installing in Cuba.

But now the U.S.S.R. boasts the world's largest strategic (long-range, nuclear-ballistic-missile-carrying) submarine fleet. The Soviets have launched 60 such boats in the past ten years. Their Delta Class submarine—27 operational and more abuilding—is the

world's largest. Each is poised to fire 4200-mile-range missiles.

That distance exceeds by some 1700 miles the range of our most advanced submarine-based missile, the Poseidon. It also approximates the range of our new Trident I missile, which won't reach the water until close to 1980. The Delta Class missile now makes it possible for the Soviet strategic submarine force to attack virtually every city in the United States from the U.S.S.R.'s home waters.

The Soviet force also includes 33 Yankee Class boats, each fitted with 16 1300-mile missiles, and 30-odd older nuclear- and diesel-powered boats, each carrying a number of 350- and 650-mile nuclear missiles. Against this, the United States has a ballistic-missile-firing submarine fleet of 41 relatively old Polaris and Poseidon boats.

SHRINKING MARGINS

The Soviet navy's commander in chief, Adm. Sergei Gorshkov, has vowed publicly to achieve a navy that is second to none. Is he achieving this goal?

Recently retired Chief of Naval Operations Adm. James L. Holloway III has delivered a sobering assessment to Congress: we retain "a slim margin of superiority." The Chief of Naval Operations four or five years from now may not be so optimistic, since that "slim margin" is represented by our 13 aircraft carriers. In 1976, the Soviets deployed their first, the 45,000-ton *Kiev*. A second *Kiev*-class carrier is nearing completion and a third is under construction. We probably can expect to see more and perhaps larger carriers joining Soviet fleets through the 1980s.

Although Gorshkov's carriers do not yet give him the long-range striking power ours provide, he has 1250 land-based naval aircraft, of which 30 are the new supersonic Backfires. These have at least a 5000-mile range, and pose a terrible threat to our Mediterranean and Pacific fleets. They could also menace any Naval force that we might bring into the Indian Ocean to shore up a Red-threatened oil-rich state.

The Russians also have tried to offset our superiority in aircraft carriers by arming scores of surface ships and submarines with deadly anti-surface-ship cruise missiles. There is frightening evidence that they are developing a new guidance technology, which will enable a missile-firing ship or submarine to stand off at a distance, find a target ship with over-the-horizon radar, and fire a weapon that will streak at 2000 m.p.h. 50 to 60 feet above the sea, underneath our search radar.

Our scientists have been developing a weapons system to counter this threat. It's called Aegis, and we know it will find incoming Soviet missiles 30 to 40 miles out and blow them up. But at the earliest, it will be 1981 before the system can be deployed on the first ship.

SOVIET SQUEEZE

In addition to a strategic submarine force twice the size of ours, the Russians now have by far the world's largest attack submarine fleet, well over 200 boats, for anti-shipping and anti-submarine purposes. Imagine what the Soviet attack force could do in the event of war! Nazi Germany, which began World War II with 57 submarines, primitive by today's standards, very nearly succeeded in severing our Atlantic supply lines, sinking some 14 million tons of Allied shipping. Clearly, the lesson has not been lost on the Soviets.

Against the U.S.S.R.'s huge surface and undersea forces we can deploy a total of 82 attack submarines.

The Russians also have more of all kinds of surface combatants than we have: more cruisers, more destroyers and other escort types; they vastly outnumber us in small (less than 1000-ton) attack boats. Yet these are fast, maneuverable and hard to hit. Equipped with new nuclear-tipped missiles, they pack a lethal wallop. The Soviets now are also moving to gain an advantage with amphibious ships that carry marines and their arsenals, including tanks, into beaches. They have some 100 such ships. We have 63, and we would need 48 of these to embark a single Marine amphibious force.

The Soviet navy has the world's largest naval-mine-warfare force, the world's largest inventory of naval mines and a capable anti-mine-warfare force. It also has the world's largest fleet of intelligence collectors—so-called "spy ships." Approximately 50 are deployed all over the globe—many posing as merchant or fishing vessels.

With their modern, powerful navy, the Soviets are showing the flag in more and more places, doing their best to influence events. During the Angolan war, Soviet naval units were deployed offshore in a show of support for their Cuban proxies. They now cruise regularly in many of the world's major seas. (A Soviet task force has come within 25 miles of Hawaii and another has entered the Gulf of Mexico.) They have obtained the use of port facilities in the Indian Ocean, the Mediterranean, on the west coast of Africa and in the Caribbean. It is obvious that the Kremlin employs its naval forces in support of an ambitious foreign policy targeted at controlling the world's raw-material sources.

I don't think most Americans, including many in Congress, really grasp what a tough fix we are in, or will be in soon. If present trends continue, for example, it wouldn't surprise me to awaken some morning to the news that the Soviets have annexed the warmwater ports of northern Norway, which they have long coveted. Or to be told by Moscow that "the situation must be stabilized" by the Soviets in some politically troubled oil-rich state which is important to our survival.

U.S. RESPONSE

We are in this fix for a lot of reasons, including old, discredited theories that the Russians are as interested as we are in arms control and disarmament. Powerful voices in this country continue to urge that we disarm unilaterally, insisting that the Russians will then disarm, too. In fact, we have long been unilaterally disarming. Among other things, we have halved the size of our Navy—we now have 458 ships, against nearly 1000 ten years ago.

But the main reason we are in this fix is that during the 1960s, while the Soviets were working hard to develop the mightiest military posture in world history, we were pouring our resources into the Vietnam war. We neglected our defenses, none more than our Naval component. By the end of the 1960s we were confronted with block obsolescence, large numbers of ships built in the 1940s and 1950s that were not worth expensive restoration.

Currently, our Navy is smaller than at any time since two years before Pearl Harbor. Yet the Carter Administration has just cut in half the Navy's five-year shipbuilding plan! Congress will be gravely risking our survival if it allows this to happen.

We simply must rebuild the Navy. That doesn't mean refurbishing obsolete ships. We need a modern, self-sufficient Navy that can operate in distant areas without having to rely on overseas bases.

Admiral Holloway has estimated that the balance Naval force we needs comes to about 600 ships. In preparing this force, we must understand that, from the time initial plans are prepared for Congressional approval, it takes eight years to get a Trident submarine to sea, ten years to float an aircraft carrier. And weapons technologies improve so rapidly that when we build certain new systems, we have to hope that they won't be obsolescent in ten years.

But we have no choice. We must understand that our freedom is not preordained, and that without a strong defense we won't be able to keep it. So much time has been lost already that, even if we start now, we are in for some rough and scary sailing in the years directly ahead.●

FEDERAL REGISTRATION OF HANDGUNS FAVORED BY FOUR OUT OF FIVE AMERICANS

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. McCLORY. Mr. Speaker, the American public appears to be more objective and understanding of the problem of handguns as related to crime than some of the more fervent opponents of improved Federal gun legislation.

According to the latest Harris Survey, a total of 80 percent of the adults nationwide favor Federal registration of handguns. It should be clearly understood that this has no relation to gun confiscation and it does not affect the subject of ownership of rifles or shotguns.

Mr. Speaker, the August 7 Chicago Tribune article reporting on the recent Harris Survey follows:

80 PERCENT FAVOR GUN CONTROL

(By Louis Harris)

Support for gun control legislation in the United States is now higher than at any time in recent years. However, the anti-gun-control forces are able to mobilize their supporters more effectively than those who oppose them.

According to a recent Harris Survey of 1,500 adults nationwide, an 80 to 18 percent majority favors a federal law "requiring that all handguns people own be registered by federal authorities." This is slightly higher than the 77 to 19 percent who favored such legislation back in 1975. Among the 43 percent of the public who own guns, federal mandatory registration of handguns is favored by 71 to 27 percent.

By 73 to 24 percent, a majority would also favor "requiring that a permit be obtained by anyone who purchases a rifle." Back in 1975, a smaller 66 to 30 percent majority felt this way. Among gun owners, a 59 to 39 percent majority now favors requiring permits in order to purchase a rifle. Such permits are not now required under the law.

There has been no change in the 73 to 25 per cent majority that continues to favor "federal laws which would control the sale of guns, such as making all persons register all gun purchases no matter where the purchases are made." Among gun owners, a 61 to 37 per cent majority also favors gun control.

Gun owners turn out to be a substantial segment of the population these days, with 43 per cent of the public reporting that someone in their household owns a gun.

Significantly, 45 per cent of all whites own a gun, compared with a much lower 28 per cent of blacks.

What kind of guns belong to gun-owning families?

At the top of list are rifles, owned by 72 per cent of all gun owners, up from 71 per cent in 1976. Nearly one third of all the families in the country now own a rifle.

A sustantial 65 per cent of all gun owners possess a shotgun. This means that 28 per cent of the nation's households own a shotgun.

Forty-seven per cent of all gun owners have a pistol or handgun. This means

that one in every five families has a handgun in the house.

Finally, 8 per cent of all gun owners possess a muzzle-loader.

Members of Congress know that sizable majorities of the public favor various forms of gun control, but when the legislative chips are down, the heavy pressure comes from the anti-gun-control group and it seems to be decisive.

In the latest Harris Survey, the 80 per cent of Americans who favor federal registration of all handguns were asked if they would reject a candidate for Congress mainly on the grounds that he took a stand against gun control. By 57 to 33 per cent, members of the group said, no, they would not reject a candidate for this reason.

As for the 18 per cent minority who oppose the federal registration of all handguns, 45 per cent of them indicate that they would vote against any candidate who favors this form of gun control. The bottom line here is that 8 per cent of the public not only oppose gun control but also would reject any congressional candidate who is for it.

Despite these numbers, the antigun-control group has simply been more effective politicially than those who support control. ●

A TRIBUTE TO POPE PAUL VI, A CHAMPION OF HUMAN RIGHTS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 7, 1978

● Mr. MAZZOLI. Mr. Speaker, I rise to express my sadness over the death of His Holiness Pope Paul VI.

Pope Paul's historic trip to the United States in 1965, his meetings with three American Presidents and nearly all major world leaders, and his constant advocacy of world peace have won him a special place in the hearts of all people, Catholic and non-Catholic.

Also, at a time when concern for human rights has been rediscovered, it is well to note that nearly 13 years ago Pope Paul issued the "Pastor Constitution on the Church in the Modern World" which said in part:

Since all men possess a rational soul and are created in God's likeness, since they have the same nature and origin, have been redeemed by Christ, and enjoy the same divine calling and destiny, the basic equality of all must receive increasingly greater recognition.

True, all men are not alike from the point of view of varying physical power and the diversity of intellectual and moral resources. Nevertheless, with respect to the fundamental rights of the person, every type of discrimination, whether social or cultural, whether based on sex, race, color, social condition language, or religion, is to be overcome and eradicated as contrary to God's intent. For in truth it must still be regretted that fundamental personal rights are not yet being universally honored. Such is the case of a woman who is denied the right and freedom to choose a husband, to embrace a state of life, or to acquire an education or cultural benefits equal to those recognized for men.

Moreover, although rightful differences exist between men, the equal dignity of persons demands that a more humane and just condition of life be brought about.

Human institutions, both private and public, must labor to minister to the dignity and purpose of man. At the same time let them put up a stubborn fight against any kind of slavery, whether social or political, and safeguard the basic rights of man under every political system. Indeed human institutions themselves must be accommodated by degrees to the highest of all realities, spiritual ones, even though meanwhile, a long enough time will be required before they arrive at the desired goal.

A more profound and precise statement of human rights has never been written.

Pope Paul's distinguished memory could not be better memorialized as a more fitting tribute to his great achievements devised than for all human beings "to minister to the dignity and purpose of man."

May the soul of this gentle and good man rest in peace.●

NEW YORK CITY SETTLEMENTS SUPPORT H.R. 12146

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. MURPHY of New York. Mr. Speaker, it is my pleasure to include at this point testimony prepared by the Association of Lower East Side Settlements in support of H.R. 12146, the Adolescent Health Services and Pregnancy Prevention and Care Act of 1978.

This organization, known as ALESS, is composed of the Chinatown Planning Council, the Educational Alliance, the Grand Street Settlement, Hamilton-Madison House, Henry Street Settlement, and the University Settlement. It was formed in 1974 to coordinate efforts among its members in the areas of programs and administration as well as policy decisions affecting the settlement's services. For the last few years ALESS has been involved in a program providing educational and vocational guidance to young girls in the community between the ages of 10 and 17. This program has given the organization a unique perspective from which to speak on this legislation, H.R. 12146. I commend it to the reading of my colleagues.

TESTIMONY OF ASSOCIATION OF LOWER EAST SIDE SETTLEMENTS

The Association of Lower East Side Settlements, which has operated a program for low-income teen-age girls for over three years, is grateful for the opportunity to present its views on S. 2910/H.R. 12146, the Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978.

The Association is composed of six community and neighborhood centers, listed at the end of this testimony, all providing services in New York City's Lower East Side, a multi-ethnic area of 200,000 people, the majority of whom are low-income.

We would like to express our strong support for this legislation. This support is based on our experience in working with the teenage population at-risk of unwanted pregnancy. Our commitment to the legislation's goals of developing networks of community-based services via better linkages among programs and an increase in the availability of community services stems from our experience in the operation of the DAWN Program (Discovery and Awareness for Women Now) as a joint effort in the six member agencies of the Association. We would like to describe this program, and from that description, it will be clear why we are supportive of S. 2910/H.R. 12146.

The DAWN Program, which has thus far been supported entirely by private foundation funds, has, in its provision of services to girls, emphasized several components that the new legislation also emphasizes:

1. We have developed a coordinated approach among community-based agencies. Six community centers, each serving a different sub-area of the Lower East Side, and thus a slightly different population, have collaborated in developing a comprehensive, but varied, approach to work with minority teen-age girls. The agencies have shared services among themselves, for example, vocational counseling and supplementary educational activities, and have served as an access point to additional services that girls need, for example, more intensive help in working out family relationships and health care, including contraceptive information and services where needed. This community network has provided a variety of services that different girls can use in different ways.

2. We have developed a conceptual approach to providing services to teen-age girls. Our neighborhood, the Lower East Side, ranks third in New York City in teen-age pregnancy, coming after only Central Harlem and East Harlem. It is a neighborhood characterized by poverty, physical blight, high welfare rates, and high rates of health problems. We find a major social characteristic of such a neighborhood to be a pervasive and deep passivity, in particular among the females: life situations "happen" to the girls and young women, rather than their choosing them, and behavior adapts accordingly. Thus, becoming pregnant in one's teen-age years is not something one has necessarily chosen, but is rather the workings of "fate." Likewise, dropping out of school is less an active choice than a series of unplanned circumstances that, cumulatively, result in finding oneself out of school. The girls with whom our agencies work see around them passivity, an inability to affect one's life, a sense that one is marginal in every way, and this means that they tend to lack sufficient incentive to anticipate events in life.

It is to this complex of issues that our program has addressed itself: we believe the girls need to acquire skills in anticipating the future, making decisions, exercising control over their lives. Without some vision of this kind and the skills to move towards it, they have little incentive to accept the kind of responsibility for their activities that is necessary for preventing pregnancy. While we support giving out both contraceptive information and devices, we do not think that such an approach is sufficient if one has not involved the girls in a more total approach to their lives.

Thus, our conceptual approach is that to work with these girls, individually and in groups, staff must create programs that emphasize future orientation and development of decision-making skills.

Based on our conceptual approach to girls' needs and our coordinated structure, the DAWN Program has, over its three-year history, emphasized educational and vocational concerns, health and sex education, and leadership development.

Activities in each settlement house/community center have varied, but all have emphasized these foundations. At this point, we believe we have identified some important issues and are moving in the right direction. A research study just being completed, which compares the DAWN girls with a variety of national norms regarding sex

knowledge, coital experience, pregnancy rates, drug use, school drop-out rates, etc., indicates that the girls who have been in our program have fared significantly better in all these areas.

This brief description of the Association's DAWN Program is intended to provide Committee members with the basis for our comments and recommendations on the S. 2910/H.R. 12146. Evidently we are committed to a community-wide coordinated comprehensive approach to services for teen-age girls as a means of preventing unwanted pregnancies. We recommend that the starting point for services under this legislation be agencies with a holistic approach to the needs of this population, rather than providers of discrete parts, such as just birth control. In other words, the needs of the total girl must be addressed if she is to be helped either to avoid pregnancy, or, if pregnant, to become as self-sufficient as possible. We think that the community centers with a commitment to girls are logical places of access into other services. A network of agencies that covers a neighborhood is an effective way of tailoring programs to reach different subpopulations on the one hand, while being large enough to develop needed linkages with medical facilities, educational institutions, citywide resources such as employment and vocational opportunities, and statewide resources/efforts to impact on the problem.

In conclusion, we support fully both the intent and the content of the Adolescent Health, Services, and Pregnancy Prevention and Care Act of 1978. We hope that the legislation will provide for a spectrum of community-based services of varied content, linked together so that teen-age girls can take full advantage of every possible resource.●

CAMBODIAN LESSONS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. LAGOMARSINO. Mr. Speaker, there are a number of important lessons that the West needs to draw as it surveys the grim havoc and slaughter occurring in Cambodia. The first lesson is that such butchery is not an aberration in Communist regimes, but is rather a manifestation of their essential nature.

This is because politics understood as deliberations over: "What is best or right for my district, my party, or my country?" does not exist in Communist regimes. Marx and Lenin did not believe that men could deliberate about what is right or wrong. They were materialists, and believed that an individual's thought was completely determined by his economic situation. Since the opinions of men were fixed by fate, and could not be changed through persuasion; there was no role for reason or deliberation to play in deciding the outcome of unsettled issues. Instead of reason, force is the arbiter of unresolved questions. As a result, we see the woeful cycle of bloodletting and extermination repeated time and time again, in every country where a communist party comes to power. The enemies of the revolution are regarded as mere vermin—fit only for extinction.

Furthermore, ruling Communist parties have the same regard of, and plans for their international enemies as they do for their domestic, and would gladly apply the same remedies—if they were in a position to do so.

Yet, somehow all this is lost on the West. Unfortunately, Mr. Carter is not alone in believing that Brezhnev shares with us the desire for peace. But Brezhnev's peace is the peace of the conqueror: "Mark, where his carnage and his conquests cease, he makes a solitude, and calls it peace."

It is positively stupefying that so many in the West—particularly intellectuals, would fail to recognize the brutal and barbaric nature of Communist regimes. They also fail to draw the necessary implications which that fact has for the conduct of interntional relations.

Even more appalling, however, is the mesmerizing appeal exerted by leftwing tyrannies over large numbers of Western intellectuals. How else can we explain the deafening silence in the West regarding the holocaust in Cambodia? How else are we to explain the pious fraudulence with which rightwing authoritarian regimes are condemned for violations of human rights, while nothing is said concerning the far greater abuses of the leftwing totalitarian regimes?

Those intellectuals of whom we speak are but the descendants of a long line of thinkers who have shamefully "played the fool" for leftwing tyrannies. In Western intellectual circles in the 1930's there was a large and flourishing cult of Stalinists, and the late 1960's and early 1970's has witnessed the rise of the cult of Maoists. Both groups have proved equally adept at either ignoring or explaining away the unspeakable horrors perpetuated in those satanic slaughterhouses.

Perhaps those intellectuals are fascinated by and enamored with the unencumbered exercise of power. And doubtless the ends for which power is used in those nations—the creation of the new Soviet or Chinese man, free of human defects, serves to distract the intellectual from noticing the hideous price which is exacted in the pursuit of paradise here on Earth.

It is said that throughout the Carter-staffed executive branch, a certain Pogo cartoon can be found, dutifully taped to many a cubicle wall. The cartoon, which supposedly summarizes the wisdom of the post-Vietnam era regarding the exercise of American power, bears the caption: "We have met the enemy, and he is us." Regrettably, this cartoon applies far more aptly to the susceptibility of many Western intellectuals to the siren call of leftwing tyranny.

I place in the RECORD an article by Jack Anderson:

SURVIVING THE HARD WAY IN AMERICA

(By Jack Anderson)

From eyewitness accounts and intelligence reports, we have written about the horrifying mass slaughter of men, women and children who belonged to the old order in Cambodia.

But there is another story, just as grim, about the people who have managed to survive in the radical and primitive culture that the communist conquerors have created in Cambodia.

It's a story that cries out to be told. Already, in response to our past columns, Americans by the thousands have called upon Congress and the United Nations to brand Cambodia as an outlaw nation.

The Khmer Rouge have completely cowed the Cambodian populace by demonstrating that they will bludgeon to death anyone who steps out of line. Mistakes that wouldn't even be considered misdemeanors in the United States are punishable by death in Cambodia.

There are two levels of crimes. Those who arrive for work late, work too slowly, feign illness or mistreat their children are guilty of first-level violations. The offenders are "sent to Kosang," explained a man who worked for the Khmer Rouge in Sisophan. "Kosang" means "reconstruction."

"If you are caught twice, you are sent to Kosang again," he said. "If you are caught a third time, you are dead."

Just about all other crimes are capital offenses. "If you are caught for these, you will be killed the first time. They kill you by bludgeoning you," said a man who escaped from Odar Mean Chey province.

What are some typical capital offenses? "Gathering with more than three people of different families, complaining about working conditions or food allocations," replied the refugee. "Even visiting a friend in his home is prohibited."

Romance is also strictly controlled. Contrary to the communist claim that classes have been abolished, villagers are permitted to marry only other villagers, and relocated city people must marry within their class.

The rules apply even to party cadre. "If one of the party cadre in a village is caught in an affair with one of the villagers, he will be stripped of his authority and sent to work in the fields. But he will not be killed, because he has been working for the people," explained a former teacher from Kach Roteh who walked 21 days to escape.

"When a young man or woman wants to marry," he continued, "they must contact the village chief who writes down their request. When the list is long enough, the party organizes a mass wedding ceremony" that won't interfere with the work schedule. "Fornication and adultery are dealt with by death," he added emphatically.

The populace is divided into villages ranging from 100 to 600 people. They walk from their villages each morning to centralized farming collectives. The journey may take as long as two hours.

For the masses, life under communism means working seven days a week, 365 days a year. They build dikes, cut timber, toil in the rice fields. But because the work is poorly planned, much of the labor is wasted.

The workday begins at sunrise and lasts 12 hours, with a short break around 11 a.m. During harvest time, the work continues into the night. In some villages, people must attend to indoor chores after a long, grueling day in the fields.

In return for their hard labor, the people draw meager rations. The harvest is hauled off in Angkar trucks, then the food is allocated back to the villagers. The daily ration seldom exceeds one cup of rice, with a cup of salt that is supposed to last a few weeks. Only the elite—members of the party or army—get meat on their menu.

Disease is a major problem. The Khmer Rouge, in a fanatic effort to wipe out the past, have rejected bourgeois medicines and remedies. They rely instead on primitive tribal medicines, such as tree roots boiled by village medicine men.

The villages, meanwhile, have taken a step backward in time. Money has been abolished. There is no motor traffic, except for an occasional military vehicle. In a typical village, the chief and his staff are allowed to ride the

single bicycle. Light at night comes from unusually slow-burning tree resin.

Yet it would be a mistake to think Cambodia, now called Democratic Kampuchea, is run by incompetents. On the contrary, the leaders know exactly what they're doing. They are reshaping Cambodian society according to their radical, doctrinaire concepts of Marxism. To achieve this, the radical leaders have imposed the most harsh, deadly discipline on earth upon their fellow Cambodians.●

HOME HEALTH CARE FOR THE ELDERLY

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. RYAN. Mr. Speaker, American society often dehumanizes its elderly after they pass the age of 65 and denies them the dignity they so well deserve.

Elderly people who have spent their lives working and rearing children are often condemned to poverty in their old age by our social system which makes no adequate provisions for the aged. In health care alone, older Americans are among the underprivileged of the Nation. We are the only industrialized nation in the world without a national program to provide adequate health services for the elderly. Many of our institutions and agencies designed to assist the aged have failed miserably to meet their needs.

For example, more than $15 million a day is misspent on nursing care in America alone. Nursing home fraud and abuse have been the subject of extensive studies and investigations by congressional committees, Federal agencies, and State commissions. Fraud and abuse in nursing homes generally fall within two areas: administrative fraud and patient abuse. The former areas includes deceptive real estate practices which artificially inflate property cost; false or misleading cost reports which hide nonallowable cost; inadequate accounting procedures which prohibit effective auditing; and failure to disclose ownership interests. Treatment abuses include infrequent and inadequate physician and nursing care; poor controls on the administration of drugs and medications; and actual physical mistreatment and neglect. It is clear that our existing Government programs for the elderly squander our money while failing to give the help to the elderly which the programs were created to provide.

With only 1 percent of medicare and medicaid allotted for home health services, many of our elderly are forced into these nursing homes and into substandard care. Unfortunately, many of our older Americans would be far better served in their homes by people who care for them and love them. At the same time, the elderly would maintain their own sense of vitality and self-worth. In addition, studies have shown that by expanding the coverage of home health care services under medicare and medicaid, older Americans would not only retain all the benefits of living independently in their own communities, but the tremendous financial outlay we spend on nursing homes would be reduced.

It is a tragedy of our times that we as a nation should find ourselves in the position of thinking of home health care for the elderly as an alternative to institutionalization. Institutionalization should be the alternative to home health care. Solving the problems of the aging now is an exercise in self-protection.●

MONTANA CRUDE OIL SUPPLIES—A REAL PROBLEM FOR THE NORTHERN TIER

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. BAUCUS. Mr. Speaker, I am pleased to report that Montana petroleum refiners have secured adequate supplies of crude oil for this year and will avoid the shortages predicted earlier. The situation is far from settled, however, and without decisive action by the Federal Government my State still faces serious shortfalls within the next few years.

CANADIAN IMPORTS

Montana refineries rely on indigenous, Wyoming and Canadian crude oil. Nearly 50 percent of the oil now refined in my State is sweet crude from Canada. This dependence on Canadian oil developed during the years preceding the Arab oil embargo when Canada was eager to export oil.

The events of 1973 convinced Canadians that such a policy was unwise; that they should conserve precious resources for their own use. The Canadian National Energy Board adopted export controls intended to end oil exports to the United States by the early eighties. Canada can hardly be faulted for this decision, but it spelled trouble for the northern tier States, particularly Montana.

During the period of November 1, 1974, to October 31, 1975, the 26 refineries in these States received each day 478,000 barrels of crude from Canada. Montana alone required 57,781 barrels per day of sweet crude during this period.

Canada now allows only 54,000 barrels per day of sweet crude exports to the United States. Montana priority I refiners—the three refiners in Billings—have been allocated 24,470 barrels per day of this oil by the Department of Energy (DOE).

Montana refineries are running an additional 40,283 barrels per day of Canadian oil. This is being obtained through complicated and expensive exchanges of foreign and domestic oil for Canadian oil. Montana refiners accomplish these exchanges primarily by shipping their oil through the midcontinent pipeline system to Sarnia, Ontario, and receiving Canadian crude through the Glacier pipeline, which runs into Billings from Canada. This labyrinthine process results in prices of up to $16.70 per barrel for Canadian crude delivered to Montana refineries versus the $14.30 per barrel price of OPEC crude.

Although costly, at least this system works—at the moment. As of January 1, 1979, Canada is scheduled to reduce sweet crude and condensate exports to the United States by 34,000 barrels per day. Even with planned expansions of the midcontinent pipeline system, there is no guarantee that space will be available for the exchanges needed to compensate for this reduction.

ECONOMIC IMPACT

In a report issued last summer DOE predicted that crude oil shortfalls could result in real income losses for Montana in excess of $500 million in 1980. In Billings alone, where 90 percent of the State's refining capacity is located, nearly 3,000 jobs could be lost. The transportation and agricultural sectors of Montana's economy are almost entirely dependent on petroleum products and development of alternative energy sources will not change this situation in the near future. In addition, Montana refineries supply eastern Washington, northern Idaho and North Dakota.

Because of the disastrous consequences that a crude oil shortage would have on Montana and neighboring States, I have spent considerable time trying to convince Canada that exports to Montana should be continued until a permanent solution to the State's oil supply problems can be found. Early this year, I asked Vice President MONDALE to raise the matter with the Canadian Government. Soon afterward, I discussed the problem myself with Canadian lawmakers at a United States-Canada interparliamentary meeting in New Orleans. I traveled to Ottawa in April and met with top Canadian energy officials, including Energy Minister Alistair Gillespie. I also sent a statement outlining Montana's oil problems to the Canadian National Energy Board, which is conducting an inquiry into that nation's petroleum supplies. This study is scheduled for completion in September.

Evidence presented to the National Energy Board shows that the Canadian crude oil supply outlook is much improved over recent years. I hope the board will recommend that exports to Montana be continued at present levels. Should the recommendation be unfavorable, however, I am prepared to continue pressing Montana's case with the Canadian Government, which must make the final decision.

Unit trains bringing oil from the west coast may also offer temporary relief. GATX Terminals Corp. has developed a plan to ship Alaskan crude oil by train from an existing dock facility on the Columbia River near Port Westward, Oreg., to Cut Bank, Mont., where it would be pumped into the Glacier pipeline.

GATX has obtained all necessary permits for the operation of the Port West-

ward facility except one from the Corps of Engineers for dock modifications. The corps has decided to require an environmental impact statement for the project. I believe the corps should grant this permit as quickly as possible. Such action will give Montana refiners another vital option for securing adequade crude oil.

NO FINAL SOLUTION

The most difficult problem Montana faces is securing reliable supplies of crude beyond 1980. There are a number of proposals around, some of them conflicting, but I am sad to report that a clear solution to Montana's long-term petroleum needs is not in the offing. In fact, there is a real danger that if the situation continues to drift, actions taken in other areas of the country may rob Montana of all economical alternatives.

Although considerable crude oil is produced in the Williston Basin of eastern Montana—about 14.6 million barrels in 1977—there is no way of transporting this to Billings refineries. Williston Basin pipelines run north and south, and most of the oil produced there is required by refineries outside of Montana. Even if Williston Basin crude could be diverted to Billings, it would just cause problems elsewhere.

Conoco, one of the Billings refiners, is working on a plan to reverse a pipeline running south from Byron, Wyo., to Wood River, Ill. If this pipeline can be reversed as far as Guernsey, Wyo., significant supplies of sweet crude may become available to Billings refiners. This reversal, however, is still subject of complicated negotiations between oil companies and even if accomplished there is no assurance that it will offer a complete answer to Montana's petroleum needs.

Ironically, while we in Montana search for future supplies, the west coast is awash in Alaskan crude oil. California refiners cannot handle the inflow and the Carter administration has announced plans to permit export of residual fuel oil to free up storage capacity so that California refiners can increase crude oil runs.

A Standard Oil of Ohio proposal to convert a pipeline between California and Texas from natural gas to oil appears to be progressing and should eventually provide a means of moving some Alaskan crude East. However, this oil will flow into the midcontinent pipeline system where it will be of little use to Montana, which is isolated from that system.

We need a delivery system capable of bringing Alaskan crude to Montana and other northern tier States.

One promising proposal was reversal of the Trans-mountain pipeline between Edmonton, Alberta, and Cherry Point, Wash. from Edmonton crude oil could be shipped down existing pipelines to Montana. This idea was killed by an amendment offered last year by Senator WARREN MAGNUSON of Washington which prohibited construction of the port facilities necessary to serve the pipeline. Given strong sentiments in that State against allowing large oil tankers in Puget Sound, I suspect the transmountain idea will not be resurrected.

Another proposal, which had widespread support in the oil industry, was construction of an 800-mile pipeline from the port of Kitimat, British Columbia, to Edmonton. The Canadian Government has opposed the proposal, and the National Energy Board oil supply inquiry now underway is likely to bury it for good.

NORTHERN TIER PIPELINE

The only proposal to move Alaskan, Middle East, and Persian Gulf crude oil to all northern tier States that remains viable is the northern tier pipeline. This delivery system would run 1,550 miles from Port Angeles, Wash., to Clearbrook, Minn. Construction is tentatively scheduled to begin in late 1979. It will take 2 years to complete.

This pipeline has a number of advantages. It would be built entirely in the United States, providing jobs for Americans during construction and a secure transportation system once completed. Pipeline construction in Montana would provide at least 1,350 jobs paying $50 million in wages. The completed system would permanently employ about 48 Montanans and generate substantial tax revenues.

With a capacity of 900,000 barrels per day, the northern tier pipeline would be adequate to eliminate the west coast surplus of Alaskan oil and assure adequate supplies to Montana and other northern tier States.

Construction costs are projected at just over $1 billion by the northern tier Pipeline Co. There is little possibility of the cost overruns that plagued the Trans-Alaska pipeline. Northern tier pipeline will be constructed using conventional techniques in areas where transportation corridors have previously been established. There is an existing infrastructure of highways, railroads and other support facilities, which was not the case for the Trans-Alaska project. In addition, northern tier will not face the artic conditions encountered in Alaska.

If this project can be constructed according to schedule, I believe it is the safest and most economical way of supplying adequate crude oil to Montana.

Of course, the environmental effects of a project of this magnitude must be carefully assessed. The Bureau of Land Management has begun work on the Federal environmental impact statement, which is not expected in final form until next May, partly because of route changes proposed by the pipeline company to make it more compatible with the environment.

The States through which the pipeline will pass—Washington, Idaho, Montana, North Dakota, and Minnesota—must also review the project under their own energy facility siting and environmental laws.

The possibility exists that the northern tier pipeline could be delayed or ultimately denied a permit through these processes. The problem now is to insure that northern tier pipeline is reviewed expeditiously by State and Federal agencies. Montana cannot afford to have this project tied up for years by bureaucratic indecision. While the fate of the northern tier pipeline is being considered, refiners in Minnesota and the Chicago area may find other ways of meeting their crude oil needs—says that are more costly and less beneficial to development of a sound national energy transportation system than the northern tier pipeline. These other plans, such as northern pipeline serving Wisconsin and Minnesota, will not help Montana.

If DOE, which is studying the crude oil transportation problems of northern tier States, fails to support the northern tier pipeline, it must seek alternatives that will keep Montana refineries, as well as other northern tier States, supplied with crude oil.

At the moment, I am not convinced that Montana has an alternative to the northern tier pipeline. I hope that the oil industry and the Federal Government can work together in the next few months to find the best solution to my State's crude oil needs.●

SOMETHING OUT OF LIFE BESIDES THIS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, there is a bit of presumably old folkwisdom that says that "Work is love made visible." If it be so, then the obverse also holds true: "Unemployment is scorn and indifference made manifest." This observation is regrettably poignant but true, especially as applied to the young people of America in general and black youth in particular. The August 7, 1978, issue of Newsweek magazine contains an article "Black Youth: A Lost Generation" that should be required reading for all of us who worry about the tens of thousands of our young people whose talents and hopes are being squandered away.

As I have often stated, no one to my knowledge has the single, all-embracing solution of the problem of youth unemployment. But there is one notion that a bipartisan group of concerned Members has advanced that has come before the House at least two times in the past 5 years that deserves to be implemented, yet it has failed to find its way into the law in spite of the awesome numbers of youngsters who cannot find their niche somewhere in the most productive economy the world has ever known. The idea to which I am referring is, of course, the "youth opportunity wage," otherwise known as the youth differential to the Federal minimum wage.

The misgivings of the concept's opponents notwithstanding, surely the youth differential is worth a try, even if only as an experimental, temporary response to young people who are priced out of today's labor market by the minimum wage, youngsters like 18-year-old Ronnie Dozie of Detroit, who is quoted

in Newsweek as saying of his fellow unemployed neighbors and friends:

These people will work. They'll work. I know they want something out of life besides this.

The Newsweek article documents in stark terms the crushing dilemma that confronts our black youngsters. They are our children—and they need our help. At this time I would like to share excerpts from the Newsweek article with my colleagues:

BLACK YOUTH: A LOST GENERATION?

You are cutting off an underclass which is not needed, not employable . . . You must create out of this underclass, or their children at least, human beings who fit into modern America, who are needed, who are productive, who have a value. This is what the question is about.—Gunnar Myrdal, updating "An American Dilemma," 1968

Ten years later—ten years after the riots and the Great Society and a time of unprecedented black advancement—America is in danger of losing that generation of children Myrdal warned us about. Some competent observers believe that it may be lost already. The slums of the nation's aging and blackening cities have bred a population of young people for whom the norms of existence are unemployment, crumbling neighborhoods, fatherless homes, failing schools and dependency on the dole—or crime—as a means of survival. Many escape by sheer bootstrap effort, but more are caught in the demoralizing, dead-end life around them. "A lot of black kids simply feel they don't count, and they don't," says the black psychiatrist Alvin Poussaint. "In terms of what makes this society run, they're expendable."

The statistics of the workplace bear witness to that bleak conclusion. The unemployment rate among black teen-agers has exploded from one and a half to nearly three times the white rate since the middle 1950s, and has hovered near 40 per cent for the past three years. Some analysts believe that the numbers overstate by the gravity of the problem, and that most young blacks seeking jobs find them in their 20s anyway. But others argue that the reality in the big-city slums is a fact worse than the figures—that joblessness among the black young there is on a runaway curve untouched by economic recovery, poverty programs, affirmative action or the emergence of a large and growing black middle class. If the real numbers were fed into a computer, says Diana Durham of the National Urban League, "the projection would read 'riot'.".

The will to succeed has nevertheless survived. Perhaps a fourth of black America has scrambled above what the government considers the intermediate income line—$16,236 a year for a family of four—and has established a secure and stable toehold in the middle class. The black young stay in school longer—two-thirds finish high school where three-fourths dropped out a generation ago—and more often stick at their books against the lure of the streets and the derision of their peers. They seek out work, often against the most discouraging odds; a crowd of 120,000, heavy with minorities, lined up overnight for 55,000 government-funded summer jobs in New York City. "These people will work," says Detroit dropout Ronnie Dozie, sweeping one hand across his neighborhood panorama of ramshackle tenements and litter-clogged alleys. "They'll *work*. I know they want something out of life besides this."

The problem remains that the work is not there, in spite of the revival of the economy since the 1975 recession and the renewed interest of the Federal government under Jimmy Carter. The Administration has, in the new vogue phrase, *targeted in* on youth unemployment with a series of imaginative new programs—among them a multicity experiment at guaranteeing government-paid work for young poor if they agree to stay in school. But these programs have not perceptibly improved the lot of black teenagers; their unemployment rate still hung above 37 percent in June, despite a dramatic dip in the over-all national rate. Their plight, moreover, has resisted national solutions in the past, in part simply because they are relatively few in number—perhaps 400,000 are out of work by current official estimates—and are scattered in ghettos across the country.

Other public and private institutions, combat-fatigued and underfunded, have had little better luck finding or creating work for unskilled, semiliterate young black men and women who may not even know how to dress for a job interview or fill out a rudimentary application form. It is indeed arguable that the single most hopeful force working in their favor is a demographic accident—the end of the postwar baby boom that doubled the number of black teenagers, from 1.2 million to 2.4 million, between 1960 and 1975. The sheer size of their generation inflated rates of unemployment, street crime, drug addiction and family disintegration in that period; now, the big-city crime rate has begun turning down, and some analysts believe the other numbers will follow.

But there is otherwise small ground for cheer either in the anomie of the slums or the flow of history outside—the flight of industry to the suburbs and the Sun Belt, the rising competition of white women and the elderly for what work remains, the enduring irrationality of a welfare system that penalizes work and family stability. The rates of unwed motherhood and broken homes have, like teen-age joblessness itself, taken on a breakaway life of their own; the new generation of black children who will reach adolescence in the 1990s will be smaller, but a majority will have been born out of wedlock, raised for at least part of their lives by only a single parent, and propelled into a high-skill 21st-century economy. "Many black kids at 13 or 14 are already obsolete," says Douglas Glasgow of Howard University's School of Social Work, and at least some of the trends that make them obsolete are accelerating.

SITUATIONS WANTED

Larry Callahan, 19, left his sister's apartment in Atlanta's Grady Homes housing project early one morning to see about a job. The woman he spoke to at a Federal job office directed him to the Atlanta Urban League office. A woman there told him to talk to a man at the Indian Springs condominium complex in suburban Atlanta. Larry borrowed the bus fare but then got on the wrong bus. Determined, he walked 45 minutes in the rain to make the appointment—but the man he was to see wasn't there yet. "He showed up at 5:45," Larry recalls. In the end, Larry was told that government funding for the maintenance job he sought hadn't come through yet. Call back, the man said, and Larry has been doing just that for six months.

If he can get a job to pay his way, Larry would like to take up plumbing at a trade school. He thinks he is being turned down for jobs mainly because he is unskilled, not because he is black. "Everywhere I go I see signs saying 'equal opportunity employer,' but they look at some blacks and say they just ain't got the skill. I just want to have me a good job with decent pay. Everybody keeps saying hang loose, hang loose. But it's hard to hang loose living like this."

Hanging loose, for the Larry Callahans, is too often all there is to do. They are part of what James W. Compton of the Chicago Urban League calls a glut of young, big-city blacks "who have no skills, are not getting any job experience, and probably are not developing life-styles that include any work at all." That a majority, like Callahan, keep trying is testimony to the hardihood of the American dream even in those urban barrens where it has most vividly failed. A minority, unsurprisingly, give up. One day recently, a young black man grabbed Sue Ann Berry Freeman, a Berkeley youth worker, in the street and begged her for money. Another panhandling derelict, she thought—until she recognized him as an ex-client with a wasted 150 IQ.

Even the numbing unemployment figures are an inadequate measure of conditions in the slums. The view of some revisionist students is that they are not quite so catastrophic as they look—that they are statistically shaky to begin with; that they are swollen by the children of the baby boom; that they count some young people who are actually working "off the books"; that the jobless rate in any case is halved among blacks in their early 20s, and halved again after they turn 25. But there remains little doubt that the numbers, however inexact, are bad and have got worse at a rate far exceeding that among the white young. Some analysts believe that they are in fact worse than they look: the Urban League's Vernon Jordan argues that, when you add in the underemployed and people who are too discouraged even to look for work, the real unemployment rate for black teen-agers may approach 60 percent.

The causes are numerous, and intractably interwoven. Age and color both count against the black young in the job market, and so do the feral stereotypes they conjure up among whites and middle-class blacks. Technology, even in such everyday forms as automatic elevators and ditch-digging machines, makes old-fashioned sweat labor obsolescent. Blacks have been moving to the suburbs in quickening numbers, but jobs have moved farther and faster; there are now more in Chicago's suburbs than in the city. The black young pay further for the most benignly intended customs and public policies—for minimum-wage rises that price them out of jobs; for the surge of women into the labor market, and relief of the elderly from mandatory retirement at 65; for the demand for credentials like high-school diplomas, without regard to whether a particular job really requires one.

TRAPS OF POVERTY

The world of Patricia Davis was crowded and chaotic. She lived with her mother, five younger brothers and sisters and her mother's sometime boyfriend in a two-bedrom apartment in the vast, palm-treed ghetto of south-central Los Angeles. Her life revolved around school and friends, an always-on TV set and a blaring stereo. But when she was down, she would sit by herself in the garage to think about things—about other kids she knew getting into trouble with the law, about what she really wanted for her life. Sometimes she would talk to adult friends, including her grandmother who lived around the corner. But Patricia felt she needed something else, something of her own. So she had a baby.

The decision was easy—and almost traditional. Patricia's mother, Beverly, was only 17 when she had Patricia by a husband from whom she was divorced after half a dozen years. Patricia's grandmother was 16 and unmarried when she had Beverly. In fact, when Patricia looked after tots in a child-care center last summer, her mother warned her about the temptations of maternity. "If you work there, you're going to have a baby." Patricia ignored the warning. She was seeing a boy named Theodore Johnson, who had just graduated from her school. She called him "The die," they made love, and Patricia took a chance. "I didn't take no birth control," she told Newsweek's Martin Kasindorf.

"Secretly, I wanted to have a baby. It was something to keep me happy, I guess. I wanted to start a life of my own."

The Patricia Davises, multiplied by the tens of thousands, are the prisoners of what Harvard's Dr. Poussaint calls a "doll syndrome"—babies having babies and coming prematurely into an adulthood mired in poverty, dependency and broken homes. The folk notion that welfare is what tempts them is mostly myth; in a community where nearly half the children are born out of wedlock and none are counted "illegitimate," Poussaint observes, "it makes you feel like somebody to have a baby call you 'mama'." But welfare remains the most common outcome. Nearly a fourth of all black families and a third of all black children depend in some measure on it—and some still unmeasured fraction of them may be turning into a permanent and hereditary welfare class.

The social tragedy hidden in those figures is the continued rise in the percentage of black families headed by women, from 25 percent when Daniel Patrick Moynihan wrote his famous 1965 report on the problem to 35 per cent now. As a consequence, fewer than half of all black children live with both parents—compared to 85 per cent of white youngsters—and two in five grow up fatherless and poor. One outcome of the doll syndrome is the dole syndrome—a life drifting on and off welfare and a long and frequently losing struggle to keep the cycle from repeating itself. "There's nothing my mother can tell me," says Dee, a Chicago welfare daughter who became a welfare mother six years ago, at 15. "If she were so smart, why was she stuck with seven children and no man?"

The consequences can be devastating. Fathers disappear, encouraged by welfare laws in 24 states that still deny checks to poor two-parent families. Children start shopping, fixing meals, even hustling extra money at 5 or 6—an education in life at the expense of being a child. Boys grow up with no role models except those they find on the street corner—and sometimes no concept of work as a way of life. "I don't have no heroes," says Marcus, a bravado slum kid of 15 in Detroit. "See, I live in a houseful of women—my grandmother, my mom, two aunts, and they all have daughters—and I won't look up to them." So he has become his own hero, prowling the streets with his hair done up in a net, a derby atilt on his head, and a .22-caliber "bop gun" stuck in his waistband. When a grownup asked him what he expects to be doing at 20, he answered impishly: "Three years in jail."

The schools have been powerless to help manchildren like Marcus; he bumped along for years on that conveyor-belt system known euphemistically as social promotion—"See, I can just sit there and pass"—and when he was expelled last winter for fighting, it seemed to him pointless to go back. The statistics of black education are in some respects profoundly hopeful: blacks now are nearly as likely as whites to finish high school, are more likely than whites to perform above grade level and are going on to college in growing numbers. Thirty-four states have tried, moreover, to brake the conveyor belt by requiring students to pass competency tests in the three R's for promotion or graduation.

THE MEAN STREETS

Times were hard—but not all that hard—for Gary Weaver growing up on Wharton Street in the shabby heart of black South Philadelphia. His mother drew welfare to supplement her job as a waitress and always managed to hold things together for Gary and his two brothers and sister. "We were poor, but not poor poor," Gary says, shrugging. "I've got no beefs." Yet he and some friends walked into a store two years ago and killed the owner for little more than pocket money, police say. Gary Weaver is now in jail, awaiting his second trial for murder, and those who know him best can only shake their heads and blame "the street."

In the big-city black slums, the street tugs constantly at the Gary Weavers, and trouble is never far distant. Their world is one in which two-thirds of the men work in blue-collar or menial jobs—when they work at all—and in which the wealth most conspicuously displayed has been earned outside the law. The temptations are obvious, contagious and often irresistible. "You ask a little white boy what he wants to be," says James Taylor, a June High-school graduate in Detroit, "and he may say some kind of big-time executive. You ask a little black child the same question, and he may say, 'I want to be a pimp'." Or a fence, or a numbers banker, or, most profitably of all, a drug dealer: one apprentice currently circulating in Oakland, Calif., is said to be pocketing $200 a week running narcotics—at age 10.

The specter of black crime has made the ghetto young, guilty or innocent, the objects of fear in middle-class America—an anxiety unrelieved by the facts that most of it happens in the ghetto and that the appalling statistics have at last started down. Black youth, in fact, do account for a vastly disaproportionate share of arrests for teen-age crimes of violence—52 per cent nationwide—and, as a result, police records are ten times as commonplace among the ghetto young as in the middle-class world around them. But if the jails are full of the failures, the streets are thick with the ones who got away. New York City's Vocational Foundation Inc. calculated that the odds against a juvenile's doing time in city jails for a major felony were 100 to 1, and concluded: "There is simply no clear pattern of rewards for good behavior and penalties for bad."

Crime flows from the emptiness of slum life as well as from its poverty. The ghetto is full of young people who never leave their neighborhoods and never see the world outside except on TV. It is a place, as well, where careers in crime are born on whims simply because nothing else is happening. "I was with one of my partners," says James S., a child of Watts, "and he said, 'Are you down for snatchin' a purse?' I wasn't thinkin', so I just snatched it." He got caught that time but progressed anyway from purse-snatching to gang-fighting to burglary—and now a stretch in a California youth prison at 15.

But the most powerful temptation is the obvious one for young people raised on the dole and commonly unemployed: crime pays. "We're in the position," says Barbara Burk-Tatum, a Boston youth-service administrator, "of talking about diplomas and minimum-wage jobs to kids who've been making a hell of a lot more hustling—and tax-free, too." It is low-risk, high-yield work, accessible even to grade-school-age entrepreneurs dealing "loose joints"—single marijuana cigarettes—for a dollar apiece on a stairwell landing. The Watts study conducted by research economist Paul Bullock reached the conclusion that victimless crimes alone—the street traffic in drugs, bets, numbers and women—constituted "probably the greatest single source of market income for young men in the central city."

The temptation seems unlikely to fade for the young blacks caught, unemployed and sometimes unemployable, in the backwash of the mainstream economy. "I hate to wake up some mornings," says Eugene Franklin, a 21-year-old dropout in the St. Louis slums. "I ain't got no gig, and even if I had one, it wouldn't be payin' nothin'—by the time I got a check it'd be gone. So you'd rather take your chances hustlin' on the streets. You got to do *somethin'* to stay alive." The siren song is a powerful one in the asphalt wastes of the nation's inner cities; it is the dismal suspicion of some social scientists that it is too often the best and brightest of the ghetto young who answer it—and the misfits who have the will and the courage to resist.●

FORESTRY LOAN ACT OF 1978

HON. JERRY HUCKABY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. HUCKABY. Mr. Speaker, today I am introducing a bill entitled the "Forestry Loan Act of 1978." This legislation would authorize and direct the Secretary of Agriculture to make loans providing for annual payments to owners of nonindustrial private forest lands. The primary purpose of my bill is to encourage private landowners to manage and harvest timber on their land. Using this approach, I am attempting to create an environment more favorable to the practice of forestry.

As a Representative from the great State of Louisiana, I am well aware of how important our forest lands are to the Nation's economic well-being. The Southern States now contribute greatly to the Nation's supply of forest products. Recent projections show that the South will produce 50 percent of the Nation's softwood supply by the year 2000.

I would like to point out, however, that demand for forest products is increasing and this upward trend is expected to continue well into the next century. To meet these increased demands, we must emphasize effective timber management, along with protection of the forest environment. Recent surveys indicate that timber production on private, nonindustrial lands must rise from 7.5 billion cubic feet in 1975 to 16 billion cubic feet in 2020.

Where is this wood going to come from? Supply-demand projections throughout the world indicate little opportunity for significantly greater imports beyond those already being secured. Publicly owned forestlands in the country—Federal, State, and municipal—with one-third of the available forestland acreage have the potential to supply much of the projected demand and an even higher share of inventory, but are being increasingly pressed into service for nontimber uses. Industrial forests cannot provide all the additional wood either, because they comprise only 13 percent of the total forest.

Much of the additional wood must come from some 4 million private, nonindustrial forests, which account for 59 percent of all commercial forestland. It is these 296 million acres of nonindustrial private ownerships that present the challenge of adequate future timber supplies for this country.

Unfortunately, many private nonindustrial landowners do not perceive an advantage in reforesting or managing their timber stands. This is due to many reasons, a chief one being that investments in forestry, while generally having an acceptable rate of return over

the long run, do not generate a yearly cash flow. In fact, an investment in tree planting will likely yield cash income only two or three times in 40 or more years.

This is a major disincentive to woodland owners who might otherwise be willing to manage their land for timber production and is a contributing factor to inadequate levels of forest management on private nonindustrial land.

The bill which I am introducing today will help resolve the problem of lack of cash flow in forestry investments by establishing a loan program which provides annual payments to the woodland owner. The amount of these payments will be based on the productive capacity of the land involved for timber production and measures are taken to assure that the financial interest of the Untied States will be protected. Limits to maximum interest rates and overall indebtedness are also established in the statute.

The concept of annual payments is attractive and advantageous to both the Federal Government and the private landowner. The Federal agency involved will have a better opportunity to closely monitor and coordinate the use of these funds as opposed to paying the total amount in one lump sum. Consequently, this annual payment loan proposal will help in significantly improving cash management practices by the Department of Agriculture, which would adequately respond to the President's request for cutting Government interest costs. With regard to the landowner, the payments would allow him to pay taxes, management and protection costs. The remaining annual loan proceeds may be used in any manner he wishes.

The program established by the bill would work as follows. An interested landowner would contact the appropriate Federal agency, probably the Farmer's Home Administration with request for a loan. Upon initial approval, the agency would refer the request to the State forester, who would approve a management plan which could be prepared by either an agency, industrial or consulting forester. The State forester and Federal agency would also determine an appropriate level of annual payments based upon land productivity and future expected values of the timber. The annual payment would likely range from $10 to $30 per acre.

Following approval by the Federal agency involved, and upon agreement by the landowner to keep his management plan current, the Federal agency would either guarantee or insure loan payments to the landowner. In the case of a federally guaranteed loan, loan sources may be private banks, other commercial lending institutions or the Federal Land Bank. Federally insured loans would have the characteristics of direct loans and would be financed out of the rural development insurance fund. Terms would include an interest rate near to the Government cost of borrowing, plus up to 1 percent as determined by the Secretary. The loan repayment period may be up to 40 years with a deferment period of up to 15 years.

The concept of annual payments in anticipation of future timber receipts is a relatively new idea in private forestry. As such, I recognize that there is much work to be done to further develop this legislation. Therefore, I am introducing the bill for discussion purposes, and am asking private landowners, the Forest Service, forest industry, consulting foresters, State foresters, American Forestry Association, Society of American Foresters, Forest Farmers, and other groups in the forestry community to review the legislation and comment on it.

I am also asking members of the financial community for their comments. I am confident that this procedure will result in a meaningful evaluation of the bill and its potential for helping private, nonindustrial landowners manage their land for timber production.

I realize that this bill will not alone solve the problem of inordinately low timber production on private, nonindustrial woodlands. The owners of these lands are so varied in their characteristics, and their individual needs and goals so unique that there is no one program which will appeal to all landowners. Therefore, I do not consider this bill as a solution to the problem, but merely as one option which will be available to those landowners who want to take advantage of it. Let me also emphasize the fact that the President has called for concerted efforts to encourage forest regeneration in his statement on environmental policy. I sincerely believe that my program would be worthwhile and achievable, and would add to the array of incentives for reforestation.

Finally, Mr. Speaker, I would like to point out that the budgetary impacts of this program will be minimal. These payments constitute a loan, with the Federal Government ultimately recapturing its investment, plus some interest income. The administrative framework to handle such a program already exists and USDA has vast experience in the administration of similar loan programs. Perhaps most important, the program will generate forestry jobs in rural areas, thereby adding to the tax base; and sales of timber will also generate significant tax revenue. In short, I believe additional tax revenues and investment recapture will offset any interest subsidies and administrative costs involved.

In conclusion, Mr. Speaker, I request that hearings be held to discuss the merits and possible shortcomings of such a program. Once all the input is received, the data compiled and revisions made, I urge your favorable consideration and support for the passage of my bill.

The text of the Forestry Loan Act of 1978 follows:

H.R. —

A bill to authorize and direct the Secretary of Agriculture to make loans providing for annual payments to owners of non-industrial private forest lands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Forestry Loan Act of 1978".

FINDINGS

SEC. 2. The Congress hereby finds and declares that—

(1) the Nation's capacity to produce renewable forest resources is significantly dependent on private non-industrial forest lands;

(2) adequate supplies of timber and other forest resources are essential to the Nation's well-being;

(3) substantial capital investment is often needed to increase the productivity of forest lands;

(4) typical timber crop rotation periods last long periods of time, thus effectively preventing the owner of non-industrial private forest land from recouping his capital investment for extended periods of time;

(5) the availability and cost of capital can be a significant determining factor in a forest landowner's decision as to whether or not to undertake a forest management program;

(6) owners of non-industrial private forest land frequently are unable to obtain credit at rates and terms sufficiently reasonable to enable them to undertake a forest management program; and

(7) therefore, it is in the national interest for the Federal Government to provide financial assistance in the form of guaranteed and insured loans to owners of non-industrial private forest land in order to encourage more intensive management and thereby increase the productivity of such land.

ESTABLISHMENT OF PROGRAM

SEC. 3. (a) In order to encourage owners of forest land to implement and maintain forest management programs, and increase the production of crops of industrial wood, the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary" is authorized and directed to establish a program of insured or guaranteed loans that will provide annual payments to eligible landowners. The annual payments shall be in such amounts and on a per acre or such other basis as the Secretary may determine necessary to assure compliance with the borrower's individual forest management plan. The plan shall involve such forest activities that include, but are not limited to, such practice as site preparation, tree planting and thinning of young stands, cultural practices designed to produce a commercially usable forest and other management, protection, development and cultural activities that will aid in promoting the purposes of this Act.

(b) This program shall be funded, as the Secretary so determines, either by the Commodity Credit Corporation, or using funds drawn from the Rural Development Insurance Fund established under Section 309A of the Consolidated Farm and Rural Development Act and subject to the provisions governing such funds. The Secretary is authorized to subsidize the interest rate of loans guaranteed under this Act charged the borrower by the lender at a rate to be determined by the Secretary.

(c) The Secretary shall make or insure no loan to any one borrower whose total indebtedness against real property, including real property with respect to which loans are provided under this Act, exceeds $400,000, or in the case of a guaranteed loan, $500,000.

(d) The Secretary may guarantee under this Act not more than 90 percent of the principal and interest on any loan to any eligible borrower by any Federal or State chartered bank, savings and loan association, cooperative lending agency, Federal land bank, or other legally organized lending agency.

(e) Loans guaranteed under this Act shall bear interest at rates to be agreed upon by the lender and borrower but not in excess of such rate as may be determined by the Secretary. Loans made or insured under this Act shall bear interest at such rate or rates as are determined by the Secretary, but not in excess of the current average market yield

on outstanding marketable obligations of the United States with remaining periods of maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of 1 per centum, plus not to exceed 1 per centum, as determined by the Secretary. For loans made or insured under this Act, the borrower shall pay such fees and other charges, and shall prepay to the Secretary such taxes and insurance, as the Secretary may require.

ELIGIBLE BORROWERS

SEC. 4. Any private individual, group, Indian tribe or other native group, association, partnership, corporation, or other legal entity who owns 5,000 acres or less of private forest land capable of producing crops of industrial wood shall be eligible to receive loans insured or guaranteed under this Act, *Provided:* That the Applicant must certify in writing, and the Secretary must determine, that he is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

TERMS AND CONDITIONS

SEC. 5. (a) The period of repayment of loans insured or guaranteed under this Act shall not exceed 40 years. Payments of principal and interest in the case of loans made or insured under this Act may, at the discretion of the Secretary, be deferred for a period of not to exceed fifteen years. However, loans insured or guaranteed under this Act shall be amortized and repaid over the balance of the period of the loan commencing with the first harvest of timber from the land with respect to which the loan is made. Loans insured or guaranteed under this Act shall be made upon the personal liability of the borrower and shall be secured by the land and the timber grown thereon, and such other security as the Secretary may require.

(b) The borrower shall prepare, keep current and adhere to an individual forest management plan which shall be developed in cooperation with and be approved by the State Forester or equivalent State official and which shall describe the activities needed to establish or maintain the landowner's forest land in a productive condition. The borrower may use the annual loan payment received in any manner he deems appropriate, as long as the provisions of the management plan and loan agreement are observed. The Secretary shall encourage borrowers and State Foresters or equivalent State officials to use private consulting foresters, agencies, organizations and firms to the extent feasible for the preparation of individual forest management plans.

(c) Loans guaranteed under this Act may in the discretion of the Secretary be transferred to, and assumed by, a new owner who agrees to the terms and conditions of the loan, assumes any outstanding liability and obligations thereunder and who otherwise qualifies under the provisions of this Act.

(d) Except for guaranteed loans, the borrower shall agree that if at any time it shall appear to the Secretary that the borrower may be able to obtain a loan from a production credit association, a Federal land bank, or other responsible cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary or the insured lender, or both, and to pay for any stock necessary to be purchased in a cooperative lending agency in connection with such loan.

RULES AND REGULATIONS

SEC. 6. The Secretary may prescribe such rules and regulations, as the Secretary deems appropriate, to implement the provisions of this Act.

REPORT

SEC. 7. The Secretary shall report annually to the Congress on the progress of the program authorized by this Act. The first such report shall be submitted upon completion of the first full calendar year of operation of the program authorized by this Act.

EFFECTIVE DATE

SEC. 8. This Act shall become effective on October 1, 1979.●

ARCHBISHOP O'FIAICH LENDS HIS INFLUENTIAL VOICE TO THE CAUSE OF ENDING HUMAN RIGHTS VIOLATIONS IN NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. BIAGGI. Mr. Speaker, since its establishment in September of 1977 the Ad Hoc Congressional Committee for Irish Affairs which I chair has been denouncing the past and ongoing human rights violations which afflict Northern Ireland. In the past 18 months the European Commission and Court of Human Rights, Amnesty International and the Association for Legal Justice all have presented documented cases of human rights violations mostly in the various prisons under the control of Great Britain.

Last week a most significant and influential figure, Archbishop Dr. Tomas O'Fiaich, Roman Catholic Primate of all Ireland released his findings after one day he spent at the Long Kesh Prison facility. Specifically he visited the notorious H block where some 300 prisoners have been staging a protest as they seek to be classified as political prisoners instead of criminals. Many of them were sent to jail under judicial proceedings which could only be called travesties including arrest without charge, trial by judge and no jury and other judicial mockeries.

Dr. O'Fiaich's findings about conditions in H block were shocking to me. The two newsclips which follow my remarks graphically discuss his findings. It is appalling that these conditions exist but that they have been tolerated by the British Government for so long.

The archbishop's comments have received worldwide attention. The London Times made his charges a front page story. Accounts of his remarks were found in most American papers and of course in Northern Ireland where it received tremendous attention.

Despite the advocacy of the United States in support of respect for human rights, Great Britain and the Dublin Government feel no obligation to adhere to this policy with respect to political prisoners. The tragedy is compounded by the fact that the administration has yet to address the human rights problems in Ireland despite the constant prodding of the ad hoc committee and its 111 House Members.

I urge all Members to read the articles which follow. They are most significant. They come from a man of tremendous influence and respect in Ireland. It is important to note that the late Pope Paul VI had expressed a concern about the prisoners in Long Kesh and Archbishop O'Fiaich was prepared to give the Pontiff a full account. I trust that the successor to Paul will be as concerned and will join in the active pursuit of peace and justice in Ireland.

An interesting and potentially significant development in Ireland is that both Catholics and Protestants have been subjected to mistreatment in prisons. As a result those affected have in a sense a common enemy, the British Government or the Dublin government. The climate in Ireland today is characterized by a diminution of violence and an increasing sense of discontent about past and ongoing human rights violations. It is an especially important and opportune time for the United States to work for a cessation of human rights violations in Ireland, something which is generally considered to be a primary prerequisite for peace.

I recently had the pleasure to speak by telephone with Archbishop O'Fiaich. I was deeply impressed with his commitment to peace and human rights in Ireland, a commitment I assured him was shared by the ad hoc committee. His statements about Long Kesh reflect this commitment. Rather than ignoring them they should serve as a catalyst for action and recitification.

As chairman I renew the call of the Ad Hoc Congressional Committee for Irish Affairs for an end to human rights violations in Ireland and an acceleration of positive steps toward bringing peace. In addition I call upon the administration to break their silence on the human rights problems in Ireland. It has been almost 1 year since the President's last statement on Ireland. It is time for his voice to again be heard.

I now wish to insert into the RECORD two news stories, one from the London Times, the other from the Boston Pilot:

[From the Boston Pilot, Aug. 4, 1978]

ULSTER ARCHBISHOP HITS LONG KESH CONDITIONS

DUBLIN, IRELAND.—Archbishop Tomas O'Fiaich of Armagh, Northern Ireland, issued a public blast against "inhuman conditions" in the prison for terrorists at Long Kesh, following a visit July 27 to three sections of the prison's famous H. Block.

"One would hardly allow an animal to remain in such conditions, let alone a human being," said the archbishop in a statement distributed Aug. 1 by the Irish bishops' Catholic Press and Information Office in Dublin.

Archbishop O'Fiaich, who last year was made head of Armagh, primatial See of all Ireland, called for an immediate improvement of prison conditions and said he would provide an account of what he had seen to the Vatican "without delay."

"The nearest approach to (conditions in Long Kesh) that I have seen," he said, "was the spectacle of hundreds of homeless people living in sewer-pipes in the slums of Calcutta. The stench and filth in some of the cells, with the remains of rotten food and human excreta scattered around the walls, was almost unbearable. In two of them I was unable to speak for fear of vomiting."

Charging that prisoners are deprived of

"basic human needs" and citing numerous complaints he heard from prisoners about beatings and degradations, Archbishop O'Fiaich rejected government claims that the prisoners in Long Kesh are treated as ordinary prisoners.

The prison is a special institution to house those convicted of terrorism in Northern Ireland's civil war. Its inmates consider themselves political prisoners rather than criminals, and they have conducted a long protest over prison conditions and alleged maltreatment by guards.

The archbishop said he spent the whole of Sunday, July 27, in the prison, in which nearly 200 of the 1,800 inmates are from the Armagh Archdiocese.

"This is the equivalent of all the young men of similar age groups in a typical parish of this diocese," he said.

It was Archbishop O'Fiaich's second visit to the Long Kesh prison. He said he visited it out of concern as a bishop for those in prison and "also aware of the grave concern of the Holy See at the situation which has arisen in the prison."

He said he visited "H Blocks 3, 4 and 5, where over 300 prisoners are incarcerated."

"The prisoners' cells are without beds, chairs or tables," he reported. "They sleep on mattresses on the floor. . . . They have no covering except a towel or blanket, no books, newspapers or reading material except the Bible . . . no pens or writing material, no TV or radio, no hobbies or handicrafts, no exercise or recreation."

Citing punishments such as solitary confinement and withdrawal of exercise rights for prisoners' refusal to do prison work or wear prison uniforms, the archbishop said, "These are basic human needs for physical and mental health, not privileges to be granted or withheld as rewards or punishments.

"To deprive anyone of them over a long period—irrespective of what led to the deprivation in the first place—is surely a grave injustice and can not be justified in any circumstances."

He called for respect for the human dignity of all prisoners, whatever their crimes or political views. "I would make the same plea on behalf of Loyalist prisoners," he said, "but since I was not permitted to speak to any of them, despite a request to do so, I cannot say for certain what their present condition is."

Addressing the issue of maltreatment, Archbishop O'Fiaich said that several prisoners "complained to me of beatings, of verbal abuse, of additional punishments (in cold cells without even a mattress) for making complaints, and of degrading searches carried out on the most intimate parts of their naked bodies. Of course, I have no way of verifying these allegations, but they were numerous."

He said he was surprised to find high morale among the prisoners.

"From talking to them it is evident that they intend to continue their protest indefinitely and it seems they prefer to face death rather than submit to being classed as criminals," he said.

He called it "a triumph of the human spirit" that many of the prisoners combat the dehumanizing conditions by learning Gaelic, shouting Irish words from cell to cell, singing Irish songs and writing Irish on cell walls "with the remnants of toothpaste tubes".

While "authorities refuse to admit that these prisoners are in a different category from the ordinary," he said, "everything about their trials and family background indicates that they are different.

"They were sentenced by special courts without juries. The vast majority were convicted on allegedly voluntary confessions obtained in circumstances which are now placed under grave suspicion. . . . Many are very youthful and come from families which had never been in trouble with the law. . . . How can one explain the jump in the prison population of Northern Ireland from 500 to 3,000 unless a new type of prisoner has emerged?"

The conditions in Long Kesh's prison are "only sowing the seeds of future conflict" in an already divided Northern Ireland, said Archbishop O'Fiaich.

[From the London Times]

CALL FOR MORE FLEXIBLE ATTITUDE

BELFAST.—Republican prisoners in the Maze prison, Long Kesh, are being kept in inhuman conditions, the Roman Catholic Primate of All Ireland, Dr. Tomas O Fiaich, said yesterday. His remarks followed an all-day visit he paid to the jail on Sunday. Three hundred prisoners there are attempting to regain political status.

The prisoners are refusing to wash, use the lavatories, or "slop out" their chamber pots.

Dr. O Fiaich said he was shocked by the conditions, which were not suitable even for animals. "The stench and filth in some of the cells, with the remains of rotten food and human excreta scattered around the walls, was almost unbearable. In two of them I was unable to speak for fear of vomiting."

He said the Northern Ireland Office should recognize the difference between prisoners convicted in special non-jury courts and ordinary criminals.

"The authorities refuse to admit that these prisoners are in a different category from the ordinary, yet everything about their trials, and family background indicates that they are different", he went on.

"They were sentenced by special courts without juries. The vast majority were convicted on allegedly voluntary confessions obtained in circumstances which are now placed under grave suspicion by the recent report of Amnesty International.

"Many are very youthful and come from families which have never been in trouble with the law, though they lived in areas which suffered discrimination in housing and jobs. How can one explain the jump in the prisoners are in a different category from 500 to 3,000 unless a new type of prisoner has emerged?"

The Archbishop said he was not calling for the reintroduction of special category status, but he asked the Northern Ireland Office to take a more flexible attitude to the prisoners and suggested that that would be rewarded by some flexibility in return.

Special category status, which is practically the same as political status, was granted to republican and "loyalist" prisoners by the Conservative Government in 1972, but removed on March 1, 1976, when Mr. Merlyn Rees was Secretary of State for Northern Ireland.

About four hundred republicans and three hundred loyalists convicted before that date, however, still retain special status. They are allowed to wear their own clothes, mix freely, and take orders only from their "officers" and not the prison staff. Their status is similar to that of prisoners of war.

Dr. O. Fiaich, the most influential Roman Catholic to have visited the prison, said he would give a factual account of his visit to the Pope, who was concerned about the prisoners at Long Kesh.

Enlarging on the conditions there, he said that the nearest approach to it he had seen "was the spectacle of hundreds of homeless people living in the sewer pipes in the slums of Calcutta".

He continued:

The prisoners' cells are without beds, chairs or tables. They sleep on mattresses on the floor and in some cases I noticed that these were quite wet. They have no covering except a towel or blanket; no books, newspapers or reading material except the Bible (even religious magazines have been banned since my last visit); no pens or writing material; no television or radio; no hobbies or handicrafts; no exercise or recreation. They are locked in their cells for almost the whole of every day, and some of them have been in this condition for more than a year and a half.

The fact that a man refuses to wear prison uniform or to do prison work should not entail the loss of physical exercise, association with his fellow prisoners, or contact with the outside world. These are basic human needs for physical and mental health, not privileges to be granted or withheld as rewards or punishments. To deprive anyone of them over a long period, irrespective of what led to the deprivation in the first place, is surely a grave injustice and cannot be justified in any circumstances.

The human dignity of every prisoner must be respected regardless of his creed, colour or political viewpoint, and regardless of what crimes he has been charged with. I would make the same plea on behalf of loyalist prisoners, but since I was not permitted to speak to any of them despite a request to do so, I cannot say for certain what their present condition is.

Several prisoners complained to me of beatings, of verbal abuse, of additional punishments (in cold cells without even a mattress) for making complaints, and of degrading searches carried out on the most intimate parts of their naked bodies. Of course, I have no way of verifying these allegations, but they were numerous.

The problem of these prisoners is one of the great obstacles to peace in our community. As long as it continues it will be a potent cause of resentment in the prisoners themselves, breeding frustration among the relatives and friends and leading to bitterness between the prisoners and the prison staff. It is only sowing the seeds of future conflict.

Pending the full resolution of the deadlock, I feel it essential to urge that everything required by the normal man to maintain his physical and mental health and to live a life which is tolerably human should be restored to these prisoners without delay.●

THE PRESIDENT'S HUMAN RIGHTS STAND

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. FASCELL. Mr. Speaker, amid the debate over the efficacy of President Carter's emphasis on human rights in our international relations, one thing stands clear—the policy must have some impact, or there would not be so much controversy about it.

This point is made in an article by Amitai Etzioni in the publication "Human Behavior" for September, 1978. Professor Etzioni notes the complaint of some critics of the President's human rights policy that it is not backed up by firm economic or military sanctions.

Even without such sanctions, he writes, the human rights policy is effective: "If the rulers of the world really don't care what is said about human rights in their countries, why all the heated debate—and reforms?"

I am sure our colleagues will be interested in Professor Etzioni's comments:

CHAMPIONING HUMAN RIGHTS AND NATIONAL INTEREST

Few, if any, other aspects of the foreign or domestic policy of the Carter administra-

tion have sparked as much controversy as its persistent public comment on the violation of human rights—by other nations. The human rights policy has been criticized as naively moralistic and has been unfavorably contrasted with the European tradition of realpolitik—of admitting that a nation's foreign policy is largely determined by its self-interest. It is both hypocritical and impractical, critics says, to justify the United States' close relations to some nations, and greater distance from others, on the basis of our judgment of how attentive they are to human rights. For example, dare we offend Iran—a major supplier of oil, a staunch ally in the Middle East, on the border of the USSR—"just" because its secret police is said to torture hundreds of political prisoners?

The answer is that the human rights policy was never intended to be the only basis for U.S. relations with other nations but was introduced as one factor in shaping these relations. Criticism of the ally's domestic policies may well be muted when vital U.S. interests are at stake—but we can still be clear about which human rights policy we prefer.

Similarly, active concern with human rights does not mean that all nations will be expected to demonstrate equal progress. We can support increases in liberties, no matter how oppressive the country previously was, and express concern with regression, no matter how advanced the nation had been, without detracting from the moral validity of our critical stance. Thus, the United States welcomed the return of democratic rule to India and expressed dismay over growing tyranny in Amin's Uganda, without in any way comparing the human rights "ratings" of the two countries.

The fact that much remains to be achieved in the United States itself does not invalidate putting moral claims on others, either. On the contrary, it further legitimates the right of other nations to be concerned with the fate of oppressed groups in this country—and thus enhances the pressure to do more at home as well.

There is also a vociferous debate over which are more important: political rights—such as the liberty to vote, freedom of speech, right of assembbly and organization—or economic and social rights. Philosophers, ethicists and international lawyers can argue forever about which rights are more "essential," "basic" or "natural." Not surprisingly, those closer to the West will focus on political rights; those to the East and the Third World, on economic-social rights. The result of this debate, far from a standoff, is a growing recognition that progress is called for on both fronts—despite disagreement as to which weighs more heavily in the worldwide ethical scales. It is revealing that the USSR, while seeking to base its case on economic-social rights, far from dismisses political liberties as irrelevant. Indeed, the Soviet constitution promises most of the political liberties dear to the West. Similarly, the United States, while championing political rights, does not disregard the plight of the poor or the social rights of minorities and women. Thus, despite all the verbal brickbats, a kind of shared standard is evolving that recognizes the legitimacy of both concerns.

Critics of the human rights policy warn that if backed by economic or military sanctions, it is likely to lead to local wars, if not superpower confrontations; and that if not so backed up, it amounts to little more than lip service. Behind this "Shut up or fight" notion is a primitive theory of conflict that implies that if conflict is not totally avoided, sooner or later it will become violent.

On the contrary, however, conflict may be limited and worked out on various levels—from ideological, to economic and social, to political—without resort to violence. In some situations, nonviolent conflicts do escalate into violent ones; but very often the fear of confrontation—and the resulting avoidance of conflict—leads to pent-up aggression and, ultimately, to a more explosive situation. The best way to avoid violent conflicts is to work out the differences, which lie at the root of the conflict, by nonviolent means. Labor unions and management, for example, legitimate strikes—an economic mode of conflict—as an alternative to the violence (such as breaking machines or arson) that once followed forced tranquility and management's refusal to acknowledge the existence of labor problems.

As to the efficacy of moral expressions that are deliberately not backed up by economic sanctions—let alone military ones—in order to keep conflict limited, there is no surer sign that they have an effect than that they elicit so much fuss. If the rulers of the world really don't care what is said about human rights in their countries, why all the heated debate—and reforms? ●

A SERIOUS DISCUSSION OF DRUG-USE OR ABUSE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. MAZZOLI. Mr. Speaker, since the resignation of Dr. Peter Bourne as Special Assistant to the President for Health Issues, there has been an upsurge of press coverage of so-called recreational drug use among Washington's young professionals.

The press accounts have sparked some serious discussion, but for the most part, what we have heard have been jokes in poor taste or discussions bordering on the nonsensical.

I commend to the attention of my colleagues a serious interview with Robert L. DuPont, Jr., former Director, National Institute on Drug Abuse, which appeared in the August 7, 1978, U.S. News & World Report.

Dr. DuFont, who is no reactionary respecting drugs, concludes that using marihuana should not be considered a "trendy" or an "in-crowd" activity. It is dangerous, unhealthy, shortsighted, and illegal.

IS U.S. BECOMING A DOPE-RIDDEN SOCIETY?

Q. Dr. DuPont, are Americans beginning to accept so-called soft drugs, such as marijuana, as a way of life?

A. The answer to that is "Yes." Particularly in the under-30 group, there has been a tremendous increase in the use of drugs of many kinds during the last decade. Within the younger population, there is an increasing tolerance and acceptance of marijuana as a part of life. It is often said about marijuana that we see in this country is a sort of laissez-faire attitude: You do your thing and I'll do mine.

Q. How widespread is the use of marijuana?

A. About 43 million Americans have tried marijuana. Sixteen million are current users—including about 9 percent of high-school seniors who are daily users. That has to be put in the context of the roughly 92 million consumers of alcohol—including 6 percent of high-school seniors who are daily users—and 65 million people who are using tobacco.

Other frequently abused drugs include sedatives—such as the Quaaludes recently in the news—stimulants, tranquilizers and hallucinogens.

Ten years ago, only 1 in 20 American college students had tried marijuana. Today, 11 out of 20 have tried the drug, and 2 out of 20 are using it every day. Probably 15 percent of the auto accidents in this country today are associated with marijuana intoxication.

Q. Do you expect other consequences from such widespread use?

A. Yes, so far we have only seen the tip of the iceberg. We're going to see more evidence of the harmful consequences of marijuana use on health, social activities, family living and work performance as time goes by. Those people going around today emphasizing the benignness of marijuana are going to have a tough time with their consciences.

Q. How widely used is cocaine?

A. After marijuana, cocaine is by far the most widely used illegal drug. About 10 million Americans have taken it at least once, and just under 2 million have taken it within the last month. We have about 400,000 heroin addicts in the country, many of whom became addicted in the 1967 and 1972 epidemics. Heroin use is decreasing now, but it remains our most costly and serious illicit drug problem.

Q. What is the big appeal of drugs of all kinds to so many people?

A Abused drugs make many people feel good. They are powerful reinforcing substances.

Q. How about the use of illegal drugs by young people who are successful?

A. Many of these people aren't yet sure of where they stand and what they can do. It is especially true of young people who suddenly become successful—such as athletes, singers and actors—who have often risen from fairly modest backgrounds.

A sudden rise in status is extremely unsettling. It usually triggers the feeling that one is magic—that whatever one touches works, and that all the rules that are holding others back don't apply to oneself. So the suddenly successful person often gets involved in a hip, risk-taking lifestyle. That's one reason these people get heavily into drugs.

Cocaine is especially appealing to the newly rich, because they don't care how much money they're putting up their noses. Money stops having value. It's exciting, and they feel terrific.

On a personal level, many of these people are actually quite shy. They appear before great crowds and are adulated, and yet they have never done much to sort out their own interpersonal relations. The use of drugs helps them overcome this shyness.

Another thing happens to many of these people. Their sudden success creates a success-anxiety syndrome, and they are preoccupied with guilt. They think: "Why did this happen to me, and not you?" They worry about it at an unconscious level, even if not consciously. Much of what we see is really self-destructive behavior; the individual is unconsciously undoing the success he can't account for and doesn't feel secure with. People who are successful often do things which make you say: "How dumb! I can't believe he did that."

Q. How much does this drug-using behavior influence others, particularly young people?

A. A great deal. These highly visible, successful people are cultural beacons attracting large numbers of others. They're the people young people emulate. This kind of recklessness and drug use has a had effect on the rest of the population, particularly young people.

Q. Why are we being told that there is drug taking in the White House, where people are both successful and presumably secure in their jobs?

A. Many of them are not secure. I have been around the White House for nearly 10 years, and I'm impressed by the fact that the names on the doors are in little containers so that they can be pulled out quickly. Nobody's name is painted on anything, and you rarely go back to the same office from year to year and see the same person in it. They come and go. The average duration in service of a presidential appointee used to be 14 months. It may be a little longer now, but it's still a short period of time.

Q. Why is cocaine in particular so popular?

A. It's glamorous. It's exciting because it involves taking a risk. Furthermore, it's an "up"—producing good feelings, at least for the moment—instead of putting you down as alcohol does, making you sleepy and sort of stupid.

Cocaine is supposed to be the drug of the Inca gods. It's expensive. People who take it emphasize that, like marijuana, it's relatively harmless. You're not likely to die from it, as you might from an overdose of heroin.

The biggest problem with cocaine is wanting more of it, and centering your life around it. Of all the drugs, it is the most powerful in conveying a feeling of well-being. A cocaine user wants more of it all the time, and when he stops taking it, he feels depressed and exhausted. So he tries to go on redoubling what he takes.

Laboratory animals die of exhaustion and seizures following unlimited use of cocaine. It's as if their nervous systems just give out. There have been deaths associated with human cocaine use. And even though we don't understand exactly what is happening, it is clear that frequent use can be damaging.

Despite its glamorous image, cocaine is a dangerous drug, and it can kill.

Q. What does cocaine cost?

A. It can cost as little as $2 or $3 for a single dose or up to several thousand dollars a day, depending on the level of use.

Q. Do you think that many Americans underestimate the dangers of marijuana?

A. Absolutely. One of the most distressing facts to me has been the difficulty communicating the risks of marijuana use. Probably no issue was more frustrating to me in five years as director of the National Institute on Drug Abuse.

I have supported throughout that time the decriminalization of the personal possession of marijuana—the substitution of a noncriminal fine for the user of small quantities of the drug. By that means, we establish that marijuana use is prohibited behavior, but we do not use the criminal law and arrest records and tie up the courts to discourage it.

That substitution of a fine for the current criminal penalty is perceived by 90 percent of the public as being soft on pot. But, actually, I am very deeply concerned about the rising levels of marijuana in this society.

Too many people conclude that, because we have increasing levels of marijuana use, we will inevitably move toward legalization. I do not believe this is the way of the future. I can foresee the time when young and old will hold attitudes toward recreational drug use which are similar to those now held toward herbicides, pesticides and food additives—that they are unhealthy and should not be used.

Q. What happens physically to somebody when he starts taking marijuana often?

A. Probably the most serious consequence has to do with his interpersonal relationships and his involvement in what's going on around him. The frequent marijuana user becomes increasingly preoccupied with himself. He doesn't feel the stress anymore of situations that are normal stimuli to problem solving, so that instead of solving his problems with friends, with heterosexual relationships, with work and with family, he simply doesn't care about them anymore. These anxieties that one feels are healthy. They are the stimuli to growth, and without them, people just don't grow.

There's a great myth about the use of many drugs as sex stimulants. The truth is that all drugs do is reduce a person's anxieties about sex, so that one doesn't really care what happens. Actually, sexual performance is often not good after drug use of any kind. Drugs are an unreliable crutch.

Q. Are there also health hazards to marijuana?

A. Yes. The problem is in knowing exactly what the health consequences are. We now have a 4-million-dollar-a-year federal research program on marijuana, and we're learning more about it every year. But the nature of science is that scientists often contradict each other, and the most frequent finding in science is always uncertainty.

In the area of effects of marijuana on the male sex hormone testosterone, for example, there is disagreement among scientists. So the promarijuana people say: "You see, there's no problem." In fact, marijuana does influence the hormone levels of the body, the body's immune response, the way we think and the tissues of the lung. Bronchitis, for example, is common in people who smoke marijuana cigarettes. Furthermore, there is laboratory evidence to show that marijuana is more likely to cause cancerlike lesions than is cigarette smoke.

Its going to take years to sort all that out. My point is this: We already know enough to say that marijuana poses a substantial risk. Anybody who takes that drug and thinks that nothing is happening to his body has lost his mind. Marijuana is a powerful drug that is influencing his entire body.

The other thing people don't understand: Marijuana stays in your body for over a week from a single dose. If a person is only smoking marijuana once a week, his body is continuously exposed to THC—tetrahydrocannabinol, the major ingredient—all the time. That's not true for tobacco or alcohol. We don't know yet what the consequences of that are. But it isn't too bright to expose yourself to this risk.

Q. Do you find age or class patterns in drug taking?

A. Yes. There's a regular pattern, based more on age than economic class. The first drug that is used when one is young is alcohol—mainly beer and wine. If a young person does not use alcohol, he is unlikely to go on further to other drugs. But if he does take beer, the next step usually is cigarettes and/or hard liquor.

The first illegal drug that young people adopt is marijuana. And then there is a hierarchy leading to heroin, which is the end of the line. Only a portion of those who reach any step go on to the next, so that we have 16 million marijuana users but only 500,000 heroin users.

The interesting thing is that when people stop using drugs, they usually go back down these same steps in reverse sequence.

Q. What sort of drug problems are prevalent among Americans over 30?

A. The drug problems of older people are the prescription drugs: Valium and the sedatives and simulants, as well as tranquilizers other than Valium. These problems are increasingly serious for business and for middle America.

Betty Ford's recent courageous admission of drug-abuse problems is a major milestone for drug-abuse prevention. It has opened the door for hundreds of thousands of Americans to, for the first time, admit their problems and seek the help they need. Drug problems affect all ages in our society, from the newborn infant born addicted because of his mother's drug use to the senior citizen who is drugged with tranquilizers.●

BROAD COALITION SUPPORTS AIRLINE REGULATORY REFORM

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. ANDERSON of California. Mr. Speaker, the House will soon be considering H.R. 12611, a regulatory reform bill for aviation. The bill will provide substantial benefits for consumers, and for the airline industry and its employees.

Recently the airlines, prodded by the CAB, have become increasingly competitive and have offered many deep discount fares. The low fares have been highly successful. Airline passenger traffic is at record levels and many persons who could not afford to fly now are able to do so. Airline fares are one area in which the fight against inflation is succeeding.

H.R. 12611 amends the law governing the CAB's regulation of the airlines to insure that the CAB will continue to encourage low fares and competition. The bill is supported by many diverse organizations representing a wide membership. The supporting organizations range across the political spectrum, from the American Conservative Union to Americans for Democratic Action.

Today I am placing in the RECORD three letters supporting airline regulatory reform. The first is from the Ad Hoc Committee on Airline Regulatory Reform, a coalition of organizations supporting reform. The letter includes a list of the impressive array of organizations in the ad hoc committee.

A second letter is from the American Association of Retired Persons, representing over 12 million members. The letter indicates that retired persons have a great interest in air travel, and that the recent low fares have permitted the elderly to travel despite reduced incomes.

A final letter is from the National Association of Manufacturers which strongly supports the more competitive environment which H.R. 12611 would promote.

THE AD HOC COMMITTEE FOR
AIRLINE REGULATORY REFORM,
Washington, D.C., August 8, 1978.

Hon. GLENN ANDERSON,
Chairman, Subcommittee on Aviation, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing to underscore our support for H.R. 12611, the "Air Service Improvement Act of 1978," and to convey to you our appreciation for your

continuing leadership in the field of airline regulatory reform.

In the U.S. airline industry during the last year we have all witnessed the benefits of the increased competitiveness due to sustained Congressional scrutiny. Fares for basic air transportation have fallen by some 30 to 50 percent on many routes, bringing air travel within the reach of many more Americans. And the airlines themselves are making unusually good profits. H.R. 12611 will make these benefits permanent and extend them even more broadly across the land.

As the 95th Congress enters its last few legislative weeks, we hope that you and your colleagues will redouble your efforts to bring this needed legislation to an early vote in the House and final passage after conference. The improvements embodied in this bill are the result of many years of arduous, non-partisan work by Democrats and Republicans, Congressmen and Presidents, and countless public and private groups and individuals. A similar bill, S. 2493, has already passed the Senate overwhelmingly, and President Carter has made enactment this year a major goal.

Expiration of this Congress, without enactment of this legislation which has been so long considered, so patiently striven for, and so manifestly proven by events, would indeed be unfortunate.

Again, thank you for your own leadership in the fine progress that has been accomplished to date.

Sincerely,

JAMES I. CAMPBELL, Jr.,
Executive Director.

SUMMARY LIST OF SUPPORTERS OF CAB REFORM

Private

Airline Passenger Association.
*American Association of Retired Persons.
*American Conservative Union.
American Farm Bureau.
*Americans for Democratic Action.
*Aviation Consumer Action Project.
*Common Cause.
*Congress Watch.
*Cooperative League of USA.
Consumer Federation of America.
*DHL Corporation of Honolulu.
*Food Marketing Institute.
*Libertarian Advocate.
National Association of Manufacturers.
*National Industrial Traffic League.
*National Retail Merchants Association.
*National Retired Teachers Association.
*National Student Lobby.
*National Taxpayers Union.
*Public Interest Economics Center.
*Sears, Roebuck & Company.
*Western Traffic Conference.
*Young Americans for Freedom.

Governmental

President Carter.
President Ford.
Civil Aeronautics Board.
U.S. Department of Transportation.
U.S. Department of Justice.
Council of Economic Advisors.
Council on Wage and Price Stability.
Federal Trade Commission.
National Governors Association.
*National Association of State Aviation Officials.
*National Association of County Officials.
National Association of State Highway and Transportation Officials.
National Conference of State Departments of Transportation.
Airport Operators Council International.

Airlines

Air Florida, Braniff, Frontier, Hughes Air West, Pacific Southwest Airlines (California), Pan American, Southwest (Texas) United, Western.

*Member of Ad Hoc Committee for Regulatory Reform.

NATIONAL RETIRED TEACHERS ASSOCIATION, AMERICAN ASSOCIATION OF RETIRED PERSONS,
August 4, 1978.

Hon. GLENN M. ANDERSON,
Russell House Office Building,
Washington, D.C.

DEAR CONGRESSMAN ANDERSON: On behalf of our 12 million members, we want to take this opportunity to offer our sincere thanks and appreciation for your leadership role in the airline regulatory reform effort.

As you know, our organizations have offered testimony and support for airline reform on numerous occasions in the past and continue to be among its staunchest supporters. We do so because so many of our members have pointed out to us their vital interest in lower priced air travel and the extent to which the older population will be the recipients of the benefits of increased competition in this industry. In fact, they have already been major beneficiaries of the reform-induced surge of competitive pricing in recent times. Information supplied by United Airline's for example, reveals that over half of United Super-Saver passengers are 50 years of age or older. American Airlines has had a similar response. In their Phoenix and Tucson markets, 28 percent of Super Saver were over age 60.

This sort of information makes clear the stake older persons have in more competitive, lower priced air travel.

In summary Congressman Anderson, the elderly population consists of millions of actual and potential air travelers, persons for whom traveling, visiting children, or seeing the country is a major retirement activity. Your efforts and those of your colleagues to introduce more competition and lower prices to the airline industry are greatly appreciated by older Americans and you may be assured of our thanks and continued support.

Sincerely,

PETER W. HUGHES,
Legislative Counsel.

NATIONAL ASSOCIATION OF MANUFACTURERS,
August 4, 1978.

Hon. GLENN ANDERSON,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. ANDERSON: The National Association of Manufacturers wishes to reiterate our support for H.R. 12611, the "Air Service Improvement Act of 1978." The NAM believes that while the bill can be strengthened to relieve the airlines from the stranglehold of economic regulation, H.R. 12611 does represent a step forward.

Recent events have demonstrated the need for legislation to reform economic regulation of the airline industry. The Civil Aeronautics Board has attempted valiantly to initiate administrative reforms to promote competition, but it has been challenged in every instance. And, just as the present Board has interpreted the present statute to permit greater competition, future Boards could easily interpret it to restrict competition. Legislation is essential to give the Board guidance and to promote a free market environment.

It is NAM's hope that the House of Representatives will consider this matter expeditiously so that this vital reform measure will be enacted this year.

Sincerely,

JAMES CARTY.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 10, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED
AUGUST 11

9:00 a.m.
Energy and Natural Resources
To continue mark up of proposed legislation designating certain Alaska lands as national parkland.
3110 Dirksen Building

9:30 a.m.
Environment and Public Works
To hold hearings on the nomination of Karl S. Bowers, of South Carolina, to be Administrator, Federal Highway Administration, DOT.
4200 Dirksen Building

Judiciary
To hold hearings to examine the FBI's program to prevent and investigate bank robberies.
2228 Dirksen Building

Conferees
On H.R. 12927, making appropriations for military construction for FY 79.
H-140, Capitol

10:00 a.m.
Budget
To continue markup of second concurrent resolution on the Congressional Budget for FY 1979. (Afternoon session expected.)
S-207, Capitol

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearing on S.J. Res. 111, authorizing participation by the United States in parliamentary conferences with Japan.
4221 Dirksen Building

Rules and Administration
To continue to consider the nominations of John Warren McGarry, of Massachusetts, and Samuel D. Zagoria, of Maryland, to be members of the FEC, and other legislative and administrative business.
301 Russell Building

Select Indian Affairs
To markup S. 3043 and H.R. 11092, authorizing additional funds for expenses of the Navajo and Hopi Indian Relocation Commission; S. 2502, to authorize the States and Indian tribes to enter into mutual agreements respecting jurisdiction and governmental operations in Indian country; S. 857, to provide Federal financing assistance to Hawaiian natives; and S. 3002, clarifying the southern boundary of the Salt River Pima-Maricopa Indian Reservation, Arizona.
6226 Dirksen Building

10:30 a.m.
Appropriations
To resume consideration of H.R. 12929, making appropriations for FY 79 for the Departments of Labor and HEW.
S-128, Capitol

AUGUST 14

8:30 a.m.
Finance
Health Subcommittee
To hold hearings on H.R. 9434, to increase Federal Medicaid funding for Puerto Rico, the Virgin Islands, and Guam, and on S. 1392, proposed Child Health Assessment Act.
2221 Dirksen Building

9:30 a.m.
Judiciary
Immigration Subcommittee
To hold hearings on S. 3093, to provide for the seizure and forfeiture of vehicles used to illegally transport persons into the U.S.
2228 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 3304, proposed Federal Reserve Requirements Act.
5302 Dirksen Building
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2860, proposed Solar Power Satellite Research, Development, and Demonstration Program Act.
3110 Dirksen Building
Environment and Public Works
To hold hearings on several public building prospectuses.
4200 Dirksen Building
Foreign Relations
To receive testimony, in closed session, from Secretary of State Vance on the situation in the Middle East.
S-116, Capitol

2:00 p.m.
Conferees
On H.R. 12222, authorizing funds for International Development Assistance programs for FY 79.
S-116, Capitol

AUGUST 15

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Environment and Public Works
Resource Protection Subcommittee
To hold hearings on H.R. 2329, proposed Fish and Wildlife Improvement Act, H.R. 8394, proposed Refuge Revenue Sharing Act, and S. 691, to provide for the conservation of waterfowl in the San Joaquin Valley, California.
4200 Dirksen Building
Human Resources
Labor Subcommittee
To hold joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 3304, proposed Federal Reserve Requirements Act.
5302 Dirksen Building
Finance
International Trade Subcommittee
To hold hearings on S. 2920, to exclude certain imported textile products from future tariff reductions.
2221 Dirksen Building
Foreign Relations
To hold hearings on Additional Protocol I to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Exec. I, 95th Cong., 2nd sess.).
4221 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns domestic security.
2228 Dirksen Building
Select Intelligence
To hold a closed business meeting.
S-407, Capitol

AUGUST 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
225 Russell Building
Energy and Natural Resources
Business meeting on pending calendar business
3110 Dirksen Building

9:30 a.m.
Environment and Public Works
To mark up S. 2900, to provide compensation for damages and cleanup costs caused by discharges of oil and hazardous substances, to be followed by consideration of the nominations of Jane Hurtyarn, of Georgia, to be a member of the Council on Environmental Quality, and Karl S. Bowers, of South Carolina, to Administrator, Federal Highway Administration, DOT.
4200 Dirksen Building
Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 3304, proposed Federal Reserve Requirements Act.
5302 Dirksen Building
Judiciary
Criminal Laws and Procedures Subcommittee
To hold hearings on S. 3270, proposed Justice System Improvement Act and related bills.
2228 Dirksen Building
Select Indian Affairs
To hold hearings on the recommendations of the Bureau of Indian Affairs reorganization task force.
5110 Dirksen Building

2:30 p.m.
Human Resources
Health and Scientific Research Subcommittee
To resume markup of S. 3115, to establish a comprehensive disease prevention and health promotion program in the U.S.
Room to be announced

AUGUST 17

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 3304, proposed Federal Reserve Requirements Act.
5302 Dirksen Building
Environment and Public Works
Water Resources Subcommittee
To hold oversight hearings on the physical and financial condition of the Erie canal.
4200 Dirksen Building
Foreign Relations
Arms Control Oceans, and International Environment Subcommittee
To hold hearings on S. 2053, the Deep Seabed Mineral Resources Act, now pending in the Commerce, Science, and Transportation Committee.
4221 Dirksen Building
Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings with the Governmental Affairs Subcommittee on Federal Spending Practices and Open Government on S. 2515, dealing with occupational alcoholism programs.
3302 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 18

9:00 a.m.
Finance
Health Subcommittee
To hold hearings on proposals to expand coverage of mental health services.
2221 Dirksen Building

10:00 a.m.
Human Resources
Health and Scientific Research Subcommittee
To resume mark up of S. 2755, to revise and reform the Federal law applicable to drugs for human use, and to establish within the Department of HEW a National Center for Clinical Pharmacology.
4232 Dirksen Building
Judiciary
To hold hearings on S. 2361, to revise certain U.S. transportation laws.
2228 Dirksen Building

AUGUST 21

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2455, the Home Owners' Equity Act, and S. 70, the Home Buyers Assistance Act.
5302 Dirksen Building
Commerce, Science, and Transportation
To hold hearings on the nomination of Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board.
235 Russell Building

AUGUST 22

9:00 a.m.
Human Resources
To hold hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 2455, the Home Owners' Equity Act, and S. 70, the Homebuyers Assistance Act.
5302 Dirksen Building
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 3363, proposed International Air Transportation Competition Act.
235 Russell Building
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 23

9:00 a.m.
Human Resources
To continue hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building
9:30 a.m.
Environment and Public Works
To hold a business meeting on pending calendar business.
4200 Dirksen Building
10:00 a.m.
Banking, Housing, and Urban Affairs
To hold joint hearings with the Committee on Governmental Affairs on S. 2750, proposed Consolidated Banking Regulation Act.
3302 Dirksen Building
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 3363, proposed International Air Transportation Competition Act.
235 Russell Building
Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
To continue hearings on S. 3005, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
2228 Dirksen Building

AUGUST 24

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue joint hearings with the Committee on Governmental Affairs on S. 2750, proposed Consolidated Banking Regulation Act.
3302 Dirksen Building
10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 3363, proposed International Air Transportation Competition Act.
235 Russell Building
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 25

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2843, to provide for the striking of gold medallions.
5302 Dirksen Building
Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 3270, proposed Justice System Improvement Act, and related bills.
2228 Dirksen Building

AUGUST 28

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.

AUGUST 29

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

SEPTEMBER 8

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 2970, proposed Truck Safety Act.
235 Russell Building

SEPTEMBER 14

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter and its overall policy.
2228 Dirksen Building

SEPTEMBER 19

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
6226 Dirksen Building

SEPTEMBER 21

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

CANCELLATIONS

AUGUST 15

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 1699, proposed Diesel Fuel and Gasoline Conservation Act.
235 Russell Building

AUGUST 16

10:00 a.m.
Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
To hold hearings on S. 3005, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
3302 Dirksen Building

AUGUST 18

10:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

SENATE—*Thursday, August 10, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us hear the words of the gospel of Saint Matthew, the 18th chapter.

Verily, I say unto you, Except ye be converted, and become as little children, ye shall not enter into the kingdom of heaven.

Whosoever therefore shall humble himself as this little child, the same is greatest in the kingdom of heaven.— Matthew 18: 3, 4.

Let us pray.

Our Father-God who hears and answers the prayers of those who seek Thee in spirit and in truth, may this pause be for each of us a time of self-assessment, heart cleansing, and a fresh dedication to all that is noble, just, and true. Emancipate us from every fear except the fear of failing to do Thy will. Show us more clearly that we cannot improve the social order unless we improve ourselves. Give us a part in the spiritual renewal of our time. Convert us not to the child which once we were, but to the child we never yet have been—humble, trustful, confident of Thy nearness, certain that simple child-like faith is the gateway to the kingdom over which Thou dost rule.

In the Master's name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 10, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MOR-

GAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

(Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.)

THE JOURNAL

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. EAGLETON. Mr. President, is the pending order of business the Agriculture appropriation bill?

The ACTING PRESIDENT pro tempore. The leaders have their time under the previous order.

TIME-LIMITATION AGREEMENT—H.R. 13468

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as H.R. 13468, the D.C. appropriation bill, is called up and made the pending business before the Senate, there be a time agreement thereon of 1 hour on the bill, 30 minutes on any amendment, 15 minutes on any debatable motion, appeal, or point of order, if such is made to the Senate, and that the agreement be in the usual form with respect to the division and control of time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who is to control the time?

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. LEAHY and Mr. MATHIAS.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 13468 (Order No. 998), an act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending Sept. 30, 1979, and for other purposes, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Vermont (Mr. LEAHY) and the Senator from Maryland (Mr. MATHIAS): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT—H.R. 12928

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when Calendar Order No. 992, the public works appropriations bill is called up and made the pending business before the Senate there be a 2-hour time limitation on debate on the bill to be equally divided between Mr. JOHNSTON and Mr. HATFIELD, 30 minutes on any amendment, 15 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate, with the exception that there be no time limitation on any amendment dealing with nuclear waste disposal; that the agreement be in the usual form as to the control and division of time; and this has been cleared with the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

The agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 12928 (Order No. 992), an act making appropriations for public works for water and power development and energy research for the fiscal year ending Sept. 30, 1979, and for other purposes, debate on any amendment (except any amendment dealing with nuclear waste disposal, on which there shall be no time limitation) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Louisiana (Mr. JOHNSTON) and the Senator from Oregon (Mr. HATFIELD): *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee (Mr. BAKER).

Mr. BAKER. Mr. President, I thank the Chair.

I have no need for my time under the standing order and no requests for time. I yield it back.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for transaction of routine morning business, that Senators may speak therein for up to 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there morning business? If not, morning business is closed.

COMMITTEE MEETINGS

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Water Resources Subcommittee of the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold a hearing on the administration's proposed water policy.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to mark up the following legislation:

S. 2981—Railroad Amendments Act of 1978.

S. 2995—Union Station Improvement Act of 1978.

S. 3229—Postal Service Amendments Act of 1978.

S. 2053—Deep Seabed Mining.

Nomination of Thomas F. Moakley to be a member of the Federal Maritime Commission (reappointment).

Nomination of Francis H. McAdams to be a member of the National Transportation Safety Board (reappointment).

Routine Coast Guard nominations.

H.R. 185—Transportation authority for Coast Guard employees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology and Space of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold oversight hearings on nuclear waste disposal.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LONG. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate today beginning at 3 p.m. to consider countercyclical revenue sharing legislation. I believe this has been cleared on all sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AGRICULTURAL, RURAL DEVELOPMENT, AND RELATED AGENCIES APPROPRIATIONS, 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 13125, which the clerk will state by title.

The assistant legislative clerk read as follows:

Calendar No. 982, H.R. 13125, a bill making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes.

The ACTING PRESIDENT pro tempore. Time for debate on this bill is limited to 1 hour, to be equally divided and controlled between the Senator from Missouri (Mr. EAGLETON) and the Senator from Oklahoma (Mr. BELLMON), with 30 minutes on any amendment, and 15 minutes on any debatable motion, appeal, or point of order.

The pending question is on an amendment by the Senator from Maine (Mr. HATHAWAY).

The Senator from Maine is recognized.

AMENDMENT NO. 3442

(Purpose: To increase the amount of funds appropriated for various agricultural conservation programs)

Mr. HATHAWAY. Mr. President, I call up amendment No. 3442.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY), for himself and Mr. MCGOVERN, proposes amendment No. 3442.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 22, strike out "$85,000,000" and insert "$190,000,000".

Mr. HATHAWAY. Mr. President, I yield to my distinguished colleague from South Dakota (Mr. MCGOVERN).

Mr. MCGOVERN. Mr. President, I thank the Senator from Maine for yielding to me. I do have to preside at a hearing this morning held by the Senate Subcommittee on Nutrition.

But I rise to support the amendment that Senator HATHAWAY and I offer to restore funds for the agricultural conservation program.

I think all across the farm States of the Nation this is one of the most recognized and respected conservation programs Congress has devised.

Mr. President, since its adoption in 1936, the agriculturual conservation program has become a well-recognized and respected conservation program by the Nation's farm community. In the Congress, it has become accepted on both sides of the aisle as productive and worthwhile. I doubt seriously that there would be a single vote in the Chamber recorded in favor of scrapping the program. The question then becomes not one of abandoning a program proved to be desirable, but one of funding it at acceptable levels. The need to preserve and enhance our soil and water resources is perhaps the single greatest task facing American agriculture. Current indicators suggest that our combined national conservation efforts are no longer keeping pace with the problems of soil erosion.

With a worldwide demand for food, feed, and fiber increasing almost geometrically, American agriculture is responding with increasingly greater zeal and effort to meet this demand. The demand for food we all know will continue at increasingly higher levels into the future.

We must remember, however, that full production of the kind one can foresee places a very heavy burden on the Nation's finite base of cropland. Economic incentive has brought marginal cropland into production, oftentimes without the necessary long-range outlook for the prevention of erosion, and ultimately a loss of soil productivity. Soil losses of 50 tons and more per acre are now being recorded in Iowa and other major producing areas. Are we in fact jeopardizing the means of future productivity?

Lest we forget the nature of the ACP program—which Senator HATHAWAY and others of us are trying to strengthen here this morning—let me be quick to point out that this is not a Federal giveaway program. Accepted conservation practices are matched by Federal-farmer cooperation. For every dollar of Federal participation, there is a dollar of farmer participation.

We also ought to remember that this is not a program for rich farmers. The maximum a farmer can receive under this formula is $2,500. The average in my State is actually closer to about $800 or $900.

We also ought to remember that the House figure of nearly $200 million in funding actually generates almost $400 million in accepted conservation practices because of the matching formula involved.

Mr. President, let me just say that I regard it as a mistake in the name of economy to jeopardize the long-range economy of our farmers. I urge the Senate to look down the road to the day when food production in this country is crucial, not only to our own well-being, but to the very survival of humanity.

We ought to prepare for that time by maintaining at least at its present level a strong conservation program.

I very much hope that the amendment that the Senator from Maine and I are offering will be approved by the Senate. I think we are performing a great service, not only to the farm producers of this country, but to all who believe in conserving the land and understand the vital relationship that plays to the future, not only to the people of the United States, but also people all around the world.

If we brought a program like this into the cities, it would be heralded with resounding cheers. I find it difficult to understand why it is attacked by both the administration and the Senate Appropriations Committee in the farmland areas.

I frankly am at a loss to explain why each year the Congress on this issue must face a confrontation with the executive department—and in this particular year, do battle with our own Appropriations Committee, which has slashed the funding of this program even below the levels contained in the administration's budget, that budget admittedly being hostile to the ACP program.

Mr. President, the 1978 money for funding this program stood at $226 million including $36 million in the first supplemental appropriation. The House under the continued able leadership of the gentleman from Mississippi (Mr. WHITTEN) recommended a 1979 appropriation of $190 million and wisely again separated ACP from efforts to combine it with other conservation programs. The Senate Appropriations Committee reduced the House-passed figure to $85 million—substantially less than one-half of the House appropriation.

How do some of the States fare under the House and Senate figures? My State of South Dakota would receive $3.7 million under the House version—$1.6 million under the Senate measure. The South Dakota ASCS office advises me that there are approximately 9,500 contracts in my State in the ACP program. South Dakota has about 43,000 farms, leading to the conclusion that almost 1 in 4 farms takes advantage of this program in one way or another. Under the Senate appropriation, this whole picture would be cut by almost 60 percent. I find this unacceptable.

Texas would receive $16.4 million under the House bill—$7.3 million under the Senate. Kansas, $5.7 million from the House—$2.6 million from the Senate. Mr. President, every Senator in this Chamber faces losses to his State of from 50 to 60 percent of last year's funding.

Mr. President, it is a mistake in efforts at economy to jeopardize the ecomonic well-being of our farmers. I urge the Senate to look down the road to the day when food production in the United States is crucial not only to our own well-being but to the survival of humanity. Let us prepare for that time by maintaining a strong conservation program.

Mr. President, lest the Senate be of the opinion that the ACP amendment does not have widespread support or that it is being advanced by a handful of Senators from farm-oriented States, let me say that I have personally checked with the National Farmers Organization, the National Farmers Union, the National Association of Wheatgrowers, and the National Association of Farmer Elected Committeemen, the latter organization being that body actually called upon to administer the program. A call to the National Association of Conservation Districts also indicates the support of that organization.

Each of these organizations fully endorse the House funding of this program at $190 million and take strong issue with the Appropriations Committee cuts. These are the people who actually use the program. These are the organizations that have participated since 1936. These are the organizations who want it.

Mr. President, I thank the Senator from Maine for yielding to me to make it possible for me to participate.

Mr. HATHAWAY. I thank the Senator from South Dakota for his contribution and his complimentary remarks.

Mr. President, I yield 2 minutes to the Senator from Mississippi.

Mr. STENNIS. Mr. President, first, I thank as well as compliment the Senator from Missouri for doing an excellent job as chairman of this subcommittee. I trust his work to the extent that I gave him a general proxy at the markup.

However, on this matter, I think that without any indepth study and hearings by some of our knowledgeable peo-

ple in the subcommittees, this reduction should not be made.

Moreover, this is one program about which I know something. I live in a rural county of small farmers, where I have always lived, and I know these people by name and the background of their work. I have seen with admiration over the years the application of this program. It is really a grassroots program. It gets down to soil conservation, reforestation, and other constructive forward movements that are greatly needed.

This is a small amount, and it is for people who still live on their land. It is a great help in enabling them to continue to make a living on these small farms.

I am very confident that, so far as it applies to areas such as mine, this is a highly valuable program, and I strongly support its continuation.

I believe that no substantial reductions should be made until a determination has been made, as I have said, by indepth development of the facts and applying yardsticks in a reassignment of priorities. That is what an Appropriations Committee is, anyway—an assignment of priorities.

So, until those facts are developed and the yardstick established and applied, I hope the Senate will not delete substantially these sums of money.

Mr. President, I ask unanimous consent to have my name added as a cosponsor of the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STENNIS. I thank the Senator very much for yielding to me.

Mr. HATHAWAY. I thank the Senator from Mississippi for his contribution.

Mr. EAGLETON. Mr. President, will the Senator from Maine yield for 1 minute?

Mr. HATHAWAY. I yield.

Mr. EAGLETON. I would like to respond to some of the remarks of Senator STENNIS. I know he has a committee commitment.

Senator STENNIS, in supporting the Hathaway amendment, said that he thought this action should not be taken without indepth study and hearings.

I point out to my distinguished colleagues that we held 20 days of hearings on this bill, and we heard from several witnesses specifically on this program. It is not just the word of the Appropriations Subcommittee and full committee, but it is the policy, quite frankly, that was adopted in the 1977 Food and Agriculture Act. I will read one portion of the act—that in section 1501 of the authorization bill:

> The Secretary is authorized to carry out the policy and purposes specified in section 7(a) of this Act by providing financial assistance to agricultural producers for carrying out enduring conservation and environmental enhancement measures.

Those are the key words—"for carrying out enduring conservation and environmental enhancement measures." The money we have in the bill is for the enduring practices. The $105 million budget buster of Senator HATHAWAY is the one that adds funds that do not relate to enduring practices, according to independent audits of the program.

I point out to my colleague that this is a matter to which we have given very careful and thorough attention.

Mr. STENNIS. Mr. President, the Senator from Missouri always gives attention. I am not accusing him of lying down on the job. I do think that extensive hearings would disclose a great deal with respect to this matter.

Mr. HATHAWAY. I thank the Senator from Mississippi.

Mr. President, I ask unanimous consent that the names of the following Senators be added as cosponsors of the amendment: Senator CLARK, Senator ALLEN, Senator HART, Senator NELSON, Senator DURKIN, Senator DOLE, Senator LEAHY, Senator RANDOLPH, and Senator BROOKE.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, several Senators would like to speak on this amendment, and I know the time is limited, so I will be brief.

This amendment does not represent a budget problem so far as the congressional budget is concerned. This is a program that has been of major benefit to farmers throughout the country, particularly in areas where they do not have any subsidy for the crops they grow—for in those areas it is the only major USDA program that benefits farmers.

The Senate bill cuts the appropriation that was made last year by more than 50 percent. That does not seem to me and my cosponsor to be warranted. The Senator from Missouri says there is no permanent enhancement as a result of the agriculture conservation programs. However, I ask unanimous consent to have printed in the RECORD a list of the programs that were carried out in 1977, all of which seemed to me to be of permanent value to the farmers.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

SUMMARY OF 1977 ACP PRACTICES (REGULAR AND LTA)

[Those practices considered to assist in water quality NPS pollution control]

		Farms	Extent	Amount
RE 1	Establishing permanent vegetative cover.	61,867	1,216,034	$23,412,883
RE 2	Improving permanent vegetative cover.	85,877	3,022,789	23,355,087
RE 3	Planting trees	4,883	33,134	1,313,936
RE 4	Improving stand of forest trees	2,625	44,288	942,855
RE 5	Water impoundment reservoirs	1,967	1,618,271	12,933,096
RE 6	Stripcropping	1,960	124,020	763,555
RE 7	Terrace construction	9,904	357,158	8,235,538
RE 8	Diversions	4,361	138,093	2,164,419
RE 9	Streambank stabilization	564	36,451	604,398
RE 11	Sediment retention, erosion, water control structures.	4,855	458,234	4,508,838
RE 12	Sediment chemical or water runoff control measures.	15,230	895,003	9,019,594
RE 13	Windbreaks or shelterbelts	8,540	177,536	1,765,938
RE 14	Reorganizing irrigation systems	16,404	1,403,003	22,972,159
SA 3	Increased acreage of vegetative cover (rotation).	2,324	79,438	729,560
SC 3	Contour plantings	2	148	1,269
SD 1	Interim cover	34,692	1,298,926	5,886,484
SE 1	Stubble mulching	787	65,f22	185,395
SE 2	Contour farming	165	10,116	42,196
SE 4	Mulching	75	2,837	25,170
SI	Animal waste storage and diversion facilities.	1,502	1,557	2,492,199
SL	Conservation tillage	859	31,673	205,959
S3	Testing for erosion control	7	323	7,837
S9	Salive seep control measures	65	2,309	29,361
WE 1	Establishing field windbreaks	718	57,275	264,038
WE 2	Establishing vegetative cover	2,247	93,972	1,773,955
WE 3	Establishing stripcropping system	216	49,186	136,032
WE 5	Livestock water facilities	2,976	1,496,870	2,966,057
SC 5	Diversions	1	2	500
WC 4	Irrigation water conservation	5	540	14,769
	Total		12,714,805	126,735,077

Agricultural Stabilization and Conservation Service (ASCS) 1977 agricultural conservation program (ACP)

1977 ACP cost-share payments and other payments and other important statistics (as of June 21, 1978):

Number of counties	3,056
Number of farms	328,422
Total cost-share this interim report	$164,385,376

Mr. HATHAWAY. Mr. President, this is a program that is carried out at the local level. It is carried out through county committees who set priorities and rule on applications. The farmers themselves make a contribution, known as "cost-share," of at least 50 percent. Each farmer is limited to $2,500 which he can receive. This amount, although not very much today, has been on the books at that level for about 20 years. Last year, it meant $1.9 million to nearly 2,500 Maine farmers. The Senate bill would cut this to $800,000.

We think that the program, since it does go down to the grassroots—if you will excuse the expression—is one of major benefit to the farmers throughout the country.

Mr. President, I yield to the Senator from Colorado.

Mr. HART. I thank the Senator from Maine for his initiative in raising this issue here today.

Mr. President, I have cosponsored the amendment to restore the agricultural conservation program to the fiscal year 1978 appropriation level to demonstrate my strong support for this long-standing and worthwhile program. The agricultural conservation program is well accepted by farmers across the Nation and is possibly the most popular of all the various Department of Agriculture conservation programs.

To cut this program back as far as has been proposed by the administration and

by the Appropriations Committee would cause irreparable harm to the conservation efforts of many farmers in the State of Colorado. Farmers do their planning as to how they are going to manage their land on a multiyear basis. If they cannot be assured that they will have some continuing assistance in their conservation program to help defray expenses, then many of them will undoubtedy decide to refrain from making a commitment and worthwhile conservation practices will not be initiated.

Mr. President, for a number of years, questions have been raised about the types of conservation practices that have been funded under the agricultural conservation program. A GAO report issued in 1977 indicated that a major portion of the funds expended through this program had been used for short-term, production-enhancement practices.

The distinguished floor manager, the Senator from Missouri, has indicated that studies have raised questions about the degree to which the funds being used in this program have been used for short-term production enhancement practices or whether for long-term so-called enduring practices.

I recently raised these questions with Agricultural Stabilization and Conservation Service personnel and with leaders in the agricultural community in Colorado, concerning the types of practices that the State and local agricultural stabilization and conservation service committees are involved in and how these funds are being used on a cost-sharing basis. Their assurances and a listing of the expenditures under this program for the first half of 1978 have reaffirmed what had been related to me by many farmers in Colorado: That agricultural conservation program funds are being spent to help farmers across the State initiate and perform enduring conservation practices. In fact, approximately 90 percent of the funds are being used on practices which have been determined to be of high priority.

Mr. President, for some reason, practices aimed at promoting the conservation of irrigation water seem to be questioned as to their appropriateness for funding this program.

Mr. President, the original conservationists were farmers. They were talking about practicing conservation a long time before any other organizations in this country were formed for that purpose.

In Colorado, a large portion of the funds expended under this program do go for cost sharing of practices that have proven to be effective in conserving irrigation water. These practices are worthy of public support and encouragement as recognized in the Food and Agriculture Act of 1977. Section 1501 of that act directed the Secretary of Agriculture, while formulating the agricultural conservation program as modified, to take into consideration seven factors, two of which identify water conservation efforts as being high priority. The criteria the Secretary is to take into consideration that relate to water conservation are the need to control erosion and sedimentation from agricultural land and to conserve the water resources on such land, and the need to facilitate sound resources management systems through soil and water conservation. The practices identified for cost sharing in Colorado clearly meet these criteria. Since water conservation practices do not in themselves enhance the productivity of land, farmers will continue to need encouragement and assistance in implementing them or needed water conservation practices will not be initiated and precious ground water resources will be depleted.

Mr. President, I encourage my colleagues to support this amendment. The agricultural conservation program is meeting the needs of farmers and the public, and should be adequately funded.

I think it is of highest priority not only in the State of Colorado but also across the agricultural community of this country.

Mr. President, I ask unanimous consent that a letter of July 31 directed to me from Mr. Charles Bishopp. State executive director of the Agricultural Stabilization and Conservation Service, with the attached documents to that letter, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COLORADO STATE ASCS OFFICE,
Denver, Colo., July 31, 1978.

Hon. GARY HART,
U.S. Senator, Dirksen Office Building, First Street and Constitution Avenue, Washington, D.C.

Attention: Mr. David Sprague

DEAR SENATOR HART: A breakdown of ACP practice funds for the first six months of the program year is enclosed.

You will note that approximately 90 percent of the funds are being spent on practices which are of high priority and improve water quality.

Sincerely,

CHARLES L. BISHOPP,
State Executive Director.

Enclosure.

Prevention of soil loss from water and wind erosion:	
SL1 Permanent Vegetative Cover Establishment	$123,338
SL2 Permanent Vegetative Cover Improvement	74,003
SL3 Stripcropping Systems	4,933
SL4 Terrace Systems	45,000
SL5 Diversions	12,334
SL6 Grazing Land Protection	296,010
SL7 Windbreak Restoration or Establishment	12,400
SL9 Conservation Tillage Systems	50,000
	618,018
Solutions to water conservation problems:	
WC1 Water Impoundment Reservoirs	124,500
WC2 Spreader Ditches or Dikes	13,000
WC3 Rangeland Moisture Conservation	12,500
WC4 Irrigation Water Conservation	1,356,800
	1,506,800
Solutions to water quality problems:	
WP1 Sediment Restoration Erosion, or Water Control Structures	50,000
WP2 Stream Protection	9,900
WP3 Sod Waterways	4,950
WP4 Animal Waste Control Facilities	12,400
WP5 Water Management Systems for Pollution Control	12,300
	89,550
Conservation of soil and water through forestry:	
FR1 Forest Tree Plantations and FR2 Forest Tree Stand Improvement	2,500
Conservation of wildlife habitat:	
WL1 Permanent Wildlife Habitat and WL2 Shallow Water Areas for Wildlife	9,900
Total high priority	2,226,768
Medium priority practices	239,989
Total approved	2,466,757

Mr. HART. I thank the Senator from Maine.

Mr. HATHAWAY. Mr. President, I ask unanimous consent to add Senator BAKER to the list of cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATHAWAY. I yield to the Senator from Iowa.

Mr. CLARK. Mr. President, how much time remains for the proponents of the amendment?

The ACTING PRESIDENT pro tempore. Thirty seconds remain for the proponents.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. HATHAWAY. I am happy to yield. If we can get some additional time I shall appreciate it.

Mr. EAGLETON. I yield 2 minutes to the Senator from Iowa off our side.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. CLARK. I thank the distinguished Senator from Missouri very much for yielding me time off the amendment to argue against his case.

Mr. President, I support this amendment to restore the agricultural conservation program—ACP—to last year's level of $190 million.

Basically, I believe the cuts proposed for the ACP program reflect the administration's failure to come to grips with soil conservation needs and develop a soil conservation strategy. I was shocked last winter when I saw the President's budget proposal for a cut in spending on soil conservation in fiscal year 1979 of more than $178 million. In fact, the proposed cuts went even deeper because they included drastic reductions in the number of soil conservation personnel that were greater, even, than the reductions proposed for the rest of the entire USDA.

Last February, I chaired a hearing in the Environment, Soil Conservation, and Forestry Subcommittee of the Senate Agriculture Committee on the administration's proposals for soil conservation. My purpose at that time was to try to gain some insight into their strategy for conservation and to find the reason for the proposed cuts. I was concerned that they were abandoning soil conservation as an objective—that in their preoccupation with budgets and budget cuts, they were cutting the lifeblood out of these essential programs.

These hearings brought out a real contrast between the needs for conservation programs and the administration's proposals for conservation efforts. Witnesses cited needs for soil conservation that are growing, and growing rapidly. We heard that our modern high-technology, single-crop agriculture with its intensive soil

use makes the soil more vulnerable than ever to topsoil loss. Very little farmland is idle, or in meadow or pasture if it is capable of being farmed intensely. We have more acres that are vulnerable to erosion damage than we have had at most periods in the past.

The administration, on the other hand, dealt at length on their commitment to sound soil conservation programs, and their intent to put soil conservation programs on sound footing. But, they stuck by their intent to cut dollars from the programs, and to cut people too. Frankly, I found their words inconsistent with their recommendation.

Basically, I think the committee has done a good job in restoring these programs. The committee has recommended approximately $115 million more than the President did for the three principal cost-sharing programs: ACP, the Great Plains conservation program, and the new rural clean water program.

My own disappointment comes only with the one proposal for an even greater cut in the ACP.

The committee has singled out the ACP program and has proposed to hold it down even more than the President proposed while restoring cuts in the other programs. The President proposed to cut from $190 to $100 million. The committee's proposal would take it to $85 million.

We held extensive hearings in the State of Iowa with regard to this program and our testimony, I think, was unanimous in the effectiveness of these particular programs.

The committee makes the standard argument—an argument made for years against ACP. It has two parts.

First, the argument goes, many of the practices funded under ACP are not sufficiently long term. We might get more for our money if these funds were spent a different way. The second part of that argument is the assertion that many of these practices would be undertaken by farmers anyway—even without a program.

The fact is that the decisions regarding which practices to fund under ACP are made by farmers—by elected farmer committeemen in each county. I know of no group in this country that cares more about soil conservation. They know a very great deal about soil conservation; they care about it, and I trust their judgment about it. When Iowa farmers select soil conservation practices on the basis that they help save the topsoil, then I believe them in their conviction that these practices are effective.

We look at such practices as establishing permanent vegetative cover; water impoundment reservoirs, and terrace construction. All of these things, it seems to me, fall in the area of long term kinds of soil conservation practices.

The second argument—that farmers would do many of these things anyway—strikes me as particularly ill timed. Farmers are in severe economic difficulty. Prices are down once again, and farm income still has not recovered much from the disastrous drops of 1976 and 1977. Soil conservation practices cost money—money farmers do not, in most cases, have to spend.

Farmers simply do not have the money to invest on their own in soil conservation practices even though they know these practices are valuable and important. The argument that the farmers would do so anyhow, is partly right—many farmers would do these things if they could. For the Government to bet that they can, just now, is a high-risk bet indeed.

In summary, Mr. President, I support this amendment to bring ACP funding back to the fiscal year 1978 level of $190 million—an increase of $105 million from the level proposed by the committee. That is the level proposed by the House. It is a level that barely covers the established need across the Nation. I can think of no purpose more worthy than soil conservation, and no expenditure more beneficial than support for soil conservation programs. I hope my colleagues in the Senate will join me in support of this amendment.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. CLARK. I particularly thank the Senator from Missouri for his kindness in yielding me from his time.

Mr. EAGLETON. Mr. President, let me take this opportunity to reiterate the explanation of the action of the Appropriations Committee on the ACP program which was provided to my colleagues in a letter that Senator BELLMON and I addressed to them.

President Carter's budget proposed the consolidation of the Great Plains conservation program, the agricultural conservation program (ACP) and the newly authorized rural clean water program and provided a $100 million funding level for the combined program. In doing so, the President also proposed reforming ACP to bring it in line with language contained in the Food and Agriculture Act of 1977, which stated that ACP was to be utilized " * * * for carrying out enduring conservation and environmental enhancement measures."

In considering the fiscal year 1979 appropriation for ACP, the committee reviewed in detail the recent report by the Comptroller General on the program. That report clearly stated that the majority of the money authorized for ACP in recent years has not been used for measures oriented toward conserving our Nation's topsoil, but has instead been used for production-oriented practices. Such practices result in minimal soil conservation, and would probably be undertaken by farmers even without Federal assistance.

In fact, strike the word "probably"—would be undertaken by farmers even without Federal assistance.

Let me just quote a bit from that GAO report, because I think it is very revealing:

> The direction of the Agricultural Conservation Program has shifted in recent years to providing proportionately more funding for practices which, although eligible for program funding, have only temporary erosion control benefits or which are oriented more toward stimulating agricultural production and financially benefiting farmers than toward conserving the Nation's topsoil resources.

Another quote from that same report:

> ACP has not been as effective as it could have been in assisting farmers to carry out needed enduring soil and water conservation practices. In recent years, the program has been used more and more to finance production-oriented practices and other measures not essential for soil and water conservation. If greater progress is to be made in treating critical soil erosion areas under ACP, some redirection of program emphasis seems needed.

In light of this, as well as the language of the 1977 farm bill that I quoted earlier in a response to Senator STENNIS, the committee felt that it would be prudent to fund ACP at approximately the budget level and limit its use to enduring—that is the key word—enduring conservation practices as the administration had proposed.

It is important to note that the committee's recommendation differs from the budget substantially in the total amount of money provided for the three programs President Carter proposed to combine. The committee has recommended approximately a $115 million increase in cost-sharing payments to be made under ACP, the Great Plains conservation program, and the rural clean water program over the President's budget.

It is our firm belief that attempts to increase these cost-sharing payments any further will severely hamper our efforts to reform the ACP program and at the same time could place the Agriculture appropriations bill in jeopardy of being vetoed.

I urge your support of the committee's action on this matter, and the defeat of this amendment.

I could quote, Mr. President, from other reports as well, but I will stop talking about the substantive merits of the amendment. Just a few words, if I may, before yielding to my colleague, on what happens if the Hathaway amendment is agreed to.

I do not want to kid anybody in the Chamber or my colleagues when they come in to vote on this amendment. When this amendment passes, as I suspect it will, it means that this bill will be vetoed, Mr. President. The President and OMB are not threatening us on this. They have just as much stated they will.

I ask unanimous consent to have printed in the RECORD a letter dated July 31, 1978, from OMB Director James T. McIntyre, Jr.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 31, 1978.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The House version of the Agriculture Appropriations bill contains excess funding for discretionary programs ($410 million above the budget) and legislative language provisions which are unacceptable to the Administration. The Senate subcommittee version of this bill had initially mitigated some of these most troublesome features, but the bill is now threatened with full committee amendments to drive its funding totals (for discretionary programs) above those provided by the House bill.

We urge the full committee to reject any amendments to add more funds to the bill and are especially opposed to an amendment to be offered to add $105 million to the subcommittee bill for the Agricultural Conservation Program (ACP). The ACP should be directed toward helping farmers solve critical national problems (such as non-point source pollution) and should not provide Government assistance in less critical areas of individual cropland improvement.

I ask the committee's support to reject the ACP amendment and any others to further increase the size of the Agriculture bill. These amendments are not justified in this period of inflationary spiral.

Sincerely,

JAMES T. MCINTYRE, Jr.,
Director.

Mr. EAGLETON. Here is what Mr. McIntyre says:

We urge the full committee to reject any amendments to add more funds to the bill

And then listen to this:

and are especially opposed to an amendment to be offered to add $105 million to the subcommittee bill for the Agricultural Conservation Program (ACP). The ACP should be directed toward helping farmers solve critical national problems (such as non-point source pollution) and should not provide Government assistance in less critical areas of individual cropland improvement.

This is the one amendment, the $105 million, that OMB specifically wrote to us and said that they specifically opposed. This, of course, is the one that will put the bill over the House figure. The House bill, when properly adjusted, is about $400 million over the President's budget.

When we brought the bill to the subcommittee we were only $175 million over the President's budget. Then the add-on process started. The subcommittee added about $50 million. The full committee added another $50 million. We had $20 million added last night in the Melcher amendment, and now $105 million more in the Hathaway amendment. So this makes the bill a likely candidate for a veto. That is the risk you have to take in this business. I am sorry that we will have to come back and do it again, but that is what is at risk in this matter.

I must say I am constantly bemused by the fiscal conservatives of this body who talk about spending constraints and the ravages of inflation engendered by a deficit-ridden budget, who vote rather easily for a little $20 million here, a little $100 million there, and a little $50 million here.

I really cannot quite understand that. I cannot understand the difference between talking fiscal conservatism and voting for a bloated budget. But I do not have to reconcile that in my mind. I guess they will have to reconcile it in theirs.

Mr. HATHAWAY. Mr. President, will the Senator from Missouri yield?

Mr. EAGLETON. I yield.

Mr. HATHAWAY. Is this not within the congressional budget? The Senator keeps talking about the President's budget, but this increase would still be within the congressional budget.

Mr. EAGLETON. I just gave the figure that when this amendment is adopted we will be about $400 million in this bill over the President's budget.

Mr. HATHAWAY. The President's budget.

Mr. EAGLETON. The President then will veto the bill.

Mr. HATHAWAY. Yes; but it is still within the congressional budget.

Mr. EAGLETON. But the President has a thing called a veto.

Mr. HATHAWAY. I understand that, but it is still within the congressional budget.

Mr. BELLMON. This bill, if I may say to the Senator from Maine, will not be within the congressional budget if this amendment is adopted and all the other amendments survive.

Mr. President, I ask unanimous consent that Jim Range, of Senator BAKER's staff, have floor privileges during the debate and votes on this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I am opposed to the amendment to increase the appropriation for the agricultural conservation program by $105 million above the $85 million recommended by the Appropriations Committee. The committee action was based on the best estimate of what is currently spent on enduring conservation practices, and therefore, does not represent a decrease in the Federal commitment to assist agricultural producers installing needed measures to preserve our Nation's soil and water resources.

The agricultural conservation program, as it is currently administered, provides cost-sharing payments for a wide variety of practices. Unfortunately, while this program is of great benefit to ranchers and farmers who participate, it has never been really targeted toward those practices which are of maximum conservation value. As a consequence, many of the approved practices are primarily production oriented, and would be likely installed by the producer himself, even if no Federal assistance was available. ACP was established to provide an incentive for producers to undertake good conservation practices and it is vital to maintain this aspect if limited Federal resources are to have a significant impact on soil conservation in our Nation.

The committee has also recommended a total of $100 million for the new rural clean water cost sharing program to address nonpoint water pollution problems. This program will complement the efforts and resource funded through ACP.

The committee believes that the combination of these two programs, plus the Great Plains conservation program for which funding is also recommended, will not only maintain, but expand the Federal commitment to assisting agricultural producers in preserving the productive capacity of the land and to address water quality and other environmental concerns.

The committee's recommendations in the conservation area represent a significant increase over the President's budget estimate and the administration has specified this portion of the bill as of particular concern to the President insofar as whether he will sign or veto the measure.

I urge my colleagues to defeat this amendment.

I join the floor manager on the bill in opposition to the Hathaway amendment. This amendment is plainly popular with farmers. It is popular for the reason that it helps pay production costs they would otherwise have to pay out of their own pockets, and it is understandable why they like it.

I am a farmer and I have neighbors who use this program, and use it in ways that increase their production, and which they certainly would like to see continued.

But I think anyone who talks to farmers will soon find out they go right on doing those things even if this Government subsidy would be ended.

I would like to quote a little more liberally from the GAO report on this program than the floor manager did because I think this helps to put in focus exactly what this money is used for.

On page 41 of the GAO report they discuss the portion of the funds used for the application of lime and fertilizers to cropland, and they start off making the point that the application of lime and minerals to cropland primarily goes to improve production and, of course, that is where the farmers get their income and their profits, if any, from it. So, obviously, they like it.

They point out that in many cases State committees are refusing to approve the use of funds for this purpose because they also recognize that these are production practices which farmers should pay on their own.

The State committee determined that liming was primarily a production-oriented practice with only temporary benefits.

That is the reason why the subcommittee and the full committee approved the deletion of this money from the appropriations bill. We feel it is a production practice, one that farmers can and should pay, and that it has nothing to do with the conservation of the land, which is the primary reason for this item being in the budget.

Now, then, on the points raised by the Senator from Colorado relating to irrigation, a great deal of this money in some States is used for the improvement of irrigation systems. For instance, in the report on page 35 the GAO found that much of the financial assistance under ACP and the Great Plains conservation program has been directed toward helping farmers reorganize their cropland irrigation systems.

They go on to say that these expenditures help to pay for such things as installing underground pipe for sprinkler systems, for leveling land to provide more efficient use of irrigation water, for developing systems for irrigation water runoff, lining irrigation ditches to prevent the loss of water through seepage.

While these practices have some water conservation benefits, they say "Our review indicated that their greatest benefit was to increase farmers' monetary returns through time and labor saving and through increased productivity." Those are the things that farmers will do with their own money.

They went on to say that:

In one of our samples all nine farmers receiving ACP assistance said that they would have done this same work on their own if the

Federal assistance had not been available. In 1974 county officials discontinued cost-sharing projects involving installation of underground pipe from wells to fields because they believed farmers would and should install such pipe with their own resources.

The ACTING PRESIDENT pro tempore. The time of the opponents has expired.

Mr. EAGLETON. Mr. President, I yield 3 minutes to my colleague on the bill.

Mr. BELLMON. Mr. President, I do not require any more time.

The ACTING PRESIDENT pro tempore. Thirty seconds remain for the proponents.

Mr. EAGLETON. I have said all I have to say.

Mr. HATHAWAY. Mr. President, will the Senator yield for 5 seconds?

Mr. EAGLETON. I yield 2 minutes to my colleague on the bill.

Mr. HATHAWAY. I just want to point out that I have been informed, and I think reliably, that this is included in function 300 of the congressional budget. Perhaps if you add up all of the additions that have been made in other functional categories, it goes over the congressional budget. But so far as that functional category is concerned, this amendment would raise the ACP funding to a level that is still within the budget as set by Congress.

Mr. BELLMON. Mr. President, if I could respond, function 300 is all right, but in the allocation to the subcommittee it is $100 million over the congressional budget resolution.

Mr. EAGLETON. Mr. President, I yield myself 1 minute on the bill.

The ACTING PRESIDENT pro tempore. All time has expired.

Mr. EAGLETON. The Senator from Oklahoma is absolutely correct. We are over our subcommittee allocation, which is the relevant issue, not the functional target. This will put us well over $100 million over that allocation.

I conclude by saying one word: "Veto. V-e-t-o." That is what occurs when we adopt this amendment.

Mr. LEAHY. Mr. President, the Senate agriculture appropriations bill which is before us today is a sound, fiscally responsible piece of legislation for the most part. However, it is not without certain flaws. These flaws have developed due to a misalloction of funds within the bill. The priorities of funding in this legislation are skewed, that is, some of the most valuable, innovative and oldest programs ever to come out of USDA are not provided sufficient funding. These underfunded programs include title V of the Rural Development Act of 1972, the earmarked rural development activities of the Extension Service, the agricultural conservation program, and the Federal-State alternative agricultural marketing program.

Mr. President, title V activities are divided between the Cooperative State Research Service and the Extension Service. CSRS does the research and the Extension Service brings the benefits of this research to the people of rural and smaller urban America. Title V was developed to foster rural development. The need for a program of this nature is great. Communities of this Nation with populations under 50,000 people always lump near the bottom of social and economic indicators.

Title V was Government's response to their plight. Albeit, this response was minimal but at least it was something.

Something in which America's nonurban citizens could place hope. Now this hope has been removed. Mr. President, the bill before us provides absolutely no funding for title V. Title V's major benefits evolved from "capacity" building at the local level; offering smaller urban and rural Americans the chance to help themselves. Capacity building is not a benefit easily gaged. It cannot be quantified, graphed, or measured with precision. Consequently, it is very difficult for us in the Congress to be aware of the value of title V. Although I have seen no great graphs, regression analysis, or other bureaucratic playthings, I am convinced that this bill's nonfunding of title V is a grievous error.

I am convinced because I have seen the benefits of this program in action. I have seen it work within my State of Vermont; offering Vermonters the capability to develop indigenous economies. Title V funds have enabled Vermonters to form a stable, productive craft cooperative in the tradition of cottage industries.

I have also heard of the success of this program time and time again. I have heard this not only from those who administer title V, but also from the people in small town America whose lives have been bettered by it.

In May, I held hearings on rural development research within the USDA. Title V was continually lauded as the most flexible, effective and efficient means of fostering rural development. Now this is lost. And the saddest part is that there is nothing in the bill to replace it. Rural America loses again.

Rural America has also lost program funding which, much like title V, fostered development in smaller towns. I am speaking here of an earmarking of Smith-Lever funds to the Extension Service for rural development. These funds had many of the benefits offered by title V. But they had an added significance. By earmarking $1 million for rural development, Congress was telling the Nation that rural development is a priority item. The bill before us does not earmark funds for rural development. In this legislation Congress is saying to the Nation, in effect, that rural development is no longer considered a priority by this Congress. I am appalled at this lowering of rural development's status.

Mr. President, the agriculture appropriations bill has also severely cut funding for the agricultural conservation program and the Federal-State alternative marketing service. This is a mistake.

The agricultural conservation program is the oldest of all Federal agricultural programs. It was established in 1936 and since that time has aided farmers in the preservation of their livelihood. It is a flexible program stimulating financial commitment at the local level. However, this bill has slashed ACP's budget by nearly 60 percent. If it has been shown that ACP needs to be phased out, then so be it. But let us not do so drastically. A gradual phaseout, if one must occur at all, is much preferable over severe budgetary cuts.

Mr. President, the alternative agriculture marketing service is severely underfunded in this appropriations bill. This program provides farmers with viable alternative markets for their produce. Markets which are anti-inflationary while at the same time providing the farmer with greater economic parity for his yield. This program has lost out in the money shuffle.

Mr. President, alternatives have always been the strength of this Nation and its market forces. Now, we in Congress are saying that alternatives are no longer of much interest to us. Can we really justify what this budget cut tacitly implies—that we know most all of the answers? That our market mechanisms cannot be significantly improved upon? Of course not. But that is exactly what we are telling the world with this decrease in funding.

As I said at the outset, Mr. President, much of this bill is sound. However, it is flawed. I can only hope that our colleagues will attempt to address these flaws when they go to conference.

● Mr. DOLE. Mr. President, I support the distinguished Senators from Maine (Mr. HATHAWAY) and South Dakota (Mr. MCGOVERN) in their effort to restore the agricultural conservation program (ACP) to the current funding level.

Dating from 1936, the agricultural conservation program represents one of the earliest nationwide efforts at promoting sound conservation and erosion control practices on agricultural land. It is also the principal single channel of Federal soil and water conservation assistance.

ACP offers cost-share assistance each year to more than 300,000 farmers, ranchers, and other landowners to undertake needed conservation measures and practices. During its four decades of existence, the program has transformed the rural landscape, and prevented a recurrence of the Dust Bowl tragedy of the 1930's. ACP funds have built thousands of miles of terraces and thousands of acres of windbreaks and shelter belts. ACP funds have established long-lasting protective cover over thousands of acres of unstable soil, and has done much to enhance water quality by curbing surface runoff from farm fields.

In the early years, the program was funded at $500 million per year. In more recent years, the program has received about $200 million per year. The House appropriation bill for 1979 provides $190 million for ACP. The Senate bill provides only $85 million.

Judging from this decline in the program's funding level, one might assume that the job of soil and water conservation is nearly completed. Unfortunately, the need for erosion control measures is greater than ever.

On January 30, 1978, the Soil Conservation Service released the findings of a national study of soil erosion and sedimentation which concluded that our cropland is being lost at a rate of 9 tons of topsoil per acre per year—three times the rate at which new soil is generated.

This disquieting study reinforces the conclusions of two recent General Accounting Office reports which spell out the need for greater Federal efforts to curtail soil erosion in order to preserve agricultural productivity and improve water quality.

Mr. President, given the vital need to protect our agricultural resources, the Senator from Kansas can only conclude that this is not the time to gut the agricultural conservation program.●

The ACTING PRESIDENT pro tempore. All the time having expired, the question is on agreeing to the amendment of the Senator from Maine. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Montana (Mr. MELCHER), the Senator from Ohio (Mr. METZENBAUM), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY), would vote "yea."

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announced that, if present and voting, the Senator from New Mexico (Mr. DOMENICI) would vote "yea."

The result was announced—yeas 55, nays 26, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—55

Abourezk	Durkin	Nunn
Allen	Ford	Packwood
Anderson	Hart	Percy
Baker	Hatch	Randolph
Bartlett	Hatfield, Paul G.	Riegle
Bayh	Hathaway	Sarbanes
Bumpers	Hodges	Sasser
Burdick	Huddleston	Schmitt
Byrd, Robert C.	Jackson	Schweiker
Cannon	Kennedy	Sparkman
Case	Leahy	Stafford
Chafee	Long	Stennis
Chiles	McGovern	Stevenson
Church	McIntyre	Stone
Clark	Morgan	Talmadge
Cranston	Moynihan	Thurmond
Culver	Muskie	Tower
DeConcini	Nelson	Zorinsky
Dole		

NAYS—26

Bellmon	Griffin	Pell
Brooke	Hansen	Proxmire
Byrd, Harry F., Jr.	Hatfield, Mark O.	Ribicoff
Curtis	Hayakawa	Roth
Danforth	Helms	Scott
Eagleton	Hollings	Stevens
Garn	Laxalt	Weicker
Glenn	Lugar	Young
Goldwater	Pearson	

NOT VOTING—19

Bentsen	Humphrey	McClure
Biden	Inouye	Melcher
Domenici	Javits	Metzenbaum
Eastland	Johnston	Wallop
Gravel	Magnuson	Williams
Haskell	Mathias	
Heinz	Matsunaga	

So Mr. HATHAWAY's amendment (UP No. 3442) was agreed to.

Mr. HATHAWAY. I move to reconsider the vote by which the amendment was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I yield 4 minutes on the bill to the Senator from Alaska.

Mr. STEVENS. Mr. President, last evening, I offered an amendment that would have deleted money from the budget for the operation primarily of the Assistant Secretary level of the Department of Agriculture. At that time, I pointed out that the staff has increased by 55 percent in 18 months, and that the House committee made a finding in its report that one of the difficulties with the Department of Agriculture is that there stands between the Secretary and the old-line agencies such as the Forest Service, a new group of staff that has been brought in, so that the people in the old-line agencies no longer have access to either the Assistant Secretaries or to the Secretary himself. I am not too disappointed that the amendment was defeated because this matter will be considered in conference and I want to point out that the effect of my amendment would have been to cut the bill down to the House level.

As one who is going to be a conferee on this bill, I am hopeful that the Department of Agriculture will come in and try to convince both the House and Senate conferees that something will be done about the over-staffing at the policy level and the inattention to that section of the Department of Agriculture that has the experience and the expertise to deal with both the problems of the farmers and the problems relating to our national forests.

I am personally very disturbed about how difficult it is for a Member of the Congress to contact the Secretary of Agriculture on a matter of extreme importance to his State, without having his call returned by someone from this new staff group who seems to be shielding the Secretary from the policy level officers in his own department.

It seems to me that a Member of the Congress is entitled to a response from a Cabinet officer, especially if the Member is working on a problem of extreme urgency and he is placing the call on an emergency basis.

Having experienced this kind of treatment, I would hope other Members of the Senate will not try it and find that their calls, too, are being returned by the very person on this new staff operating between the Secretary and the other agencies within the Department, the person whose actions the Member is seeking to have curtailed by the Secretary himself.

Now, we have in the Department of Agriculture, in my opinion, an extreme environmentalist cadre that seems to be responsible to some equally extreme environmentalists in the White House.

They are not loyal to the Secretary. They are not loyal to the Department. They are not loyal to the agencies that Congress has entrusted to the supervision of the Cabinet officer we confirmed.

Instead, they come from the various organizations that have alined themselves in the past with programs aimed at attacking organizations like the Forest Service, and I think it is high time the Senate looked into this situation.

I would call to the attention of every Member of the Senate an article that was recently published entitled "The Environmentalists Come Out of the Cold." This article documents how well these people in subpolicy, nonconfirmation posts are being paid by the Federal Government to do exactly what they were doing before they came to work for these agencies as members of the Wilderness Society, the Sierra Club, Friends of the Earth, and other organizations; that is, to attacking the actions of the Forest Service and other land management agencies—but now they do it from within Government.

Madam President, let me close by stating again that I am going to be a member of this conference, and that I am going to try to defend the House version of this bill as far as it affects this increased staffing unless, and until, the Secretary of Agriculture determines just who is running the Department of Agriculture.

The PRESIDING OFFICER (Mrs. ALLEN). Who yields time?

Mr. LEAHY. Madam President, will the Senator from Missouri yield 5 minutes on the bill?

Mr. EAGLETON. I yield 5 minutes to the Senator from Vermont on the bill.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I would like to take, first, a moment just to respond to what the Senator from Alaska said. I am sorry he has already left the floor.

But it has been my experience in calling the Secretary of Agriculture that he has either immediately answered the phone or, if he was out of the office, returned my phone calls.

I have a practice of very rarely having anybody else place a phone call for me. I usually place it myself.

I found it has been very easy to get hold of him, very easy to get him to return phone calls. I found him to be quite accessible.

In fact, he came and spent a couple of days in Vermont with me, went around everywhere, from breakfasts in farm kitchens to even attending one of the town meetings I hold in Vermont on a regular basis, answering questions from anybody who came in, no matter what their subject or what their affiliation was.

So I am sorry that the Senator from Alaska (Mr. STEVENS) has had this problem. I do know the problem we have sometimes with staff speaking to staff and not individuals speaking directly.

I recommend to him and others who have problems that they do the same thing I do and place their own phone calls. Maybe they would get through.

UP AMENDMENT NO. 1635

(Purpose: To prohibit funds to be made available to implement any regulation of the Department of Agriculture relating to the establishment of certain standards of thermal insulation)

Mr. CHILES. Madam President, I send an amendment to the desk on behalf of myself, Mr. STONE, and Mr. DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself, Mr. STONE, and Mr. DECONCINI, proposes an unprinted amendment numbered 1635.

Mr. CHILES. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 53, add the following:

SEC. 611. None of the funds contained in this Act may be made available for the purpose of implementing Farmers Home Administration Instruction Numbered 424.1, effective July 1, 1978, relating to the establishment of new thermal insulation standards for concrete masonry construction or any other regulation prescribed by the Secretary of Agriculture relating to the establishment of comparable standards.

Mr. CHILES. Madam President, the amendment I have just called up provides that no funds appropriated under this act would be used for implementing new thermal insulation standards promulgated by the Farmers Home Administration for concrete masonry construction.

I am offering this amendment in response to a situation which has arisen with respect to the application of these standards in warm weather areas. These regulations involve insulation requirements for concrete masonry construction in Florida and other States lying in warm weather areas. The Farmers Home Administration is requiring U value (insulation) standards of .07 and .08 for opaque walls. While these values may be reasonable for many parts of the country, they are not appropriate for Florida and other warm weather States due to their unique climatic characteristics. The cost of meeting these standards would prove prohibitive and result in a suspension of concrete masonry construction for residences financed through the Farmers Home Administration. It is estimated the cost of insulating a concrete masonry wall to the .07 or .08 level is more than 10 times that incurred in meeting the present 0.16 standard.

As Florida is a cooling area, it makes better economic sense to provide such features as shading glass, attic ventilation and eave easement in a residence than to require these greatly increased insulation standards. I am certainly not suggesting that warm weather States should be exempted from insulation standards but only that these standards be practical and reasonable given the climate in which they will be applied.

It is important these regulations not go into effect at this time as they will only serve to significantly disrupt the homebuilding industry. This would particularly be the case if other Federal lending agencies follow the course of the Farmers Home Administration. I am confident that when this situation is examined and clearly understood it will be possible to develop standards that will meet necessary energy efficiency goals and be sensible for warm weather climates.

In fact, Madam President, the people at the Farmers Home Administration acknowledge that when they were adopting their standards, they were looking at the 46 or 47 States that use wood paneling and wood struts for setting wall insulation. They were thinking about that type of construction at the time they were proposing these standards, and they had not given adequate thought to those States—primarily Florida, Arizona, parts of Texas, and parts of California—which predominantly use concrete block and masonry in construction.

The effect of these standards would be to put this type of construction out of business, at the same time depriving people in our States of a home that could be built at a much lower cost. We simply do not need the same kind of insulation standards that are warranted in cold-weather States.

For those reasons, I move that the amendment be adopted at this time. It will give the Department time to work out a reasonable standard to apply to the warm-weather States.

Mr. EAGLETON. May I ask a question or two of the Senator from Florida, so that I can have a better comprehension of his problem in Florida?

Mr. CHILES. Yes.

Mr. EAGLETON. I take it that standards were published in the Federal Register about a year or 13 months ago.

Mr. CHILES. The standards went into effect July 1.

Mr. EAGLETON. But they were originally published about a year ago?

Mr. CHILES. They were published earlier, that is correct.

Mr. EAGLETON. Was there some kind of hearing after the standards were initially sent out for comment?

Mr. CHILES. I know that the people from Florida and Arizonia, in particular, went to the Farmers Home Administration and made the case that these standards were going to cause problems. I think Farmers Home Administration said, "Yes, and we'll work something out on that." I think it slipped through the cracks, which is basically what they tell us now.

Suddenly they are saying, "We recognize that you do have a unique situation, but we have already got a standard that went into effect July 1, so we do not know what we can do now to help the situation." They acknowledge that it will be a tremendous hardship on our States at this time.

Mr. EAGLETON. Do I correctly understand that the thrust of the Senator's amendment would be specifically to exempt masonry contractors from the standards that went into effect on July 1?

Mr. CHILES. Yes; in the warm-weather States. Primarily, it would apply to Florida, Arizona, parts of California, and parts of Texas, which use that particular kind of construction.

Mr. EAGLETON. Where does it say "warm-weather States"? As I read the amendment, it says, "None of the funds contained in this act"——

Mr. CHILES. Those are the only States that are using that type of construction in any great degree.

Mr. EAGLETON. Florida, Arizona, California and Texas are the warm-weather States involved. Are they the only ones using this kind of construction technique to any degree?

Mr. CHILES. That is correct.

Mr. EAGLETON. As I understand it, the standards that were promulgated and went into effect on July 1, were in response to a 300-percent increase in utility bills.

Mr. CHILES. Yes.

Mr. EAGLETON. And has there been a comparable economic impact even in the State of Florida in winter months.

Mr. CHILES. Not that problem in the winter months. When we are talking about an insulation standard, we primarily are talking about a summer insulation standard, because our concern is more with cooling than heating.

Mr. EAGLETON. Has the Senator had some conversations with the Department of Agriculture with respect to the problem he faces in Florida?

Mr. CHILES. Yes.

Mr. EAGLETON. Is there some way short of adoption of this amendment, which would appear as a rider to an appropriation bill, to modify the whole set of standards nationwide? Is there some way short of this amendment that we could get some satisfaction for the Senator from Florida, but without going as far and as broadly as this amendment, on an initial reading, appears to do?

Mr. CHILES. I know of no way at this time. We will have time between the time this is adopted and the bill goes to conference. Representatives of the Farmers Home Administration tell me they have had discussions with their counsel, and on the basis of those meetings, they see nothing that they can do to give us relief. They admit it is unfair to disrupt our industry but see no way to provide relief.

I think that if we could take this amendment to conference, by that time we would have some solution. I hope we would.

Mr. EAGLETON. I understand it a bit better now than I did before the Senator offered his amendment. I understand the dilemma he faces in Florida. I am not convinced that this is the best way to handle it. However, since this is about the only vehicle that the Senator from Florida can find in the near future that would pertain to Farmers Home Administration, I think that perhaps we could accept the amendment, take it to conference, and hope that some conversations and negotiations might go on between now and when the conference committee ultimately reports the bill.

Mr. CHILES. I hope so, and I hope they will find a solution for us.

Mr. EAGLETON. Madam President, I believe we can accept the amendment, with the understanding that there will be further discussion on this matter before the conference committee reports the bill.

Mr. CHILES. Madam President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1635) was agreed to.

Mr. EAGLETON. Madam President, I suggest the absence of a quorum, with the time charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1636

(Purpose: Technical amendment to restore internal consistence of figures)

Mr. EAGLETON. Madam President, I have a technical corrective amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes unprinted amendment numbered 1636.

Mr. EAGLETON. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 10, strike out "$179,520,000" and insert in lieu thereof "$199,520,000".

Mr. EAGLETON. Madam President, this is in the nature of a housekeeping amendment. It is a necessary correction as a follow-on to the Melcher amendment of last night, and it conforms the bill in all regards.

I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. EAGLETON. I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (UP No. 1636) was agreed to.

AMENDMENT NO. 3447

(Purpose: To prohibit use of funds under the Agricultural Trade Development and Assistance Act of 1954 from being used to finance assistance to Korea)

Mr. WEICKER. Madam President, I have an amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk reads as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an amendment numbered 3447:

On page 48, line 14, strike out the period and insert in lieu thereof a colon and the following: "*Provided*, That none of the funds appropriated or otherwise made available under this paragraph shall be obligated or expended to finance assistance to Korea. The Congress declares that the foregoing prohibition is a reaction to the lack of cooperation from South Korea with efforts to investigate alleged Korean influence-buying among Members of Congress and that such prohibition should not be construed as an attempt to interfere with or circumvent any right, privilege, or immunity provided for under the Vienna Convention on International Relations.".

Mr. WEICKER. Madam President, I ask unanimous consent that Mr. Tim Keeney, Mr. Peter Goldfarb, and Mr. William Knowlton of my staff be accorded the privilege of the floor during debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Madam President, I ask unanimous consent that the transcripts of the hearings before the Senate Select Committee on Ethics, dated March 23 and April 10, 1978, be printed in their entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEARINGS BEFORE THE SELECT COMMITTEE ON ETHICS, U.S. SENATE

THURSDAY, MARCH 23, 1978

The committee met at 11:15 a.m., pursuant to notice, in room S-210, The Capitol, Hon. Adlai E. Stevenson III (chairman of the committee) presiding.

Present: Senators Stevenson, Morgan, Schmitt and Weicker.

Staff Present: Frank McNamara, Carol Harvey, Michael Epstein, George Hritz, Erica Ward, Larry Ellsworth, Robert Pender, Judith Schneider, Victor Kramer, Marie Mullis and Yvonne McCoy.

Senator WEICKER. Mr. Chairman, I don't know what the plans are, further plans of the special counsel as to the witnesses. But I would like to at this time request that in order to further our investigation of the matters as it relates to the involvement, possible involvement of United States Senators, that the following persons be called as witnesses by this committee, the format being immaterial whether an executive session or however: Dr. Henry Kissinger, Richard Kleindienst, Melvin Laird, Robert Maridan——

Senator MORGAN. Who is he?

Senator WEICKER. He was the Assistant GA under Mitchell specifically given the task of investigating aspects.

RICHARD PETERS. And then those Koreans: Kim Sang Keun, Heung Lee, Keun Pal Lee, Jai Shin Ryu and Kim Hyung Wook; and additionally, Mr. Lawrence Merthan and Mr. Richard Smizer.

Secondly, Mr. Chairman, the other day in the course of the questioning of the witnesses, this kuchel letter was brought forth as I think it related particularly to contributions alleged to have been made to Senator Tunney. I would like to ask counsel at this time, since that was used as a basis of questioning relative to Senator Tunney as to whether or not in addition to Senator Tunney all the other Senators mentioned in this correspondence, were queried on this matter. I was sort of under the impression that this letter, for whatever it was, was of dubious value until it was used as a basis for the questioning of the witness.

I will have to ask the question whether it is a dubious matter.

Mr. KRAMER. I think it is of dubious value. The answer to your previous question as to whether all the other Senators mentioned were queried, of course, all of them have answered questionnaires. Some of them have been queried and some haven't.

Senator WEICKER. There are five additional Senators on that letter.

Mr. KRAMER. Yes.

Senator MORGAN. Who were they?

Senator WEICKER. They are here in the letter. As I said, I pretty much put this out of my mind. If that is not the case, by virtue of the questioning that I heard, at least let's make certain that everything is in order. It would be rather embarrassing if somebody came up and said we understand Senator Tunney has been mentioned in this letter; we understand there are other Senators, you know.

Mr. KRAMER. You are right that we have to be as sure as we possibly can be.

Senator STEVENSON. On the first proposition, counsel, do you have any reaction to the Senator's suggestion?

Mr. KRAMER. I do, Senator, and I start out with some trepidation because I know Senator Weicker disagrees with me. I have taken from the beginning the position that it is not part of my duty as special counsel and I was not employed for the purpose of discovering whether or not the Executive Department or any person in it knew or had good reason to believe that Tongsun Park was a foreign agent attempting to carry favor and influence with Senators, but rather to find out if he succeeded and to what extent.

That covers the five names. It gives you my view as to the five names through Peters.

Senator WEICKER. I don't understand your comment.

Mr. KRAMER. What could you get from former Secretary Kissinger, former Attorney General Kleindienst, former Secretary Laird, former Attorney General Maridan, Richard Peters—and I should exclude him. I don't know him, don't know anything about him.

Senator MORGAN. Wasn't he Assistant Attorney General?

Senator WEICKER. No. He was embassy official.

Mr. KRAMER. What could you get out of them to determine whether or not the Senators had been influenced?

Senator WEICKER. Counsel, let me put it this way: We have been through one week of testimony by a man whose testimony I think is highly dubious. I don't know what credibility factor you want to assign to that testimony. I assign it a pretty low credibility factor. We are here to find out what went on. I don't think there is one of us that has sat through these hearings that feels this has been much of a help to anybody.

Now the question is as to whether you are satisfied to leave it there or you try to find other sources of information. I am not asking this committee to go ahead and investigate what it is the Executive Branch of Government knew. I don't care. I am not anxious to even go ahead and have this committee investigate as to whether or not Mr. Park was or was not a KCIA agent.

I am trying to find some sources of information that might be able to give a more credible response to the questions than the witness that we have had for the past week.

It is an established fact that the officials of government which I mentioned knew what was going on. I am no longer anxious to prove it. As far as I am concerned, it is a matter of fact. I am satisfied to my own knowledge relative to the communications that I have seen—the Fraser Committee has

done the job over in the House. That, to me, is a moot point.

What is not moot is the knowledge of those individuals as it relates to the United States Senate and the United States Congress.

Let me give you a good example. We know, for example—and it has not been investigated by this committee—we know I am going to make reference to a classified document here, Mr. Chairman.

Senator STEVENSON. We are secure, are we not?

Senator WEICKER. If we are secure, I am willing to go ahead and proceed.

Senator STEVENSON. Aren't we secure? We have all been through here, through this entire executive session. So I would hope so.

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What I am saying to you is that the record that has been established, counsel, in the sense of what knowledge was had by the individuals that I have mentioned, is one of obviously we should go further; *not in any way trying to go ahead and determine whether they did the right thing or the wrong thing, or not in any way trying to determine what the official capacity of Mr. Tongsun Park was; but simply to go to another potential source of knowledge and get the answers which are our responsibility on this committee.*

I again repeat, having been through a one-week exercise with a source that I don't consider half as good as any of the ones on this list, I think that is the least we should do if we are going to do a complete job. We sit here, I don't know what the plans are, as I said when I started off, as to the Korean defectors. There are at least three or four Koreans in this country that have some form of knowledge of what it is that we are engaged upon. They should be questioned by this committee.

The other names that are on the list, Smizer was the Chief of the East Asian Desk at the National Security Council to which this information went. He could very well go ahead and illumine our deliberations.

It might interest you to know as to the extent of coverup or whatever in this—I asked the question in the open hearing so this is not classified, in open hearing at the Appropriations Committee of the gal from NSC, as to what was in the minutes of the NSC from this period, during this period of roughly 1969 to 1976. Not one word. Not one word in the minutes of the NSC.

Now, look. If you are satisfied with this as being the basis of our deliberations, I am not and I won't accept it, either. I won't deny that. That, to me, is just not—to use the kindliest term—not complete investigation.

Senator SCHMITT. Would you yield?

Senator WEICKER. *So that is the reason why—I am afraid what you have done is to make certain suppositions of your own as to why these witnesses should be called. They are clearly not in line with the reasons that I have stated here before the committee.*

Senator SCHMITT. I think it is wise to remember that we have only recently started calling this effort an initial review in that it has been my understanding that the task of counsel some time around the first of May is to make recommendations on whether investigation, further investigation is required.

I think the comments you are making are very pertinent comments to that determination of the investigation on a case-by-case basis. I think it is also important to realize that the testimony of Mr. Park was somewhat unanticipated. It was desired but unanticipated and has interjected itself in a time frame which frankly I did not believe it would occur. I think it has been of value in that, first of all, it was something we would be expected to do and could not as a committee, I think, very well say, we are not interested in it, in reference to other things.

It has also, I think, added at least an understanding of the principle in this affair and an understanding as to what degree other information that we have may or may not be of value. So although he may not be the most, the best witness one could imagine, he, I think, is of value and I am certainly not sorry that we did it.

Senator WEICKER. We said that. I am just saying I wouldn't base your investigation on what you have heard. My request is not to issue a statement censoring Tongsun Park, it was a request to bring additional witnesses before this committee upon which we could go ahead.

Senator SCHMITT. I would interpret the request being only to move to another level of investigation, really, because I have not personally assumed that we were in an investigation in the sense, term of art sense, of the way we have been thinking in the past. That may be something we should do and on a case-by-case basis, and I am still awaiting recommendation of counsel on that and will be making my own inputs hopefully into that process.

I think there is one major thing we must consider before launching into an investigation on any particular case, and that is that no matter what we show, will we be able to show that Senators were aware of the the situation? If we cannot show that the Senators were aware of Park as an agent or the source of funds, other things, then we really have no case.

Senator WEICKER. I don't understand that comment. Again I have to repeat, I think some people have got some things planted in their minds which really have little to do with what I am trying to do here. I don't know whether he is an agent or whether he isn't. That is somebody else's business.

But do you also understand the other aspect of the situation? If indeed our Government knew what was going on and failed to inform United States Senators as to what the situation was, that is a pretty important piece to the puzzle as far as we are concerned in delivering a full report; very important.

Senator SCHMITT. Lowell, I am very concerned about that also. I am not sure it is our jurisdiction. That is what I think we have to determine.

Senator WEICKKER. What I am saying to you is if we are going to stand out there and try in some way to depict what it is the United States Senate did or didn't do, I think at least on the positive side on behalf of some of our colleagues that the people should know that they were led down the path in spite of the knowledge of the same government, if you will of which we are all a part. I am not trying to prove that point, but it is certainly something that has to come forth.

That is not the reason for my calling up these people here. What I am saying to you is I think they are as credible if not more, as witnesses in the sense of what they knew and who was involved than the man we just sat here a week with.

Look, if you assure me that this is all part of this investigation, let me say this right now, Jack: The technicalities of preliminary investigations, investigation, all the rest of it, I have been around this bush very frankly with both you and the chairmen when we first came up with the initial evidence before the committee. Look, we are on the spot. We are expected to do a job. Nobody is going to understand the various parts of that job out there. It has been started. Let's do it right; then let's finish it, call it whatever you want to.

Senator SCHMITT. Because we are on the spot you are right. We have to do it right. That is one reason why we get into the technical discussion.

Senator WEICKER. You explain the technicalities to the American people. I am afraid you are going to lose them.

Senator MORGAN. Counsel, did you have a comment on this request? I thought I saw you nod.

I don't have any particular observations, Mr. Chairman, except I think Senator Weicker has made a point in that we must look elsewhere to be sure, to make sure that we have explored all avenues to determine whether or not other Senators have been involved and if it is likely that there may be any of these people who may have knowledge, or may know of something, that we should know, and then we should explore it.

As a matter of interest, I am interested to know whether or not the Executive Branch had knowledge and did not disclose it. I think that is something that somebody somewhere ought to explore. Whether or not it is this committee's prerogative I don't know. But we ought to give some thought to trying to see if any of these gentlemen or any one of them might have had reason to know about any Member of the Senate accepting money for services.

I don't know that we can make the decision from the list itself. We may have to analyze each one of them and see what his position is and confer with Senator Weicker or someone as to why this man might have knowledge.

Senator STEVENSON. Before I call on the special counsel let me just make two points: First, so far as I know, no one has suggested leaving the initial review there, or here, at this point. The committee is authorized to make an initial review. That is what we are conducting. Already there are two more executive sessions scheduled by the committee of which we will receive additional testimony.

Yesterday, Senator Schmitt and I chaired all day long such a hearing; or almost all of it. We were the only Senators present. This initial review is not by any means finished. I just don't think we should leave the record with such an impression.

Secondly, the question of knowledge in the Intelligence Community and the performance together with the possible KCIA and CIA links to Park is being investigated by the Senate Intelligence Committee and has been investigated by that committee for many months now. It is my impression that that investigation is well along, farther along than the investigation of the Subcommittee of the Committee on Foreign Relations that has been publicized recently, Representative Frazer's subcommittee.

One possibility which is more than a possibility, it is already happening, has been cooperation between the Ethics Committee and the Intelligence Committee for the purposes of conducting an investigation through this committee into the conduct of Senators and through the other committee, an investigation into the conduct of the Executive Branch, and with the view to exchanging such information as each requires which is relevant to the inquiry or investigation of the other.

That process is taking place, and offhand—I am not, I just don't know why it can't continue to take place, and I see so many reasons why it should continue; namely, that committee having already done much of the work and accumulated much of the materials, is way ahead of this committee and it has access to information in ways which are much easier for it than for us.

Finally, both of these committees are shortly going to be in a position, I believe, to make initial reports or in the case of this one, a report on the basis of an initial review which presumably will enable these committees then to determine what further action is indicated, including the possibility of public hearings.

We have to, under our rules, complete an initial review and make a confidential report to ourselves at which time the full committee decides what comes next. I believe that the Intelligence Committee is also planning in the very near future to issue an initial review on the matter to which Senator Weicker has alluded.

With that, more as a informational presentation than expression of opinion on my part, let me recognize the special counsel.

Mr. KRAMER. I wanted to continue with the list of witnesses. The Koreans mentioned there, five in number, it should be understood that the House has interviewed several of them and interviewed them on the record and that record is available to us and we may well reinterview them, but we doubt—we don't want to offer much hope. This is not true of all of these Koreans, but some of them.

In addition, Mr. Wook has testified publicly and privately several times that those records are available and so far we haven't gotten anything important on our inquiry that we don't know about.

Finally, I agree we must talk with Merthan; probably, although I am less enthusiastic, Smizer.

I think that I have nothing more to say, unless I am to launch into a broad-scale discussion of the whole inquiry which doesn't seem appropriate. I guess—should I remind the Senators who the witnesses are for the next two days?

Senator STEVENSON. I think that would be good.

Senator WEICKER. I am anxious to hear that. That is important. But just so this is not left in the air, Mr. Chairman, I move that the individuals that I previously named be called before this committee as witnesses in the matter that this committee is investigating at the present time.

Senator SCHMITT. You mean prior to the counsel's report on the initial review up to this time?

Senator WEICKER. That is correct.

Senator MORGAN. Let me make a motion, if it is in order, with regard to that; that the action, that the motion before the committee be postponed until after the recess and at that time I would hope that the committee, the staff would have a résumé, a general outline of where we have been and where we are going.

Senator STEVENSON. If the Senator would yield, I don't want to oppose this motion. I think we should. In my mind, it is largely a question of timing. It is a question of how to conduct the most orderly and effective investigation and, the case of certain of these witnesses, who should do it; whether it is this committee or the Intelligence Committee.

So I would hope that the Senator would contemplate also that during this period, if his motion prevails, that there would also be consultations between the Ethics and the Intelligence Committees to decide who is going to do it. Certainly, we don't want to, I presume, bring them before both committees to ask the same questions. We might consider some thing joint. I just don't know. But I think there is plainly the potential for a conflict in jurisdiction that ought to be worked out somehow.

Senator MORGAN. I would contemplate such conferences of liaison with the Intelligence Committee and I would hope that when we come back, as soon thereafter as feasible, that we have some recommendations as to how to proceed.

Senator WEICKER. I was very specific in my motion to move that these persons be brought as witnesses before this committee, to give testimony as to the matter before this committee, specifically the involvement of the United States Senate, Senators—past, present, whatever—in the Korean influence-peddling scheme. That is what I want them called for.

I don't want them called for as to whether Tongsun Park was or wasn't a KCIA agent or whether or not the Executive Branch of Government was doing its job. I want them called specifically so that they can give testimony, whatever testimony they have, as it relates to the matter which we can investigating.

I am perfectly willing, as long as the motion passes, to make obviously, subject to the scheduling of this committee, whether it is reinvestigation, whether it is previous witnesses, et cetera—that is out of my hands—as long as the motion is accepted, you know, what you do with the motion, that is in the administration of the committee itself. It is in the hands of the chairman and the counsel. But on the mater of their being called—I don't want to kid around on that—yet I think they should be called before this committee if indeed our investigation is to be completed.

Senator MORGAN. Mr. Chairman, the question of which committee or what committees they will be called before is a question I think should be worked out. I don't think there is any way that you could question them, either one of those witnesses, before this committee probably without involving the questions before the Inteligence Committee.

I would hope that if it would necessitate a joint meeting of the committees that we do that. I would make this clear for the committee's benefit right now, that in the final analysis I will vote to call any person before this committee as a witness that any Member of the Senate, any member of this committee feels is necessary to our full inquiry, unless there should come a time in the distant future—which I don't foresee—that I feel like we are going completely on a fishing expedition.

But basically. I feel if a member of this committee, if a Member of the United States Senate, feels that any witness has light to shed in the final analysis, I will vote to call him. But my only reason for the motion now is to let us get a better perspective of where we have been and where we are going and also give some time to consider the question of joint hearings.

Senator SCHMITT. Mr. Chairman, I would hope that in the list of witnesses proposed by Senator Weicker that we could have—that counsel would have time to look at that list to be able to tell us, as Senator Morgan suggested, what would be the area of questioning that he would perceive as well as for each individual Senator to be able to tell us that they would perceive being fruitful for these witnesses.

I don't deny that it is a good list and I think we should at some point consider talking to them. But I really think that for an orderly conduct of our affairs counsel should have some time to think in terms of whether—of the timing of talking to those witnesses—whether we have the information now that we can best utilize their testimony or whether that would come after his recommendations are made.

Senator WEICKER. No portion of my motion indicates at what time the witnesses ought to be called up. It is merely a motion to go ahead and have these persons to appear before our committee, to go ahead and give testimony. That is, obviously, to be worked out within the convenience of the schedule of the Senators and the staff. But the motion stays out there on the table as to calling these particular individuals.

Let me say this: As you can tell—because you happened to glance at the whole list I gave you—it couldn't even be termed a fishing expedition, Bob, if I asked for every one of the names on this list, because candidly, they all do touch upon Park and the situation. I have boiled this thing down, believe me, to men who have direct knowledge on the basis of what I have seen in the various files of this matter.

Senator MORGAN. I don't question that.

Senator WEICKER. That is why it is as narrow as it is, and even whittled down. So I reiterate my motion, Mr. Chairman.

Senator STEVENSON. Do you have objection to the suggestion of Senator Morgan that we try to work out something with the Intelligence Committee and hear from staff, act on your motion when we get back?

Senator WEICKER. I have no objection, number one, to something being worked out with the Intelligence Committee with the understanding that if the Intelligence Committee says we have no desire to interview them, it is still incumbent upon this committee to interview them. We will, obviously, try to cooperate. There might be some further information desired by the Intelligence Committee. But I want this committee, as a matter of record, to have a commitment to call these persons as witnesses.

Senator STEVENSON. Counsel?

Mr. KRAMER. Senator, I am beginning to get a grasp of your point, and I may not have before. I would like to put words in your mouth and see if I have got your point right.

If, by chance, every one of these witnesses knew nothing, nevertheless, you would have wanted to have done it to be sure that you have covered their testimony?

Senator WEICKER. Absolutely not. The reason why I want these people to appear is I have sufficent evidence already that they did know.

Senator MORGAN. Even if they had——

Mr. KRAMER. About contributions, Senator?

Senator WEICKER. That is right, yes, absolutely; of the lobbying scheme.

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Senator STEVENSON. Name some names.

Senator WEICKER. The ones I have seen, trying to think of Senators?

Senator STEVENSON. Yes.

Senator WEICKER. There might be a couple. But all I am saying to you is that the record is both general and specific. All right that general and specific record was within the kin of the highest officials in the government, and obviously we have to know if they knew that, what else did they know? It is a logical question. If they didn't know anything, that would be sufficient.

Just to pull out Attorneys General, in other words, NSC heads, whatever have you, that happened to be in office during that time of history, that is a fishing expedition. We are talking about something very specific that I assume was in their knowledge. I know it was in their knowledge.

That being the case I ask the second question. What else did they know?

Senator MORGAN. Succinctly, I would support Lowell in his efforts to examine this area. My only question is, I would like to see us wait until we come back to say are we going to call them before this committee or a joint meeting of the Senate Intelligence Committee. I don't believe that Senator Weicker's motion would be hurt and I would say to him here and now that in the final analysis I will vote that these witnesses be before this committee. It may be, I would say joint hearings.

Senator STEVENSON. I think the list may not be completed.

Senator WEICKER. Look. I am sure, counsel is going to tell us the witneses he wants. I am not trying to give you a complete list. I am trying to make a contribution to it. I will tell you why Mr. Chairman.

You say why press the point? Unfortunately, my efforts which I think are as valid as these being conducted by counsel for the committee as valid as these being conducted

by the chairman and others on the committee, very frankly have been more than a little harassed during the course of this investigation. Now I am making the point, in a formal way, just so it sits there on the record and it is followed up on.

Otherwise—Bob, you have been very supportive—I want to make that point very, very clear that I am not willing to let this to chance, to judgments of either counsel or other members. If the motion is voted down, fine. But go ahead and vote it down. I want to be on the record to have what I feel is necessary to have a complete investigation.

Senator STEVENSON. Do you have a substitute?

Senator MORGAN. I had one. But I see no reason why we shouldn't go on and vote on his motion. It may be that if we have a joint committee meeting I think it would still suffice and meet the requirements of his motion.

Senator STEVENSON. Let me see if I can phrase a possible substitute or modification, that this committee, in cooperation with the Intelligence Committee, obtained the testimony of all the persons mentioned by Senator Weicker and such additional persons as the committee shall determine for the purpose of determining to what extent, if any, they have knowledge of unethical conduct in the Senate occasioned by Korean nationals.

Senator SCHMITT. Mr. Chairman, I would like to have you leave the "and"—and in addition, as Senator Weicker mentioned and I think all of us have, their testimony, obtaining their testimony as to whether the Senate was informed or could have been informed of the Korean lobbying scheme in time to avoid any improper conduct.

Senator STEVENSON. I accept that modification. I intended to include that and to make it broader, not only their knowledge of unethical conduct but of activities of the Korean nationals to influence Members of the Senate. That seems to me—do you have any objection to that ?

Senator WEICKER. I have no objection to that motion; absolutely not.

Senator STEVENSON. If there is no objection, that will be agreed to. We will get to work right away with the Intelligence Committee to see how best to accomplish this objective of this committee and cooperatively the objectives of the Intelligence Committee, which are related. Maybe this can be done in one hearing.

Mr. EPSTEIN. We hope so.

Senator SCHMITT. Mr. Chairman. I am sorry that Senator Weicker feels that he has been harassed. I think that the effort of the committee has, up until now, been a very professional one. I hope it will continue that way. That has certainly been my intent in any activities I have undertaken as a member of this committee, as vice chairman. I hope that with this present situation that with the motion now that has been passed, that we will see all members cooperating directly with each other on this activity.

If there has been any problem, it has been due largely to, I think, lack of communication. I hope that that is done with.

Senator STEVENSON. I share those sentiments, too. I would like to be the only member who feels harassed.

Is there any further business? If not, the committee is adjourned.

(Whereupon, at 12:05 p.m., the committee recessed, to be reconvened subject to the call of the chair.)

APRIL 10, 1978 TRANSCRIPT—SELECT COMMITTEE ON ETHICS

Senator Weicker?

Senator WEICKER. Mr. Chairman, I think at this time it might be wise to have a progress report on the motion I made or that was made jointly with the chairman at the last meeting and a discussion thereof. Do we have that motion in front of us here?

Mr. KRAMER. Yes.

Senator STEVENSON. I would be glad to give the committee status report to the best of my ability.

Pursuant to the order that was entered, which called for a cooperative effort between this committee and the Intelligence Committee, for the purpose of taking the testimony of certain individuals named in the order, Senator Schmitt and counsel met with counsel for the Intelligence Committee and several members of the Intelligence Committee. We had quite a number of discussions of the subject.

And the feeling on both sides, staff and members, as far as I am aware, was that the predominant jurisdiction was in the Intelligence Committee, and that that committee, having already begun many months ago an investigation of the subject, should continue. And the feeling, the consensus was further that to the extent the investigation of the Intelligence Committee involved matters within the jurisdiction of this committee, that the Intelligence Committee could handle or raise any questions that needed to be answered or asked by this committee.

So there is no agreement, but the consensus, as I understand it, between the two committees is that the Intelligence Committee should go ahead and call these witnesses with the exception of certain witnesses who may have information of value to this committee, not the Intelligence Committee. They would then be called by this committee. And that any subjects within the jurisdiction of this committee would be covered by the Intelligence Committee. And arrangements to carry out that understanding are I believe being worked out now between the staffs of the two committees.

Do you have anything to add, Senator?

Senator SCHMITT. Only as I recall, Mr. Chairman, I was unable to be at the specific meeting. Just so the record is clear. Although I concur with the decision made. We discussed it before and after, and I have talked with Senator Goldwater.

Senator STEVENSON. If you will yield, I think the specific meeting you are referring to was a meeting of members of the Intelligence Committee to consider the policy of the Intelligence Committee and the effect and the precedent any other arrangement would establish for that committee.

That meeting was held in Senator Goldwater's office, with Senator Morgan and myself present. I can mention the other Senators, those that I am aware of, that have been consulted. I think they include Senator Hathaway, who is next ranking on the majority side on the Intelligence Committee to me. They do not include the chairman of that committee, Senator Bayh. They do include Senator Morgan as I indicated. I believe Senator Pearson serves on both committees, and Senator Schmitt. And the staff.

Senator WEICKER. Mr. Chairman, as I read the statement, the motion was presented by the chairman at the previous meeting, and I am now just dropping down—let me just read the whole thing.

Let me see if I can maybe phrase the possible substitute. ". . . the cooperative of the Intelligence Committee to obtain the testimony of all the persons mentioned by Senator Weicker and such additional persons as the committee shall determine for the purpose of determining to what extent, if any, they have knowledge of unethical conduct in the Senate occasioned by Korean nationals."

The information sought by me clearly falls within the jurisdiction of this committee.

Point number two——

Senator PEARSON. Pardon me. We don't have enough to do anything formally, do we?

Senator STEVENSON. We do have a quorum, with your presence.

Senator PEARSON. Okay.

Senator WEICKER. Let me continue, if I might. That is their business to get to the meeting, not mine.

[Deleted]

Now, Mr. Chairman, so much for my precise comments as to your analysis of what went on. Generally speaking, I think it was very clear that I did everything I could to attempt to reconcile different points of view at the last meeting. I tried to accommodate my motion and the thrust of my motion to both the convenience of the committee and of its staff and whatever else might have enhanced my request.

I will put it very bluntly. I think I got sand-bagged by the chairman of the committee and the vice chairman.

Senator SCHMITT. Senator, I would not——

Senator WEICKER. I will say what I want and you can say what you want.

Senator SCHMITT. I just didn't want to be left out.

Senator WEICKER. You are not left out.

I repeat my request as I initially made it. And at this time I am afraid it is without modification, which modification was only intended to go ahead and defeat the initial request, as I now interpret what the chairman has done.

[Deleted]

And I don't see how unethical conduct in the Senate occasioned by Korean nationals is anything but within the purview of the work of this committee. And if it is, I would like you to explain it to me.

And I am not interested in comments of either the chairman or counsel, well, you know, the business of whether or not the Executive Branch informed us in time. This is within the purview of the Intelligence Committee. I would admit that it is. I said at the time I was merely interested in that information enjoyed by the Executive Branch which pertained to our investigation.

Senator SCHMITT. Senator, if the chairman would yield, I feel that within the jurisdiction of both the Select Committee on Ethics and the Intelligence Committee there exists adequate capability to investigate all aspects of the matter concerning the Senator from Connecticut as well as the rest of the committee, that we do have sufficient cross-fertilization between the two committees so that we can oversee each other's work as that appears to be necessary; and I also have a great deal of confidence in our counsel and the ability of counsel and staff to gather information that is being obtained through other means, including the activities of the House.

Counsel is proceeding to call some of the witnesses and interview some of the witnesses that are mentioned in the Senator's comments at the last meeting. I personally, with a critical eye, at this time don't have any reason to second-guess counsel or to second-guess the jurisdictional division between two committees. I think we are going to get all the relevant information. If we find after some time that we are not, then I will be the first to suggest alternative means of gathering information. I don't think we have exhausted them.

Senator WEICKER. Senator, what you think really doesn't interest me, nor does it influence the conduct of the job which I am elected to go ahead and do.

Senator SCHMITT. I gather that.

Senator WEICKER. As I repeat, each of us is on the committee to give our own effort, not anybody else's effort. It was only in that regard that I made the motion. And I think it is a perfectly logical one and a very narrow one.

Now you have seen fit to go ahead and dilute that to the point where it is not effective. If my position on the committee is not going to be effective, the investigation committee is not going to be effective in the sense of what I propose is going to be cast

aside, then let's have it cast on the table. I think that seriously questions my being on the committee at all, which is fair enough.

But what I am not going to do is put my name on a committee and accept either the work product of others or the opinions of others or the actions of others which are intended to go ahead and dilute whatever contribution I make.

Senator SCHMITT. Before the Senator takes any——

Senator WEICKER. I don't know how anybody can be clearer than that motion is, Senator.

Senator SCHMITT. I would hope we would see what the final product or the draft product of what the work of this committee turns out to be.

Senator WEICKER. I have no doubt that counsel and the assistants he has are doing a good job or an adequate job. I am not criticizing them. I merely ask for assistance on something I proposed as being another avenue toward obtaining the facts which we were charged with obtaining.

Senator SCHMITT. I think we are going to obtain those facts.

Senator WEICKER. That is not good enough. A motion was made in this committee. That is why I wanted it in motion form.

Senator SCHMITT. I will move to reconsider the motion.

Senator WEICKER. Go right ahead. Go ahead and do it legal.

Senator SCHMITT. I think we are acting perfectly properly within the context of the committee's jurisdiction and the motion.

Senator WEICKER. Senator, make your motion to reconsider and then modify the original motion. I would be delighted to have that on the record.

Senator PEARSON. Let me ask a question. Did the motion raise a pure jurisdictional question and was it resolved on a pure jurisdictional question? Is that what we are really talking about?

Senator WEICKER. When I initially made the proposition to the committee, the point was raised that we would run into difficulty because in effect what I was looking for was an explanation as to why the Intelligence Community and the law enforcement agencies hadn't acted upon the information when they received it early in the 1970s.

I specifically explained—look, it is all in here. I specifically explained to the committee that no, I was not interested, and that is an editorial comment on my part which I have been known to say publicly in the past, but I wasn't interested in that. I was only interested in that information which pertained to our investigation—the names, the places, the information that was within the den of those agencies.

And Senator Stevenson's motion is absolutely correct the way it is stated. It couldn't be clearer, more concise. It doesn't say shall determine, in other words, whether the law enforcement or intelligence agencies were doing their job. It says determine for the purpose of determining to what extent, if any, they have knowledge of unethical conduct in the Senate occasioned by Korean nationals.

That is solely why we wanted them before us. Now we are told this is not for some reason within the jurisdiction of this committee.

Senator STEVENSON. Would counsel like to be heard on this matter?

Mr. KRAMER. No.

Senator PEARSON. I don't think I have an answer to my question. If you did give me an answer, I didn't understand it. We are talking about a jurisdictional thing?

Senator STEVENSON. I think so.

Senator PEARSON. At least that is the way the chairman and vice chairman looked at it when they had this. This is a pure jurisdictional thing.

Senator STEVENSON. Let me try to answer it.

Senator WEICKER. That is the way they view it.

Senator PEARSON. You don't.

Senator WEICKER. How can I? And it is proof of what I am saying.

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[Deleted]

If at anytime, in other words, a member of another committee comes up, regardless if it is this investigation or not, we plead jurisdictional differences, how are we ever going to do our job among the colleagues? We are talking about unethical conduct of our colleagues, period; that is all.

Senator STEVENSON. If you will let me try to explain once again the contrary position, and with great regret that the Senator feels I have sand-bagged him, and with a strong feeling of responsibility, too, because this whole subject might never have arisen had it not been for an action which I took at the outset for the purpose of making certain not only that this committee did its duty but also that the Intelligence Committee did its duty.

It was the chairman of this committee who arranged with the Intelligence Committee to take advantage of Tongsun Park's presence before this committee in order to further the investigation before the Intelligence Committee. That is where this whole situation began. And the Intelligence Committee cooperated fully, made staff available, made its records available.

I believe the principal beneficiary of that cooperation was the Senator from Connecticut. He used it well; he used it effectively and to the benefit of I believe both committees.

Now the situation has changed. It is no longer Tongsun Park.

It is now the case of the Intelligence Committee, the continuation of its investigation into the performance of the Intelligence Community during the time in question.

This committee, as the Senator has pointed out, is interested in possible misconduct in the Senate, not the performance of the Intelligence Community. We could, I suppose, call these witnesses before both committees.

I believe that staff has some feeling—I can call on staff, however reluctant they may be—that certain of the witnesses have nothing to testify to of value to this committee, or may not have, or the other committee. Certain of these individuals have already been called to testify before the committees of the Congress, and the record of their testimony may be made available to this committee.

There is no intention on the part of anyone with whom I have discussed the matter to neglect any aspect of either of the investigations. On the contrary, the purpose is to conduct both and to do both thoroughly.

But in the change of the circumstances, the consensus not just of myself, the consensus of all the members of both committees with whom I have discussed the matter, with the exception of the Senator from Connecticut, is that now the investigation is predominantly an investigation of the performance of the Intelligence Community and that, as a part of that investigation, witnesses can be asked—they would be asked in any event—what they knew about these activities and what they knew of any misconduct in the Senate.

Any questions along those lines within the jurisdiction of this committee that need to be asked can be asked. If the Senators want to prepare questions, they can be asked through the Intelligence Committee, just as this committee has been interrogating the witness on behalf of the others.

Senator PEARSON. We are not going to do anything until the other members get here this afternoon. I am sorry to interrupt.

Senator STEVENSON. I am sorry to be so long-winded.

Senator PEARSON. Off the record.

[Discussion off the record.]

Senator STEVENSON. I was going to suggest if Senator Weicker has a problem with his consensus, that instead of acting here, I don't believe that a motion to reconsider is necessary because I believe that what has been done is within the intention of the motion that was agreed to last time. Motion or no motion, what is important is that both of these investigations get on and that the integrity of both the committees, including the Intelligence Committee, be maintained. And because the Intelligence Committee feels strongly about it, you might want to ask to meet with the Intelligence Commitee. That is where I think the strongest feelings are.

It can't be resolved without the Intelligence Committee, which is why I spoke of my modifications, of the cooperation——

Senator WEICKER. Am I to understand, Mr. Chairman, we cannot call the persons that I indicated in my motion without the approval of the Intelligence Committee before this committee?

Senator STEVENSON. You could call them, but I personally would be very reluctant to call them just to ask questions which can't be answered without getting into the jurisdiction of that committee, with a strong impression that we already know what they knew.

Senator WEICKER. I don't believe as a matter of fact in my list of witnesses that I even requested that a member of the Intelligence Committee appear before us, with the exception of possibly Schmizer of the NSC. Mr. Henry Kissinger, Mr. Richard Kleindienst, Melvin Laird, Robert Mardian, Schmizer—and Schmizer worked for NSC and is not a member of the CIA.

Senator STEVENSON. Well, the Intelligence Committee includes more than the CIA. It includes, for example, the Justice Department.

Senator WEICKER. That is now within the purview of the Intelligence Committee solely?

Senator STEVENSON. Yes; counterespionage.

Senator WEICKER. Well, I am perfectly willing—let me put it this way. There is really little point in my serving on this committee, Mr. Chairman, since the obvious pre-occupation with judisdictional matters, and whatever else might go along with it, makes it impossible for me to go ahead and conduct perfectly pertinent inquiries to this matter that we have before us.

I don't intend any more to have clearly stated what I believe needs to be done only to either have it thrown in the wastepaper basket or have it shunted aside in a parliamentary maneuver. I am sorry it has to be that way, but I was under the impression we were here to do a hard-nosed job and get all the facts. I am sure the people investigating it are doing just that. As far as I am concerned, that is these six members and whatever staff is concerned. It does not include the investigation conducted in the opinion of either the chairman or vice chairman.

I have no further comments to make.

Senator SCHMITT. Senator, I think the record should show that this committee is dedicated—I am certainly and I believe the chairman is and other members—to a hard-nosed investigation, to use the Senator's words. I think the counsel we have is a hard-nosed counsel. I think the staff is hard-nosed. I think the Intelligence Committee in their areas of jurisdiction will be and has been hard-nosed.

I think when the final report is written it will be as complete a report as possible into the knowledge of the individuals concerned that we can get to.

Senator WEICKER. How can it be if you refuse to call the witnesses that are necessary?

Senator SCHMITT. The Senate is not refusing to call those witnesses.

Senator WEICKER. It is the responsibility of the Intelligence Committee to inquire of Dr. Kissinger whether or not he has knowledge of Senators who received money?

Senator SCHMITT. I think it very definitely is.

Senator WEICKER. Then it is impossible—and I know I am supposed to accept the word of a committee that they are on. We had one man voluntarily get off this committee for the very reasons you are defending that other persons can serve on other committees.

Senator SCHMITT. No, sir.

Senator WEICKER. John Tower at least had the guts and decency, and there was a lot of political fall-out due to what he did, to stand up here and say, "Look, my name is connected, and I am withdrawing."

Senator SCHMITT. Senator, for the purpose of the record, there was a great deal of material that came to light in various ways, made available to this committee and to its counsel.

In the judgment of counsel, concurred in by the committee, some of that information was deemed not only unsubstantiated but immaterial and that our investigation has proceeded on the basis of counsel's recommendation on what Senators and other individuals may have had either some involvement or some light to shed on the involvement of the Senate as a whole.

I think that that job has been done well. Senator Tower was one of the individuals who was felt to have significant information pertinent to the investigation and under those circumstances I think he felt and I felt and all felt it was appropriate that he not participate beyond a certain point in this activity.

Other individuals whose names may have appeared on the list of various kinds, without any investigation of substantiation, that was involved—in fact, all indications to the contrary—were not called and are not considered subject to this investigation.

Senator WEICKER. By whose determination?

Senator SCHMITT. By counsel's determination, concurred in by this committee.

Senator WEICKER. Concurred in by certain individuals on the committee.

Senator SCHMITT. Senator, certainly at the time we were making those decisions you had every opportunity to raise an objection.

Senator WEICKER. May I say to the vice chairman, we are supposed to be in the process of an investigation.

Senator SCHMITT. That is right.

Senator WEICKER. I have not arrived at any conclusions one way or the other as to the investigation that has been done.

Senator SCHMITT. But at a certain point in the investigation one may make decisions as to how one looks at it.

Senator WEICKER. Has counsel arrived at his conclusion? Can he write his report right now?

Mr. KRAMER. No, sir.

Senator WEICKER. Counsel has answered the question. And I might add, he did properly so, if it is a proper investigation. If it is a geared investigation or a cover-up, that is something else again.

I thank you very much, I have enough faith and integrity in counsel, I know it is not that.

Senator SCHMITT. Are you accusing the vice chairman of some attempt to cover up?

Senator WEICKER. I am accusing the vice chairman and chairman of making it impossible for a member of this committee, for this Senator, to conduct the investigation. Apparently the vice chairman has arrived at certain conclusions already on his own. I have not arrived at conclusions and can't arrive at any until I have the facts.

Senator SCHMITT. I have a right to a conclusion on the basis of recommendation of counsel, that the focus of our investigation has been along certain lines. I approve of those lines.

Other individuals who by circumstances or by some other reason may have had their names appear in connection with this inquiry have been looked at. Information has been looked at. At this time there is no indication there is any reason for further investigation. At some point we have to make those kinds of decisions.

Senator WEICKER. Then there is no point in people serving on this committee. Go by whatever your conclusions are and that is it. That is fine for you, not for me.

Senator STEVENSON. Senator, if you feel strongly that the investigation of this committee or other committees or your own efforts are being frustrated, shouldn't you present your arguments to the members of both committees? I don't want to act as intermediary or to be a party to any arrangement which dissatisfies any Senator, if that is possible.

Senator WEICKER. Mr. Chairman, I have no obligation to present my views to the Agriculture Committee or Public Works Committee or Intelligence Committee. I feel it obviously incumbent on me to present my views to my own committee, which is exactly what I am doing.

I have been told exactly as to what it is that is going to be investigated, what it is that is not going to be investigated, and how I am to go about my investigation. I find those conditions intolerable. I think it is an academic point at this time.

Senator SCHMITT. Just so the record is clear, no one has told you exactly how this is going to be done. There has been a certain process by which the inquiry has been conducted. That process has at this time focused on certain particular cases, to use that term, and that is the way we are proceeding. There is additional information which is required, and everybody has agreed to that.

The question as I see it is how is the Senate best able to acquire the information necessary so that both the responsibilities of the Ethics Committee and the Intelligence Committee can be properly discharged?

I think we are going about it in the right way. It is open, within the context that we can be open. The Senator makes his inputs. I think he is going to find all the information he desires will eventually become available. The question is, what is the best mechanism by which we can gather that information with the least damage to the individuals involved?

Senator WEICKER. The best way is between the people involved and myself, and not through you as a conduit or anyone else. It was a request that was made obviously to them. I understand that to be the case. It is as simple as that.

I don't intend to go ahead and talk about it any further. Very frankly, Mr. Chairman, neither do I intend to participate in the investigation effort.

Senator STEVENSON. Is there any further questions or discussion? We are due to come back at 1:30. The next witness will be present at 1:30.

Mr. KRAMER. Yes, sir.

Senator STEVENSON. Do we know the attendance of Senators at the meeting?

Mr. KRAMER. I don't, Senator.

Senator STEVENSON. Senator Weicker, I think you should——

Senator WEICKER. I do not intend to participate any further in the investigation. I will so inform the minority leader this afternoon.

Senator STEVENSON. I regret your decision.

Senator SCHMITT. As I also regret the decision. I think the Senator provides a very valuable service and has and could continue to do so in this committee.

Mr. WEICKER. Madam President, the thrust of this amendment is to try and bring back into focus what has been to date a shamefully inadequate investigation of the Korean influence peddling scandal by the Senate Ethics Committee and which has been a shamefully inadequate piece of cooperation insofar as the Government of South Korea is concerned.

Unfortunately we were given a job to do, both the House of Representatives and the Senate, on a matter that related to the possible improper conduct of Members of those two respective bodies.

I can assure you as a former member of the Senate Ethics Committee, as an observer of what has gone on over on the House side, and as a party to discussions between this branch and the executive branch of government, that nowhere near the thoroughness and intensity of investigation that was demanded by these circumstances was applied in the instance of the Korean influence peddling scandal, certainly nowhere near the thoroughness and the intensity of a previous investigation of the executive branch of government undertaken by this branch and more particularly by this body in 1973.

Why this amendment on Public Law 480 funds? And it is a proper vehicle with which to insist on cooperation by the Government of South Korea?

I think it must be clear to everyone that that cooperation has been nowhere of the same quantity or quality that the cooperation of this country has provided to the Government of South Korea over the years: $13 billion since 1946 in military assistance, $13 billion, only second to our commitment to Vietnam, and billions more insofar as food is concerned to that nation. I think that merited some form of cooperation.

We know now that far from a situation of mutual trust and of assistance the Government of South Korea was in the process of bribing officials of this Nation even while the people of this country, the taxpayers of this Nation were giving of their generosity to the Government of South Korea. That is bad enough and that alone would warrant a complete review of our relationship.

In any event, when the fact was discovered, then it seems to me that the least that was owed was total unrestricted, unqualified support and assistance in the investigation.

That has not been forthcoming and not just by my evaluation, but by the evaluations of persons in the executive branch of Government, later on the House side, later on the Senate side, indeed, by that same Senate Ethics Committee which in its report of May 22, 1978, said:

> A number of leads must yet be followed before the inquiry can be considered complete. For example, there is the on going investigation into charges that the former Korean Ambassador to the United States, Kim Dong Jo, and possibly other Korean officials or agents, made payments to some Members of Congress (though not necessarily to Senators) or their families. Efforts to obtain access to these officials has thus far proved fruitless. The Korean Government has not agreed to permit the Committee to interview these officials on a face-to-face basis, quite apart from granting permission to examine them under oath. Thus, the inquiry to date, while substantial, is not yet complete.

There are those who will say that the recent accession to written interrogatories is proof of such cooperation, and there is not one lawyer, including the

special prosecutor over on the House side, Leon Jaworski, who would agree with that proposition.

I will tell you what kinds of words you hear when you get written interrogatories without the opportunity of cross-examination.

I have here the written interrogatories of the Select Committee on Government Operations of Richard Nixon, back in 1976. In interrogatory after interrogatory there are the words "I do not recall," "I do not recall," "Apart from that incident, I do not recall," "Except to the extent indicated, I do not recall."

Written interrogatories are worthless. So I want to anticipate the argument that will be used here on the floor that indeed we are getting cooperation. We have not gotten cooperation except for the limited appearance of Tongsun Park, and I will get to that in a minute. Any steps which have been forthcoming have been under the most extreme duress, and I can assure you the Government of South Korea hopes the whole matter is going to blow over and go away.

The difficulty with that, my colleagues, is that, No. 1, it strains our credibility as the appropriate body to investigate ourselves; and, No. 2, it invites such similar incursions into the integrity of this body in the future.

The history of the matter demands that we act, and in the toughest possible way. I realize this is no longer a popular subject in Washington, D.C., especially because it touches upon so many people. It is not one U.S. Senator or one U.S. Congressman. It involves both political parties, Democrat and Republican; it involves the national campaign committees of both political parties; it involves some of the better known political legends of our time; it involves the executive branch of Government as well as the Congress, so ever since this matter started there has been the attempt to get it out of the way just as soon as possible and with as little trouble or as little noise as possible.

I hope here today that at least the Senate will show it has the courage to insist upon the fullest possible type of an investigation.

I said at the outset that the Senate investigation was shamefully inadequate, and it was. To read from the same report, the report of May 22, 1978, let me read a statement, two paragraphs there, which are outright lies:

> Special Counsel determined at the outset to attempt to avoid broadening the inquiry beyond that necessary to accomplish the purposes for which he was retained. It was especially important to work as swiftly as thoroughness allowed because of the cloud hanging over the Senate formed as a result of continually reiterated allegations and rumors in the press that widespread corruption in the Congress had occurred as a result of the activities of Tongsun Parak and other Koreans.
>
> Special Counsel opposed a suggestion that the Committee include in its work an inquiry to determine to what extent, if any, high-ranking officials of the Executive Branch had knowledge in the early 1970s of the activities of the Korean Central Intelligence Agency and Tongsun Park to influence the Senate by improper means and, if so, whether those officials had failed to warn the Congress. The basis for Special Counsel's position was that the Senate Code of Ethics prohibited Senators from being improperly influenced or bribed whether or not they were warned of any plans to do so. He argued that there are not two standards of ethical conduct for Senators: one for those who have been warned and one for those who have not. Ultimately, the Commitee decided to leave this proposed aspect of the inquiry to the Senate Intelligence Committee, which had already been working on it for a number of months.

I have already had printed in the RECORD verbatim the transcripts of March 23 and April 10, and it is absolutely clear in those transcripts that the only purpose for calling a group of witnesses, both Korean and U.S. Government officials, was to find out what knowledge they had relative to the Korean influence peddling scheme as it related to U.S. Senators. That was the basis of the request, and that is not the truth in the report printed by the committee.

Let us talk about that request. We had just gotten through 1 week's interrogation of Tongsun Park. Is there anyone here who believes that he told anything other than that which we already knew by our investigations, as it related to agencies of the U.S. Government? There was nothing new that came forth during the course of that week. Talk about blowing smoke, believe me, that happend insofar as Tongsun Park and that committee were concerned.

I thought it essential that there be some form of other evidence, corroborative or otherwise, from sources which had within their knowledge the very same information that Mr. Park had but which was subject to our legal and judicial processes.

It was for that reason that I submitted a list of witnesses which included Dr. Kissinger, Richard Kleindienst, Melvin Laird, Robert Mardian, Richard Peters, Kim Sang Keun, Heung Lee, Keun Pal Lee, Jai Shin Ryu, Kim Hyung Wook, and Lawrence Merthan and Richard Smizer.

The committee agreed to a motion which I made to call those witnesses, first of all opposing the motion, and then realizing, when I was going to press it to a vote, they did not want to be on record as to not having witnesses called before our committee, and so agreed to the motion, with the one stipulation that we work in cooperation with the Senate Intelligence Committee.

The motion was passed on March 23, but it was not until April 10, 1978 that I realized that the matter had been disposed of. There could be no calling of these witnesses before the Senate Ethics Committee; rather the matter was disposed of by referring it to the Senate Intelligence Committee, which had at least four members on it who had allegations of impropriety lodged against them.

So there was no opportunity for either examination or cross examination of that group of witnesses even though the Ethics Committee had voted to do so.

We come to the business of this amendment. Nobody can say we have gotten the type of cooperation we deserve as a nation from our ally. Written interrogatories are not a substitute for direct and cross-examination under oath. The special prosecutor, Mr. Jaworski, himself made that very, very clear within the last several days:

> Q: You tried vehemently to get [South Korean ambassador] Kim Dong Jo's testimony. Why? What did you hope to learn?
>
> A: I did not think that he had an involvement this this matter. And in the public hearings I produced some evidence to the effect that he had been active in trying to reach some congressmen. The imponderables are [that] I don't know whether he actually succeeded in delivering funds to these congressmen, and I don't know whether they retained it. The congressmen, under what is equivalent to an oath, have all denied to me, in writing, any such involvement.
>
> Now I wanted to know from him precisely what he had done, but I wanted it in credible form. I did not want . . .
>
> Q: Which means sworn—which means sworn.
>
> A: Yes.
>
> Q: Now, [ethics committee chairman John] Flynt has just said that in fact Kim's going to be in a position of answering committee questions, although he won't be under oath, apparently. Is that sufficient in your mind?
>
> A: Of course it isn't sufficient. . . .

I will say it here, it is not sufficient. It was difficult enough dealing in front of the committee with that slime that kept on running through everybody's fingers called Tongsun Park. Never mind about written interrogatories.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. WEICKER. I ask for 2 minutes on the bill.

Mr. BELLMON. I yield 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. WEICKER. That is the reason, Madam President, I ask my colleagues now to join in the type of action which makes it clear that this body, and, to at least the extent it represents the Government of the United States, will tolerate nothing short of the whole truth.

The American public and this body do not have the whole truth as to the Korean influence peddling scandal yet. I think the issue of credibilty in our Government is probably the dominant issue of these times, whether it is regarded on this floor, in the press, in the editorials, or anywhere else.

I ask that the Senate accept my amendment, and I would hope that I would be able to respond to whatever the arguments are against it. I will obviously have to ask for time on the bill, which I can assure Senators will not be great in length.

Mr. BELLMON. Madam President, I ask unanimous consent that the time I yielded to the Senator from Connecticut be charged against the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Does the Senator from Illinois wish to be recognized?

The PRESIDING OFFICER. Is the Senator from Illinois managing the time in opposition?

Mr. STEVENSON. No; I was going to ask if the distinguished Senator from Oklahoma would yield me 5 minutes on the amendment.

Mr. BELLMON. I am happy to yield 5 minutes on the amendment to the Senator from Illinois.

Mr. STEVENSON. I thank the Senator for yielding.

Madam President, my purpose in asking for this opportunity is not to respond to these accusations, except to say that in time the investigation into activities of the Republic of Korea in Congress will be completed, and at that time it would be appropriate to judge the thoroughness and the integrity of the investigation. The investigation is not now concluded, and such a judgment is premature.

Moreover, a judgment by one who is no longer a member of the Ethics Committee and never was a member of the Intelligence Committe is, on its face, not entitled to much credibility. My good friend the Senator from Connecticut is not familiar with these investigations. The investigations by the Ethics Committee is not completed, and for both those reasons, I suggest to the Senate that his words are unjustified.

I do rise, Madam President, to say a few words about the Senator's amendment and to urge the Senate to defeat this amendment resoundingly, in order that we can complete our investigation and offer to the American public the truth about the activities of the Republic of Korea in Congress. This amendment, if approved, would have the reserve effect, and that judgment is made obvious by recent history.

Our efforts to obtain the cooperation of the Republic of Korea for the purpose of access to Kim Dong Jo and to other nationals of that country has gone on now for more than 6 months. Those activities have involved myself and the vice chairman of the Senate Ethics Committee; they have involved the distinguished majority and minority leaders; they have involved the State Department; and they have also involved the National Security Council. Last week these lengthy negotiations with the Republic of Korea finally produced an agreement.

At this point, a cutoff of Public Law 480 funds would have no positive effect on our efforts to obtain Korean cooperation. It could undo the arrangement now approved by both Congressional Ethics Committees for Korean cooperation.

It may not be coincidental that this arrangement, which contains a concession and change of position by the Koreans, followed the Appropriations Committee's inclusion of Public Law 480 funds for the Republic of Korea.

During that long period of negotiation with the Koreans, we were not surprised to find that every threat of reprisal, every threatening act, every measure taken by the House, including the House disapproval of Public Law 480 funds for Korea, has been followed by a stiffening of Korean resistance.

I say we were not surprised because the reasons are obvious. That which a nation might do voluntarily is made the more difficult by threats, and when pride and sovereignty are on the line. We are mistaken, as Americans, to act and think as if ours was the only Nation in the world with pride.

It would be better to set a process of cooperation in motion than one of continued confrontation and reprisal. Cooperation can produce favorable results.

Mr. EAGLETON. Madam President, will the Senator yield for a moment?

Mr. STEVENSON. Yes.

Mr. EAGLETON. I ask for the yeas and nays on the Weicker amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENSON. Madam President, a token aid cutoff, and that is all this is——

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. EAGLETON. I yield the Senator from Illinois 2 additional minutes.

Mr. STEVENSON. Madam President, a token aid cutoff, and that is all this is, just a token, punishes the American economy, thwarts the investigation and causes speculation in the world that such perversity is the product of an ulterior design to which the national interest has been subordinated.

The Senate would be taking a more productive approach if it makes a gesture of cooperation to follow that of the Government of the Republic of Korea.

As to the arrangement between the Ethics Committees of Congress and the Republic of Korea, it provides that Mr. Doug Jo, will respond in writing to written questions and carries with it the assurances of the Korean Government that it will do all it can to assure substantive responses. Follow up questions are contemplated.

Madam President, this is not an ideal process for questioning Mr. Kim. We had sought face to face communication. But it may be the best we can get. And for now, at this point, it is acceptable. The Korean Government is assuring substantive responses. It understands that anything less will invite congressional expressions of displeasure. The Korean Government knows we will have ways to determine how complete and forthcoming the responses are.

The PRESIDING OFFICER. The Senator's 2 additional minutes have expired.

Mr. EAGLETON. Madam President, I yield the Senator 2 additional minutes.

Mr. STEVENSON. I thank the Senator. All the talk about sworn testimony in Congress was never related to the requirements of a serious investigation Testimony by a foreign national under an unenforceable oath is of little evidentiary value. Besides, the United States, exposed as it is to the world, would prudently encourage compliance with the Vienna Convention, and not its violation.

So, for the sake of a thorough investigation, I support the Appropriations Committee's recommendation that Public Law 480 funds for the Republic of Korea be included in this bill. Another threat, this one to follow Korean cooperation, would only invite noncooperation. If the arrangement with the Koreans fails, we will know it, and there will be time enough for reprisal, with far less to lose than now.

Madam President, this amendment should be defeated. If that process of cooperation is to move ahead, which alone can produce all of the information and evidence that this investigation requires, this amendment will be defeated resoundingly. Whether it goes forward or stops is up to the Senate. Later, if a gesture of cooperation and good will by the Senate is not reciprocated, we will have time enough. We will have an opportunity to express our displeasure. The approval of this amendment would make it impossible for these committees, the Ethics Committees of both Houses, to conduct a thorough investigation.

Its defeat will make such an investigation possible.

The resounding defeat by the Senate will make it probable.

I thank the Senator.

Mr. EAGLETON. Madam President, I yield 3 minutes to the distinguished Senator from Kansas.

Mr. DOLE. Madam President, I listened carefully to the distinguished Senator from Illinois and I agree with much of what he said.

I certainly understand the frustration and the concern of the distinguished Senator from Connecticut (Mr. WEICKER) with reference to the so-called Korean investigation.

It has been suggested that there be more cooperation rather than less, based upon how this amendment is treated. I assume it can be said that while some of us who raise commodities that may end up in Korea have a selfish interest in not supporting this amendment, I think there is a very fine line and a very difficult choice to make. Certainly, the Senator from Connecticut has a very lofty goal, and that is to find out the facts.

There has not been, in the minds of many, the same scrutiny, the same concern, the same attitude by the media as we had in another recent investigation.

It seems to this Senator that by adopting the Weicker amendment we could, in effect, have an adverse impact on any incentive for greater cooperation.

I do not believe the stakes are high enough to compel or coerce the Korean Government into greater cooperation. We are talking about $56 million worth of title I shipments during fiscal year 1979. These shipments are not a gift. They must be paid for with interest by the Republic of Korea. The amendment could have the opposite effect from that which the Senator intended. It may result in less cooperation by the Korean Government

I am inclined to agree with the distinguished Senator from Illinois, that maybe we ought to see what comes. There is still time for a lot of action by the Congress, by the Senate, and by the Senator from Connecticut. I might very well find myself supporting the Senator from Connecticut, whether it is Public Law 480 or whether it is some other aid or trade with the Republic of Korea.

For the reasons stated, it just seems to me that Korea is one of our best customers. They continue to favor American grain, even though they are usually offered better prices by the Canadians and Australians. Because of the trust and good will we have developed there, it seems to me that we not only jeopardize the $56 million, but we jeopardize

about $1 billion annually in agricultural exports to the Republic of Korea in regular commercial transactions.

Having said that, I would repeat that it is not just for that, what some might consider a selfish interest, coming from a farm State. That may be part of it. But beyond that it is my hope that by not taking this action suggested by the concerned Senator that we will encourage more cooperation by the Republic of Korea and the officials there.

I appreciate the Senator from Missouri yielding.

Mr. EAGLETON. Madam President, I yield 6 minutes to the Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Missouri. This will be my final comment on the matter.

The Senator from Illinois keeps referring to that which a nation can do voluntarily, of their own volition, so far as cooperation is concerned. We are talking to the national equivalent of a felon. There is no argument over the fact that the Government of South Korea bribed the Government of the United States. Nobody is arguing that point.

With that fact having been established, you do not go ahead and say, "Now, will you please give me your cooperation in the suit against you?"

Indeed, the investigations against any one of the Members of this body or the House are a further indictment of the Government of South Korea. The only way to produce the evidence is to hang on and squeeze.

The Vienna Convention was mentioned. Specifically, it is excepted in this amendment. May I point out that the Vienna Convention does not forbid testimony. It merely does not oblige the giving of testimony.

To respond to the distinguished Senator from Kansas, this does not cut off $56 million of commodities to be purchased in this country. It means that $56 million is not going to go to the Government of South Korea, but it can go anywhere else.

When this investigation started I introduced a similar motion within the committee. At that time the Senator from Illinois asked that the consideration of that amendment be postponed. Indeed, weeks went by until again consideration of such action did come up in the committee because the Government of South Korea was not cooperating. Then all of a sudden because of the pressures brought by the Justice Department, the Tongsun Park arrangement was arrived at. Now he wants to follow again the lead of the Government of South Korea.

You know as well as I do, Madam President, from having watched it, just as long as it drags out, everybody sitting around here and in the executive branch and in the Government of South Korea are hoping it is going to go away.

"It has gone on too long; it is going to go away."

The Senator from Illinois asked for a resounding defeat.

If members resoundly defeat this amendment, believe me, it adds to what so far has been a resounding cover up.

Witnesses not called before the committee, pressures not brought on the Government of South Korea—the story goes on and on in what I said at the outset was a shamefully inadequate investigation shamefully inadequate cooperation by the Government of South Korea. But at least it lies within each one of us to demand that the whole truth be put on the table.

When the Senator from Kansas says that the price is too high, let us say that this meant that $56 million was not going to go into the pockets of Americans; let us say that there was some retribution by the Government of South Korea. How do Members think they will get the truth? The easy way? By sitting there and asking the nation that just bribed ours to give it to us on a silver platter?

Obviously, there is a price to be paid, a price to be paid in the sense of our hard-nosed investigations, letting the chips fall where they may; a price to be paid monetarily if they want to go ahead and engage in some sort of economic retribution. But then what are the priorities in this Nation? Nobody believes this Senate; nobody believes the House or the President. I suggest of all the issues confronting us, this is the most important because until that belief exists no program can move forward.

Trust is the most important ingredient in a prospering United States; and certainly, no trust has been engendered by the actions of the Congress in the matter of the Korean influence-peddling scandal.

So I ask that it be resoundingly passed as one element of a no-holds-barred investigation and as a condemnation of what went on in the past and a statement that we will not allow it in the future.

The PRESIDING OFFICER (Mr. ANDERSON). All time has expired.

Mr. EAGLETON. Does the Senator need additional time?

Mr. WEICKER. No, I thank the Senator.

Mr. STEVENSON. Will the Senator yield me some time?

Mr. EAGLETON. I yield off the bill 1 minute to the Senator from Illinois and, following him, the Senator from New Mexico.

Mr. STEVENSON. Mr. President, if the distinguished Senator from Connecticut knew anything about these investigations, he would not make such silly charges; and if he has any evidence of bribery in the U.S. Senate by Kim Dong Jo or anybody else, he ought to turn it over to the Justice Department and the appropriate committees of the Congress.

Mr. SCHMITT. Mr. President, I have spent a great deal of my first 18 months of my Senate career—many, many hours each week, much time each day—as part of the inquiry into the allegations of improper influence on the U.S. Senate by agents for the Republic of South Korea. The counsel, the special counsel, and his staff that we engaged for this effort have done an outstanding job. There has been no coverup, there will be no coverup of the information that has been gathered during that investigation, as far-reaching as it has been.

The investigation is unique, maybe, because it has not been carried on in the glare of television cameras and the glare of headlines, because it is the belief of the Senator from New Mexico and, I believe, the belief of the Senator from Illinois, that that is not the way to get to the facts. We have gotten to the facts, we are getting there. It is not just the testimony of Kim Dong Jo that is important. It has been the testimony in the search for facts over the last year that is important.

As an additional adjunct to that investigation, the questioning of Kim Dong Jo will be very important, but it is not absolutely the only thing that is important to the investigation. I think it will occur that we will get information that will, if nothing else, confirm things we already know. But to take this action with the amendment of the Senator from Connecticut, to fly in the face of an agreement that has taken many, many months to reach with the Republic of South Korea for the testimony of Kim Dong Jo, I think would be a terrible mistake for the Senate to make.

As the Senator from Illinois has said, we have other opportunities to act in reprisal against the Republic of South Korea if that is necessary or becomes necessary. I do not think it will be; I hope it will not be. I have already talked to at least one, if not other, Senators who want to offer similar amendments out of doing so, because I think we must pursue this to the end. The amendment of the Senator from Connecticut would not allow us to do so.

I thank the Senator from Missouri for his courtesy in yielding the time and hope this amendment will be defeated.

Mr. EAGLETON. Mr. President, I yield myself 5 minutes on the bill.

Mr. President, I think that this amendment, which would cut off $56 million in projected Public Law 480 aid to Korea, is unwise from both economic and diplomatic standpoints.

Taking the economic one first, this prohibition would prevent the United States from meeting its obligations under the 1971 "Kennedy understanding" in which it was agreed that the United States would provide Public Law 480 commodities in return for Korea's agreement to limit voluntarily its textile exports to the United States. Eliminating Public Law 480 could result in the Koreans dropping their voluntary limit, thus causing a significant increase in Korean textiles imported into this country. Such a situation would be detrimental to domestic U.S. industry, particularly the cotton producers.

In addition to the textile situation, the overall United States-Korean agricultural trade balance could be significantly affected. U.S. agricultural exports to Korea were $919 million in 1977, representing 95 percent of Korea's major crop imports of cotton, wheat, corn and soybeans. They represented two-thirds of total Korean agricultural imports. It is very possible that a loss of the Public Law 480 program would cause the Koreans to turn to other sources of supply for agricultural products. Both the State and Agriculture Departments indicated that they felt such a shift was likely. It is cer-

tain that our competitors in world agricultural markets will use the alleged reduction in U.S. reliability as a reason not to buy from this country.

Mr. President, I ask unanimous consent that the letters from both the State Department and the Department of Agriculture be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. EAGLETON. On the diplomatic side of the question, there are two key issues. First, as a signatory to the Vienna convention on diplomatic relations, the State Department has indicated that any action by this country to require testimony by a former diplomat would be both improper and illegal. While I completely agree that we need the testimony of Ambassador Kim Dong Jo, I do not think this provision is the way to accomplish that. Coercion has not worked through the Public Law 480 program.

Last week, the Korean Government offered assurance of cooperation in obtaining additional information to assist the Ethics Committees. As I understand it, this includes obtaining written responses to questions. Now this may not be totally satisfactory, but it is a clear sign of progress in this situation. To slap the Korean Government in the face at this time by adopting this amendment is likely, in my judgment, to kill off the first really promising initiative with respect to the testimony of the Korean Ambassador.

EXHIBIT 1

DEPARTMENT OF AGRICULTURE,
Washington, D.C., July 18, 1978.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: On June 19, 1978, we provided you with our detailed comments and recommendations on the fiscal year 1979 agricultural appropriations bill as approved by the full House Appropriations Committee. Subsequent to that time, two additional provisions were added to the bill during House floor action. We would like to offer our comments on those provisions.

A proviso was added to the appropriation for Public Law 480 which states, "Provided, That none of the funds appropriated or otherwise made available under this paragraph shall be obligated or expended to finance assistance to Korea."

While we recognize the concerns of the House which resulted in the addition of this language to the bill, we believe the following points should be considered:

This prohibition would prevent the United States from meeting its obligations under the 1971 "Kennedy Understanding" in which it was agreed that the U.S. would provide P.L. 480 commodities in return for Korea's agreement to voluntarily limit its textile exports to the U.S. It is not known at this point whether the Koreans would choose to drop their voluntary limit if the House proviso is finally approved. A significant increase in Korean textile exports to the U.S. would, of course, be detrimental to our domestic industry and particularly to our cotton producers.

This proviso could also have severe implications for the general competitive position of the U.S. in agricultural trade. U.S. agricultural exports to Korea were $919 million in 1977. This represents 95% of major crop imports (cotton, wheat, corn, soybeans) and about two-thirds of total Korean agricultural imports. There are strong indications that we could lose a substantial share of this billion dollar Korean market if the P.L. 480 proviso is finally approved. It is also clear that our competitors will use this alleged lack of U.S. reliability against us in other markets.

The second action by the House was to add a new Section 613 to the general provisions of the bill which states that: "None of the funds herein appropriated shall be available to pay the expenses of parties intervening in any regulatory proceeding or of any person acting as a witness, an expert, or an advisor for or upon behalf of any organization appearing before the United States Department of Agriculture, Food and Drug Administration or Commodity Futures Trading Commission."

One of the most significant initiatives of this Administration is the improvement of public participation in regulatory and other Executive Branch decision-making processes. In many ways we have become a nation of rules and regulations which in the past were generated by the bureaucracy without effective input from the individuals or groups most significantly affected. The Department is presently revising its procedure to require better advance notice of proposed actions as well as clearer writing and improved analysis to explain and support them.

However, it is clear that in some instances the most important impediment to public participation is lack of resources. This is especially true with respect to programs which are designed to serve the poor such as the Food Stamp program. We believe that these people ought to be given a fair chance to state their views on program rules and regulations which directly concern them. In some cases, this may require that they be reimbursed by the Government for the travel and other expenses associated with their appearance. We believe that a policy of paying such expenses when absolutely necessary is both wise and equitable. To the extent that such participation will lead to better policies and programs, the Government and the general public will be the real beneficiaries. Recent Comptroller General decisions indicate that there is a legal basis for these payments. For these reasons, we urge the Senate to delete Section 613 from the 1979 Appropriations bill.

We appreciate your consideration of these comments.

Sincerely,

BOB BERGLAND,
Secretary.

DEPARTMENT OF STATE,
Washington, D.C., August 4, 1978.

Hon. THOMAS F. EAGLETON,
Chairman, Subcommittee on Agriculture, Committee on Appropriations, U.S. Senate.

DEAR MR. CHAIRMAN: The Senate is scheduled to consider the Agriculture Appropriations Bill next week, and we understand that an amendment may be introduced on the floor to prohibit PL–480 Title I sales to Korea unless the Korean Government requires former Ambassador Kim Dong Jo to return to the United States to testify before congressional panels. We strongly feel that economic issues, such as commodity export sales, and the issue of forcing a former diplomat to testify are separate and distinct, and should be argued on their separate merits.

Our position on requiring testimony by a former diplomat is well known to you, and was best expressed in the testimony of Deputy Secretary Warren Christopher before the House International Relations Committee on May 22, 1978. In essence, the Department's position is that as a signatory to the Vienna Convention on Diplomatic Relations any action by the Government of the United States to require testimony by a former diplomat would be both improper and illegal.

Commodity sales to the Republic of Korea through the PL–480 Title I program are extremely important to the commercial interests of the United States. As stated in the original PL–480 legislation, an important purpose of Title I sales is the development and preservation of overseas markets for American agricultural products. Korea is the fifth largest export market for our agricultural goods—a market approaching $1 billion annually, and growing. In 1977, Korea purchased over $760 million in cotton, wheat and corn alone. Clearly Korea is an important market which we should preserve and develop and particularly avoid any actions which could prove detrimental to these efforts.

The effectiveness of PL–480 sales as a marketing tool in Korea is demonstrable—the Korean Government has consistently expressed its appreciation over the years by making virtually all of its commercial purchases of agricultural goods from the United States. Our market share for these products in Korea is well over ninety percent. We would not expect that an abrupt and somewhat rancorous termination of the Title I program would immediately turn Korea to other supply sources for all of its agricultural imports, but it would be easy for Korean buyers to shift a portion of purchases to our major competitors who are constantly making new approaches to them. A loss of only ten percent of our current market share would represent a loss to American farmers of nearly $100 million annually.

In summary, we feel that the linkage of economic issues with that of the testimony of a former diplomat is inappropriate, and we hope that the Senate will avoid such a linkage. We would further note that the Korean Government has recently offered assurance of cooperation in obtaining additional information to assist the Congressional Ethics Committee to conclude satisfactorily their investigation. This process will be underway shortly.

Sincerely,

DOUGLAS J. BENNETT, Jr.,
Assistant Secretary for Congressional Relations.

Mr. EAGLETON. A few final remarks before I shall move to table, Mr. President. I have listened to the presentation very vigorously and forthrightly set forth by the distinguished Senator from Connecticut (Mr. WEICKER) and the rejoinder thereto by the chairman and the ranking minority member of the Senate Ethics Committee (Mr. STEVENSON and Mr. SCHMITT). We all get a bit exuberant sometimes in debate, Mr. President. I guess I am as guilty of that sin as anybody in this body. And I know that the Senator from Connecticut holds his views very deeply. However, I think it goes far beyond the pale of legitimate commentary in this instance to say that there is either a conscious or an unconscious, either a witting or an unwitting coverup. That word, coverup, that is an attention grabber. That implies that there is some kind of conspiracy or conscious design to keep things away from public scrutiny. It implies that the Senator from Illinois (Mr. STEVENSON) and the Senator from New Mexico (Mr. SCHMITT), as chairman and ranking member of the Ethics Committee, are handmaidens in this kind of coverup endeavor. I certainly know that is not the case.

As the Senator from Illinois has pointed out, if the Senator from Connecticut (Mr. WEICKER) has information of any kind, direct or indirect—from live witnesses, written interrogatories, hearsay,

rumor, innuendo, or surmise—if he has information of any sinister or even quasi-sinister type, he can certainly give that information to the Senator from Illinois or the Senator from New Mexico. The lines of communication are open within this body at all times.

Mr. WEICKER. Will the Senator yield at that point?

The PRESIDENT OFFICER. The Senator's time has expired.

Mr. EAGLETON. I yield 4 additional minutes on the bill.

The PRESIDING OFFICER. The Senator from Missouri has 2 minutes remaining.

Mr. EAGLETON. Mr. President, I ask unanimous consent that an additional 30 minutes on the bill be allocated, with 15 minutes under my control and 15 minutes under the control of Senator BELLMON.

I withdraw my request. I yield 2 minutes or whatever I have to the Senator from Connecticut.

Mr. WEICKER. As the distinguished Senator from Missouri knows, or may not know, I was a member of the Ethics Committee. I resigned from the Ethics Committee because of the fact that I attempted to get witnesses, ones I have named here today, before the committee, had the motion passed in the committee, and then saw my motion administratively buried for national security reasons in the Intelligence Committee.

I have too much respect for civil liberties and the Constitution to go ahead and use any other procedures but those of our legal process of the U.S. Senate, and I do not throw names out willy-nilly.

But I cannot go ahead and conduct an investigation when my own committee has to pass my motion unanimously, denies me the fact of ever seeing those witnesses or cross-examining them.

Now I submitted at the outset of my talk this morning the verbatim transcripts of March 23 and April 10. In there, you will see acceptance of the motion and see how it died in a parliamentary maneuver after it had been passed.

So I just want you to understand I do not throw those words out, and I might add I have no intention of correcting the words used today in the RECORD. I will stick right by them.

Let the Senator from Illinois and let the Senator from New Mexico defend that transcript, which will appear for the world to see tomorrow, as to what they did with trying to use a proper procedure to obtain witnesses and then having that procedure denied them.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. EAGLETON. I yield.

Mr. ROBERT C. BYRD. Mr. President, I do not think the Senator from Illinois or the Senator from New Mexico need defend any transcript before the world. I have every confidence in those two Senators and in that committee.

Mr. WEICKER. Was the Senator there?

Mr. ROBERT C. BYRD. And I do not believe in engaging in innuendos. If the Senator has anything other than innuendos, let him produce it. Let him bring it to the Senate floor.

Now, Mr. President, as I have said in connection with the SALT agreement, if and when a SALT agreement is ever produced, I think the Senate ought to make its judgment based on the content of what is within the four corners of that agreement and not on other extraneous matters which we may or may not like.

I do not like the adventurism of the Soviets in Africa. I do not like the adventurism of the Cubans in Africa. But when it comes time to make a decision on the SALT agreement, if it is ever presented here, I, for one, will attempt to make my decision based on the contents of that agreement and what is in the best interests of the United States.

I say the same thing with respect to aid to Korea. I think the administration has performed in an admirable way in its efforts to get the Korean government to cooperate.

I am sure the Ethics Committee of the Senate has done the same.

I do not believe that we should resort to cutting off aid to a friendly government like Korea. We have a treaty with the Korean Government. I do not believe we ought to resort to cutting off our nose to spite our face, cutting off our aid to a friendly government simply because we cannot get all the cooperation we want.

I think we should persist in trying to cooperate with the Government of Korea, persist in our efforts to get whatever information we need, but not go around this indirect route, cutting off our nose to spite our face.

Let us think of what is in the best interests of the United States.

Mr. WEICKER addressed the Chair.

Mr. ROBERT C. BYRD. I want to see all the facts come out. and I am confident that the Ethics Committee is doing its best.

Mr. President, I hope that the motion to table which the Senator from Missouri will make will be supported.

Mr. WEICKER. Will the Senator from West Virginia yield for a question?

The PRESIDING OFFICER. All time has expired.

Mr. WEICKER. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. I yield the floor.

The PRESIDING OFFICER. There is no time.

Mr. WEICKER. Will the Senator from Missouri yield me 2 minutes?

The PRESIDING OFFICER. There is no time.

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senator from Connecticut have 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WEICKER. I then ask the Senator from West Virginia whether a friendly nation. which is the term he used for South Korea, bribes its allies, is that the make charges if he was familiar with the

Mr. ROBERT C. BYRD. The Senator is beating around the bush. He is attempting by indirection to get around the point.

The point that is before the Senate is whether we should cut off aid to Korea, simply because a Senator feels that that Korean Government is not forthcoming, Perhaps they are not. The point is, will we cut off our nose to spite our face? Will we cut off aid to a friendly government simply because there are some problems in getting the full cooperation in the presentation of whatever evidence may or may not be available?

Let us continue to persist. Let us not let up in our efforts to get the information. I think the Korean Goverment will be much more likely to cooperate, if we do not take our eyes off the ball and cut off aid which, in itself, is not going to get the information that the Senator wants.

But, Mr. President, I think that the——

Mr. WEICKER. I still believe I have time. May I just read the statement of the committee:

> Efforts to obtain access to these officials has thus far proved fruitless. The Korean Government has not agreed to permit the Committee to interview these officials on a face-to-face basis, quite apart from granting permission to examine them under oath.

There is the statement of the committee.

Mr. ROBERT C. BYRD. Well——

Mr. WEICKER. How long does it go on? It will be forgotten. It is almost forgotten now.

Mr. ROBERT C. BYRD. I am not asking anybody to forget anything that should not be forgotten, and the effort should persist. But the Senator will not get the information the Senator wants by cutting off aid. I respect the Senator for his desire to get all pertinent and accurate information. So do I. But do not cut off aid to a friendly country simply because all of the cooperation is not yet forthcoming. Let us attempt to continue to get the cooperation. But to go about getting that cooperation in this way, in my judgment, is a futile and unwise and counterproductive effort.

Mr. WEICKER. As the saying goes, Mr. President, with a friend like that, who needs enemies?

The PRESIDING OFFICER. The time has expired.

Mr. WEICKER. I hope the distinguished Senator will not table, but allow it to go up or down.

Mr. STEVENSON. Will the Senator yield?

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. STEVENSON addressed the Chair.

The PRESIDING OFFICER. There is no time remaining.

Mr. EAGLETON. I ask unanimous consent that the Senator have 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, the Senator from Connecticut could not mark of a friendly nation?
investigations. But he is not a member of the committees which are conducting the investigations. We are making prog-

ress. This amendment will prevent us from making more progress and determining whether, in fact, there is any impropriety in the Senate.

Mr. ROBERT C. BYRD. What the Senator is saying is that the amendment would be counterproductive.

Mr. STEVENSON. Exactly.

There is a process moving now which ought to continue. If it does not produce more cooperation, then it would be timely to react.

Right now, we ought to keep the process of cooperation moving. It is going to produce information from Kim Dong Jo. If he does not produce truth and a full response, we will know and we can react later.

But the progress we have been making includes the sworn testimony of all of the witnesses mentioned by the Senator from Connecticut with the exception of one, and we will obtain his.

This amendment, for the sake of the truth and a full investigation, ought to be defeated and it ought to be defeated resoundingly.

Mr. EAGLETON. Mr. President, I move to lay the amendment on the table and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Connecticut. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 71, nays 24, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—71

Allen	Gravel	Muskie
Anderson	Hart	Nelson
Bellmon	Hatch	Nunn
Bentsen	Hatfield,	Pearson
Bumpers	Mark O.	Pell
Burdick	Hatfield,	Percy
Byrd,	Paul G.	Proxmire
Harry F., Jr.	Hathaway	Randolph
Byrd, Robert C	Hayakawa	Ribicoff
Cannon	Hodges	Roth
Chafee	Hollings	Sarbanes
Chiles	Huddleston	Sasser
Clark	Jackson	Schmitt
Cranston	Johnston	Scott
Culver	Kennedy	Sparkman
Danforth	Leahy	Stafford
DeConcini	Long	Stennis
Dole	Lugar	Stevenson
Durkin	Magnuson	Stone
Eagleton	Matsunaga	Talmadge
Eastland	McGovern	Thurmond
Ford	McIntyre	Williams
Garn	Melcher	Young
Glenn	Morgan	Zorinsky
Goldwater	Moynihan	

NAYS—24

Baker	Domenici	Metzenbaum
Bartlett	Griffin	Packwood
Bayh	Hansen	Riegle
Biden	Haskell	Schweiker
Brooke	Helms	Stevens
Case	Laxalt	Tower
Church	Mathias	Wallop
Curtis	McClure	Weicker

NOT VOTING—5

Abourezk	Humphrey	Javits
Heinz	Inouye	

So the motion to table Mr. WEICKER's amendment (No. 3447) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to lay the amendment on the table was agreed to.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. EAGLETON. Mr. President, I believe the Senator from Indiana (Mr. LUGAR) has the next amendment, or perhaps the Senator from Nebraska (Mr. CURTIS).

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. EAGLETON. Mr. President, I ask unanimous consent that an additional 30 minutes on the bill be granted, the time to be equally divided between myself and the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. I now yield 1 minute to the Senator from Nebraska.

Mr. CURTIS. Mr. President, the Senator from Nebraska is faced with this problem. The Finance Committee has been in since 9 o'clock this morning. We have a great many programs we have to move. At this moment, revenue sharing and the controversy over countercyclical revenue sharing and the formula, is under consideration.

I have an amendment I wish to present. I do not believe this bill can be finished until after the noon hour. I just cannot be here to offer my amendment. My amendment is calling for a cut that is larger on the same item than the amendments by the Senator from Indiana. If his amendment is accepted, I am out of court.

The Committee on Finance is part of the official business around here, and there is nothing I can do about it.

Mr. EAGLETON. Mr. President, I yield to the Senator from Oklahoma for a unanimous-consent request.

Mr. BARTLETT. Mr. President, I ask unanimous consent that Ed King and Bob Cooper of my staff be accorded the privileges of the floor during the voting and consideration of this bill.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the amendment of the Senator from Nebraska be in order notwithstanding whatever action may occur on the amendment of the Senator from Indiana (Mr. LUGAR), including the approval thereof.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

(The following statement was made yesterday and is printed at this point in the RECORD by unanimous consent.)

Mr. ROTH. Mr. President, yesterday the Senate witnessed a travesty of this body's sense of purpose. Supporters of reduced spending were warned by several of the Senate's own Members that any effort made to decrease funding figures arrived at by the Appropriations Committee would be met with direct reprisals.

Even though these Members acknowledge the proposed reduction was not a meat-ax approach, they nevertheless charged their final figures were sacrosanct and untouchable. Mr. President, I ask—is this the proper role of this body? Were we elected by our people to merely nod our approval to the decisions—valuable as they may be—reached by certain committee members?

Is the Senate saying it is governed entirely by committee—rather than arriving at decisions by discussion and debate of all its Members—even those not privileged to be on a particular committee?

Mr. President, are we to agree with those who yesterday suggested that because certain Members had been contacted as to their respective preferences, further reduction in a piece of legislation was totally unthinkable?

Mr. President, I certainly cannot agree with this concept of the purpose of the Senate—nor will I bend to their threats.

The purpose of the SOB (Save Our Bucks) group is not to be a thorn in the Senate's spending side, merely for the sake of being a thorn. Rather, it is our purpose to curb—though only little by little perhaps—the spending propensity of the Congress.

As members of this group we are often told, "I agree with your ideas—but not this bill." It is time that this body—just as the taxpayer he or she represents—bites the bullet on each bill, not just the one that hurts the least.

Most importantly, no Member yet has been able to state that waste and inefficiency—the object of our proposed reductions—is indeed nonexistent within each piece of legislation.

Mr. President, my colleagues and I represent the person unable to be present at committee meetings—whether budget, appropriations, or others—the person most important of all—the American taxpayer.

May I close, Mr. President, by saying that as long as the message from people across the country continues to beg for financial relief, threats or intimidations will not silence me nor my colleagues. We have too much respect for this body for that.

AMENDMENT NO. 3438

(Purpose: To reduce the funds provided for the Food Stamp Program by $250,000,00)

Mr. LUGAR. Mr. President, I call up amendment No. 3438.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. LUGAR) proposes an amendment numbered 3438:

On page 45, line 6, strike out "$5,779,200,000" and insert in lieu thereof "$5,529,200,000".

Mr. LUGAR. Mr. President, the amendment that I offer would, in effect, cut $250 million from the food stamp provision of the appropriation bill.

A $250 million cut must be seen in the perspective that the budget now calls for $5.779 billion to be spent on the food stamp program. My amendment would cut only $250 million from that amount, a cut of less than 5 percent.

I have chosen that sum with some degree of care, and I would like to explain the rationale for that degree of cut.

Certainly the food stamp program has been widely praised, and in some quarters widely condemned. It has been widely praised by many Americans who have received nourishment because of the humanitarian provisions of the food stamp program.

It has also been praised by farmers; it has been praised from time to time by grocers and others who have marketed food. It is an important part of the agriculture and food picture in this country.

The effect of my amendment is not an attack on the food stamp program; it is not an attempt to summon up the various prejudices and ill feelings there are about that program.

Let me say, Mr. President, there is substantial sentiment in this country that the administration of the food stamp program has been filled with fraud and abuse. That, indeed, has been the recognition of this body from time to time.

A while back various work incentive programs were, in fact, put into effect to offer at least some possibilities for those who were recipients of food stamps to earn income and thus to move from those rolls. Specifically the work registration program has come into effect, and I cite as to how that program is working a report by the Comptroller General of the United States to Congress entitled "Food Stamp Work Requirements, Ineffective Paperwork or Effective Tool?" This is a report of April 24, 1978.

Chapter 2 of the report is entitled "Why Work Registration Has Had Limited Success." I quote the first paragraph:

The food stamp program's work registration requirements have not achieved the results the Congress thought they would. Even though some people have gotten jobs as a result of the requirements and others have been denied benefits for not cooperating fully with the local officials, the actual savings thus far have been meager compared to what could be saved by a well-run work registration effort.

One reason for the lack of success of the vocations we reviewed was that the work registration requirements seem to be viewed as just more administrative paperwork and were not seen as a way to reduce the need for program benefits.

The report follows on with a chart on page 8. Samplings were made in five cities of the United States in which 1,000 or more registrants were, in fact, interviewed. I quote again, "We randomly selected 1,061 cases from applications generally approved during January 1976." These are applicants for food stamps. "We found 620 recipients were required to register for work."

Now, Mr. President, let us take a look at the perspective of this situation. Of the 1,061 persons interviewed, according to the Comptroller General's report, 620 under the Food Stamp Act were required to register for work. How many of the 620 would you suspect have obtained jobs? These are jobs that would have provided income and might have taken them off the food stamp rolls. Of the 620 people who were required to register for work, only 3 have obtained jobs, and only 233 others were even registered at the local employment offices responsible for trying to help them find jobs. The other 384 were not even registered at such offices.

Mr. President, the report goes on in some detail to try to illuminate this situation further. There could be mitigating circumstances in our society as to why out of 1,061 people receiving food stamps, with a work requirement that made it necessary under law for over 600 to be registered for work, only 236 were registered, and only 3 obtained jobs.

A question might be raised, Mr. President, whether, in fact, there were jobs available in our society, and jobs that under the terms of the law were deemed to be suitable.

On page 18 and page 19, the highlight of that particular portion of the report had this headline which says, "Jobs Were Available for Food Stamp Work Registrants." In Detroit, Philadelphia, and San Francisco the number of food stamp work registrants is listed, and the number of jobs that were available. At least half of the cases in those three cities had jobs available to them.

The report goes on into a more sophisticated line, and it says:

Because of such factors as distance of the job from the registrant's home, lack of public transportation, and the low salaries of the jobs available not all jobs can be considered suitable. In Detroit and Philadelphia we considered these factors, with assistance from local employment service officials, in order to estimate the number of job openings that were suitable In Detroit all 38 job openings were considered suitable. In Philadelphia 46 of the 55 available jobs were considered suitable.

Mr. President, I suggest that these figures from the Comptroller General's report of April 24, 1978 indicate what seems to me to be obvious, and that is that work is available in this country, not only jobs available but suitable jobs under the definition of the act, for a large number of food stamp recipients.

To begin with, those administering the food stamp program are not even registering a majority of the recipients as required by law, making known their names and availability in the job market. Even in those areas where there are jobs available and jobs under the law regarded as suitable, suitable because of transportation, pay, and other factors, these jobs are not being taken by the food stamp recipients.

Mr. President, I know of no better way to make certain that the administration of this act begins to move in a way that has a degree of fairness for American citizens generally than to suggest under this amendment that $250 million, less than 5 percent of the allocation of the program, be deleted, with the strong suggestion this implies that the administration get its act together and begin to administer the food stamp program in a way that does not discredit it with all Americans.

To blandly suggest that the food stamp program is a popular program with America generally seems to me to court a political disaster for the food stamp program and for many other humanitarian programs which come under the heading of the feeding of Americans who are poor or unemployed or who are children who are dependent.

We are in the process, through our failure to tailor programs that clearly have excess and administrative waste, going to put in jeopardy a great number of other things. Mr. President.

I know the argument will be made that in a way the food stamp program is an entitlement program. If you qualify for the benefits you ought to get them. If the function of this body is simply to provide the money once the requirements are set up, whether it be $5.7 billion or $5.5 billion or whatever it may require, the argument will be made that with the dropping of the purchase requirement more people will qualify this year; and the suggestion is always that the administration might improve and, therefore, fewer people would qualify.

The committee has suggested in its report, and I think that this is important to cite, Mr. President, and I cite page 75 of the report that is before us on the Agriculture Rural Development, and Related Agencies appropriation bill, that:

As passed by the Congress, the Food Stamp Act of 1977 was intended to simplify administration, eliminate fraud and abuse, encourage participation among and open access to eligible households, and tighten eligibility standards.

I call particular attention to this sentence:

However, the Committee is concerned that two of these four goals—namely the elimination of fraud and abuse and simplification of administration—may not be achieved by the regulations proposed to implement this new act.

Mr. President, I think that is an important comment made by the committee, commenting on the food stamp appropriation. The committee finally decided, all things considered, that while probably there may be some fraud and abuse, and some mismanagement, with tightened eligibility standards and eliminating the cash requirement these things may balance themselves, and the committee retained the $5.779 billion level.

Not only am I convinced of the desirability of cutting this level by $250 million, but I am convinced that nothing short of that will lead to the desired result.

I am saying the American public as a whole believes in the program, and we are talking about, now in this bill, not

less than 1 percent of the entire budget, involved in the food stamp program. If we are now unable to bring this 1 percent to the poor, and make certain that not only the poor and needy are on the rolls, but, more importantly, that the people who can work have that opportunity, that the food stamp program in fact brings people together with jobs and with income opportunities, it just seems to me very important that we move in that direction.

Finally, I would add that the proposition 13 idea has been attacked by many as being a rather crude meat-ax attempt to do what could have been done surgically through a legislative body. And, indeed, perhaps it is. Indeed, the citizens of California decided that the legislature of California simply was incapable of bringing to the fore public policy changes such as the elimination of fraud and abuse in such programs as food stamp programs. As a result, in proposition 13's idea, you simply cut the money and then ask people to scatter around and try to find out how it is all to be done, entitled to it or not.

I have not suggested a cut of the order that is going to debilitate the food stamp program. I have suggested a $250 million cut, because I believe that will stimulate the administration of the food stamp program to such a point that the officials will make sure that those able to work will come together with the jobs; they are going to find a way; the people administering this program are going to be under the gun to pull their act together; the American public will have more confidence in the food stamp program, and its likelihood of providing benefits in the future is likely to be enhanced rather than detracted.

Mr. President, I would hope that this committee might be willing to accept this amendment. I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, I am sympathetic to the hope that we could bring down the cost of the food stamp program. Various GAO reports have criticized its administration, and various reforms have been proposed, passed into law, and are being implemented. I refer specifically to those in last year's farm bill, which eliminated the purchase requirement, replaced itemized deductions with standard ones, instituted a maximum deduction for excess shelter and child care costs, eliminated the automatic categorical eligibility for welfare recipients, and required tougher enforcement and administration of the program by the States. The new legislation has not been fully implemented, but it is in the process of being so.

I think the Senate is kidding itself if it believes that it can institute reforms and improvements in the food stamp program by cutting the appropriation. This is an entitlement program. People will receive food stamps regardless of how much is appropriated in this bill—$250 million more or $250 million less. What will happen if we fail to appropriate enough money is that we will face a supplemental next spring.

I want to point out to my colleagues that 1 week ago the subcommittee asked the Department to take another hard look at the food stamp budget estimate. We did this because the Congressional Budget Office had just recently reestimated food stamp requirements and projected the need for a $143 million supplemental—not a decrease, but an increase, based principally on rising food prices. The Department's response was that, based on changing patterns of unemployment, plus food price increases, and taking into consideration all factors, including some carryover funding, it would be premature for Congress to provide additional amounts above the budget estimate at this time.

A cut of $250 million would virtually insure that the program will need a supplemental. It would be far better to wait until we see the effect of the new law before making cuts in a carefully constructed budget request.

I urge my colleagues to defeat this amendment. If further reforms in food stamps are feasible beyond those passed last year, I would urge the consideration and adoption of those reforms—not the meat-axe approach to the appropriation proposed today which has little programmatic effect.

I yield 3 minutes to the Senator from North Carolina (Mr. MORGAN).

Mr. MORGAN. Mr. President, I rise to oppose the amendment proposed by my good friend, the Senator from Indiana.

The Members of this body know the Senator from North Carolina as a fiscally conservative individual, one who is concerned about reducing budgetary outlays in almost any way possible. Rarely a weekend goes by that I do not visit my home State and hear the concerns of the citizens of North Carolina concerning the large expenditures of the Federal Government, expenditures which exacerbate inflation and plunge us deeper into debt.

Food stamps has never been a popular program in my home State. Virtually every citizen there is aware of cases that border on fraud and deceit. However, I believe that I can assure them that the food stamp program we have today is vastly different than the one that was in place when I came to the Senate in 1975.

In the 3½ years that I have been here, the Senate has considered four reform bills, bills that have altered the nature of the program and thrust it in the direction of reaching the poorest and most desperate people of this land.

Since I have been in the Senate, we have:

First. Essentially eliminated households with luxury cars;

Second. Eliminated college students;

Third. Eliminated much of the fraud and abuse, by both vendors and participants; and

Fourth. Reduced the income level to the poverty level, reducing the rolls by over a million people.

Of course, not all the defects have been cured, but we have and are improving this program and that much of the fraud has been substantially reduced.

One of my major concerns regarding this amendment concerns the entitlement nature of the program. Any cut is likely to be fictitious, forcing the executive branch to seek either a supplemental appropriation or legislation that would reduce the allotment each State receives or further reduction in the food stamp rolls. This will be especially true in view of the fact that food prices have risen 7.4 percent since the President submitted his budget for fiscal year 1979.

Mr. President, over 390,000 people receive food stamps in my home State. These people are poor. Many of them are temporarily unemployed, and still others are physically or mentally unable to work. And, more importantly, Mr. President, many of the people that benefit from food stamps are the elderly, who use food stamps as that little extra supplement to survive on. Many of them are children. All these are people who deserve our attention and concern.

I will close by saying that the requirement to register for work, a provision that the Senator from Indiana has alluded to was enacted by Congress last September and signed into law in the Food and Agriculture Act of 1977. I think that the reduced food stamp rolls indicate that this new provision of law is working.

I urge my colleagues to defeat the amendment offered by the Senator from Indiana.

I thank the Senator from Missouri.

Mr. EAGLETON. Mr. President, I yield 3 minutes to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I rise in opposition to the amendment offered by my friend, the distinguished Senator from Indiana. I know the amendment is well-intentioned, but it could not come at a worse time. As the Senator from Indiana knows, we spent many months reviewing all of the charges that have been leveled against the food stamp program last year. Any program that involves somewhere between 17 and 18 million people is bound to have a few cheaters. There are some people who cheat on their income tax.

It might indicate that we ought to increase the number of people involved in the enforcement of these programs, but we should not cut the program.

What the Senate did last year in the far-reaching Food Stamp Reform Act of 1977 was to respond to every one of the abuses that the Senator from Indiana has mentioned, and a good many he has not mentioned here today. We came up with a comprehensive reform plan that is just now being implemented. In fact, the regulations have been published and are now out for review and evaluation.

If there are some of those regulations the Senator thinks can be improved, he ought to make his objections known to the Department, and not come in with a major across-the-board cut in this program just at the time when we are trying to implement the reforms.

Beyond this, as the Senator from North Carolina has pointed out so well, we have had food price inflation in this country during the past year since the Senate passed its new guidelines. Both the cost estimates of the Congress last year and the cost estimates of the Department are, if anything, out of date.

It may very well be that we will be faced with the necessity of a supplemental appropriation to carry out what was so carefully authorized by the Senate last year.

The last thing we want to do at this time, Mr. President, with these new guidelines about to go into effect, regulations designed to clean up the abuses that exist in the program, is to pass the kind of slash now proposed.

There are only two things that could happen if this amendment were to carry: One, an outright increase in the suffering and the malnutrition in the United States; or second, require the Congress to come in with a substantial supplemental appropriation later on.

I think it is already clear, as was pointed out in the debate in the other body, that the cost of food today makes impossible any practical cutback in what we have authorized and appropriated for the food stamp program.

I might say, Mr. President, that the information in the letter of the Senator from Indiana to those of us in the Senate, is based on the reports of the program as it existed prior to the reforms mandated by the Congress last year. I think we need to give these programs a chance. I hope the amendment will be defeated.

The PRESIDING OFFICER (Mr. CHURCH). The Senator's time has expired.

Mr. EAGLETON. I am prepared to yield back the remainder of my time.

Mr. LUGAR. My time has expired.

Mr. EAGLETON. I yield 2 minutes to the Senator from Indiana.

Mr. LUGAR. I appreciate the Senator yielding.

Mr. President, let me summarize by saying this: I have not proposed a meat-ax approach which would bring about malnutrition or suffering by people. I have suggested that in the food stamp offices in this country the people are not being given an opportunity to find work When opportunities have been given, recipients are, in fact, not attempting to obtain work.

In Detroit and Philadelphia, as I cited jobs were found for a majority of the recipients who registered. They were suitable jobs. But only 3 persons out of 600 able-bodied persons—we are not talking about children or the aged but the able bodied—found work and thus moved into an income level which removed them from the food stamp program.

This is intolerable with regard to fairness in this program. To keep talking in terms of cutting off people and bringing about malnutrition and suffering is simply nonsense. It is that type of situation that is likely to lead to discrediting the whole program.

Mr. McGOVERN. If the Senator will yield, is the Senator aware that the latest statistics on this from the Department of Agriculture indicate that the error rate in the work registration requirement under this program has been more than cut in half since the statistics to which the Senator referred were published? We are making progress.

If the Senator feels that the regulations the Department has drawn up with regard to the work registration requirement is inadequate, I think the recourse is to make that dissatisfaction known to the Department, rather than to come in with a $250 million cut in the whole food stamp program. Let us target in on what the problem is. I gather from the Senator's remarks he believes the regulations are not drafted correctly.

Mr. LUGAR. Let me respond to the distinguished Senator by saying that the regulations are clear, they are perfectly clear. I am simply indicating that the Department has not felt it incumbent to work through those regulations before its people come into contact with those jobs. This sort of activity will stimulate that sort of contact.

Mr. McGOVERN. Does the Senator know that the Department of Agriculture is now moving against one State because of their violations of the work requirement?

Mr. LUGAR. I am encouraged to hear that today. I hope that will bring about a widespread situation.

Mr. McGOVERN. The Senator has not targeted on the work registration requirements. This amendment is an across-the-board cut of $250 million in the whole food stamp program.

Mr. BELLMON. Mr. President, since coming to the Senate I have consistently opposed action to liberalize and increase the costs of the food stamp program. Nevertheless, I must oppose this amendment as being unworkable. I, like the sponsor of this amendment, and the majority of the Senate, favor any reasonable measure to curb fraud and abuse in the food stamp program. This amendment, however, while symbolic of this concern, will have no impact on the administration of the food stamp program, because the program is mandated by law as an entitlement. The appropriation contained in this bill for all practical purposes is only an estimate of the program requirements. Actual program levels and program costs will be determined by the number of participants claiming benefits and adjustments in the costs of food.

If we fail to appropriate an adequate amount for the program, we will have to make a supplemental appropriation in the latter part of the fiscal year. Since this program is an entitlement, should the Federal Government fail to make the necessary funding available, recipients would have a valid legal claim against the government, which would have to be satisfied under a judicial judgment.

The Food and Agricultural Act of 1977 incorporated a number of provisions to address the problems with the food stamp program. The regulations implementing these changes have already received public comment and will be issued in final form late this summer. Full implementation of these regulations is expected from 4 to 6 months following that date. As a member of the Senate Agriculture Committee, I worked on that legislation and I am hopeful that the improvements incorporated there will reduce the abuse of the food stamp program.

Should even these measures prove inadequate, Congress has the authority and the responsibility to make further revisions in the legislative authorization. It is clear, however, that a cut in the appropriation would not achieve any of these goals.

I urge the Senate to reject this amendment.

Mr. LUGAR. Mr. President, I yield back the remainder of my time.

Mr. EAGLETON. Mr. President, I yield back the remainder of my time.

Mr. President, I ask unanimous consent that Kathryn Files, of Senator CRANSTON's staff, be granted the privilege of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask the same privilege for Jay Urwitz, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) and the Senator from New York (Mr. JAVITS) are necessarily absent.

The result was announced—yeas 38, nays 57, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—38

Allen	Hatch	Proxmire
Baker	Hayakawa	Roth
Bartlett	Helms	Sasser
Bumpers	Hodges	Schmitt
Byrd, Harry F., Jr.	Johnston	Schweiker
Curtis	Laxalt	Scott
DeConcini	Long	Stennis
Eastland	Lugar	Stevens
Garn	McClure	Thurmond
Goldwater	Nunn	Tower
Griffin	Packwood	Wallop
Hansen	Pearson	Young
	Percy	Zorinsky

NAYS—57

Anderson	Eagleton	McIntyre
Bayh	Ford	Melcher
Bellmon	Glenn	Metzenbaum
Bentsen	Gravel	Morgan
Biden	Hart	Moynihan
Brooke	Haskell	Muskie
Burdick	Hatfield, Mark O.	Nelson
Byrd, Robert C.	Hatfield, Paul G.	Pell
Cannon	Hathaway	Randolph
Case	Hollings	Ribicoff
Chafee	Huddleston	Riegle
Chiles	Jackson	Sarbanes
Church	Kennedy	Sparkman
Clark	Leahy	Stafford
Cranston	Magnuson	Stevenson
Culver	Mathias	Stone
Danforth	Matsunaga	Talmadge
Dole	McGovern	Weicker
Domenici		Williams
Durkin		

NOT VOTING—5

Abourezk	Humphrey	Javits
Heinz	Inouye	

So Mr. LUGAR's amendment (No. 3438) was rejected.

Mr. EAGLETON. Mr. President, I ask for the yeas and nays on the Curtis amendment that we will take up in about 3 or 4 minutes; I ask for the yeas and nays on an Eagleton-Bellmon amendment which we will take up after the Curtis amendment; and I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second on all three items? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. EAGLETON. Mr. President, I ask unanimous consent that Miss Nancy Barrow of Senator CHAFEE's staff be granted privilege of the floor on this measure.

The PRESIDING OFFICER Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that Karen Darling be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR Mr. President, I ask unanimous consent that David Lyons be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, a similar request for Mike Fleming and Steve Mau of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. The same request for Bob Reynolds of Senator WALLOP's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1637

(Purpose: To eliminate tobacco production research of $3,106,000 from the bill)

Mr. PELL. Mr. President, I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL) proposes unprinted amendment numbered 1637.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 11, strike out "$337,791,000" and insert in lieu thereof "334,685,000."

Mr. PELL. Mr. President, I am offering an amendment today to eliminate $3,106,000 in funds from this bill which would be used to support tobacco production research.

This amendment is a simple one, the intent of which is obvious—to end a Government support program for a cancer-causing substance. My amendment does not prohibit the growing of tobacco, nor does the amendment attempt to limit its use or affect its sale. What the amendment does is put the Senate on the record as being firmly opposed to spending taxpayers' dollars on a tobacco production research program whose thrust is to increase the yield of a plant which has been verified as a severe health hazard to the public.

Our Government has too long been involved in a senseless, and fiscally unsound policy of, on the one hand, supporting and encouraging the growth of this deadly weed, and on the other, spending millions of dollars to educate people not to use tobacco, to finance research on how to deal with the diseases caused by tobacco, and to develop systems to help people who have become addicted to tobacco to break the habit. It is time we signal an end to this waste and inconsistency on the part of the Federal Government.

It is particularly appropriate that we act now, less than a week after the American Medical Association released its report—the result of a 14-year, $15 million research project—which concludes that cigarette smoking can cause irreversible heart damage and may be responsible for medical maladies ranging from indigestion to cancer. It has been 14 years since the first Surgeon General's report was issued warning of the dangerous links between smoking and health. At that time in 1964, the tobacco industry refuted the Surgeon General's report, protesting that his findings were based on inconclusive evidence. A new project was undertaken, sponsored by the AMA's Committee for Research on Tobacco and Health and financed by the tobacco industry. The results of this study are now in and they support the contention that—and I quote—"cigarette smoking plays an important role in the development of chronic, obstructive pulmonary diseases and constitutes a grave danger to individuals with pre-existing diseases of the coronary arteries." Researchers also found links between smoking and heart disease, most notably strokes and heart attacks. The research committee also confirmed previous findings of cancer-causing agents in nicotine. I do not think there can be any doubt left as to the severe medical hazards connected with smoking.

HEW Secretary Califano testified this spring before a House public health subcommittee that the country spent between $5 billion and $7 billion in 1975 to treat smoking related diseases. As much as $18 billion in worker productivity may have been lost due to absenteeism caused by smoking-related illness, he said. He estimated that 4,000 youngsters start smoking every day, that the teenager who becomes a habitual smoker stands a 1 in 20 chance of developing lung cancer; the nonsmoker's chance is 1 in 200. The same smoking teenager has a 6 in 10 chance of having heart disease; the nonsmoker a 3 in 10 chance. The smoker has a 1 in 10 chance of having lung disability; the nonsmoker a 1 in 200 chance. These statistics are staggering. It makes this Government's policy of continuing to spend millions of dollars to support the growth of this deadly plant, while at the same time spending millions of dollars on smoking education and research not only a senseless and irresponsible act but also an immoral one. During the past fiscal year, HEW spent $19.4 million on smoking and health.

I believe it is a matter of poor policy on our part to facilitate the growing of this hazardous weed.

According to HEW estimates, 320,000 Americans died last year from smoking-related causes, 37 million Americans alive today will die prematurely due to smoking.

I do not believe the U.S. taxpayers should foot the bill for a tobacco research program which is more concerned with growing more tobacco than with growing safer tobacco.

Mr. President, this amendment would seem to me to go at this problem, although I congratulate the tobacco industry on the emphasis they have been putting lately on research more directly related to health than to production. My concern is to make sure that the money that is spent in tobacco production research is spent in that direction.

The PRESIDING OFFICER. The Chair advises the Senator from Rhode Island that his amendment is out of order, inasmuch as it revises a figure that already has been amended.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Pell amendment be considered in order, because it will be debated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HUDDLESTON. Mr. President, reserving the right to object, will the Senator withhold that until we discuss it?

Mr. EAGLETON. The Chair has ruled on my request, has it not?

The PRESIDING OFFICER. The Chair has stated that the unanimous-consent request has been agreed to. The Chair did not hear the Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield 5 minutes to the Senator from Kentucky.

Mr. CURTIS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the amendment of the Senator from Rhode Island.

Mr. HUDDLESTON. Mr. President, I understand the concern and the sincerity of the distinguished Senator from Rhode Island in offering this amendment. However, I believe that upon examination of the facts, he will find that the amendment will not accomplish his purpose and, as a matter of fact, will be counterproductive to what his objective appears to be.

Although this category is listed as tobacco production research, the fact is that you cannot separate production research from research that has a bearing on the health aspects, whatever they might be, of the tobacco leaf. Whatever is healthful or unhealthful in the leaf is determined by what the leaf is. Research in growing the leaf, in breeding plants, the question of insecticides or what fertilizer might be used—all this has a direct bearing on what the final composition of the leaf is. And that is what influences the question of whether or not it is healthful or unhealthful.

Second, as the Senator mentioned, there is now no great incentive, no great need, for concentrating on purely production increasing research. Several years ago, tobacco allotments were made on the basis of acreage. At that time, of course, the more you could produce on a given acre the more profit you made.

That is no longer the case. Today, tobacco allotments are made on the basis of poundage. A quota holder can sell only so many pounds of tobacco.

So there is no great need now to try to increase the yield from a specific plot of ground. The amount of land use is not consequential. The average allotment for tobacco in my State of Kentucky is less than 1 acre.

What is important is that some of the great breakthroughs in the question of health and tobacco have come from tobacco production research. Production and health research are interrelated and cannot be separated.

Dean Charles Barnhart, of the University of Kentucky College of Agriculture, where much of this research is carried on, says:

It is very important to maintain the total tobacco research effort if we are to respond to the need for a safer cigarette.

Mr. President, just to give the Members of the Senate some idea of the kind of research that has been carried out under this category, which is labeled production research, I have reports on actual projects that have been undertaken and completed:

"Influence of Herbicides on Burley Tobacco Leaf Chemistry." Again, it is the chemistry of the plant that determines whether or not it is safe or unsafe.

"The influence of Variety and Fertilization on Yield and Composition of Burley Tobacco." Again, it is leaf composition.

"Nature and Fate of Insectide Residues Inhaled by Rats in Cigarette Smoke;" "Insectide Residues in Cigarette Smoke. Transfer and Fate in Rats;" "Influence of Puff Frequency and Puff Volume on the Alkaloid Content of Smoke." What could be more related to the health aspects of smoke than these kinds of projects?

"Cigarette Smoke as a Source of Pesticide Exposure." Again, directly related to health.

Mr. President, I believe this will demonstrate that research under this category, of which all these projects have been a part, is directly related to the production of a safer cigarette.

I point out one thing further: Today, in the Washington Post, on the front page, is a story about a finding by Dr. Gio Batta Gori, who is Deputy Director of Cancer Prevention at the National Cancer Institute—not the Tobacco Institute or the Burley Tobacco Growers Association—who has determined that some cigarettes could be smoked, up to as many as 23 a day, which is more than a pack, with no measurable risk beyond a nonsmoker's.

Progress is being made, as the Senator from Rhode Island pointed out. The point I want to make here is that the program the Senator is attempting to eliminate is in fact a program that has a direct bearing on accomplishing what the Senator, I believe, wants to accomplish, and that is to provide a safer cigarette.

Mr. PELL. Mr. President, I have great respect for the knowledge of the Senator from Kentucky in this field. I am aware that because of his important position and work on both the Appropriations Committee and the Agriculture Committee, he sees this from both sides. I am impressed with his statements.

I ask unanimous consent to have printed in the RECORD an article published in today's Washington Post, in which it is indicated that the only cigarette that is safe is a cigarette that is not lit.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SMOKING—SOME CIGARETTES NOW "TOLERABLE," DOCTOR SAYS

(By Victor Cohn)

Some cigarettes now have so little tar, nicotine and other harmful elements that they can be called "less hazardous" and can even be smoked in "tolerable" numbers without "appreciable" ill effects on the average smoker, a leading federal cancer scientist said yesterday.

Cigarettes in recent years have been found guilty beyond reasonable doubt of causing lung cancer, heart diesease and several other illnesses.

But Dr. Gio Batta Gori, deputy director of cancer prevention at the National Cancer Institute, and Dr. Cornelius J. Lynch said yesterday there has been huge progress "in the last year and year and a half" in removing toxins—or poisons—from some.

They expect this will reduce deaths from all diseases linked with smoking. They expect to report this soon in the Journal of the American Medical Association.

"I am not calling any cigarette 'safe,'" Gori emphasized. "The only cigarette that is safe is the cigarette that is not lit.

"I am not talking about what might happen to any individual. I am talking about averages. There may be a risk that still may be there even though we might not see it in overall, large population studies."

Still, he said, there has been so much progress in removing toxins that "we can now begin to talk about 'tolerable' levels of smoking from an overall, public health standpoint. I think we will begin to see some beneficial effects in this country"—that is, same abatement in this nation's lung cancer epidemic and in other diseases—"in five or six years."

Gori said one brand—Carlton Menthols—is so low in the toxins that most persons could smoke 23 a day, more than a pack, with no measurable risk beyond a nonsmokers'.

He said the average smoker might similarly consume 18 Now Menthols, 17 Nows or Strides or 16 Carltons without any problems beyond a nonsmoker's, so far as large-scale statistical studies could detect.

A cancer institute spokesman yesterday said Gori "probably represents the best expertise we have on smoking and health." Until two weeks ago he headed the institute's program in that field, including the effort to learn to make less hazardous cigarettes.

Dr. Arthur Upton, cancer institute director, nonetheless issued a more cautious statement yesterday saying "our present knowledge does not permit us to establish" any levels "below which smoking might be safe."

"It is the firm position of the National Cancer Institute, the National Heart, Lung and Blood Institute and the Public Health Service that no cigarette now on the market can be considered wholly without risk to health," he said.

He said Gori's figures cannot indicate whether the risk to any single individual is large or small, only that it is "not demonstrable" in epidemiologic or population studies. Upton said "you might double your own risk of cancer," for example, "with no appreciable effect" on large-scale population studies."

Gori also said there are many "high risk" individuals who should "never" smoke. These include present or former workers exposed to asbestos or the families of such workers, women using oral contraceptives, pregnant women, and persons with any of the heart, lung or breathing disorders linked to cigarettes.

Some scientists would also caution anyone exposed to any potentially cancer-causing chemical, since many harmful chemicals add to each others' effects in ways that are still little understood.

"What I am saying," Gori explained, is that the average effect of smoking "tolerable" levels of certain "less hazardous" cigarettes today would be as small as the ill effect on persons who smoked only two cigarettes a day before 1960. Virtually all cigarettes then were loaded with poisons like tar and nicotine far beyond present levels.

Gori disclosed his estimates first in an interview with Associated Press reporter Michael Putzel. The Washington Post then obtained a copy of the Gori-Lynch report.

Lynch is manager of the smoking and health program at Enviro Control Inc. of Rockville, the cancer institute's main contractor in the effort.

The five leading brands of less hazardous cigarettes on the Gori-Lynch list—Carlton Menthols, Now Menthols, Nows, Strides and Carltons—represented just under 2 percent of all cigarettes sold last year, Lynch estimated. But 22 more brands—with 17 to 18 percent of the market—are low enough in toxins so the average smoker might use between three and eight a day without appreciable added risk, Lynch said.

The cancer institute program to remove or minimize the effect of the main toxins found in cigarettes or cigarette smoke—tar or "total particulate matter," nicotine, carbon monoxide, nitrogen oxides and acrolein—began in 1970. At the most it has cost $4 million a year, a drop in the bucket compared to the cost of smoking's huge toll in death and disease.

Still, it is a program that has often been flayed by some critics of smoking who have argued that efforts should be concentrated on halting smoking altogether.

"I think ours has been a worthwhile program," Gori replied. "We are not trying to endorse cigarettes or smoking in any way. We are only trying to put the facts before the public.

"If we could go from 100,000 cases of lung cancer a year to, say, 2,000 or 3,000 by the development of less hazardous cigarettes, I would still regret the 2,000 or 3,000 deaths but I would think we would have made a tremendous public health gain."

Mr. PELL. Mr. President, I ask this question: Can I be sure that the primary purpose of funds allocated under this program will be for research related to the health aspects of tobacco?

Mr. HUDDLESTON. It is my judgment—and I think the facts will bear it out—that that is the situation that is prevailing at the present time. Although it is called production research, virtually all of it is directly related to research or to developing a leaf that would eliminate whatever harmful properties are determined to be involved.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. PELL. I yield to the Senator from Oklahoma.

Mr. BELLMON. If the Senator will allow me, I ask unanimous consent to print in the RECORD a breakdown of what the tobacco research programs propose for inclusion in the 1979 budget station by station. I believe the Senate will find this information very enlightening.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Tobacco research programs proposed for reduction in fiscal year 1979 budget

Locations and research thrusts	Numbers of people	Funds
Georgia, Tifton—Research on flue-cured tobacco culture practices which includes: plant spacing, fertilization, disease and pest control, and harvest timing—focusing on the deep South growing area. Studies on natural products of fungi metabolism for pest control, and breeding research to inhibit the formation of suckers—abnormal growth stimulated during "topping" when the flower is removed and the natural sucker inhibitor it contains is also removed—which robs sustenance from the leaves yielding an inferior product.		
Scientists	2	$166,400
Support	3	
Kentucky, Lexington—Burley, dark-air and dark fire-cured tobacco breeding and culture practice research which includes: plant spacing, fertilization, disease and pest control, and harvest timing and resultant effects on leaf quality and wholesomeness. Mechanization research on burley tobacco planting, growing, harvesting, curing and pre-marketing handling and storage while maintaining or improving product quality and wholesomeness. This includes homogenized leaf curing where the green leaves are ground up, cured, and pressed into sheets prior to shredding for utilization in cigarettes, for example.		
Scientists	10	728,600
Support	15	
Maryland, Beltsville—Basic tobacco breeding research on a variety of tobacco types including cigar tobacco. Tobacco quality improvement work through new cell and tissue culture technique development. Studies on the basic physiology of growth and growth regulation. Research is also done on means to control the tobacco budworm.		
Scientists	11	824,400
Support	19	
North Carolina, Oxford—Research on flue-cured tobacco breeding and culture practice—plant spacing, fertilization, etc.—to improve and evaluate the inherent quality and wholesome composition of the product. Basic research on tobacco insects and diseases and their control. Research to develop methods and equipment to evaluaute tobacco quality before processing.		
Scientists	10	1,143,800
Support	24	
North Carolina, Raleigh—Tobacco physiology research emphasizing sucker suppression, and research on growth regulation to facilitate mechanized harvesting methods.		
Scientists	2	181,500
Support	1	
Tennessee, Greenville—Burley tobacco breeding and culture practices—plant spacing, fertilization, etc.—for Mountain and Highland Rim growing areas of Tennessee.		
Scientists	2	170,300
Support	4	
Virginia, Richmond—Research to develop and evaluate fumigants, insecticides and application methods in controlling destructive insects affecting stored tobacco. Research to develop and evaluate barriers to insect entry and modification of the storage environment, e.g., moisture and temperature, that will cause physiological dysfunction in the insect.		
Scientists	1	72,000
Support	3	
Totals: Scientists	38	3,287,000
Support	69	

Mr. BELLMON. Mr. President, also, if the Senator will allow me, I join as a cosponsor to the Pell amendment and say that I believe we should look more carefully into this program to be sure just where this money is going.

Mr. President, I join in support of the Pell amendment to delete $3,106,000 from the appropriation for the Agricultural Research Service for tobacco production research. This will cause the termination of all production related to tobacco research conducted in Federal laboratories. Research on health and safetv aspects to tobacco use will be continued at the current level of $2,246,000 annually.

Mr. President, one of the most devastating criticisms which can be lodged against the Federal Government is the observation that it spends billions annually on programs designed to provide health care and treat illnesses while it simultaneously subsidizes activities which can only detract from the public health, such as tobacco production research. While the Congress and the administration are trying to contain the spiraling costs which are associated with medical care, the Government continues to subsidize research into better and more efficient ways to produce tobacco. In case there is any doubt, the health effects of smoking tobacco constitute a serious drain on the country's people and the resources it can devote to health care.

In 1977, smoking was a major factor in 220,000 deaths from heart disease; 78,000 lung cancer deaths; and 22,000 deaths from other cancers, including cancer of the mouth, cancer of the esophagus, cancer of the pancreas, cancer of the kidnev, and cancer of the bladder.

Fortv percent of all cancer in males is caused by smoking.

Eightv-five percent of deaths from bronchitis, emphysema, and other lung disease would not happen—if people would stop smoking.

We now know that unborn children whose mothers smoke during pregnancy may be stillborn or developmentally deficient because of their mothers' heavy smoking.

According to the Secretary of Health, Education, and Welfare, the economic cost of smoking represents each year an additional $5 to $7 billion in health-care costs; furthermore, the cost of lost productivity, wages, and absenteeism caused by smoking is $12 to $18 billion. Yet the Federal Government spends $3,106,000 in tax dollars to find ways to improve the methods of production in the tobacco industry. Such contradiction and inconsistency in Federal policy is a major source of disillusionment and cynicism on the part of voters with respect to the performance of Government.

In 1964, the Surgeon General of the United States issued a report on smoking and health which clearly delineated the health hazards of smoking. The tobacco industry, arguing that the Surgeon General's report was based on insufficient evidence, funded at that time a 14-year, $15 million research project under the auspices of the American Medical Association to further investigate the links between smoking and health. That study has just been released. The AMA Committee for Research on Tobacco and Health, which had responsibility for the study, states that:

> The bulk of research sponsored by this project supports the contention that cigarette smoking plays an important role in the development of chronic, obstructive pulmonary diseases and constitutes a grave danger to individuals with pre-existing diseases of the coronary arteries.

The research report is 365 pages long and contains more than 750 abstracts of individual research projects on the effects of cigarette smoking on various bodily functions. While most of the research linking smoking with cancer has been performed by the National Institutes of Health, this new AMA study also found cancer-causing agents in tobacco. Links between smoking and heart disease and stroke were confirmed by the AMA study. Researchers found that a combination of nicotine and a temporary lack of oxygen can cause irreversible heart damage. They also found smoking increases the risk of blood clots that could cause fatal strokes or heart attacks.

The report indicated that free fatty acids, which have been linked to fatal heart rhythm irregularities, were found in greater amounts in the blood of smokers than in blood samples from nonsmokers. One study found nicotine from cigarettes can irritate the gastrointestinal tract, causing problems ranging from indigestion to peptic ulcers. Another study indicated that cigarette smoke might inhibit the body's bacteria-destroving organisms, making smokers more susceptible to infections. Predictablv, the tobacco companies have repudiated this latest studv, paid for with funds supplied bv the tobacco industry, because it did not provide the answers desired.

Mr. President, this country now de-

votes nearly 10 percent of its GNP to health care and medical expenses. Unless we are successful in controlling the inflation which characterizes these costs we can expect an even higher proportion of the GNP required for health care in the future. Under these circumstances, it is absurd to continue the Government subsidy of tobacco production research when the only consequence of that subsidy can be to increase the production of tobacco products and hence their detrimental impact upon the public health. With one arm of the Government, we are desperately trying to contain medical costs and provide quality medical care; with the other arm of the Government, we are subsidizing tobacco production research as if there were no conflict between that goal and the goal of maintaining and improving the public health.

Congress needs to end this nonsense today, before its credibility is totally destroyed. We have the means to do this today, by simply terminating funding for tobacco production research.

Since 1965, our production of tobacco in this country has risen from 1,854,586,000 pounds to a total of 2,134,184,000 pounds in 1976. During this same period, our domestic consumption of cigarettes has risen from 511.5 billion in 1965, to 607.4 billion in 1976. The significance of these figures is to demonstrate how efficient that we have become in the production of tobacco and the most widely used product of tobacco, cigarettes. This efficiency has been promoted by the Federal Government by providing moneys through research efforts to make tobacco production a more provtable enterprise. With recent information made available by a study financed by tobacco companies themselves, this production research effort is totally counter-productive.

Mr. EAGLETON. Mr. President, will the Senator yield?

Mr. PELL. I yield the floor.

Mr. EAGLETON. Mr. President, I have a few remarks to make on the amendment. Perhaps the Senator from North Carolina, though wishes to speak on the amendment.

Mr. HELMS. I thank the distinguished manager of the bill.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I want the distinguished Senator from Rhode Island to know that this Senator from North Carolina respects his motivations and understands them, and while I do not agree with the Senator in terms of what the amendment would achieve, I know what his intentions are. I want him to know that I have the utmost respect for him.

I shall not reiterate what my friend from Kentucky, Senator HUDDLESTON, has said because there is no use burdening the record with a duplication of argument, but it should be emphasized, Mr. President, that a major emphasis of tobacco production research does give consideration to health-related matters.

The Senator from North Carolina believes that is as it should be, and I am very pleased that such production research has always been attentive to that consideration.

I have often shared such information with the Senators and will not consume the Senate's time in recounting every detail again. Earlier this year, I did extensive study of an exciting new development in the utilization of tobacco as a source of protein—food to feed a hungry world—a project very dependent upon tobacco production research.

In a letter to Senator EAGLETON of March 13, 1978, and inserted in the RECORD on April 20, I outlined the five major areas of tobacco production research conducted at the Oxford, N.C. Research Station. Four of those stated purposes are directly beneficial to health related matters as well as enabling farmers to produce a more valuable crop at less cost and at less damage to the environment—by genetically altering the chemical constituencies in tobacco leaf and other methods.

In addition, the tobacco production research laboratories provide almost all the leaf used in pure health related research, according to the USDA.

Further, in remarks on June 19, I discussed how tobacco production research designed to lessen the farmers dependence upon pesticides and other agricultural chemicals also directly benefits production of peanuts and soybeans—two of the most nutritious crops grown—through the use of one kind of insect to prey upon another.

So that the record may conveniently reflect the excellent achievements of tobacco production research in considering the health and welfare of our people, I ask unanimous consent that certain of these materials be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so rodered.

(See exhibit 1.)

Mr. HELMS. Mr. President, the distinguished Senator from Kentucky (Mr. HUDDLESTON) has no peer when it comes to looking after the best interests of his tobacco farmers. Indeed, DEE HUDDLESTON is regarded as the "spokesman" for burley tobacco farmers in the Senate. He is very knowledgeable and helpful in matters relating to flue-cured tobacco as well. Time and time again, the able Senator from Kentucky has stood firm in his defense of tobacco farmers, and his help to me has been invaluable.

I recall that in 1977 when our flue-cured loan rates were under assault from the administration, it was Senator HUDDLESTON who helped turn the tide. The president of the North Carolina Farm Bureau Federation told me our success that day saved farmers in my State of North Carolina alone $10 million a year.

It is a privilege to work with the Senator from Kentucky. We share a willingness to go to every proper length to defend tobacco, and to protect the livelihoods of hundreds of thousands of tobacco farmers in his State and mine. I commend my friend from Kentucky, and thank him for the privilege of working with him on matters of mutual interest.

I thank the Chair and the Senator for yielding.

EXHIBIT I

TOBACCO—A MAJOR FOOD SOURCE FOR A HUNGRY WORLD?

Mr. HELMS. Mr. President, over 350 years ago tobacco provided this Nation with its first cash crop. Today it is supporting more than 500,000 farm families. In my State alone over 150,000 families depend upon tobacco as the vital cash crop. It is tobacco that enables these farm families to remain on the small family farm to produce the food and fiber that our country and the rest of the world need.

Last year, taxes on tobacco amounted to more than $6 billion—$2.5 billion to our national treasury, and $3.6 billion to the States, cities, and counties.

Tobacco exports are contributing more than $1 billion to our international trade balance this year—over 100 countries are buying our tobacco. It is not only the finest tobacco crop in the world, but nearly the largest—only China's is bigger.

Mr. President, these statistics tell an important story about tobacco. Unfortunately, the administration seems to have forgotten the crucial role tobacco plays in this country's agricultural economy.

President Carter's Secretary of Health, Education, and Welfare has virtually declared war on tobacco, a decision that has left tobacco farmers, manufacturers, workers, and exporters disillusioned and frightened.

Secretary Califano, you may remember, even suggested that tobacco farmers should quit farming and go on welfare. Then he announced that the administration would spend $23 million in a massive advertising campaign against tobacco. Just the other day, Mr. Califano again attacked the tobacco companies for what he termed "sinister" advertising.

That is not all. The Carter administration's proposed budget for fiscal year 1979 represents yet another serious attack on tobacco. If the administration has its way, all funding for tobacco production research will be terminated. This research is conducted in various States, including Georgia, Maryland, North Carolina, Virginia, and Tennessee.

Mr. President, several of us have appealed time and time again to the President and Secretary Califano urging them to reconsider their actions. But so far, these appeals have been in vain.

The total elimination of the federally supported program of tobacco research greatly troubles me. Had it not been for this research—which the administration now proposes to end—tobacco would not be grown efficiently in the United States today. Those impressive figures I mentioned at the beginning of my remarks simply would not exist.

Tobacco research efforts designed to develop a safer product, to improve production methods for our farmers, and to conduct scientific studies on potential new uses of tobacco have apparently been the victim of the administration's negative approach toward tobacco generally.

This sad turn of events, Mr. President, is so disturbing to me because right now our scientists are working on a new project to extract protein from green tobacco leaves. This offers great potential for producing protein for food; and by removing the protein from tobacco, a safer smoking product should be obtained. Instead of pursuing their attacks on tobacco and related research, I urge administration officials, and indeed Mr. Califano himself, to carefully examine—as I have—the promising benefits of this tobacco protein research.

Late last month, I spoke at some length with a distinguished scientist in California, Dr. Benjamin Ershoff, president of the Institute of Nutritional Studies at Culver City, Calif.

As Secretary Califano should have known, Dr. Ershoff, and another distinguished scientist, Dr. Samuel Wildman of the University of California at Los Angeles, have together achieved an astonishing breakthrough

in experiments showing that tobacco has the highest potential of any green plant in providing protein to feed, and to improve the health of hungry people all over the world.

Also, as Secretary Califano should have known, the National Science Foundation is excited about the discovery achieved by Dr. Ershoff, Dr. Wildman, and other distinguished tobacco research scientists.

But there is another equally important potential in this discovery. Today, thousands of Americans suffer diseases to the kidney and other vital organs. Preliminary test indicate that the use of protein from tobacco may very well save the lives of people whose present hope of survival is limited to the use of kidney machines and expensive medication.

And what is the potential effect for North Carolina's farmers—as well as those from the other tobacco producing States?

Dr. Ershoff told me that the downstalk tobacco, which now presents a problem of oversupply, can be used for the production of food protein, thus indicating a multibillion-dollar market for tobacco growers.

He also suggested that tobacco farmers could probably plant, harvest and sell two crops each year, instead of one—if and when the protein potential of tobacco can be fully developed. Dr. Ershoff also stated that this could occur in the relatively near future if research funds for testing and developing are made available.

One further comment from Dr. Ershoff: He suggested that, when tobacco can be commercially produced for its protein content, 20 times as much tobacco can and should be grown per acre. We would, of course, have to coordinate this kind of production with our present tobacco support program which we want to protect.

Think of the income potential for our tobacco farmers. Think of the economic opportunities for the United States in exporting to other countries a product which will both relieve the hunger of the world, and improve the health of the people of the world.

Mr. President, earlier this month I toured the Tobacco Research Laboratory at Oxford, N.C. Much of the work on extraction and recovery of tobacco leaf protein is now in progress there; however, this research will stop unless Congress restores the funds the administration wants to cut.

In Oxford, I saw first-hand the efforts of Dr. James F. Chaplain and his staff to make protein recovery from tobacco leaf commercially feasible. It was also my privilege to meet with Dr. Thurston Mann, assistant director of the North Carolina Agricultural Experiment Station in charge of tobacco research, who definitely feels this research has great potential. Also with me at Oxford was Dr. E. Leon Moore, one of the outstanding scientists in this field of research who himself developed a tobacco variety resistant to root knot nematode while employed at the Oxford laboratory.

Mr. President, after seeing the research work in progress at Oxford and talking with some of the distinguishsd scientists and leaders in this effort, I am convinced that tobacco will continue to be an important agricultural crop in our Nation's economy.

The point, Mr. President, is that this is clearly not the time to terminate tobacco research funding from the Federal budget. While much has been accomplished, the need for continued research should be obvious. Indeed, the Federal Government ought to consider increasing the $3 billion current outlay for this research.

We should give more than just a passing interest to the studies of outstanding scientists who tell us that within 10 to 20 years tobacco grown as a food crop will be one of the major agricultural products in the world.

I urge the administration to reverse its negative position on tobacco and to join in a creative approach to solving problems confronting us all. Instead of shutting down vital research facilities, let us make even greater use of creative and constructive research for the betterment of mankind.

Mr. President, I ask that Dr. Ershoff's letter, the Wildman, Kwanyuen-Ershoff paper presented to the NSF Conference on Nonconventional Proteins and Foods, my letter to Senator EAGLETON seeking reinstatement of tobacco research funding, two reports on the Oxford Tobacco Research Laboratory, and a summary of tobacco research affected by the President's proposed budget elimination all be printed in the RECORD following my remarks. I urge my colleagues to give this matter the serious attention and study I so strongly believe it merits.

The material follows:

INSTITUTE FOR NUTRITIONAL STUDIES,
Culver City, Calif., March 31, 1978.

Senator JESSE HELMS,
Russell Senate Office Building
Washington, D.C.

DEAR SENATOR HELMS: Dr. S. G. Wildman and I are most grateful for the interest you expressed during our telephone conversation of March 30th concerning our studies on tobacco proteins. We feel that such studies have the potential of vastly improving the economic status of the tobacco growers not only in your state but throughout the entire country, and we feel that within 10 to 20 years tobacco grown as a food crop will be one of the major agricultural products in the world.

With the rapid increase in world population, the importance of obtaining new sources of protein fit for human consumption, high in biological value and low in cost, cannot be overemphasized if worldwide protein malnutrition is to be avoided in the future. Leaf proteins are by far more abundant of all protein sources; but for them to serve as a significant source of protein for man, they must be concentrated. The cost of such concentration has priced these proteins out of serious consideration as a source of protein in the past. Technological improvements in the concentration of leaf proteins (particularly from tobacco) now make it possible to produce at nominal cost highly purified proteins from tobacco of high biological value to have no odor or taste and that can be added to foods to improve their protein content without altering their appearance, texture or taste.

When tobacco is grown for smoking purposes, the plants are harvested when mature. In the case of Burley tobacco grown in Kentucky, tobacco culture as presently practiced calls for planting approximately 8,000 plants per acre. When tobacco is grown as a food crop for its protein content, however, the plants are harvested while still immature (i.e., approximately 6 weeks after the seeds are planted with a second harvest from the same plant 4 weeks later). Under the latter conditions, close spacing culture is employed with as many as 150,000 plants per acre. Two or more plantings can thus take place depending on weather conditions during the course of the growing season. This can result in a substantial increase in the financial return to the farmer per acre of land per year over that obtained when tobacco is grown for smoking purposes.

Dr. Wildman and associates have prepared from young tobacco plants 3 different classes of proteins of major economic importance: (1) a crystalline, water-soluble protein of high biological value that contains no sodium or potassium that would have marked value in the treatment of patients with certain kinds of renal, liver and heart disease; (2) a series of water-soluble proteins of high biological value that are odorless, colorless and tasteless that could be incorporated in beverages, liquid foods (such as soups for senior citizens), etc. to increase their nutritional value; these proteins would be particularly valuable in the preparation of milk replacers in parts of the world where milk is not readily available for infants and children; and (3) a non-soluble protein that could be incorporated into cereal grain products, flour and other food substances to increase their protein value both quantitatively and qualitatively.

The material remaining from tobacco plants after the above protein products are removed can be processed to produce material that is similar in color, texture and taste to various blends of smoking tobacco but from which many of the constituents which have patients suffering renal failure, maintaining adequate protein nutrition of patients with pylorospasms and other disorders of the gastro-intestinal tract, and as a more adequate milk replacer for infants and children allergic to cow's and goat's milk. The absence of taste altogether with superior nutritional quality would indicate F-I-p to have advantages over current protein hydrolysates employed in medically supervised reducing diets.

U.S. SENATE,
Washington, D.C., March 13, 1978.

Hon. TOM EAGLETON,
Chairman, Subcommittee on Agriculture and Related Agencies, Committee on Appropriations, Washington, D.C.

DEAR TOM: The Administration's proposed budget for Fiscal Year 1979 terminates all funding for tobacco production research. This research is conducted in various states, including Georgia, Kentucky, Maryland, North Carolina, Virginia, and Tennessee, at a total cost of $3,311,000.

The elimination of these research programs represents another serious blow to our farmers who are in the midst of the worst farm crisis since the Great Depression. Farm income, which, in terms of current dollars, was $33 billion four years ago (1974), fell to about $20 billion in 1977. To cut research programs out from under the American tobacco farmer in this manner again shows an insensitivity to what is happening to farmers all over the nation.

Senators Huddleston, Ford, Stone, and I met with Rupert Cutler, Assistant Secretary for Conservation, Research, and Education, on February 3, 1978 to protest the elimination of these vital research efforts from the President's proposed budget. In our meeting with Mr. Cutler, there was no doubt that we had persuaded him of the necessity to restoring the money. He took our request back to the Office of Management and Budget with the recommendation that funds be provided for the tobacco research program. Unfortunately, OMB refused to alter its original decision to cut off these funds. What bothers me a great deal is that administration officials were apparently not even aware that these research programs were actively involved in the general area of health and smoking research when the decision was made to eliminate the funds.

On March 8, 1978, the Senate Agriculture Committee voted its recommendation to include funding for tobacco production research in the 1979 budget. Thus, I am writing you now to urge your support for inclusion of this funding in the budget.

I am particularly concerned about the closing of the Richmond, Virginia Stored Tobacco Insects Laboratory and the Oxford, North Carolina Tobacco Research Laboratory. There are very strong reasons for continuing both of these facilities in operation.

I have enclosed with my letter a statement prepared by Fred G. Bond, General Manager of the Flue-Cured Tobacco Cooperative Stabilization Corporation in Raleigh, North Carolina, supporting the funding of both the Richmond and Oxford facilities. I hope you will take time to study his remarks, particularly dealing with the benefits of the Richmond Laboratory research which has provided solutions and control methods that have protected and preserved stored tobacco.

especially as it relates to Commodity Credit Corporation's interest and investment.

The Oxford Tobacco Research Laboratory has an outstanding record of accomplishments in tobacco research throughout the years of its existence. The research work at Oxford, begun in 1912, emphasizes tobacco production efficiency and the development of a safer product. The research work at Oxford has long been important for improving the over-all economy of North Carolina, the flue-cured tobacco growing region of the Southeastern United States, and all tobacco growing areas of the country. The primary objectives of the research at the laboratory are:

(1) Breeding and developing varieties and lines resistant to diseases and insects with varying chemical and other quality characteristics.

(2) Controlling disease by use of pesticides that leave little or no residue and the use of methods that do not require the use of pesticides.

(3) Controlling tobacco insects by nonchemical means, such as use of male sterile techniques, better use of insect predators, and host plant resistance.

(4) Improving quality of the cured leaf by eliminating or reducing chemical constitutents that might be harmful to health. This is being done by breeding, curing methods, and cultural practices.

(5) Reducing labor requirements for the production of tobacco by developing breedline lines and varieties that may be more adaptive to mechanization and different harvesting methods.

A new project is the extraction of protein from green tobacco leaves. This offers great potential for producing protein for food; and by removing the protein a safer smoking product should be obtained.

Researchers at Oxford developed the first Granville Wilt resistant, the first black shank resistant, and the first root knot resistant variety of tobacco. If it were not for this research, tobacco could not be efficiently grown in this country. So many of our citizens—600,000 farm families nationwide and over 150,000 in my state alone—depend upon tobacco as an important cash crop. It is this crop which enables them to remain on the small family farm to produce the food and fiber that our country and the rest of the world needs.

The Oxford laboratory should be looked upon as a vital component of the total research program in tobacco. Termination of production research will leave health research personnel without support or plant materials to work with, which will seriously jeopardize or even paralyze the health-related tobacco program.

If this funding is not restored, experienced tobacco production scientists will be no longer available to conduct any crash program in the event of a ma'or disease or other important production problem. The U.S. tobacco industry could soon be relying on foreign tobacco producers to supply their raw materials.

Approximately 40% of the U.S. grown flue-cured tobacco is sold in overseas markets. Because of the demand for American quality in world markets, exports of tobacco and tobacco products resulted in a positive net contribution of $1.2 billion to the U.S. balance of payments last year. If this is to be maintained, it is imperative that research efforts must continue in the years ahead.

Your consideration of this matter is appreciated. In addition to Mr. Bond's statement, I am also enclosing some helpful and convincing information about the Oxford Laboratory, as well as a synopsis of the tobacco production research programs and the amounts necessary to continue them. I strongly urge the Subcommittee to restore those funds. As you know, the Agriculture Committee has recommended that action.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield 1 minute to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by the able and distinguished Senator from Rhode Island (Mr. PELL). I respect the Senator for offering this amendment. However, I feel that it is counterproductive to his purposes to eliminate tobacco research under the Agricultural Research Service by $3.1 million.

Tobacco research in the past 10 years has proven to be one of the most cost effective research programs under the Agriculture Research Service. This is not only in terms of production research but also in health research. Researchers work to develop higher yielding, more disease resistant varieties of tobacco, while also working to reduce health hazards. In fact, this very research is responsible for today's low tar and nicotine content cigarettes.

This amendment is simply another attempt at destroying the tobacco support program.

The flue-cured tobacco program is unique, in that for 44 years we have maintained a program based upon production control and price supports. Few, if any other, farm program can match its record of farmer cooperation and fiscal responsibility.

In my home State, as well as in the other flue-cured tobacco-producing States, the flue-cured tobacco farmer typifies the "family farmer." This remains true even though many changes have taken place over the years. In the early years of the program all the cultivation was done with mules and the crop was hand harvested by the family and neighbors. Now we are in an age of expensive tractors, bulk barns, and mechanical harvesters. Yet, despite this extensive mechanization, the flue-cured tobacco farmers still exemplify the independent family farm operator whose economic vitality is essential to future well-being of American agriculture.

Because of the willingness of the flue-cured tobacco leadership to make legislative changes to meet changing conditions, and because of the flexibility of the program, the program we have today remains basically the same as it was at the beginning. This longevity of the program indicates to me that it has remained fundamentally strong.

Mr. President, I urge my colleagues not to support this amendment. Production research and health research in tobacco are inseparable. To reduce funding for research by $3.1 million would only result in less health research. This is not what this amendment wishes to accomplish. It is my hope the distinguished Senator from Rhode Island will see fit to withdraw the amendment.

Mr. FORD. Mr. President, will the distinguished floor leader yield me 1 minute?

Mr. EAGLETON. I yield 1 minute to the Senator from Kentucky.

Mr. FORD. Mr. President, I thank the Senator from Missouri.

I associate myself with the remarks made by my distinguished colleague, Senator HUDDLESTON.

I also wish to make it a part of the record that the State of Kentucky spends $4 million annually of its own money without any Federal funds in the area of research, and I have been told by those who should know that this program that the distinguished Senator from Rhode Island is trying to eliminate in fact gave us the low tar and nicotine cigarette that we now see coming on the market, and I think he has the best of both world. He is interested in having a low tar and nicotine cigarette and a safe cigarette. The industry itself is probably in the biggest war of any industry in order to try to come up with a low tar and nicotine cigarette.

I encourage him to withdraw his amendment.

Mr. EAGLETON. Mr. President, I wish to speak on the Pell amendment.

I identify myself with Senator PELL in this regard. I am a confessed smoker, but nonetheless am concerned about the health hazards of smoking. I am very impressed by a reading, albeit not a reading in depth, of the recent report by the American Medical Association based on their 14 years of study. The report, by the way, was financed by the tobacco companies themselves at a cost of some $15 million. The result of the study is once again a very clear indictment of the health hazards of smoking.

I smoke about a pack and a half of cigarettes a day. I presume that on an annual basis, that takes about a week or maybe 30 days off my life by continuing that obnoxious habit.

So next year, Mr. President, I intend to hold hearings by the Agriculture Appropriations Subcommittee, in which Senator BELLMON and I will participate. We are going to welcome the participation of any and all experts who wish to address their remarks to us on this subject matter. This will include scientists, researchers and Federal officials and it will certainly include, if desired, the tobacco companies, plus partisans from their point of view.

So, I would expect that about from now when the fiscal 1980 Agriculture appropriations bill is on the floor of the Senate we will have a rather full debate on this subject matter. I think that we will by that time we will have had the benefit of full testimony from the American Medical Association based on this 14-year, $15 million study, as well as detailed testimony of others.

I share Senator PELL's viewpoint that it is duplicitous and nonsensical to say the least to appropriate Federal dollars to encourage the further production of tobacco on the one hand while on the other hand, to wage war on the use of tobacco by the Department of HEW.

How many times do we get letters from our constituents, Mr. President, saying the Government is inconsistent, that Government says one thing but does another. We have to answer those letters. Well, any letterwriters who write to me on this one and say that the Federal Government is inconsistent in how it treats of the production and use of tobacco, will receive the honest answer, which is a categorical yes. We are very insonsistent to encourage tobacco production on the one hand and to discourage use on the other.

So I think that about a year from now, after we have been able to hold these detailed hearings and after we have been

able to go through, meticulously and carefully, the AMA's report, that this matter be the subject of a complete senatorial debate. I do not think we are prepared for that now.

The AMA study just came out a few days ago. As I say, I have been able to give it a rather cursory appraisal, and I believe a much closer study than that would be advisable. We will provide that opportunity early next year when we hold hearings on the 1980 agriculture appropriations bill.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. EAGLETON. I am pleased to yield to my colleague from Georgia.

Mr. TALMADGE. Mr. President, one of the objectives to agricultural research is to develop lower nicotine tobacco, is it not?

Mr. EAGLETON. There are different types of research, if I may respond to the Senator from Georgia. There is the health-related research in which one might look at growing tobacco with lower tar or nicotine. There is other research that spends Federal money to determine how to grow more tobacco, or how to grow it in a more efficient way, and it is the latter kind of research that I find inconsistent with the health objectives of the Department of Health, Education, and Welfare.

Mr. TALMADGE. Will the Senator yield further?

Mr. EAGLETON. I yield.

Mr. TALMADGE. Did he not notice an article I believe that appeared in the morning paper that some medical authorities were quoted as saying that certain types of cigarettes were not bad for your health? Did the Senator see that article this morning?

Mr. EAGLETON. I did not see that article in the morning paper. I know there is a cigarette out that is made out of spinach.

It is absolutely awful. I tried it, and I do not like the spinach cigarette.

Mr. TALMADGE. I do not smoke cigarettes. The Senator knows I do smoke a cigar, but I could not go for spinach either.

I thank the able Senator.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. To answer the points raised by the Senator from Georgia, the article was put in the RECORD a little earlier in the course of the debate, and it does show the difference between different kinds of cigarettes.

But my understanding from my colloquy with the Senator from Kentucky is that the primary purpose of funds allocated under this program will be for research relating to health aspects of tobacco.

Mr. HUDDLESTON. I believe it is an accurate statement of the situation as it exists now.

Mr. TALMADGE. I think that is correct, and I tried to make that point in my colloquy with the distinguished chairman of the subcommittee and floor manager of the bill.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield me 1 minute?

Mr. EAGLETON. I yield 1 minute to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. I think the able Senator from Kentucky (Mr. HUDDLESTON) has made an excellent presentation.

The arguments against the pending amendment indicated, and the Senator from Kentucky emphasized, the importance of this research in developing a more healthful product which, I think, would be the objective of almost everyone, absent the complete prohibition on smoking, which I know of no one who will suggest that.

I just want to commend the Senator from Kentucky for his presentation and to associate myself with his views.

TOBACCO PRODUCTION RESEARCH

● Mr. MORGAN. Mr. President, I would like to associate myself with the remarks just made by the distinguished Senator from Kentucky (Mr. HUDDLESTON). One of the three research stations that would be essentially eliminated by the amendment offered by the Senator from Rhode Island is in my home State of North Carolina. That center, the Oxford Tobacco Research Station, has five principal research objectives, four of which that are directly related to health concerns. Nearly all of the research that is currently being generated at Oxford has, as a primary consideration, improvement in the health of our people. Mr. President, I believe that the evidence will indicate that the concerns of the Senator from Rhode Island are recognized in the Nation's tobacco research program.●

Mr. HUDDLESTON. I thank the Senator.

Mr. PELL. Mr. President, with respect that I have for the knowledge of the Senator from Kentucky and because of his reassurance that the primary purpose of the funds allocated under this program will be for research relating to health aspects, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The amendment is withdrawn.

UP AMENDMENT NO. 1638

(Purpose: To reduce total budget authority by $126,500,000)

Mr. EAGLETON. Mr. President, I have an amendment on behalf of myself and Senator BELLMON, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) for himself and Mr. BELLMON proposes an unprinted amendment numbered 1638.

Mr. EAGLETON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

COOPERATIVE STATE RESEARCH SERVICE

On page 11, line 22, strike out "$113,866,000" and insert in lieu thereof "$104,366,000".

On page 13, line 10, strike out "$199,520,000" and insert in lieu thereof "$190,020,000".

RURAL HOUSING INSURANCE FUND (RENT SUPPLEMENT)

On page 25, line 5, strike out "$30,000" and insert in lieu thereof "$25,000".

On page 25, line 10, strike out "$555,000,000" and insert in lieu thereof "$462,500,000".

RURAL WATER AND WASTE DISPOSAL GRANTS

On page 27, line 14, strike out "$300,000,000" and insert in lieu thereof "$265,000,000".

VERY LOW INCOME HOUSING REPAIR GRANTS

On page 27, line 19, strike out "$24,000,000" and insert in lieu thereof "$19,000,000".

RURAL HOUSING FOR DOMESTIC FARM LABOR

On page 27, line 24, strike out "$38,000,000" and insert in lieu thereof "$33,000,000".

RURAL DEVELOPMENT PLANNING GRANTS

On page 28, strike out lines 14 through 18.

RURAL HOUSING SUPERVISORY ASSISTANCE GRANTS

On page 28, strike out lines 19 through 21.

SALARIES AND EXPENSES, FARMERS HOME ADMINISTRATION

On page 29, line 14, strike out "$230,582,000" and insert in lieu thereof "$217,582,000".

GREAT PLAINS CONSERVATION PROGRAM

On page 36, line 20, strike out "$23,288,000" and insert in lieu thereof "$13,288,000".

NONPOINT SOURCE POLLUTION CONTROL GRANT AGREEMENTS AND TECHNICAL ASSISTANCE

On page 37, lines 9 and 10, strike out "$75,000,000" and insert in lieu thereof "$60,000,000".

NONPOINT SOURCE POLLUTION CONTROL COST-SHARING

On page 42, line 11, strike out "$25,000,000" and insert in lieu thereof "$20,000,000".

EXTENSION SERVICE

On page 13, line 22, strike out "$186,831,000" and insert in lieu thereof "$179,831,000".

On page 14, line 20, strike out "$267,383,000" and insert in lieu thereof "$260,383,000".

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

On page 8, lines 10 and 11, strike out "$233,150,000" and insert in lieu thereof "$230,150,000".

MUTUAL AND SELF-HELP HOUSING

On page 28, line 3, strike out "$16,500,000" and insert in lieu thereof "$13,500,000".

RURAL FIRE PROTECTION

On page 28, strike out lines 8 through 13.

Mr. EAGLETON. Mr. President, I ask unanimous consent that this amendment be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I ask unanimous consent that despite the fact that this amendment in part amends figures already amended that it nevertheless be considered in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, let me describe this amendment that we put together hurriedly, in part last night and in part this morning. The reason for the amendment, Mr. President, is that as a body we have accepted the following amendments that have added the following amounts to the bill: the Hathaway amendment on the agricultural conservation program, $105 million; the Melcher animal health amendment, $20 million; the Morgan cotton dust study amendment, $200,000; and the Eagleton-Dole-Zorinsky grasshopper amendment, $5 million. All together, that totals **$130,200,000.**

The bill in this posture, Mr. President, will undoubtedly be vetoed. Despite strenuous efforts by Senator BELLMON and myself to keep this bill down, it has been increased at the subcommittee level, the full committee level, and on the Senate floor.

I point no finger of blame at that. I mentioned that one of the add-ons is the Eagleton-Dole-Zorinsky grasshopper amendment. I guess I am, in part, guilty of adding funds. But the grasshopper situation is a recent phenomenon that we were not aware of when the bill was put together.

The net result of all of this, Mr. President, is that we have now exceeded the House bill in comparable budget authority. We are also roughly $400 million or so over the President's budget.

Although no direct threats have been made to the body or to any individual Member thereof, it is certainly within the veto range.

Well, what can we do about that? When we go to conference it is likely that the bill will be increased and will come back out of conference with figures higher than both the House and the Senate. That is because the House sometimes yields to the Senate and takes the Senate's high figures, and the Senate then yields on other portions and takes the House's high figures. This has almost become an art form with the Defense appropriations bill. I have seen some, what I would call, rather temperate Defense appropriations bills go into conference and come back as giants from a monetary and fiscal point of view.

So we can go to conference and, more than likely, come back with a figure even higher than the $400 million over the budget. Maybe by that time it will be up to $500 million, and then we know it would be vetoed.

Then we will start all over again. We do not have to hold the 20 days of hearings we have already held, I guess, but we just start from ground zero again and mark up the bill again.

As an alternative, we can try to salvage the operation with an amendment, and that is what Senator BELLMON and I are seeking to do with the amendment now before the body. Let me just summarize what this amendment is about. It would take $126.5 million from the bill in the following categories: $9.5 million from cooperative research; $5 million from rent supplements; $5 million from housing repair grants; $5 million from domestic farm labor grants; $5 million from rural development planning grants; $2.5 million from housing supervisory grants; $35 million from water and waste disposal grants; $13 million from Farmers Home salaries; $10 million from Great Plains conservation; $20 million from the nonpoint source pollution program; $7 million from the Extension Service; $3 million from the Animal and Plant Health Inspection Service; $3 million from mutual and self-help housing grants; and $3.5 million from rural fire protection grants. The grand total, as I stated, is $126.5 million. I ask unanimous consent that a list showing the program reductions in this amendment be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Specific program reductions

[Dollars in millions]

Cooperative Research—Reduce formula grants by $9.5 million	−$9.5
Rent supplements—Provides 25,000 new units instead of 30,000 new units	−5.0
Housing repair grants—cuts 20 percent from budget request, which had risen by 150 percent over 1978 (program level reduction)	−5.0
Domestic Farm labor grants—cuts about 20 percent from request, which increased from $8 to $38 million from 1978 to 1979 (program level reduction)	−5.0
Rural Development planning grants—Eliminates lower priority program	−5.0
Housing supervisory grants—Eliminates unbudgeted item	−2.5
Water and waste disposal grants—deletes unbudgeted increase	−35.0
Farmers Home Salaries—Provides 594 new positions instead of 1200	−13.0
Great Plains Conservation—Program level reduction	−10.0
Section 208 Non Point Source Pollution—Program level reduction	−20.0
Extension Service—Smith-Lever Grants and Retirement	−7.0
Animal and Plant Health Inspection Service, consisting of:	−3.0
Brucellosis	−1.0
Noxious weed	− .2
Range Caterpillar	− .5
Fever ticks	−1.0
Cattle scabies	− .3
Mutual and Self-Help Housing Grants	−3.0
Total	−$126.5

In all but three of those programs, Mr. President, we are reducing items in the bill so they are closer to or all the way back to the budget level. In three programs we cut below the President's budget. These are: housing repair grants, domestic farm labor grants; and mutual and self-help housing grants.

The Department of Agriculture, as a matter of consistent policy, of course, sticks with its budget. So the Department of Agriculture supports all portions of this Eagleton-Bellmon amendment except the three I just enumerated. They endorse in overall thrust that we are seeking to do because they know best of all the dangers of getting into the veto range where we are now.

So here, then, is the choice before us, Mr. President: we take this remedial action at this time in the hope that we can salvage something and work out a bill in conference that will be signed by the President. Or, if we do not take this, then I think we are pell-mell and most assuredly traveling down the road to an almost certain veto.

I have conferred on this amendment a 2-percent across-the-board cut amendnot only with Senator BELLMON, but with Senator LUGAR, who had intended to offer ment. Senator LUGAR has informed me and Senator BELLMON that if this amendment passes, he will not offer his 2-percent amendment.

So, to summarize, Mr. President, some of these programs, I think, are very good ones. It was the judgment of our committee when the bill came to the floor that the programs in here were worthy. I am reluctant about some of the cuts that we are proposing, but reality is reality, and the veto threat is indeed a reality.

So I think this is the kind of fiscal medicine that perhaps this bill is going to require. I yield at this time to my colleague, the Senator from Oklahoma (Mr. BELLMON).

Mr. BELLMON. I thank the Senator from Missouri.

Mr. President, I join in support of this amendment somewhat reluctantly. The subcommittee tried hard to bring to the floor a tight bill, one that we felt covered the most pressing needs of the programs that this appropriation will fund. We worked for several weeks through hearings and through markups to bring such a bill to the floor, but now that the action of the Senate has added substantial sums of money to the bill, I join in the feeling that we must reduce it or we are going to wind up with a veto.

This bill as it presently stands has the potential of exceeding the Senate budget resolution allocation by $579 million. Let me state that figure again: This bill, as it now stands, is $579 million above the budget resolution taking into account likely future happenings. That simply means that unless the bill is cut back, some other program will have to be cut back.

I agree that we should do all we can to bring this bill down to the allocation which the budget provides. Even with the amendment proposed by the Senator from Missouri, should it be agreed to, the bill will still be $453 million above the budget resolution.

Mr. President, I much prefer this kind of surgical cut to an across-the-board 2-percent, 3-percent, or 4-percent cut. To me, those across-the-board cuts are much less responsible, because they hit all programs. We have gone through this bill, choosing the programs that appear to be most able to stand some small cut without doing serious damage to the operation of the total USDA program. I believe when Senators look at what we have done here, they will agree that we have taken out generally the low priority programs, and in most cases, still left enough in the programs to continue the activity, though at a reduced rate.

Therefore, I strongly urge a vote in support of the Eagleton amendment as the best way. While I do not believe we can be assured that the bill will be signed even if this amendment is approved, I do believe it has a much better chance than if we send a bill down to the President that is $400 million over his budget and more than $500 million over the Senate's own budget resolution.

Mr. EAGLETON. Mr. President, I am prepared to yield back the remainder of mainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. SARBANES). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Missouri (Mr. EAGLETON). The yeas and

nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZEK) and the Senator from Minnesota (Mrs. HUMPHREY) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

The result was announced—yeas 73, nays 24, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—73

Anderson	Glenn	Nelson
Baker	Goldwater	Nunn
Bartlett	Griffin	Packwood
Bayh	Hansen	Pearson
Bellmon	Haskell	Pell
Bentsen	Hatch	Percy
Biden	Hatfield,	Proxmire
Bumpers	Mark O.	Ribicoff
Byrd,	Hayakawa	Riegle
Harry F., Jr.	Heinz	Roth
Byrd, Robert C.	Helms	Sarbanes
Cannon	Hollings	Sasser
Case	Inouye	Schweiker
Chafee	Jackson	Scott
Chiles	Johnston	Sparkman
Church	Laxalt	Stafford
Cranston	Leahy	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Talmadge
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
Durkin	Matsunaga	Wallop
Eagleton	McIntyre	Weicker
Eastland	Moynihan	Williams
Garn	Muskie	Young

NAYS—24

Allen	Hatfield,	Metzenbaum
Brooke	Paul G.	Morgan
Burdick	Hathaway	Randolph
Clark	Hodges	Schmitt
Culver	Huddleston	Stennis
Domenici	Kennedy	Stone
Ford	McClure	Zorinsky
Gravel	McGovern	
Hart	Melcher	

NOT VOTING—3

Abourezk	Humphrey	Javits

So the Eagleton-Bellmon amendment (UP No. 1638) was agreed to.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McGOVERN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I know of only one other amendment, that being the Curtis amendment, which would propose a $2 billion cut in the food stamp program. We had an earlier vote on the Lugar amendment cutting $250 million. That amendment failed. Senator CURTIS has a $2 billion cut. Once that is disposed of, I know of no other amendment. We can then go to final passage.

Mr. President, I yield to the Senator from New Mexico (Mr. DOMENICI) 2 minutes.

Mr. DOMENICI. Mr. President, I rise to thank the committee and, in particular, the floor managers (Mr. EAGLETON and Mr. BELLMON), for the assistance that they have provided in the continuing efforts of the State of New Mexico and the Federal Government to rid the open ranges in our State and some of the adjoining States of the range caterpillar. They have been involved in trying to help us for the last 3 or 4 years.

I first want to commend them for their effort last year to instigate a permanent and on-going research program which has already been funded, which our universities and experts tell us is proceeding well. I then want to thank them for including money in this budget for next year's spraying program or control program. I am sorry that the $1.5 million which was in this bill was reduced to $1 million by the amendment which was just voted in. However, that million dollars is $500,000 more than the House had. I encourage Senator EAGLETON and Senator BELLMON, when they go to conference, to try their best to maintain this million-dollar figure, because it appears to me that we must, in the next 2 or 3 years, rid the range of this infestation or we are in for some real serious trouble.

Mr. BELLMON. Mr. President, may I say, in response to my friend from New Mexico, that it is my full intention, and I am sure I speak for all the Senate conferees, to defend this appropriation for the range caterpillar as completely as we can.

I agree with the Senator from New Mexico that the range caterpillar is a growing threat, not only to New Mexico but to all the range States. We can now, if we apply ourselves, either control or eradicate it before it spreads to other areas. To me, this is a totally defensible investment of tax dollars, one which perhaps should be larger and was larger in the original bill. I say to the Senator from New Mexico that, if it is necessary, we could perhaps include money in a supplemental if it turns out this money is inadequate.

Mr. DOMENICI. I know the Senator from Oklahoma is fully aware that the State of New Mexico and the ranchers invest substantial sums in this program, because wherever it is non-Federal land, the payments are divided so each pays one-third; that is, the State, the land owner, and the Federal Government. They are putting up their share of money because they feel this is a very serious problem.

Mr. President, I yield the floor.

AMENDMENT 3448

Mr. CURTIS. Mr. President, I have an amendment at the desk. I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS) proposes an amendment numbered 3448. On page 45, line 6, strike out "$5,779,200,000" and insert "$3,779,200,000".

The PRESIDING OFFICER. The yeas and nays on this amendment have already been ordered by unanimous consent.

Mr. CURTIS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. How much time are the proponents allocated for this amendment?

The PRESIDING OFFICER. One-half hour on the amendment, 15 minutes for the proponents and 15 minutes for the opponents.

Mr. CURTIS. I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 10 minutes.

Mr. CURTIS. Mr. President, this is a sizeable cut. The amendment calls for a cut of $2 billion.

I will, in the short time alloted to me, spell out specifically the areas where we can save this money. It is offered in good faith, it is workable, it is within reason.

The food stamp program started in 1965 with $60 million. The next year, it was $100 million. By 1969, it was $280 million. This bill is for $5.7 billion.

Back in 1973, it was only $2.5 billion. This is a bill to provide nournishment for people who cannot provide it themselves. How many died of starvation in the United States in 1973? How many?

This program was intended for the very poor that could not get enough money.

Here is how we can save $2 billion and not take food away from anyone that cannot get it otherwise.

There are certain basic eligibility revisions which we have an estimate on that would save $700 million. There is no asset test in the law. There is no asset test of how much assets one can have to get food stamps. One can be written in that would save $522 million.

Under the present law, someone goes in and tells what they expect their income to be, instead of a retroactive check as to how much income they had in the past. To change that method, it is estimated would save $400 million.

Oh, there is great fraud. Better fraud control. How do we do it? By requiring a photo identification card.

Mr. President, that is not tyrannical government. I had to go through that to get my driver's license.

We have had these stories about individual's going from different jurisdictions and qualifying many times. They go to court and get a slap on the wrist. However, a card with a photo on it would save $130 million.

That does not take food away from any needy person.

Under the present law, they do not count income inkind in determining eligibility. To do so would save $174 million.

We exclude certain items of income, such as student grants, on the ground they cannot be properly calculated. We exclude housing subsidies.

If we would end those exclusions and find the true income, we would save $38 million.

Mr. TOWER. Will the Senator yield?

Mr. CURTIS. I just have limited time, but I will yield 30 seconds.

Mr. TOWER. I just wanted to ask the Senator if he is aware that not too long ago there was a full-page ad which appeared in the comic section of a major newspaper saying, "Send in $4.95 and we will send a booklet showing how you can qualify for food stamps, even if you earn $20,000 a year."

Mr. CURTIS. That is correct.

Here is another thing, Mr. President, and I hope every member of the Com-

mittee on Budget will support this amendment.

I am for these small amendments that will eliminate waste and do some other things. That will never balance the budget. We have to face this issue in a bigger way.

Income tax rebates, count those as income and we will save $29 million. Require a work registration. Restore the age of a child which exempts an individual from work registration to age 6, not 12.

At the present time, a one-parent household can say, "I have an 11-year-old child, therefore, I cannot work."

In other programs, it is down to six. To change that would save $14 million.

Strengthen the work registration requirements, permitting the States to establish community work experience programs as a condition of eligibility, would save $14 million.

Ending payment of food stamps for strikers would save $18 million.

The college students, some of that has been done in this bill, $11 million, but they are not the big items.

Mr. President, this program can go on and take care of every hungry person in the country. But it is not intended as a general welfare program.

Keep in mind also, Mr. President, that the same individual who qualifies for one program oftentimes qualifies for some others automatically.

The recipient of the food stamps may be the recipient of medicare benefits, may be the recipient of housing subsidies.

Mr. President, what we are doing in this country is promoting dependency. What we are doing is enlarging the welfare state. We are carrying out the mandate of the director of the staff of the Congressional Budget Office who has repeatedly said publicly that we need larger deficits.

Now, of course, we need the smaller amendments here and there, every way we can. If we save money, we have to look at the little items. But here is a big program.

Mr. President, I ask unanimous consent to have printed in the RECORD the analysis of where we could save this money, plus a list that shows the amount of money spent on this program since it started in 1965.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POSSIBLE AMENDMENTS TO THE FOOD STAMP ACT WITH SPECIFIED SAVINGS*

1. Basic eligibility revisions, including:

(a) Limiting eligibility to those with gross incomes at the poverty line, plus a 15 percent allowance for work-related expenses, $700 million.

(b) Establishing purchase requirement at percentage of gross income expended for food by average household of same size and income range, with regional variations, as established by the most recent Consumer Expenditure Survey of the Bureau of Labor Statistics, or 30 percent, whichever is less.

(c) Use of the Thrifty Diet Plan for a family of specified size and ages or the lowest cost diet which meets recommended dietary allowances, established by the National Research Council of the National Academy of Sciences, for all nutrients for which reliable food composition data are available, whichever is less. Prohibits the use of food stamps for items of low nutritional value or insignificant enhancement of palatability, such as ice cubes, artificial food colorings, powdered and liquid cocktail mixes, chewing gum, carbonated beverages, and cooking wines.

2. Assets test: Use the assets test initially established for SSI, with a limit on a principal residence and lot of $25,000; a limit on a motor vehicle of $1,200; limit on property used in a trade or business essential to the self-support of a household of $15,000; and an overall limit on liquid and non-liquid resources (with the above exceptions) of $1,500 for the household, or $2,250 for households of two or more persons with a member or members age 65 or over, $522 million.

3. Retrospective accounting and monthly income reporting. Institute a retrospective accounting system of 90 days and a monthly reporting system; eliminate immediate application by the "recently unemployed," $400 million.

4. Fraud control: Mandate a photo-identification card, countersigned warrants, a national application cross-check, and an earnings clearance system, $138 million.

5. In-kind income: Count any in-kind income which provides food assistance, $174 million.

6. Income exclusions: Eliminate new exclusions (student loans and grants, all which "cannot reasonably and properly be computed", and housing subsidies), $38 million.

7. Income tax rebates: Count as income, $29 million.

8. Work registration: Restore the age of a child which exempts an individual from work registration to age six, not age 12, $20 million.

9. Work registration: Strengthen the work registration requirement by permitting States to establish community work experience programs as a condition of eligibility, $14 million.

10. Strikers: Eliminate the eligibility of strikers, $18 million.

11. College students: Eliminate the eligibility of college students, $11 million.

Total, $2,064 million.

*Approximations.

Appropriations history of the food stamp program from inception to date

1965		$60,000,000
1966		100,000,000
1967		140,000,000
1968		185,000,000
1969		280,000,000
1970		610,000,000
1971		1,670,000,000
1972		2,200,000,000
1973		2,500,000,000
1974		3,000,000,000
1975		4,874,600,000
1976		5,203,000,000
1976,	transitional quarter	1,239,117,000
1977		5,514,400,000
1978		5,627,000,000

Mr. CURTIS. Mr. President, I am not suggesting, or I am not hopeful, that I will get more votes than the distinguished Senator from Indiana got on a cut of $250 million when I want to cut eight times that. But the record is there. The record is there for the Budget Committee. The record is there for the Appropriations Committee. That establishes that it can be done and that it ought to be done.

Food stamps were never intended as a catchall relief program to everybody that was just a little short of income. That is what we have a welfare program for, and there, they work it out case by case. It was intended as a means of getting food in the hands of people that without that program would be hungry and not have enough to eat.

Mr. President, there is a publication by the Office of Budget and Management called "The Budget in Brief." On the inside page are some charts where our money comes from and where it goes. What is the biggest item in there? Direct payment to individuals, and it grows and grows and grows.

We are creating a dependency in this country by lax, out-of-bounds programs of this kind.

Of course, one neighbor learns that others are getting it, why not apply for it, and it goes on and on.

Why has not the Congress established an asset test in this program?

The Appropriations Committee has it within its power to do something about this. They can say they are shutting off the money, will only give them enough money to do what was originally intended, to prevent hunger and malnutrition. That is what they would be able to do and have some money left over if this amendment were adopted.

There are not that many hungry people in the country. There are some. They ought to be taken care of.

But here is a program that grows and grows and grows. I wish that every Senator would investigate the overlapping of programs.

If you meet certain requirements, you are eligible for subsidized housing, you are eligible for free medicine, you are eligible for food stamps.

Who pays for it? The middle class. The middle class are doing it. It would take a little money, but this country could take care of everybody who cannot take care of themselves. But we cannot afford to take care of those who should be taking care of themselves.

Mr. President, how much of my 10 minutes have I used?

The PRESIDING OFFICER. The Senator from Nebraska has just used his time. Five minutes remain.

Mr. CURTIS. I reserve the remainder of my time.

Mr. BELLMON. I yield myself 5 minutes.

Mr. President, both the Senator from Nebraska and the Senator from Oklahoma serve on the Agriculture Committee, which authorizes the food stamp program and which has responsibility for oversight. The speech the Senator from Nebraska just made should be made to the Agriculture Committee.

Mr. CURTIS. Mr. President, will the Senator yield?

Mr. BELLMON. I listened patiently to the Senator from Nebraska, and I am going to use my 5 minutes.

Mr. CURTIS. I offered every one of these amendments in the Committee on Agriculture and on the floor.

Mr. BELLMON. Mr. President, I did not yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. BELLMON. Mr. President, there is nothing in the world that the Senate Budget or Appropriations Committee can do to change the provisions of the food stamp law. That has to be done by the legislative committee, which is the Agriculture Committee.

I agree with the Senator. The Senator from Nebraska and the Senator from Oklahoma offered those amendments

and lost. We voted for an assets test, but the committee did not go along with us, nor did Congress.

There is no way for the Appropriations Committee to cut out $522 million because we would like to see an assets test instituted. It is up to Congress to make that decision, and Congress decided against us.

Also, I say to the Senator from Nebraska that if we do not provide these funds, it has been shown that those who are entitled to these programs will go to court. The court will say that we have to give it to them, and we will have to appropriate it eventually. We looked at the law, we figured the cost of these entitlements, and we provided the funds.

If the Agriculture Committee will change the law, I assure the Senator from Nebraska that we will be happy to reflect that in our appropriations.

Also, Mr. President, this program is not growing. In fact, between 1977, when the appropriation was $5.5 billion, and 1978, when it is $5.6 billion, the program actually shrunk in real dollars. It went down in size. It is a program we have tried very hard in the Agriculture Committee to bring under control, and we seem to be having some success.

I agree with much that the Senator has said, but an appropriation bill is not the place to mandate those changes. It should be done in the Agriculture Committee, and I would be glad to work with the Senator on that objective.

Mr. McGOVERN. Mr. President, will the Senator yield me 2 minutes?

Mr. EAGLETON. I yield 2 minutes to the Senator.

Mr. McGOVERN. Mr. President, I wish to make a brief observation about the Senator's amendment, a proposed cut of some $2 billion in the Nation's food stamp program.

We have had a number of amendments offered in the last few days that would have cut some 2 percent from various Federal programs. Most of those amendments have been rejected, on the ground that a slash of that kind is a meat ax approach that a 2-percent across-the-board cut in Federal programs would be irresponsible.

What we now have before us is a 35-percent cut in a program which millions of people depend upon to maintain a reasonable degree of nutritional health.

The Senator from Nebraska has asked us how many people died from starvation in the United States in 1972 or 1973, when the food stamp program was considerably smaller than it is today.

I hope that is not going to become the criterion on which the food stamp program is judged—that we are interested only in preventing starvation. That might be a modest goal for a country like Bangladesh, in its poverty, to aspire to—that the rate of starvation could be held down within limits. But for the wealthiest country in the world to suggest that the food stamp program should be set at the level where it simply prevents starvation seems to me to be an affront to the ideals and the values of this country.

It is my judgment, as one who has sat through literally hundreds of hours of testimony from people in all parts of this country with respect to the food stamp program, that we do not have any program on the books today that, in the long run, saves the American people any more than this nutritional program that we operate through food stamps.

The human potential that we save and the health that we preserve save us billions of dollars down the road in medical costs and dependency cases that would cost infinitely more than the $5 billion we are investing in feeding hungry people.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EAGLETON. I yield the Senator 1 additional minute.

Mr. McGOVERN. It occurred to me as I listened to the Senator, that when he talks about a $2 billion cut in food stamp programs, which is more than a one-third slash in the size of this program, just a 2-percent reduction in the military budget of this country would save more than the $2 billion he is seeking to save.

If we were to knock out the proposed nuclear aircraft carrier, which the administration says they do not need, which is not necessary for the defense of the country, that one item would save the $2 billion that the Senator from Nebraska is proposing we cut from the food stamp program.

I just make this final point, Mr. President: It is true that the food stamp program cost has increased substantially since 1972. But I remind Members of the Senate that in the last few years we phased out the commodity food distribution program. We used to operate both a food stamp program and a direct commodity distribution program. In fact, the commodity distribution program was the larger of the two. That program has been terminated, at a saving of many hundreds of millions of dollars to the American taxpayer, and has been folded into the food stamp budget.

Last year, the Senate passed a comprehensive reform program to correct the abuses—the fraud and the deficiencies—in that program. It is just now going into effect. This is the wrong time to be proposing a destructive amendment of this kind. I hope the amendment will be rejected.

The PRESIDING OFFICER. The Senator from Nebraska has 5 minutes remaining on the amendment, and the opponents of the amendment have 7 minutes remaining.

Mr. CURTIS. I yield myself 3 minutes.

Mr. President, I am fully aware that we should have some changes in the authorizing law. One of the best ways to bring that about would be if we could have a solid vote of the Appropriations Committee and the Budget Committee and they would say to the rest of us, "Change this law. This is all the money you are going to get."

Here is where we have gone in this food stamp program: We have created a situation in which one person out of four is eligible for food stamps. It is a program intended to deal with malnutrition. I used the word "starvation." Perhaps that was unwise. It is a program to prevent malnutrition. We have created eligibility for one-fourth of America to qualify for food stamps.

Also, I have news for the Appropriations Committee. The cost of this program is going to go up and up. It used to be that a person would have to pay some of his own money to get food stamps. That has been changed, but we have not been hit by the cost of it yet.

I am thoroughly convinced that with $3.7 billion, we can take care of all the cases in which there would be undernourishment, malnutrition, if they did not get those food stamps. It is not intended to take over the welfare program.

Again I emphasize that one of the reasons why the cost of all these programs has grown so much is the overlapping of benefits; that the same household that is eligible for food stamps, eligible for rent subsidies or purchase subsidies, eligible for free medicine, does not have the cash income to have a great tax burden. We are adding to the dependency.

As long as Congress goes on and does not take action to restrict this and confine it to people who should have it so that they are properly nourished, the more dependency we create in this country.

Mr. President, I am not unaware that it is hard for some Senators, because maybe in all instances the public has not been properly informed about all the facts connected with this program, to vote for a $2 billion cut. I am satisfied, however, that the facts that I placed in the RECORD and other facts that are in the RECORD justify such a cut and while to be a good fellow there is an urge that I should withdraw the amendment, I cannot do that. I cannot do that because here is a program that needs tightening up and instead of that, Congress is opening it up.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

The Senator has 2 minutes remaining on the amendment.

Mr. CURTIS. I reserve the remainder of my time.

Mr. EAGLETON. Mr. President, I shall be very brief. I spoke earlier today on the amendment by the Senator from Indiana (Mr. LUGAR), which would have made a cut of $250 million in food stamps. We have the same subject matter before us again, although the magnitude of the reduction has changed. It is now $2 billion.

The adoption of the Lugar amendment would have been very harmful. The adoption of the Curtis amendment would be callous.

I yield back the remainder of my time.

Mr. CURTIS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Nebraska. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mrs. HUMPHREY), and the Senator from Mississippi (Mr. EASTLAND) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "nay."

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

The result was announced—yeas 16, nays 80, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—16

Bartlett	Hansen	Proxmire
Byrd, Harry F., Jr.	Hatch	Roth
Curtis	Hayakawa	Scott
Garn	Helms	Thurmond
Goldwater	Laxalt	Tower
	McClure	

NAYS—80

Allen	Griffin	Muskie
Anderson	Hart	Nelson
Baker	Haskell	Nunn
Bayh	Hatfield, Mark O.	Packwood
Bellmon	Hatfield, Paul G.	Pearson
Bentsen	Hathaway	Pell
Biden	Heinz	Percy
Brooke	Hodges	Randolph
Bumpers	Hollings	Ribicoff
Burdick	Huddleston	Riegle
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jackson	Sasser
Case	Johnston	Schmitt
Chafee	Kennedy	Schweiker
Chiles	Leahy	Sparkman
Church	Long	Stafford
Clark	Lugar	Stennis
Cranston	Magnuson	Stevens
Culver	Mathias	Stevenson
Danforth	Matsunaga	Stone
DeConcini	McGovern	Talmadge
Dole	McIntyre	Wallop
Domenici	Melcher	Weicker
Durkin	Metzenbaum	Williams
Eagleton	Morgan	Young
Ford	Moynihan	Zorinsky
Glenn		
Gravel		

NOT VOTING—4

Abourezk	Humphrey	Javits
Eastland		

So Mr. CURTIS' amendment (No. 3448) was rejected.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BELLMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1639

Mr. BELLMON. Mr. President, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BELLMON) proposes an unprinted amendment numbered 1639.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 44, line 15, strike "$142,000,000" and insert in lieu thereof "$117,000,000: Provided, That no part of this appropriation may be used to pay for the cost of a special milk program in a school having both a school lunch and school breakfast programs."

Mr. BELLMON. Mr. President, very quickly, the amendment I have just offered would——

Mr. EAGLETON. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. BELLMON. This amendment would eliminate the special milk program from schools that participate in both the school lunch and the breakfast programs. It would save $25 million.

Mr. President, the special milk program provides Federal subsidies to schools and other institution which serve milk to children, in addition to milk subsidized as part of other USDA child nutrition programs such as the school lunch program and the school breakfast program. Milk subsidized through this program is served either free or at a reduced price to children during midmorning and afternoon breaks and during the lunch period in addition to the milk served as part of the school lunch and school breakfast.

Because of the supplementary nature of the program, a child enrolled in a school that has both the school lunch and school breakfast programs, may receive three, and in some cases, four federally subsidized half-pint cartons of milk a day. I believe this is excessive.

My amendment would simply remove the special milk program from these schools that have both the breakfast and lunch programs. Children in these schools will still be eligible to receive milk as part of two nutritionally balanced meals. The amendment will reduce the appropriation for the program by $25 million.

The change that I am proposing is a compromise between the current program and that which has been requested by the administration which has repeatedly sought to remove the program from schools having any other child feeding program in which milk was served.

Concerns that the savings of the amendment will be replaced by increased costs of the dairy price support program are unfounded. An analysis by USDA revealed that the likely impact of my amendment on the half-billion dollar program will be only 6 to 8 million dollars. This represents a net savings to the taxpayers of $17 to $19 million.

I believe it is imperative that we do all we can to keep down Federal expenditures. Making cuts is never an easy task but when a program has outlived its original purpose and represents a continuing drain on the Treasury with so little return, we have no excuse for not acting.

I urge my colleagues to adopt this amendment.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. BELLMON. I am glad to yield to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I appreciate what the Senator is trying to accomplish by this amendment. As he knows, we considered in the Agriculture Committee a proposal from the administration to completely eliminate the special milk program. It was very strongly rejected by the committee.

It is true that we did not look at the possibility of a $25 million cut. One of the reasons for that however, I will say to the Senator, is that, we are trying to encourage expansion of the school breakfast program in the United States. We did not mandate such a program, but we are attempting to encourage schools to participate.

I think the impact of the Senator's amendment would be that of discouraging school districts from participating in the school breakfast program. If they know that by participating in the breakfast program they are going to lose the benefits of the special milk program, they are clearly going to be reluctant to implement a breakfast program.

What I would like to suggest to the Senator from Oklahoma is that, if he will not press his amendment at this time, our Subcommittee on Nutrition will hold hearings on this matter and evaluate the questions raised by the Senator from Oklahoma. I will make that pledge to him if he will consider withdrawing his amendment.

Mr. EAGLETON. Mr. President, I would like to speak for 2 minutes on this amendment before yielding back to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. In one respect, Mr. President, I would hope that the Senator from Oklahoma would not withdraw his amendment, although I understand that is his intention and I presume he will follow up on it. I would like this amendment to proceed to a final vote, because this would perhaps be the first time in Senator PROXMIRE's career that he voted not to cut money from some budget or other. He would tell the Senate, as he has often told me, that this $25 million is absolutely necessary for the strength of the Nation. When Senator BELLMON points out that his amendment applies only in those situations where the child is already getting milk with breakfast and milk with lunch, Senator PROXMIRE would say that mid-morning milk is also a prudent expenditure of Federal money. Milk, milk, and more milk. He finds no redundancy in all of this. Wisconsin is the biggest dairy State in the Nation, as we all know.

However, just a few moments ago, Senator PROXMIRE voted to slash $2 billion out of the food stamp program. In his opinion it is wise and prudent to slash $2 billion from the eating tables of needy people, but never, never, never cut out the third serving of mid-morning milk. Thus, I would like to see Senator PROXMIRE vote on this amendment and reconcile this milk vote with the earlier food stamp vote.

Mr. McGOVERN. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield.

Mr. McGOVERN. I hope he will not penalize the appeal of the Senator from South Dakota because of the Senator from Wisconsin.

Mr. EAGLETON. No, no. I visit no Senator's sin on any other Member of the body.

Mr. BELLMON. Mr. President, I was pleased by the response of the Senator from South Dakota. I agree with him this special milk program needs to be examined. It certainly has a purpose, and I am not at all in favor of doing away with it totally. But it seems to me, as the Senator from Missouri just stated, that if we are providing free milk at breakfast and free milk at lunch, it is very redundant and may not even be healthful to provide one or two additional servings of milk for the same children per day.

Because the Senator from South Da-

kota is willing to go into the matter in depth in hearings, I feel that we would be wiser, perhaps, to put off action until next year. But I will say to the Senator that unless I am convinced that this special milk program is needed, I will be back next year with the same amendment.

Mr. McGOVERN. Mr. President, I appreciate the attitude of the Senator from Oklahoma. Depending on what the hearings reveal, I may at that time be willing to join him in support of such an amendment. But I assure him we will hold hearings as part of the next child nutrition bill and I appreciate his willingness to withdraw the amendment at this time.

The PRESIDING OFFICER. The amendment is withdrawn.

● Mr. MUSKIE. Mr. President, the Senate has before it H.R. 13125, the Agriculture and Related Agencies Appropriation bill for fiscal year 1979.

The bill as amended provides $23.4 billion in new budget authority. Outlays associated with the bill total $13.7 billion, including $2.0 billion in outlays from budget authority provided in prior years.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to the committee under the first budget resolution. The Appropriations Committee has allocated $24.9 billion in budget authority and $14.6 billion in outlays to the Agriculture Subcommittee.

The funds provided by H.R. 13125 as reported plus permanent appropriations under the jurisdiction of this subcommittee put the subcommittee $0.1 billion over its 302(b) budget authority allocation and $0.6 billion under its outlay allocation. Possible later requirements known at this time could increase the budget authority overage to $0.6 billion while outlays would remain $0.3 billion below the allocation.

Mr. President, I ask that a table showing the relationship of this bill and possible later requirements to the subcommittee allocation be printed in the RECORD at this point.

The table follows:

H.R. 13125 Agriculture and Related Agencies appropriation bill, 1979: Relationship to subcommittee's section 302(b) allocation

[In billions]

	Budget authority	Outlays
Subcommittee's section 302(b) allocation	$24.9	$14.6
Amounts enacted in prior years	1.6	0.3
H.R. 13125, as reported	23.4	13.7
Amount over (+) or under (−) subcommittee allocation	+0.1	−0.6
Possible later requirements:		
Agriculture conservation program	+0.1	+0.1
SCS emergency assistance	(1)	(1)
Non-point source pollution control	+0.1	(1)
Food stamps	+0.1	+0.1
Child nutrition	+0.1	-----
Possible amount over (+) or under (−) subcommittee allocation	+0.6	−0.3

[1] Less than $50 million.

Mr. MUSKIE. Since there is a potential budget overage, I would point out that if it materializes, other subcommittees will need to stay below their allocations if the Appropriations Committee is to stay within its total allocation.

H.R. 13125 as reported is consistent with the functional and aggregate targets in the first budget resolution, and I support it. I commend the distinguished chairman of the Subcommittee on Agriculture, Senator EAGLETON, for his dedicated efforts in support of the budget process.

I note that the committee has included in this bill $75 million requested by the President, as part of his water policy, for full funding for water projects of the Soil Conservation Service. This full funding is a change from current practice, and was not anticipated at the time of the first budget resolution, which was prior to the President's policy announcement. I wish to point out that if this change is enacted by the Congress, the budget process is sufficiently flexible to accommodate this change in the second budget resolution, which the Senate Budget Committee will begin marking up shortly. Moreover, as a member of both the Budget and Environment and Public Works Committees, I intend to review this policy carefully in water projects throughout the budget, and hope to make this review a part of the congressional consideration of the fiscal year 1980 budget.●

FUNDING FOR THE SOUTHERN REGIONAL RESEARCH CENTER IN NEW ORLEANS

● Mr. JOHNSTON. Mr. President, I commend the distinguished senior Senator from Missouri for his fine work on the Agriculture appropriations bill. He has undertaken a difficult task and has managed to hold a tight line on this bill through subcommittee and full committee markup. Particularly in view of the clear veto threat, the gentlemen has had a tough job, one with many unpleasant choices and one which requires setting priorities amongst our many competing needs.

However, Mr. President, I am seriously concerned, as the Senator knows, about one area which was cut in the budget request and for which no funds were appropriated in the Senate—the regional research centers of the Department of Agriculture. The regional research laboratories were established in 1939 and have had a remarkably productive record over the past 40 years.

The deep tank fermentation process which opened the way to large-scale commercial production of penicillin was developed by the Northern Regional Research Center.

Similarly, USDA scientists developed the process for making frozen orange—which permits storage of surplus citrus fruits and has led to the development of the multimillion dollar citrus industry.

Another laboratory developed the "Philadelphia Cook" process which replaces freeze-drying and saves manufacturing, shipping and storage costs. Over 4 billion pounds of potatoes are dehydrated this way each year.

And the Southern Regional Research Center, located in New Orleans, has done the leading work on permanent press and flame resistance in fiber processing and production. This, of course, is absolutely critical to the future of cotton.

The fiscal year 1979 budget request calls for a $9.4 million reduction in these programs. And this will reduce the SRCC's budget by $975,000. This will not only retard important fiber research, but it will also result in the loss of 30 jobs. Twenty-eight of these positions are currently filled by professionals—by agricultural scientists. Many of these employees have devoted their careers to agricultural research and, as a result, have developed a specialized expertise on fiber production. I am told that the average age of these scientists is 50. Now, Mr. President, these dedicated employees are being told that—as of October 1, 1978—they must find other jobs. The Department says that private industry may—and should—pick up this research.

However, the Department does not allow for a phase-in procedure, and has done little to prepare these employees for this sudden loss of their jobs.

Mr. President, I believe we are asking too much of these men and women. After working for many years at USDA, some are now told to find other jobs. At age 50, this is difficult for anyone. It is even more difficult when you try to seek comparable employment, and comparable employment without totally disrupting your family by possibly moving to another city or State at midcareer.

Mr. President, these funds were restored in the House bill and I hope very much that the Senate conferees will be able to work out a fair solution. It may be that private industry should pick up some of this research. Frankly, I do not know if this will occur. But I do know that 30 people in New Orleans will suffer as a result of this decision. And the families of these 30 employees will also suffer.

Over 11.6 million acres of cotton were planted in the United States in 1976, yielding over 10.5 million bales of cotton. According to USDA the value of these exports was worth about $881.9 million.

The production, processing, and manufacturing of cotton also provided many jobs in this country. Mr. President, if we are to keep the cotton industry healthy, we must continue research on fibers at least at current levels. Otherwise, more people will lose their jobs and we will be losing some of these exports if production declines.

Mr. President, in conclusion I urge that the conferees try to work out a reasonable solution, one which will minimize the impact of budget cuts on these individuals and one which will be fair. We are, of course, continuing to fund other agricultural research programs in this country and overseas. I am sure that these programs are as justified as those at the regional centers. I hope we can find a way to fund them all and, especially, to prevent the sudden loss of 30 jobs and valuable fiber research in New Orleans.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed for third reading, and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. EAGLETON. I yield back our time.

Mr. BELLMON. I yield back my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mrs. HUMPHREY) is necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

The result was announced—yeas 90, nays 8, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—90

Abourezk	Gravel	Metzenbaum
Allen	Griffin	Morgan
Anderson	Hansen	Moynihan
Baker	Hart	Muskie
Bartlett	Haskell	Nelson
Bayh	Hatch	Nunn
Bellmon	Hatfield, Mark O.	Packwood
Bentsen	Hatfield, Paul G.	Pearson
Biden	Hathaway	Percy
Brooke	Hayakawa	Proxmire
Bumpers	Heinz	Randolph
Burdick	Hodges	Riegle
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Chafee	Inouye	Schmitt
Chiles	Jackson	Schweiker
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cranston	Laxalt	Stennis
Culver	Leahy	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Stone
DeConcini	Magnuson	Talmadge
Dole	Mathias	Thurmond
Domenici	Matsunaga	Tower
Durkin	McClure	Wallop
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Ford	Melcher	Young
Garn		Zorinsky
Glenn		

NAYS—8

Byrd, Harry F., Jr.	Goldwater	Ribicoff
Case	Helms	Roth
	Pell	Scott

NOT VOTING—2

Humphrey	Javits

So the bill (H.R. 13125), as amended was passed.

Mr. EAGLETON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to H.R. 13125.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I move that the Senate insist on its amendments to H.R. 13125 and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The motion was agreed to and the Presiding Officer (Mr. HATHAWAY) appointed Mr. EAGLETON, Mr. STENNIS, Mr. PROXMIRE, Mr. ROBERT C. BYRD, Mr. INOUYE, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. MAGNUSON, Mr. BELLMON, Mr. YOUNG, Mr. MARK O. HATFIELD, and Mr. STEVENS conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, the agricultural sector of our economy is one of our most valuable assets. Nowhere else in the world can an abundance of food and fiber be found to match that of the United States. Our country is blessed with a fertile soil and great natural resources. With industry and intelligence, our farmers have used advanced technology to improve upon nature's gifts, bringing forth bountiful crop yields. American ranchers and dairy farmers have similarly used scientific methods to produce better livestock.

But all is not bright for the future of American agriculture. A burden of debt is putting the squeeze on the farmer. Heavy borrowing has become necessary because increases in the cost of land, fuel, fertilizer, and farm implements have far outstripped the farmers' revenue. They are forced to borrow or go out of business.

This point was clearly made to the Congress and the Nation last winter, when hundreds of representatives of the American Agriculture Movement came to Washington. They spoke with many Senators and Congressmen about the crisis that they face. Their words did not fall on deaf ears. Building on the foundation of the Food and Agriculture Act of 1977, Congress passed the Agricultural Credit Act of 1978 to help alleviate some of the farmers' short-term problems.

Pursuant to this and other authorizing legislation, the Senate has just passed H.R. 13125, a bill making appropriations for Agriculture, Rural Development, and Related Agencies for fiscal year 1979. Senator TOM EAGLETON, chairman of the Agriculture Subcommittee—of which I am a member—has devoted a great deal of effort to this bill. Since assuming the chairmanship of the subcommittee this year, Senator EAGLETON has engaged in a careful assessment of the programs contained in this appropriation.

The report accompanying H.R. 13125 notes that "* * * many items and projects [could] well provide a good return on investment. However, only those of highest priority have been recommended for funding in the bill." It is never an easy task to eliminate potentially valuable programs, yet budgetary discipline demands such action. Our goal is, of course, to achieve the maximum benefit possible from each appropriated dollar. I believe the bill goes a long way toward achieving this goal.

I take this opportunity to comment briefly on several important provisions of this bill. Public Law 95-113, the 1977 farm bill, authorized an increase of $10.5 billion in the borrowing authority of the Commodity Credit Corporation. This authority is to be used to finance many of the programs contained in the 1977 law, and is fully supported by the administration. H.R. 13125 includes an appropriation for that purpose.

In addition, the bill provides funds for continued operation of valuable agricultural programs such as the Agricultural Research Service. Among its more important research responsibilities are soil and water conservation, food processing and storage, and plant and animal production. The Research Service performs these functions in a professional manner, and the results of its work have been of substantial benefit to farmers and consumers alike.

Another key program is the Cooperative Extension Service. Its purpose is to disseminate information gathered by researchers to local groups who can put it to practical use. The Service works closely and productively with 4-H youth groups and State agricultural colleges.

Rural development programs are covered in H.R. 13125 as well as agricultural programs. Two major agencies funded under this part of the bill are the Farmers Home Administration (FmHA) and the Rural Electrification Administration.

The Farmers Home Administration is a primary source of credit for rural America. Among the important programs administered by FmHA is the Rural Housing Insurance Fund, which provides Federal guarantees for insured home ownership loans. Other parts of this program provide loans and loan guarantees for home repairs and rental housing. The Agricultural Credit Insurance Fund, also run by FmHA, is designed to promote farm ownership and operation, soil and water conservation, and it serves a source of emergency credit.

An FmHA activity of great benefit to those in rural areas is its loan and grant programs for water and sewage facilities. Funds are provided to public, quasi-public, or nonprofit corporations to finance construction and operation of such facilities.

The Rural Electrification Administration, as its name suggests, promotes the installation of electric and telephone equipment in rural areas by making direct loans to consumers.

Complementing the impetus for rural development are conservation programs. Two main bodies receive appropriations for this purpose under the bill. The Soil Conservation Service has structured a nationwide series of conservation projects aimed at preserving our valuable land resources. The Agricultural Stabilization and Conservation Service encourages long term conservation projects and more efficient land use.

Mr. President, although fewer Americans each year turn to farming as a way of life and an occupation, the importance of agriculture in our country has never diminished. Every American, obviously, is a food consumer. What happens on the farm—drought or flood, economic prosperity or hardship, improved technology or a threatening crop disease—impacts directly on each consumer's pocketbook, lifestyle, and health. What happens on the farm affects not just the farmer, but each one of us. It affects the national and the international economy.

Senator EAGLETON, chairman of the Agriculture Subcommittee of the Appropriations Committee, has demonstrated his familiarity with the concerns and the interests of the farm community. With one eye on the need for fiscal restraint, he has provided leadership to the subcommittee which has resulted in an excellent bill. He has been assisted in this by the very able Senator from Oklahoma, Mr. BELLMON, the

ranking minority member of the subcommittee. Senators EAGLETON and BELLMON, together with the other members of the subcommittee, have carefully scrutinized each of the many budget requests for the programs contained in this bill. Their recommendations are sound.

The bill represents the continuing Federal commitment to American agriculture. That commitment, which has as many facets as there are programs funded in this bill, is called for on grounds of commonsense and equity. We cannot afford to turn our backs on the American farmer, for the products of his labor are essential to us all. Nor can we, in fairness, desert a historic tradition of providing assistance to our rural and farm communities. Senator EAGLETON and Senator BELLMON have reaffirmed their understanding of American agriculture today and of rural America. I wish to thank them for their work.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, 1979

Mr. EAGLETON. Mr. President, what is the next order of business?

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of H.R. 12928, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 12928) making appropriations for public works for water and power development and energy research for fiscal year ending September 30, 1979, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Mr. Jerry Bonham of my staff be accorded the privilege of the floor during debate and votes on this pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Time on this bill is limited. Who yields time?

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that a member of my staff, Mr. Takeshi Yoshihara, be granted the privilege of the floor during debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. I ask the same privilege for Richard Arnold and Len Parkinson of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, we are awaiting the distinguished Senator from Louisiana (Mr. JOHNSTON).

Mr. HATCH. Mr. President, will the Senator yield?

Mr. EAGLETON. I yield time to the Senator from Utah.

Mr. HATCH. I ask unanimous consent that Norma Holmgren and Douglas Fellman, of my staff, be accorded the privilege of the floor for the remainder of the day.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Ed Twilley, of my staff and Sally Rodgers, of the Judiciary Committee staff, be granted the privilege of the floor today and tomorrow on bills and votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. I ask unanimous consent that Chip Waggoner, of Senator STEVENS' staff, and Mr. Ed King, of Senator BARTLETT's staff, may be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Mr. President, I suggest the absence of a quorum, with the time charged to neither side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. JOHNSTON. Mr. President, the pending business, H.R. 12928, is the annual appropriation bill for fiscal year 1979 for programs and activities of the Department of Energy, the U.S. Army Corps of Engineers, the Bureau of Reclamation, the Tennessee Valley Authority, the Nuclear Regulatory Commission, and other agencies. The bill as recommended by the committee provides a total of $10,120,144,900 in new budget obligational authority. The budget request submitted for our consideration totals $11,039,449,000. Thus, the bill as reported by the Committee on Appropriations is $919,304,100 less than the amended budget estimates. It is $221,489,000 less than the House-passed bill and over $400 million less than the appropriations for fiscal year 1978.

I hope that point is well understood by all Senators that this bill is substantially less than the President's budget, the House-passed bill, and less than the appropriations for last year.

Mr. President, the Subcommittee on Public Works has worked very hard to present to the Senate a good, well-balanced bill for the upcoming fiscal year. The subcommittee held 37 sessions of hearings on 30 different days on the bill. Most of the hearings, of course, were with the executive agency witnesses testifying on behalf of their proposed programs and budget estimates. Almost 2 weeks of hearings were held for public witnesses and over 1,000 citizens of all walks of life from throughout the United States came to Washington for those hearings. All, of course, did not testify. But there were many spokesmen from several delegations speaking on behalf of those many people who came to the hearings. Governors, Members of the House and Senate, State and local officials testified also. I hasten to point out that work, time and effort have been devoted to this bill for over 6 months beginning shortly after the President submitted his budget in late January up until now. I mention this because of an article in the Washington Post last weekend which has been interpreted by some, who apparently are not familiar with the work on this bill, that the subcommittee met that single time in formulating the bill.

Mr. President, I thank all the members of the subcommittee for their help and cooperation. Many members helped, including presiding at the very long hearing sessions. And, Mr. President, I pay special tribute to the distinguished ranking minority member of the subcommittee, the distinguished senior Senator from Oregon (Mr. HATFIELD). We have worked together in a totally nonpartisan manner, and one could not have a better man to work with than the Senator from Oregon.

Mr. President, energy and water are the fundamental, inseparable subjects of this appropriation bil. Simply stated, these resources are the Nation's lifeblood. Only with secure supplies and careful management of these, our most precious resources, can our Nation be assured of a secure, stable, and prosperous future. And, the wise use, development and management of these resources for current needs and thoughtful conservation for future needs are essential.

The activities and projects funded in this bill are an integral part of the foundation and infrastructure required to provide for the needs and wants of the people of our Nation today and in the future. While relatively small in the context of the total Federal budget, the expenditures authorized in this bill are capital investments that will return significant economic and other benefits to the Nation. The significance of past investments in these programs is great, and the tangible returns to the Nation as a whole and to the communities throughout the country have been analyzed and found to be far greater than the costs of undertaking them.

TITLE I—DEPARTMENT OF ENERGY

Title I of the bill provides appropriations to the Department of Energy. This bill contains the first direct, annual appropriation to the Department for its programs and activities which were previously scattered among the Energy Research and Development Administration, the Federal Power Commission, the power marketing activities of the Department of the Interior and other agencies. These agencies and other functions were consolidated in this new Department which is responsible for a comprehensive, coordinated approach to energy policy, regulation, research, development and demonstration as well as for formulation and implementation of a national energy program.

The committee recommendation provides a total of $6,044,394,000 in new budget—obligational—authority for the Department's programs and activities funded in this bill. This amount is $464,633,000 less than the amended budget estimates and $138,672,000 less than House allowance. Other appropriations to the Department are included in the Interior and Related Agencies Appropriation bill for Fossil Energy R. & D., production, demonstration and distribution; conservation programs; the Economic Regulatory Administration; Energy Information Administration; and Strategic Petroleum Reserve.

Funds recommended in this bill provides for programs and activities relating to Energy Research and Technology Development; Uranium Supply and Enrichment; General Science and Research; Atomic Energy Defense Activities; Policy, Management and Support; Power Marketing Activities; the Federal

Energy Regulatory Commission; and Special Foreign Currency programs. No additional funding is required in fiscal year 1979 for the Geothermal Resources Development Fund since adequate resources for 1979 activities are available from prior year appropriations.

For Energy Research and Technology Development, the committee is recommending $2,539,355,000. The budget estimates for these programs total $2,320,645,000. This recommendation reflects the basic resolve of the committee to provide a prudent level of funding for all energy technologies which can reasonably be expected to enhance our domestic energy supplies in the short and long term. In the short term, we have only two supply alternatives to higher oil imports: Coal and nuclear power. Mr. Chairman, it is not well known, but currently we are producing about 30 percent of our electricity with precious oil or natural gas. This practice is wasteful and could be significantly reduced. One way would be to increase the use of nuclear power. Now we all know that some significant issues have emerged in recent years about nuclear power; chiefly environmental and safety issues. The program recommended in the bill not only continues and expands research and development on nuclear technology but also commits the Department to a substantial environmental and safety program.

The bill also includes $413,100,000 for solar energy; $142,200,000 for geothermal energy; $351,900,000 for fusion energy; $290,300,000 for the light water reactors program; and $547,867,000 for the breeder reactor program, including $172,300,000 for the breeder reactor demonstration project approved by Congress in authorizing legislation.

For uranium supply and enrichment activities, the committee recommends net new budget authority of $110 million consisting of $1,419 million in obligational authority less $1,209 million in uranium enrichment revenues.

For general science and research, the bill provides $430,300,000, of which $294,700,000 is for the high energy physics program.

The recommendation for the Atomic Energy Defense activities total $2,639,183,000, of which $1,429,294,000 is for weapons activities; $714,400,000 is for special nuclear materials production; and $290,600,000 is for naval reactors development.

For policy management and support activities of the Department, $333,553,000 is recommended.

$51,300,000 is included for the Federal Energy Regulatory Commission, and $145,473,000 is recommended for the power marketing agencies.

TITLE II—ARMY CORPS OF ENGINEERS

For the civil works program of the Army Corps of Engineers for which appropriations are provided in title II of the bill, the committee is recommending a total of $2,645,620,000. This is $325,545,000 less than the budget estimates and $34,139,000 less than the amount approved by the House.

The committee recommends $137,138,000 for general investigations; $1,354,147,000 for construction, general; $223,035,000 for flood control, Mississippi River and tributaries, and $795,500,000 for the operation and maintenance account.

TITLE III—BUREAU OF RECLAMATION

Mr. President, for the Bureau of Reclamation, the total amount recommended in title III of the bill is $566,915,000. This amount is $168,855,000 less than the amended budget request and $58,351,900 less than the House allowance. An appropriation of $30,870,000 is recommended for general investigations; $208,572,000 for construction and rehabilitation; $87,399,000 for the Upper Colorado River storage project; $74,770,000 for the Colorado River Basin project; and $86,373,000 is recommended for operation and maintenance.

TITLE IV—INDEPENDENT OFFICES

A total of $863,215,900 is provided in title IV of the bill for the related independent offices, an amount which is $39,728,900 over the budget estimates. For the Appalachian regional development programs, $368,700,000 is recommended; $328,287,000 is included for the Nuclear Regulatory Commission; and $151,531,000 is provided for the Tennessee Valley Authority programs funded by direct appropriations.

Mr. President, I have given a brief summary by title and major accounts of the recommended appropriations. In the interest of time, I will not undertake a detailed explanation or elaborate on the numerous programs, projects and activities in the bill. I do want to point out that almost 65 percent of the funds in the bill is for the Department of Energy and the Nuclear Regulatory Commission. If the funds for hydroelectric power projects and activities of the corps and the Bureau and certain TVA programs are also included, better than 75 percent of the funding in the bill is for energy and related matters, including atomic energy defense activities. The remaining 25 percent is for water resource development and related activities—a relatively small but highly important part of this bill.

New project starts under the Army Corps of Engineers are recommended for both planning and construction categories. The House of Representatives approved 40 Corps of Engineers new construction starts including 17 requested by the President. The committee recommendation deletes seven of the new starts approved by the House and two new starts were added by the committee. Under the planning category, the committee deleted 12 projects including 7 new starts approved by the House. The committee added funds for six projects in planning of which two are new starts. Also, a number of decreases and increases were made in the surveys and studies program—amounts on 17 House approved studies were decreased; 2 new ones were deleted; 17 continuing studies were deleted; and amounts on 4 new ones were decreased. The committee added two new surveys; two continuing studies; two new phase 1 studies; and increased several continuing studies by small amounts. No significant changes were made in the Bureau of Reclamation new projects starts included by the House.

The President submitted a budget amendment for an additional amount of $642.8 million in June of this year for new project starts for the corps and the Bureau. The budget amendment provided for full funding of the new construction starts and loans of the Bureau of Reclamation. The House rejected the out-year funding requested by the President and continued with annual incremental funding. The committee agreed to continue annual incremental funding also, and I call specific attention to this full-funding proposal and the congressional disagreement with it. This is the principal reason that the recommended bill is almost $920 million—close to a billion dollars under the President's estimate.

Even putting that difference aside, however, the overall bill as recommended would still be under the budget estimates submitted for the bill. In some cases reductions were made to conform to action on the authorizing legislation, but most of the reductions were made by the committee in a serious effort to restrain the growth of Federal expenditures.

Mr. President, as I stated at the beginning of my remarks, this is a good, well-balanced bill and we urge that it be approved by the Senate.

Mr. President, I simply emphasize that of the $10 plus billion in this bill most of that sum is for the energy research and development and related matters and military applications of the bill. Indeed, 65 percent of the bill is in that category, including the Nuclear Regulatory Commission. And, if the hydroelectric projects of the corps, Bureau, and TVA are included, it is about 75 percent energy matters.

I mention that because there is some misunderstanding that the entire $10 billion is for public works for water development. Precisely the opposite is true. Sixty-five percent is for other purposes. The public works part of this bill constitute a little more than one-half of 1 percent of the total Federal budget. They are a very important essential part of the Federal budget, constituting revenue-producing and economic activity-producing activities. But they constitute only a little more than one-half of 1 percent of the Federal budget. I will repeat the major appropriations for the corps and the Bureau.

For the civil works program of the Army Corps of Engineers for which appropriations are provided in title II of the bill, the committee is recommending a total of $2,645,620,000. This is $325,545,000 less than the budget estimates and $34,139,000 less than the amount approved by the House.

The committee recommends $137,138,000 for general investigations; $1,354,147,000 for construction, general; $223,035,000 for flood control, Mississippi River and tributaries, and $795,500,000 for the operation and maintenance account. And, the committee recommendation for the Bureau of Reclamation totals $567 million. Many members have asked about the breakdown between the energy part and water resources development portion of the bill and the report of the committee shows these numbers in the tabulation and comparative statement.

Mr. President, I ask unanimous con-

sent that the committee amendments be agreed to en bloc and that the bill be considered as original text for the purpose of further amendment, provided that no point of order shall be considered as having been waived by reason of this unanimous-consent agreement.

The PRESIDING OFFICER (Mr. NUNN). Is there objection? The Chair hears none, and it is so ordered.

The committee amendments agreed to en bloc are as follows:

On page 1, line 5, strike "public works for water and power development and energy research" and insert "energy and water development";

On page 2, line 13, strike "$4,865,437,000" and insert "$4,839,850,000";

On page 3, line 12, strike "$1,120,856,000" and insert "$1,005,771,000";

On page 3, line 24, strike "$143,473,000" and insert "$145,473,000";

On page 4, line 10, strike "$103,738,000" and insert "$105,738,000";

On page 5, beginning with line 19, after "SEC. 101." strike through and including line 25, and insert in lieu thereof the following:

None of the appropriations in this title shall be available for obligation until enactment into law of S. 2692, S. 2693, or similar authorizing legislation.

On page 6, line 18, strike "$140,014,000" and insert "$137,138,000";

On page 6, line 23, after "Waterway" insert "or would result in adverse diminution of generation of hydroelectric facilities on the Niagara or Saint Lawrence Rivers";

On page 7, line 12, strike "$1,392,515,000" and insert "$1,354,147,000";

On page 7, line 14, after "That" strike through and including line 18, and insert in lieu thereof the following:

Funds appropriated for the Willow Creek Lake, Oregon project shall be used to construct that project in accordance with the Special Report of the Chief of Engineers dated May 15, 1974.

On page 8, line 2, strike "$232,930,000" and insert "$223,035,000";

On page 9, line 4, strike "$29,000,000" and insert "$46,000,000";

On page 10, line 20, strike "obligations" and insert "accrued expenditures of the capital investment program";

On page 10, line 22, strike "$1,186,861,000" and insert "$102,500,000";

On page 11, line 5, strike "30,600" and insert "30,300";

On page 12, line 2, strike "$29,870,000" and insert "$30,870,000";

On page 12, line 12, strike "$244,391,000" and insert "$208,572,000";

On page 14, line 13, strike "$27,315,000" and insert "$17,315,000";

On page 14, line 19, strike "$87,873,000" and insert "$86,373,000";

On page 15, line 11, strike "$38,745,000" and insert "$36,366,000";

On page 16, line 20, strike "nineteen" and insert "thirty";

On page 19, beginning with line 9, strike through and including line 16;

On page 21, line 6, strike "7,900" and insert "7,800";

On page 21, line 24, strike "$374,000,000" and insert "$368,700,000";

On page 22, line 1, strike "$246,000,000" and insert "$231,000,000";

On page 22, line 17, strike "$545,000" and insert "$245,000";

On page 23, line 16, strike "$321,487,000" and insert "$328,287,000";

On page 24, line 3, after "expended" insert a colon and the following:

Provided further, That none of the appropriation contained herein shall be available for obligation until enactment into law of S. 2584 or similar authorizing legislation.

On page 24, line 17, strike "$500,000" and insert "$200,000";

On page 24, line 25, strike "$154,531,000" and insert "$151,531,000";

On page 25, beginning with line 3, insert the following:

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

For expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), and hire of passenger motor vehicles (42 U.S.C. 1962a–4(6)), $11,773,900, to remain available until expended, including $2,668,000, for expenses in administering the Act (42 U.S.C. 1962(b)), $2,172,900 for preparation of assessments and plans (24 U.S.C. 1962d(c)), $1,047,000 for preparation of plans (33 U.S.C. 1289), $2,886,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), and $3,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c(a)).

On page 25, beginning with line 22, strike through and including page 26, line 3;

On page 28, line 4, strike "Public Works for Water and Power Development and Energy Research" and insert "Energy and Water Development";

Mr. MARK O. HATFIELD. Mr. President, the subcommittee chairman has already described the bill and our efforts on it in some detail. I would like to add just a few remarks of my own to emphasize some noteworthy aspects of the bill we are about to take up on energy and water development and to mention some special concerns I have about it.

Title I of the bill provides full funding for most of the Department of Energy, all but the fossil and conservation programs. In this title, we were once again faced with the situation that authorizing legislation has not yet passed the Senate. Accordingly, we have taken special care to see that none of our recommend funding levels exceed the levels allowed in the authorizing legislation reported by the authorizing committees.

Late in our deliberative process, the President sent up a budget amendment calling for reallocation of funds already contained in the original budget request. The major beneficiary of this $100 million budget realinement was the solar program. This explains the fact that the committee's generous recommendations for the solar program appear only slightly higher than the budget request. I have been consistently a strong supporter of solar energy and have pushed for additional funding for it whenever I felt the additional funds could be utilized productively. I believe the level recommended by the committee is essentially at that point of maximum productive utilization.

When it comes to the nuclear programs, I must express my belief that we have gone beyond the point of maximum productive utilization. Particularly in relation to the breeder program, I feel we have erred not only in providing for the possibility of continued funding of the Clinch River breeder reactor project, but also in providing more than is required for that project if it is not terminated and more than is required for other breeder development efforts if CRBR is terminated. In addition to the $666 million already in the budget request for other fission research and development work aside from enrichment activities and the $367 million in the budget request for the breeder program and approximately $100 million in carryover funds within the breeder program, we are proposing to add another $180.5 million to the budget request for the breeder reactor program.

I must also note my concern about the recommended continued funding of production of enhanced radiation weapons. I will not address myself to that issue on this bill. But I do wish to register my opposition to the proposed funding.

Despite the specific instances in title I where I feel the funding levels are too generous, I must point out that title I is, nevertheless, $464.5 million under the budget request and even $223.8 million under the fiscal year 1978 appropriation. Some of us may disagree on the levels provided for specific programs. But there can be no argument in regard to the committee's general restraint in this title.

Nor can anyone justly say the committee has been profligate in titles II and III, the Corps of Engineers' and Bureau of Reclamation's Water Resources Development programs. The recommended level for these two titles is over $500 million less than the budget request. Some of this difference can be explained by the fact that the amended budget request called for full funding of certain new construction starts. But to keep this mitigating factor in perspective, our recommended level for water resources development is still $100 million below the House amount, which did not include any full funding of such projects.

After careful consideration, we have added some new construction starts to the President's request. We believe these new starts are essential to maintaining a balanced, on-going water development program. Last year, of course, we had no new starts and provided for very few in the 2 years prior to fiscal year 1978. The President's decision to reverse this trend by making his own new start proposals were welcome. But it did not go far enough in providing for initiation of other high priority projects that have been put off for several years.

In regard to last year's so-called "hit list" projects, no construction funding is recommended for seven of the nine corps and Bureau construction projects deleted from last year's bill as part of the compromise with the President to achieve a bill that would not be vetoed. Thus the committee has shown great restraint here, as well.

Title IV of the bill provides funding for the Nuclear Regulatory Commission, the Tennessee Valley Authority, the Water Resources Council, the Appalachian Regional Commission, and several other commissions. The total increase above the budget for this title is approximately $40 million.

Taking the proposed committee amendment into account, this year's bill is $932 million under the budget request, $233 million under the House allowance, and $332 million under the fiscal year 1978 appropriation. It has taken great discipline to maintain such fiscal

restraint. That restraint is required if we are to pass a bill that stands a fighting chance of not being vetoed. But trying to carry that restraint any further by requiring a percentage across-the-board cut as the House has done can cause serious problems. We have already taken almost every cut that would not jeopardize vital program efforts. We have managed to come up with a bill that is 2 percent less than the House bill even after the House's 2-percent cut. Further cuts now will only cost more in the long run by forcing construction projects to be stretched out and exposed to inflaperiod.

I hope our demonstrated restraint on this bill will persuade Members that a tion-caused price increases over a longer further percentage cut is not appropriate on this bill and, indeed, would be a poor reward for our determination to hold the line prior to floor consideration.

I also urge that we observe the same restraints here on the floor as to adding additional funding through amendments to this bill. I think we have developed a conservative, yet fair and productive bill. Therefore, I urge its adoption.

Mr. President, I ask unanimous consent that Michael Shorr of Senator JAVITS staff be granted privilege of the floor during consideration of all matters pertaining to this bill; and I also ask unanimous consent that Mary Gedde and Kathryn Bruner of Senator HAYAKAWA's staff be granted privilege of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator request that the time be charged to both sides?

Mr. MARK O. HATFIELD. Yes; Mr. President, I suggest that the time be deducted from each side equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MARK O. HATFIELD. Mr. President, I ask unanimous consent that the following staff members have the privilege of the floor during the debate on this matter: Will Smith and Chuck Trabandt, of the Energy Committee; Ed Neff and Bill Kingston, of Senator DOMENICI's staff; and Charles Wood, of Senator DANFORTH's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1640

Mr. JOHNSTON. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1640.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 13, strike: "$1,354,147,000" and insert in lieu thereof "$1,342,147,000"

Mr. JOHNSTON. Mr. President, the committee reported this bill on Monday, August 7, with 12 million included in the bill for Meramec Park Lake in Missouri.

The committee included these funds subject to the local referendum on the project, which was held on Tuesday, August 8. The local people in Missouri voted against proceeding with the project, and this amendment deletes the appropriation for the Meramec Park Lake project. It deletes the $12 million in the bill.

The PRESIDING OFFICER. Does the Senator yield back all his time?

Mr. JOHNSTON. All time is yielded back.

The PRESIDING OFFICER. Does the minority yield back all time?

Mr. JOHNSTON. Mr. President, I am authorized by the minority staff to yield the time on behalf of the Senator from Oregon.

The PRESIDING OFFICER. All time is yielded back by the minority staff on behalf of the minority, and the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that Mr. Charles Trabandt of the Energy Committee staff be accorded privileges of the floor at all stages of the proceedings on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. And Everett Wallace likewise be accorded privileges of the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. ROBERT C. BYRD. Equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1641

Mr. CHURCH. Mr. President, I offer an unprinted amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. CHURCH) proposes an unprinted amendment numbered 1641:

On page 3, line 12, strike $1,005,771,000" and insert in lieu thereof "$1,035,771,000".

Mr. CHURCH. Mr. President, the Committee on Energy and Natural Resources included $30 million in construction funds for project 79-1-p, a repository for 5,000 metric tons of spent light water reactor fuel with a site to be determined. This amendment increases the total budget authority appropriated for plant and capital equipment by $30 million to provide funding for project 79-1-p. The budget outlays in fiscal year 1979 are expected to be only $6 million, but the budget authority of the full $30 million is needed to insure that contracts for architectural and engineering design work, long-lead time procurement of components, and site acquisiton can be signed.

I am concerned that the administration's budget request lacks a sense of urgency in achieving a repository at an away-from-reactor site for spent fuel which is accumulating in storage pools at operating nuclear reactors. Analyses by the Department of Energy and outside organizations indicate that a spent fuel repository will be necessary by early 1983, in order to provide for the orderly operation of existing reactors. The reactor storage pools at many reactors will be filled to capacity or seriously limited in their ability to accept fuel from the reactor core in the event of a required removal of fuel from the core by 1983.

The Committee on Energy and Natural Resources does not believe that private industry will build these spent fuel repositories with private investment funds given the history of reversal of position on nuclear policy by the Federal Government in several previous actions in the nuclear, as well as the nonnuclear, areas. Thus, the committee authorized $30 million for the initiation of a 5,000 metric ton spent fuel repository to be initiated in fiscal year 1979. I believe that building this project is the most prudent route to implement the spent fuel policy announced by the administration in October, 1977. By offering this amendment, it is my intent and expectation that the spent fuel repository authorized in project 79-1-p should be completed to the point in December, 1982, that the first increment of capacity would be available to start receiving shipments of spent fuel assemblies from operating reactors.

I believe that the distinguished man-

ager of the bill is familiar with the problem we face and sympathetic with the objective we seek in the amendment I have offered. I hope that he will find the amendment acceptable.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. McCLURE. I wonder if he would add my name as a cosponsor of the amendment.

Mr. CHURCH. Yes, I will be happy to do that. I ask unanimous consent that the name of my colleague (Mr. McCLURE) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, the Appropriations Subcommittee on Public Works is strongly in support of this program. As a member of the Committee on Energy and Natural Resources, I have a special interest in the program. The failure to include this $30 million line item has nothing at all to do with our lack of enthusiasm for the program, or with our desire and indeed mandate that this program be begun. Indeed, on page 34 of our report, we included the following language:

> Department witnesses testified that adequate funds are available in the nuclear fuel cycle program to begin a facility design in fiscal year 1979. The Committee understands that the design of a spent fuel storage facility must begin in fiscal year 1979 to avoid delaying an operating date beyond 1983, and possibly beyond 1984. Such a delay may prove intolerable for utilities operating reactors without full core reserves by that time unless spent fuel storage facilities are provided; it threatens a further loss of operating flexibility and courts the prospect of nuclear plant shutdowns with serious economic results.
>
> The Committee expects the Administration to assure utilities that storage is to be accomplished on an interim basis with adequate retrievability.

Mr. President, as pointed out in our report, the committee expects that this design be begun this year. It is our understanding that the Department has a $6 million obligational ability with respect to this design. We also understand that there are adequate funds available in the nuclear fuel cycle program to begin this facility in 1979.

It was because of this money in the nuclear fuel cycle program that we thought that this language in the report would be adequate to insure that the design would get underway. I can understand the Senator's desire, however, to absolutely nail this down by putting it as a line item in the budget, because there has been some hesitation on the part of the Department to actually begin this design.

For that reason, Mr. President, I would be inclined to accept a line item on this matter, not of $30 million, because $30 million would exceed their obligational ability, but in the amount of $5 million, because I believe the language in the report would ensure that this design would be begun in 1979, and would constitute more of a mandate than the Senator's amendment.

It is our absolute intent there be no delay in this program and that if the Department finds that they can use more than $6 million, that is, this $5 million plus another $1 million from the nuclear fuel cycle program, that they will come in to us with a request for reprogramming.

So, Mr. President, I would suggest that the $5 million line item, if the Senator would be willing to amend his amendment, would insure the beginning of this program in 1979 with no delay, and would constitute the full endorsement of this body to the beginning of that program.

Mr. McCLURE. Will my colleague yield to me?

Mr. CHURCH. I am happy to yield.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I rise in support of the amendment to add $30 million to H.R. 12928 to provide initial funding for project 79–1–p, A 5,000 metric ton capacity, away from reactor storage facility for nuclear spent fuel from commercial reactors. This so-called AFR facility is of critical importance to the electrical energy supply to the United States in the next decade. The 68 nuclear reactors now in operation and the 94 nuclear reactors now being built will be dependent upon the storage capacity of this and similar facilities in the future. It is important to recognize that 13 percent of total United States electrical generation capacity was provided by nuclear power in 1977, and that percentage will continue to grow in future years.

Because of the importance of nuclear power to our electrical energy supply, we in fact are on the verge of a major energy supply crisis in the next decade in the absence of strong positive action now to avert that crisis. But, at the same time, we have an excellent opportunity now to avert that crisis by providing the proposed funding to initiate the work on this facility now.

Let me briefly review the background associated with this facility and the amendment to fund $30 million in fiscal year 1979. A full fuel loading for a commercial nuclear reactor includes from 190 to 750 fuel assemblies, depending on the design of the reactor, with a total weight of from 86 metric tons to 140 metric tons. Commercial nuclear reactors are refueled annually with replacement of about one-quarter to one-third of its fuel loading, or the equivalent of a full load replacement every 3 to 4 years. The used fuel is called "spent fuel" and the spent fuel assemblies are stored at the reactor site to allow cooling for later transshipment to a longer-term, off-site storage facility. Most reactor plants have on-site storage facilities for spent fuel with a capacity of about 1½ full fuel loads, or from 4 to 5 years of spent fuel discharge.

Planning by nuclear utilities for the ultimate disposition of this spent fuel has been promised for many years, because of past Federal Government policies, on reprocessing of this spent fuel to obtain the one-third of the initial fuel load which has not been burned up in the reactor, and also to process the remaining waste products for final disposition. As we all know, the final disposal of nuclear wastes has been and continues to be a major challenge in our nuclear power program, particularly because the Federal program for nuclear waste disposal continues to be diffused in research, studies, and reviews. All of us are anxious to get on with the solution to this challenge. It is noteworthy that the administration again has concluded that technical solutions do exist, and now, as in the past, our real challenge is to stop all the debates and studies and to get on with demonstrations and actual disposal operations. I am hopeful that a concerted and well-focused Federal effort can and will eventually move us toward a solution which is technically available.

Importantly, we are all aware that the President on April 7 of last year announced a new nuclear power policy for the Federal Government which was primarily based on the new administration's views on nuclear nonproliferation. One important and relevant part of the policy announcement was the indefinite deferral of the commercial reprocessing which had formed the basis for nuclear utility planning for spent fuel. Additionally, the administration mandated the termination of all support for commercial reprocessing activity in nuclear licensing and in the new Department of Energy programs. In fact, last fall, the Nuclear Regulatory Commission canceled its ongoing generic environmental impact statement affecting the licensing of reprocessing facilities at the request of the White House.

As a result of this reversal in Federal Government policy away from reprocessing, our nuclear utilities were faced with a new requirement to provide for the storage and disposition of spent fuel which previously would have been transferred to commercial reprocessing facilities. Consequently, the utilities and the Nuclear Regulatory Commission have initiated efforts to maximize the storage capacity available in the existing on-site spent fuel storage facilities. Those efforts are being hampered by the increasingly strong opposition of public interest and antinuclear groups and in any event, those efforts can only be a stopgap measure because of the inherent technical limitations on those storage facilities.

The administration, in recognition of this increasingly critical problem, announced on October 18, 1977, a new commercial spent fuel policy that the Federal Government would accept commercial spent fuel from utilities for a fee based on all Federal costs. Since that time, the Department of Energy and the administration have been struggling to organize the commercial spent fuel program and the AFR storage capacity which will be required in the future to meet this Federal commitment.

The Energy and Natural Resources Committee of the Senate and several committees in the House of Representatives have reviewed the administration's plans for providing the required AFR capacity. The conclusion of all of the committees was that the administration had to move as fast as possible to get this storage capacity on line to meet the critical deadlines which face us in the future. Specifically, we have determined

that up to 12 nuclear powerplants could be shut down by 1983 in the absence of Federal AFR storage capacity. In response to an industrywide survey of nuclear utilities, the Department of Energy determined that there may be as much as 900 metric tons of spent fuel from 13 reactors by the end of 1982 and an additional 800 metric tons from a total of 26 reactors in 1983 for transfer to a Federal AFR. The Energy Committee accordingly seized the initiative and authorized project 79–I–p at an initial funding level of $30 million for fiscal year 1979 because it is apparent that activity must begin in calendar year 1979 to support the required operational date in 1982 or 1983. This amendment will provide that authorized funding and will insure the facility is available on schedule, in terms of funding considerations. We recognize that even with this commitment of funds, it is going to be a horserace to avert the crisis which otherwise will develop.

Let me suggest to my friend from Louisiana and my friend from Oregon that the reasons the $5 million is probably inadequate are two: First of all, that may be all that they can actually obligate and spend in outlays during 1979, but there is no assurance at all that they are going to start on the program unless the program is authorized. This is a $30 million program, and I realize this is an appropriations measure and not an authorization measure, and I do not see, if we put in $5 million and suggest that they have reprograming authority, unless we have directed them, that they are going to reprogram for the amounts of money that may be necessary during 1979. I think we need to underscore the absolute seriousness of this problem.

If, as a matter of fact, they do not go forward as rapidly as they can, they will not have the storage available in 1983 and there will be operating shutdowns of operating nuclear powerplants. In some areas of this country that can be absolutely devastating to the electric power loads that are now on line in those areas.

I understand we do not like to inflate budgets. No one around here likes a tight and lean budget any better than this Senator from Idaho, but I am very much concerned that the administration has understated their needs. They have done so consistently. That is why in the Energy Committee we overrode their suggestions and installed this in the Energy Authorization Act.

I think it would be penny wise and pound foolish to cut us back to the bare bone. Assuming the worst-case scenario from the standpoint of the Appropriations Committee, they could come in for a supplemental or to reprogram, because they have not shown that dedication and determination to get this done.

I know the administration officials are very reluctant to admit it, but there are those, as the Senator from Louisiana knows, who have told us in our conversations with them that they need this program.

Mr. JOHNSTON. Mr. President, if I may reply to the distinguished Senator from Idaho, with this language and with the $5 million line item we will insure that we will be back in business beginning on the project in a period of 3 months. We have stated very clearly in the report, and again here on the floor, our intent that the Department pursue the program without delay. The Department witnesses have testified that even without this $5 million there are adequate funds in the budget to begin on this project. However, we accept the $5 million as a line item only to insure that the project must be funded to allay any doubts or any hesitation on the part of the Department to begin.

I would suggest to the Senator that so long as I am chairman of this subcommittee we will pursue the Department to insure that they are beginning and continuing with this project as rapidly as possible. We will monitor them very closely to see that that is done and make a request of them to reprogram as necessary and as they are able to use the money.

Mr. McCLURE. Will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I yield, yes.

Mr. McCLURE. I thank the Senator for yielding.

We had the same administration witnesses telling us the same thing before the Energy Committee and before very hard, probing questions they had to admit they could not do it, that they did not even plan to do it unless we pushed on this issue.

We have a new director of the waste disposal program. I think Dr. Deutch is a very forthright and very able administrator as well as a very able scientist. He will tell us that this $30 million is needed. I have had him say that both before the committee and to me privately in my own office. I have no doubt in my mind that if we ask the administration through OMB what they need, they will say, "We do not need more than $5 million." But if we get down to the man who is managing the program, if we are really going to get it done by 1983, $5 million will not do it in 1979.

The only thing I can suggest, if, as a matter of fact, the committee is going to insist upon that level, is that we have to have, as a very minimum, an absolute assurance that any supplemental that is needed will be granted; an absolute assurance that any reprograming that can be demonstrated will be allowed. And that is not going to come from the administration witnesses, I will tell my friend.

Mr. JOHNSTON. I can tell the distinguished Senator from Idaho that speaking at least for the chairman, and I am trying to make that clear here, I reiterate the fact that not only will the committee, insofar as I have anything to do with it, approve the supplemental as needed, or approve reprograming as needed, but we will go a step further and ride herd on the administration to insure that they submit those requests for supplementals or submit those requests for reprograming and submit to us the necessary information to insure that this program is proceeding as rapidly as possible.

Mr. McCLURE. Will the Senator yield further?

Mr. JOHNSTON. I yield.

Mr. McCLURE. I appreciate the Senator yielding to me.

The trouble that I have with that is that it depends upon the initiative of the administration to come forward with the requests. They have shown a notable lack of interest in this program, a tremendous lack of appreciation of the time lag, and the critical nature of getting this underway right now. This is not in the category of the usual arguments over nuclear energy or nonproliferation. It is a question of whether or not those operating reactors are going to have sufficient storage for their spent fuel so that they can refuel in 1983.

There is no slack to be taken up here. There is no argument on the nonproliferation issue here.

This is simply a question of whether operating reactors are going to continue to operate or whether they are going to shut down.

The administration in their official pronouncements will tell us, "Do not worry. We have it under control." As a matter of fact, the experts in the field, and even within the administration, will say, "Hey, there is an awful lot to worry about. We do not have it under control. We will need a lot more than that $5 million if we are to assure the American people that their electrical energy will not be shut off beginning in 1983."

I understand what the Senator from Louisiana is saying but I have grave doubts that the administration will come forward and ask and that the committee will grant. We got that into the act over their protests, as I am sure my colleague from Idaho will remember, and I am sure my colleagues from Louisiana and Oregon remember that struggle in the Energy Commission. The assurance that we will support the administration is no assurance at all. The assurance we need is that we will support the program.

Mr. CHURCH. Mr. President, the fate of the authorization bill which contains $30 million for this project is, to say the least, uncertain. At the moment, we can insure the availability of funds for this project by the addition of money in an amendment to this appropriation bill. I think that the manager of the bill has given us all the assurances that he can that he not only sympathizes with the need for the project but that he will follow up with supplemental appropriations to make certain that the project does not fall behind schedule. Beyond that, he cannot go. Clearly, unless we get the authorization bill enacted into law, we shall have to depend upon such authority as the appropriation measure gives us.

Mr. President, I should like to ask the distinguished manager of the bill if there is any question in his mind that the addition of this $5 million as an amendment would constitute an authorization to proceed in the absence of an authorization bill. If the Senator will remember, there have been times in the past when it has not been possible for the two Houses to agree upon an authorization bill and the whole program has then been carried by the appropriation meas-

ure. I want to be certain that we, through the adoption of this amendment, have sufficient authority in the law to justify and make legal the expenditure of the funds should no authorization measure be enacted this year.

Mr. JOHNSTON. The Senator is correct. This constitutes not only an authorization but a mandate to proceed which may be ignored only by sending up a rescission or a deferral, subject to one caveat, and this applies to all projects in the energy R. & D. section. That is that there is a provision at the end of the bill that all of these appropriations are subject to authorization. We shall have to deal with that overall question later, either by getting an authorization out on the floor and voted or by some other means. There are other, alternative means which we do not want to use, because we like to insist on authorizations before we proceed.

On the general subject of does this authorize and require the beginning of this project, there is no question that that is so.

Mr. CHURCH. I thank the Senator very much.

Mr. JACKSON. Will the Senator yield?

Mr. CHURCH. Yes, indeed. I am prepared to yield the floor at this time.

Mr. JACKSON. Will the Senator from Louisiana yield?

Mr. JOHNSTON. Yes.

Mr. JACKSON. Mr. President, in connection with the construction funding—before I do that, I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I want to direct this to the floor managers and to Senator CHURCH and Senator MCCLURE.

Senator JACKSON and I have an amendment with the same construction item. Rather than hold up Senator CHURCH'S amendment, we ask unanimous consent that it be in order for us to offer an amendment to this same section after the passage of his amendment. It has nothing to do with this subject, but it is in the same construction line item. Unless we offer it now as an amendment to his, it might be out of order and we are asking unanimous consent that it be in order to offer it and thus permit his amendment to proceed at this point.

Mr. CHURCH. Certainly. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from West Virginia such time as he may require.

Has the amendment been modified?

Mr. CHURCH. Mr. President, I modify the amendment by reducing the amount involved from $30 million to $5 million.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

Mr. CHURCH. As modified, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

Mr. CHURCH. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment as modified.

The amendment, as modified, was agreed to as follows:

On page 3, line 12, strike "$1,005,771,000" and insert in lieu thereof "$1,010,771,000".

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was passed.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I yield to the Senator from West Virginia such time as he may require.

Mr. RANDOLPH. I thank the manager of the bill.

Mr. President, I ask unanimous consent that Richard Harris, counsel for the Committee on Environment and Public Works, have the privilege of the floor during debate and voting on this bill.

The PRESIDING OFFICER. Is there objection? Withoout objection, it is so ordered.

Mr. RANDOLPH. Mr. President, for more than a century in our Nation's history, the development and management of our water resources have been recognized as an important and essential Government function.

It will, I am convinced, continue so despite any changes which may come about as a result of the administration's new water policy proposals on which the Environment and Public Works Subcommittee on Water Resources opened a series of hearings only this morning. That will be a part of the effort that we, as the authorizing committee—complementing, of course, the work of the Appropriations Committee—will be considering in this body.

I am just as sure, from my own knowledge and experience, that the civil works function will continue to be worth what it costs as a practical Federal investment in the country's present interests and future prospects.

We are considering the appropriations bill to finance the civil works program, as well as the activities of the Department of Energy, for the coming fiscal year.

The measure is vitally important both to the country and to our State of West Virginia in the provisions it makes for operations of the Corps of Engineers.

While I support the measure as a whole, I confine these remarks to that portion of the legislation I agree with the priorities it establishes in balancing existing needs with future requirements. It recognizes practical realities and budgetary limitations and that it reflects careful planning.

From West Virginia's standpoint it addresses some very pressing needs in a total allocation of approximately $26 million in construction outlays and about $1.3 million in study funds.

One of the top priority items on our State's list is $10 million earmarked for snagging, clearing and channelization on branches of the Big Sandy River in West Virginia and Kentucky.

That project is designed to provide short-term flood control on the Tug Fork until more permanent measures can be taken to prevent the kind of damage resulting from the major storm of April 1977.

The construction list also includes $8 million for that final phase of work on the R. D. Bailey Lake, $6.4 million for the Stonewall Jackson Lake project and $1.2 million for the Burnsville Lake development.

Study money is provided for the Kanawha River Basin investigation, for the Huntington area metropolitan area study, for an assessment of development needs in the Big Sandy Basin for a Guyandotte Basin review, and to further accomplish phase I advanced engineering and design on the Gallipolis locks and dam on the Ohio River.

The bill provides necessary operation and maintenance money for the Kanawha River navigation project and for Summerville, Sutton, Tygart, and Bluestone Lakes.

These items have a significant place in West Virginia's water resources development plans and in its growth prospects.

Those needs have been recognized by the Senate Appropriations Committee in reporting H.R. 12928. I commend the able Senator from Louisiana (Mr. JOHNSTON) for his attention and consideration of these projects. I very much hope the provisions for meeting them can be retained without reduction.

I hope, too, that the bill as a whole can be adopted promptly and with a favorable margin insuring that it will be signed into law without delay or question.

Mr. President, this program envisaged in this appropriations is a measure vitally important both to the country and to our State of West Virginia in the provisions it makes for the operation of the Corps of Engineers.

Mr. JACKSON. Mr. President, in connection with the funds for the laboratory at Argonne, Ill., which is on page 16 of the conference report, the committee deleted the funds for the current fiscal year in the sum of $10,600,000. The House had allowed that sum.

Mr. President, I have been working with Senator STEVENSON of Illinois on this matter. He called to our attention certain facts that we did not have at the time the Energy and Natural Resources Committee deleted the funds. I just talked with Senator STEVENSON and stated I would indicate to the Senate that it would be our position, when the authorization bill came up, that we would ask for the restoration of the funds for the Argonne Laboratory.

Mr. President, I point out that our concern related to what appeared to be a very high cost per square foot for the construction of the building. We have since received additional information which indicates that this aspect of the problem can be resolved. Senator STEVENSON has been advised of what I was going to say here and I have assured him that I shall do everything I can in urging the conference committee, when they meet, for the conferees on the part of the Senate to concur in the action taken by the House.

Mr. President, with that statement, it will not be necessary to offer an amendment. I ask the Senator from Louisiana if we could have that cooperation, based on the premise that the Senate would restore the funds in the authorization bill. I feel that there is no point in making or offering an amendment at this time in light of the fact that we have not had an opportunity, of course, to act on the authorization bill.

Mr. JOHNSTON. Mr. President, the distinguished Senator from Washington has discussed this matter with me and has pointed out that the deletion of the funds for the laboratory was inadvertent, that it was, in fact, due to the authorization committee.

I think the case he makes is a very strong one. This matter will be in conference. I would expect the committee to view this most sympathetically.

Mr. JACKSON. As I understand the Senator from Louisiana's position, the floor manager and chairman of the subcommittee, it is that had the committee approved the authorization, that is, the Energy and Natural Resources Committee, had they approved the authorization, the Appropriations Subcommittee would have approved it.

That is essentially it, is it not?

Mr. JOHNSTON. I would think the Senator is probably correct, that our committee would have approved that. The only major problem here was that the Energy Committee's bill did not provide an authorization.

Mr. JACKSON. I understand that, and that will be taken care of when the energy authorization bill is brought up on the floor of the Senate.

I thank the Senator from Louisiana, not only for myself, but for Senator STEVENSON, as well.

Mr. JOHNSTON. I thank the distinguished Senator from Washington.

UP AMENDMENT NO. 1642

(Purpose: To reduce funding for Dickey/Lincoln project)

Mr LEAHY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. LEAHY) proposes unprinted amendment numbered 1642.

Mr. LEAHY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 13, strike $1,342,147,000, and insert in lieu thereof $1,340,391,000.

The PRESIDING OFFICER. The Chair observes that this amendment amends a figure which has already been amended and would require unanimous consent in order to be considered.

Mr. LEAHY. I ask unanimous consent that be allowed.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I rise to propose an amendment to the public works for water and power development bill (H.R. 12928). I move to delete $1,756,000 in planning funds for the Dickey-Lincoln School lakes hydroelectric project from the bill.

Quite frankly, after doing a nose count around the Senate, I am not optimistic about the chances of this amendment succeeding, but I do feel compelled to bring this matter to the Senate's attention and to express my feelings on Dickey-Lincoln.

I am firmly convinced that, in the case of Dickey-Lincoln, the stakes are too high. I wish to outline the reasons for my opposition to any continued funding for this project.

For some time, Mr. President, we Americans have been faced with a serious problem—we are constantly called upon to choose between the pursuit of our energy needs and the protection of our environment. In most cases, we arrive at conclusions that are less than 100-percent satisfactory from either perspective, conclusions that amount to trade-offs between economic imperatives and ecological realities. The majority of our energy production trade-offs are at least able to be rationalized in terms of the benefits that can be derived. This is not the case with the Dickey-Lincoln project—the environmental costs are staggering and the energy benefits are not substantial enough to warrant its continuation.

The evidence against Dickey-Lincoln's construction is quite substantial on environmental grounds alone. Construction would result in the inundation of over 50 miles of the St. John River, over 88,000 acres of unspoiled forest, 200 miles of other rivers and streams, and 30 natural ponds and lakes. The wildlife of the region, most notably deer, would be dislocated and most likely decimated. The natural plant habitat would be at best partially sacrificed, and at worst destroyed. Over 160 families would be forced from their homes and the local communities would be severely disrupted. I am not able to put a monetary value on the cost of such dislocation, to say nothing of the actual construction cost of the project that will certainly approach, if not exceed, a billion dollars.

Let me turn, Mr. President, to those benefits that would be derived from the construction of the Dickey-Lincoln project. This hydroelectric plant will not be a panacea for New England's energy woes. It will not provide base power, but only peak power—the St. John River will never provide enough power generation to warrant continuation of Dickey-Lincoln. This plant cannot be justified economically, let alone ecologically, because it would run only about 15 percent of the time. The cost benefit ratio, even calculated with an unrealistic interest rate, was determined to be 1.2 to 1. In actual fact, it would be less than 1 to 1. Overall electrical demand has grown in the region at a rate of less than 1 percent in the past year. That does not even approach the Corps of Engineers 4 percent estimate. In Vermont, peak-load demand grew by 0.4 percent last year; the corps estimated a growth rate of 5 percent. I submit that it is questionable as to whether Dickey-Lincoln's peak-power will be necessary by the time the project would be in operation.

In closing, Mr. President, I only wish to state that this project will not adequately address New England's energy needs. It cannot be justified, and we in the Senate should not appropriate any additional funds for its continuation. It is my belief that we have already squandered nearly $9 million and it is time to stop. Additional study will only raise additional problems. We can far better spend the taxpayers' money and move forward to meet the energy demands of this region by allocating funds for alternatives to Dickey-Lincoln. Today, there are over 200 small dams and low head hydroelectric plants throughout New England that could provide supplemental peak-power with little further environmental impact. I believe that unrestricted energy growth and continued destruction of precious natural resources when viable alternatives have not been given a fair trial constitute a dangerous approach to our energy problem.

It is for these reasons, Mr. President, that I bring up this amendment. Should it fail to be accepted by the Senate, I can only say that I hope our colleagues in the House will hold fast in conference, and reject this appropriation for the continuation of the Dickey-Lincoln project.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. MUSKIE addressed the Chair.

Mr. MARK O. HATFIELD. How much time does the Senator wish?

Mr. MUSKIE. Four minutes.

Mr. MARK O. HATFIELD. I am happy to yield 4 minutes to the Senator from Maine.

Mr. MUSKIE. I thank my good friend from Oregon.

Mr. President, I am pleased to support H.R. 12928, the energy and water development appropriations bill for fiscal year 1979. I commend the chairman of the Public Works Subcommittee for his efforts in shaping and reporting this bill, which is consistent with the second budget resolution.

There are several provisions in the bill of particular interest to my State and my region.

The bill provides $1.76 million to fund preconstruction engineering and planning efforts on the Dickey-Lincoln hydroelectric and flood control project on the St. John River in northern Maine, to which the Senator from Vermont referred. The funds were requested by the President in his budget for fiscal year 1979 and will assure continued efforts on the project as we complete the required environmental studies and proceed toward construction.

I do not believe there can be many Senators who have not heard me express my support for the Dickey-Lincoln project. I will not repeat the entire case here today. I am delighted that the Appropriations Committee has again supported this project. I congratulate and thank

the committee for their continued support. The project has been before the Senate many times in the past years and we have continued to support it each time.

The project has been under intensive scrutiny in recent years as the environmental impact statement is prepared. The environmental impact statement will be completed and filed this fall but the preliminary findings reaffirm my conviction that Dickey-Lincoln offers the best opportunity for development of an indigenous energy resource available to Maine and New England. There are, of course, necessary trade-offs required but I am firmly persuaded that economically and environmentally Dickey-Lincoln is the best option available to Maine and an opportunity which we can not afford to pass up.

A final decision to proceed with construction of Dickey-Lincoln has not been made and should not be made until the environmental review required under the National Environmental Policy Act has been completed. Provision of these funds, however, is necessary to assure that continuity of efforts is maintained and that unnecessary delays and related costs are avoided.

Dickey-Lincoln has one of the highest benefit-cost ratios of any major Federal hydro project that I have seen approved by the Senate in my tenure. The benefit-cost ratio, under the formula applied by law to this project, is 2.1 to 1. More than $2 will be returned to the Federal Government for every dollar invested. If one uses the current cost of money to the Federal Government the return to the Government for funds invested remains impressive—1.2 to 1. Following the return of capital the project will continue to produce power at inflation-proof costs and continue to provide revenues to the Government. The annual savings in electricity costs in Maine alone is estimated to be at least $15 million annually. The benefits to other New England States will be similar, depending on the ultimate distribution network.

Environmentally, the project is the most acceptable of the choices facing Maine. It is given, that a portion of the St. John River will be flooded and thousands of acres of forest land inundated. But one must keep in perspective the fact that Maine has approximately 18 million acres of forest land and we are talking about less than one-half of 1 percent of that forest land being flooded. The lakes created will make forests and streams now inaccessible from Maine accessible for recreational and other uses and will discourage the exporting of our raw forest products to Canada, enhancing their availability for processing in Maine.

Mr. President, I think there is little doubt that from any realistic perspective Dickey-Lincoln offers a great opportunity to Maine, New England and the country. I again commend the committee for supporting it and urge my colleagues to do the same.

The bill, as reported by the Appropriations Committee also provides $610,000 under general investigation for continuing studies of the Passamaquoddy tidal power project in eastern Maine. I welcome the committee's funding of this study which is being conducted pursuant to a resolution I introduced in the Senate Public Works Committee in 1975. Passamaquoddy offers an additional source of nonpolluting renewable energy which I have long been persuaded we should develop. I am hopeful that this study will provide the groundwork to harness the termendous energy potential of the tides in eastern Maine.

The bill also appropriates $28,000,000 to providing technical assistance and loans for the development of low-head hydroelectric sites and retrofit of existing sites. This provision, as the report notes, can be of benefit to New England where more than 2,600 dams and reservoirs are without generating capacity.

Mr. President, I ask unanimous consent that certain documents relating to this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DICKEY-LINCOLN SCHOOL LAKES, MAINE: FACT SHEET

PROJECT SETTING

The purpose of the proposed Dickey-Lincoln School Lakes Hydroelectric Project is to convert the natural energy of the upper St. John River in northern Maine for use as a source of electricity to meet future needs of New England consumers.

The project, which would be financed by the Federal Government, is located in a remote part of Aroostook County in the St. John River Valley, adjacent to the Canadian border. The proposed project would involve about 127,000 acres, including approximately 8,000 acres of water and wetland areas. The land area is presently utilized principally for commercial lumbering operations and wildlife habitat.

Electricity would be produced by capturing the annual spring runoff of the river in a large reservoir behind a 335-foot high earth-fill dam located in the village of Dickey. The power plant at Dickey Dam would be capable of generating 1,183 million kilowatt-hours of electricity annually for use during periods of peak energy demand.

Operating as a peaking plant, large surges of water would be released from Dickey Dam during short periods of time. A second dam, 11 miles downstream at Lincoln School, would be constructed to impound the releases from Dickey Dam and regulate discharges to the river before it travels through New Brunswick to the Bay of Fundy. Electrical generation at Lincoln School would supply 262 million kilowatt-hours of energy annually to Maine consumers.

Additional increased generation of 350 million kilowatt-hours per year would be realized at downstream hydroelectric plants in New Brunswick. One-half of this energy would be returned to the United States.

The impoundment of water during the spring snowmelt would have the further benefit of protecting downstream communities from damaging floods which have been especially severe in recent years.

Development of the Dickey-Lincoln School Lakes Project would have an extensive impact on the natural environment, social and economic character of the immediate area. Some 267 miles of streams, including 55 miles of the free-flowing St. John River, would be flooded to create an 86,000-acre reservoir above the Dickey Dam.

The Dickey-Lincoln School Lakes facilities would be the largest public works project ever undertaken in New England. If ultimately built, it would cost $690.3 million to construct at March 1977 prices ($544 million for the dams and related features and $146.3 million for the transmission facilities). Approximately $676.6 million of this cost would be recovered through the sale of energy to consumers.

This Fact Sheet contains background information about the proposed project and its impacts. Because preconstruction planning and design activities are not complete, ongoing and future studies may suggest modifications to specific details. Consequently, this document is subject to revision as updated information warrants. Readers may verify details by addressing inquiries to the Chief, Engineering Division, New England Division, Corps of Engineers, 424 Trapelo Road, Waltham, Massachusetts 02154.

I. Genesis

Dickey-Lincoln School Lakes evolved as a result of a study of the Development of Tidal Power at Passamaquoddy, a system of tidal bays studied since 1919 by both private and public engineers. The most comprehensive report was that completed by the International Joint Commission in April 1961 after 3 years of study at a cost of $3 million. The Commission concluded that the project was not economically feasible under the then existing conditions. At the request of President John F. Kennedy, the Commission report was reviewed to determine if the project was feasible in view of the advanced engineering techniques and prevailing economic conditions. In July 1963, a report was submitted to the President, which concluded that application of a different use-concept of power coupled with advanced engineering techniques would result in a favorable project.

On 16 July 1963, the President directed the Departments of Interior and Army to make additional studies to supplement the July 1963 report. An Army-Interior Advisory Board on Passamaquoddy and upper St. John River was formed. Interior performed studies on power facilities, power transmission, marketing benefits and other economic aspects. The Corps of Engineers developed the physical components of the project.

The Study Committee completed its evaluation in August 1964, and submitted its report to the Secretary of the Interior. Recommendations included: early authorization of the Passamaquoddy Tidal Project and upper St. John River Developments and early construction of the project to develop low cost firm power for Maine and peaking power for the remainder of New England.

The Secretary of the Interior submitted a report on 9 July 1965 to President Johnson summarizing the August 1964 report. Subsequent to August 1964, a review was accomplished to update the power benefits. The power rates had decreased due to larger, more economical developments by the power industry since the previous analyses. The reduction caused the benefit-to-cost ratio for the Passamaquoddy Power Project to fall below unity (.86 to 1). However, the benefit-to-cost ratio for Dickey-Lincoln School Lakes remained above unity with a value of 1.81 to 1.

One recommendation included in the July 1965 report approved by President Johnson was:

"Immediate authorization, funding, and construction of the Dickey and Lincoln School Projects on the St. John River and their associated transmission system. Construction would be contingent upon completion of necessary arrangements with the Canadian Government. This would also have the immediate and major by-product of preserving the famed Allagash River in Maine, one of the few remaining wild rivers east of the Mississippi River."

The Dickey-Lincoln School Lakes Project was authorized by the 1965 Flood Control Act, Public Law 89–298 dated 27 October 1965, substantially in accordance with the plans included in the August 1964 report.

II. Project description

A. Physical Characteristics

Dickey Dam is located on the upper St. John River immediately above its confluence with the Allagash River, near the village of Dickey in the Town of Allagash, and 28 miles above Fort Kent in Aroostook County, Maine. As authorized, the dam would be an earthfill structure impounding a reservoir with gross storage capacity of 7.7 million acre-feet (2,500 billion gallons) for power, flood control and recreation. The reservoir water area would total 86,000 acres (134.4 square miles) at maximum pool elevation of 910 feet mean sea level (msl). Five dikes would be located in saddle areas along the reservoir perimeter at Campbell Brook, Cunliffe Brook, Falls Brook, Hafey Brook and South Dike adjacent to the Dickey Dam, to prevent overflow into adjacent watersheds.

Dickey Dam would have a total length of 10,200 feet and a maximum height of 335 feet above the streambed. Its outlet works would include two 26-foot diameter concrete-lined tunnels, a low level tunnel 2,170 feet long at streambed elevation and an upper level tunnel 970 feet long, approximately 100 feet above the streambed. The power facilities would include four generating units at 190,000 kilowatts (kw) each, one of which would be a reversible unit, for a total initial installed capacity of 760,000 kw. This value reflects the manufacturer's generator capacity rating at minimum head. However, the dependable capacity of the units, i.e. the generating capacity of the units to meet maximum system load during the severest hydroperiod, totals 874,000 kw. Basic provisions would be included in the initial project to accommodate the potential future installation of two additional reversible units at 190,000 kw each for an ultimate installed capacity of 1,140,000 kw (1,311,000 dependable capacity). These provisions would include excavation for the adjoining forebay and tailrace channels, construction of the adjoining headworks, construction of the powerhouse foundation and raising Lincoln School Dam an additional eight feet. The installation of the additional units would be subject to Congressional authorization and would not be added until required by future power demands and an adequate source of off-peak energy is available for pumping. The project would be operated to meet peaking power requirements.

Lincoln School Dam site is located on the upper St. John River, 11 miles downstream from Dickey Dam in the Town of St. Francis. It provides for an earthfill dam impounding a reservoir with useable storage capacity of 32,450 acre-feet. The reservoir would serve principally to regulate releases from the Dickey Dam and as power pondage. The lake would also serve as afterbay storage for the Dickey Dam pumped-storage feature. Its reservoir would ultimately encompass 2,620 acres with 59,090 acre-feet of useable storage at its maximum pool elevation of 620 feet msl. However, until the installation of future reversible units at Dickey Dam is required and authorized, the maximum pool elevation would be 612 feet msl with an area of 2,240 acres.

Lincoln School Dam would be 2,100 feet long, including the powerhouse and spillway structures, and have a maximum height of 90 feet. Its power facilities would consist of two units at 30,000 kw each and one unit at 10,000 kw, for a total installed capacity of 70,000 kw. This facility would be operated as an intermediate load power plant.

The estimated construction first cost for the project totals $690.3 million based on 1 March 1977 price levels, consisting of $544.0 million for the dams and related features, and $146.3 million for the transmission facilities.

Real Estate Requirements—The total acreage required for the project is approximately 127,000 acres (environmental studies may suggest that additional acreage is needed to mitigate loss of wildlife habitat). Of this total, 106,000 acres is timberland. The acreage required for the Dickey Dam and reservoir is 124,000 acres, including 5,700 acres in Canada, and the requirement for the Lincoln School Dam and reservoir is 3,000 acres. The project would require the relocation of 161 year-round households (116 in Allagash; 45 in St. Francis). Also, 16 commercial properties and 14 miscellaneous properties would be displaced.

B. Operational Characteristics

The project would be operated principally as a peaking power plant. In this role, the project would not be a high energy producing (i.e. kilowatt-hours) facility. A peaking power plant is designed to operate for short periods of time, at high capacity, to meet critical daily peak demands. It has quick starting capability and provides spinning reserve for load protection. Typical peaking plants are hydroelectric projects—both conventional and pumped storage—and gas turbine units. On the other hand, baseload power is provided by large fossil-fueled or nuclear steam plants which operate most economically on a continuous basis and as a result are high energy producing installations. However, these latter plants are not suitable for peaking use and load protection because of economic considerations and operational constraints. The 1970 National Power Survey published by the Federal Power Commission notes that the current trend towards construction of very large fossil-fueled and nuclear steam-electric baseload units has increased the need for plants designed specifically for meeting daily peak demands.

In addition to its reliability, a hydroelectric facility has a lower operating cost than alternative power sources because it does not rely upon costly fuels. Water is a continuous and clean source of power. Beyond the economic aspects, there would also be an annual savings in natural resources. To produce an equivalent amount of electrical energy, annual fuel consumption—dependent upon the type of alternate—would total 2.3 million barrels of oil, 636,000 tons of coal or 16.6 billion cubic feet of gas.

C. Generating Time

The operating time of the project is very flexible and basically would be responsive to system power demands. Under normal operating conditions, the project would generate energy to meet varying demands 12 months per year. The electrical energy producing potential of the project is a function of the river basin hydrologic characteristics such as amount of annual discharge, reservoir storage and hydraulic head available at the dam site. This energy potential can either be realized through small power units operating for long periods of time, i.e. baseload operation, or through large size units for short periods of time, i.e. peak load operation. From the standpoint of economic and operational efficiency, hydroelectric sites have their greatest value as peaking plants, such as Dickey Dam.

The annual capacity factor for Dickey Dam is approximately 15%. In simplistic terms, this means the project is capable of being operated at full capacity for 15% of the time on an annual basis to meet peak power demands. The project would also have "load following" capability on a daily and seasonal basis with potential to operate for longer periods of time at reduced capacity.

The operational time should not be viewed on a uniform daily basis, i.e. three to four hours each and every day. Rather the project would be a very flexible installation capable of generating for varying periods of time dependent upon the demand placed upon the New England system. For example, the spring season is a historical period of minimum power demand, accordingly the project generation would be minimal. Weekends and nights are also times of minimum demand during which the project would usually not generate electricity. On the other hand during periods of maximum power demand; December and January, the project could be operated for long periods extending up to eight to nine hours daily. The quick starting, flexible and reliable nature of a hydroelectric plant are assets to a coordinated power system.

The Lincoln School reregulating dam with an annual capacity factor of approximately 48 percent would normally operate 10 hours per day, 7 days a week. With the Dickey facility operating 7 or more hours per day, the Lincoln School facility would be capable of generating energy 24 hours per day at full capacity.

In addition, the project would benefit the New England system in a reserve capacity. In the event of an electrical blackout emergency, the project is capable of generating electricity for a continuous period of up to 35 days.

D. Construction Period

Construction of the project, including all necessary land acquisition, would require approximately eight years. Initial power-on-line would be scheduled some six years after limitation of construction and incrementally increased until total power-on-line capability would be realized approximately 1¼ years later.

III. Project economics

A. General

The project economics have been computed on the basis of both the 3¼ percent rate authorized for the project and at 6⅜ percent which was the prevailing water resource development rate prescribed by the Water Resources Council for Fiscal Year 1977 (1 Oct. 1976–30 Sept. 1977). An explanation of the history of the authorized 3¼ percent interest rate is presented in Section III C, *Economic Analyses*.

The benefit-to-cost ratio for the initial planned development is 2.1 to 1 at the 3¼ percent interest rate. At the 6⅜ percent rate, the benefit-to-cost ratio is 1.2 to 1.

B. Benefits

The project's average annual benefits (1 March 1977 Price Levels) are summarized on the following page. A description of each benefit follows:

Benefit	Amount	
	3¼ percent	6⅜ percent
Power	$75,410,000	$75,410,000
Flood control	696,000	686,000
Area redevelopment	1,691,000	2,689,000
Recreation	172,000	145,000
Total benefits	77,969,000	78,930,000

1. Power

Power would be the principal benefit realized through implementation of the Dickey-Lincoln School Lakes Project. On-site annual power generation of 1.45 billion kilowatt-hours (kwh) would result from the total initial installed capacity of 830,000 kw (944,000 kw dependable capacity) of which 190,000 kw would be of pumped-storage capability. Additional annual power generation of 350 million kwh would also be gained at downstream Canadian power plants due to seasonally regulated flows from the project.

The power generation at the Dickey facility would be peaking power amounting to 1,182,600,000 kwh annually from a dependable capacity of 874,000 kw. The Lincoln School facility would generate intermediate power amounting to 262,800,000 kwh annually from a dependable capacity of 70,000 kw. The increased generation at downstream

Canadian plants is assumed to be off-peak energy.

The power benefits for Dickey-Lincoln School Lakes are equated to the cost of the most feasible privately-financed equivalent alternative sources of power likely to develop in the absence of the Federal project. The at-market unit power values, furnished by the Federal Power Commission, are based on gas turbines for the portion of project power expected to be marketed for peaking purposes and a combined cycle generation plant as an alternative for that portion to be marketed as intermediate power. The downstream energy is assumed to be off-peak energy and equivalent to fuel saving costs.

2. Flood Control

The Dickey-Lincoln School Lakes Project would substantially reduce flooding along the St. John River between Allagash and Hamlin, Maine. Spring floods caused by snowmelt runoff or snowmelt runoff combined with rainfall currently result in damages to urban structures, crops and erosion of land along the riverbanks. Urban flooding consists of damages to structures, contents, and associated lands due to overland inundation. Crop loss refers to potato crops lost in the field because of sustained flooding. Bank erosion is the loss of land of varied use (idle, forest, urban, crop) as a result of the force of high velocity waterflows.

Three economic damage zones (determined by correlation with hydrological data) were employed for computing benefits, namely I, St. John and St. Francis; II, Frenchville and Fort Kent; and III, Van Buren, Grand Isle, Hamlin and Madawaska. In addition, the Fort Kent flood-prone areas in Zone II above the 100-year level of protection afforded by the local protection project under construction have been treated separately inasmuch as the proposed Dickey-Lincoln School Lakes Project was credited only with those damages prevented acting after the local protection dike.

Flood control benefits would accrue from the prevention of the urban, crop, and bank erosion losses. Flood damage prevention to urban structures with the project applies to the currently unprotected flood-prone area along the St. John River downstream of Allagash and to the Fort Kent protected area for events rarer than the 100-year flood. The dollar value of this urban flood prevention at March 1977 price levels is $495,000. A reduction in crops lost in the field is estimated to be $170,000. Finally, streambank erosion control is estimated to effect a modest reduction of 10% of current annual losses. This latter reduction provides a benefit of $31,000 at the authorized interest rate of 3¼% or $21,000 at the 6⅜% rate. Total tangible flood control benefits amount to $696,000 at 3¼% and $686,000 at 6⅜%.

3. Redevelopment

Redevelopment benefits represent the value of local labor within reasonable commuting distance that would be used in project construction and which, in the absence of the project, would otherwise be unemployed or underemployed, i.e., direct hires and/or transfers.

Aroostook County has had areas of substantial and persistent unemployment since 1966. The five major labor market areas in Aroostook County are presently designated by the Economic Development Administration, Department of Commerce as Title IV Redevelopment Areas under Public Law 89-136.

The current supply of available local workers is insufficient to satisfy total demand over the construction period of the project. However, as much as 90% of the unskilled workers and 24% of the skilled workers required during peak years could be supplied from Aroostook County through direct hire of the unemployed or transfer of those underemployed.

Redevelopment benefits include both initial construction work and future operation and maintenance. The operation and maintenance period has been limited to the initial 20 years for purposes of claiming redevelopment benefits.

4. Recreation

The Dickey-Lincoln School Lakes Project would alter the existing recreation patterns within the project area. At the present time, this area is valued for its semi-wilderness quality with hunting, white-water canoeing, and stream fishing especially valued. The project would reduce these wilderness activities within the project site (canoeing would be eliminated) and substitute, in their place, flat-water recreation and increased day-activity usage.

A comparison of the projected recreational usage of the area without-the-project with the estimate future recreational use with-the-project was used as a basis for developing the recreational benefit. On this basis, at the 3¼% interest rate, the average annual recreation benefit without Dickey-Lincoln School Lakes totals $388,000 as compared to $374,000 with the proposed full development for a net annual loss of $14,000. At the 6⅜% interest rate, the relative values are $307,000 without and $329,000 with the project for a net annual gain of $22,000.

In order to evaluate the economic justification of providing recreational facilities—should the project proceed to construction—the procedures described in the following paragraphs were used to record the benefits that would be realized through site development and to properly reflect the lost opportunity cost due to benefits foregone.

To measure the incremental benefits associated with full development of the project, annual recreational usage and related benefit values were also estimated for a project with minimum required facilities (those basic facilities required for the health and safety of visitors). The pertinent data is summarized as follows:

Annual recreation benefits	3¼ percent	6⅜ percent
Without project	$388,000	$307,000
With minimal facilities	202,000	184,000
With full development	374,000	329,000

The annual recreation benefit for the project is defined as the difference in benefits between full development and the minimal required facilities, i.e. $374,000–$202,000 or $172,000. This value has been used to evaluate the economic justification for the proposed recreational development.

The net loss of recreational opportunity has been reflected as an annual cost. The loss is measured as the difference between without project conditions and with project with minimal facilities, i.e. $388,000–$202,000 or $186,000. In addition, the lost opportunity during construction equating to an average annual value of $7,000 has been included in a total annual cost of $193,000.

The above values are based on the authorized 3¼% interest rate. The corresponding values at the 6⅜% rate are $145,000 for the recreational benefit and an annual cost of $136,000 representing the lost recreational opportunity.

C. Economic Analyses

The justification for authorization of all Corps of Engineers' projects is measured in terms of the benefit-to-cost ratio. The economic analysis used to develop this yardstick for Dickey-Lincoln School Lakes is based on standards prescribed by Senate Document No. 97, 87th Congress, entitled Policies, Standards and Procedures in the Formulation, Evaluation and Review of Plans for Use and Development of Water and Related Land Resources. As previously noted, total project benefits for Dickey-Lincoln School Lakes are comprised of at-market power, total downstream energy, flood control, recreation and area redevelopment type benefits.

The project cost is evaluated on an annual basis reflecting amortization of the investment and annual operation and maintenance expenses over a 100-year project life. The cost has been increased to provide for the has been increased to provide for the transmission of power by adding the total annual cost of a line between the project and the New England Power Pool (NEPOOL) System Transmission Grid. Attached as Table I is a summary of the economic analysis for both interest rates.

The 3¼% interest rate used in the economic analysis has been the subject of considerable discussion. Accordingly, an explanation of the derivation of this rate is appropriate. The interest rate is in accordance with a Water Resources Council (WRC) regulation implemented in December 1968. This regulation revised the method of computing the interest rate as previously outlined in Senate Document 97. The regulation permitted an exception, however, for those projects already authorized such as Dickey-Lincoln School Lakes which was authorized in 1965. The exception noted that if an appropriate non-Federal agency provided—prior to 31 December 1969—satisfactory assurances that requirements of local cooperation associated with the project would be met, then the previous interest rate would be retained. At Dickey-Lincoln School Lakes, local cooperation would be required for the cost-sharing of recreational facilities. Assurances were received from the Governor of Maine by letter, dated 24 February 1969, that the non-Federal requirements would be fulfilled at the appropriate time. As a result, the interest rate was retained at 3¼%.

The WRC subsequently established new principles and standards for water resource planning effective in October 1973. A section of these new standards included the provision for increasing the interest rate to 6⅞%. However, the Water Resources Development Act of 1974, enacted by the Congress on 7 March 1974, included a section which requires that interest rates used for water resource projects be consistent with the implementation of the December 1968 WRC regulation. Accordingly, the 3¼% interest rate remains applicable to Dickey-Lincoln School Lakes.

The Corps of Engineers also uses a procedure referred to as an "Economic Efficiency Test". The objective of an ideal system operation is to meet area power demands at least cost to consumers. Therefore, the least costly addition to a region's capacity could be considered as a yardstick for purposes of making a decision regarding such additions. The "Economic Efficiency Test" provides for such a determination. Bascially, the test provides for a comparison of the costs of providing an equivalent amount of power from the most feasible alternatives, likely to develop in the absence of the Federal project, evaluated on a basis comparable with the determination of the project costs (with respect to interest rate, i.e., 3%¼, taxes and insurance). The Corps' "Economic Efficiency Test" indicates that the annual cost for Dickey-Lincoln School Lakes amounts to $37,696,000 while alternative equivalent costs, with an appropriate adjustment for benefits foregone, amount to $60,333,000. This results in a favorable comparability ratio of 1.6 to 1. At the 6⅜% interest rate, the comparability ratio is 1.02 to 1. The attached Table II illustrates the derivation of the "Economic Efficiency Test" for each interest rate.

D. Repayment Analysis

The above analyses are used to define the economic worth of the project. The financial value of power, however, is determined through the repayment analysis. Marketing of electric power from Federal projects is the basic responsibility of the Secretary of Interior as authorized by Section 5 of the 1944 Flood Control Act. Repayment rates must be sufficient to recover costs of power production and transmission including annual operation and maintenance expenses. The total investment allocated to power must be repaid over a reasonable period of years. As a matter of administration policy, this period has been specified as 50 years. On 29 January 1970, the Secretary of Interior, under his administrative discretion to establish power rates, instituted new criteria for determining interest rates for repayment purposes for projects not yet under construction. The interest rate for Fiscal Year 1977 was 7 percent. This rate has been used for the Dickey-Lincoln School Lakes repayment analysis.

A financial feasibility study has been completed by the Department of Interior. The results indicate that the project's power costs can be recovered through power revenues at rates competitive with existing rates in New England.

The difference between the economic analyses previously described and the repayment analysis warrants further clarification. This has caused a considerable amount of misunderstanding and misinterpretation. The economic analyses—both for the benefit-to-cost ratio determination and the "Economic Efficiency Test" are economic parameters measuring a project's worth. These analyses are not unique to Dickey-Lincoln School Lakes. The benefit-to-cost ratio is employed universally by the Corps in measuring a project's economic justification. The "Economic Efficiency Test" is also universally used by the Corps in conjunction with projects having generation of electric power as a project purpose. The economic analyses utilize 3¼ percent and 6⅜ percent interest rates and 100-year period of evaluation. On the other hand, the repayment analysis—which is computed by the Department of Interior—is a financial measure which determines the appropriate price at which bulk power must be marketed to return the total annual investment allocated to power. For this analysis, an interest rate of 7.0 percent and a 50-year repayment period have been used.

IV. Environmental studies

Detailed data essential to a comprehensive environmental evaluation consistent with the National Environmental Policy Act of 1969 (NEPA) were not developed for Dickey-Lincoln School Lakes during earlier preconstruction planning which was terminated in the fall of 1967, prior to passage of NEPA. With the resumption of activity in 1974, environmental studies and preparation of an Environmental Impact Statement (EIS) received priority attention.

An initial activity in environmental studies was the preparation of a scope-of-work for the EIS, completed in August 1975. This scope-of-work was the plan of action for developing a comprehensive EIS. It identified all significant environmental, social and economic impacts induced by the project and recommended methodology for measuring and evaluating these impacts. Subsequent studies to develop data and analyze the various impacts have been accomplished by private consulting firms, academicians, the Corps of Engineers and other applicable Federal and State agencies. The results of these studies have been presented in the project's draft EIS distributed for public review on September 1, 1977.

Copies of the draft EIS are available by writing to: Division Engineer, U.S. Army Corps of Engineers, New England Division, 424 Trapelo Road, Waltham, Massachusetts 02154.

The draft EIS is supported by a series of 14 detailed documents—10 Appendices and 4 technical Design Memoranda. Copies of the Appendices and Design Memoranda have been distributed to depositories throughout New England for public review. A list of these depositories is included as an attachment to this Fact Sheet.

V. Marketing of power

The Department of Interior would be responsible for marketing the electric power from Dickey-Lincoln School Lakes per authority of Section 5 of the 1944 Flood Control Act. This statute requires that power be sold in such a manner as to encourage the most widespread use thereof at the lowest possible rates consistent with sound business practice. Section 5 further directs that preference in the sale of power and energy is to be given to public and cooperative power interests.

A Financial Feasibility Study for the project power, addressing the marketing aspects, has been prepared by the Department of Interior. The report notes that after considering transmission losses and offsetting load diversities, approximately 900,000 kw of capacity and 1.2 billion kwh of streamflow energy would be available for sale at the customers' premises. The energy value excludes about 290 million kwh from the initial pumped-storage operation which is proposed to be marketed on a split-the-savings arrangement. The present concept envisions marketing of 700,000 kw (667 million kwh) as peaking power to New England outside of Maine and marketing of 200,000 kw in Maine, 50% as intermediate load power (438 million kwh) and 50% as peaking power (95 million kwh). These allocations include the United States portion of additional energy generated at downstream Canadian projects.

Marketing studies currently indicate that the 100,000 kw of peaking power allocated to Maine and 250,000 kw of the peaking power allocated to New England outside of Maine would initially be sold to private utilities. As preference customer loads grow, the sale of this power would be withdrawn from the private utilities and sold to preference customers. The proposed rates, required to repay all project costs allocated to power, were determined to be a $56 per kilowatt capacity charge and a 15 mills per kilowatt-hour energy charge. The Department of Interior noted that these values are competitive with existing rates in New England and would provide substantial savings to some customers today while providing modest savings to others. The Department of Interior concluded that sufficient power revenues could be obtained from the sale of power to repay all costs associated with the production and distribution of project power. The power features would, therefore, be financially feasible.

Historically, the Department of Interior does not proceed with definitive marketing and transmission plans until construction of the project is underway and the power-on-line data is relatively firm. Prior to that time, their studies are of sufficient depth to determine marketability and to evaluate the financial feasibility of the power installation.

The existence of NEPOOL—comprised of the major utilities within New England—provides an effective vehicle through which Dickey-Lincoln School Lakes output could be utilized to the mutual benefit of New England. A report dated 21 November 1974 submitted to the New England Planning Committee of NEPOOL stated that, "the Dickey project capacity would be fully effective capacity to the interconnected New England system if it were dispatched in a peaking assignment during the 1985–1986 power year. The enormous storage reservoir makes it possible to use Dickey with maximum flexibility. It can run at full capacity whenever it is needed and can sustain that power level for the duration of any peak that the system experiences. It makes an ideal source of reserve with quick response, a fact that is most valuable to have as an option open to those responsible for load dispatching."

VI. Current Status

A. General

Preconstruction planning resumed in November 1974, seven years subsequent to earlier post-authorization planning. Primary efforts to date have concentrated on preparation of an EIS, updating of project design to reflect current criteria and updating of the project cost estimate and economic justification. The draft EIS and the revised General Design Memorandum for the dams were partment of Interior which has statutory respectively.

In conjunction with Corps activity, the Department of Interior which has statutory responsibility for transmission and marketing of power from Federal projects, has been conducting studies of these two aspects. The Bonneville Power Administration has been assigned the task to define transmission requirements to tie into the existing NEPOOL grid system and to prepare an EIS for these facilities The Southeastern Power Administration has been charged with the marketing analysis. The report on the transmission system requirements was completed in February 1977 and the Financial Feasibility report, including the preliminary marketing concept, was completed in August 1977. The draft EIS for the transmission facilities is scheduled for release in February 1978.

Subsequent to release and review of the draft EIS for the transmission facilities, a final EIS combining the dams and transmission will be prepared. The scheduled date for filing the combined final E'S with the Council on Environmental Quality is August 1978.

B. Funding Summary

Prior 1966–67	($2,154,000)
Current:	
Fiscal year 1975	949,000
Fiscal year 1976	2,256,000
Transition quarter (July 1, 1976 to Sept. 30, 1976)	435,000
Fiscal year 1977 (Oct. 1, 1976 to Sept. 30, 1977)	2,000,000
Fiscal year 1978 (Oct. 1, 1977 to Sept. 30, 1978)	1,000,000
Total current	(6,640,000)
Total	8,794,000

C. Current Activities

Because of the controversial nature of the project, decisions on its future have awaited completion of environmental studies presented in the draft EIC and updated engineering plans and project economics included in the revised General Design Memorandum.

Pending future decisions, the preconstruction planning activities for this Fiscal Year (Oct. 1977–Sept. 1978) will essentially be limited to completion of added environmental studies resulting from review comments on the draft EIS and completion of specific feature design memoranda. With repsect to the latter, only those memoranda that have input substantially advanced as a result of activities in support of environmental and general design studies will be completed.

Subsequent to public review of the project draft EIS, responses to the comments will be prepared for incorporation in the final EIS.

TABLE I.—DICKEY-LINCOLN SCHOOL LAKES ECONOMIC ANALYSIS

[March 1977 price levels]

	3¼ percent	6⅜ percent
Dams:		
Total investment:		
Construction cost of dams	$544,000,000	$544,000,000
Interest during construction	56,600,000	111,000,000
Present worth of future recreation facilities	236,000	170,000
Total	600,836,000	655,170,000
Capital recovery factor (dams)	0.03388	0.06388
Annual costs:		
Interest amortization	20,356,000	$41,852,000
Operation and maintenance	2,100,000	2,100,000
Pumping power (438,000,000 kWh × $0.010)	4,380,000	4,380,000
Major replacements	315,000	166,000
Loss of land taxes	142,000	142,000
Lost recreational opportunities	193,000	136,000
Subtotal, dams	27,486,000	48,776,000
Transmission lines:		
Total investment:		
Construction costs of transmission line	146,300,000	146,300,000
Interest during construction	10,410,000	20,920,000
Total	156,710,000	167,220,000
Annual costs:		
Interest and amortization	6,950,000	11,610,000
Operation and maintenance	3,650,000	3,650,000
Reduction—Future wheeling by others; Granite-Essex	—390,000	—450,000
Subtotal, transmission	10,210,000	14,810,000
Total project:		
Total investment:		
Construction	690,300,000	690,300,000
Interest during construction	67,010,000	131,920,000
Present worth—Future recreation	236,000	170,000
Total	757,546,000	822,390,000
Annual costs	37,696,000	63,586,000
Annual benefits:		
Power:		
Peaking power (15.4 percent capacity factor):		
874,000 kWx0.904 x$30	23,703,000	23,703,000
1,182,600,000 kWhx0.914 x $0.034	36,750,000	36,750,000
Intermediate power (42.9 percent capacity factor):		
70,000 kWx0.980x $68.50	4,699,000	4,699,000
262,800,000 kWhx 0.989 x $0.026	6,758,000	6,758,000
Downstream: 350,000,000 kWhx$0.010	3,500,000	3,500,000
Subtotal, power	75,410,000	75,410,000
Recreation	172,000	145,000
Redevelopment	1,691,000	2,689,000
Prevention of flood damages	696,000	686,000
Total annual benefits	77,969,000	78,930,000
Total annual costs	37,696,000	63,586,000
Benefit-cost ratio	2.1 to 1	1.2 to 1

Note: The 0.904, 0.914, etc., factors noted in power benefit analysis reflect estimated reduction in capacity and energy outputs due to transmission line losses.

TABLE II.—DICKEY-LINCOLN SCHOOL LAKES ECONOMIC EFFICIENCY ANALYSIS—COMPARABLY FINANCED—FEDERAL FUNDS

[March 1977 price levels]

	3¼ percent	6⅜ percent
Power alternatives:[1]		
Peaking:		
874,000 kW × 0.904 × $11.50	$9,086,000	
874,000 kW × 0.904 × $15.50		$12,246,000
1,182,600,000 kWh × 0.914 × $0.034	36,750,000	36,750,000
Intermediate:		
70,000 kW × 0.980 × $27	1,852,000	
70,000 kW × 0.980 × $35.50		2,435,000
262,800,000 kWh × 0.989 × $0.026	6,758,000	6,758,000
Downstream: 350,000,000 kWh × $0.010	3,500,000	3,500,000
Subtotal, power	57,946,000	61,689,000
Benefits foregone:		
Redevelopment[2]	1,691,000	2,689,000
Flood control[2]	696,000	686,000
Total, alternative costs	60,333,000	65,064,000
Annual charges—Dickey-Lincoln School	37,696,000	63,586,000
Comparability ratio	1.6 to 1	1.02 to 1

[1] The 0.904, 0.914, etc., factors noted reflect estimated reduction in capacity and energy outputs due to transmission line losses.

[2] Redevelopment and flood control benefits which are provided incidentally to construction of Dickey-Lincoln School would be foregone by the alternative. Therefore, the values of these benefits are added to the alternative in order to obtain a valid comparison. No credit has been included for the recreational benefit as without project benefits approximate the with project benefits.

Copies of the draft Environmental Impact Statement, its Appendices and the technical Design Memoranda are available for public examination at the New England Division office and at the following libraries and depositories:

Connecticut

Hartford, State Library.
Storrs, University of Connecticut.

Maine

Allagash, Town Hall.
Ashland, Town Council.
Augusta, Natural Resources Council, State Library.
Bangor, Public Library.
Brunswick, Bowdoin College.
Caribou, Northern Maine Regional Planning Commission.
Castine, Maritime Academy.
Fort Kent, Chamber of Commerce, University of Maine.
Madawaska, Selectmen.
Orono, University of Maine.
Portland, Public Library, University of Maine.
St. Francis, Selectmen.
Springvale, Nasson College Library.
Unity, Unity College.
Waterville, Colby College Library.

Massachusetts

Amherst, University of Massachusetts.
Boston, Public Library, State Library.
Cambridge, Harvard College University, Massachusetts Institute of Technology.
Chestnut Hill, Boston College.
Lowell, Lowell Technical Institute.
Waltham, Brandeis University, U.S. Army Corps of Engineers.

New Hampshire

Concord, State Library.
Durham, University of New Hampshire.
Hanover, Dartmouth College.
Manchester, City Library.

Rhode Island

Kingston, University of Rhode Island.
Providence, Brown University Library, State Library.

Vermont

Burlington, University of Vermont.
Montpelier, State Library.

EASTERN MAINE ELECTRIC CO-OPERATIVE, INC.,
Calais, Maine, September 12, 1977.

Mr. JOHN JOSEPH,
Maine State Planning Office, State House, Augusta, Maine.

DEAR JOHN: In response to your phone call of September 9, 1977, we have put together some calculations that pretty well support our estimates to you regarding the great power cost savings available to Maine consumers when Dickey-Lincoln power becomes available.

First, from 1970 to 1976, the Maine consumer-owned systems we checked increased their purchases from 157,481,000 KWH annually to 231,609,000 KWH annually. This shows as an annual percent increase of 6.64% during this period. In our area, we expect this increase to be sustained indefinitely due greatly to new consumer growth. Also, our usage at our Cooperative has been low due to the general low income of the area we serve. Maine population trends recently released tend to back up the population growth and new construction we have experienced recently. We might also add that rural areas all across the United States are experiencing a population shift back to the rural areas according to releases we have recently had an opportunity to review.

In addition to the historic KWH growth trend of 6.64%, we are including tables showing three other percent growth trends. Our recent growth trends, and National trend estimates showing that electricity will be used to a greater percent in the future, to deliver energy to the consumer, seem to suggest a higher than historic growth rate for future estimates.

[In thousand kilowatt-hours]

	Percent			
Year	6.64	5	7.5	8
1970	157,481			
1976	231,609	231,609	231,609	231,609
1986	440,511	377,266	477,353	500,026
1988	500,953	415,936	551,164	583,231
1990	569,688	458,570	637,491	680,280
2000	1,083,524	746,962	1,313,889	1,468,675

The combined MW loads of these same consumer owned systems is now in the order of 50 MW. By 1986 the MW load will be 95 MW based upon the historical growth rate. By the year 1990 the MW load will have increased to 123 MW. We believe that this trend is moderate and in actuality will be exceeded, but for the purposes to be shown here, it is sufficient.

Based upon the $50.000 capacity charge in 1976 and an energy charge of 15 mills, as designed by the Southeast Power Administration, and on a growth rate of 5 percent per year on the capital cost portion only, we come up with the following cost in 1986. Since the cost of falling water will not change over the years, we have placed all construction cost escalations into the capacity charge. The capacity charge will be

$81.44 plus 15 mills in 1986. At a 50 percent load factor, the cost/KWH would be $.033594/KWH. Our Maine cost for 438 GWH, delivered, would be $14,000,000 per annum. Even if the growth rate goes to 6 percent the cost would be only $15,500,000 with savings only slightly less than calculated with the 5 percent growth rate. The projected power cost for Maine's newest plant in 1986, delivered, will be in the order of 6¢ per KWH. (See enclosure). The cost to our systems' consumers, therefore, would be $26,280,000. Dickey-Lincoln, thus, will save our systems on the order of $12,280,000 each and every year after 1986.

You brought up the subject that we will be utilizing other low cost Maine hydro electric plants and older less costly conventional power plants for our loads in 1986. In our Cooperative's case, very little such power is expected to be used in 1986 as we now buy most of our power outside Maine. Other consumer-owned systems purchase a Maine power mix. Our point is that the low cost power some consumer owned systems, in 1986, may obtain in their mix from other Maine plants will be returned for use by the power plant owner to serve other Maine loads. Reductions in the use of the more costly plants for Maine users can readily be scheduled in advance. Thus, it becomes evident that the entire $12,280,000 saving comes into Maine to help Maine citizens. In addition, the 100 MW of peaking power will benefit Maine citizens as will the emergency value of Dickey, the Lake, water control, jobs, etc. etc.

If you expand the $12.280,000 saving for 100 years, as some did with lumber, the total saving is an astronomical $1.228,000,000. But that's not all. That expands only the 1986 costs. It doesn't take much imagination to realize that conventional energy costs will increase after 1986 but falling water will not because Mother Nature will place the water above the dam each year at no cost. The savings indicated here, therefore, could be only the tip of the iceberg insofar as the total savings that Dickey-Lincoln represents for Maine citizens. Note also that we haven't even considered the 594,000 KW to be used in other New England states nor the emergency value of the project to all systems, in this letter. Nor did we discuss the benefit associated with the 100,000 KW of peaking power asigned to Maine.

We are not very well satisfied with the pricing arrangement designed by the Southeast Power Administration. We have no particular objection to the use of a 50 year amortization period and 7% interest on money in calculating the rate structures for Dickey-Lincoln which are the current figures used by the Southeast Power Administration. We don't object to the postage stamp rate principle. We do believe that the use of a 15 mill charge for the energy portion is unrealistically high for falling water. We also believe that the transmission charges are predominately associated with the capacity component rather than the energy component. Our suggestion is that the energy portion of the rate structure be established at 6 mills, which is certainly sufficient for energy cost produced by falling water (not fossil fuel), and the capacity factor set at $62.00. This new pricing would produce the same overall revenue and would provide a greater fairness in the pricing impact as the peaking power purchasers were getting a far better value than were the Maine purchasers of load factor power. We believe our Governor should insist upon this alternative pricing arrangement, or something close to it, to balance the benefits between the lower quantity of load factor power to be used in Maine and the much larger quantity of power, predominately peaking, to be used in other sections of New England.

With this change in rate structure, Maine's saving would increase to $17,500,000 per year. Again, if we expand this saving 100 years on the initial year's figure only, it results in an astronomical benefit of $1,750,000,000. Let us repeat that this benefit is an expanded 100 year reflection of savings during the first year of the Dickey-Lincoln plant operation and represents only the Maine load factor entitlement. It does not show how benefits increase each year after the first and does not include the benefits derived from peaking power purchases in Maine and New England. We don't necessarily subscribe to 100 year figures like this, but this type of calculation was made and published in headline form, we believe, for adverse Dickey effects on lumber value starting some time after the turn of the century.

We are enclosing a sheet and cover from a Westinghouse Electric Corporation publication indicating power cost projections for 1986. These figures are the same as we have received from other sources. We hope this information helps.

Sincerely yours,

ROBERT V. CLARK,
General Manager.

Mr. MUSKIE. Mr. President, the bill as reported provides $10.1 billion in new budget authority. Outlays associated with the bill total $9.5 billion, including $4.5 billion in outlays from budget authority provided in prior years.

Under section 302(b) of the Budget Act, the Appropriations Committee divides among its subcommittees the total budget authority and outlays allocated to the committee under the first budget resolution. The Appropriations Committee has allocated $10.8 billion in budget authority and $10 billion in outlays to the Energy and Water Development Subcommittee.

The funds provided by H.R. 12928 as reported put the subcommittee $0.7 billion under its 302(b) budget authority allocation and $0.5 billion under its outlay allocation. Possible later requirements known at this time could leave the subcommittee $0.2 billion below its budget authority allocation and $0.2 billion below its outlay allocation.

Mr. President, I ask unanimous consent that a table showing the relationship of this bill and possible later requirements to the subcommittee allocation be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 12928, Energy and Water Development appropriation bill: Relationship to subcommittee's section 302(b) allocation

[Dollars in billions]

	Budget authority	Outlays
Subcommittee's section 302(b) allocation	10.8	10.0
H.R. 12928, as reported	10.1	9.5
Amount over (+) or under (−) subcommittee allocation	−0.7	−0.5
Possible later requirements:		
Energy supply	+0.4	+0.2
Water resources	+0.1	+0.1
Possible amount over (+) or under (−) subcommittee allocation	−0.2	−0.2

Mr. MUSKIE. Mr. President, H.R. 12928 as reported is consistent with the functional and aggregate targets in the first budget resolution, and I support it. I commend the distinguished chairman of the Subcommittee on Energy and Water, Senator JOHNSTON, for his dedicated efforts in support of the budget process.

Mr. LEAHY. Mr. President, I concur with the distinguished Senator from Maine that these are not funds for construction, as such, of the Dickey Lincoln project.

As I alluded earlier, I did a nose count of my fellow Senators. I realize that the position maintained by the Senator from Maine would be the prevailing position in a rollcall vote. However, I think the question might be a much closer one if we were discussing appropriations for actual construction.

However, if nothing else, I have learned to count. The distinguished Senator from Maine has been here longer than I and has been counting longer than I, and I suspect that he has reached precisely the same count as I have on this matter.

So, unless the floor leaders or the Senator from Maine request a rollcall vote, I will not request a rollcall vote on this matter.

Mr. MUSKIE. I see no reason to take the time of the Senate. I would be delighted to dispose of it by voice vote.

Mr. HATHAWAY. Mr. President, the debate these past 2 days on the future of the entitlements program has brought out the essence of New England's energy problem—how shall we reduce our region's dependence on imported oil, and how much will it cost New Englanders to do so.

With Dickey Lincoln we have an opportunity to address both prongs of this dilemma—to reduce both our oil dependency and our consumers' energy bills.

What will that reduction be? Dickey-Lincoln hydropower can replace 2.3 million barrels of oil per year, over $30 million at today's prices which will not be exported overseas.

As those who come from the Northwestern States know well, hydropower is inflation-proof, it is embargo proof, and it is nonpolluting as a fuel. There are, of course, undeniable environmental impacts in developing hydropower, as there are with all energy development projects. But I would venture that Dickey-Lincoln may be among the most carefully scrutinized hydropower projects we have considered. The Corps of Engineers spent 3 years developing the draft, multi-volume environmental statement on the dam, as well as the technical design memoranda. Public hearings and workshops were held in New England before and after the release of the draft last September. Extended public comment periods were provided. A separate study was done on the transmission lines alone.

The final EIS on the dams and lines is not yet in. It is due late this summer or early fall. The environmental and social impacts of the project are not being slighted.

Even the now-famous snapdragon—the furbish lousewort—was first threat-

ened by the project but has recently been cited as a fine example of how the Endangered Species Act can serve the interests of both preservation and development.

Dickey-Lincoln is principally a power project. It is economically sound under the corps' analysis and 98 percent of its costs can be repaid to the taxpayers over 50 years. Electrical rates for the project's power would still be at or below current rates. It can save Maine consumers alone an estimated $12 million per year when it's on line. But in addition to providing 25 percent of Maine's peak power needs in the 1980's, 15 percent of all of New England's peak needs, and intermediate power for Maine preference customers, it also provides flood control and jobs for the economically depressed area of northern Maine.

Mr. President, I support Dickey-Lincoln now as I did in 1965 when it was first authorized. It is not a solution for meeting all our region's future energy needs, but it is one step we can take to help bring down our oil imports and our oil bills.

I support energy conservation. I support solar energy, small hydro, wind, tidal and wood development. I agree we need to broaden our energy alternatives through increased emphasis upon our renewable, clean and benign resources. My record speaks to that support, which I intend to continue. Dickey-Lincoln is among those renewable resources, and that is nearly at hand if the commitment one that is nearly at hand if the commitment is made to proceed. It is a real alternative whose contribution we can be sure of in the 1980's.

The final commitment to construction of Dickey-Lincoln is not being made today in this appropriations bill. The final EIS is yet to come and will be duly considered. These funds, however, will be immediately available if a decision to construct is made, so long as they are included in this fiscal year 1979 bill. Otherwise we will lose time and we will lose money without these funds.

Mr. President, at this time I submit for the RECORD a recent letter to the editor which addresses many of the issues raised about Dickey-Lincoln, as well as a letter from Senator MUSKIE and myself addressing this fiscal year 1979 appropriation.

The letters follow:

U.S. SENATE,
Washington, D.C., May 19, 1978.

EDITOR,
Bangor Daily News

DEAR SIR: Your Guest Column of May 9, "Dickey Limitations," contains several inaccuracies or misconceptions which I would like to correct.

First, the article contains a fundamental misunderstanding of the design of Dickey-Lincoln. It is not a "run of the river" hydropower facility, dependent upon the continuous flow of the St. John River. Rather, the purpose of the Dickey dam is to capture the high spring runoff—and "store" that water—to be released through the year at peak demand times. The smaller Lincoln School dam smooths out the water's flow, producing intermediate power and increasing the output of Canadian hydro facilities downstream, which would share that increase with the U.S.

Dickey-Lincoln is not a pumped storage project. A pure pumped storage project, such as that proposed at Wyman Dam, is a net energy loser, consuming 3 units of energy for every 2 units it can produce. It is doubtful that there would be sufficient surplus capacity in New England available to fuel a pumped storage project equivalent in power output to Dickey-Lincoln.

While Dickey-Lincoln is not dependent upon having any pumped storage capability, one of the four 190 MW turbines has been designed to be reversible so that any surplus power which is available during off-peak periods could be used. The Corps estimates that use of this feature would increase the output from Dickey-Lincoln from 1.2 billion kilowatt hours annually, to 1.45 billion kilowatt hours, a small factor in Dickey's overall power supply. There should be sufficient surplus energy available in New England in the late 1980's to take advantage of this pumped storage feature of the project.

As to the economic impact of the project on Aroostook County, it is true that there will be up to 1900 jobs available during the 7–8 year construction period. Up to 75% of the workers are expected to be from Maine, with ½ of them from Aroostook. It is difficult to understand how the availability of good jobs at good pay would be a negative impact on Maine. Projects of comparable size have been built in the State without adverse local impacts.

In addition, historically, long-term economic development has followed from hydro projects located in relatively undeveloped areas. The projects themselves may become the center of a local tourist economy. High energy-intensive businesses are attracted by the reliable and low-cost energy, a factor increasingly important in siting decisions. These developments can bring long-term economic benefits after construction is completed.

The final point of the article is the distribution of Dickey-Lincoln's power. First, the preliminary marketing analysis for Dickey establishes Maine as a "special marketing area" within New England. 44 percent of the energy from the project will be marketed in Maine, even if it cannot all be absorbed immediately by preference customers (i.e. municipalities and cooperatives).

However, at growth rates comparable to those of the past 8 years, preference customers will be able to use all of the 438 million KWH of intermediate load power. The additional 95 million KWH in peaking power would be sold to private utilities in Maine until the preference customers could use it.

While the northern and eastern areas of the State will be the most direct beneficiaries of this power, all Maine people will benefit from Dickey. The mix of power now sold to the preference customers will be freed up for sale elsewhere in the State. The flood control, economic development and jobs from Dickey will benefit all Maine people, as will the decrease in dependency upon foreign oil.

Dicky-Lincoln alone is not going to solve Maine or New England's energy problems. Those supporting the project do not make that claim. However, hydroelectric power is a known, developed and available technology. Dickey-Lincoln's flexibility will permit it to be easily integrated into a future mix of energy use, including conservation, small hydropower, solar, wood, wind and perhaps even tidal power.

Dickey-Lincoln is not a panacea for the reality of our foreign energy vulnerability. It is instead a major investment in Maine which can quicken our region's path to expanded economic opportunities and a stable and reliable energy future.

With best wishes.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.

U.S. SENATE,
Washington, D.C.

DEAR COLLEAGUE: We are writing to request your support for the President's FY 1979 budget request of $1,756,000 for the Dickey-Lincoln Hydroelectric Project in northern Maine. These funds are included in H.R. 12928, and the Senate Appropriations Committee overwhelmingly rejected an attempt to delete these funds.

We believe the funds should be included for these reasons:

1. We support the project as a sound alternative energy resource for New England, lessening our dependence upon oil imports by 2.3 million barrels per year;

2. In addition, the project can provide both flood control and economic development for Maine;

3. Appropriating the funds will permit continuity in engineering and planning work and avoid additional costly delays on this project which has been authorized since 1965;

4. Expenditure of these funds would await an affirmative decision to proceed following completion of the Environmental Impact Statement.

New England needs Dickey-Lincoln. It can provide over 15% of the region's peaking power needs, and provide intermediate and peak power to Maine. Along with development of many other alternative resources, it can lessen our dependency upon oil imports. The fuel is inflation-proof, embargo-proof, and non-polluting. While there are environmental impacts involved, as there are with every energy producing facility, we do feel that they are offset by the power production, and by the fact that the nearby Allagash River in Maine has been preserved in perpetuity as a wilderness river.

Failure to provide funds in this fiscal year budget could result in a waste of resources should a decision be made to go ahead with construction. Funding for the advanced engineering and design would then have to await action on a FY 79 supplemental or until the FY 1980 budget, resulting in delay and cost increases.

We are awaiting completion of the final EIS on the dams and transmission lines expected in late summer or early fall of this year. Extensive comments have been made on the draft statements, and the Corps is doing further work and revision for that final statement. After the final EIS is completed, a decision can be made on construction.

The Administration and the U.S. Army Corps of Engineers have made it clear that no further engineering work would be done on Dickey-Lincoln until that final decision is made. In a February statement, the Corps said:

"It is important to note at the outset that . . . no further engineering work, as outlined below, would be resumed until decisions have been made on the project. . . . The availability of funds in the upcoming fiscal year preserves the option of maintaining work continuity on an orderly and efficient basis. Should decisions not favor continued work, appropriate provisions would be taken to revoke the funds or reallocate to other projects."

In light of this, we hope that you will oppose any attempt to delete funding for the Dickey-Lincoln project from the FY 79 Public Works Appropriation bill.

Best wishes.

Sincerely,

WILLIAM D. HATHAWAY,
U.S. Senator.
EDMUND S. MUSKIE,
U.S. Senator.

Mr. LEAHY. Mr. President, I yield back the remainder of my time, and I am perfectly willing to go forward on a voice vote.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was rejected.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Tom Dougherty, of Senator GLENN's staff, have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1643

(Purpose: Adding funds to Project 79-6, General Plant Projects (+$3.2 million) and Project 79-8, Plant Engineering and Design (+$1 million))

Mr. DOMENICI. Mr. President, I send to the desk an unprinted amendment on behalf of Senator JACKSON, Senator THURMOND, and myself.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1643.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On line 12, page 3 strike "1,010,771,000" and insert in lieu thereof "1,014,971,000"

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HART). Without objection, it is so ordered.

UP AMENDMENT NO. 1643 (MODIFIED)

(Purpose: Adding funds to Project 79-6, General Plant Project (+$4.2 million) and Project 79-8, Plant Engineering and Design (+$1 million))

Mr. DOMENICI. Mr. President, I send to the desk a modified amendment.

The PRESIDING OFFICER. The modified amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes a modification to amendment No. 1643.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the modified amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment is as follows:

On line 12, page 3 strike "1,010,771,000" and insert in lieu thereof "1,015,971,000".

Mr. DOMENICI. Mr. President, this is a very simple amendment, and I will be very brief.

Basically, the amendment adds the total of $4.2 million, $1 million of which is for project 79-8, the plant engineering and design requirements for the electron beam fusion facility which may be constructed at Sandia Laboratories, in Albuquerque, N. Mex. This does not begin construction, but, rather, will provide for the engineering and design of that facility, which is much needed. If we do not put this million dollars in this year, it will delay the entire ultimate availability of that labor by a full year.

The remainder of the amendment is made in behalf of Senator JACKSON and Senator THURMOND, and I yield to Senator THURMOND, if he cares to explain the $4.2 million that is included in the amendment for general plants projects 79-6, as reported in the appropriate budget bill.

Mr. THURMOND. Mr. President, we have already discussed this matter, and I think it is clear that the Senate Armed Services Committee authorized $21.2 million for this purpose and the House committee authorized a similar amount, but the Senate has appropriated only $12 million. The difference really would be $9.2 million, but in an effort to try to keep the spending down as much as possible we have agreed to an addition of $4.2 million.

We think full funding of the budget request is extremely important. Obsolescence is taking place in these nuclear weapons production plants. There is inefficiency where facilities are not properly maintained. It is absolutely essential that these funds be provided if we are going to keep the equipment in anything like the shape it should be.

Mr. President, this is a small increase I am recommending but a highly important one.

The majority of the equipment and facilities at our special nuclear materials production facilities is 20 to 30 years old. A recent investigation by the Armed Services Committee of the House found that this situation needed immediate attention.

This project Number 79-6, under the title General Plant projects, which is addressed by this amendment, received special attention in both the House and Senate authorization bills. For the benefit of the Senate I would like to read from the House Report:

General plant projects
(special materials production)

	millions
Requested fiscal year 1979 for waste management	$5.950
Requested fiscal year 1979 for materials production	10.250
Requested fiscal year 1979 for general plant projects	16.200
Committee recommendation, fiscal year 1979	21.200
Increase	5.000

Included within Project No. 79-6, General Plant Projects, is an authorization request for $16.2 million for various items of new construction, additions, alterations, and retirements to the facilities used for the special materials production waste management program. Of the $16.2 million requested, $5.95 million is for the defense waste management program. The committee notes that $14.2 million of the total request will be used in two locations—the Savannah River and Richland facilities—while the remaining $2 million will be divided among five other facilities.

Based upon visits to the facilities involved, the committee believes that this item is underfinanced. Most of the facilities used for special materials production have been in continuous operation from 25 to 35 years. Heating, ventilation, electrical, and steam systems in particular are in need of replacement and modernization. Improvements mandated by occupational health and safety laws and regulations, by environmental regulations, and by safeguard and security concerns, have been given priority, while repairs and improvements in production facilities have been deferred year after year. This is an area where a small additional expenditure can result in improved operating efficiency.

Committee action.—The committee recommends an authorization of $21.2 million—an increase of $5 million, to be applied to special materials production activities.

These words in the House Report adequately explain the situation. These funds are not for a certain plant in one State, but for several plants at which these general plant project repairs and improvements have been deferred or reduced year after year.

The Senate Appropriations Committee has reduced the administration request even below the funding level which the authorization committees have found to be inadequate.

House Committee Chairman MELVIN PRICE wrote Dr. James Schlesinger about this problem and stated "the subcommittee found that increasing percentages of machinery and facilities are becoming obsolete, unrepairable or useless for performing the work assigned."

Dr. Dale Myers, the Under Secretary, replied on February 1 and acknowledged this general problem stating that current estimates indicated it would take $260 million to meet these requirements which he termed serious.

Mr. President, I have taken this matter up with Dr. Duane Sewell, recently appointed Assistant Secretary for Defense Energy programs. He also recognizes the problem and has promised to make a proposal to address it in the fiscal year 1980 budget.

In conclusion, Mr. President, I would ask the distinguished manager of the bill, Mr. JOHNSTON, to accept this amendment. I know he nor his committee has any desire to add to the backlog already prevalent in our defense plants. I am sure there is no intention to see our facilities deteriorate further.

We need a long range, aggressive program to meet these problems. The modest increase of $4.2 million will be merely a push to get DOE moving. It would be a mistake to step backward at this time. I am confident this entire issue will be addressed in a line item next year, but we cannot afford to lose even 1 year by going below the budget request in fiscal year 1979.

Mr. DOMENICI. Mr. President, I have discussed this item with the managers, and I believe the amendment is acceptable. If that is the case, I need no further time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, the ranking minority member, Senator MARK O. HATFIELD, and I have discussed these two projects at length with the distinguished Senator from South Carolina (Mr. THURMOND) and the distinguished Senator from New Mexico (Mr. DOMENICI).

These projects, of course, have merit. In the case of Senator THURMOND it constitutes overdue maintenance and the figure of $1 million at Sandia is a worthy one. We point out, of course, that the House of Representatives had no money on Sandia and had lower levels for the general plant projects at South Carolina and other places.

However, we will do our dead level best in conference and recognize the merit of these two matters. We will be glad to take it to conference for a fight.

I will, therefore, accept the amendment on behalf of the committee and yield back the remainder of my time.

Mr. THURMOND. Mr. President, I thank the distinguished Senator from Louisiana for doing this and I assure him that these amounts are sound, that they are badly needed, and we deeply appreciate his accepting this and taking it to conference, and I am sure he will fight to hold it there.

I also thank the able distinguished Senator from Oregon, Senator MARK O. HATFIELD, for going along with this because we know it is extremely important, and we wish to express our appreciation to him.

Mr. DOMENICI. I, too, Mr. President, thank the Senator from Louisiana and the Senator from Oregon. I am most appreciative.

I do believe that this project is badly needed.

I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified by the Senator from New Mexico.

The amendment, as modified, was agreed to.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. Mr. President, I rise at this point to thank the Appropriations Committee and in particular the distinguished Senator from Louisiana, Senator Johnston, and the distinguished Senator from Oregon, Senator MARK O. HATFIELD.

I wish to just discuss with them for a moment the $10 million which is found in this bill for the Waste Isolation Pilot Plant at Carlsbad, N. Mex., and indicate that I am most appreciative of their consideration not only of this Senator but of the people of the State of New Mexico.

I believe what they did for us, for the people of our State at my request is eminently fair. In fact, I think it is the only thing that a fair Congress could do.

Basically, $40 million was requested for this project, $30 million of which would have gone for land and lease acquisition for land surrounding a project that has not yet been determined or defined, and it seemed to the people of our State and this Senator who represents them that there were many things that had to be cleared up before we went ahead with this project, not the least of which is what will the ultimate scope of this project be, will it be licensed by the Nuclear Regulatory Commission or not, should it be expanded from a military facility to a military and civilian facility?

And I am most grateful that this committee on page 44 captured the essence of what I will do in the authorizing bill by way of amendment. I will offer an amendment to the authorizing bill which will basically say that the Department of Energy, the Nuclear Regulatory Commission, in cooperation with the State of New Mexico and the Department of Defense will study and report with next year's budget. That study will include the feasibility, cost and benefits of licensing, whether or not its scope should be expanded, does the military security in some way involve itself negatively or positively in terms of licensing, and all of those aspects that have not yet been studied for Congress.

They have captured the spirit of that amendment which will be offered on that authorization bill, I believe, with full support of Senator JACKSON, and others, and I thank the committee for so adequately describing why they have only put $10 million in for this project, clearly indicating that any other moneys are to be deferred until this study which I have just briefly described and which I will offer to the Senate when the appropriate authorizing bill comes to the floor.

I cannot tell both Senators, the Louisiana Senator and the Oregon Senator, not only how grateful I am but how grateful the people of the State of New Mexico are to them. They have been told that this project should be licensed by the administration. They have been told that its scope might be increased. But none of these items have been passed upon by Congress. Yet they would have come before us asking for a full $40 million for next year.

This will mean the research can proceed but the study should be available to my people in New Mexico, to the representatives of all of Americans here in the Senate so that they can pass judgment on what ultimately should transpire there in Lea County, N. Mex.

Mr. President, I yield the floor.

Mr. JOHNSTON. Mr. President, we are very cognizant of the problems of the Senator from New Mexico and indeed we put that language in the report. First of all, we reduced the appropriation down to the $10 million level deferring land acquisition as requested by the Senator from New Mexico, and this amendment adds——

Mr. DOMENICI. I am not offering an amendment. I was just thanking the Senator and reflecting on how I perceived that it arrived here. I did indicate that I would not accept the time limit on this bill because of this provision and if the Senator intends to finish the bill tonight I will have no amendments to this section. If he does not I might amend it so it will not be further amendable.

Mr. JOHNSTON. We do indeed intend to finish the bill tonight and I even hope this afternoon, and we will protect the Senator on his amendment. We recognize its importance and will protect him on the floor and do our best with a capital B in conference.

Mr. DOMENICI. I thank the Senator very much.

The PRESIDING OFFICER. Who yields time?

Mr. MARK O. HATFIELD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be equally charged.

The PRESIDING OFFICER. Without objection, it is ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I yield to the distinguished Senator from Hawaii (Mr. MATSUNAGA) such time as he may require.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. I thank the Senator from Louisiana for yielding.

I note that the committee has agreed to an appropriation of $20 million for ocean thermal energy conversion projects. The Energy Committee, as the Senator from Louisiana well knows since he is a member of that committee, authorized specifically the appropriation of $2 million in matching grants for establishment of ocean thermal energy conversion shoreside facilities.

My question to the Senator from Louisiana is, Is it the intent of the committee to appropriate $2 million for this specific project out of the $20 million designated for OTEC?

Mr. JOHNSTON. The Senator is correct. We actually earmark in the report on page 24 $1 million for evaluation of the tropic grazing pilot plant concept. But it is also our intention that $2 million be allocated to the OTEC offshore concept.

Mr. MATSUNAGA. That is not what I am referring to. I am speaking of the OTEC shoreside facilities, matching funds for the establishment of which were specifically authorized by the Energy and National Resources Committee. It would fall, as I understand it, within that total figure of $4,839,850,000, on page 2, line 13 of the bill which the committee has reported.

Mr. JOHNSTON. The Senator is correct, and I misspoke myself a moment ago.

In addition to the $1 million for the tropic grazing pilot plant concept mentioned in the report we intend for $2 million to be spent on the OTEC shoreside facility as described in the authorization committee's action. The Senator is correct.

Mr. MATSUNAGA. I thank the Senator from Louisiana. I had intended to

offer an amendment, but with his assurance that the shoreside OTEC facilities will be provided for in matching funds of at least $2 million, I will not offer my amendment. I thank the Senator from Louisiana.

Mr. President, I know my colleagues will agree with me that recent developments in the research of ocean thermal energy (OTEC) technology give promise that OTEC can provide the Nation a new and renewable source of energy with almost unlimited possibilities. I am excited over the potential of the ocean in providing vast amounts of power which would be environmentally clean and pollution free. Furthermore, the fuel supply is virtually inflation free! Ocean energy could be of major importance, especially on a local or regional scale in areas where the resource potential is substantial.

OTEC is now a technology in which no scientific breakthroughs are needed to build an operating plant, but the technology for several major components must be further tested ashore and at sea in order to remove remaining uncertainties which might inhibit its commercialization.

The need for a shore-based test facility which is provided with both warm and cold water deep ocean pipes has been recognized by the Department of Energy, which recently issued a request for proposals for the establishment of such a site.

Hawaii, of course, is one of the leading candidates for the shore-based test facility, and has responded to the RFP. Of particular interest is the fact that the State of Hawaii recently appropriated $10.2 million for alternate energy research, of which $3.75 million was earmarked for the construction of an onshore OTEC research and testing facility. The funds appropriated were made with the anticipation that the Federal Government would be willing to share in the construction of this facility. As stated earlier the Senate Energy and Natural Resources Committee, of which I am a member, recently included in its authorization bill, a provision for matching grants up to $2 million for this purpose.

Mr. President, this amendment is not intended specifically for Hawaii, although Hawaii would be one of several leading candidates. The objective of my amendment, whose amount is relatively modest, would be to encourage the establishment or improvement of a needed facility through joint funding between the Federal Government and a non-Federal entity. Any grants, of course, would be expected to be made on a competitive basis considering the merits of each case.

Once again I thank the Senator from Louisiana, chairman of the subcommittee, for clarifying the intent of the Committee on Appropriations to fully fund the authorized OTEC shoreside facilities project.

Mr. JOHNSTON. I thank the distinguished Senator from Hawaii.

Mr. DURKIN. Mr. President, I do not have an amendment.

Mr. JOHNSTON. I yield to the distinguished Senator from New Hampshire such time as he requires.

Mr. DURKIN. I thank the Senator from Louisiana.

In the authorization legislation, H.R. 8309, we specifically authorized the Army Corps of Engineers to study two existing dam sites in the city of Nashua, N.H., and the authorization passed the Senate, but it has not been finally resolved.

I understand the floor managers' position is that they do not want to get into projects that have not been authorized. But while this is an important sum to the people of Nashua, N.H., it is only $135,000. I was wondering if the distinguished floor manager would be able to assure me that in conference some language could be worked out so that the Army Corps of Engineers could use otherwise appropriated funds, because by that time the authorization process will have been completed, and it will not be violating the rules set down for this very bill.

Mr. JOHNSTON. Mr. President, I think the Senator's request is appropriate. I think there is merit in this study as described to me. Between now and the time we get to conference we will look into the matter and see if it is possible to accomplish it and that upon authorization, and from within available funds, the study may proceed. This of course would have to be within the confines of the conference language by both Houses.

Mr. DURKIN. I thank the Senator.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I suggest the absence of a quorum.

Mr. HASKELL. Mr. President——

The PRESIDING OFFICER. Does the Senator withhold his request for a quorum call?

Mr. JOHNSTON. I withdraw that, Mr. President.

UP AMENDMENT NO. 1644

(Purpose: To fund final design and initial construction of the Solar Energy Research Institute)

Mr. HASKELL. Mr. President, I send an amendment to the desk on behalf of myself and my distinguished colleague (Mr. HART), the present occupant of the chair, and ask for its immediate consideration

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Colorado (Mr. HASKELL), for himself and Mr. HART, proposes an unprinted amendment—

Mr. HASKELL. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, lines 12 and 13, strike out "$1,015,971,000" and insert in lieu thereof: "$1,020,971,000".

The PRESIDING OFFICER. The Chair wishes to inform the Senator from Colorado that the amendment amends a figure which has already been amended, and therefore it would require unanimous consent for the amendment to be in order.

Mr. HASKELL. I ask unanimous consent that the amendment be considered in order.

The PRESIDING OFFICER (Mr. DURKIN). Is there objection? Without objection, it is so ordered.

Mr. HASKELL. Mr. President, the amendment I am proposing will make $5 million available for the final design and initial construction of the facility to house the Solar Energy Research Institute, or SERI, in Golden, Colo. This facility will incorporate the latest advances in solar technology with 90 percent of its energy needs supplied by the Sun. It is projected that the total cost for the structure will be in the neighborhood of $30 million.

In 1974, Congress passed the Solar Energy Research Development and Demonstration Act, Public Law 93–473, which established SERI. As indicated in the law, the Solar Energy Research Institute is to be the central focus of the Nation's solar research, development, and demonstration effort. As a result of a national competition, SERI was designated in March 1977 to be located in Golden, Colo. At present SERI is housed in interim administrative and laboratory facilities in Golden. The SERI staff currently numbers around 200 and will grow to well over 500 in 1980.

The Department of Energy currently holds an option on 560 contiguous acres in Golden on South Table Mountain adjacent to the SERI interim facilities for use for construction of the permanent facilities. This site was donated to the Federal Government by the State of Colorado specifically for SERI's construction.

On several occasions the Department of Energy has indicated its desire to expedite the site evaluation process and commence construction as soon as possible. On Sun Day, May 3, 1978, President Carter, speaking at ceremonies to dedicate the Solar Energy Research Institute site stated:

Here on South Table Mountain, if all goes according to plan, ground will be broken in the fall of 1979 for the Institute's permanent home.

In order to begin construction in the fall of 1979 funds will have to be appropriated well in advance of ground breaking in order to perform final design, engineering and site preparation as well as for negotiating and entering into construction contracts.

Pursuant to these initiatives the Department of Energy's solar division made an internal request for $5 million to the Secretary and OMB for final design and initial construction. The Senate Committee on Energy and Natural Resources

has recommended in its report on S. 2692, the DOE authorization bill, that $5 million be available for these purposes. Despite the pronouncements of the President and the initiatives already undertaken, the DOE last week said that for budgetary reasons it could not support the $5 million figure, although they were not against it. For those of us who have fought to retain the central role and survival of SERI as well as an adequate level of funding for other solar programs the vacillations on the part of the administration are nothing new. I believe it is too important to get the SERI facility off the ground as a visible symbol of the Nation's commitment to the future of solar energy for it to be potentially jeopardized by indecisive and contradictory actions.

SERI recently selected from a large number of firms eight architect-engineer firms who will perform preliminary design work. By December 1978 this number will be competively narrowed to a single contractor. If all goes according to schedule this phase I design work will be completed next June or July. Funds for this first phase come from a variety of accounts, but no specific appropriation. All work after phase I, including final design, site preparation, and construction requires congressional appropriation. This amendment for $5 million is designed to address this final design and initial construction period since no funds have been appropriated for this purpose.

Mr. President, unless these moneys are available there is no guarantee that the final design work and initial construction can proceed smoothly and according to schedule. If we are to meet the President's own desire for beginning construction by late 1979, it is essential that this modest amount of money be available for these purposes in fiscal year 1979.

In conclusion, Mr. President, I repeat that the President of the United States, upon his visit to Colorado, stated that groundbreaking would take place in the fall of 1979, and these funds are necessary to do the design work prior to the groundbreaking, as well as to actual construction.

I understand that the distinguished manager of the bill and the distinguished minority manager handling the bill find this amendment in order.

Mr. HART. Mr. President, will the Senator yield to me?

Mr. HASKELL. I am pleased to yield to my distinguished colleague (Mr. HART).

Mr. HART. Mr. President, as a cosponsor of this amendment, I would like to commend my distinguished friend and colleague from Colorado (Mr. HASKELL) for his efforts to insure that work proceeds expeditiously on the permanent facility for the Solar Energy Research Institute (SERI).

On May 3 of this year, President Carter visited Colorado to celebrate "Sun Day." In his address to an audience assembled on South Table Mountain near Golden, Colo.—the eventual site of the SERI facility—the President stated:

> If all goes according to plan, ground will be broken in the fall of 1979 for the Institute's permanent home.

Similarly, during his confirmation hearings for the position of Assistant Secretary of Energy for Energy Technologies in March, Mr. Robert Thorne stated:

> What I would like to see . . . is a facility that is a showcase of solar technologies. I intend to meet with the SERI people shortly to discuss the possibility of holding some kind of national contest to see if we can incorporate creative, innovative solar technologies into the building itself.
>
> A contest of this nature would, I assume, take 3–4 months. I would expect that, by summer, ground could be broken, provided that Congress authorizes funds for construction.

The Department of Energy authorization bill for fiscal year 1979, which is pending on the Senate Calendar, provides just such an authorization. It was introduced as an amendment in committee by Senator HASKELL. A similar amendment was included in the House-passed version of the DOE authorization.

In light of the commitment of the President and Department of Energy officials to early construction of SERI's permanent facility, it is somewhat surprising that the administration made no request for appropriations for this purpose during fiscal 1979.

Mr. President, the fact of the matter is that the preliminary work for construction of SERI's permanent facility is already well under way. Some 80 firms have already responded to a request for competitive concepts and designs. If it is determined that a comprehensive environmental impact statement will not be required before proceeding with construction, a contract for design of the facility could be let as early as next summer.

But therein lies the catch. Lacking an appropriation, design work for SERI's permanent facility could not begin until fiscal 1980.

Mr. President, SERI was created by Congress to serve as a focal point for Federal efforts to accelerate the various solar technologies. The bill which is before us significantly upgrades the Federal solar program from the level originally proposed by the administration. It is a strong statement of the Senate's commitment to the early realization of this energy alternative.

Senator HASKELL's amendment is consistent with this commitment.

So, Mr. President, I commend my senior colleague for his efforts in this regard, not only for the State of Colorado but for the entire country. I think, as the years evolve in the near term, the work being done at the National Solar Energy Research Institute can well be among the most important research efforts in this country.

In order to get the research underway, as the Senator has indicated, it is extremely important to have that facility under construction as quickly as possible, so that the Institute will have a permanent home and can carry out its work. That work, I think, not only will advance solar research, but will help foster a solar industry in this country, and thus help solve one of the major problems the country and the world face.

So I am pleased to join my colleague in urging the adoption of the amendment.

Mr. JOHNSTON. Mr. President, the two Senators from Colorado have been two of the leading forces for the development of solar energy in the U.S. Senate. As a member of the Committee on Energy and Natural Resources, particularly Senator HASKELL has led the fight for solar energy in the areas of solar heating, the development of photovoltaic cells, and many other applications of solar energy. I know that the Senators from Colorado were in large measure responsible for securing the enthusiastic support of the President for this Solar Energy Institute in Colorado, which I believe he announced on Sun Day.

If we are going to develop alternative forms of energy, we must pursue things like solar energy with real vigor, and this institute will help in developing a form of energy which is renewable and clean and in no way pollutes the atmosphere.

So I congratulate the two Senators from Colorado. We are pleased to accept the amendment. I yield back the remainder of my time.

Mr. HASKELL. I thank the distinguished floor manager of the bill for his gracious remarks. I yield back the remainder of my time and move the adoption of the amendment.

The PRESIDING OFFICER (Mr. HODGES). The question is on agreeing to the amendment of the Senator from Colorado.

The amendment was agreed to.

Mr. HASKELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I have a letter addressed to me by James T. McIntyre, Jr., the Director of the Office of Management and Budget. I ask unanimous consent that the letter be printed in the RECORD following the disposition of the amendment by Mr. HASKELL.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
> *Washington, D.C., August 10, 1978.*
>
> Hon. ROBERT BYRD,
> *Majority Leader, U.S. Senate,*
> *Washington, D.C.*
>
> DEAR SENATOR BYRD: The Energy and Water Development Appropriations Bill, under consideration by the Senate today, contains excessive funding increases for discretionary programs above the President's budget. When placed on a comparable basis with his budget, which incorporated the full cost of completing proposed new starts, including inflation during construction, the bill reported to the Senate exceeds the budgeted total Federal commitments by over $1.4 billion.
>
> In addition, the bill contains the following major objectionable provisions:
>
> Mandates by law the hiring of 2,300 more Federal employees than we believe necessary to carry out the program;
>
> Funds construction of four of the projects terminated last year for economic, environmental, or safety reasons and funds planning of three more of these projects;
>
> Doubles the number of new starts and

triples the budgeted long-term funding commitment required to complete new projects; and

Provides excessive funding for breeder reactors.

In my judgment, the bill in its current form is not in accord with the program of the President, and I would find it difficult to recommend approval of the bill.

Sincerely,

JAMES T. McINTYRE, JR.,
Director.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. JOHNSTON. Mr. President, I would announce at this point that I know of only two small amendments remaining, and accordingly I would announce to the Senate that we are very close to calling for third reading. If any Senator has an amendment, let him soon present it or forever hold his peace.

Is the distinguished Senator from Michigan ready with his amendment?

Mr. GRIFFIN. Could we perhaps have a quorum call?

Mr. JOHNSTON. Yes. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I yield the distinguished Senator from Colorado (Mr. HASKELL) such time as he may require.

Mr. HASKELL. I thank the Senator.

Mr. President, I wish at this time to offer my observations about the bill now before the Senate.

I do not need to remind my colleagues of how important water and water policy are to the Western United States.

The projects included in this bill are not only vital to our continued production of food and to other sectors of our economy, but this bill also includes projects to provide water for homes, schools, and businesses—in some places for the first time.

Last year, over the objections of westerners such as myself, we gave the administration the benefit of the doubt about funding water projects. Since last year, however, it has become increasingly clear that Congress must assume more authority over water resources development that previously we had delegated to the executive branch.

In the past year we have witnessed a multiplicity of water policy options presented by the administration. Many of these when considered as a package were contradictory. At the very least they were confusing.

The Senate expressed its concern about water policy last year, adopting a resolution requesting a 6-month moratorium on implementation of the water policy to allow States, regional basins and Congress to consider the effect and the wisdom of the prospective policy.

The budget we have before us today must be considered in light of this background.

The President has chosen to disregard the wishes of the Senate and has begun unilaterally to implement his water policy as he announced on June 6.

The methods and principles used to arrive at a negative decision on the Narrows Dam project in Colorado, announced by Secretary Andrus July 20, establish a precedent that endangers every future water project in the Eastern as well as the Western United States, no matter how well-designed or vital it may be.

In my view, public review of these policies is crucial. Not only are the projects themselves vital, but the process now is being called into question.

The Committee on Appropriations has had a difficult task to perform. It has had to evaluate the items in this bill in light of the administration's criticism of many of these projects. The shifting administration policy has only added to their difficulty. The committee has done a remarkable job, and I commend it for the results of its deliberations.

I would like to take a few moments to discuss the specific budget items within my State.

The Narrows project in Northeastern Colorado is one with wide-spread benefit. It would provide the irrigation necessary during the dry months of the year when rainfall and surface water are not available. That makes the difference between a good crop and no crop at all.

The last three Governors of Colorado have supported this project. It has been designated the No. 1 project of the State since 1973. No Colorado Senator has opposed this project nor does substantial opposition exist within the State today. Until questions were raised last year, this project enjoyed the support of Congress. It received construction status from Congress in 1973. The questions raised last year were answered in February of this year by the Bureau of Reclamation and its conclusions have not been challenged by any substantial evidence to date.

In view of the wide-spread support this project enjoys, the agricultural and flood protection benefits to be derived, and favorable cost-benefit ratio, this project deserves to be started again. Colorado cannot afford the negative effects further delay would cause.

Two projects within my State also are victims of this administration's hit-list mentality. Last year, the Savory-Pot project and the Fruitland Mesa project were stopped at the 11th hour. A multitude of criticisms were leveled at them, many times by those least familiar with these projects. Given the hysteria of last year's atmosphere and the recalcitrant position shown by the administration, the State of Colorado has requested that these two projects not be constructed, but that study money be provided so that they may be investigated in a calm and dispassionate manner. $75,000 is requested for each of these studies in fiscal year 1979. I stress that contrary to the impression given by Secretary Andrus, we are not asking for construction funds but are asking for study money.

The Animas-La Plata project in the four corner area of Colorado is a project that also enjoys wide support. It is a project that will benefit not only the community at large, but serve the special needs of Colorado's Indian community. This project is cosponsored by the Southern Ute Indian Tribal Council and the Ute Mountain Ute Tribal Council in conjunction with the La Plata Water Conservancy District of Colorado and the La Plata Water Conservancy District of New Mexico. The construction of this project together with the Dolores project will satisfy the water needs of the two tribes.

If these two projects are not constructed, it is expected that pending litigation to establish Indian water rights will be pursued. Both tribes support the Animas-La Plata project and its sister project, the Dolores project, as a better answer to their water problems. It is an answer that will not cause the severe disruption that litigation would bring.

This project is a shining example of cooperation between Indians and their neighbors and as such should be taken by others as an example of what can be done to resolve such thorny issues as Indian water rights.

The Closed Basin project is one that is unique. It involves little in the way of structural construction; it will reclaim water now being lost through evaporation, and it will help pay the deficit now owed to Texas and New Mexico under the Rio Grande River compact.

This project also will help the United States meet its obligation to Mexico under the May 21, 1906, treaty.

A major benefit of this project would be the creation of a reliable water supply for the Alamosa National Wildlife Refuge. The continuous flow provided by this project would promote migratory bird and fish habitat and restore the Rio Grande River to its earlier condition. A project as beneficial as this one should not be allowed to stagnate while the finer details of a national water policy are being contemplated. This project promotes President Carter's concern for conservation of water and protection of the environment.

Finally, I want to make clear that my concerns are not just about Colorado's water projects. The concerns raised by the administration's water policy affect the entire Nation. For that reason the Senate expressed its concern last year and I would hope that it would do so again this year.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. JOHNSTON. To be equally divided, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1645

(Purpose: To add $8.8 million for civilian applications of inertial confinement (laser) fusion technology)

Mr. GRIFFIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposed an unprinted amendment No. 1645:

On page 2, line 13, strike the figure and insert in lieu thereof "$4,848,650,000."

Mr. GRIFFIN. Mr. President, inertial confinement fusion—that is, laser fusion—offers tremendous promise for solving our energy problems in the decades to come.

This technology is so promising that this bill includes in excess of $100 million for research into its military applications. I support this appropriation, and in the long run I am confident it will produce knowledge useful in commercial power applications of laser fusion power.

But our energy problems are such that we should not wait for the byproducts of military research. We should vigorously pursue civilian applications of this technology now.

It is with that in mind that I have proposed this amendment, which will insert $8.8 million for civilian applications of inertial confinement fusion technology.

Mr. President, last November 21 Newsweek magazine carried an article in its science section which said this:

In an energy-starved world, nuclear fusion may be the last best hope. Water would be its main source of fuel, and all U.S. energy needs for the next 300 years could be supplied by tapping only one-sixteenth of an inch from the level of San Francisco Bay.

More recently, on May 15, 1978, Business Week reported:

A significant shift in the pace and direction of federally financed fusion-power research appears to be under way in Washington. If the trend continues, laser-fusion power may well emerge as the preferred technology over competing approaches. . . . Most important, the government now seems convinced that commerical fusion power—the comparatively 'clean' energy technology that would generate electricity from the multiple explosions of miniature hydrogen bombs, without producing large quantities of troublesome radioactive wastes—should be pursued through civilian as well as weapons research. . . .

Next fall, the White House is expected to make a pitch for more fusion money, a move in line with its continuing emphasis on renewable energy resources. And . . . the Energy Dept. is known to be reviewing its entire program and is likely to recommend that military and civilian research projects be brought under separate management for the first time.

Further, impetus for such moves could come this summer, when the General Accounting Office will issue a study of federally backed fusion research. It is expected to argue that still more research money should go to private industry. . . .

. . . (T)he experts agree that not just federal but also private support of fusion will be necessary for such technology to be proven. "Commercial development of fusion power is not simply a question of federal funding," says Evert H. Beckner, director of physical research at Sandia National Laboratories in New Mexico. "It is essential to get more private companies involved. The next five years will be critical."

The potential of this technology was suggested by John Emmett, of the Lawrence Livermore Laboratory in California, who said:

If we can make this business work, then every gallon of water on the face of the earth will have the energy equivalent of 300 gallons of gasoline. The payoff is spectacular. For one thing, the geopolitical considerations of energy would be eliminated. It's really hard to corner the market on water.

Laser fusion has also received support because from an environmental standpoint it is both safer and cleaner than other forms of nuclear energy. And unlike fission energy systems, laser fusion does not produce highly radioactive byproducts like plutonium, which—because they could be diverted for military purposes—increase the dangers of nuclear weapons proliferation.

Speaking at Princeton last October, President Carter asserted that:

Fusion is the last energy source available and [it] presents the highest challenge to put science to work for the benefit of mankind.

The $8.8 million which I am proposing this afternoon would be a strong first step in that direction.

I have chosen the sum $8.8 million, because that is the amount that has already been authorized and appropriated by the House of Representatives. In other words, my amendment if adopted would bring the Senate bill into accord with its House-passed counterpart on this issue.

I make no secret of the fact that important civilian laser research is being done in my State of Michigan by KMS Fusion, Inc. We are very proud of the fact that this is the case.

I had intended to offer this amendment when the Department of Energy authorization bill came to the floor, but we are being forced to do it now because we are considering the appropriation bill before taking up the authorization bill.

It is my understanding that one of the reasons—at least—why the Senate Appropriations Committee's bill does not include funds for civilian applications of laser fusion is that no such funds have been recommended by the Senate Energy Committee in its authorization legislation. When the authorization bill reaches the floor I intend to try to rectify that situation.

But it is interesting to note that the Appropriations Committee report includes the following language—extracted verbatim from the House Appropriations Committee report, which did include funds for this program:

. . . [T]he potential promise of a clean, inexhaustible source of energy from the fusion process is of sufficient importance to warrant an aggressive development program.

Mr. President, it is for that purpose that I have proposed this amendment.

I would hope that the managers of the bill would appreciate the desirability and the merit of this amendment and might accept it.

I yield to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the inertial confinement fusion program is one that has very great promise and merit. The primary reason the Senate Public Works Subcommittee on Appropriations has no funds for this project is that it was not authorized by the Senate Energy Committee. That is the single, sole, and principal reason for this omission. However, the House does have $8.8 million, so this matter will be in conference. We will, therefore, be able to go to conference without any prejudice at all against this project. In fact, we will have a sympathy for it because we think it holds great promise.

So the matter will be in conference. The reason we did not have money was simply because it was not part of the Senate Energy Committee's authorization. On this bill, we must observe and stay within what the authorizing legislation calls for in this area.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. GRIFFIN. In line with the earlier conversation we had during the quorum call, I understand that in this appropriation bill there was no other items which have not been authorized.

Is that correct?

Mr. JOHNSTON. All of title I has not been authorized finally. Title I authorization has come through the Energy and Natural Resources Committee but has not passed the Senate. There is an overall provision that these appropriations are subject to authorization. The difference here is that not only was this not authorized by a final authorization bill signed into law by the President, but it was not approved in the legislation by the Senate Energy and Natural Resources Committee. It is my understanding that it was not rejected, it simply was not considered, if I am correct on that. It is, therefore, without prejudice that we will be able to go to the conference committee on this matter and consider it at that point.

Mr. GRIFFIN. I find that I am in a very difficult situation. The committee resists the amendment because the authorization bill has not yet passed. Of course, that is not the fault of the Senator from Michigan and if the authorization bill were on the floor, as I have already indicated I would be offering an amendment to make sure that this item is authorized.

I am familiar, of course, with the procedures here and I appreciate the difficulty of the situation in which the managers of the bill find themselves.

In light of the assurance that there is no prejudice against this program, and the understanding that it was excluded only because of the policy of the committee not to appropriate funds that have not yet been authorized, I shall withdraw the amendment. I do this with the understanding that the managers and the conferees on the part of the Senate will take to heart and consider very carefully the points and the arguments that I have made here with re-

spect to the commercial implications of laser fusion and the need for funding research in this area.

Aside from the other reasons that the country may be impatient with Congress for not getting on with the energy program, I believe that most people would find it very difficult to understand why we would have an energy program that would ignore the potential of inertial confinement fusion. As everybody seems to recognize outside of Congress, the potential of this technology is almost limitless. But with the assurances that the distinguished Senator from Louisiana has provided for the record——

Mr. RIEGLE. Will the Senator yield at this point?

Mr. GRIFFIN. Yes, I am glad to yield to my colleague from Michigan.

Mr. RIEGLE. I thank the Senator for yielding. I should like to join him in offering this amendment. If I may, I should like to be added as a cosponsor to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. I think the points he has been making are important for the Senate as a whole to consider, because the House has acted on this matter. I think there is a very substantial body now of scientific information that indicates that this is a road that we ought to pursue and that time is wasting. We ought to get on with it.

Frankly, I am reluctant to see us withdraw the amendment. I should like to see us try to persuade the committee, if they could possibly, to accept this amendment. I do not know if that is possible or not, but, at the very least, I would hope that, as long as it is in the House bill, if we do not force the issue today, something can be worked out with the House to see to it that some step is taken.

I ask the manager of the bill, if I may, my good friend from Louisiana—I did not hear the first part of the colloquy that took place between him and the senior Senator from Michigan. I take it that it is the feeling of the committee that it would not be willing to accept this amendment today, is that correct? I should certainly like to see if we could.

Mr. JOHNSTON. The Senator is correct. This has not been authorized even by the Senate Energy Committee. The senior Senator from Michigan, along with his colleague, has made a very persuasive case for this technology. We shall be able to go to conference with the House with it without any prejudice to the case of the Senators from Michigan.

In other words, the Senate has not rejected this project, not voted on it and rejected it. It is not included here simply because there is not any authorization for it from the Senate Energy Committee. There are other items that are not finally authorized, but not authorized because the bill has not matriculated through the Senate and House fully; but they were authorized by the Senate Energy Committee.

We will, indeed, consider this carefully and prudently and sympathetically in the conference committee and in light of the very strong and eloquent case made by the two Senators from Michigan.

Mr. RIEGLE. I say to the Senator that I appreciate what he has said. I know that if he says this will be given careful and sympathetic consideration, that is what will happen. I just note, by the way, so that this does not have the appearance of being just something for our State, that the moneys we speak of here will be available to research facilities across the United States. As a matter of fact, much of the research that is going on is going on in a variety of places in the 50 States.

It is true that there is one facility in our State that has moved out and is in a very forward position in this area. It by no means is alone. There are many others, and this would in no way give that particular entity any advantage over any other research facility in the country that wanted to apply for money to push this science forward.

So, while it happens that two of us from the same State are interested in it, it really is something that is national in scope and the scientific community across the United States that is centering on this activity would like to move more rapidly. We speak for them today as well in offering this.

I say finally to the Senator from Louisiana that I, for one, would be very hopeful that, in sitting down with the House, we could reach some agreement where we could take some forward step here. If the amendment is withdrawn today, I hope that we would still be able to make that gain. If it is the wish of the Senator sponsoring the amendment to withdraw it on that basis, I think that is probably the step to take. I certainly hope that out of this will come something from the conference committee that will move us ahead.

Mr. GRIFFIN. I thank my colleague from Michigan for his excellent comments and for the support he has given, now as in the past. I am reluctant to withdraw the amendment, but under the circumstances, in view of the fact that pressing it to a vote would be met with the argument that we are not in compliance with the rules of the Senate, and in view of the fact that there are not enough Senators on the floor to be persuaded by our arguments against the position of the committee, I think there is too much risk involved.

I think we would do better to go to conference with the assurances that the chairman of the subcommittee has given. Senator HATFIELD of Oregon, the ranking minority member, has given me similar assurances. I believe our chances would be better in the conference if I withdrew the amendment. So I shall do that. We shall pursue our efforts with members of the conference on both the House and the Senate side.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment was withdrawn.

Mr. JOHNSTON. Mr. President, I congratulate the two Senators from Michigan for the withdrawal of the amendment at this time in light of the failure to have authorization. We congratulate them on a very strong case and we will go to conference with the eloquence and convincing nature of their arguments ringing in our ears and, I suspect, with a very favorable mindset with respect to this amendment.

Mr. SCHMITT. Mr. President, will the distinguished Senator from Louisiana yield me some time off the bill to engage in a colloquy on three subjects?

Mr. JOHNSTON. Yes; I yield to the distinguished Senator from New Mexico.

Mr. SCHMITT. Each one will probably take about 5 minutes. Will he yield 15 minutes?

Mr. JOHNSTON. I yield 15 minutes to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, the first topic I would like to discuss with the distinguished floor managers has to do with the provision in the bill under title III for moneys for the Colorado River Basin project.

It is my understanding that within the funds allocated, there is no money for studies relative to increased consumptive use in New Mexico of water from the central Arizona project; namely, 18,000 acre-feet of water per year was authorized by Public Law 90–537 and the debate for the use of this water has generally centered around a project called Hooker Dam.

There has been considerable controversy about Hooker Dam in the southwestern part of New Mexico.

It further attracted the administration's attention and was included in the famous hit list after failing to survive attempts for a compromise.

But, Mr. President, that does not mean that the future need for increased consumptive use of water in southwest New Mexico has gone away.

I would like, for the record, to indicate that whether the final answer is a dam called Hooker, or whether it is some other means of providing this water authorized by law to southwest New Mexico, it is an issue that will remain very close to this Senator's heart and to the people of that part of New Mexico.

I recently wrote several parties responsible for certain aspects of this potential program. I would like at this point to read a portion of the response from the Deputy Assistant Secretary for Land and Water Resources, Daniel P. Beard, to my question of what alternative means have been studied for the provision of the 18,000 acre-feet per year to southwestern New Mexico where increasingly there is a shortage of water.

The small town of Bayard, N. Mex., is now in a major crisis with respect to water availability. I am afraid this will be a continuing and accelerated problem.

I quote from the May 4, 1978 letter:

> On April 18, 1977, President Carter recommended to the Congress that Hooker Dam be eliminated as a feature of the Central Arizona Project (CAP). That decision by the President did not change the authorizing legislation of the CAP, which allows for the increased consumptive use of water in New Mexico subject to a number of provisions. Additional studies to find suitable structural or nonstructural alternatives to Hooker Dam will be required and, as you suggest, will include an evaluation of developing groundwater supplies. However, the Bureau of Reclamation's current program objective for the

CAP is to complete the construction of the conveyance features necessary to deliver water to the Phoenix area and the five central Arizona Indian tribes by 1985, and to the Tucson area by 1987. Delivery of Colorado River water at the Gila River near Buttes Dam site, the exchange point, is prerequisite to completion of any alternatives to Hooker. As emphasis on this effort eases, the Bureau of Reclamation will be able to concentrate on other project features.

The reconnaissance investigations you mentioned did conclude that there were no physical constraints on pumping 18,000 acre-feet annually from two areas along the upper Gila River. However, the studies also identified some potential restraints on groundwater pumping. These include the high fluoride content of the groundwater and legal problems related to depleting the water supply of downstream users and landownerships.

Now, Mr. President, I included this in the RECORD just to make sure it is clear that as time goes by the question of obtaining that 18,000 acre-feet of water will become more critical to the residents of New Mexico and to this Senator. I hope it will be possible within the next year or two to see the study of the alternatives to Hooker Dam, or Hooker Dam itself, included in the budget for the Colorado River Basin project.

I wonder if the distinguished Senator from Louisiana has any assurances he can give me that, at the very least, this problem will not be lost within the massive amounts of money we are appropriating here today.

Mr. JOHNSTON. Mr. President, there are three problems, but no planning money for the Hooker Dam. First, there is no capability in 1979. Second, the additional consumptive use from the reservoir has not been identified. Three, local agreements have not been completed.

However, this does not preclude a further consideration of this project. As the Senator points out, this was part of the central Arizona project and this one, along with the other dams, were deleted in the process of working out a compromise with the administration on the central Arizona project last year.

That does not preclude further study, particularly when the consumptive use has been identified. With the agreements completed, then we would be in that position to move forward with hearings and with additional funding, if warranted, on the studies.

So I can assure the Senator that this will not get lost in the shuffle when these necessary items are in place. Then it will be ready for consideration.

Mr. SCHMITT. I thank the Senator for his comments.

Although 18,000 acre-feet may not sound like a great deal in comparison to other portions of the central Arizona project or, certainly in the rest of the country, it is crucial to the future development of southwestern New Mexico. The continued difficulty in the copper industry and the need for water to support diversification, not only of industry, but just of living conditions, makes the development of this and ground water supplies extremely important.

I am sure that within the next year or two the justification for increased consumptive use in that area, with projections of developmental needs for the next decade, will be possible to make.

I hope the State of New Mexico, in cooperation, of course, with our congressional delegation, will be able to demonstrate that increased need to the satisfaction of the subcommittee.

I thank the Senator for those comments.

Mr. President, on a second issue relative to title I and, in particular, relative to the Department of Energy, appropriations for energy, science and defense activities, I would like to draw the Senate's attention to the issue of fusion energy.

This Congress has spent a good deal of time recently debating the various energy issues. It has been this Senator's privilege to try to remind my colleagues that the basic issue is, how do we transition from our present time of dependency on fossil fuels and an overdependency on imports of fossil fuels to a time when there are essentially inexhaustible energy sources available in this Nation? Along with solar electric systems and the development of hydrogen energy, with hydrogen as a portable fuel, we have been looking for many years at the practical and theoretical possibilities of fusion reactors.

I should like to mention briefly the potential research on advanced concepts of fusion energy. Research on fusion power has been in progress for over 20 years; however, as we move closer toward the next century, it is necessary to accelerate our efforts and explore all the possible options. I have listened to the colloquy between the two Senators from Michigan, and I know they feel very much the same way.

At this point, however, I commend the committee for their foresight in recommending in their report on fusion energy, on page 30, "an aggressive evaluation of the small system concepts to the mainline fusion machines presently pursued."

The reason this is of particular interest to this Senator is that recently I have become aware of a new approach to harnessing fusion power with the potential of achieving near-term results. It is based on an aerospace engineering approach to the development of small tokamak reactors of magnetic fields, and it pushes stresses and heat transfer materials to the present liimts of materials.

It is brought about by the fact that over the last two decades, because of efforts in aerospace, we have seen new materials and new processes and new understandings of materials develop to a much more significant point than was available at the time many of the original policy decisions were made with respect to fusion research. Because of this, a concept such as small tokamak reactors embodies elements of research risk that may not be found in the mainline national fusion effort. However, the cost of attempting this is only a few percentile points of the main program cost, and its payoff potential is so great that it would seem unreasonable not to continue work on this concept to a point of clear success or of a clear judgment that the technique was not feasible.

The unique nature of this approach derives from the small size and resulting low cost of future fusion devices using the modular concept. These tokamaks are modular units that are approximately two square meters and can be put together into an array of 5–20 unit cores. Each unit will generate approximately 100–200 MWe and the anticipated lifetime of the individual units is typically 1 month, although that is something for the further research to determine. This modular concept has the advantage of being able to replace or repair the recyclable units without shutting down the entire plant. The small size of each unit and the low cost for manufacturing these units make this concept a promising advancement in fusion engineering and possibly a technically and economically feasible near-term fusion power program.

Successful demonstration of this concept could save millions of dollars in future costs, at a fairly low initial investment—albeit high risk investment. It could bring practical fusion power years sooner than otherwise, and as a result could have a much broader influence than previously had been anticipated on our general problem of energy imports and energy alternatives to fossil fuel.

It is my belief that the time to pursue this concept, and to pursue a number of reasonably advanced fusion concepts in parallel with the mainline program, is now, if we are to consider fusion energy as part of our future—an inexhaustible, environmentally sound contributor to our national energy supply problem.

Mr. President, again I compliment the committee for recognizing in their report—and I hope it will be clear to the Department of Energy—that "an aggressive evaluation of the small system concepts to the main line fusion machines presently pursued" will be interpreted as the intent and the will of Congress.

Mr. President, on a final subject, again dealing with title I, in the light water reactor section of the report there is discussion of the Barnwell reprocessing plant in South Carolina.

The distinguished Senator from South Carolina (Mr. THURMOND) is in the Chamber, and he has a great interest in this activity. As a Senator from New Mexico, I also have a great interest in it because of the implications of the reprocessing technology on the possibilities of and the options for nuclear waste management.

It has become increasingly apparent that the present administration is not considering the reprocessing of spent fuel rods from nuclear reactors as one of the options that must be dealt with as we develop a nuclear waste management program in a significant way.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCHMITT. Mr. President, will the Senator from Louisiana yield another 4 minutes?

Mr. JOHNSTON. I hope the Senator can conclude, because I assured a number of Senators that we were getting close to final passage.

I yield another minute to the Senator.

Mr. SCHMITT. I appreciate the Senator's courtesy.

Mr. President, the administration's policy is clearly geared to the concepts

of permanent disposal of spent fuel rods, without consideration of the potential of reprocessing. That reprocessing potential is not only in the obtaining of energy still in those fuel rods, in the form of unused uranium and plutonium, but also in the form of other elements and isotopes of elements that can provide our society with great economic material.

It also is very clear at this point that reprocessing will simplify, in many respects, our waste management problem.

I thank the distinguished Senator for his courtesy.

I join Senator HOLLINGS and Senator THURMOND in hoping that the report language is a clear indication to the administration that we intend to have the reprocessing issue at least remain an open option.

Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the statement of Jerry Apodaca, Governor of the State of New Mexico, to the Public Works Subcommittee of the Appropriations Committee of the Senate on April 5, 1978.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CENTRAL ARIZONA PROJECT

The Colorado River Basin Project Act P. L. 90–537, enacted in 1968 authorized construction of the Central Arizona project in Arizona and New Mexico. The President's FY '79 budget proposal includes an appropriation request for $73,770,000. The Hooker Dam and Reservoir or suitable alternative in southwestern New Mexico is authorized for construction as part of the Central Arizona Project. No funds are proposed in the President's FY '79 budget for the continued study necessary in order that this unit of the project can be completed on a timely schedule. I urgently request that at least $200,000 be included as a line item for continued study of the Hooker Dam and Reservoir or suitable alternative.

Mr. THURMOND. Mr. President, will the Senator yield me 1 minute?

Mr. JOHNSTON. I yield.

Mr. THURMOND. I thank the Senator.

Mr. President, I commend the able Senator from New Mexico for the statement he has made. I express our sincere appreciation to him for his vision and foresight in the atomic field and the matter of reprocessing nuclear energy.

Mr. President, on Monday of this week, the Appropriations Committee approved a total of $18.5 million for research in fiscal year 1979 at the Barnwell nuclear fuel plant in South Carolina. Earlier, the Committee on Energy and Natural Resources authorized this same amount for fiscal year 1979 for Barnwell. Yesterday, I placed in the CONGRESSIONAL RECORD, so that it would be readily accessible to my colleagues, a recent GAO report evaluating Federal funding for Barnwell. The report concluded that—

Congress should continue to fund short-term research studies at Barnwell until the completion of the international study on alternative fuel cycle technologies.

The International Nuclear Fuel Cycle Evaluation (INFCE) is a 2-year, 40-nation study initiated by the administration to evaluate alternative fuel cycles which will reduce the danger of nuclear proliferation. I urge my distinguished colleagues to support the determination made by these committees and by the GAO that funding for the Barnwell reprocessing plant should be continued for the coming year.

Mr. President, I support continued funding for Barnwell for one simple reason—it preserves certain options for the future. I strongly believe that it is important to our country to keep open all options in the field of nuclear energy. By keeping Barnwell in operational status, we can preserve the very important option that this unique, modern facility may yet be used to reprocess commercial spent nuclear fuel. On April 7, 1977, the President issued a policy statement calling for an indefinite deferral of commercial reprocessing in the United States.

Other nations have not, as the President had hoped, followed our lead in deferring the reprocessing of spent fuel. The recent GAO report on Barnwell funding stated that Japan, France, West Germany, the United Kingdom, and the Soviet Union all have ongoing breeder reactor development programs as well as planned or operating reprocessing facilities. They apparently view breeder technologies and reprocessing as vital to their economic stability and have not evidenced a desire to discontinue these programs. Our own plant at Barnwell, the first large-scale commercial reprocessing venture in the United States, should be kept in operational status in the event that the President either at the conclusion of the INFCE or at some other time reconsiders his ban on commercial reprocessing. I very strongly believe that the United States should retain the reprocessing option and keep up with reprocessing developments.

The alternative to reprocessing, the so-called "throwaway" fuel cycle, causes me great concern for two reasons. First, we are wasting a significant amount of energy. British Foreign Secretary David Owens, in explaining his country's decision to expand one of its reprocessing facilities over strong U.S. objection, recently stated that:

The throwaway route means throwing away more than ninety percent of the energy value of nuclear fuel—roughly the equivalent of throwing away seven pints out of every gallon of petrol that a motorist buys.

Secondly, reprocessing is the superior alternative from the standpoint of managing nuclear waste. Reprocessing waste, for example, takes less time to become innocuous than do spent fuel elements. Also, the total integrated radioactivity is about three times greater for spent fuel elements than for reprocessing wastes. I believe that reprocessing represents a safer method for nuclear waste management.

A second option preserved by fiscal year 1979 funding for Barnwell is the continuation of the research program being conducted there. Federal dollars are being well spent because the Barnwell R. & D. program is producing results. The highly technical, talented staff at Barnwell recently developed a new more proliferation resistant fuel cycle which would make it practically impossible for terrorist groups to fashion crude nuclear explosives from the end products of the new cycle. This technological breakthrough has been submitted to the INFCE for further evaluation.

Another option is the use of Barnwell to reprocess military production fuel. Although some technical changes would be required to enable the Barnwell facility to reprocess military fuel as opposed to commercial fuel, the owners of the plant assure me that such changes would not be excessively difficult or costly. This option needs careful study in that our military facilities are becoming aged and are deteriorating.

I believe that the preservation of all these options is important to the future of our country. I thank Senator MAGNUSON, chairman of the Appropriations Committee and Senator YOUNG, ranking minority member of this committee, for their leadership in continuing this vital program through fiscal year 1979. I sincerely urge my distinguished colleagues to join with me in supporting the $18.5 million approved by the Appropriations Committee for fiscal year 1979 research at Barnwell.

I also thank the able Senator from Louisiana (Mr. JOHNSTON), floor manager of the bill, and the able Senator from Oregon (Mr. HATFIELD), ranking minority member, for the excellent manner in which they have handled the bill on the Senate floor.

UP AMENDMENT NO. 1646

(Purpose: To designate a certain amount as available for streambank repairs subject to favorable report from Army Corps of Engineers)

Mr. SCHWEIKER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SCHWEIKER) proposes an unprinted amendment numbered 1646.

Mr. SCHWEIKER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 22, insert the following: ": *Provided further*, That an amount not to exceed $4,000,000 may be allocated to the Streambank Erosion Demonstration Program authorized in Section 32 of the Water Resources Development Act of 1974 for such bank stabilization measures on the North Branch of the Susquehanna River in the vicinity of Forty Fort, Pennsylvania, at approximate river mile 189.4, as the Chief of Engineers deems necessary and subject to the favorable findings and recommendation from the Chief of the Army Corps of Engineers and approval of the Committees on Appropriations of the House and the Senate."

Mr. SCHWEIKER. Mr. President, a very serious problem is developing along the north branch of the Susquehanna River in Forty Fort, Pa. Forty Fort is a neighboring community to Wilkes-Barre which is the area devastated by Hurricane Agnes in 1972.

During the Federal disaster recovery effort to restore the communities along the Susquehanna River, the Army Corps of Engineers, at the direction of the Office of Emergency Preparedness, rebuilt about 1,800 feet of riverbank in Forty Fort.

On July 19, 1978, the Luzerne County engineer wrote the Baltimore district engineer informing him that portions of this rebuilt riverbank are eroding and sliding into the Susquehanna. I ask unanimous consent that the Luzerne County engineer's letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

LUZERNE COUNTY,
Wilkes-Barre, Pa., July 19, 1978.

U.S. ARMY CORPS OF ENGINEERS,
Baltimore District,
Baltimore, Md.
(Attention: Col. G. K. Withers, District Engineer)

DEAR COLONEL WITHERS: Within the last two weeks, a very serious embankment failure has been brought to my attention by Luzerne County's Levee Maintenance Personnel. The embankment failure is serious enough to bring to the attention of the U.S. Army Corps of Engineers and I have done just that within the past several days. I have spoken to several gentlemen from the Baltimore District and find that the question of jurisdictional authority is an impediment to allowing the Corps of Engineers to perform repair work in this area.

I am writing this letter in an effort to describe to you the details of events surrounding this embankment failure and to ask that you pursue the possibility of having the Baltimore District perform repair work necessary to stabilize the existing embankment.

Forty Fort Borough, as I am sure you are aware, is protected by substantial Federal Flood Protection System (Forty Fort-Swoyersville Flood Protection System) constructed by the U.S. Corps of Engineers several years ago. The southern most or downstream terminus of the Flood Protection System ties into high ground at a location along River Street in Forty Fort immediately adjacent to several residential properties. This particular high ground suffered substantial erosion during the 1972 flood disaster and subsequently was restored by the Corps of Engineers under direction from the President's Office of Emergency Preparedness. The restoration work consisted basically of several hundred feet of embankment restoration and the installation of a rock armor facing along the full extent of the restoration. Within the past two weeks, we have noticed a substantial and rapid movement both vertical and horizontal of a portion of this embankment which is creating considerable concern on the part of adjacent property owners as well as the Borough Council in the Borough of Forty Fort. I believe their concerns are well founded for several reasons, primarily however because of the potential of rapid erosion of this embankment during a high water condition which could jeopardize the integrity of the Flood Protection System in Forty Fort.

In discussing the problem with several Baltimore District Personnel, I find that your authority is limited in this particular area since the property in question is privately owned and does not fall within your jurisdiction as it relates to flood protection. My contention is however, that since the Corps of Engineers performed the restoration work after the Agnes Disaster and since that restoration work has obviously failed to perform the function for which it was designed, a responsibility exists to perform the necessary repair work to restore the embankment to a condition as it existed prior to the failure and to perform necessary work to prevent similar failures in the future. I have some very serious reservations concerning the adequacy of the design and construction performed in this area after the Agnes Disaster in view of the recent failures which I believe can be obviously attributed to a failure of the embankment rather than a failure of the base structure upon which the embankment rests.

I just today spoke to Mr. Al DeLucia from the Federal Disaster Assistance Administration and discussed the problem with him since he is a representative of the agency which assigned the Corps of Engineers to this project. I was somewhat amazed in listening to his comments concerning the type of restoration work that had been performed along this embankment. In essence, he told me that the restoration work was designed to be only a temporary restoration and certainly not something that was designed or constructed to last an indefinite period of time. I told Mr. DeLucia that had that been the case, I believe that the President's Office of Emergency Preparedness would have had an obligation to tell the property owners along River Street who are affected by this embankment that the restoration was only temporary and that they could expect failure of the embankment in the future. It is inconceivable to me that the Corps of Engineers approached this restoration with that type of performance in mind.

In light of these events, I am asking that you review the entire status of your authority and/or responsibility relative to stabilization of this embankment and to exercise any authority you may have in effecting immediate repairs. I believe this problem is serious enough to require your immediate attention and I would very much appreciate some correspondence from you concerning this matter. Mr. Dave Buettner, Mr. Ed Hecker and Mr. Joe Hemler of the Baltimore District are all familiar with this problem and I believe would be able to discuss it with you.

Would you please at your earliest possible convenience, get back to me with your decision relative to permanent repairs. In the interim, Luzerne County will construct a temporary protective fence which will hopefully prevent any accidents due to the deep open cracks which have evidenced themselves in the embankment.

Thank you very much.

Very truly yours,

JOHN L. CHURNETSKI,
Luzerne County Engineer.

Mr. SCHWEIKER. Subsequently, Mr. President, an onsite inspection was undertaken by the Army Corps of Engineers and the Federal Disaster Assistance Administration which confirmed the existence of this problem.

I have discussed this matter with Lt. Gen. John W. Morris, Chief of the Army Corps of Engineers, who informs me that while an erosion problem affects approximately 400 to 500 of the 1,800 feet of riverbank, his engineers have not been able to undertake a detailed engineering analysis to determine the extent of the problem.

On August 3, 1978, the Corps of Engineers wrote me describing the present situation at Forty Fort, and I ask unanimous consent this letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
Washington, D.C., August 3, 1978.

Hon. RICHARD S. SCHWEIKER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCHWEIKER: As requested, and relating to your earlier conversation with General J. W. Morris, Chief of Engineers, I am sending you the current information as seen by this office on the Forty-Fort situation near Wilkes-Barre, Pennsylvania.

As a result of Hurricane Agnes in 1972, a section of the Susquehanna riverbank at Forty-Fort collapsed, leaving several homes in immediate danger of falling into the river. During the disaster relief efforts the OEP (now FDAA), requested and funded the Corps of Engineers to make emergency repairs to the bank in order to protect these homes. This work was done as a part of a disaster relief program and has served well for five years.

The present situation, based primarily on photographs and without any detailed engineering analysis, is that the emergency protective embankment mentioned above is failing in the vicinity of the homes. Once again these property owners are in danger of early and significant losses. The total embankment is about 1800 feet long and begins just downstream from the end of the Forty-Fort flood control project authorized by the Congress and constructed through the Corps of Engineers. I understand that of the total 1800 feet which is affected about one-fourth shows signs of serious cracking. Indications are that additional failure, apparently as a result of subsidence is possible.

There is currently no authority, emergency or otherwise, which would permit the Chief of Engineers to repair the work which was done as part of the post-Agnes Disaster Declaration.

There are two reasons why the Congress might desire that repairs should be undertaken. First, there is the danger to individuals and their personal property and, secondly, regardless of the circumstances under which the work was done following Agnes, the public perception quite probably is that since the Corps of Engineers was involved, a responsibility exists for the Federal Government to correct the current situation. While the second point is technically not correct, the perception remains nevertheless.

Should you and the Congress conclude and desire that the Corps of Engineers repair and correct the existing situation in the vicinity of Forty-Fort, the most immediate available opportunity appears to be to include this location as part of the streambank erosion demonstration program authorized in Section 32 of WRDA 1974. It is estimated that an additional $4,000,000 would be required to accomplish this work.

I trust this information is satisfactory.

Sincerely yours,

JAMES W. PECK,
Colonel, Corps of Engineers Assistant Director of Civil Works, Atlantic.

Mr. SCHWEIKER. Mr. President, my amendment is designed to protect the town of Forty Fort should the Corps of Engineers determine that a project is needed and justified to restore this riverbank and prevent further erosion. When the Senate debated the fiscal year 1978 second supplemental appropriations bill, Senator MAGNUSON and I discussed this problem, and we agreed to direct the Chief of the Army Corps of Engineers to provide the House and Senate Appropriations Committees with a preliminary analysis of this situation no later than September 15, 1978. My amendment would allow the Corps of Engineers to

undertake repairs if their analysis indicates work needs to be performed.

Mr. President, as I stated earlier, this is a serious problem; however, it is not possible to determine the extent of the damage at this time. My amendment clearly states that this project must be studied, justified, and recommended by the Chief of Engineers of the Army Corps, and approved by the respective Appropriations Committees before these funds can be spent.

Mr. JOHNSTON. Mr. President, Representative DAN FLOOD, of Pennsylvania, has called me on this matter and has pointed out the very serious nature of erosion on the banks of the Susquehanna River.

This matter was begun by calling for a preliminary study which was requested in connection with the second supplemental appropriations bill.

And this will be the next step in furtherance of doing the necessary work to be determined by the study. The $4 million may be expended only upon the completion of this preliminary study, the approval by the Chief of the Corps of Engineers, and approval by both Appropriations Committees on the House and Senate side.

I think it is a very appropriate amendment that gives us the ability to deal with that serious problem.

We, therefore, accept the amendment, and yield back the remainder of my time.

Mr. SCHWEIKER. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. JOHNSTON. Mr. President, I yield to the Senator from Ohio such time as he may require.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. I thank the distinguished floor manager.

Mr. President, I am pleased to see that the committee included $300,000 for phase I planning for the Cleveland Harbor dredging project. The project is vital to the economy of my State of Ohio. When the project proceeds, the Cleveland harbor will be dredged and restructured so that it can accommodate 1,000-foot ore carriers. If the harbor is unable to handle these modern ore carriers, Ohio's steel industry will be placed at a great competitive disadvantage which could over a period of time result in significant unemployment and the weakening of a viable industry employing thousands of individuals.

Earlier in this session I was successful in attaching to the waterway users bill an amendment authorizing an additional $27.6 million to provide for the completion of this project. It is my understanding that there is movement in the House on this authorization and that prospects for sending a bill to the President containing a full authorization for the project are good. None of the construction which would be authorized by that legislation, however, can proceed until a phase I design memorandum is completed. The $300,000 provided by the committee, if ultimately appropriated and spent, would allow for the completion of this design stage of the project.

Unfortunately, Mr. President, there is a hitch. Last month it was reported that the Office of Management and Budget has directed Secretary of the Army Clifford Alexander to have the Corps of Engineers conduct another feasibility study of the project. A full-fledged feasibility study has already been completed and later supplemented. The final report has been favorably reviewed by the appropriate District Office, by the Board of Rivers and Harbors, and by the Office of the Chief of Engineers. Yet in spite of the comprehensive review given the project by the corps and the pressing economic need to proceed with design and construction at the earliest possible date, the OMB is asking for still further review of the project's feasibility.

It is with great regret that I have watched OMB's action on this project. To my mind the case has not been made for an additional feasibility study, and the funds which would be appropriated by the committee's bill should be spent on design planning as early as possible. I would like to address a question to the distinguished floor manager of the bill, the Senator from Louisiana, who is the chairman of the Appropriations Subcommittee which approves the budget for the corps and its projects. Would the Senator agree with my assessment that no effective case has been made for an additional feasibility study and that phase I design planning and ultimately construction should proceed with the greatest possible speed?

Mr. JOHNSTON. I thank the Senator for his explanation and most certainly do agree with him in his assessment. The committee included language in its committee report that it expects the corps and other executive agencies to vigorously proceed with phase I planning at the earliest possible time, and I am happy that his words have reinforced the committee's intent. We will keep a watchful eye on this project since, as the Senator has pointed out to me and my colleagues, the project is essential to the economic stability of northeastern Ohio.

Mr. GLENN. Mr. President, this is with regard to our fabrication of nuclear fuel in this country.

One of the salient points on which there appears to be virtually unanimous agreement among all parties dealing with U.S. nonproliferation policy is the need for the United States to back up its nuclear fuel commitments with the clearly perceived enrichment capacity to carry out those commitments. Otherwise, U.S. leadership in nonproliferation will be forfeited as nuclear fuel customers go elsewhere to satisfy their needs.

Seen in that light, the construction of the Portsmouth gas centrifuge enrichment plant becomes a major element of the U.S. drive to limit the spread of nuclear weapons capability around the world.

The importance of this project has been reiterated on several occasions by the President, both during his campaign and afterward. The most recently stated commitment of the administration to the completion of this project was contained in a letter to me dated June 7, 1978, from DOE Under Secretary Dale Myers, referring to the commitment to build the $8.8 million SWU centrifuge plant at Portsmouth, and explaining administration thinking regarding the new revised schedule for completion. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF ENERGY,
Washington, D.C., June 7, 1978.

Hon. JOHN GLENN, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GLENN: I have been asked to respond to your letter of May 8, 1978, to the President in which you expressed your concerns regarding the recently announced revisions to the Portsmouth Gas Centrifuge Enrichment Plant (GCEP) schedule. These recent changes resulted from a review conducted by the Department which has reaffirmed the eventual need for the additional centrifuge enrichment capacity.

Since committing to build the 8.8 million SWU centrifuge plant at Portsmouth, Ohio, last year, several changes have occurred in the projections of future uranium enrichment needs. First, a careful review of nuclear plant construction has led to a revision downward in the forecast growth of nuclear plants. Our estimates for the number of reactors that we expect to supply in 1985 and 1990 are shown below, along with the earlier estimates which had driven the previous schedule for the GCEP.

Previous estimate—GWE

Year	Domestic	Foreign	Total
1980	78	50	128
1985	163	101	264
1990	205	112	317

Current estimate—GWE

Year	Domestic	Foreign	Total
1980	60	41	101
1985	115	65	180
1990	185	100	285

The impact of this in terms of SWU demand (at 0.25 tails assay) is shown below:

Previous estimate of MSWU required

Year	Domestic	Foreign	Total
1980	10	5	15
1985	21	11	32
1990	22	11	33

Current estimate (MSWU)

Year	Domestic	Foreign	Total
1980	8	5	13
1985	14	7	[1]21
1990	20	11	31

[1] Based on CIP/CUP, capacity will be 27.3 MSWU in 1984.

Second, the DOE has offered to permit both domestic and foreign utilities to slip deliveries of enriched uranium (upon payment of schedule adjustment charges) to

reflect the similar slips in nuclear power plant construction schedules. Third, the DOE has announced its intent to take new orders for enrichment for domestic and foreign utilities which may increase the need for new enrichment supply.

On balance, these factors when considered with the inherent flexibility and cost effectiveness of the centrifuge process have dictated a schedule revision which will insure enriched uranium supply against a realistic expectation of demand.

The new schedule will provide 2.2 million separative work units (SWU's) of centrifuge capacity by the end of 1988, with additional capacity being added sequentially in increments of 1.1 million SWU's as needed to match future demand. This slip in the plant schedule will in no way affect our ability to meet all future domestic and foreign uranium enrichment needs.

All information pertinent to any future decisions on the production plans for the existing diffusion plants, the enriched uranium stockpile and the centrifuge plant will be assembled during this summer. As is always the case if the enrichment requirement situation warrants it, changes to existing plans may occur.

The proposed reduction in funding for FY 1979 has not modified the front end of the centrifuge plant schedule. The revised schedule does not change the date for beginning construction of the first process building, FY 1979, or for operation of the first train, FY 1984. I believe the presently planned program will reinstate the United States as a reliable and economical source of enrichment services to domestic and foreign customers and will provide for more efficient use of this Nation's resources. Since the schedule for operation of the GCEP is tied to when additional capacity will be needed, demand for enrichment services, and methods of operating the diffusion plants must be watched carefully as the GCEP progresses.

The revised schedule for the GCEP is expected to reduce adverse social and economic impacts in the Portsmouth area during construction of the plant. Under the new schedule, the peak construction work forces would be reduced by 25 to 35 percent. However, this will permit the work force to have a large percentage of workers hired from the construction worker pool in the vicinity of the plant. These workers also will be required for a longer period of time. The lower number of construction workers stretched out over a longer period of time, coupled with the hiring of an operating work force as construction is completed, will result in reduced adverse impact on schools, roads, traffic, and housing services in the area.

I appreciate your continued support of the GCEP Project.

Sincerely,

DALE D. MYERS,
Under Secretary.

Mr. GLENN. Mr. President, it would have been prudent, in my view, for the Portsmouth facility to be funded at a level that would enable completion of the entire facility by 1988.

In fact, I so wrote to Senator BYRD in a letter that also contained a recommendation for the funding of a high Btu synthetic fuel industrial demonstration plant (a recommendation, I am pleased to say, that was adopted by the Appropriations Committee).

Mr. President, I ask unanimous consent to have my letter to Senator ROBERT C. BYRD printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

report by the Administration to justify the

U.S. SENATE,
Washington, D.C., July 19, 1978.

Hon. ROBERT C. BYRD,
Committee on Appropriations, Chairman, Subcommittee on Interior and Related Agencies, 1208 Dirksen Senate Office Bldg., Washington, D.C.

DEAR BOB: I would appreciate consideration by you and your Subcommittee of this request to fully fund two projects in the current DOE budget. These are (I) the Portsmouth Gas Centrifuge Enrichment Plant (GCEP) and (II) the second generation High-Btu coal gasification demonstration plants. These projects are currently fully authorized by the Senate Energy and Natural Resources Committee.

The reasons that I bring these projects to your attention are as follows:

I. PORTSMOUTH GAS CENTRIFUGE ENRICHMENT PLANT (GCEP)

The DOE recently advised Congress of its desire to delay the construction schedule and to reduce by approximately half its authorization and appropriation requests for the Portsmouth GCEP.

I have been given an informal briefing by DOE on the reasons that have prompted their decision. Certainly the notion of better matching and smoothing of component production and plant construction schedules and the desire of more closely matching SWU supply to demand are considerations to which one must pay attention on the basis of good management practice.

However, this additional enrichment capacity is so vital to our economic, health, foreign policy, and national security that we must ensure this nation's ability to remain an assured supplier of reactor fuel.

We have already observed the severe adverse effect upon the cause of non-proliferation as well as on our balance of payments resulting from the decision in 1974 to close the order books for new enrichment services. If we are to enhance our non-proliferation policy, improve our balance of payments, and create an appropriate climate of confidence within which our domestic nuclear industry and utilities can flourish, there must be no question about the ability of the U.S. to maintain a strong position as a reliable supplier of enrichment services. To that end, the Nuclear Non Proliferation Act of 1978 provided in Title I that:

(a) The United States, as a matter of national policy, shall take such actions and institute such measures as may be necessary and feasible to assure that it will provide a reliable supply of nuclear fuel to recipients that adhere to policies designed to prevent proliferation;

(b) The United States shall ensure that it will have available the capacity on a long-term basis to enter into new fuel supply commitments consistent with its non-proliferation policies and domestic energy needs;

(c) The Secretary of Energy shall initiate construction planning and design, construction and operation activities for expansion of uranium enrichment capacity;

(d) The President shall study and report to the Congress on the need for additional United States enrichment capacity to meet domestic and foreign needs and to promote United States non-proliferation objectives abroad; and

(e) The President shall submit proposals to the Congress for creation of a stockpile of low enriched uranium for fuel assurances with the intermediate aim of creating an international fuel bank and with the ultimate aim of creating an International Nuclear Fuel Authority to deal with all aspects of the fuel cycle.

In the absence of the study of U.S. enrichment needs called for in the Non-Proliferation Act or other detailed substantive proposed reduction in FY 79 authorization for the Portsmouth GCEP, I find it difficult to support the reduction and the associated extension of the construction schedule.

Accordingly, unless the Administration provides convincing documentation that the proposed schedule stretchout will cause no substantial risk to our non-proliferation policy, to our domestic nuclear fuel position, to the creation of a fuel bank, or to our ability to open wide our order book for new contracts, I recommend to the Subcommittee on Interior and Related Agencies that it vote the full FY 79 appropriation of $220 million for the Portsmouth GCEP.

II. SECOND GENERATION HIGH-BTU COAL GASIFICATION DEMONSTRATION PLANTS

I am extremely concerned by recent actions which suggest a major shift in DOE policy on funding and support of second generation High-Btu coal gasification demonstration plants. Testimony given in April by DOE Undersecretarory Myers stated that DOE was reevaluating second generation coal gasification and was considering skipping second generation to concentrate on third generation technology.

Although technical and budgetary considerations require a continuing review of all projects, I believe:

1. The question of second generation gasification technology versus liquefaction technology seems cast as an "either/or" proposition. This is an erroneous conception as today's existing energy system permits substantial substitution of liquids for gas and vice versa. Considerable gas has already been replaced by imported oil and this situation can be reversed easily. Therefore, both second and third generation projects should be fully funded.

2. There are methods which have not been considered by DOE to ease the budgetary crisis such as a request by CONOCO to provide a smaller demonstration plant with a single modular reactor instead of three modules.

As a minimum, I believe that DOE should assure the application of gasification technologies to all parts of the U.S. coal resource. It is especially important that a developed process be applied to the eastern coals, particularly those in Appalachia, for the production of synthetic pipeline gas. Recent test results are quite positive that this goal is attainable.

In this regard I urge that you, as Chairman of the Subcommittee on Interior and Related Agencies of the Senate Appropriations Committee, reaffirm the Senate's support of the High-BTU gasification project as currently constituted. We also urge that you support the authorized funding for *two* High-BTU demonstration plants, and finally, given the existence in the U.S. of major coal fields in Appalachia and in the Mid-continent, we believe it should be the intent of your subcommittee and the U.S. Senate that the legislation assures that a demonstration plant be placed in each of these two major coal resource areas.

Your consideration of my requests is appreciated.

Best regards.

Sincerely,

JOHN GLENN.

Mr. GLENN. The administration's position, as has been expressed to me on several occasions by its representatives, is that the reduced funding sought by the administration is for a schedule stretchout and nothing more.

In the case of Portsmouth, the Appropriations Committee has chosen to follow the administration's recommendation of a $135 million appropriation for fiscal year 1979—an appropriation that

will cause the schedule for completion of the facility to slip beyond the original target date of 1988.

Mr. President, because of the importance of this facility to our national security, our balance of payments, and our image as a reliable supplier of low-enriched fuel, there must be no misunderstanding of the intent behind this lowered appropriation. Accordingly, I would like to engage in a colloquy with my distinguished colleague from Louisiana and the floor manager of the bill, Senator JOHNSTON.

The Appropriations Committee has provided $135 million for fiscal year 1979 for the Portsmouth gas centrifuge add-on facility although $250 million would have been needed for completion of the facility by 1988. I was pleased to see that in the committee report on this bill the following statement appeared:

The Committee strongly supports this needed addition and believes the Department should proceed expeditiously with its construction.

Do I understand correctly that the committee's position is that the entire 8.8 million SWU of capacity for the Portsmouth facility should be constructed by the Department of Energy?

Mr. JOHNSTON. That is correct. The committee believes that there should be no reduction in the commitment to the Portsmouth facility and that the entire 8.8 million SWU capacity plant should be completed.

Mr. GLENN. Is it the committee's understanding that the reduced level of funding is a response to the administration's request for a stretchout of the timetable for completion, that the administration is still committed to building the entire 8.8 million SWU plant, and that the $135 million appropriation will be sufficient to complete a module of 2.2 million SWU for the Portsmouth facility in 1988?

Mr. JOHNSTON. That is correct. It is important to note that this $135 million together with amounts previously appropriated will provide a total of nearly $465 million for the facility.

Mr. GLENN. I have heard some suggestions made that one factor in the administration's request for a lower appropriation for the Portsmouth facility in fiscal year 1979 was the progress being made in advanced isotope separation technology. It is my view that even if such advances have been made, the need for the United States to remain a reliable supplier of low-enriched nuclear fuel, to improve its balance of payments, and to meet its nonproliferation objectives, requires that the Portsmouth facility be expeditiously completed.

Mr. JOHNSTON. I agree with you.

Mr. DOLE. Mr. President, will the Senator yield me 2 minutes?

Mr. JOHNSTON. I yield to the distinguished Senator from Kansas 2 minutes.

Mr. DOLE. Mr. President, Kansas has long had a proud record of responsible public works development assisted by Federal dollars, and their economic benefits are immeasurable. I believe that the action taken by the Committee on Appropriations will insure for present and future generations of Kansans an adequate water supply and reasonable protection from floods.

While I am pleased with the committee's recommendation for funding of Kansas public works projects, I noted with disappointment that the Tuttle Creek Lake road and bridge improvements were not included in the bill.

MARSHALL COUNTY ROAD AND BRIDGE

In 1976, the Senate approved legislation I introduced to authorize construction of a road and replacement bridge in Marshall County, Kans., on the Little Blue River. This project, described as a "modification of the Tuttle Creek Reservoir plan," was authorized as section 189 of the 1976 omnibus rivers and harbors bill.

In 1973 there was considerable destruction of area roads and bridges due to flooding conditions enhanced by the Tuttle Creek Reservoir downstream. I think it is only fair, as well as vital, that the residents of this area around Marysville, Blue Rapids, and Waterville, be assisted in their efforts to reconstruct necessary thoroughfares for local commerce and transportation. Although no funding recommendation was contained in the Senate bill for the Tuttle Creek projects, it is my understanding that the conference committee will most likely retain the House figures, which will provide $34,000 for Tuttle Creek road construction and bridge replacement and $50,000 for Tuttle Creek Lake road improvements.

Again, Mr. President, I want to thank the committee for funding these worthwhile Kansas public works projects and strongly urge the conference committee to adopt the House figures with respect to the Tuttle Creek projects.

Mr. President, I only take this time to at least try to impress upon the distinguished floor manager of the bill, who undoubtedly will be a conferee, that in April of this year in testifying before the committee I asked for funding of several Kansas projects, specifically the Tuttle Creek projects at a level of $630,000. However, there was no money included in the Senate version by the Senate Appropriations Committee. On the House side they incuded $35,000 for road construction and bridge replacement and $50,000 for Tuttle Creek lake road improvements for a total of $85,000.

I am hopeful, and again urge the distinguished floor manager and the ranking Republican on the conference committee to retain the House figures which would provide $35,000 for the Tuttle Creek road construction and bridge replacement and $50,000 for the Tuttle Creek lake road improvements.

This matter has been discussed with the distinguished floor manager of the bill. I wonder if the Senator from Louisiana could give me some assurance that there is a good chance we might be able to retain this small amount in the conference?

Mr. JOHNSTON. I think the Senator makes a very strong case, and we would certainly give every consideration to this matter in conference.

Mr. DOLE. I thank my distinguished colleague.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make a technical correction on page 24 of the bill at line 6 by deleting the word "for" and inserting in lieu thereof "or."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. JOHNSTON. I yield to the distinguished majority leader.

(Unanimous-consent orders for tomorrow are printed later in today's RECORD.)

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the previous unanimous-consent request relative to technical correction on the bill on page 24 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1647

Mr. JOHNSTON. Mr. President, I have a technical amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes unprinted technical amendment numbered 1647:

On page 24, line 6,

Strike "for" and insert "or".

Mr. JOHNSTON. Mr. President, this is a technical amendment that does precisely the same thing as the previous orally unanimous-consent request, and I ask for its consideration and yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back on both sides?

Mr. MARK O. HATFIELD. I yield back all our remaining time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. JOHNSTON. Mr. President, I would hope we can move on to third reading at this point.

Mr. WALLOP. Mr. President, I ask indulgence. I know we have been here a long time. I have an unprinted amendment I wish to bring up and discuss with the managers of the bill.

Mr. JOHNSTON. Very well. I know the Senator will be eloquent but brief.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. The Senator is always brief if not eloquent.

UP AMENDMENT NO. 1648

(Purpose: To require compliance with Senate Resolution 284, 95th Congress, with respect to certain national water resources management policies)

Mr. WALLOP. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) for himself and Mr. MELCHER, proposes unprinted amendment numbered 1648.

Mr. WALLOP. Mr. President, I ask

unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, after line 3, insert the following:

SEC. 502. No funds appropriated by this Act shall be available to implement any national water resources management policies announced on or after June 6, 1978, or to enforce any regulation to carry out such policies, if such policies would—

(a) impose additional burdens on recipients of municipal, agricultural, or industrial water supply from Federal projects through the revision of general contract conditions or procedures; or

(b) impose additional burdens on recipients of Federal grant or loan assistance for the development of water supply or treatment works through the revision of general program conditions or procedures,

unless the procedures relating to such policies and such regulations set forth in Senate Resolution 284, 95th Congress, agreed to October 5 (legislative day, October 4), 1977, have been complied with.

On page 25, line 18, strike out "PROVISION" and insert "PROVISIONS".

Mr. WALLOP. Mr. President, the amendment which I offer with the Senator from Montana (Mr. MELCHER) seeks only to implement the provisions of Senate Resolution 284, which was agreed to on October 5, 1977, by providing that funds appropriated by this act will not be used for certain contrary purposes.

Senate Resolution 284 expressed the serious concern of the Senate that water resources policies were being developed and implemented without congressional concurrence, and without review by the States, which would be so seriously affected. Since Senate Resolution 284 was agreed to, the President's water policy study has covered considerable ground. That study culminated in the President's policy statement of June 6, 1978. It was generally conceded that the lack of specificity in the statement precluded meaningful comment.

But on July 12, 1978, the President issued no fewer than 13 directives to the heads of executive departments and agencies directing them to implement various portions of the water policy. Most of the actions which these directives order do not violate the spirit of Senate Resolution 284. However, a few seek to immediately implement water policies which will have a direct effect on all those who contract for water from Federal facilities, or who are or will be dependent on Federal grant or loan assistance for water supply and treatment works. Those directives which seek to immediately implement policies of this nature directly violate the spirit of Senate Resolution 284.

Since the passage of Senate Resolution 284, we have not been silent on this issue. On June 23, 1978 I joined 18 of my collegues in cosigning a letter to the President initiated by the distinguished Senator from Colorado, (Senator HART), which stated in part:

The establishment of a new national water resources policy hold both promise and problems for virtually every region of the United States. Before implementation, it should be subject to rigorous scrutiny and consideration. Therefore, the Senate took a clear position on the need for thorough review and Congressional involvement when it unanimously passed Senate Resolution 284 on October 5, 1977.

As participants in the Senate Western Coalition, we respectfully urge you to respect this sentiment and to refrain from implementing new water policies and procedures until Congress and the States have had the opportunity to consider their effect thoroughly and comment on them.

The President's response to our letter, was preceded by a full 2 weeks by his directives which seek to immediately implement water policies which will directly affect the citizen of every State.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter dated June 23, 1978, to the President, signed by Senators HASKELL, LAXALT, MCGOVERN, DOMENICI, STEVENS, HART, CRANSTON, MELCHER, CANNON, PAUL G. HATFIELD, YOUNG, MCCLURE, GRAVEL, HAYAKAWA, WALLOP, BURDICK, GARN, DECONCINI, and CHURCH; and a letter of July 26, 1978, to me from Stuart Eizenstat, Assistant to the President for Domestic Affairs and Policy.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., June 23, 1978.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Last year, you initiated a process for a comprehensive review of Federal water policy, under the chairmanship of Secretary Cecil Andrus. A number of Federal agencies were involved in that process, together with state and local officials from the states that we represent. This process culminated very recently with your statement to Congress outlining many proposed changes to the Federal government's water programs.

We believe it is imperative for the future objective consideration of the national water policy that you clearly state that your opposition to water projects which the House of Representatives has voted to fund in fiscal year 1979 is in no way based on the proposed new policy and, further, that no effort will be made to delete water projects based upon the proposed water policy until full Congressional review is provided.

The proposed new water policy is intended to meet objectives which many of us have supported and worked toward for years. The goals of improved planning and efficient management of Federal water resource programs, enhanced Federal-state cooperation in resource planning, increased attention to environmental quality, and appropriate water conservation programs have been priorities of Westerners for many years.

The establishment of a new national water resources policy holds both promise and problems for virtually every region of the U.S. Before implementation, it should be subjected to rigorous scrutiny and consideration. Therefore, the Senate took a clear position on the need for thorough review and Congressional involvement when it unanimously passed Senate Resolution 284 on October 5, 1977. The sense of the Senate, expressed in that resolution, is that:

"No new national water resources management policy shall be implemented without Congressional concurrence, and no proposed regulations for such a policy shall take effect for a period of six calendar months, during which Congress is in session, from the time of publication of proposed regulations in the Federal Register and of notification by the Executive Branch of such proposals to the Congress."

As participants in the Senate Western Coalition, we respectfully urge you to respect this sentiment and to refrain from implementing new water policies and procedures until Congress and the states have had an opportunity to consider their effect thoroughly and comment on them.

Sincerely,

Floyd K. Haskell, Paul Laxalt, George McGovern, Pete V. Domenici, Ted Stevens, Gary Hart, Alan Cranston, John Melcher, Howard W. Cannon, Paul Hatfield, Milton R. Young, James A McClure, Mike Gravel, S. I. Hayakawa, Malcolm Wallop, Quentin N. Burdick, Jake Garn, Dennis DeConcini, Frank Church.

THE WHITE HOUSE,
Washington, July 26, 1978.

Hon. MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: On behalf of the President, thank you very much for your letter of June 23 concerning water policy and water projects. In particular, your letter refers to Senate Resolution 284 of October 5, 1977, which proposes a six-month period before water policy regulations take effect and in general Congressional concurrence for the water resources policy.

The letter further requests that the President's position on water project funding in fiscal year 1979 not be based on the new water policy.

The water policy message does not initiate a package of unilateral actions. Rather, it is a combination of general policy, legislative proposals and directives to administrative agencies to initiate improvements in their water-related programs, a few of which involve regulations. The water policy also does not propose any new regulatory program for water management.

Each of the initiatives was based on careful analysis and extensive consultation with the Congress, the states, and the public. Many of the initiatives will require many months of further work and analysis for complete implemetation. For example, the legislative items will of course be handled on a timetable adequate for deliberate Congressional consideration. Another major portion of the water policy—improving the application of the Principles and Standards—will take place over the next twelve months, and will include public input as well as extensive interagency analysis. Thus, no one blanket timetable is appropriate for the entire water policy, yet the entire effort has been geared to maximizing Congressional and public involvement, while assuring that needed improvements are made in a reasonable period of time.

One of the parts of the water policy which has been implemented already is the use of rational and reasonable criteria for selecting new water project construction starts for the President's fiscal year 1979 budget. No new starts had been proposed by a President for 4 years. As he announced in his January budget submission, the President wanted to break that log-jam, but only in the context of the water policy study. Thus, the criteria, which were widely discussed before being announced on June 6, were necessary in order for the President to make this positive step in supporting new water projects, rather than continuing to oppose new starts, or worse, having no basis to determine the best allocation of scarce budget resources.

The President undertook last year a specific project-by-project analysis before initiating the overall water policy review. On the basis of that extensive analysis, he recommended that 18 water projects be deleted from the fiscal year 1978 budget, a recommendation partially adopted by the Congress last year. The water policy study and the gathering of additional information on

several of these projects has uncovered no information which would change the judgment made last year by the President and the Congress on the 9 projects deleted and the 1 project to be terminated after finishing a small segment. The President's fiscal year 1979 budget reflects that fact.

We look forward to working with you and your colleagues in acting on and implementing the initiatives announced in the President's water policy message.

Sincerely,

STUART E. EIZENSTAT,
Assistant to the President for Domestic Affairs and Policy.

Mr. WALLOP. Senate Resolution 284, and thus this amendment, does not seek to preempt or preclude any new national water policy initiatives of the administration, but only seeks to insure proper imput and consideration by the States and Congress before they are implemented with the effect of law.

My amendment only seeks to deny funding for implementary of certain of the policies which have been announced. It would only affect those policies which seek to systematically increase the burdens of those who are supplied with water from Federal projects or seek Federal loan and grant assistance. Changes in policies such as these are the constitutional prerogatives of Congress, and deserving of State review before implementation.

Mr. President, we have made this amendment as tight and as narrow as we can to address two very specific parts which concern us greatly. It is in spirit and in keeping with the concerns that this Senate has already expressed itself upon.

Mr. JOHNSTON. Mr. President, I am very much in agreement with the thrust of the amendment of the distinguished Senator from Wyoming. It is, in my judgment, the responsibility of this Congress to set national water policy, and not the responsibility of the Executive. That policy should be set by this body and by the House of Representatives meeting together.

I also agree that the thrust of the President's policy insofar as it has been announced is unwise and should not be implemented.

My only disagreement with the distinguished Senator's amendment is that this is, in my view, not the proper time and place to legislate with respect to that water policy. This is, after all, an appropriation bill, and it contains many greatly needed water projects across the country.

So the two reasons principally why I would urge the Senator not to pursue the amendment at this time—and I say that as one who believes his amendment expresses not only my sentiments but the sentiments of the majority of the Members of the Senate—are, first of all, this is an appropriations bill and we ought to consider this in another light.

Second, I think this would be a very heavy straw that could break the camel's back, and surely not only insure but invite and insist on a veto. We do not want to do that because we have got so much in this bill that is essential for the good of the country.

So I urge the Senator to withdraw his amendment and bring it back on another day and on another vehicle, and I think he will get wide support not only from this Senator but from other Senators on our committee and in this body.

Mr. WALLOP. Mr. President, before I withdraw it, I would say that I recognize there is a point that, perhaps, can be raised against it on the basis that the distinguished Senator from Louisiana states.

On the other hand, the amendment does seek to go rather directly to how the money that is being appropriated is spent, perhaps spent for the very projects the Senator is talking about that are so sorely needed.

I am more persuaded by the Senator's argument that the amendment might cause a veto of the bill, which contains funds for some needed projects which I support, than I am by the legislative argument that the Senator raises.

I am really very concerned about policies which are not well thought out—we had hearings on them this morning. They were just suddenly launched. They were not even particularly well-defended or particularly well-described or particularly knowledgeably described by those whom the administration sent up here to defend them.

In spite of the fact that it is a significant matter to the entire country—and the chairman of the Water Resources Council is, in fact, the Secretary of the Interior—Secretary Andrus did not even dignify us with his presence. So I wonder if maybe this is not the moment and the time to bring this up.

Mr. JOHNSTON. Mr. President, if the Senator will yield, I think the appropriate thing to do, particularly in view of the hearings this morning, would be to report an urgent joint resolution which, I think, would be considered in this body very promptly and probably be on the President's desk long before this bill would be, and I would urge him to do so. It is not because of opposition from anybody in this body that I know anything about to the Senator's amendment that I ask him to withdraw it, but simply for the reasons stated.

I would also urge him to report that joint resolution from his committee promptly, and I think he will receive favorable consideration.

Mr. WALLOP. Well, Mr. President, in light of straws on the camel's back, and the persuasive argument raised on that level by the distinguished Senator from Louisiana, I am persuaded to withdraw the amendment, but not the logic of the moment and the time, and the necessity for this body and Congress to act immediately on these affairs.

Mr. President, I ask unanimous consent that I may be permitted to withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right and the amendment is withdrawn.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Wyoming for withdrawing his amendment and for a very strong case made.

Mr. President, I hope we can proceed to third reading.

Mr. GRIFFIN. Mr. President, will the Senator from Louisiana allow me a few minutes then we will be ready to go to third reading?

Mr. JOHNSTON. Mr. President, I would yield to the distinguished Senator. How many minutes does he wish?

Mr. GRIFFIN. Three minutes.

The PRESIDING OFFICER. The Senator from Michigan may procced for 3 minutes.

Mr. GRIFFIN. Mr. President, on Saturday morning I will be in the upper peninsula of Michigan in Grand Marais, where there is great concern about the problem of repairing the deteriorating pile dike in their harbor.

On July 14, 1978, I directed a letter to Gen. J. W. Morris, Chief of the Army Corps of Engineers. I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 14, 1978.

Lt. Gen. J. W. MORRIS,
Chief of Engineers, Department of the Army, Washington, D.C.

DEAR GENERAL MORRIS: As I understand, your office recently disapproved a recommendation by your District and Chicago Regional Offices that $3.5 million be made available under the Corps' "Major Rehabilitation Program" for repair of the severely dilapidated pile dike at Grand Marais Harbor in Michigan's Upper Peninsula. This is disappointing news that has potentially tragic consequences for residents and tourists in Northern Michigan. I strongly urge you to reconsider your decision.

As you must know, Grand Marais Harbor is the only small boat refuge along a treacherous 90-mile stretch of southern Lake Superior shoreline stretching from Sault Ste. Marie to Munising. The Harbor is a vital link in the Great Lakes chain.

Unfortunately, the Corps has failed to provide sufficient maintenance and repair work on the pile dike—which was originally constructed in 1895—and it has been allowed to deteriorate to an alarmingly dangerous point. This, despite the fact that repairs have been recommended as necessary since the early 1950s. Due to this situation, the Harbor now poses serious safety hazards for boaters and fishermen. Needless to say, this has had a depressing effect upon tourism and the economy of the area.

In your letter of disapproval, you indicate that the proposed work cannot be justified on the basis of current "commercial need." I would call to your attention the fact that the community of Grand Marais derives its very livelihood from tourism and fishing; the commerce of Grand Marais is tourism. For the Corps to hang its decision upon a rigid, narrow reading of the term "commercial need," while the economic viability and safety of a community is threatened by inaction, is a dangerous injustice.

Further, I believe that—in view of the history of neglect of this Harbor—the Corps has an affirmative responsibility. For almost 30 years the Corps has recognized that repairs to the dike have been needed. If the repairs had been made earlier, they could have been done at a relatively small expense.

I urge you in the strongest term to reconsider your decision and to allow this important work to go forward.

With best wishes, I am

Sincerely,

ROBERT P. GRIFFIN,
U.S. Senate.

Mr. GRIFFIN. I regret that as of this date—almost 4 weeks later—this letter has not even been acknowledged, much less answered by the Chief of Engineers. But, I do wish to thank the Committee

on Appropriations—and particularly the Public Works Subcommittee—for responding to a request I made by letter to the committee asking for help on the Grand Marais Harbor project.

At page 85 of the report it refers to the $795 million appropriation for operation and maintenance of projects already constructed under title II of the bill. It includes this language:

The increase recommended is sufficient to provide for the most critical needs expressed to the Committee. The attention of the Corps of Engineers is directed specifically to the following projects in need of maintenance and for which the Committee has received testimony and funding requests:

Then among the specific projects mentioned is Grand Marais Harbor in the upper peninsula of Michigan.

I am hopeful that, in addition to the letter I have directed to the Chief of Engineers, this direction on the part of the committee will be heeded by the Corps and that the work that is so desperately needed up in Grand Marais can be started at the earliest possible moment.

Mr. President, I ask unanimius consent that the excerpt from the committee report to which I referred be printed.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

OPERATION AND MAINTENANCE, GENERAL

Appropriations, 1978	$745,370,000
Budget estimate, 1979	750,500,000
House allowance	795,500,000
Committee recommendation	795,500,000
Comparison:	
Budget estimate	+45,000,000
House allowance	

The Committee recommends $795,500,000, the same as the House allowance, which is $45,000,000 over the budget request.

The funds provided are for maintenance and operation of projects already constructed so full value can be obtained from the public's prior investment in them. In fiscal year 1979, the Corps of Engineers will operate and maintain 218 locks and dams, 273 flood control reservoirs, 71 multi-purpose projects with power, and about one fourth—some 270—of the completed channels and harbors.

In accord with the long-standing policy of the Committee, no specific allocations to individual projects are recommended. Such specific allocations would impede the corps' ability to adjust to continuously changing needs. Only if the corps' financial flexibility to respond to emergencies and other unanticipated urgent requirements is preserved can the Chief of Engineers carry out his responsibility to perform the O. & M. work of greatest overall importance to the Nation.

The increase recommended is sufficient to provide for the most critical needs expressed to the Committee. The attention of the Corps of Engineers is directed specifically to the following projects in need of maintenance and for which the Committee has received testimony and funding requests. The Chesapeake and Delaware Canal; Delaware River, Marcus Hook and Mantua anchorages; New Haven Harbor, Wilmington Harbor; Indian River Inlet; the Ohio River navigation channel; Mispillion River; Kanawha River; Summerville Lake; Sutton Lake; Tygarts Lake; Bluestone Lake; Marmet Locks; Grand Marais Harbor; and Houma Navigation Canal. These are in addition to the items already brought to the attention of the corps and adequate funds to remedy the deficiencies are to be allocated to the field offices for these items also.

Mr. GRIFFIN. I thank the chairman very much.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. PROXMIRE. Mr. President, I want to take this opportunity to thank the distinguished floor manager of the bill, Senator JOHNSTON, for the very good job he has done in his first year as chairman of the Senate Public Works Appropriations Subcommittee. I also commend the distinguished Senator from Oregon (Mr. MARK O. HATFIELD) for his fine work. The bill as reported represents a 3-percent cut in the amount appropriated in fiscal year 1978 for energy and water development. It cuts 2 percent from the amount appropriated by the House of Representatives for fiscal year 1979.

I am particularly gratified by the committee's favorable action on my requests for Corps of Engineers' activities in the State of Wisconsin. The Senate bill provides $840,000 for four Wisconsin projects that I supported, including $500,000 in construction funds for an outstanding nonstructural flood control program at Prairie du Chien. I have been an enthusiastic supporter of the Prairie du Chien relocation project because I think it will demonstrate to the Nation that the nonstructural approach to flood control can be a cost-effective and superior alternative to the traditional structural approach.

The committee also accepted my request to cut $1 million from the House bill for further studies of the La Farge Dam project in Wisconsin. The La Farge project has been studied and restudied. It is a bad project. It is environmentally unacceptable and economically unsound. I very much appreciate the committee's cooperation in eliminating these funds. By supporting my request, the committee has appropriated $840,000 for four good projects and eliminated $1 million for one bad project for a net savings of $160,000 in the Wisconsin column. A good deal all around.

I wish that I could vote in favor of the public works appropriations bill for the first time in many years. The fiscal year 1979 bill is under the House allowance, under the budget, and under the appropriations for fiscal year 1978. Unfortunately, although the bill is an improvement over prior year bills, it nonetheless appropriates millions of dollars for unnecessary water resource development projects, projects that are neither cost-effective nor compatible with environmentally acceptable uses of our natural resources.

At first glance it appears that the committee has drastically cut funding for Corps of Engineers and Bureau of Reclamation projects. But a careful look shows that the wide discrepancy between the budget request and the committee recommendations results from the committee's decision to continue funding water projects on an annual incremental basis rather than providing full upfront money when construction is initiated.

The administration requested full funding for all 26 new project starts recommended by the President for fiscal year 1979. This approach was designed to encourage Congress to recognize the enormous long-term cost of water projects from the beginning. The committee however, chose to continue the traditional practice of funding these projects year by year. Thus, in order to get an accurate comparison of the committee recommendation with the budget, the administration's request must be adjusted to reflect only the fiscal year 1979 increment for new project starts. Once that is done, we find that the Senate bill as a whole is $400.5 million under the budget instead of $919.8 million. The additional $519.3 million in water project "cuts" from the Corps of Engineers and Bureau of Reclamation will just be appropriated in future years instead of in fiscal year 1979. Viewed in this light we see that the lion's share of the committee bills budget cuts are not in water projects, but in the Department of Energy. In fact, as the small print in footnote No. 3 on page 67 of the committee report indicates, the Corps of Engineers' construction appropriation is $441 million under the budget only if we are willing to compare apples with oranges, full funding with incremental funding. On an annual incremental basis, the corps construction money in the committee bill is actually $23 million over the budget request.

Among the Corps of Engineers and Bureau of Reclamation projects funded in this bill are six particularly disastrous water resource developments that were included on President Carter's 1977 "Hit List":

Bayou Bodcau, Louisiana.
Yatesville Dam, Kentucky.
Meramec Park Dam, Missouri.
Narrows Unit Dam, Colorado.
Savery-Pot Hook Dams, Colorado.
Fruitland Mesa Dam, Colorado.

Report language also directs the expenditure of funds from within available appropriations to restudy alternatives for another hit list project, Oklahoma's Lukfata Lake.

Mr. President, I know that many Senators and Congressmen have vigorously defended these and other projects against the administration's efforts to get rid of them. I can understand that reaction. One of the original hit list projects was a Corps of Engineers dam and lake program in my own State of Wisconsin. I know as well as anyone can the pressures that are brought to bear to preserve these projects, no matter how high the cost, how low the benefit/cost ratio or how great the environmental damage that results. But unless more of us are willing to make the hard economic choices, we can never hope to curb the inflationary tides that threaten to continue to reduce America's standard of living. We are going to have to explore environmentally acceptable alternatives to traditional flood control approaches if we hope to maintain the ecological quality of our national life.

I am not going to try to amend the Public Works Appropriations bill to eliminate funds for these particularly bad projects. It is clear to me that such an amendment would stand absolutely no chance of passage and that the Sen-

ate could be tied up for days as we argue back and forth on every little detail of each one of these items. But I do think that now is an appropriate time to remind the American people why it is that the administration wants to stop funding these projects. And it may be helpful to my colleagues, when the time comes, in understanding why the President chose to veto this appropriations bill.

The hit list projects funded in this bill will cost the American people nearly $20 million in fiscal year 1979. By the time the projects are completed, if everything goes well, the total cost will be nearly one-half billion dollars. Things rarely go that well. The cost overrun on the Wisconsin hit list project was more than 100 percent. These projects, if completed, will probably cost the taxpayers nearly $1 billion before they are completed.

Mr. President, I ask unanimous consent that a brief summary of the administration's objections to each of these so-called hit list projects be printed at this point in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

BAYOU BODCAU AND TRIBUTARIES (CORPS OF ENGINEERS, LOUISIANA)

Project description:
Levees 57 miles long and channelization of Flat River for 11.6 miles to increase agricultural production of about 24,000 acres.
Major benefits claimed:
Flood protection, 86 percent.
Unemployment, 14 percent.
Benefit/cost ratios:
Remaining costs and benefits and current rate (6⅜ percent): 1.12.
Total authorized rate (3¼ percent): 1.2.
Financial data (in millions):
Estimated Federal cost: $14.5.
Allocated to date: $4.5.
Estimated local share: $3.4.
Allocated to date: $0.3.
Total project is 27 percent complete including lands.
Construction is 31 percent complete.
Factors in decision:
Only 60 landowners will benefit, at a federal investment of $240,000 each.
The project will eliminate 1,560 acres of wildlife habitat and 11.6 of fishing streams; the annual benefits in excess of project costs are inadequate to offset the environmental effects.
President's recommendation:
Delete funding and deauthorize project.

YATESVILLE LAKE

(Corps of Engineers, Kentucky)

Project description:
Rockville dam on tributary of Big Sand River, primarily for recreation; other purposes include water pollution dilution and flood control.
Major benefits claimed:
Recreation, 37 percent.
Flood control, 25 percent.
Water quality control, 22 percent.
Unemployment, 16 percent.
Benefit/cost ratios:
Remaining benefits and costs at current rate (6⅜ percent): .99.
Total at authorized rate (3¼ percent): 1.2.
Financial data (in millions):
Estimated Federal cost: $53.6.
Allocated to date: $10.9.
Estimated local share: $3.3.
Allocated to date: 0.
Total project is 19 percent complete.
Construction is 17 percent complete.
Factors in decision:
Major benefit is flatwater recreation, yet water quality problems could jeopardize this use; relative need for additional flatwater recreation has been questioned.
Relocation of 93 cemeteries, 213 dwellings, 6 churches and 4 commercial buildings would be required.
Water quality problems anticipated from operating oil wells, oil spills and overflows, industrial development and domestic waste.
Project will inundate 6000 acres, causing loss of fish and wildlife habitat.
The project is economically marginal.
President's recommendation:
Delete funding and deauthorize project.

MERAMEC PARK LAKE

(Corps of Engineers, Missouri)

Project description:
One million acre-foot impoundment on the Meramec River about 65 miles southwest of St. Louis, to provide full flood protection for 11,900 acres of agricultural and urban land and partial protection for 20,000 acres more; additional purposes are flatwater recreation and future water supply.
Major benefits claimed:
Flood control, 42 percent.
Recreation, 25 percent.
Water supply, 12 percent.
Benefit/cost ratios:
Remaining benefits and costs at current rate (6⅜ percent): 1.5.
Total at authorized rate (3¼ percent): 1.9.
Financial data (in millions):
Estimated Federal cost: $124.0.
Allocated to date: 35.3 (through fiscal year 1977).
Estimated local share: 0.
Allocated to date: 0.
Total project is 28 percent complete including lands.
Construction is 22 percent complete.
Factor in decision:
Recreation is 25 percent of claimed benefits, yet heavily used natural river area would be inundated, including 75 miles of Ozark streams, scenic caves, including one of the nation's most beautiful caves, forest habitat, archaeological sites and fisheries; nearly half of the claimed recreation benefits are for "sightseeing"; ample flatwater recreation exists in the area.
Lake will inundate 12,600 acres, about half of which is prime farmland, to fully protect only 11,900 downstream acres of land.
Habitat of two endangered species would be adversely affected.
President's recommendation:
Delete funding and deauthorize project.

NARROWS UNIT

(Bureau of Reclamation, Colorado)

Project description:
Earthfill dam on South Platte River to provide supplemental irrigation water to 287,000 acres.
Major benefits claimed:
Irrigation, 56 percent.
Recreation, 35 percent.
Benefit/cost ratios:
Remaining costs and benefits at current rate (6⅜%): 0.9.
Total at authorized rate (3¼%): 1.4.
Financial data (in millions):
Total estimated Federal cost: $145.7.
Allocated to date: 6.5.
Estimated local share: .01.
Allocated to date: 01.
Total project is 5 percent complete.
Construction is 4 percent complete.
Irrigation investment per acre: $291.
Factors in decision:
Reservoir would dislocate 642 people and their community.
Water quality problems in reservoir might negate recreation benefits.
Safety/seepage issues remain unresolved; the right abutment of the dam is located on sand and gravel.
Over 40 historical and archaeological sites would be destroyed.
15,000 acres of agricultural and wildlife lands would be regularly inundated by the reservoir; 15 miles of free-flowing river would be lost.
Flood control benefits are questionable.
President's recommendation:
Delete funding pending re-evaluation of project, including study of the alternative of a groundwater recharge system, determination of the effects of the project on the Platte River system, resolution of water quality issues, resolution of the safety and seepage questions, and re-evaluation of the claimed flood control benefits.

SAVERY-POT HOOK

(Bureau of Reclamation, Colorado)

Project description:
2 dams and conveyance systems to supply irrigation water on Little Snake River.
Major benefits claimed:
Irrigation, 95 percent.
Benefit/cost ratios:
Remaining Costs and Benefits at current rate (6⅜ percent): 0.4.
Total Cost and Benefits at authorized rate (3⅛ percent): 0.7.
Financial data (in millions):
Estimated Federal Cost: $75.8.
Allocated to Date: 4.1.
Estimated Local Share: 0.
Irrigation investment per acre: $2,563.00 ($4,008 on a full-service equivalency basis).
Total project is 5 percent complete.
Construction is 6 percent complete.
Factors in decision:
The benefit/cost ratio at both the current and authorized rate is below unity.
The project as planned will benefit only 106 existing farms, at an average irrigation investment per farm of almost $700,000.
High dissolved salt concentrations in project return flows would increase existing water quality problems downstream in the Colorado River.
Project lands are at 6,500 feet altitude, and thus have a short growing season.
Approximately 20,100 acres of wildlife habitat would be modified or eliminated, affecting deer, elk, antelope and sage grouse. While these losses are substantially mitigated by development of additional habitat, significant losses in sage grouse and antelope population would occur.
There is a concern that energy developers will build project for a coal development use if federal government does not build it for agriculture.
President's recommendation:
Delete funding and deauthorize project.

FRUITLAND MESA

(Bureau of Reclamation, Colorado)

Project description:
Soap Park Dam and conveyance system to provide irrigation to 11,940 acres of dry farmed land and supplemental irrigation to 6,310 acres.
Major benefits claimed:
Irrigation, 93 percent.
Benefit/cost ratios:
Remaining Costs and Benefits at current rate (6⅜ percent): 0.3.
Total Costs and Benefits at authorized rate (3⅛ percent): 0.5.
Financial data (in millions):
Estimated Federal Cost: $87.9.
Allocated to Date: $5.4.
Estimated Local Share: $0.
Irrigation investment per acre. $4,615.00.
Total project is 6 percent complete.
Construction is 7 percent complete.
Factors in decision:
Benefit/cost ratio at both the current and authorized rate is below unity.

The irrigation investment per acre is very high at $4,615, of which only $208 will be repaid by irrigators.

The project area is farmed or ranched by only 69 landowners; this amounts to an irrigation investment per landowner of about $1.2 million.

Increased salinity from irrigation return flows would decrease water quality in the lower Colorado River Basin.

The project would convert 12,000 acres of rangeland to irrigated cropland, inundate 584 acres of land and 4.5 miles of good fishing stream.

The lands benefitted by the project are located at high altitudes—six to eight thousand feet—with a short growing season.

President's recommendation:

Delete funding and deauthorize project.

LUKFATA LAKE

(Corps of Engineers, Oklahoma)

Project description:

176-foot high dam on Glover Creek 17 miles northwest of Broken Bow in eastern Oklahoma, to provide agricultural flood protection and water supply.

Major benefits claimed:

Flood control, 53 percent.

Water supply, 36 percent.

Benefit/cost ratios:

Remaining costs and benefits at current rate (6⅜ percent): 1.02.

Total at authorized rate (3¼ percent): 1.3.

Financial data (in millions):

Estimated Federal cost: $31.5.

Allocated to date: 0.2.

Estimated local share: 0.

Allocated to date: 0.

Total project is 6 percent complete including lands.

Physical construction has not yet started.

Factors in decision:

Economically marginal.

Inundates 1,680 acres of wildlife habitat and bottomland hardwood forest, considered of unusually high natural value.

Provides critical habitat for proposed threatened species of fish.

EPA indicates severe water quality problems in reservoir.

Most of "water supply" benefits would go to one catfish farm, and several potential catfish farms; remainder would go to future supply for a small town with questionable growth potential.

Glover Creek is last major free-flowing small mouth bass stream in the Oklahoma Ouachita Mountains.

President's recommendation:

Delete funding and deauthorize project.

Mr. PROXMIRE. Mr. President, I believe that throwing away scarce tax dollars on water resource development schemes like these is unconscionable at a time when we must do all that we can to promote a sound fiscal policy in every aspect of Federal spending.

Therefore, I have voted against the Public Works Appropriations Act for fiscal year 1979.

● Mr. HOLLINGS. Mr. President, the Appropriations Committee has supported continuing the current fiscal year 1978 program at Barnwell through fiscal year 1979. I would like to thank the chairman and members of the committee for their support.

As you are probably aware, after the President decided to defer commercial reprocessing indefinitely, my concern was to insure that possible alternative uses of this major plant and its valuable advanced equipment and staff receive careful consideration. In particular, new policies on proliferation—resistant fuel cycles requires new research and development, and I wanted to see if Barnwell might be an appropriate and cost-effective place for such work. Thus, I supported the fiscal year 1978 program at Barnwell which provided $13 million for research on nuclear safeguards and alternative fuel cycles and $1 million for a 6-month Department of Energy study on the long-term optional uses of the Barnwell facility.

The DOE Barnwell nuclear fuels plant applicability study was submitted to Congress on April 11, 1978. The study concluded that it was not possible to make a policy decision on Barnwell until the completion of the 40 nation International Nuclear Fuel Cycle Evaluation (INFCE). Specifically, it stated:

Several more proliferation resistant reprocessing modes as well as various international, multinational and national ownership/management options might be applicable to the Barnwell Nuclear Fuel Plant (BNFP). The study concluded that the BNFP could be modified to reprocess uranium/plutonium in alternative operational modes that after improved proliferation-resistant features compared to conventional reprocessing.

However, until the INFCE, NASAD and any follow-on studies and international consultations are completed, it is not possible to determine whether, when, under what conditions or at what cost, any of these reprocessing alternatives might be undertaken in a manner that would be supportive of U.S. non-proliferation objectives.

The 40-nation INFCE was only in the planning stages when we voted the fiscal year 1978 appropriation for Barnwell, now it is not scheduled for completion until early 1980. The administration's understandable decision to delay its own decisionmaking until the completion of the INFCE leads me to support a fiscal year 1979 extension of the project program.

With the completion of the INFCE, both the administration and the Congress will be in a good position to judge whether Barnwell is the appropriate place to do it.

Continuing the fiscal year 1978 program at Barnwell through fiscal year 1979 is the right thing to do. The General Accounting Office agrees with my conclusion in a recent report entitled "An Evaluation of Federal Support of the Barnwell Reprocessing Plant and the Department of Energy's Spent Fuel Storage Policy." GAO concluded that Federal funding of short-term research activities at the Barnwell reprocessing plant should continue until the completion of the INFCE. This will keep the facilities and keep people available in the event the United States decides, as a result of the study, that some method of reprocessing is consistent with its nonproliferation objectives.

Therefore, the funding for Barnwell should be continued through fiscal year 1979.●

● Mr. STAFFORD. Mr. President, I would also add two further comments concerning this bill. I commend the committee for the additional sums it has recommended for hydropower studies. The retrofitting of power facilities at existing damsites will prove significant in meeting national energy demands. I testified for such an increase, and I commend the committee for including it.

Second, I would urge that the Senate conferees on this bill, in conference, accept the sum of $50,000 that was included in the House bill under the Corps of Engineers construction for the drift and debris removal program—section 220 of 1976 Water Resources Development Act. This program which includes cost sharing, will enable the corps and cities to improve the waterfront environment, just as the corps is now doing in New York City. While the authorization for section 202 expires at the end of 1979, I am confident that it will extend continuing a broader approach to a program that is otherwise limited to a few specified cities.●

● Mr. YOUNG. Mr. President, I want to express my support for the energy and water development appropriation bill as reported by the full committee. The chairman and ranking minority member of the subcommittee have devoted a great deal of time and careful attention to making this an excellent bill. The subcommittee held 37 hearing sessions, including 7 days of testimony from the general public.

This is a well-balanced, fiscally responsible bill. When the committee amendment is taken into account, the total amount of the bill is $10,108,144,900, which is $931,804,100 below the budget request. This amount is $233 million under the House bill, $332 million under the fiscal year 1978 appropriation, and only $27 million above the fiscal year 1977 appropriation.

Despite this restraint, this bill provides for the acceleration of research and development on nuclear energy and on alternative energy technologies and for the initiation of certain high-priority public works projects which were not in the budget and for continuation of others.

As occurs every year, there are many more worthwhile projects and programs available for funding in this bill than there are dollars to fund them. Some difficult decisions had to be made, and priorities had to be set and adhered to.

It is my firm opinion that the subcommittee chairman and ranking minority member have performed with distinction in a demanding situation, and that the bill as reported is fair, responsible, and deserving of our full support without further modification.●

● Mr. STAFFORD. Mr. President. I would like to inquire of the distinguished floor manager (Mr. JOHNSTON) if this legislation provides funds so that the Army Corps of Engineers can undertake an aquatic plant control program?

Mr. JOHNSTON. Yes, the committee bill includes $4,605,000 for such weed control work during fiscal year 1979, the same as in the House bill.

Mr. STAFFORD. Is it also correct that this money is available for use throughout the Nation, and could be allocated for use in Vermont and New York for the control of water chestnut, yellow floating heart, Eurasian milfoil, and other nuisance weeds creating problems on

Lake Champlain and other lakes in the area.

Mr. JOHNSTON. Yes, the Senator is correct.

Mr. STAFFORD. I thank my good friend from Louisiana for clarifying that point.●

Mr. JOHNSTON. Mr. President, I believe there are no further amendments. I suggest third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mrs. HUMPHREY), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) would vote "yea."

Mr. STEVENS. I announce that the Senator from New York (Mr. JAVITS) is necessarily absent.

The result was announced—yeas 89, nays 5, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—89

Allen	Glenn	Metzenbaum
Anderson	Goldwater	Morgan
Baker	Griffin	Moynihan
Bartlett	Hansen	Muskie
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatch	Pearson
Biden	Hatfield,	Pell
Brooke	Mark O.	Percy
Bumpers	Hatfield,	Randolph
Burdick	Paul G.	Ribicoff
Byrd,	Hathaway	Riegle
Harry F., Jr.	Hayakawa	Sarbanes
Byrd, Robert C.	Heinz	Sasser
Cannon	Hodges	Schmitt
Case	Hollings	Schweiker
Chafee	Huddleston	Scott
Chiles	Inouye	Sparkman
Church	Jackson	Stafford
Clark	Johnston	Stevens
Cranston	Kennedy	Stevenson
Culver	Laxalt	Stone
Curtis	Long	Talmadge
Danforth	Lugar	Thurmond
DeConcini	Magnuson	Tower
Dole	Mathias	Wallop
Domenici	Matsunaga	Weicker
Durkin	McClure	Williams
Eagleton	McGovern	Young
Ford	McIntyre	Zorinsky
Garn	Melcher	

NAYS—5

Helms	Nelson	Roth
Leahy	Proxmire	

NOT VOTING—6

Abourezk	Gravel	Javits
Eastland	Humphrey	Stennis

So the bill (H.R. 12928), as amended, was passed.

The title was amended so as to read:

An act making appropriations for energy and water development for the fiscal year ending September 30, 1979, and for other purposes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 12928.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I wish to first of all congratulate the Senate for its help and forbearance in bringing forward a very lean and tight bill that is in the spirit of proposition 13. It is $900 million less than the President's budget. It is $219 million less than the House bill. It is over $400 million less than last year's bill.

On the floor of the Senate we added a net of only some $2 million to this bill, which I think is some kind of record.

I would particularly like to thank and congratulate the distinguished ranking minority Member (Mr. MARK O. HATFIELD) for his most excellent teamwork in this matter.

We were helped by a staff of superb quality headed by Proctor Jones, David Gwaltney, and Gloria Butland and on the minority side by David Lohman and Cathy O'Connor. It is their great work that I think has made this bill possible.

Mr. President, I move to reconsider the vote by which that bill passed.

Mr. MARK O. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments, request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer (Mr. METZENBAUM) appointed Mr. JOHNSTON, Mr. STENNIS, Mr. MAGNUSON, Mr. ROBERT C. BYRD, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. BURDICK, Mr. SASSER, Mr. MARK O. HATFIELD, Mr. YOUNG, Mr. CASE, Mr. SCHWEIKER, and Mr. BELLMON conferees on the part of the Senate.

Mr. MARK O. HATFIELD. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, I yield.

Mr. MARK O. HATFIELD. Mr. President, I should like, first of all, to commend the Senator from Louisiana (Mr. JOHNSTON) on managing this bill. I only echo his remarks concerning the fact that there was this very extraordinary restraint demonstrated by the committee in holding this bill to its present level. I should think that that, in itself, is a feat that the new chairman of our subcommittee—which Mr. BENNETT JOHNSTON is—should take great credit for.

Also, Mr. President, I am very happy to comment and observe that this bill was managed in record time and that the Senate had its final vote before 6 o'clock. I think that is the first time that has occurred this week. I commend again the leader of the bill on this great accomplishment, which I think is equal to the accomplishment of getting the bill itself passed.

I also want to say that we have extraordinary staff on this committee. It is a great pleasure always to work with them and to be the cohort and companion in this labor with Senator JOHNSTON.

Mr. President, I thank the distinguished chairman.

Mr. BARTLETT. Mr. President, I thank the floor manager, the distinguished Senator from Louisiana, my good friend, and also my good friend from Oregon for the manner in which this was handled. I want to mention one small program in here, a dollarwise, that was very important to our State and particularly to congratuate my distinguished colleague from Oklahoma (Mr. BELLMON).

There was, in the House bill, $4 million—$3 million in land, $1 million in planning—to fulfill Public Law 94–423, for a Bureau of Reclamation project called McGee Creek. The wisdom of the committee and the Senate saw fit to put this up to full capacity of $6 million for land and $1 million for planning. The uniqueness of this program is that it virtually fulfills every single requirement that President Carter laid down. It would return almost total recovery of Federal costs, because it serves the rural areas of 10 countries for city water and rural water and the city of Oklahoma City. This takes care of human consumption and industrial use.

It had complete agreement from the rural interests, the urban environmentalists, industry, wildlife, and those interested in recreation. When we had the hearing on the authorization bill a year ago, one of the staff members who had attended many of these meetings said that this was the first time in his experience that a project of this kind, a reclamation project, had not one single person or single group objecting to it.

So I commend my distinguished senior colleague (Mr. BELLMON) for the very important role he played in this matter and on this bill.

Mr. ROBERT C. BYRD. Mr. President, this year Senator BENNETT JOHNSTON, the distinguished junior Senator from Louisiana, assumed the chairmanship of the Public Works Subcommittee of the Appropriations Committee and follows in the footsteps of that subcommittee's former chairman, Mr. STENNIS, who so ably steered this bill through the legislative process for many years.

The Subcommittee on Public Works, under the energetic leadership of the Senator from Louisiana, held 37 sessions of hearings in preparation for the fiscal 1979 appropriations bill. Extensive information was compiled with regard to the numerous programs and projects within the subcommittee's jurisdiction. The committee's recommendations, embodied in H.R. 12928, reflect an impressive understanding of energy matters and national water policy priorities.

I wish to congratulate Senator JOHNSTON and Senator HATFIELD of Oregon, the ranking minority member, as well as

all members of the subcommittee for their work on this bill.

Included in H.R. 12928 are the Appropriations Committee's recommendations for funding the Army Corps of Engineers and the Bureau of Reclamation—Department of the Interior—for the planning and construction of literally dozens of projects located throughout the country. The projects are of many types—dam construction, levee construction, riverbank erosion control, harbor repair and reconstruction. They serve many purposes: provision and protection of recreational areas, flood control, creation of hydroelectric power, improvement of waterway transportation facilities. Each of the many projects included in the bill has been carefully reviewed, each budget request studied. I think it is worth emphasizing that these projects result in lasting capital improvements to the communities where they are located and to surrounding areas.

The bill also provides for several independent agencies. I would like to comment briefly on one of these, the Appalachian Regional Commission. Established in 1965, the Commission works to advance the economic growth of the Appalachian region, which includes West Virginia and parts of 12 States. The effort is a cooperative one between the Federal and State Governments—a productive partnership arrangement. The Appalachian Regional Commission wisely concentrates its projects in areas where member States have decided that future growth and investment are probable. Careful study precedes policy decisions on where to invest the Commission's dollars.

These dollars have been wisely used to promote highway construction in order to provide access to markets, jobs, schools, and services. They have also been well used to improve health care information in the area.

Mr. President, in addition to addressing issues of local development, the bill provides funds for several crucial energy activities within the Department of Energy. These are primarily nonfossil fuel technology research, atomic weapons development programs, as well as policy and management programs.

There should be no doubt that a strong energy research effort is indispensable to our national well-being. The Department of Energy was in part created to coordinate Federal Government research activities, which are substantial. H.R. 12928 provides funds for solar energy research, aimed at perfecting the technology of extracting energy in a usable form from the Sun. Another potential source of plentiful energy is geothermal technology, which taps the heat of the Earth itself.

An unconventional fuel source being examined by the Department of Energy is biomass, which involves combustible material such as plant stalks, refuse, woodchips, and other matter. A more familiar source of power, hydroelectric, is being reexamined in this time of high energy prices with an eye toward the contribution which technological advances can make. Small hydro projects are being tested to determine if a more comprehensive construction program is justified.

Important work is being done in the nuclear field on a variety of fronts. Technology demonstration projects involving light water reactors have proved to be valuable for several years. Advanced work on fusion energy and other reactor concepts is also funded in this bill. These efforts are complemented by defense-oriented programs involving nuclear weapons and outer space systems. A strong technological base for these areas is a key element of our national security, as well as our future energy resources.

The Appropriations Committee expressed legitimate concern about the size and composition of DOE staff. The report accompanying the bill clearly indicates the intent of the committee that DOE must better coordinate and consolidate its activities so that full value is realized for each and every employee of the department.

I wish to compliment Mr. JOHNSTON, Mr. HATFIELD, and the members of the Public Works Subcommittee for their work on this bill.

TUITION TAX CREDIT ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of H.R. 12050, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; DECLARATION OF POLICY

(a) SHORT TITLE.—This Act may be cited as the "Tuition Tax Relief Act of 1978".

(b) DECLARATION OF POLICY.—The Congress hereby declares it to be the policy of the United States to foster educational opportunity, diversity, and choice for all Americans. Federal legislation should recognize the heavy financial burden now borne by individuals and families who must pay tuition to obtain the education that best serves their needs and aspirations—whether at the primary, secondary, or postsecondary level—and should provide some relief (as set forth in the amendments made by this Act). Such relief shall be available only to persons enrolled in bona fide educational institutions which fully comply with all applicable Federal and State laws and requirements, including civil rights provisions. The Congress finds that without such assistance the diversity and pluralism that constitute important strengths of the American education system will be diminished. The Congress finds that this assistance can appropriately be provided through the income tax structure with a minimum of complexity and governmental interference in the lives of individuals and families. The Congress further finds that the provision of such assistance in this manner fully complies with all provisions of the Constitution; that it does not constitute excessive governmental entanglement with religion; that is wholly secular in purpose and that such assistance will neither advance nor hinder religion. The primary purpose of this Act is to enhance equality of educational opportunity for all Americans at the schools and colleges of their choice.

SEC. 2. CREDIT FOR EDUCATIONAL EXPENSES

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting before section 45 the following new section:

"SEC. 44C. EDUCATIONAL EXPENSES.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of the educational expenses paid by him during the taxable year to one or more eligible educational institutions for himself, his spouse, or any of his dependents (as defined in section 152).

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The amount of educational expenses taken into account under subsection (a) for any taxable year with respect to any individual may not exceed—

"(A) $500, in the case of educational expenses allocable to education furnished before October 1, 1980, and

"(B) $1,000, in the case of educational expenses allocable to education furnished after September 30, 1980.

The $1,000 limitation contained in subparagraph (B) for any taxable year shall be reduced by the amount of educational expenses described in subparagraph (A) which are taken into account for that taxable year.

"(2) CERTAIN PAYMENTS EXCLUDED.—

"(A) SECONDARY AND ELEMENTARY SCHOOL EXPENSES.—Educational expenses attributable to education at a secondary school (including a vocational secondary school) or elementary school shall not be taken into account under subsection (a) to the extent that they are—

"(i) paid or incurred before October 1, 1980,

"(ii) in excess of $500 for any taxable year, or

"(iii) attributable to education at an elementary or secondary school of a State educational agency (as defined in section 801(k) of the Elementary and Secondary Education Act of 1965 as in effect on January 1, 1978) or of a local educational agency (as defined in section 801(f) of such Act as in effect on such day) except for expenses attributable to education at a school or institution described in the last sentence of subsection (c)(5).

"(B) PART-TIME STUDENTS.—Educational expenses paid or incurred before October 1, 1980, with respect to any individual who is not a full-time student shall not be taken into account under subsection (a). Such expenses paid or incurred after September 30, 1980, with respect to any individual who is not at least a half-time student shall not be taken into account under subsection (a).

"(C) CERTAIN PAYMENTS INCLUDED.—For purposes of subparagraphs (A) and (B), amounts paid before October 1, 1980, for educational expenses allocable to education which is furnished on or after such date shall be treated as having been paid on such date.

"(D) FULL-TIME STUDENT.—For purposes of this paragraph, the term 'full-time student' means any individual who, during any 4 calendar months during the calendar year in which the taxable year of the taxpayer begins, is a full-time student at an eligible educational institution.

"(E) HALF-TIME STUDENT.—For purposes of this paragraph, the term 'half-time student' means any individual who, during any 4 calendar months during the calendar year in which the taxable year of the taxpayer begins is a half-time student (determined in accordance with regulations prescribed by the Secretary which are not inconsistent

with regulations prescribed by the Commissioner of Education under section 411(a)(2)(A)(ii) of the Higher Education Act of 1965 for purposes of part A of title IV of that Act as such Act was in effect on January 1, 1978) at an eligible educational institution.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) DEFINITIONS.—For purposes of this section—

"(1) EDUCATIONAL EXPENSES.—The term 'educational expenses' means tuition and fees required for the enrollment or attendance of a student at an eligible educational institution, including required fees for courses. Such term does not include any amount paid, directly or indirectly for—

"(A) books, supplies, and equipment for courses of instruction at an eligible educational institution,

"(B) meals, lodging, transportation, or similar personal, living, or family expenses, or

"(C) education below the first-grade level, attendance at a kindergarten or nursery, or education above the baccalaureate degree level.

In the event an amount paid for tuition for fees includes an amount for any item described in subparagraph (A), (B), or (C) which is not separately stated, the portion of such amount which is attributable to such item shall be determined under regulations prescribed by the Secretary.

"(2) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible education institution' means—

"(A) an institution of higher education;

"(B) a vocational school;

"(C) a secondary school; or

"(D) an elementary school.

"(3) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution described in section 1201(a) or 491(b) of the Higher Education Act of 1965 (as in effect on January 1, 1978).

"(4) VOCATIONAL SCHOOL.—The term 'vocational school' means an area vocational education school (as defined in section 195(2) of the Vocational Education Act of 1963, as in effect on January 1, 1978) which is located in any State.

"(5) ELEMENTARY AND SECONDARY SCHOOLS.—The terms 'elementary school' and 'secondary school' mean any elementary or secondary school (as defined in subsection (c) and (h) of section 801 of the Elementary and Secondary Education Act of 1965 as in effect on January 1, 1978), which is privately operated, but only if it is—

"(A) operated in accordance with applicable State law, and

"(B) exempt from taxation under section 501(a) as an organization described in section 501(c)(3).

The terms 'elementary school' and 'secondary school' include facilities (whether or not privately operated) which offer education for individuals who are physically or mentally handicapped as a substitute for regular public elementary or secondary education.

"(6) MARITAL STATUS.—The determination of marital status shall be made under section 143.

"(d) Special Rules.—

"(1) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—

"(A) REDUCTION OF EXPENSES.—The amounts otherwise taken into account under subsection (a) as educational expenses of any individual for any taxable year shall be reduced (before the application of subsection (b)) by any amounts received with respect to such individual for the taxable year as—

"(i) a scholarship or fellowship grant (within the meaning of section 117(a)(1)) which under section 117 is not includible in gross income,

"(ii) an educational assistance allowance under chapter 32, 34, or 35 of title 38, United States Code, or

"(iii) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to attendance at an eligible educational institution, which is exempt from income taxation by any law of the United States.

"(B) REDUCTION OF CREDIT.—The amount of the credit otherwise allowable under subsection (a) shall be reduced by any amounts received with respect to any individual for any taxable year under subpart 1 or 2 of part A of title IV of the Higher Education Act of 1965 or any successor statute. Amounts taken into account under this subparagraph shall not be taken into account under subparagraph (A).

"(2) TAXPAYER WHO IS A DEPENDENT OF ANOTHER TAXPAYER.—No credit shall be allowed to a taxpayer under subsection (a) for amounts paid during the taxable year for educational expenses of the taxpayer if such taxpayer is a dependent of any other person for a taxable year beginning with or within the taxable year of the taxpayer.

"(3) SPOUSE.—No credit shall be allowed under subsection (a) for amounts paid during the taxable year for educational expenses for the spouse of the taxpayer unless—

"(A) the taxpayer is entitled to an exemption for his spouse under section 151(b) for the taxable year, or

"(B) the taxpayer files a joint return with his spouse under section 6013 for the taxable year.

"(e) DISALLOWANCE OF CREDITED EXPENSES AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for any educational expense to the extent that such expense is taken into account (after the application of subsection (b)) in determining the amount of the credit allowed under subsection (a). The preceding sentence shall not apply to the educational expenses of any taxpayer who, under regulations prescribed by the Secretary, elects not to apply the provisions of this section with respect to such expenses for the taxable year.".

(b) LIMITATION ON EXAMINATION OF BOOKS AND RECORDS.—Section 7605 of such Code (relating to time and place of examination) is amended by adding at the end thereof the following new subsection:

"(d) EXAMINATION OF BOOKS AND RECORDS OF CHURCH-CONTROLLED SCHOOLS.—Nothing in section 44C (relating to credit for educational expenses) shall be construed to grant additional authority to examine the books of account, or the activities, of any school which is operated, supervised, or controlled by or in connection with a church or convention or association of churches (or the examination of the books of account or religious activities of such church or convention or association of churches) except to the extent necessary to determine whether the school is an eligible educational institution within the meaning of section 44C(c)(2).".

(c) EXPEDITED REVIEW OF CONSTITUTIONALITY OF EDUCATIONAL EXPENSE CREDIT.—

(1) CERTIFICATION OF QUESTIONS OF CONSTITUTIONALITY.—In any action brought in a district court of the United States, including an action for declaratory judgment or injunctive relief, concerning the constitutionality of any provision of section 44C of the Internal Revenue Code of 1954 (relating to credit for educational expenses) or any other provision of such Code relating to such section, the district court shall certify immediately all questions of constitutionality of such provision to the United States Court of Appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the Court of Appeals.

(3) EXPEDITED CONSIDERATION.—It shall be the duty of the Court of Appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(4) SEPARABILITY.—If any provision of section 44C of the Internal Revenue Code of 1954 (or any other provision of such Code relating to such section), or the application thereof to any person or circumstances, is held invalid, the remainder of the provisions of such section and the application of such provisions to other persons or circumstances, shall not be affected.

(d) DISREGARD OF REFUND.—Any refund of Federal income taxes made to any individual, and any reduction in the income tax liability of any individual, by reason of section 44C of the Internal Revenue Code of 1954 (relating to credit for educational expenses) shall not be taken into account as income or receipts for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of benefits or assistance, under any Federal program of educational assistance financed in whole or in part with Federal funds.

(e) WITHHOLDING EXEMPTION.—For purposes of determining the number of withholding exemptions an individual is entitled to under section 3402(f) of the Internal Revenue Code of 1954, there shall not be taken into account, before October 1, 1980, any amount which may be allowable as a credit under section 44C of such Code.

(f) CONFORMING AMENDMENTS.—

(1) The table of section for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting immediately before the item relating to section 45 the following:

"Sec. 44C. Educational expenses.".

(2) Subsection (c) of section 56 of such Code (defining regular tax deduction) is amended by striking out "credits allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, and 43.".

SEC. 3. REPORT ON CIVIL RIGHTS ENFORCEMENT, INTERNAL REVENUE SERVICE

The Secretary of the Treasury, the Secretary of Health, Education, and Welfare, and the Attorney General jointly shall report to the Congress on the effectiveness of enforcement, by the Internal Revenue Service, of Revenue Ruling 71-447 (1971-2 CB 230), Revenue Procedure 75-50 (1975-2 CB 587), and any other rulings, procedures, directives, or memoranda designed to enhance civil rights enforcement by the Service. The report shall include any suggestions the Secretaries and the Attorney General may have for enhancing enforcement by the Internal Revenue Service of public policies against racial discrimination and other forms of discrimination which are contrary to law or against public policy. The first report shall be submitted to the Congress not later than June 1, 1980, and an additional report shall be submitted to the Congress not later than June 1, 1982.

SEC. 4. EFFECTIVE DATE

The amendments made by section 2 of this Act shall apply to taxable years ending after July 31, 1978, for amounts paid after such date for educational expenses incurred after such date.

Mr. MOYNIHAN. Mr. President, as the majority leader has earlier stated, it is our purpose that the formal debate on

this measure, the Tuition Tax Relief Act of 1978, should begin tomorrow morning at approximately 10 o'clock. We expect to be on the matter tomorrow, save when it might be set aside for other matters which the Senate wishes to deal with and must deal with. We shall be debating again on Monday and on Tuesday, we expect that a series of votes will resolve the matter.

At this point, Mr. President, I ask unanimous consent that during the consideration of H.R. 12050, the Tuition Tax Relief Act of 1978, the following staff be permitted the privilege of the floor: From the Finance Committee staff: Michael Stern, Bill Morris, Charles Bruce, George Pritts, and Jim Heinhold. From the staff of the Joint Committee on Taxation: Bobby Shapiro, Michelle Scott, Floyd Williams, Bernie Schmidt, Tom Hart, and Harold Hirsch.

From the staff of Senator HODGES of Arkansas, Linda Laibstain, Bill Kennedy, and Jon Able.

From the staff of Senator ROTH, Bruce Thompson; from the staff of Senator RIBICOFF, Susan Irving; from the staff of Senator PACKWOOD, John Colvin, Terry Kay, and Hugh O'Neil; from the staff of Senator ALLEN, Richard Gentry and Quentin Crommelin.

From my staff, Mr. President, Dr. Chester Finn, Mr. James Moors, Mr. Jeh Johnson, and Mr. Tim Russert.

Mr. HOLLINGS. Mr. President, reserving the right to object, and I do not want to object any more than necessary, how many staff people is that on this particular measure?

Mr. MOYNIHAN. How many? I shall tell how many for which consent was requested from committees: Eleven members; five members of the Finance Committee, since it is a finance bill, and six members of the Joint Committee on Taxation, since it is a tax bill. There are three staff members for Senator HODGES; four for myself; one for Senator RIBICOFF; one for Senator ROTH; three for Senator PACKWOOD; and two for Senator ALLEN.

Mr. HOLLINGS. I have no objection.

I would like to make a similar request when it is convenient to the manager of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that during consideration of H.R. 12050, privilege of the floor be granted to Michael Joy, Ashley Thrift, Ralph Everett, and Michael Copps.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask unanimous consent that privilege of the floor be granted to Sally Crossman of Senator STEVENS' staff and for Carl Anderson of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

(Routine morning business transacted and additional statements submitted today are as follows:)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of William E. Pitt, of Utah, to be U.S. marshal for the district of Utah for the term of 4 years; to the Committee on the Judiciary.

REORGANIZATION PLAN NO. 4 OF 1978—MESSAGE FOM THE PRESIDENT—PM 207

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers, which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

Today I am submitting to the Congress my fourth Reorganization Plan for 1978. This proposal is designed to simplify and improve the unnecessarily complex administrative requirements of the Employee Retirement Income Security Act of 1974 (ERISA). The new plan will eliminate overlap and duplication in the administration of ERISA and help us achieve our goal of well regulated private pension plans.

ERISA was an essential step in the protection of worker pension rights. Its administrative provisions, however, have resulted in bureaucratic confusion and have been justifiably criticized by employers and unions alike. The biggest problem has been overlapping jurisdictional authority. Under current ERISA provisions, the Departments of Treasury and Labor both have authority to issue regulations and decisions.

This dual jurisdiction has delayed a good many important rulings and, more importantly, produced bureaucratic runarounds and burdensome reporting requirements.

The new plan will significantly reduce these problems. In addition, both Departments are trying to cut redtape and paperwork, to eliminate unnecessary reporting requirements, and to streamline forms wherever possible.

Both Departments have already made considerable progress, and both will continue the effort to simplify their rules and their forms.

The Reorganization Plan is the most significant result of their joint effort to modify and simplify ERISA. It will eliminate most of the jurisdictional overlap between Treasury and Labor by making the following changes:

(1) Treasury will have statutory authority for minimum standards. The new plan puts all responsibility for funding, participation, and vesting of benefit rights in the Department of Treasury. These standards are necessary to insure that employee benefit plans are adequately funded and that all beneficiary rights are protected. Treasury is the most appropriate Department to administer these provisions; however, Labor will continue to have veto power over Treasury decisions that significantly affect collectively bargained plans.

(2) Labor will have statutory authority for fiduciary obligations. ERISA prohibits transactions in which self-interest or conflict of interest could occur, but allows certain exemptions from these prohibitions. Labor will be responsible for overseeing fiduciary conduct under these provisions.

(3) Both Departments will retain enforcement powers. The Reorganization Plan will continue Treasury's authority to audit plans and levy tax penalties for any deviation from standards. The plan will also continue Labor's authority to bring civil action against plans and fiduciaries. These provisions are retained in order to keep the special expertise of each Department available. New coordination between the Departments will eliminate duplicative investigations of alleged violations.

This reorganization will make an immediate improvement in ERISA's administration. It will eliminate almost all of the dual and overlapping authority in the two Departments and dramatically cut the time required to process applications for exemptions from prohibited transactions.

This plan is an interim arrangement. After the Departments have had a chance to administer ERISA under this new plan, the Office of Management and Budget and the Departments will jointly evaluate that experience. Based on that evaluation, early in 1980, the Administration will make appropriate legislative proposals to establish a long-term administrative structure for ERISA.

Each provision in this reorganization will accomplish one or more of the purposes in Title 5 of U.S.C. 901(a). There will be no change in expenditure or personnel levels, although a small number of people will be transferred from the Department of Treasury to the Department of Labor.

We all recognize that the administration of ERISA has been unduly burdensome. I am confident that this reorganization will significantly relieve much of that burden.

This plan is the culmination of our effort to streamline ERISA. It provides an administrative arrangement that will work.

ERISA has been a symbol of unnecessarily complex government regulation. I hope this new step will become equally symbolic of my Administration's commitment to making government more effective and less intrusive in the lives of our people.

JIMMY CARTER.

THE WHITE HOUSE, *August 10, 1978.*

PRESIDENTIAL APPROVAL

A message from the President of the United States reported that on August 4, 1978, he approved and signed the following bill:

S. 785. An act to declare that all right, title, and interest of the United States in two thou-

sand seven hundred acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:04 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2777. An act to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit, cooperatives, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. MORGAN).

At 2:35 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendment of the House to the amendments of the Senate to H.R. 10732, an Act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981.

The message also announced that the House disagrees to the amendments of the Senate to H.R. 12932, an act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. YATES, Mr. LONG, of Maryland, Mr. EVANS of Colorado, Mr. MURTHA, Mr. DUNCAN of Oregon, Mr. DICKS, Mr. CHARLES WILSON of Texas, Mr. WHITTEN, Mr. MAHON, Mr. MCDADE, Mr. REGULA, Mr. ARMSTRONG, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–4128. A communication from the Associate Director, Legislative Liaison, Office of the Secretary, Department of the Air Force, transmitting, pursuant to law, a report on experimental, developmental and research contracts of $50,000 or more, by company, for the period January 1, 1978 through June 30, 1978; to the Committee on Armed Services.

EC–4129. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Science Applications, Inc., La Jolla, California, for a research project entitled "A Borehole Probe for In Situ X-Ray Diffraction Analysis"; to the Committee on Energy and Natural Resources.

EC–4130. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Morrison-Knudsen Company, Incorporated, Boise, Idaho, for a research project entitled "Evaluation, Modification, and Application of Roadheaders in Underground Uranium Mining"; to the Committee on Energy and Natural Resources.

EC–4131. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Majority Printing Clerk, House of Representatives, for the Fiscal Year Ended August 31, 1977," August 9, 1978; to the Committee on Governmental Affairs.

EC–4132. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Audit of the Minority Printing Clerk, House of Representatives, for the Fiscal Year Ended September 30, 1977," August 9, 1978; to the Committee on Governmental Affairs.

EC–4133. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Housing Abandonment: A National Problem Needing New Approaches," August 10, 1978; to the Committee on Governmental Affairs.

EC–4134. A communication from the Deputy Assistant Secretary of the Interior, reporting, pursuant to law, on the modified personal record systems covered by the Privacy Act of 1974; to the Committee on Governmental Affairs.

EC–4135. A communication from the General Counsel, Securities and Exchange Commission, transmitting, pursuant to law, a report on the proposed modification of the Commission's Complaint Processing System, SEC–16; to the Committee on Governmental Affairs.

EC–4136. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the problems which exist in planning host nation support for U.S. forces in Europe and measures which should be taken by the Department of Defense to insure adequate logistical support of U.S. forces in wartime; to the Committee on Governmental Affairs.

EC–4137. A communication from the Administrator, Agency for International Development, Department of State, reporting, pursuant to law, a proposed amendment to their system of records AID–19; to the Committee on Governmental Affairs.

EC–4138. A communication from the Assistant Secretary for Administration, Department of Housing and Urban Development, transmitting, pursuant to law, a report on a Privacy Act system of records; to the Committee on Governmental Affairs.

EC–4139. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the family contribution schedules for the Basic Educational Opportunity Grant Program for academic year 1979–80; to the Committee on Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By MR. SASSER, from the Committee on Governmental Affairs, with an amendment:

H.R. 4319. An Act to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes (Rept. No. 95–1080).

S. 408. A bill to amend title 5, United States Code, to extend certain benefits to former employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes (Rept. No. 95–1081).

By MR. SASSER, from the the Committee on Governmental Affairs, with amendments:

H.R. 4320. An Act to amend chapter 83 of title 5, United States Code, to discontinue civil service annuity payments for periods of employment as a justice or judge of the United States, and for other purposes (Rept. No. 95–1082).

By MR. SASSER, from the Committee on Governmental Affairs, without amendment:

H.R. 8342. An Act to amend title 5, United States Code, to provide for the application of local withholding taxes to Federal employees who are residents of such locality (Rept. No. 95–1083).

H.R. 8771. An Act to amend title 5, United States Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the civil service retirement system, and for other purposes (Rept. No. 95–1084).

H.R. 9471. An Act to amend title 5, United States Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps (Rept. No. 95–1085).

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

A Special Report Summarizing a Study of the Assignment of Claims Act (Rept. No. 95–1086).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S.J. Res. 148. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week" (Rept. No. 95–1087).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 510. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3279 (Rept. No. 95–1088).

S. Res. 527. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3279 (Rept. No. 95–1089).

By Mr. THURMOND, from the Committee on the Judiciary, with an amendment:

S. 1680. A bill for the relief of Roland L. Outlaw and his wife Carolyn H. Outlaw of Lee County, South Carolina (Rept. No. 95–1090).

OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. JACKSON, the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes (Rept. No. 95–1091).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 153. A bill for the relief of Doctor Timothy Kam-Hung Chung (Rept. No. 95–1092).

S. 2366. A bill for the relief of Keum Sun Lee (Rept. No 95–1093).

S. 2547. A bill for the relief of Soo Yung Kim (Rept. No. 95–1094).

S. 2977. A bill for the relief of Renuka Pavia (Rept. No. 95–1095).

S. 3001. A bill for the relief of Kirthi Chandher (Rept. No. 95–1096).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments:

S. 399. A bill for the relief of Doctor Manuel Javier Mariano and his wife, Lilia Zapanta Mariano (Rept. No. 95–1097).

S. 2333. A bill for the relief of James Edward Slowey, Carole Anne Slowey, Christopher James Slowey, Elaine Margaret Slowey, and Carole-Ann Slowey (Rept. No. 95–1098).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.J. Res. 963. A joint resolution designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day" (Rept. No. 95–1099).

S. 3382. A bill to waive the statute of limitations with regard to the tort claim of Eazor Express, Inc., of Pittsburgh, Pennsylvania, against the United States (Rept. No. 95–1100).

H.J. Res. 682. A joint resolution to provide for the designation of a week as "National Lupus Week" (Rept. No. 95–1101).

H.J. Res. 946. A joint resolution to designate October 7, 1978, as "National Guard Day" (Rept. No. 95–1102).

By Mr. DECONCINI, from the Committee on the Judiciary, with an amendment:

S. 2253. A bill to amend title 28 of the United States Code to encourage prompt, informal, and inexpensive resolution of civil cases by use of arbitration in United States district courts, and for other purposes (Rept. No. 95–1103).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 12232. An Act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes (Rept. No. 95–1104).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 12380. An Act to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such Act (Rept. No. 95–1105).

By Mr. LONG, from the Committee on Finance, with amendments:

S. 2266. A bill to establish a uniform law on the subject of bankruptcies (Rept. No. 95–1106).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation:

Francis H. McAdams, of the District of Columbia, to be a member of the National Transportation Safety Board.

Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner.

(The above nominations from the Committee on Commerce, Science, and Transportation were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

U.S. COAST GUARD

Mr. CANNON. Mr. President, as in executive session, I also report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of July 10, 1978, at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. SASSER:

S. 3393. A bill for the relief of Bobby G. Sanders; to the Committee on Finance.

By Mr. BROOKE:

S. 3394. A bill to amend the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. EASTLAND:

S. 3395. A bill for the relief of Jan Kutina; to the Committee on the Judiciary.

By Mrs. ALLEN:

S. 3396. A bill to change the name of the China Bluff Access Area being constructed by the Army Corps of Engineers as part of the Tennessee-Tombigbee Waterway near Warsaw in Sumter County, Ala., to the S. W. Taylor Memorial Park; to the Committee on Environment and Public Works.

By Mr. HELMS:

S. 3397. A bill to amend the Federal Crop Insurance Act; to the Committee on Agriculture, Nutrition, and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROOKE:

S. 3394. A bill to amend the Internal Revenue Code of 1954; to the Committee on Finance.

ANTI-INFLATION TAX REDUCTION AND REFORM ACT

● Mr. BROOKE. Mr. President, today I am pleased to introduce the Anti-Inflation Tax Relief and Reform Act, legislation which in my opinion is long overdue. It is the companion measure to H.R. 11413 introduced in the House of Representatives by my distinguished colleague Congressman WILLIS GRADISON. The purpose of this bill is to help relieve the terrible burden inflation now places upon our taxpayers.

As we all know, our system of progressive tax rates was designed for a world of stable prices. But regrettably, although we have made attempts in recent years to stabilize prices, we have failed to achieve this goal. And, during this period it is the taxpayer who has suffered immensely from our inflationary problems. For as prices have risen, there has been a steady "bracket creep" as inflated nominal incomes move taxpayers into higher tax brackets. As a result, even where a family's income merely grows with the cost of living, the average rise in tax rates consumes or exceeds any real economic gain.

An illustration of this situation was recently pointed out by Mr. John Pierson of the Wall Street Journal. According to Mr. Pierson, the typical family of four that made $15,000 last year paid taxes of $1,385 or 9.2 percent of its income. Yet, even if this family receives a 7-percent pay increase to match this year's anticipated inflation rate, its taxes will go up faster in 1978 to $1,613 or 10 percent of income. Moreover, according to Mr. Pierson's calculations, after 10 years of illusory increases, the family's tax rate would climb to 17.8 percent, almost double what it was a decade earlier.

Mr. President, I suggest that this type of tax hike, which occurs without congressional approval, was not intended by the original designers of our tax system. Therefore, I propose, and my legislation provides, that the withholding rate applied to income earned in calendar year 1980 be adjusted by the change in the Consumer Price Index over the four quarters ending September 30, 1979. Further, that the tax brackets which apply to 1980 income be adjusted by this same index. And thereafter, the entire process would be repeated for every successive year. In this way we may be sure that our taxpayers do not needlessly suffer from the ravages of inflation.

I am aware that one of the arguments advanced against indexing is that inflation brings in more Government revenues and that indexing will reduce these revenues. For example, in fiscal year 1980, the administration estimates a revenue increase of $37 billion over the previous year, if the present tax structure were extended. However, indexing the bracket for inflation would only reduce this revenue gain by about $4.5 billion. Therefore, real economic growth would still provide a 1-year increase of $32.5 billion. Certainly we in the Government can adjust to such a reduction. And more importantly this figure is a more accurate reflection of the revenues to which Government is entitled.

It has also been stated that indexing will remove the impetus for legislating review of the inequities that exist in our tax system. To this I would respond that indexing is and must be an adjunct to legislative review. Indeed my advocacy of this indexing plan should not in any way be interpreted as favoring an abdication of the continuing congressional responsibility to comprehensively reform our tax structure. On the contrary, I strongly believe that we in the Congress have the same responsibility to review the distribution of the tax burden. And, in cases where an inequity in the system is disclosed, we should act expeditiously to correct the situation.

Finally, I would like to point out that it is not uncommon for us to use an indexing mechanism to account for inflationary increases. In fact it is being used by several segments of the economy. And, in Canada where the tax structure is very similar to our own, indexing has proved to be successful.

Mr. President, this indexing bill would simply provide a more equitable tax system. For, in my opinion, an equitable taxing system taxes real income, not nominal income. And this is precisely what my indexing bill will do. Certainly, this is something that our taxpayers deserve. Therefore, I urge my colleagues to expeditiously pass this important and necessary legislation.●

By Mr. HELMS:

S. 3397. A bill to amend the Federal Crop Insurance Act; to the Committee on Agriculture, Nutrition, and Forestry.

FARM CROP INSURANCE ACT OF 1978

Mr. HELMS. Mr. President, today I am pleased to introduce the Farm Crop Insurance Act of 1978, a bill to expand and improve the Federal Crop Insurance Program.

THE NEED TO IMPROVE DISASTER ASSISTANCE

Almost everyone agrees that our current efforts to alleviate the impact of farm disasters are costly, duplicative, inequitable, and inadequate. Certainly, the farmers of this Nation are all but unanimous in their belief that Federal disaster assistance programs are themselves a disaster.

At the present time, farmers and ranchers are confronted with a bewildering variety of more than 20 Federal programs which offer some type of crop or livestock disaster relief. These programs are scattered throughout the Federal bureaucracy and take the form of emergency credit, loss indemnification, insurance, project grants, and technical assistance. Each program has its own complicated set of declaration procedures, eligibility requirements, benefits, and loopholes.

Many of the inadequacies that cripple our farm disaster assistance programs were exposed during the severe drought of 1977, which affected many regions of the Nation including my State of North Carolina. A large number of farmers and ranchers discovered that Federal assistance was inadequate or unavailable, while others were able to take advantage of loopholes and reap windfall benefits. The system is unfair to farmers, and it is unfair to taxpayers.

During the past year several of my colleagues in the Congress, as well as the administration, have cited the need to restructure farm disaster assistance programs. This task is certain to be high on the agenda of the Agriculture Committee during the coming months. Clearly, the challenge is to develop a comprehensive, responsive system of disaster relief—a system in which the costs, benefits, and rules are laid down plainly so that, when disaster strikes, farmers will know in advance what assistance is available and how to obtain it.

EXPANSION OF CROP INSURANCE

Much of this discussion about farm disaster protection centers on the possibility of expanding the Federal crop insurance program as a cost-effective substitute for direct disaster payments. Federal crop insurance, offered through the Federal Crop Insurance Corporation—FCIC—has been in existence since 1938, but farmer participation has always been low because insurance is not available in all agricultural counties, and it does not cover all major crops in counties where the program is operative.

During 1977, FCIC operated in 1,522 counties—out of 3,066 nationwide—and offered insurance on a total of 26 individual crops. Only 14 percent of eligible producers choose to participate. In North Carolina, for instance, insurance was offered on only 6 crops in 70 of the State's 100 counties.

COMPREHENSIVE COVERAGE

The purpose of the Farm Crop Insurance Act is to replace this limited program with a new, equitable, and comprehensive system of crop coverage at rates farmers can afford.

Specifically, my legislation requires FCIC to expand into all agricultural counties and provide coverage for eight basic commodities wherever they are grown commercially. These include tobacco, cotton, corn, peanuts, rice, grain sorghum, barley, and wheat.

Numerous additional crops will be covered, as now, on a county-by-county basis.

Coverage will include up to 90 percent of a farm's average yield, in contrast to the existing limitation of 75 percent. FCIC is also authorized to offer lower levels of coverage—at reduced premiums—to be selected at the discretion of each producer, depending on his or her needs.

THE INSURANCE INDUSTRY

Unlike other proposals to expand the crop insurance program, my legislation does not put the Federal Government into competition with the private insurance industry. Nor does it foreclose the possibility of greater involvement by the private sector in the future. On the contrary, this bill specifically excludes fire, hail and lightning policies from the Federal program because the insurance industry already offers such coverage nationwide at highly competitive rates.

Moreover, this legislation attempts to utilize the private sector to the maximum extent by providing for reinsurance arrangements and by authorizing the sale of FCIC policies by private agents. Far from expanding the Federal role in crop protection, my bill lays the foundation for a gradual withdrawal of the Federal Government from the crop insurance business. As more and more actuarial data and experience is developed, competitive private programs, offering comprehensive coverage at affordable rates, may come to replace the Federal program.

THE COST OF PROTECTION

My legislation also provides for a 25-percent Federal subsidy of the premiums producers pay into FCIC. A premium subsidy of this size, together with the existing Federal payment of the corporation's operating and administrative expenses, will reduce the cost of insurance to producers and make it a viable and attractive alternative to the disaster payments program.

The Federal premium subsidy will substantially increase the level of Government support, but the expiration of the disaster payments program—which cost $560 million in 1977—will more than offset the Federal subsidy of a nationwide FCIC.

The Department projects an impressive savings if an expanded FCIC were to replace the present crop insurance/disaster payments system. Crop insurance and disaster payments cost the taxpayer a total of $672 million in 1977. In contrast, a nationwide FCIC, operating with 25 percent premium subsidy and assuming a participation level of at least 28 percent, will cost the taxpayer only about $110 to $150 million per annum.

In short, taxpayers will save money and producers will enjoy more comprehensive coverage.

OTHER PROVISIONS

The proposed act also revises the way in which FCIC's activities are funded to permit greater fiscal flexibility and capital stability. These changes, which are essential for the corporation's expanded activities, include increasing the capital stock from $200 million to $300 million, deleting the $12 million authorization ceiling on operating expenses, and providing FCIC with discretionary borrowing authority.

My legislation would also delete some authorities which have never been used or are no longer needed, and would update certain other aspects of existing law.

CONCLUSION

In conclusion, Mr. President, let me state frankly that this bill is not infallible. Nor is it a definitive solution to the problem of crop protection. Rather, I offer this legislation as the subject of further improvement, and in the hope that it may serve to redirect attention toward a vital but neglected subject: Now public and private insurance efforts may interface in a way that best serves the interests of producers and taxpayers.

Mr. President, I ask unanimous consent that the bill and a section-by-section summary be printed in the RECORD.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 3397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Crop Insurance Act of 1978".

SEC. 2. Section 504 (a) of the Federal Crop Insurance Act, as amended, is amended to read as follows:

"SEC. 504. (a) The Corporation shall have a capital stock of $400,000,000 subscribed by the United States of America, payment for which shall, with the approval of the Secretary of Agriculture, be subject to call in whole or in part by the Board of Directors of the Corporation.".

SEC. 3. The second sentence of subsection (c) of section 505 of the Federal Corp Insurance Act, as amended, is amended to read as follows: "The members of the Board who are not employed by the Government shall be paid such compensation for their services as directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed the daily equivalent of the rate prescribed for grade GS-18 in section 5332 of title 5, United States Code, when actually employed, and be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.".

SEC. 4. Section 507 of the Federal Crop Insurance Act, as amended, is amended—

(1) by striking out ", and county crop insurance committeemen" in subsection (a);

(2) by striking out the comma after the word "title" in subsection (b) and all that follows down through the end of the sentence and inserting in lieu thereof a period;

(3) by striking out subsection (c) in its entirety;

(4) by redesignating subsection (d) as subsection (c) and amending such subsection (as redesignated) to read as follows:

"(c) The Corporation may contract with

and transfer funds to, other agencies and offices of the Department of Agriculture or with the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for assistance in carrying out this title; but any employees of such other agencies and offices responsible for performing functions under this title shall be responsible directly to the Corporation without the intervention of any intermediate office or agency."; and

(5) by redesignating subsection (e) as subsection (d).

SEC. 5. Section 508 of the Federal Crop Insurance Act, as amended, is amended to read as follows:

"SEC. 508. To carry out the purposes of this title the Corporation—

"(a)(1) shall for the 1979 and subsequent crop years insure producers of wheat, cotton, grain sorghum, corn, rice, barley, peanuts, and tobacco, wherever grown commercially, but subject to the limitations herein, and may insure producers of other agricultural commodities wherever grown commercially, subject to the limitations herein, at such time as the Board determines that insurance on any other agricultural commodity has been developed to the point that it can be offered to the producers thereof. The insurance for any commodity shall be offered under any plan or plans determined by the Board to be adapted to the commodity. Such insurance shall be against loss of the insured commodity due to one or more unavoidable causes, including drought, flood, wind, frost, winter-kill, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes, other than hail, lightning, or fire, as may be determined by the Board: *Provided*, That, except in the case of tobacco, such insurance shall not extend beyond the period the insured commodity is in the field. Any insurance offered against loss in yield shall cover up to 90 per centum of the average yield for a representative period of years for a farm, or area in which the farm is located, as determined by the Corporation on the basis of recorded or appraised yields, subject to such adjustments as may be necessary to the end that the average yield fixed for farms in the same area, which are subject to the same conditions, may be fair and just. In addition, the Corporation may offer lower levels of coverage to be selected at the option of each producer. Insurance provided under this subsection shall not cover losses due to the neglect or malfeasance of the producer, or to the failure of the producer to reseed to the same crop in areas and under circumstances where the Corporation determines it was practical to so reseed, or to the failure of the producer to follow established good farming practices. For each crop insured, the Corporation shall not offer insurance on any acreage not suited to the production of such crop or in any county where the planted acreage of such crop is below a minimum county acreage as established by the Corporation, except that it may, if it is deemed practical to do so, offer insurance on acreage in such county through the office serving another county which meets the minimum requirement. The Corporation shall report annually to the Congress the results of its operations on each commodity insured.

"(2) may implement the program set forth in paragraph (1) for crops planted for harvest in 1979, as determined by the Board, consistent with the purposes of this Act, as amended, to insure, or reinsure insurers of, producers of such agricultural commodities under any plan or plans of insurance determined by the Board to be adapted to any such commodity.

"(3) may insure producers against losses that they may incur when they are unable to plant an agricultural crop because of a flood. Insurance issued under authority of this paragraph shall be subject to the applicable provisions of paragraph (1) of this subsection.

"(b) may fix adequate premiums of insurance at such rates as the Board deems sufficient to cover claims for crop losses on such insurance, establish as expeditiously as possible a reasonable reserve against unforeseen losses, and sell the crop insurance provided for under this Act through contract arrangements with commercially operated insurance companies. For the purpose of encouraging the broadest possible participation in the crop insurance program, 25 per centum of each participant's calculated premium shall be paid by the Federal Government. The remaining 75 per centum of the premium shall be paid by each participant and such premiums shall be collected at such time or times or shall be secured in such manner as the Board may determine.

"(c) may adjust and pay claims for losses under rules prescribed by the Board. In the event that any claim for indemnity under the provisions of this title is denied by the Corporation, an action on such claim may be brought against the Corporation in the United States district court, or in any court of record of the State having general jurisdiction, sitting in the district or county in which the insured farm is located, and jurisdicton is hereby conferred upon such district courts to determine such controversies without regard to the amount in controversy: *Provided*, That no suit on such claim shall be allowed under this section unless the same shall have been brought within one year after the date when notice of denial of the claim by registered mail is sent to the claimant.

"(d) may provide, upon such terms and conditions as the Board may determine to be consistent with Section 508(b) and sound reinsurance principles, reinsurance to private insurance companies, or groups or pools of such companies, which insure producers of any agricultural commodity under contracts acceptable to the Corporation: *Provided*, That no application for reinsurance shall be approved unless the Corporation shall have determined that the reinsurance deemed necessary is not available from recognized private sources at reasonable cost.

SEC. 6. The second sentence of section 515 of the Federal Crop Insurance Act, as amended, is amended to read as follows: "The compensation of the members of such committee shall be determined by the Board, but shall not exceed the daily equivalent of the rate prescribed for grade GS–18 in section 5332 of title 5, United States Code, when actually employed, and be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law (section 5703 of title 5, United States Code) for persons in the Government service employed intermittently.".

SEC. 7. Section 516 of the Federal Crop Insurance Act, as amended, is amended to read as follows:

"SEC. 516. (a) There is hereby created within the Treasury a separate fund (hereafter in this section called the 'fund') which shall be available to the Corporation without fiscal year limitation as a revolving fund for carrying out the purposes of this title. A business-type budget for the fund shall be be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849) for wholly owned Government corporations.

"(b)(1) There are authorized to be appropriated to the fund such amounts as may be necessary to restore the expense of the Corporation, including administrative and operating expenses, Federal premium payments, interest, the direct cost of loss adjustment and agents' commissions, but excluding indemnities. All amounts received by the Corporation as premiums, fees, and other moneys, property, or assets derived by it from its operations in connection with this title shall be deposited in the fund.

"(2) The Corporation is hereby authorized to use any funds available to it for administrative and operating expenses subject to limitations that shall be prescribed in applicable Acts: *Provided*, That, the direct cost of loss adjustment for crop inspections and loss adjustments, Federal premium payments, interest expense, and agents' commissions may be considered by the Corporation as being nonadministrative or nonoperating expenses.

"(3) All expenses, including reimbursements to other Government accounts, and payments pursuant to operations of the Corporation under this title shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Corporation shall pay from the fund into Treasury as miscellaneous receipts interest on its outstanding capital stock and outstanding borrowings from the Treasury, less the average undisbursed cash balance in the fund during the year and Federal premium payments due the Corporation. The rate of such interest shall be determined by the Secretary of the Treasury and shall be not less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States to comparable maturities. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the Corporation determines that moneys in the fund exceed the present and any reasonably prospective future requirements of the fund, such excess may be transferred to the general fund of the Treasury.

"(c) If at any time the moneys available in the fund are insufficient to enable the Corporation to discharge its responsibilities under this title, it shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Redemption of such notes or obligations shall be made by the Corporation from appropriations or other moneys available under subsection (b) of this section. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(d) The Secretary of Agriculture and the Corporation, respectively, are authorized to issue such regulations as may be necessary to carry out the provisions of this title.".

SECTION-BY-SECTION SUMMARY

Sec. 1. Short title.

Sec. 2. Raises the amount of capital stock authorized for the FCIC from $200 million to $400 million. One perennial problem with FCIC is that it is underfinanced. In 1977, for instance, FCIC had to come to Congress on two separate occasions to ask for additional funds to meet claim obligations. By industry standards, capital available for loss should approximate about 15 percent of total exposure. In the case of an expanded FCIC, this works out to about $400 million.

Sec. 3. Raises the maximum compensation of the Board of Directors (who aren't already employed by the government) to no greater than the daily rate for a G.S. 18. Their present daily compensation equates to about a G.S. 7. The estimated additional cost is less than $1,000 per year.

Sec. 4. Deletes references to county crop insurance committeemen and associations of producers. The FCIC has never established or utilized committees or producer associations in the past and has no need to do so in the future.

Sec. 5. Makes multi-risk insurance available to producers of wheat, cotton, grain sorghum, rice, corn, barley, tobacco and peanuts wherever they are grown commercially. The insurance covers all natural hazards except fire, lightning or hail. Deletes the existing limitation on the number of additional counties where FCIC may offer insurance. Current limitation is 150.

Authorizes different levels of coverage up to 90 percent of a farm's average yield. Farmers may select what level of coverage that best serves their needs.

Provides coverage for prevented planting losses caused by floods.

Provides for a 25 percent Federal subsidy of each participant's premium.

Authorizes the FCIC Board to utilize private sector insurance agents to sell insurance on a contract basis.

Authorizes the FCIC Board to enter into reinsurance arrangements with private sector underwriters.

Sec. 6 Does for FCIC advisory committee members what Sec. 3 does for Board members.

Sec. 7 Deletes existing authorization of appropriations and creates a revolving fund to be used to pay administrative and operating costs including Federal premium payments, interest, the direct cost of loss adjustment and agent's commissions, but excluding indemnities. There is authorized for appropriation to the fund such sums as may be necessary to restore administrative and operating expenses.

ADDITIONAL COSPONSORS

S. 2700

At the request of Mr. INOUYE, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 2700, to amend the Export Trade Act to encourage increased utilization of the act, and for other purposes.

S. 2802

At the request of Mr. RIEGLE, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of S. 2802, the Truth-in-Lending Simplification and Reform Act.

SENATE RESOLUTION 526

At the request of Mr. DOLE, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of Senate Resolution 526, commemorating the 10th anniversary of the invasion of Czechoslovakia.

SENATE JOINT RESOLUTION 50
SENATE JOINT RESOLUTION 138

At the request of Mr. GRIFFIN, his name was added as a cosponsor of Senate Joint Resolution 50, to amend the Constitution of the United States to provide for a balanced budget and elimination of the Federal indebtedness, and Senate Joint Resolution 138, to amend the Constitution of the United States to provide that, except in the time of national emergency declared by the Congress, expenditures of the Government may not exceed revenues of the Government during any fiscal year.

AMENDMENTS SUBMITTED FOR PRINTING

CHILD HEALTH ASSESSMENT ACT—S. 1392

AMENDMENTS NOS. 3449 THROUGH 3455

(Ordered to be printed and referred to the Committee on Finance.)

Mr. CRANSTON submitted seven amendments intended to be proposed by him to S. 1392, a bill to strengthen and improve the early and periodic screening, diagnosis, and treatment program, and for other purposes.

● Mr. CRANSTON. Mr. President, today I am submitting for printing and referral to the Finance Committee, the administration's amendments to the proposed "Child Health Assessment Act," S. 1392, introduced on April 26, 1977, by the Senator from Connecticut (Mr. RIBICOFF) and of which I am a cosponsor.

These amendments would make several important changes and improvements to the early and periodic screening, diagnosis, and treatment program (EPSDT) admendments offered last session by the distinguished Senator from Connecticut (Mr. RIBICOFF), and would also make one important new amendment to the medicaid program regarding pregnant women. As the chairman of the Subcommittee on Child and Human Development of the Human Resources Committee, these issues are of major concern to me.

This important new amendment to the medicaid program is one I had suggested last year to the Secretary of Health, Education, and Welfare. That suggestion was to broaden medicaid coverage to low-income women pregnant for the first time whose income level would make them eligible for medicaid coverage if they had a dependent child. It seemed to me inconsistent to provide medicaid coverage to these women after their child was born but to refuse medicaid coverage to these women in the critical prenatal period when, to a major extent, the future health of the infant is determined.

I ask unanimous consent, Mr. President, that the exchange of letters between Secretary Califano and me be inserted in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., July 27, 1977.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR JOE: I am delighted that the administration has moved forward so dramatically in developing its position on adoption and foster care reform, and have greatly enjoyed the opportunity to work with you and your staff to develop these initiatives. I was privileged to introduce as S. 1928 the legislation you transmitted to the Congress yesterday.

There is, however, one specific section of S. 961 as reported which is a matter of great concern to me and, I know, to you and which is not a part of the new S. 1928 or S. 961 as we propose to amend it (Amendment No. 579).

Section 103(a) of S. 961, as reported, provided that States could utilize funds allocated to them under the Act for the provision of pre-natal, natal, and post-partum services to women who are voluntarily planning to place their children for adoption and who are unable to assume such costs, but only to the extent that assistance under other Federal or State programs in the community is not readily available to provide adequately for such services.

The text of the S. 961 provision (clause (2)) is:

The provision of pre-natal, natal, and post-partum services to women who are voluntarily planning to place their children for adoption (after having been informed in writing that the acceptance of such services does not in any way constitute an obligation to proceed with adoption) and who are unable to assume such costs, in order to protect the health and welfare of both woman and child; but only to the extent that assistance under other Federal or State programs in the community in question is not readily available to provide adequately for such services.

I strongly believe that the provision of such assistance to pregnant women is vitally important. Testimony before Senate committees over the past several years has indicated that a serious problem exists in this area. Young women who are pregnant and are unable to bear the cost of carrying their pregnancies to term are frequently forced either to deal with black market baby-sellers or to resort to abortion because of financial considerations.

Although S. 961 dealt only with those women who were voluntarily planning to place their children for adoption, I am convinced, as I know you are, that all pregnant women should be assured of financial assistance, where necessary, in order to complete their pregnancies. Hence, I joined with Senators Javits and Brooke in introducing (first in 1976 as S. 3593 and in 1977 as S. 370) the "National Health Insurance for Mothers and Children Act", under which all appropriate pre-natal and post-partum (up to 12 weeks after child birth) health care would be provided women.

While I continue to favor strongly this type of comprehensive maternal and child health approach, I would hope that the Administration would be willing to support, as a good beginning in the immediate future, an amendment to title XIX of the Social Security Act to establish a uniform federal standard under which these costs would be covered under Medicaid for any needy woman. This change could be accomplished as an FY 1979 initiative.

In view of your deep commitment to deal with this subject, I am very hopeful that you will be able to develop Administration support for legislation which would provide

Medicaid coverage for every needy pregnant woman and new-born infant so that such women will be free to carry their pregnancies to term free of economic or any other forms of direct or indirect pressure or coercion.

I look foward to hearing your views on this matter.

Sincerely,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., August 18, 1977.

Hon. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR ALAN: Thank you for your recent letter and for your support in developing our foster care and adoption reform proposal. I was especially pleased to note your introductory statement in the Congressional Record which highlighted the need for these reforms.

I share your concerns that all pregnant women have access to prenatal health care services.

We believe that the needs of pregnant adolescents and low-income women deserve particular attention. I have appointed a task force to examine problems faced by the teenage expectant mother and her child, and to recommend an action agenda which would serve the health, educational, and social support needs of both. I anticipate announcing a major legislative initiative in this area in the very near future.

In this connection, I share your deep concern that Medicaid and Aid to Families with Dependent Children in many States do not uniformly cover costs of prenatal and postpartum care for women otherwise eligible to participate in these programs. It is troubling that some pregnant women forgo prenatal and postpartum health care as a result of benefit limitations in these programs.

I am actively considering legislative revisions that would remedy this problem and others facing the pregnant mother and her child.

Sincerely,

JOSEPH A. CALIFANO, Jr.

U.S. SENATE,
COMMITTEE ON HUMAN RESOURCES,
Washington, D.C., November 1, 1977.

Hon. JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education, and Welfare,
Washington, D.C.

DEAR JOE: Many thanks for your prompt response to my letter urging the development of a Federal response to the needs of expectant mothers wishing to carry their pregnancies to term. I'm delighted by your willingness and your own personal desire to move on this issue.

I was greatly pleased to learn about your plans for a task force to deal with this problem. I'd be interested in knowing who is directing this effort, and about the make up of the task force.

I recently received a copy of the new report published by the Guttmacher Institute—"11 Million Teenagers"—which sets forth the findings of the Institute's study of the problems with which your task force will be dealing. I hope you will be referring to this study in your work.

I'm also pleased to know that you will be developing a major legislative initiative in this area. I had directed my staff to explore legislative remedies, including the possibility of mandating AFDC eligibility for lower income women bearing their first child—which of course would make them eligible for Medicaid as well—and Medicaid eligibility for those women needing assistance whose income levels might nevertheless be above the AFDC eligibility cutoff. I would like to suggest that our staffs work with each other on this, and ask that you share with us an outline of the kinds of approaches you have under review at this time, as well as an indication of your time-table and plans for making such an announcement.

I look forward to working with you on this, Joe, and again want to thank you for your efforts.

Cordially,

ALAN CRANSTON,
Chairman, Subcommittee on Child and Human Development.

Mr. CRANSTON. Mr. President, experience has shown that without assurance of third-party reimbursement, many low-income women will not seek prenatal care but rather will arrive at the hospital emergency room when the birth of the child is imminent. This practice, obviously, creates a greater risk for the mother as well as the child.

Under the proposed amendment, the expectant mother can seek early prenatal care, secure in the knowledge that the physician fees will be covered. The result will be a greater chance for a healthy delivery and a greater chance for a healthy child.

I would like to point out, Mr. President, the specific benefits the proposal has in relation to the increased numbers of teenage pregnancies. These young women are particularly susceptible to bearing low-birth-weight infants. The report entitled "11 Million Teenagers" pointed out that low birth weight is not only a major cause of infant mortality, but also can lead to other childhood illnesses and neurological defects which may involve lifelong mental retardation. That report went on to say that the death rate from complications of pregnancy is significantly higher for adolescents than it is for mothers in their twenties. Good prenatal care can help prevent these tragedies.

The other amendments included in the administration's package, Mr. President would broaden the applicability of the EPSDT or, as the program would be called under Senator RIBICOFF's bill, the CHAP program to a broader age group and would provide broader health coverage for all those included in the program.

Mr. President, I would like to list briefly these amendments and ask that the letter from Secretary Califano to Senator LONG of February 27, 1978, be inserted in the RECORD at the close of my remarks following the pointing of the amendments themselves. That letter describes the justication for the amendments as well as the estimated costs of each amendment.

Mr. President, the CHAP amendments would—

Require the CHAP program to be made available to all children under 21 who meet medicaid income and resources eligibility requirements;

Clarify that services for children with mental or developmental disabilities would continue to be required to be provided to the extent the State provides them to children under the basic medicaid program;

Clarify that dental services are required to be provided to treat conditions discovered by a dentist during the health assessment;

Specify that, in addition to providing the care and services for which Federal reimbursement is available under medicaid, the State must refer a child who has been assessed to appropriate care and services not covered by the Federal medicaid program, such as special education programs;

Clarify that the health assessments required under the CHAP program would be for both physical and mental conditions;

Retroactively repeal, effective June 30, 1974, existing law which imposes a penalty equal to 1 percent of the amount made available to the State for AFDC payments, for the State's failure to carry out fully an EPSDT program. S. 1392 would have repealed this penalty provision only retroactive to September 30, 1977. Under S. 1392 a new penalty provision would be established that would recognize good faith efforts on the part of States to meet the requirements and would provide for sufficient notice to the State of its deficiences so the State would have an opportunity to correct them before imposition of the fine. The existing penalty requirement allows no flexibility and in some cases, where the State has corrected a deficiency which may have occurred 5 years ago, it is still subject to a very heavy retroactive penalty.

I would like to point out, Mr. President, that there are substantial doubts about one amendment suggested by the administration that I have included in the package I am submitting today. That is the amendment which would specify that an assessment shall include an assessment for "physical and mental problems." California State officials responsible for carrying out the EPSDT program have pointed out to me that the current requirement with respect to "mental problems" has led to considerable difficulties. They advised me that the screening process uses quick, simple procedures and tests, which can result in misleading information and misdiagnosing a child. This can in turn result in falsely labeling a child as "disturbed" or "retarded."

The Children's Defense Fund, in its report "EPSDT"—Does It Spell Health Care For Poor Children?" recommended that:

> Federal regulations should not include a separate developmental assessment component, but HEW should define, in collaboration with professionals, administrators, and consumer groups, the scope of the developmental review and how it will be carried out within the context of the comprehensive pediatric assessment.

At this point, I believe that the amendment is, therefore, probably unwise, but I have included it in the amendments I am submitting out of deference to the administration and so that the questions raised can be explored fully at the hearings and in the Finance Committee's consideration of the amendments.

Mr. President, I believe these amendments make essential improvements in the EPSDT program. I am carefully watching action being taken in the House, where the Subcommittee on Health and Environment, chaired by my good friend, Congressman PAUL ROGERS,

has recommended additional amendments and modifications to the administration amendments I am introducing today. Some of the changes being considered in the House may well warrant serious consideration in the Senate, and I intend to offer additional amendments in those instances where I believe that is the case.

Mr. President, the Senate Finance Committee is scheduled to hold hearings on S. 1392 on August 14, and I will be following with interest the progress of the underlying legislation, S. 1392, and these amendments.

Mr. President, I ask unanimous consent that the text of the amendments I am submitting today be printed in the RECORD at this point and prior to the material previously asked to be inserted at the close of my remarks.

There being no objection, the amendments and letter were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3449

On page 12, after line 13, insert the following:

MEDICAID COVERAGE OF PREGNANT WOMEN

SEC. 9. Section 1905 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(l)(1) For purposes of this title: (1) any pregnant woman shall be deemed to be a relative specified in section 406(b)(1) with whom a child is living who is a dependent child as defined in section 406(a), and (2) any pregnant woman who would meet the income and resources requirements of the State plan approved under part A of title IV if she had borne a child with whom she was living shall be deemed to be receiving aid under that State plan.

"(2) Any woman who is eligible for care and services under this title by reason of the preceding paragraph shall remain eligible for such care and services for a period of two months following the month in which the pregnancy terminates. Notwithstanding any other provision of law, any such woman shall remain eligible under this title for one additional pregnancy-related check-up beyond such two month period if the fee for the check-up has been included in a single overall charge for all pregnancy related care and services."

AMENDMENT No. 3450

On page 2, at line 22, strike out "six" and insert instead "twenty-one".

On page 3, at line 19, strike out "SIX" and insert instead "TWENTY-ONE".

On page 4, at line 1, strike out "six" and insert instead "twenty-one".

On page 4, at line 24, strike out "six" and insert instead "twenty-one".

AMENDMENT No. 3451

On page 3, line 12, insert after "disabilities" the following: when the care or services for those conditions are not provided pursuant to paragraph (1) through (5) of section 1905(a).

AMENDMENT No. 3452

On page 3, at line 14, insert after "assessment": or discovered by a dentist if the dental assessment is done by direct referral to a dentist

AMENDMENT No. 3453

On page 3, at line 18, insert before the semicolon: , and for the referral of any individual under the age of 21, who has received his periodic assessment, for appropriate care and services not available under this title.

AMENDMENT No. 3454

On page 5, at line 9, insert after "assessments": for physical and mental problems.

AMENDMENT No. 3455

On page 11, at line 21, strike out "September 30, 1977" and insert instead "June 30, 1974".

DEPARTMENT OF HEALTH,
EDUCATION AND WELFARE,
February 27, 1978.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to ask for your Committee's favorable consideration of a number of amendments, which are enclosed, to an Administration bill, S. 1392, which is now pending before your Committee.

On April 25, 1977, the President submitted to the Congress draft legislation to improve health services for children of low income families. The proposed legislation was introduced in the Senate as S. 1392, and was referred to your Committee for its consideration. The bill is intended to strengthen the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program for children under Medicaid and would rename the program the Child Health Assessment Program (CHAP). Hearings were held on the bill last September by your Subcommittee on Health and the Environment.

On August 1, 1977, we submitted an amendment to you which would repeal retroactively through fiscal year 1975 the provision of current law which requires a reduction in a State's welfare payment under title IV of the Social Security Act when the State does not have an adequate EPSDT program. We continue to support that amendment for the reasons previously provided, and have enclosed it as amendment no. 7. In addition, we would now like to ask for the adoption of the following amendments to S. 1392.

Amendment No. 1. This amendment would add a new section to S. 1392 which would amend title XIX of the Social Security Act to provide Medicaid coverage to low-income pregnant women. Currently a woman who does not fall within one of the categories eligible for Medicaid coverage does not become eligible for Medicaid solely by reason of becoming pregnant. The amendment would also provide for a two month period of Medicaid coverage following the termination of the pregnancy. We believe Medicaid coverage of low-income women who are pregnant is one of the most significant steps we can take to assure adequate prenatal and other health care to such women, and thereby greatly improve the chances that their children will be born healthy. Our amendment would require States to provide Medicaid to a pregnant woman who meets the income and resources requirements in her State for aid to families with dependent children (regardless of the marital and employment status of the woman or her spouse) and would also require States with medically needy programs to cover pregnant women who meet the State's medically needy standard. This amendment will increase Medicaid outlays and budget authority by $118 million in fiscal year 1979, $131 million in fiscal year 1980, $146 million in fiscal year 1981, $162 million in fiscal year 1982, and $180 million in fiscal year 1983.

Amendment No. 2. This amendment would require the CHAP program to be made available to all children under 21 who meet the income and resources requirements for Medicaid. The bill we submitted last year would require such coverage only to age six, leaving optional the coverage of older children. Current estimates of the cost of the expanded program are $263 million in fiscal year 1979, $463 million in fiscal year 1980, $586 million in fiscal year 1981, $723 million in fiscal year 1982, and $872 million in fiscal year 1983.

Amendment no. 3. This amendment would clarify the scope of medical services required to be provided as part of CHAP. The intent of our proposal is to expand health care services for children, not reduce them. This amendment makes clear that all services now required to be provided to children with mental or developmental disabilities would continue to be required.

Amendment no. 4. This amendment would make clear that dental services are required to be provided to treat conditions discovered by a dentist who makes the dental part of a health assessment. The bill we submitted did not specifically mention referrals to dentists, and therefore implied that only the individual doing the health assessment could be responsible for performing the dental check-up.

Amendment no. 5. This amendment would specify that in addition to providing to a child who has been assessed the care and services for which federal reimbursement is available under Medicaid, the State must refer the child for appropriate care and services not covered by the federal Medicaid program.

Amendment no. 6. This amendment would clarify that the health assessments required by the legislation would be for both physical and mental conditions.

The Office of Management and Budget advises us that they have no objection to our submission of the enclosed amendments, and that enactment of S. 1392, amended as we have requested, would be in accord with the program of the President.

Sincerely,

JOSEPH A. CALIFANO, Jr.,
Secretary ●

AMENDMENTS NOS. 3456 AND 3457

(Ordered to be printed and referred to the Committee on Finance.)

Mr. CRANSTON submitted two amendments intended to be proposed by him to S. 1392, supra.

URBAN MASS TRANSPORTATION AUTHORIZATIONS—S. 2441

AMENDMENT NO. 3458

(Ordered to be printed and to lie on the table.)

Mr. MUSKIE (for himself, Mr. BELLMON, Mr. PROXMIRE, and Mr. LUGAR) submitted an amendment intended to be proposed by them, jointly, to S. 2441, a bill to amend the Urban Mass Transportation Act of 1964 to provide new authorizations for the program of Federal assistance through fiscal year 1982, and for other purposes.

COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978—S. 2570

AMENDMENTS NOS. 3459 AND 3460

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted two amendments intended to be proposed by him to S. 2570, a bill to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

TUITION TAX CREDIT—H.R. 12050

AMENDMENT NO. 3461

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted an amendment intended to be proposed by him to H.R. 12050, an act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

AMENDMENTS NOS. 3462 AND 3463

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. ABOUREZK, Mr. BELLMON, Mr. DOMENICI, Mr. MARK O. HATFIELD, Mr. EAGLETON, and Mr. BENTSEN) submitted two amendments intended to be proposed by them, jointly, to H.R. 12050, supra.

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Friday, August 18, 1978, at 10 a.m., in room 2228, Dirksen Senate Office Building, on S. 2361 and H.R. 10965, to revise, codify, and enact without substantive change, the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation."

This hearing will be before the full Judiciary Committee.●

SUBCOMMITTEE ON AGRICULTURAL PRODUCTION, MARKETING, AND STABILIZATION OF PRICES

● Mr. HUDDLESTON. Mr. President, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices will hold hearings on legislation pertaining to the Federal crop insurance program on August 15 and 17. 1978. The hearings will commence at 10 a.m. in room 322 of the Russell Senate Office Building.

Because of time constraints, testimony at both of these hearings will be by invitation only. I plan to hold several more hearings in the not too distant future regarding proposals pertaining to the Federal Crop Insurance Corporation. It is my intention to accommodate all persons wishing to testify at these subsequent hearings.●

COMMITTEE ON GOVERNMENTAL AFFAIRS AND THE SUBCOMMITTEE ON CITIZENS AND SHAREHOLDERS RIGHTS AND REMEDIES TO HOLD JOINT HEARINGS

● Mr. METZENBAUM. Mr. President, the Governmental Affairs Committee and the Subcommittee on Citizens and Shareholders Rights and Remedies of the Judiciary Committee will hold joint hearings on S. 3005, "The Citizens' Right to Standing in Federal Courts Act of 1978." On August 16, the hearings will begin at 10 a.m. in room 1202 Dirksen Senate Office Building on August 23, the hearings will begin at 10 a.m. in room 2228, Dirksen Senate Office Building.●

COMMITTEE ON THE JUDICIARY

● Mr. MATHIAS. Mr. President, I wish to announce that hearings scheduled for tomorrow, Friday, August 11, by the Judiciary Committee to review the FBI's forcible crime against banking institutions program, have been postponed. The hearings have been rescheduled for Friday, August 18, 1978, room 357, Russell Senate Office Building, at 10 a.m.

Those who wish to testify or submit a statement for inclusion in the RECORD should communicate as soon as possible with the committee office, 2226 Dirksen Senate Office Building, telephone (202) 224–5225.●

ADDITIONAL STATEMENTS

VETERANS' HOUSING BENEFITS IMPROVEMENT ACT OF 1978

● Mr. MATHIAS. Mr. President, I was pleased that the Senate, on August 7, 1978, passed H.R. 12028, the Veterans' Housing Benefits Improvement Act of 1978.

The provision of that bill with which I am particularly pleased is the one which would provide that the VA guarantee loans for the purchase of an apartment unit in an approved converted condominium development.

In March of 1977, I, along with Senator STONE, introduced S. 989, providing for just such an expansion of the VA home loan guarantee program by including condominium conversions.

At the present time, the VA will only guarantee home loans for new condominiums. It does not guarantee home loans for buildings converted to condominiums. This is an inequitable situation which excludes from VA guarantee many substantial homes and apartment buildings which have been converted from rental to the condominium form of ownership. This also limits the housing options available to veterans.

The apparent reason for limiting VA loans to new condominiums was an interpretation by the VA that it was not the congressional intent to permit the VA to offer loans for converted condominiums. Section 5 of H.R. 12028 serves to correct this mistaken impression.

Virtually unknown in the early 1960's, condominiums are now sold all over the country. According to some estimates there are over 1.25 million condominium homes in the United States.

In a 1975 report to Congress, the Department of Housing and Urban Development stated that most economic, social, legal and environmental factors stimulating new condominium development also encourage the trend toward converting existing apartments to condominiums. As of March, 1975 there were 125,000 condominium conversions in this country. Last year alone, there were between 12,000 and 15,000 such conversions in both Chicago and Houston. Los Angeles, San Diego, and Washington, D.C., had similar volumes. There appears to be a national trend toward this form of homeownership and the option should certainly enjoy all of the financing and Federal guarantee benefits which are available for the purchase of a conventional home.

In a March 1978 report on condominium homeownership, the General Accounting Office recommended that the VA guarantee loans on individual condominiums in converted buildings. The report states that condominiums are expected to occupy an increasingly large proportion of the housing market in all parts of the country in the coming years.

Mr. President, I need not reiterate to you or my colleagues the numerous statistics on our inflationary housing market and the fact that three-fourths of our Nation's families cannot afford the median-priced new home today. The condominium form of homeownership offers one way for some of those people to buy a home because frequently the financing terms and sales price are less expensive than the terms for a conventional fee simple house.

Many of our veterans have not been able to afford a home and are currently renters. Section 5 of H.R. 12028 would provide them with the one homeownership option which could put owning a home within their financial means.

I commend the Veterans' Affairs Committee for including this provision in the Veterans' Housing Benefits Improvement Act of 1978.●

THE VIETNAM VETERAN

● Mr. HART. Mr. President, on July 27, the Washington Post carried an editorial by Stewart F. Feldman, a lawyer who has been active in efforts to focus national attention on the plight of the Vietnam veteran.

Mr. Feldman's article underscores our failure to recognize the contribution of the Vietnam veteran during this difficult period in the Nation's history. He reminds us that the nature of armed conflict has changed in the years since World War II—an event which has significant implications, both for the conduct of American foreign policy and for the men and women who must—when necessary—defend the Nation's interests in time of war.

Mr. President, I ask that Mr. Feldman's article be printed in the RECORD.

The article follows:

[From the Washington Post, July 27, 1978]

OUR FAILURE TO DISCUSS VIETNAM

(By Stuart F. Feldman)

There was probably as much heroism by American servicemen in Vietnam as in any previous war. Yet the Vietnam veteran doesn't know whether he is a hero, an honorable man for serving his country, or a fool for not evading the draft. Partly this is because of the unpopularity of the war at the time it was being waged. But a large part of the reason for the confusion in the minds of Vietnam veterans has to do with our failure to discuss Vietnam and what it meant, now that it is behind us.

Both a recent book—"Chance and Circumstance" by Lawrence M. Baskir and William A. Strauss—on the unfortunate and unfair workings of the draft and reports of candidate Jimmy Carter's speeches illustrate the problem. Both seem to take the position that people served in Vietnam because they weren't bright enough to know where Canada was or to take advantage of the multitude of ways to escape their citizen's responsibility. Neither fully acknowledged the fact that many people served in the military because they saw it as their citizen's duty.

Robert Morris, an eloquent Vietnam veteran, wrote in a letter to The Washington Post on Oct. 11, 1977: "In candor, I never knew what to think of the war either; never knew, even while I was there, whether committing U.S. forces in Vietnam was the right decision. I believed explicitly only in this: The government should be able to raise and deploy troops in accordance with decisions properly made in the national interest."

That is a view I share.

Payment of the nation's just debts to Vietnam veterans might start to strip away the

barriers to a consensus on America's future role in the world—barriers that now seem to hamper our ability to act. The disillusionment from Vietnam seems to convince many that we should never commit our troops or resources overseas again, except perhaps in Europe.

A president's Week for Vietnam Veterans, climaxed by a nationwide presidential fireside address on the honorable service of those citizens and the responsibilities of citizenship, could be a major first step in a needed nonpartisan discussion of Vietnam.

Some special presidential recognition of Vietnam veterans would, I believe, help many of them feel more at ease with their government. It might also provide them with some sense of absolution for their part in a war that so many of their fellow citizens have denounced as "immoral" or "needless" or just plain wrong. A large number of Vietnam veterans and their families are now bitterly opposed to military service. They convey that attitude to their younger brothers, relatives and friends. It may be one reason the volunteer army is having such a hard time obtaining high-caliber recruits.

A poll made in conjunction with one of the Hollywood movies made about the war showed that 61 percent of those surveyed thought that the nation needed to discuss the events of the war. Other recent signs, including the release of at least eight war-related movies, hour-long television specials on Vietnam veterans by ABC and CBS and a cover story by the Atlantic, suggest that there is, indeed, some public readiness to face up to the meaning—and the lessons—of Vietnam.

In a Memorial Day address at Loyola College in Baltimore, Clark Clifford, a secretary of defense under President Johnson, said his generation, by wrongly comparing Hitler's Germany and post-World War II Soviet expansionism to Vietnam, conducted a war that was "a disaster." The National Review of June 23 carried an analysis of the war by Norman Hannah, a retired Foreign Service officer, who also called for a dispassionate nonpartisan review. In the July Harper's, psychologist Jeffrey Jay, a fellow at George Washington University's Center for Family Research, called the Vietnam veteran a scapegoat and a victim of silence surrounding the war. He, too, urged a national debate on Vietnam for the sake of the veterans' mental health. In reviewing a book in The Washington Post, one of West Point's brightest young products, Josiah Bunting, who left the Army over the war, made a negative analysis of the officer corps' performance. All of these are recent harbingers of a willingness to examine the past for whatever it might tell us of how to proceed in the future.

Although presidential recognition of Vietnam veterans is crucial, any response requires a substantive effort to reshape and improve a number of government programs related directly to the problems of Vietnam veterans and involving education, medical care, various forms of "amnesty" for "bad paper" (less than honorable) discharges comparable to the blanket forgiveness bestowed upon draft evaders. This may require the expenditure of significant amounts of money as well as symbolic gestures by the president. But the sums involved are trifling when you consider the national obligation to those who served in Vietnam and to the importance of straight-thinking about the war and its relevance to the future conduct of American foreign policy, in honoring that obligation.●

HONEST MONEY

● Mr. GARN. Mr. President, the role of money in society is that of a measure of economic value. It is a pledge that my labor or goods can be exchanged for something of equal value. When I surrender something valuable in exchange for money, the pledge that accompanies that money is that it can be used to obtain something else of equal value. Inflation distorts that. It makes the exchange of value less than equal. Inflation violates the economic agreement.

Henry C. Wallich, a member of the Board of Governors of the Federal Reserve, has written an illuminating article that was published in the August 3, 1978, edition of the New York Times. In his article, "Honest Money", Mr. Wallich notes that with a changing value of our money—

> Our economic dealings will be neither efficient nor even honest. . . . Inflation is like a country where nobody speaks the truth. It introduces an element of deceit into all our economic dealings.
>
> Inflation has ended the dollar's role as a trustworthy measure of values.

My colleagues are familiar with the classic inflation of post-war Germany. A man could work all day and by the time he received his wages perhaps have money worth enough to buy a loaf of bread. Mr. President, we need a dollar that is worth the same value when it is paid and spent.

A great concern with inflation is the problem of disintermediation. As Mr. Wallich points out, the average saver "is not allowed to obtain an interest rate reflecting inflation." With savings interest rates fixed and inflation rising, there comes a point when the small saver is unwilling to leave his money in an account where it loses 3 percent or more in value, compounded quarterly. The individual spends his money as soon as he gets it, before it loses any more value, compounding the problem.

Mr. President, inflation is a hostile economic environment. As Mr. Wallich suggests, it is a situation of survival of the fittest:

> Inflation is a means by which the strong can more effectively exploit the weak. The strategically positioned and well-organized can gain at the expense of the unorganized and the aged.

I reject the argument that a certain level of inflation is acceptable. By its nature, it is unpredictable. If it was possible to maintain a steady rate of inflation, then by the same means it would be possible to maintain an economy with no inflation. Mr. Wallich states:

> But, any specific allowance made for inflation . . . is bound to be speculative.

Thus, the value of the dollar in my pocket today is going to be unpredictable tomorrow.

I agree with Mr. Wallich. "There is no substitute for honest money."

Mr. President, I commend the article by Governor Wallich to my colleagues and ask unanimous consent that it be printed in the RECORD.

The article follows:

[From the New York Times, Aug. 3, 1978]

HONEST MONEY

(By Henry C. Wallich)

WASHINGTON.—We have been learning for some time that inflation damages the economy and all that live by it. But inflation does more than material damage.

Inflation has ended the dollar's role as a trustworthy measure of values. Dealings and contracts based on the dollar have become deceptive. This is not simply a cause of economic injury, it is a moral as well as an economic issue. Without honest money our economic dealings will be neither efficient nor even honest.

If our contracts were made in terms of frequently shrinking measures of weight, time or space, as we buy food, sell our labor, or acquire real assets, we would probably regard that as cheating and as intolerable. Yet the case is much the same when we are dealing with monetary values. Nothing that is expressed in dollars any longer means what it says. Inflation is like a country where nobody speaks the truth. It introduces an element of deceit into all our economic dealings.

Everybody now makes contracts knowing perfectly well that they will not be kept in terms of constant values. Everybody expects the value of the dollar to change over the period of the contract. But any specific allowance made for inflation in such a contract is bound to be speculative. We do not know whether the most valuable part of the contract may not turn out to be the paper it is written on. This condition cannot be reconciled with honesty.

The moral issues posed by inflation go beyond what I consider deceit. (There are other forms of moral deficiency, and inflation involves some of the least attractive.) Inflation is a means by which the strong can more effectively exploit the weak. The strategically positioned and well-organized can gain at the expense of the unorganized and the aged.

Inflation is also a means by which debtors can exploit creditors. The debtor's burden is reduced by inflation, the creditor's assets are decimated. (High nominal interest rates provide no adequate compensation since interest is tax-deductible to debtors and taxable to creditors.) The small saver, by law, is not allowed to obtain an interest rate reflecting inflation. Interest-rate ceilings on savings deposits see to it that he will be a sufferer from inflation.

In the eyes of economists and of government, inflation becomes a means of exploiting labor's "money illusion," namely, its supposed belief that "a dollar is a dollar is a dollar." It is thought that labor will respond favorably to a seemingly large wage offer that subsequently is eroded by inflation. If labor fails to notice the trick, it will keep working for less than it really demanded, and employment will be higher. But a government pretending to serve the nation's interests by, say, misinforming the people about its military plans would be harshly taken to task. Why should trading on the people's money illusion be regarded differently?

Business accounting is made deceptive by inflation. Illusory profits on inventories, and likewise illusory profits due to depreciation rules that allow to take into account only original cost instead of replacement cost of plant and equipment, grossly exaggerates true earnings. Taxes and dividends are paid from possibly nonexistent profits.

Inflation also undermines the honesty of our public policies. It allows the politician to make promises that cannot be met in real terms, because, as the Government overspends trying to keep those promises, the value of the benefits it delivers shrinks. A permissive attitude toward inflation, allowing politicians to validate their promises by money creation, encourages deceitful promises in politics.

Inflation becomes a surreptitious means of promoting changes in our economic, social and political institutions that circumvent the democratic process. Inflation may end up making the existing system unviable. It does so, for instance, by making it almost

impossible to provide for the future by private action. Personal savings, insurance, pension funds all can be wiped out by accelerating inflation. Under conditions of inflation, only the Government, then, can offer security. The Government pensioner, reliably indexed as he is today, runs no risk short of a strike at the Bureau of Engraving and Printing.

Inflation similarly threatens to deliver business into the hands of government. As profits cease to be measurable, strong firms become less strong, less strong firms become marginal. Dependence upon and eventually absorption by government may be the only solution.

There is no substitute for honest money.●

MEDICARE-MEDICAID REFORM ACT—S. 1470

● Mr. HUDDLESTON. Mr. President, last week the Senate Finance Committee acted favorably on S. 1470, the Medicare and Medicaid Administrative and Reimbursement Reform Act, reporting this important legislation to the Senate as an amendment to a minor tariff bill, H.R. 5285. My distinguished colleague from Georgia, Senator TALMADGE, has authored and worked on this legislation for more than 3 years in an effort to design a system of incentives for efficiency in hospital management. The final product approved by the Senate Finance Committee is a promising ally in the fight to contain rising hospital costs.

Health care inflation is a major problem but it is also a complex area in which hasty, ill-conceived Government controls can be dangerous to the quality of medical services. That is why I support the Finance Committee's proposal which reflects years of study and debate and that is also why I oppose any last minute attempts to expand this important legislation by adding standby hospital price controls which include vast new regulatory powers for HEW.

Senator TALMADGE deserves our support for attacking the issue of health care inflation in a responsible manner and offering us a promising measure for containing future cost increases without jeopardizing quality and service.●

A BOW TO THE "LADY KATIE"

● Mr. MATHIAS. Mr. President, as we sit in this Chamber toiling away the summer without respite or relief in sight, it is perhaps thoughtless of me to remind my colleagues of how much more pleasantly we could be spending these dog days. But, the New York Times on August 6 published such a delightful and evocative article on a skipjack cruise on Chesapeake Bay that I want to share it with my colleagues no matter what invidious thoughts it may inspire.

The writer, Richard Lyons, has managed to convey the full romantic flavor of Maryland's magnificent native craft, the skipjack. His description of a 4-day cruise of the bay aboard the *Lady Katie*, a 65-foot sloop, brings to life a Maryland which few Marylanders even know.

Mr. Lyons describes his cruise as "4 days and 3 nights of smiles," and, in the thought that vicarious pleasure is better than no pleasure at all, I ask that Richard Lyons article, entitled "A Voyage Aboard a Vanishing Species," be printed in the RECORD.

The article follows:

[From the New York Times, Aug. 6, 1978]

A VOYAGE ABOARD A VANISHING SPECIES

(By Richard Lyons)

The captain of a passing pleasure craft fixed us with an appraising eye, then broke into an appreciative grin as his 35-knot twin-diesel fiberglass sports cruiser flashed by while we cleared Sandy Point and entered Chesapeake Bay. He swung around in his cushioned chair on the flying bridge, raised a bullhorn and electronically bellowed across the waters: "You're looking might pretty, Lady Katie."

The praise was for our 65-foot skipjack, the Lady Katie, a classic sloop that has been restored to almost mint condition. She is one of the last of her class to prowl the bay and the only one available for charter.

Several months ago I spotted a small notice in a local weekly newspaper stating that the Calvert Marine Museum in Solomons, Md., had chartered the Lady Katie for several weeks and was soliciting cruise passengers. Eager to latch onto a vanishing bit of Americana, especially if it involves boats, I quickly reserved places for myself and my two children, David 15, and Abigail, 13. The price was $35 a day a person—adult or chi d—with breakfast and lunch, but not dinner, included. The Lady Katie sleeps six or eight passengers in something less than privacy, but the children and I are not the kind to worry about that.

The result was four days and three nights of smiles as we sailed around some of the Chesapeake's backwaters, where our landings always brought out well-wishers.

"It's like seeing a horse and buggy again," said Capt. Stanley Larrimore as he watched the enthusiastic welcome at our first stop, the college dock at St. Marys City, Md. "People see a boat like this and they can't help but smile because they never expected to see one again. It's nostalgic."

But in Chesapeake Bay the skipjack, a native design, is an object of something stronger than nostalgia. Outlines of skipjacks abound, from cocktail napkins to the cover of the current Annapolis phone book. The skipjack is, in truth, the totem of the bay. And, like other vanishing bits of Americana, the enthusiasm has developed in inverse proportion to availability.

The Lady Katie is one of only 28 skipjacks left of a fleet that numbered over 500 several generations ago. As the number has diminished a cult has developed, with a few boats having been purchased by the well-to-do who seek to keep an endangered species barely alive.

COURSE TO THE POTOMAC

The Lady Katie had lured five other passengers, all from the immediate area, for the first day's sailing. South of the Patuxent River the jib and mainsail were set wing-and-wing and their 665 square feet sped us along at up to 10 knots. The wind swung out of the north, perfect for our course past Cedar Point, Md., to Point Lookout, Md., and the mouth of the Potomac River.

The pewter skies of the last three days gave way to bright sunshine as we swung past Point Lookout, came about and beat into the wind up the lower Potomac. Lunches of fried chicken, potato salad, garden salad and homemade chocolate cake had been prepared by the organizer of the trip, Dorothy Ordwein of the marine museum. We took these to the deck and they were gobbled down quickly by the eight passengers, Captain Larrimore and his mate, Frank Edwards.

We bore off the Potomac into the scenic St. Marys River where on March 27, 1634, two ships little larger than our own, the Ark and the Dove, arrived from England and landed Maryland's first pilgrims. Their leader was Leonard Calvert, the brother of Cecil Calvert, Lord Baltimore. The former found at St. Mary's an Indian tribe that was about to abandon its village. He bought the used wigwams for temporary quarters, then built a fort. In time the first state house was erected and St. Marys City became the state's first capital.

The area is as verdant today as then, for St. Mary's City, which has a permanent population of only 300, has changed little over the last three centuries. The "city" has a college, the old St. Marys Women's Seminary, and reconstruction has begun on some of the buildings raised during its moments of glory before the state house was moved to Annapolis in 1695.

'WHOLE TOWN' TURNS OUT

After tying up at the college dock and disembarking five passengers who had been aboard merely for a day's sail, we cast off, crossed the river under the gaze of a bunch of ospreys nesting atop the channel markers, and put in for the night at the Dennis Point Marina where, again, people ambled down to the dock to see the Lady Katie.

"Everywhere we go the whole town comes out to look at us," my son said as, right on cue, a voice across the marina shouted: "Hey Charlie, look at the skipjack."

Captain Larrimore had not put in at the marina in five years, yet the owner, D. Tracy Gardiner, greeted him like an old friend, saying: "What you up to, Stanley?" After eight hours aboard, we hopped off to dine at the marina. Mrs. Gardiner fixed us an emergency pizza which, considering that those aboard the Ark and the Dove, when they first went ashore, were forced to make do with oysters and venison, is a note on culinary evolution in 300 years.

It was the evening of July 4 and Mr. Gardiner loaded passengers and crew, as well as his wife and three sons and a dozen others, onto a truck and drove us all into the hamlet of Valley Lee where the volunteer fire department was celebrating with a country carnival and fireworks. Just about every pick-up truck in southern Maryland seemed to be there and the 30-minute fireworks display, if not the largest ever seen along the banks of the Potomac, was certainly the most appreciated.

We bedded down in clean spartan quarters amidships, but rose sluggishly at 6:30 having overconsumed barbecued corn chips, cotton candy, Mello bars and black powder. We were quickly underway, first under power in the St. Marys River, then under sail in the Potomac headed for Smith Island.

Blue water sailors may scoff, but the lower part of the Chesapeake seems vast although it is little more than 25 miles between the eastern and western shores at the widest points. Yet the bay is almost the size of Connecticut, its north-south axis stretching 200 miles. The bay has been characterized as the best fishing hole in the world, and it has been this abundance that has supported generations of watermen. Captain Larrimore's family has made its living off the bay for 150 years.

OYSTER HARVEST IN WINTER

From November through March 15 the Lady Katie and her sister skipjacks work the bay's oyster beds, sometimes dredging as much as $1,000 in an afternoon. By law, most of the time the skipjacks must remain under sail but some days they are permitted to use power. For this they employ push boats, about the size of rowboats, on which powerful auto engines have been mounted. Most of the rest of the skipjacks are idle in the summertime; the Lady Katie is for charter, both through the museum and through her captain.

Late in the afternoon after making 26 miles from the St. Marys River we arrived at the western channel into Smith Island, a series of sandy beaches and mud flats named

after Capt. John Smith, an early white explorer of the bay. About 600 people live on the island, most in the hamlet of Ewell. The channel is lined with crab shanties, flimsy shacks where the local watermen keep their crabs until they are shipped live to the mainland.

The main channel is Venice with a Tobacco Road flavor. Abandoned cars, rotting docks and other discards, both manmade and natural, were everywhere. The sight of the Lady Katie, however, even produced comments from the taciturn islanders. "Ho, Stanley," was the common cry. We alighted, walked up the main street, which is nameless, and eyed the largest landmark, the Ewell United Methodist Church, and its graveyard.

The headstone that caught my eye had engraved on it the outline of a skipjack and the words: "David R., son of Noah A. W. & Margaret A. Tyler, Born Aug. 23, 1874, died Feb. 10, 1904," then verses of "Nearer My God to Thee."

The island was settled in 1657 by religious dissenters who fled the mainland. Most were converted to Methodism by Joshua Thomas, the "parson of the island," 150 years later. Methodist tracts are abundant, even being stacked in the island post office.

Hungry from a day on the water, we hurried by foot over to the Pitchcroft Restaurant where Barabara Dize was presiding over the range. It was the seafood dinner all around and she overwhelmed us with island delights. Crab soup came first, rich with succulent morsels of crabmeat mixed with local vegetables into a consistency like a thick Manhattan clam chowder. Then out came platters piled with softshells, known locally as paperthins, plus crab cakes, shrimp and macaroni salad, and the biggest treat of all, wafer- thin clam fritters. Add green beans, spiced apples, boiled kale, spoon biscuits and bread pudding for dessert, and we left the table limp with overindulgence.

THE TASTE TRIUMPHS

My children, whose suspicions of strange food increase the farther they are from a McDonald's, wolfed everything down, even the softshells, which even I normally find put me off, I watched my daughter as she bit into a softshell, and was rewarded as her eyes glazed with approval.

We loafed back to the boat, stopping along the way to hear from an old friend of Captain Larrimore the story that is still the talk of the island, the Great Safe Robbery. The winter before last, it seems, someone stole a 180-pound steel safe from the home of a local waterman. The safe was said to contain $67,000 in cash. Neither the money nor the safe was ever found even though the island was iced in at the time, and remained so for weeks, and the ground was too hard to dig a hole to hide it. There were no tracks leading to or from the house.

Theories and suspicions are running high, even now, with the generally accepted notion that the $67,000 that was said to have been in the safe was actually many times that amount. Smith Islanders seem to have an independent mind about banks, and most of the local transactions are for spot cash.

Claps of thunder pushed us back to the boat where we were greeted by flying insects of Olympian dimensions and fearless disposition.

Doused with mosquito repellent and logy with food, we quickly fell asleep only to be awakened by a blare of auto horns and a blast of auto engines whose mufflers had been eroded by the salt air. Could it be that, almost cut off from civilization and tetched with loneliness, the islanders go slightly bonkers from time to time? I was too blissful to investigate further.

We were up at 7 and off through the eastern channel to Deal Island, nearer the Eastern Shore. The trip took much of the day as we beat against an unfavorable wind. We moored the Lady Katie at the Last Chance Marina near the hamlet of Chance, dined on crab burgers, tolerantly eyed several drunken women as they lurched from boat to boat demanding to be taken to a local hot spot, and turned in early exhausted not by exertion but by the first real relaxation in months.

By the afternoon of the next day we were back at the dock of the Calvert Marine Museum, saying our goodbyes. Leaving in the car I saw a few buildings away a newspaper vending machine. The paper in its window had a large black banner headline. I had not seen a newspaper or heard a news broadcast for three days, yet I averted my eyes. I did not want to know. What I really wanted to do was turn the car around, go back to the dock and get aboard the Lady Katie again.●

POPE PAUL VI

● Mr. WILLIAMS. Mr. President, I would like to take a moment today to honor the memory of Pope Paul VI, truly one of the great spiritual leaders in modern times, and a man to whom the world looked for guidance and inspiration.

He was a natural diplomat, a statesman, and a missionary.

In his own words, he "lived to serve God by serving God's people," and left behind a legacy of rapprochement with other Christian religions unequaled in many years.

For the first time in centuries, relations were established again with the Catholic Churches in Constantinople and England, because he made a special effort to mend the rift which had been allowed to grow among members of the same faith.

Paul's doctrines gave hope to missionaries and clergy, too, who were fighting for justice and human rights in Third World countries, where the policies of totalitarian governments ran contrary to the teachings of the church. He was their ally in the struggle to overcome the problems of the poor and downtrodden.

Paul was pope at a time of tremendous political, social, and scientific turmoil which demanded changes from the Catholic Church. His flock of 600 million looked to him for guidance and direction during a period of rapid changes.

Paul traveled the globe, meeting with religious leaders of all faiths to foster world peace and encourage spiritual unity. At the same time, he internationalized the Catholic Church and changed the administration within its own ranks. He spread the responsibility for administration throughout all levels of the clergy and encouraged more personal involvement and greater flexibility in faith and practice.

Certainly, not everyone agreed with the path Paul chose for the Catholic Church during his 15-year reign, but everyone must agree that he was a dedicated and pious man whose every action was guided by what he considered to be the church's fundamental laws.

We can all trust that the Cardinals will choose a man equally as capable and forward-looking to be his successor.●

ALASKAN LANDS LEGISLATION

● Mr. BROOKE. Mr. President, I am cosponsoring the Alaska National Interest Lands Conservation Act (S. 1500/ Amendment 2176) because it represents the most significant land and wildlife conservation program ever presented to the American people. We must preserve as much of Alaska's precious and, in some instances, fragile natural environment as possible.

The reason for the present debate over Alaska—or, the Great Land, as it is called by the Native Aleut people—can be traced to the 1958 Alaskan Statehood Act. Under its terms, Alaska was given 25 years to select 103.5 million acres of unclassified Federal land for itself; the State had the opportunity to choose the acreage from well over 300 million acres of unreserved Federal lands.

As in the 1884 Organic Act, the Congress attempted to protect native claims by providing that the "State and its people do agree and declare that they forever disclaim all right and title * * * to any land * * * which may be held by any of the Indians, Eskimos, or Aleuts." But, during the selection process, native Alaskans claimed that the law was being violated and that important Indian lands were being taken over by the State, including the lands on beautiful Lake George, the 2 million acres of shore known as the North Slope and the land surrounding the lakes near Minto Village, one of the world's best duck breeding grounds.

In response to the claims made by the Alaskan Natives, former Interior Secretary Stewart Udall halted the transfer of additional lands (5.8 million acres had already been transferred to the State, and an additional 20.2 million acres had either been selected or granted tentative approval by the Bureau of Land Management), suspended further oil and gas leasing, and finally imposed a "land freeze" in 1966 until Native claims were settled.

To provide adequate title to land for the Natives, and spurred in part to settle claims before the planned construction of the trans-Alaska pipeline, the Congress in 1971 passed the Alaska Native Claims Settlement Act (ANCSA). The bill set aside 116 million acres of Federal lands, and it allowed 44 million acres to be selected by Native corporations. One provision of ANCSA which I supported provided for the Federal Government to withdraw additional acreage and for the Congress to classify it or any other Federal lands into our four land conservation systems by the end of 1978; that provision was section 17(d)(2).

The need to protect the so-called D–2 lands falls squarely on the shoulders of the 95th Congress. It is our responsibility to pass a comprehensive conservation program to incorporate Alaskan lands into our four land use systems: national parks, wildlife refuges, forests and wild and scenic rivers. I believe we should preserve as much as possible of the great land for ourselves and for future generations.

The House of Representatives has already acted on this important national issue. Last May, the House passed H.R. 39. While the bill represents a good conservation program, we would be deceiving ourselves if we did not admit it was a compromise solution. The final bill included nearly 102 million acres—not in-

cluding 22.5 million acres of the national petroleum reserve which was redesignated as a "wildlife refuge"—and 65.5 million acres was given a "wilderness" designation. But, as originally proposed, H.R. 39 would have included 115 million acres and the wilderness designation twice as much acreage.

I believe that S. 1500/amendment 2176 comes closer to the original intent of H.R. 39. It covers a total of 110 million acres, with 88.2 million acres to be placed under the wilderness designation. And, its wilderness designation will be applied to 4.7 million acres in southeastern Alaska which contain such truly majestic areas as Admiralty Island and West Chichagof-Yakobi, as well as the spectacular Misty Fiords and several other areas which were eliminated from the wilderness designation in the House-passed bill.

The proposed 2.3 million acre Misty Fiords Wilderness is located east of Ketchikan at the southern tip of the Alaskan Panhandle. It is an area where fiords weave their way back toward mountains which look like sharp-toothed stalagmites rising in the distance. Along the shore, the grey mists of the Pacific appear to blend into the dark rainforest of spruce, hemlock, and cedars which stands in silent splendor. The area is the home of a variety of wildlife, including four species of bear—brown, cinnamon, black and glacier—and mink, mountain goats, marten, and muskrats. And, complementing the entire scene are waterfalls cascading down mountain cliffs.

Admiralty Island and the West Chichagof-Yakobi Islands are no less spectacular. The 860-mile shoreline of Admiralty Island is crowned with bald eagle nests; there are nearly as many bald eagles on this portion of the Tongass National Forest as there are in all the lower 48 States. And, on West Chichagof-Yakobi Islands, sea otters flourish at Surge and Khaz Bays near the forests of Sitka spruce and western hemlock which rise toward the heavens.

Another one of the many important areas which would be incorporated under S. 1500/amendment 2176 would be the additions to the Arctic National Wildlife Range. And it is here that one of the primary goals of the Alaskan Lands bill is most vividly demonstrated: The attempt to preserve entire ecosystems for wildlife. In 1960, when the existing 8.9 million acre Arctic National Wildlife Range (ANWR) was created, additional adjoining acreage which is extremely important to distant traveling caribou, wolves, and bear was omitted. S. 1500/amendment 2176 will increase the size of the ANWR in Alaska's northeastern corner by 9.4 million acres, about 1 million acres more than under the House-passed bill.

In total, S. 1500/amendment 2176 will add 47.5 million acres to our national park system, along with 56.5 million acres to our national wildlife refuge system. Also, 3.04 million acres would be added to our wild and scenic rivers system and 3.34 million acres would be attached to our national forests. The wilderness designation would be given to over 62 million acres of the additions to the national wildlife refuge and park systems.

Many of the opponents of the "D–2" lands proposal which I am cosponsoring have bitterly protested that the bill would "lock up" a large portion of Alaska's mineral wealth. However, studies conducted on this issue do not agree with that conclusion. Indeed, the congressionally established Joint Federal-State Land Use Planning Commission for Alaska found that S. 1500/amendment 2176 would not adversely affect the State or the Nation. Specifically, on the question of oil and natural gas development, the Commission reported that:

> The bulk of potential Alaska and national oil and gas, and other energy resources, will continue to be available for exploration and development purposes. The impact of continued closure of the Arctic National Wildlife Range simply means that energy resource development will proceed in other areas favorable for exploration, development and production.

And, on the question of mineral development, the Commission said that:

> The nation is not presently dependent on Alaska hardrock minerals, and important areas for mineral development remain outside of the (d)(2) lands. Alaska minerals are not necessary to meet strategic mineral demands of the United States.

I believe it is important to note that 60 percent of Alaska's lands with metallic mineral resource potential lie outside of the boundaries envisioned under S. 1500/amendment 2176. And, this means that 93 percent of our Nation's hardrock mineral resources are unaffected by the bill.

In keeping with our genuinely balanced approach, about two-thirds of Alaska's 375 million acres will be open to all economic activity—including over 100 million acres of residual Federal lands, 44 million acres of tidal and offshore lands another 44 million acres which have been turned over to Native Alaskans, and the 105-million acre statehood land grant. These areas will be available for timber harvesting, mining and oil and gas exploration.

I believe that sensitivity toward the needs of all Alaskans has been demonstrated by the allowed continuation of many activities on the D–2 lands and by the protection of existing private rights S. 1500/amendment 2176 provides for the continuation of subsistence fishing and hunting by Alaskan Natives and other local residents, provided they choose this lifestyle. And, established patterns of access to land are protected, including access by motorboats, snowmobiles, and float plane landings.

Alaska is separated from the lower 48 by a distance of 600 miles. But, in many respects, we are much closer to Alaska than the physical distance would indicate. For, to millions of Americans, Alaska is a state of mind. Alaska is a vision of undisturbed and unblemished splendor, where the pristine beauty of nature is retained. It is Aniakchak Caldera, one of the world's largest dry craters; and the Wrangell Mountains, which are glaciated and adjacent to the St. Elais Range; and the Charley River, the crystal-clear river which runs through the hilly Tanana uplands. It is the beautiful and dark Kenai Fjords; the Copper River which flows past the glaciers and steep peaks of the Chugach Range; and the arresting Katmai Valley, formed by the volcanic explosion of Mount Katmai in 1912. Alaska is clean, wild, free, expansive, and majestic. And we have an obligation to the American people to keep it that way.

The vision of an Alaska clean and free is not inconsistent with the reality of an Alaska open to resource mining and exploration. By far, the greater portion of Alaska's 71.5 billion barrels of petroleum lies outside the boundaries recommended under S. 1500/Amendment 2176. And, we will still have the opportunity to mine the State's extensive mineral wealth in copper, fluorine, iron, nickel, platinum, mercury, and lead under a comprehensive management program—when and if those mineral resources become competitive on the world market.

Passage of S. 1500/Amendment 2176 would not only be a tribute to the American people, but to the distinguished men and women who have spent so much of their lives stressing the need to conserve Alaska's wilderness. These individuals include the late Senator Lee Metcalf, who introduced the original version of the Alaskan Lands bill during the 1st session of the 95th Congress; to Robert Marshall, the cofounder of the Wilderness Society who wrote in the 1920's about the dream of a preserved Alaskan wilderness north of the Yukon River; and to Art Davidson, the dedicated conservationist who was among the group which made the first winter ascent of Mount McKinley.

The need to pass S. 1500/Amendment 2176 in the Senate has never been stronger than it is today. Because the House-passed bill is already a compromise solution to the D–2 issue, we must have a comprehensive environmental bill to take into the subsequent conference committee.

Presently, the Senate Energy Committee is discussing all of the Alaskan Lands bills submitted in the 95th Congress and that action has led many people to conclude that a compromise is in the offing. I am deeply concerned about our ability to protect the integrity of the approach and thus, the integrity of Alaska's wilderness. I only wish I could say confidently that most of my colleagues shared my views on this important matter. It will take a great deal of work and education before we have real hope of victory.●

OVERWHELMING MAJORITY OF AMERICANS OPPOSE TUITION TAX CREDITS

● Mr. ABOUREZK. Mr. President, on July 27 the Roper Organization, a nationally respected polling firm, released a poll showing broad public opposition to tuition tax credits for private elementary and secondary schools tuition, as well as for tax aid for college tuition.

Among the findings of this nationwide poll was the finding that only 9 percent

of the public supports a proposal recently approved by the Senate Finance Committee which allows tuition tax credits for up to $250 a year for each college and vocational school student, effective this year, and up to $500 in 1980.

The Finance Committee also voted to allow tuition tax credits of up to $250 a year, beginning in 1980, for students in parochial and other private elementary and secondary schools. Yet, the Roper poll shows that only 28 percent of the public favors this measure.

The findings of this poll clearly show that when the public is presented with the alternative of expanding and broadening eligibility rules for existing student aid programs, or adopting a tuition tax credit as a means to aid families in meeting college costs, the public clearly prefers the student aid option.

This survey demonstrates that the public overwhelmingly rejects the Packwood-Moynihan scheme for cash tax credits, regardless of need. Tuition tax credits are not an effective, equitable, or efficient way to offer needed financial relief from education costs.

I hope that all Members of the Senate will carefully examine the results of this new survey.

Mr. President, I ask that the survey be printed in the RECORD.

The survey follows:

CHAPTER V—TAX AID FOR EDUCATION

CHAPTER SUMMARY*

A major issue with regard to tax reform during the past year has been that of providing tax aid for education. This study explored public opinion on tax aid for college tuition and for private elementary and secondary tuition.

Of four plans to provide tax aid for college tuition, the Carter proposal to make more middle income people eligible for government grants or loans by raising income eligibility was the most popular. A relatively small minority approved direct government aid to colleges and universities. But the public turns thumbs down on a flat $250 personal tax deduction annually when a child is in college—either for everyone regardless of income or for those with less than $25,000 income.

Furthermore, the public gives a resounding "No" to extending tax aid to private elementary and secondary schools. The idea is equally disapproved when parochial schools are mentioned and when they are not mentioned.

TAX AID FOR COLLEGE TUITION

With college tuition costs rising at a rapid rate, a number of proposals have been made for providing tax aid for college tuition. In this study four plans were put before the public as means of helping people cope with the cost of college. The question explained that all four would mean higher tax rates to bring in the extra billion and a half dollars each plan would cost.

The public turns thumbs down on a flat $250 annual tax reduction for each year a child is in college—either for everyone regardless of income or for those with less than $25,000 income. The Carter proposal to make more middle income people eligible for government grants or loans by raising the income eligibility for them was the most popular of the four plans, approved by one-third of the public. Only 1 in 5 approved direct government aid to colleges and universities so they can hold down tuition fees. Only 16% favored none of the plans.

All subgroups of the population agreed pretty much along the same lines on the four plans, including those who have children of college age.

Q23. There's a good deal of concern about the high cost of college. Here are four approaches that have been suggested for helping people cope with the cost of a college education—all of which would mean higher tax rates to bring in the extra billion and a half dollars that each of these four plans would cost. (Card shown respondent) Which of these plans would you favor, or wouldn't you favor any of them if it meant raising the tax rate?

[In percent]

	Total public	Total tax-payers	Have children 19 to 22
Number of respondents	2,007	1,684	189
Plan C: Make more middle income people eligible to get government grants or low cost college loans by raising the income ceiling under which these grants and loans are available	34	36	35
Plan D: Provide direct government aid to colleges and universities so they can hold down tuition fees	20	20	16
Plan B: A $250 reduction in taxes for those with less than $25,000 of income for each year a child is in college	14	14	19
Plan A: A $250 reduction in taxes for everyone regardless of income for each year a child is in college	9	10	11
None	16	16	15
Don't know	7	5	4

TAX AID FOR PRIVATE ELEMENTARY AND SECONDARY SCHOOLS

The public gives a resounding "No" to extending tax aid to private elementary and secondary schools. It was explained that the same four plans for college aid could be used for lower private schools, but that doing so would mean tax rates high enough to bring in four and a half billion dollars rather than one and a half billion dollars. On this basis, the public said it was opposed to extending aid to lower schools by 64% to 28%. For half the sample, the question asked about private and parochial schools, for the other half the question asked only about private schools, with no mention of parochial. Answers were virtually identical regardless of mention of parochial schools.

A majority of all subgroups are opposed to tax aid for private elementary and secondary schools with the exception of Catholics and even Catholics are more opposed (48%) than in favor of it (43%).

Q24X. These same four plans could be used for children in private elementary and secondary schools as well as for children in colleges But if they were extended to private schools it would mean tax rates high enough to bring in four and a half billion dollars rather than one and a half billion dollars. Would you be in favor of or opposed to extending tuition aid to private schools?

Q24Y. These same four plans could be used for children in private and parochial elementary and secondary schools as well as for children in colleges. But if they were extended to private and parochial schools it would mean tax rates high enough to bring in four and a half billion dollars rather than one and a half billion dollars. Would you be in favor of or opposed to extending tuition aid to private and parochial schools?

	Total public	Parochial schools not mentioned	Parochial schools mentioned	Total tax-payers
Number of respondents	2,007	1,004	1,003	1,684
Favor extending tuition aid to private schools	28	28	28	28
Opposed to it	64	65	63	66
Don't know	8	7	9	6

*From "The American Public and the Income Tax System" by the Roper Organization, Inc. July, 1978

OPENING FOREIGN MARKETS TO AMERICAN AGRICULTURAL EXPORTS

● Mr. HAYAKAWA. Mr. President, I read with great interest a copy of the communique Ambassador Robert Strauss recently released regarding the ongoing trade negotiations. We have applauded in public the Ambassador's dedication, energy, and determination in pursuit of a very elusive goal, perhaps even illusory, given by the President, to negotiate an agreement "whose purpose is to create jobs, spur noninflationary economic growth in our cities and on our farms, and provide wider consumer choices."

But, as with the understanding reached on January 13, 1978, between the Ambassador and Japanese Minister of State for Foreign Economic Affairs Ushiba, serious and fundamental concerns clearly stand out.

If these concerns are not dealt with in terms of a simple mechanism to expand responsible access to foreign markets for U.S. agricultural products including California specialty crops, the ultimate result will be a reduction of America's market share abroad to its principal markets, and a significant measure of the industry's profitability. The administration's strategy to "spur noninflationary economic growth * * * on our farms" will have failed.

Before describing and assessing my specific concerns, one fundamental dilemma facing the United States may yet require further examination before it is resolved:

What do we in the United States perceive to be the goals of the EEC and Japan so far as America is concerned?

On the public record, Japanese demands on the United States are modest—some additional penetration in a few selected industrial areas, but none critical to that nation's economy which may have a trade surplus as high as $12 billion in 1978.

Some suggest Japanese strategy in Geneva is a negative or static strategy; that is, to prevent the United States from retreating to a more "protectionist" stance. Generally, under such conditions, few if any concessions are needed to maintain a status quo—fewer still if such a retreat is perceived by the Japanese as unlikely.

Under present negotiating conditions, perhaps it is a measure of Japan's success with a negative or static strategy that it has found unnecessary making worthwhile concessions.

For the EEC, unchallenged and unrestrained growth of a self-sufficient common agriculture policy (CAP), and the prospect of a European Monetary Union (EMU) leave unclear what value the EEC attaches to the U.S. requirement to open its market further to U.S. export growth in specialty crops in particular, or in commodity crops in general.

In connection with the EEC, Sir Peter Ramsbotham, United Kingdom Ambassador to the United States, told a small group of businessmen in 1974 that his estimate of EEC negotiating strategy was simply to prevent the United States from retreating from its then current trade policy.

As with Japan, a strategy aimed at simple preservation of a status quo requires little of value be given up. The modest character of EECs offers in Geneva so far tell much about how EEC strategy has worked.

Perhaps of further interest is a statement of EEC Agriculture Minister Finn Gundelach in Kansas City recently. He declared simply that the EEC does not want the EEC "farm deficit with the United States to get any bigger." This arbitrary and unilateral decision is not based on GATT principals, its articles or international summit statements.

The minister's pronouncement is a direct contradiction of his own statements about "trade liberalization" and at the same time attempts to set "pre-conditions" for MTN negotiations.

In sum, Ambassador Strauss' assignment may yield no positive result whatever, unless principal trading partners of the United States recognize the need to concede additional access to their markets. Perhaps the price to the EEC for such concessions is, in fact, the simple extension of present policies as Sir Peter and others understand them—no retreat. Without foreign concessions however, retreat is entirely likely, necessary, legal, and defendable.

Having seen the July 13 communique, though not the specific texts relating to individual items of the negotiations, I would like to briefly describe my specific concerns:

First, most appear convinced that the antidumping and countervailing duty statutes constitute the principal bargaining device needed to achieve the objectives of the Trade Act of 1974, and now simply repeated 3½ years later in the Geneva communique.

The Congress wisely made clear in the Trade Act of 1974, in section 303, that the special waiver on countervailing duty assessment be limited to only the first 4 years of the 5-year statutory life of the act.

The sole purpose of this section was to provide an inducement to our principal trading partners to make real the objectives of the Trade Act of 1974 for America through elimination or substantial reduction of artificial barriers to freer flow of trade around the world, during those first 4 years. It was also a threat that a U.S. retreat from previous policies might well follow a lack of understanding of U.S. objectives given life in a new trade agreement.

In that context, the July 13 communique speaks only in the vaguest terms about the countervailing duty/subsidy matter. It was overwhelming dismay that met Ambassador Strauss' suggestion that the administration may ask for an extension of the waiver.

But, on July 26, Treasury Assistant Secretary Bergsten testified before a House subcommittee of the House Banking Committee that the administration would recommend an injury test in the countervailing duty statute, without the slightest explanation beyond tidying up the provisions of GATT. There was no concern implicit for barriers put in place against California specialty crops exports by the EEC; just tidying up for no announced purpose or objective.

Is it the intent of Congress that any administration indulge in this kind of unilateral disarmament?

Second, I am concerned that no formal challenge has been made, on the public record, that Japan's use of quotas on agricultural products are illegal under GATT article XI, and unacceptable under section 301 of the Trade Act of 1974. Without challenge, Japan may already have concluded that the U.S. accepts the quota system without reservation.

Because of this lack of attention to the enforcement remedies provided in international law on domestic statutes, a serious breach has occurred in the administration's set responsibility under law to provide continuing access abroad for U.S. agricultural products. Without change from present course, California growers face a long-term reduction of profitable income, the State faces a loss of jobs and revenue, and a blow will have been dealt to the economic foundation of California agriculture itself.

At an International Business Outlook Conference panel in Los Angeles in February 1978, there were reports that Mr. Ushiba said this of Japanese import quotas—"legal or illegal, they will be continued." I believe that the expression speaks for itself.

Third, I am not aware that any administration witness before Congress has at any time alluded to section 122 of the Trade Act of 1974 as an additional incentive for U.S. trading partners to provide more access to their markets. The balance-of-payments authority provided the President in this section was approved by the Congress even though most were well aware that one oft-repeated theory among certain educators and scholars certified that a free floating exchange rate should be the final arbiter of prices of goods sent around the world.

Apart from any judgment on the efficacy of such theory, no part of the debate on the act, nor the Senate or House reports suggest that such a theory, if projected by an administration, would take precedence over the provisions of the act. Yet, in the past 2 years, we hear that more reliance is being placed on the theory.

Is it the sentiment of the Congress that all trade matters are to be decided by such a mechanism? Or, was section 122 put in place to provide remedy for too rapid a change in the trade balance, whether by efficiency or special subsidies adjustable by the foreign government to suit a given export objective?

Fourth, I am concerned about the language of the framework statement on agriculture, which states very clearly the principle that confrontations among world producers should be avoided and replaced by consultations, exchanges of information and a review body to lead to an "improved level of international cooperation." Without benefit of any specifics, this approach suggests a headlong advance to a world body to achieve what was called by the EEC "organized free trade" and is now referred to as concerted disciplines, a price-fixing international cartel.

A more appropriate term might be "managed economy." Although a lot of people reserve this expression for scare tactics, the implication is clear; government-to-government resolution of all foreign sales, for political purposes, and without regard to economics of production.

I believe the political concept, so often proposed recently by the EEC, and favored by the French for generations in varying cartel concepts must be resisted at all costs.

Fifth, I am concerned that no basis exists in the EEC for acceptance of any kind of dispute settlement mechanism that imposes measurable guidelines for conduct, and which imposes penalties for violations. Without a mechanism specifically designed for prompt settlement of disputes, "exchange of views" becomes a replacement for decisionmaking. Avoidance of trade disputes is a laudable objective; however, if the price of such avoidance is an economy in which U.S. agriculture's interests and economic superiority are negated, then the price is too high.

Such a price is not in the American tradition. It violates fundamental economics and is completely inconsistent with the thrust of U.S. economic enterprise.

Far worse is the prospect that the U.S. Government would become the international agent for all export sales, an ambassador in charge of computers, an ambassador responsible for dried prunes, one for apples, one for cars and so on. If no mechanism exists for responsible access to foreign markets, can U.S. enterprise survive in the export market?

Sixth, I am concerned about the vagueness of the language contained in the framework communique regarding subsidies. It does seem clear that it authorizes a clear drift toward the "managed economy" theory. For example, use of the phrase "equitable share of world trade in such product, account being taken of the shares of the signatories in trade in the product concerned during a previous representative period * * *" provides the opportunity, consultation and discussion without decision, and with the prospect that a monopoly or cartel conclusion could be reached without penalty to any party.

Seventh, I am concerned about the level of protest in connection with the

assessment by the EEC of an outrageous internal subsidy on dried prunes and peaches, and continuing threats by EEC members against walnuts. I have heard that further restrictions may be planned by the EEC on poultry imported from the United States—all these actions taken while good faith negotiations looking to "trade liberalization" were underway.

These barriers are all new. They go hand-in-glove with the Mediterranean Preference Scheme and the Rome Convention which are so patently mutually exclusive arrangements with the EEC that there is no longer room for dispute. This was done at the expense of all the EEC's trading partners.

In sum, I am concerned that there is not a single part of the "framework of understanding" which addresses itself to the discussion and analysis of such measures that are calculated to expand trade of U.S. products abroad, as required by law.

I agree completely with Mr. Bergsten when he says that:

> The United States has far more to gain from negotiating more open markets abroad than from closing off our own markets to imports.[1]

But not a single word goes to the matter of opening up those foreign markets except perhaps market manipulation techniques, "managed economy" measures, and Government programs not yet announced.

On the record so far, there are no numbers noted in the public record, no markets mentioned, no products described, no barriers to be negotiated out of existence, no foreign import quotas to be turned into simple market access based on quality and price, anywhere in the world.

Over the past 3 years there have been statements made that the U.S. Government will not come back to the Congress without an agreement that does not provide meaningful gains to agriculture, including, I assume, California specialty crops.

The latest word on that subject is Assistant Secretary Bergsten in his testimony noted earlier in the House on July 26, 1978:

> We will not accept an agreement that does not tackle the thorny problem of limiting subsidized competition in world agricutural markets.[2]

Does the Treasury Department pledge to provide for the removal of Japanese quotas, and internally imposed subsidies to stifle and confound U.S. exports now in effect in the EEC?

With just 5 months remaining before the new deadline for concluding an agreement for submission to the Congress, many specialty crop producers in California still look for some breakthrough. They want the use of leverage available in the Federal statute to provide them with the increased market share economics of production has given them, and an access abroad they believe they have been promised.●

[1] Testimony of C. Fred Bergsten, Assistant Secretary Bergsten, Subcommittee on International trade, House Banking Committee, 7–26–78.

[2] Ibid, page 8.

MR. MEANY AND MR. McGOVERN DEBATE VISA POLICY

● Mr. McGOVERN. Mr. President, the president of the AFL–CIO, Mr. George Meany, has sent an additional letter to me, concerning legislation to reestablish the Secretary of State's obligation to rule on visitors' visas for members of the Communist party in any country. Mr. Meany takes exception to certain comments I made during the Senate debate on this issue, and asks that I insert his letter in the RECORD so that my colleagues might better understand his position.

I am happy to do so. Indeed, since this issue has aroused considerable controversy, I think it might be worthwhile to include a series of documents, including Mr. Meany's letters along with my Senate floor statement and supporting documents which he found objectionable and my response to his latest, detailed exposition of his view. For the convenience of those interested in this issue, it would also be useful to have printed in the RECORD the text of the McGovern amendment and a guest editorial from the New York Times of August 9, 1978, supporting my amendment. I ask that these documents be printed in the RECORD, following my remarks, in chronological order.

The material follows:

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D.C., July 25, 1978.

DEAR SENATOR McGOVERN: I am writing to urge your support for a bipartisan amendment to the Foreign Assistance Bill which would repeal the so-called McGovern Amendment passed last year.

The McGovern Amendment, you will recall, lifted virtually all restrictions on the issuance of entry visas to Communists in the name of encouraging the U.S. and other signatories to the Helsinki Final Act to comply with its provisions. For example, this amendment permits Soviet agents to come to this country in the guise of "trade union" representatives, despite the fact that Soviet "unions" are not genuine workers organizations but instrumentalities of the Soviet state designed to enforce labor discipline.

The McGovern Amendment has clearly failed in its purpose of encouraging Soviet compliance with the human-rights provisions of the Final Act. No sooner was the Amendment passed then Soviet authorities denied exit visas to Dr. Andrei Sakharov and five other Soviet citizens invited to the AFL–CIO convention in December.

Since then the Soviet Union has stripped Mstislav Rostropovich and General Pyotr Grigorenko of their citizenship, put Vladimir Klebanov and his fellow workers in mental institutions for attempting to form genuine trade unions, sentenced Yuri Orlov, Anatoly Shchransky and Aleksandr Ginzburg to cruel prison terms, and persecuted countless others for the "crime" of seeking their government's compliance with the Helsinki Accord.

For the United States to go far beyond the requirements of Helsinki, as the McGovern Amendment does, while the Soviet Union not only fails to live up to the accord but jails those of its citizens who think it should, is to accept and perpetuate an imbalance in U.S.-Soviet relations that the American people should not tolerate. How much longer should we acquiesce in an arrangement by which KGB agents disguised as "trade unionists" can visit the United States, at the invitation of Americans sympathetic to the Soviet system, but men like Andrei Sakharov and other voices for human freedom in the Soviet Union, invited by mainstream American organizations like the AFL–CIO, are not permitted to come here?

Repeal of the McGovern Amendment would be a specific, reasonable and moderate response by our government to the accelerating Soviet violations of the Final Act. It would reassure the American people that their government intends to deal with the Soviet Union on the basis of reciprocity. It would serve notice on the Soviet Union that we do intend to hold them to the provisions of the Final Act. And it may give fresh hope to the Orlovs, Sakharovs, Shcharanskys, and Ginzburgs that the United States will not passively observe their persecution without exacting any penalty from their persecutors.

Sincerely,

GEORGE MEANY,
President.

UPHOLDING A VALUABLE SYMBOL

Mr. McGOVERN. Mr. President, it is a curious coincidence that in considering this Security Assistance bill, the Senate has been asked to deal with two provisions which, though of substantial importance, are largely symbolic. The first, of course, was the so-called Turkish embargo. The second, now the subject before us, is a provision enacted last year—a so-called McGovern amendment relating to visa applications by prospective visitors to the United States.

In the case of the almost nonexistent embargo against Turkey, I argued earlier my strong belief that symbolism was proving to be counterproductive—that by retaining a provision the primary purpose of which was to stigmatize Turkey, the United States was foregoing its opportunity and duty to foster constructive negotiations on Cyprus. With regard to the visa provision enacted last year, however, my purpose now is to defend symbolism—because the result of altering this provision of law, rather than serving U.S. interests, would be instead to seriously damage those interests by undercutting American leadership in the international fight for human rights.

This may sound like an overstatement. What, after all, do visits to the United States have to do with human rights around the world? The answer, Mr. President, arises from the Helsinki Final Act and the U.S. effort to push for compliance with the provisions of that agreement relating to the freer international movement of people and ideas.

Before that agreement was signed—on August 1, 1975—the United States already had a solid record in this field. Our American policy, however, flawed that record, and was used regularly by our adversaries as evidence of U.S. hyprocisy. This was our policy, embodied in law, with regard to prospective visitors to the United States belonging to organizations adhering to philosophies not approved of in this country, organizations such as the Communist Party. All nations, to be sure, should and do reserve the right to exclude from their boundaries persons constituting a threat to national security. Our law, however, created a presumption against prospective visitors on the basis of ideological affiliation alone—imposing a negative presumption, for example, even against an Italian Communist who espoused peaceful, democratic change.

The implementation of this law, it should be noted, was not nearly as rigid as its appearance. A waiver procedure allowed the Secretary of State to recommend to the Attorney General the granting of a visa, notwithstanding the negative presumption; and in many cases—indeed almost routinely—this method was used. Nonetheless, in the aftermath of the agreement at Helsinki, this law stood as a U.S. liability, for it seemed to say that we were afraid of ideas, of what a visitor to our country might have to say.

This liability was recognized, I would point out, by the U.S. Commission on Security and Cooperation in Europe in its 1977 report on implementation of the Helsinki Act, the relevant pages of which I ask unanimous consent to have printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MCGOVERN. The liability was recognized, too, by the Carter administration, which made clear its intent to use the waiver procedure on a regular basis, so as to show our genuine commitment to implementation of Helsinki principles.

What was really needed, however, was a change in the law itself. It was for this reason that last year I sponsored a provision designed to strengthen the position of the United States in the international fight for human rights by showing, through legislative action, that we are a Nation unafraid of the free flow of ideas and that we have an affinity for the principles of Helsinki not because they have value as a tool for disparaging our adversaries but because they have value in themselves and deserve to be implemented.

The provision I sponsored was intended, in its own words, to achieve "greater United States compliance with the provisions of the Final Act" and to encourage "other signatories to comply with those provisions." It sought to do so by removing the negative presumption against a prospective visitor whose only possible reason for exclusion was organizational affiliation. It accomplished this by mandating the Secretary of State to act automatically, in such cases, making an immediate waiver recommendation to the Attorney General so that a visa might be issued. No change was made.

I should emphasize, with regard to any person subject to other grounds for exclusion, such as persons who might be involved in advocating or engaging in violence or who might in some other way pose a threat to the national security. Nor was any change made in the ability of the Attorney General or the President to deny the Secretary of State's waiver recommendation with regard to any prospective visitor, even one falling under the terms of the McGovern amendment.

The provision was, in that sense, entirely symbolic, in that it left to the executive branch full flexibility to determine what persons will and will not come to the United States. On the other hand, by making automatic the Secretary's favorable recommendation in cases relating to ideology alone, the provision created a useful symbol, demonstrating a certain maturity and magnanimity on the part of the U.S. Government which might strengthen U.S. leadership in the field of human rights.

Indeed, this was precisely the result. At the Helsinki followup conference held at Belgrade, the U.S. delegation repeatedly found it useful to refer to the new provision as exemplifying the U.S. practices to the principles of the Helsinki agreement. For example, in his opening statement at the Belgrade Conference, Ambassador Goldberg highlighted the effort to conform its own policies and congressional action, in a passage which I shall read for the RECORD at this point:

Let me comment first on what my own country has done to implement the Final Act. In general, the Act codified standards which reflect American policy in dealing with other nations and with our own citizens. Nevertheless, in response to the Final Act we have looked closely at our own behavior and—where we have found the need and the means—have acted to improve our conduct. In particular, we took two steps regarding the Final Act pledge to "facilitate freer movement and contacts." First, President Carter this year removed all restrictions on travel abroad by American citizens. Second, with President Carter's support, Congress recently relaxed our visa requirements, so that people wishing to visit the United States will not be excluded because of political affiliation or belief, except in the rarest instances.

The change in U.S. law was noted by our allies as well as our adversaries. For example, at its September 1977 session, the North Atlantic Assembly, consisting of parliamentarians of all the NATO countries, passed the following resolution, which in effect formally congratulated the United States on its action:

RESOLUTION ON THE HELSINKI PRINCIPLES AND VISA POLICIES

The Assembly,

Recognizing the fundamental validity of the principles set forth in the Final Act of the Conference on Security and Cooperation in Europe, signed in August 1975 at Helsinki, and in particular those principles relating to the free movement of people and ideas;

Noting with approval the steps taken by NATO member countries to comply more fully with the principles of the Final Act, and in particular the recent legislative initiative of the United States in removing from United States visa policy exclusion solely on the basis of political or organizational affiliation;

Expresses hope that such exemplary efforts at compliance with the Helsinki principles by the NATO and other Western countries will promote increased compliance by Warsaw Pact signatories of the Final Act.

What we are now asked to consider, Mr. President, only a few months later, is a proposal that would alter this valuable symbolic provision, and thereby undercut U.S. prestige. It can only be asked, Why? The answer can perhaps be found in an editorial from Sunday's Washington Post entitled "Chief Visa Officer George Meany?" which I ask be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CHIEF VISA OFFICER GEORGE MEANY?

Sen. Howard Baker (R-Tenn.) gave his colleagues fair warning the other day that he was about to submit an amendment restoring the old cold-war way of processing the visa applications of communists who wanted to visit the United States. The old way was simply to keep communists out unless the State Department requested a waiver to let them in. That approach was changed last year, in an amendment offered by Sen. George McGovern (D-S.D.), to let communists in unless the State Department requests a waiver to keep them out. That's the proper way, expressing this country's traditional openness and hospitality to foreigners and establishing the presumption that they're welcome to come.

Mr. Baker justifies his request for a rollback on grounds that the communist countries have defaulted on their Helsinki pledges to allow "freer movements and contacts" among signatory nations. In fact, though the communists' performance has been far from fully satisfying, the Helsinki Accords have provided a standard by which communist performance could be judged. The United States, in passing the McGovern amendment last year, was responding precisely to the letter and spirit of the Helsinki Accords. That amendment has been a useful piece of diplomatic ammunition to the United States since its passage. Mr. Baker and many others are currently protesting against Moscow's falling away from various pledges it made at Helsinki. This is no time for the United States to fall away from its own.

There is really only one serious opponent of the McGovern amendment—the AFL–CIO, which has been carrying on its own private anti-travel war with Soviet-bloc countries for many years. George Meany evidently has a heavy personal investment in the position that to let communist trade unionists into this country is to give them a political seal of approval. We find the argument unpersuasive and the policy designed to support it retrogressive. George Meany is not the country's chief visa officer, and Mr. Baker should not offer him the post.

Mr. MCGOVERN. Today there has been circulated in the Senate a letter from George Meany, who is the man behind this amendment and who has written to Senators calling upon them to support it.

Let me be blunt, Mr. President, Mr. Meany's letter is a preposterous fabrication—nothing less, a preposterous fabrication. In it, he points the picture of the McGovern amendment having opened the borders of the United States to a horde of Soviet KGB spies, who have supposedly traveled here disguised as trade union leaders and committed unspeakable acts of espionage against our country. This is plain, unadulterated baloney, to put a charitable word on it.

Mr. President, I asked the State Department to prepare a list of persons who have come to the United States over the past year who might be said to have come in under the terms of the McGovern amendment. I should emphasize that a precise figure is impossible to select because the McGovern amendment does not require the administration to let anyone in. It does, however, encourage tolerant attitude toward prospective visitors who are members of the so-called "proscribed organizations." Since the administration was inclined to adopt a more tolerant attitude anyway—so as to be able to assume international leadership in the fight for implementation of the Helsinki principles—it is difficult to trace causation precisely. But it can be said that in the past year approximately 40 persons have come to the United States who, in past years, according to past policies, would not have been allowed to come to the United States.

The number, Mr. President, is 40. Not 40,000. Not 4,000. Not 400. But 40. And of this number a high percentage are not even from Warsaw Pact countries. Some of them are from Australia, some from Italy, some from Finland, others are from other countries. So what we are talking about does not have anything to do with a horde of foreigners—but rather a very small number who might have been let in anyway even without the McGovern amendment, which as I explained earlier is almost entirely symbolic.

Now what about the allegation that they are spies. That is very easy to answer, Mr. President. Anyone judged to be coming to the United States for purposes of espionage does not even fall under the terms of the McGovern amendment. And therefore that allegation is irrelevant and immaterial—nothing more than a scare tactic used as a part of this campaign of misinformation. The McGovern amendment relates only to persons who fall afoul of the category of excludability having to do with organizational affiliation. That is category No. 28 out of a total of 32. Category No. 29 has to do with espionage. Any persons known or thought to be coming to the United States for purposes of espionage would fall into category No. 29 and would therefore not receive the automatic favorable recommendation mandated by the McGovern amendment. So the whole assertion that what we are talking about here is a provision opening the United States to espionage is ridiculous.

Let me again be blunt, Mr. President. What is at issue here is one man's war against Communist trade union leaders. Mr. Meany believes that the phrase "Communist trade union leader" is a contradiction in terms—that communism and trade unionism do not have anything to do with each other and are indeed mutually exclusive. In that,

Mr. President, I can agree with Mr. Meany: trade unionism, as we know it in the Western democratic countries, could not exist in a Communist society. But that is as far as my agreement with Mr. Meany goes.

I do not draw the conclusion, as he does, that because I do not approve of a person's system I should not talk to him. I think I have a little more confidence in the United States than that. I do not believe that this country is placed in danger by the beliefs, even if they are articulated, of a handful of foreigners who may come here for a brief visit. On the contrary, I think the odds are that, while they are here, they may learn something—and perhaps go home a little less certain of any dogmatic beliefs they may have brought with them.

Mr. Meany's letter wraps itself in expressions of great concern about human rights. It was precisely a concern for human rights that caused the enactment of the McGovern amendment in the first place, with the open support of the Carter administration. This amendment put this country on record as taking a leadership position in the international fight for implementation of the Helsinki principles. I am proud that we did it, and I think we should hold to it and continue the fight.

Everyone knows that the Soviet Union has not fulfilled its obligations under the Helsinki Final Act. Only a dreamer would have expected that they would. But the Helsinki Act sets a standard. And it is now our duty—a long-term duty—to adhere to that standard and to continue to press, month after month, year after year, in every effective way we can find, for other nations, including the Soviet Union, to move toward that standard. It is either that or we start moving toward the standard they have set—of hypocrisy and repression and fear. That is what Mr. Meany asks us to do. I propose that his effort to conduct this Nation's foreign policy be rejected. President Carter and Secretary Vance are making a strong effort to press for implementation of the Helsinki principles. It would be sad indeed if, while pretending to show concern for human rights, the Senate undercut that effort.

We do not make the United States stronger by copying the worst features of the Soviet system. I deplore the trials of Shcharansky and Ginzburg. But we will not save either them or others by duplicating the paranoia of the Soviet Union.

I also ask that there be printed in the Record at this point a letter from Secretary of State Vance in which he warns that a successful effort to reverse this provision, "when we are criticizing the Soviet Union and Eastern European countries for violations in human rights field, would be to rob our efforts of force and credibility." The Secretary reminds us also that—

"Not only the Soviets, but also many of our friends in Western Europe would wonder about the sincerity of a Government and Congress which urge progress on others while at the same time moving backwards in the administration of its own legislation."

I hope strongly that the Senate will defeat the proposal to change existing law.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., June 27, 1978.

Hon. GEORGE MCGOVERN,
U.S. Senate.

DEAR SENATOR MCGOVERN: I have been informed that there may be an effort to remove the "McGovern Amendment" from the State Department authorization bill. This proposal, if adopted, would be extremely detrimental to U.S. efforts to further respect for human rights and to persuade other nations to permit freer movement of persons.

Since last year the U.S. has been able to use the McGovern Amendment both as a tool to allow a fuller interchange of ideas between journalists and political officials of Western and Eastern countries alike and as an example which we hope others will emulate of our determination to implement the letter of the Helsinki Final Act. This commitment was highlighted at the recent Belgrade follow-up meeting of the Conference on Security and Cooperation in Europe, during which members of our delegation referred several times to the McGovern Amendment as the type of provision which other countries should adopt as a means of stimulating a freer flow of persons and ideas. In its report on implementation of the Helsinki Final Act, issued on September 23, 1977, the CSCE Commission specifically criticized the U.S. immigration practices which were later amended by the McGovern Amendment as being inconsistent with the Helsinki accord.

For the United States to repeal the McGovern Amendment at this point when we are criticizing the Soviet Union and Eastern European countries for violations in the human rights field, would be to rob our efforts of force and credibility. Not only the Soviets, but also many of our friends in Western Europe would wonder about the sincerity of a Government and Congress which urge progress on others while at the same time moving backwards in the administration of its own legislation. Public commitment to the goals of the Helsinki Final Act in the United States could also be weakened by this example of American disregard for the spirit of this undertaking.

The careful discussions which led to adoption of the McGovern Amendment a year ago were to my mind a prime example of the way in which the Administration and the Congress can work together to achieve practical progress on complicated technical issues. It would be very unfortunate if the benefits which have already been gained from this cooperation were to be lost by removal of the McGovern provision from the books.

Sincerely,

CYRUS VANCE.

EXHIBIT 1

EXCERPT FROM THE AUGUST 1, 1977, REPORT OF THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE

UNITED STATES

The United States has taken action—under the stimulus of the Final Act—to bring its passport and visa issuance practices more nearly into compliance with implicit Helsinki standards. In March 1977, President Carter ordered the removal of what he called "the last remaining restrictions" on foreign travel by Americans, provisions which had made U.S. passports invalid for travel to Albania, Cuba and North Korea. He also announced that the United States "will move to liberalize travel opportunities to America."

More precisely, Secretary of State Vance told the Commission in early June, "the whole visa question is under consideration in the Executive Branch right now." The Executive review, however, has so far produced no notable changes in the cumbersome and controversial procedures by which U.S. officials are bound in determining whether or not to admit an alien for a temporary or permanent stay in the United States. Action by the Congress and the President in August may result in a marked simplification of the visa-issuance process in 1977, but the United States will nonetheless be open to justifiable criticism at the Belgrade conference for failures fully to honor the Final Act provisions "to improve conditions in this [human contacts] area."

Cumbersome U.S. visa policies affect visitors from all countries, as an Industry-Government Special Task Force reported in 1968:

"Entry procedures for vacation and business visitors to the United States are outmoded. They serve only to protect an adverse image of this nation's willingness to receive foreign guests. They are overly defensive and bespeak an unfriendly attitude based upon feelings of suspicion. . . .

"In order that the United States rid itself of this stigma, a dramatic new policy of simplified procedures must be adopted, specifically geared to the short term visitor."

Visa procedures have not changed significantly since the issuance of the report.

U.S. compliance problems originate in the 1952 (McCarran-Walter) Immigration and Nationality Act, establishing 32 categories of aliens considered ineligible to receive entry visas. While many of the categories are unexceptional, one definition does proscribe entry by aliens who are or have been members or affiliates of a Communist organization. The proscription can be lifted by a waiver from the Attorney General, and 96 percent of those initially refused visas in fiscal year 1975 under the terms of section 212(a) 28 did, in fact, receive such waivers.

One class of applicants—Communist trade unionists intending to meet with labor union groups in the United States—has been, before and since Helsinki, systematically denied those waivers. Although, at the insistence of U.S. negotiators, the Final Act makes no mention of encouraging trade union contacts, the practice of denying them admission to the country can scarcely be reconciled with the overall thrust of the Helsinki accord.

Nor do such practices gibe with the specific Basket III subsection under which signatories committed themselves to "facilitate wider travel . . . for personal and professional reasons" and registered their intention "gradually to simplify and to administer flexibly" existing visa procedures. The pledge to make conditions easier for temporary travel applies across the board. Conditions are to be eased for all travelers—butchers, bakers, candlestick-makers and trade union representatives.

It can certainly be argued that Communist unionists travel on false pretenses, representing a political affiliation rather than a commitment to the labor movement. In the open American marketplace, however, that argument can best be made in direct confrontation of opposing views. The argument is not served by a priori exclusion of spokesmen for one side of it.

In recent months, for instance, an Australian Communist labor leader and environmental expert was barred from attending a union-organized discussion of environmental protection issues, although he had previously been admitted to the United States to lecture to Sierra Club audiences. Three Soviet trade unionists, invited to a longshoremen's union convention in Seattle this April, were also denied visas. On occasion, U.S. consular officials in Moscow have found themselves in the embarrassing position of issuing visas to U.S.S.R. unionists, but conditioning the visas with written instructions to the Soviets not to make contact with American unionists during their visit.

U.S. practice, in short, is discriminatory. The grounds for the discrimination—that Communist unionists are government agents and neither free nor true representatives of workers—reflect a mind-set the Final Act does not condone.

Every nation, of course, has the right to bar entry to individuals whose presence could jeopardize its security, but that standard does not appear to be the one applied at present to Communist trade unionists seeking visas to the United States. The difference between American rhetoric and practice on the issue of expanding travel opportunities is one which exposes the country to telling criticism from other signatories.

including those whose practices in the same field are profoundly at variance with Helsinki standards.

That same divergence also undermines otherwise sound U.S. protests against Communist restrictions on professional travel of Warsaw Pact state subjects. Americans are right to seek freedom for Prof. Benjamin Levich to attend an Oxford colloquim in his honor, for Pavel Kohout to see the Broadway opening of his play or for Andrei Sakharov to receive his Nobel Peace Prize in person. But right or wrong, Americans cannot be effective while vulnerable to charges that their own restrictions on similar travel are in violation of the Final Act.

AMERICAN FEDERATION OF
LABOR AND CONGRESS OF
INDUSTRIAL ORGANIZATIONS,
Washington, D.C., August 2, 1978.

Hon. GEORGE S. MCGOVERN,
U.S. Senate, Washington, D.C.

DEAR SENATOR MCGOVERN: I read with great interest your remarks in the Senate on July 26 in the course of the debate over repeal of the so-called McGovern Amendment. I was especially interested in your comments on my July 25 letter to your Senate colleagues in which I urged their support for repeal of the McGovern Amendment.

I regret that you found my letter "a preposterous fabrication," not to mention "plain unadulterated baloney." I would have to share your opinion of my letter if, indeed, it said what you claimed it said—namely, if it painted "the picture of the McGovern Amendment having opened the borders of the United States to a horde of Soviet KGB spies, who have supposedly traveled here disguised as trade union leaders and committed unspeakable acts of espionage against our country."

There is a point, even in Senatorial oratory, when forgiveable hyperbole crosses over into demogogic distortion and subverts the honest discussion of issues. I refer to these remarks, in particular:

"So what we are talking about does not have anything to do with a horde of foreigners. . .

"Now what about the allegation that they are spies. . . Anyone judged to be coming to the United States for purposes of espionage does not even fall under the terms of the McGovern Amendment.

"So the whole assertion that what we are talking about there is a provision opening the United States to espionage is ridiculous."

What is remarkable about these passages is that they have nothing to do with my letter. I never mentioned "hordes of foreigners," "spies," or "espionage." I cannot imagine your reasons for using these phrases, unless you are trying to set up a strawman which you can easily knock down by pointing to the protections against spies afforded by existing legislation. I am aware of these protections. What my letter said was that—

"This amendment permits Soviet agents to come to this country in the guise of 'trade union' representatives, despite the fact that Soviet 'unions' are not genuine workers organizations but instrumentalities of the Soviet state designed to enforce labor discipline."

And I asked:

"How much longer should we acquiesce in an arrangement by which KGB agents disguised as 'trade unionists' can visit the United States, at the invitation of Americans sympathetic to the Soviet system, but men like Andrei Sakharov and other voices for human freedom in the Soviet Union, invited by mainstream American organizations like the AFL–CIO, are not permitted to come here?"

The point is, not that the McGovern Amendment admits "hordes" of Soviet "spies" bent on "espionage," but that it permits agents of the totalitarian Soviet state to come here under false pretenses, bearing false credentials. You assume that the only function of KGB agents is to spy. Surely you know that they also serve as political policemen, enforcers of ideological discipline. The key issue here is not espionage but the nature of Soviet "trade unions."

You say you agree with me that "trade unionism, as we know it in the Western democratic countries, could not exist in a Communist society." The implication is that some other kind of trade unionism exists there—perhaps not as free and democratic as ours, perhaps flawed and deficient, but trade unionism nonetheless.

Our contention is that a trade union controlled completely by the state for the purpose of enforcing labor discipline is no trade union at all. Representatives of such unions are not trade unionists but agents of the state and represent its interests.

You miss the point entirely when you impute to me, and then criticize, "the conclusion . . . that because I do not approve of a person's system I should not talk to him." Talk to him, by all means—but not as a trade unionist. Let the exchange be on a government-to-government basis, or on an agent-to-agent basis. When you meet with Leonid Brezhnev or Fidel Castro, you are all government representatives, although not all of you are democratically elected. The concept of democracy is not automatically built into the legitimacy of governments. The same is not true of trade unions. It is not merely that my colleagues and I disapprove of Mr. Shibayev or his predecessor, Mr. Shelepin; they are not our counterparts; they are not trade unionists of any kind. (Prior to his appointment, Shibayev was first Party Secretary of the Saratov Region and had no previous trade union experience. Shelepin, before his appointment, was head of the KGB.) And we believe that to recognize them as such in any way is to betray the workers of the Soviet Union—and at a particularly poignant moment in their struggle.

That is the main point, and your failure to grasp it lies at the heart of our disagreement. Perhaps if you had a clearer understanding of the nature of trade unionism, here and abroad, the occasion for disagreement between us would be less frequent.

Although it scarcely seems possible, perhaps you are not aware of the relationship of the All-Union Central Council of Trade Unions to the Communiist Party of the Soviet Union. It is spelled out plainly in the new Soviet Constitution, article 6 of which states:

"The Communist Party of the Soviet Union is the leading and guiding force of Soviet society and the nucleus of its political system, of our State and public organizations. The CPSU exists for the people and serves the people. Armed with Marxist-Leninist teaching, the Communist Party shall determine the general prospects of society's development and the line of the internal and external policy of the USSR, give guidance to the great creative endeavor of the Soviet people and place their struggle for the triumph of communism on a planned, scientific basis."

If any doubt remains, it should be dispelled by the Labor Union Statutes of the Soviet Union, which state that:

"Labor unions carry out all their work under the control of the CPSU, the organizing and guiding force of the Soviet society."

Can you conceive of such a relationship between the AFL–CIO and the Democratic Party? Between the British Trade Union Congress and the British Labor Party?

The subordination of Soviet workers organizations to the State is detailed in the 1970 Soviet Labor Code, which provides for "enforcement of work norms by the state with the help of the trade unions" (Section 1, Article 2). It decreess that "The standard wage shall be established by the State with the help of the trade unions." And "the work of employees shall be remunerated on the basis of charts of job salaries established centrally." (Section V, Article 37).

I think these citations from Soviet law demonstrate conclusively that Soviet "trade unions" are not only different from Western trade unions. They are not unions at all. In the Soviet Union, the Communist Party owns the state—i.e., monopolizes state power—and the state owns the means of production. The CPSU is thus the employer of Soviet workers. What the Labor Union Statutes really mean is

"Labor unions carry out all their work under the control of their employers, the organizing and guiding force of Soviet society."

You may want to do business with such company unions, but we choose not to. Incidentally, I cannot recall your having advocated such recognition of Franco's company unions when he was in power. Neither did we. What is the difference between the way Fascist and Communist dictatorships treat their workers? Is a left-wing dictatorship preferable to a right-wing dictatorship?

There are several other points in your Senate remarks that need correction:

(1) The first has to do with numbers. You told your colleagues that

"If one looks at the 40-some people who have visited the United States under the terms of the so-called McGovern Amendment during the last year, and only 40 have come in under the authority that it provides, only 7 of them come from the Soviet Union."

It would seem that an awful lot of fuss is being made about seven people. But is that all that's really involved?

I attach lists from the State Department and stories from various publications that indicate that over 50 Soviet "trade unionists," not 7, have in fact been admitted to the United States since passage of the McGovern Amendment. The March 16, 1978, *Daily World*, official publication of the Communist Party, U.S.A., reports on a visit to Detroit of 30 Soviet autoworkers.

Curious about the discrepancy between your figure of 7 and our figure of over 50, I made some inquiries and came upon an interesting discovery: The State Department has been processing numbers of Soviet "trade union" visa applications not under the McGovern Amendment but under the category of "specialist exchange"—as "tourists." Prior to the passage of the McGovern Amendment, there was a stipulation that any Soviet trade unionist admitted to the U.S. under this category would be barred from contacts with U.S. trade unionists In other words, Soviet "trade unionists" have been admitted here not only under the specific terms of the McGovern Amendment but under new administrative procedures adopted in the State Department in consequence of the passage of the McGovern Amendment. In effect, the State Department has been operating a two-track system for admitted Soviet "trade unionists," but your remarks in the Senate dealt only with one of those tracks, the one that bore the least traffic.

I do not know whether your colleagues in the Senate will be as surprised by the discovery of these facts as I was, but I think they should be made aware of the real impact of the McGovern Amendment and of the interesting procedures being used at the State Department. Among the individuals who have been admitted under these procedures are, to name but a few:

Vsevolod Yevgen'yevich, Chief of the International Section of the All-Union Central Council of Trade Unions.

Vladimir Ivanovich Nikitin, Manager of the same International Section.

Boris Vasil'yevich Denisov, Consultant to the above.

Rimm Aleksandrovich Papilov, Secretary of the Moscow City Council of Trade Unions.

These "tourists" are high officials in the Soviet "trade union" structure. They would not hold such positions unless they were responsible to the Communist Party. Moreover, it is standard Soviet practice to have one or more KGB agents with every delegation to the U.S., as can be attested by virtually any U.S. agency with experience in this field.

(2) I think you owe it to your colleagues not to mislead them into thinking that the McGovern Amendment is required by the terms of the Helsinki agreement. Specifically, your colleagues should be aware of the following passage from the State Department's Second Semiannual Report to the Commission on Security and Cooperation in Europe (June 3, 1977):

"In April the United States refused visitors' visas to three Soviet labor representatives who had been invited to a longshoremen's union gathering in Seattle. In press articles and in a note to our Embassy, the Soviet Union again called this a violation of the human contacts provisions of the Final Act. We pointed out that it is a *long-standing U.S. policy* not to recommend waivers of ineligibility for Communist labor representatives because labor exchanges with Communist unions *would equate our free and voluntary trade unions with the Communist labor organizations.* There is no specific Final Act reference to travel and contacts among labor representatives, and, *when signing the Final Act, all CSCE participants were aware of our long-standing policy* on this matter." (My emphasis.)

This statement makes it crystal clear that the U.S. was not bound by the provisions of the Helsinki accord to remove restrictions on labor exchanges with Communist labor organizations.

Now it may be your own judgment, as it was the judgment of the August 1, 1977, report of the Commission on Security and Cooperation in Europe that

"Although, at the insistence of U.S. negotiators, the Final Act makes no mention of encouraging trade union contacts, the practice of denying them admission to the country can scarcely be reconciled with the overall thrust of the Helsinki accord."

But this interpretation of the "thrust" of the Helsinki accord, made after the fact and in contradiction to the official position of our government at the time of the signing, is merely that—an interpretation. It is clearly not binding.

It is instructive, moreover, to review the reasoning contained in the Commission's August 1 report, which goes on to say:

"The pledge to make conditions easier for temporary travel applies across the board. Conditions are to be eased for all travelers—butchers, bakers, candlestick-makers and trade union representatives.

"It can certainly be argued that Communist unionists travel on false pretenses, representing a political affiliation rather than a commitment to the labor movement. In the open American market place, however, that argument can best be made in direct confrontation of opposing views. The argument is not served by a prior exclusion of spokesman for one side of it. . . .

"U.S. practice, in short, is discriminatory. The grounds for the discrimination—that Communist unionists are government agents and neither free nor true representatives of workers—reflect a mind-set the Final Act does not condone."

The inclusion of "trade union representatives" along with butchers, bakers and candlestick makers reveals precisely the dangerous confusion I referred to earlier. We know how to judge whether a man is a butcher or a baker or a candlestick maker. But who is a trade union representative? The Commission statement says this issue should be debated in the "open American marketplace." Thus it demotes a policy to a debatable issue. It then goes on to say that the issue has already been decided—in Helsinki. The position of the U.S. government that Soviet labor organizations are not trade unions and cannot be equated with American trade unions—a position which consistently led the U.S. government to refuse to include labor exchanges in our cultural exchange agreements with the Soviet Union—that position is now judged to be a "mind set the Final Act does not condone." Apparently, our side made even more concessions at Helsinki than we had realized!

It is clear that the McGovern Amendment represents much more than a change in our long-standing visa policy. It represents a radical change in our official attitude toward the nature of Soviet labor organizations. The McGovern Amendment has given the Kremlin an important victory by conferring a legitimacy and respectability on Soviet trade unions at the very time these fraudulent institutions are under attack from Soviet workers.

That such an about-face in policy should have taken place virtually without serious debate and without regard for the opinion of the American trade union movement suggests that this policy has less support among the American people than it does among certain narrow elements of the foreign policy establishment.

Yet the American people are being told that to avoid the charge of retreating on our commitment to human rights, we must recognize as legitimate trade unions institutions that repress workers; and, indeed, we must encourage relations and contacts with the representatives of these institutions. In the name of human rights we are asked to accommodate to those who trample on the human rights of their workers. I can imagine how George Orwell would have described this doublespeak.

(3) I would like to turn your attention to the actual character of the labor exchanges your amendment has opened up. What actually happens in these exchanges? What is their value in terms of promoting human rights? How do they encourage the free flow of ideas and information?

In his recent introduction to the classic *Custine's Eternal Russia*, former U.S. Ambassador to the Soviet Union Foy D. Kohler gives this assessment of the Soviet attitude toward East-West contacts. Noting that these contacts have "enormously increased" in the past few years, Ambassador Kohler nonetheless points out that—

"the Kremlin leaders have been at special pains to ensure that, so far as the Soviet Union is concerned, these expanding contacts be limited in scope, channelled to Soviet requirements and kept under strict control. The very thought of any free interplay between the Russians and outsiders of free exchange of information and ideas is anathema. Every theory and argument put forward in the West that lends itself to the direct or indirect support of any such idea is denounced from the highest to the lowest levels of the vast ideological and propaganda apparatus of the Soviet Union * * * The Soviet leaders have in fact been exploiting Western theories about closing existing gaps between societies to justify a general tightening of controls and the conduct of massive vigilance and ideological indoctrination campaigns at home, designed to immunize the Soviet people against any possible ideological contamination in consequence of contacts and exchanges with Americans, as well as Westerners generally. * * * the leaders make clear that the Soviet Union needs and expects to receive important benefits from the new relations, but even as they are entering into agreements with Western countries they are multiplying restrictions and creating a climate designed to minimize the resulting impact on the Soviet system and society."

While Kohler deals with East-West exchanges generally, pointing out that they do not lead to the kind of internal liberalization their proponents promised but to the opposite, Vladimir Bukovsky, the courageous Soviet freedom fighter, had this to say to the AFL–CIO convention last December:

"An equal exchange of people and information is one of the basic principles of the Helsinki Agreements. And we have always consistently demanded its observance. But we demand a real exchange not a fictitious one.

"Delegations of Western parliamentarians, genuinely elected by their peoples, travel to the Soviet Union. Labor union leaders genuinely representing the interest of the workers go there. And who are they trying to saddle you with—under the guise of Soviet parliamentarians and labor leaders? Party officials, KGB agents, that is, the executioners of our people, those who shot down the workers at Novocherkorsk, those who keep the human rights movement rotting in jail. Since when do the hangmen represent the hanged?

"Who needs such an 'exchange of people?' It merely lends a respectable coloring of phoney Soviet institutions, but it does not help our nations better to understand each other."

These remarks were addressed to a convention to which the AFL–CIO had invited Dr. Andrei Sakharov, Mrs. Nadezhda Mandelshtam, Mr. Aleksandr Pobrabinek, Mr. Anatoli Tikhonovich Marchenko, Mr. Valentin Anatolievich Ivanov, and Mr. Vladimir Borisov all of whom (with the exception of Mr. Ivanov, who was told to leave the Soviet Union before our invitation arrived) were denied exit visas by the Soviet Union, despite the good example afforded by the McGovern Amendment. I enclose for your information the report made by Secretary-Treasurer Lane Kirkland on the fate of our invitation to these Soviet citizens.

For ideas and people to flow freely, there needs to be reciprocity on both sides. Much as we might wish otherwise, we cannot unilaterally assure such a flow. It takes two to tango. If we remove all obstacles to entry visas for Communists while the Soviet Union maintains a ban on the travel of non-Communists or anti-Communists to the United States, we shall have moved from a situation in which no Communists can come here to a situation in which only Communists can come here from the Soviet Union. All we shall have done is transfer the control point on nonimmigrant visas from Washington to Moscow. How does this serve the cause of human rights?

So long as the Soviet government retains its present policy, no genuine free flow of people and ideas is possible. Instead, we have an inherently unbalanced and unfair arrangement in which Americans who visit the Soviet Union may criticize the United States and praise aspects of Soviet life, while Soviet "trade union representatives" who visit us dare not criticize their government but do criticize American life. The attached stories from the Daily World and Flashes (publication of the Communist-dominated World Federation of Trade Unions) are entirely representative in their illustration of this point.

And what do these Soviet visitors say about American life when they return to the Soviet Union? We now have eloquent testimony on this point from Anatoly Marchenko, who, incidentally, faces imminent arrest on trumped-up criminal charges. In a letter dated December 1, 1977, and intended for our convention delegates, Marchenko reports on the return home of the first group of Soviet "trade unionists" admitted as a result of your amendment.

"Recently some of our citizens visited the U.S. as invitees of the American National Committee of Labor Union Action for Democracy. At first they had certain problems

with their U.S. entry visas, but they received Soviet exist visas with no difficulty. Whom do they represent? Metallurgists, schoolteachers, the trade union masses in general? Not at all. They are the eyes, ears, and mouthpiece of our regime.

"They told us about the desperate situation of one black woman worker; that American teachers beat their pupils and that some American high school graduates don't know how to read; that there is inadequate industrial safety technology in American mines; and that American workers have a friendly attitude toward the USSR. That was all they derived from a two-week trip through the U.S.

"How much does that poor black woman make, and what can she buy for her pay? Are her five children in school, and how does she pay for their medical care? Where, how, and in what schools did America train its scientists, who year after year have come away with most of the Nobel prizes? Perhaps they are semi-literate? What is the accident rate at an American mine? There was nothing concrete—only a general and grim picture.

"If Semyonova had not visited you as a representative she might have possibly shared with your teachers the fact that in our schools there is also a low level of education—I know more than a few semi-literate people who have recently graduated from our schools. And the miner Gatsenko, perhaps, might have told about the systematic practice we have of not registering-on-the-job injuries so as not to spoil the statistics and not to deprive a shop or a team of its bonuses. But our representatives, judging by the newspaper account, did not see a single positive feature in the life of working America, and enriched you with the information that we walk around in shoes and our women use cosmetics.

"The reporting of their trip is published in the column 'Chronicle of Detente.' Apparently this means that now you and we, American and Soviet working people, know each other better. But we used to read the same sort of stuff about America thirty years ago in the worst years of the Cold War."

These representatives of Soviet "trade unions" *did not see a single positive feature in the life of working America!*

How do such exchanges contribute to the free flow of people and ideas? How do they enhance the human rights of Americans or Russians? Whose human rights would be violated by the repeal of the McGovern Amendment?

(4) One final point. I am at a loss to understand your attitude toward the Helsinki accords and Soviet compliance with their human rights provisions. This is a matter of some importance to the McGovern Amendment which explicitly states that one of its two major purposes is that of "encouraging other signatory countries to comply with those provisions."

But in your Senate speech you said:

"Everyone knows that the Soviet Union has not fulfilled its obligation under the Helsinki Final Act. Only a dreamer would have expected that they would."

I strongly object to this flippant and cavalier attitude toward Soviet violations of the Helsinki accord. If only a dreamer would expect them to live up to their international obligation, why did we sign the Final Act at all? Why did you introduce the McGovern Amendment in the hope of encouraging their compliance?

I think you could do a lot more to encourage Soviet compliance with the Helsinki Final Act. If a man of your views—known as an opponent of the "Cold War" and as an advocate of detente—were to announce that, upon reflection, you favored repeal of the McGovern Amendment until such time as the Soviet Union permitted men like Andrei Sakharov to leave and return to the Soviet Union, I believe this might have an impact on Soviet leaders. Certainly, it would let them know that all American leaders, not just dreamers, expect them to live up to their obligations, as we live up to ours. And I believe such an action on your part would give heart to countless Soviet citizens whose capacity to struggle for a wider measure of personal freedom depends on the sense that we will hold their rulers to account.

I wonder if I might prevail upon you to insert this letter in the Congressional Record so that your colleagues might better understand the position of the AFL–CIO.

Sincerely,

GEORGE MEANY,
President.

U.S. SENATE,
Washington, D.C., August 10, 1978.

GEORGE MEANY,
President, AFL–CIO,
Washington, D.C.

DEAR MR. MEANY: I think it now fair to conclude that you and I have a basic difference of opinion regarding the merits of the so-called McGovern Amendment.

Your letter of August second goes to great lengths to imply that this difference arises out of my inability to understand the deficiencies of the Soviet system in general and of Soviet "trade unions" in particular. This is not the case, for the issue is not the nature of our adversary but rather how we respond to that adversary. You are obviously offended by the use of "trade unionist" to describe a Communist representing an organization which bears no resemblance to the American trade unions you lead. This is understandable. But I disagree entirely with your conclusion that because this nomenclature is offensive—because such a person is not really a trade unionist but rather part of the Soviet governmental structure—he should be barred from a visit to the United States.

The logical consequences of such reasoning are fairly obvious: Since most Soviet institutions are, in some sense, a part of that structure, then other persons—not just "trade unionists"—should also be barred from our country if your logic is to be applied consistently. Soviet "scholars" would have to be kept out because their scholarship is often used to buttress Marxist dogma. Under your logic, the Soviet "parliamentarians" (from the Supreme Soviet) who visited Congress earlier this year should have been rejected. Soviet "journalists" here should be expelled. We should cease contacts with state-supported Soviet "athletes" and performing "artists," who are instruments of propaganda. And most surely, our elected President should avoid any summit meeting with a Soviet leader who purports to be "democratically" selected.

I cannot see how our national interests would be served if American scholars, parliamentarians, journalists, athletes, artists, and Presidents adopted your reasoning and insisted on shunning any U.S. contact with their "illegitimate" counterparts. Are you asking for one visa criteria for so-called trade unionists, misnamed or otherwise, and another visa criteria for other applicants?

Your letter raises four points you feel require clarification:

(1) The first concerns the discrepancy between my figures and yours on persons who have come to the U.S. under the McGovern Amendment. The figures I used were supplied by the State Department and I presented them without distortion. As I stated in my remarks on the Senate floor, however, this is an inherently imprecise matter, because the McGovern Amendment did no more than mandate the Secretary of State to use, in certain circumstances, a waiver-recommending authority he already possessed. Since this Administration was intent upon exercising that authority quite frequently even in the absence of the McGovern Amendment, its effect was to encourage and formalize a trend already in effect.

(2) You argue that the McGovern Amendment is not required under the terms of the Helsinki Act because the Act makes no mention of trade unionists and because the United States indicated at Helsinki its longstanding policy of excluding Communist trade unionists. What is "required" by the Final Act is, of course, not subject to precise definition, but I would agree with the Commission on Security and Cooperation in Europe that past U.S. visa practices "can scarcely be reconciled with the overall thrust of the Helsinki accord." Moreover, the McGovern Amendment is not directed at trade unionists in particular, but at affirming an important general principle—that United States visa policy should not discriminate solely on grounds of organizational or ideological affiliation. You charge that, by causing us to "recognize as legitimate trade union institutions that repress workers" and by encouraging "relations and contacts with the representatives of these institutions," the McGovern Amendment represents an Orwellian interpretation of the Helsinki Act. I would say that yours is an Orwellian interpretation of the McGovern Amendment. It has nothing to do with recognizing an organization as legitimate. Nor does it encourage relations between legitimate and illegitimate trade unions. It is neutral on both points.

(3) Regarding the value of exchanges that do occur, you speak disparagingly, citing Soviet "trade unionists" which, after visits to the United States, have not returned to the Soviet Union openly praising the merits of the American system. I wonder why you would expect otherwise in a society as repressive as you know the Soviet Union to be. The absence of immediate and obvious gains is hardly an adequate basis for repudiating the value of expanding human contacts. The whole premise for exchange-of-persons activities is that they work over the long-term, steadily increasing the number of people with firsthand knowledge and thereby slowly eroding ignorance and misperception.

(4) You object to my saying that I did not realistically expect the Soviet Union to comply with all of its obligations under the Helsinki Final Act. I stand by that and reiterate that only a dreamer would have. What the Final Act did was set a standard to which we and others can be held accountable. We sacrifice nothing by abiding by the spirit of Helsinki. On the contrary, we greatly strengthen our ability to win admirers around the world and also, by our example over the long term, to foster change in the Communist systems which neither you nor I approve.

I am sorry that the Senate's passage of the repeal amendment, which you so actively supported, has provided grist for propaganda against the United States by Communist countries which, embarrassed by their own deficiencies in meeting the Helsinki standard, were pleased by the opportunity to excoriate the United States for hypocrisy. In that this embarrassment for the Administration's human rights effort was quite predictable, I regret that your determination to express disapproval of Soviet "trade unions" took priority over your concern for our country's international standing.

There is one final point: The effect of your position as advanced by Senator Baker is to deny visas except by a formal waiver request from the Secretary of State to members of all Communist parties around the world—including party members from western European countries such as Italy, France and Spain, who in some instances have been independent if not outspokenly critical of Soviet policies. I have enough confidence in American democracy to believe that our people can withstand contact with visitors

whose ideology differs from ours. I even believe that our way of life is appealing enough so that we might modestly influence the thinking of some of our Communist visitors. I see no reason to make a "federal case" out of every visa application from those whose views and party affiliation differ from yours and mine.

Sincerely yours,

GEORGE MCGOVERN.

SECTION 21 OF THE BASIC AUTHORITY OF THE STATE DEPARTMENT

The McGovern Amendment

SEC. 21. For purposes of achieving greater United States compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (signed at Helsinki on August 1, 1975) and for purposes of encouraging other signatory countries to comply with those provisions, the Secretary of State should, within 30 days of receiving an application for a nonimmigrant visa by any alien who is excludible from the United States by reason of membership in or affiliation with a proscribed organization but who is otherwise admissible to the United States, recommended that the Attorney General grant the approval necessary for the issuance of a visa to such alien, unless the Secretary determines that the admission of such alien would be contrary to the security interests of the United States and so certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate.

[From the New York Times, Aug. 9, 1978]

LETTIN' IN THE COMMIES

(By Daniel Yergin)

PARIS.—It is not surprising that the recent show trials in the Soviet Union have stimulated Congress to look for appropriate responses. But those responses should be chosen with care. For actions generated in a burst of self-righteousness could end up advancing Soviet interests at the expense of America's.

That certainly would be the paradoxical result of a little noticed amendment added by Senator Howard Baker to the military-assistance bill. Given its intent, the amendment could end up providing Moscow with a powerful propaganda victory.

The Baker amendment concerns visa policy for visitors to the United States, which may sound like a rather technical matter. In this case, it is not. It is of primary political importance.

Until 1977, a legislative relic of the McCarthy era made it very difficult for foreign Communists to visit the United States. They were not allowed in unless the State Department requested a special waiver. A Leonid Brezhnev could always get in, could even get invited to the White House. But not the Italian or Spanish Communists who had publicly criticized his doctrine—and his regime. It was odd—the rigid ruling Communists could visit but not the non-ruling Western Communists somewhat closer to Western pluralist values. This was changed in 1977 with passage of the McGovern amendment, which permitted Communists to enter on the same basis as other visitors, unless the State Department requested otherwise.

But now comes the Baker amendment, which would effectively revoke the McGovern amendment and return to the former restrictive practice. The Baker amendment was passed two weeks ago by the Senate, with the A.F.L.-C.I.O.'s support, and is scheduled for discussion in a Senate-House conference committee tomorrow.

Howard Baker explains that his amendment would be a "visible reminder to the Soviet Union" of American concern about repression. But much of this concern is couched in terms of the Helsinki agreement, which is supposed to promote increased contacts between peoples and ideas, East and West. Yet the amendment would re-erect a barrier to increased contacts, undercutting American credibility and indeed our claim to the very Helsinki principles from which we argue.

The amendment would also unnecessarily complicate the conduct of our foreign policy. Each decision on each application by Communists would be read as a political statement in his home country. Granting a visa would be seen as a form of approval; rejection, as a sign of unmitigated hostility; either way, the decision would embarrassingly end up on the front pages of local newspapers. The resurrection of the barrier would be regarded as offensive in Western Europe, not only by Communists but by Socialists, centrists, even by some conservatives—fulfilling old stereotypes about McCarthyism.

While the amendment is supposedly aimed at the Soviet Union, its most ill effect would be on our relations with those Western European countries where the left—composed variously of Communists and Socialists—is strong and could become stronger if there is no economic recovery.

Italy is the most obvious and important example. Its Communist Party, representing about a third of the electorate, is, along with the Christian Democrats, one of the two key parties in the parliamentary majority that runs the country. Virtually everyone who has examined the question agrees that the party has been evolving away from the Soviet model, from Stalinism. Considerable disagreement exists even among the most informed analysts as to how far, sincere, and deep—and how beneficial—that evolution is. We should want to find out. We should want to increase communication, without having each exchange appear to be graced with our seal of approval. No purpose is served by excluding Italian and other Western Communists. It will not lose them votes, and may well win them some. The amendment would hardly keep out genuinely subversive elements.

Western European Communists should have the opportunity to see American society as it is. Their vision of America has been doubly distorted—first by our habit of being the most self-critical society in the world, then refracted yet again through the ideological prisms of the left. Many, though not all, in the Italian Communist Party are deeply curious about the United States. To exclude them is to deny one possible influence on the evolution of their party, and to strengthen the position of the Stalinists and, in so doing the hand of the Soviet Union itself.

We have nothing to fear from letting Western Communists make the comparison themselves between the realities of Soviet and American societies, and perhaps even something to gain. This will be better done through a normalized visa process, and not through the self-defeating mechanism of the Baker amendment, which would turn each application, at the very least, into an awkward Federal case.●

RATIFICATION OF THE GENOCIDE CONVENTION WILL COUNTER SOVIET CHARGES OF HYPOCRISY

Mr. PROXMIRE. Mr. President, earlier this week the Central Intelligence Agency forwarded to me a translated version of a Tass radio broadcast entitled "American Administration's Hypocrisy."

"The United States displays an amazing hypocrisy," the translation reads, "by its refusal to accede to the International Convention on the Prevention of Genocide."

Are we vulnerable to such charges that our human rights policy is consistent? Are we?

Well, consider this: despite our cries for human liberties abroad and at home we have failed to ratify a treaty which safeguards the most fundamental human right—the right to live.

And who is responsible for this failure?

The President? No. In all that period every President—Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter—all have pleaded with the Senate to act.

The House of Representatives? No. They have no power to act.

Who then? This body. The United States Senate and this body alone has the responsibility.

For 29 long years this body has deliberated over the issue of acceding to an international agreement which outlaws mass murder. And, during those 29 years, millions have suffered needless deaths as victims of genocide.

Is the Genocide Treaty an agreement which would compromise this Nation in any way? Does it conflict with any of our other responsibilities?

Mr. President, this treaty would not endanger the life or freedoms of a single American. It does not conflict with any of our other commitments or responsibilities.

Has this treaty met with the approval of the American people and our Western allies?

Mr. President, the answer is a resounding yes. This treaty has already been ratified by 83 other nations including our Western allies. It has been supported by nearly every major interest group in this country.

Mr. President, this is not the first time the Soviet Union has criticized us for our stand on this convention. In fact, the Soviet Union is already a party to this agreement. For years they have capitalized on our failure to condemn mass murder. Our inaction has only been an embarrassment to this Nation in the eyes of the world community.

What, then, can we do to unify our human rights policy, to eliminate this potential for embarrassment, and to demonstrate to the world our commitment to our moral responsibilities?

The answer is a simple one. U.S. Senators can vote to make genocide an international crime.

Mr. PELL. Mr. President, this is just to congratulate the Senator from Wisconsin on his speech, and his regular speeches, on genocide.

I hope that like the water that drips, eventually it would wear its path—I cannot say to victory—but to the Senators, and we should pass this treaty, as we long since should have done.

"LOCKING UP GUAM FOR LOCAL 3"

Mr. HATCH. Mr. President, shortly the Senate will consider S. 2570, a bill to revise and extend CETA. In this regard, a recent article in Inquiry magazine charging that U.S. Labor Department officials and others have conspired to use

CETA job programs and funds illegally to subsidize the efforts of a construction union to organize all the unorganized workers on the island territory of Guam, is alarming and shocking, to say the least.

The article, entitled "Locking up Guam for Local 3," states that over the past 2 years the Labor Department has not only abused CETA programs, but has manipulated Guam's economy and the certification procedures for alien workers in an attempt to clear the way for the Operating Engineers Union to control the construction industry on Guam.

Specifically, says the article, high Labor Department officials have apparently broken the law by awarding $450,000 in CETA contracts for training construction workers to the Operating Engineers, thereby circumventing competitive bidding requirements.

The article recounts several meetings at which Labor Department officials and union agents devised plans to use these CETA funds to train union organizers on Guam. According to the article, the same evidence has already been presented to Labor Department investigators who commenced an investigation at the request of Guam Employers Council and others in March, but the investigation seems to be stalled for some unknown reason.

In any event, our colleague (Mr. HELMS) has written to Secretary of Labor Ray Marshall on July 7, 1978, requesting that he initiate an investigation into the entire situation in light of the alleged involvement of high officials within the Labor Department. Senator HELMS also reasonably suggested that the Secretary schedule an administrative hearing in Guam so that all who had information could have the opportunity, under oath, to substantiate the numerous charges which have been raised by those on Guam and elsewhere. As of this date, Secretary Marshall has not responded to Senator HELMS' letter, although, the Secretary may not determine to give the matter expeditious attention.

Mr. President, the American people have a right to get to the bottom of what is alleged to be one of the most scandalous episodes in the history of the Labor Department. As a member of the Human Resources Committee which has the oversight responsibility for CETA and the Department of Labor, I intend to use all means at my disposal, including having other Government agencies look into the matter if necessary, to see that the charges are fairly evaluated and the truth ascertained. I hope that my chairman (Mr. WILLIAMS), and my ranking member (Mr. JAVITS) will join me in this endeavor, to preserve the integrity of the CETA programs and its administrators.

Mr. President, I ask unanimous consent to have printed in the RECORD the inquiry article referred to above, as well as Senator HELMS letter to Secretary Marshall, for the information of my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LOCKING UP GUAM FOR LOCAL 3

(By Bill Keller)

Last February, employers in the construction industry on Guam sent a formal complaint to Secretary of Labor Ray Marshall alleging that Labor Department officials in San Francisco had conspired with the Operating Engineers Union and the Dillingham Corporation to award a $1.8 million CETA contract for job-training on the island. In March the department began an investigation of the charges, but to date it has issued no finding.

If the Labor Department has been slow in making a judgment on these charges, it is not because of a lack of evidence. Indeed, interviews and government documents reveal that Labor Department officials and politicians, notably Phillip Burton (D.-Calif.), attempted to use the CETA program to help the Operating Engineers lock up the construction trades on Guam. In so doing, they have apparently broken the law by circumventing competitive bidding requirements and exercising administrative powers to promote union activities and accomplish objectives far broader than the employment and training Congress intended. They have also attempted to disable competition from Asian firms by manipulating Guam's wage and labor structures. According to these sources, the department awarded a $450,000 training contract to the union— without soliciting bids as required by law—and issued regulations that raised construction wages and restricted the use of nonunion, alien labor. When Governor Ricardo J. Bordallo of Guam opposed these actions, Labor Department representatives threatened to withhold CETA employment and training funds as a means of obtaining his cooperation.

Oddly enough the Labor Department-Operating Engineers plan to lock up Guam's construction trades for the union had its beginnings not on Guam, but in Hawaii. Late in 1976, when unemployment in the Hawaiian building trades was high, Governor George R. Ariyoshi and representatives of various trade unions set their sights on Guam as a possible solution for the problems of Hawaii's construction business.

Guam was an obvious choice. Located 6000 miles from the West Coast of the United States, Guam is a central link in the chain of islands on which the United States has anchored its military might in the Western Pacific. Major installations on the island include a nuclear submarine base, a large naval ship repair facility, and a Strategic Air Command airfield. Military spending is almost always a boon for the construction industry, but in 1976, nature and the military combined to make Guam especially attractive to builders. In May of that year, Typhoon Pamela swept the island, causing major damage; shortly afterwards, the navy was prepared to let over $400 million in contracts for redevelopment and construction on Guam. Short-term spending of this magnitude presaged a booming economy and certain prosperity for the construction industry. Everyone, including Governor Ariyoshi's friends, wanted to share in the feast.

Especially eager was Local 3 of the International Union of Operating Engineers. Based in San Francisco, Local 3 has 35,000 members in a jurisdiction covering Northern California, Nevada, Utah, Hawaii, and the mid-Pacific Islands. Local 3 has long been interested in organizing on Guam—it assigned staff members to the island in 1963 and built offices in Agana, the capital, in 1971—but its efforts have met with little success. Union officials have conceded that as of August 1977, they had organized only about 130 of Guam's estimated 4800 construction workers. Therefore, in recent years the union has intensified its drive on Guam, hoping to cash in on what it contends will be "massive amounts of construction and industrial development in the next 10–15 years" for "storm repair," "oil depots," and "industrial and trade zone work to supply the booming Pacific Rim economy and the entire spectrum of ocean resources development."

Also anxious to get in on the construction boom in Guam was the Dillingham Corporation of Hawaii, a multinational conglomerate with a broad range of construction operations on the Pacific coasts of the United States and Canada, and in Hawaii, Australia, and New Zealand. Already involved on Guam through its subsidiary, the Hawaiian Dredging and Construction Company, Dillingham was looking for new ways to compete against local and Asian construction firms.

But it was not easy for the Operating Engineers or Dillingham to cash in on Guam's new construction prosperity. Guam's construction industry has traditionally used foreign laborers, principally "non-immigrant aliens" from the Philippines and South Korea, who are admitted for temporary work assignments. These workers have been brought in to ease a shortage of skilled construction workers. Many Chamorros, or natives of Guam, look down on construction work. As a result, few of them have been trained in the construction trades, and those who are skilled often leave the island for the higher wages and better working conditions on Hawaii or the U.S. mainland. Hence, in March 1977, temporary alien workers held approximately 82 percent of Guam's construction jobs. Moreover, the ready availability of foreign workers has kept wages low. For example, in 1977 a construction electrician on Guam received $3.22 an hour, while his counterpart in Hawaii was paid $10.34.

The use of alien workers angers the Operating Engineers, who have termed it "the inhuman and cancerous exploitation of working people on Guam." The union asserts that the practice artificially holds down wages and forces workers to accept substandard working conditions. The union is also concerned that its efforts to organize the island have failed largely because alien workers are granted only temporary working permits and generally must acquiesce in conditions offered by their employers or face deportation. But firms on Guam, as well as many Japanese and Korean companies that do business on the island, depend on temporary alien workers to fill their demand for skilled construction artisans. Without a ready supply of relatively inexpensive Asian labor, they cannot compete with huge, off-island American firms such as Dillingham.

It was with this in mind that the Operating Engineers and their government friends developed a strategy to unionize Guam's construction trades. According to informed sources, late in 1976 Governor Ariyoshi of Hawaii and trade union representatives met with Labor Department officials, including top Labor Department regional administrators William Haltigan and Royce Hulsey. At the meeting, they asked the Labor Department not to certify aliens for employment on Guam unless the employers there first recruited in Hawaii at prevailing Hawaiian wage rates. Similar meetings were held early in 1977. During these sessions the idea first surfaced of changing the certification of aliens and increasing wage rates to aid a union takeover on Guam. According to persons present at the meetings, Labor Department officials agreed to the concept of unionization for Guam, and supported Dale Marr of Local Union 3 in his plans to use the Comprehensive Employment and Training (CETA) program as a means of locking up the island. This could be accomplished if the Labor Department paid the union to run the CETA training program on Guam. CETA funds would then be used to recruit new union members and train them in organizing techniques, as well as in construction indus-

try trades. The new union men would then enter "open shops" on Guam and apply their newly acquired skills.

Misuse of CETA funds on Guam has been commonplace for several years, and the training program has been an annual fiasco. In December 1976, a federal audit revealed "gross mismanagement and lack of control," and questioned nearly half of all CETA expenditures, an amount exceeding $1 million. Federal correspondence with Governor Bordallo chronicles numerous violations of CETA regulations, including "loss of control over program activities," "enrolling and employing ineligible participants," and "improper expenditure of program funds." On March 10, 1977, the Labor Department fired the CETA staff on Guam and ended funding for all CETA training programs and related activities. Within a fortnight, the associate regional administrator for Region IX withdrew Guam's letter of credit for federal funds, charging that the governor had overdrawn the CETA accounts by $192,112.

In mid-August 1977, Regional Administrator Haltigan traveled to Guam to present proposals that would set up a construction-trades training program under CETA, double wages paid to construction workers over a two-year period, and provide for new alien certification procedures to be administered by the Labor Department. Local newspaper accounts of that period document the near universal panic with which the Haltigan proposals were received on Guam. On August 20, the *Pacific Daily News* reported, "The proposals are directly opposed by business, construction, military and government officials, who say the increases will come too soon and will have a direct negative impact on the island's economy." Haltigan's proposals included a requirement that any employer who used alien labor must pay higher rates determined by the U.S. Department of Labor. Governor Bordallo stated, "This whole thing is going to hit Guam like a bombshell."

Alone in welcoming the proposal was Local 3 of the Operating Engineers Union. In a letter to Haltigan, dated August 9, 1977, union leader Dale Marr underscored his support for the proposals and warned, "I would point out to you that you can expect formidable opposition from a number of employees of federal [Government of Guam] agencies and politicians whose ox you will be goring. We are of the opinion, however, that the Carter administration, Secretary Marshall, and above all, Don Elisburg [assistant secretary of Labor] and the American labor movement will support your efforts on all fronts. Hang tough." According to another *Pacific Daily News* story, the Labor Department was under acute political pressure to solve the alien labor problem on Guam. "The pressure, sources have said, comes from the Governor of Hawaii, the AFL-CIO, representatives of the Departments of Defense and Interior and unnamed persons in the White House." In confirmation, Haltigan said, "Guam is something of a *cause célèbre* at the moment. This thing has been squirreling around at very high levels on Capitol Hill."

The new proposals and the reaction on Guam also caused consternation at the Department of Defense. On August 19, 1977, high-level Defense Department officials telegrammed Undersecretary of Labor Brown, stating that "the bidding for all construction work for military activities on Guam has been postponed because of confusion about labor availability and wage policy applicable to Guam, and that DOD's contractual efforts to carry out the typhoon damage restoration effort have come to a complete standstill." Apparently, the navy was under pressure to spend its Guam construction funds, which exceeded $400 million. It became incumbent upon the Department of Labor to produce a labor force and get Guam's house back in order—to make sure that future allocations for the navy would not be jeopardized.

On September 13, 1977, under the Immigration and Nationality Act, the Labor Department published new regulations that imposed "adverse effect rates," doubling the wages of construction workers on Guam over two years, with the first increments to become effective as of March 1, 1978. The regulations also specified new certification procedures for temporary alien workers on Guam, and provided that the certification process was to be administered by the U.S. Department of Labor. Many Guam employers reviewed the new regulations uneasily, fearing the Labor Department's new certification power. In the face of mandatory wage hikes, they questioned whether they could continue to compete with large off-island and multinational construction firms. Many cast a wary eye at the Operating Engineers Union, fully aware that the new regulations removed major barriers to a union takeover on Guam.

The Guam employers did not know that early in September the Labor Department had begun informal discussions with a private consulting firm in San Francisco. During October and November, Labor Department representatives briefed members of the firm's staff on the situation in Guam and showed them many documents and letters. The name of Congressman Phillip Burton cropped up more than once in their discussions as a reference point and, though unseen, a force to be reckoned with.

On November 16, 1977, the consultants met in San Francisco with the Department of Labor grants officer and his staff to discuss a way to refund the Guam CETA program. At that meeting a strategy was hashed out to hire and train a new CETA staff and to tender contracts to employers on Guam who had demonstrated training capabilities. Five days later, on November 23, the consultants submitted the final proposal to Associate Regional Administrator Hulsey. According to persons who were present, during that meeting Hulsey offered to hire the consulting firm to legitimize or "launder" illegal contracts with the Dillingham Corporation and the Operating Engineers Union, Local 3. When Hulsey made the offer, he mumbled under his breath, "What's that?" one of the consultants asked. "Dillingham," he repeated, "and the Engineers. The training contracts will have to go to them." On the following day, when the firm withdrew from the proposed scheme, Hulsey stated his intention to continue without its participation or assistance.

On the afternoon of November 18, 1977, another meeting took place on the ninth floor of the Federal Building in San Francisco. Labor Department administrators Haltigan, Hulsey, and Charles Pickens met with Local Union 3 officials, including Dale Marr, and with two executives of the Dillingham Corporation. Virginia Allee, regional administrator for the Employment Standards Administration, also was present. A plan to use CETA Title I funds to train construction workers on Guam was reviewed. The sum of $1.8 million was earmarked for the Engineers Union and Dillingham. At approximately 2:45 p.m., Congressman Burton arrived. Assistant Secretary of Labor Donald Elisburg arrived a few minutes later. The group exchanged greetings and the progress of the meeting to that point was summarized. Both Burton and Elisburg agreed on the soundness of the plan and on the scheme to set the union and Dillingham up in the training business. "Burton was brought in by the Engineers," one source said. "It was a show of strength; they go back a long way together."

This entente represented the culmination of a longstanding political alliance between the Operating Engineers and the Burton machine. Burton, who presides over the House National Parks and Insular Affairs Subcommittee which oversees Guam and the Pacific Trust Territories, found himself in a position to help his friends—friends whose unquestioned loyalty could be tabulated in terms of large yearly campaign contributions and membership support. The Guam employers didn't know they never had a chance.

In December, the Labor Department sent representatives Jess Ramos and Tony Cordero to Guam to convince Governor Bordallo to go along with the union-Dillingham CETA training deal. According to informed sources, the governor relented only after he was told that his complicity was a condition for refunding the CETA programs that had been terminated six months earlier. At that time, severe media criticism had been leveled at the governor's men for bungling the program and losing the CETA revenues and jobs. Presumably to protect his own reelection prospects, Bordallo agreed to support the union-Dillingham deal through a subcontract financial arrangement.

On January 18, 1978, the Pacific Daily News reported an agreement to start a new construction training program on Guam. The article stated, "The agreement was reportedly reached after three days of negotiations last week in Honolulu between officials of Dillingham Construction Company, the Operating Engineers Union, GovGuam and the U.S. Department of Labor."

By late January, the Labor Department was well on its way to insuring unionization for Guam and to meeting Defense construction industry needs. But for an indiscretion on the part of the associate regional administrator, the Labor Department might have succeeded in containing the alien problem, controlling construction industry wages, and enriching the friends of Phillip Burton—all at the expense of the people of Guam and the increasingly rebellious American taxpayer.

This indiscretion took the form of a memo to Haltigan, which fell into the hands of Michael McClure of the Guam Employers Council sometime in early February. In it, Hulsey alludes to the opposition of the Guam employers to the union-Dillingham training agreement. According to the January 30 memo, Dillingham Vice President Pete Errect suggested that the Labor Department use its new certification power to snap the already weakening opposition of the Guam employers. Hulsey wrote:

He [Errect] said that a little pressure from us—some overt manifestation of our commitment—should do the trick.

I asked for something more specific, and he said our most effective leverage in this situation was our certification actions. He thought that if word got out that non-cooperating contractors might have their certification requests reviewed with great pains, they would become noticeably more anxious to cooperate in the program.

I see his point and agree that he is likely right in what he says. I told him we would do whatever we could do legitimately and legally. He thought that if that were our attitude, word to that effect ought to get out. I told him we would look into the matter and take the best course available to us.

At any rate, I agree that the opposition is weakening and full atcive participation by all contractors seems to be fairly imminent. We will feel our way carefully and give a fateful push when we feel the time is right.

To many Guam employers whose businesses depend on foreign workers, this memo signaled the Labor Department's determination to exclude local firms from operating the training program and, if necessary, to move against them economically—using the new labor certfication procedures as a weapon. Contrary to its intended purpose, the Hulsey memo galvanized opposition to the

training program. On February 10, 1978, attorneys for the Guam Employers Council, Black Construction Company, and Modular Homes, Inc. sent a formal letter of complaint to the Secretary of Labor requesting an investigation. And on March 9, a suit was filed in federal district court on Guam to halt the award of the joint union-Dillingham contract.

Representatives of the aggrieved employer organizations and their attorneys have met with the Labor Department's investigators on Guam and provided substantial documentation supporting the charges in their complaint. In San Francisco, the investigators have questioned regional Labor Department officials closely and made copies of pertinent documents in their files. According to reliable sources who request that their names be withheld, the investigation team was informed of Congressman Burton's involvement, including the meeting of November 18 —in which he and Assistant Secretary of Labor Don Elisburg met with the Operating Engineers and Dillingham to approve the joint training program. In addition, they were given copies of correspondence and complete information regarding the private consulting firm through which high-ranking Labor Department officials attempted to "launder" the training contracts under investigation. Since March, four months of official silence have elapsed. According to federal regulations, the Secretary of Labor must investigate all complaints promptly, publish findings within a reasonable time, and provide an administrative hearing in all appropriate cases. Despite impressive evidence, repeated efforts, and rising costs, the Guam employers and their attorneys report that they "have been unable to secure any relief, prompt or otherwise, from the Secetary of Labor."

Faced with a lawsuit in the district court and the internal Labor Department investigation, the Dillingham Corporation has backed away from the union-management deal and its coercive tactics which were revealed in the fatal Hulsey memo of January 30. On the other hand, the Operating Engineers and Labor Department regional administrators remain unflappable—seemingly oblivious to the course of recent events and unconcerned about the as-yet unpublished findings of the investigation.

On May 13, 1978, the Department of Labor awarded a construction training contract to the Operating Engineers Union in the amount of $450,000. General President Jay Turner of the union jetted to San Francisco for the signing ceremony. A union press release of May 13 said, "Turner complimented Secretary of Labor F. Ray Marshall and Representative Phil Burton (D.-San Francisco) for their cooperation in establishing the new training program." The statement quoted Turner as saying that Burton had been very active in supporting the Department of Labor and the Operating Engineers in their efforts on Guam. The contract provides funds to train 150 workers in construction trades, and to upgrade the skills of 50 additional workers. Dale Marr, who was present both at the November 18 meeting with Burton and at the signing ceremony, characteristically predicted, "If Guam contractors do not cooperate with the government by hiring these workers once they are trained, the Labor Department undoubtedly will have to tighten its enforcement of federal wage and hour rules."

This remark makes it clear that union leaders anticipate the continued assistance of the U.S. Labor Department in their drive to organize the construction trades on Guam. And they may just be right. It is likely that most of the 200 union trainees will turn out to be union men. If 10 percent of them also receive training in organizing techniques, the union will then have a 20-man task force to spread its influence across the island. Under current regulations, no contractor who uses alien labor will be able to refuse union-trained workers. And since all contractors depend on alien labor, all will have to welcome the newly trained worker-organizers. For the next 18 months, the union can consolidate its membership while "adverse effect rates" push up industry wages.

Large American construction concerns like Dillingham are favored by these conditions. Because wages are established by the Labor Department and paid through Defense Department contracts, cooperation with the Operating Engineers becomes a viable and paid through Defense Department contracts, cooperation with the contractors will dwindle as increased payrolls and tighter controls on the use of alien labor force many contractors out of business. As wage rates in Guam approach parity with those on Hawaii and the U.S. mainland, importing American workers will become more and more common. Foreign construction firms, which have traditionally depended on cheap labor and advantageous currency exchange rates for their competitive edge, will be handicapped by increased unionization and Labor Department policies structured to accomodate American interests and workers on Guam.

Several unanswered questions remain. They suggest that a full congressional investigation of this matter may be appropriate: What, if anything, did Representative Burton and the governor of Hawaii get for their troubles? Was their action a political payoff involving public funds? Why has the Labor Department investigation been stalled? By what reasoning has Secretary Marshall failed to grant an administrative hearing or, in fact, take any action in the face of blatant official wrongdoings perpetrated by top Labor Department administrators? And finally, what remedies will be available to the Guam employers when Local 3 has succeeded in locking up the island?

Re Investigation into Administration of Funds under the Comprehensive Employment Training Act of 1973 in the Territory of Guam.

U.S. SENATE,
Washington, D.C., July 7, 1978.

Hon. RAY MARSHALL,
Secretary of Labor, Washington, D.C.

DEAR MR. SECRETARY: I am writing to request that you initiate an investigation into certain alleged improprieties involving the use of CETA funds in the Territory of Guam. It is my understanding that Mr. Willias R. Lawrence of the firm of Klemm, Dear and Lawrence in Agana, Guam has previously asked for such an inquiry, but that your office has been reluctant to proceed.

I am enclosing for your benefit a copy of a letter dated May 8, 1978 from Mr. Lawrence to Congressman Lester Wolff which outlines the allegations of improper use of CETA funds. It appears that you also received a copy of this letter.

It seems that Mr. Lawrence and others have uncovered a rather blatant attempt by USDOL to finance what amounts to a union drive in Guam through the guise of "CETA funded training." I am also advised that local businessmen have suffered deplorable abuse in USDOL concerted efforts to suppress their opposition to the government funded training.

To ascertain the truth of these allegations, I believe you should—at the least—schedule an administrative hearing in Guam, with full subpoena power being given so that USDOL officials and others who are willing to testify may do so under cover of subpoena.

I am, of course, at this time in no position to make a determination as to the merits of the allegations involved. Nevertheless, the whole area of CETA funding is a matter of particular interest to Congress at this time and, for that reason, we are most desirous that you conduct an investigation into the situation I have now brought to your attention.

Awaiting your response, I appreciate your giving this request your immediate attention.

With best wishes, I am
Sincerely,

JESSE HELMS.

LEAA AND PRISON OVERCROWDING

Mr. THURMOND. Mr. President, overcrowded conditions in our prisons have become a national crisis. Federal and State courts are consistently ordering correctional authorities to improve conditions of incarceration and relieve overcrowding conditions.

An urgent need exists for the improvement of correctional facilities. In spite of this need, S. 3270, the administration's bill to reauthorize LEAA, would eliminate part E which specifically authorizes funding for corrections. The bill would also eliminate the 50 percent funding authorization for correctional construction projects.

The elimination of these provisions from the LEAA bill may be a serious mistake. Our prisons are bursting open, violence is erupting within them; and some States do not have enough institutional space to hold all of the persons who commit serious crimes in our society.

It seems that the Attorney General, at the same time he proposes to cut off earmarked LEAA correctional assistance to State and local governments, is promulgating Federal standards of questionable legal status, which would impose additional burdens on State and local authorities.

The Attorney General is scheduled to appear shortly before the Senate Criminal Laws Subcommittee to be the lead-off witness on the LEAA reauthorization hearings. The future of the part E programs will be one of this Senator's major interests.

I wish to include in the RECORD, three articles which relate to this crisis. The first article appeared in the U.S. News and World Report on August 7, 1978, entitled, "Crisis Builds in America's Crowded Prisons." The second article appeared in the August 5 edition of the Washington Post and is entitled, "Maryland Given 8 Months to Remove 1,000 Inmates From Prisons." The third article appeared in the New York Times on August 6, 1978 and is entitled, "Justice Department and a Private Group Press Standards for Prison Reform."

Mr. President, I ask unanimous consent that these three attached articles be inserted in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CRISIS BUILDS IN AMERICA'S CROWDED PRISONS

Inmate riots in Illinois and Georgia in late July are drawing new attention to a critical national problem: State and federal prisons alike are jammed to overflowing.

The inmate population of this country keeps swelling. In the last five years, it jumped from 204,000 to 278,000—an increase of 36 percent. Yet the space available for confining criminals has lagged far behind.

The result: More and more penitentiaries have become powder kegs that foster violence, racial tension, sexual assault and unrest.

It was overcrowding, exacerbated by the summer heat, that was blamed in large part for the inmate riot at the Pontiac Correctional Center in Illinois. Three guards were killed in the July 22 uprising.

Built in 1871 to hold 600 prisoners, the Pontiac prison houses about 2,000 today—most doubled up in 4-by-6-foot cells. Conditions are so bad that state officials say they haven't been able to recruit an adequate number of guards.

Overcrowding also may have helped trigger a riot at the Georgia State Prison in Reidsville on July 23, the day after the Pontiac disturbance. One guard and two inmates were stabbed to death. Built to house 1,100 prisoners, the Georgia institution now holds nearly 2,500.

Why the upsurge in people behind bars?

The basic cause, the experts say, has been the dramatic rise in crime in recent years. This, in turn, sparked a public demand to get tough on criminals. Police and prosecutors have been doing so. Increasingly, state legislatures are following the path set by California and New York—pushing through laws requiring stiffer sentences. And many judges, on their own, are giving criminals longer terms.

Life in the corridor. These measures have dumped tens of thousands of lawbreakers into prisons that critics say were overcrowded when they were built—often more than 50 years ago. Increasingly, two or three inmates are squeezed into small cells designed for one. Others are confined in crowded dormitories or prison corridors.

In some states, officials are turning to makeshift arrangements to house "surplus" prisoners—tents, trailers, vacant hospitals, schools and warehouses.

In at least a dozen states, officials are under court order to reduce overcrowding. And in almost every state, plans for new prisons are on the drawing boards. But no quick relief is expected. It takes at least five years to build a facility, even if funds are available. Many law-enforcement people worry that the blueprints they have drawn up will be scuttled by economy-minded state legislators. According to one estimate, it would cost about 3 billion dollars to construct all the federal and state prisons now planned.

Proposals for bigger outlays for prisons "have never been good political fodder for anyone," observes one corrections official. If the taxpayer revolt that surfaced in California continues to spread, state legislators could become even more tightfisted in the future.

After Californians on June 6 approved Proposition 13—a sweeping property-tax cutback—funds for a new prison were deleted from the state budget. The action provoked cries of alarm from prison official. "If the rate of intake keeps going up, we will fill every available space by 1979 or 1980," complains one. "We could have an absolutely critical situation."

Ruining the neighborhood. Lack of money isn't the only roadblock to the building of prisons. Almost invariably, construction plans are opposed by property owners in the area. In Miami and Atlanta, officials have searched for months for prison sites that will be acceptable to the communities. "Homeowners object to inmates in their back yard," says one Florida official.

On top of this, many prison-reform groups are pushing for an end to prison construction. They urge that only hardened criminals be sent to prison and that larger numbers of lawbreakers who seen capable of rehabilitation be dealt with outside prison walls.

One approach gaining favor in recent years is to allow an offender to hold a job in the community, returning nightly to a so-called halfway house. But community-based programs often stir up even more local opposition than proposals for new prisons do.

Some corrections experts believe that the prison crisis won't be solved until something approaching a national consensus emerges on what to do with criminals.

"You have one segment that says offenders must be punished and put away, and another that says offenders should be helped and given treatment in the community," observes Raymond S. Olsen, associate executive director of the American Correctional Association.

While the debate goes on, America's prisons face years of overcrowding and unrest.

Md. Given 8 Months To Remove 1,000 Inmates From Prisons

(By Saundra Saperstein)

Two U.S. judges in Maryland yesterday ordered state officials to remove 1,000 inmates in the next eight months from the overcrowded Maryland Penitentiary and the Maryland House of Correction.

Maryland Attorney General Francis (Bill) Burch said that meeting the deadline will pose "a substantial threat to public safety."

The state has asked for 22 months to reduce the populations at the maximum-security penitentiary in Baltimore and the medium-security House of Correction in Jessup.

"When we asked for 22 months, we were not bargaining," Acting Gov. Blair Lee III said recently. "That's what it's going to take."

Told of the court order yesterday, Deputy Commissioner of Corrections Elmanus Herndon said: "That's incredible," and then fell into silence for several seconds.

An aide to the governor said he does not know what the state will do if it has to meet the eight-month deadline. "The only thing I can rule out is premature release of prisoners," said Thomas Peddicord, the governor's chief legislative officer.

Burch said the state will appeal the ruling of U.S. District Court Judges Alexander Harvey II and Stanley Blair immediately.

The judges, in separate opinions last May, had ruled that the two prisons are so overcrowded that conditions represent cruel and unusual punishment for the inmates and therefore are unconstitutional.

The penitentiary is the state's only maximum-security prison. Most prisoners there are serving lengthy sentences for serious felonies such as murder, armed robbery and rape, according to Deputy Commissioner Herndon.

The century-old House of Correction holds many of the same type of prisoners, but those who have been in the system longer and in many cases have been moved from the maximum-security penitentiary, Herndon said.

Burch said yesterday that none of the public officials involved "intended to participate in any program requiring the premature release of violent offenders or other prisoners whose release posed a threat to public safety."

But none of the state officials questioned yesterday offered any proposal for meeting the 8-month deadline if the state does not win its appeal of the order.

In their ruling last May, the judges found that the heart of the overcrowding problem was the widespread practice at both institutions of housing two inmates in one cell.

In the House of Correction, what the judges referred to as "double-celling" allowed more than 1,700 prisoners to be housed in a facility designed for 1,100 inmates, according to testimony in the case.

In the Maryland Penitentiary, which included the Maryland Reception, Diagnostic and Classification Center, there are more than 1,500 inmates—about 1,000 of them double-celled, according to the court opinion.

The judges found that the housing of two inmates in 40 to 44 square-foot cells offends "contemporary standards of human decency."

The rulings came in two class action lawsuits against state officials brought by prison inmates.

Judge Harvey yesterday ruled that officials are permanently prohibited from double-celling inmates at the House of Correction.

Judge Blair, however, ruled that the penitentiary may have up to 25 cells used for double-celling under certain circumstances, and that other prisoners may be double-celled if they give voluntary, written permission for the practice.

Specifically, the judges ordered officials to remove 100 prisoners from each institution by December. They then ordered officials to remove 100 inmates each month from each prison for the next four months after that.

Peddicord said the state will have no problem meeting the December deadline, but did not know how it can meet the timetable ordered for the next four months.

The state's 22-month proposal for reducing the prison populations had relied on the 1980 opening of a new institution in Jessup to house 500 inmates, and a second facility in Hagerstown, scheduled for completion in 1979, that would house about 130, Peddicord said.

Attorneys for the inmates had proposed that the state be given a six-month deadline for reducing the prison populations.

They suggested that officials consider reclassifications of prisoners, transfers of inmates to correctional camps, transfer to halfway houses, expedited paroles and the purchase or rental of temporary housing such as military installations or motels to meet the deadline.

Paul Bekman, an attorney who represents a House of Correction inmate yesterday criticized the state for failing to be "innovative" and failing to look for alternatives to new construction to meet an accelerated deadline.

But Peddicord said the state had ordered construction speed-ups on two facilities to come up with the 22-month timetable.

Judge Harvey last May also found unconstitutional the use of a special confinement area in the Jessup institution, which he said "merely warehoused" inmates with psychological or psychiatric problems. Yesterday, he ordered officials to transfer actively psychotic inmates and others in need of treatment to appropriate state mental institutions and to close the special area by Dec. 1.

In the penitentiary case, Judge Blair found that an isolation area, intended to hold mentally disturbed inmates on a short-term basis, was instead being used for extended periods of time to house inmates without adequate professional care.

Yesterday, he prohibited officials from using the area for "punishment" of inmates, and set strict rules on its use.

The judges' rulings were similar to a federal judge's 1975 opinion that found conditions in the century-old D.C. jail unconstitutional because of overcrowding.

Bekman said the state would have to show that the rulings by Judges Harvey and Blair were "entirely erroneous" in order to win an appeal.

Justice Dept. and a Private Group Press Standards for Prison Reform

(By Pranay Gupte)

The Department of Justice and the American Correctional Association have drafted

tough and specific new standards for the nation's prisons in an effort to bring about better living, working and administrative conditions for prisoners in Federal, state and local institutions.

The two groups are also pushing for a system of "accreditation" of the country's 3,000 correctional facilities. The Justice Department's Bureau of Prisons will require that its 38 correctional facilities and 11 halfway houses meet its standards.

The association, a group of professionals and scholars in the corrections field, will seek the voluntary compliance of other institutions with its parallel standards, drafted in consultation with the Justice Department.

Both the standards and the accreditation drive grow out of a belief held by corrections authorities that the greatly publicized "new penology" of the 1960's, a broad movement of experimental attempts at preventing recidivism and improving prison conditions, generally fell short of its goals.

But while approaches of the "new penology" may be fading, the political and philosophical questions they inspired concerning the purposes and procedures of the prison system continue to be hotly debated. Further complicating the issue of corrections reform is the fact that improvements in prison conditions are frequently costly and politically unpopular.

The new developments signal a fundamental shift of emphasis in corrections reform, according to Clair A. Cripe, general counsel to the Bureau of Prisons.

In the 1960's, he said, the great push by civil liberties groups and others was to win court decisions against mistreatment of inmates, poor food and medical care and inadequate programs of education and vocational training.

"But now it's clear to us that most of these issues have been litigated to their fullest," Mr. Cripe said. "It's obvious that you can take prison reform only so far in the courts, and that details of further reforms can be accomplished now more completely through regulatory standards and model statutes.

"This is being called the 'Reality Shift,'" he added.

The Commission on Accreditation of Corrections, set up by the corrections association with Justice Department help, has drafted its more than 1,500 standards in the form of seven manuals for adult and juvenile correctional institutions and programs.

To be accredited, correctional institutions would permit officials to regularly monitor their compliance with the new standards, which cover the rights of inmates, living and working conditions, discipline, recreation and the administration of facilities. In the past, standards in these areas have been set piecemeal by courts, legislatures, other governmental units and prison administrators.

COSTS PUT AT $1,000 TO $5,000

Accreditation, which would cost from $1,000 to $5,000 for each facility, depending on its size, would probably help non-Federal prisons obtain more money from state and local governments, said Raymond S. Olsen, associate executive director of the American Correctional Association, because officials will be able to cite their need for funds to comply with the new standards.

He said that compliance with the standards, which have been endorsed by the American Bar Association, the American Medical Association and the Commission for Uniform State Laws, "will show to the public that the corrections field has matured to the level of a profession."

The accreditation commission has more than 100 applications pending. In the last few weeks it has granted certification to community corrections agencies in Youngstown, Ohio; Washington; Cincinnati, and St. Louis, Mo., said Dr. Robert H. Fosen, the commission's director.

The New Jersey Parole Board has expressed interest in accreditation for facilities, and in Connecticut the chairman of the Department of Corrections, John Manson, has endorsed the idea. But in New York State, according to Jane Ferris, the accreditation commission's assistant director, only a private nonprofit agency that works with inmates, Volunteers of America, has thus far shown any interest.

OVERCROWDING IN PRISONS

The push for tough new standards and accreditation was fueled by a nationwide shift toward imposition of longer sentences. A result of that shift has been overcrowding in prisons, which now hold more than 425,000 inmates in institutions that authorities generally agree are capable of handling 325,000 to 375,000. Experts say that each week about 400 more people enter the nation's prisons than are discharged.

Such overcrowding often means unrest, especially since many activities and programs were cut in the first wave of disenchantment with the "new penology.'

Inmates have rioted in recent weeks in at least five prisons, including the Illinois State Penitentiary in Pontiac, Ill., where three guards were stabbed to death and three others were injured after inmates set fire to three buildings. In Reidsville, Ga., at the racially troubled state prison, two inmates and a guard who were taken hostage were stabbed to death last month.

The question of prison reform has been raised in various ways in many states.

ALABAMA

The impetus for changes in Alabama's prison system was a 1976 court order by Judge Frank M. Johnson of Federal District Court declaring conditions in the state's prisons unconstitutional. He set minimum standards—such as 60 square feet of living space per inmate, three "wholesome and nutritious" meals a day, and "meaningful educational, vocational and recreational programs"—to correct the conditions and ordered a 39-member human rights committee to monitor compliance.

While there has been some compliance, Alabama's prisons continue to be criticized. The state's $24 million allocation for its prison system is among the lowest in the country, and critics charge that, while the state Board of Corrections has made same effort since Judge Johnson's landmark ruling, education programs and living conditions continue to be substandard.

CALIFORNIA

While the state is strenuously pushing for the adoption of uniform standards and accredition, several prison systems, San Francisco's among them, have suffered from fiscal cuts in recent months. The passage in June of Proposition 13, the tax-cutting initiative, is expected to be especially harmful to prison funding. The Seventh Step Foundation, an innovative program that offered food, clothing and discussion sessions to inmates, has been discontinued. Grant Micken of San Francisco's Human Rights Commission contends that interest in civil rights issues has diminished significantly in recent years.

ILLINOIS

David Granley of the state's audit program says that officials nowadays rarely talk about "rehabilitation." The emphasis in Illinois now is on vocational programs that prepare a prisoner for earning a livelihood once he is released, although critics says there simply are not enough programs for the state's 8,000 prisoners.

LOUISIANA

Overcrowding, poor sanitation and allegations of brutal treatment have long afflicted the state's prisons, and there is virtually no effective monitoring of corrections practices. The director of the Louisiana Coalition of Jails and Prisons, John Vodicka, says rehabilitation programs are minimal and are worse than they were several years ago, despite court orders for improvement. Funds for several federally financed education and recreation programs have run out in the past year, and there seems little prospect of renewal.

"Rehabilitation?" asked Nina Sulzer, corrections supervisor for the Jefferson Parish prison system outside New Orleans. "We just don't use the word very much any more."

MICHIGAN

While the state's educational and vocational training programs for prisoners have been regarded highly, overcrowding continues to be a problem. Jackson Prison, near Grosse Pointe Farms, has 6,000 inmates and is believed to be one of the biggest in the world.

Even so, says William Kime, the state's deputy director of corrections, this prison and others in the state badly need additional buildings. Wayne County Jail officials have frequently been charged with brutality and other abuses.

OREGON

Prisoner representatives and corrections officials in Oregon say that in recent years the shift has been toward punishment, not rehabilitation. Last December, a group of 12 inmates filed a suit in the United States District Court in Portland, alleging that guards apply "cruel and unusual punishment," including torture. Although the suit has yet to come to trial, the state corrections division has produced new guidelines prohibiting the alleged abuses.

TEXAS

W. J. Estelle Jr., director of the Texas Department of Corrections, has been a consistent critic of the "new penology." and he acknowledges that his operation has "always been seen as a pretty conservative sort of outfit." He adds: "As far as we're concerned, we're going to use what we know works and we'll let somebody else use expensive programs."

Of the state's 24,000 inmates, 8,482 are taking college courses. The operating budget for the state prison system now exceeds $60 million a year, of which only $1 million goes into education programs. Little has been done with bilingual programs, despite the large numbers of Spanish-speaking prisoners in Texas, and there have never been any programs in such areas as black studies.

WISCONSIN

Prison reform has become a major issue in the gubernatorial race Barbara Kahn, a state legislative aide, said: "We are having strikes and hostage-taking in our prison institutions, not just because of cutbacks on programs instiuted before. The problem is that many measures introduced were implemented only half-way." There is also criticism in the state Legislature that the Department of Corrections is slow to implement legislative mandates for reforms. Critics have cited serious flaws in work and educational programs within correctional institutions, and now there are vocal demands for inspections and stricter standards.

ESTES KEFAUVER

Mr. SASSER. Mr. President, I rise tc pay tribute to a fellow Tennessean who rose to national prominence as one of the foremost contemporary champions of the working people. This day, August 10, 1978, is the 15th anniversary of the death of Senator Estes Kefauver. This great man has already become a legend for his fights on behalf of the "little people" against organized crime and special interests.

I have written President Carter asking that the Post Office issue a commemorative stamp honoring Senator Estes Kefauver. I hope that my Senate colleagues, some of whom were Estes' colleagues as well, will join me in urging that this be done.

Estes was my friend. In his last campaign for the Senate in 1960, I was his regional youth director. Knowing him, and following his career, helped spark my own interest in running for the Senate in 1976. But it really was not unusual that Estes Kefauver should have been my friend. He was the personal friend of so many thousands of people throughout the Nation.

Many of his friends still remember Estes' coonskin cap, his warm handshake and his friendly grin. More people also still remember that there was a substance to his populist image that went far beyond such folksy symbols.

Estes Kefauver won election to the Senate by beating an entrenched Tennessee political organization, and effectively represented the people of his State for almost 15 years. He first came to national prominence through the televised Kefauver committee investigations of organized crime. In later Senate hearings, he hammered away at oil cartels, pharmaceutical monopolies, and big business trusts. He successfully halted a private utilities' deal aimed at crippling the Tennessee Valley Authority, which has been a boon to the economy of the Southeast.

Estes was a major crusader for the preservation of competition in the marketplace because he knew that the consumer benefits from competitive pricing. With his fights against the privileged interests on behalf of the average man, Senator Estes Kefauver's crusade for equity in the marketplace was a harbinger of the current emphasis on the consumer and the public interest.

In Tennessee, Estes won his elections by tireless personal campaigning in small towns and on courthouse squares. He kept in touch with thousands of Tennesseans regularly by letter and telephone.

His personal campaign style became a national trademark when he ran for President of the United States. In 1952, Estes won 14 of 17 Presidential preference primaries. In 1956, largely because of his popular support, Estes was the Vice-Presidential nominee for his party.

Estes Kefauver was born in the shadow of the Smoky Mountains and he grew up in a small town. I think one of the most important attributes to this great man is that he never lost that small town concern for and interest in other people.

He came a long way in his public career but the Senate investigations he chaired, and his national campaigns all reflected his humanity and his interest in the welfare of his fellow human beings.

I am proud to have been one of Estes' many friends, proud of the role I played in his last, hard fought, campaign for the Senate and proud that I have the opportunity to represent the people of Tennessee as he did. I think that we all could seek to emulate his concern for the average man as we go about our legislative duties here in the U.S. Senate.

BUREAUCRATIC FRUSTRATION

Mr. HELMS. Mr. President, I recently received a letter from a constituent in Pineville, N.C., who described his frustrating experience with the Department of Housing and Urban Development.

Mr. Tommy L. Therrell of Lee Drywall, Inc., a small construction firm, related his first, and probably his last, encounter with a federally funded job.

This company operates in the southern piedmont section of North Carolina and has a well-earned reputation for the quality of its construction work. The company was called in to complete a drywall project because the previous subcontractor had walked off the job. Mr. Therrell was told by the Department of Housing and Urban Development that the job must be first class, and that there was a time limitation. Also, the project was subject to inspection and approval by the architect, as well as HUD.

Mr. Therrell went on to explain that the work required thoroughly experienced personnel which were difficult to find because of a recent building boom in the area.

With the company prepared to commence work and the contract finalized, HUD sent Mr. Therrell a letter listing a set of guidelines with seven items of information they wanted. Mr. Therrell estimates that it would take over 25 hours to compute this information—time, Mr. President he simply does not have.

However, as I read HUD's letter to Mr. Therrell, I hope my fellow colleagues will agree that HUD should be spending its time and our money in less foolish endeavors.

DEAR MR. THERRELL: This office has determined that you, as a contractor on the above project, are subject to the provisions of Executive Order 11246, as amended. The Order covers all Federally-assisted construction projects in excess of $10,000. It prohibits discrimination in employment on the basis of race, color, religion, national origin or sex.

This letter is to notify you that a compliance review will be conducted at 1:00 p.m. on June 27, 1978, at the Prime Contractor's Archdale Drive Trailer Office. The purpose of the review is to determine if you are in compliance with your equal employment obligations and are taking affirmative action to provide equal employment opportunity with the trade(s) you employ on the project.

An officer of the company empowered to make and discuss policy and to make commitments for corrective action, where necessary, should be present during this review.

The following information is to be assembled and presented at the time of the review with a copy for our records, as required.

1. A list of employees who worked in the skilled trade(s) since the beginning of the construction on the project. This list should show the name, address, date employment began, rate of pay, number of hours worked, job classification, racial or ethnic designation and sex of each.

2. A copy of the collective bargaining agreement(s) to which you are a party.

3. Davis-Bacon and other payroll records pertaining to the area. From the payrolls, please prepare a summary of minority/majority hours, by craft, for each month of the construction period.

4. Copies of fringe benefit reports for the covered period. Minorities and Females should be identified.

5. A copy of your signed contract of sub contract for the Federally-assisted project(s).

6. Copies of any contracts in excess of $10,000 received after the award date of this Federally-assisted project.

7. Documentation of your firm's efforts to implement the twelve (12) affirmative action steps for your project(s) now currently under construction. A copy of the good faith efforts is enclosed for your convenience.

Please ensure that all copies are legible.

Included as an essential part of the compliance revew is an on-site inspection of one of your sites. This will be done as the final part of the review process.

Request for additional information may be addressed to this office at (404) 881-7791. The compliance officer who will conduct the review is Leroy Neal.

Sincerely,

CHARLES E. CLARK,
Assistant Regional Administrator for Fair Housing and Equal Opportunity.

In this letter, Mr. President, HUD cites Executive Order 11246, as amended as justification for their prying. This order was purportedly intended to stop discrimination in areas involving Government contracts. I submit that HUD has overstepped itself by requiring this small business to meet these petty requests.

Now, Mr. President, these ridiculous requests by HUD are hindering productivity, increasing the cost of this project, and in my view, feeding the fires of inflation.

No wonder, Mr. President, that so many Americans feel they are paying taxes to finance a government that insists on working against them.

TAXPAYERS WEARY OF CETA

Mr. HELMS. Mr. President, one can hardly pick up a newspaper anywhere in the country without reading about a new and startling example of CETA funding abuse. It is no wonder that the Labor Department bureaucrats are expressing fears that Congress might consider reducing CETA appropriations. And if we really wanted to do something for the oppressed taxpayers of this country, we would curtail this massive boondoggle.

A story recently appeared in the Raleigh, N. C., News and Observer describing what has become an all too familiar CETA failure. It just happens that this particular blunder has cost the taxpayers $46,834. My constituents in North Carolina are outraged by abuses such as this and they know full well that such colossal blunders will continue in spite of our so-called reforms to the legislation.

I ask unanimous consent that the July 29, 1978, article from the News and Observer entitled "Weeds cover $46,834 CETA project at St. Aug's" as well as James J. Kilpatrick's excellent column, "The CETA boondoggle should be stopped," be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WEEDS COVER $46,834 CETA PROJECT AT ST. AUG'S

(By Cole C. Campbell and Johanna Seltz)

Laborers in Raleigh's federal jobs program worked 12 months and were paid $46,834 to clear and begin developing a nature garden and recreation area at St. Augustine's College.

Today, the 35-acre site stands undeveloped and overgrown.

The project, ranked second in priority

among all 1977–78 public service job projects in Raleigh's Comprehensive Employment and Training Act program, ended last month.

This week, it was criticized by Bryant A. Lindsey, a former administrative assistant in the Raleigh CETA office, in a letter sent to City Council.

Lindsey also disclosed that he had protested the project prior to its approval in a memorandum to CETA officials.

"We obviously winked at blatant misrepresentation within project proposals," Lindsey said in the memo, dated May 23, 1977.

"For example, St. Augustine's College does not need nine persons to work 12 months to develop 35 acres—those ground maintenance persons are either going to be idle a lot of the time or they are going to be doing routine maintenance for the college, in my opinion."

One major Raleigh contractor estimated in an interview Friday that it would take only about 30 days for nine men using hand tools to clear a tract such as the one at St. Augustine's, which took a year.

If the nine workers were paid the federal minimum wage of $2.65 and worked eight-hour days, the project would cost $5,724, according to the contractor.

Lawrence E. Wray Jr., Raleigh's intergovernmental coordinator who oversees CETA programs for Raleigh and Lee and Chatham and Johnston counties, said in an interview it was impossible to compare CETA projects with work done by private contractors.

"There's no comparison," he said, observing that CETA tries to find jobs for people who have poor motivation and poor working habits. He said the primary purpose of the public service projects was not the projects themselves but jobs provided for unemployed people.

"It's a program whereby folks can get some money for their family and get some food on the table for their children," Wray said.

Lawrence B. Bradley, building and grounds superintendent at St. Augustine's, said the clearing work was slow because the undergrowth was dense and the CETA workers inexperienced. There was also turnover among the crew, he said.

Workers took long breaks in hot weather to avoid heat prostration, he said. Whenever it rained or the temperature dropped below 40 degrees, work stopped altogether, he said.

On those days, the CETA workers did such things as maintenance work on equipment they used in the project, Bradley said.

Federal regulations prohibit agencies with CETA workers from using the workers to do jobs that an agency would normally do with its own staff.

Bradley said Monday the CETA crew did not do any regular college maintenance work. "The guidelines are very clear cut," he said.

However, J. Mills Holloway, St. Augustine's vice-president for financial affairs and Bradley's supervisor, said Friday, "Frankly, the fellows did mow grass in other sections of the campus. A fellow can't swing a blade all day . . . If that's a violation of regulations, I didn't know it."

Ruby D. Green, head of the Raleigh CETA office, said any irregularities in the St. Augustine's project should have been reported by Gail L. Manecio. As coordinator of CETA public service employment projects from October 1976 to June 1978, Mrs. Manecio monitored the projects, Miss Green said.

But Mrs. Manecio, who now lives in Charlotte, said in a telephone interview there was no monitoring of CETA projects.

"There were no guidelines to go by," Mrs. Manecio said. "There were never any procedures set up at all for monitoring projects. This is something that should have been done by the administration.

"I would visit job sites and ask the clients (CETA workers) things like, 'How are you doing?' or 'Are you having any problems?'

"Several times I inquired if I should be monitoring. But there was no system set up . . . I was told to just visit the projects."

Evaluation of a CETA project is done by the organization using the workers, Mrs. Manecio said. The organization reports how well it fulfilled its goals and the CETA staff reviews that evaluation, she said.

Asked about Mrs. Manecio's comments, Wray said his office had received no guidelines for monitoring from the U.S. Department of Labor, which supervises CETA.

Wray said Bradley would write an evaluation of St. Augustine's project soon.

"If it doesn't look right, we will have some conversations with people," Wray said. He said he had no plans to initiate an investigation.

Federal officials in the Labor Department's Atlanta office said that because CETA emphasizes local control, they would ask Wray about the St. Augustine's project before considering an investigation of their own.

"It is his responsibility to see that the goals are accomplished," said S. Hoyte Blackwell, regional CETA supervisor for North Carolina. "We will, of course, contact him and talk to him about that."

The St. Augustine's proposal submitted to CETA officials lists as objectives clearing trash and debris from the 35 acres as part of long-range development of a park and recreation area.

The proposal states that using CETA workers, "The College will be able to clear and landscape" 15 acres for a public mini-park and exercise trail and also will renovate several athletic fields and construct two baseball dugouts.

"These people weren't hired to build us a minipark or an exercise trail. They were hired to clear out debris," Wiley M. Davis, St. Augustine's vice president for administration, said in an interview Friday.

"Since they left, we have been in a growing season. Of course, it has been growing again," Davis said.

Davis said St. Augustine's would continue development of the facilities when the college found money to do it.

The college did not use the CETA workers to renovate the athletic fields or construct dug-outs because it decided to use a professional contractor for the work, he said.

The project was recommended by an advisory council for approval by the CETA executive committee, which is composed of representatives of the four governments.

William R. Knight, a member of the Raleigh City Council and assistant to the vice president for academic affairs at St. Augustine's, is a member of the advisory council.

Knight said advisory council members as a practice never voted on projects requested by the institutions they worked for. He said he was not present when the council approved the St. Augustine's project.

"I 'm not connected with any (CETA) project at St. Aug," Knight said.

Lindsey was Miss Green's administrative assistant at CETA, where he worked from October 1976 to August 1977. He resigned and currently is a doctoral candidate in adult education at N.C. State University.

Lindsey sent his 1977 memo criticizing the St. Augustine's project to Miss Green.

Asked about the memo Friday, Miss Green said Lindsey was not directly involved with public service job projects such as the one at St. Augustine's. She also said she was only responsible for day-to-day operations, not approving projects.

The CETA Boondoggle Should Be Stopped

(By James J. Kilpatrick)

Sometime this week, if everything goes on schedule, the House will take up the CETA Reauthorization Bill. The bill ought to be shouted down and stomped on. Instead, the bill is likely to be wafted toward the Senate on waves of hot air and good intentions. Barring a fullscale revolt, another $10 billion to $12 billion of your money is about to gurgle down the drain.

CETA is the Comprehensive Employment and Training Act of 1973. It is now set to expire Sept. 30. The pending bill would rewrite portions of the original act in an effort to prevent multiple abuses, and would extend the program for four more years.

The authors of this grotesque imposition on the taxpayers could not prevent abuses if they kept at the rewriting job till Christmas. Nothing in my experience—not food stamps, nor foreign aid, nor the old Job Corps, nor the follies of the arts and humanities people—nothing has approached the sheer mind-boggling, boondoggling waste and corruption of the CETA billions.

That is not even the worst that can be said of the program. The original idea was to train the hardcore unemployed for productive jobs in the private sector. The original idea was to rely upon public service jobs in local government only as temporary expedients.

Those original ideas have been reduced to imbecility. The act has done virtually nothing toward solving the problems of the hardcore unemployed—their plight is as pathetic as ever—but the act has provided some glorious new revenue-sharing for the municipalities.

What CETA has accomplished—about all it has accomplished—is to transfer a few hundred thousand jobs from the private sector of our economy to the public sector. This is marvelous, it it not?

In Massachusetts, newsman Warren T. Brookes has reported, between July 1974 and January 1978 government employment rose by 23,500 jobs (mostly CETA), while the state's private sector actually lost 26,700 jobs. The effect of the program is to damage the very private employers who in the past have supplied the most employment to marginal workers.

Brookes has some figures on CETA employment in public service. In May 1977, for example, Boston had 1,221 CETA jobs under the city government. By March 1978, the number had grown to 3,207. In New Bedford-Fall River, city jobs under CETA swelled from 402 to 2,106 in the same period. The jobs pay an average salary of $10,000, far above what an untrained 18-year-old could get in private employment, but the jobs have no permanence and few of them provide serious training.

Doubtless, the CETA outlays have helped some jobless men and women. It would be incredible, considering the billions that have been spent, if some persons had not been constructively assisted. But the program is riddled with abuse.

Here in Washington, a spendthrift District government used $480,000 in CETA funds (translation: your tax funds) to set up a massive bureaucracy staffed in large part by relatives and cronies of City Council members. The 56 CETA recipients on the council's payroll averaged $18,000 a year for jobs that paid only $8,571 in other government agencies.

Writing in Reader's Digest, Ralph Kinney Bennett chronicles other outlays of your money. There was the payment in Atlanta of $475 a month to a former leader of the Black Panthers just "to keep an eye on city, county, and state governments and their living off the masses." There was the $640,000 turned over to the Gay Community Service of Los Angeles, "to provide education about gay people's problems." Another $34,000 went to the Gay Alliance of Rochester, N.Y., to provide speakers at local campuses so that students could learn about homosexual lifestyles. And then there was the grant in Miami for a "nude sculpting workshop" in which naked men and women "ran hands

over one another's bodies . . . to help them discover that they had 'both male and female qualities.' "

There is no way—no way on earth—that this miserable boondoggle can be retrieved for socially useful purposes. The House amendments make some feeble gestures toward reform, but a close reading of the changes suggests that local sponsors will evade the tighter requirements with ease. The CETA program, launched with good intentions five years ago, has come to a woefully bad end. If the House has any regard for the people's taxes, the House will let CETA die right there.

ORDER TO CONVENE AT 9:30 A.M., MONDAY, AUGUST 14, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate convenes on Monday it convene following a recess at 9:30 a.m.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW AND FOR CONSIDERATION OF EDUCATION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:45 a.m. tomorrow and that at 10 a.m. the Senate resume consideration of the tuition tax credit bill.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Mr. President, reserving the right to object, I did not hear what was coming up.

Mr. ROBERT C. BYRD. I was simply asking that at 10 tomorrow morning; the Senate resume its consideration of the education bill which involves the tuition tax credit.

Mr. GOLDWATER. Mr. President, will the Senator yield.

Mr. ROBERT C. BYRD. I yield.

Mr. GOLDWATER. Because there will be a large number of absentees tomorrow, I am wondering——

Mr. ROBERT C. BYRD. Not on this side. We have five.

Mr. GOLDWATER. I have not completed my question.

Mr. ROBERT C. BYRD. I am sorry.

Mr. GOLDWATER. I am wondering if we could put off holding until Monday at a certain time on all amendments offered to that tax bill.

Mr. ROBERT C. BYRD. No. But I can assure the Senator that the vote on that particular amendment, the tuition tax credit, will not occur tomorrow. There may be other amendments to the bill.

Mr. GOLDWATER. I am interested in my amendment that does have a tax credit. That is $150 for public schools.

Mr. ROBERT C. BYRD. That would not occur tomorrow, but there may be some other amendments to the bill not dealing with tax credits that could be called up. Otherwise, I would hope that on tomorrow the Senate could proceed to discuss the bill and perhaps lay the bill aside temporarily and take up some other bill such as the D.C. appropriations bill, for example.

Mr. GOLDWATER. I have no objection.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the prayer tomorrow, the two leaders' time be limited to the remaining time between that point and the hour of 10 o'clock a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SUBWAY ROLLCALL CLOCK

Mr. ROBERT C. BYRD. Mr. President, the clock at the Capitol end of the subway has been out of commission for some time. It is now again in working order starting today, August 10.

Its purpose was to alert Senators of the time remaining on votes. When the votes start the clock will register the full allotted time of the vote or, in other words, 15 minutes on a rollcall vote so the clock would register the full allotted time, 15 minutes, to wit, for the standard 15-minute vote. If we reduce that number to a 10-minute vote, the time for a 10-minute rollcall vote, then the clock would start at 10 minutes and work itself down so that Senators, when they reach the subway, can see exactly how many minutes remain. So the time remaining on a vote will then be indicated on that clock.

I thought I ought to announce that important development.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I would hope there would be rollcall votes tomorrow—on issues, not just to have rollcall votes. I say this to alert Members that tomorrow is not a day out of school. We are going to proceed tomorrow to the tuition tax credit bill. I would hope other measures could be called up tomorrow and disposed of.

We have only 37 working days left, not including Saturdays or the legislative holiday which will come around Labor Day. But if we run out of gas tomorrow on the discussion of amendments to the tuition tax credit bill, I would hope the Senate would be able to shift to something else that the Senate could act on.

I am thinking about the D.C. appropriation bill. I do not know whether we can get the 3-day rule waived or not. I would hope we could do that, and proceed with that measure. At any rate, I would hope we can take up some other legislation tomorrow, in the event that we run out of gas on the tuition tax credit bill, so that the Senate could accomplish something on Friday.

So I hope Senators will not schedule trips out of town under the illusion that there will be no rollcall votes tomorrow. We might even have D.C. representation up tomorrow. Senator KENNEDY wants that measure up, I want it up, and we are going to get it up at some point; and I hope we can get cloture on it.

RECESS TO 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 6:16 p.m., the Senate recessed until tomorrow, Friday, August 11, 1978, at 9:45 a.m.

NOMINATION

Executive nomination received by the Senate August 10, 1978:

DEPARTMENT OF JUSTICE

William E. Pitt, of Utah, to be U.S. marshal for the district of Utah for the term of 4 years, vice Royal K. Buttars, term expired.

HOUSE OF REPRESENTATIVES—*Thursday, August 10, 1978*

The House met at 10 o'clock a.m.

Rev. Edward Bradley Lewis, Capitol Hill United Methodist Church, Washington, D.C., offered the following prayer:

O Lord, our God, how marvelous it is this morning to feel and know Your spirit is with us according to our faith. Today is the first day of the rest of our lives, help us to make the best use of it. We are not alone. You are with us.

How wonderful it is to have the opportunity to pray and receive strength. Bless and strengthen the Members of the House of Representatives and all leaders of this Nation.

How great it is, O Lord, to know that forgiveness can be ours by Your love. Transform us in an hour of need in our world.

In days of international stress guide us as a nation. Empower world leaders in ways of justice and peace in a late hour. We pray in the Master's name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its Clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12932. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 12932) entitled "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BYRD of West Virginia, Mr. HOLLINGS, Mr. BAYH, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, Mr. DECONCINI, Mr. BURDICK, Mr. STEVENS, Mr. YOUNG, Mr. HATFIELD of Oregon, and Mr. BELLMON to be the conferees on the part of the Senate.

REV. EDWARD BRADLEY LEWIS

(Mr. STEERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEERS. Mr. Speaker, it is my great privilege to have Dr. Edward Bradley Lewis with us today to offer the opening prayer.

Dr. Lewis is an old friend of the Congress, having served several years as the Chaplain of the Senate. He has many friends among us and we appreciate his taking the time to share his thoughts with us today. He has our best wishes on the trip he is starting tomorrow to the Far East where he has been invited to speak in Tokyo, Hong Kong, and Bangkok. Happy landings and come back again often.

FAILURE TO PROVIDE FOR ROLLBACK OF SOCIAL SECURITY TAXES

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, last evening we witnessed a display of arrogance of power. The Rules Committee has recommended a bill here failing to provide for a rollback of social security taxes despite the fact that 198 Members of the U.S. Congress have indicated that they favor such a rollback.

The Democratic Caucus met here in this Chamber and voted 3 to 1 recommending a rollback in social security taxes. Yet we find a rule coming out of the Rules Committee that prevents this House from working its will on this matter.

I say there is a lack of courage in the U.S. Congress in failing to allow this House to work its will on such an important matter. Today we have throughout this country a proliferation of strikes, labor disorders, and a rising unemployment rate to over 6 percent.

We can have a recession on our hands in 1979 unless we do something about the payroll taxes. We have got the chance to do it and it is only an arrogant use of power that would prevent a vote of that type, and I condemn that arrogant use of power.

PROPOSAL TO CORRECT INEQUITIES IN CHAMPVA AND CHAMPUS PROGRAMS

(Mr. SIKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKES. Mr. Speaker, it may come as a surprise to many of my colleagues to learn that medical benefits under the civilian health and medical program of the Veterans' Administration (CHAMPVA) are denied those individuals whose husbands or wives were killed in action or who died while on active duty. Because of a quirk in the present statute, those deceased members of the Armed Forces never achieved a veteran's status for purposes of CHAMPVA benefits for their dependents. Yet, such service personnel are considered veterans for purposes of other benefits for their dependents from the Veterans' Administration.

Normally, surviving spouses of members of the Armed Forces are provided medical care under the civilian health and medical program of the uniformed services (CHAMPUS). However, under this program—unlike the CHAMPVA program—surviving spouses of military personnel who remarry and then subsequently obtain a divorce or are widowed cannot have their eligibility reinstated for medical benefits. Under the CHAMPVA program, reinstatement is permitted.

As a result, I am today introducing two bills which will correct the inequities in the CHAMPVA and CHAMPUS programs. My first bill amends title 38, United States Code, to provide that a member of the Armed Forces who dies while on active duty shall be considered to be a veteran for purposes of medical care under the CHAMPVA program. My second proposal provides reinstatement in the CHAMPUS program for surviving spouses of members of the Armed Forces who remarry and then subsequently obtain a divorce or are widowed.

It is my sincere hope this Congress will act favorably on one or the other of these measures. Either will correct the problem. The number of individuals affected is approximately 9,500. Obviously, a situation involving this many people should be corrected.

"OUTREACH" RADIO BROADCASTS

(Mr. EILBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EILBERG. Mr. Speaker, very recently the Immigration and Naturalization Service has commenced a series of radio broadcasts to advise illegal aliens of the various immigration benefits and constitutional protections which may be available to them.

The messages also advise foreign visitors and students of the possibility of their being permitted to remain in the country permanently; illegal aliens of their constitutional right; and all aliens of their right to institute lawsuits in U.S. courts.

I question the need for these broadcasts. I am concerned that they may encourage unnecessary litigation, raise false expectations among illegal aliens, and increase the flow of illegals across our southwest border. The broadcasts will undoubtedly cause great confusion, as well as create an administrative strain on an already-overburdened Immigration Service.

Mr. Speaker, I am concerned about the legality of the expenditure of the American taxpayer's dollar in this manner and suggest that this money might be better spent to improve INS' enforcement and service to the public functions.

APPOINTMENT OF CONFEREES ON H.R. 12932, DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS, 1979

Mr. YATES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12932) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. YATES, MCKAY, LONG of Maryland, EVANS of Colorado, MURTHA, DUNCAN of Oregon, DICKS, CHARLES WILSON of Texas, WHITTEN, MAHON, MCDADE, REGULA, ARMSTRONG, and CEDERBERG.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 13467, SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1978

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 13467), making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CRITICISM OF RULE ON TAX BILL

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I deplore the action taken by the Committee on Rules in granting a rule on the tax bill which grants to the minority side an unfettered right to offer what we understand will be a calamitously inflationary provision based on the Kemp-Roth bill, and denying to the majority the right to consider a rollback of the social security taxes which the majority has supported overwhelmingly. I strongly urge defeat of the previous question on the rule.

I would also like to express my concern at the action taken by the Committee on Rules by an 8 to 7 vote to refuse to consider tax credits for solar equipment and conservation which have been overwhelmingly approved by the House and are presently bottled up in the energy conference. And 103 Members recently wrote the chairman of the Ways and Means Committee asking that these credits be brought to the House immediately and separately.

The solar industry is being destroyed by having hung over its head the promise of a tax credit which has not been delivered. In fact, 50 small businesses in the solar energy field, many of which have been pioneers in this field, have gone out of business since the beginning of the year. A survey made by the Department of Energy indicates that the prime reason for the financial trouble in the solar industry is that the tax credit which was promised has not been delivered.

I am very pleased that the Speaker has committed himself to bring the solar and conservation tax credits to the House before the end of this session, but I hope it will be soon. Otherwise, it may be too late. The promise to the American people will not be kept, and it will be a devastating blow to the solar industry. It will deprive the country of energy savings and jobs which might otherwise be achieved.

I hope all Members will express their concern to the leadership that the solar and conservation tax credits be voted upon separately at the earliest possible date. Continuing to hold them hostage to the COET tax will be unproductive as it has been for the past 15 months and risks passage of these important credits altogether.

TO ESTABLISH UNIFORMITY IN FEDERAL EMPLOYEE HEALTH BENEFITS AND COVERAGE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2931) to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage provided pursuant to contracts made under such chapter by preempting State or local laws pertaining to such benefits and coverage which are inconsistent with such contracts, with Senate amendments thereto, and concur in Senate amendments numbered 1 and 2, concur in Senate amendments numbered 3 and 4 with amendments, and concur in the Senate amendment to the title, with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 7, after "(m)" insert: (1)

Page 2, line 5, strike out "provisions."." and insert "provisions.".

Page 2, after line 5, insert:

"(2)(A) Notwithstanding the provisions of paragraph (1), if a contract under this chapter provides for the provision of, the payment for, or the reimbursement of the cost of health services for the care and treatment of any particular health condition other than a mental health condition, the carrier shall provide, pay, or reimburse for any such health service properly provided by a person licensed under State law to provide such service.

"(B) The provisions of this paragraph shall not apply to group practice prepayment plans.".

Page 2, after line 5, insert:

SEC. 2. Section 8901(8) of title 5, United States Code, is amended by striking out "before January 1, 1964" and inserting in lieu thereof "after December 31, 1978, and before January 1, 1980".

Amend the title to read as follows: "An Act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain inconsistent State or local laws while recognizing the rights of States to determine who is to provide health services, and for other purposes.".

The Clerk read the House amendments to Senate amendments numbered 3 and 4, as follows:

Strike out the matter proposed to be inserted by Senate amendment numbered (3) and insert in lieu thereof the following:

"(2)(A) Notwithstanding the provisions of paragraph (1) of this subsection, if a contract under this chapter provides for the provision of, the payment for, or the reimbursement of the cost of health services for the care and treatment of any particular health condition, the carrier shall provide, pay, or reimburse up to the limits of its contract for any such health service properly provided by any person licensed under State law to provide such service if such service is provided to an individual covered by such contract who is a member of a medically underserved population (within the meaning of section 1302(7) of the Public Health Service Act (42 U.S.C. 300e–17)).

"(B) The provisions of subparagraph (A) shall not apply to contracts entered into providing prepayment plans described in section 8903(4) of this title.".

After the matter proposed to be inserted by Senate amendment numbered 4, insert the following:

"SEC. 3. The provisions of section 8902(m)(2) of title 5, United States Code, as added by the first section of this Act, shall apply to services provided under any contract entered into or renewed after December 31, 1979; except that such provisions shall not apply to services provided after December 31, 1984."

The Clerk read the House amendment to the Senate amendment to the title, as follows:

Amend the title so as to read: "An Act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage by preempting certain State or local laws which are inconsistent with such contracts, and for other purposes.".

Mrs. SPELLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentlewoman from Maryland?

There was no objection.

A motion to reconsider was laid on the table.

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976 AUTHORIZATION DURING FISCAL YEARS 1979, 1980, AND 1981

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10732) to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981 with a Senate amendment to the House amendment to the Senate amendments, and concur in the Senate amendment to the House amendment to the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendment to the House amendment to the Senate amendments as follows:

In lieu of the matter proposed to be inserted by the House engrossed amendment, insert:

SEC. 2. (a) Section 2(a)(7) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801(a)(7)) is amended by striking out "United States fishermen" and inserting in lieu thereof "the United States fishing industry".

(b) Section 2(b)(6) of such Act (16 U.S.C. 1801(b)(6)) is amended by inserting immediately after "development" the following: "by the United States fishing industry".

SEC. 3. Section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802) is amended by redesignating paragraph (25) as paragraph (27), and by inserting the following new paragraphs immediately after paragraph (24):

"(25) The term 'United States fish processors' means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

"(26) The term 'United States harvested fish' means fish caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented.".

SEC. 4. Title II of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1821–1825) is amended as follows:

(1) Section 201(a)(2) is amended by striking "(f)" and inserting in lieu thereof "(g)".

(2) Section 201(c)(3) is amended by striking out "exceed" and inserting in lieu there-

of "harvest an amount of fish which exceeds".

(3) Section 201 is amended by redesignating subsections (f) and (g) as (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) FOREIGN ALLOCATION REPORT.—The Secretary of the Treasury, in cooperation with the Secretary and the Secretary of State, shall prepare and submit a report to the Congress and the President, not later than July 1 of each year, setting forth—

"(1) a list of species of all allocations made to foreign nations pursuant to subsection (e) and all permits issued pursuant to section 204(b)(6)(B); and

"(2) all tariff and nontariff trade barriers imposed by such nations on the importation of such species from the United States.".

(5) Section 201(h)(1), as redesignated by paragraph (2), is amended to read as follows:

"(1) shall contain a preliminary description of the fishery and a preliminary determination as to—

"(A) the optimum yield for such fishery;

"(B) when appropriate, the capacity and extent to which United States fish processors will process that portion of such optimum yield that will be harvested by vessels of the United States; and

"(C) the total allowable level of foreign fishing with respect to such fishery;".

(5) Section 204(b)(3) is amended—

(A) by amending subparagraph (D) to read as follows:

"(D) the estimated amount or tonnage of fish which will be caught, taken, or harvested in each such fishery by each such vessel during the time the permit is in force;",

(B) by redesignating subparagraph (E) as subparagraph (F), and

(C) by inserting immediately after subparagraph (D) the following new subparagraph:

"(E) the amount or tonnage of United States harvested fish, if any, which each such vessel proposes to receive at sea from vessels of the United States; and".

(6) Section 204(b)(4) is amended by striking out "such application in the Federal Register and" and inserting in lieu thereof "a notice of receipt of the application in the Federal Register. Any such notice shall summarize the contents of the applications from each nation included therein with respect to the matters described in paragraph (3) and shall be set forth under the name of each Council to which it will be transmitted for comment. The Secretary of State".

(7) Section 204(b)(6) is amended—

(A) by inserting "(A)" before "After" in the first sentence thereof,

(B) by inserting ", subject to subparagraph (B)," immediately after "may approve" in the second sentence thereof, and

(C) by adding at the end thereof the following new subparagraph:

"(B)(i) In the case of any application which specifies that one or more foreign fishing vessels propose to receive at sea United States harvested fish from vessels of the United States, the Secretary may approve the application unless the Secretary determines, on the basis of the views, recommendations, and comments referred to in subparagraph (A) and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned.

"(ii) The amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors.

"(iii) In deciding whether to approve any application under this subparagraph, the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate.".

(8) Section 204(b)(7) is amended by redesignating subparagraph (D) as subparagraph (F), and inserting immediately after subparagraph (C) the following new subparagraphs:

"(D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B), the restriction that the foreign fishing vessel may not receive at sea United States harvested fish from vessels of the United States.

"(E) If the permit is issued pursuant to an application approved under paragraph (6)(B), the maximum amount or tonnage of United States harvested fish which may be received at sea from vessels of the United States.".

SEC. 5. Title III of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1851–1861) is amended as follows:

(1) Section 302(h)(5) is amended by inserting "the capacity and extent to which United States fish processors will process United States harvested fish from," immediately after "from,".

(2) Section 303(a)(4) is amended—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof ", and" and

(C) by adding at the end thereof the following new subparagraph:

"(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States; and".

(3) Section 303(a)(5) is amended by striking out "and number of hauls." and inserting in lieu thereof "number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors.".

(4) Section 307 is amended—

(A) by striking out "and" at the end of paragraph (1)(H);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer directly or indirectly, or attempt to so transfer, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the fishery conservation zone, unless the foreign fishing vessel has been issued a permit under section 204 which authorizes the receipt by such vessel of United States harvested fish of the species concerned.".

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the House amendment to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from New York?

Mr. FORSYTHE. Mr. Speaker, reserve the right to object, I would like to ask the gentleman from New York a few questions pertaining to what the Senate did to the earlier House-passed bill. It is my understanding that the Senate made two major amendments to the House measure. First, they amended the findings and purposes of the Fishery Conservation and Management Act to clarify the Congressional intent that the entire U.S. fishing industry, not just the harvesting segment of the industry, should be benefited by the act's assertion of extended jurisdiction. Second, they added a provision to the bill requiring the Secretary of the Treasury, in cooperation with the Secretaries of Commerce and State, to report annually to the Congress and the President on all allocations of U.S. fish to foreign nations and all tariff and nontariff trade barriers imposed by such nations on the importation of such species from the United States. Is my understanding correct?

Mr. MURPHY of New York. The gentleman is correct.

Mr. Speaker, I wish to clarify one technical point associated with the legislation. In the course of our discussions of the bill, some question was raised about whether the definition of "fishing" under section 3 of the FCMA includes "processing." This question is important because the FCMA uses the term "fishing" so that the statute applies to the processing industry in some situations only if "fishing" includes processing. As originally reported, the House bill would have amended the FCMA to make clear that fishing does include processing fish at sea for human consumption or commercial use by any method including freezing, cooking, canning, smoking, salting or drying. The Senate bill would have achieved a similar result by adding a new definition of processing in the FCMA and extensively amending the FCMA to conform to the dual definition.

In the end, we decided to leave the FCMA definitions unchanged on this point while, at the same time, making clear the act was intended to benefit the entire fishing industry. I want to emphasize that, even though the final bill does not include the House clarification, it is the understanding of the House that "fishing" in section 3 of the FCMA does include "processing" and that, for that reason, the proposed clarification is unnecessary.

I would like to commend the gentleman from Oregon for clarifying this point for us.

Mr. Speaker, H.R. 10732 passed the House on April 10, 1978. As it originally passed the House, H.R. 10732 would extend the funding authorization under the Fishery Conservation and Management Act of 1976 for an additional 3 years at a level of funding of $40 million for fiscal year 1979 and $45 million for each of fiscal years 1980 and 1981

Mr. Speaker, on June 14, 1978, the Senate agreed to the bill as it passed the House, with amendments, to provide as follows:

First, it reduced from $40 million to $30 million the funding authorization for fiscal year 1979 and eliminated the

funding authorizations for fiscal years 1980 and 1981.

Second, it added language to the bill to make it clear that it is the intent of the Congress to develop not only our fish harvesting capability but our fish processing capability as well. In carrying out this intent, the Senate amendments would allow the Secretary of Commerce to approve a foreign permit application for the purchase of U.S. harvested fish for processing at sea only if U.S. fish processors do not have the capacity, or will not utilize their capacity, to process all of such fish from the fishery concerned. In other words, U.S. fish processors would be given a preference to fish caught by U.S. fishing vessels and the Secretary could approve an application permitting foreign processing at sea of any of such U.S. harvested fish but only for the excess fish which will not be utilized by U.S. fish processors.

Mr. Speaker, on July 11, 1978, the House concurred in the Senate amendments to the bill, with an amendment.

The amendment had the effect of agreeing to the Senate version of the bill, which limited the funding authorization of the act to a period of 1 year.

In addition, it rewrote the remainder of the bill which would provide a preference to U.S. fish processors to U.S. harvested fish. The language for this purpose was taken from H.R. 13340, a bill which was laid on the table after it passed the House immediately prior to the House's passing of H.R. 10732, as amended, on the same day, July 11, 1978. This language had the effect of reaching the same result as the Senate amendment but approached the result in an entirely different manner.

Mr. Speaker, since the 18th of last month the staffs of the House Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science, and Transportation have been working toward resolving the differences between the two versions of this provision. Compromise language has been worked out to which both committees agree, and the House is being asked today to agree to such language which was agreed to by the Senate last Friday, August 4.

Briefly explained, the compromise language makes it clear that it is the intent of the Congress to encourage the development by the U.S. fishing industry, in particular by U.S. fishermen and by U.S. fish processors, of the currently underutilized fisheries off the United States.

In addition, the compromise language would give a preference to U.S. fish processors of U.S. harvested fish and it would authorize the Secretary to allow U.S. fishermen to transfer at sea to foreign fishing vessels only the excess of such fish that the Secretary has determined that would not be utilized by U.S. fish processors. It is to be noted that the compromise language would make it unlawful for U.S. fishermen to transfer U.S. harvested fish at sea to a foreign fishing vessel for any purpose except when such transfer relates to excess fish to which the foreign vessel has been issued a permit authorizing the receipt of such fish.

Finally, the compromise language contains a provision which would require the Secretary of Treasury, in cooperation with the Secretaries of Commerce and State, to prepare and submit to the Congress and the President an annual report setting forth a list by species of all allocations made to foreign nations by the Secretary of State and of all permits issued by the Secretary of Commerce authorizing receipt of any excess harvested fish by the vessels of such foreign nations, and all tariff and nontariff trade barriers imposed by such nations on the importation of such species from the United States.

Mr. Speaker, the compromise language is germane to the bill and it would not result in any additional cost to the Federal Government.

Mr. FORSYTHE. Further reserving the right to object, Mr. Speaker—and I will not object—I think this is a very beneficial piece of legislation for the fishing industry, in particular the American fish processors. I, therefore, urge its adoption.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York to dispense with further reading of the Senate amendment to the House amendment to the Senate amendment?

There was no objection?

The SPEAKER. Is there objection to the initial request of the gentleman from New York?

There was no objection.

A motion to reconsider was laid on the table.

DIRECTING THE CLERK TO MAKE CORRECTION IN ENROLLMENT OF H.R. 10732

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 687) directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 10732.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 687

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 10732) to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981, the Clerk of the House of Representatives shall strike out "paragraph (2)," in section 4(4) of the bill and insert in lieu thereof "paragraph (3),".

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

FISHERMEN'S PROTECTIVE ACT AMENDMENTS

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 10878) to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out line 6 to 9, inclusive, and insert: "1981".".

Page 2, strike out all beginning with line 1 over to and including line 8 on page 13.

The Clerk read the House amendments to the Senate amendments, as follows:

In lieu of the matter proposed to be inserted by Senate amendment numbered 1, insert the following: "1981; except that payments may be made under this section only to such extent and in such amounts as are provided in advance in appropriation Acts.".

In lieu of the matter proposed to be stricken out by Senate amendment numbered 2, insert the following:

SEC. 2. Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) by amending subsection (a) thereof—

(A) by inserting "(1)" immediately before "When", and

(B) by striking out the last sentence and inserting in lieu thereof the following:

"(2) When the Secretary of Commerce or the Secretary of the Interior finds that nationals of a foreign country, directly or indirectly, are engaging in trade or taking which diminishes the effectiveness of any international program for endangered or threatened species, the Secretary making such finding shall certify such fact to the President.

"(3) Upon receipt of any certification made under paragraph (1) or (2), the President may direct the Secretary of the Treasury to prohibit the bringing or the importation into the United States of fish products (if the certification is made under paragraph (1)) or wildlife products (if the certification is made under paragraph (2)) from the offending country for such duration as the President determines appropriate and to the extent that such prohibition is sanctioned by the General Agreement on Tariffs and Trade.";

(2) by amending subsection (b)—

(A) by inserting "or the Secretary of the Interior" immediately after "Secretary of Commerce", and

(B) by inserting "or wildlife products" immediately after "fish products" each place it appears therein;

(3) by amending subsection (c) by inserting "or wildlife products" immediately after "fish products";

(4) by amending subsection (d)(2) by inserting "and wildlife products" immediately after "fish products";

(5) by amending subsection (e)—

(A) by inserting "and wildlife products" immediately after "fish products" in paragraph (1) and the first sentence of paragraph (5),

(B) by inserting "or other conveyance" immediately after "vessel" in paragraph (4)(B), and

(C) by striking out "Any fish products" in the second sentence of paragraph (5) and inserting in lieu thereof "Fish products and wildlife products";

(6) by amending subsection (f) by striking out "is" and inserting in lieu thereof ", the Secretary of Commerce, and the Secretary of the Interior are each";

(7) by amending subsection (g)—

(A) by striking out "in force" in paragraph (3) and inserting in lieu thereof "in effect",

(B) by striking out "to which the United States is a signatory party," and inserting in lieu thereof "which is in force with respect to the United States,", and

(C) by adding at the end thereof the following:

"(5) The term "international program for endangered or threatened species' means any ban, restriction, regulation, or other measure in effect pursuant to a multilateral agreement which is in force with respect to the United States, the purpose of which is to protect endangered or threatened species of animals.

"(6) The term 'wildlife products' means fish (other than those to which paragraph (4) applies) and wild animals, and parts (including eggs) thereof, taken within an offending country and all products of any such fish and wild animals, or parts thereof, whether or not such products are packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof. Such term does not include any wild animal or fish if brought or imported into the United States for scientific research.

"(7) The term 'taking' means—

"(A) for purposes of subsection (a)(2)—

"(i) to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or

"(ii) to attempt to engage in any such conduct with respect to,

animals to which an international program for endangered or threatened species applies; and

"(B) for purposes of paragraph (6), any conduct described in subparagraph (A)(i), whether or not such conduct is legal under the laws of the offending country, undertaken with respect to any wild animal.".

SEC. 3. (a) Section 10 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980) is amended to read as follows:

"SEC. 10. (a) For purposes of this section—

"(1) The term 'fishery conservation zone', 'fishing', 'fishing vessel', 'Secretary', and 'vessel of the United States' shall each have the same respective meaning as is given to such terms in section 3 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802).

"(2) The term 'fishing gear' means any equipment or appurtenance which is necessary for the carrying out of fishing operations by a fishing vessel, whether or not such equipment or appurtenance is attached to such vessel.

"(3) The term 'fund' means the Fishing Vessel and Gear Damage Compensation Fund established under subsection (f).

"(b) Subject to the provisions of this section, the owner or operator (hereinafter referred to as the 'vessel owner') of any fishing vessel which is a vessel of the United States is eligible for monetary compensation under this section for any damage to, loss of, or destruction of such vessel, or any fishing gear used with such vessel, or both, if the damage, loss, or destruction—

"(1) occurs when such vessel is within, or such gear is being used for fishing within, the fishery conservation zone; and

"(2) is attributable—

"(A) in the case of such vessel, to any vessel (or its crew or fishing gear) other than a vessel of the United States, or

"(B) in the case of such fishing gear, to (i) any other vessel, whether such vessel is a vessel of the United States, or (ii) an act of God.

"(c) A vessel owner is not eligible for compensation under this section with respect to fishing vessel or fishing gear damage, loss, or destruction unless such owner—

"(1) makes application to the Secretary for compensation under this section within sixty days after the day on which the dam age, loss, or destruction occurred or was first noticed by the owner;

"(2) pays upon making such application a reasonable administrative fee which the Secretary shall deposit into the fund;

"(3) has, in such form as the Secretary shall prescribe by regulation, a current inventory or other evidence of possession of the fishing vessel or fishing gear concerned;

"(4) has complied with all applicable regulations, if any, relating to the marking of and (if appropriate) the notification of the location of, the fishing gear concerned; and

"(5) is in compliance with such other regulations as may be prescribed by the Secretary to carry out this section. "(d)(1) Application for compensation under this section shall be made in such form and manner, and include such documentation and other evidence relating to the cause and extent of the damage, loss, or destruction claimed, as the Secretary shall prescribe by regulation. The Secretary shall promptly, but not later than sixty days after receipt of an application, consider, and issue an initial determination with respect to, the application.

"(2) The amount of compensation awarded to any vessel owner under this section shall be—

"(A) determined on the basis of the depreciated replacement cost, or the repair cost, whichever cost is less, of the fishing vessel or fishing gear concerned;

"(B) proportionally reduced to the extent that evidence indicates that negligence by the vessel owner contributed to the cause or extent of the damage, loss, or destruction; and

"(C) reduced by the amount of compensation, if any, which the vessel owner has received or will receive with respect to the damage, loss, or destruction through insurance pursuant to any other provision of law, or otherwise.

"(3) The initial determination made by the Secretary under paragraph (1) with respect to any application shall—

"(A) if the application is disapproved, set forth the reasons therefor; or

"(B) if the application is approved, set forth the amount of compensation to which the applicant is entitled and the basis on which such amount was determined.

"(4) Any vessel owner who is aggrieved by any decision of the Secretary contained in the initial determination of the Secretary regarding such owner's application may, within thirty days after the date of issue of the initial determination, petition the Secretary for a review of the decision. If petition for review is not made to the Secretary within such thirty-day period regarding the initial determination, the initial determination shall be deemed to be the final determination on the application. Before undertaking any such review, the Secretary shall provide to the vessel owner opportunity to submit additional written or oral evidence relating to the decision. After review the Secretary shall issue a final determination with respect to the application.

"(5) If compensation is awarded under the final determination on any application, the Secretary shall promptly pay from the fund to such owner the amount of compensation stated in the final determination. Upon the acceptance of such payment by the vessel owner, the United States shall be subrogated to all rights of the vessel owner with respect to which the payment is made.

"(e) In addition to any fee imposed under section 204(b)(10) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1824(b)(10)) with respect to any foreign fishing vessel for any year after 1978, the Secretary shall impose a surcharge in an amount not to exceed 20 percent of the amount of the fee imposed under such section for such year. The failure to pay any surcharge imposed under this subsection with respect to any foreign fishing vessel shall be treated by the Secretary as a failure to pay the fee for such vessel under such section 204(b)(10).

"(f)(1) There is established in the Treasury of the United States the Fishing Vessel and Gear Damage Compensation Fund. The fund shall be available without fiscal year limitation as a revolving fund for the purposes of administering, and paying compensation awarded under, this section.

"(2) The fund shall consist of—

"(A) all sums recovered by the United States in the exercise of rights subrogated to it under subsection (d)(5);

"(B) all administrative fees collected under subsection (c)(2);

"(C) all surcharges collected under subsection (e);

"(D) revenues received from deposits or investments made under the last sentence of this paragraph; and

"(E) any revenue acquired through the issuance of obligations under paragraph (3). Sums may be expended from the fund only to such extent and in such amounts as are provided in advance in appropriation Acts. Sums in the funds which are not currently needed for the purpose of paying such awards shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(3) Whenever the amount in the fund is not sufficient to pay compensation under this section, the Secretary may issue, in an amount not to exceed $5,000,000, notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such notices or other obligations shall bear interest at a rate to be determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notices or other obligations. Moneys obtained by the Secretary under this paragraph shall be deposited in the fund and redemptions of any such notices or other obligations shall be made from the fund. The Secretary of the Treasury shall purchase any such notes or other obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The Secretary of the Treasury may sell any such notices or other obligations at such times and prices and upon such terms and conditions as he shall determine. All purchases, redemptions, and sales of such notes or other obligations by the Secretary of the Treasury shall be treated as public debt transactions of the United States. All borrowing authority contained herein shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(g) Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining compensation under this section is guilty of a

criminal offense and, upon conviction thereof, shall be punished by a fine of not more than $25,000, or by imprisonment for not more than one year, or both.".

(b) The amendment made by subsection (a) shall take effect January 1, 1979.

(c) Nothing in the amendment made by subsection (a) shall be construed as affecting in any manner or to any extent any loan made under section 10 of the Fishermen's Protective Act of 1967 (as in effect before January 1, 1979), and, for purposes of the consideration by the Secretary of Commerce of any application for a loan under such section which was filed, but not acted on, before January 1, 1979, the amendment made by subsection (a) shall not be deemed to have been enacted.

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the House amendments to the Senate amendments be dispensed with, and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. FORSYTHE. Reserving the right to object, Mr. Speaker, I would like to address a question to my colleague from New York. It is my understanding that the only substantive changes made by the Senate to the House-passed bill was with respect to the fishing gear damage compensation fund. Specifically. the Senate version of this legislation would require foreign fishing vessels to totally finance the modified no-fault compensation system rather than the 80–20 sharing in the House bill. Also, the Senate would extend the scope of the compensation system to U.S. fishing vessels damaged or destroyed operating within our 200-mile exclusive fishery zone, as well as to fishing gear. Is my understanding accurate?

Mr. MURPHY of New York. Mr. Speaker, the gentleman is correct in his statement, and the amendments to this bill are germane. They would result in no additional cost to the Federal budget.

Mr. Speaker, H.R. 10878 passed the House on April 10, 1978. As it passed the House, H.R. 10878 would do three things:

First, it would extend section 7 of the Fishermen's Protective Act for an additional 3 years, from October 1, 1978, to October 1, 1981. This is the provision that allows an American fishing vessel owner to voluntarily enter into an agreement with the Secretary of Commerce for the purpose of providing reimbursement for certain losses incurred resulting from an illegal seizure of such vessel by a foreign country, such as those involving damage to, destruction of, or confiscation of the vessel, fishing gear, or other equipment, confiscated or spoiled fish, and 50 percent of loss of fishing time during the detention period.

Second, H.R. 10878 would use—what is known as the Pelly amendment concept—to extend additional protection to endangered and threatened species of wildlife. In accomplishing this purpose, the bill would prohibit imports of any wildlife products from offending nations whenever the Secretary of the Interior or the Secretary of Commerce determines that wildlife products protected under the Convention on International Trade in Endangered Species of Wild Fauna and Flora are being shipped between two nations and that the actions of such nations are diminishing the effectiveness of an international program for endangered or threatened species.

Third, the bill would set up a modified no fault insurance program for reimbursing American fishermen for damage to their fishing gear caused by foreign or domestic vessels. The program would be financed as follows: 80 percent by foreign fishing vessels authorized to fish within our 200-mile fisheries zone; and 20 percent by American fishing vessel owners participating under the program.

Mr. Speaker, the Senate passed H.R. 10878 on May 22, 1978, with amendments, which had the effect of disagreeing with those provisions of the bill having to do with extending additional protection to wildlife and providing for reimbursement to American fishing vessel owners for damage to their fishing gear and agreeing with the provision that would provide reimbursement to American fishing vessel owners for losses incurred when their vessels are illegally seized.

Mr. Speaker, with a view toward avoiding a conference on this bill, the staffs of the House Committee on Merchant Marine and Fisheries and of the Senate Committee on Commerce, Science, and Transportation have worked out compromise language to which both committees agree, and the amendments to the bill which the House is being asked to concur in today incorporate that compromise language. The net effect of these amendments is to retain the language of the House version of the bill which would extend for 3 years the voluntary insurance program provided by section 7 of the Fishermen's Protective Act and which would extend the Pelly amendment concept to provide additional protection to wildlife.

The only provision of the House version of the bill that was rewritten has to do with the modified no fault insurance program. The major changes resulting from the rewrite of this provision would do three things:

First, it would extend the coverage of the program to include damage to the American vessel, as well as damages to the equipment.

Second, it would broaden the coverage of the program to cover damage to such vessels and equipment, occurring beyond the zone as well as within the zone, so long as such vessel is engaged in a fishery subject to the exclusive management authority of the United States, and the equipment is damaged while being used in fishing in such fishery.

Third, it would require foreign fishing vessels authorized to fish within our 200-mile fisheries zone to pay for the entire cost of the program, except for administrative costs, which would be paid for by American fishing vessel owners.

Mr. Speaker, the amendments to the bill are germane and they would not result in any additional costs to the Federal Government.

Mr. FORSYTHE. Mr. Speaker, further reserving the right to object, this is very important legislation, because it does provide protection to our fishermen from loss of fishing gear on their vessels when they are fishing in our extended zone.

Mr. Speaker, I withdraw my reservation of objection.

Mr. YATES. Mr. Speaker, reserving the right to object, is my understanding correct that the amendment provides for recompense to American fishermen fishing within the 200-mile zone by payments made from foreign fishermen?

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, yes; 80 percent of the payments would be from foreigners who would have damaged American vehicles in the House bill, as it originally passed.

Mr. FORSYTHE. Mr. Speaker, will the gentleman yield on that point?

Mr. YATES. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Speaker, I think it is 100 percent under the Senate amendment. There will be no recourse to the foreign fishermen by this measure.

Mr. YATES. Mr. Speaker, a further question: Is this true whether or not American fishermen were responsible for the loss of the gear?

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, that is taken into consideration by the board when it makes this determination and it is mitigated.

Furthermore in the compromise language in which the House is asked to agree with today, the foreign fishermen will pay for 100 percent of the cost of the insurance program, except for administrative costs which American fishermen will pay for.

Mr. YATES. Mr. Speaker, I withdraw my reservation of objections.

The SPEAKER. Is there objection to the request of the gentleman from New York (Mr. MURPHY) to dispense with the further reading of the House amendments to to the Senate amendments?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from New York (Mr. MURPHY)?

There was no objection.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 13511, REVENUE ACT OF 1978

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1306 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1306

Resolved, That upon the adoption of this resolution it shall be in order to move that

the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except the following amendments, which shall be in order any rule of the House to the contrary notwithstanding, shall not be subject to amendment except amendments recommended by the Committee on Ways and Means but shall be debatable as specified herein, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and shall only be considered in the following order except amendments recommended by the Committee on Ways and Means which shall be in order at any time in the Committee of the Whole: (1) the amendments recommended by the Committee on Ways and Means now printed in the bill (except for section 404); (2) the amendment recommended by the Committee on Ways and Means adding a new section 404, which may be debated not to exceed thirty minutes, equally divided and controlled by Representative Archer of Texas and another Member in opposition thereto to be designated by the chairman of the Committee on Ways and Means; (3) the amendment in the nature of a substitute printed in the Congressional Record of August 8 by, and if offered by, Representative Vanik of Ohio, which may be debated not to exceed thirty minutes equally divided and controlled by Representative Vanik and another Member in opposition thereto designated by the chairman of the Committee on Ways and Means; and (4) an amendment printed in the Congressional Record of August 7 by, and if offered by, Representative Corman of California, which may be debated not to exceed one hour equally divided and controlled by Representative Corman and another Member in opposition thereto designated by the chairman of the Committee on Ways and Means. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions on which the previous question shall be considered as ordered, but prior to the vote on said motion it shall be in order to debate said motion for not to exceed one hour, equally divided and controlled by the proponent of the motion and the chairman of the Committee on Ways and Means.

The SPEAKER. The gentleman from Illinois (Mr. MURPHY) will be recognized for 1 hour.

Mr. GIAIMO. Will the gentleman from Illinois yield?

Mr. MURPHY of Illinois. I yield to the gentleman from Connecticut.

MAKING IN ORDER CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 683, SECOND CONCURRENT RESOLUTION ON THE BUDGET, ON TUESDAY NEXT OR ANY DAY THEREAFTER

Mr. GIAIMO. Mr. Speaker, I ask unanimous consent that it may be in order on Tuesday next or any day thereafter to consider House Concurrent Resolution 683, the second concurrent budget resolution setting aggregates for fiscal year 1979.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

Mr. LATTA. Reserving the right to object, Mr. Speaker, I make this reservation to ask the chairman of the committee whether or not this means we will need to consider his pending request before the Committee on Rules this morning.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to the gentleman from Connecticut.

Mr. GIAIMO. It was our intention, as the gentleman knows, to get this unanimous-consent request approved earlier, and a request was made to withhold our request until we had a better idea of what the schedule would be for the remainder of the week. At that point, in order to protect our ability to bring the budget resolution to the floor, we asked the Committee on Rules for a hearing.

At that time we had another matter to bring up before the Committee on Rules which would deal with the matter of setting aggregates and tying aggregate changes into the relative functions where the changes would occur. We think that should be done. We believe that is a rules change that should take place in the budget procedure.

Because of the fact, however, that we have done this with relatively short notice, we want to protect every Member's right to have a chance to study the matter and to comment on it pro or con. We feel we can wait until we can suggest Budget Act changes later this year, looking forward to the next Congress.

So therefore, it would not be our intention to go before the Committee on Rules if we get unanimous consent to bring the budget resolution up next Tuesday or any day thereafter.

Mr. LATTA. And may I ask the gentleman, how about the second provision?

Mr. GIAIMO. I have just said that we would not go before the Committee on Rules.

Mr. LATTA. Mr. Speaker, knowing that the gentleman from Connecticut (Mr. GIAIMO) is a man of his word I withdraw my reservation.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

CALL OF THE HOUSE

Mr. BURKE of Massachusetts. Mr. Speaker, I move a call of the House.

The SPEAKER. Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 677]

Andrews, N.C.	Boggs	Coughlin
Archer	Brodhead	Dellums
Ashley	Cochran	Dent
Beilenson	Conyers	Diggs
Eckhardt	McCormack	Santini
Ertel	McDonald	Satterfield
Flowers	Martin	Scheuer
Fraser	Mathis	Sisk
Frey	Meyner	Stark
Harrington	Milford	Teague
Harsha	Miller, Calif.	Thompson
Heckler	Moorhead, Pa.	Tsongas
Krueger	Neal	Wiggins
LaFalce	Pressler	Young, Alaska
Le Fante	Risenhoover	Young, Tex.
Leggett	Rodino	
Lloyd, Tenn.	Roncalio	

The SPEAKER pro tempore (Mr. CHARLES H. WILSON of California). On this rollcall 383 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

REVENUE ACT OF 1978

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MURPHY) is recognized.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1306 provides for a modified closed rule providing for 2 hours of general debate, to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Ways and Means. The bill shall be considered as having been read for amendment under the 5-minute rule.

The rule provides that no amendment to the bill shall be in order except the amendments specifically mentioned in the rule and these amendments are not subject to amendment except by amendments recommended by the Committee on Ways and Means. The rule also provides for a waiver of all points of order against these amendments. The rule further provides that these amendments are not subject to a demand for a division of the question in the House or in the Committee of the Whole in order that the House may vote on each amendment as a unit. Pro forma amendments are not in order during the amendment stage. Where the Rules Committee chose to expand the debate time, it is specifically noted in the rule. The Rules Committee made four amendments specifically in order to be considered only in the following order except that amendments recommended by the Committee on Ways and Means are in order at any time in the Committee of the Whole.

First. The committee amendments now printed in the bill except for section 404, the Archer indexing amendment. Basically, the committee bill provides for a $16.3 billion tax cut, rate cuts for individuals in certain tax brackets, a 6-percent widening of existing brackets and an increase in the standard deduction as well as an increase in the personal exemption to $1,000. The bill recommended by the committee also makes permanent the earned income credit, provides for a targeted jobs credited and makes permanent the investment tax credit at 10 percent. The committee bill

significantly restructures capital gains taxes and adds several tax reductions to aid small businesses among other provisions.

The second amendment made in order by the Rules Committee is the Archer amendment which is an indexing amendment that permits inflation adjustment to be made on the sale of certain capital assets including stock, real property, and tangible property after 1979. The rule provides for 30 minutes of debate on the amendment, to be equally divided and controlled by Representative Archer of Texas and another Member in opposition to the amendment to be designated by the chairman of the Committee on Ways and Means.

The third amendment made in order by the Rules Committee is an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of August 8 by Representative VANIK. The rule provides for 30 minutes of debate on the amendment, to be equally divided and controlled by Representative VANIK and another Member in opposition to the amendment to be designated by the chairman of the Committee on Ways and Means. The Vanik substitute is a simple extension of the tax cuts which are due to expire by the end of 1978. In addition the Vanik substitute includes the earned income credit and the targeted jobs credit which are contained in the bill as reported out of the Committee on Ways and Means.

The fourth amendment that the Committee on Rules made in order is one printed in the CONGRESSIONAL RECORD on August 7 by Representative CORMAN. The Committee on Rules provided that this amendment should be debated for 1 hour with the time to be equally divided and controlled by Representative CORMAN and another Member. In opposition to the amendment designated by the chairman of the Committee on Ways and Means. Basically the amendment would increase the general tax credit from $35 to $100 and provide additional individual rate cuts. The personal exemption would however remain at $750 and tax brackets would remain the same. The Corman amendment would replace the committee's alternate minimum tax on capital gains with a new limitation on the present exclusion for capital gains. The amendment plus other provisions of the bill not affected by it would result in total tax cuts of $18.1 billion in 1979.

The rule further provides for one motion to recommit with or without instructions. I would like to point out to the Members of the House that the rule provides that this motion can be debated for 1 hour with the time equaly divided and controlled by the proponent of the motion and the chairman of the Committee on Ways and Means. Usually the total time allowed for a motion to recommit is 10 minutes. In this case the time was expanded to allow the proponents of Kemp-Roth ample time to discuss their proposal on the floor of the House.

I might also add that the Committee on Rules considered whether or not to allow the Gephardt amendment to be made in order. The Gephardt amendment would provide an income tax credit to both employees and employers equal to 5-percent of their social security payroll tax. The Gephardt amendment was estimated to add about $6 billion to the budget deficit. The Committee on Rules by a vote of 7 to 8 decided not to make this amendment in order. As one who voted not to make it in order, let me say that I feared that its adoption by the House would foreclose the much needed overhaul of the social security system that the chairman of the Ways and Means Committee has promised for the 96th Congress. Moreover, it would serve to further complicate the tax code since you would be collecting tax through the social security system and giving back part of it through another system—the income tax system. I feel that such a major proposal should not be tacked on as an amendment to an income tax bill.

Mr. Speaker, the Committee on Rules held 2 days of hearings on this bill. We heard many hours of testimony. I think that we granted a fair rule on a very complicated tax bill, and I urge the adoption of House Resolution 1306 in order that H.R. 13511 may be considered.

Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am opposed to this rule. I am opposed to it because it does not make in order the Gephardt amendment on social security. I hope the previous question will be voted down. If it is, I will have a substitute which will make it possible for the Members to vote on that very important Gephardt amendment.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at the outset of my remarks, I would like to commend the chairman of the Committee on Ways and Means and the ranking minority member of the Committee on Ways and Means, the gentleman from New York (Mr. CONABLE), and all members of the Committee on Ways and Means for the many, many hours, many, many days, and many, many weeks which they put in on this piece of legislation. I am particularly pleased that the committee adopted an amendment to increase the $750 per person exemption to $1,000. I have been introducing legislation to increase this exemption to $1,000 for the past several Congresses and I am pleased that the committee has seen fit to include it in the bill before us today.

I was somewhat disappointed, Mr. Speaker, when the request by the chairman of the Committee on Ways and Means to the Committee on Rules was not agreed to. By and large, when a chairman of a committee works out an understanding with the members of his committee and comes before the Committee on Rules and presents that request, the Committee on Rules will grant the rule as requested. Unfortunately, in this instance, a majority of the Committee on Rules decided not to grant the rule agreed upon by the Ways and Means Committee. I think that is probably one of the reasons we are in a state of confusion today.

Let me just briefly read what the chairman of the Committee on Ways and Means requested of the Committee on Rules and as agreed to by the committee itself.

I am authorized and directed by the Committee to request a modified open rule which would provide for:

(1) The following five amendments, which would not be subjected to amendment if printed in the CONGRESSIONAL RECORD and if offered on the floor:

(a) An amendment by Mr. KEMP to the individual tax rate reductions contained in Title I of the bill;

(b) An amendment by Mr. FISHER in the nature of a substitute for the reported bill, if such substitute conforms to the conceptual framework of the substitute offered by Mr. FISHER in the committee.

Today we do not have that proposition before us. We have the Fisher-Corman substitutue as worked out between the House and 1600 Pennsylvania Avenue.

(c) An amendment by Mr. CORMAN in the nature of a substitute for the reported bill, if such substitute conforms to the conceptual framework of the substitute offered by Mr. CORMAN in committee.

As I understand it, we do not have this proposition as requested by the chairman of the Committee on Ways and Means before the Committee on Rules.

(d) An amendment by Mr. VANIK and Mr. PICKLE in the nature of a substitute for the reported bill, if such substitute conforms to the conceptual framework of the substitute offered by Mr. VANIK and Mr. PICKLE in committee; and

(e) An amendment in the nature of a substitute for the reported bill embodying the text of H.R. 12078 which is the Administration's original tax reform and reduction proposal.

Two. Pro forma amendments to said amendments for purposes of debate on said amendments only.

Three. Committee amendments, which would not be subject to amendment.

Four. Four hours of general debate, to be equally divided"—we now have two hours in this rule.

Five. Waiving all necessary points of order; and

Six. One motion to recommit, with or without instructions.

Now let us take a look at what we have before us today. It is a modified closed rule. It prohibits all amendments to the bill with four exceptions in the rule. The amendments made in order will not be subject to further amendment except for the amendments recommended by the Committee on Ways and Means. In order to insure that each separate amendment is considered as a whole, the rule provides that each amendment will not be subject to a demand for division on the question. The rule specifies the order in which the amendments will be offered, except for amendments recommended by the Committee on Ways and Means which may be offered at any point during the amending process.

The first amendments which will be considered under this rule are the Committee on Ways and Means amendments

now printed in the bill, except for the amendment to section 404, which is the Archer amendment. These committee amendments may be debated for a total of 10 minutes each, 5 minutes for the amendment and 5 minutes against the amendment.

The second amendment which may be offered under this rule is the Committee on Ways and Means amendment to section 404. This is the Archer amendment. The Archer amendment indexes the basis of capital assets upward by the rate of inflation effective January 1, 1980.

In my humble judgment, Mr. Speaker, this may be the most important part of this bill because every American suffers from inflation. Under this amendment taxes will be paid only on capital gains after the inflation factor has been taken into account.

Under the current system a large part of capital gains tax is paid on inflation and not on real gain.

The Archer amendment will be debated for 30 minutes; half of the time will be controlled by the gentleman from Texas, Mr. ARCHER, and the other half by a Member in opposition to the amendment to be designated by the Chairman of the Committee on Ways and Means.

Mr. Speaker, the third amendment made in order by this rule is known as the Vanik-Pickle substitute. This amendment would extend through 1980 the temporary tax cuts which would otherwise expire December 31, 1978. This approach gives the taxpayers no break over what they had last year. Under the rule, this amendment would be debated for 30 minutes, with half the time controlled by the gentleman from Ohio (Mr. VANIK) and half the time to be controlled by a Member in opposition to the amendment, to be designated by the chairman of the Committee on Ways and Means.

The fourth amendment made in order by this rule is to be offered by the gentleman from California (Mr. CORMAN). I am informed this represents the latest administration proposal. The amendment would provide for a total tax reduction of $18.1 billion. It would apportion the tax cuts more toward the lower end of the income spectrum than does the committee bill and will again, in my humble judgment, short change the people in the middle-income brackets of the tax laws.

In addition, it provides more stringent capital gains treatment than the committee bill.

Mr. Speaker, under this rule this amendment may be debated for 1 hour; half the time controlled by the gentleman from California (Mr. CORMAN), and the other half will be controlled by a Member opposing the amendment, likewise designated by the chairman of the Committee on Ways and Means.

Mr. Speaker, this rule is noteworthy as much for what it fails to make in order as for what it makes in order. This rule does not specifically make in order the Kemp-Roth Republican tax cut proposal that we have heard so much about lately. Kemp-Roth, of which I am a cosponsor, would cut individual tax rates 10 percent a year for 3 years, for a total cut of 33⅓ percent.

While the rule does not specifically make the Kemp-Roth proposal in order, the rule does provide for a motion to recommit with or without instructions. It is possible to offer the Kemp-Roth proposal as a part of the motion. The rule provides for a total of 1 hour of debate on the motion to recommit. Half that time will be controlled by the proponent of the motion to recommit and the other half will be controlled by the chairman of the Committee on Ways and Means, or his designee.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I appreciate the gentleman yielding.

I am not happy with the rule to the extent that in the full and open debate in the Committee of the Whole there will not be, as I wanted and was agreed to, a full up-or-down vote on the Kemp-Roth amendment to the personal income tax rate aspect of this bill.

However, will the gentleman assure me that the motion to recommit will be a complete up-or-down vote, so that all the American people will have a clear view as to who is in favor of lowering tax rates and who, by definition, is in favor of raising tax rates by this amendment?

Mr. LATTA. Mr. Speaker, let me first in answer to my friend, the gentleman from New York, say that I will not be controlling the time on the motion to recommit. That will be controlled by the gentleman from New York (Mr. CONABLE).

Second, as the gentleman knows, on a motion to recommit we do not get a straight shot, so to speak, on the proposal. Some Members will be voting against the motion to recommit because they are just against motions to recommit and fearful that their votes may be interpreted on being against the bill. As a consequence, there is a general reluctance on the part of some Members to vote for a motion to recommit.

Mr. KEMP. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I am happy to yield.

Mr. KEMP. Mr. Speaker, if a motion to recommit is made with the Kemp-Roth amendment, with instructions to the committee to pass the Kemp-Roth 30-percent rate reduction over 3 years, would that not be interpreted as an up-or-down vote insofar as it is possible, given the constraints of this modified rule?

Mr. LATTA. Well, certainly from my interpretation, that would be correct.

As I say, I will have no control over the motion. Control will be in the hands of the gentleman from New York (Mr. CONABLE).

It is my understanding there was an unwritten agreement that the Kemp-Roth proposal would be contained in the motion to recommit.

Mr. KEMP. Mr. Speaker, if the gentleman will yield further, I have discussed this with the ranking minority Member, the gentleman from New York (Mr. CONABLE), and the gentleman has assured me that our motion to recommit will be with instructions to amend section 101 of the bill, that is the personal income tax side of the Ways and Means Committee bill, and add as not a substitute, but an amendment to that section for the Kemp-Roth personal rate reduction.

So I just want to assure everybody in the Chamber here that there will be, insofar as this Member is concerned, a clean, clear, up-or-down vote on where all Members stand as to lowering the rates on the American people or letting them go on up to astronomical proportions in the next 3 to 5 years.

Mr. LATTA. Mr. Speaker, I just want to reemphasize what I stated before. We never really get a perfectly clear shot at anything on a motion to recommit, because of the reluctance of some Members to vote for a motion to recommit. I would have preferred for the Rules Committee to have made Kemp-Roth in order as an amendment as requested by the Ways and Means Committee.

Mr. KEMP. The gentleman agrees, though, does he not, that, with instructions, it is a clear vote before the American people? And is that not what we seek?

Mr. LATTA. I will say that it is clear to me and the best we could get from a parliamentary standpoint. It will be in the motion to recommit, but I would have preferred, as the gentleman from New York would have preferred, making it in order as an amendment as requested.

Mr. DEVINE. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. DEVINE. Mr. Speaker, I am a little disturbed by what the gentleman said in his remarks about the rule.

Did the gentleman say that the contents of this bill indicate that it is aimed primarily at tax relief for low-income people, and that the middle- and upper-bracket taxpayers are not in fact going to get any relief hereunder?

Mr. LATTA. The gentleman has reference to the Corman-Fisher proposal?

Mr. DEVINE. Yes.

Mr. LATTA. The people in the middle-income bracket get less tax relief than they would under the committee bill, there is no question about that.

As I mentioned in the Committee on Rules, the Tax Foundation points out in its June–July issue that the people in the upper brackets and when they talk about the upper brackets, they are talking about people making $24,971 per annum or more, represent only 10 percent of the people but they are paying 50 percent of the income taxes. It is also interesting to note that 50 percent of our taxpayers earning $9,561 or more in 1976 paid 93.3 percent of all our income taxes. These are the people in need of tax relief.

Mr. DEVINE. Mr. Speaker, I suppose the bottom line of this is that as far as the taxpayers across the Nation are concerned, if this bill is ultimately enacted, they cannot expect a tax cut but in fact their tax next year on this year's income will be higher than it was last year, and that this could properly be described as a reduction in the rate of increase in taxes which has been caused by the increase in social security tax enacted by the majority of this House last year and caused by inflation.

Mr. LATTA. Mr. Speaker, I concur in what the gentleman is saying.

Let me point out that there are several amendments in this bill that will do just that. For example, as I pointed out before the Committee on Rules, there is an amendment in this bill that strikes out the $150 that one can now deduct for premiums paid on health and medical insurance.

The way this bill is written you would have to have 3 percent of your adjusted gross income going for medical bills and insurance for hospitalization before you could deduct anything. So most Americans are going to lose that $150 they can now deduct. If we take a person in the 50-percent income bracket, that means he must pay $75 more in taxes.

Then we also have a provision in here that strikes out the deduction for State and local gasoline taxes used for nonbusiness purposes.

So it is a question of who the individual taxpayer is and what his tax situation is as to how he is going to fare. We have seen a lot of charts, but they just take the average individual into consideration.

Mr. DEVINE. Mr. Speaker, if the gentleman will yield finally keeping in mind the philosophy of some on the idea of redistribution of wealth, would the gentleman say whether in his opinion the middle- and higher-income taxpayers next year will pay less or more than they paid this year?

Mr. LATTA. Well, as I say, it depends upon the individual and his tax bracket.

There are people in certain brackets under particular circumstances who will pay more tax, there is no question about that.

Mr. DEVINE. Mr. Speaker, I think that question should be answered today, and I thank the gentleman for yielding.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, to pursue the point that was brought up a moment ago, I wonder if I could ask the chairman of the committee if the minority offers, through the gentleman from New York (Mr. CONABLE) a motion to recommit that includes the concepts of the Kemp-Roth reduction in tax rates on personal income tax, and included the rest of the bill that the committee had worked on, the Kemp-Roth issue would in fact be very much a part and included in the motion to recommit; is that not correct?

Mr. ULLMAN. If the gentleman will yield, whatever recommittal motion the minority offers will involve a procedure that I think all of us are very familiar with, because it has happened many times in the House, where the House votes to recommit the bill back to the committee. That, in effect, is what the motion will be, to recommit the bill, as amended by the recommittal motion, back to the committee, with the instructions to report it forthwith to the House.

Mr. ROUSSELOT. Right.

Mr. ULLMAN. And, of course, then it would be reported forthwith back to the House. That is the standard procedure.

Mr. ROUSSELOT. The effect of that is an up-or-down vote on the inclusion of Kemp-Roth; is that not correct?

Mr. ULLMAN. The amended bill, as amended by the recommittal motion, would go back to the committee and be reported forthwith to the House.

Mr. ROUSSELOT. I thank my chairman for clarifying that issue.

Mr. LATTA. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I am going to reluctantly support this rule, even though it is not the rule requested by the chairman of the Ways and Means Committee or the ranking minority Member or a committee majority or half the Rules Committee. The fact is, this is not even a House rule. Instead, it can best be described as a "late-bloomin' Blumenthal rule," because the new tax bill it makes in order as an amendment was hatched in the dead of night, at the 13th hour, in some Treasury Department laboratory. The resultant concoction was served up at the Rules Committee yesterday, a day after our hearings had begun. It should have been duly christened as "Blumenthal's test tube boo-boo," because never before have I seen such a mistaken, misshapen, and mishandled proposal laid before this House.

The way in which the administration handled this whole matter is an affront to the integrity of this House and our constitutional processes. There is a proper time and place and way for an administration to submit, defend, and revise its proposals. All those things should be done during the committee hearing and markup stage of the legislative process. But, to stonewall against compromise until after a committee has reported its bill, and then to come forward with an entirely new bill is a direct slap in the face of the committee, of the House leadership, and of every Member of this body. And yet, the Rules Committee has swallowed its pride, not to mention the separation of powers doctrine, and elevated this 13th hour administration compromise to full status as one of the only two noncommittee amendments made in order by this rule. At the same time, the Roth-Kemp individual tax rate reduction amendment, which the Ways and Means Committee had asked to be made in order as an amendment to the bill under the rule, was deleted from the rule by the Rules Committee, with the understanding that it could be offered in the motion to recommit.

Mr. Speaker, I find it a bit curious that those who supported this demotion of Roth-Kemp did so on the grounds that it had not been properly considered and voted on by the Ways and Means Committee. And yet these same Rules Committee Democrats leapt at the chance to elevate the Blumenthal-Corman-Fisher amendment, which they had not even seen and which did not even exist when this bill was being considered by the Ways and Means Committee. If there is any logical consistency to these two actions it escapes me.

Having said all this, though, I repeat that I reluctantly support this rule. In the first place, I do not think it is realistic to expect that we could banish the Blumenthal amendment from this rule; if the majority party wants to indulge in this kind of folly and legislative travesty from their own President, that is their business. The important thing, it seems to me, is that the Ways and Means bill is basically a good bill when it comes to the reduction in the capital gains tax and the important Archer provision which indexes that tax. Moreover, the House will have a clear-cut vote on the Kemp-Roth tax reduction provision, albeit late in the game. We should not lose sight of these two all-important goals in discussing this rule, though there are certainly plenty of side issues and side shows we could become hung up on. The Rules Committee, for instance, turned back requests to make in order a 5-percent tax credit on social security taxes and the solar and insulation tax credits from the energy bill. While I supported the latter attempt in the Rules Committee I do not think either of those issues is central to our consideration of this tax measure and therefore are not important enough to begin unraveling this rule or the bill. Both the energy and social security matters can and should be dealt with in separate legislation. I have no doubt, for instance, that if we do not get the energy tax bill out of conference, the solar and insulation credits could easily be broken off and passed under suspension in the last days of this session.

But today we must confront the central issues of addressing the capital formation crisis as well as the taxpayers' revolt, and the committee bill together with the Kemp amendment made in order by this rule address those central issues. I therefore urge adoption of this rule.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. DODD).

Mr. DODD. Mr. Speaker, it is with great reluctance that I rise this morning and ask my colleagues to support the gentleman from Missouri (Mr. BOLLING) in defeating the previous question. In the year and a half that I have served on the House Rules Committee, I have

never actively participated in an effort to defeat a rule, and I do so today with some reluctance.

As all of us in this Chamber know, it has been a tradition in the past, when dealing with tax legislation, to propose either a closed rule or a modified closed rule. There has been good reason for that, but along with the tradition that has been included with that concept has been the tradition that when we come out of the Rules Committee, we should fashion a rule that every major proposal has an adequate opportunity to be heard on the floor. This morning, Members are not going to have that opportunity. By the narrowest of margins, yesterday the House Rules Committee defeated an effort to make in order an amendment to be offered by the gentleman from Missouri (Mr. GEPHARDT) which would give us an opportunity to address and place an issue before this House, the issue of whether or not we are going to lighten the burden of the taxpayers in this country with regard to increased social security taxes.

That proposal enjoys a great deal of support in this Chamber, as witnessed by the number of signatures on letters that have called for consideration of that proposal. I will support an amendment to this resolution which will allow for that amendment to be made in order.

I would point out to my colleagues that every other major proposal that has been bandied about in this Chamber over the past several weeks will be raised on the floor, including the Kemp-Roth proposal. I would point out that that proposal did not even have an up or down vote in the Ways and Means Committee. So, I strongly urge that we defeat the previous question so that we will have an opportunity to amend this rule and get about the business of dealing with this important legislation.

Mr. LUKEN. Mr. Speaker, will the gentleman yield?

Mr. DODD. I yield to the gentleman from Ohio.

Mr. LUKEN. Mr. Speaker, I rise in opposition to the rule on H.R. 13511, the Revenue Act of 1978. I would like to associate myself with the remarks of the gentleman from Connecticut (Mr. DODD). The rule is bad because it is incomplete. It does not provide the House with the chance to vote on the Gephardt amendment which provides an income tax credit for social security taxes paid by employers and employees.

In committee, on another bill, the Conable-Griffin amendment that would have rolled back the social security tax increase was defeated by only one vote. That vote and the sentiment heard on the floor today clearly indicates that we must have an opportunity to vote on the Gephardt amendment or we will have let the American taxpayer down badly.

The social security tax increase has placed a severe burden on both employers and taxpayers in the lower and middle income tax brackets. I would note that I have received more pleas for help from employers than individual taxpayers.

It is logical that now, as we consider a bill whose purpose is to cut taxes, that we take this opportunity to reduce the social security tax burden as well. Unless we provide taxpayers with some income tax offset for social security taxes paid most taxpayers will realize a net tax increase, not a decrease, in 1979, under the cuts proposed by the committee.

A cut in social security taxes will help cut inflation. Businesses will not have to increase prices to offset the higher social security taxes. The lower and middle income taxpayers who must spend a far greater portion of their income will therefore directly benefit. Employers who, under the principle called "parity" now embedded in our social security system, are subject to the payroll tax increases as well, have an equal right to relief.

Mr. Speaker, we have today an opportunity to lighten the social security tax burden that we will not have again in this Congress. It is an opportunity that must not be lost. I urge my colleagues to join me in defeating the rule and amending it to provide that the House can vote on this social security tax credit amendment.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, I would like to echo the remarks of my colleague, the gentleman from Connecticut (Mr. DODD).

I think that proposing to resolve the debate concerning economic policy without having a vote on the social security financing issue is simply a mistake. I do not think it will wash. I think when we try to explain to a lot of people next year why this tax bill, which has been heralded as a cut in their Federal taxes, will result in an increase for many of them in the amount of money that is taken out of their paychecks for taxes, is going to be very difficult. I think if the election were held the first Tuesday after the first paycheck next year, we would have a lot of problems explaining that circumstance.

The issue has been so hotly debated in the Ways and Means Committee and on the floor of the House and in the budget resolution and in the Democratic Caucus, that it is irresponsible to truncate the most important debate we have had on economic policy so far by not even giving it a vote on the floor.

I think it is wrong. I think it demeans the whole basis of a deliberative body and I think it is the best example of what is wrong with closed rules.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Speaker, I do not believe I have opposed a rule on any bill that has come up during my brief tenure here in the Congress, and I do so today only with great reluctance, but the question of social security tax increases and how to treat the social security system is heavy on the mind of many in the Congress and heavy on the pocketbooks of millions of workers in our country.

The gentleman from Illinois (Mr. ANDERSON) suggested earlier that the Conable-Gibbons amendment which was offered in the Ways and Means Committee was not going to be offered on the floor. Perhaps it could be offered in the motion to recommit. I voted to support that in the Ways and Means Committee and I might do so again. The gentleman from Missouri (Mr. GEPHARDT) offered his amendment on social security in the Rules Committee and it failed by only one vote. But there are over 100 Members who support it and want the opportunity to debate it. It does no damage to the fiscal integrity of the social security trust fund. It is temporary in nature, so Congress may consider in which direction it wants to go. It may be the Conable-Gibbons in coming years. It is modest in cost. It provides equal treatment for employees and employers. And it almost passed in the Rules Committee.

For that reason I strongly urge my colleagues to vote "no" on the previous question so the Democrats in Congress, and the Republicans in Congress, will at least have the opportunity to vote on payroll tax relief for working people.

The Republicans may do whatever they prefer in the recommital motion because they have no restrictions on that.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, if the gentleman votes for the motion to recommit that will be offered on this side of the aisle, it will take care of his concern over the high social security taxes.

Mr. TUCKER. I urge my colleagues to vote "no" on the previous question so we may consider the social security tax question and so we can have a tax cut for all wage earners in this country.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. OTTINGER).

Mr. OTTINGER. Mr. Speaker, as I mentioned under the 1-minute rule, I think this is a very bad and unfair rule. It is a bad rule because it excludes from consideration a rollback in the social security taxes, which a large majority have already expressed themselves as favoring and which was heard by the Ways and Means Committee, while permitting consideration and providing a special 1 hour time for debating the Kemp-Roth bill which was not heard by the committee and on which the majority has not spoken.

It is a bad rule because it is too restrictive with respect to the time for debate. Only 15 minutes are provided to each side for debate of important amendments like the Vanik-Pickle substitute.

I urge that the previous question be defeated and that the gentleman from Arkansas (Mr. TUCKER) or the gentleman from Missouri (Mr. BOLLING) will be given the opportunity to present a rule which will make the Gephardt social security rollback amendment in order.

Mr. MURPHY of Illinois. Mr. Speaker,

I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I submit to this House that the best approach we could use today is to pass the measure we call the Vanik-Pickle bill, which simply extends the 1977 tax bill with four extensions for relief under this program.

That is the sensible and logical thing for us to do. I would hope when the time comes and we have the opportunity to simply renew that 1977 tax bill that we do so.

That motion will be made, and it is in order. So, as I say, I think the sensible thing for us to do is to continue the tax bill of 1977 and renew four areas of about $8 billion in costs. That is the responsible thing to do.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentle- from California.

Mr. JOHN L. BURTON. Mr. Speaker, I thank the gentleman for yielding. I think the gentleman is right on target. I have had town meetings in my district where the people say, "Forget these foolish tax cuts and do something about reducing the deficit."

I think the approach taken by the gentleman now in the well and the gentleman from Ohio (Mr. VANIK) is a sound one.

Mr. PICKLE. Mr. Speaker, I appreciate the gentleman's comments.

Mr. Speaker, there is only one argument against the measure that the gentleman from Ohio (Mr. VANIK) and I will offer and that is Members will say that it is inflationary. Well, that is a point of discussion. But I simply say to the Members that the best thing for us to do is renew the tax bill of 1977 and not get into this added deficit of another $25 or $30 billion. The thing to do is renew our bill of last year.

You are not going to fight fire with gasoline, and fighting inflation with an inflationary bill does not measure up to commonsense.

So, Mr. Speaker, I would hope that when the gentleman from Ohio (Mr. VANIK) and I offer our amendment that it will be approved by this body.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, we are hearing a lot of rhetoric today about the problem of increasing social security taxes. There is only one way for this House to go and that is to roll back the payroll tax itself.

We have been hearing about the Gephardt amendment, and I am going to support it, but all the Gephardt amendment does is pick the pockets of the people for 18 months and at the end of that time it gives them a little bit of a rebate. What you have to do is to cut the payroll tax now, forthwith; it should take effect in January 1979. They have prevented us from obtaining a rule for that.

I do not know what the rush on this rule today is all about. The committee voted on it last night and suddenly, this morning, we are confronted with a confused rule. I agree with the gentleman from Ohio (Mr. LATTA) who said we are in a confused state. We are in a confused state. I do not think that many Members fully realize what this rule will do.

They talk about reducing social security taxes by the Gephardt amendment. The Gephardt amendment will ameliorate it, but 10 percent of the people will not get any benefit from it. You have got to go to the source of the payroll itself, that is where the rollback should be.

Failing to do that, I can tell you that many Members will not be back here, on both sides of the aisle, because the American public is going to take it out on them. They are looking at you, and the small business people are looking at you because some 30,000 of them were wiped out last year. There is a proliferation of strikes all over the country. Unemployment is climbing up over 6 percent. The value of the dollar relative to the yen in Japan has further devalued, and it is continuing to lose ground. While the Congress is playing the violin, Rome burns. So, let us do something about the payroll tax itself, and if you do not do that, then you are wasting your time.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Speaker, I thank the gentleman for yielding.

While I did vote against this bill in the committee, I cannot get too emotional about opposing this rule. I think the rule is about as fair as we can get.

Mr. Speaker, I read with great interest the statement put out by 27 Members of the House opposing this rule, and I want to pay tribute to the 4 of them out of the 27 who voted against the social security tax increase when it came up last year.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland does not often support closed rules, but I do not think this is a closed rule. It is the most open rule I have seen on a Ways and Means bill in 5 years. In fact, I suspect that the first battle is going to be to some degree on the rule. That is good. You know that procedural questions are hard to sell to the American people. We go back home and talk about them and they do not understand. But they are going to understand this vote, friends. They are going to understand it well.

I compliment you folks on the other side of the aisle on your new-found concern about social security taxes and the heavy burden they impose upon workers and business in America. You passed it, my dear colleagues and you now have a chance to relieve the economic pain you have inflicted by adopting the bill before us. I hope you will vote as your newly discovered sympathy for taxpayers indicates.

Mr. Speaker, violent political revolutions teach hard lessons. They learned those lessons at the Winter Palace; they learned them in even bloodier fashion at Versailles; and they learned well at the Court of George III when we deposed tyranny in America. There is a new and cruel injustice abroad in this great country of ours today. It is the product of the crushing burden of taxation and there is a revolution in the truest sense. You ignore its lessons at your own political peril.

Yes, the times they are a-changing. Your watchwords cannot remain, with all due respect to Harry Hopkins, "Tax, tax, spend, spend, elect, elect." We have to let Harry spin wherever he is today, and ignore his antiquated advice; or else you can forget the "elect" part of his equation.

Now it is cut taxes, it is cut spending; and if election is of concern to anyone in this body, your vote will flow as a natural consequence thereafter.

No, the days of that sort of big government, big spending in America are gone. The reason you are all so uncommonly nervous this morning—is quite apparent; because the Members know that what I say is true. The American people are fed up with what Government and taxes have done to them. The philosophy of the Cormans and the Blumenthals, with all due respect to my colleague from California and the Secretary of the Treasury is passé. Theirs is an idea whose time has passed. Today we look to Kemp and Roth and the Jarvises and the Ganns and California's own proposition 13 as an indicator of the people's wishes.

Mr. Speaker, I say this to the Members: Go back home and talk to the folks during the coming recess. You will find out how you should vote, for the previous question, for the rule, and for the bill.

Mr. LATTA. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Speaker, I am going to vote for this rule. It is far more open than most rules we receive here on the floor with Ways and Means Committee bills. I think that the Committee on Rules has been far more generous than they normally are in allowing various kinds of amendments and proposals for amendments to the bill.

Mr. Speaker, I supported H.R. 13511 in the Committee on Ways and Means. It was not all that I had hoped it to be. I would have preferred that, on the personal-income side, it include the Kemp-Roth concept. Many of us would have preferred the total Steiger amendment to roll back the maximum capital gains tax of 25 percent. However, we will have a chance to debate the Kemp-Roth issue when the motion to recommit is offered.

I want to thank the Committee on Rules for giving us one of the more open rules they have given us. Times are changing; and I do agree with my colleague, the gentleman from Maryland (Mr. BAUMAN), that the Members of this Congress are learning that we cannot just tax and tax and spend and spend.

It is beginning to bother to the American people more than a little bit.

Mr. Speaker, I am sorry that my dear colleague, the gentleman from Massachusetts (Mr. BURKE) has forgotten that he pushed hard that wonderful social security tax bill last September, but most of us on this side remember.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will in just a minute.

Most of us on this side of the aisle did not vote for that big tax increase. So when anyone points to our side, I remind him that we did not vote for that big tax boost which the gentleman gave us last year.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. Mr. Speaker, the gentleman wanted to direct social security just like a lot of Republican Members have always tried to do.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, how are the gentleman from California (Mr. ROUSSELOT) and I going to achieve our cherished goal of a balanced budget if Kemp-Roth is adopted? That is my only concern. The gentleman and I have sought the grail for so long.

Mr. ROUSSELOT. Mr. Speaker, I say to the gentleman that he should be here next week during the consideration of the second budget resolution and we will discuss it. We will seek the "balanced budget" grail together.

Mr. JOHN L. BURTON. In other words, I have to wait until then?

Mr. ROUSSELOT. Wait until next week when the next great episode will take place in the quest for the balanced budget.

Mr. MURPHY of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, developing this bill has been an onerous and difficult task. There are not very many people who agree with all the provisions in the tax bill, and a number of people feel very strongly against some parts of it. When we launched this effort this last time in the committee, I remarked that we are launching a rather delicate raft into very turbulent waters, a raft which could be upset or shipwrecked at any point. I am rather proud that we have been able to hold together a bill that we can defend, a bill that is designed to meet the problems of America today.

I commend the Committee on Rules for bringing us a rule that I think is fair. I think it gives us the choices that we need to make. The social security matter needs to be considered, but it needs to be considered, as the gentleman from Massachusetts (Mr. BURKE) has so often said, within the jurisdiction of the social security system itself.

We cannot solve the social security problem in an income tax bill. We have got to solve it in a bill dealing with social security itself, and I pledge to the Members that we will do that next year. We will hold extensive hearings. We will give the relief on payroll taxes that we need to give, but we will do it in an orderly manner, looking at all of the possibilities and all of the responsible alternatives. I submit to the Members that is the way to do it. So I urge them to support this rule, not to set out on a path that may prohibit getting any bill at all out of this Congress. Let us not upset this craft. Let us vote for the rule and handle the social security problem responsibly in the next session of Congress.

Mr. LATTA. Mr. Speaker, I yield myself 15 seconds to ask the gentleman from Oregon (Mr. ULLMAN) a question.

The Gephardt amendment, according to information at our desk, would cost $6 billion. Is this an accurate figure?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, that is what I understand.

Mr. LATTA. $6 billion.

Mr. Speaker, I yield 1 minute forty-five seconds to the gentleman from Minnesota (Mr. FRENZEL).

Mr FRENZEL. Mr. Speaker, if we defeat the previous question, the only thing we are going to get is the Gephardt amendment, so even those of us who would like energy incentives in this bill have no reason to vote against the previous question.

There is also no reason to favor the Gephardt amendment. It is one way of going at the social security problem—a clumsy way, no better than the Conable amendment, and both of those failed in the Committee on Rules. So, No. 1, it would be unfair to support Gephardt.

No. 2, the Gephardt amendment would upset the balance of the bill. It is clumsy; it is jerryrigged; it is a band-aid; it is a mechanism that really does not apply to social security. It is laid over the general tax bill in a cumbersome manner as the chairman of the committee described. It is more expensive than a simple rollback, and it is about twice as expensive as the Conable alternative.

Next, it will not relieve the Members' political distress. The gentleman from Illinois (Mr. MIKVA) told us that people would be mad in January. They are going to be mad anyway, because the tax credit is not going to help until the end of next year.

Finally, the passage of the Gephardt amendment would relieve the momentum that the chairman of the committee is trying to get for a full overhaul of social security. So if the Members want an overhaul in a decent social security bill, they had better vote for the previous question and for the rule.

Mr. LATTA. Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I rise in support of the previous question and the rule.

I think everyone in this Chamber would have had a somewhat different bill had he had a chance to put it together himself. There has been a great deal of pressure, not only on the Committee on Ways and Means, but on the Committee on Rules and on the leadership of both parties in connection with this dramatic piece of legislation. I say it is dramatic, because I think we all have the sense that we are standing here at an historic moment when we are going to have at least a modest change in direction from the historic pattern of tax reform bills.

Quite frankly, we are responding to the urgings of the American people. The American people are expecting this tax cut. They want it to have the general outlines of the bill that has been put together, in my view. I hope the Members will not mess around with the rule, setting in action a train of events which can lead in any number of directions and bring us distress and grief if we are unable to channel in constructive ways the forces at work and which I have referred to bearing on all those participating.

Mr. Speaker, I think we have the major options open to us, as the Committee on Rules has brought the rule out. We should support this as the best possible compromise at the time. I hope the Members will respond with understanding and enthusiasm.

Mr. MURPHY of Illinois. Mr. Speaker, it has been mentioned that this is a fair rule. The gentleman from Oregon (Mr. ULLMAN), chairman of the Committee on Ways and Means, has promised that next year the gentleman will hold open and detailed hearings, as the gentleman from Massachusetts (Mr. BURKE) has long recommended, on the Social Security bill.

To my colleague, the gentleman from Maryland (Mr. BAUMAN), who asked where Harry Hopkins is, we just received a telegram from Harry urging us to support this rule.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

Mr. BOLLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 284, nays 130, answered "present" 1, not voting 17, as follows:

[Roll No. 678]

YEAS—284

Abdnor	Broomfield	Cunningham
Akaka	Brown, Calif.	Daniel, Dan
Alexander	Brown, Mich.	Daniel, R. W.
Ambro	Brown, Ohio	Danielson
Anderson, Ill.	Broyhill	Davis
Andrews, N.C.	Buchanan	Delaney
Andrews, N. Dak.	Burgener	Dent
	Burke, Fla.	Derrick
Annunzio	Burleson, Tex.	Derwinski
Applegate	Burlison, Mo.	Devine
Archer	Butler	Dickinson
Armstrong	Byron	Dornan
Ashbrook	Caputo	Duncan, Oreg.
Ashley	Carter	Duncan, Tenn.
AuCoin	Cederberg	Edwards, Ala.
Badham	Chappell	Edwards, Okla.
Bafalis	Clausen, Don H.	Emery
Baldus		English
Barnard	Clawson, Del	Erlenborn
Bauman	Cleveland	Evans, Colo.
Beard, Tenn.	Cochran	Evans, Del.
Bennett	Cohen	Evans, Ga.
Bevill	Coleman	Evans, Ind.
Biaggi	Collins, Ill.	Fary
Blouin	Collins, Tex.	Fascell
Boggs	Conable	Fenwick
Boland	Conte	Findley
Bowen	Corcoran	Fish
Brademas	Corman	Fisher
Breaux	Cornwell	Fithian
Breckinridge	Cotter	Flippo
Brinkley	Coughlin	Flood
Brooks	Crane	Florio

Flynt	McCloskey	Rousselot
Foley	McCormack	Roybal
Forsythe	McDade	Rudd
Fountain	McEwen	Runnels
Frenzel	McFall	Ruppe
Fuqua	McKay	Russo
Gammage	McKinney	Ryan
Gaydos	Madigan	Sarasin
Giaimo	Mahon	Satterfield
Gibbons	Mann	Sawyer
Ginn	Marks	Schulze
Goldwater	Marriott	Sebelius
Goodling	Martin	Sharp
Gradison	Mathis	Shipley
Grassley	Mazzoli	Shuster
Green	Michel	Sikes
Guyer	Milford	Skubitz
Hagedorn	Miller, Ohio	Slack
Hall	Mineta	Smith, Iowa
Hamilton	Mitchell, N.Y.	Smith, Nebr.
Hammer schmidt	Moakley	Snyder
	Mollohan	Spence
Hanley	Montgomery	Staggers
Hansen	Moore	Stangeland
Harsha	Moorhead, Calif.	Stanton
Hawkins		Steed
Hefner	Moorhead, Pa.	Steiger
Heftel	Mottl	Stockman
Hightower	Murphy, Ill.	Stratton
Hillis	Murphy, N.Y.	Stump
Holland	Murphy, Pa.	Symms
Holt	Murtha	Taylor
Horton	Myers, Gary	Thone
Howard	Myers, John	Thornton
Hubbard	Myers, Michael	Treen
Huckaby	Natcher	Trible
Hyde	Nichols	Ullman
Ichord	Nix	Van Deerlin
Ireland	O'Brien	Vander Jagt
Jenkins	Patten	Waggonner
Jenrette	Perkins	Walker
Johnson, Calif.	Pettis	Walsh
Johnson, Colo.	Pickle	Wampler
Jones, N.C.	Pike	Watkins
Jones, Okla.	Poage	White
Jones, Tenn.	Pressler	Whitehurst
Jordan	Price	Whitley
Kasten	Pritchard	Whitten
Kazen	Pursell	Wiggins
Kelly	Quayle	Wilson, Bob
Kemp	Quie	Wilson, C. H.
Kindness	Quillen	Wilson, Tex.
Lagomarsino	Rahall	Winn
Latta	Railsback	Wolff
Leach	Rangel	Wright
Lederer	Regula	Wydler
Lent	Rhodes	Wylie
Livingston	Risenhoover	Yates
Long, La.	Roberts	Yatron
Long, Md.	Robinson	Young, Fla.
Lott	Rogers	Young, Tex.
Lujan	Roncalio	Zablocki
McClory	Rostenkowski	Zeferetti

NAYS—130

Addabbo	Ford, Mich.	Mattox
Ammerman	Ford, Tenn.	Meeds
Anderson, Calif.	Fowler	Metcalfe
	Fraser	Meyner
Aspin	Garcia	Mikulski
Baucus	Gephardt	Mikva
Beard, R.I.	Gilman	Minish
Bedell	Glickman	Mitchell, Md.
Beilenson	Gonzalez	Moffett
Benjamin	Gore	Moss
Bingham	Gudger	Neal
Blanchard	Hannaford	Nedzi
Bolling	Harkin	Nolan
Bonior	Harrington	Nowak
Bonker	Harris	Oakar
Brodhead	Heckler	Oberstar
Burke, Mass.	Hollenbeck	Obey
Burton, John	Holtzman	Ottinger
Burton, Phillip	Hughes	Panetta
Carney	Jacobs	Patterson
Carr	Jeffords	Pattison
Cavanaugh	Kastenmeier	Pease
Chisholm	Keys	Pepper
Clay	Kildee	Preyer
Cornell	Kostmayer	Reuss
D'Amours	Krebs	Richmond
de la Garza	LaFalce	Rinaldo
Dicks	Leggett	Roe
Dingell	Lehman	Rooney
Dodd	Levitas	Rose
Downey	Lloyd, Calif.	Rosenthal
Drinan	Luken	Santini
Early	Lundine	Scheuer
Eckhardt	McHugh	Schroeder
Edgar	Maguire	Seiberling
Edwards, Calif.	Markey	Simon
Eilberg	Marlenee	Skelton
Solarz	Traxler	Waxman
Spellman	Tucker	Weaver
St Germain	Udall	Weiss
Steers	Vanik	Whalen
Stokes	Vento	Wirth
Studds	Volkmer	Young, Mo.
Thompson	Walgren	

ANSWERED "PRESENT"—1

Burke, Calif.

NOT VOTING—17

Conyers	Krueger	Sisk
Dellums	Le Fante	Stark
Diggs	Lloyd, Tenn.	Teague
Ertel	McDonald	Tsongas
Flowers	Miller, Calif.	Young, Alaska
Frey	Rodino	

The Clerk announced the following pairs:

On this vote:

Mrs. Lloyd of Tennessee for, with Mr. Rodino against.

Mr. Teague for, with Mr. Stark against.

Mr. McDonald for, with Mr. Conyers against.

Mr. Krueger for, with Mr. Miller of California against.

Mr. Sisk for, with Mr. Dellums against.

Until further notice:

Mr. Flowers with Mr. Frey.

Mr. Ertel with Mr. Diggs.

Mr. Le Fante with Mr. Tsongas.

Messrs. FINDLEY, DORNAN, and AKAKA changed their vote from "nay" to "yea."

Mr. CARNEY and Mr. HOLLENBECK changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STUDDS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13511, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 1 hour, and the gentleman from New York (Mr. CONABLE) will be recognized for 1 hour.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill is a strong response to a nation worried about inflation. It is a message to the middle-income families of this Nation that they are not forgotten, that we do understand the impact of inflation and payroll taxes on the people of this Nation. We do understand what inflation does to the cost of housing, to the cost of food and to the cost of everything else that is required for people to live. We do understand, also, that a nation, a growing nation, needs capital, and in this bill we have attempted to do something about it.

The bill protects the wage earners of this country, the homeowners of this country, the investors, the entrepreneurs, the workers and the average American in this Nation.

It does so within a sound discipline and without threatening the overall economy.

Let me quickly run through some of the provisions of the bill.

First the tax reductions.

How big are they and for whom?

The total annual effect is $16.3 billion for the full calendar year. That is broken down $10.4 billion for individuals, $4 billion for business, and $1.9 billion for capital gains.

The revenue effect of the new tax cuts for fiscal year 1979 is $9.4 billion.

The bill also extends most of the temporary reductions that have been in place since 1975. Including the extensions, the revenue effect is $18.3 billion in fiscal year 1979.

The bill does contain a number of significant provisions to reform and simplify the individual income tax code.

Let me then describe the system of tax reductions for individuals.

We have repealed the temporary general tax credit of $35 and the alternative credit of 2 percent of the first $9,000 of income. In lieu of these credits, we have raised the $750 personal exemption to $1,000. This simplifies the computations and also reduces the marriage penalty.

That is something which the people of this country understand. That is something which they have been asking for, and it is something which will give major relief to the taxpayers of this country.

The impact of inflation on income tax burdens has been severe, because people are pushed into higher tax brackets because of inflation. We have widened those tax brackets to give relief. We have widened them all across the board, so that we have taken into account the impact of inflation.

We have also given some rate cuts, particularly for middle-bracket taxpayers. In addition, we have increased the "zero bracket amount." The amount of the increase is from $2,200 to $2,300 for single persons and from $3,200 to $3,400 for married couples. This has the same effect as an increase in the standard de-

duction to these amounts would have had under prior law.

Mr. Chairman, let me briefly refer to tax reform.

Because of the tremendous problem of energy in this Nation, the committee felt that we can no longer justify the gas-tax deduction in the income tax system, and so we repealed that deduction. We simplified the medical expense deduction in a very meaningful way.

As to political contributions, we have had two provisions: either a credit or a deduction. The committee felt that it was wiser to give the credit, but not the deduction. By eliminating the deduction, the computation is simplified. Consequently, we have limited that provision to a simple credit for political contributions.

Unemployment compensation at the present time is exempt from tax; but certain high-bracket people are getting a special advantage, and so we have said for those single people who have income above $20,000, we will phase in a tax on unemployment compensation. For married people the phase-in would be above $25,000 of income.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. ULLMAN) has expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 5 additional minutes.

Mr. Chairman, we have also provided some special rules, by very popular demand, for deferred compensation in the case of: First, State and local plans; second, cafeteria fringe-type benefit plans; and third, cash and deferred profit-sharing plans. We think they meet a very important need and are extremely equitable.

We have tightened up provisions to limit tax shelters. The "at risk" provision is broadened and extended. We have tried to close down on some shelter operations that are going on by giving the Internal Revenue Service better administrative tools.

As to business taxes, the centerpiece, of course, is reducing the 48 percent corporate rate to 46 percent; but we have added a very important provision for the small corporations of the country. The first $100,000 of corporation taxes will be graduated in a way that I think satisfies the requirements of small business, something they have been working for for a long time.

We have four bracket rates of 17 percent, 20 percent, 30 percent, and 40 percent, applying to the first $100,000 of corporate taxable income. We think that this is a very significant development in the interest of small business.

Of the $5 billion rate cut, $1 billion goes to corporations with less than $100,000 of taxable income.

Turning to the investment credit, we have made the 10 percent permanent. This has been a very important tool in capital formation and in keeping this Nation competitive with other countries around the world.

There has been a limit on the credit to $25,000 plus 50 percent of tax in excess of $25,000. We are gradually extending that over 4 years to 90 percent.

We are also making a very significant extension of the investment tax credit to rehabilitation of industrial and commercial structures. That is extremely important for capital formation; and in a way, that keeps us from financing the exodus of plants from city centers and from the North to the South.

We have given full investment credit for pollution-control facilities, something which I think is extremely meritorious.

Turning to jobs credit, we now have an across-the-board jobs credit provision. It has been very helpful in stimulating the economy.

At this time the unemployment rate has declined to the point where I feel there is no longer a need for a general jobs credit. Instead, we have targeted the jobs credit, so that if you hire some seven categories of needy people, emphasizing the city youths and the other pockets of unemployment, the employer will get a very significant credit for hiring those people. It is a $3,000 credit for the first year of employment and $1,000 for the second year. These are very significant from the point of view of stimulating the economy and targeting the emphasis of that stimulus into areas where there is the greatest need.

I have related the principal small business provisions, but we have added some other things for small businesses. We have increased the first year depreciation allowance for small business in a very meaningful way, expanded special tax treatment for losses on venture capital investments, expanded subchapter S, permitting certain small corporations to elect to be taxed as partnerships. Together with the investment credit changes and tax rate cuts, the bill is a major benefit to small business.

Other business incentives and provisions include an expansion from $5 million to $10 million of the small issue industrial development bond exemption. We are extending the 5-year amortization provision on rehabilitation of low-income housing for 3 additional years. As I have indicated, the overall bill's cost is $4 billion for the business tax cuts, and we think that this is the right amount in this size of a tax package.

On capital gains—and this has received a great deal of attention because of the so-called Steiger amendment—there has been tremendous interest across this land toward somehow liberalizing the treatment of capital gains.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. I yield myself 3 additional minutes.

Whereas the Steiger amendment would have reduced the maximum capital gains tax rate to 25 percent, it was my strong feeling and the feeling of the committee that that was too much, that we somehow had to find a compromise. So what we did is develop a compromise that eliminates capital gains from the so-called minimum tax and from the maximum tax, but also eliminates the 25-percent alternative tax. As a result, the basic rule will be that people include half their capital gains in income, which is a substantial simplification and which has, I think, all of the advantages of equity and simplification. This brings the maximum capital gains to 35 percent, in place of 25 percent under the Steiger amendment. It has widespread support throughout the whole private community.

We have also added a provision for the sale of houses, which has met with widespread approval among the homeowners in this country. We have had a roll-over provision in the law which defers the capital gains tax on the sale of a home if someone reinvests the proceeds in a new home. That we continue in the law. But on top of that we say one can get a $100,000 exemption from the sale of a home, but only once in a lifetime. This, I think, gives the kind of relief that American needs.

We have also an alternative minimum tax on capital gains. There has been a great hue and cry about eliminating the minimum tax. Let me say the existing law is not truly a minimum tax; it is an add-on tax. We added on another layer of tax on certain preference type income that has met with wide disapproval throughout the taxpaying community. Here we have added a true minimum tax. If, after including half your capital gain in income, you still come out without any taxes, we will put a 10-percent tax on the excluded half of the capital gain. This is, we think, putting a true minimum tax on, a very simple-to-administer and very understandable one that has wide support in both the business community and the working community of this country.

Let me say we have also added, by committee amendment, a provision that I did not support and do not now support, but it is part of the bill, that provides an inflation adjustment to capital gains. At some time we are going to have to look at this problem. It is my judgment that this is not the time nor the place to put it into effect, so I will support a move to delete this committee amendment.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I now yield to my colleague, the gentleman from Kentucky (Mr. PERKINS), the chairman of the Committee on Education and Labor.

Mr. PERKINS. Mr. Chairman, let me first compliment the distinguished gentleman from Oregon (Mr. ULLMAN) for bringing this most important piece of legislation to the floor.

I think I understand the modification on the capital gains as applicable to the sale of homes; but I am wondering whether the modifications likewise apply to all capital gains, such as farmland and everything else, the 35 percent.

Mr. ULLMAN. The capital gains provision that I have been relating under the general provisions, where we take capital gains out from under the minimum tax, the maximum tax, and the alternative tax, applies to all kinds of capital gains. We do not change the definition. It is across-the-board.

Mr. PERKINS. Mr. Chairman, I thank the gentleman from Oregon for that clarification.

Mr. ULLMAN. Mr. Chairman, I reserve the balance of my time.

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this tax bill is revolutionary. It is not redistributional. It does not take from one group of people through higher taxes to give to other people in lower taxes. It spreads its relief across various sectors in society in the same proportion which they each bear the tax burden.

Astonishing as it may seem, only 16 percent of those subject to the Federal income tax pay 60 percent of all of the Federal income taxes collected. Fifty percent of those subject to the tax pay only 6 percent of the taxes. Under the bill reported by the Committee on Ways and Means the individual tax reductions roughly correspond to the tax burdens presently borne by our citizens.

The bill proposes a number of commendable changes to reduce individual income taxes.

It would widen individual tax brackets by 6 percent;

Increase the zero bracket amount—which took the place of the standard deduction; and

The present $750 personal exemption would be increased to $1,000 for each taxpayer and dependent.

As far as they go, these are desirable provisions. They do not go far enough however. Even after benefiting from these reductions, most taxpayers will still be paying tax increases—not cuts. I will touch on the individual cuts in greater detail at a latter point.

Among the most significant provisions of this legislation is the Archer amendment and the other capital formation provisions. The bill would delete capital gains from the list of tax preferences which are subject to the individual and corporate minimum tax and which reduce the amount of individuals' personal services income eligible for the 50-percent maximum tax. A new alternative minimum tax on capital gains, which is collectable only to the extent that it exceeds a taxpayer's regular income tax, would replace the existing provisions of the minimum tax as they apply to capital gains. The bill would also repeal the 25 percent alternative tax on the first $50,000 of long-term capital gain.

In a rational and thoughtful way, the bill would exclude artificial gains, attributable purely to inflation, for purposes of computing capital gains tax liability. This would apply with regard to inflation which occurs after 1979 only. The Archer amendment adopted in committee would adjust the basis of stocks, real property, and tangible personal property upward by the rate of inflation. For eligible assets sold after December 31, 1979, the bases adjustment would reflect the rate of inflation indicated by the Consumer Price Index for the holding period of the asset. However, the adjustment would be made only with respect to increases in the Consumer Price Index occurring after December 31, 1979.

A recent working paper published by the National Bureau of Economic Research states:

> The effective tax on real capital gains has been raised substantially by inflation. . . . This not only overstates the value of real capital gains but, by converting real losses to nominal gains, reduces investors' opportunities to offset capital losses against capital gains.

One study dealing with the latest year for which figures are available, 1973, found that after adjusting stock costs and selling prices for inflation, $4.6 billion of nominal gain would actually have been a loss of $1 billion. And remember that $4.6 billion in gains was subject to tax.

Our rate of capital investment is inadequate; that is not simply my judgment, it is a judgment shared by those at the highest levels of the Carter administration. In "The Government's Role in The Capital Formation Process" W. Michael Blumenthal, the Secretary of the Treasury stated:

> It is therefore quite clear that if we are to move toward a full employment economy over the balance of this decade, investment in productive capacity will have to absorb a higher proportion of our national output. We will have to achieve a better balance in distributing the results of economic growth between current consumption and investing for even greater future growth.

The Secretary of the Treasury, only 3 months ago, in Bal Harbour, Fla. stated:

> After-tax rates of return on capital—reflecting the replacement cost of capital—have declined from around 8 percent in the mid-1960's to between 3 and 3½ percent in recent years. That's a very substantial falloff. . . . We are underinvesting because it no longer pays enough to invest enough.
>
> At the same time that real returns have fallen the riskiness of investment has substantially increased.

I said earlier that the individual tax cuts were desirable as far as they go. But taxpayers now face the devastating blow of what may turn out to be another year of double-digit inflation. If their earnings merely keep pace with prices, "taxflation" will push them into higher brackets which take a larger percentage of their less valuable dollars.

In addition, they are about to be hit with yet another increase in social security taxes from both inflation and the ill-advised tax rate and base increases enacted in 1977. The combined effect of this one-two punch will be to increase taxes by approximately $23 billion next year.

All the proposals before the House, save one, fall far short of offsetting these tax increases.

The committee bill reduces revenues by $16.3 billion, leaving a net tax increase in calendar 1979 of almost $7 billion.

The Corman-Fisher plan would mean about a $5 billion tax increase.

The Vanik-Pickle plan would wallop taxpayers with the entire $23 billion burden of additional taxes next year.

The only proposal before us today which would give taxpayers a real tax decrease next year is the Kemp-Roth plan. Substituting the Kemp-Roth 10 percent individual tax cut for the rate and bracket changes in the committee bill would cut calendar 1979 revenues by about $33 billion—enough to give taxpayers a $10 billion tax cut after the effects of inflation and social security are counted.

A tax cut of the Kemp-Roth size will be the first step toward permanently lowering the tax burden to the historic postwar level of about 18.0 percent of GNP. Currently the Federal Government is taking in over 19 percent of GNP. The committee bill would push that figure up to about 19.7 percent. Kemp-Roth will not get us back to the traditional level right away, but it at least reverses the upward course that we are currently following.

There are many lessons in the proposition 13 fever sweeping the Nation. The most important lesson is that folks have had enough high taxes, enough Government spending and enough inflation. Kemp-Roth will scale taxes back down to their traditional levels. This will force the Federal Government to set priorities and limit spending to essentials. That is the way to fight inflation and balance the budget.

So, I urge you to pass the committee bill with the Kemp-Roth amendment.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. VANIK), a member of the committee.

Mr. VANIK. Mr. Chairman, I want to take this time to tell the House how the Tax Act was born. As you know, the Ways and Means Committe was deeply divided on the kind of tax cut we could write. The distinguished chairman of the Ways and Means Committee, AL ULLMAN, was determined to work out a tax bill based on the realities of the situation. The President and his advisers were totally naive about the fundamental legislation process and gave Chairman ULLMAN no help. There were tremendous pressures from the minority on tax relief for those who enjoy capital gains—the so-called Steiger amendment.

Capital gains tax relief became the centerpiece of our committee's work. There were several ingenius architects in and out of Government who provided a helping hand. To lure those concerned with small business taxation, additional exemptions and tax steps were added. The personal exemption was increased to $1,000—from $750—but this was pure hoax because the $35 per person general tax credit was eliminated. The general tax credit was equivalent to $250 in dependency exemption. So far as the dependency exemption is concerned—the increased exemption from $750 to $1,000 was equivalent to the tax credit taken away. In some places, this is called a shell game.

The tax bill we consider today is a prefabricated piece of legislation. It borders on legislative cloning. Its supporters agreed in advance on the provisions of the bill and then proceeded to have hearings to validate their prefabricated decisions. This is not unlike other committee work or many public hearings today. It bears a remarkable resemblance to the early American frontier trials where the defendant was given a trial before he was hung. Well, we had our hearing—we pretended to write a bill—but the work was well done before we started.

The final product was approved by 13 Democrats and all 12 Republicans. The other 12 Democrats were left talking to each other.

I would have to admit that there is an arguable case for some relief for those who make capital gains. The issue is—how much relief should be provided today.

Except for owners of private homes, who enjoys capital gains? Of the 85,611,000 taxpayers, of the 220 million people—not more than 387,000 people per year—less that 0.0045 percent of the taxpayers—less than 0.0001759 percent of the population, less than 888 people each year in congressional district.

If you bring capital gains joy to 888 of your constituents each year, what can you say to your 479,112 other constituents who are left out?

You cannot enjoy capital gains unless you have some risk capital to start with. Except for investment in a home or a farm—most people never have enough to make an investment. How long will it take a citizen earning $17,500 per year supporting a wife and two children to save $5,000 or $10,000 for a capital gain investment?

For 95 percent of the taxpayers, the only hope for a capital gain is a lottery ticket. Perhaps we should exempt gambling gains.

The achievement of capital gains takes great skill. A few people—very few—are very good at it. For most people, a capital gains adventure is a disaster. But for those who have learned to win, it is just fun and games. Have you ever walked by a brokerage office and seen the complacent, happy expressions of those who suffer ticker tape fatigue. It is work—but it is not tiring. It is like the pleasant exercise of pulling a slot machine lever—hour after hour. And how much of the win is sheer luck. If care for the unfortunate is a public concern, should not we place a little tax on good luck.

Now I agree that these profits should not be oppressively taxed. If you hook on the brass ring the capital gains carousel, you deserve something for wear and tear of the brass-ring-hooking-finger. You deserve a free ride once in a while for your good luck. But should you be allowed to take home the carousel?

We could have justified some rate relief—but how can we justify almost complete exemption from the bare-bones minimum tax?

When this capital gains law is fully implemented, we will discover that thousands of our fellow citizens will pay practically no tax on huge fortunes. Our hasty actions of today are the seeds of a bitter harvest. Today's taxpayer revolt will look like a balmy breeze compared with the anger that will be generated by the cruel injustice of what we do today.

A case was certainly made for capital gains relief on the sale of a principal residence. The exemption provisions we make for the elderly could have been extended to everybody—and perhaps the exemption could have been moderately expanded. But was it necessary to provide a $100,000 exemption?

Since 69 million people are tenants, would it not have been fair to give everyone a $100,000 capital gains exemption on any investment or gambling gain. And then would not it have been equitable to provide a refundable credit or payment to the unlucky ones who had no capital to invest and made no capital gains.

The extensive capital gains tax cuts are patently discriminating and unfair to 96 percent of the taxpayers, 80 million of the people who are tenants and 99.99 percent of the people who gamble and seldom win.

My idea of a patriotic American is one who does his fair share in supporting his country. I happen to believe that each should pay according to his means. There is no room for freeloaders or easyriders.

We measure the progress of our society not only by its achievements in science and the arts. We also measure the quality of our civilization by the fairness and justice of our tax laws. This bill in its present form is a backward step we will one day come to regret.

My colleague, JAKE PICKLE of Texas, and I offer an alternative to the whole bill. We propose that we continue the tax laws as they are and reduce the cruel tax of added inflation which will result from this bill. Our proposal would reduce the deficit below $29 billion and constitute the one action we can take as a government to fight the inflation tax which should be our first priority. All of the other tax proposals reduce taxes with borrowed money.

The Ways and Means bill will fly out of this House at a cost of about $16 billion to be borrowed and packed onto the deficit.

This bill will fly out of the House as a carrier pigeon. In ther other body it will be transformed into a huge gilded and overloaded condor with something for everybody and $8 to $10 billion more deficit.

You can avoid this risk by adopting the Vanik-Pickle alternative.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I yield to my colleague from Texas.

Mr. PICKLE. Mr. Chairman, I want to compliment my colleague for his remarks. The gentleman is right on target, and when the Vanik-Pickle amendment will be offered today, I hope the people realize that this is the most responsible approach we can take. It renews the tax bill of 1977 in four areas. It makes us responsible, and I think the Members will realize that the snake oil medicine that the others are trying to sell is not going to be the proper approach.

Mr. VANIK. I thank my colleague.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield now?

Mr. VANIK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I just wanted to bring attention to other categories that are troubled about capital gains. A man wrote me the other day saying, "I have been buying for myself and my daughters every year two shares of stock. I know that some of them I should not be holding, but I am afraid to pay the tax."

A taxi driver wrote and said that he had bought a medallion for $5,000, and it is now worth $50,000. Another man bought a business license. It has appreciated so that he hates to let it go, and there are going to be estate taxes on it when his wife gets it when he dies.

There are others also involved in this. It is not just people with a big bank account. It is ordinary little business improvements, in things like business licenses and taxi medallions.

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

Mr. ULLMAN. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I want to point out to my distinguished colleague that I know that there are people down the line that make capital gains, but by the figures that have been given to us by Treasury, this boils down to 888 people in every congressional district every year, and I just think that everytime we do something for 888 people, we forget the 480,000 other people that are completely left out.

Mrs. FENWICK. But prudently those people are not selling their assets because of the capital gains tax. That man wants to get rid of some of that stock, but he does not do it.

Mr. VANIK. I would be glad to accommodate the cases the gentlewoman talks about, but this bill takes care of the big gamblers first and does very, very little for those down below.

Mr. CONABLE. Mr. Chairman, with some trepidation because of the devastation the gentleman has wrought, I yield 5 minutes to the monster, the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, I thank my distinguished colleague, the gentleman from New York, for yielding.

I was afraid I was going to become the so-called gentleman from Wisconsin. I do not quite know how we got into that so-called business.

The trouble with the able, articulate, and witty man who preceded me in the well, the gentleman from Ohio (Mr. VANIK), is that he wants to send not a passenger pigeon and not even a sparrow, but he wants to send a dodo over to the other body where in fact I think it will be made into, whether it is Vanik-Pickle or this bill, an eagle, and my hope is we will pass the bill and send it over there.

My friend, the gentleman from Ohio, has used so many interesting phrases and descriptions of the bill and the effect of the capital gains that I am not quite sure where to begin, but I would suggest that all Members look carefully at the Extension of Remarks section in today's RECORD, where I have put in a sample of the thousands of letters that have come to my office that in fact portray some very different cases than the gamblers the gentleman from Ohio talks about, real cases such as those the distinguished gentlewoman from New Jersey has mentioned, and not wealthy people but people of very modest incomes

who have saved and invested and who today are paying disproportionately high rates of taxes as a result of what was done in 1969 and 1976.

As a matter of fact, rather than the 884—wherever that mythical figure came out of the Vanik mind. I am not sure, but we have to remember there are 6 million returns that claimed capital gains in 1976, which is something more than 884 per congressional district.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. STEIGER. No, not now.

Mr. VANIK. That was a Treasury figure.

Mr. STEIGER. Well, no wonder it is wrong. Why did the gentleman not tell us that to start with?

And in fact some 50 percent of all of the returns on an adjusted gross income basis, claiming capital gains, had income below $15,000, so the kinds of figures the gentleman from Ohio (Mr. VANIK) and the Secretary of Treasury are tossing around this afternoon are not an accurate portrayal of what was happening under the system today.

Mr. Chairman, I rise in support of the Revenue Act of 1978.

In the sixth century, B.C., a Chinese philosopher is reputed to have said: "A journey of a thousand miles must begin with a single step." Today we are on the verge of taking that first step forward. It is a step down the road to sound tax policy.

Four independent economic analyses of proposals to significantly reduce capital gains tax rates have all come to substantially the same conclusion. All of these studies indicate that lower tax rates on capital gains will stimulate investment, create more jobs, broaden the tax base and increase Federal revenues.

Our tax code is biased against capital. Income is taxed only once, when it is earned. Capital is taxed several times. We tax the income which is used to obtain a capital asset. Until now we have taxed the nominal or inflated gain on the asset when it is liquidated, even if the dollars are reinvested—except for certain housing transactions. We tax the income generated by the original capital asset and the reinvested capital asset. Clearly, today's tax system discourages the formation of capital and there's little wonder that our economy is suffering from insufficient investment, inflation, and slow growth.

In 1969, 698 firms with a net worth under $5 million raised $1.4 billion in capital. In 1975, four firms raised $15 million; in 1977, 30 firms raised $118 million. That is millions, not billions. It is plain that something is wrong. High technology industries and venture investors are convinced that the root cause of inadequate capital is the tax system which taxes capital gains too heavily. These tax rates push investors to other avenues. And between 1969 and 1976, investments in tax-free municipal bonds increased by 52 percent. This is not the product of sound tax policy.

In sum, capital gains taxes are more important as a detriment to investment decisions than they are as a revenue raiser. This is fundamentally clear.

The statistics issued last week regarding unemployment are devastating. The minority groups of this Nation—indeed all Americans—should have the opportunity to find productive employment. But unless there is adequate capital to provide the jobs which they seek, they simply will never be able to enter the mainstream of American life. They will never be productive citizens. And that in fact is what the capital gains debate is really all about. Do we want to ration the pie, or do we want to bake a bigger one?

The economic principles have been underscored once again by an article which appeared in the Wall Street Journal earlier this week. Michael Evans of Chase Econometrics wrote that following the Kennedy-Johnson tax cuts of 1964, after 3 years of virtually no growth in income tax revenues attributable to individuals with incomes in excess of $100,000, actual taxes paid rose dramatically. This was so even though tax rates were significantly reduced. For those individuals earnings over $1 million a year or more, taxes collected actually doubled in the 2-year span.

Reduced capital gains tax rates will increase economic activity, investment, jobs creation and Federal revenue.

None other than the Chairman of the Securities and Exchange Commission, Harold M. Williams, said:

> I believe that legislation (reducing capital gains tax rates) would contribute importantly to meeting our growing capital needs, to added confidence in the continued growth of our nation's economy and to the necessary revitalization of our securities markets.
>
> . . . (I)t would provide increased incentive for securities investment and risk-taking. Second, to the extent that what is characterized as gain reflects the impact of inflation rather than real gain, it would reduce the confiscatory aspect of what is in part a tax on principal rather than appreciation. And in my view, these would be important steps toward drawing forth additional necessary investment capital.

What can I add to that? For too long now we have lived with capital gains tax rates and capital gains taxing mechanisms which are far too complicated and far too onerous. They have placed too great an incentive on spending and too little incentive on capital formation and savings. The result is that our physical plants and facilities have fallen further and further behind.

Indeed, even the Secretary of the Treasury has stated:

> The chief drag on investment, however, is low profitability, an inadequate real rate of return on capital. For this problem one of the important remedies has to be tax policy.

I could not agree more. We simply must move in this direction and the committee's bill is an outstanding first step.

We will hear arguments here today about the ability of high income taxpayers to avoid taxes totally under the committee bill. That is simply not the case. A new alternative minimum tax on capital gains designed to insure that none of the big fish slip through the net is included in the package. It will achieve that purpose and it will do so in a fashion which is fairly straight-forward. That is far preferable to any of the last minute chewing gum and bailing wire proposals put forth here today. In fact those proposals are so complicated that even their sponsors do not, with all due respect, fully understand them.

I urge adoption of the Ways and Means bill.

The CHAIRMAN. The time of the gentleman has expired.

Mr. STEIGER. Mr. Chairman, I would inquire of the gentleman from New York (Mr. CONABLE) if he will yield me some additional time.

Mr. CONABLE. I yield 1 additional minute to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I wonder if I could ask a question of the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN)?

Mr. ULLMAN. If the gentleman will yield, certainly.

Mr. STEIGER. I refer to section 314 of the bill which would extend the investment tax credit to rehabilitation expenditures. The legislative language and the committee report unfortunately leaves some doubt as to what is meant by "rehabilitation". Assuming, Mr. Chairman, that an expenditure on property to improve a building's usefulness complies with the specific requirements of section 314, namely, that the building has been in use for 5 years or more, no current credit has been taken or allowed within the last 5 years, the property—or the additions or improvements to the property—has a useful life of at least 5 years and the purpose is to upgrade the usefulness, safety, or the economic operation of the building. Would such an expenditure be considered rehabilitation and eligible for the credit?

Let me give you a specific situation. I refer to the facts involved in Revenue ruling 77-362. In this case, the taxpayer purchases and installs a fire protection system in a building that was used in the taxpayer's business. The system is designed to detect fire at any point in the building, report it electronically to a fire panel and, through a computer, initiate safety measures including elevator recall, turning off fans, stairwell door unlocking and fire department notification. In this case, the IRS ruled that this system is a structural component of the building and does not qualify for investment credit purposes. Assume further that the system is installed in a commercial building that has been in use for 5 years, that the useful life of the system is more than 5 years and that no rehabilitation credit has been taken or allowed for 5 years. It is chargeable to capital account. This is the only addition or improvement to the building.

Would this investment be a qualified rehabilitation expenditure and eligible for the investment credit under the bill?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. CONABLE. Mr. Chairman, I yield an additional half minute to the gentleman from Wisconsin.

Mr. ULLMAN. Mr. Chairman, if the gentleman will yield, the answer is yes. We are assuming that the expenditure meets all of the specific criteria required by section 314. The principal question is whether the building has been rehabilitated and whether the expense is incurred in connection with the rehabilitation of the building. The addition of the fire detection system is a modernization and upgrading of the usefulness of an existing structure. The addition of the system is more than a minor improvement, and I would expect that the expenditure for a small facility could amount to $25,000 or more and for a larger building in excess of $100,000. Clearly, the committee intends that this would be a rehabilitation expenditure and eligible for the investment credit.

Mr. STEIGER. Mr. Chairman, I thank the chairman, the gentleman from Oregon (Mr. ULLMAN) and, Mr. Chairman, I thank the gentleman from New York (Mr. CONABLE) for yielding to me.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I simply want to highlight the features of the Corman-Fisher amendment which will be offered to the committee bill at a later time. My colleague, the gentleman from California (Mr. CORMAN) will go into more details on this.

Mr. Chairman, it must be remembered that this is an amendment to the committee bill. Most of the features in the committee bill would be untouched by the Corman-Fisher amendment.

The amendment we are planning to offer does three things, really:

First, it increases the total amount of the tax cut by approximately $2 billion from a little over $16 billion to a little over $18 billion.

Secondly, it would distribute the tax reductions to individuals somewhat differently from the committee bill.

To summarize that, it would offer smaller reducations to the high-income taxpayers of over $50,000 of income a year and offer more of a tax break to the low- and middle-income taxpayers. The benefits would go principally to the lower income taxpayers but would offer larger tax reductions to all taxpayers up to $50,000.

The third thing that our amendment would do would be to alter the way the capital gains tax reduction is done. In overall amount, our amendment would reduce the capital gains tax by around $1.4 billion as compared to a reduction of $1.8 billion or $1.9 billion in the committee bill. The differences, as the Members will see, are not that great; but they are significant.

Again, the essence of our amendment as it relates to the minimum tax on capital gains would be to provide a progressive scale for those who would pay this tax, such that the percentage would go up to 17.5 percent for the really big gainers, compared to 5 percent under the committee bill. The moderate gainers would not be treated significantly differently.

Mr. Chairman, those are the three principal differences that we propose in the committee bill. In one respect, they are not major; in another, they are significant.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. FISHER) has expired.

Mr. ULLMAN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I thank the gentleman.

The significant part is that the advantages of Corman-Fisher would be weighted more heavily to the low- and middle-income taxpayers.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. FISHER. I am glad to yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I thank the gentleman for yielding.

I have reference to the Fisher-Corman amendment, which is allegedly a meld of the two proposals which the gentleman in the well and the distinguished gentleman from California (Mr. CORMAN) offered in the committee.

I am quite uncertain about the full effect of the apportionment-of-deductions provision.

I would like to ask the gentleman if it is not possible in certain situations for this measure to affect a person's mortgage-interest deductions, property-tax deductions, operating losses, casualty losses, and other personal deductions in such a way as to jeopardize the taxpayer's full benefit of the regular 50 percent capital gains deduction. The apportionment-of-deductions provision is an extremely complicated one, and I am not sure that I understand it fully.

Mr. FISHER. It is complicated, as most of the versions of capital gains taxation which we have dealt with are. It is conceivable to me that what the gentleman says could result is a very limited number of cases, but it is not likely. The Corman-Fisher amendment, of course, does not reduce any of a taxpayer's itemized deductions. It merely allows the special capital gains exclusion to apply only to capital gains in excess of itemized deductions.

Mr. CONABLE. I thank the gentleman for his response.

The CHAIRMAN. Does the gentleman from New York (Mr. CONABLE) desire to yield time?

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, five times in the past 10 years the Congress has followed the lead of the Ways and Means Committee by passing tax cuts. Each of these cuts has been concentrated in low income groups.

Now for the first time since I have been here, the committee is bringing up a bill that cuts taxes across the board. H.R. 13511, known as the Jones bill, gives proportionate tax cuts to all taxpayers. Those previous tax cuts had the effect of increasing the progressivity of the tax tables and redistributing income. The committee does not ask you to undo those 10 years of income redistribution, but it is asking this year to hold the already progressive rate schedule about as it is.

This bill, in its evenhanded, across-the-board cuts, gives some real relief for middle-income taxpayers for the first time. That is the first major new policy direction.

The second new direction is that this bill offers the first incentives to capital investment since the creation of the investment tax credit 15 years ago.

This bill contains the first half of the well-known Steiger amendment. It reduces the maximum capital gains tax from a confiscatory 49 to 35 percent. It ought to be reduced to 25 percent, but that perhaps must wait for a later day.

The benefits of the reduced capital gains tax are also well known. It will stimulate capital investment, create new jobs, improve productivity, and make us more competitive with our international rivals.

The process which brought this bill to the floor is in some ways more interesting than the provisions of the bill itself. The President's ill-fated tax bill was pulled off the committee's calendar at his own request in mid-April. For 3 months the committee waited patiently and tolerantly for the White House to put its act in order. Apparently it could not.

Even when we began mark up several weeks ago, the administration had no recommendations except its original bill which it had asked us not to consider.

After about 4 months of not having any tax policy, the White House, Treasury, et cetera, was galvanized into action. Two days before this scheduled debate, the mountain labored and brought forth a mouse—the Blumenthal bill, more recently described as the Corman-Fisher substitute. But, not to worry, the Treasury will probably oppose its own alternative when the bill is sent to the Senate

Basically it modifies the committee bill in several ways. It puts a little more money into the individual tax cuts. But if you accept the argument that larger cuts are needed, I would recommend you vote for the Kemp-Roth bill which is considerably larger.

It also puts more tax cuts in the lower brackets reversing the policy agreed to by two-thirds of the Ways and Means Committee. It is another income redistribution plan. As such, it lacks the incentive of the committee bill.

The individual tax cut differences are simple. The committee bill gives a personal exemption of $1,000 per taxpayer or dependent. The Blumenthal bill gives only a tax credit of $100. Our constituents will understand that part.

Finally, and worst of all, it reverses the thrust of the Steiger amendment by providing a larger minimum tax which is almost exclusively a capital gains surtax. The Treasury in trying to penalize shelter deductions has invented a very complicated tax not well understood by anyone.

But it is easy to understand that it also penalizes casualty losses which have nothing to do with matters. It is a sort of shell game which gives you deductions—maybe—sometimes—and will discourage capital investment.

It is especially harsh on farm families who occasionally have large loss years and occasionally have large gains from the sale of inflated property. Farmers will not be the only victims, but they may be the worst victims.

The Blumenthal amendment ought to be rejected. We should preserve and pursue the new tax policy directions presented to us by two-third percent of the Ways and Means Committee. Then we should expand the individual cuts by passing the Kempt amendment. That will be a good day's achievement.

The Senate seems even more committed to provide capital investment incentives than this House is. We have every expectation that the Senate will even improve what is now a fine piece of legislation.

Mr. Chairman, I urge the defeat of the Corman-Fisher-Blumenthal amendment. I urge that the bill be passed and that the Kemp amendment be adopted on the motion to recommit.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, as the Members know, there will be in order an amendment to the committee bill offered by the gentleman from Virginia (Mr. FISHER) and myself. It amends the bill in two respects, but in two respects only. We want to make it clear that it touches nothing else in the bill, because there seems to have been some confusion about whether other pieces of the bill would be changed by the Corman-Fisher amendment.

The Corman-Fisher amendment deals with the size and the distribution of the individual tax cuts, and it deals with the minimum tax on capital gains.

Looking first at the size and distribution of the individual cuts, it adds $2 billion to those cuts and increases the total package from $16 bllion to $18 billion. Additionally it redistributes $1 billion of the cuts, taking them from taxpayers who make over $50,000 and distributing them primarily to taxpayers who make less than $15,000.

I know we have had some discussion about how tax cuts have tended to favor people in the lower end of the economic ladder. That in one sense is true if we look at it on a percentage basis, but if we look at it in numbers of dollars in tax relief given, we have always favored people in the upper half of the income brackets. We do now, and we do even under the Corman-Fisher amendment. But we do give a better break to people who make below $15,000. That is the lower half of the people in this Nation who pay income taxes. The median joint return is $15,000. Of course, when we give relief in that area, it involves a rather substantial amount of tax dollars, but let us look at the equity of it.

We talk about who inflation hurts the most. Inflation hurts all of us. I suppose the more money you have, the more you have to spend and the more you will be hit when taxes go up; but people who have no discretionary spending, people who must spend every dime they get to take care of their families, to buy food, clothing and shelter, inflation hurts most of all.

I suggest to you that they need a little bit better break than they are getting under the committee bill. We propose to give them that.

We talked about the maximum tax on capital gains. We agonized over what to do about that for a long, long time. The gentleman from Wisconsin (Mr. STEIGER) had a proposal that in some ways was not really too bad.

The gentleman from Oklahoma (Mr. JONES) made it better. They both dealt with the maximum tax and the minimum tax on capital gains and most people will concede that the maximum tax is presently too high. It is only too high for a handful of people, but it is too high. The bill cuts it back to 35 percent. We do not touch that. We do not touch the rate on capital gains for people who pay ordinary capital gains taxes; but we suggest that when people couple capital gains with sheltering of their taxable income, that there ought to be some point below which they cannot go. The Steiger proposal and the original Jones proposal cut the minimum capital gains tax to zero.

Then, the committee, at the 11th hour, agreed to a 5-percent minimum tax. The fact of the matter is that there is in place now a minimum tax of 7½ percent on capital gains. It never can fall below that. The committee came up with a slightly different version in which it says you cannot fall below 5 percent. When you look at people with incomes of half a million or a million dollars, not in gross wealth, but in sheltered annual income, what is fair to ask them to pay when you are asking people with $15,000 a year to pay $400 or $500 or $600 of it in taxes?

I suggest it is a better approach to have a variable minimum rate, as well as a variable maximum rate.

Now, the variable maximum rate is from 7 percent to 35 percent. It graduates from $20,000 to $400,000. You get to $400,000 before you get to the 35 percent rate. The minimum tax we suggest is 3½ percent at $10,000, going up progressively to 17½ percent at $800,000. Now, anybody who has a capital gain of $800,000 ought to pay 17½ percent of that in income taxes. That is the total income tax they pay. They have sheltered whatever else they have, but it just is not fair to expect people in the middle-income brackets to pay a true tax of 20 or 25 percent, without asking people with millions in tax sheltered capital gains to pay more than 5 percent.

The CHAIRMAN. The time of the gentleman from California (Mr. CORMAN) has expired.

Mr. ULLMAN. Mr. Chairman, I yield 3 additional minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, it is not fair to say to the average professional man or laborer, "You are going to make from $15,000 to $50,000 and you are going to have to pay 20 to 30 percent of that in taxes," but say, "If you get up into the $1 million or $2 million bracket and if you manage your affairs so that you can artificially shelter your income, we will only charge you a 5-percent rate."

Seventeen percent is fair for this amount of income.

It is said that this gets very complex. When you get into sheltered income, it is complex; but this amendment does not add any complexity to it. You have already read in the complexity by sheltering your income, because all we say is that if you are going to shelter your income you cannot take credit for that piece of it when you cut your capital gain in half.

So what we are really saying is that on a capital gain your tax will never be more than your ordinary rate on half of it and it will never be less than your ordinary rate on a fourth of it. It is not complicated at all. It will make it possible for a few people who have very large incomes to make a little more contribution toward the cost of Government.

Mr. Chairman, I urge support for the amendment when it is offered.

Mr. GRADISON. Mr. Chairman, will the gentleman yield for a question?

Mr. CORMAN. I yield to the gentleman from Ohio.

Mr. GRADISON. Mr. Chairman, it is my understanding the amendment which the gentleman in the well and the gentleman from Virginia (Mr. FISHER) are presenting represents the current recommendation of the Secretary of the Treasury; is that correct?

Mr. CORMAN. That is correct.

Mr. GRADISON. Mr. Chairman, can the gentleman give us any information as to whether, in the event this body were to adopt this amendment, that would continue to be presented as the recommendation of the administration when this bill reaches the other body?

Mr. CORMAN. Mr. Chairman, the administration offered a tax reform proposal which it still supports. It is very different from the committee bill even as amended by the Corman-Fisher amendment.

The Corman-Fisher amendment is merely an amendment to the omnibus committee bill. The committee bill covers a lot of things. Some of the things in there the administration supports, and some it opposes.

I assume the position of the administration would be the same on the Senate side. If the Senate passes something comparable to the committee bill and this issue is presented, that would definitely be the position of the administration. If the Senate adopts the original Carter proposal, obviously that would be its recommendation over what the House would do. That would be my guess.

I have not conferred with the Secretary on this, but I do believe the President still advocates all the reforms in the original proposal of the administration.

Mr. GRADISON. Mr. Chairman, if the gentleman will yield further, I can only conclude from the gentleman's com-

ments that we are really not sure whether the proposal he has made bears the stamp of approval of the administration or not. I really cannot read the gentleman on this, and I do not hear him loud and clear. Does it or does it not?

Mr. CORMAN. Let me suggest this to the gentleman: If we could have gotten it in order and proposed the President's original tax reform proposal, that would have been his first choice. There are limited options at the moment.

The CHAIRMAN. The time of the gentleman from California (Mr. CORMAN) has expired.

Mr. FISHER. Mr. Chairman, I yield 1 additional minute to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, if I may continue, the present options, as I understand it, are Vanik-Pickle, the committee bill, the committee bill as amended by Corman-Fisher, or the Republican motion to recommit. There is no question that the administration, among those options, strongly supports the committee bill with the Corman-Fisher amendment.

Mr. GRADISON. Mr. Chairman, I thank the gentleman.

Mr. STEIGER. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. ARCHER), a distinguished member of the Committee on Ways and Means.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I am happy to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I am particularly concerned about the repeal of the deduction for State and local gasoline taxes, penalizing those commuters who must use an automobile for their employment.

The administration has argued that repeal of the deduction will foster national energy objectives, but in reality, it amounts to an increase in the price of gasoline.

Repeal of this deduction will have a particularly devasting impact on the residents of the six-county area in Illinois who were hit late last year by the imposition of an additional 5-percent regional transit authority gasoline tax. The residents of the six-county area—Cook, Lake, Kane, DuPage, Will, and McHenry—now pay the highest motor fuel taxes in the United States. Cook County residents, for example, now pay as high as 20 cents tax for each gallon of gasoline they purchase. Their only meager consolation was knowing they would have the option of deducting State and local gasoline taxes. Of course, even this was no help to those who do not itemize their deductions. The administration and this Congress will take this option away from those who itemize.

I disagree with argument that repeal of the deduction will have a significant energy savings impact. A recent survey was taken by the Midwest Petroleum Marketers Association and the Illinois Petroleum Council of 813 service stations in the six-county area, or approximately 12 percent of the total, covering retail gas station outlets only. The survey shows that the RTA tax has generated a reduction in revenue, but not a reduction in usage.

With the price of a gallon of gasoline in the Chicago area hovering around 80 cents, consumers are simply purchasing their gas outside the six-county area. The survey shows that sales in the Chicago area dropped by 13.5 million gallons in a 4-month period after imposition of the RTA 5-percent tax. The drop in sales shows a corresponding drop in revenues to the State of Illinois and municipalities in the six-county area because part of the gasoline taxes includes a 1-cent Cook County tax, 1-cent home rule municipality tax, and a 5-percent State and local sales tax. Obviously, when gasoline purchases drop because of high taxes, revenues to the State and municipalities also drop. Motor fuel taxes normally paid to the State of Illinois via fuel purchases are now going to other States.

My constituents, and over half the population of Illinois, are now paying the highest motor fuel taxes in the United States. For those residents of the RTA area who are not able to use mass transit systems, it means they must pay for the RTA with nothing in return except a higher price for each gallon of gasoline.

Illinois residents and others throughout the country who itemize their income tax deductions are about to have their taxes raised by an estimated $1.15 billion next year, because of the mistaken notions that repeal will foster national energy objectives and help achieve tax simplification for itemizers. It is an unfair penalty to attach to those who must use their automobile for getting to work, and coupled with the repeal of other deductions, places more taxpayers in higher brackets.

This unwise trend in the continuing erosion of deductions places people in higher tax brackets, and, insofar as the removal of the deduction for health insurance premiums is concerned, seems to be at odds with a stated major concern of this administration. We are daily bombarded with descriptions of the need for comprehensive national health insurance, and yet, by removing the tax deductions for health insurance premiums we make it harder for people to maintain this coverage.

In other words, where we do not have a problem, let's create one.

As we withdraw the gun of tax reform from its holster, we shoot ourselves in the foot.

Mr. ARCHER. Mr. Chairman, at the outset I would like to personally compliment the chairman of our committee, the gentleman from Oregon (Mr. ULLMAN). This has not been an easy bill to craft, and the gentleman has been eminently fair to all members of the committee of all persuasions.

It is my belief that whereas it is not a perfect bill—and the gentleman from Illinois (Mr. HYDE) just pointed out what in my opinion is one of its defects—it is as a package a new plan for this country that will be highly beneficial to the people in the years ahead. The committee amendments that were adpoted by a bipartisan vote, and they have done nothing but add to the value of this legislation.

There is another defect in this bill which does not in my opinion outweigh its good but which I think should be brought to the attention of the committee, and that is the elimination of the deductibility of State taxes on gasoline, which impacts unfairly across this country and particularly on the individual who has to drive long distances to work and has no access to mass transit. From here on forward, if this legislation passes, he will be denied the opportunity to especially itemize that as a tax deduction.

One of the major issues in this bill before us relates, however, to an amendment which I offered in committee. It was adopted—and I stress this fact—by a strong bipartisan vote, by a majority from both sides of the aisle—13 Democrats and 8 Republicans. Even more importantly, the arguments raised against the issue then and now are not substantive arguments about the merits of the proposal. The reliance on emotion alone by its detractors gives me concern that the amendment is misunderstood by my colleagues who oppose it.

In simple language, all my amendment does is to halt the taxation on inflation as capital gains are concerned, and it is prospectvie only, beginning in 1980.

The Federal Government would be limited to taxing only that part of a gain that represents a real increase in value—not the increase that results from inflation without an increase in purchasing power.

The method used to eliminate that taxation on inflation is an adjustment of the basis of certain capital assets for the rate of inflation established by the Consumer Price Index. It applies to real estate, such as a taxpayer's home, to corporate stock, and to tangible personal property as already defined in the code. The basis adjustment would reflect the rate of inflation beginning only after December 31, 1979.

Mr. Chairman, it is a fair and equitable proposal, in my opinion, the element of the bill that has the greatest value, in equity and fairness—and one which represents a greater step forward in bringing greater integrity into the tax code. It is the only way to bring equity to those purchasers of property who hold that property for differing periods of years. An individual who buys an asset for $1,000 and holds it for 10 years, at an annual inflation rate of 7 percent, would realize 100 percent compounded inflation over that 10 years; and if he sold it for $2,000 he would have no real increase in his purchasing power, yet he would be taxed on $1,000 of capital gains. Another individual who bought a piece of property for $1,000 and held it for 1 year and 1 day and sold it for $2,000 would be taxed again on $1,000. With inflation of 7 percent, his real income would be 93 percent, yet he would be taxed the same as the purchaser who had no real income. The only way to treat individual

purchasers at different periods of time equitably is to index the cost basis.

Now, you can argue all you want to about what the rate of tax ought to be on capital gains—and there are different opinions among the Members of the House—but most certainly the tax should be only on real gain. An argument against the amendment is, "Well, we ought to study it." We have studied this principle for years in the Committee on Ways and Means. We have heard testimony from numerous witnesses. The time has come to act.

Another argument might be, "Well, we cannot do it for capital gains if we do not do it for everything." Well, capital items held for a long period of time are clearly distinguishable from other types of income. I would also say that if we took this position year after year, we would never amend the code because the argument would be that, although this amendment is attractive, we are not doing something else that needs correction in the code, and we would take no action at any time. I say it is better to light one candle than to curse the darkness.

Revenue impact might be an argument against it. The Treasury has reached out into the air and has drawn a figure that it will cost $3 billion in revenue. But they say that cost will only occur in the year 2000. They make no allowance whatsoever for increased economic activity. Under any projection there will be no revenue loss in 1979. There will be virtually no revenue impact in 1980, under the worst projections. If there is no inflation in the years ahead, there will be absolutely zero revenue impact. If there is greater inflation, there is a greater need for this amendment. How does it impact on various income brackets. It impacts more heavily to benefit those people under $100,000 of annual income than it does over $100,000. This is borne out by an article by Marty Feldstein in the Wall Street Journal, where he clearly portrays this. And he also states that in the past decade effective tax rates have increased so dramatically that investors in stocks and bonds now pay tax rates of nearly 100 percent and sometimes over 100 percent on their real gains. This is not equitable.

Opposition to this amendment is not a voice of the majority of the people of this country, as was evidenced by many recent polls run nationally by the National Polling Institute. It is, rather, a concept which has received broad-based bipartisan support both in Government and private sectors alike.

In 1976, the American Bar Association recommended the tax code be amended to step up the basis of certain noninventory property for purposes of measuring gain on the disposition. My amendment to the bill implements that concept. It is a concept which has earned support from across the wide spectrum of political philosophies represented in this Chamber because it makes sense, because it is fair, and because it is needed.

In the fall, 1977, edition of Tax Lawyer, leading authorities on this subject wrote:

> The failure to index adversely affects rates of return on ivestment, and thus the rate at which people set aside a part of their incomes to be invested as capital. It does so in essentially two ways: The first has nothing to do with taxes . . . The second is a tax consequence and flows from the fact that inflation causes the real tax rates to increase in a concealed fashion, thus lowering returns and making investment less attractive.

A key figure in this administration has commented on the issue. When he appeared before a Senate Finance Subcommittee last June, the chairman of the Securities and Exchange Commission, Harold Williams, testified in support of lowering capital gains taxes. In part, he said:

> At present, an investor who has held securities for a significant period of years may well find that, upon sale, he is subject to a substantial capital gains tax despite the fact that his so-called "gain" may actually represent an erosion in capital measured in constant dollars. Realistically, capital gains taxes on nominal gains during a period of inflation are a confiscatory tax on capital, not a tax on profit.

If we are to provide investment incentives then we simply must not permit ourselves to continue to perpetuate a confiscatory tax on invested savings. That is what the amendment seeks to undo.

The basic issue is whether we should actually tax inflation. If that is what you want to do, you can clearly express that intention by voting against my amendment. But if you feel as I do that there is simply no way one can justify that kind of tax to the American public, you must vote to keep my amendment in the bill.

If this Chamber can bring itself to tax inflation, perhaps it is only a matter of time before we are debating a tax on the air people breathe. Maybe that's all that will be left when we have managed to tax so many other things that we literally run out of items to tax. There is something radically wrong when Government profiteers from high inflation while individual Americans suffer.

It is bad enough that taxation eats away unmercifully at the dollars our citizens earn. We cannot justify that. But to go the next step and tax false increases in the value of those earnings brought about by inflation is unthinkable.

Our economy can no longer tolerate this outmoded and inefficient system of taxation.

Perhaps Henry Sweeney put it most succinctly when he said:

> The truthfulness of accounting depends largely on the truthfulness of the dollar—and the dollar is a liar.

It is my considered judgment that there is enough integrity, compassion and courage in this Chamber to stand up for what is fair and equitable. I submit that it is time we stopped robbing the people twice through the insidious hidden tax of inflation and the tax on inflation.

Those who agree with me will support this amendment.

Computer model studies show that if this amendment is adopted, it will have a dramatically beneficial effect on the economy of this country, greatly increasing employment, greatly increasing revenues into the Federal Treasury, greatly increasing real spendable wages. That is what we should seek in the United States of America. We should not tax inflation, and a vote for the amendment says for once and for all that there will be equity in the country, that the Federal Government will not be the only profiteer in on rising inflation.

Mr. Chairman, I certainly urge its adoption.

Mr. FISHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. COTTER).

Mr. COTTER. Mr. Chairman, within the tax bill H.R. 13551 there is a provision that I offered in the Ways and Means Committee. This amendment extends the investment tax credit to the rehabilitation of existing business structures. This proposal is a novel effort to assist our economically depressed towns and cities.

The extension of the investment tax credit to existing business structures is the first time that this credit has been used for anything besides machinery. It is another attempt to use the Internal Revenue Code to meet socially desirable goals.

I must point out immediately that this proposal has no "triggering mechanism," and therefore has no regional bias. Existing buildings or structures, including retail stores and warehouses, are eligible wherever they are located if they meet the criteria in the amendment.

There is no provision, however, for residential buildings. The purpose of my amendment, as I mentioned, is to encourage businesses to continue within our older cities and towns. By focusing this credit on rehabilitation I have avoided providing incentive to move from our older population centers. If businesses take advantage of this credit, it should increase the economic vitality of our inner cities. Let me briefly explain my amendment.

Expenditures made July 26, 1978 or after would be eligible for the investment credit.

Also, 75 percent of the existing walls must be retained in place during the rehabilitation process. This is to prevent new construction under guise of rehabilitation.

The building must be in service 5 years from new construction or prior rehabilitation. However, my amendment does provide for piecemeal rehabilitation wherein owners can do walls one year and floors the next.

The installation of rehabilitation parts and equipment must have a useful life of 5 years or more. This, too, is designed to prevent abuse.

In addition, there is a limitation requiring the taxpayer who claims the tax credit to actually use the building after the rehabilitation is completed.

Finally, my proposal treats all rehabilitation components as new property and therefore there is no limitation on the amount that can be claimed as long as all of the conditions are met.

For the benefit of the Members I am including a copy of the language in

the bill and the committee report outlining this provision in greater detail.

Mr. FISHER. Mr. Chairman, I yield 5 minutes to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, I rise in support of the committee bill, as I hope it will be amended by the Corman-Fisher amendment. The committee bill, if amended by Corman-Fisher, will provide more relief for middle-income taxpayers than the committee bill, and matches very favorably even the Kemp-Roth proposals that I have seen.

For example, the $20,000, $25,000, and $30,000 bracket ranges of taxpayers, under either the committee bill or Corman-Fisher amendment, will get a tax increase next year when we consider both income tax and social security tax. But, the Corman-Fisher amendment provides less of a tax increase for those in the $20,000, $25,000, and $30,000, range, and provides more of a tax cut for individuals of $40,000 and $50,000 income as well as for those under $20,000.

It is only after taxable income passes the $50,000 income level that the committee bill provides more relief than the Corman-Fisher amendment.

I have heard a lot of talk this morning to the effect that the committee bill provides relief for middle-income taxpayers. I am curious how my colleagues who suggest that define a middle-income taxpayer. If one's definition of a middle-income taxpayer is an individual who is earning over $50,000 per year, then by all means I have to agree that the committee bill provides more relief. But, it is a fact that if we are interested in providing tax relief for someone with $50,000, $40,000, $30,000, $20,000, $15,000, or $10,000, income Corman-Fisher is the vote that provides relief. I think that is the kind of vote that my colleagues would like to cast.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from New York.

Mr. CONABLE. Is it not true that the Corman-Fisher amendment was designed after the committee had disgorged its proposal, specifically for the purpose of defeating the committee bill? The relationship of the two bills would be quite different if the committee bill had included an additional $2 billion of individual tax cuts, as the Secretary of the Treasury decreed for the Corman-Fisher version. I do not by that statement mean to imply that that is the only issue in the Fisher-Corman measure.

Mr. TUCKER. I understand. It seems to me, it is neither here nor there whether it was developed in that manner. The fact of the matter is if we want to provide relief for what I consider middle-income taxpayers, and that is $50,000 down, we ought to vote for the Corman-Fisher. On tax rates—and it cannot be disputed and I am sure my friend, the gentleman from New York, will not dispute it—for the $50,000 and $40,000 and $30,000 and $25,000 levels, the Corman-Fisher provides a better break than the committee bill.

Mr. CONABLE. But were the Kemp-Roth amendment to be adopted, it would be better.

Mr. TUCKER. But my friend is arguing for the committee bill.

Mr. CONABLE. All I am saying about the committee bill and Corman-Fisher, is if the committee bill had involved a much larger tax cut, of course we would have more relief for the people in the areas the gentleman is talking about.

Mr. HOLLAND. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from South Carolina.

Mr. HOLLAND. I have some concern. I heard the gentleman from California (Mr. CORMAN) say this may concern the taxpayer who had no discretionary income, and now the gentleman from Arkansas is telling us this is for people between $20,000 and $50,000.

Mr. TUCKER. No, quite the contrary. For $50,000 and down, everyone $50,000 down gets a better break under Corman-Fisher than the committee bill and a much better break if they are under $15,000.

Mr. HOLLAND. As the gentleman was going down, I wanted to ask how many taxpayers are there who have no discretionary income and how much of a break will they get if that is the reason for passing this additional $2 billion?

Mr. TUCKER. All I would say to the gentleman is 90 percent of the taxpayers in my district file income tax returns reporting taxable income of $25,000 or less.

Mr. HOLLAND. You are certainly better off than the people in the district of the gentleman from Ohio (Mr. VANIK). He only has 880 people who are doing well.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I thank the gentleman for yielding.

My point was that between $15,000 and $50,000, the Corman-Fisher is about the same as the committee bill. We are substantially different at the figure from $15,000 down. We do shift $1 billion in reductions from those over $50,000. But the place we make a substantial percentage change is in incomes below $15,000, and generally I consider those people to have minimum discretionary incomes.

Mr. TUCKER. Mr. Chairman, I reclaim my time.

At any rate lower tax relief for those individuals with incomes under $50,000 is one problem I see with the committee bill.

The second problem is its treatment of capital gains. The current tax on capital gains is too high. That is why I voted in the committee repeatedly for lower tax relief on capital gains, but I believe in capitalism for everybody and not just capitalism for those in the 70-percent income bracket and up.

I regret to say that neither Corman-Fisher nor the committee bill really offers any significant incentive for capital gains for individuals who are not in the 70-percent tax bracket. I would like to see a capital gains incentive that does something for the fellow who makes $12,000 or $15,000 a year or the man who has a shop with $35,000 or $40,000 a year and who would like to get a break on his investment in the stock market or a new plant or research and development or industry. The committee bill does not provide for that. That is regrettable in my judgment and I would hope we consider capital gains relief, such as I offered in the committee to tax only 30 or 40 percent instead of 50 percent of a gain.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding and I commend him for his statement. I would like to underline the remarks he made about the size of this tax cut and to whom it goes. I would like to emphasize the importance of the Corman-Fisher amendment and point out that it intensifies the amount of money that is going to people who make $50,000 or less. When we are taking into account the social security tax increases, it is very easy to see the Corman-Fisher approach leaves those taxpayers much better off than does the committee bill.

I commend the gentleman for his statement.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to ask the gentleman if he has taken into account a phenonmenon that occurred in 1963, 1964, and 1965?

At that time the top income tax rate I think in 1963 was 91 percent.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Chairman, I yield 1 additional minute to the gentleman from Arkansas, Mr. TUCKER.

Mr. BROWN of Ohio. If the gentleman will yield still further, the top tax rate was 91 percent in 1963, then it dropped to 77 percent in 1964, and finally to 70 percent as the top rate in 1963. As a result, people with high incomes were able to come out of their tax shelters in massive numbers, and with massive amounts of dollars, and the actual taxes paid in subsequent years by people in higher income tax levels was higher in terms of total dollars, and the percentages of taxes paid by those people was also higher.

I have this difficulty in connection with the Corman-Fisher (nee Blumenthal) tax proposal: it would seem to me that there is a loss to the Federal coffers if you do not cut the tax rate at the higher income levels. The people who have the discretionary money and would otherwise keep much of it in tax shelters, would not come out of such shelters. Isn't that correct?

Mr. TUCKER. Corman-Fisher cuts rates at all levels.

Mr. BROWN of Ohio. The evidence is historical, I would suggest.

Mr. TUCKER. The following table demonstrates the results of the committee bill as compared with the Corman-Fisher amendment.

NET CHANGE IN 1979 TAXES OVER 1977 TAXES (INCOME AND SOCIAL SECURITY TAXES COMBINED) FOR A FAMILY OF 4

	Wage and salary income								
	$5,000	$10,000	$15,000	$20,000	$25,000	$30,000	$40,000	$50,000	$100,000
Committee bill ($16,300,000,000)	+24	−34	−35	−115	+207	+135	−47	−215	−485
Corman-Fisher ($18,100,000,000)	+14	−232	−187	+33	+131	+16	−215	−261	−261

The Revenue Act of 1978 includes many good and structurally sound provisions, however, there are three major flaws inherent in H.R. 13511 as reported by the committee.

The first is in the tax table adjustments. A major purpose of this tax legislation was to help offset the effect of inflation which continually pushes taxpayers into higher brackets of taxation and taxes more real spendable income and that is one reason I have joined my colleague from Ohio, Mr. GRADISON, in a proposal to neutralize automatically this inflation burden. H.R. 13511, by concentrating its relief in the highest tax brackets, ignores the fact that inflation hits hardest at those with annual incomes of $20,000 or less. H.R. 13511 further aggravates this problem by repealing the $35 credit and by enlarging the $750 deduction to $1,000. That change is regressive and unfair. Why, for example, should one taxpayer receive a benefit of $500 for each child, while another taxpayer receives a benefit of only $200?

I have long argued that no taxpayer should have the Federal Government take more than 50 percent of his income in taxes. Making the Federal Government more than a one-half partner is, in my judgment, confiscatory and counterproductive, as well. Rates of 50 percent encourage—even require—vast expenditures motivated solely by our tax structure. I do not believe a policy of "soaking the rich" is a good or a fair tax policy. But it seems incredible to me that the House of Representatives, the people's House, would make changes in rates and deductions that virtually ignore 95 percent of the taxpayers in Arkansas and 90 percent of the taxpayers in the country. They are "the people" and they deserve better treatment.

The second error in H.R. 13511 is its treatment of capital gains. The current tax on capital gains is too high. The tax rate on capital gains proposed by the bill is also too high—and the committee bill also proposes a very unfortunate change in the minimum tax. The U.S. economy is capitalistic. I believe in that economy and its potential for keeping our Nation strong and free and providing the best financial circumstances for the largest number of citizens. But, I also believe that capitalism should be for everybody. If that belief were more widely shared, the committee would have chosen a different course on the tax treatment of capital gains. Neither the "Jones compromise" nor the "Steiger bill" reflected any apparent concern for the involvement of the vast majority of our citizens in capitalism. Neither approach was really directed at the tax rate on capital gains. Those efforts were virtually solely directed at the repeal of the minimum tax. I offered in committee an amendment to reduce the maximum regular rate on capital gains to 25 percent but to leave the minimum tax in place. This would have allowed a maximum effective tax rate on capital gains fully 5 percent lower than the rate provided in the committee bill. The debate on my amendment—and its subsequent defeat—clearly reflected the fact that the entire capital gains debate has in reality been an effort to repeal the minimum tax. That is almost all that H.R. 13511 does. I am glad that we were able to amend the bill to provide relief for homeowners. But, why do we not help make capital investment more attractive for everyone? Why did we increase the attractiveness of capital investment only for 340,000 taxpayers? For example, I offered an amendment to exempt 60 percent of capital gains from taxation rather than the current 50 percent exemption and to reduce the maximum rate of tax from 70 to 65 percent and to remove the tax poison which reduces the amount of earned income subject to the maximum rate. An approach of this type would assure that every American could have a stake in capital investment. Every one can play—the $15,000 per year family—the $30,000 per year family—the $50,000 per year family—as well as those with truly enormous incomes. H.R. 13511 offers almost nothing—no real incentive for capital investment for those with incomes under $100,000 per year.

The Fisher amendment, offered in committee and supported by a majority of the Democrats, contained similar approaches. It encouraged capital investment for all Americans. It provided a 10-percent reduction for anybody willing to invest in new issues of equity. The man with the lunch bucket could put his paycheck to work with that. H.R. 13511 provides no such opportunity. The Fisher amendment lowered to 25 percent the maximum rate of tax on the sale of a family business or farm, thus recognizing the need for fairer treatment of the sale of such assets. H.R. 13511 provides no such relief. While I hesitate to see Government attempt to focus spending through tax policy, the Fisher amendment aimed its incentives in that area of capital investment most needed for the growth and strength and future of America—factories, plants, research and development. H.R. 13511 squandered its relief in a manner that will equally encourage investment in stamp collections, coin collections, and antiques, and the entire 75 percent of capital gains that lies totally outside those areas most in need of capital investment.

The Federal income tax system in the United States is somewhat unique in its operation. Unlike citizens of most other countries, people in the United States voluntarily file an annual accounting of their earnings and pay taxes on those earnings. This "self-assessment system" is probably the finest revenue system in the world. Americans will continue to support this system only if they trust it and know it to be fair.

For nearly 10 years, the minimum tax on tax preferences has been the key element that attempted to insure equity in the treatment of all taxpayers whether rich or poor. The minimum tax was placed on the books so that all taxpayers would be required to participate in our system of raising revenues. The minimum tax as we know it today is far from an ideal way of reaching tax equity, but instead of eliminating it, Congress should improve it.

In my view, attempts in the Tax Reform Act of 1976 to strengthen the minimum tax had a harsh and deleterious effect on capital gains and capital formation. A good minimum tax is not a surtax or add-on tax. Rather, it should be an alternative that requires a taxpayer, no matter how wealthy he or she may be, to pay a fair share of income tax.

Surely it is appropriate that those who have benefited from our form of economic system pay at least a modest amount of tax. H.R. 13511 almost completely abandoned this concept and does not, even with the committee amendments, adequately address the problem.

The third major flaw in H.R. 13511 is its failure to address the burden of social security taxes. Congressman GEPHARDT offered in committee an amendment which is reasonable, affordable and provides immediately the relief so solely needed for taxpayers, both employees and employers, subject to social security taxes. This approach, which I have argued for since last year when it was obvious that the social security trust fund required immediate new revenues, leaves the trust funds inviolate, reduces the most pernicious impact of social security taxes on employees and employers and is temporary in its application in the event a future Congress can discover means of either cutting social security taxes or reducing costs of the social security system. This is precisely in keeping with the objectives so strongly supported just last year by the administration.

The amendment provides for a refundable tax credit. This means that if a taxpayer owes no income taxes, he or she will still receive the credit in the form of a refund. The credit also would be available and refundable for employers who, under the principle called parity now imbedded in our social security system, are subject to the payroll tax increases as well and have an equal right to relief. However, because employers already receive an income tax deduction for payroll taxes paid, my amendment would require that their deduction be reduced by the amount of the credit taken so that, in essence, a double deduction would not

result. Only Federal, State, and local employees, or those employees of not-for-profit organizations not participating in the social security system, would be denied this credit and that seems only fair.

It is estimated by the Joint Committee on Taxation that a 5-percent social security income tax credit would decrease Federal revenues by $5.6 billion in 1979. This figure, if added to the tax cuts proposed in H.R. 13511 or the Fisher substitute, is within the target figures of Congress' first budget resolution. Given the tax cuts and increases proposed in H.R. 13511, a 5-percent social security credit may be the only tax cut wage earners below $20,000 will receive. All eligible taxpayers, however, would receive the credit and a typical one and two wage earner family would have their income taxes reduced in the following amounts:

Federal individual income tax reduction from a 5-percent refundable credit of social security taxes paid for one and two wage-earner families in 1979 and 1980

1979	One	Two
Wage income:		
$3,000	$9	$9
$5,000	15	15
$6,000	18	18
$8,000	25	25
$10,000	31	31
$12,500	38	38
$15,000	46	46
$17,500	54	54
$20,000	61	61
$25,000	70	77
$30,000	70	92
$35,000	70	107
$40,000	70	123

1980	One	Two
Wage income:		
$3,000	$9	$9
$5,000	15	15
$6,000	18	18
$8,000	25	25
$10,000	31	31
$12,500	38	38
$15,000	46	46
$17,500	54	54
$20,000	61	61
$25,000	77	77
$30,000	79	92
$35,000	79	107
$40,000	79	123

Source: Joint Committee on Taxation, July 25, 1978.

This may not be the best means to rework the way we finance the social security system. Thus, the credit would only be available for the 2-year period in which my colleagues and I on the Social Security Subcommittee have promised to do just that. Between now and then, however, the 5 percent social security income tax credit will provide small, but needed relief to our taxpayers and our economy.

Mr. HARRINGTON. Mr. Chairman, will the gentleman yield?

Mr. TUCKER. I yield to the gentleman from Massachusetts.

Mr. HARRINGTON. Mr. Chairman, I appear before you neither as an economist nor as an expert in tax policy. I do come here today, however, in a spirit of frustration and disappointment. The bill I am here to discuss provides perhaps the best example in the 95th Congress of how the legislative process has failed the American people and why the public, in turn, remains alienated from—indeed has lost all confidence in—the political process.

For many years, we have heard cries for tax reform from across this country. Taxpayers in nearly every economic bracket have denounced a code which has become little more than a collection of deductions, exemptions, shelters, and loopholes. Many of these special provisions have evolved for legitimate purposes, but, taken as a whole, the tax code is not only too complex and confusing but fundamentally inequitable.

Recently, the calls for tax reform have mingled with growing complaints about the impact of inflation. Men and women have looked on in frustration as their earnings have been eaten away by rising prices and boosted artificially into higher tax brackets. They have clamored both for immediate compensation and for a program to curb inflation.

Against this backdrop of public concerns, congressional performance has been dismal. Our only contribution to the economy in this Congress has been the enactment of a social security bill which not only increased a regressive rather than a progressive tax, but was itself seriously inflationary. Now, at the 11th hour, we find ourselves finally presented with a tax package which purports to address the trinity of economic goals: Tax reform, economic stabilization, and tax relief. As might be expected in an election year, and following committee work that was characterized chiefly by avoidance and retreat, the Revenue Act before us contains some tax reduction and offers almost nothing in the crucial realms of reform or stabilization.

I do not always heed the political assessments of the New York Times editorial pages. The Times' recent evaluation of the tax bill, however, was sadly on target:

It is symptomatic of a national confusion of purpose that Congress has decided to focus the debate over national tax policy on the capital gains tax.

Professor Lekachman's companion piece on the Op-Ed page was less charitable. Mr. Lekachman observed:

If the political actors were of more heroic scale, and their defects were more noble than simple cowardice I'd be inclined to say that we are in the middle of a prologue to a totally unnecessary and entirely unavoidable tragedy—recession in 1979.

Many economists are coming to share this gloomy forecast, citing inflation as the likely prime cause. I recognize that several of the current anti-inflation proposals are not directly germane to the pending revenue bill. Nevertheless, many are germane. Moreover, no current issue—least of all tax policy—can be considered in isolation from the question of inflation. Surely the relationship of tax controls or tax cuts to inflation is as crucial as the relationship of capital gains to inflation, on which the Ways and Means Committee has lavished so much attention.

This month's headlines proclaim Government estimates of an 11-percent rate of inflation. An independent study released just last week suggests the situation is, in reality, far worse. Price increases in the principal areas of food, energy, housing, and health reached 15 percent in the second quarter of this year. At the same time, hourly wages rose at less than 8 percent and real wages actually declined by 3 percent.

These are striking figures. Unfortunately, those who expected commensurately dramatic action from the Ways and Means Committee bill are destined to be disappointed.

For example, Ways and Means might well have turned to a tax-based incomes policy, known now in Washington as TIP. On the whole, TIP is the most promising new proposal to combat inflation. The imposition of tax penalties and tax incentives on industries who fail or succeed in holding down prices and wages might well be integrated as the centerpiece of a new tax program. No consideration of the TIP concept, however, occurred in committee.

Alternatively, one might hope for a major strengthening of investment tax credits which would spur capital improvements so essential to increased productivity. Productivity lags, according to many economists, substantially contribute to continuing inflation. Thus, President Carter's proposal to increase the credit to 15 percent to encourage capital improvements in distressed areas, where productivity has generally declined most, held real potential for spurring development and indirectly trimming inflation. Although the Ways and Means Committee did make the 10-percent credit permanent, it declined to extend this policy further.

Further proposals such as providing tax rebates against next year's returns—thereby giving relief while curbing inflationary consumption—again might have been taken up by the committee. Whatever shortcomings have been manifested in the conduct of the committee's debate, however, I think the most serious demonstration of legislative inadequacy lies in our collective failure to devise a coherent strategy against inflation. At this juncture, I would exempt neither ourselves nor the Executive from the charge of having dotted the "i's" and crossed the "t's" on the tax code while eschewing the tough decisions which must eventually be made to revive our economy.

Personally, I find myself increasingly drawn into the lonely and politically unpopular camp of supporters for targeted wage and price controls. I believe—and I think statistical evidence will confirm—that moral exhortations and traditional

fiscal and monetary policies have been ineffective in stabilizing prices. As the Washington-based Center for Economic Alternatives has suggested in several studies, these remedies lack relevance to the inflation of such necessity items as food, housing, energy, and health which make up 70 percent of the consumption expenditure for most Americans. Prices in these sectors are dictated in large part by unique circumstances—such as oligopoly and climate—that fall outside the textbook realm of monetary, fiscal and demand mechanisms.

Tax cuts will not solve the problem of necessities. Even tax-based incomes policy schemes, though promising in labor-management situations, will be, I suspect, of limited value. If we are being honest and slice through all the demagoguery and disavowals the only effective recourse is to devise a long-term strategy for effective public control over prices in these stubborn sectors.

Accepting for the moment, then, the absence of any anti-inflation component in the current tax bill, one is prompted to reflect on what 7 months' activity has brought us in those areas which were presented to the committee.

In January of this year, President Carter submitted his tax package to Congress. Although some of its specific proposals were controversial, the program clearly addressed the pressing needs for tax reduction, tax reform, and capital investment.

Included was a 2 percent across-the-board reduction in personal income tax rates, an increase in the general tax credit from $35 per exemption to $240, more equitable treatment of capital gains, the tightening of business-related entertainment deductions, the repeal of the DISC tax shelter, extension of the investment tax credit, facilitation of State and local government credit through the taxable bond option and an increase in "small issue" industrial bond exemptions.

Unfortunately, although Ways and Means scheduled 6 full weeks of markup for the administration package, after only 3 short days of markup in April the focus shifted radically from the discussion of an overall plan for code revision to the one-dimensional issue of capital gains. In retrospect, this proved to be the critical turning point. By adopting this limited focus on the Steiger amendment, the committee essentially ended consideration of the larger issues. Hopes for innovation or a restructuring of the tax code were abruptly extinguished.

Another 3 months of behind-the-scenes negotiations elapsed before the committee resumed in late July—again for only 3 days. Now the range of debate was successfully restricted to another narrow proposal: the Jones substitute, a compromise primarily on the issue of capital gains. What can be said of this final compromise?

First, the present Revenue Act is not a tax cut. The Joint Committee on Taxation has calculated that, due to inflation and higher social security taxes, citizens will actually pay more income and payroll taxes combined than ever before. Had the committee been concerned with providing tax relief to the majority of Americans, it would have increased the tax credit which is more effective than an increase in the personal exemption. Had the committee wanted to provide real tax relief, it would have included in its bill a provision to fund social security out of general revenues. Had the committee wanted to provide real relief to counter inflation, it would have indexed personal income taxes. Certainly these options were presented; unfortunately, they were dismissed. We are told that the bill offers a viable response to inflation. Quite frankly, the available evidence indicates that this is not true.

Second, the bill does not confront the need for tax reform. In fact it makes our tax system more regressive by easing the taxation of already favored capital gains. Through the lowering of the maximum possible tax rate on capital gains, elimination of the minimum tax, the creation of alternative minimum tax and the decision to index only capital gains, the economic elite of America receive unwarranted benefits. I believe that the committee should have sought to simplify our complex tax code by ending the numerous special deductions which cloud our system with unnecessary confusion. The committee should have followed the President's lead in working to curtail tax shelters, strengthen the minimum tax, and correct the universally acknowledged abuses of the tax deductions available for business entertainment and travel expenses.

Finally, I believe that the bill before us fails to offer a creative and lasting response to the problem of capital formation. Had the committee wished to offer us a real opportunity to stimulate investment it would have looked beyond the smaller issue of capital gains; it would have investigated the possibility of integrating corporate and individual income taxes or partial integration by curbing the double taxation of dividends; it might have increased and targeted investment tax credits, depreciation deductions and industrial development bonds. The special problems of raising risk and venture capital for newly forming businesses might be better solved by the creation of a development bank.

Certainly, capital gain tax reductions are not the most direct way to stimulate needed capital investment in industrial sectors or regions. Secretary Blumethal's evidence that less than 30 percent of the capital gains taken each year are on corporate stocks documents the inefficient economic stimulation of a capital gains tax cut. Capital needs can be more appropriately satisfied with other methods.

What all this adds up to is that we have spent another year holding the line—postponing inevitable decisions and risking further economic dislocation in the process. If this situation were unique, I could perhaps stand by in mute discouragement. Unfortunately, the saga of the 1978 tax bill conforms to a depressing and increasingly familiar congressional pattern.

Our record at putting fingers in the dikes is prodigious; our inclination to reverse the tides is weak. To date, this House has failed to report an energy bill, balked at welfare reform, gutted hospital cost containment, refused to enact consumer protection or public election financing legislation and now is shelving tax reform. At times, I feel certain that the spirit of President Truman must be lurking in the corridors, shaking his head in bemusement at "that do-nothing 95th Congress."

Even on those issues where we have managed to take action, we rarely show urgency on the important issues and we are often inconsistent. Here is a Congress that overwhelmingly insists on spending $2 billion for a nuclear aircraft carrier that even the Navy warns may be a white elephant. Yet, it is this same Congress that has voted across-the-board cuts in major social services and cannot even find $1 billion for supplemental assistance to America's distressed cities. We will talk until all hours of the night on restricting free agricultural handbooks and pay toilets in the Capitol, we will indulge in colloquy on the Washington Bullets and National Family Day and we will ferret out every indirect form of Federal support for abortion, yet we cannot allow a rule that would permit a broad and thoughtful consideration of alternative tax policies.

We wonder nervously why so many Americans are persuaded by the dangerously simplistic proposition of a 30-percent tax cut. I think the answer is clear enough. We have failed to exert leadership, to come up with the more difficult but more realistic solutions to those widespread concerns. Our inability or resistance only fuels voters' belief in our insulation and their own disenfranchisement. In the meantime, whether it be Jarvis-Gann in California or Kemp-Roth on the national level, the public seizes upon easy remedies which promise at least to bring immediate change.

That is why we find ourselves here this morning, confronting another reelection year tax package and with our backs to the wall on Kemp-Roth.

Given these unappealing alternatives, I strongly urge my colleagues to take the only opportunity left to us to salvage the situation. With time running out, I ask you to support the amendment offered by my colleagues Mr. CORMAN and Mr. FISHER. By providing slightly larger tax cuts for middle- and lower-wage earners, by restoring the general tax credit and by curbing the cut in capital gains tax, the amendment would at least mitigate the embarassing effects of the bill before us.

I also ask your support for my colleague Mr. ROSTENKOWSKI's amendment, striking the provision of the bill which indexes capital assets to the rate of inflation. This brand of tax-indexing only augments the favored status of capital gains tax and certainly ought not to be considered without simultaneous discussion of indexing the personal income of wage earners whose own economic futures are being undermined by rampant inflation.

Mr. CONABLE. Mr. Chairman, I yield

1 minute to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, I rise in support of H.R. 13511; and I urge its passage. I would like to congratulate the Committee on Ways and Means for its hard work and the result of that work.

While the bill before us does not give everyone everything they want, I think, looking at it in its entirety, that it is a good package and one we can all support with pride.

As the ranking minority member of the Small Business Committee, I am especially pleased with the bill's provisions which afford meaningful relief for our small business community.

It seems as though I have been supporting and cosponsoring small business tax relief bills ever since I came to Congress 20 years ago. For years we pushed for the so-called Bible-Evins bills; but in Congress after Congress it died in committee.

During the last Congress, we had the Evins-Conte bill, which had the support of the entire Small Business Committee and the small business community; but most of that bill, including the graduated corporate income tax, died in committee.

This year, our committee and the small business community directed our efforts toward the Smith-Conte bill to graduate the corporate income tax. Thankfully, that bill did not die in committee. It is included, in a slightly modified form, in section 301 of the bill before us.

The bill also includes other small business relief provisions. It simplifies and reforms the subchapter S rules. It makes permanent the 10 percent investment tax credit and extends it to rehabilitation of industrial and commercial buildings and to pollution control facilities amortized over 5 years. It makes permanent and reforms the jobs tax credit, which is important to our labor intensive small businesses.

It cuts capital gains taxes to encourage capital investment; and you do not have to be a wizard in economic analysis to realize that our small businessmen and women are starved for capital.

The bill includes the so-called Archer amendment to provide an inflation adjustment for capital assets. I hope these provisions will be retained. The Archer amendment, if retained, should encourage people to hold investments for a longer period of time. Over the years, representatives of the small business community have told us, time and again, that incentives for long-term investments encourage investments in smaller firms.

In short, Mr. Chairman, this is a good bill. I know that the small business community supports it—and they have been waiting for a long time for this type of relief. For these reasons, I hope the bill will be passed; and I want to thank the members of the Ways and Means Committee once again for their responsiveness to the needs of small business.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding and I rise in support of this legislation. I think it is a better piece of legislation than many of us thought would arrive on the floor. I do think some improvements could be made to it.

I will be supporting the Kemp-Roth provision later.

I am disturbed by the fact that the legislation does remove the tax deductions for gasoline taxes and I am also concerned about the treatment of medical insurance premium deductions.

Mr. Chairman, there is no subject dearer to a politician's heart than cutting taxes—especially in an election year. So it should come as no surprise that after 1½ years of virtually ignoring the subject, this Congress is now falling all over itself in an effort to hand back some of the money we so recently extracted from the hardpressed taxpayers of the Nation.

But before we all begin to congratulate ourselves, and the voters, it would be well to set the record straight on a few items. First of all, this money we are giving back was never ours in the first place; it was collected from the working people of the Nation, much of it through the instrument of inflation.

In fact, if you look at the amount of taxes we are returning, and look at the loss of buying power experienced by wage earners over the last 2 years, you see that most people will be lucky just to break even. In effect, it was the reckless spending policies of the Federal Government which provided the extra cash to the Treasury that we are now so magnanimously agreeing to give back. Inflation, the hidden tax, robs taxpayers at both ends, by shrinking the purchasing power of their dollars while pushing them into higher tax brackets. So all we are really doing today, is belatedly returning something which was not ours to begin with.

What is more, when you add into the tax equation the increases in social security payroll taxes which this body enacted into law just 8 months ago—against my vote—you see that the individual taxpayer, for the most part, still comes out behind in this bill.

So I hope when we return to our districts and start talking about how we cut taxes, we will be honest with the voters on this score.

The second thing I would like to point out, Mr. Chairman, is that this House did not voluntarily come to this point on its own. It was forced here by the voters, and particularly the voters of California through the passage of proposition 13. Until last June, the prospects for any meaningful kind of tax cut that would benefit middle-income taxpayers getting out of the Ways and Means Committee were as dim as some of the "experts" who issued dire warnings of catastrophe to California voters right up until June 6. Subsequent events having proved the voters right, we should be congratulating them rather than ourselves for forcing a bill out of committee.

Finally, I would like to point out that the bill presently before us, while a step in the right direction, is far from perfect. I do oppose the provision removing the tax deductions for gasoline taxes—very unfair to my commuting constituents—and I am also concerned about the treatment of medical insurance premium deductions. From the standpoint of improving the economy, creating fairness in the taxation of capital gains, giving business a much needed injection of capital. and indirectly improving productivity and alleviating unemployment, the bill is clearly a plus. What it lacks, is enough consideration for the individual taxpayer, the wage earner. The Kemp-Roth bill, which will be offered as an alternative tax cut later today in the form of a motion to recommit, is clearly superior in this respect. And I say that not just as a long-standing cosponsor of Kemp-Roth. Economists who have studied the measure, the historians who remember the Kennedy tax cuts of 1963, believe that by cutting individual tax rates across the board by 10 percent a year for 3 years, which is what Kemp-Roth does, we will provide sufficient stimulus to the economy, put enough money back into people's pockets, and create enough new capital, to lift the economy from its present bedridden state. History bears this out. In fact the 1963 cuts, drafted by the same people who drafted Kemp-Roth, led to 8 years of prosperity and paid for themselves in the form of increased Government revenues. Their only defect, and Kemp-Roth's, is that they did not index the tax rates against the future effects of inflation. But since it is clear that this House would never pass such a provision, Kemp-Roth is clearly the best alternative we will have a chance to vote on this year.

In conclusion, Mr. Chairman, I commend the Ways and Means Commttee for having the wisdom to respond to the clear public mandate of proposition 13, at least to the extent of sending a tax cut bill to the floor. But I would urge my colleagues to go a step further and be honest enough to give individual wage earners the same consideration as business and investors. They can do that by voting for the Kemp-Roth bill, and keeping the pact with the voters who have been footing the bill all along.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Chairman, I rise in support of this tax cut proposal and intend to support a number of the amendments that are up for consideration.

The American taxpayer is demanding a meaningful cut in taxes—and rightfully so. I intend to support the tax bill as it provides a significant measure of tax relief, but I shall also be supporting amendments directed at expanding the tax cut to further ease the burden being borne by working men and women and perfecting amendments which will modify our tax laws to correct a number of problems which exist.

I would like to commend my colleagues on the House Ways and Means Committee for their perseverance in completing action on this bill and bringing it to the House floor. It contains a number of very significant provisions.

The bill will allow employees and independent contractors performing services for a State or local government to defer annually an amount equal to the lesser of $7,500 or 33⅓ percent of their currently includible compensation. This provision is necessary to prevent implementation of regulations being proposed by the Internal Revenue Service which would preclude participation in deferred income programs by public employees.

Small cities and towns have a more difficult time recruiting top management and supervisory personnel as they are unable to compete in salary and benefits with larger urban centers and private corporations. One of the benefits a small city can offer is a deferred compensation program. This is an attractive incentive to an experienced planner, engineer, police or fire chief who is looking for the atmosphere of a rural area such as exists in my congressional district. Therefore, a great many public employees in my congressional district are enrolled in this type of program and are realizing benefits from it.

As a cosponsor of separate legislation to reverse the proposed IRS action, I am pleased that the committee has chosen to include our proposal in the general tax bill.

I also support the capital gains provisions in the committee bill. As a cosponsor of the legislation introduced by my colleague from Wisconsin (Mr. STEIGER) I believe that a reduction in taxes on capital gains will provide an incentive for the American private sector to inject additional capital into productivity improvements, making us more competitive with foreign producers, creating new jobs, and saving a great many existing jobs that, in the absence of assistance of this type would disappear.

Specifically, the bill reduces the maximum tax rate on capital gains from 49 to 35 percent by repealing the 25-percent alternative tax and removing capital gains from minimum tax on tax preferences. In addition, the bill provides for an alternative minimum tax on capital gains, an inflation adjustment for capital assets, and permits an individual to exclude from gross income $100,000 of any gain realized on the sale or exchange of his or her principal residence. This last provision applies to persons of any age but is likely to be used more often by older homeowners who wish to retire. They will be able to sell their homes and avoid paying a large portion of the gain in taxes. It is my understanding that this provision, if enacted, will apply to sales or exchanges after July 26, 1978, or possibly on the day of enactment.

During consideration of the bill, a motion to recommit will be offered by my colleague from New York (Mr. KEMP) with instructions to reduce individual income tax rates by an average of 33 percent over the next 3 years beginning in January 1979.

As a cosponsor of this tax cut bill, which is the essence of the motion to recommit, I strongly support this effort, and will be voting for it. Inflation has pushed taxes higher, social security taxes have risen, and the pending energy taxes will push the total tax burden even higher. It is estimated that the tax burden will increase by $26 billion in fiscal 1979, $47 billion in fiscal year 1980, $72 billion in 1981, and $85 billion in 1982. We need to cut this tax rate trend significantly and revise the social security finance structure, and reduce that rate structure before the new rates go into effect.

Overall economic growth in terms of real growth has substantially declined. Taking as an example the 1960's and early 1970's when there was a real growth rate of about 4 percent after inflation and comparing that to the period from 1973 to 1979 when the rate fell to between 2 and 2.5 percent we can see that there has actually been about a 40-percent decline in real growth. The result has been a loss of confidence, a loss in production, and a loss in incentive.

For society as a whole, this decline in real growth means we are not keeping pace with the demands of our expanding work force. This is particularly significant to women who are entering the work force as full-time employees at a much more rapid rate than in the 1960's. If we are going to provide the necessary jobs we must reverse this decline and move in the direction of meaningful economic growth.

Our motion to recommit simply returns the windfall tax dollars which the Federal Government has been collecting as a result of inflation and puts them back in the hands of the private sector to be used in expanding production and creating new jobs. The Federal Government and the Treasury should not benefit from the inflation which Government itself is creating by continuing to deficit spend.

California has led the Nation in voicing its demand for lower taxes and less spending. Proposition 13 clearly demonstrates the dissatisfaction and frustration which exists over current tax levels and Government policies. The mood of the country requires that we take steps at the Federal level to return to the people what has been taken from them by inflation.

While the bill as reported cuts taxes it does not completely offset the increases in taxes which have occurred in recent years and does not sufficiently lessen the increased burden borne by working men and women.

Our proposal is essential if we are to avoid recession and inflation. It is aimed at more savings and incentive, more jobs, and more production—all of which are the fundamentals of a healthy, free economy. By lowering the marginal tax rates, the ones which govern the real value of added wages, interest and income, we will produce a surge in production and economic growth that will reduce unemployment by creating more jobs in the private sector, will increase the supply of goods and services, and will lower consumer prices.

Our proposal according to a Library of Congress study will accomplish the following objectives:

First. It will increase real GNP by a range of 1.2 to 2.9 percent in 1979 and 2.4 to 4.9 percent in 1980. These are increases above inflationary increases.

Second. Real disposable income of the American workers will go up from by a range of 2.7 to 5.1 percent in 1979 and 4.6 to 8.3 percent in 1980, according to that study.

Third. Unemployment would drop from a range of 0.6 to 1.1 percent in 1979, 0.3 to 2.1 percent in 1980, and 0.7 to 3.3 percent in 1982, according to that study. That means a jobs creation of 700,000 to 1,100,000 in 1979; 1.4 to 2.0 million in 1980. This in turn reduces social welfare spending payments and adds to the tax base.

Fourth. It will provide 65 percent of the reduction to lower and middle-income families so that all Americans can enjoy more real disposable income.

Fifth. It will cause a change in Federal income tax liability in such a way that $100,000 and over families will pay a greater share than today, by drawing them out of tax shelters into taxable economic activity, thereby lowering the tax liabilty percentages on every income class under $100,000.

Sixth. It will be self-financing because increased personal savings and increased retained earnings will be sufficient to cover all additional borrowing needs of Treasury, meaning the Federal Reserve will not have to increase the money supply to cover a portion of that borrowing, and will provide additional investment capital for the private sector's borrowing needs. According to calculations, it will result in crowding in, not crowding out.

Critics of major tax cuts claim that they will cause greater deficits but history has not supported their arguments. Tax reductions in the past have not resulted in the revenue losses predicted. Our proposal will cause substantial inflows to the treasury making the cost of our bill very small.

Our proposal will cause added savings to flow into both Federal and corporate bonds, reducing interest rates and making it unnecessary for the Federal Reserv to step in to create new money. These savings will generate sufficient growth in the economy to offset revenue losses by creating new jobs and more production.

I believe our larger tax reduction accurately reflects the mood of the public in support of genuine tax relief. They are not going to be fooled by a tax bill which will still result in higher tax bills next year for working Americans. It also puts the Federal Government on notice that taxpayers will no longer tolerate the Government's taking of more and more of their incomes for programs they see as wasteful and duplicative.

If enacted, our proposal will get this country moving again. These are the very words used by President Kennedy in the early 1960's when he proposed a bold tax reduction plan slashing individual and corporate tax rates.

It will release pools of energy and individual initiative that have been the foundation of our success as a Nation and will raise the national standard of living for which this country is famous.

Lastly, I intend to support the indexing amendment being offered by my colleague from Texas (Mr. ARCHER). The amendment would allow taxpayers to adjust the basis of certain capital assets upward by the rate of inflation. Assets eligible for the indexing would be corporate stock, real estate, including a personal residence, and tangible personal property. For assets sold after December 31, 1979, the basis of the asset would be adjusted to reflect the rate of inflation for years after 1980. Current law clearly overstates the value of real capital gains. This amendment addresses this problem and will increase investment opportunities substantially.

The effect of this legislation will be to move us in the direction of fiscal restraint and a balanced budget by giving us the incentive to bring inflation under control and reduce wasteful Government spending. When this occurs we can anticipate a surge in production which will create many new jobs and improve our standard of living for our low- and middle-income individuals and families, for homeowners, small businesses and the long-awaited reduction in capital gains.

Whatever the outcome, this is a good day for the overburdened taxpayer—particularly Mr. and Mrs. Middle America. I hope this is the beginning of more tax cuts and set the stage for Federal spending cuts and convey to the taxpayers who are in revolt throughout America that the Congress is finally getting the message.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Chairman, the tax laws that we have on the books are premised upon having stable prices, which we have not had for a long time and which, unfortunately, we are unlikely to have in the foreseeable future.

As a result, we have built into our tax structure a very unusual tax, an inflation tax, one which is unlegislated, unvoted, and not signed by the President.

When some of us in years past were talking about this, and referring to the problem, we talked about the need to index the tax structure and it was clear that many people in the general population really did not understand what we were talking about. But now I think that has changed and has changed very quickly and has changed very dramatically as people understand, from their own experience, the way in which they are being pushed into higher tax brackets, not because of increased real wages but because of inflation. As a result of this phenomenon the only gainer is the Treasury which receives an inflation bonus paid for out of the pockets of the taxpayers.

The bill before us, unlike most tax bills that we have had in the past, does recognize inflation and does, in at least two instances, do something about it.

First, there is the Archer proposal which recognizes that much that we tax today as capital gains is not a true gain but is the result of inflation.

Second, we have the widening of the brackets by 6 percent, which represents an appropriate degree of indexing for a 6-percent rate of inflation. That, indeed, is what indexing of the tax rates is all about and how it would work under most of the bills which have been introduced in either body now or in years past.

To my knowledge, this bracket widening which has been recommended to us is being suggested for the first time; and I think it is very desirable. However, my main regret is that it is not made permanent and lasting.

There is a bill which has been introduced and I think is going to be heard from more in the future, which would put this on a permanent basis. It has over 100 cosponsors in this body at this time.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from Georgia, of course.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding to me, and I would like to commend the gentleman for his remarks and also for his leadership on the issue of indexing of income tax rates.

I am proud to be a cosponsor of his legislation, and I think the gentleman puts his finger right on the point. It is not fair for the Treasury to benefit from inflation which raises tax revenues when Government policy is partly responsible for creating inflation, to begin with.

People in all walks of life—low income, middle income, fixed income—all suffer from inflation. To add greater injury the tax law takes even a greater part of a person's real income because of inflation. The Government taxes inflation. Indexing the tax rates to offset inflation is only fair. It provides needed tax relief as well.

Mr. Chairman, the partial step in indexing which has been taken in this legislation is an important step forward. I am glad to see this first step and to be a part of it. We still have more to do but this is a start.

Again, Mr. Chairman, I would like to commend the gentleman from Ohio (Mr. GRADISON) and associate myself with his remarks.

Mr. GRADISON. Mr. Chairman, I thank the gentleman from Georgia (Mr. LEVITAS) not only for his comments, but for his leadership on this important issue.

Certainly it is possible, by annual legislation, to deal with this problem; but frankly, we have not done it, and there is not much to encourage anybody to think that we are going to do it in the future.

During the 10 years ending in 1975, all of the so-called tax reductions that took place during the decade left the average taxpayer worse off than if we had indexed beginning in 1965. Indeed, the only income category which benefited from all of those changes, on balance was those earning less than $10,000 in 1975 dollars.

It is no wonder that the middle-income taxpayers are outraged by what has been going on and are looking for real tax relief. This bill, I conclude, is a step in the right direction. Those who have labored so hard to bring it to us deserve a great deal of credit. In particular, I would single out our chairman, the gentleman from Oregon (Mr. ULLMAN), the ranking member, the gentleman from New York (Mr. CONABLE), and the gentleman from Oklahoma (Mr. JONES), who have done a great job in bringing to us a measure which deserves the support of the House.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman yielding and I want to join with the gentleman from Georgia (Mr. LEVITAS) in complimenting him on the leadership he has provided in the Committee on Ways and Means in trying to interest that committee in the idea of indexing.

As my colleagues may know, we have recommended tax indexing of individual income taxes in recent reports prepared by the Joint Economic Committee on which I have been serving as the ranking House Republican for the last two Congresses and we were joined last year by the majority on that committee in expressing enthusiasm for indexing.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. GRADISON) has expired.

Mr. CONABLE. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio (Mr. GRADISON).

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield further?

Mr. GRADISON. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, the gentleman from Ohio (Mr. GRADISON) the gentleman from New York (Mr. CONABLE) and I, had the opportunity to study this issue in Canada where tax indexing has been tried. It is extremely popular with the taxpayers. It is somewhat less popular with the politicians because they do not get the opportunity to exercise the apparent magnanimity of reducing taxes by legislation every few years—which, of course, is what we do in the U.S. Congress. However, we never quite cut taxes often enough or deep enough to actually offset the increases in tax impact caused by inflation.

Indexing of individual income taxes is very unpopular with the budget planners, however, because they have to figure out ways to cut Federal expenditures; and that is exactly what the American people are looking for now—

an automatic method to hold Government expenditures down.

Mr. Chairman, I hope the gentleman from Ohio (Mr. GRADISON) will be successful one of these days in getting the Ways and Means Committee to give us the opportunity to vote on tax indexing when we have a tax bill before the Congress.

Mr. GRADISON. Mr. Chairman, I thank the gentleman from Ohio (Mr. BROWN) for his comments.

I would conclude by saying that I really do not believe that the old rules will work and that we are going to get credit as being generous when all we do is to give money back to people, money which should have stayed in their pockets in the first place.

Mr. CONABLE. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Chairman, I rise on behalf of the Kemp-Roth amendment and the capital gains provisions of the committee bill. I do so because I am concerned that this whole debate has gotten off the beaten track, and that we have degenerated into a case of a microscopic examination of the twigs of the trees, and have really lost sight of the forest that we are attempting to deal with here.

Of course, in the last few weeks the critics have had a field day nitpicking at these two proposals. In the arguments that have been made they have taken pains to differentiate between the economic conditions of today and those of the midsixties, the last time a rate cut was tried. They have argued about the supply elasticities for savings and labor that we might get from a rate cut. They have argued about the level of feedback on revenues and on the deficit; and, of course, we have had great arguments about the distributional aspect of capital gains reduction. If the Members are looking for an excuse to vote against either one of these proposals, there are plenty of them around they can hang their hats on. I would not deny that or doubt that for a moment. But if you are concerned about the overall dismal economic performance that we have had in this country since 1973, and if you are concerned about the real strategic issues in this tax policy debate this year, then I think you ought to give Kemp-Roth and the capital gains reduction another look. Because the single most important fact that we confront today in this tax debate is the startling and radical reduction in the real rate of economic growth that we have had in this country since 1973. We need to know why, and we need to know what we can do effectively about it.

I am sure every Member of this body recognizes that between 1960 and 1973 we had a real economic growth rate of about 4 percent a year, and that meant that we could accommodate the increase in the labor force, and we could have some substantial real per capita gains in income and in the standard of living as well. But I would suggest to this body that on the basis of the prospects for 1978, and of the forecasts for 1979, you are going to find that for the period 1973 to 1979 our real economic growth rate in this country has been reduced to 2.5 percent, by 40 percent from the trend rate of the previous decade. We cannot attribute that to recession any longer. This business cycle is now mature. We have gone through the whole phase, and it is leveling off.

What this 40-percent reduction in trend rate of economic growth means, very simply, is that the economy is barely growing rapidly enough now to keep up with the expansion of the labor force. We are getting almost no gains in real per capita income.

During the 1960's real per capita income increased by 34 percent. That meant that the average family experienced a one-third increase in their standard of living over the decade. Today we will be lucky to get a 10-percent increase in real per capita income between 1973 and 1983. That means that the standard of living for the average family in this country today is only rising at one-third of its accustomed rate.

The reason for that is very simple. Productivity in this country has stopped growing. In the last year there have been negligible gains in productivity—almost zero. Over the period 1973 to 1978 productivity has averaged 1 percent compared to the 3-percent trend that we have been used to in the past.

So the question really before us today is, What do we attribute this fundamental, this startling, radical decline in our rate of real economic growth to? Is it due to problems on the demand side of the economy or on the supply side of the economy? I would suggest to my colleagues that after 5 years of frenetic demand management and stimulation, I hope that some of us would begin to question the efficacy of the great Keynesian god of demand stimulus, because the fact is it clearly has not worked. If we finance stimulus expenditure increases by taxes, the only thing we do is shift demand from taxpayers to income-transfer recipients. We do not increase the amount of demand in the economy. If we finance stimulus expenditures with debt, the only thing we do is reallocate demand from the credit markets where it might be used to finance housing and capital goods to spending on consumer goods by income-transfer recipients. If we finance demand stimulus spending with money supply increases, the only thing we are doing is creating more funny money, not more real demand, and the world market and the domestic market understands it very quickly. They discount it, and that is why inflation is up at home and the dollar is down abroad.

The fact is, we have had no demand deficiency since 1973 when this radical decline in the economic growth rate began. The money supply has been growing twice as fast as the sustainable growth. The problem is not on the demand side. If we look at the supply side of the economy, we have a different picture. That is where the problem is, and that is the problem we must address this year.

If we look at the supply side of the economy and we remember what the gentleman from Wisconsin has pointed out about the supply of risk capital, which has almost entirely dried up, and if we look at the devastating impact we have had in the equity market, and realize that means that capital is flowing to the low-growth industries rather than the high-productivity, high-growth new industries in this country; if we realize the impact the quadrupling of the cost of energy has had in reducing the output of the economy.

If we look at the waning of the entrepreneurship in this country, because of the very high tax rates today on high incomes. Today, if you put all those things together you can see why the economy has been growing at such an anemic rate and why our rate of growth has been reduced.

The point is, Kemp-Roth and the capital gains changes are oriented toward increasing and stimulating the supply of those critical ingredients of economic growth in the economy, of savings and of risk capital, of entrepreneurship and of our productivity rate.

I would suggest we are not going to solve our problems until we look to those issues.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee (Mr. DUNCAN), a valued member of the committee.

Mr. DUNCAN of Tennessee. Mr. Chairman, I rise in support of H.R. 13511, the Revenue Act of 1978. H.R. 13511 represents a positive congressional initiative to reduce taxes on the working person and to foster a healthy economy. The bill is a balanced package which provides relief to all major segments of our society. It helps the individual taxpayer by widening tax brackets and increasing the personal exemption to $1,000. It helps the business community by lowering the top corporate tax rate to 46 percent and permitting an investment tax credit for rehabilitating buildings. It helps the economy by encouraging investment through a lower capital gains tax. This is a good bill which has something for everyone.

I am pleased that besides addressing complicated topics such as investment credits and the indexing of capital assets, that it also addresses the kind of "bread and butter" topics which all taxpayers can appreciate. In particular, I am referring to the provision excluding from taxation the profit on the sale of a personal residence, up to $100,000. Most persons buy a home because they need a place to live and not as an investment. Consequently, it is a harsh result when these persons must pay a large capital gains tax when they sell their home after the children are grown and they wish to move to a smaller home. The committee's bill will correct this injustice.

Mr. Chairman, I associate myself with the remarks of the ranking minority member, Mr. CONABLE, regarding his ex-

planation of the details of the bill. While it is not perfect, it is a bill we can all be proud of and should all support.

Mr. CONABLE. Mr. Chairman, I yield 6 minutes to another valued member of the committee, the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Chairman, let us look at the basic problem of inflation. Every survey of public moods finds that the No. 1 concern of American citizens by far is inflation. For 5 years it has been foremost in the minds of our people.

They see it as a hidden tax on their income. It directly inflates interest rates on borrowed money. That extra interest is in effect a hidden tax on borrowed money, payable every year, every month that you meet a payment, and it is not fair.

Inflation is a spiraling addition to the cost of goods and services. Thus it is an add-on tax, a hidden tax on the retail cost of goods and services. And it is not fair.

The people know that inflation hurts those who are on fixed incomes and grievously hurts the economy and causes dislocations that result in more unemployment. Thus it is a hidden tax on retirement and a hidden tax on jobs, taking the form of subtracting from the job pool.

Inflation is just another broad hidden tax on the price of goods and services, a hidden tax on jobs and retirement and a hidden tax on borrowed money. And it is not fair. Only the inflated Government benefits from it.

Not only do the people have to pay their taxes: their income taxes, their capital gains taxes, their excise taxes, their gasoline taxes, their estate taxes, their State and local property taxes, and their sales taxes. Then they pay the hidden tax of the price increases reflecting the taxes directly paid by businesses. Then on top of that they pay a hidden tax in the form of inflation, the rising cost of living.

Now they see that their Government taxes them in new ways to be sure that no one escapes this tax in the form of inflation. That is right. Anyone who is so fortunate as to neutralize inflation by receiving a cost-of-living increase in wages, finds that they end up in a higher income tax bracket. That means that they pay even a higher proportion of their income in taxes. Instead of staying even with inflation; they have to pay in effect an add-on tax on the inflation, and they end up falling behind with lower and lower buying power in their take-home pay.

Thus since inflation itself is a hidden tax, this elevation in the tax brackets ends up being a tax on a tax.

The same effect applies to capital gains taxes. If someone bought a house and lot 30 years ago for $15,000 and now upon or near retirement sells that same house for $80,000, the current selling price will not represent any more real buying power than the $15,000 paid for it in 1948. In fact it would be slightly less in constant dollars. The entire taxable gain in current dollars is due entirely to the devaluation of the U.S. dollars. It takes 65,000 more of them to add up to the same value in the same home.

Yet, does the Government excuse this individual because their value has slightly decreased. No, the tax code strictly and rigidly and inescapably levies a tax of $10,000 to $15,000 on this transaction, and it is nothing more than a tax levied on inflation.

That is why the amendment in the bill known as the Archer amendment should be retained in this bill, because in fairness, it eliminates the tax on the hidden tax on inflation. Anyone who votes to strike the Archer amendment is voting to restore this vindictive tax on inflation. After all the rhetoric about jobs, soaking the rich, and so forth, have reverberated their last echo, all they are voting to do is to do one thing, to continue this tax on inflation. Nothing more.

That is why the essence of the Archer amendment is so important and should be adopted as a part of this overdue legislation.

The same principle applies to the Kemp amendment. It is not, strictly, speaking an indexing mechanism, such as advocated by our colleague from Ohio (Mr. GRADISON), but it comes out the same. In its effect, the beauty of the Kemp one-third cut in the tax rates across the board, and essentially what it does over 3 years, is to index the tax code and the tax burden back to where it was in 1968. What that Republican tax cut does is relieve the swelling tax burden that has been added on entirely and surely by inflation alone over the last 10 years. These are the two major issues in this day's work.

There will be some partisans who will resist the Kemp amendment because it is the only amendment to the committee bill offered on the floor by a Republican. There will be some who will hide behind the fact that the Kemp amendment will be offered under the device of the traditionally reserved minority motion to recommit with instructions.

That, of course, will cost a few partisan votes. But I say that anyone who votes against a needed tax cut because it is offered by a Republican in a motion to recommit will deserve what they stir up. Their constituents will not care about partisanship or recommittal procedures. They will understand that on an amendment to cut taxes you voted no. There will be no excuse. There will be no valid explanation.

Mr. Chairman, anyone who thinks the American people don't need or deserve a tax break has not been listening to taxpayers. They've been listening to tax eaters.

Anyone who thinks that a tax cut would not stimulate a somewhat stagnant economy does not understand the incentives or the psychology of the American system of private enterprise.

Anyone who thinks that a tax break will not benefit the unemployed does not know that investment produces more jobs than any other mechanism ever devised.

Anyone who thinks that a lower tax rate will not stimulate or generate more tax revenues necessarily must believe that the way to get more revenues to fuel this gigantic growing Government is to raise the tax rate. Well, they will have a chance today. If they vote for the Vanik-Pickle substitute they will be voting for an increase in taxes on all Americans. If they vote to strike the Archer amendment they will be voting to restore a tax on inflation; or more correctly, a tax on people to pay for inflation—the very inflation caused by excessive Government spending. If they vote against the Kemp amendment under the motion to recommit, once again they will be voting for a tax increase on many taxpayers and for continuing the sneaky way that inflation snares people into higher and higher tax brackets.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Mr. Chairman, I rise in support of H.R. 13511. I commend the chairman of the committee, the gentleman from Oregon (Mr. ULLMAN), and the ranking minority member of the committee, the gentleman from New York (Mr. CONABLE), as well as all the members of the committee, who have worked so hard on this bill.

I think what the committee has proposed is a commonsense compromise among a number of proposals that may by themselves have some merit, but which would, as amendments to the committee bill, be unacceptable. I think that we would all do well to support the committee bill.

However, I rise today on a subject related to taxation which has not, unfortunately, been included in this bill.

In the spring of 1977 I submitted H.R. 5500, which would have provided a tax credit of 25 percent up to $10,000, that is, 25 percent of $10,000 or $2,500, for each of the following four categories of activities involving energy conservation by individual U.S. homeowners:

First, insulation of homes and other residences; second, installation of residential solar heating and hot water systems; third, installation of residential heat pumps; fourth, the purchase of electric automobiles.

Mr. Chairman, I have 78 cosponsors for this legislation H.R. 5500, and identical bills. These cosponsors call attention, I believe, to the fact that Members of Congress are deeply concerned about providing adequate tax incentives for these energy conservation measures.

Three of these four provisions, excepting only credit for heat pumps, were included in title II of H.R. 8444, which was the House version of the President's national energy plan, with certain modifications as to the amount of credit. They were also included in the fifth bill of the NEP which is in conference be-

tween the House and the Senate, along with other energy tax provisions.

However, it is my understanding that this fifth bill is dead in the conference committee. and that no action can be expected on it this year.

However, I believe that these tax credits for energy conservation are important now. Great damage has already been done to the solar energy industry in this country because buyers are not buying solar energy systems, and this is because they are waiting for us to institute the tax incentives.

I would like to request of the chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN), if he would comment on this matter for me, in view of the importance and urgency of this matter, and of the fact that this section of the national energy policy appears to be dead in the conference committee.

Mr. ULLMAN. If the gentleman will yield, as the gentleman knows, these were included, in a large part, in the energy bill that we passed, now in conference. As the gentleman knows, there are some very difficult problems in the conference, particularly dealing with the crude oil tax and some other alternative on domestic pricing. We are still working on that issue. It is the hope of the chairman of the Committee on Ways and Means that we can get a conference report passed in this session of Congress dealing with the whole matter. The chairman of the Committee on Ways and Means also recognizes, however, that these matters are of individual urgency and that somehow, even if the whole conference could not be adopted, it is the hope of the chairman of the Committee on Ways and Means that we could get those particular issues addressed before the end of this Congress.

Mr. McCORMACK. May I say that I stand ready to appear before the Committee on Ways and Means with updated information on this subject, especially with respect to the solar energy industry, and I would be glad to provide the chairman with any assistance he needs if he cares to consider H.R. 5500 now for enactment by itself, yet this year. I am not asking the gentleman to commit himself at this time, but I only comment that I am available to try to help give further impetus in moving forward with H.R. 5500, so that we can have it on the books before the end of this year.

Mr. ULLMAN. Mr. Chairman, let me say that we appreciate the gentleman's leadership on this matter.

Mr. McCORMACK. I thank the gentleman.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, I support the Kemp-Roth and the Steiger tax reduction proposals.

I want to disagree with those who have argued this afternoon that a substantial tax cut will create a huge inflationary deficit. They are assuming that Federal spending will continue to grow at a rate of 10 to 11 percent a year.

I would remind them that most of the members committed to tax reductions are also committed to significant reduction in the growth rate of Federal spending.

Next week I will offer a substitute budget resolution which will give us the opportunity to reform ourselves on the spending side of the fiscal equation. To deal with the spend part of the tax and tax and spend to spend syndrome.

When the second concurrent budget resolution comes before the House, I will offer a substitute which will restrain the growth rate of Government spending. The substitute will cut the deficit and reduce the tax burden of business and middle-income taxpayers.

We can adopt this kind of restraint and continue that restraint for 3 or 4 years with tax reductions, and we will have a growing economy, a strong dollar, and a surplus of revenue.

The 7.4-percent growth rate I envision would enable us to continue providing the people with all essential services, at current levels but they would be relieved of high inflation and excessive taxation.

I propose that we discipline ourselves on spending, not unrealistically but responsibly.

Mr. BAUMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. HOLT. I will be happy to yield to my colleague from Maryland.

Mr. BAUMAN. Mr. Chairman, while many people have spoken during the general debate on this bill I think the gentlewoman has made one of the most important points for those of us who consider ourselves to be conservative both in spending and in tax policy. That is, that her amendment to be offered next week to the second budget resolution will offer a chance for those of us who support Kemp-Roth to both reduce taxes by 30 percent over 3 years, and during the same 3 years the Holt amendment will require a reduction in the growth of Federal spending and balance the budget while taking into account the Kemp-Roth tax reduction.

I think that really is a responsible approach. I commend my colleague and I am pleased to be cosponsor of her legislation.

Mrs. HOLT. I thank my colleague.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I commend the distinguished chairman of the Ways and Means Committee, the gentleman from Oregon (Mr. ULLMAN), and the distinguished ranking minority member, the gentleman from New York (Mr. CONABLE) and their Committee on Ways and Means for their diligent efforts in bringing this measure, H.R. 13511, the Revenue Act of 1978, before the House at a time when an uncertain economy demands that our tax system be more responsive to the critical needs of our Nation's citizens and business.

While I would have preferred that this legislation go further in providing much needed relief in areas, such as social security taxation and broader across-the-board tax cuts in the range of 33 percent, as suggested in legislation introduced by my distinguished colleague from New York (Mr. KEMP), the bill does include several key features that I am confident will help to reduce an otherwise considerable tax burden which when coupled with increasing inflation faces the majority of our Nation's taxpayers with an inequitable and inordinate fiscal hardship.

However, I urge my colleagues to support modification of the bill as reported by the Ways and Means Committee in the manner recommended by the Fisher-Corman amendment.

That amendment would provide a greater overall tax reduction—$18.1 billion as opposed to $16.3 billion contained in the committee bill. Moreover, in cutting individual income taxes by $12.4 billion, the Fisher-Corman amendment focuses tax relief more equitably on incomes below $50,000. It does so by increasing general tax credits from the current $35 to $100.

Thus, the effect of this mechanism is felt evenly throughout all tax brackets, and does not as the committee formula does in widening the tax brackets, provide a percentage cut, the benefits of which accrue more advantageously to higher incomes.

While the Fisher-Corman amendment retains the beneficial language of the committee bill, reducing the maximum capital gains rate to 35 percent, it would place a new and fairer "alternative" minimum tax on capital gains. Long arguing that increased capital formation, business investment, and increased productivity are contingent upon a capital gains cut, I believe however that the Fisher-Corman measure more adequately, than does the committee bill, addresses the need to remove from exclusion those capital gains that are unnecessarily sheltered.

Estimates indicate that the Fisher-Corman amendment would raise $466 million in revenues as opposed to $148 million gained by adopting the committee formula—a savings to the Treasury and to our taxpayers of over $300 million.

The Fisher-Corman amendment leaves intact, however, the committee bill provisions that taxpayers be permitted a one-time exclusion of up to $100,000 of the gain on the sale of any home used as a principal residence for 2 years.

This much-needed measures provides the homeowner, in a time of escalating housing costs, the opportunity to maximize the gain realized on the sale of a personal residence.

Thus, while I am generally supportive of the intent of the committee bill, I urge my colleagues to support the more

equitable tax cut provisions contained in the Fisher-Corman amendment to H.R. 13511.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Chairman, the common plea we have all heard from constituents calls for relief from the tremendous tax burden they are expected to bear. Most of us have seen the illustration indicating that the average worker now spends almost 3 hours of every working day in support of this tax burden. A burden which by itself is hard enough to manage, but when coupled with the tremendous increase in inflation of the last 10 years has led to the result of dampened incentive, a stagnant economy and limited investment. Our taxes have become suffocating. Yet, in spite of the need for relief—almost every American taxpayer faces a still higher total Federal tax next year—even if the $16 billion tax cut in H.R. 13511 is enacted. Tables compiled from data of the Joint Committee on Taxation show that this tax reduction would not offset the impact of inflation and higher social security taxes for most taxpayers. After these two factors are taken into account, the tax burden for middle-income taxpayers would rise between $84 and $261 a year; and for those earning $10,000 a year and less, the rise would be between $29 and $40. A $16 billion tax reduction is simply not enough to provide relief.

We must loosen the constraints which the present Federal tax system imposes on our free enterprise system. I support the philosophy reflected in economist Laffer's curve which indicates that the bigger the tax bite, the less incentive there is for working, saving and investing. The result is slower growth, higher unemployment and lower revenue.

If this tax bite is reduced, the incentive to work, save and invest is increased resulting in higher economic growth, more jobs and higher tax revenues. It only makes sense that increasing the after tax or take home pay of individuals will lead to added work effort, savings and investment. Lower tax rates will not only provide added incentives, but to the extent that these tax reductions reduce the cost of labor to employers, they will encourage additional job creation and employment opportunities.

For these reasons, I am strongly in favor of the individual income tax reductions offered in the Roth-Kemp bill. As you are aware, this bill would reduce all individual income tax rates by an average of 30 percent across the board. Reducing the highest marginal rate from 70 to 50 percent and the lowest tax rate from 14 to 8 percent over 3 years. When fully effective this means a family of four earning $8,000 would have a reduced tax burden of 90 percent, the same family earning $15,000 would have its burden reduced by 39 percent, and families earning more than $20,000 would have their tax bills reduced by approximately 33 percent.

These are not irresponsible tax reductions. Critics who argue that such reductions will increase our national debt should be reminded that historically, the exact opposite has proven to be true. In 1963, despite criticisms it would increase our national debt, President Kennedy implemented a similar program of tax reductions and rather than creating a deficit the Treasury actually gained $54 billion in revenue.

Healthy economic growth stimulated by tax cuts was responsible and such an approach can work again. There is nothing mysterious about this process. Tax reductions stimulate the economy. In turn, the rejuvenated economy pours additional tax revenues into the Government. As my esteemed colleague (Mr. KEMP) has pointed out, to finance itself without producing inflation, a tax cut increases the gross national product, causes existing savings and investment funds to change out of tax shelters and nontaxable uses into taxable uses, makes savings more rewarding after taxes, and increases more output.

In other words, tax reductions are not inflationary, they are self-financing and can help to provide the kind of long-term economic growth needed to relieve the average taxpayer without adding to inflation.

Between the tax increases and the effects of inflation, real income for most Americans has been stagnant for nearly a decade. More than 200 years after the Boston Tea Party a second rebellion is beginning to show in the consent of the governed to continue to allow themselves to be taxed at ever-increasing rates as proposition 13 in California indicates.

How long can we ignore the symptoms of our ailing economy and the please of our constituents? We must take positive steps now. I, therefore, urge my fellow colleagues to join with me in supporting the needed individual tax reductions offered in the Tax Reduction Act which Mr. ROTH and Mr. KEMP have worked so long and hard to bring before this House. The American people are waiting.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I rise in support of the committee bill although I feel we could use a greater tax cut than provided in this legislation.

At a recent 4th of July picnic in Thousand Oaks, a constituent and his wife really layed into me: "Why isn't inflation being stopped?" "Why don't you people do something to provide more jobs?" "Taxes keep going up." "We can't make ends meet!" To say the least they were mad as hell and seem to reflect the concern of most Americans.

I have studied the economic dilemma we face as a Nation and concluded: That a new formula for prosperity is simply a "tax cut"—across-the-board reduction in the tax rates and capital gains tax for all Americans.

Sure we have got to do a better job of managing the Federal budget and we should try hard to balance that budget and keep spending in check. But we have always been a generous people. We have become expert in unloading the wagon to help those in need. And we should not have to stop this unloading because there are a lot of folks that need our help. What we must do is to become better at loading the wagon. And this can only happen if Americans have the incentive to work hard, produce, save and invest. In other words we can pay for the costs of government plus keep more for ourselves if there exists a stable, prosperous economy.

We must concentrate our intellectual resources and political skills on the problem of economic growth. We are the most free, most educated, creative, talented, energetic, healthy people on Earth—operating at less than half our potential.

The reason there is stagnation and no bounce in our economy is because inflation and taxation are destroying the will and desire to work.

What is needed is a revival of the American dream. An idea of America as a land of opportunity—where you can grow and climb to the limits of your ability and desires.

Government at one time was supposed to create a climate of freedom and opportunity and be an impartial referee. Today government is the competition—it is the other team and it is winning.

Taxes go up faster than cost of living.

A recent report from the Congressional Joint Tax Committee showed that a 10-percent annual rate of inflation increases taxes by 15 percent. For example, between 1965 and 1977 wages and personal income went up 100 percent but taxes went up 150 percent.

Californians are not dumb—they well realize that the harder they work the more taxes they pay. They get their cost-of-living increase—yes—but they wind up with less money due to being pushed into higher tax brackets.

The American dream has been crushed under a staggering burden of inflation and taxes.

Taxpayers spend more money for taxes than anything else. A family of four will pay 35 percent of its income for taxes, but 19 percent on housing, 14 percent on transportation, 8 percent for medical care, 5 percent on recreation, and so on.

Most Americans desire a better life and are willing to work hard for it. What poisons that ambition—that dream—is when the system stands in your way.

Today we have a system that penalizes or taxes work, employment, production, savings and investment—while subsidizing nonwork, leisure, consumption, welfare and debt. No wonder we have less economic growth, high unemployment and double-digit inflation.

The real problem with our American economy is that incentive is being taxed away. Taxes at all levels now take more than 44 percent of our income. Along

with steeply graduated tax rate, our private enterprise economy's ability to create jobs and generate higher real income is being strangled.

Why work harder, why be smarter, why produce more, when Government will simply take whatever monetary gains might be made?

A NEW STRATEGY

The time has come—long overdue—to produce a new strategy for prosperity and economic growth. One that will restore the reward for working, saving, and producing and investing. In that regard I support the Ways and Means Committee bill. It would do more for economic growth. However by adding the provision of the Tax Reduction Act of 1977 also known as the Kemp-Roth bill. This would:

First, reduce all individual income tax rates by an average of 33 percent;

Second, reduce the corporate tax rate by 3 percentage points from 48 to 45 percent over 3 years, and third, increase the present corporate surtax exemption from $50,000 to $100,000 to help small business and those men and women who see more capital for expansion and job creating enterprise.

The main relief in tax-rate reductions would go to middle- and low-income taxpayers. For instance, a family of four with an income of $12,500 would receive a 41-percent reduction in the amount of their Federal tax liability. A family of four earning $15,000 would receive a 39-percent reduction. A family earning $20,000 would benefit by a 30-percent reduction.

In addition to the Tax Reduction Act, I favor a reduction in the capital gains tax now at 49 percent. By taxing the profits from invested capital at a lower rate; that is, 25 or 30 percent, we will once again see savings and investments flow toward smaller, riskier business ventures. We need to remind ourselves many of our giant corporations were once small and if it had not been for risk or venture capital they would not have gotten off the ground. If we're to stimulate economic growth plus employment opportunities we must create economic incentives to attract capital to small business, new ideas, and new inventions. Thus, a reduction from 49 to 25 percent in the capital gains tax is called for now.

I also strongly support the Archer indexing amendment which would allow taxpayers to adjust the basis of certain capital gains upward by the rate of inflation for the holding period of the asset. I think this type of provision is long overdue, and I believe the indexing concept should be extended to cover the rest of the tax code. It is only fair that we do something about the double whammy of inflation and the imposition of a tax on that inflation.

These tax reduction proposals if enacted this year will create an immediate growth of economic output, employment, and investment. It will expand the Nation's tax base: everyone will be paying less but there will be more employed people paying, thereby increasing tax revenues for all levels of government. It will reduce the pressure for more welfare and unemployment compensation.

It is a free enterprise alternative to more Government make-work projects and the Humphrey-Hawkins bill.

The Federal tax equation is simple: There is a tax collection side and tax spending side; that is, loading and unloading the Federal wagon.

In theory, collecting and spending should be equal, but they are not. More is spent than is taken in, and inflation results. We have become expert at spending—unloading the wagon. It is time to concentrate our efforts on economic growth and prosperity; that is, loading the wagon.

Reducing the income tax rates for every American across the board would increase the reward for work, productivity, and investment; thereby stimulating economic expansion and millions of new job opportunities without inflation.

By removing the barriers between effort and reward, we will once again restore incentive and put the American dream within reach of all our people.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of this long overdue tax reduction legislation.

Mr. Chairman, the House has an outstanding opportunity today to show the American people that it is serious about helping beleaguered taxpayers by cutting the tax rates through action on the Revenue Act of 1978. H.R. 13511 is the result of months of work by the members and staff of the House Ways and Means Committee and overall it is about the best bill that could be reported from the committee to deal with the complex subject of reducing taxes for the millions of individuals, corporations and businesses who provide the money the Congress uses to appropriate the funds needed to finance Federal programs and projects.

Tax reduction is long overdue. Over the years, with Government getting bigger and bigger, and therefore costing more and more, taxes have risen to help pay for the increased spending voted by previous Congresses. By supporting this bill, each Member will show that he believes that Government has become too big and the best way to cut back on its ever-increasing size and power is to limit the resources that allows the Government to sustain its gigantic proportions.

Basically, this legislation is a good compromise bill that could use some improvement and there are several amendments being offered to do this. I support and applaud the measure for the needed tax reductions it provides to both individual and corporate taxpayers while taking into consideration the basic fiscal realities facing a deficit budget and inflationary pressures. This bill is not a panacea for all that ails the taxpayer who is facing an annual increase in the taxes that he pays. Even if the bill in the committee's reform becomes law, most taxpayers will be paying a higher percentage of their income in Federal taxes in 1979 than in 1977. Inflation and higher social security taxes have helped to erase the tax savings that the bill provides. However, if no action were taken, the taxes paid under the present law would be dramatically higher than they will be with this bill. The inflation adjustment provision in the committee's bill represents a major breakthrough in efforts to prevent the taxpayer from being adjusted upward into higher brackets because of artificial income raises brought about by inflation factors. Up to now the Government has profited by having some taxpayers pushed into higher tax brackets while their disposable income was actually decreasing.

I oppose the repeal of the deductions for State and local gasoline taxes for nonbusiness purposes and the deductions for medical insurance premiums as these repeals continue the trend of reducing deductions which in turn will place some taxpayers into higher brackets. Despite these and some other negative provisions in the bill, with positive aspects such as the tax rate cuts, increases in the personal exemption to $1,000 and increases in the standard deductions, the good points of this legislation far outweigh the bad.

Mr. Chairman, for the past few years, the Federal Government has been caught in an unending spiral that it helped to create and maintain. Inflation caused by deficit spending has caused the cost of Government goods and services to increase so it therefore costs the Government more each year to maintain the previous levels of service. While the Government has been able to print more money and increase the national debt to have the resources to pay the bills, the American taxpayer and consumer have not had this "luxury" and the ravages of inflation are felt with every increasing expense and the shrinking of the buying power of every dollar of income.

In the midst of the euphoria that Congress will surely feel by passing a massive tax reduction bill in an election year, I believe that my colleagues must be constantly aware of the responsibility that goes hand-in-hand with the "privilege" of allowing the taxpayer to pay a little less next year than he would have under the present law. The responsibility that must be accepted and lived with is the need to also reduce Federal spending. The good that we do today will be wiped out in the future if the Congress continues to create programs that can only be supported by deficit spending.

Just as the tax cut is overdue, so is the need to cut expenditures. The majority of the House and Senate have too long spent more than is taken in. Now that we are cutting the "income" to the Government, we must keep in mind that the "outgo" must also be cut. This tax cut bill offers an excellent opportunity to take a close look at the wasteful Government programs—we realize that there

are many. Starting today, I urge my colleagues who support this tax reduction bill to continue their desire to help the taxpayer by cutting their desire to spend, spend, spend.

We will have less coming in next year so there must be less going out. It is a complex situation but the math is as simple as that. Every American living on a budget realizes this and it is time for the U.S. Congress to do so also.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from Kansas (Ms. KEYS).

Ms. KEYS. Mr. Chairman, I strongly support several provisions of the legislation that has been reported by the Ways and Means Committee. However I intend to vote for the Corman-Fisher amendment because I think it is necessary in order to make this tax bill fair to the middle-income taxpayer. I do support wholeheartedly the homeowner tax relief provision, the graduated corporate tax provision, and a simplified medical deduction which brings simplicity to the whole area of medical deductions and much greater recognition of the outstanding expense incurred for medicine and drugs and unusual medical expenses.

For the vast majority of taxpayers, the sale of their home is the only capital gain transaction they will ever have. Clearly, the primary purpose of owning a home is to shelter one's family not to shelter one's income. With the rapid inflation in real property which has occurred in recent years, ordinary taxpayers find themselves faced with large capital gains from the sale of their homes. This provision would protect individuals, primarily those over 50, from unexpectedly high taxes on a purely inflationary gain.

Another portion of the bill which I strongly supported and worked hard for in committee was the graduated corporate income tax. Members of my northeast Kansas advisory board have emphasized that the need for corporate tax relief is greatest in the small business sector among those businesses which are the backbone of the economy in Kansas and across the country. Research done by the National Federation of Independent Business points out that smaller businesses offer more jobs per dollar of income than do large businesses. I believe the new graduated corporate income tax will do a good job of reaching those businesses who need it most.

I am sorry that this bill does not include several provisions which were offered in committee and which I believe the majority of Americans support. Indexing of tax rates for individuals was defeated. A tax credit for social security taxes was defeated. Amendments that would have eliminated some of the most expensive and abused business entertainment deductions such as those for club dues, yachts, lodges and first-class airfare, were defeated. An amendment to prohibit business entertainment deductions for entertaining Members of Congress and Government officials was defeated.

Without the passage of the Corman-Fisher, the very people this tax bill was designed to relieve, the people in the middle-income brackets who will have the greatly increased social security taxes of 1979 due to the increase in the wage base, will not be given the relief they deserve. The Corman-Fisher amendment will bring a great deal of difference into the distribution of this income tax.

The typical family of four at the $20,000 income level will have a tax cut of $228 under Corman-Fisher as opposed to $146 under the committee bill. That is a significant difference. A typical family of four at the $30,000 income level will have a savings of their taxes of $423 as opposed to $304 under the committee bill.

I believe it is absolutely necessary that we pass the Corman-Fisher amendment to make this bill meet the goals for which it was designed and to bring some equity to those middle-income taxpayers.

The committee bill also would significantly weaken the concept of the minimum tax, that concept that everyone should pay some portion of the costs of Government.

I support the changes in the capital gains provision and believe that the maximum rate of 35 percent on capital gains, which is achieved in the Corman-Fisher amendment as well as the committee bill, is a proper one. However the way it is achieved is most important. The Corman-Fisher amendment does preserve the idea that some tax should be paid. For the taxpayer who pays a normal income tax and has a capital gain, there will be significant cuts in the capital gains rate over present law.

But for the taxpayers, who shelter and avoid all regular income tax, the Corman-Fisher amendment will preserve some reasonable, modest payment of the taxes on that capital gain although much less than present law.

I hope my colleagues will support the Corman-Fisher amendment and improve the committee bill so as to make it meet some of the goals for which it was designed.

The CHAIRMAN. The Chair will advise that each side has 4 minutes remaining.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Chairman, I thank my distinguished colleague, the ranking minority member, the gentleman from New York (Mr. CONABLE) for yielding.

I would first like to make the comment that the proposal of our distinguished colleague, the gentleman from Texas (Mr. ARCHER), I think, is designed to provide a long overdue remedy and that the people who oppose indexing are in favor of increased taxes.

Mr. Chairman, no one rejoiced more than I when the Ways and Means Committee finally agreed to index the capital gains tax. In 1974, I introduced the first House bill to annually index our tax code. As inflation has grown, support for this indexation concept has grown as well. The amendment attached by my colleague from Texas (Congressman ARCHER) to index capital gains taxation is the greatest victory to date for indexing.

Congressman ARCHER's language provides that the base value of an asset subject to capital gains taxes will be increased each year by the same percentage as the rise in the consumer price index. This effectively eliminates inflation from the taxable appreciation of a capital asset.

Under our law, actual increases in value of property are subject to taxation. Inflation distorts this basic rule. The number of dollars required to purchase property may increase to keep pace with inflation, while the real value of the property may increase, decrease or remain constant. Thus, a person buying a home for $30,000 in 1975 and selling it for $50,000 in 1978 is taxed on a capital gain of $20,000. But a significant portion of that increase in price must be attributed to inflation. Only the nominal, or paper, value of the home increased by $20,000. The real gain was only $14,000. Inflation had caused the other $6,000 of dollar increase. When indexing is fully effective under the Archer amendment in 1980, this homeowner will only be taxed on the real increase in value, $14,000, not on the whole nominal inflation-caused gain of $20,000.

Inflation is not ordinarily considered to be a tax. And yet that is what it is. It increases our taxes by altering the nominal or apparent value of our property. Assuming that inflation could be kept to a rate of 6 percent for future years, a family which bought a home in 1977 for $40,000 and kept it for 20 years would have to receive $130,000 upon its sale in 1997 just to recover their initial investment and avoid a capital loss. But under our present tax code, this would be considered a $90,000 capital gain, even though the real value of their property had not risen in the slightest. Because homeowners hold their property for long periods of time, it is clear that they stand to benefit most from indexing capital gains.

Despite the claims of opponents that periodic tax cuts by Congress help ease the burden of inflation-caused increases, this has not been the case. Congress provides occasional tax adjustments, not real tax cuts. These adjustments have not provided relief at the rate of inflation. The taxpayer is still losing; the tax collecting government is still winning.

We need to recognize the political problem of tax indexing. If the "bonus" for the Federal Government resulting from inflation is eliminated, Members of Congress are going to be faced with the choice of reducing expenditures or increasing explicit taxes or borrowing additional funds from the public at the interest rate of the market at the time. None of these choices is an attractive one for the politican. The politician prefers to take credit for a periodic (though not

real) tax cut rather than the one-time credit for indexing the tax rates to shield the public from inflation's penalty. It is time that we consider what is most beneficial to the public rather than a safe political course.

Despite many years of talk and discussion by politicians, we still have a serious problem with inflation. This problem is with us and may be even more serious in future years. But the tax effects of inflation are becoming painfully clear to the taxpayer. The taxpayer, though gaining a wage increase in nominal dollars to keep pace with inflation, has learned that he has gained nothing. He is only pushed into a higher tax bracket and pays more of his income in taxes. Inflation is reducing his real income and standard of living because of the higher level of taxation. This is correctly labeled a "hidden tax increase."

This tax increase has not been legislated by Congress. This tax increase is caused by the Government's activity in promoting and encouraging inflation by excessive spending. Thus, the reckless spending of Government rewards the spenders with more of the taxpayer's money to spend. Inflation is rewarding those who cause it. No wonder it is so hard to control.

I only regret that Congress is not considering the complete tax indexing proposal I made in 1974. That proposal would not limit indexation to capital gains, but extend it to personal income taxes as well. Canada has had complete tax indexing for nearly 4 years. The Canadian system has insulated Canadian taxpayers from automatic inflation tax increases and has helped limit increases in Government spending.

Indexing is not inflationary, but merely helps the taxpayer cope with inflation. In fact it can be counterinflationary by putting pressure on Congress to reduce spending. Without hidden tax revenues from inflation, Congress may look again at its spending policies,

It is my firm opinion that complete tax indexing is inevitable. It is inevitable for two very fundamental reasons, one economic and the other political. The economic reason is that, unfortunately, inflation will tend to be around for a long time and that means that the idea of leaving the tax brackets expressed in simple dollar amounts will soon become not just unfair, but absurd. We should recall that when the present tax brackets were set in 1964, the inflation rate was 1 percent. Economists did not even think to adjust the brackets for inflation—it just was not a problem. Since then, of course, prices have almost doubled. And if inflation continues to average 7 percent a year, prices will keep on doubling every 10 years from here on in.

That means that a 25-year-old worker who takes a job at $15,000 a year in 1980 will have to be up to $30,000 in 1990, $60,000 in the year 2000, and $240,000 a year by the time he reaches retirement age in 2020—just to stay even. Obviously, something has to give, and if not inflation, it will have to be the brackets.

The political imperative is equally powerful, if not quite as mindboggling. As political scientist Everett Ladd points out, taxflation has helped to place more and more of the tax burden on the middle class. He writes:

> Those earning four times the national median income in 1953—about $20,000—paid 20.2 percent of their income in taxes, while those at the median paid 11.8 percent. Twenty-two years later, median income families were taxed 22.7 percent of their income, while the rate of those earning four times as much had climbed more slowly to 29.5 percent . . .

If Congress does not index the income tax soon, it will be running a very severe risk of inviting a full scale middle-class revolt. Witness proposition 13.

No other proposal holds as much promise of both reducing the harm done by inflation and facilitating the ending of inflation itself. I respectfully urge Congress to approve the indexing concept.

Mr. CONABLE. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I rise in support of the committee bill.

Mr. Chairman, today the House has the opportunity to provide a modicum of relief to the Nation's long-suffering taxpayers who are caught in a vicious inflation-taxation vise.

Before we fall all over ourselves with self-congratulations for cutting taxes in an election year, I think we had better face up to the facts: the simmering resentment of millions whose real purchasing power has fallen below their income increases and inflated tax bills is responsible for the collective Congress urge to be a friend of the common man.

All of us are aware that the Joint Committee on Taxation has cautioned that even with a $16 billion tax cut, there will still be even higher Federal taxes next year for almost every American taxpayer. The onerous hikes in social security taxes and heightened inflation are the causes.

As a sponsor in 1977 of the Kemp/Roth bill, I believe that this year the need for effective tax reduction, not just income redistribution, is even more evident.

My advocacy of significant tax cuts is based on two facts: the abject failure of Federal pump-priming schemes to spur the economy and the success of tax reduction programs in the past.

Government efforts, through assorted programs and tinkering, have failed miserably and I challenge my colleagues to prove otherwise. The quick-fix economic stimulus legislation of 1977 was a big, expensive bomb. Attempts to reduce unemployment by creating Federal public service jobs also have failed. Traditional methods employed by the Federal Government to increase productivity are not working.

I believe that the times and the people demand innovative tax policies that cut us loose from the policies and programs that have been reworked, refinanced, and rewrought with no success.

We need policies and programs that will alleviate the twin burdens of inflation and unemployment.

Through a major tax cut, we can create more new jobs and improve the overall health of our economy. This is not a radical idea. When it was tried in the Kennedy administration, it succeeded and did so without fueling inflation. While some may argue that times are different now, I believe that there are more similarities than differences. We need the reductions and we need substantial ones.

One buck in the hands of a workingman and in the hands of investors goes far, far further than one buck paid into the Federal Treasury and funneled out through the bureaucratic maze.

Under our present inhibiting tax system, initiative is penalized instead of being rewarded. As it stands now, people from all walks of life, as well as the business community, are becoming discouraged.

Let us give our money a chance to work for the people and the country instead of making the people and the country work for the Federal Treasury.

We can do no worse than we are now. The evidence and commonsense, in fact, tells us that we will do much better.

Mr. CONABLE. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to speak to my colleagues on the other side of the aisle, and hope they will support us in this effort to bring tax relief to the American public.

Mr. Chairman, in a recent edition of Forbes magazine, the editor quoted Franklin D. Roosevelt. We have heard him quoted many times on this floor in support of programs and so I would like to share this quote from Franklin D. Roosevelt, a great leader of the Democratic Party when as a candidate for President in 1932 he said:

> I shall use this position (as President) of high responsibility to discuss up and down the country, in all seasons, at all times, the duty of reducing taxes, of increasing the efficiency of government, of cutting out the underbrush around our governmental structure, of getting the most public service for every dollar paid by taxation. This I pledge you, and nothing I have said in the campaign transcends in importance this covenant with the taxpayers of this country.

He concludes with these words:

> Taxes are paid in the sweat of every man who labors, because they are a burden on production and can be paid only by production. If excessive, they are reflected in idle factories, tax-sold farms, and hence in hordes of the hungry tramping the streets and seeking jobs in vain.

I hope our friends will follow the advice of one of their great leaders, Franklin D. Roosevelt, and vote for tax relief for the American public and avoid the pitfalls he outlined in his remarks.

Mr. ULLMAN. Mr. Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. KOSTMAYER).

Mr. KOSTMAYER. Mr. Chairman, I rise to comment on the Revenue Act of 1978 (H.R. 13511) which the House has under consideration today.

First, Mr. Chairman, I must express my great disappointment with the leadership and the Rules Committee in asking the House to approve a rule limiting debate on the several key amendments which the rule allows, and even more so, in denying the House an opportunity to vote on an amendment to offset the increase in social security taxes which are due to go into effect January 1979.

My colleague, Mr. GEPHARDT of Missouri, sought a rule which would allow him to offer an amendment which, while not a true rollback of the payroll tax, would have softened the impact of the social security tax increases by providing for a refundable tax credit of 5 percent for payroll taxes paid by employees, self-employed persons, and employers for years beginning in 1979 and 1980. While this amendment would not change the way we finance the social security system—and I favor changes which would allow for the use of general tax revenues to pay at least part of the cost of social security—it would have reduced the impact of the payroll tax increases to take effect in January, and permitted the next Congress to take up a comprehensive social security reform measure.

Turning to the Ways and Means Committee bill itself, it provides for a $16.3 billion tax cut for 1979—$12.8 billion for individuals and $3.5 billion for corporations. This tax cut is not large enough, I believe, especially in view of the pending increases in social security payroll taxes—and is not spread equitably among taxpayers.

There is much in the bill which I do support. For example, the present 10-percent investment credit which is due to expire at the end of 1980 is made permanent, and, more importantly, is expanded to include rehabilitation expenses for industrial and commercial buildings—including retail structures and warehouses. The cities in the Northeast and Midwest will benefit a great deal from this change.

Contributions, especially small businesses, will receive important tax relief. The maximum corporate rate is lowered from 48 to 46 percent, and the first $100,000 of taxable income is taxed more gradually at lower rates. The bill includes a permanent job tax credit to encourage private business to employ welfare and food stamp recipients, as well as the handicapped and Vietnam veterans.

The bill also includes a provision to enhance the ability of business to purchase and install pollution-control equipment. Under current law, if a business has elected the 5-year amortization for pollution-control facilities, the investment credit is allowed for only one-half of the investment. The bill allows use of the full investment credit on pollution-control facilities which are amortized over 5 years and which have actual useful lives of at least 5 years. I frankly favor even greater incentives for installation of pollution equipment, but am pleased that the committee took some action to ease the financial burden to industry in this area.

In spite of my support of these provisions, I plan to support the Corman/Fisher amendment to the bill. Corman/Fisher spreads more equitably the individual tax cuts—particularly for middle-class taxpayers. Taxpayers in all income brackets through $50,000 would receive greater tax relief under Corman/Fisher. For example, a typical family of four with income of $20,000 would save $228 under the amendment as compared to $146 under the committee bill. A family at the $30,000 income level would save $423 under the amendment as compared to $304 under the committee bill. For a family making $50,000, the amendment would increase the tax relief in the committee bill from $654 to $700.

Looking at the advantages of Corman/Fisher in another way, I note that 87 percent of the total individual relief under the Corman/Fisher proposal would go to persons with less than $50,000 of income, while under the committee bill almost one-fourth of the relief goes to taxpayers with incomes over $50,000.

Both Corman/Fisher and the committee bill slash capital gains taxes—and I support such cuts as an inducement for private investment. I favor the approach of Fisher/Corman, because the committee bill repeals the minimum tax which now sometimes applies to the untaxed half of capital gains. This is not right, and not in the interest of equitable treatment for persons with earned income who have no means to "shelter" their income from taxes. The tax on capital gains can be lowered to increase incentive to invest without allowing the very wealthy to avoid paying any Federal income tax at all.

The Corman/Fisher proposal would cut taxes by $18.1 billion a year instead of the $16.3 billion in the committee bill. I think this $18 billion cut is justified, and does not pose the inflationary dangers which more substantial cuts do. At the same time we pass tax cuts, I caution my colleagues that we need to buckle down and cut spending so that we can progress toward a balanced budget.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the tax reduction targeted to the middle income taxpayers.

Mr. Chairman, I rise in support of a tax cut which is targeted to benefit the middle-income taxpayer. It is this group of productive citizens who largely bear the burden of financing government at all levels, yet it is the group that is usually overlooked when it comes to providing some tax relief and tax equity.

Everyone should pay his fair share of the cost of government, but it is not right for some people to escape paying any significant tax while others pay more than their fair share. For that reason I favor the concept of a minimum tax formula which assures that each person pays something to support the government regardless of deductions, writeoffs, allowances, and shelters. This is only fair to those hard-working wage earners who pay the maximum of tax for their bracket but cannot avail themselves of special tax shelters to avoid paying taxes. A minimum tax assures equity and that everybody pays a share of the cost of government.

We also need a tax structure which encourages the formation of capital for investment in the private sector of the American economy. It is this vibrant, productive private sector that provides the jobs, the material wealth, and the standard of living for all of us. It also provides the tax base that supports all the government. We must provide incentives—not disincentives—for people to save and to invest. In the long run that is where the real hope of our economy lies.

In all of this it is the middle-income earner who produces, earns, saves, consumes, and invests. For these reasons, my decisions in supporting or opposing the amendments to the tax bill will be based on how the middle-income taxpayer will fare.

It is also interesting to note who Americans believe the middle-income taxpayer really is and how he fares today. A national opinion survey conducted this year by the Roper organization makes some interesting findings on these questions, which I submit for my colleagues' consideration as follows:

WHICH GROUPS PAY TOO MUCH OR TOO LITTLE IN INCOME TAXES

When asked whether certain groups pay too much in income taxes, too little or about the right amount, the public once again demonstrates what it means when it characterizes the tax system as "unfair." As last year, few people think any groups are taxed fairly. The group most seen as overtaxed is middle class families, and more so than a year ago. 74% now say they pay too much in taxes, versus 69% in 1977. The other group seen as overtaxed by a larger majority than a year ago are people whose income comes all from salaries or wages—63% now, 59% last year. Also seen as overtaxed, but somewhat less than a year ago are people who own their homes and low income families. Still overwhelmingly seen as undertaxed are high income families and large business corporations, each seen as paying too little by about three-quarters of the public.

Q9. Here is a list of some different types of people or groups. (Card shown respondent) Would you go down that list, and for each one tell me whether you think they have to pay too much in income taxes, or too little in income taxes or about the right amount? First, low income families.

	1978—Pay in taxes				1977—Pay	
	Too much (percent)	Too little	About right	Don't know	Too much (percent)	Too little
Answers of total public (2,007 respondents):						
(b) Middle income families	74	2	20	4	69	2
(d) People whose income all comes from salary or wages	63	2	24	12	59	3
(f) People who own their homes	50	2	33	15	53	3
(a) Low-income families	47	4	37	13	53	5
(i) Small business companies	38	12	30	20	42	10
(g) People who live in rented homes or apartments	37	11	31	21	38	11
(e) Self-employed people	29	15	28	28	30	17
(c) High-income families	7	76	9	7	8	75
(h) Large business corporations	5	72	10	13	6	72

Note: Letters next to listed groups indicate the order in which they were asked about.

As noted in the last study, while there are some few variations in results by the various subgroups, for the most part there is consistent feeling as to which groups are overtaxed and undertaxed. Generally speaking, those who fit into a group tend more to think that group is overtaxed, but these differences are mainly one of degree rather than a reversal of results. For example, some illustrations of the feeling that "I am overtaxed" are that the self-employed are higher (53%) than the general public (29%) on feeling self-employed people are overtaxed. Homeowners are more likely (53%) than the general public (50%) to say homeowners pay too much. Home renters are more likely (50%) than the general public (37%) to say people who live in rented homes or apartments pay too much. As noted in last year's report, it seems that everyone feels that he pays too much in taxes.

However, looking at opinion on taxes paid by low, middle and high income groups according to income of respondents reveals some interesting and seemingly inconsistent results. While it is true that more people at the lower end of the income spectrum feel lower income families are overtaxed, a majority in all income categories feel middle income families pay too much and high income families pay too little. This is true even among people in the $25,000 and over group.

[In percent]

	Total public	Income groups			
		Under $7,000	$7,000 to under $15,000	$15,000 to under $25,000	$25,000 and over
Number of respondents	2,007	375	648	606	358
Low-income families:					
Pay too much	47	57	51	43	35
Pay too little	4	3	3	5	5
About right	37	29	34	39	46
Don't know/no answer	13	12	12	13	14
Middle-income families:					
Pay too much	74	60	69	81	83
Pay too little	2	5	2	2	1
About right	20	26	24	14	15
Don't know/no answer	4	9	5	2	1
High-income families:					
Pay too much	7	5	7	6	13
Pay too little	76	75	76	80	72
About right	9	10	10	8	9
Don't know/no answer	7	9	6	6	7

WHO ARE THE "MIDDLE INCOME"?

This same pattern of opinion on the overtaxed and undertaxed income groups was observed last year, and the opinion of the $25,000 and over group that middle income families were overtaxed and high income families were undertaxed led us to speculate that "perhaps in this instance 'high income families' mean those with more income than they have." This year we decided to explore what people mean when they talk about "middle income" and "high income" families. Therefore, we asked people how high an income a family of four would have to have before they would describe them as a middle income family rather than a low income family, and then how high an income they would have to have before they would describe them as a high income rather than a middle income family. (The questions were reversed for half the sample.) Results were startling in light of the fact that the median income in the country today is $15,000, and "middle income" might be expected to center around that figure. Not in the eyes of the public. They say to be in middle income group annual income has to be between $20,000 and $40,000. This makes opinion as to who is overtaxed and undertaxed in our society much more understandable.

There is some variation in answers by people in different income groups, but all groups places the middle income group higher than we would have expected. Those in the lowest income group describe middle income people as those with incomes between $17,000 and $35,000. Those in the $25,000 and over group put middle income people between $23,000 and $51,000! Thus, when they say high income families pay too little in taxes they don't mean people in the $25,000–$35,000 bracket are undertaxed, they mean people earning somewhere in excess of $51,000 are undertaxed. Most of those in the $25,000 and over group think of themselves as *middle* income—the group they feel is not overtaxed.

Q50X,51Y. Thinking of a family of four, that is, a couple with two children, how high would their annual income have to be before you would describe them as a middle income family rather than a low income family?

Q51X,50Y. And again, thinking of a family of four, how high would their annual income have to be before you would describe them as a high income family rather than a middle income family?

	Total public	Income groups			
		Under $7,000	$7,000 to under $15,000	$15,000 to under $25,000	$25,000 and over
Number of respondents	2,007	375	648	606	358
MEDIANS					
Divides middle income from lower income	$19,702	$17,372	$18,836	$19,844	$22,907
Divides upper income from middle income	39,719	34,789	34,888	39,818	51,056

Mr. CONABLE. Mr. Chairman, I yield the remainder of my time to the well-known progressive from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, if we had a law requiring truth in taxes, we would have to tell the American people, our source of Federal revenue, that the Federal Government has the best of all worlds. Government profits from inflation and taxpayers suffer from it.

Back in the not-so-good-old-days of the 1930's, average income in the United States was about $1,600 per family and those average Americans paid no Federal income taxes to Uncle Sam. In those days, taxes were paid by the rich indeed.

But now the average taxpayer pays Federal taxes on almost $17,000 of family income per year. And he pays big Federal taxes—over 25 percent of his marginal income—not counting State and local income, property and sales taxes.

If Congress had really cut taxes regularly as inflation increased since then, the average U.S. taxpayer would not be paying anything today. Instead, he now sees his tax bill increase at the rate of 1.5 to 1.7 percent for every 1 percent increase in the cost of living.

But Mr. Average Taxpayer has been paying more and more each year during the past 40 years of Democratic congressional stewardship of our tax code.

Even with this proposed Ways and Means Committee tax cut, the average U.S. taxpayer will pay a predictably higher rate of his income next year and the next and the next, ad infinitum.

That is why Roth-Kemp is a needed addition to this Ways and Means bill.

Of all the tax proposals before us, only one can actually be called a tax cut: the Kemp-Roth proposal. The reason is that the inflationary tax increases I have mentioned and the social security tax increases voted by the Congress last December combine to add $332 billion to the tax bill Americans will pay between now and 1983. The Ways and Means Committee tax bill will reduce this figure slightly, to $262.5 billion, but that is still a massive increase in tax obligation. Even Roth-Kemp would

mean a slight increase in taxes in 1979, but the impact in later years would produce an actual tax cut of about $60 billion through 1983. That is a modest $12 billion per year on average. It is not enough to get the average family back to its nontaxpaying status, but it is at least a positive step toward the relief Americans are demanding.

We also need the Archer amendment indexing capital gains taxes so the average homeowner can be relieved of the burden of paying tax on inflation values.

And that is why I regret so much that the indexing of personal income taxes is not a part of this bill. The Roth-Kemp motion to recommit will help for the immediate future, but it is the old-fashioned way of cutting taxes——occasionally, to make up for past inflation. We need an automatic method of cutting taxes as inflation creeps up—certainly when it is "creeping" at double-digit rates, as it is now. Such an automatic indexing as I introduced in the last Congress, and cosponsored this year with Mr. GRADISON, Mr. TUCKER, Mr. LEVITAS and others, is vitally needed so that we can prevent this erosion of real income which results from inflation-induced tax increases. We would also find that income tax indexing would restrain the unwarranted growth of Federal spending. This past January, Mr. GRADISON and I discussed the Canadian indexing experience with officials in Ottawa. We found that their indexing played a major role in reducing the rate of growth of Government spending from 15.9 percent in 1974 to 2.7 percent in 1976.

I trust the future will see greater consideration for indexing personal income taxes. The Joint Economic Committee minority has recommended indexing for several years and last year's annual report saw the majority support us in our view.

Finally, if we had been successful in getting the Rules Committee to make in order a vote on the home insulation tax credit and the solar tax credit which are parts of the President's energy tax program, we could have honorably acquitted the promise made to the U.S. taxpayers in their 1977 tax returns. But I must say to the chairman of the Ways and Means Committee I have little confidence that we will get an energy tax bill this year.

The administration seems committed to a policy of holding hostage the insulation and solar credit until this body approves an increased tax on oil and gasoline—and that is not going to happen.

It is sad that the administration and my Democratic colleagues here talk of tax expenditures as if the earnings of each individual American belong to the State—the Federal Government—rather than to the individual.

Mr. ULLMAN. Mr. Chairman, before I yield the balance of my time to the gentleman from Oklahoma (Mr. JONES), let me commend the members of the committee for a fine debate. Let me also commend the Members on our side of the aisle, including the gentleman from Oklahoma (Mr. JONES), for all of the hard work that went into this effort.

Mr. Chairman, let me also commend the minority, the gentleman from New York (Mr. CONABLE), and all of the people on his side who joined in putting this package together.

Mr. CONABLE. If the gentleman will yield, Mr. Chairman, let me thank the gentleman publicly for his patience and his fairness.

Mr. ULLMAN. I thank the gentleman.

Mr. Chairman, this has been a team effort. It is a bill I think we can all be proud of.

Mr. Chairman, I yield the balance of my time to the gentleman from Oklahoma (Mr. JONES).

The CHAIRMAN. The gentleman from Oklahoma (Mr. JONES) is recognized for 3 minutes.

Mr. HUGHES. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the Corman-Fisher amendment to the Revenue Act of 1978.

Each time a tax bill is brought before Congress, countless Americans hold their breath and wait for the relief that is too ofen promised but not so often delivered. This year, we have a chance to really do something positive for the majority of American taxpayers—those who have annual incomes up to $50,000. Not only would this amendment provide larger individual tax cuts and more equitable distribution of the cuts, it also takes into account the legitimate need to lower the tax rate on capital gains.

We all talk a great deal about how the middle-class American taxpayer is suffering from the collective burden of Federal, State, and local taxes. Now we have the opportunity to provide real tax relief to the average working man and woman. I am talking about people who earn less than $15,000 a year and have families. These beleaguered taxpayers pay proportionately more of their income in taxes than most other income groups yet they receive blessed little relief. The Corman-Fisher formula would change that somewhat. For 24 percent of the tax cuts would be directed to those earning less than $15,000 and 38 percent would be directed to those earning less than $20,000. This is in sharp contrast to the committee's plan which would give just 13 percent of the tax cuts to those earning less than $15,000 but 24 percent to those with $50,000 plus in income.

We have heard a lot about the necessity of changing our capital gains tax formula and I agree with those who say that this aspect of tax law needs serious revision. Once again, I must agree that the Corman-Fisher approach makes the most sense in this area, too. The committee's version of capital gains reform in manna from heaven for the very wealthy. It seems quite logical to me to have graduated rate of tax liability on capital gains with the highest rate of capital gains with the highest rate of taxation reserved for those gains of substantial proportion. The encouragement to invest capital can be given without permitting the ultrawealthy to duck their fair share of the tax burden.

I urge my colleagues to look at the whole picture and cast their votes tonight for real tax reform by supporting the Corman-Fisher amendment to the Revenue Act of 1978.

Mr. JONES of Oklahoma. Mr. Chairman, the bill that the Committee on Ways and Means has before us today is one which commanded bipartisan support in the committee and one which should command bipartisan support in the House.

The reason is very simple. The four major goals which the American taxpayers demand are met in this compromise legislation. American taxpayers talk about tax relief, and they are saying, "Give us some tax simplification. Give us a tax form that we can understand, which cuts down the lines, cuts down the additions, and the subtractions."

Mr. Chairman, the bill before us today does that. In every instance when there was a case of simplification versus more complexity, the committee opted for simplification.

We dropped the 2-percent general credit. We changed the minimum tax procedures on capital gains. The goal of simplification was reached.

Another goal which is coming through to the Congress from the American taxpayer is to give relief to the middle-income taxpayer. This is the group of individuals now in the $15,000 to $50,000 income category, who have borne the brunt of Government costs over the past decade.

In this particular bill there is no attempt to add to the progressivity of the present tax code. Instead, we tried to make cuts roughly in proportion to what taxpayers are paying into the Treasury today.

Mr. Chairman, the middle-income taxpayers today pay 58 percent of the taxes. This tax bill distribution gives them 64 percent of the tax relief. The lower income taxpayer pays 13 percent of the taxes. They get 14 percent of the tax relief. The higher income taxpayers pay 28 percent of the taxes. They get 22 percent of the relief.

We feel that this is fair and meets what the American people are asking for.

The third major goal we have in this bill is to maintain consumer spending at its present high level but reduce inflationary pressure by reducing the size of the Federal deficit. The net $16.3 billion tax cut in the committee bill fully accomplishes this goal. The tax cut, averaging 6 percent for all Americans, offsets one year's worth of inflation. At the same time it will reduce the deficit by $9 billion.

Our fourth goal, Mr. Chairman, is to provide increased incentives for capital formation by both business and individuals. Numerous parts of this bill are focused on this goal. We have cut corporate income taxes and increased the surtax exemptions to spur investment by small businesses. We have liberalized depreciation rules. And we have significantly reduced capital gains taxes. No less than four highly respected economic

studies have analyzed this bill and concluded it will greatly expand investments, production, and employment.

Like any compromise, no one is totally satisfied with this bill. But it is a responsible bipartisan compromise designed to meet the economic problems of our country. It is supported by a majority of both parties in the Ways and Means Committee and I urge your support today.

● Mr. COTTER. Mr. Chairman, I rise in support of H.R. 13511, the 1978 Tax Revenue Act.

I know there are differences among my colleagues over this legislation, but on balance I believe the Ways and Means Committee has drafted a reasonable and beneficial bill.

The Tax Revenue Act provides over $10.5 billion in individual tax relief which, to my mind, is properly focused on middle-income Americans. This is accomplished through widening the tax brackets by 6 percent, reducing individual rates, increasing the standard deduction to $1,000 and repealing the general tax credit.

There has been extensive comment about who should, and who will, benefit under this bill. And I maintain that the figures on tax liability persuasively demonstrate that under this new bill our tax program continues to be progressive.

Let me give some examples with figures based on the traditional family of four:

Adjusted gross income (per year)	Federal tax liability under 1978 Revenue Act	Reduction in liability
$8,000	$84	$36
$10,000	384	62
$15,000	1,253	105
$20,000	2,034	115
$25,000	2,918	232
$30,000	3,929	304

What can be concluded from these figures is that the proposed reductions favor the middle class, and if one looks at the actual tax liability, it is obvious this relief is more than justified.

Indeed, if our Federal budget situation were different, I would favor more extensive cuts up and down the income scale. But the central fact of life is that inflation is our No. 1 economic problem and a tax cut much beyond $16 billion would seriously, if not dangerously, increase the Federal deficit.

Under the new bill, progressive tax rates will continue. A family making $8,000 will pay only $84 and a family making $10,000, only $384. Conversely, a family with twice the income, that is $20,000, will pay nearly six times as much, or $2,034 in Federal taxes.

You can see the ability to pay was carefully figured into the new tax bill, although the actual dollar amount of tax reduction is proportionately higher for those with higher income. I repeat, this reduction is justified because these people already bear the bulk of our national tax burden.

One more set of statistics is proof of my position. The Tax Foundation recently made a study on how many were paying how much, based on 1976 data. The study shows that people earning above $10,000 payed 93 percent of all taxes. Those with incomes above $17,000 payed 72 percent of all taxes and made up 25 percent of the population.

I hasten to add this study is based on data that is 2 years old and considering our rapidly escalating inflation rate, I am sure the burden on middle-income taxpayers is even greater than stated above. It is common knowledge that a progressive tax rate structure combined with inflation has pushed many people into higher tax brackets while eroding their purchasing power.

The bill before us represents a prudent step to offset the impact of spiraling inflation and increased social security taxes which Congress legislated last December. It does not do the whole job, but as I pointed out earlier, our Federal deficit dictates the limits of tax relief for 1979. We will do more in the future.

On the business side, tax relief will amount to about $5.5 billion. The cuts were designed to encourage expansion and investment. Changes in investment tax credits are geared at increasing productive capacity, and that means new jobs.

In particular, the bill makes the current investment tax credit on new equipment permanent at 10 percent up to a $25,000 credit. Expenditures above that amount will be credited at a 90 percent rate.

I introduced an amendment which I expect will significantly change growth and investment patterns in this nation by encouraging businesses to rebuild in the city using existing structures, rather than build new.

My proposal will extend the investment tax credit to the rehabilitation of business structures—commercial offices, industrial plants, retail stores and wholesale facilities. Lessors also would be eligible.

Companies could begin utilizing the credit for expenditures made from July 26, 1978 onward. There would be no dollar limit on the amount of the credit. However, it would be computed over time according to the same basis as now exists for credits on equipment purchases, with the stipulation that the rehabilitated structures have a useful life of at least 5 years.

To guard against abuses and discourage real estate speculation, there are restrictions within the amendment. For example, owners who take advantage of the credit cannot immediately resell the structure without losing these tax benefits. Also, new structures must be in service 5 years before work on them qualifies for the credit. In addition, the credit cannot be applied towards residential housing.

Everyone is aware that the central debate over the 1978 Revenue Act is the treatment of capital gains. You all know that one-half of a qualified capital gain is excluded from regular income taxes. But under the existing law, this seemingly untaxed portion is subject to consideration as a preference item and may be taxed as such up to 50 percent.

The bill we are debating repeals the minimum tax on capital gains and substitutes a new alternative tax with a maximum rate of 35 percent. I believe this is a wise and judicious formula which will encourage investment at many income levels, but will also prevent the very rich from escaping their fair share of tax liability.

Opponents of this legislation argue that the plan focuses on tax relief for the wealthy. It is true that the immediate benefits will go to the most active investors who are usually well-to-do. But in the long run, I am convinced the capital gains compromise will stimulate economic growth, create more jobs, and ultimately raise tax revenues by encouraging the middle income American to invest.

Small businesses especially, which by their very nature are more speculative than the big blue chip companies, have had trouble selling their stock because investors lack an incentive to take a risk when the hoped for profits are reduced by a stiff capital gains tax. This legislation should be a boon to them, and in turn to our economy.

Another significant aspect of the capital gains compromise is the novel provision for once-in-a-lifetime, tax-free sale of a home up to a $100,000 gain. I strongly support this innovative proposal because so many homeowners, particularly those in their later years whose children have moved away, find themselves burdened with significant Federal taxes when they sell the family house before the age of 65.

After spending half a lifetime or more meeting mortgage payments and annual property taxes, it seems only fair for a homeowner to finally reap the benefits of this sale undiluted by further taxes. The effective date of this provision is July 26, 1978.

Other business incentives within the bill include changes in the employment tax credit and increases in the limitations on industrial development bonds.

The bill, like any compromise, is not without its flaws. I refer in particular to the repeal of deductions for State and local gasoline taxes on itemized tax returns. I oppose this change because there are few alternatives to the automobile for transportation in Connecticut. And many taxpayers have used this deduction in the past to offset escalating fuel costs for a car which is a necessity to them and not a luxury.

I must also state my opposition to the Archer amendment which is included in the capital gains portion of the tax bill. This well-intentioned amendment would adjust the basis of any capital gain to compensate for inflation.

However, the major impetus for restructuring the capital gains tax rate was to compensate for the effects of inflation. To pile an inflation adjustment on top of a rate reduction would tip the scales too far and itself be inflationary.

The other changes proposed in this bill—to modify the at-risk rule and the partnership rule—have been explained most adequately by the Chair.

In conclusion Mr. Chairman, I want to urge my colleagues to support the committee version of this legislation which I believe steers a responsible course toward a healthy economy.●

● Mr. JEFFORDS. Mr. Chairman, I would like to explain to some of the Members what has happened in regard to the effort of the solar coalition to extricate the solar and conservation tax credits from the stalemated tax provisions of the National Energy Act. Well over 100 Members joined me, Congressmen MINETA, OTTINGER, and KREBS in urging Chairman ULLMAN to do something to save these long-awaited and noncontroversial credits from extinction-by-association with the crude oil equalization tax (COET). The immediate target of interest was, of course, the bill presently being debated, the Tax Revenue Act of 1978, which I support.

In order for the House to have an opportunity to pass these credits, the solar coalition drew up a measure which we felt accurately portrayed the agreements which had been reached in the Energy Tax Conference, and made some reasoned compromises as between the House and Senate versions of these credits in the few cases where agreements had not yet been reached. Our intent was to ask the Rules Committee to make the measure in order as an amendment to the Tax Revenue Act of 1978. In a close vote, 8 to 7, yesterday the Rules Committee rejected this attempt, which was offered by my colleague from Mississippi (Mr. LOTT). The vote was only close, of course, because of a great deal of pressure by the majority leadership on the members of that committee not to support the amendment.

Broadly speaking, I think there are several critical reasons for the House to move on these credits expeditiously.

First, the confidence of our constituents in our ability to deliver these credits has eroded to such an extent that it may well have measurable effects in November. I do not know how I can go back to Vermont and explain why we did not pass these credits, which already have in substance been passed by the House and agreed to in substance by the conference. I am not confident that agreement will be reached on the other sections of the tax provisions of the National Energy Act.

Second, regarding COET, or the crude oil equalization tax, I originally voted for it and support the administration's concept but I think it has been generally assumed to be dead. Secretary Schlesinger went on record at a New England Congressional Caucus meeting on the Senate side 2 weeks ago and I quote "COET is dead." So the theory that we must hold these credits back in order to sweeten the COET package, which if I thought could be revived I would support, is simply a bad theory. I recognize that the White House position is to plug along for COET, but I note that: First, the tax conferees are not only not meeting, but cannot even schedule a future meeting, and second, the COET we might get out of Senator LONG might be so onerous, particularly if it is agreed to under the gun, "so to speak," at the end of the session, that we will be forced not only to vote against it, but lose the tax credits as well."

Third, I would like to quote from a letter I received from Secretary Schlesinger on June 30 of this year in regard to the solar and conservation credits, and submit the letter for the committee's hearing record, I quote the salient paragraph:

> We are eager to meet our short-term solar energy objectives, by enactment of the solar tax incentive and related provisions of the National Energy Act. Toward that end, we stand ready at any time to work with you on achieving the solar goals of the NEA.

Fourth, the industry has been badly hurt by this very long delay. Many small manufacturers have gone out of business because consumers have held off buying systems until the tax situation is clarified. Thus the market share of major solar business—with annual sales of more than $1 million—has increased from 30 to 45 percent. We have been inundated with letters from the remaining businesses in this industry, from the industry association, and from franchised dealers in our constituencies to do something before solar system development is further retarded.

In contrast, the solar market is booming in California, because there is a good State tax credit—that alone seems proof to me that the Federal credit will be of significance in developing this industry and moving to a more oil-free economy. A survey for the DOE done this month by a New York firm shows the number of manufacturers or importers of solar collectors has declined from 186 to 162, a 13 percent decline—in 1 year. Mr. Chairman, we are going backward. The same survey report concludes that, and I quote:

> Inaction on Federal Solar Tax Credits is the prime cause for the lack luster growth of the industry. Consumers, both corporate and individual are delaying purchase decisions until Congress and the Administration act on the credits.

Last, Mr. Chairman, I think the urgency of this situation is highlighted by the fact that all 50 of the States energy office directors have sent a telegram on August 2 to the Speaker, and I quote:

> To strongly urge the U.S. Congress to pass during this session refundable federal residential tax credits . . . The delay in passing these credits has eroded the market for solar and conservation equipment and strained the patience of homeowners across the country committed to installing energy saving systems.

Mr. Chairman, I think it critically important that these credits be voted on by the full House as soon as possible. Certainly we know that the Senate is filibuster-prone at the end of sessions and that the further toward that end we get the more danger any important measure faces because of the nature of that Chamber. All good House intentions of moving these credits at the last minute may easily be foiled due to the eccentricities of the Senate and I am not willing to rely on that body in this regard. I think we should act now.●

● Mr. MCKINNEY. Mr. Chairman, it does not take a crystal ball or extraordinary insight to see that our economy is, at best, in a state of confusion, and that the taxpayers we represent are going to reach the boiling point if we continue to ask them to pay more for less. Higher taxes and inflation on all levels have followed an upward trend which must be reversed if we hope to prevent what now seems inevitable: another recession. We must take every available step to stimulate this confused economy, and reduce the underlying rate of inflation which is a predominant factor in the public's perception of their actual economic status. We must return to our citizens some confidence in the system, and get things moving in a positive direction both at home and abroad.

There can be no more positive route toward a badly needed shot in the arm than one which involves a substantial overall reduction in taxes. An economic authority of no less a reputation than Milton Freedman states:

> We are not getting our money's worth from the fraction of our income being spent for us by the government, that the maintainence of both prosperity and freedom demand a reduction in the total tax burden. Moreover I am persuaded by the experience of the past few decades that government will spend whatever the tax system will raise—plus a good deal more. The tolerable deficit has, unfortunately, been rising but is still not unlimited and does tend to inhibit spending. Hence I have concluded that the only effective way to restrain government spending is to limit government's explicit tax revenue—just as a limited income is the only effective restraint on any individual's or family's spending.

I agree.

The boldest, most positive step toward turning the tide of inflation and taxation would surely be consideration of the Kemp-Roth proposal. While a $16 billion tax cut under the Revenue Act is in keeping with a moderate program of tax reduction, there are better games in town of which Kemp-Roth is the best. We need a forceful step toward breaking out of the economic limbo in which we are caught, and a sizable cut such as Kemp-Roth is the one to consider.

The next most logical step toward a swift economic recovery would be adoption of the capital gains reduction included in the Revenue Act, and supported by my colleague Representative WILLAIM STEIGER, the architect of one of the most popular capital gains proposals in Congress. As the President himself stated:

> Increased capital formation, which provides new and more productive facilities, can help accelerate the growth of labor productivity, off-setting inflationary pressures and improving U.S. competitiveness in world markets.

While admitting that we are suffering from a serious lack of investment capital, the President's proposals, which include some reductions and investment credits, are not sufficient to produce the level of economic growth he advocates.

We need to boost the economy with the kind of investment capital that is presently lacking. This absence of capital has created serious problems with regard to future employment, Federal revenues, economic vitality, and our ability to compete with foreign firms in certain important areas. The high rate of technical growth that has been a trademark of this economy in the past has fallen off drastically. In 1968 there were 300 or more high technology companies founded, while in 1976 there were none. This cannot continue, and the reduction in capital gains tax would be a step in assuring that it would not.

At the very least, we must provide taxpayers with reductions which will improve their individual situations wherever possible. I have to take personal satisfaction in the fact that one of this bill's most important provisions is essentially the same as a bill I introduced. This provision of the Revenue Act provides homeowners with an opportunity to exclude from gross income up to $100,000 in gain from the sale or exchange of his or her principal residence. This exemption is a valuable asset to homeowners, many of whom will find need to claim this exemption long before they reach the presently required age limit of 65. The profit realized from this exemption may be used for whatever purpose the seller sees fit.

This is a badly needed piece of legislation, because even if capital gain on investment is subject to taxation, it is not appropriate to subject gains on the sales of personal consumption items such as one's personal residence, since the purchase of a home is not nearly as profit motivated as are other types of investment. This is something that I have been pushing since 1975, and I think it is about time that it became law.

I see many other provisions of the Revenue Act as being vital in reestablishing in the minds of individuals a positive perception of their economic status. One of these provisions is the Archer proposal to eliminate inflation as a factor in figuring taxes on the sale of assets such as stocks, bonds, or personal residence after January 1, 1980. This represents a major change in Federal tax policy, since it is the first time a part of the Federal Tax Code will be indexed to account for the effects of inflation—the "hidden tax." I see it as a definite step in the right direction.

Finally, I see the expansion of the graduated corporate income tax structure, with a reduction in all general rates as well as an increase in the surtax exemption, as a valuable legislative innovation. This will increase the amount of after-tax dollars in the hands of businessmen, particularly small businessmen where so much of the economic growth occurs in our country. This will prove to be an invaluable companion measure to personal rate reductions so that personal buying power can be matched with new productive capacity. This bill must be categorized as the first step of many we must take toward economic stability. I urge its adoption.●

● Mr. DRINAN. Mr. Chairman, I rise in support of the Corman-Fisher amendment, and in concerted opposition to the Revenue Act of 1978 as reported by the Committee on Ways and Means.

I believe that Americans are entitled to a major tax cut this year—particularly families in lower- and middle-income brackets—and further, that the public is entitled to an honest and open accounting of the effects of inflation on their Federal taxes. The committee bill fails miserably in addressing both of these legitimate interests. Fully 75 percent of the tax reductions contained in H.R. 13511 will be enjoyed by the richest 23 percent of the taxpayers, according to the Joint Committee on Taxation, and this windfall for the rich will increase substantially as inflation and social security take a larger and larger bite from the pockets of American families.

Three or four years from now, Mr. Chairman, the vast majority of American taxpayers will realize—as my colleague from Ohio (Mr. VANIK) has expressed so clearly—that they have fallen victim to "a sham tax cut." In fact, once the effect of next year's tax reductions has been tempered by higher payroll taxes and increases in the cost of living, most Americans will be paying higher taxes in real terms merely to support the permanent loopholes which we are enacting today for America's special few.

The Ways and Means Committee has failed to provide any detailed projections of the distributional effects of H.R. 13511 beyond 1979, and, in fact, this information is not available to Members as we vote on the bill this afternoon. It it were, it would show that the legislation will ultimately impose upon America's middle class the burden of paying for more than $4 or $5 billion in new tax loopholes for those earning in excess of $50,000, and of financing a similar multibillion dollar panopoly of tax breaks for the Nation's largest and most profitable corporations. This burden on the Nation's working families will not be a new or unfamiliar one, but merely compounds the rising cost of social security and of financing the $125 billion in tax loopholes already embodied in Federal law.

With respect to next year's social security tax increases, the Ways and Means Committee has not only ignored economic commonsense, but has thwarted the will of the House Democratic Caucus as well. The Congressional Budget Office estimates that the payroll tax increase next January will not only significantly increase inflation, but will simultaneously discourage employers from creating new, entry-level jobs. At the same time, the increase threatens to remove any semblence of progressiveness from Federal tax laws, since half of America's taxpayers already pay more in Social Security taxes than they do in personal income taxes.

The logical solution to this problem is to fund one-third of the Social Security program from general tax revenues, which would enable a reduction of next year's payroll tax rate from 6.1 to 3.9 percent. This approach was overwhelmingly endorsed by a 3-to-1 vote of the Democratic Caucus last April. Despite this clear mandate, the Ways and Means Committee voted on May 17 to oppose such legislation, and voted during markup of H.R. 13511 to oppose an even more modest interim approach by the gentleman from Missouri (Mr. GEPHARDT), which would grant taxpayers a tax credit equal to 5 percent of their contributions to social security.

As a longtime cosponsor of general revenue financing legislation, I joined 105 of my colleagues this week in petitioning the Rules Committee to permit a direct vote on the Gephardt amendment on the House floor. Unfortunately, the committee expressed disregard for the will of the Democratic majority, and reported a rule which made social security amendments out of order during floor consideration of the Revenue Act of 1978. In contrast, the Rules Committee permitted consideration of the Republican Kemp-Roth bill which had never been formally considered by the Ways and Means Committee, and which even Business Week and the U.S. Chamber of Commerce regard as fiscally irresponsible.

By significantly reducing taxes on capital gains for the Nation's most affluent investors, the Ways and Means Committee has similarly departed from economic commonsense. Arguing that under current law capital gains largely reflect only the effects of inflation on investments, the proponents of the Steiger and Jones amendments have given themselves carte blanche to grant back-door subsidies to the richest 2 percent of the taxpayers. In doing so, they have perpetuated the myth that an investment by an individual in the highest income brackets is somehow more economically productive than an identical investment made by an individual of modest means.

One solution to the problem would be to index capital gains for inflation, and then to tax the remaining real gain as ordinary income. This approach would end the current discrimination against small, long-term investments—such as the sale of a family home or small portfolio of stock—while eliminating one of the largest and most egregious loopholes in Federal tax law. Instead, the Ways and Means Committee approved a rollback in maximum capital gains tax rates affecting only a minority of investors, a one-time tax exemption for profits on the sale of a home, and an indexing provision which—in context—can only be described as overkill.

In doing so, the committee has done nothing to make home ownership more affordable, or to encourage investment by anyone except a small number of taxpayers. I suspect that they have succeeded only in squandering billions of dollars in revenue which will have to be made up by higher taxes on a majority of the Nation's taxpayers.

I cannot honestly believe that the Ways and Means Committee was at a loss to find tax loopholes worthy of reform in a tax code which the President of the United States has described as "a disgrace to the human race." The committee chose to blindly ignore the fact that the effective tax rate paid by the Nation's few hundred largest corporations dropped from 27 to 13 percent of income between 1969 and 1976, and that deductible business meals currently cost the taxpayers $1.2 billion each year. They chose to ignore the accelerated depreciation schedules, depletion allowances, export subsidies, and foreign tax credits which reap corporations billions of dollars in excess profits each year at the expense of the general public, and the fact that 23 percent of the benefits of our existing tax expenditures are enjoyed by the richest 1.2 percent of the population.

The Revenue Act of 1978 is not legislation worthy of a Democratic Congress or of individuals who profess to represent the public interest.●

● Mr. HANLEY. Mr. Chairman, I rise in support of the adoption of the Revenue Act of 1978. There can be no doubt

that the taxpayers of this Nation are in desperate need of tax reduction in the coming year. In addition, there can also be no doubt that this Nation is in desperate need of increased capital formation to sustain our continuing economic recovery. The bill before us represents an immediate and balanced approach to those problems, while also enacting into law much needed and substantial tax reductions for the small business community which I supported for many years.

The bill which we are about to vote on will provide three essential and balanced tax reform and reduction ingredients. First, we will be attempting to provide the citizens of this Nation with meaningful and effective tax reduction. This will be accomplished by significant tax reductions for all individuals and businesses. Tax brackets are widened, and rates within many of those brackets are reduced. The general tax credit is repealed and the personal exemption is increased from $750 to $1,000. In addition, taxpayers who sell their homes will be given a one-time opportunity to exclude up to $100,000 in gains from capital gains taxation.

For the business community, we repeal the current corporate normal tax and surtax rates and replace them with a five-step rate structure based on corporate taxable income. This provision will have a tremendous beneficial impact on the small business community. In addition, the 10-percent investment tax credit will be made permanent.

Finally, the bill addresses the desperate need for additional capital formation by reducing the maximum rate on capital gains taxation from 49.1 to 35 percent. As a cosponsor of the original proposal to reduce the maximum rate to 25 percent, I am delighted with this compromise, and I am confident that it will release necessary investment funds so essential to sustained growth and reduced unemployment.

As a whole, the legislation will reduce taxes by approximately $16 billion, well within the limits of the carefully devised congressional budget resolution.

In closing, Mr. Chairman, no discussion of tax reduction legislation in the current session would be complete without some comments on the Kemp-Roth tax proposal. Given the widespread appeal the proposal has generated over the past few months, it is a source of great amazement to me that the distinguished members on the Ways and Means Committee representing the Republican Party have never offered the proposal for full consideration as an alternative tax reduction proposal. I can only conclude that they have accepted the sound judgment of numerous economists and national leaders of every political persuasion who have concluded that such a massive reduction in taxes, without a plausible program of Federal expenditure reductions, would spur excessive inflation with the potential for destroying our entire economic system.

The House of Representatives, with my support, is making every effort to respond to the legitimate concerns of the citizens of this country in reducing Federal spending and providing appropriate and balanced tax relief. In recent years we have seen how rapidly economic conditions can change, and fortunately the Congress has had the flexibility to respond to those conditions. We are currently in the third year of sustained economic recovery, and the action we are about to take will continue that recovery and provide tax relief in a manner that will least affect our inflationary problems. The Kemp-Roth proposal, on the other hand, would negate this necessary flexibility and result in intolerable inflation. Any gains in tax relief the bill would provide would be more than wiped out by the inflation it would generate. To quote from a recent editorial which appeared in Business Week:

> Kemp-Roth would add $100 billion to the deficit that is already dangerously swollen. It would touch off an inflationary explosion that would wreck the country and impoverish everyone on fixed income. If taxpayers want to revolt and cut taxes, they must force sizable cuts in spending first.

As I have previously stated, the Congress is making every effort to cut spending in a logical and responsible manner. We must always remember, however, that meat ax approaches to reductions in Federal spending are not less irresponsible than meat ax tax reductions.●

● Mr. GORE. Mr. Chairman, I would like to clarify my opposition to the committee amendments to H.R. 13511, the Revenue Act of 1978. Although I was the sole registered voice of opposition to the committee amendments—409–1—I do not oppose all 10 provisions of this amendment. My vote primarily reflects my opposition to the committee's alternative minimum tax provision. This "micromini" tax violates the principle of progressive taxation and the duty of our legislative body.

This new version of the minimum tax is a charade which will serve only to dilute the outrage that all Americans who are interested in fairness should feel about a tax system that allows so many of those who can most afford to pay to escape taxation altogether.

Congress has resounded with cries for tax reductions and reform over the past several months. The American people have been promised equitable tax relief and reform. But we have reneged upon this promise. Instead this body chose to dole out a regressive tax bracket-widening scheme and a diluted alternative minimum tax. I could not support this new minimum tax because it is a false and token gesture that will ultimately allow an affluent group of taxpayers to shelter most or all of their income while the average taxpayer suffers a net tax hike when the payroll tax increases are also considered.

The recent Roper poll results illustrate that more Americans are concerned about tax equity than any other tax issue; 67 percent of those polled replied that the present tax system is unfair. Those people polled ranked tax reform third, behind controlling inflation and combating crime, on a list of objectives which need to be reached in our country. The Roper organization highlighted their conclusions with the statement that "in view of the American public, the major problem with the Federal income tax system in this country is its unfairness." The Congress' endorsement of a token minimum tax and its rejection of a progressive tax reduction plan illuminates our indifference to the concerns of the people.

I disagree that there is "no constituency for tax reform." What is lacking is leadership. The results of the Roper poll demonstrate the people's dissatisfaction with our unjust tax system. Sadly, the Tax Revenue Act of 1978 dismally fails to promote progressivity or equity. I can only look to the future and hope that we reverse some of the mistakes of the 1978 tax bill.●

● Mr. WEISS. Mr. Chairman, a recent nationwide opinion poll found that only 29 percent of the American people believe that our Federal income tax system is fair. Only the curbing of inflation and crime, according to the poll, rank higher on the public's list of priorities than tax reform. Despite this mandate, the Revenue Act of 1978 (H.R. 13511) makes no major reforms in our income tax system. If this bill is indicative of Congress commitment to correcting tax inequities, unfulfilled promises of tax reform may soon be as inevitable as taxes themselves.

For the first time in history, I believe we have an income tax bill that is not progressive. Almost one-quarter of the cut goes to those with incomes exceeding $50,000. Even the tax beleaguered middle-class, supposedly the prime beneficiary of this legislation, do not receive substantial tax relief, especially when this bill is compared to the amendment, which I support, offered by the gentlemen from California (Mr. CORMAN) and Virginia (Mr. FISHER).

The Corman-Fisher proposal, for example, would give a family of four earning $25,000 a $308 tax cut, while this bill offers only a $232 cut. At the $20,000-level, Corman-Fisher provides $228 in tax relief, $82 more in savings than the bill before us.

But it is the capital gains provisions in this bill that I find most disturbing. Except for the provision designed to help homeowners by allowing them to exclude up to $100,000 realized in the sale of their principal residence, more than 75 percent of the capital gains tax reductions go to those with incomes over $100,000. The capital gains provisions also allow too many capital gains, many at the multimillion-dollar level, to go untaxed because of tax shields.

Once again, the Corman-Fisher amendment is preferable. It limits the amount of capital gains eligible for tax shields, and establishes a minimum tax rate from 5 to 17.5 percent, depending on the amount of the capital gain. The Revenue Act of 1978, on the other hand, makes the effective minimum rate a mere 5 percent, regardless of the size of the gain.

The bill's tendency to benefit the wealthy at the expense of the middle- and low-income earner is even more pronounced in the amendment offered by the gentleman from Texas (Mr. ARCHER) and the gentleman from New York's (Mr. KEMP) motion to recommit.

The Archer amendment would index capital gains to protect them from inflation. On the surface, the argument that capital gains attributable to inflation do not deserve to be taxed seems appealing.

Upon closer examination, however, serious flaws emerge.

First, the indexing provision is inequitable, benefiting only those taxpayers who have capital gains. It is estimated that 50 percent of the Archer amendment's benefits would go to those in the $100,000-plus income class, while just 6 percent would benefit those who earn less than $20,000. Second, indexing capital gains would result in substantial revenue losses. Finally, the current law excluding one-half of capital gains from taxation offers adequate compensation for inflation. Indexing provides unnecessary double protection, especially when we remember that most taxpayers are not offered any kind of protection from inflation.

Mr. KEMP's motion to recommit, actually a vote on the Kemp-Roth amendment, has even more surface appeal than Mr. ARCHER's amendment. It is difficult to oppose a 30-percent tax cut spread over 3 years, especially at a time when there is a growing demand for tax relief. Despite this, the Kemp-Roth proposal is as dangerous to the economy as it is beguiling to the taxpayer.

A tax cut of this magnitude would stimulate consumer spending by 20 percent to a point where demand would devour supply, pushing inflation irrevocably out of control. Fueling this inflation would be a $75 billion to $130 billion Federal deficit caused by reduced revenues. Only a recession or prolonged slow growth in the economy could compensate for these ruinously inflationary tendencies.

The Kemp-Roth approach is also regressive and inequitable. Those making more than $50,000, for example, represent only 3 percent of all taxpayers, but they would receive 23 percent of the Kemp-Roth cuts.

Perhaps most damaging of all, Kemp-Roth perpetrates a hoax on the American taxpayer. Not only would much of their proposed tax cut be lost to inflation, but other taxes would have to be levied to compensate for the loss of income tax revenue. These taxes might prove more burdensome than the income tax, as the residents of California recently made clear in their proposition 13 vote.

The specter of inflation, which ultimately most hurts those who can afford it least, leads me to vote in favor of the substitute offered by the gentlemen from Ohio (Mr. VANIK) and Texas (Mr. PICKLE). While I prefer the Corman-Fisher amendment for the reasons given earlier, if it should not pass, there is a need for the Vanik-Pickle proposal. By extending four tax provisions—the general tax credit, the jobs tax credit, the earned income credit, and certain aspects of the corporate tax rate—scheduled to expire at the end of this year, this measure will reduce the Federal deficit and curb inflation. Although not a tax cut per se, the substitute will save taxpayers much of the money that would otherwise be lost to inflation.

Without the addition of the Corman-Fisher amendment, I must oppose the Revenue Act of 1978. Its priorities are misplaced. Too much attention is devoted to capital gains modifications at the expense of reforms in the individual tax structure. As a result we have a bill full of anomalies: a tax increase for 900,000 taxpayers, including single people and married couples without dependents, two groups which our tax system discriminates against unfairly; a tax increase for a family of four making only $5,000; no relief from social security taxes either in the form of more general revenue financing or a tax credit.

We ask a great deal of our taxpayers every year. We owe them something in return. Regrettably, however, this bill increases our debt to them rather than paying it off. ●

The CHAIRMAN. All time has expired for general debate.

Pursuant to the rule the bill is considered as having been read for amendment. No amendments shall be in order except the following amendments which shall not be subject to amendment except amendments recommended by the Committee on Ways and Means, and which shall be considered in the following order:

First. The committee amendments printed in the bill (except for section 404);

Second. The committee amendment adding a new section 404;

Third. The amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of August 8 by, if offered by, the gentleman from Ohio (Mr. VANIK); and

Fourth. An amendment printed in the CONGRESSIONAL RECORD of August 7 by, if offered by, the gentleman from California (Mr. CORMAN).

The bill is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1978".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of 1954 Code.
TITLE I—PROVISIONS PRIMARILY AFFECTING INDIVIDUAL INCOME TAX
Subtitle A—Tax Reductions and Extensions
Sec. 101. Widening of brackets; rate cuts in zero bracket amounts.
Sec. 102. Personal exemptions increased to $1,000.
Subtitle B—Itemized Deductions
Sec. 111. Repeal of deductions for State and local taxes on gasoline and other motor fuels.
Sec. 112. Revision of deduction for medical, dental, etc., expenses.
Sec. 113. Repeal of deduction for political contributions.
Sec. 114. Taxation of unemployment compensation benefits at certain income levels.
Sec. 115. Effective date.
Subtitle C—Deferred Compensation
Sec. 121. Deferred compensation plans with respect to service for State and local governments.
Sec. 122. Certain private deferred compensation plans.
Sec. 123. Clarification of deductibility of payments of deferred compensation, etc., to independent contractors.
TITLE II—TAX SHELTER PROVISIONS
Subtitle A—Provisions Related to at Risk Rules
Sec. 201. Extension of section 465 at risk rules to all activities other than real estate.
Sec. 202. Extension of at risk provisions to closely held corporations.
Sec. 203. Recapture of losses where amount at risk is less than zero.
Sec. 204. Effective dates.
Subtitle B—Partnership Provisions
Sec. 211. Penalty for failure to file partnership return.
Sec. 212. Extension of state of limitations in the case of partnership items.
TITLE III—PROVISIONS PRIMARILY AFFECTING BUSINESS INCOME TAX
Subtitle A—Corporate Rate Reductions
Sec. 301. Corporate rate reductions.
Subtitle B—Credits
Sec. 311. 10-percent investment tax credit and $100,000 limitation on used property made permanent.
Sec. 312. Increase in limitation on investment credit to 90 percent of tax liability.
Sec. 313. Investment credit for pollution control facilities.
Sec. 314. Targeted jobs credit.
Subtitle C—Increase in Limit on Small Issues of IDB's
Sec. 321. Increase to $10,000,000.
Subtitle D—Small Business Provisions
PART I—PROVISIONS RELATING TO SUBCHAPTER S
Sec. 331. Subchapter S corporations allowed 15 shareholders.
Sec. 332. Permitted shareholders of subchapter S corporations.
Sec. 333. Extension of period for making subchapter S elections.
Sec. 334. Effective date.
PART II—OTHER PROVISIONS
Sec. 335. Small business corporation stock.
Sec. 336. Special depreciation rules for small business.
Subtitle E—Accounting Provisions
Sec. 341. Treatment of certain closely held farm corporations for purposes of rule requiring accrual accounting.
Sec. 342. Accounting for growing crops.
TITLE IV—CAPITAL GAINS
Sec. 401. Repeal of alternative tax on capital gains of individuals.
Sec. 402. Removal of capital gains from items of tax preference for purposes of minimum and maximum tax.

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE I—PROVISIONS PRIMARILY AFFECTING INDIVIDUAL INCOME TAX

Subtitle A—Tax Reductions and Extensions

SEC. 101. WIDENING OF BRACKETS; RATE CUTS IN CERTAIN BRACKETS; INCREASE IN ZERO BRACKET AMOUNTS.

(a) RATE REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $4,460	14% of the excess over $3,400.
Over $4,460 but not over $5,520	$148.40, plus 15% of excess over $4,460.
Over $5,520 but not over $6,580	$307.40, plus 16% of excess over $5,520.
Over $6,580 but not over $7,640	$477, plus 17% of excess over $6,580.
Over $7,640 but not over $11,880	$657.20, plus 18% of excess over $7,640.
Over $11,880 but not over $16,120	$1,420.40, plus 21% of excess over $11,880.
Over $16,120 but not over $20,360	$2,310.80, plus 24% of excess over $16,120.
Over $20,360 but not over $24,600	$3,328.40, plus 28% of excess over $20,360.
Over $24,600 but not over $28,840	$4,515.60, plus 32% of excess over $24,600.
Over $28,840 but not over $33,080	$5,872.40, plus 36% of excess over $28,840.
Over $33,080 but not over $41,560	$7,398.80, plus 39% of excess over $33,080.
Over $37,320 but not over $41,560	$9,052.40, plus 42% of excess over $37,320.
Over $41,560 but not over $45,800	$10,833.20, plus 45% of excess over $41,560.
Over $45,800 but not over $50,040	$12,741.20, plus 48% of excess over $45,800.
Over $50,040 but not over $58,520	$14,776.40, plus 50% of excess over $50,040.
Over $58,520 but not over $71,240	$19,016.40, plus 53% of excess over $58,520.
Over $71,240 but not over $83,960	$25,758, plus 55% of excess over $71,240.
Over $83,960 but not over $96,680	$32,754, plus 58% of excess over $83,960.
Over $96,680 but not over $109,400	$40,131.60, plus 60% of excess over $96,680.
Over $109,400 but not over $130,600	$47,763.60, plus 62% of excess over $109,400.
Over $130,600 but not over $151,800	$60,907.60, plus 64% of excess over $130,600.
Over $151,800 but not over $173,000	$74,475.60, plus 66% of excess over $151,800.
Over $173,000 but not over $194,200	$88,467.60, plus 68% of excess over $173, 000.
Over $194,200 but not over $215,400	$102,883.60, plus 69% of excess over $194,200.
Over $215,400	$117,511.60, plus 70% of excess over $215,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,360	14 percent of the excess over $2,300.
Over $3,360 but not over $4,420	$148.40, plus 16 percent of excess over $3,360.
Over $4,420 but not over $6,540	$318, plus 17 percent of excess over $4,420.
Over $6,540 but not over $8,660	$678.40, plus 18 percent of excess over $6,540.
Over $8,660 but not over $10,780	$1,060, plus 20 percent of excess over $8,660.
Over $10,780 but not over $12,900	$1,484, plus 22 percent of excess over $10,780.
Over $12,900 but not over $15,020	$1,950.40, plus 25 percent of excess over $12,900.
Over $15,020 but not over $17,140	$2,480.40, plus 27 percent of excess over $15,020.
Over $17,140 but not over $19,260	$3,052.80, plus 28 percent of excess over 17,140.
Over $19,260 but not over $21,380	$3,646.40, plus 31 percent of excess over $19,260.
Over $21,380 but not over $23,500	$4,303.60, plus 32 percent of excess over $21,380.
Over $23,500 but not over $25,620	$4,982, plus 35 percent of excess over $23,500.
Over $25,620 but not over $27,740	$5,724, plus 36 percent of excess over $25,620.
Over $27,740 but not over $29,860	$6,487.20, plus 38 percent of excess over $27,740.
Over $29,860 but not over $31,980	$7,292.80, plus 41 percent of excess over $29,860.
Over $31,980 but not over $36,220	$8,162, plus 42 percent of excess over $31,980.
Over $36,220 but not over $40,460	$9,942.80, plus 45 percent of excess over $36,220.
Over $40,460 but not over $42,580	$11,850.80, plus 48 percent of excess over $40,460.
Over $42,580 but not over $44,700	$12,868.40, plus 51 percent of excess over $42,580.
Over $44,700 but not over $48,940	$13,949.60, plus 52 percent of excess over $44,700.
Over $48,940 but not over $55,300	$16,154.40, plus 55 percent of excess over $48,940.
Over $55,300 but not over $57,420	$19,652.40, plus 56% of excess over $55,300.
Over $57,420 but not over $70,140	$20,839.60, plus 58% of excess over $57,420.
Over $70,140 but not over $76,500	$28,217.20, plus 59% of excess over $70,140.
Over $76,500 but not over $82,860	$31,969.60, plus 61% of excess over $76,500.
Over $82,860 but not over $87,100	$35,849.20, plus 62% of excess over $82,860.
Over $87,100 but not over $95,580	$38,478, plus 63% of excess over $87,100.
Over $95,580 but not over $108,300	$43,820.40, plus 64% of excess over $95,580.
Over $108,300 but not over $129,500	$51,961.20, plus 66% of excess over $108,300.
Over $129,500 but not over $150,700	$65,953.20, plus 67% of excess over $129,500.
Over $150,700 but not over $171,900	$80,157.20, plus 68% of excess over $150,700.
Over $171,900 but not over $193,100	$94,573.20, plus 69% of excess over $171,900.
Over $193,100	$109,201.20, plus 70% of excess over $193,100.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $2,830	14 percent of the excess over $2,300.
Over $2,830 but not over $3.360	$74.20, plus 15 percent of excess over $2,830.
Over $3,360 but not over $3,890	$153.70, plus 16 percent of excess over $3,360.
Over $3,890 but not over $4,420	$238.50, plus 17 percent of excess over $3,890.
Over $4,420 but not over $6,540	$328.60, plus 18 percent of excess over $4,420.
Over $6,540 but not over $8,660	$710.20, plus 19 percent of excess over $6,540.
Over $8,660 but not over $10,780	$1,113, plus 21 percent of excess over $8,660.
Over $10,780 but not over $12,900	$1,558.20, plus 24 percent of excess over $10,780.
Over $12,900 but not over $15,020	$2.067, plus 27 percent of excess over $12,900.
Over $15,020 but not over $17,140	$2,639.40, plus 29 percent of excess over $15,020.
Over $17,140 but not over $19,260	$3,254.20, plus 31 percent of excess over $17,140.
Over $19,260 but not over $21,380	$3,911.40, plus 34 percent of excess over $19,260.

Over $21,380 but not over $23,500	$4,632.20, plus 36 percent of excess over $21,380.
Over $23,500 but not over $25,620	$5,395.40, plus 38 percent of excess over $23,500.
Over $25,620 but not over $29,860	$6,201, plus 40 percent of excess over $25,620.
Over $29,860 but not over $36,220	$7,897, plus 45 percent of excess over $29,860.
Over $36,220 but not over $42,580	$10,759, plus 50 percent of excess over $36,220.
Over $42,580 but not over $48,940	$13,939, plus 55 percent of excess over $42,580.
Over $48,940 but not over $55,300	$17,437, plus 60 percent of excess over $48,940.
Over $55,300 but not over $65,900	$21,253, plus 62 percent of excess over $55,300.
Over $65,900 but not over $76,500	$27,825, plus 64 percent of excess over $65,900.
Over $76,500 but not over $87,100	$34,609, plus 66 percent of excess over $76,500.
Over $87,100 but not over $97,700	$41,605, plus 68 percent of excess over $87,100.
Over $97,700 but not over $108,300	$48,813, plus 69 percent of excess over $97,700.
Over $108,300	$56,127, plus 70 percent of excess over $108,300.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If the taxable income is:	The Tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,230	14% of the excess over $1,700.
Over $2,230 but not over $2,760	$74.20, plus 15% of excess over $2,230.
Over $2,760 but not over $3,290	$153.70, plus 16% of excess over $2,760.
Over $3,290 but not over $3,820	$238.50, plus 17% of excess over $3,290.
Over $3,820 but not over $5,940	$328.60, plus 18% of excess over $3,820.
Over $5,940 but not over $8,060	$710.20, plus 21% of excess over $5,940.
Over $8,060 but not over $10,180	$1,155.40, plus 24% of excess over $8,060.
Over $10,180 but not over $12,300	$1,664.20, plus 28% of excess over $10,180.
Over $12,300 but not over $14,420	$2,257.80, plus 32% of excess over $12,300.
Over $14,420 but not over $16,540	$2,936.20, plus 36% of excess over $14,420.
Over $16,540 but not over $18,660	$3,699.40, plus 39% of excess over $16,540.
Over $18,660 but not over $20,780	$4,526.20, plus 42% of excess over $18,660.
Over $20,780 but not over $22,900	$5,416.60, plus 45% of excess over $20,780.
Over $22,900 but not over $25,020	$6,370.60, plus 48% of excess over $22,900.
Over $25,020 but not over $29,260	$7,388.20, plus 50% of excess over $25,020.
Over $29,260 but not over $35,620	$9,508.20, plus 53% of excess over $29,260.
Over $35,620 but not over $41,980	$12,879, plus 55% of excess over $35,620.
Over $41,980 but not over $48,340	$16,377, plus 58% of excess over $41,980.
Over $48,340 but not over $54,700	$20,065, plus 60% of excess over $48,340.
Over $54,700 but not over $65,300	$23,881.80, plus 62% of excess over $54,700.
Over $65,300 but not over $75,900	$30,453.80, plus 64% of excess over $65,300.
Over $75,900 but not over $86,500	$37,237.80, plus 66% of excess over $75,900.
Over $86,500 but not over $97,100	$44,233.80, plus 68% of excess over $86,500.
Over $97,100 but not over $107,700	$51,441.80, plus 69% of excess over $97,100.
Over $107,700	$58,755.80, plus 70% of excess over $107,700.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $530	14% of the taxable income.
Over $530 but not over $1,060	$74.20, plus 15% of excess over $530.
Over $1,060 but not over $1,590	$153.70, plus 16% of excess over $1,060.
Over $1,590 but not over $2,120	$238.50, plus 17% of excess over $1,590.
Over $2,120 but not over $4,240	$328.60, plus 18% of excess over $2,120.
Over $4,240 but not over $6,360	$710.20, plus 21% of excess over $4,240.
Over $6,360 but not over $8,480	$1,155.40, plus 24% of excess over $6,360.
Over $8,480 but not over $10,600	$1,664.20, plus 28% of excess over $8,480.
Over $10,600 but not over $12,720	$2,257.80, plus 32% of excess over $10,600.
Over $12,720 but not over $14,840	$2,936.20, plus 36% of excess over $12,720.
Over $14,840 but not over $16,960	$3,699.40, plus 39% of excess over $14,840.
Over $16,960 but not over $19,080	$4,526.20, plus 42% of excess over $16,960.
Over $19,080 but not over $21,200	$5,416.60, plus 45% of excess over $19,080.
Over $21,200 but not over $23,320	$6,370.60, plus 48% of excess over $21,200.
Over $23,320 but not over $27,560	$7,388.20, plus 50% of excess over $23,320.
Over $27,560 but not over $33,920	$9,508.20, plus 53% of excess over $27,560.
Over $33,920 but not over $40,280	$12,879, plus 55% of excess over $33,920.
Over $40,280 but not over $46,640	$16,377, plus 58% of excess over $40,280.
Over $46,640 but not over $53,000	$20,065.80, plus 60% of excess over $46,640.
Over $53,000 but not over $63,600	$23,881.80, plus 62% of excess over $53,000.
Over $63,600 but not over $74,200	$30,453.80, plus 64% of excess over $63,600.
Over $74,200 but not over $84,800	$37,237.80, plus 66% of excess over $74,200.
Over $84,800 but not over $95,400	$44,233.80, plus 68% of excess over $84,800.
Over $95,400 but not over $106,000	$51,441.80, plus 69% of excess over $95,400.
Over $106,000	$58,755.80, plus 70% of excess over $106,000."

(b) INCREASE IN ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (defining zero bracket amount) is amended—

(1) by striking out "$3,200" and inserting in lieu thereof "$3,400",

(2) by striking out "$2,200" and inserting in lieu thereof "$2,300", and

(3) by striking out "$1,600" and inserting in lieu thereof "$1,700".

(c) FILING REQUIREMENTS.—Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended—

(1) by striking out "$2,950" and inserting in lieu thereof "$3,050",

(2) by striking out "$3,950" and inserting in lieu thereof "$4,150", and

(3) by striking out "$4,700" and inserting in lieu thereof "$4,900".

(d) TECHNICAL AMENDMENT.—Subparagraph (C) of section 402(c)(1) (relating to tax on lump sum distributions) is amended by striking out "$2,200" and inserting in lieu thereof "$2,300".

(e) WITHHOLDING AMENDMENTS.—

(1) WITHHOLDING TABLES.—Subsection (a)

of section 3402 (relating to requirement of withholding) is amended by striking out the second and third sentences and inserting in lieu thereof the following new sentence: "With respect to wages paid after December 31, 1978, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977 and the amendments made by section 101 of the Revenue Act of 1978."

(2) WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS.—Subparagraph (B) of section 3402(m)(1) (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$3,200" and inserting in lieu thereof "$3,400", and

(B) by striking out "$2,200" and inserting in lieu thereof "$2,300".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning after December 31, 1978.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (e) shall apply to remuneration paid after December 31, 1978.

SEC. 102. PERSONAL EXEMPTIONS INCREASED TO $1,000.

(a) GENERAL RULE.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out $750" each place it appears and inserting in lieu thereof $1,000".

(b) FILING REQUIREMENTS.—

(1) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income), as amended by section 101(c of this Act, is amended by striking out "$750", "$3,050", "$4,150", and "$4,900" each place they appear and inserting in lieu thereof "$1,000", "$3,300", "$4,400", and "$5,400", respectively.

(2) Subparagraph (A) of section 6013(b)(3) (relating to assessment and collection in the case of certain returns of husband and wife) is amended by striking out "$750" and "$1,500" each place they appear and inserting in lieu thereof "$1,000" and "$2,000", respectively.

(c) WITHHOLDING REQUIREMENTS.—

(1) Paragraph (1) of section 3402(b) (relating to percentage method of withholding income tax at source) is amended by striking out the table and inserting in lieu thereof the following:

"PERCENTAGE METHOD WITHHOLDING TABLE

"Payroll period	Amount of one withholding exemption
Weekly	$19.23
Biweekly	38.46
Semimonthly	41.66
Monthly	83.33
Quarterly	250.00
Semiannual	500.00
Annual	1,000.00
Daily or miscellaneous (per day of such period)	2.74".

(2) Paragraph (1) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out "$750" and inserting in lieu thereof "$1,000".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1978.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (c) shall apply with respect to remuneration paid after December 31, 1978.

SEC. 103. EARNED INCOME CREDIT MADE PERMANENT.

(a) GENERAL RULE.—Subsection (b) of section 209 of the Tax Reduction Act of 1975 is amended by striking out ", and before January 1, 1979".

(b) TECHNICAL AMENDMENT.—The second sentence of section 401(e) of the Tax Reform Act of 1976 (as added by section 103 of the Tax Reduction and Simplification Act of 1977) is amended by striking out ", and shall crease to apply to taxable years beginning after December 31, 1978".

Subtitle B—Itemized Deductions

SEC. 111. REPEAL OF DEDUCTION FOR STATE AND LOCAL TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) REPEAL.—Paragraph (5) of section 164(a) (relating to deduction for taxes) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) The heading of paragraph (5) of section 164(b) is amended by striking out "AND GASOLINE TAXES".

(2) The text of such paragraph (5) is amended by striking out "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel".

SEC. 112. REVISION OF DEDUCTION FOR MEDICAL, DENTAL, ETC., EXPENSES.

(a) IN GENERAL.—Subsections (a) and (b) of section 213 (relating to medical, dental, etc., expenses) are amended to read as follows:

"(a) ALLOWANCE OF DEDUCTION.—There shall be allowed as a deduction the expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent (as defined in section 152), to the extent that such expenses exceed 3 percent of adjusted gross income.

"(b) LIMITATION WITH RESPECT TO MEDICINE AND DRUGS.—An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin."

(b) DEFINITION OF PRESCRIBED DRUG.—Subsection (e) of section 213 is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (5), and (6), respectively, and by inserting after paragraph (1) the following new paragraphs:

"(2) PRESCRIBED DRUG.—The term 'prescribed drug' means a drug or biological which requires a prescription of a physician for its use by an individual.

"(3) PHYSICIAN.—The term 'physician' has the meaning given to such term by section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)); except that, in the case of a doctor of dentistry or of dental or oral surgery, section 1861(r)(2) shall be applied without the limitations contained in clauses (A), (B), and (C) thereof."

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (5) of section 213(e) (as redesignated by subsection (b)) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (4)".

(2) Subsections (d), (e), and (f) of section 213 are redesignated as subsections (c), (d), and (e), respectively.

(3) Subsection (b) of section 105 is amended by striking out "section 213(e)" and inserting in lieu thereof "section 213(d)".

SEC. 113. REPEAL OF DEDUCTION FOR POLITICAL CONTRIBUTIONS.

(a) REPEAL.—Section 218 (relating to deduction for contributions to candidates for public office and newsletter funds) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by striking out the item relating to section 218.

(2) Section 642 (relating to special rules for credits and deductions of estates and trusts) is amended by striking out subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

SEC. 114. TAXATION OF UNEMPLOYMENT COMPENSATION BENEFITS AT CERTAIN INCOME LEVELS.

(a) INCLUSION IN GROSS INCOME.—Part II of subchapter B of chapter 1 (relating to amounts specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 85. UNEMPLOYMENT COMPENSATION.

"(a) IN GENERAL.—If the sum for the taxable year of the adjusted gross income of the taxpayer (determined without regard to this section and without regard to section 105(d)) and the unemployment compensation exceeds the base amount, gross income for the taxable year includes unemployment compensation in an amount equal to the lesser of—

"(1) one-half of the amount of the excess of such sum over the base amount, or

"(2) the amount of the unemployment compensation.

"(b) BASE AMOUNT DEFINED.—For purposes of this section, the term 'base amount' means—

"(1) except as provided in paragraphs (2) and (3), $20,000,

"(2) $25,000, in the case of a joint return under section 6013, or

"(3) zero, in the case of a taxpayer who—

"(A) is married at the close of the taxable year (within the meaning of section 143) but does not file a joint return for such year, and

"(B) does not live apart from his spouse at all times during the taxable year.

"(c) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this section, the term 'unemployment compensation' means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 85. Unemployment compensaion."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date.

SEC. 115. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall apply to taxable years beginning after December 31, 1978.

Subtitle C—Deferred Compensation

SEC. 121. DEFERRED COMPENSATION PLANS WITH RESPECT TO SERVICE FOR STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 (relating to tax-

able years for which gross income included) is amended by adding at the end thereof the following new section:

"SEC. 457. DEFERRED COMPENSATION PLANS WITH RESPECT TO SERVICE FOR STATE AND LOCAL GOVERNMENTS.

"(a) YEAR OF INCLUSION IN GROSS INCOME.—In the case of a participant in an eligible State deferred compensation plan, any amount of compensation deferred under the plan, and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary. The preceding sentence shall not apply to amounts determined (under regulations prescribed by the Secretary) to have been applied to purchase life insurance protection.

"(b) ELIGIBLE STATE DEFERRED COMPENSATION PLAN DEFINED.—For purposes of this section, the term 'eligible State deferred compensation plan' means a plan established and maintained by a State—

"(1) in which only individuals who perform service for the State may be participants,

"(2) which provides that (except as provided in paragraph (3)) not to exceed the lesser of—

"(A) $7,500, or

"(B) 33⅓ percent of the participant's includible compensation,

may be deferred under the plan for any taxable year,

"(3) which may provide that, for 1 or more of the participant's last 3 taxable years ending before he attains normal retirement age under the plan, the ceiling set forth in paragraph (2) shall not be less than the lesser of

"(A) $15,000, or

"(B) so much of the plan ceiling established for purposes of paragraph (2) for taxable years before such last 3 taxable years as has not theretofore been used under paragraph (2) or this paragraph.

"(4) which provides that, except in the case of individuals first performing service for the State, compensation will be deferred for any taxable year only if an agreement providing for such deferral has been entered into before the beginning of such year,

"(5) which provides that amounts held by the plan will be made available to participants or other beneficiaries not earlier than when the participant is separated from service with the State, retires in accordance with a retirement plan of the State, does, or is faced by an unforeseeable emergency (determined in the manner prescribed by the Secretary by regulations), and

(6) which provides that—

"(A) all amounts of compensation deferred under the plan,

"(B) all property purchased with such amounts, and

"(C) all income attributable to such amounts or property,

shall remain (until made available to the participant or other beneficiary) solely the property of the State, available for the State's use for whatever purposes it desires, but subject to the claims of the State's general creditors.

A plan which is administered in a manner which is inconsistent with the requirements of any of the preceding paragraphs shall be treated as not meeting the requirements of such paragraph effective with respect to the first calendar year beginning more than 180 days after the date of notification by the Secretary of the inconsistency and failure by the State (before the first day of such calendar year) to remove the inconsistency.

"(c) INDIVIDUALS WHO ARE PARTICIPANTS IN MORE THAN ONE PLAN.—

"(1) IN GENERAL.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) for any taxable year shall not exceed $7,500 (as modified by any adjustment provided under subsection (b)(3)).

"(2) COORDINATION WITH SECTION 403(b).—In applying paragraph (1) of this subsection and paragraphs (2) and (3) of subsection (b), an amount excluded for any taxable year under section 403(b) shall be treated as an amount deferred under subsection (a). In applying clause (ii) of section 403(b)(2)(A), any amount deferred under subsection (a) for any year of service shall be taken into account as if described in such clause.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STATE.—The term 'State' means a State, a political subdivision of a State, and an agency or instrumentality of a State or political subdivision of a State.

"(2) PERFORMANCE OF SERVICE.—The performance of service includes performance of service as an independent contractor.

"(3) PARTICIPANT.—The term 'participant' means an individual who is eligible to defer compensation under the plan.

"(4) BENEFICIARY.—The term 'beneficiary' means a beneficiary of the participant, his estate, or any other person whose interest in the plan is derived from the participant.

"(5) INCLUDIBLE COMPENSATION.—The term 'includible compensation' means compensation for service performed for the State which (taking into account the provisions of this section but not taking into account section 403(b)) is currently includible in gross income.

"(6) COMPENSATION TAKEN INTO ACCOUNT AT PRESENT VALUE.—Compensation shall be taken into account at its present value.

"(7) COMMUNITY PROPERTY LAWS.—The amount of includible compensation shall be determined without regard to any community property laws.

"(8) INCOME ATTRIBUTABLE.—Gains from the disposition of property shall be treated as income attributable to such property.

"(e) TAX TREATMENT OF PARTICIPANTS WHERE PLAN OR ARRANGEMENT OF STATE IS NOT ELIGIBLE.—

"(1) IN GENERAL.—In the case of a plan of a State providing for a deferral of compensation, if such plan is not an eligible State deferred compensation plan, then—

"(A) the compensation shall be included in the gross income of the participant or beneficiary for the first taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

"(B) the tax treatment of any amount made available under the plan to a participant or beneficiary shall be determined under section 72 (relating to annuities, etc.).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan or contract described in section 403,

"(C) a qualified bond purchase plan described in section 405(a),

"(D) that portion of any plan which consists of a transfer of property described in section 83 (determined without regard to subsection (e) thereof), and

"(E) that portion of any plan which consists of a trust to which section 402(b) applies.

"(3) DEFINITIONS.— For purposes of paragraph (1)—

"(A) PLAN INCLUDES ARRANGEMENTS, ETC.— The term 'plan' includes any agreement or arrangement.

"(B) SUBSTANTIAL RISK OF FOREFEITURE.— The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 457. Deferred compensation plans with respect to service for State and local governments."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

(2) TRANSITIONAL RULE.—In the case of any plan of a State (within the meaning of paragraph (1) of section 457(d) of the Internal Revenue Code of 1954) for deferring the compensation of individuals performing service for it, if (on the date of the enactment of this Act) there is in effect a ruling from the Internal Revenue Service permitting deferral of compensation under such plan, then nothing in the amendments made by this section shall be treated as requiring any change in such plan for any period before January 1, 1980.

SEC. 122. CERTAIN PRIVATE DEFERRED COMPENSATION PLANS.

(a) GENERAL RULE.—The taxable year of inclusion in gross income of any amount covered by a private deferred compensation plan shall be determined in accordance with the principles set forth in regulations, rulings, and judicial decisions relating to deferred compensation which were in effect on February 1, 1978.

(b) PRIVATE DEFERRED COMPENSATION PLAN DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "private deferred compensation plan" means a plan, agreement, or arrangement—

(A) where the person for whom the service is performed is not a State (within the meaning of paragraph (1) of section 457(d) of the Internal Revenue Code of 1954) and not an organization which is exempt from tax under section 501 of such Code, and

(B) under which the payment or otherwise making available of compensation is deferred.

(2) CERTAIN PLANS EXCLUDED.—Paragraph (1) shall not apply to—

(A) a plan described in section 401(a) of the Internal Revenue Code of 1954 which includes a trust exempt from tax under section 501(a) of such Code,

(B) an annuity plan or contract described in section 403 of such Code,

(C) a qualified bond purchase plan described in section 405(a) of such Code,

(D) that portion of any plan which consists of a transfer of property described in section 83 (determined without regard to subsection (e) thereof) of such Code, and

(E) that portion of any plan which consists of a trust to which section 402(b) of such Code applies.

(c) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after February 1, 1978.

SEC. 123. CLARIFICATION OF DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION, ETC., TO INDEPENDENT CONTRACTORS.

(a) IN GENERAL.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by inserting after subsection (c) the following new subsection:

"(d) DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION, ETC., TO INDEPENDENT CONTRACTORS.—If a plan would be described in so much of subsection (a) as precedes paragraph (1) thereof (as modified by subsection (b)) but for the fact that there is no employer-employee relationship, the contributions or compensation—

"(1) shall not be deductible by the payor thereof under section 162, or 212, but

"(2) shall (if they would be deductible under section 162 or 212 but for paragraph (1)) be deductible under this subsection for the taxable year in which an amount attributable to the contribution or compensation is includible in the gross income of the participants in the plan, but, in the case of a plan in which more than 1 individual participates, only if separate accounts are maintained for each participant."

(b) CLARIFICATION OF SECTION 404(b).—Subsection (b) of section 404 (relating to method of contributions, etc., having the effect of a plan) is amended by striking out "similar plan" and inserting in lieu thereof "other plan".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deductions for taxable years beginning after, December 31, 1978.

TITLE II—TAX SHELTER PROVISIONS

Subtitle A—Provisions Related To At Risk Rules

SEC. 201. EXTENSION OF SECTION 465 AT RISK RULES TO ALL ACTIVITIES OTHER THAN REAL ESTATE.

(a) EXTENSION.—Subsection (c) of section 465 (relating to activities to which section applies) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION TO OTHER ACTIVITIES.—

"(A) IN GENERAL.—In the case of taxable years beginning after December 31, 1978, this section also applies to each activity—

"(i) engaged in by the taxpayer in carrying on a trade or business or for the production of income, and

"(ii) which is not described in paragraph (1).

"(B) AGGREGATION OF ACTIVITIES WHERE TAXPAYER ACTIVELY PARTICIPATES IN MANAGEMENT OF TRADE OT BUSINESS.—Except as provided in subparagraph (C), for purposes of this section, activities described in subparagraph (A) which constitute a trade or business shall be treated as 1 activity if—

"(i) the taxpayer actively participates in the management of such trade or business, or

"(ii) such trade or business is carried on by a partnership or electing small business corporation (as defined in section 1371(b)) and 65 percent or more of the losses for the taxable year is allocable to persons who actively participate in the management of the trade or business.

"(C) AGGREGATION OR SEPARATION OF ACTIVITIES UNDER REGULATIONS.—The Secretary shall prescribe regulations under which activities described in subparagraph (A) shall be aggregated or treated as separate activities.

"(D) EXCLUSION FOR REAL PROPERTY.—In the case of activities described in subparagraph (A), the holding of real property (other than mineral property) shall be treated as a separate activity, and subsection (a) shall not apply to losses from such activity. For purposes of the preceding sentence, personal property and services which are incidental to making real property available as living accommodations shall be treated as part of the activity of holding such real property.

"(E) APPLICATION OF SUBSECTION (b)(3).—In the case of an activity described in subparagraph (A), subsection (b)(3) shall apply only to the extent provided in regulations prescribed by the Secretary."

(b) REPEAL OF SECTION 704(d) AT RISK RULES.—

(1) IN GENERAL.—Subsection (d) of section 704 is amended by striking out the last 2 sentences.

(2) TRANSITIONAL RULE.—In the case of a loss which was not allowed for any taxable year by reason of the last two sentences of section 704(d) of the Internal Revenue Code of 1954 (as in effect before the date of the enactment of this Act), such loss shall be treated as a deduction (subject to section 465(a) of such Code) for the first taxable year beginning after December 31, 1978.

(c) CLERICAL AMENDMENTS.—

(1) The heading of section 465 is amended to read as follows:

"SEC. 465. DEDUCTIONS LIMITED TO AMOUNT AT RISK."

(2) The table of sections for subpart C of part II of subchapter E of chapter 1, is amended by strikinng out "in case of certain activities" in the item relating to section 465.

SEC. 202. EXTENSION OF AT RISK PROVISION TO CLOSELY HELD CORPORATIONS

Subsection (a) of section 465 (relating to deductions limited to amount at risk in case of certain activities) is amended to read as follows:

"(a) LIMITATION TO AMOUNT AT RISK.—

"(1) IN GENERAL.—In the case of—

"(A) an individual,

"(B) an electing small business corporation (as defined in section 1371(b)), and

"(C) a corporation with respect to which the stock ownership requirement of paragraph (2) of section 542(a) is met, engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subsection (b)) for such activity at the close of the taxable year.

"(2) DEDUCTION IN SUCCEEDING YEAR.—Any loss from an activity to which this section applies not allowed under this section for the taxable year shall be treated as a deduction allocable to such actitvity in the first succeeding taxable year."

SEC. 203. RECAPTURE OF LOSSES WHERE AMOUNT AT RISK IS LESS THAN ZERO.

Section 465 (relating to deductions limited to amount at risk in case of certain activities) is amended by adding at the end thereof the following new subsection:

"(e) RECAPTURE OF LOSSES WHERE AMOUNT AT RISK IS LESS THAN ZERO.—

"(1) IN GENERAL.—If zero exceeds the amount which the taxpayer is at risk in any activity at the close of any taxable year—

"(A) the taxpayer shall include in his gross income for such taxable year (as income from such activity) an amount equal to such excess, and

"(B) an amount equal to the amount so included in gross income shall be treated as a deduction allocable to such activity for the first succeeding taxable year.

"(2) LIMITATION.—The excess referred to in paragraph (1) shall not exceed—

"(A) the aggregate amount of the reductions required by subsection (b)(5) with respect to the activity for all prior taxable years, reduced by

"(B) the amounts previously included in gross income with respect to such activity under this subsection."

SEC. 204. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1978.

(b) TRANSITIONAL RULE FOR RECAPTURE PROVISIONS.—If the amount which the taxpayer is at risk in any activity as of the close of the taxpayer's last taxable year beginning before January 1, 1979, is less than zero, section 465(e)(1) of the Internal Revenue Code of 1954 (as added by section 203 of this Act) shall be applied with respect to such activity of the taxpayer by substituting such negative amount for zero.

Subtitle B—Partnership Provisions

SEC. 211. PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURN.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6698. FAILURE TO FILE PARTNERSHIP RETURN.

"(a) GENERAL RULE.—In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any partnership required to file a return under section 6031 for any taxable year—

"(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

"(2) files a return which fails to show the information required under section 6031,

such partnership shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 5 months), unless it is shown that such failure is due to reasonable cause.

"(b) AMOUNT PER MONTH.—For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

"(1) $50, multiplied by

"(2) the number of persons who were partners in the partnership during any part of the taxable year.

"(c) ASSESSMENT OF PENALTY.—The penalty imposed by subsection (a) shall be assessed against the partnership.

"(d) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"Sec. 6698. Failure to file partnership return."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns for taxable years beginning after December 31, 1978.

SEC. 212. EXTENSION OF STATUTE OF LIMITATIONS IN THE CASE OF PARTNERSHIP ITEMS

(a) ASSESSMENT OF DEFICIENCIES.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(q) SPECIAL RULES FOR PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—

"(1) IN GENERAL.—In the case of any tax

imposed by subtitle A with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership shall not expire before the later of—

"(A) the date which is 4 years after the date on which the partnership return for the partnership taxable year in which the item arose was filed (or, if later, the date prescribed for filing the return), or

"(B) if the name or address of such person does not appear on the partnership return, the date which is 1 year after the date on which such information is furnished to the Secretary in such manner and at such place as he may prescribe by regulations.

"(2) PARTNERSHIP ITEM DEFINED.—For purposes of this subsection, the term 'partnership item' means—

"(A) any item required to be taken into account for the partnership taxable year under any provision of subchapter K of chapter 1 to the extent that regulations prescribed by the Secretary provide that for purposes of this subtitle such item is more appropriately determined at the partnership level than at the partner level, and

"(B) any other item to the extent affected by an item described in subparagraph (A).

"(3) EXTENSION BY AGREEMENT.—The extensions referred to in subsection (c)(4), insofar as they relate to partnership items, may, with respect to any person, be consented to—

"(A) except to the extent the Secretary is otherwise notified by the partnership, by a general partner of the partnership, or

"(B) by any person authorized to do so by the partnership in writing.

"(4) FEDERALLY REGISTERED PARTNERSHIP.—For purposes of this subsection, the term 'federally registered partnership' means, with respect to any partnership taxable year, any partnership—

"(A) interests in which have been offered for sale at any time during such taxable year or a prior taxable year in any offering required to be registered with the Securities and Exchange Commission, or

"(B) which, at any time during such taxable year or a prior taxable year, was subject to the annual reporting requirements of the Securities and Exchange Commission."

(b) CREDITS AND REFUNDS.—

(1) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULE FOR PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—

"(1) IN GENERAL.—In the case of any tax imposed by subtitle A with respect to any person, the period for filing a claim for credit or refund of any overpayment attributable to any partnership item of a federally registered partnership shall not expire before the later of—

"(A) the date which is 4 years after the date prescribed by law (including extensions thereof) for filing the partnership return for the partnership taxable year in which the item arose, or

"(B) if an agreement under the provisions of section 6501(c)(4) extending the period for the assessment of any deficiency attributable to such partnership item is made before the date specified in subparagraph (A), the date 6 months after the expiration of such extension.

In any case to which the preceding sentence applies, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'partnership item' and 'federally registered partnership' have the same meanings as such terms have when used in section 6501(q)."

(2) TECHNICAL AMENDMENT.—Paragraph (2) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by striking out "(c), or (d)" each place it appears and inserting in lieu thereof "(c), (d), or (g)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership items arising in partnership taxable years beginning after December 31, 1978.

TITLE III—PROVISIONS PRIMARILY AFFECTING BUSINESS INCOME TAX

Subtitle A—Corporate Rate Reductions

SEC. 301. CORPORATE RATE REDUCTIONS.

(a) IN GENERAL.—Section 11 (relating to the tax imposed on corporations) is amended to read as follows:

"SEC. 11. TAX IMPOSED.

"(a) CORPORATIONS IN GENERAL.—A tax is hereby imposed for each taxable year on the taxable income of every corporation.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) shall be the sum of—

"(1) 17 percent of so much of the taxable income as does not exceed $25,000;

"(2) 20 percent of so much of the taxable income as exceeds $25,000 but does not exceed $50,000;

"(3) 30 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000;

"(4) 40 percent of so much of the taxable income as exceeds $75,000 but does not exceed $100,000; plus

"(5) 46 percent of so much of the taxable income as exceeds $100,000.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to a corporation subject to a tax imposed by—

"(1) section 594 (relating to mutual savings banks conducting life insurance business),

"(2) subchapter L (sec. 801 and following, relating to insurance companies), or

"(3) subchapter M (sec. 851 and following, relating to regulated investment companies and real estate investment trusts).

"(d) FOREIGN CORPORATIONS.—In the case of a foreign corporation, the tax imposed by subsection (a) shall apply only as provided by section 882."

(b) CONFORMING AMENDMENTS.—

(1) CROSS REFERENCES RELATING TO CORPORATIONS.—Paragraph (7) of section 12 (relating to cross references relating to tax on corporations) is amended to read as follows:

"(7) For limitation on benefits of graduated rate schedule provided in section 11(b), see section 1551."

(2) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK.—Subparagraph (B) of section 244(a)(2) (relating to dividends received on certain preferred stock) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax applicable under section 11(b)".

(3) DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—Subparagraph (B) of section 247(a)(2) (relating to dividends paid on certain preferred stock of public utilities) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11" and inserting in lieu thereof "the highest rate of tax applicable under section 11(b)".

(4) TAX ON UNRELATED BUSINESS INCOME OF CHARITABLE, ETC., ORGANIZATIONS.—

(A) IMPOSITION OF TAX.—Paragraph (1) of section 511(a) (relating to charitable, etc., organizations taxable at corporation rates) is amended by striking out "a normal tax and a surtax" and inserting in lieu thereof "a tax".

(B) ORGANIZATIONS SUBJECT TO TAX.—Paragraph (2) of section 511(a) is amended by striking out "taxes" each place it appears and inserting in lieu thereof "tax".

(5) POLITICAL ORGANIZATIONS.—Paragraph (1) of section 527(b) (relating to tax imposed) is amended to read as follows:

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax applicable under section 11(b)."

(6) HOMEOWNERS ASSOCIATIONS.—Paragraph (1) of section 528(b) (relating to tax imposed) is amended to read as follows:

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall be computed by multiplying the homeowners association taxable income by the highest rate of tax applicable under section 11(b)."

(7) LIFE INSURANCE COMPANIES.—Paragraph (1) of section 802(a) (relating to tax imposed) is amended by striking out "a normal tax and surtax" and inserting in lieu thereof "a tax".

(8) MUTUAL INSURANCE COMPANIES.—

(A) IN GENERAL.—Subsection (a) of section 821 (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall be computed by multiplying the mutual insurance company taxable income by the rates provided in section 11(b).

"(2) CAP ON TAX WHERE INCOME IS LESS THAN $12,000.—The tax imposed by paragraph (1) shall not exceed 34 percent of the amount by which the mutual insurance company taxable income exceeds $6,000."

(B) SMALL COMPANIES.—Paragraph (1) of section 821(c) (relating to alternative tax for certain small companies) is amended to read as follows:

"(1) IMPOSITION OF TAX.—

"(A) IN GENERAL.—There is hereby imposed for each taxable year on the income of every mutual insurance company to which this subsection applies a tax (which shall be in lieu of the tax imposed by subsection (a)). Such tax shall be computed by multiplying the taxable investment income by the rates provided in section 11(b).

"(B) CAP WHERE INCOME IS LESS THAN $6,000.—The tax imposed by subparagraph (A) shall not exceed 34 percent of the amount by which the taxable investment income exceeds $3,000."

(9) ELECTION BY MUTUAL INSURANCE COMPANY WHICH IS A RECIPROCAL.—Paragraph (1) of section 826(c) (relating to exception) is amended to read as follows:

"(1) is subject to the tax imposed by section 11;".

(10) REGULATED INVESTMENT COMPANIES.—Paragraph (1) of section 852(b) (relating to method of taxation of companies and shareholders) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REGULATED INVESTMENT COMPANIES.—There is hereby imposed for each taxable year upon the investment company taxable income of every regulated investment company a tax computed as provided in section 11, as though the in-

vestment company taxable income were the taxable income referred to in section 11."

(11) REAL ESTATE INVESTMENT TRUSTS.—Paragraph (1) of section 857(b) (relating to imposition of normal tax and surtax on real estate investment trusts) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REAL ESTATE INVESTMENT TRUSTS.—There is hereby imposed for each taxable year on the real estate investment trust taxable income of every real estate investment trust a tax computed as provided in section 11, as thought the real estate invetsment trust taxable income were the taxable income referred to in section 11."

(12) TAX ON INCOME OF FOREIGN CORPORATION CONNECTED WITH UNITED STATES BUSINESS.—The heading of subsection (a) of section 882 (relating to tax on income of foreign corporations connected with United States business) and the heading of paragraph (1) of such subsection are amended to read as follows:

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—".

(13) FOREIGN TAX CREDIT.—Paragraph (2) of section 907(a) (relating to reduction in amount allowed as foreign tax under section 901) is amended to read as follows:

"(2) the percentage which is equal to the highest rate of tax applicable under section 11(b)."

(14) SPECIAL DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPORATION.—Subparagraph (B) of section 922(a)(2) (relating to general rule) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax applicable under section 11(b)."

(15) ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPORATE RATES.—Subsection (c) of section 962 (relating to surtax exemption with respect to individuals subject to tax at corporate rates) is amended to read as follows:

"(c) PRO RATION OF EACH SECTION 11 BRACKET AMOUNT.—For purposes of applying subsection (a)(1), the amount in each taxable income bracket in the tax table in section 11(b) shall not exceed an amount which bears the same ratio to such bracket amount as the amount included in the gross income of the United States shareholder under section 951(a) for the taxable year bears to such shareholder's pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such shareholder includes any amount in gross income under section 951(a)."

(16) TREATMENT OF RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.—Paragraph (4) of section 1351(d) (relating to adjustment for prior tax benefits) is amended to read as follows:

"(4) SUBSTITUTION OF CURRENT TAX RATE.—For purposes of this subsection, the rates of tax applicable under section 11(b) for the taxable year of the recovery shall be treated as having been in effect for all prior taxable years."

(17) AMENDMENTS OF SECTION 1551.—

(A) Subsection (a) of section 1551 (relating to disallowance of surtax exemption and accumulated earnings credit) is amended—

(i) by striking out "disallow the surtax exemption (as defined in section 11(d))" and inserting in lieu thereof "disallow the benefits of the rates contained in section 11 (b) which are lower than the highest rate contained in such section", and

(ii) by striking out "such exemption or" and inserting in lieu thereof "such benefits or".

(B) The section heading of section 1551 is amended to read as follows:

"SEC. 1551. DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT."

(C) The table of sections for part I of subchapter B of chapter 6 is amended by striking out the item relating to section 1551 and inserting in lieu thereof the following new item:

"Sec. 151. Disallowance of the benefits of the graduated corporate rates and accumulated earnings credit."

(18) LIMITATIONS ON CERTAIN MULTIPLE TAX BENEFITS IN THE CASE OF CERTAIN CONTROLLED CORPORATIONS.—

(A) IN GENERAL.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) amounts in each taxable income bracket in the tax table in section 11(b) which do not aggregate more than the maximum amount in such bracket to which a corporation which is not a component member of a controlled group is entitled,",

(ii) by striking out "amount" each place it appears in the second sentence and inserting in lieu thereof "amounts", and

(iii) by striking out the last sentence.

(B) CERTAIN SHORT TAXABLE YEARS.—Paragraph (1) of section 1561(b) (relating to certain short taxable years) is amended to read as follows:

"(1) the amount in each taxable income bracket in the tax table in section 11(b),".

(19) REPEAL OF CERTAIN OBSOLETE PROVISIONS.—

(A) Subsection (c) of section 6154 (defining estimated tax) is amended to read as follows:

"(c) ESTIMATED TAX DEFINED.—For purposes of this title, in the case of a corporation the term 'estimated tax' means the excess of—

"(1) the amount which the corporation estimates as the amount of the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, whichever is applicable, over

"(2) the amount which the corporation estimates as the sum of the credits against tax provided by part IV of subchapter A of chapter 1."

(B) Subsection (e) of section 6655 (defining tax) is amended to read as follows:

"(e) DEFINITION OF TAX.—For purposes of subsections (b) and (d), the term 'tax' means the excess of—

"(1) the tax imposed by section 11 or 1201 (a), or subchapter L of chapter 1, whichever is applicable, over

"(2) the credits against tax provided by part IV of subchapter A of chapter 1."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Subtitle B—Credits

SEC. 311. 10-PERCENT INVESTMENT TAX CREDIT AND $100,000 LIMITATION ON USED PROPERTY MADE PERMANENT.

(a) 10-PERCENT INVESTMENT TAX CREDIT.—Paragraph (2) of section 46(a) (relating to amount of credit for current taxable year) is amended—

(1) by striking out ", and before January 1, 1981" in clauses (i) and (iii) of subparagraph (D),

(2) by striking out ", and before January 1, 1981, and placed in service by the taxpayer before January 1, 1981" in clause (ii) of subparagraph (D), and

(3) by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR SUBPARAGRAPH (B).—For purposes of applying subparagraph (B), subparagraph (D) shall be applied—

"(i) by inserting 'and before January 1, 1981,' after '1975,' the second place it appears in clause (i) and where it appears in clause (iii), and

"(ii) by inserting 'and before January 1, 1981, and placed in service by the taxpayer before January 1, 1981,' after '1975,' in clause (ii)."

(b) $100,000 LIMITATION ON USED PROPERTY.—Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 (relating to effective date for increase of dollar limitation on used property) is amended by striking out ", and before January 1, 1981".

SEC. 312. INCREASE IN LIMITATION ON INVESTMENT CREDIT TO 90 PERCENT OF TAX LIABILITY.

(a) INCREASE IN GENERAL LIMITATION.—Paragraph (3) of section 46(a) (relating to amount of credit) is amended to read as follows:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the credit allowed by section 38 for the taxable year shall not exceed—

"(A) so much of the liability for tax for the taxable year as does not exceed $25,000, plus

"(B) the following percentage of so much of the liability for tax for the taxable year as exceeds $25,000:

"If the taxable year ends in:	The percentage is:
1979	60
1980	70
1981	80
1982 or thereafter	90."

(b) SPECIAL RULES FOR CERTAIN UTILITIES, RAILROADS, AND AIRLINES.—

(1) UTILITIES.—Paragraph (7) of section 46(a) (relating to alternative limitation in the case of certain utilities) is amended to read as follows:

"(7) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN UTILITIES.—

"(A) IN GENERAL.—If, for the taxable year ending in 1979—

"(i) the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified investment, and

"(ii) the application of this paragraph results in a percentage higher than 60 percent, then subparagraph (B) of paragraph (3) of this subsection shall be applied by substituting for '60 percent' the taxpayer's applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage for any taxpayer for any taxable year ending in 1979 is—

"(i) 50 percent, plus

"(ii) that portion of 20 percent which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 70 percent.

"(C) PUBLIC UTILITY PROPERTY DEFINED.—For purposes of this paragraph, the term 'public utility property' has the meaning given to such term by the first sentence of subsection (c)(3)(B)."

(2) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN RAILROADS AND AIRLINES.—Subsection (a) of section 46 is amended by striking out paragraphs (8) and (9) and by inserting in lieu thereof the following new paragraph:

(8) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN RAILROADS AND AIRLINES.—

"(A) IN GENERAL.—If, for a taxable year ending in 1979 or 1980—

"(i) the amount of the qualified investment of the taxpayer which is attributable to railroad property or to airline property, as the case may be, is 25 percent or more of his aggregate qualified investment, and

"(ii) the application of this paragraph results in a percentage higher than 60 percent (70 percent in the case of a taxable year ending in 1980),

then subparagraph (B) of paragraph (3) of this subsection shall be applied by substituting for '60 percent' ('70 percent' in the case of a taxable year ending in 1980) the taxpayer's applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is railroad property or airline property (as the case may be) bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable perentage of the taxpayer for the taxable year shall be 90 percent (80 percent in the case of a taxable year ending in 1980).

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	The tentative percentage is:
1979	40
1980	30

"(D) RAILROAD PROPERTY DEFINED.—For purposes of this paragraph, the term 'railroad property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of operating a railroad (including a railroad switching or terminal company).

"(E) AIRLINE PROPERTY DEFINED.—For purposes of this paragraph, the term 'airline property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of the furnishing or sale of transportation as a common carrier by air subject to the jurisdiction of the Civil Aeronautics Board or the Federal Aviation Administration."

(c) REPEAL OF CERTAIN OBSOLETE PROVISIONS.—

(1) Subsections (h), (i), and (j) of section 48 and sections 49 and 50 are hereby repealed.

(2) Paragraphs (1) and (2) of section 46 (f) and subparagraph (B) of section 48(a) (7) are each amended by striking out "described in section 50".

(3) Subparagraph (A) of section 48(a)(7) is amended by striking out "(other than pretermination property)".

(4) Subsection (i) of section 167 is hereby repealed.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking out the items relating to sections 49 and 50.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1978.

SEC. 313. INVESTMENT CREDIT FOR POLLUTION CONTROL FACILITIES.

(a) IN GENERAL.—Paragraph (5) of section 46(c) (relating to applicable percentage in the case of certain pollution control facilities) is amended to read as follows:

"(5) APPLICABLE PERCENTAGE IN THE CASE OF CERTAIN POLLUTION CONTROL FACILITIES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of property—

"(i) with respect to which an election under section 169 applies, and

"(ii) the useful life of which (determined without regard to section 169) is not less than 5 years,

100 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to so much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169.

"(B) SPECIAL RULE WHERE PROPERTY IS FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—To the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, subparagraph (A) shall be applied by substituting '50 percent' for '100 percent'."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) property acquired by the taxpayer after December 31, 1978, and

(2) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1978 (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date).

SEC. 314. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Section 51 (relating to amount of credit) is amended to read as follows:

"SEC. 51. AMOUNT OF CREDIT.

"(a) DETERMINATION OF AMOUNT.—The amount of the credit allowable by section 44B for the taxable year shall be 50 percent of the qualified wages for such year.

"(b) WAGES CANNOT EXCEED 20 PERCENT OF FUTA WAGES FOR ALL EMPLOYEES.—The amount of the qualified wages taken into account under this section for any calendar year shall not exceed 20 percent of the aggregate unemployment insurance wages paid by the employer during such calendar year.

"(c) QUALIFIED WAGES DEFINED.—

"(1) IN GENERAL.—For purposes of this subpart, the term 'qualified wages' means the unemployment insurance wages paid by the employer during the calendar year in which the taxable year begins to individuals who are—

"(A) WIN registrants,

"(B) vocational rehabilitation referrals, or

"(C) food stamp youths.

"(2) ONLY FIRST YEAR TAKES INTO ACCOUNT.—For purposes of this subpart, unemployment insurance wages may be taken into account with respect to any individual only to the extent attributable to service rendered during the 1-year period beginning with his first payment of wages by the employer (or in the case of a vocational rehabilitation referral, the first payment of wages by the employer after the beginning of such individual's rehabilitation plan).

"(3) ONLY FIRST $6,000 OF WAGES TAKEN INTO ACCOUNT FOR ANY INDIVIDUAL.—For purposes of this subpart, the unemployment insurance wages paid during any calendar year which are taken into account with respect to any individual shall not exceed $6,000 reduced by the amount of unemployment insurance wages paid by the employer to such individual during the preceding calendar year.

"(d) OTHER DEFINITIONS.—For purposes of this subpart—

"(1) UNEMPLOYMENT INSURANCE WAGES.—Except as otherwise provided in this subpart, the term 'unemployment insurance wages' has the meaning given to the term 'wages' by section 3306(b).

"(2) AGRICULTURE LABOR.—If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any calendar year constitute agricultural labor (within the meaning of section 3306(k)), the term 'unemployment insurance wages' means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes 'wages' within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

"(3) RAILWAY LABOR.—If more than one-half of remuneration paid by an employer to an employee during the calendar year is remuneration for service described in section 3306(c)(9), the term 'unemployment insurance wages' means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) if the maximum amount subject to such contributions were $500 per month. The term 'vocational rehabilitation referral' means any individual who—

"(A) has a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) has been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(5) WIN REGISTRANT.—The term 'WIN registrant' means any individual who is certified by the Secretary of Labor as having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act.

"(6) FOOD STAMP YOUTH.—

"(A) IN GENERAL.—The term 'food stamp youth' means any individual who is certified by the Secretary of Labor as meeting—

"(i) the age requirements of subparagraph (B), and

"(ii) the food stamp eligibility requirements of subparagraph (C).

"(B) AGE REQUIREMENTS.—An individual meets the age requirements of this subparagraph if such individual has attained age 18 but not age 25 on the date such individual is hired by the employer.

"(C) FOOD STAMP ELIGIBILITY REQUIREMENTS.—An individual meets the food stamp eligibility requirements of this subparagraph if the appropriate food stamp agency determines that, during the 60-day period ending on the date such individual is hired by the employer, such individual was a member of a household which, at any time during such 60-day period, was receiving, or was eligible to receive, food stamps under the Food Stamp Act of 1977.

"(e) RULES FOR APPLICATION OF SECTION.—For purposes of this subpart—

"(1) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT.—Remuneration paid by an employer to an employee during any calendar year shall be taken into account only if more than one-half of the remunera-

tion so paid is for services performed in a trade or business of the employer.

"(2) SPECIAL RULE FOR CERTAIN DETERMINATION.—Any determination as to whether paragraph (1) of this subsection, or paragraph (2) or (3) of subsection (d), applies with respect to any employee for any calendar year shall be made without regard to subsections (a) and (b) of section 52.

"(f) TERMINATION.—This section shall apply only to taxable years beginning in 1979 or 1980."

(b) TERMINATION OF WIN CREDIT.—Subsection (a) of section 50B (relating to definitions; special rules for WIN credit) is amended by adding at the end thereof the following new paragraph:

"(4) TERMINATION.—For purposes of this subpart, the term 'work incentive program expenses' shall not include any amount paid or incurred by the taxpayer in a taxable year beginning after December 31, 1978."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS OF SECTION 52.—

(A) Section 52 (relating to special rules for computing credit for employment of certain new employees) is amended—

(i) by striking out subsections (c), (e), and (i), and

(ii) by redesigning subsections (d), (f), (g), (h), and (j), as subsections (c), (d), (e), (f), and (g), respectively.

(B) Subsections (a) and (b) of section 52 are each amended by striking out "proportionate contribution to the increase in" and inserting in lieu thereof "proportionate share of the".

(C) Subsection (e) of section 52 (as redesignated by subparagraph (A)) is amended—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking out ", and" at the end of paragraph (2) and inserting a period; and

(iii) by striking out paragraph (3).

(D) Subsection (g) of section 52 (as redesignated by subparagraph (A)) is amended to read as follows:

"(g) CERTAIN TAXABLE YEARS.—If the employer has more than 1 taxable year beginning in any calendar year, the credit under this subpart shall be determined for the employer's last taxable year beginning in such calendar year."

(2) AMENDMENT OF SECTION 53.—Section 53 (relating to limitation based on amount of tax) is amended by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Subtitle C—Increase in Limit on Small Issues of IDB's

SEC. 321. INCREASE TO $10,000,000.

(a) GENERAL RULE.—Subparagraph (D) of section 103(b)(6) (relating to $5,000,000 limit in certain cases) is amended by striking out "$5,000,000" in the heading and in the text and inserting in lieu thereof "$10,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1978, in taxable years ending after such date.

Subtitle D—Small Business Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S

SEC. 331. SUBCHAPTER S. CORPORATIONS ALLOWED 15 SHAREHOLDERS.

(a) GENERAL RULE.—Paragraph (1) of section 1371(a) (defining small business corporation) is amended to read as follows:

"(1) have more than 15 shareholders:".

(b) TECHNICAL AMENDMENTS.—

(1) Section 1371 is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(2) Paragraph (2) of section 1371(a) is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

SEC. 332. PERMITTED SHAREHOLDERS OF SUBCHAPTER S CORPORATIONS.

(a) HUSBAND AND WIFE TREATED AS ONE INDIVIDUAL.—Subsection (c) of section 1371 (relating to stock owned by husband and wife) is amended to read as follows:

"(c) STOCK OWNED BY HUSBAND AND WIFE.—For purposes of subsection (a)(1), a husband and wife (and their estates) shall be treated as one shareholder."

(b) GRANTOR OF GRANTOR TRUST TREATED AS THE SHAREHOLDER.—Subsection (e) of section 1371 (as redesignated by section 331(b)(1) of this Act) is amended by inserting after the first sentence the following new sentence: "In the case of a trust described in paragraph (1), the grantor shall be treated as the shareholder."

SEC. 333. EXTENSION OF PERIOD FOR MAKING SUBCHAPTER S ELECTIONS.

(a) GENERAL RULE.—Subsection (c) of section 1372 (relating to when and how subchapter S election may be made) is amended to read as follows:

"(c) WHEN AND HOW MADE.—

"(1) IN GENERAL.—An election under subsection (a) may be made by a small business corporation for any taxable year—

"(A) at any time during the preceding taxable year, or

"(B) at any time during the first 75 days of the taxable year.

"(2) TREATMENT OF CERTAIN LATE ELECTIONS.—If—

"(A) a small business corporation makes an election under subsection (a) for any taxable year, and

"(B) such election is made after the first 75 days of the taxable year and on or before the last day of such taxable year,

then such election shall be treated as made for the following taxable year.

"(3) MANNER OF MAKING ELECTION.—An election under subsection (a) shall be made in such manner as the Secretary shall prescribe by regulations."

(b) TECHNICAL AMENDMENTS.—

(1) The second sentence of section 1372(a) is amended to read as follows: "Such election shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election."

(2) Subparagraph (A) of section 1372(e)(1) is amended to read as follows:

"(A) An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder if such corporation on the day on which the election is made becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary may by regulations prescribe) to consent to such election on or before the 60th day after the day on which he acquires the stock."

(3) Subparagraph (C) of section 1372(e)(1) is amended by inserting "(or, if later, the first taxable year for which such election would otherwise have been effective)" after "in the corporation".

SEC. 334. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after December 31, 1978.

PART II—OTHER PROVISIONS

SEC. 335. SMALL BUSINESS CORPORATION STOCK.

(a) INCREASE TO $1,000,000 AMOUNT OF STOCK POTENTIALLY SUBJECT TO ORDINARY LOSS TREATMENT; REMOVAL OF EQUITY CAPITAL TEST.—Subsection (c) of section 1244 (relating to losses on small business stock) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(3) SMALL BUSINESS CORPORATION DEFINED.—

"(A) IN GENERAL.—For purposes of this section, a corporation shall be treated as a small business corporation if the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, does not exceed $1,000,000. The determination under the preceding sentence shall be made as of the time of the issuance of the stock in question but shall include amounts received for such stock and for all stock theretofore issued.

"(B) AMOUNT TAKEN INTO ACCOUNT WITH RESPECT TO PROPERTY.—For purposes of subparagraph (A), the amount taken into account with respect to any property other than money shall be the amount equal to the adjusted basis to the corporation of such property for determining gain, reduced by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation."

(b) INCREASE IN MAXIMUM AMOUNT TREATED AS ORDINARY LOSS FOR ANY TAXABLE YEAR.—Subsection (b) of section 1244 is amended—

(1) by striking out "$25,000" in paragraph (1) and inserting in lieu thereof "$50,000", and

(2) by striking out "$50,000" in paragraph (2) and inserting in lieu thereof "$100,000".

(c) REMOVAL OF REQUIREMENT THAT STOCK ISSUANCE BE PURSURANT TO PLAN.—Subsection (c) of section 1244 (defining section 1244 stock) is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) IN GENERAL.—For purposes of this section, the term 'section 1244 stock' means common stock in a domestic corporation if—

"(A) at the time such stock is issued, such corporation was a small business corporation,

"(B) such stock was issued by such corporation for money or other property (other than stock and securities), and

"(C) such corporation during the period of its 5 most recent taxable years ending before the date the loss on such stock was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

"(2) RULES FOR APPLICATION OF PARAGRAPH (1)(C).—

"(A) PERIOD TAKEN INTO ACCOUNT WITH RESPECT TO NEW CORPORATIONS.—For purposes of paragraph (1)(C), if the corporation has not been in existence for 5 taxable years ending before the date the loss on the stock was sustained, there shall be substituted for such 5-year period—

"(i) the period of the corporation's taxable years ending before such date, or

"(ii) if the corporation has not been in existence for 1 taxable year ending before such date, the period such corporation has been in existence before such date.

"(B) GROSS RECEIPTS FROM SALES OF SECURITIES.—For purposes of paragraph (1)(C),

gross receipts from the sales or exchanges of stock or securities shall be taken into account only to the extent of gains therefrom.

"(C) NONAPPLICATION WHERE DEDUCTIONS EXCEED GROSS INCOME.—Paragraph (1)(C) shall not apply with respect to any corporation if, for the period taken into account for purposes of paragraph (1)(C), the amount of the deductions allowed by this chapter (other than by sections 172, 243, 244, and 245) exceeds the amount of gross income."

(d) TECHNICAL AMENDMENTS.—Paragraph (2) of section 1244(d) (relating to special rules) is amended—

(1) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (C)", and

(2) by striking out "paragraphs (1)(E) and (2)(A)" and inserting in lieu thereof "paragraphs (1)(C) and (3)(A)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

SEC. 336. SPECIAL DEPRECIATION RULES FOR SMALL BUSINESS.

(a) SECTION 179 PERCENTAGE INCREASED TO 25 PERCENT.—Subsection (a) of section 179 (relating to additional first-year depreciation allowance for small business) is amended by striking out "20 percent" and inserting in lieu thereof "25 percent".

(b) INCREASE IN DOLLAR LIMITATION.—

(1) The first sentence of section 179(b) is amended by striking out "$10,000" each place it appears and inserting in lieu thereof "$20,000".

(2) The second sentence of section 179(b) is amended by striking out "$20,000 in lieu of $10,000" and inserting in lieu thereof "$40,000 in lieu of $20,000".

(c) BENEFITS LIMITED TO SMALL BUSINESS.—

(1) IN GENERAL.—Section 179 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) BENEFITS LIMITED TO SMALL BUSINESS.—

"(1) IN GENERAL.—This section shall not apply for the taxable year if (as of the first day of such year) the aggregate adjusted basis of the depreciable property of the taxpayer is $1,000,000,000 or more.

"(2) DEPRECIABLE PROPERTY DEFINED.—For purposes of this subsection, the term 'depreciable property' means property which is of a character subject to the allowance for depreciation provided by section 167."

(2) CONTROLLED GROUPS.—Paragraph (6) of subsection (e) (as redesignated by paragraph (1) of this subsection) of section 179 is amended—

(A) by striking out the heading and inserting in lieu thereof "(6) APPLICATION OF SUBSECTIONS (b) AND (c) IN THE CASE OF CONTROLLED GROUP.—"; and

(B) by striking out "For purposes of subsection (b)" and inserting in lieu thereof "For purposes of subsections (b) and (c)".

(3) CONFORMING AMENDMENT.—Subparagraph (A) of section 48(c)(3) is amended by striking out "section 179(d)(2)" and inserting in lieu tehreof "section 179(e)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Subtitle E—Accounting Provisions

SEC. 341. TREATMENT OF CERTAIN CLOSELY HELD FARM CORPORATIONS FOR PURPOSES OF RULE REQUIRING ACCRUAL ACCOUNTING.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end thereof the following new subsection:

"(h) EXCEPTION FOR CERTAIN CLOSELY HELD CORPORATIONS.—

"(1) IN GENERAL.—This section shall not apply to any corporation if, on October 4, 1976, and at all times thereafter—

"(A) members of 2 families (within the meaning of subsection (d)(1)) have owned (directly or through the application of subsection (d)) at least 65 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 65 percent of the total number of shares of all other classes of stock of such corporation; or

"(B)(i) members of 3 families (within the meaning of subsection (d)(1)) have owned (directly or through the application of subsection (d)) at least 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of such corporation; and

"(ii) substantially all of the stock of such corporation which is not so owned (directly or through the application of subsection (d)) by members of such 3 families is owned directly—

"(I) by employees of the corporation or members of their families (within the meaning of section 267(c)(4)), or

"(II) by a trust for the benefit of the employees of such corporation which is described in section 401(a) and which is exempt from taxation under section 501(a).

"(2) STOCK HELD BY EMPLOYEES, ETC.—For purposes of this subsection, stock which—

"(A) is owned directly by employees of the corporation or members of their families (within the meaning of section 267(c)(4)) or by a trust described in paragraph (1)(B)(ii)(II), and

"(B) was acquired on or after October 4, 1976, from the corporation or from a member of a family which, on October 4, 1976, was described in subparagraph (A) or (B)(i) of paragraph (1), shall be treated as owned by a member of a family which, on October 4, 1976, was described in subparagraph (A) or (B)(i) of paragraph (1).

"(3) CORPORATION MUST BE ENGAGED IN FARMING.—This subsection shall apply only in the case of a corporation which was, on October 4, 1976, and at all times thereafter, engaged in the trade or business of farming."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1977.

SEC. 342. ACCOUNTING FOR GROWING CROPS.

(a) APPLICATION OF SECTION.—This section shall apply to a taxpayer who—

(1) is a farmer, nurseryman, or florist,

(2) is on an accrual method of accounting, and

(3) is not required by section 447 of the Internal Revenue Code of 1954 to capitalize preproductive period expenses.

(b) TAXPAYER MAY NOT BE REQUIRED TO INVENTORY GROWING CROPS.—A taxpayer to whom this section applies may not be required to inventory growing crops.

(c) TAXPAYER MAY ELECT TO CHANGE TO CASH METHOD.—A taxpayer to whom this section applies may, for any taxable year beginning after December 31, 1977, and before January 1, 1981, change to the cash receipts and disbursements method of accounting with respect to any trade or business in which the principal activity is growing crops.

(d) SECTION 481 OF CODE TO APPLY.—Any change in the way in which a taxpayer accounts for the costs of growing crops resulting from the application of subsection (b) or (c)—

(1) shall not require the consent of the Secretary of the Treasury or his delegate, and

(2) shall be treated, for purposes of section 481 of the Internal Revenue Code of 1954, as a change in the method of accounting initiated by the taxpayer.

(e) GROWING CROPS.—For purposes of this section, the term "growing crops" does not include trees grown for lumber, pulp, or other nonlife purposes.

TITLE IV—CAPITAL GAINS

SEC. 401. REPEAL OF ALTERNATIVE TAX ON CAPITAL GAINS OF INDIVIDUALS.

(a) GENERAL RULE.—Section 1201 (relating to alternative tax) is amended—

(1) by striking out subsections (b) and (c),

(2) by redesignating subsection (d) as subsection (b), and

(3) by amending the section heading to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 3(b) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(2) Subsection (a) of section 5 is amended by striking out paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(3) Paragraph (1) of section 871(b) is amended by striking out "section 1, 402(e)(1), or 1201(b)" and inserting in lieu thereof "section 1 or 402(e)(1)".

(4) Subsection (b) of section 877 is amended by striking out "section 1, 402(e)(1), or 1201(b)" and inserting in lieu thereof "section 1 or 402(e)(1)".

(5) Paragraph (1) of section 911(d) is amended—

(A) by striking out "section 1 or section 1201" each place it appears and inserting in lieu thereof "section 1", and

(B) by striking out "(whichever is applicable)" each place it appears.

(6) Subsection (b) of section 1304 is amended—

(A) by adding "and" at the end of paragraph (2),

(B) by striking out paragraph (3), and

(C) by redesignating paragraph (4) as paragraph (3).

(7) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1201 and inserting in lieu thereof the following:

"Sec. 1201. Alternative tax for corporations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 402. REMOVAL OF CAPITAL GAINS FROM ITEMS OF TAX PREFERENCE FOR PURPOSES OF MINIMUM AND MAXIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 57 (defining items of preference) is amended by striking out paragraph (9).

(b) CONFORMING AMENDMENTS.—

(1) Section 56 (relating to imposition of minimum tax) is amended by striking out subsections (d) and (e).

(2) Section 57 (defining items of tax preference) is amended by striking out subsection (e).

(3) Subsection (d) of section 58 (relating to electing small business corporations and their shareholders) is amended to read as follows:

"(d) ELECTING SMALL BUSINESS CORPORATIONS AND THEIR SHAREHOLDERS.—The items of tax preference of an electing small busi-

ness corporation (as defined in section 1371 (b)) for each taxable year of the corporation shall be treated as items of tax preference of the shareholders of such corporation, and shall not be treated as items of tax preference of such corporation. The sum of the items so treated shall be apportioned pro rata among such shareholders in a manner consistent with section 1374(c)(1). For purposes of this subsection, this part shall be treated as applying to such corporation."

(4) Subsection (f) of section 58 (relating to regulated investment companies, etc.) is amended to read as follows:

"(f) REGULATED INVESTMENT COMPANIES, ETC.—In the case of a regulated investment company to which part I of subchapter M applies or a real estate investment trust to which part II of subchapter M applies, the items of tax preference of such company or such trust for each taxable year (other than, in the case of a real estate investment trust, the item of tax preference set forth in section 57(a)(2)) shall be treated as items of tax preference of the shareholders of such company, or the shareholders or holders of beneficial interests of such trust (and not as items of tax preference of such company or such trust), in the same proportion that the dividends (other than capital gains dividends) paid to each such shareholder, or holder of beneficial interest, bears to the taxable income of such company or such trust determined without regard to the deduction for dividends paid."

(5) Subsection (g) of section 58 (relating to tax preferences attributable to foreign sources) is amended—

(A) by striking out "paragraphs (6) and (9)" in paragraph (1) and inserting in lieu thereof "paragraph (6)",

(B) by amending the first sentence of paragraph (2) to read as follows: "For purposes of section 56, any item of tax preference set forth in paragraph (6) of section 57(a) which is attributable to sources within any foreign country or possession of the United States shall not be taken into account if, under the tax laws of such country or possession, preferential treatment is not accorded transfers of shares of stock pursuant to stock options described in such paragraph (6).", and

(C) by amending the heading of paragraph (2) to read as follows:

"(2) STOCK OPTIONS.—".

(6) Subsection (i) of section 58 (defining corporation) is amended by striking out "Except as provided in subsection (d)(2), for" and inserting in lieu thereof "For".

(7) Paragraph (1) of section 1372(b) (relating to the effect of election by small business corporation) is amended by striking out "by section 58(d)(2) and".

(8) Sections 1373(c) and 1375(a)(3) are each amended by striking out "taxes imposed by sections 56 and 1378(a)" and inserting in lieu thereof "tax imposed by section 1378(a)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. ULLMAN. Mr. Chairman, I ask unanimous consent, in the interest of saving time, that the committee amendments as printed in the bill, except for section 404, be considered en bloc, considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The committee amendments are as follows:

Committee Amendments: The amendments (stated in terms of page and line numbers of the introduced bill) are as follows:

Page 2, after the item relating to section 103 insert the following:

Sec. 104. Simplification of the earned income tax credit.
Sec. 105. Application of certain changes in the case of fiscal year taxpayers.

Page 2, after the item relating to section 123 insert the following:

Sec. 124. Tax treatment of cafeteria plans.
Sec. 125. Administration of 1954 Code in the case of certain cash or deferred arrangements.

Page 3, after the item relating to section 313 insert the following:

Sec. 314. Investment credit allowed for certain rehabilitated buildings.

Page 3, strike out "314" and insert in lieu thereof "315".

Page 3, strike out the items relating to subtitle C and to section 321 and insert in lieu thereof the following:

Subtitle C—Miscellaneous Provisions

Sec. 321. Increase in limit on small issues of IDB's to $10,000,000.
Sec. 322. Three-year extension of provision for 60-month depreciation of expenditures to rehabilitate low-income rental housing.

Page 3, after the item relating to section 402 insert the following:

Sec. 403. Separate minimum tax on capital gains.
Sec. 404. Indexing of certain assets for purposes of determining gain or loss.
Sec. 405. One-time exclusion of gain from sale of principal residence.
Sec. 406. Waiver of certain 18-month rules of section 1034 when sale of residence is connected with commencing work at new place.
Sec. 407. Study of effects of changes in the tax treatment of capital gains on stimulating investment and economic growth.

Page 11, strike out line 19 and all that follows through line 3 on page 12 and insert in lieu thereof the following:

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (C) of section 402(e)(1) (relating to tax on lump sum distributions) is amended by striking out "$2,200" and inserting in lieu thereof "$2,300".

(2) Paragraph (3) of section 1302(b) (relating to transitional rule for determining base period income) is amended to read as follows:

"(3) TRANSITIONAL RULE FOR DETERMINING BASE PERIOD INCOME.—The base period income (determined under paragraph (2)) for any taxable year beginning before January 1, 1977, shall be increased by—

"(A) $3,200 in the case of a joint return or a surviving spouse (as defined in section 2(a)),

"(B) $2,200 in the case of an individual who is not married (within the meaning of section 143) and is not a surviving spouse (as so defined), or

"(C) $1,600 in the case of a married individual (within the meaning of section 143) filing a separate return.

For the purposes of this paragraph, filing status shall be determined as of the computation year."

Page 15, after line 10, insert the following:

SEC. 104. SIMPLIFICATION OF THE EARNED INCOME TAX CREDIT

(a) REVISION OF THE LIMITATION.—Subsection (b) of section 43 (relating to earned income credit) is amended to read as follows:

"(b LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $400, over

"(2) 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000."

(b) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—Section 43 is amended by adding at the end thereof the following new subsection:

"(f) AMOUNT OF CREDIT TO BE DETERMINDED UNDER TABLES.—

"(1) IN GENERAL.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

"(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than $50 each—

"(A) for earned income between 0 and $8,000, and

"(B) for adjusted gross income between $4,000 and $8,000."

(c) EXCLUDABLE EARNED INCOME TAKEN INTO ACCOUNT.—Subparagraph (B) of section 43(c)(2) (defining earned income) is amended by striking out clause (i) and by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively.

(d) DEFINITION OF ELIGIBLE INDIVIDUAL.—Paragraph (1) of section 43(c) (defining eligible individual) is amended to read as follows:

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means an individual who, for the taxable year—

"(i) is married (within the meaning of section 143) and is entitled to a deduction under section 151 for a child (within the meaning of section 151(e)(3)),

"(ii) is a surviving spouse (as determined under section 2(a)), or

"(iii) is a head of a household (as determined under subsection (b) of section 2 without regard to subparagraphs (A)(ii) and (B) of paragraph (1) of such subsection).

"(B) CHILD MUST RESIDE WITH TAXPAYER IN THE UNITED STATES.—An individual shall be treated as satisfying clause (i) of subparagraph (A) only if the child has the same principal place of abode as the individual and such abode is in the United States. An individual shall be treated as satisfying clause (ii) or (iii) of subparagraph (A) only if the household in question is in the United States.

"(C) INDIVIDUAL ENTITLED TO EXCLUDE INCOME UNDER SECTION 911 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible individual' does not include an individual who, for the taxable year, is entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States)."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Page 15, after line 10, insert the following:

SEC. 105. APPLICATION OF CERTAIN CHANGES IN THE CASE OF FISCAL YEAR TAXPAYERS.

Section 21 (relating to effects of changes in

rate of tax is amended by adding at the end thereof the following new subsection:

"(f) CHANGES MADE BY REVENUE ACT OF 1978.—In applying subsection (a) to a taxable year which is not a calendar year—

"(1) the amendments made by sections 101, 102, and 301 of the Revenue Act of 1978 (and no other amendments made by such Act), and

"(2) the expiration of section 42 (relating to general tax credit),

shall be treated as a change in a rate of tax."

Page 20, strike out lines 23 through 25.

Page 21, strike out lines 16 through 23, and insert in lieu thereof the following:

forth in paragraph (2) shall be the lesser of—

"(A) $15,000, or

"(B) the sum of—

"(i) the plan ceiling established for purposes of paragraph (2) for the taxable year, (determined without regard to this paragraph), plus

"(ii) so much of the plan ceiling established for purposes of paragraph (2) for taxable years before the taxable year as has not theretofore been used under paragraph (2) or this paragraph,

Page 21, line 25, after "State" insert "and in the case of new plans".

Page 22, line 1, strike out "taxable" and insert in lieu thereof "plan".

Page 22, line 4, strike out "held by" and insert in lieu thereof "payable under".

Page 22, line 14, after "property" insert "and rights".

Page 22, beginning on line 16, strike out "amounts or property," and insert in lieu thereof "amounts, property, or rights,".

Page 22, line 19, after "property" insert "and rights".

Page 23, line 1, strike out "calendar" and insert in lieu thereof "plan".

Page 23, line 4, strike out "calendar" and insert in lieu thereof "plan".

Page 25, after line 2, insert the following:

"(9) SECTION TO APPLY TO RURAL ELECTRIC COOPERATIVES.—

"(A) IN GENERAL.—This section shall apply with respect to any participant in a plan of a rural electric cooperative in the same manner and to the same extent as if such plan were a plan of a State.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization described in section 501(c)(12) which is exempt from tax under section 501(a) and which is engaged primarily in providing electric service, and

"(ii) any organization described in section 501(c)(6) which is exempt from tax under section 501(a) and all the members of which are organizations described in clause (i).

Page 27, strike out lines 5 through 15, and insert in lieu thereof the following:

(2) TRANSITIONAL RULES.—

(A) IN GENERAL.—In the case of any taxable year beginning after December 31, 1978, and before January 1, 1982——

(i) any amount of compensation deferred under a plan of a State providing for a deferral of compensation (other than a plan described in section 457(e)(2) of the Internal Revenue Code of 1954), and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary, but

(ii) the maximum amount of the compensation of any one individual which may be excluded from gross income by reason of clause (i) and by reason of section 457(a) of such Code for any such taxable year shall not exceed the lesser of—

(I) $7,500, or

(II) 33⅓ percent of the participant's includible compensation.

(B) APPLICATION OF CATCH-UP PROVISIONS IN CERTAIN CASES.—If, in the case of any participant for any taxable year, all of the plans are eligible State deferred compensation plans, then clause (ii) of subparagraph (A) of this paragraph shall be applied with the modification provided by paragraph (3) of section 457(b) of such Code.

(C) APPLICATION OF CERTAIN COORDINATION PROVISIONS.—In applying clause (ii) of subparagraph (A) of this paragraph and section 403(b)(2)(A)(ii) of such Code, rules similar to the rules of section 457(c)(2) of such Code shall apply.

(D) MEANING OF TERMS.—Except as otherwise provided in this paragraph, terms used in this paragraph shall have the same meaning as when used in section 457 of such Code.

Page 30, line 3, strike out "participants" and insert in lieu thereof "persons participating".

Page 30, line 5, strike out "individual" and insert in lieu thereof "person".

Page 30, line 6, strike out "participant" and insert in lieu thereof "such person".

Page 30, after line 13, insert the following:

SEC. 124. TAX TREATMENT OF CAFETERIA PLANS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 124 as section 125 and by inserting after section 123 the following new section:

"SEC. 124. CAFETERIA PLANS.

"(a) IN GENERAL.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely by reason of the fact that, under the plan, the participant may choose among the benefits of the plan.

"(b) EXCEPTION FOR HIGHLY COMPENSATED PARTICIPANTS WHERE PLAN IS DISCRIMINATORY.—

"(1) IN GENERAL.—In the case of a highly compensated participant, subsection (a) shall not apply to any benefit attributable to a plan year for which the plan discriminates in favor of—

"(A) highly compensated individuals as to eligibility to participate, or

"(B) highly compensated participants as to contributions or benefits.

"(2) YEAR OF INCLUSION.—For purposes of determining the taxable year of inclusion, any benefit described in paragraph (1) shall be treated as received or accrued in the participant's taxable year in which the plan year ends.

"(c) DISCRIMINATION AS TO BENEFITS OR CONTRIBUTIONS.—For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan does not discriminate where nontaxable benefits and total benefits (or employer contributions allocable to nontaxable benefits and employer contribution for total benefits do not discriminate in favor of highly compensated participants.

"(d) CAFETERIA PLAN DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'cafeteria plan' means a plan under which—

"(A) all participants are employees, and

"(B) the participants may choose among two or more benefits.

The benefits which may be chosen may be nontaxable benefits or cash, property, or other taxable benefits.

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(e) HIGHLY COMPENSATED PARTICIPANT AND INDIVIDUAL DEFINED.—For purposes of this section—

"(1) HIGHLY COMPENSATED PARTICIPANT.—The term 'highly compensated participant' means a participant who is—

"(A) an officer,

"(B) a shareholder,

"(C) highly compensated, or

"(D) a spouse or dependent (within the meaning of section 152) of an individual described in subparagraph (A), (B), or (C).

"(2) HIGHLY COMPENSATED INDIVIDUAL.—The term 'highly compensated individual' means an individual who is described in subparagraph (A), (B), (C), or (D) of paragraph (1).

"(f) NONTAXABLE BENEFIT DEFINED.—For purposes of this section, the term 'nontaxable benefit' means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee.

"(g) SPECIAL RULES.—

"(1) COLLECTIVELY BARGAINED PLAN NOT CONSIDERED DISCRIMINATORY.—For purposes of this section, a plan shall not be treated as discriminatory if the plan is maintained under an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and one or more employers.

"(2) HEALTH BENEFITS.—For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan which provides health benefits shall not be treated as discriminatory if—

"(A) contributions on behalf of each participant include an amount which—

"(i) equals 100 percent of the cost of the health benefit coverage under the plan of the majority of the highly compensated participants similarly situated, or

"(ii) equals or exceeds 75 percent of the cost of the health benefit coverage of the participant (similarly situated) having the highest health benefit coverage under the plan, and

"(B) contributions or benefits in excess of those described in subparagraph (A) bear a uniform relationship to compensation.

"(3) CERTAIN PARTICIPATION ELIGIBILITY RULES NOT TREATED AS DISCRIMINATORY.—For purposes of subparagraph (A) of subsection (b)(1), a classification shall not be treated as discriminatory if the plan—

"(A) benefits a group of employees described in subparagraph (B) of section 410(b)(1), and

"(B) meets the requirements of clauses (i) and (ii):

"(i) No employee is required to complete more than 3 years of employment with the employer or employers maintaining the plan as a condition of participation in the plan, and the service requirement for each employee is the same.

"(ii) Any employee who has satisfied the employment requirement of clause (i) and who is otherwise entitled to participate in the plan commences participation no later than the first day of the first plan year beginning after the date the service requirement was satisfied unless the employee was separated from service before the first day of that plan year.

"(4) CERTAIN CONTROLLED GROUPS.—All employees who are treated as employed by a single employer under subsection (b) or (c) of section 414 shall be treated as employed by a single employer for purposes of this section.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 124 and inserting in lieu thereof the following:

"Sec. 124. Cafeteria plans.

"Sec. 125 Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Page 30, after line 13, insert the following:

SEC. 125. ADMINISTRATION OF 1954 CODE IN THE CASE OF CERTAIN CASH OR DEFERRED ARRANGEMENTS.

(a) GENERAL RULE.—In the case of any qualified cash or deferred arrangement under a profit-sharing plan, the Internal Revenue Code of 1954 shall be administered in a manner consistent with—

(1) Revenue Ruling 56-497 (1956-2 C.B. 284),

(2) Revenue Ruling 63-180 (1963-2 C.B. 189), and

(3) Revenue Ruling 68-89 (1968-1 C.B. 402).

(b) QUALIFIED CASH OR DEFERRED ARRANGEMENT DEFINED.—For purposes of this section.—

(1) IN GENERAL.—The term 'qualified cash or deferred arrangement' means any arrangement under which a contribution is made by an employer to a trust on behalf of an employee only if the employee elects not to receive such contribution from the employer in cash.

(2) EXCEPTION.—The term 'qualified cash or deferred arrangement' does not include an arrangement under which the contribution by the employer to the trust is made in return for a reduction in the basic or regular compensation of the employee or in lieu of an increase in such compensation.

(c) PROFIT-SHARING PLAN DEFINED.—For purposes of this section, the term 'profit-sharing plan' includes a stock bonus plan.

(d) EFFECTIVE DATE.—This section shall apply to taxable years beginning after December 31, 1977.

Page 33, line 17, strike out "in case of certain activities".

Page 34, line 17, strike out "in case of certain activities".

Page 43, line 14, strike out "applicable under" and insert in lieu thereof "specified in".

Page 43, line 22, strike out "applicable under" and insert in lieu thereof "specified in".

Page 44, line 19, strike out "applicable under" and insert in lieu thereof "specified in".

Page 45, line 4, strike out "applicable under" and insert in lieu thereof "specified in".

Page 48, line 10, strike out "applicable under" and insert in lieu thereof "specified in".

Page 48, line 17, strike out "applicable under" and insert in lieu thereof "specified in".

Page 49, beginning on line 14, strike out "applicable under" and insert in lieu thereof "specified in".

Page 50, line 1, strike out "contained" and insert in lieu thereof "specified".

Page 60, after line 5, insert the following:

SEC. 314. INVESTMENT CREDIT ALLOWED FOR CERTAIN REHABILITATED BUILDINGS

(a) IN GENERAL.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out the period at the end of subparagraph (C) and by inserting in lieu thereof "; or" and the following new subparagraph:

"(D) in the case of a qualified rehabilitated building, that portion of the basis which is attributable to qualified rehabilitation expenditures (within the meaning of subsection (g))."

(b) QUALIFIED REHABILITATED BUILDINGS DEFINED.—Section 48 is amended by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS.—For purposes of this subpart—

"(1) QUALIFIED REHABILITATED BUILDING DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitated building' means any building (and its structural components)—

"(i) which has been rehabilitated,

"(ii) which was placed in service before the beginning of the rehabilitation, and

"(iii) 75 percent or more of the existing external walls of which are retained in place as external walls in the rehabilitation process.

"(B) 5 YEARS MUST HAVE ELAPSED SINCE CONSTRUCTION OR PRIOR REHABILITATION.—A building shall not be a qualified rehabilitated building unless there is a period of at least 5 years between—

"(i) the date the physical work on this rehabilitation of the building began, and

"(ii) the later of—

"(I) the date such building was first placed in service, or

"(II) the date such building was placed in service in connection with a prior rehabilitation with respect to which a credit was allowed by reason of subsection (a)(1)(D).

"(C) MAJOR PORTION TREATED AS SEPARATE BUILDING IN CERTAIN CASES.—Where there is a separate rehabilitation of a major portion of a building, such major portion shall be treated as a separate building.

"(D) REHABILITATION INCLUDES RECONstruction.

"(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account which is incurred after July 26, 1978—

"(i) for property (or additions or improvements to property) with a useful life of 5 years or more, and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified rehabilitation expenditure' does not include—

"(i) PROPERTY OTHERWISE SECTION 38 PROPERTY.—Any expenditure for property which constitutes section 38 property (determined without regard to subsection (a)(1)(D)).

"(ii) COST OF ACQUISITION.—The cost of acquiring any building or any interest therein.

"(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of the existing building.

"(3) PROPERTY TREATED AS NEW SECTION 38 PROPERTY.—Property which is treated as section 38 property by reason of subsection (a)(1)(D) shall be treated as new section 38 property."

(c) TECHNICAL AMENDMENT.—Paragraph (8) of section 48(a) (relating to amortized property) is amended by striking out "or 188" and inserting in lieu thereof "188, or 191".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after July 26, 1978; except that the amendment made by section (c) shall only apply with respect to property placed in service after such date.

Page 60, line 6, strike out "314" and insert in lieu thereof "315".

Page 60, strike out line 9 and all that follows down through line 8 on page 65 and insert in lieu thereof the following:

"SEC. 51. AMOUNT OF CREDIT.

"(a) DETERMINATION OF AMOUNT.—The amount of the credit allowable by section 44B for the taxable year shall be the sum of—

"(1) 50 percent of the qualified first-year wages for such year, and

"(2) 16⅔ percent of the qualified second-year wages for such year.

"(b) QUALIFIED WAGES DEFINED.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year to individuals who are members of a targeted group.

"(2) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer (or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual's rehabilitation plan).

"(3) QUALIFIED SECOND-YEAR WAGES.—The term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

"(4) ONLY FIRST $6,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages, and the amount of the qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $6,000 per year.

"(5) WAGES DEFINED.—Except as provided in subsection (g)(2), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(c) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

"(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

"(A) a WIN registrant,

"(B) a vocational rehabilitation referral,

"(C) a food stamp youth,

"(D) a Vietnam veteran who is a member of a household receiving food stamps,

"(E) an SSI recipient,

"(F) a general assistance recipient, or

"(G) a youth participating in a qualified cooperative education program.

"(2) WIN REGISTRANT.—The term 'WIN registrant' means any individual who is certified by the Secretary of Labor as having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act.

"(3) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the Secretary of Labor or by the appropriate vocational rehabilitation agency as—

"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(4) FOOD STAMP YOUTH.—

"(A) IN GENERAL —The term 'food stamp youth' means any individual who is certified by the Secretary of Labor as meeting—

"(i) the age requirements of subparagraph (B), and

"(ii) the food stamp requirements of paragraph (9).

"(B) AGE REQUIREMENTS.—An individual meets the age requirements of this subpara-

graph if such individual has attained age 18 but not age 25 on the hiring date. For purposes of the preceding sentence, an individual who, on the hiring date, has attained age 16 and has graduated from high school or a vocational school shall be treated as having attained age 18.

"(5) VIETNAM VETERAN WHO IS A MEMBER OF HOUSEHOLD RECEIVING FOOD STAMPS.—The term 'Vietnam veteran who is a member of a household receiving food stamps' means any individual who is certified by the Secretary of Labor as—

"(A)(i) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, any part of which occurred after August 4, 1964, and before May 8, 1975, or

"(ii) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability if any part of such active duty was performed after August 4, 1964, and before May 8, 1975,

"(B) not having any day during the pre-employment period which was a day of extended active duty in the Armed Forces of the United States, and

"(C) meeting the food stamp requirements of paragraph (9).

For purposes of subparagraph (B), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

"(6) SSI RECIPIENTS.—The term 'SSI recipient' means any individual who is certified by the Secretary of Labor as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93-66) for any month ending in the pre-employment period.

"(7) GENERAL ASSISTANCE RECIPIENTS.—

"(A) IN GENERAL.—The term 'general assistance means any individual who is certified by the Secretary of Labor as receiving assistance under a qualified general assistance program for any period of not less than 30 days ending within the pre-employment period.

"(B) QUALIFIED GENERAL ASSISTANCE PROGRAM.—The term 'qualified general assistance program' means any program of a State or a political subdivision of a State—

"(i) which provides general assistance or similar assistance which—

"(I) is based on need, and

"(II) consists of money payments, and

"(ii) which is designated by the Secretary (after consultation with the Secretary of Health, Education, and Welfare) as meeting the requirements of clause (i).

"(8) YOUTH PARTICIPATING IN A QUALIFIED COOPERATIVE EDUCATION PROGRAM.—

"(A) IN GENERAL.—The term 'youth participating in a qualified cooperative education program' means any individual who is certified by the school participating in the program as—

"(i) having attained age 16 and not having attained age 19,

"(ii) not having graduated from a high school or vocational school, and

"(iii) being enrolled in and actively pursuing a qualified cooperative education program.

"(B) QUALIFIED COOPERATIVE EDUCATION PROGRAM DEFINED.—The term 'qualified cooperative education program' means a program of vocational education for individuals who (through written cooperative arrangements between a qualified school and 1 or more employers) receive instruction (including required academic instruction) by alteration of study and school with a job in any occupational field (but if these 2 experiences are planned by the school and employer so that each contributes to the student's education and employability).

"(C) QUALIFIED SCHOOL DEFINED.—The term 'qualified school' means—

"(i) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market,

"(ii) the department of a high school exclusively or principally used for providing vocational education to persons who are available for study in preparation for entering the labor market, or

"(iii) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market,

A school which is not a public school shall be treated as a qualified school only if it is exempt from tax under section 501(a).

"(D) INDIVIDUAL MUST BE CURRENTLY PURSUING PROGRAM.—Wages shall be taken into account with respect to a qualified cooperative education program only if the wages are attributable to services performed while the individual meets the requirements of subparagraph (A).

"(9) FOOD STAMP REQUIREMENTS.—An individual meets the food stamp requirements of this paragraph if the appropriate food stamp agency determines that, during the pre-employment period, such individual was a member of a household which, at any time during such period, was receiving food stamps under the Food Stamp Act of 1977.

"(10) PRE-EMPLOYMENT PERIOD.—The term 'pre-employment period' means the 60-day period ending on the hiring date.

"(11) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

"(d) QUALIFIED FIRST-YEAR WAGES CANNOT EXCEED 30 PERCENT OF FUTA WAGES FOR ALL EMPLOYEES.—The amount of the qualified first-year wages which may be taken into account under subsection (a)(1) for any taxable year shall not exceed 30 percent of the aggregate unemployment insurance wages paid by the employer during the calendar year ending in such taxable year. For purposes of the preceding sentence, the term 'unemployment insurance wages' has the meaning given to the term 'wages' by section 3306(b).

"(e) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT.—

"(1) IN GENERAL.—For purposes of this subpart, remuneration paid by an employer to an employee during any year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in a trade or business of the employer.

"(2) SPECIAL RULE FOR CERTAIN DETERMINATION.—Any determination as to whether paragraph (1), or subparagraph (A) or (B) of subsection (g)(1), applies with respect to any employee for any year shall be made without regard to subsections (a) and (b) of section 52.

"(3) YEAR DEFINED.—For purposes of this subsection and subsection (g), the terms 'year' means the taxable year; except that, for purposes of applying so much of such subsections as relates to subsection (d), such term means the calendar year.

"(f) SECRETARY OF LABOR TO NOTIFY EMPLOYERS OF AVAILABILITY OF CREDIT.—The Secretary of Labor, in consultation with the Internal Revenue Service, shall take such steps as may be necessary or appropriate to keep employers apprised of the availability of the credit provided by section 44B.

"(g) SPECIAL RULES FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—For purposes of this subpart—

"(1) UNEMPLOYMENT INSURANCE WAGES.—

"(A) AGRICULTURAL LABOR.—If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any year constitute agricultural labor (within the meaning of section 3306(k)), the term 'unemployment insurance wages' means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes 'wages' within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

"(B) RAILWAY LABOR.—If more than one-half of remuneration paid by an employer to an employee during any year is remuneration for service described in section 3306(c)(9), the term 'unemployment insurance wages' means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) if the maximum amount subject to such contributions were $500 per month.

"(2) WAGES.—In any case to which subparagraph (A) or (B) of paragraph (1) applies, the term 'wages' means unemployment insurance wages (determined without regard to any dollar limitation)."

Page 65, strike out lines 22 through 26, and insert in lieu thereof the following:

(i) by striking out subsections (c), (e), (i) and (j), and

(ii) by redesignating subsections (d), (f), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

Page 66, strike out lines 3 and 4, and insert in lieu thereof the following:

tribution to the increase in unemployment insurance wages" and inserting in lieu thereof "proportionate share of the wages".

Page 66, strike out lines 12 through 19.

Page 66, strike out line 24 and all that follows through line 2 on page 67, and insert in lieu thereof the following:

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts paid or incurred after December 31, 1978, in taxable years ending after such date.

(2) SPECIAL RULES FOR NEWLY TARGETED GROUPS.—

(A) INDIVIDUAL MUST BE HIRED AFTER JULY 26, 1978.—In the case of a member of a newly targeted group—

(i) such individual shall be taken into account for purposes of the credit allowable by section 44B of the Internal Revenue Code of 1954 only if such individual is first hired by the employer after July 26, 1978, and

(ii) such individual shall be treated for purposes of such credit as having first begun work for the employer not earlier than January 1, 1979.

(B) MEMBER OF NEWLY TARGETED GROUP DEFINED.—For purposes of subparagraph (A), an individual is a member of a newly targeted group if—

(i) such individual meets the requirements of subparagraph (C), (D), (E), (F), or (G) of section 51(c)(1) of such Code, and

(ii) such individual does not meet the requirements of subparagraph (A) or (B) of such section 51(c)(1).

(3) TRANSITIONAL RULE.—In the case of a taxable year which begins in 1978 and ends after December 31, 1978, the amount of the credit allowable by section 44B of the Internal Revenue Code of 1954 (determined without regard to section 53 of such Code) shall be the sum of—

(A) the amount of the credit which would

be so allowable without regard to the amendments made by this section, plus

(B) the amount which would be so allowable by reason of the amendments made by this section.

(4) SUBSECTION (c)(2). The amendments made by subsection (c)(2) shall apply to taxable years beginning after December 31, 1978.

Page 67, insert after line 2 the following:

(e) REPORT ON EFFECTIVENESS OF JOBS CREDIT.—

(1) REPORT ON TARGETED JOBS CREDIT.—Not later than June 30, 1981, the Secretary of the Treasury and the Secretary of Labor shall jointly submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(A) the effectiveness of the targeted jobs credit provided by the amendments made by this section in improving the employment situation of the targeted groups, and

(B) the types of employers claiming such credit.

(2) GENERAL JOBS CREDIT.—The report required under paragraph (1) shall also include an evaluation of—

(A) the effectiveness of the general jobs credit provided by section 44B of the Internal Revenue Code of 1954 for 1977 and 1978 in stimulating employment and enhancing economic growth, and

(B) the types of employers claiming such credit.

Page 67, strike out lines 3 through 5, and insert in lieu thereof the following:

Subtitle C—Miscellaneous Provisions

SEC. 321. INCREASE IN LIMIT ON SMALL ISSUES OF IDB'S TO $10,000,000.

Page 67, after line 12 insert the following:

SEC. 322. THREE-YEAR EXTENSION OF PROVISION FOR 60-MONTH DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1979" each place it appears and inserting in lieu thereof "January 1, 1982".

Page 79, line 8, after "crops" insert "for any taxable year beginning after December 31, 1977".

Page 85, after line 5, insert the following:

SEC. 403. SEPARATE MINIMUM TAX ON CAPITAL GAINS.

(a) IN GENERAL.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VII—SEPARATE MINIMUM TAX ON CAPITAL GAINS

"SEC. 59. IMPOSITION OF TAX.

"(a) GENERAL RULE.—In the case of a taxpayer other than a corporation, if—

"(1) 10 percent of an amount equal to (A) ½ of the net capital gain for the taxable year, reduced by (B) $10,000, exceeds

"(2) the regular tax for the taxable year,

then there is hereby imposed (in addition to all other taxes imposed by this title) a tax equal to the amount of such excess.

"(b) MARRIED INDIVIDUAL FILING SEPARATE RETURNS.—In the case of a married individual who files a separate return for the taxable year, paragraph (1)(B) of subsection (a) shall be applied by substituting '$5,000' for '$10,000'.

"(c) GAIN FROM SALE OF PRINCIPAL RESIDENCE NOT TAKEN INTO ACCOUNT.—In determining net capital gain for purposes of subsection (a)(1)(A), there shall not be taken into account gain on the sale or exchange of any principal residence which satisfies the holding and use requirements of section 121(a) (relating to one-time exclusion of gain from sale of principal residence).

"(d) REGULAR TAX DEFINED.—For purposes of this section, the term 'regular tax' means the taxes imposed by this chapter for the taxable year (computed without regard to this part and part VI and without regard to the taxes imposed by sections 72(m)(5)(B), 402(e), and 408(f)) reduced by the sum of the credits allowable under subpart A of part IV of this subchapter (other than under sections 31, 39, and 43).

"(e) CREDITS NOT ALLOWABLE.—For purposes of determining the amount of any credit allowable under subpart A of part IV of this subchapter, the tax imposed by this section shall not be treated as a tax imposed by this chapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (a) of section 5 (relating to cross references relating to tax on individuals) is amended by adding at the end thereof the following new paragraph:

"(6) For separate minimum tax on capital gains, see section 59."

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "without regard to this part" and inserting in lieu thereof "without regard to this part and part VII".

(3) Subsection (d) of section 443 (relating to adjustment in exclusion for computing minimum tax for tax preferences) is amended to read as follows:

"(d) ADJUSTMENT IN EXCLUSION FOR COMPUTING MINIMUM TAXES.—If a return is made for a short period by reason of subsection (a), then—

"(1) the $10,000 amount specified in section 56, modified as provided by section 58, and

"(2) the $10,000 amount specified in section 59(a), modified as provided by section 59(b),

shall be reduced to the amount which bears the same ratio to such specified amount as the number of days in the short period bears to 365."

(4) Subsection (d) of section 511 (relating to tax preferences) is amended by adding at the end thereof the following new sentence: "The tax imposed by section 59 shall apply to an organization subject to tax under subsection (b) with respect to items which enter into the computation of unrelated business taxable income."

(5) Subsection (a) of section 901 (relating to allowance of foreign tax credit) is amended by inserting "or by section 59 (relating to separate minimum tax on capital gains)" after "for tax preferences)".

(6) Paragraph (1) of section 6014(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 56 or 59".

(7) Subparagraph (A) of section 6362(b)(2) (relating to permitted adjustments) is amended by inserting "or a tax on the amount taxed under section 59 (relating to separate minimum tax on capital gains)" after "tax preferences)".

(8) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credit against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 56 or 59".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Part VII. Separate minimum tax on capital gains."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Page 85, after line 5, insert the following:

SEC. 405. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) GENERAL RULE.—The section heading and subsections (a) and (b) of section 121 (relating to gain from sale or exchange of residence of individual who has attained age 65) are amended to read as follows:

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if, during the 3-year period ending on the date of such sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 2 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of the gain excluded from gross income under subsection (a) shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

"(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subsection (a) with respect to any other sale or exchange is in effect.

"(3) ADDITIONAL ELECTION IF PRIOR SALE WAS MADE ON OR BEFORE JULY 26, 1978.—In the case of any sale or exchange after July 26, 1978, this section shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date."

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 121(d) is amended by striking out "age, holding, and use" each place it appears and inserting in lieu thereof "holding and use".

(2) Paragraph (2) of section 121(d) is amended—

(A) by striking out "8-year period" and inserting in lieu thereof "3-year period", and

(B) by striking out "subsection (a)(2)" each place it appears and inserting in lieu thereof "subsection (a)".

(3) Paragraph (3) of section 121(d) is amended by striking out "subsection (a)(2)" each place it appears and inserting in lieu thereof "subsection (a)".

(4) Paragraph (5) of section 121(d) is amended—

(A) by striking out "8-year period" and inserting in lieu thereof "3-year period", and

(B) by striking out "5 years" and inserting in lieu thereof "2 years".

(5) Paragraph (7) of section 121(d) is amended to read as follows:

"(7) SECTIONS 1033 AND 1034 NOT TO APPLY TO SALES TO WHICH THIS SECTION APPLIES.—Sections 1033 (relating to involuntary conversions) and 1034 (relating to rollover of gain on sale of principal residence) shall not apply to any sale or exchange of a residence with respect to which an election under this section applies."

(6) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 121 and inserting in lieu thereof the following:

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(7) Paragraph (3) of section 1033(g) (relating to cross references) is amended to read as follows:

"(3) For one-time exclusion from gross income of gain from involuntary conversion of principal residence, see section 121."

(8) Subsection (k) of section 1034 (relating to cross references) is amended to read as follows:

"(k) CROSS REFERENCE.—

"For one-time exclusion from gross income of gain from sale of principal residence, see section 121."

(9) Section 1038(e)(1)(A) is amended by striking out "relating to gain from sale or exchange of residence of an individual who has attained age 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence".

(10) Section 1250(d)(7)(B) is amended by striking out "relating to gains from sale or exchange of residence of individual who has attained the age of 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence".

(11) Section 6012(c) is amended by striking out "relating to sale of residence by individual who has attained age 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after July 26, 1978, in taxable years ending after such date.

Page 85, after line 5, insert the following:

SEC. 406. WAIVER OF CERTAIN 18-MONTH RULES OF SECTION 1034 WHEN SALE OF RESIDENCE IS CONNECTED WITH COMMENCING WORK AT NEW PLACE.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to sale or exchange of residence) is amendable to read as follows:

"(d) LIMITATION.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to the sale of the taxpayer's residence if within 18 months before the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of subsection (a).

"(2) SUBSEQUENT SALE CONNECTED WITH COMMENCING WORK AT NEW PLACE.—Paragraph (1) shall not apply with respect to the sale of the taxpayer's residence if—

"(A) such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and

"(B) if the residence so sold is treated as the former residence for purposes of section 217 (relating to moving expenses), the taxpayer would satisfy the conditions of subsection (c) of section 217 (as modified by the other subsections of such section)."

(b) RELATED TECHNICAL AMENDMENT.—Paragraph (4) of section 1034(c) is amended by adding at the end thereof the following new sentence: "If a principal residence is sold in a sale to which subsection (d)(2) applies within 18 months after the sale of the old residence, for purposes of applying the preceding sentence with respect to the old residence, the principal residence so sold shall be treated as the last residence used during such 18-month period."

(c) CLERICAL AMENDMENTS.—

(1) The section heading of section 1034 is amended to read as follows:

"SEC. 1034. ROLLOVER OF GAIN ON SALE OF PRINCIPLE RESIDENCE."

(2) The table of sections for part III of subchapter O of chapter 1 is amended by striking out the item relating to section 1034 and inserting in lieu thereof the following new item:

"Sec. 1034. Rollover of gain on sale of principal residence."

(3) Subparagraph (B) of section 1038(e)(1) (relating to certain acquisitions of real property) is amended by striking out "(relating to sale or exchange of residence)" and inserting in lieu thereof "(relating to rollover of gain on sale of principal residence)".

(4) Subparagraph (A) of section 1250(d)(7) (relating to gain from disposition of certain depreciable realty) is amended by striking out "relating to sale or exchange of residence" and inserting in lieu thereof "relating to rollover of gain on sale of principal residence".

(5) Subparagraph (C) of section 6212(c)(2) (relating to cross references) is amended by striking out "personal residence" and inserting in lieu thereof "principal residence".

(6) Paragraph (4) of section 6504 (relating to cross reference) is amended by striking out "residence" and inserting in lieu thereof "principal residence".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges of residences after July 26, 1978, in taxable years ending after such date.

Page 85, after line 5, insert the following:

SEC. 407. STUDY OF EFFECTS OF CHANGES IN THE TAX TREATMENT OF CAPITAL GAINS ON STIMULATING INVESTMENT AND ECONOMIC GROWTH.

Not later than September 30, 1981, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report on the effectiveness of the changes made by this title in the tax treatment of capital gains of individuals and corporations in stimulating investment and increasing the rate of economic growth. The report shall also include an analysis of the effects these changes had on employment growth and on income tax revenues.

Mr. ULLMAN. Mr. Chairman, let me just quickly run through by title these different amendments so that the Members will know what we are dealing with. First, these amendments are noncontroversial. They are amendments that have widespread support and, therefore, I think this procedure is perfectly proper.

The first amendment deals with some modification of the earned income credit, which is an improvement.

The second has to do with deferred compensation.

The third are strictly technical amendments.

The fourth is the investors' tax credit for rehabilitation expenses, which is widely supported.

The fifth has to do with the targeted jobs credit, which makes some modification in the proposal.

The sixth is a 5-year amortization for low-income housing.

The seventh is the alternative minimum tax on capital gains.

The eighth is the extension of exemption from personal tax for personal residences, that has wide support.

The ninth has to do with rollovers on the sale of a residence.

The 10th includes a couple of studies in the tax area.

The CHAIRMAN. The question is on the committee amendments.

The question was taken and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STEIGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 409, noes 1, answered "present" 1, not voting 21 as follows:

[Roll No. 679]

AYES—409

Abdnor	Dent	Johnson, Calif.
Addabbo	Derrick	Johnson, Colo.
Akaka	Derwinski	Jones, N.C.
Alexander	Devine	Jones, Okla.
Ambro	Dickinson	Jones, Tenn.
Ammerman	Dicks	Jordan
Anderson, Calif.	Dingell	Kasten
Anderson, Ill.	Dodd	Kastenmeier
Andrews, N.C.	Dornan	Kazen
Andrews, N. Dak.	Downey	Kelly
Annunzio	Drinan	Kemp
Applegate	Duncan, Oreg.	Keys
Archer	Duncan, Tenn.	Kildee
Armstrong	Early	Kindness
Ashbrook	Eckhardt	Kostmayer
Ashley	Edgar	Krebs
Aspin	Edwards, Ala.	Krueger
AuCoin	Edwards, Calif.	LaFalce
Badham	Edwards, Okla.	Lagomarsino
Bafalis	Eilberg	Latta
Baldus	Emery	Leach
Baucus	English	Lederer
Bauman	Erlenborn	Lehman
Beard, R.I.	Ertel	Lent
Beard, Tenn.	Evans, Colo.	Levitas
Bedell	Evans, Del.	Livingston
Bellenson	Evans, Ga.	Lloyd, Calif.
Benjamin	Evans, Ind.	Long, La.
Bennett	Fary	Long, Md.
Bevill	Fascell	Lott
Biaggi	Fenwick	Lujan
Bingham	Findley	Luken
Blanchard	Fish	Lundine
Blouin	Fisher	McClory
Boggs	Fithian	McCloskey
Boland	Flippo	McCormack
Bolling	Flood	McDade
Bonior	Florio	McEwen
Bonker	Flowers	McFall
Bowen	Flynt	McHugh
Brademas	Foley	McKay
Breaux	Ford, Mich.	McKinney
Breckinridge	Ford, Tenn.	Madigan
Brinkley	Forsythe	Maguire
Brodhead	Fountain	Mahon
Brooks	Fowler	Mann
Broomfield	Fraser	Markey
Brown, Calif.	Frenzel	Marks
Brown, Mich.	Fuqua	Marlenee
Brown, Ohio	Gammage	Marriott
Broyhill	Garcia	Martin
Buchanan	Gaydos	Mathis
Burgener	Gephardt	Mattox
Burke, Calif.	Giaimo	Mazzoli
Burke, Fla.	Gibbons	Meeds
Burke, Mass.	Gilman	Metcalfe
Burleson, Tex.	Ginn	Meyner
Burlison, Mo.	Glickman	Michel
Burton, John	Goldwater	Mikulski
Burton, Phillip	Gonzalez	Mikva
Butler	Goodling	Miller, Ohio
Byron	Gradison	Mineta
Caputo	Grassley	Minish
Carney	Green	Mitchell, Md.
Carr	Gudger	Mitchell, N.Y.
Carter	Guyer	Moakley
Cavanaugh	Hagedorn	Moffett
Cederberg	Hall	Mollohan
Chappell	Hamilton	Montgomery
Chisholm	Hammer-schmidt	Moore
Clausen, Don H.	Hanley	Moorhead, Calif.
Clawson, Del	Hannaford	Moorhead, Pa.
Clay	Hansen	Mottl
Cleveland	Harkin	Murphy, Ill.
Cohen	Harrington	Murphy, N.Y.
Coleman	Harris	Murphy, Pa.
Collins, Ill.	Harsha	Murtha
Collins, Tex.	Hawkins	Myers, Gary
Conable	Heckler	Myers, John
Conte	Hefner	Myers, Michael
Conyers	Heftel	Natcher
Corcoran	Hightower	Neal
Corman	Hillis	Nedzi
Cornell	Holland	Nichols
Cornwell	Hollenbeck	Nix
Cotter	Holt	Nolan
Coughlin	Holtzman	Nowak
Crane	Horton	O'Brien
Cunningham	Howard	Oakar
D'Amours	Hubbard	Oberstar
Daniel, Dan	Huckaby	Obey
Daniel, R. W.	Hughes	Ottinger
Danielson	Hyde	Panetta
Davis	Ichord	Patten
de la Garza	Ireland	Patterson
Delaney	Jeffords	Pattison
	Jenkins	Pease
	Jenrette	Pepper

Perkins	Scheuer	Tucker
Pettis	Schroeder	Udall
Pickle	Sebelius	Ullman
Pike	Seiberling	Van Deerlin
Poage	Sharp	Vander Jagt
Pressler	Shipley	Vanik
Preyer	Shuster	Vento
Price	Sikes	Volkmer
Pritchard	Simon	Waggonner
Pursell	Skelton	Walgren
Quayle	Skubitz	Walker
Quie	Slack	Walsh
Quillen	Smith, Iowa	Wampler
Rahall	Smith, Nebr.	Watkins
Railsback	Snyder	Waxman
Rangel	Solarz	Weaver
Regula	Spellman	Weiss
Rhodes	Spence	Whalen
Richmond	St Germain	White
Rinaldo	Staggers	Whitehurst
Risenhoover	Stangeland	Whitley
Roberts	Stanton	Whitten
Robinson	Steed	Wiggins
Roe	Steers	Wilson, Bob
Rogers	Steiger	Wilson, Tex.
Rooney	Stockman	Winn
Rose	Stokes	Wirth
Rosenthal	Stratton	Wolff
Rostenkowski	Studds	Wright
Rousselot	Stump	Wydler
Roybal	Symms	Wylie
Rudd	Taylor	Yates
Runnels	Thompson	Yatron
Ruppe	Thone	Young, Alaska
Russo	Thornton	Young, Fla.
Ryan	Traxler	Young, Mo.
Santini	Treen	Young, Tex.
Sarasin	Trible	Zablocki
Satterfield	Tsongas	Zeferetti

NOES—1

Gore

ANSWERED "PRESENT"—1

Moss

NOT VOTING—21

Barnard	Leggett	Roncalio
Cochran	Lloyd, Tenn.	Sawyer
Dellums	McDonald	Schulze
Diggs	Milford	Sisk
Frey	Miller, Calif.	Stark
Jacobs	Reuss	Teague
Le Fante	Rodino	Wilson, C. H.

Mr. HARKIN changed his vote from "no" to "aye."

So the committee amendments were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will report the committee amendment adding a new section 404.

The Clerk read as follows:

Committe amendment: On page 85, after line 5, insert the following:

SEC. 404. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by redesignating section 1024 as section 1025 and by inserting after section 1023 the following new section:

"SEC. 1024. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—If an indexed asset is sold or exchanged in a taxable transaction, for purposes of determining gain or loss on the transaction (but for no other purpose) the indexed basis of the asset shall be substituted for its adjusted basis.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock which is common stock or possesses most of the attributes of common stock,

"(B) tangible personal property, and

"(C) real property,

which has been held for more than 1 year and which is a capital asset or property used in the trade or business (as defined in section 1231(b)).

"(2) CERTAIN PROPERTY EXCLUDED.—

"(A) IN GENERAL.—The term 'indexed asset' does not include stock in—

"(i) an electing small business corporation (within the meaning of section 1371(b)),

"(ii) a regulated investment company (within the meaning of section 851(a)),

"(iii) a real estate investment trust (within the meaning of section 856(a)),

"(iv) a foreign corporation, and

"(v) a personal holding company (as defined in section 542).

"(B) COLLAPSIBLE CORPORATION.—In the case of a sale, exchange, or distribution to which section 341(a) (relating to collapsible corporations) applies such transaction shall not be treated as a sale or exchange of an indexed asset to which subsection (a) applies.

"(c) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the CPI for the calendar month in which the sale or exchange takes place, by

"(B) the CPI for the calendar month in which the holding period of the asset began (or, if later, December 1979).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest 1/10 of 1 percent.

"(3) CPI FOR CALENDAR MONTH.—The CPI for any calendar month is the Consumer Price Index for All Urban Consumers for such month.

"(d) TAXABLE TRANSACTION.—For purposes of this section the term 'taxable transaction' means a sale or exchange in which gain or loss is recognized in whole or in part to the person disposing of the asset.

"(e) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of a corporation, a substantial contribution to capital or a substantial reduction in capital,

"(C) in the case of a transaction in which gain or loss is recognized only in part, that portion of the asset to which the recognized gain or loss is properly attributable, and

"(D) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset (or the predecessor asset) was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) SECTION CANNOT INCREASE ORDINARY LOSS UNDER SECTION 1231.—To the extent that (but for this paragraph) this section would create or increase the net ordinary loss to which the second sentence of section 1231(a) applies, such second sentence shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the net ordinary loss to which the preceding sentence applies.

"(f) SALES BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or exchange between related persons.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of chapter 1 is amended by striking out the item relating to section 1024 and inserting in lieu thereof the following:

"Sec. 1024. Indexing of certain assets for poses of determining gain or loss.

"Sec. 1025. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after December 31, 1979, in taxable years ending after such date.

Mr. ARCHER (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Chair would inquire of the gentleman from Oregon whom he designates to speak in opposition.

Mr. ULLMAN. Mr. Chairman, I designate the gentleman from Illinois (Mr. ROSTENKOWSKI) to control the time in opposition to this amendment.

The CHAIRMAN. Pursuant to the rule, the gentleman from Texas (Mr. ARCHER) will be recognized for 15 minutes, and the gentleman from Illinois (Mr. ROSTENKOWSKI) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and members of the committee, the amendment which I have offered and which was adopted in committee by a 21-to-16 vote—a bipartisan vote with a majority of both Democrats and Republicans voting for it—is one that, in my opinion, has the greatest value from the standpoint of equity and fairness of any provision adopted by the committee in this bill. It would simply index the cost basis of real estate, including homes, stocks, and tangible personal property, for inflation so that the Federal Government does not continue to tax inflation. It would thereby treat individual purchasers equitably and fairly, irrespective of how long they had held property.

Today under the code, if an individual buys property and holds it for 10 years, paying intially $1,000 for that prop-

erty, and inflation is 7 percent per year compounded to 100 percent over the 10 years, and that individual sells the property for $2,000, he would pay a capital gains tax on $1,000 in spite of the fact that his real purchasing power was not increased. His $2,000 is worth no more than $1,000 10 years earlier.

Another individual buying property for $1,000 and holding it for 1 year, with a 7-percent inflation, would be taxed identically the same, in spite of the fact that his real income was 93 percent as compared to a zero real income of the original purchaser who held the property for 10 years. Obviously indexing is the only way to treat equitably these two purchasers.

We can differ on the tax rate on capital gains, but it should be only on real income. My amendment does not take effect until 1980. Thus, prospectively it will not reduce revenue in 1979. In fact, computer runouts show that it will generate an additional $10 billion of revenues for the Treasury in 1979 even before it takes effect, because of the certainty it would create in the marketplace for the future and the increased economic activity.

It is, Mr. Chairman, an amendment whose time has come. It will impact primarily to benefit individuals with incomes under $100,000 a year rather than those with incomes of over $100,000 per year. I would like to point out to the committee, Mr. Chairman, that subsequent to the date that this amendment passed the committee, the stock market has gone steadily up.

The Dow Jones average has increased over 60 points since that day. In the last 17 days the average volume on the New York Stock Exchange on a daily basis has increased 10 million shares over what the average daily volume was in the first 7 months of this year.

Mr. Chairman, recent polls on the opinion of the American people show that almost two-thirds of them support this type of amendment. They want to know that if they buy property in the years ahead that they will not pay a tax on inflation, and that is the bottom line.

A vote for my amendment is a vote against taxing inflation. A vote against it is a vote for taxing the people of this country on inflation.

Mr. ROSTENKOWSKI. Mr. Chairman, I rise in opposition to the amendment.

Mr. REUSS. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Wisconsin (Mr. REUSS).

PERSONAL EXPLANATION

Mr. REUSS. Mr. Chairman, on the vote taken a few minutes ago on the committee amendment, I was detained on official business and did not vote. Had I been here I would have voted "aye."

I would like to have the RECORD show that.

I thank the gentleman for yielding.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this particular committee amendment which would index capital gains for inflation. It is a controversial provision with tremendous revenue consequences, and was adopted in committee only by a very close vote.

In fact, I am quite confident that now that the full revenue implications of this indexing provision are known, many of its supporters in committee will oppose its inclusion in the final product of our work.

My principle objections to this amendment were outlined in some detail in separate views contained in the committee report * * * and restated in a letter that my chairman, the gentleman from Oregon, and I sent to all Members earlier this week.

Some might say indexing anything to protect it from inflation makes sense. In the abstract that theory might be true, but in the context of the tax code and this particular bill—I do not believe so.

It has been said that unless we adopt this indexing amendment we will simply be taxing inflationary gains. But before we get caught in that rhetoric—let us look at what this amendment really does.

It applies only to capital gains—not wages, not salaries, not pensions, not savings or any other type of income earned by the average American. It is inconceivable that we can choose to totally insulate from inflation the one type of income in this country which is already cushioned from inflation—capital gains—while at the same time ignore the eroding effect of inflation on savings, wages, and salaries.

This narrowly targeted indexing provision does nothing for the average working family whose earnings on their savings do not even keep it growing at a pace equal to inflation. We would still tax all that interest as though it were a real economic gain.

In recent years, we have had the so-called double dippers in the military and in social security. This amendment would make those fortunate to have large incomes from stock and other capital assets double dippers as well.

Why?

Well, it must be remembered that under both current law and the committee bill, one-half of each capital gain is already excluded from the calculation of the regular income tax. This long-standing preferential treatment of capital gains recognizes that long-term investment gains are in part not real economic gain but the result of inflation. But, if a decision to index capital gains for inflation is to be logical and fair, this 50-percent exclusion from regular taxes should, at the same time, be reduced. To retain both the full 50-percent exclusion, and the indexing, has the effect of doubly compensating gains on capital assets for the effects of inflation.

On another point, we hear in defense of this indexing amendment about the tremendous inflationary appreciation of capital assets, and the impact of capital gains tax on that appreciation. Most Americans are familiar with rising property values. Most Americans are aware of the capital gains tax. That is because most Americans own a home—but usually, it is their only major capital asset. The committee bill already addresses inflation's impact on the sale of a house—far more directly, far more effectively, than does this complex indexing provision. The committee bill exempts most capital gains on the sale of a home from Federal tax. Although such relief is only available on a one-time basis, and is limited to $100,000, it solves all the capital gains problems for almost every American homeowner that I know.

Finally, Mr. Chairman, since this is the Revenue Act of 1978, let us talk about the revenue impact of this provision.

It should be made clear that, in the long run, the "indexing of capital gains" is by far the most expensive approach to take. The specific revenue loss attributable to the amendment is equally disturbing. Eventually, it will eliminate about one-half of all Federal income tax revenue from capital gains, a revenue loss of $4 billion a year by 1983 and increasing amounts every year thereafter—far more than the cost of other new capital investment stimulants seriously being debated in the Congress.

It must be remembered that this revenue loss is in addition to those losses anticipated under the committee bill which derive from taking virtually all capital gains out from under the scope of any minimum tax.

This amendment might well have been a "sleeper," but when fully operational, its impact on Federal revenues will be dramatic and impossible to ignore.

So, Mr. Chairman, in the interest of equity, fair tax policy and fiscal responsibility, I urge my colleagues to vote down this particular committee amendment.

Mr. ARCHER. Mr. Chairman, will the gentleman yield?

Mr. ROSTENKOWSKI. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Chairman, the gentleman from Illinois (Mr. ROSTENKOWSKI) commented about revenue losses. Those figures do not match the revenue figures that are shown in the committee report as prepared by the joint committee staff. I am wondering where the gentleman received the figures?

Mr. ROSTENKOWSKI. I received the figures from the joint committee staff and the Treasury Department.

Mr. ARCHER. How much did the gentleman say would be lost between now and 1983?

Mr. ROSTENKOWSKI. Its full impact would be $4 billion in 1983.

Mr. ARCHER. On page 21 of the committee report, to which I would refer the gentleman, in 1983 the maximum loss from corporate taxes is $977 million.

Mr. ROSTENKOWSKI. According to the figures that I have received from the Treasury Department, in 1980 we will lose $538 million, in 1981, $822 million, and its full effect in 1983 would be $4,030,000,000.

Mr. ARCHER. But those are Treasury Department figures. Are they figures from the joint committee?

Mr. ROSTENKOWSKI. I understand they are those of both the joint committee staff and the Treasury Department.

Mr. ARCHER. If the gentleman will look at the committee report, the joint committee staff figures seem to be totally at odds with those. I do not know where the gentleman's figures came from.

Mr. Chairman, if the gentleman will yield further, the gentleman says our existing tax rate on capital gains insulates the purchaser from inflation.

Does the gentleman realize that for the purchasers of stocks and bonds in the last decade, the real tax on real income has been 100 percent or more?

Mr. ROSTENKOWSKI. But the gentleman must realize that the provision that was enacted in the 1940's giving the 50-percent exemption in capital gains has been perpetuated in the law principally as an offset against inflation.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Chairman, I said earlier that I voted against this bill in the committee, and I intend to do so again today.

My reasons are a little different from those of some of those who voted against it. I happen to think that our deficit is too large. I am in favor of reducing that deficit. I am not in favor of major tax cuts, but I am in favor of indexing capital gains.

Mr. Chairman, when we pass something by 21 to 16 in the Committee on Ways and Means, that is not a close vote. That is a vertiable landslide in the Committee on Ways and Means; and when we have a bipartisan vote in support of it, it is telling us something.

Very frankly, if anybody had told me that the gentleman from Texas (Mr. ARCHER) could have come up with a proposal as moderate and as reasonable as this proposal is, I would not have believed it because it does not have any retroactive effect. It does not do anything for one if he sells his house this year. It does not do anything for you really if you sell anything next year. All it does is that it says, "We are going to start the process of ending the taxation of inflation."

When we have two people who sell capital assets, and one of them has a real profit and one of them has a real loss and both of them pay a tax, that is the most unfair provision which I think we have in our tax code. Yet, that is exactly what we do today.

If someone held an asset for 20 years and inflation has caused it to increase, he is paying a tax on inflation, although he may have a real loss.

Mr. Chairman, this does not lose one dime in revenue. It will generate revenue. It will get people out of investments which they are currently locked into because they cannot afford to sell them because of the capital gains tax. It will stimulate investment. It will stimulate the economy.

In the final analysis, Mr. Chairman, we do index wages. We index wages every time we raise the minimum wage. We index pensions every time they are attached to the Consumer Price Index, and most of them are. We index everything as far as workingmen are concerned, but we do not index capital gains, and this is where the unfairness is.

Mr. Chairman, that is why I support the amendment and ask the Members to support the Archer amendment.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, I opposed the Archer amendment brought up in the Committee on Ways and Means, and I urge my colleagues to vote against it here today. Basically it is because I oppose indexing as a matter of national policy, whether we are talking about indexing taxes or whether we are talking about indexing expenditures, because in almost every country where indexing has any track record at all, they have lost discipline to fight inflation. Once you index, there is no discipline left as a matter of national policy, so I would hope that this amendment would be defeated. Instead we should be working toward a policy against indexing. Our national policy should be to fight inflation across the board, not to give in and just accommodate inflation.

It also is unfair. It would be unfair to index capital gains taxation without indexing savings accounts and interest payments as well. Investments in savings accounts are subject to the same ravages from inflation as investments in stocks and other capital assets. Indeed, with existing interest ceilings, this type of investment is more subject to the inflation of tax than capital assets, which at least have a chance of increasing in value.

In addition, the savings investor gets taxed every year on his interest, whereas the tax on capital gains is deferred until realization. So in order to be fair, if you are going to index the gain in capital gains, you ought to also index the debt that finances capital gains, and once you get into that, you get into more complexities complicating the tax code. It is not a good policy to start. It is not a good policy to follow. I hope the Archer amendment will be defeated.

Mr. ARCHER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, we hear a lot about how many dollars we are going to lose by this. I would say if we will just pay some attention to sense, we are not going to lose any dollars. That is a pun, but I want the Members to think about that.

The Archer amendment makes good sense. Let us look at where we are today. If we take the 20 industrialized democracies of the world and compare them to the United States, we will find that nobody taxes capital as at high a rate as we do. Nobody comes anywhere near our record of taxing capital, with the possible exception of the people in Great Britain. They come almost as high as we do.

Then if we will look at those 20 industrialized democracies and say, Who is doing the best in the world today, anybody in this room can answer it. It is Germany and Japan. And they do not tax capital gains one iota.

When I turned on my television set this morning, the dollar had dropped again; the price of gold had shot up; and people were screaming the blues about the American economy. And there is good reason to. We are following old rhetoric, and today inflation has changed all those laws.

All that the Archer amendment tries to do is to say, for your seed corn, if you are a farmer, or for your young calves, if you are a cattleman, you are not going to eat the seed corn and slaughter the calves; you are going to raise them.

The gentleman from Oklahoma (Mr. JONES) compares this with money you put in the bank. The money you put in the bank is guaranteed and insured by the Federal Government. Nobody has lost a nickel in a savings account since about 1935. But this is risk money capital we are talking about, and you are not guaranteed you are going to win.

All that you do under Archer is index your bases. You do not eat your seed corn; you do not kill your young cows. And if we know where we are going in this society to provide new venture capital for new jobs, then we have got to make it so that there is not an incentive to put your money in municipal bonds or to put it in a savings account or to just go out and spend it. We should create an incentive to save and to put your savings into new venture, risk, capital. Frankly, most people who have invested their money in the last 10 years would have been better if they had just gone out and spent it all, because investments, by and large, have not increased in real value but only in the illusion of inflation. Yes, you get more dollars but they are worth less, then you pay a capital gains tax on that, and you pay a minimum tax and when you get through you have less real purchasing power. If we are going to preserve America and make its economy strong, then we have got to preserve its capital, and we cannot tax it away by counting inflation as a gain.

Vote for the Archer amendment. It makes good sense.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I want to say that this is not the time or the place to provide indexing on capital gains. There are real problems in indexing in any circumstances. I think we have already carried it too far in our tax law. The committee is going to look at capital formation. It may be that we will provide indexing in some form, but we ought to do it in relation to some other moves that ought to be made at the same time; so I strongly urge a no vote on this committee amendment.

Mr. ARCHER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I am absolutely astounded by those who say they can find justification in the Government pursuing policies which cause inflation, cause the value of property to go

up in nominal dollars of reduced value where there is no real purchasing power increase and then find that income has come in as a result thereof to justify the imposition of a tax.

Mr. Chairman, there are true capital gains. We have long since decided they should be taxed in some manner, but we have not decided in the past that we should tax inflation or that we should make a capital levy against property. When we do that, we are completely outside the American tax tradition.

Mr. Chairman, I am also astounded by those who say because we have not indexed other things as well, we will, therefore, be unfair when we index capital gains. I am one of those who would like to see indexing spread across the board to protect the purchasing power of the people; but I must say that I do not think that because a large step is indicated, a small step is a bad idea.

I trust that following on the heels of the enactment of the Archer amendment we will find a renewed interest in general indexing of the tax thresholds, so that we will not have to depend upon the political act of Congress to perform the rough indexing we have been doing for years on the income tax generally.

It seems to me, Mr. Chairman, that simple justice requires that we stop levying against the property of the people by creating inflation and then taxing the nominal dollar increase that results when misfortune or any other reason requires the sale of that property.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I rise in opposition to the Archer amendment, which provides an automatic cost-of-living adjustment for certain capital assets. It is a mistake to enact this first start in a campaign to achieve complete, automatic indexing of the tax system, as well as the entire economy.

The shortcomings of the Archer amendment have been spelled out by the members of the Ways and Means Committee. My concern is with the implication that complete, automatic indexing has for the fight against inflation.

Proponents of complete, automatic indexing attribute virtues to what they are doing; the greatest of the virtues is that everybody will be able to keep up with inflation so that nobody loses because of it.

The first of these two attributes is the most deceptive of all. If there is a 6-percent rate of inflation, the prices of all goods and services will be increased by that percentage. As a result, all prices will remain in the same relative position with respect to each other and nobody will be any better or worse off than anyone else.

If all tax rates and Government spending also are indexed at the same rate, everybody is left with the same real purchasing power after taxes. Government spending continues at the same real level, and no new programs can start without a change in taxes or the completion of an existing project. Of course, the money supply will be indexed by the same percentage.

Since everybody and every institution is protected in this indexing process, there is no incentive to resist inflation. There will be no political threat to incumbents from angry voters or opportunistic office seekers, because everybody will continue living as well as before prices rose. So, the inflation will be renewed continuously, and automatically, never encountering resistance, thanks to the index machine.

The entire scheme sounds to me like the dream of a perpetual motion machine. The only thing wrong with those machines was that they never could overcome friction, however imperceptible it would be, which always slowed the machine until it eventually stopped.

Many reasons exist to oppose this amendment. The one reason which is most persuasive to me is that the amendment is deceptive, and we should not contribute to that deception of our constituents. Indexing is not designed to control inflation. It is designed to accept inflation, to give assurances that nobody will lose because of inflation and to make inflation economically painless.

There is no easy or automatic way to control inflation. It permeates the world economy, and the causes originate and are sustained throughout the world. Against such a complex of causes, Congress has no choice other than to adjust Federal fiscal and monetary policies every year to ease the most painful impacts in one area and to cause some friction in other places. That is the most courageous and intelligent way to fight inflation.

I oppose any automatic indexing scheme to adjust to inflation. It is a policy of—if inflation is inevitable, relax and enjoy it. I urge my colleagues to vote down the Archer amendment.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I rise in strong support of the Archer amendment.

Mr. Chairman, as a principal House sponsor in this and the past two Congresses of tax-indexing legislation to correct the inflation penalty in our tax code, I rise in strong support of the Archer amendment.

This amendment would eliminate purely inflationary increases for the purposes of taxing capital gains. Under present law, when a taxpayer sells a house the entire difference between the original purchase price and the sale price is used to determine the increase in value for tax purposes. This is a patently unfair practice and one which forces many individuals living on fixed incomes to retain the property merely because of their inability to pay the excessive capital gains tax. Mr. ARCHER's proposal seeks to remedy this situation by allowing taxpayers to adjust the basis of certain capital assets upward by the rate of inflation. Consequently, the amendment would eliminate the taxes on the part of the gain that has merely been achieved because of inflation.

I view this amendment as a modest first step in the process of implementing indexing and feel that it should provide the basic framework for extending indexing to individual income tax rates and brackets.

As my colleagues know, tax indexing has received broad bipartisan support not only in Congress but from such national figures as Leonard Woodcock, former president of the United Automobile Workers, and Walter Wriston, president of the First National City Bank. Furthermore, a study prepared last year by the Joint Economic Committee concluded that present tax schedules aggravated the 1974–75 economic downturn and that indexing the tax rates to offset the impact of inflation would contribute to economic stability.

A recent Roper poll reported its findings which show that 60 percent of all taxpayers want some form of inflation adjustment in their taxes.

Surely, the Archer amendment provides this kind of adjustment on a limited scale and urge my fellow colleagues to vote in favor of its adoption.

The CHAIRMAN. Does the gentleman from Texas (Mr. ARCHER) wish to close debate on his amendment?

Mr. ARCHER. I wish to close debate on my amendment, Mr. Chairman.

The CHAIRMAN. Perhaps the gentleman from Illinois (Mr. ROSTENKOWSKI) should first be recognized for his 1 remaining minute.

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, it has been pointed out by the gentleman from Texas (Mr. ARCHER) that the figures I referred to, the $4,030 million, the cost of this indexing provision in 1983, were in error, and I would like to point out to the gentleman that if he goes to page 19 of the report and adds together the corporate and the individual figures, he will find that the figures concur both with the Treasury Department and with the Joint Committee, as to the figure of $4,030 million.

In closing, I would truly like to point out that what we are trying to do in this amendment is to provide that people who do not earn salaries or who do not have to work at day-to-day jobs like most Americans, people who are sitting back and investing in stock are the only ones being benefited by this, being protected against inflation, and I just think that is unfair.

Maybe at some time in the future, as the committee chairman has pointed out, we can work toward the possibility of indexing all types of income, but the fact of the matter remains that to index only this type of income is unconscionable.

Mr. Chairman, for 4 days earlier this week, we sat here and argued about the nuclear aircraft carrier costing $2.3 billion. The revenue lost in this amendment would allow us to build such an aircraft

carrier and all the planes that go with it every single year.

Mr. ARCHER. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, I support the Archer amendment. It will add an element of fairness now missing in the tax code, and it will be a massive, powerful stimulus to capital investment.

There simply is no way to justify taxing inflation, but under the current law that is exactly what happens. In a recent tax year, the total capital gain declared on all tax reports, when adjusted for inflation turned out to be a $1 billion loss.

Although homes are given a special treatment, homes represent the best example of inflated value. In my district, it not unusual to see homes with a cost basis of $10–$20,000 sell for from $50 to $100,000. The homes have the same economic value when they were bought originally at a low price as when they are sold recently at a high price. The gain is almost pure inflation.

But other assets are exactly like homes. Many have risen in value due solely, or mainly, to inflation. They ought to be protected against a tax on inflation just as homes should be protected.

Unfortunately, I was obliged to vote against the Archer amendment in the committee because of a commitment to the Jones bill as introduced. I am looking forward to voting for it today. It is a matter both of equity and of economic good sense and stimulus.

Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I rise in strong support of the Archer amendment. This amendment, which indexes the basis on capital gains, would eliminate taxation of illusory gains resulting from inflation.

Our tax system should be taxing real income. That is not now happening, however. What we are seeing is taxation of paper increases as inflation pushes up prices.

Homeowners are special victims of this problem. A home purchased in 1969, for example, could in most cases be sold at a much higher price today. The higher price, however, is largely due to inflation.

In fact, since 1969 the cumulative rate of inflation is 76 percent. Consequently a family selling its house today for 76 percent more than they paid for it in 1969 would find they are paying a capital gains tax on phantom gains.

The Archer amendment would correct this problem. It would prevent taxation of capital gains profit that is merely the result of inflation. The taxpayer would be permitted to adjust the basis upward so as to keep pace with inflation.

Specifically, eligible assets sold anytime after 1979 could use a basis reflecting the rate of inflation for years after 1980. Assets which could be treated this way include corporate stocks, tangible personal property, and real estate such as a personal residence.

It is time to call a halt to the taxation of paper gains. We should tax real income, not illusory gains resulting from inflation.

Mr. ARCHER. Mr. Chairman, the respected gentleman from Connecticut (Mr. GIAIMO), who is chairman of the Committee on the Budget, I think, has got his comments topsy-turvy. What we have done in this country is to index everything but the tax code, to insulate everyone but the taxpayer from inflation.

In this amendment we have not guaranteed the purchasers of property any protection against loss from inflation. We merely assure them in the years ahead that we will not tax that inflation. Without this amendment the Federal Government, which is the major cause of inflation, will continue to insidiously rob the people of this country of their savings by taxing inflation instead of real gain. That is what this issue is about.

As to the revenue figure the gentleman from Illinois (Mr. ROSTENKOWSKI) mentioned, it has been drawn out of a hat. I talked with the joint committee staff, and they do not know for sure what the revenue figures are going to be. As they state in the committee report, their figures have not taken into account any increased economic activity. Computer runouts that I have seen, as I mentioned earlier today, show that even prior to the enactment of the amendment there will be a $10 billion increase in tax revenues that will come in 1979 if the amendment is enacted.

We are not talking about the loss of revenue; we are talking about more jobs, and more revenue for the Treasury of this country.

I also say to those who complain that we should index other types of income and not just capital gains that they had their opportunity in the committee but the majority voted against extending indexing to the individual tax rates when they voted against the Gradison amendment. A majority did vote for the Archer amendment by a vote of 21 to 16—including a majority of both Democrats and Republicans on the committee.

Mr. Chairman, that demonstrated a true bipartisan support for this type of amendment, and the consensus in this country is that we need this type of amendment. I urge its adoption.

The CHAIRMAN. The question is on the committee amendment.

(The question was taken; and the Chairman announced that the noes appeared to have it.)

RECORDED VOTE

Mr. ARCHER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 249, noes 167, not voting 16, as follows:

[Roll No. 680]

AYES—249

Abdnor	Applegate	Bafalis
Ambro	Archer	Barnard
Anderson, Ill.	Armstrong	Baucus
Andrews, N. Dak.	Ashbrook	Bauman
	Badham	Beard, Tenn.
Bennett	Goldwater	Nowak
Bevill	Goodling	O'Brien
Biaggi	Gradison	Pattison
Blouin	Grassley	Perkins
Boggs	Green	Pettis
Bowen	Guyer	Pickle
Breaux	Hagedorn	Pike
Breckinridge	Hall	Poage
Brinkley	Hammer-schmidt	Pressler
Brooks		Pritchard
Broomfield	Hanley	Pursell
Brown, Mich.	Hannaford	Quayle
Brown, Ohio	Harkin	Quie
Broyhill	Harsha	Quillen
Buchanan	Heckler	Railsback
Burgener	Hefner	Regula
Burke, Fla.	Heftel	Rhodes
Burke, Mass.	Hightower	Rinaldo
Burleson, Tex.	Hillis	Risenhoover
Butler	Holland	Roberts
Byron	Hollenbeck	Robinson
Caputo	Holt	Roe
Carter	Horton	Rooney
Cavanaugh	Hubbard	Rousselot
Cederberg	Huckaby	Rudd
Chappell	Hyde	Runnels
Clausen, Don H.	Ichord	Ruppe
	Ireland	Russo
Clawson, Del	Jeffords	Ryan
Cleveland	Johnson, Colo.	Santini
Cochran	Kasten	Sarasin
Cohen	Kazen	Sebelius
Coleman	Kelly	Shuster
Collins, Tex.	Kemp	Sikes
Conable	Kindness	Skelton
Conte	Krueger	Skubitz
Corcoran	LaFalce	Smith, Iowa
Coughlin	Lagomarsino	Smith, Nebr.
Crane	Latta	Snyder
Cunningham	Leach	Spence
Daniel, Dan	Lent	Stangeland
Daniel, R. W.	Levitas	Stanton
Davis	Livingston	Steers
de la Garza	Long, La.	Steiger
Delaney	Long, Md.	Stockman
Dent	Lott	Stratton
Derrick	Lujan	Stump
Derwinski	Luken	Symms
Devine	Lundine	Taylor
Dickinson	McClory	Thone
Dicks	McCloskey	Thornton
Dornan	McDade	Treen
Duncan, Tenn.	McEwen	Trible
Edwards, Ala.	McKinney	Tucker
Edwards, Okla.	Madigan	Vander Jagt
Emery	Mahon	Waggonner
English	Mann	Walgren
Erlenborn	Marks	Walker
Ertel	Marlenee	Walsh
Evans, Colo.	Marriott	Wampler
Evans, Del.	Martin	Watkins
Evans, Ga.	Mattox	Whalen
Fenwick	Mazzoli	White
Fish	Michel	Whitehurst
Flippo	Milford	Whitten
Florio	Miller, Ohio	Wiggins
Flowers	Minish	Wilson, Bob
Flynt	Mitchell, N.Y.	Wilson, Tex.
Forsythe	Montgomery	Winn
Fountain	Moore	Wolff
Fraser	Moorhead, Calif.	Wydler
Frenzel		Wylie
Frey	Moorhead, Pa.	Yatron
Fuqua	Mottl	Young, Alaska
Gammage	Murphy, Pa.	Young, Fla.
Gaydos	Myers, Gary	Young, Mo.
Gibbons	Myers, John	Young, Tex.
Gilman	Natcher	Zeferetti
Ginn	Neal	
Glickman	Nichols	

NOES—167

Addabbo	Bonker	Dellums
Akaka	Brademas	Dingell
Alexander	Brodhead	Dodd
Ammerman	Brown, Calif.	Downey
Anderson, Calif.	Burke, Calif.	Drinan
	Burlison, Mo.	Duncan, Oreg.
Andrews, N.C.	Burton, John	Early
Annunzio	Burton, Phillip	Eckhardt
Aspin	Carney	Edgar
AuCoin	Carr	Edwards, Calif.
Baldus	Chisholm	Eilberg
Beard, R.I.	Clay	Evans, Ind.
Bedell	Collins, Ill.	Fary
Beilenson	Conyers	Fascell
Benjamin	Corman	Findley
Bingham	Cornell	Fisher
Blanchard	Cornwell	Fithian
Boland	Cotter	Flood
Bolling	D'Amours	Foley
Bonior	Danielson	Ford, Mich.

Ford, Tenn.	Markey	Rose
Fowler	Meeds	Rosenthal
Garcia	Metcalfe	Rostenkowski
Gephardt	Meyner	Roybal
Giaimo	Mikulski	Satterfield
Gonzalez	Mikva	Scheuer
Gore	Mineta	Schroeder
Gudger	Mitchell, Md.	Seiberling
Hamilton	Moakley	Sharp
Harrington	Moffett	Shipley
Harris	Mollohan	Simon
Hawkins	Moss	Slack
Holtzman	Murphy, Ill.	Solarz
Howard	Murphy, N.Y.	Spellman
Hughes	Murtha	St Germain
Jacobs	Myers, Michael	Steed
Jenkins	Nedzi	Stokes
Jenrette	Nix	Studds
Johnson, Calif.	Nolan	Thompson
Jones, N.C.	Oakar	Traxler
Jones, Okla.	Oberstar	Tsongas
Jones, Tenn.	Obey	Udall
Jordan	Ottinger	Ullman
Kastenmeier	Panetta	Van Deerlin
Keys	Patten	Vanik
Kildee	Patterson	Vento
Kostmayer	Pease	Volkmer
Krebs	Pepper	Waxman
Lederer	Preyer	Weaver
Lehman	Price	Weiss
Lloyd, Calif.	Rahall	Whitley
McCormack	Rangel	Wilson, C. H.
McFall	Reuss	Wirth
McHugh	Richmond	Wright
McKay	Rogers	Yates
Maguire	Roncalio	Zablocki

NOT VOTING—16

Ashley	McDonald	Sisk
Diggs	Mathis	Staggers
Hansen	Miller, Calif.	Stark
Le Fante	Rodino	Teague
Leggett	Sawyer	
Lloyd, Tenn.	Schulze	

The Clerk announced the following pairs:

On this vote:

Mrs. Lloyd of Tennessee for, with Mr. Rodino against.

Mr. Teague for, with Mr. Stark against.

Mr. McDonald for, with Mr. Miller of California against.

Mr. Sawyer for, with Mr. Staggers against.

Mr. Schulze for, with Mr. Ashley against.

Mr. Hansen for, with Mr. Diggs against.

Messrs. WOLFF, STRATTON, ZEFERETTI, WATKINS, and HANLEY changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. VANIK: Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Cut Extension Act of 1978".

(b) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 2. EXTENSION OF CERTAIN INDIVIDUAL INCOME TAX REDUCTIONS.

(a) GENERAL TAX CREDIT.—Section 42 (relating to general tax credit) is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION.—This section shall not apply to any taxable year ending after December 31, 1980."

SEC. 3. EXTENSION AND SIMPLIFICATION OF EARNED INCOME CREDIT.

(a) Section 43 (relating to the earned income credit) is amended to read as follows:

SEC. 43. EARNED INCOME.

(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

(b) LIMITATION.—The amount of the credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

(1) $400, over

(2) 10 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $4,000."

(c) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE INDIVIDUAL.—

(A) IN GENERAL.—The term "eligible individual" means an individual who, for the taxable year—

(i) is married (within the meaning of section 143) and is entitled to a deduction under section 151 for a child (within the meaning of section 151(e)(3)).

(ii) is a surviving spouse (as determined under section 2(a)), or

(iii) is a head of a household (as determined under subsection (b) of section 2 without regard to subparagraphs (A)(ii) and (B) of paragraph (1) of such subsection).

(B) CHILD MUST RESIDE WITH TAXPAYER IN THE UNITED STATES.—An individual shall be treated as satisfying clause (i) of subparagraph (A) only if the child has the same principal place of abode as the individual and such abode is in the United States. An individual shall be treated as satisfying clause (ii) or (iii) of subparagraph (A) only if the household in question is in the United States.

(C) INDIVIDUAL ENTITLED TO EXCLUDE INCOME UNDER SECTION 911 NOT ELIGIBLE INDIVIDUAL.—The term "eligible individual" does not include an individual who, for the taxable year, is entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States).

(2) EARNED INCOME.—

(A) The term "earned income" means—

(i) wages, salaries, tips and other employee compensation, plus

(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)).

(d) MARRIED INDIVIDUALS.—In the case of an individual who is married (within the meaning of section 143), this section shall apply only if a joint return is filed for the taxable year under section 6013.

(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowed under this section in the case of a taxable year covering a period of less than 12 months.

(f) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—

(1) IN GENERAL.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than $50 each—

(A) for earned income between $0 and $8,000, and

(B) for adjusted gross income between $4,000 and $8,000.

SEC. 4. EXTENSION OF CERTAIN CORPORATE INCOME TAX REDUCTIONS.

The following provisions are each amended by striking out "December 31, 1978" and inserting in lieu thereof "December 31, 1980" and by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1981":

(1) section 11(b) (relating to normal tax);

(2) section 11(d) (relating to surtax exemption);

(3) section 821(a)(1) (relating to mutual insurance companies); and

(4) section 821(c)(1)(A) (relating to alternative tax for certain small companies).

SEC. 5. NEW TARGETED JOBS TAX CREDIT.

Section 51 (relating to amount of credit) is amended to read as follows:

SEC. 51. AMOUNT OF CREDIT.

(a) DETERMINATION OF AMOUNT.—The amount of the credit allowable by section 44B for the taxable year shall be the sum of—

(1) 50 percent of the qualified first-year wages for such year, and

(2) 16⅔ percent of the qualified second-year wages for such year.

(b) QUALIFIED WAGES DEFINED.—For purposes of this subpart—

(1) IN GENERAL.—The term "qualified wages" means the wages paid or incurred by the employer during the taxable year to individuals who are members of a targeted group.

(2) QUALIFIED FIRST-YEAR WAGES.—The term "qualified first-year wages" means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer (or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual's rehabilitation plan).

(3) QUALIFIED SECOND-YEAR WAGES.—The term "qualified second-year wages" means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

(4) ONLY FIRST $6,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages, and the amount of the qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $6,000 per year.

(5) WAGES DEFINED.—Except as provided in subsection (g)(2), the term "wages" has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

(c) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

(A) a WIN registrant,

(B) a vocational rehabilitation referral,

(C) a food stamp youth,

(D) a Vietnam veteran who is a member of a household receiving food stamps,

(E) an SSI recipient,

(F) a general assistance recipient, or

(G) a youth participating in a qualified cooperative education program.

(2) WIN REGISTRANT.—The term "WIN registrant" means any individual who is certified by the Secretary of Labor as having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act.

(3) VOCATIONAL REHABILITATION REFERRAL.—The term "vocational rehabilitation referral" means any individual who is certified by the Secretary of Labor or by the appropriate vocational rehabilitation agency as—

(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

(4) FOOD STAMP YOUTH.—

(A) IN GENERAL.—The term "food stamp youth" means any individual who is certified by the Secretary of Labor as meeting—

(i) the age requirements of subparagraph (B), and

(ii) the food stamp requirements of paragraph (9).

(B) AGE REQUIREMENTS.—An individual meets the age requirements of this subparagraph if such individual has attained age 18 but not age 25 on the hiring date. For purposes of the preceding sentence, an individual who, on the hiring date, has attained age 16 and has graduated from high school or a vocational school shall be treated as having attained age 18.

(5) VIETNAM VETERAN WHO IS MEMBER OF HOUSEHOLD RECEIVING FOOD STAMPS.—The term "Vietnam veteran who is member of a household receiving food stamps" means any individual who is certified by the Secretary of Labor as—

(A) (i) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, any part of which occurred after August 4, 1964, and before May 8, 1975, or

(ii) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability if any part of such active duty was performed after August 4, 1964, and before May 8, 1975,

(B) not having any day during the preemployment period which was a day of extended active duty in the Armed Forces of the United States, and

(C) meeting the food stamp requirements of paragraph (9).

For purposes of subparagraph (B), the term "extended active duty" means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

(6) SSI RECIPIENTS.—The term "SSI recipient" means any individual who is certified by the Secretary of Labor as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security income benefits of the type described in section 1616 of such Act or section 212 of Public Law 93-66) for any month ending in the pre-employment period.

(7) GENERAL ASSISTANCE RECIPIENTS.—

(A) IN GENERAL.—The term "general assistance recipient" means any individual who is certified by the Secretary of Labor as receiving assistance under a qualified general assistance program for any period of not less than 30 days ending within the pre-employment period.

(B) QUALIFIED GENERAL ASSISTANCE PROGRAM.—The term "qualified general assistance program" means any program of a State or a political subdivision of a State—

(i) which provides general assistance or similar assistance which—

(I) is based on used, and

(II) consists of money payments, and

(ii) which is designated by the Secretary (after consultation with the Secretary of Health, Education, and Welfare), as meeting the requirements of clause (i).

(8) YOUTH PARTICIPATING IN A QUALIFIED COOPERATIVE EDUCATION PROGRAM.—

(A) IN GENERAL.—The term "youth participating in a qualified cooperative education program" means any individual who is certified by the school participating in the program as—

(i) having attained age 16 and not having attained age 19,

(ii) not having graduated from a high school or vocational school, and

(iii) being enrolled in and actively pursuing a qualified cooperative education program.

(B) QUALIFIED COOPERATIVE EDUCATION PROGRAM DEFINED.—The term "qualified cooperative education program" means a program of vocational education for individuals who (through written cooperative arrangements between a qualified school and 1 or more employers) receive instruction (including required academic instruction) by alternation of study and school with a job in any occupational field (but only if these 2 experiences are planned by the school and employer so that each contributes to the student's education and employability).

(C) QUALIFIED SCHOOL DEFINED.—The term "qualified school" means—

(i) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market.

(ii) the department of a high school exclusively or principally used for providing vocational education to persons who are available for study in preparation for entering the labor market, or

(iii) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market.

A school which is not a public school shall be treated as a qualified school only if it is exempt from tax under section 501(a).

(D) INDIVIDUAL MUST BE CURRENTLY PURSUING PROGRAM.—Wages shall be taken into account with respect to a qualified cooperative education program only if the wages are attributable to services performed while the individual meets the requirements of subparagraph (A).

(9) FOOD STAMP REQUIREMENTS.—An individual meets the food stamp requirements of this paragraph if the appropriate food stamp agency determines that, during the pre-employment period, such individual was a member of a household which, at any time during such period, was receiving food stamps under the Food Stamp Act of 1977.

(10) PRE-EMPLOYMENT PERIOD.—The term "pre-employment period" means the 60-day period ending on the hiring date.

(11) HIRING DATE.—The term "hiring date" means the day the individual is hired by the employer.

(d) QUALIFIED FIRST-YEAR WAGES CANNOT EXCEED 30 PERCENT OF FUTA WAGES FOR ALL EMPLOYEES.—The amount of the qualified first-year wages which may be taken into account under subsection (a)(1) for any taxable year shall not exceed 30 percent of the aggregate unemployment insurance wages paid by the employer during the calendar year ending in such taxable year. For purposes of the preceding sentence, the term "unemployment insurance wages" has the meaning given to the term "wages" by section 3306(b).

(e) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT.—

(1) IN GENERAL.—For purposes of this subpart, remuneration paid by an employer to an employee during any year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in a trade or business of the employer.

(2) SPECIAL RULE FOR CERTAIN DETERMINATION.—Any determination as to whether paragraph (1), or subparagraph (A) or (B) of subsection (g)(1), applies with respect to any employee for any year shall be made without regard to subsections (a) and (b) of section 52.

(3) YEAR DEFINED.—For purposes of this subsection and subsection (g), the term "year" means the taxable year; except that, for purposes of applying so much of such subsections as relates to subsection (d), such term means the calendar year.

(f) SECRETARY OF LABOR TO NOTIFY EMPLOYERS OF AVAILABILITY OF CREDIT.—The Secretary of Labor, in consultation with the Internal Revenue Service, shall take such steps as may be necessary or appropriate to keep employers apprised of availability of the credit provided by section 44B.

(g) SPECIAL RULES FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—For purposes of this subpart—

(1) UNEMPLOYMENT INSURANCE WAGES.—

(A) AGRICULTURAL LABOR.—If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any year constitute agricultural labor (within the meaning of section 8306(k)), the term "unemployment insurance wages" means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes "wages" within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

(B) RAILWAY LABOR.—If more than one-half of remuneration paid by an employer to an employee during any year is remuneration for service described in section 3306(c)(9), the term "unemployment insurance wages" means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions uder section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) if the maximum amount subject to such contributions were $500 per month.

(2) WAGES.—In any case to which subparagraph (A) or (B) of paragraph (1) applies, the term "wages" means unemployment insurance wages (determined without regard to any dollar limitation).

Mr. VANIK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. ROUSSELOT. Mr. Chairman, reserving the right to object, I only do so to make sure I understand what our colleague, the gentleman from Ohio (Mr. VANIK) is attempting to do.

I would ask the gentleman: At this point, what is it you are doing?

Mr. VANIK. Mr. Chairman, if the gentleman will yield, I have asked unanimous consent that the amendment that I have offered be considered as read and printed in the RECORD at this point. If that is approved by the House, then I will advise the House as to the language of my amendment.

Mr. ROUSSELOT. Mr. Chairman, further reserving the right to object, is this Vanik-Pickle amendment exactly the same as the one the gentleman offered in the Committee on Ways and Means?

Mr. VANIK. The amendment is as it was printed in the CONGRESSIONAL RECORD several days ago and corrected by the Committee on Rules. It is exactly the amendment that I offered in the Committee on Ways and Means with two changes.

Mr. ROUSSELOT. Would the gentleman tell us what those two changes are?

Mr. VANIK. Mr. Chairman, I would add that this amendment is cosponsored by my colleague, the gentleman from Texas (Mr. PICKLE), and the changes we have incorporated are identical, the two changes we have made, and the first change conforms the earned income credit language to the change in the earned income credit which was added by the Committee on Ways and Means and is in the committee bill at the present time.

The other change was a modification of the jobs credit program to provide the change that was incorporated by the Committee on Ways and Means in the bill that is before the House at this time.

Those two changes were made in existing programs and we simply changed our amendment to conform to the actions of the Committee on Ways and Means on these two items.

Mr. ROUSSELOT. Further reserving the right to object, I thank the gentleman for explaining the differences. Mr. Chairman, the only reason I ask this question is because I wanted to be sure that not only I, but other Members of the House, understood the differences between the amendments offered, the one you offered in the committee and the one now to come before us. I think there was a difference when it went through the Committee on Rules. We have had so many changes, as the gentleman understands, and so many different things have occurred since we voted on your amendment in committee.

Does Mr. Blumenthal support this amendment?

Mr. VANIK. No; I cannot say that.

Perhaps the chairman of the committee may be willing to explain the question of conformity.

Mr. ROUSSELOT. Mr. Chairman, I withdraw my reservation of objection, and I thank the gentleman.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Chair would ask the gentleman from Oregon (Mr. ULLMAN) to designate the Member who will control the time for those in opposition to the amendment.

Mr. ULLMAN. Mr. Chairman, I designate the gentleman from South Carolina (Mr. HOLLAND) to control the time in opposition.

The CHAIRMAN. Pursuant to the rule, the gentleman from Ohio (Mr. VANIK) will be recognized for 15 minutes, and the gentleman from South Carolina (Mr. HOLLAND) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I believe the Members of the House are fully aware of what this amendment does. It simply extends those tax cuts which expire this year.

The proposal simply extends the general tax cut of $35 per person; the earned income credit, as modified by the Committee on Ways and Means; the jobs credit, as modified by the Committee on Ways and Means; and it provides for an extension of the small business surtax exemption.

Mr. Chairman, the Treasury impact of the bill is $9 billion; and if we did not take this action, there would be a tax increase of 7 percent across the board.

Our proposal would involve a Treasury cost of $9 billion. The committee bill involves a Treasury cost of $16 billion, on top of that. The Corman proposal calls for a $18 billion Treasury cost on top of this figure. Of course, the Roth-Kemp proposal would cost $28 billion more than the proposal offered by the gentleman from Texas (Mr. PICKLE) and me. If our proposal is adopted, it will constitute the one single thing which our Government has done this year to combat inflation. It would reduce this country's deficit to less than $29 billion.

Mr. Chairman, I think it would be a signal to the world that America is doing something about inflation. It will leave tremendous amounts of money in the money markets so that the private sector can borrow it. It will reduce the pressure on interest rates. It will reduce the pressure on inflation, and for 80 percent of the American taxpayers this bill will provide more relief than will be provided by the committee's tax cut bill.

All of the tax cut proposals before the Congress today are going to be brought about by using borrowed money. Every dollar of every single tax cut today is going to be borrowed and then given away. I do not think the American people want that to happen. They want tax cuts to come out of a Government which is going to spend less or through tax reform. None of the proposals before the committee offer that alternative.

Mr. Chairman, through our proposal, we offer an opportunity to fight the inflation which is overwhelming this country.

I want to say this, that today 23 percent of the income tax revenues of this country are spent to pay interest on what we have already borrowed. We are very close to the danger point. The collapsing dollar signals the credibility of our currency.

Mr. Chairman, I think it is regrettable that we have to be acting on a tax reduction bill this close to an election. When we organize the new Congress for those who are here, I hope that a rule will be adopted to provide that no tax cut bill can be considered by the Congress within 6 months of an election. I want tax laws written by prudent people.

Next year we are going to have to deal with the social security problem in a responsible way.

If you waste away all of this country's credit on these bills that are before us this year, you are not going to have the resources or the credit to face up to the realities of tomorrow.

Mr. Chairman, it is our solemn duty as legislators to be wise and to be provident. As the gentleman from Texas (Mr. WRIGHT) said a few days ago at a Committee on Ways and Means meeting, "as Members of this Congress we must protect our colleagues from their folly, as we must protect our constituents from their fantasies."

Mr. Chairman, I urge that the Members of this House look at the credibility of this country that will be restored by the adoption of our proposal. We can reverse the tide of inflation. I hope you will join in this effort by adopting the proposal that my colleague, the gentleman from Texas (Mr. PICKLE) and I offer to the Members of this House as an alternative to the other proposals that are before us.

Mr. Chairman, I yield such time as he may consume to my distinguished colleague, the gentleman from Texas (Mr. PICKLE). I want to point out to my colleagues that we come from different parts of America, from different political philosophies, but we have come to a conconclusion, a joint conclusion, on this very, very important and critical matter before the Congress.

I yield to my colleague, the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. I thank my colleague, the gentleman from Ohio, for yielding.

Mr. Chairman, I think it is significant to realize that whenever a Vanik and a Pickle can get together, there is plenty of room for everybody in the House to join us. We think we have an amendment of substance that deserves serious consideration. If we pass the Vanik-Pickle amendment, we can reduce the deficit by $10 to $15 billion, and we could have a surplus or a balanced budget by 1981. Can you imagine that? I think that is worth working for.

I am mindful that there is urging for the approach that the Kemp-Roth bill has recommended, but I do not think there is any great ground swell in support of this Kemp-Roth medicine show. The people understand that that old snake oil is not going to cure us. It may look good; it may smell good in an odorless sort of way; but it is just going to give us the trots; it will not cure us. We have got to keep that in mind.

I do not think there is any good in having a tax cut unless it is going to really help fight inflation. Let me give the Members these figures. To my colleagues who say that we must pass a tax cut in order to allow the taxpayers to keep up with inflation, I say that you cannot ever hope to put out a fire by throwing more gasoline no it. A tax cut would merely put money in one pocket while higher inflation takes it out of the other. We cannot continue to play those kinds of games with the American people.

Look at what we have offered here. In 1975 Congress passed a $22 billion tax cut, and we had a deficit of $43.9 billion.

In 1976 we had a tax cut of $24 billion and a deficit of $78 billion. In 1977 we had a tax cut of $34 billion and then a deficit of $45 billion. This year it is estimated at best there will be a $43 billion deficit. That means in 4 years we have had to absorb a deficit of $210 billion. It seems to me it is time for us to close ranks and not continue this same tax cut and high deficit. If we can reduce our deficit at least $10 to $15 billion, which the Vanik-Pickle amendment will do, then I think the American people will say that we have done a good thing.

Mr. VANIK. Mr. Chairman, I would like to reserve the remainder of our time.

The CHAIRMAN. The Chair recognizes the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am reluctant to oppose my beloved subcommittee chairman, the gentleman from Ohio (Mr. VANIK) in most anything the gentleman wants to do. I am quite disappointed that the gentleman did not use the same argument here during debate on the amendments that the gentleman used this morning in general debate, because I have been laboring under the impression since the Vanik-Pickle motion came before the Committee on Ways and Means that my distinguished friend from Ohio (Mr. VANIK) really wanted to balance the budget. That made me feel a little bit better about things, because it is something that was sort of a new idealogy.

This morning, though, the only thing the gentleman could express was discontent with the capital gains features of this entire Ways and Means package. I suspect that out of that discontent rises the Vanik-Pickle resolution, which I call the do-nothing amendment. Sometimes there is a great amount of benefit in doing nothing; but I think the key is given to us by the two authors of this amendment on page 277 of the committee report wherein it is stated:

> Almost 80 percent of the taxpayers of America will lose more in inflation than they gain in the tax cuts which present a political illusion of benefit.

Mr. Chairman, that statement is half true. The taxpayers of this country will lose by reason of inflation, but the loss will be double if we do not enact the Ways and Means Committee bill, because we will be giving no tax cut under the Vanik-Pickle resolution to make up for that inflation and they are exactly right that 80 percent of the taxpayers of this country will be losing a double portion if we fail to act on what is in my judgment a sensible, rational approach.

If there is anything I have seen in this debate that is worse than Kemp-Roth, it is this particular amendment. They say it is going to save money. In 1979 it will cost $1.9 billion to the taxpayers of this country, because it replaces the general jobs credit with a targeted jobs credit.

In addition to that, we are told time and again that every 1 percent of this Nation's unemployment costs us $19 billion.

This particular study by Data Resources, Inc., states that it would generate by 1980 an additional 300,000 jobless individuals in America—a 0.3-percent rise unemployment rate. Three-tenths of 1 percent of $19 billion, as I calculate, comes to $5.7 billion; so we add that onto it.

In addition to that, we will reduce the gross national product by 1 percent in 1980 by doing nothing. That projects an additional $23 billion loss under this provision.

In addition to that, the projected tax increase by reason of doing nothing is roughly $10 billion in 1980.

So add all that up and by the Vanik-Pickle balanced budget, do-nothing resolution, you have a loss to this Nation of $40.6 billion. I think that is a serious matter for this committee to consider. It means increased unemployment, increased inflation, lost jobs, replacing of jobs credit that is already working with one that is allegedly going to be targeted.

In addition to that, you will raise taxes for Americans by reason of inflation.

I respectfully suggest to this committee that we vote this down, that we continue with the committee version.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. HOLLAND. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I would be happy to know how reducing the deficit to $29 billion from some $40 billion is going to fuel inflation?

If the gentleman will yield for another 30 seconds, I was out in my district 2 weeks ago. I had five town meetings and everyone said, "Forget about those phony tax cuts. You always pass them anyway. They don't help. Do something about inflation by reducing the deficit."

I just wonder how by reducing the deficit to $29 billion we will raise inflation.

Mr. HOLLAND. I believe I just categorized it as $40 billion.

Mr. JOHN L. BURTON. No; the gentleman just said as a fact it would fuel inflation. I want to find out how the gentleman arrives at that conclusion.

Mr. HOLLAND. By failure of the tax increase, you continue inflation. I did not say fuel. I said continue the inflation at the present rates; by not giving the taxpayers of this country this relief, you will cost them $10 billion out of their pockets.

Mr. JOHN L. BURTON. Mr. Chairman, may I ask, would the reduced deficit not somehow reduce or slow inflation? Somebody keeps telling me that.

Mr. HOLLAND. Perhaps they tell the gentleman that in California, I do not know. They do not tell me that in South Carolina anymore.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. HOLLAND. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, may I respectfully say to the gentleman that I cannot understand his reasoning. I think the gentleman was here and voted for this tax cut we instituted 2 years ago, was he not?

Mr. HOLLAND. The gentleman is correct.

Mr. DE LA GARZA. That may have been an incentive, along with other things, that contributed to bring unemployment down.

Mr. HOLLAND. Among other things, among many other significant things. It was not that measure alone that brought unemployment down.

Mr. DE LA GARZA. Mr. Chairman, I cannot accept the fact that this does nothing. The gentleman says this does nothing, and yet it continues a tax cut that the gentleman supported. That helped, among other things, to bring unemployment down. It continued to help, and it can reduce the balance of unemployment substantially. Ostensibly, it would continue to reduce unemployment.

The gentleman's statement that it does nothing strikes me as perhaps being redundant. How can the gentleman say it does nothing when all the indices show that it reduced unemployment?

With the gentleman's support, we tried to reduce unemployment, and many of us have agreed to continue to work toward that end and to balance the budget.

So can the gentleman explain his statement to me?

Mr. HOLLAND. Mr. Chairman, as a member of the Committee on Ways and Means, I would like to proclaim to the Members that we can take full credit for the improvement in our Nation's economy and the reduction of employment, but there are a lot of factors involved.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. HOLLAND. I yield to the chairman of the committee.

Mr. ULLMAN. Mr. Chairman, I thank the gentleman for yielding, and I commend him on his presentation.

But is this not the situation: If we vote for Vanik-Pickle, we are voting to junk this bill we have developed, this bill which contains so much in tax relief for the average middle-income American?

That is what we are talking about. This bill gives relief where it needs to be given now in this economy.

In addition, the fact of the matter is that even if we vote for Vanik, that would then have to go to conference, and we would have to meet with the other body and write a bill in conference. That is not the way to legislate. We ought to write our bill here and then go to conference and iron out our differences. We should not let them write the bill for us over in conference.

Mr. HOLLAND. Mr. Chairman, I agree with the committee chairman, and I say again that in my judgment this "panic" vehicle we have is the result of discontent by some of the Members with some portions of this entire package. I must tell this body that I voted against

some amendments I would have like to have voted for in the committee, and I did that in the interest of achieving a compromise. There were also some amendments I wanted to offer but did not for that purpose.

Mr. Chairman, I urge the rejection of this amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. HOLLAND. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I would just like to state that I disagree with my colleague, the gentleman from Oregon (Mr. ULLMAN) who, I think, along with his committee, deserves a great deal of credit for the product he has brought to us.

But I would like to suggest that the difference between his position and that of the gentleman in the well and the position of the gentleman from Ohio (Mr. VANIK), the gentleman from Texas (Mr. PICKLE), and the distinguished gentleman from California (Mr. JOHN L. BURTON) is a difference in the basic assumptions on which they are operating.

I think the gentleman in the well is operating on the basis of the inevitability of a continued rise in inflation, and I think he is probably correct. If we continue with this policy of increasing the spending and decreasing the taxes, he is probably correct.

I think the assumptions behind the Vanik amendment and the statements that the gentleman from California (Mr. JOHN L. BURTON) is hearing in California are that if we can somehow or other reduce this deficit, we will be able to get a handle on inflation. Inflation is the cruelest tax of all, and I think that is the difference between the two arguments.

I think my friends, the gentleman from Ohio (Mr. VANIK) and the gentleman from Texas (Mr. PICKLE), have the better of the argument, Mr. Chairman, and I hope the committee supports the Vanik amendment.

Mr. HOLLAND. Mr. Chairman, I think the gentleman is laboring under an illusion on the subject of this amendment. It is like a fish laying out there in the moonlight. I think if the gentleman gives some time to this, if he takes a little time to study the issue, he will appreciate its true aroma.

Mr. VANIK. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. ICHORD).

Mr. ICHORD. Mr. Chairman, I have been around this body long enough that I can count votes, but I am constrained to rise in behalf of the Pickle-Vanik substitute. The gentleman from California and the gentleman from Oregon hit the nail on the head. I rise in support of the Pickle-Vanik substitute because it will result in a smaller deficit. It will result in less inflation and less unemployment.

Mr. Chairman, in the last session of Congress I conducted hearings for the Democratic research organization on the subject of Federal deficits, and we heard from all of the important people in the country dealing with money. We heard from Arthur Burns, from James Dusenberry, chairman of the department of economics at Harvard University, both liberal and conservative economists, from James Needham, the president of the New York Stock Exchange, from our colleague, the gentleman from Wisconsin (Mr. REUSS) chairman of the Committee on Banking, Finance and Urban Affairs, Henry Wallich of the Board of Governors of the Federal Reserve System; William Simon, Secretary of the Treasury; Carla Hills, Secretary of HUD; from former Congressman Brock Adams, the Small Business Administrator and many others. They disagreed on various issues. But from all of them there was a remarkable consensus of agreement that if this country continues its deficit spending, it is headed for catastrophe. The evidence and the testimony was beyond doubt, I submit, Mr. Chairman, that deficits do cause inflation. The severity of inflation varies directly with the degree to which the debt is monetized. The evidence gathered also repudiate the often "received doctrine" that there is a trade-off between inflation and unemployment.

There is no trade-off, Mr. Chairman, either in the short run or in the long run, between inflation and unemployment. In point of fact, inflation causes unemployment. Inflation causes unemployment because it erodes real profits, and by increasing unrealizable inventory profits, you increase tax liability. Profits are eroded because as real income decreases, product demand decreases. This occurs at the same time that the cost or production increases. There are many other adverse impacts on the economy which I do not have time to detail but, in summary, deficits cause inflation. Inflation causes unemployment, therefore deficits cause unemployment.

I think the gentleman from Texas and the gentleman from Ohio are exactly correct: There is an old saying in my section of the country which originated in the pioneer days which goes, "if you're going to dance you have to pay the 'fiddler'." For the last two decades the Federal Government has been dancing without paying the fiddler. Deficits of $50 billion, $60 billion, $70 billion, to the point where we now owe a national debt of approximately $812 billion dollars and are having to pay interest to serve the debt of $45 billion dollars annually, we spend the money without collecting the taxes. Now we have a new brilliant idea "cut the taxes but don't cut the spending." You can't do either one without experiencing devastating inflation. If we really want to solve the problems of inflation and unemployment, let us start paying the fiddler if we continue to do the spending dance.

Mr. HOLLAND. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I stand here in the House of Representatives to say that if the Members vote for Vanik-Pickle, they are voting to move the legislation of this tax bill over to the Senate. If they vote for Fisher-Corman, they are voting to move the deliberations of this body down to the Treasury Department.

Let me tell the Members that there is a practical reason for voting against Vanik-Pickle.

The social security tax is going up tremendously January 1, 1979. We need an offset to that if the American people are not to have a substantial increase in their withholding at that time. And one offset we need is a reduction in withholding tax rates as a result of an income tax cut at this time.

Mr. Chairman, I must say I am somewhat amused by the latter-day fiscal conservatives who come in here and say that fiscal policy is entirely a matter to be loaded on the shoulders of the American taxpayer. There are two sides to that coin. We can balance the budget at a high tax level if we want, but I do not think that is what the American people want. I hope we will consider their wishes as we struggle for a better fiscal policy.

Mr. VANIK. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, there are four fundamental reasons why we should support the Vanik-Pickle proposal. One is that it is anti-inflationary. This is the only vote we will cast this afternoon that is deflationary.

I called one of the officers of the Federal Reserve Board, and I said, "What would happen if we passed Vanik-Pickle"? He said, "The high probability is that we would have a reduction in interest rates."

In addition, we do not have excessive government intrusion in the private money market. If Members are really sincere about fighting inflation, here is their chance, not just to talk about it, but to vote.

No. 2, capital formation. We talk about the need for capital formation. If we are interested in capital formation, as the interest rates go down, that stock market is going to take off. The stock market becomes a viable possibility for capital formation.

No. 3, we want a tax system that has justice. The lower your income, the higher the percentage of your income you spend on interest, the more likely you are going to have a tough time to buy a house where high interest rates exclude you, and the more likely inflation is going to impinge on you.

Finally, we are looking for one other thing, and let us be frank. We are looking for political acceptability. I know it is great to go to our home areas and get up at that rally and say, "I voted to cut taxes," but let me tell the Members, I think there is a lot more political mileage in going back home and saying, "I voted to cut inflation."

That is precisely what Members would be doing with this vote. I urge my colleagues to do the tough thing, the responsible thing, and vote for this amendment.

Mr. HOLLAND. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, the

gentleman from Illinois (Mr. SIMON) stood in the well and said that he would much rather go home and talk about how he cut inflation. I must say that somewhat amused me, because that would not be his speech. He would have to say, "I did not cut your taxes; I raised them."

The effect of the "Fickle-panic—Vani-Pickle" motion—the Bobbsey Twins—the show in the well and one of the best I have seen orchestrated in a long time—is a tax increase on the American people. It ought to be rejected, and I hope that it is rejected overwhelmingly.

Mr. HOLLAND. Mr. Chairman, I yield 1 minute to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, of course what the gentleman from Wisconsin (Mr. STEIGER) says is right and obvious, that from the very beginning the Vanik-Pickle proposal puts all the burden of inflation upon the taxpayer of America by refusing to not cut expenditures. What the Congress must do, if we really want to defeat inflation, is not to say, "We will not cut your taxes. We are going to make you suffer 100 percent because of inflation." That is ridiculous.

We ought to be here reducing those expenditures that we do not need, and there are some. I think all of us in Government admit that. Those ought to be reduced, but we ought to take the inflation out of the tax system. That is what we are doing with the committee bill.

So, I would urge the Members to vote for the committee and against Mr. PICKLE and Mr. VANIK, those two fine, distinguished gentlemen.

Mr. VANIK. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, if you think VANIK and PICKLE is strange, how about ICHORD and BURTON?

I would just say this: I do not see how anyone can say we are reducing the deficit because $29 billion is going to be inflationary. This cut will take inflation out of the tax code and leave it in the grocery stores where the people buy their food. There is no way in the world anybody can defend increasing the deficit and increasing inflation.

We ask, what is bothering those people? There is the loss of purchasing power, and they are losing more in purchasing power from the hidden tax of inflation than from the IRS. I think this is a sound approach.

One final thing: The Vanik amendment is exactly the same as the committee bill as it applies to the——

Mr. HOLLAND. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. The gentleman has more time than I have.

Mr. HOLLAND. I yielded to the gentleman.

Mr. JOHN L. BURTON. The gentleman had 2 minutes, and I have 2 seconds. I will yield to the gentleman.

Mr. DE LA GARZA. Mr. Chairman, I commend the gentleman in supporting this.

Mr. DE LA GARZA. Mr. Chairman, I support this amendment. Those of us devoted to balance the budget should support this amendment. If you look at all the proposals, this comes the closest to doing what all of us have tried to do. Reduce taxes. This continues the present cut and reduce the deficit. We know that this by itself will not do it, but it will help. We still must proportionately reduce expenditures, and we are working on that. I have just introduced a bill that will save $25,088 per year. It seems so small, but its all the small cuts that will continue the march toward the ultimate end of a balanced budget.

Mr. JOHN L. BURTON. I am one who has consistently voted for a balanced budget, which is more than the rest of you people supporting the committee bill can say.

Mr. HOLLAND. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, the Vanik-Pickle amendment should be defeated. The tax cut is needed and urgent. The reasons for the tax cut are many. For openers, taxpayers are forced into higher and higher brackets by inflation each year.

Regular salary increases often bring no increase in real wages, but they do put taxpayers into higher tax brackets. These extra inflation taxes not only lower the taxpayer's standard of living, but also force him/her to pay an increasingly higher proportion of income to the Government.

Small wonder that taxpayers are in revolt. The Congress, by not indexing tax brackets, against inflation or by not making anti-inflationary tax cuts every year, is actually increasing taxes without a vote and without a law. Estimates on this extra inflation tax run to over $10 billion a year.

For years, and especially at a low inflation rate, this congressional skullduggery went undetected. Congress has had a great incentive to allow inflation to flourish and thereby allow tax receipts to rise automatically. Revenues for its insatiable spending appetite were automatically increased each year and yet no Member of Congress voted for tax increases. But now the game is over. Taxpayers are rightfully demanding protection against inflation taxes of all times.

Another good reason for the tax cut is the huge increase in social security which was unwisely voted by Congress last December. That tax must be reduced and the social security tax system overhauled, but until that happy day, we have to take the unreasonable increases to be effective January 1, 1979, into account when we cut income taxes.

Another purpose of the tax cut is to stimulate economic activity. We are trying to encourage more investment to create new and better jobs and more productivity to become more competitive internationally.

This is the message our distinguished colleague from New York, (Mr. KEMP) has delivered so effectively over the past year. Producers and consumers in an economy need incentives, and they need certainty. This bill gives some beginning incentives, which ought to be increased, but it does not do much to add certainty. Indexation, as suggested by the gentleman from Ohio (Mr. GRADISON) is an urgent need to give real certainty. So is the excellent amendment of the gentleman from Texas (Mr. ARCHER) which is intended to protect property owners from capital gain taxes on inflation.

An additional reason to cut taxes is that it tends to hold down Congress spending. We are talking about taxes today, but the real culprit is spending. We can control taxes by controlling spending, but since we have been unable to control spending, we have to try to make less money available to the spenders.

To do otherwise, to fail to cut taxes, that is, is to place the entire burden of inflation on the taxpayer. Some of that burden ought to be on Government, on us. We ought to make some sacrifices instead of taxpayers. We can force a little sacrifice on ourselves by denying ourselves income to spend.

These are the principal reasons then for this bill: First, to mitigate the unjust and unreasonable tax increases caused by inflation and social security taxes; Second, to stimulate economic activity, create jobs, increase incentives and productivity.

Should this House, for instance, make the mistake of voting for the Vanik-Pickle amendment. we would be allowing a tax increase of about $10–13 billion for inflation and about $10 billion for social security, or a total tax increase of from $20–25 billion.

I doubt if any Member of this House wants to vote for a $20 billion tax increase.

For these single reasons, it is obvious that the committee bill, H.R. 13511, the Jones bill, is the very least we can pass. We ought to do better. We should pass Kemp-Roth, the full Steiger bill, and the Gradison amendment. But we surely cannot do less.

Mr. VANIK. Mr. Chairman, I yield the balance of my time to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman. the No. 1 fear in America today is the fear of inflation. The American people are scared to death of inflation. I think the proposal before us now is the only way today to vote to lower inflation and address a positive response to the fear of inflation.

In closing, Mr. Chairman, I think the American people will rise up and call us blessed if we pass this amendment and thus reduce the Federal deficit and reduce inflation and march forward towards a balanced budget.

We have the opportunity to write a new chapter in our fight against inflation, and it will come to the American people like a breath of fresh air in the middle of a feed lot.

Mr. Chairman, I would ask that, of the two amendments pending, the Members vote for this one. We will still have a vote for those other amendments, but this is our best opportunity to cut away at inflation.

I ask for an "aye" vote on this amendment.

Mr. HOLLAND. Mr. Chairman, I yield myself the last minute.

Mr. Chairman, I have found this debate very stimulating. We have found some new budget balances in this House. We have quoted a Treasury official, who perhaps should be brought down and made known to us by name and title, because he is telling us if we pass this amendment the interest rates will go down. That is not what was told this Member by the Treasury Department. I trust the call was made during regular hours and the person reached was not the janitor down there.

Finally, the gentleman from Texas (Mr. PICKLE) says the people will call us blessed. The gentleman from California (Mr. BURTON) should know by now that the social security taxes are going up, and if we do not give the people of this country some relief on taxes by way of this measure before us now, then those people will call us something beginning with a "B", but it will not be "blessed."

I strongly encourage the House to reject this amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, though I do not expect this amendment to be accepted, the gentleman from Ohio (Mr. VANIK) and the gentleman from Texas (Mr. PICKLE) deserve our thanks for offering us what I believe to be a real opportunity to fight inflation rather than accept its inevitability.

I know the pressures for a tax cut are almost overwhelming this election year. I would doubt that Lou Harris or Gallup could turn up more than a handful of citizens who would oppose such. Indeed, all of the other amendments offered to this bill will increase the committee's tax cut. Only this amendment holds the line.

And I think that is important. I see this amendment as the only chance to reduce the budget deficit by a significant amount—it won't be done by cutting spending in spite of some rather heroic efforts and an occasional dramatic result. This amendment will cut the deficit to $28 or $29 billion—still an outrageously high figure that should induce no complacency, but substantially less appalling than if this amendment is not adopted.

And, Mr. Chairman, I can think of nothing we could do that would do more to instill confidence in the business community, and, indeed, in the international banking community, that this Government is serious about getting a handle on our fiscal policies than to adopt this amendment and reduce that deficit. I believe it would go a long ways toward halting the slide of the dollar on the international exchanges and to halting and turning back the inflation that has been increasing again these last few months.

We know inflation is the cruelest tax of all. We know that inflation is the cause of most of our troubles—with cities, schools, farmers, small businessmen, our own families, and those of our constituents. If we can reverse inflation we will have done more to help our country than a tax cut—which I think will tend to have the opposite affect.

I know that conditions are not identical, but I believe that the Kennedy tax cut in the early 1960's—in the face of indications that the Eisenhower recession was over—started us on the inflationary cycle, aggravated then by the Johnson theory that we could have both guns and butter. I believe that it is time we discipline ourselves as we have failed to do in the recent past. We do not need to stimulate an inflationary economy; we need to restrain it. I hope the Vanik-Pickle amendment is adopted.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. VANIK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VANIK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 57, noes 356, not voting 19, as follows:

[Roll No. 681]

AYES—57

Ammerman	Ford, Tenn.	Pattison
Bedell	Garcia	Pease
Bennett	Gonzalez	Pickle
Bingham	Gore	Pike
Bonior	Harkin	Reuss
Brodhead	Ichord	Richmond
Burlison, Mo.	Jacobs	Ryan
Burton, John	Kastenmeier	Schroeder
Burton, Phillip	Keys	Seiberling
Conyers	Kostmayer	Simon
Cornell	Mahon	Skubitz
de la Garza	Meeds	Solarz
Dellums	Mikulski	Stark
Dodd	Mikva	Vanik
Downey	Moffett	Volkmer
Duncan, Oreg.	Murphy, Pa.	Waxman
Edwards, Calif.	Nedzi	Weiss
Fascell	Nolan	Wirth
Findley	Ottinger	Yates

NOES—356

Abdnor	Breckinridge	Crane
Addabbo	Brinkley	Cunningham
Akaka	Brooks	D'Amours
Alexander	Broomfield	Daniel, Dan
Ambro	Brown, Calif.	Daniel, R. W.
Anderson, Calif.	Brown, Mich.	Danielson
Anderson, Ill.	Brown, Ohio	Davis
Andrews, N.C.	Broyhill	Delaney
Andrews, N. Dak.	Buchanan	Dent
Annunzio	Burgener	Derrick
Applegate	Burke, Calif.	Derwinski
Archer	Burke, Fla.	Dickinson
Armstrong	Burke, Mass.	Dicks
Ashbrook	Burleson, Tex.	Diggs
Ashley	Butler	Dingell
Aspin	Byron	Dornan
AuCoin	Caputo	Drinan
Badham	Carney	Duncan, Tenn.
Bafalis	Carr	Early
Baldus	Carter	Eckhardt
Barnard	Cavanaugh	Edgar
Baucus	Cederberg	Edwards, Ala.
Bauman	Chappell	Edwards, Okla.
Beard, R.I.	Clausen, Don H.	Eilberg
Beard, Tenn.	Clawson, Del	Emery
Bellenson	Clay	English
Benjamin	Cleveland	Erlenborn
Bevill	Cochran	Ertel
Biaggi	Cohen	Evans, Colo.
Blanchard	Coleman	Evans, Del.
Blouin	Collins, Ill.	Evans, Ga.
Boggs	Collins, Tex.	Evans, Ind.
Boland	Conable	Fary
Bolling	Conte	Fenwick
Bonker	Corcoran	Fish
Bowen	Corman	Fisher
Brademas	Cornwell	Fithian
Breaux	Cotter	Flippo
	Coughlin	Flood
		Florio
	Flowers	Long, Md.
	Flynt	Lott
	Foley	Lujan
	Ford, Mich.	Luken
	Forsythe	Lundine
	Fountain	McClory
	Fowler	McCloskey
	Frenzel	McCormack
	Frey	McDade
	Fuqua	McEwen
	Gammage	McFall
	Gaydos	McHugh
	Gephardt	McKay
	Giaimo	McKinney
	Gibbons	Madigan
	Gilman	Mann
	Ginn	Markey
	Glickman	Marks
	Goldwater	Marlenee
	Goodling	Marriott
	Gradison	Martin
	Grassley	Mattox
	Green	Mazzoli
	Gudger	Metcalfe
	Guyer	Meyner
	Hagedorn	Michel
	Hall	Miller, Ohio
	Hamilton	Mineta
	Hammer-schmidt	Minish
	Hanley	Mitchell, Md.
	Hannaford	Mitchell, N.Y.
	Hansen	Moakley
	Harrington	Mollohan
	Harris	Montgomery
	Harsha	Moore
	Hawkins	Moorhead, Calif.
	Heckler	Moorhead, Pa.
	Hefner	Moss
	Heftel	Mottl
	Hightower	Murphy, Ill.
	Hillis	Murphy, N.Y.
	Holland	Murtha
	Hollenbeck	Myers, Gary
	Holt	Myers, John
	Holtzman	Myers, Michael
	Horton	Natcher
	Howard	Neal
	Hubbard	Nichols
	Huckaby	Nix
	Hughes	Nowak
	Hyde	O'Brien
	Ireland	Oakar
	Jeffords	Oberstar
	Jenkins	Obey
	Johnson, Calif.	Panetta
	Johnson, Colo.	Patten
	Jones, N.C.	Patterson
	Jones, Okla.	Pepper
	Jones, Tenn.	Perkins
	Jordan	Pettis
	Kasten	Poage
	Kazen	Pressler
	Kelly	Preyer
	Kemp	Price
	Kildee	Pritchard
	Kindness	Pursell
	Krebs	Quayle
	Krueger	Quie
	LaFalce	Quillen
	Lagomarsino	Rahall
	Latta	Railsback
	Leach	Rangel
	Lederer	Regula
	Leggett	Rhodes
	Lehman	Rinaldo
	Lent	Risenhoover
	Levitas	Roberts
	Livingston	Robinson
	Lloyd, Calif.	Roe
	Long, La.	Rogers
		Roncalio
		Rooney
		Rose
		Rosenthal
		Rostenkowski
		Rousselot
		Roybal
		Runnels
		Ruppe
		Russo
		Santini
		Sarasin
		Satterfield
		Scheuer
		Sebelius
		Sharp
		Shipley
		Shuster
		Sikes
		Skelton
		Slack
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Spence
		St Germain
		Staggers
		Stangeland
		Stanton
		Steed
		Steers
		Steiger
		Stockman
		Stokes
		Stratton
		Studds
		Stump
		Symms
		Taylor
		Thompson
		Thone
		Thornton
		Traxler
		Treen
		Trible
		Tsongas
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vento
		Waggonner
		Walgren
		Walker
		Walsh
		Wampler
		Watkins
		Weaver
		Whalen
		White
		Whitehurst
		Whitley
		Whitten
		Wiggins
		Wilson, Bob
		Wilson, C. H.
		Wilson, Tex.
		Winn
		Wright
		Wydler
		Wylie
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NOT VOTING—19

Chisholm	Maguire	Schulze
Devine	Mathis	Sisk
Fraser	Milford	Spellman
Jenrette	Miller, Calif.	Teague
Le Fante	Rodino	Wolff
Lloyd, Tenn.	Rudd	
McDonald	Sawyer	

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CORMAN

Mr. CORMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORMAN: Section 101 of the bill (relating to widening of

brackets; rate cuts in certain brackets; increase in zero bracket amounts) is deleted and a new section 101 is inserted in lieu thereof to read as follows:

SEC. 101. RATE CUTS IN CERTAIN BRACKETS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) Married Individuals Filing Joint Returns and Surviving Spouses.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $3,200	No tax.
Over $3,200 but not over $4,200	14% of the excess over $3,200.
Over $4,200 but not over $5,200	$140, plus 15% of excess over $4,200.
Over $5,200 but not over $6,200	$290, plus 16% of excess over $5,200.
Over $6,200 but not over $7,200	$450, plus 17% of excess over $6,200.
Over $7,200 but not over $11,200	$620, plus 19% of excess over $7,200.
Over $11,200 but not over $15,200	$1,380, plus 22% of excess over $11,200.
Over $15,200 but not over $19,200	$2,260, plus 23% of excess over $15,200.
Over $19,200 but not over $23,200	$3,180, plus 25% of excess over $19,200.
Over $23,200 but not over $27,200	$4,180, plus 29% of excess over $23,200.
Over $27,200 but not over $31,200	$5,340, plus 33% of excess over $27,200.
Over $31,200 but not over $35,200	$6,660, plus 38% of excess over $31,200.
Over $35,200 but not over $39,200	$8,180, plus 42% of excess over $35,200.
Over $39,200 but not over $43,200	$9,860, plus 45% of excess over $39,200.
Over $43,200 but not over $47,200	$11,660, plus 48% of excess over $43,200.
Over $47,200 but not over $55,200	$13,580, plus 50% of excess over $47,200.
Over $55,200 but not over $67,200	$17,580, plus 53% of excess over $55,200.
Over $67,200 but not over $79,200	$23,940, plus 55% of excess over $67,200.
Over $79,200 but not over $91,200	$30,540, plus 58% of excess over $79,200.
Over $91,200 but not over $103,200	$37,500, plus 60% of excess over $91,200.
Over $103,200 but not over $123,200	$44,700, plus 62% of excess over $103,200.
Over $123,200 but not over $143,200	$57,100, plus 64% of excess over $123,200.
Over $143,200 but not over $163,200	$69,900, plus 66% of excess over $143,200.
Over $163,200 but not over $183,200	$83,100, plus 68% of excess over $163,200.
Over $183,200 but not over $203,200	$96,700, plus 69% of excess over $183,200.
Over $203,200	$110,500, plus 70% of excess over $203,200.

"(b) HEADS OF HOUSEHOLD.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $3,200	14 percent of the excess over $2,200.
Over $3,200 but not over $4,200	$140, plus 16 percent of excess over $3,200.
Over $4,200 but not over $6,200	$300, plus 18 percent of excess over $4,200.
Over $6,200 but not over $8,200	$660, plus 19 percent of excess over $6,200.
Over $8,200 but not over $10,200	$1,040, plus 22 percent of excess over $8,200.
Over $10,200 but not over $12,200	$1,480, plus 23 percent of excess over $10,200.
Over $12,200 but not over $14,200	$1,940, plus 24 percent of excess over $12,200.
Over $14,200 but not over $16,200	$2,420, plus 25 percent of excess over $14,200.
Over $16,200 but not over $18,200	$2,920, plus 26 percent of excess over $16,200.
Over $18,200 but not over $20,200	$3,440, plus 30 percent of excess over $18,200.
Over $20,200 but not over $22,200	$4,040, plus 31 percent of excess over $20,200.
Over $22,200 but not over $24,200	$4,660, plus 33 percent of excess over $22,200.
Over $24,200 but not over $26,200	$5,320, plus 35 percent of excess over $24,200.
Over $26,200 but not over $28,200	$6,020, plus 36 percent of excess over $26,200.
Over $28,200 but not over $30,200	$6,740, plus 39 percent of excess over $28,200.
Over $30,200 but not over $34,200	$7,520, plus 42 percent of excess over $30,200.
Over $34,200 but not over $38,200	$9,200, plus 45 percent of excess over $34,200.
Over $38,200 but not over $40,200	$11,000, plus 48 percent of excess over $38,200.
Over $40,200 but not over $42,200	$11,960, plus 51 percent of excess over $40,200.
Over $42,200 but not over $46,200	$12,980, plus 52 percent of excess over $42,200.
Over $46,200 but not over $52,200	$15,060, plus 55% of excess over $46,200.
Over $52,200 but not over $54,200	$18,360, plus 56% of excess over $52,200.
Over $54,200 but not over $66,200	$19,480, plus 58% of excess over $54,200.
Over $66,200 but not over $72,200	$26,440, plus 59% of excess over $66,200.
Over $72,200 but not over $78,200	$29,980, plus 61% of excess over $72,200.
Over $78,200 but not over $82,200	$33,640, plus 62% of excess over $78,200.
Over $82,200 but not over $90,200	$36,120, plus 63% of excess over $82,200.
Over $90,200 but not over $102,200	$41,160, plus 64% of excess over $90,200.
Over $102,200 but not over $122,200	$48,840, plus 66% of excess over $102,200.
Over $122,200 but not over $142,200	$62,040, plus 67% of excess over $122,200.
Over $142,200 but not over $162,200	$75,440, plus 68% of excess over $142,200.
Over $162,200 but not over $182,200	$89,040, plus 69% of excess over $162,200.
Over $182,200	$102,840, plus 70% of excess over $182,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed from the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of the household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	14 percent of the excess over $2,200.
Over $2,700 but not over $3,200	$70, plus 15 percent of excess over $2,700.
Over $3,200 but not over $3,700	$145, plus 16 percent of excess over $3,200.
Over $3,700 but not over $4,200	$225, plus 17 percent of excess over $3,700.

Over $4,200 but not over $6,200	$310, plus 19 percent of excess over $4,200.
Over $6,200 but not over $8,200	$690, plus 21 percent of excess over $6,200.
Over $8,200 but not over $10,200	$1,110, plus 23 percent of excess over $8,200.
Over $10,200 but not over $12,200	$1,570, plus 24 percent of excess over $10,200.
Over $12,200 but not over $14,200	$2,050, plus 25 percent of excess over $12,200.
Over $14,200 but not over $16,200	$2,550, plus 28 percent of excess over $14,200.
Over $16,200 but not over $18,200	$3,110, plus 31 percent of excess over $16,200.
Over $18,200 but not over $20,200	$3,730, plus 34 percent of excess over $18,200.
Over $20,200 but not over $22,200	$4,410, plus 36 percent of excess over $20,200.
Over $22,200 but not over $24,000	$5,130, plus 38% of excess over $22,200.
Over $24,200 but not over $28,200	$5,890, plus 40% of excess over $24,200.
Over $28,200 but not over $34,300	$7,490, plus 45% of excess over $28,200.
Over $34,200 but not over $40,200	$10,190, plus 50% of excess over $34,200.
Over $40,200 but not over $46,200	$13,190, plus 55% of excess over $40,200.
Over $46,200 but not over $52,200	$16,490, plus 60% of excess over $46,200.
Over $52,200 but not over $62,200	$20,090, plus 62% of excess over $52,200.
Over $62,200 but not over $72,200	$26,290, plus 64% of excess over $62,200.
Over $72,200 but not over $82,200	$32,690, plus 66% of excess over $72,200.
Over $82,200 but not over $92,200	$39,290, plus 68% of excess over $82,200.
Over $92,200 but not over $102,200	$46,290, plus 69% of excess over $92,200.
Over $102,200	$52,990, plus 70% of excess over $102,200.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return with his spouse under section 6013 tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,600	No tax.
Over $1,600 but not over $2,100	14% of the excess over $1,600.
Over $2,100 but not over $2,600	$70, plus 15% of excess over $2,100.
Over $2,600 but not over $3,100	$145, plus 16% of excess over $2,600.
Over $3,100 but not over $3,600	$225, plus 17% of excess over $3,100.
Over $3,600 but not over $5,600	$310, plus 19% of excess over $3,600.
Over $5,600 but not over $7,600	$690, plus 22% of excess over $5,600.
Over $7,600 but not over $9,600	$1,130, plus 23% of excess over $7,600.
Over $9,600 but not over $11,600	$1,590, plus 25% of excess over $9,600.
Over $11,600 but not over $13,600	$2,090, plus 29% of excess over $11,600.
Over $13,600 but not over $15,600	$2,670, plus 33% of excess over $13,600.
Over $15,600 but not over $17,600	$3,330, plus 38% of excess over $15,600.
Over $17,600 but not over $19,600	$4,090, plus 42% of excess over $17,600.
Over $19,600 but not over $21,600	$4,930, plus 45% of excess over $19,600.
Over $21,600 but not over $23,600	$5,830, plus 48% of excess over $21,600.
Over $23,600 but not over $27,600	$6,790, plus 50% of excess over $23,600.
Over $27,600 but not over $33,600	$8,790, plus 53% of excess over $27,600.
Over $33,600 but not over $39,600	$11,970, plus 55% of excess over $33,600.
Over $39,600 but not over $45,600	$15,270, plus 58% of excess over $39,600.
Over $45,600 but not over $51,600	$18,750, plus 60% of excess over $45,600.
Over $51,600 but not over $61,600	$22,350, plus 62% of excess over $51,600.
Over $61,600 but not over $71,600	$28,550, plus 64% of excess over $61,600.
Over $71,600 but not over $81,600	$34,950, plus 66% of excess over $71,600.
Over $81,600 but not over $91,600	$41,550, plus 68% of excess over $81,600.
Over $91,600 but not over $101,600	$48,350, plus 69% of excess over $91,600.
Over $101,600	$55,250, plus 70% of excess over $101,600.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	14 percent of the taxable income.
Over $500 but not over $1,000	$70, plus 15 percent of excess over $500.
Over $1,000 but not over $1,500	$145, plus 16 percent of excess over $1,000.
Over $1,500 but not over $2,000	$225, plus 17 percent of excess over $1,500.
Over $2,000 but not over $4,000	$310, plus 19 percent of excess over $2,000.
Over $4,000 but not over $6,000	$690, plus 22 percent of excess over $4,000.
Over $6,000 but not over $8,000	$1,130, plus 23 percent of excess over $6,000.
Over $8,000 but not over $10,000	$1,590, plus 25 percent of excess over $8,000.
Over $10,000 but not over $12,000	$2,090, plus 29 percent of excess over $10,000.
Over $12,000 but not over $14,000	$2,670, plus 33 percent of excess over $12,000.
Over $14,000 but not over $16,000	$3,330, plus 38 percent of excess over $14,000.
Over $16,000 but not over $18,000	$4,090, plus 42 percent of excess over $16,000.
Over $18,000 but not over $20,000	$4,930, plus 45 percent of excess over $18,000.
Over $20,000 but not over $22,000	$5,830, plus 48 percent of excess over $20,000.
Over $22,000 but not over $26,000	$6,790, plus 50% of excess over $22,000.
Over $26,000 but not over $32,000	$8,790, plus 53% of excess over $26,000.
Over $32,000 but not over $38,000	$11,970, plus 55% of excess over $32,000.
Over $38,000 but not over $44,000	$15,270, plus 58% of excess over $38,000.
Over $44,000 but not over $50,000	$18,750, plus 60% of excess over $44,000.
Over $50,000 but not over $60,000	$22,350, plus 62% of excess over $50,000.
Over $60,000 but not over $70,000	$28,550, plus 64% of excess over $60,000.
Over $70,000 but not over $80,000	$34,950, plus 66% of excess over $70,000.
Over $80,000 but not over $90,000	$41,550, plus 68% of excess over $80,000.
Over $90,000 but not over $100,000	$48,350, plus 69% of excess over $90,000.
Over $100,000	$55,250, plus 70% of excess over $100,000."

(b) WITHHOLDING AMENDMENT.—Subsection (a) of section 3402 (relating to requirement of withholding) is amended by striking out the second and third sentences and inserting in lieu thereof the following new sentence: "With respect to wages paid after December 31, 1978, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977 and the amendments made by sections 101 and 102 of the Revenue Act of 1978."

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1978.

(2) The amendment made by subsection (b) shall apply to wages paid after December 31, 1978.

Section 102 of the bill (relating to personal exemptions increased to $1,000) is deleted and a new section 102 is inserted in lieu thereof to read as follows:

SEC. 102. GENERAL TAX CREDIT.

(a) INCREASE IN AMOUNT OF CREDIT.—Paragraph (2) of section 42(a) (relating to general tax credit) is amended by striking out "$35" and inserting in lieu thereof "$100".

(b) CREDIT MADE PERMANENT.—

(1) Subsection (b) of section 3 of the Revenue Adjustment Act of 1975 (relating to effective date for general tax credit) is amended by striking out the last sentence.

(2) Subsection (e) of section 401 of the Tax Reform Act of 1976 (relating to effective date for extensions of individual income tax reductions) is amended by striking out the first sentence and inserting in lieu thereof the following: "The amendments made by subsection (a) shall apply to taxable years ending after December 31, 1975.".

(c) FILING REQUIREMENTS.—Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended—

(1) by striking out "$2,950" and inserting in lieu thereof "$3,650",

(2) by striking out "$3,950" and inserting in lieu thereof "$4,650",

(3) by striking out "$4,700" and inserting in lieu thereof "$6,100", and

(4) by striking out "$750" each place it appears in subparagraph (B) and inserting in lieu thereof "$1,350".

(d) EFFECTIVE DATES.—

(1) In general.—The amendments made by subsections (a) and (c) shall apply to taxable years beginning after December 31, 1978.

(2) Subsection (b).—The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

Amend section 21(f) of the Internal Revenue Code of 1954 (as proposed to be inserted by section 105 of the bill) to read as follows:

"(f) CHANGES MADE BY REVENUE ACT OF 1978.—In applying subsection (a) to a taxable year which is not a calendar year, the amendments made by sections 101(a), 102 (a), and 301 of the Revenue Act of 1978 (and no other amendments made by such Act) shall be treated as a change in a rate of tax."

Section 403 of the bill (relating to separate minimum tax on capital gains) is deleted and a new section 403 is inserted in lieu thereof to read as follows:

SEC. 403. ADJUSTMENT OF CAPITAL GAIN DEDUCTION FOR INDIVIDUALS.

(a) IN GENERAL.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS OF INDIVIDUALS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, if for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of the amount of the net capital gain shall be a deduction from gross income.

"(b) LIMITATION WHERE DEDUCTIONS EXCEED ORDINARY INCOME.—

"(1) APPLICATION OF LIMITATION.—This subsection shall apply for the taxable year only if—

"(A) the deductions allowable by this chapter (other than the deduction allowable under subsection (a) and the charitable contribution deduction allowable by section 170) exceed

"(B) the gross income reduced by the net capital gain.

"(2) CEILING WHERE LIMITATION APPLIES.—If this subsection applies for the taxable year, the amount allowable as a deduction under subsection (a) shall not exceed ½ of the greater of—

"(A) $10,000 ($5,000 in the case of a married individual filing a separate return), or

"(B) the net capital gain reduced by the excess referred to in paragraph (1).

"(3) SPECIAL RULES FOR COMPUTATIONS.—For purposes of this subsection if the taxpayer does not itemize deductions, the zero bracket amount shall be treated as a deduction.

"(c) OTHER COMPUTATIONS NOT AFFECTED BY SUBSECTION (b).—For purposes of this subtitle, if the amount of any deduction or exclusion is determined by reference to gross income, adjusted gross income, or taxable income, such determination shall be made without regard to subsection (b). The preceding sentence shall not apply to the determination of the charitable contribution deduction under section 170.

"(d) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(1) IN GENERAL.—In the case of an estate or trust, the deduction under this section shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusion of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(2) SUBSECTION (b)(2)(A) DOES NOT APPLY TO TRUSTS.—In the case of a trust, subparagraph (A) of subsection (b)(2) shall not apply."

(b) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1202 and inserting in lieu thereof the following:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS OF INDIVIDUALS."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Mr. CORMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read. It has been printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The Chair would inquire of the gentleman from Oregon (Mr. ULLMAN) who the gentleman designates to control the time in opposition?

Mr. ULLMAN. Mr. Chairman, I designate the gentleman from Oklahoma (Mr. JONES) to handle the time in opposition.

The CHAIRMAN. Pursuant to the rule, the gentleman from California (Mr. CORMAN) will be recognized for 30 minutes, and the gentleman from Oklahoma (Mr. JONES) will be recognized for 30 minutes. The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, we discussed this amendment during the debate on the bill. I call attention of the Members that this is an amendment to the committee bill in only two respects. The balance of the committee bill remains exactly as it is.

We suggest an increase of $2 billion in the cuts. We suggest a redistribution of the individual tax cuts. We take approximately $1 billion from incomes above $50,000 and give it to those with incomes below $15,000. The individual cuts between $15,000 and $50,000 are approximately the same.

We suggest a change as to the minimum tax on capital gains. This does not affect the committee's decision to place a 35-percent maximum tax on capital gains. With that we do not argue. We suggest that if one takes a capital gain and shelters his taxable income, that he should have to pay a graduated tax up to 17½ percent if his capital gain is as much as $800,000.

There is a crucial difference in the committee bill and the amendment in that respect. The committee bill suggests a flat 5-percent minimum tax on capital gains. The amendment suggested a graduated minimum tax starting at 3⅓ percent on a $10,000 gain and rising to 17½ percent on an $800,000 gain. That is to put some equity and some credibility into the tax system.

Mr. Chairman, I reserve the balance of my time.

Mr. JONES of Oklahoma. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I want to point out very clearly what we are talking about with regard to the Corman-Fisher amendment. Basically we are talking about three things. First, the size of the tax cut.

Second, the amount of the capital gains relief; and third, the complexity of the tax code. By adding $2.3 billion to the income tax cuts, Corman-Fisher has $2.3 billion more cuts than in the committee bill.

This increases the deficit by a net $2 billion and also subtracts $300 million from the capital gains relief. That is basically the difference between the two bills.

The Kemp-Roth bill is similar in that it adds another $10 billion to the income tax relief.

The committee developed a bill with a total package of $16 billion because we felt this was the right size tax cut that would allow the economy to continue to recover without causing new pressures on inflation. All we add over that adds inflationary pressures to the economy.

Let me finally talk about the question of complexity. As I mentioned in general debate, the committee bill opted for simplification at every turn rather than complicating the tax code. The Corman-Fisher amendment complicates the tax

code in both the individual and capital gains areas. In the individual tax area the amendment retains the 2-year temporary 2-percent credit on the first $9,000 of income or $100 and it peels from the committee bill the $1,000 personal exemption back to $750.

Virtually every taxpayer to whom I have talked does not understand this 2-percent credit and would prefer to have a $1,000 personal exemption.

In the capital gains area there is considerably more complexity. Before we get into the complexities, let me make one point clear on which both the amendment and the committee bill are in agreement. That is that the committee bill, as well as the amendment, is going to insure that those few wealthy individual taxpayers who have high capital gains are going to pay taxes. They are not going to escape paying taxes.

So the question becomes this: How much tax is paid, and how complex is it to figure that tax? The difference is $300 million in the total amount of taxes paid.

As to the complexities, there is miles of difference between the committee bill and the amendment.

I have yet to find anyone from the administration, from those who are the authors of the amendment, who were able to tell me or to tell any audience before which we jointly appeared how the tax is figured. Let us say I am a taxpayer, I have a capital gain, and I itemize my deductions. How do I figure my taxes? They can give us the substantive result, but they cannot tell us how to figure the taxes. I defy them to tell us the answer in a simple, understandable way even today.

It is more complex. It takes a bite out of the capital gains relief we tried to give, and it adds $2 billion to the deficit. Mr. Chairman, I would urge the amendment be defeated.

Mr. ULLMAN. Mr. Chairman, will the gentleman yield?

Mr. JONES of Oklahoma. I am happy to yield to the chairman of the committee.

Mr. ULLMAN. Mr. Chairman, the gentleman from Oklahoma (Mr. JONES) is right. We took this allocation of deductions proposal in 1969, and no one understood it then. They do not understand it now, nor can they explain it now.

What we are doing is relating the itemized deductions to the capital gains. Believe me, once we start doing that, the taxpayers who itemize their deductions are really going to be up in revolt.

Mr. Chairman, this is a complex, difficult amendment to the code, and it should not be included in any bill.

Mr. JONES of Oklahoma. Mr. Chairman, the authors of the amendment in its first stages included charitable deductions. Later they exempted charitable deductions because they recognized in that area that this amendment is a tax on deductions. Now it is not a tax on charitable deductions, but it is a tax on casualty deductions, interest deductions, and the other remaining deductions.

Mr. CORMAN. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, perhaps I can explain to the gentleman from Oklahoma (Mr. JONES) precisely how this is done. I would like to suggest to the Members that those who are going to have to vote on this might perhaps like to read the gentleman's proposal and my proposal.

The gentleman's amendment takes just twice as much legislative language to explain as does ours. All we have to do is take the deductions away from the capital gain, then we split it to ascertain what is to be excluded. The ultimate objective is to see that there is some reasonable amount of minimum tax that is paid.

It is true that our amendment exempts charitable giving because we do not consider that sheltering. I point out that the committee amendment does consider charitable giving as sheltering, and so the 5 percent will apply to that.

There is nothing too complicated at all about how you arrive at what your minimum tax is. And the folks who are so concerned about how they get that list, they know how they get the list because they put it down to escape the tax on the ordinary income. We are talking about 160,000 taxpayers who are the wealthiest in this Nation. Anybody who pays ordinary capital gains tax is not affected at all by either of these amendments.

It takes twice as much legislative language to spell out the committee's approach. I think the reason that some taxpayers scream complexity is that they realize they are going to have to pay some realistic amount of tax. The truth of the matter is they will always have to pay ordinary income tax on at least one-fourth of their capital gains, and that is not very complicated.

Mr. JONES of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Oklahoma.

Mr. JONES of Oklahoma. Mr. Chairman, let me ask the gentleman this one question regarding the difference in the amount of deficit between the gentleman's proposal and the committee's proposal. Would the gentleman explain what the net effect on the deficit would be if the gentleman's proposal were adopted?

Mr. CORMAN. The Corman-Fisher amendment cuts taxes by $18 billion; the committee amendment, by $16 billion.

Mr. JONES of Oklahoma. Right. Will there be, as a result of the gentleman's amendment, though, an attempt to make up that $2 billion by any means?

Mr. CORMAN. No.

Mr. JONES of Oklahoma. Will the deficit be larger?

Mr. CORMAN. The question is how much economic stimulus you get from a tax cut.

Mr. JONES of Oklahoma. That is correct.

Mr. CORMAN. It is very difficult to say, in a $2 trillion economy, what a tax cut of $2 billion is going to do to inflation or how much stimulation there is.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Chairman, I urge the Committee to support the committee bill. I want to mention a couple of reasons, briefly. One thing is that under the proposed amendment, if I can say it in the simplest terms I can think of, a person with a capital gain cannot use that gain to offset any casualty loss they may have.

It may be a Boston fisherman who loses his boat and he needs another boat, so he takes his lifetime accumulation of capital assets and sells them. Even though the new boat will carry an inflated price and most or all of the gain represents inflation, he cannot offset that loss against that gain. Or a family may have a major illness—and they do befall most families once or twice in a lifetime—and they take 15 or 20 years of accumulated assets that they have been able to save and, although the gain may be mostly or all inflation, they cannot offset that medical loss against the gain. It may be a farmer who must sell out and go out of business due to a bad crop and high costs, but he still cannot first offset the losses against the increases in dollar value in the assets he sells which represent inflation. He just has to swallow that and pay the taxes, in effect, on his loss. I do not think that is right. That is the reason this proposal did not fly a few years ago, and it should not pass now. The amendment also reduces the exemption for the elderly by $500 and makes a more complicated offset that for many is less valuable. Also, this bill contains several very good things for small business. There are about half a dozen of them. They were not easily acquired. This committee did a good job putting this bill together, despite the fact that we had a lot of outsiders interrupting and frustrating all the time. Now we have a bill that is a decent bill, a good bill, and I am afraid that if we amend it, as proposed here, that what we will end up with, probably, with a motion to recommit that is less acceptable, or else it will go over to the other body and they will end up writing this bill which will not be as acceptable as the committee bill but it will have a better chance to prevail. I think we should stick with the bill we have here, and I urge the defeat of this amendment.

Mr. Chairman, for the benefit of the 134 of my colleagues who have joined with me in sponsoring a bill to provide for graduation in the corporate income tax, and also for those of my colleagues who have not, I would like to express my feelings on behalf of the small business community with respect to the tax bill currently before us.

Section 301 of this bill does provide for graduation of the corporate income tax, according to the following schedule:

[In percent]

Taxable income:	*Tax rate*
$1 to $25,000	17
$25,001 to $50,000	20
$50,001 to $75,000	30
$75,001 to $100,000	40
Over $100,000	46

The graduation schedule actually preferred by the Small Business Committee involves a six-step approach which would graduate the tax up to the $150,-

000 level of income, instead of the $100,000 level in the tax bill. This I think would provide more of the relief which is needed in view of the fact that had the surtax threshold (presently $50,000) been increased merely to keep up with inflation, it would now be levied at $175,000 instead of $50,000. In addition, a "sudden death" jump in the tax rate—presently 26 percent when income exceeds $50,000—places pressure on businessmen to make uneconomic decisions in an attempt to spread income more evenly over several tax years. This is not good at any surtax level, and a graduated rate structure would eliminate the desirability of doing this.

The concept of graduation in the corporate income tax is one strongly favored by small business. Before working up the proposed graduation schedule other members of the Small Business Committee and I met with a number of different organizations representing small business. We asked them what they considered to be their top priority in this Congress with respect to legislation. Although each group had its own slightly different variations, the answer was practically unanimous—the change most needed was a graduated corporate income tax.

While the relief granted small business by the four-step graduation schedule in the tax bill is less than what we had hoped for, it nevertheless does preserve the principle of graduation that we have been seeking and thus, I believe, can be considered an acceptable minimum for a compromise. I, therefore, urge my colleagues to support the graduation schedule in the tax bill presently before us.

In addition to the graduated corporate income tax, there are numerous other proposals for changes to be made to the Internal Revenue Code which, from an overall standpoint, may be relatively minor provisions, but which can have a very major impact on small business. Some of these proposals are included in the tax bill and I would just like to address them briefly. These points have previously been made to the Ways and Means Committee when I appeared before them on behalf of the small business community.

Sections 331 through 333 would make certain changes to the subchapter S provisions of the code. The greatest use of the subchapter S election, which permits business owners to utilize the corporate form for business purposes while still being taxed as if they had not incorporated, has been by the smaller businessmen and businesswomen of our country. This is as it was intended to be. Over the years since these provisions were enacted, however, there have been numerous technical aspects which have caused a geat deal of confusion and difficulty and which therefore have posed a ban to effective use of this election. The changes made by the tax bill to correct these problems—increasing the number of permitted shareholders in the corporation, changing the eligibiltiy rules with respect to shareholders who are husband and wife and with respect to grantor trusts, and greatly simplifying the manner of making the election—are definitely needed and have wholehearted support from the small business community.

Section 335 of the bill would increase the dollar limitations with respect to the definition of a "small business corporation" which, under the Internal Revenue Code, allows an ordinary loss deduction (as distinguished from capital loss) to be taken for losses incurred on stock interests held in such corporations. More importantly, the difficult, technical election which has to be made to qualify, and which is frequently overlooked, would be eliminated, thus granting this benefit to all corporations which fit within the size standards.

Lastly, the special depreciation allowance provided in section 179 of the Internal Revenue Code would be increased and for the first time specifically limited to use by small businesses. In testifying before the Ways and Means Committee, I had stressed that depreciation for small business needs to be simplified. While this change in the tax bill may not be a step in the direction of simplification, it does increase the amount of depreciation a small business can take on newly purchased equipment and for this reason is beneficial to the small business community. However, I do think simplification is critical to small businesses being able to utilize the tax benefits available to them, and therefore hope that the tax-writing committee will be willing to explore this further with me in the future.

Mr. Chairman, in addition to those I have specifically addressed, there are other provisions in the tax bill which will have an indirect effect on small business. Obviously, for example, a reduction in the individual income tax rates will be a benefit to those businesses which are not incorporated. With respect to capital gains, any change in the tax which will have the effect of stimulating investment should prove beneficial to small business. Additionally, changes to the investment credit to make it permanent and to increase the limitation on the amount of tax liability it may offset will be helpful to those small businesses which are in capital-intensive industries.

In summary, I want to emphasize the importance attributed to taxes by the small business community. As I have just discussed, the tax bill presently before us contains changes of benefit to small business. There are, however, many more areas where changes could be made to benefit small business and which would have virtually no impact on the Federal revenues. I hope to be able to work with my colleagues on the Ways and Means Committee in developing these further. I commend the Ways and Means Committee, and the Congress, for the consideration shown to the small business community evidenced in part in this tax bill. I hope that this attitude continues in this and future Congresses so that small business has at least as equal a chance at success in its endeavors as do the larger business segments in our society.

Mr. CORMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Chairman, I would like to say just a few things about this bill that my colleague, the gentleman from California (Mr. CORMAN), and I have sponsored. Do keep in mind that we address only a couple features of the committee's bill. For example, we make no change in what the committee bill has to say about business taxes.

We retain the same changes in rate schedules that benefit smaller businesses as the committee bill does; no change whatsoever. Keep in mind that we make no change in the exemptions on sale of a personal residence, up to $100,000 of gain, once in a lifetime from the capital gains tax. In fact, that idea originated with us and was borrowed and incorporated into the committee bill. That is a good thing, and we want it to stay in.

Coming to the differences, a major difference which has already been pointed out is that we provide for $2 billion more overall of tax reduction. That is not very much, as my colleague has pointed out, in a $2 trillion economy. Let us not argue about peanuts, but in view of the action we took not too long ago to set in motion a reduction of capital gains taxes principally for the big winners coming to $4 billion a year in a few years, $2 billion that would go mainly to middle and low income people in our version of this does not look so bad, does it?

That comes to this: The distribution of the tax cut here, we do specify some change. Very clearly, what we do is provide a little less tax reduction at the very high incomes above $50,000, and apply that and the $2 billion, if you like, to tax reduction in the lower ranges. But, keep this in mind, that we do better in tax reduction than the committee bill on incomes all the way up to $50,000. Not too bad for your middle-income tax revolt person in this country.

Finally, let me point out that behind the Corman-Fisher amendment we now have rallied the support of the administration, the support of the leadership and large numbers of organizations all over the country who speak for small people, ordinary people, average people, whether they are businesses, individuals, families, consumer groups or whatever. They have rallied to this amendment as a significant improvement, more in the tradition of my party and many in the other party when it comes to dealing with taxes.

Do not give it all to the very big winners who make huge capital gains of several hundred thousand dollars a year. Concentrate the reductions on the ordinary people, the lower- and the middle-income brackets. We offer advantages all the way up to $50,000, and that ought to be enough for most everybody.

Mr. Chairman, these are some of the reasons I urge that we make these two principal changes in the committee bill, all of the rest of which we think is very good. I urge my colleagues to vote for the Corman-Fisher amendment, and then vote for the bill.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, the Corman-Fisher amendment essentially

adds $2 billion to the deficit and sprinkles that $2 billion around among the taxpayers below $50,000. So, we add $2 billion to the deficit and we make people feel a little better by sprinkling it around all through all the brackets. That makes the amendment attractive.

The second part that they do is to take an idea that we tried out here in 1969 and finally discarded when the tax technicians in the Treasury and everyplace else said, "You know, it is unadministratable. We can't make it work. Don't let it happen."

Fortunately before it ever became law it got killed.

Let us not resurrect that old ghost again. It does not do that much good. It is really not that bad, but it really does not help. There is not a lot of difference between Corman-Fisher now that they have modified it.

Does the gentleman include Archer in his modification also?

Mr. CORMAN. If the gentleman will yield, the rules under which we are proceeding will make that determination. That is not a part of our amendment one way or the other.

Mr. GIBBONS. Well, the gentleman has included everything in the committee bill that was already in there except for these two things, adding $2 billion more to the deficit and resurrecting an idea that got discarded in 1969 and has been ghosting around here every since.

As the gentleman from Iowa (Mr. SMITH) pointed out, we run into all kinds of problems. We do in the innocent people who have had hard luck and have to make up for it by selling a capital asset.

If the new alternative tax is too low, then maybe we ought to increase the rate. We certainly ought not go back to an old idea we partly tried once and finally discarded.

I think we ought to stick with the committee bill. Let us get this good bill passed and let it become law.

Mr. CORMAN. Mr. Chairman, I yield 4 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I commend the gentleman from Missouri for his efforts on the committee, albeit not always successful, and I rise in support of the Corman-Fisher amendment.

The Revenue Act of 1978, H.R. 13511, is the vehicle to properly adjust the national revenue format for the 1979 budget year and to address tax modifications necessary in a dynamic economy.

The pressure and the motivations to steer tax policy one direction or another, of course, are enormous. The Committee on Ways and Means worked long on this measure and against the backdrop of volatile economic changes, employment, trade deficit, and inflation.

Lost in this atmosphere were most of the tax reform goals of the new administration and the basic structure of tax cuts which President Carter proposed.

The focus of the committee ironically centered more in repealing reforms enacted in past sessions rather than enactment of simplification and improved reforms. I did not agree with all of the administration reforms, but the committee simply refused to face them.

The committee correctly turned back complete repudiation of the capital gains reforms and modified these in the current Jones compromise providing a 35-percent maximum tax, the microminimum tax, and excepting capital gains from the preference tax. The fact is that 75-percent revenue in tax preference is from the capital gains source.

The Corman-Fisher substitute will preserve much of the work accomplished on capital gains, but replaces the proposed microminimum tax with, I believe, a superior alternative minimum tax. It is progressive, fair, prevents complete shielding of capital gains income, and is an understandable computation.

Unfortunately, while the committee focused months on the capital gains modifications, the major portion of the individual tax program was almost an afterthought. As an example, the expiration of the tax credit and its replacement with a $1,000 personal exemption is far inferior for most individuals than, for instance, the $100 credit and the $750 personal exemption combination proposed by the Corman-Fisher measure. We will hopefully adopt it today. In fact, the committee personal exemption and widening of brackets actually increases taxes for 900,000 taxpayers, many single and married couples without dependents.

The Corman-Fisher comparison with the committee bill provides a better distribution of the tax cut than the committee proposal. The following table clearly illustrates this point.

[In percent]

Income class	Corman-Fisher	Committee proposal
Below $20,000	38	25
$20,000–$50,000	49	51
Above $50,000	13	24

These income groups below $20,000 taxable income really are the middle-income taxpayers who need relief from inflation and scheduled social security tax increases.

I certainly would have preferred general revenue to help offset the scheduled and necesary social security increases or the 5 percent tax credit approach, but that battle was lost in 1977 and again in today's vote on the previous question for the rule. Efforts now must manifest themselves in reframing the Ways and Means tax cut in a fashion sensitive to the needs of working people, the folks who punch a timeclock in our society and who are trying to make ends meet.

I urge my colleagues carefully to review the tables for all amendments which set out their costs and impacts.

The proposed Corman-Fisher amendment and the other provisions in this measure will provide a significant stimulus for our economy while not exacerbating the momentum inflation that the economy is now burdened with, but will address the inflation-creep phenomenon and provide a major break for capital gains.

The one-time $100,000 exclusion of gain on the sale of a home is a benefit with which I strongly agree. The amount is likely beyond the current capital gain, but the reality of future homeowner cost will temper this.

The rollover time provision for reinvesting in a home similarly reflects the needs of people that move frequently.

A targeted job credit as proposed in this measure should help better focus the job credit in circumstances where it will do the most good for Vietnam veterans, handicapped, those on public assistance, and the young.

The corporation tax cut was incorporated by various proposals worked on by the Small Business Committee. I have coauthored measures to provide a more progressive corporation income tax, this definitely will help relieve the burden on all business and, correctly, skewing it favorably toward small business.

Permanent enactment of the 10-percent investment tax credit is premature. The committee has not demonstrated the basic attainment of goals that were initially espoused to justify this increase. A bright spot in this change is the extension to rehabilitation. This obviously will help existing plant and business in declining communities.

Similarly, the special low-income housing amortization rule will help meet urban housing needs in existing communities.

The deferred compensation provision of the committee bill is helpful to public employees employed in various States. The IRS attempted to change its tax treatment of this agreement, and as a consequence various States have requested this legislative proviso. Public employees do not have the stock options and in many instances are limited by special rules not present in the private sector. Providing this deferred status will help reduce the burden for State and local governments.

Close monitoring of the "cafeteria fringe benefit plan" should occur. This obviously could cause significant tax dislocations in the future as they are available to only select or special employee groups.

Our Federal tax system is unfair. This measure certainly will not resolve all the inequities. If we had a perfect tax system we could more simply factor in the effect of inflation without the necessity of reform. In today's Federal tax system we exclude $136 billion in income for various preferences and deductions. This Congress has not done a good job of reviewing these exemptions and the beneficiaries. There will be no acceptance of our Federal tax system unless a more adequate oversight of these measures is attained.

In 1976–77 our budget deficit was in the high $60 billion range, in 1977–78 it was at the low $50 billion level. With restraint in spending and this tax cut measure it is in the low $40 billion area in 1978–79. Today our payment on the

interest of the national debt is about equal to the deficit. The total deficit can be attributed to past programs and military expenditures, national security costs, and some countercyclical programs which have successfully helped relieve unemployment dramatically.

The flexibility in spending at the national level is limited by our own priorities and what we perceive as the needs of our constituencies.

To wish for less spending, less programs will not make it a reality. Revenue measures or amendments today based on that premise simply put the cart before the horse.

How many stood up to vote against the $119 billion defense budget? Or even to cut it 0.8 percent? Not enough. Who stood to cut social security or income maintenance programs? I must admit I did not in this second instance.

I appeal to members of this committee to reject the oversimplified, strained economic logic, that these measures accept as fact, and to face the reality of what is possible, what is attainable if we are not to retreat from the national responsibilities that we embrace as Members of this body.

In summary, we face a difficult task to provide a balanced tax measure. This year especially is difficult.

We have within our reach in adoption of the Corman-Fisher amendment to significantly improve this tax bill, H.R. 13511. I strongly urge your support.

Mr. YOUNG of Missouri. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Missouri (Mr. YOUNG).

Mr. YOUNG of Missouri. Mr. Chairman, I would like to express my opposition to the motion to recommit this bill with instructions to modify it to conform with the massive Kemp-Roth tax cut proposal.

All of us sense the present mood of the Nation in favor of a reasonable tax cut and a sensible reduction in Federal spending. And I think that the House has made progress in trimming the fat off of appropriations bills and developing rational tax cut proposals this session.

But the so-called Kemp-Roth tax proposal, which would phase in an across-the-board individual and business tax cut averaging 30 percent, would be highly inflationary and could lead to a catastrophic national deficit.

The Treasury Department has estimated that the Kemp-Roth plan would cost about $66 billion in 1980, with that cost sharply increasing to $165 billion by 1983. That figure is nearly-one-third of this year's national budget. It is nearly $50 billion more than the House-passed defense appropriations bill—the largest appropriations bill in the history of this body.

This is an irresponsible proposal. It is a politically motivated proposal that would inflate the deficit to impossible levels and demolish the value of the dollar—all for a few votes at election time. I have a high regard for the good sense of the taxpayers in my district in St. Louis County and in the Nation as a whole, and I do not believe that those taxpayers will support this misguided proposal once the facts are known.

In a recent editorial, Business Week—a well-respected, industry-oriented magazine—severely criticized the Kemp-Roth proposal as "a completely irresponsible way to approach the Federal budget problem, and it would generate an inflation that would destroy the value of the currency."

Citing the "flaky arithmetic" used by backers to defend this proposal, the editorial went on to note that "Kemp-Roth would add $100 billion to a deficit that is already dangerously swollen. It would touch off an inflationary explosion that would wreck the country and impoverish everyone on a fixed income."

As I said before, Mr. Chairman, there is a need for a balanced, reasonable tax cut this year. And I think that the House can modify this legislation to provide for such a tax cut. We need to change the focus of this bill so that the middle-income taxpayer, the person who is burdened with the majority of taxes and responsibilities in this society, will benefit most.

I believe that the full House should have been given a chance to consider proposals to roll back social security taxes or at least to provide an income tax credit to those persons who are burdened by high social security taxes this year.

Now that the rule has passed, however, I plan to cast my vote for the Corman-Fisher amendment to the bill. This amendment will improve the committee bill in a number of ways; providing greater tax relief for the typical family of four with an income of under $50,000 and by lowering the capital gains tax rate for individuals in a more realistic manner.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman.

Mr. Chairman, this bill is about money: Who gets it and how much they get. I would like the Members to remember with me why the bill was presented by the President some months ago. The bill was presented to stimulate the economy, to help people fight inflation by giving them a tax cut, to achieve some amount of tax reform and to offset the effects of the tremendous social security tax increases that we passed in the latter part of 1977.

I would submit to the Members that if they are interested in economic stimulus, if they are interested in helping people who make $50,000 a year or less to offset the effect of inflation on their pocketbook, if they are interested in helping the people offset the effect of the social security tax increases that we enacted, we should vote for the Corman-Fisher proposal over the committee bill.

Members may not be able to see to my right, but perhaps they can. I wish they would focus with me for a moment on the chart, on exactly the kind of tax decrease or increase each economic group in America would get in a family of four if we take together the effect of the income tax decrease and the social security tax increase that we have enacted. What I am asking Members to focus on is how each family comes out in 1979 under each bill and how they came out in 1977.

If we have a family of four bringing in $5,000 a year, the committee bill with the combined effect of the income tax and the social security tax will have a tax increase of $14 both under the committee bill and under the Corman-Fisher proposal.

The next group is very significant. If they make $10,000 a year, under the committee bill they will have a tax decrease combined of $34, but under Corman-Fisher they will have a tax decrease of $232.

If they are making $15,000 a year, this family of four, under the committee bill they will have a tax decrease of $35 but under Corman-Fisher they will have a tax decrease of $187.

In the next three income groups under either proposal they are going to have a tax increase when we figure in Social Security. If they are making $20,000, they will have an increase with the committee bill of $115, but under Corman-Fisher there is only a $33 increase, so the increase is less under Corman-Fisher than it is under the committee bill.

If they are making $25,000 a year, they will have an increase of $207 under the committee bill but only $13 under Corman-Fisher.

If they are making $30,000 a year, the increase under the committee bill is $135 but only $16 under Corman-Fisher.

Let us go to $50,000. If you make $50,000 the committee bill decreases the tax by $215. Under Corman-Fisher, the decrease is $261.

So whether you make $50,000 a year or whether you make $10,000 a year, if you are interested in a tax cut and how that tax cut affects your constituents, after we have gone into the new social security taxes, you are compelled, I think, to vote for the Corman-Fisher proposal.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CORMAN. I yield the gentleman 1 additional minute.

Mr. STEIGER. Mr. Chairman, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Wisconsin.

Mr. STEIGER. Mr. Chairman, I thank the gentleman for yielding, and may I question the gentleman with respect to the figures he has given us as regards this family of four, are those figures based on a single-earner family or a double-earner family?

Mr. GEPHARDT. It is my understanding it is a single-earner family.

Mr. STEIGER. What would the effect be under both of the proposals when you add on the factor of a double-earner family at those levels?

Mr. GEPHARDT. I do not have those figures before me, but certainly the social security would be increased and aggravated.

Mr. CORMAN. Mr. Chairman, if the gentleman will yield, that would be true if you had two earners above the wage base. But the figures the gentleman has been discussing are mostly below the wage base.

Mr. STEIGER. But we are not confined to the wage base.

Mr. CORMAN. If the combined salaries are less than the maximum wage base there would be no difference.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 10 minutes, for the time being, to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this may be the President's bill, but it is not the President's bill that was submitted at the beginning of this year. This bill is a latter-day attempt to undercut the work of the Committee on Ways and Means. The gentlemen who have been speaking in the well to date have been too polite to say so, but if this happened during a Republican administration, we would hear accusations of an imperial presidency in every other word spoken here, and we would worry about executive lobbying of the Congress, well, the executive lobbying of the Congress here in the halls has reached almost hysterical levels.

If you believe in the House of Representatives I hope you will support your committee on this bill because, quite frankly, the separation of powers has been shattered rather badly.

Mr. Chairman, there are several important points that ought to be made about this. If you vote for the Corman-Fisher substitute, the Blumenthal bill, what you are voting for is, among other things, an elimination of the increase in the personal exemption from $750 to $1,000. Do not forget that.

Do not forget your old people want that, they need that, that is essential to their future.

There is considerable understanding about that particular provision of the tax law and that is being junked if we go to the Corman-Fisher bill.

Do not forget, also, that there is this matter of the minimum tax provision in the Corman-Fisher proposal that nobody has tried to explain because this bill was submitted 3 days after the Committee on Ways and Means disgorged its regular bill. Nobody has had time to explain it or really analyze those figures, or to know where the $2 billion additional is put into beyond that bill, the effect is arrived at by reducing the rates. What the committee bill does is broaden the bracket. You know what it means, it means that 2 or 3 years hence you are right back in the same old soup with the Corman-Fisher bill, while with the committee bill you have some continuing benefit as a result of the broadened brackets.

The fact is that ultimately we are going to find, despite the fact that the Corman-Fisher bill has a slightly bigger cut this year, that we have lost ground.

Mr. Chairman, because of the unusual way in which this amendment is being handled, I shall remain standing and recognize some other Members on my side who have something they wish to say about this very important measure.

May I ask the Chair how much time I have used.

The CHAIRMAN. The gentleman from New York (Mr. CONABLE) has used 3 minutes.

Mr. CONABLE. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Chairman, I thought we might carry on the tradition and go down in the well to do our Bobbsey Twins show.

Mr. Chairman, the problem with the Corman-Fisher proposal has been well dealt with by those who have spoken for and against. It is an ingenious concept, albeit one that has appeared full-blown out of the bowels of the Treasury Department only in the last few days. Nevertheless, it is calculated to try to achieve the very best possible result for those attempting to undo the committee bill. Let me, if I can, however, raise two issues with my colleagues on both sides of the aisle.

Let me supplement, first of all, the remarks of my distinguished colleague, the gentleman from Iowa (Mr. SMITH), because in the effort to deal with the allocation of deductions and the effort to provide a vehicle to get at shelter losses, the effect of the Blumenthal-Fisher-Corman plan is to hit real losses as well as shelter losses. I am sure it is unintended; but there is, after all, no way by which we can differentiate, so the effect of that is such that I sent a "Dear Colleague'" letter to all of the Members last night in an effort to give them some basis on which to judge the rightness or wrongness of this concept.

Mr. Chairman, I gave the Members the following three examples.

First, for many years, Mr. and Mrs. John Doe have operated a small restaurant in a depressed area of a large city. They have managed to earn a modest living and their annual profits have averaged about $20,000 for the last few years.

During 1979, a serious fire in their neighborhood causes them to close the restaurant for 4 months of the year. Due to the loss of business, which was not adequately covered by insurance, they have a net loss of $10,000 from restaurant operations for 1979. To raise funds to provide living expenses and replace part of the restaurant facilities, they decide to sell a piece of rural real estate inherited from their parents many years ago, realizing a $40,000 profit.

Under the House bill (H.R. 13511), their 1979 tax would be $1,000, roughly $280 of which would be caused by the alternative minimum tax under the bill. Under the Corman-Fisher alternative, the tax would be slightly under $1,700.

The second example was that of Mr. and Mrs. James Roe who have operated a farm in a Midwestern State for over 40 years. For many of those years, they have managed to earn a decent living.

In recent years, however, adverse weather conditions, unstable commodities prices, and the increasing impact of inflation on operating costs have reduced their earnings. During 1979, usually bad weather conditions leads to a loss from farming operations of $50,000. Because of increasing age, declining health, and a disillusionment about farming prospects, Mr. and Mrs. Roe decide to sell their farm, and they realize a $175,000 profit in 1979, of which $25,000 relates to the sale of their residence.

Under the House bill (H.R. 13511), their total tax on the sale will be $6,500, of which over $2,400 is caused by the alternative minimum tax. Under the Corman-Fisher alternative, total taxes would be over $14,000.

The third example was Mrs. Sally Smith, an 80-year-old widow, who has lived for many years in a small town in west Texas. Her only source of income, other than social security payments, is from dividends and interest, which has been averaging around $12,000 to $15,000 per year.

In the summer of 1979, unprecedented heavy rains fall in this usually arid area causing extensive flooding and water damage. Mrs. Smith's home, in which she has a tax basis of $30,000, is completely destroyed, and none of her loss is covered by insurance. To rebuild her home, which at today's prices will cost $60,000, she decides to sell some real estate she inherited from her mother nearly 40 years ago. Because of her very low tax basis in the land, nearly all of the $75,000 she receives from the sale of the property will be treated as capital gain.

Assuming that her income from dividends and interest for 1979 is $15,000, the casualty loss on the destruction of her home is $30,000, and she realized a gain of $70,000 on the sale of the land, her 1979 tax under the House bill (H.R. 13511) would be approximately $3,500. Under the Corman-Fisher proposal, her 1979 tax would be slightly over $6,400.

Mr. Chairman, the net effect of the effort by Blumenthal-Fisher-Corman is to raise the rates in a very real fashion on those who suffer real losses, not shelter losses, but real losses, as a result of the complex formula that is contained in the bill.

Mr. CONABLE. Mr. Chairman, if the gentleman will yield back to me. I would like to check as to whether we are still within the 3-minute period.

The CHAIRMAN. The gentleman is still within his 3 minutes.

Mr. STEIGER. Mr. Chairman, let me take the remaining few seconds to compute for the Members or at least try to have the Members understand how to compute the tax under the Blumenthal-Corman-Fisher plan.

First. You start with taxable income.

Second. Add to taxable income the amount of charitable contributions;

Third. Add one-half of capital gains;

Fourth. Divide the sum by 2;

Fifth. Compare this result to the excluded one-half of capital gain;

Sixth. If the excluded one-half is greater, take the difference and add it to taxable income;

Seventh. Compute your tax on this amount.

Thus the Corman-Fisher amendment should be rejected.

Mr. CONABLE. Mr. Chairman, I yield 1 minute to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Chairman, I thank the gentleman for yielding.

I want to make the point that this committee bill basically has a provision in it which starts to address the problem of indexing, if I am not mistaken, on personal income taxes.

If the chairman would respond, is it not the fact that, if we go with the Corman-Fisher amendment, we would actually be doing away with that broadening of the brackets, and this would be doing away with the first step toward indexing; is that not correct?

Mr. ULLMAN. If the gentleman will yield; yes, the gentleman is correct. We would be doing away with the broadening of the brackets which we have in the committee bill.

Mr. MARRIOTT. Mr. Chairman, I would certainly urge that we vote down the Corman-Fisher amendment in that indexing is an idea whose time has come. Switzerland, Germany, Canada, and Brazil have all done it. This is a step in the right direction.

For that reason, Mr. Chairman, I would hope that we would stay with the committee bill and strike down the Corman-Fisher amendment.

Mr. Chairman, I thank the gentleman for yielding.

Mr. CONABLE. I thank the gentleman for his contribution.

Mr. Chairman, I now yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Chairman, there is the big vote. The Corman amendment will decide whether we will really choose those new directions toward across-the-board tax cuts and toward capital investment. If we can defeat it we will establish the new directions.

The Corman amendment redistributes income. The committee bill cuts taxes evenly. Corman amendment gives a $100 tax credit per person, but the committee bill gives a $1,000 personal exemption.

More importantly, the committee spreads the brackets forever. Corman is a one shot deal. In the second year the committee bill gives far larger cuts. The Corman amendments reverses the thrust of the Steiger amendment by increasing the minimum tax. I believe most Members of this body prefer cutting capital gains even farther like the original Steiger amendment. Those who are for the Steiger amendment. for capital investment, and for simplification will want to vote against the amendment.

The amendment also would seem to penalize farm families, because they do occasionally suffer losses and sell inflated land. If they do they will pay more taxes under Corman.

It is much safer to vote down the Corman amendment and stay with the committee bill. Its fairer, makes more economic sense. and does not have the questions or the "loser image" associated with it that Corman does. Also it is more generous because its bracket spreading is permanent.

I hope the Corman amendment is soundly defeated and that the committee bill is passed.

Mr. CONABLE. Mr. Chairman, I would like to ask the gentleman from Oklahoma (Mr. JONES) if he will yield me 3 additional minutes.

Mr. JONES of Oklahoma. I yield 3 additional minutes to the gentleman from New York.

Mr. CONABLE. I thank the gentleman. I would like now to yield 3½ minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Chairman, this amendment should not be adopted. The Committee on Ways and Means Bill has been considered for many weeks. It comes to the floor with the approval of a great majority of the members of that committee, and as far as I personally am concerned, I would not want to exchange it for the Corman-Fisher amendment.

Corman-Fisher is not anything new. We have seen tax proposals like this, for years, and years, and years. As the gentleman from Minnesota (Mr. FRENZEL) said, it is an income-redistribution proposal. What they are doing really is taking from those who have and giving to those who have not, which we have been doing for years and which in some instances is all right, but it is not all right in this particular context. It is not all right because it will fuel the fires of inflation like nothing else we could possibly do.

Of course, the classic definition of "inflation" is "too many dollars chasing too few goods." This type of amendment will cause the numbers of dollars to increase but will not cause the volume of goods to increase. On the other hand, the committee bill with the treatment which it gives capital gains will actually result in more production. It will result in a decrease in inflation. It will be hitting our economic woes right where they live. So it seems to me that the mere fact that the Corman amendment would do such violence to the capital gains tax system which is in the committee bill, is enough of a reason to be against it. As the gentleman from Wisconsin (Mr. STEIGER) said the provisions for capital gains treatments will not only hurt the big guy, but they are certainly going to hurt the little guy, too.

I think it is absolutely imperative that we realize that the name of the game, as far as helping our economy is concerned, is jobs. If this bill, which we are probably going to pass today, does not help the economy to produce more jobs for more people, it will have been a waste of time. It will have been counterproductive to the country. It is important that we understand this.

The people of our country expect a tax cut. They deserve a tax cut. They are given a tax cut in the Committee on Ways and Means bill. When we get a chance to offer the motion to recommit, we will give the people of the country a chance for a bigger tax cut with the Kemp-Roth initiative. But right now—right now is the time to support the Committee on Ways and Means. It is a good bill. It has been well thought out. I recommend that Corman-Fisher be voted down and that we proceed to go ahead with the committee bill.

Mr. Chairman, I yield back the balance of my time.

Mr. CORMAN. Mr. Chairman, I yield myself one-half minute.

Mr. Chairman, I am sure the chairman of the Committee on Ways and Means appreciates the support of the minority leader, even though it is apparently going to last for about 37½ minutes; that is, until after the vote on this amendment.

Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Chairman, I really think the President of the United States is being given entirely too much credit in believing that he finally came to us with a bill. I have been waiting and still am waiting for some revised bill from the administration; but, unfortunately, they have not been able to do that.

I think a lot of credit should be given to the chairman of our committee, Mr. ULLMAN who has been able with the odds against him to get the members of the committee to finally come up with a bill that did receive the majority of the support of the Members of the House.

I wish we had heard from the administration before now, and perhaps we could have done something in the committee; but I think with all the time we have spent in trying to make life a little easier for those involved in capital gains transactions, even to the extent we are going to protect these transactions against inflation. Certainly those on fixed incomes do not enjoy that type of benefit. Somewhere along the line when we are talking about tax cuts that we get concerned ourselves with 90 percent of the people that are paying taxes.

I heard the distinguished minority leader talking about the inflationary impact that the Corman-Fisher amendment would have. My God, I am going to watch very attentively to see how the votes go on the motion to recommit the Kemp-Roth proposal, because if this is inflationary, my God, what I think is going to be offered would have a strong impact.

Why is it we always talk about inflation, when we are talking about spreading a couple billion dollars around to those people who are paying the taxes?

It seems to me that notwithstanding the fine work that has been done by the committee in producing a bill, that is basically just a rider to that bill. What we are talking about is trying to identify those people who under the proposition 13 revolution are saying, "Enough." They are tired of carrying the burdens of those people unable to get jobs. They are tired of paying for the educational system and they are looking for a break.

Clearly, all we have to be able to do is to say what kind of break are we prepared to give the people? This is what I am concerned about, even though I fully recognized that no matter how hard we are, that even in that one-half of 1 per-

cent there will be some individuals who will suffer the loss of their fishing boats; but there are many people in the United States that do not have a boat to fish in and they are looking for a little tax relief and this is the opportunity to do it. If the reason for the tax cut is to spur the economy, it seems to me that in order for the economy to be spurred we have to have some assurances that the people are going to spend this money to purchase stock that is in inventory and to attempt to create jobs, so that we can get the economy moving.

At the income tax level that we have forced our salaries to, I doubt seriously whether the tax relief that we will receive under any bill is going to change the way we purchase anything; but it seems to me that as you get lower down in that income level that the more money you are able to put in the pockets of those people who are living during particularly hard inflationary times, that they will be spending the money that we are able to give them under this tax relief. If they purchase, God willing, we will be able to get people to buying and get people to selling and get people back to work; so all I am asking is let us just do a little bit of counting. We have really spent a lot of time in making certain that we have a healthier climate for capital formation. We are always talking about it and I think that any bill we are talking about this evening does give a lot of relief.

One of the more conservative Members said, "There has been a new light now on capital gains transactions."

Let us just have a little glimmer of light this afternoon for those people who are really paying the taxes. We are talking about the 90 percent of the people who are filing their forms.

I hope that after the vote is taken today, all the voters will just take a comparisons chart and see what they would receive under the committee bill and what they would receive under the Corman-Fisher bill. If it makes a lot of sense to them in dollars and cents, I am sure that politically speaking, it makes a lot of sense to us.

Mr. Chairman, I only look at this as an improvement on the work done by the committee and the chairman of the committee. I hope that once this passes we can all vote for the bill.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I rise in support of the committee position on this bill.

If we wanted to spread around more of a tax decrease, we could, of course, increase the revenue loss by not $2 billion, but we could increase it $4 billion, $6 billion, or whatever. That is not a very difficult thing to do; however, it is not the most responsible thing to do either.

One thing in this argument that has somewhat disturbed me has been that we are going to make it up to those people who have been hurt by social security taxes, and especially those people in the $10,000 and the $15,000 brackets.

Well, the facts simply do not bear that out. The fact is that social security taxes have gone up from 5.85 to 6.05, and they have gone up from the figure in the old law to 6.13 under existing law.

That means for a $10,000-a-year employee the social security tax for 1979 has increased by $28 a year. Under the Corman-Fisher amendment, what we are doing for the $10,000-a-year man is giving him a $232 decrease. That is well and good, but we should not use the argument that we are making up for what we imposed on the $10,000-a-year employee in additional social security taxes. This is a completely fallacious argument.

The same thing is true with the $15,000-a-year employee. That is not the true facts. The facts are that his social security taxes went up $42, but under the Corman-Fisher amendment he would get a $187-a-year decrease. So we are not simply substituting for the increase in social security taxes.

The fact is that this amendment is an attempt to do away with the capital gains treatment that is included in the committee bill.

Mr. Chairman, the committee has worked long and hard on this bill. The Members will see tables and charts of every kind that do not necessarily reflect the true facts, and I urge them to examine these tables carefully. Anyone can prepare some chart or table to support his position.

Mr. Chairman, I want to support the largest possible tax cut that will not lead to additional inflation; and, I believe the committee position is the most responsible tax reduction bill before this House.

Mr. CORMAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Chairman, I would like to pay my compliments to the distinguished gentleman from Wisconsin (Mr. STEIGER) for having packaged and having put forth the concept which has caused the committee bill to be in the shape it is and caused the present amendment to be before the House and caused a lot of discussion throughout the country about capital gains—a discussion that is not totally unnecessary.

I think the capital gains treatment that is now in the code is very deficient when we consider its original purpose was: As an averaging device it does not work very well.

Originally, though, the talk was about capital gains, the substance of the discussion later was about the minimum tax. The talk was about capital gains, but the assault was on the minimum tax.

Talk about 11th hour politics. The Steiger bill and the committee bill did not do anything about capital gains on homes; it did not do anything about some of the other problems with capital gains. What it did was to reduce the minimum tax to zero. Then, as politics came into play, we put a mini-minuscule tax back in the committee bill, but that does not do very much. It just promised not to hurt very many people.

But capital gains and the argument about capital gains have nothing to do with this assault on the minimum tax. There are 300,000 taxpayers who paid the minimum tax last year—out of a total of 89 million tax returns filed. That is what this whole fight has been about. What should we do about this minimum tax for those 300,000 taxpayers.

We have spent a lot of time and a lot of energy to give them a big tax break. The Corman-Fisher amendment also gives them a big tax break; it just is not quite as big. It is an awful lot bigger than we would care to justify when we are explaining it to the other 88 million 200 thousand people who do not earn enough income to pay the minimum tax. That is what one of the arguments has been about.

The second argument between the two bills has to do with this problem of the exemption versus the credit. A credit is a complicated idea. It is very hard to explain to somebody that a $240 credit is worth more than a $750 exemption. I tried it. It is very hard to do. But so is trying to explain to 2.5 million taxpayers who are going to get a tax increase under the committee bill. Explain to them why that was justified. When you vote for the committee bill and against this amendment, 2.5 million people, heads of families, some singles, are going to pay a tax increase. For those reasons, the Corman-Fisher amendment makes a great deal of sense, and it is going to be a lot easier to explain when you get back home.

Mr. JONES of Oklahoma. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, the Committee on Ways and Means has brought to this floor today the best tax bill the House or the Congress has had the opportunity to consider since the so-called Kennedy cut proposal in 1964, and it has done it under the able leadership of AL ULLMAN, who deserves the support of the administration and the leadership of this House—and he has not really had the help or cooperation of either.

Mr. Chairman, I say to my colleagues that we hear it said here for example today that, "under the administration proposal"—what administration proposal? It does not make any difference what the proposal is. It is one thing today, but when it gets to the Senate it is going to be something else. This is nothing except a disruptive practice. They will change their mind as they have for months been changing their mind. But we hear it said that the rate cuts are larger. Absolutely they are larger. If you want to increase the deficit, you can make them still larger. If you add the same deficit back to the committee bill, you can have the same rate reduction that you get on this so-called Corman-Fisher proposal here today. Make no mistake about it. If you want larger rate reductions, get ready for a larger

deficit. The larger the reduction, the larger the deficit. It is just that simple.

The gentleman from Illinois (Mr. SIMON) stood here and justified his support of Vanik-Pickle because it would reduce the deficit. The gentleman from Illinois (Mr. SIMON), or anybody else who voted for Vanik-Pickle who votes for Corman-Fisher, will be voting in direct contradiction of that stated position. You cannot be consistent and do exactly that. For the very first time in recent years the House committee tried to provide cuts for middle-income taxpayers who have been financing this country. Why do you think the stock market has taken off the way it has and closed at 891 yesterday except for the hope held out by this committee bill? Do you want to come in here and destroy that optimism? If you do, you are going to vote to weaken what the committee has done in the instance of capital gains. There is a confidence in the stock market. You are if you vote for Corman-Fisher going to reduce the capital gains benefit to the tune of $300 million. Make absolutely no mistake about that. The capital gains proposal in the Corman-Fisher substitute is terribly complicated. But listen to me: If you vote for that proposal, you are going to see to it that there no deductions for such things as medical deductions and casualty losses. They will be gone. That proposal does not allow it. Do not kid yourselves.

And for those Members who have been crying "cold hearts" for singles, just get ready to raise the tax on single taxpayers in this country too, because that is what you are going to do. Why do you not stick with something that is worthwhile for a change?

Mr. CORMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, the facts are absolutely clear and uncontroverted. If the Members wish to vote for tax relief for middle-income taxpayers—and there is no one who can dispute it—the Corman-Fisher amendment gives greater relief for the $30,000, the $40,000, the $50,000 a year taxpayer than the committee bill. These facts are uncontrovertible. They cannot be challenged.

I have heard a number of examples from my colleague, the gentleman from Wisconsin, and my colleague, the gentleman from Louisiana. Let me give the Members this fact: If you are a middle-income taxpayer, you sell an asset for $200,000, and you have to turn around and pay a $200,000 extraordinary medical expense, do you know what happens under the committee bill? You pay a $9,000 tax.

Under Corman-Fisher there would be no tax. Corman-Fisher gives better treatment for the middle class with an extraordinary medical expense. If one has a casualty loss, an investor who has realized capital gains of $400,000, but in that same year fire destroys his house which is uninsured, and he loses $500,000, the committee bill will tax that individual $19,000. Corman-Fisher would have no tax for that individual. Take a cattle raiser in my neck of the woods, down in Arkansas, who sells his cattle for $40,000. A tornado knocks down his $20,000 house and his $20,000 uninsured barn. Under the committee bill he would pay $1,000 in taxes, but under Corman-Fisher he would pay no tax.

That is why Corman-Fisher is a better bill for middle-income taxpayers, a better bill for low-income taxpayers, and a better bill to take care of individual circumstances. I urge support for the amendment.

Mr. JONES of Oklahoma. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I want to say to the committee that it has taken a long, long time to get this bill to this point. It is a bill that is put together very delicately. We have only two votes yet remaining. I strongly urge the members of this committee to carefully consider their vote.

Let us hold a bill that we can take home with pride and get reelected on. Let us not take a gamble at this point. Let us vote against this amendment, and then let us wage an all-out fight over here against the Kemp-Roth amendment, and let us defeat that amendment. Let us then let this good bill be voted on by the House. That, I think, is the course of action that all of us can live with, and the course of action that we should take.

Mr. JONES of Oklahoma. Mr. Chairman, ordinarily the majority closes debate. In this particular instance, the majority of Democrats and majority of Republicans on the committee supported the committee bill, and the particular amendment in question was not even considered. Similar amendments were considered and rejected.

Out of deference to the Speaker, who wants to close debate, we will defer to the makers of the amendment for the closing of debate. But, I would like to remind the Members of what is at issue in this particular amendment.

In the first place, it does increase the budget deficit by $2 billion. In the second place, it does take away $300 million of capital gains relief. In the third place, it complicates rather than simplifies the individual and the capital gains tax processes. It has not been considered in committee. It was offered by the administration just this week. I urge that it be defeated.

● Mr. BIAGGI. Mr. Chairman, I rise to indicate my general preference for the Corman-Fisher amendment to H.R. 13511, largely because it targets most of its tax relief to those who need it most, the lower- and middle-income taxpayer.

Yet, our deliberations and actions today should be viewed in a broader context. Congress is responding to the overwhelming weight of American public opinion which is in favor of lowering taxes. No matter what is finally approved today, it will include a tax cut. The size and how extensive it is remains to be seen. Yet the demands of the American public are simple, lower our taxes.

Lest we forget it was just over 2 months ago when the voters from the State of California by an astounding 1.9 million margin passed proposition 13. This was considered one of the most far-reaching tax reduction proposals ever enacted by a unit of Government. It was the culmination of severe discontent by Californians to ever increasing property taxes with ever decreasing returns. Proposition 13 has its consequences in terms of reductions in social and human services, but for many, the relief in taxes which it provides is of far greater importance.

There is a national sense of anger about taxes, not only the amount but the system itself, a system which has always penalized the working man while allowing the super rich individual or corporation to escape taxation.

The working men and women of this Nation are having their hard-earned dollars consumed by taxes. They, like the people in California, wonder what they are getting as a return for their taxes. A study conducted by Stanford University concluded that Americans paid some $16 billion more in taxes than they receive in services. In addition to discontent over rising taxes, an equal aversion is felt for increases in the cost of Government. Reduction in taxes must be accompanied by reductions in Government spending on all levels. We must pursue this objective as aggressively as we are tax cuts.

I prefer the Corman-Fisher proposal because 87 percent of its benefits go to those with incomes under $50,000. More specifically those in the $15,000 to $25,000 income bracket, the middle class, get considerably more relief from the Corman amendment than the committee bill. A typical family of four with an income of $20,000 would save $228 under the Corman amendment as compared to $146 under the committee bill.

The one-two punch of inflation and taxation has left millions of Americans reeling on the edge of economic disaster. Enactment of a tax cut coupled with a concerted effort to reduce inflation must be viewed as this Nation's most important domestic priority. We will begin today with the tax cut, we should not cease until we complete this task.

Of course, there are numerous other benefits associated with the Corman proposal. The one time break for person selling their own home is most generous and should reap great benefits and windfalls for those eligible. Capital gains will be taxed more fairly allowing those in the lower brackets not be unfairly penalized by taxes on their gains, while those who seek to evade their full tax responsibility would be less able to do so.

Mr. Chairman, I feel the American people are in a no lose position today. At the very least, their taxes will be cut. If the Corman proposal is adopted, the benefits for most taxpayers will be even greater.

At this time, I wish to praise the President for his important initiatives in working to reduce taxes for the American people. He has been in the forefront of this effort since he came into office and deserves much credit.

I urge the House to adopt the most

comprehensive of all proposals the Corman-Fisher amendment. It provides the kind of meaningful tax relief which Americans are clamoring for. It behooves us to respond to their demand.●

Mr. MIKVA. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 682]

Andrews, N.C.	Jenrette	Rudd
Archer	Kindness	Ryan
Armstrong	Lafalce	Santini
Burke, Calif.	Le Fante	Sawyer
Carney	Leggett	Scheuer
Cavanaugh	Lloyd, Tenn.	Schulze
Conyers	Long, Md.	Sisk
Dellums	McCormack	Solarz
Devine	McDonald	Teague
Diggs	Milford	Udall
Drinan	Miller, Calif.	Waxman
Flowers	Myers, John	Wiggins
Fraser	Pike	Wilson, Bob
Gibbons	Pressler	Young, Tex.
Harrington	Rodino	

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill H.R. 13511, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 388 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The committee resumed its sitting.

Mr. CORMAN. Mr. Chairman, I yield 5 minutes to the distinguished Speaker, the gentleman from Massachusetts (Mr. O'NEILL).

Mr. O'NEILL. Mr. Chairman, I rise in support of the Corman-Fisher amendment. It is with diffidence that I rise to oppose the chairman of my Committee on Ways and Means. I appreciate the problem that he has had. It has been a rough and rocky road. In a democracy with its freedom and with its diversity of ideas, the chairman and the committee have had, indeed, a rough, tough spell. The chairman has responded to his obligation to bring forth what he thought was the best bill that he could get out of the committee, and that he has done.

The administration has been tardy in bringing tax legislation to this body. I truly feel, though, if the amendment offered by the gentleman from Virginia (Mr. FISHER) and the gentleman from California (Mr. CORMAN) had been brought up here 5 months ago, it would have been the product of the committee by now, and it would have sailed through this Congress. That is my opinion. In truth, it did not arrive to this Hill and into my office until such time as the Committee on Rules itself was meeting. There has been great consternation among the Democrats.

Mr. Chairman, I say to the gentleman from Oregon (Mr. ULLMAN) and the gentleman from Oklahoma (Mr. JONES) I appreciate their efforts along the line in which they have brought forth a bill. The administration has had an opportunity to read that bill line by line and go over it with the experts, and they have consulted with members of the gentleman's Committee on Ways and Means. The gentleman from California (Mr. CORMAN) and the gentleman from Virginia (Mr. FISHER) we regard, too, as tax experts. Again I reiterate, I appreciate the problem that the chairman and the committee were in. Now we want to improve upon what they have done.

We think that we have a very equitable amendment. What does it do? The Corman-Fisher amendment provides larger tax cuts for 87 percent of the taxpayers with incomes below $50,000.

A typical American family of four with an income of $25,000 would see reductions of $232 under the committee bill and $308 under the amendment.

A family with $20,000 in income would benefit by $146 under the committee bill and $228, or $82 more under the Corman-Fisher amendment.

A family with a $15,000 income would gain only $77 under the committee bill and $229 under the Corman-Fisher amendment.

The mean average income of the American family today is $17,000; so the Corman-Fisher amendment deliberates toward that group.

Eighty-seven percent of the people in America, or the families in America, earn less than $50,000; so it is well that we should give to them this rebate.

Now, the second section of the bill which the Corman-Fisher amendment addresses is the capital gains. Capital gains is an interesting thing. You know, in 1969 we closed the loophole, so they say, of capital gains. We raised it from 25 percent to 49 percent. That was the will of this Congress.

You know, yesterday I talked with Lew Harris, the pollster. He was showing me his statistics. In 1969, 70 percent of the American people thought that the capital gains was a loophole and should be closed, and 30 percent were in favor of changing the capital gains provision. You know, the Congress responded to the ways of the American people and their feelings. That was in 1969.

Now the pendulum has swung the other way. Lew Harris' poll, as of yesterday, as he showed it to me, indicates that 64 percent of the people today believe that the capital gains should be changed, as opposed to 20 percent who think it is the closing of a loophole; so the pendulum has swung back the other way.

What have we done with capital gains? Under the committee bill, individuals with substantial capital gains and no regular tax liability would pay an alternative minimum tax of 5 percent, no matter how large the gain. I say that is wrong. I say that is not what 64 percent of the American people want. They want a change in capital gains, but they want an equitable change.

What does the Corman-Fisher amendment do? The Corman-Fisher amendment would place a truly graduated alternative minimum tax, ranging from 5 percent to a maximum of 17½ percent; the top rate would be payable only on gains of more than $800,000.

I think this is a reasonable bill. We know that it will be signed by the President of the United States. Again, it came up awfully late. I am grateful to my colleagues, the gentleman from California (Mr. CORMAN) and the gentleman from Virginia (Mr. FISHER) for bringing this amendment before the House.

I support the amendment. I hope it is adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. CORMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CORMAN. Mr. Chairman I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 193, noes 225, not voting 14 as follows:

[Roll No. 683]

AYES—193

Addabbo	Florio	Oakar
Ambro	Foley	Oberstar
Ammerman	Ford, Mich.	Obey
Anderson, Calif.	Ford, Tenn.	Ottinger
	Garcia	Panetta
Annunzio	Gaydos	Patten
Applegate	Gephardt	Patterson
Ashley	Gilman	Pattison
Aspin	Glickman	Pease
Baldus	Gonzalez	Pepper
Baucus	Gore	Preyer
Beard, R.I.	Hamilton	Price
Bedell	Hanley	Rangel
Bellenson	Hannaford	Reuss
Benjamin	Harkin	Richmond
Biaggi	Harrington	Rinaldo
Bingham	Harris	Roe
Blanchard	Hawkins	Rogers
Blouin	Heckler	Roncalio
Boland	Hollenbeck	Rooney
Bolling	Holtzman	Rose
Bonior	Howard	Rosenthal
Bonker	Hubbard	Rostenkowski
Brademas	Hughes	Roybal
Breckinridge	Jacobs	Ryan
Brodhead	Johnson, Calif.	Santini
Brown, Calif.	Jordan	Scheuer
Burke, Mass.	Kastenmeier	Schroeder
Burlison, Mo.	Keys	Seiberling
Burton, John	Kildee	Sharp
Burton, Phillip	Kostmayer	Simon
Caputo	Krebs	Skelton
Carney	LaFalce	Solarz
Carr	Leggett	Spellman
Cavanaugh	Lehman	St Germain
Chisholm	Levitas	Staggers
Clay	Lloyd, Calif.	Stark
Collins, Ill.	Lundine	Steers
Conyers	McFall	Stokes
Corman	McHugh	Studds
Cornell	Maguire	Thompson
D'Amours	Markey	Traxler
Danielson	Marks	Tsongas
Delaney	Mattox	Tucker
Dellums	Meeds	Udall
Dent	Metcalfe	Van Deerlin
Derrick	Meyner	Vanik
Dicks	Mikulski	Vento
Diggs	Mikva	Volkmer
Dingell	Mineta	Walgren
Dodd	Minish	Waxman
Downey	Mitchell, Md.	Weaver
Drinan	Moakley	Weiss
Early	Moffett	Whalen
Eckhardt	Moorhead, Pa.	Whitten
Edgar	Moss	Wilson, C. H.
Edwards, Calif.	Mottl	Wirth
Eilberg	Murphy, Ill.	Wolff
Ertel	Murphy, N.Y.	Wright
Evans, Ind.	Murphy, Pa.	Yates
Fary	Myers, Michael	Yatron
Fascell	Nedzi	Young, Mo.
Fisher	Nix	Zablocki
Fithian	Nolan	Zeferetti
Flood	Nowak	

NOES—225

Abdnor	Duncan, Tenn.	Krueger
Akaka	Edwards, Ala.	Lagomarsino
Alexander	Edwards, Okla.	Latta
Anderson, Ill.	Emery	Leach
Andrews, N.C.	English	Lederer
Andrews, N. Dak.	Erlenborn	Lent
Archer	Evans, Colo.	Livingston
Armstrong	Evans, Del.	Long, La.
Ashbrook	Evans, Ga.	Long, Md.
AuCoin	Fenwick	Lott
Badham	Findley	Lujan
Bafalis	Fish	Luken
Barnard	Flippo	McClory
Bauman	Flowers	McCloskey
Beard, Tenn.	Flynt	McCormack
Bennett	Forsythe	McDade
Bevill	Fountain	McEwen
Boggs	Fowler	McKay
Bowen	Frenzel	McKinney
Breaux	Frey	Madigan
Brinkley	Fuqua	Mahon
Brooks	Gammage	Mann
Broomfield	Giaimo	Marlenee
Brown, Mich.	Gibbons	Marriott
Brown, Ohio	Ginn	Martin
Broyhill	Goldwater	Mathis
Buchanan	Goodling	Mazzoli
Burgener	Gradison	Michel
Burke, Fla.	Grassley	Milford
Burleson, Tex.	Green	Miller, Ohio
Butler	Gudger	Mitchell, N.Y.
Byron	Guyer	Mollohan
Carter	Hagedorn	Montgomery
Cederberg	Hall	Moore
Chappell	Hammer-schmidt	Moorhead, Calif.
Clausen, Don H.	Hansen	Murtha
Clawson, Del	Harsha	Myers, Gary
Cleveland	Hefner	Myers, John
Cochran	Heftel	Natcher
Cohen	Hightower	Neal
Coleman	Hillis	Nichols
Collins, Tex.	Holland	O'Brien
Conable	Holt	Perkins
Conte	Horton	Pettis
Corcoran	Huckaby	Pickle
Cornwell	Hyde	Pike
Cotter	Ichord	Poage
Coughlin	Ireland	Pressler
Crane	Jeffords	Pritchard
Cunningham	Jenkins	Pursell
Daniel, Dan	Johnson, Colo.	Quayle
Daniel, R. W.	Jones, N.C.	Quie
Davis	Jones, Okla.	Quillen
de la Garza	Jones, Tenn.	Rahall
Derwinski	Kasten	Railsback
Dickinson	Kazen	Regula
Dornan	Kelly	Rhodes
Duncan, Oreg.	Kemp	Risenhoover
	Kindness	Roberts
Robinson	Stangeland	Walsh
Rousselot	Stanton	Wampler
Runnels	Steed	Watkins
Ruppe	Steiger	White
Russo	Stockman	Whitehurst
Sarasin	Stratton	Whitley
Satterfield	Stump	Wiggins
Sebelius	Symms	Wilson, Bob
Shipley	Taylor	Wilson, Tex.
Shuster	Thone	Winn
Sikes	Thornton	Wydler
Skubitz	Treen	Wylie
Slack	Trible	Young, Alaska
Smith, Iowa	Ullman	Young, Fla.
Smith, Nebr.	Vander Jagt	Young, Tex.
Snyder	Waggonner	
Spence	Walker	

NOT VOTING—14

Burke, Calif.	Lloyd, Tenn.	Sawyer
Devine	McDonald	Schulze
Fraser	Miller, Calif.	Sisk
Jenrette	Rodino	Teague
Le Fante	Rudd	

The Clerk announced the following pairs:

On this vote:

Mr. Jenrette for, with Mrs. Lloyd of Tennessee against.

Mr. Le Fante for, with Mr. McDonald against.

Mr. Rodino for, with Mr. Teague against.

Mrs. Burke of California for, with Mr. Devine against.

Mr. Miller of California for, with Mr. Rudd against.

Mr. YATES changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, pursuant to House Resolution 1306, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. KEMP

Mr. KEMP. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. KEMP. I am in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. KEMP moves to recommit the bill H.R. 13511 to the Committee on Ways and Means with instructions to report back the same forthwith with the following amendment: Strike out section 101 of the bill and insert in lieu thereof the following:

SEC. 101. REDUCTION IN 1979 INDIVIDUAL INCOME TAX RATES.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $3,200	No tax.
Over $3,200 but not over $4,200	12% of excess over $3,200.
Over $4,200 but not over $5,200	$120, plus 13% of excess over $4,200.
Over $5,200 but not over $6,200	$250, plus 14% of excess over $5,200.
Over $6,200 but not over $7,200	$390, plus 15% of excess over $6,200.
Over $7,200 but not over $11,200	$540, plus 17% of excess over $7,200.
Over $11,200 but not over $15,200	$1,200, plus 19% of excess over $11,200.
Over $15,200 but not over $19,200	$1,980, plus 22% of excess over $15,200.
Over $19,200 but not over $23,200	$2,860, plus 25% of excess over $19,200.
Over $23,200 but not over $27,200	$3,860, plus 28% of excess over $23,200.
Over $27,200 but not over $31,200	$4,980, plus 32% of excess over $27,200.
Over $31,200 but not over $35,200	$6,260, plus 35% of excess over $31,200.
Over $35,200 but not over $39,200	$7,660, plus 37% of excess over $35,200.
Over $39,200 but not over $43,200	$9,140, plus 40% of excess over $39,200.
Over $43,200 but not over $47,200	$10,740, plus 43% of excess over $43,200.
Over $47,200 but not over $55,200	$12,460, plus 45% of excess over $47,200.
Over $55,200 but not over $67,200	$16,060, plus 47% of excess over $55,200.
Over $67,200 but not over $79,200	$21,700, plus 49% of excess over $67,200.
Over $79,200 but not over $91,200	$27,580, plus 52% of excess over $79,200.
Over $91,200 but not over $103,200	$33,820, plus 54% of excess over $91,200.
Over $103,200 but not over $123,200	$40,300, plus 56% of excess over $103,200.
Over $123,200 but not over $143,200	$51,500, plus 58% of excess over $123,200.
Over $143,200 but not over $163,200	$63,100, plus 59% of escess over $143,200.
Over $163,200 but not over $183,200	$74,900, plus 61% of excess over $163,200.
Over $183,200 but not over $203,200	$87,100, plus 62% of excess over $183,200.
Over $203,200	$99,500, plus 63% of excess over $203,200.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	12.0% of excess over $2,200.
Over $2,700 but not over $3,200	$60, plus 12.5% of excess over $2,700.
Over $3,200 but not over $3,700	$122.50, plus 13.5% of excess over $3,200.

Over $3,700 but not over $4,200	$190, plus 14.0% of excess over $3,700.
Over $4,200 but not over $5,200	$260, plus 15.5% of excess over $4,200.
Over $5,200 but not over $6,200	$415, plus 16.0% of excess over $5,200.
Over $6,200 but not over $8,200	$575, plus 17.5% of excess over $6,200.
Over $8,200 but not over $10,200	$925, plus 19.0% of excess over $10,200.
Over $10,200 but not over $12,200	$1,305, plus 20.5% of excess over $8,200.
Over $12,200 but not over $14,200	$1,715, plus 21.0% of excess over $12,200.
Over $14,200 but not over $16,200	$2,135, plus 24.0% of excess over $14,200.
Over $16,200 but not over $18,200	$2,615, plus 24.5% of excess over $15,200.
Over $18,200 but not over $20,200	$3,105, plus 28% of excess over $18,200.
Over $20,200 but not over $22,200	$3,665, plus 28.5% of excess over $20,200.
Over $22,200 but not over $24,200	$4,235, plus 30.5% of excess over $22,200.
Over $24,200 but not over $26,200	$4,845, plus 31.5% of excess over $24,200.
Over $26,200 but not over $28,200	$5,475, plus 33.5% of excess over $26,200.
Over $28,200 but not over $30,200	$6,145, plus 36.0% of excess over $28,200.
Over $30,200 but not over $34,200	$6,865, plus 37.5% of excess over $30,200.
Over $34,200 but not over $38,200	$8,365, plus 41.0% of excess over $34,200.
Over $38,200 but not over $40,200	$10,005, plus 42.5% of excess over $40,200.
Over $40,200 but not over $42,200	$10,855, plus 45.0% of excess over $38,200.
Over $42,200 but not over $46,200	$11,755, plus 46.5% of excess over $42,200.
Over $46,200 but not over $52,200	$13,615, plus 49.5% of excess over $46,200.
Over $52,200 but not over $54,200	$16,585, plus 50.5% of excess over $52,200.
Over $54,200 but not over $62,200	$17,595, plus 51.5% of excess over $54,200.
Over $62,200 but not over $66,200	$21,715, plus 52.5% of excess over $62,200.
Over $66,200 but not over $72,200	$23,815, plus 53.5% of excess over $66,200.
Over $72,200 but not over $78,200	$27,025, plus 54.0% of excess over $72,200.
Over $78,200 but not over $82,200	$30,265, plus 55.5% of excess over $78,200.
Over $82,200 but not over $90,200	$32,485, plus 56.5% of excess over $82,200.
Over $90,200 but not over $92,200	$37,005, plus 57.5% of excess over $90,200.
Over $92,200 but not over $102,200	$38,155, plus 58.0% of excess over $92,200.
Over $102,200 but not over $122,200	$43,955, plus 59.5% of excess over $102,200.
Over $122,200, but not over $142,200	$55,855, plus 60.5% of excess over $122,200.
Over $142,200 but not over $152,200	$67,955, plus 61.0% of excess over $142,200.
Over $152,200 but not over $162,200	$74,055, plus 61.5% of excess over $152,200.
Over $162,200 but not over $182,200	$80,155, plus 62.0% of excess over $162,200.
Over $182,200 but not over $202,200	$92,555, plus 62.5% of excess over $182,200.
Over $202,200	$105,055, plus 63.0% of excess over $202,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	12 percent of excess over $2,200.
Over $2,700 but not over $3,200	$60, plus 13 percent of excess over $2,700.
Over $3,200 but not over $3,700	$125, plus 14 percent of excess over $3,200.
Over $3,700 but not over $4,200	$195, plus 15 percent of excess over $3,700.
Over $4,200 but not over $6,200	$270, plus 17 percent of excess over $4,200.
Over $6,200 but not over $8,200	$610, plus 18 percent of excess over $6,200.
Over $8,200 but not over $10,200	$970, plus 21 percent of excess over $8,200.
Over $10,200 but not over $12,200	$1,390, plus 22 percent of excess over $10,200.
Over $12,200 but not over $14,200	$1,830, plus 23 percent of excess over $12,200.
Over $14,200 but not over $16,200	$2,290, plus 26 percent of excess over $14,200.
Over $16,200 but not over $18,200	$2,810, plus 27 percent of excess over $16,200.
Over $18,200 but not over $20,200	$3,350, plus 31 percent of excess over $18,200.
Over $20,200 but not over $22,200	$3,970, plus 32 percent of excess over $20,200.
Over $22,200 but not over $24,200	$4,610, plus 33 percent of excess over $22,200.
Over $24,200 but not over $28,200	$5,270, plus 35 percent of excess over $24,200.
Over $28,200 but not over $34,200	$6,670, plus 40 percent of excess over $28,200.
Over $34,200 but not over $40,200	$9,070, plus 45 percent of excess over $34,200.
Over $40,200 but not over $46,200	$11,770, plus 50 percent of excess over $40,200.
Over $46,200 but not over $52,200	$14,770, plus 54 percent of excess over $46,200.
Over $52,200 but not over $62,200	$18,010, plus 56 percent of excess over $52,200.
Over $62,200 but not over $72,200	$23,610, plus 58 percent of excess over $62,200.
Over $72,200 but not over $82,200	$29,410, plus 59 percent of excess over $72,200.
Over $82,200 but not over $92,200	$35,310, plus 61 percent of excess over $82,200.
Over $92,200 but not over $102,200	$41,410, plus 62 percent of excess over $92,200.
Over $102,200	$47,610, plus 63 percent of excess over $102,200.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,600	No tax.
Over $1,600 but not over $2,100	12% of excess over $1,600.
Over $2,100 but not over $2,600	$60, plus 13% of excess over $2,100.
Over $2,600 but not over $3,100	$125, plus 14% of excess over $2,600.
Over $3,100 but not over $3,600	$195, plus 15% of excess over $3,100.
Over $3,600 but not over $5,600	$270, plus 17% of excess over $3,600.
Over $5,600 but not over $7,600	$610, plus 19% of excess over $5,600.
Over $7,600 but not over $9,600	$990, plus 22% of excess over $7,600.
Over $9,600 but not over $11,600	$1,430, plus 25% of excess over $9,600.
Over $11,600 but not over $13,600	$1,930, plus 28% of excess over $11,600.
Over $13,600 but not over $15,600	$2,490, plus 32% of excess over $13,600.
Over $15,600 but not over $17,600	$3,130, plus 35% of excess over $15,600.
Over $17,600 but not over $19,600	$3,830, plus 37% of excess over $17,600.

Over $19,600 but not over $21,600	$4,570, plus 40% of excess over $19,600.
Over $21,600 but not over $23,600	$5,370, plus 43% of excess over $21,600.
Over $23,600 but not over $27,600	$6,230, plus 45% of excess over $23,600.
Over $27,600 but not over $33,600	$8,030, plus 47% of excess over $27,600.
Over $33,600 but not over $39,600	$10,850, plus 49% of excess over $33,600.
Over $39,600 but not over $45,600	$13,790, plus 52% of excess over $39,600.
Over $45,600 but not over $51,600	$16,910, plus 54% of excess over $45,000.
Over $51,600 but not over $61,600	$20,150, plus 56% of excess over $51,600.
Over $61,600 but not over $71,600	$25,750, plus 58% of excess over $61,600.
Over $71,600 but not over $81,600	$31,550, plus 59% of excess over $71,600.
Over $81,600 but not over $91,600	$37,450, plus 61% of excess over $81,600.
Over $91,600 but not over $101,600	$43,550, plus 62% of excess over $91,600.
Over $101,600	$49,750, plus 63% of excess over $101,600.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	12% of taxable income.
Over $500 but not over $1,000	$60, plus 13% of excess over $500.
Over $1,000 but not over $1,500	$125, plus 14% of excess over $1,000.
Over $1,500 but not over $2,000	$195, plus 15% of excess over $1,500.
Over $2,000 but not over $4,000	$270, plus 17% of excess over $2,000.
Over $4,000 but not over $6,000	$610, plus 19% of excess over $4,000.
Over $6,000 but not over $8,000	$990, plus 22% of excess over $6,000.
Over $8,000 but not over $10,000	$1,430, plus 25% of excess over $8,000.
Over $10,000 but not over $12,000	$1,930, plus 28% of excess over $10,000.
Over $12,000 but not over $14,000	$2,490, plus 32% of excess over $12,000.
Over $14,000 but not over $16,000	$3,130, plus 35% of excess over $14,000.
Over $16,000 but not over $18,000	$3,830, plus 37% of excess over $16,000.
Over $18,000 but not over $20,000	$4,570, plus 40% of excess over $18,000.
Over $20,000 but not over $22,000	$5,370, plus 43% of excess over $20,000.
Over $22,000 but not over $26,000	$6,230, plus 45% of excess over $22,000.
Over $26,000 but not over $32,000	$8,030, plus 47% of excess over $26,000.
Over $32,000 but not over $38,000	$10,850, plus 49% of excess over $32,000.
Over $38,000 but not over $44,000	$13,790, plus 52% of excess over $38,000.
Over $44,000 but not over $50,000	$16,910, plus 54% of excess over $44,000.
Over $50,000 but not over $60,000	$20,150, plus 56% of excess over $50,000.
Over $60,000 but not over $70,000	$25,750, plus 58% of excess over $60,000.
Over $70,000 but not over $80,000	$31,550, plus 59% of excess over $70,000.
Over $80,000 but not over $90,000	$37,450, plus 61% of excess over $80,000.
Over $90,000 but not over $100,000	$43,550, plus 62% of excess over $90,000.
Over $100,000	$49,750, plus 63% of excess over $100,000."

(b) WITHHOLDING AMENDMENT.—Subsection (a) of section 3402 (relating to requirement of withholding) is amended by striking out the second and third sentences and inserting in lieu thereof the following new sentence: "With respect to wages paid after December 31, 1978, the tables so prescribed shall be the same as the tables prescribed under this subsection which were in effect on January 1, 1975, except that—

"(1) tables shall be modified to the extent necessary to reflect the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977, and

"(2) such tables shall be further modified—

"(A) with respect to wages paid in 1979, to the extent necessary to reflect the amendment made by section 101(a) of the Revenue Act of 1978,

"(B) with respect to wages paid in 1980, to the extent necessary to reflect the amendment made by section 102(a) of the Revenue Act of 1978, and

"(C) with respect to wages paid after 1980, to the extent necessary to reflect the amendment made by section 103(a) of the Revenue Act of 1978."

(c) EFFECTIVE DATE.—

(1) SUBSECTION (a).—The amendment made by this subsection (a) shall apply to taxable years beginning in calendar year 1979.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to wages paid after December 31, 1978.

SEC. 102. REDUCTION IN 1980 INDIVIDUAL INCOME TAX RATES

(a) PERMANENT REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $3,200	No tax.
Over $3,200 but not over $4,200	10% of excess over $3,200.
Over $4,200 but not over $5,200	$100, plus 11% of excess over $4,200.
Over $5,200 but not over $6,200	$210, plus 12% of excess over $5,200.
Over $6,200 but not over $7,200	$330, plus 13% of excess over $6,200.
Over $7,200 but not over $11,200	$460, plus 15% of excess over $7,200.
Over $11,200 but not over $15,200	$1,060, plus 17% of excess over $11,200.
Over $15,200 but not over $19,200	$1,740, plus 19% of excess over $15,200.
Over $19,200 but not over $23,200	$2,500, plus 22% of excess over $19,200.
Over $23,200 but not over $27,200	$3,380, plus 25% of excess over $23,200.
Over $27,200 but not over $31,200	$4,380, plus 28% of excess over $27,200.
Over $31,200 but not over $35,200	$5,500, plus 31% of excess over $31,200.
Over $35,200 but not over $39,200	$6,740, plus 33% of excess over $35,200.
Over $39,200 but not over $43,200	$8,060, plus 35% of excess over $39,200.
Over $43,200 but not over $47,200	$9,460, plus 38% of excess over $43,200.
Over $47,200 but not over $55,200	$10,980, plus 40% of excess over $47,200.
Over $55,200 but not over $67,200	$14,180, plus 41% of excess over $55,200.
Over $67,200 but not over $79,200	$19,100, plus 43% of excess over $67,200.
Over $79,200 but not over $91,200	$24,260, plu 46% of excess over $79,200.
Over $91,200 but not over $103,200	$29,780, plus 48% of excess over $91,200.

Over $103,200 but not over $123,200	$35,540, plus 50% of excess over $103,200.
Over $123,200 but not over $143,200	$45,540, plus 52% of excess over $123,200.
Over $143,200 but not over $163,200	$55,940, plus 53% of excess over $143,200.
Over $163,200 but not over $183,200	$66,540, plus 54% of excess over $163,200.
Over $183,200 but not over $203,200	$77,340, plus 55% of excess over $183,200.
Over $203,200	$88,340, plus 56% of excess over $203,200.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	10 percent of excess over $2,200.
Over $2,700 but not over $3,200	$50, plus 10.5 percent of excess over $2,700.
Over $3,200 but not over $3,700	$102.50, plus 11.5 percent of excess over $3,200.
Over $3,700 but not over $4,200	$160, plus 12 percent of excess over $3,700.
Over $4,200 but not over $5,200	$220, plus 13 percent of excess over $4,200.
Over $5,200 but not over $6,200	$350, plus 13.5 percent of excess over $5,200.
Over $6,200 but not over $8,200	$485, plus 15.5 percent of excess over $6,200.
Over $8,200 but not over $10,200	$795, plus 16.5 percent of excess over $8,200.
Over $10,200 but not over $12,200	$1,125, plus 18 percent of excess over $10,200.
Over $12,200 but not over $14,200	$1,485, plus 19 percent of excess over $12,200.
Over $14,200 but not over $16,200	$1,865, plus 20.5 percent of excess over $14,200.
Over $16,200 but not over $18,200	$2,275, plus 21.5 percent of excess over $16,200.
Over $18,200 but not over $20,200	$2,705, plus 24.5 percent of excess over $18,200.
Over $20,200 but not over $22,200	$3,195, plus 25.5 percent of excess over $20,200.
Over $22,200 but not over $24,200	$3,705, plus 27.5 percent of excess over $22,200.
Over $24,200 but not over $26,200	$4,255, plus 28 percent of excess over $24,200.
Over $26,200 but not over $28,200	$4,815, plus 29.5 percent of excess over $26,200.
Over $28,200 but not over $30,200	$5,405, plus 32 percent of excess over $28,200.
Over $30,200 but not over $34,200	$6,045, plus 33.5 percent of excess over $30,200.
Over $34,200 but not over $38,200	$7,385, plus 37 percent of excess over $34,200.
Over $38,200 but not over $40,200	$8,865, plus 38 percent of excess over $38,200.
Over $40,200 but not over $42,200	$9,625, plus 39 percent of excess over $40,200.
Over $42,200 but not over $46,200	$10,405, plus 40.5 percent of excess over $42,200.
Over $46,200 but not over $52,200	$12,025, plus 44 percent of excess over $46,200.
Over $52,200 but not over $54,200	$14,665, plus 44.5 percent of excess over $52,200.
Over $54,200 but not over $62,200	$15,555, plus 45 percent of excess over $54,200.
Over $62,200 but not over $66,200	$19,155, plus 46 percent of excess over $62,200.
Over $66,200 but not over $72,200	$20,995, plus 47 percent of excess over $66,200.
Over $72,200 but not over $78,200	$23,815, plus 47.5 percent of excess over $72,200.
Over $78,200 but not over $82,200	$26,665, plus 49 percent of excess over $78,200.
Over $82,200 but not over $90,200	$28,625, plus 50 percent of excess over $82,200.
Over $90,200 but not over $92,200	$32,625, plus 51 percent of excess over $90,200.
Over $92,200 but not over $102,200	$33,645, plus 51.5 percent of excess over $92,200.
Over $102,200 but not over $122,200	$38,795, plus 53 percent of excess over $102,200.
Over $122,200 but not over $142,200	$49,395, plus 54 percent of excess over $122,200.
Over $142,200 but not over $152,200	$60,195, plus 54.5 percent of excess over $142,200.
Over $152,200 but not over $162,200	$65,645, plus 54.5 percent of excess over $152,200.
Over $162,200 but not over $182,200	$71,095, plus 55 percent of excess over $162,200.
Over $182,200 but not over $202,200	$82,095, plus 55.5 percent of excess over $182,200.
Over $202,200	$93,195, plus 56 percent of excess over $202,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	10% of excess over $2,200.
Over $2,700 but not over $3,200	$50, plus 11% of excess over $2,700.
Over $3,200 but not over $3,700	$105, plus 12% of excess over $3,200.
Over $3,700 but not over $4,200	$165, plus 13% of excess over $3,700.
Over $4,200 but not over $6,200	$230, plus 14% of excess over $4,200.
Over $6,200 but not over $8,200	$510, plus 16% of excess over $6,200.
Over $8,200 but not over $10,200	$830, plus 18% of excess over $8,200.
Over $10,200 but not over $12,200	$1,190, plus 19% of excess over $10,200.
Over $12,200 but not over $14,200	$1,570, plus 21% of excess over $12,200.
Over $14,200 but not over $16,200	$1,990, plus 22% of excess over $14,200.
Over $16,200 but not over $18,200	$2,430, plus 24% of excess over $16,200.
Over $18,200 but not over $20,200	$2,910, plus 27% of excess over $18,200.
Over $20,200 but not over $22,200	$3,450, plus 29% of excess over $20,200.
Over $22,200 but not over $24,200	$4,030, plus 30% of excess over $22,200.
Over $24,200 but not over $28,200	$4,630, plus 31% of excess over $24,200.
Over $28,200 but not over $34,200	$5,870, plus 36% of excess over $28,200.
Over $34,200 but not over $40,200	$8,030, plus 41% of excess over $34,200.
Over $40,200 but not over $46,200	$10,490, plus 43% of excess over $40,200.
Over $46,200 but not over $52,200	$13,070, plus 48% of excess over $46,200.
Over $52,200 but not over $62,200	$15,950, plus 49% of excess over $52,200.
Over $62,200 but not over $72,200	$20,850, plus 51% of excess over $62,200.
Over $72,200 but not over $82,200	$25,950, plus 52% of excess over $72,200.
Over $82,200 but not over $92,200	$31,150, plus 54% of excess over $82,200.
Over $92,200 but not over $102,200	$36,550, plus 55% of excess over $92,200.
Over $102,200	$42,050, plus 56% of excess over $102,200.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,600	No tax.
Over $1,600 but not over $2,100	10% of excess over $1,600.
Over $2,100 but not over $2,600	$50, plus 11% of excess over $2,100.
Over $2,600 but not over $3,100	$105, plus 12% of excess over $2,600.
Over $3,100 but not over $3,600	$165, plus 13% of excess over $3,100.
Over $3,600 but not over $5,600	$230, plus 15% of excess over $3,600.
Over $5,600 but not over $7,600	$530, plus 17% of excess over $5,600.
Over $7,600 but not over $9,600	$870, plus 19% of excess over $7,600.
Over $9,600 but not over $11,600	$1,250, plus 22% of excess over $9,600.
Over $11,600 but not over $13,600	$1,690, plus 25% of excess over $11,600.
Over $13,600 but not over $15,600	$2,190, plus 28% of excess over $13,600.
Over $15,600 but not over $17,600	$2,750, plus 31% of excess over $15,600.
Over $17,600 but not over $19,600	$3,370, plus 33% of excess over $17,600.
Over $19,600 but not over $21,600	$4,030, plus 35% of excess over $19,600.
Over $21,600 but not over $23,600	$4,730, plus 38% of excess over $21,600.
Over $23,600 but not over $27,600	$5,490, plus 40% of excess over $23,600.
Over $27,600 but not over $33,600	$7,090, plus 41% of excess over $27,600.
Over $33,600 but not over $39,600	$9,550, plus 43% of excess over $33,600.
Over $39,600 but not over $45,600	$12,130, plus 46% of excess over $39,600.
Over $45,600 but not over $51,600	$14,890, plus 48% of excess over $45,600.
Over $51,600 but not over $61,600	$17,770, plus 50% of excess over $51,600.
Over $61,600 but not over $71,600	$22,770, plus 52% of excess over $61,600.
Over $71,600 but not over $81,600	$27,970, plus 53% of excess over $71,600.
Over $81,600 but not over $91,600	$33,270, plus 54% of excess over $81,600.
Over $91,600 but not over $101,600	$38,670, plus 55% of excess over $91,600.
Over $101,600	$44,170, plus 56% of excess over $101,600.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	10% of taxable income.
Over $500 but not over $1,000	$50, plus 11% of excess over $500.
Over $1,000 but not over $1,500	$105, plus 12% of excess over $1,000.
Over $1,500 but not over $2,000	$165, plus 13% of excess over $1,500.
Over $2,000 but not over $4,000	$230, plus 15% of excess over $2,000.
Over $4,000 but not over $6,000	$530, plus 17% of excess over $4,000.
Over $6,000 but not over $8,000	$870, plus 19% of excess over $6,000.
Over $8,000 but not over $10,000	$1,250, plus 22% of excess over $8,000.
Over $10,000 but not over $12,000	$1,690, plus 25% of excess over $10,000.
Over $12,000 but not over $14,000	$2,190, plus 28% of excess over $12,000.
Over $14,000 but not over $16,000	$2,750, plus 31% of excess over $14,000.
Over $16,000 but not over $18,000	$3,370, plus 33% of excess over $16,000.
Over $18,000 but not over $20,000	$4,030, plus 35% of excess over $18,000.
Over $20,000 but not over $22,000	$4,730, plus 38% of excess over $20,000.
Over $22,000 but not over $26,000	$5,490, plus 40% of excess over $22,000.
Over $26,000 but not over $32,000	$7,090, plus 41% of excess over $26,000.
Over $32,000 but not over $38,000	$9,550, plus 43% of excess over $32,000.
Over $38,000 but not over $44,000	$12,130, plus 46% of excess over $38,000.
Over $44,000 but not over $50,000	$14,890, plus 48% of excess over $44,000.
Over $50,000 but not over $60,000	$17,770, plus 50% of excess over $50,000.
Over $60,000 but not over $70,000	$22,770, plus 52% of excess over $60,000.
Over $70,000 but not over $80,000	$27,970, plus 53% of excess over $70,000.
Over $80,000 but not over $90,000	$33,270, plus 54% of excess over $80,000.
Over $90,000 but not over $100,000	$38,670, plus 55% of excess over $90,000.
Over $100,000	$44,170, plus 56% of excess over $100,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning in calendar year 1980.

SEC. 103. PERMANENT REDUCTION IN INDIVIDUAL INCOME TAX RATES.

(a) PERMANENT REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $3,200	No tax.
Over $3,200 but not over $4,200	8% of excess over $3,200.
Over $4,200 but not over $5,200	$80, plus 9% of excess over $4,200.
Over $5,200 but not over $6,200	$170, plus 10% of excess over $5,200.
Over $6,200 but not over $7,200	$270, plus 11% of excess over $6,200.
Over $7,200 but not over $11,200	$380, plus 13% of excess over $7,200.
Over $11,200 but not over $15,200	$900, plus 15% of excess over $11,200.
Over $15,200 but not over $19,200	$1,500, plus 17% of excess over $15,200.
Over $19,200 but not over $23,200	$2,180, plus 19% of excess over $19,200.
Over $23,200 but not over $27,200	$2,940, plus 21% of excess over $23,200.
Over $27,200 but not over $31,200	$3,780, plus 24% of excess over $27,200.
Over $31,200 but not over $35,200	$4,740, plus 27% of excess over $31,200.
Over $35,200 but not over $39,200	$5,820, plus 29% of excess over $35,200.
Over $39,200 but not over $43,200	$6,980, plus 31% of excess over $39,200.

Over $43,200 but not over $47,200	$8,220, plus 33% of excess over $43,200.
Over $47,200 but not over $55,200	$9,540, plus 35% of excess over $47,200.
Over $55,200 but not over $67,200	$12,340, plus 36% of excess over $55,200.
Over $67,200 but not over $79,200	$16,660, plus 37% of excess over $67,200.
Over $79,200 but not over $91,200	$21,100, plus 40% of excess over $79,200.
Over $91,200 but not over $103,200	$25,900, plus 42% of excess over $91,200.
Over $103,200 but not over $123,200	$30,940, plus 44% of excess over $103,200.
Over $123,200 but not over $143,200	$39,740, plus 46% of excess over $123,200.
Over $143,200 but not over $163,200	$48,940, plus 47% of excess over $143,200.
Over $163,200 but not over $183,200	$58,340, plus 48% of excess over $163,200.
Over $183,200 but not over $203,200	$67,940, plus 49% of excess over $183,200.
Over $203,200	$77,740, plus 50% of excess over $203,200.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	7.5% of excess over $2,200.
Over $2,700 but not over $3,200	$37.50, plus 8.5% of excess over $2,700.
Over $3,200 but not over $3,700	$80, plus 9.5% of excess over $3,200.
Over $3,700 but not over $4,200	$127.50, plus 10% of excess over $3,700.
Over $4,200 but not over $5,200	$177, plus 11% of excess over $4,200.
Over $5,200 but not over $6,200	$287, plus 11.5% of excess over $5,200.
Over $6,200 but not over $8,200	$402, plus 13% of excess over $6,200.
Over $8,200 but not over $10,200	$622, plus 14.5% of excess over $8,200.
Over $10,200 but not over $12,200	$952, plus 16% of excess over $10,200.
Over $12,200 but not over $14,200	$1,272, plus 16.5% of excess over $12,200.
Over $14,200 but not over $16,200	$1,602, plus 18.5% of excess over $14,200.
Over $16,200 but not over $18,200	$1,972, plus 19% of excess over $16,200.
Over $18,200 but not over $20,200	$2,352, plus 21% of excess over $18,200.
Over $20,200 but not over $22,000	$2,772, plus 21.5% of excess over $20,200.
Over $22,200 but not over $24,200	$3,202, plus 23.5% of excess over $22,200.
Over $24,200 but not over $26,200	$3,672, plus 24% of excess over $24,200.
Over $26,200 but not over $28,200	$4,152, plus 25.5% of excess over $26,200.
Over $28,200 but not over $30,200	$4,662, plus 27.5% of excess over $28,200.
Over $30,200 but not over $34,200	$5,212, plus 29% of excess over $30,200.
Over $34,200 but not over $38,200	$6,372, plus 32.5% of excess over $34,200.
Over $38,200 but not over $40,200	$7,672, plus 33.5% of excess over $38,200.
Over $40,200 but not over $42,200	$8,342, plus 34.5% of excess over $40,200.
Over $42,200 but not over $46,200	$9,032, plus 35.5% of excess over $42,200.
Over $46,200 but not over $52,200	$10,452, plus 38.5% of excess over $46,200.
Over $52,200 but not over $54,200	$12,762, plus 39% of excess over $52,200.
Over $54,200 but not over $62,200	$13,542, plus 39.5% of excess over $54,200.
Over $62,200 but not over $66,200	$16,702, plus 40% of excess over $62,200.
Over $66,200 but not over $72,200	$18,302, plus 40.5% of excess over $66,200.
Over $72,200 but not over $78,200	$20,732, plus 41% of excess over $72,200.
Over $78,200 but not over $82,200	$23,192, plus 42.5% of excess over $78,200.
Over $82,200 but not over $90,200	$24,892, plus 44% of excess over $82,200.
Over $90,200 but not over $92,200	$28,412, plus 45% of excess over $90,200.
Over $92,200 but not over $102,200	$29,312, plus 45.5% of excess over $92,200.
Over $102,200 but not over $122,200	$33,862, plus 47% of excess over $102,200.
Over $122,200 but not over $142,200	$43,262, plus 48% of excess over $122,200.
Over $142,200 but not over $152,200	$57,712, plus 48.5% of excess over $152,200.
Over $152,200 but not over $162,200	$57,712, plus 48.5% of excess over $162,200.
Over $162,200 but not over $182,200	$62,562, plus 49% of excess over $162,200.
Over $182,200 but not over $202,200	$72,362, plus 49.5% of excess over $182,200.
Over $202,200	$82,262, plus 50% of excess over $202,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)), who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $2,200	No tax.
Over $2,200 but not over $2,700	7 percent of excess over $2,200.
Over $2,700 but not over $3,200	$35, plus 9 percent of excess over $2,700.
Over $3,200 but not over $3,700	$80, plus 10 percent of excess over $3,200.
Over $3,700 but not over $4,200	$130, plus 11 percent of excess over $3,700.
Over $4,200 but not over $6,200	$185, plus 12 percent of excess over $4,200.
Over $6,200 but not over $8,200	$425, plus 13 percent of excess over $6,200.
Over $8,200 but not over $10,200	$685, plus 16 percent of excess over $8,200.
Over $10,200 but not over $12,200	$1,005, plus 17 percent of excess over $10,200.
Over $12,200 but not over $14,200	$1,345, plus 18 percent of excess over $12,200.
Over $14,200 but not over $16,200	$1,705, plus 20 percent of excess over $14,200.
Over $16,200 but not over $18,200	$2,105, plus 21 percent of excess over $16,200.
Over $18,200 but not over $20,200	$2,525, plus 23 percent of excess over $18,200.
Over $20,200 but not over $22,200	$2,985, plus 24 percent of excess over $20,200.
Over $22,200 but not over $24,200	$3,465, plus 26 percent of excess over $22,200.
Over $24,200 but not over $28,200	$3,985, plus 27 percent of excess over $24,200.
Over $28,200 but not over $34,200	$5,065, plus 31 percent of excess over $28,200.
Over $34,200 but not over $40,200	$6,925, plus 36 percent of excess over $34,200.
Over $40,200 but not over $46,200	$9,085, plus 38 percent of excess over $40,200.
Over $46,200 but not over $52,200	$11,365, plus 42 percent of excess over $46,200.

Over $52,200 but not over $62,200	$13,885, plus 43% of excess over $52,200.
Over $62,200 but not over $72,200	$18,185, plus 44% of excess over $62,200.
Over $72,200 but not over $82,200	$22,585, plus 45% of excess over $72,200.
Over $82,200 but not over $92,200	$27,085, plus 48% of excess over $82,200.
Over $92,200 but not over $102,200	$31,885, plus 49% of excess over $92,200.
Over $102,200	$36,785, plus 50% of excess over $102,200.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $1,600	No tax.
Over $1,600 but not over $2,100	8% of excess over $1,600.
Over $2,100 but not over $2,600	$40, plus 9% of excess over $2,100.
Over $2,600 but not over $3,100	$85, plus 10% of excess over $2,600.
Over $3,100 but not over $3,600	$135, plus 11% of excess over $3,100.
Over $3,600 but not over $5,600	$190, plus 13% of excess over $3,600.
Over $5,600 but not over $7,600	$450, plus 15% of excess over $5,600.
Over $7,600 but not over $9,600	$750, plus 17% of excess over $7,600.
Over $9,600 but not over $11,600	$1,090, plus 19% of excess over $9,600.
Over $11,600 but not over $13,600	$1,470, plus 21% of excess over $11,600.
Over $13,600 but not over $15,600	$1,890, plus 24% of excess over $13,600.
Over $15,600 but not over $17,600	$2,370, plus 27% of excess over $15,600.
Over $17,600 but not over $19,600	$2,910, plus 29% of excess over $17,600.
Over $19,600 but not over $21,600	$3,490, plus 31% of excess over $19,600.
Over $21,600 but not over $23,600	$4,110, plus 33% of excess over $21,600.
Over $23,600 but not over $27,600	$4,770, plus 35% of excess over $23,600.
Over $27,600 but not over $33,600	$6,170, plus 36% of excess over $27,600.
Over $33,600 but not over $39,600	$8,330, plus 37% of excess over $33,600.
Over $39,600 but not over $45,600	$10,550, plus 40% of excess over $39,600.
Over $45,600 but not over $51,600	$12,950, plus 42% of excess over $45,600.
Over $51,600 but not over $61,600	$15,470, plus 44% of excess over $51,600.
Over $61,600 but not over $71,600	$19,870, plus 46% of excess over $61,600.
Over $71,600 but not over $81,600	$24,470, plus 47% of excess over $71,600.
Over $81,600 but not over $91,600	$29,170, plus 48% of excess over $81,600.
Over $91,600 but not over $101,600	$33,970, plus 49% of excess over $91,600.
Over $101,600	$38,870, plus 50% of excess over $101,600."

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following table:

"If the taxable income is:	The tax is:
Not over $500	8% of taxable income.
Over $500 but not over $1,000	$40, plus 9% of excess over $500.
Over $1,000 but not over $1,500	$85, plus 10% of excess over $1,000.
Over $1,500 but not over $2,000	$135, plus 11% of excess over $1,500.
Over $2,000 but not over $4,000	$190, plus 13% of excess over $2,000
Over $4,000 but not over $6,000	$450, plus 15% of excess over $4,000.
Over $6,000 but not over $8,000	$750, plus 17% of excess over $6,000.
Over $8,000 but not over $10,000	$1,090 plus 19% of excess over $8,000.
Over $10,000 but not over $12,000	$1,470, plus 21% of excess over $10,000.
Over $12,000 but not over $14,000	$1,890, plus 24% of ercess over $12,000.
Over $14,000 but not over $16,000	$2,370, plus 27% of excess over $14,000.
Over $16,000 but not over $18,000	$2,910, plus 29% of excess over $16,000.
Over $18,000 but not over $20,000	$3,490, plus 31% of excess over $18,000.
Over $20,000 but not over $22,000	$4,110, plus 33% of excess over $20,000.
Over $22,000 but not over $26,000	$4,770, plus 35% of excess over $22,000.
Over $26,000 but not over $32,000	$6,170, plus 36% of excess over $26,000.
Over $32,000 but not over $38,000	$8,330, plus 37% of excess over $32,000.
Over $38,000 but not over $44,000	$10,550, plus 40% of excess over $38,000.
Over $44,000 but not over $50,000	$12,950, plus 42% of excess over $44,000.
Over $50,000 but not over $60,000	$15,470, plus 44% of excess over $50,000.
Over $60,000 but not over $70,000	$19,870, plus 46% of excess over $60,000.
Over $70,000 but not over $80,000	$24,470, plus 47% of excess over $70,000.
Over $80,000 but not over $90,000	$29,170, plus 48% of excess over $80,000.
Over $90,000 but not over $100,000	$33,970, plus 49% of excess over $90,000.
Over $100,000	$38,870, plus 50% of excess over $100,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1980.

Redesignate sections 102, 103, 104, and 105 of the bill as sections 104, 105, 106, and 107, respectively.

In paragraph (1) of section 21(f) of the Internal Revenue Code of 1954 (as proposed to be inserted by section 107 of the bill, as so redesignated), strike out "sections 101, 102" and insert in lieu thereof "sections 101, 102, 103, 104,".

Mr. KEMP (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. Pursuant to House Resolution 1306, the gentleman from New York (Mr. KEMP) will be recognized for 30 minutes, and the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes.

PARLIAMENTARY INQUIRY

Mr. KEMP. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman from New York will state his parliamentary inquiry.

Mr. KEMP. Mr. Speaker, the 60 minutes will be equally divided, and on both sides of the aisle I assume we would be yielding back and forth across the aisle as the debate continues. Is that correct?

The SPEAKER. The gentleman is correct.

The gentleman from Oregon will close the debate.

The Chair recognizes the gentleman from New York (Mr. KEMP) for 30 minutes.

Mr. KEMP. Mr. Speaker, I yield to myself 8 minutes.

I offer this motion to recommit not because I am opposed strongly to what the Committee on Ways and Means has done in the bill brought to us from their months of deliberation. That bill is a good bill, the best in 15 years, in the direction it begins and in some of its specific provisions. It reduces the rates on capital gains taxes. It indexes those tax rates for changes in value produced by inflation, not real growth. It raises the personal exemption from $750 to $1,000. It reduces the corporate income tax rates. It provides some important tax relief for smaller businesses.

But this bill does not go far enough. That is the nature of my complaint and that of the cosponsors and supporters of this legislation and this motion. It does not go far enough to reduce the individual income tax rates, and because it does not, the American people are going to experience unprecedented increases in the taxes they pay. Unless this motion is passed, they will pay $262.5 billion in additional taxes between now and 1983.

Look at the extent of these rates and the increases they will face.

PENDING TAX INCREASES UNDER CURRENT LAW

[In billions]

	1979	1980	1981	1982	1983	Total
Due to—						
Inflation [1]	$16.8	$27.8	$40.8	$55.2	$72.4	$213.0
Social security [1]	9.6	13.1	25.3	34.3	37.5	119.8
Total tax increase	26.4	40.9	66.1	89.5	109.9	332.8

[1] Based on calculations of the Joint Committee on Taxation, assuming 7.5, 7, 6.5, 6 and 6 inflation.

NET TAX CUTS (I.E., PENDING TAX INCREASES LESS TAX CUTS)

	1979	1980	1981	1982	1983	Total
Ways and Means	$16.0	$28.9	$52.3	$73.7	$91.6	$262.5
Kemp-Roth	3.6	−12.8	−15.9	−16.1	−9.1	−60.2

And here is what the committee bill's effects will be in contrast to the Kemp motion.

1983 TAX INCREASES

[In constant 1978 dollars]

Family of 4 income in 1978	Scheduled change under current law	Change under committee bill	Change under Kemp-Roth
$12,000	$394	$184	−$438
$17,000	460	350	−870
$20,000	725	579	−975
$30,000	1,552	1,311	−1,710

Assumptions

1. Inflation rates for 1978–83 are 7.5 percent, 7.5 percent, 7 percent, 6.5 percent, 6 percent, and 6 percent.
2. Assumes no general tax credit.
3. Reflect changes in recently enacted social security laws and inflation-induced tax increases.

Mr. Speaker, when you stood in the well on the Corman-Fisher substitute a moment ago, you talked about that $17,500 median family income. To adjust upward the marginal tax bracket thresholds for personal income tax rates by just 6 percent starting in 1979 or whatever the inflation rate may be for a future year is not the way to deal effectively with the major problems in our income tax structure. It also does not start to account adequately for the extent of inflation they have suffered and for which tax relief has not been granted.

If you want to adjust the thresholds which begin each marginal tax bracket, which range from 14- to 70-percent in our present tax structure for inflation from 1970 to 1978, you would have to adjust everyone's threshold by 60 percent. I repeat, 60 percent, not 6 percent. That is how much inflation has pushed the American people's income taxes as a result of inflation pushing them into tax brackets where the percentages they pay in taxes on additional dollars of income are increasingly higher.

For instance, a 1970 taxable income of $10,500 was taxed at the marginal rate on each additional dollar earned at 22-percent. To keep pace with the cost of living, which means without any real increase in income or standard of living, that 1978 income will have to rise to $17,500. But the tax bracket will have gone up from 22 percent in 1970 to 28 percent in 1978.

To use the median income in the United States in 1967 and 1977 as an example, look at these effects of inflation on higher rates:

Changes in taxes and disposable income for a family of 4 [1] earning the median income, 1967–77

	1967	1977
Income:		
Nominal (current)	$8,400	[2] $17,000
Real (1967 dollars)	$8,400	$9,366
Personal exemption	$2,400	$3,000
Standard deduction	$1,240	$3,200
Taxable income	$4,760	$10,800
Federal income tax	$764	$1,822
Social security tax	$174	$965
Total Federal tax	$938	$2,787
Disposable income:		
Nominal (current)	$7,462	$14,213
Real (1967 dollars)	$7,462	$6,579
Tax rate (percent):		
Effective	11.2	16.4
Marginal	19	22

[1] Married couple with 2 dependents.

[2] The zero bracket is not shown in this table. To include the zero bracket, increase all taxable incomes shown by $3,200.

At 7-percent inflation, prices double every 10 years. As prices double in the next 10 years, the tax rates will go too; that means a double burden on the taxpayer. Blue-collar workers in Buffalo, New York City, Los Angeles, and everywhere else will see their marginal tax brackets climb closer and closer to 50 percent. That is particularly true when Federal and State and local taxes are paid.

This Congress must act to reduce the most fundamental flaw in the income tax schedule.

Mr. OTTINGER. Will the gentleman yield?

Mr. KEMP. Not at this time. There are several additional points which I wish to make.

I have a large chart by my side. It is designed to depict the effects of inflation on gross income and on marginal tax rates for three benchmarks: 1965, 1978, and 1987.

A $15,000 income in 1965 was taxed at the marginal rate of 22 percent. But the Consumer Price Index doubled in the 12 years to 1977. So in 1977 that taxpayer would have to earn $32,000 to stay abreast of that $15,000 1965 income, but the marginal tax rate would have gone from 22 percent to 32 percent. If consumer prices double in the next 10 years and they will at 7-percent inflation, by 1987 that person at $15,000 in 1965 dollars will have to earn $60,000 of normal income, but the tax rate will be 22 percent in 1965 going to 50 percent in 1987.

These examples are of crucial importance, for they show that the Committee on Ways and Means bill does not offset by reducing the marginal tax rates the effects of inflation.

It is not the purpose of this motion or the principle underlying it to cut taxes so the return to the taxpayer is a rebate, or to cut taxes just to put money back into the economy to stimulate demand and consumption.

The economic principles underlying the approach of the Kemp amendment is to recreate the incentive to work, save, invest, and take economic risks.

Why is this important?

By recreating the incentive to work save, invest, and take economic risks by reducing the percentage of reward for that economic activity taken by the Federal Government in the form of taxes, we will have more work, more savings, more investment, and more economic risk-taking. That will expand the total amount of economic activity, expanding the tax base from which Federal tax revenues are drawn, providing additional revenues with which to offset Federal budget deficits and to counteract the crowding out of investment capital arising from Government borrowing to pay portions of those deficits.

But something else will happen too. By restoring reward for greater levels of

economic activity, taxpayers who have sheltered their income, in order to avoid excessively high rates of taxation, will come out of those shelters in increasing numbers. This is what occurred as a result of the Kennedy tax rate reductions in the early 1960's, and I quote Dr. Michael K. Evans, president of Chase Econometric Associates, Inc., from his recent study of those rate reductions:

After virtually no growth in taxes collected from personal income over $100,000 for three years, actual income taxes paid rose dramatically beginning in 1964, when personal income was taxed at significantly lower rates.

The conclusions of Dr. Evans' study can be found in the RECORD of August 7, at pages E4389–E4391.

What does it mean to have the higher income taxpayers coming back into taxable economic activity? It means that, if total tax liabilities remain constant, the rates can be lowered for middle- and lower-income taxpayers. And that, my colleagues, is exactly what my amendment is structured to do, and the economic simulations of its effects, being produced by the Office of Tax Analysis in the Office of the Secretary of the Treasury, show this.

Under existing law, those in the $100,000 to $200,000 income class are responsible for 7.12 percent of the total Federal income tax liability, and those in the $200,000-and-over income class are responsible for 7.45 percent. The Kemp amendment would increase the $100,000 to $200,000 class to 7.60 and the $200,000 and over to 8.50 percent. That is more than Vanik-Pickle would do; more than the committee bill would do; more than Corman-Fisher would do.

The consequence of that additional tax liability at the top of the scale is to reduce it at the bottom and middle. Income classes from zero to $30,000 would have a 50.98-percent liability under present law and Vanik-Pickle, 50.90 percent under the committee bill, 50.10 percent under Corman-Fisher, but only 49.30 percent under the Kemp amendment.

The following table illustrates this point:

PERCENTAGE DISTRIBUTIONS OF INDIVIDUAL INCOME TAX LIABILITY

Expanded income class	Present law [1]	H.R. 13511 [3] (Committee bill)	Kemp amendment [1]
Less than $5,000	—0.07	4.40	—0.30
$5,000 to $10,000	4.47		3.80
$10,000 to $15,000	9.26	9.30	8.80
$15,000 to $20,000	13.05	13.10	12.80
$20,000 to $30,000	24.27	24.10	24.20
$30,000 to $50,000	21.29	21.20	21.30
$50,000 to $100,000	13.02	13.10	13.20
$100,000 to $200,000	7.12	7.30	7.60
$200,000 and over	7.45	7.50	8.50

[1] Source: Office of Tax Analysis, Office of the Secretary of the, Treasury, June 16, 1978; printed in the Congressional Record, Aug. 2, 1978, at p. H7778.

[2] Percentages may not cumulate to 100 percent, due to rounding.

[3] Source: Office of Tax Analysis, Office of the Secretary of the Treasury, Aug. 3, 1978; printed in the Congressional Record, Aug. 4, 1978, at p. H7913.

That enables the Kemp amendment to assure that 65 percent of the dollars which will remain with the people, as a result of its enactment, will be in the $30,000 and under categories. That is two-thirds of the entire reduction.

So, I say to my colleagues, if your objective is to have the rich, as an income class, shouldering a greater percentage of total Federal personal income tax liability, albeit from lower marginal rates, then vote for the Kemp amendment.

It is important to refute the argument that cost-of-living wage increases keep everyone afloat and in the same economic position. That is not true. For every 10 percent increase in the nominal income of the American people, taxes increase by 16 percent.

Mr. Speaker, if we want to do something about the social security tax increase, if we want to do something about these marginal rates going on up into astronomical proportions, we must support this motion to reduce the marginal tax rates. This is the only alternative which gets to the heart of the individual income tax and tax rate problems, just as the Archer and Steiger amendments get to the heart of the capital gains problem.

But, Mr. Speaker, we must do something for those people who are the blue-collar workers. If they get 6-percent increases in their income today, whether it is won at a collective bargaining table or whether it is an increase that an employer might otherwise give an employee taxes will go up by 8 percent.

Kemp-Roth has come a long way, no matter about the outcome of the vote on this motion today.

For one thing, there is no longer any debate over whether taxes should be cut. The only debate in the House today and in America this year is what shape it should take and how much it should be.

Will Kemp-Roth or this amendment be inflationary? No, and let me detail why.

With so many economic decisions affected by tax rates, it is obvious that the market supply of goods and services must respond to changes in tax rates.

Our economy functions because people respond to changes in relative prices. The price of butter relative to that of margarine. Or beef relative to chicken. Capital relative to labor, and so on.

A tax rate change is just another relative price change. It changes the prices of leisure and current consumption in terms of foregone current and future income.

To claim that people do not respond to these price changes goes against the basic principles of economic science.

Yet there is no recognition of such responses in the economics now used to brand Kemp-Roth, the Tax Rate Reduction Act, as wildly inflationary. This is the charge of our colleague, of a portion of the Library's new study, of Walter Heller.

Walter Heller tells us, in contrast to what we know about the impact of tax rates on economic decisionmaking, that the decision to save does not depend on the relative prices of current consumption and future income. He tells us that the so-called Denison's Law shows that savings do not respond to higher after-tax reward. The problem here is that Denison's Law is inherent in the formulas structure of almost all of the econometric models. Thus, it skews their calculations on expansion of the tax base, deficits, and inflation.

But the most recent empirical studies of the responsiveness of savings conclude that "private savings is indeed strongly affected by changes in the real after-tax rate of return." As a matter of fact, the principal study dismisses Denison's Law as a "conjecture based on evidence which is filmsy at best and dangerously misleading at worst."

But a current understanding of the Kemp-Roth bill's effect on savings is absolutely crucial to assessing an asserted inflationary effect.

Let us try to reach such an understanding. In order to judge the impact of a cut in marginal tax rates on growth and inflation, we have to know what the cut will do to GNP and saving. To finance itself without causing inflation, a tax cut can do four things:

First. It should increase GNP, which is the tax base, and get back revenues to offset some or all of the initial cut.

Second. It should cause existing savings and investments funds to switch out of tax shelters and nontaxable uses into taxable uses, raising the tax base and revenue. This probably also raises GNP by shifting saving and investment from low-yield, but sheltered, projects into straightforward, high-yield activities.

Third. A tax cut should make saving more rewarding after taxes. It should raise the total amount of saving in the economy. Some of this saving would go to buy the bonds the Treasury may have to sell to cover any deficit remaining from the tax cut. Any excess would be used to increase net investment and growth.

Fourth. A tax cut should increase incentives for output and employment.

Roth-Kemp, which is a cut in marginal tax rates, will do all of the above as the Library of Congress study shows it will, because the after-tax reward from working and saving will be enlarged.

As long as revenues rise to offset the tax cut, or as long as savings rise by enough to cover any added debt, the Federal Reserve does not have to buy even one additional Treasury bill, and does not have to add one cent to the money supply.

A Chase Econometrics study estimates that personal savings, retained earnings, and other capital inflows will rise enough from the tax-rate reductions found in the Roth-Kemp bill to cover any added deficit and to still leave enough saving left over to increase net investment by well over one-half, delivering an enormous boost to real growth.

Here is what Chase showed:

INCREASE IN SAVINGS AND RETAINED EARNINGS OVER INCREASES IN FEDERAL DEFICITS

	1979	1890	1981	1982	1983
Sum of increases in savings and retained earnings	$28	$49	$62	$71	$76
Increase in deficit from Kemp-Roth over what would otherwise have been	25	28	33	33	36
Increase in savings and retained earnings, less increase in deficits	+3	+11	+29	+38	+40

There is nothing unusual about this, look at what happened to savings as a product of the Kennedy cuts before inflation wiped out the effects of those cuts.

INCREASE IN SAVINGS RESULTING FROM KENNEDY TAX CUT

Year	Total individual savings [1] (billions)	Increase over preceding year	
		Dollars (billions)	Percent
1960	$34.900	—$2.472	—6.61
1961	34.693	—.207	—.59
1962	40.243	+5.550	+16.00
1963	45.232	+4.989	+12.40
1964	54.901	+9.669	+21.38
1965	62.028	+7.127	+12.98
1966	72.003	+9.975	+16.08
1967	72.726	+.723	+1.00
1968	78.028	+5.302	+7.29
1969	69.563	—8.465	—10.85

[1] Increase in financial assets, plus net increase in tangible assets, less debt.

Thus, Roth-Kemp is not inflationary. It is self-financing four ways. Dr. Heller has forgotten why inflation occurs, and has no way to distinguish between a tax cut which alters incentives, reduces the use of tax shelters, and stimulates savings and investment, and one which simply cuts Federal revenue and forces the Federal Reserve to create money to buy Treasury debt.

The SPEAKER. The time of the gentleman from New York (Mr. KEMP) has expired.

Mr. ULLMAN. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, what this bill is all about is inflation. We are living in an economy which is on the thin edge of double-digit inflation at 10 percent-plus interest rates.

We have carefully tailored this bill. It reduces the budget deficit by over $4 billion below the level set by the House resolution. That is doing something about inflation. It gives the proper amount of tax relief to the right people to meet the impact of inflation on the average family of this country.

But what do we have here, Mr. Speaker? We have a proposition which would reduce individual income tax rates by about 12 percent in 1979, 23 percent in 1980, and 35 percent in 1981 and subsequent years. The revenue reduction would be $27.4 billion in calendar year 1979, $63.8 billion in 1980, and $112.3 billion in 1981.

The individual tax cut in the committee's bill will be $11.9 billion in 1979. In fiscal year 1979, the revenue loss will be about $17 billion, as compared to $7.4 billion in the committee bill.

Mr. Speaker, those who believe that $100 billion-plus deficits in this country will ultimately encourage more production and lower interest rates and lower employment simply believe in magic. It will not happen. There is nothing magical about a 33-percent income tax cut. It is wildly inflationary, at a time when this economy can stand no further impetus toward inflation. The immediate shock would mean that we would have increased deficits; we would have increased interest rates; and we would have inflation going out of control. I say again to my friends we have come a long way in this bill. We have suffered through the agony of a lot of amendments. Some people are unhappy, but let me tell the Members it is almost a miracle that we even have a bill here before us today, because the divisions are so great in the committee, in the Congress, and in the country. We have a bill that we can be proud of, so let us stand together with the bill. Let us vote down this amendment, which would be exactly the wrong medicine at the wrong time in our economy. My judgment is that it would have a disastrous impact on what we are trying to do. It would make our job here impossible in the years ahead because we would be faced with demand after demand to cover our revenue base to try to recover from a $100 billion deficit. So I urge the House to stay with the bill and vote against this recommittal motion.

Mr. KEMP. Mr. Speaker, I yield 3 minutes to my colleague, the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, before I take any of my time to discuss the pending amendment, I do want to say once again how grateful I am to the chairman of our committee, the gentleman from Oregon (Mr. ULLMAN), for his patience, his fairness, his persistence, and for his willingness to see this bill through to a conclusion. I think it has been a very difficult time for us all, and his leadership has been a sparkling thing, something that we have all been proud of in the committee. I think the most recent vote we had on the last amendment was a tribute to his leadership as well. I am very proud to be associated with him in this bill. I regret that we have to differ on this particular amendment.

I am not an economist, and I do not pretend to be. I must say that many people who pretend to be economists have a very unpredictable view of what is going to happen in the future as a result of the types of stimulus we put into the economy, or the action we take on something even as central as a tax issue of this sort. I know this, however, that all tax cuts are not inflationary. We are so conditioned in this body to Keynesian economics and to the mindless stimulation of aggregate demand by giving tax cuts to people who have no choice but to spend them because they are in fact poor people and have no opportunity to do anything else with them. We have such a tendency to take money away from the middle class and give it to the poor that the result is that we are constantly stimulating consumer demand, and that is why we think of tax cuts instinctively as nothing but inflationary.

This is a different kind of tax cut. This is a tax cut that will leave some additional money in the pockets of the middle class: the people who want to invest, who want to have capital gains but who have not been able to up to this time. Frankly, Mr. Speaker, I hope desperately that the result will be that the savings rate in America will go up rather than just the additional stimulation of the consumer sector. If the savings rate goes up and we are able to achieve a level of investment that will meet this capital shortage this country has at this point, it will prove to be anti-inflationary in the long run. I submit that if the rate of savings goes up in the short run, it will be anti-inflationary in that respect also.

The idea that a bigger tax cut has got to be inflationary completely misses the point. The type of tax cut we create here is terribly important. Savings instead of consumption, investment rather than indulgence, will make this type of tax cut an economic asset for the country, not an economic liability.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Speaker, the plan that is advocated here by our colleague, the gentleman from New York, was born of the experience of the period between 1963 to 1968 when we had the so-called Kennedy tax cut. In those years there was an income gain to the Government of $54 billion, notwithstanding the tax cut. The important thing to observe when you look at this revenue gain, is that 40 percent of the gain came from four social security tax increases. It was in this period that we created the medicare program and increased social security taxes four times to fund it.

It is a erroneous myth to assume that this policy of tax reduction in that period increased revenues.

There is one other fact. The overriding force in that period was the movement of this country into the Vietnam war. This was a propellent of $160 billion in spending. Our unemployment rate was down to 3.6 percent. Everybody was busy making defense material, or going abroad for military services. The country was moving at such a tremendous pace.

The fact of the matter is that the Kennedy tax reduction had practically no effect on the increment of Government revenues, when you take out the social security increase and the impact of the Vietnam war.

Now, if we adopt the proposal of the gentleman from New York, where will it impact? You must realize today that three-quarters of the Federal budget is in an area in which we have lost discretion; social security, medicare, medicaid. In all of those programs, we have given up our discretion. These are automatic programs, so that all of the $112 billion loss of revenue when this program is fully implemented will concentrate on our discretionary spending—25 percent of the total. And what is the 25 percent discretionary spending? It is defense. It is our social programs. It is health. It is education. When you tell people you are going to cut taxes, you tell them you are going to get the Federal Government out of education. You tell them you are going to withdraw the Federal Government from our health programs. You tell them that we are probably going to be faced with a $50 billion reduction of our defense expenditures.

Yes, yes, you can vote for Kemp-Roth, but if you do, you better buy yourself the Kemp-Roth home defense kit. Get a slingshot, a flashlight and a stick, and plan on defending yourself.

Mr. KEMP. Mr. Speaker, I yield 5 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, I hope that the motion to recommit will be agreed to. The facts are that the people of this country expect a tax cut. They expect a tax cut that will last not only this year, but in the years to come.

I have a study here which was prepared for my use and the use of the gentleman from New York. It is a study concerning the effect upon taxes which the various plans which we have considered today would have.

The Vanik-Pickle plan, which we did not adopt, would have caused an increase of $200 billion in taxes by 1983.

The Corman-Fisher plan, which we did not adopt, would also have caused an increase in taxes by 1983 of $200 billion.

Mr. Speaker, the bill from the Committee on Ways and Means, although it is a good bill, will result in an increase in taxes paid of $262.5 billion by fiscal year 1983. On the other hand, Kemp-Roth will result, by the end of fiscal year 1983, in a net cut in taxes of $60.2 billion. Kemp-Roth is the only plan which we have had before us today which will really result in a lasting tax cut.

This, of course, is because of the phenomenon which we call taxflation. Whenever inflation sets in, there is only one winner, there is only one entity in this country that does better than it did before. That is the Federal Government. And we do better than we did before here in the Federal Government because of the phenomenon of progressive taxes.

In periods of inflation the income of the individual goes up. At least I hope it does, because if it does not, he is really in trouble. Because of this, the taxpayer moves into a higher bracket, and as he moves into a higher bracket, he pays more dollars.

Not only is it true that these other plans will cause an increase in tax dollars, but the social security tax has just been increased by this Congress. So the tax dollar totals rise astronomically. Only with Kemp-Roth do we actually give the people of this country a tax cut.

It is not a great big tax cut when we compare it with our three-trillion-dollar gross national product, but at least it is not an increase. It is not the drag on the economy that these other plans would be.

A lot of people have been doing some soul-searching about the desires of the American people in the last several months and weeks, ever since proposition 13 was adopted in California. When proposition 13 was adopted, I took the floor of the House, and I said, "Mr. Speaker, the reason proposition 13 was adopted is because we in this Chamber have not done our jobs."

We have caused the things to happen which made proposition 13 inevitable. Those things we did were inflationary. They have added up to an $800 billion national debt. They have put us in a situation where we are scratching to get a deficit for the next fiscal year below $50 billion

We have expanded the Federal Government to the point of absolute absurdity. The way to beat back is to have a tax cut right now.

It has been said that this tax cut is inflationary. I say not so. I say it is not inflationary because so much of the tax money which is saved by Kemp-Roth will go into investment. That will mean an increase in the production of our economy which will be followed by more jobs, and the name of the game in this economy is jobs.

Jobs are not inflationary; the lack of jobs is inflationary. If we are able to stimulate the investment in the economy by the Kemp-Roth formula, then the people of the country will not only have the jobs they require but they will have available the goods which will be produced from those jobs. We will have an efficient industrial plant which once more will cause an increase in the productivity rate per man hour instead of the decrease that we have been experiencing. And this is so important. This is the keystone to the increase in the economy which we need. This is the keystone which will set the sails of this economy for the next 10 or 15 years. This is the most important vote we are going to cast this year—the vote on the Kemp-Roth proposal.

So, Mr. Speaker, I sincerely hope that my colleagues will adopt this motion to recommit, because it is very important, not only to us but to all the people of our great country.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Speaker, I rise in opposition to the Kemp-Roth bill and the motion to recommit.

Mr. Speaker, for the past 2 months I have been involved in a campaign in which I have heard Kemp-Roth on every single day. That Kemp-Roth decision ended on this past Tuesday of this week.

I want to tell the Members that I am convinced the American people all across this country, while they want a tax cut, are more concerned about responsibility on your part and on my part than they are about a 33⅓-percent tax cut or a 35-percent tax cut.

Mr. Speaker, I ask the Members to think about this, when they vote on this motion to recommit: We have 33 million people in this country who are drawing Social Security today. We have a large additional number of people who are making less than $8,000 a year. An when you vote for this motion to recommit, if there is inflation—and I submit that there will be, in a spiraling amount—those are people who are going to get hurt with this action, because a tax reduction does not help them. Inflation will kill them. It sounds tempting. It was very tempting to me, and I know it is to the Members of this body, to vote for a 33⅓ percent tax cut right before a November election. But if we are going to index, if we are going to look into the future and say we are going to have these tremendous tax reductions, we ought to index everything; we ought to index the minimum wage that the people in this body voted against before, and so did I. But I do not know what is going to happen 2 years from now, and you do not either. You are going to go back to the people 2 years from now, too. And, if the inflation rate at that time is shooting out the top of the ceiling, and you have supported the Kemp-Roth on this date, I submit that you will have to answer at that time for your action today.

Mr. Speaker, I will vote for any tax cut that is combined with a responsible cut from the other side of the ledger and as this House well knows, I have consistently voted to cut spending. And, coming from a conservative district, voting a conservative pattern in this House, I know how tempting it is to you and to me to support this enticing political maneuver. But if we go down this route, we are doing a disservice to the people that we represent. I would urge that every single Member of this House think about that, not only for this November, but for the time in the future when you are going to have to answer for it. I urge the defeat of this motion for the best interest of this Nation.

Mr. KEMP. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, the gentleman from New York has, of course, waged a tremendous personal campaign in behalf of the bill that forms the basis of the motion to recommit. But I know he is interested in far more than a personal victory. I can assure the Members on my left that what we on my side of the aisle are interested in this evening is not to administer a rebuke to the distinguished chairman of the committee, our friend and colleague, the gentleman from Oregon (Mr. ULLMAN), or to administer a rebuke to the President of the United States. What we are interested in, I say to my friends, is to bring a genuine victory to the American taxpayer. And this bill is not simply a reflexive, defensive reaction to Proposition 13, because anyone who has studied this matter knows that it was offered as a proposal far in advance of that recent phenomenon.

Mr. Speaker, a few moments ago we heard the distinguished Speaker of this House praise the Corman-Fisher substitute because of its tilt in favor of those who earn below the medium income of this country, which is about $17,000 a year. If we look at the tables that have been presented and distributed on the so-called Kemp-Roth bill, it clearly indicates that the largest percentage cuts are going to go precisely to that group, that the 90 percent cut is going to go to those in the adjusted income group of $8,000 income a year or less, that those making $17,500 a year are going to get a percentage cut of 37 percent in their tax bill. And without it, as we have heard

from the distinguished minority leader, instead of presenting a tax cut to the American people, they are going to discover very early next year that we have instead handed them a tax increase. And I suggest again, as I said under the rule, that those of you who are concerned about the impact of that $6 billion increase that is going to take place on January 1 in social security taxes, this is your chance now, by addressing the question of the marginal tax rate, to do something about those higher social security taxes. We heard in the debate on the Archer amendment on taxing capital gains that it was not going to do anything for the workingman in this country. Here in the motion to recommit, I report, is your chance to do something for every workingman and for every workingwoman in this great country of ours, by simply giving back to them some of the lost purchasing power that they have suffered since the decade began because of the increase that has taken place in the cost of living and the push that has put them in these higher tax brackets.

Now, you have the further question that we must address as to whether or not the reductions in marginal rates are going to destroy the discipline we need if we are going to control and check inflation. The answer ought to be perfectly clear. It is going to strengthen that discipline. It is going to force us to do what we should have been doing long ago to set forth more clearly the kind of spending priorities in this Congress we simply must have.

If you want to do something to repeal the cruelest tax of all—inflation; if you want to deal with this thief that robs us all—inflation; then I suggest that first you have to preempt the increase in tax revenues that is otherwise going to occur between now and 1983 when this proposal would be fully implemented. If that money—and I differ from the gentleman who just preceded me in the well; I would like to stand up here and believe that we can proceed to cut taxes and at the same time cut expenditures, but I think the lessons of my 18 years in Congress show me that we have got to proceed first to cut those taxes, and then we will have the enforced discipline to reduce expenditures.

Mr. Speaker, I urge support of the motion to recommit. I do so, because I think it is important that Congress pass a real, not an illusionary, tax cut this year. The Revenue Act of 1978, in its present form, will not stem the rising tide of inflation, it will not stop the relentless escalation of the Federal tax burden, and it will not give tax relief, as tax relief is understood by the American people.

This bill as it stands is a tax increase—a tax increase of at least $7 billion. If this motion to recommit fails, and the bill is passed as presently drafted, the headlines tomorrow may read "$16 billion Tax Cut Voted by the House."

But I say "caveat civis"—pronounced kēvis. Let the citizen beware. Let the taxpayer know that his or her tax burden will rise next year, and will rise again in 1980, and again in 1981—unless, and until this body acts in an honest and straightforward fashion to fully offset the pernicious effect of inflation on tax brackets and to fully offset all other Federal tax increases.

But will the taxpayer beware? Maybe the Revenue Act of 1978 is simply another example of the advantage of incumbency. Maybe you can vote today for an overall 1979 tax increase by voting against this motion to recommit, and then, if the motion to recommit fails, you can vote for final passage of the bill and still claim you voted for a reduction of Federal taxes. Maybe you can still go home and tell your constituents that you voted for a $16 billion tax cut for 1979, even though their real tax burden will rise again next year. Maybe, the voters will not understand that by voting against this motion to recommit, you were voting for a tax increase.

On the other hand, you could vote for this motion to recommit and be honest with the voters in your district. You could tell them that you voted for a tax bill that will actually reduce his or her Federal tax burden. After allowing for the increases in Federal revenues attributable to inflation and higher payroll taxes, the Kemp-Roth proposal will mean a modest but genuine net personal tax reduction of: $2 billion in 1979; $15 billion in 1980; $18 billion in 1981; $7 billion in 1982; and $1 billion in 1983.

That may not sound like much, but it is a bona fide tax cut. More importantly, if you vote for this motion to recommit, you will be voting for jobs. The steadily increasing marginal rates of taxation in this country have all but eliminated the real economic incentives to work harder, save more and invest more. As a result, capital formation is lagging far behind that which is necessary to maintain the pace of the Nation's recovery. When capital formation lags, job formation lags; and this country needs more jobs.

The unemployment rates in this country are intolerable. We have for too long endured the enormous social and economic cost of unemployment. We have a 6.2-percent overall unemployment rate, a 13.4-percent rate of unemployment amongst blacks and other minorities, and a 37-percent rate amongst minority teenagers.

According to the Chase Econometrics analysis of the Kemp-Roth proposal, it would reduce unemployment to 4.1 percent by as early as 1982. In other words, this is a "full employment" bill.

If you want the real Federal tax burden to increase, if you want the recovery to falter, if you are content with the present rates of unemployment, then vote against this motion to recommit. But if on the other hand, you want to vote for a genuine tax cut, if you want to maintain the momentum of the economy, if you want to move the Nation toward full employment, then vote for this motion to recommit.

Mr. ULLMAN. Mr. Speaker, I yield two minutes to the gentleman from New York (Mr. PIKE).

Mr. PIKE. Mr. Speaker, I say to my friends over here, I have marched with you on Archer, and I have marched with you against Blumenthal, and I have marched with you on your 2-percent cuts—and there have been times when I have marched on 2-percent cuts that you forgot to march on—but I am going to leave you now.

This motion should not be voted down; it ought to be laughed down. But really, it is not any laughing matter. It is a matter for weeping over.

We always have to have a tax cut in election year. Everybody knows we have a tax cut every election year, but weep, ladies and gentlemen; grieve; lament for the death of fiscal responsibility in the party of Calvin Coolidge and Alfred M. Landon and Herbert Hoover and Robert Taft. As a great American President once said, "If they were alive today, they would be spinning in their graves."

Fiscal responsibility has been replaced by political pie in the sky. We all know that the Republican party is in trouble, but we did not think in its death throes it was willing to sell its immortal soul.

Mr. KEMP. Mr. Speaker, I yield 1 minute to my colleague from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, I would like to show the House what the headline says today: "House Kills Social Security Tax Relief."

I said today that the action by the Rules Committee was an act of arrogance, arrogance of power. I am going to vote for the Kemp-Roth bill because it is the only show in town. It is the only show in town, and what the Republicans have done is, they have outmaneuvered the Democrats on every vote here today.

Now, those Members on this side of the aisle who are in close fights back in their district will have a chance to vote on this bill. The issues have been well drawn up. The Republican Party is in favor of tax cuts. Why, even Mr. CONABLE was in favor of rolling back social security taxes. We have not got a limb to stand on. I have only one, but for God's sakes, I am going to take care of it and I am going to vote for the Kemp-Roth bill.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. FISHER).

Mr. FISHER. Mr. Speaker, I want to urge my colleagues to vote against this recommittal motion before us. I have taken a pretty good shot today, but this is another round, and I think it would be just the wrong thing to do, to vote for this motion. The Kemp-Roth proposal calls for far too much of a tax cut, to the point of being irresponsible.

It would be a very high-risk adventure—too high for the American people to want to take. It most likely will be extremely inflationary. It most likely will lead to severe, very severe program cuts or to more borrowing and high deficits, or both.

The only way that Kemp-Roth can work the way its advocates say it will work is for the economy to be so stimulated, without inflation, that vast in-

creases in tax receipts will offset the tax rate cuts. I give this result about a 1-in-5 or 1-in-10 chance.

By a strange inversion the Republicans in the House have become the economic radicals by advocating this risky, far-out proposal.

Vote against this motion and for final passage of the committee bill.

Mr. KEMP. Mr. Speaker, I yield 5 minutes to my colleague, the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Speaker, I have listened very carefully to this debate and obviously the only serious argument that can be made against this recommittal motion is the argument that it would be wildly inflationary and send the economy into a tailspin from which we could not recover.

As the gentleman from New York (Mr. CONABLE) points out, a tax cut per se does not necessarily cause inflation. That outcome will only occur if a number of things happen in between. The problem in the debate today is we have heard nothing about those steps that have to happen in between in order to get this dire outcome.

First and foremost, if we are going to have runaway inflation, we have to have runaway growth in the money supply.

The gentleman from Ohio (Mr. VANIK) said that a while ago. Mr. Heller, I think, would agree also.

Now, the Federal Reserve Board is not composed of a bunch of wild-eyed disciples of William Jennings Bryan. It is composed of responsible bankers, businessmen, and economists, and they are not about to accelerate money growth at that rate, unless the credit demand so exceeds the credit supply that the only alternative to this kind of policy is a devastating interest rate crunch.

So the real question about whether or not Kemp-Roth will have a wildly inflationary impact is simply what will it do to the credit demand and to the savings supply in the next 3 years.

If we look at credit demand, that obviously depends on the rate of Federal borrowing and the size of the deficit. That is where any major increase in credit demand would come from.

What has been overlooked time and time again in this debate is the size of the Federal deficit is not determined solely by the Federal revenue level, but it is a residual from a number of factors.

First, the actual size of the deficit that has to be financed will result from the expenditure growth trend that we have in the next 3 years. In the last 5 years it has risen at 12 percent, in nominal terms. We have had a 6-percent real growth rate even when we discount for inflation. That does not have to occur over the next 3 years. The American people do not want it. That is clear from California a few months ago.

The fact is that we have 3 years and we will have 3 budget resolutions and we will have 45 appropriations bills which will give us an ample opportunity to begin to hold the real growth rate of Federal spending to 3 percent, 2 percent, or even zero. And if we did that, we could still permit all the existing programs to continue, and we would not have to penalize anybody or cut anybody off a grant or even fire one Federal employee. We just have to restrain the real growth rate.

Second, the deficit level will be a function of Federal revenue, which in turn is a function of the tax rate and the size of the tax base.

If we reduce taxes by 30 percent, there will be a reduction in revenue, but the economic base which we will tax, that economic base will be higher.

We can argue all afternoon about how much the response will be, what the elasticity is, but if you argue there will be a zero response, no increase in production and no increase in work effort and no increase in the supply factors that make production possible, then you are on a collision course with commonsense.

If we lower the top marginal tax rate from 70 percent to 50 percent, there will be a substantial amount of money coming out of the tax shelters and the municipal bond markets and it will go into taxable investments, and that means we will have more income and production to tax, and that will raise revenue.

If we lower the marginal tax rate by 30 percent, there will be some increase in the number of entrepreneurs who will be willing to break out of the IBM's of the world and start their own companies, and there will be an increase in the number of doctors who will want to get off the ski lifts and back into their operating rooms.

There will be at least some increase in the number of research and development studies that come off the drawing boards and get into production. You will get some salesmen who are willing to work more hours. You will get some farmers who are willing to put in more acreage. You will get some retailers who are willing to work extra hours. And you will have some workers who will be willing to take on more overtime at lower marginal rates. So, in short, you are going to get more production.

It does not take a lot of extra production to get a substantial revenue impact. If we get about a one-half of 1 percent increase in national production, it will raise Government revenue by $40 billion a year. I do not think it is unreasonable at all to think that with a 33-percent decrease in marginal income tax rates we will not get a half of 1 percent increase in production.

Finally, and hopefully, a deep tax reduction would substantially increase the supply of savings and money in the economy.

First, there is the income effect. Kemp-Roth reduces taxes by $100 billion, and that means at least a $25 billion increase in supply of savings because that is the aftertax net savings rate.

There will also be a price or incentive effect: this measure reduces taxes on savings by one-third because the income tax is the only tax we levy directly on savings. That effect will further augument the savings supply in credit markets.

In short, with expenditure resistant and the feedback revenues, the deficit does not have to exceed $40 billion during the next 3 years. With a substantial increase in savings supply, there will be no credit inbalance, no pressure on the Fed to pump up the money supply, and no additional inflation.

Mr. ULLMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GEPHARDT).

Mr. GEPHARDT. Mr. Speaker, to my colleagues on this side of the aisle I would say that unlike OTIS PIKE, I have not been marching with you at all this afternoon. But I do not think you need me to march with you now because I do not think this is a war you really want to win.

To my colleagues on this side of the aisle I would say that many of you are disappointed on the votes on many of the amendments, I certainly am, but I am going to vote against Kemp-Roth and for this bill. Because, when you analyze the bill, it does call for a moderate responsible tax cut that I think most people can justify.

The arguments against Kemp-Roth have been made and made very well. But, let me sum up by quoting Dr. Walter Heller, who has been quoted by our fine colleague, the gentleman from New York (Mr. KEMP) as the man who thought up Kemp-Roth back in the early 1960's.

He said this about Kemp-Roth:

> To summarize, then, nothing in the history of tax cuts, econometric studies of taxpayers responses, or field surveys of incentives suggests that the effects of a big tax cut on the supply of output even begin to match its effects on the demand for output. A $114 billion tax cut in three years would simply overwhelm our existing productive capacity with a tidal wave of increased demand and sweep away all hopes of curbing deficits and containing inflation. Indeed, it would soon generate soaring deficits and roaring inflation.
>
> One wonders whether these considerations are not beginning to generate some self-doubts, as they should, in the Kemp-Roth camp. Disarmingly, Laffer, as their "economic guru," recently told Newsweek: "There's more than a reasonable probability that I'm wrong. But . . . why not try something new?"

Why not? One reason might be that in getting the Republican Party on the Kemp-Roth hook, he may be leading it over a cliff.

Mr. Speaker, I would suggest that we save the Republican Party from itself and save America from an economic disaster. I urge a vote against Kemp-Roth.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Speaker, I want to say to my colleagues that although I have not been very successful on several issues today and I am disappointed about it, I intend to vote against the Kemp-Roth proposal.

Kemp-Roth was not brought up in committee. Neither was the Corman-Fisher amendment. It was not subjected to cross examination. No questions were asked about it. It was an issue that simply was never discussed in the Committee on Ways and Means. It makes one wonder how interested in passage the Republicans really are.

Mr. Speaker, it is not a responsible ac-

tion to support Kemp-Roth. It is dangerous for the country, and is dangerous for the economy. It is a little bit like putting on a pair of homemade wings and jumping off a cliff. If the wings happen to work, it is a wonderful, thrilling experience. If the wings do not work, it is an absolute disaster.

We are the majority party. We cannot afford to run that kind of risk with our economy, with our people, with our country.

Mr. Speaker, I urge the Members to vote against the motion to recommit.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from New Hampshire (Mr. D'AMOURS).

Mr. D'AMOURS. Mr. Speaker, I share the anger which was expressed earlier by my good colleague, the gentleman from Massachusetts (Mr. BURKE). I, too, am angry because we were unfairly prevented from voting to relieve both employers and employees from the burden of social security taxes. Let us remember that one of the reasons we wanted to do something about social security is the inflationary impact we feared those rises would bring us.

Mr. Speaker, what we are talking about here is inflation. Just because we failed to curb the inflationary impact of social security let us not compound that mistake by increasing inflation in other areas.

The Kemp proposal adds a $115 billion increase to the deficit by 1982.

The gentleman from New York (Mr. KEMP) says, "Don't worry that will not happen. I have a theory."

We in New Hampshire are conservative, just as they are in the State of the gentleman from Georgia (Mr. JENKINS). My people know that the time to economize is when they give you the menu, not when they hand you the bill.

Mr. Speaker, that is what they are asking us to do. I was amazed to find it out. I checked it, and it is absolutely true. As the gentleman from Missouri (Mr. GEPHARDT) says, Mr. Laffer himself, the author of this economic theory has said, "There is a good probability that it won't work."

Mr. Speaker, that is what we are being asked to vote on, so I would ask the Members to join those who really want to fight inflation and get to a balanced budget by defeating this motion to recommit.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I have decided to support final passage of the committee bill, as it has developed to this point and therefore to oppose the motion to recommit. In light of the fact that a year ago I cosponsored the proposal offered by the gentleman from New York, I feel that I should take a few minutes to explain my decision to oppose the motion before us.

Before I do so, I want to say that I sincerely appreciate the fact that Mr. KEMP introduced his proposal and has so forcefully advocated tax cuts over the last year. His proposal has undoubtedly played a key role in emphasizing the need for a tax cut and in focusing the debate on how large a cut is in order. I cosponsored the bill a year ago, but subsequently changed my mind for the following reasons:

The economic picture today is much different than it was a year ago when I agreed to cosponsor his bill. Last year, the inflation rate was running at 6 percent; today inflation has reached 10.4 percent. I think we have all agreed that inflation is the Nation's No. 1 problem. And most major economists have come to the conclusion that a cut of the magnitude proposed in the Kemp-Roth bill would add significantly to the budget deficit and therefore to inflation. There is just no way that I can let myself be a part of worsening inflation which would be the case if I supported this motion.

Furthermore, the changes that have occurred in the economy since I came to Congress not yet 2 years ago have made me realize that it would not be wise to decide today what would be an appropriate level of taxation 2 or 3 years hence. We all know how long it took to get the tax bill before us to the floor, and I certainly do not think it makes sense to take a chance of tying ourselves into potentially irresponsible tax cuts a few years down the road when it is so difficult to undo decisions by means of the legislative process.

If a further tax cut is needed in the next few years, you can be sure that there will be pressures, just as effective as those exerted over recent months, for one to be approved. And the realities of the political process make it highly likely that a cut would be approved. On the other hand, I seriously doubt that an increase in taxes, to compensate for an unwise reduction now, could be readily brought to the floor or enacted. In light of that fact, I think we should take a prudent course at this point and only consider tax cuts that effect time periods for which we can predict the economic situation.

In closing, I think the level of the tax cut we approve should reflect the level of cuts which can be achieved in the Federal budget for the same period of time. Otherwise, we will only be adding to inflationary deficit spending. The second concurrent budget resolution which we will be considering shortly includes a deficit which is $16.9 billion below that included in the President's budget proposal. Therefore, I think the tax cut proposed in the bill before us—which is comparable to the cuts we have made in the budget, is a prudent and wise one. I agree with Milton Friedman, who said:

> If Kemp-Roth were enacted without a simultaneous reduction in government spending the deficit would, at least initially, go up—and so would these hidden taxes. Lower explicit tax rates would foster efficiency and output, but higher hidden tax rates would encourage the waste of human energy and financial capital.

We should have as our highest priority the reduction of our budget deficit, the formation of capital through properly targeted tax measures, responsible tax cuts for all Americans, and the death of inflation.

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, it occurred to me when I listened to some of my colleagues on this side of the aisle that there was some inconsistency in the position taken by three out of the four speakers on behalf of Kemp-Roth.

I dug out the CONGRESSIONAL RECORD of May 10. It is 3 months to the day. I looked at the names of those who voted to balance the budget. Lo and behold, three of the speakers, including the prime mover of this motion to recommit would have us balance the budget in the next fiscal year. That was just 3 months ago.

Mr. Speaker, I find it totally incomprehensible that they would today be talking about a measure that would increase the budget deficit by between $30 to $50 billion.

I urge my colleagues to defeat an economic proposition that could be disastrous to our country at this time. Thank you.

Mr. ULLMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. JONES) a member of the committee.

Mr. JONES of Oklahoma. I thank the chairman for yielding.

I rise in opposition to the Kemp-Roth bill. Let's be clear about what is the issue. The issue here is not the Laffer Curve. The Laffer Curve makes some sense. At some point, yes, you tax too much; you decrease revenue; you decrease productivity. But the issue before us today is what is the proper balance of a tax cut versus a budget deficit that will not exacerbate inflation and create even deadlier taxation.

Of all the witnesses—and there were many—who came before the Committee on Ways and Means, the great preponderance encouraged us to have a tax cut right in the area of the $15 billion—$16 billion that the committee is proposing to the House of Representatives. None of them, to my knowledge, recommended that during the 1979 fiscal year we borrow $28 billion to $30 billion just so we could go back home and say, "Look what we have done for you in a tax cut."

Marty Feldstein, who is a Harvard professor of economics and chairman of the Bureau of National Economics Research, and who is as much responsible for the content of the committee bill as anyone off the committee, recommended the size tax cut that we have here today and supported most of the component parts. If we increase this size, I think we are going to increase the inflationary pressures. That is something that our colleague, the gentleman from Georgia (Mr. JENKINS) says we are going to have to answer for—not in this election but in the next one.

Among the groups who are recognized as fiscally responsible and conservative and who are supporting the committee bill down the line without any exceptions, with no amendments, are: NFIB representing small business, the Coalition for Capital Formation, the NAM, and even the Chamber of Commerce says that they do not support such a tax cut without a corresponding cut in spending.

We do not have a corresponding cut in spending here.

I would commend to those who have not read it the August 7, 1978, Business Week editorial. Business Week pretty well speaks for the conservative viewpoint in the business community. I am going to quote from part of that editorial. It says:

> The Kemp-Roth proposal . . . would be a completely irresponsible way to approach the federal budget problem, and it would generate an inflation that would destroy the value of the currency. . . .
>
> Kemp-Roth would add $100 billion to a deficit that is already dangerously swollen. It would touch off an inflationary explosion that would wreck the country and impoverish everyone on a fixed income.

I urge everyone to vote against the Kemp-Roth amendment.

● Mr. SEIBERLING. Mr. Chairman, the events of recent days, culminating in the rejection just now of the Corman-Fisher amendment, make a mockery of both tax reform and fiscal responsibility.

We are about to participate in the act of cutting the Federal income tax—which has been a progressive tax based on ability to pay—after having provided last year for an increase in the social security payroll tax—which is a regressive tax, the burden of which falls heaviest on the lower and middle-income workers. Worse yet, the cuts in the Federal income tax will be skewed in favor of the wealthy and against the lower and middle-income workers.

Not only will this bill produce tax reform in reverse, but by reducing the Federal revenue by a total of $16 billion in 1979 and $20 billion in 1980, will make it difficult, if not impossible, to undertake meaningful tax reform legislation next year. If the Corman-Fisher substitute had passed, it would have provided enough reform so as to justify the loss of revenue and resultant increase in the projected deficit. But certainly this bill cannot be justified from either standpoint.

As our colleague, Mr. VANIK, has so aptly pointed out, since the tax cuts in this bill will be paid for through additional treasury borrowing equivalent to the revenue loss, it must be expected that such increased deficit borrowing will bring about an increase in inflation. Every 1-percent increase in inflation costs the average family $300. So it is entirely likely that the increase in inflation will more than wipe out the tax cut of $115 which the average family will receive from this rich man's legislation.

The Vanik-Pickle substitute, while it would not have produced any additional income tax cut, would have eliminated the inflationary pressure that this bill would create. It would also have preserved for next year the possibility of tax reform, particularly the option of reducing the social security payroll tax, either by providing for part of the social security burden to be paid from the general revenues or by a tax credit, such as the one I introduced last year or the Gephardt amendment. We could not even vote for Gephardt, because the Rules Committee made the amendment out of order.

Mr. Chairman, about all I can say for this bill is that it is better than the Kemp-Roth substitute which, if it were adopted, would send our economy into double-digit, double-decile inflation of a kind this country has not experienced in over 100 years. The Kemp-Roth bill should be recognized for what it is—a cynical hoax.

Mr. Chairman, the final irony is that most of those who have been sponsoring this kind of tax relief for the wealthy, with all of its regressive and inflationary features, are the very same group who have been proclaiming their opposition to deficit spending. They are also in the group who this week voted for the $119 billion military appropriations bill—the highest military spending bill in history—which far exceeds even the huge deficits of the last several years. They even voted against cutting it eight-tenths of a percent.

Mr. Chairman, we should vote down both the committee bill and the Kemp-Roth substitute and send the Ways and Means Committee back to do a better job for the American people.●

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill H.R. 13511, and all amendments thereto, and to include extraneous matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. ULLMAN. Mr. Speaker, the majority leader will conclude the debate, and I would ask the gentleman from New York (Mr. KEMP) if he would conclude his debate at this time.

Mr. KEMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I rise in strong support of the Kemp motion to recommit the bill with instructions to reduce individual income tax rates by 33 percent over the next 3 years. This would provide real tax relief to our citizens.

Everywhere I go the message is clear. Americans are fed up with high taxes. They are tired of watching the Government walk away with so many of their hard-earned dollars.

I can certainly understand this concern. Simply put, Americans are being taxed to death.

The average person now finds that approximately 34 cents out of every dollar he or she earns is going to pay Federal, State, and local taxes. In other words, for every 8 hours of work, 2 hours and 45 minutes are spent working for the Government.

This is intolerable. For too long our Government has been obsessed with a tax, tax, tax and spend, spend spend mentality. Federal spending has increased by leaps and bounds, while inflation and high taxes have followed right along. It is time to reduce spending and cut taxes.

That is why I have been a cosponsor of the Kemp-Roth Tax Rate Reduction Act. And that is why I support the Kemp motion to recommit today. It would provide real tax relief to millions of overburdened Americans.

Ironically the committee bill does not really provide for a tax cut at all. If adopted, most Americans would still pay more taxes next year than they do now. The Joint Committee on Taxation has stated the so-called tax cut bill approved by the Ways and Means Committee would not make up for the higher social security taxes and the tax increases caused by inflation.

The Kemp motion to recommit with instructions, however, is what our overtaxed citizens need.

During the next 3 years it would reduce individual income tax rates by approximately one-third. These lower rates would be of great assistance to working men and women. More money would stay where it belongs—in people's pockets.

Liberals attack tax cuts. They have tried by spending for three decades to solve our problems. They have done little more than cause the problems. It is time to try the opposite theory. Reduce the taxes and let the American people save, invest, spend—make their own decisions. That is the issue. Liberals have had their day. Now we must allow the taxpayer to have his day.

Americans are being taxed too much. They need tax relief. Government should be working for the people, not the other way around.

Mr. KEMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, I rise in support of the Kemp motion to recommit the bill to the Ways and Means Committee with instructions to report it back to the House containiing an amendment reducing individual income tax rates by an average of 33 percent over the next 3 years.

Before advancing my reasons for urging your support, I believe we all must recognize what is taking place in the House today. Once again, we are being prevented from voting directly on the merits of popular and needed legislation—the Kemp/Roth bill.

The betrayal of a promise to permit the Kemp/Roth bill to be offered as an amendment is another example of the imperial House leadership thwarting the will of the elected representatives. All of us were elected ostensibly to represent the interests and views of our constituents. There can be little doubt that our constituents are interested in slashing the inordinate Federal tax burden and, to forestall a direct vote on the Kemp/Roth bill, is an effrontery that should not be condoned.

This legislative shellgame of preventing votes on major issues is an unfortunate hallmark of the 95th Congress. I ask each Member to assess honestly what he intends to do for his constituents in passing a real tax cut—a cut that will effectively improve each family's purchasing power. If there is to be a realistic tax cut then it is important that all fair-minded Representatives, at least, permit the tax bill to be recommitted with instructions to reduce rates

by an average of one-third over a 3-year period.

I further support this motion because I recognize that the average taxpayer in America is losing his stake in the future. Each year the Government takes more and more of his earnings with no resultant benefits. The taxpayer is no longer improving his standard of living but being impoverished solely as a consequence of mounting taxes and inflation caused primarily by excessive Government spending. Taxpayer resentment is shown in a recent Associated Press/National Broadcasting Co. poll which gave the Federal income tax the most negative rating of any of the listed taxes.

Recession is threatening. Inflation is speeding up. Runaway Government spending has eroded confidence in the dollar both at home and abroad. Government efforts to improve our economic picture have failed. I strongly believe that it is time for an honest and forthright tax cut, not a cut based on restricting or expanding some favored tax deductions.

The legislation we have been discussing today offers the taxpayer some hope of improvement, especially the section dealing with capital gains indexing. But even if the bill is enacted, almost every American taxpayer will face a tax increase next year.

According to the Joint Committee on Taxation, the bill will not even offset the new social security taxes, the automatic boosts into higher tax brackets as wage-earners try to catch up with inflation, nor the anticipated rises in energy taxes should the administration's energy bill be enacted. In fact, unless taxes are substantially reduced, American taxpayers will be paying approximately $100 billion more in taxes per year 5 years from now than they are today.

Our Nation needs a real tax cut to offset these huge tax increases and reduce the tremendous tax burden on the working men and women of this country. The Kemp-Roth bill is just such a tax cut—one that can restore incentive to our stagnant economy and create real economic growth and meaningful new jobs.

As a cosponsor of the Kemp-Roth bill, I urge all Members of the House to support the motion to recommit H.R. 13511 with instructions. Congressional action is long overdue. Real tax relief has been promised and promised but never produced. Today, we can keep these promises and I hope the motion to recommit is adopted.

Mr. KEMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Speaker, I rise in support of the Kemp-Roth tax reduction bill. A bill which I have cosponsored.

President Carter has done everything possible to avoid giving middle income Americans a meaningful reduction in income taxes. He was goaded into action in the beginning only after congressional reaction to the huge social security tax increase was signed into law. Those Members who had supported the largest tax increase in history were feeling the heat from the folks back home, and eventually President Carter opened his eyes to the growing taxpayer revolt as well.

His initial proposal was a $25 billion tax cut. Then, he reduced his recommendation to a $15 billion tax reduction. However, the Ways and Means Committee reported a package calling for a $16.2 billion cut. While I will vote for this it is totally inadequate. Then the President changed his mind again and decided to "compromise' and support an $18.1 billion tax cut.

Yet, after all is said and done, none of President Carter's proposals, which have shifted like the sands of the Sahara, are sufficient to offset the Carter administration's social security tax increase.

If the President has reservations about returning to the taxpayers some of their own money, he apparently has none about giving American tax dollars away as foreign aid.

President Carter proposed a record $8.4 billion foreign aid program for fiscal year 1979, which the House Appropriations Committee reduced to $7.3 billion. Even that figure is $614 million above the fiscal year 1978 funding level.

Still, the administration was asking for $800 million more than it did for fiscal year 1978, and $1.7 billion more than was actually appropriated for fiscal 1978.

I fail to see how returning $8 billion in tax cuts to the already over-burdened American taxpayer is inflationary and giving away $8 billion in foreign aid is not inflationary. This administration's logic is difficult for the taxpayer to accept.

Furthermore, the purchasing power of the U.S. dollar has fallen roughly 30 percent since 1970, marginal tax rates have increased by about 33 percent. The Kemp-Roth bill, which lowers rates by about 33 percent in 3 years is not taking revenues from Government, it is just returning to the American people what has been taxed away due to inflation. Inflation caused primarily by the spending policies of this government and the Congress.

It is time the American taxpayer was given a break. If there is any belt-tightening to be done why not stop foreign aid for a year an let these foreign nations, most of whom detest us, do without our largesse. I urge my colleagues to support the Kemp-Roth amendment and give the American taxpayer a break for a change.

Mr. KEMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Speaker, I wish to speak today in favor of the motion to recommit this bill with instructions to include in it the Kemp-Roth plan for tax rate reduction.

I believe, Mr. Speaker, that the people of this country have simply reached the end of their patience with our overwhelming tax burden. And I believe they deserve relief.

The Congress has for too long ignored the ordinary, working, middle-class person in America. And, what is worse, the Congress has felt it necessary to think for that peron, to decide what he really wants from his Government, and to decide that he wants to give a huge share of his income to support that Government.

The Congress has seemed to feel, for a number of years, that the pockets of the American taxpayer were bottomless pits.

A letter I received recently from a Mr. Williams of Metairie, La., put the case this way:

> My wife and I both have worked for a salary for 25 and 30 years respectively and we consider ourselves average and certainly not rich. It is obvious that the government considers us rich by the taxes extracted from us and we wish to bring this difference of opinion to your attention . . .
>
> We ask your earnest consideration of first, budget reductions, and second, tax reductions, as soon as possible. This tax rate is certainly destroying our incentive to work any harder and creating many thoughts about how we can quit work and quit paying such tax rates.

I could not agree with Mr. Williams more. High tax rates do destroy incentive. In order to encourage incentive we must cut those tax rates, and stimulate the economy while reducing the overwhelming load presently being borne by middle America.

My distinguished colleague and good friend, JACK KEMP, was in the vanguard of this movement. He had the foresight to propose this tax cut several years ago—but then it was considered a wild idea. Today it is an idea whose time has come.

The American people have simply realized that, not only is a large percentage of their income going to the Government, but in addition, they are not getting their money's worth.

Not long ago a Wall Street Journal editorial pointed out that it is very difficult for a citizen to actually see the services he gets from the Federal Government. He cannot measure the value of the Department of Agriculture or the Department of Commerce.

The editorial points out that when a taxpayer begins to get unhappy about his taxes, he begins to ask questions about what kinds of service he is getting. And the editorial concludes that the answers Government is providing to those questions are not at all satisfactory.

Our taxpayers are not getting their money's worth. And they are not being allowed to enjoy the product of their labor. As a result, they do not have the incentive to work harder, if in fact they have the incentive to work at all. The American Dream has become distorted. The goal of an American no longer is how much one can do to better himself and his family, it has become how little he can do, just to avoid the interference of Government meddling in his life.

And that's what the Kemp-Roth plan would do—give our people the incentive to again produce, and thereby induce more production, more jobs and a bigger, stronger, healthy economy.

This plan is good for the country—it is what we need right now, this year, today, in order to stimulate the economy, reduce unemployment, and simply give our people a breather.

I support this plan to cut tax rates. I have supported it since the first day I was sworn into office. And I want to urge my colleagues to vote to recommit this bill and bring it out with a tax rate cut that will give the American economy—and the American people—the

boost that they so desperately want and need.

Mr. KEMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Speaker, I rise in support of the Kemp-Roth bill.

Mr. KEMP. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Speaker, I rise in support of the motion made by the gentleman from New York (Mr. KEMP). The cuts contained in the tax bill, as reported, are woefully inadequate. It is tragic that the House leadership reneged on a commitment to permit a direct vote on the Kemp-Roth tax cut amendment. I commend my colleague from New York, (Mr. KEMP) for the fortitude he has displayed in an effort to provide the House an opportunity to vote on his amendment through this parliamentary device of a motion to recommit the bill with instructions to report the bill back with an amendment to section 101 reducing individual tax rates across-the-board by an average of 33 percent, over a 3-year period.

A recent Lou Harris poll found 70 percent of the American population convinced that "taxes in this country are unreasonable," and 66 percent sharing the feeling that taxes had "reached the breaking point."

Kemp-Roth is an honest, direct, commonsense program to bring real and significant tax relief to everyone who pays Federal income taxes. It is far, far more equitable and far, far healthier for the Nation's economy than anything that has yet come out of the Carter administration's ever-changing laundry list of tax proposals.

The Kemp-Roth bill provides for across-the-board reductions in tax rates. Sixty-five percent of those reductions would go to families making $30,000 a year or less, most to middle- and low-income families.

If enacted. the Federal tax rate for a family of four with an income of $15,000 a year would drop from $1,380 to $852. A family of four earning $17,500 a year would have its Federal tax liability reduced from $1,745 to $1,092. A family of four earning $20,000 would have its tax burden reduced from $2,180 to $1,388.

Most important, the reduction in tax rates would give all Americans more real disposable income in return for their work and productivity instead of simply pushing them into higher and higher tax brackets for only the tax collector's benefit and no real gain in disposable income.

Additionally, every income group benefits from the tax rate reductions in proportion to the share of Federal income tax payments it is presently making. What could be fairer?

Now let us examine the unsubstantiated claims that the Kemp-Roth bill would double the budget deficit, overheat the economy, and that it would be only a question of time until essential services are slashed.

Well, essential services will not be slashed under Kemp-Roth. Nor would Kemp-Roth double the budget deficit. An econometric study, prepared by respected economist Norman Ture, shows the Kemp-Roth Tax Reduction Act should generate enough new tax revenue to reach a balanced budget (no deficit) within 2 years, and would produce a $42 billion surplus after the third year. And Kemp-Roth can do this without one cutback in existing programs. In fact, the Ture projection assumes annual increases of 10 percent in spending for current programs.

There is a good solid record of experience to back up the Ture study predictions. I point to 1963, the Kennedy tax cut year, which saw Congress approve almost as big a reduction (in percentage of tax revenues) as is called for in the Kemp-Roth bill. When the reductions took effect in 1964, the unemployment rates and the percentage of use of industrial capacity were almost identical with what they are now. Taxes were heavy then. President Kennedy said at the time: "The main block to full employment is an unrealistically heavy burden of taxation. . . ." Taxes are higher today. The Treasury Department experts made the same dire predictions of heavy deficits that we are hearing now.

What happened? As Dr. Walter Heller, main architect of the 1963 tax cut testified in 1976, the Kennedy tax cut had a "multiplier effect on the economy. It was the major factor that led to our running a $3 billion surplus by the middle of 1965, before escalation in Vietnam struck us."

That "multiplier effect" will work on the economy when the Kemp-Roth Tax Reduction Act takes effect, because our bill restores incentive to the worker, saver, and investor in America. Our bill is an incentive-oriented tax cut. By lowering tax rates (not only on personal incomes, but also for corporate and small businesses) more money would be available for businesses, services, and industries providing more incentive to hire more workers and to expand. Individuals and families will have more money and therefore more incentive to make more purchases and more to put aside as savings or to invest thus encouraging further investment in expansion of business and industry and providing new jobs and greater wage opportunities.

Each expansion of business and industry and each new job produces its own ripple effect on the national economy, bringing yet additional business and jobs to those who supply the raw material, tools, equipment, and construction needed for expansion. In turn, every supplier then adds his own share of additional business to those he deals with, producing still more demand and more new jobs. Each new job means a new customer, and each new customer means still more business. And—this is a vital point—each business expansion, each added sale, each new worker means added tax revenues to the Government, even with the lower tax rates. So total revenues go up.

That is how the restoration of incentive will work, as each dollar freed from the tax collector goes to work in the national economy. It is a powerful force. And because Kemp-Roth encourages savings and investment and retained earnings by families and by businesses, it is not inflationary. It is self-financing.

One other very important point: Unless there is a substantial tax reduction now, there will be a real increase in Federal taxes next year, due to a sharp rise in social security taxes, and inflation forcing taxpayers into higher brackets. The miserly $15 billion tax "reduction" plan proposed by President Carter will actually result in a net increase in Federal taxes for nearly all families. The increase in social security taxes, and the effects of inflation would outweigh the small decreases provided in the Carter program.

No matter how you look at it, the Kemp-Roth Tax Reduction Act is good. It eases the heavy tax burden on every taxpayer. It encourages investors and businesses to expand and creates new jobs. It lessens the welfare burden and the cost of Government. It encourages savings to help further expansion of the economy. It builds a larger Federal revenue base. Is it any wonder that 170 members of Congress—Democrats and Republicans—have joined in sponsoring this sound blueprint for the future?

I urge my colleagues to give their support to this fair and realistic tax rate reduction plan by voting in favor of the Kemp recommittal motion.

Mr. KEMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, I am a cosponsor and firm supporter of the substantial reduction in individual income tax rates that is contained in this motion to recommit, and I urge its adoption. The tax bill we have been debating all day is basically a good tax bill. It reduces business taxes and it reduces taxes on capital gains. This is fine as far as it goes, but it fails to cut individual income tax rates for the great majority of the American people.

We must stand up for the people who sent us here to represent them and vote for this tax rate cut of 33 percent over the next 3 years. This will adjust the tax rates to offset the terrible ravages of inflation that have occurred since 1970.

The tax bill reported by the Committee on Ways and Means will not even offset the new social security tax increases, which I voted against but which are going into effect next January, nor will that bill offset the automatic tax increases that are caused by inflation.

We need a real tax cut to offset these huge tax increases and reduce the heavy tax burden on the working men and women of this country. A vote for this substantial tax rate reduction is a vote for incentive and enterprise, a vote for thrift and savings, a vote for creating real economic growth and meaningful new jobs, a vote for bringing pressure to bear to reduce the rate of growth in Government spending, a vote for letting people keep more of their own money and for forcing Government to have less of it. It is a vote for the American people.

People do not work and save to pay taxes. They work and save to have some

money left after paying taxes so that they can spend it as they wish. Let us give them a chance to do this—it is their money, not the Government's.

Now is the time for action. The American people are ground down by high taxes and they cannot wait any longer for real tax relief. They want tax relief now and they should have it.

Mr. Speaker, I urge the adoption of the motion to recommit.

Mr. KEMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Speaker, I stand in strong support of this amendment, of which I am a cosponsor.

Mr. KEMP. Mr. Speaker, the debate over the Kemp-Roth legislation during the past year and the debate here today has been healthy.

Several comments: Business Week says Kemp-Roth is dangerous; that it is irresponsible to lower the tax rates of the American people. But Business Week believes that "the business of America is business," to quote someone else, when the business of America is confidence that there will be opportunity to attain the American dream. It is also living without an inflation rate of 10.4 percent and an unemployment rate of 6.2 percent.

If there is anything dangerous in and to America, it is letting inflation continue to increase the taxes of the people by $332 billion over the next 5 years, $262 billion even with the committee bill. That is dangerous to the American people, to their economy, to their way of life. Economists and certain political figures used to say it could never happen: that you could have high unemployment and high inflation at the same time. Well, we have it today. The bitter lessons of the last 10 years should convince all of us that inflation is no answer for unemployment, and unemployment is no answer for inflation.

Raising the taxes of the American people is not the way to fight deficits. Expanding the tax base through lower tax rates is the way to end deficits. Raising the taxes of the American people is not going to stop inflation, not without destroying the people's incentive first. It is the burden and prospect of increases in taxes that is both crowding out investments and opportunities for unemployed and underemployed people.

The committee bill, by not going far enough to reduce the tax burden by reducing rates, suggests that our country can continue down this same road of simultaneous high inflation and high unemployment. Why is it—that policy—going to produce a different result in the future than it has in the past and present?

Where is the answer to that type of problem? It has not come from those who are critical of the Kemp-Roth plan.

If you look at the entire world today, not just the United States, you will find a very direct and positive correlation between tax rates and production. Where there are low tax rates there is higher production. West Germany does not have a capital gains tax, and it does not have any tax rate over 48 percent; yet it has the lowest rate of inflation and the lowest rate of unemployment in the industrialized West.

As my friend, the gentleman from New York (Mr. CONABLE) has said, that all tax cuts are not created equally. We are not suggesting that you have tax cuts so people can buy more television sets, although the American people have a right to more disposable income and to use it as they wish.

Let me use the brief time remaining to respond to several of the points raised in today's deliberations and the consideration of Kemp-Roth.

First, the individual income tax rate reductions which Kemp-Roth would bring about are staggered over 3 year's time.

On January 1, 1979, the present 14 to 70 percent range in marginal tax rates would be reduced to 12 to 63 percent. On January 1, 1980, they would be reduced to a range of 10 to 56 percent. And on January 1, 1981, they would be reduced to 8 to 50 percent.

And they are designed to give the greatest percentage break to those at the bottom end of our income ladder:

Reduction in marginal tax rates under Kemp motion to recommit

Present marginal tax rates	Under Kemp motion to recommit	Percent reduction in rates
14	8	43
15	9	40
16	10	37
17	11	35
19	13	31
21	15	28
24	17	25
25	19	24
27	21	22
29	24	17
31	27	16
34	29	15
36	31	14
38	33	13
40	35	12
45	36	20
50	37	26
55	40	27
60	42	29
62	44	29
64	46	29
66	47	29
68	48	29
69	49	29
70	50	28

Second, Walter Heller has been on every side of the issue as to the causes and effects of the Kennedy tax rate reductions of the early 1960's.

One of my colleagues just told us that he said those reductions did nothing to give us the economic growth of the 1960's. He said that recently, when asked about the Kemp-Roth measure.

But in an appearance before the Joint Economic Committee in February 1977, he testified exactly to the contrary. There he said the Kennedy cut:

* * * was the major factor that led to our running a $3 billion surplus by the middle of 1965 before escalation in Vietnam struck us. It was a $12 billion tax cut which would be about $33 or $34 billion in today's terms, and within one year the revenues into the federal Treasury were already above what they had been before the tax cut." He concluded, "Did it pay for itself in increased revenues? I think the evidence is very strong that it did."

Only Dr. Heller knows why he is constantly changing positions, but I think it should be observed that his career has been closely identified with a political party, and it is not mine or Senator ROTH's.

Third, the gentleman from Missouri (Mr. GEPHARDT) said tonight and in a "Dear Colleague" letter that the Roth-Kemp proposal had not been considered before Ways and Means. That is wrong.

The Kemp-Roth legislation was aired before the Committee on Ways and Means in its extensive hearings on tax reform. I testified personally on the legislation on April 6, a copy of which is in the RECORD of that day at pages H2578–H2582. Many other witnesses addressed Kemp-Roth in their remarks too. If the committee's hearings were printed for us to use in this debate, which they are not, I could point out much discussion of Kemp-Roth, pro and con, including the particular individual income tax rate reduction portion being offered as an amendment. Kemp-Roth has had the benefit of public comment.

Kemp-Roth, that portion dealing with individual income tax rate reductions, was prepared for committee consideration. It was to be offered by the gentleman from Florida (Mr. BAFALIS). It was drafted and mimeographed. It was not presented, however, after three things happened. First, the committee leadership wanted to report the bill as soon as possible and did not wish to take the additional time to consider Kemp-Roth, in that it was assumed that the amendment would fail in committee. Second, the chairman and the ranking minority member gave assurances that the amendment could be offered on the floor, as an amendment, during full House consideration. Third, it became apparent that this was going to be the full committee's recommendation, that it be permitted to be offered as an amendment before the full House.

But the consideration of Kemp-Roth does not end here. It has been the subject of a full day's hearings before the Senate Finance Committee's Subcommittee on Taxation and Debt Management, hearings of the Joint Economic Committee in its economic review sessions, and of the House Budget Committee. That is fairly exhaustive consideration.

Fourth, we have heard income—the loss taxes and their flow to Washington—discussed here often tonight. I want to comment on this point.

There are two basic, quite distinct viewpoints on Government revenue. They reflect the most divergent philosophies of Government.

According to one view, all the income is the Government's. Anything which it wishes to leave with the people, to not bring into the Government through taxation, is part of the largess of Government. This is the view underlying such terms as "tax expenditures," the dollar costs of those provisions in the tax code which permit the people to keep dollars which would otherwise be sent to Washington.

According to the other view, all the income is the people's. This is the view inherent in our Declaration of Independence and our Constitution. It is the view inherent in a free society. Since, by this view, Government is the servant and not the master, the people's income is their own; that portion which they wish to provide to Government to carry out responsibilities agreed to in the constitutional framework, and nothing more, is Government's revenue.

We should keep this very much in mind as we examine the Revenue Act of 1978. This point, this dichotomy, over how income and revenue are to be viewed, should be at the forefront of our considerations.

This will make it very clear what is intended when "born-again" budget balancers talk about taking from the people levels of revenue sufficient to offset the spending levels those "born-again" budget balancers previously enacted.

I am not talking here about those Members who have consistently believed in a balanced budget and have voted against authorizations and appropriations which would have violated that principle.

I am, rather, talking about those "born-again" budget balancers who have voted time after time for higher authorizations, higher appropriations, running up tens of billions in deficits, but who now demand that we not reduce the tax burden upon the American people in order to keep Government's revenue from declining and the budget balanced. I do not think I have to detail who these Members are. They have been fairly visible in their opposition to reducing the tax rates and reducing the level of individual taxes paid. Think of a couple of names which come most readily to mind, then go back and look at their voting records. You will see how they have voted on motions to reduce spending and the Federal deficit. Those votes stand in contrast with their new found, their "born again," claim that we now have to keep the budget balanced and the way to do that is to keep taxes at their present rates. Those rates are too high. They are unnecessarily high. They are counterproductive, too.

But it gets worse.

It is not just that these "born-again" budget balancers want to keep the present rates of taxation in place. It is that they know that taxes will actually increase as inflation—that insidious hidden-tax—pushes taxpayers into tax brackets where the percentages they pay in taxes on additional dollars of income are increasingly higher. That process will account for higher personal income taxes. Then we have higher Social Security taxes, higher excise taxes, higher customs, estate, gift, and other taxes, and in many places throughout the country higher State and local taxes, especially property and sales taxes.

The average family of four will pay $538 more just in Federal taxes in fiscal year 1979, $806 more in fiscal year 1980, as a result of what Congress has already set in motion. We owe it to the taxpayers to bring these taxes and tax rates back in line.

None of this needs to happen. It can be ended without incurring the inflation which these "born-again" budget balancers have finally decided can be a cause of inflation.

Deficits can be a cause of inflation, if the level of investment capital available in the money markets is so low that the Treasury must finance part of the deficit by turning to the Federal Reserve to buy Treasury bills and notes by printing more money, thus increasing the money supply relative to goods and services available.

But if a tax cut results in total economic growth in such a way that increases in savings and retained earnings exceed the additional borrowing needs, then the Fed will not have to increase the money supply by $1 and there will be no inflation caused by that deficit.

It was with this, as well as other, thought in mind that the Kemp-Roth amendment was structured. It would be the first tax reduction in many years which was designed from a supply-side model. The first since the Kennedy cuts to cut tax rates appreciably. That answers the question why other tax reductions have not had the impact in the economy that is forecast by very reliable sources to be the impact which would result from Kemp-Roth.

It is wrong, dead wrong, to say Kemp-Roth cannot have more bang in it than prior tax reducing measures, because those prior measures are not patterned the way this one is and could not therefore be expected to have the same or similar results. Not all tax cuts are created equal. The reason for this one having more impact, more bang, than the others is that this one cuts the actual rates. It reduces them across the board, for every category of taxpayer, and it elicits a certain type of economic response from them.

By re-creating the incentive to work, to save, to invest, and to take economic risks—four basic, crucially important, yet distinct, economic activities—by reducing the percentage of reward for that economic activity taken by the Federal Government in the form of taxes, we will have more work, more savings, more investment, and more entrepreneurial activity in the part of individuals.

When taken as a whole, this will expand the total amount of economic activity, expanding the tax base from which Federal tax revenues are drawn, providing additional revenues with which to offset Federal budget deficits and to counteract the crowding out of investment capital already arising from Government borrowing to pay portions of the debt resulting from its continuing insistence that tax and economic policies not be revised.

Fifth, the economic growth occurring as a result of passing Kemp-Roth will not so far outpace our Nation's manufacturing capacity that it will cause inflation.

It is the vitality of a new idea which determines the level and quality of response it generates for the body politic. By any measurement, the Kemp-Roth bill, calling for a 30-percent across-the-board rate reduction in Federal personal income taxes over the next 3 years, has generated widespread and frequently sophisticated commentary.

The most common criticism I hear of the Roth-Kemp bill is that it is inflationary. Some critics claim that steep cuts in personal income taxes cannot fail to generate excess demand pressures on an economy pressing up against its productive limits. They contend prices will soar as consumers laden with cash run out to spend their extra dollars for goods that will become increasingly less available. We also hear from these critics that Roth-Kemp must mean large Federal deficits into the future, carrying with it the requirement that these deficits be financed by money creation; again, too much money will chase too few goods. If excessive demand pressures or indefinite Federal budget deficits were to occur, the bill would be inflationary.

History is not on the side of those who claim that inflation and manufacturing capacity utilization rates are inversely related.

Since 1946, there has been no relationship between productive capacity and inflation. In fact, for 5 of the 13 post-war years during which inflation has been 3.4 percent or higher, the capacity utilization rate was very low—in the 73.6 to 79.2 percent range. Conversely, during the 8 years for which inflation has exceeded 3.4 percent, the capacity utilization rate has ranged between 80.6 percent and 87.6 percent. We have experienced inflation during periods of relatively high capacity utilization, and low capacity utilization. It is interesting to note that the two times since 1946 that productive capacity came close to the Keynesian danger point of 90 percent, inflation was low. In 1953, capacity utilization was 89.2 percent and inflation was 1.3 percent; in 1965, the year following the Kennedy tax cut, capacity utilization was 89.6 percent, and inflation was 2.2 percent.

Last and in summary of the case for Kemp-Roth, the Kemp motion to recommit will accomplish the following objectives, according to a Library of Congress study of major econometric analyses by DRI, Wharton and Chase Econometrics, found at pages H7858–61 of August 3:

First. It will increase real GNP by a range of 1.2 to 2.9 percent in 1979 and 2.4 to 4.9 percent in 1980, according to a Library of Congress study introduced by Mr. VANIK. These are increases above inflationary increases.

Second. Real disposable income of the American workers will go up from by a range of 2.7 to 5.1 percent in 1979 and 4.6 to 8.3 percent in 1980, according to that study.

Third. Unemployment would drop from a range of 0.6 to 1.1 percent in 1979, 0.3 to 2.1 percent in 1980, and 0.7 to 3.3 percent in 1982, according to that study. That means a jobs creation of 700,000 to 1,100,000 in 1979; 1.4 to 2.0 million in 1980. This in turn reduces social welfare spending payments and adds to the tax base.

Fourth. It will provide 65 percent of the reduction to lower and middle income families so that all Americans can enjoy more real disposable income.

Fifth. It will cause a change in Fed-

eral income tax liability in such a way that $100,000 and over families will pay a greater share than today, by drawing them out of tax shelters into taxable economic activity, thereby lowering the tax liability percentages on every income class under $100,000.

Sixth. It will be self-financing because increased personal savings and increased retained earnings will be sufficient to cover all additional borrowing needs of Treasury, meaning the Federal Reserve will not have to increase the money supply to cover a portion of that borrowing, and will provide additional investment capital for the private sector's borrowing needs. According to Chase's calculations, it will result in crowding in, not crowding out.

Mr. Speaker, this is a convincing case for the enactment of Kemp-Roth, the amendment embodied in my motion to recommit. At least the people feel it is a convincing case, and they know it to be a responsible one too.

Mr. ULLMAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. THONE).

Mr. THONE. Mr. Speaker, I rise in support of the motion that will be offered to recommit H.R. 13511 with instructions to reduce individual income tax rates by 33 percent over the next 3 years.

In support of this motion, I offer the testimony of the President's director of the Council on Wage and Price Stability, Mr. Barry Bosworth. Recently, Mr. Bosworth said:

> Productivity, which increased at a healthy 3 percent annual rate during the 1950s and 1960s, might have fallen to about 1.5 percent in recent years. This year it might not increase at all.

During the first 3 months of this year, U.S. productivity actually declined at a 3-percent annual rate.

Now, what is the most effective way to increase productivity, so that Americans in general can enjoy an increased standard of living. The answer is to attract capital for investment in new plants and equipment that will make U.S. production more efficient.

How do we attract such capital? By lowering the share of personal income taken by the Federal Government and increasing the share left in the wage earner's pocket. It will not be just the additional money used to purchase shares of stock that will increase business investment. Each additional dollar placed in savings or used to purchase insurance will help provide more funds for the investments that will increase U.S. productivity.

Beyond the economic sense that this proposal makes, I hope the Members of this body will be aware of the mood of the people of America. They believe rightly that Uncle Sam is taking too large a share of their earnings. They believe correctly that some of their hard-earned money is being completely wasted by the Federal Government. The taxpayers believe that much of the money taken from their paychecks for the U.S. Treasury would be used for more essential purposes if wage earners were allowed to keep it.

Mr. Speaker, the American taxpayers are fed up with wild and reckless Federal spending. They want it slashed. I hope this body will carry out their will by supporting the motion to recommit. Then, I hope the House will adopt my bill to put a lid on Federal spending—freezing it at the present level for a year and then permitting no more than a 5-percent annual growth in total Federal spending in each of the next 3 years.

If we will take these two actions—cutting Federal personal income taxes by 33 percent and putting a lid on total Federal spending—America can enjoy its greatest growth in the standard of living and the highest level of employment in its history.

● Mr. HAGEDORN. Mr. Speaker, I rise in support of the Roth-Kemp tax relief measure pending before the House. Inflation and progressive tax rates have provided enormous windfalls to the Federal Government. These tax increases have been so steep that, according to Dr. Rudolph Penner of the American Enterprise Institute, Roth-Kemp's 33 percent across-the-board reduction in personal income tax rates will merely return the average tax burden to what it was in 1976. This legislation does not, properly speaking, cut taxes; it simply returns to the American people what has been taxed away by inflation.

While the Roth-Kemp proposal prevents the average tax burden from increasing, and actually lowers it slightly, it also has a dramatic effect on marginal tax rates. The top rate is reduced from 70 to 50 percent and the bottom rate from 14 to 8 percent. The purpose of reducing tax rates across the board is to help restore the incentives in the American economy which have been destroyed by inflation. Because inflation pushes individuals into higher and higher tax brackets as their nominal income increases, and because it causes businesses to be taxed on illusory profits, the reward declines for work, saving, investment, and production. People work and invest less, or they work in ways which avoid taxation and invest in unproductive tax shelters. The result is a combination of economic stagnation and inflation.

By restoring marginal tax rates to reasonable levels, this legislation will increase investment, create jobs, raise productivity, improve wages, shift economic resources into ther most productive capacities, and get this country moving again. Taxing your way to prosperity is like standing in a bucket and attempting to lift yourself up by the handle. It is the wrong way to get a handle on the economy.●

Mr. ULLMAN. Mr. Speaker, before yielding to the majority leader, I would like to express my personal thanks to the members of the Committee on Ways and Means and to the Members of this House for what I consider a highly motivated debate, of which we can all be proud.

Mr. Speaker, I now yield the balance of my time to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, there is a responsible way to cut taxes, and there is an irresponsible way.

The responsible way is to combine prudent and selective tax reductions with a prudent and restrained spending policy, so that the result does not escalate the deficit, nor exacerbate inflation. That is the responsible way.

Congress this year has followed a policy of moderation and restraint in Federal spending. Now, I hear some guffaws. But let us look at the simple and incontrovertible facts. As a result of repeated selective reductions in authorizations and expenditures voted by this House this year, the second concurrent budget resolution which we shall vote upon next week will demonstrate that we have effectively reduced the deficit forecast by the President in January for fiscal year 1979 by approximately $20 billion.

And that is no small feat. That figure, which fully embraces all the tax reductions contained in this committee bill, represents approximately a 33-percent reduction in that original deficit forecast. We are cutting taxes by $16 billion on an annualized basis, and still reducing the projected deficit by about $20 billion. Now, that is responsibility. I want to assure you that the Amercian public is neither blind to nor unappreciative of the steady, responsible course we have followed.

The respected pollster, Lou Harris, reveals this week—and I know all of you will be pleased with this—that the public estimation of the Congress of the United States has risen to approximately three times the level of approval that it enjoyed in January of last year, and to the highest point of public approval since the publicly televised hearings on impeachment by the Committee on the Judiciary.

The Congress has been responsible, and the public recognizes and appreciates that fact.

The irresponsible way to cut taxes, by contrast, is simply to slash them indiscriminately and without regard for the effect it will have on spiraling deficits and rampaging inflation. That is the route of Kemp-Roth as espoused by the gentleman from New York (Mr. KEMP).

I am aware of the gentleman's contention that we can cut all taxes by 30 percent and wind up with more money in the Treasury. I am sure that the gentleman is quite sincere in believing that would be the result. We would cut income by 30 percent and still we would have more money to spend. It is an attractive illusion.

But there is not a single responsible economist, either liberal or conservative, who accepts that conclusion. Nor is there any informed member of the American business community who accepts it. It smacks of sleight of hand and blatant hucksterism to suggest to the American people that we can cut their taxes radically and also reduce the deficit, and reduce inflation, and still have ample money for all the things they want from their Government—that we can cut taxes by a third right across the board without severe negative consequences. Yes, it is attractive. But it just will not wash. It simply does not add up.

Professor Samuelson of MIT declares that the Kemp-Roth cure-all has been "marketed like snake oil * * * not like serious research." Those are his words, not my words.

I realize there are ways in which properly selected reductions in taxes can, indeed, stimulate the kinds of investments and job-producing enterprises that will generate economic activity and ultimately create more money for the Treasury. I think we have been doing that. That is one of the reasons we have been able to reflect such a substantial reduction in the rate of unemployment in the past year and a half.

Private investment in the private business economy during these last 19 months has increased at an annualized rate of 9 percent. Compare that, if you will, with the preceding 8 years before last January, when the average annual increase in private investment was 1 percent.

So clearly the extreme surgery of Kemp-Roth is not needed now. We are embarked on a course. It is a course of responsibility. It is steady, consistent, persistent, and cumulative.

Of course, there are those in your constituencies who would appreciate a 30-percent cut in taxes. Are there any who would not? Sure, we all would like that if we could do it responsibly. But, emphatically, they would not appreciate the estimated $150 billion addition to the public debt; nor would they appreciate the increase in interest rates, nor the raging inflation that Kemp-Roth predictably would set in motion. The American people are far too sensible to want us to do those things for a mere temporary boon that will produce those predictable results.

Please, let us not engage in the ultimate folly of selling the American people short.

Business Week magazine, as has been pointed out by the gentleman from Oklahoma, has editorialized that the Kemp-Roth proposal "would be a completely irresponsible way to approach the Federal budget problem."

These are rather strong words for that business publication. It says:

> Kemp-Roth would add $100 billion to a deficit that is already dangerously swollen. It would touch off an inflationary explosion that would wreck the country and impoverish everyone on a fixed income.

That is not my conclusion; that is the conclusion of the conservative editors of Business Week.

And so today every Member of Congress is facing an acid test of the metal of which he or she is made. Are we, as Members of the House of Representatives, merely mirrors of every fleeting whim? Or are we, in the truest sense of the tradition of statesmanship, trustees of the republic? That is the test we face.

We have a responsible tax reduction bill which will stimulate private investment. It will stimulate buying power. It will allow the average American to keep more of his money to utilize in the private sector of this economy. And it will do this while reducing, not increasing, the size of the deficit. I have no doubt personally that this House, when it faces that test in just a few moments, will do the responsible thing by rejecting this glittering bauble of opportunism, by resoundingly rejecting the motion to recommit, and by resoundingly approving this committee bill as now amended.

● Mr. BINGHAM, Mr. Speaker, I shall vote against the Revenue Act of 1978 as it emerged from the amendment process. Frankly it is hard to believe that a Democratic Congress would send to a Democratic President a bill that is so antithetical to the tradition of the Democratic Party, and I hope the bill will be greatly improved in conference.

The committee bill before us has been called a tax relief bill. It is that—but the relief it provides goes less to the struggling lower- and middle-income taxpayer than to the very wealthy. Under this bill 13 percent of the tax cuts would go to those earning less than $15,000 but 24 percent would go to those earning over $50,000. The bill allows the very rich to shield their entire capital gains income from regular tax liability. Under an amendment adopted on the House floor, the bill also provides an automatic cost of living adjustment for certain capital assets while leaving those whose assets are locked up in savings accounts and pension plans to fend for themselves.

I had hoped for a real tax reform bill this year. President Carter had recommended that the Congress eliminate some of the most excessive tax shelters but his recommendations were given short shrift by the Ways and Means Committee. In the wake of proposition 13 it was inevitable that we would enact a tax cut—and one is necessary—but I had hoped that the cut would be directed at those most in need, not at those most cushioned from the effects of both inflation and the high unemployment rate. This bill will only contribute to inflation (through the increased Treasury borrowing its revenue cuts make necessary) while it does little to lighten the tax load on most people. In short, the bill is a sham.

I supported two substitutes to the committee bill. One, offered by Mr. VANIK of Ohio, would have simply extended those tax cuts which would expire this year without an extension. Those are the general tax cut of $35 per person; the earned income credit; the jobs credit and the small business surtax exemption. The Vanik proposal would have cost the Treasury $9 billion in contrast to the committee bill's $16 billion price tag.

Of all the proposals before us, the Vanik amendment would have had the most salutary effect on inflation. The Vanik amendment was overwhelmingly defeated. Ironically it was defeated with the votes of those very House Members who claim to be so opposed to deficit spending that they would constitutionally mandate a balanced budget. Such is the politics of taxation in 1978.

After the defeat of the Vanik proposal, I supported the Corman-Fisher substitute. Under Corman-Fisher, 87 percent of the tax cut benefits would go to those with incomes under $50,000. 24 percent of the benefits would go to those earning less than $15,000 and 38 percent to those earning under $20,000. Under Corman-Fisher a family of four would have to pay no income tax unless its income reaches $8,900. (Under the committee bill, that family would be taxed). The Corman-Fisher proposal was far more progressive than the committee bill and I would have voted for the entire bill if Corman-Fisher had been adopted. Incredibly, it was defeated.

The only good action taken by the House during its consideration of H.R. 13511 was its rejection of the Kemp-Roth tax cut. Kemp-Roth would have cut individual income taxes 30 percent over the next 3 years. It would have produced a Federal deficit of between $75 billion and $130 billion by 1981, a deficit which could only produce a major jump in the inflation rate. Kemp-Roth was regressive. A family of four with a $10,000 income would have benefited by $228 while the $100,000 income family would receive $8,700. Again it is interesting to note that Kemp-Roth was supported by the same "fiscal conservatives" who lecture us about "fiscal responsibility" and the sacredness of the balanced budget. One need not belabor the point: Kemp-Roth was an election year gimmick but it was one that could have done this Nation significant damage.

In conclusion, I will vote against H.R. 13511. I shall continue to work for tax relief through progressive tax reform, not through revenue giveways to the wealthy.●

The SPEAKER. Under the rule, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. KEMP. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 177, nays 240, not voting 15, as follows:

[Roll No. 684]

YEAS—177

Abdnor	Cochran	Grassley
Ambro	Cohen	Green
Anderson, Ill.	Coleman	Guyer
Andrews, N. Dak.	Collins, Tex.	Hagedorn
Applegate	Conable	Hammer-schmidt
Archer	Conte	Hannaford
Armstrong	Corcoran	Hansen
Ashbrook	Coughlin	Harsha
Badham	Crane	Heckler
Bafalis	Cunningham	Hillis
Barnard	Daniel, Dan	Hollenbeck
Bauman	Daniel, R. W.	Holt
Beard, Tenn.	Davis	Horton
Bowen	de la Garza	Huckaby
Breaux	Derwinski	Hyde
Brinkley	Dickinson	Ireland
Broomfield	Dornan	Jeffords
Brown, Mich.	Duncan, Tenn.	Johnson, Colo.
Brown, Ohio	Early	Jones, Tenn.
Broyhill	Edwards, Ala.	Kasten
Buchanan	Edwards, Okla.	Kelly
Burgener	Emery	Kemp
Burke, Fla.	English	Kindness
Burke, Mass.	Erlenborn	Lagomarsino
Burton, John	Evans, Del.	Latta
Butler	Evans, Ind.	Leach
Caputo	Fish	Lent
Carr	Flynt	Levitas
Carter	Forsythe	Livingston
Cederberg	Frenzel	Lloyd, Calif.
Chappell	Frey	Lott
Clausen, Don H.	Gammage	Lujan
Clawson, Del	Gilman	Luken
Cleveland	Goldwater	McClory
	Goodling	McCloskey
	Gradison	

McDade
McEwen
McKinney
Madigan
Marks
Marlenee
Marriott
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Moore
Moorhead, Calif.
Mottl
Myers, Gary
Myers, John
O'Brien
Pettis
Pressler
Pritchard
Pursell
Quayle
Quie
Quillen
Railsback
Regula
Rhodes
Rinaldo
Risenhoover
Robinson
Rousselot
Runnels
Ruppe
Russo
Sarasin
Satterfield
Schulze
Sebelius
Shuster
Sikes
Skubitz
Smith, Nebr.
Snyder
Spence
Stangeland
Stanton
Steers
Steiger
Stockman
Stump
Symms
Taylor
Thone
Traxler
Treen
Trible
Vander Jagt
Walker
Walsh
Wampler
Watkins
Whitehurst
Wiggins
Wilson, Bob
Wilson, C. H.
Winn
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.

NAYS—240

Addabbo
Akaka
Alexander
Ammerman
Anderson, Calif.
Andrews, N.C.
Annunzio
Ashley
Aspin
AuCoin
Baldus
Baucus
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Brademas
Breckinridge
Brodhead
Brooks
Brown, Calif.
Burleson, Tex.
Burlison, Mo.
Burton, Phillip
Byron
Carney
Cavanaugh
Chisholm
Clay
Collins, Ill.
Conyers
Corman
Cornell
Cornwell
Cotter
D'Amours
Danielson
Delaney
Dellums
Dent
Derrick
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Calif.
Eilberg
Ertel
Evans, Colo.
Evans, Ga.
Fary
Fascell
Fenwick
Findley
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Murtha
Ford, Tenn.
Myers, Michael
Fountain
Natcher
Fowler
Neal
Fuqua
Nedzi
Garcia
Nichols
Gaydos
Nix
Gephardt
Nolan
Giaimo
Nowak
Gibbons
Oakar
Ginn
Oberstar
Glickman
Obey
Gonzalez
Ottinger
Gore
Panetta
Gudger
Patten
Hall
Patterson
Hamilton
Pattison
Hanley
Pease
Harkin
Pepper
Harrington
Perkins
Harris
Pickle
Hawkins
Pike
Hefner
Poage
Heftel
Preyer
Hightower
Price
Holland
Rahall
Holtzman
Rangel
Howard
Reuss
Hubbard
Richmond
Hughes
Roberts
Ichord
Roe
Jacobs
Rogers
Jenkins
Roncalio
Johnson, Calif.
Rooney
Jones, N.C.
Rose
Jones, Okla.
Rosenthal
Jordan
Rostenkowski
Kastenmeier
Roybal
Kazen
Ryan
Keys
Santini
Kildee
Scheuer
Kostmayer
Schroeder
Krebs
Seiberling
Krueger
Sharp
LaFalce
Shipley
Lederer
Simon
Leggett
Skelton
Lehman
Slack
Long, La.
Smith, Iowa
Long, Md.
Solarz
Lundine
Spellman
McCormack
St Germain
McFall
Staggers
McHugh
Stark
McKay
Steed
Maguire
Stokes
Mahon
Stratton
Mann
Studds
Markey
Thompson
Mattox
Thornton
Mazzoli
Tsongas
Meeds
Tucker
Meyner
Udall
Mikulski
Ullman
Mikva
Van Deerlin
Mineta
Vanik
Minish
Vento
Mitchell, Md.
Volkmer
Moakley
Waggonner
Moffett
Walgren
Mollohan
Waxman
Montgomery
Weaver
Moorhead, Pa.
Weiss
Moss
Whalen
Murphy, Ill.
White
Murphy, N.Y.
Whitley
Whitten
Wilson, Tex.
Wirth
Wolff
Wright
Yates
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NOT VOTING—15

Burke, Calif.
Devine
Fraser
Jenrette
Le Fante
Lloyd, Tenn.
McDonald
Metcalfe
Milford
Miller, Calif.
Rodino
Rudd
Sawyer
Sisk
Teague

The Clerk announced the following pairs:

On this vote:

Mrs. Lloyd of Tennessee for, with Mr. Rodino against.

Mr. McDonald for, with Mr. Le Fante against.

Mr. Sawyer for, with Mr. Jenrette against.

Mr. Rudd for, with Mr. Miller of California against.

Mr. Devine for, with Mrs. Burke of California against.

Until further notice:

Mr. Teague with Mr. Sisk.

Mr. Fraser with Mr. Metcalfe.

Mr. YOUNG of Alaska and Mr. APPLEGATE changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

Mr. ULLMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 49, not voting 21, as follows:

[Roll No. 685]

YEAS—362

Abdnor
Addabbo
Alexander
Ambro
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bevill
Biaggi
Blanchard
Blouin
Boggs
Boland
Bolling
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Clausen, Don H.
Clawson, Del
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dent
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dornan
Downey
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frey
Fuqua
Gammage
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Goldwater
Goodling
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammerschmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jeffords
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kazen
Kelly
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Mann
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meyner
Michel
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Oakar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Regula
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Runnels
Ruppe
Russo
Ryan
Sarasin
Satterfield
Schroeder
Schulze
Sebelius
Sharp
Shipley
Shuster
Sikes
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Spellman
Spence
St Germain
Stangeland
Stanton
Steed
Steers
Steiger
Stockman
Stratton
Stump
Symms
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Tsongas
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—49

Bedell
Beilenson
Bennett
Bingham
Bonior
Brodhead
Burton, John
Burton, Phillip
Chisholm
Clay
Conyers
Cornell
Dellums
Diggs
Dodd
Drinan
Edwards, Calif.
Findley
Garcia
Gonzalez
Gore
Harrington
Holtzman
Jacobs
Kastenmeier
Kemp
Maguire
Markey
Meeds
Mikulski
Mitchell, Md.
Moffett
Moss
Nolan
Oberstar
Pike
Reuss
Richmond
Roybal
Scheuer
Seiberling
Simon
Solarz
Stark
Stokes
Studds
Weaver
Weiss
Yates

NOT VOTING—21

Akaka
Armstrong
Burke, Calif.
Devine
Fraser
Jenrette
Le Fante
Lloyd, Tenn.
McDonald
Metcalfe
Milford
Miller, Calif.
Quie
Rodino
Rudd
Santini
Sawyer
Sisk
Staggers
Teague
Thone

The Clerk announced the following pairs:

Mr. Rodino with Mr. Armstrong.
Mr. Akaka with Mr. Devine.
Mr. Jenrette with Mr. Thone.
Mr. Le Fante with Mr. Sawyer.
Mrs. Lloyd of Tennessee with Mr. Rudd.
Mr. Metcalfe with Mr. Quie.
Mr. Santini with Mr. McDonald.
Mr. Sisk with Mr. Fraser.
Mr. Staggers with Mr. Miller of California.
Mrs. Burke of California with Mr. Milford.

Mr. DORNAN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills of the House of the following titles:

On August 3, 1978:

H.R. 13385. An act to provide for a temporary increase in the public debt limit.

On August 4, 1978:

H.R. 1420. An act for the relief of Umberto Ruffolo;

H.R. 10569. An act to amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such Act, and for other purposes;

H.R. 11504. An act to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program for farmers and ranches, extend the Emergency Livestock Credit Act of 1974, and for other purposes; and

H.R. 12933. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

August 8, 1978:

H.R. 11832. An act to authorize appropriations under the Arms Control and Disarmament Act for the fiscal year 1979, and for other purposes; and

H.R. 12426. An act to authorize the Secretary of the Treasury to provide financial assistance for the city of New York.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11280, CIVIL SERVICE REFORM ACT OF 1978

Mr. MEEDS, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1473) on the resolution (H. Res. 1307) providing for consideration of the bill (H.R. 11280) to reform the civil service laws, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 9, OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978

Mr. STUDDS (on behalf of Mr. MURPHY of New York) submitted the following conferences report and statement on the Senate bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–1474)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Outer Continental Shelf Lands Act Amendments of 1978".

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TITLE I—FINDINGS AND PURPOSES WITH RESPECT TO MANAGING THE RESOURCES OF THE OUTER CONTINENTAL SHELF

FINDINGS

Sec. 101. The Congress finds and declares that—

(1) the demand for energy in the United States is increasing and will continue to increase for the foreseeable future;

(2) domestic production of oil and gas has declined in recent years;

(3) the United States has become increasingly dependent upon imports of oil from foreign nations to meet domestic energy demand;

(4) increasing reliance on imported oil is not inevitable, but is rather subject to significant reduction by increasing the development of domestic sources of energy supply;

(5) consumption of natural gas in the United States has greatly exceeded additions to domestic reserves in recent years;

(6) technology is or can be made available which will allow significantly increased domestic production of oil and gas without undue harm or damage to the environment;

(7) the Outer Continental Shelf contains significant quantities of oil and natural gas and is a vital national resource reserve which must be carefully managed so as to realize fair value, to preserve and maintain competition, and to reflect the public interest;

(8) there presently exists a variety of technological, economic, environmental, administrative, and legal problems which tend to retard the development of the oil and natural gas reserves of the Outer Continental Shelf;

(9) environmental and safety regulations relating to activities on the Outer Continental Shelf should be reviewed in light of current technology and information;

(10) the development, processing, and distribution of the oil and gas resources of the Outer Continental Shelf, and the siting of related energy facilities, may cause adverse impacts on various States and local governments;

(11) policies, plans, and programs developed by States and local governments in response to activities on the Outer Continental Shelf cannot anticipate and ameliorate such adverse impacts unless such States, working in close cooperation with affected local governments, are provided with timely access to information regarding activities on the Outer Continental Shelf and an opportunity to review and comment on decisions relating to such activities;

(12) funds must be made available to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(13) because of the possible conflicts between exploitation of the oil and gas resources in the Outer Continental Shelf and other uses of the marine environment, including fish and shellfish growth and recovery, and recreational activity, the Federal Government must assume responsibility for the minimization or elimination of any conflict associated with such exploitation;

(14) the oil and gas resources of the Outer Continental Shelf are limited, nonrenewable resources which must be developed in a manner which takes into consideration the Nation's long-range energy needs and also assures adequate protection of the renewable resources of the Outer Continental Shelf which are a continuing and increasingly important source of food and protein to the Nation and the world; and

(15) funds must be made available to pay for damage to commercial fishing vessels and gear resulting from activities involving oil and gas exploration, development, and production on the Outer Continental Shelf.

PURPOSES

SEC. 102. The purposes of this Act are to—

(1) establish policies and procedures for managing the oil and natural gas resources of the Outer Continental Shelf which are intended to result in expedited exploration and development of the Outer Continental Shelf in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade;

(2) preserve, protect, and develop oil and natural gas resources in the Outer Continental Shelf in a manner which is consistent with the need (A) to make such resources available to meet the Nation's energy needs as rapidly as possible, (B) to balance orderly energy resource development with protection of the human, marine, and coastal environments, (C) to insure the public a fair and equitable return on the resources of the Outer Continental Shelf, and (D) to preserve and maintain free enterprise competition;

(3) encourge development of new and improved technology for energy resource production which will eliminate or minimize risk of damage to the human, marine, and coastal environments;

(4) provide States, and through States, local governments, which are impacted by Outer Continental Shelf oil and gas exploration, development, and production with comprehensive assistance in order to anticipate and plan for such impact, and thereby to assure adequate protection of the human environment;

(5) assure that States, and through States, local governments, have timely access to information regarding activities on the Outer Continental Shelf, and opportunity to review and comment on decisions relating to such activities, in order to anticipate, ameliorate, and plan for the impacts of such activities;

(6) assure that States, and through States, local governments, which are directly affected by exploration, development, and production of oil and natural gas are provided an opportunity to participate in policy and planning decisions relating to management of the resources of the Outer Continental Shelf;

(7) minimize or eliminate conflicts between the exploration, development, and production of oil and natural gas, and the recovery of other resources such as fish and shellfish;

(8) establish an oilspill liability fund to pay for the prompt removal of any oil spilled or discharged as a result of activities on the Outer Continental Shelf and for any damages to public or private interests caused by such spills or discharges;

(9) insure that the extent of oil and natural gas resources of the Outer Continental Shelf is assessed at the earliest practicable time; and

(10) establish a fishermen's contingency fund to pay for damages to commercial fishing vessels and gear due to Outer Continental Shelf activities.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

DEFINITIONS

SEC. 201. (a) Paragraphs (b) and (c) of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (b) and (c)) are amended to read as follows:

"(b) The term 'Secretary' means the Secretary of the Interior, except that with respect to functions under this Act transferred to, or vested in, the Secretary of Energy or the Federal Energy Regulatory Commission by or pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), the term 'Secretary' means the Secretary of Energy, or the Federal Energy Regulatory Commission, as the case may be;

"(c) The term 'lease' means any form of authorization which is issued under section 8 or maintained under section 6 of this Act and which authorizes exploration for, and development and production of, minerals;".

(b) Such section is further amended—

(1) in paragraph (d), by striking out the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(e) The term 'coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes islands, transition and intertidal areas, salt marshes, wetlands, and beaches, which zone extends seaward to the outer limit of the United States territorial sea and extends inland from the shorelines to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and the inward boundaries of which may be identified by the several coastal States, pursuant to the authority of section 305(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454(b)(1));

"(f) The term 'affected State' means, with respect to any program, plan, lease sale, or other activity, proposed, conducted, or approved pursuant to the provisions of this Act, any State—

"(1) the laws of which are declared, pursuant to section 4(a)(2) of this Act, to be the law of the United States for the portion of the outer Continental Shelf on which such activity is, or is proposed to be, conducted;

"(2) which is, or is proposed to be, directly connected by transportation facilities to any artificial island or structure referred to in section 4(a)(1) of this Act;

"(3) which is receiving, or in accordance with the proposed activity will receive, oil for processing, refining, or transshipment which was extracted from the outer Continental Shelf and transported directly to such State by means of vessels or by a combination of means including vessels;

"(4) which is designated by the Secretary as a State in which there is a substantial probability of significant impact on or damage to the coastal, marine, or human environment, or a State in which there will be significant changes in the social, governmental, or economic infrastructure, resulting from the exploration, development, and production of oil and gas anywhere on the outer Continental Shelf; or

"(5) in which the Secretary finds that because of such activity there is, or will be, a significant risk of serious damage, due to factors such as prevailing winds and currents, to the marine or coastal environment in the event of any oilspill, blowout, or release of oil or gas from vessels, pipelines, or other transshipment facilities;

"(g) The term 'marine environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the marine ecosystem, including the waters of the high seas, the contiguous zone, transitional and intertidal areas, salt marshes, and wetlands within the coastal zone and on the outer Continental Shelf;

"(h) The term 'coastal environment' means the physical, atmospheric, and biological components, conditions, and factors which interactively determine the productivity, state, condition, and quality of the terrestrial ecosystem from the shoreline inward to the boundaries of the coastal zone;

"(i) The term 'human environment' means the physical, social, and economic components, conditions, and factors which interactively determine the state, condition, and quality of living conditions, employment, and health of those affected, directly or indirectly, by activities occurring on the outer Continental Shelf;

"(j) The term 'Governor' means the Governor of a State, or the person or entity designated by, or pursuant to, State law to exercise the powers granted to such Governor pursuant to this Act;

"(k) The term 'exploration' means the process of searching for minerals, including (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off known geological structures, including the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well after such discovery which is needed to delineate any reservoir and to enable the lessee to determine whether to proceed with development and production;

"(l) The term 'development' means those activities which take place following discovery of minerals in paying quantities, including geophysical activity, drilling, platform construction, and operation of all onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered;

"(m) The term 'production' means those activities which take place after the successful completion of any means for the removal of minerals, including such removal, field operations, transfer of minerals to shore, operation monitoring, maintenance, and work-over drilling;

"(n) The term 'antitrust law' means—

"(1) the Sherman Act (15 U.S.C. 1 et seq.);

"(2) the Clayton Act (15 U.S.C. 12 et seq.);

"(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(4) the Wilson Tariff Act (15 U.S.C. 8 et seq.); or

"(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a);

"(o) The term 'fair market value' means the value of any mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary;

"(p) The term 'major Federal action' means any action or proposal by the Secretary which is subject to the provisions of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(q) The term 'minerals' includes oil, gas, sulphur, geopressured-geothermal and associated resources, and all other minerals which are authorized by an Act of Congress to be produced from 'public lands' as defined in section 103 of the Federal Land Policy and Management Act of 1976.".

NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF

SEC. 202. Section 3 of the Outer Continental Shelf Lands Act (43 U.S.C. 1332) is amended to read as follows:

"SEC. 3. NATIONAL POLICY FOR THE OUTER CONTINENTAL SHELF.—It is hereby declared to be the policy of the United States that—

"(1) the subsoil and seabed of the outer Continental Shelf appertain to the United States and are subject to its jurisdiction, control, and power of disposition as provided in this Act;

"(2) this Act shall be construed in such a manner that the character of the waters above the outer Continental Shelf as high seas and the right to navigation and fishing therein shall not be affected;

"(3) the outer Continental Shelf is a vital national resource reserve held by the Federal Government for the public, which should be made available for expeditious and orderly development, subject to environmental safeguards, in a manner which is consistent with the maintenance of competition and other national needs;

"(4) since exploration, development, and production of the minerals of the outer Continental Shelf will have significant impacts on coastal and non-coastal areas of the coastal States, and on other affected States, and, in recognition of the national interest in the effective management of the marine, coastal, and human environments—

"(A) such States and their affected local governments may require assistance in protecting their coastal zones and other affected areas from any temporary or permanent adverse effects of such impacts; and

"(B) such States, and through such States, affected local governments, are entitled to an opportunity to participate, to the extent consistent with the national interest, in the policy and planning decisions made by the Federal Government relating to exploration for, and development and production of, minerals of the outer Continental Shelf;

"(5) the rights and responsibilities of all States and, where appropriate, local governments, to preserve and protect their marine, human, and coastal environments through such means as regulation of land, air, and water uses, of safety, and of related development and activity should be considered and recognized; and

"(6) operations in the outer Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.".

LAWS APPLICABLE TO THE OUTER CONTINENTAL SHELF

SEC. 203. (a) Section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(1)) is amended—

(1) by striking out "and fixed structures" and inserting in lieu thereof ", and all installations and other devices permanently or temporarily attached to the seabed,"; and

(2) by striking out "removing, and transporting resources therefrom" and inserting in lieu thereof "or producing resources therefrom, or any such installation or other device (other than a ship or vessel) for the purpose of transporting such resources".

(b) Section 4(a)(2) of such Act is amended by redesignating paragraph (2) as (2)(A) and by adding at the end thereof the following new subparagraph:

"(B) Within one year after the date of enactment of this subparagraph, the President shall establish procedures for settling any outstanding international boundary dispute respecting the outer Continental Shelf.".

(c) Section 4(c) of such Act is amended by striking out "described in subsection (b)" and inserting in lieu thereof "conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources, or involving rights to the natural resources, of the subsoil and seabed of the outer Continental Shelf".

(d) Section 4(d) of such Act is amended to read as follows:

"(d) For the purposes of the National Labor Relations Act, as amended, any unfair labor practice, as defined in such Act, occurring upon any artificial island, installation, or other device referred to in subsection (a) of this section shall be deemed to have occurred within the judicial district of the State, the laws of which apply to such artificial island, installation, or other device pursuant to such subsection, except that until the President determines the areas within which such State laws are applicable, the judicial district shall be that of the State nearest the place of location of such artificial island, installation, or other device.".

(e) Section 4 of such Act is amended—

(1) in paragraph (1) of subsection (e), by striking out "the islands and structures referred to in subsection (a)", and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)";

(2) in subsection (f), by striking out "artificial islands and fixed structures located on the outer Continental Shelf" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)"; and

(3) in subsection (g), by striking out "the artificial islands and fixed structures referred to in subsection (a)" and inserting in lieu thereof "the artificial islands, installations, and other devices referred to in subsection (a)".

(f) Section 4(e)(1) of such Act is amended by striking out "head" and inserting in lieu thereof "Secretary".

(g) Section 4(e)(2) of such Act is amended to read as follows:

"(2) The Secretary of the Department in which the Coast Guard is operating may mark for the protection of navigation any artificial island, installation, or other device referred to in subsection (a) whenever the owner has failed suitably to mark such island, installation, or other device in accordance with regulations issued under this Act, and the owner shall pay the cost of such marking.".

(h) Section 4 of such Act is further amended by striking out subsection (b) and relettering subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively.

OUTER CONTINENTAL SHELF EXPLORATION AND DEVELOPMENT ADMINISTRATION

SEC. 204. Section 5 of the Outer Continental Shelf Lands Act (43 U.S.C. 1334) is amended to read as follows:

"SEC. 5. ADMINISTRATION OF LEASING OF THE OUTER CONTINENTAL SHELF.—(a) The Secretary shall administer the provisions of this Act relating to the leasing of the outer Continental Shelf, and shall prescribe such rules and regulations as may be necessary to carry out such provisions. The Secretary may at any time prescribe and amend such rules and regulations as he determines to be necessary and proper in order to provide for the prevention of waste and conservation of the natural resources of the outer Continental Shelf, and the protection of correlative rights therein, and, notwithstanding any other provisions herein, such rules and regulations shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this Act. In the enforcement of safety, environmental, and conservation laws and regulations, the Secretary shall cooperate with the relevant departments and agencies of the Federal Government and of the affected States. In the formulation and promulgation of regulations, the Secretary shall request and give due consideration to the views of the Attorney General with respect to matters which may affect competition. In considering any regulations and in preparing any such views, the Attorney General shall consult with the Federal Trade Commission. The regulations prescribed by the Secretary under this subsection shall include, but not be limited to, provisions—

"(1) for the suspension or temporary prohibition of any operation or activity, including production, pursuant to any lease or permit (A) at the request of a lessee, in the national interest, to facilitate proper development of a lease or to allow for the construction or negotiation for use of transportation facilities, or (B) if there is a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), or to the marine, coastal, or human environment, and for the extension of any permit or lease affected by suspension or prohibition under clause (A) or (B) by a period equivalent to the period of such suspension or prohibition, except that no permit or lease shall be so extended when such suspension or prohibition is the result of gross negligence or willful violation of such lease or permit, or of regulations issued with respect to such lease or permit;

"(2) with respect to cancellation of any lease or permit—

"(A) that such cancellation may occur at any time, if the Secretary determines, after a hearing, that—

"(i) continued activity pursuant to such lease or permit would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral (in areas leased or not leased), to the national security or defense, or to the marine, coastal, or human environment;

"(ii) the threat of harm or damage will

not disappear or decrease to an acceptable extent within a reasonable period of time; and

"(iii) the advantages of cancellation outweigh the advantages of continuing such lease or permit in force;

"(B) that such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease or permit term continuously for a period of five years, or for a lesser period upon request of the lessee;

"(C) that such cancellation shall entitle the lessee to receive such compensation as he shows to the Secretary as being equal to the lesser of (i) the fair value of the canceled rights as of the date of cancellation, taking account of both anticipated revenues from the lease and anticipated costs, including costs of compliance with all applicable regulations and operating orders, liability for cleanup costs or damages, or both, in the case of an oilspill, and all other costs reasonably anticipated on the lease, or (ii) the excess, if any, over the lessee's revenues, from the lease (plus interest thereon from the date of receipt to date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement), except that (I) with respect to leases issued before the date of enactment of this subparagraph, such compensation shall be equal to the amount specified in clause (i) of this subparagraph; and (II) in the case of joint leases which are canceled due to the failure of one or more partners to exercise due diligence, the innocent parties shall have the right to seek damages for such loss from the responsible party or parties and the right to acquire the interests of the negligent party or parties and be issued the lease in question;

"(3) for the assignment or relinquishment of a lease;

"(4) for unitization, pooling, and drilling agreements;

"(5) for the subsurface storage of oil and gas other than by the Federal Government;

"(6) for drilling or easements necessary for exploration, development, and production;

"(7) for the prompt and efficient exploration and development of a lease area; and

"(8) for compliance with the national ambient air quality standards pursuant to the Clear Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under this Act significantly affect the air quality of any State.

"(b) The issuance and continuance in effect of any lease, or of any assignment or other transfer of any lease, under the provisions of this Act shall be conditioned upon compliance with regulations issued under this Act.

"(c) Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of the lease, or of the regulations issued under this Act, such lease may be canceled by the Secretary, subject to the right of judicial review as provided in this Act, if such default continues for the period of thirty days after mailing of notice by registered letter to the lease owner at his record post office address.

"(d) Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, of the lease, or of the regulations issued under this Act, such lease may be forfeited and canceled by an appropriate proceeding in any United States district court having jurisdiction under the provisions of this Act.

"(e) Rights-of-way through the submerged lands of the outer Continental Shelf, whether or not such lands are included in a lease maintained or issued pursuant to this Act, may be granted by the Secretary for pipeline purposes for the transportation of oil, natural gas, sulphur, or other minerals, or under such regulations and upon such conditions as may be prescribed by the Secretary, or where appropriate the Secretary of Transportation, including (as provided in section 21(b) of this Act) assuring maximum environmental protection by utilization of the best available and safest technologies, including the safest practices for pipeline burial and upon the express condition that oil or gas pipelines shall transport or purchase without discrimination, oil or natural gas produced from submerged lands or outer Continental Shelf lands in the vicinity of the pipelines in such proportionate amounts as the Federal Energy Regulatory Commission, in consultation with the Secretary of Energy, may, after a full hearing with due notice thereof to the interested parties, determine to be reasonable, taking into account, among other things, conservation and the prevention of waste. Failure to comply with the provisions of this section or the regulations and conditions prescribed under this section shall be ground for forfeiture of the grant in an appropriate judicial proceeding instituted by the United States in any United States district court having jurisdiction under the provisions of this Act.

"(f)(1) Except as provided in paragraph (2), every permit, license, easement, right-of-way, or other grant of authority for the transportation by pipeline on or across the outer Continental Shelf of oil or gas shall require that the pipeline be operated in accordance with the following competitive principles:

"(A) The pipeline must provide open and nondiscriminatory access to both owner and nonowner shippers.

"(B) Upon the specific request of one or more owner or nonowner shippers able to provide a guaranteed level of throughput, and on the condition that the shipper or shippers requesting such expansion shall be responsible for bearing their proportionate share of the costs and risks related thereto, the Federal Energy Regulatory Commission may, upon finding, after a full hearing with due notice thereof to the interested parties, that such expansion is within technological limits and economic feasibility, order a subsequent expansion of throughput capacity of any pipeline for which the permit, license, easement, right-of-way, or other grant of authority is approved or issued after the date of enactment of this subparagraph. This subparagraph shall not apply to any such grant of authority approved or issued for the Gulf of Mexico or the Santa Barbara Channel.

"(2) The Federal Energy Regulatory Commission may, by order or regulation, exempt from any or all of the requirements of paragraph (1) of this subsection any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed.

"(3) The Secretary of Energy and the Federal Energy Regulatory Commission shall consult with and give due consideration to the views of the Attorney General on specific conditions to be included in any permit, license, easement, right-of-way, or grant of authority in order to ensure that pipelines are operated in accordance with the competitive principles set forth in paragraph (1) of this subsection. In preparing any such views, the Attorney General shall consult with the Federal Trade Commission.

"(4) Nothing in this subsection shall be deemed to limit, abridge, or modify any authority of the United States under any other provision of law with respect to pipelines on or across the outer Continental Shelf.

"(g)(1) The lessee shall produce any oil or gas, or both, obtained pursuant to an approved development and production plan, at rates consistent with any rule or order issued by the President in accordance with any provision of law.

"(2) If no rule or order referred to in paragraph (1) has been issued, the lessee shall produce such oil or gas, or both, at rates consistent with any regulation promulgated by the Secretary of Energy which is to assure the maximum rate of production which may be sustained without loss of ultimate recovery of oil or gas, or both, under sound engineering and economic principles, and which is safe for the duration of the activity covered by the approved plan. The Secretary may permit the lessee to vary such rates if he finds that such variance is necessary.

"(h) The head of any Federal department or agency who takes any action which has a direct and significant effect on the outer Continental Shelf or its development shall promptly notify the Secretary of such action and the Secretary shall thereafter notify the Governor of any affected State and the Secretary may thereafter recommend such changes in such action as are considered appropriate.

"(i) After the date of enactment of this section, no holder of any oil and gas lease issued or maintained pursuant to this Act shall be permitted to flare natural gas from any well unless the Secretary finds that there is no practicable way to complete production of such gas, or that such flaring is necessary to alleviate a temporary emergency situation or to conduct testing or work-over operations.".

REVISION OF BIDDING AND LEASE ADMINISTRATION

SEC. 205. (a) Subsections (a) and (b) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337 (a) and (b)) are amended to read as follows:

"(a)(1) The Secretary is authorized to grant to the highest responsible qualified bidder or bidders by competitive bidding, under regulations promulgated in advance, any oil and gas lease on submerged lands of the outer Continental Shelf which are not covered by leases meeting the requirements of subsection (a) of section 6 of this Act. Such regulations may provide for the deposit of cash bids in an interest-bearing account until the Secretary announces his decision on whether to accept the bids, with the interest earned thereon to be paid to the Treasury as to bids that are accepted and to the unsuccessful bidders as to bids that are rejected. The bidding shall be by sealed bid and, at the discretion of the Secretary, on the basis of—

"(A) cash bonus bid with a royalty at not less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold;

"(B) variable royalty bid based on a per centum in amount or value of the production saved, removed, or sold, with either a fixed work commitment based on dollar amount for exploration or a fixed cash bonus as determined by the Secretary, or both;

"(C) cash bonus bid, or work commitment bid based on a dollar amount for exploration with a fixed cash bonus, and a diminishing or sliding royalty based on such formulae as the Secretary shall determine as equitable to encourage continued production from the lease area as resources diminish, but not less than 12½ per centum at the beginning of the lease period in amount or value of the production saved, removed, or sold;

"(D) cash bonus bid with a fixed share of the net profits of no less than 30 per

centum to be derived from the production of oil and gas from the lease area;

"(E) fixed cash bonus with the net profit share reserved as the bid variable;

"(F) cash bonus bid with a royalty at no less than 12½ per centum fixed by the Secretary in amount or value of the production saved, removed, or sold and a fixed per centum share of net profits of no less than 30 per centum to be derived from the production of oil and gas from the lease area;

"(G) work commitment bid based on a dollar amount for exploration with a fixed cash bonus and a fixed royalty in amount or value of the production saved, removed, or sold; or

"(H) subject to the requirements of paragraph (4) of this subsection, any modification of bidding systems authorized in subparagraphs (A) through (G), or any other systems of bid variables, terms, and conditions which the Secretary determines to be useful to accomplish the purpose and policies of this Act, except that no such bidding system or modification shall have more than one bid variable.

"(2) The Secretary may, in his discretion, defer any part of the payment of the cash bonus, as authorized in paragraph (1) of this subsection, according to a schedule announced at the time of the announcement of the lease sale, but such payment shall be in total no later than five years after the date of the lease sale.

"(3) The Secretary may, in order to promote increased production on the lease area, through direct, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease for such area.

"(4)(A) The Secretary of Energy shall submit any bidding system authorized in subparagraph (H) of paragraph (1) to the Senate and House of Representatives. The Secretary may institute such bidding system unless either the Senate or the House of Representatives passes a resolution of disapproval within thirty days after receipt of the bidding system.

"(B) Subparagraphs (C) through (J) of this paragraph are enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but they are applicable only with respect to the procedures to be followed in that House in the case of resolutions described by this paragraph, and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(C) A resolution disapproving a bidding system submitted pursuant to this paragraph shall immediately be referred to a committee (and all resolutions with respect to the same request shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

"(D) If the committee to which has been referred any resolution disapproving the bidding system of the Secretary has not reported the resolution at the end of ten calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same bidding system which has been referred to the committee.

"(E) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(F) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same bidding system.

"(G) When the committee has reported, or has been discharged from further consideration of, a resolution as provided in this paragraph, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(H) Debate on the resolution is limited to not more than two hours to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(I) Motions to postpone, made with respect to the discharge from the committee, or the consideration of a resolution with respect to a bidding system, and motions to proceed to the consideration of other business, shall be decided without debate.

"(J) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a bidding system shall be decided without debate.

"(5)(A) During the five-year period commencing on the date of enactment of this subsection, the Secretary may, in order to obtain statistical information to determine which bidding alternatives will best accomplish the purposes and policies of this Act, require, as to no more than 10 per centum of the tracts offered each year, each bidder to submit bids for any area of the outer Continental Shelf in accordance with more than one of the bidding systems set forth in paragraph (1) of this subsection. For such statistical purposes, leases may be awarded using a bidding alternative selected at random for the acquisition of valid statistical data if such bidding alternative is otherwise consistent with the provisions of this Act.

"(B) The bidding systems authorized by paragraph (1) of this subsection other than the system authorized by subparagraph (A), shall be applied to not less than 20 per centum and not more than 60 per centum of the total area offered for leasing each year during the five-year period beginning on the date of enactment of this subsection, unless the Secretary determines that the requirements set forth in this subparagraph are inconsistent with the purposes and policies of this Act.

"(6) At least ninety days prior to notice of any lease sale under subparagraph (D), (E), (F), or, if appropriate, (H) of paragraph (1), the Secretary shall by regulation establish rules to govern the calculation of net profits. In the event of any dispute between the United States and a lessee concerning the calculation of the net profits under the regulation issued pursuant to this paragraph, the burden of proof shall be on the lessee.

"(7) After an oil and gas lease is granted pursuant to any of the work commitment options of paragraph (1) of this subsection—

"(A) the lessee, at its option, shall deliver to the Secretary upon issuance of the lease either (i) a cash deposit for the full amount of the exploration work commitment, or (ii) a performance bond in form and substance and with a surety satisfactory to the Secretary, in the principal amount of such exploration work commitment assuring the Secretary that such commitment shall be faithfully discharged in accordance with this section, regulations, and the lease; and for purposes of this subparagraph, the principal amount of such cash deposit or bond may, in accordance with regulations, be periodically reduced upon proof, satisfactory to the Secretary, that a portion of the exploration work commitment has been satisfied;

"(B) 50 per centum of all exploration expenditures on, or directly related to, the lease, including, but not limited to (i) geological investigations and related activities, (ii) geophysical investigations including seismic, geomagnetic, and gravity surveys, data processing and interpretation, and (iii) exploratory drilling, core drilling, redrilling, and well completion or abandonment, including the drilling of well sufficient to determine the size and areal extent of any newly discovered field, and including the cost of mobilization and demobilization of drilling equipment, shall be included in satisfaction of the commitment, except that the lessee's general overhead cost shall not be so included against the work commitment, but its cost (including employee benefits) of employees directly assigned to such exploration work shall be so included; and

"(C) if at the end of the primary term of the lease, including any extension thereof, the full dollar amount of the exploration work commitment has not been satisfied, the balance shall then be paid in cash to the Secretary.

"(8) Not later than thirty days before any lease sale, the Secretary shall submit to the Congress and publish in the Federal Register a notice—

"(A) identifying any bidding system which will be utilized for such lease sale and the reasons for the utilization of such bidding system; and

"(B) designating the lease tracts selected which are to be offered in such sale under the bidding system authorized by subparagraph (A) of paragraph (1) and the lease tracts selected which are to be offered under any one or more of the bidding systems authorized by subparagraphs (B) through (H) of paragraph (1), and the reasons such lease tracts are to be offered under a particular bidding system.

"(9) Within six months after the end of each fiscal year, the Secretary of Energy, in consultation with the Secretary of the Interior, shall report to the Congress with respect to the use of various bidding options provided for in this subsection. Such report shall include—

"(A) the schedule of all lease sales held during such year and the bidding system or systems utilized;

"(B) the schedule of all lease sales to be held the following year and the bidding system or systems to be utilized;

"(C) the benefits and costs associated with conducting lease sales using the various bidding systems;

"(D) if applicable, the reasons why a particular bidding system has not been or will not be utilized; and

"(E) if applicable, the reasons why more than 60 per centum or less than 20 per centum of the area leased in the past year, or to be offered for lease in the upcoming year, was or is to be leased under the bid-

ding system authorized by subparagraph (A) of paragraph (1) of this subsection.

"(b) An oil and gas lease issued pursuant to this section shall—

"(1) be for a tract consisting of a compact area not exceeding five thousand seven hundred and sixty acres, as the Secretary may determine, unless the Secretary finds that a larger area is necessary to comprise a reasonable economic production unit;

"(2) be for an initial period of—

"(A) five years; or

"(B) not to exceed ten years where the Secretary finds that such longer period is necessary to encourage exploration and development in areas because of unusually deep water or other unusually adverse conditions,

and as long after such initial period as oil or gas is produced from the area in paying quantities, or drilling or well reworking operations as approved by the Secretary are conducted thereon;

"(3) require the payment of amount or value as determined by one of the bidding systems set forth in subsection (a) of this section;

"(4) entitle the lessee to explore, develop, and produce the oil and gas contained within the lease area, conditioned upon due diligence requirements and the approval of the development and production plan required by this Act;

"(5) provide for suspension or cancellation of the lease during the initial lease term or thereafter pursuant to section 5 of this Act;

"(6) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease; and

"(7) provide a requirement that the lessee offer 20 per centum of the crude oil, condensate, and natural gas liquids produced on such lease, at the market value and point of delivery applicable to Federal royalty oil, to small or independent refiners as defined in the Emergency Petroleum Allocation Act of 1973.".

(b) Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is further amended by striking out subsection (j), by relettering subsections (c) through (i), and all references thereto, as subsections (i) through (o), respectively, and by inserting immediately after subsection (b) the following new subsections:

"(c) (1) Following each notice of a proposed lease sale and before the acceptance of bids and the issuance of leases based on such bids, the Secretary shall allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of such lease sale, except that the Attorney General, after consultation with the Federal Trade Commission, may agree to a shorter review period.

"(2) The Attorney General may, in consultation with the Federal Trade Commission, conduct such antitrust review on the likely effects the issuance of such leases would have on competition as the Attorney General, after consultation with the Federal Trade Commission, deems appropriate and shall advise the Secretary with respect to such review. The Secretary shall provide such information as the Attorney General, after consultation with the Federal Trade Commission, may require in order to conduct any antitrust review pursuant to this paragraph and to make recommendations pursuant to paragraph (3) of this subsection.

"(3) The Attorney General, after consultation with the Federal Trade Commission, may make such recommendations to the Secretary, including the nonacceptance of any bid, as may be appropriate to prevent any situation inconsistent with the antitrust laws. If the Secretary determines, or if the Attorney General advises the Secretary, after consultation with the Federal Trade Commission and prior to the issuance of any lease, that such lease may create or maintain a situation inconsistent with the antitrust laws, the Secretary may—

"(A) refuse (i) to accept an otherwise qualified bid for such lease, or (ii) to issue such lease, notwithstanding subsection (a) of this section; or

"(B) issue such lease, and notify the lessee and the Attorney General of the reason for such decision.

"(4) (A) Nothing in this subsection shall restrict the power under any other Act or the common law of the Attorney General, the Federal Trade Commission, or any other Federal department or agency to secure information, conduct reviews, make recommendations, or seek appropriate relief.

"(B) Neither the issuance of a lease nor anything in this subsection shall modify or abridge any private right of action under the antitrust laws.

"(d) No bid for a lease may be submitted if the Secretary finds, after notice and hearing, that the bidder is not meeting due diligence requirements on other leases.

"(e) No lease issued under this Act may be sold, exchanged, assigned, or otherwise transferred except with the approval of the Secretary. Prior to any such approval, the Secretary shall consult with and give due consideration to the views of the Attorney General.

"(f) Nothing in this Act shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

"(g) (1) At the time of soliciting nominations for the leasing of lands within three miles of the seaward boundary of any coastal State, the Secretary shall provide the Governor of such State—

"(A) an identification and schedule of the areas and regions proposed to be offered for leasing;

"(B) all information concerning the geographical, geological, and ecological characteristics of such regions;

"(C) an estimate of the oil and gas reserves in the areas proposed for leasing; and

"(D) an identification of any field, geological structure, or trap located within three miles of the seaward boundary of such coastal State.

"(2) After receipt of nominations for any area of the outer Continental Shelf within three miles of the seaward boundary of any coastal State, the Secretary shall inform the Governor of such coastal State of any such area which the Secretary believes should be given further consideration for leasing. The Secretary, in consultation with the Governor of the coastal State, shall then determine whether any such area may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State. If, with respect to such area, the Secretary selects a tract or tracts which may contain one or more oil or gas pools or fields underlying both the outer Continental Shelf and lands subject to the jurisdiction of such State, the Secretary shall offer the Governor of such coastal State the opportunity to enter into an agreement concerning the disposition of revenues which may be generated by a Federal lease within such area in order to permit their fair and equitable division between the State and Federal Government.

"(3) Within ninety days after the offer by the Secretary pursuant to paragraph (2) of this subsection, the Governor shall elect whether to enter into such agreement and shall notify the Secretary of his decision. If the Governor accepts the offer, the terms of any lease issued shall be consistent with the provisions of this Act, with applicable regulations, and, to the maximum extent practicable, within the applicable laws of the coastal State. If the Governor declines the offer, or if the parties cannot agree to terms concerning the disposition of revenues from such lease (by the time the Secretary determines to offer the area for lease), the Secretary may nevertheless proceed with the leasing of the area.

"(4) Notwithstanding any other provision of this Act, the Secretary shall deposit in a separate account in the Treasury of the United States all bonuses, royalties, and other revenues attributable to oil and gas pools underlying both the outer Continental Shelf and submerged lands subject to the jurisdiction of any coastal State until such time as the Secretary and the Governor of such coastal State agree on, or if the Secretary and the Governor of such coastal State cannot agree, as a district court of the United States determines, the fair and equitable disposition of such revenues and any interest which has accrued and the proper rate of payments to be deposited in the treasuries of the Federal Government and such coastal State.

"(h) Nothing contained in this section shall be construed to alter, limit, or modify any claim of any State to any jurisdiction over, or any right, title, or interest in, any submerged lands.".

(c) Subsection (c) of section 105 of the Energy Policy and Conservation Act (42 U.S.C. 6213(c)) is amended to read as follows:

"(c) The Secretary may, in his discretion, consider a request from any person described in subsection (a) of this section for an exemption from the prohibition of this section. In considering any such request, the Secretary may exempt bidding for leases for lands in any area only if the Secretary finds, on the record after opportunity for an agency hearing, that—

"(1) such lands have extremely high cost exploration or development problems; and

"(2) exploration and development will not occur on such lands unless such exemption is granted.

Findings of the Secretary under this subsection shall be final, and shall not be invalidated unless found to be arbitrary or capricious.".

OUTER CONTINENTAL SHELF OIL AND GAS EXPLORATION

SEC. 206. Section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) is amended—

(1) by inserting "(a) (1)" immediately before "Any"; and

(2) by adding at the end thereof the following:

"(2) The provisions of paragraph (1) of this subsection shall not apply to any person conducting explorations pursuant to an approved exploration plan on any area under lease to such person pursuant to the provisions of this Act.

"(b) Except as provided in subsection (f) of this section, beginning ninety days after the date of enactment of this subsection, no exploration pursuant to any oil and gas lease issued or maintained under this Act may be undertaken by the holder of such lease, except in accordance with the provisions of this section.

"(c) (1) Except as otherwise provided in this Act, prior to commencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any one region of the outer Continental Shelf, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act, regulations prescribed under this Act, including regulations pre-

scribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act, and the provisions of such lease. The Secretary shall require such modifications of such plan as are necessary to achieve such consistency. The Secretary shall approve such plan, as submitted or modified, within thirty days of its submission, except that the Secretary shall disapprove such plan if he determines that (A) any proposed activity under such plan would result in any condition described in section 5(a)(2)(A)(i) of this Act, and (B) such proposed activity cannot be modified to avoid such condition. If the Secretary disapproves a plan under the preceding sentence, he may, subject to section 5(a)(2)(B) of this Act, cancel such lease and the lessee shall be entitled to compensation in accordance with the regulations prescribed under section 5(a)(2)(C)(i) or (ii) of this Act.

"(2) The Secretary shall not grant any license or permit for any activity described in detail in an exploration plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act.

"(3) An exploration plan submitted under this subsection shall include, in the degree of detail which the Secretary may by regulation require—

"(A) a schedule of anticipated exploration activities to be undertaken;

"(B) a description of equipment to be used for such activities;

"(C) the general location of each well to be drilled; and

"(D) such other information deemed pertinent by the Secretary.

"(4) The Secretary may, by regulation, require that such plan be accompanied by a general statement of development and production intentions which shall be for planning purposes only and which shall not be binding on any party.

"(d) The Secretary may, by regulation, require any lessee operating under an approved exploration plan to obtain a permit prior to drilling any well in accordance with such plan.

"(e)(1) If a significant revision of an exploration plan approved under this subsection is submitted to the Secretary, the process to be used for the approval of such revision shall be the same as set forth in subsection (c) of this section.

"(2) All exploration activities pursuant to any lease shall be conducted in accordance with an approved exploration plan or an approved revision of such plan.

"(f)(1) Exploration activities pursuant to any lease for which a drilling permit has been issued or for which an exploration plan has been approved, prior to ninety days after the date of enactment of this subsection, shall be considered in compliance with this section, except that the Secretary may, in accordance with section 5(a)(1)(B) of this Act, order a suspension or temporary prohibition of any exploration activities and require a revised exploration plan.

"(2) The Secretary may require the holder of a lease described in paragraph (1) of this subsection to supply a general statement in accordance with subsection (c)(4) of this section, or to submit other information.

"(3) Nothing in this subsection shall be construed to amend the terms of any permit or plan to which this subsection applies.

"(g) Any permit for geological explorations authorized by this section shall be issued only if the Secretary determines, in accordance with regulations issued by the Secretary, that—

"(1) the applicant for such permit is qualified;

"(2) the exploration will not interfere with or endanger operations under any lease issued or maintained pursuant to this Act; and

"(3) such exploration will not be unduly harmful to aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, or disturb any site, structure, or object of historical or archeological significance.

"(h) The Secretary shall not issue a lease or permit for, or otherwise allow, exploration, development, or production activities within fifteen miles of the boundaries of the Point Reyes Wilderness as depicted on a map entitled 'Wilderness Plant, Point Reyes National Seashore', numbered 612–90,000–B and dated September 1976, unless the State of California issues a lease or permit for, or otherwise allows, exploration, development, or production activities on lands beneath navigable waters (as such term is defined in section 2 of the Submerged Lands Act) of such State which are adjacent to such Wilderness.".

ANNUAL REPORT

SEC. 207. (a) Section 15 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended to read as follows:

"SEC 15. ANNUAL REPORT BY SECRETARY TO CONGRESS.—Within six months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives the following reports:

"(1) A report on the leasing and production program in the outer Continental Shelf during such fiscal year, which shall include—

"(A) a detailed accounting of all moneys received and expended;

"(B) a detailed acocunting of all exploration, exploratory drilling, leasing, development, and production activities;

"(C) a summary of management, supervision, and enforcement activities;

"(D) a list of all shut-in and flaring wells; and

"(E) recommendations to the Congress (i) for improvements in management, safety, and amount of production from leasing and operations in the outer Continental Shelf, and (ii) for resolution of jurisdictional conflicts or ambiguities.

"(2) A report prepared after consultation with the Attorney General, with recommendations for promoting competition in the leasing of outer Continental Shelf lands, which shall include any recommendations or findings by the Attorney General and any plans for implementing recommended administrative changes and drafts of any proposed legislation, and which shall contain—

"(A) an evaluation of the competitive bidding systems permitted under the provisions of section 8 of this Act, and, if applicable, the reasons why a particular bidding system has not been utilized;

"(B) an evaluation of alternative bidding systems not permitted under section 8 of this Act, and why such system or systems should or should not be utilized;

"(C) an evaluation of the effectiveness of restrictions on joint bidding in promoting competition and, if applicable, any suggested administrative or legislative action on joint bidding;

"(D) an evaluation of present measures and a description of any additional measures to encourage entry of new competitors; and

"(E) an evaluation of present measures and a description of additional measures dealing with supplies of oil and gas to independent refiners and distributors.".

NEW SECTIONS OF THE OUTER CONTINENTAL SHELF LANDS ACT

SEC. 208. The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 18. OUTER CONTINENTAL SHELF LEASING PROGRAM.—(a) The Secretary, pursuant to procedures set forth in subsections (c) and (d) of this section, shall prepare and periodically revise, and maintain an oil and gas leasing program to implement the policies of this Act. The leasing program shall consist of a schedule of proposed lease sale indicating, as precisely as possible, the size, timing, and location of leasing activity which he determines will best meet national energy needs for the five-year period following its approval or reapproval. Such leasing program shall be prepared and maintained in a manner consistent with the following principles:

"(1) Management of the outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the outer Continental Shelf and the marine, coastal, and human environments.

"(2) Timing and location of exploration, development, and production of oil and gas among the oil- and gas-bearing physiographic regions of the outer Continental Shelf shall be based on a consideration of—

"(A) existing information concerning the geographical, geological, and ecological characteristics of such regions;

"(B) an equitable sharing of developmental benefits and environmental risks among the various regions;

"(C) the location of such regions with respect to, and the relative needs of, regional and national energy markets;

"(D) the location of such regions with respect to other uses of the sea and seabed, including fisheries, navigation, existing or proposed sealanes, potential sites of deepwater ports, and other anticipated uses of the resources and space of the outer Continental Shelf;

"(E) the interest of potential oil and gas producers in the development of oil and gas resources as indicated by exploration or nomination;

"(F) laws, goals, and policies of affected States which have been specifically identified by the Governors of such States as relevant matters for the Secretary's consideration;

"(G) the relative environmental sensitivity and marine productivity of different areas of the outer Continental Shelf; and

"(H) relevant environmental and predictive information for different areas of the outer Continental Shelf.

"(3) The Secretary shall select the timing and location of leasing, to the maximum extent practicable, so as to obtain a proper balance between the potential for environmental damage, the potential for the discovery of oil and gas, and the potential for adverse impact on the coastal zone.

"(4) Leasing activities shall be conducted to assure receipt of fair market value for the lands leased and the rights conveyed by the Federal Government.

"(b) The leasing program shall include estimates of the appropriations and staff required to—

"(1) obtain resource information and any other information needed to prepare the leasing program required by this section;

"(2) analyze and interpret the exploratory data and any other information which may be compiled under the authority of this Act;

"(3) conduct environmenal studies and prepare any environmental impact statement

required in accordance with this Act and with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)); and

"(4) supervise operations conducted pursuant to each lease in the manner necessary to assure due diligence in the exploration and development of the lease area and compliance with the requirements of applicable law and regulations, and with the terms of the lease.

"(c)(1) During the preparation of any proposed leasing program under this section, the Secretary shall invite and consider suggestions for such program from any interested Federal agency, including the Attorney General, in consultation with the Federal Trade Commission, and from the Governor of any State which may become an affected State under such proposed program. The Secretary may also invite or consider any suggestions from the executive of any affected local government in such an affected State, which have been previously submitted to the Governor of such State, and from any other person.

"(2) After such preparation and at least sixty days prior to publication of a proposed leasing program in the Federal Register pursuant to paragraph (3) of this subsection, the Secretary shall submit a copy of such proposed program to the Governor of each affected State for review and comment. The Governor may solicit comments from those executives of local governments in his State which he, in his discretion, determines will be affected by the proposed program. If any comment by such Governor is received by the Secretary at least fifteen days prior to submission to the Congress pursuant to such paragraph (3) and includes a request for any modification of such proposed program, the Secretary shall reply in writing, granting or denying such request in whole or in part, or granting such request in such modified form as the Secretary considers appropriate, and stating his reasons therefor. All such correspondence between the Secretary and the Governor of any affected State, together with any additional information and data relating thereto, shall accompany such proposed program when it is submitted to the Congress.

"(3) Within nine months after the date of enactment of this section, the Secretary shall submit a proposed leasing program to the Congress, the Attorney General, and the Governors of affected States, and shall publish such proposed program in the Federal Register. Each Governor shall, upon request, submit a copy of the proposed leasing program to the executive of any local government affected by the proposed program.

"(d)(1) Within ninety days after the date of publication of a proposed leasing program, the Attorney General may, after consultation with the Federal Trade Commission, submit comments on the anticipated effects of such proposed program upon competition. Any State, local government, or other person may submit comments and recommendations as to any aspect of such proposed program.

"(2) At least sixty days prior to approving a proposed leasing program, the Secretary shall submit it to the President and the Congress, together with any comments received. Such submission shall indicate why any specific recommendation of the Attorney General or a State or local government was not accepted.

"(3) After the leasing program has been approved by the Secretary, or after eighteen months following the date of enactment of this section, whichever first occurs, no lease shall be issued unless it is for an area included in the approval leasing program and unless it contains provisions consistent with the approved leasing program, except that leasing shall be permitted to continue until such program is approved and for so long thereafter as such program is under judicial or administrative review pursuant to the provisions of this Act.

"(e) The Secretary shall review the leasing program approved under this section at least once each year. He may revise and reapprove such program, at any time, and such revision and reapproval, except in the case of a revision which is not significant, shall be in the same manner as originally developed.

"(f) The Secretary shall, by regulation, establish procedures for—

"(1) receipt and consideration of nominations for any area to be offered for lease or to be excluded from leasing;

"(2) public notice of and participation in development of the leasing program;

"(3) review by State and local governments which may be impacted by the proposed leasing;

"(4) periodic consultation with State and local governments, oil and gas lessees and permittees, and representatives of other individuals or organizations engaged in activity in or on the outer Continental Shelf, including those involved in fish and shellfish recovery, and recreational activities; and

"(5) consideration of the coastal zone management program being developed or administered by an affected coastal State pursuant to section 305 or section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454, 1455).

Such procedures shall be applicable to any significant revision or reapproval of the leasing program.

"(g) The Secretary may obtain from public sources, or purchase from private sources, any survey, data, report, or other information (including interpretations of such data, survey, report, or other information) which may be necessary to assist him in preparing any environmental impact statement and in making other evaluations required by this Act. Data of a classified nature provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. The Secretary shall maintain the confidentiality of all privileged or proprietary data or information for such period of time as is provided for in this Act, established by regulation, or agreed to by the parties.

"(h) the heads of all Federal departments and agencies shall provide the Secretary with any nonprivileged or nonproprietary information he requests to assist him in preparing the leasing program and may provide the Secretary with any privileged or proprietary information he requests to assist him in preparing the leasing program. Privileged or proprietary information provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary shall utilize the existing capabilities and resources of such Federal departments and agencies by appropriate agreement.

"SEC. 19. COORDINATION AND CONSULTATION WITH AFFECTED STATES AND LOCAL GOVERNMENTS.—(a) Any Governor of any affected State or the executive of any affected local government in such State may submit recommendations to the Secretary regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan. Prior to submitting recommendations to the Secretary, the executive of any affected local government in any affected State must forward his recommendations to the Governor of such State.

"(b) Such recommendations shall be submitted within sixty days after notice of such proposed lease sale or after receipt of such development and production plan.

"(c) The Secretary shall accept recommendations of the Governor and may accept recommendations of the executive of any affected local government if he determines, after having provided the opportunity for consultation, that they provide for a reasonable balance between the national interest and well-being of the citizens of the affected State. For purposes of this subsection, a determination of the national interest shall be based on the desirability of obtaining oil and gas supplies in a balanced manner and on the findings, purposes, and policies of this Act. The Secretary shall communicate to the Governor, in writing, the reasons for his determination to accept or reject such Governor's recommendations, or to implement any alternative means identified in consulation with the Governor to provide for a reasonable balance between the national interest and the well-being of the citizens of the affected State.

"(d) The Secretary's determination that recommendations provide, or do not provide, for a reasonable balance between the national interest and the well-being of the citizens of the affected State shall be final and shall not, alone, be a basis for invalidation of a proposed lease sale or a proposed development and production plan in any suit or judicial review pursuant to section 23 of this Act, unless found to be arbitrary or capricious.

"(e) The Secretary is authorized to enter into cooperative agreements with affected States for purposes which are consistent with this Act and other applicable Federal law. Such agreements may include, but need not be limited to, the sharing of information (in accordance with the provisions of section 26 of this Act), the joint utilization of available expertise, the facilitating of permitting procedures, joint planning and review, and the formation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws, regulations, and stipulations relevant to outer Continental Shelf operations both onshore and offshore.

"SEC. 20. ENVIRONMENTAL STUDIES.—(a)(1) The Secretary shall conduct a study of any area or region included in any oil and gas lease sale in order to establish information needed for assessment and management of environmental impacts on the human, marine, and coastal environments of the outer Continental Shelf and the coastal areas which may be affected by oil and gas development in such area or region.

"(2) Each study required by paragraph (1) of this subsection shall be commenced not later than six months after the date of enactment of this section with respect to any area or region where a lease sale has been held or announced by publication of a notice of proposed lease sale before such date of enactment, and not later than six months prior to the holding of a lease sale with respect to any area or region where no lease sale has been held or scheduled before such date of enactment. The Secretary may utilize information collected in any study prior to such date of enactment.

"(3) In addition to developing environmental information, any study of an area or region, to the extent practicable, shall be designed to predict impacts on the marine biota which may result from chronic low level pollution or large spills associated with outer Continental Shelf production, from the introduction of drill cuttings and drilling muds in the area, and from the laying of pipe to serve the offshore production area, and the impacts of development offshore on the affected and coastal areas.

"(b) Subsequent to the leasing and developing of any area or region, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide time-series and data trend infor-

mation which can be used for comparison with any previously collected data for the purpose of identifying any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such changes.

"(c) The Secretary shall, by regulation, establish procedures for carrying out his duties under this section, and shall plan and carry out such duties in full cooperation with affected States. To the extent that other Federal agencies have prepared environmental impact statements, are conducting studies, or are monitoring the affected human, marine, or coastal environment, the Secretary may utilize the information derived therefrom in lieu of directly conducting such activities. The Secretary may also utilize information obtained from any State or local government, or from any person, for the purposes of this section. For the purpose of carrying out his responsibilities under this section, the Secretary may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of any Federal, State, or local government agency.

"(d) The Secretary shall consider available relevant environmental information in making decisions (including those relating to exploration plans, drilling permits, and development and production plans), in developing appropriate regulations and lease conditions, and in issuing operating orders.

"(e) As soon as practicable after the end of each fiscal year, the Secretary shall submit to the Congress and make available to the general public an assessment of the cumulative effect of activities conducted under this Act on the human, marine, and coastal environments.

"(f) In executing his responsibilities under this section, the Secretary shall, to the maximum extent practicable, enter into appropriate arrangements to utilize on a reimbursable basis the capabilities of the Department of Commerce. In carrying out such arrangements, the Secretary of Commerce is authorized to enter into contracts or grants with any person, organization, or entity with funds appropriated to the Secretary of the Interior pursuant to this Act.

"SEC. 21. SAFETY REGULATONS.—(a) Upon the date of enactment of this section, the Secretary and the Secretary of the Department in which the Coast Guard is operating shall, in consultation with each other and, as appropriate, with the heads of other Federal departments and agencies, promptly commence a joint study of the adequacy of existing safety and health regulations and of the technology, equipment, and techniques available for the exploration, development, and production of the minerals of the outer Continental Shelf. The results of such study shall be submitted to the President who shall submit a plan to the Congress of his proposals to promote safety and health in the exploration, development, and production of the minerals of the outer Continental Shelf.

"(b) In exercising their respective responsibilities for the artificial islands, installations, and other devices referred to in section 4(a)(1) of this Act, the Secretary, and the Secretary of the Department in which the Coast Guard is operating, shall require, on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies.

"(c) The Secretary of the Department in which the Coast Guard is operating shall promulgate regulations or standards applying to unregulated hazardous working conditions related to activities on the outer Continental Shelf when he determines such regulations or standards are necessary. The Secretary of the Department in which the Coast Guard is operating may from time to time modify any regulations, interim or final, dealing with hazardous working conditions on the outer Continental Shelf.

"(d) Nothing in this Act shall affect the authority provided by law to the Secretary of Labor for the protection of occupational safety and health, the authority provided by law to the Administrator of the Environmental Protection Agency for the protection of the environment, or the authority provided by law to the Secretary of Transportation with respect to pipeline safety.

"(e) The Secretary of Commerce, in cooperation with the Secretary of the Department in which the Coast Guard is operating, and the Director of the National Institutes of Occupational Safety and Health, shall conduct studies of underwater diving techniques and equipment suitable for protection of human safety and improvement of diver performance. Such studies shall include, but need not be limited to, decompression and excursion table development and improvement and all aspects of diver physiological restraints and protective gear for exposure to hostile environments.

"(f)(1) In administering the provisions of this section, the Secretary shall consult and coordinate with the heads of other appropriate Federal departments and agencies for purposes of assuring that, to the maximum extent practicable, inconsistent or duplicative requirements are not imposed.

"(2) The Secretary shall make available to any interested person a compilation of all safety and other regulations which are prepared and promulgated by any Federal department or agency and applicable to activities on the outer Continental Shelf. Such compilation shall be revised and updated annually.

"SEC. 22. ENFORCEMENT.—(a) The Secretary, the Secretary of the Department in which the Coast Guard is operating, and the Secretary of the Army shall enforce safety and environmental regulations promulgated pursuant to this Act. Each such Federal department may by agreement utilize, with or without reimbursement, the services, personnel, or facilities of other Federal departments and agencies for the enforcement of their respective regulations.

"(b) It shall be the duty of any holder of a lease or permit under this Act to—

"(1) maintain all places of employment within the lease area or within the area covered by such permit in compliance with occupational safety and health standards and, in addition, free from recognized hazards to employees of the lease holder or permit holder or of any contractor or subcontractor operating within such lease area or within the area covered by such permit on the outer Continental Shelf;

"(2) maintain all operations within such lease area or within the area covered by such permit in compliance with regulations intended to protect persons, property, and the environment on the outer Continental Shelf; and

"(3) allow prompt access, at the site of any operation subject to safety regulations, to any inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

"(c) The Secretary and the Secretary of the Department in which the Coast Guard is operating shall individually, or jointly if they so agree, promulgate regulations to provide for—

"(1) scheduled onsite inspection, at least once a year, of each facility on the outer Continental Shelf which is subject to any environmental or safety regulation promulgated pursuant to this Act, which inspection shall include all safety equipment designed to prevent or ameliorate blowouts, fires, spillages, or other major accidents; and

"(2) periodic onsite inspection without advance notice to the operator of such facility to assure compliance with such environmental or safety regulations.

"(d)(1) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on each major fire and each major oil spillage occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of lesser oil spillages. For purposes of this subsection, a major oil spillage is any spillage in one instance of more than two hundred barrels of oil during a period of thirty days. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

"(2) The Secretary or the Secretary of the Department in which the Coast Guard is operating shall make an investigation and public report on any death or serious injury occurring as a result of operations conducted pursuant to this Act, and may, in his discretion, make an investigation and report of any injury. For purposes of this subsection, a serious injury is one resulting in substantial impairment of any bodily unit or function. All holders of leases or permits issued or maintained under this Act shall cooperate with the appropriate Secretary in the course of any such investigation.

"(e) The Secretary, or, in the case of occupational safety and health, the Secretary of the Department in which the Coast Guard is operating, may review any allegation from any person of the existence of a violation of a safety regulation issued under this Act.

"(f) In any investigation conducted pursuant to this section, the Secretary or the Secretary of the Department in which the Coast Guard is operating shall have power to summon witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in the district courts of the United States. Such Secretary, or his designee, shall administer all necessary oaths to any witnesses summoned before such investigation.

"(g) The Secretary shall, after consultation with the Secretary of the Department in which the Coast Guard is operating, include in his annual report to the Congress required by section 15 of this Act the number of violations of safety regulations reported or alleged, any investigations undertaken, the results of such investigations, and any administrative or judicial action taken as a result of such investigations, and the results of the diving studies conducted under section 21(e) of this Act.

"SEC. 23. CITIZEN SUITS, COURT JURISDICTION, AND JUDICIAL REVIEW.—(a)(1) Except as provided in this section, any person having a valid legal interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this Act against any person, including the United States, and any other government instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution) for any alleged violation of any provision of this Act or any regulation promulgated under this Act, or of the terms of any permit or lease issued by the Secretary under this Act.

"(2) Except as provided in paragraph (3) of this subsection, no action may be commenced under subsection (a)(1) of this section—

"(A) prior to sixty days after the plaintiff has given notice of the alleged violation, in writing under oath, to the Secretary and any other appropriate Federal official, to the State in which the violation allegedly occurred or is occurring, and to any alleged violator; or

"(B) if the Attorney General has commenced and is diligently prosecuting a civil action in a court of the United States for a State with respect to such matter, but in any such action in a court of the United States any person having a legal interest which is or may be adversely affected may intervene as a matter of right.

"(3) An action may be brought under this subsection immediately after notification of the alleged violation in any case in which the alleged violation constitutes an imminent threat to the public health or safety or would immediately affect a legal interest of the plaintiff.

"(4) In any action commenced pursuant to this section, the Attorney General, upon the request of the Secretary or any other appropriate Federal official, may intervene as a matter of right.

"(5) A court, in issuing any final order in any action brought pursuant to subsection (a)(1) or subsection (c) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party, whenever such court determines such award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in a sufficient amount to compensate for any loss or damage suffered, in accordance with the Federal Rules of Civil Procedure.

"(6) Except as provided in subsection (c) of this section, all suits challenging actions or decisions allegedly in violation of, or seeking enforcement of, the provisions of this Act, or any regulation promulgated under this Act, or the terms of any permit or lease issued by the Secretary under this Act, shall be undertaken in accordance with the procedures described in this subsection. Nothing in this section shall restrict any right which any person or class of persons may have under any other Act or common law to seek appropriate relief.

"(b)(1) Except as provided in subsection (c) of this section, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with (A) any operation conducted on the outer Continental Shelf which involves exploration, development, or production of the minerals, of the subsoil and seabed of the outer Continental Shelf, or which involves rights to such minerals or (B) the cancellation, suspension, or termination of a lease or permit under this Act. Proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the State nearest the place the cause of action arose.

"(2) Any resident of the United States who is injured in any manner through the failure of any operator to comply with any rule, regulation, order, or permit issued pursuant to this Act may bring an action for damages (including reasonable attorney and expert witness fees) only in the judicial district having jurisdiction under paragraph (1) of this subsection.

"(c)(1) Any action of the Secretary to approve a leasing program pursuant to section 18 of this Act shall be subject to judicial review only in the United States Court of Appeals for the District of Columbia.

"(2) Any action of the Secretary to approve, require modification of, or disapprove any exploration plan or any development and production plan under this Act shall be subject to judicial review only in a United States court of appeals for a circuit in which an affected State is located.

"(3) The judicial review specified in paragraphs (1) and (2) of this subsection shall be available only to a person who (A) participated in the administrative proceedings related to the actions specified in such paragraphs, (B) is adversely affected or aggrieved by such action, (C) files a petition for review of the Secretary's action within sixty days after the date of such action, and (D) promptly transmits copies of the petition to the Secretary and to the Attorney General.

"(4) Any action of the Secretary specified in paragraph (1) or (2) shall only be subject to review pursuant to the provisions of this subsection, and shall be specifically excluded from citizen suits which are permitted pursuant to subsection (a) of this section.

"(5) The Secretary shall file in the appropriate court the record of any public hearings required by this Act and any additional information upon which the Secretary based his decisions, as required by section 2112 of title 28, United States Code. Specific objections to the action of the Secretary shall be considered by the court only if the issues upon which such objections are based have been submitted to the Secretary during the administrative proceedings related to the actions involved.

"(6) The court of appeals conducting a proceeding pursuant to this subsection shall consider the matter under review solely on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary for such further action as it may direct.

"(7) Upon the filing of the record with the court, pursuant to paragraph (5), the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari.

"(d) Except as to causes of action which the court considers of greater importance, any action under this section shall take precedence on the docket over all other causes of action and shall be set for hearing at the earliest practical date and expedited in every way.

"SEC. 24. REMEDIES AND PENALTIES.—(a) At the request of the Secretary, the Secretary of the Army, or the Secretary of the Department in which the Coast Guard is operating, the Attorney General or a United States attorney shall institute a civil action in the district court of the United States for the district in which the affected operation is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease, license, or permit issued pursuant to this Act.

"(b) If any person fails to comply with any provision of this Act, or any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

"(c) Any person who knowingly and willfully (1) violates any provision of this Act, any term of a lease, license, or permit issued pursuant to this Act, or any regulation or order issued under the authority of this Act designed to protect health, safety or the environment or conserve natural resources, (2) makes any false statement, representation, or certification in any application, record, report, or other document filed or required to be maintained under this Act, (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act, or (4) reveals any data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

"(d) Whenever a corporation, or other entity is subject to prosecution under subsection (c) of this section, any officer or agent of such corporation or entity who knowingly and willfully authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (c) of this section.

"(e) The remedies and penalties prescribed in this Act shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this Act shall be in addition to any other remedies and penalties afforded by any other law or regulation.

"SEC. 25. OIL AND GAS DEVELOPMENT AND PRODUCTION.—(a)(1) Prior to development and production pursuant to an oil and gas lease issued after the date of enactment of this section in any area of the outer Continental Shelf, other than the Gulf of Mexico, or issued or maintained prior to such date of enactment in any area of the outer Continental Shelf, other than the Gulf of Mexico, with respect to which no oil or gas has been discovered in paying quantities prior to such date of enactment, the lessee shall submit a development and production plan (hereinafter in this section referred to as a 'plan') to the Secretary, for approval pursuant to this section.

"(2) A plan shall be accompanied by a statement describing all facilities and operations, other than those on the outer Continental Shelf, proposed by the lessee and known by him (whether or not owned or operated by such lessee) which will be constructed or utilized in the development and production of oil or gas from the lease area, including the location and site of such facilities and operations, the land, the labor, material, and energy requirements associated with such facilities and operations, and all environmental and safety safeguards to be implemented.

"(3) Except for any privileged or proprietary information (as such term is defined in regulations issued by the Secretary), the Secretary, within ten days after receipt of a plan and statement, shall (A) submit such plan and statement to the Governor of any affected State, and, upon request, to the executive of any affected local government, and (B) make such plan and statement available to any appropriate interstate regional entity and the public.

"(b) After the date of enactment of this section, no oil and gas lease may be issued pursuant to this Act in any region of the outer Continental Shelf, other than the Gulf of Mexico, unless such lease requires that development and production activities be car-

ried out in accordance with a plan which complies with the requirements of this section.

"(c) A plan may apply to more than one oil and gas lease, and shall set forth, in the degree of detail established by regulations issued by the Secretary—

"(1) the specific work to be performed;

"(2) a description of all facilities and operations located on the outer Continental Shelf which are proposed by the lessee or known by him (whether or not owned or operated by such lessee) to be directly related to the proposed development, including the location and size of such facilities and operations, and the land, labor, material, and energy requirements associated with such facilities and operations;

"(3) the environmental safeguards to be implemented on the outer Continental Shelf and how such safeguards are to be implemented;

"(4) all safety standards to be met and how such standards are to be met;

"(5) an expected rate of development and production and a time schedule for performance; and

"(6) such other relevant information as the Secretary may by regulation require.

"(d) The Secretary shall not grant any license or permit for any activity described in detail in a plan and affecting any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), unless the State concurs or is conclusively presumed to concur with the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act, or the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act.

"(e)(1) At least once the Secretary shall declare the approval of a development and production plan in any area or region (as defined by the Secretary) of the outer Continental Shelf, other than the Gulf of Mexico, to be a major Federal action.

"(2) The Secretary may require lessees of tracts for which development and production plans have not been approved, to submit preliminary or final plans for their leases, prior to or immediately after a determination by the Secretary that the procedures under the National Environmental Policy Act of 1969 shall commence.

"(f) If approval of a development and production plan is found to be a major Federal action, the Secretary shall transmit the draft environmental impact statement to the Governor of any affected State, and upon request, to the executive of any local government, and shall make such draft available to any appropriate interstate regional entity and the public.

"(g) If approval of a development and production plan is not found to be a major Federal action, the Governor of any affected State and the executive of any affected local government shall have sixty days from the date of receipt of the plan from the Secretary to submit comments and recommendations. Prior to submitting recommendations to the Secretary, the executive of any affected local government must forward his recommendations to the Governor of his State. Such comments and recommendations shall be made available to the public upon request. In addition, any interested person may submit comments and recommendations.

"(h)(1) After reviewing the record of any public hearing held with respect to the approval of a plan pursuant to the National Environmental Policy Act of 1969 or the comments and recommendations submitted under subsection (g) of this section, the Secretary shall, within sixty days after the release of the final environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 in accordance with subsection (e) of this section, or sixty days after the period provided for comment under subsection (g) of this section, approve, disapprove, or require modifications of the plan. The Secretary shall require modification of a plan if he determines that the lessee has failed to make adequate provision in such plan for safe operations on the lease area or for protection of the human, marine, or coastal environment, including compliance with the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act. Any modification required by the Secretary which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) must receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of such Act. The Secretary shall disapprove a plan—

"(A) if the lessee fails to demonstrate that he can comply with the requirements of this Act or other applicable Federal law, including the regulations prescribed by the Secretary pursuant to paragraph (8) of section 5(a) of this Act;

"(B) if any of the activities described in detail in the plan for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) do not receive concurrence by such State with respect to the consistency certification accompanying such plan pursuant to section 307(c)(3)(B)(i) or (ii) of such Act and the Secretary of Commerce does not make the finding authorized by section 307(c)(3)(B)(iii) of such Act.

"(C) if operations threaten national security or national defense; or

"(D) if the Secretary determines, because of exceptional geological conditions in the lease areas, exceptional resource values in the marine or coastal environment, or other exceptional circumstances, that (i) implementation of the plan would probably cause serious harm or damage to life (including fish and other aquatic life), to property, to any mineral deposits (in areas leased or not leased), to the national security or defense, or to the marine, coastal or human environments, (ii) the threat of harm or damage will not disappear or decrease to an acceptable extent within a reasonable period of time, and (iii) the advantages of disapproving the plan outweigh the advantages of development and production.

"(2)(A) If a plan is disapproved—

"(i) under subparagraph (A) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued after approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C. 1455),

the lessee shall not be entitled to compensation because of such disapproval.

"(B) If a plan is disapproved—

"(i) under subparagraph (C) or (D) of paragraph (1); or

"(ii) under subparagraph (B) of paragraph (1) with respect to a lease issued before approval of a coastal zone management program pursuant to the Coastal Zone Management Act of 1972, and such approval occurs after the lessee has submitted a plan to the Secretary,

the term of the lease shall be duly extended, and at any time within five years after such disapproval, the lessee may reapply for approval of the same or a modified plan, and the Secretary shall approve, disapprove, or require modifications of such plan in accordance with this subsection.

"(C) Upon expiration of the five-year period described in subparagraph (B) of this paragraph or, in the Secretary's discretion, at an earlier time upon request of a lessee, if the Secretary has not approved a plan, the Secretary shall cancel the lease and the lessee shall be entitled to receive compensation in accordance with section 5(a)(2)(C) of this Act. The Secretary may, at any time within the five-year period described in subparagraph (B) of this paragraph, require the lessee to submit a development and production plan for approval, disapproval, or modification. If the lessee fails to submit a required plan expeditiously and in good faith, the Secretary shall find that the lessee has not been duly diligent in pursuing his obligations under the lease, and shall immediately initiate procedures to cancel such laws, without compensation, under the provisions of section 5(c) of this Act.

"(3) The Secretary shall, from time to time, review each plan approved under this section. Such review shall be based upon changes in available information and other onshore or offshore conditions affecting or impacted by development and production pursuant to such plan. If the review indicates that the plan should be revised to meet the requirements of this subsection, the Secretary shall require such revision.

"(i) The Secretary may approve any revision of an approved plan proposed by the lessee if he determines that such revision will lead to greater recovery of oil and natural gas, improve the efficiency, safety, and environmental protection of the recovery operation, is the only means available to avoid substantial economic hardship to the lessee, or is otherwise not inconsistent with the provisions of this Act, to the extent such revision is consistent with protection of the human, marine, and coastal environments. Any revision of an approved plan which the Secretary determines is significant shall be reviewed in accordance with subsections (d) through (f) of this section.

"(j) Whenever the owner of any lease fails to submit a plan in accordance with regulations issued under this section, or fails to comply with an approved plan, the lease may be canceled in accordance with sections 5(c) and (d). Termination of a lease because of failure to comply with an approved plan, including required modifications or revisions, shall not entitle a lessee to any compensation.

"(k) If any development and production plan submitted to the Secretary pursuant to this section provides for the production and transportation of natural gas, the lessee shall contemporaneously submit to the Federal Energy Regulatory Commission that portion of such plan which relates to production of natural gas and the facilities for transportation of natural gas. The Secretary and the Federal Energy Regulatory Commission shall agree as to which of them shall prepare an environmental impact statement pursuant to the National Environmental Policy Act of 1969 applicable to such portion of such plan, or conduct studies as to the effect on the environment of implementing it. Thereafter, the findings and recommendations by the agency preparing such environmental impact statement or conducting such studies pursuant to such agreement shall be adopted by the other agency, and such other agency shall not independently prepare another environmental impact statement or duplicate such studies with respect to such portion of such plan, but the Federal Energy Regulatory Commission, in connection with its review of an application for a certificate of public convenience and necessity applicable to such transportation facilities pursuant to

section 7 of the Natural Gas Act (15 U.S.C. 717), may prepare such environmental studies or statement relevant to certification of such transportation facilities as have not been covered by an environmental impact statement or studies prepared by the Secretary. The Secretary, in consultation with the Federal Energy Regulatory Commission, shall promulgate rules to implement this subsection, but the Federal Energy Regulatory Commission shall retain sole authority with respect to rules and procedures applicable to the filing of any application with the Commission and to all aspects of the Commission's review of, and action on, any such application.

"(i) The Secretary may require the provisions of this section to apply to an oil and gas lease issued or maintained under this Act, which is located in that area of the Gulf of Mexico which is adjacent to the State of Florida, as determined pursuant to section 4(a)(2) of this Act.

"SEC. 26. OUTER CONTINENTAL SHELF OIL AND GAS INFORMATION PROGRAM.—(a)(1)(A) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

"(B) If an interpretation provided pursuant to subparagraph (A) of this paragraph is made in good faith by the lessee or permittee, such lessee or permittee shall not be held responsible for any consequence of the use of or reliance upon such interpretation.

"(C) Whenever any data and information is provided to the Secretary, pursuant to subparagraph (A) of this paragraph—

"(i) by a lessee, in the form and manner of processing which is utilized by such lessee in the normal conduct of his business, the Secretary shall pay the reasonable cost of reproducing such data and information;

"(ii) by a lease, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information;

"(iii) by a permittee, in the form and manner of processing which is utilized by such permittee in the normal conduct of his business, the Secretary shall pay such permittee the reasonable cost of reproducing such data and information for the Secretary and shall pay at the lowest rate available to any purchaser for processing such data and information the cost attributable to such processing; and

"(iv) by a permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay such permittee the reasonable cost of processing and reproducing such data and information for the Secretary,

pursuant to such regulations as he may prescribe.

"(2) Each Federal department and agency shall provide the Secretary with any data obtained by such Federal department or agency pursuant to section 11 of this Act, and any other information which may be necessary or useful to assist him in carrying out the provisions of this Act.

"(b)(1) Data and information provided to the Secretary pursuant to subsection (a) of this section shall be processed, analyzed, and interpreted by the Secretary for purposes of carrying out his duties under this Act.

"(2) As soon as practicable after information provided to the Secretary pursuant to subsection (a) of this section is processed, analyzed, and interpreted, the Secretary shall make available to the affected States, and upon request, to any affected local government, a summary of data designed to assist them in planning for the onshore impacts of possible oil and gas development and production. Such summary shall include estimates of (A) the oil and gas reserves in areas leased or to be leased, (B) the size and timing of development if and when oil or gas, or both, is found, (C) the location of pipelines, and (D) the general location and nature of onshore facilities.

"(c) The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. Such regulations shall include a provision that no such information will be transmitted to any affected State unless the lessee, or the permittee and all persons to whom such permittee has sold such information under promise of confidentiality, agree to such transmittal.

"(d)(1) The Secretary shall transmit to any affected State—

"(A) an index, and upon request copies of, all relevant actual or proposed programs, plans, reports, environmental impact statements, tract nominations (including negative nominations) and other lease sale information, any similar type of relevant information, and all modifications and revisions thereof and comments thereon, prepared or obtained by the Secretary pursuant to this Act, but no information transmitted by the Secretary under this subsection shall identify any particular tract with the name or names of any particular party so as not to compromise the competitive position of any party or parties participating in the nominations;

"(B)(i) the summary of data prepared by the Secretary pursuant to subsection (b)(2) of this section, and (ii) any other processed, analyzed, or interpreted data prepared by the Secretary pursuant to subsection (b)(1) of this section, unless the Secretary determines that transmittal of such data prepared pursuant to such subsection (b)(1) would unduly damage the competitive position of the lessee or permittee who provided the Secretary with the information which the Secretary had processed, analyzed, or interpreted; and

"(C) any relevant information received by the Secretary pursuant to subsection (a) of this section, subject to any applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(2) Notwithstanding the provisions of any regulation required pursuant to the second sentence of subsection (c) of this section, the Governor of any affected State may designate an appropriate State Official to inspect, at a regional location which the Secretary shall designate, any privileged information received by the Secretary regarding any activity adjacent to such State, except that no such inspection shall take place prior to the sale of a lease covering the area in which such activity was conducted. Knowledge obtained by such State during such inspection shall be subject to applicable requirements as to confidentiality which are set forth in regulations prescribed under subsection (c) of this section.

"(e) Prior to transmitting any privileged information to any State, or granting such State access to such information, the Secretary shall enter into a written agreement with the Governor of such State in which such State agrees, as a condition precedent to receiving or being granted access to such information, to waive the defenses set forth in subsection (f)(2) of this section, and to hold the United States harmless from any violations of the regulations prescribed pursuant to subsection (c) that the State or its employees may commit.

"(f)(1) Whenever any employee of the Federal Government or of any State reveals information in violation of the regulations prescribed pursuant to subsection (c) of this section, the lessee or permittee who supplied such information to the Secretary or to any other Federal official, and any person to whom such lessee or permittee has sold such information under promise of confidentiality, may commence a civil action for damages in the appropriate district court of the United States against the Federal Government or such State, as the case may be.

"(2) In any action commenced against the Federal Government or a State pursuant to paragraph (1) of this subsection, the Federal Government or such State, as the case may be, may not raise as a defense (A) any claim of sovereign immunity, or (B) any claim that the employee who revealed the privileged information which is the basis of such suit was acting outside the scope of his employment in revealing such information.

"(g) Any provision of State or local law which provides for public access to any privileged information received or obtained by any person pursuant to this Act is expressly preempted by the provisions of this section, to the extent that it applies to such information.

"(h) If the Secretary finds that any State cannot or does not comply with the regulations issued under subsection (c) of this section, he shall thereafter withhold transmittal and deny inspection of privileged information to such State until he finds that such State can and will comply with such regulations.

"SEC. 27. FEDERAL PURCHASE AND DISPOSITION OF OIL AND GAS.—(a)(1) Except as may be necessary to comply with the provisions of sections 6 and 7 of this Act, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease issued or maintained in accordance with this Act, shall, on demand of the Secretary, be paid in oil or gas.

"(2) The United States shall have the right to purchase not to exceed 16⅔ per centum by volume of the oil and gas produced pursuant to a lease issued or maintained in accordance with this Act, at the regulated price, or, if no regulated price applies, at the fair market value at the well head of the oil and gas saved, removed, or sold, except that any oil or gas obtained by the United States as royalty or net profit share shall be credited against the amount that may be purchased under this subsection.

"(3) Title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Secretary of Energy, for disposal within the Federal Government.

"(b)(1) The Secretary, except as provided in this subsection, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value, any part of the oil (A) obtained by the United States pursuant to any lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with the Secretary of Energy, the Secretary determines that small refiners do not have access to adequate supplies of oil at equitable prices, the Secretary may dispose of any oil which is taken as a royalty or net profit share accruing or reserved to the United States pursuant to any lease issued or maintained under this Act, or purchased by the United States pursuant to subsection (a)(2) of this section, by conducting a lottery for the sale of such oil,

or may equitably allocate such oil among the competitors for the purchase of such oil, at the regulated price, or if no regulated price applies, at its fair market value. The Secretary shall limit participation in any allocation or lottery sale to assure such access and shall publish notice of such allocation or sale, and the terms thereof, at least thirty days in advance. Such notice shall include qualifications for participation, the amount of oil to be sold, and any limitation in the amount of oil which any participant may be entitled to purchase.

"(3) The Secretary may only sell or otherwise dispose of oil described in paragraph (1) of this subsection in accordance with any provision of law, or regulations issued in accordance with such provisions, which provide for the Secretary of Energy to allocate, transfer, exchange, or sell oil in amounts or at prices determined by such provision of law or regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, the Secretary, pursuant to such terms as he determines, may offer to the public and sell by competitive bidding for not more than its regulated price, or, if no regulated price applies, not less than its fair market value any part of the gas (A) obtained by the United States pursuant to a lease as royalty or net profit share, or (B) purchased by the United States pursuant to subsection (a)(2) of this section.

"(2) Whenever, after consultation with and advice from the Secretary of Energy, the Federal Energy Regulatory Commission determines that an emergency shortage of natural gas is threatening to cause severe economic or social dislocation in any region of the United States and that such region can be serviced in a practical, feasible and efficient manner by royalty, net profit share, or purchased gas obtained pursuant to the provisions of this section, the Secretary of the Interior may allocate or conduct a lottery for the sale of such gas and shall limit participation in any allocation or lottery sale of such gas to any person servicing such region but he shall not sell any such gas for more than its regulated price, or, if no regulated price applies less than its fair market value. Prior to selling or allocating any gas pursuant to this subsection, the Secretary shall consult with the Federal Energy Regulatory Commission.

"(d) The lessee shall take any Federal oil or gas for which no acceptable bids are received as determined by the Secretary, and which is not transferred pursuant to subsection (a)(3) of this section and shall pay to the United States a cash amount equal to the regulated price or, if no regulated price applies the fair market value of the oil or gas so obtained.

"(e) As used in this section—

"(1) the term 'regulated price' means the highest price—

"(A) at which oil may be sold pursuant to the Emergency Petroleum Allocation Act of 1973 and any rule or order issued under such Act;

"(B) at which natural gas may be sold to natural-gas companies pursuant to the Natural Gas Act, any other Act, regulations governing natural gas pricing, or any rule or order issued under any such Act or any such regulations; or

"(C) at which either Federal oil or gas may be sold under any other provision of law or rule or order thereunder which sets a price (or manner for determining a price) for oil or gas; and

"(2) the term 'small refiner' has the meaning given such term by Small Business Administration Standards 128.3–8 (d) and (g), as in effect on the date of enactment of this section or as thereafter revised or amended.

"(f) Nothing in this section shall prohibit the right of the United States to purchase any oil or gas produced on the outer Continental Shelf as provided by section 12(b) of this Act.

"SEC. 28. LIMITATION ON EXPORT.—(a) Except as provided in subsection (d) of this section, any oil or gas produced from the outer Continental Shelf shall be subject to the requirements and provisions of the Export Administration Act of 1969 (50 App. U.S.C. 2401 et seq.).

"(b) Before any oil or gas subject to this section may be exported under the requirements and provisions of the Export Administration Act of 1969, the President shall make and publish an express finding that such exports will not increase reliance on imported oil or gas, are in the national interest, and are in accord with the provisions of the Export Administration Act of 1969.

"(c) The President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within such time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to such Presidential findings shall cease.

"(d) The provisions of this section shall not apply to any oil or gas which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, or which is exchanged or exported pursuant to an existing international agreement.

"SEC. 29. RESTRICTIONS ON EMPLOYMENT.—No full-time officer or employee of the Department of the Interior who directly or indirectly discharged duties or responsibilities under this Act, and who was at any time during the twelve months preceding the termination of his employment with the Department compensated under the Executive Schedule or compensated at or above the annual rate of basic pay for grade GS–16 of the General Schedule shall—

"(1) within two years after his employment with the Department has ceased—

"(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before;

"(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to; or

"(C) knowingly aid or assist in representing any other person (except the United States) in any formal or informal appearance before,

any department, agency, or court of the United States, or any officer or employee thereof, in connection with any judicial or other proceeding, application request for a ruling or other determination, regulation, order, lease, permit, rulemaking, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility or in which he participated personally and substantially as an officer or employee; or

"(2) within one year after his employment with the Department has ceased—

"(A) knowingly act as agent or attorney for, or otherwise represent, any other person (except the United States) in any formal or informal appearance before; or

"(B) with the intent to influence, make any oral or written communication on behalf of any other person (except the United States) to,

the Department of the Interior, or any officer or employee thereof, in connection with any judicial, rulemaking, regulation, order, lease, permit, regulation, or other particular matter which is pending before the Department of the Interior or in which the Department has a direct and substantial interest.

"SEC. 30. DOCUMENTATION, REGISTRY, AND MANNING REQUIREMENT.—(a) Within six months after the date of enactment of this section, the Secretary of the Department in which the Coast Guard is operating shall issue regulations which require that any vessel, rig, platform, or other vehicle or structure—

"(1) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this Act and which is built or rebuilt at any time after such one-year period, when required to be documented by the laws of the United States, be documented under the laws of the United States;

"(2) which is used for activities pursuant to this Act, comply, except as provided in subsection (b), with such minimum standards of design, construction, alteration, and repair as the Secretary or the Secretary of the Department in which the Coast Guard is operating establishes; and

"(3) which is used at any time after the one-year period beginning on the effective date of such regulations for activities pursuant to this Act, be manned or crewed, except as provided in subsection (c), by citizens of the United States or aliens lawfully admitted to the United States for permanent residence.

"(b) The regulations issued under subsection (a)(2) of this section shall not apply to any vessel, rig, platform, or other vehicle or structure built prior to the date of enactment of this section, until such time after such date as such vehicle or structure is rebuilt.

"(c) The regulations issued under subsection (a)(3) of this section shall not apply—

"(1) to any vessel, rig, platform, or other vehicle or structure if—

"(A) specific contractual provisions or national registry manning requirements in effect on the date of enactment of this section provide to the contrary;

"(B) there are not a sufficient number of citizens of the United States, or aliens lawfully admitted to the United States for permanent residence, qualified and available for such work; or

"(C) the President makes a specific finding, with respect to the particular vessel, rig, platform, or other vehicle or structure, that application would not be consistent with the national interest; and

"(2) to any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploration, development, or production of oil and gas in its offshore areas.".

POLLUTION FUND

DEFINITIONS

SEC. 301 For the purposes of this title, the term—

(1) "Secretary" means the Secretary of Transportation;

(2) "Fund" means the Offshore Oil Pollution Compensation Fund established under section 302 of this title;

(3) "person" means an individual, firm, corporation, association, partnership, consortium, joint venture, or governmental entity;

(4) "incident" means any occurrence or series of related occurrences, involving one or more offshore facilities or vessels, or any combination thereof, which causes or poses an imminent threat of oil pollution;

(5) "vessel" means every description of watercraft or other contrivance, whether or not self-propelled, which is operating in the waters above the Outer Continental Shelf (as the term "outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 (a))), or which is operating in the waters above submerged lands seaward from the coastline of a State (as the term "submerged lands" is described in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a) (2))), and which is transporting oil directly from an offshore facility;

(6) "public vessel" means a vessel which—

(A) is owned or chartered by demise, and operated by (i) the United States, (ii) a State or political subdivision thereof, or (iii) a foreign government; and

(B) is not engaged in commercial service;

(7) "facility" means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil;

(8) "offshore facility" includes any oil refinery, drilling structure, oil storage or transfer terminal, or pipeline, or any appurtenance related to any of the foregoing, which is used to drill for, produce, store, handle, transfer, process, or transport oil produced from the Outer Continental Shelf (as the term "outer Continental Shelf" is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))), and is located on the Outer Continental Shelf, except that such term does not include (A) a vessel, or (B) a deepwater port (as the term "deepwater port" is defined in section 3(10) of the Deepwater Port Act of 1974 (33 U.S.C. 1502));

(9) "oil pollution" means—

(A) the presence of oil either in an unlawful quantity or which has been discharged at an unlawful rate (i) in or on the waters above, submerged lands seaward from the coastline of a State (as the term "submerged lands" is described in section 2(a)(2) of the Submerged Lands Act (43 U.S.C. 1301(a) (2))), or on the adacent shoreline of such a State, or (ii) on the waters of the contiguous zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (15 UST 1606); or

(B) the presence of oil in or on the waters of the high seas outside the territorial limits of the United States—

(i) when discharged in connection with activities conducted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); or

(ii) causing injury to or loss of natural resources belonging to, appertaining to, or under the exclusive management authority of, the United States; or

(C) the presence of oil in or on the territorial sea, navigable or internal waters, or adjacent shoreline of a foreign country, in a case where damages are recoverable by a foreign claimant under this title;

(10) "United States claimant" means any person residing in the United States, the Government of the United States or an agency thereof, or the government of a State or a political subdivision thereof, who asserts a claim under this title;

(11) "foreign claimant" means any person residing in a foreign country, the government of a foreign country, or any agency or political subdivision thereof, who asserts a claim under this title;

(12) "United States" includes and "State" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession over which the United States has jurisdiction;

(13) "oil" means petroleum, including crude oil or any fraction or residue therefrom;

(14) "cleanup costs" means costs of reasonable measures taken, after an incident has occurred, to prevent, minimize, or mitigate oil pollution from such incident;

(15) "damages" means compensation sought pursuant to this title by any person suffering any direct and actual injury proximately caused by the discharge of oil from an offshore facility or vessel, except that such term does not include cleanup costs;

(16) "person in charge" means the individual immediately responsible for the operation of a vessel or offshore facility;

(17) "claim" means a demand in writing for a sum certain;

(18) "discharge" means any emission, intentional or unintentional, and includes spilling, leaking, pumping, pouring, emptying, or dumping;

(19) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a vessel or offshore facility, whether by lease, permit, contract, license, or other form of agreement, or with respect to any offshore facility abandoned without prior approval of the Secretary of the Interior, the person who owned such offshore facility immediately prior to such abandonment, except that such term does not include a person who, without participating in the management or operation of a vessel or offshore facility, holds indicia of ownership primarily to protect his security interest in the vessel or offshore facility;

(20) "operator" means—

(A) in the case of a vessel, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel; or

(B) in the case of an offshore facility, any person, except the owner, who is responsible for the operation of such facility by agreement with the owner;

(21) "property" means littoral, riparian, or marine property;

(22) "removal costs" means—

(A) costs incurred under subsection (c), (d), or (l) of section 311 of the Federal Water Pollution Control Act, and section 5 of the Intervention on the High Seas Act; and

(B) cleanup costs, other than the costs described in subparagraph (A);

(23) "guarantor" means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator;

(24) "gross ton" means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel; and

(25) "barrel" means 42 United States gallons at 60 degrees Fahrenheit.

FUND ESTABLISHMENT, ADMINISTRATION, AND FINANCING

SEC. 302. (a) There is hereby established in the Treasury of the United States an Offshore Oil Pollution Compensation Fund in an amount not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) of this section to be paid into the Fund. The Fund shall be administered by the Secretary and the Secretary of the Treasury as specified in this title. The Fund may sue and be sued in its own name.

(b) The Fund shall be composed of—

(1) all fees collected pursuant to subsection (d) of this section; and

(2) all other moneys recovered or collected on behalf of the Fund under section 308 or any other provision of this title.

(c) The Fund shall be immediately available for—

(1) removal costs described in section 301(22);

(2) the processing and settlement of claims under section 307 of this title (including the costs of assessing injury to, or destruction of, natural resources); and

(3) subject to such amounts as are provided in appropriation Acts, all administrative and personnel costs of the Federal Government incident to the administration of this title, including, but not limited to, the claims settlement activities and adjudicatory and judicial proceedings, whether or not such costs are recoverable under section 308 of this title.

The Secretary is authorized to promulgate regulations designating the person or persons who may obligate available money in the Fund for such purposes.

(d)(1) The Secretary shall levy and the Secretary of the Treasury shall collect a fee of not to exceed 3 cents per barrel on oil obtained from the Outer Continental Shelf, which shall be imposed on the owner of the oil when such oil is produced.

(2) The Secretary of the Treasury, after consulting with the Secretary, may promulgate reasonable regulations relating to the collection of the fees authorized by paragraph (1) of this subsection and, from time to time, the modification thereof. Any modification shall become effective on the date specified in the regulation making such modification, but no earlier than the ninetieth day following the date such regulation is published in the Federal Register. Any modification of the fee shall be designed to insure that the Fund is maintained at a level of not less than $100,000,000 and not more than $200,000,000. No regulation that sets or modifies fees, whether or not in effect, may be stayed by any court pending completion of judicial review of such regulation.

(3)(A) Any person who fails to collect or pay any fee as required by any regulation promulgated under paragraph (2) of this subsection shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fee required to be collected or paid and the interest on such fee at the rate such fee would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (e)(2) of this section. Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General may, at the request of the Secretary of the Treasury, bring an action in the name of the Fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such records and documents for the purpose of audit and examination.

(e) (1) The Secretary shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund, above the level determined under paragraph (1) of this subsection, in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be deposited in and credited to the Fund.

(f) If at any time the moneys available in the Fund are insufficient to meet the obligations of the Fund, the Secretary shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of such notes or other obligations shall be made by the Secretary from moneys in the Fund. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any notes or other obligations issued under this subsection and, for that purpose, he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of such notes or other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

DAMAGES AND CLAIMANTS

SEC. 303. (a) Claims for economic loss, arising out of or directly resulting from oil pollution, may be asserted for—

(1) removal costs; and

(2) damages, including—

(A) injury to, or destruction of real or personal property;

(B) loss of use of real or personal property;

(C) injury to, or destruction of, natural resources;

(D) loss of use of natural resources;

(E) loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources; and

(F) loss of tax revenue for a period of one year due to injury to real or personal property.

(b) A claim authorized by subsection (a) of this section may be asserted—

(1) under paragraph (1), by any claimant, except that the owner or operator of a vessel or offshore facility involved in an incident may assert such a claim only if he can show—

(A) that he is entitled to a defense to liability under section 304(c)(1) or 304(c)(2) of this title; or

(B) if not entitled to such a defense to liability, that he is entitled to a limitation of liability under section 304(b), except that if he is not entitled to such a defense to liability but is entitled to such a limitation of liability, such claim may be assured only as to the removal costs incurred in excess of that limitation;

(2) under paragraphs (2) (A), (B), and (D), by any United States claimant if the property involved is owned or leased, or the natural resource involved is utilized, by the claimant;

(3) under paragraph (2)(C), by the President, as trustee for natural resources over which the Federal Government has sovereign rights or exercises exclusive management authority, or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State, and sums recovered under paragraph (2)(C) shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources;

(4) under paragraph (2)(E), by any United States claimant if the claimant derives at least 25 per centum of his earnings from activities which utilize the property or natural resource;

(5) under paragraph (2)(F), by the Federal Government and any State or political subdivision thereof;

(6) under paragraphs (2) (A) through (E), by a foreign claimant to the same extent that a United States claimant may assert a claim if—

(A) the oil pollution occurred in or on the territorial sea, navigable waters or internal waters, or adjacent shoreline of a foreign country of which the claimant is a resident;

(B) the claimant is not otherwise compensated for his loss;

(C) the oil was discharged from an offshore facility or from a vessel in connection with activities conducted under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.); and

(D) recovery is authorized by a treaty or an executive agreement between the United States and the foreign country involved, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants;

(7) under paragraph (1) or (2), by the Attorney General, on his own motion or at the request of the Secretary, on behalf of any group of United States claimants who may assert a claim under this subsection, when he determines that the claimants would be more adequately represented as a class in asserting their claims.

(c) If the Attorney General fails to take action under paragraph (7) of subsection (b) within sixty days of the date on which the Secretary designates a source under section 306 of this title, any member of a group described in such paragraph may maintain a class action to recover damages on behalf of that group. Failure of the Attorney General to take action shall have no bearing on any class action maintained by any claimant for damages authorized by this section.

LIABILITY

SEC. 304. (a) Subject to the provisions of subsections (b) and (c) of this section, the owner and operator of a vessel other than a public vessel, or of an offshore facility, which is the source of oil pollution, or poses a threat of oil pollution in circumstances which justify the incurrence of the type of costs described in section 301(22) of this title, shall be jointly, severally, and strictly liable for all loss for which a claim may be asserted under section 303 of this title.

(b) Except when the incident is caused primarily by willful misconduct or gross negligence, within the privity or knowledge of the owner or operator, or is caused primarily by a violation, within the privity or knowledge of the owner or operator, of applicable safety, construction, or operating standards or regulations of the Federal Government, the total of the liability under subsection (a) of this section incurred by, or on behalf of, the owner or operator shall be—

(1) in the case of a vessel, limited to $250,000 or $300 per gross ton, whichever is greater, except when the owner or operator of a vessel fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities; or

(2) in the case of an offshore facility, the total of removal and cleanup costs, and an amount limited to $35,000,000 for all damages.

(c) There shall be no liability under subsection (a) of this section—

(1) if the incident is caused solely by any act of war, hostilities, civil war, or insurrection, or by an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistable character, the effect of which could not have been prevented or avoided by the exercise of due care or foresight; or

(2) if the incident is caused solely by the negligent or intentional act of the damaged party or any third party (including any government entity).

(d) Notwithstanding the limitations, exceptions, or defenses of subsection (b) or (c) of this section, all costs of removal incurred by the Federal Government or any State or local official or agency in connection with a discharge of oil from any offshore facility or vessel shall be borne by the owner and operator of the offshore facility or vessel from which the discharge occurred.

(e) The Secretary shall, from time to time, report to Congress on the desirability of adjusting the monetary limitation of liability specified in subsection (b) of this section.

(f) (1) Subject to the provisions of paragraph (2) of this subsection, the Fund shall be liable, without any limitation, for all losses for which a claim may be asserted under section 303 of this title, to the extent that such losses are not otherwise compensated.

(2) Except for the removal costs specified in section 301(22), there shall be no liability under paragraph (1) of this subsection—

(A) as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by the gross negligence or willful misconduct of that claimant; or

(B) as to a particular claimant, to the extent that the incident or economic loss is caused by the negligence of that claimant.

(g) (1) In addition to the losses for which claims may be asserted under section 303 of this title, and without regard to the limitation of liability provided in subsection (b) of this section, the owner, operator, or guarantor of an offshore facility or vessel shall be liable to the claimant for interest on the amount paid in satisfaction of the claim for the period from the date upon which the claim is presented to such person to the date upon which the claimant is paid, inclusive, less the period, if any, from the date upon which such owner, operator, or guarantor offers the claimant an amount equal to or greater than the amount finally paid in satisfaction of the claim to the date upon which the claimant accepts such amount, inclusive. However, if such owner, operator, or guarantor offers the claimant, within sixty days of the date upon which the claim is presented, or of the date upon which advertising is commenced pursuant to section 306 of this title, whichever is later, an amount equal to or greater than the amount finally paid in satisfaction of the claim, the owner, operator, or guarantor shall be liable for the interest provided in this paragraph only from the date the offer is accepted by the claimant to the date upon which payment is made to the claimant, inclusive.

(2) The interest provided in paragraph (1) of this subsection shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of one hundred and eighty days or less obtaining on each of the days included within the

period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(h) Nothing in this title shall bar a cause of action that an owner or operator, subject to liability under subsection (a) of this section, or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

(i) To the extent that they are in conflict or otherwise inconsistent with any other provision of law relating to liability or the limitation thereof, the provisions of this section shall supersede such other provision of flaw, including section 4283(a) of the Revised Statutes (46 U.S.C. 183(a)).

FINANCIAL RESPONSIBILITY

SEC. 305. (a)(1) The owner of operator of any vessel (except a non-self-propelled barge that does not carry oil as fuel or cargo) which uses an offshore facility shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such vessel would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title. Financial responsibility may be established by any one, or any combination, of the following methods, acceptable to the President: evidence of insurance, guarantee, surety bond, or qualification as a self-insurer. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In any case where an owner or operator owns, operates, or charters more than one vessel subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the largest of such vessels.

(2) The Secretary, in accordance with regulations promulgated by him, shall—

(A) deny entry to any port or place in the United States or to the navigable waters to; and

(B) detain at the port or place in the United States from which it is about to depart for any other port or place in the United States;

any vessel subject to this subsection which, upon request, does not produce certification furnished by the President that such vessel is in compliance with the financial responsibility provisions of paragraph (1) of this subsection.

(3) The Secretary, in accordance with regulations promulgated by him, shall have access to all offshore facilities and vessels conducting activities under the Outer Continental Shelf Lands Act, and such facilities and vessels shall, upon request, show certification of financial responsibility.

(b) The owner or operator of an offshore facility which (1) is used for drilling for, producing, or processing oil, or (2) has the capacity to transport, store, transfer, or otherwise handle more than one thousand barrels of oil at any one time, shall establish and maintain, in accordance with regulations promulgated by the President, evidence of financial responsibility sufficient to satisfy the maximum amount of liability to which the owner or operator of such facility would be exposed in a case where he would be entitled to limit his liability in accordance with the provisions of section 304(b) of this title, or $35,000,000, whichever is less.

(c) Any claim authorized by section 303 (a) may be asserted directly against any guarantor providing evidence of financial responsibility for any owner or operator of an offshore facility or vessel as required under this section. In defending such claim, the guarantor shall be entitled to invoke all rights and defenses which would be available to such owner or operator under this owner or operator, but shall not be entitled to invoke the defense that the incident was caused by the willful misconduct of such owner or operator, but shall not be entitled to invoke any other defense which such guarantor might be entitled to invoke in proceedings brought by such owner or operator against such guarantor.

(d) The President shall conduct a study to determine—

(1) whether adequate private oil pollution insurance protection is available on reasonable terms and conditions to the owners and operators of vessels, onshore facilities, and offshore facilities; and

(2) whether the market for such insurance is sufficiently competitive to assure purchasers of features such as a reasonable range of deductibles, coinsurance provisions, and exclusions.

The President shall submit the results of his study, together with his recommendation, within one year after the date of enactment of this title, and shall submit an interim report on his study within three months after such date of enactment.

NOTIFICATION, DESIGNATION, AND ADVERTISEMENT

SEC. 306. (a) The person in charge of a vessel or offshore facility which is involved in an incident shall immediately notify the Secretary of the incident as soon as he has knowledge thereof. Notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against such person or his employer in any criminal case other than a case involving prosecution for perjury or for giving a false statement.

(b)(1) When the Secretary receives information pursuant to subsection (a) of this section or otherwise of an incident which involves oil pollution, the Secretary shall, where possible, designate the source or sources of the oil pollution and shall immediately notify the owner and operator of such source and the guarantor of such designation.

(2) When a source designated under paragraph (1) of this subsection is a vessel or offshore facility and the owner, operator, or guarantor fails to inform the Secretary, within five days after receiving notification of the designation, of his denial of such designation, such owner, operator, or guarantor, as required by regulations promulgated by the Secretary, shall advertise the designation and the procedures by which claims may be presented to him. If advertisement is not made in accordance with this paragraph, the Secretary shall, as he finds necessary, and at the expense of the owner, operator, or guarantor involved, advertise the designation and the procedures by which claims may be presented to such owner, operator, or guarantor.

(c) In a case where—

(1) the owner, operator, and guarantor all deny a designation in accordance with paragraph (2) of subsection (b) of this section;

(2) the source of the discharge was a public vessel; or

(3) the Secretary is unable to designate the source or sources of the discharge under paragraph (1) of such subsection (b), the Secretary shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Fund.

(d) Advertisement under subsection (b) of this section shall commence no later than fifteen days after the date of the designation made under such subsection and shall continue for a period of no less than thirty days.

CLAIMS SETTLEMENT

SEC. 307. (a) Except as provided in subsection (b) of this section, all claims shall be presented to the owner, operator, or guarantor.

(b) All claims shall be presented to the Fund—

(1) where the Secretary has advertised or otherwise notified claimants in accordance with section 306(c) of this title; or

(2) where the owner or operator may recover under the provisions of section 303(b)(1) of this title.

(c) In the case of a claim presented in accordance with subsection (a) of this section, and in which—

(1) the person to whom the claim is presented denies all liability for the claim, for any reason; or

(2) the claim is not settled by any person by payments to the claimant within sixty days from the date upon which (A) the claim is presented, or (B) advertising is commenced pursuant to section 306(b)(2), whichever is later,

the claimant may elect to commence an action in court against the owner, operator, or guarantor, or to present the claim to the Fund, that election to be irrevocable and exclusive.

(d) In the case of a claim presented in accordance with subsection (a) of this section, where full and adequate compensation is unavailable, either because the claim exceeds a limit of liability invoked under section 304(b) of this title or because the owner, operator, and guarantor to whom the claim is presented are financially incapable of meeting their obligations in full, a claim for the uncompensated damages may be presented to the Fund.

(e) In the case of a claim which is presented to any person, pursuant to subsection (a) of this section, and which is being presented to the Fund, pursuant to subsection (c) or (d) of this section, such person, at the request of the claimant, shall transmit the claim and supporting documents to the Fund. The Secretary may, by regulation, prescribe the documents to be transmitted and the terms under which they are to be transmitted.

(f) In the case of a claim presented to the Fund, pursuant to subsection (b), (c), or (d) of this section, and in which the Fund—

(1) denies all liability for the claim, for any reason; or

(2) does not settle the claim by payment to the claimant within sixty days after the date upon which (A) the claim is presented to the Fund, or (B) advertising is commenced pursuant to section 306(c) of this title, whichever is later.

the claimant may submit the dispute to the Secretary for decision in accordance with section 554 of title 5, United States Code. However, a claimant who has presented a claim to the Fund pursuant to such subsection (b) may elect to commence an action in court against the Fund in lieu of submission of the dispute to the Secretary for decision, that election to be irrevocable and exclusive.

(g)(1) The Secretary shall promulgate regulations which establish uniform procedures and standards for the appraisal and settlement of claims against the Fund.

(2) Except as provided in paragraph (3) of this subsection, the Secretary shall use the facilities and services of private insurance and claims adjusting organizations or State agencies in processing claims against the Fund and may contract to pay compensation for those facilities and services. Any contract made under the provisions of this paragraph may be made without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) upon a showing by the Secretary that advertising is not reasonably practicable. The Secretary may make advance payments to a contractor for services and facilities, and the Secretary may advance to the contractor funds to be used for the payment of claims. The Secretary may review

and audit claim payments made pursuant to this subsection. A payment to a claimant for a single claim in excess of $100,000, or two or more claims aggregating in excess of $200,000, shall be first approved by the Secretary. When the services of a State agency are used in processing and settling claims, no payment may be made on a claim asserted by or on behalf of such State or any of its agencies or subdivisions unless the payment has been approved by the Secretary.

(3) To the extent necessitated by extraordinary circumstances, where the services of such private organizations or State agencies are inadequate, the Secretary may use Federal personnel to process claims against the Fund.

(h) Notwithstanding subsection (b) of section 556 of title 5, United States Code, the Secretary is authorized to appoint, from time to time for a period of not to exceed one hundred and eighty days, one or more panels, each comprised of three individuals, to hear and decide disputes submitted to the Secretary pursuant to subsection (f) of this section. At least one member if each panel shall be qualified to conduct adjudicatory proceedings and shall preside over the activities of the panel. Each member of a panel shall possess competence in the evaluation and assessment of property damage and the economic losses resulting therefrom. Panel members may be appointed from private life or from any Federal agency except the staff administering the Fund. Each panel member appointed from private life shall receive a per diem compensation, and each panel member shall receive necessary traveling and other expenses while engaged in the work of a panel. The provisions of chapter 11 of title 18, United States Code, and of Executive Order 11222, as amended, regarding special Government employees, shall apply to panel members appointed from private life.

(i)(1) Upon receipt of a request for a decision from a claimant, properly made, the Secretary shall refer the dispute to (A) an administrative law judge appointed under section 3105 of title 5, United States Code, or (B) a panel appointed under subsection (h) of this section.

(2) The administrative law judge and each member of a panel to which a dispute is referred for decision shall be a resident of the United States judicial circuit within which the damage complained of occurred, or, if the damage complained of occurred within two or more circuits, of any of the affected circuits, or, if the damage occurred outside any circuit, of the nearest circuit.

(3) Upon receipt of a dispute, the administrative law judge or panel shall adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code. In any proceeding subject to this subsection, the presiding officer may require by subpena any person to appear and testify or to appear and produce books, papers, documents, or tangible things at a hearing or deposition at any designated place. Subpenas shall be issued and enforced in accordance with procedures in subsection (d) of section 555 of title 5, United States Code, and rules promulgated by the Secretary. If a person fails or refuses to obey a subpena, the Secretary may invoke the aid of the district court of the United States where the person is found, resides, or transacts business in requiring the attendance and testimony of the person and the production by him of books, papers, documents, or any tangible things.

(4) A hearing conducted under this subsection shall be conducted within the United States judicial district within which, or nearest to which, the damage complained of occurred, or, if the damage complained of occurred within two or more districts, in any of the affected districts, or if the damage occurred outside any district, in the nearest district.

(5) The decision of the administrative law judge or panel under this subsection shall be the final order of the Secretary, except that the Secretary, in his discretion and in accordance with regulations which he may promulgate, may review the decision upon his own initiative or upon exception of the claimant or the Fund.

(6) Final orders of the Secretary made under this subsection shall be reviewable pursuant to section 702 of title 5, United States Code, in the district courts of the United States.

(j)(1) In any action brought pursuant to this title against an owner, operator, or guarantor, both the plaintiff and defendant shall serve a copy of the complaint and all subsequent pleadings therein upon the Fund at the same time such pleadings are served upon the opposing parties.

(2) The Fund may intervene in any action described in paragraph (1) of this subsection as a matter of right.

(3) In any action described in paragraph (1) of this subsection to which the Fund is a party, if the owner, operator, or guarantor admits liability under this title, the Fund upon its motion shall be dismissed therefrom to the extent of the admitted liability.

(4) If the Fund receives from either the plaintiff or the defendant notice of an action described in paragraph (1) of this subsection, the Fund shall be bound by any judgment entered therein, whether or not the Fund was a party to the action.

(5) If neither the plaintiff nor the defendant gives notice of an action described in paragraph (1) of this subsection to the Fund the limitation of liability otherwise permitted by section 304(b) of this title shall not be available to the defendant, and the plaintiff shall not recover from the Fund any sums not paid by the defendant.

(k) In any action brought against the Fund under this title, the plaintiff may join any owner, operator, or guarantor, and the Fund may join any person who is or may be liable to the Fund under any provision of this title.

(l) No claim may be presented, nor may an action be commenced for economic losses recoverable under this title, unless such claim is presented to, or such action is commenced against, the owner, operator, or guarantor, or the Fund, as to their respective liabilities, within three years after the date of discovery of the economic loss for which a claim may be asserted under section 303(a) of this title, or within six years of the date of the incident which resulted in such loss, whichever is earlier.

SUBROGATION

SEC. 308. (a) Any person or governmental entity, including the Fund, who pays compensation to any claimant for an economic loss, compensable under section 303 of this title, shall be subrogated to all rights, claims, and causes of action which such claimant has under this title.

(b) Upon request of the Secretary, the Attorney General may commence an action, on behalf of the Fund, for the compensation paid by the Fund to any claimant pursuant to this title. Such an action may be commenced against any owner, operator, or guarantor, or against any other person or governmental entity, who is liable, pursuant to any law, to the compensated claimant or to the Fund, for economic losses for which the compensation was paid.

(c) In any claim or action by the Fund against any owner, operator, or guarantor, pursuant to the provisions of subsection (a) or (b), the Fund shall recover—

(1) for a claim presented to the Fund (where there has been a denial of source designation) pursuant to section 307(b)(1) of this title, or (where there has been a denial of liability) pursuant to section 307(c)(1) of this title—

(A) subject only to the limitation of liability to which the defendant is entitled under section 304(b) of this title, the amount the Fund has paid to the claimant, without reduction;

(B) interest on such amount, at the rate calculated in accordance with section 304(g)(2) of this title, from the date upon which the claim is presented by the claimant to the defendant to the date upon which the Fund is paid by the defendant, inclusive, less the period, if any, from the date upon which the Fund offers to the claimant the amount finally paid by the Fund to the claimant in satisfaction of the claim against the Fund to the date upon which the claimant accepts that offer, inclusive; and

(C) all costs incurred by the Fund by reason of the claim, both of the claimant against the Fund and the Fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; and

(2) for a claim presented to the Fund pursuant to section 307(c)(2) of this title—

(A) in which the amount the Fund has paid to the claimant exceeds the largest amount, if any, the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) subject to dispute by the defendant as to any excess over the amount offered to the claimant by the defendant, the amount the Fund has paid to the claimant;

(ii) interest, at the rate calculated in accordance with section 304(g)(2) of this title, for the period specified in paragraph (1)(B) of this subsection; and

(iii) all costs incurred by the Fund by reason of the claim of the Fund against the defendant, including, but not limited to, processing costs, investigating costs, court costs, and attorneys' fees; or

(B) in which the amount the Fund has paid to the claimant is less than or equal to the largest amount the defendant offered to the claimant in satisfaction of the claim of the claimant against the defendant—

(i) the amount which the Fund has paid to the claimant, without reduction;

(ii) interest, at the rate calculated in accordance with section 304(g)(2) of this title, from the date upon which the claim is presented by the claimant to the defendant to the date upon which the defendant offered to the claimant the largest amount referred to in this subparagraph, except that if the defendant tenders the offer to the largest amount referred to in this subparagraph within sixty days after the date upon which the claim of the claimant is either presented to the defendant or advertising is commenced pursuant to section 306 of this title, the defendant shall not be liable for interest for that period; and

(iii) interest from the date upon which the claim of the Fund against the defendant is presented to the defendant to the date upon which the Fund is paid, inclusive, less the period, if any, from the date upon which the defendant offers to the Fund the amount finally paid to the Fund in satisfaction of the claim of the Fund to the date upon which the Fund accepts that offer, inclusive.

(d) The Fund shall pay over to the claimant that portion of any interest the Fund recovers, pursuant to subsection (c)(1) and (2)(A), for the period from the date upon which the claim of the claimant is presented to the defendant to the date upon which the claimant is paid by the Fund, inclusive, less the period from the date upon which the Fund offers to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant accepts such offer, inclusive.

(e) The Fund is entitled to recover for all interest and costs specified in subsection (c) of this section without regard to any limita-

tion of liability to which the defendant may otherwise be entitled under this title.

JURISDICTION AND VENUE

SEC. 309. (a) The United States district courts shall have original and exclusive jurisdiction of all controversies arising under this title, without regard to the citizenship of the parties or the amount in controversy.

(b) Venue shall lie in any district wherein the injury complained of occurred, or wherein the defendant resides, may be found, or has his principal office. For the purposes of this section, the Funds shall reside in the District of Columbia.

RELATIONSHIP TO OTHER LAWS

SEC. 310. (a) Any person who receives compensation for damages or removal costs pursuant to this title shall be precluded from recovering compensation for the same damages or removal costs pursuant to any other State or Federal law. Any person who receives compensation for damages or removal costs pursuant to any other State or Federal law shall be precluded from receiving compensation for the same damages or removal costs under this title.

(b) No owner or operator of an offshore facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this section shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such offshore facility or vessel. Evidence of compliance with the financial responsibility requirement of this section shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such offshore facility or vessel.

(c) Except as otherwise provided in this title, this title shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil resulting in damages or removal costs within the jurisdiction of such State.

PROHIBITION

SEC. 311. The discharge of oil from any offshore facility or vessel, in quantities which the President under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) determines to be harmful, is prohibited.

PENALTIES

SEC. 312. (a)(1) Any person who fails to comply with the requirements of section 305 of this title, the regulations promulgated thereunder, or any denial or detention order, shall be subject to a civil penalty of not to exceed $10,000.

(2) The civil penalty described in paragraph (1) of this subsection may be assessed and compromised by the resident or his designee, in connection with section 305(a)(1) of this title, and by the Secretary, in connection with section 305(a)(3) and section 305(b) of this title. No penalty shall be assessed until notice and an opportunity for hearing on the alleged violation have been given. In determining the amount of the penalty or the amount agreed upon in compromise, the demonstrated good faith of the party shall be taken into consideration.

(3) At the request of the official assessing a penalty under this subsection, the Attorney General may bring an action in the name of the Fund to collect the penalty assessed.

(b) Any person in charge who is subject to the jurisdiction of the United States and who fails to give the notification required by section 306(a) of this title shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than one year, or both.

AUTHORIZATION OF APPROPRIATIONS

SEC. 313. (a) There is authorized to be appropriated for the administration of this title $10,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

(b) There are also authorized to be appropriated to the Fund, from time to time, such amounts as may be necessary to carry out the purposes of the applicable provisions of this title, including the entering into contracts, any disbursements of funds, and the issuance of notes or other obligations pursuant to section 302(f) of this title.

(c) Notwithstanding any other provision of this title, the authority to make contracts, to make disbursements, to issue notes or other obligations pursuant to section 302(f) of this title, to charge and collect fees pursuant to section 302(d) of this title, or to exercise any other spending authority shall be effective only to the extent provided, without fiscal year limitation, in appropriation Acts enacted after the date of enactment of this title.

ANNUAL REPORT

SEC. 314. Within six months after the end of each fiscal year, the Secretary shall submit to the Congress (1) a report on the administration of the Fund during such fiscal year, and (2) his recommendations for such legislative changes as he finds necessary or appropriate to improve the management of the Fund and the administration of the liability provisions of this title.

EFFECTIVE DATES

SEC. 315. (a) This section, subsection (e) of section 304, subsection (d) of section 305, and all provisions of this title authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of this title.

(b) All other provisions of this title, and rules and regulations promulgated pursuant to such provisions, shall be effective on the one hundred and eightieth day after the date of enactment of this title.

TITLE IV—FISHERMEN'S CONTINGENCY FUND

DEFINITIONS

SEC. 401. As used in this title, the term—

(1) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State which has as its president or other chief executive officer and as its chairman of the board of directors, or holder of a similar office, a person who is a United States citizen by law, birth, or naturalization, and which has at least 75 per centum of the interest of therein owned by citizens of the United States. Seventy-five per centum of the interest in the corporation shall not be deemed to be owned by citizens of the United States—

(A) if the title to 75 per centum of its stock is not vested in such citizens free from any trust or fiduciary obligation in favor of any person not a citizen of the United States;

(B) if 75 per centum of the voting power in such corporation is not vested in citizens of the United States;

(C) if through any contract or understanding it is so arranged that more than 25 per centum of the voting power may be exercised, directly or indirectly, in behalf of any person who is not a citizen of the United States; or

(D) if by any other means whatsoever control of any interest in the corporation in excess of 25 per centum is conferred upon or permitted to be exercised by any person who is not a citizen of the United States;

(2) "commercial fisherman" means any citizen of the United States who owns, operates, or derives income from being employed on a commercial fishing vessel;

(3) "commercial fishing vessel" means any vessel, boat, ship, or other craft which is (A) documented under the laws of the United States or, if under five net tons, registered under the laws of any State, and (B) used for, equipped to be used for, or of a type which is normally used for commercial purposes for the catching, taking, or harvesting of fish or the aiding or assisting at sea of any activity related to the catching, taking, or harvesting of fish, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing;

(4) "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals, birds, and highly migratory species;

(5) "fishing gear" means (A) any commercial fishing vessel, and (B) any equipment of such vessel, whether or not attached to such a vessel;

(6) "Fund" means the Fishermen's Contingency Fund established under section 402 of this title; and

(7) "Secretary" means the Secretary of Commerce or the designee of such Secretary.

ESTABLISHMENT OF THE FISHERMEN'S CONTINGENCY FUND; FEE COLLECTION

SEC. 402. (a) There is hereby established in the Treasury of the United States a Fishermen's Contingency Fund. The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purpose of making payments pursuant to this section. The total amount in the Fund shall at no time exceed $1,000,000. Amounts paid pursuant to the provisions of subsections (c) and (d) of this section shall be deposited in the Fund. The Fund may sue or be sued in its own name.

(b) The Secretary is authorized to establish and maintain an area account within the Fund for any area of the Outer Continental Shelf for purposes of providing reasonable compensation for damages to, or loss of, fishing gear and any resulting economic loss to commercial fishermen due to activities related to oil and gas exploration, development, and production in such area.

(c) Upon establishment of an area account for any area of the Outer Continental Shelf pursuant to subsection (b) of this section, any holder of a lease issued or maintained under the Outer Continental Shelf Lands Act for any tract in such area and any holder of an exploration permit, or of an easement or right-of-way for the construction of a pipeline in such area, shall pay an amount specified by the Secretary for the purpose of the establishment and maintenance of an area account for such area. The Secretary of the Interior shall collect such amount and deposit it to the credit of such area account within the Fund. In any calendar year, no holder of a lease, permit, easement, or right-of-way shall be required to pay an amount in excess of $5,000 per lease, permit, easement, or right-of-way.

(d) Subject to subsection (a) of this section, each area account established pursuant to this section shall be maintained at a level not to exceed $100,000 and, if depleted, shall be replenished by assessments of holders of leases, permits, easement, and right-of-way in such area.

(e) Amounts in each such area account shall be available for disbursement and shall be disbursed, subject to such amounts as are provided in appropriations Acts, for only the following purposes:

(1) Administrative and personnel expenses of such area account and administrative

and personnel expenses of the Fund which relate to such area account, except that amounts disbursed for such expenses in any fiscal year shall not exceed 15 per centum of the amounts deposited in such revolving account in such fiscal year.

(2) The payment of any claim in accordance with procedures established under this section for damages suffered as a result of activities in the area for which such area account was established.

(3) Reasonable attorney's fees awarded pursuant to section 405 (e) of this title.

DUTIES AND POWERS

SEC. 403. (a) In carrying out the provisions of this title, the Secretary shall—

(1) prescribe, and from time to time amend, regulations for the filing, processing, and fair and expeditious settlement of claims pursuant to this title, including a time limitation on the filing of such claims; and

(2) identify and classify all potential hazards to commercial fishing caused by Outer Continental Shelf oil and gas exploration, development, and production activities, including all obstructions on the bottom, throughout the water column, and on the surface.

(b) The Secretary of the Interior shall establish regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use.

(c) (1) Payments shall be disbursed by the Secretary from the appropriate area account to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to damages to, or loss of, fishing gear by materials, equipment, tools, containers, or other items associated with oil and gas exploration, development, or production activities in such area, whether or not such damage occurred in such area.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, no payment may be made by the Secretary from any area account established under this title—

(A) when the damage set forth in a claim was caused by materials, equipment, tools, containers, or other items attributable to a financially responsible party;

(B) to the extent that damages were caused by the negligence or fault of the commercial fisherman making the claim;

(C) if the damage set forth in the claim was sustained prior to the date of enactment of this title;

(D) in the case of a claim for damage to, or loss of, fishing gear, in an amount in excess of the replacement value of the fishing gear with respect to which the claim is filed;

(E) in the case of a claim for loss of profits (i) for any period in excess of 6 months, and (ii) unless such claim is supported by records with respect to the claimant's profits during the previous 12-month period; and

(F) for any portion of the damages claimed with respect to which the claimant has or will receive compensation from insurance.

BURDEN OF PROOF

SEC. 404. With respect to any claim for damages filed pursuant to this title, there shall be a presumption that such claim is valid if the claimant establishes that—

(1) the commercial fishing vessel was being used for fishing and was located in an area affected by Outer Continental Shelf activities;

(2) a report on the location of the material, equipment, tool, container, or other item which caused such damages and the nature of such damages was made within five days after the date on which such damages were discovered;

(3) there was no record on nautical charts or the Notice to Mariners on the date such damages were sustained that such material, equipment, tool, container, or other item existed in such area; and

(4) there was no proper surface marker or lighted buoy which was attached or closely anchored to such material, equipment, tool, container, or other item.

CLAIM PROCEDURES AND SUBROGATION OF RIGHTS

SEC. 405. (a) Any commercial fisherman suffering damages compensable under this title may file a claim for compensation with the Secretary, except that no such claim may be filed more than 60 days after the date of discovery of the damages with respect to which such claim is made.

(b) Upon receipt of any claim under this section, the Secretary shall—

(1) transmit a copy of the claim to the Secretary of the Interior; and

(2) refer such matter to a hearing examiner appointed under section 3105 of title 5, United States Code.

(c) The Secretary of the Interior shall make reasonable efforts to notify all persons known to have engaged in activities associated with Outer Continental Shelf energy activity in the vicinity. Each such person shall promptly notify the Secretary and the Secretary of the Interior as to whether he admits or denies responsibility for the damages claimed. Any such person, including lessees or permittees or their contractors or subcontractors, may submit evidence at any hearing conducted with respect to such claim.

(d) The hearing examiner shall, within 120 days after such matter is referred to him by the Secretary, adjudicate the case and render a decision in accordance with section 554 of title 5, United States Code.

(e) If the decision of the hearing examiner is in favor of the commercial fishermen filing the claim, such hearing examiner shall include, as part of the amount certified to the Secretary under subsection (h) (1) of this section, reasonable attorneys' fees incurred by such commercial fisherman in pursuing such claim.

(f) (1) For purposes of any hearing conducted pursuant to this section, the hearing examiner shall have the power to administer oaths and subpena the attendance or testimony of witnesses and the production of books, records, and other evidence relative or pertinent to the issues being presented for determination.

(2) In any hearing conducted pursuant to this section with respect to a claim for damages resulting from activities on any area of the Outer Continental Shelf, the hearing examiner shall consider evidence of obstructions in such area which have been identified pursuant to the survey conducted under section 407 of this title.

(g) A hearing conducted under this section shall be conducted within the United States judicial district within which the matter giving rise to the claim occurred, or, if such matter occurred within two or more districts, in any of the affected districts, or, if such matter occurred outside of any district, in the nearest district.

(h) (1) Upon a decision by the hearing examiner and in the absence of a request for judicial review, any amount to be paid, subject to the limitations of this section, shall be certified to the Secretary, who shall promptly disburse the award. Such decision shall not be reviewable by the Secretary.

(2) Upon payment of a claim by the Secretary pursuant to this subsection, the Secretary shall acquire by subrogation all rights of the claimant against any person found to be responsible for the damages with respect to which such claim was made.

(3) Any person who denies responsibility for damages with respect to which a claim is made and who is subsequently found to be responsible for such damages, and any commercial fisherman who files a claim for damages and who is subsequently found to be responsible for such damages, shall pay the costs of the proceedings under this section with respect to such claim.

(i) Any person who suffers legal wrong or who is adversely affected or aggrieved by the decision of a hearing examiner under this section may, no later than 60 days after such decision is made, seek judicial review of such decision in the United States court of appeals for the circuit in which the damage occurred, or if such damage occurred outside of any circuit, in the United States court of appeals for the nearest circuit.

ANNUAL REPORT

SEC. 406. (a) The Secretary shall submit an annual report to the Congress which shall set forth—

(1) a description of the types of damages set forth in claims filed with the Secretary during the previous year for compensation from the Fund;

(2) the amount of compensation awarded to claimants during the previous year; and

(3) the number of cases during the previous year in which damages were determined to be the responsibility of a lessee or permittee conducting operations on the Outer Continental Shelf, or the contractor or subcontractor of such a lessee or permittee.

(b) In addition to the material described in subsection (a) of this section, the Secretary shall, after consultation with the Secretary of the Interior, include in the first annual report an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the Outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear by (1) imposing fines or penalties on lessees or permittees, or contractors or subcontractors of lessees or permittees, who are responsible for such obstructions, or (2) requiring the bonding of such lessees or permittees or such contractors or subcontractors.

SURVEY OF OBSTRUCTIONS ON THE OUTER CONTINENTAL SHELF

SEC. 407. (a) The Secretary, in cooperation with the Secretary of the Interior, shall conduct a two-year survey of obstructions on the Outer Continental Shelf. Such survey shall be conducted for purposes of identifying (1) natural obstructions on the Outer Continental Shelf which pose potential hazards to commercial fishing or fishing gear, and (2) in addition, in the case of areas in which oil and gas exploration, development, or production is taking place, manmade obstructions relating to such activities which pose potential hazards to commercial fishing or fishing gear.

(b) The Secretary shall, on the basis of the survey conducted under this section, and regulations promulgated under section 403 (a) of this title, develop charts for commercial fisherman identifying obstructions on the Outer Continental Shelf.

(c) During the first six months of the survey conducted under this section, the Secretary shall concentrate on areas of the Outer Continental Shelf where oil and gas production has commenced or is expected to commence prior to the expiration of the two-year period of such survey.

TITLE V—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

COASTAL ENERGY IMPACT PROGRAM

SEC. 501. (a) Paragraph (2) of section 308 (b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(b)(2)) is amended—

(1) by striking out "The amounts granted" and inserting in lieu thereof "Subject to paragraph (3), the amounts payable";

(2) by striking out "(A), (B), (C), and (D)" and inserting in lieu thereof "(A), (B), and (C)";

(3) in subparagraph (A), by striking out "one-third" and inserting in lieu thereof "one-half";

(4) in subparagraph (B), by striking out "one-sixth" and inserting in lieu thereof "one-quarter";

(5) in subparagraph (C), by striking out "one-sixth" and inserting in lieu thereof "one-quarter"; and

(6) by striking out subparagraph (D).

(b) Such section 308(b) is amended—

(1) by renumbering paragraphs (3) through (5), and any references thereto, as paragraphs (4) through (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A)(i) After making the calculations required under paragraph (2) for any fiscal year, the Secretary shall—

"(I) with respect to any coastal state which, based on such calculations, would receive an amount which is less than 2 per centum of the amount appropriated for such fiscal year, increase the amount payable to such fiscal year, except that a coastal state appropriated amount; and

"(II) with respect to any coastal state which, in such fiscal year, would not receive a grant under paragraph (2), make a grant to such coastal state in an amount equal to 2 per centum of the total amount appropriated for making grants to all states under paragraph (2) in such fiscal year if any other coastal state in the same region will receive a grant under such paragraph in such fiscal year, except that a coastal state shall not receive a grant under this subclause unless the Secretary determines that it is being or will be impacted by outer Continental Shelf energy activity and that it will be able to expend or commit the proceeds of such grant in accordance with the purposes set forth in paragraph (5).

"(ii) For purposes of this subparagraph—

"(I) the states of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia, the Commonwealth of Puerto Rico, and the Virgin Islands (the Atlantic coastal states) shall constitute one 'region';

"(II) the states of Alabama, Florida, Louisiana, Mississippi, and Texas (the Gulf coastal states) shall constitute one 'region';

"(III) the states of California, Hawaii, Oregon, and Washington (the Pacific coastal states) shall constitute one 'region'; and

"(IV) the state of Alaska shall constitute one 'region'.

"(B) If, after the calculations required under subparagraph (A), the total amount of funds appropriated for making grants to coastal states in any fiscal year pursuant to this subsection is less than the total amount of grants payable to all coastal states in such fiscal year, there shall be deducted from the amount payable to each coastal state which will receive more than 2 per centum of the amount of funds so appropriated an amount equal to the product of—

"(i) the amount by which the total amount of grants payable to all coastal states in such fiscal year exceeds the total amount of funds appropriated for making such grants; multiplied by

"(ii) a fraction, the numerator of which is the amount of grants payable to such coastal state in such fiscal year reduced by an amount equal to 2 per centum of the total amount appropriated for such fiscal year and the denominator of which is the total amount of grants payable to coastal states which, in such fiscal year, will receive more than 2 per centum of the amount of funds so appropriated, reduced by an amount equal to the product of 2 per centum of the total amount appropriated for such fiscal year multiplied by the number of such coastal states.

"(C)(i) If, after the calculations required under subparagraph (B) for any fiscal year, any coastal state would receive an amount able to such coastal state to 37½ per ecntum the amount appropriated for such fiscal year, the Secretary shall reduce the amount payable to such coastal state to 37½ per centum of such appropriated amount.

"(ii) Any amount not payable to a coastal state in a fiscal year due to a reduction under clause (i) shall be payable proportionately to all coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year, except that in no event shall any coastal state receive more than 37½ per centum of such appropriated amount.

"(iii) For purposes of this subparagraph, the term 'payable proportionately' means payment in any fiscal year in accordance with the provisions of paragraph (2), except that in making calculations under such paragraph the Secretary shall only include those coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year.".

(c)(1) Paragraph (5)(B)(i) of such section 308(b) (as renumbered by subsection (b) of this section) is amended to read as follows:

"(i) necessary to provide new or improved public facilities and public services which are required as a result of outer Continental Shelf energy activity;".

(2) Paragraph (5)(B of such section 308(b) (as so renumbered) is amended by adding at the end thereof the following new sentence:

"The Secretary may, pursuant to criteria promulgated by rule, describe geographic areas in which public facilities and public services referred to in clause (i) shall be presumed to be required as a result of outer Continental Shelf energy activity for purposes of disbursing the proceeds of grants under this subsection.".

AUTHORIZATION OF APPROPRIATOINS

SEC. 502. Paragraph (3) of section 318(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(a)(3) is amended to read as follows:

"(3) such sums, not to exceed $50,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed $130,000,000 per fiscal year for each of the fiscal years occurring during the period beginning on October 1, 1978, and ending September 30, 1988, as may be necessary for grants under section 308(b);".

OUTER CONTINENTAL SHELF GRANTS

SEC. 503. (a) Section 308(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(c)) is amended—

(1) by inserting "(1)" immediately after "(c)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall make grants under this paragraph to any coastal state which the Secretary finds is likely to be affected by outer Continental Shelf energy activities. Such grants shall be used by such state to carry out its responsibilities under the Outer Continental Shelf Lands Act. The amount of any such grant shall not exceed 80 per centum of the cost of carrying out such responsibilities.".

(b) Section 308(a)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(a)(1)) is amended—

(1) in subparagraph (B) thereof, by striking out "subsection (c)" and inserting in lieu thereof "subsection (c)(1)"; and

(2) by redesignating subparagraphs (C) through (F), and any references thereto, as subparagraphs (D) through (G), respectively, and inserting immediately after subparagraph (B) the following new subparagraph:

"(C) grants, under subsection (c)(2), to coastal states to carry out their responsibilities under the Outer Continental Shelf Lands Act;".

(c) Section 308(h) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(h)) is amended by striking out "subsections (c)" each place it appears and inserting in lieu thereof "subsections (c)(1)".

(d) Section 308(k)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a(k)(1)) is amended by striking out "and (c)" and inserting in lieu thereof "and (c)(1)".

(e) Section 318(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456a is amended—

(1) by redesignating paragraphs (4) through (8), and all references thereto, as paragraphs (5) through (9), respectively; and

(2) by inserting immediately after paragraph (3) the following new paragraph:

"(4) such sums, not to exceed $5,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, as may be necessary for grants under section 308(c)(2), to remain available until expended;".

(f) Section 318(b) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(b)) is amended—

(1) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)(2)"; and

(2) by striking out "subsections (c)" and inserting in lieu thereof "subsections (c)(1)".

STATE MANAGEMENT PROGRAM

SEC. 504. Section 307(c)(3)(B)(ii) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)(ii)) is amended to read as follows:

"(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or".

TITLE VI—MISCELLANEOUS PROVISIONS

REVIEW OF SHUT-IN OR FLARING WELLS

SEC. 601. (a) In a report submitted within six months after the date of enactment of this Act, and his annual report thereafter, the Secretary of the Interior shall list all shut-in oil and gas wells and wells flaring natural gas on leases issued under the Outer Continental Shelf Lands Act. Each such report shall be submitted to the Comptroller General and shall indicate why each well is shut-in or flaring natural gas, and whether the Secretary intends to require production on such a shut-in well or order cessation flaring.

(b) Within six months after receipt of the Secretary's report, the Comptroller General shall review and evaluate the methodology used by the Secretary in allowing the wells to be shut-in or to flare natural gas and submit his findings and recommendations to the Congress.

SEC. 602. As soon as feasible and no later than ninety days after the date of enactment of this Act, and annually thereafter, the Secretary of the Interior shall submit a report or reports to the Congress describing

the extent, during the two-year period preceding such report, of delinquent royalty accounts under leases issued under any Act which regulates the development of oil and gas on Federal lands, and what new auditing, post-auditing, and accounting procedures have been adopted to assure accurate and timely payment of royalties and net profit shares. Such report or reports shall include any recommendations for corrective action which the Secretary of the Interior determines to be appropriate.

NATURAL GAS DISTRIBUTION

SEC. 603. (a) The purpose of this section is to encourage expanded participation by local distribution companies in acquisition of leases and development of natural gas resources on the Outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company.

(b) The Federal Energy Regulatory Commission shall, after opportunity for presentation of written and oral views, promulgate and publish in the Federal Register a statement of Commission policy which carries out the purpose of this section and sets forth the standards under which the Commission will consider applications for, and, as appropriate, issue certificates of public convenience and necessity, pursuant to section 7 of the Natural Gas Act, for the transportation in interstate commerce of natural gas, which is produced from a lease located on the Outer Continental Shelf and owned, in whole or in part, by a local distribution company, from such lease to the service area of such local distribution company. Such statement of policy shall specify the criteria, limitations, or requirements the Commission will apply in determining—

(1) whether the application of any local distribution company qualifies for consideration under the statement of policy; and

(2) whether the public convenience and necessity will be served by the issuance of the requested certificate of transportation.

Such statement of policy shall also set forth the terms or limitations on which the Commission may condition, pursuant to section 7 of the Natural Gas Act, the issuance of a certificate of transportation under such statement of policy. To the maximum extent practicable, such statement shall be promulgated and published within one year after the date of enactment of this section.

(c) For purposes of this section, the term—

(1) "local distribution company" means any person—

(A) engaged in the distribution of natural gas at retail, including any subsidiary or affiliate thereof engaged in the exploration and production of natural gas; and

(B) regulated, or operated as a public utility, by a State or local government or agency thereof;

(2) "interstate commerce" shall have the same meaning as such term has under section 2(7) of the Natural Gas Act; and

(3) "Commission" means the Federal Energy Regulatory Commission.

ANTIDISCRIMINATION PROVISIONS

SEC. 604. Each agency or department given responsibility for the promulgation or enforcement of regulations under this Act or the Outer Continental Shelf Lands Act shall take such affirmative action as deemed necessary to prohibit all unlawful employment practices and to assure that no person shall, on the grounds of race, creed, color, national origin or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act. The agency or department shall promulgate such rules as it deems necessary to carry out the purposes of this section, and any rules promulgated under this section, whether through agency and department provisions or rules, shall be similar to those established and in effect under title VI and title VII of the Civil Rights Act of 1964.

SUNSHINE IN GOVERNMENT

SEC. 605. (a) Each officer or employee of the Department of the Interior who—

(1) performs any function or duty under this Act or the Outer Continental Shelf Lands Act, as amended by this Act; and

(2) has any known financial interest in any person who (A) applies for or receives any permit or lease under, or (B) is otherwise subject to the provisions of this Act or the Outer Continental Shelf Lands Act,

shall, beginning on February 1, 1979, annually file with the Secretary of the Interior a written statement concerning all such interests held by such officer or employee during the preceding calendar year. Such statement shall be available to the public.

(b) The Secretary of the Interior shall—

(1) within ninety days after the date of enactment of this Act—

(A) define the term "known financial interest" for purposes of subsection (a) of this section; and

(B) establish the methods by which the requirement to file written statements specified in subsection (a) of this section will be monitored and enforced, including appropriate provisions for the filing by such officers and employees of such statements and the review by the Secretary of such statements; and

(2) report to the Congress on June 1 of each calendar year with respect to such disclosures and the actions taken in regard thereto during the preceding calendar year.

(c) In the rules prescribed in subsection (b) of this section, the Secretary may identify specific positions within the Department of the Interior which are of a nonregulatory or nonpolicymaking nature and provide that officers or employees occupying such positions shall be exempt from the requirements of this section.

(d) Any officer or employee who is subject to, and knowingly violates, this section shall be fined not more than $2,500 or imprisoned not more than one year, or both.

INVESTIGATION OF AVAILABILITY OF OIL AND NATURAL GAS FROM THE OUTER CONTINENTAL SHELF

SEC. 606. (a) The Congress hereby finds that—

(1) there is a serious lack of adequate basic energy information available to the Congress and the Secretary of the Interior with respect to the availability of oil and natural gas from the Outer Continental Shelf;

(2) there is currently an urgent need for such information;

(3) the existing collection of information by Federal departments and agencies relevant to the determination of the availability of such oil and natural gas is uncoordinated, is jurisdictionally limited in scope, and relies too heavily on unverified information from industry sources;

(4) adequate, reliable, and comprehensive information with respect to the availability of such oil and natural gas is essential to the national security of the United States; and

(5) this lack of adequate reserve data requires a reexamination of past data as well as the acquisition of adequate current data.

(b) The purpose of this section is to enable the Secretary of the Interior and the Congress to gain the best possible knowledge of the status of Outer Continental Shelf oil and natural gas reserves, resources, productive capacity, and production available to meet current and future energy supply emergencies, to gain accurate knowledge of the potential quantity of oil and natural gas resources which could be made available to meet such emergencies, and to aid in establishing energy pricing and conservation policies.

(c) The Secretary of the Interior shall conduct a continuing investigation, based on data and information which he determines has been adequately and independently audited and verified, for the purpose of determining the availability of all oil and natural gas produced or located on the Outer Continental Shelf.

(d) The investigation conducted pursuant to this section shall include, among other items—

(1)(A) a determination of the maximum attainable rate of production (MAR) of crude oil and natural gas from significant fields on the Outer Continental Shelf; and

(B) an analysis of whether the actual production has been less than the MAR and, if so, the reasons for the differences;

(2) an estimate of the total discovered crude oil and natural gas reserves by fields (including proved and indicated reserves) and undiscovered crude oil and natural gas resources (including hypothetical and speculative resources) of the Outer Continental Shelf;

(3) the relationship of any and all such information to the requirements of conservation, industry, commerce, and the national defense; and

(4) an independent evaluation of trade association procedures for estimating Outer Continental Shelf reserves, ultimate recovery, and productive capacity for years in which trade associations made such estimates. In order to provide maximum opportunity for evaluation and continuity, the Secretary shall obtain all the available data and other records, including a description of the methodology and estimating procedures, which the trade associations used in compiling their data with respect to the reserves.

(e) The Secretary shall, not later than one year after the date of enactment of this section, submit an initial report to the Congress. The initial report shall include cost estimates for the separate components of the continuing investigation and a time schedule for meeting all of its specifications. The schedule shall provide for producing all the information required in subsections (d)(1)(A), (d)(2), and (d)(3) of this section on the day following the first complete calendar year after such date of enactment, and every two years thereafter. The Secretary shall make separate reports on the data acquired pursuant to subsection (d)(4) of this section as follows:

(1) Within six months after the date of enactment of this section, a report on the acquisition and details of trade association data and information.

(2) Within twelve months after submission of the report, required by subsection (e)(1) of this section, an evaluation of the trade association materials.

(3) Within twelve months after submission of the report required by paragraph (2) of this subsection, a report on the relationship between trade association data and the new data collected under this section.

(f) The Secretary of the Interior shall consult with the Federal Trade Commission regarding categories of information acquired pursuant to this section. Notwithstanding any other provision of law, the Secretary of the Interior shall, upon request of the Federal Trade Commission, make available to such Commission any information acquired under this section.

(g) For purposes of this section, the term—

(1) "maximum attainable rate of production" or "MAR" means the maximum rate of production of crude oil and natural gas

which may be produced under actual operating conditions without loss of ultimate recovery of crude oil and natural gas; and

(2) "Outer Continental Shelf" has the meaning given such term in section 2(a) of the Outer Continental Shelf Lands Act.

RECOMMENDATIONS FOR TRAINING PROGRAM

SEC. 607. Not later than ninety days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall prepare and submit to the Congress a report which sets forth the recommendations of the Secretary for a program to assure that any individual—

(1) who is employed on any artificial island, installation, or other device located on the Outer Continental Shelf; and

(2) who, as part of such employment, operates, or supervises the operation of pollution-prevention equipment,

is properly trained to operate, or supervise the operation of, such equipment, as the case may be.

RELATIONSHIP TO EXISTING LAW

SEC. 608. (a) Except as otherwise expressly provided in this Act, nothing in this Act shall be construed to amend, modify, or repeal any provision of the Coastal Zone Management Act of 1972, the National Environmental Policy Act of 1969, the Mining and Mineral Policy Act of 1970, or any other Act.

(b) Nothing in this Act or any amendment made by this Act to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) or any other Act shall be construed to affect or modify the provisions of the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) which provide for the transferring and vesting of functions to and in the Secretary of Energy or any component of the Department of Energy.

And the House agree to the same.

JOHN M. MURPHY,
MO UDALL,
JOSHUA EILBERG,
GERRY STUDDS,
BILL HUGHES,
GEO. MILLER,
CHRISTOPHER J. DODD,
JOHN F. SEILBERLING,
HAMILTON FISH, JR.,
EDWIN B. FORSYTHE,
DON YOUNG,
JOHN D. DINGELL,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
J. BENNETT JOHNSTON,
JAMES ABOUREZK,
DALE BUMPERS,
CLIFFORD P. HANSEN,
JAMES A. MCCLURE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 9) to establish a policy for the management of oil and natural gas in the Outer Continental Shelf; to protect the marine and coastal environment; to amend the Outer Continental Shelf Lands Act; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment.

The provisions of the Senate bill and the House amendment considered by the committee on conference were based on identical bills introduced in the opening days of the 95th Congress. These bills were thereafter amended by the House Ad Hoc Select Committee on the Outer Continental Shelf and the Senate Committee on Energy and Natural Resources and then by the full House and Senate. To fully inform the House and the Senate as to the effect of the amendment contained in the accompanying conference report, the Managers will set forth, with the exception of certain technical and conforming changes, an explanation of all differences and the resolution of the differences, section by section.

SECTION-BY-SECTION DISCUSSION

TITLE I—FINDINGS AND PURPOSES

Section 101—Findings

This section follows provisions in both the Senate bill and the House amendment in setting out a number of findings about the current and future energy supply situation, and the potential role of the oil and gas resources of the Outer Continental Shelf (OCS), the intent of which are clear.

The House amendment contains a finding that OCS lands and resources are public property held in trust. The Senate bill contains no such provision. The House receded to the Senate and the conference report contains no such provision.

Findings in the House amendment pointed out that OCS impacts and policies and programs specifically apply to and impact on States and on local governments. The Senate bill does not include any specific language as to local governments. The conference report incorporates a modified version of the House amendment. First, finding (10) recognizes that there is a possibility of adverse impacts on States and on local government units within States. Finding (11) provides that affected local governments are to have access to planning information and to make comments on decisions, but through States. States are to work in close cooperation with affected local governments to ensure such access and input.

The change is the first of several that the Managers made as to the involvement of local governments in OCS activities and decision-making. Other changes will be explained as they arise in this discussion. In general, it is intended that local governments are generally to act through their State government representatives; that data and recommendations are to be forwarded to and by local governments through State governments. Which local governments are to be considered affected will be determined by the Governors of affected States. In addition, the Managers intend that there is to be no independent basis for legal action by a local government unit against activities under this Act, or actions pursuant to this Act, because of a dispute with a State government as to whether they are "affected" and regarding any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

The conference report includes as a finding (14), language in the Senate bill not contained in the House amendment, which details the need to develop resources in light of long range energy needs and adequate protection of renewable resources. In addition, the conference report includes as a finding (15) language in the Senate bill, not contained in the House amendment, which states that funds should be made available for damages to commercial fishing vessels and gear.

Section 102—Purposes

This section follows provisions in both the Senate bill and House amendments stating the purposes of the Act, the intent of which is clear.

Purpose number (1) follows the Senate bill and provides that the policies and procedures for managing OCS resources are those "which are intended to result in expedited exploration and development of the area." The House amendment contains no such language. The conference report thereby emphasizes the need for the expeditious yet safe exploration and development of the Outer Continental Shelf.

The House amendment specifically refers to local governments in purposes (4), (5), and (6). The Senate bill does not include such references in these provisions. The conference report adopted a modified version of the House amendment, which makes it clear, as noted in the discussion on Section 101, that the purposes of the Act are to assist and involve local governments, but only "through States".

The Senate bill includes a purpose (10) to establish a fishermen's fund to compensate for damages to commercial fishing vessels and gear, resulting from Outer Continental Shelf activities. The House amendment contains no such explicit purpose, but does later provide for the establishment of such a fund. The conference report includes the referenced purpose of the Senate bill calling for the establishment of a Fishermen's Contingency Fund.

TITLE II—AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT

This title contains a series of amendments to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331–9) (OCS Act).

Section 201—Definitions

Both the Senate bill and House amendment, in similar language, provide definitions for use throughout the bill. The conference report resolves the minor differences between the two versions and amends section 2 of the OCS Act.

New definition of "Secretary"—Section 2(b)

The House amendment changes the definition of "Secretary" to insure applicability not only to the Secretary of the Interior but to the Secretary of Energy or the Federal Energy Regulatory Commission, where appropriate, as certain functions under the OCS Act were transferred to them pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) (DOE Act). The Senate bill contains no such language. The conference report adopts the House definition of the term "Secretary". In addition, the conference report adopts specific language in Section 608(b) to make it explicit that the passage of this Act is not to modify provisions of the DOE Act transferring authority or functions.

The Managers recognize the need for a new definition for the term "Secretary" in order to maintain the responsibilities of the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) in light of the enactment of the Department of Energy Organization Act (P.L. 95–91).

Specifically, under section 302(b), transferred to the Secretary of Energy are the "functions of the Secretary of the Interior to promulgate regulations under the Outer Continental Shelf Lands Act, . . . which relate to the

"(1) fostering of competition for Federal leases (including, but not limited to, prohibition on bidding for development rights by certain types of joint ventures);

"(2) implementation of alternative bidding systems authorized for the award of Federal leases;

"(3) establishment of diligence requirements for operations conducted on Federal leases (including, but not limited to, procedures relating to the granting or ordering by the Secretary of the Interior of suspension of operations or production as they relate to such requirements);

"(4) setting rates of production for Federal leases; and

"(5) specifying the procedures, terms, and conditions for the acquisition and disposition of Federal royalty interests taken in kind."

In addition the DOE Act also provides that functions of the Secretary of the Interior to establish production rates for all Federal leases are to be transferred to the Secretary of Energy.

The DOE Act also established a leasing liaison committee composed of employees of the Department of Energy and the Department of Interior to provide an institutional coordinating mechanism to supplement and to assist in alternative interdepartmental coordination efforts regarding energy mineral leasing. In addition, the DOE Act directs the Secretary of Energy to consult with the Secretary of the Interior during preparation of regulations relating to certain provisions in Federal leases. Furthermore, the DOE Act directs the Secretary of Interior to afford the Secretary of Energy not less than 30 days prior to granting a Federal lease to disapprove any term or condition of such lease which relates to a matter within the Secretary of Energy's area of responsibility.

Finally, the DOE Act provides that the Department of the Interior shall be the lead agency for purposes of preparation of an environmental impact statement as required by Section 102(2)(C) of the National Environmental Policy Act for any action with respect to Federal energy mineral leases, unless the action involves matters within the exclusive authority of the Secretary of Energy.

In addition to this new definition of "Secretary" and conforming language in section 608(b), the Managers have also made certain changes throughout the bill, and will provide comments in this explanation to more specificially indicate the appropriate delegation, under the DOE Act, of responsibilities between the Secretary of the Interior, the Federal Energy Regulatory Commission, and the Secretary of Energy.

New definition of "Lease"—Section 2(c)

The House amendment defines "lease" to authorize exploration, development, and production of "geothermal steam". The Senate bill authorizes leases for "geothermal resources." There are also punctuation and structural differences between the two provisions defining "lease". The conference report follows the House amendment by changing the term, "mineral lease," in the OCS Act of 1953, to "lease" so as to more properly describe the authorization for the exploration, development and production of oil and gas or other mineral resources; and by adding a new definition of "minerals" to make explicit that the Secretary of the Interior has the power to lease geothermal resources on the OCS.

Additional definitions

The conference report retains new definitions included in both the Senate bill and the House amendment for the terms "coastal zone", "affected State", "marine environment", "coastal environment", "human environment", "Governor", "exploration", "development", "production", "antitrust law", "fair market value", "major Federal action", and "minerals."

In the definition of "affected State", the Managers intend that the "Secretary," determining applicability of this provision in certain circumstances, is to be the Secretary of the Interior. In the definition of "affected States", the House amendment adds "directly to such State" to relate to oil transported. The Senate bill contains no such phrase. The conference report follows the House amendment, so that oil indirectly transported would not, in and of itself, qualify a State for "affected State" status.

In the definition of "human environment" the House amendment refers to "esthetic" components and applies to the "recreation, air and water" of those areas affected. The Senate bill does not include such references. The conference report is the same as the Senate bill.

In the definition of "exploration" the House amendment describes drilling "on or off geological structures", while the Senate bill describes such drilling as "on or off known geological structures". The conference report follows the Senate bill, adopting the phrase "on or off known geological structures".

The definition of "exploration" and "development" of the House amendment discusses discovery "in paying quantities", while the Senate bill refers to discovery "in commercial quantities". On this technical difference, the conference report follows the House amendment, employing the phrase, "in paying quantities"—presently used in OCS practice. Also the House amendment defines "development" to include "pipeline routing". The Senate bill contains no such reference. The conference report adopts the language of the House amendment.

In the definition of "major Federal action" as to actions by the Secretary calling into operation the provisions of the National Environmental Policy Act (NEPA), "Secretary" means the Secretary of the Interior.

Regarding the definition of the term "fair market value", the Managers intend that the determination by the Secretary of the Interior of fair market value is to be undertaken in consultation with the Secretary of Energy. This term, as defined in subsection (o), is only used in this Act in relation to the purchase and distribution of oil and gas under section 27.

The House amendment defines "frontier area" for the purpose of applying certain proedures required by the OCS Amendments. The Senate bill contains no such definition. The conference report follows the Senate bill and contains no such definition. The inapplicability of provisions of this Act to specific areas are specifically detailed in the conference report and will be noted in this discussion as appropriate.

The House amendment defines "minerals" to include all kinds of resources. The Senate bill contains no such provision. This change in the House amendment has resulted in a number of technical changes throughout the House amendment, deleting references to oil, natural gas, and geothermal resources, which are contained in the Senate bill. The Conference report is the same as the House amendment, defining "minerals".

The Managers recognize that "geopressured—geothermal and associated resources" included in the new definition of "minerals", apply to such combined resources as methane, heat and kinetic energy and that these resources may sometimes be developed with other hydrocarbons. Much progress is expected to be made in developing the technology to produce and utilize the resources. The Managers therefore intend that the Secretary have the flexibility to issue leases for geopressured—geothermal and associated resources either alone or in combination with oil and gas leases.

Section 202—National policy for the Outer Continental Shelf

Section 202 amends section 3 of the OCS Act, originally a jurisdictional provision, and makes it into a declaration of national policy. The original provisions of section 3, providing that the subsoil and seabed of the OCS belong to the United States and that all existing rights of navigation and fishing in OCS waters are to be continued, are restated.

Policy statements are added to emphasize that the ACS is held for all the people, and its resources should be made available for expeditious and orderly development subject to environmental safeguards, and with due consideration to affected States.

The House amendment as to adverse effects policy (4)(A), contains reference to impacts on "affected local governments". The House amendment as to policy (4)(B), on participation, contains references to "affected local governments". The House amendment as to purpose (5), dealing with recognition of local rights and responsibilities, includes specifically "local governments". The Senate bill contains no such references. In all of the above-mentioned policy statements, the conference report adopted a modified version of the House amendment.

Policies for assistance, participation, and consideration are to involve local governments "through States", and "where appropriate." As the discussion in the explanation on references to local governments in the findings (Section 101) noted, such references to local governments' involvement in this Act provide no independent basis for legal action by a local government unit against activities under this Act, or actions pursuant to this Act, because of a dispute with a State government as to whether they are "affected", or regarding any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

Section 203—Laws applicable to the Outer Continental Shelf

Both the Senate bill and the House amendment amend section 4(a)(1) of the OCS Act of 1953 by changing the term "fixed structures" to "and all installations and other devices permanently or temporarily attached to the seabed" and making other technical changes. The Conference report retains this language.

The intent of the Managers in amending section 4(a) of the 1953 OCS Act is technical and perfecting and is meant to restate and clarify and not change existing law. Under the conference report language, Federal law is to be applicable to all activities on all devices in contact with the seabed for exploration, development, and production.

One particular aspect of federal law, and its applicability to OCS operations, was specifically addressed by the Conferees—application of United States customs laws.

The Conferees were informed that the United States Customs Service has interpreted existing section 4(a)(1) to mean that foreign built production platforms are not subject to import duties when they are brought into OCS waters and attached to the seabed. Specifically, the Customs Service has stated that such platforms are not actually being imported to the United States until they are placed on the shelf and need not pay customs duties.* The Conferees reject this interpretation and believe it is contrary to the intent of Congress in enacting the 1953 Act. Moreover, to make it explicit that this interpretation should not be continued to be given effect, the Conferees state that one of the purposes of this change in 4(a)(1) is to make it clear that U.S. custom duties *are* to apply to platforms, built overseas, and brought into OCS waters for placement so that it can be used to develop and produce OCS minerals.

Under Section 4(a)(1) of the conference report, federal laws and "civil and political jurisdiction of the United States" are applicable to the subsoil and seabed of the OCS, to all artificial islands and "all installations and other devices permanently or temporarily attached to the seabed, which may be

*The Customs Service indicates that once the platforms are in place, machinery, equipment, and other items placed on the structure are subject to duties. Of course, the Conferees believe this is, and continues to be, the law.

erected thereon" to explore, develop, produce or transport OCS mineral resources. This customs laws apply—as within the "political and civil jurisdiction" of the United States—to platforms constructed outside the United States and brought into OCS waters—as being "installations and other devices . . . which may be erected thereon".

Section 4(a)(2) of the OCS Act provides that when federal law or regulations are not applicable, the laws of adjacent states are to apply "to that portion of the subsoil and seabed of the outer Continental Shelf, and artificial islands and fixed structures erected thereon." Considerable case law has developed as to the effect of this provision. The House amendment includes a paragraph (3), changing 4(a)(2) to utilize the conforming "islands and installations" language. The intent is only technical. Some concern was raised, however, that a change might be interpreted as being substantive. The conference report therefore follows the Senate bill and makes no change in Section 4(a)(2).

The Senate bill adds a new section 4(a)(2)(B)—and conforming changes—to provide for the establishment of international boundaries dispute settlement procedures. The House amendment contains no such language. The conference report includes the boundary dispute settlement provision of the Senate bill.

The conference report also adopted a conforming change to section 4(c) of the 1953 OCS Act. Section 4(c) describes the application of the Longshoremen's and Harbor Worker's Compensation Act and makes reference to section 4(b) of the original 1953 Act. Section 4(b), providing the jurisdictional bases for cases and controversies, has been deleted and an analogous provision adopted as part of a comprehensive section 23 on "Citizen Suits, Court Jurisdiction, and Judicial Review."

It was therefore necessary to more specifically describe the applicability of the Longshoremen's Act to OCS activities. This amendment involves no change in existing law. It was not the intent of the managers to alter in any way the existing coverage of the Longshoremens' Act, nor of other remedies that may be available for injury or death.

Section 4(f) of the Outer Continental Shelf Lands Act of 1953 provides that the authority of the Corps of Engineers to prevent obstructions to navigation is extended to artificial islands and fixed structures located on the Outer Continental Shelf. This authority has been used by the Corps of Engineers to regulate the construction and location of such things as artificial fishing reefs, radio towers, and a proposed gambling casino which was to be constructed on reefs. It also applies to structures erected for the purpose of exploring for and transporting resources, such as oil drilling rigs.

As indicated above, Section 203 of the Conference report amends section 4 by changing the phrase "artificial islands and fixed structures" in subsection (a) to "artificial islands and all installations and other devices permanently or temporarily attached to the seabed."

In addition, a conforming change to old section 4(b), the new Section 4(f), relating to the authority of the Corps of Engineers, describes it as applying to artificial islands, installations and other devices referred to in subsection (a).

Again, these changes were technical only and there was no intent to change present law. The existing authority of the Corps of Engineers, in subsection 4(f), applies to all artificial islands and fixed structures on the Outer Continental Shelf, whether or not they are erected for the purpose of exploring for, developing, removing, and transporting resources therefrom. The amendment to subsection 4(f) is not intended to change the scope of this authority, but merely to conform the description of the types of structures, no matter what their purpose, to the types of structures listed in subsection (a), namely all installations and other devices permanently or temporarily attached to the seabed. It is not the intention of the conferees to limit the authority of the Corps of Engineers as to structures used for the exploration, development, removal, and transportation of resources.

The House amendment adds a new paragraph 4(e)(3), for agreements by owners or operators of foreign vessels working on the outer Continental Shelf, providing that such vessels are to conform to the laws of the United States and applicable regulations. The Senate bill contains no such provision. The House receded and the conference report contains no such provision. (The conference report does provide in a separate section 30, discussed later, certain requirements for foreign vessels).

Section 204—Outer Continental Shelf Exploration and Development Administration

This section amends section 5 of the Outer Continental Shelf Lands Act of 1953 by providing detailed requirements for the administration of leasing on the OCS.

General regulatory authority—Section 5(a)

Subsection (a) of section 5 is now to provide that leasing be administered by the Secretary of the Interior, the Secretary of Energy, and the Federal Energy Regulatory Commission, in accordance with their respective authority (see discussion on Section 2(b)), who are to promulgate all necessary regulations to carry out their responsibilities. These regulations are to be applicable to any lease in effect at the date of promulgation, as well as to any lease to be let in the future. Of course, the appropriate "Secretary" is not required to repromulgate regulations already consistent with the 1978 amendments. He may retain present appropriate and effective rules.

In this section, "Secretary" means the appropriate Secretary with responsibility to promulgate regulations; the Secretary of the Interior, the Secretary of Energy, or the FERC.

Minor grammatical and structural differences between amended section 5(a) in the House amendment and the Senate bill have been reconciled.

The original subsection (a) of section 5 of the OCS Act granted very broad authority, with few guidelines, to promulgate regulations. The amended subsection, while not limiting the generality of the power granted to promulgate any appropriate regulation, does provide statutory guidelines and requirements for certain types of regulations, and together with the requirements of other subsections provides a mechanism for coordinated bureaucratic action.

The Senate bill specifically provides that regulations apply "as of the date of their promulgation". The House amendment contains no such specific language. The conference report provides that they apply "as of their effective date," to all operations conducted under a lease or permit issued or maintained under this Act, thus explicitly adopting the intent of both versions.

The House amendment provides that in formulating and promulgating regulations on matters which they affect competition, the views of the Attorney General and the Federal Trade Commission are to be requested and then to by given "due consideration". The Senate bill provides for such requests and consideration only as to the views of the Attorney General. The conference report adopts the Senate language but specifies that in reviewing regulations, and preparing comments, the Attorney General must consult with the Federal Trade Commission.

Accordingly, the Secretary is only mandated by this section to request the opinions of the Attorney General regarding competition matters.

Of course, under the general authority in section 5(a) for the proper promulgation of appropriate regulations, the Secretary may consult with any other appropriate department or agency, including the Federal Trade Commission.

In addition, the Conferees expect that the Secretary give consideration to the views of other federal agencies (such as the Federal Trade Commission) with respect to the competitive impact of the proposed regulations. The Secretary should make available to those agencies whatever information or data the agencies require to analyze adequately the competitive impact of the regulations.

After the Secretary makes a request as to advice on regulations, the Attorney General must consult with the Federal Trade Commission regarding competition matters. He should do so, of course, in an expeditious manner, to assure FTC input and no delays in the regulatory adoption procedure.

The Attorney General may then submit any views or recommendations to the Secretary, but he is not required to do so. Any recommendations or views of the Attorney General, after consultation with the Federal Trade Commission, must be submitted expeditiously. In accordance with administrative procedures concerning *all* regulations, views must be submitted during the appropriate comment period. If no views or recommendations are submitted with the appropriate time frame, the Secretary is free to promulgate regulations.

No other agency, including the Federal Trade Commission, is barred from independently submitting views or recommendations to the Secretary.

To allow thorough and adequate consideration of any views and recommendations, any views or recommendations must set forth the reasons, including the pertinent factual and policy considerations and legal precedents, if any, which led to such views or recommendations. The failure of the Attorney General to submit views, or the Secretary to accept recommendations, are not an independent basis for a cause of action by a third party.

Suspension—Section 5(l)(1)

The conference report adopts the almost identical provision in both the Senate bill and House amendment, dealing with suspensions of operations or activities.

The Senate bill provides for suspension at the request of lessee, "in the interest of conservation". The House amendment provides for such requested suspensions when "in the national interest". The conference report is the same as the House amendment—thus specifically granting a broader basis for a grant of a requested suspension, including allowing the grant of requested suspensions to facilitate timely development of a lease.

The House amendment allows suspension at the request of lessee "to allow for the construction or negotiation for use of transportation facilities". The Senate bill provides for suspension at the request of a lessee "to allow for the unavailability of transportation facilities". The conference report is the same as the House amendment.

The conference report provides that the Secretary of Interior, after authorizing a suspension, either at the request of a lessee or, on his own, because of a threat of "serious, irreparable or immediate harm," shall extend a lease equivalent to the period of suspension unless the basis for the suspension is the result of gross negligence, or willful violation of applicable regulations or lease or permit terms. In determining whether the Secretary of Interior should deny an extension because of gross negligence, in complying with, or willful violation of, diligence requirements, he should solicit and consider

written comments from the Secretary of Energy.

The present requirement that leases are to be generally extended so long as oil and gas is being produced is retained and clarified.

Cancellation—Section 5(a)(2)

The Conference report adopts a comprehensive provision, based on similar language in the Senate bill and House amendment, authorizing cancellation of a lease or permit, in appropriate circumstances, because of probable serious harm or damage.

The Senate bill in paragraph 5(a)(2) provides that cancellation is not to occur until there has been suspension for a five-year period, or a lesser period at the request of a lessee. The House amendment contains no such provision. The conference report follows the Senate bill, providing for cancellation only after a five-year suspension period, or a lesser period at the request of a lessee.

The Senate bill contains detailed provisions for the determination of compensation after cancellation with no fault involved—as the lesser of (1) fair value of rights or (2) excess of expenses over revenues. The House amendment provides that such cancellation "shall not foreclose any claim for compensation as may be required" by the Constitution or law. The House receded and the conference report language is the same as the Senate bill, providing for a two-step formula for new leases and a one-step formula—fair value of rights—for old leases. Thus, under 5(a)(2), explicit authority is given to the Secretary to cancel a lease; and once a cancellation without fault occurs, a lessee is entitled to compensation according to the appropriate formula.

In deciding whether to order a cancellation, the Secretary of the Interior is to solicit and consider written comments from the Secretary of Energy as to the advantages and disadvantages of cancellation as against the advantages and disadvantages of development production.

General Provisions on Regulations

The Senate bill contains provisions requiring regulations for the sale of royalty, net profit or purchased oil and gas, for use of new bidding systems and for citizens suits. The House amendment contains no such requirements in this section. The Senate receded and the conference report does not include these provisions in this section. Specific requirements are included later in the conference substitute in those sections dealing with royalty or purchased oil and gas, citizen suits, and bidding systems.

Clean Air

The House amendment requires regulations for compliance with national ambient air quality standards and requirements (8), and for the establishment of air quality standards for OCS operations (9). The Senate bill contains no such provisions. The conference report does not adopt a paragraph (9) but does include a revised paragraph (8), of section 5(a) of the House amendment, to provide for regulations to be promulgated by the Secretary of Interior for compliance with national ambient air quality standards pursuant to the Clean Air Act, to the extent that the activities under the OCS Act significantly affect the air quality of a State.

The Secretary of Interior is to promulgate regulations implementing this paragraph. The standards of applicability the Conferees intended the Secretary to incorporate in such regulations is that when a determination is made that offshore operations may have or are having a significant effect on the air quality of an adjacent onshore area, and may prevent or are preventing the attainment or maintenance of the ambient air quality standards of such area, regulations are to be promulgated to assure that offshore operations conducted pursuant to this Act do not prevent the attainment or maintenance of those standards. The terms "may have" and "may prevent" refer to the Secretarial judgment regarding future consideration of exploration plans, or development and production plans, in which the potential for "significant effect" is analyzed prior to approval and thus commencement of the proposed activities.

The Conferees agreed that if an approved State implementation plan has ambient air quality standards which are more stringent than the national ambient air quality standards, the Secretary of the Interior shall, with appropriate regulations, assure that offshore operations conducted pursuant to this Act do not prevent the attainment of those State standards, if the air quality of that State is significantly affected by such offshore operations. These State standards and any national standards would not, however, apply to the quality of air above the OCS itself, or to OCS activities located in other parts of the country.

The Conferees' intent was that the regulations promulgated by the Secretary not generally require that the air mass above the OCS itself be brought into compliance with national or state ambient air quality standards but that regulations might be appropriate for the air above or near an artificial installation or other device (platform), so that emissions from such source is controlled to prevent a significant effect on the air quality of an adjacent onshore area.

Other provisions in the conference report provide that exploration plans, and development and production plans, are to comply with any regulations promulgated pursuant to section 5(a)(8) of the amended OCS Act. Thus, in considering approval, modifications, and disapproval of a submitted exploration plan, or a development and production plan, the Secretary is to ensure compliance with any applicable regulations promulgated, pursuant to section 5(a)(8).

The Conferees do not intend that the application of section 5(a)(8) regulations will interfere with the time periods provided in the conference report for review and approval of explorations plans, and development and production plans. The Conferees expect that these regulations will be implemented consistently with the timetables established by these amendments.

The Managers were aware that on April 13, 1978, the Environmental Protection Agency made a Notice of Determination that the Clean Air Act, as amended (42 U.S.C. Sec. 7401 et seq.) and regulations promulgated thereunder, apply to activities on the outer Continental Shelf when such activities could affect the air quality of an adjacent State.

By their adoption of requirements for regulations for compliance with air quality standards, the Conferees do not intend to supersede the Clean Air Act or the responsibilities of the EPA Administrator. There is no intent to affect, extend or reduce, whatever present authority the Environmental Protection Agency has in applying and enforcing the Clean Air Act, including the use of EPA's permitting authority.

Specifically, the Conferees intend that the Secretary of Interior shall be guided by the Clean Air Act, in consultation with the Environmental Protection Agency, in promulgating regulations to maintain consistency with ambient air quality standards, and its procedures establishing the technological means for controlling air emissions.

It is expected that some activities may not have significant effects because of distance from shore or meteorological conditions that blow the pollution out to sea. If an OCS activity or facility is determined to have no such significant effect, when, for example, it is located many miles from the coast, the requirements of the regulations under section 5(a)(8) would not apply.

Pipeline Rights of Way

The original OCS Act of 1953 provides in Section 5(e) for rights of way for pipeline purposes for the transportation of minerals. The conference report adopts certain technical changes to this subsection from the House amendment and Senate bill.

The House amendment provides in section (5)(e) for regulations to be prescribed by "the Secretary (of Interior), or where appropriate, the Secretary of Transportation". The Senate provides for regulations and conditions as may be prescribed by "the Secretary (of Interior) . . . not inconsistent with regulations promulgated by the Secretary of Transportation under the Natural Gas Pineline Safety Act of 1968". The conference report is the same as the House amendment.

The House amendment provides in section (5)(e) for regulations and conditions "including (as provided in section 21(b) of this Act) utilization of the best available and safest technology for pipeline burial and other procedures." The Senate bill provides for conditions and regulations "including assuring maximum environmental protection by utilization of the best available and safest technology, including the safest practices for pipeline burial". The conference report follows the Senate bill, with the addition of the phrase "(as provided in section 21(b) of this Act)" from the House amendment. Section 21(b), as will be discussed later, notes that more than one technology may be acceptable as "the best available and safest".

To emphasize the point, a technical change was adopted to make "technology" plural.

The House amendment also provides for nondiscriminatory pipeline transportation or purchase as to oil or natural gas "produced from such lands in the vicinity of the pipeline". The Senate bill contains no such production area reference. The conference report follows the House amendment.

A number of technical changes were made in 5(e) to conform the subsection to present law. The "Federal Power Commission" is changed to "Federal Energy Regulatory Commission". The phrases "in the case of gas and the Interstate Commerce Commission" and "in the case of oil" were stricken. And the "Administrator of the Federal Energy Administration" was changed to the "Secretary of Energy".

Pipeline Competition

The Senate bill alone contains a subsection (f) detailing the competitive principles for pipeline transportation of OCS oil and gas. The provision in the Senate bill is intended to (1) prevent "bottleneck monopolies" and other anti-competitive situations involving OCS pipelines and (2) promote efficiency and sound planning involving pipeline sizing. The House amendment contains no such provision. The conference report adopts the provision of the Senate bill with an amendment. The agreed-to subsection (f) provides for open and nondiscriminatory access to apply to all pipelines and is a reaffirmation and strengthening of subsection 5(e), which provides for the transport or purchase of all OCS oil and gas "without discrimination."

In addition, in the case of new pipelines, except in the Gulf of Mexico and Santa Barbara Channel, the Secretary is given the discretion to order an expansion of throughput capacity. However prior to doing so: (1) there must be a specific request by a shipper, owner or non-owner; (2) there must be a full hearing after due notice; (3) there must be a finding that expansion is within technological limits and economic feasibility.

If such expansion is ordered, then the requesting shipper must be responsible for bearing the proportionate share of costs and risks related to the expansion.

The Conferees recognize that there may be circumstances in which it would be ap-

propriate and fair to all concerned for the company requesting expansion of a pipeline's throughput capacity to pay the pipeline owner *both* (1) a proportionate share of the incremental cost associated with the expansion, and (2) a proportionate share of the current value of the pipeline.

If, for instance, an expenditure of $14 million for new pumps would double the throughput capacity of a pipeline having a current value of $200 million, it might be entirely fair and reasonable under all the circumstances—especially those involving the promotion of financial incentives and competition and the protection of investments—for the company requesting the expansion to pay a share of the $14 million *and* a share of the $200 million. If the requesting company had to pay only a share of the $14 million, it might be able to take full advantage of the expansion without having to bear any of the cost or risk previously assumed by the pipeline owner.

The language agreed to by the Conferees, therefore, authorizes a determination to be made whether the requesting company should pay the pipeline owner a portion of the current value in addition to a portion of the incremental cost of expansion.

Whenever it is determined that the requesting company should bear a proportionate share of the costs and risks of the pipeline itself and not just the expansion, the share should not exceed the expected percentage of the company's average throughput. In addition, the price of such share should be consistent with rate base and rate of return regulations, and payment in appropriate circumstances, may confer to the requesting company an equivalent portion of the ownership and control of the pipeline.

The Conferees were explicit that expansion may not be ordered under this section for any pipeline operating in a developed area (the Gulf of Mexico and the Santa Barbara Channel) and for any pipeline authorized prior to the date of enactment of this bill.

The Conferees believe that provisions for non-discriminatory access and expansion of capacity upon request are ordinarily not appropriate for feeder lines to a facility where oil and gas are first collected, or where oil or gas are first separated, dehydrated, or otherwise processed. Thus, in most cases, such lines would be exempted from the requirements of this subsection. Such exemption, however, is to occur only after a review and if necessary, a hearing, and then an appropriate order or regulation.

In conformity with present agency responsibility, this subsection provides that the application of competition principles are to be undertaken by the Department of Energy and FERC where appropriate. The discretionary decision of throughput expansion is to be made by FERC.

In implementing this subsection and applying competitive principles, the Secretary of Energy and the FERC are to consult with and give due consideration to the views of the Attorney General, who in turn is to consult with the Federal Trade Commission. Once again, in submitting his views, the Attorney General is to set forth the reasons for his views, and any recommendations, including the pertinent factual and policy considerations and legal precedents, if any. No independent cause of action is created by this consultation requirement. Therefore, the failure of the Attorney General to submit his views, or the insufficiency of the reasons given for his views and recommendations, are not to be an independent basis for a law suit. Furthermore, the Conferees do not intend to abridge any existing authority of any agency or department, including the Federal Trade Commission, to solicit or give comments as to this or any other provision of this bill or actions taken in accordance with such provisions. (See discussion in this statement of managers on section 5(a) as to Attorney General and Federal Trade Commission role, responsibilities and independent authority.)

Finally, as specifically stated in paragraph (4) nothing in this subsection on pipeline competition is intended to alter present authority, under any other provision of law, of any agency of the United States with respect to pipelines on or across the OCS.

Rates of Production

Both the House amendment and Senate bill provide for production of oil and gas at determined rates. Rates must be set that are consistent with any rule or order issued by the President in accordance with other laws. If no such rate or order has been issued, rates must be consistent with regulations established to assure maximum production as described in section 5(g)(2). The conference report adds a technical change, adding "of Energy" to make explicit that the reference to "Secretary" to promulgate regulations as to production rates in this provision means the "Secretary of Energy" in accordance with Section 302(b)(4) of the DOE Act.

The Senate subsection as to rates of production includes a paragraph (3) amending the Energy Policy and Conservation Act of 1975 to require the publication of final rules on the maximum efficient rate of production. The House amendment contains no such language. The conference report follows the House amendment, and paragraph (3) from the Senate bill was deleted.

Coordination of and Recommendations on OCS Activities

The House amendment contains a subsection providing for the coordination of activities of all Federal agencies by the Secretary of Interior, and for notification to the Secretary of Interior of all OCS related actions by any Federal department or agency. The Senate bill contains no such provisions. The Conferees adopted the House amendment with an amendment which provides that, in order to facilitate coordinated Federal action on OCS activities, the head of any Federal department or agency taking any action significantly affecting OCS activities is to notify the Secretary of the Interior of this action. The Secretary is thereafter to notify Governors of affected States. After such notification, the Secretary may recommend changes to the agency or department proposing such action.

The Governor of any State shall have the right to be notified of any action. However, no third party, including citizens, shall have the right to raise as a basis for legal action, the failure of the Governor to be notified. The head of the Federal departments or agencies which are to submit notification of an action to the Secretary can be compelled by the Secretary to comply with this coordination mandate. However, the failure of a department or agency to submit such information shall not be a basis for an independent cause of action by any third party. Furthermore, the failure of the Federal department or agency to accept any recommendations by the Secretary shall not be a basis for an independent cause of action by any third party.

The Secretary of Interior, by receiving notice and information on all actions affecting the OCS, will be able to evaluate the overall effect of any particular Federal decision on OCS policy. In addition, the Governor shall be able to look to one person—the Secretary—to receive information concerning any Federal Government action affecting OCS areas impacting on his jurisdiction.

Section 205—Revision of bidding and lease administration

New Bidding Systems

Section 205 amends section 8 of the OCS Lands Act by providing new bidding options and procedures.

The original OCS Lands Act of 1953 provides that leases are to be awarded to the highest responsible qualified bidder, through competitive and sealed bidding procedures, on the basis of a cash bonus, with a fixed royalty of no less than 12½ per centum, or on the basis of a royalty, at no less than 12½ per centum, and a fixed bonus. Subsection (a) of section 8 is amended to still require competitive, sealed bidding procedures and to still authorize bonus and royalty bids, but now also to authorize a number of new bidding systems.

Under this Act, and in accordance with the DOE Act, the Secretary of the Interior retains the power to issue leases. The Secretary of Energy is to retain responsibility for promulgating regulations implementing alternative bidding systems (see Section 302(b)(2) of the DOE Act). Both Secretaries are to continually consult with each other in accordance with Sections 303(b) and 303(c) of the DOE Act.

The House amendment provides in (a)(1) for regulations for the depositing of cash bids in an interest-bearing account and for earned interest to be paid to the Treasury when bids are accepted, and to unsuccessful bidders if bids are rejected. The Senate bill contains no such provision. The conference report follows the House amendment by providing for such regulations.

Both the Senate bill and the House amendment contained specific provisions authorizing variable royalty, variable net profit, fixed net profit, and work commitment bidding alternatives, but use different language and structure to do so. The conference report adopts the Senate bill language and form.

Both the Senate bill and House amendment authorize the use of nonenumerated alternative bidding systems or modifications of bidding systems specifically described.

The Senate bill provides that any non-enumerated system can only be used after having been submitted to Congress and then only if neither House passes a resolution of disapproval within 30 days. The House amendment simply provides that new bidding systems shall be promulgated by rule, after an opportunity for a hearing, and then transmitted to Congress. No provision for disapproval, specifically as to use of new bidding systems, by Congress is included in the House amendment. The conference report follows the Senate bill and contains a one House veto provision for non-enumerated bidding systems, as paragraph (a)(4).

Any such non-enumerated system or modification, while it can include any number of fixed terms, conditions, or parts, can only have one variable term, condition or part, which would be the basis for the bidding and selection of the successful bidder or bidders.

To comply and conform with the DOE Act, the conference substitute provides that it is the Secretary of Energy who is to submit any non-enumerated or modified bidding system to Congress but that it is the Secretary of Interior who is to conduct lease sales, using such bidding system, if not vetoed by either the House or Senate within the assessed time.

Both versions of S. 9 provide for deferment and installment payments of cash bonuses. The Senate bill provides that the final payment should be made no later than five years from the lease sale, or on the date of approval of development and production plan, whichever occurs first. To ensure nondilatory action, the House amendment provides in paragraph (a)(2) for final payment no later than five years from the date of the lease sale. The conference substitute is the same as the House amendment.

The Senate bill provides for the use of the so-called "dual leasing system" in the Outer Continental Shelf off of Alaska. The House amendment contains no such provision. The Senate receded and the conference report

contains no such provision. Hence, no authorization was granted for leasing just for exploration with exploration lessees sharing in the costs of exploration and receiving a share of revenues from the sales of subsequent development and production leases. It is expected, however, that as part of the requirements of this Section that there be a report on bidding options, there should be an evaluation of this so-called dual leasing option—its advisability, practicality, costs, benefits, and risk.

Use of Systems and Standards

The House amendment contains a provision specifically providing for establishment of previously unauthorized bidding systems, or modifications of such systems, only by rule, after an opportunity for a hearing. The Senate bill contains no such provision. The House receded and this provision is not specifically included in the conference report. The Conferees intended that implementation of the newly authorized system be in accordance with the requirements of this Act, the Administrative Procedures Act (APA) and other law. Specifically, section 5(a)(1) of this Act, as retained in the conference report, provides that competitive bidding regulations are to be "promulgated in advance" of any utilization. Such regulations are promulgated in accordance with requirements of the APA. In addition, section 302(b)(2) of the DOE Act provides authority for the Secretary of Energy to promulgate regulations for use of alternative bidding systems. Such regulations are promulgated in accordance with section 501 of the DOE Act. The Conferees expect the Secretary of Interior and the Secretary of Energy to continue to exercise their appropriate respective statutory responsibilities in using new bidding systems.

The House amendment contains a provision detailing the purposes and policies of the new bidding systems. The Senate bill contains no such provision, but a statement of purposes and policies was included in its committee report.

The Conferees agreed that an expression of purpose and policies was more appropriate for this statement than for the text of the OCS Act and therefore the conference report follows the Senate bill and contains no such provision.

The Conferees intend that in utilizing the new bidding alternatives, a variety of considerations should be taken into account, including, but not limited to: (i) providing a fair return to the Federal Government; (ii) increasing competition; (iii) assuring competent and safe operations; (iv) avoiding undue speculation; (v) avoiding unnecessary delays in exploration, development and production; (vi) discovering and recovering oil and gas; (vii) developing new oil and gas resources in an efficient and timely manner; and (viii) limiting administrative burdens on government and industry.

The House amendment contains provisions (1) generally authorizing the requiring of submission of bids based on more than one bidding system and (2) allowing for submission of bids on the basis of more than one bidding system, in order to establish statistical information. The Senate bill contains no such language. The conference report adopts the House language, with an amendment. The Secretary can use the authority of this subparagraph, and require submission of bids based on more than one system, but only for statistical purposes and can use the authority in bidding on not more than ten percent (10%) of all tracts offered each year.

The authority to require bidders to submit bids on the basis of more than one bidding system is to be utilized for the purposes of statistical information, and the actual system upon which a lease will be awarded is to be selected on a random basis. The Conferees note that the Secretary of Energy and the Secretary of the Interior maintain their respective responsibilities on alternative bidding systems in accordance with section 302(b)(2), and sections 303(a)-(c) of the DOE Act.

Mandate on Use of Bidding Systems

The Senate bill provides that during each of the next five years, bonus bids cannot be utilized in more than 50 percent of the leases offered in previously undeveloped areas. The House amendment provides that new bidding systems are to be utilized in no less than 20 percent and no more than 50 percent of the leases offered in lease sales held for all areas during each of the next five years. The conference report follows the House amendment with an amendment. Bidding systems other than bonus bidding, including royalty, net profit, work commitment, and non-enumerated systems, are to be utilized in at least 20 percent and not more than 60 percent of the tracts offered for leasing OCS areas during each of the next five years.

The Senate bill provides that new leasing systems are to be applied using a random selection method. The House amendment contains no such provision. The Senate receded and the conference report contains no such provision.

Although there is no requirement for random selection, the Secretary, in setting forth systems for use on tracts, shall seek to secure a fair selection of different methods on different tracts. The purpose of such a selection is to assure that adequate information is obtained as to relative advantages and disadvantages of the various bidding systems, including the front-end bonus bid systems, as applied to different types of tracts, having different expectations of the amount of hydrocarbons that can be recovered

The Senate bill provides that the 50 percent limitation on the use of bonus bidding can be waived during the first year by a finding that it would unduly delay development. Thereafter, it can be waived after the submission of a report to Congress, and, if there is no resolution of disapproval by either House, within 30 days after receipt of such report. The House amendment provides that both the minimum on use of new systems and maximum on the use of new systems can be waived if the Secretary determines that such waiver is necessary to comply with the bidding purposes established under the OCS amendments. No procedure for congressional disapproval is included in the House amendment. The conference report adopts the House approach.

The Secretary of the Interior is given the discretion to waive the minimum or maximum requirement for the use of bidding systems other than bonus bidding, based on a determination that either the minimum or maximum percentage level is not consistent with the purposes and policies of the Act. Such a determination on the part of the Secretary of the Interior is to be made after consultation with the Secretary of Energy in light of the responsibilities of the Secretary of Energy as to fostering competition and as to promulgating regulations for the use of alternative bidding systems (see sections 302(b)(1) and 302(b)(2) of the DOE Act). In addition, the Secretary of Interior retains authority as under present law to reject any bid that is not, in his opinion adequate.

Bidding System Report

Both versions of S. 9 require that within six months after the end of each fiscal year, the "Secretary" shall submit a report to Congress concerning the use of the various bidding options provided in this subsection. The conference report adopts a technical amendment specifying that it is the Secretary of Energy who is to submit such report "in consultation with the Secretary of the Interior." The bidding system report is both factual and analytical. It is to include a schedule of lease sales held in the past year or to be held in the following year and the bidding systems which have been or are to be used. The Secretary of Energy is to obtain this factual data from the Secretary of Interior and include it in this report. The report is also to include an analysis and evaluation, if applicable, of why a system has not been or will not be utilized and if applicable, why the bonus bid system was used or is to be used in more than 60% of the areas actually leased. This analysis and evaluation is to be undertaken by the Secretary of Energy.

The Department of Energy is to solicit the written comments of the Secretary of the Interior as to this analysis on various bidding options; and such comments and recommendations, if not accepted by the Secretary of Energy as part of his statement, shall be separately included in any report.

Lease Sale Announcement and Review

The House amendment contains a provision providing that 30 days prior to a lease sale, a notice must be sent to Congress and published in the Federal Register, identifying bidding systems to be used in that sale, designating tracts having the various systems and why a system is being used for a tract. The Senate bill contains no such provision. The Senate receded and the conference report includes the House provision.

The House amendment also contains a provision that the Governor of an affected State, or the chief executive officer of a local government, may request and obtain a public hearing, prior to the initial announcement of the tracts selected for inclusion in a proposed lease sale. The Senate bill contains no such provision. The House receded and the conference report contains no such provision.

The Conferees note that present procedures provide for nomination, positive and negative, by all interested parties, including State and local governments. In addition, present procedures, implemented by the Interior Department, pursuant to the National Environmental Policy Act, provide for a public hearing on a draft Environmental Impact Statement, prior to every lease sale. At such a hearing, usually held in the community adjacent to the proposed sale, all interested parties, including State and local governments, may offer comments and suggestions. Such comments and suggestions are to be evaluated and considered by the Secretary in preparing a final Environmental Impact Statement, prior to a lease sale, and then in deciding if, when and how, to conduct such a sale. The Conferees deleted the specific mandate for a public hearing on a sale, in light of these present procedures for state and local government and citizen input. This deletion should not be viewed as an attempt to limit public hearings, but simply as an avoidance of duplicative provisions.

Special Rules—Net Profit and Work Commitment Bids

The Senate bill contains a provision providing for establishment of rules to govern the calculation of net profits. The House amendment contains no such provision. The conference report is the same as the Senate bill, establishing rules to govern the calculation of net profits.

The Senate bill contains detailed provisions as to the procedures for a work commitment bid. The House amendment does not. The conference report adopts the provisions of the Senate bill on work commitment bidding with an amendment, specifying that 50 percent of all exploration expenditures shall be included in satisfaction of the work commitment.

The Conferees adopted the so-called "work commitment" bidding system as an alterna-

tive system. To insure that such system would lead to efficient and expeditious activities, detailed provisions for such a bidding alternative are included. The lessee is to bid an amount equal to the amount to be expended on exploration activities and, if awarded a lease on that amount, deliver either a cash deposit or bond for the amount. This is a fixed amount.

One-half of exploration costs incurred by the lessee are to be credited against the deposit or bond, which can be periodically reduced. Any amounts remaining after completion of exploration or the lease term shall be paid in cash to the Secretary.

To insure that unnecessary work is not performed, two safeguards are included. First, the Secretary retains the authority to monitor exploration activities, including approving, modifying or disapproving exploration plans. Second, the lessee must put up 50 percent of his own funds, as work continues, as a match to the credit against his work commitment bid. That is, for every dollar spent on exploration, the lessee's cash deposit or bond principal would be reduced by one half dollar, rather than a full dollar. This would assure the element of risk. If an operator is awarded a lease based on a dollar-figure work commitment bid, he would have to spend twice the bid amount on exploration to satisfy the commitment. Half the amount he spent on exploration would come from his own account, and would not be "house money."

Regarding work commitment bidding and other bidding systems, the Secretary of the Interior is to establish lease terms in accordance with applicable regulations promulgated by the Secretary of Energy (see sections 302(b)(1)–(4) and 302(c) of the DOE Act).

Lease Terms

The House amendment provides for a lease term of 10 years where the Secretary finds that such longer period is necessary in areas "because of unusually deep water or other unusually adverse conditions." The Senate bill provides for a 10-year lease term "in areas of unusually deep water or unusually adverse weather conditions." The conference report is the same as the House amendment.

Both the Senate bill and House amendment, and thus the conference report, provide that the Secretary of Interior is to include in leases a requirement that the lessee offer 20 percent of "crude oil, condensate, and natural gas liquids" produced on a lease to "small refiners" or "independent refiners" as defined in the Emergency Petroleum Allocation Act of 1973.

The Conferees note that this provision refers to the definition of "small refiners" or "independent refiners" in the Emergency Petroleum Allocation Act of 1973, P.L. 93–159, as found in paragraphs (3) and (4) of section 3 of that Act. The reference in this section of the conference report is to those definitions only and not to the scope nor the application of the 1973 Emergency Petroleum Allocation Act of 1973.

Lease terms pursuant to subsection 8(b) are to be set by the Secretary of the Interior. However, such terms must be consistent with applicable regulations of the Secretary of Energy, for example, as competition, diligence, and production rates. (See DOE Act, Section 302(b).)

Lease Sale Competition Review

The House amendment and the Senate bill contain different provisions for a lease sale competition review. The Senate bill provides for a review by the Federal Trade Commission and provides that unless fitting into certain exceptions, there has to be a public hearing whenever there is a finding of "a situation inconsistent with the antitrust laws," and the Secretary nevertheless proposes to issue the lease, despite the finding. The House amendment provides for review by the Attoney General and the Federal Trade Commission. The House amendment does not provide for the automatic requirement of a public hearing or findings. The conference report in subsection 8(c) adopts the House provisions on lease sale competition reviews with several changes.

In subsection 8(c), responsibility for the review of the competitive effects of a lease sale is given to the Attorney General. However, the Attorney General is to consult with the Federal Trade Commission in making any review, in securing information and in making recommendations. It is the responsibility of the Secretary of the Interior to provide such information as may be required to conduct any competition review. To avoid delays, and to expedite the review process, it is also anticipated that the Secretary will provide all necessary information (as requested by the Attorney General in consultation with the Federal Trade Commission) simultaneously to the Attorney General and the Federal Trade Commission.

The Conferees did not accept a provision in the House amendment that would have specifically made a lease sale review an "antitrust investigation" within the meaning of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.). The Conferees believe that a lease sale competitive review is a distinct type of review and not an "investigation."

It should be noted that Section 11 of the Energy Supply and Environmental Coordination Act of 1974 authorizes the Department of Energy to obtain "energy information." Of course, information for a review under this subsection may also be obtained by the Secretary of Energy and forwarded to the Attorney General and the Federal Trade Commission pursuant to Section 11 of the Energy Supply Act. In addition, the Federal Trade Commission has the independent authority under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) to secure necessary records and information and to use this data in its consultations with the Attorney General (see 15 U.S.C. 46, 49). The Conferees intend that the Federal Trade Commission is to retain its full authority to obtain records and information and is to retain its full authority to exercise this power in appropriate circumstances, including utilization of this power to adequately consult with, and give recommendations to, the Attorney General. Because information-gathering under such authority may be time consuming, the Conferees expect both the Department of Interior and the Department of Energy to expedite lease sale reviews by forwarding to the Attorney General and the Federal Trade Commission any information which the Attorney General, after consultation with the FTC, may request.

The Conferees do not intend to affect the limitations, under present law and this Act, on the release of proprietary or confidential information gathered from a company pursuant to the procedures established for a competition review under this subsection.

The Attorney General is given the discretion to make a review of a lease sale or sales and to make recommendations as to whether such sale or sales indicate a situation "inconsistent with the antitrust laws". The Attorney General is not required to make a review of any or all sales or to make any recommendations as to any or all sales. His decision to undertake or not undertake a review, and to make or not make any recommendations must be after consultation with the Federal Trade Commission.

It is anticipated that any report of the Attorney General will include a section containing the results of his consultation with the Federal Trade Commission, including any specific recommendations and comments submitted by the Federal Trade Commission. In the interest of maximizing the time the Secretary will have to review antitrust comments and recommendations, the FTC may submit a copy of its comments and recommendations directly to the Secretary.

While the procedures under this subsection, including decisions to review or not review, the actual review itself, and the recommendations to the Secretary are to be undertaken by the Attorney General after consultation with the Federal Trade Commission, the Conferees did not, in any way, intend to affect any existing power and authority to conduct investigations and reviews and to make recommendations. Specifically, the Federal Trade Commission Act, 15 U.S.C. 45, authorizes the Federal Trade Commission to conduct proceedings on unfair methods of competition; 15 U.S.C. 46, authorizes the Commission to "gather and compile information", to "investigate" businesses and to make reports on this information and the investigations, including any recommendations, to the President, Congress, and the public. Nothing in this subsection is intended to limit this authority.

As with all other recommendations to be made by the Attorney General, the Conferees believe that such recommendations should be made as promptly as possible. To ensure this, the Conferees expect the Secretary of Interior to forward any requested information to the Attorney General and the FTC as soon as possible. In addition, to allow thorough and adequate consideration of a recommendation, any recommendation should set forth the reasons for any recommendation, including the pertinent factual and policy considerations, and legal precedents, if any. No independent cause of action, however, is created by this mandate for reasons to be given. The failure to give adequate reasons or supporting facts or to give any reasons or facts, or to make any review or give any recommendations, is not an independent basis for a legal challenge to any lease sale or lease award.

The Secretary of Interior is free to accept or reject any recommendation. He may accept a bid and award a lease despite any recommendation from the Attorney General, so long as he notifies the lessee and the Attorney General of the reasons for his decision. He may, of course, accept the recommendations and refuse to accept an otherwise qualified bid and not award a lease. There is no requirement of a hearing prior to this decision of the Secretary. In addition the failure of the Secretary to accept a recommendation is not basis for an independent cause of action against a sale or lease award.

The decision of the Attorney General to conduct or not conduct a review, to make or not make a recommendation, and the decision of the Secretary to accept or not accept a recommendation, as already noted, is not to be a basis for an independent cause of action. In addition, under section 8(f) of this Act, nothing in this subsection, or anywhere else in the Act is to create a defense or to grant immunity from any criminal or civil action for violation of antitrust laws.

Specifically, the Conferees intend that the failure of the Attorney General to undertake a review, or to make recommendations, or the failure of the Secretary to accept any recommendation, while it may be introduced in proceedings as relevant evidence, is not to be a bar to any government or private antitrust action.

The Conferees, as noted earlier, do not intend to abridge any existing authority of any agency or department to collect data, make investigations, solicit or give comments, or institute and undertake judicial actions.

The Conferees do not intend to abridge any existing right of the government or a private party to bring a cause of action. However, as noted above, the failure of the Attorney General or the Secretary to act in ac-

cordance with this subsection does not create any independent cause of action.

Diligence

The House amendment provides that no lease may be issued if the Secretary finds that the bidder is not meeting due diligence requirements on other leases. The Senate bill provides that no application for a lease may be submitted if the Secretary finds, after notice and hearing, that the applicant is not meeting due diligence requirements on other leases. The conference report adopts the language of the Senate bill in subsection 8(d) with a technical amendment substituting "bid" and "bidder" in lieu of "application" and "applicant", respectively. Determinations as to diligence on other leases are to be made prior to lease sale and companies are to be informed prior to such sale if they are disqualified by this provision from bidding on this sale. Such a determination may be appropriately made through a list of ineligible companies—which can be revised periodically. Such a procedure has been utilized in applying present joint bidding bans.

This subsection is to be carried out by the Secretary of the Interior.

Sale Or Exchange Of Leases

The House amendment provides that no lease may be sold, exchanged, assigned or transferred except with the approval of, and subject to renegotiation by, the Secretary, after consultation with the Attorney General and the Federal Trade Commission. The Senate bill contains no comparable provision. The Senate receded and the conference report in subsection 8(e) adopts the language of the House amendment with an amendment, striking "and subject to renegotiation" and "and the Federal Trade Commission".

The intent of this provision is to codify existing practice, authorized by the 1953 Act, and add Attorney General input on the competitive impacts of a sale, exchange, assignment or other transfer of a lease. The Secretary shall retain his power to approve or disapprove a sale, transfer, assignment or exchange. Prior to approving or disapproving, he is to consult with and consider the views of the Attorney General.

Federal-State Agreements

Provisions in both versions of S. 9 similarly authorize Federal/State agreements as to areas within three miles of the seaward boundary of any coastal State but contain minor grammatical and structure differences. The conference report resolves those differences while maintaining the intent of both versions.

The House amendment provides that the Secretary shall "deposit" in a separate account in the Treasury of the United States certain revenues. The Senate bill provides that the Secretary shall "impound" in whole or in part, in a separate account in the Federal Treasury, revenues. The conference report adopts the House language.

The House amendment provides that nothing in this section is to limit or modify the rights of any State to jurisdiction or title to submerged lands. The Senate bill contains no comparable provision. The conference report adopts the House language.

Joint Bidding Ban

The House amendment provides that the Secretary may permit joint bids unless more than one of the bidders is chargeable with an average daily production of 1,600,000 barrels a day or more. The Senate bill does not include an amendment to the OCS Act, but amends the Energy Policy and Conservation Act of 1975, to allow joint bids involving bidders having an average daily worldwide volume of 1,600,000 barrels or more, when "it is determined that exploration and development will occur only if the exemption is granted", for areas "determined to be extremely high risk lands or to present unusually high cost exploration or development problems". The House amendment contains no such exemption. The House receded and the conference report adopts the Senate provision with an amendment.

The conference report amends subsection (c) of section 105 of the Energy Policy and Conservation Act of 1975 (42 U.S.C. 6213 (c)).

With a limited exception, there is a ban on joint bidding by two "majors" pursuant to appropriate regulations, where more than one of the bidders controls average daily worldwide production of 1.6 million barrels a day. The Secretary may, but does not have to, exempt a bidder or bidders from the ban in the bidding for leases anywhere involving high cost exploration or development problems.

No such exemption may be granted unless there is a finding, after an opportunity for a hearing, that exploration and development will only occur if such exemption is granted. Such a finding is nonreviewable, unless arbitrary or capricious. An exemption can only be granted if requested by a potential bidder and the potential bidder has the burden of coming forward with factual evidence to support his request. A finding that exploration and development will only occur if there is an exemption must be based on demonstrated evidence.

Such evidence supporting the Secretary's determination includes, but is not limited to, an economic analysis demonstrating the need for such an exemption; a financial statement of potential joint bidders demonstrating their inability to bid without such an exemption; the number of nominations for tracts or lease areas to be exempted; prior experience in bidding and lease awards in the lease area or in lease areas with similar problems; and geological, environmental or safety information detailing special, unique or increased costs.

Section 206.—Outer Continental Shelf oil and gas exploration

Section 206 amends section 11 of the OCS Act, providing the procedures for exploration of areas on the Outer Continental Shelf.

Authority

The Outer Continental Shelf Lands Act of 1953 provides:

"SEC. 11. GEOLOGICAL AND GEOPHYSICAL EXPLORATIONS.—Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the outer Continental Shelf, which do not interfere with or endanger actual operations under any lease maintained or granted pursuant to this Act, and which are not unduly harmful to aquatic life in such area."

The Senate bill provides in subsection 11 (a)(1) that "the Secretary or any agency of the United States, and any person" authorized can conduct explorations. The House amendment only provides that "any person" authorized can conduct explorations. The Conferees decided not to adopt either version's language, but rather to retain the exact language of Section 11 of the 1953 OCS Act, regarding exploration authorization. Thus, Section 206 does not modify, in any way, the existing language of section 11.

The Conferees' action does not indicate any particular interpretation of existing law. Accordingly, the Conferees intend to keep in effect, and neither limit nor extend whatever authority the Secretary of the Interior and other Government agencies have under existing law.

Exploration Plans—Application

The House amendment provides that 90 days after enactment of this subsection, exploration has to be pursuant to the requirements of this new exploration section, with an exception provided for leases where a drilling permit had been issued prior to the date of enactment. For exploration on leases included in this exception, the House amendment provided that the Secretary is authorized to require such activities to be described in an exploration plan, to require a revised exploration plan, to require a general statement of onshore intentions, and to require the submission of additional information or to establish additional requirements on leases in accordance with his general regulatory authority.

The Senate bill contains comparable exemptions. Specifically, the Senate bill exempts from the requirement of compliance with this new section and any regulations promulgated pursuant to this section, those leases in which a drilling permit had been issued prior to the enactment. In a later subsection, the Senate bill allows the Secretary to approve the exploration plan submitted prior to enactment, which he finds is in substantial compliance with the provisions of this new section and to require the submission of additional information.

The conference report requires compliance with the new provision of section 11 on exploration, except that exploration activities pursuant to any lease for which a drilling permit has been issued or for which an exploration plan has been approved prior to ninety days after the date of enactment, shall be considered in compliance with section 11. The conference report does retain the language of both versions that the Secretary may require the submission of information by a lessee for exploration activities otherwise exempted from new requirements of section 11 and provides that the Secretary retains the authority granted in section 5(a)(1)(B) to order a suspension or temporary prohibition of any exploration activities, and then to require a revised exploration plan to be submitted.

The specific requirements of new section 11, dealing with the submission, contents and review of exploration plans are therefore ordinarily not to apply to exploration activities pursuant to a lease for which a drilling permit has been issued or an exploration plan approved prior to ninety days after the date of enactment of the 1978 Amendments. Exploration activities which are excluded by this subsection are to be conducted in accordance with existing law and regulations and the terms of any existing permit or plan.

Exploration Plans

Both versions of S. 9 and therefore the conference report require exploration plans to be submitted and reviewed by the Secretary of Interior. Both the House amendment and Senate bill provide for revisions of plans. The intent of both versions is clarified by making it explicit that only "significant revisions" need go through that approval process. In subsection (c)(1), the Conferees adopted an amendment to insure that exploration plans are consistent with regulations prescribed by the Secretary pursuant to paragraph (8) of Section (5)(a) of this Act, relating to air quality standards where States are significantly affected by OCS activities (see discussion on section 5(a)(8), *supra*).

There are grammatical and technical differences between the House amendment and the Senate bill as to the process and effect of approval, modification and disapproval. These were resolved in the conference report; in addition, the House amendment provides for the possibility of cancellation after a period of suspension, in appropriate circumstances, if an exploration plan cannot be approved, and also provides for compensation after cancellation. Under the Senate bill, when a lessee is eligible for such cancellation, the Secretary may only "delay" approval of the exploration plan. The conference report is the same as the House amendment.

The House amendment provides for a re-

quirement of consistency of any license or permit for any activity in an exploration plan with an approved State coastal zone management program. The Senate bill contains no comparable provision. The Senate receded and the conference report includes the House provision.

Drilling

The House amendment provides in section 11(g) for the authorization of permits for qualified applicants to conduct "onstructure" exploration. The House amendment requires the offering of such permits at least once during the next two-year period. The Senate bill contains no comparable provision, but does provide in a separate section for a pre-lease drilling program which may include such on-structure permits drilling program which may include such onstructure permits (see discussion in section 26, *infra*). The House receded and the conference report contains no such provision. The Conferees' action does not indicate any intention to limit, modify, or expand whatever authority the Government has under existing law to grant permits to applicants to conduct drilling operations.

The House amendment in subsection (h) provides for standards and regulations for permits for geological explorations. The Senate bill contains no specific language as to such permits or regulations. The Conferees adopted the House provision.

Wilderness—Point Reyes

The House amendment provides for the exclusion from any leasing or exploratory drilling of any tract within fifteen miles of a wilderness area. This provision was adopted on the House Floor and was intended to apply to only one area in California. The Senate bill contains no comparable provision. The conference report follows the House provision with an amendment, specifying that the exclusion is to apply only to one area in California—Point Reyes.

Point Reyes National Seashore is located thirty miles north and west of San Francisco, California. This seashore contains beaches, mountains, and numerous species of flora and fauna. A portion of the Seashore has been designated by Congress as part of the National Wilderness Preservation System. It is presently administered by the National Park Service, with oversight by a special panel appointed by the Secretary of the Interior.

The Conferees determined that because of the unique recreational, ecological and other qualities of this area, exploration and leasing within 15 miles of Point Reyes should be prohibited.

There are State waters abutting the Point Reyes National Seashore. To avoid the possibility of inconsistent activities, if California authorizes mineral activity in its waters, the exclusion is automatically withdrawn and there is no further bar to Federal OCS activities.

Finally, adoption of this provision is not intended as a precedent as to whether or not similar protection is to be afforded to other present or future wilderness areas.

Reservation by the Congress

The House amendment contains a section 208 which provides that the Congress can withdraw areas from OCS leasing by passing a concurrent resolution so declaring. The Senate bill contains no such provision. The House receded and the conference report contains no such provision.

Section 208—Annual report

Section 208 amends section 15 of the Outer Continental Shelf Lands Act to require the Secretary of the Interior to submit an annual report in two parts within 6 months of the end of each fiscal year. The required contents of the report are specified in the subsection and the intent of the language is clear.

One part of the report is to include recommendations and findings as to competition and is to be made after consultation with the Attorney General. The Attorney General may, but need not, submit findings or recommendations, which are to be included in the report of the Secretary of Interior submitted to Congress. The Secretary of Interior is to prepare his report on competition, the second part of his annual report, after consultation with the Secretary of Energy and the Federal Energy Regulatory Commission, and is to receive their written comments within their respective applicable responsibilities. Any comments not accepted by the Secretary of Interior are to be separately included in the report.

The House amendment provides for the competition portion of the annual report to contain an evaluation and description of measures "to insure an adequate supply of oil and gas to" independent refiners and distributors. The Senate bill provides for an evaluation and description of additional measures "to increase the supply of" oil and gas to independent refiners and distributors. The conference report adopts the new phrase "dealing with supplies" of oil and gas to independent refiners and distributors.

Section 209—New sections of the Outer Continental Shelf Lands Act

Section 18—Outer Continental Shelf Leasing Program

Section 18 establishes a process which will permit the Secretary of the Interior to weigh energy potential, and other benefits against environmental and other risks in determining how, when and where oil and gas should be made available from the various Outer Continental Shelf areas to meet national energy needs.

Considerations

The House amendment provides that a leasing program "shall consist of a schedule of proposed sales indicating" the size, timing and location of activities. The Senate bill provides that the leasing program is to indicate the size, timing and location and does not specifically provide for it to consist of a "schedule of proposed lease sales." The conference report is the same as the House amendment.

The House amendment includes among the considerations for a leasing program, the sufficiency of resources including equipment and capital to assure exploitation expeditiously. The Senate bill contains no comparable provision. The House receded and the conference report contains no such provision.

The House amendment includes among the considerations for a leasing program, the relative environmental sensitivity and marine productivity of different areas. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment includes among the consideration for a leasing program the policies and plans under the Coastal Zone Management Act. The Senate bill contains no comparable provision. The conference report follows the House amendment and contains no such specific provision as it is included within the consideration of "laws, goals and policies of affected States".

Both versions contain as a consideration of a leasing program, the receipt of value for lands. The House amendment provides that activities are to be conducted to assure receipt of "fair value for the lands leased and the rights conveyed by the Federal Government". The Senate bill provides for leasing and gas owned by the Federal Government. The Conference report follows the House amendment, with the addition of the term "market" so as to read "fair market value for the lands leased and the rights conveyed conveyed by the Federal Government."

Preparation of Proposed Leasing Program

The House amendment provides for a report by the Attorney General and the Federal Trade Commission as to competition aspects of the leasing program during the preparation of any proposed leasing program. The Senate bill contains no comparable provision. The conference report adopts the Senate language and deletes this provision. However, the conference report does specifically include the Attorney General in consultation with the Federal Trade Commission, as a party to be given input into the preparation of a program.

As just noted, both versions contain provisions for input from appropriate parties during the preparation of a leasing program. The House amendment specifically provides that the Secertary is to include suggestions "from any interested Federal agency" and "from the executive of any affected local government unit in such an affected State". The Senate bill contains no such specific language. The conference report follows the House amendment with an amendment, providing that the Secretary may solicit and consider suggestions on a proposed leasing program from the head of any local government unit affected by OCS activities, after such recommendations have been submitted to the Governor of the affected State, and also providing that the Secretary may solicit and consider suggestions from any interested Federal agency, including the Attorney General in consultation with the Federal Trade Commission.

The Governor is given discretion to identify—and then solicit and consider the suggestions of—affected local government units. Local governments can, of course, request information from the Governor or Secretary as to OCS leasing activities. Governors must be notified by the executives of any such affected local government units so as to be able to consider their inclusion in his recommendations.

The Conferees intend that local governments are generally to act through their state government representatives; and that recommendations are to be forwarded to and by local governments through State governments. In addition, there is to be no independent basis for legal action by a local government unit against activities under this Act, or actions pursuant to this Act, because of a dispute with a State government as to whether they are "affected" or any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

The House amendment further provides that the Governors of affected States are to solicit comments from the executives of local governments units in his state affected by OCS activities, after the actual proposed program is submitted to them. The Senate bill contains no such specific requirement. The conference report follows the House amendment with an amendment, emphasizing that is up to the discretion of the Governors to solicit comments from representatives of those local governments which the Governors determine will be affected. No responsibility is placed on the Federal Government.

Again, the Managers intend that local governments are to act through their State government representatives; and that data and recommendations are to be forwarded to and by local governments through State governments.

There is to be no independent basis for legal action by a local government unit

against activities under this Act, or actions pursuant to this Act, because of a dispute with a State government as to whether they are "affected" or any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

Both versions provide for the submission of a proposed leasing program to appropriate parties. The House amendment provides specifically for submission to the Federal Trade Commission, and through Governors, to local government executives. The Senate bill contains no such specific requirements for submissiin to these two parties. The conference report follows the Senate bill with respect to the Federal Trade Commission, and does not mention the FTC, and the House amendment with respect to the inclusion of local government executives with an amendment providing that the Governor shall submit a copy of the proposed leasing program to the executive of any affected local government unit but only upon request.

The Governors are to submit the proposed leasing program upon request to heads of affected local governments. No responsibility is placed on the Federal Government by the inclusion of the reference to local governments. There is to be no independent basis for legal action by the executives of an affected local government unit against activities under this Act, or actions pursaunt to this Act, because of any alleged failures of a State government to submit a proposed leasing program to such local government.

Comments on Leasing Program

Subsection (d)(1) provides that the Attorney General may submit comments on a final proposed leasing program but no later than ninety days (90) after the publication of such a program. He is to submit comments after consultation with the Federal Trade Commission.

No independent cause of action is created by this provision. Therefore, the failure of the Attorney General to submit a report, or the insufficiency of the reasons given for his views and recommendations, are not to be an independent basis for a law suit.

The Conferees do not intend to abridge existing authority of any agency or department, including the Federal Trade Commission, to solicit information or give comments.

CZMA

Both versions provide for regulations as to coastal zone management applicability. The House amendment provides for regulations involving "consideration" of a program "being developed or administered" pursuant to section 305 or 306, respectively, of the Coastal Zone Act. The Senate bill provides for "coordination" of the program with the management program being developed and also for "consistency" to the extent practicable with the management program. The conference report is the same as the House amendment. The Secretary is to establish procedures by regulation for consideration of State coastal zone management programs.

Data

Both versions provide for the obtaining by the Secretary of Interior of relevant data. The House amendment specifically provides that classified data is to remain confidential for such a period of time as agreed to by the head of a department or agency from whom the information is requested. The Senate bill contains no such comparable language. The conference report is the same as the House amendment. In addition, the House amendment provides for the confidentiality of "all privileged data". The Senate bill provides for the confidentiality of all "proprietary" data. The conference report refers to both "privileged or proprietary data."

This subsection deals with the authority and responsibility of the Secretary of the Interior to collect data and keep it confidential. This subsection does not affect the independent authority of the Secretary of Energy and the Federal Energy Regulatory Commission, under the DOE Act, and other statutes, including section 11 of the Energy Supply and Environmental Coordination Act of 1974, to collect, obtain, classify and release information.

Both versions provide for the forwarding of nonprivileged information by other Fedcral departments and agencies. The House amendment provides that such agencies are to provide the Secretary with "nonprivileged information". The Senate bill provides for the forwarding of any "nonproprietary information". The House amendment also authorizes other Federal departments and agencies to provide the Secretary with privileged information. The Senate bill does not specifically provide such an authorization. Furthermore, the House amendment provides that such privileged information given to the Secretary is to remain confidential for such period of time as agreed to by the department or agency. The conference report with minor technical changes follows the House amendment, authorizing other Fedcral department and agencies to provide the Secretary with privileged information, which is to remain confidential for the agreed period of time.

This subsection deals with the authority and responsibility of the Secretary of Interior to collect data and keep it confidential. The subsection does not affect the independent authority of the Secretary of Energy and the FERC, under other statutes, to collect, obtain and release information.

Revisions

Both the Senate bill and House amendment authorize revision and reapproval of a leasing program. Minor revisions need not go through the detailed procedures. Significant revisions—affecting the substance of a program—must go through the same procedures established for the original development of the program.

Section 19—Coordination and consultation with affected States and governments

This section is intended to insure that Governors of affected States, and local government executives within such States, have a leading role in OCS decisions and particularly as to potential lease sales and development and production plans. In addition, it is intended to provide a mechanism for involvement of Governors and local government officials.

The House amendment titles section 19 "Coordination and Consultation with Affected States and Local Governments." The Senate bill titles section 19 as "Coordination with Affected States and Local Governments". The conference report is the same as the House amendment.

Both versions allow, but do not require, Governors of affected States to submit recommendations regarding the size, timing, or location of a proposed lease sale or with respect to a proposed development and production plan. The House amendment, in addition, allows the submission of recommendations by "the executive of any affected local government in such State". The conference report follows the House amendment, providing for the submission of recommendations by the heads of local government units to the Secretary, after those recommendations have been forwarded to the Governor.

The House amendment provides for the submission of recommendations within 90 days after receipt of a development and production plan. The Senate bill provides for submission of recommendations within 60 days of the receipt of a development and production plan. The conference report is the same as the Senate bill—60 days.

Both versions provide procedures for the acceptance by the Secretary of Interior of the recommendations of Governors. In addition, the House amendment provides procedures for the acceptance of the recommendations of the executive of any local government units. In the conference report, the submission of recommendations to the Secretary and the acceptance of recommendations by the Secretary is made discretionary as to executives of local governments, and only allowable after the submission of the recommendations to the Governors.

Both versions and the conference report require acceptance of a Governor's recommendation if the Secretary of the Interior determines that the recommendations provide a reasonable balance between the national interest and the well-being of citizens of the affected State.

The Secretary shall communicate the reasons for accepting or rejecting the recommendations of the Governors in writing to them.

The Conferees intend that local governments are generally to act through their State government representatives; and that data and recommendations are to be forwarded to and by local governments through State Governments. In addition, there is to be no independent basis for legal action by a local government unit against activities under this Act, or actions pursuant to this Act, because of an alleged failure to consult with, submit data to, or receive the recommendations of a local government.

Both versions provide for cooperative agreements by the Secretary of Interior with affected States for the sharing of information and other purposes, making it explicit that such cooperative agreements are to be consistent with the confidentiality, waiver of immunity, and liability responsibilities of section 26 (see discussion, on Section 26). The House amendment specifically provides that the sharing of information should be "(in accordance with the provisions of section 26 of this Act)". The Senate bill contains no such specific limitation. On this point the conference report is the same as the House amendment.

Section 20—Environmental studies

Section 20 provides a mechanism by which information concerning the environment in an area leased or to be leased and then developed is to be analyzed and then used as a basis to monitor effects.

The House amendment titles this section "Environmental Studies". The Senate bill titles this "Baseline and Monitoring Studies". The conference report is the same as the House amendment.

The House amendment provides for studies to establish "information needed for the assessment and management of environmental impacts on" the environment. The Senate bill provides for studies in order to establish "baseline information concerning the status of" the environment. The Senate receded and the conference report is the same as the House amendment.

Both versions provide for required studies within cetrain limits of time for new leases and existing leases. The House amendment provides for a study to be commenced not later than six months after enactment with respect to any area or region where a lease sale has been held "or announced by publication of a notice of a proposed lease sale". The Senate bill does not refer to the announcement by publication of a notice of a proposed sale in regard to the initiation of such studies. The conference report adopts the House language.

The House amendment provides the commencement for a study six months prior to a lease sale for areas where no lease sale has been held "or scheduled". The Senate bill does not make reference to lease sales

scheduled. The Senate recedes and the conference report is the same as the House amendment.

The House amendment refers to "environmental information" in predictive studies. The Senate bill refers to "baseline information" as part of the predictive studies. The Senate receded and the conference report is the same as the House amendment.

The House amendment provides that the Secretary is to consider relevant environmental information in making appropriate decisions and developing regulations and conditions. The Senate bill contains no comparable provision. The Senate receded and the conference report is the same as the House amendment.

Both versions provide for utilization of the Department of Commerce to the maximum extent practicable. The House amendment provides that the "Secretary shall, to the maximum extent practicable, enter" into appropriate arrangements. The Senate bill provides that "the Secretary is authorized and directed, to the maximum extent practicable, to enter" into appropriate arrangements. The Senate receded and the conference report is the same as the House amendment.

Section 21—Safety regulations

Section 21 establishes procedures for study, review, coordination, and if necessary, revision of safety regulations in light of the policy of the 1978 amendments for safe operations on the Outer Continental Shelf.

Both versions provide in subsection 21(a) for a study of existing safety regulations by the Department of the Interior and the Coast Guard, in consultation with other appropriate Federal officials, but use different language. In addition, the Senate bill mandates participation by the Secretary of Labor in the study, while the House amendment allows such participation as Labor would be a Federal department or agency to be consulted, when appropriate. The conference report follows the House amendment and does not explicitly list the Secretary of Labor.

It is expected that in undertaking this study, the Secretary of the Interior and the Secretary of the Department in which the Coast Guard is operating will consult with the Department of Labor, and specifically the Occupational Safety and Health Administration, and other agencies having expertise in the areas of safety and health, oil and gas development and production, and environmental protection.

In addition, the conference report provides, as a conforming and technical change to include "health" regulations in the study. Since the President is required under both versions and the conference report to submit, after receipt of this study, a plan to Congress of his proposals to promote safety and health, it is both appropriate and necessary that the study include "health" considerations as well.

The House amendment requires use of best available and safest "technologies", as described, for all new drilling and production operations and wherever practicable on existing operations. The Senate bill similarly provides for use of the best available and safest "technology". The conference report is the same as the House amendment, in order to emphasize that more than one technology may be applicable as the best way to achieve a particular objective or do a particular job.

In addition, the House amendment provides for such technology which the Secretary determines to be economically "feasible". The Senate bill provides for use of such technology which the Secretary determines to be economically "achievable". The conference report is the same as the House provision.

There are structural differences between the House and Senate versions as to use of technology. Both versions provide for use of such new technology or techologies on existing operations "wherever practicable". Both versions also provide for a determination by the Secretary as to the incremental benefits against the incremental costs, but use slightly different language to do so. The conference report is the same as the House amendment. It is, of course, the responsibility of an operator on an existing operation to demonstrate why application of a new technology would not be "practicable".

The Conferees expect, to assure uniformity of requirements for industry compliance, that a determination as to what are the best available and safest technologies economically feasible is to be made by the regulating agency on an industry-wide basis or with respect to classes or categories of operations, rather than on an installation-by-installation, company-by-company, or lessee-by-lessee basis. In addition, the language provides for economical feasibility to be a balance of costs against benefits.

Best available and safest technologies (BAST) is required when "significant" effects are involved and can only be then waived when incremental benefits "are clearly insufficient" to justify increased costs. Ordinarily, again to assure uniformity of requirements, considerations of costs and benefits should also be done by the regulating agency on an industrywide basis or with respect to classes or categories of operations, rather than on a company-by-company, installation-by-installation, or lessee-by-lessee basis. Responsibilities for safety are presently shared by Interior, Coast Guard, and other agencies. It is expected that the appropriate agency will make this cost/benefit analysis in exercising their respective responsibilities.

It is expected that in promulgating regulations and in administering the program, the Secretary and the Department in which the Coast Guard is operating will consult and cooperate with OSHA and other Federal agencies having expertise in the areas of safety and health, oil and gas production, and the environment.

The House amendment provides in section 21(c) for the Coast Guard to promulgate regulations or standards as to diving activities and other unregulated hazardous working conditions. The Senate bill provides for the Coast Guard, working with the Secretary of Labor, to promulgate regulations for diving standards. The Senate bill provides that, notwithstanding the Occupational Safety and Health Act, both Labor and Coast Guard are to promulgate and enforce these regulations jointly and in a coordinated manner. The House amendment has no such language. The conference report follows the House intent and requires regulations as to unregulated hazardous working conditions in the OCS only by the Coast Guard.

As regulations and standards on diving activities have already been proposed by the Coast Guard, they are no longer specifically enumerated. Regulations on workers' safety shall be promulgated, and can be modified, by the Secretary of the Department in which the Coast Guard is operating.

Both versions provide that existing authority of agencies is not to be affected by this section, although the Senate provides that the existing authority of the Secretary of Labor is to be expanded to cover diving practices in all circumstances. The conference report deletes this reference and specifies that the existing authority under law of the Secretary of Labor (as to occupational safety and health), the Administrator of the Environmental Protection Agency (as to protection of the environment) and of the Secretary of Transportation (as to pipeline safety) is not affected by this Act.

In adopting the language providing for OCS workers' safety regulations to be promulgated by the Coast Guard, and also providing for the existing authority of the Secretary of Labor (through the Occupational Safety and Health Administration) as to workers' safety to be retained, the Conferees clearly intend neither to reduce, nor to add to existing OSHA authority, under section 4(b)(1) of the Occupational Safety and Health Act.

This section merely requires the Coast Guard to undertake expedited action where it deems it necessary to regulate hazards currently unregulated by the Government. Under its existing authority, and section 4(b)(1) of the Occupational Safety and Health Act, the Coast Guard may take any appropriate action necessary to regulate any hazard, and may over time displace the applicability of OSHA standards to other working conditions through exercise of appropriate rulemaking actions. However, the Conferees intend that consultation with OSHA in standards development and administration, and opportunity for participation by interested parties in any such Coast Guard action, will assure that employees receive no less protection than under existing standards. Consistent goals contained in recent OSHA-Coast Guard agreements—maximizing the safety and health protection of employees, avoiding duplication of effort, and avoiding undue burden on the maritime industry—are also endorsed by the Conferees.

The Senate bill provides for the Secretary of Commerce, working with the Coast Guard and the National Institute of Occupational Safety and Health, to conduct studies of underwater diving techniques and equipment. The House amendment contains no comparable provision. The House receded and the conference report adopts the Senate provision for such a study.

The House amendment provides specifically that the Secretary of the Interior is to consult and coordinate with appropriate agencies to avoid inconsistent or duplicative requirements. The Senate bill contains no comparable provision. The conference report follows the House amendment.

The House amendment provides that the Secretary is to make available a compilation of safety and other regulations applicable to OCS activities by any and all Federal departments or agencies. The Senate bill contains no comparable provision. The conference report follows the House amendment.

Section 22—Enforcement

This section is to provide mechanisms and procedures for the enforcement of safety and environmental regulations issued pursuant to the provisions of the Act. Failure to comply with any provision of the Act, any implementing regulation, or the terms of a lease or permit included because of the Act or regulations, would subject the violators to civil or criminal penalties under Section 24 of the 1978 amendments.

The Senate bill provides for the Secretary of the Interior and Secretary of Department of Coast Guard to consult with each other regarding the enforcement of regulations. The House amendment specifies that "applicable Federal officials" shall enforce regulations. The conference report adopts the Senate language but adds the Secretary of the Army.

Regulatory responsibility is delegated in other sections of the Act, as well as is the power to implement and enforce such regulations. In many circumstances, it is the responsibility of Interior, in others, Coast Guard, in others, the Army, and in others the Department of Transportation.

Nothing in this section, or any other section in the bill is intended to affect the authority of other agencies or departments to exercise enforcement powers and impose duties under other laws. In addition, the Conferees expect that, as with regulatory authority, enforcement authority be executed

by applicable Federal officials in a cooperative manner with other Federal agencies having expertise in that area. Thus, for example, it is expected that in exercising his enforcement authority, the Secretary of the Department in which the Coast Guard is operating will consult and cooperate with OSHA and other Federal agencies having expertise in the areas of safety and health, oil and gas production, and environmental protection.

The House amendment provides for certain duties of a holder of a lease or a permit to maintain places of employment in accordance with safety and health standards and free from recognized hazards to employees, and to maintain operations in compliance with all other regulations. The Senate bill contains no comparable provision. The conference report follows the House amendment. Of course, this section does not relieve any contractor or subcontractor from other obligations under the law.

The House amendment provides that a lessee or permittee is to allow prompt access to any inspector and to provide such documents or records as are pertinent. The Senate bill provides authorization for the Secretary of Interior or the Coast Guard to enter without delay any part of a facility and to examine documents and records as are pertinent. The conference report follows the House amendment. Since prompt access and provision of records is a duty directly imposed by this provision, lease and permit holders should expect that inspectors will visit the site of any operation, with or without advance notice.

In addition, both versions mandate inspections. As to "surprise" inspections, the House amendment provides for such inspections without advance notice at least once a year. The Senate bill has no such specific time requirement but does require periodic "surprise" inspections. The conference report follows the Senate bill.

Both versions provide in this section for investigations and reports on fires and major oil spills. The Senate bill defines major spillage in terms of "any discharge from a single source". The House amendment defines it in terms of "spillage in one instance". The conference report follows the House amendment.

In addition, the House amendment provides specifically that lessees or permittees are to cooperate with the investigation. No such specific language is included in the Senate bill. The conference report follows the House amendment.

The House amendment provides for investigations and public reports on any death or serious injury as a result of operations conducted pursuant to this Act. The Senate bill contains no such comparable provision. The conference report follows the House amendment.

The House amendment provides that appropriate agencies are to consider allegations from any person as to the violation of safety regulations and to answer same. The Senate bill contains no comparable provision. The conference report provides that the agency "may review" rather than "shall consider" any allegation and does not require a report on each such allegation. The Conferees were aware that the Coast Guard has broad authority and responsibility for safety and health under this Act and other maritime statutes and to review allegations of safety and health regulations and violations. The language of this section is not intended in any way to restrict the Coast Guard's ability to investigate violations or allegations of violations of any safety or health regulation.

Both House and Senate provisions provide for necessary power to agencies to conduct investigations. The House amendment is more specific than the Senate bill in that it includes specific references to process in the District Courts of the United States, and the power to administer oaths. The conference report follows the House amendment.

The House amendment provides that the annual report shall include a report on safety violations and investigations. The Senate bill contains no comparable provision. The conference report follows the House amendment with a technical amendment substituting "any" in lieu of "the" in reference to "investigations undertaken" to make it clear that investigations of allegations are discretionary and not mandatory.

Section 23—Citizen suits, court jurisdiction, and judicial review

Section 23 details the procedures by which citizens, including lessees, or permittees, employees, local and state governmental officials, and others, can participate in the enforcement of the Act. Review of certain types of actions are through administrative proceedings, followed by an appeal in a court of appeals. Review of other actions are by suits in a district court.

Clearly included in this section are local governments and local government officials. This is in addition to the responsibilities placed on the State Governors, throughout the conference report, to consult with affected local government officials. As noted in this statement in various places, the responsibilities placed on the Governor to consult with, supply information to, and forward the recommendations of, local government officials are not to be an independent basis for a lawsuit against the Federal Government if the Governor should not adequately comply with the responsibilities. However, this limitation is not intended to restrict any right a local government or local government official may otherwise have under this section to commence a civil action.

The House amendment terms this section "Citizen Suits, Court Jurisdiction, and Judicial Review". The Senate bill terms this section "Citizen Suits". The conference substitute follows the House amendment.

CITIZEN SUITS

There are slight structural differences between the two versions on citizen suits. Both provisions in Section 23(a) permit suits against any person, including government instrumentalities and the Secretary of Interior. The House amendment does not specifically state that suits are authorized against the Secretary for nondiscretionary duties or acts. The Senate receded and the conference substitute follows the more general and inclusive language of the House amendment.

The House amendment provides for control of the citizen suits and responses to be with the Attorney General. The Senate bill provides for such control to be by the Secretary of Interior, his authorized representative or the Attorney General. The Senate receded, and the conference substitute follows the House amendment, as Section 23(a)(2).

The House amendment limits intervention by the Federal Government to the Attorney General, upon the request of the Secretary or other appropriate Federal officials. The Senate provides for intervention by the Secretary of Interior. The conference report follows the House amendment, and provides for intervention by the federal government only to the Attorney General.

Both the Senate bill and House amendment and thus the conference report provide that citizen suits cannot be commenced until after a sixty day notice period or if the federal government has commenced and is diligently prosecuting a comparable action. This sixty day delay period, however, may be waived if a plaintiff can show an imminent threat to the public health or safety or an immediate affect on the plaintiff's legal interest. This reference to imminent threat to the "public health or safety" relates only to those circumstances justifying an immediate citizen's suit. Thus, under this section, a plaintiff can only commence a suit if he has "a valid legal interest which is or may be adversely affected." Ordinarily, he must then give notice and wait sixty days before actually commencing litigation. However, if a citizen, with the requisite standing, can also show an imminent threat to the public health or safety, or an immediate effect on his legal interest, he may commence litigation immediately after notification, without waiting the sixty day period.

Exclusivity of Suits

The House amendment and Senate bill have similar provisions as to the exclusivity of the citizens suit and other judicial procedures. The House amendment provides that all suits challenging violations of the OCS Act or implementing regulations are to be in accordance with this new section. Rights under any other Act or the common law to seek appropriate relief are not barred. The Senate bill provides that no rights under any statute or common law to seek enforcement of the Act or any regulations or to seek any other relief are barred by this section. The conference report adopts the House language.

General Jurisdiction

The House amendment provides for jurisdiction in the District Courts (restating section 4(b) of the 1953 OCS law). The Senate bill merely refers to section 4(b) of the OCS law. The conference report follows the House amendment, as subsection 23(b).

The Senate bill specifically provides that any resident who is injured in any manner may only sue in the judicial district having jurisdiction under section 4(b). The House amendment makes no specific reference to suits for injuries. The conference report follows the Senate bill with a technical change, substituting 23(b) in lieu of 4(b).

Judicial Review

Both versions provide for limitations of judicial review after administrative proceedings. The House amendment provides that specific objections are to be considered "only if issues upon which such objections are based" have been previously submitted. The Senate bill provides for consideration only if "such objections have been submitted" previously. The conference report follows the broader House amendment. The Senate bill provides that citizen suits and judicial review procedures are to take precedence on the docket over other causes of action. The House amendment contains no comparable provision. The conference report adopts the Senate language.

Compensation to Plaintiffs—Court Costs

Both the Senate bill and House amendment provide that a court may award costs of litigation, including reasonable attorney's fees and expert witness fees, to a party when the court determines such an award as appropriate. The conference report adopts the House language, authorizing such awards in citizen suits, and in administrative proceedings, and judicial review of, a leasing program, exploration plan, or "D&P" plan.

Section 24—Remedies and penalties

Both versions provide for appropriate remedies and penalties. The House amendment provides in subsection 24(a) for actions only "upon a request by the Secretary". The Senate bill provides for civil actions "at the requestion of the Secretary, the Secretary of the Army, or the Secretary of the department of which the Coast Guard is operating". The conference report follows the Senate bill.

The House amendment provides in subsection 24(a) for the institution of action by "the Attorney General". The Senate bill provides for the institution of action by the Attorney General "or United States Attor-

ney". The conference report adopts the Senate language.

The House amendment specifically provides for civil penalties for violation of the terms of a lease, license or permit. The Senate bill contains no such specific reference. The conference report employs the House language.

The House amendment provides in subsection 24(b) that only the Secretary of Interior may assess, collect and compromise penalties. The Senate bill provides that the Secretary of Interior, Secretary of the Army and the head of the Coast Guard may all collect penalties. The conference report follows the House amendment. The Secretary is, of course, bound to seek appropriate penalties, and collect them, for violations discovered and reported by other agencies, such as the Coast Guard or Army, which have enforcement responsibilities under this Act. In addition, nothing is intended by this section to affect the power of the Secretary of Energy or the Federal Energy Regulatory Commission, or other agencies, to take appropriate action, under other laws, to enforce their own regulations.

The House amendment specifically provides in subsection 24(c) for criminal penalties for the violation of the terms of a lease, permit or license. The Senate bill contains no such specific reference. The conference report follows the House amendment.

Section 25—Oil and gas development and production

Section 25 is intended to provide the mechanism for review and evaluation of and decision on, development and production in a leased area, after consultation and coordination with all affected parties.

Application

Both versions contain detailed and similar provisions describing development and production plans. The House amendment requires a development and production plan to be submitted for all future leases in a frontier area. The Senate bill provides for a development and production plan to be submitted for all future leases anywhere. The conference report requires a plan to be submitted for all future leases except in the Gulf of Mexico.

The House amendment also requires a plan to be submitted for existing leases in frontier areas, where no oil or gas has been yet discovered. The Senate bill similarly requires a plan to be submitted for existing leases where there has not yet been a discovery, but exempts the Gulf of Mexico. The conference report adopts the Senate language. Thus, the mandate and specific procedures of this bill that the Secretary of Interior must secure submission, and then review, approve, or disapprove a development and production plan applies to new leases of existing leases where there has not yet been a discovery and does not apply to leases, old or new, in the Gulf of Mexico. This does not affect the existing requirements on leases, already established by the Secretary of Interior.

The Conferees, by recommending the enactment of section 25 to the Congress, are not approving or disapproving existing requirements for development and production. It is hoped that the Secretary of Interior will apply existing law and requirements to tracts which have commenced development and production, and to other areas in the Gulf of Mexico, where development and production activities have been going on for a number of years, in such a manner as to limit bureaucratic "red-tape" and otherwise minimize delays in the search for and production of oil and gas.

The requirements of this new section are specifically made inapplicable to the Gulf of Mexico. However, there are areas in the Eastern Gulf that have never been developed. While a sale—the so-called MAFLA sale—has been held for this region, no development or production has occurred there. The Conferees therefore adopted a provision that gives the Secretary of the Interior the discretion to require submission of plan—in accordance with this section—for development and production activity in this area which is defined as being adjacent to the State of Florida.

The Conference Committee understands that lines have already been drawn to determine those areas that are adjacent to the State of Florida. [See 43 Federal Register 24711 (June 7, 1978.)].

Onshore Impacts and Submission and Contents of Plans

Both versions provide for an accompanying onshore impact statement. The House amendment provides for the statement to include all operations for development, production, transportation, processing, or refining. The Senate bill provides for operations for development or production. The conference report follows the Senate bill.

Both versions provide for the submission of plans and statements to Secretary of Interior and then by the Secretary to outside groups. The House amendment excludes from these requirements of submission, "privileged information (as such term is defined in regulations issued by the Secretary)". The Senate bill excludes "interpretative data, which, pursuant to regulations prescribed by the Secretary, constitute confidential or privileged information." The conference report follows the House amendment.

The House amendment provides that information is to be submitted to the Governors and upon request, to the executive of any affected local government. The Senate bill provides that they are only to be "made available" to the executive of any affected local government. The conference report follows the House amendment.

It is intended that development and production plans and statements are to be provided to local government executives upon request. Furthermore, there is to be no independent basis for legal action by a local government unit against activities under this Act, or actions pursuant to this Act, because of an alleged failure to consult with, submit data to, or receive the recommendations of a local government.

The House amendment precludes a future lease from being issued without a requirement of compliance with the development and production plan for any lease "in any frontier area". The Senate bill provides an exception for this requirement for future leases in "the Gulf of Mexico". The conference report adopts the Senate language but in a separate section allows the Secretary to apply this provision to future leases in the Gulf of Mexico adjacent to the State of Florida (see discussion above).

Both versions provide for specific items to be included in a development and production plan. Among other things, the House amendment provides a requirement of a "description of all facilities and operations located on the outer Continental Shelf". The Senate bill uses the words: "all offshore facilities and operations". The conference report follows the House amendment, making it explicit that the plan itself is to only cover OCS facilities and operations, including pipelines, and not facilities and operations in State waters.

Also, both versions, and the conference report, require a plan to include "an expected rate of development and production and a time schedule for performance." The consideration and review by the Secretary of Interior of this element of a plan must be made in light of any applicable regulations by the Secretary of Energy on production rates and diligence. [See DOE Act, Section 302 (b) and 302(c)]

The requirements as to information to be submitted to the Secretary of Interior under the section are not intended to affect the authority of the Secretary of Energy, the Federal Energy Regulatory Commission, or any Federal department or agency, to collect, or require information under any other law.

Consistency, Approvals, Modifications, Disapprovals and Revisions

The House amendment provides that no license or permit for any activity described in a development or production plan is to be granted unless there is conformity with the requirements of the Coastal Zone Management Act. The Senate bill contains no comparable provision. The conference report follows the House amendment.

Both versions provide for an environmental impact statement (EIS) at least once, but use differing words. The House amendment provides that the Secretary shall at least once "in each frontier area, declare the approval of a development and production plan or plans to be a major Federal action". The Secretary is also to evaluate the cumulative effect of activities on an area. The Senate bill provides that the Secretary shall at least once prior to approving a development and production plan in any area or region as defined by the Secretary, other than the Gulf of Mexico, declare approval to be a major Federal action. No language as to cumulative effects is included. The conference report adopts the common intent of both provisions. Except for the Gulf of Mexico area or region, the Secretary of Interior is to declare approval of a development and production plan in each defined area or region to be a "major Federal action". Thus, for each area or region, there shall be, as required by the National Environmental Policy Act (NEPA), and C.E.Q. guidelines, preparation of a draft environmental impact statement, a hearing and a final statement.

The Secretary of Interior is given the discretion to invoke NEPA procedures after submission of a plan for the first development proposal in an area or region, or the second or third—so long as it is invoked at least once. The Conferees expect that NEPA will be invoked prior to approval of a plan when major or substantial development and production activities seem to be indicated for an area or region. In preparing, drafting, and revising the EIS, the Conferees expect the Secretary of Interior to consider and address the cumulative effects of past and future OCS activities in an area or region.

Both bills provide for plans to be submitted by nearby lessees, when NEPA procedures are invoked. The House amendment provides that the Secretary may require lessees of tracts "for which development and production plans have not been approved" to submit such plans. The Senate bill provides that the Secretary "may require lessees on adjacent or nearby leases" to submit such plans. The conference report follows the House language.

The House amendment provides for specific review procedures and a 90 day review period for development and production plans where no EIS is required or prepared. The Senate bill similarly provides for such procedures, but provides for a 60 day review period. The conference report follows the House language, with the adoption of the 60 day review period as in the Senate bill.

Both versions provide for a determination by the Secretary as to approval of a development and production plan. The House amendment provides for review and decision by the Secretary within 60 days of a final EIS or submission of a plan. The Senate bill provides for determination within 60 days of release of an EIS, or 120 days after the period for comment for a plan. The conference report follows the House amendment.

Both versions provide for modifications

of a plan because of environmental inadequacies. In addition, the House amendment specifically provides for modification in light of air quality regulations. The Senate bill contains no comparable language. The conference report follows the House amendment with reference to air quality regulatory requirements of the conference substitute (see discussion as to Section 5(a)(8)).

The Senate bill provides for modifications to comply with the Coastal Zone Management Act and the consistency requirements of such act. The House amendment contains no comparable language as amendments to the OCS Lands Act of 1953. The conference report follows the Senate bill with a conforming amendment to require any modification which involves activities for which a Federal license or permit is required and which affects any land use or water use in the coastal zone of a State with an approved coastal zone management program to receive concurrence by such State with respect to the consistency certification unless the Secretary of Commerce makes a certain finding.

Both versions provide for procedures for disapproval. The House amendment specifically provides for disapproval for failure to comply with air quality regulatory requirements. The Senate bill contains no specific reference to air quality. The conference report follows the House amendment with reference to the air quality regulatory requirements of the conference report. See discussion as to section 5(a)(8)).

Both versions provide for disapproval for failure to comply with the requirements of the Coastal Zone Management Act, but use different language. The conference report follows the House amendment.

Both versions provide disapproval for environmental reasons in substantially the same language. However, there are structural differences in these provisions and the House amendment specifically includes "fish and other aquatic life" as part of "life", while the Senate bill only includes "aquatic life". The conference report follows the House amendment.

Both versions provide for cases where compensation is not to be granted for disapproval where there is a failure to comply with regulations, or requirements of the Coastal Zone Management Act, but use different language. The conference report follows the House amendment.

Both versions provide for procedures for disapproval, followed by cancellation, and compensation, but use different wording. The Senate bill provides detailed standards for compensation if there is a cancellation after disapproval. The House amendment provides that cancellation shall not foreclose any claim for compensation as required by the Constitution or any law. The conference report follows the Senate bill, and adopts the procedures of section 5(a)(2) as to compensation. (See discussion as to section 5(a)(2)(C).)

Both versions provide for cancellation if a plan is not submitted or not complied with. The House amendment provides that such cancellation is to be in accordance with procedures described in section 5(c) and (d) of the Act. The Senate bill provides that such cancellation is to occur after notice, a reasonable period for corrective action, an opportunity for a hearing, and judicial review. The conference report adopts the House language.

As described above, the machinery for approvals, modifications, disapprovals, and revision of D & P plans is the responsibility of the Secretary of Interior. However, any such approvals, modifications, disapprovals and revisions must be consistent with any applicable regulations promulgated by the Secretary of Energy. [See DOE Act, Sections 302 and 303.]

Section 26—Outer Continental Shelf oil and gas information program

Section 26 describes the procedures and requirements for obtaining and releasing information from lessees and permittees.

Both versions, provide for the submission of data by lessees or permittees. The House amendment provides that the Secretary is to have access "to all data and information (including processed, analyzed and interpreted information)". The Senate bill provides for access to "all data obtained from such activity". The conference report follows the House amendment, adopting the common intent of both versions.

Both versions provide for payments for reproduction and reprocessing in certain circumstances. The House amendment provides for payment to a permittee of the cost of processing and reproducing data, in all cases. The Senate only provides for payments to a permittee for processing data specifically requested by the Secretary and not otherwise prepared in the normal conduct of business. The conference report follows the House provision but with an amendment to conform it to existing regulatory requirements, 30 C.F.R. 251.13. Thus under the conference report, a permittee is to be fully compensated by the federal government for reproduction costs. In addition, he is to be compensated for any processing or reprocessing, specifically requested by the Secretary and not otherwise prepared in the normal conduct of business. If processing has been done by the permittee in the normal conduct of his business, the Secretary must pay the costs attributable to processing or reprocessing of data and information at the "lowest rate available to any purchaser for processing such data and information.".

Both versions provide for the submission to affected States of summaries of data designed to assist them in planning for onshore impacts. In addition, the House amendment provides for the submission of such summaries "to any requesting affected local government." The Senate bill contains no such reference. The conference report follows the House provision but amends it to read: "and upon request, to any affected local government". The language was slightly altered to emphasize that summaries of such data are only to go to local government units when specifically requested. It is intended that local governments are generally to act through their state government representatives. There is to be no independent basis for legal action by a local government unit against activities under this Act, or actions pursuant to this Act, because of a dispute regarding any alleged failure to consult with, submit data to, or receive the recommendations of a local government.

Both versions provide for the transmittal of certain information, for example, reports and statements to affected States. The Senate bill provides that no information is to identify any particular tract with a name of a party, so as to compromise competitive position. The House amendment contains no comparable language. The conference report follows the Senate bill and makes a technical change. To reduce the volume of information that would otherwise be forwarded to a possibly overwhelmed government, the Secretary is to submit an index of all documents and then if a reqeust is made, submit any document or documents requested.

The House amendment provides that if an employee of the Federal government or of a State reveals privileged information, the lessee or permittee may commence a civil action for damages against the United States or a State. The House amendment also provides that the State or Federal government cannot claim immunity because such employee was outside of his scope of employment. The Senate bill contains no comparable provision. The conference report follows the House amendment.

The Conferees adopted this provision, and the restrictions on release of information, to protect proprietary information, and not to discourage access by qualified officials.

The Senate provides that if the Secretary makes a determination that drilling is necessary for more accurate information, then the Secretary can contract for such drilling. Specific budgetary procedures are outlined for funding such drilling, and the annual report is to include the cost of a drilling program, staffing, and a description of such program. The House amendment contains no comparable provision. The Senate receded on the provisions and they are not included in the conference report.

The procedures and requirements of the OCS oil and gas information provision described in Section 26 relate to the authority and responsibilities of the Secretary of Interior. Nothing in this section affects the authority of the Secretary of Energy, Federal Energy Regulatory Commission, or any other Federal department or agency, to obtain, collect, assess, classify and release information when authorized or required under any other law including section 11 of the Energy Supply and Environmental Coordination Act of 1974.

The House amendment contains a provision relating to release of information obtained by the federal government "in the conduct of geological or geophysical explorations by any Federal agency pursuant to section 11 of this Act".

The conference report, as a conforming change to section 11 of this report (see discussion on section 11(a), *supra*), deletes this reference.

Section 27.—Federal purchase and disposition of oil and gas

S. 9 provides many new bidding options, involving royalty and net profit shares. Section 27 provides the procedures for the securing of royalty and net profit share oil and gas and, in addition gives the United States the right to purchase oil and gas and to distribute it.

The Senate bill provides for collection of royalty on net profit of oil and gas, and the purchase of oil and gas from a "lease or permit" and the House amendment only refers to "lease". The conference report follows the House language.

The Conferees note the passage of the Department of Energy Organization Act, 91 Stat. 565, and intend that the collection of royalty or net profit shares in kind and purchase of oil and gas by the Secretary of Interior is to be in conformity with applicable regulations promulgated by the Secretary of Energy, DOE Act, Sec. 302(b)(5).

Both versions and the conference report allow title to any oil or gas to be transferred to certain requesting federal agencies and departments. Such transfers are to be in accordance with any applicable regulations of affected agencies and departments.

As a conforming change, the conference report specifies that the allocation, offering, distribution and sale of such oil are to be in compliance with any applicable regulations promulgated by the Secretary of Energy.

Both versions provide that the authority of the Secretary of Interior to sell oil is limited by any provision of law in effect, or regulation implementing such law, providing for mandatory allocation and pricing.

Both versions and the conference report provide that if oil or gas is offered for sale and no acceptable bids are received, and if the oil or gas is not otherwise transferred, the lessee is to take any such oil or gas and pay the regulated price, if applicable, or fair market value. The determination as to whether a bid is acceptable is to be made

jointly by the Secretary of Interior *and* the Federal Energy Regulatory Commission as to gas.

Both versions provide for allocation of royalty oil to small refiners.

The House amendment provides that any oil sold or allocated to small refiners under this section is to be credited against that amount allocated under section 8 of the Act, which deals with the 20 percent set aside for small and independent refineries. The Senate bill contains no such limitation. The House receded and the crediting provision is not included in the conference report.

The House amendment defines "small refiner" in accordance with the Small Business Administration standards. The Senate bill defines "small refiner" specifically, as one who qualifies as a small business concern under the rules of the S.B.A. and who cannot purchase in the open market an adequate supply of oil to meet his needs. The conference report follows the House amendment with the addition of the phrase "in effect as of the date of enactment of this section or as thereafter revised or amended". Thus, a small refiner, for purposes of Section 27, is one so defined by the Small Business Administration standards, now or in the future.

Section 28—Limitation of exports

The findings, purposes, and policies of S. 9, make it clear that the development of the Outer Continental Shelf is to be one method to reduce dependence on foreign energy sources and increase the domestic supply of oil and natural gas. Section 28 limits exports of any OCS oil and gas. Exports are to be allowed only in cases of exchange agreements, efficiency, or the national interest, and then only when such exports do not add to dependency on foreign energy sources and when the President makes a specific finding to this effect. The President must submit his findings and recommendations to Congress as to the export of any oil or gas for approval or disapproval. If the Congress, within 60 days, passes a concurrent resolution of disapproval stating that such export would not be in the national interest, further exports are to cease.

Both versions provide for limitations on exports of domestic oil and gas. The House amendment provides that before there is such an export, the President has to make a finding that such exports "will not increase the number of barrels of oil or cubic feet of gas imported into this country". The Senate bill provides that the President's finding is only to be that "such exports will not increase reliance on imported oil and/or gas". The conference substitute adopts the Senate language.

The House amendment provides in subsection 28(d) for an exemption to the limitation for oil or gas "which is exchanged or exported pursuant to an existing international agreement". The Senate bill contains no comparable language. The conference report adopts the House language.

Section 29.—Restrictions on employment

Both versions provide for restrictions on employment of employees of the Department of Interior who have had duties or responsibilities under the Act. The Senate bill provides an absolute ban of employment related to previous work for two years after termination of employment. The House amendment provides more specific standards as to which kind of activity is or is not permitted after termination of employment. For example, it provides that former high-ranking Interior Department employees may not represent a party other than the United States for a period of 2 years after leaving the Interior Department, if that representation relates to a matter that was within his official responsibility. It also prohibits any effort by a former high-ranking employee to influence the Interior Department on any matter for a period of 1 year after leaving the Department. The conference report follows the House amendment.

Section 30—Documentation, registry and manning requirements

The House amendment contains a section detailing certain requirements for OCS facilities and vessels. Specifically, the provision provides for regulations (1) to generally require manning or crewing by United States citizens or permanent resident aliens; (2) to require documentation under the law of the United States; and (3) to require certain minimum standards of design, construction, alterations, and repair. The Senate bill contains no such section.

The Conferees adopted a substitute section intended to insure safe operations on all OCS facilities and vessels, and to reconcile the dual concerns of providing the fullest possible employment for Americans in United States Outer Continental Shelf activities and eliminating to the fullest possible extent the likelihood of retaliation by foreign nations against American workers in foreign offshore activities.

Safety

The House amendment provides that within six months after enactment of the 1978 OCS amendments, the Coast Guard is to promulgate regulations requiring any vehicle or structure used for OCS activities authorized by this Act to comply with such minimum standards of design, construction, alteration, and repair as the Coast Guard is to require. The Senate bill contains no such provision.

The conference report adopts the House provision with two changes. First, the conference report provides that standards can be established by the Coast Guard or the Secretary of Interior. This conforms this section to the rest of the OCS Act. Coast Guard and Interior generally share safety and other regulatory responsibilities (see discussion in this Statement of Managers on Sections 21 and 22). Second, a new subparagraph (b) is inserted into this section to provide that the requirement of application and enforcement of such standards is not to be applied retroactively to any vehicle or structure.

Thus, such standards are not required for any vehicle or structure built prior to the enactment of the 1978 OSC Amendments—until such time as they are rebuilt. If such vehicles or structures are rebuilt—then such new standards are to be applied. Of course, as detailed in this Statement of Managers in its discussion on section 5(a) and sections 21 and 22, nothing in this limitation is meant to supercede the general regulatory and enforcement authority of the Secretary of Interior or the Coast Guard, granted elsewhere in the OSC Act. It only limits the *mandate* of new standards and enforcement of such standards and does not limit the general regulatory discretionary authority.

Documentation

The House amendment requires the Coast Guard, within six months of enactment of the 1978 OSC Amendments, to promulgate regulations, applicable one year after the effective date of the regulations, requiring "any vessel, rig, platform or other vehicle or structure" used for OSC activities, and built or rebuilt after the applicable date "when required to be documented, be documented under the laws of the United States." The Senate bill contains no such provision. The conference report adopts the House provision with a clarifying amendment. Such regulations are to apply to vessels "required to be documented by the laws of the United States." Thus, this provision reaffirms existing interpretations and applications of mandatory documentation under U.S. laws.*

Manning and Crewing

The House amendment requires the Secretary of the Department in which the Coast Guard is operating to promulgate regulations within 6 months of enactment of the 1978 Amendments which require, with certain exceptions, that vessels or other vehicles or structures used for OCS activities be manned or crewed by U.S. citizens or permanent resident aliens.

The Senate bill contains no such provision. The conference report adopts a substitute for this provision providing for exceptions in certain cases and limitations in others.

The conference report thus provides, as does the House version, that the Coast Guard is to promulgate regulations that vessels or other vehicles or structures be manned by U.S. citizens or permanent resident aliens. "Permanent resident aliens" are those lawfully admitted to the United States, in accordance with the Immigration and Naturalization Act of 1952, as amended, section 101(a)(20), 8 U.S.C. 1101(a)(20).

The conference report also adopts the three limitations or exceptions included within the House version to avoid any disruption in OCS activities by this manning requirement. First, the requirement does not apply where "specific contractual requirements or national registry requirements in effect at the time of the promulgation of the regulation" provide for foreign personnel. This waives the requirement of this section requiring exclusive use of American citizens or resident aliens when an existing contract already covers operations. In this case, immediately upon the expiration of the contract, the American crew requirement would come into effect.

This also omits from the citizenship or permanent residence requirements those members of the crew of foreign-flag vehicles or structures that come under the manning requirements established under certification

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* Under existing law, only vessels *can be* documented and only vessels of 5 net tons or more which are engaged in commerce are "required to be documented." Platforms are never documented. No fixed rigs (platforms) are required to be documented because they are not engaged in commerce. Thus, under present law, vessels operating between points in the United States are embraced within coastwise laws. Under consistent federal government application, vessels operating *between* the coast of the United States or any point within the United States, its territorial waters, and its territories and possessions—and fixed OSC platforms or mobile rigs secured to or submerged onto the OSC for drilling—have been required to be documented under the laws of the United States. Of course, vessels engaged in traffic between platform and platform, secured rig and secured rig, a platform and secured rig are also included. Vessels which can be documented include ships, semi-submersible, submersible or jack-up drill rigs and drill ships, whether propelled or self-propelled. Thus, this provision does not change this existing law. There has been some question raised as to whether vessels, *not* departing from a point within the United States, or its territories or possessions, and delivering items to a vessel in the offshore waters—but not carrying merchandise or passengers from one point in U.S. waters or on the OSC to another—are required to be documented. By present opinion of the Treasury Department, they are not. In any event, if they are not "required to be documented," they are not covered by this provision. If they at some future time are required, they would be so under this section—but also be so under present law.

of registry of other nations, generally only the marine crew. Any such foreign manning laws enacted after the passage of this law would not be applicable.

Second, section 30 would not apply if "there are not a sufficient number of such citizens or aliens who are qualified and available for work." This is virtually the present standard of the immigration law. Special circumstances may exist which prevent all operators from complying within the prescribed time and thus the substitute provision has, in those instances, made allowance for the temporary employment of foreign nationals until qualified U.S. citizens or resident aliens are available.

The provision as to use of citizens and permanent resident aliens applies only to "manning" or "crewing." Thus, specialists, professionals, or other technically trained personnel called in to handle emergencies or other temporary operations would not be included.

Third, this requirement is prospective only. It only applies to vessels, vehicles or structures used one year after enactment of the regulations and thus no later than 18 months after enactment of the 1978 amendments.

The conference report adds two more exceptions or limitations. The *fourth* exception is that the manning or crewing provision could be waived if the President makes a specific finding, as to a particular vehicle or structure, that application of this requirement would be adverse to the national interest. Thus, if national security or defense would be affected, for example, the President could waive this provision. However, such waiver can only be after a specific finding and only on a vehicle-by-vehicle, structure-by-structure basis.

Finally, as a *fifth* exception or limitation, the conference report does not automatically apply the domestic manning and crewing provision to foreign offshore vehicles or structures. The Conferees sought to establish appropriate response to foreign "hire national" statutes, policies or practices which discriminate against Americans working overseas or to otherwise damage international relations.

Under the conference report the manning or crewing requirement does not apply to foreign offshore vehicles or structures *until* the President makes certain findings in relation to the foreign country in which the vehicle or structure was built. If the President finds that a foreign nation, directly or indirectly, by statute, regulations, policy or practice, has adopted a national manning requirement for equipment in its offshore waters, he may apply this manning or crewing provision.

The Conferees were explicit as to the scope of this application to foreign nations. A vehicle or structure of a foreign nation is defined as one over 50% owned by citizens of a foreign nation, or under the effective right of such citizens to effectively control such vehicles or structure. If not 50% so owned, or so controlled, it is not a "vehicle or structure of a foreign nation" and this limitation does not apply. The general requirement of domestic manning or crewing would apply, with the four exceptions outlined earlier.

Next a finding is required that a foreign nation has acted to provide for domestic manning. The actions are to be those of the government of the foreign nation—whether by its national government or a political subdivision. The actions may be direct—by statute or regulations—or indirect—by lease, license, permit or contract terms. The Conferees expect the President to utilize these mechanisms and to make a continuing review of existing and future statutes, rules, policies, and practices and to apply this provision in appropriate circumstances. The Conferees expect that Congress will actively exercise its oversight responsibilities to assure that this provision is utilized in appropriate circumstances.

If such a finding is made, the President is to determine to what extent and to what degree it is being applied and to respond in kind, that is in proportion. Thus, if only a political subdivision has domestic manning, our regulations would apply to the citizens of the political subdivision and not to those of the whole country. Or, if a foreign nation has two-thirds manning requirement for certain structures, regulations implementing the President's determination would similarly apply to similar structures and be limited to a two-thirds requirement. Or if a foreign country requires its citizens to be used for certain types of work and not for others, this section would be applied to those workers and not generally. Of course, a general broad-based foreign government domestic manning requirement would allow a similar application here.

TITLE III—OFFSHORE OIL POLLUTION FUND

Title III provides the procedures to be followed in the event of an oilspill and compensation for cleanup costs and damages resulting from such a spill. The title applies to spills from any offshore facility in the OCS, and any oil tanker, barge or other watercraft which is operating in offshore waters, and which is carrying oil directly from an offshore facility."

Both the Senate bill and House amendment have comprehensive oil spill liability titles (Title III of both versions) The Conferees are aware that a comprehensive oil spill bill has passed the House of Representatives and has been approved by the Senate Commerce and Transportation Committee, and that a similar bill is now pending in the Senate Environment and Public Works Committee. Such bills apply to all oil spills into the marine environment, including those resulting from OCS-related activities."

The Conferees do not in any way intend, by adoption of this Title, to affect consideration of, or approval of, any language in a comprehensive oil spill act. It is hoped and expected that such a comprehensive bill will soon be enacted and thus obviate the need for this Title. The Conferees expect that this Title would be abrogated by passage and enactment of such a comprehensive bill.

Moreover, certain decisions were made by the Conferees as to language in sections of this Title. By this action, the Conferees do not intend in any way to bind themselves, their committees, or the Senate and House as to appropriate language for a comprehensive oil spill bill.

To fully explain the action of the Conferees, this Statement of Managers will discuss this Title section-by-section, and describe resolution of substantive differences in the two versions.

Sec. 301—Definitions

This section defines twenty-five (25) terms which appear in the oil spill liability title.

Both the Senate and House amendment contain either identical or very similar language for seven terms. Certain technical and conforming changes were made and language expressing the desires and intents of both Houses were included in the conference report for these terms: "Secretary", "fund", "person", "damages", "person-in-charge", "offshore facility", and "discharge".

The House amendment contains several terms not defined in the Senate bill or defined differently than in the Senate bill. The Senate receded and the following terms, as defined in the House amendment, are included in the conference report as follows:

In the definition of *"incident"*, the House amendment relates to occurrences involving one or more offshore facilities or vessels, or any combination thereof. The Senate bill does not include the phrase, "any combination thereof". The conference report follows the House amendment.

The House amendment includes a definition of "public vessel" which is a subclass of vessel that performs governmental functions for Federal, State, or local units of government. In the House amendment, public vessels are exempted from later liability provisions and the victims of oil pollution caused by such vessels must seek relief from the fund. Government owned or operated vessels which are engaged in commercial activities are not included in the definition. The Senate bill contains no comparable definition. The conference report adopts the House amendment.

The House amendment includes a definition of "facility" which means a structure, or group of structures (other than a vessel or vessels), used for the purpose of transporting, drilling for, producing, processing, storing, transferring, or otherwise handling oil. The Senate bill contains no comparable definition. The conference report adopts the House amendment.

The House amendment includes a detailed definition of "oil pollution" to include discharged oil in the contiguous zone, on the high seas when discharged in connection with OCS activities, or on or near a foreign country entitled to reciprocal rights under this Title. The Senate bill contains no comparable definition. The conference report adopts the House language with an amendment. "Oil pollution" is to include spills from vessels transporting OCS oil whenever the vessels are in offshore waters and to include effects on offshore waters and the adjacent shore.

The House amendment includes separate definitions of "United States claimant" and "foreign claimants." In each case, a claimant includes individual residents, and government agencies. The Senate bill has no comparable provisions. The conference report follows the House amendment.

The House amendment includes definitions of "United States" and "State" which mean all of the States, territories and possessions of the United States. The Senate bill has no comparable provision. The conference report follows the House amendment.

The House amendment includes a definition of "oil" which means petroleum including crude oil or any fraction or residue thereof. The Senate bill contains no comparable provision. The conference report follows the House amendment.

The House amendment defines "cleanup costs" to mean the cost of reasonable measures taken, after an incident has occurred to prevent, minimize, or mitigate oil pollution from that incident. The Senate bill more specifically defines "cleanup costs" to include all reasonable and actual costs incurred in removing or attempting to remove oil discharged or in attempting to prevent, reduce or mitigate damages from such a discharge. The conference report follows the House amendment.

The House amendment includes a definition of "claim" which means a demand in writing for a sum certain. The Senate bill contains no comparable provision. The conference report follows the House amendment.

Both versions have similar definition of "owner" except that the House amendment specifically includes the holding of a title as proof of ownership and specifically excludes any person who hold indicia of ownership primarily to protect his security interest. The conference report is the same as the House amendment.

Both versions have similar definitions of "operator" except that the House amendment specifically excludes owners of either a vessel or an offshore facility, (as already included in the definition of "owner") and

specifically includes, with respect to any vessel, any person responsible for the manning, victualing and supplying of the vessel. The conference report is the same as the House amendment.

The House amendment includes a definition of "property" which means littoral, riparian, or marine property. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment includes a definition of "guarantor" which means the person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment includes a definition of "gross ton" which means a unit of 100 cubic feet for the purpose of measuring the total unit capacity of a vessel. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment includes a definition of "barrel" which means 42 United States gallons at 60 degrees Fahrenheit. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The Senate bill includes a definition of "revolving account" which means the account referred to in section 302(b) of that bill. The House amendment contains no comparable provision. The Senate receded to the House and the conference report does not contain this definition.

The Conferees also agreed to the following:

The House amendment includes a definition of "ship" which means either of the following types of vessels carrying oil as bulk in cargo: (1) a self-propelled vessel, or (2) a non-self-propelled vessel which is certificated to operate outside the internal waters of the United States. The Senate bill contains no comparable definition. The House receded to the Senate and the Conferees deleted this definition. This provision is no longer appropriate or relevant to, or used in, Title III of the conference report.

The Senate bill includes within the scope of the Oil Spill Title, a "vessel" transporting OCS oil, whether in the waters above the OCS or in the navigable waters. The House amendment is limited to the waters above the OCS. The conference report provides for the scope to be for vessels operating in all "offshore waters", that is in the waters above the OCS and above the submerged lands.

The House amendment includes a definition of "removal costs" which means (1) costs incurred under section 5 of the Intervention of the High Seas Act; and (2) other cleanup costs. The Senate bill contains no comparable provision. The conference report follows the House amendment, with an amendment. It specifically defines removal costs to include costs incurred under subsection (c), (d) or (1) of section 311 of the Federal Water Pollution Control Act. This enables the Government to recover from the Fund any removal costs authorized by the recently amended Federal Water Pollution Control Act for OCS-related spills.

Sec. 302—Fund establishment, administration, and financing

Both versions call for the establishment of Funds which are to be maintained at a level of not less than $100 million and not more than $200 million. The House amendment allows the limitation to be exceeded when necessary to permit moneys recovered or collected on behalf of the fund, to be paid into the Fund. In the House amendment, the Fund is created within the Treasury of the United States, while the Senate bill establishes the Fund within the Department of Transportation and establishes also a revolving account, without fiscal year limitation, within the Treasury. In the House amendment, the Fund is called the "Offshore Oil Pollution Compensation Fund". In the Senate bill, the Fund is called the "Offshore Oil Production Compensation Fund". On all these minor differences, the Conferees accepted the language of the House amendment.

The Senate bill establishes a revolving account in the Treasury of the United States that would be available to the Fund to carry out the provisions of the Title. There is no comparable House provision. The Senate receded to the House and the conference report does not contain this paragraph.

Both versions, in slightly different words, provide that the Fund shall consist of money generated by a 3 percent barrel tax on oil obtained from the Outer Continental Shelf, and money obtained by the Fund through fines, penalties and efforts to obtain reimbursement. The conference report follows the House amendment.

Both versions authorize the Secretary to promulgate regulations to modify the fee for the purposes of maintaining a proper amount in the Fund.

The House amendment specifically requires that such regulations not become effective until at least 90 days following their publication in the Federal Register. The conference report follows the House amendment.

The House amendment alone provides that no such fee regulation, whether or not actually in effect, may be stayed by any court pending completion of judicial review of that regulation or modification. The conference report adopts this provision. The House amendment provides further than no modified fees paid by any owner pending completion of judicial review of the modified fee regulation shall be repaid to such owner. The Senate bill contains no comparable language. The House receded to the Senate and the conference report does not contain this language.

The House amendment alone includes a provision making any person who fails to pay fees required under this Title liable for a civil penalty and liable for all fees due plus the interest. Also under the House amendment, the Attorney General is authorized, at the request of the Secretary of the Treasury, to bring an action for fee amounts due and penalties in the name of the Fund. The Senate bill has no such provision. The conference report is the same as the House amendment.

Both versions contain a provision which would make the Fund immediately available for removal costs. The House amendment also specifically authorizes the Secretary to promulgate regulations designating the person or persons who may obligate available money for this purpose. The conference report adopts the House language and also adds provisions authorizing immediate availability of funds for claims settlement and other administrative and personnel costs. This allows the government to charge all necessary costs of administering the Fund to the Fund itself. In addition, the conference report makes it clear that any payments are subject to such amounts as provided in appropriations acts.

The House amendment includes a provision making criminal the falsification of any required record or document. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

In different language, both versions authorize regulations for requiring certain records and documents and access to such records. The House amendment provides for such regulations to be promulgated by the Secretary of the Treasury. The Senate bill provides for promulgation by the Secretary of Transportation. In addition, the House amendment provides access to the Secretary of the Treasury and the Comptroller General. The Senate bill provides for access to the Comptroller General and the Secretary of Transportation. Finally, the House amendment specifically provides that the Secretary of Transportation is to determine the level of funding. The Senate bill contains no such specific authorization. The conference report adopts the House language for these requirements on regulations for records and documents and access to them.

Both versions, in differing language, allow money not immediately needed by the Fund to be invested in interest bearing special obligations of the United States. The House amendment states that such investments shall be made by the Secretary of the Treasury, while the Senate bill states that they shall be made by the Secretary of Transportation with the approval of the Secretary of the Treasury. The House amendment also states that the special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The House provides that any interest on, and the proceeds from the sale of, any obligations held in the fund shall be credited to and form a part of the Fund. The Senate bill contains no such specific provisions. The conference report is the same as the House amendment on interest accounts.

Both versions have similar provisions authorizing the Fund to borrow from the Treasury when necessary. However, the Senate bill provides that such borrowing shall not be in excess of $500 million, while the House amendment contains no stated ceiling. The House amendment states specifically that notes and obligations shall be redeemed by the Secretary from moneys in the Fund. The conference report is the same as the House amendment on authority to borrow, no limit on amounts that can be borrowed and redeemed.

Section 303—Damages and claimants

Both the Senate bill and House amendment list a variety of potential damages from oil pollution, for which compensation may be sought from the Fund.

The House amendment specifically states that claims are to be asserted for "economic loss", arising out of, or directly resulting from, oil pollution for certain enumerated items. The Senate bill contains no such specific language but only enumerates items to be considered as damages. The conference report adopts the House language. While both versions generally include the same basic items within the scope of allowable damages, there are some differences.

The House amendment specifically includes removal costs as a basis for a claim under this provision. The Senate bill does not. The conference report adopts the House language.

The House amendment limits a claim for removal costs in that the owner or operator of a vessel or offshore facility involved in an incident may assert such a claim for removal costs only if he can show that he is entitled under another provision of the Title to a defense to liability. The Senate bill does not include any of this specific language. The conference report adopts the House language.

The House amendment includes as a basis for a claim loss of use of real or personal property, if the property involved is owned or leased, or the natural resource involved is utilized by the claimant. The Senate bill does not specifically enumerate this basis—but does provide for damage for the cost of repairing or replacing, income lost during repairs or replacement, and loss of value.

The conference report adopts the House language.

The House amendment includes injury to, or destruction of, natural resources. The claim can be made by the President as trustee for natural resources over which the United States Government has sovereign rights or exercises exclusive management authority; or by any State for natural resources within the boundary of the State belonging to, managed by, controlled by, or appertaining to the State. Compensation is to be used only for the restoration of the damaged natural resources or for acquisition of equivalent resources. The Senate bill simply allows recovery for any costs or expenses incurred by the Federal or any State government in the restoration, repair, or replacement of natural resources damaged by an oil discharge. The conference report adopts the House language with an amendment which specifically provides sums recovered for injury to natural resources to be available to restore, rehabilitate, or acquire the equivalent of the resource and which specifically provides that the measure of damages is *not* limited to sums to restore or replace.

In addition, it is intended that reasonable costs associated with the preparation and presentation of natural resource damage claims are intended to be recoverable as part of each claim.

The House amendment includes as a basis for a claim, loss of use of natural resources if the resource involved is used by the claimant. The Senate bill contains no specific provision on this basis of a claim. The House amendment allows a claim for loss of profits or impairment of earning capacity due to injury or destruction of real or personal property or natural resources, if the claimant derives 25% or more of his earnings from activities which utilize the property or natural resource. The Senate bill contains a similar provision, except that the period of loss of income or impairment of earning capacity for which a claim may be asserted must not exceed 5 years. On these two provisions, the conference report adopts the House language.

The House amendment includes as a basis for a claim, loss of tax revenue for a period of one year due to injury to real or personal property by any State or political subdivision thereof. The Senate bill contains a similar provision except that recovery may also be sought by the Federal Government. The conference substitute incorporates the House language but includes as a basis for a claim loss of tax revenue by the Federal Government.

Except for removal costs, the House amendment allows recovery by a foreign claimant to the same extent that a United States claimant may assert a claim. Such recovery is based on reciprocal rights and duties. The foreign claim is allowed for oil pollution in the navigable waters or in or on the territorial sea or adjacent shoreline of a foreign country of which the claimant is a resident; if the foreign claimant is not otherwise compensated for his loss, and recovery is authorized by a treaty or executive agreement between the United States and the foreign country involved or if the Secretary of State, in consultation with the Attorney General and other appropriate officials, certifies that such country provides a comparable remedy for United States claimants. The Senate bill contains a similar provision stating that no person shall be liable under the title to a foreign claimant unless a reciprocal condition similar to that in the House amendment is present. The conference report follows the House amendment with an amendment making the intent of both Houses clear that the foreign government can not be recompensed for tax losses. A claim for tax losses from a foreign government may present an awkward case for administrative adjudication.

Both versions have similar provisions authorizing the Attorney General to bring class action suits. The Senate bill specifically provides that sums recovered in such suits be distributed to the members of the class except for reasonable costs which shall be deposited in the U.S. Treasury. The House amendment contains no such specific language. The Senate receded to the House and the Conferees adopted the House provision.

Both versions have similar provision allowing any member of a group to bring a class action suit in the absence of action by the Attorney General. In the House amendment, such suits are allowed after 60 days have elapsed from the date on which the Secretary designates the source of the oil discharge, while in the Senate bill such suits are allowed ninety days (90) after a prohibited discharge has occurred. The conference report is the same as the House amendment.

The Senate bill has a provision which states that if the number of members of a class exceeds one thousand, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure. The House amendment has no similar provision. The Senate receded to the House. The conference report does not contain this provision.

Sec. 304—Liability

Subject to certain exemptions in each case, both versions with different language hold the owner and operator of a vessel or an offshore facility strictly liable, jointly and severally, for the damages spelled out in the respective bills. The House amendment refers only to the owner and operator of a vessel other than a public vessel. The Senate bill has no such specific limitation for vessels. The conference report is the same as the House amendment.

Both versions place limits on liability except in certain similar circumstances involving gross negligence or violations of applicable safety standards. The House amendment provides that such violations are of applicable safety, construction, or operating standards or regulations of the Federal Government; and must be within the privity or knowledge of the owner or operator. The Senate bill neither has this privity requirement nor does it limit regulations to those of "the Federal Government." In addition, the House amendment does not limit liability when the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by the responsible Federal official in furtherance of cleanup activities. The Senate bill has no such specific language. The conference report follows the House amendment on exceptions to limits of liability.

Both versions limit liability for the owner and operator of a vessel. In the House amendment, the limitation is $250,000 or $300 per gross ton, up to a maximum of $30 million, whichever is greater; in the Senate bill, the limitation is $150 per gross registered ton with no maximum. The conference report provides for a limitation of $250,000 or $300 per gross ton, whichever is greater, thus striking the maximum.

Both versions limit liability for the owner and operator of an offshore facility of removal costs and an amount up to $35 million.

The conference report specifically provides for a limitation of "the total of removal and cleanup costs and an amount limited to $35,000,000 for all damages."

Both versions provide certain defenses to liability. The House amendment provides that owners and operators shall not be liable where the incident was caused primarily by an act of war, civil war, or insurrection. The Senate bill would impose no liability to the extent that the owner or operator establishes that the discharge of oil or that any damages resulting from such discharge were caused by an act of war. The conference report precludes liability when the incident is caused solely by an act of war, hostilities, civil war or insurrection.

The House amendment states that no liability shall exist where the incident is caused primarily by a natural phenomenon of an exceptional, inevitable or irresistible character. The Senate bill does not include this natural phenomenon exception. The conference report precludes liability where the incident is caused solely by "an unanticipated grave national disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character", which could not have been prevented by "due care or foresight".

The House amendment provides a defense to liability to the extent that the incident was caused by the negligence of a third party or the claimant. The Senate bill provides a defense only if the incident was totally caused by the negligence or intentional act of a third party, or the damaged party. The conference report adopts the Senate intent and provides a defense if the "incident is caused solely by the negligence or intentional act of the damaged party or any third party (including any government entity).

When such intentional or negligent acts are involved, the Senate bill provides that the damaged party or third party involved shall, if also an offshore facility or vessel, be liable for such cleanup costs of damages to the same extent as if such discharge had occurred from their facility or vessel. The House amendment has no comparable language. The conference report deletes this provision.

The Senate bill provides that all removal costs incurred by a government agency are not subject to defense or limitations. The House amendment contains similar language as to facilities, but is not specific as to vessels. The House recedes and the Senate intent is included in a new subsection.

The House amendment requires that the Secretary, from time to time shall report to Congress on the desirability of adjusting the monetary limitations on liability for the owners and operators of offshore facilities and vessels. The Senate bill contains no such provision, but requires the President to adjust the financial responsibility and liability requirements in accordance with the wholesale price index. The conference report adopts the House provision.

Subject to certain exceptions in both versions, both the Senate bill and the House amendment provide that the Fund shall be liable for damages not actually compensated and for which a claim may be asserted under the provisions of each respective title.

The House amendment provides that except for removal costs, the Fund is not liable where the incident is caused primarily by an act of war, hostilities, civil war or insurrection, and, as to a particular claimant, where the incident or economic loss is caused, in whole or in part, by negligent or willful misconduct of that claimant, or as to a particular claimant, to the extent such damages or costs were caused by the negligent or intentional actions of the damaged party.

The Senate bill provides that the fund shall not be liable for cleanup costs and damages to the extent that the discharge was caused by war, negligence of the Federal Government, or negligent or intentional acts of a damaged party. The conference report bars liability of the Fund for gross negligence—or—willful misconduct, in whole or in part, of a claimant and to the extent

it is caused by the plain negligence of a claimant. Acts of WAR can be a basis for a claim against the Fund.

Both versions provide that owners and operators shall also be liable for the interest on claims from the time the claim is presented until the time it is paid. The Senate bill alone specifically states that this interest payment shall not be subject to the limitation on liability provisions. The House amendment excludes from the period during which the interest is accruing the time, if any, from the date upon which the owner or operator offers to the claimant a settlement equal to or greater than that ultimately paid to settle the claim to the date on which the claim shall be settled. No such language is in the Senate bill. In addition, the House amendment provides that if the owner, operator or guarantor shall offer the claimant, within 60 days of the date upon which the claim was presented or advertised whichever is later, an amount equal to or greater than that finally paid in satisfaction of the claim, he shall be liabe for interest only from the date the offer was accepted by the claimant to the date upon which payment is received by the claimant. The Senate bill contains no comparable language. The conference report is the same as the House language on these interest provisions.

In the House amendment, it is stated that no indemnification, or similar agreement shall be effective to transfer the liability, other than as specified in the Title. The Senate bill contains no comparable provision. The House receded and the conference report does not include this provision. The Conferees were concerned that inclusion of this provision of the House amendment might radically change existing practice in regards to certain vehicles owned and operated by service contractors, who are too small to bear liability risks and for whom insurance coverage is not readily available. Non-inclusion of this provision will ensure continued involvement of these companies and thus not decrease competition on the OCS.

Both versions, using differing language, have similar provisions protecting the rights of owners or operators to sue parties who may have been responsible for a discharge of oil. The conference report adopts the House language amendment.

The House amendment provides that the provision of its section on liability shall supersede all such other provisions of law. The Senate bill has no comparable provision. The conference report is the same as the House provision.

Sec. 305—Financial responsibility

Both versions have similar provisions requiring the owners and operators of vessels to file certificates of financial responsibility.

In the House amendment, such filing shall be in accordance with regulations issued by the President, while the Senate bill requires the regulations to be issued by the Federal Maritime Commission.

Only the Senate bill exempts vessels of under 300 gross registered tons. Only the House amendment requires bonds to be issued by an authorized U.S. bonding company.

Both versions spell out acceptable methods of proving financial responsibility but the Senate bill adds, "other evidence * * * acceptable to the President".

On all these matters, the conference report follows the House amendment.

The House amendment has a provision requiring the Secretary of the Treasury to refuse required customs clearance to any vessel, subject to this section, which does not have a valid certificate of financial responsibility. The Senate bill has no comparable provision. The conference report adopts an alternative provision providing for regulations for denial of entry and detention of any vessel that does not produce the required certification.

The House amendment allows the Secretary to issue regulations granting himself access to all offshore facilities and vessels and requiring that he be shown upon request certifications of financial responsibility. The Senate bill has no comparable provision. The conference report follows the House amendment.

Both versions have provisions requiring the owner and operator of an offshore facility to obtain certificates of financial responsibility. The House amendment does not include in this requirement any facility not used to drill for, produce or process, oil, and which does not have the capacity to transport, store, transfer, or otherwise handle more than 1,000 barrels at any one time. The conference report contains the House language with a technical amendment making it clear that the subsection refers to "offshore facilities".

The House amendment provides that the evidence of financial responsibilties shall be sufficient to satisfy the limits of liability which has been established, or $35,000,000, whichever is less. The Senate bill provides that such proof shall be based on the capacity of the offshore facility and other relevant factors. The Senate bill spells out a list of acceptable methods for demonstrating financial responsibility, while the House amendment simply states that such demonstration must be in accordance with regulations promulgated by the Secretary. With an amendment changing "regulations promulgated by the Secretary", to "regulations promulgated by the President" the conference report follows the House amendment.

Both versions provide that claims may be brought directly against the guarantor providing evidence of financial responsibility. The House amendment and not the Senate bill also states that the guarantor shall be entitled to invoke all rights and defenses which would be available to the owner and operator, and that he shall be entitled to invoke the defense that the incident was caused by the willful misconduct of the owner and operator, but he shall not be entitled to invoke in proceeding brought by the owner or operator against him. The conference report follows the House amendment.

The House amendment provides for a study by the President of the marine insurance industry. The study shall attempt to determine whether adequate insurance is available for the owners and operators subject to this Title to meet their obligations and whether the market is sufficiently competitive to assure purchasers of a reasonable range of insurance services. The study shall be completed within one year, with an interim report due in three months. The Senate bill has no comparable provision. The conference report includes onshore facilities in this provision. The intent of this change is to avoid a duplicative study of insurance if one is required by a future comprehensive oil spill bill.

Sec. 306—Notification, designation, and advertisement

Both versions have similar provisions requiring owners and operators to notify the Secretary of oil pollution incidents from their vessels or facilities.

Both versions require the Secretary to notify owners and operators in cases where an oil pollution discharge from their vessel or facility is suspected. The House amendment requires that this be done upon designation by the Secretary that a particular facility was the source of a discharge. The Senate bill requires that it be done when the Secretary learns that a discharge is alleged to have occurred from a facility. Under both, the owner and operator are given 5 days to respond to the allegation. The House amendment also requires the Secretary to notify the guarantor of the financial responsibility certificate of the facility or vessel involved.

In both versions, advertisement procedures are spelled out for cases where the owner or operator involved fails to deny the allegation or designation that the discharge came from his vessel or facility. These procedures are similar, except that in the Senate bill, the Secretary is required to publish the advertisement, in modified form if necessary, in the Federal Register.

Both versions outline procedures for advertising in cases where no owner or operator accepts, or fails to deny, that a discharge occurred from his vessel or facility. These procedures are similar except that in the House amendment they also apply specifically to cases where the source of a dischange was a public vessel, or when the Secretary is unable to designate a source.

Only the Senate bill requires that the Secretary continue to advertise after the initial advertisement period, at a rate not less frequently than once each calendar quarter for a total period of five years.

The conference report incorporates the House language for this entire section.

The two versions have similar provisions spelling out those instances in which claims may be presented to the Fund for settlement, except that the House amendment provides in addition for such presentation where the Secretary has advertised or otherwise notified claimants—cases where the spill emanated from an unknown source or a public vessel.

The House amendment alone provides that in cases where a claimant attempts unsuccessfully to reach an agreement with the owner and operator or guarantor, he may elect to commence an action in court against the owner, operator or guarantor, or to present the claim to the Fund; that election to be irrevocable and exclusive.

The House amendment alone also specifically provides that claims for uncompensated damages may be presented to the Fund in cases where the claim exceeds the liability limit of the owner and operator, or where the owner and operator and the guarantor are financially incapable of meeting their full obligations.

Both versions require that any person presented with a claim under this Title shall, at the request of the claimant, transmit certain documents to the Secretary and the Fund. In the Senate bill, such person is required to transmit such documents within two days of the request, and the claim in such cases shall be deemed to have been presented to the Fund.

Both versions have similar provisions spelling out procedures for instances where a dispute arises between a claimant and the Fund. The House amendment allows a claimant to submit the dispute to the Secretary sixty days after its initial presentation to the Fund, while the Senate bill requires a wait of 90 days. The House amendment also allows claimants to elect to commence an action in court against the Fund in lieu of submitting the dispute to the Secretary for decision; that election to be irrevocable and exclusive.

Both versions require, with different wording, the Secretary to promulgate regulations establishing procedures for the settlement of claims against the Fund.

Both versions have similar provisions spelling out the private and governmental sources which the Secretary shall use to assist in adjusting and adjudicating claims. The House amendment alone includes State agencies among those who may be used to assist in processing claims against the Fund. In such cases, the House amendment pro-

vides that no payment may be made on a claim asserted on or behalf of that State or any of its agencies or subdivisions unless the payment has been approved by the Secretary. The House amendment also specifically allows the Secretary to review and audit all claim payments.

In cases where a claimant is unable to reach a satisfactory settlement with the Fund and thereafter presents his claims to the Secretary for review, the House amendment gives the Secretary the option of delegating the review to a three person panel. The House amendment sets out the general qualifications of the panel members. The Senate bill contains no comparable provisions.

Both versions allow the Secretary to refer disputes to an official appointed under section 3105 of Title V, United States Code. The House amendment refers to the appointment of an administrative law judge; the Senate bill refers to the appointment of a hearing examiner.

The House amendment provides that the administrative law judge be a resident of the United States judicial circuit within which the damage complained of occurred. The Senate bill has no comparable provision.

Both versions have similar provisions spelling out the procedures for consideration of a dispute, except that, the House amendment states specifically that subpenas shall be issued in accordance with procedures in subsection (d) of section 555 of title 5, U.S.C., and rules promulgated by the Secretary. In addition, the House amendment allows the Secretary to invoke the aid of the local U.S. District Court in enforcing its power of subpena.

The two versions have similar provisions spelling out the proper location for hearings and disputes.

The House amendment allows the Secretary to review decisions of the administrative law judge if he so chooses.

The Senate bill however, would prohibit the Secretary from reviewing decisions reached by the hearings examiner.

Both versions have similar judicial review provisions, except that the Senate bill specifies review in the district court in the nearest circuit in which the damage occurred or if the U.S. Court of Appeals for the District of Columbia, in the U.S. Court of Appeals for the District of Columbia.

The House amendment provides that in cases brought in court, both plaintiffs and defendants are required to provide the Fund with copies of complaints and pleadings, that the Fund may intervene as a matter of right and may be dismissed from an action, upon its own motion, when either the owner, operator or guarantor admits liability.

Under the House amendment, receipt of notice by the Fund shall give *res adjudicata* effect to any judgment, even though the Fund chooses not to become a party.

Under the House amendment, the sanction imposed on plaintiffs or defendants for failure to give notice to the Fund is a loss of limitation of liability to which the defendant would otherwise be entitled and the loss of any plaintiff's right to recovery from the Fund for amounts not paid by the defendant.

The House amendment has a provision allowing the plaintiff to join the owner, operator, or guarantor in an action brought against the Fund, and giving the Fund the right to implead any other person who might be liable under the Title, pursuant to Rule 14 of the Federal Rules of Civil Procedure. The Senate has no comparable provision.

Both bills have similar provisions providing for time limits on the filing of claims, except that the House amendment allows three years from the date of discovery of economic loss or six years from the date of the incident resulting in the loss, whichever is earlier and the Senate bill allows only one year from the date of discovery of the damages of five years from the date that advertising was commenced, whichever is earlier.

The Senate bill provides that each person's damage claims arising from one incident which are presented to the Secretary shall be stated in one form, which may be amended to include new claims as they are discovered. Damages which are known or reasonably should be known, and which are not included at the time compensation is made, shall be deemed waived. The House amendment has no comparable provision.

With certain technical changes, the conferees adopted the House language for this entire section.

Section 308—Subrogation

Both versions provide that any person or government entity, including the Fund, who makes payment to a claimant under this Title, acquires by subrogation the rights of that claimant to recover costs or damages covered by such payment.

The House amendment provides that it would be the Attorney General who would be the party bringing action on behalf of the Fund against any liable party; the Senate bill allows the Secretary the option of appointing other attorneys.

Both versions have similar provisions spelling out what the Fund shall recover in claims against the owner and operator, or the guarantor or a vessel or facility involved in an incident, except that the House amendment requires computation of interest pursuant to a stated formula, while the Senate bill requires it to be computed at the existing commercial interest rate. The House amendment includes in those administrative and other costs which are to be recovered, those costs incurred by the claimant or claimants against the Fund.

The House amendment separates potential defendants into two classes for the purpose of differentiating their respective rights to dispute claim settlements. If the Fund proceeds against owners, operators and guarantors who either deny designation or who deny liability, such parties cannot contest the amount involved, except to the extent that it exceeds their limit of liability. If, however, such parties accepted the designation and attempted to negotiate with the claimant, the defendant has a right to contest any amount paid in excess of the largest amount offered in settlement to the claimant by the defendant. The Senate bill does not make this separation.

The House amendment has a provision requiring the Secretary to pay claimants the amounts which the Fund recovers equal to the costs incurred by the claimants against the Fund, plus interest, except that the Fund shall not be liable for interest for the period from the date upon which the Fund offered to the claimant the amount finally paid to the claimant in satisfaction of the claim to the date upon which the claimant accepts the offer. The Senate bill has no comparable provision. With certain technical amendments, the conference report incorporates the House language for this entire section.

Section 309—Jurisdiction and venue

Both versions have similar provisions setting out jurisdiction and venue. The Senate bill, however, specifically states that in cases where the damages involved occurred outside of any district, venue may lie in the nearest district. The House amendment assumed that proper jurisdictional lines would be drawn and that this provision was not necessary. The conference report contains the House language for this section.

Sec. 310—Relationship to other law

The House amendment states that the damages listed in this Title can only be recovered in Federal Court under this Title. The Senate bill does not contain a comparable provision, and it specifies that nothing in the Title shall be interpreted to preempt the field of liability or to preclude any state from imposing additional requirements or liability for any discharge of oil resulting in damages or cleanup costs within the jurisdiction of any State.

The House amendment does say however, that its preemption language should not be interpreted to preclude any State from imposing a tax or fee upon any person or upon oil in order to finance the purchase and prepositioning of oil pollution and cleanup equipment.

The Senate bill makes clear that no person may recover for the same damages under both this Title and under other state or federal law.

Both versions specifically relieve owners and operators from any responsibility to establish evidence of financial responsibility for oil pollution in excess of the requirements of the respective titles.

The House Amendment states that nothing in its preemption language shall prohibit an action by the Fund, under any other provision of law, to recover compensation paid pursuant to this title.

On this section, the House receded and with certain technical changes, the conference report adopts the Senate language on this section. Thus, the conference report does not preempt liability or preclude a State from imposing additional requirements or liability for any discharge resulting in damages or cleanup costs within a State's jurisdiction. Double recovery by a claimant is barred, however, and no State can require evidence of financial responsibility if such evidence is maintained in accordance with this Title. As noted in the introduction to the discussion of this Title, the Conferees do not in any way intend, by adoption of this Title, to affect consideration of, or approval of, any language in a comprehensive oil spill act. It is hoped and expected that such a comprehensive bill will soon be enacted and thus obviate the need for this Title.

Specifically, by adopting the Senate language on "non-preemption", the Conferees do not in any way intend to bind the House or Senate in its final determination as to whether or not State laws, or how State laws, are to be affected by enactment of a comprehensive oil spill statute.

Sec. 311—Prohibition

The conference report is the same as the House amendment and the Senate bill.

Sec. 312—Penalties

Both versions would assess penalties for failure to comply with regulations requiring the acquisition of proof of financial responsibility. In the House amendment, the maximum civil penalty is $10,000; in the Senate bill it is $25,000.

The House amendment includes additional language stating that the authority to assess and compromise the penalties involved is conferred upon the President or his designee in connection with the establishment and maintenance of evidence of financial responsibility for vessels, and upon the Secretary in connection with such requirements as to facilities, as well as to violations involving denials or detention orders issued to vessels.

Both versions have similar provisions establishing penalties for failure to notify, except that the Senate bill specifically prohibits conviction under both this Title and the Federal Water Pollution Control Act, for the same failure. The conference report follows the House amendment for this entire section.

Sec. 313—Authorization of appropriations

Both versions have identical authorization of appropriations sections except that in the Senate bill, the authorization begins in FY

'78 one year earlier than the House amendment.

Also the Senate bill authorizes such sums as may be necessary to reimburse the Fund for cleanup costs paid as a result of spills caused by negligence or the intentional act of any Federal agency or instrumentality.

The conference report contains the House language for this entire section.

Sec. 314—Annual report

Both versions call for the submission by the Secretary of an annual report. The House amendment states that the report shall be submitted to the "Congress", while the Senate bill specifies the Speaker of the House and the President of the Senate. The Senate bill alone requires that the report include a summary of the management and enforcement activities of the Fund.

The conference report follows the House amendment language for this entire section.

Sec. 315—Effective dates

The House amendment contains a provision which states that the subsection requiring a study of available insurance and all other provisions of the Title authorizing the delegation of authority or the promulgation of regulations shall be effective on the date of enactment of the Act, and that all other provisions and applicable regulations would become effective 180 days after the date of enactment. The Senate bill contains comparable provision. With certain conforming changes, the conference report is the same as the House amendment.

Other Provisions

The House amendment contains a provision stating that if any provision is found invalid, the remainder of the Act shall not be affected. This provision is deleted in the conference report as assumed to be the situation without specific language.

The Senate bill contains a provision requiring the President to act to remove or arrange for the removal of oil spilled in violation of the Title, unless he determines that such removal will be done properly and quickly by the owner and operator of the vessel or facility involved. Such action is to be conducted, to the greatest extent possible, in accordance with the regulations issued under the Federal Water Pollution Control Act for the removal of oil and hazardous substances. The House amendment contains no comparable provision.

The Senate bill has a separate section enumerating the duties and powers of the Secretary. The House amendment has no comparable provision, but includes the powers and duties under separate sections where appropriate.

The Senate bill contains a provision requiring that copies of communications transmitted between Federal officials and any persons concerning liability and damages under this Title be available for public inspection and copying. The House amendment contains no similar provision.

The latter three provisions of the Senate bill are deleted in the conference report.

TITLE IV—FISHERMAN'S CONTINGENCY FUND

The House amendment included a "Fishermen's Gear Compensation Fund" as a section of an amended OCS Lands Act. The Senate bill included a "Fishermen's Contingency Fund" as a separate title to the 1978 Amendments, not directly amending the OCS Act. The conference report contains the Senate structure and caption.

This Title is intended to provide a formal mechanism for compensation to fishermen for damages to fishing vessels, gear, and other consequential damages stemming from activities related to the development of oil and gas resources on the OCS.

Sec. 401—Definitions

Sec. 401 of the conference report adds definitions for seven new terms.

The Senate bill contains a definition of "citizen of the United States" which includes all citizens, all States and groups of States and their agencies, and all businesses organized under the laws of any State, if such businesses are clearly owned and controlled by at least 75 percent by U.S. citizens and if their President or Chairman of the Board is a U.S. citizen. The House amendment contains no comparable provision.

The Conferees recognize the need to define who is eligible for compensation for damages suffered and for loss of income resulting from certain offshore oil exploration, production and development activities. Accordingly, the conference report follows the Senate bill by including this provision.

The House amendment defines a "commercial fisherman" as one who is a citizen of the United States and who owns, operates or derives income from being employed on a commercial fishing vessel. The Senate bill contains no such definition. The conference report is the same as the House provision.

The House amendment defines "commercial fishing vessel" to mean any vessel primarily used for the handling or harvesting of living marine resources for commercial purposes. The Senate bill has no comparable provision. The conference report follows the House amendment with an amendment defining "commercial fishing vessel to mean any vessel, boat, ship or craft primarily used for the handling or harvesting of living marine resources for commercial purposes, including fish-harvesting related vessels. It specifies that all "commercial fishing vessels" be U.S. documented except those under five net tons which may be registered under the laws of any State. The Conferees indicated that the total package of vessels that deal with the catching and harvesting of marine resources should be included. The Conferees recognize that any limit to the scope of the Fund might cause litigation, confusion and a loss of benefits to fishermen, and thus adopted this more inclusive definition.

The conference report defines "fish" to mean any of numerous cold-blooded aquatic vertebrates having fins, gills and a streamlined body. It includes mollusks, the shell-bearing invertebrates, such as clams, and crustaceans, the aquatic arthropods, such as lobsters. All other forms of marine animal and plant life are included in this definition except for marine mammals, birds, and highly migratory fish species, eg. tuna. The Senate bill and the House amendment did not define the term "fish". The Conferees included this definition to avoid any confusion and loss of benefits to the fishermen.

The House amendment in 401(5) defines "fishing gear" to include (A) any commercial fishing vessel, and (B) any equipment, whether or not attached to such a vessel, which is used in the handling or harvesting of living marine resources for commercial purposes. The Senate bill contains no comparable provision. The conference report follows the House amendment with the deletion of the reference to "the handling or harvesting of living marine resources for commercial purposes", which is covered by the definition of "commercial fishing vessel."

Neither version included a definition per se of "Fund." However, one was included in the conference report for the sake of clarity. "Fund" means the Fishermen's Contingency Fund established under this Title.

The Senate bill defines the term "Secretary" to mean the Secretary of Commerce The House amendment contains no comparable provision. The conference report contains the Senate definition of the term "Secretary" but expands it to include the designee of the Secretary. The Conferees expect that the Administrator of the National Oceanic and Atmospheric Administration (NOAA) will be responsible for administering the fishermen's Funds.

The Senate bill alone defines "commercial fishing" as meaning all aspects of the commercial harvesting and handling of living marine resources. The House amendment contains no such provision. The conference report deletes this provision as unnecessary since a definition for "commercial fishing vessel" is included.

Section 402—Establishment of the fishermen's contingency fund fee collection

Both the House amendment and the Senate bill require the establishment of a Fund to be available for compensating fishermen for damages suffered to their vessels and equipment, and for loss of income, resulting from certain offshore oil exploration, production and development activities. The conference report follows the House amendment with certain technical changes.

The House amendment establishes the Fund directly within the Treasury of the United States, while the Senate bill establishes the Fund within the Department of Commerce. The conference report follows the House amendment. Both the Senate and House establish a revolving account within the Treasury. The conference report includes this provision.

The House amendment limits amounts in the Fund to $600,000, while the Senate requires the collection of fees at least until the Fund attains a level of $2,000,000 and requires that the Fund be maintained thereafter at between $2,000,000 and $5,000,000. The conference report limits the fund to $1,000,000.

The Senate bill and the House amendment have similar provisions allowing the Fund to sue, and providing for the deposit of certain sums into the Fund. The conference report is the same as the House amendment.

The House amendment authorizes the Secretary to establish and maintain separate area accounts within the Fund for the purpose of providing compensation for certain damages to fishermen within each area of the outer Continental Shelf. The Senate bill has no comparable provision.

Area accounts in the House amendment would be financed by assessments made by the Secretary on OCS lease holders and pipeline permittees in each affected area. These assessments would be limited to a maximum of $5,000 per lessee or permittee in any calendar year. The accounts, in turn, would be maintained at a level not to exceed $100,000 and, if depleted, would be replenished by equal assessments by the Secretary of the lessees and permittees in the area. The Senate bill contains no comparable provision, relating to special area accounts. The conference report follows the House amendment with some technical changes. A reference is included for a holder of "easement, or right-of-way," to make certain they may be assessed an appropriate amount. In addition, the Secretary of the Interior and not the Secretary of Commerce is to collect the assessments and deposit them in the appropriate account within the Fund. As just mentioned, the Conferees intend that the Secretary of Commerce assess any holder of a "exploration" permit, or of an "easement" or "right-of-way" for the construction of a pipeline in an appropriate amount up to $5,000 and not just the holder of a "permit" as specified by the House amendment.

The conference report also includes within the purposes of area accounts, compensation for "loss of" fishing gear and not just damages, as provided in the House amendment. This change was made to clarify that compensation may be paid for loss of gear, as well as damage.

The House amendment provides that each area account shall be established and maintained at a level not to exceed $100,000, and to be replenished, if necessary, by equal assessments by the Secretary on each holder and each pipeline permit holder in such area. The Senate bill contains no such pro-

vision. The conference report follows the House provision with an amendment providing, discussed earlier for replenishing accounts by "appropriate" not necessarily "equal" assessments, of holders of easements and rights-of-way.

Both the Senate bill and the House amendment provide for the disbursement of money from the respective Funds. The House amendment would allow disbursements from the area accounts, subject to such amounts as are provided in appropriations Acts, while the Senate bill would allow disbursements from the Fund. The conference report follows the House amendment, allowing disbursements from the area accounts in amounts provided by appropriations acts.

Both the bill and the amendment allow disbursement for administrative or personnel expenses of the Fund or area account, except that the House amendment limits such disbursements to 15 percent of the total amount deposited in the revolving account during the fiscal year. The conference report is the same as the House provision.

Both the Senate bill and the House amendment, using different language, allow disbursements for the payment of claims under this section or title.

The conference substitute is the same as the House provision.

The House amendment would allow disbursements for the payment of reasonable attorneys' fees awarded pursuant to the claims settlement provisions of the section. The Senate bill contains no comparable provision. The conference report is the same as the House amendment.

The House amendment requires that any exploration plan, and any development and production plan, approved by the Secretary, as well as any permit issued for the construction of a pipeline in an area of the outer Continental Shelf, contain a provision that the lessee or permittee shall agree to pay amounts specified by the Secretary, up to a maximum of $5,000 per year in order to establish and maintain a fishermen's gear compensation fund for such area. The Senate bill contains no comparable provision. As the "funds" are now included as a separate title and not as part of the OCS Act, and as independent authority is given for assessments, the Conferees believed this provision unnecessary. Thus, the conference report follows the Senate bill and contains no such provision.

Sec. 403—Duties and powers

Both the House amendment and the Senate bill have a provision spelling out the general powers and duties of the Secretary. These provisions are similar with respect to the Secretary's power to prescribe regulations for the settlement of claims. With regard to prescribing such regulations, the conference report adopts the common language of both versions and in addition adopts the Senate language requiring, and not merely authorizing, such regulations.

Both versions contain similar provisions with respect to the classification of potential hazards to commercial fishing, except that the House amendment specifies hazards caused by outer Continental Shelf oil and gas exploration, production and development activities rather than referring simply to outer Continental Shelf activities. The conference report follows the House amendment with a technical amendment providing that such hazards are to be "identified" and not "established".

Both versions are similar with respect to regulating the stamping of materials, except that the House amendment specifically requires such stamping or labelling, wherever practicable. The conference report follows the House amendment, with an amendment specifying that it is the Secretary of the Interior that is required to establish the regulations for identifying all OCS materials, and that such materials when necessary for purposes of identification, should be "color-coded".

The Senate bill also contains provisions requiring the Secretary generally to administer and maintain the Fund, in accordance with the provisions of the Title, and to perform such other functions as are necessary to carry out these provisions. The House amendment does not contain similar language. The conference report follows the House amendment and contains no such provisions since the Secretary is already empowered with all such necessary incidental authority.

Recoverable Damages

Both the Senate bill and the House amendment contain provisions spelling out the types of damages which fishermen may be entitled to recover. The House amendment would allow payments to be disbursed by the Secretary from the appropriate area account to compensate commercial fishermen for actual and consequential damages, including loss of profits, due to the damage of fishing gear. The Senate bill would allow recovery for "damages and loss to profit" to commercial fishing vessels and gear for the replacement value of any loss of all or part of a commercial fishing vessel, the replacement value of any loss of all or part of gear used, and the loss of revenue to a commercial fishing vessel and crew due to OCS activities; such loss to be based on the averaged daily revenue over the previous year. The conference report follows the House amendment with the addition of a phrase allowing payments, whether or not such damage occurred in such area. This change was included to avoid administrative and other problems when the exact location of known or disputed or when the damage occurs somewhere along the supply route between the oil drilling equipment in the OCS and the shore.

Section 403(c)(1) authorizes the payment to fishermen of damages, for damages to or loss of fishing gear, and includes loss of profits. Section 403(a)(1) requires the Secretary of Commerce to promulgate appropriate regulations to handle claims and awards. The Conferees intend that appropriate regulations should determine what "profits" are to include. Such "profits" should be limited to the actual loss of the fishermen and thus should ordinarily be limited to the net profits lost.

The House amendment includes a list of circumstances under which payments cannot be made to fishermen. These include circumstances under which the damages were caused by objects of known ownership; payments which are in excess of $75,000 per incident; payments to the extent that damages were caused by the negligence or fault of the claimant; cases where the damage involved was sustained prior to the enactment date of the Act; payments which are in excess of the depreciated value of the damaged fishing gear; payments for loss of profits for a period in excess of six months unless such a claim is supported by specified records; and payments for damages which have already been or which will be compensated for by insurance. The Senate bill contains no comparable list.

The report follows the House amendment except for two changes. First, the ceiling of $75,000 per incident is deleted. Second, the House amendment limiting recovery to the depreciated value of the fishing gear was amended by limiting recovery instead to the replacement value. This sets a limit and not a floor. The Secretary of Commerce is authorized to disburse payment for "actual and consequential damages." Determinations of amounts to be paid, first by the hearing examiner and then pursuant to judicial review are similarly to be limited to "actual and consequential damages." Thus, in evaluating payments on a claim, the replacement cost is to be the maximum allowable—but may not necessarily be the actual amount paid. The actual amount is to be determined case by case on the basis of the "actual and consequential" damages standard.

This section limits payments to fishermen in cases where the fisherman is negligent or at fault. Specifically such payments are limited "to the extent" that damages were caused by negligence or fault. This establishes a "comparative negligence" type standard. Recovery is not barred totally if negligence or fault is involved. However, the amount of recovery is to be diminished in proportion to the negligence or fault to the claimant.

Section 404—Burden of proof

Both the House amendment and the Senate bill contain a provision spelling out a set of circumstances under which the standing of any particular claim would be improved. The House amendment states that if the claimant can establish certain facts, there shall be a presumption that his claim is valid while the Senate bill says that under those conditions there shall be a presumption in favor of the claim.

The lists of circumstances allowing a presumption are similar in the amendment and the bill except that the House amendment refers throughout to damage caused by "material, tools, containers or other items" while the Senate bill refers simply to "obstacles".

The House version requires the report of damages to be made within five days after they are discovered. The Senate bill requires an "immediate report."

The House version requires the lack of a record on nautical charts or the Notice to Mariners on the date damages were sustained, while the Senate bill specifies no previous or existing record.

Both versions refer to the lack of a surface marker or buoy, but the Senate bill includes this basis only in lieu of the lack of a record of nautical charts.

In each of the above instances, the conference report is the same as the House amendment.

Only the Senate bill includes in the list a requirement that the claimant establish that the damage or loss of revenue was received after the enactment date of the Act. The conference report is the same as the House amendment, and contains no such provision. It is intended that the Secretary of Commerce, in consultation with the Secretary of Interior, establish area accounts and utilize this title in appropriate circumstances, for existing leases, permits, or rights of way, and be given the discretion to disburse funds for damage occurring prior to enactment.

Sec. 405—Claim procedures and subrogation of rights

Section 405 describes the procedures by which claims are determined and awarded.

Only the House amendment requires a claim to be filed within 60 days of discovery of a claim. The conference report is the same as the House amendment.

Claims Decisions

The House amendment and the Senate bill differ greatly in the manner in which claims will be considered. The House amendment provides for determination by a hearing examiner and the Senate bill by the Secretary with advice from a Board, described in detail in the Senate bill. The conference report follows the House amendment by referring the matter to a hearing examiner.

The House amendment would require the Secretary to refer claims to a hearing examiner appointed under section 3105 of the U.S. Code and to notify, to the extent reasonable, all persons known to have engaged in activities associated with OCS energy operations in the vicinity. Each person so notified would be required to inform as to

whether he admits or denies responsibility for the damages claimed. All such persons would be accorded the opportunity to submit evidence at any hearing conducted in connection with the claim. The hearing examiner would be allowed 120 days to adjudicate the case and render a decision in accordance with section 554 of title V of the U.S. Code. The conference report follows the House amendment with some minor structural changes.

The House amendment would require the hearing examiner to include reasonable attorneys' fees in the amount certified to the Secretary as compensation for claims which he judges to be valid. The Senate bill allows attorneys' fees when the Secretary's decision is affirmed on judicial review. The conference substitute is the same as the House amendment with minor structural changes.

The House amendment provides that the hearing examiner shall have the power to administer oaths and to subpoena pertinent witnesses and documents in connection with any hearing conducted pursuant to this section. The Senate bill does not mention the right of the Secretary to administer oaths but does give him (and the Comptroller General) access to records. The conference report is the same as the House amendment with minor structural changes.

In any hearing conducted pursuant to this section, the House bill provides that the hearing examiner shall consider evidence of obstructions in the area as identified by the survey required. The Senate bill contains no such provision. The conference report is the same as the House amendment with minor structural changes.

The House bill states that hearings shall be conducted within the judicial district nearest to, or within which, the matter occurred, or, if the matter took place in more than one district, in any of the affected districts. The Senate bill, not providing for hearings, does not have comparable language. The conference report is the same as the House amendment.

The House amendment provides that decisions by the hearing examiner are final and not reviewable by the Secretary. The Senate bill contains no such language as the Secretary makes the intial decision as to a claim. The conference report is the same as the House amendment.

The House amendment and the Senate bill have similar subrogation provisions. The conference report is the same as the House amendment with minor technical changes so as to provide that payments from a fund to a claimant entitles the Secretary to acquire by subrogation the applicable rights of a claimant against a responsible party. Thus, the right of subrogation is limited to the amounts awarded to the claimant. No other rights, or amounts beyond that awarded, are subrogated.

The House amendment has a provision stating that any person who denies responsibility for damages and is found responsible for damages, and any commercial fisherman who files a claim and is subsequently found to be responsible for damages, shall pay the costs of the proceedings conducted with respect to such claim. The Senate bill has a roughly comparable provision stating that those persons involved in OCS activities who are identified as having caused damages or loss of revenue shall reimburse the Fund for such amounts that it has paid to the claimant for such damage. The conference report is the same as the House provision.

Both the Senate bill and the House amendment provide, in a similar manner, for judicial review of decisions made with respect to claims. The conference report is the same as the House amendment.

The Senate bill alone, in addition, provides specifically that in any case in which the person responsible for damage to commercial fishing vessels or gear seeks judicial review, attorneys' fees and court costs shall be awarded to the claimant if the decision is affirmed. The House amendment contains no such specific provision. The conference report contains no such provision, however, elsewhere it does require the hearing examiner to include reasonable attorneys' fees in the amount certified to the Secretary as compensation for claims which he judges to be valid. As with any award for attorneys' fees, this certification may be amended to include costs on appeal.

Sec. 406—Annual report

Both the House amendment and the Senate bill require the submission of an annual report by the Secretary to the Congress. The House amendment would require a report setting forth (1) an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the OCS which pose potential hazards to commercial fishing or fishing gear by imposing fines where appropriate or by requiring the bonding of OCS lessees or permittees, (2) a description of the types of damages set forth in claims filed during the previous year, (3) the amount of compensation awarded during the year, and (4) the number of cases during the previous year in which damages were determined to be the responsibility of a lessee or permittee on the OCS, or of a contractor or subcontractor. The Senate bill would require a report within six months after the end of each fiscal year, which would (1) report on the administration of, and payments from, the Fund during such fiscal year and (2) recommend to the Congress such additional legislative authority as may be necessary to improve the management of the Fund and the administration of the liability provisions of the Title. The conference report is the same as the House amendment, except that paragraph (1) regarding an evaluation of the feasibility and comparative costs of preventing or reducing obstructions on the OCS is deleted as separately provided for in subsection 406(b).

Sec. 406(b) requires the Secretary, after consulting the Secretary of Interior, to include in the *first* annual report an evaluation of the feasibility and comparative cost of preventing or reducing obstructions on the OCS which pose potential hazards to commercial fishing or fishing gear by imposing fines where appropriate or by requiring the bonding of OCS lessees or permittees. The Conferees believed it was not necessary to provide for this required calculation every year.

Section 407—Survey of obstructions on the OCS

The House amendment directs the Administrator of NOAA to conduct a 2-year survey of obstructions on the OCS, and requires a report and the development of charts based on the survey. The Senate bill contains no comparable provision. The conference report follows the House amendment with an amendment deleting the specific reference to the Administrator of NOAA. The provision now directs the Secretary (of Commerce) in cooperation with the Secretary of the Interior to conduct a two year survey of obstructions on the OCS, and requires a report and the development of charts based on the survey. It directs the Secretary to concentrate during the first 6 months of the survey on areas of the OCS where oil and gas production has commenced or is expected to commence shortly. It is expected that the Secretary will use the Administrator of NOAA to conduct the survey.

Other Provisions

The Senate bill contains a specific provision providing jurisdiction and venue in the district courts over non-claim controversies. The House amendment has no comparable provision. The conference report follows the House amendment and contains no such provision.

The Senate bill requires the Secretary to ask the Attorney General to represent the Fund If the Attorney General does not respond within a reasonable time, the Secretary may appoint other attorneys. The House amendment contains no comparable language. The conference report follows the House amendment and contains no such provision. It is assumed that as with other provisions of the 1978 Amendments, the Attorney General will represent the Fund.

The Senate bill contains a section authorizing appropriations for the administration of the Title, in the amount of $200,000 for each fiscal year through 1990. Also authorized is $500,000 to serve as an initial deposit in the Fund, to be repaid to the Treasury as soon as practicable. The authority to pay claims under the title will only be effective to the extent provided, without fiscal year limitation, in appropriations Acts. The House amendment has no comparable provision. Establishment of a fund or funds is discretionary with the Secretary. The conference report follows the House amendment and contains no such provision, as authorization to appropriate is now provided elsewhere in this Title.

TITLE V—AMENDMENTS TO THE COASTAL ZONE MANAGEMENT ACT OF 1972

The Coastal Zone Management Act Amendments of 1976 (Public Law 94–370), among other purposes, were intended to provide Federal financial assistance to coastal States impacted by coastal energy activity.

The Coastal Energy Impact Program (CEIP), which was the major section of the 1976 Amendments, is composed essentially of three parts. Planning grants are provided to States if their coastal zones are affected by the location of energy facilities. Loans and bond guarantees are also provided to assist the coastal States in financing public facilities and public services required as a result of coastal energy activity.

The third part provides grant funds to coastal States impacted by outer Continental Shelf (OCS) energy activities which are intended to assist in the financing of public facilities, public services, and environmental costs associated with such activity. These so-called OCS formula grants are provided in section 808(b) of the existing CZMA.

Section 501—Coastal energy impact program

Both the Senate bill and the House amendment contain amendments to section 308(b) but do not provide any modifications in the planning grants or loans and bond guarantee provisions of the CEIP.

Formula

The Coastal Zone Management Act (CZMA) provided a formula for distribution of OCS formula grants. The Senate bill makes no change in the four criteria of the present CZMA. The House amendment changes the percentage of each criterion and drops the provision referring to "the number of individuals . . . who obtained new employment in such preceding fiscal year as a result of . . . " OCS energy activity. The conference report contains the House amendment modification of the formula. Specifically, the formula in the conference report is based on three criteria: new acreage leased adjacent to a coastal State (50%); oil and gas produced adjacent to a coastal State (25%); and oil and gas first landed in the coastal State (25%). The present criterion with respect to new employment is dropped in the conference report.

Floor and Ceiling

The House amendment contains provisions which establish an individual State "ceiling," and a "floor" for States which are not included in the formula but which fulfill certain criteria. The Senate bill has no comparable provisions.

With respect to the former provision, the House amendment establishes a ceiling of

thirty percent of the total amount credited to the CEIF which any individual coastal State may receive in a fiscal year. Additionally, the amendment provides that any "affected State", as determined by the Secretary of Commerce in accordance with stated standards, which does not fulfill any of the three formula criteria, but is located in a region of a State which does, shall receive 2 percent of the total amount appropriated in a fiscal year.

Because the nature of the CEIP program and distribution formula is focused on offshore oil and gas activity, the vast proportion of grant funds will continue to be allocated to the region of the country already heavily involved in such activity. A significantly reduced amount could be available to frontier States if one or two "developed" States took a large portion of the appropriated funds. Consequently, the concept of a ceiling is included in the House amendment.

The "floor" provision arises out of the difficulties in adequately anticipating onshore impacts and, in part from the need to rely on delimiting State lateral seaward boundaries for the purpose of allocating CEIP funds. Consequently, it is probable that some States experiencing spillover impact from OCS development may be ineligible for formula grant assistance under the existing formula. The concept of a minimum floor contained in the House amendment is designed to address this particular problem.

Because the 2% floor provision allocates funds to non-formula States, it may lead to an inadequate amount of funds being available to provide the full amount to which each State is eligible under the formula. As conforming language, therefore, the House amendment contains a "proportional reduction" mechanism which provides that, when this situation obtains, each State's share will be reduced in accordance with its proportion of any fiscal year's allotment. The Senate bill, because it has no minimum floor for States, has no comparable provision.

The House amendment specifies the coastal States which are located in each of the four regions: Atlantic, Gulf, Pacific, and Alaska. It also provides an additional requirement for a State to receive the 2% funds. Specifically, such State would have to be an "affected State", the definition of which is taken directly from section 201(f) of the definitions section of the conference report.

The intent of the "affected States" provision is to prevent the coastal States which would not be impacted in a region from receiving the 2% funds. This is a particular problem in the Atlantic where all States along the coast are included in one region. For example, OCS drilling in the Baltimore Canyon area may have little or no impact on the State of Georgia but Georgia is included in the Atlantic region by definition.

Sequence and Chronology

The conference report contains the concepts of a ceiling, minimum floor, specification of regions, proportional reduction, and "affected States" determination. However, the Managers made certain modifications in some of these House Amendment provisions and also agreed to specify statutorily the sequence of steps to be taken in the calculations of individual State allotments and the precise chronology for the imposition of the ceiling, minimum floor, and proportional reduction stages. Also, the Managers deleted the provision in the House amendment in which any unallocated funds (resulting from the ceiling) would remain in the Treasury. The conference report contains a provision which would redistribute such funds to coastal States above the minimum and below the ceiling.

Specifically, it is the intent of the Managers that the following steps in the calculation be taken in the order indicated:

1. The proportion of each State's allocation under the formula contained in paragraph 2 of section 308(b) of CZMA be calculated.

2. Those "formula" States which would receive an amount less than 2% of the amount appropriated should be raised to 2% of such appropriation.

3. "Non-formula" States which are located in the region of any other coastal State which is included within the formula are entitled to receive 2% of the amount appropriated in a fiscal year if the Secretary of Commerce determines that such non-formula States are being or will be impacted by OCS energy activity and that they will be able to expend or commit the funds in accordance with the purposes set forth in the OCS formula grant section.

This clause referring to the Secretary's determination of impact by offshore activity was an amendment offered during the Conference Committee and accepted by the Managers in lieu of a five-part definition of "affected States" which is contained in the House amendment.

"Outer Continental Shelf energy activity" is a defined term in the existing CZMA and refers generally to any offshore exploration, development, or production activity or the siting, construction, expansion, or operation of energy facilities required by such activity. It is the intent of the Managers that the Secretary look to OCS energy activity which occurs in the prior fiscal year for purposes of making this determination. This would be consistent with the manner in which the formula is applied, namely that funds appropriated for formula grant purposes are allocated on the basis of OCS activity occurring in the previous fiscal year.

At the same time, it is understood that the phrase "will be impacted" implies an anticipatory judgement by the Secretary and that this discretionary authority to determine eligibility for the 2% grants is not, and is not intended to be, strictly circumscribed by hard data. It is the intent of the Managers that the 2% minimum floor provision provide funds to those States which do not fall into the formula but which will experience spillover impacts necessitating public facilities, public services and environmental costs occasioned by OCS activities. Assessments of the causal effects emanating from such activities and, thus the need for the 2% minimum floor for non-formula States, should be determined by the Secretary within the context of this primary purpose and based on an analysis of the immediacy of impact, equity in distribution, and the reasonable needs for and the ability of the States properly to expend the proceeds on OCS-induced public facilities, public services, and environmental needs.

4. If the amount of appropriations is less than the amount payable to all coastal States under those calculations, all States receiving more than 2% of the amount appropriated shall be proportionately reduced to conform the amounts payable with the amounts appropriated. Proportional reduction shall be accomplished by reducing the amounts payable to those coastal States that receive more than 2% of the total amount appropriated by an amount represented by the following formula:

$$(T-A)\times P-2\%\text{ of }A/TP-(2\%\text{ of }A\times S)$$

Where:

T = the total amount payable to all coastal States;

A = the total amount appropriated for making grants;

P = the amount payable to a coastal State which will receive more than 2% of the funds appropriated;

TP = the total amount payable to those States which will receive more than 2% of the funds appropriated;

S = the number of coastal States which will receive more than 2% of the funds appropriated.

5. After the proportional reduction calculations are made, any coastal State which would receive more than 37½ percent of the amount appropriated is to be reduced to 37½ percent of such appropriations.

6. If the application of the 37½ percent ceiling results in any residual appropriated funds, such excess shall be paid proportionately to all coastal States which are to receive more than 2% but less than 37½ percent of the amount appropriated. No State may receive more than 37½ percent of the amount appropriated after the residual funds are paid proportionately to the appropriate States. "Payable proportionately" means that any residual funds are to be apportioned among the States receiving more than 2% but less than 37½ percent based on the formula contained in paragraph 2 of section 308. In making the formula calculations under that paragraph, the ratios to be calculated for each of the three criteria are to be made up of data applicable only to those States receiving more than 2% and less than 37½ percent of the amount appropriated. Specifically the numerator and denominator of the proportions in each of the criteria are to be composed of the appropriate OCS activities of only those States above the 2% floor and below the ceiling.

Changes in Grant Eligibility and Use

Both the Senate bill and the House amendment delete the obligation on a coastal State to obtain financing under the loans and bond guarantees provision of section 308 of CZMA before formula grant funds may be used. The term "new or expanded" modifying outer Continental Shelf energy activity in the same provision of the existing law is also deleted by both versions. Consequently, the conference report does not contain these two provisions.

Presumption of OCS Activity

The Senate bill contains a provision which authorizes by regulation, in which public facilities and public services are presumed to be required as a result of OCS energy activity. The House amendment has no comparable provision and the conference report follows the Senate bill.

Timing and Distribution of Grants

The House bill modifies the existing law with respect to the timing of the distribution of OCS formula grant proceeds and the assurances which the Secretary must obtain before forwarding such proceeds to the States. The Senate bill contains no comparable language and thereby retains the existing provision of the CZMA on this matter.

Specifically, the existing law is administered in a manner whereby OCS formula funds are maintained in individual State accounts in the U.S. Treasury (based on the State's allocation under the formula) and dispersed only at the time of expenditure and after a federal review of the purposes of the proposed project.

The House amendment provides that the funds are to be transferred to State banks and held in "escrow" until the Secretary of Commerce completes the project review process, makes a grant award, and the funds are actually expanded. The conference report follows the Senate provision.

Section 502—Authorization of appropriations

The House amendment amends section 9 of the Outer Continental Shelf Lands Act to provide that all Federal OCS rentals, royalties, revenues, or other sums, be deposited in the Treasury (other than the proceeds presently credited). Of this amount, twenty percent (up to a maximum of $200 million) is to be credited in each fiscal year to the Coastal Energy Impact Fund (CEIF) which was established by the 1976 Amendments. Amounts actually dispersed to the

States are subject to appropriations. At present, the CEIF is a revolving fund for the provision of loans and bond guarantees to the States for coastal energy activity. There is no fiscal year limitation on the crediting mechanism in the House amendment.

The Senate bill contains standard authorization of appropriations language to increase authorizations for the OCS formula grants from $50 million to $75 million for each of the eight fiscal years beginning with FY 78.

The conference report provides for standard authorization of appropriation language at a yearly level of $130 million beginning in FY 79 and for the following nine fiscal years.

Section 503—OCS grants

The House amendment adds a new provision to section 308(c) of CZMA authorizing the Secretary of Commerce to make 80 percent grants to coastal States likely to be affected by OCS energy activities. The purpose of these grants is to enable such States to carry out their responsibilities under the OCSLA. The State responsibilities intended to be financially assisted by such grants include the administrative policy, operational, and managerial aspects of, participating in the Federal leasing program but do not include any of the planning, public facility, public service, or environmental protection costs contained in other provisions of the CEIP.

It is the intent of the House amendment that the Secretary of Commerce have considerable discretion in administering this new administrative grant provision. This flexibility is needed because of the uncertainty of lease sale schedules, exploration and production timetables, and the precise incidence and magnitude of actual impacts on any individual coastal State.

For purposes of dispersing the grant funds to coastal States, this provision intends that some type of formula be established and then be contained in the regulations promulgated by the Secretary of Commerce.

In 1975, $3 million was appropriated in supplemental funds to coastal States through the Coastal Zone Management program. This money was to be used by the States to improve their capabilities to plan for and manage projected OCS impacts. In the regulations which were developed to implement these grants, a formula was provided for their allocation among the States. Specifically, a uniform allocation of one percent to the affected States was established. Then, of the remaining funds, 40 percent was to be allocated based on the length of a State's marine shoreline; 40 percent on coastal county population; and 20 percent on the basis of identified needs.

Some formula along these lines is intended by this measure although the precise system of allocation remains with the Secretary and should be based, to the maximum extent possible, on the actual OCS administrative responsibilities borne by each coastal State.

It should also be noted that the recipient executive agency in each State will vary—depending on which department or unit has OCS responsibilities. It need not be the same agency as the one which administers the coastal zone management program for the State or the one which receives coastal energy impact program financial assistance.

The Senate bill contained no comparable provision and the Senate Conferees receded to the House. Consequently, the conference report contains a provision for these OCS administrative grants at the level of $5 million per year, beginning in FY 79 and ending with FY 83.

Section 504—State management program

The House amendment modifies the OCS Federal consistency provision (section 307(c)(3)(B)(ii)) of the CZMA by reducing the amount of time by which State concurrence with an OCS exploration, development or production plan consistency certification is conclusively presumed. The Senate bill has no comparable provision and, thus, would retain the present statutory language which provides for a six month period for conclusive presumption. The House amendment reduces this to three months.

The Managers agreed to an amendment which provides that if a State fails to make a consistency determination within three months after it receives its copy of the consistency certification, it (the State) shall provide a written statement describing the status of its review and the basis for further delay. The statement is to be submitted to the Secretary of Commerce, the appropriate Federal agency, and the lessee. If the statement is not provided on or before the end of the three month period, concurrence by the State with the certification is conclusively presumed. The submission of such statement, however, will preserve the State's present six month period for conclusive presumption.

The intent of the amendment is to maintain the six month review period but also to put coastal States on notice that they must begin to respond to development and production plans expeditiously and the submission of the written statement is intended to be an indication of that responsiveness.

Other Provisions

The Senate bill contains a provision (sec. 507) regarding the inapplicability of any provision in section 308 of CZMA with respect to the National Environmental Policy Act and its effect on grants made pursuant to the OCS formula grants section. The House amendment contains no comparable provision and the conference report follows the House amendment on this matter.

TITLE VI—MISCELLANEOUS PROVISIONS

This Title contains a number of miscellaneous provisions which are for the most part self-explanatory.

The conference report includes sections present, in identical form, in both the Senate bill and House amendment: Section 601—Review of Shut-in or Flaring Wells; Section 602—Review and Revision of Royalty Payments; Section 605—Sunshine in Government. In addition, the conference report contains sections in this Title, reconciling differences between the Houses as follows:

Section 603—Natural gas distribution

The Senate bill directs the Federal Power Commission (now the Federal Energy Regulatory Commission) to permit natural gas distribution companies to transport natural gas from the outer Continental Shelf to the service areas of such companies if those companies engage, directly or indirectly, in the development or production of such gas from the outer Continental Shelf.

The House amendment specifically states that the purpose of this section is to encourage participation by such companies in the acquisition and development of natural gas resources on the outer Continental Shelf by facilitating the transportation in interstate commerce of natural gas produced from an outer Continental Shelf lease that is owned by any such company to the company's service area. It directs FERC, after an opportunity for written and oral public participation, to promptly issue and publish in the *Federal Register*, a FERC policy statement to carry out such purpose and to set general standards under which FERC would consider, under normal FERC procedural rules, applications by such companies for certificates of convenience and necessity for such transportation. Such certificates are to be issued pursuant to section 7 of the Natural Gas Act. The statement of policy will specify criteria, limitations, or requirements that FERC must apply in making determinations whether the applicant company qualifies for consideration of such a certificate pursuant to the FERC policy statement, and whether the public convenience and necessity will be served by the issuance of such a certificate. The policy statement will also establish the general terms or limitations on which FERC may condition, in accordance with section 7 of the Natural Gas Act, the issuance of such certificate. Any needed specific terms and conditions will be included pursuant to section 7 of the Act. The section also defines the terms "local distribution company" and "interstate commerce."

The Conferees adopted the House amendment with some modifications. It is the intent of this section as modified, to facilitate entry by gas distributing companies into OCS leasing. To allow bids to be offered by such companies, they need assurances that they will be able to return any gas found on its lease to their own service area. The first modification makes it explicit that this purpose—and the policy to be formulated based on it—is appropriate for gas distribution companies, acting with others or utilizing alternative corporate methods. It is likely that gas distributing companies will enter into joint ventures to obtain OCS leases. Thus, the policy to be established by FERC should be applicable to gas distributing companies owning a portion of an OCS lease, such as participants in a joint bid, or as a part of a consortium.

Thus, the Conferees make it clear that the companies need not be the sole owners of an outer Continental Shelf lease for the production of natural gas. They can be participants, such as in a joint venture, in such lease with other persons who also share the risks and benefits of the lease. It is intended, however, that their participation be substantial and not a sham. It is expected that FERC will, as one element of the criteria of the policy statement, look at the risk shared by the local distribution company (LDC), taking into consideration the size and economic position of the LDC.

In addition, the Conferees revised the definition of a local distribution company to include their subsidiaries or affiliates that actually engage in the exploration and production of natural gas on the outer Continental Shelf. The Conferees recognize that local distribution companies may not actually engage in such exploration and production, but they may form subsidiaries or affiliates to perform this function. The amendment would permit such a local distribution company to participate. At the same time, the Conferees stress that the definition also requires that the local distribution company, including its subsidiaries or affiliates, must be regulated or operated as a public utility by a nonfederal government agency, although such regulation may not be to the same extent as the parent LDC. It is sufficient, in the case of a subsidiary or affiliate formed by the parent LDC, that there be State or local regulation which authorizes or sanctions the creation or organization of the subsidiary or affiliate and which applies, through regulation of the parent, to the costs and funds of the subsidiary or affiliate. FERC must be satisfied that there is sufficient corporate, functional, and financial linkage between the LDC and the subsidiary or affiliate to insure that no sham has been created and that the benefits of this section do not extend to persons, other than LDC's. Any affiliate or subsidiary that is not subject to such regulation is not eligible.

Clearly, as already stated, the intent of this section is to benefit local distribution companies only. It is designed to facilitate entry by such companies in the outer Continental Shelf leasing so that they can distribute the proposed natural gas to their service areas only. Applications for certificates to transport natural gas by entities

other than LDC's and their subsidiaries and affiliates are to be treated under normal FERC standards and procedures pursuant to section 7 of the Natural Gas Act.

In another modification, the Conferees provide that FERC is to act promptly to develop a proposed policy statement and issue a final one. The Conference Committee agreement provides that the statements should be promulgated by the Commission, after full public participation, within one year after enactment. This period should be ample. However, the Conferees recognize that FERC has many other duties and responsibilities. Thus, FERC has sufficient flexibility under the section to take a longer period, if needed. The Conferees stress that FERC should make every effort to complete the policy statement, including the required public participation, and promulgate within a one year time frame.

The statement, of course, should be published, when finalized, in the *Code of Federal Regulations*, along with other FERC rules, regulations, etc. The Conferees also wish to make it clear that such a statement can be reviewed from time to time by FERC and revised consistent with the requirements of this section if FERC deems it appropriate.

Finally, the Conferees add a provision making it clear that after considering applications for certificates made after promulgation of the policy statement, FERC will issue such certificates where FERC determines it appropriate to do so in accordance with the policy statement and section 7 of the Natural Gas Act.

Section 604—Antidiscrimination provisions

Both versions include anti-discrimination provisions. The House amendment makes reference to rules under Title VI and VII of the Civil Rights Act. The Senate bill makes reference only to Title VI. The conference report follows the House amendment including Title VII with an amendment *deleting* the provision that the anti-discrimination rules shall apply to aliens and include employment outside the United States where the Secretary of Labor shall not have the authority to grant exemptions.

Section 606—Investigation of availability of oil and natural gas from the Outer Continental Shelf

Both versions provide for an investigation of the availability of oil and gas.

The Senate bill is more inclusive. Thus, its title, findings, purposes and direction relate to all crude oil and natural gas. The House amendment relates only to OCS oil and gas. The conference report contains the more limited scope of the House amendment throughout the section.

The Senate bill authorizes the President to conduct a continuing investigation of availability of all domestic oil and gas. The House amendment directs the Secretary of the Interior to conduct an investigation as to the availability of OCS oil and gas. The conference report is the same as the House amendment.

Both versions provide for a determination or rates of production. The House amendment provides for determination of OCS "maximum attainable rates" and also a determination if actual production is less than MAR. The Senate bill provides for an independent determination of "MER" and "MPR" and for a Presidential study as to whether rates are being met. The conference report is the same as the House amendment.

The House amendment includes a definition of MAR. The Senate bill does not. The conference report is the same as the House amendment.

Both versions provide for the estimate of discovered reserves and undiscovered resources. The House amendment provides for an estimate of OCS reserves and resources only. The Senate bill provides for an estimate of all resources.

In addition, the Senate bill provides specifically for "geological and geophysical explorations carried out by other Federal or appropriate agencies" when determined to be the "only means" to obtain "adequate . . . data". The House amendment contains no such specific comparable language. On these two provisions, the conference report is the same as the House amendment.

The Senate bill provides for determination of the use of oil and gas in terms of its end use market. The House amendment contains no comparable provision. The conference report is the same as the House amendment, and thus deletes this provision.

The House amendment provides for an independent evaluation of trade association procedures for estimating OCS reserves. The Senate bill provides for an independent evaluation of estimates of all reserves. The House amendment refers to the evaluation by the Secretary. The Senate bill describes it as by the President. The conference report is the same as the House amendment.

Both versions provide for a report to Congress. The House amendment describes a schedule relating to OCS information. The Senate bill describes a schedule for OCS and non-OCS information. The versions differ in actual months granted and for respective details of information to be supplied. The conference report is the same as the House amendment.

Both versions provide for consultation with the FTC, using different words. The conference report is the same as the House amendment.

The House amendment defines "OCS". The Senate bill has no comparable provision. The conference report is the same as the House amendment.

The Senate bill contains an extensive series of provisions providing for the collection of information, use of other Federal agencies and severance of provisions of this section. The House amendment contains no comparable provisions. The conference report is the same as the House amendment.

The Senate bill would preclude any injunctive relief as to any provision of the Act, or action by the President under the Act. The House amendment has no comparable provision. The conference report is the same as the House provision.

The Senate bill specifically provides that the invalidity of part of the Act or application of the Act to a particular person, does not affect the validity of the remainder of the Act or application to other persons. The House provision has no comparable language. The conference report is the same as the House amendment.

The Senate bill contains a provision detailing an extensive series of means to collect information, conduct exploratory drilling, use other agencies and delegate authority. The House amendment contains no comparable language. The conference report follows the House amendment and deletes this provision.

As discussed earlier in relation to Title II, this section, or any action by the Conferees on this section, title or other provisions of the 1978 Amendments is not intended, in any way, to affect the authority and responsibility of the Secretary of Energy, FERC, or other agencies or departments to obtain, collect, and release information under other statutes.

Section 607—Recommendations for training programs

The House amendment provides for the Secretary of the Interior, working with the Coast Guard, to prepare a report and recommendations for employment training relating to the OCS. The Senate bill has no comparable provision. The conference report adopts the House provision.

Section 608—Relationship to existing law

Both the Senate bill and House amendment provide that the 1978 Amendments (all titles) are not intended to affect provisions or other statutes—unless expressly provided in the 1978 Amendments. The conference report retains this provision.

In addition, both versions provide for retaining the authority given the Department of Energy and Federal Energy Regulatory Commission by the Department of Energy Organization Act but use different language to do so. The conference report is the same as the House language on consistency with the DOE Act. In addition, as described in this statement, in discussing the new definition of "Secretary," (as included in Section 201 of the conference report) the Conferees adopted the new definition and made changes in the text and explanatory comments in this statement to specifically indicate the appropriate delegation of responsibilities.

Other Provisions

The House amendment contains a provision providing for a one-House Congressional disapproval of any rule or regulation. The Senate bill has no comparable provision. The House receded and the conference report contains no such provision.

JOHN M. MURPHY,
MORRIS K. UDALL,
JOSHUA EILBERG,
GERRY E. STUDDS,
WILLIAM J. HUGHES,
GEORGE MILLER,
CHRISTOPHER J. DODD,
JOHN F. SEIBERLING,
HAMILTON FISH, Jr.,
EDWIN B. FORSYTHE,
DON YOUNG,
JOHN D. DINGELL,
Managers on the Part of the House.

HENRY M. JACKSON,
FRANK CHURCH,
J. BENNETT JOHNSTON,
JAMES ABOUREZK,
DALE BUMPERS.
CLIFFORD P. HANSEN,
JAMES A. MCCLURE,
DEWEY F. BARTLETT,
Managers on the Part of the Senate.

PERMISSION FOR INTERSTATE AND FOREIGN COMMERCE TO HAVE UNTIL MIDNIGHT TOMORROW, FRIDAY, AUGUST 11, 1978, TO FILE REPORTS ON H.R. 13655 AND H.R. 13611

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce have until midnight, Friday, August 11, 1978, to file the reports to accompany H.R. 13655, the Health Maintenance Organization Amendments of 1978, and H.R. 13611. the Child Health Assessment Act of 1978.

Mr. Speaker, this request has been cleared with the minority.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

FOURTH REORGANIZATION PLAN FOR 1978—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was

read and, together with the accompanying papers, referred to the Committee on Government Operations and ordered to be printed:

To the Congress of the United States:

Today I am submitting to the Congress my fourth Reorganization Plan for 1978. This proposal is designed to simplify and improve the unnecessarily complex administrative requirements of the Employee Retirement Income Security Act of 1974 (ERISA). The new plan will eliminate overlap and duplication in the administration of ERISA and help us achieve our goal of well regulated private pension plans.

ERISA was an essential step in the protection of worker pension rights. Its administrative provisions, however, have resulted in bureaucratic confusion and have been justifiably criticized by employers and unions alike. The biggest problem has been overlapping jurisdictional authority. Under current ERISA provisions, the Departments of Treasury and Labor both have authority to issue regulations and decisions.

This dual jurisdiction has delayed a good many important rulings and, more importantly, produced bureaucratic runarounds and burdensome reporting requirements.

The new plan will significantly reduce these problems. In addition, both Departments are trying to cut out red tape and paperwork, to eliminate unnecessary reporting requirements, and to streamline forms wherever possible.

Both Departments have already made considerable progress, and both will continue the effort to simplify their rules and their forms.

The Reorganization Plan is the most significant result of their joint effort to modify and simplify ERISA. It will eliminate most of the jurisdictional overlap between Treasury and Labor by making the following changes:

(1) Treasury will have statutory authority for minimum standards. The new plan puts all responsibility for funding, participation, and vesting of benefit rights in the Department of Treasury. These standards are necessary to ensure that employee benefit plans are adequately funded and that all beneficiary rights are protected. Treasury is the most appropriate Department to administer these provisions; however, Labor will continue to have veto power over Treasury decisions that significantly affect collectively bargained plans.

(2) Labor will have statutory authority for fiduciary obligations. ERISA prohibits transactions in which self-interest or conflict of interest could occur, but allows certain exemptions from these prohibitions. Labor will be responsible for overseeing fiduciary conduct under these provisions.

(3) Both Departments will retain enforcement powers. The Reorganization Plan will continue Treasury's authority to audit plans and levy tax penalties for any deviation from standards. The plan will also continue Labor's authority to bring civil action against plans and fiduciaries. These provisions are retained in order to keep the special expertise of each Department available. New coordination between the Departments will eliminate duplicative investigations of alleged violations.

This reorganization will make an immediate improvement in ERISA's administration. It will eliminate almost all of the dual and overlapping authority in the two Departments and dramatically cut the time required to process applications for exemptions from prohibited transactions.

This plan is an interim arrangement. After the Departments have had a chance to administer ERISA under this new plan, the Office of Management and Budget and the Departments will jointly evaluate that experience. Based on that evaluation, early in 1980, the Administration will make appropriate legislative proposals to establish a long-term administrative structure for ERISA.

Each provision in this reorganization will accomplish one or more of the purposes in Title 5 of U.S.C. 901(a). There will be no change in expenditure or personnel levels, although a small number of people will be transferred from the Department of Treasury to the Department of Labor.

We all recognize that the administration of ERISA has been unduly burdensome. I am confident that this reorganization will significantly relieve much of that burden.

This plan is the culmination of our effort to streamline ERISA. It provides an administrative arrangement that will work.

ERISA has been a symbol of unnecessarily complex goverment regulation. I hope this new step will become equally symbolic of my Administration's commitment to making government more effective and less intrusive in the lives of our people.

JIMMY CARTER.

THE WHITE HOUSE, *August 10, 1978.*

PRESIDENT FLUNKS FIRST WAR POWERS TEST IN ZAIRE

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FINDLEY. Mr. Speaker, today, with several of my colleagues, I am introducing a concurrent resolution which expresses the conviction of the Congress of the United States that the President was required by the terms of section 4 of the war powers resolution of 1973 to report to Congress concerning the actions of the U.S. Armed Forces in Zaire in May and June of this year.

I wish to make clear that I supported the activities the President carried out in Zaire but I feel he made a serious error in not making what I contend was a required report.

I take this step with great reluctance, because I had hoped that at long last a greater degree of comity had developed between the President and the Congress in the exercise of the war powers. Four times in the past, Congress has received reports pursuant to section 4, and in at least one of those instances, the potential for hostilities was certainly no greater, and perhaps less, than existed for the American servicemen sent to Zaire.

It is vital for Congress to apply the same rigorous standards to the administration's handling of the situation in Zaire that have been applied in the past when the war powers resolution was implemented. It is vital that we preserve the integrity of the resolution and Congress important role in decisions which can lead our Nation to war.

FACTS UNCLEAR DUE TO INADEQUATE CONSULTATION

Perhaps the greatest single argument for a full report to Congress is the paucity of facts and the lack of clarity concerning precisely who did what in Zaire. Press accounts are rife with conflicting facts as to the degree of U.S. involvement. The number of planes used, their ownership, and the types of crew, cargo, and passengers they carried is far from clear. The only thing certain is that a large number of C–130's, C–141 Starlifters, one giant Lockheed C–5A and an assortment of commercial aircraft belonging to the air forces of at least four nations transported thousands of armed combat troops from at least five nations plus tons of ammunition, fuel, and equipment to Zaire in May and June. In at least some instances, U.S. pilots flew these armed combat troops to staging areas where they went directly into combat. For a period of several weeks, U.S. pilots ferried combat troops to and from these staging areas adjacent to the front, while at least 72 other U.S. personnel on the ground in Zaire helped unload the ammunition and coordinate the distribution of supplies.

The only official communication which Congress has on the Zaire operation is a memorandum from the legal adviser of the State Department dated June 16, 1978, which neglects to point out that U.S. Air Force planes were used not only to transport French and Belgian troops to Zaire, but also more than 1,000 troops from Morocco, Senegal, and Gabon in order to help maintain order. The memorandum makes no effort to clarify the nature or degree of U.S. involvement in Zaire. This total lack of information beyond what was available in the news media should have caused the administration to report promptly to Congress on its actions in Zaire, even if section 4 of the war powers resolution had not been a part of the law.

CONSULTATION REQUIREMENT IGNORED

Section 3 of the war powers resolution states:

The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances. . . ."

The House report on the war powers resolution was very specific on the requirements of consultation under section 3.

A considerable amount of attention was given to the definition of consultation. Rejected was the notion that consultation should be synonymous with merely being informed. Rather, consultation in this provision means that a decision is pending on a problem and that Members of Congress are being asked by the President for their advice and opinions and, in appropriate circumstances, their approval of action contem-

plated. Furthermore, for consultation to be meaningful, the President himself must participate and all information relevant to the situation must be made available.

The distinguished chairman of the International Relations Committee gave perhaps the best and most succinct definition of the requirements of consultation under section 3 during the oversight hearings held in 1975. Chairman ZABLOCKI stated:

Congress' intent was that it be fully and accurately advised of all developing circumstances in any given situation requiring the possible commitment of U.S. armed forces sufficiently in time to have meaningful input into formulation of such a decision. Clearly, it was not the intent of Congress to be merely informed of decisions already made.

I would only note that as chief House sponsor of the War Powers Resolution I can say clearly that consultation was contemplated in all cases in which U.S. armed forces are committed into areas of hostilities abroad. This understanding is obviously contrary to what appears to be the Administration's view that such consultation is required or desirable only in instances in which actual hostilities can be anticipated with some degree of certainty.

Consultation is required when U.S. Armed Forces are committed into areas of hostilities abroad, not only when they are committed to actual hostilities. In this instance, it is clear that the U.S. pilots flew U.S. Air Force planes to the country and to the province where the hostilities were in progress. If that was not the area of hostilities, I do not know what would be.

PRESIDENT'S FAILURE TO REPORT VIOLATES SECTION 4(a)(1)

As the primary author of the reporting requirement contained in section 4 of the war powers resolution, I feel that I can speak with some authority and precision as to when reports are to be provided to Congress.

In the absence of a declaration of war, section 4(a)(1) requires a report from the President "in any case in which U.S. Armed Forces are introduced into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." According to the committee report:

The word hostilities was substituted for the phrase armed conflict during the Subcommittee drafting process because it was considered to be somewhat broader in scope. In addition to a situation in which fighting actually has begun, hostilities also encompasses a state of confrontation in which no shots have been fired but where there is a clear and present danger of armed conflict. "Imminent hostilities" denotes a situation in which there is a clear potential either for a state of confrontation or for actual armed conflict.

While I believe the entire operation in Zaire called for compliance with the reporting requirement of section 4(a)(1), the clearest incident of imminent hostilities involving U.S. troops and planes occurred on Friday, June 16, when Zairian troops threatened to open fire on a U.S. transport plane sitting on the runway at Lubumbashi Airport in Shaba Province. The plane, a C-141 with a U.S. Air Force crew at the controls, was one of many to ferry foreign combat troops to and from this staging area located just south of the actual fighting. In this incident, according to eyewitnesses, French legionnaires had loaded a Peugeot car on the plane saying it had been given to them by a Belgian businessman. The Zairian troops, with automatic rifles at the ready, insisted that the car remain in Lubumbashi and threatened to fire on the C-141 plane if it attempted to leave with the vehicle. Finally, the car was unloaded from the plane, although the French ripped the wiring from the dashboard to immobolize it and left it on the runway. It is difficult to conceive of a situation where hostilities could have been more imminent without actually breaking out.

During the hearings held by the Subcommittee on International Security in 1975, the chairman gave a precise definition of hostilities as used in the war powers resolution. "Even if there was one artillery piece fired," he said, "that is a hostile action." The committee report clearly indicates that there can be hostilities even if "no shots have been fired," and a logical extension of Chairman Zablocki's sound reasoning is that even if there is just one instance where foreign troops threaten to fire upon members of the U.S. Armed Forces, that constitutes imminent hostilities and requires a report to Congress under section 4(a)(1).

The Legal Adviser of the Department of State gives the impression that U.S. involvement in the operation in Zaire was only slightly more dangerous than a Sunday picnic for members of the U.S. Armed Forces involved. The Secretary of Defense, however, had quite a different view of the seriousness of the situation. The U.S. Army alerted its own crack 82d Airborne Division to be ready to go on a moment's notice if needed. And every tactical airlift wing in the United States sent C-130's and C-141's to Pope Air Force Base to support the 82d Airborne Division. Clearly, the Secretary of Defense thought that hostilities were imminent and was ready to deal with them. One wonders what would have happened if the French and Belgian troops had been unable to rescue the whites and push the rebels out of Kolwezi. Would the 82d have rushed to their aid? Would that have triggered Presidential compliance with the war powers resolution? Would the President have "consulted" with Congress as the parachutes opened over Kolwezi? Would he have sent Congress a report?

To contend that U.S. forces were out of danger simply because they were flying to airports located more than 130 miles from the fighting in Kolwezi is to ignore the decades of strife and violence which have plagued Shaba Province of which this episode was but the latest incident. In 1960, Moise Tshombe etched a gory place in history of Katanga when he unsuccessfully tried to take it out of the Republic of the Congo. Hundreds were slaughtered in the bloody uprising. Today, Tshombe's gendarmes and their sons still carry on the fight, their one goal still secession. The place is also still the same—Katanga Province, now called Shaba.

In July 1967, uprising again flared and President Johnson, under almost identical circumstances to those faced by President Carter, sent three C-130 aircraft piloted by Americans to rescue whites and ferry foreign combat troops around the country to quell the fighting. Our forces never engaged in the fighting and stayed well away from the battlefield. Yet, the reaction to the President's failure to consult with Congress was deafening. Even Senator Richard B. Russell, the President's staunchest ally, publicly excoriated him for his "unjustified intervention in a local disturbance." On August 4, the President announced that due to congressional pressure, he was withdrawing the C-130's and pilots from the Congo, now Zaire. Surely, with this long history of strife in Zaire, and with the intense congressional reaction to the last American intervention, the President could not have doubted the appropriateness and wisdom of reporting to Congress.

President Carter categorically told the Nation that these rebels were Cuban trained and equipped. Can anyone doubt what would have happened if just one of these units came in contact with members of the American Armed Forces bringing in foreign troops, ammunition, and supplies?

When the bloody fighting and slaughter of whites and blacks began in Kolwezi in May of this year, many observers expected it to spread quickly throughout Shaba Province. In fact, the important railroad center of Mutshatsha, located 75 miles to the west, quickly fell to rebel troops. Had the uprising continued to spread as many anticipated, the American troops might well have found themselves in the middle of a seccesionist province, being fired upon by rebels from all sides and fighting for their very lives. It is naive to pretend that imminent hostilities did not face the American military personnel sent to Kamina and Lubumbashi.

PRESIDENT'S FAILURE TO REPORT VIOLATES SECTION 4(a)(2)

Under section 4(a)(2), the President is required to report to Congress—

"In any case in which United States Armed Forces are introduced into the territory, air space, or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces."

The House committee report states that:

While subsection (1) refers to the commitment of U.S. troops to an area where armed conflict actually is in progress, subsection (2) covers the initial commitment of troops in situations in which there is no actual fighting but some risk, *however small*, of the forces being involved in hostilities. A report would be required any time combat military forces were sent to another nation *to alter or preserve the existing political status quo or to make the U.S. presence felt.*" (Emphasis added.)

It is clear that the situation in Zaire fits the requirements of the House report to a tee. While the stated purpose of the airlift was to protect foreign nationals in Zaire, according to the New York Times—

Administration officials made no effort to conceal that they viewed the operation in

much larger geopolitical terms, connected with concern about Cuban and Soviet activity in Africa and the widespread view in Europe that the United States was showing indecisive leadership of the Western alliance.

Incredibly, the Legal Adviser, in his memorandum of June 16, attempts to escape the reporting requirement of section 4(a)(2) by maintaining that the U.S. Armed Forces were not "equipped for combat." Presumably, because the pilots did not have revolvers strapped to their sides, the Legal Adviser does not believe that they were equipped for combat, even though hundreds of armed combat troops sat in the bellies of their planes on the way to actual combat as soon as the pilots brought the planes down at Kamina. According to the legal adviser's definition, a U.S. soldier driving a tank into a foreign capital would not be considered armed for combat because he did not carry a sidearm.

The relevant question is not whether the U.S. forces are decked out in the full panoply of war with their sabers rattling, but whether they brought into the territory, air space, or waters of a foreign nation the capacity to make war. The hundreds of armed combat troops our pilots brought into Zaire clearly had that capacity and therefore, the pilots must be deemed to have been "equipped for combat" within the meaning of the act. Given the clear purpose of the war powers resolution, to insure consultation between the political branches of the Government whenever any action might result in a risk of war, "however small," it is little more than a subterfuge of the law for the Legal Adviser to interpret "equipped for combat" as he did in his memorandum of June 16.

As Judge Learned Hand observed:

> It is one of the surest indexes of a mature and developed jurisprudence not to make a fortress out of the dictionary; but to remember that statutes always have some purpose or object to accomplish whose sympathetic and imaginative discovery is the surest guide to their meaning.

Or as the noted jurist stated on another occasion:

> Interpretation is the art of proliferating the purpose which is meant to cover many occasions so that it shall be best realized upon the occasion in question.

The Legal Adviser has simply ignored the clear purpose of Congress when it enacted the war powers resolution.

The whole purpose of section 4(a)(2) was to involve Congress in decisions which placed our forces in circumstances where armed conflict may later develop. The theory was that this initial decision may well be as important as a subsequent decision authorizing those forces to continue—or discontinue—their engagement in actual hostilities. Certainly the political, psychological and emotional factors present when the earlier decision is made would be much more conducive to thoughtful, objective deliberation than later when guns are blazing. On the later occasion, our forces and our flag would be under attack. Concern would center on the safety of our forces and the broad—and important—questions of national honor, prestige and influence. At that juncture, the wisdom of our presence could not receive the same dispassionate consideration that would have been possible earlier.

Had the Zairian troops opened fire on our pilots and the C-141 plane sitting on the tarmac at Lubumbashi Airport, all opportunity for a thoughtful consideration of alternatives would have evaporated. Had the uprising in Kolwezi spread throughout Shaba Province and engulfed our pilots and planes in the fighting, our flag would have been under attack and, no doubt, the paratroopers from the 82d Airborne would have flown to the rescue. Section 4(a)(2) was designed to require a Presidential report to Congress before such an eventuality developed. The Legal Adviser seems to be totally oblivious to this history behind the legislation.

The previous Legal Adviser to the Department of State, Monroe Leigh, did not take such a narrow definition of the reporting requirement under section 4(a)(2). In his testimony before the Subcommittee on International Security in 1975, he discussed the circumstances leading up to the triggering of a section 4(a)(2) report:

> All the earlier evacuations from Cambodia, for example, required no such reporting because we were doing it by civilian aircraft—we were not using Armed Forces for that period.

The distinction Mr. Leigh seemed to be drawing was that evacuation by a civilian aircraft did not trigger the reporting requirement, whereas evacuation by armed forces aircraft did.

In fact, the first report filed under the war powers resolution occurred in circumstances quite similar to those faced by the U.S. Armed Forces who flew into Zaire. On April 4, 1975, President Ford submitted a report to Congress under section 4(a)(2) concerning U.S. participation in the refugee evacuation effort at Danang, South Vietnam. The naval rescue vessels sent to Danang were limited to areas where there certainly was less danger of becoming involved in hostilities than faced the U.S. Armed Forces sent to Zaire. The Vietcong were many miles outside the city. Like the present situation, the U.S. action at Danang was part of an international humanitarian relief effort, with other countries participating. As Mr. Leigh told the subcommittee at the 1975 hearings,

> In the Da Nang sealift we were confident that we were not going to be involved in a section 4(a)(1) situation of hostilities, and in fact, the President's orders required that the force avoid any kind of hostilities. We felt certain that that was going to fall under 4(a)(2)...."

The real differences between the evacuations at Danang and in Zaire are: At Danang, U.S. Armed Forces did not make it possible for foreign combat troops to land and engage in fighting as part of the evacuation; and at Danang, there was no threat by foreign troops to fire upon the American ship participating in the evacuation effort. If a section 4(a)(2) report was required by the Danang evacuation, then it certainly was required by the use of U.S. Armed Forces in Zaire.

INTERPRETATION OF SECTION 8(C) IS DISINGENUOUS

Section 8(c) of the war powers resolution states:

> For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of members of such Armed Forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

The legal adviser's memorandum seeks to avoid the clear implication of section 8(c) that a section 4 report is required by quoting Senator JAVITS to the effect that the former section was intended to prevent secret unauthorized military support activities by U.S. troops. The analysis is somewhat disingenuous, and in any case, Senator JAVITS' remarks do not exhaust the significance of section 8(c). In fact, as the legal adviser well knows, "by traditional canons of interpretation, legislative history is irrelevant to an unambiguous statute." Section 8(c) is unambiguous. The U.S. pilots were members of the U.S. Armed Forces and were assigned to participate in the movement of regular forces of several foreign countries, which military forces in fact became engaged in hostilities. To suggest that the U.S. forces must actually be present when the shooting starts is to ignore the clear letter of the law.

Insisting as the Legal Adviser does that the U.S. troops must be threatened with imminent hostilities not only ignores the clear meaning of section 8(c), but also parses the law in a manner never contemplated by those of us who drafted it. The Legal Adviser insists that since the U.S. pilots flew to Kamina, located more than 100 miles from the site of hostilities—

> The United States forces involved in the airlift did not participate in movement of or accompany the airlifted foreign forces when such military forces [were] engaged, or there exist[ed] an imminent threat that such forces will become engaged in hostilities.

Once again, he insists that because "the Zaire airlift deposited the airlifted foreign forces in secure areas a short distance from a combat zone, the airlift was not brought within the resolution by section 8(c)."

The Legal Adviser's whole argument throughout his memorandum is predicted upon the supposition that the drafters of the resolution imposed an arbitrary 100-mile cutoff point for determining imminent hostilities. One can search the legislative history word by word and find no evidence of such a useless distinction. If the President is to be permitted to disregard the clear intention of the War Powers Act by establishing a 100 mile limitation in this instance, I fully expect to see the day when the next secure staging area will be only 90 miles away from combat. Then 80, then 70—until eventually the President can avoid the War Powers Act as long as the U.S. plane manages to land and take off in one piece. The Legal Adviser might just as well establish an arbitrary time limit of say, 2 hours, to determine whether hostilities

were imminent. He could argue that if the foreign troops waited at least 2 hours before going into combat no war powers report was required by the President. However, if the troops went into combat in less than 2 hours, hostilities would be deemed to be imminent and a report would be required. In fact, it would be interesting to know what the shortest amount of time was between foreign troops landing at Kamina and taking off again for the battlefront at Kolwezi.

PRESIDENT CARTER SHOULD STILL FILE WAR POWER REPORT

I have never approached the implementation of the war powers resolution in a partisan manner. Despite the fact that the President of my party, Richard Nixon, vetoed the resolution, I worked unceasingly to build Republican support to override that veto because I felt that the issue transcended political considerations. I am proud of the role I played, not only in drafting the resolution but in securing its enactment into law.

When hearings were held in 1975 after the first four reports were filed pursuant to section 4, I examined closely the adherence by President Ford to the requirements of the war powers resolution, and where I felt it necessary, I offered constructive criticism.

It is in that spirit that I take the floor today. As the Member of Congress who had the primary responsibility for drafting the reporting requirement of section 4, I am absolutely convinced that President Carter has erred grievously in not reporting to Congress concerning the extent of U.S. involvement in the Zaire airlift. I believe his failure to report is a clear violation of the law, and while I assume it is unintended and the result of poor legal advice, it cannot go unchallenged. If our country learned anything from the long agony of Vietnam, it was the absolute necessity for Congress to assume its constitutional responsibility over decisions which could lead our Nation to war. If we allow the President to ignore the clear intention of section 4 of the war powers resolution and not file a report in this instance, then we repudiate one of the most sacred responsibilities committed to us by the Founding Fathers.

I have stood by President Carter on foreign policy questions which I thought were vital to the future of our country, even though there was partisan advantage to be gained by remaining silent or voting the other way. I find it uncomfortable to stand against him in this situation, the more so because I do not disagree with the ultimate decision he made to send U.S. pilots to Zaire. I feel our participation was in the national interest. But far more important than that decision was his failure to report to Congress on his actions. I hope that he will recognize that a report is still in order and send it to Capitol Hill forthwith.

H. CON. RES. —

Concurrent resolution relating to war powers

Resolved by the House of Representatives (the Senate concurring), that the President of the United States was required by the terms of section 4 of the War Powers Resolution of 1973 (P.L. 93–148) to submit a report to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the actions of United States Armed Forces in Zaire in May and June of 1978, and the President should submit such report forthwith.

A BILL TO HALT ARBITRARY IRS AUDITS

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, the bill I am introducing today represents the culmination of a series of events, all of which have been directed at relieving thousands of small business men and women from unfair and inconsistent audit practices which are currently being carried out by the Internal Revenue Service. Recent actions by the Service to reclassify independent contractors in over 14 industries as employees for Federal tax purposes reverses over 30 years of previous tax policy and is in direct conflict with a directive contained in the conference report on the Tax Reform Act of 1976 which specifically called for a halt in arbitrary audit practices.

Originally, I introduced H.R. 12427 to suspend two revenue rulings regarding the tax status of real estate agents since it is obvious that these particular rulings have placed that industry on the brink of financial disaster. As a result of the introduction of my bill, the support of over 60 cosponsors, and the introduction of an identical bill in the Senate by Senator DOLE, the Treasury Department testified before the Senate Finance Committee on July 24 that Revenue Rulings 76–136 and 76–137 were, indeed, unfair to the realtors and that they would be revoked by the IRS.

More recently, I introduced H.R. 13313 to suspend similar audit practices which are causing financial chaos for direct sellers, insurance agents, beauticians, loggers, barbers, and independent service station operators. This bill merely broadens the protection offered by H.R. 12427 so that all independent contractors who have been treated consistently and in good faith as independent contractors cannot have their tax status reversed by treatment of independent contractors cannot have their tax status reversed by new interpretations by the Internal Revenue Service until Congress enacts new legislation which will clarify the tax treatment of independent contractors once and for all.

Today, the Senate Finance Committee approved by a vote of 11 to 1 a bill which is identical to H.R. 13313 but which contains new language defining the good faith test in order to guarantee that in no event will good faith be found if the taxpayer's treatment of an independent contract constituted negligence or fraud. I think it is an important provision and it is for this reason that I am introducing a clean bill at this time.

Hopefully, the revised version of H.R. 12427 and H.R. 13313 will provide the type of interim relief that our business community so desperately needs. While I continue to feel that it is essential that the Congress develop a more comprehensive and long-term solution to this problem, I also feel that it is equally important for the Congress to take action now to correct an inequitable and unfortunate situation which has resulted from inconsistent actions by the Internal Revenue Service.

I direct my proposal to the attention of my colleagues in the House and particularly to those members who are serving on the Ways and Means Committee task force on independent contractors. It is my view that this measure represents a workable solution and one that has the full support of a wide range of self-employed persons.

I would like to point out that the bill is supported by the National Association of Realtors, Direct Selling Association, National Association of Independent Insurers, National Small Business Association, National Home Furnishing Association, American Retail Floor Covering Association, National Association of Hairdressers and Cosmetologists, American Pulpwood Association, Independent Gasoline Association, and a number of independent businesses, large and small.

Mr. Speaker, I include the text of my bill at this point in the RECORD:

H.R. —

A bill relating to the independent contractor status of individuals for employment tax purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) In determining whether an individual is an employee for purposes of chapters 21, 23, and 24 of the Internal Revenue Code of 1954, the Internal Revenue Service shall not apply any changed position or any newly stated position which is inconsistent with a general audit position, a regulation, or a ruling in effect on January 1, 1976.

(b) Notwithstanding subsection (a), an individual shall not be treated as an employee of any person for purposes of chapters 21, 23, and 24 of the Internal Revenue Code of 1954 if such person, in good faith, consistently treated such individual or the class of individuals of which such individual is a member as independent contractors for such purposes. Such person shall be deemed to have acted in good faith if such individual or such class of individuals were treated by such person as independent contractors in reasonable reliance on any of the following:

(1) past Internal Revenue Service audit practice with respect to such person; or

(2) published rulings or judicial precedent; or

(3) recognized practice in the industry of which such person is a member; or

(4) long-standing treatment by such person of such individual or such class of individuals as independent contractors for employment tax purposes:

Provided, That all Federal tax returns (including information returns) required to be filed by such person were filed on a basis consistent with such person's treatment of such individual or such class of individuals as independent contractors. In no event shall such person be deemed to have acted in good faith if the treatment of such individual or such class of individuals as independent contractors would, on the basis of the pertinent facts and circumstances, constitute negligence, intentional disregard of rules and regulations, or fraud within the meaning of section 6653 of the Internal Revenue Code.

(c) The provisions of this Act shall apply in determining the employment status of individuals for (1) all calendar quarters for which, on the date of enactment of this Act, assessment of an underpayment of tax, or refund of an overpayment of tax, under chapters 21, 23, and 24 of the Internal Revenue Code of 1954 is not barred by the operation of any law or rule of law, and (2) for the calendar quarter in which this Act is enacted and for all future calendar quarters until the end of the calendar year in which the Congress enacts a law terminating the future applicability of this Act.

LEGISLATION PERMITTING TAXPAYER TO DEPRECIATE EQUIPMENT ON OPTIONAL DEPRECIATION LIFE RATHER THAN USEFUL LIFE

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. REGULA) is recognized for 5 minutes.

● Mr. REGULA. Mr. Speaker, today I have introduced a bill that would allow the taxpayer to depreciate equipment based on an optional depreciation life rather than necessarily the useful life of the property. The bill would allow after 1982 for a 1-year or more depreciation schedule at the option of the taxpayer. The decision once made would be irrevocable. The bill further provides for a 4-year phase beginning in 1979 to mitigate the 1-year impact of tax collection.

This bill would allow taxpayers greater flexibility in determining what is the most desirable capital recovery for their particular application. Because the bill would allow taxpayers to fix depreciation schedules that would permit a recovery of capital without the errosive impact of inflation, this proposal would fuel a strong boom in capital investment for technological modernization as well as expansion of industrial capacity and the creation of new jobs. In my judgment, it would be helpful in improving the competitive position of American industry.

The second feature of this bill would allow effective January 1, 1979, current expense treatment for Government mandated nonproductive equipment. Since this equipment is required by Government order and does not enhance the capacity or the profitability of any taxpayer, the option of writing this off as a current expense should be available.

Neither of the above provisions in my proposal would affect present investment tax credit law. Therefore, a taxpayer in opting to use a current expense writeoff or an accelerated depreciation schedule would have to weigh the tradeoff of losing the investment tax credit, if the period chosen did not qualify the same for investment tax credit.

Recently William Miller, Chairman of the Federal Reserve Board, testified before the Budget Committee. During the hearing I asked Chairman Miller what he thought the effects of a change in depreciation allowances such as I have outlined above and that are part of the bill I propose would be. His reply was as follows:

The best system on depreciation in the long run would be to leave it optional, as you suggest; write off the assets and do it anytime you want. I would be cautious, however, and remind you if we are going to limit our taxes to $15 billion or $20 billion on January 1, and if only a third of it is going to be allocated to business, we want to be sure that your general thing would be phased in so we wouldn't have too much impact against our budget.

But in principle, I agree with you, and actually once you get over that hurdle of write-off anytime you want, then it is a one-time adjustment, because it is a deferred tax, and you have only deferred the tax; you haven't forgotten it. It works extremely well.

You might want to consider linking that with requiring any public corporation to write off assets for tax purposes, write it off the same way for shareholder purposes, and then you would have a real discipline. And that would be too cruel; it would cause businessmen to act for shareholders like they do for Uncle Sam, and I would be in favor of that, but I am not very popular with my friends when I say that.

The second thing of writeoffs for government mandated: yes, I would think if you are going to have an optional write off period, you could start with a mandated pollution control as a 100-percent available or write it off in 1 year or 20 years, but you can only write it off once. I would take the other and keep it 5 years and look at the flow of cash and see when you can afford to liberalize more.

I also wrote to Chairman Miller requesting his ideas on developing a more effective exports policy for the United States. In a letter dated July 28, 1978, and in response to my original letter, Chairman Miller replied:

We should also take steps to increase capital investment in order to ensure the productivity increases and technological advances that have helped stimulate our export trade in the past. Accelerated depreciation allowances would be the most effective means to achieve this goal in my opinion.

Within the last 20 years, we have seen a steady erosion both in our productivity and in our growth rate in relation to other industrialized nations. I believe one of the major factors in this trend has been the increased cost of governmental requirements of a nonproductive nature and the lack of sufficient investment capital. These trends must be reversed if we are to continue to be competitive in world markets.

Since 1950 the annual growth rate of our economy has been about 3.7 percent whereas many other Western nations have growth rates of about 5.5 percent. From 1949 to 1968 the private nonfarm productivity increases averaged 2.6 percent per year. From 1968 to 1977 productivity increased only 1.4 percent. In part this reflects a reduction in technological advances that would result from enhanced capital investment. Increased productivity is vital to economic growth and the creation of jobs.

If our economy had grown at approximately 5.5 percent, we would today have a $3 trillion economy and at this level it is estimated that personal incomes would be 50 percent higher and Federal revenue would be $2 billion more. With this level of economic activity we in Government would be able to balance the budget and provide substantial tax cuts. This type of a dynamic economy would be the most effective tool to dampen inflation. Fundamentally, inflation results from too much money chasing too few goods and the key to altering that scenario is increased productivity. The bill I propose would be very useful in achieving this objective.●

VETERANS PREFERENCE AND THE CIVIL SERVICE

The SPEAKER. Under a previous order of the House, the gentleman from Connecticut (Mr. SARASIN) is recognized for 15 minutes.

● Mr. SARASIN. Mr. Speaker, in the course of our deliberations on the civil service reform legislation that proposes some significant and substantive changes to the current Federal civil service structure, this House will be faced with the challenge of resolving one of the most difficult, and certainly always controversial, issues—that of veterans' preference.

With the battle ensuing, we can be sure of only one thing—that there will be no clear or easy resolution to this issue engulfed in emotions and competing interests. However, I would like to remind my colleagues that the United States is fortunate in having a military force of outstanding quality—a quality that has been founded upon the expertise, skills, and standards established and continued by those who have served our country for the past decades. These men must not be forgotten amidst the shuffle of current issues and causes, nor should they be denied their just compensation in the name of bureaucratic reform.

Mr. Speaker, the Government, indeed the public, must own up to its obligation and responsibility to repay in some meager way the priceless sacrifice these men and women have given to preserve our freedom and liberty. They have given time, money, health, and even risked death on behalf of their fellow Americans. To curtail the veterans' preference program established in the 1944 act would not only place these dedicated citizens at a disadvantage in the competitive job market, but would deny them their due reward for the great service they have rendered. The program has been successful in helping reintegrate veterans into the job market and in adjusting to civilian life—important needs which demand fulfillment.

Proponents of the reform measures maintain that they are intended to strengthen the position of Vietnam veterans in the Federal job market. However, I have seen statistics which show that by 1987, 6,290,000 Vietnam-era veterans would lose all veterans' preference opportunities currently provided in Federal employment. Very serious consideration to the implications of such action would have to be given, and I implore my colleagues not to act so quickly in an area that has far-reaching impact upon the lives of so many who have given so much.

No one will deny the overwhelming need for constructive reform of our Federal employment structure. For far too long the civil service system has been the object of abuse and inefficiency, at great cost to the taxpayer. However, denying preference to these men and women who have served our country so

well would not necessarily elevate the level of service produced by the Government bureaucracy. In fact, it could possibly do more harm by eliminating individuals who have developed talents and expertise for which the Government is in great need. I urge my colleagues, then, to resist any attempt that would undermine the present system and deny these citizens the opportunities they so deserve.●

LEGISLATION TO ESTABLISH GREAT PRAIRIE LAKES NATIONAL RECREATION AREA

The SPEAKER. Under a previous order of the House, the gentleman from South Dakota (Mr. ABDNOR) is recognized for 5 minutes.

● Mr. ABDNOR. Mr. Speaker, I would like to take a few moments to expound upon a bill I have introduced today to establish the Great Prairie Lakes National Recreation Area in North and South Dakota and Nebraska. Congressman MARK ANDREWS has joined me as a cosponsor of this measure.

The following criteria have been established for the evaluation and selection of areas proposed for congressional designation as national recreation areas in the National Park System:

National Recreation Areas should be located and designed to achieve comparatively heavy recreation use and should usually be located where they can contribute significantly to the recreation needs of urban populations.

National Recreation Areas should provide recreation opportunities significant enough to assure national, as well as regional visitation.

The scale of investment, development, and operational responsibility should be sufficiently high to require either direct Federal involvement or substantial Federal participation to assure optimum public benefit.

Within the National Recreation Area, outdoor recreation is recognized as a primary management purpose; however, such management shall be compatible with the protection of the natural and cultural resources.

In my view the virtually unlimited recreational potential of the huge reservoirs and remaining seminatural stretches of the Missouri River which would be included in the Great Prairie Lakes NRA fully justify congressional action to provide the designation.

Following is a brief historical sketch of the river:

Beginning at Three Forks, Mont., the Missouri River flows south easterly over 2,300 miles to join the Mississippi a few miles north of St. Louis, Mo. It ranks as the second longest and historically one of the most famous rivers in the United States. It was the primary route of Lewis and Clark on their epic journey of exploration. Long before the advent of transcontinental railways, it shared with the Oregon Trail and Santa Fe Trail the distinction of being one of the three main thoroughfares to the Far West, witnessing a cavalcade of fur trappers, missionaries, gold miners, and pioneer settlers. But here, instead of covered wagons, conveyance was by pirogue—a hollowed-out tree—keelboat, and steamboat. It was a wild and unpredictable river that carried millions of tons of freight.

Waters of this mighty river that for centuries ran uncontrolled are now harnessed in the upper and middle reaches by a series of multipurpose dams and reservoirs. In its lower reaches, the Missouri has been further tamed by channelization. The net effect of man's endeavors has been increased opportunities for outdoor recreation, improved flood control, and improved navigation. However, these worthy projects have also eliminated many of the extraordinary esthetic, historic, wildlife, and recreational values associated with the river.

The national recreation river designation will facilitate realization of the increased opportunities for recreation on the Missouri River, while helping to insure protection of the natural and cultural resources of the river as well.

One example of a historic site this legislation would preserve is the "Old Chapel" located at Fort Randall in South Dakota. This historic chapel was an important link in the development of Dakota Territory, being established in 1856, and was extremely important and active during the Indian unrest of the 1860's. It remained active on the frontier until July 1892, when it was abandoned. The chapel housed South Dakota's first library. The site draws many visitors to the area and should be restored before further deterioration takes place on the one remaining structure.

The condition of the Old Chapel calls to mind the final criteria listed above for proposed national recreation river proposals. It bears repeating:

The scale of investment, development, and operational responsibility should be sufficiently high to require either direct Federal involvement or substantial Federal participation to assure optimum public benefit.

This criteria is particularly appropriate to the Missouri River in the Dakotas and Nebraska because the potential for optimal public recreational benefits is so great. At the same time the financial, institutional, and promotional resources of the area are relatively inadequate to develop the potential.

Both the Bureau of Outdoor Recreation—now the Heritage Conservation and Recreation Service—and the Corps of Engineers have developed conceptual proposals for tapping the recreational potential of the river. The BOR proposal met with local opposition due to the need for large land acquisitions.

The corps proposal avoids this objection by limiting acquisitions to those necessary to develop recreational activity nodes, rather than to provide a corridor along the entire several nundred miles of the river. The corps concept would just as effectively develop the recreational potential while limiting the cost and accommodating local wishes.

The following is an excerpt from the corps report detailing the nodal concept and possible development strategies:

This report proposes a nodal concept in lieu of the B.O.R. proposed corridor concept. By identifying the present locations of more intense development, expanding the terminal recreation-type activities and acquiring limited land acquisitions at these points, nodes will be identifiable. These nodes then would be connected by a system of water trails, scenic drives, equestrian trails, etc. From observation of the area encompassed by the proposed N.R.A. study, it becomes apparent we are dealing with an area of great physical magnitude, far beyond the scope of the vacationing public to appreciate on a typical two week vacation. (It is conceded that the region could be toured in two weeks, but only by giving a cursory look to any specific development.) It is logical to predict that the typical vacationer, after prior examination of maps, publicity, etc. would choose to visit the particular area (or node) offering the activities of his particular interest. Having chosen a particular node to visit, it is further logical to predict he might partake of one-day excursions or circle-tours, visiting points of interest in the general vicinity. This is the nodal concept in practice.

Development of the nodes will be of infinite variety. Each existing node will be carefully examined to determine its particular appeal. Research will be conducted into ways to develop and expand that appeal. Development potential runs the entire spectrum of possibility from urban riverfront development potential at Bismarck-Mandan, North Dakota, to wilderness experiences on the Little Missouri arm of Lake Sakakawea; from slack-water boating on the various lakes to river float trips between lakes; from historical Indian pageants to government-sponsored interpretive centers and from camping developments to commercial housing and supporting activities. Each node should be developed in a way to best express its potential. All development would be primarily "terminal" in nature; that is, aimed at being the recreation destination of the user, as opposed to overnight transient-type facilities. This is not to say the transient user should be discouraged, however, in most instances the user can readily avail himself of terminal type facilities and adapt the use of these facilities to his needs.

At each node it is expected that there will be recreation potential and historical interest within a days drive. One day "circle" tours, either of a self-guided or commercial nature should be explored and developed.

Between nodes, opportunity exists for development of a variety of trails. Trails would provide opportunity for use of motorized recreation vehicles, professionally guided horseback trail rides and pack trips, narrow-gauge railroad trips, lake steamer, and (wild) river float and canoe trips. Also, signing of new and existing roadways.

My bill is designed to implement the nodal concept as set forth in the corps' report:

H.R. —

A bill to establish the Great Prairie Lakes National Recreation Area in the States of South Dakota, North Dakota, and Nebraska, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) That there is hereby established the Great Prairie Lakes National Recreation Area in the States of South Dakota, North Dakota, and Nebraska, to be administered by the Secretary of the Army (hereinafter referred to as the "Secretary"), acting through the Chief of Engineers, in a manner coordinating with the purposes, development, operation, and maintenance of open stretches of the Missouri River between Sioux City, Iowa, and Garrison Dam, Lewis and Clark Lake, Lake Francis Case, Lake Sharpe, Lake Oahe, and Lake Sakakawea, as

authorized by the Flood Control Act of 1944 (58 Stat. 884), and any amendments thereto, as integral units of a general comprehensive water resource development plan for the Missouri River Basin, all in order—

(1) to further the purposes for which the aforesaid lakes were created;

(2) to provide for enhanced public outdoor recreation use and enjoyment of such waters and adjacent lands by the people of the United States; and

(3) to facilitate the preservation of the scenic, scientific, environmental, cultural, and historic features contributing to public enjoyment of such waters and lands.

(b) The national recreation area shall consist of the lands, waters, and interests therein acquired or controlled by the United States for the above lakes pursuant to the Flood Control Act of 1944 (58 Stat. 884), as amended and those portions of the Missouri River below ordinary high water between Sioux City, Iowa, and Gavins Point Dam, Niobrara, Nebraska, and Fort Randall Dam and Bismark, North Dakota, and Garrison Dam.

SEC. 2. (a) The Secretary shall administer, protect, and develop the Great Prairie Lakes National Recreation Area under such rules and regulations as he may deem necessary to carry out the purposes of this Act. In such administration, the Secretary shall adopt and implement, and may from time to time revise, a land and water use management plan, which shall include specific provision for—

(1) purposes of the water resource projects as authorized by the Flood Control Act of 1944 (58 Stat. 884), as amended;

(3) public outdoor recreation activities;

(3) development, preservation, and protection of the scenic, scientific, environmental, cultural, and historic features contributing to public enjoyment; and

(4) such utilization of natural resources that does not destroy or impair the recreational opportunities nor diminish the environmental values present.

(b) The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the national recreation area in accordance with the appropriate Federal and State laws, to the extent applicable, except that he may designate zones where no hunting or fishing shall be permited or hunting or fishing shall be limited to specific periods of time for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities.

(c) Designated Department of the Army employees of the national recreation area may issue citations for violations of any Federal laws or regulations applicable to the area causing the accused to be brought before the nearest magistrate, judge, or court of the United States having jurisdiction in the premises. Any person who violates a rule or regulation issued pursuant to this Act shall be guilty of a misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 3. Nothing in this Act shall be construed to deprive any State, a political subdivision thereof, or an Indian tribe, of its right to exercise civil and criminal jurisdiction over lands and waters within the Great Prairie Lakes National Recreation Area or its right to tax persons, corporations, franchises, or property on the lands and waters included in the national recreation area.

SEC. 4. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

This legislation has the support of the Great Lakes of South Dakota Association, and it was endorsed by the 47th session of the South Dakota Legislature (House Concurrent Resolution 506).

The director of the North Dakota Parks and Recreation Department has also expressed his support. His recent letter said, in part:

I urge your continued strong support of the Prairie Lake National Recreation Area Bill, which would improve the recreational facility currently available on Lake Sakakawea. At the present time, the only marina development readily possible on the lake is through the North Dakota Parks and Recreation Department. While we have been able to provide limited marina facilities, there is constant demand for additional dock and marina space which we cannot possibly supply to the maximum. Consequently, it would be of great help if the federal government would assume a portion of this responsibility. As you know, this area is in the center of our coal impact region, which indicates that the federal government should assist in providing recreational opportunities for the great influx of people serving the coal development effort.

Again, the recreational potential is great, and I urge enactment of this measure to designate the Great Prairie Lakes National Recreation Area so that the potential can be realized.●

COMMITTEE ON WAYS AND MEANS SUBCOMMITTEE ACTION ON AMENDMENTS TO THE MEDICARE PROGRAM

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 30 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, on Wednesday, August 8, the Subcommittee on Health of the Committee on Ways and Means completed action on various amendments to the Social Security Act and reported two bills to the full Ways and Means Committee for further action. The subcommittee agreed to the following provisions relating only to the medicare program:

1. HOME HEALTH

The medicare home health benefit would be liberalized in the following manner: unlimited visits would be available under both parts A and B; the present three-day prior hospitalization requirement under part A would be eliminated; home health benefits under part B would no longer be subject to the $60 deductible; and the present requirement that proprietary home health agencies be licensed under state law in order to participate in medicare would be eliminated.

In addition, the Secretary of HEW would be provided authority to establish additional standards and reimbursement guidelines for the effective administration of the home health benefit; home health aides would be required to complete an appropriate training program; and the Secretary would be directed to designate regional intermediaries for home health agencies.

2. ELIMINATION OF SECOND WAITING PERIOD FOR REENTITLED DISABILITY BENEFICIARIES

Entitlement to medicare benefits would be provided for individuals who have been entitled to disability payments for a total of 24 months, regardless of whether those 24 months were consecutive. In that way, an individual who has satisfied the 24-month requirement and attempts unsuccessfully to return to work would be immediately entitled to medicare benefits.

3. RECIPROCAL AGREEMENTS FOR MEDICARE COVERAGE OUTSIDE THE UNITED STATES

The President would be authorized to enter into agreements with other countries to provide hospital and medical benefits to medicare beneficiaries living or traveling outside the United States.

4. DENTISTS' SERVICES

Services performed by dentists would be covered if the same services would be covered if furnished by physicians under present law. Also, hospital stays for the performance of a noncovered dental service would be covered where the severity of the dental procedure warrants hospitalization.

5. TREATMENT FOR PLANTAR WARTS

The present exclusion of services related to treatment of plantar warts (warts on the feet) would be eliminated.

6. COMMUNITY MENTAL HEALTH CENTERS

Services provided in community mental health centers would be reimbursed on the basis of the reasonable cost incurred in providing the covered services. A total of ten outpatient visits per year would be covered and up to 60 days of partial hospitalization. Beneficiaries would exchange one day of hospital coverage (including one day of their 190-day lifetime limit on inpatient psychiatric hospitalization) for every four days of partial hospitalization in a community mental health center. The provision also covers the charges for services rendered by a licensed clinical psychologist in an inpatient setting.

7. OPTOMETRISTS' SERVICES

Services furnished by optometrists in connection with treatment of aphakic patients (patients without the natural lens of the eye) would be covered. Also, the Secretary would be directed to report to Congress within nine months as to specific legislative recommendations for implementing coverage for services furnished by optometrists for treatment of cataracts.

8. DEMONSTRATION PROJECTS FOR HOSPICE SERVICES

The Secretary would be directed to conduct a demonstration project to acquire necessary information and data with respect to reimbursement for hospice services under medicare.

9. AMBULANCE SERVICES

Coverage for transportation services would be expanded to include transportation to a more distant hospital where the nearer hospital does not have appropriate medical staff. Transportation to outpatient radiological facilities would also be covered.

10. STUDY OF COVERAGE FOR ORTHOPEDIC SHOES

The Secretary would be required to study and submit legislative recommendations to the Congress with respect to the coverage of orthopedic shoes where such shoes are required as an appropriate part of medical treatment.

11. COVERAGE OF ANTIGENS

Medicare payment would be authorized to an allergist for the preparation of antigens forwarded to another physician for administration.

12. PAYMENT FOR NONCOVERED SERVICES WHERE BENEFICIARY IS NOT AT FAULT

The Secretary would be authorized to make payment where a medicare beneficiary who medically required a higher level of care was erroneously placed in a distinct part of an institution designed to offer a lower level of care.

13. CHIROPRACTORS' SERVICES

The requirement for chiropractic coverage that a subluxation be demonstrated to exist

could be satisfied either through x-ray or other clinical findings. Neither the x-ray nor other clinical procedures used by the chiropractor would be covered.

14. COMPREHENSIVE OUTPATIENT REHABILITATION

Certain comprehensive outpatient rehabilitation centers would be recognized as providing a program of diagnostic and therapeutic services to outpatients and which must meet specified requirements.

15. FLEXIBLE STANDARDS FOR RURAL HOSPITALS

Flexibility would be authorized in the application of medicare standards to rural hospitals to take into account the availability of qualified technical personnel, the scope of services furnished, and the economic impact of structural standards which if rigidly applied would result in unreasonable financial hardship for a rural hospital; but only to the extent that such differential application of the standards does not jeopardize or adversely affect the health and safety of patients.

16. ROLE OF PODIATRISTS IN CERTIFICATION AND UTILIZATION REVIEW

Podiatrists, acting within the scope of their practice, would be recognized by medicare for purposes of physician certification and participation as physicians in utilization review. This recognization would be extended where consistent with state law and the policies of the health care institutions involved.

17. REPEAL OF PHYSICIAN PLAN OF TREATMENT REQUIREMENT FOR SPEECH PATHOLOGY

The existing medicare requirement that a physician establish a detailed plan of treatment for speech pathology services would be repealed.

18. PAYMENT FOR PHYSICIANS' SERVICES WHERE BENEFICIARY HAS DIED

Medicare reimbursement for physicians' services rendered to a medicare patient before his death would be authorized, on the basis of an unpaid bill, to an individual who has assumed the legal obligation to pay for the physician's services.

19. REPEAL OF PRESUMED COVERAGE PROVISIONS

Existing medicare provisions authorizing, by type of diagnosis, presumed periods of coverage for skilled nursing facility and home health services would be repealed. Protection against retroactive denials would continue to be afforded by general waiver of liability provisions, which would be retained.

20. REPEAL OF LOWER OF COSTS OR CHARGES PROVISION

The existing provisions of medicare law that limit reimbursement to the customary charges of a provider of services where these charges are lower than reasonable costs would be repealed.

21. LIMIT ON PREMIUM INCREASES DUE TO LATE ENROLLMENT

The existing provisions that require premiums for medicare part B (and for optional part A coverage) to be increased by ten percent for each year the beneficiary could have been but was not enrolled would be modified by limiting the premium increase to a maximum of 30 percent.

22. REPEAL OF EXISTING LIMITATIONS ON ENROLLMENT IN PART B

The provision of existing law that permits an individual to reenroll in medicare part B only once would be repealed.

23. EFFECT OF PART B COINSURANCE ON PROVIDER REIMBURSEMENT

Medicare reimbursement to providers of services under part B would be based on reasonable cost minus the coinsurance amounts charged beneficiaries by the provider. (Under existing law, medicare pays 80 percent of the reasonable cost, and providers charge coinsurance equal to 20 percent of the customary charge; these amounts which are determined without reference to each other, sometimes result in a provider receiving in excess of 100 percent of reasonable cost.)

24. RESIDENCE IN AN INSTITUTION AND ITS EFFECT ON COVERAGE OF DURABLE MEDICAL EQUIPMENT AND SPELL OF ILLNESS

The Secretary would be directed to devise and apply a more discriminating interpretation of existing law in order to avoid inappropriately denying coverage for durable medical equipment to beneficiaries living in residential institutions. The Secretary would also be directed to study and report on possible solutions to the predicament of beneficiaries who exhaust their benefits because they are unable to start a new spell of illness as long as they are residing in an institution that provides some skilled nursing care.

These provisions were incorporated in H.R. 13097 and the bill was reported to the full Committee.

The Subcommittee agreed to the following provisions relating to *both the medicare and medicaid* programs:

1. NONPHYSICAN MEMBERSHIP ON NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

The membership of the National Council would be expanded to include a dentist, a registered professional nurse, and one other nonphysician health professional.

2. ADVISORY COMMITTEE TO THE NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL

An advisory committee to the National Council, composed of nonphysician health practitioners, would be created.

3. REGISTERED NURSE AND DENTIST MEMBERSHIP ON STATEWIDE COUNCIL ADVISORY GROUP

At least one registered professional nurse and one dentist would have to be included in the membership of the advisory group to each Statewide PSRO Council.

4. EXPANDED MEMBERSHIP OF LOCAL PROFESSIONAL STANDARDS REVIEW ORGANIZATIONS

Each local PSRO would be authorized to offer membership, at its own option, to those nonphysician health practitioners who hold independent hospital admitting privileges.

5. HOSPITAL PROVIDERS OF LONG-TERM CARE SERVICES ("SWING BEDS")

The Secretary would be authorized to enter into agreements with hospitals, for the purposes of reimbursement under the medicare and medicaid programs, under which inpatient hospital facilities could be used to provide post-hospital extended care services in certain circumstances.

6. COORDINATED AUDITS UNDER THE SOCIAL SECURITY PROGRAM

Common audits of entities participating in programs under titles V, XVIII, and XIX of the Social Security Act would be required.

These provisions were agreed to and included in H.R. 13817.●

THE 20TH OBSERVANCE OF CAPTIVE NATIONS WEEK MADE ITS ANNUAL IMPACT

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, nearly 20 years ago our Congress passed the Captive Nations Week Resolution, which President Eisenhower signed into Public Law 86-90. The captive nations ideology, based on this law, is even more vibrant and applicable today than it was then. As Moscow well knows. This ideological structure accommodates with perspective every seemingly new Soviet Russian thrust, whether in Asia, the Mideast, Africa, or Latin America. Put simply, it relates every new thrust to the long background of Soviet Russian aggression, going back to 1920. The persistent reminder irks the Soviet Russian strategists to no end, and the documented record shows this plainly.

In this continuing report of the recent Captive Nations Week—indeed, is the spirit of Public Law 86-90—I bring to the attention of my colleagues these further examples of the 20th observance impact: First, the proclamation by Governor Dixie Lee Ray of Washington and that issued by Mayor Phillip L. Isenberg of Sacramento; second a report in the July 14 San Diego Union; third, a letter in the July 16 Boston Herald American; fourth, the report and editorial in the China Post, July 20; and fifth, the article by Dr. Lev E. Dobriansky of Georgetown University, "Captive Nations Week and Mock Trials".

A PROCLAMATION BY THE GOVERNOR

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week of July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations.

Now, therefore, I, Dixy Lee Ray, Governor of the State of Washington, do hereby proclaim the week of July 16-22, 1978, as Captive Nations Week in Washington, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

DIXY LEE RAY,
Governor.

PROCLAMATION ISSUED BY THE MAYOR, CITY OF SACRAMENTO

CAPTIVE NATIONS WEEK

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in conquered nations is obvious; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations;

Now, therefore, I, Phillip L. Isenberg, Mayor of the City of Sacramento, do hereby proclaim the week of July 16-22, 1978, as CAPTIVE NATIONS WEEK in the City of Sacramento, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

PHILLIP L. ISENBERG,
Mayor.

[From the San Diego, (Calif.) Union, July 14, 1978]

FREEDOM FIGHT FETED

WASHINGTON (UPI)—President Carter has set aside the week beginning Sunday as Captive Nations Week and invited Americans to renew their dedication "to the cause of all people who seek freedom, independence and basic human rights."

[Boston (Mass.) Herald American, July 16, 1978]

CAPTIVE NATIONS WEEK JULY 16-22

The third week of July is Captive Nations Week. And with the liberal push for recognition of Red China, I think we ought to examine the track record of the Communists in eastern Asia.

China—According to Dr. Richard L. Walker, the Chicoms killed 64 million people in the 1949 revolution. During the Red Guard purges ten years ago, an estimated 700,000 went before the firing squads. Add another 10,000 for the recent Gang of Four purge. The killing continues today, almost 30 years after the revolution. The Taiwanese news agency GPI reported in June that nine people were assassinated for "political crimes" at Nanan and Yungchun in March and April.

Cambodia—When the Reds took over here in 1975, they massacred approximately 1.7 million people. In February 1977, concerned about plots against their regime, the Angka Loeu "instigated a ferocious wave of purges," according to author John Barron. The most notorious of these was the Kompong Nong massacre in September 1977, in which 20 hospital patients were bludgeoned to death.

Vietnam—The massacre following the fall of Saigon in 1975 was short but bloody. The CIA estimated that around 200,000 were killed during the Red takeover. On China Beach alone (Da Nang), 90,000 died. Their remains were photographed from the air. Vietnam refugees later reported other mass murders, such as the 300 people executed at Ban Me Thuot.

Laos—No statistics are yet available, but 110,000 Laotians have fled to Thailand since the Pathet Lao took over in December 19. That's seven percent of the population, a bigger exodus than Cuba.

And let's not forget the 34,000 Americans killed by the Chicom in Korea and the 55,000 Americans slain by the Southeast Asian Reds.

Asian Communists hold the all-time record for mass murder. None of their regimes should ever be given diplomatic recognition.

JOSEPH TRAINOR.

ATTLEBORO.

Another annual Captive Nations Week is coming (July 16-22), the 20th since it was originally proclaimed by President Eisenhower back in the summer of '59.

Since last year's Captive Nations Week, the Soviet sphere of influence has expanded further into Africa, Western Europe and even in our own hemisphere. The Big Red Machine rolls on with one goal in mind.

Leonard Brezhnev knows it. V. I. Lenin and Joe Stalin knew it. The Soviets want the ability to exert their will wherever they need to or want. They are, and always have been, imperialists of the first order.

There are some who think Captive Nations Week should be forgotten or given just lip-service. I disagree.

This week embodies an idea rooted in the very beginnings of the American Revolution: Individual liberty. When the rights of some are denied or endangered, the rights of all are threatened.

I only hope that the Carter administration's double standard comes to a swift halt. We, as a free people, cannot have two sets of standards. One for pro-Communist dictatorships and one for anti-Communist ones.

We cannot expect any less from Cuba than we do from Chile. We can no more excuse Great Britain's role in Northern Ireland than we can the Soviet occupation of the Baltic States.

Someday national self-determination will prevail in all countries run by dictators. No amount of force can forever hold back our natural urge for freedom and dignity.

So, during this Captive Nations Week let us remember the courage and patriotism of all the captive people of the world.

People everywhere ought to be free to choose their leaders and not have totalitarian or authoritarian regimes foisted on them.

SAL GIARRATANI.

CHARLESTOWN.

[From the China Post, July 20, 1978]

CONGRESSMAN BACKS MILITARY OPTION AGAINST REDS

U.S. Representative John Ashbrook told the free world yesterday military measures should be taken if necessary in the "war" against the Communists.

In his keynote speech to some 2,000 participants in a lecture at the Taipei City Hall to mark the 1978 Captive Nations Week, the U.S. Representative said he would suspend any economic or political support for the Communist nations.

He warned that "any help to the Communists will hurt the interests of the free world."

He asked: "Why should we (the free world) change in giving up our defense and beliefs while the Communists are still using their same old tricks as some 25 years ago.

He noted that the majority of the American people and members of Congress support the Republic of China.

John Milan Ashbrook of Ohio, was a graduate of Harvard University in 1952, and a former member of the Ohio General Assembly.

He was elected to Congress in 1960.

[From the China Post, July 20, 1978]

RALLYING CRY AGAINST COMMUNISM

Many visitors attending the Captive Nations week observance have spoken against Communism in general and Communist enslaving of countless captive people in particular.

One of the speakers at Tuesday's gatherings, Bertrand Motte, chairman of the National Center of Independents and Farmers of France, pointed out that even though Communism is different in the East and West, to eliminate the Communists is the common goal of the free world.

Motte also warned the European nations not to ignore the threat of Euro-Communists whose goal, like all the Communists, is to gain political power, eliminate democracy and overthrow democratic governments.

The French political leader's views deserve special attention in preventing any misconception about Euro-Communism. For even though Euro-Communist leaders professed their differences with Moscow, they remain Communist conspirations aimed at destroying western democracies and Communizing the world. It would be fatal, therefore, to consider Euro-Communism any less harmful or dangerous than Communism of other brands such as Titoism or Maoism besides Soviet Communism.

The saying that only a dead Communist is a good Communist remains true in this respect. Free people everywhere must not resort to any wishful thinking in dealing with Communists of any brand hoping that they may be different from Soviet or Chinese Communists or Titoists. They are all equally dangerous and vicious in carrying out their final objectives.

The only way to deal with them is to wage an uncompromising struggle against them. In this respect, Motte paid a glowing tribute to "the war against Communism waged by the Republic of China" saying that it is "a model of the free world standing firm with no compromise". He said also that the Republic of China is a great anti-Communist nation and its presence could not be denied.

In this respect the Captive Nations week observance in the Republic of China provides a convincing proof that our dedication to the anti-Communist struggle may serve as an example to all free nations who are caught in the same situation of confronting a Communist threat. The people of the Republic of China are truly united and determined in opposing Communism and defending our freedom and democracy. We do so because we have suffered from the Chinese Communist conspiracy and aggression more than any other people of the free nations. Free people must not overlook the rallying cry of the French visitor against Communism.

FREEDOM-FIGHTERS' DECLARATION

At the Captive Nations week Freedom Fighters Forum, a ringing declaration was issued by a group of freedom fighters to reiterate their "determination to fight on unceasingly for the freedom of all Chinese and the future of all mankind".

The forum was attended by more than 250 persons including many freedom fighters recently arrived at the anti-Communist bastion of the Republic of China. They told their heartbreaking stories of their heroic escapes from the Chinese mainland at the risk of their lives. They also answered questions posed by foreign visitors who came to attend the Captive Nations Week observance.

In the declaration, they professed puzzlement in finding certain phenomena after reaching the free world. One is that "People who have all along lived in free areas do not know how painful it is to be without freedom and dignity". Many of them, they noted, feel the world is insecure and dare not think what may happen in the days ahead. They also noted that many politicians on the political stage of the world are playing with fire. Their specialty is appeasement, the declaration said. They are "mortally risking the future" and "are thus pushing mankind into an abyss of restlessness, facing the danger of wars that will be crueler than

ever and may bring a total holocaust", the declaration added. Their outcries against further appeasement should be heeded.

[From the America (Phila., Pa.) July 27, 1978]

CAPTIVE NATIONS WEEK AND MOCK TRIALS

(By Lev E. Dobriansky)

The mock trials of leading human rights activists in the Soviet Union have drawn vehement protests from all over the world.

In May 1976, Dr. Yuri Orlov formed in Moscow a group to monitor Soviet compliance with the Helsinki accords. The Helsinki Watch Group was quickly joined by similar citizens' groups in Ukraine, Lithuania, Georgia and Armenia. Founders of the groups have ever since undergone savage repression. The Kremlin's suppression drive climaxed in recent weeks with the use of phony charges to convict Orlov, Vladimir Slepack, Zviad Gamsakhurdia and others, and the harassment of American newspapermen who have refused to disseminate Soviet slanders.

DOWN WITH COMMUNISM

Members of the U.S. Congress have urged the Carter administration to express "in the strongest terms the opposition of the United States to the imprisonment of members of the Helsinki Watch group." Prominent U.S. scientists, including three Nobel laureats, boycotted a scientific meeting in the Soviet Union while the largest U.S. organization of computer sciences discontinued its cooperation with Moscow.

British Prime Minister Callaghan voiced his government's "abhorrence at the show trials." Norway stated that the sentences "contradicted Soviet promises and declarations."

Even Communist parties in Europe were unable to conceal their disgust. The Spanish Communist party expressed "our condemnation," while its British counterpart called on Moscow "to rescind the sentences." *L'Humanite*, the French Communist party's organ, termed the crackdown "unacceptable." An official newspaper in Tirana, Albania, disclosed that hundreds of thousands in Georgia and Lithuania have staged demonstrations against Moscow's repression of dissidents and intensified process of Russification.

Yet, the most significant protest came from usually hardline Communist Bulgaria. In Sofia, a flag reading "Down With Communism" was flown from a roof in the heavily-guarded city center and leaflets carrying the same slogan were scattered on the crowd.

YOU ARE NOT ALONE

This past January, Sen. Henry M. Jackson (D-Wash.) told the relatives of Andrei Sakharov, Anatoly Shcharansky and Vladimir Slepack at a Washington, D.C., human rights meeting, "You are not alone."

In October 1976, Democratic Presidential candidate Jimmy Carter sent Slepack a telegram, "I want you to know of my deep personal interest in the treatment that you and your colleagues receive." As a President, Carter personally defended physicist Scharansky against Soviet charges. Carter also wrote in a personal letter to Nobel laureate Sakharov, "We shall use our good offices to seek the release of prisoners of conscience."

Now Orlov is alone in a Soviet cell. So is Slepack. So is Gamsakhurdia. The untrials of Scharansky and Ginsburg held on the eye of Captive Nations Week have triggered a new wave of awareness and indignation. This kind of timing is by no means new for the annual observance of the Week.

Sakharov has predicted that Moscow's travesty of justice was a "test of the resolve of the West to insist on the fulfillment of the principles proclaimed at Helsinki."

The other day, Radio Moscow trumpeted that "a suitable riposte was given to the actions of the U.S. which speculates on the human rights issue" and that "other future actions will be met with a similar fate."

The die has been cast. Captive Nations Week is a redeeming opportunity for the Carter administration to redefine and reassert its human rights policy.

CHICAGO'S PIONEER MORTGAGE POOL IS A GREAT SUCCESS

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, interest rates on home mortgages are now at the highest point ever recorded. Couple interest rates with the spiraling cost of housing, and the price of buying a home is out of the grasp for most young middle-class couples.

But, for an estimated 2,500 Chicago residents the dream of homeownership is becoming a reality. These residents will be financing their homes at an interest rate of 7.9 percent, a full 2 percentage points lower than the going interest rate on a home mortgage in Chicago.

These residents are getting their low-interest loans through Chicago Mayor Michael A. Bilandic's new mortgage pool plan for middle-income home buyers. The plan provides for low-interest home mortgages of up to $80,000 for middle-class families with incomes of $40,000 or less. Under the program, which is being financed through the sale of $100 million in tax-exempt municipal bonds, interest rates are 7.9 percent for the homes purchased through the pool. This 2-percent difference in interest rates translates into a savings of $100 a month in mortgage payments for persons financing a $60,000 home.

Chicago's pioneer program won quick acceptance in the money market. The full issue of bonds sold out on the first day of the offering. The bonds will be secured by the properties themselves and by private life insurance policies. The securities are not an obligation of the city and in no way endanger the city's creditworthiness.

This novel use of tax-exempt bond financing could be the forerunner of many similar programs, both in Chicago and around the Nation. In the initial stage, First Federal Savings and Loan, Chicago's largest thrift institution, is processing all the mortgage loans. But, several other large S & L's in the city have expressed great interest in the plan. Immediately after the city council approved the original program on July 7, four other large S & L's in Chicago asked to set up mortgage pools totaling $310 million.

Mr. Speaker, this loan plan is one of the few existing programs that adequately addresses the problems of the middle class' struggle to afford the high costs of city living. I commend Mayor Bilandic for his efforts in designing the plan.

On August 8, the Chicago Tribune featured an article about three Chicago families that are buying homes under the loan plan. I would like to submit the article for the RECORD:

[From the Chicago Tribune, Aug. 8, 1978]

AMERICAN DREAM: BLESS THIS HOUSE, O BANK, WE PRAY

(By Ann Marie Lipinski)

Margaret Tader doesn't usually visit the Loop in her pajamas, but on the morning First Federal Savings & Loan Association of Chicago opened its doors to applicants for the city's mortgage loan program, she made an exception.

"I'll never forget it," she said. "My husband called and said, 'Honey, I just read in the paper that they're taking applications today. Go.' 'You mean right away?' I asked. 'Right away,' he said.

"I was hardly dressed for the occasion, but we'd been waiting so long for that day that I wasn't about to waste time changing. I grabbed the kids, threw on a coat over my pajamas, and raced out in the pouring rain. Even when I got to First Federal and was filling out the application, I still couldn't believe the whole thing was real. To this day, it seems like a dream."

Indeed, it is a dream, the American Dream, fed by Jay Gatsby and his West Egg manse, by magazine advertisements for white rum featuring super thin couples on the green-blue lawns of their country estates, by television shows where cavernous, antiqued living rooms appear a prerequisite to good family conversation.

"You turn on the TV," mortgage applicant James McGuffage said, "and see that even Laverne and Shirley have a nicer and bigger apartment than you do. No wonder Americans have dream-like expectations."

If there was ever any concern for the health of the American Dream, it has been quashed by the city's recent experiment in home mortgage loans. To see the crowds in First Federal offices during the last several weeks, one would have thought the savings and loan was giving away money. Nearly 2,400 applicants flocked to First Federal asking for a piece of the $100 million the city is making available for home mortgage loans.

Some seek a house as their hedge against inflation, others ask nothing more than the back yard forgotten in apartment house blueprints. But if there is a common sentiment among the home seekers, it is their desire to possess. "People need that security of owning property," McGuffage said. "'Bury me in my own back yard'—that's the American Dream."

Although the conversion from monthly rental payments to monthly mortgage payments will prove a financial burden to many of the home-loan applicants, it is a hardship they are willing to bear.

"We are going to be on a budget like you wouldn't believe," Mrs. Tader said. "But we felt if we didn't go ahead and buy now, we never would."

"In many ways, we felt forced into buying," said her husband, William. "Every year at tax time we wondered what we did with all our money, and we realized we didn't have anything to call our own. Nothing we had was increasing in value at the same rate that inflation was increasing.

"We wanted a house, but couldn't afford the standard 10 per cent mortgage rate. So when the city and First Federal offered this rate (7.9 per cent) we felt we had no choice but to buy now or be stuck in this apartment forever."

"It's true," Mrs. Tader agreed. "As excited as we are above having our own home, the state of the economy has really taken that deciding factor away from us and that is very depressing."

Depressing as it may be, the compulsion to flee their two-bedroom apartment on West Nelson Street and buy their own home is strong enough so that the Taders are willing to forego frequent trips to McDonald's and annual vacations in order to squirrel away the funds to pay off a $50,000 mortgage.

"We're chucking out all the frills," Mrs. Tader said. "That includes my adult education classes, Bill's photography expenses, lavish gifts, and dinners out. Bill will only take pictures once in a while, I'm making my own presents, and we're eating a lot of PB&J. It's just like you read in the women's magazines," she said. "'How I support my family on $2 a month.'"

The Tader regimen also includes a part-time job for Mrs. Tader. The former school teacher recently took work checking and billing at a nearby Jewel to supplement her husband's income as a broker for a plastics firm.

"I had no choice," she said. "It's an expensive world we live in."

In fact, the spirit of conservation became so feverish in the Tader household once they decided to purchase a $62,000 two-flat, that their six-year-old daughter, Becky, offered to "take in washing to help out."

"I didn't know whether to laugh or cry," Mrs. Tader said.

Robert Mitchell knows what to do. He's crying. He applied for the cut-rate mortgage loan in early July and was told by a First Federal official that he would almost certainly receive the loan money in time for his closing date in early August. But Mitchell (not his real name) found out two weeks ago that the loan money would not be available until mid-to-late August, "and it makes my blood boil."

"I'm a policeman, my wife's a teacher, so we're definitely middle class," Mitchell said. "As middle-class home buyers, we would obviously have liked to pay $450 a month on an 8 per cent mortgage, as opposed to the $560 we're going to have to pay now on 10 per cent. I can't tell you how depressing it is. Here we thought we'd be saving ourselves by buying now, and it turns out we're killing ourselves."

The city and First Federal required that applicants already have a home in mind when they requested the mortgage loan. When the Mitchells found a home, the owners, who were in a hurry to move out, set the closing date for early August.

The Mitchells explained their predicament to First Federal officials when they applied for a mortgage, and were told that a rush would be put on their application. They found out recently, however, that approval would come too late.

"We would have dropped the contract and tried to find another house so we could take advantage of the low mortgage rate," Mitchell said, "but the cost of housing gets more expensive by the day. By the time we found something livable we might have ended up paying $71,000 instead of the $61,000 we're paying for a home now."

Housing has become more expensive by the day. In the year ended in May, the dollar value of homes sold in Cook County increased by 36 per cent while the sales volume increased by only 2 per cent.

Although Mitchell blames greedy sellers for encouraging the soaring prices, he is about to become part of the problem.

"I absolutely plan on selling this house we're buying now in one year," he said. "I'll get all the money I can for it, then try to find something bigger and better. Your house is your badge of status, and I want a home that speaks to the kind of lifestyle I want. Call it greed, call it the American Dream, but we want to be a part of it. Bigger and better, that's the name of the game, right?"

For James and Pat McGuffage of Oak Lawn, the American Dream is a quieter, simpler hope. "A brick bungalow with hardwood floors and plaster walls," McGuffage says.

"When people fantasize about their first home they think stables and a pool and 60 acres, and much of that is the fault of TV," McGuffage said. "People's expectations are too high. After all, what is a home really? A place to live or a status symbol? I say a place to live."

The place the McGuffages found to live is the simple brick bungalow they'd always imagined in a Southwest Side neighborhood. Not only does it have plaster walls and hardwood floors, but a backyard for their 15-month-old son, a living room "big enough to accommodate both sides of the family on Thanksgiving," and a fence "we can lean over and talk to our neighbors," Mrs. McGuffage says.

"No, it's not a luxury house, no it's not like the houses in House Beautiful, but it's a place I plan on living in for the rest of my life," McGuffage said. "If we get the mortgage money," he added.

None of the special loans administered by First Federal has received approval yet. According to City Controller Clark Burrus, the city is scheduled to turn over the funds to the S&L by the end of this week, and shortly thereafter First Federal will begin making the low-interest loans.

There will be applicants who will receive no money from the mortgage loan pool. First Federal accepted applications for $110 million in loans, 10 percent more money than the plan provides for.

Some once-hopeful applicants, like the Mitchells, already know their fate. The McGuffages and Taders, however, are still waiting to hear.

If the McGuffages are denied the low-interest loan, they say they will secure a standard interest rate of 10 percent "and try to make ends meet."

Mrs. Tader, however, is not of that temper. If she and her husband are denied the loan, she jokes that her course may parallel that of poor Myrtle Wilson in "The Great Gatsby"—that sad tale of lost dreams and "that huge incoherent failure of a house . . ."

"If we don't get this loan," she said. "I'll throw myself in front of a Jewel truck."

"Listen to me," she says turning to her husband. "If this is supposed to be a happy occasion, why do I sound so sad?"●

SUPPORT THE HANLEY AMENDMENT ON VETERANS PREFERENCE

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. TEAGUE) is recognized for 5 minutes.

● Mr. TEAGUE. Mr. Speaker, I understand the civil service reform bill is scheduled for consideration tomorrow. The Honorable JIM HANLEY of New York, a senior member of the Post Office and Civil Service Committee, plans to offer an amendment to that provision of the bill that would limit the use of the 5-point veterans preference for wartime veterans. I am sure you have heard from veterans throughout the country expressing their opposition to this proposed change in the law.

I commend the distinguished gentleman from New York for offering his amendment. He has long been recognized as a friend of our veterans and their families having served with me on the Committee on Veterans' Affairs for a number of years. He understands the continuing problems that veterans face in seeking employment following discharge from service. He understands that these difficulties remain for years. He also understands how critical it is that we retain protection for veterans once they become employed. It is grossly unfair to place the veteran at a distinct disadvantage when there is a reduction-in-force simply because he was drafted and called to service to fight in time of war.

Mr. Speaker, the chairman of our Committee on Veterans' Affairs, the very able and distinguished gentleman from Texas, my friend and colleague, RAY ROBERTS, and the ranking minority member of the committee, the distinguished gentleman from Arkansas, JOHN PAUL HAMMERSCHMIDT, have advised the Members of the House of their plan to fully support the amendment to be offered by Mr. HANLEY. I also plan to support JIM HANLEY in his efforts.

The administration has attempted to convince everyone that the proposed change in the law will help Vietnam veterans. It simply is not true. On the contrary, Vietnam veterans will be adversely affected by this proposal in that the 5-point preference will be available to them only for a period of 15 years while the same preference was available for veterans of World War II and Korea up until now. It seems pretty clear to me. The 5-point preference was never intended to be a readjustment benefit. The Congress has always provided equal benefits to veterans for equal service. It is hard for me to believe that at this point in time we now want to place the Vietnam veteran at a disadvantage and deny him equal benefits for his service.

Mr. Speaker, it is unthinkable that we should be considering a change in the veterans preference law. Many Vietnam veterans have encountered extreme difficulties. Surely we do not now want to compound those problems by denying them this small benefit that we have made available for a lifetime to veterans who participated in prior wars.

I urge my colleagues to support the proposed Hanley amendment and I want to assure my colleagues of my strong support of the gentleman's proposal.●

PERSONAL EXPLANATION

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. LUNDINE) is recognized for 5 minutes.

● Mr. LUNDINE. Mr. Speaker, as we begin conference committee deliberations on the Housing and Community Development amendments today, I would like to offer a brief explanation regarding my failure to vote on a significant amendment that was adopted during floor debate on this legislation. On June 29, the House agreed, by a vote of 244 to 140, to an amendment offered by my colleague from Michigan (Mr. BROWN) which would enable either the House or the Senate to veto rules or regulations prescribed by the Department of Housing and Community Development.

Although I was on the floor during the debate, at the time the vote was taken on the Brown amendment, I was engaged in a serious discussion with some of my colleagues about other provisions in this bill, and I inadvertently neglected to cast my vote.

I regret that oversight. I believe that the adoption of this amendment repre-

sents a flagrant and inappropriate intrusion by the Congress into the rightful responsibilities of the executive branch of Government. While I share the concern of many of my colleagues with regard to some of the interpretations of our laws that are reflected in agency regulations, I agree wholeheartedly with the distinguished chairman of the subcommittee, Mr. ASHLEY, in his assessment of the Brown amendment as a "classic case of overkill."

The attacks on our regulatory processes are justified. The processes are often slow and complicated, creating prolonged uncertainty among State and local governments, businesses and others. In order to address those very real problems, Congress should proceed more aggressively and deliberately toward achieving meaningful regulatory reform. The Brown amendment only further complicates the inefficiencies in our regulatory process—it does nothing to address the underlying problems.

I share the President's concern about the possible constitutional questions that are raised by this kind of amendment, but beyond that I see it as a potentially disruptive device that will further slow the legislative and regulatory processes and place the Congress inappropriately into the arena of administering substantive programs and laws. Rather than enhancing and streamlining our regulatory processes, this amendment has the potential for creating further delays and inconvenience for those at the state and local levels who are responsible for the actual delivery of Federal programs.

I hope that this damaging provision will be deleted from the Housing and Community Development Amendments during Conference Committee deliberations.●

"TO SURVIVE, BLACKS MUST CHALLENGE THE SYSTEM"—ADDRESS BY DR. CARLTON B. GOODLETT

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 5 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, Dr. Carlton B. Goodlett, the distinguished president of the National Newspaper Publishers Association, recently addressed the Summit Conference of the NAACP concerning problems faced by black Americans in today's society.

Most of us who have lived through the recent era or major black gains in employment practices, civil liberties and other areas, realize that black Americans still face many major problems in their drive for equality.

I think the address given by Dr. Goodlett covers the current status of black Americans in an informative and revealing manner. For this reason, I am inserting the remarks made by Dr. Goodlett in the RECORD and would like to invite the attention of my colleagues to this address.

The address follows:

TO SURVIVE, BLACKS MUST CHALLENGE THE SYSTEM

(By Carlton B. Goodlett)

As President of the National Newspaper Publishers Association—Black Press of America, I am pleased to address this important Black Summit Conference convened by Benjamin Hooks, National Executive Director of the NAACP. The previous speakers today, Dr. Joseph Lowery, President, Southern Christian Leadership Conference, and Dr. Kenneth S. Tollet, Director, Institute for the Study of Educational Policies, Howard University, have proven themselves to be adequate diagnosticians of the evil of racism suffered by 26 million Blacks in the USA. Neither of these speakers has prescribed the thereapy required for Black survival in racist America.

As a psychologist who has spent over 45 years testing the pulse and the vital signs of racist White America, I have come to prescribe the therapy necessary for Black survival, under the subject, "To Survive, Blacks Must Challenge the System". Eleanor Holmes' discussion last night of quotas and the Bakke Case has forced me to enlarge the dimensions of my statement. Dr. Tollet has succinctly described the dangers which Blacks face in the Bakke Case; I shall not repeat material arguments profoundly stated by him.

Those of us who would lead 26 million Blacks to a Promised Land must take heed of the advice of Mari Evans, a young Black poet, presented in Orde Coombs' Anthology, "We Speak as Liberators;" I quote:

SPEAK THE TRUTH

Speak the truth to the people
Talk sense to the people
Free them with reason
Free them with honesty
Free the people with love and courage and care for their being
Spare them the fantasy
Fantasy enslaves

* * * * *

Move them instead to a Black One-ness
A Black strength which will defend its own
Needing no cacophony of screams for activation
A Black strength which attacks the laws
Exposes the lies, disassembles the structure
And ravages the very foundation of evil
Speak the truth to the people
To identify the enemy is to free the mind
Free the mind of the people
Speak truth.

Sixty-nine years ago, when the NAACP was founded, a Black was lynched every two and a half days. While death by the mob's noose is no more, Black Americans by the tens of thousands fear and suffer the pangs of psychological death and the ravages of racism daily in racist White America.

The President's Report on Civil Disorders, 1968 (the Kerner Report) has clearly identified the cancer, racism, which pervades the United States of America. Above all else, the Kerner Report should have marked a new beginning in Black America's search for a new ideology and agenda to combat the pervasive threat to the Black experience from individual and institutional racism, both covert and overt, which stalks the land.

We live in a sick society. The avaricious greed of the early pioneers was joined in struggle by those seeking special privilege and favors in the founding conventions of the young nation, in which the supporters of materialistic values won the day against those of humanistic values. For 202 years property rights have been inviolate when in contest with human rights. From the landing at Plymouth Rock, the activities of the White Settlers and now the White majority began and sustained a ravenous plundering march of physical and human exploitation which nearly destroyed the Red Man and for more than 249 years endured the moral stench of Black slavery. And today, all the judicial, legislative and executive machinations have not permanently freed Blacks from the status of second-class citizens.

In this, the age of Black discontent, as we grope for solutions to seemingly imponderable problems, the words uttered by Dr. W. E. B. Du Bois in celebration of his 90th birthday come to us loud and clear, when he pondered the question: How fare Black folks in America?—

"If we aim to be Americans and do only what America does, think what she thinks and say what she says, we are a stupid people; if on the other hand we are determined to reach the highest standards of the world, and broaden and lift those standards by developing the best part of our Negro culture, erased from our souls by blood and slavery, by poverty and insults, we may, led by Africa, yet save the world. On the other hand, if we are bribed by high salaries to our gifted while our masses starve, by privilege to our rich while our millions crawl, by publicity for our fools while our leaders and our youth rot in jail, we are lost. This nation, by its mad plunge into lying, stealing and murder, will drag us as a part of it down to an age . . . of eternal night."

In this 115th post-Lincoln Emancipation Proclamation year Blacks must ponder these words of Du Bois, and be guided by his sage counsel. Black America, in its placid acceptance of a second-class citizenship, which sees its best minds, its most enterprising youth, its struggling middle-class, trying to get a "piece of the action", fails to reflect in its behavior that in the life-and-death struggle against racism 26 million Blacks must come to terms with the question of survival.

The struggle to survive during slavery, history shows, was guided by the ideological concept that only through freedom and the struggle to be free, even at the sacrifice of life, itself, could a slave and his progeny lead a meaningful life. But, during the 115 years since Lincoln's Emancipation, Black Americans have congregated into thousands of organizations with many separate agendas, and their marching resembles that of the forty years tramping of the Children of Israel around in the wilderness.

Black America needs an ideology. An unemployed Black laborer whose family for approximately three generations lived on welfare or some form of charity, who had suffered recurring cycles of depression, inflation, war, the last-hired-first-fired syndrome, ventured: "There must be something better than this! Call it what you may, I'm ready for it!"

A government more interested in inflation than it is concerned about the mass unemployment of more than 7% of the countable adults; a government which tolerates without alarm an unemployment rate among its adolescents twice that of adults; and a government more concerned about human rights abroad than the rights of its Black youth who suffer three times the unemployment rate of White Youth, demonstrates by these very acts alone the meaning of the Black laborer's "There must be something better than this, call it what you may!"

Let us find a name for that "something better," and marshal our forces to secure it, not only for Black America but also for our whole United States of America.

On many occasions I have quantified Martin Luther King's "I am Somebody" litany. Blacks must reject the "freedom of the individual" concept, and accept the "freedom of the masses" concept as the true index on the scale of freedom. For, lo, 115 years, few of our leaders have pondered the question, "Is the laissez-faire Capitalist system, shrouded in democratic garments, as it exists in America, a fertile soil for the survival of a racial minority forced to serve in slavery and crypto-freedom, as the bottom of the pyramid of Capitalism, to be exploited and ravaged by all who are non-Black who in their greed scramble to ascend the materialistic success ladder? Blacks ignore the cancer of racism at their peril.

THE CANCER OF RACISM

According to the Joint Commission on Mental Health, 1969, in terms of mental health racism is a more pervasive and far more serious threat than childhood schizophrenia, mental retardation, psychoneurosis or any other emotional derangement. Its destructive effects severely cripple the growth and development of millions of our citizens, both young and old alike. Yearly, racism directly and indirectly causes more fatalities, disabilities and economic loss than any other single factor.

INDIVIDUAL RACISM—A WAY OF LIFE

Institutional racism is an umbrella under which all the individual racists may gather for action. Individual racism is glaringly illustrated in the continuing struggle against implementation of the Supreme Court 1954 Decision declaring segregation and discrimination in public education unconstitutional.

The Quota System: Individual racists also vociferously proclaim their opposition to a quota system, and bow before the mystical formulation called "positive affirmative action." Let there be no mistake about it: Blacks who have met every call of our nation in peace and war, and earned every privilege for citizenship, as a matter of right, demand governmental guarantees against institutional racism.

We live in a quantitative society. The only way victims of racism can be assured equity is for the government (national, state and local) to quantify the rights, responsibilities and opportunities for all citizens.

Quotas are accepted in every modality of our lives. Hundreds of thousands, year, millions of students are bussed to schools daily in America; it becomes distasteful only when we bus to remove inequities forced upon Blacks and their allies to obtain equity in the educational process. Our Jewish friends might look upon the quota system as a roof over their heads, but to Black America it is the floor under our feet, below which we shall not fall.

The Bakke Case

It is rather ironic that California, of whom so much was expected as the bellwether state in the second half of the 20th century, should spawn the Bakke case. Many convert supporters of the myth of racial superiority use this case as a *cause celebre*, with the charge of "reverse discrimination" increasingly being voiced by whites, WASPS, ethnics and Semitics alike, who covertly feel that every Black advance is a threat to their special territory. The Bakke case has literally set the progressive and liberal community at war. The words "race" and "quotas" are bandied about by the enemies not only of racial minority advancement but also of the struggle of women, senior citizens, youth and even the lower socio-economic classes, to redress inequities which exist in our society.

Bakke, a 36 year old white male engineer, was rejected by at least ten medical schools; however, he sued the University of California at Davis, claiming that the admission of 16 racial minority students out of 100 admissions to the medical school was a denial of his constitutional rights. Many factors were mitigated against Bakke's entry into a medical school, the foremost being the unwritten law of his age. Actually, 40,000 aspirants applied and 26,000 were rejected across the nation. The U.S. Supreme Court has been asked to determine how this coveted pie of only 14 or 14 thousand admitted applicants can legally be divided among the competing groups, Blacks, Chicanos, women, handicapped, too old, too young, or even, like, Bakke, white Protestant males; but no matter what the court decides, the solution will not address the underlying question: not just "Who gets in?" but "Why isn't there room for more?"

This inability of the contestants in the Bakke case to understand the basic indictment against the socio-economic system will deter the coalescence and unity so necessary for structured social change in the nation. The many inequities which exist in housing, education, employment and health care result from the parsimony of the government. It is clearly perceived now by even the Black masses that racial minorities have a stake in the development of a political ideology of abundance. The victims of economic racism, whose families for generations have been denied gainful employment, utter: "There must be something better than this, and we are ready for it!"

The victims of racism and poverty can never surmount, alone, these handicaps imposed by a socio-economic system which denies enriched opportunities to its people, not only in the field of medicine, but also in jobs, education and adequate health and welfare, to serve the needs of every citizen. Even Cuba, with its many demanding problems, finds it possible to educate proportionately more of its citizens in the medical sciences and healing arts than the USA.

Support for affirmative action must be coupled with the understanding that the DeFunises and the Bakkes as well as every other person excluded from law school or medical school because of the restricted number of admissions, or because the level of unemployment is kept artificially high, are part of a problem which is not just a racial one, but an old economic shell-game, in which ethnic and racial groups as well as black workers and white workers are played off against one another. The progressive forces must understand this no-win game, and develop strategies which unite, not divide, people with common needs.

Bakke and the thousands of all races rejected with him are victims of something other than "reverse discrimination": they are victims of a competitive system which generates far more losers than winners; the real enemy is an American social order controlled by those who utilize racism, sexism and classism to thwart the unity so necessary for the development of fundamental change in the direction of the economic and political life of the nation.

As a guide in our struggle against racism, the words of John D. Rockefeller III offer some clue, who says, in his call for the "Second American Revolution," that now is the time for the humanistic values to take ascendancy on our national life, that the second revolution is emerging from the bottom of the pyramid up, rather than from the top down. The humanistic revolution must use government as a response to the wants, needs and aspirations of the people, and the forces of economic and technological advancement must be directed toward humanistic values; there must be a development of a new "relationship of man, first to himself, then to other men, to society, to nature and to the land."

Rockefeller hopes that our society can move into this second revolution on the basis of logic, persuasion and the deliberation of free men in an open society; but objective pragmatism leads one to recall the violence which led to the Magna Carta, or which resulted in the American and the French Revolutions; and if we are to believe Santayana, we know something more than reason will be required, to take the acquisitions of the powerful few in a laissez-faire Capitalist society and redistribute the fruits of the loom, the hearth and the field through a planned society which guarantees as a matter of birthright an annual income to every American, a decent home to every citizen, the finest medical care throughout the land, and the education of every child to the maximum of his capabilities.

BLACK YOUTH—AN ENDANGERED SPECIES

26 million Blacks Americans living in Diaspora from Africa have many challenges facing them, the most important of which is the survival of their progeny.

One precious thread is woven throughout the fabric of the Black experience—the fact that Black people have and belong to each other. On many occasions we have described 26 million Black Americans as larger in population than 57 nations of Africa or 158 other nations in the world. American Blacks are the most highly educated and professionally trained Black people in the world. However, while over a million of our young people are in institutions of higher education, from 500,000 to 600,000 of our teenagers are jobless, without education, many with police records, in the 25 largest American cities. Though over a million Black youths in college is an impressive figure, this is counterbalanced by two to three times that number of Black youths who are not attending any school, anywhere—subject to no discipline or authority—lacking all the skills, education or psychological maturity to become "productive citizens" (a description by the capitalist society of those who produce goods and services.) Many of these jobless Black adolescents are still seeking nonexistent jobs, but many who are at the end of the hope rainbow have simply given up. Their most immediate option is crime—first and foremost against other Blacks.

Recently the commander of the Homicide Division of the Chicago Police Department stated that the average person found guilty of murder is "male, Black, 18 and under." Louisiana probably is the only state in the nation where there are more young Blacks incarcerated in prison than attending college.

An entire generation of Black youth are becoming useless, expendable, nonfunctional, nonproductive human waste material—because the system refuses to educate them or provide for them or their parents. They have become the nation's number one social liability; the same system of racism and exploitation which created their lot apparently is readying the machinery for their disposal.

The fear of crime in the Black ghettos is warranted and cannot be condoned. However, we vigorously reject the White analysis of the Black crime problem, which consistently leaves out the first culprit and villain—White America, itself—and instead places the blame on young Blacks for not "boot-strapping" themselves out of their poverty. The victim of racism, Black youth, is made the scapegoat for his own victimination!

Can a Black America be saved? Who will save Black America? Yes, Black America can be saved—but only Black America can and must save itself! No help can be expected from any other quarter!

What are the Black resources available for "self-service?" *The Black schools*, the *Black Family*, the *Black Sororities and Fraternities and Lodges*, the *Black Church*, the *Black Press*, the *Black Financial Institutions*, the *Black Politicians*, and the *NAACP*. And we would suggest that the NAACP, from this leadership conference, establish a permanent forum for Black behavioral scientists and allied professionals, to continually test the institutional forms of White America, and evaluate them on a scale of their hostility or support for Black survival. And out of this inventorying of the system, directives for militant Black response should be structured and disseminated by our Black leadership organizations.

I give you one possible instance of militant Black response:

Blacks must mount a campaign to control the air space in the black ghettos. Many of the white proprietors of black-oriented radio own the maximum allowable number of seven stations each; most are Southerners, who not only control the very important radio communications media in the South but also hold a death grip upon this medium in the Northern metropolitan areas, including Washington, D.C., whose population is now 74% black. These radio stations produce programs in the poorest taste, aimed

at the lowest common denominator of entertainment devoid of social concern or public service. If blacks fail to gain control of the ghetto airwaves and cannot determine the content of the programming, better that there be silence in the black ghettos!

Blacks must prepare, now, for a massive crusade, involving, if necessary, systematic jamming of all white-owned black-oriented stations! They must create such havoc until they bring to bear upon the nation's conscience the seriousness of their needs and demands and force her to deal with them. True, there are risks; many will go to jail; but better to languish in jail than ignore the shackles of racism and passively acquiese to a government in cahoots with a racist white industrial combine which denies to blacks the basic ingredient for survival: the control of their own communications media.

Three lessons we can learn from the Jewish experience for combating racism:

(1) As the Jews have so ably inculcated in their progeny their identity and their common struggle to be waged against anti-Semitism, so U.S. blacks must start a two-phase crusade, from the cradle to the grave: first, of developing an identity and appreciation of blackness, and, second, of never permitting our progeny to forget the menace of racism as a blight on the black experience.

(2) Jews have always recognized and accepted their responsibility to use their resources to take care of their own; blacks must sustain the newly-born National Black United Fund, which is patterned after the Jewish Welfare Appeal—not only to give aid to our needy, but also to provide leadership in the assistance and development of trade and commerce and relief to the nations in Africa and other third world peoples.

(3) Jews use their economic resources and their political power in forging opportunities for Jews as well as using political and economic means to punish their enemies. Similarly, Blacks must use Black economic and political power as instruments in developing intra-group opportunities for Blacks, and also to punish the racists who thwart Black progress. The Jews demonstrated the power of the economic boycott when they literally destroyed Mexico's multi-million-dollar tourist industry as retribution for Mexico's 1975 affirmative vote on the U.N. Resolution declaring Zionism a form of racism, and remained adamant until Mexico changed her vote at the 1976 U.N. session.

No Black sacrifice is too great in our struggle—with allies, if possible, but alone if necessary—to destroy racism, the enemy eternal, by any means necessary, and create for all people a decent life.

We have just recently seen "Holocaust." Let us not forget that Blacks have experienced their holocaust, when ten million died in passage from Mother Africa to America. Those who survived in this hostile land are the hardy ones determined to be free. Let us remember, there is a price that one pays for freedom—yes, especially in a hostile racist society.

Du Bois wrote: "I saw clearly . . . that the solution of letting a few of our capitalists share with Whites in the exploitation of our masses would never be a solution of our problem, but the forging of eternal chains." We approach the time, all pleas to the contrary, when the economic system called Capitalism must be judged as irrevocably stacked against the masses of Black people. Who or what force will move this nation toward a Democratic-Socialist society, a symbiosis between capitalism and socialism, with a democratic form of government where the people have the right to bring about public ownership of public utilities, transportation, banks, mass industries, and government control of the minimum essentials required for equalizing the opportunities of *all* people to enjoy the benefits of democracy.

We have no illusions about the chances of 26 million blacks, representing the black tail, wagging the white dog. Yet, 26 million Blacks, finally recognizing the ultimate disaster offered by capitalism for 26 million black colonials in capitalist America, led by the NAACP, the Black Church, the Black Press, the Black Youth, the Black Fraternal organizations, and even the Black Politicians and Black leaders everywhere, using their moral, mental, political and economic resources: such a unified, dedicated black force for change, residing in the belly of the beast, would create an irresistible process in the body politic that would force the total nation to seek and develop viable economic alternatives.

THE COMMON STRUGGLE OF BLACKS AND WHITES AGAINST RACISM

Before a people can achieve economic justice, they must join voices to cry out unceasingly for the right of every American citizen to a job, or to an economic level below which he and his children shall not fall; before a people can achieve justice in housing, they must join their voices to call unceasingly for an end to the System's present philosophy of "tremendous demand, limited supply", designed to enrich the real estate coffers of the greedy and maintain the squalor of the ghettos; before all children can get justice in education, we must join our voices, loudly, to declare that this nation is wealthy enough to develop each child's potential to its highest capacity; and we shall never find justice in the law without joining voices to unceasingly demand a police force and judicial system which is not a brutal instrument solely for maintaining the status quo, but an instrument designed to protect the innocent.

Our zeal must approximate that of Sojourner Truth, Harriet Hubman, and Frederick Douglass as they labored for Black liberation in pre-Civil War times. If we procrastinate behind a veil of see-hear-and-speak-no-evil and don't-rock-the-boat-ism while our masses starve, while our militant Black youth rot in jail, while a corrupt capitalist system attempts to co-opt our educated tenth, then we shall find ourselves an integral part of the oppressor's conspiracy against the oppressed masses, Black and white, who eke out their meager existence in Fortress America.

Those who believe that the fate of Black Americans is, after all, inextricably intertwined with that of all the powerless, dispossessed and wretched of the American earth must present their grand design for the raceless society. What are their means and timetables? What are their viable alternatives, when they look up and see that events have rushed by them, that the USA is now a divided society with a white nation well fed, well clothed and comparatively happy, and a black nation ill-housed, ill-educated, underemployed and progressively poorer?

Approximately twenty years after Patterson's cry: "We Charge Genocide!" Samuel Yette poignantly pointed out in his book, "The Choice: Survival USA", that the threat of genocide for Black America is not abating. While both Patterson and Yette describe in awesome terms the institutional crimes against the Negro people, let us never forget: the governments are instituted by the people and in some wise reflect the consent and the will of the governed. Just as the Nuremberg Trials placed before the bar of justice the whole of the German people as accomplices of the murderous Hitler and his gang, so individual citizens who commit the conspiracy of silence in the increasing struggle being waged against racism, sexism and poverty are culprits, who in the final judgment cannot escape some responsibility for the crimes against the people committed by their leaders in their name.

In marshalling our forces to secure that "something better—call it what you may," let us keep in mind the sage advice of Frederick Douglass:

". . . Power concedes nothing without a demand. It never did and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and wrong which will be imposed upon them, and these will continue till they are resisted with either words or blows, or with both. The limits of tyrants are prescribed by the endurance of those whom they oppress."

In the twilight of his career, Frederick Douglass, when asked what would be his final words to colored America in their struggle for freedom, replied:

"Agitate! Agitate! Agitate!"

115 years after Lincoln's Emancipation Proclamation Blacks face a crisis of survival itself. For survival Blacks must challenge the system. 24 Million of the Black under-class cry, "There must be something better than this! We are ready for it!" Let the Black Leadership Summit of the NAACP accept this challenge, and dedicate our very beings to the search for "somehting better than this." If Black Americans should endure for one thousand years in this hostile land, let those that follow us proclaim that this day was Black America's finest hour! ●

POSITION ON RECORD VOTE

The SPEAKER. Under a previous order of the House, the gentleman from New York (Mr. AMBRO) is recognized for 5 minutes.

● Mr. AMBRO. Mr. Speaker, I was unavoidably detained on official business yesterday during a portion of the consideration of the appropriation measure for the Department of Defense. Lest there be any doubt as to my position, I would like to state, for the RECORD, that I would have voted for the amendment to prohibit the use of funds contained in the DOD appropriation measure for abortions unless the life of the mother would be endangered if the fetus were carried to term.●

AMERICA NEEDS GOOD CITIZENS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIKES. America needs good citizens. Yet, citizenship training may be one of the most neglected in all the evaluations in today's curricula. It should be obvious that in order for America to remain the leader of the free world, we must properly educate our young toward good citizenship. This we are not doing. We educate our youth to be capable of providing a good livelihood for themselves and their families. We educate our young so that each succeeding generation may enjoy a better life than the preceding generation. It follows that we should educate our young to fully accept the responsibilities of citizenship.

The lack of a proper education in citizenship and in moral principles surely is in part responsible for the lack of confidence by the American people in their Government, for the alarming rise in the crime rate and for the fact that so few citizens bother to exercise their

most cherished right to vote. In the 1976 Presidential election only 54 percent of those eligible to vote did so. Crime has increased to such alarming proportions that it is not safe in many neighborhoods to go out at night. The polls show that many Americans do not place confidence in their Government officials to serve responsibly and to be responsive to the needs of the Nation. Low voter turnout, high crime rates and low confidence in government all indicate a decline in the level of civic and moral responsibility in our society if we are to believe the media reports.

Democratic government cannot exist without the support of its citizens. This support is felt keenly and the Nation improves when citizens cast their votes intelligently. The complexities of government and the problems with which government must deal make it more and more difficult for citizens to vote in the interest of the Nation and therby in their own interests. Throughout our history public education has emphasized the need for the individual to support himself and his family to the best of his ability. That is good, but it is not enough. There is a compelling need to educate our youth and to be more responsible citizens.

I have recently received a letter from a distinguished constituent, Adm. LeRoy Simpler of Milton, Fla., who was kind enough to share some of his thoughts on this idea. Admiral Simpler pointed out in his letter that many of our Nation's problems are a direct result of the lack of proper citizenship training in our public schools. Furthermore, Admiral Simpler states that the elimination of the Lord's Prayer from the public schools in 1963 separated many of our Nation's young people from daily contact with Christian ethics.

I am convinced Admiral Simpler has an excellent point for the reintroduction of fundamental moral teachings in our public schools blended with a strong background in the ideals of democracy upon which this Nation was founded. Admiral Simpler makes an excellent suggestion in his letter when he calls for redirection and new objectives for our public schools. One need only to look briefly at the prevailing conditions in our public schools to realize that he is correct. We must impress upon our youth that they will be solely responsible for maintaining the freedom and form of government we hold so dear in the future.

The future of the generations of Americans that will follow us make it imperative that we, the leaders of this Nation, insist that our children be reared with a strong sense of citizenship and moral behavior and fundamental citizenship training and reintroduction of prayer holds the key to the future solution of many of the problems we grapple with in Congress everyday. Crime, citizen confidence, and even our energy problems could be mediated to some degree if our Nation's youth had a stronger sense of civic responsibility. As Admiral Simpler says:

The advantages of citizenship training are limited only by the imagination of our leadership.

The time has come for the exercise of both. We must get back to the basics and insist that our children be reared and trained with a strong sense of civic and moral responsibility if the tenets we hold dear are to survive in today's troubled world.

It is encouraging to note that the Milton, Fla., Kiwanis Club, of which Admiral Simpler is a member, has adopted resolutions of support of training, good citizenship, and forwarded these resolutions to all the Kiwanis Clubs of our State. The club also has adopted and forwarded to other clubs a resolution urging that the decision of the Supreme Court in 1963 on prayer in the schools be reversed to serve the vital interest of our democracy and the majority of its people.●

ALCOHOLISM PROGRAMS

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. OTTINGER. Mr. Speaker, today I am introducing legislation to require Government contractors to establish and operate alcoholism programs or to provide adequate referrals for their employees as a condition of doing business with the Government. This bill is identical to the one introduced on February 7, 1978, by Senator WILLIAM HATHAWAY, chairman of the Senate Subcommittee on Alcoholism and Drug Abuse. As Senator HATHAWAY's subcommittee is holding joint hearings with the Subcommittee on Federal Spending Practices and Open Government on August 17, I believe it is particularly timely to introduce this legislation now.

There is no question that alcoholism continues to be one of the most serious health problems facing Americans today. Alcoholism exacts a serious economic price as well. The National Institute on Alcohol Abuse and Alcoholism estimates that alcoholism results in a direct economic loss of about $20 billion in productivity annually. In addition, alcoholism-related expenses including health care, car accidents, and others exceed $42 billion.

These economic costs directly affect the efficiency and productivity of American industry. The National Council on Alcoholism estimates that nationally 5.3 percent of the work force are currently alcoholics, and another 10 percent have serious drinking problems. These statistics translate into severe absenteeism, reduced productivity, faulty decisions, and a high personnel turnover. The Federal Government has a legitimate and direct interest in insuring that industry with which it does a $60 million business annually operates efficiently to save taxpayers money.

In my own district of Westchester County, with a population of 900,000, there are an estimated 54,000 alcoholics, many of whom are employed. These employed alcoholics, the Westchester Council on Alcoholism estimates, cost Westchester County alone between $50 and $60 million last year in productivity. The council has found the proposed occupational alcoholism programs extremely effective, with very low start-up costs. They strongly support this legislation.

Occupational alcoholism programs provide an effective, humane and cost-efficient way to try to combat the terrible human and economic cost of alcoholism. Many organizations have testified at Senate hearings that such occupational programs have helped employee rehabilitation and have resulted in substantial savings as well, paying for themselves many times over. These programs have a 60 to 80 percent success rate, as opposed to a 20-percent rehabilitation rate among the unemployed who have no such programs available to them. Like many diseases, alcoholism is best treated when detected early, and alcoholics have excellent rehabilitation rates under these programs. It is important to stop alcohol abuse before it becomes alcoholism.

The bill amends the Rehabilitation Act of 1973, adding a new section, section 505, which requires specified occupational alcoholism programs and provides for model programs to be set up, with consultation between labor and management. In addition the Small Business Administration would be brought in to help small businesses implement these programs.

I firmly believe that this legislation can help to stem one of this country's gravest health problems and at the same time help alleviate a serious economic loss. I urge my colleagues to support this bill and join me in working toward its swift enactment.

The text of the legislation follows:

H.R. —

A bill to require Government contractors to establish and operate alcohol abuse and alcoholism programs and services, or otherwise arrange for referral to such services, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Rehabilitation Act of 1973 is amended by adding after section 504 the following new section:

"OCCUPATIONAL ALCOHOLISM PROGRAMS UNDER FEDERAL CONTRACTS

"SEC. 505. (a) (1) Any contract in excess of $2,500 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that, in employing persons to carry out such contract the party contracting with the United States shall—

"(A) establish and operate by itself or together with one or more other employers, labor organizations, public agencies or private organizations, or with consortia thereof appropriate prevention, identification, treatment, counseling, and rehabilitation programs and services for alcohol abuse and alcoholism among its employees, or

"(B) arrange by way of contract, cooperative agreement, or other arrangement for the referral of employees affected by the illness of alcoholism to appropriate available programs and services conducted by public agencies or private organizations.

"(2) The provisions of this section shall apply to any subcontract in excess of $2,500 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States.

"(3) In the case of a contracting party with employees represented by a labor organization, no program affecting such employees shall be established or required under the provisions of this section unless the method of conduct, identification, and the scope of services of such program have been determined by agreement entered into by the labor organization and the employer through collective bargaining procedures.

"(b) If any employed person of such contracting party believes that the party has failed or refuses to comply with the provisions of his contract with the United States, relating to alcohol abuse and alcoholism programs, services, and referral mechanisms, such person may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto. A contracting party shall be deemed to be in compliance with the requirements of this section if he institutes and maintains one of the model programs developed pursuant to section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, except that such model programs shall not be the exclusive methods of achieving compliance.

"(c) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which he shall prescribe, when he determines that special circumstances in the national interest so require and states in writing his reasons for such determination.".

SEC. 2. (a) Section 201(b) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (hereinafter referred to as the "Act") is amended to read as follows:

"(b)(1) The Secretary, acting through the Institute, shall be responsible for fostering and encouraging similar alcohol abuse and alcoholism prevention, treatment and rehabilitation programs and services in State and local government and in private business and industry.

"(2) Consistent with such responsibility, the Secretary, acting through the Institute, shall develop a wide variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities, taking into account the number of employees, geographical location, proximity to other concerns and entities, and availability of existing services from public agencies and private organizations. With respect to small business concerns, the Secretary (acting through the Institute) shall consult with the Small Business Administrator in the development of model programs affecting such concerns.

"(3) With respect to business concerns and governmental entities which employ individuals represented by labor organizations, any model program affecting such individuals shall require that the method of conduct, identification, and scope of services to be provided shall be determined by agreement entered into by the labor organization and the employer through collective bargaining procedures prior to the establishment of such program.

"(4) The Secretary, acting through the Institute, shall disseminate information and materials relative to such model programs to single state agencies designated pursuant to section 303 of this Act, and shall provide technical assistance to such agencies as requested."

(b) Section 303(a) of the Act is amended by—

(1) redesignating pargraph (16) as paragraph (17); and

(2) by inserting immediately after paragraph (15) the following:

"(16) Provide assurance that the State agency—

"(A) will foster and encourage the development of alcohol abuse and alcoholism prevention, treatment and rehabilitation programs and services in State and local governments and in private businesses and industry;

"(B) will make available to all business concerns and governmental entities within such State information and materials concerning such model programs suitable for replication on a cost-effective basis as developed pursuant to section 201(b); and

"(C) will furnish technical assistance as requested to such business concerns and governmental entities.".●

CONFERENCE REPORT ON H.R. 13467

Mr. MAHON submitted the following conference report and statement on the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–1475)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 3, 6, 21, 23, 26, and 63.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 7, 13, 14, 16, 17, 19, 20, 24, 30, 31, 45, 46, 50, 54, 55, 56, 57, 66, 67, 68, 69, 71, 72, 73, 74, 75, 77, 78, 80, and 81, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,000,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,000,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter proposed by said amendment insert:

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

PEACE CORPS

For an additional amount for "Operating expenses, international programs", $2,265,000.

And the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$20,817,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$49,000,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$35,000,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,009,000"; and the Senate agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

For an additional amount for "Health resources", $500,000.

And the Senate agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

LIMITATION ON ADMINISTRATION EXPENSES

For an additional amount for "Limitation on administrative expenses", $8,800,000: *Provided*, That $5,000,000 of the foregoing amount shall be apportioned for use pursuant to section 3679 of the Revised Statutes (31 U.S.C. 665) only to the extent necessary to process workloads not anticipated in the budget estimates and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved.

And the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment insert the following: "301 and Section 304"; and the Senate agree to the same.

Amendment numbered 59: That the House recede from its disagreement to the amendment of the Senate numbered 59, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$111,500,000"; and the Senate agree to the same.

Amendment numbered 60: That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,238,000"; and the Senate agree to the same.

Amendment numbered 61: That the House recede from its disagreement to the amendment of the Senate numbered 61, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert:

NATIONAL FIRE PREVENTION AND CONTROL ADMINISTRATION

FACILITIES

For facilities as authorized by the Act of October 29, 1974 (88 Stat. 1535–1549), $6,150,-

000, to remain available until September 30, 1980.

And the Senate agree to the same.

Amendment numbered 65: That the House recede from its disagreement to the amendment of the Senate numbered 65, and agree to the same with an amendment, as follows: In lieu of the sum named in said amendment insert: "$20,000,000"; and the Senate agree to the same.

Amendment numbered 76: That the House recede from its disagreement to the amendment of the Senate numbered 76, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$407,133,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 9, 15, 18, 29, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 47, 48, 49, 51, 52, 53, 58, 62, 64, 70, 79, 82, and 83.

GEORGE MAHON,
JAMIE L. WHITTEN,
EDWARD P. BOLAND,
DANIEL J. FLOOD,
TOM STEED,
GEORGE E. SHIPLEY,
JOHN SLACK,
JOHN J. MCFALL,
CLARENCE D. LONG,
SIDNEY R. YATES,
GUNN MCKAY,
ELFORD A. CEDERBERG,
ROBERT H. MICHEL,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
MARK ANDREWS,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN C. STENNIS,
ROBERT C. BYRD,
WILLIAM PROXMIRE,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
BIRCH BAYH,
THOMAS F. EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
QUENTIN N. BURDICK,
JIM SASSER,
PATRICK J. LEAHY,
DALE BUMPERS,
MILTON R. YOUNG,
CLIFFORD P. CASE,
EDWARD W. BROOKE,
MARK O. HATFIELD,
TED STEVENS,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I

CHAPTER I—DEPARTMENT OF AGRICULTURE

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Amendment No. 1. Appropriates $2,000,000 for the Animal and Plant Health Inspection Service, instead of $1,455,000 as proposed by the Senate and $3,675,000 as proposed by the House.

The bill passed by the House included $870,000 for gypsy moth control, $800,000 for pink bollworm eradication, $450,000 to combat cattle fever tick outbreaks, and $300,000 for contagious equine metritis (CEM). The bill passed by the Senate deleted these funds, with the exception of $200,000 for gypsy moth control.

With six weeks or less remaining for funds to be available between now and the end of the fiscal year, the conferees have taken cognizance of the change in requirements since the House action. Contingency funds have recently been utilized by the agency for the CEM emergency, contractual delays have been reported in the production of sterile pink bollworm moths, and the availability of certain chemicals for use against gypsy moths has been restricted. Cattle dipping still needs to be conducted to combat cattle fever tick outbreaks.

Consequently, the conference agreement includes $545,000 to be available for use as needed with regard to cattle fever ticks, gypsy moths, pink bollworm, or contagious equine metritis. Any funds not used by October 1 will revert to the Treasury. These problems will continue to be dealt with in the regular bill for fiscal year 1979, which begins October 1, 1978.

Emergency assistance

A total of $100,000,000 for emergency assistance is included in the bill. Of that amount, $80,000,000 is to repair damage to watersheds as a result of major storms or forest fires which have occurred during late 1977 and thus far in 1978, as provided by Section 216 of the Flood Control Act of 1950. The other $20,000,000 is for Emergency Conservation Measures to repair damages to farm and rangeland resulting from natural disasters.

The above funds are to be distributed to the States listed in the House or Senate Report based on the latest available estimate of needs as reported by the States. Any unused funds shall be available for similar damages in other areas.

FARMERS HOME ADMINISTRATION

Amendment No. 2: Appropriates $1,000,000 for the Farmers Home Administration as proposed by the Senate instead of $5,260,000 as proposed by the House. The Department has stated that only $1,000,000 can be obligated based on the expected date of enactment of the bill.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Agricultural conservation program

Amendment No. 3: Deletes language proposed by the Senate which would have rescinded $30,000,000 in emergency drought and flood assistance funds available under the Agricultural Conservation Program. The conferees direct that these funds are to be available to meet any emergency needs resulting from flood or droughts occurring in calendar 1978. Funds not allocated by the end of the fiscal year will expire on September 30, 1978.

CHAPTER II—FOREIGN OPERATIONS

FUNDS APPROPRIATED TO THE PRESIDENT

Economic assistance

International Organizations and Programs

Amendment No. 4: Appropriates $9,000,000 instead of $9,500,000 as proposed by the Senate and $8,500,000 as proposed by the House.

INDEPENDENT AGENCY

ACTION—International programs

Peace Corps

Amendment No. 5: Appropriates $2,265,000 as proposed by the Senate but deletes language proposed by the Senate which stated that the appropriation would not be available until the enactment of authorizing legislation. The Peace Corps authorization was enacted into law on August 2, 1978 (P.L. 95-331), making the Senate proposed language necessary.

DEPARTMENT OF STATE

Migration and refugee assistance

Amendment No. 6: Appropriates $7,480,000 as proposed by the House instead of $7,270,000 as proposed by the Senate.

CHAPTER III—INDEPENDENT AGENCIES

VETERANS' ADMINISTRATION

Veterans insurance and indemnities

Amendment No. 7: Appropriates $1,000,000 for veterans insurance and indemnities as proposed by the Senate.

CHAPTER IV—DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

Amendment No. 8: Appropriates $20,817,000 for operation of Indian programs instead of $21,310,000 as proposed by the House and $19,310,000 as proposed by the Senate. The total amount appropriated includes $7,000,000 to cover the cost of suppression and emergency prevention of fires, $3,700,000 for social services, and $10,117,000 for contract support.

Amendment No. 9: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $825,000 for construction.

OFFICE OF TERRITORIAL AFFAIRS

Amendment No. 10: Appropriates $49,000,000 for administration of territories instead of $54,000,000 as proposed by the House and $39,000,000 as proposed by the Senate. The total amount appropriated includes $14,000,000 for the Virgin Islands, $10,000,000 for Guam General Grants, of which $5,000,000 is for capital improvements and $5,000,000 is for government operations, and $25,000,000 for Guam health care grants.

Amendment No. 11: Earmarks $35,000,000 for grants to Guam instead of $40,000,000 as proposed by the House and $25,000,000 as proposed by the Senate.

Amendment No. 12: Appropriates $7,009,000 for Trust Territory of the Pacific Islands instead of $7,809,000 as proposed by the House and $5,049,000 as proposed by the Senate. No funds are provided for Rongelap, Utirik, and Bikini community compensation.

RELATED AGENCIES

Department of Agriculture—Forest Service

Amendment No. 13: Appropriates $194,000,000 for forest protection and utilization as proposed by the Senate instead of $204,000,000 as proposed by the House.

Joint Federal-State Land Use Planning Commission for Alaska

Amendment No. 14: Deletes language proposed by the House appropriating $139,000 for salaries and expenses.

CHAPTER V—DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Salaries and expenses

Amendment No. 15: Reported in technical disagreement. The Managers on the part of the House will move to recede and concur in the Senate amendment which increases by $2,000,000 the amount earmarked in fiscal year 1978 for furnishing consultation services to employers under section 21(c) of the Occupational Safety and Health Act.

DEPARTMENTAL MANAGEMENT

Salaries and expenses

Amendment No. 16: Appropriates $1,900,000 as proposed by the Senate, instead of $2,323,000, as proposed by the House.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE CENTER FOR DISEASE CONTROL

Preventive Health Services

Amendment No. 17: Appropriates $1,500,000 for design and engineering for construction of an addition to the Appalachian Laboratory for Occupational Safety and Health, as proposed by the Senate. The House bill contained no funds for this purpose.

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate, which appropriates $8,200,000 to remain available until expended for influenza vaccination.

HEALTH SERVICES ADMINISTRATION

Health services

Amendment No. 19: Appropriates an additional amount of $6,000,000 for the Rural Health Initiative program, as proposed by the Senate. No funds were included in the House bill for this purpose.

NATIONAL INSTITUTES OF HEALTH

National Institute of Allergy and Infectious Diseases

Amendment No. 20: Deletes appropriation of $3,000,000 for research on influenza vaccine proposed by the House but not approved by the Senate.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Construction and Renovation, St. Elizabeth's Hospital

Amendment No. 21: Restores appropriation of $52,200,000 to remain available until expended which was proposed by the House but deleted by the Senate.

HEALTH RESOURCES ADMINISTRATION

Health resources

Amendment No. 22: Appropriates $500,000, instead of the $628,000 proposed by the House. No funds were included in the Senate bill.

HEALTH CARE FINANCING ADMINISTRATION

Amendment No. 23: Restores heading inserted by the House but deleted by the Senate.

QUALITY CARE MANAGEMENT, RESEARCH AND ADMINISTRATION

Amendment No. 24: Deletes appropriation of $400,000 proposed by the House but not approved by the Senate.

Limitation on administrative expenses

Amendment No. 25: Appropriates $8,800,000 of which $5,000,000 may be used only for unanticipated workloads and costs, instead of the $18,797,000 of which $15,000,000 was to be used for unanticipated workloads and costs which was proposed by the House. The Senate bill deleted this item.

OFFICE OF EDUCATION

Student loan insurance fund

Amendment No. 26: Appropriates $223,939,000 as proposed by the House, instead of $180,000,000, as proposed by the Senate.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

Human development

Amendment No. 27: Adjusts legal citations.

Amendment No. 28: Appropriates $5,300,000, as proposed by the Senate, instead of $600,000 as proposed by the House.

The amount agreed to by the conferees includes $600,000 for the Vinland National Center, $2,100,000 for the Institute of Physical Medicine and Rehabilitation in Louisville, Kentucky, and $2,600,000 for the Rehabilitation Hospital of the Pacific.

SPECIAL INSTITUTIONS

Amendment No. 29: Reported in technical disagreement. The Managers on the part of the House will move to recede and concur in the Senate amendment, amended to read as follows:

"SPECIAL INSTITUTIONS

"Hereafter, Gallaudet College, Howard University, the National Technical Institute for the Deaf, and the American Printing House for the Blind are authorized to make purchases through the General Services Administration.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DEPARTMENTAL MANAGEMENT

Office for Civil Rights

Amendment No. 30: Appropriates $6,900,000 as proposed by the Senate, instead of $7,700,000 as proposed by the House.

The conferees are agreed that the funds provided will permit the filling of up to 449 new positions during fiscal year 1978.

GENERAL DEPARTMENT MANAGEMENT

Amendment No. 31: Deletes appropriation of $359,000 proposed by the House, but not approved by the Senate.

CHAPTER VI—LEGISLATIVE BRANCH

SENATE

Amendments Nos. 32 through 43: Reported in technical disagreement. Inasmuch as these amendments relate solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer motions to recede and concur in the Senate amendments Nos. 32 through 43.

OFFICE OF TECHNOLOGY ASSESSMENT

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $1,000,000 and providing 10 additional staff positions for the duration of the project for a comprehensive evaluation of energy policy alternatives.

ARCHITECT OF THE CAPITOL

Capitol Buildings and Grounds

Capitol Buildings

Amendments Nos. 45–46: Appropriate $655,000, of which $635,000 shall remain available until expended, as proposed by the Senate instead of $595,000 of which $575,000 shall remain available until expended, as proposed by the House.

Senate Office Building

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $1,110,000 for various alterations and repairs to Senate office buildings.

Construction of Extension to the New Senate Office Building

Amendment No. 48: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $54,853,000 and placing a ceiling of $135,000,000 on the total cost for construction and initial furnishing of the Hart Office Building.

Library of Congress James Madison Memorial Building

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate appropriating $7,675,000 for construction and related work on the interior of the James Madison Memorial Building.

Library of Congress

Amendment No. 50: Insert title as proposed by the Senate.

Congressional Research Service

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, which reads as follows:

In lieu of the sum named in said amendment, insert "$50,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates $50,000 instead of $100,000 as proposed by the Senate for two staff positions to strengthen CRS capabilities in the areas of fisheries, marine resource policy, coastal zone management, and other basic elements of ocean policy.

COPYRIGHT OFFICE

Amendment No. 52: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which amends the Legislative Branch Appropriation Act, 1978, by raising the limitation on the amount of receipts from copyright fees collected under Title 17, U.S.C., which can be credited to this appropriation and made available for obligation during the fiscal year 1978 from $3,000,000 to $3,500,000.

CHAPTER VII—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

Corps of Engineers—Civil

General Provision

Amendment No. 53: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds a general provision relating to the transition period July 1, 1976, to September 30, 1976.

The Conferees agree with the language in the House or Senate report relating to the Sowashee Creek, Mississippi project, the Bethel, Alaska Kuskokwim River project, the Quivira Basin, Mission Bay, California project, and the Pinellas County Beach, Florida, project.

The Conferees direct the Chief of the Corps of Engineers to undertake a preliminary analysis of the serious embankment failure along with north Branch of the Susquehanna River in Forty Fork, Pennsylvania. This analysis is to be presented to the Committees on Appropriations not later than September 15, 1978. The report should detail the work necessary to permanently restore the river bank which was destroyed by Hurricane Agnes. Cost estimates of the work to be accomplished should be included in the study.

CHAPTER VIII—DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

Missions to international organizations

Amendment No. 54: Appropriates $727,000 as proposed by the Senate instead of $900,000 as proposed by the House.

Amendment No. 55: Deletes proposal of the House to prohibit the use of funds to promote, express, or disseminate the personal views of any official, member, or employee of the United States mission to the United Nations.

DEPARTMENT OF JUSTICE

Legal activities

Salaries and Expenses, Antitrust Division

Amendment No. 56: Deletes proposal of the House to appropriate $628,000.

Salaries and Expenses, United States Attorneys and Marshals

Amendment No. 57: Appropriates $4,495,000 as proposed by the Senate instead of $1,445,000 as proposed by the House.

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which designates $3,050,000 for payments to United States Deputy Marshals for overtime duties performed between 1972 and 1978.

DEPARTMENT OF COMMERCE

Economic Development Administration

Economic Development Assistance Programs

Amendment No. 59: Appropriates $111,500,000 instead of $106,000,000 as proposed by the House and $117,000,000 as proposed by the Senate. The amount provided includes $5,500,000 for title I of which $2,000,000 is for the public works impact program (PWIP).

National Oceanic and Atmospheric Administration

Operations, Research and Facilities

Amendment No. 60: Appropriates $1,238,000 instead of $549,000 as proposed by the House and $1,749,000 as proposed by the Senate.

The conferees are agreed that $400,000 for the increased cost of constructing an aquaculture research laboratory in Newport, Oregon is to be reprogrammed by the Department from existing appropriations made under this heading.

The amount provided includes $689,000 for an S band radar for eastern Kentucky. The conferees are agreed that an additional $111,000 required for such a radar is to be reprogrammed by the Department from appropriations currently available under this heading.

National Fire Prevention and Control Administration

Facilities

Amendment No. 61: Appropriates $6,150,000 as proposed by the Senate, but deletes the words "renovation of".

The conferees are agreed that a Federal fire service training and educational facility is required to meet the need for improved training of the nation's fire service personnel. However, the conferees believe that a site for such a facility which would permit enhancement of the presently planned training program would better serve this need than the present site. Consequently, the conferees are agreed that the funds provided are to be used for the acquisition and improvement of a new site for a national fire academy. The conferees urge the Department of Commerce to begin an expedited search for a new site immediately. In addition, the conferees urge the appropriate authorizing committees of the House and Senate to consider legislation which would make the proceeds of any sale of the Marjorie Webster Junior College site available for the purchase and improvement of the site selected.

Science and Technical Research

Scientific and Technical Research and Services

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: ": *Provided*, That not to exceed $200,000 shall be available from existing appropriations made under this heading to be used for construction and installation of improvements to existing National Bureau of Standards buildings.".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Maritime Administration

Operations and Training

Amendment No. 63: Deletes proposal of the Senate to appropriate an additional $750,000 for improvements to training vessels for State marine schools.

Related Agencies

Small Business Administration

Disaster Loan Fund

Amendment No. 64: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates $378,000,000 of which $375,000,000, to remain available without fiscal year limitation, is for disaster loans; and $3,000,000, to be transferred to "Salaries and Expenses", is for processing and administering such loans.

CHAPTER IX—DEPARTMENT OF TRANSPORTATION

COAST GUARD

Acquisition, construction, and improvements

Amendment No. 65: Appropriates $20,000,000 instead of $60,000,000 as proposed by the Senate. The conferees are in agreement that a new icebreaker is required to replace the *Westwind*. The conferees believe that this replacement vessel should be designed so that its primary mission is for icebreaking on the Great Lakes but should also have dual draft capacity to permit icebreaking in other regions during the period of the year not needed in the Great Lakes.

The conferees direct the Coast Guard to proceed with this design in the most expeditious manner and to be in a position to award a construction contract no later than December 31, 1980. The conferees also direct the Coast Guard to report every three months on the progress made in accomplishing this purpose.

FEDERAL RAILROAD ADMINISTRATION

Grants to the National Railroad Passenger Corporation

Amendment No. 66: Appropriates $51,500,000 as proposed by the Senate instead of $29,500,000 as proposed by the House. The conference agreement includes $29,500,000 for operating losses and $22,000,000 for capital improvements.

CHAPTER X—DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

Amendment No. 67: Appropriates $9,900,000 for accounts, collection and taxpayer service as proposed by the Senate instead of $5,400,000 as proposed by the House.

Amendment No. 68: Appropriates $1,600,000 for compliance as proposed by the Senate instead of $4,100,000 as proposed by the House.

CHAPTER XI—DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE, ARMY

Amendment No. 69: Appropriates $69,487,000 for Operation and Maintenance, Army, as proposed by the Senate instead of $169,487,000 as proposed by the House.

Amendment No. 70: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate making available $100,000,000 by transfer from the Secretary of Defense Readiness Fund, 1978.

OPERATION AND MAINTENANCE, NAVY

Amendment No. 71: Appropriates $66,400,000 for Operation and Maintenance, Navy, as proposed by the Senate instead of $57,900,000 as proposed by the House.

OPERATION AND MAINTENANCE, MARINE CORPS

Amendment No. 72: Appropriates $22,798,000 for Operation and Maintenance, Marine Corps, as proposed by the Senate instead of $16,298,000 as proposed by the House.

CHAPTER XII—MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, NAVY

Amendment No. 73: Appropriates $8,500,000 for highways in Washington State under the defense access roads program of the Department of Defense as proposed by the Senate. The conferees agree that inclusion of these funds under the Navy access roads program with Military Construction funding does not constitute a precedent for future use of such funds where other state or federal funds should be applied.

TITLE II—INCREASED PAY COSTS

ARCHITECT OF THE CAPITOL

Amendment Nos. 74 and 75: Appropriate $484,600 for "Senate office buildings" and $8,400 for "Senate garage" as proposed by the Senate.

DEPARTMENT OF DEFENSE—MILITARY

Military personnel

Amendment No. 76: Appropriates $407,133,000 for Military Personnel, Army, instead of $384,133,000 as proposed by the House and $411,133,000 as proposed by the Senate.

The Army is directed to transfer $4.0 million from National Guard Personnel, Army, to Military Personnel, Army, in accordance with the transfer authority granted to the Secretary of Defense in Section 833 of Public Law 95–111 without further approval of the Appriations Committees.

Amendment No. 77: Appropriates $266,551,000 for Military Personnel, Navy, as proposed by the Senate instead of $257,851,000 as proposed by the House.

Amendment No. 78: Appropriates $10,625,000 for Reserve Personnel, Navy, as proposed by the Senate instead of $19,325,000 as proposed by the House.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Management and Administration

Salaries and expense, Department of Housing and Urban Development

Amendment No. 79: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate decreasing the appropriation amount for salaries and expenses of the Department of Housing and Urban Development by $6,000,000 and adding language providing for the transfer of $6,000,000 from the appropriation for flood insurance.

National Transportation Safety Board

Salaries and Expenses

Amendment No. 80: Appropriates $540,000 as proposed by the Senate instead of $390,000 as proposed by the House.

TITLE III—GENERAL PROVISIONS

Amendment No. 81: Deletes language proposed by the House which would have withheld from obligation and expenditure two per centum of the total budget authority provided in this Act for payments not required by law.

Amendment No. 82: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amending 5 U.S.C. 8332 to provide that a credit shall be allowed for civil service retirement purposes for service as an employee of a Congressional campaign committee.

Amendment No. 83: Reported in technical

disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate applicable to the account entitled "Bureau of the Internal Revenue Refunding Internal Revenue Collections".

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1978 recommended by the Committee of Conference, with comparisons to the budget estimates, and the House and Senate bills follows:

Budget estimates of new (obligational) authority	[1] $7,168,446,986
House bill	6,333,389,186
Senate bill	6,719,228,686
Conference agreement	6,808,778,686
Conference agreement compared with:	
Budget estimates of new (obligational) authority	−359,668,300
House bill	+475,389,500
Senate bill	+89,550,000

[1] Includes $492,560,500 of budget estimates not considered by the House, contained in House Docs. 95-281, 95-331 and 95-335, and Sen. Docs. 95-106, 95-110, 95-113, 95-117, 95-118, 95-119, and 95-121.

GEORGE MAHON,
JAMIE L. WHITTEN,
EDWARD P. BOLAND,
DANIEL J. FLOOD,
TOM STEED,
GEORGE E. SHIPLEY,
JOHN SLACK,
JOHN J. MCFALL,
CLARENCE D. LONG,
SIDNEY R. YATES,
GUNN MCKAY,
ELFORD A. CEDERBERG,
ROBERT H. MICHEL,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
MARK ANDREWS,
Managers on the Part of the House.

WARREN G. MAGNUSON,
JOHN C. STENNIS,
ROBERT C. BYRD,
WILLIAM PROXMIRE,
DANIEL K. INOUYE,
ERNEST F. HOLLINGS,
BIRCH BAYH,
THOMAS F. EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
QUENTIN N. BURDICK,
JIM SASSER,
PATRICK J. LEAHY,
DALE BUMPERS,
MILTON R. YOUNG,
CLIFFORD P. CASE,
EDWARD W. BROOKE,
MARK O. HATFIELD,
TED STEVENS,
HENRY BELLMON,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CORCORAN of Illinois) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 5 minutes, today.
Mr. REGULA, for 5 minutes, today.
Mr. SARASIN, for 15 minutes, today.
Mr. ABDNOR, for 5 minutes, today.
Mr. FINDLEY, for 5 minutes, today.

(The following Members (at the request of Mr. BARNARD) to revise and extend their remarks and include extraneous material:)

Mr. ROSTENKOWSKI, for 30 minutes, today.
Mr. FLOOD, for 5 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. TEAGUE, for 5 minutes, today.
Mr. LUNDINE, for 5 minutes, today.
Mr. PHILLIP BURTON, for 5 minutes, today.
Mr. AMBRO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. STEIGER, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $739.13.

Mr. MURPHY of New York, to add his statement which begins, "Mr. Speaker, H.R. 10878 passed"—to go after the sentence. "They would result in no additional cost to the Federal budget."

(The following Members (at the request of Mr. CORCORAN) and to include extraneous material:)

Mr. STEIGER in two instances.
Mr. GILMAN.
Mr. WINN.
Mr. CRANE.
Mr. MCCLOSKEY.
Mr. ANDERSON of Illinois.
Mr. ASHBROOK in three instances.
Mr. WYDLER.
Mr. EDWARDS of Oklahoma.
Mr. CARTER in two instances.
Mr. BOB WILSON.
Mr. DORNAN.
Mr. GOLDWATER.
Mr. MCKINNEY.

(The following Members (at the request of Mr. BARNARD) and to include extraneous matter:)

Mr. LUKEN in two instances.
Mr. GONZALEZ in three instances.
Mr. ANDERSON of California in three instances.
Mr. ROSE.
Mr. MIKVA.
Mr. SHIPLEY.
Mr. GEPHARDT.
Mr. TEAGUE.
Mr. VENTO.
Mrs. MEYNER in two instances.
Mr. DOWNEY.
Mr. MCDONALD.
Mr. DELANEY.
Mr. WHITE.
Mr. FORD of Michigan.
Mr. FOUNTAIN.
Mr. BRECKINRIDGE in three instances.

ADJOURNMENT

Mr. BARNARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 52 minutes p.m.), the House adjourned until tomorrow, Friday, August 11, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4748. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Federal Seed Act (53 Stat. 1275) to update its provisions, and for other purposes; to the Committee on Agriculture.

4749. A letter from the Associate Director of Legislative Liaison, Department of the Air Force, transmitting the semiannual report covering the period January 1 through June 30, 1978, on Air Force research and development procurement actions of $50,000 and more, pursuant to 10 U.S.C. 2357; to the Committee on Armed Services.

4750. A letter from the Secretary of Labor, transmitting his annual report on the administration of the Fair Labor Standards Act of 1938, pursuant to section 4(d)(1) of the act; to the Committee on Education and Labor.

4751. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations governing suspension, termination and voiding of assistance under Emergency School Aid, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4752. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations governing the community service and continuing education programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4753. A letter from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations and guidelines governing support for research and related purposes in the education of the handicapped, pursuant to section 431(d)(1) of the General Education Provisions Act; to the Committee on Education and Labor.

4754. A letter from the Chairman, U.S. Civil Service Commission, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4755. A letter from the Acting Assistant Secretary of the Interior, transmiting a proposed plan for the use and distribution of Seneca Nation judgment funds in docket 342-G before the Indian Claims Commission, pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

4756. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed research contract with Eagle Crusher Co., Galion, Ohio, for a research project entitled "Portable Crusher For Underground Mining Applications Phase II—Construction and Testing and Phase III—Production Test In Underground Mine," pursuant to section 1(d) of Public Law 89-672; to the Committee on Interior and Insular Affairs.

4757. A letter from the Acting Fiscal Assistant Secretary of the Treasury, transmitting a report on the inventory of nonpurchased foreign currencies as of March 31, 1978, pursuant to section 613(c) of the Foreign Assistant Act of 1961, as amended; to the Committee on International Relations.

4758. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a report on changes in market shares of the statutory categories of retail gasoline marketers, covering the month of March 1978, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

4759. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a report on changes in market shares for refined petroleum products during April 1978, pursuant

to section 4(c)(2)(A) of the Emergency Petrolem Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

4760. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting a report covering the quarter ended June 30, 1978, on the Commission's hiring and promotion of minorities and women, pursuant to section 201(h) of the Energy Reorganization Act of 1974, as amended (91 Stat. 1482); to the Committee on Post Office and Civil Service.

4761. A letter from the Comptroller General of the United States, transmitting a report on the problem of housing abandonment (CED–78–126, August 10, 1978); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

4762. A letter from the Comptroller General of the United States, transmitting a report on the audit of the accounts of the Minority Printing Clerk, House of Representatives, for the fiscal year ended September 30, 1977, (GGD–78–89, August 9, 1978), pursuant to section 451 of the Legislative Reorganization Act of 1970; jointly, to the Committees on Government Operations, and House Administration.

4763. A letter from the Comptroller General of the United States, transmitting a report on the audit of the accounts of the Majority Printing Clerk, House of Representatives, for the fiscal year ended August 31, 1977 (GGD–78–88, August 9, 1978), pursuant to section 451 of the Legislative Reorganization Act of 1970; jointly, to the Committees on Government Operations, and House Administration.

4764. A letter from the Comptroller General of the United States, transmitting a report on electric energy needs in the Pacific Northwest (EMD–78–76, August 10, 1978); jointly, to the Committees on Government Operations, Interior and Insular Affairs, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 13488. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of U.S. citizens and resident aliens from sources outside the United States, and for other purposes; with amendment (Rept. No. 95–1463). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7279. A bill to name the U.S. Customs Court and Federal Office Building at 1 Federal Plaza, New York, N.Y., the "Paul P. Rao U.S. Customs Court and Federal Office Building." (Rept. No. 95–1464). Referred to the House Calendar.

Mr. JOHNSON of California: Committee of Public Works and Transportation. H.R. 7296. A bill to designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, N.Y., as the "Charles A. Lindberg Federal Building". (Rept. No. 95–1465). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 7305. A bill to designate a certain Federal building in Champaign, Ill., the "William L. Springer Building" (Rept. No. 95–1466). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 12634. A bill to designate the Social Security Administration District Office Building in Pittsburg, Kans., as the "Joe Skubitz Federal Building"; with amendment (Rept. No. 95–1467). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 8812. A bill to name a certain Federal building in Jonesboro, Ark., the "E. C. 'Took' Gathings Building" (Rept. No. 95–1468). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 11671. A bill to designate a certain Federal building in Big Stone Gap, Va., the "C. Bascom Slemp Building" (Rept. No. 95–1469). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 13187. A bill to designate the U.S. Post Office and Federal Building in Griffin, Ga., the "John J. Flynt, Jr. Federal Building"; with amendment (Rept. No. 95–1470). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 13481. A bill to name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building"; (Rept. No. 95–1471). Referred to the House Calendar.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 13514. A bill to name a certain Federal building in Shreveport, La., the "Joe Waggonner Federal Building"; with amendment (Rept. No. 95–1472). Referred to the House Calendar.

Mr. MEEDS: Committee on Rules. House Resolution 1307. Resolution providing for the consideration of H.R. 11280. A bill to reform the civil service laws (Rept. No. 95–1473). Referred to the House Calendar.

Mr. MURPHY of New York: Committee of conference. Conference report on S. 9 (Rept. No. 95–1474). Ordered to be printed.

Mr. MAHON: Committee of conference. Conference report on H.R. 13467 (Rept. No. 95–1475). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ABDNOR (for himself and Mr. ANDREWS of North Dakota):

H.R. 13820. A bill to establish the Great Prairie Lakes National Recreation Area in the States of South Dakota, North Dakota, and Nebraska, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PHILLIP BURTON (for himself, Mr. CHARLES WILSON of Texas, Mr. GLICKMAN, Mr. DICKS, Mr. CONYERS, Mr. FAUNTROY, Mr. HARRINGTON, Mr. RISENHOOVER, Mrs. COLLINS of Illinois, Mr. PRICE, Ms. OAKAR, Mr. AMBRO, Mr. DICKS, Mr. ROE, Mr. CARNEY, Mr. PEPPER, Mr. MIKVA, Mr. CHARLES H. WILSON of California, Mr. JONES of North Carolina, Mr. AUCOIN, Mr. RUSSO, Mr. TUCKER, Mr. FOLEY, and Mr. RYAN):

H.R. 13821. A bill to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the U.S. House of Representatives, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. COHEN (for himself and Mr. PEPPER):

H.R. 13822. A bill to amend title XVIII of the Social Security Act to provide for the enforcement of standards relating to the rights of patients in certain medical facilities; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

By Mr. FORSYTHE:

H.R. 13823. A bill to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981 and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GEPHARDT (for himself, Mr. HOLLAND, Mr. MADIGAN, Mr. HAGEDORN, Mr. PATTERSON of California, Mr. BALDUS, Mr. VENTO, Mr. FRENZEL, Mr. WEISS, Mr. EVANS of Georgia, and Mr. AMMERMAN):

H.R. 13824. A bill to provide that future Federal employees will be covered by social security and may elect not to be covered by the applicable Federal employees retirement system, that current Federal employes may elect to be covered by social security and if they so elect to discontinue being covered by a retirement system for Federal employees and have retirement credits under any such system transferred to social security; jointly, to the Committee on Ways and Means, and Post Office and Civil Service.

By Mr. GRADISON (for himself and Mr. MOTTL):

H.R. 13825. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. LEACH (for himself, Mr. ABDNOR, Mr. AUCOIN, Mr. BEDELL, Mr. BEVILL, Mr. CARR, Mr. CAVANAUGH, Mr. COCHRAN of Mississippi, Mr. COLEMAN, Mr. CORCORAN of Illinois, Mr. ERTEL, Mr. GAMMAGE, Mr. GRASSLEY, Mr. HEFTEL, Mr. JEFFORDS, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. LOTT, Mr. MARLENEE, Mr. MITCHELL of New York, Mr. PRICE, Mr. STOCKMAN, Mr. THONE, and Mr. WHITTEN):

H.R. 13826. A bill to amend the Internal Revenue Code of 1954 to provide that certain farm buildings shall be eligible for the investment tax credit; to the Committee on Ways and Means.

By Mr. OTTINGER:

H.R. 13827. A bill to require Government contractors to establish and operate alcohol abuse and alcoholism programs and services, or otherwise arrange for referral to such services, and for other purposes; to the Committee on Education and Labor.

By Mr. PANETTA (for himself, Mr. GEPHARDT, Mr. BAFALIS, Mr. GRADISON, Mr. HANNAFORD, Mr. HEFTEL, Mr. HOLLAND, Ms. KEYS, Mr. KINDNESS, Mr. PATTISON of New York, Mr. STEERS, Mr. TUCKER, and Mr. WHITEHURST):

H.R. 13828. A bill relating to the independent contractor status of individuals for employment tax purposes; to the Committee on Ways and Means.

By Mr. REGULA:

H.R. 13829. A bill to amend the Internal Revenue Code of 1954 to allow certain federally required nonproductive expenditures to be treated as expenses and for other purposes; to the Committee on Ways and Means.

By Mr. SIKES:

H.R. 13830. A bill to amend title 38, United States Code, to provide that a member of the Armed Forces who dies while on active duty shall be considered to be a veteran for purposes of the entitlement of such member's survivors to medical care under the civilian health and medical program of the Veterans' Administration; to the Committee on Veterans' Affairs.

H.R. 13831. A bill to amend chapter 55 of title 10, United States Code, to authorize the provision of medical and dental care to surviving spouses of members and certain former members of the uniformed services who are not remarried; to the Committee on Armed Services.

By Mr. WEAVER:

H.R. 13832. A bill to establish pilot projects for testing and demonstrating practical application of technology for the utilization of wood residues from timber harvesting, forest protection and management, and the

manufacture of wood products, to the Committee on Agriculture.

By Mr. BURLISON of Missouri:

H.J. Res. 1111. Joint resolution raising the price support levels for milk, wheat, corn, soybeans, and cotton to 90 percent of the respective parity prices therefor, and for other purposes; to the Committee on Agriculture.

By Mr. DORNAN:

H.J. Res. 1112. Joint resolution to provide an end to the persecution of religion and genocide in Equatorial Guinea; to the Committee on International Relations.

H.J. Res. 1113. Joint resolution directing the Administrator of Veterans' Affairs to recommend to the Congress ways of improving the quality of health care provided the Nation's aging veterans; to the Committee on Veterans' Affairs.

By Mr. RONCALIO (for himself, Mr. CORRADA, Mr. LAGOMARSINO, Mr. LAFALCE, Mr. VENTO, Mr. ANDERSON of California, and Mr. NOLAN):

H.J. Res. 1114. Joint resolution to authorize the President to issue a proclamation designating March, 1979 as "Youth Art Month"; to the Committee on Post Office and Civil Service.

By Mr. ROYBAL:

H.J. Res. 1115. Joint resolution designating December 26, 1979, as "National Schoolbus Driver Day"; to the Committee on Post Office and Civil Service.

By Mr. WHITE:

H.J. Res. 1116. Joint resolution proposing an amendment to the Constitution of the United States to provide that the level of total expenditures of the United States for any fiscal year shall not exceed the level of total revenues of the United States for such fiscal year and for the disposition of subsequent deficits, and that the gross Federal debt be reduced by open-market operations; to the Committee on the Judiciary.

By Mr. CLEVELAND (for himself, Mr. D'AMOURS, Mr. ARCHER, Mr. BROOKS, Mr. BURKE of Florida, Mr. CRANE, Mr. ROBERT W. DANIEL, Jr., Mr. GUYER, Mr. HAMMERSCHMIDT, Mr. HANSEN, Mr. JOHNSON of Colorado, Mr. LUJAN, Mr. MCDADE, Mr. MITCHELL of New York, Mr. MOORE, Mr. O'BRIEN, Mrs. PETTIS, Mr. QUILLEN, Mr. REGULA, Mr. RHODES, Mr. SEBELIUS, Mr. STANTON, Mr. TREEN, Mr. TRIBLE, and Mr. WALKER):

H. Con. Res. 688. Concurrent resolution expressing the sense of Congress that all Seabrook Nuclear Station project should be expedited and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures; to the Committee on Interior and Insular Affairs.

By Mr. FINDLEY (for himself, Mrs. PETTIS, Mr. LAGOMARSINO, Mr. SEIBERLING, Mr. JOHNSON of Colorado, and Mr. LEACH):

H. Con. Res. 689. Concurrent resolution relating to the war powers; to the Committee on International Relations.

By Mr. MITCHELL of New York:

H. Con. Res. 690. Concurrent resolution to seek the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine; to the Committee on International Relations.

By Mr. TSONGAS (for himself and Mrs. SPELLMAN):

H. Con. Res. 691. Concurrent resolution expressing congressional disapproval of the denial by the Government of the Soviet Union of the right to emigrate and the harassment and imprisonment by that Government of individuals who desire to emigrate; to the Committee on International Relations.

By Mr. BROOKS:

H. Res. 1308. Resolution to disapprove Reorganization Plan No. 4 transmitted by the President on August 10, 1978; to the Committee on Government Operations.

By Mr. DOWNEY:

H. Res. 1309. Resolution disapproving the modification of certain shipbuilding contracts between the Department of the Navy and General Dynamics Corp.; to the Committee on Armed Services.

H. Res. 1310. Resolution disapproving the modification of certain shipbuilding contracts between the Department of the Navy and Litton Systems, Inc.; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ROBERT W. DANIEL, JR., introduced a bill (H.R. 13833) for the relief of Gina Marie S. Hernandez, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

The SPEAKER presented a petition of the Michigan Aeronautics Commission, Lansing, Mich., relative to airport development, which was referred jointly, to the Committees on Public Works and Transportation, and Ways and Means.

AMENDMENTS

Under clause 6 of the rule XXIII, proposed amendments were submitted as follows:

H.R. 11280

By Mr. BONIOR:

(Amendment to section 3303a. in section 304(a).)

"(3) Notwithstanding the time limitation of subparagraph (1) of this section, an individual whose service on or subsequent to August 5, 1934, is the basis for awarding the Vietnam Service Medal or the Armed Forces Expeditionary Medal for Vietnam and who has not received an appointment to a position that is not time limited, is entitled to use of preference until such appointment is received or until December 31, 1985, whichever occurs first."

H.R. 11280

By Mr. CLAY:

—Page 129, in the table of contents for title I add the following:

"SEC. 102. Category Rating."

—Page 144, after line 2, insert the following:

"CATEGORY RATING

"SEC. 102. Title 5, United States Code, is amended by inserting the following new section:

"'§ 3327. Category rating.

"'Notwithstanding the provisions of this subchapter, whenever the Office of Personnel Management measures the qualifications of job candidates by oher than written tests, it may provide that individuals shall be evaluated in accordance with a category rating system which divides the whole body of qualified applicants into three or more groups. An appointing official may select any individual within the top category, or if at least three candidates have not received such a rating, any individual in the next highest category or from lower categories if necessary to provide the appointing officer with at least three applicants from which to choose, provided that:

"'(1) Five or ten points based on a scale of 100, or the equivalent preference shall be added to the rating of a preference eligible for the purpose of assigning the individual to an appropriate category,

"'(2) within the group of candidates being considered for selection, a preference eligible in a higher category may not be passed over to select a nonveteran from a lower category unless objection is approved under section 3318(b) of this title, and

"'(3) except for scientific and professional positions in GS-9 or higher, a preference eligible under section 2108(3)(c) of this title, who has a compensable service-connected disability of 10 percent or more, shall be placed in the highest category and shall not be passed over to select anyone other than such a preference eligible in that category unless an objection is made to the preference eligible and sustained for proper and adequate reasons under regulations established by Office of Personnel Management. Such objections shall be processed in accordance with procedures provided in section 3318 (b) of this title'".

—On page 133, line 11, strike the word "and"

On page 133, line 12, insert the following:

"(4) government operations; and

"(5) the General Accounting Office."

—On page 144, strike lines 17 through 20, and insert the following in lieu thereof:

"(a)(1) There is at the head of the Office of Personnel Management a Director of the Office of Personnel Management appointed by the President, by and with the advise and consent of the Senate for a term of four years coterminous with that of the President.

(a)(2) The Director may be removed by the President only for inefficiency, neglect of duty, or malfeasance in office."

—On page 145, strike lines 7 through 10 and insert the following in lieu thereof:

"(c) no person shall, while serving as Director, or Deputy Director, serve in any other office or position in the Government of the United States except as otherwise provided by law or at the direction of the President, except that the Director or Deputy Director shall not advise the President concerning political appointments."

—Page 145, line 18, insert "except as otherwise provided in section 1104(a) of this title.".

Page 147, 5, strike out "service." and insert in lieu thereof "service;"

Page 147, after line 5, insert the following:

except that the Director may not delegate the function of executing, administering, and enforcing the civil service rules and regulations of the President and the Office and the statutes governing the civil service.

—Page 146, after line 12, insert the following:

"(6) providing, notwithstanding any other provisions of this title, whenever the Office of Personnel Management measures the qualifications of job candidates by other than written tests, that individuals may be evaluated in accordance with a category rating system which divides the whole body of qualified applicants into three or more groups. An appointing official may select any individual within the top category, or if at least three candidates have not received such a rating, any individual in the next highest category or from lower categories if necessary to provide the appointing officer with at least three applicants from which to choose, provided that:

"(1) Five or ten points based on a scale of 100, or the equivalent preference shall be added to the rating of a preference eligible for the purpose of assigning the individual to an appropriate category,

"(2) within the group of candidates being considered for selection, a preference eligible in a higher category may not be passed over to select a nonveteran from a lower category unless objection is approved under section 3318(b) of this title, and

"(3) except for scientific and professional

positions in GS–9 or higher, a preference eligible under section 2108(3)(c) of this title, who has a compensable service-connected disability of 10 percent or more, shall be placed in the highest category and shall not be passed over to select anyone other than such a preference eligible in that category unless an objection is made to the preference eligible and sustained for proper and adequate reasons under regulations established by Office of Personnel Management. Such objections shall be processed in accordance with procedures provided in section 3318(b) of this title".

Page 146, line 13, strike "(6)" and insert, in lieu thereof, "(7)".

Page 146, line 15, strike "(7)" and insert, in lieu thereof "(8)".

—On page 146, line 16, insert immediately after "examinations" the following:

"(except competitive examinations for administrative law judges appointed under section 3105 of this title for service in any grade above GS–15 of the General Schedule)".

—Page 149, line 20, after "party", insert the following:

"No more than two members of the Board shall be from the same race, sex, or ethnic group."

—On page 150, line 2, after the words "United States." insert the following words:

"One member of the Board shall be selected from among individuals who serve in the competitive service.".

—Page 152, after line 22, insert the following:

"(e) The Merit Systems Protection Board shall submit its request for annual appropriations to the Office of Management and Budget and to the Congress."

—Page 152, after line 22, insert the following:

(e) The Merit Systems Protection Board shall report annually to the President and to the Congress on the adjudication of appeals to the Board, actions taken on allegations of prohibited personnel practices, and protection provided to employees under section 2302(b)(8) of this title. In addition, the Merit Systems Protection Board shall conduct special studies relating to the civil service and review annually the policies and program decisions in the evaluation and enforcement actions of the Office of Personnel Management, and report annually to the President and to the Congress as to whether the public interest in a civil service based on merit system principles and free of prohibited personnel practices is being adequately protected.

—On page 164, lines 23 and 24, strike the phrase "an order" and insert in lieu thereof "a final order".

—On page 168, strike lines 10 through 13 and insert the following in lieu thereof:

"(3) 'unacceptable performance' means performance of an employee which fails to meet established performance standards of the employee's position when the employee's job performance is considered as a whole."

—Page 174, line 10, strike out "subchapters I and II" and insert in lieu thereof "subchapters I, II, and III".

Page 57, after line 20, insert the following:

"SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

"7521. Actions against administrative law judges

"(a) An action may be taken against an administrative law judge appointed under section 3105 of this title by the agency in which he is employed only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board. An administrative law judge may obtain judicial review of any final order or decision by the Board under this section under section 7702 of this title.

"(b) Actions covered by this section are as follows:

"(1) a removal;

"(2) a suspension;

"(3) a reduction in grade;

"(4) a reduction in pay;

"(5) a furlough of 30 days or less; and

"(6) a written reprimand or admonition based on the exercise of his adjudication responsibilities;

except that such actions do not include:

"(A) a suspension or removal under section 7532 of this title;

"(B) a reduction in force action under section 3502 of this title; or

"(C) an action initiated under section 1206 of this title.".

—On page 178, line 13, insert a semicolon after the word "suspension", and delete all words after the word "suspension" on that line.

—On page 178, strike lines 18 and 19 and redesignate the following paragraphs accordingly.

—On page 183, lines 16 and 17, strike out "only if the agency's decision is supported by a preponderance of evidence" and insert in lieu thereof "by substantial evidence."

—On page 184, lines 6 and 7, strike the phrase "or the Director of the Office of Personnel Management."

—On page 184, lines 6 and 7, strike the words "or the Director of the Office of Personnel Management."

—On page 187, lines 18 through 20, strike the sentence "If the court determines that further evidence is necessary, it shall remand the case to the Board.", and insert in lieu thereof, "If the court determines that further evidence is necessary, it shall, if it is the Court of Claims, remand the case to its trial division or, if it is the United States District Court, take testimony or in its discretion, the Courts may remand the case to the Board."

—On page 215, line 2, after "section," insert "and except as provided in paragraph (2),".

On page 216, after line 4, insert the following:

(2) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Bureau of the Census of the Department of Commerce which is filled by an employee in the competitive service on August 1, 1978, or

"(B) in a successor unit of the unit described in subparagraph (A) the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A), or

"(ii) were, prior to the creation of the successor unit, performed by an employee in the competitive service,

which is to be placed in the Senior Executive Service shall be designated a career reserved position.".

—On page 288, line 11, strike out the period.

—On page 288, after line 11, insert the following:

EMPLOYEE ORGANIZATIONS

SEC. 3. (a)(1) Section 304 of the Intergovernmental Personnel Act of 1970 is amended by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b) The Commission is authorized to make grants to employee organizations to pay up to 75 per centum (or, with respect to fiscal years commencing on and after October 1, 1978, up to 50 per centum) of the costs of providing training of officers and employees of employee organizations, and of employees of State and local governments, to enable their effective participation in labor-management relations if the Commission—

"(1) determines that the capability to provide such training does not exist, or is not readily available, within the employee organization or within any organization, council, or federation with which such employee organization is affiliated, or if such capability does not exist that such organization, council, or federation is not disposed to provide such training, and

"(2) approves the program with respect to which such grants are to be made as meeting such requirements as may be prescribed by the Commission in its regulations pursuant to this Act.

Such a program may not be approved unless it covers training related to the following: the techniques of negotiation; interpretation of collective-bargaining agreements; use of grievance procedures; or orientation in public sector labor relations laws and administrative orders, the role of civil service commissions (or equivalent agencies), antidiscrimination laws and procedures, statutory employee appeal procedures, position, classification processes, or mediation and arbitration processes and procedures. An application to be submitted to the Commission under this subsection shall first be submitted by the employee organization to the Governor for review, comments, and recommendations. The Governor may refer the application to the State office designated under section 202(b)(1) of this Act for review. Comments and recommendations (if any) made as a result of the review, and a statement by the employee organization that it has considered the comments and recommendations of the Governor, shall accompany the application to the Commission. The application need not be accompanied by the comments and recommendations of the Governor if the employee organization certifies to the Commission that the application has been before the Governor for review and comment for a period of sixty days without comment by the Governor. An explanation in writing shall be sent to the Governor of a State by the Commissioner whenever the Commission does not concur with recommendations of the Governor in approving any employee organization applications."

(2) Section 304(c) of such Act, as redesignated by paragraph (1) of this subsection, is amended by striking out "For the purpose of this section" and inserting in lieu thereof "For the purpose of subsection (a) of this section".

(3) Section 301 of such Act is amended by inserting immediately after "State and local government employees and officials" the following: ", and officers and employees of certain employee organizations,".

(b)(1) Section 202(b) of such Act, relating to personnel administration grant applications, is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(6) provides assurance that the State office designated under paragraph (1) of this subsection will, within thirty days after any program or project has been approved which relates to the formulation of policies and procedures affecting conditions of employment of State and local government employees, transmit a summary of such program or project to any employee organization which has notified such State office that it wishes to receive such summaries; and

"(7) provides that the State office designated in paragraph (1) of this subsection shall (subject to subsection (c) of this section) make available at a reasonable time and place to any employee organization entitled under paragraph (6) of this subsection to receive a summary of a program or project, all records (such as reports, survey results, survey data, manuals, document col-

lections and models) regarding such program or project."

(2) Section 202 of such Act is amended by adding at the end thereof the following new subsection:

"(c) The State office designated under subsection (b)(1) of this section shall specify a uniform fee schedule applicable to requests for records under subsection (b)(7) of this section. Such fees shall be limited to reasonable standard charges for document searches and duplication and provide for recovery of only the direct costs of such searches and duplication."

(c) Section 502 of such Act is amended by striking out "and" at the end of paragraph (3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(5) 'employe organization' means any organization, union, association, agency, committee, council, or group of any kind in which State and local government employees participate, a primary purpose of which is to represent State and local government employees in matters concerning wages, hours, or other terms and conditions of employment."

—Page 361, after line 19, insert the following:

TITLE IX—POLITICAL ACTIVITIES

FEDERAL EMPLOYEES' POLITICAL ACTIVITIES

SEC. 901. (a) Subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"Subchapter III—Political Activities

"§ 7321. Political participation

"It is the policy of the Congress that employees shou'd be encouraged to fully exercise, freely and without fear of penalty or reprisal, and to the extent not expressly prohibited by law—

"(1) their rights to participate or to refrain from participating in the political processes of our Nation, and

"(2) their rights to form, join, or assist, or to refrain from forming, joining, or assisting, any organization, political party, committee, association, or other group which advocates or encourages political activities,

and that employees should be protected in the exercise of these rights.

"§ 7322. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means any individual, other than the President and the Vice President, employed or holding office in—

"(A) an Executive agency;

"(B) the government of the District of Columbia; or

"(C) a position within the competitive service, or within the Senior Executive Service as a career appointee (as defined in section 3132(a)(4) of this title), which is not in an entity referred to in subparagraphs (A) through (C);

but does not include a member of the uniformed services;

"(2) 'candidate' means any individual who seeks nomination for election, or election, to any elective office, whether or not such individual is elected, and, for the purpose of this paragraph, an individual shall be considered to seek nomination for election, or election, to an elective office, if such individual has—

"(A) taken the action required to qualify for nomination for election, or election; or

"(B) received political contributions or made expenditures, or has given consent for any other person to receive political contributions or make expenditures, with a view to bringing about such individual's nomination for election, or election, to such office;

"(3) 'political contribution'—

"(A) means a gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

"(B) includes a contract, promise, or agreement, expressed or implied, whether or not legally enforceable, to make a political contribution for any political purpose;

"(C) includes the payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to such candidate or political party or affiliated organization without charge for any political purpose; and

"(D) includes the provision of personal service for any political purpose;

"(4) 'superior' means an employee who exercises supervision of, or control or administrative direction over, another employee;

"(5) 'elective office' means any elective public office and any elective office of any political party or affiliated organization;

"(6) 'State' means each of the several States and the District of Columbia;

"(7) 'person' means any individual, corporation, trust, association, any State, local, or foreign government, any territory or possession of the United States, or any agency or instrumentality of any of the foregoing; and

"(8) 'restricted position' means any position with respect to which there is in effect a determination by the Office of Personnel Management, by regulation, that—

"(A) the duties and responsibilities of such position require such employee—

"(i) as a substantial part of his official activities, to engage in foreign intelligence activities relating to national security;

"(ii) in the normal course of carrying out such duties and responsibilities—

"(I) to make decisions binding on employees with respect to whom he is a superior with regard to who shall be the subject of any action which is to be taken by any such employee in connection with the enforcement of any civil or criminal law (including any inspection or audit under any such law);

"(II) to actually carry out any such action; or

"(III) to make a final determination with respect to any such action; or

"(iii) in the normal course of carrying out such duties and responsibilities—

"(I) to make binding decisions on who shall be awarded contracts which are for the procurement of goods or services for the Government and which have substantial monetary value, or who shall be awarded licenses, grants, subsidies, or other benefits, which involve funds or other interests having a substantial monetary value; or

"(II) to supervise individuals engaged in the awarding, administering, or monitoring of such contracts, licenses, grants, subsidies, or benefits; and

"(B) the restrictions on political activity imposed on such employee in such position are justified in order to insure the integrity of the Government or the public's confidence in the integrity of the Government.

"§ 7323. Use of official influence or official information; prohibition

"(a) An employee may not directly or indirectly use or attempt to use the official authority or influence of such employee for the purpose of—

"(1) interfering with or affecting the result of any election; or

"(2) intimidating, threatening, coercing, commanding, influencing, or attempting to intimidate, threaten, coerce, command, or influence—

"(A) any individual for the purpose of interfering with the right of any individual to vote as such individual may choose, or of causing any individual to vote, or not to vote, for any candidate or measure in any election;

"(B) any person to give or withhold any political contribution; or

"(C) any person to engage, or not to engage, in any form of political activity whether or not such activity is prohibited by law.

"(b) An employee may not directly or indirectly use or attempt to use, or permit the use of, any official information obtained through or in connection with his employment for any political purpose, unless such official information is available to the general public.

"(c) For the purpose of subsection (a) of this section, 'use of official authority or influence' includes—

"(1) promising to confer or conferring any benefit (such as any compensation, grant, contract, license, or ruling) or effecting or threatening to effect any reprisal (such as deprivation of any compensation, grant, contract, license, or ruling); or

"(2) taking, directing others to take, recommending, processing, or approving any personnel action (as defined in section 2302(a)(2)(A) of this title).

"§ 7324. Solicitation; prohibition

"(a) An employee may not—

"(1) give or offer to give a political contribution to any individual either to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(2) solicit, accept, or receive a political contribution to vote or refrain from voting, or to vote for or against any candidate or measure, in any election;

"(3) knowingly give or hand over a political contribution to a superior of such employee; or

"(4) knowingly solicit, accept, or receive, or be in any manner concerned with soliciting, accepting, or receiving, a political contribution—

"(A) from another employee (or a member of another employee's immediate family) with respect to whom such employee is a superior; or

"(B) in any room or building occupied in the discharge of official duties by—

"(i) an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(ii) an individual receiving any salary or compensation for services from money derived from the Treasury of the United States.

"(b) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not solicit, accept, or receive a political contribution from, or give a political contribution to, any individual who is an employee, a Member of Congress (or a candidate for such office), or a member of a uniformed service, or any agent of any such individual. The preceding sentence shall not be construed to prohibit an employee from giving a political contribution to a political committee.

"(c)(1) In addition to the prohibitions of subsection (a) of this section, an employee may not solicit, accept, or receive a political contribution from, or give a political contribution to, any person who—

"(A) has, or is seeking to obtain, contractual or other business or financial relations with the agency in which the employee is employed;

"(B) conducts operations or activities which are regulated by such agency; or

"(C) has interests which may be substantially affected by the performance or non-

performance of such employee's official duties.

"(2) The Office of Personnel Management shall prescribe regulations which exempt an employee from the application of paragraph (1) of this subsection with respect to any political contribution to or from an individual who has a family or personal relationship with the employee if the employee complies with such requirements as the Office shall so prescribe which relate to the disqualification of such employee from engaging in any official activity involving such individual.

"(3) The Office of Personnel Management shall prescribe regulations which exempt the application of paragraph (1) of this subsection with respect to any political contribution from a person in situations in which the facts and circumstances indicate there would not be any adverse effect on the integrity of the Government or the public's confidence in the integrity of the Government.

"§ 7325. Political activities on duty, etc.; prohibition

"(a) An employee may not engage in political activity—

"(1) while such employee is on duty;

"(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States, in the government of the District of Columbia, or in any agency or instrumentality of the foregoing; or

"(3) while wearing a uniform or official insignia identifying the office or position of such employee.

"(b) The provisions of subsection (a) of this section shall not apply to—

"(1) an employee—

"(A) paid from the appropriation for the White House Office;

"(B) paid from funds to enable the Vice President to provide assistance to the President; or

"(C) on special assignment to the White House Office;

"(2) the Mayor of the District of Columbia, the Chairman or a member of the Council of the District of Columbia; or

"(3) any activity of an employee which is not otherwise prohibited by or under law and which is part of such individual's official duties.

"(c) Nothing in this section shall be construed to authorize an employee designated in subsection (b) of this section to engage in political activity otherwise prohibited by or under law.

"(d)(1) In addition to the prohibitions of subsection (a) of this section, an employee holding a restricted position may not take an active part in political management or political campaigns unless such part—

"(A) is in connection with—

"(i) an election and preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or

"(ii) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States; or

"(B) is permitted by regulations prescribed by the Office of Personnel Management and involves the municipality or political subdivision in which such employee resides, when—

"(i) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia or is a municipality in which a majority of voters are employed by the Government of the United States; and

"(ii) the Office determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees to permit political participation.

"(2) For the purpose of this subsection, 'an active part in political management or in political campaigns' means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by the determinations of the Civil Service Commission under the rules prescribed by the President.

"§ 7326. Candidates for elective office; leave, notification by employees

"(a) An employee shall promptly notify the agency in which he is employed upon becoming a candidate for elective office and upon the termination of such candidacy.

"(b) An employee who is a candidate for elective office shall, upon the request of such employee, be granted leave without pay for the purpose of allowing such employee to engage in activities relating to such candidacy.

"(c) Notwithstanding section 6302(d) of this title, an employee who is a candidate for elective office shall, upon the request of such employee, be granted accrued annual leave for the purpose of allowing such employee to engage in activities relating to such candidacy. Such leave shall be in addition to leave without pay to which such employee may be entitled under subsection (b) of this section.

"(d) The foregoing provisions of this section shall not apply in the case of an individual who is an employee by reason of holding an elective public office.

"§ 7327. Penalties

"(a) An employee who is found by the Merit Systems Protection Board under section 1207 of this title to have violated any provision of—

"(1) section 7323 of this title shall, upon a final order of the Board, be suspended without pay from such employee's position for a period of not less than 30 days, or shall be removed in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7322(1) of this title);

"(2) section 7324 or 7325 of this title shall, upon a final order of the Board, be—

"(A) removed from such employee's position, in which event that employee may not thereafter hold any position (other than an elected position) as an employee (as defined in section 7322(1) of this title) for such period as the Board may prescribe;

"(B) suspended without pay from such employee's position for such period as the Board may prescribe; or

"(C) disciplined in such other manner as the Board shall deem appropriate.

"(b) The Merit Systems Protection Board shall notify the Special Counsel, the employee, and the employing agency of any penalty imposed under this section. The employing agency shall certify to the Board the measures undertaken to implement the penalty.

"§ 7328. Regulations

"(a) The Office of Personnel Management and the Merit Systems Protection Board shall prescribe rules and regulations to carry out their respective responsibilities under this subchapter.

"(b) The regulations referred to in section 7322(8) of this title be prescribed not later than 90 days after the effective date of such section. Thereafter any revision of such regulations shall be prescribed not later than March 1 of the calendar year in which such revision is to take effect. Any employee holding any position with respect to which any such regulation is prescribed may institute an action for judicial review of such regulation by filing a petition in the United States Court of Appeals for the District of Columbia Circuit, or in the United States court of appeals for the judicial circuit in which such employee resides or is employed, except that no such action may be instituted more than 30 days after the effective date of such regulation.".

(b)(1) Section 3302(2) of title 5, United States Code, is amended by striking out "7321, and 7322" and inserting "and" before "7203" (as added in section 703(d)(2) of this Act).

(2) Section 1308(a) of title 5, United States Code, is amended—

(A) by inserting "and" at the end of paragraph (2);

(B) by striking out paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3).

(3) The second sentence of section 8332(k)(1) of title 5, United States Code, is amended by striking out "second" and inserting "last" in lieu thereof.

(4) The section analysis for subchapter III of chapter 73 of title 5, United States Code, is amended to read as follows:

"Subchapter III—Political Activities

"7321. Political participation.
"7322. Definitions.
"7323. Use of official influence or official information; prohibition.
"7324. Solicitation; prohibition.
"7325. Political activities on duty, etc.; prohibition.
"7326. Candidates for elective office; leave, notification by employees.
"7327. Penalties.
"7328. Regulations.".

(c) Sections 602 and 607 of title 18, United States Code, relating to solicitations and making of political contributions, are each amended by adding at the end thereof the following new sentence: "This section does not apply to any activity of an employee, as defined in section 7322(1) of title 5, unless such activity is prohibited by section 7324 of that title.".

(d) Section 6 of the Voting Rights Act of 1965 (42 U.S.C. 1973d) is amended by striking out "the provisions of section 9 of the Act of August 2, 1939, as amended (5 U.S.C. 118i), prohibiting partisan political activity" and by inserting in lieu thereof "the provisions of subchapter III of chapter 73 of title 5, United States Code, relating to political activities, as enforced under section 1206 and 1207 of such title,".

(e) Sections 103(a)(4)(D) and 203(a)(4)(D) of the District of Columbia Public Education Act are each amended by striking out "sections 7324 through 7327 of title 5" and inserting in lieu thereof "section 7325 of title 5".

(f) Sections 8332(k)(1), 8706(e), and 8906(e)(2) of title 5, United States Code, are each amended by inserting immediately after "who enters on" the following: "leave without pay granted under section 7326(b) of this title, or who enters on".

EFFECTIVE DATE

SEC. 902. (a) The amendments made by this title shall take effect 120 days after the date of the enactment of this Act, except that the authority to prescribe regulations granted under section 7328 of title 5, United States Code (as added by section 901 of this title), shall take effect on the date of the enactment of this Act.

(b) Any repeal or amendment made by this title of any provision of law shall not release or extinguish any penalty, forfeiture, or liability incurred under such provision,

and such provision shall be treated as remaining in force for the purpose of sustaining any proper proceeding or action for the enforcement of such penalty, forfeiture, or liability.

(c) No provision of this title shall affect any proceedings with respect to which the charges were filed on or before the effective date of the amendments made by this title. Orders shall be issued in such proceedings and appeals shall be taken therefrom as if this title had not been enacted.

(d) If—

(1) subchapter III of chapter 73 of title 5, United States Code, applied to any category of individuals employed by any Federal agency or instrumentality immediately before the effective date of the amendments made by this title; and

(2) such subchapter, as amended by this title, does not apply to such category of individuals; then such subchapter, as in effect immediately before the effective date of the amendments made by this ttile, shall continue to apply to such category of individuals, notwithstanding section 901(a) or any other provision of law.

STUDY CONCERNING POLITICAL PARTICIPATION BY FEDERAL EMPLOYEES

SEC. 903. The Office of Personnel Management shall study and review the effects of the amendments made by this title on—

(1) the level of participation by Federal employees in activities relating to Federal, State, and local elections;

(2) the merit system particularly the hiring, termination, or advancement of Federal employees; and

(3) matters generally affecting and contributing to the improper use of official influence or official information by Federal employees as prohibited under subchapter III of chapter 73 of title 5, United States Code (as amended by this title).

The Office shall report to the Congress not later than March 31, 1980, and March 31, 1982, the results of such study and review any findings therefrom together with such legislative or administrative recommendations as the Office considers appropriate.

Conform the table of contents accordingly.

—On page 383, after line 14, insert the following:

APPLICATION OF LOCAL WITHHOLDING TAXES

That (a) the second sentence of section 5520(a) of title 5, United States Code, is amended to read as follows: "The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city or county ordinance in the case of any employee of the agency who is subject to the tax and (i) whose regular place of Federal employment is within the jurisdiction of the city or county with which the agreement is made or (ii) is a resident of such city or county.".

(b) The last sentence of section 5520(a) of title 5, United States Code, is amended by striking out "not a resident of the State" and inserting in lieu thereof "not a resident of, or whose regular place of Federal employment is not within, the State".

SEC. 2. The amendments made by the first section of this Act shall take effect on the 90th day after the date of the enactment of this Act.

H.R. 11280

By Mr. GILMAN:

—Page 215, strike out lines 4 through 11 and insert in lieu thereof the following:

"(8) 'career reserved position' means a Senior Executive Service position which is designated under subsection (b) of this section as a position to which a career appointee may be appointed;

"(9) 'general position' means any Senior Executive Service position which is not a career reserved position.

Page 215, beginning on line 15, strike out "career reserved positions." and all that follows down through "Government." beginning on line 19, and insert in lieu thereof "Senior Executive Service positions to which career appointees may be appointed.".

Page 215, line 21, strike out "career reserved" and insert in lieu thereof "such".

Page 215, line 24, insert after "appointee." the following: "Any other Senior Executive Service position may be filled only be a noncareer appointee, limited term appointee, or limited emergency appointee.".

Page 219, line 4, strike out "noncareer appointments" and insert in lieu thereof "general positions".

Page 219, beginning on line 6, strike out "employment of noncareer appointees" and insert in lieu thereof "general positions".

Page 219, beginning on line 11, strike out "authority to employ a specific number of noncareer appointees" and insert in lieu thereof "a specific number of general positions".

Page 219, strike out lines 13 through 18 and insert in lieu thereof the following:

"(b) The number of general positions in each agency will be determined annually by the Office of Personnel Management on the basis of demonstrated need of the agency for such positions, except that the total number of general positions in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies

Page 219, strike out "Senior Executive Service" on line 19 and all that follows down through "appointees" on line 20 and insert in lieu thereof "general positions".

Page 222, in the matter following line 15, strike out "noncareer appointments" in the item relating to section 3134 and insert in lieu thereof "general positions".

Page 223, line 9, insert "'career reserved position'," before "and 'general position'".

Page 227, beginning on line 4, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, beginning on line 7, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, line 12, strike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 227, line 18, strike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 254, line 25, strike out "title)." and insert in lieu thereof "title), and such position shall be considered a career reserved position.".

Page 256, line 7, strike out "position." and insert in lieu thereof "position, and such position shall be considered a career reserved position.".

Page 256, line 19, strike out "appointment;" and insert in lieu thereof "appointment, and such position shall be considered a general position.".

Page 227, line 6, insert after "qualified" the following: ", except that a reassignment to a position with lesser responsibilities shall only be for such cause as will promote the efficiency of the Senior Executive Service".

Page 227, line 3, insert "(1)" after "(a)".

Page 227, line 4, strike out "(1)" and insert in lieu thereof "(A)" and insert ", subject to paragraph (2) of this subsection," after "may".

Page 227, line 7, strike out "(2)" and insert in lieu thereof "(B)".

Page 227, after line 10, insert the following:

"(2) A career appointee may be reassigned to any Senior Executive Service position of less responsibility under paragraph (1)(A) of this subsection only—

"(A) for such cause as will promote the efficiency of the service; and

"(B) after 15 days' advance written notice to such appointee, containing a complete statement of all the reasons for such reassignment.".

Page 228, strike out lines 10 through 12 and insert in lieu thereof the following:

"(e)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily reassigned—

"(A) within 120 days after an appointment of the head of such agency; or

"(B) within 120 days after the appointment in such agency of such career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to reassign such career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to any reassignment under section 4314(b)(3) of this title.

Page 232, line 12, strike out "A career appointee" and insert in lieu thereof "Except as provided in subsection (b) of this section, a career appointee".

Page 232, after line 19, insert the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily removed—

"(A) within 120 days after an appointment of the head of such agency; or

"(B) within 120 days after the appointment in such agency of such career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to remove such career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to any removal under section 4314(b)(3) of this title.

Page 232, line 20, strike out "(b)" and insert in lieu thereof "(c)".

Page 245, insert after line 15 the following:

"(d) The rate of pay of a senior executive shall be reduced only for such cause as will promote the efficiency of the service.

Page 245, after line 15, insert the following:

"(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only—

"(1) for such cause as will promote the efficiency of the service; and

"(2) after 15 days' advance written notice to such appointee, containing a complete statement of all the reasons for such reduction.

Any such reduction shall be considered a personnel action for the purpose of section 2302 of this title.

Page 228, insert after the line 16 the following:

"(e) Except in cases where a reassignment is the result of an action initiated under section 4313(b)(3) of this title, a career appointee may be reassigned under subsection (a)(1) only if—

"(1) he consents to the reassignment; and

"(2) the reassignment is part of a program designed to enlarge the responsibilities of the career appointee and to advance his career in the Senior Executive Service.

No adverse personnel action shall be taken against a career appointee who exercises his right under this subsection to not consent to such a reassignment.

H.R. 11280

By Mr. HARRIS:

—Page 136, line 4, after "(b)" insert "or (c)".

Page 138, strike out paragraph (2) beginning on line 13 and ending on line 23 and redesignate the following paragraphs accordingly.

Page 141, after line 19 insert the following:

"(c)(1) No employee may accept or consider, or influence or direct, or attempt to influence or direct any other employee to accept or consider, with respect to any personnel action, any recommendations unless—

"(A) the recommendation is furnished pursuant to a request made by an authorized representative of the United States solely to determine whether the individual involved in the personnel action meets the loyalty, suitability, and character requirements for employment; or

"(B) the recommendation—

"(i) is furnished pursuant to a request of an employee who is responsible for taking (or directing others to take), recommending, processing, or approving the personnel action; and

"(ii) consists solely of an evaluation of the work performance, ability, aptitude, character, or general qualifications of the individual involved in the personnel action.

"(2) Any employee who receives a written recommendation prohibited by paragraph (1) of this subsection shall return such recommendation to the person who provided it, with an appropriate indication that the acceptance or consideration of such recommendation would be in violation of this subsection.

"(3) Any employee who receives an oral recommendation which is prohibited by paragraph (1) of this subsection shall advise, in an appropriate manner, the person providing such recommendation that the acceptance or consideration of such recommendation would be in violation of this subsection.

"(4) For the purpose of this subsection—

"(A) 'recommendation' means any communication, oral or written, made directly or indirectly by—

"(i) a Member of Congress or a candidate for such office;

"(ii) a Congressional employee, as defined in section 2107 of this title (determined without regard to whether or not the employee's pay is paid by the Secretary of the Senate or the Clerk of the House of Representatives);

"(iii) an employee appointed by the President; or

"(iv) an employee in a position which is excepted from the competitive service because of its confidential or policymaking character;

"(B) 'recommendation' does not include an inquiry which is limited solely to a request—

"(i) for a statement on the status of any personnel action; or

"(ii) for an explanation of the basis on which a personnel action has been taken.

Page 141, line 20, strike out "(c)" and insert in lieu thereof "(d)".

Page 142, line 4, strike out "(d)" and insert in lieu thereof "(e)".

—Page 141, line 20, insert "(1)" after "(c)".

Page 142, after line 3, insert the following:

"(2)(A) The head of each agency shall establish a personnel office and appoint an individual to be the head of such office.

"(B) The position to which any individual is appointed under subparagraph (A) of this paragraph shall, notwithstanding any other provision of law, be a position within the competitive service or a career reserved position within the Senior Executive Service. The requirement of the preceding sentence shall not apply if a majority of the civil service positions within such agency are excepted from the competitive service by or under any law (other than this title).

—Page 150, line 2, after "United States." insert the following "One member of the Board shall be selected from among individuals who have served in the competitive service.".

—Page 150, line 24, strike out "President shall from time to time designate" and insert in lieu thereof "Board shall, every 2 years, elect".

Page 151, line 3, strike out "President shall from time to time designate" and insert in lieu thereof "Board shall, every 2 years, elect".

Page 151, line 8, after "Chairman." insert the following: "Any vacancy in the Office of Vice Chairman shall be filled by a special election for the balance of the term in which the vacancy occurred.".

—Page 150, line 17, strike out "inefficiency,".

—Page 151, line 19, insert "and" after "Special Counsel,".

Page 151, beginning on line 20, strike out "and any employee of the Board".

—Page 190, after the matter following line 6, insert the following new section:

Exceptions from the Competitive Service

Sec. 301A. (a) Section 2103 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) The President may, by Executive order, except any position from the competitive service if the President determines that—

"(A) the duties of such position—

"(i) require significant involvement in the advocacy of Presidential administration programs and support of their controversial aspects,

"(ii) require significant participation in the determination of major policies of such administration or

"(iii) principally involve serving as a personal assistant to or advisor of a Presidential appointee, or serving in a confidential relationship directly under such a personal assistant or advisor; or

"(B) it would be impracticable to apply competitive examination procedures in the filling of such position because of—

"(i) national security,

"(ii) statutory or other significant requirements establishing special employment conditions,

"(iii) the unusual nature of the duties of such position,

"(iv) duration and frequency of service,

"(v) work location, or

"(vi) inadequate number of applicants.

"(2) Periodically (but not less often than 2 years), the President shall review exceptions from the competitive service under Presidential authority, and shall revoke an exception if the President determines that, because of changed circumstances, the exception is no longer appropriate under the provisions of paragraph (1) of this subsection.

"(3) The President shall periodically review exceptions from the competitive service in the Executive agencies made by or under statute, and shall prepare and transmit a report on each such review to each House of the Congress containing such legislative and administrative changes as the President considers appropriate.".

(b) Section 3302(1) of title 5, United States Code, is amended by inserting ", to the extent authorized under section 2103(c) of this title," after "necessary exceptions".

—Page 209, strike out line 21 and all that follows down through line 13 on page 263, and insert in lieu thereof the following new title:

TITLE IV—SENIOR EXECUTIVE SERVICE

GENERAL PROVISIONS

Sec. 401. (a) Chapter 21 of title 5, United States Code, is amended by inserting after section 2101 the following new section:

"§ 2101a. The Senior Executive Service

"The 'Senior Executive Service' consists of Senior Executive Service positions (as defined in section 3132(a)(2) of this title).".

(b) Section 2102(a)(1) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by adding "and" at the end of subparagraph (B); and

(3) by adding at the end thereof the following new subparagraph:

(C) positions in the Senior Executive Service;".

(c) Section 2103(a) of title 5, United States Code, is amended by inserting before the period at the end thereof the following: "or the Senior Executive Service".

(d) Section 2108(3) of title 5, United States Code is, amended—

(1) by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following: "but does not include applicants for, or members of the Senior Executive Service.".

(e) The analysis for chapter 21 of title 5, United States Code, is amended by inserting after the item relating to section 2101 the following new item:

"2101a. The Senior Executive Service.".

AUTHORITY FOR EMPLOYMENT

Sec. 402. (a) Chapter 31 of title 5, United States Code, is amended by inserting after section 3112, as added by this Act, the following new subchapter:

"Subchapter II—The Senior Executive Service

"§ 3131. The Senior Executive Service

"(a) It is the purpose of this chapter to establish a Senior Executive Service in order to ensure that the management of the Government of the United States is responsive to the needs, policies, and goals of the Nation and otherwise is of the highest quality. The Senior Executive Service shall be administered so as to—

"(1) provide for a compensation system, including salaries, benefits, and incentives, and for other conditions of employment, designed to attract and retain highly competent career senior executives;

"(2) ensure that compensation, retention, and tenure are contingent on managerial success which is to be measured on the basis of individual and organizational performance (including such factors as improvements in quality of work or service, cost efficiency, and timeliness of performance);

"(3) recognize exceptional accomplishment;

"(4) enable the head of an agency to reassign senior executives to best accomplish the agency's mission;

"(5) provide for severance pay, retirement benefits, and placement assistance for career senior executives who are removed from the Senior Executive Service for nondisciplinary reasons;

"(6) protect career senior executives from arbitrary or capricious actions;

"(7) provide for both program continuity and policy advocacy in the management of public programs;

"(8) maintain a merit personnel system free of improper political interference;

"(9) ensure accountability for honest, economical, and efficient Government;

"(10) ensure compliance with all applicable civil service laws, rules, and regulations including those relating to equal employment opportunity, political activity, and conflicts of interest; and

"(11) provide for the initial and continuing systematic development of highly competent career senior executives.

§ 3132. Definitions and exclusions

"(a) For the purpose of this subchapter—

"(1) 'agency' means an Executive agency, the Administrative Office of the United States Courts, and the Government Printing Office, except that such term does not include—

"(A) a Government corporation;

"(B) the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and any Executive agency or unit thereof which is designated by the President and which conducts foreign intelligence or counterintelligence activities; and

"(C) the General Accounting Office;

"(2) 'Senior Executive Service position' means any position in an agency which is in GS–16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or an equivalent position, which (other than a position in the Foreign Service of the United States) is not required to be filled by an appointment by the President, by and with the advice and consent of the Senate, and in which an employee—

"(A) directs the work of an organizational unit;

"(B) is held accountable for the success of one or more specific programs or projects; or

"(C) supervises the work of employees other than personal assistants;

"(3) 'career senior executive' means an individual in a Senior Executive Service position whose appointment to such position or previous appointment to another Senior Executive Service position was based on—

"(A) approval by the Office of Personnel Management of the managerial qualifications of such individual; and

"(B) selection through a competitive staffing process consistent with Office of Personnel Management regulations;

"(b) An agency may file an application with the Office of Personnel Management, setting forth reasons why it, or a unit thereof, should be excluded from any provision or requirement of this subchapter. The Office of Personnel Management shall—

"(1) review such application and stated reasons,

"(2) undertake such other investigation as it considers appropriate to determine whether the agency or unit should be excluded from any provision or requirement of this subchapter, and

"(3) upon completion of its review, recommend to the President whether the agency or unit should be so excluded from any provision or requirement of this subchapter.

If the Office recommends that an agency or unit thereof be excluded from any provision or requirement of this subchapter, the President may, on written determination, make such exclusion to such extent and for such period as the President determines appropriate.

"(c) The Office of Personnel Management may at any time recommend to the President that any exclusion previously granted to an agency or unit under subsection (c) of this section be revoked. Upon recommendation of the Office, the President may revoke, by written determination, any exclusion made under subsection (c) of this section.

"(d) If—

"(1) any agency is excluded under subsection (c) of this section, or

"(2) any exclusion is revoked under subsection (d) of this section,

the Office of Personnel Management, shall within 30 days after such action, transmit to the Congress a report concerning the exclusion or revocation.

"§ 3133. Authorization of positions; authority for appointment

"(a) On or before December 31 of each odd-numbered calendar year, each agency shall—

"(1) examine its needs for Senior Executive Service positions for each of the two fiscal years beginning after such calendar year; and

"(2) submit to the Office of Personnel Management a written request for a specific number of Senior Executive Service positions for each of such fiscal years.

"(b) Each agency request submitted under subsection (a) of this section shall be based on—

"(1) the anticipated type and extent of program activities of the agency for each of the two fiscal years involved;

"(2) such other factors as may be prescribed from time to time by the Office of Personnel Management.

"(c) The Office of Personnel Management, upon consultation with the Office of Management and Budget shall review the request of each agency and shall authorize, for each of the two fiscal years covered by requests required under subsection (b) of this section, a specific number of Senior Executive positions for each agency.

"(d)(1) The Office may, on a written request of an agency or on its own initiative, make an adjustment in the number of positions authorized for any agency. Each agency request under this paragraph shall be submitted in such form, and shall be based on such factors, as the Office of Personnel Management shall prescribe.

"(2) The total number of positions in the Senior Executive Service may not at any time during any fiscal year exceed the total number of positions authorized under subsection (c) of this section for such fiscal year plus 5 percent of such total number.

"(e) Appointments to the Senior Executive Service may be made by appropriate appointing authorities of agencies subject to the requirements and limitations of this title.

"§ 3134. Biennial report

"(a) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted by the President to the Congress during each even-numbered calendar year, a report on the Senior Executive Service. The report shall include—

"(1) the number of Senior Executive Service positions authorized for the then current fiscal year, in the aggregate and by agency, and the projected number of Senior Executive Service positions to be authorized for the next two fiscal years, in the aggregate and by agency;

"(2) a description of each exclusion in effect during the then current fiscal year under section 3132(c) of this title;

"(3) the percentage of career senior executives at each pay rate and the distribution and amount of performance awards, in the aggregate and by agency; and

"(4) such other information regarding the Senior Executive Service as the Office of Personnel Management considers appropriate.

"(b) The Office of Personnel Management shall submit to each House of the Congress, at the time the budget is submitted to the Congress each odd-numbered year, an interim report showing changes in matters required to be reported under subsection (a) of this section.

"§ 3135. Regulations

"The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose of this subchapter.".

(b) Section 3109 of title 5, United States Code, is amended by inserting at the end thereof the following new subsection:

"(c) Positions in the Senior Executive Service may not be filled under the authority of subsection (b) of this section.".

(c) The chapter analysis of chapter 31 of title 5, United States Code, is amended—

(1) by striking out the heading for chapter 31 and inserting in lieu thereof the following:

"Chapter 31—AUTHORITY FOR EMPLOYMENT

"Subchapter I—Employment Authorities"; and

(2) by inserting at the end thereof the following:

"Subchapter II—The Senior Executive Service

"Sec.
"3131. The Senior Executive Service.
"3132. Definitions and exclusions.
"3133. Authorization of positions; authority for appointment.
"3134. Biennial report.
"3135. Regulations.".

EXAMINATION, CERTIFICATION, AND APPOINTMENT

SEC. 403. (a) Chapter 33 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VIII—Appointment, Reassignment, Transfer, and Development in the Senior Executive Service

"§ 3391. Definitions

"For the purpose of this subchapter, 'agency,' 'Senior Executive Service position', and 'career senior executive' have the meanings given such terms under section 3132(a) of this title.

"§ 3392. General appointment provisions

"(a) Qualification standards shall be established by the head of each agency for each Senior Executive Service position in such agency and shall be in accordance with requirements established by the Office of Personnel Management.

"(b) An individual may be appointed to a Senior Executive Service position only if the appointing authority has determined in writing that the individual meets the qualification requirements of such position.

"(c) If a career senior executive is appointed by the President, by and with the advice and consent of the Senate, to a civilian position in the executive branch which is not in the Senior Executive Service, and the rate of basic pay payable for which is equal to or greater than the rate payable for level V of the Executive Schedule such executive may elect (at such time and in such manner as the Office of Personnel Management may prescribe) to continue to have the provisions of this title relating to basic pay, performance awards, awarding of ranks, severance pay, and retirement apply as if such executive remained in the Senior Executive Service position from which he was appointed. Such provisions shall apply in lieu of the provisions which would otherwise apply—

"(1) to the extent provided under regulations prescribed by the Office, and

"(2) so long as such executive continues to serve under such Presidential appointment.

"§ 3393. Career senior executive appointments

"(a) Each agency shall establish a recruitment program, in accordance with guidelines which shall be issued by the Office of Personnel Management, which provides for recruitment of career senior executives from—

"(1) all groups of qualified individual applicants within the civil service; or

"(2) all groups of qualified individual applicants whether or not within the civil service.

"(b) Each agency shall establish one or more executive resources boards, as appropriate, the members of which shall be appointed by the head of such agency from among employees of such agency. It is the function of such boards, in accordance with competitive staffing requirements established by the Office of Personnel Management, to—

"(1) review the qualifications of candidates for appointment as career senior executives; and

"(2) make written recommendations concerning such applicants to the appropriate appointing authorities.

"(c)(1) The Office of Personnel Management shall establish one or more qualifications review boards, as appropriate, the members of which shall be appointed by the Director from within and outside the civil service on the basis of their knowledge of public management and other appropriate occupational fields. It is the function of such boards to certify the managerial qualifications of candidates for entry as career senior executives into the Senior Executive Service in accordance with regulations prescribed by the Office of Personnel Management.

"(2) The Office of Personnel Management shall, in consultation with the various qualification review boards, prescribe criteria for establishing managerial qualifications for appointment to the Senior Executive Service. Such criteria shall provide for—

"(A) consideration of demonstrated managerial experience;

"(B) consideration of successful participation in a career executive development program which is approved by the Office of Personnel Management; and

"(C) sufficient flexibility to allow for the appointment of individuals who have special or unique qualities which indicate a likelihood of managerial success and who would not otherwise be eligible for appointment.

"(d) An individual's initial appointment as a career senior executive shall become final only after such individual has served a 1-year probationary period as a career appointee.

"§ 3394. Reassignment and transfer within the Senior Executive Service

"(a) A career senior executive in an agency—

"(1) may be reassigned to any Senior Executive Service position in the same agency for which the executive is qualified; and

"(2) may transfer to a Senior Executive Service position in another agency for which the executive is qualified, with the approval of that agency.

"(b) A career senior executive in an agency may not be involuntarily reassigned within 120 days after an appointment of the head of such agency.

"§ 3395. Development for and within the Senior Executive Service

"(a) The Office of Personnel Management shall establish programs for the systematic development of candidates for the Senior Executive Service and for the continuing development of career senior executives or require agencies to establish such programs, which meet criteria prescribed by the Office of Personnel Management.

"(b) The Office of Personnel Management shall assist agencies in the establishment of programs required under subsection (a) of this section and shall monitor the implementation of such programs. If the Office of Personnel Management finds that any agency's program under subsection (a) is not in compliance with the criteria prescribed under such subsection, it shall require such agency to take such corrective action as may be necessary to bring such program into compliance with such criteria.

"(c)(1) An agency head may grant a sabbatical leave to a career senior executive for not to exceed 11 months in order to permit such executive to engage in study or uncompensated work experience which will contribute to the executive's development and effectiveness. Such leave shall not result in loss of, or reduction in, pay, leave to which the executive is otherwise entitled, credit for time or service, or performance or efficiency rating. The agency head may authorize in accordance with chapter 57 of this title such travel and per diem costs as such agency head may determine to be essential for such study or experience.

"(2) Sabbatical leave under this subsection may not be granted to any career senior executive—

"(A) more than once in any ten-year period;

"(B) unless such executive has completed 7 years of service—

"(i) in one or more positions in the Senior Executive Service;

"(ii) in one or more other positions in the civil service the level of duties and responsibilities of which are equivalent to the level of duties and responsibilities of positions in the Senior Executive Service; or

"(iii) in any combination of such positions;

except that not less than 2 years of such 7 years of service must be in the Senior Executive Service; and

"(C) if such executive is eligible for voluntary retirement with a right to an immediate annuity under section 8336 of this title.

Any period of assignment under section 3373 of this title, relating to assignments of employees to State and local governments, shall not be considered a period of service for the purpose of subparagraph (B) of this paragraph.

"(3)(A) Any career senior executive in an agency may be granted sabbatical leave under this subsection only if such executive agrees, as a condition of accepting such sabbatical leave, to serve with such agency upon the completion of such leave, for a period of two consecutive years.

"(B) Each agreement required under subparagraph (A) of this paragraph shall provide that in the event the career senior executive fails to carry out such agreement (except for good and sufficient reason as determined by the head of the agency involved) such executive shall be liable to the United States for payment of all expenses (including salary) of such sabbatical leave. Such amount shall be treated as a debt due the United States.

"§ 3396. Regulations

The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose of this subchapter.".

(b) The chapter analysis for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3385 the following:

"Subchapter VIII—Appointment, Reassignment, Transfer, and Development in the Senior Executive Service

"Sec.
"§ 3591. Definitions
"3392. General appointment provisions.
"3393. Career appointments.
"3394. Reassignment and transfer within the Senior Executive Service.
"3395. Development for and within the Senior Executive Service.
"3396. Regulations.".

RETENTION PREFERENCE

SEC. 404. (a) Section 3501(b) of title 5, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof: "or a member of the Senior Executive Service.".

(b) Chapter 35 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter V—Removal, Reinstatement, and Guaranteed Placement Provisions in the Senior Executive Service

"§ 3591 Definitions

"For purposes of this subchapter, 'agency', 'Senior Executive Service position', 'and career senior executive' have the meanings given such terms under section 3132(a) of this title.

"§ 3592. Removal from the Senior Executive Service

"(a) A career senior executive may be removed from the Senior Executive Service to a civil service position outside of the Senior Executive Service—

"(1) during the one year period of probation under section 3393(d) of this title; or

"(2) at any time for less than fully successful managerial performance as determined under subchapter II of chapter 43 of this title.

"§ 3593. Reinstatement in the Senior Executive Service

"(a) A former career senior executive may be reinstated, without regard to section 3393 (b) and (c) of this title to any Senior Executive Service position for which such executive is qualified if—

"(1) such executive has successfully completed the probationary period established under section 3393(d) of this title; and

"(2) such executive left the Senior Executive Service for reasons other than misconduct, neglect of duty, or malfeasance, or less than fully successful managerial performance by such executive as determined under subchapter II of chapter 43 of this title.

"(b) A career senior executive who is appointed by the President to any civil service position outside the Senior Executive Service and who leaves such position for reasons other than misconduct, neglect of duty, or malfeasance shall be entitled to be placed in the Senior Executive Service if the executive applies to the Office of Personnel Managment within 90 days after separation from the Presidential appointment.

"§ 3594. Guaranteed placement in other personnel systems

"(a) A career senior executive who was appointed from a civil service position under a career or career-conditional appointment (or an appointment of equivalent tenure), as determined by the Office of Personnel Management, and who, for reasons other than misconduct, neglect of duty, or malfeasance, is removed from the Senior Executive Service during the probationary period under section 3393(d) of this title, shall be entitled to be placed in a civil service position in any agency other than a Senior Executive Service position.

"(b) A career senior executive—

"(1) who has completed the probationary period under section 3393(d) of this title;

"(2) who had not completed in the agreegate, 5 years of service in the Senior Executive Service; and

"(3) who is removed from the Senior Executive Service for less than fully successful

managerial performance as determined under subchapter II of chapter 43 of this title;

shall be entitled to be placed in a civil service position in any agency other than a Senior Executive Service position.

"(c)(1) For purposes of subsection (a) and (b) of this section—

"(A) the position in which any career senior executive is placed under such subsections shall be a permanent, full-time position at GS–15 or above of the General Schedule, or an equivalent position;

(B) any career senior executive placed under subsection (a) or (b) shall be entitled to receive basic pay at the higher of—

"(i) the maximum rate of basic pay in effect for the position in which placed;

"(ii) the rate of basic pay in effect at the time of such placement for the position such executive held in the civil service immediately before being appointed to the Senior Executive Service; or

"(iii) the rate of basic pay in effect for such executive immediately before being placed under subsection (a) or (b); and

"(C) the placement of any career senior executive under subsection (a) or (b) may not be made to a position which would cause the separation or reduction in grade of any other employee.

"(2) An employee who is receiving basic pay under paragraph (1)(B)(ii) or (iii) of this subsection is entitled to have such basic pay rate increased by 50 percent of the amount of each increase in the maximum rate of basic pay for the grade of the position to which such employee is placed under subsection (a) or (b) until such rate is equal to the rate in effect under paragraph (1)(B)(i) for the position to which such employee is placed.

"§ 3595. Regulations

"The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purpose of this subchapter."

(b) The chapter analysis for chapter 35 of title 5, United States Code, is amended by inserting the following new item:

"SUBCHAPTER V—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT PROVISIONS IN THE SENIOR EXECUTIVE SERVICE

"Sec.
"3591. Definitions.
"3592. Removal from the Senior Executive Service.
"3593. Reinstatement in the Senior Executive Service.
"3594. Guaranteed placement in other personnel systems.

PERFORMANCE RATING

SEC. 405. Chapter 43 of title 5, United States Code, is amended by adding at the end thereof the following:

"Subchapter II—Performance Appraisal in the Senior Executive Service

"§ 4311. Definitions

"For the purpose of this subchapter, 'agency' and 'career senior executive' have the meanings given such terms under section 3132(a) of this title.

"§ 4312. Senior Executive Service performance appraisal systems

"(a) Each agency shall, in accordance with standards established by the Office of Personnel Management, develop one or more performance appraisal systems designed to—

"(1) provide for systematic appraisals of performance of career senior executives;

"(2) encourage excellence in performance by career senior executives; and

"(3) provide a basis for making eligibility determinations for Senior Executive Service retention and performance awards.

"(b) Each performance appraisal system established by an agency under subsection (a) of this section shall provide—

"(1) that, on or before the beginning of each rating period, performance requirements for each career senior executive in such agency are established in consultation with such executive and communicated to such executive;

"(2) that written appraisals of performance are based on the individual and organizational performance requirements established for the rating period involved, and

"(3) that each career senior executive in such agency is provided a copy of the appraisal and rating under section 4314 of this title and is given an opportunity to respond in writing to such appraisal and rating and have such appraisal and rating reviewed by an employee in a higher managerial level in such agency before such appraisal and rating becomes final.

"(c) If the Office of Personnel Management determines that an agency performance appraisal system does not comply with the requirements of this subchapter or regulations under this subchapter, the Office of Personnel Management shall order the agency to take such corrective action as may be necessary to bring such system into compliance.

"§ 4313. Criteria for performance appraisals

"Appraisals of performance in the Senior Executive Service shall be based on both individual and organizational performers, taking into account such factors as—

"(1) improvements in quality of work or service;

"(2) cost efficiency; and

"(3) timeliness of performance.

"§ 4314. Ratings for performance appraisals

"(a) Each performance appraisal system shall provide for annual summary ratings of levels of performance as follows:

"(1) one or more fully successful levels,

"(2) a minimally satisfactory level, and

"(3) an unsatisfactory level.

"(b) Each performance appraisal system shall provide that—

(1) any appraisal and rating under such system—

"(A) is made only after review and evaluation by a performance review board established under subsection (c) of this section;

"(B) is conducted at least annually, subject to the limitation of paragraph (3) of this subsection;

"(C) may not be made within 120 days after the beginning of a new Presidential administration; and

"(D) is based on performance during a performance appraisal period the duration of which shall be determined under guidelines established by the Office of Personnel Management, but which may be terminated in any case in which the agency conducting such appraisal determines that an adequate basis exists on which to appraise and rate the executive's performance;

"(2) any career senior executive receiving a rating at any of the fully successful levels under subsection (a)(1) of this section may be given a performance award as prescribed in section 5384 of this title;

"(3) any career senior executive receiving an unsatisfactory rating under subsection (a)(3) of this section shall be reassigned or transferred within the Senior Executive Service, or separated from the Senior Executive Service, except that any executive who receives 2 such unsatisfactory ratings in any period of 5 consecutive years shall be separated from the Senior Executive Service, and

"(4) any career senior executive who twice in any period of 3 consecutive years receives less than fully successful ratings shall be separated from the Senior Executive Service.

"(c) Each agency shall establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards, as appropriate. It is the function of such boards to make recommendations to the appropriate appointing authority of such agency relating to the performance of career senior executives in such agency. The members of such a board shall be appointed by the head of such agency from among employees of such agency other than career senior executives with respect to which recommendations are being made by such board. In making any such recommendation with respect to a career senior executive, such a board shall include at least 1 career senior executive.

"§ 4315. Regulations

"The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out the purposes of this subchapter.".

(b) The chapter analysis for chapter 43 of title 5, United States Code, is amended by inserting at the end of the chapter analysis the following:

"Subchapter II—Performance Appraisal in the Senior Executive Service

"Sec.
"4311. Definitions.
"4312. Senior Executive Service performance appraisal systems.
"4313. Criteria for performance appraisals.
"4314. Ratings for performance appraisals.
"4315. Regulations.".

AWARDING OF RANKS

SEC. 406. (a) Chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 4507. Awarding of ranks in the Senior Executive Service

"(a) For the purpose of this section, 'agency' and 'career senior executive' have the meanings given such terms under section 3132(a) of this title.

"(b) Each agency shall forward annually to the Office of Personnel Management any recommendation of career senior executives in such agency to be awarded the rank of Meritorious Executive or Distinguished Executive. The Office of Personnel Management shall review such recommendations and provide to the President recommendations as to which of the agency recommended executives should receive such rank.

"(c) During any fiscal year, the President may, subject to subsection (d), award to any career senior executive recommended by the Office of Personnel Management the rank of—

"(1) Meritorious Executive, for sustained accomplishment, or

"(2) Distinguished Executive, for sustained extraordinary accomplishment.

"(d) During any fiscal year—

"(1) the number of career senior executives awarded the rank of Meritorious Executive may not exceed 5 percent of the Senior Executive Service; and

"(2) the number of career senior executives awarded the rank of Distinguished Executive may not exceed 1 percent of the Senior Executive Service.

"(e)(1) Receipt by a career senior executive of the rank of Meritorious Executive entitles such individual to a lump-sum payment of $2,500.

"(2) Receipt by a career senior executive of the rank of Distinguished Executive en-

titles such individual to a lump-sum payment of $5,000.".

(b) The analysis for chapter 45 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"4507. Awarding of ranks in the Senior Executive Service.".

PAY RATES AND SYSTEMS

SEC. 407. (a) Chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VII—Pay for the Senior Executive Service

"§ 5381. Definitions

"For the purpose of this subchapter, 'agency', 'Senior Executive Service position', and 'career senior executive' have the meanings given such terms under section 3132 (a) of this title.

"§ 5382. Establishment and adjustment of rates of pay for the Senior Executive Service

"(a) There shall be 5 or more rates of basic pay for the Senior Executive Service, and each career senior executive shall be paid at one of such rates. Such rates of basic pay shall be initially established and thereafter adjusted by the President subject to subsection (b) of this section.

"(b) In setting rates of basic pay, the lowest rate for the Senior Executive Service shall not be less than the minimum rate of basic pay payable for GS–16 of the General Schedule and the highest rate shall not exceed the rate for level IV of the Executive Schedule. The payment of such rates shall not be subject to the pay limitation of section 5308 of this title.

"(c) Subject to subsection (b) of this section, effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, each rate of basic pay for the Senior Executive Service shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such rate of basic pay which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedules. The adjusted rates of basic pay for the Senior Executive Service shall be included in the report transmitted to the Congress by the President under section 5305(a)(3) or (c)(1) of this title.

"(d) The rates of basic pay that are established and adjusted under this section shall be printed in the Federal Register and shall supersede any prior rates of basic pay for the Senior Executive Service.

"§ 5383. Setting individual executive pay

"(a) Each appointing authority shall determine, in accordance with criteria established by the Office of Personnel Management, which of the rates established under section 5382 of this title shall be paid to each career senior executive under such appointing authority.

"(b) In no event may the aggregate amount paid to a career senior executive for any fiscal year under sections 4507, 5382, and 5384 of this title exceed 95 percent of the annual rate payable for positions at level II of the Executive Schedule in effect at the end of such fiscal year.

"(c) Except for any pay adustment under section 5382 of this title, the rate of basic pay for any career senior executive may not be adjusted more than once during any 12-month period.

"§ 5384. Performance awards for the Senior Executive Service

"(a)(1) To encourage excellence in performance by career senior executive performance awards shall be paid to career senior executive in accordance with the provisions of this section.

"(2) Such awards shall be paid in a lump sum and shall be in addition to the basic pay paid under section 5382 of this title or any award paid under section 4507 of this title.

"(b)(1) No performance award under this section shall be paid to any career senior executive whose performance was determined to be less than fully successful at the time of such executive's most recent performance appraisal and rating under subchapter II of chapter 43 of this title.

"(2) The amount of a performance award under this section shall be determined by the agency head but may not exceed 20 percent of the career senior executive's rate of basic pay.

"(3) The number of career senior executives in any agency paid performance awards under this section during any fiscal year may not exceed 50 percent of the number of Senior Executive Service positions in such agency. This subsection shall not apply in the case of any agency which has less than 4 Senior Executive Service positions.

"(c) Performance awards paid by any agency under this section shall be based on recommendations by performance review boards established by such agency under section 4314 of this title.

"§ 5385. Regulations

"The Office of Personnel Management shall prescribe such regulations as are necessary to carry out the purpose of this subchapter and may provide guidance to agencies concerning the proportion of funds available for Senior Executive Service salary expenses which may be used for performance awards.".

(c) The analysis of chapter 53 of title 5, United States Code, is amended by adding at the end thereof the following new items:

"Subchapter VII—Pay for the Senior Executive Service

"Sec.
"5381. Purpose; definitions.
"5382. Establishment and adjustment of rates of pay for the Senior Executive Service.
"5383. Setting individual executive pay.
"5384. Performance awards for the Senior Executive Service.
"5385. Regulations.".

PAY ADMINISTRATION

SEC. 408. Chapter 55 of title 5, United States Code, is amended—

(1) by inserting "other than an employee or individual excluded by section 5541(2)(xvi) of this section" immediately before the period at the end of section 5504(a)(B);

(2) by amending section 5541(2) by striking out "or" after paragraph (xiv), by striking out the period after paragraph (xv) and inserting "; or" in lieu thereof, and by adding the following paragraph at the end thereof:

"(xvi) member of the Senior Executive Service."; and

(3) by inserting "other than a member of the Senior Executive Service" after "employee" in section 5595(a)(2)(i).

TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SEC. 409. (a) Section 5723(a)(1) of title 5, United States Code, is amended by striking out "; and" and inserting in lieu thereof "or of a new appointee to the Senior Executive Service; and".

(b) Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 5752. Travel expenses of Senior Executive Service candidates

"Employing agencies may pay candidates for Senior Executive Service positions travel expenses incurred incident to preemployment interviews requested by the employing agency.".

(c) The analysis for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5751 the following new item:

"5752. Travel expenses of Senior Executive Service candidates.".

LEAVE

SEC. 410. Chapter 63 of title 5, United States Code, is amended by inserting in subsection (a) of section 6304 "(e), and (f)" in lieu of "and (c)," and by adding at the end of such section the following new subsection:

"(f) Annual leave accrued by an individual while serving in a position in the Senior Executive Service shall not be subject to the limitation on accumulation otherwise imposed by this section.".

DISCIPLINARY ACTIONS

SEC. 411. Chapter 75 of title 5, United States Code, is amended—

(1) by inserting the following in the chapter analysis after subchapter IV:

"Subchapter V—Senior Executive Service

"Sec.
"7541. Definitions.
"7542. Actions covered.
"7543. Cause and procedure."; and

(2) by adding the following after subchapter IV:

"Subchapter V—Senior Executive Service

"§ 7541. Definitions

"For the purpose of this subchapter—

"(1) 'employee' means an individual in the Senior Executive Service who—

"(A) has completed the probationary period prescribed under section 3393(d) of this title; or

"(B) was covered by the provisions of subchapter II of this chapter immediately before appointment to the Senior Executive Service; and

"(2) 'suspension' has the meaning set forth in section 7501 of this title.

"§ 7542. Actions covered

"This subchapter applies to a removal from the civil service or suspension for more than 14 days, but does not apply to a suspension or removal under section 7532 of this title or to a removal under section 3592 of this title.

"§ 7543. Cause and procedure

"(a) Under regulations prescribed by the Office of Personnel Management, an agency may take an action covered by this subchapter against an employee only for such cause as will promote the efficiency of the service.

"(b) An employee against whom an action covered by this subchapter is proposed is entitled to—

"(1) at least 30 days advance written notice unless there is reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment can be imposed, stating specific reasons for the proposed action;

"(2) a reasonable time, but not less than 7 days, to answer orally and in writing and to furnish affidavits and other documentary evidence in support of the answer;

"(3) be represented by an attorney or other representative; and

"(4) a written decision and specific reasons therefore at the earliest practicable date.

"(c) An agency may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (b)(2) of this section.

"(d) An employee against whom an action is taken under this section is entitled to appeal to the Merit Systems Protection Board under section 7701 of this title.

"(e) Copies of the notice of proposed action, the answer of the employee when written, and a summary thereof when made orally, the notice of decision and reasons therefor, and any order effecting an action covered by this subchapter, together with supporting material shall be maintained by the agency and shall be furnished to the Merit Systems Protection Board upon its request and to the individual affected upon such individual's request.

RETIREMENT

SEC. 412. (a) Section 8336 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (i) and inserting immediately after subsection (g) the following new subsection:

"(h) A member of the Senior Executive Service who is separated from the Senior Executive Service for less than fully successful performance (as determined under subchapter II of chapter 43 of this title) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.".

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336(d)" and inserting in lieu thereof "section 8336 (d) or (h)".

CONVERSION TO THE EXECUTIVE SERVICE

SEC. 413. (a) During the period beginning on the date of the enactment of this title and ending on the effective date of this title, each agency under the guidance and review of the Office of Personnel Management and the definitions in chapter 31 of title 5, United States Code, as amended by this title, shall designate those positions which are to be incorporated into the Senior Executive Service.

(b) Each agency shall also submit a request for total Senior Executive Service position allocations. The Office of Personnel Management shall establish interim authorizations in accordance with section 3133 of title 5, United States Code, as amended by this Act.

(c)(1) Each employee serving in a position at the time it is designated as a position in the Senior Executive Service may elect to—

(A) decline conversion and remain in a position under such employee's current appointment and pay system, retaining the grade, seniority, and other rights and benefits associated with career and career-conditional appointment; or

(B) convert to a Senior Executive Service appointment according to the automatic appointment conversion provisions of subsection (d) of this section.

The placement of an employee because of an election under subparagraph (A) shall not cause the separation or reduction in grade of any other employee.

(2) The employee shall be notified in writing that such employee's position has been brought into the Senior Executive Service and what the employee's options are under subsection (d) of this section. The employee shall be given 90 days from the date of such notification to elect one of the options.

(d) Each employee who has elected an automatic appointment conversion, is serving immediately before the effective date in a position designated as a Senior Executive Service position, and is currently under—

(1) a career or career-conditional appointment; or

(2) a similar type of appointment in an excepted service as determined by the Office of Personnel Management;

shall receive an appointment to that position in the Senior Executive Service not subject to section 3393 (c) and (d) of title 5, United States Code.

(e) Employees whose actual base pay at the time of conversion exceeds the pay of the rate to which they are converted shall retain their pay. If there are comparability increases under section 5305 of title 5, United States Code, these employees will receive half of each comparability increase until the base pay equals the established Senior Executive Service rate.

(f) The Office of Personnel Management shall prescribe regulations to carry out the purpose of this section. The regulations shall provide a right of appeal to the Merit Systems Protection Board for an employee who believes such employee's agency has violated the employee's rights under this section. An agency shall take the corrective action that the Merit Systems Protection Board orders in its decision on an appeal under this subsection.

LIMITATION OF EXECUTIVE POSITIONS

SEC. 414. (a)(1)(A) Subsections (b) through (g) of section 5108 of title 5, United States Code, relating to special authority to place positions at GS–16, GS–17, and GS–18 of the General Schedule, are hereby repealed.

(B) Notwithstanding the provisions of any law (other than section 5108 of such title 5), the authority granted to an agency (within the meaning of section 5102(a)(1) of such one or more positions in GS–16, GS–17, or GS–18 of the General Schedule, is hereby terminated.

(C) Subsection (a) of section 5108 of title 5, United States Code, is amended to read as follows: "The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum numbers of positions (not to exceed an aggregate of) which may at any one time be placed in—

(i) GS–16, GS–17, and GS–18 of the General Schedule; and

(ii) the Senior Executive Service, in accordance with section 3133 of title 5, United States Code (as added by this Act).

A position may be placed in GS–16, GS–17, or GS–18 of the General Schedule, only by action of the Director of the Office of Personnel Management.

(2)(A) Notwithstanding the provisions of any other provision of law (other than section 3104 of title 5, United States Code), the authority granted to an agency (within the meaning of section 5102(a)(1) of such title 5) to establish scientific or professional positions outside of the General Schedule is hererby terminated.

(B) Section 3104 of title 5, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The Director of the Office of Personnel Management may establish, and from time to time revise, the maximum number of scientific or professional positions (not to exceed) for carrying out research and development functions which require the services of specially qualified personnel which may be established outside of the General Schedule. Any such position may be established only by action of the Director of the Office of Personnel Management.

"(2) The provisions of paragraph (1) of this subsection shall not apply to any Senior Executive Service position (as defined in section 3132(a) of this title)."

(C) Subsection (c) of such section 3104 is amended—

(i) by striking out "(c)" and inserting in lieu thereof "(b)"; and

(ii) by striking out "to establish and fix the pay of positions under this section and" and inserting in lieu thereof "to fix under section 5361 of this title the pay for positions established under this section".

(3)(A) The provisions of paragraphs (1) and (2) of this subsection shall not apply with respect to any position so long as the individual occupying such position on the day before the date of the enactment of this Act continues to occupy such position.

(B) The Director of the Office of Personnel Management—

(i) in establishing under section 5108 of title 5, United States Code, the maximum number of provisions which may be placed in GS–16, GS–17, and GS–18, and

(ii) in establishing under section 3104 of such title 5 the maximum number of scientific or professional positions which may be established,

shall take into account positions to which subparagraph (A) of this paragraph applies.

(b)(1) Section 5311 of title 5, United States Code, is amended by inserting "(a)" before "The Executive Schedule," and by adding at the end thereof the following new subsection:

"(b)(1) Not later than 180 days after the date of the enactment of the Civil Service Reform Act of 1978, the Director of the Office of Personnel Management shall determine the number and classification of executive level positions in existence in the executive branch on such date of enactment, and shall publish such determination in the Federal Register. Effective beginning on the date of such publication, the number of executive level positions within the executive branch may not exceed the number published under this subsection.

"(2) For the purpose of this subsection, 'executive level position' means—

"(A) any office or position in the civil service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions under section 5316 of this title, or

"(B) any such office or position the rate of pay for which may be fixed by administrative action at a rate equal to or greater than the rate of basic pay payable for positions under section 5316 of this title;

except that such position does not include any Senior Executive Service position, as defined in section 3132(a) of this title.".

(2) The President shall transmit to Congress by January 1, 1980, a plan for authorizing executive level positions in the executive branch which shall include the maximum number of executive level positions necessary by level and a justification for the positions.

CRITERIA FOR EXCEPTED POSITIONS

SEC. 415. (a) Section 3302 of title 5, United States Code, is amended to read as follows:

"§ 3302. Competitive service; rules

"The President may prescribe rules governing the competitive service. The rules shall provide, as nearly as conditions of good administration warrant, for necessary exceptions from the provisions of sections 2951, 3304(a), 3321, 7152, 7153, 7321, and 7322 of this title. Each officer and individual employed in an agency to which the rules apply shall aid in carrying out the rules.".

(b) Subchapter I of chapter 33 of title 5, United States Code, is amended by inserting after section 3302 the following new section:

"§ 3302a. Positions excepted from the competitive service

"(a) The President may by regulation, ex-

cept any position from the competitive service if he determines that—

"(1) the duties of such position—

"(A) require significant involvement in the advocacy of Presidential administration programs and support of their controversial aspects,

"(B) require significant participation in the determination of major policies of such administration, or

"(C) principally involve serving as a personal assistant to or advisor of a Presidential appointee, or serving in a confidential relationship directly under such a personal assistant or advisor; or

"(2) it would be impracticable to apply competitive examination procedures in the filling of such position because of—

"(A) national security,

"(B) statutory or other significant requirements establishing special employment conditions,

"(C) the unusual nature of the duties of such position,

"(D) duration and frequency of service,

"(E) work location, or

"(F) inadequate number of applicants.".

(c) The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3302 the following new item:

"3302a. Positions excepted from the competitive service.".

EFFECTIVE DATE

SEC. 416. The provisions of this title shall take effect 9 months after the date of the enactment of this title with the exception of section 413, regarding conversion procedures, which shall take effect immediately upon enactment.

Page 2, revise the table of sections accordingly.

—Page 390, after line 18, insert the following new title:

TITLE XII—PAY COMPARABILITY

PAY COMPARABILITY

SEC. 1201. Section 5305(c)(1) of title 5, United States Code, is amended by striking out "or economic conditions".

Revise the table of contents accordingly.

H.R. 11280

By Mr. LEACH:

—Page 209, after line 12, insert the following new section:

TEMPORARY EMPLOYMENT LIMITATION

SEC. 313. Effective one year after the date of the enactment of this Act the number of individuals employed in or under an Executive agency shall not exceed the number of individuals so employed on January 1, 1977.

(b) The President shall prescribe regulations to carry out the purpose of this section, including regulations to ensure that no increase in the procurement of personal services by contract occurs by reason of the enactment of this section.

(c) In administering this section, an individual employed on a part-time career employment basis shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours of such individual's regularly scheduled workweek.

(d) For the purpose of this section, "Executive agency" has the meaning set forth in section 105 of title 5, United States Code.

(e) The provisions of this section shall not apply during a time of war or during a period of national emergency declared by the Congress or the President.

(f) The provisions of this section shall terminate at noon on January 20, 1981.

Page 209, line 14, strike out "313." and insert in lieu thereof "314."

Page 129, in the table of contents, strike out the item relating to section 313 and insert in lieu thereof the following:

Sec. 313. Temporary employment limitation.

Sec. 314. Effective date.

Page 300, line 10, insert "except as provided in section 7124 of this title," before "file".

Page 302, line 13, insert "or its authority to make determinations under section 7124 of this title" after "practice".

Page 337, after line 2, insert the following:

"§ 7124. Air traffic controllers; complaints against

"(a)(1) An air traffic controller shall not—

"(A) willfully hinder or impede his own work performance, productivity, or discharge of duties or that of any other employee; or

"(B) engage in a strike, work stoppage, or slowdown.

"(2) An air traffic controller who violates paragraph (1) of this subsection shall be removed or suspended without pay in accordance with the provisions of this section.

"(b) If the most immediate supervisor of any air traffic controller believes that such air traffic controller has violated subsection (a)(1) of this section, such supervisor shall immediately—

"(1) suspend such controller with pay until termination of such suspension under subsection (c) of this section or removal or suspension without pay of such controller under subsection (f) of this section;

"(2) file a written charge describing such violation with the Secretary of Transportation or any employee of the Department of Transportation designated by the Secretary for such purpose; and

"(3) furnish a copy of such written charge to such controller.

"(c) The Secretary of Transportation, or any employee designated by the Secretary pursuant to subsection (b)(2) of this section, shall, on the filing of a written charge with respect to any air traffic controller under such subsection (b)(2), conduct an investigation as to whether such controller has violated subsection (a)(1) of this section. If the Secretary, or such employee, determines based on the investigation that there are reasonable grounds to believe that such air traffic controller has violated such subsection (a)(1), he shall issue, within 21 days after such filing, a complaint to such controller and to the Authority alleging each such violation. In any case in which the Secretary, or such employee, does not issue a complaint after an investigation under this paragraph, he shall, within 21 days after such filing, furnish to such controller and to the supervisor who filed such charges a written statement of the reasons for not issuing the complaint, at which time the suspension of such controller shall terminate.

"(d) An air traffic controller to whom a complaint is issued under this section shall be entitled to—

"(1) an advance written notice from the Authority of possible removal or suspension without pay under this section;

"(2) a copy of the complaint from the Authority containing specific allegations;

"(3) a reasonable time, not to exceed 14 days, for filing with the Authority a written answer to the allegations in the complaint, together with affidavits and other documentary evidence in support of the answer;

"(4) be represented by an attorney or other representative; and

"(5) a written decision by the Authority and specific reasons therefor within 30 days after the issuance of such complaint.

"(e) The Authority may provide, by regulation, for a hearing which may be in lieu of or in addition to the opportunity to answer provided under subsection (d)(3) of this section.

"(f) If the Authority determines after an opportunity to answer under subsection (d)(3) of this section or after a hearing under subsection (e) of this section that such air traffic controller has violated subsection (a)(1) of this section, the Authority shall immediately transmit such determination to the Secretary of Transportation, who shall then immediately remove such air traffic controller or suspend him without pay for a period not to exceed 60 days.

"(g) Copies of the advance written notice, the answer of such air traffic controller if written, a summary thereof if made orally, the notice of decision and reasons therefor, and any order effecting the removal or suspension, together with any supporting material, shall be maintained by the Authority and the Secretary of Transportation, or any employee designated by the Secretary pursuant to subsection (b)(2) of this section, and shall be furnished by the Authority, on request, to such controller.

"(h) An air traffic controller adversely affected or aggrieved by any final decision or order under this section may obtain judicial review of such decision or order in the same manner and to the same extent as employees may obtain judicial review under section 7702 of this title.

"(i) This section does not apply to the suspension or removal of an employee under section 1207, section 4303, subchapter III of chapter 73, or chapter 75 of this title or a reduction in force action under section 3502 of this title.

Page 331, line 1, strike out "GRIEVANCES" and insert in lieu thereof "GRIEVANCES, APPEALS, REVIEW, AND PENALTIES".

Page 337, after line 2, insert the following:

"7124. Unlawful activities by employees and by officers of and individuals employed by labor organizations

"(a)(1) Effective 180 days after the effective date of the Civil Service Reform Act of 1978, and subject to any guidelines or other regulations which shall be issued under subsection (b) of this section, no employee, officer of a labor organization of which such employee is a member, or any individual employed by such labor organization may solicit or accept for such employee or any relative of such employee any—

"(A) gift;

"(B) favor;

"(C) entertainment;

"(D) loan; or

"(E) any other thing of monetary value, including lodging, transportation, or travel expenses, for which reasonable consideration has not been paid by such employee;

from any person or group of persons which may be substantially affected by the performance or non-performance of the official duties of such employee or the functions of the agency in which such employee is employed.

"(2) Any such employee, officer, or individual who violates paragraph (1) of this subsection shall be guilty of a misdemeanor and shall be fined not more than $5,000 or imprisoned not more than 1 year, or both.

"(b) The Office of Personnel Management shall prescribe within 180 days after the date of the enactment of the Civil Service Reform Act of 1978 such guidelines and other regulations as are necessary and appropriate to carry out the purpose of this section.

Page 297, line 22, strike out "and".

Page 298, line 2, strike out "States." and insert in lieu thereof "States; and".

Page 298, after line 2, insert the following:

"(19) 'relative' means a parent, child, brother, sister, uncle, aunt, first cousin, nephew, neice, spouse, grandparent, grandchild, father-in-law, mother-in-law, son-in-

law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, half sister, or an individual who is the grandparent of a spouse.

Page 289, in the item relating to subchapter III in the matter preceding line 1, strike out "AND REVIEW" and insert in lieu thereof ", REVIEW, AND PENALTIES".

Page 289, after the item relating to section 7123 in the matter preceding line 1, insert the following:

"7124. Unlawful activities by employees and by officers of and individuals employed by labor organizations.

H.R. 11280

By Mrs. SCHROEDER:

—Page 383, after line 14, insert the following:

GENDER-BASED REFERENCES

SEC. 1102. (a)(1) Section 2108(3)(F) and (G) of title 5, United States Code, are each amended—

(A) by striking out "the mother" and inserting in lieu thereof "the parent",

(B) by striking out "her husband" and inserting in lieu thereof "such parent's spouse",

(C) by striking out "she" each place such term appears and inserting in lieu thereof "such parent",

(D) by striking out "from the father" and inserting in lieu thereof "from such individual's other parent", and

(E) by striking out "from her husband".

(2) Section 2105(b) of title 5, United States Code, is amended by striking out "a wife" and inserting in lieu thereof "a spouse".

(3) Section 8332(j) of title 5, United States Code, is amended by striking out "widow" each place such term appears and inserting in lieu thereof "surviving spouse".

(b)(1) The heading for section 502 of title 5, United States Code, is amended by striking out "Reserves and National Guardsmen" and inserting in lieu thereof "members in the Reserves and National Guard".

(2) Section 2105(b) of title 5, United States Code, is amended by striking out "the midshipmen's laundry, the midshipmen's tailor shop, the midshipmen's cobbler and barber shops, and the midshipmen's store" and inserting in lieu thereof "the laundry, tailor shop, cobbler and barber shops, and store for individuals enrolled at the Academy".

(3) Section 2108(3) of title 5, United States Code, is amended—

(A) in subparagraph (D), by striking out "widow or widower" and inserting in lieu thereof "surviving spouse"; and

(B) in subparagraph (E), by strilkng out "wife or husband" and inserting in lieu thereof "spouse".

(4) Section 3110(a)(3) of title 5, United States Code, is amended by striking out "father" and all that follows down through "half sister" and inserting in lieu thereof the following: "parent, child, brother, sister, uncle, aunt, first cousin, nephew, niece spouse, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepparent, stepchild, stepbrother, stepsister, half brother, or half sister.".

(5) The heading for section 3551 of title 5, United States Code is amended by striking out "Reserves and National Guardsmen" and inserting in lieu thereof "members of the Reserves and National Guard".

(6) Section 5343(d)(2)(B) of title 5, United States Code, is amended by striking out "manpower" and inserting in lieu thereof "supply of personnel available and fitted for service".

(7) The heading for section 5534 of title 5, United States Code, is amended by striking out "Reserves and National Guardsmen" and inserting in lieu thereof "members of the Reserves and National Guard".

(8) Section 5561(3)(B) of title 5, United States Code, is amended by striking out "mother or father" and inserting in lieu thereof "parent".

(9) Section 5582(b) of title 5, United States Code, is amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

(10) Section 5583(a) of title 5, United States Code, is amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

(11) Section 5701(4) of title 5, United States Code, is amended by inserting "or stewardesses" after "stewards".

(12) Section 5723 of title 5, United States Code, is amended—

(A) in the heading, by striking out "manpower" and inserting in lieu thereof "personnel"; and

(B) in subsections (a)(1) and (d), by striking out "manpower shortage" each place the term appears and inserting in lieu thereof "shortage in personnel available and fitted for service".

(13) The heading for section 6323 of title 5, United States Code, is amended by striking out "Reserves and National Guardsmen" and inserting in lieu thereof "members of the Reserves and National Guard".

(14) The heading for section 6324 of title 5, United States Code, is amended by striking out "firemen" and inserting in lieu thereof "firefighters".

(15)(A)(i) Section 8101(6) of title 5, United States Code, is amended to read as follows:

"(6) 'surviving spouse' means the spouse living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion.".

(ii) Section 8101(11) of title 5, United States Code, is hereby repealed.

(B) Section 8109(a)(D)(i), (ii), and (iii) of title 5, United States Code, are each amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

(C) Section 8133 of title 5, United States Code, is amended—

(i) by striking out "widow or widower" each place it appears and inserting in lieu thereof "surviving spouse";

(ii) in subsection (a)(4), by striking out "widow, widower," each place it appears and inserting in lieu thereof "surviving spouse";

(iii) in subsection (a)(5), by striking out "widow, widower," and inserting in lieu thereof "surviving spouse,"; and

(iv) in subsection (b)(1), by striking out "widow, or widower" and inserting in lieu thereof "surviving spouse".

(D) Section 8135 of title 5, United States Code, is amended by striking out "widow or widower" each place it appears and inserting in lieu thereof "surviving spouse".

(16) Section 8110 of title 5, United States Code, is amended—

(A) by striking out paragraph (1);

(B) in paragraph (2)—

(i) by redesignating such paragraph as paragraph (1); and

(ii) by striking out "husband" and inserting in lieu thereof "spouse"; and

(C) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(17) Sections 8116(c), 8137(a)(1), and 8173 of title 5, United States Code, are each amended by striking out "workmen's" and inserting in lieu thereof "workers' ".

(18) Section 8342(c) of title 5, United States Code, is amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

(19)(A) The heading for subchapter II of chapter 85 of title 5, United States Code, is amended by striking out "EX-SERVICEMEN" and inserting in lieu thereof "FORMER MEMBERS OF THE ARMED FORCES".

(B) Section 8521(a)(2) of title 5, United States Code, is amended by striking out "servicemen" and inserting in lieu thereof "members of the armed forces".

(C) The item in the chapter analysis of chapter 85 of title 5, United States Code, which relates to subchapter II is amended by striking out "EX-SERVICEMEN" and inserting in lieu thereof "FORMER MEMBERS OF THE ARMED FORCES".

(20) Section 8705(a) of title 5, United States Code, is amended by striking out "widow or widower" and inserting in lieu thereof "surviving spouse".

Page 383, line 16, strike out "Sec. 1102." and insert in lieu thereof "SEC. 1103.".

Page 384, line 15, strike out "Sec. 1103." and insert in lieu thereof "SEC. 1104.".

Page 384, line 21, strike out "Sec. 1104." and insert in lieu thereof "SEC. 1105.".

Page 385, line 7, strike out "Sec. 1105." and insert in lieu thereof "SEC. 1106.".

Page 390, line 16, strike out "Sec. 1106." and insert in lieu thereof "SEC. 1107.".

Revise the table of contents accordingly.

EXTENSIONS OF REMARKS

NEA CAUGHT WITH HAND IN COOKIE JAR

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. McDONALD. Mr. Speaker, the National Education Association some years ago dropped all pretense of having a primary interest in the education of children and teaching. It is now a raw political machine doing street battles over trade union matters. In this capacity, the NEA injects itself in political contests around the Nation against those who do not endorse its outlook. However, the NEA recently got its hand caught in the "cookie jar". As the result of a complaint filed by the National Right to Work Committee, it has found that the NEA was automatically deducting political contributions from teacher's payrolls without the teachers' consent. The further legal question that needs to be decided is whether or not the candidates receiving this money should be forced to return it? The press release from the National Right to Work Committee on this matter is included at this point for those who would like to know more of the NEA and this incident. The release follows:

POLITICIANS RECEIVE ILLEGAL CAMPAIGN CONTRIBUTIONS FROM NEA; NATIONAL RIGHT TO WORK COMMITTEE SAYS: GIVE IT BACK

WASHINGTON, D.C., July 26, 1978.—Scores of politicians in the 1976 and 1978 elections—including now-U.N. Ambassador Andrew Young and other prominent figures—took illegal campaign contributions from the Na-

tional Education Association (NEA) union, the National Right to Work Committee charged today.

In a case stemming from a 1976 Right to Work Committee complaint, a federal judge ruled last week that the NEA-union's "reverse-checkoff" system—in operation from 1974 through 1977—is by its very nature illegal. According to the system, the NEA-union automatically deducted political "contributions" from teachers' paychecks without the teachers' consent. To get their money back, teachers were forced to go through a cumbersome process of filing a written request for a refund.

LARSON CALLS ON CANDIDATES TO RETURN TAINTED FUNDS

Reed Larson, president of the National Right to Work Committee, said, "Now that the court has confirmed that the NEA-unions' 'reverse-checkoff' schemes are illegal—its incumbent upon the candidates who took any of the illegally collected money to promptly return it."

Larson said an estimated two-thirds of the money in the NEA-union's bulging political warchest each year came from the illegal "reverse-check-off" scheme.

"There's a strong moral—and possibly legal—obligation upon the beneficiary candidate to return the NEA-union's contributions," said Larson, "all of which could be money taken illegally from people who didn't want to contribute.

"No candidate should have been unaware of the cloud over the NEA-union check-off at the time he took the money," said Larson. "Since its inception, its illegality has been recognized by the FEC and even by union lawyer Tom Harris."

The NEA-union counsel's own testimony in the case dramatically substantiates Larson's point. In the court order, District Judge Oliver Gasch quoted the NEA-union counsel as stating:

". . . (I)t is well recognized that if you take away the mechanism of payroll deduction you won't collect a penny from these people, and it has nothing to do with voluntary or involuntary. I think it has to do with the nature of the beast, and the beasts who are our teachers who are dispersed all over cities who simply don't come up with money regardless of the purpose."

Citing the Supreme Court's decision in *Pipefitters Local 562* v. *United States* (1972), Judge Gasch responded that a "knowing free-choice" has to be made by anyone who gives a political donation.

NATIONAL RIGHT TO WORK COMMITTEE FORCED FEC TO ACT

The National Right to Work Committee originally filed a complaint with the Federal Election Commission (FEC) back in October, 1976, when after more than two years of illegal NEA-union payroll deductions, the FEC had failed to act against the NEA-union. When the FEC still refused to enforce the law and prosecute the NEA-union, the Right to Work Committee obtained a court order forcing the FEC to perform its duty on behalf of thousands of teachers across the country.

In September, 1977, despite the clear case of massive violation, the FEC initiated the weakest possible suit against the NEA-union. (Had the FEC still not acted within 30 days of the court order, the Right to Work Committee would have been allowed to sue the NEA-union directly.) Moreover, the FEC misled the court by withholding two important facts: (1) that the NEA-union required the political "contributions" as a condition of employment; (2) and the NEA-union was taking political "contributions" from nonmembers as well. The misleading FEC suit resulted in Friday's judgment of no fine or civil penalty—a wrist-slap—against the country's largest union.

FEC SLAPS MASSIVE FINE ON BIG LABOR'S "ENEMY"

By contrast, the FEC is demanding close to $400,000 from the National Right to Work Committee for allegedy committing a technical violation concerning the Commission's definition of "membership"—a term the FEC refuses to define!

"The FEC's harassment of the Committee is outrageous," said Larson. "But it's not surprising, considering the inordinate influence of Tom Harris on the Commission."

Thomas Harris, former chairman and now commissioner of the FEC, served for many years as counsel to the CIO-union and subsequently the AFL–CIO.

"But it's revealing," Larson continued, "that Commissioner Harris knew the NEA-union scheme was illegal right along, and yet he did nothing on his own initiative to stop it."

The fact that Harris knew the "reverse" or "negative check-off" was illegal is substantiated by his own testimony, as FEC chairman, before the House Administration Committee last year:

". . . I am not hostile to the concept of union political action nor am I hostile to the notion that their political funds should be well funded . . .
(however)

"The particular device here proposed (negative check-off by NEA) or here used by the NEA is, in fact, one that has been familiar to union lawyers for some thirty years. No other union has conceived that it was permissible either under the 1947 Taft-Hartley Act or under the subsequent revisions."

NEA-UNION TO MAKE REFUNDS AVAILABLE—QUESTION IS: HOW?

Although no fine or penalty was assessed against the NEA-union—Judge Gasch ordered it to make refund payments to the bilked union members. However, the question still remains as to whether non-union members forced to pay "agency shop" fees, will receive refunds of the political contributions extorted from them.

While the NEA-union reportedly has some $400,000 in escrow to cover the refunds, several times that amount was raised by the illegal "reverse-checkoff" method.

Close observers of the scandal are questioning where the $400,000 and other monies will come from to reimburse the teachers. Larson commented, "We want to be sure that the union officials won't be using 'agency shop' fees and other compulsory dues to pay back the money they unlawfully took.

"The NEA illegally took money from thousands of educators to subsidize the campaigns of more than a hundred politicians across the country," said Larson. "If the money isn't promptly and legally returned, it's bound to become an issue in the upcoming elections."

The National Right to Work Committee is a 1.25 million member citizens' lobby that opposes compulsory unionism in any form.●

YOUTH ART MONTH

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. RONCALIO. Mr. Speaker, Children's Art Month was initiated in 1961 by the Crayon, Watercolor, and Craft Institute, Inc. The purpose was to "Emphasize the value of participating art for the development of all children". In 1969, teenagers were included in the designation, and "Youth Art Month" is now cosponsored by the National Art Education Association, Nation PTA, and the General Federation of Women's Clubs, along with other national organizations. Support has continued to grow, and several Governors have issued special proclamations to recognize the month of March as Youth Art Month.

Since 1973, a Presidential proclamation to recognize the month has been sought. I introduced a resolution urging such a proclamation in the last two Congresses, and am introducing a similar resolution today. The resolution would designate March 1979, as Youth Art Month; and I am pleased with the interest this resolution has prompted.

Today's young people are searching for values. Participation in the arts will help develop self-discipline, self-expression, and appreciation for beauty. We can take part in the development of these values by recognizing youth's involvement in the arts. Knowing that their efforts will be recognized just might provide sufficient incentive for youngsters to try their hand at art. I would like to help our young people become interested in something beyond the TV set; and I see this as an opportunity to encourage involvement in a worthy activity.

Although little time remains in this session, I hope my colleagues will stand behind this effort, and perhaps we will be successful in conveying our wishes to the President.●

REAFFIRM SUPPORT FOR TAIWAN

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. WINN. Mr. Speaker, in July, I was privileged to travel to the People's Republic of China with my distinguished colleague, LESTER WOLFF.

During our stay, we met with many Chinese leaders including Vice Premier Teng Hsaio-ping. One of the main points we stressed to him was that Congress is not in the mood to dump our allies in the Republic of China on Taiwan, just so that we might normalize our relations with the People's Republic. We have a strong moral commitment to the Republic of China, and we told Teng that the United States does not want to give the world the impression that we lack credibility in our commitments.

With that background, I would like to submit for the RECORD a copy of a recent proclamation issued by the Board of County Commissioners of Sedgwick County, Kans. It reaffirms our friendship with and commitment to the Republic of China, and I urge my colleagues to join me in subscribing to this resolution of support.

PROCLAMATION OF SEDGWICK COUNTY, KANS.

Whereas, The Republic of China has been a friend and ally of the United States through the years; and

Whereas, The Republic of China was a founding member of the United Nations and has always been a law-abiding member of the community of nations; and

Whereas, The Republic of China have built a successful, prosperous, free economy out of the ashes of a half-century of revolutions, invasion and civil war and now serve as an important trading partner of the American people; and

Whereas, The Republic of China is of great strategic importance in the defense of East Asia and the Pacific and has always utilized its military power in the interest of the free world; and

Whereas, The Republic of China is important to the economy of the United States and of the State of Kansas and Sedgwick County, through its use of wheat, soybeans and other agricultural products:

Now, therefore be it resolved by the Board of County Commissioners of Sedgwick County, Kansas:

That the Congress of the United States is hereby urged to promote continued friendship, freedom and security of our friend and ally, the Republic of China, and its people; and

Be it further resolved: That the County Clerk of Sedgwick County, Kansas, transmit copies of this proclamation to the President and the Secretary of State of the United States, each member of the Kansas delegation in the Congress of the United States, and the Ambassador of the Republic of China to the United States.●

HOPE FOR A FREE CZECHOSLOVAKIA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. YATRON. Mr. Speaker, August 21 marks the 10th anniversary of the Soviet-led invasion and occupation of Czechoslovakia. I wish to express the fervent hope that one day Czechoslovakia will again be a free and autonomous nation, and that her heritage of heroism, bravery and dedication to the cause of freedom will continue to be a source of inspiration to all the oppressed peoples of the world.

Sixty years ago, after World War I, an independent Czechoslovakia emerged from the ruins to begin rebuilding her land, establishing a model of democracy and giving her people hope for a future blessed with freedom and peace. Forty years ago, these hopes were crushed when in the Munich Pact, Czechoslovakia was sacrificed in a futile attempt to halt Hitler's aggressive movements. After the Second World War, democracy again flourished in Czechoslovakia. This renewed promise of freedom was to be short-lived, however, for 30 years ago Czechoslovakia was seized by the Stalinist Soviets.

Under the leadership of Alexander Dubcek, 10 years ago, the end of repression and restriction seemed within the grasp of the Czech people. Unfortunately, this hope was destroyed by the Soviet Union. On August 21, 1968, troops from the Soviet Union and four other Warsaw Pact countries invaded Czechoslovakia. Dubcek and other Czechoslovak leaders were arrested and taken to Moscow. This occupation marked the third time in this century that hope for a free and autonomous Czechoslovakia was thwarted.

After 10 years, this occupation by Russian troops is still in effect, bringing with it continued oppression, extensive violations of human and civil rights, and unprovoked incarcerations. The indignation of Czechoslovak citizens aroused by the Soviet occupation as well as by sadistic methods of repression gave birth to a document known as petition 1978. This document manifests the popular discontent of the Czech people and appeals to the Soviet Union to cease its policy of inhumane persecution and to adhere to the Helsinki Final Act, the U.N. covenants, and the Czechoslovak Constitution.

The lesson of Czechoslovakia must be heeded by all the free peoples of the world. Czechoslovakia reminds us of how essential and how precious freedom truly is, and what its loss can signify. Let us pray that one day soon the Czechoslovak people will again achieve the independence that is the natural right of all men, and that by their example the world will realize a universal understanding of the need for all people to be allowed to exercise their inherent right of self-determination.●

REDUCTION OF CAPITAL GAINS RATES AND SMALL BUSINESS

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. McCLOSKEY. Mr. Speaker, we are debating today a very fundamental question: whether a reduction in capital gains rates, admittedly a benefit to those who are relatively wealthy, is justified by the benefits to the Nation of stimulating new investments in high-risk small business enterprises.

This is fundamental because it goes to the heart of our confrontation as a capitalist-free enterprise economy versus the Communist-controlled economy system.

I suggest that it is a necessary ingredient of our system that we have capitalists. Bluntly stated, this means people of wealth who are encouraged to invest that wealth in risky business enterprises.

To accept risk requires the incentive of reward. This, I take it, was the reasoning which, from the earliest days of our progressive income tax, dating from adoption of the 16th amendment in 1913, impelled the Congress to tax capital gains at a maximum of one-half of earned income rates.

Ideally, also, our free enterprise system would encourage a nation of thriving competitive small businesses, constantly striving to outdo, outinnovate and outproduce large companies.

To achieve this goal also requires risk capital. The small business community, acting through the West Coast Regional Small Business Investment Associations, has submitted a well-considered resolution on this subject, and I am pleased to insert it in the RECORD at this point for reference of the Members of the House.

RESOLUTION ADOPTED BY THE WEST COAST REGIONAL ASSOCIATIONS OF THE NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COMPANIES

Whereas, a healthy investment climate encourages the formation of capital so necessary to assure the long-run economic health and vitality of the free enterprise system, and

Whereas, the benefits of such an investment climate include not only increased jobs and other economic opportunities for the American people, but also increased revenues to the government from an expanded tax base, and,

Whereas, Federal tax policies, which are capable of severely altering the risk/reward ratio of the investor, have in recent years excessively impacted the venture capital industry which provides the high-risk investment dollars needed to nurture young, growing business enterprises, and

Whereas, the principal reward to the entrepreneurial driving forces behind such enterprises, as well as to their outside venture capital investors, comes in the form of long-term capital appreciation, be it

Resolved, That the Southern Pacific and Pacific Northwest Regional Associations of Small Business Investment Companies support to the fullest extent possible the Steiger-Hansen Investment Incentive Act of 1978.●

MAJOR VETERANS' PENSION REFORM THIS YEAR

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mrs. MEYNER. Mr. Speaker, I think the Congress can point with pride to the major veterans' legislation completed during this past year. We will recall the much-needed 6.6-percent increase in veterans' educational benefits, signed into law last November. This legislation particularly helped a relatively neglected group of veterans, those who had served in the unpopular Vietnam war. Until 1972, educational benefits for these veterans were relatively low, and, since then, inflating tuition costs had made the increase in educational benefits imperative. In addition to the 6.6-percent increase in educational benefits, the new law increased the maximum Veterans' Administration education loan from $1,500 to $2,500.

I was particularly gratified that this new law included a provision for which I had actively campaigned: the conferring of veterans' status and benefits on members of WASP, the courageous women of my own generation who ferried planes during World War II.

Now, Mr. Speaker, we can offer additional good news to veterans. New legislation, the product of a 5-year effort by the Veterans' Administration and Congress, will reform and restructure the

existing pension program for veterans and their survivors. Changes could be made prior to final enactment of the pension reform legislation, which has now passed both Houses of Congress with certain differences to be reconciled in conference. I am, however, pleased to note important characteristics of this landmark veterans' legislation.

During the 20 years since the enactment of the last major pension legislation, the system had developed such serious flaws that it could not be fixed piecemeal. In recent times, it had been ineffective in meeting the needs of many veterans and their survivors. Under the new law, however, a guaranteed annual income will be provided to all eligible veterans and their survivors, based on their need. It at long last assures needy veterans who are disabled or over 65 an income above the poverty level.

One of the most urgently needed changes, which I have been working to bring about since my election to Congress 4 years ago, was the elimination of that unhappy, annual discovery of many veterans that their pensions had been reduced because of social security cost-of-living increases. Under this important new legislation, when cost-of-living increases occur in social security benefits, the veterans' pension rates will be increased by a like percentage. For example, for the veteran under 80 with no dependents who had a social security income of $3,000 and a pension of $1,000, a 5-percent cost-of-living increase in the social security payment would trigger a corresponding increase to $1,050 in the pension.

A second advance for veterans in the new bill is particularly commendable. It provides an $804 annual increase—or a 25-percent add-on—for pensioners over 80, reflecting recognition of the increased needs of the elderly veteran, most of whom are World War I veterans. As a member of the Select Committee on Aging, I applaud this step in helping elderly veterans to meet the high cost of living in these inflationary times.

Mr. Speaker, though the 95th Congress has, as indicated above, achieved major legislation for veterans, much remains to be done. For example, we need to find ways to open more and better employment opportunities for Vietnam war veterans, and we need to open more doors to civil service employment for women veterans. I feel that many of our colleagues in the House of Representatives share the hope that these and other significant improvements in the laws for veterans will be completed prior to the adjournment of Congress this fall.●

BICENTENNIAL SERVICE IN LOUISVILLE, ILL.

HON. GEORGE E. SHIPLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. SHIPLEY. Mr. Speaker, at the request of one of my constituents, Rev. Joseph Williams of Vandalia, Ill., I would like to insert an article and excerpts of a speech given in Louisville, Ill., 1976.

LOUISVILLE PASTOR AND CHURCH IN BICENTENNIAL SERVICE

On Sunday afternoon June 27th, 1976, an area wide city, county Bicentennial church service was held on the courthouse square in downtown Louisville, Illinois. This service, a community project involved many denominations. The mayor and Chamber of Commerce of Louisville asked Brother J. Williams, pastor of the Louisville United Pentecostal Church to be the main speaker and their choir to sing.

Brother Williams spoke on the subject of "Preserving Our Heritage." Emphasis was placed on preserving our freedom and rights to education, free speech, freedom of press, freedom to think for ourselves and religious freedom.

Time and space would not permit a complete outline of the message but it is noteworthy that in speaking of education, Brother Williams pointed out that one's education is not complete until he learns that the fear of the Lord is the beginning of knowledge. One's education is not complete in botany until he knows the true vine of John 15:1, in geology until he knows the rock of Deut. 32:4, in astronomy until he knows the bright and morning star in Rev. 22:16, in geography until he knows how to get to Bethlehem and then to Calvary and from Calvary to the upper room.

The crowd included many city and county officials, lawyers and other business people. Brother Williams and the Louisville church is well respected and influential in the community and need your prayers that God will continue to use them there.●

YOUNG'S TERMINAL CANDOR WAS ENTIRELY PREDICTABLE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. McDONALD. Mr. Speaker, the recent column by John Lofton, appearing in the Washington Weekly for Thursday, August 3, 1978, summed up very nicely why American nerves are getting somewhat rubbed raw by the repeated blundering and anti-American statements by Andrew Young. Every public official is allowed a gaff now and then, but Andrew Young used up his quota a long time ago. The column by Mr. Lofton follows:

[From the Washington Weekly, Aug. 3, 1978]

YOUNG'S TERMINABLE CANDOR WAS ENTIRELY PREDICTABLE

(By John D. Lofton, Jr.)

WASHINGTON.—On Jan. 30, 1977, in the East Room of the White House, swearing in the "best" public servant he has ever known, President Carter hailed Andrew Young, his new ambassador to the United Nations, as a man who has "a way to assess a complicated question and divulge his accurate but sensitive and simple analysis to other people. . . ." Praising Young for his willingness to serve his country, Carter said that he looked forward to "greater things from him in the future."

Well, the president didn't have to wait long. Within a week of assuming his U.N. post, Young was repudiated three times by the State Department, twice by Secretary of State Cyrus Vance personally—for his remarks concerning Vietnam, Rhodesia and Cubans in Africa. The ambassador urged U.N. membership for communist Vietnam, said the white minority regime in Rhodesia had to negotiate with black leaders if South Africa told them to, and said that Cuban troops in Angola brought "a certain stability and order" to that country.

Vance said that Young's statement about Rhodesia was "not quite that simple," and he said that Cuban forces in Angola were "not helpful to a peaceful solution" to the conflict in that country.

But these were only the earliest symptoms of Young's chronic verbal diarrhea. His public fight against terminal candor had just begun. Following these gaffes, he has:

In a CBS interview, pooh-poohed the dangers of communism because it has "never been a threat to me."

Slandered a whole nation and an entire New York borough, calling the Swedes "terrible racists" who treat blacks as they are treated in Queens.

In a Playboy interview, labeled Presidents Nixon and Ford "racists," a charge that Carter was forced to disagree with through a White House spokesman. Young later said he meant nothing "derogatory" by his remark.

Accused former Secretary of State Kissinger of having put a "burden on the back of the British and then abandoned them" as regards a Rhodesian settlement. Once again, this time at an impromptu press conference after church in Plains, Ga., the president had to explain that Young's comments were "taken out of context." Young subsequently called Kissinger and apologized, but the apology was fuzzed up when the U.N. ambassador delcared: "I don't say anything that I don't want to say. I know exactly the effect I want to produce."

In a London TV interview, called Great Britain "a little chicken" on race, saying that sometimes he almost thought this country had "invented racism."

Categorically declared as innocent the so-called "Wilmington 10," a group serving time in North Carolina for arson and conspiracy. Young said the Wilmington 10's lawyers were unprepared, which is why they were convicted. The group's attorney, James Ferguson, says Young is "absolutely off base" and "obviously doesn't know all the legal ramifications of the case if he's making that claim."

—From Geneva, Switzerland, excused the looters who rioted during last year's New York City blackout, observing: "If you turn out the light, folks will steal . . . especially if they're hungry."

—Nonchalantly answered "yeah" when asked by a member of the press if he thought the government of South Africa was illegitimate. For the umpteenth time, a State Department spokesman "corrected" this statement, making clear that it was not the view of the U.S. government.

Now we have Andrew Young's latest recent flap. In an interview with a Paris paper, when asked about the trials of two Soviet dissidents, he noted that "after all, in our prisons, too, there are hundreds, maybe thousands of people whom I would call political prisoners." Carter, Vance, Senate Majority Leader Robert Byrd, and most of the rest of the civilized world have attacked this statement. The Soviet news agency, Tass, and Uganda's Idi Amin support it, however. Even Young himself has backed off his remark, sort of, yet he vows to tell us later just exactly what a political prisoner in the United States is.

Young's rhetorical recklessness was entirely predictable. In a 1970 ABC-TV interview, he said, in a special on the Black Panther Party, that he "probably would" support the destruction of Western civilization if it was necessary to "liberate" the rest of the world.

When President Carter swore him in as ambassador, he noted that Young was reluctant to take the job because he believed "that he wasn't quite ready for it."

Amen. This is the only feeling Andrew Young has ever had with which I am in total agreement.●

PRESS FREEDOM UNDER SEIGE

HON. HELEN S. MEYNER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mrs. MEYNER. Mr. Speaker, last June 15, I was moved to address my colleagues in the House of Representatives on a matter of critical importance: The protection of the fundamental freedom of expression. I do so again today.

The occasion last June was provoked by the rather frightening U.S. Supreme Court decision, Zurcher against Stanford Daily, which allowed law enforcement officials to enter and search the premises of a newspaper armed only with a warrant issued upon probable cause that the newspaper may have in its possession evidence of a crime. This decision opened the door to the possibility of law enforcement officials raiding newsrooms for background research, outtakes, and drafts of articles simply because some public official dislikes a reporter or publisher.

The occasion today is prompted by the fact that a reporter for the New York Times is in jail for doing his job. A New Jersey court ordered his jailing because he refused to turn over his investigative files. He refused, in effect, to name his sources.

Last June I called upon my colleagues to give immediate consideration to legislation, H.R. 12952, that would prohibit any search of the premises or any seizure of documents controlled by a news organization or a reporter unless there was first a court hearing at which the newspaper or reporter could contest the search and possible seizure of materials.

Today, I am calling upon my colleagues once again to act on this legislation. The urgency of immediate action is even more manifest with the recent developments in New Jersey. I will not belabor the point in my remarks today. Instead, I direct my colleagues to an editorial that appeared in the August 4, 1978 edition of the Dover, N.J., Daily Advance.

The Daily Advance editorial clearly and succinctly discusses the issue, especially when it points out that "The very foundation of freedom and the free dissemination of news is at the core of what is turning into a continuing battle over reporter files."

Thomas Jefferson once said: "The basis of our government being the opinion of the people, the very first object should be to keep that right; and were it left to me to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter."

Upon reviewing the Daily Advance editorial, I am sure my colleagues will realize the need for taking quick action on the legislation that would help reverse the chilling effect of recent court decisions by helping to secure the freedom of the press, and in doing so, heeding Jefferson's advice that "the very first object should be to keep that right."

[From the Daily Advance, Aug. 4, 1978]

A FREE PRESS

Another reporter has been ordered to jail for withholding investigative research files of the "Dr. X" case from the defense.

There has been a continuing series in the past few years of such cases with those involved in the prosecution or defense in criminal cases out on fishing trips for clues by putting reporters and newspapers on the line.

It is an endangering and inhibiting act against a free press which prints what it conclusively knows and discovers by its own investigation. There would be no other purpose to such probes if the facts turned up were not printed.

So, the continuing demands for the turnover of reporter notes and files with no specifics falls into the category of a hunting expedition without a definite purpose—one that serves as a direct threat to a newspaper's ability to find ways and means to investigate what is going on.

Reporters rely on sources for tips. The major deterrent in turning over notes is that those sources will be publicly divulged.

And once that happens, reportorial credibility has to evaporate. Without that one, single ingredient, there is no protection for those who may not be involved but are able to guide a reporter to places, people and information about what is going on and what has happened.

Reporters have gone to jail in the past and will continue to do so to protect the right of a free press to gather news without being fettered and forced to divulge the processes through which information was obtained.

There is much at stake in the issue. The very foundation of freedom and the free dissemination of news is at the core of what is turning into a continuing battle over reporter files.

The New York Times reporter in this most recent case has notes and files which are wanted to reportedly used in the questioning of witnesses.

Trial Judge William Arnold ordered them turned over to him so that he could decide whether the defense should have them.

They were not turned over.

Turning them over—whether they were used to not—would be a beginning of what only could turn out to be an erosion of the ability of the press to gather information and put it before the people who not only have a right to know but who can be hurt if they don't know.●

TERRY JOYCE DRIVER OF THE MONTH

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. LUKEN. Mr. Speaker, I would like to draw my colleagues' attention to the accomplishments of Mr. Terry Joyce of Cincinnati, Ohio.

Mr. Joyce has in the last 2 months been honored as the "driver of the month" by his employer, the Hudepohl Brewing Co. of Cincinnati.

Mr. Joyce works as a driver-salesman—a vocation which requires both the affability of the salesman in providing services and information, and the expertise, reliability, and even brawn of the driver who delivers his product to the buyer.

In June and July of this year Mr. Joyce distinguished himself among his coworkers by exceeding his sales quota for more days than any other driver. This achievement is the result of the drive and enterprise which most characterize the driver-salesmen of this country.

Mr. Joyce, a 1964 graduate of Elder High School in Price Hill, has not only put in the long hours necessary for him to excel at his job, but has also found time to work with the young people in his neighborhood as a volunteer football coach. His St. Teresa teams have won three championships—the city championship in 1973 and 1975, and the CYO championship in 1970.

Terry Joyce exemplifies the American virtues of hard work and service to others, I am very glad to have this opportunity to pay tribute to his contributions both on and off the job.●

TITLE VII OF CIVIL SERVICE REFORM BILL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. CLAY. Mr. Speaker, H.R. 11280, the President's civil service reform bill will soon be debated on the House floor.

Several of my colleagues and I fought for a fair, balanced, effective and strong labor-management relations program which is encompassed in title VII of H.R. 11280.

The committee considered and rejected several proposals put forth by the administration which would have essentially gutted our efforts and left the labor-management relations program totally management-oriented with little attention focused on Federal employees.

In the final analysis, the committee struck a middle ground on the issue of collective bargaining for Federal employees.

I want to share with my colleagues the point by point actions taken by the committee during consideration of title VII. The areas include: Coverage, removability, union security, scope of bargaining and management rights, scope of grievance/arbitration procedures, judicial involvement, and official time.

Coverage.—The committee print provided that exceptions to the bill's coverage may be made only by the FLRA and only on an individual basis. The FBI, CIA, NSA, Foreign Service, and other agencies were specifically excluded from coverage in the Administration's proposal. The Administration proposal

further provided the agency head with the unilateral discretion to suspend the program for national security, investigative, internal audit purposes, or when non-domestic activities would serve the national interest. By voice vote, the committee adopted a compromise amendment which excluded intelligence and national security agencies from the bill's coverage and which provided that the FLRA, upon application of agency heads, could grant additional exceptions from the bill's coverage for internal security and intelligence units.

Removability.—The committee print restricted the President's authority to remove the members of the FLRA and the Impasses Panel, and the General Counsel of the FLRA. The Administration proposal originally placed no restrictions on the President's authority to remove these persons from office. During committee consideration, the Administration agreed to the removal of members of the FLRA only for cause. The committee adopted by voice vote a compromise amendment which provided that members of the FLRA and Impasses Panel may be removed by the President only for cause and that the General Counsel of the FLRA serves at the pleasure of the President. This provision is consistent with the provisions of the National Labor Relations Board. The Administration proposal was rejected by the committee on a voice vote.

Union security.—The committee print provided for an agency shop if, after the election of an exclusive representative, a majority of employees voting in a special authorization election, voted for one. The Administration proposal prohibited involuntary contributions to employee organizations, but authorized the negotiation of free, voluntary dues withholding by agencies. By a roll call vote of 16–9, the committee adopted a compromise amendment which deleted the agency shop provision but retained the authorization of voluntary dues withholding at no cost to the union. The Administration proposal was rejected by the committee on a roll call vote of 15–10.

Scope of bargaining and management rights.—The committee print included within the scope of bargaining all personnel policies, practices and matters affecting working conditions of employees. These regulations would also be subject to collective bargaining, unless the FLRA determined that a "compelling need" existed to remove these matters from negotiation.

Presently, regulations issued by agencies (Civil Service Commission, Office of Management and Budget, Department of State, for example) which apply to other agencies, take away the authority of these affected agencies to negotiate matters which are otherwise subject to collective bargaining.

The "compelling need" test that President Ford made applicable to agency regulations in 1975 is thus moved up to Government-wide regulations. This provision on the one hand insures management the flexibility to issue uniform regulations covering terms and conditions of employment on Government-wide levels. On the other hand, it would ensure that employees are not deprived of their legitimate right to bargain over the terms and conditions of their employment, except where a genuine or "compelling" need to do so exists.

The Administration proposal retained virtually the same scope of bargaining as the Executive Order; it is retained a strong management rights clause; Government-wide regulations and personnel policies were barred from negotiations; and agency regulations were not subject to negotiations if a "compelling need" was proven to the FLRA by the agency.

The committee adopted, by a roll call vote of 14–10, a compromise amendment expanding the management rights clause to include as nonbargainable issues the number of employees in an agency, and agency authority to direct employees and to determine the methods, means and personnel by which agency operations will be conducted. Agencies could not, as at present, unilaterally remove issues from bargaining by merely issuing agency regulations.

The Administration proposal was rejected by the committee on a roll call vote of 16–9.

Scope of grievance/arbitration procedures.—The committee print provided for negotiated grievance/arbitration procedures on virtually all matters except discrimination and political activity issues. Employees could choose between the negotiated and statutory grievances procedures and could be awarded attorneys' fees and interest on back pay awards.

Under the Administration's proposal, grievance procedures would include statutory appeals but would not cover "examination, certification and appointment, suitability, classification, political activities, retirement, life and health insurance, national security, or the Fair Labor Standards Act"; and, back pay awards would not include attorneys' fees.

The committee adopted by voice vote a compromise amendment which narrowed the scope of the negotiated grievance arbitration procedure in the committee print to exclude retirement, and life and health insurance, and to include discrimination complaints. An aggrieved employee in a discrimination complaint may pursue his or her complaint under the applicable provisions of the Civil Rights Act of 1964 as amended and regulations which may be issued by the Equal Employment Opportunity Commission. The Administration proposal was rejected by the committee by a roll call vote of 16–9.

Judicial involvement.—The committee adopted the language contained in the committee print which provided that most decisions and orders of the FLRA are subject to judicial review and enforcement. The Administration proposal, which was rejected by the committee on a voice vote, would limit judicial review to only those issues in which there is a Constitutional question, and made no provision for judicial enforcement of FLRA actions.

Official time.—The committee print provided for unlimited official time for the processing of grievances and the preparation and actual negotiation of contracts. The committee adopted by voice vote a compromise amendment which provided unlimited official time only for the preparation and actual negotiation of contracts. The Administration proposal was to retain existing practice. This proposal was defeated on a voice vote.

Mr. Speaker, title VII, as approved by the Committee on Post Office and Civil Service, represents a realistic approach to the issue of collective bargaining in the Federal sector.

I urge my colleagues to uphold title VII and reject any weakening amendments which would only serve to gut this title.●

THE ROAD TO PROSPERITY—PART XIX—WHAT IS GOOD FOR TURKEY IS GOOD FOR THE TAXPAYERS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. STEIGER. Mr. Speaker, opponents of capital gains tax reform have sought to make the tax legislation currently pending before Congress, the Revenue Act of 1978, a partisan issue. White House strategists argue that this tax bill, which they do not like, should be rejected because Republicans have supported it. What they are saying is that legislation should be judged, not on its merits, but on the basis of the Republican Party's position. In this instance, we are asked to ignore the problems of capital formation, the disincentives to invest in our tax code, and related problems of economic growth. All that matters is party membership.

It is a philosophy of desperation coming from a beleagured administration which cannot sell its domestic programs. What would happen if we Republicans reciprocated? A recent Congressional Quarterly study of key votes in the Senate showed that GOP support was essential for passage of four key Carter foreign policy issues—the Panama Canal Treaty; sale of fighter planes to Saudi Arabia; resuming arms sales to Turkey; and continuing the conditional sanctions against Rhodesia. What if HOWARD BAKER had decided to follow the negative philosphy of the White House, and voted against the Panama Canal Treaty because it was proposed by a Democratic President?

A recent Time magazine article explained the crucial vote in the House of Representatives on Carter's proposal to lift the Turkish arms embargo. The proposal passed only because of Republican support. In fact, the crucial vote came from a Republican member of the Ways and Means Committee, DICK SCHULZE. Former President Ford, following in the tradition of the great Republican Senator from Michigan, Arthur Vandenberg, actively worked on behalf of the proposal at the request of Mr. Carter.

There are certain members of the Democratic Party who want to make tax policy a partisan issue. Where will their negative opportunism stop? This country has serious economic problems, and they will not be resolved by petty partisan politics. The Time article follows:

THE RIGHT THING FOR AMERICA

It was one of the most momentous votes in this session of Congress, and the outcome was excruciatingly uncertain until the very last minute. Nearly every member—413 out of 435—turned up to cast a vote on President Carter's request to end the 42-month-old U.S. embargo on arms for Turkey. The ban had infuriated the Turks and weakened the southern flank of NATO. Whether or not Carter would succeed in persuading Congress to lift the embargo was seen as a major test for his Administration.

As the House vote began, the cumulative tally flashed electronically on two of the chamber's walls. Soon the legislators were on their feet, shouting, jeering, laughing. The Count was almost a tie: 203 for maintaining the arms ban and 202 for lifting it.

The balloting was not over, however. Both Democrats and Republicans surged into the well of the House, trying to get the attention of the presiding officer, Don Fuqua of Florida. A key handful of them had not yet voted, and others were ready to change their votes. Roars greeted a sudden change in the wall tally; it was now 204 to 202 against Carter's request. But then four more members voted and the count shifted dramatically: 205 to 205.

Republican backbenchers started chant-

ing: "Tip! Tip! Tip! Tip!" They were daring Speaker of the House Thomas ("Tip") O'Neill to break the tie and rescue the President, his fellow Democrat. But O'Neill remained silent, doing nothing. Not only was he deeply committed to the embargo but also he was furious at the Administration for the dismissal of his old friend, Robert T. Griffin, from the General Services Administration. Other Democratic leaders, however, were frantically mobilizing support—for opposite sides. Indiana's John Brademas, the Democratic whip and a leader of the pro-Greek lobby, was fighting to keep the embargo. At this point, he had a lone vote in reserve. Opposing him was Democratic Floor Leader James Wright of Texas, who had already used up most of the "sleepers" he could call on to vote for the resumption of arms sales to Turkey. Brademas played his last card and Wright matched him; the tally was now 206 to 206.

Now G.O.P. chiefs swung reluctantly back into action. They resented the idea that they would have to rescue Carter, but they were acting at the request of a rather extraordinary Carter ally: none other than Gerald R. Ford, their onetime House comrade and President for 29 months, who lost to Carter by only 3 percent in the 1976 election. Responding to the G.O.P. leaders' promptings, Republican Richard Schulze of Pennsylvania signaled that he was changing his vote. The clerk of the House then cried, "Off no, on aye." To jeers, laughter and applause, the tally shifted again: 207 to 205. The pro-Carter forces finally had taken the lead, and after one more member's aye, the chairman brought down his gavel with a whack and declared the final vote: 208 in favor of lifting the embargo, 205 against.

Despite the narrow margin, it was clearly a major victory for President Carter's foreign policy. Since the Senate had voted one week earlier to lift the embargo, full-scale arms transfers to Turkey can resume shortly. The embargo originally had been imposed to pressure the Turks to withdraw their troops from Cyprus, which they had invaded in 1974 to protect the island's Turks from the Greek majority. But the arms ban accomplished little except to damage Turkey's ties to NATO and aggravate the country's domestic political instability.

In a statement following the House's action, Carter praised the "bipartisan, statesmanlike recognition that the time has come to turn a new page in our relations with the countries of the eastern Mediterranean . . . [It] is a crucial step toward strengthening the vital southern flank of NATO." Washington expects that the Turks will reciprocate soon by allowing the U.S. to resume electronic monitoring of Soviet military activity from Turkish bases, which the Turks close down three years ago.

The victory, reports TIME Congressional Correspondent Neil MacNeil, came only after some important private maneuvering by Jim Wright. Although he personally favored keeping the embargo against Turkey, he felt that as Democratic leader he must back the Administration's pro-Turkey policy. First he tried to draft a compromise acceptable to Brademas and others who favored Greece rather than Turkey. Brademas agreed to a one-year suspension of the embargo if Turkey would take positive steps to end the Cyprus stalemate. The President rejected that, however, arguing that it "would be like putting the Turks on parole. It would offend them."

Wright then started searching for some formula that could satisfy both the President and a House majority. The result was the bill passed last week. Similar to the Senate version, it allows the President to end the embargo if he certifies that Turkey "is acting in good faith to achieve a just and peaceful settlement of the Cyprus problem." The President must report to Congress every 60 days on progress toward a Cyprus solution.

Wright began calling several dozen Democratic Congressmen to enlist their support. He said later, "A lot of them wanted the lifting of the embargo to pass, but they didn't want to vote for it." With an election only three months away, most Congressmen preferred not to antagonize the influential Greek lobby. But by the time the issue hit the House floor, Wright had a list of 16 Democrats whom he could call on if necessary to back the President.

Carter, meanwhile, had been doing some phoning of his own and was startled by what he found. Of the 30 backbenchers with whom he talked, ten said their vote depended upon what Wright did. This persuaded Carter to endorse the Texan's new compromise.

Undoubtedly, the most important call Carter made was to Gerald Ford. "I'm in trouble on lifting the embargo. Can you help?" asked the President. "Yes I will," replied Ford, whose defeat in the 1976 election was partly owing to Carter's attacks on him for opposing the Turkish embargo. Ford went to work on G.O.P. Congressmen, and he got an earful when he told them why he was calling. Exclaimed Michigan's Guy Vander Jagt: "Do you realize that Carter knifed you unmercifully in the campaign for your stand on lifting the embargo? The Greeks voted against you 87 percent?" Replied Ford: "I know, Guy. But it's the right thing for America."

Vander Jagt and half a dozen other Congressmen from Michigan, Illinois and Ohio were so impressed by Ford's appeal and his lack of partisanship that they voted aye. Their action moved a State Department aide to concede: "Ford was crucial in delivering a few Republicans." The G.O.P., in fact, helped Carter on the Turkish question, just as it had on the Panama Canal treaties and the Middle East aircraft package. A minority of Republicans (78 to 64 voted to lift the arms ban on Turkey, while a minority of Carter's own Democrats (130 to 141) did so.

With all the political arm-twisting, the day-long debate on the issue probably changed few votes. Still it demonstrated the bitterness of the anti-Administration forces. Brademas, for example, tried to embarrass the President by quoting liberally from his 1976 campaign speeches denouncing Ford for opposing the embargo. The Indiana Congressman then tore into the President, charging that Carter's readiness to give Turkey something without getting anything in return shows that he may not be able to deal with Moscow. Said Brademas: "I am a little nervous about the President sitting down to talk with the Soviet Union in the SALT talks and giving action for a promise. Who would trust such a President? Not I."

After lifting the Turkish embargo, the House turned to a number of other foreign policy matters. It supported the Administration by blocking attempts to cut off military aid to South Korea and Chile. But it then rebuffed Carter by calling for an end to economic sanctions on Rhodesia. Going beyond the Senate's move of the previous week, the House voted, 229 to 180, to abolish those sanctions if a new Rhodesian government chosen in free elections takes office by Dec. 31. The current regime, headed by Prime Minister Ian Smith and three moderate black leaders, has promised to hold such elections in early December. Unlike the Senate action, the House did not require Rhodesia to try to negotiate with the radical Patriotic Front guerrillas before any lifting of sanctions. The Administration feels that this is a mistake and argues that the participation of the Front is necessary for the success of any settlement. It hopes to re-establish that point during a Senate-House conference.

When the House turned to the $7.3 billion foreign aid bill, it was unexpectedly sympathetic to some of the Administration's arguments. Defeated, for example, was an attempt to attach strings on aid to international organizations, like the World Bank, to prohibit them from using U.S. contributions to assist Viet Nam, Laos, Cambodia and Uganda. State Department lobbyists successfully argued that these agencies could not accept money with such conditions. Voting the restrictions, therefore, could force the U.S. to quit the organizations. Heartened by its victory on this issue, the Administration is more optimistic about the prospects for the rest of the foreign aid program. But it faces a major test later this month when key Congressmen are expected to propose slashing more than half a billion dollars from the White House's requests.●

A LOCAL PERSPECTIVE ON CETA

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. DOWNEY. Mr. Speaker, many problems with the CETA program, particularly those associated with the "substitution" of CETA workers for career public employees and abuses in the expenditure of CETA funds, were brought to the attention of the House during yesterday's consideration of the 1978 CETA amendments.

As reported by the Education and Labor Committee, the CETA bill, which we will consider again at a later date, takes many needed steps in dealing with these issues. For example, the committee creates stringent guidelines to address the substitution question, especially by limiting CETA employment to 18 months. The establishment of an Office of Investigations to monitor the CETA program also will greatly strengthen our ability to deal with CETA abuse. Yesterday's overwhelming adoption of an amendment to cut off CETA funds to local programs found in violation of CETA guidelines will provide teeth to this new CETA monitoring provisions.

To provide a local perspective as to why these provisions are necessary, I would like to include for the record several of a series of reports prepared for me about the CETA program in my home county.

These reports stem from a March 1978 meeting held by Local 852 of the Civil Service Employees Union. They point out that there is widespread misunderstanding, suspicion, and unease with the implementation of the CETA program on the local level.

When we again take up this bill, we must continue to clarify and adjust the CETA program. The following material, prepared by an organization with firsthand knowledge of CETA's operation on the local level, should help in that process:

SUFFOLK LOCAL 852, COMMITTEE ON CETA, REPORT TO CONGRESSMAN DOWNEY: MARCH 11, 1978

REPORT NO. 1

Over the past few years this Union has been inundated with complaints on the way the CETA program is being administered by the Suffolk County Department of Labor. The total number of permanent County employees has diminished, while the number of CETA (Federally Funded) employees has been increasing.

Not only has the indiscriminate hiring of CETA personnel placed a burden upon the employees of Suffolk County, but should the funding cease, an even bigger burden will be placed upon the taxpayers of this County. The services that these CETA employees are furnishing would now have to be funded through the yearly budget, and the effect upon the tax rate would prove to be disastrous. If these Federal funds were providing services that were new and innovative, the loss would not be so great, however, we will try to show today that the services being performed are services that should be provided through normal budgeting.

The Suffolk County Legislative and the County Executive have been advised of the pitfalls of depending too heavily on these Federal funds in the Budget Review of the proposed County Executive 1978 budget. The Director of the Budget Review Office of the Suffolk County Legislature make specific reference to the CETA program and its affect upon County Government and spending.

Listed below are excerpts from the Budget Review document:

The increase use of CETA personnel to staff County programs is noted. Caution is urged in the use of this program to prevent sudden dislocation of County services should the program be cancelled . .

The County Executive and the Legislature must decide the degree of outside dependency they desire, and they must decide over how many years the County should maintain no property tax rate increase policy. . . .

The implications were clear last year as they are clear this year. Comparatively (as supported by Budget Review Office data last year and County Executive data this year), the school and special districts in Suffolk County place an excessive drain on the property tax base. If they continue to do so and the County Government continues a policy of a no property tax rate increase, it is evident that County Government will become increasingly dependent upon various forms of Federal aid and Manpower programs (CETA). When and if that aid is substantively decreased, the County may find itself in a severe financial crisis. . . .

However accurate the facts stated in the Budget Review document are, the County Executive and the Legislature have not heeded the Budget Review Directors warnings, and in fact have stepped up the placing of CETA personnel in County Government with no thought to the future.

The facts are clear, the County Executive has laid off permanent employees, the abolishing of permanent vacant budgeted positions happens every year, and still we see an even greater influx of CETA employees on the County payroll.

Section S09.24 of the Federal Guidelines concerning Maintenace of Effort it states:

(a) Public Service Employment funded under the Act shall only be in addition to employment which would otherwise be financed by the eligible applicant without assistance under this ACT.

There will be evidence presented today that will show that the County of Suffolk is in fact using these Federally funded programs to supplement the County Budget.

During 1977 there were CETA employees in staff in over forty (40) County Departments, and their combine Federal payroll approximated at ($10,000,000.00) ten million dollars.

Clearly the County of Suffolk under present leadership is lulling the taxpayers into a false sense of security. In 1977 there were 1,078 CETA personnel performing services to the taxpayers which should have been handled by permanent personnel paid with normally budgeted County funds. The services performed were not new, but merely the routine services that are performed on a daily basis by permanent personnel. Again I say, by using these Federal funds for regular services that should be budgeted, are our leaders not bilking the Federal Government? Are they not deceiving the taxpayers of this County by not raising the tax rate when in all probability for County Government to run efficiently the tax rate may have to be raised? Is the County of Suffolk mismanaging the Federal funds? These are some of the questions that we as Union members and taxpayers have been asking. We now turn to the Federal Government in hopes that they may have the answers that we seek.

The CETA program though well intentioned at its inception, may well prove to be a harbinger of greater problems in the future. This too is also noted in the Budget Review document.

"While all these positive points would indicate a blanket policy of acceptance, it is meaningful to always remember the possibility of termination of Federal funding and its potentially catastrophic effect on County finances. The inclusion of CETA personnel on a program or project basis may solve certain short-term operating problems but can also create the need for increases in future staffing requirements. The prolonged inclusion of persons in certain CETA programs as departmental employees has already created the long term operating need for the continued filling of those positions."

"While we in no way mean to imply that this program should be changed, or modified, we stress caution in the utilization of CETA persons and recommend a concerned view towards future staffing and financial problems that could be created by the acceptance of a project or the possible future termination of the CETA program."

On January 18, 1978, a seminar on CETA held by Local 852, (Suffolk Chapter, Civil Service Employees Association) was held in the County Executive building.

At the Seminar were Union officials and the Commissioner of Labor and his Deputy. The Commissioner and his Deputy were there to speak about CETA and to answer any questions that the audience would pose. Many questions were in fact answered, but there are still many that are unanswered.

After the seminar, a CETA committee of union members was formed to help the membership of the union to better understand the program, and to seek out abuses and to serve as a watch dog over the program.

One of the most interesting things that the committee came upon was the way that the program is supposed to be monitored. The prime sponsor is the agency doling out the jobs under the program, and at the same time they are the monitoring agency. If a person directs a complaint to the Federal Department of Labor, the complaint is directed to the Prime Sponsor. The absurdity of this is if the Prime Sponsor is willfully entering into CETA abuses, then how can that Prime Sponsor objectively monitor itself, and even worse, is the fact that how can a responsible labor organization expect to have their questions and complaints answered?

What is contained in the accompanying documentation are facts that have been gathered over the past few weeks concerning alleged CETA abuses. All that we ask is that the information presented be reviewed, and if, and I emphasize if, there exists as much doubt in the mind of you our Congressman as there exists in the minds of this committee and all union members of Local 852, that Congress act in a positive manner and create a vehicle for monitoring this program. A monitoring agency above politics, a vehicle that will effectively meet the needs of all members of the community.

REPORT NO. 2

Suffolk County Department of Buildings and Grounds; Grounds Maintenance Division:

In 1973 which was the start of many CETA employees being hired, there were in the Grounds Maintenance division fifty nine (59) permanent employees. Now in 1978, some five (5) years later, there are still 59 employees in the division. At first look there doesn't appear to be anything wrong. However, when checking the figures with the department, it was learned by the committee on CETA that of the 59 employees in the division, 37 are permanent, and 22 are CETA workers. Clearly what we have here is a supplementation of permanent positions by Federally funded employees. The County has over the years through attrition and the abolishment of vacant positions supplemented the division's budget with Federal funds. Under the maintenance of effort section of the CETA guidelines this is not to be done by the agency receiving the funding.

In the Budget Review document previously referred to, there is reference to the Department of Buildings and Grounds assuming the responsibility for many new facilities, and a portion of snow removal work previously done by private contractors. Surely if the division is going to perform all of these additional duties there should be an increase in permanent staffing. Snow removal will not be a short-term project, nor will the taking over of new buildings. Therefore the CETA personnel performing these duties are not performing new or innovative services to the taxpayers, but rather routine work that must be provided to the public. Was this the intent of CETA?

Custodial Division of the Department of Buildings and Grounds:

In the 1976 budget there were 104 permanent positions, 43 proposed positions, and 21 CETA positions. Had these positions been filled, there would have been 147 permanent positions and 21 CETA positions. However the 43 proposed positions were not approved. Upon an investigation by the Committee on CETA, it was learned that the number of CETA positions in 1977 was doubled. What had happened, was instead of hiring permanent employees, the department hired an additional 21 CETA workers to help make up for the lost permanent positions that were requested in the budget.

This too seems to be a case where the County is supplementng its budget with Federal funds.

This same division also encompasses the watchmen. There are 25 permanent positions, 3 CETA II positions, 20 CETA VI employees, and the department is still hiring CETA workers. The question this brings to mind is, Does the patroling of County facilities stop if the CETA funding is stopped, or do we need these services all the time? Would these services exist without the help of the Federal Government. Shouldn't the personnel be hired on a permanent basis?

REPORT NO. 3

Department of Public Works, Suffolk County:

Much of the Federal money coming into Suffolk County is being channeled through Special Projects, (see enclosed copy). These projects are for no longer than 1 years duration, and the employees are eligible under title VI funding. In addition, these projects are for projects that would not be done through regular County funding.

The department of Public Works had in its 1978 budget a request for sixteen (16) new permanent employees.

Of the above mentioned vacancies two (2) are for Engineering Aide. The department has requested four (4) Engineering Aides under a "Special Project", the goals of the project being to provide more efficient and immediate service to the use of Suffolk County highways.

One (1) vacancy exists for the position of Draftsman. A request filed under a "Special Project" has been submitted for the hiring of two (2) CETA Draftsmen. The goal of the project is to update all County highway grid maps and to provide better service to the public.

Vacancies exist for Principal Clerk, Senior Clerk, Senior Account Clerk, Senior Stenographer, Stenographer, and; a request has been made for two (2) Clerk Typists, one (1) Account Clerk, one (1) Laborer and one (1) Project Coordinator to reorganize the filing system, to eliminate backlog and re-catalog office files.

Additional vacancies exist in the department for Engineering positions, i.e. Civil Engineer, Principal Aide, Senior Engineering Aides, etc. Yet the department seems to be holding off on hiring permanent employees, and rather than expend budgeted funds, request CETA funding for "Special Projects".

The Committee on CETA recommends a stricter monitoring of these "Special Projects." Are these projects really to be considered "SPECIAL"? Or are in fact these projects part of the ongoing tasks that the regular permanent staff has been unable to accomplish due to unfilled vacancies in already budgeted positions?

REPORT NO. 4

Town of Babylon:

In addition to abuses in the County of Suffolk, abuses exist in the other Municipalities that are receiving CETA funds. One such municipality is the Town of Babylon. What one must know, is that many abuses that exist are left unreported due to fear of repraisal.

A CETA II participant was hired as a clerk typist in February of 1975, and was subsequently promoted to Senior clerk typist in August 1977. This CETA employee worked over 18 months in one position, in fact worked a total of 30 months. . . .

An eligible list was established in August of 1977 as a result of an exam given for the position of Senior clerk typist in January of 1977. A letter was sent to the Labor Department stating that this was in violation of Section 96.23 of the Federal Guidelines.

The Guidelines stated that: No job will be filled in other than an entry level position in each promotional line until applicable personnel procedures and collective Bargaining procedures have been complied with.

The reply from the Labor Department was that the Commissioner did not feel the appointment violated the section that had been cited, and that he thanked the person inquiring for bringing the matter to his attention and to continue to do so as the CETA program in Suffolk County is very big.

However, if the Commissioner, being the prime sponsor, had bothered to look further, he would have found that Section 96.23–11 of the guidelines had also been violated. This section reads:

"Jobs in each promotional line shall in no way infringe upon the promotional opportunities which would have otherwise been available to persons currently employed, etc. And in researching the matter further, the committee finds again in section 96.24 article G–2 under Maintenance of Effort," The promotional opportunities of regular employees are not to be infringed upon, etc. . . .

If there is an existing list for Senior Clerk Typist, and a CETA clerk typist is promoted to the Senior position, it appears that this worker is definitely infringing upon the rights to promotion of a permanent employee.●

MR. ROY INNIS, DIRECTOR OF CORE, PRESENTS PERSUASIVE ARGUMENT FOR ELEMENTARY AND SECONDARY SCHOOL TUITION TAX CREDITS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. ASHBROOK. Mr. Speaker, it is not often that I find myself in complete agreement with Mr. Roy Innis, director of the Congress of Racial Equality, on a controversy involving a major national issue. But I am happy to find that we are on the same side in favoring tuition tax credits for private elementary and secondary education. We are on the same side for essentially the same reason—the need to preserve freedom of choice in education.

On the floor of the House on May 31, 1978, I argued for such credits on both constitutional and public policy grounds. At that time, I stated, in part:

I also believe that such legislation is sound public policy, in that it would benefit all American education by helping preserve freedom of choice and diversity in our total system . . . inflation and the ever-increasing burden of taxation threaten to eleminate freedom of choice in education for the average American family. . . .

In an article in the August 10, 1978, issue of the Washington Post Mr. Innis makes much the same points and relates them to the special needs of black children. He elaborates upon the need for diversity in education by pointing out that healthy competition is good for both public and private education, and results in more power for the consumer of education, the American family. He is really saying that the principle which has built and sustained the American free enterprise system to the benefit of both producer and consumer—competition in the marketplace—is equally applicable to education. I agree, and am led to believe that perhaps Mr. Innis and I could agree on a good many other issues if we had the opportunity to sit down and discuss them in terms of fundamental principle.

His thoughtful article follows:

A TAX BREAK FOR BETTER EDUCATION

(By Roy Innis)

CORE is an organization that has gone through many battles for educational quality and that today is rooted in major black communities throughout the nation. We believe the passage of tuition tax credits at the elementary and secondary levels will have a tremendous potential impact on poor and minority youngsters throughout this country by giving them what they desperately need: options.

The arguments advanced against tuition tax credits fall into three categories: constitutional, fiscal and philosophical. To those who say, as Sen. Ernest F. Hollings (D-S.C.) did in a Washington Post op-ed column Aug. 7, "The scheme is blatantly unconstitutional. Every Supreme Court decision and all the constitutional scholars agree on that score," we would reply: wrong. Respected constitutional scholars have weighed in on both sides of the issue. Moreover, we are willing to take our chances on the constitutionality of this bill, which has an expedited court hearing provision. We shouldn't forget that there were those who said *Plessy* v. *Ferguson* was the law of the land and shouldn't be challenged.

Much has been said about the fiscal implications of the bill. Those objections have been met by the Senate Finance Committee, which on Aug. 3 changed the bill to make the cost comparable to the administration's alternative. Those who vote against it are not voting on the basis of cost. They are voting against the revolutionary philosophy that the bill embodies.

And make no mistake. This bill will indeed have a revolutionary effect on millions of poor parents and children in this country. Those are the parents and children who until now have had no choice—and with no choice, no power. What is revolution, after all but a shift of power? We are proposing that we shift the power from those who controlled (i.e., the educational establishment) to those they controlled (parents and kids).

Now we have come to what the fight is really all about. Black people have had to rely in the past on the public schools of this country to educate our children and enable our people to better their conditions. Those schools have often failed us. They have been sadly wanting not only in the efficacy of their teaching but even in their inability to guarantee the safety of our children. It is for that reason that CORE has established community schools and supports the efforts of parents who seek a better education for their children in private and parochial schools. Those parents who are willing to make an investment in their children's future deserve a credit.

But this bill is not just for the parents who exercise their option. We at CORE have not given up on the public schools; we recognize that whatever legislation is passed, the majority of American children—and the vast majority of minority children—will be educated in public schools. We know we must find a way to make the public schools better, to make them responsive to their constituency.

To us, it is perhaps most important that this legislation would provide a competitive stimulus to the public schools. The presence of even the comparatively small number of alternatives, even just the potential of parents' being able to reject a school that is not doing its job, can work great changes in

the public schools. Innovation in both public and private education would be stimulated by a tuition tax credit.

This measure, to borrow the words of an earlier time, would empower the people—and that's the question of philosophy. We believe it is time that the laws of this country give more than lip service to freedom of choice and quality education.●

ALICE M. RIVLIN SUMMARIZES THE DIALOGS ON AMERICA'S FUTURE SERIES—PART II

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. ROSE. Mr. Speaker, recently Alice Rivlin, Director of the Congressional Budget Office, gave a summary of the "Dialogs on America's Future" series sponsored by the Congressional Clearinghouse on the Future.

Over the past 2 years 15 well-known thinkers have spoken with us about the future. Dr. Rivlin's summary of their remarks was enlightening and provocative, and it is my pleasure to include her remarks in the RECORD today:

THEME 6

At Present, National Discussion and Decision-Making too Fragmented—We Should Focus More on the Future of Society as a Whole.

One aspect of this theme is that intellectual disciplines are too separate and more interdisciplinary research and communication is needed. In this connection, Robert Solow in a recent article in Challenge quotes a Forrester remark about the composition of a desirable planning group:

We should take care to keep out representatives of the social sciences. Such people always want to go to the bottom of a particular problem. What we want to look at are the problems caused by interactions.

At this, Solow observes:

I don't know what you call people who believe they can be wrong about everything in particular, but expect to be lucky enough somehow to get it right on the interactions. They may be descendents of the famous merchant Lapidus, who said he lost money on every item he sold, but made it up on the volume.

Federal agencies, Congressional committees, and other institutions were also alleged to be too fragmented and hence unable to deal adequately with policy for the future. Personally, I believe we need both a much greater effort to look at alternative futures in particular areas—medicine, transportation, education, and the like—and greater efforts to put the pieces together and look at alternative futures for the society as a whole. Neither experts nor generalists are thinking ahead enough. In the Congress, the budget process provides a possible forum for looking ahead on a global basis that does not reduce the usefulness of forward thinking by committees with more specific responsibilities.

Let me summarize briefly what I thought were the lessons of this series of dialogues for the Congress and for the Clearinghouse on the Future:

First, I would advise you not to worry about the sky falling or the end of the world coming. In any case, no one told you what to do if the sky did fall.

Second, it seems possible that economic growth will slow down in the future. I believe we should try to prevent this slow down, because it will be easier to preserve the environment and to have more equitable national and international income distribution if our economies are growing than if they are not. The specific lessons here certainly include encouraging research and development, new technologies, and new energy sources.

Third, we should conserve scarce materials and fuel by charging their full replacement cost, and we should discourage pollution by passing on its cost to the consumer. This does not imply that regulatory or other collective actions are not needed on both fronts, but we ought to use the market mechanism where we can.

Fourth, we should encourage concrete medium-term planning (five to ten years), but should be flexible enough to review our plans every year and change them when necessary. In the Congress, the budget process is certainly a vehicle for articulating future plans and I, for one would like to see budget targets set five years in advance. These targets should not be binding and should be debated anew each year, but they would serve as a framework for evaluating more specific budget decisions. It would also be useful to have somewhat longer-term options, say five to twenty years, spelled out and discussed. The Clearinghouse might serve as one forum for debating such options. Perhaps a future series of speakers should be asked to spell out some more specific alternatives and discuss the pro's and con's of each.

Fifth, there should be more national debate on alternative futures and new mechanisms for citizens to express their views on the future. If the Congress were actively debating alternative futures, it would be easier to get groups and individuals arguing with each other. It was my hope that the budget process would generate a national debate on budget priorities. This has not happened yet, but it would certainly be encouraged by a move to multiyear budget targeting.

One can imagine various devices for getting citizens and citizen groups involved in an active debate about futures—such as television courses accompanied by sequential polls of viewers—but such mechanisms should involve interaction between decision-makers and the public and should be based on increasing information.

For what it is worth, that is my view of what this stimulating series of dialogues said to the Congress.

CLEARINGHOUSE ON THE FUTURE, JUNE 14, 1978, ALICE M. RIVLIN

QUESTIONS AND ANSWERS

Question: How would you see these forums taking place? Under what auspices?

Answer: The forums would be of many kinds. For example, Members of Congress could sponsor them; so could local or national organizations. If you could get the media interested and involved, they could become national media events.

Question: How do you see the budget function in the futures programs?

Answer: (A) The budget process is one vehicle for debating future alternatives. At the present, Congress passes a concurrent budget resolution with one year goals in mind. If Congress would pass a budget with 3–5 year goals in mind, the Congress could bring in bigger options that can't be discussed with the one year budget. Many important issues, including both major new programs and major spending reductions, drop out of the budget discussion because they can't be accomplished in one year.

There have been positive moves in this direction. The Senate Budget Committee has adopted the five year decision-making process. Many people fear that if we think ahead we get locked in: they do not realize that *not* thinking ahead locks us in even more.

(B) The Clearinghouse could also be a forum for discussion of alternative solutions. Perhaps in a future series we could get the experts to do home work on particular options and get them to debate on alternative futures. We could get interest groups and constituents arguing. The reason why this doesn't happen in the country is because it doesn't happen in Congress. The Clearinghouse could provide a process of discussions.

(C) The use of polls and TV courses would be an interactive way of dealing with the future. This would allow participants to learn something.

Question: How does zero-based budgeting affect planning?

Answer: Any sensible planning must be based on thorough review of how current programs are working and how to make them more effective. "Zero-based" reviews fit in well with planning, although it is impractical to review every program in detail every year.

Question: Is it fair to make planning cycles go with election cycles?

Answer: Most Presidents take about two years to get acquainted with the office and figure out what they want to do. After that point, he begins planning for the next election. The incoming president would be better off with some kind of plan which he or she could change, rather than no plan at all.

Question: Productivity is falling by 1% each year. If this large decrease continues, what does it do for the future of our economic growth and optimism?

Answer: Productivity growth may be slowing down: whether or not this is good or bad depends on your point of view. In the 1950s the gloom and doom people saw productivity increasing too fast. They felt automation would be putting people out of work. Now the gloom and doom people are worrying that we will have a slow down in economic growth. It is true that the unemployment rate went down faster this year than it would have if productivity growth had been faster, but on balance I think we are all better off if productivity increases.

Question: What are your views of the implications of planning?

Answer: On a regular basis people should consider alternative futures. Current decisions should be made in the light of which alternative future you feel is best and your decision will reflect your current values. But it is important to consider the alternatives.

Question: What do you think of plans for the future that have more than one alternative?

Answer: The point is to get all the alternatives in the open and discuss them. Reviews of the budget may be done in terms of these tentative plans. We should think of planning in terms of targeted goals or reference points. If Congress comes up with a bill that is not in line with targeted goals, you may remind them of this. A long-range plan may be used as a reference to some bills. There are no reference points at the moment.

Question: What is your view of future energy choices?

Answer: There are many sources of energy, i.e. solar, space, and nuclear, all of which are too expensive right now. If fossil fuels were priced at their replacement cost we might move more quickly to other sources of energy. As alternative technologies become more efficient, they become more viable. We seem to be continuing a pattern of exploring new technologies to meet our needs.

Question: What do you think of Proposition 13?

Answer: First let me explain what it is: it can be divided into three parts.

(A) It limits property taxes to 1% of the assessed evaluation.

(B) It limits the assessed evaluation increases to 2% of the 1975–76 level.

(C) It prohibits new taxes unless passed by ⅔ majority. It is likely that State surpluses will be distributed to local governments and that service cuts will be largely postponed. Proposition 13 is part of a more general protest against high taxes and big government.

Question: Government perhaps has gotten big. Proposition 13 is a rebellion against big government. There is not enough talk about psychology. People want separation. Their world is too big. We don't talk enough about bigness and its effect on human psychology. How do we adapt to the way we live? People are trying to cope with technology. Now we have come to a base line—how do we come to ourselves and how do we deal with each other? What are the human values one should seek? What is right should be what is felt are the best values and they should be put forth. Morals have been too oppressive in the past. We have come to a point now where we ask "What are the moral values?" Do you detect a deprivation syndrome, like Kahn talked about? Do you detect a need for therapy to commensurate for not thinking as clearly as we could?

Answer: Actually it may be a matter of laziness. It is easy to say "the question is too difficult," or "nothing helps." It is much easier to say this than to tackle a hard problem and hammer out a compromise.

Question: There is an inability of speakers to relate on the day-to-day issues of Congress. Perhaps we could have experts tell us what has been done most recently in different fields. This would give insight in what we don't usually hear about. It would also give us the latest field developments.

Answer: I agree that the next round for the Clearinghouse should be for concrete, nearer term, immediate alternatives.

Question: Perhaps the Congressional Clearinghouse on the Future is good because we get the opportunity to get thoughts on things we don't think about. For next year's program perhaps we could get several historians to comment on America's future in light of the past. The future from the past would be a useful lens.

There has been some good discussion here. Sometimes the poorer speaker, the better the discussion.

Answer: Seminars on medicine, energy, morale issues; we need direction on this. I hope we wouldn't get too far from where the Clearinghouse has been.●

UNEXPECTED PROBLEMS WITH TRUTH IN LENDING

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. BINGHAM. Mr. Speaker, as one of those who had a hand in the passage of the original truth-in-lending legislation in the late 1960's, I am dismayed by some of the unanticipated consequences of that legislation.

I commend to my colleagues and especially to the chairman, members, and staff of the Committee on Banking, Finance and Urban Affairs a disturbing article by Timothy W. Bingham, a partner in the New Haven law firm of Tyler, Cooper, Grant, Bowerman & Keefe and a specialist in the problems of compliance with the truth-in-lending law. The article, which appeared in the July 14 issue of the Commercial Record, Connecticut's Business Weekly, follows:

[From the Commercial Record, July 14, 1978]

It Costs More Than You Know To Know More Than You Want To Know

A. THE THEORY OF CONSUMER CREDIT LAW

The federal Truth-in-Lending Act ("TIL")[1] which became effective in 1969, requires creditors, such as banks, loan companies, credit unions, hospitals and department stores, to disclose certain terms with regard to consumer credit, the most notable being "annual percentage rate," "finance charge," number of payments and type of collateral securing the loan. The expressed theory of TIL is that the disclosure of credit terms fosters a more efficient market for consumer credit. The Act has grown from this concept, initially espoused by the late Senator Paul Douglas and then by Senator William Proxmire, into what is now a morass of highly complex credit disclosure requirements. Even honest, careful and diligent creditors find 100% compliance with these requirements practically impossible. Congress appears to be aware that it has created a bit of a monster, and now is attempting to wrestle with the concept of TIL "simplification." From all indications, there is no agreement on what "simplification" means and many of the so-called simplification proposals would in fact add more complexity.

TIL appears to have spawned other disclosure laws on both the federal and the state levels, dealing variously with closing costs on houses, warranties for consumer goods, car repair estimates, holder in due course notices, flood insurance notices, credit life insurance disclosures and debt collection notices, just to name a few.

As a matter of abstract theory, the concept of consumer disclosure is difficult to fault. Can the requirement of "full disclosure" to consumers who are requesting credit be wrong? Even accepting the premise (which has been proved to me in working with my clients) that most of the terms set forth on TIL disclosure forms are in fact not actually read by consumers, it is still difficult to argue with the precept that disclosure to consumers about their debt obligations should be encouraged. Disclosure may lead to increased consumer awareness and may cause creditors to be more careful. What is distressing, however, is that the cost of their disclosure has now risen so high.

B. COSTS TO SOCIETY OF TIL

The cost to society of TIL is deceptive. No federal or state budgetary items are required in order to enact or enforce the law other than the ongoing budgets of existing federal and state agencies which are charged with enforcing the law. Aside from these rather small direct costs, however, there are many indirect costs which are large and growing.

Creditors incur mounting costs (many of which are ultimately passed on to consumers) in designing, redesigning, studying and restudying forms which they use in the hope that the forms will slip carefully through the numerous legal shoals of the disclosure requirements. (One form that I designed recently, required a knowledge, at a minimum, of four federal statutes, five federal regulations, perhaps twenty official staff interpretations of the Federal Reserve Board, five Connecticut statutes, several Connecticut regulations and numerous court decisions.)

2,183 truth-in-lending lawsuits were filed in United States district courts in the year ending June 30, 1977, with 283 in Connecticut alone during that twelve month period. The great majority of these cases involved "nit-pick" disclosure violations, such as: how to disclose the bank's right to a credit life insurance premium rebate, or whether the "acceleration" rights constitute a "pre-payment penalty," or whether a bank must disclose that an "after-acquired property clause" within a consumer security agreement only applies to goods obtained within ten days after the date of the contract. There is a cost to society of clogging up our court system with so many cases on "nit-pick" questions whose society importance approaches zero. Even the judges and federal magistrates in Connecticut have begun to express dismay in their written opinions at the number of these cases.

Perhaps 2,000 to 8,000 cases were settled out of court in the last twelve months, many of them without even being put into suit, because creditors found it economically wiser to settle than to fight even though they may have attempted to comply with the disclosure requirements.

Repeated form revisions due to changes in statutory interpretation by courts and regulatory agencies mean large printing and legal costs, which are often passed along to consumers.

Education costs grow as creditors and regulators attend training programs designed to help them work through the maze of the legal requirements. (Several federal regulators to whom I talked, privately admit that they cannot begin to master the requirements which they are charged to enforce.)

New credit programs are blocked or hindered because creditors fear disclosure difficulties. For example, some banks in Connecticut have shied away from a state-sponsored student loan program because of the TIL difficulties.

The terms which consumers seem to care about are the annual percentage rate, and the number and amount of the payments, yet, these are not the disclosures, which are creating the inordinate costs that I have discussed above. It is the other, more technical disclosure requirements, almost none of which seem to be of significant concern to consumers, which are leading to these high costs.

C. A STRUCTURAL DEFECT IN TIL

The cause of this unduly high cost, is, in my opinion, a fundamental defect in the TIL statutory scheme which is in the nature of a contradiction. On the one hand, TIL requires 100 percent perfect disclosure with no margin of error allowed—a creditor can make 99 disclosures accurately and make one mistake on the least important disclosure item, and the liability is the same as if all 100 disclosures were incorrect. On the other hand, however, TIL sets forth its disclosure requirements in vague terms, such as "type of security interest" or "clear and meaningful sequence." As one recent 9th Circuit opinion said, "Congress traced very few lines on a new large canvas." St. Germain v. Bank of Hawaii (9th Cir. 1977).

Courts attempting to interpret the vague requirements disagree among themselves on interpretations of the statute and regulations. The issue of whether or not a creditor's right to accelerate upon default constitutes a prepayment penalty, for example, has led to three distinct camps of court opinions, the so-called "never" camp, the "always" camp, and the "sometimes" camp, involving, in the aggregate, over 15 district court opinions and 10 courts of appeals decisions and an indeterminate number of cases settled out of court. To add insult to injury, the issue is still undecided, and one court of appeals court has just changed camps.

These absolute, but vaguely worded, disclosure requirements are applied to the credit process which, unbeknownst to many, is, in fact, a surprisingly complex process. Consider the following facts that affect the credit process: our calendar has varying

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Footnotes at end of article.

days in different months, rebate calculations on the "Rule of 78's" are still the norm, credit insurance premiums often involve rebates according to schedules which have no formal names, monthly payment calculations and rebates can be mathematically calculated any number of ways, all aspects of a creditor's rights and remedies with regard to collateral are often difficult to describe simply. Considering these facts, it is no wonder that the "nitty-gritty" details of many consumer credit systems are complex and difficult to describe with 100 percent accuracy.

Perhaps an example of the difficulty of drafting would be helpful at this point. TIL requires disclosure of "a description or identification of the type of security interest held or to be retained or acquired by the creditor." Does this require banks to disclose its right to offset deposits upon default? Does it include the right of the bank to receive rebates on unearned credit life or property insurance premiums if the balance is paid before maturity? What is meant by the "type" of security interest? Does the creditor have to identify the statute under which the security interest arises such as the Uniform Commercial Code or the Connecticut Retail Installment Sales Financing Act? If a creditor includes the disclosure of all aspects of the security agreement is the resulting disclosure "clear and meaningful"?

Adding to the confusion is the fact that lawyers are encouraged to bring TIL lawsuits because the law mandates that the creditor shall pay the consumer's legal fees if the consumer can find any error whatsoever, however minuscule and TIL provides for mandatory civil penalties, even where the creditor can prove that the customer did not read the disclosure in question.

D. CONSEQUENCES OF THIS DEFECT

(*1*) *Exposure of Creditors.* One result of this defect in TIL is that credit forms of perhaps a majority of creditors in this country contain probable "nit-pick" TIL violations. With the right of the consumer to assert these violations as an offset in a collection action whenever that action might occur, it is fair to say that (with the exception of contracts written by creditors who have gone to the time and expense of having their forms carefully drafted by specialists in this area) perhaps the majority of consumer credit contracts in the United States could prove to be uncollectible either in whole or in part in a court of law, if at the time of collection the customer is represented by a lawyer knowledgeable in TIL.

There is also the possibility of class actions for violations with the possibility of generous awards as exemplified by a $100,000 award against a bank for sending out monthly statements a few days late. The uncollectibility of debts plus the threat of class actions means that TIL taken to its extreme but logical conclusion could cripple many creditors. This potential exposure is an issue with which knowledgeable accountants for creditors are understandably concerned.

(*2*) *Cost thrust on Consumer.* The advisability of TIL as compared to the cost of such a law could perhaps be tested to some degree by asking loan customers of a creditor whether they would like to have a detailed sheet of credit disclosures or a cash rebate of $.50 to $5.00[2] depending on the type of TIL disclosure involved. I suspect that a majority of consumers would opt for the cash. A great majority of consumers that I or my clients have talked to about TIL seem to derive practically no benefit from the disclosures and in many cases are more confused now than they were before TIL because of the number of forms and the variety of disclosures which they encounter. For example, mortgage loan disclosures now appear on a scroll-like form in fine print on one side of one sheet of paper. Even bankers who have spent a career in mortgage lending have a difficult time following the complexity of these disclosures.

(*3*) *Anticipated and Unanticipated Benefits.* Some good seems to have come from TIL. A recent study, sponsored by the Federal Reserve Board has indicated a growing awareness among consumers of annual percentage rate, which due to TIL, has become a required and widely-used term of art. There has also been a growing standardization of both credit terminology and, inevitably, credit terms. Some of the more glaring abuses, such as misquoting a rate by using an add-on rate rather than an actuarial rate, seem to have been curbed. In addition, responsible creditors have been forced to analyze and reanalyze all of the terms of the credit, thereby "cleaning up their act."

Some consumer groups would argue that an incidental good derived from truth-in-lending has been its "Robin Hood" effect. A consumer in debt, if he gets to a knowledgeable lawyer, can often get out of part of the debt (or even get a civil penalty back from a creditor) by means of finding a TIL "nit-pik" error on any one of the number of forms which the debtor has been lucky enough to have in his or her possession when conferring with the lawyer. In some instances, a consumer can use TIL as a lever to help him or her out of a situation where relief must seem equitable, for example, when goods not under warranty are defective. On the other hand, TIL is often used by consumers who have no apparent cause for complaint and may be in fact continuing to make regular payments and express no dissatisfaction with the creditor.

I recently had a lawyer tell me that he had scrutinized one of the forms I had drafted, had found no error on the form, but still wanted $1,000 for his client because, in effect, he would keep looking until he found an error. Due to the morass of consumer credit statutes, and the confusion of case law and the cost of defending such a legal action, it may be economically rational for a creditor at times to give into this type of legal extortion. My client and I chose not to give in.

This "Robin Hood" benefit, I believe is an unintended use of TIL which creates accidental windfalls depending upon whether a consumer happens to find a lawyer who knows about TIL.

E. REMEDY TO THE DEFECT

The more legitimate benefits which have come from TIL could be accomplished at a smaller cost if the structural defect in TIL were remedied. One remedy which in my opinion would cut down the costs significantly, would be to amend TIL to provide that a creditor is not liable for a "nit-pick" error. This could be accomplished by setting forth in the statute and regulations a provision that only a significant or substantial error likely to mislead a consumer (such as a grossly inaccurate annual percentage rate), would lead to civil penalties or an award of legal fees. This would serve to cut back greatly the number of lawsuits and, if combined with a mortarium on tinkering to TIL, would lead to bringing the hidden costs back down to a reasonable figure. (Repeated technical violations could be dealt with by the regulatory agencies charged with enforcement of the law such as the FDIC for some banks.)

The proposed, federal Truth-in-Lending Simplification Act, recently passed by the Senate (but not likely to pass the House this session), recognizes the existence of this structural defect in TIL. The Senate Committee on Banking noted that many creditors have sincerely tried to comply with the act but due to its increasing complexity and frequent changes, have nonetheless found themselves in violation and subject to litigation. The proposed Simplification Act proposes some important and necessary reforms in order to ease the burdens on creditors and, yet, make required disclosures clearer and more meaningful to consumers. This is especially true in the area of "closed-end" (e.g., one shot loan) credit disclosures.

The problem with the proposed act is that it does not go far enough. While it purports to narrow a creditor's civil liability for statutory penalties to "only those disclosures which are of central importance" in understanding a credit transaction's costs and terms, it leaves the specific disclosures required in open end credit transactions undisturbed. I believe that the only disclosures of "central importance" to consumers in open and closed end cases are the annual percentage rate and the number and amount of payments due. It is to these terms only that Congress must direct the sword of statutory penalties, if it is to accomplish its announced purpose of significantly reducing the scope of creditor liability.

Congress and state legislatures now appear to be on a disclosure "bandwagon." There is talk of legislation involving disclosure of uses of information that is given on credit applications, insurance disclosures, disclosures with regard to electronic funds transfer systems and deposit disclosures.

Before we have any more disclosure laws foisted upon us, I think that the structural defect in TIL, which is the grandfather of these consumer credit laws, should be remedied. I realize that such a suggestion is against my best economic interest as a lawyer, because a large part of my law practice involves understanding the complexities of this "bleak house" of disclosure law. As an officer of the court and a participant in our legal system, however, I believe that TIL, and the growing number of other disclosure laws, need to have this defect remedied before the costs mount any higher.

FOOTNOTES

[1] Connecticut enacted a state Truth-in-Lending Act which, except for some notable exceptions, tracks almost exactly the federal act. Because of the similar laws, Connecticut received an exemption from most of the federal act. Because of the great similarity of the Connecticut and federal statute and regulations, I will refer to them both interchangeably as "TIL."

[2] I have arbitrarily chosen $0.50 to $5.00 as an estimated, approximate range of the added cost per completed disclosure to creditors of TIL which the customers indirectly pay. The actual costs per disclosure would have to be determined by careful studies.●

REPORTS ON CAMBODIA

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, I place the following materials in the RECORD, which further describe what the situation has been like in Cambodia since April 1975:

INTERVIEW WITH CAMBODIAN REFUGEE IN BURIWRAM, THAILAND, CONDUCTED BY AMERICAN EMBASSY OFFICER IN JUNE, 1978

ACCOUNT OF MAT YUK KLIN*

Mat Yuk Klin 33, from Oddar Meanchey province was a soldier in the GKR army for five years, becoming a sergeant. In April, 1975, he was told to become a farmer. He fled to Thailand on March 18, 1978. His account follows:

*(The refuge agreed to use of his name in a public document.)

CONDITIONS OF LIFE IN DEMOCRATIC KAMPUCHEA

For 800 persons in our village, we received 18 tins of rice per day. This was extremely inadequate. We had only traditional medicines which were worthless.

Although we lived 65 kilometers from the Thai border the border patrol was headquartered in our village. Only a few remained in the village while most patrolled the border The soldiers were very menacing to the people, even though the people worked very hard for them. You were killed for the least fault. I never actually saw anyone killed, but heard about it. The first time you were given a warning the second time you were killed, for small faults."

EXECUTIONS

Three days before I fled to Thaiand, near my own home, 25 families with 60–70 people, were led away and killed. All had been associated with the former government.

In 1975–77 former soldiers and government officials in my village were told not to worry just to work. But starting in November and December 1977, the Khmer Rouge produced lists and began eliminating the former soldiers and government officials.

Eighteen families of 40 persons from the next collective, were on March 14, 1978, taken away and killed. I heard that the same thing was going to happen in my own collective. I fled to Thailand.

Former students and teachers have not yet been singled out for execution in my village.

HUMAN, CIVIL AND POLITICAL RIGHTS

There was no such thing as human rights or a system of justice in my village. There were only two rights in my village—the right to work and the right to be assassinated.

LIFE IN CAMBODIA'S MONGKOL BOREY AREA—EXTRACTS FROM AN AIRGRAM REPORT BY AN OFFICER OF THE AMERICAN EMBASSY AT BANGKOK

SUMMARY

Cambodians are becoming physically weaker as they continue to work non-stop under the forced regime dictated by the Khmer Communists (KC). They are cultivating less land, according to refugees newly arrived from the Mongkol Borey area. Executions are periodic, in small groups of those in targeted categories, involving persons considered to be troublesome.

INTRODUCTION

On October 17 the reporting officer met fifteen Cambodians in Aranyaprathet who had arrived in Thailand the previous day after a five-day walk from their village/cooperative in Battambang province. All but one of the new arrivals were former Khmer Republican Army (FANK) enlisted men, the exception being a school teacher. Located in the Battambang area at the time of the takeover, they were moved southward in the late summer of 1975, where they remained until they fled. The group appeared to be in adequate health, lean, and wearing rather frayed, dark clothing. Their story is illustrative of present-day Cambodia.

VILLAGE SITUATION

The group said that their village of 700 people was composed of peasants, former civil servants, former FANK enlisted men and even some officers, and some persons with technical training. They formed one cooperative. The village was administered by local people, apparently long-time KC villagers. There were no KC soldiers in the village but approximately thirty were based at a camp outside it, out of which they supervised the people's activity and provided security for the area.

Study sessions were organized once a week for adults and twice a week for young children. Those for adults consisted of a harangue to work harder to develop the country. Amidst the haranguing was an occasional poke at the enemy, the U.S. To the amusement of the refugee camp, the group recounted how the KC explained that they had already defeated the U.S. in Cambodia and how, when Cambodia is stronger, they will go on and fight and defeat the U.S. on its own territory, as well. Concerning the young children, the new refugees said that no effort has been made to teach them how to read and write. Instead, the emphasis has been on meaningless political indoctrination.

One member of the group said that the village has been surviving for months on weak rice gruel two times a day which provides little energy. He opined that food was in even shorter supply than it was a year ago and claimed that people were once again dying from starvation in his area.

THE WORK

Like all refugees, the newcomers were tired of the constant work in the rice fields and irrigation dikes and canals. The rice is growing adequately this year, but the group predicted that production would be lower than last year's. Interestingly, they said that their village/cooperative was cultivating in 1976 only fifty percent of the rice fields ultilized in 1975. One said that the KC were not at all happy with this state of affairs, but the people had become so weakened from working long hours, a poor diet over such an extended period of time, and complete lack of medicines (except for ineffective, KC-produced herbal medicines) that they simply become unable to accomplish all work the KC set out for them to do.

It was the consensus of the group that deaths among this population, which has become sluggish, were greater now than in the past. Over and over they said something akin to "People are dropping off like flies". They could only see the situation becoming worse unless the KC change their fundamental approach toward the population, currently treated like animals.

EXECUTIONS

The KC were aware of the backgrounds of the people in the village. It was known who had been a FANK officer or a schoolteacher, etc. It is noteworthy that there were no mass executions or the elimination over a limited period of time of an entire category of people. What has occurred ever since the people were moved into this particular village was that, periodically, some four to five persons have been eliminated at a time. Persons chosen for execution would be those members of a targeted group, such as enlisted men, who were considered most likely to make trouble. The group claimed that the rate of executions, which occurred most recently in August, has remained constant since they arrived in the village.

Executions were carried out by special soldiers or yotia piseh who came presumably from the district or sector level for the purpose. All took place at the same location some three kilometers from the village.●

ELIMINATION OF SEX-BIAS IN THE CIVIL SERVICE LAWS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mrs. SCHROEDER. Mr. Speaker, I today, have placed in the amendments section of the RECORD an amendment to H.R. 11280, the Civil Service Reform Act, which will remove the bias contained in certain sections of the civil service laws in title 5, United States Code.

The amendment makes only changes which are necessary because the rules for construction of the United States Code contained in title 1, section 1, of the Code do not cover them. That section is as follows:

SECTION 1. Words importing singular number, masculine gender, etc.; extended application. In determining the meaning of any Act or resolution of Congress, words importing the singular number may extend and gender may be applied to females; the words importing the plural number may include the singular; words importing the masculine gender may be applied to females; the words "insane person" and "lunatic" shall include every idiot, non compos, lunatic, and insane person; the word "person" may extend and be applied to partnerships and corporations, and the reference to any officer shall include any person authorized by law to perform the duties of such office, unless the context shows that such words were intended to be used in a more limited sense; and a requirement of an "oath" shall be deemed complied with by making affirmation in judicial form. (R. S. § 1.)

Thus, my amendment makes changes, such as changing the words "husband" or "wife" to "spouse," and "mother" or "father" to "parent," and "widow" or "widower" to "surviving spouse," and "National Guardsman" to "member of the National Guard," which reflect the fact that citizens of both sexes are to be equally treated. I believe that many of these changes either reflect the law as interpreted by the courts or would reflect the law if an appropriate case were brought. In addition, many of the changes are as beneficial to men as to women.

These modifications were suggested in a report of the U.S. Commission on Civil Rights which came out in April 1977, entitled, "Sex Bias in the U.S. Code."

Mr. Speaker, I urge my colleague's support of this reform.●

DISTINGUISHED ATOMIC SCIENTIST SCORES U.S. TIMIDITY ON BREEDER DEVELOPMENT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. WYDLER. Mr. Speaker, as you know the debate continues in the Congress on the administration's refusal to commit a nuclear fast breeder demonstration plant. Our Science and Technology Committee position on the Clinch River project was vindicated on the House floor by 45 votes on July 14 and again more decisively by 81 votes in the July 17 session.

I think it is refreshing as this debate continues to explore arguments that surface outside the pro and anticonstituency already identified with this issue in the Congress. Prof. Milton Burton is a most distinguished scientist and native

New Yorker who has devoted most of his professional life to understanding the effects of nuclear radiation on chemical species from the simplest type, that is, hydrogen atoms, to complex living systems.

Dr. Burton, professor emeritus of chemistry, was a member of the ultra secret scientific team which designed the world's first nuclear reactor and ultimately its first atomic bomb. Invited in May 1942 to participate in the Government project at the University of Chicago laboratory, Burton's team studied the problem of whether the proposed nuclear reactor would be able to withstand the radiation it produced. The research gave rise to a new field which Burton dubbed "radiation chemistry." Burton came to Notre Dame in 1945 and was the founder and director of its radiation laboratory from 1946 to 1971. A Guggenheim fellow, he was also awarded a gold medal by the U.S. Atomic Energy Commission for his contributions.

Professor Burton has "no axe to grind" on nuclear power and in fact since the Manhattan project, he has been concerned about radiation effects and ultimately their impact on man rather than simply encouraging nuclear technology development.

Professor Burton has some provocative things to say about the breeder debate in an article which was published in the July issue of Notre Dame Alumni magazine. He was one of the four experts that the magazine consulted on energy matters and I recommend his views to my colleagues:

In Florida, a respectable person is presumed to be an environmentalist, and in the town where I spend the winter, the local newspaper is very much concerned. It is one of my minor joys to discover what is "anti" each day in the city newspaper. Recently, the front page carried a UPI dispatch with a five-column headline: "Nuclear Plant Emits Radiation." It wasn't much of a story. It was weak on facts except for those indicating a high degree of perturbation in the Colorado town involved.

The next day the paper ran a follow-up article. No trace of radioactivity was found in the helium gas which had escaped from the plant. But this report amounted to a three-inch single column of copy buried on page nine. There was no editorial comment. No nothing!

Such news reporting is, in my not-so-humble view, characteristic of a small group which seems to think it has proprietary rights to morality. It is also an indication that where the weather is always warm, one can fail to appreciate the almost overwhelming energy problem which confronts us.

What are the facts? Man is running out of fuel. Wood and other vegetation are limited and clearly exhaustible. The last days of gas and oil are hard upon us, as is the next glacial age, and there is a supply of coal which may be good for another hundred years or so. There are other power sources, including wind, geothermal and solar power. But their total amount threatens to be inadequate in a world where thirst for useful energy increases more rapidly than population. Fortunately, nuclear power has become available just as the energy crisis begins.

The energy crisis is not alleviated, indeed is made more intense, by that group of presumably well-intentioned people who raise the warning cry: "Let us be cautious. Delay may be costly, but think of the possibility of accident!"

What in the name of all reason do environmentalists imagine nuclear scientists have been thinking about since 1942? If ever in world history there has been a technology developed in an atmosphere of informed and intelligent caution, this is it! If ever high moral sense has pervaded a development (i.e., the nuclear bomb) and has made sin ghastly apparent, this is it! If ever the young people involved in a development have been adequately concerned and informed, this is the time! Where would nuclear scientists propose to live and work if they were not cautious?

This is not the place to prove my points. I make them flatly (note the stance of disastrously uninformed environmentalists) because the facts, the theory, the evidence, the experience are just too vast to be covered in a short review and because all the information at hand indicates that the nuclear technology so far developed is the safest technology developed in the history of the world. And it is going to become better! And, strangely enough, it is only a standby.

Our energy supply problems are here today. We had better get together, examine and understand them, and solve them as they develop. Let's clear up a few points about nuclear power.

We live and work in a universal radiation field, a constant shower of neutrons. Each day our bodies experience and accumulate the insult of newly synthesized radioactive atoms and strangely altered molecules which, for all we know, may be the cause of aging and of our ultimate deaths. Operation of a nuclear reactor does not spread radioactivity. In dramatic contrast, however, the effluent smoke from a coal-powered plant does because of radioactive elements in the coal.

Another point: It is physically impossible for a nuclear reactor to explode like an atomic bomb. In any steampowered plant, a boiler explosion can occur, and because the nuclear reactions' heat is used to make steam to drive the electricity-producing turbines, a boiler explosion in a nuclear power plant is possible. But that kind of explosion does not scatter radioactivity. A nuclear reactor is not like a bomb at all. A bomb can be started, but not stopped. In contrast, a nuclear reactor is a controlled and heavily shielded device. If the reactor were to malfunction, the entire system would be automatically shut down by neutron-absorbing rods or liquids depending upon the design of the plant.

Accidents should not be kept secret, nor should they be misread. In developmental facilities, experts test aspects of design that might be incorporated in future power plants. And because these engineers and scientists are not working with real thing—an operating power plant—but with stimulated conditions, they accept a greater risk. There are essential safeguards, but they are not the elaborate ones built into a functioning plant, and there is more human manipulation of the processes. In such developmental facilities, a few employee fatalities have occurred, tragic indeed but certainly not an uncommon experience in industry generally. No one, however, has died in an operating nuclear power plant. The process is highly automatic, and it is fail-safe; safety controls resist the human element.

Consider, for example, the highly publized construction of the Enrico Fermi No. 2 plant near Detroit. An engineer made an unapproved, clearly unauthorized, and seemingly minor change in detail during construction. He made no record of that change. When inevitable trouble occurred, the plant shut down. The investors ultimately tore it apart and the problem was discovered at considerable hazard, but there was no disaster, although the expense has been great.

There are several kinds of nuclear power plants. In this country, all operating plants are slow breeders. Uranium 235 atoms split, giving energy, neutrons, and radioactive elements which, for the operation of a nuclear reactor, are useless and pose radioactive waste problems. One of these elements, plutonium 239, is a potential nuclear fuel, but the slow breeder does not produce enough of it effectively to replace the U–235 consumed. Another kind of reactor, the fast breeder, produces enough plutonium to refuel itself or to be employed in other power plants.

Ultimately, fast breeders will replace slow breeders in this country as notions of economy suggest they should. They were the original concept of a nuclear power plant as envisaged by Leo Szilard, Enrico Fermi, and other World War II scientists. France and the USSR are building fast breeders but in the United States, construction is stalled. The fast breeder proposed and authorized for the Clinch River site in Tennessee is held up by a group who fear it, perhaps largely on the basis of the Fermi No. 2 experience[1] . . .

It is the national policy of the U.S. to discourage construction of fast breeders in the "developing" countries. We assist them with the construction of slow breeders and remove and replace the spent fuel from those reactors. The logic of such policy is: if we can prevent or delay construction of fast breeder reactors in such countries, we can prevent or cut back the production of nuclear bombs. Enforcement will be difficult. Restraint may be impossible. Any small nation with delusions of grandeur wants its own atomic bomb, which it hopefully can make from plutonium 239 recovered from its own operating nuclear reactor whether it be a slow or fast breeder, provided some other nation like ours provides replacement fuel.

Let us turn to matters of a remoter future. Lighter atoms—like hydrogen and deuterium recovered from water, lithium from certain salt deposits, and boron from borax mined in the desert—can in principle be made to fuse, to build larger atoms and to release energy without producing radioactive wastes or potentially lethal radiation. Fusion power plants built on such a principle are an immediate goal of nuclear physicists. The principle is clearly understood. The technique eludes the nuclear scientist at the present moment (use of a laser beam in some not-too-well-defined process is frequently invoked in this connection) but it can be expected that ultimately success will be achieved. Then, on this earth, we will have a source of power free of radioactive hazard. Then even environmentalists can relax and proclaim, "See, we told you it could be done, if we were only insistent and patient."

One thing about nuclear power is certain. We will make no progress at all if we bow to the views of people who would impose unreasoning fear on the aspirations of the most brilliant of their fellow men. Neither can we accept the dangerous view that progress must not be attempted by the brilliant because the less gifted cannot understand. Nor may progress be delayed interminably by the frightened and the ultracautious. Such delay is much too dangerous. It may really lead to a world energy disaster.●

STATEMENT OF DSG CHAIRMAN MIKVA REGARDING THE CHAMBER OF COMMERCE POSITION ON KEMP-ROTH

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. MIKVA. Mr. Speaker, in a memo to all Members today, the U.S. Chamber of Commerce suggests that the Democratic Study Group erred in listing the

[1] Fermi No. 2 was an experimental breeder reactor operated in Idaho and significant problems were encountered with it. (Mr. Wydler's footnote.)

chamber as opposed to the Kemp-Roth tax cut proposal.

The facts, however, suggest that the chamber has changed its position—which they have every right to do—not that DSG erred.

DSG's statement that the chamber opposed Kemp-Roth was based on the testimony of Dr. Jack Carlson, vice president and chief economist of the chamber, before the Senate Finance Committee on July 14, 1979. In his testimony, which the chamber subsequently distributed to Members, Dr. Carlson set forth the chamber's position as follows:

Unless limitations are placed on growth of federal spending, the National Chamber does not support the Roth-Kemp bill.

The National Chamber supports an across-the-board tax relief of the size proposed by the Roth-Kemp bill, only if: (1) Federal spending increases no faster than the rate of inflation during the next 3 years (7 percent); and (2) One-third of the tax relief is targeted to stimulate job-creating and capacity-expanding investment . . .

Roth-Kemp tax relief alone is inflationary and unwise policy at this time. Only a recession or prolonged slow growth in the economy could justify such a large stimulus to the economy.

Now the chamber says it is supporting Kemp-Roth because of "a more responsible 7 percent limitation on the growth of Federal spending in the second concurrent budget resolution."

Their position is not, however, consistent with the facts. Based on chamber of commerce figures, fiscal year 1979 outlays under the second budget resolution would be 9 percent, not 7 percent, greater than fiscal year 1978. Also, the chamber said it could support Kemp-Roth only if there was a limit on Federal spending for the next 3 years. Yet even if the budget resolution provided for a spending increase at the limit supported by the chamber, which it does not, it would be for next year only, not the next 3 years.

I am taking the liberty of inserting into the RECORD Dr. Carlson's testimony on the Kemp-Roth bill. It is one of the best analyses of this ill-considered proposal that I have seen.

STATEMENT OF THE CHAMBER OF COMMERCE OF THE UNITED STATES

(By Dr. Jack Carlson)

I am Jack Carlson, Vice President and Chief Economist for the Chamber of Commerce of the United States and I am accompanied by Tax Attorney, Christine Vaughn, Acting Director of the National Chamber Tax Policy Center. We welcome this opportunity on behalf of the National Chamber's 75,000 members to comment on the Roth-Kemp Tax Reduction bill.

POSITION

The National Chamber commends this Committee for considering a significant across-the-board tax relief, the Roth-Kemp Tax Reduction bill (S. 1860). But this bill represents only one-half of an acceptable national policy. The other half must consist of limitations on the growth of federal spending. Unless limitations are placed on the growth of federal spending, the National Chamber does not support the Roth-Kemp bill.

Currently the President and the Congress propose to accelerate federal spending, from the $38 billion increase in spending recommended by the President in January to the President's latest estimate of $44 billion and the Congress' First Concurrent Budget Resolution total of $46 billion.

The Administration and the Congress propose to accelerate taxes from the $39 billion for FY 1979, proposed by the President in January, to the $47 billion recently proposed by the President and also contained in the Congress' First Budget Resolution, by delaying the enactment of and reducing the size of the tax cut. The $47 billion increase in taxes is equivalent to $800 additional taxes for the average American family. The tax increase from January to June is equivalent to $135 for the average family.

Clearly, the Administration and the Congress have not heard or do not believe the message from the California experience with Proposition 13 and the efforts underway in over 30 other States to limit the growth of both taxes and spending.

CHAMBER RECOMMENDATION

Specifically, the National Chamber supports an across-the-board tax relief of the size proposed by the Roth-Kemp bill, only if:

(1) Federal spending increases no faster than the rate of inflation during the next 3 years (7%); and

(2) One-third of the tax relief is targeted to stimulate job-creating and capacity-expanding investment. Such tax relief for investment should include capital gains tax relief (e.g. Steiger bill), investment tax credit extended to structures (expansion of Administration's proposal), liberalized depreciation, and an increase in the corporate surtax exemption for small businesses.

So amended, a Roth-Kept Tax Relief, Investment Stimulus, and Spending Limitation bill should be made part of the Second Concurrent Budget Resolution by September 15, 1978. If this measure is enacted, the following can be expected after three years:

Modest consumer price increase (less than 1 percent);

1 million additional jobs;

Unemployment down by 13 percent;

Investment up by $13 billion;

After tax family income up by $1,055;

The federal deficit roughly unchanged;

Individual choice and personal freedom improve by reducing the total government tax burden on the average American family from 40 percent to 37 percent of personal income, the first significant reversal of trend in decades.

TAX RELIEF WITHOUT SPENDING LIMITATION

The size of the Roth-Kemp tax relief is equivalent in relative size to California's Proposition 13 and larger than previous federal tax relief.

Even though total taxes continue to increase, the Roth-Kemp bill would provide large initial tax relief.

INITIAL ROTH-KEMP FISCAL RESULTS

[Billions of current dollars under static conditions]

	1979	1980	1981
Federal taxes	434	466	498
Federal spending	512	560	620
Federal deficit	−78	−94	−122
State and local taxes	354	389	427
State and local spending	327	362	401
State and local deficit	27	27	26
Total, government deficit	−51	−67	−96

However, the initial tax relief would result in the recipients increasing consumer spending which in turn provides jobs for those who produce the new consumer products. The new jobs add to people's wages and salaries which are in turn taxed.

FINAL ROTH-KEMP FISCAL RESULTS

[Billions of current dollars under dynamic conditions]

	1979	1980	1981
Federal taxes	440	482	528
Federal spending	512	562	628
Federal deficit	−72	−80	−100
State and local taxes	357	397	442
State and local spending	328	365	409
State and local deficit	29	32	33
Total, Government deficit	−43	−48	−67

The increase in the deficit will overload the existing plant and equipment capacity and cause higher costs which will be passed along in higher prices.

MANUFACTURING CAPACITY

[In percent]

	1979	1980	1981
Full utilization (highest at peak of last business cycle)	88	88	88
Roth-Kemp	86	89	92

The unemployment rate will decline and cause a shortage of skilled laborers which will result in bidding up wages.

UNEMPLOYMENT RATES

	1979	1980	1981
Roth-Kemp	5.6	4.5	3.5
Full employment	4.9–5.5	4.9–5.5	4.9–5.5

The only way to overcome this inflationary result from Roth-Kemp is to expand capacity. Unfortunately the time delays are long in key industries, such as 5 years for a coal-fired or 10 years for a nuclear-fired electric power-plant for additional electricity. Also, during peacetime, savings and investment have never grown as rapidly as would be required to obtain the needed capacity without inflation.

The only way to overcome labor shortages is to lengthen the workweek, reduce holidays, retire later and enter upon a working career sooner. However, the trend during the last century has been to reduce the workweek, work year, and retire earlier and enter upon a working career later in life. Since 1900, as workers' incomes increased, workers chose more leisure time for one-fourth of their increased output and chose more income for three-fourths of their productivity. There is no reason to believe currently working people will reverse this century-old trend.

However, new workers, particularly women entering into employment outside of their homes more frequently, are more than offsetting the decline in work hours elsewhere.

Nonetheless, it is unlikely that this source of labor hours would expand fast enough nor match the skills required in the economy to keep wage inflation from occurring from enactment of Roth-Kemp tax relief.

Therefore, Roth-Kemp tax relief alone is inflationary and unwise policy at this time. Only a recession or prolonged slow growth in the economy could justify such a large stimulus to the economy.

TAX RELIEF WITH SPENDING LIMITATION

Roth-Kemp must be tied to a modest limitation on the growth of federal spending to prevent accelerating inflation.

The National Chamber is committed to the objective of slowing down the growth of both taxes and spending to less than the growth in people's income. This requires a

limitation on the recent growth of federal spending.

Roth-Kemp tax relief requires spending growing no faster than about 7% for each of the next 3 years. Even this modest limitation allows federal spending to increase by $35 billion or equivalent to a $585 increase in taxes for each American family. Moreover, this spending limitation is only $3 billion below President Carter's budget recommendation submitted to the Congress last January and only $9 billion below the Administration's current estimate for FY 1979. It exceeds the current services budget and thus allows for flexible priority setting. Such a modest limitation should be relatively easy to obtain, if there is a will.

FINAL ROTH-KEMP TAX RELIEF AND SPENDING LIMITATION FISCAL RESULTS

[Billions of current dollars under dynamic conditions]

	1979	1980	1981	1982
Federal tax	435	474	525	575
Federal spending	497	531	571	613
Federal deficit	−62	−57	−46	−38

If spending increases at a faster pace, tax relief must be sacrificed dollar for dollar. If the $10 billion of accelerated spending contained in the First Budget Resolution remains, then the average American family will have to sacrifice and suffer a tax increase of $165.

GREATER TAX RELIEF FOR JOB-CREATING INVESTMENT

Any tax relief should encourage investment. While jobs have increased dramatically during the last few years, modern tools and equipment have not expanded and consequently productivity has declined and real wages have declined.

GROWTH IN INVESTMENT IN PLANT AND EQUIPMENT PRODUCTIVITY AND REAL WAGES

[In percent]

	Investment growth after adjusting for inflation	Capital per labor hour	Productivity growth	Real wages[1]
1948 to 1966	3.4	3.1	3.3	2.7
1966 to 1973	3.0	2.8	2.1	1.0
1973 to 1978 1st quarter	−.2	1.7	1.3	−1.0

[1] Average weekly earnings in nonagricultural industries.

Source: Economic Report of the President, January 1978, p. 2990

The Roth-Kemp bill only indirectly helps to overcome this serious economic problem. Only about one-tenth of tax relief is earmarked for corporations, who account for more than two-thirds of American business output.

PROPORTION OF TAX RELIEF FOR INDIVIDUALS AND CORPORATIONS

[In percent]

	1979	1980	1981
Individuals	86	90	91
Corporations	14	10	9
Total	100	100	100

CHAMBER RECOMMENDATIONS TO STIMULATE INVESTMENT

The Chamber recommends that tax relief for encouraging investment should be increased to one-third, and should include:

(1) Capital gains tax relief (e.g. Hansen-Steiger bill);

(2) Investment tax credit permanently increased to 12% and extended to structures;

(3) Reduction in the corporate tax rate;

(4) Increase in the corporate surtax exemption to $200,000 with a 15% normal tax on the first $50,000 and 22% on the next $150,000;

(5) Liberalized depreciation as a first step from 20% ADR to 40% ADR; and

(6) Steps to eliminate the double taxation of corporate income.

ECONOMIC IMPACT OF ROTH-KEMP TAX RELIEF AND SPENDING LIMITATION BILL

The combination of tax relief for both consumption and investment and modest spending limitation will provide generally favorable economic conditions.

ECONOMIC IMPACT OF ROTH-KEMP TAX RELIEF AMENDED TO ENCOURAGE INVESTMENT AND GROWTH WITH SPENDING LIMITATION (7 PERCENT)

[Change in levels]

	1979	1980	1981	1982
Gross national product (billions of 1978 dollars)	7	23	44	33
Consumption (billions of 1978 dollars)	9	21	36	34
Business fixed investment (billions of 1978 dollars)	2	7	14	17
After tax family income (1978 dollars)	288	670	1,055	879
Employment (millions)	0.1	0.5	1.0	1.0
Unemployment rate (percent level)	6.0	5.6	5.2	5.1
Consumer Price Index (percent level)	0	0.1	0.4	0.9
Capacity utilization (percent level)	84	87	89	86
Federal deficit (billions of dollars—NIA)	−9	−17	−16	1.0

The favorable economic consequences of tax relief for consumption and investment and spending limitation will benefit all 50 States.

ECONOMIC IMPACT OF ROTH-KEMP TAX RELIEF FOR BOTH CONSUMPTION AND INVESTMENT AND MODEST SPENDING LIMITATION

[1981 change in levels]

	New jobs	Aftertax family income (1978 dollars per family)	Personal tax relief (1978 dollars per family)	New investment (millions 1978 dollars)
United States	981,822	1,055	−892	13,502
Alabama	15,060	815	−689	324
Alaska	1,702	1,744	−1,475	20
Arizona	11,065	981	−829	108
Arkansas	9,325	805	−681	122
California	102,629	1,177	−995	945
Colorado	13,861	1,091	−922	135
Connecticut	14,009	1,234	−1,043	203
Delaware	2,815	1,221	−1,032	54
District of Columbia	7,368	1,372	−1,160	8
Florida	41,005	979	−828	297
Georgia	24,153	935	−791	324
Hawaii	4,007	1,343	−1,136	19
Idaho	3,756	917	−775	41
Illinois	48,854	1,229	−1,039	837
Indiana	24,372	982	−831	527
Iowa	13,771	1,050	−888	189
Kansas	10,794	1,077	−911	108
Kentucky	14,490	837	−708	203
Louisiana	15,698	919	−777	378
Maine	4,485	832	−704	68
Maryland	18,618	1,183	−1,001	162
Massachusetts	25,029	934	−790	270
Michigan	38,942	1,078	−911	959
Minnesota	18,920	1,075	−909	176
Mississippi	10,055	752	−636	122
Missouri	21,881	982	−830	216
Montana	3,350	950	−803	41
Nebraska	7,775	1,103	−933	54
Nevada	3,421	1,140	−964	11
New Hampshire	3,832	962	−814	41
New Jersey	31,696	1,209	−1,022	473
New Mexico	5,041	809	−684	41
New York	74,759	1,179	−997	776
North Carolina	27,166	862	−728	486
North Dakota	2,901	1,089	−920	14
Ohio	48,991	981	−830	932
Oklahoma	12,268	898	−759	122
Oregon	11,508	987	−834	162
Pennsylvania	50,970	1,038	−877	756
Rhode Island	4,048	1,052	−889	54
South Carolina	13,420	851	−720	297
South Dakota	3,220	915	−773	9
Tennessee	21,660	853	−721	324
Texas	60,740	1,023	−865	1,080
Utah	5,963	1,317	−1,114	41
Vermont	1,975	878	−743	27
Virginia	24,851	1,083	−915	284
Washington	14,977	1,091	−922	230
West Virginia	6,987	834	−705	122
Wisconsin	21,574	1,046	−884	311
Wyoming	2,066	1,049	−887	7

SOVIET STRATEGY IN THE MIDDLE EAST

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. EDWARDS of Oklahoma. Mr. Speaker, Dr. Miles Costick, president of the Institute on Strategic Trade and a frequent congressional consultant on foreign affairs recently presented a thoughtful and disturbing analysis of the pressures behind the Soviet Union's Middle Eastern strategies.

Dr. Costick believes that those who ignore the impact of the global environment on the Soviet economy cannot possibly appreciate the motivations of Soviet strategic behavior. Dr. Costick contends, for example, that with the U.S.S.R. presently outspending the United States on military programs by approximately 50 percent, the Soviet economy is under great strain. He contends that Soviet petroleum production is about to peak out and that the U.S.S.R. will become a net importer of both oil and gas by 1980.

Dr. Costick believes the consequences of this projected Soviet dependence on outside oil are clear. The Soviet leadership has made this impending shortage a prime concern in its strategic planning and has decided to meet the problem by consolidating Russian control over Middle Eastern sources of energy. Dr. Costick cites the recent pro-Soviet coup in Afghanistan and the aborted coup in Iraq as two proofs of this newly adopted aggressive strategy. Afghanistan has been providing the Soviets with natural gas and Iraq has been a supplies of petroleum.

Dr. Costick also notes that this heightened Soviet activity in the Middle East is occurring at precisely the moment the U.S. Navy is undergoing a serious reduction in size. He warns that our continued failure to react to this new threat could have disastrous consequences.

I strongly recommend Dr. Costick's article, which appeared in the June issue of Defense and Foreign Affairs Digest and reprint it here for my colleagues:

Failure to realistically evaluate the *global* environment represents a serious danger in the strategic thinking of any country. Thus, a failure to perceive the factors shaping the change of one of the two superpowers—in this instance the USSR—could have dramatic consequences.

The factors shaping the dynamics of the Soviet Union have a great deal to do with the Middle East, which is as pivotal to Soviet as it is to Western and Japanese policy.

Consider the following points:

According to intelligence estimates, the USSR outspends the United States on military programs by some 40 to 50 percent. At the same time, the Soviet GNP is less than half that of the United States. It must be deduced that military power is at the top of the Soviet Politburo's priority list, and it must also reflect on the Soviet attitude toward the U.S., its chief rival.

The tremendous Soviet resource commitment to worldwide political, strategic and economic objectives raises the central question: is the Soviet economy strained by the current level of military and other expenditures related to their objectives? And can the current rate be continued?

What counts as a strain in an economy is dependent upon the perceptions and objectives of those who decide *how* the economy is to be managed. In the USSR that decision process comes from the Politburo. To decide what is a "strain", one must ask what is the principal task of the Soviet economy.

The main task of that economy is to provide support for Soviet global objectives; to support all forms of protracted conflict, on various levels, against non-communist societies.

In this case, "strain" on the Soviet economy could continue unless there is a serious breakdown in the economic equation.

The "breakdown" in the Soviet economic equation is the growing evidence of an impending energy shortage, and the realization of this coming danger by the Soviet leadership. It is a crisis which the USSR cannot afford.

Soviet petroleum production is about to peak out and, at the same time, the demand for oil and gas is increasing at a rapid rate. Petroleum is essential to sustain Soviet economic growth, to maintain a close affiliation with its satellites in Eastern Europe, to obtain hard currency needed to acquire Western technology (which is the mainstay of its military growth in strategic systems), and to directly sustain military and strategic industrialization.

The earlier instance of dramatic outline of the coming of the Soviet energy crisis appeared in the October/November 1974 edition of Technology Review. Marianna Slocum, in her article, "Soviet Energy: An Internal Assessment", documents beyond any doubt that the coming of the Soviet energy crisis is imminent.

A leading West German authority on energy, Professor Werner Gumpel, only two years earlier in a not widely noticed study, presented the conclusion that the Soviet Union will find itself a net importer of both oil and gas by 1980.

Soviet economist, L. Zevin, in his study published in Moscow, predicted the Soviets would need to import 60- to 90-million tons of oil and 40- to 50-billion cubic meters of gas annually from the Middle East by 1985.

My study, "The Economics of Détente," published in February 1976 and based on independent research and analyses of Soviet energy prospects, presented the evidence that the time was rapidly approaching when the USSR would become a net importer of energy.

In a complete break with earlier studies, the Central Intelligence Agency projected last year that the Soviet bloc would become increasingly dependent on imported oil after the early 1980s.

Previously, the scant information available from Soviet and Western intelligence sources had indicated that the Soviet Union had met the targets of its five-year plans. During the 1950s and 1960s, oil production increased rapidly at average annual growth rates of 12 percent. It was not until the 1971–75 five-year plan that oil production growth rates were only half as high as during the preceding two decades and that only the lower end of the production targets were met.

While oil production in the USSR is still increasing, the growth rates have slowed down even further, and the CIA maintains that Soviet oil production will peak not later than 1980 at between 11- and 12-million barrels per day. As demand for oil continues to grow to support economic growth targets of the bloc, the 1977 CIA report suggested that the Soviet bloc might have to import between 3.5- and 4.5-million b/d.

The principal reason for the pessimistic CIA analysis of Soviet oil production is the significant decline in Soviet oil production in the older European fields, and the failure to find sufficient new oilfields in Siberia to make up for the projected production fall in the European part of the USSR. There are often technical, economic and social problems which contribute to the projected Soviet failure to meet its oil demands in the future.

Soviet exploration and production technology is far behind Western oil development practices, slowing down both the exploration and development program.

Investment decisions may have been made too late to allocate needed resources away from other industries to the oil industry. Shortfalls of drilling, transportation and other equipment; low productivity of personnel and personnel shortages in Siberia; application of techniques which damage long-term oil recovery; endless delay in construction, and other problems, have compounded the failure to find large new fields.

While some Soviet energy analysts have suggested that the Soviets can force conservation and speed-up interfuel substitution, the rate of decline in production from the European oilfields is not likely to be made up by energy savings and interfuel substitution during the next five to 10 years.

The consequences of the pending Soviet energy crisis are very serious to the USSR and to the Western world. The Soviet Union now depends on energy exports for more than 30 percent of its export earnings. While natural gas exports are likely to continue to increase in the future, the projected failure to meet the Soviet bloc's oil demand will result in reduced import earnings.

If, as the CIA projected in its 1977 study on Soviet energy prospects, the Soviet bloc would have to import between 3.5- and 4.5-million b/d of oil by the mid-1980s, the constraints on the balance of payments of the Comecon nations will become unbearable. Recognizing that, the bloc cannot possibly finance oil imports in 1985 to 2.5-million barrels per day.

The Agency did not change its Soviet energy production outlook, but suggested that balance of payments constraints would reduce imports to this lower level. At the same time, reduced domestic production of energy in the Soviet bloc will contribute to lower energy growth rates for the bloc as a whole.

The consequences of the projected Soviet dependence on outside oil are clear. Most recent energy forecasts by government and industrial organizations show a growing tightness of oil supply in the non-Communist world during the 1980s. More than 60 percent of Western oil demands of the 1980s will have to come from OPEC countries; most of it from the Middle East and North Africa. Even without the Soviet bloc entering the world oil market, tightening of supply is likely to raise prices in the 1980s. Soviet bloc imports of 2.5-million b/d would accelerate the size trend timing of the projected price increases.

Reduced economic growth rates are likely to cause internal problems in the Soviet bloc. In order to increase labor productivity, the Soviets have to improve the consumer sector of the economy, but global strategic considerations will make it difficult to reallocate resources away from the heavy industry to the consumer sector. Serious divisions between *Archnocrats* favoring growth in the consumer sector and the military could result.

Even with reduced economic growth rates, the Soviet bloc would have to import 2.5-million b/d of oil by the mid-1980s. Balance of payments problems, already critical at a time of major energy exports, are likely to grow with the increase. OPEC nations, on the other hand, will have the option to sell (in a tight supply market) their oil for hard currency in the West or settle for increased barter trade with the Soviet bloc.

Growing dependence on OPEC, and in particular Middle Eastern oil, will result in growing Soviet interests in the Middle East at a time when the U.S. Navy is undergoing a serious reduction in size.

If Mackinder lived today, he might have rephrased his famous dictum that those who control the rimlands will control the heartland into: "Those who control the Middle East will control Western Europe and Japan, and those who control Europe and Japan will control the world."

I am convinced that the CIA is correct in its unique analysis of the Soviet energy crisis (an analysis now supported by the Shell Oil Company, the only major oil company which had conducted intensive research in this area) and that energy shortcomings will have major ramifications in Soviet foreign policy, particularly with respect to Soviet policy toward the Middle East.

In the past the Kremlin has lent considerable support to some Arab states, vociferously supporting the 1973 embargo and supplying several states with advanced armaments. The rationale for this activity has generally been explained in the West in terms of perceived requirements for the Kremlin to support "National Liberation Movements," to secure naval and air facilities, or to have the potential to harass Western shipping in times of crisis.

This argument ignores the policy of the U.S.S.R. to be in a position to interdict oil supply lines in wartime, to secure its own access to petroleum supplies, and more importantly, to effect a change in the governments of the energy rich countries of the Middle East.

Specifically, the Kremlin views these countries as vulnerable to internal subversion by local Communist Parties (as was the case in the recent attempt by the Soviets via the local Communist Party to overthrow the Ba'athist Government of Iraq) and to insurgencies by Marxist revolutionaries, national front, or Marxist-controlled guerrilla movements. Should a seizure of power occur, or be attempted, Moscow will be in a position to back the insurgents, project influence over the new régime, and thereby secure access to the energy.

Two recent events are quite instructive in this respect. The first was the successful communist overthrow of the Government in Afghanistan, and the second, the thwarted attempt by the pro-Soviet Communist Party of Iraq to overthrow the Government of President Ahmed Hassan al-Bakr.

Both governments—Iraq's and the former Government of Afghanistan—were not considered unfriendly to the U.S.S.R. and in a geopolitical sense were described by some analysts as being marginally in the Soviet orbit. In spite of this, and in spite of the fact that Afghanistan had been providing the U.S.S.R.'s economy with badly needed natural gas, and that Iraq was a dependable petroleum supplier to the Soviet Union and its satellites in Eastern Europe, the Soviets must have decided the time had come for the removal of the Moslem Government of Afghanistan and the Ba'athist Government of Iraq.

The dramatic nature of the Soviet actions, particularly against Iraq, help confirm the fact that the Soviet leadership perceives there to be an impending energy shortage within the U.S.S.R., and that the shortage can only be met by consolidating its control over Middle Eastern sources of energy.

Debate in the United States has raged over the actualities of an impending Soviet oil shortfall; however, what cannot be overlooked is the belief by the Soviet leadership that an energy crunch is coming. *(See also:* "The Fact and Future of the Middle East," in this edition—*ed.*)

Among the principal targets of Soviet adventures in the Middle East are the two richest oil kingdoms: Saudi Arabia and Iran. They are the two great powers of the Persian Gulf, and two of its greatest oil exporters. Two-thirds of the oil reserves available to the non-Communist industrial world are in the Persian Gulf region. Production runs to 22-million barrels a day, a major part of the total OPEC output. The Gulf states' productivity matches NATO's and Japan's needs: the United States imported more than 45 percent of the total oil it used last year.

1. The USSR faces a severe energy shortage which will affect the country's ability to acquire advanced Western technology and foodstuffs, and therefore hamper its military-strategic growth;

2. The USSR seeks to acquire greater control over the major oil-producing states around the Persian Gulf, although not necessarily by direct military intervention, but rather by internal subversion;

3. Soviet control of Persian Gulf oil would have a dramatic impact not only on its own (ie: Soviet) strategic growth and stability, but would severely curtail Western and Japanese access to energy thereby further widening the Soviet advantage in obtaining the oil;

4. Soviet hegemony in the Persian Gulf and Arabian Peninsula region would enhance Soviet access to Africa and other strategic resources. as well as helping secure littoral control for the Cape of Good Hope sea route, which is vital to Soviet European and Soviet Far Eastern trade.●

FEDERAL LABOR-MANAGEMENT RELATIONS

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. CLAY. Mr. Speaker, the House will soon consider H.R. 11280, the President's civil service reform bill.

Title VII of H.R. 11280 establishes a statutory labor-management relations program for Federal employees. It provides for the right to collective bargaining for Federal employees, an independent Federal Labor Relations Authority (FLRA), the resolution of disputes by the intervention of neutral, independent, third parties, and judicial review and enforcement of the decisions and orders of the FLRA.

During full committee markup on H.R. 11280, the committee overwhelmingly rejected proposals, sponsored by the administration. The reason for this was that the administration's proposals would have merely preserved the status quo in labor-management relations. The administration sought only to codify the Executive order under which the existing labor-management program has operated. The committee did not believe that these proposals went far enough—they would only serve to continue a program which is management-oriented, narrow in its scope, and ineffective in meeting the needs of agency managers and employees alike.

In summary, title VII as approved by the committee establishes and provides for the following:

It is in the public interest for federal employees to bargain collectively, to organize a labor organization, and to participate in its management.

A presidentially-appointed three-member Federal Labor Relations Authority (FLRA) with responsibility for administering the law, and for the appointment of a General Counsel within the FLRA whose responsibilities include investigation of allegations of unfair labor practices.

A labor organization may secure exclusive representation by a majority vote of those voting within an appropriate bargaining unit and for voluntary dues withholding at no cost to the union upon election of an exclusive representative.

The scope of bargaining includes, consistent with Federal law, matters which are subject to Government-wide rules or regulations unless the FLRA determines otherwise on the basis of a "compelling need" for uniformity of such rules or regulations. A management rights clause retains certain managerial prerogatives for the Government.

The negotiation of grievance procedures (except retirement, life and health insurance and political rights), with the employee entitled to representation, binding arbitration and judicial review. An employee may choose between the negotiated or the statutory appeals procedure.

The resolution of impasses through the intervention of neutral, independent third parties—Federal Services Impasses Panel, binding arbitration, and the Federal Mediation and Conciliation Service.

Judicial review and enforcement of final decisions and orders of the FLRA involving unfair labor practices, awards by an arbitrator, or appropriate unit determinations.

Official time for contract negotiations.

The prevention and resolution of unfair labor practices and standards of conduct for labor and management.

In approving title VII of H.R. 11280, the committee adopted an evolutionary, balanced approach to the improvement of the Federal labor-management relations program. When the National Labor Relations Act was enacted in 1935, Federal employees were excluded from its coverage. In 1962 however, the late President John F. Kennedy, in recognition of the growing need, established a formal labor relations program for the Federal work force. That program was refined by President Nixon's Executive Order 11491 which, as amended, has been the foundation of the Federal labor-management relations program.

Executive Order 11491 was a milestone in its time. Today almost 60 percent or 1.2 million of all Federal employees are represented by 86 different employee organizations in over 3,500 bargaining units.

The committee believes that the growth of the Federal work force and changes in our time dictate that labor-management relations in the Federal sector must become more in step with the 1970's—recognizing that there are nevertheless differences between the public and the private sector.

During 1977, the Subcommittee on Civil Service, which I am privileged to chair, conducted exhaustive public hearings on labor-management relations—receiving testimony from over 40 witnesses in the course of 5 days of public hearings. Testimony was overwhelmingly in support of the thrust of the committee's legislation because the existing program was susceptible to the whims of an incumbent President, limited in its scope, management-oriented, and lacking in the opportunity for judicial review of decisions of the Federal Labor Relations Council.

Although the administration belatedly came forth with a statutory labor-management proposal, their program would have done little more than codify the Executive order. The committee's efforts to reconcile some of the differences between its position and the viewpoint of the administration were exhaustive but—notwithstanding long and involved efforts—the administration's concessions to the committee were so insignificant as to render them virtually meaningless.

Title VII, as approved by the committee, is based upon H.R. 9094, for which public hearings were held on September 15, 1977 (Serial No. 95–31). Earlier, public hearings were held on related labor-management legislation on April 21, 1977 and May 3, 5, 10, 1977 (Serial No. 95–30).

A committee print of title VII was used for markup purposes. That print was similar to H.R. 9094 except that it first, did not grant agency shop automatically upon election of an exclusive representative; a second election was required for

agency shop; second, contained no provision for an "alternative labor organization;" third, a management rights clause was added; and fourth, there was no provision for the negotiation of pay and other major money related fringe benefits.

The administration's labor-management proposal was similar to Executive Order No. 11491, under which the existing labor-management relations program is operated, with two exceptions: First, it established an independent full-time Federal Labor Relations Authority as the successor to the Federal Labor Relations Council; and second, it permitted agencies and unions to negotiate most grievance and arbitration matters which may now be appealed only under statutory procedures.

Title VII, as approved by the committee, represents a balanced, impartial approach to resolving the principle differences between two points of view—the print which, in some respects, would adopt in the Federal sector many practices which are prevalent in the private sector and the administration proposal which, for all practical purposes, would simply codify Executive Order No. 11491 with its confused, management-oriented, duplicative, antiquated approach to labor-management relations.

I urge my colleagues to support the committee version and reject any weakening amendments which may be offered during the House's consideration of title VII of the bill.●

CURRENT PROFITABILITY EASES AIRLINE NEED FOR EQUIPMENT FINANCING

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. GEPHARDT. Mr. Speaker, the Noisy Aircraft Revenue and Credit Act, H.R. 11986, may soon reach the floor of the House of Representatives. The main issue surrounding this legislation is whether or not the airlines really need part of the airline passenger's tax (2 percent) to underwrite the cost of complying with FAA's noise regulations.

Hans J. Plickert, first vice president of Blyth Eastman Dillon & Co., Inc., and a former consultant to the Department of Transportation, writing in the August 1978 issue of Airline Executive, indicates they may not. I commend the article written by this expert on international airline financing and reproduced below for your reference.

[From Airline Executive, August 1978]

CURRENT PROFITABILITY EASES AIRLINE NEED FOR EQUIPMENT FINANCING

(By Hans J. Plickert)

A Senate/House Conference Committee will probably convene later this summer to reconcile different bills relating to the financing of a portion of the airlines' cost of meeting the Federal Aviation Administration's noise rules which will be implemented in stages over a four-year period ending December 31, 1984.

While it has been tempting to characterize the proposed funding as "federal financing", neither the Senate nor the House versions represent such financing in the true sense of the word. Rather, the funding will take the user tax route. Both approaches call for a reduction of the current 8 percent passenger transportation excise tax to 6 percent and a cut in the existing 5 percent cargo waybill tax to 3 percent.

The airlines would then continue to collect the old amounts, with the differential slated to go toward modification, retrofitting or replacement of aircraft. Under the House bill, this funding would continue for 5 years. The Senate version envisions a mandatory noise abatement charge for 12 months. Subsequently, the Department of Transportation must report on the results to the Civil Aeronautics Board which in turn will decide whether to keep the charge or vary its level.

The latter feature has already drawn some opposition from airlines which believe that such an annual review injects sufficient uncertainty into the program to make longer-term planning difficult, if not impossible. Certainly the prospect of collecting funds under a "temporary rate" while first the Department of Transportation and then the CAB evaluate the program is not a happy one for financial managers.

The bills also differ importantly in another regard with significant financial implications. The Senate version contains a waiver provision which permits airlines to continue operating non-complying two- and three-engine aircraft past 1985 if the airline has signed a contract for a replacement jet by 1983. This waiver provision raises the question of enforced compliance regardless of cost versus the possible public benefit in a more flexible deadline approach. The more flexible deadlines would allow carriers to take full advantage of new engine or airframe designs that could be developed in the early 1980s to assume the functions now performed by McDonnell Douglas DC–9s, Boeing 737s and, to some extent, the Boeing 727–100s. It is in relation to these aircraft that the noise rules have generated the greatest controversy.

While the aircraft manufacturers are now developing the new 160–200 seat passenger aircraft to replace the present four-engine jets in the early 1980s, there are no concrete plans to design follow-on aircraft for the smaller jets that are still doing Herculean duties in short-haul service and should be able to do so efficiently for some time to come. While retrofit of their engine nacelles appears technologically feasible, such kits have yet to be fully designed and priced.

The extent of this problem is significant. American Airlines, for instance, estimates that 99 of the 127 Boeing 727s it operated at the end of last year will have to be modified or retrofitted. The cost is not yet known. For that matter, several observers feel unsure that the noise reduction from a retrofitted jet can be discerned by human ears even though it can be shown on a meter. Thus, the real public benefits are not yet known.

The magnitude of the capital expenditures necessary to comply with the FAA noise rules is still uncertain. It will depend on the combination retrofit, modification or replacement program each airline adopts when it knows the costs involved. One current estimate is that as much as $7.5 billion will have to be spent by the U.S. airlines by 1985 for these programs in addition to normal replacement and expansion demands.

Various projections of airline capital needs over the next several years have been made by manufacturers and others, but they do not break out noise-rule-mandated costs. Nor does this appear totally practical. In the case of the older 707s and DC–8s, for instance, retirement in the 1980s could take place as part of the noise rule program but would be dictated by reasons of economy and operational efficiency and cost in any case.

Indeed, some airlines believe that even partial funding of a replacement program for aging aircraft discriminates against those carriers that have continually upgraded their aircraft inventory at their stockholders' risk with the use of internally generated funds and debt. These carriers thus attack the principle of public funding even while conceding that the $2 billion that might be generated by the 2 percent noise tax over a 5-year period would cover only a small portion of the necessary funds. One should also note the ever-present possibility that later revision of a noise financing bill could result in a diversion of funds from a carrier in full compliance with Federal Aviation Regulations Part 36 to one that is not, thus forcing companies to help finance their competitors.

Could the airlines in fact finance their noise-rule related capital needs without government help? The real key to the answer is whether the airlines can sustain their present profitability which has seen the system trunks' corporate rate of return on investment reach 11.6 percent in the 12 months ended March 31, 1978 while the return on stockholder equity reached 15.5 percent. There is little in the historical record to suggest that continuation of this performance can be considered a reasonable assumption. For that matter, even the more conservative 9.6 percent corporate return on investment and 11.8 percent return on equity achieved for the calendar year 1977 does not represent a level of profitability that has been sustained in the past.

It appears that the airline prospects for more stable future earnings trends are more favorable now than they have been in the decade-plus since the benefits of the conversion to jet aircraft formed the base for a significant profit expansion. Yet one must take notice of the fact that the present regulatory environment has had a major beneficial impact on airline profits. Its full success cannot be proclaimed until it has stood the test of an economic slowdown.

It is also appropriate to note that the airlines have some claim on a publicly-designed financing scheme for three reasons. First, major changes in environmental rules are being introduced and made applicable to aircraft which met all regulations not only at the time of purchase but for many years thereafter. Second, in contrast to other industries which can use the pricing mechanism to pass the cost of environmental modifications on to the user or buyer, the airlines are prevented from doing so on a timely basis because of the regulatory mechanism.

Indeed, the industry might want to trade the necessity to finance their noise-related capital needs for the ability to fully control their pricing. The present CAB has encouraged pricing freedom only below the normal rates while moving slowly if at all toward greater managerial flexibility on the upside. Perhaps the simplest help in financing airline capital needs would be a pass-through of the 2 percent noise abatement charge without federal controls or review. Finally, the lead times necessary for aircraft commitments are such that corrective action in regard to regulatory policies might come too late to ensure the availability of financing if current CAB policies do not meet the test of time.

Table 1. U.S. trunk airlines cash and short-term investments [1]

	Million
American Airlines	$447.6
Braniff International	30.8
Continental Air Lines	30.6
Delta Air Lines	107.5

Eastern Air Lines	103.6
National Airlines	12.3
Northwest Airlines	111.8
Pan American World Airways	178.0
Trans World Airlines	123.9
UAL, Inc.	529.0
Western Airlines	29.7
Total	1,704.8

[1] As of Mar. 31, 1978.

To cite the moral claim of the airlines on the government's help in setting up a partial financing mechanism to increase their equity base is not to deny the efficiency of the private capital market if it is allowed to operate unhampered. Airlines have generally been able to obtain adequate financing for their needs. Costs have been high at times, but this reflects the lender's or investor's perception of the risk involved.

Certainly a reduction in the perception of risk in the past two years has permitted a number of airlines to tap the private capital market, starting in early 1977 with American Airline's $125-million preferred stock financing. Interestingly, even during the difficult years of the early 1970s, the credit and equity markets were not closed to the airlines. This is evidenced by the risk financing of Southwest Airlines and the placement of lease financing with the help of forms of equipment trust certificates.

One also notes with interest the raising of $100 million of equity funds last year by Trans World Airlines only a few months after its former chairman Charles Tillinghast decried the fact that the capital markets were closed to his company. All told, the ten trunks and Pan American raised about $403 million in public financing last year.

There is little doubt that the airlines are not the most preferred credit risks today. Insurance companies in particular lose no opportunity to inform regulators and legislators of their reluctance of investing in airlines (while they do assume specific aircraft risks). Still, insurance companies do lend money to profitable airline companies, as they did last year in the case of Braniff International, a company that was able to arrange a $60 million private placement with insurance companies. A prominent banking official told a securities analysts' forum a couple of years ago that banks were prepared to lend funds to airlines as long as debt/equity ratios were maintained, preferably on a 1:1 basis, but perhaps as high as 1.5:1 under certain conditions.

The ability of the airlines to raise money in the capital markets last year and the stated capability of a major bank to lend money takes on added significance when one realizes that the nation's trunk airlines and Pan American are approaching a 1:1 debt/equity ratio as a group and have improved on it in several individual instances.

Table 2 shows that the total debt, noncurrent obligations under capital leases and the equity of the ten trunk carriers and Pan American as of March 31, 1978. One should note that the totals are modestly distorted because Braniff, Western and Delta (the latter being insignificant in this respect) had not yet restated their balance sheets in conformance with the requirements of the Financial Accounting Standard Board Statement 13. FASB 13 requires the capitalization and inclusion in the balance sheet of all capital lease obligations essentially by the end of this year.

TABLE 2.—*Capital structures of U.S. trunk airlines* [1]

[In millions]

	Long-term debt	Noncurrent obligations under capital leases	Equity
American Airlines	$558.8	$436.5	$703.6
Braniff International	270.7	------	227.3
Continental Air Lines	234.7	------	202.6
Delta Air Lines	202.8	------	697.6
Eastern Air Lines	429.5	452.8	348.1
National Airlines	61.3	------	198.8
Northwest Airlines	100.0	------	760.2
Pan American	741.2	335.4	336.5
Trans World Airlines	614.4	446.5	439.5
UAL, Inc.	825.4	423.8	887.3
Western Airlines	110.7	------	179.6
Total	4,139.4	2,059.0	4,981.1

NOTE.—Braniff, Delta, and Western balance sheets had not yet been reclassified to capitalize all noncurrent obligations under capital leases, pursuant to FASB No. 13.

[1] As of March 31, 1978.

However, the basic conclusions remain. At the end of the first quarter, the major airlines had total long-term obligations of $4.139 billion and capital leases capitalized at $2.095 billion. Relative to the total investment base of $11.215 billion, this represented 55.6 percent of capitalization. Five of the carriers will have debt ratios of less than 50 percent by the end of this year, even after adjustment of Western's debt for an estimate of lease capitalizations.

Moreover, seven of the airlines have significant ($1.209 billion) amounts of convertible securities outstanding. Reclassification of these as equity would add $1.209 billion to the equity base and lower the debt rate to 44.8 percent. It would also add American and, surprisingly, Pan Am to the list of companies with an adjusted debt rate of less than 50 percent. Since the trunk airlines may earn as much as $750 million this year, this suggests an over-all debt ratio of about 51 percent by the end of the year before adjustment for convertible debentures and about 41 percent after such adjustment. It should also be noted that banks typically make other adjustments for borrowing purposes which tend to increase the equity base.

Clearly, then, the airlines are in a position where they can attract new financing. It is also obvious that the present financing ability is still limited and can be increased only with a sustained profit trend. A series of studies have been undertaken in the past couple of years to determine the airlines' capital needs and the likelihood of their meeting these needs.

Given certain reasonable assumptions of traffic growth and aircraft service life a 1977 Boeing study concluded that the 1976–85 capital requirements of the trunks and Pan Am were $47 billion. An upward variation in the assumed service life of aircraft from 16 to 20 years led two other studies to conclude that $21 billion were needed. An ATA study of all U.S. airlines (based on a 5 percent traffic growth rate) estimated total capital needs at $26 billion for the 1976–85 period and $65 billion for the 1976–89 period.

A more recent Boeing study puts the value of aircraft to be delivered to U.S. airlines in the 1978–87 period at $32 billion in 1977 dollars. About $18 billion of this can be assumed to be growth-related while the remainder represents replacement aircraft. Presumably, this includes a large portion of noise-related capital expenditures except for retrofits and modifications. The studies appear to indicate that the airlines would be able to fully finance these needs at a 9–10 percent annual return on investment.

FAR 36 Feet noise rule

Aircraft type	Percent completion	Completion date
B–747		
B–727	50	January 1, 1981
B–737	100	January 1, 1983
DC–9		
B–720	25	January 1, 1981
B–707	50	January 1, 1983
DC–8	100	January 1, 1985

The current year will probably be the third in succession in which the return is in that general area (the 1976 return on corporate investment of the trunks and Pan Am was 8.5 percent). One can be hopeful that the recently emerged conservatism of airline managements plus an enlightened regulatory environment could combine to keep rates of return at a relatively satisfactory level.

Belief in the airlines' general ability to meet their financial needs does not guarantee that each trunk carrier will obtain all the funds it wants at the price it wants to pay. Far from it. It is obvious from Table 2 that carriers like Delta and Northwest will have no difficulty arranging for reasonable financing.

One should also note that even Eastern Airlines has drawn up a five-year budget which envisions capital expenditures of $615 million in addition to the recent Airbus order. Given a modest profit, Eastern is in balance with the addition of about $312 million in new funds.

One other aspect of the airline's financial standing needs mention. At the end of 1977, the trunk carriers and Pan Am had cash assets and short-term investments of $1.787 billion. At the end of March, 1978, the total was $1.705 billion. Equipment commitments at about the end of January were $2.2 billion, of which $1.4 billion became payable this year and should be largely met with cash on hand and internally generated funds. Since that time, about $1.6 billion have been added to these commitments.

As of now, the carriers have not committed themselves to significant purchases of "new generation" equipment. The industry's cash generated from operations last year was about $1.880 billion and may come close to $2 billion this year. Less than $100 million a year is currently needed to meet debt retirement obligations. Thus, even after paying for new equipment, the industry should be able to keep its cash horde largely intact in 1978.

Assuming a more moderate earnings level on average than the current, it still appears possible for the trunks to show a net cash flow (after debt retirement) of as much as $14 billion in the aggregate between now and 1985. This would provide an adequate base to finance the contemplated additions to the aircraft fleet forecast in all available major studies. The key will be the maintenance of a reasonable level of profitability.●

SENATE—*Friday, August 11, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"O Thou by whom we come to God,
The Life, the Truth, the Way;
The path of prayer Thyself hast trod:
Lord, teach us how to pray."
—JAMES MONTGOMERY, 1818.

Before we talk to one another, we would be still and know that Thou art God. Into Thy hands we commit ourselves, our cause, and our country. Amid the things that are seen and temporal, keep us aware of the unseen and the eternal.

We pray in the name of the One who walks by our side, shares our burdens, and gives us peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 11, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Routine morning business transacted and additional statements submitted are printed later in today's RECORD.)

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar beginning on page 11, with the Department of State, and going through page 12.

Mr. BAKER. Reserving the right to object, and I will not object, I rise only to advise the majority leader that the items he identifies on the Executive Calendar, including those through nominations placed on the Secretary's desk, are cleared on our Executive Calendar, and we have no objection to proceeding to the consideration of their confirmation.

Mr. ROBERT C. BYRD. I thank the minority leader.

There being no objection, the Senate proceeded to the consideration of executive business.

The ACTING PRESIDENT pro tempore. The nominations will be stated.

DEPARTMENT OF STATE

The second assistant legislative clerk read the nomination of George M. Lane, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Yemen Arab Republic.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Harold E. Horan, of Texas, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

AGENCY FOR INTERNATIONAL DEVELOPMENT

The second assistant legislative clerk read the nomination of Calvin H. Raullerson, of Texas, to be an assistant administrator.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

THE JUDICIARY

The second assistant legislative clerk read the nomination of James Dickson Phillips, Jr., of North Carolina, to be U.S. circuit judge for the fourth district.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Harry E. Claiborne, of Nevada, to be U.S. district judge for the district of Nevada.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Thomas A. Wiseman, Jr., of Tennessee, to be U.S. district judge for the middle district of Tennessee.

Mr. BAKER. Mr. President, I should like to take this opportunity to extend my congratulations to Mr. Thomas A. Wiseman, Jr., of Tennessee, whose nomination is about to be confirmed, I judge, to be a U.S. district judge for the middle district of Tennessee, to succeed a distinguished jurist, Frank Gray, Jr., who served for many years and shed great credit and honor on his profession.

Mr. President, I would like to note my approval of the confirmation by the Senate today of Mr. Thomas A. Wiseman, Jr. to serve as district judge in the middle district of Tennessee.

I have known Tom Wiseman for many years, as an attorney practing in the State and Federal courts, in politics and as an elected official in Tennessee. I am confident that he will make an outstanding member of the Federal judiciary.

Tom Wiseman has deep roots in middle Tennessee. He grew up in Tullahoma, graduated from Vanderbilt University and Vanderbilt Law School in Nashville and practicied law in Tullahoma from 1966 until the present time.

He served two terms in the Tennessee General Assembly and was elected by the legislature to the constitutional office of treasurer.

He has served his State with intelligence and diligence, and his wide experience and analytical ability auger well for his career on the Federal bench. His exposure as a candidate for Governor will be invaluable to him also.

Tom Wiseman has been recommended by his peers as being well-qualified for his new responsibilities. I would like to join in the commendations he has received and to add my personal wish for him that his years on the bench will be productive ones. He will be the kind of hard-working, compassionate, and sensitive judge that the people of middle Tennessee deserve.

Mr. SASSER. Mr. President, I am pleased that the Senate has today confirmed Tom Wiseman to be district judge for the middle district of Tennessee.

The nominee just confirmed was one of three candidates recommended by a nonpartisan selection committee. I can say, in all candor, that any of the three

persons chosen by the selection committee would make a fine Federal judge. Each was well qualified.

Therefore, it is especially significant that Tom Wiseman was recommended and is now confirmed as district court judge. He is the first nominee for a district judgeship in Tennessee selected by his peers after careful and thorough scrutiny of his credentials. I think that this fact is important and attests to his qualifications.

Tom Wiseman will bring to the Federal bench a sensitivity to the need for evenhanded justice. He is known as a dedicated lawyer, citizen and public servant. He has a judicial temperament. He has the ability to reason rather than react emotionally to controversy.

Tom Wiseman is a public servant in the finest sense of the words. He served a distinguished career in the Tennessee House of Representatives before being elected by his colleagues in the general assembly to the position of treasurer of Tennessee. He served in that position from 1971 to 1974, when he resigned to run for Governor.

Since his race for Governor, Tom has successfully resumed his law practice. He is a member of the Nashville firm of Chambers and Wiseman. Tom's legal career began in Tullahoma, Tenn., in 1956 and continued until the present time except for his term as State treasurer.

He is widely experienced in the Federal court system and has tried an impressive number of major lawsuits. In his years of law practice, he has earned the highest respect of the courts, the Bar and the public. Tom Wiseman's experience in the legal profession is the key to an outstanding judicial career. That is my prediction and expectation.

I congratulate him on his confirmation and wish him every success in his judicial career.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Norma Levy Shapiro, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Sidney I. Lezak, of Oregon, to be U.S. attorney for the district of Oregon.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Edward R. Korman, of New York, to be U.S. attorney for the eastern district fo New York.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

NATIONAL TRANSPORTATION SAFETY BOARD

The second assistant legislative clerk read the nomination of Francis H. McAdams, of the District of Columbia, to be a member of the National Transportation Safety Board.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

FEDERAL MARITIME COMMISSION

The second assistant legislative clerk read the nomination of Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner.

The ACTING PRESIDENT pro tempore. Without objection the nomination is considered and confirmed.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—COAST GUARD

The second assistant legislative clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the vote by which all of the nominees were confirmed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I make that motion.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the President be immediately notified of the confirmation of the nominees.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PROCEDURAL PROBLEMS OF THE LEADERSHIP

D. C. APPROPRIATION BILL

Mr. ROBERT C. BYRD. Mr. President, I express appreciation to my distinguished friend, the distinguished Senator from Tennessee (Mr. BAKER) who has done what he can do to get the 3-day rule waived on his side of the aisle on the District of Columbia appropriation bill. He twice tried to do this yesterday. I appreciate his efforts to cooperate in this fashion.

I merely express the hope at this time that Senators who are insisting on the 3-day rule on the District of Columbia appropriation bill allow us to bring up that bill today.

We have enacted six appropriations bills this week in the Senate, and there is no reason why the District of Columbia appropriation bill should not be taken up and acted upon today.

I can understand, Mr. President, the necessity for invoking the 3-day rule on some of the large appropriations bills—the HEW appropriations bill, the Department of Defense appropriations bill, and others. But it seems to me that to insist on invoking that rule in a blanket fashion on every bill that comes out, on every measure that is on the calendar, is going a little too far. Perhaps I should not refer to it as a blanket invoking of the rule because I have to say that the distinguished minority leader has upon several occasions been able to get through a waiver.

But I do think that the situation has gone too far this year. The 3-day rule is a good rule, but it should not be abused. I think that, from my impressions, it has been pretty much invoked on a regular and routine fashion by a single Senator or a small group of Senators.

I do not mean to be critical of any Senator in saying this. I must say this, however, on my side of the aisle the rule is seldom invoked. Once in a while a Senator on this side will ask that the 3-day rule not be waived. It was done on the tuition tax credit bill, for example. Such a request came from over here. But normally there are only a few such requests on my side of the aisle in the run of a session.

But so often when I go to the distinguished minority leader and talk about taking up a bill he tells me that someone on his side will not waive the 3-day rule, and at all times—I have to say this—at all times that I have ever asked him to go back and see if he could possibly get that rule waiver he has done so. He did it yesterday twice on the D.C. appropriation bill.

So I have no complaint, but only gratitude as to the minority leader. He is a victim of circumstances just as the majority leader is often a victim of circumstances beyond his control.

They call us leaders, the majority leader and the minority leader. Mr. President, we cannot lead. We are prisoners of those on our respective sides of the aisle, sometimes those on both sides of the aisle, who utilize the Senate rules, and that is what the Senate rules are for, to be utilized when utilization is necessary and can be justified.

THE 3-DAY RULE

But I just think that this constant invocation of the 3-day rule has gone too far, and it is becoming an abuse of the rule.

I hope that the Senator or Senators who are insisting on the 3-day rule on this poor little old District of Columbia appropriation bill will let us pass that bill today.

I used to be the chairman of this Subcommittee on the District of Columbia. I was chairman for 7 years, and I know there is no more onerous chore—Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Senate will be in order. Conversations will please cease or be taken to the cloakroom.

Mr. ROBERT C. BYRD. There is no more onerous chore than to have to chair hearings on the District of Columbia appropriation bill and act as ranking member, and sometimes I think that a Senator who is chairman of that committee is worthy of the Congressional Medal of Honor.

Here is this poor little old bill, 68 pages in the conference report. I could memorize ever number in that book in 24 hours.

I used to bring the District of Columbia appropriation bill to the floor and, without notes and without clerks, recite every figure in the bill. I daresay there are not a half dozen Senators outside those on the District Committee who have any interest whatsoever in this District of Columbia appropriation—not any interest whatsoever. They merely want to be here to vote on final passage if there is a rollcall vote.

I will make it clear. I do not say this in criticism of any particular Senator. I do not know who the Senator is or who the Senators are who consistently, consistently say, "We don't want the 3-day rule waived."

I am all for the 3-day rule. I respect the rights of Senators to invoke it. But I must tell you it has become a fetish apparently with a Senator or some Senators to invoke that 3-day rule on every little old bill that comes in here that is reported.

Mr. SCHMITT. Mr. President, will the distinguished majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield first to the distinguished minority leader.

Mr. BAKER. Mr. President, let me say just a word, if I may, before I yield to my colleague from New Mexico.

The majority leader is most kind and generous in his remarks, and I appreciate them, and he is entirely correct. We are captives of our membership, and we have only that authority and initiative which they are willing to give us. And I agree with the majority leader that anyone who handles the D.C. appropriation bill or for that matter the D.C. Committee when we had a D.C. Committee should have some sort of special citation.

Mr. President, I must say, as I have said privately to my good friend and colleague, the majority leader, that there is a difference. There is a difference in the mind set and the attitude of the majority which, after all, has the initiative in going forward with legislation, chairing the committees and subcommittees, staffing those committees that write the reports, and reporting them to the Senate by the majority, on the one hand, and the minority, on the other, because we have to respond to that. We do not have the initiative, and the 3-day rule then becomes a treasured adjunct of Senate procedure which permits us as a minority to examine and to analyze, even to understand what has been reported to the Senate before we try to take a position on it or before we must act on it.

In this particular case, the majority leader, as usual, is right once again when he says that on yesterday we tried twice to see if we could remove the several objections to the waiving of the 3-day rule, and we were not able to do that.

But, Mr. President, it is a mark of the effectiveness of the majority leader's leadership that he would present these things and that we would have an opportunity in good faith to reply to them, and a mark of the efficiency of the rules that we are able to negotiate the schedule of the Senate within the framework of the rules in this way, to protect his initiative and our minority status to respond.

The majority leader speaks of his poor little bill, and I am sympathetic to that. I remember the days when he used to handle this bill on the floor of the Senate, and I was always astonished at the depth of his knowledge of the subject. But while this is a poor little bill, we are a poor little band. We are a poor little group of 38 Senators who are just trying to do our best to see that we have an opportunity to compete with the awesome power of the majority, that we have an opportunity to understand what the majority has done, and in most cases what they have done has been good.

But, Mr. President, we owe the obligation to examine it because that is the function and role of the minority.

Mr. President, I share the majority leader's frustration in a sense because it is our responsibility to try to order the affairs of the Senate, to arrange the calendar—his far more than mine—and I pledge to him that I will continue from time to time to try to accommodate his requests. He makes them infrequently. In the majority of the bills we do not even inquire about the waiver of the 3-day rule, and in most cases we will succeed. I rather suspect we have succeeded already in many more than we have failed.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that each leader may have an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. But I think the policy of invoking the 3-day rule has not been abused. I think it is a necessary adjunct to the responsibility of the minority, and I pledge to the majority leader that I will do my very best to accommodate his reasonable requests, and to help arrange the schedule of the Senate.

I expressed my regrets that we could not go forward on this, as he puts it so poetically, "poor little bill." I will try a third time, and we will see if it is possible to do that.

As he so often says, I am an eternal optimist, and I would not doubt for a moment that that is at least possible.

So I conclude these remarks, Mr. President, by saying he is a good leader; he has been considerate of the rights of the minority. I understand his frustration in this respect for his poor little bill, and I am appreciative of his understanding of the minority and our responsibility to act in the discharge of our responsibility.

Mr. ROBERT C. BYRD. Mr. President, I do appreciate and have a very deep understanding of the responsibilities of the minority. I have been a member of the minority party once during my 26 years on Capitol Hill, and I do not intend to engage in an argumentative discussion with the distinguished Republican leader.

He has taken in good spirit what I have had to say, but I want to address myself to two or three points that he made. He spoke of a mind-set—a mind-set. Mr. President, I have been in the Senate 20 years, and I have not seen that mind-set until this year on the 3-day rule. I have seen it invoked from time to time, as I think it ought to be invoked from time to time, and I understand a Senator who wants the 3-day rule invoked on a measure like the tuition tax credit bill or the DOD appropriation bill or the HEW appropriation bill. But there should be no mind-set on the invoking of the 3-day rule. That is the problem. Apparently it has become a mind-set on the part of a Senator or some Senators.

I cannot see that mind-set as a responsibility of any Senator on either side of the aisle or of either party—that it has to be a mind-set that we have to invoke the 3-day rule without exception.

THE JOINT FUNCTION OF LEADERSHIP

Also the distinguished Senator, the Republican leader, speaks of the responsibility of the initiative as being on my side of the aisle. That is true. But leadership is a joint function. Both parties are in this thing together. If we are not able to proceed with legislation and dispose of it in a reasonable length of time, all too often Congress looks bad, and that makes both parties look bad. Congress cannot look bad with only the brush tarnishing the leadership party.

It is natural, I suppose, to blame the leadership party if Congress is criticized. But we are all in this together, and the distinguished Republican leader appropriately shares with me the responsibility of moving the legislation forward.

He has been a fine teammate. We have differed on a few little occasions, but he has been pleasant to work with, and most cooperative.

But again he cannot always do what he would like to do. I would simply hope that Senators will think about this, and

those who apparently make a fetish out of utilizing this rule would desist from doing so. What it is doing is slowing the Senate and it is not performing the function which it should perform. It is merely throwing up a roadblock. It is not serving any good purpose when it is automatically resorted to without good and sufficient reason.

Mr. President, I ask unanimous consent that the leaders may have an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. It is not serving any good purpose when it is automatically resorted to.

THE SCHEDULE AHEAD

Let me just point out to the Members of the Senate what we have confronting us here. We have left, remaining, until October 7, 36 working days—not counting Saturdays, not counting the legislative holiday, the Labor Day holiday—36 working days.

Mr. President, we are just going to have to forget October 7 as a date on which we may be able to adjourn sine die. I do not think we can do it unless we work Saturdays, unless we work long days, unless we get cooperation from all Senators on both sides of the aisle in working out time agreements, and waiving 3-day rules from time to time, at least.

Senators who are not running ought to stay in town on Saturdays from here on out and carry the burden. On that score so many times I will say, "Let us bring up this bill." And I will be told, "Well, so and so, who is the ranking manager, and so and so who has an amendment, and so and so who is managing the bill will be out of town." So we cannot take up that bill.

With 36 working days left, what are we going to do? We have remaining the Labor, HEW appropriations bill; the District of Columbia appropriations bill, that poor little old D.C. appropriations bill; the Department of Defense appropriations bill; the foreign operations appropriations bill.

We have numerous authorization bills that deal with expiring authorizations. We have the energy legislation. We have some very heavy stuff left to do. Senators want to get out at 6 o'clock, they want to be out on Saturdays, and they want the holiday adhered to, the one that was calendared, and it will be adhered to. They want to leave on October 7. They do not want to come back after election, and mark me in the last category. I do not want to come back after the election either.

But, Mr. President, we had better realistically face up to the problems that confront this Senate in the few remaining days left to us. In the final analysis we are going to have to do our work. The people expect that. If this means we have to come back after the election, that is what we will have to do.

I would rather avoid that. But if we do avoid it, it is going to take more cooperation than I have been getting. It is going to take more recognition of the realistic circumstances that confront us. It is going to take a willingness to reach time agreements, a willingness to call up bills and dispose of them. Otherwise, we may just as well forget sine die adjournment before the election. So far as I am concerned, I have now about forgotten October 7 as a possible sine die date.

If the Senate has to have Saturday sessions, I would trust we can reach some time agreements, so that we could guarantee there would be action on Saturdays, and not just quorum calls by a few disgruntled Senators who come in while others are out of town. I cannot blame them for being disgruntled. I would certainly hope we could accomplish something, if we must have Saturday sessions.

But we cannot have our cake and eat it, too. We are going to have to have better cooperation. We are going to have to have some Saturday work. We are going to have to have some long evenings, if we make sine die on any date in October—any date.

I say what I have said because I think I realize perhaps as much as any other Senator, or more than some, what the true outlook is. I know what is on this calendar. And yet committees continue to report bills, without any possible hope of those bills being acted on this year.

I would hope that committees would take a good look at the measures they report from here on out. They grind out bills that have no more chance of being passed than a snowball has in Hades.

So I hope we will all stop and look at the clock and the calendar—and the compass, to see the direction in which we are going.

Mr. President, I yield the floor.

Mr. BAKER. Mr. President, I am reminded a little of the young man who was flying in an airplane through a thunderstorm. We are being bounced around and jostled. I used to fly a little, and I was sitting in the right seat of the airplane, watching the radar. My young friend saw I was nervous and frightened, and he finally tapped me on the shoulder and said, "Senator, why don't you turn off that radar before we scare ourselves?"

That is sort of the way I think we are about this conversation this morning. I think we had better turn off that radar before we scare ourselves, because I do not want Saturday sessions and I do not want to have to rearrange schedules post-October 7, but I think facts are just facts.

I have previously told the majority leader, and I will reiterate now, that I will do my best to accommodate his reasonable requests on waiver of the 3-day rule, on unanimous-consent requests, and in other respects on scheduling. I daresay the percentage of 3-day rule waiver requests he has made that we have agreed to would run 75 or 80 percent as against those we have declined to agree to. I do not have any count, but that is my feeling.

I will do my best to see if we can do something for the D.C. appropriation bill, and as he knows without my telling him, I will continue to participate in the job of trying to arrange the schedule of the Senate so that we can accommodate all members of the majority and, of course, of the minority as well.

Mr. ROBERT C. BYRD. I thank my dear friend, the minority leader.

RETIREMENT OF SALVADO MASGORET

Mr. BAKER. Mr. President, today is a sad day for us, because it is time to say goodby to a fine person who has served us long and faithfully. Mr. Salvado J. "Joe" Masgoret retires today after serving us for 10 years in our private, "inner sanctum" dining room.

Mr. Masgoret is 77 years old, and for the last 49 years, he has been in Washington, whipping up wonderful things to eat. He was born in Fulleda, Spain, and was a baker and pastry chef, who came to this country in 1920. He is now an American citizen.

Among his inventions in the kitchen is rum bun, a culinary advance that has kept me on a diet for most of my adult life.

I want to thank Mr. Masgoret for his rum buns, for his other special desserts and diversions and for his discretion, his good humor and prompt, polite service to the U.S. Senate.

I understand he plans a trip to Spain and other travels in the United States. I am sure my colleagues join me in wishing him every possible happiness in his retirement. We hope he will look in on us from time to time.

TUITION TAX RELIEF ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of H.R. 12050, which the clerk will report.

The legislative clerk read as follows:

Calendar No. 989, a bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal Income Tax credit for tuition.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendments.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HODGES. Mr. President, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Mr. Lary Phillips and Miss Sally Bertness of the staff of Senator JACKSON be given the privilege of the floor for the duration of the consideration of this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I make

the same request for Susan Irving of my staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PACKWOOD. I make the same request on behalf of John Colvin and Terry Kay of my staff.

The ACTING FRESIDENT pro tempore. Wtihout objection, it is so ordered.

Mr. SCHMITT. I make the same request on behalf of Eugene Iwanciw of my staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, before discussing this bill, I should like to pay special tribute to Senators MOYNIHAN, PACKWOOD, and ROTH for their dedication to this most important cause. Each has spent long hours and contributed greatly to this piece of legislation.

Senator ROTH has never given up in his determination to make college tuition tax credits a reality for many thousands of middle-income families. His steadfastness has had a great deal to do with the fact that this year for the first time the House of Representatives finally acted on a tuition tax credit bill.

Senator PACKWOOD has given greatly of his time and energy in the attempt to aid parents who choose nonpublic schools for their children. Senator PACKWOOD is noted as one of the most innovative members of the Finance Committee. He can always be counted on for a fresh approach to a difficult problem.

Mr. President, my old and dear friend the Senator from New York (Mr. MOYNIHAN) has made substantial and invaluable contributions. It is especially good to have a professor and an intellectual in the Senate. Senator MOYNIHAN combines these talents with an extensive knowledge of our educational system and a subtle wit. This makes him a formidable ally in any fight we may have in this body.

It has been a pleasure to work with these three Senators. Their staffs have cooperated with each other and with my staff. Checker Finn of Senator MOYNIHAN's office has a reputation as an educational expert in his own right. His aid has been invaluable. Bruce Thompson of Senator ROTH's staff and John Colvin of Senator PACKWOOD's staff have brought knowledge of the Tax Code and strong efforts to this cause. Susan Irving of my staff has been superb and her help has been invaluable to all of us.

Mr. President, I am pleased to join with my colleagues in supporting the Tuition Tax Relief Act of 1978. I have long felt that those who bear the burden of paying for their children's education should receive some tax relief. This body has agreed. In fact, the Senate has considered and approved legislation providing tax credits for college tuition more than six times in the past decade.

Education has always held a special place in American society. For many it has been seen as the path upward. People have worked hard. Parents have worked hard that their children might obtain a decent education. In the United States we have always believed that education benefits not only the individual, but also the society as a whole. Thus, we have encouraged spending on education.

In the decade since this body first approved tuition tax credits, however, college costs have skyrocketed. Tuition and fees at our Nation's colleges increased more than 90 percent between 1967 and 1976.

The disposable income of American families has not grown anywhere near as fast. Today, many families who had always planned to send their children to college are finding it much harder than they ever expected. And all too often these families feel forgotten. They, like we, have supported financial aid for less fortunate students. Now they are asking that we recognize their problems and their efforts.

In the sixties we created programs to make equal access to education more of a reality. And we spawned a whole new alphabet soup of student aid programs—BEOGs (basic educational opportunity grants), SEOGs (supplemental educational opportunity grants), SSIGs (state student incentive grants)—and loans. The sponsors of the tuition tax bill remain committed to funding these aid programs for our poorest students. Family income should not be a barrier to higher education.

These Federal grant programs are focused on families with less than the median income—and rightfully so. Only 6 percent of the funds from the basic grants program go to students in families with income over $15,000. Today we have a whole group of families who are "too rich" for need-based grants but find college tuition a major burden. I would suggest that given today's college costs an income of $20,000 or $30,000 is not so great—especially in a family with more than one child.

The Tuition Tax Relief Act offers a tax credit to these families. It provides tax relief to those who do not qualify for Federal grant aid—or who receive a very small amount of grant aid. The bill is designed to prevent "double-dipping." Because the credit is reduced by the amount of any Federal grant, no one with a Federal grant of $500 will receive a tax credit.

H.R. 12050 offers parents a tax credit equal to 50 percent of tuition and required fees. From 1978 to 1980 the maximum credit is $250 and is available only for full-time postsecondary undergraduate study. Beginning October 1, 1980, the college credit is increased to $500 and is also available to half-time undergraduates. This percentage formula was chosen so we do not further worsen the disparity between public and private tuitions at the college level.

Tuition tax credits for college benefit the middle class. It is true. But we must always keep in mind that these middle-class families are critical to the strength of our country and our system of government. Government and any tax system operate by the voluntary consent of the people affected. But the people must feel that Government is fair and that everyone gets an even chance. I believe that we have a confidence gap today. Too many families who perceive themselves as middle class also see themselves as left out. They feel Government is only concerned with the rich and the poor. The tuition tax credit provides some sign that Government has not forgotten them.

There is another part to this bill which deserves discussion. H.R. 12050 also provides a tax credit for tuition paid to private primary and secondary schools. This is a question of diversity and freedom of choice.

Throughout American history parents have cared that their children receive an education which meets their needs. Over great odds these parents have created and molded schools to meet their needs and philosophy.

Today most parents find the public schools responsive to their needs. Others feel that the public schools fail both them and their children. These parents face a growing financial burden. They pay the rapidly-increasing taxes to support the public schools. And at the same time they pay the rising cost of non-State education.

This financial squeeze has taken its toll. In 1963 when I first proposed a tax credit for elementary and secondary school tuition, over 14 percent of our Nation's students were enrolled in nonpublic schools. Today that figure is less than 10 percent. Enrollment in nonpublic schools has dropped from 6.3 million students in 1965 to 5.3 million in 1976—a fall of 16 percent. Now, some are not troubled by this trend, but I personally believe that it threatens the diversity of our educational system. In the United States three educational systems—public, independent, and parochial—have grown and existed side by side. There are many faces to education in our Nation: many kinds of schools. This diversity is a tremendous strength for our country. As a country we have come to value the diversity of our people. We must also protect the existence of institutions which represent that diversity.

Decline in private school enrollments threatens not only the varied nature of our education system, but also the public school system itself. If all of this Nation's nonpublic schools closed it would cause a major dislocation in the public school system. Could our public schools absorb an additional 5.3 million students? Could we manage the cost of doing so? This burden would not fall evenly—much of it would be in our already struggling city school systems. In 1976 the average expenditure per pupil in the public schools was $1,600 per year. If 5.3 million students were suddenly transferred to the public school system the increased cost to taxpayers would be some $8½ billion! In comparison, a tax credit of less than $1 billion is a small investment.

This legislation will not tip the balance to favor nonpublic schools over public schools. During the 1978–79 school year the Federal Government will spend—in direct outlays and tax expenditures—an average of $352 for every public school student in the United States. During this same year the com-

parable figures for private school students will be just $98.

In fiscal year 1983, when our bill is fully effective, the Federal Government will spend an average of $268 for every private school student. This is just three-quarters of the amount now going to their public school counterparts.

I and the other sponsors of this legislation strongly support aid to our public schools. As Secretary of Health, Education, and Welfare under President Kennedy, I fought for his proposals to provide aid to education. We failed to get favorable action on his program. When I came to the Senate I continued to advocate aid to education and finally we were successful. Much of the debate at the time swirled around the question of aid to parochial schools. Aid to public education is not inconsistent with assistance for those parents who choose nonpublic schools for their children. Aid to private colleges has not destroyed the public college system. Our public schools should be as good as they possibly can be. Nonpublic schools should exist as an alternative.

The right of parents to direct their children's education is a valued right—and it has been so recognized by our Supreme Court. This right will be meaningless if the only schools we have in our Nation are State schools.

Further, the last 10 to 15 years have seen an advancement in our definition of a "right." Increasingly we have come to see that a "right" is an empty promise if you cannot afford to exercise it. This legislation is designed to make freedom of choice a reality for more of our citizens.

Mr. President, this legislation does not provide massive tuition relief. The $250 credit may be worth little to the upper-income parent paying for Choate or Loomis; that is not the parent I am worried about. But to the parent who has been denied choice; to the parent on the margin, this aid may make a difference. This is not a rich man's credit. For 64 percent of the students in nonpublic schools come from families with incomes under $20,000 a year.

Some of my colleagues fear that this is a "white flight" tax credit. The legislation requires that only tuition paid to schools with 501(c)3 tax-exempt, tax-deductible status under the tax code is eligible for the credit. This status is denied to schools which discriminate on the basis of race, color, national or ethnic origin. The IRS regulations on this are quite specific. A school must actively demonstrate its nondiscriminatory standards. We have asked the Secretaries of HEW and Treasury and the Attorney General to report to us on the adequacy of IRS enforcement of these requirements. We want strong enforcement.

I would further urge my colleagues who are worried about segregation to take a look at who is served by these nonpublic schools. Our public neighborhood schools, by and large, serve homogeneous ethnic and economic groups. Private schools have a broader reach. Look at the efforts of our parochial schools in opening opportunity to all. Look at the minority population in a big-city parochial school. Some examples from my own State of Connecticut may be illustrative.

In our three largest cities, the minority student population at the Catholic elementary schools is as high as or higher than that in the public schools. In West Hartford, the Northwest Catholic High School has more minority students enrolled in it than any other high school in that city. And I would urge my colleagues to look at the integration record at our top private schools and compare it with the record of public schools in a wealthy suburb in this country.

The rich have always been able to choose the education they want for their children. We seek to expand that freedom of choice to middle- and lower-income Americans.

There is one more issue concerning the elementary and secondary portion of this legislation which must be addressed—the constitutional question. If I thought that this bill clearly failed the tests used by the Supreme Court in striking down aid programs designed by the States, I would not support it. I am not interested in dramatic but futile gestures. However, our Supreme Court has never ruled on a Federal law in this area. The Congress does have the right to pass laws about which there exists a constitutional question. The Supreme Court does not issue advisory opinions; it only rules on actual controversies. We can only discover if this is a constitutional form of aid to parents who pay nonpublic school tuition if we try.

Mr. President, this is not a new idea. Over the last 15 years, both Democratic and Republican Presidential candidates have endorsed aid to parents of private school students.

The tuition tax credit says to the American taxpayer, "Yes, we know you struggle for your children. We recognize your efforts." I think it is time to do something about it. Let us pass this bill.

There will be a full debate. It is time that we faced up to it in this country. The time has come to recognize the rights and the burdens and the opportunities for middle America in this Nation of ours.

Mr. MOYNIHAN. Mr. President, before I respond to the extraordinarily generous remarks of the senior Senator from Connecticut, our revered colleague, ABRAHAM RIBICOFF, and continue with the debate, I first ask unanimous consent that the committee amendment be agreed to and that the bill as thus amended be considered as original text for the purpose of further amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HOLLINGS. As I understand the request, it is just to replace the committee amendment to the bill.

Mr. MOYNIHAN. That is correct.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I think perhaps it will not be taken amiss if I use this occasion to remark that the original request which I made on behalf of the sponsors of this legislation and the Committee on Finance was objected to, not on clear grounds, but on grounds of certain suspicions. These suspicions must be clearly addressed and resolved. In fact, it might be useful to suggest that this whole matter is, in a sense, being approached by persons who wonder what exactly is happening here, and suggest something verging on the sinister and the occult. That is why it was so important that this debate should have been begun by the most distinguished spokesman in this Chamber, perhaps the most distinguished spokesman for education ever to serve in this Chamber, the senior Senator from Connecticut, who has given us a beginning, a context in which to address this matter. There have been few men of his generation, who are not only as distinguished, but whose distinction has been so well recognized, so luminous, and so manifest—not only in the positions he has held but also in the deeds he has done.

He was John F. Kennedy's Secretary of Health, Education, and Welfare, the first man of my party to come to that position, when, at long last, the United States began to recognize its responsibilities in this area at the national level. I was a young assistant to a Cabinet officer in those times. I had known then-Secretary RIBICOFF from his time as Governor of Connecticut, when I was assistant to his neighbor in New York. I recall fondly how we would look to him for guidance and support. I can well remember those moments of my youth and would like to recall them for some of the Members in this Chamber. I ask my colleagues across the aisle to forgive me if I address my own party at this moment, but ours is the party that first addressed these issues.

Seventeen years ago, in this city, ABRAHAM RIBICOFF assumed the responsibilty for the President of the United States in the field of education with respect to three matters. First, the schools of a large section of this country were frozen into a hateful, anomalous and illegal system of segregation by race. The Supreme Court had ruled otherwise; nothing had happened. But the commitment to the good of the country had to be made and finally, through President Kennedy, it was made.

Second, in the face of a huge expansion in the cohort of young people attending school, State and local governments found it increasingly beyond their capacity to pay for the extraordinary expansion necessary. A national commitment to education was necessary and ABRAHAM RIBICOFF undertook that task, too. We simply called it Federal aid to education.

Third, there was the task of resolving the longstanding, vexing, and most challenging issue of achieving the ideal balance between the Government and the non-Government sectors of education. There is a certain semantic advantage in distinguishing between "public" and "private," based upon the presumption that somehow, what is public is more appropriate to public support. It was beyond question that all these schools were, and remain, essentially public. The

question was: Are they substantially supported by Government or are they not? That was in many ways the most difficult of the triad, because it touched upon alarms and concerns of the American people which ran far deeper than either of the original two—which addressed the question of race in American life and the role of the Federal Government in American life.

ABRAHAM RIBICOFF addressed himself to these. He told you a moment ago that when he came to the Senate in 1963, he first proposed an elementary and secondary tuition tax credit. This is, then, not a measure that simply appears before us *de novo*. Instead, it was part of a triad of responses to a triad of fundamental issues that faced this Nation, and lay at the core of our sensibility concerning the role of race, of religion, and finally, the role of the national Government in our society; it was a challenge to overcome fear and prejudice. In two of those matters, we have acted so decisively and done so admirably that we have broken the hold of segregation upon this society. We have also broken through to a point where the national Government now accepts some responsibility in matters of education. In both cases, we owe a debt of gratitude, and our tributes, to ABRAHAM RIBICOFF.

One thing we have not done disturbs me greatly, and comes to this Senate today as part of the Nation's unfinished agenda——

Mr. HOLLINGS. Will the Senator yield?

Mr. MOYNIHAN. If the Senator will have the kindness, I would like to speak for another 10 minutes, and then, of course, I will yield.

Mr. HOLLINGS. I just wanted to ask a question.

Mr. MOYNIHAN. I will yield for a question.

Mr. HOLLINGS. Does the Senator know that President John F. Kennedy said, "I believe in an America where no church is granted any public funds or political preference"?

Since we are talking about John F. Kennedy, I thought we ought to get this record straight.

Mr. MOYNIHAN. I believe in the same America. I would not have any church receive any public funds.

There is no instance of that at this time. In the early constitutional history it may have been a different matter.

But are we here talking about churches receiving funds? We are talking about parents receiving tax relief for tuition.

I see the Senator from Connecticut is on his feet.

Mr. RIBICOFF. Will the Senator yield for a question?

Mr. MOYNIHAN. Yes, I yield for a question.

Mr. RIBICOFF. I suppose there are not many people in this country today who knew President Kennedy better than I did. I know what a loyal supporter the distinguished Senator from South Carolina was. Memory goes back to the great support that he gave in South Carolina, around the country, and also at the Democratic Convention in 1960 which nominated President Kennedy.

But I think that in many ways the committee is not properly addressed to the Senator from New York because in no way are we advocating the contribution to or the granting of funds to any church-related school. We are talking about a credit to parents for tuition that they pay for a private or parochial school. We make a definite distinction in this legislation that these funds are not going directly to a parochial or church school, but to the parents to reimburse them for their children's education.

Mr. MOYNIHAN. Exactly.

Mr. HOLLINGS. Will the Senator yield?

Mr. MOYNIHAN. I will yield for one more question.

Mr. HOLLINGS. Has the Senator read the New York Supreme Court decision?

Mr. MOYNIHAN. We will have days to discuss that.

Mr. HOLLINGS. Yes, but that goes to the parent or the school, and the court found it went to the school.

Mr. MOYNIHAN. If the Senator will allow me to continue, I am still only in the process of thanking the Senator from Connecticut.

Mr. RIBICOFF. One more point, if these tax credits for tuition paid to parochial schools are public funds, then so are tax deductions for charitable contributions that we make to churches or church-related schools or colleges.

So I think we are talking about something invidious here. I do not think this bill in any way can be imputed as a grant to a church school.

Mr. MOYNIHAN. Does the Senator from Rhode Island wish the floor for a statement?

Mr. PELL. No, for a unanimous consent.

Mr. MOYNIHAN. I will yield for a unanimous consent.

Mr. PELL. I thank my colleague from New York.

Mr. President, I ask unanimous consent that the following staff members of the Human Resources Committee have the privilege of the floor during the debate and votes on H.R. 12050, the tuition tax credit bill: Stephen Paradise, Franklin Zweig, Mrs. Jean Frohlicher, and Richard Jerue.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. As I stated, I have only in mind at this point to respond with an expression of gratitude to the Senator from Connecticut for making the point which he makes with such quiet authority.

I would hope I might not raise my voice during this debate. It seems to me inappropriate to the subject. We will all be forgiven for a lapse or two, but not, perhaps, for many.

I wish to make the point that early in the modern history of this issue, my party embraced this approach. Senator RIBICOFF spoke of it first in 1963, and I believe he was the first to do. To my knowledge of the matter, his initiative was first—as the first Cabinet officer of the Democratic party to be responsible for education.

And then in 1964, when the efforts to obtain Federal aid to education had failed because we were not able to resolve this third matter, it fell to me to play a small part in drafting the Democratic platform, which reaffirmed our commitments in this third area. That action followed by a complete endorsement of the principle of Federal aid to education by those persons most interested in nongovernment schools and nonpublic schools.

As a result, the Elementary and Secondary Education Act of 1965 was enacted promptly. If it was a tribute to any one man, it is that man who stands on this floor today, ABRAHAM RIBICOFF.

But, Mr. President, the Democratic Party did not leave the matter at that. We went on to espouse the tax credit approach in the most explicit way.

In the course of his campaign for the Presidency, Senator Hubert H. Humphrey issued a position paper on parochial and private schools in response to numerous inquiries.

He said:

> I favor the creation of a system where parents would be able to receive a tax credit when their children attend approved private schools.

By "approved private schools," he meant, with absolute insistence, that there be no racial, ethnic, or economic discrimination:

> The tax credit would not amount to more than the tuition paid. A system of tax credits for tuition, books, fees and supplies would provide substantial financial relief to millions of American families within the proper bounds of the Constitution.

He went on to speak of an essentially similar arrangement already in place in his home State of Minnesota.

Mr. President, I ask unanimous consent that the position paper of Senator Humphrey be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

HUMPHREY CALLS FOR TAX CREDITS FOR PARENTS OF NON-PUBLIC SCHOOL CHILDREN

CLEVELAND, April 28.—Senator Hubert H. Humphrey today called for a system of tax credits for parents of parochial and private school children and "creative and constructive methods of assistance to ease the financial crisis facing non-public education."

Senator Humphrey issued a position paper on parochial and private schools in response to numerous inquiries on the subject. Following is the text of the Senator's statement:

"Our public schools are the foundation of our educational system. I was educated in public schools and I will always be a vigorous supporter of the American public school system.

"At the same time. I appreciate that public schools have benefited academically from the challenge and competition presented by thousands of non-public schools throughout the nation.

"Today in Ohio more than 330,000 students are attending non-public schools. These schools are making a significant contribution to American education. Private and parochial schools throughout this state and the United States have played an important role in assuring children the equal opportunity to obtain a quality education.

"I am concerned that the American traditions of cultural and educational pluralism are endangered by the financial crisis facing non-public education. When non-public

schools are in trouble all schools in America share in these hardships. The closing of one private or parochial school places additional burdens on the public school system. And the continued closing of non-public schools places an extraordinary financial burden on local school districts where property tax rates for education have already reached the saturation point.

"In Ohio and elsewhere, non-public schools are caught in the same sort of cost squeeze experienced by millions of American working families. And like the families of this nation, non-public educational systems have received nothing more than election-year promises from the Nixon Administration.

"There is a growing tide of opinion in America which recognizes that we must encourage greater sharing of public and private resources within the framework of proper and responsible Constitutional safeguards. I believe the aim of this sentiment should be to promote educational reform among public and private schools and to make all educational systems in America truly responsible to the needs of our communities.

"I favor the creation of a system where parents would be able to receive a tax credit when their children attend approved private schools. The tax credit would not amount to more than the tuition paid. A system of tax credits for tuition, books, fees and supplies would provide substantial financial relief to millions of American families within the proper bounds of the Constitution.

"In my home state of Minnesota we have had the foresight and the practical good sense to tell the parents of non-public students by granting partial income tax credits for tuition paid to such schools. The Minnesota plan provides that a parent receive a direct credit not to exceed 80 percent of paid tuition, effectively limiting the program's application to secular instruction. The amount of the tax credit is also limited by a ceiling of $100 annually for an elementary school child and $150 for one in a secondary school. We have been assured of the Constitutionality of that approach.

"I will urge passage of similar legislation by the Congress of the United States.

"I recognize that it would not provide a total solution to the problems faced by non-public schools. But it could be a significant beginning to preserve the right of every American child to know his or her own heritage through non-public education.

"There are other creative and constructive methods of assistance in the secular areas of private and parochial education.

"Along with public schools, these schools need improved testing and counseling and better health services. They need good textbooks and instructional materials on secular subjects. And the children attending these schools deserve daily nutritious meals and safe transportation services. All of our schools require the latest scientific equipment of non-discrimination based on race, creed, color, or national origin.

"By taking the steps now to provide for a rich diversity and constructive competition in our educational system we can meet the demand not only for a more informed and skilled nation, but also for a better and more humane society."

(EDITOR'S NOTE.—In 1963, as Assistant Majority Leader in the U.S. Senate, Senator Hubert H. Humphrey proposed that the Congress adopt a sliding tax schedule to help finance higher education in America.

(He observed on the Senate Floor:

("The sliding tax credit schedule provides a sensible and workable system of federal assistance that helps every student, indirectly helps both public and private institutions and does so in a manner that in no way interferes with individual or institutional freedom or policies. . . . While this tax credit proposal would not solve all the financial problems related to higher education, it would represent a significant contribution well within our national means. It would provide this assistance in a manner that avoids any argument about federal control of education and also the nagging question of church-state relations. Moreover it would provide this aid without having to expand the Federal bureaucracy to administer the program.")

Mr. MOYNIHAN. Then in 1972, when our colleague, Senator MCGOVERN, was running for the Presidency, he issued a statement on aid to parents of children in parochial and bona fide nonpublic schools.

Again, his emphasis was on the first of the three large issues of which I spoke, and he could not have been more explicit in this matter. In a passage which was intended to make news, and which was news, he said:

I am today announcing my support of the tax credit approach to aid the parents of children atending parochial and other bona fide nonpublic schools.

Mr. President, I ask unanimous consent that the MCGOVERN statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR GEORGE MCGOVERN

As I have traveled around this country during a two-year campaign, I have again and again witnessed sights that have heartened me. In New Hampshire, in Wisconsin, in Michigan—in state after state—I have gone into neighborhoods and met marvelous families.

At the center of many of these neighborhoods—and at the center of the attention of the parents—was, not infrequently, a church or a synagogue and a religious school.

Most Americans, of course, send their children to public schools. Our public schools deserve our thanks and they desperately need our help.

That is why I have pledged aggressive leadership to bring more financial aid to public schools than they have ever received before.

And that is why I have pledged to release $15 billion in Federal funds for property tax relief to local neighborhoods. These funds came from local neighborhoods. They should go back to local neighborhoods.

Nine out of ten American students are in public schools. There's simply no question but that's where our highest priority lies.

But neither can we neglect the other one out of ten students who are not in public schools—but who are also citizens and children of America. In defending majorities, we cannot neglect minorities.

The importance of this minority number of children becomes strikingly visible when we recall that 83% of them are concentrated in key metropolitan areas.

In the twenty largest cities of this nation, two out of every five children are enrolled in parochial or religious oriented schools.

In Chicago, there are 410 elementary schools and 78 high schools in the parochial system, serving over 260,000 students or 27% of all students in Chicago. The total investment in the Chicago parochial school system approaches $100 million annually.

One out of every four students in New York City is in a Catholic school. In some cities in New York State, 50% of all students are in parochial schools. In Philadelphia and Buffalo the figure is 33%. In Boston, Cincinnati, and New Orleans, it is 27%.

We cannot abandon the children in these schools. We cannot allow the inflation caused by the present administration's mismanagement of the economy to become a coercive force, depriving parents of a constitutional right.

If the cost of sending children to these schools goes up exorbitantly, as it has been going up, parents are in effect coerced into withdrawing them—coerced indirectly into sending their children to public schools.

I believe deeply in the values of diversity in American life, especially in education. For education is not merely a matter of skills in reading and computation—not merely a matter of technical skills.

Education is a matter of moral vision. Education forms the character, the imagination, the sensibility. And in these things, America desperately needs diversity.

Moral vision is not acquired in the classroom merely. It is acquired in the home, from one's relatives, from one's friends, from one's neighbors.

Moral vision springs from a whole culture—it is embedded, even, in a language. That is why Polish schools sacrificed for so long to keep Polish alive. That is why Spanish-speaking families are demanding, quite properly, that part of the education of their children be in Spanish. That is why Jewish day schools teach not only Jewish traditions but the ancient, beautiful language of Israel.

Parochial schools are chiefly cultural agencies. They are thoroughly American—but they are especially American in keeping alive America's diversity. They help to supply the pluribus in our nation's motto, E Pluribus Unum, "out of many, one."

That is why, in many towns and cities of America, sometimes even in small communities like Glen Cove, Long Island, there is not one Catholic school but two or three: one Italian Catholic, one Polish Catholic, one Irish Catholic.

As David Riesman and Christopher Jencks write in The Academic Revolution, the contribution of these diverse Catholic schools in nourishing generations of immigrants, of many tongues and many cultures—and at the same time forging from this rich diversity a truly astonishing American unity—is an achievement not yet fully studied or praised.

Nor have our official histories of education appreciated fully yet the growing contribution of Jewish day schools around this nation; nor the contribution of the Lutheran grammer schools, high schools, and colleges, especially in the middle west—or the colleges of the Methodists, Presbyterians, Congregationalists or others—or the splendid Episcopal schools in many cities.

Only in reflecting on the cultural richness of the full range of such schools do we come to realize what would be lost in losing them.

But there is more to this issue. In many of our cities, church or synagogue with adjacent school are centers of cultural continuity for entire neighborhoods. Often, gathered around their house of worship and proud of their local schools, American citizens of varied cultures establish their own identity and nourish the values dear to them. They live, quite voluntarily, in the midst of relatives and friends. They resist the flight to the suburbs. Their parochial schools are, with the nearby public schools, vital sources of stability, continuity and civic loyalty.

Moreover, the Catholic schools in particular have an impressive record in serving the needy children of our metropolitan areas.

In Chicago, the Archdiocese spends from $3–4 million annually subsidizing children in schools that are not self-supporting. The Archdiocese provides scholarships to 150,000 high school students.

The parochial schools in Chicago also serve 25,000 black and 10,000 Spanish surnamed children. And the Archdiocese, under federal contract, administers the largest privately run Head Start program in the coun-

try, as well as a Neighborhood Youth Corps programs for needy youngsters.

In New York City, there are 300,000 children in parochial schools. 87% of the parents of these children earn less than $10,000 per year. One third of these earn less than $5,000. One in ten of these parents lives below the poverty level.

More than sixty percent of the parochial elementary school students in Manhattan are Black or Spanish-speaking; in the Bronx, the number is 30%.

As Terence Cardinal Cook has recently pointed out, the Catholic schools are not "exclusive private schools." He added: "It is not now, and never will be, the policy of the Catholic schools of America to create havens for segregation of any kind and our adherence to the civil rights requirements stems from the conviction of moral principles and not just from legal necessity."

The record of Catholic schools, in the North and in the South, has been, in respect to integration and civil rights, most impressive. In Alabama, the Catholic Church has been sued for refusing admission to white students where there was cause to believe the reason for admission was flight from integration.

The Civil Rights Commission, ably chaired by the Reverend Theodore M. Hesburg, has been vigilant in monitoring the integration of non-public schools. In 1967, the Civil Rights Commission developed criteria for distinguishing genuinely religious non-public schools from spurious "segregated academies."

The courts, particularly in *Green* vs. *Connally* and *Greer* vs. *Kennedy*, have followed these criteria. The Internal Revenue Service has the clear authority and duty to reject the claims of "seregated academies" to tax-exempt status.

Sadly, the Nixon Administration has been deficient in enforcing these clear laws and precedents, and has thereby injured the otherwise solid record of the vast majority of parochial and bona fide non-public schools.

To my mind, the enforcement of these laws and precedents is of maximum importance. This must be clear: I support aid to parochial and other bona fide private schools. I will never support the use of federal aid to advance segregation or any other affront to civil rights, through schools or otherwise.

As President, I would demand that the Department of Health, Education, and Welfare, as well as the Internal Revenue Service, use their powers to the full to ensure that no "segregated academy," South or North, receives any form of federal assistance.

Parochial school enrollments are concentrated in eight states—New York, Pennsylvania, Illinois, California, Ohio, New Jersey, Michigan and Massachusetts—and within those states enrollments are especially heavy in major cities. These are states and cities where both the general treasuries and the individual taxpayers are being taxed to the limit.

It is essential to good government and justice that tax relief be brought in a constitutional way to both the general treasuries and the parents of children in parochial and other bona fide private schools.

As we are moving to strengthen the nation's public school system, we can and must move to assist parents and children participating in parochial and other bona fide non-public schools which have historically complemented the public system. I firmly believe we move to strengthen both without weakening one or the other—that we can afford to help all our chidlren without sacrificing the needs of any of our children.

We can especially afford to do this in the context of a healthy and vital economy, operating at the full employment level, and producing increased revenues through a fair and equitable system of taxation.

I have said previously that I was exploring the means by which the federal government can help achieve the goal of further aiding the parents and children participating in parochial and other bona fide non-public schools either directly or through the tax structure. I have also said that I was convinced that a way should be found to provide such aid within the framework of the Constitution.

The Supreme Court in finding that parochial and other bona fide non-public school students are entitled to the use of public school textbooks stated: "Private education has played and is playing a significant and valuable role in raising national levels of knowledge, competence and experience . . . Considering this attitude, the continued willingness to rely on private school systems strongly suggests that wide segment of informed opinion, legislative and otherwise, has found that these schools do an acceptable job of providing secular education to their students."

I share this position of the court. And there is reason to believe that further aid to the parents and children participating in parochial and other bona fide non-public schools will be upheld by the court.

On that basis, I am today announcing my support of the tax credit approach to aid the parents and children attending parochial and other bona fide non-public schools.

I am writing Wilbur Mills, Chairman of the House Committee on Ways and Means, that I full endorse the principle of tax credits which is currently being considered before his committee, and that I hope the committee, will find it possible to report legislation to the floor of the House for consideration before this session of Congress ends.

I am also informing Senator Russell Long, Chairman of the Senate Finance Committee, of my support for tax credit legislation and requesting that he call Finance Committee hearings on such proposals at the earliest possible moment.

Tax credits of the magnitude proposed by Congressman Mills and other Democrats, including Congressmen Pucinski and Rostenkowski, can provide significant financial relief to hard-pressed parents but by no means cover the full cost of the education of a child in parochial and other bona fide non-public schools.

And, that is as it should be. For the parents and the educators of children in parochial and other bona fide non-public schools are not seeking a total federal subsidy. They are only asking for a fair shake, for the chance to continue providing this kind of education for the children at a personal cost they can afford.

Tax credits, of course, will only directly assist parents who are taxpayers. They do not directly assist parents with children in other than public schools who do not pay taxes.

For those parents, I believe tax credits will provide an important form of indirect assistance by permitting the parochial and other private schools to continue to provide, and perhaps even increase, the substantial subsidies that are now provided to children whose parents cannot afford to pay for the cost of their education.

Additionally, I believe further assistance to those children can be provided through such legislation as has been offered in the Senate by Senators Mondale and Stevenson to broaden and improve the provision of services, materials, equipment and facilities through the Elementary-Secondary Education Act.

The need for improved services to poor children in inner-city public schools has long been urgent. The need of equally poor children in inner-city parochial schools is equally urgent.

Major federal benefits to parochial and other bona fide non-public schools flow from Titles I, II and III of the Elementary and Secondary Education Act, and the National School Lunch Program.

ESEA was the first significant federal program for elementary and secondary education, including parochial schools. It was designed and passed by a Democratic Congress under the leadership of a Democratic Administration.

The other major program assisting parochial and other bona fide private schools is the National School Lunch Program. As Chairman of the Senate Select Committee on Nutrition and Human Needs, I was personally involved, along with Congressman Pucinski, in passing amendments to the School Lunch Act in 1970 permitting parochial schools to increase their participation in this vital nutrition program.

A major school lunch program in parochial schools operating this legislation is in Chicago under the personal leadership of Cardinal John Patrick Cody and Superintendent of Parochial Schools, Father Robert Clark. Last year, 15,000 youngsters received lunches in Chicago parochial schools, this year the number will rise to 30,000 and, eventually 65,000.

In recent years, however, federal benefits have not kept pace with the needs of parochial and other bona fide private schools. The record under the current administration has been to reduce the level of services by these programs.

Administration budgets for the past four years have kept the funding at the previous year's level which actually results, because of inflationary pressures, in reduced services. The President actually vetoed, along with other educational funds, Title II of ESEA which provides the most equitable benefits, in the form of library services to parochial schools. We also attempted to eliminate funding for the program when the legislation was repassed but under vigorous pressure from the Catholic community and Democrats in Congress, finally agreed to funding the program at a 50% level.

Fifty percent, a half-hearted effort, isn't good enough for education in America. A McGovern-Shriver Administration will do better than that.

If we can now move, as one nation, to meet the educational needs of all our children, in public, parochial and other bona fide private schools then we will have taken another step in the direction of fulfilling the genuine hopes of the framers of our Constitution in their desire to encourage the diversity of intellectual, cultural and religious belief which has contributed so much to America's greatness.

Mr. MOYNIHAN. Mr. President, again there is a consistent, coherent sequence from Senator RIBICOFF to Senator Humphrey to Senator MCGOVERN in 1972, and finally to President Jimmy Carter as a candidate for President in 1976. It is a statement on the matter put it perhaps less explicitly—I will not argue that—but still with a clear intention of doing something very similar to that which we propose:

I am firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools. I am firmly committed to seeing that children attending parochial schools benefit fully from Federal education programs.

Mr. President, I ask unanimous consent that the Carter statement be printed in the RECORD.

There being no objection, the state-

ment was ordered to be printed in the RECORD, as follows:

FOR AMERICA'S THIRD CENTURY, WHY NOT OUR BEST?

On the occasion of the fall meeting of the Chief Administrators of Catholic Education I send sincere good wishes.

Throughout our nation's history, Catholic Educational Institutions have played a significant and positive role in the education of our children. Millions of Americans of every income level, race, background and region have reaped the benefits. Indeed, in many areas of the country parochial schools provide the best education available. Recognition of these facts must be part and parcel of the consciousness of any American President.

Therefore, I am firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools. I am firmly committed to seeing that children attending parochial schools benefit fully from federal education programs.

During my years as Governor I supported, and the voters authorized, annual grants for students attending non-public colleges. We must develop similar supportive programs at the national level for non-public elementary and secondary schools if we are to maintain a healthy diversity of educational opportunity for all our children.

My personal commitment to education is reflected in my career as a public official. My first public office was the Chairmanship of a local school board. As a State Senator, I successfully sponsored the first overhaul of education financing in Georgia, and during my term as Governor a second, even broader reform in education financing was successfully completed.

As President, I will remain committed to quality education for all our citizens.

As President, I would create a separate department of education, the result of which would be a strong voice for education at the federal level.

As President, I would make sure that the interests and concerns of non-public education are represented in all government education agencies and commissions. Personnel sensitive to the interests and concerns of private and parochial institutions would be appointed to positions within my administration.

The right of millions of Americans to choose a religious education for their children lies at the core of America's diversity and strength. It is a right we dare not lose.

Mr. HODGES. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield for a question.

Mr. HODGES. Does the Senator happen to know whether or not the Attorney General has declared his opinion, by the Office of the Attorney General, as to the constitutionality of the approach the Senator is taking?

Mr. MOYNIHAN. I do. Although I would like to discuss it a little later on, I will do so briefly now.

The Assistant Attorney General, Office of Legal Counsel, in the present administration, has offered a judgment that the present legislation does not meet the Nyquist test. His immediate predecessor, Prof. Antonin Scalia, now at the University of Chicago Law School——

Mr. HODGES. Was he an employee under President Carter?

Mr. MOYNIHAN. The Senator will have to try to let me answer him.

His immediate predecessor has provided a statement of just the opposite judgment.

It will be argued by us, in the clearest way, that it would take an impenetrable prejudice on the issue not to accept the fact that competent legal opinion is divided on this matter, and that if it is ever to be resolved—the Supreme Court does not issue advisory opinions—it will have to be put to the court.

That is precisely why this measure provides for it to go directly to the court and precisely why we would say that if anyone feels that this legislation would not meet a Federal court's scrutiny, then what fear have they? That scrutiny will be forthcoming within a half year, and the matter will be resolved.

Mr. HODGES. May I distill from the Senator's remarks that the answer to my question is that the President has been advised by his legal counsel that the bill proposed by the Senator from New York is unconstitutional?

Mr. MOYNIHAN. That is correct.

Mr. HODGES. So that he has not violated the pledge he made.

I thank the Senator.

Mr. MOYNIHAN. The President obtained that judgment well in the aftermath of having rejected this proposal. Ours would be a more difficult case with respect to that pledge of Jimmy Carter if he had been so informed before he rejected this proposal. This would not be the first time a President found that an Assistant Attorney General chose to agree with him.

Mr. PACKWOOD. Mr. President, will the Senator yield for a moment?

Mr. MOYNIHAN. I yield.

Mr. PACKWOOD. In fairness, I believe the answer to the question of the Senator from Arkansas is, "No." Will the Senator from Arkansas repeat the question, so that I can be sure?

Mr. HODGES. The question I had propounded was this: Had the President received advice from his legal counsel, the Attorney General, as to whether or not this bill was constitutional or unconstitutional?

Mr. PACKWOOD. The answer to that is, "No," he has not.

This bill, in its entirety, applies to primary, secondary, vocational, higher education—in its entirety.

The question asked of the Attorney General in a letter from Joe Califano is as follows:

I am writing to request your opinion regarding the constitutionality of the Packwood-Moynihan bill on the assumption that the bill applies only to elementary and secondary education.

The answer is no, he has not been advised that the bill we are considering is constitutional.

Mr. HODGES. That portion of the bill.

Mr. MOYNIHAN. I am happy the Senator from Oregon made that point, since it is an essential element of the Nyquist test that the particular form of aid is crucial, and that one of the questions asked is how large a proportion of a given program goes to this sector or to that sector. If you wish to present an attorney with a question to which he most likely would give you the answer you desire, you would phrase it exactly the way it was phrased by Mr. Califano. If not, you would not.

Let us address ourselves to that point in due course, for this is not an opening statement. This is an extended expression of gratitude to the Senator from Connecticut. In that man, you see the embodiment of the integrity of the Democratic Party on this issue. He was, as I said, the first member of our party to assume responsibilities in the field of education at a national level.

It was he who provided insistent and adamant opposition to the de facto and de jure segregation of schools based on race in many parts of this country. It is he who said that there must be a commitment at the national level to providing aid to elementary and secondary schools.

It is he who said the time has come to put behind us the fears of the 19th century, to put behind us the alarms that were characteristic of that time but are scarcely credible to a modern sensibility; to put behind us the fear of race; to put behind us the fear of a national government intruding in some objectionable way; to put behind us the fear of religious division.

All those commitments were symbolized in the election of President Kennedy, whom he served so well; and two of them were brought profoundly to fruition in his time at HEW or immediately thereafter.

Now there is the third item on the agenda of the Democratic Party, a commitment of honor and prudence and patriotism—if I may use that term—to be kept.

So I ask the Senator from Connecticut if he will forgive what is perhaps too extended a statement and perhaps, on occasion, even an overly extravagant one. But I would have to be very extravagant indeed to express the level of regard I truly hold for him. I cannot imagine it being too much so, because it is as near limitless as it can possibly be.

Mr. RIBICOFF. Mr. President, I am embarrassed by the lavishness of the praise expressed by the Senator from New York, but I confess that I rather like it. [Laughter.]

I do thank the distinguished Senator from New York for his kind and gracious comments. I do not deserve such abundant praise.

As I said in the beginning, the force behind this bill has been the extremely hard work, the commitment, and the responsibility of the Senator from New York, the Senator from Oregon (Mr. PACKWOOD), and the Senator from Delaware (Mr. ROTH), who have worked closely together to bring this matter to the floor.

I do not know whether this bill will pass or fail, but I predict that what has been started here today in the U.S. Senate will come to fruition. There is no question but that if this bill does not pass, it will become one of the key issues in the 1980 Presidential campaign—and rightly so.

My feeling is that what has been started on this floor today will allow no evasion; that the candidates and the platforms of both major parties will tell the American people where they stand on this issue, clearly and precisely. So

the work that is being done here is most important.

Mr. President, I hope our colleagues will see it our way and will vote for this proposal by a sound majority. But if they do not, my prediction, again, is that in 1980 it will be a major part of the Presidential campaign of that year.

Mr. MOYNIHAN. Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, I join in the accolades expressed for Senator RIBICOFF. I have served with him for 10 years; I have served with him on the Finance Committee for almost 6 years. He is a man of extraordinary courage, a man not unwilling to change his opinion when new facts present themselves.

I express my appreciation to Senator MOYNIHAN, when I have known closely only the last 2 years; but I have worked more closely with him on this bill than I ever have worked with any other Senator on any other subject. I also express my appreciation to Chester Finn, of his staff, who has been a godsend in this matter, and to Senator ROTH, with whom I have shared many issues and whom I have supported many times.

My guess is—I have not checked the record—that if one were to add up among the four of us all the votes on the so-called right and wrong records compiled by the National Education Association or compiled by any other association for higher education, cumulatively we would be close to 80 or 90 percent in support; and if one were to add up our votes on the right and wrong records of the various civil rights organizations, it would be 80 or 90 percent or more.

The four principal sponsors of this bill do not harbor a grudge against public education. We have supported it, and we will continue to support it. We have been in the forefront of support for every significant civil rights issue since we have been in Congress.

The debate we have started today already bodes well for this topic—not whether the bill passes or loses. Senator RIBICOFF has put it very well: It is a major, fundamental, specific issue that I think is going to be debated well on both sides here. The number of Senators we see on the floor already, the caliber of the discussion that already has started—all this indicates that this is going to be a debate of which the Senate can be proud, on all sides.

And before we are done or we vote, the philosophical issues represented by both sides will have been fully aired.

Mr. President, this bill is enormously important to millions of Americans who are struggling to educate themselves and their children. This debate will not focus on whether Americans need help. We can all agree that help is needed. The debate is rather: How to provide that help. The question is: What is the best way to encourage education? The answer is: Give the people the widest freedom of choice, the greatest number of options; and, perhaps, most important, the least Government interference.

This bill is a direct, effective measure, designed to respond to the problems of rapidly rising tuition costs. But its significance lies not just in the fact that it will be easier for millions of Americans to pay their tuition bills. The debate over this bill is rooted in a crucial question of philosophy.

The values by which a nation lives ultimately determine its survival. Those values must be nourished and encouraged in policy and practice. Education is a critical value in a free society and the survival of a strong educational system depends upon the vitality and diversity of that system. This bill is based on a political philosophy that individual decisions about individual educational needs are best made by individuals. The Tuition Tax Relief Act of 1978 is enabling legislation to help individuals make these choices. Freedom of choice is valueless without the financial means to exercise that choice.

We cannot put a price tag on what education has meant in our history or what it means in the life of even one citizen. We can cite tangible economic benefits to the individual.

We can cite hopes for a better life. We can point to understanding and knowledge, and we can say education brings individuals to fulfilling the dreams that they hold for themselves and their children. This legislation will help Americans keep those dreams, not on the Government's terms, but on their own terms through their individual, independent efforts.

Pluralism is a profound and fundamental fact of the American experience. Up until now, pluralism has been more than mere happenstance, more than a condition in which we find ourselves and tolerate as one might a spell of bad weather. Until recently, pluralism was considered our strength—it was celebrated. Whether that still applies is in doubt. Educational pluralism, at least, is in danger. Rising costs limit choice. Parents are less free, not by law, but by condition of inflation and cost, to choose for their children the education they think is best. Congress is now being called upon to provide the remedy. The Tuition Tax Relief Act of 1978 is not merely tax relief or tax reform, important as that is. Nor is it merely another educational aid program, as if to see one were to see them all.

This legislation preserves the element of choice, specifically educational choice and specifically the maintenance of educational pluralism.

I believe we will ultimately win the philosophial battle because the American people support us. They truly understand what is at stake here.

Some of the talk in the Senate will be about dollars and cents, and I think recent changes in the bill have met the cost objections. Our bill is comparable in costs to the administration's alternative.

Others will talk here of constitutionality. That determination must ultimately be made by the courts, not by the Senate. I am confident that we can meet and have met the constitutional objections.

What we must finally decide is what role Government can best play in improving our schools and helping our citizens get an education. The days of Government monopoly are running out. That is what the people want and that is what we must give them.

Mr. President, I ask unanimous consent that Sven Greening, of the Human Resources Committee staff, be accorded the privilege of the floor during the pendency of debate and votes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Mike Smith be granted the privilege of the floor during consideration of this bill.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, prior to any opening statement, I would not want my silence to be interpreted. The tone of your voice has already been interpreted, and the proponents of the particular measure already find suspicion and something sinister and occult, so I actually would be afraid to sit quiet while we join in the praise for Senator RIBICOFF.

Perhaps the reason that we are sinister and occult is that every trick in the book has been employed.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. HOLLINGS. Can I get one thought completed? I mean the Senator had about an hour, and I want to praise ABE. I love him. I have known him perhaps longer than both of the speakers and have worked with him, and if I can complete that thought—let me yield for the question.

Mr. MOYNIHAN. Does the Senator recall the observation being made that there was actually something sinister and occult or that the impression seemed to be that there was something sinister and occult? How does he remember that statement?

Mr. HOLLINGS. I have not been to Harvard and it is hard for me to make these differentiations. I will tell the Senator we are going to have a tough 2 or 3 days around this Chamber. I can tell him that right now, if we are going to start with what seems to be and what was or has been in past tense.

But be that as it may, when you come in and you start with the opening argument or trump card, the distinguished senior Senator from Connecticut, the former Secretary of HEW, and then say he is the integrity on this issue, he just about gave all the rest of us Senators lockjaw. I am not going to argue that. He is of integrity and he has been a leader and is a leader.

Senator RIBICOFF and I served as Governors together when President Eisenhower—can the Senator imagine being appointed by a Republican? I guess he can.

Well, we were appointed by President Eisenhower to the Intergovernmental Relations Advisory Commission when two Governors would be selected. It was Senator RIBICOFF and myself who were the two Governors chosen by President Eisenhower, and we met in those days, not just as Governors but as Commission members. When I tried to institute a technical training program in South Carolina, the distinguished Governor

Ribicoff invited me to come and study his in Connecticut, and I know of no better way to compliment a man than to plagiarize him. We emulated in large measure the successful technical training program that Senator RIBICOFF had instituted and had in being in his great State.

And, of course, it has been one of the real pleasures to work in the vineyards with him on various scores.

I do not think by way of accuracy that we want to allude to educational leadership in the years 1961–62—we can argue about various points as we move along, because I think the definite emphasis given by President John F. Kennedy was in pursuance of his because if we are going to talk about Presidential candidate Humphrey, Presidential candidate MCGOVERN, let us talk about one who was elected on a platform, John F. Kennedy:

I believe in an America where the separation of Church and State is absolute; where no Catholic prelate will tell the President, should he be Catholic, how to act and no Protestant minister will tell his parishioners for whom to vote; where no Church or Church school is granted any public funds or political preference; where no man is denied public office merely because his religion differs from the President who might appoint him or the people who might elect him.

Let us go back to those days because I was talking to one of the gentlemen about a little help on this particular score, and he said:

Fritz, you don't understand.

I said:

What do you mean?

He said:

As a presidential candidate, the first place you start is in New Hampshire. You do not want to strike out before you get a good start, since you do not know the State too well or anything else. But you get into a quick situation in the initial State—New Hampshire—with the first primary up there. One of the first things they will ask you about is your position on aid to parochial schools, and since you do not have Supreme Court constitutional lawyers running around on the campaign staff, and you do not want to strike out in the very first try, and you commit to it.

He said:

Unfortunately, my hands are tied on that issue in this particular State.

I go back to President Kennedy's campaign. This particular address by our great John Fitzgerald Kennedy was run in my State over and over and over again, Senator. I can tell you here and now we carried South Carolina by 8,000 votes. Why? Because of this statement. There is no doubt in my mind. We had all the racial prejudice. When we are going to begin now the particular debate by crowning statements, then I will join in the crowning, as I say, in all sincerity to the distinguished senior Senator from Connecticut (Mr. RIBICOFF), but if we are going to begin the debate on the meaning of statements and significance and talk about religious prejudice, talk about integrity on this particular issue, there was not any question about Jack Kennedy's integrity on this issue. He meant it.

He bearded the lion in his den. He went down to the Baptist convention in Houston, Tex., and he said:

I am tired of nasty rumors, vilification and acrimony which is breaking America apart in one of its great fundamentals, and if you want to know how I stand on this particular fundamental issue, here I stand, and here is my position.

He took this position. It was a half-hour program produced in the early TV days then, and we found that if we could possibly overcome this kind of prejudice in my own State and in my own section, then our candidate, Jack Kennedy, had a chance.

We ended up not by getting out the vote and not by getting car pools and telephone banks and all the other paraphernalia and signs and everything else, but every red cent I could get I took and put this half-hour program on TV, and we bicycled the tape from Greenville to Spartanburg, to Columbia, back to Greenville, back to Charleston, over and over again.

I am confident if you look at the record in 1961 and 1962, that period of a thousand days, you will see a loyalty to this particular belief.

(Mr. RIEGLE assumed the chair.)

Mr. HOLLINGS. When we are talking about integrity on this particular score, and the people, distinguished Senator from Oregon. as we are talking about the people, the best and most informative and the most recent and authoritative measure of the people—because we as Senators love it, oh, we love it, and we get up and say "The people, I am here for the people," well, we are all for the people. But the best objective, impartial measure I know is a Roper survey of last week. The people of America, 64 percent, by over 2 to 1 opposed tuition tax credits.

The Catholics, when asked this particular question about tuition tax credits, came out 48 to 43, 43 percent of those Catholics interviewed said, "Yes, we understand all of what is being said and what is being stated for the parochial schools of America. We need that relief and we need that assistance, and we would desire tuition tax credit."

But 48 percent, by jove, the majority of the Catholics interviewed said, "No, it is not good for our schools. The primary mission of the parochial school is the tenets, principles and edicts and integrity," if we are going to use that word, "of our church." That is why those schools are there. "We do not want that fettered, we do not want that entangled, we do not want that involved. We oppose tuition tax credits for elementary and secondary parochial schools in America."

I think, Mr. President, we should appreciate a little bit of what my distinguished colleague calls a fair reading of history, because in all candor I had hoped that the informative committee, namely, Human Resources, would have come forward on this particular score. After all—I do not serve on the Human Resources Committee nor do our colleagues proposing this—all the educational measures that have come down the line have come through the Education Subcommittee where they are staffed and where talent exists and where they are given a fair hearing in the light of a fair reading of history, particularly legislative history.

But when my distinguished friend from New York referred in his graduation speech, his Harper's article, his Outlook article, and many of the others, about a fair reading of history, I said:

Look, there is no way that I could ever match this distinguished educator. He has been in education for many, many years. But I ought to have some cursory knowledge of where we were, from whence we came, and where we are headed.

Yes, if you want to take the first amendment ipso facto as of its adoption by the original Colonies and the Constitution you cannot obtain a categorical finding of prohibitions in the amendment. Other than the establishment of a church and the support of any church is forbidden and a further reading, of course, indicates that any kind of religious test for public office—down the line—is prohibited. Various actions taken from the very beginning days when, yes, we had a state church, the original 13 Colonies all had their own churches and education in those days was church schools, but if you come right on down into Jefferson, the Constitutional Convention, the Bill of Rights, and, particularly, Madison and Jefferson, and the bill for religious liberty, our distinguished friend quoted Jefferson. I want to make this quote from Mr. Jefferson:

To compel a man to furnish contributions for the propagation of opinions which he disbelieves and abhors, it is sinful and tyrannical and it is also wrong to force him to support this or that teacher of his own religious persuasion—a wall of separation of church and state was intended.

Now, there is nothing antireligious in that particular pronouncement by Jefferson, and certainly nothing antireligious in my comments. I have the greatest respect and reverence for the Catholic Church and all churches. I have served on a national church board—board of adjudication. I have tried to do a little work. I am not the best church worker. But the fact of the matter is I have served on the boards of a Catholic hospital, and worked very intimately with them, and if someone wanted to go even further—I do not want to go to personal reference—but I find the best service, if you want to understand it and know it, the best Sunday morning service that I know is given by Father English at Trinity Catholic Church. I have been there the last three Sundays, been going there for several years, and I get a better Sunday school lesson out of this priest than any I know, and I have seen the best of all of them. He is just magnificent. So I do not want anybody running around as if they are trying to interpret what is sinister or occult or what is suspicious, any comments that we might make about church and state, as being anti any particular religion.

It is just that wall, that wall that Judge Powell found, if I can find the de-

cision. Well, it was not Judge Powell. In the Everson case, in 1947. It was Justice Black. If I can find the particular citation, in the Everson case, it has been followed down the years. It is beautiful language, if I can get the exact language.

Let me go a little bit further on the founding days, on the issue of religious liberty. Before ratifying the Constitution, North Carolina said, "Unless you have religious liberty there, that wall, we are not going to ratify the Constitution."

Throughout the 1800's, there was much activity with respect to State support of parochial and private schools. The distinguished Senator from New York is eminently correct; but the intent of Congress, the policy of this country, has jelled down into a constitutional principle and finding.

Let us go to the congressional findings as the States were coming in. We started right at the late 1700's, with the Northwest Ordinance. At that particular time, when we divided up the territories in the Midwest and Northwest, as they called it at that time, into 6 mile by 6 mile sections, they held the middle block, block 16, for free public education. As every State came in—we are all going to argue here, perhaps, shortly, about Alaska and its lands, and 100 million or so acres, and whether that is too much or too little for public purposes.

But do you know that by congressional policy, over the last 150 to 200 years, Congress gave—not the original colonies, not Connecticut, New York, and Rhode Island, no gift of land there for public education—but Congress gave land and required, mandated, that when a State was admitted into this Union, and that the State have in its State constitution a provision for free public education. In order to carry that out, they said to Montana, "Here are the education lands for your particular State."

We gave out over 147 million acres in lands for free public education as a matter of congressional policy.

We said to Hawaii and Senator INOUYE, we said to Alaska and Senator Gruening and Senator BARTLETT, "Before your territory comes in as a State, you must have this in your Constitution."

So there was no question about how the people felt about free public education, coming right on down to the early 1940's, and then the 1950's, and I would think the high point was reached when the three parties now, the Senator from Connecticut, the Senator from New York, and myself were campaigning for our hero, Jack Kennedy, because that was a real national debate on separation of church and State, and on whether or not there was going to be Federal assistance for parochial schools in America.

Mr. PACKWOOD. Mr. President, will the Senator yield for a question?

Mr. HOLLINGS. Yes.

Mr. PACKWOOD. I have lost a little bit of the thread of your emphasis. Are you saying that the founders of this country, our constitutional fathers, intended that public funds should not support church primary and secondary schools?

Mr. HOLLINGS. There was a mix, Senator. I will get back to that farther on down. There was a mix. As pointed out in referring to the Moynihan article, there were places where churches continued to receive certain assistance, and they continued to receive some up until the early 1950's.

Mr. PACKWOOD. But what——

Mr. HOLLINGS. I want to complete this thought. What is acknowledged to be, by the Senator from Oregon and the Senator from New York—here is the bill, H.R. 12050. Now, read this committee amendment, if you please. We will have a good bit to say on how that came about.

Now I will read what the committee found, when they put it out last year, when they introduced it, and it was discussed and debated in editorials, magazine articles, and everything else like that. Here is my point, Senator. Here is my point:

> The Congress further finds that the provision of such assistance in this manner fully complies with all provisions of the Constitution; that it does not constitute excessive governmental entanglement with religion; that is wholly secular in purpose and that such assistance will neither advance nor hinder religion.

Well, now, under the Lemon against Kurtzman decision, as lawyers we know this is false. Right here, the three-part test of Lemon asks, No. 1, is it secular in intent? They now write it in, and say, "Yes, that is our intent."

Does it advance or inhibit religion? That is the second part. They say, "Yes, that is what it does, it does neither." So they say that.

Finally then, does it involve governmental entanglement in religion? And they say, "No, we have looked at that, and it does not. It does not constitute excessive Government entanglement."

So we have, finally, the proponents and the opponents on a common ground. They are writing in this bill constitutional findings.

Now, that does not mean anything. I never heard of trying to be the judge, I mean right here, writing as the last paragraph in any bill, "This bill is found to be constitutional by Congress." I would hope that would sort of be in everyone's mind in connection with every bill, indirectly assumed, that we are not passing an unconstitutional bill.

But they knew what the test was, and they know today, and they are trying to go back on that history, and use the court decisions. They have tried to follow that Nyquist decision, and they have tried to follow that Wolman decision, and we have to discuss that in depth, and we will get to that, so there will be no doubt about it.

But there is no doubt in the proponents' minds about the findings that they intend for Congress and its policy. It is word for word down the court's decision.

I have just talked with some associates about that. This means—I hesitate to say that it means nothing—but it irritates the court for Congress to try to assume its duties and responsibilities; and the court would probably lean in the other direction if they were trying to get a decision as an assist or a boost for a constitutional finding, should it be passed. It has the opposite effect, because justices resist the idea of taking their decisions and congressionally saying all those things when the facts do not support it.

Why do not the facts support it? They know, I know, and the Senator from Connecticut should know that the private schools primarily benefit, at the elementary and secondary level under this particular measure, religiously affiliated schools; 85 percent of the students attend church schools, 75 percent of them Catholic, of the Catholic faith, and another 10 percent from various Baptist, Lutheran, Episcopalian, Jewish schools, and many others. So all the religious schools are listed. When the principal effect is to further the establishment of religion, as they say in Nyquist, then when you measure it you cannot go about it in an obscure fashion and try to give the aid to the parents rather than directly to the schools. We are not going to just look at the machinations of Congress and how they did this.

We are going to look at its effect with respect to constitutionality. If the principal effect is upon religion, and it is since 85 percent of the students enrolled in elementary and secondary schools are enrolled in religious schools, primarily organized for religious tenets, then that is religion, in effect. It does aid religion or the schools. Additionally, they may find out it may inhibit them because with this kind of a system comes certain kinds of controls. Either way you look upon it, it does have that effect. Then in order to audit it, when you look at the school records and everything, it is bound to involve entanglement.

There is no question but that this particular measure has been found unconstitutional, and I have no better authority, Mr. President, then the Senator from New York himself.

Let us look at last year. We did not find it in this particular measure, nor in the Finance Committee measure of last year, or the Finance Committee measure this year. We have a finding on the face of the bill this year.

He said on September 26, last fall, and I quote the distinguished Senator:

> Now, I would say to you that this bill is constitutional, by which I do not mean that I predict the court tomorrow would hold it so. I mean, instead, a fair reading of our Nation's history demonstrates that the first amendment was never meant, until recently never understood, to bar the sort of aid which we propose.

I understand the distinguished Senator's hope that this could be a watershed action on behalf of the Congress, and that the court could change its mind as in Plessy against Ferguson, that it was changed in the decision of Brown against the Board of Education, and that he would hope for that.

But there is no question now at this particular sitting. We cannot just ask the Senator from New York or the Senator from South Carolina, or any other Senator, as we have only one authority.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HOLLINGS. I yield.

Mr. MOYNIHAN. The Senator correctly read my statement of last fall, that although I would not predict that the Court would hold this one way or another, a fair reading of the history would support the view that it is constitutional.

The Senator from South Carolina referred to the experience following Plessy against Ferguson where for most of a century we lived under a constitutional finding which many people found odious and incorrect in its interpretation of the 14th amendment. It was a view which was finally confirmed by the Supreme Court—that Plessy against Ferguson is wrong.

During the long period in which the separate but equal doctrine was the law of the land, however, surely the Senator from South Carolina would not have felt that those persons who thought it wrong and unconstitutional should have remained silent. Surely he would have wished them to speak out and to test the case in the courts as, indeed, was done until the time the Court finally ruled, and it turned out that Plessy against Ferguson was indeed wrong.

Surely the Senator from South Carolina would think it an important aspect of responsible citizenship to provide the Court the opportunity to reverse itself when it is felt that the Court has ruled wrongly in the first place.

Mr. HOLLINGS. Mr. President, the Senator from South Carolina would observe, of course, that the same Court that found Plessy against Ferguson as unconstitutional and a new doctrine, separate but equal, was unconstitutional, has reaffirmed, and ensuing Courts have reaffirmed, and had the opportunity to do as the Senator indicated. Every ensuing Court, not only the Warren Court but the Court since that particular time, have had this proposed to them in every fashion and form.

In 1973, in the State of New York, they had a tuition tax credit going to the parent and not directly to the school and not directly to the church and everything else. They analvzed that case and they reaffirmed finding it unconstitutional in 1973. And the Wolman decision in 1977 reiterated, in Wolman against Walter, the point in June of last year. The Supreme Court reaffirmed it. So they have had the opportunity.

Mr. MOYNIHAN. Will the Senator yield for a brief question?

Mr. HOLLINGS. Yes.

Mr. MOYNIHAN. Is the Senator aware, as I am sure he is, that whatever my personal views might be as to the larger question, the position of the sponsors of this amendment, and the Committee on Finance, is that this legislation conforms to the test? That is our position. We are presenting a bill which we have drafted with the specific three point rule or standard of the court in mind—as best it can be understood—and we submit this bill to the Senate as one that conforms to existing rulings of the Supreme Court, as best they can be fathomed.

Mr. HOLLINGS. In responding to that, it takes me to another point which I want to cover more fully, if everyone will wait a moment. Did the Senator from Rhode Island want me to yield for just a moment?

Mr. PELL. I wanted about 5 minutes.

Mr. HOLLINGS. I will yield in a few minutes. The Senator from Arkansas will be presiding shortly and I want to give him the chance to make an opening statement.

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. HOLLINGS. Yes.

Mr. HATCH. I ask unanimous consent that Ron Docksai and Kanyon Keeney, of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. At this point I should emphasize, Mr. President, the difficulty in this kind of an approach to legislation, and I elaborate that this kind of approach emphasizes that educational measures, 99 percent of the time, go to the Educational Committee, and judicial and constitutional questions, 99 percent of the time, go to the Judiciary Committee. What we have here is an outrage in that context in that the Education Committee has not reviewed this on the one hand, and certainly the Judiciary Committee has not had a chance to review this for constitutionality. In fact, it has been pointed out that a point of order could be in order, that they provide for a new judicial procedure of an expedited appeal to the Supreme Court.

Suffice it to say when you run across all other committee jurisdictions and come in the back door with the Finance Committee interest group with none of those responsibilities, and none of those particular staff members being steeped in these kind of things, I do not know in the Finance Committee any real constitutional authority on public education, quite frankly—when you come in that way you just run across everything. The Appropriations Committee had to take this measure and report it out unfavorably. It was turned down in the Appropriations Committee. It was turned down in the Budget Committee. I am confident that if it is put in the Judiciary Committee, the Subcommittee on Constitutionality, it will be turned down there.

Let me yield the floor at this point to the Senator from Rhode Island and the Senator from Arkansas.

The PRESIDING OFFICER. Does the Senator from Arkansas seek recognition?

Mr. HODGES. Yes; I had earlier sought recognition. I shall be very brief. I will not give a full opening statement. I know that the Senator from Rhode Island wishes to speak, and I know the Senator from Delaware wishes to speak.

Mr. ROTH. Will the Senator yield?

Mr. HODGES. For a question.

Mr. ROTH. I would like to ask the Senator from New York a question without the Senator from Arkansas losing his right to the floor.

Mr. HODGES. I yield for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROTH. As a principal sponsor of the Roth-Moynihan-Packwood bill, I had hoped I would have the opportunity to make an opening statement prior to the beginning of the debate. I wonder at what time this is going to be possible?

Mr. MOYNIHAN. The Senator may find some difficulty locating that precise point when the opening statements conclude and the debate begins. There is a serpentine wall of separation which has never been fully established. The Senator from Arkansas wishes to make a brief statement, since he has to take the chair; the Senator from Rhode Island also has a brief statement—it seems to me we might agree, then, that the Senator from Delaware might speak thereafter. His would be the third opening statement on our side, the first two having been given by our colleagues, Mr. PACKWOOD and Mr. RIBICOFF. Whenever the time comes, I, too, shall speak. I am in no hurry at all to do that.

Is it agreeable that this be the sequence?

If that is agreeable, I should like to suggest we proceed on that basis.

Mr. HODGES. Mr. President, that is agreeable with me, that the Senator from Rhode Island have 5 minutes. Then, if it is agreeable to the Senator from Delaware, I might have 5 minutes. Then I shall yield to the Senator from Delaware.

Mr. STAFFORD. Mr. President, I should like to ask the manager of the bill: I have enough leisure so that I am in no hurry but if, at the end of the sequence the manager of the bill has mentioned and after the manager has had a chance to speak himself, if Senator MOYNIHAN would like to, I should like some time.

Mr. MOYNIHAN. If he would speak after the Senator from Delaware.

The PRESIDING OFFICER. So the Chair may be clear, is it the unanimous-consent request of the Senator from New York that, following the Senator from Arkansas, the Senator from Rhode Island be recognized, to be followed by the Senator from Delaware, then the Senator from Vermont? Is that the order?

Mr. MOYNIHAN. Yes.

Mr. HODGES. I should suggest, in changing that, that the Senator from Rhode Island has to leave at 12 o'clock to catch a plane. In deference to him, let him proceed first, then I might follow, then the Senator from Delaware and the Senator from Vermont.

Mr. MOYNIHAN. That is acceptable.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

Mr. PELL. Mr. President, I thank the Senator from Arkansas, very much, for extending that courtesy.

Mr. President, I have immense sympathy for the plight of middle-income families in meeting the cost of educating their children. At the same time, I believe strongly that parents should not be faced with a single system of education, but that a viable alternative or choice should be open to them if they desire to send their children to other than a public school. The question becomes what is the best way for the Federal Government to help parents meet the high costs of col-

lege and also maintain the viability of private education at the elementary and high school level.

My own view is that the best way to help parents educate their youngsters at the college level is embodied in S. 2539, the College Opportunity Act, which will be taken up immediately following this bill. S. 2539, which I have the honor of reporting out of the Education Subcommittee and the Human Resources Committee, would expand the basic educational opportunity grant program so that a family of four with an income of $25,000 and one child in college, would be eligible for a basic grant of $250. Currently, the cut off point for the program is approximately $13,000. Under S. 2539, families with incomes between $15,000 and $25,000 would become eligible for basic grants ranging from approximately $1,000 to $250.

This, I believe, is the correct approach. This approach would cost the taxpayers $1.2 billion, and would focus aid where it is needed the most—on middle-income families. Under S. 2539, 89 percent of the assistance it provides would go to families with incomes less than $25,000. Sixty-four percent of the benefits of this bill would go to families in the middle-income range of $15,000-$25,000. I think it is extremely important to point out that under the tax credit bill, 55 percent of the funds would go to families with incomes in excess of $25,000. At full funding, the higher education portion of the tax credit bill would cost over $2 billion. In other words, the tax credit bill would cost significantly more on the higher education level than S. 2539, and would give the largest share of its benefits to people with incomes in excess of $25,000.

I believe this is wrong. S. 2539 focuses its assistance on middle-income America which needs our help the most—not on rich America, at this point not on poor America, but on middle-income America. I think that is the correct approach.

I also have tremendous personal sympathy for helping youngsters in nonpublic schools. My own State of Rhode Island has, I believe, one of the highest percentages of parochial schools in the Nation. Specifically, about 12 percent of Rhode Island youngsters are attending parochial schools. When you add to that figure enrollments at other nonpublic schools in my State, approximately 15 percent of the elementary and secondary school population attend nonpublic schools.

However, again, I think the best way to help these schools is to increase the amount of Federal aid which the Government gives them through programs, and this is proposed under S. 1753, under the Elementary and Secondary Education Act, which may be taken up this following week, as I understand it.

I sponsored an increase in title XII of this bill, which amounts to a half billion dollars to the nonpublic schools, and we shall have an opportunity to vote on this bill very shortly. This, I believe, is the correct approach, as it would mean that direct aid would be given to private schools. That is, I believe, where it is needed.

I should also like to add that the tax credit approach under discussion today would give to each child at a private school $250, while the present law only subsidizes the education of a public school youngster by $128.

In other words, this bill would give double the amount of money to youngsters going to private schools that is presently going to youngsters attending public schools.

Mr. PACKWOOD. Will the Senator yield?

Mr. PELL. I should like to finish my statement before I do. Then I shall yield.

In other words, on a per capita basis, under a tax credit, the Federal Government would be contributing more to the education of a private school youngster than it would toward public school youngsters.

Because of these facts and because of the fact that we shall have other opportunities open to us in the next few days to help middle-income America and to help the nonpublic schools, I believe that, if S. 2539 and S. 1753 are passed. this would be the preferable approach. Then I should be inclined to vote against the tax-credit approach.

On the other hand, if it seems that the parliamentary situation is such that the bills that I have mentioned would not be passed, then one would be left with no alternative but to support the tax-credit approach. There is no question in my mind that middle-income America needs help, that the nonpublic schools need help. The question is how.

I like the bills that we reported from my Subcommittee on Education and believe that is the way to go. But if that is not the way to go, tax credits are the second-best route.

I believe that, also, the President has indicated that he will veto this bill. Then we shall be left, unless we pass the bills that are subsequently to be taken up, without any way of helping middle income America.

My hope is that my colleagues will glance through these words and see the opportunity that will arise within the week following to skin the cat a different way and to help resolve the problems with which we are faced.

Mr. PACKWOOD. Will the Senator yield for a question?

Mr. PELL. Yes.

Mr. PACKWOOD. The Senator made reference to $128 as the Federal expenditure for public school students. What is the source of that statement?

Mr. PELL. I am informed that these are the direct Federal aid programs. I believe these figures come from HEW.

Mr. PACKWOOD. Does the Senator count as an expenditure by the Federal Government the foregoing of the collection of taxes for a public purpose?

Mr. PELL. No.

Mr. PACKWOOD. He does not? That does not count as a public expenditure?

Mr. PELL. As I understand these figures, they are not included.

Mr. PACKWOOD. No, they are not included in that figure. I am asking if the Senator himself counts as an expenditure the Federal Government's foregoing the collection of revenues which in turn are used for a public purpose?

To put it more specifically, the Federal Government allows the deduction from the Federal income tax of real property taxes and State income taxes.

Mr. PELL. Right.

Mr. PACKWOOD. A fair proportion of those goes directly to the support of public education.

Mr. PELL. About a third.

Mr. PACKWOOD. Well, it depends on the State. It is a little more than that of property taxes. Would the Senator count that as a public expenditure for public education?

Mr. PELL. I had not, but it is a good argument and maybe should be counted.

Mr. PACKWOOD. Not only a good argument can be made, but I have heard member after member of the Budget Committee tell us, every time a bill comes here with a tax credit in it, that is an expenditure of public funds; the fact that it is not an appropriation should not obscure the fact that it is an expenditure of public funds.

Mr. PELL. Does the Senator for one moment think the local property taxes will be reduced as a result of this measure? I think he is optimistic.

Mr. PACKWOOD. No, but I am saying that if you count the deduction that is allowed for real property taxes and State income taxes and factor in only the proportion of those taxes that goes for the support of public education, the actual Federal expenditure for public school students, primary and secondary public school students, is $325 per pupil Federal support, as opposed to, if our bill passes, $268 for private schools.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. PELL. Certainly.

Mr. MOYNIHAN. I precede my question with a brief statement of appreciation. As a sponsor of this legislation, I would like to thank him for his statement, which was open-minded and large-spirited.

There is not anyone who has carried forward the question of aid to students going to colleges and universities more effectively in this Congress than the senior Senator from Rhode Island. It is for good reason that they are known as Pell grants.

Mr. PELL. I thank the Senator.

Mr. MOYNIHAN. It is the Pell grants which have added so enormously to the culture of higher education in America, and they must be continued. This junior Senator will vote for them as long as he is on this floor.

The Senator raises the question of a spending ratio with respect to elementary and secondary. If there were a lesser ratio, would that seem appropriate? Is it the Senator's concern that somehow the public ought to have the primacy of the attention of public authorities? It is a persuasive argument to me; it is certainly understandable.

Mr. PELL. The thing that bothers me is going down the tax credit route. That is why I went down the direct grant route of title 12 in my bill.

The question of amount is not all that

significant. It is a question of whether we will open the door to tax credits.

Mr. MOYNIHAN. It is a legitimate and understandable concern.

I would like to say that even if we cannot always agree in this debate, the author of the Pell grants is deserving of the high regard and respect of every Member of this Chamber, as well as that of every parent in every low-income, middle-income, and upper-income family in this country, whose colleges and universities will be enriched by the opportunity for enlargement which he has brought about.

Mr. PELL. I thank the Senator very much, indeed.

Mr. HODGES addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas (Mr. HODGES) is recognized.

Mr. HODGES. Mr. President, I rise with considerable trepidation and trembling. I look at the four principal sponsors of this bill and they begin with the Senator from Connecticut, who was Secretary of HEW, a distinguished Senator, a national figure for many years; the Senator from New York, who has filled innumerable positions of honor; the Senator from Oregon, who they tell me any number of times is one of the most articulate men in the Senate, one of the most skilled debaters; and the Senator from Delaware, whose name is on the page of papers every day, it seems, with what I think are some very interesting and unique ideas.

I would like to remind the Senate, in the face of that, and also in that the discussion this morning of continuously mentioned President Kennedy and the sponsors' long association with him, and with just one name dropped after another, that 8 months ago I was in Newport, Ark., a town of 8,000, practicing law, and my big day was in municipal court.

So, it is a long way from there to here. It is a rather frightening thought to be a symbol over against heavyweights like that.

It was Shakespeare who said that: "A good cause makes a strong arm, and God befriend us as our cause is just."

As this debate proceeds, I do not think the bill before us will stand the light of day. I think it is an academic hothouse plant, and that once it is looked at by anyone, it will wilt.

It is not the intentions of the bill which I question and not the problems which it is intended to address, because the problems are real and need to be addressed. But I suggest to this body that what is in this bill is a revolutionary idea and we should make no mistake about that. It is to knock a substantial hole in the wall of separation between church and state.

I am a country lawyer, but I can read a case. Anyone that reads Nyquist can reach only one conclusion, and that is that this bill is unconstitutional. There is no other conclusion to reach.

Senator MOYNIHAN relies on a professor from the University of Chicago Law School, who essentially said this:

> Perhaps we should not focus on what the law is, but what the law ought to be.

Senator MOYNIHAN suggests the same thing. Senator MOYNIHAN is no lawyer, but he would make an excellent criminal lawyer because a rule of thumb among criminal lawyers is that if we have the facts on our side, we argue the facts; if we have the law on our side, we argue the law; if we have neither, try the police officer.

Senator MOYNIHAN is trying the court. That is a perfectly acceptable approach. He is agile enough so that if we are not very careful, particularly those of us who do not have the background he does or those of us not as skilled in speaking, he will run it right by us.

But I suggest we are going to look at it closely. We will look at Nyquist and we will look at this bill. Then the conclusion of unconstitutionality will be unassailable and there is not a single constitutional scholar that will tell us anything other than that.

I have read very carefully, and we will go into it at length, the testimony before their committee. But I want to mention just one or two other things in this opening statement.

I think this bill needs to be looked at, not only closely, but in terms of the direction it which this country should go.

The sponsors have laid before us some editorials and those editorials indicate that we should not look at the racial implications of this bill. I do not question their intent with respect to the racial implications. But the bill is like so many things I see emanating out of Washington. It sounds good in theory, but the side effects can be disastrous.

It is like marrying a chorus girl. They always look great, but it is living with them that is hard. [Laughter.]

We can paint this bill to make it look wonderful, but there are terrible side consequences. I speak not as someone going through statistics, but as someone speaking of what this bill will do in Arkansas, and I will go into that at great length.

If I seem somewhat exercised by this amendment, I am, because it is the single worst bill of this session in its effect and longrange implications, and make no mistake about it.

Mr. President, I will be speaking at length about various provisions of the bill as it relates to elementary and secondary education, but not college, and we must separate that out in our arguments.

I conclude these opening remarks by again expressing my respect for the sponsors of this measure. When I criticize the legislation, I hope there is no import in my statements, or that it is taken that way, that my criticism relates either to the intentions of the bill or to the sponsors. It is because I feel so strongly about the effects of this bill and its final erosion of the public school system.

I yield the floor.

(Mr. Stone assumed the chair.)

Mr. PACKWOOD. Mr. President, will the Senator yield for a question?

Mr. HODGES. With all due respect, I think I took slightly more than 5 minutes. I apologize to the Senator from Delaware. We somehow got out of order, and he probably should have been allowed to speak much earlier.

Mr. PACKWOOD. If the Senator from Delaware will permit, I should like to ask a few questions.

The Senator from Arkansas used the expression "revolutionary ideas" to knock a hole in the wall of separation between church and State. Does he think this is a new or revolutionary idea in this society?

Mr. HODGES. I say to the Senator from Oregon——

Mr. PACKWOOD. I did not get the Senator's answer.

Mr. HODGES. I have not answered yet. I told the Senator 8 months ago that I am not up to this level. It takes me a while to get to this speed.

I say this: In light of the total integration of our public school system, in light of the fact that women have the vote, in light of the fact that slavery has been abolished, in light of the world in which we live right now—not Revolutionary War times, when they had slavery, when women could not vote—in light of where we are right now, yes, it is revolutionary.

Mr. PACKWOOD. Let us set one thing straight in this regard at this time. The argument has been used over and over about Tom Jefferson's letter in 1801 about the wall, when he was writing specifically about public support of churches.

I inquired numerous times of the Library of Congress, and I have to confess that this came as news to me, about what the educational system of this country was at the time we started and what it continued to be until about 1825 to 1830, until it finally finished in 1850, when we had a public school system.

I read from a memorandum dated January 31, 1978, sent to me by Peter B. Sheridan, of the Government Division of the Library of Congress:

> In response to your request of January 30, 1978, for a memo regarding the status of schools in America from 1770 to 1820, the following generalization can be made: all, or almost all, the schools during this period were private, were religious, and were publicly supported, that is, denominational schools received public school funds.
>
> As one educational historian wrote describing the period from 1775 to 1820, "Public provision for religion and public support for private and church schools, in some form or other, direct or indirect, explicit or implicit, were either embodied in Constitutions, or granted by law, or carried out in custom or practice."

I was not satisfied with that answer, so I wrote him again. He said:

> Reference is made to your inquiry of August 10, 1977, requesting information on the above matter. Specifically, you ask (1) whether state aid to private church-related schools was a fairly common practice in the United States at least during the first half of the 19th Century, and (2) whether such aid violated relevant federal constitutional safeguards.
>
> The answer to these questions is yes and no, respectively.

At the time this country was founded, every member of the Constitutional Convention probably sat on a local city council that granted public funds to church schools. There were no public

schools in this country in the sense we know them—none at the time this country was founded. It would come as a totally foreign idea to the people who wrote this Constitution and who wrote the first amendment that you could not use public funds and give them to a church school—not to the parent, give it to the school—for the education of the citizens of the township.

We are going to argue a little later about what the Court said in Nyquist and a number of other cases. I want the RECORD to show that the founders of this country intended and practiced and voted for public funds for church schools and thought there was nothing unconstitutional about it.

Mr. HODGES. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. HODGES. Has the Senator written to find out whether slavery was permissible under the Constitution at the time he wrote about that? Has the Senator written to see if the right of women to vote was permissible under the Constitution at the time he wrote about that?

Let me say one final thing to the Senator from Oregon. I am not concerned about the effect of this bill on Thomas Jefferson. He is gone. I am concerned about the effect of this bill on our American society, the fabric of it, and on where we are going from here.

Mr. PACKWOOD. That is fine. I want this record to be clear on one thing: The founders of this country practiced and preached and supported the public funding of church schools.

Mr. HODGES. Which does not make it any more right than it makes slavery right or makes right the fact that women could not vote.

Mr. PACKWOOD. It merely means that they did not think it violated the Constitution. As we go on with this debate, there will be reference to the Founding Fathers, and their idea of the wall was not that public funds could not be used for church schools.

Mr. LONG. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr LONG. This is a matter I have always remembered, because my father, as a lawyer, was pleading a lawsuit when he was Governor of Louisiana. He appeared before the Supreme Court and argued that the State had a right to provide schoolbooks to children regardless of where the child went to school.

The argument was made that it was unconstitutional to provide school books to children who went to parochial schools. The Supreme Court upheld my father's argument that you have a right to provide a book to a child to go to school, no matter where the child goes to school.

Mr. PACKWOOD. You can also provide buses to take the children to the schools, private schools.

Mr. LONG. In that light, would it not seem that if Congress wishes to do so, it could provide a tax deduction, or a credit against taxes, to a citizen in order to pay expenses to educate his child, regardless of what school the child might attend?

Mr. PACKWOOD. I think we can, clearly and constitutionally.

If we constitutionally allow people to make a $500 contribution to their church and take it off their income tax, and if we allow them to make a $500 contribution to the school that the church runs and take it off their income tax, I think we clearly can say, "You can make a $500 education payment to the school and take it off your income tax."

Mr. LONG. It concerns me to hear some argue that by doing what the Senator is proposing—that is, providing a tax credit to help educate children—somehow that would hurt public schools.

I would call as a witness on the other side of the argument a young lady who I proudly claim as a cousin. She teaches in an all-black school These are disadvantaged black children. Only a few of them have had adequate educational opportunity. There are about 36 children in the classroom.

The experience in the State in which she is teaching indicates that if she did not have so many children on her hands, she could give better individual attention and thereby provide better education to these children. If she had only 20 children, she could give them a great deal more attention than she can give 36.

Inasmuch as some parents might move some of their children into a private school because of a tax credit available to them, and this would reduce the classroom population pressed upon this little lady who is teaching those young black people, she would be able to do a better job for the remainder.

With an overcrowded classroom, with almost twice as many children as that teacher should be expected to handle, considering the fact that those young people have been disadvantaged and have not had the education they should have had up to this point, and considering that they need additional help, one would think it would help all of them by providing more money for education and by providing less congestion in any of these classrooms.

Can the Senator see how it hurts those who remain in the classroom if the crowding in the classroom is reduced?

Mr. PACKWOOD. Obviously, it helps.

I say to the Senator that if this bill does not pass, give or take 100,000 children of parents who can afford to send them to Andover or Exeter, there will be another 500,000 students—students who go to private schools—who will go to public schools because the private schools will be closed.

Mr. RIEGLE. Mr. President, will the Senator yield at that point? I wish for someone to yield so that I may engage the Senator from Louisiana on his point.

Mr. HODGES. Mr. President, regular order. The Senator from Delaware has been here for 45 minutes, and I think I principally was the problem with his not getting immediately on. I believe as the order reads, he should be recognized. I apologize to the other Senators, but he has been waiting 30 minutes.

Mr. LONG. Mr. President, I came in relaxed and happy. Any procedure we follow is all right with me.

Mr. RIEGLE. I say I do not want to delay the Senator either. I was presiding for the last half hour, and I had a chance to listen to the debate. I will not unduly delay the Senator from Delaware. I appreciate it if he will yield a minute or so so that I might just raise one point with the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Delaware has the floor by order.

Mr. ROTH. I am happy to yield to the Senator from Michigan for the purpose of asking a question without losing my rights to the floor.

Mr. RIEGLE. I appreciate that.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I shall endeavor to be brief.

I appreciate the illustration that the Senator made about his cousin who teaches in the public school and has a class size of 35 students. She obviously has difficulty as most public school teachers do with these overly large class sizes and responding to the needs of these youngsters, be these disadvantaged youngsters or whatever.

Let me tell the Senator the concern that I have and I think others of us who have who are opposed to a tax credit. We are concerned that if we go this route and we give this tax credit for tuition paid for these grades 1 through 12 that money is right out of the Treasury, as the Senator knows probably better than anyone else here. It is a tax giveaway, in other words, in the first instance. It will increase the deficit in other things, because it is giving revenue out from the Federal Government, in effect.

But here is the concern that I have. I am concerned as to what will happen. Then with the money that remains in the Federal Government to spend on public education, and all other things, competing interests that also need Federal support, we will start cutting down on the money that is available to education and will do so in such a fashion that after a period of time the Senator's cousin instead of having 34 students because there will be less money for public education—sure, maybe two or three children will get drawn out of that classroom and sent to a private school—that we do not have enough money to run the public school system is my concern, and I am afraid what will happen is they will start folding these classes together and the Senator's cousin, instead of 34 students, she will have 50 students or 55 students. I am not talking about tomorrow, but I am talking about 2, 3, 4, or 5 years down the road. That is the concern I have which I have not heard anyone allay yet. There is this question about whether we are really punching a hole in the public school system because clearly people like the Senator's cousin, whom he mentioned—and I have relatives in my family who are also teaching in public education—are stretched so thin today that I do not see how they can be stretched any thinner. The problem is they are making appeals for more public funds, and we tell them we do not have it.

As the Senator well knows, as well as I do, when we are approached and the requests come for education we are scal-

ing them down. Here we are coming essentially through the side door because we are not coming through the committees here that deal with the education process directly, and we are going to take a big chunk of Federal tax money, as the Senator guards as jealously as anyone I know around here, and we are going to say we are going to give it away for this particular purpose.

I must say I am as much concerned about the Senator's cousin as he is, but I ask him to think about the fact as to whether we are doing her a favor. If she is going to end up with 50 students 3 or 4 years down the road I do not think she is going to come back and thank the Senator.

Mr. LONG. If the Senator will permit me to respond to that, let me say that I for one do not look upon it as an expenditure of public funds when we give someone a reduction in his taxes, whether we do it by way of a tax credit or whether we do it by way of a tax deduction. I just do not buy the argument that anything a working man is permitted to keep of his own money is a gratuity from the Federal Government or any other government. We can draw our tax laws however we want to draw them, and one of the ways we ought to draw them is to raise the amount of money we want to raise, whatever that happens to be. So far, we fellows on the Finance Committee have done a good job of raising the amount of money we are supposed to raise in taxes and cutting the amount we are asked to cut in tax cuts.

For my part, I have no intention of voting to reduce the amount of money available for the education of young people in this country. Insofar as the private education system takes care of children and does a good job, that would ease the burden on the public education system.

I only ask that people do the best job they can with the money available to them. The evidence that I have from schoolteachers with whom I have discussed the matter is that they could do a lot more good with the Federal money we are spending on education, if we did not have so blame many guidelines and so many people up here in Washington trying to tie their hands and constantly looking over their shoulder and trying to do the teaching job for them. If they had a little more discretion to teach the way the teachers and the principals think they should do it, they could do a more effective job.

But I am not seeking to reduce the funds for education by one nickel. If they can do a better job, I will be willing to vote for still more funds for education.

Mr. RIEGLE. Mr. President, let me briefly say why in fact it is a tax giveaway. Take two people living next door to one another side by side, two wage earners with exactly the same income each year, with exactly the same number of dependents, and so forth. Under the tax rates they would normally have they would pay the same amount of tax if everything were the same. What the Senator is going to do now is he is going to identify the one fellow who may send his children to a private school and who pays for that, and he is going to give him an extra tax benefit. So he is going to pay less tax, is he not, than the fellow next door? And he is going to pay less tax next year if everything else stays the same than he paid this year if the proposal the Senator is supporting passes.

So it is a tax giveaway. There is no question about it.

Mr. LONG. I do not read it that way, may I say to the Senator. We are all paying taxes. In fact, I really think that those parents whose children are in parochial schools in New Orleans, for example, have a right to complain because they are paying their taxes to educate children in the public schools. They are paying for the education of those who go to public schools, and their children are not in those schools. In addition to that, they are also paying, and at this moment with no help from the State, to educate their own children in parochial or private schools.

The suggestion here is that we allow some tax consideration to help ease the burden on the taxpayer who is paying to educate his own children in addition to paying to educate those in the public schools. To me, that is simply a consideration of equity and justice. That citizen is paying to educate all children with his tax money generally. He is not benefiting from that. He is also paying at this moment wtihout any consideration whatever, one might say, to educate his own child, and in that respect he is saving money for the Government. So, in effect, we give him back some of the tax savings that he is saving for the Government by educating his own child by giving him a tax credit to help pay the expense of educating his child in a private school.

I for one just look upon him as a taxpayer who is helping to educate his neighbor's child and who is getting a little help in trying to help pay the expense of educating his own child. I do not regard it as a tax giveaway. If I did, I would vote the other way, but I do not.

(Mr. STONE assumed the chair.)

Mr. RIEGLE. I would just conclude by saying to the Senator when we make Federal expenditures we are talking about education. We spend on defense and we spend money for crop subsidies and a lot of other things, and we are not just doing it for ourselves. We may be protecting somebody's interest who lives in another State. And if some problem strikes it does not necessarily hit us. In other words, the idea of the Federal Government in the range of Federal spending does not always come back one-for-one. In my State, for example, we find that we send $1 to the Federal Government and we get back less than $1. There are other States that do much better. Texas sends $1 and gets back $1.50.

I do not think you can equate this just on a one-for-one basis. I think if we set up an educational system and make it available to everybody we are offering education to the country as a whole whether people do or do not take advantage of it. I think it has to be viewed that way. I do not think you have to view it in the light of whether you have one or more children in that school at that time. People who do not have children pay taxes, and those taxes are used to finance an educational system, but it is so we can provide an educational opportunity and have the chance to develop our citizenry.

That is really what is at issue here. I think if you narrow it down to the question of "Well, am I going to get back everything I put in on a 1-to-1 basis" that really minaturizes the debate as to what is at stake in terms of why we have public education in this country. A lot of nations do not have it, and that is why a lot of nations are way behind us.

I have great regard for private schools, and I appreciate the fact that the Senator from Delaware is letting us discuss this matter, but I hope to have a chance later to discuss it without impinging on his time.

Mr. LONG. I hope the Senator from Michigan shares with me the thought that no matter what the State does, for better or for worse, that sometimes the States does some noble things and sometimes it does things which are absolutely asinine. But no matter what the State does, for better or worse, the ultimate responsibility is not on that State but it is on that parent to see that his child gets a good education, and that parent should conscientiously do his duty for his child to educate that child, to develop his talents to the best of the parent's ability, using the best judgment he can.

I know it conflicts sometimes with one's zeal to build a public education system for all, and everything that goes with it.

I find myself thinking of a man who is a well-regarded and well-respected Federal judge who signed all these integration orders and put his child in a private school all at the same time.

Someone challenged him about that matter, about having been the leader in integrating the schools in his area and then getting very severe criticism from his neighbors, and putting his child into a private school. He said, "Well now, keep in mind my duty as a Federal judge is one thing and my duty as a parent is something else." His duty as a parent he felt was to see that his child got the best education that child's talents deserved.

It seems to me that the final responsibility is not on the Government to see that the children are well-educated, even though it has a duty and I want it to do that. The final responsibility is on the parent, even if he has to do it in his own home, to see that the child receives the best education that parent can provide for his child.

Mr. ROTH. Mr. President, I had hoped in all candor that the four principal sponsors of the Roth-Ribicoff-Packwood-Moynihan legislation would have the opportunity of making their opening remarks on this very important piece of legislation prior to the debate.

I do not want to extend the debate, but I do want to make two observations: I would have to strongly agree with the distinguished chairman of the Committee on Finance by saving it seems to me that the discussion, the dialog, between him and the distinguished Senator from Michigan shows very clearly the differ-

ence in philosophy of Members of this Congress.

There are those who believe that all income belongs to the Government and that what the individual retains is only by the right of Government; and there are those of us who believe that what one earns belongs to the individual. When we talk about tax credits we are not giving something, the Government is not giving something, to the individual. We are merely permitting him to retain what he already has earned. It is his or hers, as the case may be.

I am also concerned about the allegation, the claim, that the elementary and secondary tuition credit is revolutionary. I would just like the record to show that the VA veterans' educational benefits, which have had strong support down through the years, provide benefits, college benefits—I mean funds—to both public and private schools, to both public and private elementary and secondary schools.

As a matter of fact, according to the VA it has paid tuition for about 3,500 schools, private elementary and secondary schools, since World War II.

Mr. President, there will be sufficient time to debate the merits, but I would at this time like to congratulate the other Members who are sponsoring this legislation because I think it demonstrates the timeliness of this proposal.

I have been pleased to work with the distinguished senior Senator from Connecticut (Mr. RIBICOFF) who, down through the years, has been a leader in trying to provide some relief in the area of college tax credits.

The fact that we are here where we are is due in great part to what he has done not only during the current year but for many years in the past.

I would like to congratulate the distinguished Senator from Oregon (Mr. PACKWOOD) as well as the distinguished Senator from New York (Mr. MOYNIHAN) for the strong leadership they are providing in attempting to obtain some relief at the elementary and secondary school level. I think the fact that we have a proposal here that has a real chance of becoming law is the reflection of the sound thinking and work they have done in this area.

Mr. President, I appeared before the Senate last year, at which time I said, with respect to college tax credits, that this is an idea whose time has come. I must confess to you today that in my judgment it is not an idea whose time has come but it is overdue, it is too late. We are penalizing middle Americans.

In all candor, much of this legislation would be on the books today, would be in the law, would be helping our children go to college, if it had not been for the parliamentary maneuvering on the House side. For 2 years, 1976 and 1977, I proposed a college tax credit that was overwhelmingly adopted by the Senate. That legislation was taken to conference where we got a promise in 1976 from the distinguished chairman of the House Ways and Means Committee that if we agreed to its being taken off that particular bill, there would be an up and down vote that year.

The distinguished Congressman from Oregon (Mr. ULLMAN) is an honorable man, and it was his intention to carry out that pledge. But the House leadership refused to permit that promise, that pledge, to be carried out for one reason, and one reason only, which was because they knew if there was an up and down vote on the House side it would be enacted into law, it would become law, and the only way they could prevent that from occurring was by preventing it from coming up on the House floor.

Again last year I brought this legislation up late in the year. It was adopted. It became part of the social security amendments, at which time the House conferees again fought so that they would not and could not permit it to come up for a vote, so we agreed we would withdraw it from that legislation, but with a clear understanding that this legislation would come up for a vote this year.

But I am happy to say that that pledge, that informal promise, has been carried out, and the House of Representatives has adopted legislation which provides tuition tax credits for the American people.

Mr. President, those of us who are sponsoring this legislation are basically seeking to achieve two things. That is why we will succeed. We are seeking the pursuit of excellence in education, which means plurality, choice, and we are seeking to help the American people provide the best education possible for their children.

Mr. President, the Tuition Tax Relief Act of 1978 provides tax credits to help offset the rising costs of education. The primary purpose of this act is to enhance the equality of educational opportunity for all Americans at the schools and colleges of their choice.

With the adoption of this legislation, Congress will be recognizing the heavy financial burden now borne by those who must pay tuition to obtain the education that best serves their needs and aspirations—whether at the primary, secondary, or postsecondary level. And by enacting tuition tax credits, Congress will be providing relief through the income tax structure with a minimum of complexity and Government interference in the lives of individuals and taxpayers.

The Tuition Tax Relief Act will be phased in over two stages.

Effective August 1, 1978, a tax credit equal to 50 percent of tuition and fees, with a maximum credit of $250 per student, will be available for full-time students in universities, colleges, junior and community colleges, and postsecondary vocational schools.

Effective October 1, 1980, tuition paid for elementary and secondary schools will become eligible, up to a maximum credit of $250. In addition, the maximum credit for college and vocational school tuition will be increased to $500. Also, tuition paid for students attending less than full time, but at least half time, will become eligible for the credit.

This bill is a modified version of our earlier tax credit bill, and the modifications substantially reduce the overall cost of the bill. The modified bill, which was approved by the Senate Finance Committee by a 15 to 1 vote, reduces the total cost of the bill when fully effective from $5.2 billion to $2.8 billion, a savings of $2.4 billion. The main features of the committee modifications are as follows:

First. The maximum credit for elementary and secondary school tuition was reduced from $500 to $250.

Second. Graduate students will no longer be eligible for the tuition tax credit;

Third. The refundability aspect of the tuition tax credit was deleted;

Fourth. Part-time students who study less than half time will no longer be eligible for the tuition tax credit; and

Fifth. The effective date for elementary, secondary, half-time, and the increase in the postsecondary credit was changed to October 1, 1980.

Under this compromise amendment, the fiscal 1979 cost of the tuition tax credit will be considerably less than the administration's grant and loan program. According to the Joint Committee on Taxation, the fiscal 1979 cost of the tuition tax credit will be $578 million, approximately $600 million less than the $1.2 billion cost of the President's program.

By reducing the total cost of the bill by 45 percent, we are making a good faith effort to meet President Carter's principal objection to the bill. We believe our modifications meet the President's objections halfway, and I hope he will reconsider his veto threat.

COST OF THE BILL

As I mentioned, the modifications we have made will cut the total cost of the bill almost in half. According to the Joint Committee on Taxation, the total tax savings and a comparison of the cost of the original bill are as set out in the table which follows.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point a table showing the revenue impact as well as the figures by the Congressional Budget Office as to their estimates of the cost of the bill.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Revenue impact

[Dollars in millions]

Fiscal year	Original bill	Modified bill
1978	$39	$25
1979	916	578
1980	1,418	997
1981	2,835	1,848
1982	4,479	2,820
1983	5,290	2,888

The Congressional Budget Office has also supplied cost estimates of the bill. These estimates, which are similar but slightly smaller, are as follows:

CBO revenue impact

[Dollars in millions]

Fiscal year	Revenue impact
1978	$21
1979	491
1980	804
1981	1,895
1982	2,646
1983	2,761

Mr. ROTH. Mr. President, despite the claims by opponents of the bill, tuition tax credits will not primarily benefit the wealthy.

According to the Joint Committee on Taxation, 78 percent of the benefits of tuition tax credits would go to families earning less than $30,000 a year. The bulk of the benefits would go to middle-income families earning between $10,000 and $30,000 a year.

I ask unanimous consent to have printed in the RECORD at this point a table showing the breakdown of the benefits to the various income classes.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Income	Percent of benefits	Cumulative percent
$0–$5,000	3	3
$5,000–$10,000	6	9
$10,000–$15,000	16	25
$15,000–$20,000	23	48
$20,000–$25,000	16	64
$25,000–$30,000	14	78
$30,000–$40,000	11	89
$40,000–$50,000	6	95
$50,000 and above	5	100

Source: Joint Committee on Taxation, July 31, 1978.

Mr. ROTH. Mr. President, I believe there is an urgent need for the adoption of tuition tax credits.

Increasing costs, higher prices, and a growing tax burden are making it more and more difficult for students to attend college.

There is no doubt in my mind that a growing number of young Americans are being prevented from obtaining a college education because of the increasing costs.

In addition to the rising costs of post-secondary education, the cost of nonpublic elementary and secondary education has increased substantially in recent years, and enrollment in nonpublic schools has dropped sharply from 6.3 million private school students in 1965 to 5.3 million in 1976, a decrease of 16 percent, while public school enrollment has increased 5 percent. At the same time, the cost of public schools is rising substantially, and taxes keep increasing to meet this cost. I believe that nonpublic school parents who must pay for the increased costs of both public and nonpublic schools, even though they relieve the public schools of the cost of educating their children, also should receive tax relief for their children's educational expenses.

In the past few years, the cost of a college education has skyrocketed.

According to the Congressional Budget Office, total annual college costs increased approximately 75 percent between 1967 and 1976. However, tuition and required fees, the only expenses which will be eligible for the tuition tax credit, have increased at a much faster rate.

According to the National Center for Education Statistics, the average tuition and fees at a private university increased 93 percent between 1967 and 1976, from $1,297 to $2,505. For a public university, tuition and fees also increased 93 percent during the same 10-year period, from $283 to $549.

These tuition costs will continue to increase. According to the College Entrance Examination Board, the average annual total cost of a private university for the upcoming school year will be $5,110. For a public university, the average annual cost will be $3,054 for the 1978–79 school year. For a student entering college this fall, the total 4-year cost will be an estimated $17,500 for a public university and $30,000 for a private college. It is important to recognize if a parent has a 1-year-old child today, it has been estimated that it will cost $47,000 to send the child to a public university and $82,000 for a private university in the 1990's. These costs are after taxes.

The administration and the Congressional Budget Office have argued that a tuition tax credit is not necessary because total college costs have not risen as fast as median income. According to a recent CBO report, total college costs increased 75 percent and median family income increased 78 percent between 1967 and 1976. The administration has seized upon these figures as "proof" that the average family is no worse off today than it was 10 years ago. I might just say that I for one am not satisfied that the average family is no worse off. That is not the American dream. The dream is to move up.

But the administration and CBO are totally ignoring an extremely important fact—that the tax burden on the average family has increased substantially during this same period and middle-income families have less disposable income to spend on a college education for their children.

According to a study by the Library of Congress' Congressional Research Service, the tax burden on median income families with college age children increased 135.4 percent between 1967 and 1976, as the following chart shows. I ask unanimous consent that the chart be printed in the RECORD at this point.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

AVERAGE TAXES AND MEDIAN INCOME, 1967 AND 1976

	Median income	Federal income tax	Social security tax	Average state and local taxes	Total taxes	After tax income
1967	$7,923	$684	$290	$404	$1,378	$6,545
1976	14,164	1,395	829	1,020	3,244	10,920
Percent change from 1967 to 1976	78.8	103.9	185.9	152.5	135.4	66.8

Mr. ROTH. As this study shows, the after-tax income of median income families increased only 66.8 percent, and did not keep pace with the 75 percent increase in total college costs or the 93 percent increase in tuition and fees.

In addition, the percentage of after-tax median income required for tuition and fees has increased 16.3 percent at public colleges and 15.7 percent at private colleges over the last 10 years, as the following chart shows, which I ask unanimous consent to have printed at this point in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

MEDIAN FAMILY INCOME, AFTER TAX MEDIAN FAMILY INCOME, AND COLLEGE TUITIONS

Year	Median family income (families with 18-to-24-yr olds)	After tax median family income	Tuition and required fees		Tuition and fees as percent of aftertax MFI	
			Public	Private	Public	Private
1967	$7,923	$6,545	$283	$1,297	4.3	19.8
1976	14,164	10,920	549	2,505	5.0	22.9
Percent change, 1967–76	78.86	66.80	93.9	93.1	16.3	15.7

Sources: Congressional Budget Office, Federal Assistance for Postsecondary Education: Options for Fiscal Year 1979; Congressional Research Service, "Selected Statistics Regarding Income and College Costs" (John Karr, June 1978); National Center for Education Statistics, Digest of Education Statistics, 1976 edition.

Mr. ROTH. These figures clearly show the Federal Government is taking more money away from the average families of this country through higher taxes and inflation. The tuition tax credit is designed to reduce the average tax burden and allow taxpayers to keep more of their own money to spend on a college education for their children.

These increasing costs have had a considerable impact on the ability of middle-income students to attend college. According to Census Bureau figures, the enrollment rate of middle-income students has declined in the last 10 years. In fact, while the enrollment rate at the lowest income level has increased slightly, the enrollment rates of all other income levels have declined in the last 10 years.

I ask unanimous consent that a chart on college enrollment rates be printed at this point in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

COLLEGE ENROLLMENT RATES

[In percent]

Income	1967	1976	Rate change	Percentage change
0 to $5,000 (constant dollars), 0 to $8,050 (current dollars)	20.0	22.4	+2.4	+12
$5,000 to $10,000 (constant dollars), $8,500 to $17,000 (current dollars)	37.9	36.3	−1.6	−4
$10,000 to $15,000 (constant dollars), $17,000 to $25,500 (current dollars)	51.9	47.5	−4.4	−8
$15,000 plus (constant dollars), $25,000 plus (current dollars)	68.3	58.2	−10.1	−15

Source: Bureau of the Census, "Current Population Reports," Series P-20, No. 319, Issued February 1978

Mr. ROTH. Mr. President, there are millions of families today who are neither affluent enough to afford the high cost of college nor considered poor enough to qualify for the many different Government assistance programs their taxes make possible.

We are rapidly approaching a situation in this country where only the very affluent and the very poor will be able to attend college. The group in the middle—the very taxed—will be unable to afford it.

Mr. President, a tuition tax credit is simplest and most equitable way to provide middle-income families relief from mounting college costs. A tuition tax credit will allow people to keep more of their own hard-earned money rather than send it to Washington. With a tuition tax credit, there is no administrative overhead, no forms to fill out, and no need to beg, plead poverty, or apply to the big bureaucrat on the banks of the Potomac.

Working Americans, caught in the middle, do not want a Government handout. They merely want to keep more of what they earn to spend on something as basic as the right to send their own children to college.

TUITION TAX CREDIT MYTHS

Mr. President, while I believe the support for tuition tax credits is overwhelming, the opponents of tax credit is overwhelming, the opponents of tax credits have generated a great deal of misconceptions about the impact and need for tuition tax credits. I would like to respond briefly to a number of these tuition tax credit myths and objections.

Myth No. 1: Tuition tax credits have not been adequately considered.

Fact: In the past 2 years, the Senate has debated and approved my college tuition tax credit by overwhelming margins three times.

In August 1976, the Senate adopted a $250 college tax credit as an amendment to the tax reform bill by a 68 to 20 vote. As I mentioned earlier, the House conferees refused to accept the tax credit as an amendment to the tax reform bill, and committee leaders gave their commitment they would allow a House vote on a separate bill.

Subsequently, the Senate approved the college tax credit in September 1976 by a 62 to 21 vote, but once again the House refused to consider it.

Finally, last year the Senate approved the tax credit by a 61 to 11 vote as an amendment to the social security bill, but once again the House refused to allow it to come to a vote.

This year, the House, by a 237 to 158 vote, approved a tuition tax credit for colleges and elementary and secondary schools.

Myth No. 2: Tax credits will only benefit the rich.

Fact: According to the Joint Committee on Taxation 78 percent of the benefits of the tuition tax credit will go to those earning less than $30,000; 69 percent of the benefits from the bill will go to middle-income families earning between $10,000 and $30,000 a year.

Myth No. 3: Schools will increase their tuitions if a tax credit is adopted.

Fact: Competition for students is the biggest factor restraining schools from increasing their tuitions. According to recent studies college enrollment drops by 1 to 3 percent for every $100 increase in tuition and college administrators are extremely conscious about this fact.

If a college does raise its tuition to capture the tuition tax credit, it will lose enrollment to colleges which do not increase tuition.

Myth No. 4: A tax credit will not help families paying $5,000 in tuition.

Fact: A $500 tax credit will be of significant help to families struggling to send their children to college. It will be of particular benefit to families who are facing the difficult task of sending more than one child to college. According to studies, college enrollment will increase by 1 to 3 percent for every $100 reduction in tuition costs.

Mr. President, the tuition tax credit is simple, direct, and easy to administer. It is far more preferable than the administrations' grant and loan program, which would only add more red tape and more problems to programs which HEW cannot even administer now.

I hasten to add that I have been a strong supporter of grant and loan programs to help those on the lower end of the economic scale to go to college.

According to HEW Secretary Califano, 30 percent of the basic educational opportunity grant applications for the 1978–79 academic year have been rejected because they are incomplete or contain errors.

A Congressional Budget Office study said an expanded grant program "would involve a greater administrative burden" than the tuition tax credit.

A recent HEW study of the existing student aid programs found they were plagued with "managerial problems which have contributed to inefficiencies, inequities, abuse, and fraud." The president of Syracuse University testified before the Senate Finance Committee that the existing student aid programs "are bewildering to potential applicants, have defied the ability of bureaucracies to administer them, and have resulted in a labyrinth of disconnected, overlapping, and uncoordinated parts."

The existing student loan program is in complete dissarray. One out of every six loan recipients defaulted on their loans, including 316 in HEW and 6,783 Federal employees in all.

Mr. President, we need a program that complements, not complicates, the existing student aid program.

The tuition tax credit is an idea whose time is long overdue. I urge the Senate to enact this legislation to provide the taxpayers relief from a financial burden no other generation has ever experienced.

I yield the floor.

Mr. STAFFORD. Mr. President, I ask unanimous consent that Nancy Barrow, of Senator CHAFEE's staff, may have the privilege of the floor during debate and votes upon the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STAFFORD. Mr. President, I wish to express in some detail the reasons for my opposition to the Tuition Tax Relief Act. In the most recent, scaled-down revision of August 3, it would provide a credit of up to $250 for private elementary and secondary school expenses, rather than the $500 which had been in the original. The new version, as I understand it, retains the higher figure for the postsecondary level.

The previous version disturbed me because it would have been the most expensive Federal educational program in the Nation's history and a departure, in my opinion, from the principles underlying our Federal educational policies. Some possible consequences were also troubling. The revised bill will be less expensive, but still almost certainly a commitment of steadily increasing cost. The tax credits would constitute a new category of Federal educational program. It would be doubly new at the primary-secondary levels, because the Federal Government would be providing general support for the private sector in schooling. Except for federally impacted schools, we do not provide general support for public schooling.

As we consider this proposal, we are necessarily involved in analysis across two levels, collegiate and precollegiate. This complicates our deliberations, because the consequences of the proposal are different at these two levels. For higher education, our analysis additionally must include comparison with the College Opportunity Act, S. 2539, which is the alternative approach to relieving the financial strain upon middle-income families with children in college. The country cannot afford both ap-

proaches. I wish that it might, but it is my judgment that at this point in history, it cannot; therefore, we must select the one which will best focus our resources to meet our educational objectives.

OVERALL COST

We also need to consider the overall cost and how it may develop, especially in a situation of enormous Federal deficits and a very high rate of inflation. Proponents of this measure state that tuition tax credits, when fully in effect, would cause the Treasury to lose only slightly less than $3 billion per year rather than the more than $5 billion contemplated previously. That estimate might be low: if all 3 million primary-secondary private school children and only 7 million of the 12 million vocational and higher education students were fully eligible, and if the other 5 million were to get nothing, the Treasury would lose $4.25 billion, and do so in a situation in which the tuitions and fees which are basic to the calculation of tax credits will surely be increasing.

The losses to the Treasury could increase rapidly. The tax credits would provide the greatest financial incentive in the Nation's history to leave public schooling and "go private". While I know of no surveys concerning the impact of tax credits upon the demand for private schooling, it is not farfetched to assume that a million children might "go private", as that would be less than 3 percent of the 43 million attending public schools and as, presumably, the blessings of tax credits would be reflected in advertising and there would be an occasional slight bandwagon effect. The tax cost would be $250 million for each million children making the move. In parallel, at the higher education level, there would be an incentive for more students to take more courses. While that would be a positive development, it would also add to the cost of tuition tax credits.

I am also concerned about the possible tuition-inflationary impact and its consequences. Tax credits, because they are a nearly universal reward, are far more likely than S. 2539 programs to be tuition-inflationary. The toughest problem facing college administrators is increasing costs, which range from heating bills to social security payments for the faculty and all expenses in between.

(Mr. BURDICK assumed the chair.)

Mr. STAFFORD. There is powerful pressure to increase fees. It would surely be very tempting for hard-pressed administrators, who know that their students soon will have an extra $500—or at least their parents—to adapt to their difficult circumstances by passing their bills along to those students in the form of higher tuitions.

If that happens, the tuition tax credits will have provided little net help for students, complaints will follow, and the problem of relieving middle-income college costs will be back to haunt us with pressure for other forms of tax relief or more generous tuition tax credits. It would be painful to discontinue tax credits once granted because institutions as well as individuals would be adversely affected. The prospect would be for ever-growing demand for tax credits.

HIGHER EDUCATION

It is obvious that college costs have become so great that middle-income famies are experiencing great strain in paying the bills. The main issue before us is one of principle. It is whether the system of assistance should scale the awards on the basis of the extent of the difficulty in meeting expenses.

The historic, principled reason for Federal student assistance has been to relieve economic hardship in order to assure equal opportunity in accordance with one's abilities. Thus the criteria for aid to students have been the family's ability to pay and the cost of the chosen college or institution. Tax credits are not based on these criteria. They would provide the same benefit to the wealthy parent whose child is attending his hometown inexpensive college and the poorer family whose child attends a high-cost institution away from home. The tax credit would allow no benefit to students who win tuition scholarships yet still must meet high overall expenses, with the incidental consequence that colleges would find it sensible to discontinue these rewards for excellence.

In contrast, the approach embodied in S. 2539 is based on the principle that assistance should be related to need. I believe that is the right principle upon which to base our public policy.

From the standpoint of the student who needs assistance, there are three important differences in effect between the tuition tax credit approach and the approach advanced by S. 2539.

First, by comparison, tax credits have the effect of restricting freedom of student choice in selecting institutions. A student is better able to attend the institution of his choice if he can obtain assistance reflecting cost and need.

Second, by comparison to S. 2539 programs, tax credits are inflexible instruments for helping the student. Many students would best be helped by S. 2539 potential for combining grants, work study, and loans. Tax credits do not meet the needs of many families who would prefer subsidized loans which would enable them to pay a large share of their educational costs over time.

Third, a tax credit would follow the payment of tuition by 6 to 10 months, whereas the S. 2539 approach provides the money when needed. Also, the tax credit typically would be paid to the parent, whereas S. 2539 money would be paid to the student.

At the higher education level we have a choice between tuition tax credits and S. 2539. It seems to be clear that S. 2539 is the superior choice in terms of principle as well as the benefits provided to students who need assistance and the promise of relieving the burdens upon middle-income families.

PRIMARY-SECONDARY EDUCATION

The considerations pertinent to our deliberations about awarding tax credits at the primary and secondary levels are quite different. I wish to underscore that I appreciate the qualities of private education and value the competition it represents. I have been concerned that private schools have not shared in the benefits of the Elementary and Secondary Education Act to the extent possible. One of our objectives in rewriting that legislation has been to remedy this situation.

Very clearly, tax credits do promote freedom of choice at this level. The more generous the credits are, the greater is the incentive to "go private," at least if the reward is not consumed by higher tuition.

In contemplating the effects of tuition tax credits at the primary-secondary levels, four concerns have emerged as being of uppermost importance. One is the cost, already mentioned.

The second is the effect upon our public schools. Across the country, public schools are experiencing declining enrollments and are grappling with the management of decline in the face of increasing costs. Tuition tax credits would stimulate further decline in public school enrollments, in the opinion of this Senator. While the latest version of the tax credit bill provides only half of its predecessor's financial incentive to leave these schools, it still provides a significant tax benefit for "going private". It cannot be said that tax credits would bring us the blessing of relieving our public schools of burgeoning enrollments. To the contrary, they would compound the problem by reducing the numbers of pupils and thereby also eroding the base for public school budgets.

Tax credits also would have some effect on the social composition of the public schools, as especially middle and upper income groups would best be able to take advantage of the tax credits and depart the public schools. Those parents tend disproportionately to be the backbone of support for the schools, lobbying for quality and funding and giving their time. The public schools need these people. It would not be wise public policy to induce their departure.

There is a very closely related problem. To the extent that we create an incentive for parents to move their children to private schools, the resulting action would involve whites very disproportionately. This is not to anticipate the return of "freedom schools," because we are past that phase in our history, yet I am wary that tax credits will tend to be resegregative in their effect. It would be very inconsistent of our Government to demand public school integration in the pursuit of equal opportunity and at the same time create financial incentives to any degree which would work against that objective. I remain mindful that the public schools have been the best tools for providing equal opportunity to all in our society.

We have some excellent recent data presented in the Survey of Income and Education conducted by the Department of Commerce, which provide some perspective on these considerations. One-fourth of the children from families with incomes above $50,000 were in private schools, as were 17 percent of all children from families with incomes above $25,000, but only 4 percent of all children from families with incomes below $5,000. While

17 percent of all white children attend private schools, only 5 percent of all minority children do.

The economic standing of the recipients of tax credits is my third major concern. While all income groups are included in private schools, a very high proportion of the recipients would not be very needy. The previous version of the tax credit bill would have made the Federal spending per private school child greater than the amount per public school child, and that would have been unfair. The revised bill is an improvement in that these figures would be much closer to one another.

A fourth major concern is the constitutionality of the tax credits, a matter which I understand can be debated and will be. They obviously would have the effect of providing relief to sectarian schools. Numerous constitutional authorities, citing especially the Supreme Court's 1973 decision in Committee for Public Education against Nyquist, have stated that tax credits are unconstitutional. I am aware that the tax credit bill contains speed-up provisions for determination of constitutionality by the courts. Nonetheless, the prospect that the courts may well rule them unconstitutional adds to my wariness concerning tuition tax credits.

Overall, there are a lot of reasons to be concerned about tuition tax credits, among them some administrative considerations to which I will turn next.

ADMINISTRATIVE CONSIDERATIONS

Very soon, Mr. President, I think I will have to say we may be considering the merits of S. 991, which would create a Department of Education. One of the purposes of S. 991 is to bring together the Government's widely dispersed educational authorities. It is interesting, in this perspective, that the tax credits bill, which in terms of dollars would constitute one of the largest Federal educational programs in the Nation's history, would have the contrary effect of further dispersing control over educational policy in both the executive and legislative branches of Government.

IRS would write the regulations, rather than HEW or the new Department of Education. It would have responsibility for insuring both student and institutional eligibility for the credit and safeguarding against such fraudulent behavior as paying tuition in order to gain the tuition receipt and then dropping out within the college's refund grace period. There would be many complexities of definition and complex instructions to assure one's eligibility for a tax credit. Tax credits would not be a simple matter of a one-line entry on a tax form, and the management of the tax credit program would require an increase in IRS personnel. The point is that the tax credit program would not be administratively simple or inexpensive. Indeed, it would complicate the Federal tax structure when what it really needs now is a basic overhaul.

There is one more basic administrative consideration. We already have an administrative structure in Office of Education to administer student assistance under the Higher Education Act. It has the relevant experience. It makes sense to utilize the present mechanism to fulfill the objective of providing assistance to middle-income students. Doing so would require no new types of forms and no new data items on existing forms, and it would not work against our purposes in proposing a Department of Education.

Finally I would like to point out that tuition tax credits are opposed by the overwhelming majority of those serving in the Nation's higher education community, by the National Student Association, by the National Education Association, by the National Advisory Committee on Black Higher Education, by the Education Commission of the States chaired by Indiana Governor Otis Bowen, and by numerous civil rights organizations. They all prefer S. 2539. The tuition tax credit concept has been opposed by the Departments of the Treasury and HEW in both Republican and Democratic administrations, and for good reasons.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Allison Wiley, of Senator STONE's staff, and Elliott Abrams, of my staff, have the privilege of the floor for the duration of the debate on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr President, I ask unanimous consent that James Lockemy, of Senator THURMOND's staff, have the privilege of the floor during the consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, the Senator from Vermont and others have made reference to the fact that the passage of this bill is more likely to cause middle income and higher income students to leave the public school system, leaving the public school system with the poorest—with the dregs of society, as they have been referred to by more than one speaker.

Prof. Vitullo-Martin has done what I believe is the most profound study on this matter that can be found. He testified in January of this year, and his full work was not published until March, but it can be found in "Parents, Policies, and Political Structures," completed in March of 1978. It is a paper done under a grant for the National Institute of Education, in which he studied the income levels of the different people who go to private schools and public schools. This is what he discovered:

> If we take as a standard of low income the level at which the federal government ceases to tax a family of four (given standard deductions, $7,200), private schools enroll more than half as many low-income students as public schools do. About 13 percent of the private school population has a family income of under $7,500 vs. 23 percent of the public school population. A greater proportion of the public school population has an income of under $10,000 (35 percent vs. 20 percent). Once we look above the lowest-income groups, however, we find the greatest difference in enrollment occurs in the $10,000 to $15,000 group. Private schools find 6 percent more of their total population in this group than public schools do. Significantly for our question, the least difference in the two groups is found in the wealthiest portion of the population. Private schools enroll only 2.5 percent more wealthy students than public schools do.

What Dr. Vitullo Martin is saying is that the poorest segment of our society cannot afford to go to private schools. He concludes as follows:

> As we look at family income statistics for private school patrons, we see what is common sense: Market forces seem to limit attendance by the lowest-income families. We will discuss later the fact that the lowest-income families spend as much as 10 percent of this gross income for tuition at private schools. The proposed $500 per child refund to this group will be likely to have a greater effect on increasing their attendance.

Mr. President, witness after witness that we had before the committee—black, Latin, and otherwise—were people making $8,000, $9,000, $10,000, $12,000, or $15,000 a year and trying to send their children to private schools—normally, Catholic, innercity, parochial schools where the tuition may vary from $350 to $500. In the Washington diocese, it is $400, on the average, for the parochial Catholic schools.

One mother testified that she had five children. She had two in a private school and three in public schools because she could not afford to send the other three to private schools. If that woman could take $200 for each child off her income tax, she could afford to send the other three to a private school.

This bill is not going to cause the wealthy to leave the public school system if they want to leave it. The wealthy, if they want to leave the public school system, are going to leave it whether or not this bill is passed. The very wealthy, who can afford the tuitions of $4,000, $5,000, or more at the very expensive private preparatory schools of our country, have no interest in this bill at all. If there is any continuing interest expressed in this bill among any income class, it is the lowest income class, to whom $100, $200, or $300 is a significant amount of money. If given the opportunity, they may try to shift to a private school.

However, let no one assume that it is going to be the middle-income people and just the wealthy who leave, leaving the public schools with nothing but the poorer elements.

Ten years ago, we had 87 percent of the students in this country in public schools, 13 percent in private schools. Today that figure is 91 percent public, 9 percent private, and there is no reason to assume that that change in ratio will not continue.

There has been strong lobbying opposition against this bill by the National Education Association, and the argument has been used that it will be the demise of the public schools. When each witness who propounded this theory was asked why and how much and how many are going to leave, no one knew.

One of the supporters of this bill propounded the idea that maybe at the outside with this type of a bill one day we might get back to the place where 15 percent of the students attended private schools and the remainder attended public schools. Most of those who attend the

private schools attend religious schools. There is no question about that. People send their child to a religious school for whatever personal reasons they want, but I have yet to hear anyone argue that those who go to the religious schools are the intellectual elite of the Nation. They are a cross-section just like the public schools. They are certainly not the economic elite of the Nation. They are close to a cross-section like the public schools. So if the public schools, left with 85 percent of all the students in this country and a cross-section intellectually and economically, cannot make it, then there is something wrong with the public schools that will not be cured if they have 100 percent of the students.

Let me respond finally to the Senator from Vermont in his argument about the constitutionality which we are apparently going to hear over and over. The constitutional scholars do disagree on this bill. Constitutional scholars, men and women who have written, spent the better part of their lives in the academic world studying the first amendment and the religious clause, differ as to whether this bill is constitutional. That is why we have taken the provision, that was once offered by Senator Ervin in 1965 and also by Senator Morse on an education bill, to test whether or not we could make appropriations to private schools for certain types of services and placed an expedited court test in the bill, and have placed a similar expedited court test in the bill to make sure that the Supreme Court makes a decision as to whether or not the tax credit provisions for private schools are constitutional, to make that decision before $1 of tax credit is ever allowed.

I would not be so foolish as to stand here and say irrevocably that this is constitutional. I have studied law long enough and watched the Supreme Court long enough that I am never going to try to second guess what they might do. But I think in fairness and honesty it is almost impossible for anyone to say this bill is clearly unconstitutional or clearly constitutional.

If we want to argue it on the basis of philosophy, if we want to argue it on the basis of should we give tax credits to parents of those who send their children to private schools, let us argue it on that basis. If in addition we must argue it as we would argue a case to the Supreme Court and consider Wolman and Nyquist, I am prepared to distinguish those cases. I am prepared to do what I would do if I were writing a brief for the Supreme Court arguing the constitutionality.

All I am saying is that I think any of us would be presumptious to make any kind of a statement that all constitutional scholars say this bill is unconstitutional or that this bill is so clearly unconstitutional that we should not pass it.

I guess all I would say in that case, if that were true, then those who object to this bill on constitutional grounds should have no fear that it is ever going to go into effect because if that is true the court will clearly strike it down.

So, as we go on with our arguments let us talk about policy, philosophy, costs, and if necessary constitutionality. But I would hope we would hear no more of the argument that this bill is so clearly unconstitutional that no rational constitutional scholar will say otherwise today.

I yield the floor.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that at the end of the opening statements presented in person by the different Senators an opening statement by the Senator from New York (Mr. JAVITS) be included in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR JAVITS

Today we are beginning debate on two measures which will profoundly affect the future of Federal participation in education. We are beginning with a discussion of the Tuition Tax Relief bill. Following the disposition of this bill we will also review S-2539, the College Opportunity Act.

This issue has been of great interest to the people of my State and the people throughout our Nation. Both the advocates and the opponents have contacted me in great numbers. I am pleased that both points of view are receiving such attention and that the Senate will carefully consider all of these views before reaching its decision. I believe this is a fine example of how our democratic government works best. I hope that all observers will recognize that this is not a debate between people who are for education and people who are against it. Rather, the debate is between proponents with competing views; but each is attempting to aid education as he sees best. For many years I have labored to advance the Federal role in education. It is therefore with some regret that I must oppose the enactment of tuition tax credits.

Mr. President, my opposition is based on four major elements. I believe the costs associated with the bill are simply excessive given the benefits which are anticipated. I am impressed by the number and diversity of opponents of this bill, who have put forward very sound reasons for not enacting tuition tax credits. As a policy matter, I believe this approach raises serious constitutional difficulties and is a poor use of limited Federal resources. Finally, and perhaps most importantly, there are available alternatives in both the postsecondary sector and in the elementary and secondary sector which meet the needs which the proponents of tuition tax credits have identified and stressed.

Under the new proposal for tuition tax credits reported by the Senate Finance Committee on August 3, the tuition tax credit measure would have the following costs (in millions of dollars):

Fiscal year:	
1978	$30
1979	667
1980	1,081
1981	2,238
1982	2,820
1983	2,888

These figures represent an almost 50 percent reduction in the total cost when compared with the earlier Finance Committee reported measure. However, they remain substantially above the cost of superior alternatives.

If the Senate version of H.R. 12050 is enacted, this single law will produce a $10 billion loss of taxable revenue, with an annual cost of about $2.9 billion in 1983. Our Nation cannot afford it and I am convinced we should have the opportunity to review such a distribution of resources on an annual basis. Absent that kind of consideration, we may tie ourselves to a policy which is totally out of step with our situation in 1983. I recognize Congress can always change a law. But I believe that once set in place, there would be little likelihood of repeal of a tuition tax credit and it would become in effect an entitlement program. Furthermore, it would be likely to expand far beyond its currently proposed size.

On the other hand, the annual cost of the College Opportunity Act is estimated by the Congressional Budget Office to be $1,464 million in fiscal year 1979, rising to $1,630 million in fiscal year 1983. Unlike the tuition tax credit proposal, all of these estimates are subject to the annual budget and appropriations process and to annual adjustments. At the elementary and secondary level, nonpublic schools make up approximately 9% of the enrollment. If students in these schools were to receive their full fair share of services, they would receive a proportion approximately equivalent to their enrollment. While no precise estimates exist, this amount would be approximately 300 to 400 million dollars per year. This roughly doubles the amount currently estimated by HEW Secretary Califano to be $175 million per year

It is obvious that the tuition tax credit approach is significantly more costly than the alternatives. I believe the principal reason for this disparity is no longer the level of benefits. Under the new Finance Committee proposal, H.R. 12050, even a smaller proportion of the funds go to needy families. Although less expensive, the new approach is even more poorly targeted as to true need.

Mr. President, I urge my colleagues to reject tuition tax credits because they are too costly and because they are allowing too great a proportion of funds to go to persons without true need.

OPPOSITION TO TUITION TAX CREDITS

Mr. President, I am impressed by the wide variety of groups which have expressed their strong opposition to the tuition tax credit approach. I believe it is significant that virtually all the leading education associations and organizations oppose this measure. I believe their views should be compelling on this issue. However, it is more compelling to review the position taken by individuals and organizations who are not professional educators. Over the last several months, I have received communications in opposition to tuition tax credits from the following: The Americans for Democratic Action, Reverend Jesse Jackson of Operation PUSH, the American Jewish Committee, M. Carl Holman, Chairman of the National Urban Coalition, Vernon E. Jordan, Executive Director of the Urban League, Bayard Rustin, President of the A. Phillip Randolph Institute, and the AFL/CIO.

Editorial opinion has been raised against this measure. On October 11, 1977, the New York Times ran a lead editorial entitled "How Not to Ease the Tuition Squeeze". On February 27, 1978, the Washington Post ran a lead editorial entitled "A Threat to Public Schools". Mr. President, I ask unanimous consent that these two editorials be printed at the conclusion of my remarks.

The Administration has expressed its total opposition to this approach. President Carter has stated on numerous occasions his opposition to tuition tax credits and his firm commitment to veto such legislation if it is sent to him. Three departments of government have also stated their opposition for specific reasons. On March 17, 1978, Attorney General Griffin Bell wrote HEW Secretary Califano expresing his opinion of the constitutionality of the tuition tax approach. This letter is supported by ten pages of legal analysis by John M. Harmon, Assistant Attorney General, Office of Legal Counsel, Department of Justice. Attorney Gen-

eral Bell's letter to Secretary Califano concludes with the following:

"In light of existing Supreme Court precedents, it is my opinion that tax pograms of the sort contemplated here would be held unconstitutional insofar as they would provide aid at the elementary and secondary school levels. However, I am of the opinion that similar aid at the college level would be constitutional."

Both HEW and the Treasury Department have been strongly opposed to tax credits for tuition. On July 19, 1978, Assistant Secretaries from these two Departments testified before the Senate Finance Committee detailing their opposition to tuition tax credits. Mr. President, I ask unanimous consent that pertinent excerpts from this testimony may be printed at the conclusion of my remarks.

This bill has broad based opposition in the education community. It is opposed by the following organizations which represent the varied perspectives of policy planning, school boards, teachers organizations, parent organizations, and student organizations. The Carnegie Council on Policy Studies in Higher Education, the National Advisory Committee on Black Higher Education, the American Council on Education, the American Association of State Colleges and Universities, the National Association of State Universities and Land-Grant Colleges, the Association of American Universities, the American Association of University Professors, the National PTA, the New York State PTA, the United Parents Association of New York City, the American Federation of Teachers, the National Education Association, the National School Boards Association, the National Student Association, and the National Student Lobby.

The Senate Appropriations Committee, which reviewed H.R. 3946 under a provision of the Budget Control Act, has expressed its opposition in a 14 to 7 vote by reporting this measure unfavorably. Rather than recommending amendments to those portions it found objectionable, the Committee elected to report H.R. 3946 unfavorably and thus give its members opportunity to express separately their various concerns.

Strong evidence of public opposition has just become available. A public opinion poll released late in July reports that the public turns "thumbs down" on college tax credits and gives a "resounding no" to credits for non-public elementary and secondary schools. The survey conducted by the Roper Organization shows 54 percent of the public opposing college tax credits, and 64 percent rejecting tax credits for non-public schools. When asked to select a preference among alternatives for Federal aid to postsecondary institutions, only 9 percent favored a tax credit such as that provided in the bill before us today.

Mr. President, this approach to aiding our non-public schools has generated opposition from a wide variety of individuals and organizations in our society who are devoted to advancing education.

LEGAL AND POLICY PROBLEMS

Mr. President, we must not ignore the fact that the Attorney General has carefully reviewed this legislation and determined that he believes it is unconstitutional in the elementary and secondary provisions. In a March 27, 1978 letter to the Budget Committee, Paul A. Freund and several other notable legal scholars take the same view regarding the constitutionality of the provisions originally in S. 2142 and now contained in the present bill. Dr. Freund is one of our Nation's leading constitutional law experts. He and his distinguished colleagues conclude:

"The conclusion seems inescapable that the provisions of S–2142 regarding elementary and secondary school expenses would be held inconsistent with the Establishment Clause of the First Amendment and thus violative of the Fourteenth Amendment to the United States Constitution."

The letter goes on to detail the primary cases in this area, in particular the Nyquist case. The Nyquist case involved a New York State law which was struck down by a U.S. Supreme Court decision in 1973. Mr. President, I ask unanimous consent that the full text of this letter be printed in the RECORD at the conclusion of my remarks.

If enacted, the tuition tax credit would certainly be immediately the subject of litigation which could take several years. During that period, it is unlikely that the proposed benefits would flow to the hopeful recipients. If this scenario were to take place, it would embitter millions of students and families who aspire to aid under a tuition tax credit.

Mr. President, it is the duty of the Congress to avoid passage of an unconstitutional measure and the tuition tax credit certainly as to elementary and secondary education is unconstitutional.

The central role of the Federal Government is to assist all our citizens in obtaining equal access to high quality educational programs which suit their needs. This theme has prevailed throughout the Federal activities. Title I of ESEA provides significant subsidy to children with economic disadvantages. Federal student aid provides a range of grants, work and loans for students who choose their own postsecondary education institution. Other disadvantages such as limited English speaking ability or physical handicaps are reached by special education programs. Absence of a sufficient local tax base is compensated by the impact aid program. Desegregation problems are eased by the Emergency School Aid Act. Civil rights and equal employment opportunities in the educational sector are enforced by Federal law. Each of these major Federal activities relates to the theme of equal access to educational opportunity. The provisions of the tuition tax credit would distort this structure. They would for the first time provide Federal financial support where no proven need exists, as in the case of wealthy families whose children attend private schools. The tuition tax credit could produce an unintended boost to private segregation academies established to avoid the constitutional guarantees for equal education. It could erode support for public schools at a critical time in their development. It could encourage tuition hikes which would totally neutralize its effects on families. It is subject to considerable fraud and abuse, as no viable means exists to cross check claims for a tax credit.

It is not a simple one line entry on a form 1040 tax return. Rather it involves a series of calculations and some proof of attendance at an eligible educational institution. At a time when many members of Congress favor a Department of Education, it could fragment educational policy between educators and tax experts at the Treasury Department. It could result in a new regulatory structure provided by the Treasury Department over what constitutes full attendance, eligible institutions, part-time attendance, etc. Finally, and most importantly, it treats wealthy families the same as poorer ones once the cost of attendance exceeds $500. This is simply not a wise way to expend such a large amount of public monies.

Mr. President, the constitutional problems inherent in the tuition tax credit proposal are so enormous that I believe we must seek another means of providing relief. Such a means is readily available to us.

ALTERNATIVES TO TAX CREDITS

Following the disposition of the tuition tax credits bill, the Senate will immediately turn to the College Opportunity Act, S–2539. This approach was unanimously reported from the Human Resources Committee. It expands the existing Basic Educational Opportunity Grants program to families with incomes up to approximately $25,000, based on the family resources and the choice of educational institution. For families who do not meet a needs test for grant support, S–2539 provides expanded access to a Federally guaranteed and subsidized loan. The income test for subsidized loans currently in Federal law is removed by S–2539. A family with substantial means, but without available liquid assets to support the heavy cost of college, particularly a private college, would have government assistance to overcome this difficulty. S–2539 also anticipates greater participation in the highly successful college work-study program, which allows a student an on-campus job which has 80% of the wages paid by the Federal government. The College Opportunity Act provides some relief for all levels of family income. It maintains the present Federal student aid philosophy of greater aid to students attending high cost, private institutions while maintaining disincentives for schools simply to raise tuition. I believe S–2539, the College Opportunity Act, represents a sound Federal policy, and should be enacted.

Regarding elementary and secondary education, the Senate will shortly take up the Education Amendments of 1978, S–1753, which reauthorize and modify the Elementary and Secondary Education Act of 1965. Throughout the consideration of S–1753, the Human Resources Committee carefully reviewed the participation in existing programs of non-public schools. In some instances, we found that existing provisions of law to assure non-public school participation had been poorly enforced and administered or were deficient in their statutory scope. I and other members of the Human Resources Committee undertook to assure that the guarantee of equitable participation was maintained for non-public school children. This is an approach which has an existing delivery system. This approach is within the constitutional framework as interpreted by the Federal Courts. This approach remains targeted on selected Federal needs, not given as general aid to education.

The continued viability of non-public schools is a critically important element of our school system in the United States. I am for maintaining choice of parents who choose a private education for their children. But I cannot accept the total distortion of the Federal efforts by providing two or three times as much aid to each private school child as is presently provided to a child in the public schools with specifically identified Federal interests. I am referring here, for example, to economically disadvantaged children served by Title I, children with bilingual difficulties as in Title VII, and problems of desegregation as addressed by Emergency School Aid. Other smaller Federal programs will have expanded guarantees for non-public school participation. In the State of New York, and many others, the private elementary and secondary schools have provided a unique educational opportunity for many students. I want to insist that these students receive their fair share of Federal assistance. The Human Resources Committee staff has prepared a full explanation of the provisions of S–1753 which strengthen the participation in existing Federal programs of non-public school children.

CONCLUSION

In conclusion, Mr. President, I cannot support the proposal for tuition tax credits. I believe it is the wrong way to go for reasons which I have discussed. It promises relief while stimulating tuition increases which would eliminate the relief within a few years. It ignores the necessary targeting of limited Federal resources on children who need help.

It ignores differences in cost between any but the lowest cost institutions. The Attorney General and others have concluded that the elementary and secondary education provisions are unconstitutional. A workable solution to meet the needs of non-public education exists in S-1753, the Education Amendments of 1978. A workable solution for college tuition relief for middle income families exists in S-2539, the College Opportunity Act. I urge the rejection of tuition tax credits.

Attachments are as follows:

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary, Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: By letter dated February 8, 1978, you asked for my views on several questions which have arisen with respect to the constitutionality of legislation to provide tax credits to parents who pay tuition for their elementary and secondary schoolchildren. Shortly thereafter, Senator Eagleton asked for my views both on the constitutionality of legislation providing such credits and on a related question, the constitutionality of extending the Basic Educational Opportunity Grant Program to elementary and secondary schoolchildren.

I have asked for advice on these questions from the Office of Legal Counsel, and I am pleased to provide that Office's conclusions to you. I have also provided a copy of those conclusions to Senator Eagleton for his information.

I am in accord with the conclusions expressed by the Office of Legal Counsel. In light of existing Supreme Court precedents, it is my opinion that tax programs of the sort contemplated here would be held unconstitutional insofar as they would provide aid at the elementary and secondary school levels. However, I am of the opinion that similar aid at the college level would be constitutional.

Sincerely yours,

GRIFFIN B. BELL,
Attorney General.

HARVARD LAW SCHOOL,
Cambridge, Mass., March 27, 1978.

Hon. EDMUND MUSKIE,
Chairman, Budget Committee,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MUSKIE: This letter concerns S. 2142, the Packwood-Moynihan bill, which provides for federal income tax credits for tuition and fees paid for the education of students in colleges and in elementary and secondary schools. Under the terms of the bill, the credit applies only to expenses "required for enrollment or attendance" of students; thus the benefit to elementary and secondary school children is essentially confined to those enrolled in nonpublic schools, of whom an overwhelming majority—approximately 85%—are parochial school students. This effect is evidently welcomed by the authors of the bill, at least one of whom has explicitly observed that public subsidization of parochial schools is a purpose of the proposed legislation and is likely to pose constitutional problems. See Sept. 26, 1977, Statement by Senator Daniel Patrick Moynihan on Tuition Tax Credit Act of 1977. The character and extent of such constitutional problems is the subject of this letter, which is written in the belief that an appraisal of the likelihood of successful constitutional attack on S. 2142 might be helpful to the Budget Committee in rationalizing federal educational expenditures.

The conclusion seems inescapable that the provisions of S. 2142 regarding elementary and secondary school expenses would be held inconsistent with the Establishment Clause of the First Amendment and thus violative of the Fourteenth Amendment to the United States Constitution. As recently as 1973, the Supreme Court struck down a similar tax relief program enacted by New York State. The Court in *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973), noted that parochial school children comprised over 80% of the benefitted class and reasoned that, although cast as a direct grant or tax benefit to the families of school children rather than to parochial schools as such, "[t]he effect of the aid [was] unmistakably to provide support for nonpublic sectarian education." 413 U.S. at 783. The state grant of this benefit accruing only to nonpublic school children was accordingly held unconstitutional, as was a nearly identical Pennsylvania program. See *Sloan* v. *Lemon*, 413 U.S. 825 (1973). The *Nyquist* Court expressly distinguished *Everson* v. *Board of Education*, 330 U.S. 1 (1947) (permitting publicly funded transportation of parochial school children) and *Board of Education* v. *Allen*, 392 U.S. 236 (1963) (permitting publicly funded text book loans to parochial school children), on the ground that in "both [*Everson* and *Allen*] the class of beneficiaries included *all* school children, those in public as well as those in private schools." 413 U.S. at 782 n. 38 (emphasis in original).

The provisions of S. 2142 regarding elementary and secondary education closely parallel those struck down in *Nyquist* and *Sloan*. The plans invalidated in those two cases included systems of graduated reimbursements and credits constitutionally indistinguishable from the tax credits of S. 2142. The invalidated state plans, though neutral in their terms, benefitted only families of nonpublic school children, the vast majority of whom were enrolled in sectarian schools. Exactly the same is true of S. 2142.

Given the reasoning of the *Nyquist* Court, however, the proposed federal program seems even more constitutionally offensive than the New York and Pennsylvania programs invalidated in 1973. Beyond condemning the impermissibly non-secular effects of the state programs before it, the Court in *Nyquist* and *Sloan* criticized those programs for creating undue risks of impermissible entanglement between church and state: "assistance of the sort here involved carries grave potential for entanglement in the broader sense of continuing political strife over aid to religion." 413 U.S. at 794. Whereas the New York and Pennsylvania programs provided aid of up to $50 and $75 per elementary school student, respectively, and double that level per high school student, the proposed federal program provides a tax credit with a far higher limit—$500. Whatever political strife along religious lines would accompany the small state programs struck down in *Nyquist* and *Sloan* would be greatly magnified by the more expensive and expansive federal program proposed in S. 2142.

Finally, it is inconceivable that the federal tax relief program would be any more favorably received than New York's or Pennsylvania's simply because the federal government would also simultaneously enact a similar tax credit for college (and post-secondary vocational) students. That these are two separate programs is clear from the bill itself, which would enact the elementary and secondary school provisions separately from the provision relating to the college credit, would begin them in different years, and would provide for severability and expedited judicial review—the latter to resolve more swiftly the "validity of any provision." See Senate Finance Committee Report, p. 7. Moreover, the Supreme Court's Establishment Clause analyses have long been sensitive to the distinction between college education, on the one hand, and elementary and secondary education, on the other, searching aid to the latter far more strictly in order to discern non-secular purposes or effects and risks of administrative or political church-state entanglement. Contrast, e.g., *Roemer* v. *Board of Public Works of Maryland*, 426 U.S. 736 (1976) (permitting noncategorical grants to qualifying colleges and universities, including sectarian institutions, providing that the beneficiaries prepare reports detailing secular uses), with *Wolman* v. *Walter*, 433 U.S. 229 (1977) (applying stricter test for provisions aiding elementary and secondary schools). Clearly, these cases must be read as indicative of the Supreme Court's special concern with insulating early education from any suggestion of government support of religion as such—a concern consistent with isolating, and invalidating, the tax credit for elementary and secondary school tuition in S. 2142.

The converse proposition also seems correct: the Supreme Court would be likely to uphold the validity of the proposed tax credit for college tuition and fees. As indicated above, the Court has been far more tolerant of public support to sectarian colleges. Moreover, since free public education is far from universally offered at the college level, the college tuition tax credit would have the obvious secular effect of subsidizing higher education for a broad class of citizens rather than for a class most of whose members attend religious schools. For a fuller discussion, see L. Tribe, *American Constitutional Law* §§14-9, 14-12 (1978).

We hope these views will be of some help to you.

Yours truly,

PAUL A. FREUND,
Harvard University.
LAURENCE H. TRIBE,
Harvard University.
ANDREW L. KAUFMAN,
Harvard University.
GERALD GUNTHER,
Stanford University.

[From the Washington Post, Feb. 27, 1978]

A THREAT TO THE PUBLIC SCHOOLS

The tuition tax-credit bill, reported last week by the Senate Finance Committee, threatens to do incalculable damage to this country's public schools. It would provide huge tax subsidies to private and religious elementary and secondary schools, without restriction. It promises a multibillion-dollar bonanza to schools serving every kind of ethnic and social separatism—by race, by class, by national background. These credits would, for the first time in the nation's history, swing enough tax money into the private schools to change fundamentally the balance between them and the public schools. Heedlessly and irresponsibly the Finance Committee has voted out a bill that would erode one of the central institutions of American life.

Who's responsible? It started with Sen. William V. Roth (R-Del.) and his bill to give a $250 tax credit for college tuition. The idea had a lot of appeal in Congress. The lawmakers have belatedly begun to sense the wave of resentment from their middle-income constituents, on whom they have loaded a disproportionate share of the current increases in the Social Security tax. The tuition credit seemed like a nice way to tell the middle classes that their friends in Congress haven't althogether forgotten them.

It was a bum bill, but it didn't touch any basic principles. The American tradition in college education has been pluralistic from the beginning. Federal aid goes, in great quantities, to public and private colleges alike. By the time students reach college age, they are inevitably going in many diverse directions, and there is a public interest in helping them along. The question is how to do it, and the Roth bill was objectionable merely because it would have wasted a lot of money.

But the Finance Committee's tax credit is altogether another matter. Sen. Daniel Pat-

rick Moynihan (D-N.Y.), with the assistance of Sen. Bob Packwood (R-Ore.), devised language extending the credit by 1980 to the elementary and secondary schools—doubling it. On Thursday the expanded version whipped through the committee, 14 votes to 1, under the always efficient chairmanship of Sen. Russell Long (D-La.). It was a piously bipartisan assault.

American law and usage have always treated schools differently from colleges. Most Americans understand that it takes a strong sense of national community to hold this huge and heterogeneous country together. That sense of community arises, above all, from the public schools—the experience that a child shares with others of widely differing backgrounds and conditions for 12 years or so while growing up. Subsidies that encourage parents to take their children out of public schools will inevitably diminish this strength.

We shall doubtless hear from people who argue that it is unfair to make them pay through taxes for public schools and then pay again through tuition for a private one. We disagree. If parents use a private school, that is a voluntary choice. But if they get tax subsidies for it, then it is other taxpayers who have to pay twice. They have to pay once for the public schools and again through the subsidy for the private one—and that is involuntary. If you don't like swimming in the neighborhood pool, that's up to you. But don't ask the federal government to help pay for the private pool that you want to build in your back yard.

The Finance Committee would give parents a tax credit of half the tuition they pay, up to $1,000. That's $500, and a tax credit is the same thing as a cash grant. The subsidy is big enough to start a rapid growth of every kind of private school. The Carter administration points out that by contrast, federal aid to public schools comes only to $128 per pupil. The administration adamantly opposes the whole idea of this credit, and so will anyone else who values the public schools.

[From the New York Times, Oct. 11, 1977]

HOW NOT TO EASE THE TUITION SQUEEZE

It is called the Tuition Tax Credit Plan and at first glance it looks socially just and politically irresistible. Steadily mounting school bills now face millions of middle-income taxpayers who lack the means of the rich and the access to scholarship aid of the poor. Private education is hard-pressed and needs financial help. What, then, could be more welcome than the new proposal to give tuition-paying taxpayers a tax credit of up to $500 per student? That approach, say its advocates, Oregon's Republican Senator Packwood and New York's Democratic Senator Moynihan, would not only help families; it would permit consumers to choose freely from "the supermarket" of educational institutions. It would apply to every full or part-time student who pays tuition in an accredited elementary or high school, college, university, trade or vocational school.

The Senators' analysis is sound. Galloping tuition inflation has indeed begun to squeeze middle-income families. But despite the clear evidence of trouble, the tax credit seems to us the wrong route to a worthy goal. Yet more tampering with the tax system is ill-timed; it flies in the face of current efforts to simplify the system. But an analysis of the tuition tax credit suggests even more fundamental flaws in the plan as it affects higher, let alone secondary education.

One is practical. Even present high tuition fails to meet the operating costs of reputable schools and colleges. Hence, merely providing more students will not solve—and may even intensify—their long-term financial problems. Many schools and colleges would view tax credits for students merely as an opportunity to raise tuition even further to close their budget gaps. Unless tax credits also were to escalate, the students' relief would prove short-lived. A tax credit, more likely, would produce a windfall for low-quality institutions that profit from enrollees by using a bargain-basement approach.

A second flaw is more fundamental. Senators Moynihan and Packwood have won the support of 41 Senate colleagues with the tantalizing argument that it is unfair to ask those who choose private schools and colleges to pay tuition as well as taxes to support public institutions. This reimbursement of people who do not use public services is a dangerous idea. Should there be a tax break for the citizen who prefers to ride in a taxi or limousine rather than on public transportation? Should people with spacious backyards be reimbursed for their support of the public parks they do not frequent?

Fortunately, the Packwood-Moynihan approach is not the only alternative to the educational disenfranchisement of the middle class. There is an existing system of basic opportunity grants, entitling students to subsidies based on family income, and it need only be raised to bring instant relief to middle-income families whose plight rightly worries the Senators. At the same time, the institutions' budgetary dilemma could be eased by paying them the "cost-of-education" grants which originally were to accompany every federally subsidized student. The Higher Education Act of 1972 authorized such payments, but Congress, short-sightedly, has never funded them although they seem well designed to halt the tuition spiral by shoring up institutional budgets.

The annual cost of the tax credit plan is estimated at $4.7 billion. That is a figure sufficient to inspire finding alternatives to the flawed Senate proposal.

[Excerpts from Senate Finance Committee Hearing, Jan. 19, 1978]

STATEMENT OF DONALD C. LUBICK, ACTING ASSISTANT SECRETARY OF THE TREASURY FOR TAX POLICY

COLLEGE TUITION TAX CREDITS

The Treasury Department supports the use of Federal moneys for assisting students in meeting the costs of post-secondary education. However, the Department maintains its opposition to a tax credit because a credit is an improperly targeted and inefficient method of providing such assistance. We note that we are joined in this opposition by such groups as the National Education Association, Parent Teachers Association, and the AFL–CIO. The specific reasons for our opposition, are compelling:

(1) Contrary to popular belief—a belief that lies at the heart of the support for the measures—increases in student charges in recent years have *not* outpaced the rate of growth of family income;

(2) Relief in the form of a credit would operate to the disadvantage of private institutions of higher education;

(3) The benefits of the credit would go largely to families with incomes well above the median family income, thus having an adverse distribution effect;

(4) A credit is not an efficient means of encouraging investment in higher education;

(5) A credit would make current educational policy—already a maze—even more complex;

(6) A credit would increase the costs of higher education.

The Federal Government has substantially increased its investment in higher education over the last few years and, doubtless, will increase that investment over the coming years. However, that increased investment should be responsible to the greatest needs of our educational system, and not to an illusory need that focuses solely on price increases and does not take into account corresponding increases in income.

ELEMENTARY AND SECONDARY EDUCATION

Extending a tuition tax credit for tuition charges paid by families for the cost of elementary and secondary education raises a number of problems that are different from those bearing on a tuition tax credit for higher education. At this time, Treasury opposes extending a credit to tuition costs of primary and secondary education. Again, we note that we are joined in this opposition by such groups as the National Education Association, the National School Boards Association, and the Parents-Teachers Association. The reasons for Treasury's opposition are as follows:

(1) The credit initially would be expensive and revenue costs would rise over time even without an increase in the basic credit amount;

(2) A credit raises a number of serious issues related to the nation's historical commitment to public school education.

Let me briefly review these points:

Revenue cost.—There is additional revenue cost in extending the credit beyond higher education. For instance, in S. 2142, extending a nonrefundable maximum credit of $500 or 50 percent of tuition charges to elementary and secondary education raises the cost of the bill by about $1 billion to $4.7 billion at 1980 levels of income. However, there are at least two reasons why this revenue loss would increase over the years even without an increase in the maximum credit amount. First, as with the tuition tax credit for higher education, schools could be expected to increase their tuition charges in order to share in the benefits of the credit. Second, the number of students attending private elementary and secondary schools could also be expected to increase, and thus the cost to Federal taxpayers would rise further.

Effects on public school education.—Any increase in private school attendance would also have serious repercussions on public schools.

First, an increase in private school attendance would correspond to a decline in the number of students attending public schools. A number of public school systems recently have undergone dramatic changes because of declines in birth rates, and a further decline would place further strains on those systems.

Second, a credit might be interpreted as an incentive for State and localities to charge tuition for public education at the primary and secondary level. Certainly, in the short run, it is doubtful that there would be any dramatic effects of the credit on charges by public schools. Institutionally, tuition charges currently are not allowed in most States and localities. However, in the long run, it is not clear what the incentive of a tax credit may do. Perhaps a small charge for books or other fees would be allowed, or some minimal tuition charge in place of a minimal fee schedule. Whatever the eventual reaction, the bill clearly reverses past practices by offering an incentive to charge such tuition or fees.

Third, substantial progress has been made over the last 15 years in the desegregation of both public and private schools. The effect of a tuition tax credit in this area is an unknown factor, and I hope that this Subcommittee would examine all possible ramifications of a credit in this area before taking action. At a minimum, it is clear that the credit would make it easier and cheaper for a student to attend a private school if his family wished to avoid an integrated public school.

I realize that most bills limit the credit to expenses of tuition and fees at tax-exempt institutions in order to prevent the credit from going to schools that have had discriminatory racial policies. Even here there is a difficulty, however, because some non-tax-exempt institutions, particularly voca-

tional schools, have not foregone tax exemption because of segregation, but because they are profit-making.

Fourth, without a phase-out of benefits for higher income taxpayers, some of the credit would certainly go to families with substantial income and which sent their students to elite private schools. Given our commitment to providing equality of opportunity through our public school systems, I seriously question whether public monies given to those families would be well spent.

STATEMENT BY DICK WARDEN, ASSISTANT SECRETARY FOR LEGISLATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr Chairman, it is a pleasure to be here today to share with you our views on proposals which would provide tax credits for educational expenses.

We agree with the Treasury Department that proposals for education tax credits or allowances should be considered by the Congress in the context of direct education assistance programs. The presence or absence of education tax credit measures obviously affects Federal educational policy, not just tax policy.

We recognize the financial pressures facing middle income families, especially families with children in college. But we believe that education tax credits are not the answer from either an education or a tax standpoint.

It is true that college costs are rising and many families must still make hard choices to finance college educations for their children. In some cases, meeting these financial demands may even result in a reduction of the family's standard of living or require the family to borrow A tax credit does not answer this need. We believe it is possible to deal with the problem of cash liquidity more equitably through combinations of grant and loan programs which distribute the assistance according to the severity of a particular family's need.

It is in this context that HEW is currently formulating proposals which will provide more assistance to middle income families and students through grant, loan and work programs. I will discuss some of the options under consideration later in my testimony.

At the elementary and secondary level, the Federal government does provide assistance to children attending private schools by enabling those students to participate in Federal education programs. We are endeavoring to increase the access of eligible private school children to Federally financed or subsidized educational services.

I would like now to turn to a discussion of the reasons for our opposition to tuition tax credits as they would relate to higher education, and elementary and secondary education.

TAX CREDITS GENERALLY

Tax credits provide the fewest benefits to those who need them the most.

Tuition tax credit proposals are generally unrelated to student need, family income, or the varying cost of attending different types of educational institutions. Most postsecondary students, even those attending low-tuition public institutions, incur sufficient expenses to be eligible for the maximum credit under most proposals.

Clearly, a tuition tax credit program, especially a nonrefundable credit, would not target funds to those who need assistance the most.

POSTSECONDARY TAX CREDITS

Tax credits would probably have little effect on postsecondary choice.

At the postsecondary level, the amounts of the tuition tax credits under consideration (generally $250 to $500) would provide only minimal help for families that may face college costs of several thousand dollars. For many people, such a credit would not affect either the decision of whether to go to college, or the type of institutions to attend. In fact for a family which invests the same amount of money in higher education regardless of the credit (as, indeed, many families will do), the credit becomes general middle income relief for some parents. If Congress decides that the burden on middle income taxpayers is so great that they require some form of general relief, we contend that the tuition tax credit is an improper vehicle for such relief since it applies only to families with children in college (or, under some proposals, in private elementary or secondary schools, as well).

ELEMENTARY-SECONDARY TAX CREDITS

Elementary-secondary tax credits could weaken public education.

An elementary-secondary tuition tax credit could undermine the principle of public education in this country. It might encourage relatively more affluent families to enroll their children in private schools, leaving the public schools for the poor. While a $250 (or even a $500) tax credit is generally a relatively low percent of the cost of postsecondary education, it is often a substantial portion of the cost of a private elementary or secondary school. Hence, parents who might otherwise have kept their children in public school might be more likely to place their children in private schools. This could accelerate the enrollment decline already underway in our public schools.

Tax credits might dry up local and state money for education.

If more middle income parents were to enroll their children in private schools, the ramifications for financing public education at the elementary and secondary levels could be severe. The number of families with children in school is decreasing anyway. A further decrease in public school attendance could only make raising education funds through bond issues or taxes even more difficult.

Parents and families who use the public schools would receive little or no benefits from the credit.

Parents with children in public schools would not benefit from an elementary-secondary tax credit. In fact, their taxes would constitute a large percentage of the tax credit money going to parents with children in private schools.

CONCLUSION

Mr. Chairman, there are no easy answers to the financial problems facing middle income families, especially middle income families with one or more children in college. But we believe a tuition tax credit proposal would be less effective and less equitable than other alternatives. Direct and targeted programs are a much more desirable way of distributing education-based aid.

We urge you to postpone any action on the proposal pending before your Subcommittee until we have had an opportunity to fully develop our alternatives for dealing with the problem of the high cost of higher education.

Mr. Chairman, I appreciate the opportunity to have been here to present HEW's views on education tax credit measures.

[Human Resource Committee Staff Paper]

PROVISIONS FOR PARTICIPATION OF CHILDREN IN PRIVATE, NON-PROFIT SCHOOLS IN FEDERAL ELEMENTARY AND SECONDARY EDUCATION PROGRAMS AS AMENDED BY S. 1753, THE EDUCATION AMENDMENTS OF 1978

TITLE I: SPECIAL EDUCATIONAL PROGRAMS AND PROJECTS FOR EDUCATIONALLY DEPRIVED CHILDREN

The largest single program of aid to elementary and secondary schools, Title I will provide well over $2 billion to local school districts for the 1978–79 school year. School districts receive aid according to their numbers of children in low-income families. Within the districts, aid goes to the schools with the greatest numbers or proportions of such children. The aid is used for special compensatory programs designed to contribute to the cognitive, emotional, social, or physical development of educationally disadvantaged children.

Current law

The Title I legislation currently enacted requires that local public schools which receive Title I funds extend the services provided from those funds to children in non-public schools who live within the attendance area served by the public school. Non-public school children must participate on an equitable basis with the public school children. When a public scohol system fails to include such children as the law requires, or is prohibited from doing so by state law, then the U.S. Commissioner of Education must by-pass the public agency and arrange for appropriate services to the non-public school children. Funds for this purpose are to be derived from the local school system's allocation.

Additional provisions in S. 1753

S. 1753 supplements the existing law with the following provisions:

Where a public school provides compensatory services to its own students from state or local funds and therefore is excluded from the Title I program, Title I services must be made available to eligible non-public school students who otherwise would have participated in that school's Title I services.

When the Commissioner of Education arranges for a by-pass and deducts funds from the public school system's allocation to provide services to non-public school children, he must deduct the administrative costs as well as the actual costs of the services.

If a complaint has been filed or an investigation is underway regarding insufficient participation of non-public school children, the Commissioner of Education may withhold from the public school system in question the amounts of Title I funds necessary to fund appropriate non-public school services pending final resolution of the complaint or investigation.

The Commissioner's determination that a by-pass of services is necessary will remain in effect until the Commissioner determines that the local education agency will properly meet the requirements for serving non-public school students.

When a complaint has been filed against a state or local education agency regarding inadequate participation of non-public school children, the amount of time allowed for the agency to show cause before the Commissioner makes a determination is reduced from sixty to forty-five days.

The state education agency must have a plan for monitoring and enforcing local school systems' compliance with Title I requirements. This plan must describe how the state education agency will determine whether local school systems are serving non-public school children as required. It must also contain procedures for resolving complaints that non-public school children are not receiving services for which they are eligible.

The Commissioner of Education must develop and implement written procedures both for resolving appeals of state complaint resolutions, and for conducting independent onsite investigations. These procedures must include the following elements:

specific time limits for resolving a complaint or for completing a review and any necessary independent investigation within sixty days;

opportunity for the complainant to present evidence;

requirement that the complainant and others involved be notified in writing within ten days after the resolution of the appeal of the nature of the resolution, the reasons

therefor, and the right to an administrative appeal;

dissemination of information concerning the procedures.

TITLE II: BASIC SKILLS AND EDUCATIONAL PROFICIENCY

This is a new program of aid proposed to help state and local education agencies improve the skills of children in reading, mathematics, and written and oral communication.

In order to receive funds, state and local education agencies must consult with non-public school officials and design their funding proposal to take into account the needs of children in non-public schools and provide an opportunity for them to participate on an equitable basis with public school children.

TITLE III: SPECIAL PROJECTS ACT

This Act provides funds to state and local education agencies, other public and private agencies, organizations and institutions, and to individuals, to carry out projects which meet special educational needs or place particular emphasis on national education priorities, or to disseminate information to state and local education agencies. The Act is an umbrella for a number of specific program areas, including separate funds for metric, arts, consumers, law-related, environmental, health, correction, and population education, plus funds for preparing disadvantaged youth to pursue training in the biomedical sciences, and for preparing young people for jobs.

S. 1753 adds the following new provision which is applicable to all programs under the Special Projects Act:

In order to receive funds, state and local education agencies must consult with non-public school officials and design their funding proposals to take into account the needs of children in non-public schools and provide an opportunity for them to participate on an equitable basis with public school children.

TITLE IV: EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

Title IV provides funds to state and local education agencies for a number of different purposes, including acquisition of instructional materials and library resources; improvement of educational practices (such as meeting special local educational needs, or involving parents more in the education of their children); guidance, counseling, and testing; and special programs for gifted and talented children.

Current law

Existing law for Title IV mandates the equitable participation of non-public school children in programs operated by public school systems. When the local school system is prohibited by state law from providing, or has substantially failed or is unwilling to extend its Title IV programs to non-public school children on an equitable and comparable basis, the Commissioner of Education is authorized to by-pass the public school system and pay for the cost of services to these children from the state's allotment of Title IV funds. The findings of the Commissioner with respect to proper participation of non-public school children are to be conclusive, except that the courts may remand a case to the Commissioner for further action if deemed appropriate. In addition, the guidance and counseling programs newly incorporated under Title IV by S. 1753 contain provision for institutes, workshops, and seminars to improve the qualifications of teachers and counselors in non-public schools as well as in public schools.

Additional provisions in S. 1753

S. 1753 retains the above provisions of existing law and adds the following new provisions:

Pending final resolution of an investigation or complaint, the Commissioner may withhold from the state or local education agency the amount of their Title IV funds necessary to pay the cost of appropriate services to non-public school children.

The Commissioner's determination that a by-pass of funds to serve non-public school children is necessary is to remain in effect until the Commissioner determines that there will no longer be a failure of the state or local education agency to meet the requirements of equitable and comparable participation of non-public school children.

The amount of time allowed for a local or state education agency to show cause or submit objections before the Commissioner makes a determination in response to an allegation of insufficient non-public school participation is reduced from sixty to forty-five days.

When a local school district receives no Title IV funds for acquisition of library and learning resources, the state education agency is to arrange for services to non-public school children in that district when such services are requested.

Title IV funds for "improvement in local educational practices" can be used to meet the need of children in non-public schools for improved educational services, and to diagnose learning problems and assess educational problems of children in such schools.

In order to qualify for funds for acquiring library and learning resource materials and for programs for gifted and talented children, local education agencies must consult with private school officials in order to take into account the needs of non-public school children in the design of their proposal.

TITLE V: STATE LEADERSHIP

This is a new title which provides funds to state education agencies for administering ESEA* programs and for strengthening education agency management. The title contains the following provisions with respect to participation of non-public school children in ESEA programs:

A state education agency may withhold ESEA funds from local education agencies which do not comply with requirements for participation of non-public school children.

A state education agency may use Title V funds for strengthening management for:

Assessing the educational progress of children in non-public as well as in public schools;

Coordinating public school programs with non-public school programs;

Monitoring participation of non-public school children in Federal education programs.

States must make information and technical assistance available to private school officials who desire to arrange for children in their schools to participate in Federal education programs.

State Advisory Councils on Quality Education must include representatives of non-public elementary and secondary schools.

TITLE VI: EMERGENCY SCHOOL AID ACT

This Act provides assistance to local school systems and certain organizations for instructional services, human relations efforts and other activities related to the purposes of preventing, reducing and eliminating minority group isolation and the resulting educational disadvantagement.

Current law

S. 1753 extends the provisions currently in the law regarding participation of non-public school children and staff in ESAA programs. The law requires that there be equitable participation of children, teachers, and other educational staff in non-public schools when such schools meet certain non-discrimination criteria and when their participation would help achieve the purposes of ESAA.

Current law provisions continued by S. 1753 also require that there be a by-pass of the local public school system and direct provision of services to non-public school children and education staff when the local education agency fails to provide for their appropriate participation or when the agency is prohibited by state law from doing so.

TITLE VII: BILINGUAL EDUCATION ACT

The Bilingual Education Act supports programs in local school systems which demonstrate effective ways of helping children with limited English proficiency progress through the educational system.

Current law

The law currently requires that services funded under this act must be extended to non-public school children whose educational needs are of the type the program is intended to serve and who attend schools in the area to be included in the public school program.

Additional provisions in S. 1753

S. 1753 retains the requirements of existing law and adds the following new provisions.

When a public school system which applies for funds is unable or unwilling to provide for the required participation of non-public school children, the Commissioner of Education may either withhold approval of the application until the school system demonstrates compliance with the requirements, or reduce the amount of the grant by the amount required to assess the needs of the non-public school children and to carry out a program for them.

● Mr. HATHAWAY. Mr. President, educating all of our children to their full potential is critically important to their own future, and to the future of our society as a whole.

Economic progress requires that workers receive the skills and training necessary to adjust to a rapidly changing technology. In our democratic system of government, an educated electorate is vital to insuring that sound leadership is encouraged and simplistic appeals ignored.

Throughout my career in Congress I have been privileged to serve on the committees responsible for education legislation and to have participated in the shaping of the major Federal efforts in this area. It has always been my view that education represents a sound investment on the part of government and of society as a whole. It is an investment which pays handsome dividends—direct and indirect.

One of the best examples of this of which I am aware is the GI bill. This allowed veterans returning from World War II and subsequent wars to also return to school to complete their education or acquire new skills. It required an outlay of over $12 billion on the part of the Federal Government. But, by 1970, this investment of $12 billion had yielded approximately $100 billion in increased Federal tax revenues directly attributable to the education and skills veterans gained under the GI bill.

At the same time, education represents an investment in new ideas—ideas to meet our energy needs, ideas to provide quality, accessible, and cost-effective health care, and ideas to promote sound economic development, with decent jobs and housing for all our citizens. The ideas leading to solutions to these and many other very difficult problems will only come to us through education provided equitably to all our citizens.

Our society as a whole, and our demo-

*Elementary and Secondary Education Act.

cratic system of government, is founded on equality of opportunity with special emphasis on equal opportunity through education to pursue any occupation or activity for which an individual is qualified. This notion is at the heart of the so-called American dream.

But without swift and decisive action by Congress this dream will become only a dream, with no realistic possibility of fulfillment. And for many of our citizens it could become a nightmare, holding out false promise and futile hope.

The rising costs of public and private institutions of postsecondary education are well-documented and if help is not forthcoming it will mean doors will be increasingly closed to students from low- and middle-income families. The college board has shown that over the past 5 years tuition and fees at private 4-year institutions have increased by 54 percent, at public 4-year institutions by 57 percent. At private 2-year institutions the costs have gone up 52 percent, and at public 2-year institutions the increase has been a staggering 130 percent.

Accompanying these increased costs has been a steady decline in participation in postsecondary education by students from lower and middle income families—a decline amounting to 20 percent according to one source.

IMPACT ON PRIVATE ELEMENTARY AND SECONDARY

These same phenomena are at work with regard to our Nation's private elementary and secondary school system. Approximately 10 percent of our Nation's schoolchildren attend these schools on the basis of free choice and considerable family sacrifice. These schools which in many parts of the country form an integral part of community cultural, religious, and ethnic traditions are in grave financial trouble.

Though in many minds the idea of a private school conjures up images of exclusivity and elitism, the facts by and large do not fit this image.

In fact, in many instances the so-called private school plays a very large public role, and the distinctions to be drawn between public and private schools are blurred in many communities, with private schools serving as critically important and open resources utilized by the surrounding communities.

In this regard I refer my colleagues to the excellent study prepared by the New England Association of Schools and Colleges, entitled "A Study of the New England Academy, a Private School in a Public Role." Examples of these sorts of educational institutions which over many years have played a key role in meeting the educational needs of students from surrounding communities are Foxcroft Academy in Dover-Foxcroft, Maine; Fryeburg Academy in Fryeburg, Maine; George Stevens Academy in Blue Hill, Maine; Lee Academy in Lee, Maine; Lincoln Academy in Lincoln, Maine; Maine Central Institute in Pittsfield, Maine; Oak Grove-Coburn in Vassalboro, Maine; Thornton Academy in Saco, Maine; North Yarmouth Academy in Yarmouth, Maine; and Washington Academy in East Machias, Maine, to name just a few. Over time some of these schools have become fully a part of the public school system. But others have valued and retained their independence, but in so doing have been no less important to meeting the needs of all their community's citizens.

Overall, private schools offer a more economical education. In 1974, the last year for which complete data is available, private elementary and secondary school students were educated at a per pupil cost of $1,191 versus $1,281 at public schools.

At parochial schools the difference in cost was more sharply drawn. In 1973, the per pupil cost of elementary parochial education was $310, and in secondary parochial schools it was $700.

The continued existence and vitality of these schools contributes toward increased accountability on the part of our public school system. And when sought out by families who must at the same time shoulder the burdens of rising property taxes and rising State and Federal taxes which in combination provide approximately $100 billion in aid to public educational institutions, these private schools stand as a strong example of pluralistic independence and quality.

In the last 10 years, though, enrollment at private schools has declined by 35 percent at the elementary school level, and by 13 percent at the secondary school level. This latter figure is particularly disturbing when viewed alongside a nationwide increase in secondary enrollment of 18 percent.

In the State of Maine, enrollment figures for parochial schools have demonstrated an even more dramatic decline. In the 1968–69 academic year, there were approximately 15,000 students attending 50 parochial elementary schools, and an additional 2,700 students in 5 parochial schools.

For the 1977–78 school year, there were 6,448 students in 23 parochial elementary schools, and 1,300 students in 4 parochial secondary schools.

Thus in 10 years the number of schools and the number of students attending those schools have been more than cut in half.

It is important that these and other nonpublic schools continue to exist in order to insure competition and promote excellence among all schools—public and private.

These declining enrollments are clearly a symptom of overly strained family budgets, which find it increasingly difficult despite preferences and traditions to endure outlays for elementary and secondary tuition payments with public schools available as an economical alternative.

But individual families who are increasingly forced to make this agonizing decision on economic grounds may in the long run create even greater economic problems for every taxpayer.

If the 7.7 million students who are currently enrolled in private elementary, secondary, and postsecondary institutions were to instead enroll in tax supported schools, the increased education bill to the taxpayer would be $17 billion every year.

In Maine, the increased cost to the taxpayers for providing public education to those currently enrolled in parochial elementary and secondary schools could be as high as $10 million per year.

FREE CHOICE

This tax credit proposal will provide a much needed boost to families, particularly lower and middle income families to provide for the educational needs of their children. It will not solve family budgetary problems nor will it offer an instant panacea to the financial difficulties of all our private schools.

But it will stand as an example of commitment on the part of our Federal Government to provide much needed assistance in this vital area, while at the same time preserving the fundamental values of independence and free choice.●

Mr. GOLDWATER. Mr. President, I wish to get the attention of the managers of the bill.

Mr. President, I propose to call up my amendment 3445, but I do not want it voted on today with so many absentees.

I would wonder if there would be any objection to my asking that the vote be withheld until the leadership decides when the votes will be on either Monday or Tuesday. I have not heard.

Mr. PACKWOOD. I have no objection to that. I think all of us are hoping we can finish this bill Monday afternoon, Monday night or certainly no later than Tuesday. I have no objection to that suggestion.

Mr. HOLLINGS. I wonder, Mr. President, if the distinguished Senator from Oregon will agree to a time on my amendment.

Mr. PACKWOOD. What?

Mr. HOLLINGS. As to my amendment also, I wish to get that same courtesy for our amendment.

Mr. PACKWOOD. He did not ask for a particular time. He said he did not want it voted on today, that he would be happy to work out with the leadership a time for it to be voted on. I said that was fine. I hope we finish the bill by Monday night or Tuesday, anyway.

Mr. HOLLINGS. I see.

We previously tried to negotiate a time before Tuesday, and that is the only idea I had in mind. I withhold, and I am perfectly agreeable, and we will call up our amendment later.

Mr. GOLDWATER. I think it would be wise, I support to both leaders on the floor, that we withhold votes until the troops are all back. This is a very important piece of legislation and the absentees are gaining by the moment, and I think within another hour we will have trouble getting a quorum. So I appreciate the attitude of both Senators.

AMENDMENT NO. 3445

(Purpose: To Provide a Credit for Residential Property Taxes Paid for the Support of Public Schools)

Mr. GOLDWATER. Mr. President, I call up my amendment No. 3445 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) for himself, Mr. HATCH, and Mr. MCINTYRE, proposes amendment numbered 3445.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 21, strike out "Tuition Tax" and insert in lieu thereof "Education Expense".

On page 15, line 2, strike out "section" the second time it appears and insert in lieu thereof "sections".

On page 18, between lines 4 and 5, insert the following:

"(3) CREDIT NOT ALLOWED TO TAXPAYER CLAIMING SECTION 44D CREDIT.—The credit allowable by subsection (a) for any taxable year shall not be allowed in the case of a taxpayer who claims the credit allowable by section 44D for the taxable year.".

On page 18, line 5, strike out "(3)" and insert in lieu thereof "(4)".

On page 23, line 2, strike out the closing quotation marks and the second period.

On page 23, between lines 2 and 3, insert the following:

"SEC. 44D. RESIDENTIAL PROPERTY TAXES PAID FOR SUPPORT OF PUBLIC EDUCATION.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the State and local residential property taxes paid or accrued during the taxable year which are imposed for the support of public elementary and secondary education, but only to the extent that such taxes do not exceed $150 ($75 in the case of a married individual filing a separate return) for the taxable year.

"(b) STATE AND LOCAL RESIDENTIAL PROPERTY TAXES.—For purposes of this section, the term 'State and local residential property taxes' means—

"(1) State and local real property taxes (within the meaning of section 164) on property which is comprised primarily of one or more dwelling units, including mobile homes, and the land on which the dwelling unit or units are situated.

"(2) State and local taxes (other than real property taxes) or license fees on mobile homes, and

"(3) in the case of a State or locality in which taxes or fees described in paragraph (1) or (2) are not a substantial source of revenues raised for the support of public education, any other State or local taxes imposed for the support of public education.

"(c) DETERMINATION OF AMOUNTS OF RESIDENTIAL PROPERTY TAX PAID FOR SUPPORT OF PUBLIC EDUCATION.—For purposes of subsection (a) the amount of any State or local residential or real property tax which is imposed for the support of public elementary and secondary education shall be—

"(1) with respect to any residential real property tax imposed solely for such support, the amount of such tax; and

"(2) with respect to any residential property tax imposed in part for such support, the portion of such tax—

"(A) designated in the bill for such tax submitted to the taxpayer by the taxing jurisdiction in imposing such tax; or

"(B) determined from information set forth in such bill or from information furnished to the taxpayer by the taxing jurisdiction,

as the amount of such tax which is imposed for the support of public elementary and secondary education.

"(d) TAXES CONSTRUCTIVELY PAID.—Under regulations prescribed by the Secretary the provisions of subsections (d) and (e) of section 164 shall apply to real property taxes with respect to which a credit is allowable under subsection (a).

"(e) APPLICATION WITH OTHER CREDITS.—

"(1) CREDIT APPLIED AFTER PRECEDING CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31 and 39.

"(2) CREDIT NOT ALLOWED TO TAXPAYER CLAIMING SECTION 44C CREDIT.—The credit allowable by subsection (a) for any taxable year shall not be allowed in the case of a taxpayer who claims the credit allowable by section 44C for the taxable year.".

On page 25, line 7, before "shall" insert "or section 44D of such Code (relating to residential property taxes paid for support of public education)".

On page 26, strike out the matter appearing before line 1 and insert in lieu thereof the following:

"Sec. 44C. Educational expenses.
"Sec. 44D. Residential property taxes paid for support of public education.".

On page 26, between lines 6 and 7, insert the following:

"(3) Subsection (a) of section 642 of such Code (relating to special rules for credit against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"'(3) RESIDENTIAL PROPERTY TAXES PAID FOR SUPPORT OF PUBLIC EDUCATION.—An estate or trust shall not be allowed the credit against tax for residential property taxes paid for support of public education provided by section 44D.'.

"(4) DEDUCTION FOR TAXES TO BE REDUCED BY TAX FOR WHICH CREDIT IS TO BE CLAIMED.—Subsection (c) of section 164 of such Code (relating to deduction denied in case of certain taxes) is amended by adding at the end thereof the following new paragraph:

"'(3) Taxes described in section 44D(b), to the extent that the taxpayer is allowed a credit for the taxable year for residential property taxes paid for the support of public education under section 44D.' ".

On page 27, line 4, before the period insert the following:

"and for amounts paid or incurred after such date for residential property taxes paid for support of public education".

Mr. GOLDWATER. Mr. President, this amendment is cosponsored by Senators HATCH and MCINTYRE, and Senator MCINTYRE particularly wanted to be here but he is absent campaigning up North.

Mr. President, let me preface my remarks by saying that I have no objection to H.R. 12050, the tuition tax credit bill.

I support it. I am a cosponsor and, in fact, I introduced one of the very first school tax bills, both for public and private schools, back in 1961, which bill was S. 991. That bill, the Educational Opportunity Act, included a public school tax credit similar to the one we are proposing today.

(Mr. HODGES assumed the chair.)

Mr. GOLDWATER. I believe the pending bill can be improved. It will be fairer if it applies across the board to public school taxpayers as well as to taxpayers who pay private school tuition at the primary or secondary level.

I might say, Mr. President, I did not have a lot of luck with this back in 1961. I think I got 10 votes. But there are some Senators still here who voted for it, Senators CURTIS, EASTLAND, STENNIS, and THURMOND, so at least I do have some support lingering around.

As it stands now, the elementary and secondary school provisions of H.R. 12050 direct 100 percent of the relief to taxpayers whose children attend private schools. These children represent around 10 percent—I think that figure would be closer to 9 if the leadership statement is correct—of the total elementary and secondary enrollment in the country. But, Mr. President, what about the parents of the other 90 percent of schoolchildren? Why does the bill not include any relief for their educational expense?

Mr. President, I believe it is logical, since we are addressing a heavy financial burden of persons who are paying educational expenses, to expand the bill by adding a public school tax credit for taxpayers who would otherwise be omitted from the relief provided by H.R. 12050.

I personally do not have trouble with the bill on constitutional grounds. In fact, Mr. President, if we go back into the history of the first amendment, the separation of church and State, our history is replete with examples of the Federal Government helping private schools. I think of Princeton, the University of Chicago, Harvard, and many other schools that are now considered private schools, but which were at one time helped by the Federal Government. I have never been able to understand any argument that it would be unconstitutional to help the schools. I can cite examples even in modern times, as recently as a few years ago, where very large amounts of Government property were transferred to churches without any clamor having been raised by Congress.

But to help ease the concern of any of my colleagues who see constitutional problems in the tuition tax credit, I suggest that by treating the subject as general tax legislation offering relief to all taxpayers, rather than as special legislation in aid primarily of parochial and other private school students, there will be far less basis for arguing that the effect of the elementary and secondary provisions of the bill is to advance religion.

But, Mr. President, that is not my only reason for offering the amendment. Property tax relief is needed in its own right. No other major tax in our public finance system bears down so harshly on low-income households. No other tax is so clearly an antihousing levy and a threat to homeownership. No other major tax imposes a levy on unrealized capital gains, and no other tax falls more heavily on the elderly than the property tax.

Mr. President, we are hearing a lot today about suggested reductions in the income tax. The highest figure I have seen is something around $160. Now, $160 is not going to make or break the average person who pays income taxes. But the great burden of taxation, the great percentage, in my opinion, falls on the homeowner whose home taxes have increased in a terrible way. I do not like to cite my own example, and I should not, but my taxes have gone up from $400 to $7,000 in just a matter of about 15 years, and major portion of that goes to the schools in my district.

If I am in that fix people who live in this country with smaller homes are in

even worse shape. So I think the relief that is offered in both of these approaches, the relief offered in H.R. 12050 and the relief offered in my amendment, would do more for the average American than the paltry little income tax cut the President is offering and that the House is sending over to us.

If you want to talk about saving $1,000 a year, my ears will go up. But I cannot get excited about saving $100 or $150 a year for an income taxpayer.

Mr. President, at Senate hearings on property tax relief held in 1973, the American Association of Retired Persons presented testimony clearly depicting the plight of elderly homeowners. Letter after letter was introduced into the hearing from older persons who complained that due to the property tax they were paying more for taxes in their retirement, than they were when they were working. Some of the elderly had to give up their homes because they could no longer afford living in them. Therefore, I believe, the amendment can stand on its own merits, independent of the tuition tax credit which it would balance.

Mr. President, according to the latest available housing survey made by the Bureau of the Census, there are 48 million owner-occupied single-family households in our country. This includes 4.6 million mobile home units that are used for year-round living. It is these 48 million one-family households that are covered by my amendment.

The taxpayer with a commercial apartment house or with business realty is not eligible for a tax credit under the amendment. It is only private individuals, Mr. President, not businesses, who can qualify.

If approved, my amendment will do the following:

First. Grant a Federal income tax credit of $150 for residential property taxes paid for the support of public schools, or for other State or local taxes paid for the support of public education in those few States, such as Hawaii and Alaska, where property taxes are not a substantial source of education revenues.

Second. It will treat mobile homeowner's as first-class citizens by qualifying the license fees and other taxes they pay on their mobile homes as being eligible for the residential property tax credit.

Third. It will prevent double-dipping by disallowing a property tax credit in any tax year to any person who claims the tuition tax credit for that same year.

Fourth. It will require that a taxpayer who itemizes deductions must subtract from those deductions the amount of tax credit claimed for property taxes.

Mr. President, homeownership is increasing at the highest rate ever. Official Census Bureau data show that 65 percent of all American households now own their own dwellings and within 5 years this will be up to the 70 percent level. I think it is high time that we provide Federal tax relief to this growing class of citizens who are up against the mounting pressure of higher residential assessments.

Mr. President, I urge the adoption of my amendment.

Mr. HATCH. Mr. President, as always, I am honored to join with my friend and our esteemed statesman, the senior Senator from Arizona (Mr. GOLDWATER), in offering an amendment to this tuition tax credit legislation; an amendment which provides a tax credit for residential property taxes paid for the support of public schools.

I am especially pleased to do so, because our amendment represents a first. It will be the first genuine property tax relief this legislative Chamber will be giving to the working, productive middle of our country. It will be the first substantive tax break property owners will be getting, but it will be more than this. It will be a legislative signal to be transmitted to the people back home, communicating to them our solidarity and sympathy and understanding of the oppressive property tax spiral which is a continuing cause of misery for millions of Americans.

Individual Americans owning homes or condominiums, and especially those burdened with property taxes in support of educational expenses, deserve a break. Our amendment giving a Federal income tax credit of $150 to these families will provide this needed relief. It will also include mobile homeowners as eligible by qualifying license fees and other taxes on mobile homes as eligible. This amendment is not intended to replace or in any way contravene the tuition tax credit legislation, legislation to which I am a cosponsor. No, it complements the bill, and it does so by expending the provisions of the bill to give relief to all taxpayers carrying the special burdens of educational expenses. To be very clear, our amendment cannot be used by a taxpayer who has already chosen to claim a tuition tax credit in his or her respective income tax form. Either one or the other must be used, not both. In this way, Senator GOLDWATER and I believe that abuse will be prevented, and that the genuine and immediate needs of citizens will be met.

Mr. President, this amendment belongs in the tuition tax credit bill. To contend that it is merely an afterthought or that it is tangential to the purpose of the tuition tax credit legislation is to misunderstand the whole problem that many of us in this Chamber recognize and are trying to solve. This problem is the total, mounting and unreasonable tax pressure which is making our country less productive and driving our citizens to despair. The quality and availability of education, both private and public; the chances a struggling family have to buy and keep a home; and the very decision to start and maintain a family against the mounting costs of homeowning and education. These all have a common denominator.

They are all linked to a prevailing problem, one which is all the more urgent for us as a legislative body to solve, because the people back home know full well that it can be solved. It can be solved by placing the implicit limit our amendment establishes, a limit on the power of government at all levels to confiscate the property and wealth of every individual American.

We are presented with a signal opportunity to serve the pursuit of happiness for the millions of Americans in question, and to do so in support of an improved, more diversified and competitive educational system at all levels. I commend Senator GOLDWATER for once again performing a valuable service to our country, and I solicit the support of my fellow Senators in voting for our amendment to the tuition tax credit bill.

I thank the Chair.

Mr. GOLDWATER. Mr. President, to make it formal, I ask unanimous consent that the vote on this amendment be held on the day that the leadership decides votes will be held on other amendments.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what is the request?

Mr. GOLDWATER. I made a statement before the majority leader came on the floor that I would like to have this vote occur on whatever day or time the leadership decides other votes will be held, because there are not many Senators present and I would like to have Senators be able to vote on this amendment who are not here, and in fact I have had a specific request. Had I not had assurance from both sides that they would not object to this request, I would not have offered the amendment at this time.

Mr. ROBERT C. BYRD. I am very amenable to trying to work out a time as to votes on amendments. There is a good attendance on this side of the aisle. However, I would not expect to have a vote on an amendment dealing with this subject today; but as to other votes, we have a good attendance. The Senator is addressing himself to a time for a vote on his amendment, and I will be very happy to speak with Senator HOLLINGS, Senator MOYNIHAN, and the Senator from Arizona to see if we can possibly work out a time.

Mr. GOLDWATER. Whatever time the leadership decides on. If it is a matter of my preference, I would suggest Monday afternoon or Tuesday afternoon, but just so we are not required to have a vote on it today, because of not many people being here.

Mr. ROBERT C. BYRD. Yes. Well, there are many people here, but I know Senators want to vote on this issue, and they should have an opportunity to know when a vote will occur, because it is an issue that they feel bound to take a position on.

It will not be a surprise vote; I think Senators ought to be alerted as to the time for a vote on this particular issue.

Mr. GOLDWATER. I appreciate the usual courtesy of the majority leader. He is very fair in this matter, and I will accept any time except today, just so it is before midnight and after 6 o'clock in the morning.

The PRESIDING OFFICER. Does the Senator from Arizona withdraw his unanimous-consent request?

Mr. GOLDWATER. Yes, I withdraw that request.

I ask unanimous consent to have printed in the RECORD with my remarks an article published in the CONGRESSIONAL RECORD of July 20, 1961, listing the Government properties—this list came from HEW—that had been given to parochial schools in different States in the country.

This list, which was given to me in 1961, contains 79 cases. In all, there are hundreds of these gifts to religious schools and I will provide the Senate with an updated, complete list on Monday. The program is still continuing today.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL AID TO EDUCATION

Mr. GOLDWATER. Mr. President, since the beginning of the efforts to pass Federal aid to education legislation in this Congress the subject of parochial schools has constantly been before us. Fear has been expressed that direct contributions to these schools would constitute a violation of constitutional intent, but I would direct my colleagues' attention to the fact that this Government has for many years been giving property to parochial schools and up to this time no one has raised the constitutional issue over these actions.

It has not been possible for me to gather a complete inventory of these gifts, but I do have 79 cases at this time, and before we begin debate on the NDEA I will offer a complete list to the Senate. HEW tabulated 299 cases of property released to church schools broken down by denomination as follows:

Denomination participating:	Number of cases
Catholic	140
Seventh-day Adventist	54
Baptist	26
Methodist	20
Others	59

I offer this listing to show that we have been at this business of aiding parochial schools for a good many years, and that the activity is not confined to one church group, but to at least five and, in all probability, the next list will show more.

I ask unanimous consent that a partial list of religious affiliated schools which have been granted land and buildings under the Surplus Property Act of 1944 be printed at this point in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

A PARTIAL LIST OF RELIGIOUS AFFILIATED SCHOOLS WHICH HAVE BEEN GRANTED LAND AND BUILDINGS UNDER THE SURPLUS PROPERTY ACT OF 1944

State	Property received	Acquisition cost in dollars	Fair value in dollars	Public benefit allowance in percent discount off fair value or actual cash paid in dollars
Alabama: Assumption of Our Lady School	Craig Air Force Base	30,243	1,000	$50.
Alaska:				
Alaska Mission of Seventh-day Adventists	Elmendorf Air Force Base property	22,372	700	$35.
Catholic Bishop of North Alaska	FAA Repeater Station	117,000	11,700	$585.
Alaska Methodist University	Fort Richardson Military Reservation	23,160	2,100	$105.
Alaska Mission of Seventh-day Adventists	Elmendorf Air Force Base property	22,892	500	$25.
Moravian Children's Home and School	Federal Aviation	68,400	6,800	$340.
Arizona: Arizona Conference Corp. of Seventh-day Adventists	Thunderbird Field No. 2	743,000	240,784	60 percent.
Arkansas: Southern Baptist College	Walnut Ridge Air Base	1,493,552	436,351	100 percent.
California:				
Monterey Bay Academy of the Seventh-day Adventists	Camp McQuaide	1,619,888	349,189	Do.
St. Thomas School	Sherman Institute Bureau of Indian Affairs	225	2,200	60 percent.
St. Joachim School	Air Force Rocket Engine Facility	810	12,960	$5,184.
Beaumont Elementary School of the Seventh-day Adventists	March Air Force Base properties	15,963	2,400	$120.
Monterey Peninsula Seventh-day Adventist Church School	Fort Ord Military Reservation	9,576	1,110	$55.
Beaumont Elementary and Junior High School of Seventh-day Adventists	March Air Force Base properties	28,968	3,900	$195.
Colorado: Western Bible Institute	Lowry Air Force Base properties	85,056	57,000	$2,850.
Connecticut:				
St. Bridget's Church School	Elmwood Acres housing project	50,536	24,550	80 percent.
St. Maurice Roman Catholic Church School	White Oaks housing project	40,347	28,043	Do.
Florida: John B. Stetson University (Baptist)	Deland Naval Air Station	704,501	218,116	100 percent.
Georgia:				
Redemptorist Fathers Parochial School	Fort Oglethorpe	99,876	18,500	Do.
Sacred Heart School	Wherry housing area	500	8,700	$2,610.
Hawaii: Grace Chapel Elementary School	USO recreation center	108,963	70,200	80 percent.
Idaho. (None reported as of Dec. 31, 1960.)				
Illinois: (None reported as of Dec. 31, 1960.)				
Indiana. (None reported as of Dec. 31, 1960.)				
Iowa. (None reported as of Dec. 31, 1950.)				
Kansas. (None reported as of Dec. 31, 1960.)				
Kentucky: St. Catherine's School	Fort Knox Military Reservation properties	17,245	500	$25.
Louisiana. (None reported as of Dec. 31, 1960.)				
Maine. (None reported as of Dec. 31, 1960.)				
Maryland:				
St. Stephen School	North Severn housing area properties	18,064	1,000	$50.
Waldorf Seventh-day Adventist School Board	U.S. naval air station	9,389	500	$15.
Good Shepherd School	North Severn housing area properties	8,096	500	$25.
Woodstock College, a Roman Catholic theological seminary	do	16,193	1,000	$50.
Massachusetts:				
Immaculate Conception Church School	Nitre depot	44,400	40,000	100 percent.
Congregation of Sacred Heart School	Otis Air Force base	16,738	400	$10.
Michigan: St. Francis of Assisi Congregation School	National Guard training reservation	694	2,420	80 percent.
Mississippi. (None reported as of Dec. 31, 1960.)				
Missouri:				
College of the General Council of the Assembly of God	O'Reilly General Hospital properties	1,576,025	991,985	100 percent.
St. Agnes High School	do	34,001	45,900	40 percent.
St. Bernadette Elementary School	Jefferson Barracks	224,066	193,115	100 percent.
Montana. (None reported as of Dec. 31, 1960.)				
Nebraska:				
St. John Vianney Seminary	Omaha District Service Base	4,000	600	$30.
St. Mary's School	Nebraska Ordnance Plant	726	300	$15.
Nevada. (None reported as of Dec. 31, 1960.)				
New Jersey: Central Jersey Christ School, Inc.	Shark River Hills Hotel	200,482	32,000	80 percent.
New Mexico:				
St. Michael's College	Burns General Hospital	1,324,455	330,301	100 percent.
Berean Mission Navajo School	Kirtland Air Force Base properties	8,000	672	$33.60.
Brethren Navajo Mission Board School	do	12,000	1,050	$52.50.
New York:				
Bishop Duffy High School	Niagara Falls Public Housing Authority project	169,076	72,076	60 percent.
Buffalo Academy of the Sacred Heart	Lake Ontario Ordinance Works	7,500	Leased	
New York Protestant-Episcopal Public School	Department of the Army facilities	3,000	1,521	100 percent.
School of the Mill Hill Fathers, Inc	Schenectady General Depot	3,515	1,000	$50.
North Carolina: Presbyterian Junior College for Men	Laurinburg-Maxton AAB	440,940	113,406	100 percent.
North Dakota. (None reported as of Dec. 31, 1960.)				
Ohio:				
School of the Ohio Conference Association of the Seventh-day Adventists	Properties of the Veterans' Administration	15,075	11,733	Do.
Pontifical College, a Roman Catholic theology seminary	Department of Agriculture	14,806	300	$15.
St. Helen School	Clinton County Air Force Base	2,200	500	$25.
Oklahoma: St. Gregory's College	Old Shawnee Agency	325	300	$15.
Oregon:				
Lebanon Seventh-day Adventist School	John Day lock and dam project	1,200	900	$45.
St. Therese School	U.S. naval station	2,650	1,000	$50.
Pennsylvania:				
Elementary school of the Catholic Diocese of Harrisburg	Veterans' Administration hospital site	26,008	38,129	80 percent.
St. John Bosco School	Lacey Park housing project	9,375	9,375	Do.
Mercyhurst Catholic College	Antiaircraft artillery site, 70 properties	7,500	1,500	$75.
School of the Benedictine Sisters of Erie	Antiaircraft artillery site, 90 properties	5,500	1,000	$50.

A PARTIAL LIST OF RELIGIOUS AFFILIATED SCHOOLS WHICH HAVE BEEN GRANTED LAND AND BUILDINGS UNDER THE SURPLUS PROPERTY ACT OF 1944—Continued

State	Property received	Acquisition cost in dollars	Fair value in dollars	Public benefit allowance in percent discount off fair value or actual cash paid in dollars
Pennsylvania—Continued				
School of the Diocese of Erie Blessed Sacrament	do	5,500	1,000	$50.
Villa Maria Catholic College	do	8,250	1,500	$57.
St. Judes School	Antiaircraft artillery site 66	11,180	3,500	$175.
Do	Buffalo Run Valley properties	6,800	500	$25.
Rhode Island. (None reported as of Dec. 31, 1960.)				
South Carolina. (None reported as of Dec. 31, 1960.)				
South Dakota: Sunshine Bible Academy	Fort Randall Dam and Reservoir properties	39,399	1,200	$60.
Tennessee. (None reported as of Dec. 31, 1960.)				
Texas:				
Howard Payne Baptist College	Camp Bowie properties	180,176	61,760	100 percent.
Do	do	9,500	600	$30.
St. Henry's Parochial School	Randolph Air Force Base	13,508	1,000	$50.
Southwest Baptist Theological Seminary	Carswell Air Force Base	147,538	3,400	$170.
School of the Missionary Servants of St. Anthony	Normoyle Ordinance Depot	12,123	30,075	
School of the Third Order of St. Francis	do	25,233	24,000	$7,200.
St. Augustine Parochial School	Laredo Air Force Base	42,275	1,260	$63.
San Antonio Catholic School	Fort Sam Houston Military Reservation	17,015	1,300	$65.
Texas Lutheran College	Zuchi Air Force Auxiliary Field	358,600	23,900	
Rio Grande Bible Institute	Falcon Village	13,599	1,200	$60.
St. Francis School	Waco Reservoir	35,600	2,280	$114.
School of the Society of St. Teresa of Jesus	Brooks Air Force Base	16,007	1,100	$55.
Trinity Lutheran School	Waco Reservoir project	1,200	300	$15.
Westminister College and Bible Institute	Navarro Mills Reservoir project	100	20	$1.
Utah. (None reported as of Dec. 31, 1960.)				
Virginia: St. Emma I. & A. Institute	North Severn housing area properties	12,688	2,000	$100.
Vermont. (None reported as of Dec. 31, 1960.)				
Washington:				
Northwest Bible College, Inc	Stewart Heights project	90,533	41,200	100 percent.
St. Partick's High School	VA hospital	28,900	9,126	80 percent.
Seattle Christian School Association (elementary and high school)	Michigan St. dormitories	92,871	24,200	Do.
Western Washington Conference of Seventh-day Adventists (elementary school)	Stewart Heights properties	81,147	19,000	Do.
Bethlehem Lutheran Parochial School	Camp Hanford properties	9,711	2,040	$102.
Northwest Bible College	do	8,378	1,860	$93.
West Virginia. (None reported as of Dec. 31, 1960.)				
Wisconsin. (None reported as of Dec. 31, 1960.)				
Wyoming. (None reported as of Dec. 31, 1960.)				
Puerto Rico. (None reported as of Dec. 31, 1960.)				

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I believe it is agreeable with Mr. MOYNIHAN, Mr. HOLLINGS, Mr. GOLDWATER, and the minority leader that a vote occur on the amendment by Mr. GOLDWATER at 6 o'clock p.m. on Monday.

Mr. GOLDWATER. Fine with me.

Mr. ROBERT C. BYRD. I therefore make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That means that the vote will be an up or down vote.

Mr. GOLDWATER. I will ask for the yeas and nays at that time.

Mr. ROBERT C. BYRD. I ask for them now, and ask unanimous consent that it be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, if the Senator will yield, do I understand there will not be a motion to table?

Mr. ROBERT C. BYRD. There can be no motion to table on that amendment.

I would hope that it might be possible sometime during the remainder of this day or on Monday to reach an agreement to vote on the amendment by Mr. HOLLINGS, likewise up or down, perhaps on Tuesday afternoon, or after 6 o'clock on Monday, perhaps, or Tuesday at a given time. I am open to suggestions whenever Senators wish to make them.

Mr. DECONCINI. Mr. President, I ask unanimous consent that Romano Romani and John Mulkey of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The distinguished Senator from West Virginia.

D.C. APPROPRIATIONS BILL

Mr. ROBERT C. BYRD. May I ask the distinguished minority leader if he has been successful in getting away from the 3-day rule on the D.C. appropriations bill?

Mr. BAKER. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BAKER. Mr. President, it is with some reluctance that I must rise to tell my friend, the majority leader, that since our previous colloquy we have renewed our efforts to obtain a waiver of the 3-day rule. While we have made a good bit of success in that respect there are still objections to it and I am not able to accede to his request.

Mr. MATHIAS. Could I inquire of the majority leader when he anticipates under these circumstances the D.C. appropriations might come before the Senate?

Mr. ROBERT C. BYRD. I wanted to bring it up today. Mr. President, the rule would not run its course until when?

The PRESIDING OFFICER. Tuesday.

Mr. ROBERT C. BYRD. Not until Tuesday. We are bound hand and foot, gagged, but still kicking and screaming until Tuesday.

Mr. MATHIAS. I will tell the majority leader that as far as I am concerned I am prepared to do it today or on Tuesday or any other day.

Mr. ROBERT C. BYRD. The Senator is prepared and I am aware of that. The chairman of the subcommittee (Mr. LEAHY) is prepared. I understand it can be done in almost nothing flat, but we cannot go ahead.

Mr. MATHIAS. We will have to abide the time with patience.

Mr. ROBERT C. BYRD. With the patience of Job.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL TRADE COMMISSION AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 3816.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 3816) to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase

the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes; and requesting a further conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a further conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. CANNON, Mr. FORD, Mr. DURKIN, Mr. SCHMITT, and Mr. DANFORTH conferees on the part of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OLIN E. TEAGUE VETERANS' CENTER

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11579.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11579) to designate the Veterans' Administration center located at 1901 South First Street, Temple, Tex., as the "Olin E. Teague Veterans' Center."

Mr. CRANSTON. Are we ready now to proceed to H.R. 11579?

The PRESIDING OFFICER (Mr. MOYNIHAN). Without objection, the bill will be read a second time by title.

The bill was read a second time by title.

Mr. CRANSTON. Mr. President, H.R. 11579 would name the VA center in Temple, Tex., after a great American, OLIN E. "TIGER" TEAGUE.

Similar legislation, S. 2842, was introduced on April 6, 1978 by my distinguished colleague, the Senator from Texas (Mr. BENTSEN) and is cosponsored by the senior Senator from Texas (Mr. TOWER).

"TIGER" TEAGUE, one of the most decorated combat veterans of World War II ever to serve in the Congress, has announced he will retire after 32 years in the House of Representatives. He will be ending a long, dedicated, and illustrious career as a fighter for veterans.

The young "TIGER" TEAGUE spent 2 years recovering from combat wounds at the hospital which became the Temple, Tex., VA hospital and is now part of the VA center there. Immediately upon coming to the Congress in 1946, "TIGER" TEAGUE began to fight for benefits to aid veterans and their families to return to civilian life. He chaired an inquiry into GI bill abuses which led to corrective legislation for veterans returning from the Korean conflict. This concern for veterans' educational benefits has always been a matter of special emphasis for him. It has been my pleasure and privilege to work very closely with "TIGER" TEAGUE for the past 9 years on GI bill matters and I have always been impressed with his knowledge of the program. From time to time, we have had honest disagreements, but we have always reasoned together to resolve those differences. Whenever the Senate has approached "TIGER" TEAGUE on GI bill issues, he has always been willing to examine and discuss changes to improve the program.

He has also had a tremendous influence on the medical program of the Veterans' Administration and on other veterans benefits programs. He led the way in preserving an independent VA Department of Medicine and Surgery in the 1973–1974 period of great travail and controversy arising out of the disagreements between the then Administrator of Veterans' Affairs and the then Chief Medical Director; he then went on to pledge and provide consistent support to each of their successors in the agency. He began a campaign—still moving forward today—which has, since fiscal year 1972, already resulted in adding new hospital workers to bring VA hospital staffing ratios into line with those in community hospitals.

As testimony to his dedicated career, "TIGER" TEAGUE recently received the Veterans' Administration's Exceptional Service Award, the VA's highest commendation to an individual. In closing, I would like to read part of the citation to that award:

While his congressional leadership has been manifest for many years in a variety of activities that serve our country, it is in the field of Veterans' Affairs that he is remembered with particular appreciation and devotion.

For 31 years he has served on the House Committee on Veterans' Affairs, and for 18 of those years he was its distinguished chairman, tenures without parallel in the annals of the Committee.

No person in the history of America has had such a salutory effect on the lives of veterans and their families.

No member of Congress has ever exerted as much leadership or has been so successful in producing fair, enlightened and helpful legislation for America's veterans.

His extraordinary contributions are recognized with admiration and gratitude as we grant—for the first time to a person outside the agency—this highest honor the Veterans Administration can bestow.

I can add no more except to note that, although I have not generally been enthusiastic about legislation to name Veterans' Administration Hospitals, I wholeheartedly support the House-passed measure in honor of OLIN E. TEAGUE.

Mr. President, I ask unanimous consent that Garner Shriver may have the privilege of the floor throughout consideration of this measure; and Janice Orr and John Pressly also.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 1649

(Purpose: To provide for the naming of a Veterans' Administration hospital)

Mr. CRANSTON. Mr. President, I now send to the desk an amendment on behalf of myself and the Senators from Florida (Mr. STONE and Mr. CHILES). This amendment would name the hospital in Tampa, Fla., after the former Congressman James A. Haley. This has been twice approved by the Senate, and the House has passed a measure with a similar purpose.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON), for himself, Mr. STONE, and Mr. CHILES, proposes an unprinted amendment numbered 1649.

Mr. CRANSTON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I—NAMING OF THE TEMPLE, TEXAS, VETERANS' ADMINISTRATION CENTER FOR OLIN E. TEAGUE

SEC. 101. The Veterans' Administration center located at 1901 South First Street, Temple, Texas, shall hereafter be known and designated as the "Olin E. Teague Veterans' Center". Any reference to such center in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Olin E. Teague Veterans' Center.

SEC. 102. The provisions of this title shall take effect on January 4, 1979.

TITLE II—NAMING OF CERTAIN VETERANS' ADMINISTRATION HOSPITALS

SEC. 201. The Veterans' Administration hospital in Tampa, Florida, shall hereafter be known and designated as the "James A. Haley Veterans' Hospital". Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the James A. Haley Veterans' Hospital.

SEC. 202. The provisions of this title shall be effective on the date of enactment of this Act.

● Mr. CHILES. Mr. President, I join today with Senator STONE in submitting an amendment to H.R. 11579 to pay tribute to a man who has worked unselfishly for many years on behalf of veterans in the State of Florida. This legislation will designate the Veterans' Administration Hospital in Tampa, Fla. the "James A. Haley Veterans' Hospital." Mr. Haley has a long and distinguished record of public service. During the First World War, Mr. Haley was a member of the 1st Division which saw action in every major battle which the U.S. Army Expeditionary Force participated. Since his discharge Mr. Haley has actively advocated the rights of veterans. As a member of the Florida Legislature, he served on the Committee on Military and Veterans' Affairs and during his stay in the State legislature, the State of Florida's Division of Veterans' Affairs was established.

Mr Haley was first elected to Congress in 1953. In 1955 he became a member of the House Committee on Veterans' Affairs and served 18 distinguished years on the Subcommittee on Hospitals. He served as chairman of the subcommittee for 8 years.

The veterans of the State of Florida were well-served during his years on the

Subcommittee on Hospitals. During this period, three new Florida Veterans' Administration hospitals were constructed in Gainesville, Tampa, and Miami. He was also a key figure in the modernization of the facilities at Lake City and Bay Pines.

Mr. Haley's service to veterans has not gone unnoticed. He has received commendations from the American Legion, the Veterans of Foreign Wars of the United States, the Disabled American Veterans, and the Veterans of World War I, USA.

It is my pleasure to join with Senator STONE in offering this amendment to designate the Tampa Veterans' Administration facility as the "James A. Haley Veterans' Hospital." ●

● Mr. STONE. Mr. President, it is my pleasure to join with my senior colleague from Florida (Senator CHILES) in offering this amendment to name the veterans' hospital in Tampa, Fla., the "James A. Haley Veterans' Hospital."

This amendment is identical to a bill, H.R. 1678, which passed the House of Representatives unanimously on June 20, 1977. It has the support of the entire Florida congressional delegation.

As a member of the U.S. House of Representatives for 24 years from 1953 until 1977, Representative James Haley not only effectively represented Florida's large and fast-growing veteran population, but also became the spokesman for veterans' rights on a nationwide scale. In 1955, he accepted assignment to the House Committee on Military and Veterans' Affairs. For 18 years, Representative Haley served on the Hospital Subcommittee and was chairman of the subcommittee for 8 years.

Mr. Haley is a true believer in the concept of the Veterans' Administration as an agency devoted to the special needs of persons who distinguished themselves by serving their country during wartime. His efforts were instrumental in preventing the elimination of Veterans' Administration hospitals and regional offices where they were needed. Mr. Haley helped to expand the VA medical program to make it more responsive to the ever-increasing veteran population all over the country.

Mr. President, James Haley's lifelong devotion to the welfare of those who risked their lives for our country should not go unrecognized. The Veterans' Hospital in Tampa that Mr. Haley worked so hard to obtain is an example of America's commitment to her veterans. There could be no more fitting tribute to a man whose major goal in life is to assure that that commitment is upheld.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I believe that both Senators from South Carolina (Mr. THURMOND and Mr. HOLLINGS) have amendments to my amendment.

UP AMENDMENT 1650

(Purpose: To provide for the naming of certain Veterans Administration hospitals)

Mr. THURMOND. Mr. President. I am sending to the desk an amendment which will name the Veterans Administration hospital at Columbia, S.C., the "Wm. Jennings Bryan Dorn Veterans' Hospital."

I might say this is practically the same amendment that I introduced some time ago, in which Senator HOLLINGS of South Carolina joined me.

The PRESIDING OFFICER. Is there objection to the amendment being in order?

Mr. CRANSTON. I ask unanimous consent that the amendment may be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. THURMOND. Mr. President, this amendment also would name the VA hospital in Bedford, Mass., the "Edith Nourse Rogers Memorial Veterans Hospital." These two former Members of the House of Representatives distinguished themselves, when chairmen of the House Committee on Veterans' Affairs, in their untiring efforts on behalf of our Nation's veterans.

Mr. President, Wm. Jennings Bryan Dorn is a native of Greenwood County, S.C., where he has resided since his birth in 1916. At the age of 22 he was elected to the South Carolina House of Representatives, and became a State Senator at the age of 24. He served in the Army Air Corps and was one of seven brothers in service during World War II.

Mr. Dorn was elected to the U.S. House of Representatives in 1946 and served 26 years. He was chairman of the House Committee on Veterans Affairs during the 93rd Congress and served a total of 23 years as a member of that committee. Without the resourcefulness and industry that characterized Mr. Dorn's many contributions to the development and improvement of the VA hospital system, health care for veterans would not be what it is today.

Mr. President, I do not know of any person who deserves this honor more than former Congressman Dorn. I am very pleased to offer the amendment. As I say, it is similar to the amendment I offered previously, in which Senator HOLLINGS of South Carolina joined.

Edith Nourse Rogers, former Congresswoman from the Commonwealth of Massachusetts, was first elected to the 69th Congress. During her outstanding tenure as Congresswoman, one of her most auspicious accomplishments was as chairman of the House Committee on Veterans' Affairs, which position she held during the 80th and 83rd Congresses. Mrs. Rogers was noted for her desire to serve disabled veterans. Such service originated when she worked for the Red Cross during the First World War in 1917.

Representative Rogers passed away September 10, 1960, at the age of 79. She spent 35 of those years in outstanding service as a Member of the Congress of the United States, the majority of which time was spent benefiting our Nation's veterans.

Mr. President, in view of the history of Mr. Dorn's lasting contributions and Mrs. Rogers' dedicated service, I believe it is exceedingly appropriate that these VA hospitals bear their names. I urge that this measure receive the full support of my colleagues.

Mr. President, I ask unanimous consent to have printed in the RECORD, following my remarks, certain letters by veterans' organizations endorsing the naming of the veterans' hospital in Columbia after former Congressman William Jennings Bryan Dorn.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS,
Columbia, S.C., April 26, 1978.

Hon. RAY ROBERTS,
Committee Chairman, House Veterans Affairs Committee, Washington, D.C.

DEAR CHAIRMAN ROBERTS: The Department of South Carolina, Veterans of Foreign Wars of the United States, at its Council of Administration meeting on April 23, 1978, voted unanimously to name the new Veterans Administration Hospital in Columbia, South Carolina, The William Jennings Bryan Dorn Veterans Administration Memorial Hospital.

We request your support in getting this bill out of Committee and reported to the House of Representatives for passage.

This tribute to former Congressman Dorn is in appreciation for his long tenure of service and dedication to the veterans of America.

Sincerely yours,

DAVID L. HUTTO,
Adjutant, Department of South Carolina V.F.W.

RESOLUTION NO. 315

To name the Veterans Administration Hospotal in Columbia, S.C., the William Jennings Bryan Dorn Veterans Administration Memorial Hospital

Whereas, former Representative William Jennings Bryan Dorn served in the Congress of the United States for twenty-six years and introduced or co-sponsored considerable legislation beneficial to veterans, their dependents and survivors; and

Whereas, Mr. Dorn, by his own request, was a member of the House Committee on Veterans Affairs for twenty-three years; and

Whereas, during the 93rd Congress Mr. Dorn was elected Chairman of the House Committee on Veterans Affairs by the Democratic caucus of the United States House of Representatives by an overwhelming vote of 149 to 4; and

Whereas, Congressman Dorn was instrumental in seeing that a new Veterans Administration hospital was constructed in Columbia, South Carolina; now, therefore

Be it resolved, by the 78th National Convention of the Veterans of Foreign Wars of the United States. that we support the introduction and passage of legislation to the Congress of the United States to name the Veterans Administration hospital in Columbia, South Carolina the William Jennings Bryan Dorn Veterans Administration Memorial Hospital.

THE AMERICAN LEGION,
Washington, D.C., August 10, 1978.

Hon. RAY ROBERTS,
Chairman, Committee on Veterans Affairs, Washington, D.C.

DEAR CONGRESSMAN ROBERTS: The House Veterans Affairs Committee has before it for consideration H.R. 13229, a bill to provide that the Veterans Administration Hospital at Columbia, South Carolina, shall be named in honor of former Congressman William Jennings Bryan Dorn.

The American Legion has no active mandate with regard to H.R. 13229. However, this organization has a great and fond regard for former Congressman Dorn. We recall his service on the Veterans Affairs Committee, and as its Chairman. Congressman Dorn's interest in and concern for the nation's veterans manifested itself in the devoted work he did in veterans legislation during his service in the House.

The American Legion considers that it would be a suitable honor to his record of service to veterans, to name in his honor the VA Hospital at Columbia.

Sincerely,

R. E. LYNGH,
Director, National Veterans Affairs and Rehabilitation Commission.

APRIL 26, 1978.

Hon. RAY ROBERTS,
Committee Chairman, House Veterans Affairs Committee, Washington, D.C.

DEAR CHAIRMAN ROBERTS: The Department of South Carolina Veterans of Foreign Wars of the United States at its Council of Administration meeting on April 23, 1978 voted unanimously to name the new Veterans Administration Hospital at Columbia, South Carolina, the William Jennings Bryan Dorn Memorial Hospital.

On behalf of the Swansea Ladies Auxiliary to Veterans of Foreign Wars Post No. 6829, we request your support in getting this bill out of committee and reported to the House of Representatives for passage. The former Congressman Dorn spent many, many years in Congress which were dedicated to the Veterans of America.

Sincerely yours,

ALICE B. HUTTO,
Secretary.

Mr. THURMOND. At this time, I yield to my distinguished colleague from South Carolina (Mr. HOLLINGS).

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague.

As we move away from war toward peace and the years intervene, we should always have a positive and clear memory of the contribution of the veterans. This, Mr. President, was the kind of leadership and thought given by our former colleague, William Jennings Bryan Dorn. He left the chairmanship of the Veterans Committee after years of distinguished service up here, particularly in behalf of the veteran, to run for Governor of South Carolina. He first took on a general. The general asked about a certain thing and Mr. Dorn said, "Well, I believe I would rather have the votes of all the privates."

He was not successful in that race but, in the minds of many, the way he conducted himself in the campaign and stood strong and tall for veterans and has continued since that time has won the admiration of everyone. As a former veteran of the war and as a member of the American Legion and the Veterans of Foreign Wars, this is a fitting tribute. Bryan has worked not only in South Carolina but all over the United States and the world in behalf of our American veterans. I am glad to join in this tribute to him and ask that a hospital be named the William Jennings Bryan Dorn Hospital in Columbia, S.C.

Mr. THURMOND. I thank the distinguished, able Senator from South Carolina.

I send to the desk the amendment, which I ask the clerk to state.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself and Mr. HOLLINGS, proposes an unprinted amendment numbered 1650.

(1) redesignate section 202 as section 204; and

(2) insert the following new sections:

SEC. 202. The Veterans' Administration hospital in Bedford, Massachusetts, shall hereafter be known and designated as the "Edith Nourse Rogers Memorial Veterans' Hospital". Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Edith Nourse Rogers Memorial Veterans' Hospital.

SEC. 203. The Veterans' Administration hospital in Columbia, South Carolina, shall hereafter be known and designated as the "Wm. Jennings Bryan Dorn Veterans' Hospital". Any reference to such hospital in any law, regulation, document, or other paper of the United States shall be deemed to be a reference to the Wm. Jennings Bryan Dorn Veterans' Hospital.

Mr. TOWER. Mr. President, I would like to say a brief word on H.R. 11579, an act to designate the Veterans' Administration center in Temple, Tex., as the Olin E. Teague Veterans' Center.

I think that no one in the Congress of the United States has a greater reputation for being a man of conviction and honor and of great personal courage than "TIGER" TEAGUE.

A much decorated veteran of World War II, he has served his country well in the Congress of the United States, a man widely respected by Members on both sides of the aisle in the House of Representatives, a man who is an institution in his own State of Texas, and a man who is universally respected, a distinguished graduate of Texas A. & M. He is sometimes called Mr. A. & M.

I think this is really rather a small honor that we pay to honor a colleague in the Congress who served his country so well, in so many ways. He is retiring this year. He is not standing for reelection and we hate to see him go.

I know the people of Texas will applaud the action of the Congress in conferring on him this small honor of naming the veterans' center after him.

I can say that there is no honor more richly deserved. Of course, I urge the favorable action on this measure by my colleagues in the Senate.

Mr. JACKSON. Mr. President, I had the great privilege of serving in the House with OLIN "TIGER" TEAGUE.

I must say that few have served in that body with greater distinction than "TIGER" TEAGUE. He has been an outstanding Congressman.

What has already been said here has been said better than anything I can say regarding his service to his country, especially in World War II.

Mr. President, more recently he has chaired the Committee on Science and Technology where I worked very closely with him. He has taken a very keen interest in that subject. He has been a fine, distinguished and outstanding in every way chairman of that committee.

I cannot think of a more fitting tribute to "TIGER" TEAGUE than the naming of the Veterans' Administration center in Texas for "TIGER" TEAGUE.

Mr. THURMOND. Mr. President, I would like to say, in addition to the remarks I have already made, just a word about the other two gentlemen.

I have known TIGER TEAGUE since 1954 as one of the foremost Members of Congress. TIGER TEAGUE is one of the men who has impressed me as being a courageous man of capacity who loves his country and has served it well, not only in time of war, but in time of peace. In time of war, he developed the name of Tiger because he was considered such an outstanding fighter, and he has been a fighter for the good things of life in peacetime as well as he fought for his country in wartime.

I am very pleased that this hospital in Texas will be named for him.

With regard to Mr. Haley, I say that he was in the Congress when I came here, too, and he is an outstanding, able man.

He retired from the House several years ago. He was a very popular man. I am sure he could have been elected again if he had cared to. But he was considered a statesman and a scholar.

I feel it is altogether fitting that this veterans' hospital in Florida be named for this outstanding, great American.

Mr. GOLDWATER. Mr. President, I would like to ask the Senator from California a question, but before I say that, because my remarks might be misconstrued, I can back up everything that has been said about TIGER TEAGUE. I served with him. I have tremendous respect for him.

The question I have comes because of this reason. When we seek to name geographic points in this country after a person, that person cannot be living.

Now, has the Committee on Veterans' Affairs established any rule—that may not be the word—but any requirements for the recognition of living people by naming the different hospitals, bases, et cetera, after them? Is there a rule, or can anybody be suggested?

Mr. CRANSTON. I would like to respond in this way. First, let me say that because TIGER TEAGUE will be a Member of the Congress until the end of this session, the naming of the hospital for him will be in a separate title that will not take effect until January 4 next year, when he will no longer be a Member of Congress.

The others will take effect, immediately, if the bill is enacted.

Second, the Veterans' Affairs Committee does not have a rule on the topic that the Senator from Arizona, quite appropriately, asked about. We have had a policy that I have supported of generally not naming hospitals after living people. It is for that reason, because we did not want to change that policy, and taking into account the very strong support that was behind the Tiger Teague bill which came over from the House, and that was the first to reach here, I asked it be held at the desk so it could be dealt with in the wisdom of the Senate without establishing a precedent on policy by the Veterans' Affairs Committee that would vary from our present policy of generally not doing this.

Mr. DURKIN. Will the Senator yield?

Mr. GOLDWATER. I will yield in just a moment.

I would like to suggest, as a veteran, that the Veterans' Committee look into this—with no disrespect to TIGER TEAGUE, I think if there is any man living entitled to it that he is—but I can see a great proliferation in the number of people in each State that we might like to honor that way. It is rather staggering.

I like the national parks system of waiting. I am waiting for three. I do not like to wait for people to pass on, but I have suggested three different geographic names, and they will not be applied until after they have passed on.

Mr. CRANSTON. May I say that I concur with the recommendation. I accept it wholeheartedly. I will see to it the Veterans' Committee takes up this policy discussion.

Mr. DURKIN. Mr. President, in answer to the Senator's question to the Senator from California, a precedent was established last year with the Federal office building in Manchester, N.H., wherein it was named after my predecessor, Mr. Cotton, who is not in the best of health, but still a very valuable citizen in the State of New Hampshire.

Mr. GOLDWATER. I am just worried about the exactness of it and the great proliferation that might come, again, with no disrespect to anybody, and it is a matter for the future.

Mr. CRANSTON. Mr. President, these amendments would add to H.R. 11579 provisions to name the VA hospitals in Tampa, Fla., and Bedford, Mass., after James A. Haley and the late Edith Nourse Rogers, respectively. James A. Haley's 24 years of distinguished service in the House of Representatives included 18 years as the chairman of the House Veterans' Affairs Committee's Subcommittee on Medical Facilities and Benefits, a position in which he provided effective leadership to bring about significant improvements in VA health and hospital care. The late Edith Nourse Rogers, after working with the Red Cross on behalf of disabled World War I veterans, served 18 terms in the House of Representatives, was chairman of the House Veterans' Affairs Committee for two Congresses, and worked tirelessly to insure fair treatment for veterans. Legislation to accomplish the naming of those VA hospitals has twice passed the Senate—the first time on September 9, 1977, as sections 401 and 501 of H.R. 5027, and the second time on July 31, 1978, as sections 401 and 402 of H.R. 10173. However, the House has not acted on those bills as amended by the Senate.

Mr. President, the bill as amended would also incorporate the provisions of S. 3341, as introduced by the Senators from South Carolina, to provide for the naming of the Veterans' Administration hospital in Columbia, S.C., after William Jennings Bryan Dorn. Mr. Dorn, who resigned his seat in the Senate of the State of South Carolina after the bombing of Pearl Harbor in order to volunteer for military service and who then served for 3½ years in the Army Air Corps, was elected to the House of Representatives in 1946. He served there for 26 years and retired from the Congress in 1974. Mr. Dorn served on the House Committee on Veterans' Affairs for 23 years and was its chairman during the 93d Congress. His long, distinguished, and productive service on behalf of the Nation's veterans were especially notable in the area of the VA's hospital and medical system and the GI bill, which he worked so hard to improve.

Mr. President, the other body has indicated that it is agreeable to this amendment so that, upon passage of the bill as amended by the Senate, the House of Representatives can be expected to agree to this amendment and send the bill on to the President for signature.

In view of the need to move forward at this time on this legislation, I have agreed to proceed with the naming of the South Carolina hospital because I have been assured by the Senators from South Carolina and the House Committee on Veterans' Affairs that the full South Carolina delegation is in support of this measure and that the veterans' organization in that State likewise support it. However, I believe that normally a measure like this should originate in the other body.

Mr. President, I have discussed the amendment with the two Senators from South Carolina and the two Senators from Florida, and I am prepared to accept it.

Mr. THURMOND. Mr. President, I ask for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I know of no other amendments except an amendment to the title, which I will bring up later. So I suggest we proceed to passage.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 11579) was passed.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I send to the desk an amendment to the title.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

Amend the title so as to read: "An Act to designate the Veterans' Administration center located at 1901 South First Street, Temple, Texas, as the 'Olin E. Teague Veterans' Center'; and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the title amendment.

The amendment was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 994, on page 23 of the calendar; No. 1008 and No. 1011, on page 25 of the calendar; No. 1012, on page 26; No. 1014, on that page, through No. 1023, on page 27.

Mr. BAKER. Mr. President, before the Chair grants that unanimous-consent request, I advise the majority leader that these items are cleared on our calendar.

Also, I say to the majority leader that each of these items requires a waiver of the 3-day rule, and I waive the 3-day rule as an accommodation to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader engages in a friendly twit of my nose.

May I say that all these measures together are not worth one regular appropriation bill. I would not care if the 3-day rule were not waived on any of these. By the way, one of them is mine. S. 2366 is mine. That is one I passed over, and it will not pass today.

Therefore, so far as I am concerned, the minority leader has not really shed any blood for the Republic by waiving the 3-day rule on these items. But I do want to say that he tried diligently again to get the 3-day rule waived on the District of Columbia appropriation bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I included No. 1023 in my list. I understand that one is not ready yet, so I remove that from the list.

The PRESIDING OFFICER. Without objection, it is so ordered.

AGRICULTURE FOREIGN INVESTMENT INFORMATION ACT OF 1978

The bill (S. 3384) to require foreign persons who acquire, transfer, or hold interests in U.S. agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3384

Be it enacted by the Senate and House of Representaives of the United States of America in Congress assembled, That this Act may be cited as the "Agricultural Foreign Investment Information Act of 1978".

DEFINITIONS

SEC. 2. For purposes of this Act, the term—

(1) "agricultural land" means any land located in the United States that is generally used for producing agricultural commodities (including forest products), raising livestock or poultry, or other agricultural purposes as defined in regulations to be prescribed by the Secretary;

(2) "foreign nation" means any nation other than the United States;

(3) "United States" means the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, and the territories and possessions of the United States;

(4) "foreign person" means—

(A) an individual who is not a citizen of the United States and who has not been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act;

(B) a person, other than an individual or a government, that is created or organized under the laws of a foreign nation or that has its principal place of business in a foreign nation;

(C) a person, other than an individual or a government, that is created or organized under the laws of a State of the United States, the District of Columbia, or a territory, possession, or Commonwealth of the United States and that, as defined in regulations to be prescribed by the Secretary, is substantially controlled by individuals referred to in subparagraph (A) of this paragraph, persons referred to in subparagraph (B) of this paragraph, governments of foreign nations, or any combination of such individuals, persons, or governments; and

(D) a government of a foreign nation;

(5) "person" includes any individual, corporation, company, association, firm, partnership, society, joint stock company, trust, estate, and any other similar entity; and

(6) "Secretary" means the Secretary of Agriculture.

REPORTING REQUIREMENTS

SEC. 3. (a) Any foreign person who holds any interest (including leaseholds of five or more years and beneficial interests in the land under contracts of sale or similar arrangements), other than a security interest, in agricultural land on the day before the effective date of this Act shall submit, or have a designated agent submit, a report to the Secretary not later than one hundred and eighty days after the effective date of this Act. Such report shall be submitted in such manner as the Secretary shall prescribe by regulation and shall contain—

(1) the legal name and address of the foreign person;

(2) in any case in which the foreign person is an individual, the citizenship of the foreign person;

(3) in any case in which the foreign person is not an individual or a government—

(A) the nation in which the foreign person is created or organized;

(B) the principal place of business of the foreign person;

(C) the legal name and address of each person who holds a substantial interest (as defined in regulations to be prescribed by the Secretary) in the foreign person and, in any case in which the holder of such an interest is an individual, the citizenship of the holder and, in any case in which the holder of such an interest is not an individual or a government, the nation in which the holder is created or organized and the principal place of business of the holder;

(4) the type of interest in the agricultural land that is held by the foreign person;

(5) a legal description of the agricultural land, including the State and county in which the land is located and the total acreage involved;

(6) the date of acquisition of the interest and the purchase price paid for, or any other consideration given for, the interest; and

(7) such other information as the Secretary may require by regulation.

(b) Any foreign person who acquires or transfers any interest (including leaseholds of five or more years and beneficial interests in the land under contracts of sale or similar arrangements), other than a security interest, in agricultural land shall submit, or have a designated agent submit, a report to the Secretary not later than thirty days after the date of such acquisition or transfer, except that the reporting of any such transaction occurring during the first one hundred and eighty days after the effective date of this Act may be deferred until thirty days after expiration of the one-hundred-and-eighty-day period. Such report shall be submitted in such manner as the Secretary shall prescribe by regulation and shall contain—

(1) the legal name and address of the foreign person;

(2) in any case in which the foreign person is an individual, the citizenship of the foreign person;

(3) in any case in which the foreign person is not an individual or a government—

(A) the nation in which the foreign person is created or organized;

(B) the principal place of business of the foreign person;

(C) the legal name and address of each person who hold a substantial interest (as defined in regulations to be prescribed by the Secretary) in the foreign person and, in any case in which the holder of such an interest is an individual, the citizenship of the holder and, in any case in which the holder of such an interest is not an individual or a government, the nation in which the holder is created or organized and the principal place of business of the holder;

(4) the type of interest in the agricultural land that is acquired or transferred by the foreign person;

(5) a legal description of the agricultural land including the State and county in which the land is located and the total acreage involved;

(6) the purchase price paid or received for, or any other consideration given or received for, the interest;

(7) in any case in which the foreign person transfers the interest, the legal name and the address of the person to whom the interest is transferred and—

(A) in any case in which the transferee is an individual, the citizenship of the transferee; and

(B) in any case in which the transferee is not an individual or a government, the nation in which the transferee is created or organized and the principal place of business of the transferee; and

(8) such other information as the Secretary may require by regulation.

(c) With respect to any person whose legal name is contained in any report submitted under subsection (a) or (b) of this section, the Secretary may take such actions as the Secretary considers necessary to determine—the legal name and address of any person who holds any interest in the person whose legal name is contained in the report and—

(1) in any case in which the holder of such interest is an individual, the citizenship of the holder; and

(2) in any case in which the holder of such interest is not an individual or a government, the nation in which the holder is created or organized and the principal place of business of the holder.

REPORTS AND MONITORING

SEC. 4. (a) The Secretary shall—

(1) develop and distribute within sixty days after the effective date of this Act a standard report form (and related instructions) that will facilitate automated data processing, analysis, and reporting of the information collected under section 3 of this Act;

(2) seek the cooperation and assistance of States and county governments, make maximum effective use of Department of Agriculture field offices, and use such other means as may be necessary, to make wide distribution of the standard report forms and instructions, publicize the reporting requirements and procedures established under section 3 of this Act, and collect the reports required under section 3 of this Act;

(3) analyze information obtained by the Secretary under section 3 of this Act and determine the trends with respect to ownership or control of United States agricultural land by foreign persons and the actual and potential effects that the acquisition, transferring, and holding of United States agricultural lands by foreign persons have or will have on the agricultural industry of the United States, on the economy of the United States, on the foreign relations of the United States, and on such other matters as the Secretary determines of interest or concern to the President or Congress; and

(4) transmit, as prescribed in subsection (b) of this section, to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, reports on the Secretary's findings and conclusions regarding analyses and determinations made under paragraph (3) of this subsection.

(b) The Secretary's findings and conclusions regarding the analyses and determinations required under subsection (a) of this section shall be transmitted—

(1) with respect to information obtained by the Secretary under section 3(a) of this Act, within ten months after the effective date of this Act; and

(2) with respect to information obtained by the Secretary under section 3(b) of this Act, on an annual basis, beginning with calendar year 1979, within three months after the end of each calendar year.

(c) The Inspector General of the Department of Agriculture shall conduct periodic studies to determine the reliability of the information reported under section 3 of this Act and the effectiveness of the Secretary's procedures for obtaining, analyzing, and reporting information under this section.

CIVIL PENALTY

SEC. 5. (a) Whoever violates any provision of section 3(a) or 3(b) of this Act or any regulation issued thereunder shall be subject to a civil penalty imposed by the Secretary. The civil penalty for any such violation may not exceed an amount equal to 25 percent of the fair market value, as determined by the Secretary, on the date of the assessment of the penalty, of the interest in agricultural land with respect to which the violation occurred.

(b) The Attorney General shall recover the amount of any civil penalty assessed under subsection (a) of this section in a civil action in an appropriate district court of the United States unless the person pays the penalty to the Secretary. In such action, the validity and appropriateness of the penalty shall not be subject to review.

EFFECTIVE PERIOD

SEC. 6. The provisions of this Act shall become effective October 1, 1978, and shall be effective through September 30, 1981.

● Mr. TALMADGE. Mr. President, the Agricultural Foreign Investment Information Act of 1978 is necessary legislation that merits favorable consideration by the Senate. This bill would require foreign nationals who acquire, transfer, or hold interest in U.S. agricultural land—including leasehold interests of 5 years or more—to report their transactions or holdings to the Secretary of Agriculture. The Secretary would be required to analyze information gained from the reports and submit annual reports to the President and Congress on the effects of such foreign investment.

A few months ago we in Congress heard from a number of hard-pressed farmers who were seeking better prices for their crops and livestock. Some farmers also expressed their concern over a high level of activity by foreign investors in purchasing U.S. agricultural land within their local areas. These farmers reported several instances in

which foreign interests were buying up large acreages of prime farmland and rangeland, often at prices far out of reach of our own farmers.

Unfortunately, reliable data on the extent of foreign investment in agricultural land are not available.

Because of the intense concern expressed by many people about this issue, and the serious questions of public policy involved, I felt it was imperative that more facts and statistics be obtained. Accordingly, I asked the Comptroller General in January to have the General Accounting Office conduct a study of the acquisition of agricultural land by foreign investors.

Specifically, I asked the GAO to provide the Committee on Agriculture, Nutrition, and Forestry with information on various State laws that place restraints on, or require reporting of, alien land ownership, and on the general availability of reliable data on the subject.

The GAO study was completed in June of this year, the results of which I reported to the Senate. The GAO study confirmed sufficient foreign investment activity to justify some of the concerns that have been expressed. A spot check by GAO investigators revealed, for example, that foreign investors have acquired 6.3 percent of all farmland in a single county of my State in the past year and a half.

GAO recommended that the Federal Government, to get a better handle on his problem, establish some type of comprehensive reporting system.

Following up the initial GAO report, the Committee on Agriculture, Nutrition, and Forestry is now conducting, with the assistance of several Federal agencies, a much broader investigation of the entire issue and of its effect on national and international policy. On the basis of this further investigation, the Committee will be in a better position to determine if there is a need for legislation to regulate or limit alien farmland ownership.

In the meantime, there is a clear need for a nationwide, reliable system for monitoring farmland acquisition by foreigners, as recommended by GAO.

Consequently, the Committee on Agriculture, Nutrition, and Forestry recently considered and unanimously reported S. 3384, the Agricultural Foreign Act of 1978, that would respond to this need.

Mr. President, this bill would require that foreign persons who acquire, transfer, lease on a long-term basis, or hold interests in agricultural land report such transactions and holdings to the Secretary of Agriculture. This bill also calls for the Secretary of Agriculture to compile and analyze such information collected and make annual reports to the President and to the Congress.

This bill makes no attempt to regulate or limit the foreign investment in U.S. agricultural land. It would require, however, foreign investors—whether individuals, partnerships, corporations, syndicates, governments, or other entities—to make full and complete public disclosure of their agricultural land holdings, purchases, and transfers.

The real estate transactions covered would include direct sales, leaseholds of 5 years or longer, land sales contracts, and options to buy. Security interests would not be included. They would not have to be reported. However, given the wide range of legal mechanisms available to potential investors in land, I would expect the Secretary of Agriculture to distinguish between true security interests and transfers of land ownership that are disguised as the creation of a security interest, and require the latter to be reported under the bill.

The bill defines agricultural land very broadly and includes any land located in the United States that is generally used in production of agricultural commodities—including forestry products—and for raising livestock or poultry.

Specifically, the bill would require foreign persons who presently own U.S. agricultural land to report to the Secretary of Agriculture within 180 days of the effective date of the law—October 1, 1978—all existing land holdings, the location and size of the holdings, the purchase or lease price, and full identity of the owner or owners. The same information would, in the future, have to be reported with respect to purchases, sales, transfers, or long-term leases of agricultural lands by foreigners. Such reports would have to be made within 30 days after the transaction, and the requirement would apply to all transactions through September 30, 1978.

The disclosure information would be compiled and analyzed by the Secretary of Agriculture, who would make annual reports to the President and to the Congress, with an initial report due 10 months after the effective date of the law. The Secretary's reports would include an assessment of the trends in foreign ownership of farmland and the effects of such ownership on American agriculture, the Nation's economy, and on foreign relations.

To make sure that these reporting requirements are not a time consuming or a costly burden to anyone, the Secretary of Agriculture is required to develop and distribute a standard form—and related instructions—that will facilitate the collection and analysis of the data reported. Also, the Secretary of Agriculture must seek the cooperation and assistance of States and county governments, make maximum effective use of Department of Agriculture field offices, such as local extension and ASCS offices, and use such other means as may be necessary to make wide distribution of the standard report forms and instructions and to publicize the reporting requirements and procedures established.

Foreign investors who fail to comply or otherwise violate the reporting requirements would be subject to penalties of up to one-fourth of the fair market value of the land involved as determined by the Secretary of Agriculture. The Office of the Inspector General of the Department of Agriculture would be required to make periodic studies to determine the reliability of the information reported to the Secretary and general compliance with the law.

Mr. President, the key to the success of American agriculture lies in our productive land. Because of rapidly appreciating land prices, special tax breaks, political instability and a weakening dollar abroad, we presently have an environment that could lead to very high levels of foreign investment in agricultural land. This could have a great effect on the small family farm system of this Nation and in our rural communities.

I urge my colleagues to approve this necessary legislation.●

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1072), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SHORT EXPLANATION

The bill being reported by the committee would require foreign nationals who acquire, transfer, or hold interests in U.S. agricultural land (including leasehold interests of 5 years or more) to report their transactions or holdings to the Secretary of Agriculture. The Secretary would be required to analyze information gained from the reports and submit annual reports to the President and Congress on the effects of such foreign investment.

SUMMARY OF MAJOR PROVISIONS

The bill being reported by the committee would—

(1) require all foreign nationals who hold interests in U.S. agricultural land as of the effective date of the bill (including leasehold interests of 5 years or more) to submit a report to the Secretary of Agriculture within 180 days detailing their nationality, the type of interest they hold, the location of the land, the acreage involved, the date of acquisition of the interest, and the purchase price or other consideration (sec. 3(a));

(2) require foreign nationals who acquire or transfer U.S. agricultural land in the future (including leasehold interests of 5 years or more) to submit a report to the Secretary within 30 days after the transaction detailing their nationality, the nationality of the person to whom they transferred the land, the type of interest they acquired or transferred, the location of the land, the acreage involved, and the purchase price or other consideration (sec. 3(b));

(3) require the Secretary of Agriculture to—

(a) develop, and distribute within 60 days after the effective date of the bill, a standard form for reporting foreign land investments;

(b) analyze information obtained through the reporting requirements and determine the effect that such foreign investment in U.S. agricultural land is having on U.S. agriculture, the economy, and our foreign relations; and

(c) transmit reports of his analyses and determinations to the President and the agriculture committees of Congress (the first report—on the extent of foreign holdings as of the effective date of the bill—would be due by July 31, 1979; subsequent reports would be submitted on an annual basis) (sec. 4);

(4) authorize the Secretary to assess civil penalties against persons who violate the reporting requirements of the bill. A penalty

could be assessed at any amount up to 25 percent of their fair market value of the agricultural land with respect to which the violation occurred (sec. 5); and

(5) be effective for the period October 1, 1978, through September 30, 1981 (sec. 6).

Few investment opportunities have been as lucrative and safe as U.S. farmland in the past decade. From 1965 to 1977 the farm real estate index more than tripled, while the GNP deflator did not quite double, and the Standard and Poors 500 stock average is essentially unchanged.

Besides recent increases in the price of agricultural land, other reasons appear just as important in making these investments attractive to foreign investors. One is that many foreigners enjoy tax advantages when they invest abroad. Another reason is the huge U.S. balance-of-payments deficit that has resulted in a devaluation of the dollar, making the price of American farmland even cheaper, in real terms, for foreign investors.

In addition, political instability in their home countries is encouraging many foreigners into U.S. investments.

VI.

A number of undesirable consequences have been attributed to foreign investments in U.S. farmland. It has been suggested that foreign investors frequently pay more than the prevailing market price for land. This could inflate land prices beyond the reach of small family farmers and endanger our entire system of agriculture.

"NATIONAL PORT WEEK"

The joint resolution (S.J. Res. 148) authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week", was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 148

Whereas United States coastal and inland ports make a direct and significant contribution to our national economic well-being; and

Whereas much of the history of the United States has been shaped by its ports and interconnecting inland waterways and greatly influenced the growth of various communities; and

Whereas ports, in serving United States waterborne commerce, generate significant employment and direct dollar income to the local and regional economies they serve, as well as have a major impact on employment and production in areas far distant from their location; and

Whereas United States ports provide a wide variety of services and activities essential to the smooth and efficient conduct of foreign trade and have a direct impact on our balance of payments; and

Whereas American ports are a vital asset in maintaining a strong posture in national security: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the seven-day period beginning September 17, 1978, as "National Port Week" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe such week with appropriate ceremonies and activities.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1087), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

The purpose of the joint resolution is to authorize and request the President to issue a proclamation designating the week beginning on September 17, 1978, as "National Port Week."

STATEMENT

This resolution would bring to the attention of the American people the contributions that our ocean and inland ports have had in expanding our development as a great trading nation.

COST

No cost would result from the enactment of the Senate Joint Resolution 148.

ROLAND L. AND CAROLYN H. OUTLAW

The Senate proceeded to consider the bill (S. 1680) for the relief of Roland L. Outlaw and his wife Carolyn H. Outlaw of Lee County, S.C., which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That the time limitation contained in section 2401(b) of 28 United States Code, is not applicable in the case of any claim for damages presented in writing to the Federal agency in accordance with the applicable statute under which relief may be available, within six months after the date of enactment of this Act by Mr. Roland L. Outlaw and his wife, Carolyn H. Outlaw, of Lee County, South Carolina, for compensation for damage to their home located in Lee County, South Carolina, resulting from low flights over their home by United States Air Force aircraft between 1968 and July 26, 1973.

SEC. 2. Nothing in this Act shall be construed as an inference of liability on the part of the United States.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DR. TIMOTHY KAM-HUNG CHUNG

The bill (S. 153) for the relief of Dr. Timothy Kam-Hung Chung, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Timothy Kam-Hung Chung shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOO YUNG KIM

The bill (S. 2547) for the relief of Soo Yung Kim, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Soo Yung Kim may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Kermit F. Horn, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RENUKA PAVLA

The bill (S. 2977) for the relief of Renuka Pavla, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Renuka Pavla may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Kenneth L. Lucas, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

KIRTHI CHANDHER

The bill (S. 3001) for the relief of Kirthi Chandher was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Kirthi Chandher may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Morris Holes, citizens of the United States, pursuant to section 204 of this Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DR. MANUEL JAVIER AND LILIA ZAPANTA MARIANO

The Senate proceeded to consider the bill (S. 399) for the relief of Dr. Manuel Javier Mariano and his wife, Lilia Zapanta Mariano, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 4, strike "and section 2(e) of the Act of October 3, 1965,";

On page 2, line 2, strike "which are made available to special immigrants defined in section 101(a)(27)(A) of the Immigration and Nationality Act: and insert "and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Manuel Javier Mariano and his wife, Lilia Zapanta Mariano, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JAMES EDWARD SLOWEY, CAROLE ANNE SLOWEY, CHRISTOPHER JAMES SLOWEY, ELAINE MARGARET SLOWEY, AND CAROLE-ANN SLOWEY

The Senate proceeded to consider the bill (S. 2333) for the relief of James Edward Slowey, Carole Anne Slowey, Christopher James Slowey, Elaine Margaret Slowey, and Carole-Ann Slowey, which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 9, strike "fee" and insert "fees";

On page 2, line 2, strike "three" and insert "the required";

On page 2, line 5, strike "of the aliens' birth" and insert "to which each alien is chargeable";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of the Immigration and Nationality Act, James Edward Slowey, his wife Carole Ann, and son Christopher James, and daughters Elaine Margaret and Carole-Ann, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act and upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country to which each alien is chargeable under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL POW-MIA RECOGNITION DAY

The joint resolution (H.J. Res. 963) designating July 18, 1979, as "National POW-MIA Recognition Day," was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1099), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

EXCERPT

PURPOSE

House Joint Resolution 963 would designate July 18, 1979, at "National P.O.W.-M.I.A. Recognition Day."

STATEMENT

This resolution is to honor those Americans who have been prisoners of war, and those listed as missing in action. It seeks to rekindle the memory of the sacrifices these individuals have made for their country and our indebtedness to them.

COST

The enactment of this legislation involves no direct additional expenditure to the Government.

EAZOR EXPRESS, INC. AGAINST THE UNITED STATES

The bill (S. 3382) to waive the statute of limitation with regard to the tort claim of Eazor Express, Inc., of Pittsburgh, Pa., against the United States, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the time limitation contained in section 2401 (b) of title 28, United States Code, is not applicable in the case of any claim for damages presented in writing to the appropriate Federal agency in accordance with section 2675(a) of title 28, United States Code, within six months after the date of enactment of this Act by Eazor Express, Inc. for property damage at the Maspeth Terminal Yard. Brooklyn, New York, sustained as a result of the dredging of Newtown Creek, Queens County, New York, by the United States Army Corps of Engineers in April 1974. Nothwithstanding the provisions of section 2401 of title 28, United States Code, an action may be commenced against the United States with respect to the tort claim described in the preceding sentence if such action is commenced within six months of final denial of any claim filed under such sentence.

SEC. 2. Nothing in this Act shall be construed as an inference of liability on the part of the United States.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL LUPUS WEEK

The joint resolution (H.J. Res. 682) to provide for the designation of a week as "National Lupus Week," was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL GUARD DAY

The joint resolution (H.J. Res. 946) to designate October 7, 1978, as "National Guard Day," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, today I join a bipartisan group of my colleagues in supporting legislation to designate October 7, 1978 as "National Guard Day." October 7, 1636 is recognized as the day when the first militia units were organized by the Minutemen of Massachusetts Bay Colony. The National Guard and the Army National Guard came in to being with the formation of these units, which are the oldest color-bearing units in the United States.

The distinction of being the oldest military unit in the history of our Nation is shared by two units. The Massachusetts ARNG's 101st Engineer Battalion and the 182d Infantry Battalion were both organized on October 7, 1636. The Virginia ARNG's 176th Infantry is another historic Army Guard. This unit is a descendant of the Charles City-Henrico Counties Militia Regiment, first organized in 1652. Many of these militiamen, under the command of General Washington, fought against the British as our Nation sought its independence.

Many of today's Army National Guard units carry battle streamers on their unit colors embroidered with the names of the campaigns of 1776–1780: Virginia, Long Island, Trenton, New York, Princeton, Brandywine, Germantown, Monmouth, South Carolina, Saratoga, Connecticut, and Boston. Our past Guardsmen helped win the independence that Guardsmen of today are pledged to defend.

The term "National Guard" was first used in America by a New York militia unit on August 25, 1824. The name came about as the result of a visit to New York by the famous French officer, Marquis de Lafayette. The honor guard for the French hero who had made great contributions to America's winning her independence, was made up of men from the 2d Battalion, 11th Regiment of New York.

For the event, the battalion was renamed the "Battalion of Nationale Guards" in tribute to Lafayette's command of the Garde Nationale French Army in Paris, during 1789. In 1916, with the National Defense Act, the term "National Guard" became the official name for America's organized militia.

The modern image of today's National Guard began to emerge in 1903, when congressional legislation (the Dick Act) thrust the Federal Government into the picture by establishing procedures for a more direct and active role in organizing, training, and equipping the National Guard, in line with the standards established for the Regular Army.

On June 15, 1933, by congressional act, a new Army component, the National Guard of the United States was created. This new component, while identical in personnel and organization to the National Guard of the several States, was a part of the Army at all times, and as such could be ordered into active Federal service by the President whenever Congress declared a national emergency.

Today, the Army National Guard and the Air National Guard totals some 448,282 men and women, serving in 5,907 units located in nearly 3,000 communities in all 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia.

By act of the Congress, the Guard is the primary backup force of the Army and the Air Force. In peacetime, it is commanded by the State Governors and serves in State emergencies, natural disasters, and civil disturbances. For example, during fiscal year 1970, more than 60,000 National Guardsmen provided assistance during 103 civil disturbances in 31 States, and battled the forces of nature in 21 States and 54 different occasions; during fiscal year 1972, 17,577 guardsmen provided major help in flood and other natural disasters, while another 15,103 assisted in civil disturbances.

An additional 989 guardsmen were called to State active duty for other State emergencies. A total of 132 separate callups to State active duty were made during that period; during fiscal year 1974, 18,552 guardsmen and women provided assistance during the aftermath of natural disasters having been called 181 times. A total of 21,121 guardsmen and women served after having been called 24 times for civil disturbances. During fiscal year 1975, 15,945 guardsmen were called to State active duty to assist civil authorities during 216 emergency conditions, 203 times for natural disasters and other emergencies, 13 times for civil disturbance control operations. During fiscal year 1976 and 1977, 21,619 guardsmen were called to State active duty to assist civil authorities during 232 emergency conditions, 216 times for natural disasters and other emergencies, 16 times for civil disturbance control operations. During fiscal year 1977, 19,857 guardmen were called to State active duty to assist civil authorities during 219 emergency conditions, 212 times for natural disasters and other emergencies, 7 times for civil disturbance control operations. During fiscal year 1978—October 1, 1977–April 24, 1978—21,718 guardsmen were called to State active duty to assist civil authorities during 157 emergency conditions; 147 times for natural disasters and other emergencies and 10 times for civil disorders.

Although not a direct Federal or State mission, the National Guard performs a unique third role in service to the Nation—its ability to provide local communities with community service programs. Unique in the fact that its members are part of the local community it serves, the Guard participates in almost every conceivable way; from helping the handicapped to working with youth groups. Its bulldozers transform Boy Scout trails into serviceable roads, its aircraft fly mercy missions to help the seriously injured and sick. Although some of the expended man-hours are performed on a "drill status," most of the time and energy devoted to these programs are accomplished on the guardsmen's own time. The number of youths and adults being reached by this program is averaging in the hundreds of thousands annually.

Mr. President, I take great pride in the past accomplishments, patriotism, and devoted service of our National Guard and endorse wholeheartedly this joint Senate and House resolution to establish October 7, 1978 as National Guard Day.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1102), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

House Joint Resolution 946 would authorize and request the President to issue a proclamation declaring October 7, 1978, as "National Guard Day," and calling upon the people of the United States and interested groups to observe such day with appropriate ceremonies.

STATEMENT

The National Guard has served in every major military conflict involving the United States during its 342 years. This resolution brings to the attention of the American people the contributions of the National Guard to the security of the United States.

COST

The enactment of this legislation would involve no direct additional expenditure to the Government.

VITIATION OF ORDER FOR SESSION OF THE SENATE TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the convening of the Senate on tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE OUTLOOK FOR SATURDAY SESSIONS

Mr. ROBERT C. BYRD. Mr. President, the order has been vitiated for a session tomorrow. I will have to say that, in my judgment, the Senate will have to be in session most of the remaining Saturdays of this session, unless we can get the 3-day rule waived. Unless we can get the work done, get time agreements on bills that will allow the Senate to move forward and do its work, and be prepared to wind up sometime in October, I cannot see any hope other than to have Saturday sessions.

So at this moment I say to my friends in the Senate, on both sides of the aisle, that I expect, fully expect, a session next Saturday. This gives everybody 1 week's notice. I think I am reasonable in this. I am just trying to be realistic.

We have not had any Saturday sessions this year. I do not like Saturday session. I do not want them. I will not resort to them except when I feel that the situation is in extremis.

So I feel constrained to say that in lifting the order for tomorrow, it is far better than a 50–50 chance that the Senate will be in session next Saturday. So Senators will leave next Saturday at their own risk.

By the way, I think I misstated something a moment ago. The Senator from Tennessee was "tweaking" my nose.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. I must say that whatever it was, it produced a result.

Mr. ROBERT C. BYRD. The result of having us come in next Saturday?

Mr. BAKER. The result was a stern admonition that we may be in next Saturday.

Mr. ROBERT C. BYRD. I thank my good friend, who always is in the best of humor.

TUITION TAX RELIEF ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, are we now back on the tuition tax credit bill?

The PRESIDING OFFICER. The majority leader is correct.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The pending question is on the amendment of the Senator from Arizona.

The Senator from Oregon.

Mr. PACKWOOD. I simply wish to make a request of the Senator from New Hampshire. Is he going to request by unanimous consent changing of the Goldwater vote?

Mr. DURKIN. I am if I clear it with the Senator from South Carolina. It does not seem to be any problem.

Mr. HOLLINGS. I was talking with the leader about the frustrations we have trying to cooperate with the leadership to get our amendment up. I do not want to be put in the position where Senators get tired with the work on Tuesday morning. If we put it off until Tuesday then I cannot call my amendment and debate it. If we have a little bit of consideration of each other and discuss generally the merits, I am confident we will do this on Monday. I wish we could have this vote on Monday.

Mr. PACKWOOD. What I am going to suggest, if I might, is to ask unanimous consent that despite the fact we set a time certain for this at 10 o'clock that other amendments be in order that we be allowed to continue voting, even though we set a time certain on the Goldwater amendment. Perhaps this will solve the problem.

Mr. HOLLINGS. Could we get an up and down vote on our amendment?

Mr. PACKWOOD. I am not prepared to agree yet on a time certain on the Senator's amendment. Other amendments are expected. I do not want to put everything beyond 10 o'clock, if I agree to 10 o'clock Tuesday morning.

Mr. DURKIN. Nor do I.

Mr. HOLLINGS. What the Senator has done is bring up a substitute, and I looked at my amendment. If I try to call it up this particular moment, then the property tax one is a substitute. It is a questionable. catchy parliamentary situation, and then we will be all arguing parliamentary rules and not educational issues.

So I am afraid other amendments are also going to find themselves in a similar situation. That is what I am thinking about.

Mr. PACKWOOD. Unless by unanimous consent we can alleviate that situation.

Mr. HOLLINGS. I understand.

Mr. DURKIN. That would solve my problem. I think it would solve theirs.

Mr. HOLLINGS. Does it solve the majority leader's problem?

Mr. ROBERT C. BYRD. Whatever is agreeable with Senators is fine with me. I wish to see the Senate complete action on this bill Tuesday.

Mr. HOLLINGS. I would agree if they want to change it from 6 p.m. Monday to 10 a.m. on Tuesday morning on the Goldwater amendment. Is that cleared with Senator GOLDWATER.

Mr. DURKIN. Yes. He told me that was perfectly all right.

Mr. PACKWOOD. Where does that leave us with any other possible amendment? Not including the Hollings' amendment, where does that leave us with any other amendment someone may bring up and wish to have voted on prior to Tuesday at 10 o'clock?

Mr. ROBERT C. BYRD. By unanimous consent the Goldwater amendment will be set aside, as the Senator noted earlier, and the Senate could act on other amendments in the meantime, I would hope.

Mr. PACKWOOD. That is fine with me.

I said the Senator from Arizona, and I do not want to speak for him, would have no objection. He wants a vote. I do not think he cares when the vote is. I do not sense he is trying to hold up the Senate from taking other votes pending the outcome of his.

Mr. HOLLINGS. I think that is correct.

Mr. SCOTT. If the Senator will yield, I have very strong feelings on this bill myself and would want to talk long enough to explain my views. I am not talking about filibustering the bill. But I would want to discuss it for several hours, and I do not want to commit myself in any way that would prevent me from doing that. I have offered an amendment. I have a printed amendment that I would want to discuss about it and about the bill generally and the whole constitutional question. I believe the Senate should be informed of the implications because I read in the findings the wording that is written to meet a Supreme Court decision to decide in advance by the Senate that this bill is constitutional when, in fact, I think it is as unconstitutional as any measure that we have ever considered during my time in Congress.

I am not going to debate it right now. But I do want to reserve sufficient time and would not want to agree at this time on any final vote.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SCOTT. I am speaking literally of perhaps 3 or 4 hours.

Mr. ROBERT C. BYRD. Would the Senator wish to speak this afternoon?

Mr. SCOTT. No. I am not prepared to speak this afternoon because I am examining some law books, and I wish to speak in an authoritative way and now part of it would be things that I know and other parts would be things that I believe to be true but would want to verify, so I am not prepared to speak this afteroon.

Mr. ROBERT C. BYRD. All right.

I will have to say, Mr. President, that I wish I had not vitiated the order for tomorrow so that Senators could come in tomorrow and speak on the bill with the understanding there would not be any rollcall votes tomorrow.

Will the Senator come in tomorrow?

Mr. SCOTT. Mr. President, I would like to think that I could speak when someone is listening.

Mr. ROBERT C. BYRD. I will be here.

Mr. SCOTT. Yes, but I doubt that I would be persuasive enough to change the mind of the distinguished majority leader, and I would not want to speak tomorrow.

Mr. ROBERT C. BYRD. The Senator really does not want to say that. He really does not mean that. I may be in accord with him.

Mr. SCOTT. I would hope the Senator would be, in all candor, and I have a number of reasons for thinking that the Senator may be. But nevertheless Saturday is not a good time to persuade the Senate to one point of view or the other.

Mr. ROBERT C. BYRD. Mr. President, I remain hopeful that we can complete action on this measure Tuesday at some point, so I suggest Senators plan for a long session on Monday.

We just passed the point where we can take 3 or 4 days on this bill, and yet it is of vital importance. It involves constitutional issues, and I think Senators should have sufficient time to debate it. But I hope we can complete it sometime Tuesday evening which would give us the rest of the day. Senators may talk as long as they wish the remainder of today and Monday. The Senate is coming in at what time Monday, may I ask the Chair?

The PRESIDING OFFICER. The Senate comes in at 9:30 on Monday morning.

Mr. ROBERT C. BYRD. Nine-thirty on Monday morning, and I should think that if we stayed in until 10 o'clock on Monday evening and then had a long day on Tuesday, wrapped the bill up Tuesday evening, that would seem to be a reasonable expectation.

Mr. HOLLINGS. That can be done.

Mr. ROBERT C. BYRD. So I may suggest to the cloakrooms that Senators be alerted to the fact that Monday will be a long day.

Mr. PACKWOOD. Has the Goldwater vote been put off?

Mr. ROBERT C. BYRD. No. The Goldwater vote has not been put off. I thought there was an objection.

Mr. DURKIN. There was no objection; just a discussion. Should I propound that?

The PRESIDING OFFICER. The vote is still scheduled for 6 p.m. Monday at this moment.

Mr. ROBERT C. BYRD. I personally have no objection to putting that vote over until Tuesday. I am not directly involved in this issue or these amendments in any way.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. DURKIN. Mr. President, I ask unanimous consent that the vote on the Goldwater amendment be put off until 10 o'clock on Tuesday morning.

Mr. ROBERT C. BYRD. Mr. President,

reserving the right to object, may I ask the distinguished Senator from South Carolina, by putting this vote off until 10 o'clock on Tuesday morning does he feel that this would likely result in a delay until Wednesday of final passage of this bill?

Mr. HOLLINGS. I cannot answer that with any accuracy in that I have tried to talk with our leading friend, the Senator from Oregon, about it, about an up-and-down vote. I think he is going to give me that courtesy, and then the question is the time and if we can have that that would be the main thing. We could debate it all day Monday and late Monday evening, as the majority leader suggests, and I hope sometime Monday morning the two Senators could get together and agree on a time on Tuesday perhaps.

Mr. PACKWOOD. Mr. President, there may be a possibility we can vote on this on Monday night. I did not want to agree to a time certain now. If we do agree to the unanimous-consent request of the Senator from New Hampshire I know the majority leader will try to get that measure temporarily set aside so a vote on the Hollings amendment or any other amendment might be in order to be taken up. With that understanding, I have no objection.

Mr. HOLLINGS. If we agreed on Monday night, I would have to agree on Tuesday morning. I have to follow this particular amendment.

Mr. PACKWOOD. Does the Senator have to follow this particular amendment?

Mr. HOLLINGS. That is right, because this also relates to elementary and secondary, am I am trying in a capsule to knock out all reference to elementary and secondary education in the bill.

Mr. PACKWOOD. Do I understand the Senator does not want a vote on his amendment prior to the vote on the Goldwater amendment?

Mr. HOLLINGS. I cannot because if my amendment is successful then the Goldwater amendment comes in and reinstitutes another tuition tax credit for elementary and secondary education, which is contrary to the whole purpose of my amendment to strike from the bill any reference to elementary and secondary education.

Mr. PACKWOOD. Let us assume that we get to a 6 or 7 o'clock vote.

Mr. HOLLINGS. That is the issue with the Senator.

Mr. PACKWOOD. I understand.

Mr. HOLLINGS. The higher education one has passed the Senate six times.

Mr. PACKWOOD. Assuming we get to it at 6 or 7 o'clock on Monday night and it is obvious Senator SCOTT wishes 2 or 3 hours, and we had debate and are ready to vote on the Senator's amendment, if the Goldwater amendment can then be put aside, will the Senator be prepared to vote on his amendment?

Mr. HOLLINGS. I will be prepared to vote then if we waited until 10 o'clock on Tuesday morning and we vitiate what we did on Monday night on mine.

Mr. PACKWOOD. We would if we passed the Goldwater amendment.

Mr. HOLLINGS. That is right.

Mr. PACKWOOD. I do not know where that leaves us.

Mr. HOLLINGS. With that, Mr. President, then I am going to object because I am beginning to see a situation I did not see so clearly.

Mr. ABOUREZK. Mr. President, while the leader is here I wonder if I might ask just a question or two on the scheduling of legislation?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. As the leader knows the resolution that came out of the Rules Committee which would extend the life of the Indian Affairs Committee for 2 years has been on the calendar for more than a week now and I wonder if the leader might have an idea when he would schedule that for action on the floor.

Mr. ROBERT C. BYRD. No, I do not, I must say to my friend. I am in no position to say at this time. I wish I could answer his question, but I cannot.

Mr. ABOUREZK. The other question I would like to ask the leader, does he have any idea when the natural gas conference report might be scheduled for action?

Mr. ROBERT C. BYRD. When it is signed and the manager will call it up. Again I do not know when that will be.

Mr. ABOUREZK. I thank the leader.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. SCOTT. Mr. President, I have a printed amendment numbered 3461, and what my amendment would do would be to strike out section 1(b), the declaration of policy portion of the bill.

Mr. President, I want to discuss this proposed amendment at a later time in greater detail, but while we are just at the beginning of our discussion I would like to say that I feel that this declaration of policy is ill founded because in the declaration of policy it states, "The Congress hereby declares it to be the policy of the United States to foster educational opportunity, diversity, and choice for all Americans."

Well, this country of ours was founded on the idea that we were the melting pot of the world. The public school system has a whole lot to do with the concept of blending people from various cultural and religious and racial backgrounds into one Nation, a Nation which I believe is the envy of the entire world.

Our public schools, open to all children without tuition, without payment, do contribute to the unity and, I believe, to the welfare of the people of the entire country. So this word "diversity" is a word with which I have some difficulty.

Then it goes on further and talks about "The Congress finds that without such assistance the diversity and pluralism that constitute important strengths of the American education system will be diminished." I do not believe that the strength of the country or the strength of our school system is founded on diversity. I believe it is founded on quality education. It just seems to me that to say that the diversity rather than unity is the strength of our Nation, in my judgment, is wrong.

Then it goes further——

Mr. DURKIN. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. SCOTT. Not until I finish my statement and then I would be glad to yield. I am not going to be very long.

"The Congress further finds that the provision of such assistance in this manner fully complies with all provisions of the Constitution;" and here Congress is finding that an act of Congress is constitutional. To me that is a function of our courts.

Of course, Congress should not pass legislation knowing it to be unconstitutional. That is one objection I have to this bill.

Then it goes on "complies with all provisions of the Constitution; that it does not constitute excessive governmental entanglement with religion."

Well, that wording has come out of decisions of the Supreme Court which say that when you did anything that provides excessive Government entanglement with religion, where Congress passes an act that does that, it is contrary to the Constitution.

So here we in Congress are trying to meet the objections of the Supreme Court of the United States by finding that this very act does not do it.

In the Pennsylvania and New York case we know that language was used, and we are trying to anticipate in advance the objections that might be raised. I know at the end of the bill we provide a way to get an expeditious decision on this matter by the Supreme Court. But we are laying the foundation for a favorable decision by the court holding that this bill is constitutional.

It goes further among the findings of the Senate and it says "is wholly secular in purpose." I wonder if anybody in this Chamber believes that this bill to grant aid to parochial schools is wholly secular in nature? I do not believe the proponents of the bill intended that it be wholly secular in nature.

I believe we must admit, if we are true to ourselves and true to the Senate that this is a bill to help parochial schools. Parochial schools have difficulties, and if we admit that it is to help parochial schools then we are afraid it will be declared unconstitutional.

I still believe with Thomas Jefferson in the wall of separation between church and state. Gradually that has been chipped away. Even the courts have chipped at it from time to time. But if we are going to continue to have religious freedom in this country we should have, in my judgment, and others may disagree, a great wall of separation between church and State. I am rather proud of our statute of religious freedom that we have in the State of Virginia in which we say that all men shall be free with regard to their beliefs between themselves and their Maker, and that no man shall be compelled to frequent an establishment of religion. He has the right by argument to maintain his belief. That is still part of the statutory law of the State of Virginia. It does express the thoughts of Jefferson, Monroe, and others.

That this bill is wholly secular in pur-

pose, and that "such assistance will neither advance nor hinder religion," if you give a tax credit to an individual and give him an opportunity to send his child to a religious school when he might not otherwise be able to afford it, is helping that religious school, and the religious school does teach religion, and so it does advance religion.

"The primary purpose of this act is to enhance equality of educational opportunity for all Americans at the schools and colleges of their choice."

Mr. President, I believe that a person should have the freedom to send his child to a school of his choice, but at his own expense.

I received a letter today signed by the distinguished chairman of the Budget Committee, the Senator from Maine (Mr. MUSKIE) in which he discussed the cost, and I assume each Member of the Senate received a similar letter. If we look at the cost of this having three systems of schools all financed by the Government, that is much more costly than the Government financing only one school system.

Mr. DURKIN. Mr. President, I ask unanimous consent that Tina Daigle and Marge Kessler of my staff be given floor privileges.

The PRESIDING OFFICER. Will the Senator state more fully his request?

Mr. DURKIN. A unanimous consent request that Tina Daigle and Marge Kessler of my staff be given floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. The same request for Mimi Mager of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Same request on behalf of Jim Brady of Senator Roth's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, I ask unanimous consent to have Neil McDonald of the Senate Judiciary Committee staff present of the floor throughout the consideration of this measure.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. DURKIN. Mr. President, I have no further need for the floor. I yield the floor.

Mr. PACKWOOD. Mr. President, will the Senator from Virginia respond to my question?

Mr. SCOTT. Mr. President, what I had hoped to do was go back to the office to prepare my comments to make later on the floor. I know the distinguished Senator from Oregon has spent considerable time, being one of the principal authors of this bill, and I have been working on other things and have not had the opportunity to review the scope of this bill and the decisions of the courts to the extent that I would like to do.

I think there might be a better exchange of views if the distinguished Senator would permit me to have more detail, and then I believe we could have a little more learned discussion, and I might not be at a disadvantage in responding to whatever questions the distinguished Senator has to pose. But I would be glad, in an initial way, just off the cuff, to respond if he wants to pursue the matter at this time. I would, however, prefer that we do it at a later time.

Mr. PACKWOOD. Mr. President, I have never known the Senator from Virginia to be at a loss for words or logic, but I will defer to his request and withhold my question.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. MOYNIHAN. Mr. President, I regret that it does not appear that any of those who——

The PRESIDING OFFICER (Mr. PACKWOOD). The Chair would remind the Senator that a quorum call is in progress.

Mr. MOYNIHAN. The Chair is correct.

Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, my inattention to that procedural detail was brought about by an effort to discover whether the junior Senator from Arkansas was in the Chamber, and now I find he is in the chair.

I do not know what is the appropriate manner, at this point, by which to proceed, inasmuch as I wish to address not so much a question to him as to take advantage of his presence—though I hope not excessive advantage of his presence in the chair—to address a point to him, because he has raised with fair-minded and persistent inquiries the question of the state of Supreme Court decisions in this matter, and his associates in this debate have on several occasions suggested that the state of constitutional findings was sufficiently precise and settled so as to preclude any necessity for further questioning, and even to bring into question the appropriateness of further questioning.

I would suggest not. I make the suggestion, not as a lawyer with a fine sense of the legal issues involved here, but simply as a layman reading the language of the decisions. I can say to you that in the testimony which we have heard in the Senate Finance Committee on this matter, any number of genuinely distinguished scholars have come before us to say that the state of these opinions is appalling in its confusion and its contradictions.

One justice of the court, referring to the "wall of separation," an image taken from Jefferson's language and writings and incorporated in the Everson decision, observed that the wall more nearly resembles the serpentine wall of the University of Virginia, of which Jefferson was also the architect.

Here is a statement by Antonin Scalia, a professor of law at the University of Chicago, and immediate past assistant attorney general at the Justice Department's Office of Legal Counsel. In the parlance of those matters, he is fairly described as "the Attorney General's lawyer." This is Professor Scalia's statement before the committee; he says:

> It is impossible, within the time allotted, to describe with any completeness the utter confusion of Supreme Court pronouncements in the church-state area.

My own favorite example was handed down in June a year ago, when the Court, by an almost incomprehensible 5 to 4 decision, said it was constitutional to provide a book to a student in a parochial school, but not to provide a teaching aid. In other words, we would be led to believe that a book was constitutional and a map was not, but a book of maps, an atlas, was—or was it?—and so on in that manner.

The Senator from Virginia made a point referring to the preamble to our legislation, in which we cite the case of Lemon against Kurtzman, which set forth the three-pronged conditions of constitutionality.

The key line is, "While some involvement and entanglement are inevitable, lines must be drawn."

In the summary of the case, the Court also refers to "the relationship arising under the statutes involves excessive entanglement between Government and religion."

What does the word "entanglement" mean? I have here Webster's second edition which is not the only authority which might be brought to bear, but it is the closest authority, the better of the two current Webster's in my view, anyway. It resides with solemn, and imposing dignity in the U.S. Senate, and is the book most often consulted by the Senators.

I perhaps first should state that "entanglement, is a noun meaning the act of entangling, or state of being entangled."

What is "entangle?" To twist or interweave in such a manner as not to be easily separated. To involve so as to render extrication difficult."

Are we to understand that entanglement is agreeable to the Constitution but excessive entanglement is not?

Just what is the hardness of vocabulary, the precision of language, in which the Court could say in a sequence of doctrines that begins with a wall of separation, to suggest by modifying the word "entanglement," that some entanglement is all right but excessive entanglement is not all right?

I would be against any entanglement. I am alarmed that the Supreme Court would think some entanglement between church and State is an agreeable or permissible condition and only when this becomes excessive that some restraints are imposed by the Judiciary.

It seems to me that what the Court has been doing in the last 30 years is moving back in an increasingly confused way from an historically indefensible premise which it laid down in 1947.

Mr. PACKWOOD. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. PACKWOOD. It is a very thin line between entanglement and excessive entanglement, and I do not know how we can draw it between a donation of $500 to a church which can be taken off one's income tax, the donation of $500 to the church school which can be taken off one's income tax, constitutionally,

and the payment of a $500 tuition to the school to educate a child, which the opponents would say is unconstitutional.

If we look at the history, what our Founding Fathers were frightened of was an established church. They had just broken free from a country that had an established church. What the constitutional cases hold, which have been decided by the courts, in my estimation, since 1947, is that there cannot be a Government appropriation, or maybe even a tax deduction, where the overwhelming beneficiaries in both cases, 95 percent or more, were of one sect. What they are saying is that that violates what our forefathers were trying to avoid; namely, an established church.

That is not the situation with this bill. That is not the situation with this bill if we limited the consideration to primary and secondary schools.

I do not know how anyone can draw such a fine line as to say, "You can send your child to the school and give them a $500 contribution and that is all right, but you cannot send your child to that school and pay $500 tuition and take that off your income tax."

Mr. MOYNIHAN. I very much agree with the Senator from Oregon. There is a relationship there, but the word "entanglement" reflects near to inextricable involvement, which it is not at all.

Mr. PACKWOOD. If that is entanglement, we are all strangling and will not live long. If that is entanglement, just the very line on the income tax that allows someone to take some money off, Lord protect us from the rest of the entanglement in the Federal Government.

Mr. MOYNIHAN. Even if it were entanglement, it might be all right because it is not excessive entanglement.

This reduces language to the point where meaning begins to disappear.

The Senator has raised the question of the original intention of the first amendment, which is historically not disputed.

I want to say that the Senator from South Carolina very generously has acknowledge the early meaning, and the Senator from Arkansas is in the Chair and will not for a few moments have a chance to respond. But, if he wishes to, I will be happy to hear his position.

I would like to use this opportunity to read for a moment from the annals of the Congress of the United States, the first Congress, which were published in 1834 on the basis of notes taken by a responsible person who was present on that occasion. It is interesting to recall that the Senate proceedings at that time were secret but the House proceedings were open.

There is a very nice passage where we can observe the point at which the difficulty we have with the intepretation of the present first amendment begins.

I would like to remind a not exactly tumultuous or yet overcrowded Chamber that the House of Representatives debated the first amendment for 1 day. Madison originally put forward the proposition in which, to say it very simply, the key clause, what we now call the establishment clause, was and I shall quote it, that "No national religion shall be established by law."

The proposition had first been put forward that no religion should be established by law, and then Madison said, "Would the gentleman be satisfied if the word 'national' were inserted before 'religion'?" He believed that the people feared one sect might obtain a preeminence or that two combined together might establish a religion to which they would compel others to conform.

He thought if the word "national" were introduced it would point the amendment directly to the object it was intended to prevent.

"Congress shall make no law to establish a national religion."

What happened to that clarifying word "national"? Mr. Gerry, of Massachusetts, objected.

Mr. Gerry's role in the First Congress is confusing to historians as it was confusing to his colleagues, because he objected to almost everything, and it was widely said that he objected to anything he did not propose. In this instance, he objected to the word "national" and entered upon a not inelegant if somewhat obscure point that the anti-Federalists had opposed the Constitution on the grounds that it was establishing a national government.

The Federalists said, no, it was establishing a federal government. But here, having won their way, what are they, first of all, doing? They are introducing the word "national" right into the Constitution, and Gerry was against it. He proceeded them to a line which was not less obscure, if indeed, also less elegant. He said, and I offer this to the Senator from Arkansas, who may rightly fear that our discourses might rise to the level of intemperate comparisons of one with the other. I offer him Elbridge Gerry's observation in that first Congress. He said, with respect to the question of having differing sides on this matter, "Their names then ought not to have been distinguished by Federalists and anti-Federalists, but rats and anti-rats."

Such were the views of Elbridge Gerry at the point, in the course of debate at which the word "national" disappeared from the first amendment, leaving a problem that, I think, has pursued us since. There is not the least question of the intentions of the framers of the amendment but over a very long time, that intention inevitably became more remote. There is only the one reason it became remote: Because the time came when no one much longer knew, or few much longer knew what an established church was, still less that anyone very much wanted to establish one. It is just a phenomenon that disappeared in the course of the 19th century.

I suppose the only established church left, in that sense, is probably the Church of England. The Church of Ireland was disestablished, the Church of Scotland was disestablished, the Church of Canada was disestablished. State churches that were established by State governments in the 18th century—and at the time the first amendment was adopted, 9 of the first 13 States had established churches—they, too, in time, disappeared.

Mr. President, I am going to take this moment in the course of the debate to bring to the beginning an end, which is to say to make the opening statement which I have prepared for this occasion. My colleagues in this matter have been generous enough to refer to the work of my old friend and associate, Dr. Chester Finn, who has worked on this matter. I should like to express a similar respect and gratitude to John Colvin of Senator PACKWOOD's staff, to Susan Irving of Senator RIBICOFF's staff, and to Bruce Thompson of Senator ROTH's staff, who have served spectacularly in this matter. Together we have tried, as the record will show—I see Mr. Colvin is on the floor now—to present a serious proposition to the Senate, one already approved, of course, by the House, and one that we hope will be judged, as is clear so far from this debate today, on its merits as public policy. It is not merely the right but the responsibility of the Senate to speak its mind to issues of constitutional law when they are raised with respect to legislation, as regularly they are, and to leave the matter to the ultimate decision by the Court, which always, in its deliberations, asks, What was the judgment of Congress? It is a novel doctrine altogether that Congress ought not to have any views of its own, a doctrine that is certainly not historically supportable.

The central issue before the Senate this week is whether it is to be the policy of the United States to foster State monopoly in the field of education or to help to enable individuals to obtain for themselves and their children the education they prefer at the schools and colleges they select.

The issue is not the future of the public schools. They now enroll more than 90 percent of all primary and secondary students, more than 75 percent of all postsecondary students. Although they do not lack for problems, their future is secure and is not the least threatened by our proposal.

In no small part, this security is due to two decades of Federal provision for public education. In the fiscal year about to begin, Federal expenditures will average $352 per public school student and $1,227 per college student. These sums are the product of literally hundreds of laws and provisions, including aid to institutions, aid to individual students, and tax expenditures. For let no one be misled by the claim that tuition tax credits represent the first involvement of the Internal Revenue Code—or the Committee on Finance—with Federal education policy. Existing tax expenditures for education will total $7.7 billion in fiscal 1979.

The sponsors of tuition tax credits have been steadfast and ardent supporters of these measures. Many of us have participated in their inception. As a member of the Kennedy and Johnson administrations, I took part in the creation of the college work-study program in 1963. In 1964, I helped negotiate the agreements that broke the deadlock over Federal aid to education and led directly to passage of the Elementary and Secondary Education Act of 1965. In 1970 I drafted the Presidential message to Congress that led to the basic educational opportunity grants program, the Na-

tional Institute of Education, and the Fund for Improvement of Postsecondary Education. In the Senate I have voted for every major eduction authorizataion and appropriation bill that has come before us.

I have done this—and my colleagues have similar records—because of an absolute conviction that the Federal Government should support education, and that its first responsibility is to the public institutions in which the vast majority of students receive their education.

Let there be no mistake about it. The public schools come first. We have provided for them, and we shall continue to provide for them and for their students. There is no conflict whatsoever between continued Federal support for public education and the proposal now before us. And there is no truth to the accusation that in providing limited aid through the tax system to families who patronize non-Government schools we will do any harm whatsoever to government schools.

Far the more important policy question before the Senate is whether nonpublic schools are to have a future or whether the National Government is to aid and abet those who would not mind in the least if they were to shut down entirely.

For let there be no mistake about this either: in the field of education, the public sector is slowly but inexorably vanquishing the private.

A quarter century ago, private colleges and universities enrolled half the postsecondary students. Today, they account for just 22 percent.

In 1959–60, 14 out of every 100 American schoolchildren attended private and parochial schools. By 1975–76, this had declined to 9 percent. Between 1965 and 1975, nonpublic schools lost 1.8 million students, some 28 percent of their enrollments. In 1976 there were 2,246 fewer private schools in existence than there had been one decade earlier.

This decline has been especially acute among schools affiliated with the Roman Catholic Church. They lost 39 percent of their students—some 2.16 million pupils—between 1965 and 1975.

The public schools gained almost the same number of students—2.66 million—during this period.

The question cannot be avoided: Is the National Government to ignore these unmistakable trends? Is it to feign neutrality, all the while providing significant amounts of aid only to public schools as the schools of the nongovernment sector decline and crumble?

The administration says yes. Despite solemn promises by the President and pious pronouncements by the U.S. Commissioner of Education. the executive branch remains the property of a public bureaucracy that abhors that which it does not control. At the policymaking level, it is dominated by persons who have succumbed to a form of statism which they still, unaccountably, equate with liberalism. They have striven mightily to brand our proposal as illiberal but have succeeded only in further distorting public discourse in this area. For their arguments reduce to a single essential: The argument for State monopoly in the education of American children.

An element of liberty is at stake in this debate. An historic manifestation of American pluralism and diversity is at stake. The civil rights of the American people are involved. Not just of those who happen to favor nongovernment schools for their own children, but also of those millions more who would defend the right of their neighbors to make such a choice.

It has been said that this is a Catholic issue, and insofar as Catholic schools still comprise the largest single part of the nongovernment education system, that is true. But it is also a serious oversimplification that fails to take account of the 166,000 students in schools run by the Missouri Lutheran Synod, the 76,000 in Seventh-day Adventist schools, the 241,000 in Evangelical Christian schools, the 90,000 in Jewish day schools, the 77,000 in Episcopal schools, the 14,000 in Quaker schools, or the 277,000 in independent private schools, as well as the many other religious and nonsectarian groups enrolling significant numbers in their schools.

It has also been said that our proposal would benefit only the middle class. This is untrue. No less an authority than Prof. Thomas Sowell, the distinguished black economist, has said that—

> Few groups have so much at stake in the fate of this bill as ghetto blacks.

Four hundred thousand black and other minority group members now attend nongovernment schools. Many more would be able to do so with the assistance of tuition tax credits. Sowell writes that:

> One of the great untold success stories of contemporary American education is the extent to which Catholic schools, left behind in ghettoes by the departure of their original white clientele, are successfully educating black youngsters there at low cost.

In one State and city after another, a distinguishing characteristic of nonpublic schools is their high degree of racial integration. In the archdiocese of New York—which extends up the Hudson Valley and into the Catskill Mountains—37 percent of elementary school students are black, Hispanic or Asian. In Chicago, 55 percent of the students in the 82 Catholic schools are black. In Philadelphia, 45 percent are black or Spanish surnamed; in New Orleans, the figure is 38 percent. In the Roman Catholic schools of South Carolina, 28 percent of the students are black, and two-thirds of those are not even Catholic.

At our hearings last January, the Finance Committee heard eloquent pleas for tuition tax credits by black parents whose children attend the Our Lady of Perpetual Help School in Anacostia, D.C., just a few miles from this Chamber. The Reverend George Clements sent an urgent letter from the Holy Angels Parish of Chicago, which operates the largest black Catholic school in the Nation, enrolling 1,300 students. "Our school," he writes, "has a very long waiting list because of its high academic quality. This school is located in the lowest socioeconomic area of the city of Chicago. We have an extremely difficult time raising the necessary funds to keep our school alive."

To deny this reality is worse than oversight. It verges on willful blindness on the part of those who have decided that to aid such persons and, indirectly, such schools is illiberal. I submit that the opposite is true: To deny aid to such persons and thereby make it more difficult for them to obtain the education they seek for their families is to submit to paternalism and to statism.

It has been said that our proposal would result in support for segregated private schools. In order to believe this, one must believe that the Internal Revenue Service is not willing to enforce the tax code or not competent to do so. For under our proposal no elementary or secondary student may receive a tax credit unless the IRS has certified the school that the student attends is nondiscriminatory. Our committee report explains these provisions and procedures in some detail. Commissioner Kurtz has personally assured me that the IRS is determined scrupulously to enforce these standards, and that within a few weeks will promulgate even more stringent standards and procedures. He has also made clear that the IRS will investigate any and every private school about which a complaint or allegation of discrimination is brought. To insure the adequacy of these procedures, our bill directs the Attorney General, the Secretary of HEW and the Secretary of the Treasury jointly to monitor the enforcement of civil rights provisions by the Internal Revenue Service, and to report to the Congress, with the first such report due well before the elementary and secondary tax credit takes effect. Should any shortcomings be found, we pledge ourselves to direct the attention of the Congress to them and to propose the necessary remedies.

It has been said that our proposal would be struck down by the Supreme Court. If so, that will be the end of it. We seek only our day in court and think of it as a matter of right that we should be given such a hearing. It is after all the task of the Supreme Court of the United States to make such determinations.

The constitutional issue will be discussed at length in the course of this debate, and I shall have more to say about it. For now. I would simply cite the opinion of Prof. Antonin Scalia of the University of Chicago, immediate past Assistant Attorney General, Office of Legal Counsel that:

> It is impossible, within the time allotted, to describe with any completeness the utter confusion of Supreme Court pronouncements in the church-state area. . . . I urge you, then, to approach this issue as a question of what the constitutional law "should be" rather than vainly seeking to determine what it "is" under the decisions of the Court.

I believe that is an appropriate charge to the Congress and that it sets the proper context for this debate. I would note that Professor Scalia was the immediate predecessor at the Department of Justice of Mr. John M. Harmon, on whose memorandum to the Attorney

General the opponents of tuition tax credits have relied so heavily. I think it is of more than passing significance that two successive occupants of the subcabinet position with primary responsibility for constitutional opinions within the executive branch should have come to opposite conclusions. That would, at the very least, seem to call for the attention of the Supreme Court.

It is apparent by now that the principal controversy surrounding our proposal relates to its elementary and secondary school provisions. But it is essential to recall that three-quarters of the benefit from the bill before the Senate would accrue to college and university students and their families.

Tuition tax credits at the postsecondary level are by now a familiar concept in this Chamber. Time and again, we have overwhelmingly endorsed that concept, only to meet with a chilly response from the other body. This time, the situation is entirely different. The House has given tuition tax credits a powerful vote of support, and the time would seem to be at hand to complete action.

By now the case for Federal aid to middle income college students has been exhaustively made. I will rely on a single pair of statistics: between 1967 and 1976, college tuitions rose more than 93 percent, while the median aftertax income of families with college age children rose 66.8 percent.

Once the problem has been recognized, the issue is what solution to select. And at the postsecondary level, we have in fact been presented with various alternatives: an expansion of need-based grant aid to include some middle-income students; a massive federally sponsored tuition advance or loan program, possibly one repaid through the income tax system; or tax credits for college tuitions.

In favoring tax credits, I do not reject the other ideas. I shall continue to support the basic grants program and favor its expansion. Although 10 years old, the tuition advance idea bears renewed scrutiny when the 96th Congress reexamines the Higher Education Act. But that is no reason to delay another day in adopting the tax credit proposal, which would provide a modest amount of urgently needed aid to practically every postsecondary student in the land, and would do so in a manner that does not conflict or overlap at all with existing programs.

In fact, we have tailored our proposal to insure that every dollar of basic grant or supplementary grant aid a student receives is actually subtracted from the tax credit for which he or she would otherwise be eligible. For some students, this will permit a choice between two forms of assistance. For some, particularly those with very low incomes, the grant programs will be more useful. But for millions ineligible for grant aid the tax credit will be available.

Tax credits are a particularly appealing form of financial assistance, for they do not require an individual to come as an applicant to the Federal bureaucracy asking to be declared suitably needy. All that tax credits do is allow individuals and families to retain a bit more of their own income during that period of their lives when they are singularly oppressed by college costs. No complex procedures are involved and no new forms. It is simple; it is direct; it is reasonable; and it maintains an exemplary relationship between the citizen and his Government.

It has been charged that students and families will not retain the benefit of these tax credits, the theory apparently being that colleges and universities will boost their tuition charges so as to "capture" the additional resources.

Apart from the fact that practically every campus in the land is forced to raise its tuition almost every year simply in order to keep its books balanced in an inflationary era—this without tax credits or other middle-income student aid—this allegation betrays scant understanding of the market economics of higher education. With the 18-year-old population shrinking by 25 percent between 1979 and 1992, all but the most selective colleges are already finding it necessary to work to attract enough students to remain in operation. Institutions that seek to exploit tuition tax credits by boosting their tuitions will find it that much more difficult to locate enough students willing to pay those tuitions, whereas colleges shrewd enough to hold down the "net price" they charge their customers will improve their competitive position. I have confidence in the workings of this competitive marketplace as the surest possible safeguard against widespread "passing through" of tax credits to the institution. But there is a further safeguard built into our proposal: The fact that the credits are calculated at a 50-percent rate means that the student must still pay half of any tuition increases out of his own pocket. This will sharply inhibit enrollment-conscious administrators and trustees from untold increases in their tuition and fees.

In conclusion, let me say that our proposition has been fully heard and exhaustively examined. In response to the major practical objections that were brought to our attention, the Finance Committee has modified its original proposal: Sharply cutting the cost and making a number of important changes and improvements. The bill now before us, which the committee reported by a vote of 15 to 1, is one that deserves the support of every Member of the Senate.

The first remarks I made today were addressed in gratitude for and appreciation of the opening statement of the Senator from Connecticut (Mr. RIBICOFF), who began, for our party, that period of Federal provision for elementary, primary, and secondary schools. In his statement, he had occasion to review the succession, a noble one, of enactments by the Congress providing for the public schools—primary, secondary, college and university. Over and over again, as this issue has developed, we, and our party, have stated our purpose and conviction: public schools come first. It is precisely our sense that provision has been made that enables us now to turn to the nonpublic schools.

Let us be clear that this matter began in a joint collaboration between the administration of President Eisenhower and the Congress. I think it has to be said that if we want to ascribe responsibility for the present era of Federal support for education, we have no historical choice but to acknowledge the indispensable role of the Soviet Union and the engineers who produced Sputnik. That led to the NDEA. The Elementary and Secondary Education Act was a response to what we judged to be responsibilities imposed upon us by our sense of what ought to be done rather than what had to be done.

Mr. President, I interject there to say it will sometimes appear awkward for us in finding words, alternatives to the terms "public" and "private," it being inevitable in this age that some presumption attaches to the word "private," that if something is private it ought not have public support.

The schools of which we speak are not private. They are as public as any school, but simply have not had public moneys available to them. They preceded the existing public schools as the source of education for the public.

The public schools in my part of the Nation began, roughly, in the 1820's and consolidated in the 1840's. In the South, there was no public education prior to the 1870's. There are States so recent in their founding, such as Oregon, that schools are perhaps not even that old.

In every case, the non-Government schools were coequal with or preceded, in most cases the public schools.

We now see, at this moment, perhaps the most conspicuous instance of the general phenomena about which Schumpeter wrote at the end of the Second World War when he explained how the society which the West has created in the course of three centuries would come to an end.

He said that the end of liberal society would come with the steady conquest of the private sector by the public sector. There would be no place where this conquest would be more significant in its long-range impact, as well as in its immediate context, as in the disappearance of non-Government education, or private education, in the context of tax advantage, on the one hand, and cost burdens, on the other, that made it possible to sustain.

That is what the senior Senator from Connecticut spoke about this morning. He said that when he began as Secretary of Health, Education, and Welfare, 15 percent of the primary and secondary school students in the United States were in nonpublic schools, and today 9 percent are.

We know that the Roman Catholic Church has been prominent in this sequence. It is no historical mystery.

At a time in the 1830s, basically, when it commenced to be agreed that large sums of public moneys would be made available for education, a portion of the church-related school systems transferred themselves into the public school system, and they did it in a most open way, because of the practices of a general protestant sensibility, the choice of

Bible, things like that in the public school systems would conform to Protestant practice and, therefore, were acceptable to it.

It was the judgment of the Catholics that in that case they would not join and, therefore, at that point, one sector of the church-related school system remained private and the other became public.

This persisted in a remarkably stable pattern for a century and a half. Only in the last several decades has the church-related system commenced to lose its viability in economic terms. The Roman Catholic schools lost 39 percent of their students between 1965 and 1975.

Mr. HODGES. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. HODGES. The Senator was part of a committee of four, basically four Senators, who heard testimony for some 3 days. A considerable amount of additional material was submitted and has been bound in two volumes. These were hearings before the Subcommittee on Taxation and Debt Management of the Committee on Finance of the U.S. Senate. Is that correct?

Mr. MOYNIHAN. The Senator is not in a witness chair. The Senator from Arkansas knows full well that I had the honor to take part in the hearings of the subcommittee involved.

Mr. HODGES. The Senator was very active in the questioning of the witnesses, I notice from reading those hearings.

I call the Senator's attention to page 114 and ask if he recalls the explanation that was given for the decline in the number of children enrolled in Catholic schools. Does the Senator recall this, for example? It says:

> The attrition is generally attributed to a variety of factors, including a lower birthrate.

The Senator seems to feel there was some implied oppression of the private schools. The Federal Government had nothing to do with that, did it? What about inflation, a second factor? It has something to do with the movement of many Catholics to suburban areas where schools had not been built, and changing attitudes toward the church.

That, I point out to the Senator, is the reason for the drop in Roman Catholic children in Roman Catholic schools from 5.6 million to 3.4 million. That occurred in the decade 1965 to 1975.

I ask the Senator, is that not correct?

The Senator, in his prepared remarks, and consistently in his speeches and articles, goes not beyond 1965. Is it not correct that the Catholic schools have gained 200,000 students, and appear to be increasing, in the last 2 years? Is that correct?

Mr. MOYNIHAN. If the Senator has such data it has never been shown us. I do not believe it has been collected for such recent years, or, in the event not published yet.

May I say that I do not think the Senator from Arkansas will find the Senator from New York having used the term "oppression" by the Federal Government.

Mr. HODGES. I did not say "oppression." I said "implied oppression."

Mr. MOYNIHAN. I hope the Senator never has implied oppression.

What I would suggest is that a system in which public resources are available to one sector of the school system and not available to another will more or less inexorably work to the advantage of the one that has access to public funds. It is a pattern scarcely unknown.

Mr. HODGES. May I propound an additional question to the Senator?

The Senator also has implied—and if he has not, Senator PACKWOOD has—that if this pattern of failing to give this aid to parents who send their children to parochial schools continues—or I think he said private schools—we would see the death of the private school system.

In light of those dire predictions, I call the Senator's attention to the same page. His witnesses, those in favor of his proposal, say:

> Five years ago it was doubtful whether the Catholic parochial school system in general would survive, much less those in inner city areas requiring subsidies.

It goes on to mention the loss through 1975. But I think the gist of this article and the gist of the facts is that the Catholic parochial school system today, 1978, is doing quite well, thank you, in terms of numbers.

The same dire predictions about the death of the Catholic parochial system were made to the court in Nyquist, the case which I will mention at further length on Monday.

That was in Nyquist, in 1973, the key case—critical, and on all four squares, as they say in law school. In that case, the argument was made by proponents of the tuition tax credits in New York State that if this was not done, the Catholic school system would go under. One of the strong arguments that got the court's attention was how disastrous that would be on the public schools, because they would have to take in these children.

I say to the Senator that, in truth and in fact, since those dire predictions were made in 1972 and 1973, that has not taken place in New York, has it?

Mr. MOYNIHAN. I have to answer that I fear the answer is yes, it has. A third of the Catholic high schools in New York State have closed in the last decade.

Mr. HODGES. How many through merger?

Mr. MOYNIHAN. I do not know. I think the Senator will find that, in the main, they have in fact closed. Public schools merge, private schools close.

Mr. HODGES. What of the number of students?

Mr. MOYNIHAN. In one decade, the number of students in Catholic schools dropped by 40 percent.

Mr. HODGES. What of the last 3 years?

Mr. MOYNIHAN. I do not think we have figures for more than 1976, and through that date there is no increase visible.

Mr. HODGES. But enrollment has increased. In other words, the decline has stopped, has it not? Is it not also true that the decline has stopped without tax credits, either those given by the unconstitutional approach of New York State or by the aid of Federal Government? Does the Senator agree with that?

Mr. MOYNIHAN. The Senator does not. The Senator does not say it is not possible.

But I share with the Senator a respect for data, and I do not see it. The data I have here, which are from the National Catholic Education Association, shows that enrollment 1965–66, in round numbers, was 4.5 million; in 1975–76, 2.5 million. That is elementary.

Mr. HODGES. What about elementary and secondary?

Mr. MOYNIHAN. Secondary dropped from 1.1 million to 0.9 million.

But I can tell the Senator with some confidence that the kinds of schools described in the article to which the Senator has referred—it is an article by Mr. Fisk, in the New York Times—those schools will go, because they have such little parish support. They have been kept open as a deliberate policy by the archdiocese involved, in order to make such schools available to people who are not Catholics. I read a paragraph:

> In individual schools, though, the presence of non-Catholics is often striking. At St. Aloysius School in central Harlem, for example, a substantial majority of students, 194 out of 235, are Protestants.

The point is made that these are the only alternatives to the local schools.

Mr. HODGES. I call the Senator's attention to the very next page. We are talking about the New York Diocese. We are talking about the Brooklyn Diocese.

Mr. MOYNIHAN. Yes.

Mr. HODGES. It reads:

> The Catholic Church's commitment to inner city schools has often been controversial, in part because of many of the students served are non-Catholic. The Archdiocese reported in New York that last year 40 percent of its 57,086 students in inner city schools were non-Catholic. For Brooklyn, the figure was 2 percent.

So let us not quote statistics of some isolated school that does have a higher percentage of non-Catholics.

Again, it is your article, not mine. I do not want to be misunderstood. I applaud the decision of the Catholic Church to continue the inner-city schools.

The same article indicates that the New York Diocese took $12 million in contributions from Westchester, which is a very rich area, and put it into the inner city, and I applaud them for it. That, I suggest, is the way to do it. That is the way churches should prosper, that is the way they should deal with human needs and problems, and not by coming to the Federal Government.

I do not want to interrupt the Senator, except that he propounded two questions to me while I was in the chair, and I would like to respond to those two questions.

Mr. MOYNIHAN. May I respond?

Mr. HODGES. Yes.

Mr. MOYNIHAN. I think the Senator will find that the non-Catholic proportion is considerably higher than those numbers.

Mr. HODGES. It is the Senator's own committee.

Mr. MOYNIHAN. Then I would make

the distinction. The Senator said, "It is your article, not mine." It is neither of our articles. I believe it is an article by Mr. Robert G. White.

Mr. HODGES. Did the Senator, when the article was introduced, quiz or examine him on that?

Mr. MOYNIHAN. No. He was not present at the hearing.

Mr. HODGES. It struck me as low also.

Mr. MOYNIHAN. No. We have this data. The point had not struck me as especially important.

In the last 10 years—let me be very precise—between 1965 and 1975 nonpublic schools lost 1.8 million students while public schools gained 2.7 million. The overall, or global statistics are not in question. If they were in question I hope I would be the first to question them.

I see the Senator from Oregon is on his feet. I wonder if he wishes to ask a question. I know the Senator from Arkansas has two responses he wishes to give to questions I addressed to him when he was in the uncomfortable position of not being able to answer back.

The Senator from Oregon.

Mr. PACKWOOD. I know the figures the Senator from Arkansas is citing are the same figures that would show that in New Orleans 21 percent of those attending are non-Catholic; in Chicago 39 percent, and I might add in Chicago 82 percent minority, black, Spanish surname, or other, 39 percent.

In Washington, D.C., 20 percent non-Catholic in the Catholic schools. These are all from the same source the Senator was citing. The interesting thing is, though, and thank the Lord for the Catholics, they made a commitment to that inner-city school system when many others were leaving it. Many other private schools could not afford it, and the Catholic Church long ago ceased to be able to afford it on a parish-by-parish basis, and the archdiocese in many of these areas made a decision to run these schools at a perpetual loss, and that is not a decision that they can afford to live with forever. At some stage, with churches losing money on these schools and losing money and losing money, they are going to be faced with the hard choice of, "Can we keep them open?"

Mr. MOYNIHAN. They will close down.

I am sure the Senator, my dear friend, will not mind if I say they did not make a choice about perpetual loss but about prospective loss. Perpetual extends beyond the normal range of our decision-making, because they will close down. They have to. I mean it is just that there are necessities in the world and one of them is that when there is such a persistent drain of income it is used up. That is all, and other things take even a higher claim. Education is not the primary function of these churches. They will do it as they can, but if they have to choose, it is on the periphery of the things they feel they have to do.

The Senator from Arkansas had two questions to which he wished me to respond.

Mr. HODGES. I think the Senator from New York, while I was in the chair, had mentioned Mr. Scalia. How does the Senator pronounce his name?

Mr. MOYNIHAN. Scalia.

Mr. HODGES. Now he is a professor of law at the University of Chicago. Quoting his approach, and using him as a basis on which you would raise the issue—as perhaps Senator Packwood did also—where you would raise the proposition that there was a very unanimous thought with respect to the constitutionality of the approach that you take, particularly with reference to the decision in Nyquist, which will be discussed at considerable length I think on Monday.

I ask this question, and I think in holding him up to our edification and giving him some substance—as we call it in law, when a lawyer puts a witness on he makes him an expert witness, he puffs him up as much as he can to the jury—the Senator did so in a very fine and distinguished fashion by saying he is, in effect, though he was only a deputy attorney general, the lawyer to the Attorney General.

Does the Senator have any idea what years Mr. Scalia was there?

Mr. MOYNIHAN. I said he was the immediate preceding Assistant Attorney General.

Mr. HODGES. Perhaps an assistant?

Mr. MOYNIHAN. I said assistant. The head of the Office of Legal Counsel. He is properly described as the Attorney General's lawyer. He handles these things.

Mr. HODGES. Was the Senator aware that he was the Attorney General's lawyer and one of the Attorney Generals for whom he was the lawyer was John Mitchell?

Mr. MOYNIHAN. He may have been. I do not know how long he was an incumbent. How long was he an incumbent?

Mr. PACKWOOD. I am not quite sure.

Mr. MOYNIHAN. What is the suggestion there?

Mr. HODGES. I am curious about whether during this period of time he was serving the Justice Department, he was also the lawyer to John Mitchell, who happens now to be in a Federal penitentiary.

Mr. MOYNIHAN. I will say this, sir, that I am a little surprised at the Senator from Arkansas. I do not know whether he was the Attorney General's lawyer for John Mitchell. He was, and he may have been, for all I know, the lawyer for Elliot Richardson. I do not know that either. But I do know at the end of Scalia's period in the Justice Department who the Attorney General was and had been for some time. Edward Levi. It occurs to me that Edward Levi was the president of the University of Chicago. In fact Mr. Scalia is now at Chicago. Perhaps he went back to Chicago. He was Edward Levi's lawyer, and that is good enough for me to establish that this is a man of standing in the profession.

Mr. HODGES. Let me just ask the Senator. He concluded his written statement on page 297. He discusses at length, and, in my opinion, not very thoroughly or accurately, Nyquist and Sloan, the pivotal 1973 cases. He finishes with what I find to be an astonishing assertion, and I, knowing the answer to this, know that the Senator from New York does not share my astonishment at it. But I think it should at least be in the RECORD. He concludes by saying, and there is a man purporting to give constitutional authority:

> I urge you, then, to approach this issue as a question of what the constitutional law "should be" rather than vainly seeking to determine what it "is" under the decisions of the court.

I find that astonishing.

Mr. MOYNIHAN. If I may interrupt the Senator I have a biographical statement of Mr. Scalia. He became assistant attorney general, Office of Legal Counsel, in 1974, and served until 1977. He did not, in 1974, and served until 1977. He did not, however, come there from the University of Chicago. He came from the University then went in 1977 to become professor of law at the University of Chicago.

Mr. HODGES. I ask, though, if this man is a prominent constitutional scholar, why he could not give a definitive answer, and instead said "Why don't we talk about what it should be." I find that rather incredible.

Mr. PACKWOOD. If I might respond to that, if the Senator has read the full transcript of the hearing in which Professor Scalia was present, I asked him specifically the question—I cannot remember whether it was Wolman or Nyquist—and he said he will respond to that and he said, "I do not think that is a relevant question." I do not think Professor Scalia ever said "I know that this is constitutional." What he did say is that the decisions are in such doubt that for anybody to presume we could say——

Mr. MOYNIHAN. In disarray.

Mr. PACKWOOD. In disarray, and presume what the court would do would be foolish, and he continued in that vein in his statement.

Mr. MOYNIHAN. I would like to just emphasize that the great weight of testimony before us is that these decisions are in disarray. They no longer are coherent. The man who would say, "I have read the relevant cases and will tell you with a degree of confidence that we would like to tender to the profession what the court will say," that they will say yes or they will say no, that is simply not the state of the law in this area yet.

Mr. HODGES. Particularly for those listening here and for the record so that we can understand the context in which Professor Scalia and others testified, as I read the transcript I never found anyone present questioning witnesses other than the cosponsors of the bill. Is that correct.

Mr. PACKWOOD. That in my recollection is correct.

Mr. MOYNIHAN. But I think it would also be the case that you found witnesses asked by us, invited by us, who were for and against our proposals, and whose objections ranged across all manner of points. Our hearings were more than public, and if we did not attract a large number of Senators, which is not unusual, we certainly had a large number of witnesses, and we went out of our way, I think the record is very clear, to hear every point of view.

Mr. PACKWOOD. As a matter of fact, we had 3 days of hearings and, as I recall, fully 7 to 8 to 9 hours a day on a Wednesday, a Thursday, and a Friday.

Mr. HODGES. I agree it takes a long time to read through it. But there were witnesses, were there not, who were unequivocal in their statement that based upon Nyquist and Sloan, on the basis of those two cases, your bill was clearly unconstitutional?

Mr. MOYNIHAN. There certainly were.

We introduced Mr. Leo Pyeffer, who was the best example of that; we also introduced into the record an opinion of Prof. Paul Freund of the Harvard Law School.

Mr. HODGES. The premier constitutional scholar in this country.

Mr. MOYNIHAN. A very dear friend of mine, and I would like to think of him as such.

Mr. HODGES. He was unequivocal.

Mr. MOYNIHAN. He is almost always unequivocal. I believe he was invited and could not come but submitted a statement.

Mr. HODGES. So those to whom you would turn for constitutional comfort say it is an open question, but the majority, or let us say there were many, appearing on their own behalf, and not necessarily invited by the committee, were very clear that it is unconstitutional.

Mr. PACKWOOD. Mr. President, will the Senator from New York let me respond? If the Senator wants to persist, then let me read, because I know what he is trying to do—he is trying to discourage——

Mr. MOYNIHAN. I have the feeling I have been apprehended for exceeding the speed limit, and that the immediate previous circumstances to my arrest are being gone over in great detail, and at any moment I might end up with a $30 fine, so I turn to my attorney, Mr. PACKWOOD.

Mr. PACKWOOD. Let me read a telegram of April 3, 1978, to Senator HAYAKAWA signed by Robert H. Bork, Yale Law School; Gerhard Casper, University of Chicago Law School; Wilber G. Katz, University of Wisconsin Law School; Philip B. Kurland, University of Chicago Law School; Victor G. Rosenblum, Northwestern University Law School; Antonio Scalia, University of Chicago Law School; and Ralph K. Winter, Jr., Yale Law School.

> The undersigned are of the opinion that the Supreme Court cases to date do not establish that S. 2142.

Which was the immediate predecessor and had the same questions as the bill we have before us:

> is unconstitutional; and in light of the inconsistent and conflicting character of those opinions it would be inappropriate for the Congress to alter or reject the bill for such a reason. In our view S. 2142 is fully in accord with the original principles and the best traditions of the first amendment.

Let me say that again. They did not say maybe yes or maybe no. These are not people we invited to speak. This was a telegram sent for whatever reason in their own instance.

So far as credentials are concerned, let us take one, Philip B. Kurland.

> Professor of Law University of Chicago Law School.
>
> Graducate of University of Pennsylvania, Harvard Law School, Phd. University of Notre Dame.
>
> Law Clerk to Judge Jerome N. Frank.
>
> Law Clerk to Supreme Courts Justice Felix Frankfurter, 1945–1946.
>
> Chief Counsel, Subcommittee on Separation of Powers, U.S. Senate Judiciary Committee, 1967–1977.
>
> Consultant, U.S. Department of Justice, 1976.
>
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Now I ask you, is there anyone who can have any better credentials than Mr. Kurland, who irrevocably says this is constitutional?

Mr. HODGES. What bill did they have reference to?

Mr. PACKWOOD. 2412, which was the tuition tax credit bill introduced by four sponsors. It is the legislation's predecessor, it is the predecessor of this. It was substituted for the House bill, but it had primary, secondary school, and college tuition tax credits. There is no significant departure except for a changed income level of the amount of the credit from the present bill.

Mr. MOYNIHAN. May I say in that list you will find, and I refer particularly, to a distinguished person, Prof. Ralph K. Winter, who is a professor at the Yale Law School and formerly a law clerk to Justice Thurgood Marshall. I do not know of a man who has been more involved with these issues than Professor Winter.

He was for many years a consultant to the U.S. Commission on Civil Rights. As I say, he was a clerk to Justice Marshall. These are distinguished men and they gave us their views.

Mr. PACKWOOD. Again, we say unsolicited. We did not ask them to be witnesses, we did not ask for their opinions.

Mr. CHAFEE. Mr. President, I wonder if I might—who has the floor, Mr. President?

Mr. MOYNIHAN. The Senator from New York has the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. CHAFEE. I wonder if I could ask a question? This constitutional discussion, I know it is going to go on for quite a while, but I wonder if I could break in, if I might, and I am not trying to cut off the Senator from Arkansas, but I wonder if I could break in with a question that it would be helpful to me to have answered. Would that be all right?

Mr. MOYNIHAN. If I may say——

Mr. HODGES. I would like to make one response.

Mr. MOYNIHAN. Would the Senator allow the Senator from Arkansas to respond at this point and then we will hear his question, and we will respond.

Mr. CHAFEE. I understand the constitutional argument can be on for some hours. Mine is just a brief point I would like to have clarified if I might, so I will await my turn in line—not too long, I hope.

Mr. HODGES. That is all the response I will have if I get another diversion. I want an answer to a specific question. What are the differences between the bill that these men responded to and the bill the Senator has now? I ask, have you added anything to it?

Mr. PACKWOOD. We have cut elementary and secondary school tax credit from a maximum credit of $500 to $250. We have cut the higher education credit to $250 now although it goes to $500 in 1980.

Mr. HODGES. Did the earlier Senate bill have any elementary and secondary education in it?

Mr. PACKWOOD. Oh, yes.

Mr. HODGES. Did it also include the public schools at that time?

Mr. MOYNIHAN. Yes, it did.

Mr. HODGES. Then I suggest that is a tremendously significant point because having the public schools included does not single out the religious schools.

Mr. MOYNIHAN. May I ask if we include, if we put public schools back in, would we have some prospect of obtaining the support of the Senator from Arkansas?

Mr. HODGES. I suggest to the Senator that you would have a much sounder bill in terms of the constitutionality of it if you had the public schools back in.

Mr. MOYNIHAN. I suggest that the Senator has not responded to my direct question. He does not have to do it.

Mr. HODGES. I will cross that bridge when I get to it. Is the Senator putting it back in now?

Mr. MOYNIHAN. Well, frankly, we took it out in the hopes of attracting some support from the Senator from Arkansas.

Mr. HODGES. Well, I think what you have done has jeopardized the constitutionality of it severely.

Mr. PACKWOOD. As a matter of fact, it was taken out in response to the argument that the ability to claim a credit for tuition in public schools would encourage white flight to the suburbs.

Mr. HODGES. The Senators are arguing among themselves. That is not fair.

Mr. MOYNIHAN. This bill is expanding educational opportunity and absolute equality.

Mr. PACKWOOD. Well, we were responding to the argument that if people could pay public school tuition and receive a tax credit, they would live in one town and send their children to school in another, and that argument was raised to us several times.

Mr. MOYNIHAN. We cannot positively predict such things; we can only conjecture.

Mr. HODGES. Now that you two are in agreement again, I will not pursue it further, and yield the floor to the Senator from Rhode Island.

Mr. CHAFEE. I am grateful to the Senator from Arkansas.

Not debating the bill or the constitu-

tionality, I would like to see if we could get agreement on some facts. One of the statements made by the Senator from New York is:

Let there be no mistake about this, either: In the field of education, the public sector is slowly but inexorably vanquishing the private.

Now, this is my question. The statistics which I have obtained from the National Center for Educational Statistics, which is in the Office of Education of HEW, show the following: After World War II, nonpublic schools took a very dramatic growth. That reached its peak in about 1965. There then followed a very dramatic decline until 1970. Since 1970, the percentage of youngsters in nonpublic schools in the United States of America has remained constant, and indeed slightly grown. The percentage.

Now, in his statement the Senator from New York bewails the fact that there were 2,246 fewer private schools in existence in 1976 than there had been a decade earlier.

Mr. MOYNIHAN. That is right.

Mr. CHAFEE. Now, of course, the Senator is very much aware that the total number of youngsters in the elementary and secondary educational pool—that is, the numbers of that age—declined very dramatically, as he knows, and so, over that period——

Mr. MOYNIHAN. Oh——

Mr. CHAFEE. No "oh" about it. The statistics show it.

Mr. MOYNIHAN. Oh, come—there is sometimes——

Mr. CHAFEE. If I may continue——

Mr. MOYNIHAN. Well, I want you to continue, but I did not want to be misquoted.

Mr. CHAFEE. The peak was reached, in the public schools, of 46 million youngsters—and these are statistics from the Federal Government—in 1971, of 46 million youngsters in elementary and secondary education in the public schools.

Since that time it has declined until in 1977 it was 43 million. And there is no question about this; everybody knows the number of youngsters at the elementary and secondary levels has declined. We have all had elementary and secondary public schools closed in our neighborhoods.

So the public sector has declined, and the private sector obviously has declined, too. You would not expect it to be markedly different than it was.

But the fact is that since the stabilization in 1970, the percentage in nonpublic schools of the total pool, the total number of youngsters, has remained constant. Does the Senator from New York agree with that, or does he disagree with the Department of HEW statistics?

Mr. MOYNIHAN. From what point is the Senator speaking?

Mr. CHAFEE. Starting in 1971.

Mr. MOYNIHAN. In 1971?

Mr. CHAFEE. That is correct. I use that as——

Mr. MOYNIHAN. I do think I have the answer—that the private sector enrollment data published by HEW are recent enough or firm enough to support that hypothesis.

Mr. CHAFEE. Well, I have the answer, and I will be glad to give you the figures if you would like, and I think it is only right for you to have them, because, regardless of how anyone votes on this bill, I think we should be working to accommodate the facts as much as possible.

The facts over the last 8 years do not bear out the points that you have been making in that particular area.

Mr. MOYNIHAN. Why I have been a little bit hesitant in responding is not because I do not know the figures you are talking about, but because I do not know exactly how to deal with some of the vagaries in the nonpublic school data that are collected by the Federal Government.

The problem which you will find in the basic data is that the statistics collected on nonpublic schools are just estimates.

Mr. CHAFEE. I am very conscious of that, because I am working with the same statistics. I have found that they admit in their own statements that the figures on the nonpublic schools are estimates.

However, in my own State we have more exact figures, and I have followed those through in my own State and found that the statistics I came up with correlate exactly with the statistics on the national level, even using the estimates for the nonpublic sector.

Mr. MOYNIHAN. Has the Senator followed that through? The word "correlate" means something in statistics.

Mr. CHAFEE. Let us have that one again.

Mr. MOYNIHAN. I say, have you actually done the statistical correlation?

Mr. CHAFEE. I took the figures from public and nonpublic in my State, and traced them, worked out the percentage, knowing the percentage there would be more meaningful, more accurate than the national figures. I took the figures from the National Center for Educational Statistics, the public being exact, the nonpublic being their best estimate—which I take it is more than a wild guess, that it is taken from surveys that they follow.

I am not getting into the merits of the bill that the Senator is espousing, but I do think it is important that a couple of things be brought forward first, when the lament goes out that private, nonpublic schools have closed. Indeed they have. They have closed in very large numbers, but so have public schools closed in large numbers, either through consolidation or through a mere lack of pupils.

The next point I think we ought to work from is that despite the decrease in the number of students both in public and nonpublic schools, the percentage in nonpublic schools has remained constant since 1971, and indeed has grown slightly, based on the best projections we can make, the best estimates we can make. That is the only point I want to make here this afternoon; and if there is dispute on behalf of the proponents of the bill, I would like to hear it, because your statement has some pretty strong claims within it which the facts just do not bear out.

Mr. MOYNIHAN. Let me explain as best I can for a moment. Perhaps we have to get additional information on this. If I ever sound a hesitant tone, it is because statistics are difficult and if one has lived with them a lot, as I have done, we find they never seem to be finally resolved.

Mr. CHAFEE. Can I ask one thing?

Mr. MOYNIHAN. Will the Senator have the kindness to listen to me?

Mr. CHAFEE. All right.

Mr. MOYNIHAN. I have here the last report of the NCES, the 1978 edition, "The Condition of Education."

The Senator knows I have spent a fair amount of time working with these data trying to make the point that about the only thing we know about the country in the next 5 or 10 years is how many people will be alive and how old they are going to be. You hold onto that because you then know something. The best data is that public school enrollment peaked at 45,744,000 in 1972 and has dropped about 3 percent to the last figures, which is 1976.

Mr. CHAFEE. What figure does the Senator have for 1976?

Mr. MOYNIHAN. 44,335,000.

Mr. CHAFEE. What figure do you have for 1971?

Mr. MOYNIHAN. I do not have a 1971 in this series. It is only every other year.

Mr. CHAFEE. The figure for 1971 is 46,081,000.

Mr. MOYNIHAN. It went up between 1970 and 1972 to 46 million?

Mr. CHAFEE. Yes.

Mr. MOYNIHAN. Forty-six what?

Mr. CHAFEE. 46,081,000.

Mr. MOYNIHAN. It is 3.78 percent. We will use round figures of 4 percent. The figure for the nonpublic peaked in 1964.

Mr. CHAFEE. In all fairness, if the Senator is responding to my question, I conceded that the nonpublic enrollment went up on a steady line after the war, peaking in 1965. I then conceded it went through a dramatic drop between 1965 and 1970.

Mr. MOYNIHAN. Will the Senator forgive me? I was conversing with the majority leader. What was the last point the Senator made?

Mr. CHAFEE. I said nothing is served here in going back to the nonpublic figures for 1965 because in my remarks I pointed out that the nonpublic peak in 1965 went through a precipitous decline to 1970 or 1971.

Mr. MOYNIHAN. Yes.

Mr. CHAFEE. The point I was making is that since 1971 the percentage of youngsters in nonpublic schools has remained constant or slightly growing. That is the point. That is for the last 6 years.

Mr. MOYNIHAN. That is one point. Can I just say there are some other points? There is a question of the mix within that total figure. There is a question of the type of school. It seems to me that the concerns to which I address myself on the floor today, and to which this legislation addresses itself, are the concerns that led to that precipitous drop in the second half of the 1960's.

From their peak the nonpublic schools have declined 21 percent; from their peak the public schools have declined 4 percent. There is a difference.

Mr. CHAFEE. The only point I am trying to make, and I urge that the Senator either agree or disagree, is that since the great, what we might call, shakeout, for reasons that we do not exactly know—Senator HODGES mentioned a move to the suburbs and perhaps it might have been the Federal infusion of funds into the public schools and they were improved, but whatever they were—there was a precipitous decline in the nonpublic schools from 1965 to 1970. Since then, and here is what I am asking the Senator to agree with or disagree with because the statistics make it pretty clear, the percentage of youngsters in nonpublic schools has remained constant. It has not been an instance where they have been squeezed in the last 6 years. They have not only held their own but slightly increased. If the Senator agrees, I will give the statistics, and if he disagrees, we will proceed next week with the figure.

Mr. MOYNIHAN. I would like to see the series for the last 5 years, yes.

Again let me say to the Senator, I have spent a lot of my time with these statistics. One would think they would be simple but they always turn out to have troubles in them.

In my State of New York, where I believe the data are good, since the school year 1968–69, to the school year of 1976–77, the Catholic schools, which are the most important ones numerically, have lost 39 percent of their enrollment. If I have any feeling about what happened in those schools and private schools generally, it is that we had a sharp dropoff from about 1965 to 1970 and then some consolidation. I think they have just about held even but as a sharply diminished proportion. They are now 9 percent as against 15 percent 2 decades earlier. I would anticipate another equally sharp response until they get down to about the 5-percent level and there in fact will cease to be any parochial schools left in this country.

I would think we are always going to have 5 percent of the middle- and upper-class schools and special schools of various sorts. But the kind of urban parochial schools that the Lutherans run, Hebrew schools in places like Brookline, the Catholic schools, they are the ones that seem to be in jeopardy. They have lost about half of their enrollment, as such, in the last 10 years, and if they lose another half they will cease to be that part of a plural school system where, as a neghborhood, there was available in ordinary circumstances to a family a school of this kind. They will persist, I should think, with 5 or 6 percent. It has been the pattern in private higher education. We have 22 percent in colleges and universities now, down from half. I would imagine they would go down to 15 and hold. But at that point the nongovernment schools are elite schools.

The Senator from Rhode Island might want to make a last remark.

Mr. ROBERT C. BYRD. Mr. President, before the Senator from Rhode Island responds, may I ask as to whether or not there is any intention to have any rollcall votes today?

Mr. MOYNIHAN. Well, I see—here is our chance. We have the Senator from Arkansas outnumbered three to one, with a probable in the Senator from Virginia, who is in the chair. This may be an opportune moment, but it would not be an honorable one.

Mr. ROBERT C. BYRD. The Senator from Arkansas says he has God on his side, though.

Mr. MOYNIHAN. It is a curious thing that the Senator from Arkansas is so much alarmed about excessive entanglement. What did the leader say?

Mr. ROBERT C. BYRD. He feels he has God on his side, which gives him a majority.

Mr. MOYNIHAN. This alarms me as a strict constructionist. Madison and Jefferson would be alarmed as well.

Mr. ROBERT C. BYRD. I am sure the Senator from New York feels he has God on his side, also.

Mr. MOYNIHAN. No, the Senator from New York feels he has the Constitution on his side.

Mr. ROBERT C. BYRD. Either is good. I think I would prefer God.

Mr. MOYNIHAN. It depends on which forum we are in.

Mr. ROBERT C. BYRD. Either forum.

So much for that. Are we going to have any rollcall votes today?

Mr. MOYNIHAN. I think not.

Mr. ROBERT C. BYRD. Then we shall get the word out from the cloakrooms.

Can the Senator from New York indicate how much longer he wishes to speak and by this question, I do not mean to imply that there is any hurry on it. There has been an exceptionally good debate today. It has been full of substance on both sides.

Mr. MOYNIHAN. Mr. President, I understand that the Senator from Arkansas would like to proceed with the second of the two questions which he felt were addressed to him while he was in the chair.

Mr. HODGES. I thank the Senator from New York. This will be a brief response. I think the question was asked, and it will be addressed at length on Monday morning, as to how one could distinguish charitable gifts that are deductible on the income tax from tuition tax credits. I think it is a valid question, but I think it is one to which there is an answer, an answer that has been given by the U.S. Supreme Court. It is one that, in my opinion, is persuasive. But it is not a simple proposition to answer, because the first amendment provides that "Congress shall make no laws respecting an establishment of religion,"—that often gets much of our attention. But it also continues for prohibiting the free exercise thereof."

A number of years ago, when I was in law school, I wrote an article on religious exercises in the public schools. Any involvement, entanglement, or whatever word one wants to use, whether it is peeking over the wall of separation, reaching around it, or making an effort to go right through it, is not simply bumping against the establishment clause, as that first clause is called, but is also bumping against the prohibiting of free exercise thereof. It is balancing these two things that finally determines what the constitutional answer is with respect to any particular fact. We cannot discuss the one without discussing the other, and even the present issue before us, tax credits for elementary or secondary education, involves both clauses. It necessitates a somewhat extended basis on which to discuss it and put it into context.

The Senator from Missouri (Mr. EAGLETON), is going to speak on Monday morning at length, I think, or certainly in great depth on the constitutional issues involved in the bill before the Senate. I do not want to take up issues that he will address. If he does not address that issue, however, I shall be prepared and am prepared now, frankly, to address it. It is somewhat complex and requires an answer of some 20 or 30 minutes. But it is one that is easily answerable and there is a clear, cogent distinction between charitable deductions taken from your income tax and tax credits.

So if I may defer, I simply have said that, in my opinion, there is an aswer. It is persuasive, but it is involved and will require some length. Therefore, I shall not get it this afternoon.

(Mr. MELCHER assumed the chair.)

Mr. MOYNIHAN. Right. I hope the Senator will accept the position of the Senators here. We feel confident of our position, but we are aware that the opposition feels equally confident. That is why we have made great efforts to provide for an early determination by the Court.

Mr. HODGES. Would it be presumptuous to suggest that if you draft a bill in which you have great confidence as to its constitutionality, why, when, would you put off the tax credits involved for 2 years, insert a provision in the bill that it should be reviewed as soon as possible, and in the U.S. Supreme Court? I say that reflects shakiness in that belief. Otherwise, all bills are presumed constitutional.

Mr. MOYNIHAN. On the contrary, we invite you to test the true measure of your conviction. If you think that this measure is irredeemably unconstitutional, you have only to vote for it and have your views confirmed in the only way they ever can be confirmed—by the Supreme Court in a few months time.

As there is an open argument here, it would be presumption for us to say, "We are right and you are wrong and there is no question about it," we say we think we are right but we are aware that there is only one place in which the matter can finally be decided.

The Senator from Connecticut this morning said that the Supreme Court did not give advisory opinions. We are prepared to present our case to the Supreme Court and live with the outcome. Are the opponents of this legislation prepared to do as much?

I should like to read again from the Annals of the First Congress, the only information we really have about this subject. The amendment was adopted in

1 day. This is how it began. It was a Saturday session, too. August 15, in Philadelphia, remember. This is from the Library of Congress. It is the original volume.

Mr. HODGES. I might say to the Senator as to that Saturday, if they had been there longer than a Saturday in Philadelphia, I would suggest that is one reason why it was done so quickly.

Mr. MOYNIHAN. I see. That remark will be made known to certain other Members of the Senate.

Mr. HODGES. I believe that it was W. C. Fields who said he spent a month one Sunday afternoon in Philadelphia.

That is the first prize for the debate. The second is 2 months.

The House again went into a Committee of the Whole on the proposed amendments to the Constitution, Mr. Boudinot in the chair.

The fourth proposition being under consideration as follows:

Article 1, Section 9, between the paragraphs 2 and 3, insert "no religion shall be established by law, nor shall the equal rights of conscience be infringed."

Now, I ask the Senators to consider that we are not here interpreting the Dead Sea Scrolls. We are interpreting procedures in our bodies which have a continuous history.

The amendment is read by the clerk in exactly the manner today as it was then. The notes are taken in English. The discourse was perhaps in better English in those days, but nevertheless a recognizable one.

It says:

The amendment in the first proposition under consideration was as follows:

No religion shall be established by law nor shall the equal rights of conscience be infringed.

Now we go into a mode of early reporting, which is in the third person.

Congressman Sylvester was a New York Congressman. He practiced law in Tinterhook. He was a 50-year-old lawyer at the time and a distinguished New Yorker.

Mr. Sylvester had some doubts about the propriety of the mode of expression used in this paragraph. He apprehended that it was liable to a construction different from what had been made by the committee. He feared it might be thought to have a tendency to abolish religion altogether.

He was then reassured by Mr. Vining, Mr. Gerry, Mr. Sherman, Mr. Carroll, and finally of course, by Mr. Madison, that no such intention could ever be interpreted or be thought to be that of the framers, and reference has been made frequently in this matter to the immediate preceding enactment in 1787 in the Northwest ordinance in which Congress held that "religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of learning shall be ever encouraged."

The Senator from Arkansas suggests a superior knowledge of the matter. But I say that in our hearings we had a rather elegant case made that the insistence of the U.S. Government and the Supreme Court that Government must confine or concentrate its aid on schools which are not associated with the practice of religion and denying that aid and forbidding it to others in any substantial amount is, in fact, infringing the free exercise clause.

I make no judgment on it, but a responsible scholar came forward and said the free exercise clause almost mandates the enactment of some measure such as we propose today.

Such are the complexities, such that this Senator is willing to trust to the judgment of the Supreme Court. Some Senators may be uncertain in their faith, and might wish to prevent the court from this opportunity, although I cannot imagine that would be a description of the Senator from Arkansas.

Mr. HODGES. I would suggest that the Senator from New York full well knows that were he not to put that clause in this bill, and were it to become law, most certainly it would be challenged.

Mr. MOYNIHAN. Would be challenged—correct.

Mr. HODGES. So he suggests——

Mr. MOYNIHAN. To come quickly, so that no one need feel anything.

May I say to the Senator that we had a serious point here and that it had nothing to do with constitutional law, but we felt if we said, "Let this law be enacted, then we will go to Court and sooner or later it will find out,"——

Mr. PACKWOOD. Had we not put this in, immediately into effect, we would have had 5 million parents of schoolchildren taking deductions on income tax and many people saying, "Now it will go into effect."

We did not want to raise hopes if by chance the Court would rule against us. So we put it off 2 years deliberately for that reason, also.

I say, once more, none of us come into this on our side of this with the irrevocable, righteous conviction that we know the Supreme Court will hold on on our side.

I would hope that the opponents would not say, "We know that the Supreme Court will hold on our side, and has always held on our side, and will never change," assuming that, indeed, in the past they might have called that unconstitutional.

For any of us to foresee what the Court will do that indicates a prescience I cannot understand.

Mr. MOYNIHAN. I would ask the Senator from Arkansas to listen, and to take note of what my colleague has said.

I know he thinks this, but perhaps some do not. It is important to us that it be clear he does, that we have tried to be firm and in good faith here.

We know well enough the realities of any political phenomenon.

If we were to be successful, we could not in good faith say, "Pass this law and then sooner or later we will find out what the Supreme Court thinks," because we know that in the interval after the law came into effect, there would be enormous political pressure to retain it regardless of what the Court said—to influence the Court.

The next thing we know, some candidate would be running for office saying, "And when I appoint my first Supreme Court judge, he will be a judge who I know approves of this particular bill, and will vote that way when appointed."

We did not want that. We want a situation in which the Court, without being influenced by any changed circumstance whatsoever, can rule purely on the merits of the issue, with no influence from the President and with no pressures of the kind which are normal in any policy and particularly evident in a developed democratic society such as our own.

Mr. HODGES. I would suggest to the Senator, if he has followed the history of the United States Supreme Court, that it regularly has large numbers of people looking at it, that it regularly rules under enormous pressure, and that it has responded quite well.

The point I return to is simple. We pass legislation around here regularly, and do not put clauses like this in. It is because this bill is so suspect constitutionally that it was put in. That is my sole point.

Mr. MOYNIHAN. Well, the Senator and I may not agree, but we have had a good debate. I appreciate the opportunity.

Mr. President, I thank the Chair for its courtesy throughout the day. I see my colleague, the Senator from Oregon, is on his feet and I am happy to yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I think we are about to conclude.

First, part of the reason we put this clause in was not to raise any false hopes among the millions of people taking advantage of this credit and, if found unconstitutional, have it snatched away when they had the expectation.

Second, based upon the testimony and upon the obvious fact there would be a lawsuit on this no matter what happened, we thought it was simply better before roiling the waters to allow the Court to decide, so that if we went forward we would know what the law would be. There is no effort on our part to think, in trembling, in fear, that this is unconstitutional.

I would like to argue the case before the Court. I think they will find it constitutional.

I am reasonably positive—I am not 100 percent sure—but I think when the day is done and the Court has ruled, they will find it constitutional. We would be better off on this floor, therefore, to argue the policy decisions as to whether this is wise legislation, rather than the constitutional possibility of whether it is constitutional or unconstitutional.

Mr. MOYNIHAN. Mr. President, I should like to conclude by expressing the appreciation we have for the attention of the Senate and in particular of our colleagues from Arkansas and South Carolina, who have a view different from ours in this matter, but who have expressed it with vigor and with the acuity we all readily acknowledge.

Mr. HODGES. Mr. President, I thank the Senator from Oregon and the Senator from New York primarily for their indulgence. It is startling to have to attempt to withstand the intellectual as-

saults they make, particularly when the Senator from New York brings dictionaries and is holding us accountable for the results. That could be a terrible precedent to set on this floor, because most of us use words rather loosely.

I thank them for their indulgence and for the caliber of this discussion and debate. I think that there are genuine differences of opinion, but they are well intentioned and well held, which is perhaps not always the case in debate.

I thank the Senator for his kind remarks.

Mr. MOYNIHAN. I thank the Senator from Arkansas.

FAMILY IMPACT SEMINAR RELEASES THOUGHTFUL INTERIM REPORT

Mr. STAFFORD. Mr. President, I call the attention of my colleagues to the interim report recently released by the family impact seminar of the Institute for Educational Leadership at George Washington University.

As Senators know, the idea for the family impact seminar grew out of the 1973 hearings by the Senate Subcommittee on Children and Youth entitled "American Families: Trends and Pressures" during which then-Senator MONDALE was chairman of the subcommittee and I served as the ranking minority member. Many of the witnesses at those hearings suggested that we consider requiring a family impact statement on all legislation considered by the Congress. The subcommittee was very interested in that idea. But we determined that this new idea should be analyzed and tested before any legislation to establish a family impact mechanism was introduced.

Subsequent to this conclusion by the subcommittee, the family impact seminar was established at George Washington University in 1976 with the responsibility to test the administrative, substantive, and political feasibility of developing family impact statements. Mr. Sidney Johnson, who had served as the staff director of the Subcommittee on Children and Youth, is director of this seminar. The seminar is composed of 22 leading scholars and individuals experienced in policymaking affecting families.

The seminar is an independent, nonpartisan organization which during its first 3 years has been supported totally by foundation grants.

The seminar recently released its interim report which I believe is an extremely thoughtful, comprehensive and balanced review of the potential benefits of analyzing public policies in terms of their effects on American families.

Unlike many Commission reports, this one reflects an understanding of both the benefits and the costs of efforts to analyze how policies affect families. It acknowledges the fact that the field of family impact analysis is a new and developing one, and warns against overpromising. At the same time, it mentions many very encouraging developments, and underscores the fundamental importance of continuing and accelerating our efforts to learn how to assess policies in terms of their impact on families.

Mr. President, I commend this entire report to my colleagues and others who share my desire to make public policies more sensitive and responsive to the needs and aspirations of American families.

So that individuals interested in these findings can obtain a sense of the importance of this report, I ask unanimous consent that the first section of the report, entitled "Interim Conclusions of the Family Impact Seminar," and all the introductory and title pages leading into that chapter, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERIM REPORT OF THE FAMILY IMPACT SEMINAR, APRIL 1978

Family Impact Seminar gratefully acknowledges support from the Foundation for Child Development, Lilly Endowment, Robert Sterling Clark Foundation, Mary Reynolds Babcock Foundation, Edna McConnell Clark Foundation, Chichester duPont Foundation, Ford Foundation, Carnegie Fund, Charles Stewart Mott Foundation, and Needmor Fund.

FAMILY IMPACT SEMINAR STAFF

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PREFACE

The Family Impact Seminar is an independently-financed, three-year project based at the Institute of Educational Leadership of George Washington University. Our purpose is to review—carefully and in depth—the substantive, administrative and political feasibility of developing a process for assessing the impact of public policies on families. We are cautiously developing and testing a "tool"—which might be called a family impact statement—to encourage government to be more aware of and sensitive to what it does to and for families.

The Seminar is composed of twenty-two leading scholars and policy makers with expertise in family research and public policies affecting families. They come together with our staff in ongoing seminars and work groups to help guide and strengthen our work. By bringing together scholars and policy makers to help in this effort, the Seminar deliberately stands mid-way between the often separate worlds of academe and policy. It specifically seeks to develop findings and recommendations which are considered relevant, important and understandable to individuals and organizations operating in both these contexts.

Our focus on governmental actions reflects my belief that public policies—which seek to represent the interests of all Americans, and which are financed by funds collected by all taxpayers—should be especially sensitive and responsive to American families. This focus does not mean, however, that all or even most of the important events or policies which influence families result from governmental actions. Technological changes such as the advent of television, or ideological changes such as those reflected in the civil rights movement, can have substantial and lasting impacts. These and many other examples demonstrate the profound effects that private actions or attitudes can have on families.

Thus we define family impact to include private as well as public actions or inactions. Our choice to limit the focus of our inquiries to public policies reflects our belief that the government has a special responsibility to be conscious of its impact on families.

Since our creation in February 1976 we have held five seminar meetings, completed our orientation to this new and largely unexplored area, reached some preliminary conclusions, and begun preparing pilot family impact statements on two policies: government as employer and foster care. In addition, we will be commissioning a set of papers to explore from a family perspective the programs and problems related to teenage pregnancy.

While we believe that our final recommendations will be shaped in large measure by what we learn preparing these pilot family impact statements, we want to present at this time an interim summary of the conclusions we have reached as a group, staff papers we have developed, and plans we have for pilot family impact statements. In addition, we are including an appendix of sources which have been especially helpful to us in our work to date.

The first chapter of this report, Interim Conclusions of the Family Impact Seminar, reflects the judgment of the Seminar as a whole. Each section of the chapter—working definitions, preliminary findings and values—was discussed in depth at our Seminar meeting in October 1977, revised, and circulated to Seminar members for further comment. While each Seminar member might prepare some portions differently if he or she were writing it independently, this chapter represents the interim conclusions of both Seminar members and staff. Of course, like any

interim conclusions, these will be the subject of further review, debate and refinement throughout the future work of the Seminar.

The remaining chapters and the appendix are primarily staff products. Chapter II describes our best thinking about our Ecological Perspective, Evolving Framework for Family Impact Analysis and an Approach to Data. While we received some very helpful reactions to these working papers from several Seminar members, they do not represent conclusions of the Seminar as a whole. We are sharing them as staff working papers because we believe they might be helpful to individuals and organizations who have asked us how we are approaching family impact analysis.

Chapter III is a description of our current activities and plans for developing pilot family impact statements on government as employer and foster care. The appendix includes a bibliography of books and articles, a list of family study centers which have a special focus on public policies and families, and a list of individuals in state or local government who are interested in or experimenting with the family impact idea. While none of these lists is complete, they do contain many of the relevant sources and references for information concerning family impact analysis.

In the months ahead, the Seminar will be primarily working on three specific pilot family impact studies in the areas of government as employer, foster care and teenage pregnancy. In the course of these studies we will be attempting to develop ways of translating the broad concepts and comprehensive framework discussed in this report into some specific tools to assess family impact—possibly checklists—which could serve as a guide for policy makers, local and community groups and family advocates at all levels of government.

We hope this report will be helpful to individuals and organizations who share our interest in the ways in which public policies affect families generally, and the concept of family impact analysis specifically. We would very much appreciate and benefit from any reactions, suggestions or questions that this report might stimulate.

A. SIDNEY JOHNSON III,
Director, Family Impact Seminar.
April 1978.

CHAPTER I: INTERIM CONCLUSIONS OF THE FAMILY IMPACT SEMINAR

A. WORKING DEFINITIONS

The Seminar has adopted a series of working definitions to guide its work. They include the following:

1. Family

The Family Impact Seminar uses the term "family" in a broad sense to include two different but related concepts or perspectives: the "household" family and the "kinship" family.

By "household" family we mean "a group of two or more persons residing together who are related by blood, marriage or adoption." This is the definition used by the U.S. Bureau of the Census.

By "kinship" family we mean "a group or two or more persons who are related by blood, marriage or adoption." We use this definition, which does not include the reference to sharing a household or residing together, to help underscore the importance of extended families and kinship networks to family impact analysis. Use of this definition encourages consideration of the ways in which public policies may affect relationships or shared responsibilities between a single person living alone and his/her relatives or between related family units of the same or different generations.

While neither of these working definitions requires inclusion of a child or children, the Seminar has a special interest in families with children and our pilot family impact statements will include a special focus on these families.

2. Impact

The Family Impact Seminar defines impact as "the effects, demonstrable or possible, of a policy."

This definition indicates that we are interested in identifying both policies which have proven effects on family functioning or behavior and policies which may affect families in their functioning or behavior. For example, it seems likely that the government's policy forbidding the use of Medicaid funds for most abortions will have the effect of increasing the size of some families. While other family impact questions could be raised about that policy, such as how it will affect the nurturant functions in those families, it appears that it will have a clear impact on family membership or size. But there are many other policies with direct relevance to families where the evidence of impact is less clear. Does the so-called marriage penalty for two earner families at some levels in the tax code actually discourage individuals from marrying or encourage divorce? This is an example of a possible effect or impact that could be explored. Indeed, one of the purposes of family impact analysis is to identify policies on which further research is necessary to determine actual effects.

Impact can be both short and long term, explicit or implicit, intended or unintended. It may lend itself partially or totally to quantitative measurement in terms such as dollars expended or received, persons served or divorces obtained. It may also be measured or described more qualitatively in such terms as improved parenting skills, greater family harmony, increased solidarity, or better mental health.

Impact can be both positive and negative. A single policy can have multiple impacts—positive, negative and mixed. And a single provision in a policy may have a positive effect on some families, but a neutral or negative effect on others. This may be especially true of programs which are available only to families at certain income levels. For example, the $750 personal exemption may have a very positive impact on families in the higher tax brackets but a neutral or negative impact on families too poor to pay taxes and thereby benefit from tax exemptions. Conversely, a program like Head Start may have a positive impact on families who participate but a neutral or perhaps negative impact on families whose neighbors participate when they themselves make slightly more money and are therefore ineligible.

3. Public policy

We define public policy as "government actions (or inactions) expressed in a variety of ways including legislation, resolutions, programs, regulations, appropriations, administrative practices, and court decisions."

Our definition of public policy includes government actions (or inactions) at the federal, state or local levels, and, as in the case of many federal grant-in-aid programs, government actions which involve all three levels of government. It includes not only social policy but economic, military and all other policies which result from government actions (or inactions).[1]

4. Family impact analysis

We define family impact analysis as "the process in which specific public or private policies are examined with regard to their specific effects on families."

For example, family impact analysis as we conceive it would seek to examine the effect of a policy on a number of family functions and structures, including membership, nurturance and economic support functions.[2]

Footnotes at end of article.

Family impact analysis can be conducted by a variety of different organizations and at a variety of levels. For example, a sophisticated research organization might undertake new research as part of a comprehensive family impact analysis of a particular policy. Or a local PTA or citizens' organization might raise questions about the degree to which schools or other community institutions are sensitive to the needs of families, and this could represent the beginning of a family impact analysis.

At this stage we propose that analysis should concentrate primarily on existing policies. Since family impact analysis is still in its infancy, it seems premature to attempt to predict the effects of proposed policies.

While our definition of family impact analysis includes the examination of public or private policies, the Family Impact Seminar is specifically concerned with the analysis of public policies.

5. Family impact statement

We define family impact statement as "the written summary product of a particular family impact analysis."

The family impact statement would be the final written document which presents the findings of the family impact analysis. It would include, as we view it at this point, a background statement describing the policy under review and the purposes for which it was adopted, an analysis of the ways in which it affects different families, and recommendations or options for policy makers to consider.

A family impact statement should be a document that public officials and members of the public will find easy to read and use. It need not be an exhaustive discussion of every conceivable family-related issue in a policy or program. Related technical background papers which may have been prepared should appear in an appendix. Certainly the statement itself should not approximate the environmental impact statements which sometimes totalled ten or more volumes. Instead, we believe a family impact statement should highlight the key family-related issues in a policy and analyze the two or three most important among them.[3]

B. PRELIMINARY FINDINGS

The Family Impact Seminar has reached agreement on a series of what might be called preliminary findings. While all are subject to further review and modification as our work progresses, the following statements reflect some of the key facts and conclusions which shape the direction of our work.

1. Families have been and are currently experiencing unprecedented changes. These include dramatic increases over the past 25 years in the proportion of mothers working outside the home, in the rates of divorce and remarriage, and in the number of single parent families. The steadily shrinking size of families coupled with a lengthened period of adult years following active childrearing is also significant as is the introduction of television into the home and many others. These profound and dramatic shifts have major effects on the capacities of families to care for their members.

2. There is substantial and growing interest in families and the ways in which public policies affect families among the public, policymakers, scholars, professionals, and public and private organizations at the federal, state and local levels.

3. Unlike some European countries, the United States does not have an official family policy. There is, however, a wide range of public policies and programs which affects families. Our preliminary reviews reveal that:

At least 268 programs (as listed in the Catalog of Federal Domestic Assistance) provide direct financial assistance or services to

individuals and families and have potential impact on families.[4]

Countless other federal policies have substantial impact on families, including tax policies, court decisions, government employment practices, general revenue sharing, policies of regulatory agencies, and macroeconomic policies.

These policies and programs can and do affect families at all economic levels, not just poor families.

4. The process of assessing the ways in which public policies affect families—which we call family impact analysis—should be explored in a variety of settings and on a broad range of policies.[5] This analysis has the potential to bring important new perspectives to policy making and policy analysis. Asking the question "what are the effects of this policy on families?" can potentially contribute to an understanding of some of the reasons families experience problems and opportunities, and contribute to suggestions for making public policies more responsive and sensitive to family needs.

5. Family impact analysis is a new concept involving complex and largely unexplored questions. There is little or no existing methodology for family impact analysis, and few guidelines for the development of one. While the process of family impact analysis is being tested at a growing number of universities and research organizations, this type of analysis is still in its formative stages.

There are many reasons why public policies have not been examined in terms of their impact on families. Three of the more important reasons appear to be the following:

First, our system of democratic government is based primarily on the recognition of the rights and responsibilities of individuals. Our constitution, for example, does not mention families. This emphasis has led to defining social problems and opportunities and the policies designed to address them in individualistic terms. Largely overlooked have been the "mediating structures" that stand between government and the individual, among which the family is paramount.[6]

We question whether public policies designed to respond to the needs of a particular family member have too often sought to deal with that person as an isolated individual, ignoring his or her inter-relatedness with other family members, and the degree to which the attitudes and activities of those other family members may enhance or limit the effectiveness of the policies being pursued.

Second, there is a tendency to attribute the problems that families experience to the inadequacies of the families or family members. Families have generally been considered to be solely responsible for most, if not all, the difficulties they experience.

This attitude has meant, in part, that there has been little effort to analyze the effects that public policies, the world of work, or other institutions have on families. We believe, however, that many problems experienced by families are the result of basic economic and social conditions, that family functioning must be understood in this "ecological context," and that one determinant of this context is public policy.

Third, there is a widespread belief that families are private units, and that government does not and should not intervene in their private affairs. Families have been considered to be largely out of bounds for public policy. As a result, even when public policies have had major effects on families, they are seldom described or analyzed in terms of their family impact. We believe that many public policies have direct effects on families, and that efforts should be made to determine and make known these effects so that the public and its elected representatives can debate and change those policies if they desire.

6. Much of the data necessary to describe and assess the impact of policies on families are not available or easily accessible.[7] For example, relevant family data are scattered among a variety of federal agencies, comparable definitions are seldom used in the collection or analysis of these data, and most importantly, these data are seldom analyzed with the family unit as prime consideration.

Assessment of family impact may require information about families, communities, institutions and programs which has not yet been collected and analyzed. For example, data is lacking on the number of children in foster care and the length of time in such care.

7. Any framework or checklist for family impact analysis should recognize that:

The impact of public policies on families may derive from a law as enacted, its regulations, the level at which it is funded, and the ways in which it is implemented.

Any single public policy may affect different families in quite different ways, given the diversity and pluralism of families (in terms of income level, structure, household composition, extended family networks, stages in the life cycle, and ethnic, racial and regional, and neighborhood factors).

Any single public policy may affect members of the same family in quite different or conflicting ways. The child abuse or child support enforcement laws are examples.

Efforts to assess the impact on families of a particular policy will involve value judgments and choices about trade-offs which should be made explicit.[8]

Family impact analysis should focus on more than just the membership of families. While it is important to explore whether public policies affect, for example, marriage or divorce, it is also important to explore their effect on the economic and nurturant functions of families. Families continue to have primary responsibility for providing the income necessary to house, feed and clothe their dependent members, and for nurturing and socializing them. Family impact analysis should assess the effect of public policies on at least three basic family functions, and perhaps others.

8. The analogy of family impact analysis to environmental impact analysis is useful in some respects but not in others. We believe it is important to encourage public discussion of and scholarly research into the way that public policies affect families, and the impact concept contributes to these objectives. A major contribution of the environmental impact concept has been heightened public consciousness of the possible effects of public projects on the environment. A similar development regarding public policies and families would be valuable.

We believe, however, that the concept of family impact differs in important ways from the concept and the process of environmental impact. We think that family impact analysis should focus primarily on existing policies, at least for the present, while environmental impact analysis focuses primarily on proposed policies or projects. In addition, for a variety of reasons, we consider the subject of family impact to be more complex, less easily defined and measured, more value-laden, more personal and more sensitive.

9. Family impact analysis is still in a developing stage. Thus, we believe it is inappropriate at this time for federal, state or local governments to establish government-wide processes for family impact analysis. In our judgment, government consideration of mechanisms for encouraging family impact analysis should await the results of pragmatic efforts to test the concept by producing pilot impact statements on selected public policies.

10. Because we respect the wide diversity of families and the sensitive and personal nature of family life, we oppose the idea of enacting a uniform, comprehensive national family policy. We propose, instead, that means are developed—such a family impact analysis and new legislative initiatives where necesary—to help make a variety of policies, in areas ranging from employment to taxes, more sensitive and responsive to the various needs of different families.

C. VALUES IN FAMILY IMPACT ANALYSIS

The effort to assess the ways in which public policies affect families is not a value-free exercise. The public policies being analyzed involve value judgments. They are based on the belief that they will be "good" for individuals, or the economy, or the environment, or whatever.

The basic decision to focus on how public policies affect families—rather than how they affect corporations, for example—is a value judgment. It indicates a concern for families and an interest in making public policies sensitive to family needs.

Even some aspects of the seemingly neutral tasks of collecting information involve value judgments. Some of the questions asked in family impact analysis appear to be totally or largely value-free. It is a matter of fact how many funds were expended on some program, or how many families received certain kinds of benefits or services from the program. But even the asking of such factual questions involves value judgments. Certain questions, and certain facts, are assumed to be more important than others.

At another level, any attempt to determine whether a particular policy or program "strengthens" or "weakens" families involves additional value judgments. For example, the same set of data about the effects of day care on children and families may lead some observers to conclude that day care strengthens families because it permits mothers to work and by doing so increases families' incomes or perhaps permits them to leave welfare. Others, looking at the same data, may conclude that day care weakens families because it permits shifting some of the responsibilities of child-rearing from the family.

Just as there can be disagreement about a single value judgment, there can be conflicts between different values. Some people favor the food stamp program for low income families because it helps to ensure that these families receive the food and nutrition that they need. Others believe that providing food stamps rather than the equivalent value in cash unnecessarily restricts the parents' freedom of choice about how to spend their income best to meet family needs (i.e. food versus health care versus rent), and stigmatizes them at the supermarket where they pay by food stamps rather than cash. Conflicts of value are shown even more acutely in the question whether Medicaid should cover the costs of abortion.

The values implicit in policy choices often receive too little discussion. As Alva Myrdal wrote over thirty years ago in a book on family policy, public officials have the tendency "to drive values underground . . . to make the analyses appear scientific by omitting certain basic assumptions from the discussion".[9] This observation could be applied as well to policy analysts, scholars, and indeed, all citizens. We all have a tendency to want to believe that difficult policy choices can be made on the basis of "neutral" computer printouts or by finding just a little more data, rather than by debating and seeking to resolve what may be fundamental value disagreements.

Footnotes at end of article.

Yet it would be a disservice to pretend that determinations about what "strengthens" or "weakens" families can be based purely on data and statistics.

For these reasons, the Family Impact Seminar is committed to stating as explicitly as possible the value assumptions and judgments which are involved in its work and its conclusions. We recognize that this will not always be an easy task; that there will be value judgments on which we as a group will not agree; that there will be cases in which general values as we hold may be in conflict; and that our efforts to be explicit may not be completely successful.

But we will make these efforts so that those who review our work, or conduct their own, will be reminded that this field involves both questions of value as well as questions of fact. We believe this is not only the most honest but also the most effective way to help generate public debate about and make the policy process aware of, the ways in which public policies affect families.

The work of the Family Impact Seminar is based on the following general values:

We have a mutual interest in the well-being of families and their ability to care for their members.

We believe that public policies affecting families should seek to support and supplement families in the exercise of their basic functions.

Where institutions share or have primary responsibility for functions which previously were the responsibility of families—such as the education of children—we believe families should be informed about and have real opportunities to influence the important institutional decisions which affect their family members.

As a general rule and consistent with the protection of constitutional rights, we believe government policies should provide families with broadened options and choices.

We believe that the diversity and pluralism of families must be recognized and respected. Public policies should not discriminate against or penalize family structures or roles—such as single-parent or two-earner families—which differ from the actual or perceived norm or traditional structure.

We believe that public policies designed to support families should give priority to those families and family members who have least access to the needed resources of society.

We recognize that this statement of general values is not complete and will need further clarifications. Other questions about values will arise when we examine particular policies, and trade-offs will need to be weighted and discussed. There will be a need to define more precisely what some of these statements mean in relation to specific policies. And some of these general values will be more relevant to some policies than to others. It is our hope, however, that this statement helps illustrate how family impact analysis involves value judgments, will encourage the discussion of values in this process, and provides a sense of the general values on which the work of the Family Impact Seminar is based.

As an additional means of assuring that the value questions are as explicit as possible in family impact analysis, we recommend that the description of policy options include a statement of the value to be furthered or supported by each option. For example, the Child Support Enforcement Act raises value questions about the relative responsibility of a remarried father to his first family and to his current family; these value questions should be spelled out in the discussion of policy options. Similarly, child abuse programs involve value judgments about the rights of children to a safe and healthy life; these judgments should be made explicit. Other programs addressed to family needs may value the collection of data more highly than family privacy or confidentiality (or vice versa), and these value considerations should be discussed.

Thus, in addition to attempting to identify the general values on which our work is based, when assessing a particular policy, the Family Impact Seminar will seek to state the values and value trade-offs involved in options we discuss or recommendations we propose. Specifically, we will attempt to do this in the development of the Family Impact Seminar's pilot family impact statements.[10]

FOOTNOTES

[1] For a more complete discussion of the range of government actions which fall within our definition of public policy and illustrations of federal programs with potential direct impact on families, see *Toward an Inventory of Federal Programs with Direct Impact on Families*, Family Impact Seminar staff report, February 1978.

[2] See Chapter II, part for a more detailed discussion of these functions and how the process of family impact analysis might be approached.

[3] For a discussion of other impact statements see *A Statement about Impact Statements* by Susan Martin, a staff paper prepared for the Panel on Legislative Impact on Courts, Assembly of Behavioral and Social Science, National Research Council, Washington, D.C.

[4] See *Toward an Inventory of Federal Programs with Direct Impact on Families*. Family Impact Seminar Staff Report, February 1978.

[5] The Family Impact Seminar is exploring the utility of family impact analysis for the review of public policies. Family impact analysis refers more generally, however, to a process for assessing the impact of public and private activities or policies on families.

[6] The term "mediating structures" comes from *To Empower People*, by Peter L. Berger and Richard J. Neuhaus. The authors define mediating structures as "those institutions standing between the individual in his private life and the large institutions of public life." In addition to family, the authors consider neighborhood, church and voluntary associations to be mediating structures.

[7] See Chapter III, Section C.

[8] See the next section of this chapter for our statement on the need to make value judgments explicit in family impact analysis.

[9] Alva Myrdal, *Nation and Family*, M.I.T. Press, 1941.

[10] See Chapter III for a summary of our plans to develop pilot family impact statements on government as employer and foster care.

TUITION TAX RELIEF ACT OF 1978

Mr. STEVENS. Mr. President, the vote on the Goldwater amendment is set for 6 o'clock on Monday, and we have a problem of Senators who have gone West. I wonder whether we can have some understanding that there would not be any votes prior to 3:30.

Mr. ROBERT C. BYRD. I say to my good friend that I do not think we should do this any further during this session. I think this is fine ordinarily, and we want to do it when we can, in order to accommodate our colleagues. But we are now down to where we have only a few days of August remaining. We have the Labor Day holiday. I feel that we should be prepared to start early. That is why we are coming in early on Monday. We are nearing the end of the session—at least, the end of the year.

Mr. STEVENS. Could I modify the request to cover this bill? We know that the Goldwater amendment will come up at 6. There may be other business. The majority leader may determine to set this matter aside to take up other business, as I understand it.

However, some Senators have gone West, and I understand some Senators are at the Vatican. I do not know when that plane will return.

I agree with the majority leader about the remainder of the session. In fact, I am slightly—what is a good word for it? I do not think I should say "disturbed." Shall I say unglued?

Mr. ROBERT C. BYRD. Discombobulated.

Mr. STEVENS. About the majority leader's comments concerning the post-election session.

So I urge all my colleagues to cooperate with the distinguished majority leader and move these bills through, so that when we finish we will not have a post-election session.

I recall the last one. I was in the Chair on New Year's Eve. We were on a triple track, with three filibusters going on at the same time. The Senator from West Virginia will recall that. Those are not interesting experiences, to be here after elections.

So I will cooperate with the Senator in every way—Saturday sessions or whatever else is necessary—to avoid a post-election session.

However, in this one regard I have been asked to make the request because of Sentaors who already have gone West. We need to contact them and tell them to get back, if there is a substantial possibility of votes before the vote on the Goldwater amendment at 6 o'clock.

Mr. ROBERT C. BYRD. Does the Senator suggest that any votes in connection with the tuition tax credit issue not occur, if ordered, before 3:30 p.m. on Monday?

Mr. STEVENS. That is what I am asking.

Mr. ROBERT C. BYRD. Very well. In this instance, I will agree, and I make that request, with the understanding that rollcall votes may occur on other matters prior to 3:30.

Mr. STEVENS. I thank the distinguished Senator.

Mr. HODGES. Mr. President, reserving the right to object, the Senator from South Carolina, for reasons that I am not entirely sure of, is not here.

We had tried earlier to move around to various times and make commitments about votes. I can think of no votes that would occur before the vote on the Goldwater amendment on Monday. But in deference to the Senator from South Carolina, under my instructions—I am merely a spear-carrier in this war—I must object.

Mr. STEVENS. Is it because of the time or because of the agreement?

Mr. HODGES. Because of both—that is, either to lock ourselves in, or the time itself. I think there was some problem earlier with the time. I do not think there will be any votes then on the tuition tax credit. I cannot conceive what it would be. But we do not want to lock ourselves in, in a parliamentary sense, so I must object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. I thank the Senator, and I thank the majority leader.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 20 minutes, and that at the conclusion of routine morning business, the Chair recess the Senator until 9:30 on Monday morning next.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:55 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to H.R. 12928, an act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. BEVILL, Mr. BOLAND, Mr. WHITTEN, Mr. SLACK, Mrs. BOGGS, Mr. DICKS, Mr. SHIPLEY, Mr. CHAPPELL, Mr. MAHON, Mr. JOHN T. MYERS, Mr. BURGENER, Mrs. SMITH of Nebraska, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 13635. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

At 3:18 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House insists upon its amendment to the bill (S. 2701) to amend the Water Resources Planning Act (79 Stat. 244, as amended), disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MEEDS, Mr. UDALL, Mr. VENTO, and Mr. LUJAN were appointed managers of the conference on the part of the House.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 13635. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes; to the Committee on Appropriations.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-773. A resolution adopted by the Michigan Aeronautics Commission relating to airport aid; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ABOUREZK, from the Committee on the Judiciary, without amendment:

S. Res. 538. An original resolution authorizing the reprinting of the committee print entitled "Colonization of the West Bank Territories by Israel". Referred to the Committee on Rules and Administration.

By Mr. WALLOP, from the Committee on the Judiciary, without amendment:

S. 2793. A bill to provide for appellate review of decisions of the High Court of American Samoa (Rept. No. 95-1107).

By Mr. METZENBAUM, from the Committee on the Judiciary, with amendments:

H.R. 7819. An Act to complement the Vienna Convention on Diplomatic Relations (Rept. No. 95-1108).

By Mr. PAUL G. HATFIELD, from the Committee on the Judiciary, without amendment:

S. 1274. A bill to provide the Attorney General of the United States with authority to contract with State and local authorities for the safekeeping, care, and subsistence of all Federal prisoners (Rept. No. 95-1109).

S. 3336. A bill to enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner (Rept. No. 95-1110).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 5285. An Act to amend the Tariff Schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastic or rubber (Rept. No. 95-1111).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By MR. ABOUREZK (for himself and Mr. BURDICK):

S. 3398. A bill pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota; to the Select Committee on Indian Affairs.

By MR. ABOUREZK:

S. 3399. A bill to repeal laws and provisions in Title 25 of the United States Code made obsolete by the President's Reorganization Plan No. 3 of 1950 and to repeal other obsolete laws and language in Title 25 to facilitate the Title 25 codification project of the United States Senate Select Committee on Indian Affairs; to the Select Committee on Indian Affairs.

By MR. STONE:

S. 3400. A bill to make storage space available for 1978 crop sugar; to the Committee on Agriculture, Nutrition, and Forestry.

By MR. DOLE:

S. 3401. A bill to revise, extend, and improve maternal and child health and crippled children's services under title V of the Social Security Act; to the Committee on Finance.

By Mr. BENTSEN:

S. 3402. A bill to amend the Internal Revenue Code of 1954 to make technical corrections in the provisions relating to individual retirement accounts; to the Committee on Finance.

By Mr. BELLMON:

S. 3403. A bill to establish a National Student Loan Bank; to the Committee on Human Resources and the Committee on Banking, Housing, and Urban Affairs, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ABOUREZK (for himself and Mr. BURDICK):

S. 3398. A bill pertaining to the inheritance of trust or restricted land on the Standing Rock Sioux Reservation, North Dakota and South Dakota; to the Select Committee on Indian Affairs.

● Mr. ABOUREZK. Mr. President, on behalf of myself and Mr. BURDICK, I am today introducing legislation to limit the right to receive by devise or descent any interest in trust or restricted land on the Standing Rock Sioux Reservation to persons first, who are enrolled members of the Standing Rock Sioux Tribe of North and South Dakota; second, who are members of a federally recognized Indian tribe; or third, who are otherwise recognized as Indians by the Secretary of the Interior.

The purpose of this legislation is: first, to deal with the fractionated heirship problem; second, to prevent the passing of Indian lands out of trust status; and third, to consolidate Indian and tribal land ownership.

Section 3 of this bill established uniform descent laws for the Standing Rock Sioux Tribe. Under existing Federal law (e.g., 25 U.S.C. § 348), North Dakota law applies to those parts of the reservation in North Dakota and South Dakota law applies to the remainder of the reservation. Since the present descent laws of North Dakota and South Dakota differ substantially, this bill will eliminate many of the inequities and confusion created by the current situation.

Section 4 of this bill provides for the non-Indian surviving spouse to take a life estate in one-half of any interest in trust or restricted land left by an Indian descendent.

This legislation was requested by the Tribal Council of the Standing Rock Sioux Tribe and it is similar to a number of laws which have been enacted to restrict the inheritance of trust or restricted lands. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3398

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to the extent that the laws of descent and devise of the State in which trust or restricted land is located on the Standing Rock Indian Reservation in North Dakota and South Dakota (hereinafter the "Reservation") are inconsistent with this Act, the provisions of this Act shall govern the right to inherit such trust or restricted land.

SEC. 2. Only persons who are enrolled members of the Standing Rock Sioux Tribe of North and South Dakota (hereinafter the "Tribe"), who are members of a federally recognized Indian tribe, or who are otherwise recognized as Indians by the Secretary of the Interior (hereinafter the "Secretary"), shall be entitled to receive by devise or descent any interest in trust or restricted land within the exterior bounds of the Standing Rock Indian Reservation as defined by the Act of March 2, 1889, ch. 405, 25 Stat. 888, except as provided in section 4 of this Act.

SEC. 3. Notwithstanding the laws of descent of the State in which trust or restricted land is located on the Reservation, whenever any Indian dies leaving any interest in trust or restricted land within the Reservation, and the trust or restricted land has not been devised by an approved will consistent with the provisions of section 2 of this Act, such interest shall descend to the following persons, subject to their being enrolled members of the Tribe or otherwise eligible as heirs under section 2 of this Act:

(a) One-half of the interest shall descend to the surviving spouse. The other one-half of the interest shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent. by right of representation;

(b) If there is no surviving spouse, the interest shall descend in equal shares to the children of the decedent and to the issue of any deceased child of the decedent, by right of representation;

(c) If there are no surviving children or issue of any child, the interest shall descend to the surviving spouse;

(d) If there is no surviving spouse and no surviving children or issue of any child. the interest shall descend to the parents of the decedent;

(e) If there is no surviving spouse, no surviving children or issue of any child, no no surviving parents, the interest shall descend equally to the brothers and sisters of the decedent;

(f) If there is no surviving spouse, no surviving children or issue of any child, no surviving parents, and no surviving brothers or sisters, the interest shall escheat to the Tribe;

(g) Any interest which descends in accordance with this section shall be subject to the right of a non-Indian surviving spouse as provided in section 4 of this Act;

(h) As used in this Act, "children" and "issue" shall include adopted children and acknowledged illegitimate children

SEC. 4 Notwithstanding the provisions of section 2 of this Act, the non-Indian surviving spouse of an Indian decedent who leaves any interest in trust or restricted lands within the Reservation shall be entitled to take an undivided one-half interest in all such trust or restricted lands during his or her lifetime.

SEC. 5. The provisions of this Act shall apply to all estates pending before the Secretary on the date of this Act and to all future estates, but shall not apply to any estate heretofor closed.●

By Mr. ABOUREZK:

S. 3399. A bill to repeal laws and provisions in title 25 of the United States Code made obsolete by the President's Reorganization Plan No. 3 of 1950 and to repeal other obsolete laws and language in title 25 to facilitate the title 25 codification project of the U.S. Senate Select Committee on Indian Affairs; to the Select Committee on Indian Affairs.

● Mr. ABOUREZK. Mr. President, I am today introducing S. 3399 to repeal laws and language in title 25 (Indians) of the United States Code that are obsolete and inoperative.

Many of these provisions were made obsolete by the President's Reorganization Plan No. 3 of 1950 which transferred almost all of the delegated authority in the Department of the Interior to the Secretary of the Interior. Many other provisions were made obsolete by enactment of title 5 (Government Organization and Employees) United States Code, section 301 vesting general authority in executive offices of agencies to issue regulations and manage internal affairs of their agencies.

Other obsolete laws and language that will be repealed date back to the late 19th century and earlier and are completely superceded or unnecessary. Some of the obsolete sections are old appropriation acts that have been executed.

None of the laws or language to be repealed by this act will affect any laws or authority in use or relied upon today. No Indian claims, treaty, or any other right arising under the laws of the United States will be affected by this legislation.

The repeal of these obsolete laws and language will facilitate the ongoing title 25 codification project of the U.S. Senate Select Committee on Indian Affairs.

The Department of the Interior has been consulted on the repeal of these laws and language.●

By Mr. STONE:

S. 3400. A bill to make storage space available for 1978 crop sugar; to the Committee on Agriculture, Nutrition, and Forestry.

● Mr. STONE. Mr. President, I rise to offer a bill to compel the administration to carry out its responsibility under the Food and Agriculture Act of 1977 to sugar cane and beet producers. I regret having to take this course of action. I believe that when Congress passes a law and when the President signs that law, we should be able to expect that the executive branch will implement and fully administer that law.

Such has not been the case with respect to the sugar price support program that was established in section 902 of the Food and Agriculture Act of 1977. I will not fill the RECORD with all of the delays and administrative difficulties that have occurred in the sugar price support program. The purpose of the bill is to require the administration to make storage space available for 1978 crop sugar. This action is imperative if a disaster is to be averted in my own State of Florida.

The Food and Agriculture Act of 1977 requires the Secretary of Agriculture to support the price of 1977 and 1978 crops of sugar beets and sugar cane at a level of at least 52.5 percent of parity. When the conferees on the legislation were considering this provision, they made it quite clear that the Secretary should implement the program in a manner in which there would be no outlay of CCC funds required because the market price for sugar should be such that sugar could move freely into the marketplace.

However, millions of tons of foreign sugar have been dumped into this country since the passage of the Food and Agriculture Act of 1977 because of the faulty administration of the law. This has depressed the domestic price of sugar to such an extent that domestic sugar has gone under loan rather than move into the marketplace. As I pointed out to Secretary Bergland in my latest letter on this subject, four sugar processors, which represent over 70 percent of the Florida industry, presently have almost all of their sugar in storage under CCC loans. Their warehouses are full. It appears that, as of November 1978, when the new crop of sugar will come in, these four processors will have 250,000 tons of unsold sugar in warehouses. This represents 75 percent of their warehouse capacity. Unless these processors are able to build or lease additional storage space before harvest of the 1978 crop, the sugar industry in Florida will have to cease operation, with a resultant loss of crop, loss of employment and economic disaster.

Mr. President, I take this action of introducing legislation only after a series of unsuccessful pleas both by the Florida sugar industry and by me personally over the past few months. I find it incredible that in the face of this disaster to the sugar industry of my State, we have received no satisfactory response. I have here for the RECORD my May 26 and my July 31 letter on this subject. Also, I would like to have printed in the RECORD a July 13 letter from the president of the Sugar Cane Growers Cooperative of Florida, Mr. George Wedgworth, to Howard Hjort, Director, Economic Policy Analysis and Budget, U.S. Department of Agriculture.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAY 26, 1978.

Hon. ROBERT BERGLAND,
Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: On a recent trip to Belle Glade, Florida, Senator Stone was shown an equipment warehouse for the Sugar Cane Growers Cooperative. This warehouse is now used to store sugar. It seems that the major customer for this sugar is able to purchase imported sugar at a lower price than 13½¢ per pound—the current price support level.

The Florida sugar growers have supplied us with a fact sheet on this serious problem which we are enclosing for your review.

We do not consider the Florida sugar storage inventory problem as a part of the long-term sugar policy situation that is now under review by the President and the Congress. Rather, this inventory issue is one that requires immediate action.

We are most hopeful that we will hear from you about this problem upon our return on June 5 after the Memorial Day recess.

Warm personal regards.

Most cordially,

RICHARD (DICK) STONE.

SUGAR STORAGE INVENTORY PROBLEM

THE PROBLEM

There is currently under CCC loan approximately 350,000 tons of raw sugar in Florida and 50,000 tons in Texas. Efforts are being made daily to sell this sugar at a price which will permit repayment of the loan and interest charges. The latest offer received for a quantity of sugar for movement before January 1 would net the seller 12.29 cents per pound or 1.21 cents per pound less than the current CCC loan rate. Florida produces approximately 900,000 tons of sugar annually which is moved into market channels during a ten month period beginning in November through the following August. Considering sugar now stored in Florida not under loan and the sugar under loan, there is approximately 550,000 tons of sugar to be moved before the next harvest season begins. Since we customarily move 90,000 tons per month and rail facilities and other transportation are geared to this figure it will be extremely difficult, if not impossible, to move an average of 110,000 tons per month between now and November 1.

ALTERNATIVE SOLUTIONS

(1) Take no immediate action and allow CCC to acquire the sugar under loan. Even though loans mature in 11 months, it has been customary that the loan commodity be moved if the farmer needs the storage space for safe housing of his next crop. Under this alternative, CCC would acquire ownership of the 400,000 tons of sugar and would make disposition in accordance with applicable laws and regulations. The processors and producers would have no further obligations. Public criticism would be enormous plus the fact that it would compound the problem of making future programs workable.

(2) Waive carrying charges and a portion of the principal to permit the sugar to be sold at levels below the loan guarantee. These distressed prices would cause a further disruption of the market and would probably lower world prices due to the world surplus and would cause enormous amounts of sugar from the 1978 crop to be placed under loan. Furthermore, such distressed sales would restrict imports the same as if import quotas were applied.

(3) Take action to achieve a demand and a domestic market price to move such sugar from under loan into normal market channels. As previously stated, this action must be taken immediately due to the tonnage involved. To create demand the flow of foreign sugar must be stopped. Evidence is already available that imports of foreign sugar are being stepped up in anticipation of an increased duty as a result of an increased loan rate for the 1978 crop. Average weekly imports since the first of January have been 30,000 tons. Imports for the week of May 13 were in excess of 70,000 tons. The increased duty necessary under the 1978 crop loan program must also be announced immediately. An increased duty alone will not do the job and would merely cause additional discounting by foreign shippers.

U.S. SENATE, COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C., July 31, 1978.

Hon. BOB BERGLAND,
Secretary of Agriculture, U.S. Department of Agriculture, Washington, D.C.

DEAR MR. SECRETARY: Once again, I am writing you concerning the serious sugar storage shortage problem that is confronting the Florida sugar cane industry. Four Florida raw sugar processors, Atlantic Sugar Association, Gulf and Western Food Products Company, Osceola Farm Company and the Sugar Cane Growers Cooperative, face an emergency situation because they will not have sufficient storage for their 1978/79 crop sugars. The remaining two Florida processors have long-term contracts with refiners that have continued to receive normal volumes of sugar and do not have a storage problem.

As I view the situation, it has been created by failure of the U.S. Department of Agriculture to administer the current sugar program for the 1977/78 crop, so that crop sugars would move into normal channels of trade. Accentuating this problem is USDA's unwillingness to call CCC loans before maturity, by taking over sugar that is presently under loan and stored unsold in warehouses which are customarily used for the next crop.

The present administration of the sugar program is in such a sad state of affairs that the four processors, which represent over 70% of the Florida industry, presently have almost all of their sugar in storage under CCC loans. Their warehouses are full. Sales of Florida sugar have not progressed in the normal fashion, due to higher than normal importation of cheap foreign raw sugar that at least one Florida processor has alleged is being dumped in the U.S. market.

It has been predicted that as of November 1978, these four processors will have 250,000 tons of unsold sugar in warehouses representing 75 percent of the warehouse capacity. Unless additional storage is built or leased before harvest of the new October crop, the industry will have to cease operation with the resultant loss of crop, loss of employment and unrecoverable financial loss.

The critical Florida raw sugar storage situation has been continually brought to the attention of your Department for several months. In a telephone conversation one Florida sugar processor had with Dr. Howard Hjort on July 26, it is my understanding that Dr. Hjort said a decision had been made to wait until maturity of the CCC loans before USDA took over Florida raw sugar. Loans mature 11 months after the date of the loan, resulting in CCC take-over accruing from November 21, 1978 through May 1979. I have been advised that processors can still be required to store this sugar after CCC take-over. Unless USDA acts responsibly in this critical situation, the industry will face by itself a costly and possibly unachievable task of finding or building suitable warehousing in time for the next crop of sugar estimated to exceed 650,000 tons.

Finally, it is difficult to understand why USDA would treat sugar producers in a different manner than producers of other agricultural commodities. In the past, USDA has accelerated the maturity dates on crop loans for other commodities, taken ownership, and moved the commodities to accommodate growers and to make their space available for storage of the new crop. As you well know, during this current year the maturity date for wheat loans were changed for this specific purpose.

In the June 9 USDA response to my May 26 letter to you on this same subject, it was implied that the Florida sugar storage problem is part of the proposed sugar legislation which Congress is presently reviewing. Again, as I maintained in my May 26 letter, the sugar storage problem is a separate issue from any back-up domestic sweetener policy to the International Sugar Agreement. In fact, in reviewing USDA's current administration of the sugar program for 1977/78, I am being compelled to take the view that the only viable domestic back-up sweetener policy for the I.S.A. is S. 2990 or H.R. 12486.

But, in any event, I must urge your most careful personal consideration of this request.

Warm personal regards.

Most cordially,

RICHARD (DICK) STONE.

SUGAR CANE GROWERS COOPERATIVE OF FLORIDA,
Belle Glade, Fla., July 13, 1978.

Dr. HOWARD HJORT,
Director, Economic, Policy Analysis and Budget, U.S. Department of Agriculture, Washington, D.C.

DEAR DR. HJORT: You were out of your office when I called you July 11, 1978, however, your secretary assured me that you would return my call the following day. Since I did not receive your call yesterday or today, and because of the importance of immediate action by the U.S. Department of Agriculture on the emergency raw sugar storage situation in Florida. I am attempting to get this letter hand-delivered to you today.

We feel certain that you are familiar with the emergency situation that presently exists in the storage of raw sugar in Florida. I will not belabor that subject, but will merely point out that the following Florida producers in the Florida Sugar Marketing & Terminal Assn., Inc., namely, Atlantic Sugar Association, Gulf & Western Food Products Company, Oscoola Farms Company and Sugar Cane Growers Cooperative of Florida, as of this date, have their sugar warehouses, consisting of 332,000 ton capacity, full. The movement of sugar out of these warehouses from present sales contracts will leave 253,485 tons of old crop sugar in storage January 1, 1979, to say nothing of over two months production of new crop sugars. All processors will begin the 1978/79 crop season on October–November of 1978. Because of our inability to sell raw sugar at prices that equal the USDA loan program, we will not have storage for the 1978/79 crop.

The inability of storing or selling raw sugar will cause a close down of our industry. Thus, we have a dire emergency approaching and only prompt action at this time can avert a disastrous situation.

Our situation has been made known to the appropriate people in USDA many months ago. We have been informed that recommendations have been forwarded and may be in your hands. We need positive action now from the Department so we can begin to take action to alleviate the situation before it is too late.

The purpose of this letter is to remind you of our critical situation. Also to request your assistance in finding out where the holdup is on the announcement of what the U.S. Department of Agriculture is going to do for Florida producers holding sugar under Commodity Credit Corporation loan with no prospects of selling and moving their sugar out of storage prior to next crop startup in November and to ask you to assist in getting this announcement made as promptly as possible.

Sincerely,

GEORGE H. WEDGWORTH,
President.

Mr. STONE. Mr. President, the bill that I am introducing today would do two things. First, it would accelerate the maturity date on 1977 crop sugar to August 31, 1978, or the date of enactment of this bill, whichever is earlier. Second, it would require the Secretary to move this sugar out of the producing areas within 30 days so that producers will have a place to store the sugar that will be produced by the current crop of cane and beets.

Thus, my bill would do nothing more than to require the Department of Agriculture to take action that is necessary to avert a disaster in the Florida cane-growing areas—action that would not have been necessary had the intent of the law been carried out. This bill should

not be confused with the sugar legislation that is now being considered in the House of Representatives—legislation to establish a price support program for sugar producers. The intent of my bill is merely to have the administration to take the kind of action that they have a responsibility to do under existing law.

I am introducing this bill in the hope that we can get an immediate response from the administration, and I will request the Committee on Agriculture, Nutrition and Forestry to do everything possible to elicit such a comment.

I intend to offer this bill within the next few weeks as an amendment on other legislation that is moving through Congress. The urgency of the situation in Florida will probably not permit the delay of taking the normal legislative route.●

By Mr. DOLE:

S. 3401. A bill to revise, extend, and improve maternal and children's health and crippled children's services under title V of the Social Security Act; to the Committee on Finance.

1978 AMENDMENTS TO THE MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICE ACT

● Mr. DOLE. Mr. President, in anticipation of the hearing scheduled by the Finance Subcommittee on Health to hear testimony on maternal and child health care services, I am today introducing a bill to revise, extend, and improve maternal and child health and crippled children's services under title V of the Social Security Act. As ranking minority member of the Finance Health Subcommittee, I have had a good deal of interest in this area and feel that, at the very least, the 43-year-old program is deserving of our consideration as a basis for any new attention which might be given to this category of beneficiaries.

I think most Senators are aware of the administration's objectives with respect to children, mothers, and prospective mothers in their proposed Child Health Assessment Act—introduced by my colleague from Connecticut, Senator RIBICOFF. My purpose in submitting this legislation to amend title V is not necessarily to suggest that we need an alternative to CHAP—or even that legislation at this time is desirable or affordable—but rather to point out that we have an established framework for assisting these special groups, and that maybe we should take a look at it.

This bill would provide the means for just such a review, Mr. President. It is the product of a very careful, objective, indepth, 3-year evaluation of the problems of our Nation's youth by the American Academy of Pediatrics. It has already been introduced in similar form on the House side by PAUL ROGERS and TIM LEE CARTER—and will, I hope, stimulate an appropriate response among all Senators who are concerned about our efforts to make health services available to those mothers, infants, and youth for whom both prevention and care may be a particular burden.

Mr. President, I ask unanimous consent that there be printed in the RECORD a brief summary of this proposal highlighting its goal, funding, State accountability requirements, national oversight role, organizational perspective, and effectiveness assurance mechanisms, together with the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "1978 Amendments to the Maternal and Child Health and Crippled Children's Service Act."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) Each year, many mothers, infants, children, and adolescents suffer from preventable illness or from crippling illness as a result of the limited availability of health care services.

(2) The health programs for mothers and infants in title V of the Social Security Act are the base and establish the standards for most of the public health programs for mothers, infants, children, and adolescents in the Nation; the program for crippled children in title V of the Social Security Act is the major health system for providing special services unique to children with crippling diseases; and the programs for providing comprehensive services for high-risk pregnant women and children living in underserved areas has had an important part in improving the health of those served. Consequently, programs must be revised and expanded to assure all pregnant women, infants, children, and adolescents the promise of a healthy future.

(3) Steps should be taken to insure the national priority that all pregnant women and children have access to adequate health services, since—

(a) births to women under sixteen years increased 80 percent between 1960 and 1975;

(b) low birthweight infants are born to women under fifteen twice as often as those over twenty;

(c) twenty-eight percent of pregnant women begin prenatal care after the first trimester or have no care at all;

(d) low birthweight babies are more common among women who receive no care; and

(e) approximately three hundred thousand severely retarded people require total care at the average cost of $18,000 per year per person.

(4) The program authorized by this title should be extended and strengthened through improved organizational steps and through special grants to achieve such desirable objectives as providing health services for adolescents, special services for the unwed pregnant teenage, for neonates born at high risk, and for the coordination of health and education programs.

(5) In the provision of services for mothers, infants, children, and adolescents, maximum use should be made of the existing system of health care delivery and the participation of private providers, and new community arrangements should be created as needed to provide services for problems.

(6) Special grants should be made available on national, regional county, and local bases.

(b) The purpose of this Act is to make health services available to special groups (to pregnant women, to mothers and their infants, to crippled children who have need for special services, for underserved children and youth, for mothers and children who have disabling diseases and disorders) who are at greater health risk and social dependence, and for whom the cost of preventive care may be a particular burden. Furthermore, health services, including preventive services, shall be made available directly or through arrangements with physicians, or other health providers and medical entities, to mothers and children who, for economic reasons, have difficulty in obtaining the services they need, and special grants for projects for delivery of care to other identified groups of mothers and children shall be made available.

SEC. 3. Title V of the Social Security Act as amended is hereby further amended to read as follows:

"TABLE OF CONTENTS

"Sec. 501. Authorization of appropriations.
"Sec. 502. Allotments to States.
"Sec. 503. Approval of State plans.
"Sec. 504. Payments.
"Sec. 505. Operation of State plans.
"Sec. 506. Special grants for projects of regional or national significance.
"Sec. 507. Special grants for county and local projects.
"Sec. 508. Training of personnel.
"Sec. 509. Research projects.
"Sec. 510. Administration.
"Sec. 511. Definition.
"Sec. 512. Observance of religious beliefs.
"Sec. 513. National Office of Maternal and Child Health.
"Sec. 514. National Advisory Council on Maternal and Child Health.
"Sec. 515. Study on maternal and child health delivery.

"AUTHORIZATION OF APPROPRIATIONS

SEC. 501. (a) For the purpose of enabling each State to extend and improve—

"(1) services for reducing infant mortality and otherwise promoting the health of mothers, infants, children, and adolescents;

"(2) services to prevent disease and disability that cripple children and to locate, diagnose, treat, and provide followup services for children who have crippling conditions or who suffer conditions which may lead to crippling;

"(3) services for locating and identifying mothers, infants, children, adolescents, and crippled children under State plans;

there are provided special grants to States and subdivisions of States for new activities to address the provision of medical services for health problems; grants for training of personnel; and grants for research projects related to the delivery of health services for mothers, infants, children, and adolescents.

"(b) There are authorized to be appropriated for the purposes of this Act—

"(1) for the fiscal year ending September 30, 1979, and for each fiscal year thereafter, $350,000,000 for maternal and child health services for which provision is made for allotments under section 502;

"(2) for the fiscal year ending September 30, 1979, and for each fiscal year thereafter, $150,000,000 for crippled children's services for which provision is made for allotments under section 502;

"(3) for the fiscal year ending September 30, 1979, and for each fiscal year thereafter $125,000,000 for special grants for projects of regional or national significance for which provision is made in section 506;

"(4) for the fiscal year ending September 30, 1979, and for each fiscal year thereafter, $100,000,000, subject to the provision of section 503(a)(10), for special grants for county and local projects for which provision is made in section 507;

"(5) for the fiscal year ending September 30, 1979, and for each fiscal year thereafter, $50,000,000 for training of personnel under the provisions of section 508;

"(6) for the fiscal year ending September 30, 1979, and for each fiscal year thereafter, $25,000,000 for research projects under the provisions of section 509.

"(c) Notwithstanding the preceding provisions of this section, of the amount appropriated for any fiscal year pursuant to this section, not less than 6 percent of the amount appropriated shall be available for family planning services under projects under sections 506, 507, and 509.

"ALLOTMENTS TO STATES

"SEC. 502. (a) From the amounts determined to be available to States pursuant to section 501(b) allotments under this section shall be made on the following basis:

"(1) There shall be allotted to each State for maternal and child health services $200,000 plus such part of the remainder of the funds appropriated pursuant to section 501(b)(1) for maternal and child health services as the number of live births in such State bears to the total number of live births in the United States in the latest calendar year for which there are statistics.

"(2) There shall be allocated to each State for crippled children's services $100,000 plus such part of the remainder of the funds appropriated pursuant to section 501(b)(2) for crippled children's services as the number of persons in the State under the age of twenty-one bears to the total number of persons in the United States under the age of twenty-one in the latest calendar year for which there are statistics.

"(b) Within the limits of the amounts appropriated in this Act for any fiscal year, there shall be allocated to each State a sum not less than the sum allocated to the State for the fiscal year ending September 30, 1977.

"(c) Funds allotted to States which remain unused at the close of a fiscal year shall be available to the Secretary for reallocation to States in the following year for the purposes of this section on the basis of demonstrated need to carry out the State plan.

"(d) Payments to States from amounts appropriated pursuant to section 501(b)(1) and (2) and allotted pursuant to this section shall be subject to matching by States pursuant to section 504.

"APPROVAL OF STATE PLANS

"SEC. 503. (a) In order to be entitled to payments for allotments to a State under section 502 for maternal and child health services and for crippled children's services, a State must have a State plan which—

"(1) provides for financial participation by the State;

"(2) provides for the administration of the plan by the State health agency; except that in the case of those States which on July 1, 1967, provided for administration (or supervision thereof) of the State plan approved under section 510 (as in effect on such date) by a State agency other than the State health agency, the plan of such State may be approved under this section if it would meet the requirements of this subsection except for provisions of administration (or supervision thereof) by such other agency for the portion of the plan relating to services for crippled children, and, in each such case, the portion of such plan which each such agency supervises, shall be regarded as a separate plan for purposes of this title;

"(3) provides (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan and (B) provide for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aids, in the administration of the plan and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency;

"(4)(A) provides for the establishment of a State advisory council to be appointed by the Governor of the State to advise the State agency administering the plan that is approved pursuant to subsection (b) of this section in matters of policy, consolidation of health care programs in the State, identification of mothers and children in need of care, bringing care to them, and

"(B) provides that the composition of the State advisory council shall consist of nine members at least four of whom are practicing doctors of medicine, one of whom is a doctor of osteopathy, and one of whom is a doctor of dentistry, all duly licensed by the State and recommended by appropriate professional organizations, and the remainder of whom are members of the general public qualified by education, experience or knowledge to serve on the council;

"(5) provides that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(6) provides for cooperation with medical, health, nursing, educational, and welfare groups and organizations and, with respect to the portion of the plan relating to services for crippled children, with any agency in such State charged with administering State laws providing for special education and vocational rehabilitation of physically handicapped children;

"(7) provides for payment of the reasonable cost of inpatient hospital services provided under the plan, as determined in accordance with methods and standards which shall be developed by the State and included in the plan, except that the reasonable cost of any such services as determined under such methods and standards shall not exceed the amount which would be determined under section 1861(v) as the reasonable cost of such services for purposes of title XVIII;

"(8) provides, with respect to the portion of the plan relating to services for crippled children, for early identification of children in need of health care and services, and for health care and treatment needed to correct or ameliorate defects or chronic conditions discovered thereby, through provision of such periodic screening and diagnostic services, and such treatment, care, and other measures to correct or ameliorate defects or chronic conditions as may be provided in regulations to the Secretary;

"(9) provides that when services are available in the community, the State health agency shall reimburse an individual practitioner or other private health entity to render the medical services under the State plan;

"(10) provides with respect to the amounts appropriated for special grants for programs of county or local significance pursuant to paragraph (4) of section 501(b), that priority shall be given in the award of grants to cities and counties, and other subdivisions of the State for projects to be conducted in such subdivision;

"(11) provides for carrying out the purposes specified in section 501;

"(12) provides for the development of services in needy areas and among groups in special need;

"(13) provides that acceptance of family planning services provided under the plan shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to eligibility for or the receipt of any service under the plan;

"(14) provides—

"(A) that the State health agency, or other appropriate State medical agency shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by the appropriate Professional Standard Review Organization of the appropriateness and quality of care and services furnished to recipients of services under the plan and, where applicable, for providing guidance with respect thereto to the other State agency referred to in paragraph (2), and

"(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform the function of determining whether institutions and agencies meet the requirements for participation in the program under the plan under this title;

"(15) provides for the development of a unified State plan for mothers, infants, children, and adolescents by the maternal and child health and crippled children program; the plan will: describe the health care needs of the mothers and children in all parts of the State and the resources available to meet such needs; describe the unmet health needs of the mothers and children in all parts of the State; describe the objectives and priorities as determined by the State agency responsible for administering the maternal and child health program and the crippled children program; describe the method used by the State maternal and child health program and the crippled children program to select their objectives and to determine their priorities; include common goals and objectives for the two programs including evidence of appropriate sharing of personnel in the provision of the same or similar services and of joint planning concerning selected programs of common concern to both programs;

"(16) provides that the State maternal and child health plan will include the basic programs and services as determined by the State advistory council taking into consideration the guidelines developed by the National Office; basic programs and services will include, but not be limited to, the basic health services for mothers, infants, children, and adolescents, family planning, and school and health programs; in addition, the maternal and child health plan will include a series of special programs and projects that are conducted to meet the needs of the State and to respond to the priorities in the State plan; the maternal and child health plan may include such special programs for mothers, infants, children, and youth as may be developed and may include sudden infant death syndrome programs, dental programs, expanded perinatal projects, genetic screening and counseling programs, programs for unwed adolescent mothers, or other programs;

"(17) provides that the State crippled children program will include the basic programs and services as determined by the State advisory council taking into consideration the guidelines developed by the National Office; basic programs and services will include, but not be limited to, programs to provide special services for handicapped children; in addition, the crippled children plan will include a series of special programs and projects that are conducted to meet the needs of the State and respond to the priorities in the State plan: the crippled children plan may include such special projects for crippled children and youth as may be developed and may include centers to provide multidisciplinary evaluation of children with severe developmental disabilities, special programs for hemophilia, and other programs;

"(18) provides that special projects for maternal and infant care, health of school and preschool children, newborn intensive

care, and dental care of children being conducted within the State with funds from this title during the fiscal year ending September 30, 1977, shall, consistent with the needs of the State, be maintained within the State plan; and

"(19) provides that the State agency will submit to the Director of the Office of Maternal and Child Care on or before April 1 of each year, a report of the fiscal year ending September 30 immediately preceding the report date that—

"(A) identifies the health care needs of mothers, infants, children, and adolescents in all parts of the State, and the resources available to meet such needs,

"(B) identifies the unmet health care needs of the mothers, infants, children, and adolescents in all parts of the State which will be addressed, respectively, by State plan and by other auspices, public and private,

"(C) delineates problems in providing maternal and child health care and priorities that will be assigned by the State agency in resolving those problems,

"(D) describes activities to be taken under the State plan for providing maternal and child health care and crippled children care pursuant to this title for the first fiscal year beginning after the due date of the report, and

"(E) identifies the outcomes as a result of providing the services authorized by this title.

"(b) The Secretary shall approve any plan which meets the requirements of subsection (a).

"PAYMENTS

"SEC. 504. (a) From the sums appropriated therefor and the allotment available under section 502, the Secretary shall pay to each State which has a plan approved under this title for each quarter beginning with the quarter commencing with October 1, 1978, a percentage of the total amount expended for programs pursuant to the State plan. The percentage referred to in the first sentence will range between 70 percent and 90 percent and will be determined on the basis of a simple formula to be promulgated annually by the Secretary taking into account only the average per capita income within the State as estimated by current statistics. States will be ranked by average per capita income within each State and the percentage payable shall be proportionately scaled so that the State or States within which the lowest average per capita income exists shall receive 90 percent and the State or States within which the highest average per capita income exists shall receive 70 percent. Any amounts paid under the percentage shall be used exclusively for carrying out the plan with respect to maternal and child health services and crippled children services.

"(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source from which the difference is expected to be derived, and (B) such other information as the Secretary may find necessary.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"(3) Upon the making of an estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"(c) Payments of grants awarded under sections 506, 507, and 508, and of grants, contracts, or other arrangements under section 509, may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine, and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the section involved.

"(d) The total amount determined for payment under subsection (a) of this section for any fiscal year ending after September 30, 1978, shall be reduced by the amount by which the sum expended (as determined by the Secretary) from non-Federal sources for maternal and child health services and services for crippled children for such year is less than the sum expended from such sources for such services for the fiscal year ending September 30, 1978. In the case of any such reduction, the Secretary shall determine the portion thereof which shall be applied, and the manner of applying such reduction, to the amounts otherwise payable from allotments under section 502.

"(e) Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder from the allotments under section 502 for any period unless the State makes a satisfactory showing that it is making available to mothers, infants, children, and adolescents, and to crippled children in all parts of the State health care services for which provision is made in this title.

"(f) Notwithstanding the preceeding provisions of this section, no payments shall be made to any State thereunder—

"(1) with respect to any amount paid for items or services furnished by a practitioner under the plan to the extent that such amount exceeds, or is less than, the charge which is the usual, customary or reasonable charge by such practitioner for such items or services;

"(2) with respect to any amount expended for inpatient hospital services furnished under the plan to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at a nominal charge to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide for fair compensation to such institution for such services;

"(3) with respect to any amount expended for services furnished under the plan by a hospital unless such hospital has in effect a utilization review plan which meets the requirement imposed by section 1861(k) for purposes of title XVIII, and if such a hospital has in effect such a utilization review plan for purposes of title XVIII, such plan shall serve as the plan required by this subsection (with the same standards and procedures and with the same review committee or group) as a condition for payment under this title; the Secretary is authorized to waive the requirements of this paragraph in any State if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1861(k); or

"(4) with respect to any amount expended for indirect costs or administrative expenses which exceeds 25 percent of the total of Federal funds and any matching funds for the conduct of activities under the State plan.

"OPERATION OF STATE PLANS

"SEC. 505. If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this title, finds—

"(1) that the plan has been so changed that it no longer complies with the provisions of section 503; or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"SPECIAL PROJECT GRANTS FOR PROJECTS OF REGIONAL OR NATIONAL SIGNIFICANCE

"SEC. 506. (a) In order to provide special incentives in developing new initiatives to address problems of regional or national significance, to encourage the development of new techniques in resolving the problem of providing health and medical services in underserved areas, to stimulate new programs and activities which address current health problems and which focus upon long-standing problems which have not yet been satisfactorily resolved, the Secretary is authorized to make from sums available under paragraph (3) of section 501(b), grants to the State agencies (administering or supervising the administration of a State plan approved under section 503) and to public or any nonprofit private agency, institution, or organization to pay the cost (exclusive of general agency overhead) for projects or special programs of regional or national significance which may contribute to the advancement of maternal and child health. Programs supported under this section may include (but are not limited to) those which provide or cover the cost of the provision of services or otherwise address the organization or delivery of services—

"(1) necessary to the prospective mother and the developing fetus;

"(2) necessary to the infant during the first year of life;

"(3) necessary to the child during the years of growth and development;

"(4) necessary for the adolescent; and

"(5) necessary to otherwise promote the health and well-being of women, infants, children, and adolescents, including health education.

"(b) Priority of grants will be given to those which will provide health care services to persons who will not receive care otherwise because of being from a low-income family or for other reasons beyond their control. Acceptance of family planning services provided under this title shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to the eligibility for, or the receipt of, any service under such project.

"(c) No project shall be eligible for a grant under this section unless it provides for payment of—

"(1) the reasonable cost of inpatient hospital services provided under the project;

"(2) the usual, customary, and reasonable charges of a practitioner with respect to services provided under the project; or

"(3) if such services are furnished under the project by a public institution free of charge or at nominal charges to the public, an amount determined on the basis of those items (specified in regulations prescribed by the secretary) included in the determination of such reasonable cost which the Secretary finds will provide fair compensation to such institution for such services.

"(d) No single grant under this section shall exceed $2,000,000 in any fiscal year.

"SPECIAL GRANTS FOR UNDERSERVED COUNTIES AND LOCAL AREAS

"SEC. 507. (a) In order to foster the development of strong programs at the local level which address the health care needs of women, infants, children, and youth, particularly in areas with concentration of low-income families, the Secretary is authorized to make, from the sums available under paragraph (4) of section 501(b), with the consent of the State health agency, grants to local municipal and county health agencies and any other political subdivision of the State administering programs consistent with the State plan approved under section 503, or to any public or nonprofit private agency, institution, or organization, not to exceed 75 percent of the cost of programs which provide, arrange for the provision of, or reimburse for services which contribute to the advancement of maternal and child health (exclusive of general agency overhead)—

"(1) which help to reduce the incidence of mental retardation and other handicapping conditions caused by complications associated with child bearing and to help reduce infant and maternal mortality;

"(2) which help to promote the health of preschool and school age children including (but not limited to) preventive services, immunizations, periodic health assessments, health education, as well as other physician services and hospitalization; or

"(3) which foster comprehensive health care for youth and otherwise provide for care, treatment and counseling for conditions associated with pregnancy, venereal disease, alcoholism, drug addiction, and mental health.

"(b) No project shall be eligible for a grant under this section unless it provides—

"(1) for the coordination of health care and services provided under it with, and utilization (to the extent feasible) of, other State or local health, welfare, and education programs for women, infants, children, and adolescents, and

"(2) for payment of—

"(A) the reasonable cost of inpatient hospital services provided under the project;

"(B) the usual, customary, and reasonable charges of a practitioner with respect to services provided under the project; or

"(C) if such services are furnished under the project by a public institution free of charge or at nominal charges to the public, an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such reasonable cost which the Secretary finds will provide fair compensation to such institution for such services;

"(3) that any treatment, correction of defects or aftercare provided under the project is available only to women, infants, children, and adolescents who would not otherwise receive such care because they are from low-income families or for other reasons beyond their control; and no such project shall be considered to be of a comprehensive nature for purposes of this section unless it includes (subject to the limitation in the proceeding provisions of this sentence) at least such screening, diagnosis, preventive services, treatment, correction of defects, and aftercare, both medical and dental, as may be provided for in regulations of the Secretary.

"(c) No single grant under this section shall exceed $1,000,000 in any fiscal year.

"TRAINING OF PERSONNEL

"SEC. 508. From the sums available under paragraph (4) of section 501(b), the Secretary is authorized to make grants to public or nonprofit private organizations or institutions of higher learning for training personnel for health care and related service for mothers and children. In making such grants the Secretary shall give special attention to programs providing training at the undergraduate level.

"RESEARCH PROJECTS

"SEC. 509. From the sums available under paragraph (5) of section 501(b), the Secretary is authorized to make grants to, or jointly finance cooperative arrangements with, public or other nonprofit institutions of higher learning and public or nonprofit private agencies or organizations engaged in research or in such programs, for research projects relating to matenal and child health services or crippled children's services which show promise of substantial contribution to the advancement thereof. Special emphasis shall be accorded to projects which will help in studying the need for, and the feasibility, cost, and effectiveness of, comprehensive health care programs. Grants under this section may also include funds for the training of health personnel for work in such projects.

"ADMINISTRATION

"SEC. 510. (a) The Secretary of Health, Education, and Welfare shall make such studies and investigations as will promote the efficient administration of this title.

"(b) Such portion of the appropriations for grants under section 501 as the Secretary may determine, but not exceeding one-half of 1 percent thereof, shall be available for evaluation by the Secretary (directly or by grants or contracts) of the programs for which such appropriations are made and, in the case of allotments from any such appropriation, the amount available for allotments shall be reduced accordingly.

"(c) Any agency, institution, or organization shall, if and to the extent prescribed by the Secretary, as a condition to receipt of grants under this title, cooperate with the State agency administering or supervising the administration of the State plan approved under title XIX in the provision of care and services, available under a plan or project under this title, for children eligible therefor under such plan approved under title XIX.

"DEFINITION

"SEC. 511. For purposes of this title, a crippled child is an individual under the age of twenty-one who has an organic disease, defect, or condition which may hinder the achievement of normal growth and development.

"OBSERVANCE OF RELIGIOUS BELIEFS

"SEC. 512. Nothing in this title shall be construed to require any State which has any plan or program approved under, or receiving financial support under, this title to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept other health care or services provided under such plan or program for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds.

"NATIONAL OFFICE OF MATERNAL AND CHILD HEALTH

"SEC. 513. (a) There is hereby established in the Department of Health, Education, and Welfare an identifiable unit known as the National Office of Maternal and Child Health Services to carry out the following duties:

"(1) to monitor the operation of title V in the respective States and to evaluate the effectiveness of State programs in providing maternal and child health care services under that title;

"(2) to seek to improve maternal and child health care services through coordination of activities of the Federal health agencies in the operation of this title for maternal and child health and crippled children's services;

"(3) to develop, with the advice and assistance of the National Advisory Council on Maternal and Child Health, guidelines for use by States in the development of State plans pursuant to section 503;

"(4) to develop, with the advice and assistance of the National Advisory Council on Maternal and Child Health, an organized system of data collection and retrieval as a central source of information related to the health of mothers and children and to the health services available to them under this title for implementation at National and State levels coordinated to serve national, State and local areas;

"(5) to provide technical assistance to the State in carrying out its plan (that is, through consultation, conferences, demonstration, and evaluation); and

"(6) to develop a long-range program for carrying out the purpose of title V for implementation by the States on a voluntary basis, including in such program provision for comprehensive maternal, infant, child, and adolescent health care services and designation of priorities for program development.

"(b)(1) There shall be at the head of the Office a Director of Maternal and Child Health Services (to be known as the Director) who shall be appointed by the Secretary. The Director may employ and prescribe the functions of such staff as are necessary to perform the functions vested in him.

"(2) In carrying out any of his functions under this title, the Director is authorized to make grants to any public or nonprofit agency, organization, or institution, and to enter into contracts with any agency, organization, or institution, or with any individual.

"(c) There is authorized for the purpose of carrying out the provisions of this section such sums as are necessary for the fiscal year begining October 1, 1978 and each succeeding fiscal year.

"NATIONAL ADVISORY COUNCIL ON MATERNAL AND CHILD HEALTH

"SEC. 514. (a) The Secretary shall appoint a National Advisory Council on Maternal and Child Health Care Programs (hereinafter referred to as the 'National Council') which shall consist of fifteen persons including the Assistant Secretary of Health of the Department of Health, Education, and Welfare, who shall serve as Chairman. The remaining members, not otherwise in the employ of the United States, shall be appointed by the Secretary. The appointed members of the National Council shall be selected from persons who are specifically qualified to serve on such Council by virtue of their education, training, or experience, and shall include at least eight persons who are practicing doctors of medicine, one practicing doctor of osteopathy, and one practicing doctor of dentistry, each of whom shall be recommended by appropriate national professional organizations and licensed in a State as a practicing doctor of medicine, osteopathy, or dentistry, and the remaining members of the Council shall be members of the general public.

"(b) Each appointed member of the Committee shall be appointed for a term of four years, except that—

"(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

"(2) of the members first appointed, two shall be appointed for a term of four years, two shall be appointed for a term of three years, and one shall be appointed for a term of one year, as designated by the Secretary at the time of appointment. Appointed mem-

bers may serve for the expiration of their terms or until their successors have taken office.

"(c) Appointed members of the Committee shall receive for each day they are engaged in the performance of the functions of the Committee compensation at rates not to exceed the daily equivalent of the annual rate in effect for grades GS–18 of the General Schedule, including traveltime; and all members while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence in the same manner as such expenses are authorized by sections 5703 of title V, United States Code, for persons in the Government employed intermittently.

"(d) The National Council shall—

"(1) advise and assist the Secretary in the preparation of regulations for, and on policy matters arising with respect to, the administration of this title;

"(2) consider all State plans developed for approval by the Secretary pursuant to section 503, and make recommendations to the Secretary with respect to such approval;

"(3) review the long-range program;

"(4) advise and assist the National Office of Maternal and Child Health in developing guidelines under section 513(a)(3) and data systems under section 513(a)(4); and

"(5) perform such other duties as are appropriate in advising and assisting States and the National Office of Maternal and Child Health.

"(e) The National Council shall meet as frequently as the Chairman deems necessary but not less than two times annually. Upon request of four or more members, it shall be the duty of the Chairman to call a meeting of the National Council.

"STUDY ON MATERNAL AND CHILD HEALTH DELIVERY

"SEC. 515. (a) The Secretary shall conduct a study of the Federal health programs for mothers, infants, children, and adolescents. This study will—

"(1) include the collection of information about cost, efficiency, and the effectiveness of the State maternal child health and the State crippled children programs—as well as the cost effectiveness and efficiency of all other Federal programs concerned with the health of mothers and children·

"(2) be charged to make suggestions on how the Federal health programs for mothers, infants, children, and adolescents can be coordinated if not consolidated;

"(3) evaluate the extent to which, and reasons that, title V has been unable to provide to eligible persons care for which they are eligible under that title;

"(4) make recommendations for improving the delivery of health care services made available under title V to eligible beneficiaries including any recommendations for bringing such care to individuals in shortage areas.

"(b) In carrying out these studies the Secretary shall invite the participation of other Federal departments and agencies having related responsibilities and interests, State governments, medical associations, and insurance carriers.

"(c) The Secretary shall make a report on this study and forward the report with such recommendations as he deems appropriate to the Congress and the President on or before January 1, 1980.".

PROPOSAL TO AMEND TITLE V OF THE SOCIAL SECURITY ACT MATERNAL AND CHILD HEALTH CARE

BACKGROUND

Title V is presently a program to promote the health of mothers and children and to prevent and treat disease and disability that lead to the crippling of children. The Title V program operates in large part under a federal grant mechanism for basic services. Under Title V, the State assumes wide latitude in determining how it will implement its program and set program policy.

Since its inception in 1935, Title V has played an important role in providing health care and improving the health of the population it has served. In the attainment of its objectives, however, it has operated with limited funding and outside the framework of a specific organizational structure. Still, the number of individuals and conditions eligible for coverage under Title V has continued to increase.

If the program is to continue to provide services in a meaningful manner it is necessary to revamp certain portions while retaining the useful, successful, and familiar basic structure.

PROPOSED CHANGES

The proposed changes would address three basic areas: funding, organization, and intended beneficiaries.

The first significant change would be the inclusion of the phrase "women, infants, children, and adolescents." This is necessary to make clear that the program is intended to cover conditions of all mothers and their children.

While the present program does not prohibit such care (and in fact in many instances state programs provide care to all eligible individuals) the expanded inclusion will remove any doubt as to the appropriateness of such coverage.

A second significant change pertains to federal funding.

Under the present law funding goes to each state on a formula basis, after a basic grant.

One change would provide added funding. While there would be alloted to each of the states at least as much federal funding for the purposes of Title V as is available to the state under present law, the law would be changed to align allotments more nearly with financial resources of the state.

A basic (but increased) allotment would be retained. The payments to states from further allotments would be subject to federal-state matching, with the federal share varying between 70% and 90%, depending on the state's most recent average per capita income.

In addition to grants to states for conducting statewide activities, funds would also be allocated for direct federal grants (a) for special projects of regional or national significance and (b) for special projects of a local nature.

For each of the service programs (maternal and child health, crippled children, and special regional and local programs) separate authorizations are provided, thus preventing a commingling of appropriations. Special authorizations would also be given to programs for training and research.

In order to assure broadest distribution of special project funds intended as "seed" money, special project grants would have annual dollar limitations.

The third significant change pertains to organization of the Title V program.

A National Office of Maternal and Child Health would be established in HEW to monitor Title V operations in the respective states and determine the effectiveness of state programs.

The Office would develop guidelines to assist in the implementation of state plans; develop an organized system of data collection and retrieval to serve national, state, and local areas; provide technical assistance to states; and develop a long-range Title V program.

Annual state reports to the National Office would be required to identify health needs and available resources in the state; unmet needs to be addressed; and outcomes resulting from the provision of services under the program.

A National Advisory Council of 15 members, including eight practicing professionals to be appointed by the Secretary, would advise and assist the National Office in program administration, policy and regulations, and would make recommendations for implementation of a long-range Title V program.

On the state level each state would continue to operate its Title V program. However, under revised conditions for plan approval, the Governor would appoint a 9-member State Advisory Council on Maternal and Child Health, a majority of which would be licensed practicing health professionals. Their responsibility would be to advise the state agency administering the plan in matters of policy, coordination, and identification of persons in need of basic care and services, taking into consideration guidelines developed by the National Office of Maternal and Child Health.

The State plan would utilize the services of individual practitioners (reimbursed at usual and customary levels) or other private health entities in the provision of services under Title V when such services are available in the community.

Each year the state agency administering the plan would submit a report to the National Office of Maternal and Child Care identifying outcomes of the services provided, health care needs in all parts of the state and unmet needs to be addressed. The state agency would also delineate problems and its approach in resolving such problems.

A special study on Maternal and Child Health delivery would be undertaken by the Secretary, directly or by contract, for the purposes of evaluating the effectiveness of the program, assessing the interrelationship between Title V and other titles of the Social Security Act; determining the extent to which there are deficiencies in providing care to eligible persons; and recommending improvements in the delivery of care to shortage areas.

A report would be prepared by the Secretary and submitted by him with such recommendations as he deems appropriate to the Congress and the President, on or before April 1, 1980.●

By Mr. BENTSEN:

S. 3402. A bill to amend the Internal Revenue Code of 1954 to make technical corrections in the provisions relating to individual retirement accounts; to the Committee on Finance.

INDIVIDUAL RETIREMENT ACCOUNT SIMPLIFICATION ACT

● Mr. BENTSEN. Mr. President, I am today introducing legislation to make some very technical changes in our tax laws to simplify the rules governing individual retirement accounts which are often referred to as IRA's. This bill should result in virtually no revenue loss to the Treasury Department. Individual retirement accounts were enacted 4 years ago as part of the Employee Retirement Income Security Act (ERISA). That law provided a tax deduction for certain contributions to individual retirement accounts for individuals who are not participants in employer-sponsored retirement plans.

Since the enactment of the IRA provisions, the Pension Subcommittee of the Senate Finance Committee which I chair has become aware of certain technical problems with IRA's which impose an unfair burden on taxpayers. The legislation that I am introducing today would resolve many of these problems.

It would help simplify IRA's for both the taxpayer and the Internal Revenue Service, provide greater flexibility for retirement savings and prevent the imposition of excessive tax penalties for inadvertent mistakes which are subsequently corrected.

This bill would supplement my ERISA simplification bill (S. 2352) which the Senate Finance Committee unanimously approved last year to reduce excessive paperwork and redtape under ERISA.

Under existing law, individuals who are not active participants in a qualified or Government pension plan or a section 403(b) contract are permitted to take a tax deduction of the lesser of 15 percent of compensation or $1,500 for contributions into an individual retirement account. (The maximum contribution is $1,750 for certain "spousal" individual retirement accounts.) This deduction is available whether or not the taxpayer itemizes his deductions.

The assets of an individual retirement account may be invested in a trusted or custodial account with a bank, savings and loan association, credit union, or in an annuity contract, or in a qualified retirement bond.

To facilitate the portability of pensions—or their transfer with the employee as he or she changes jobs—money or property may be distributed from a tax qualified pension plan or from an individual retirement account to the participant, on a tax-free basis in certain circumstances, if the money is reinvested within a specified time limit in an appropriate retirement fund. This is generally referred to as a "tax-free rollover."

The bill I am introducing today has a series of technical changes in the tax laws relating to four aspects of IRA's: First, the tax treatment of contributions into the account, second, the tax treatment of so-called rollovers, third, penalty provisions for excess accumulations or excess contributions, and fourth, simplified reporting.

Mr. President, I would like to briefly summarize these provisions.

TAX TREATMENT OF CONTRIBUTIONS

The bill extends the current deadline for making contributions to and for establishing an IRA until the individual's Federal tax filing date—including extensions—for the year involved. Thus the latest date for calendar year taxpayers to contribute to or establish IRA's generally would be April 15—plus any extensions—of the following year.

Under the bill, an individual whose contribution does not exceed $1,750 may avoid both the double taxation and the 10 percent premature distribution tax, and avoid the 6 percent excess contributions tax for future years, by withdrawing an excess contribution at any time.

If the individual is entitled to an IRA deduction for any year which follows a year in which an excess contribution is made, he is allowed, under the bill, to receive a deduction by applying the excess as a contribution for a later year.

The bill would prevent new individual retirement annuities which require fixed annuities. Current law may restrict both eligibility and the maximum amount of premium payments thus making a fixed annuity arrangement inappropriate.

TAX TREATMENT OF ROLLOVERS

Individuals are permitted to rollover less than the entire amount distributed from a qualified plan—and attributable to employer contributions—into an IRA or another qualified plan.

Individuals may rollover the proceeds from the sale of property distributed rather than rollover the property in kind.

A surviving spouse is permitted to rollover a plan distribution into an IRA on the same basis as a plan participant.

The 5-year plan participation rule for receiving a "lump sum distribution" is repealed insofar as it restricts eligibility for a rollover IRA.

The rule limiting the frequency of rollovers to once every 3 years is repealed.

CHANGES RELATING TO PENALTIES

The Treasury and IRS are given the authority, where the taxpayer makes a reasonable error and takes appropriate remedial steps, to waive the existing 50 percent tax on distribution shortfalls known as excess accumulations. This is a penalty which would be applied only in situations where a tax abuse exists.

Certain limitations on the amount of an "excess contribution" which may be corrected through a distribution prior to the tax filing date—for the year in which the contribution is made—are removed.

SIMPLIFIED REPORTING

The bill eliminates the separate individual reporting requirements for an IRA in certain circumstances. This provision should make it easier for individuals to establish and maintain IRA's without excessive paperwork.●

By Mr. BELLMON:

S. 3403. A bill to establish a National Student Loan Bank; to the Committee on Human Resources and the Committee on Banking, Housing, and Urban Affairs, jointly, by unanimous consent.

NATIONAL STUDENT LOAN BANK ACT

● Mr. BELLMON. Mr. President, as with other Members of the Senate, I have been distressed by the lack of financial support to young people who desire to seek training at institutions of higher education and, yet, who are unable to secure finances to defray the costs of such training. Many efforts have been made by Congress to meet this problem but, at the present time, there still exist a large number of students who are unable to secure either loans or grants under the programs which are presently in operation. To help fill this need, I am today introducing a bill which would create a National Student Loan Bank patterned after the plan used by the Farm Credit Administration in making credit available to American farmers.

The Farm Credit Administration was established in 1933 at a time when credit to America's food producers was scarce and costly. The bank has now operated more than 40 years with a singular record of success. Losses have been small and largely due to the financial support which has been available, America's farmers have come to be the most productive in the world. I believe the lesson which has been learned in the Farm Credit Administration can be applied in the creation of a National Student Loan Bank.

Let me now describe briefly the National Student Loan Bank proposal, Mr. President. In the first place, all college students and post-secondary vocational students would be qualified to apply for loans. It is not income tested; and it is not for people in any certain age group.

A student could borrow what he or she needed, up to the actual cost of tuition and related expenses at any qualified institution, at which the student had been accepted.

My proposal should cost the Federal Government a limited amount if, indeed, it costs anything at all in the long run. Under my bill, the Government would put up about $1 billion—estimated actual outlays—for initial capitalization and administrative costs during startup. In addition, an annual appropriation of about $250 million—estimated actual outlays—to cover deferred interest—would be necessary for several years, until earnings from repayments were sufficient to make the bank self-sustaining.

As the bank makes loans, it will sell certificates of participation, which will raise additional capital, from which, in turn, the bank can make additional loans.

The bank would raise the additional capital it needed by selling bonded obligations to the general public. These bonds would be supported by the full faith and credit of the United States. Over time, they would be paid off as student borrowers repay their loans.

Borrowers would pay interest at the Treasury bill rate plus 1 percent. This rate would vary each year, as the cost of money to the Government went up and down. This variable interest rate insures the Government against losses resulting from inflation. This interest rate, while substantially below the prime rate, still does not amount to an out-and-out intrust subsidy.

The interest would be deferred while the student was in school and added to the principal upon which payments begin 9 months to 1 year after leaving school.

In addition, my proposed bill would phase out all existing federally subsidized and federally guaranteed student loan programs. These programs will cost a total of $1.2 billion in fiscal year 1978, and the costs are rising every year. It should be clear, therefore, that, with the possible exception of our contribution to initial capitalization of the bank, the long-term result of my bill would be a substantial net savings to the Federal Treasury.

Under my proposal, moreover, borrowers would be required to purchase certificates of participation in the bank. This has at least two benefits. I think we learn from credit unions that people are more likely to repay institutions in which they have an ownership interest, however small—and there is a small earnings potential, for the bank if students borrow from the bank to purchase their shares—and this earnings potential could help to finance the bank.

Under my bank proposal, Mr. Presi-

dent, we would not have the collection problem we have in existing student loan programs. The bank would have available to it all the tools necessary to collect outstanding debts; and, as a last resort, delinquent loans could be turned over to IRS for collection—just as delinquent taxes are collected.

Finally, Mr. President, loans under my bank proposal would be affordable. There is no incentive to borrow a lot of money under my proposal—as is the case under some other loan proposals which have been put forth—as repayment is based on the amount borrowed. Repayment rate is based, on borrower earnings after college; few of the borrowers, if any, should face a situation in which they cannot afford to repay their loans. This combination of loan amount and income, as a base for repayment schedule, seems to me the most satisfactory answer to the difficult question on how to set loan payments for individuals, most of whom are starting out in life, and whose earnings will vary, but generally increase through time.

Let me close, Mr. President, by making an observation once put forth regarding a similar proposal—offered by the Carnegie Commission—the National Student Loan Bank proposal, makes it possible for students to "sell shares in their futures." This seems to me ultimately consistent with everything for which this country stands.

I urge my colleagues to support this bill.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "National Student Loan Bank Act".

BANK ESTABLISHED

SEC. 2. There is hereby established a nonprofit corporation of the District of Columbia to be known as the National Student Loan Bank. The bank, which shall not be an agency or instrumentality of the United States Government, shall maintain such offices as may be necessary or appropriate in the conduct of its business.

BOARD OF DIRECTORS

SEC. 3. (a) The bank shall have a board of directors consisting of fifteen individuals who are interested and experienced in higher education, banking and finance, or public affairs. Members of the board shall be appointed by the President, by and with the advice and consent of the Senate. At least three members shall be students, at the time of their appointments, at postsecondary or higher education institutions. Students appointed to the board shall be selected with a view of achieving the widest possible representation of geographic regions, fields of study, and undergraduate and graduate education. At least one of such students shall be participants in programs provided for by the Higher Education Act of 1965. The President shall select one of the members of the board to serve as chairman.

(b) The terms of office of persons appointed to the board of directors of the bank shall be five years, except that (1) the terms of persons first taking office shall expire, as designated by the appointing officer at the time of appointment, three at the end of one year, three at the end of two years, three at the end of three years, three at the end of four years, and three at the end of five years; and (2) any person appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No person shall be eligible to serve more than two terms on the board.

(c) The board shall appoint a president of the bank and such other officers as it deems necessary to carry out the functions of the bank.

FUNCTIONS OF THE BANK

SEC. 4. (a) It shall be the function of the bank to extend loans to students at eligible institutions. Such loans shall—

(1) not exceed the cost of attendance (computed in accordance with section 428 (a)(2)(C) of the Higher Education Act of 1965);

(2) be available each year for a period not to exceed five years of undergraduate or other study at an eligible institution, or its equivalent in part-time study, and for a period of not to exceed eight years of graduate study including medical school and other professional graduate training, or its equivalent in part-time study;

(3) be available to any student who (A) has been accepted for enrollment at an eligible institution or, in the case of a student already attending such institution, is in good standing at such an institution as determined by the institution, (B) is carrying at least one-half the normal full-time workload as determined by the institution, and (C) has provided the bank with a statement of the institution which sets forth a schedule of the tuition and fees applicable to that student and its estimate of the cost of board, room, and books for such a statement; and

(4) be evidenced by a note or other written agreement which—

(A) is made without security and without endorsement;

(B) provides for disbursement of the proceeds of the advance by check, payable to the institution at which the advance recipient is in attendance, requiring endorsement by such recipient;

(C) provides that the portion of such proceeds allocable to nontuition expenses shall be paid by such institution to the advance recipient upon presentation of evidence satisfactory to the institution that such portion shall be used for such expenses;

(D) provides for repayment of the principal amount of the loan—

(i) at an interest rate (which may be variable) equal to the Treasury borrowing rate plus 1 per centum;

(ii) beginning not earlier than nine months nor later than one year after the date on which the borrower ceases to carry at an eligible institution at least one-half the normal full-time academic workload as determined by the institution;

(iii) at an annual rate, per thousand dollars (or fraction thereof) borrowed, equal to 1 per centum of the taxable income of the borrower (or of the borrower and his or her spouse in the case of a borrower filing a joint return) during the preceding taxable year;

(iv) ending at such time as the total principal and accrued interest are repaid; and

(v) entitles the borrower to repay the full amount of the loan plus accrued interest at any time and without penalty;

(E) provides that the borrower will provide to the bank a copy of all individual income tax returns filed by the borrower (jointly with the spouse of the borrower, or separately, as the case may be) on or after the date on which the borrower ceases to carry at an eligible institution at least one-half the normal full-time academic load as determined by the institution, or, in the alternative, will pay, during the twelve months following failure to timely provide such a copy, an amount equal to one-tenth of the total amount borrowed plus accrued interest, or equal to the unpaid principal amount of the loan plus accrued interest, whichever is less; and

(F) contains such other terms and conditions as the Board deems necessary.

(b)(1) Whenever the borrower fails to meet his obligations to the bank, delinquent amounts (principal plus accrued interest) may at the option of the bank be turned over to the Department of the Treasury for collection.

(2) Such delinquent accounts shall be treated in the same manner as delinquent Federal taxes. The Secretary of the Treasury, through the Internal Revenue Service, shall make every effort to collect such accounts. The Secretary, through the Internal Revenue Service, shall collect such delinquent accounts as if such accounts were delinquent tax liabilities, with all sanctions and remedies available to them to collect delinquent taxes also available to collect such delinquent loans.

(c) The bank shall establish offices easily accessible to students in all parts of the country. Such offices may be established in the facilities of other lenders whose operations are subject to review by an agency of the Federal Government or whose obligations are guaranteed by the Federal Government.

OBLIGATIONS OF BANK; FEDERAL GUARANTEE

SEC. 5. (a) To the extent provided in advance by appropriations Acts, the bank is authorized to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the bank with the approval of the Secretary of the Treasury. Such obligations may be redeemable at the option of the bank before maturity in such manner as may be stipulated therein. The aggregate amount of obligations of the bank outstanding at any one time shall not exceed $7,000,000,000 during fiscal years 1980 and 1981, nor exceed an amount determined by the bank with the approval of the Secretary of the Treasury during succeeding fiscal years. The bank may purchase in the open market any of its outstanding obligations.

(b) The Secretary of the Treasury shall, upon such terms and conditions as he may prescribe, guarantee obligations issued by the bank under this section. The Secretary may establish and collect fees for guarantees hereunder. Such fees shall, insofar as practicable having due regard for the purposes of this Act, be fixed with a view to providing income sufficient for a self-supporing guarantee program. The full faith and credit of the United States is pledged to the payment of guarantees made under this section with respect to both principal and interest.

(c) To provide for the payment of any liabilities incurred as a result of guarantees made under this section, the Secretary of the Treasury is authorized to establish a revolving fund which shall consist of (1) receipts from fees, (2) recoveries under security or subrogation rights or other rights, and any other receipts obtained in connection with such guarantees, and (3) such additional sums, which are hereby authorized to be appropriated, as may be required from time to time to make payments required under such guarantees. Any sums so appropriated shall remain available until expended.

(d) Notwithstanding any other provision of law, the Secretary of the Treasury shall have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in connection with guarantees made under this section.

(e) Any guarantee made by the Secretary of the Treasury under this section shall be conclusive evidence of the eligibility of the

obligations for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a qualified holder of the guaranteed obligation except for fraud or material misrepresentation on the part of such holder.

REQUIREMENTS FOR PURCHASE OF CERTIFICATES OF PARTICIPATION AS A CONDITION TO RECEIVING A LOAN

SEC. 6. The bank shall require borrowers, as a condition of receiving a loan, to purchase certificates of participation in the bank equal to a minimum of 10 per centum of the principal amount of the loan. The bank shall make funds available to borrowers for this purpose on the same terms, and under the same conditions, as enumerated in section 4 of this Act.

GENERAL POWERS

SEC. 7. (a) The bank shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its board of directors such bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this title in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the bank;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, require bonds for them, and fix the penalty thereof; and

(9) to enter into contracts, to execute instruments, to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(b) The bank is authorized to utilize the services of financial institutions and postsecondary or higher education institutions in the initiation of loans and the certification of the eligibility of prospective borrowers.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 8. (a) The financial transactions of the bank shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the bank and necessary to facilitate the audit and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(b) The expenses of any audit performed under this section shall be borne out of appropriations to the General Accounting Office, and appropriations in such sums as may be necessary are authorized. The bank shall reimburse the General Accounting Office for the full cost of such audit as billed therefor by the Comptroller General, and the General Accounting Office shall deposit the sums so reimbursed into the Treasury as miscellaneous receipts.

AUDIT REPORT TO CONGRESS

SEC. 9. A report of each such audit for a fiscal year shall be made by the Comptroller General to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expenses; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep Congress and the President informed of the operations and financial condition of the bank, together with such recommendations with respect thereto as the Comptroller General may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Health, Education, and Welfare, the Secretary of the Treasury, and to the bank.

TAX EXEMPTIONS

SEC. 10. The bank, its property, its franchise, capital, reserves, surplus, security holdings, and other funds and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (1) any real property and any tangible personal property of the bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any and all obligations issued by the bank shall be subjected both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

OBLIGATIONS AS LAWFUL INVESTMENTS, ACCEPTANCE AS SECURITY

SEC. 11. All obligations issued by the bank shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under authority or control of the United States or of any officer or officers thereof. All obligations issued by the bank pursuant to this Act shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of the United States.

PREPARATION OF OBLIGATIONS

SEC. 12. In order to furnish obligations for delivery by the bank, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Board of Directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the bank. The engraved plates, dies, bed pieces, and so forth, executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The bank shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

ANNUAL REPORT

SEC. 13. The bank shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 14. (a) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the National Student Loan Bank," immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

(b) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the Higher Education Loan Bank shall not be subject to any limitation based upon such capital and surplus."

PHASING OUT OF STUDENT LOAN PROGRAMS

SEC. 15. (a) No loan may be made, insured, or guaranteed under part B or under part E of title IV of the Higher Education Act of 1965 after July 1, 1979, to any new applicant under any of these programs.

(b) The Commissioner of Education shall prepare and submit, not later than March 1, 1979, to the Congress such recommendations as he determines necessary to efficiently phase out loan programs under part B and part E of title IV of the Higher Education Act of 1965.

FEDERAL PAYMENTS FOR DEFERRED INTEREST CANCELLATION AND IN THE EVENT OF DEFAULT

SEC. 16. (a) In accordance with the agreements entered into by him, the Secretary of the Treasury is authorized to pay in any fiscal year to the bank such amounts as he determines to be necessary to reimburse the bank for nonpayments due to deferments of principal and interest, defaults by the borrower, the death of the borrower occurring in such year, or insufficiencies of payments of the end of term.

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

DEFINITIONS

SEC. 17. As used in this title—

(1) The term "bank" means the National Student Loan Bank established under section 2.

(2) The term "eligible institution" means (A) an institution of higher education, (B) a vocational school, or (C) with respect to students who are nationals of the United States, an institution outside the United States which is comparable to an institution of higher education or to a vocational school and which has been approved by the Commissioner of Education for purposes of section 435 of the Higher Education Act of 1965.

(3) The term "vocational school" means a business or trade school, or technical institution or other technical or vocational school, in any State, which the Commissioner of Education has designated pursuant to section 435(c) of the Higher Education Act of 1965.

(4) The term "taxable income" has the meaning given it by section 63 of the Internal Revenue Code of 1954.

AUTHORIZATION OF APPROPRIATIONS

SEC. 18. (a) There are authorized to be appropriated $2,000,000,000 for the fiscal year 1980, $3,000,000,000 for the fiscal year 1981, $2,000,000,000 for the fiscal year 1982, and $1,000,000,000 for the fiscal year 1983 for the purpose of providing initial capitalization for the National Student Loan Bank.

(b) There are authorized to be appropriated $100,000,000 for the fiscal year 1980, $100,000,000 for the fiscal year 1981, $100,000,000 for the fiscal year 1982, and $100,000,000 for the fiscal year 1983 for administrative expenses.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Oklahoma (Mr. BELLMON), to establish a National Student Loan Bank, be jointly referred to the Committee on Human Resources and the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 2739

At the request of Mr. CHAFEE, the Senator from Iowa (Mr. CLARK), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Maryland (Mr. MATHIAS) were added as cosponsors of S. 2739, the Federal Buildings Artistic Enhancement Act.

S. 3087

At the request of Mr. DURKIN, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 3087, a bill to amend the Bank Holding Company Act of 1956 to prohibit bank holding companies and their subsidiaries from selling property and casualty insurance as principals, agents, or brokers.

S. 3384

At the request of Mr. TALMADGE, the Senator from Iowa (Mr. CLARK), the Senator from Montana (Mr. MELCHER), the Senator from Alabama (Mrs. ALLEN), and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 3384, a bill to require foreign persons who acquire, transfer, or hold interests in U.S. agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings.

SENATE JOINT RESOLUTION 148

At the request of Mr. BAKER, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 148, authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week."

AMENDMENT NO. 3409

At the request of Mr. PERCY, the Senator from Hawaii (Mr. INOUYE) and the Senator from Nevada (Mr. CANNON) were added as cosponsors of amendment No. 3409, intended to be proposed to S. 991, a bill to establish a Department of Education, and for other purposes.

SENATE RESOLUTION 537—SUBMISSION OF A RESOLUTION OF DISAPPROVAL OF REORGANIZATION PLAN NO. 4 OF 1978

Mr. RIBICOFF submitted the following resolution, which was referred to the Committee on Government Affairs:

S. RES. 537

Resolved, That the Senate does not favor Reorganization Plan No. 4 of 1978, relating to the Employment Retirement Income Security Act of 1974, transmitted to the Congress on August 10, 1978.

Mr. RIBICOFF. Mr. President, I submit a resolution disapproving Reorganization Plan No. 4 of 1978. I ask unanimous consent that Reorganization Plan No. 4 be printed in the RECORD.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

REORGANIZATION PLAN NO. 4 OF 1978

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, August 10, 1978, pursuant to the provisions of Chapter 9 of Ttitle 5 of the United States Code.

EMPLOYEE RETIREMENT INCOME SECURITY ACT TRANSFERS

Section 101. Transfer to the Secretary of the Treasury.

Except as otherwise provided in Sections 104 and 106 of this Plan, all authority of the Secretary of Labor to issue the following described documents pursuant to the statutes hereinafter specified is hereby transferred to the Secretary of the Treasury:

(a) regulations, rulings, opinions, variances and waivers under Parts 2 and 3 of Subtitle B of Title I and subsection 1012(c) of Title II of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 note) (hereinafter referred to as "ERISA"), except for sections and subsections 201, 203(a)(3)(B), 209, and 301(a) of ERISA;

(b) such regulations, rulings, and opinions which are granted to the Secretary of Labor under Sections 404, 410, 411, 412, and 413 of the Internal Revenue Code of 1954, as amended (hereinafter referred to as the "Code"), except for subsection 411(a)(3)(B) of the Code and the definitions of "collectively bargained plan" and "collective bargaining agreement" contained in subsections 404(a)(1)(B) and (a)(1)(C), 410(b)(2)(A) and (b)(2)(B), and 413(a)(1) of the Code; and

(c) regulations, rulings, and opinions under subsections 3(19), 3(22), 3(23), 3(24), 3(25), 3(27), 3(28), 3(29), 3(30), and 3(31) of Subtitle A of Title I of ERISA.

Section 102. Transfer to the Secretary of Labor.

Except as otherwise provided in Section 105 of this Plan, all authority of the Secretary of the Treasury to issue the following described documents pursuant to the statutes hereinafter specified is hereby transferred to the Secretary of Labor:

(a) regulations, rulings, opinions, and exemptions under section 4975 of the Code, except for (i) subsections 4975(a), (b), (c)(3), (d)(3), (e)(1), and (e)(7) of the Code; (ii) to the extent necessary for the continued enforcement of subsections 4975 (a) and (b) by the Secretary of the Treasury, subsections 4975(f)(1), (f)(2), (f)(4), (f)(5) and (f)(6) of the Code; and (iii) exemptions with respect to transactions that are exempted by subsection 404(c) of ERISA from the provisions of Part 4 of Subtitle B of Title I of ERISA; and

(b) regulations, rulings, and opinions under subsection 2003(c) of ERISA, except for subsection 2003(c)(1)(B).

Section 103. Coordination Concerning Certain Fiduciary Actions.

In the case of fiduciary actions which are subject to Part 4 of Subtitle B of Title I of ERISA, the Secretary of the Treasury shall notify the Secretary of Labor prior to the time of commencing any proceeding to determine whether the action violates the exclusive benefit rule of subsection 401(a) of the Code, but not later than prior to issuing a preliminary notice of intent to disqualify under that rule, and the Secretary of the Treasury shall not issue a determination that a plan or trust does not satisfy the requirements of subsection 401(a) by reason of the exclusive benefit rule of subsection 401(a), unless within 90 days after the date on which the Secretary of the Treasury notifies the Secretary of Labor of pending action, the Secretary of Labor certifies that he has no objection to the disqualification or the Secretary of Labor fails to respond to the Secretary of the Treasury. The requirements of this paragraph do not apply in the case of any termination or jeopardy assessment under sections 6851 or 6861 of the Code that has been approved in advance by the Commissioner of Internal Revenue, or, as delegated, the Assistant Commissioner for Employee Plans and Exempt Organizations.

Section 104. Enforcement by the Secretary of Labor.

The transfers provided for in Section 101 of this Plan shall not affect the ability of the Secretary of Labor, subject to the provisions of Title III of ERISA relating to jurisdiction, administration, and enforcement, to engage in enforcement under Section 502 of ERISA or to exercise the authority set forth under Title III of ERISA, including the ability to make interpretations necessary to engage in such enforcement or to exercise such authority. However, in bringing such actions and in exercising such authority with respect to Parts 2 and 3 of Subtitle B of Title I of ERISA and any definitions for which the authority of the Secretary of Labor is transferred to the Secretary of the Treasury as provided in Section 101 of this Plan, the Secretary of Labor shall be bound by the regulations, rulings, opinions, variances, and waivers issued by the Secretary of the Treasury.

Section 105. Enforcement by the Secretary of the Treasury.

The transfers provided for in Section 102 of this Plan shall not affect the ability of the Secretary of the Treasury, subject to the provisions of Title III of ERISA relating to jurisdiction, administration, and enforcement, (a) to audit plans and employers and to enforce the excise tax provisions of subsections 4975(a) and 4975(b) of the Code, to exercise the authority set forth in subsections 502(b)(1) and 502(h) of ERISA, or to exercise the authority set forth in Title III of ERISA, including the ability to make interpretations necessary to audit, to enforce such taxes, and to exercise such authority; and (b) consistent with the coordination requirements under Section 103 of this Plan, to disqualify, under section 401 of the Code, a plan subject to Part 4 of Subtitle B of Title I of ERISA, including the ability to make the interpretations necessary to make such disqualification. However, in enforcing such excise taxes and, to the extent applicable, in disqualifying such plans the Secretary of the Treasury shall be bound by the regulations, rulings, opinions, and exemptions issued by the Secretary of Labor pursuant to the authority transferred to the Secretary of Labor as provided in Section 102 of this Plan.

Section 106. Coordination for Section 101 Transfers.

(a) The Secretary of the Treasury shall not exercise the functions transferred pursuant to Section 101 of this Plan to issue in proposed or final form any of the documents described in subsection (b) of this Section in any case in which such documents would significantly impact on or substantially affect collectively bargained plans unless, within 100 calendar days after the Secretary of the Treasury notifies the Secretary of Labor of such proposed action, the Secretary of Labor certifies that he has no objection or he fails to respond to the Secretary of the Treasury. The fact of such a notification, except for such notification for documents described in subsection (b)(iv) of this Section, from the Secretary of the Treasury to the Secretary of Labor shall be announced by the Secretary of Labor to the public within ten days following the date of receipt of the notification by the Secretary of Labor.

(b) The documents to which this Section applies are:

(i) amendments to regulations issued pursuant to subsections 202(a)(3), 203(b)(2) and (3)(A), 204(b)(3)(A), (C), and (E), and 210(a)(2) of ERISA, and subsections 410(a)(3) and 411(a)(5), (6)(A), and (b)(3)(A), (C), and (E), 413 (b)(4) and (c)(3) and 414(f) of the Code;

(ii) regulations issued pursuant to subsections 204(b)(3)(D), 302(c)(8), and 304 (a) and (b)(2)(A) of ERISA, and subsec-

tions 411(b)(3)(D), 412(c)(8), (e), and (f)(2)(A) of the Code; and

(iii) revenue rulings (within the meaning of 26 CFR Section 601.201(a)(6)), revenue procedures, and similar publications, if the rulings, procedures and publications are issued under one of the statutory provisions listed in (i) and (ii) of this subsection; and

(iv) rulings (within the meaning of 26 CFR Section 601.201(a)(2)) issued prior to the issuance of a published regulation under one of the statutory provisions listed in (i) and (ii) of this subsection and not issued under a published Revenue Ruling.

(c) For those documents described in subsections (b)(i), (b)(ii) and (b)(iii) of this Section, the Secretary of Labor may request the Secretary of the Treasury to initiate the actions described in this Section 106 of this Plan.

Section 107. Evaluation.

On or before April 30, 1980, the President will submit to both Houses of the Congress an evaluation of the extent to which this Reorganization Plan has alleviated the problems associated with the present administrative structure under ERISA, accompanied by specific legislative recommendations for a long-term administrative structure under ERISA.

Section 108. Incidental Transfers.

So much of the personnel, property, records, and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency, or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for terminating the affairs of any agencies abolished herein and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Reorganization Plan.

Section 109. Effective Date.

The provisions of this Reorganization Plan shall become effective at such time or times, on or before April 30, 1979, as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5, United States Code.

SENATE RESOLUTION 538—ORIGINAL RESOLUTION REPORTED AUTHORIZING PRINTING

Mr. ABOUREZK, from the Committee on the Judiciary, reported the following original resolution, which was referred to the Committee on Rules and Administration:

S. RES. 538

Resolved, That there be reprinted, with illustrations, for the use of the Committee on the Judiciary five hundred copies of its committee print of December 1977, entitled "Colonization of the West Bank Territories by Israel," a report to the committee by Senator James Abourezk.

SENATE RESOLUTION 539—SUBMISSION OF A RESOLUTION DESIGNATING "FAMILY CAMPING MONTH"

Mr. MELCHER submitted the following resolution, which was referred to the Committee on the Judiciary:

S. RES. 539

Whereas family camping encourages conservation of the Nation's beauty and wise use of natural resources for better outdoor recreation;

Whereas family camping stimulates public interest in, and enjoyment of, the Nation's great outdoors;

Whereas family camping is a wholesome and economical form of family recreation; and

Whereas approximately fourteen million American families go camping every year: Now therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1979 is hereby designated as "Family Camping Month" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

AMENDMENTS SUBMITTED FOR PRINTING

CIVIL SERVICE REFORM LAW—S. 2640

AMENDMENTS NOS. 3464 AND 3465

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted two amendments intended to be proposed by him to S. 2640, a bill to reform the civil service laws.

TUITION TAX RELIEF—H.R. 12050

AMENDMENT NO. 3466

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. HODGES, Mr. ABOUREZK, Mr. BELLMON, Mr. DOMENICI, Mr. MARK O. HATFIELD, Mr. EAGLETON, and Mr. BENTSEN) submitted an amendment intended to be proposed by them, jointly, to H.R. 12050, an act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

DISTRICT OF COLUMBIA REPRESENTATION—HOUSE JOINT RESOLUTION 554

AMENDMENTS NOS. 3467 AND 3468

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted two amendments intended to be proposed by him to House Joint Resolution 554, proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PARKS AND RECREATION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks and Recreation, Committee on Energy and Natural Resources.

The hearing is scheduled for Thursday, August 17, 1978, beginning at 8 a.m. in room 3110, Dirksen Senate Office Building. The purpose of the hearing is to receive testimony from the Department of Agriculture on H.R. 12250 and S. 3242, two bills relating to the Boundary Waters Canoe Area.

For further information regarding the hearing you may wish to contact Mr. Tom Williams at 224–7145.

Those wishing to submit a written statement for the record should write to The Subcommittee on Parks and Recreation, room 3106 Dirksen Senate Office Building, Washington, D.C. 20510.●

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing and Urban Affairs will hold a hearing on Friday, August 25 on gold sales by the Department of the Treasury and on S. 2843, a bill to provide for the issuance of gold medallions.

Treasury announced on April 19, 1978, a decision to sell 300,000 ounces of gold per month for 6 months, a total of 1.8 million ounces from the 277.5-million-ounce U.S. gold stock. The first public auction was held on May 23 and monthly sales will continue through October. Minimum bids for 400 ounces are required.

Treasury stated last April that the gold sales would reduce the U.S. trade deficit "either by increasing exports of gold or by reducing the imports of this commodity," and would "further the U.S. desire to continue progress toward the elimination of the international monetary role of gold." The hearing will examine the purposes and effects of gold sales and consider alternatives.

Testimony will be received on S. 2843, a bill introduced by Senator HELMS, which would require Treasury to make a portion of any future gold sales in the form of 1-ounce and one-half-ounce gold medallions. Senator HELMS has stated that issuance of gold medallions would provide greater revenue to Treasury than bullion sales, reduce imports of bullion coins, and give the American public an opportunity to buy Treasury gold in small quantities.

The hearing will begin at 10 a.m. in room 5302 of the Dirksen Senate Office Building. Persons wishing to testify or submit statements for the record should call Robert W. Russell at 202–224–0819.

ADDITIONAL STATEMENTS

NATIONAL AVIATION DAY ON AUGUST 19 MARKS TRIBUTE TO WRIGHT BROTHERS AND THE PROGRESS OF POWERED FLIGHT

● Mr. RANDOLPH. Mr. President, on August 19, National Aviation Day will be celebrated throughout the United States. President Franklin D. Roosevelt proclaimed the day in 1939 when he signed into law a bill authored by Senator CLAUDE PEPPER, of Florida and this Senator, then a Member of the U.S. House of Representatives. August 19 of each year—the birthdate of Orville Wright is National Aviation Day.

It becomes an especially significant occasion this year, for 1978 also marks the

diamond anniversary year of powered flight. On December 17, 1903, Orville and Wilbur Wright achieved the first successful flight in a heavier-than-air powered aircraft at Kitty Hawk, N.C. Virtually unheralded at the time, this brief 12-second flight is recognized as one of history's most significant events.

In the 75 years since Kitty Hawk, the airplane has evolved into a safe, reliable and efficient means of travel. More than any other vehicle in the history of transportation, it has reshaped the world in which we live. Its impact on our political, social and economic systems almost defies definition.

Much of this progress has been achieved since the introduction of jet aircraft into U.S. commercial service just 20 short years ago. Traffic has increased nearly fivefold in that timespan, growing from 49 million in 1958 to 242 million in 1977 with 260 projected for the current year.

General aviation is doing equally well. In 1977, private, corporate and business aircraft moved some 100 million people to intercity and international points. General aviation aircraft sales have soared to unprecedented levels and show no signs of leveling off this year. Prospects for 1979 are as bright.

The large measure of success that our air transportation industry enjoys was the creation of men and women in the aviation industry who possesed foresight, a spirit of adventure and the will to succeed. It also was the result of the professionalism and dedication of those officials in Government charged with the promotion of aviation and the assurance of flight safety. Indeed, I mention that 1978 not only is the 20th anniversary of U.S. jet service but also the 20th anniversary of the Federal Aviation Act, which created a new governmental structure for meeting the challenges of the Jet Age. We look at the record of aviation over the past 20 years and are grateful for that particular piece of legislation.

It is important to bear in mind, I think, that aeronautical products, next to agricultural products, are this Nation's largest export item. Yet our international leadership in this area is meeting increasing competition from abroad. Any significant reduction in exports as a result would have a serious impact on our national economy and employment. In short, we cannot afford to let American aviation become "second best."

Langhorne Bond, Administrator of the Federal Aviation Administration, told me in a recent letter that the U.S. aviation industry—its manufacturing and airline elements combined—is the Nation's largest employer. He pointed out that their combined sales topped $52 billion last year and their salaries amounted to more than $22 billion.

Mr. President, Mr. Bond's constructive comments on aviation are worthy to be shared with my colleagues and the public. I ask that his letter be printed in the RECORD.

The letter follows:

FEDERAL AVIATION ADMINISTRATION,
Washington, D.C., Aug. 11, 1978.

Hon. JENNINGS RANDOLPH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR RANDOLPH: Through your good efforts and those of Congressman Claude Pepper, the birthdate of Orville Wright—August 19, (1871)—was proclaimed by President Roosevelt in 1939 to be National Aviation Day.

This year, as we approach the 40th annual observance of National Aviation Day, we have a special incentive for celebrating the event. 1978 also marks the 75th anniversary of Orville and Wilbur Wright's epochal powered aircraft flight over the sandy dunes of Kitty Hawk, North Carolina, on December 17, 1903.

In the three-quarters of a century that has passed since their frail machine first flew, aviation has grown to become the giant among our transportation systems, the prime bulwark of our national defense, our largest employer, and a major contributor to the nation's economic and social well-being.

The United States aviation industry—its aerospace manufacturing and air transportation elements combined—is by far the nation's largest employer. Its one and-a-half million employees (about one-twentieth of the total U.S. labor force) earned salaries amounting to $22.8 billion in 1977. And in the same reporting period, aerospace manufacturing recorded sales of $32.4 billion, including the export of commercial transports, general aviation planes, helicopters and related aviation equipment amounting to more than $7.5 billion. Air transportation sales and freight revenues in 1977 amounted to $19.9 billion. In all, aircraft sales, passenger and freight revenues in 1977 amounted to more than $52.3 billion. It can readily be seen that aviation has become a highly significant factor in the national economy as well as in national employment.

The cultivation and regulation of this nation's highly complex air transportation industry are the responsibility of the Federal Aviation Administration, the largest operating administration of the Department of Transportation. Specifically, the agency has been charged by the Congress to provide for the orderly development of U.S. aviation; to develop and maintain a dependable air traffic control and air navigation system for the nearly three-quarters of a million pilots who use the nation's airways; to certify the safety and reliability of the nation's aeronautical products and the capability of the U.S. pilots and crewmen who use them; and to provide for the flight safety of all those who use American airspace or who, to some degree, depend upon air transportation for their economic, social and cultural well being. These directives also are the operational tenets by which the 58,000 employees of the agency conduct their daily professional routines.

Contributing to the phenomenal growth of the aviation industry in America has been steady, unstinting encouragement received from the Congress. The entire aviation community, I'm confident, is aware of this. Today Congressional encouragement in this industry is more important than ever. Because of the great impact, economic and social, that aerospace products and air transportation have on the world family of nations, foreign competition has become fiercely aggressive and politically dominated.

The trade practices of nations which countenance cartels, provide tax advantages for export, and engineer import/export strategies to the detriment of the United States have become formidable barriers. Strong government support of the aviation manufacturing and air transportation industries in England, France, West Germany and Japan has been firmly established and consortiums are active.

If the United States is to maintain a healthy aviation manufacturing and air transportation industry, keep its leadership in world aerospace affairs, we must all exhibit new dedication and vision to keep it so.

The 40th annual observance of National Aviation Day must not pass unheralded. The rich heritage of the Wright Brothers—their endowment in America's future—deserves our enthusiastic support.

Sincerely,

LANGHORNE BOND,
Administrator.

INDEXING—A COMPREHENSIVE APPROACH

● Mr. DOLE. Mr. President, much of the time remaining in the Senate will be devoted to considering taxes. The Senate is in a position to take significant steps for the American taxpayer. I hope this golden opportunity is not lost.

Mr. President, yesterday the House voted 249 to 167 to index the capital gains tax to compensate for inflation. The proposal which passed the House is similar to provisions in a bill I introduced, S. 2738, last spring. The support in the House shows the growing support and understanding of indexing. However, the House bill does not go far enough. We need to adopt comprehensive indexing in our tax laws and I intend to offer such a plan in the Senate Finance Committee and if necessary on the Senate floor.

TAXFLATION

Mr. President, our No. 1 tax problem is inflation.

Inflation creates a cruel paradox for the American taxpayer. As prices and income rise, a person is pushed into a higher tax bracket. The result is a larger Federal tax bite out of the taxpayer's pocketbook. When the increases become too large, the Congress "rescues" the taxpayer by modestly reducing taxes and usually enacting a host of unwanted reforms. Congress receives credit for such enlightened action; however, the taxpayer is in no better condition than if you eliminate the tax inflation. In effect, tax reduction enacted by Congress is nothing more than repealing the automatic tax increases caused by inflation.

Mr. President, to emphasize this point, I would cite a study conducted by the Joint Committee on Taxation, which showed that Government tax revenues rise at 1.65 times the rate of the cost of living. Translated to individual taxpayers, that means that for roughly every 10-percent rise in income, their taxes—on the average—go up by 16½ percent! The difference represents the windfall profit Government receives from the inflation it helps to generate.

PUBLIC FAVORS INDEXING

According to a recent poll released by the Roper Organization, by a fairly wide margin—57 to 32 percent—the public prefers an annual inflation adjustment factor built into the tax system to the

periodic tax cuts the Government has made for time to time to keep taxes in line with inflation. According to the poll released recently to the Senate Finance Committee, taxpayers favor the inflation indexing by even a wider margin than the public at large.

Mr. President, indexing the tax system is the way of the future. There is no tax reform that is more important to achieve, easier to accomplish, and fairer in its impact that income tax indexation. The concept is now new. Pension provisions, found in the tax code, imposing limits on the amount of employee contributions, are presently indexed. The energy tax bill, pending in conference, contains an index tax on the business use of oil and gas. According to a congressional budget office study, approximately 63 percent of all Federal expenditures are completely indexed or quasi-indexed. Tax indexing is used successfully in a number of Western countries, including Canada.

Mr. President, the American taxpayer has had enough. They have had enough of big government—inflation—and high taxes. Congress has enacted yearly tax reductions for the past 3 years, and still the Congressional Budget Office estimates that taxflation will rob Americans of $45 billion in 1983.

Mr. President, let me give an example to show how inflation taxes can be levied at higher marginal rates as income rises with inflation.

Based on the assumption that a family of four was earning $15,000 in 1955, and that increases in income match inflation, that family would be earning $32,900 in 1976, or a gain of 120 percent. Yet, this same family would have been moved from the tax bracket of 22 percent to 36 percent, increasing its tax bill from $1,540 to $6,600 for an increase of 330 percent. If you look at the entire situation, the family, in terms of real income, is 11 percent worse off in 1976 than it was in 1955.

DOLE PROPOSAL

The Tax Indexation Act is simple. It would periodically adjust the tax system to compensate for inflation. My proposal is comprehensive. It affects all three of our major Federal taxes—income, gift, and estate.

PERIODIC ADJUSTMENT

Mr. President, my indexing proposal would adjust for inflation the significant fixed dollar amount used in determining individual income tax rates, exemptions, deductions, and credits. Among these items to be adjusted are the tax rate brackets, the personal exemption, the zero bracket amount, retirement contribution levels, gift exclusion, and the unified estate tax credit.

Mr. President, indexing is the answer. Government must not be allowed to profit by the inflation it creates. Tax indexation would require the Congress to show the political courage to vote for the tax increases required to finance the new programs and expanded budget it authorizes, which no doubt is one of the unspoken reasons why the idea of indexation has met with such resistance.

Mr. President, the American people do not want any phony tax cuts. They want meaningful tax relief. I submit that indexing is an idea whose time has come.●

BLAIR T. HUNT

● Mr. SASSER. Mr. President, on July 26, 1978, Memphis lost one of its great civic leaders, Blair T. Hunt.

"Professor Hunt," as he was affectionately known throughout the Memphis area, served as principal of Booker T. Washington High School from 1935 to 1959. During his tenure, he had a profound effect on his students, many of whom moved into leadership roles in Memphis and around the Nation. Dr. Benjamin Hooks, executive director of the NAACP, is one of his many successful students.

Blair T. Hunt was truly a pioneer. He was born to former slaves in 1888. He attended the old Lemoyne Institute (now Lemoyne-Owen College) and received his bachelor of arts degree from Morehouse College. He completed his graduate work at Tennessee State University and Harvard University.

In 1913, Hunt began his teaching career in the Memphis school system, making him one of only three blacks in Memphis with a teaching degree at the time.

During the 1950's, Hunt met with Memphis city officials to promote a peaceful desegregation of public facilities. He commanded the respect of people of all races.

Blair T. Hunt was also a prominent minister, serving as pastor emeritus of the Mississippi Boulevard Christian Church for 51 years. As the first black speaker ever to address the Tennessee Association of Christian Churches, Hunt said that "racial prejudice and bigotry have been man's desire and not God's design."

Long after the normal retirement age, Hunt continued to work for the betterment of the Memphis community. Until his death at age 90, he served on the Shelby County Board of Education.

One prominent Memphis leader put it well, saying:

> We have lost a valuable citizen in the death of Mr. Hunt. Mr. Hunt used his time unsparingly to visit the sick, to pray with those who needed it, to inspire those with whom he came in contact. He was a wonderful man, a legend in his own time. Memphis has lost one of its greatest friends.

I am honored to have this opportunity to call to the attention of the U.S. Senate the legacy of good works left by this great American.●

NATURAL GAS PRICING

● Mr. ABOUREZK. Mr. President, while there has been little discussion of the natural gas pricing issue on the floor, I felt that an article which appeared in the Los Angeles Times of August 6, 1978, would contribute to the discussion that I feel certain is going on among my colleagues as they await the arrival of the conference report. I ask that Paul Davidson's article "Beware the Modern Tripoli Pirates of Natural Gas" be printed in the RECORD.

The article follows:

BEWARE THE MODERN TRIPOLI PIRATES OF NATURAL GAS

(By Paul Davidson)

Antagonists in the continuing energy drama will soon do battle on the floor of the U.S. Senate over a compromise natural-gas regulation bill. This promises to be a heated confrontation, to put it mildly.

The controversy of Congress centers on deregulating the price of natural gas, which is now controlled by federal law. Deregulation implies a phasing out of government rules affecting the maximum price that producers can charge for domestic natural gas at the wellhead. Its proponents advance two basic reasons to support their position.

Regulation has created an "artificially low price" for natural gas.

Higher wellhead prices will encourage significant additional exploration and production, thereby eliminating the nation's gas shortage.

But, in truth, is the price of natural gas artificially low? Under the pricing system first developed by the Federal Power Commission (since absorbed into the Federal Energy Regulatory Commission), producers of gas are permitted to earn a 15% to 18% rate of return on their investment after recovering all their production costs. Those who argue for deregulation to end artificially low prices do not claim that current regulation prohibits all profitable production, but that the proper price of natural gas should be—as President Carter said in his April 20, 1977 message to Congress—the price of "the equivalent energy value of crude oil."

Thus the Carter Administration supports the compromise gas-pricing bill now before Congress, which would raise wellhead prices and phase out regulation until by 1985 total deregulation is effectively achieved. Over time this legislation would bring the price of natural gas up to approximately the energy equivalent of crude-oil prices.

This objective is perplexing, however. In the absence of domestic oil-price regulation, prices in this country would actually be determined by the Organization of Petroleum Exporting Countries (OPEC) cartel. Is a natural-gas price equal to the cartel-regulated world oil price less artificial than intelligent U.S. government regulation of domestic wellhead prices?

Intelligent regulation means that both producers and consumers are treated fairly; consumers are required to pay an equitable price sufficient to provide an adequate, but not exorbitant," return to U.S. producers and royalty owners. But permitting the domestic natural-gas price to rise to the equivalent of the world's crude-oil price means that American producers would obtain even higher profits because of OPEC's "artificial" restraint on hydrocarbon production.

After all, our own government, the multinational oil companies and even the OPEC governments now admit that world crude-oil prices are not naturally determined in the marketplace.

Not long ago, the U.S. Internal Revenue Service ruled that Aramco (a producing company owned by Exxon, Texaco, Socal and Mobil) could not claim any future U.S. tax credits for payments to the Saudis based on the announced "posted price" for Saudi oil because that posted price "was an arbitrary value assigned to oil." Fearing the effect of this ruling on corporate after-tax profits, an Aramco spokesman informed the Senate subcommittee on foreign economic policy that since January Aramco has been authorized by the Saudis to sell Arab oil at "government-established market prices."

The OPEC governments realized they could establish energy market prices when multi-

national oil-producing companies, without charging all that the world energy markets could bear, still were seen making lucrative profits. By coordinating their efforts, the OPEC nations were able to force these companies to collect tremendous additional sums from consumers by raising prices and lowering output. Most, but not all, of this money was paid to the OPEC nations as taxes. Unfortunately, this example has not been lost on domestic hydrocarbon producers and property owners. For them, deregulation means charging what the natural gas market will bear and enjoying additional income.

The "artificial low price" rationale for deregulation of wellhead prices founders on the fact that *all* energy prices are government-regulated. Those who complain that current domestic gas prices are artificially low, are merely asserting that U.S. government regulation—which currently permits adequate profits and public discussion in determining prices—is artificial, while the secretly determined Saudi "government-established market price" is not.

As for the second reason given for supporting deregulation—namely, that higher prices will stimulate significant additional production of natural gas—this argument assumes two preconditions. One is *availability*, meaning that large quantities of natural gas lie underground that are retrievable at slightly higher production costs. The other precondition is *willingness*, meaning that if prices are just sufficient to cover higher costs of increased production, gas producers will eagerly bring forth natural gas in greater quantities.

Specialists point out, however, that only if *both*, availability and willingness exist will consumers benefit from what economists term a large "positive supply elasticity." If the supply is "positively elastic," consumers will pay higher prices, but will also benefit from an increasing gas supply.

On the other hand, if either availability or willingness are not present, then the "elasticity" is zero, or negative, and consumers will not only pay higher prices, but they will also receive no additional gas—perhaps even less gas than before.

For example, if additional gas is not available—if we are running out of gas as Energy Secretary James R. Schlesinger sometimes seems to suggest—then the elasticity is approximately zero and higher prices will merely increase profits, not production. At the same time, corporations will encourage "conservation" by exploiting consumers so that they cannot afford to buy as much gas to heat their homes as before.

Even with availability, however, if producers expect higher prices and realize that it is in their best economic interest to limit output (and are able to prevent any undercutting of OPEC's influence on energy markets), then the elasticity of supply will be negative. In this event, producers will realize they can make more profits with even less effort than before. Indeed, this has already happened. Between 1970 and 1977, wellhead prices of gas have increased over 450%, while domestic production declined by 9%—a result that is consistent with negative supply elasticity.

Current economic conditions encourage this negative supply behavior by gas producers. From the perspective of profit-oriented firms, any natural gas or oil sold at a regulated price means there will be that much less oil and gas that can be produced in the future at the more profitable deregulated price. As long as domestic producers expect the OPEC cartel to dominate energy markets when deregulation occurs, then producers will expect the value of the hydrocarbons left in the ground to rise rapidly over time.

The Administration-backed compromise gas bill would legalize the increased value of gas in the ground. Hence there is a strong economic incentive to delay production, for with the prospects of deregulation, gas left in the ground is better than money in the bank.

Even advocates of less government control recognize the benefits of regulation. Commissioner Alfred E. Kahn, chairman of the Civil Aeronautics Board, testified that higher natural-gas prices "imparted a negative elasticity of supply."

Of course, it is difficult to prove that producers would deliberately slow down exploration and production solely to force deregulation and higher prices. Consumers are always given "technical" explanations for supposedly desirable lower production rates—so technical, in fact, that they make little sense to the public.

While proponents of deregulation claim that removing price controls would aid the "energy crisis," the truth is that deregulating domestic energy prices does not get to the root of our difficulties. Until U.S. political leaders face up to the unpleasant fact that our energy problems are created by a foreign cartel, no effective natural-gas policy will be forthcoming. Indeed, consumers will continue to suffer unnecessarily in order to "solve" cartel-induced energy shortages.

What deregulation *will* do is legitimize the cartel-regulated world energy price as the "natural" price of energy. But as Prof. M. A. Adelman of the Massachusetts Institute of Technology has demonstrated in a recent study, the current world price of crude oil is strictly an arbitrary one that "has no possible relation to scarcity, present or future, known or feared."

Why, then, should domestic natural-gas prices be permitted to rise to the equivalent of the world crude-oil price? Consumers should require any senator or congressman voting for gas deregulation to answer that question.

Congress and the Carter Administration must face this question above all: Should policies be pursued which permit the cartel to extract tribute from consumers and subject them to the energy policies of energy-producing governments, or should we adopt an economic plan that will create market conditions encouraging the decline of OPEC's power? If adopted, deregulation would encourage the former and protect OPEC against the latter.

In earlier times, when the Tripoli pirates attempted to extort tribute from Americans, the U.S. motto was "millions for defense, but not one cent for tribute." Although President Carter indicated that the energy crisis required a national effort—one that is "the moral equivalent of war"—his energy program perpetuates the payment of tribute to modern-day pirates from the Middle East, North Africa and Latin America.

We are not engaged in an energy war with nature, we are not running out of energy sources. Ours is an economic war with a cartel and its unknowing supplicants in our midst.●

CZECHOSLOVAKIA: TENTH ANNIVERSARY OF THE SOVIET INVASION

● Mr. PERCY. Mr. President, it is now 10 years since Soviet and Warsaw Pact forces invaded Czechoslovakia to stifle the evolution of a freer society there. Yet the image still remains vivid of an unarmed and heroic people standing up to Soviet tanks in the streets of Prague. As we recall that brutal aggression, let us also be reminded of the continuing spirit and heroism of the Czechoslovak people as demonstrated by the Charter 77 movement.

The invasion of Czechoslovakia was a clear violation of the U.N. Charter and therefore the transparent rationalizations offered by the Soviet Union were condemned even by many Communists.

The invasion was also a repression of a people striving for self-direction and innovation. It was an affront to the principles of human dignity and to international standards of human rights endorsed by the Soviet Union itself. Not only did it lead to the imposition of a harsh new regime, it reversed the gradual liberalization and cultural flowering of a people striving to recover from the imposition of Communist rule 20 years earlier.

Yet somehow the spirit of the people survives. Despite the harsh repression of dissent, a group of Czechoslovak citizens came together last year to issue Charter 77, a human rights manifesto which has become a symbol of East European resistance to repression. It calls for the simple observance of rights guaranteed by the Czechoslovak constitution and by the Helsinki accords. In short, it asks the Government of Czechoslovakia to live up to its domestic and international obligations. We owe it to the people of Czechoslovakia and the cause of freedom to support the principles of the Charter 77 movement which is a testament to the continued strength of democratic ideals 10 years after the invasion of Czechoslovakia.●

BERT SEIDMAN SPEAKS OUT ON ISSUES AFFECTING OLDER AMERICANS

● Mr. CHURCH. Mr. President, the House and Senate have approved legislation to authorize a White House Conference on Aging in 1981 to chart out a national policy on aging.

As the sponsor of this legislation, I am especially pleased that the Congress has taken this action.

Two prior conferences—in 1961 and 1971—paved the way for important legislative developments, including medicare, the Older Americans Act, the nutrition program for the elderly, several social security increases, and others.

These actions have all helped to improve the well-being of older persons.

However, major problems still exist:

Nearly 3.3 million older Americans live in poverty;

The threat of a costly illness is still all too real for many older Americans and their families, despite the valuable protection of medicare.

Inflation continues to rob the pocketbooks of senior citizens, especially those living on limited incomes.

Older persons are frequently rebuffed in the job market because of negative stereotypes, despite the enactment of the anti-age discrimination law.

Consequently, the delegates to the 1981 White House Conference on Aging will have a full agenda, as they focus on the everyday concerns and challenges for aged and aging Americans.

Recently, Bert Seidman, the director of the AFL–CIO Department of Social Security, wrote an article describing

some of the major problems confronting elderly persons today.

In addition, he developed a blueprint for action to come to grips with these concerns.

I want to express my strong support for one of his priority recommendations: To abolish poverty for older Americans.

As chairman of the Senate Committee on Aging, I consider this to be my No. 1 goal.

A nation as rich and as humane as ours has the capacity to enable elderly persons to live in dignity and self-respect.

What is needed, though, is the commitment.

Mr. President, I commend Bert Seidman's article from the July edition of the AFL–CIO American Federationist to my colleagues, and ask that it be printed at this point in the RECORD.

The article follows:

THE INJUSTICES OF AGING

(By Bert Seidman and Lyndon Drew)

Retirement, once the privilege of a fortunate few, is now possible for virtually all workers—due in part to collective bargaining and the social security system. With the large growth in the retiree population, there is a new awareness of the need for national policy on aging as it relates to income, health, service, long-term care and other areas.

A national policy is especially needed for retired persons over 75, an increasingly larger group and most likely to be disabled and in need of long-term care. In 1950, only 32 percent of the population over 65 was 75 or older, by the year 2000, 45 percent will be 75 or over. Not only is the population generally aging, but the older population is growing older.

Poverty is still the number one problem of old age. Fifteen percent, or one out of seven people over 65, suffer from the degradation of poverty; one out of four are poor or "near poor" with incomes less than 25 percent over the poverty line. Women, minorities, and those who live alone are the subgroups of the poverty-stricken aged population which are growing in size most rapidly. They tend to have worked less in the past and to have worked in lower-paving occupations.

Public programs fall short of the needs. The special minimum Social Security benefit for people who have worked all their lives in low-wage industries ($172.50 a month next year for a worker retiring at 65 with 25 years of coverage and $230 for retirees with 30 or more years of coverage) falls below the poverty level as defined by the Social Security Administration, which in 1977 was $242 per person and $303 per couple. Average Social Security benefits ($387 per couple in July, 1977) are only 69 percent of the 1977 Bureau of Labor Statistics modest standard of living for a retired couple ($561.50), the level of decency which the 1971 White House Conference on Aging accepted. The average widow's benefit ($233) is even less adequate.

The federal government began in 1974 to provide Supplemental Security Income (SSI) to aged, blind, and disabled people whose incomes were below a minimum national standard. Unless recipients of SSI live, as do one-fifth of the aged recipients, in the states with substantial supplements of their own—Alaska, California, Colorado (for couples), Connecticut (for individuals), Massachusetts, Nebraska, and Wisconsin (for couples)—or work to supplement their incomes, they continue to live in poverty, with little more than the federal maximum benefit of $178 per person and $267 per couple ($189 and $284 beginning June 30, 1978) in 28 of the states. Only $20 of any Social Security benefit is disregarded by the federal government before SSI is reduced dollar for dollar. Half of those people eligible for SSI do not receive it. The Social Security Administration is spending a quarter of a million dollars to find out why, but whatever the reasons, approximately four million needy aged, blind and disabled people are not getting SSI payments to which they are entitled.

Poverty for the aged in extreme cases means fewer meals or going without heat. Poverty, in general, debilitates. Inadequate food, shelter, clothing, and medical care create frailty. Providing services for the diseased and disabled is necessary as poverty destroys the health of old people.

The need for long-term care can be met by responsible action by federal, state, and local governments, with the assistance of private organizations and individuals. The elimination of poverty can help limit the disability of old age.

The cost of all aging programs total about 5 percent of the Gross National Product although 11 percent of the population is over 65 and a majority of the low-income aged receive all of their retirement income from the government. Even with Medicare old people pay out more for health care than do younger people. In 1975, older people paid $390 in out-of-pocket costs compared to the $128 spent by those under 65. In 1976, these expenses averaged $404, virtually the same amount in real terms as retirees paid out of pocket before Medicare and Medicaid.

Disabled old people tend to have the lowest incomes. Professionals in Oregon, for example, who work with the elderly estimate that 75 percent of the elderly who need long-term care are low income. Women living alone are especially vulnerable because of their longer life expectancies and their inadequate widow's benefits and pensions. A higher percent of poor old people are disabled because they have suffered a lifetime of low income. The injustices of a lifetime are compounded by old age.

Public policy designed to redress the injustices of age means first of all an adequate income. Supplemental Security Income benefit levels should be increased to at least the poverty level. State governments as well as the federal government can raise benefits. The Social Security Amendments of 1977 provided for the adjustment of special minimum benefits for cost-of-living increases and for a study of a special consumer price index for the elderly. The conference committee rejected a Senate provision for semiannual rather than annual cost-of-living increases in Social Security and SSI benefits. Special minimum benefit levels, still far too low, should be raised above the poverty level.

Social Security benefits should be increased as soon as possible to provide substantial replacement of preretirement disposable incomes for workers earning up to the median wage. Social Security replaces on the average 58 percent of the wages of low income workers and 35 percent of the wages of high income workers. The replacement rate should be higher for the lower income workers because their retirement incomes are inadequate and private pension plans tend to be concentrated among workers earning median wages and above.

The nation's income-tested programs such as SSI discourage family care of disabled old people by reducing benefits when old people live in a family. No other policy so discourages family care of the disabled elderly.

Besides raising benefits and eliminating disincentives for family care, an adequate income for America's retirees will mean an extra allowance for disability. The Veterans Administration now has such an allowance for veterans with incomes less than $3,700 or $5,070 with spouse. Because of the large number of veterans of World War II and the Korean War, by 1990 more than half of U.S. males over age 65 years will be veterans, and by 1995 veterans will exceed 60 percent of the total. Extending eligibility for a disability allowance to the rest of the population makes good sense.

All veterans 65 years of age or older within the Veterans Administration's income limits and in need of regular aid and attendance receive $165 a month in addition to their regular pension. A surviving spouse is entitled to $79 per month. Housebound veterans, but not surviving spouses, receive $61 a month in additional payments. A veteran cannot receive aid and attendance and housebound benefits at the same time.

Cash transfers to families that provide shelter and care to a medically and financially dependent aged person is far more cost effective than the sometimes unnecessary extreme of indefinite institutionalization. In Britain, this option has been successfully pursued. Great Britain began in 1971 to pay a constant attendance allowance to those disabled people at home who needed constant attention both day and night from another person. Since 1973, a lower rate of allowance has been payable to disabled people at home who need the constant attention of another person either by day or by night. The Social Security Benefits Act of 1975 authorized another allowance, the invalid care allowance, for those who cannot go out to work because they are caring for a severely disabled relative who is receiving an attendance allowance. This benefit began in 1976–77. Great Britain is one of 50 countries which have adopted attendance allowances under provisions of old-age, survivors, and disability insurance programs in an effort to help provide home care for disabled persons.

Finland's extensive system of pensions include an assistance supplement to pensioners who are blind, who are incapable of moving around without assistance, or who require the help of another person because of illness, disability, or injury. This amount is paid also to any pensioner aged 80 or over. An attendance supplement replaces the assistance supplement for pensioners who require constant attendance and for any pensioner aged 85 or over. Benefits are not paid to pensioners receiving publicly financed institutional care. Most countries pay as an attendance supplement 50 percent of the basic pension for total disability and less for partial disability.

A logical place to begin an attendance allowance is for the oldest people who are most likely to face disability. The Veterans and Survivors Pension Adjustment Act of 1976 provided a 25 percent increase in pension and allowance rates for eligible veterans who are 78 years of age or older. By recognizing the special needs of older veterans, this provision generally benefits veterans of World War I. The Federal Council on Aging is developing a national policy on the frail elderly which would entitle people to certain additional benefits at age 75. Whether the age is 75, 78, or 80 and 85 (as in Finland), Congress should extend assistance where the risk of disability is greatest.

Next to income, health is the most important concern of retirees. Medicare and Medicaid have done much to equalize the availability of services among the elderly regardless of income. A comprehensive universal national health insurance program would finally assure the American people the right to decent health care.

National health insurance should offer substitutes for traditional institutional care for our nation's elderly. The National Council of Senior Citizens' program calls for long-term care including changes in Medicare and Medicaid to fund services which should be included in national health insurance. The council urged:

Liberalize the present restrictions in Medicare for home health care benefits. This includes dropping the term "skilled" from the phrase "skilled nursing care," eliminating the three-day prior hospitalization require-

ment, and combining the number of visits allotted under Parts A and B of Medicare.

Broaden the coverage of home health services and post-hospital home health services in a state's Medicaid program.

Make day care facilities, homemaker and home health aides and out-patient clinics for the elderly available and eligible for federal reimbursement under Medicare and federal-state reimbursement under Medicaid.

Medicare and Medicaid are inadequate solutions to the needs for long-term care. The patient share of Medicare costs increased on Jan. 1, 1978, from $124 to $144 for the first 60 days of hospital care, from $31 to $36 per day for the 69th through 90th day of hospitalization, and from $62 to $72 per day for stays beyond 90 days. Hospitalized Medicare patients will pay a total of nearly $900 million out of their own pockets this year for their share of hospital costs.

Only 50 percent of the doctors are willing to be paid directly by Medicare. Physicians who refuse to accept assignment (payment by Medicare) set their own charges and the patient must make up the difference between 80 percent of Medicare's determination of the usual, customary and reasonable fee and the doctor's fee. In 1976, Medicare beneficiaries were responsible for $562 million in extra physician charges compared with $126 million in 1970.

From one-third to one-half of the population below the poverty level does not receive Medicaid benefits, a program which funds 50 percent of the nation's nursing home care expenditures as well as funding home health care and other types of medical care for low-income people. Fifteen states do not extend medicaid eligibility to all federal SSI recipients. Sixteen states do not cover recipients of optional state supplements: twelve states with coverage have no basic supplemental.

Twenty-one states do not cover the medically needy, people who are not poor enough to qualify for cash assistance but who cannot afford to pay for medical care; most states with coverage have eligibility levels much lower than the poverty level. A recent survey of nine states found only 52 to 65 percent of aged SSI recipients enrolled in Medicaid.

Twenty states in 1975 and 15 states in 1976 curtailed Medicaid benefits, eliminating some services outright and severely restricting others. Cutbacks have come in so-called "optional" services such as prescription drugs, dental services, hearing aids, and eyeglasses and optometric services which are vital to old people who are trying to maintain their independence.

Medicaid has not achieved its objectives of bringing the poor into mainstream medicine and providing them with treatment by the same types of physicians, community hospitals, and other health facilities as other Americans.

The Medicare and Medicaid Anti-Fraud and Abuse Amendments of 1977 are an attempt to rid these programs of exploitation. The amendments increase the penalties for fraud and abuse from misdemeanors to felonies require increased financial and ownership disclosure and uniform reporting by providers, and establish financial incentives for states to establish fraud investigation and prosecution units outside of the existing state Medicaid agencies.

The fraud control units, if properly directed, will assist abused and neglected nursing home patients. An attempt to include a patient bill of rights enforcement mechanism to protect patients in nursing homes and other health care facilities failed on the floor of the House. The act does protect nursing home patients from the commingling of facility and patient funds and from obligatory gifts and supplements to homes.

Employment after retirement should not be a necessity but it should remain as an option. Otherwise, a great national resource may be wasted. Older workers want only the opportunity to work without exploitation. They are hit most severely with problems of long-term unemployment and have the least access to supplemental income and retraining.

Labor force participation among men 65 and older fell from 46 percent in 1950 to 22 percent in 1975. For men of age 55 to 64, the rate dropped from 87 to 76 percent with most of the drop occurring since 1970. The same demographic trends which promise an aging population promise a labor shortage if we achieve and maintain full employment. Older workers should share the benefits of any long-term economic growth.

In a recent study of those who exhausted supplemental federal unemployment insurance, 70 percent were age 45 years and over, and 45 percent were 55 and over. The United States Commission on Civil Rights reported in December 1977, that only 2.7 percent of the enrollees under Title I of the Comprehensive Employment and Training Act in 1976 were age 55 or over; only 5.0 percent of the enrollees under Title II were 55 or over; and only 5.1 percent of enrollees under Title VI were 55 or over.

Similar problems exist in the vocational rehabilitation and adult basic education programs. Thirty-six percent of the disabled population between ages 80 and 64 are 55 or older. Only 10.1 percent of those in vocational rehabilitation programs in 1976 were age 55 to 64. People 65 and over make up only 4 percent of the population participating in adult basic education although illiteracy rates are relatively higher for this age group.

Some steps are now being taken to rid these programs of age discrimination. In 1974, Congress amended the Comprehensive Employment and Training Act (CETA) to require that grants, contracts, and agreements specifically provide that no person with responsibilities under the act will discriminate in the operation of the programs on the basis of age.

The Labor Department has taken administrative steps to ensure that these statutory provisions are meaningfully implemented. The Department of Health, Education, and Welfare will publish new regulations this year to implement Section 303 of the Age Discrimination Act of 1975, which will be beginning in January 1979, prohibiting age discrimination in "any program or activity receiving federal financial assistance."

The Civil Rights Commission's recommendations would go further toward assuring old people a share in a full employment economy declaring, "age should be used as a criterion for eligibility in federally assisted services and benefit programs only when federal legislation contains a specific authorization for doing so."

The Older Americans Act has been one means for employing old people. Title IX of the act funds the employment of people 55 and over as paralegal assistants, home health and home repair aides, friendly visitors, meals-on-wheels workers, senior center aides, and other vital workers in the community The act should be amended to include a middle-aged and older workers training act to be administered by the Department of Labor. Services related to job development, job referral and follow-up should be included among the social service definitions in Title III.

The Title IX Senior Community Services Employment Program should be strengthened and substantially expanded with permanent legislation targeting services to the specific needs of the low-income elderly. Any social service programs for old people should employ qualified persons aged 55 and older. Employment of old people in service to old people is doubly beneficial to the aging population.

One recent study found that only 24 percent of area agencies on aging have explicitly emphasized serving the low-income population; only 32 percent in terms of minorities. The pattern in Washington, D.C., may be typical. Three wards where 27 percent of the city's needy elderly live have no neighborhood programs; but four major elderly programs are located in the city's most affluent ward. Existing service facilities and any new long-term care facilities must be neighborhood facilities with easy access to low-income old people.

The same underrepresentation of old people in employment services exists in social services. Social Services to Individuals and Families, authorized by Title XX of the Social Security Act, services the most mobile and aware among the eligible population although one of the goals of the law is the prevention or reduction of inappropriate institutional care of the disabled. This is a critical shortcoming because Title XX funds exactly the kinds of home help and health-related services, such as homemaker and transportation services, which the disabled elderly need.

Sponsorship of housing projects has been a successful way to distribute services to old people. Retirement housing can provide shelter and essential services under the same roof. Old people often occupy older and substandard housing and many cannot afford adequate shelter because of lower, fixed incomes.

They are much more likely than younger households to occupy housing units built before 1940. As a result, the Department of Housing and Urban Development has been overwhelmed with applications for subsidized, elderly housing under the Section 202 rental loan program for lower income persons. In fiscal 1977 the department could fund less than 15 percent of the 200,000 units for which applications had been filed. Recognizing that housing is the leading expenditure for most elderly people, Congress should expand the highly successful Section 202 housing program.

Pluralism in social services is a part of the larger pluralism—ethnic, cultural, and religious—which the integration of services ignores. Unless social services are neighborhood based, they will be inaccessible. Unless they have ties to ethnic, cultural, and religious institutions, they will be unacceptable. Traditional ties to family, neighborhood, and organization will continue to be the most important social supports for disabled old people.

Income, health, employment, and service can help secure justice for old people, but old people should participate in the determination of public policy to help win that justice.

The Older Americans Act authorizes the establishment of advisory councils, consisting of representatives of the older population as well as the general public, to advise the area agencies on aging on all matters relating to the administration of the plan and operations conducted thereunder.

The advisory councils tend to be dominated by the professioinals. Too few of the elderly consumers who actually are active in these advisory councils represent the views of low-income retirees. Planning, coordination, and advocacy by area agencies on aging cannot substitute for advocacy by retirees themselves.

"Strength through Organization" is the theme stressed by the National Council of Senator Citizens. Retired workers and their retiree clubs need to assert their interests by joining with this organization with its 3,500,000 members in over 3,500 clubs and organizations throughout the country. The council has the strong support of the labor movement.

As the size of the aging population grows the role of retiree organizations can increase. The needs for long-term care, for adequate income, health, employment and service can be moved to the top of the political agenda.●

BAR ASSOCIATION AND GOVERNMENT REGULATION

● Mr. SCHMITT. Mr. President, an article which appeared in the Washington Post on Wednesday, August 9, concerns a report issued by a special commission of the American Bar Association on Government regulation of the economy. The report recommends substantial deregulation of the economy and increased reliance upon the competitive forces of the marketplace. Among the recommendations of the commission is one which encourages Federal agencies, before they complete a major regulatory action, to prepare a regulatory analysis that would be open to comment by the public and review by other agencies. The report recognizes that "congressional and administrative consideration of Government intervention has been undertaken all too often without adequate analysis and evaluation of the potentially adverse economic impact of the various forms of intervention, both by increasing the cost of goods and services and by impeding private initiatives."

It is significant that the American Bar Association has joined the growing number of concerned individuals and organizations around the country who are voicing increased concern with the burden that regulation imposes upon businesses and individuals. Many of their voices will be heard before the Subcommittee on Administrative Practice and Procedure on September 12, 13, and 20, when hearings will be conducted on regulatory reform. One of the bills to be considered, S. 2011, the Regulatory Reduction and Congressional Control Act, which I introduced, contains several provisions which fulfill the recommendations of the ABA commission.

I understand that representatives from the ABA will be invited to participate in these hearings, and I will look forward to their testimony on this important matter at that time.

Mr. President, I ask that the Washington Post article of August 8, to which I refer be printed in full in the RECORD.

The article follows:

BAR GROUP URGES LESS REGULATION

(By Jack Egan)

NEW YORK.—The movement toward government deregulation of business and the economy got a big boost yesterday from the legal profession, in a report issued by a special commission on law and economy of the American Bar Association.

The report—prepared by a panel of lawyers and economists following three years of study—recommended substantial deregulation of most federally supervised areas of the economy and more reliance instead on competitive market mechanisms, supported by tougher antitrust enforcement.

Areas singled out for deregulation include the airline industry, and oil and natural gas prices which are now subject to controversial federal controls. In the latter case, the report recommends use of taxes to combat the problem of "windfall profits."

It also urged that in the areas of safety and environmental regulation, consideration should be given to ending the sole regulatory reliance on prohibitions and standards as a way of getting things done and the use instead of tax incentives, subsidies and other means as complements or alternatives to rigid standards.

A major theme of the study is that "congressional and administrative consideration of government intervention has been undertaken all too often without adequate analysis and evaluation of the potentially adverse economic impact of the various forms of intervention, both by increasing the cost of goods and services and by impeding private initiatives."

By 1977 there were some 85 federal agencies involved in regulating some aspect of U.S. economic or social life, according to the report which notes that more than one-fourth of these were created in the seven-year period from 1969 to 1975.

The cost of federal regulation has meanwhile gone from $2.2 billion in fiscal 1974 to $4.8 billion in fiscal 1979, an increase of 115 percent over five years.

"In short, government by regulation, in pursuit of a variety of economic and social goals, increasingly controls, restrains and limits many of the productive elements of our society," states the 187-page study titled "Federal Regulation: Roads to Reform."

John J. McCloy, chairman of the special commission and a partner in the firm of Milbank, Tweed, Hadley & McCloy, stated that in viewing federal regulation a difficult balance had to be struck.

"We must preserve incentives for growth and increased productivity while at the same time protecting important social values and objectives which totally free market operations cannot always assure," he said.

The study was released at the annual convention of the ABA which is currently taking place in New York. It represents a consensus of the views of the commission but has not been adopted as official ABA policy.

The report, however, does acknowledge the substantial stake lawyers have in the question of federal regulation since they both draft the rules under which the agencies operate and also fight the battles before the regulators.

The main recommendations in the study to speed up and streamline the regulatory process include the following:

Reliance, where feasible, "upon the competitive market as regulator, supported by antitrust laws," instead of intervention by the government into the economy. If there is the need for regulation, first thought should be given to increased disclosure or incentive-based methods "before turning to the classical command and control modes."

Enactment of a new statute to let the President direct certain agencies to take up a "critical" matter before them on an expedited basis, and authority for the President to then modify or reverse these decisions. These "critical" issues would be defined as those the President finds to be of broad national interest and whose achievement may go beyond the narrow goal normally entrusted to the agency in question.

An executive requirement that all federal agencies, before they complete a major regulatory action, should prepare an analysis that would be open to comment by the public and review by other agencies.

Increasing the flexibility of administrative procedures in regulatory agencies, and avoiding time-consuming formal trial-type hearings whenever possible.

Funding by the federal government of increased public participation in regulatory proceedings.

Implementing some kind of "sunset" review of different federal agencies, but on a limited basis that would allow the public's attention to be focused on a few manageable targets for reform at one time.

The conclusions of the commission drew some dissenting opinions from several of the panel members.

Rhoda Karpatkin, executive director of the Consumer Union, objected to the proposals for increasing the authority of the President in regulatory matters, because, she said, "it would politicize agency decision making, when there appears to be a post-Watergate consensus that administrative decisions should be insulated from direct political interference."

Elliot Bredhoff, a Washington labor lawyer, demurred from the commission's preference for regulation through taxes rather than through price controls and entry requirements. He said that under these recommendations "consumers can be substantially harmed by unjustified prices which lead to inflation and windfall profits, and the harm to consumers is not adequately remedied by any tax proposals discussed in the paper."

Copies of the report are available from the ABA's Commission on Law and the Economy, 1800 M St. NW, Washington, D.C. 20036.●

VOTER INITIATIVE AMENDMENT

● Mr. ABOUREZK. Mr. President, I introduced the voter initiative constitutional amendment, Senate Joint Resolution 67, with the expectation that voters across the Nation would support this proposal. The amendment, similar to the provisions which 23 States and the District of Columbia already have, would permit citizens to place a proposed law on the national ballot by a petition of a specified number of registered voters. Such a law would then be adopted or rejected by a majority of the voters at the next Federal election.

Recently, George Gallup's polling organization conducted a nationwide poll which showed that Americans support the voter initiative amendment by a factor of greater than 2 to 1. In the August issue of Reader's Digest, Mr. Gallup reports the results of his poll on voter initiative and five other proposed election reforms. I commend this excellent article to my colleagues and ask that it be printed in the RECORD.

The article follows:

SIX POLITICAL REFORMS MOST AMERICANS WANT

(By George Gallup)

In conducting thousands of surveys on almost every conceivable issue for nearly half a century, I have learned three significant things about our fellow citizens. One is that the judgment of the American people is extraordinarily sound. Another is that the public is almost always ahead of its leaders. The third is that the electorate has become better educated and more sophisticated politically than ever before.

This is why I am so disturbed by the disillusionment Americans have expressed, through our surveys, with the workings of the political system. Too many Americans regard politics as a "dirty business." In a poll last year evaluating honesty and ethics in 20 occupations, U.S. Senators and Congressmen stood 10th and 13th, respectively, on the list. In an earlier poll, two out of three persons interviewed believed that some legislators had won election by employing "unethical and illegal methods" in their campaigns; even today, only one third of those polled approved of the way Congressmen were doing their jobs. Two out of three

American parents would not like to see their children enter politics as their life's work.

Disgust with politics has not, howeve diminished Americans' faith in their country. In the latest Gallup surveys, three citizens out of four give the United States a "highly favorable" rating, with only about 2 percent rating it unfavorably; and 68 percent expressed, in an earlier poll, confidence in the nation's future. But what the surveys also make abundantly clear is that the public wants the political health of the nation improved. Here is what the polls show on six major proposed political reforms:

Reform 1. By 60 percent, with 30 percent opposed and 10 percent undecided, Americans favor a resolution offered by freshman Senators John Danforth (R., Mo.) and Dennis DeConcini (D., Ariz.) that would limit the tenure of representatives in Congress to a maximum of 12 years. That means no more than two six-year terms for Senators and six two-year terms for members of the House.

U.S. Presidents have been limited to two terms since 1951, and a 12-year restriction for U.S. legislators was advocated by Harry S. Truman and Dwight D. Eisenhower. Stated Eisenhower: "Each man so serving would tend to think of his Congressional career as an important and exciting interlude in his life, a period dedicated to the entire public rather than as a way of making a living. The members would probably give more attention to national good and less to their personal political fortunes."

One major advantage of the plan is that it would tend to make ability, rather than length of service, the criterion in filling committee chairmanships. Another is that it would bring in younger men and women, perhaps more in tune with the will of the people than those who have been following the same mental routines for decades. There are those who argue that it might deprive the nation of the services of individuals of extraordinary talent, and government is so complex that years are required for a legislator to familiarize himself with it. But room would also be made for individuals of equal, or greater, talent, who might otherwise never get to Congress.

Reform 2. Sums spent on election campaigns average at least $100,000 for those seeking seats in Congress. A candidate must either be wealthy or look for contributions, which may come from those seeking legislative favors. In a poll last year, 57 percent (32 percent opposed and 11 percent undecided) of Americans advocated that the government provide a fixed amount of money for Congressional election campaigns, and contributions from all other sources be prohibited (the ban to include us of the candidate's personal funds). The additional cost to taxpayers would be an estimated $2 per adult citizen. It could be the bargain of the century.

Would government funding of campaigns encourage a horde of minor, frivolous candidates? Perhaps, but the problem has been dealt with successfully in Great Britain. There, candidates must put up a substantial money deposit, which must be forfeited if they do not draw a least 12.5 percent of the vote.

Reform 3 would end the chaotic system of nominating Presidential candidates in state-by-state primaries or by state and national conventions. Sixty-eight percent of the voters favor (with 21 percent opposed and 11 percent undecided) a nationwide primary, to be held on the same day in all 50 states, in which voters would choose the Presidential candidates for their parties by popular vote.

This proposal has had overwhelming support for nearly a quarter-century. Under the present system, many citizens are denied the opportunity to vote for the candidate of their choice because not all candidates enter all state primaries. And at political conventions the party "pros" often pay little attention to the popular will.

Reform 4. The seemingly interminable Presidential campaigns, which stretch over the better part of a year (from the first primaries in January to the November elections), exhaust the candidates, thoroughly bore the electorate—and end up changing few votes. By a majority of 68 percent to 21 percent(with 11 percent undecided), Americans would like to shorten the campaign period. They favor advancing election day to September, and holding the inauguration in November of the election year to allow an incoming President more time to prepare his recommendations for the opening of Congress in January.

Reform 5. Probably the least popular political institution in America is the Electoral College, with its "unit rule" whereby a candidate who wins a plurality in a state gets all of that state's votes. The public has favored doing away with the Electoral College since the first survey was taken on this issue in 1948. In a 1977 poll, 75 percent approved amending the Constitution to provide direct popular election of the President (14 percent were opposed and 11 percent undecided).

Such a bill actually passed the House of Representatives by a lopsided margin in 1969—only to be filibustered to death by Senators who felt that it would diminish their states' power. But the Electoral College system makes possible the election of a President who receives fewer popular votes than his opponent. This has occurred three times (John Quincy Adams, Rutherford B. Hayes and Benjamin Harrison), and almost happened again in 1968 and in 1976.

Reform 6. Perhaps the most controversial innovation Americans advocate is the right to be consulted on important legislation. By a majority of 57 to 21 percent (with 22 percent undecided), in a recent Gallup poll, they supported a proposal introduced by Senators James Abourezk (D., S.D.) and Mark Hatfield (R., Ore.) that would allow Americans to initiate federal legislation when a group of voters equal to three percent of the number who voted in the last Presidential election sign a petition requesting such a vote. Although the procedure would be new to the federal government, it is a familiar practice in almost half the states.

The initiative—or the threat of invoking one—should expedite passage of legislation bottled up in Congress for years. Were the measure in effect now, our Gallup surveys indicate that:

Mandatory busing to achieve racial balance in schools would be abolished by 65 percent of the voters.

The Equal Rights Amendment for women (ERA) would be approved by a majority of 57 percent, including more men than women.

Tough gun-control laws requiring the licensing of all firearms carried outside the home would be enacted by 77 percent, including a large majority of gun owners.

Achieving the reforms referred to in this article would necessitate amending the Constitution in some cases. The customary procedure requires passage of each amendment by two thirds of each House of Congress, then three fourths of the state must approve. It is unlikely, however, that many Congressmen or Senators would approve legislation diminishing their powers and curtailing their continuance in office.

A surer way to get the proposals considered by the nation, as President Eisenhower pointed out, is through the alternate method of amendment prescribed by the Constitution—a constitutional convention, which can be assembled at the request of two thirds of the states. (The amendments would also have to be ratified by the legislatures of three fourths of the states. However, they require only a simple majority vote to be passed at the constitutional convention itself.)

Amending the Constitution that has served the nation so well is not a step to be undertaken lightly, and some suggest that a constitutional convention might itself carry risks. But the measures described here, in my opinion, would help restore the kind of government that the framers of that document actually had in mind—a government that owes nothing to political bosses, pressure groups or campaign contributors, guided only by the will of the people.●

SENATOR JAVITS ON ALCOHOL FUEL

● Mr. PERCY. Mr. President, the development of alcohol fuels is a promising alternative to foreign petroleum imports. My distinguished colleague, Senator JACOB K. JAVITS, has played a significant role in helping to promote alcohol fuel development as a way to alleviate our balance of payments, efficiently use our urban and agricultural wastes, increase employment and bolster our national security.

I would like to submit an article for the RECORD by Senator JAVITS which appeared in First Monday in July of 1978 entitled "Alcohol Fuel: Alternative to Imported Crude" which gives a concise description concerning this new fuel.

The article follows:

ALCOHOL FUEL: ALTERNATIVE TO IMPORTED CRUDE

(By JACOB K. JAVITS)

The long lines at gasoline stations during the 1973 Arab oil embargo made us all aware of the seriousness of the energy crunch as a long term crisis. Since that time, I have become increasingly concerned about the need to develop a secure and reliable domestic alternative to oil imports—close to one half of which are now supplied by the OPEC countries.

One of the most promising additives—ultimately perhaps alternatives—to oil is alcohol-based fuel. Alcohol can be produced easily with current technology from a wide variety of domestic sources that are renewable and plentiful, including urban waste, surplus and contaminated grain, timber, coal and even algae. Importantly, the alcohol created from these sources already can replace oil in a number of end-uses; for example, it can be used in a blend of up to 10 percent with gasoline without the need to modify existing automobile engines; or, used to drive utility and industrial turbines; or, as a new industrial chemical base for plastics and synthetic fabrics.

The use of alcohol fuels is not a new idea. In the 1930's, the Philippines used alcohol produced domestically from sugar cane in order to avoid the expense of importing petroleum. During World War II, Germany used alcohol produced from coal as a military fuel because it was unable to obtain petroleum supplies.

Today, interest centers on the use of alcohol as a gasoline supplement. Brazil requires that all gasoline sold in that country contain 7-10 percent alcohol. Volkswagen has completed a two year study with 45 cars powered by alcohol-gasoline blends, and by straight alcohol, and concluded that there were no major technological problems in automobile driveability or pollution control. And in this country, several midwestern states have begun to sell "gasahol" (10 percent ethanol blended with 90 percent unleaded gasoline). This country currently uses 90 billion gallons of gasoline a year to run its cars—obviously, if even 10 percent of that gasoline could be replaced by alcohol,

the savings on our oil imports would be significant.

It is time for action in the energy arena. This country cannot sustain for the longer term the enormous financial drain caused by oil imports. And even if we could, the world's supply of petroleum may well be so depleted in the not too distant future as to cause grave shutdown problems. Although alcohol fuel will not in itself solve the energy crisis it can make a significant contribution by decreasing the need for petroleum imports, and by putting to work domestic resources that would otherwise be wasted. If we are to meet the challenge of the energy crisis, we must begin to develop some of the imaginative and innovative technologies we have overlooked in the past.

In Washington we are beginning to see a forward movement in alcohol development. After 28 of my Senate colleagues and I urged the Departments of Energy and Agriculture to seriously consider alcohol fuels as an energy option, the Department of Energy commissioned a special Task Force on Alcohol Fuels. Its report supported our contention that there was a need for greater research and development in this area. At present, the Department of Energy is considering an immediate action program in alcohol fuel commercialization while the Department of Agriculture is soliciting bids for four alcohol fermentation plants soon to be built in this country using agricultural waste and sewage as the basic source materials.

The time has come for alcohol fuels to offset foreign petroleum, provide jobs in our rural and urban areas, use previously wasted domestic resources and offer the necessary security this country ought to have in its fuel supply. We have no short term liquid fuel alternatives before the year 2000, and alcohol may well be our only answer.●

WHITE HOUSE TAKING POSITIVE ACTION ON RURAL AND SPECIAL TRANSPORTATION NEEDS

● Mr. CHURCH. Mr. President, America's rural areas are poorly served by public transportation systems, and their elderly residents are among the most adversely affected by this situation. The First National Conference on Rural America reported that, between 1960 and 1975, over one-quarter of rural bus systems were discontinued, primarily in towns with populations of 25,000 or less.

Income, health, and other factors have hit the elderly especially hard when it comes to transportation; 40 percent of persons 65 and older do not own an automobile. Even among older persons who do own autos, driving tends to decline for similar reasons. In rural areas, where distances are great and alternative transit is limited or nonexistent, the result can be a devastating social isolation cutting off access to available medical, recreational, educational, commercial, and social services.

Area agencies on aging, churches, civic groups, and service agencies have attempted to provide special transportation services, most of which are funded through an assortment of Federal programs combined with community contributions. But these laudable efforts have encountered severe problems, including rising costs for fuel and maintenance and a disinclination among many insurers to provide liability protection at reasonable rates.

The Special Committee on Aging, which I chair, held hearings on "Transportation and the Elderly: Problems and Progress—The Insurance Issue" in July 1977. At that hearing, I noted:

Our subject today—high insurance rates and even unavailability of insurance coverage for vehicles transporting the elderly and handicapped—is of intense urgency.

We are told, in fact, that the future of such transportation programs, together with related social service programs, could be endangered by what appears to be a growing insurance crisis ... I was startled when I heard that insurance premiums for coverage have gone up in some cases by hundreds of dollars—in one case more than $1,000—per vehicle. In some cases, insurance companies are denying coverage because drivers are 65 years or older, even though their safety records are better than those of younger drivers.

The committee's inquiry showed that many social service transit programs were experiencing these problems, often despite exemplary safety records.

Mr. President, this problem is not one which lends itself to a Federal solution, inasmuch as individual States have the responsibility for regulating the conduct of insurers. However, committee staff are working on a cooperative basis with the Department of Transportation, the Department of Health, Education, and Welfare, academic experts and representatives of the insurance industry in behalf of providing relief.

I have just learned that the White House is now working to address this problem as part of an effort to deal with the afflictions of rural America. Jack Watson, Assistant to the President for Intergovernmental Affairs, has been placed in charge of an action-oriented task force. I welcome the White House's initiative in attempting to resolve the insurance crisis facing many rural and social service transportation systems. It is my understanding that the President's leadership will be used to bring together representatives of the Nation's Governors, public utility and insurance commissioners, transportation providers, insurers, and other concerned parties. A number of task forces will be assembled to formulate recommendations, which can then be the focus for discussion at a White House seminar. Cabinet agencies need to establish uniform standards for the operation of rural and special transit programs; the insurance industry must recognize that rating policies are threatening the survival of many vital services and require reform; and the States need to forge a common policy for addressing this problem. White House leadership can establish the atmosphere in which these goals can be attained. I pledge my full cooperation, and whatever assistance can be provided by the staff of the Special Committee on Aging, to resolve the rural and special transit insurance crisis in the speediest possible manner.●

FUNDING FOR TWO MICHIGAN HARBORS

● Mr. GRIFFIN. Mr. President, yesterday the Senate passed the public works appropriations bill. I want to take this opportunity to thank the Appropriations Committee—and particularly the Public Works Subcommittee—for responding positively to two specific requests I made concerning important projects in Michigan.

Last May, I directed a letter to the chairman of the Public Works Subcommittee, Senator BENNETT JOHNSTON, urging that $70,000 be made available to begin work on an important harbor of refuge at Cross Village, Mich. This harbor of refuge had been authorized since 1966, but unfortunately, it has not been possible to begin work because the funds were not available.

I am very grateful that the committee—and now the Senate—has recognized the need for this harbor and appropriated the necessary funds to allow this vital project to be started. I shall submit for the RECORD my letter to Senator JOHNSTON concerning Cross Village.

In addition, the committee recommended and the Senate approved a $50,000 appropriation to continue a feasibility study for small boat recreational harbor facilities at Little Girls Point Harbor in Michigan's Gogebic County. I am pleased that this is the third year funding has been made available for this valuable project.

Since the version of the public works appropriations bill passed by the House of Representatives contains identical levels of funding for both of these harbor projects, it is a virtual certainty that this money will be forthcoming.

On behalf of the people of Michigan who will be served by these two harbors, I again thank the members of the Appropriations Committee for their action.

The letter follows:

U.S. SENATE,
Washington, D.C., May 30, 1978.

Hon. J. BENNETT JOHNSTON,
Chairman, Public Works Subcommittee, Senate Appropriations Committee, Washington, D.C.

DEAR BENNETT: In 1966, Congress authorized a harbor of refuge to be built at Cross Village, Michigan. Since then, despite persistent efforts by myself, other members of the Michigan delegation, and officials of the State of Michigan, funds have not yet been appropriated for the project.

The need for a harbor of refuge at Cross Village is greater now than in previous years. In the early 1960's—after a lengthy study—the State of Michigan and the Army Corps of Engineers agreed that boating safety considerations required that harbors of refuge be located at 15 mile intervals along certain areas of the Great Lakes shoreline. Currently, there is a 46-mile gap between the harbor at the Straits of Mackinaw and the harbor at Charlevoix. This, despite the fact that boating traffic in the area has increased tremendously in the past decade.

Because a harbor at Cross Village would fill that gap and add significantly to boating safety on the Great Lakes, I urge your Subcommittee and the full Appropriations Committee to approve an appropriation this year of $70,000 for a "capability study" by the Army Corps of Engineers so that work on this important and necessary project can go forward without further delay.

With best wishes, I am
Sincerely,

ROBERT P. GRIFFIN,
U.S. Senator.●

POPE PAUL VI WAS AN INSPIRATIONAL, SAINTLY LEADER

● Mr. RIBICOFF. Mr. President, the death of Pope Paul leaves a great void in the world. Mrs. Ribicoff and I had the privilege of having an audience with His Holiness at the Vatican in 1972. He made

a deep impression on me with his perception, compassion, and understanding.

Pope Paul was devoutly religious and was able to influence not only the people of the Roman Catholic faith but all mankind with his spirituality.

He led his church during a period of great change. I studied his actions and leadership over the years and developed an admiration for Pope Paul VI for his determination and ability to respond to this change, adapt to it and at the same time hold firm to the beliefs and values of his faith which he felt should not be altered. His indeed was a challenge of historic proportions. No matter which way he turned there were powerful forces pushing in another direction. Yet Paul did lead effectively. He was an inspiring and saintly leader at a time when the world was in great need of inspiration and saints.

Pope Paul had great meaning not only to the people of his faith but to the entire human race. I join people of all faiths throughout the entire world as we mourn his death.

Joseph Owens, editor of the editorial page of the Bridgeport, Conn. Post, wrote an editorial reflecting upon Pope Paul's papacy, his achievements and his place in church and world history. Mr. President, I ask that the editorial from the August 7, 1978, Bridgeport Post be printed in the RECORD.

The editorial follows:

POPE PAUL DIES

Not unexpectedly the world was told yesterday that Pope Paul VI had died. The cause was heart failure. The end for the pontiff came in his fifteenth year as head of the Roman Catholic Church.

No papal leader in modern history suffered the agony and anguish which marked the reign of Giovanni Battista Montini. Fate decreed that this quiet man preside over the largest congregation in the world during a time of upheaval and change.

His immediate predecessor, Pope John XXIII, had called upon the church to open the window and allow the light to shine in. Soon after he convened the Ecumenical Council, Vatican II, Pope John died, leaving to his successor the task of modernizing the Roman Catholic Church, while at the same time keeping intact traditions centuries old.

Under Pope Paul the liturgy of the church was altered. It became permissible to eat meat on Fridays, Mass was celebrated in the vernacular and priests and nuns became social activists.

The resignations of priests and nuns and the sharp drop in religious vocations personally hurt Pope Paul VI, but he always remained confident that out of this plan for the church would come new vigor and vitality. He traveled more than any pope in history, visiting several parts of the world including the United States. He sought to bring into full view the problems confronting the church in the emerging nations of the world and the pitiful conditions under which millions of people live.

A strong-willed man, Pope Paul VI refused to approve artificial means of birth control. His attitude on this question and his denial of priestly ordination for women who sought that privilege brought him criticism from females.

Yet, despite the controversy which swirled about him, Pope Paul VI managed to prevent heresy and schism within the church which traces its origins back to St. Peter.

Bishop Walter W. Curtis not only spoke for Catholics in the Diocese of Bridgeport, but his words also reflected the feelings of millions of people when he said, "Renewal in Christ and for Christ was the goal he promoted as pilot of the church."

Pope Paul VI was a modern day apostle unafraid to meet with government leaders—even communists—in his efforts to bring peace to a troubled world. In a sense he was asked to wear a crown of thorns, but not once did he portray himself as a martyr or seek pity. He was a unique man whose diplomacy had a stabilizing effect on the entire world, when lesser men failed in their efforts.●

DR. R. G. LEE

● Mr. SASSER. Mr. President, recently Dr. R. G. Lee, a leader for many years in the Southern Baptist Convention and president of the convention for three terms, passed away at his home in Memphis, Tenn. He was 91 years old.

Perhaps Dr. Adrian P. Rogers, Dr. Lee's successor at Bellevue Baptist Church, described Dr. Lee most eloquently in these words:

He was an unusually gifted man among preachers and ministers. He would have been successful in any field he entered. He was a great friend of mine . . . He was known as a man without peers and was truly a remarkable man.

Dr. Billy Graham called Dr. Lee "one of the towering spiritual giants in this century."

Dr. Lee served for 33 years as pastor at Bellevue and was pastor emeritus at the time of his passing. He was known as "Mr. Southern Baptist" because of the great leadership he provided the members of that denomination.

Dr. Lee was highly respected and regarded through Tennessee, the South, and the Nation and he will be greatly missed. Dr. Rogers commented:

We believe in the scripture that says, "Precious in the sight of the Lord is the death of His saint."

Dr. Robert G. Lee has gone home.

To his family I want to extend this expression of my deepest and most heartfelt sympathy in their loss and bereavement.●

VIOLENCE IN THE MIDDLE EAST

● Mr. ABOUREZK. Mr. President, I would like to share with my colleagues a copy of a letter to President Carter written by an American resident of Beirut, Lebanon. It is articulate and emotional in tone because after many years of witnessing and sharing in the tragedy of the Middle East, its author, Ellen Yff, must express her anguish and anger at the cycle of violence which continues in Lebanon today. I ask that Ellen Yff's letter be printed in the RECORD.

The letter follows:

AMERICAN UNIVERSITY OF BEIRUT,
Beirut, Lebanon, July 18, 1978.

President JIMMY CARTER,
The White House,
Washington, D.C., U.S.A.

DEAR PRESIDENT CARTER: Nearly every day I read in the newspapers or hear on the radio your fine words about human rights. But since I live in a part of the world where every day human rights are violated as a result of one-sided American policies, I cannot but wonder if your concept of human rights is at all related to real human beings.

Today I read a newspaper account of a woman in South Lebanon. An Israeli major (in spite of the fact that Israel has declared its total withdrawal from Lebanese soil) accompanied by his rightist militia protegés began to set fire to her house. When she protested in the face of the Israeli officer, he struck her so severely that she required hospitalization.

If this were an isolated incident, maybe you could overlook it. But similar or worse incidents have occurred day after day, year after year, in all the twenty seven years I have lived in this area. Indeed, Lebanon is bathed in a blood bath, and the basic cause is first, last, and always, Israeli violation of human rights and human respect, under the protection of Western guilt concerning World War II crimes.

I myself have wept and mourned at Auschwitz for the multitudes of Jews, Poles, Gypsies, Russians, and others who fell in that terrible holocaust. But that was a disease of our own Western civilization. Why, then, must Palestinians and Lebanese, and indeed, all Arabs, be forced to pay the unlimited price, and continue to pay it till the end of time?

For years, many Americans here have tried—rationally, restrainedly, and unemotionally—to inform our government of the errors of its blind support of Israel. We have appealed to our country's basic principles of liberty, justice, and dignity. We have even pointed out the danger to U.S. national material interests in the Arab world.

To what effect? Only more destruction and death! Palestinians and Lebanese have been destroyed hundreds if not thousands of times more than any action the Israelis have suffered from the Arabs as a whole and the Palestine Liberation Organization in particular.

If I am angry, it is with a righteous indignation. I am not a Lebanese or a Palestinian, nor a "communist", nor a crank. I am a human being, concerned about other human beings. Are my Arab friends who are victims too numerous to be considered human beings, but only statistics? They are individuals—each with a name, family, friends, who mourn them when they are terrorized, and injured, and tortured, and killed. Human rights are about human beings, and the ultimate human right is the right to live—to live with dignity and respect.

Are our Declaration of Independence and Bill of Rights only lofty literature to be learned in elementary school and then forgotten in the "realpolitik" of the big bad world? Is our Statue of Liberty only the figment of an idealist's imagination? Or are they only for our own country? I will not accept this! The human race is indivisible, and I declare that the Arab people are part of us, and crimes against them are crimes against ourselves and the whole world.

I am not optimistic that this letter from a voice crying in the wilderness will affect U.S. policy. Perhaps you will not even bother to read it. But it is my duty as a citizen and as a member of the human race to protest against my own country's shortsighted, mistaken, and wrong policies in the Middle East.

I understand that the U.S. government counsels patience in this complicated situation. Patience for how long? Until the peace of the grave? What then for the human rights of the corpses?

Or perhaps, President Carter, your fine words on human rights are only for propaganda purposes.

Very truly yours,

ELLEN P. YFF.●

CIVIL SERVICE REORGANIZATION PLAN

● Mr. SASSER. Mr. President, the civil service reform proposed in the President's Reorganization Plan No. 2 for this year is the cornerstone of this Government's reorganization efforts. Reorganization has been, and will continue to be, a joint effort by President Carter and Congress. As chairman of the Senate Civil Service and General Services Subcommittee, I am deeply concerned about the way the executive branch formulates its personnel policies, in general, and about the oftentimes conflicting roles which the Civil Service Commission must play under its current structure, in particular.

This reorganization plan creates the framework necessary for the reform which is further developed in the legislation thoroughly considered by the Governmental Affairs Committee. Under the terms of the President's proposal, the Civil Service Commission would be divided into two new entities—the Office of Personnel Management, to be the personnel management arm of the Administration, and the Merit Systems Protection Board, to adjudicate Federal employee complaints—and the Federal labor management relations program established by Executive order would be placed under the supervision of a new Federal labor relations authority.

As one of his administration's priorities, President Carter began his effort to reorganize the civil service system in early 1977 by commissioning the Federal personnel management project. The project involved 110 staff members, the great majority of whom were career employees from the Civil Service Commission, the Office of Management and Budget, and other executive branch agencies. Alan H. Campbell, Chairman of the Civil Service Commission and formerly dean of the Lyndon B. Johnson School of Public Affairs at the University of Texas, served as chairman of the project, and Wayne G. Granquist, Associate Director of OMB, as vice chairman.

After numerous public hearings all over the country and consultation with literally thousands of individuals and interested organizations, option papers were developed for comment, and the task forces made recommendations. The President considered these suggestions and formally submitted this plan in late May. Since then, one change has been made by the administration, in response to a question in the House, whereby the OPM Director shall provide to the public, where appropriate, a reasonable opportunity to comment on the implementation of OPM rules.

Since the Civil Service Commission was created by the Pendleton Act in 1883, as the enforcer of the merit system in Federal employment and the protector of employee rights, the system has grown with the needs of the executive branch and the directions of Congress. Recently, legitimate concern has been expressed that the current structure of the civil service is overly protective, that it is impossible for Government managers to manage, and that it is difficult to weed out incompetent bureaucrats. Such problems undermine the morale of the work force and create a negative impression of public workers among the electorate despite the fact that most Federal employees are dedicated, hard-working public servants. These problems represent failures in the present structure of the merit system.

I have had an opportunity to play a role in addressing these issues, beginning with the confirmation hearings, which I chaired, of the three new Civil Service Commissioners. At those hearings, and at the later ones on civil service reform, many of which I chaired, I raised questions concerning Federal personnel policy and what role the Commission should have in insuring that the public gets its money's worth out of the Federal work force and that the Federal employees are treated in return with respect and fairness.

Under the terms of the plan, the Office of Personnel Management will be the central personnel agency of the Federal Government. It will aid the President in preparing rules for the administration of Federal employment and administer civil service laws, rules, and regulations. The Office will be headed by a singe Director, appointed by the President and confirmed by the Senate. It has been the view of public administrators for decades that there should be a single-headed entity for personnel management at the Federal level. This concept has been extensively adopted, with great success at the State and local government levels.

The Merit Board will be headed by a bipartisan panel of three members appointed by the President and confirmed by the Senate. They will serve 6-year staggered terms. The Board will exercise all of the adjudicatory functions now vested in the Civil Service Commission, and it will serve as the major protector of the merit system and employee rights.

The plan creates, as an adjunct to the Board, an independent Office of Special Counsel to investigate and prosecute political abuses and merit system violations.

Finally, the plan establishes a Federal labor relations authority as a new agency responsible for administering the Federal labor relations program. The authority will assume functions now held by the Federal Labor Relations Council and certain duties performed by the Assistant Secretary of Labor for Labor-Management relations. The Federal Service Impasses Panel will continue to operate as a distinct entity within the authority.

The Governmental Affairs Committee has been advised by the Congressional Budget Office that the costs of implementing this plan would be approximately $3 million in its first year in effect, fiscal 1979, and somewhat less thereafter, except for the potential effects of inflation. This figure includes the cost of the additional personnel in the new offices as well as projected costs for research in personnel management.

The stated purpose of the reorganization plan is to "create new institutions to increase the effectiveness of management and strengthen the protection of employee rights."

Mr. President, I believe that this plan goes a long way to achieving that important goal. With this new structure, the inherent role conflicts at the Civil Service Commission that gave rise to the Malek manual and the accompanying Watergate abuses will be corrected and the merit principles upon which our way of Government has depended will be strengthened and protected.●

AIRLINE NO-SHOWS RESULT IN HIGHER FARES FOR EVERYONE

● Mr. PERCY. Mr. President, Richard J. Ferris, president and chief executive officer of United Airlines, has written an enlightening article in his firm's Mainliner magazine on the significant number of air travelers who fail to cancel reservations for flights they are unable to board. These individuals are called "no-shows."

In 1977, United had 4 million of them and they reserved an average of 10 to 15 percent of all United seats in that year. Although probably every airline overbooks as a way of making sure those seats are filled, the basic problem remains: too many seats go empty on airplanes that should be full because some passengers do not take the time or show the courtesy to make a 15- or 20-cent phone call to cancel a reservation.

This particular problem is most acute around Christmas and other holiday periods when some passengers deliberately block out space on several airlines going to one destination, despite numerous safeguards employed by the airlines to prevent this practice. As a result, passengers that have every intention of honoring their reservations are forced to fly at odd hours over circuitous routings because all the seats are reserved on the direct flight during the day. Invariably, however, prime time flights leave with a large number of empty seats reserved by thoughtless "no-shows." Unfortunately, the airlines are forced to recover revenues lost by those empty seats by raising fares for all of us.

I recommend the careful reading of this incisive article by President Ferris, and ask that it be printed in the RECORD. The article follows:

[From Mainliner Magazine, June 1978]

CUSTOMER COMMENT: "I'VE BEEN BUMPED!"

(By Richard J. Ferris)

"In over thirty years of flying, this was the first time I have been 'bumped.' And, despite the denied boarding compensation, I did not appreciate it . . ."—R. S., San Francisco, Ca.

"Our tickets were purchased over a month before the flight, so there was no question as to space availability. Yet, there were no seats for us. How can you allow this to occur . . .?"—M. L., Newport News, Va.

"My recommendation is that people who reserve flights should be fined if they do not show up. This might, then, allow the airlines to stop overbooking . . ."—A. L., New York, N.Y.

"I had a confirmed reservation, a ticket and, therefore, a contract with you. My understanding of this . . . is that you depart except in cases of mechanical failure or acts of God."—D.M., Chicago, Ill.

Comments such as these are not taken lightly at United Airlines. They are valid points that deserve discussion and underscore a complex issue that concerns us as much as it does you.

That subject is denied boarding as a result of our overbooking. In other words, we accept more reservations than there are seats on an aircraft. This sometimes results in an oversale. It doesn't happen often, but when it does it's important to you as a customer, and to us, because we want to keep your business.

In September 1976 I devoted this column to overbooking because I wanted to be honest and open with you about United's policies. As one customer wrote back: "I may not agree with you completely, but I understand it better."

We remain committed to that same candor. And because of some new developments in this area, we thought the timing was right to bring you up to date. But first some background:

United Airlines uses historical data from our reservations system to project with a high degree of accuracy the probable number of "no-shows" for a particular flight.

What is a no-show? In airline parlance, a no-show is a passenger who fails to show up for a flight on which he or she is holding a confirmed reservation.

Our no-show factor normally runs 10–15 percent on a daily basis and can reach 30 percent in some markets on some days. United Airlines will experience about 4 million no-shows this year.

Our overbooking procedures are designed to make up for the no-shows. We think this is the most efficient way to assure that the greatest possible number of passengers get on the flights they want. In 1977 United carried over 35 million passengers. Without overbooking, about 1.1 million of those passengers would not have gotten on the flights they wanted. How many of them do you suppose actually got bumped? In 1977, 19,200 passengers, or less than one tenth of one percent were "denied boarding" or were unable to be accommodated on flights for which they were holding a confirmed ticket. Of these, nearly 7,700 reached their destinations within two hours of scheduled arrival times.

We realize when a passenger is denied boarding, it's little consolation to learn that our record is good. It's irritating—and we know it. That's why we've been working hard to improve procedures and come up with better methods.

But if we didn't overbook, more than a million seats would go out empty, resulting in lost revenue of at least $70 million with no cost saving. This means that ticket prices would have to be increased. You, our passenger, would pay the bill in higher prices.

Many passengers ask us this question: Why not impose penalties for no-shows? Well, we realize passengers have legitimate reasons for failing to make flights, such as family or personal illness, death in the family, traffic jams, accidents, household emergencies and so on.

In addition, collection problems developed when we previously tried such a penalty system. And we remain concerned that such procedures would reduce travel flexibility, which is one of the greatest assets of the air transportation industry today.

So, there are many positive features to overbooking. Last year it allowed us to offer you, the traveling public, over a million more seats. The alternatives would have been no reservation or a less desirable flight time for you and an empty seat for us.

We feel the proposed changes are a step in the right direction. But we will not stop there. We will continue to strive for improved procedures and methods which will result in the high standard of service you expect and deserve from United Airlines.

You have my personal promise on it.●

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. ROBERT C. BYRD. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

William E. Pitt, of Utah, to be U.S. marshal for the district of Utah for the term of 4 years vice Royal K. Buttars, term expired.

Mr. President, for Mr. EASTLAND, on behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Friday, August 18, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.●

HERBERT PELL AND THE ORIGINS OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I have spoken out for many years now in favor of ratification of the Genocide Convention. I have done so for 11 years, to be exact. But I have not been alone in this endeavor.

Many voices have called for Senate approval of this treaty over the past three decades. One person, however, can truly be said to have been the inspiration for those voices. Who was this individual?

I am, of course, referring to Herbert Pell, the father of my good friend and distinguished colleague from Rhode Island.

Herbert Pell worked for our Government in many important capacities. He served with distinction as a Congressman from New York, as minister to Portugal and Hungary, and as U.S. representative to the United Nations War Crimes Commission during World War II.

Soon after joining the War Crimes Commission in 1943, Pell became aware of the full horror of Nazi atrocities against the Jews. Before the war, Hitler had remarked, "Who talks nowadays about the extermination of the Armenians?" As a member of the War Crimes Commission, Herbert Pell was determined not to allow the suffering of the Jews to be similarly ignored or forgotten. What did he do?

As a first step, Pell tried to persuade our Government to openly condemn the holocaust and catalog its atrocities. He undertook such efforts in the belief that they would give hope to the victims while deterring the victimizers.

But although he succeeded in convincing the representatives of other nations that the barbaric acts against Jews constituted an international crime, Pell's argument fell on deaf ears at our own State Department. Why?

Officials at the State Department refused to consider Pell's proposals. They contended that there was no precedent either for intercession on behalf of the Jews or for punishment of the Nazi crimes. They also maintained that denunciation of the Nazi reign of terror might provoke further excesses against Jews.

To Herbert Pell, the American stand was thoroughly indefensible. What could be worse, he asked, than the ongoing slaughter in concentration camps? There was indeed no precedent for the kind of intercession Pell sought, precisely because no one had ever witnessed genocide on the scale practiced by the Nazis.

Pell, in fact, had a different perspective. He viewed the holocaust as a completely new kind of war crime. It was not an isolated act "committed by soldiers acting as individuals." Rather, it was the will of the leaders, carried out "in the name of national policy, approved and supported by the central government." What could be done about this horrible new phenomenon?

Above all, Pell believed that international law had to be changed to meet the 20th century horror of genocide. If the citizens of America and the world did not act, they would all but become coconspirators in mass murder. They would, in Pell's words,

> Give a green light to anyone who wants to do a little persecution . . . or to any government official who feels like ordering a massacre.

Despite his eloquent rebuttal of their arguments, State Department officials succeeded in dismissing Pell shortly before the end of the war. He had become, for President Roosevelt and others, a nuisance and a political liability.

Still, Pell did not give up. He continued his fight in churches, synagogues, and lecture halls. To some extent, he was vindicated by the punishment of certain Nazis at Nuremberg under the novel charge of "crimes against humanity."

But that was all. The Nuremberg tribunal never accepted Pell's argument that the murder of a group, in time of peace or war, anywhere in the world, constituted an international crime.

It remained for the United Nations to draw up a special code—the Genocide Convention—which embodies Pell's beliefs.

What has happend to this treaty? Unfortunately, Mr. President, it has lain before the Senate for nearly 30 years, years which have witnessed the tragic and needless deaths of millions.

What can we do? What must we do?

Today, more than a quarter of a century after Herbert Pell's courageous efforts, we can show a little courage of our own by ratifying the Genocide Convention.

I cannot think of a more fitting tribute to this man. We owe it to his memory—to our own moral stature in the world—to endorse the simple idea that Herbert Pell held so dear—that life is sacred, and that the world must safeguard life everywhere.

WHERE TO CUT THE BUDGET

Mr. PROXMIRE. Mr. President, I believe that a sizable cut in Federal Government spending is the single most important thing we could do to reverse

the present inflationary spiral. Above all it would send a message to the country that Congress and the President mean business on the anti-inflation front.

However, when one proposes a general cut, a 5-percent or even 1-percent cut across the board, we are accused of using the meat axe and cutting indiscriminately. Then when we propose specific cuts in particular programs even stronger objections are raised by those who have a special interest in the funds or largess from the Federal Government.

It is because of this that I want to give special credit to Alan Reynolds, vice president and economist at the First National Bank of Chicago, for an article in the August 28 issue of Fortune entitled "Curbing the Federal Spending Spree."

In it he details specific areas where cuts can be made. That, in itself, takes courage, especially since no one including myself will agree with every cut he proposes. And there are also some omissions, primarily in the Defense Department, where anyone who has studied that area knows that we could get more defense for less money if we only transferred some of the logistic tail into teeth.

But having said that, Mr. Reynolds' article should be studied by every serious student of economy in government. He is especially right, in my view, about cutting programs which started out with worthy purposes and to answer needed problems but whose purposes have since been corrupted or where the problem has gone away.

We all know, for example, that the Postal Service has suffered from massive inefficiencies, that the Foundations for the Arts and Humanities have had funds thrust at them so fast they cannot use them effectively, that there are great flaws in both the CETA and the local public works programs, and that there has been massive waste and inefficiency and overcharging in the medicaid area.

We can save money if we will. Even those who disagree with Mr. Reynolds' specifics should read his article. Perhaps they can substitute their own and amass a majority for cutting rather than for spending billions more.

In any case I commend his article to the Senate and the public and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CURBING THE FEDERAL SPENDING SPREE

(By Alan Reynolds)

There is a good deal of justified alarm about the size of the federal deficit, which now looms at $61.4 billion for fiscal 1979, counting off-budget items. Financing it by borrowing from the private sector will drain funds from housing and business investment; printing money will fuel inflation. At the same time, the nationwide clamor for tax relief must be heeded, since the effects of inflation in raising effective tax rates are depriving the private economy of the resources and incentives needed to sustain expansion. The harsh arithmetic suggests that the only effective way to cut both taxes and the deficit is to greatly and promptly reduce federal spending, which is otherwise due to climb by 23 percent in just two years.

Few federal spending programs, to be sure, are entirely without merit. But, in reducing planned expenditures, the question is not whether that spending does somebody some good, but whether it justifies the higher taxes or added borrowing needed to pay for it. Every program should be examined to see whether or not there are more effective ways of accomplishing its intended results, and whether or not those results might not be better accomplished by returning the responsibilities to lower levels of government, or to the voluntary private sector.

If five basic rules of budgetary restraint were applied to the Carter Administration's proposed budget for fiscal 1979, it would be possible to save far more money than most Washington politicians realize or care to admit. The charts on pages 80 and 81 list some $51.4 billion of spending programs that could be sharply curtailed or eliminated with little harm to basic services—and this by no means exhausts the budget-cutting possibilities. The five rules are:

1. Eliminate or reduce subsidies. There is no obvious reason for having taxpayers throughout the nation subsidize services that may not even be available in their own localities. For example, taxpayers in areas not even served by rail finance certain uneconomic passenger and freight services of Amtrak and Conrail through the huge subsidies those corporations receive. And there is ample evidence that using federal money to build hospitals has resulted in excess capacity that has raised hospital costs and fostered uneconomic practices. If a government subsidy is the only way to keep certain cultural activities from shutting down, it should come from state or local governments whose taxpayers actually benefit from them. Consumers pay for farm subsidies in both higher taxes and higher prices, and the higher prices hurt farm exports. There is considerable evidence (including a 1971 Brookings Institution study by Charles Schultze, now chairman of the Council of Economic Advisers) that the benefits accrue to the largest farms and tend to drive up the price of farmland.

2. Eliminate "temporary" programs that no longer serve their purpose. Programs instituted to deal with recession, or other temporary problems, should be terminated within a reasonable period of time. This rule would apply to such items as Emergency School Aid, which became available in 1972 to help finance school integration. There seems to be little justification at this late date for sending money to school districts that are still not in compliance with the Civil Rights Act of 1964. The 725,000 "public service jobs" financed under the Comprehensive Employment and Training Act (CETA) are another example of a permanent emergency measure that favors only a tiny portion of the unemployed. Originally due to expire this year, CETA will apparently be greatly enlarged instead. The temporary jobs are sometimes frivolous, sometimes a source of political patronage, and frequently offered to the least needy of the unemployed. Financing CETA jobs—through taxes, or printing money—tends to displace other public and private employment.

3. Eliminate unnecessary aid to state and local governments. On the general principle that the federal government should not be sending borrowed or printed money to state houses and city halls, the largest single area for potential budget trimming is the $85 billion Washington proposes to distribute in the 1979 budget. General revenue sharing, a major item totaling $6.9 billion, is now a misnomer because Uncle Sam obviously has no surplus revenue to share. Reducing this and other aid would permit a reduction in federal taxing and borrowing, thus making it easier for states and localities to do their own taxing and borrowing.

Among the questionable specific grants to state and local governments is the $4.7-billion aid package to help states and localities construct sewage-treatment facilities. Other grants for the same purpose are available from the departments of Commerce, Agriculture, and Housing and Urban Development. Why should local government compliance with federal water-pollution standards (unlike private compliance) be so generously funded at the federal level?

The matching-grant program for virtually anything that might be called "a social service" got completely out of hand until Congress put a $2.5-billion ceiling on such outlays. That limited abuses but presumably did not end them, nor did it give the program any clearer focus. Community service grants for "innovative" projects are equally vague.

The bills are still coming in for a few notoriously wasteful HUD programs that were wisely discontinued a few years ago. These include "Model Cities," and urban renewal. But the replacement for these programs—community planning and development grants to state and local governments—will devote $2.9 billion to equally nebulous purposes. Consolidating and renaming ineffective programs is not the way to save money.

Federal aid to urban mass transit has fostered some extremely costly and inefficient systems that typically benefit only a few relatively affluent suburbanites. The Bay Area Rapid Transit system in San Francisco and the Washington, D.C., Metro stand as monuments to the waste of such funds. Far more cost-effective solutions to transit problems include the use of exclusive bus lanes and the easing of local restrictions on taxis and jitneys.

4. Eliminate unnecessary educational programs. Many federal educational programs are just plain redundant or of questionable value. Social Security educational benefits are a good example. Widows receive cash payments to help support sons and daughters up to twenty-two years of age, provided they are enrolled in college; otherwise such payments cease when the children reach eighteen. This kind of educational support is no longer needed, since the government provides many other grants and loans to college students on a more evenhanded basis.

Aid to "impacted" areas, supposedly adversely affected by the presence of federal activities, is another superfluous program; it has long been misused to keep property taxes down in such affluent areas as the suburbs of Washington, D.C. The same is true of the portion of the school-lunch program that aids students who are not poor. We could also do without supplemental opportunity grants to college students, which duplicate basic opportunity grants with less control.

Many studies indicate that the Head Start program of pre-school education does not provide lasting improvement in reading achievement. And there are strong reasons for phasing out grants to medical and dental students. Physicians and dentists should finance their own valuable credentials, and loans are available.

5. Eliminate other programs that are dubious in their purposes or effects. Food for Peace has dumped our farm surpluses on developing nations, thus discouraging them from improving their own agricultural productivity. The special supplemental food program is an unnecessary duplication of food stamps; the aid is unevenly available, and over a fifth of the cost is absorbed by administrative expenses. Most Peace Corps and VISTA programs are of questionable value, despite their new name, which is ACTION. The Legal Services Corporation has mainly fostered fanciful class-action crusades.

The agricultural conservation program (REAP) provides small subsidies for loosely

defined purposes; the program has been abused (e.g., used to improve the gardens of rural estates) and duplicates others. The WIN program, which trains welfare mothers for jobs, has long been plagued with a very high dropout rate and few lasting placements. Programs such as those of the Economic Development Administration or New Communities Administration that aid development in certain areas must necessarily do so at the expense of other areas that bear the related tax burden. This is a divisive and improper abuse of the federal treasury that permeates many other varieties of federal "aid."

Suppose that only half of the spending in the five tables could be eliminated. The resulting $25.7-billion reduction in the deficit would still permit enough tax relief and easing of financial pressures to improve the economic outlook greatly. Still other savings are possible, however. Indeed, no federal program should be considered sacred or beyond examination.

One example of a program that seems, at first glance, beyond reproach by any humane American is federal spending on the disabled. The federal government alone plans to spend $35.6 billion on various disability benefits in fiscal 1979. Yet the soaring number of recipients of disability payments, and the shrinking percentage who ever recover, suggests that the definition of disability (including such conditions as chronic stiffness, back pain, and drug addiction) may have become too loose.

A promising area for budgetary pruning is the profusion of regulatory agencies and advisory commissions. The price-control activities alone of the $10.1-billion Federal Energy Department, for example, will cost at least $100 million to administer. Decontrolling domestic energy prices would make many other energy outlays unnecessary. The Occupational Safety and Health Administration costs $150 million, and there is no evidence that it has had any favorable effect on job safety or health. There are also numerous apparently superfluous commissions, including the National Center for Productivity and Quality of Working Life ($3 million), the National Institute of Education ($90 million), the Office of Technology Assessment ($10 million), the Advisory Council on Historical Preservation ($1 million), and the myriad regional-development commissions ($3 million).

Another way to save manpower and money is to eliminate duplication and overlap. Do we need an Environmental Protection Agency, a Council on Environmental Quality, and a Temporary Commission on Air Quality? Dumping the latter two could save $7 million. Do we need both a Voice of America and a Radio Liberty? Getting rid of the latter would save $79 million. Antitrust activities of the Federal Trade Commission duplicate those of the Justice Department. And the Council on Wage and Price Stability ($2 million) has apparently become just another agency to blame inflation on fate and private greed, and we already have the Council of Economic Advisers to do that.

The most remarkable thing about these lists of expendable spending is not their size, but the large areas of the budget left untouched. These include such favorite topics of popular ridicule as moviemaking, exotic social-science research projects, and the agencies' self-congratulatory magazines and other public-relations activities. Two enormous programs, making up 47 percent of the budget, emerge completely unscathed in this analysis. These are $119 billion in benefits for the aged and $118 billion for defense. Defense has been left out not because it is untouchable, but because it involves complex technical and strategic considerations that merit another whole article. The Carter defense budget already contains some sensible cuts that Congress has rejected in the past: for instance, reducing active military forces by 25,000, trimming the Naval Reserve, and contracting some housekeeping jobs out to private firms. Efforts to reduce the generosity of military pensions would also be in order, but, like equally necessary reforms of Social Security and civil-service pensions, would not save much money until the 1980's.

Any effort to slow down the increase in federal spending takes considerable political courage. Every dollar spent by the government is, after all, received by someone. Those who benefit from some spending program are easily organized into a political pressure group dedicated to continuing and expanding the program. On the other hand, those who pay the bills—the public at large—remain dispersed and relatively less informed about where their money is going and why.

Spending is out of control because politicians, mainly in Congress, no longer give equal weight to defending the public purse and to accommodating the pressure groups. The main hope of restoring balance—and in steeling the politicians' courage—rests in the tax revolt now spreading across the country. It also rests in more scrutiny of the budget by independent observers, as has been attempted here.

Mr. PROXMIRE. Mr. President, I thank the distinguished majority leader, and I yield the floor.

The PRESIDING OFFICER. Is there further morning business?

The Senator from West Virginia.

AUTHORITY FOR COMMITTEE ON FINANCE TO HAVE UNTIL MIDNIGHT TO FILE REPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance may have until midnight tonight to file reports on various bills.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR CERTAIN ACTION WITH RESPECT TO H.R. 11579

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 11579.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER FOR MONDAY

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on Monday?

The PRESIDING OFFICER. The senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) is to be recognized for 15 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR CONSIDERATION OF TUITION TAX RELIEF ACT OF 1978 ON MONDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the order for the recognition on Monday of Mr. HARRY F. BYRD, JR., the Senate resumed its consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, I end the day as I began it, urging that all Senators consider giving the utmost cooperation to the leadership in its efforts to complete the work that is before us and hopefully be able to adjourn sine die without having to return after the election. This is a pretty big order. There is some very heavy legislation still on the calendar and some yet to be coming to the calendar.

There is the energy legislation, and this could conceivably mean that several days will be consumed. There is the D.C. representation constitutional amendment, and there is a tax bill. Hopefully there will be something on hospital cost containment. There is Federal aid to highways legislation. The Department of Education bill has been reported to the calendar, Civil service reform is legislation that is a very high priority to the President and I think should be given consideration.

There are the following appropriations bills: District of Columbia, Department of Defense, Foreign Operations, and HEW. There are many conference reports, several measures which will attend to expiring authorizations which have to be done, only to mention a few, but very important measures, and most of these will be time-consuming.

Remaining after today if we were to hope to adjourn sine die on October 7, and this hope is becoming a very fleeting and fragile one for me, there will be 36 working days remaining, not counting Saturdays with the exception of the one Saturday of October 7. There is the Labor Day holiday which will extend from the close of business the 29th of August through the 5th of September.

Even if all Saturdays were included there will be after today instead of 36 working days 42 working days.

So, Mr. President, with the kind of workload we have I think every Senator will have to look the facts in the eye and come to the realization, as I am attempting to state it, that it is going to be extremely difficult to complete our work by October 7 at best.

So we cannot continue to have Saturdays off, go home at 6 o'clock on weekdays, and not waive 3-day rules, and decline to give time agreements, and hold up measures because this Senator or that Senator is out of town, cannot be present to offer his amendments.

I think all Senators who read the RECORD will, hopefully, rearrange their schedules so that they can be present, be prepared to call up amendments to measures, be prepared to manage bills when they are called up, be prepared to let that responsibility fall upon the shoulders of the back-up Senator in the event the manager or the ranking manager cannot be in town on a given day, because the Senate has to complete its work.

We spent 8 weeks, about 8 weeks this year, on the Panama Canal Treaties; we spent about 4 weeks on labor law reform. We have had our legislative holidays, and we have had Saturdays without having to come in.

I merely want to express my concern, as I did earlier today, that if we anticipate adjourning sine die on October 7 or even October 14, which would leave 3 weeks prior to the election, we do not have many days left. If we went to October 14, not counting Saturdays, except for one Saturday or counting the 14th to make it two Saturdays, we would only have 42 days left, 42 days by October 14. We could throw in the other 4 or 5 Saturdays, and we would have 46 or 47 days to October 14.

So it is not just a matter for me to be concerned about. It is a matter for every Senator to be concerned about.

If we work hard—I think the Senate has produced a good record this year, and certainly we did last year, but much, very, very, important work remains to be done.

Top priority, which we stated as of last year to be energy, is still out. The jury is still out on that legislation. Conferees are working hard; Senator JACKSON and the other conferees in the Senate have worked weeks and months. They have put in Saturdays, they have put in holidays, in an effort to compromise the differences with the other body and among themselves.

I think it would be bad if Congress were forced to adjourn this year without final action on that legislation. The problem is not going to go away. If we do not get final action on this legislation this year it may be necessary to lick the grindstone again the early part of next year.

So I just want to express the hope that Senators will read the RECORD, give serious consideration to giving their utmost support and cooperation to the joint leadership in its efforts to schedule the legislation and get it processed so that the Senate will have done its work and will have done it well and will be entitled to some rest.

I do not want to come back after the election, and I think that with proper cooperation and consideration on the part of all, consideration of the problems of the leadership by all Senators, and a willingness to enter into unanimous-consent agreements, a willingness to compromise their viewpoints and reach an accommodation, a willingness to be reasonable in the use of the rules so as to expedite the work of the Senate, I think we can still get our work done, Mr. President, by mid-October and not have to come back.

Mr. PERCY. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

CIVIL SERVICE REFORM

Mr. PERCY. The Governmental Affairs Committee, of which Senator RIBICOFF is chairman, has been working mightily to move forward on the civil service reform legislation, S. 2640. I think it is one of the most urgent, highest priority items we have. If the American people are to have faith in their government, if we are going to have a responsive Government, if we are to have a civil service that has merit hiring as well as merit firing, we must have civil service reform. I think the President has gone to great lengths to explain this issue to the people of this country.

I have held four hearings myself in the State of Illinois. We have had months of hearings and work on that bill there. We are nearing a point when we should be ready to bring it to the floor.

If we were able to, if we were ready, as a matter of fact, except for time limitations—and we have been working with Senator STEVENS and Senator MATHIAS who have well-understood concerns, they have negotiated with their staffs and directly on many of those concerns, and I think we have now reduced them to a point where we should be ready to move—at what point would the majority leader indicate we would be able to take it up on the floor, presuming we meet the standard that that legislation should have a reasonable chance of passage and would not be filibustered. I think there was one question raised by some of my colleagues as to whether the Hatch Act would be attached to it.

Senator RIBICOFF and I have both unmistakably said there will be no Hatch Act so far as the Senate is concerned. We will be adamant, firm, rigid and inflexible, if the House happens to bring it in to a conference. I do not think the House would want to do that, because we want enactment of the legislation.

Mr. ROBERT C. BYRD. I agree with the Senator. I have heard there is good movement on this legislation. I hope the Senator can continue, as he has done, to work to remove the problem areas, reach compromises and solutions and come up with a time agreement that will allow the Senate to take this measure up and pass it.

I had mentioned civil service reform in my brief but obviously not comprehensive list of legislative measures that still need to be taken up. But if we get a time agreement on that legislation, so much the better. I agree with him as to the Hatch Act. If that, if such an issue, were to be injected into this civil service reform——

Mr. PERCY. It would mean the death of civil service reform.

Mr. ROBERT C. BYRD. It would mean the death of civil service reform.

Mr. STEVENS. I hate to interrupt my two colleagues, but that is an amendment to S. 2640, which is the Hatch Act, which I very much support and have supported since I came to the Senate. I served almost 8 years under the Hatch Act, and I do not like it at all, and I have been trying very much to get some understanding that the revision of the civil service system will not be an emasculation so far as I am concerned, and I am still debating whether to introduce that amendment as an amendment to this bill.

I would suggest that there are some considerations that would lead us not to raise that issue now, but Senator MATHIAS and I believe the issue should be raised. We have waited for the outcome of the AFGE election, which I am pleased to see that my good friend Ken Blaylock has won, and he is dedicated to civil service reform with some changes, but has not been listened to.

The leadership of those organizations have not been listened to, and those of us who have worked with them to develop some changes have not been listened to.

So I would hope that the Senator from Illinois does not get too rigid and inflexible, as he indicates, with regard to the civil service reform bill, because that is liable to lead some of us to be rigid and inflexible with regard to Hatch Act reform this year.

Mr. PERCY. Mr. President, I simply indicated the fact that the floor manager, Senator RIBICOFF, and myself have notified all of our colleagues that we are opposed to any attempt to burden the civil service reform bill with reform of the Hatch Act.

There is no question that that is a perfectly appropriate measure to put up on its own at some appropriate time. We feel it would kill civil service reform, and we feel they should be separate and separated. We feel that within the framework of civil service reform itself, we can do everything necessary to depoliticize that process, and I commend our distinguished colleague from Alaska (Mr. STEVENS) for everything he has done to safeguard the interests of Federal employees in that regard.

There will obviously be amendments offered to provide further protection, possibly, on the floor. All we are saying is, let us have civil service reform; this is an idea whose time has come. It has been voted on overwhelmingly by the various committees; the House has acted, we can act, it is now entered as must legislation. Let us enter into a reasonable time limitation so that we can let the will of Congress work on something that I think the American people expect us to accomplish and do.

Mr. ROBERT C. BYRD. My concern is, I do not mean to say anything to the Senator from Alaska pro or con on the Hatch Act issue per se, but my real concern here is that we do not get civil service reform into a situation in which there is a filibuster, which would have the effect of killing the legislation.

Mr. PERCY. That is right.

Mr. ROBERT C. BYRD. Now, whatever the Senator from Alaska can work out with other Senators by way of accommondation of some of the issues involved does not cause me any problem. I simply would like to see the Senate act on civil service reform. It is a top priority of the President, and aside from that, I think reform is needed.

Mr. PERCY. Could I ask my distinguished colleague a question?

Mr. ROBERT C. BYRD. If I could just leave my part in the discussion where I stand at this point: We need to work with the party leadership in getting time agreements, relaxing the rules wherever we can in order to expedite the business of the Senate. We need to be prepared to come in early, stay in late,

come in Saturdays, and be prepared to stay in town and not be out of town. Then we can all complete our work, I believe, and go home and not have to come back after the election.

I thank the distinguished assistant Republican leader, because not only has he voiced his interest today, but in his absence he has constantly shown this kind of support and interaction.

Mr. PERCY. Mr. President, may I ask the majority leader a question?

Mr. ROBERT C. BYRD. Yes.

Mr. PERCY. Is it true that the calendar would permit us to take up civil service reform in the Senate on Wednesday or Thursday, or when is the earliest time it can be taken up if there is a reasonable time limitation entered into by the various parties?

Mr. ROBERT C. BYRD. Well, if there is a reasonable time limitation, that assures the measure it will get earlier consideration. If not, it will have to await its turn later. I cannot say.

Mr. PERCY. Well, the Senator from Illinois and the Senator from Connecticut stand ready to meet with Senator STEVENS on Monday.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Chair would remind the Senator from West Virginia that the hour of 5:15 p.m. has arrived, and by unanimous consent——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate recess after the Senator from Alaska and the Senator from Illinois yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I thank the Senator. I am about to conclude.

The PRESIDING OFFICER. Without objection, it is so ordered, and morning business is extended.

Mr. STEVENS. I thank the Senator from Illinois for his comments. I will just say I hope the minority leader will agree.

The House of Representatives has a Post Office and Civil Service Committee; the Senate has none. I am the sole surviving member of the Senate Post Office and Civil Service Committee now serving on the Governmental Affairs Committee by virtue of the rules that were changed.

The committee dealing with civil service reform in the Senate has dealt with the structure of the Government, and does not have the background and the sensitivity, in my opinion, to deal with civil service reform from the point of view of the balance required for protection of those people who have decided to make a career of civil service.

I personally would want to await the action of the House of Representatives on civil service reform before I agree to a time limit on that bill, unless there are other circumstances that arise.

I thank the Chair for his patience.

The PRESIDING OFFICER. The Chair thanks the Senator from Alaska.

RECESS UNTIL 9:30 A.M. ON MONDAY

The PRESIDING OFFICER. Under the previous order of the Senate, the Senate now stands in recess until the hour of 9:30 a.m. on Monday next.

Whereupon, at 5:16 p.m., the Senate recessed until Monday, August 14, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 11, 1978:

IN THE NAVY

Having been designated for commands and other duties determined to be within the contemplation of title 10, United States Code, section 5231, Vice Adm. Harry D. Train II, U.S. Navy, for appointment to the grade of admiral while so serving.

Adm. Isaac C. Kidd, Jr. U.S. Navy, (age 58) for appointment to the grade of admiral on the retired list pursuant to the provisions of title 10, United States Code, section 5233.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 11, 1978;

DEPARTMENT OF STATE

George M. Lane, of Massachusetts, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Yemen Arab Republic.

Harold E. Horan, of Texas, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Calvin H. Raullerson, of Texas, to be an Assistant Administrator of the Agency for International Development.

DEPARTMENT OF JUSTICE

Sidney I. Lezak, of Oregon, to be U.S. attorney for the district of Oregon for the term of 4 years.

Edward R. Korman, of New York, to be U.S. attorney for the eastern district of New York for a term of 4 years.

NATIONAL TRANSPORTATION SAFETY BOARD

Francis H. McAdams, of the District of Columbia, to be a member of the National Transportation Safety Board for the term expiring December 31, 1982.

FEDERAL MARITIME COMMISSION

Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner for the term expiring June 30, 1983.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

James Dickson Phillips, Jr., of North Carolina, to be U.S. circuit judge for the fourth circuit.

Harry E. Claiborne, of Nevada, to be U.S. district judge for the district of Nevada.

Thomas A. Wiseman, Jr., of Tennessee, to be U.S. district judge for the middle district of Tennessee.

Norma Levy Shapiro, of Pennsylvania, to be U.S. district judge for the eastern district of Pennsylvania.

IN THE COAST GUARD

Coast Guard nominations beginning Robert C. Perry, to be chief warrant officer, W-2, and ending Lionel F. Crossman, to be chief warrant officer, W-4, which nominations were received by the Senate on June 30, 1978, and appeared in the CONGRESSIONAL RECORD on July 10, 1978.

HOUSE OF REPRESENTATIVES—*Friday, August 11, 1978*

The House met at 10 a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Teach me to do thy will; for thou art my God; thy spirit is good; lead me into the land of uprightness.—Psalms 143: 10.

God of grace and God of glory, as we wait upon Thee in this moment of prayer do Thou lead us into the green pastures of Thy presence and beside the still waters of Thy peace that our strength may be renewed, our spirits restored, and we be led in the paths of righteousness this day and all our days.

Deliver us from giving too much attention to minor matters and make us Members who think more about the major concerns which trouble us and our country. To this end guide us in our thinking and in our doing that we may give our attention to matters that deeply concern our people.

Keep ever before us the vision of a better nation and a better world, and make us instruments of Thine to lead in that direction. May Thy love and Thy righteousness live in us and find expression through us to make our Nation strong and true and just now and forever more. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Is there objection to the approval of the Journal?

Mr. SYMMS. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 325, nays 13, answered "present" 4, not voting 90, as follows:

[Roll No. 686]

YEAS—325

Abdnor	Anderson, Ill.	Ashbrook
Addabbo	Andrews, N.C.	Aspin
Akaka	Andrews, N. Dak.	AuCoin
Alexander	Annunzio	Badham
Ammerman	Applegate	Bafalis
Anderson, Calif.	Archer	Baldus
		Barnard

Baucus	Glickman	Nedzi
Bauman	Gonzalez	Nichols
Beard, R.I.	Gore	Nowak
Beard, Tenn.	Gradison	O'Brien
Bedell	Grassley	Oberstar
Benjamin	Green	Obey
Bennett	Gudger	Ottinger
Bevill	Guyer	Panetta
Biaggi	Hagedorn	Patten
Bingham	Hall	Patterson
Blanchard	Hamilton	Pease
Boggs	Hammer-schmidt	Pepper
Boland	Hanley	Perkins
Bolling	Hannaford	Pettis
Bonior	Hansen	Pickle
Bowen	Harkin	Pressler
Brademas	Harris	Preyer
Brinkley	Hawkins	Price
Broomfield	Heckler	Pritchard
Brown, Calif.	Hefner	Quillen
Brown, Ohio	Hightower	Rahall
Broyhill	Hillis	Railsback
Buchanan	Holland	Rangel
Burgener	Holt	Regula
Burke, Fla.	Holtzman	Reuss
Burleson, Tex.	Horton	Rhodes
Burlison, Mo.	Howard	Rinaldo
Burton, Phillip	Hughes	Roberts
Butler	Hyde	Robinson
Byron	Ichord	Roe
Carney	Jeffords	Rogers
Carr	Jenkins	Rooney
Carter	Johnson, Calif.	Rose
Cederberg	Johnson, Colo.	Rostenkowski
Clausen, Don H.	Jones, N.C.	Rousselot
Clawson, Del	Jones, Okla.	Roybal
Clay	Jones, Tenn.	Runnels
Cleveland	Jordan	Russo
Coleman	Kasten	Ryan
Collins, Ill.	Kastenmeier	Satterfield
Conable	Kazen	Scheuer
Conte	Kelly	Schroeder
Corcoran	Kemp	Schulze
Corman	Kildee	Sebelius
Cornell	Kindness	Sharp
Cornwell	Kostmayer	Shuster
Cotter	Krebs	Sikes
Coughlin	Krueger	Simon
Crane	LaFalce	Skelton
Cunningham	Lagomarsino	Slack
Daniel, Dan	Leach	Smith, Iowa
Daniel, R. W.	Lederer	Smith, Nebr.
Danielson	Lehman	Snyder
de la Garza	Lent	Solarz
Delaney	Levitas	Spellman
Dellums	Livingston	Spence
Derrick	Long, Md.	St Germain
Derwinski	Lott	Staggers
Dickinson	Lujan	Stangeland
Dicks	Lundine	Stanton
Dingell	McClory	Steed
Dodd	McCloskey	Steers
Dornan	McCormack	Stokes
Downey	McDade	Stratton
Drinan	McFall	Studds
Duncan, Oreg.	McHugh	Stump
Early	McKay	Symms
Eckhardt	McKinney	Taylor
Edwards, Calif.	Madigan	Thompson
Edwards, Okla.	Maguire	Thornton
Eilberg	Mahon	Traxler
Emery	Mann	Treen
English	Markey	Trible
Erlenborn	Marks	Ullman
Ertel	Marlenee	Van Deerlin
Evans, Del.	Martin	Vander Jagt
Evans, Ga.	Mattox	Vanik
Evans, Ind.	Mazzoli	Vento
Fary	Meeds	Volkmer
Fascell	Meyner	Waggonner
Fenwick	Michel	Walgren
Findley	Mikulski	Watkins
Fish	Mikva	Weaver
Fisher	Miller, Ohio	Weiss
Fithian	Minish	Whalen
Flippo	Mitchell, N.Y.	White
Flood	Moakley	Whitehurst
Florio	Moffett	Whitley
Flowers	Mollohan	Whitten
Flynt	Montgomery	Wiggins
Foley	Moore	Wilson, C. H.
Ford, Tenn.	Moorhead, Calif.	Wilson, Tex.
Fountain	Mottl	Winn
Fowler	Murphy, Ill.	Wirth
Frenzel	Murphy, Pa.	Wolff
Fuqua	Murtha	Wright
Gammage	Myers, Gary	Wylie
Garcia	Myers, John	Yates
Gaydos	Myers, Michael	Yatron
Gephardt	Natcher	Young, Fla.
Gilman	Neal	Young, Mo.
Ginn		Zablocki
		Zeferetti

NAYS—13

Brodhead	Goodling	Stockman
Brown, Mich.	Lloyd, Calif.	Walker
Collins, Tex.	Pike	Wilson, Bob
D'Amours	Quayle	
Forsythe	Steiger	

ANSWERED "PRESENT"—4

McEwen	Poage	Skubitz
Moss		

NOT VOTING—90

Ambro	Giaimo	Nolan
Armstrong	Gibbons	Oakar
Ashley	Goldwater	Pattison
Bellenson	Harrington	Pursell
Bonior	Harsha	Quie
Bonker	Heftel	Richmond
Breaux	Hollenbeck	Risenhoover
Breckinridge	Hubbard	Rodino
Brooks	Huckaby	Roncalio
Burke, Calif.	Ireland	Rosenthal
Burke, Mass.	Jacobs	Rudd
Burton, John	Jenrette	Ruppe
Caputo	Keys	Santini
Cavanaugh	Latta	Sarasin
Chappell	Le Fante	Sawyer
Chisholm	Leggett	Seiberling
Cochran	Lloyd, Tenn.	Shipley
Cohen	Long, La.	Sisk
Conyers	Luken	Stark
Davis	McDonald	Teague
Dent	Marriott	Thone
Devine	Mathis	Tsongas
Diggs	Metcalfe	Tucker
Duncan, Tenn.	Milford	Udall
Edgar	Miller, Calif.	Walsh
Edwards, Ala.	Mineta	Wampler
Evans, Colo.	Mitchell, Md.	Waxman
Ford, Mich.	Moorhead, Pa.	Wydler
Fraser	Murphy, N.Y.	Young, Alaska
Frey	Nix	Young, Tex.

Mr. SKUBITZ changed his vote from "yea" to "present."

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 11567. An act to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–1981, and for other purposes;

H.R. 12928. An act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 13125. An act making appropriations for Agriculture, Rural Development and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 12928) entitled "An act making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JOHNSTON, Mr. STENNIS, Mr. MAGNUSON, Mr. ROBERT C. BYRD, Mr. HOLLINGS, Mr. HUDDLESTON, Mr. BURDICK, Mr. SASSER, Mr. HATFIELD of Oregon, Mr. YOUNG, Mr. SCHWEIKER, and Mr. BELLMON to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13125) entitled "An act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. EAGLETON, Mr. STENNIS, Mr. PROXMIRE, Mr. ROBERT C. BYRD, Mr. INOUYE, Mr. BAYH, Mr. CHILES, Mr. BURDICK, Mr. MAGNUSON, Mr. BELLMON, Mr. YOUNG, Mr. HATFIELD of Oregon, and Mr. STEVENS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill and a resolution of the following titles, in which the concurrence of the House is requested:

S. 2466. An act to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes.

The message also announced that the Senate disapproves the proposed deferral of budget authority (deferral numbered D78–63) for the Garrison diversion unit, Pick-Sloan Missouri Basin program, Bureau of Reclamation, Department of the Interior, as set forth in the message of May 12, 1978, which was transmitted to the Congress by the President under section 1013 of the Impoundment Control Act of 1974.

APPOINTMENT OF CONFEREES ON H.R. 12928, PUBLIC WORKS APPROPRIATIONS

Mr. BEVILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12928) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. (Mr. MURTHA). Is there objection to the request of the gentleman from Alabama? The Chair hears none and without objections, appoints the following conferees: Messrs. BEVILL, BOLAND, WHITTEN, SLACK, Mrs. BOGGS, Messrs. DICKS, SHIPLEY, CHAPPELL, MAHON, JOHN T. MYERS, BURGENER, Mrs. SMITH of Nebraska, and Mr. CEDERBERG.

There was no objection.

FUNDING FOR AD HOC COMMITTEE ON ENERGY

Mr. ANNUNZIO. Mr. Speaker, by direction of the Committee on House Administration, I call up House Resolution 1237 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1237

Resolved, That for the further expenses of investigations and studies to be conducted by the Ad Hoc Committee on Energy,

acting as a whole or by subcommittee, not to exceed $50,000, including expenditures for the employment of investigators, attorneys, and clerical, and other assistants, shall be paid out of the contingent fund of the House on vouchers authorized by such committee, signed by the chairman of such committee, and approved by the Committee on House Administration.

SEC. 2. No part of the funds authorized by this resolution shall be available for expenditure in connection with the study or investigation of any subject which is being investigated for the same purpose by any other committee of the House; and the chairman of the Ad Hoc Committee on Energy shall furnish the Committee on House Administration information with respect to any study or investigation intended to be financed from such funds.

SEC. 3. The authorization granted by the resolution shall expire immediately prior to noon on January 3, 1979, or upon completion of the legislative process, including final disposition of any veto message, with respect to all legislation referred to the ad hoc committee.

SEC. 4. Funds authorized by this resolution shall be expended pursuant to regulations established by the Committee on House Administration in accordance with existing law.

Mr. ANNUNZIO (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANNUNZIO. Mr. Speaker, House Resolution 1237 is funding for the Ad Hoc Committee on Energy to complete their work in the amount of $50,000.

The resolution passed unanimously in the Committee on House Administration. It has the full support of the minority. I know of no opposition to the resolution.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. Mr. Speaker, I yield for debate purposes only to the distinguished gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, I just wanted to ask the gentleman from Illinois one question regarding this committee's continuance. As I recall, the Ad Hoc Energy Commission was created in this body to deal with the administration's multifarious energy programs that came to us months ago in a 2-inch thick bill.

We were told that this would be a temporary ad hoc committee. That was almost a year-and-a-half ago, and it is still going. As far as I can tell, it does not do much except wait expectantly.

Mr. Speaker, perhaps we ought to consider either abolishing it or making it a permanent or eternal committee of the House, looking toward the eventual time when action might come on the President's energy program.

Mr. ANNUNZIO. Mr. Speaker, as far as the gentleman from Illinois is concerned, as I stated on many occasions, when the committee was established, it was established by a vote of the full House, and the committee will go out of business on December 31, at the end of this Congress. It will have to be reconstituted in the next Congress.

But I want to assure the gentleman from Maryland (Mr. BAUMAN) that they are phasing out their work, in the remarks of the gentleman from Illinois (Mr. ANDERSON), we find he stated that the ad hoc committee, which previously had eight staff members—four professionals, three clericals, and one researcher—would be down to only three by June 30, that is, three staff members, the staff director, the office manager, and one clerical employee. If sufficient funds are available, they plan to have a professional staff member to assist the minority members.

So, Mr. Speaker, I think this is a reasonable request by the full committee in order to wind up their work. We are all hoping the ad hoc committee will complete its work so we will have an energy program for the country.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield further, I agree with the gentleman from Illinois (Mr. ANNUNZIO) that something ought to be done, but I have a certain sympathy for the ad hoc committee staff. It is a little like a case of unrequited love on their part. They sit and wait and nothing happens for a year-and-a-half.

Perhaps we ought to consider setting a termination at the end of the President's term, which is probably when they will finally solve the energy problem.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. I yield to the gentleman from Illinois for debate only.

Mr. ANDERSON of Illinois. Mr. Speaker, as the gentleman knows, I did appear in support of this resolution. I testified before the Subcommittee of the Committee on House Administration, along with the distinguished chairman of the Ad Hoc Committee on Energy, the gentleman from Ohio (Mr. ASHLEY).

I think this is a reasonable request. As the gentleman said, the staff has been reduced. The charter of the committee expires with the 95th Congress, but I think it is prudent that we continue to staff the committee to see whether or not some final action can be achieved on those portions of the national energy program that are still pending before the conference committee.

Mr. Speaker, I thank the gentleman for yielding, and I thank him for his consideration of this resolution.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman from Illinois (Mr. ANDERSON).

Mr. BADHAM. Mr. Speaker, will the gentleman yield?

Mr. ANNUNZIO. I yield for debate purposes only to the ranking minority member of the subcommittee, the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, speaking for the minority on the Committee on House Administration, this is a rather modest request for funds in comparison to other requests the committee receives.

So that an excess of energy will not be wasted in the work of this committee, $50,000 resolution has been voted, as the gentleman from Illinois said, unanimously by the committee so that the Ad Hoc Committee on Energy may expand some more energy to try to bring to this House an energy bill.

It is, I think, fitting to note that the Ad Hoc Committee on Energy was funded through the first half of this year and it was unable to come up with a bill, so this gives them additional funding.

So, Mr. Speaker, hopefully they may expend sufficient energy to complete their work by the end of the 95th Congress.

Mr. ANNUNZIO. Mr. Speaker, I thank the gentleman from California (Mr. BADHAM).

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

INTRODUCTION OF LEGISLATION TO CORRECT HEW DEFICIENCIES

(Mr. MOTTL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOTTL. Mr. Speaker, we were all appalled to learn that the Department of Health, Education, and Welfare lost close to $7.4 billion in 1977 because of waste, fraud, abuse and mismanagement in the Department. Last June, in a poignant display of displeasure, we cut $1.397 billion from the recommended fiscal year 1979 appropriations for HEW. However, since that time, nothing constructive has been done to correct this problem situation.

What I wish to do today is call your attention to a legislative package I am introducing which gets down to the heart of the problem. With the help of the Inspector General's Office, I have put together five comprehensive bills which will correct the deficient management practices and systems permitting and actually encouraging the fraud, abuse and waste responsible for HEW losing so much of American taxpayers' hard-earned dollars. I surmise that at least $1.2 billion will be saved if my five bills are enacted into law.

In today's Extensions of Remarks, you will find a more comprehensive explanation of each bill. I urge each and every

one of you to review this material and join me as cosponsors in this endeavor.

Thank you.

THE LATE HONORABLE JOACHIN O. FERNANDEZ, SR.

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, I rise today to inform this House of the death of a former colleague, a man who held the congressional seat I now hold, the Honorable Joachin O. Fernandez, Sr., fondly known to his colleagues and constituents as Joe Fernandez.

Former Congressman Fernandez served in this body between 1930 and 1941. He later became U.S. collector of revenue for Louisiana and then served in State government until his retirement.

His long career of public service included terms in both the Louisiana House and Senate.

I am sure you will join with me in honoring his memory and in extending the sympathies of the Members of this House to his widow and children. He will be missed by the people of Louisiana whom he served so long and so faithfully.

U.S. FOREIGN POLICY

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BADHAM. Mr. Speaker, a short time ago, prior to the debate on the Turkish arms embargo lifting, the State Department asked several Members to bring a Greek-American to meet with the President. I honored that request and invited a good friend of mine of Greek descent to meet with the President. Subsequent to his trip here, he went to Europe and Africa with his family, and he sent me a letter recently telling me of the comments that he had received abroad relative to our Presidency, our Country, and the state of the foreign affairs of the United States.

Mr. Speaker, I thought it would be of interest to the Members of this body to read in the RECORD what an American abroad confronted.

Mr. Speaker, the letter from George L. Argyros is as follows:

SANTA ANA, CALIF.,
July 31, 1978.

Congressman BOB BADHAM,
Newport Beach, Calif.

DEAR BOB: Sorry for the delay in expressing my gratitude for the invitation to the White House briefing. My sincere thanks go to you and your staff who were most helpful and very kind.

As you may recall, Judi and I were leaving a few days following for a trip to Europe and a Safari (camera-type), with our three children.

It was interesting that while we were traveling from Geneva, Switzerland to Italy, people during conversation were expressing their great disappointment in our Country's foreign policy. Their perception of our President is approximately the same as yours and mine. It was more disappointing, however, when we were in Kenya, Africa and Andrew Young made one of his more infamous nonsensical remarks about political prisoners. The reaction from people in Africa and other parts of the free world was total disgust. I was embarrassed, as an American, that we have allowed this kind of reverse racism to be represented and expressed by an Ambassador representing the American people, who is supposedly a man of integrity. Even the Black Africans we met were shocked at Young's undisciplined and erroneous statements. However, there was one African leader who complimented him in the press there, and of course, it was the one and only Idi Amin. The one good thing that Young has greatly contributed to is a one-term President and a resurgence of Republican support.

We are looking forward to seeing you and Ann when you are home the latter part of this month. Thank you again for the opportunity of the Washington meeting with our President.

Yours very truly,

GEORGE L. ARGYROS.

PROVIDING FOR CONSIDERATION OF H.R. 11280, CIVIL SERVICE REFORM ACT OF 1978

Mr. MEEDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1307 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1307

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11280) to reform the civil service laws. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be read for amendment by titles instead of by sections, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived, except that it shall be in order when consideration of said substitute begins to make one point of order that titles IX and X would be in violation of clause 7, rule XVI if offered as a separate amendment to H.R. 11280 as introduced. If such point of order is sustained, it shall be in order to consider said substitute without titles IX and X included therein as an original bill for the purpose of amendment, said substitute shall be read for amendment by titles instead of by sections and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendments in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Washington (Mr. MEEDS) is recognized for 1 hour.

Mr. MEEDS. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Mississippi (Mr. LOTT), and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1307 is the rule providing for the consideration of the bill H.R. 11280, the Civil Service Reform Act. This is a standard open rule, providing for 1 hour of general debate. It contains one waiver for section 402(a) of the Budget Act, the section that requires bills authorizing budget authority for a fiscal year to be reported prior to May 15 preceding that fiscal year. The Budget Committee has no objection to granting the waiver.

In addition, there is a waiver of clause 7, rule XVI, the germaneness rule, for titles I–VIII and title XI of this bill. The germaneness waiver is necessary to protect this committee amendment in the nature of a substitute from points of order that might otherwise lie against a few provisions in the substitute that were not in the original bill.

Finally, Mr. Speaker, I would like to note that in this resolution the Committee on Rules did not grant a waiver of the germaneness rule for titles IX and X. It was the feeling of the committee that such a waiver should not be granted for two reasons. The first is that these particular two titles are clearly beyond the scope of the original civil service reform bill, for which the bill we have before us is a substitute. The second is that the two titles interject completely new subject matter into the discussion of civil service reform. Mr. Speaker, I strongly support the action of the Rules Committee with regard to this resolution.

Furthermore, Mr. Speaker, I strongly support civil service reform. I think it is imperative that we get a good civil service reform bill through this Congress. For too long, we have labored with a civil service system that rewards inefficiency, stifles individuality and punishes those who seek to improve the system. This bill is not perfect, but it is a good bill that can be made better with a minimum of changes and we will then have a civil service system of which we can all be proud. It will be a system that will help make our Government function in a manner that is responsive to the needs and wishes of the people of this country. I urge the support of my colleagues, both for this resolution and for this vital piece of legislation.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield briefly for the purpose of debate only.

Mr. HARRIS. Mr. Speaker, I appreciate my colleague yielding to me. I was trying to understand the rule. As I understand it, it is the gentleman's posi-

tion that some of the provisions in this bill may be subject to a point of order. Is that correct?

Mr. MEEDS. There are two titles which, under the provisions of this resolution, will be subject to points of order for germaneness. Of course, the only waivers in the entire bill are germaneness waivers of clause 7, rule XVI for titles I through VIII and title XI. All other points of order except the budget waiver which I mentioned earlier can be made against any section of the bill and the substitute.

Mr. HARRIS. If the gentleman would yield further, I do not quite understand. It is the position of the gentleman that only points of order with regard to two titles on germaneness will be in order, but anything that is contrary to the rules in the other titles would not be subject to a point of order; is that correct?

Mr. MEEDS. Just responding to the gentleman again and narrowing the scope just to germaneness points of order, which the gentleman did not do, I would respond to him by stating that both of these titles, as I pointed out in my original statement, were clearly beyond the scope of the original bill. And both introduce new subject matter into the substitute, which the Rules Committee felt was not proper.

Mr. HARRIS. If the gentleman will yield further, it is difficult for the gentleman from Virginia to understand why we would waive points of order with respect to certain titles and not waive points of order with respect to other titles. There are titles to the bill, and I refer the gentleman to title VIII, which is an addendum to the bill, which may be subject to the same points the gentleman made, and yet we waive points of order with respect to that title. Is this correct procedure, to waive points of order with regard to certain provisions which may be subject to germaneness points of order and not to others?

Mr. MEEDS. I tried to explain that to the gentleman, that there are two reasons why we had refused to waive points of order with regard to those two titles. Those two reasons do not apply to title VIII and any other inconsequential or minute matters which might conceivably be subject to a point of order.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield very briefly to the gentleman from Texas.

Mr. KAZEN. I can understand the explanation that the gentleman from Washington has just made. My question is: What are the two titles to which germaneness is not waived?

Mr. MEEDS. The titles are title IX and title X. Title IX is the Hatch Act provisions which were put in by the committee on a committee vote, and the firefighters bill is under title X.

Mr. KAZEN. In other words, the vetterans' preference is not included in this?

Mr. MEEDS. No. Both of these injected entirely new subject matter into the question of civil service reform.

Mr. KAZEN. I thank the gentleman.

Mr. MEEDS. Mr. Chairman, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from Washington, I think, has adequately explained the rule.

I would like though to emphasize a few points. First it is a 1-hour basically open rule. It does waive section 402(a) of the Budget Act, as the gentleman from Washington noted, but there is no problem from the Budget Committee standpoint since this is a matter dealing with the May 15 deadline. The bill is to be read by titles instead of by sections.

I want to emphasize primarily the point the gentleman from Washington has been discussing with the gentleman from Virginia with respect to clause 7, rule XVI of the permaneness rule. It is waived against the entire committee substitute with one exception. In the beginning of the consideration of the substitute, it shall be in order to make one point of order that titles IX and X would not be germane to the bill if introduced or offered as a separate amendment. If the point of order should be sustained, this means the committee substitute minus titles IX and X will be up for consideration.

Title IX is the Hatch Act repeal and title X includes the work reduction for Federal firefighters.

I think in answer to the question of the gentleman from Virginia, actually in my opinion there was not a need to waive points of order against other parts of the bill. Probably we could have come to the floor with just a straight open rule. There was some possible question with regard to title VIII and possibly title VII because of some expansion of the subject matter, but probably points of order would not be sustained against either one of these, but there was a clear indication that a point of order could be made against the Hatch Act provisions and the firefighter provisions.

As the gentleman knows, I voted for the Federal firefighters reduction of work hours inclusion in this bill and there may be some meritorious argument on the part of the gentleman that a point of order would not be proper against this title.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I will be glad to yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it seems to me to be a remarkable concept in the rules procedure of waiving points of order on those things you do not think are subject to points of order and not to waive points of order on those things you think are subject to a point of order. I was just wondering, and, of course, I am not a member of the Committee on Rules and am not privy to what goes on there, as far as that goes, as to the exact precepts that govern these matters covering those things that should or should not be included through the wisdom of the Committee on Rules, such as why you waive points on things you have concluded in your wisdom are not subject to points of order, and those things you think should not be included in the bill should not have points of order waived on them, and why, in your wisdom, no points of order should lie on those subjects you think should be included.

Mr. LOTT. Mr. Speaker, if I may reclaim my time, let me say that further points of order may still lie, it is just out of an abundance of precaution that we want to be sure that there will be no problem.

In answer to the second question raised by the gentleman from Virginia (Mr. HARRIS) let me say that the feeling was, by the Committee on Rules, that these two issues, one on the Hatch Act and the other on the Federal firefighters' reduced workweek, clearly are an appendage to the bill that was added by the Committee on Post Office and Civil Service and they could cause problems to the whole bill, and therefore that the issue should be dealt with on points of order.

Mr. HARRIS. Mr. Speaker, if the gentleman will yield further, the Committee on Rules determined that title VIII was not an appendage to the bill and was clearly related to the bill, is that the gentleman's position?

Mr. LOTT. I think that is a fair statement.

Mr. HARRIS. Mr. Speaker, I was wondering whether the gentleman recalls that it was in the committee that title VIII was added as an appendage to the bill, and at one point vigorously fought as an ornament on a Christmas tree because it did not clearly relate to the civil service reform. Does the gentleman recall that?

Mr. LOTT. Frankly, I do not.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding to me.

I just want to say to the gentleman from Virginia, in answer to his questions, just to comment—and perhaps I think the gentleman knows the answers before I give them to him—and that is it is well known that whatever the leadership wants killed on a point of order does not get a waiver and that whatever the leadership wants included in the bill that is subject to a point of order gets a waiver of that point of order.

Mr. LOTT. Mr. Speaker, I would like to disagree with the gentleman from Maryland (Mr. BAUMAN) on this issue. I realize that sometimes that happens, but there was a clear division among the ranks of the leadership as to whether it should be done or not. The leadership of the Committee on Post Office and Civil Service came in and specifically asked for a rule waiving all points of order.

Mr. HILLIS. Mr. Chairman, if the gentleman will yield, I would like to ask this one question, under the terms of this rule, will the amendment to be of-

fered by my friend and colleague, the gentleman from New York (Mr. HANLEY) on the veterans preference be permissible?

Mr. LOTT. Absolutely.

Mr. HILLIS. And we will have full opportunity of debating it?

Mr. LOTT. In title III that covers the proposed changes in the veterans preference section.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, as the gentleman from Maryland (Mr. BAUMAN) brought out, there obviously are some games that are being played in connection with the rule and the whole legislation. Would you say that that is a true statement?

Mr. LOTT. I beg the gentleman's pardon, I did not understand his question.

Mr. CHARLES H. WILSON of California. I said, that as the gentleman from Maryland (Mr. BAUMAN) brought out, obviously there are some games being played around here with the rule and the legislation.

Mr. LOTT. We obviously did not want to change our usual way of proceeding around here.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield at that point?

Mr. LOTT. I will be glad to yield to the major spokesman for the Carter administration on this legislation.

Mr. DERWINSKI. Mr. Speaker, now, wait, there is a limit to this, fellows.

Mr. Speaker, I would like to correct the phraseology. I do not look upon this rule as being anything connected with games played by anyone, I think it is one of those fine acts of statesmanship that the Committee on Rules is capable of.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I will be glad to yield to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. I very seldom disagree with my distinguished colleague, the gentleman from Illinois (Mr. DERWINSKI); but I think there is a game being played here. Those Members who are familiar with the ghetto know exactly what kind of game it is. It is called "Three-Card Molly." Now you see it, now you don't.

That is apparently what is happening on this rule. The gentleman from Maryland (Mr. BAUMAN) is precisely right when he says that if the leadership wants something from the Committee on Rules, it gets it. If it does not want it, it does not get it.

In this instance, the leadership does not want it, and the White House does not want these two titles to be considered and voted on.

I would just like to state for the record that I am happy to see that the leadership of the House and the White House are on speaking terms again.

Mr. Speaker, let me ask the gentleman a question. He made the statement that titles IX and X would cause problems for this bill. Is that the rationale of the Committee on Rules in waiving the points of order against title IX and X?

Mr. LOTT. I cannot speak for the entire Committee on Rules, but I must confess that as for myself, the answer is "Yes."

Mr. CLAY. I do not know how the gentleman can conclude that they would cause problems when both titles IX and X passed this House by overwhelming majorities, in spite of the fact that the gentleman from Mississippi did not support either.

Mr. LOTT. They are two subjects which this House has already considered; but in this instance, we are trying to consider civil service reform. We are trying to do something that is very badly needed for this country. The administration is supporting it. I think that the majority of this House and the Congress as a whole would like to have civil service reform. Therefore, with me, it is a matter of keeping one's eye on the ball.

Mr. Speaker, I would like to take back my time, if I may, and proceed to talk a little bit about why the Committee on Rules took the action they did.

If any games were being played, in my opinion, they were played in the Committee on Post Office and Civil Service. This rule is an attempt to try to clean up the mess made in the Post Office and Civil Service Committee. All of the Members know, I am sure, by now that this is one of the administration's "must" bills. I think it is to the President's credit that he is trying to do something about civil service and the need for reform. I may not agree with all of his proposals. I did not. As a matter of fact, I eventually voted against reporting this bill out of the Committee on Post Office and Civil Service; but we all know that something needs to be done on civil service reform. This is the vehicle we can work on it with.

The meat of the idea is good. We have added, as I said before, a lot of appendages to what we started out with in the Committee on Post Office and Civil Service. We made substantial changes in the veterans' preference, which I think is a mistake. I think we have gone too far. I think it really is a situation where we are breaking a commitment which we made to the veterans of this country. Under the changes in the bill we are saying to the World War II veterans and to our Korean veterans and even to a few Vietnam veterans, "We are going to change the rules now. You are not going to be entitled to this veterans' preference."

Mr. Speaker, we went beyond that. We added the Hatch Act. Originally there was a vote, and we voted against includ the Hatch Act. Then the next day, in what I thought was a very unusual procedure, without a majority being present, the Hatch Act was added. We also added the Federal firefighter workweek reduction. We made substantial changes in title IV, the senior executive service provision. I know there will be a lot of discussion of and amendments to that when it comes to the floor.

However, basically there are some good ideas in this legislation. It would provide for the codification of the merit system principles for civil service employees; a more efficient method of evaluating job performance and of resolving personnel disputes; establishment, on an experimental basis, of the senior executive service.

This is something which has been around since the 1950s. Several Presidents have proposed this idea, going back, I think, to proposals made by the Hoover Commission. The senior executive service is something we should take a look at. Maybe it should be done on an experimental basis.

I think if we take out the Hatch Act addition on a point of order, and take out the Federal firefighters amendment on a point of order or by a vote subsequently on the floor, and if we can make changes in the veterans' preference, make a decision as to the senior executive service, and make changes in title VII, we will have a bill with which we could go forward and which this whole House can vote for so that the Senate can take it up, hopefully, very quickly in September. Then we will have some genuine civil service reform.

Let me conclude, before I yield, by making this further point. I would like to commend the gentleman from Arizona (Mr. UDALL) for the fine job he has done in the Committee on Post Office and Civil Service. I thought a couple times maybe things slipped away from us, but we have a very independent minded committee. The gentleman was trying to lead the committee through a real "mine field" during the debate on the bill. The gentleman was leading the fight for the administration in many instances when he did not even agree with the administration position; so I think the gentleman is to be commended for coming in and doing this great job.

Although I spoke in jest of the gentleman from Illinois (Mr. DERWINSKI), I want to say that he has done an outstanding job.

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Virginia.

Mr. HARRIS. Mr. Speaker, the gentleman caused me to ask the gentleman to yield. Here again I want to be educated about the legislative process, because I do not have the experience.

Does the gentleman give me to understand that the gentleman voted to add this title to the bill in committee, but now wants it removed on the floor? I was wondering why the gentleman would proceed in that manner. Would the gentleman enlighten me on that?

Mr. LOTT. Well, I have consistently voted for the Federal firefighters bill, as the gentleman from Virginia knows; but I have been convinced in this instance we added several amendments to titles that really should not be taken up in considering civil service reform. Let us

keep our eyes strictly on civil service reform. We will have opportunities to take up the Hatch Act, we have already done it, and maybe we will have a conference report to vote on.

As the gentleman knows, the President has vetoed this already. In this instance, we should proceed on civil service reform and not in other areas.

Mr. CHARLES H. WILSON of California. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. CHARLES H. WILSON of California. Mr. Speaker, does the gentleman know whether the bill which is pending before us, for which we are seeking a rule, will eliminate the authority of the President to create new political positions, as was done recently? Will it clean up this type of thing or tighten it up in any way?

Mr. LOTT. I suspect the distinguished gentleman from California might know better the answer to this question than I do. I think the gentleman has made a point about this legislation that has bothered me the most the whole way through; that is, the possible continuation and possible proliferation of the civil service abuse. I think there are going to be some problems, unless we are very careful as we debate this legislation on the floor, and provide amendments to guard against that.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I was glad to hear the gentleman say that the gentleman will support the Hanley amendment to keep the veterans preference in the act.

I might just say, that if we analyze what has been done by the committee, some might think they are knocking out the World War II and the Korean veterans; but most of these veterans, the average age of the World War II veteran is 59 years of age, and the average Korean veteran is 49 years of age, so he is not really applying for these Government jobs. That just leaves the Vietnam veteran. We are hurting him under this act and we should support the Hanley amendment. The 15-year restriction really goes right to the Vietnam veteran.

Mr. Speaker, I certainly hope the committee in its wisdow will knock this out and support the Hanley amendment.

Mr. LOTT. Mr. Speaker, I appreciate the comments of the gentleman from Mississippi and I agree with the gentleman.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I rise in support of this rule and the bill it makes in order—the Civil Service Reform Act of 1978. This is a 1-hour, open rule which waives section 402(a) of the Budget Act—the requirement that bills be reported prior to May 15th—and waives the germaneness rule against the committee substitute, except for titles IX and X which deal with the Hatch Act and the Federal Firefighters Basic Workweek.

Mr. Speaker, I think it is apparent from the action by the Post Office and Civil Service Committee and the testimony we heard in the Rules Committee yesterday that this is a nonpartisan issue—a good government issue. And while there are some disagreements over portions of this bill as reported, I think everyone is in agreement with the President's stated goal of making our civil service system more efficient and effective, while increasing work incentives and protecting workers' rights. In unveiling his civil service reform plan before the National Press Club last March 2, the President said, and I quote:

> The single most important step that we can take is a thorough-going reform of the civil service system. Civil Service reform will be the centerpiece of Government reorganization during my term of office.

In his message to the Congress later that day, the President observed that:

> The present system has become a bureaucratic maze which neglects merit, tolerates poor performance, permits abuse of legitimate employee rights, and mires every personnel action in red tape, delay and confusion.

The central elements of the President's reform plan have been retained in the bill before us today. These include:

Creation of a senior executive service for management positions comprising grades GS 16–18, on a 2-year trial basis in three executive departments;

Provision of merit system principles to serve as guidelines for executive agencies;

Establishment of a new program for labor-management relations, allowing employees to bargain through their unions with agency management on issues other than wages and fringe benefits;

Delegation of employee appointment process to individual agencies;

Specification of prohibited employee practices including reprisals against so-called whistleblowers;

Provision for merit raises rather than step increases for GS 13–15 personnel;

Salary and grade protection for employees affected by reclassification or downgrading;

Alteration in veterans' appointment preference rules; and

Establishment of a level V ceiling on combined Federal pay and pension for retired military officers working for the Government.

In addition, Mr. Speaker, as I already mentioned, the bill contains the so-called Hatch Act Reform and Federal Firefighters' bills as titles IX and X respectively, though these are not protected against points of order and, in my opinion, they are not germane to the bill. In any event, I would hope this important legislation is not encumbered by such extraneous matters. It is not befitting what the President has called the centerpiece of his Government reorganization efforts.

I urge adoption of this rule.

In this day of taxpayer concern, rising inflation and public cynicism toward Government, I find it very reassuring that the Congress and the administration have undertaken a plan that is designed to increase the efficiency of the Federal Government. To be sure, this administration is not the first to recognize the problems inherent in the present civil service system. In fact, civil service reform has been a major concern of the past several administrations.

The task of reforming the present system is an onerous task indeed. The question was how we would proceed to give the power that the President needs to administer the bureaucracy without reverting back to the spoils system that mandated the formation of a civil service system a century ago. We in this Congress have a duty to provide the President with enough power to control the bureaucratic system that has been delegated to him.

There are those who feel that this piece of legislation grants the President too much power. To those people I answer that it is the Congress responsibility to oversee the development of this new policy to make sure that we do not allow the present problems to become overcorrected and thus lose control of the bureaucracy through new legislation.

This Congress has a tendency to overcorrect and overregulate. I would like to point out that in all fairness to Federal employees, the career civil servant is overall a dedicated, competent, and highly professional individual. This legislation must not be construed to be a blow to the Federal employee. The problems that we now face are a result of organizational problems that grew from overprotection for employees and unchecked growth of the Federal labor force.

The Civil Service Reform Act of 1978 is the culmination of extensive research and investigation by this administration, past administrations and this Congress. It will give managers better tools with which to manage this delicate instrument of Government that we call the bureaucracy. This piece of legislation must by no means be construed to be a cure all for the basic problems of the management of the Federal work force, but it is a start and a step in the right direction.

Civil service reform is a milestone in this Congress attempts to cut the Federal redtape that has engulfed both our governmental institutions and our private institutions. I cannot sufficiently express my approval of the fact that the Congress is beginning to react to the demands of the voters, the taxpayers and the citizens of this Nation. We must respond to the costly and burdensome restrictions that we have created by overregulation. The only reform is that which removes the restrictions and regulations that have hindered the performance of the public and private sectors. Allow managers to manage as they know best: unnecessary regulation only causes terrible wastes of money, time and talent.

I strongly urge the passage of this

momentous piece of legislation. I hope that it will continue to have the bipartisan support that it so richly deserves.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT), a member of the Committee on Post Office and Civil Service.

Mr. ROUSSELOT. Mr. Speaker, I want to address the problem that the gentleman from Mississippi (Mr. MONTGOMERY) and Members of the Committee on Veterans' Affairs have raised.

In the committee we voted on the Hanley amendment, which would keep the veterans' preference law as it is. I wish to assure the Members that many of us on the committee want to keep that law the way it is. The vote was fairly close in committee.

Those of us who supported the Hanley amendment in committee will be active here to see that the bill is amended to preserve the present law. We wish to support veterans' preference, and we think that all Members should be put on notice that many members on the committee want to retain the veterans' preference as it is.

We do not believe that the current practice of veterans' preference denies access for women, minorities, or nonveterans to Federal employment. We will completely reject that argument during the debate on title III.

Mr. Speaker, the rule does clearly allow the Hanley amendment to be offered, and many of us on the committee will support it.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, the Civil Service Reform Act of 1978, H.R. 11280, is a measure that is certainly salutary in its objectives, if its objection is truly reform and not the politicization of the civil service. I want to join my colleagues in commending the gentleman from Arizona, along with the gentleman from Illinois, for their monumental efforts in bringing this measure to the floor. However, I do deplore the haste with which this bill was first considered in committee and now brought to the House floor, while I have differences of opinion with several members of the committee concerning various aspects of this measure, it is extremely important to the future administration of our Federal bureaucracy that we carefully construct legislation that will properly reform the civil service system and insure the preservation of merit system principles.

I hope that my colleagues, in addressing themselves to this proposal, will carefully consider the amendments that are to be proposed, and I can know that you will not forget the fact that this is major reform, and that this measure requires close attention in order to adequately protect the multitudes of career employees who are today performing the valuable delivery of services upon which the strength and vitality of our Federal Government and country exists.

Under the guise of reform we sometimes steamroller over important rights and obligations, and I hope that this will not be the case in today. Instead, I again urge close scrutiny of the various amendments that will be offered during the consideration of this bill, particularly with regard to the proposed dilution of veterans' preference, an extremely controversial aspect of this measure.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding this time to me.

The question I would like to raise as a Member who has been approached by the administration—and it is rare that I am approached by Cabinet officers or members of this administration to seek my support—is this: The one thing I have in the back of my mind is this question, an unanswered question. There are those of us who would like to help the President in those areas where his hands are tied, and I think we all agree the problems are such that he needs help.

But when I look at the actions the President has taken in those areas where he does have control, it makes me wonder what he will do if we give him more discretion.

I think we need only to look at the Marston firing earlier this year. Then we look at this request for broadened authority in terms of his appointing a political crony of our Speaker who is fired and then gets a $50,000 White House job. Then we see what he has done in terms of the Federal Election Commission where callously and politically, he is trying to ram down our throats a non-Republican, Republicans, an appointee that no Republican seems to want.

My reply to Cabinet officers when they call me is that if the President callously and politically acts that way in areas over which he does have control, what will he do if we give him more control over these areas where now by law his hands are tied?

It is the whole question of credibility. I cannot trust the White House to make nonpartisan decisions if they are going to fire a Marston, if they are going to give a Griffin, a political crony, a big job in the White House, and if they are going to recreate the spirit of the law by appointing a Sam Zagoria to the Federal Election Commission.

Mr. Speaker, if every Republican is opposing that appointment, why should we on the minority side believe that if the White House is given these new civil service reforms, the President will do anything other than what has been done on those occasions?

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, those are certainly legitimate concerns. Going back to the gentleman's opening comment, I, too, have been somewhat surprised by the emphasis that the administration has put on this bill; I have been surprised by the Cabinet interest and the direct personal Presidential interest.

It is important, when you look at the big picture of all of the legislation we have been working on, that it seems to have had an unusual amount of significance in their overall package. I think that during the Republican administrations, when we had Presidents who have tried to put some of their people into the proper positions, there has been a feeling on the Democratic side that that was wrong. Now when we have a Democrat administration, all of a sudden there is a need to open up the civil service a little bit and have the senior executives have an opportunity to have these higher positions. I think there is some danger here of further use of politics in these decisions. But we as Republicans, I think, have to rise above partisan politics, as the gentleman from Illinois has often said, and the more statesmanlike position is to try to get it done while we have a Democratic President, and then maybe in 1981, when the Republican President comes in, we will have an opportunity to make some corrections.

Mr. ASHBROOK. What you want to do is what the President and his administration has not done, and that is to address the civil service bureaucracy with a degree of objectivity.

Mr. LOTT. I hate to run the risk of killing this basic bill, but as I said in the Committee on Rules yesterday, this is a basic Republican bill in philosophy.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. DERWINSKI. Mr. Speaker, I will make the point in general debate that this is an issue that is above partisanship. Civil service reform is good government. The kinds of appointments the gentleman from Ohio complained about were largely political appointments. We have to keep in mind that, as a general rule, Democrats are more skillful political operatives than Republicans. So I do not think we should so much damn Mr. Carter as to say that the previous Republican administrations were not as effective or did not have as good gut political instincts. I think we have to be fair about Democrats being better politicians.

Mr. LOTT. Thank you, "Ambassador."

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, I want to say, in response to the point made by the gentleman from Ohio (Mr. ASHBROOK), we are trying to bring this out in the open so that every President will have the right to manage the Federal Government. Part of the seeds of Watergate were sown in 1969. When the Nixon people came in, they wanted to make some changes and they found all of these Johnson-Kennedy people, who were held over, were holding the reigns of power, and they could not get rid of them. Eight years later I am screaming and yelling that the Nixon holdovers are there when Jimmy Carter gets to town. "President" Philip Crane, in January 1981, with the help of the gentleman from Ohio, will get from this bill the kind of tools you would want him to have

to shake up the bureaucracy and make the Government work. We are trying to help the Republicans.

Mr. ASHBROOK. So that it is very clear, what we are talking about is spoils. What we are talking about is throwing the rascals out just because they may be Johnson-Kennedy people or because they may be Nixon-Ford people. I thought we were supposed to be talking about merit. But I guess it is out in the open now that we are talking about pure, crass politics.

Mr. UDALL. We will have it all out in the open now.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for yielding.

Mr. Speaker, I would like to know where these Ford-Nixon holdovers are who are running the Government today. Can the gentleman name names?

Mr. UDALL. I filed a long report back in December 1976, or January 1977, listing a lot of names.

Mr. ROUSSELOT. Are they still present in the Carter administration 2 years later?

Mr. UDALL. They got themselves embedded. They are now dedicated career, loyal servants. They went in as political people to carry out the mandate of the Ford-Nixon administration. And then, as Jimmy Carter approached from Georgia with that army of people he was going to put in there to get his policies into effect, we suddenly found that these dedicated soldiers are career employees. We are going to bring all of this out in the open with this bill. The senior executive service is the top one-third of 1 percent of Federal employees.

Mr. ROUSSELOT. The gentleman is going to name the ones who are Ford-Nixon holdovers who now have the levers of power?

Mr. UDALL. I will get the gentleman a copy of the report and try to get him some of the names.

Mr. ROUSSELOT. I will be glad to see it.

Mr. MEEDS. Mr. Speaker, I yield 7 minutes to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I rise in opposition to this rule. My opposition basically falls into three categories. First, I resent the thuggish, alley tactics employed by the administration on members of the Rules Committee to set the stage for deleting two titles of this bill. They pressured not only the members of the House Post Office and Civil Service Committee, but also the members of the Rules Committee. Cabinet members called members of the Post Office Committee and also members of the Rules Committee. We have had a tremendous amount of pressure from people in the armed services, generals calling to make sure that the administration got what it wants. X Members of Congress have called, and yesterday even a little paperboy encouraged me to go along with the President's proposal.

Second, Mr. Speaker, I resent the unbelievable climate of urgency in which this bill and the rule was considered. A system which has taken over 80 years to develop is now being proposed that we destroy in a matter of 80 days. To be truthful with the Members, nobody in this House or in the administration really knows exactly what this bill is all about, what is in it, or how it will impact on Federal employees.

We saw this same kind of urgency displayed some 10 years ago when we rushed through the Postal Reform Act. That was going to be the great panacea. It was going to solve and resolve all the problems in our Postal System, and it too was the legislative centerpiece of the President at that time.

Third, Mr. Speaker, I oppose this rule because I resent the arbitrary, capricious, and inconsistent manner in waiving points of order for certain titles, and not for certain other titles.

Mr. Speaker, this rule if approved will allow points of order against titles IX and X as being nongermane, while waiving points of order against title VIII, which is of more questionable germaneness than titles IX and X. Title IX, the Hatch Act reform, is obviously an integral part of civil service reform. Notwithstanding that some of us may differ on the merits of title IX, I contend that it is germane. The issue is emotional and controversial, but still germane. Section 1206 of H.R. 11280 charges the special counsel of the Merit Systems Protection Board with the responsibility to investigate allegations of improper political activities by Federal employees. Federal employees in that context include certain Federal, civilian, and postal employees, as well as certain State and local officers and employees.

Because the special counsel's authority is so broad that it extends to these employees, inclusion of title IX is appropriate. Title IX belongs within the context of this bill.

Although the House approved this legislation in the last two Congresses by overwhelming margins, it has become increasingly clear that the other body will not act on Hatch Act reform this year. I offered my amendment in committee in order to insure that both Houses of Congress had the opportunity to work their will in considering reform of the Hatch Act.

Many of us have worked hard and long in pressing for passage of this and other legislation in recent years, only to see it languish and die in the other body.

Mr. Speaker, the issue of full political participation for Federal employees and protection of the public interest should be addressed here and now. I have worked long and hard to produce a civil service reform bill that balances the rights of management and workers. The bill recommended by the administration was too management oriented. The committee bill is a great improvement over the President's bill. An essential part of this balancing is title IX—Hatch Act reform.

Some has asked us why is it important to attach this amendment at this time to this piece of legislation. The answer of course seems obvious. Where else would an amendment to extend constitutional rights to civil service employees be attached if not to a measure to reform the civil services system? If we are truly attempting to reform the archaic, Federal system, Hatch Act revision becomes mandatory.

Federal employees have been denied since 1939 their legal and constitutional rights to participate like other citizens in the political decisions affecting their lives. That decision to prohibit Federal employees from engaging in partisan politics was the overreaction of an overzealous Congress responding to an overdramatized crisis. For some unknown reason some believe this amendment does violence to the attempt to reform the civil service. For some reason they would like to play it safe. But let me recall for them what Ben Franklin said about that:

> Those who would give up essential liberty to purchase a little temporary safety, deserve neither liberty nor safety.

Those opposing this amendment say it should be defeated because the time is not right. They say that the Civil Service Reform Act is not the right vehicle for Hatch Act revision. I answer those critics by quoting a great American patriot who was confronted with a similar dilemma. He refused to compromise what he believed to be right, just and fair and his sterling remarks resulted in the shot for liberty which was heard around the world. Patrick Henry said to the doubting Thomas:

> When shall the time be right? Shall it be the next week or the next year?

Mr. Speaker, this rule should be defeated. A Democratic President who claims this piece of legislation to be the centerpiece of his legislative program ought to sit down with the Democrats of this Chamber—as opposed to sitting down with the leaders of the U.S. Chambers of Commerce—and propose a bill that will in effect protect the basic rights of Federal employees.

I urge defeat of the rule.

Mr. MEEDS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CHARLES H. WILSON).

Mr. CHARLES H. WILSON of California. Mr. Speaker, I rise in opposition to this rule—which subjects only titles IX and X of the bill to a point of order on the grounds of germaneness.

For the life of me, I cannot understand how and why title IX should be treated in this dscriminatory manner.

The facts are fairly obvious—and the connections between Hatch Act reform and the rest of H.R. 11280 are quite strong. First, the bill, in section 2302—on page 138, beginning on line 24—defines improper political activities as a prohibited personnel practice. Title IX of the bill states exactly what these improper political activities are. Second, the bill charges the Special Counsel of the Merit System Protection Board with

responsibility for not only investigating prohibited personnel activities in general but improper political activities in particular. (See p. 160, beginning on line 24.) Title IX of the bill defines more fully these activities which apply to Federal civilian as well as postal employees.

Mr. Speaker, it is inconceivable to me that this bill—which touches on virtually every aspect of civil service—should have political activities and firefighters singled out for this kind of shabby treatment.

Title IX is virtually identical to H.R. 10, the Federal Employees' Political Activities Act of 1977, which passed the House on June 7, 1977, by a vote of 244–164. The only major differences between title IX and H.R. 10 is that title IX designates the special counsel of the Merit Systems Protection Board as the enforcing authority and the Board as the adjudicatory authority. H.R. 10 designated the general counsel of the Civil Service Commission as the enforcing authority while the commission would have been the adjudicatory authority. These changes assume that the Civil Service Commission will be superceded by the Office of Personnel Management and the Merit Systems Protection Board established under Reorganization Plan No. 2 of 1978. The investigative procedures of H.R. 10 were deleted to parallel those established in H.R. 11280.

Although both the committee and the House approved this legislation in the last two Congresses by overwhelming margins. It has become increasingly clear to me that the other body will not act on Hatch Act reform this year. The gentleman from Missouri (Mr. CLAY) offered his amendment in committee in order to insure that both Houses of Congress have the opportunity to work their will in considering reform of the Hatch Act. Many of us have worked long and hard in pressing for passage of this and other legislation in recent years only to see it languish and die in the other body.

Mr. Speaker, the issue of full political participation for Federal employees and protection of the public interest should be addressed here and now.

Inclusion of Hatch Act reform does not constitute a "burden" on civil service reform. Civil Service reform and Hatch Act reform are inextricably interrelated. Each insures that the people's business—the business of our Government—is conducted in a fair and impartial manner.

Inclusion of Hatch Act reform in this bill is not "untimely" as the administration would like the public to believe. There can be nothing more "timely" than providing Federal employees with the right to full participation in the political process of our nation.

I also want to point out, Mr. Speaker, that this bill is 390 pages long. The committee report is—even today—not generally available to the public despite the fact that it was reported 2 weeks ago. The report is 461 pages long. And we are supposed to vote on this comprehensive legislation, ill-informed and ill-prepared.

I urge a no vote on this rule.

Mr. MEEDS. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I want to say I appreciate very much the education in parliamentary procedure that we are all receiving here today. The way we construct the rule, apparently, is to waive points of order with respect to the things that are not subject to points of order and not waive points of order with respect to those things that are possibly subject to points of order.

I wonder, as we have talked about the Rules Committee and the rules procedure over the years, if we do this House any great honor by proceeding in a manner like this. I think it is wrong and I think the procedure is wrong to schedule a bill of this magnitude in this manner.

I wonder, Mr. Speaker, if one of my colleagues would hold up the bill and show us the size of the bill that this body is called upon to consider?

There are 11 titles and hundreds of pages.

We had been told that we were going to schedule it in September but now we schedule it on Friday, with 24 hours notice. The House says be ready, Members of the Congress, you are going to consider this 200-page bill with 11 titles tomorrow on the House floor. We are going to reorganize a system that has grown over the last 90 years, a system to protect against the spoils system, reorganize it in the name of efficiency, reorganize it in the name of better management. Forget about the people. You are just dealing with three and a half-million bureaucrats. Who cares about them? I mean, after all, they are the ones we kick around but still expect to run our Government. Do not worry about them. Go ahead and pass the bill. Do not worry about whether their rights are protected or not. Do not worry about whether we politicize the civil service system, just go ahead and pass the law, go ahead on it, get it adopted.

I think that is a great mistake. You have all heard the argument made that we have got to have a bill like this so that when a President Nixon comes into office he is able to reorganize this Government to his liking. Get the law out of his way. Let him come in and make sure that every bureaucrat is doing what he wants him to do so that it is the type of Government that he wants to have.

That is what is being proposed by this rule.

That is what is being proposed in the name of efficiency.

I think it is wrong to have a bill like this brought up in this manner.

I also think that the statement has been made that this somehow keeps the political appointees out of the career ranks. It does not. It opens the door. It sets up a system to get all political appointments on a career status. Something that has been tried over the years.

What it does, No. 1—and, hear this—it allows political appointments to be made within the Senior Executive Service.

The SPEAKER. The time of the gentleman has again expired.

Mr. MEEDS. I yield 1 additional minute to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. It says that the political appointees in the Senior Executive Service can acquire permanent status in grade 15.

We will be establishing a political bone yard in grade 15 that you cannot get them out of.

That is what they are trying to sell in the name of reform.

This House made this mistake before, without necessary thought, without necessary analysis, we said that we were going to reorganize our Postal Service.

I challenge every Member in this House that if they vote for this rule, they are saying to the public: We are going to do to the Federal Government what we did to the Postal Service. We are going to do it without necessary thought. We are going to do it without necessary consideration.

That is what we are going to be telling, them, that is what we are going to do, that we are going to "postalize" the whole Federal Government.

I do not think that that is what you want to do to your constituents.

Mr. MEEDS. Mr. Speaker, I yield 5 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I am just going to address myself to a very few subjects, although there are so many things that I could talk about.

I would like to reiterate what my colleague, the gentleman from Virginia (Mr. HARRIS) just stated, and that is that we had been advised that this bill was going to be brought up in September. We, therefore, expected to have plenty of time to discuss this legislation with the Members of the House. And the House would then have had plenty of time to do its studies. But, instead, here we are today.

The bill contains not the 200 pages which my colleague from Virginia (Mr. HARRIS) referred to—and this is the first time I have heard him make an error—but 390 pages.

I wonder whether, except for those persons who served on the committee, there is one member here who is really familiar with 10 of those 390 pages.

The report has 461 pages. Do the Members know that there are no copies available yet for the public? Nonetheless, we are rushing headlong into attempting to enact legislation without even giving the public an opportunity to become acquainted with its contents. There is only one copy available for each Member.

Why this rush, Mr. Speaker? Why, when we are changing a system that has been in effect for 100 years, are we rushing pellmell into making those changes without the kind of deliberation changes like that deserve?

Mr. Speaker, I think we ought to be taking a very good look at this legislation. I am concerned about the rule,

about the matter of fairness. Is it really fair for the leadership to decide which parts of the bill it does not want and to pull those out? There are other parts of this bill which are equal in germaneness to the two titles that are being contested. Moreover, who should be making those decisions? Should those decisions not be made by the Members of the House?

Mr. Speaker, I think these are very serious questions. We are denying the Members the opportunity to vote on these matters. They could have that opportunity if those titles were left in the bill and then amendments were brought up to delete them.

Mr. Speaker, I want to ask the Members to go through this bill while we are debating it. They are going to be hearing comments such as those stated by the gentleman from Arizona, our excellent leader, with whom I almost never disagree, but with whom I must differ on this particular measure. He has said that there will be only 10 percent of the SES personnel who are political appointees.

Would the Members be interested in a statistic which is a factual one? That is that 100 percent of the SES could conceivably be political, not just 10 percent, but 100 percent.

Mr. Speaker, since the Senate adopted the administration version, if we were to agree to that in conference, there would be no provision to insure that anybody would have to come from within the system. Yes, 100 percent political—not 10 percent. Fortunately, the committee has cut the odds down somewhat and I hope some of us will insist on holding our ground in the Conference Committee.

As the Members listen to the debate on this bill, I ask that they listen very carefully and hear both sides of the story. There have been a great many misinterpretations, and there have been a great many misrepresentations. Of course, I would have preferred that we not consider this bill in haste. It is much too important. Let us adopt a bill which can last another 100 years. Let us move with deliberation.

Mr. LOTT. Mr. Speaker, I yield back the balance of my time.

Mr. MEEDS. Mr. Speaker, I yield myself such time as I may consume.

I do not intend to get into the merits of the legislation before us or the legislation which this rule makes in order. However, there have been two questions which I think were raised and require some answers.

First as to the time, I have talked with the gentleman from Arizona (Mr. UDALL) about that matter; and he informs me that he advised the committee the day this bill was reported out that he intended to have it on the floor this week. I know from reading stories in the newspapers that it was initially proposed to be on the floor this week. The matter has been before the Rules Committee since August 3, last Thursday.

I know it has been scheduled before the Committee on Rules most all of this week. It is usual and customary and clearly the people who have spoken to this issue know it is usual and customary to take a bill to the floor as soon as possible after it emerges from the Committee on Rules; so there should be no surprise here. There has been ample time for everyone to consider this.

Mr. Speaker, we have structured the rule in such a way that there ought to be ample debate of all the issues.

The second thing is this, that there seems to be some hue and cry that this rule is unfair. Somebody said, "Playing games." Far from it, we are stopping games from being played by this rule. This rule refuses to waive a point of order on germaneness against two titles of this bill, which are clearly both substantively and technically nongermane to this bill. The Committee on Rules concluded that Hatch Act reform and firefighters should not be allowed to hitchhike on the back of civil service reform. That is all this rule does. It is a fair rule. It gives ample opportunity for discussion of all the issues. This rule should be adopted.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HARRIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 357, nays 18, not voting 57, as follows:

[Roll No. 687]

YEAS—357

Abdnor	Broyhill	Devine
Addabbo	Buchanan	Dickinson
Akaka	Burgener	Dicks
Alexander	Burke, Fla.	Dingell
Ammerman	Burke, Mass.	Dodd
Anderson, Calif.	Burleson, Tex.	Dornan
Anderson, Ill.	Burlison, Mo.	Downey
Andrews, N.C.	Burton, John	Drinan
Andrews, N. Dak.	Burton, Phillip	Duncan, Oreg.
Annunzio	Butler	Duncan, Tenn.
Applegate	Byron	Early
Archer	Carney	Eckhardt
Ashley	Carr	Edgar
Aspin	Carter	Edwards, Ala.
AuCoin	Cavanaugh	Edwards, Calif.
Badham	Cederberg	Edwards, Okla.
Bafalis	Chappell	Eilberg
Baldus	Chisholm	Emery
Barnard	Clausen, Don H.	English
Baucus	Clawson, Del	Erlenborn
Beard, R.I.	Cleveland	Ertel
Beard, Tenn.	Coleman	Evans, Colo.
Bedell	Collins, Ill.	Evans, Del.
Beilenson	Collins, Tex.	Evans, Ga.
Benjamin	Conable	Evans, Ind.
Bennett	Conte	Fary
Bevill	Conyers	Fascell
Biaggi	Corcoran	Fenwick
Bingham	Corman	Findley
Blanchard	Cornell	Fish
Blouin	Cornwell	Fisher
Boland	Cotter	Fithian
Bolling	Coughlin	Flippo
Bonior	Cunningham	Flood
Bonker	D'Amours	Florio
Brademas	Daniel, Dan	Flowers
Brinkley	Daniel, R. W.	Flynt
Brodhead	Danielson	Foley
Broomfield	de la Garza	Ford, Mich.
Brown, Calif.	Delaney	Ford, Tenn.
Brown, Mich.	Dellums	Forsythe
Brown, Ohio	Derrick	Fountain
	Derwinski	Fowler
		Frenzel
		Fuqua
		Gammage
		Garcia
		Gaydos
		Gephardt
		Ginn
		Glickman
		Goldwater
		Gonzalez
		Goodling
		Gore
		Gradison
		Grassley
		Green
		Gudger
		Guyer
		Hagedorn
		Hall
		Hamilton
		Hammer-schmidt
		Hanley
		Hannaford
		Harkin
		Hawkins
		Heckler
		Hefner
		Heftel
		Hightower
		Hillis
		Holland
		Hollenbeck
		Holtzman
		Horton
		Howard
		Hughes
		Hyde
		Ichord
		Jacobs
		Jeffords
		Jenkins
		Johnson, Calif.
		Johnson, Colo.
		Jones, N.C.
		Jones, Okla.
		Jones, Tenn.
		Jordan
		Kasten
		Kastenmeier
		Kazen
		Kelly
		Kemp
		Keys
		Kildee
		Kindness
		Kostmayer
		Krebs
		Krueger
		LaFalce
		Lagomarsino
		Leach
		Lederer
		Leggett
		Lehman
		Lent
		Levitas
		Lloyd, Calif.
		Long, Md.
		Lott
		Lujan
		Lundine
		McClory
		McCloskey
		McCormack
		McDade
		McEwen
		McFall
		McHugh
		McKay
		McKinney
		Madigan
		Maguire
		Mahon
		Mann
		Markey
		Marks
		Marlenee
		Martin
		Mathis
		Mattox
		Mazzoli
		Meeds
		Meyner
		Michel
		Mikva
		Miller, Ohio
		Mineta
		Minish
		Mitchell, N.Y.
		Moakley
		Moffett
		Mollohan
		Montgomery
		Moore
		Moorhead, Calif.
		Moorhead, Pa.
		Moss
		Mottl
		Murphy, Ill.
		Murphy, Pa.
		Murtha
		Myers, Gary
		Myers, John
		Myers, Michael
		Natcher
		Neal
		Nedzi
		Nichols
		Nix
		Nowak
		O'Brien
		Oakar
		Oberstar
		Obey
		Ottinger
		Panetta
		Patten
		Patterson
		Pease
		Pepper
		Perkins
		Pettis
		Pickle
		Pike
		Preyer
		Price
		Pritchard
		Quayle
		Quillen
		Rahall
		Railsback
		Rangel
		Regula
		Reuss
		Rhodes
		Rinaldo
		Risenhoover
		Robinson
		Roe
		Rogers
		Rooney
		Rose
		Rosenthal
		Rostenkowski
		Rousselot
		Roybal
		Runnels
		Russo
		Ryan
		Santini
		Satterfield
		Scheuer
		Schroeder
		Schulze
		Sebelius
		Seiberling
		Sharp
		Shuster
		Sikes
		Simon
		Skelton
		Slack
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Solarz
		Spence
		St Germain
		Staggers
		Stangeland
		Stanton
		Steed
		Stockman
		Stokes
		Stratton
		Studds
		Stump
		Taylor
		Thompson
		Thornton
		Traxler
		Treen
		Trible
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Vento
		Volkmer
		Waggonner
		Walgren
		Walker
		Watkins
		Waxman
		Weaver
		Weiss
		Whalen
		White
		Whitehurst
		Whitley
		Whitten
		Wiggins
		Wilson, Bob
		Wilson, Tex.
		Winn
		Wirth
		Wolff
		Wright
		Wylie
		Yates
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NAYS—18

Ashbrook	Hansen	Pursell
Bauman	Harris	Roberts
Clay	Holt	Spellman
Crane	Livingston	Steers
Davis	Mikulski	Steiger
Gilman	Mitchell, Md.	Wilson, C. H.

NOT VOTING—57

Ambro	Hubbard	Quie
Armstrong	Huckaby	Richmond
Boggs	Ireland	Rodino
Bowen	Jenrette	Roncalio
Breaux	Latta	Rudd
Breckinridge	Le Fante	Ruppe
Brooks	Lloyd, Tenn.	Sarasin
Burke, Calif.	Long, La.	Sawyer
Caputo	Luken	Shipley
Cochran	McDonald	Sisk
Cohen	Marriott	Skubitz
Dent	Metcalfe	Stark
Diggs	Milford	Symms
Fraser	Miller, Calif.	Teague
Frey	Murphy, N.Y.	Thone
Giaimo	Nolan	Tsongas
Gibbons	Pattison	Walsh
Harrington	Poage	Wampler
Harsha	Pressler	Wydler

The Clerk announced the following pairs:

On this vote:

Mr. Richmond for, with Mr. McDonald against.
Mr. Rodino for, with Mr. Diggs against.

Until further notice:

Mr. Breaux with Mr. Armstrong.
Mr. Le Fante with Mr. Marriott.
Mr. Jenrette with Mr. Cochran of Mississippi.
Mr. Giaimo with Mr. Pressler.
Mr. Murphy of New York with Mr. Quie.
Mr. Pattison of New York with Mr. Rudd.
Mr. Shipley with Mr. Ruppe.
Mr. Teague with Mr. Sawyer.
Mrs. Lloyd of Tennessee with Mr. Wampler.
Mr. Long of Louisiana with Mr. Wydler.
Mr. Bowen with Mr. Caputo.
Mr. Ambro with Mr. Cohen.
Ms. Boggs with Mr. Frey.
Mr. Harrington with Mr. Harsha.
Mr. Metcalfe with Mr. Walsh.
Mr. Ireland with Mr. Symms.
Mr. Huckaby with Mr. Skubitz.
Mr. Brooks with Mr. Latta.
Mrs. Burke of California with Mr. Fraser.
Mr. Dent with Mr. Hubbard.
Mr. Luken with Mr. Milford.
Mr. Nolan with Mr. Roncalio.
Mr. Sisk with Mr. Tsongas.
Mr. Breckinridge with Mr. Miller of California.
Mr. Stark with Mr. Sarasin.
Mr. Gibbons with Mr. Thone.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO FILE REPORT ON H.R. 11733

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transportation may have until midnight tonight, Friday, August 11, 1978, to file the committee report on H.R. 11733, the Surface Transportation Assistance Act of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO FILE REPORTS ON H.R. 13750 AND H.R. 12101

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may have until midnight tonight, Friday, August 11, 1978, to file reports on the bills H.R. 13750, the Sugar Stabilization Act of 1978, and H.R. 12101, the Farmers and Consumers Marketing Act of 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman please repeat the bills that he wants to consider?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Washington.

Mr. FOLEY. The bills are H.R. 13750, the Sugar Stabilization Act of 1978, and H.R. 12101, the Farmers and Consumers Marketing Act of 1978.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, this has nothing to do with the grain reserve?

Mr. FOLEY. No. That bill has not yet been reported by the committee.

Mr. ROUSSELOT. I thank the gentleman from Washington.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

FORTY-FOUR YEARS OF LEADERSHIP BY GEORGE MAHON

(Mr. ROONEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. ROONEY. Mr. Speaker, it is with great pleasure that I take this opportunity to commemorate the many years of public service given to this country by GEORGE MAHON.

He represents the very best of men that America can produce. His qualities have dignified and enhanced the body of Congress that he has served so well for the past 44 years and his wise leadership has well served the interests of this country as well as of his constituents.

There are few men who can wear power so well. GEORGE MAHON has used his talents to preserve our fiscal integrity and has fought hard to maintain his ideals. He has also, and most importantly, retained his perspective on himself. He never compromised his principles nor faltered in his beliefs that Government must be for all the people. His distinctive leadership qualities have honored us all.

It has been my privilege during the 95th Congress to have been his neighbor in the Rayburn Building. I have enjoyed his company and take great pleasure in our relationship.

I thank him for his friendship, his many, many years of work, and for his unwavering adherence to the values that this country esteems in men. He will be greatly missed.

My hopes go with him, and with Mrs. Mahon, upon his retirement that the coming years are happy ones. He has won the respect of his colleagues and of his country.●

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO FILE REPORT ON H.R. 13650

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs may have until midnight tonight to file a report on the bill (H.R. 13650) to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of mill tailings under the Atomic Energy Act of 1954, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

APPOINTMENT OF CONFEREES ON S. 2701, AMENDING WATER RESOURCES PLANNING ACT

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2701) to amend the Water Resources Planning Act, with a House amendment thereto, insist on the House amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona? The Chair hears none, and, without objection, appoints the following conferees: Messrs. MEEDS, UDALL, VENTO, and LUJAN.

There was no objection.

CIVIL SERVICE REFORM ACT OF 1978

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11280) to reform the civil service laws.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CLAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 340, nays 13, answered "present" 1, not voting 78, as follows:

[Roll No. 688]

YEAS—340

Abdnor	Brown, Mich.	Dickinson
Addabbo	Brown, Ohio	Dicks
Akaka	Broyhill	Dingell
Alexander	Buchanan	Dodd
Ammerman	Burgener	Dornan
Anderson, Calif.	Burke, Fla.	Downey
	Burke, Mass.	Drinan
Anderson, Ill.	Burleson, Tex.	Duncan, Oreg.
Andrews, N.C.	Burlison, Mo.	Duncan, Tenn.
Andrews, N. Dak.	Burton, John	Early
	Butler	Eckhardt
Annunzio	Byron	Edgar
Applegate	Carney	Edwards, Ala.
Archer	Carter	Edwards, Calif.
Ashbrook	Cavanaugh	Edwards, Okla.
Ashley	Cederberg	Eilberg
Aspin	Chappell	Emery
AuCoin	Chisholm	Erlenborn
Badham	Clausen, Don H.	Ertel
Bafalis		Evans, Del.
Baldus	Clawson, Del	Evans, Ga.
Barnard	Clay	Evans, Ind.
Baucus	Cleveland	Fary
Bauman	Coleman	Fascell
Beard, R.I.	Collins, Ill.	Fenwick
Beard, Tenn.	Conable	Findley
Bedell	Conte	Fish
Bellenson	Conyers	Fisher
Benjamin	Corcoran	Fithian
Bennett	Corman	Flippo
Bevill	Cornell	Flood
Biaggi	Cotter	Florio
Bingham	Coughlin	Flowers
Blanchard	Crane	Flynt
Blouin	Cunningham	Foley
Boland	D'Amours	Ford, Mich.
Bolling	Daniel, R. W.	Ford, Tenn.
Bonior	Danielson	Forsythe
Bonker	de la Garza	Fountain
Brademas	Delaney	Frenzel
Brinkley	Dellums	Fuqua
Brodhead	Derrick	Gammage
Broomfield	Derwinski	Garcia
Brown, Calif.	Devine	Gaydos

Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Howard
Hughes
Hyde
Ichord
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Leach
Lederer
Lehman
Lent
Levitas
Livingston
Long, Md.
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Mahon
Markey
Marks
Marlenee
Martin
Mathis
Mattox
Mazzoli
Meeds
Michel
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Russo
Ryan
Satterfield
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Taylor
Thompson
Thornton
Traxler
Treen
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—13

Collins, Tex.
Harris
Hawkins
Lloyd, Calif.
Mikulski
Mitchell, Md.
Quayle
Roberts
Spellman
Steers
Wilson, Bob
Wilson, C. H.
Young, Tex.

ANSWERED "PRESENT"—1

Wirth

NOT VOTING—78

Ambro
Armstrong
Boggs
Bowen
Breaux
Breckinridge
Brooks
Burke, Calif.
Burton, Phillip
Caputo
Carr
Cochran
Cohen
Cornwell
Daniel, Dan
Davis
Dent
Diggs
English
Evans, Colo.
Fowler
Fraser
Frey
Giaimo
Gibbons
Harrington
Harsha
Horton
Hubbard
Huckaby
Ireland
Jenrette
Johnson, Colo.
Latta
Le Fante
Leggett
Lloyd, Tenn.
Long, La.
Lott
Lujan
Luken
McDonald
Maguire
Mann
Marriott
Metcalfe
Meyner
Milford
Miller, Calif.
Montgomery
Moss
Murphy, N.Y.
Nolan
Pattison
Poage
Pressler
Quie
Reuss
Richmond
Rodino
Roncalio
Rudd
Ruppe
Santini
Sarasin
Sawyer
Shipley
Sisk
Stark
Symms
Teague
Thone
Tsongas
Tucker
Walsh
Wampler
Wiggins
Wydler

Mr. MOORE and Mr. CLAY changed their vote from "no" to "aye."

So the motion was agreed to.

The result of the vote was announced as above recorded.

Mr. CLAY. Mr. Speaker, I move to reconsider the vote by which the motion was agreed to.

Mr. UDALL. Mr. Speaker, I move to lay the motion to reconsider on the table.

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CLAY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 327, nays 8, not voting 97, as follows:

[Roll No. 689]

YEAS—327

Abdnor
Addabbo
Akaka
Alexander
Ambro
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Ashbrook
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Bedell
Bellenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Blouin
Boland
Bolling
Bonior
Bowen
Brademas
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clawson, Del
Cleveland
Coleman
Collins, Tex.
Conable
Conte
Corcoran
Corman
Cornell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Derrick
Derwinski
Devine
Dicks
Dingell
Dodd
Dornan
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Flynt
Foley
Ford, Mich.
Ford, Tenn.
Frenzel
Fuqua
Gammage
Garcia
Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Holland
Hollenbeck
Holt
Holtzman
Howard
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kasten
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Leach
Lent
Levitas
Livingston
Lloyd, Calif.
Long, Md.
Lott
Lujan
Lundine
McClory
McCloskey
McCormack
McDade
McFall
McHugh
McKinney
Madigan
Mahon
Mann
Markey
Marks
Marlenee
Martin
Mathis
Mattox
Mazzoli
Meeds
Michel
Mikva
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Ill.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nix
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Preyer
Price
Pritchard
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Risenhoover
Roberts
Robinson
Roe
Rogers
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Steed
Steiger
Stokes
Stratton
Studds
Stump
Thompson
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Waggonner
Walgren
Walker
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wilson, Tex.
Winn
Wirth
Wolff
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—8

Clay
Conyers
Dickinson
Lederer
Mikulski
Pursell
Steers
Wilson, Bob

NOT VOTING—97

Anderson, Ill.
Armstrong
Beard, Tenn.
Bevill
Boggs
Bonker
Breaux
Breckinridge
Brodhead
Brooks
Brown, Calif.
Brown, Mich.
Burke, Calif.
Burton, John
Burton, Phillip
Caputo
Cochran
Cohen
Collins, Ill.
Cornwell
Dellums
Dent
Diggs
Downey
Edgar
Erlenborn
Evans, Colo.
Forsythe
Fountain
Fowler
Fraser
Frey
Gaydos
Giaimo
Gibbons
Goodling
Harrington
Harsha
Horton
Hubbard
Huckaby
Jenrette
Johnson, Colo.
Kindness
Latta
Le Fante
Leggett
Lehman
Lloyd, Tenn.
Long, La.
Luken
McDonald
McEwen
McKay
Maguire
Marriott
Metcalfe
Meyner
Milford
Miller, Calif.
Mitchell, Md.
Moss
Murphy, N.Y.
Nichols
Nolan
Pattison
Poage
Pressler
Quayle
Quie
Richmond
Rodino
Roncalio
Rudd
Ruppe
Sarasin
Satterfield
Sawyer
Shipley
Sikes
Sisk
Skubitz
Stark
Stockman
Symms
Taylor
Teague
Thone
Tsongas
Vento
Walsh
Wampler
Wiggins
Wilson, C. H.
Wright
Wydler
Young, Tex.

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11280, with Mr. DANIELSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Is there objection to dispensing with the first reading of the bill?

Mr. BAUMAN. Mr. Chairman, reserving the right to object to dispensing with the first reading of the bill, can the gentleman from Arizona tell the Committee what the schedule for the rest of the afternoon might be?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. UDALL. As I told the gentleman from Maryland and other colleagues it would be part of my purpose, based on arrangements and discussions with the gentleman from Missouri (Mr. CLAY) and other Members who are concerned with this bill, that we complete general debate in order under the rule and at the conclusion of the general debate, without reaching points of order or amendments, I will move that the Committee do now rise, and we would conclude the bill at another time.

I had promised the leadership to try to get through the bill today and I thought we had some hope of doing that until these events occurred.

There are other conference reports and other matters that are going to be scheduled, but in any event the House will conclude its business by 3 o'clock. But I cannot guarantee that at about 1:30, when we will conclude general debate, we will conclude the day's business. Other matters will be scheduled.

Mr. BAUMAN. Can the gentleman tell us what other matters will be scheduled?

Mr. UDALL. The leadership is looking for some other business, and I cannot say what, but I cannot guarantee there will not be other business.

Mr. BAUMAN. In the absence of information as to the other scheduled matters, and in view of the fact that many Members wish to depart, I will be constrained to object to dispensing with the reading of the bill unless we know precisely what the schedule will be.

Mr. Chairman, I object.

Mr. UDALL. Mr. Chairman, will the gentleman withhold that objection for a moment and will the gentleman yield?

Mr. BAUMAN. I will withhold the objection and I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, in reply to the gentleman's question, I just talked to the Speaker and to the minority leader about 5 minutes ago about the situation, that we could not go beyond the general debate today, and they are conferring with other chairmen about various conference reports and other matters. They will be making an announcement as soon as they can, so I hope the gentleman will withhold for a minute.

The gentleman will have other opportunities to object, and I know he has sufficient parliamentary skill to take advantage of those opportunities, so I hope the gentleman will withhold his objection.

Mr. BAUMAN. Mr. Chairman, there are 138 pages in the original bill that need to be read, and I am sure the President would want us to know the contents of his major civil service reform, and I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk proceeded to read the bill.

Mr. DAVIS (during the reading). Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic devcie.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to rule XXIII, clause 2, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The Clerk will read.

The Clerk continued to read the bill.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that further first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, could the gentleman from Arizona now inform the Committee what the program will be?

Mr. UDALL. Mr. Chairman, if the gentleman will yield, the leadership has advised me that following the one hour of general debate on this bill, they will call up for action under previous notice to the House the bill, H.R. 13007, the Electronic Fund Transfer Act, under an open rule, with one hour of debate, but in no event will the House continue legislative debate beyond 3 p.m. this afternoon.

Mr. BAUMAN. So if the electronic fund transfer bill is not concluded by 3 p.m., there will be no vote, I assume?

Mr. UDALL. The gentleman is correct, and I suspect there may not be a disposition to use time or to extend remarks and we may not use our full hour of debate.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, can the gentleman, or somebody from the Democratic leadership, tell us if the gentleman from Illinois (Mr. ANNUNZIO) has been contacted or if the gentleman is prepared to deal with the electronic fund transfer bill? I know the gentleman worked very hard on that bill in the Committee on Banking, Finance and Urban Affairs. Is the gentleman aware the bill was coming up? There were several amendments.

The CHAIRMAN. The Chair will announce that the gentleman from Illinois (Mr. ANNUNZIO) has been contacted and is expected to be available on or about 1:15 p.m. this afternoon.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object, I would like to ask the gentleman from Arizona one other question. There are a number of bills now in the legislative nether land, such as CETA and foreign aid. Will this bill be consigned to that same ethereal place? Does the gentleman know when this bill will be taken up again?

Mr. UDALL. Mr. Chairman, if the gentleman will yield, some have referred to this bill as an uncooked turkey waiting to be put in the oven.

Mr. BAUMAN. Certainly not the gentleman from Maryland.

Mr. UDALL. We do not consider this bill in that category at all. The leadership has a very heavy schedule, as the gentleman knows. I have asked the Speaker to put it on sometime next week; if not, we go off into limbo until September, as the gentleman knows.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the further first reading of the bill will be dispensed with.

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a major bill, and it is one on which the Committee on Post Office and Civil Service has worked long and hard.

Mr. Chairman, the bill we are considering today is the most comprehensive reform of the civil service laws ever presented to the House. It relates to practically every aspect of civil service employment in the U.S. Government—appointment, veterans' preference, pay, classification, labor relations, political rights, the organization of agencies in the executive branch responsible for administering the civil service system, and insuring fairness and equity for employees, and a host of other issues which we have deliberated for the last 5 months.

Chairman NIX introduced the President's proposal on civil service reform on March 3. Following that, our committee conducted 13 days of public hearings in March, April, and May. More than 200 witnesses, representing all facets of public life in this country, testified before our committee. Following those hearings, our committee met for 10 days to mark up this legislation. Some 77 amendments were considered and finally, on July 19, by a vote of 18 to 7, the committee ordered the bill reported with a committee amendment.

This bill is divided into 11 titles. It is designed to resolve some of the major problems which the President and many

Members of Congress believe hinder Federal agencies from functioning effectively under the civil service system.

There are delays in the present system in both hiring and firing. The inflexibility in the highest levels of the civil service frustrates any President who is elected by the people to carry out a program. Employees are frequently discriminated against because in good faith they attempt to expose wastes of the taxpayers' money or agency mismanagement. The classic example in recent years is Ernest Fitzgerald, whose efforts to bring to the attention of the people the incredible cost overruns of the C5A transports resulted in a bureaucratic snarl in an effort to silence him or dismiss him. Years ago, Dr. Janet Kelsey, who discovered the tragic effects of thalidomide, was at the same time celebrated as a hero to the people and an enemy within the Food and Drug Administration.

President Carter has proposed legislation to improve the civil service system and to prevent the kinds of abuses illustrated in the Fitzgerald and Kelsey cases.

Title I of H.R. 11280 establishes by law the general policies of the merit system principles which shall prevail throughout the executive branch. This title also lists specific prohibited personnel practices, protects employees from reprisals because of whistle blowing, and generally provides protection for all employees against discrimination, political coercion and other unfair retributory or illegal actions.

Title II establishes by law the Office of Personnel Management and the Merit Systems Protection Board to take over the responsibility now vested in the Civil Service Commission.

Title III principally relates to veterans' preference. The committee recommends that veterans' preference for Vietnam Era veterans be improved by creating more job opportunities in the Federal service. This will be accomplished principally by eliminating appointment preference for retired military officers above the rank of captain, limiting preference to a 3-year period for retired officers and enlisted men below the rank of major, and generally limiting veterans' preference to a period of 15 years following separation from the armed services. The changes will not apply in the case of a disabled veteran.

Title IV establishes the senior executive service, which will include the management positions now generally known as supergrades. It will also include some executive level V and executive level IV positions. This is critically important to effective management of any President's program. Unless greater flexibility is established at the GS–16, 17, and 18 level, no President can carry out the program upon which he was elected in a manner which the people are entitled to expect. The senior executive service fairly protects the rights of employees appointed to these positions, and insures that an employee who retreats from a senior executive service position is guaranteed placement, either in the job he had or in a job of comparable pay.

Title V establishes a merit pay system rather than a longevity pay system for management employees in grades 13, 14, and 15.

Title VI improves the research and demonstration projects of the executive branch.

Title VII establishes a new labor-management relations program. Rather than enacting into law the skeleton outline of the Executive order on labor-management relations, the committee has approved what we believe is a fair and responsive program. We have attempted to navigate a course which gives Federal employees greater rights in labor relations than they have heretofore enjoyed. At the same time we have preserved the rights of management to run the shop. I believe the time has simply come for Federal employees to enjoy some, if not all, of the same rights which employees in the private sector have had since 1935. We do not permit bargaining over pay and fringe benefits, but on other issues relating to an employee's livelihood, we do permit collective bargaining between Federal employee unions and agency management. To those who claim the Government will simply go up in smoke if this labor provision is adopted, let me refer you to those who said the world would go up in smoke if the Waggonner Act were approved, or the Social Security Act, or the medicare bill, all of which have contributed so much to improve the quality of American life.

Title VIII incorporates the provisions of the Nix bill on downgrading of Federal employees. This legislation has already been reported out of our committee, but we believe that because of the lateness of the hour, action by the Senate might not be possible. The administration supports the enactment of title VIII.

Title IX incorporates the provisions of the Hatch Act reform, which previously passed the House and is now pending in the Senate. I am sure there will be others who will address that issue at greater length.

Title X incorporates the provisions of the firefighters' work week bill, which previously passed both Houses but was vetoed by the President.

On both of these issues I think it is fair to say that if the House approves this bill with these provisions intact, there is some doubt that the Senate would be willing to go to conference. I personally supported and voted for both of these bills as separate legislation, and I have nothing but high regard for my colleagues from Missouri and Virginia who are their sponsors, but their inclusion could jeopardize the possibilities for enactment of the civil service reform bill this year.

Title XI includes miscellaneous and technical provisions, including a decentralization of government study proposed by my colleague from Iowa, Mr. LEACH.

Mr. Chairman, I believe the committee has worked out a very good bill. It gives the administration most of what it wants. It gives our friends in labor a positive program to achieve many of the rights which other citizens have enjoyed for decades. It improves the protection for employees and it provides for the establishment of a new system of high level management which I believe is necessary.

I urge my colleagues to support the committee amendment.

Mr. DERWINSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we proceed into the critical phase of amending and shaping this legislation I hope Members on both sides of the aisle will keep an objective eye on what should be our ultimate goal—that is, the enactment of honest and unbiased civil service reform.

This legislation offers the Members of the House the opportunity to reinvigorate a Federal civil service merit system that, during its 95-year lifespan, has become immune to effective management.

It is my strong personal opinion that civil service reform is a nonpartisan issue and that reform is good Government. I hope that feeling is shared by my colleagues.

While I voted in committee to report this legislation to the floor, in the interest of promoting a sound concept, there are parts of the committee-reported bill I strongly oppose, and would like to sketch out these areas so that when we get to the amending process we will have a better idea of the key issues.

The most damaging addition to the bill is title IX which contains the language of H.R. 10, a bill emasculating the Hatch Act and opening the door to politicization of the civil service system. The inclusion of this title is contrary to the concept of reform legislation.

In his message transmitting his civil service reform legislation to the Congress, President Carter declared one of his major objectives was "to strengthen the protection of legitimate employee rights." A fundamental right of employees under the civil service merit system is to be free from and protected against political coercion. Repeal of the Hatch Act, as proposed in title IX destroys that protection. The ability of the civil service to perform in an efficient and unbiased manner would be seriously impared by title IX.

The administration opposes the inclusion of title IX in this legislation and so I urge all of my colleagues to join in opposing and rejecting title IX, or any modification of it.

My Democratic colleagues should be particularly concerned with the addition of title X to the bill, which is a gratuitous slap at the President. This title contains the provisions of H.R. 3161, a bill reducing the basic workweek of Federal firefighters which President Carter vetoed less than 2 months ago and returned to the Congress with a strong message of rejection.

The firefighters' workweek legislation has nothing to do with civil service reform. It is a bill that cannot stand on its own merit and adding it to this bill is simply a move to complicate House consideration of essential reform legislation.

The language in this bill diluting the veterans' preference laws should also be rejected.

The fundamental thinking behind the veterans' preference laws, which date from 1865, is to compensate those who served our Nation honorably in time of war by providing qualified applicants with certain preference in appointment. These laws also grant preference for retention rights during a reduction in force.

The title dealing with the senior executive service was caught in, and became the victim of, one of the many crossfires in committee. To limit the SES to a 2-year experimental program in just three agencies, and the committee amendment does, is to dilute legitimate reform. The senior executive service is a cornerstone of this legislation, and I urge support of an amendment to restore the bill to its original purpose as recommended by the administration.

The labor-management provisions of the bill, in title VII, expand considerably the scope of bargaining beyond that established under Executive Order 11491, the Executive order which presently governs labor-management relations in the Federal sector.

Under the committee bill, Federal employees unions will have the right to negotiate such management-oriented issues as promotion standards, job classification, and reduction-in-force standards and procedures.

I suggest to those who are interested in true reform that it is important to correct title VII so that it essentially conforms with the Executive order, as originally proposed, and supported by the administration.

One other feature that needs remedial attention is that language covering the Federal Bureau of Investigation into certain titles of the bill. An amendment to grant exclusion to the FBI, because of its special personnel requirements, deserves support.

Mr. Chairman, this legislation clearly needs some major surgery. But I believe that beneath its burden of special interest fat, the bill contains the muscle of sound civil service reform.

Whatever legislation is enacted will be administered by both Democratic and Republican administrations in the future. Shortsighted concessions to the voices of special interest is not service to the public which, as we know through proposition 13 and a host of other indicators, strongly favors a government more efficient and responsive to its needs.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to our distinguished statesman, the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I rise in support of the Hanley amendment to title III of H.R. 11280, the Civil Service Reform Act of 1978. As you know, this amendment would preserve veterans' preference in Federal employment as it presently exists.

There is very little new which can be said about veterans' preference. Emotions run high on all sides of the issue and it has become difficult to separate the fact from the fiction. To put the matter into perspective, I would like to offer the Members a short history on veterans' preference practices.

The first granting veterans' preference followed the Civil War—1865—and provided that—

> Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointment to civil offices, provided they be found to possess the business capacity necessary for the proper discharge of the duties of such offices.

In 1876, the Congress went on to grant veterans' preference in reduction-in-force actions in the Federal service. This law also extended protection to the widows and orphans of deceased soldiers and sailors. For those who are unmoved by this historical affirmation of veterans' preference, I would remind them that George Washington, then a colonel, communicated to the Virginia House of Burgesses in 1754, that "special assurances" should be given to service-connected disabled veterans that they would not be "discharged and turned upon an uncharitable world to beg, steal, or starve. * * * There are few men who would choose to have their lives exposed, without some view or hope of a reward, to the insults of a merciless enemy."

The Veterans' Preference Act of 1944, which is the basis for most of the current practice, granted veterans preferential treatment in Federal employment. Basically, the law provides:

First. Five point preference added to the minimum passing score (70) received by the veteran;

Second. Ten-point preference for disabled veterans;

Third. Preference for job retention in the event of a reduction in force;

Fourth. Reemployment rights in the event of interruption for military service;

Fifth. Preference in meeting medical/physical requirements;

Sixth. Certain preferences in appeal rights;

Seventh. Absolute preference for certain jobs at lower levels; and

Eighth. Miscellaneous benefits/preferences.

The Schroeder amendment adopted in the Post Office and Civil Service Committee seeks to drastically reduce and damage these preference rights. I strongly oppose the Schroeder amendment and urge my colleagues to examine the arguments presented by the gentlelady from Colorado in support of her amendment. The hearing record is clear in its refutation of the charges that veterans' preference has led to discrimination against nonveterans, women, and minorities.

The Honorable RAY ROBERTS, chairman of the Committee on Veterans' Affairs. has stated that he is not convinced by the testimony presented in favor of this dilution of veterans' preference. In a letter to Representative HANLEY. the author of this amendment, Representative ROBERTS asserts that:

> Our Subcommittee on Education and Training recently conducted oversight hearings on the Administration's proposal to amend the Veterans' Preference Act. Based on testimony presented by the Chairman of the Civil Service Commission, Mr. Alan Campbell, and the major veterans organizations, many of us are not persuaded that the proposal has merit. The average age of World War II veterans is now 59 years. Obviously, his eligibility for veterans' preference will have no major impact on employment during the next ten years. The Korean veteran, whose average age is 48, is well established in his career. However, many Vietnam veterans are finding it extremely difficult to obtain employment. The rate of unemployment among this group now stands at about ten percent.

The Schroeder amendment, limiting preference to a one-time use within 15 years from the date of discharge will not aid the Vietnam veteran, but will, in fact, eliminate many veterans of that era from the benefit of preference practices.

We, in the Congress, must hold fast to the commitment made to the veteran years ago when we promised readjustment assistance to those who risked their lives in defense of this country. Veterans' preference does not give an unfair advantage to veterans seeking Federal employment, but merely facilitates the hiring of well-qualified applicants whose careers have been interrupted or delayed because of military service.

I urge my colleagues to join me in support of the Hanley amendment and in support of those men and women who served us all without question or reservation.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the comments that have been made by the gentleman from Illinois (Mr. DERWINSKI). I know that the gentleman from Illinois and the gentleman from Arizona (Mr. UDALL) have been very diligent in trying to get this very much needed reform through the Congress. We are surprised at the dilatory tactics of some of our good colleagues who, in an effort to jam almost everything in the book into this bill, have unfortunately confused the issue of true civil service reform.

I do not argue against the ability of those Members today to carry on what has been a legislative procedural filibuster, because I engage in that all the time myself.

Mr. CLAY. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. Mr. Chairman, I do not have the time. I will ask our colleague, the gentleman from Illinois (Mr. DERWINSKI), if he wishes to yield to the gentleman.

Mr. DERWINSKI. I will yield to the gentleman from Missouri (Mr. CLAY) so that the gentleman from California and he may have a friendly discussion.

Mr. ROUSSELOT. I assure the gentleman the discussion will be very friendly.

Mr. CLAY. Mr. Chairman, I feel somewhat like Hamilton and Burr or Brutus and Caesar.

I will ask my good friend, the gentleman from California (Mr. ROUSSELOT), if he would care to name those Members who have engaged in dilatory tactics this morning. I am sure the gentleman does not want to impugn the character of every Member over here who has been attempting to resolve some issues that ought to be resolved and who are pre-

pared to offer some perfecting amendments to this bill.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman from Illinois will yield, does the gentleman from Missouri (Mr. CLAY) think it is necessary to name names?

Mr. CLAY. I do not think the gentleman ought to impugn the motives of every Member.

Mr. ROUSSELOT. I do not want to impugn any Member, and I have admitted I engage in such tactics all the time when I think issues need to be resolved. When we do that, we are stalling for time; that is all we are doing.

I do not think I need to name names, because the record will be very clear tomorrow as to who is engaged in legislative procedural tactics. That is a very natural procedure, and I do it all the time when I am trying to get issues clarified that I think are not being clarified.

Mr. CLAY. But the gentleman is not being "dilatory"?

Mr. ROUSSELOT. Oh, yes, I think I am dilatory at times.

Mr. DERWINSKI. Mr. Chairman, if I could reclaim my time, I seem to recall that there is a line in Shakespeare that runs something like this: "It takes one to know one."

Mr. ROUSSELOT. Yes, that is right, and I accept that honor.

Mr. DERWINSKI. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, my opinion of this civil service reform legislation is well known within the Post Office and Civil Service Committee, on which I serve. I hope that my colleagues, who are not on this committee, have had or will have the opportunity to read the committee's report on H.R. 11280, and particularly the additional views of the Members who considered this bill in committee.

There are numerous amendments pending to H.R. 11280 which other Members and I will be offering today in hopes of improving this legislation, for I truly believe that this major proposal must be substantially revised before this bill is transformed into a credible piece of civil service reform legislation.

It is indeed unfortunate that the President has chosen this vehicle to "reform" the civil service system. As I pointed out in my personal views, in the committee report many parts of this legislation and especially the cornerstone of this bill, the senior executive service, is really a rehash of legislation that had been offered in prior Congresses, and which for the most part, has been discredited.

It is not right that the American public which desires and deserves civil service reform should be misled into believing that H.R. 11280 is such reform. This bill in its present form is far from reform. It is change, but change for the worse, not for the better.

Alan May, coauthor of the infamous "May-Malek Manual" which was to serve as the Nixon administration's plan to politicize the Federal bureaucracy, is quoted as saying:

> I congratulate President Carter on his proposed civil service reforms. It was exactly to that kind of result that my manual was written. There are many ideas in (this legislation) that resemble the May Manual.

Mr. May was convicted for his role in politically clearing civil service candidates for positions at the GS–13 level and above.

Two former executive directors of the Civil Service Commission, Bernard Rosen and Nicholas J. Oganovic, are actively opposing this legislation. Surely their opposition, coupled with their expertise, should raise some doubts in the minds of my colleagues about the merits of this bill.

I ask each of my colleagues, as we approach the amendment process, to keep an open mind. Disregard the slogans, the labels, everything but the substance. Instead, I urge my colleagues to please carefully consider the arguments set forth in support of the amendments to be offered to this bill and not be persuaded to oppose an amendment simply because administration spokesmen rise to argue against these amendments with generalities such as this particular amendment being too "restrictive or too burdensome."

I will reserve any further comments that I may have regarding this legislation until such time as we resolve ourselves into the Committee of the Whole for the purpose of offering amendments.

Mr. HANLEY. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I do not believe there is a question at all that congressional attention to the civil service system is long overdue. Unfortunately, expediency has been the order of the day, as opposed to responsibility. Earlier, the gentleman from California (Mr. CHARLES H. WILSON)—and I do not see him here at the moment—asked: Is it fair to say that some games have been played?

I would respond to Mr. WILSON in the sense, yes and indeed, virtually every game has been played from three-card Molly right on through a good shell game. Unfortunately, the subject matter has become completely confused, distorted. Early on, I committed myself to civil service reform if done in a responsible way. I urged the President that in recognition of the scope of this undertaking, whereas we are about to turn around the system that has been in order for better than 100 years, let us be a bit more deliberate. Let us, hopefully, effect decent compromises with dissident entities. I urged that we take the remaining months in this Congress and do the spadework, setting a target for early on in the 96th Congress, at which time we would commit ourselves to civil service reform as an absolute priority. At that time, we would have welded together a highly responsible package, something that would have prevented the occurrence in Chicago this week at the AFGE convention, an upheaval that was totally unnecessary had the executive branch been somewhat more deliberate.

The civil service reform issue just about blew that association apart. As opposed to supporters, the President now has dissenters, and that is most unfortunate.

Mr. Chairman, I will take the remaining moment or two that I have to allude to another subject matter terribly close to my heart, and one that we will be hearing a great deal about as we pursue this subject matter—veterans' preference. I would like to restate at this moment that I have agreed to no compromises whatsoever.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. UDALL. Mr. Chairman, I yield 3 additional minutes to the gentleman from New York.

Mr. HANLEY. I have agreed to no compromises whatsoever. One of the great disappointments to me is the attitude of the executive branch with respect to the traditional veterans' preference from the standpoint of career employment. I am distressed at the editorial which appeared in the Washington Post this morning, which portrays me as an ogre, anti-Vietnam veterans.

I want to assure the Members today that this position is in complete accord with the desires of 95 percent of the Vietnam veterans. That is what it is all about. Our Nation established a principle many years ago during its periods of hostility, and now that the embers have cooled off and we do not have any hostile actions, we are saying to the men and women who served, "What we told you some years ago when you were members of the various branches of the Armed Services no longer prevails, and we are about to change the ground rules."

I do not accept that, and I am assured that most Members of this body will not accept that on the fundamental basis of principle. I think of the faith and integrity of the U.S. Government. That is the principle at stake here on the matter of veterans' preference.

With regard to minorities and women and career employment, as we get into this matter we will cite the figures of the Department of Labor with respect to the fair treatment given women and minorities through the traditional veterans' preference.

So we will be getting into that. We will be getting into a number of other things.

I recognize the essentiality of providing the President of the United States with the tools which he deems proper and appropriate to manage the store, and, unless there are some amendments adopted that I am unaware of at the present time, I, in all probability, will be supporting this bill. I simply say that I do so reluctantly because had we trod another course, that course would have minimized the margin of error associated with a transition of this degree.

I thank the gentleman for the time.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Texas (Mr. ROBERTS) such time as he may consume.

Mr. ROBERTS. Mr. Chairman, I commend the gentleman from New York for all he has done, in perfecting his amend-

ment. I also will oppose sections of this bill. I would point out that the first persons to be hit under this bill will be the wives of veterans who are missing in action.

I strongly oppose the provisions of this bill that eliminate veterans preference.

Mr. Chairman, I will oppose the passage of H.R. 11280, the civil service reform bill as reported. I cannot support it in its present form. I am opposed for many reasons.

First, the Senior Executive Service proposed in title IV of the bill would create a totally new personnel system encompassing most Government executives in positions above GS–15 and below executive level III, "or their equivalents." Among the "equivalents" which would be covered are approximately 400 managers in the Veterans' Administration's Department of Medicine and Surgery including the Directors and Chiefs of Staff of most of our 172 VA hospitals and Department of Medicine and Surgery executive positions in the central office.

Part and parcel with establishment of the Department of Medicine and Surgery in 1946 was the creation of a consolidated personnel system from key employees in the Department. In establishing the Department of Medicine and Surgery, Congress recognized the need for a separate authority for employing and paying key personnel. Like the VA system, the Senior Executive Service is designed to promote flexibility in personnel practices. It is not, however, geared to the special requirements of managing a consolidated health care delivery system. Inclusion of title 38 managers in the proposed bill raises the following concerns:

Coverage: While the directors and chiefs of staff at most of VA's hospitals would be included in the proposed Senior Executive Service, individual positions at some of the agency's smaller hospitals and clinics could be excluded by the Office of Personnel Management.

Position authorizations: Position authorizations for the Senior Executive Service are to be based on agency requirements which are tied to program activities and budget requirements. While the need for VA hospital management positions is obvious, more administrative resources would be needed to justify these needs to the Office of Personnel Management biennially, and the Veterans' Administration would lose considerable control since the Office of Personnel Management would have final authority for approving position allocations and could even, at their initiative, withdraw position allocations.

Staffing and appointments: Under the Senior Executive Service, the Office of Personnel Management will approve managerial qualifications of all executives and, therefore, current flexibility in selecting candidates would be lost to VA.

Pay: The Senior Executive Service would provide five or more basic pay rates ranging from GS–15, step 6 (currently $ 42,201), to executive level IV (currently $50,000). Adding bonuses would boost the pay for SES positions to 95 percent of executive level II (currently $54,625). Basic pay rates for title 38 managers currently range from $39,172 to $50,000, but physicians may receive an additional bonus which now averages $7,000 a year. Future nonphysician hospital directors might recognize pay benefits under the Senior Executive Service. However, most current hospital directors are at or near the $47,500 salary limitation and since few would qualify for the "top" SES pay level, they are unlikely to recognize any pay benefit from inclusion in the Senior Executive Service. Of greater concern, however, is the loss of pay which would befall chiefs of staff of VA hospitals and central office physicians and dentists if included in the Senior Executive Service. The loss of the "special pay" currently available to these individuals would make acceptance of a managerial position very unattractive to them and is likely to have an adverse effect on recruitment of top-notch physicians and dentists for these key managerial positions.

A minimum and maximum salary for graded positions in the title 38 pay system is now prescribed in the law. The Administrator is authorized to pay at any rate within this range of salaries and to establish pay incentives for special achievements and performance. In the case of top managerial positions, particularly in the assignments of hospital directors and chiefs of staff, this flexibility is necessary to meet the current and unique needs of our health care delivery system. The inclusion of such positions in the Senior Executive Service could severely curtail the current VA authorities in pay policies for these employees.

Performance evaluation: The pivot of the Senior Executive Service's system for granting awards and removing executives is the performance evaluation system. This system calls for annual evaluation, based on predetermined performance requirements, of each executive by a performance review board. Under the Senior Executive Service the Veterans' Administration no longer would have primary responsibility for establishing the framework of this system nor for its application in evaluating individuals. This control will have been lost to the Office of Personnel Management and performance review boards whose members may be from outside the Department of Medicine and Surgery. The very real difficulty of achieving and administering an objective, realistic, valid and creditable performance evaluation system to meet the unique needs of the Department of Medicine and Surgery is also of concern to me.

Mr. Chairman, I have also given much thought to the administration's proposed plan to terminate veterans' preference for millions of veterans—and drastically limit the benefit for so many others under the guise of "helping Vietnam veterans." It is a sad day we find ourselves in.

Is it any wonder veterans are sounding off about the "anti-veteran" attitude of this administration? Never have we witnessed so many actions that seem to slight the man who served his country honorably in time of war. Look at the record. Last year the administration decided to provide full veterans' benefits to veterans who were discharged under conditions other than honorable. You will recall the Congress spent most of the session working out a solution to the problem. The Secretary of Health, Education, and Welfare suggested the administration was thinking of transferring the veterans compensation and pension program from VA to HEW as part of a welfare reform package. We finally resolved that. There was some thought of dismantling the Veterans Administration through a reorganization plan. It took us some time to get a commitment from then OMB director, Bert Lance, that this would not be done.

This year, the administration was determined to close 3,132 VA hospital beds with a reduction of 1,500 employees. Although the House acted to assure this would not happen, it still is not resolved. The administration also proposed to terminate research programs being conducted in about 60 VA hospitals. The House stopped that from happening. The administration's proposed 1979 VA budget was deficient by more than $1 billion. The House restored the funds in its First Budget Resolution.

Now the administration is proposing that we limit the use of the 5-point veterans' preference, which will have a tremendous impact on Vietnam veterans while expanding eligibility for Federal employment for nonveterans through noncompetitive appointments. While this bill would take away veterans preference for a person who served in Vietnam, the President, by Executive order, has made thousands of volunteers for as little as one year of service in the Peace Corps, VISTA, and ACTION eligible for a noncompetitive excepted appointment to a Federal Civil Service job. Think of that. Take away the 5-point preference for honorable military service during a war and, grant instead, a noncompetitive appointment to those who avoided the draft and who selected alternative civilian service instead. What kind of logic is this? What rational explanation can one give for such a policy?

In all of my years in the Congress, I have never known any administration to suggest that veterans' preference is a readjustment benefit and should be terminated after a limited period of time. When first enacted, it was given for life and has remained intact until now. The first mention of veterans' preference in connecion with reduction in force (RIF) procedures appeared in an act of August 15, 1876 (19 Stat. 169) which stated:

That in making any reduction in force in any of the executive departments, the head of such department shall retain those persons who may be equally qualified, who have been honorably discharged from the military

or naval service of the United States and the widows and orphans of deceased soldiers and sailors.

The act of August 23, 1912 (37 Stat. 413) provided:

That in the event of reductions being made in the force in any of the executive departments, no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped or reduced in rank or salary.

The objective of the Veterans' Readjustment Act of 1944, with reference to the employment of veterans, was to safeguard their preference in employment, both private and public.

In June of 1944, two major pieces of veterans legislation were enacted: The Veterans' Readjustment Act and the Veterans' Preference Act. The legislation was adopted with no adverse comment having been offered by any Member of Congress. To the best of my knowledge, there has never been any controversy, until now, on providing a preference in employment for veterans.

Mr. Chairman, I will have much more to say about this when the amendment is offered by the gentleman from New York, Mr. HANLEY, to strike those provisions of the bill that will adversely affect Vietnam veterans, and I hope my colleagues will pay close attention to the debate at that time and support us in our efforts to fulfill a commitment we made years ago to care for those who have defended our country in time of need.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Chairman, there has been a great deal of discussion and attention focused on the President's civil service reform bill. Many of us have devoted untold hours to make this legislation a true reform bill. H.R. 11280 which is now before the House is such a bill—it gives the administration the flexibility it has sought for management while at the same time providing certain basic and necessary rights for Federal employees.

The two sections of the bill which I want to address specifically are title VII, providing for a strong Federal labor-management relations program which is long overdue, and title IX, providing for reform of the Hatch Act. These are two basic elements which go hand in hand when we talk about reforming the entire Federal civil service system.

Title VII of H.R. 11280 establishes a statutory labor-management relations program for Federal employees. It provides for the right to collective bargaining for Federal employees, an independent Federal labor relations authority (FLRA), the resolution of disputes by the intervention of neutral, independent, third parties, and judicial review and enforcement of the decisions and orders of the FLRA.

The Post Office and Civil Service Committee with title VII has adopted an evolutionary, balanced approach to the improvement of the Federal labor-managament relations program. When the National Labor Relations Act was enacted in 1935, Federal employees were excluded from its coverage. In 1962, however, the late President John F. Kennedy, in recognition of the growing need, established a formal labor relations program for the Federal work force. That program was refined by President Nixon's Executive Order 11491 which, as amended, has been the foundation of the Federal labor-management relations program.

Executive Order 11491 was a milestone in its time. Today almost 60 percent or 1.2 million of all Federal employees are represented by 86 different employee organizations in over 3,500 bargaining units.

The growth of the Federal work force and changes in our time dictate that labor-management relations in the Federal sector must become more in step with the seventies—recognizing that there are nevertheless difference between the public and the private sector.

During 1977, the Subcommittee on Civil Service which I chair conducted exhaustive public hearings on labor-management relations—receiving testimony from over 40 witnesses in the course of 5 days of public hearings. Testimony was overwhelmingly in support of the thrust of the committee's legislation because the existing program was susceptible to the whims of an incumbent President, limited in its scope, management oriented, and lacking in the opportunity for judicial review of decisions of the Federal labor relations council.

Although the administration belatedly came forth with a statutory labor-management proposal. Their program would have done little more than codify the Executive order. The committee's efforts to reconcile some of the differences between its position and the viewpoint of the administration were exhaustive but—notwithstanding long and involved efforts—the administration's concessions in the committee were so insignificant as to render them virtually meaningless.

Title VII, as approved by the committee, represents a balanced, impartial approach to resolving the principal differences between two points of view, the print which—in some respects—would adopt in the Federal sector many practices which are prevalent in the private sector and the administration proposal which, for all practical purposes, would simply codify Executive Order 11491 with its confused, management oriented, duplicative, antiquated approach to labor-management relations.

I want to assure my colleagues that title VII takes a middle ground—retaining management rights which are necessary to function with flexibility and effectiveness. On the other hand, the committee bill will not permit agencies to unilaterally remove any issue from bargaining simply by issuing a regulation.

I also want to assure my colleagues that there is nothing in this bill which allows Federal employees the right to strike, to have an agency shop, or to negotiate over pay and money-related fringe benefits.

I urge my colleagues to reject any weakening amendments.

Mr. Chairman, another provision of the bill which the Members will be hearing a great deal about today is title IX. Title IX, as everybody by now knows, provides for reform of the Hatch Act. Earlier, during the debate on the rule, I addressed why I strongly believe title IX is germane and appropriate. In addition, the committee supported my position by adopting my amendment by a vote of 13 to 10.

Title IX is virtually identical to H.R. 10, the Federal Employees' Political Activities Act of 1977, which passed the House on June 7, 1977, by a vote of 244 to 164. The only major difference is that title IX designates the special counsel of the Merit Systems Protection Board as the enforcing authority and the Board as the adjudicatory authority. This change reflects the fact that H.R. 11280 takes into account that the Civil Service Commission is being superseded by the Merit Systems Protection Board and the Office Personnel Management.

There has been a great deal of speculation and discussion as to why I sought to amend the civil service reform bill to include modification of the Hatch Act. I want to address this issue here and now.

Although both the committee and the House approved this legislation last year, it became increasingly clear to me that the other body would not act on Hatch Act reform this year. In offering the amendment in committee it was my hope it would help to insure that both Houses of Congress have the opportunity to work their will in considering reform of the Hatch Act.

My intention has never been to gut the civil service reform bill by offering my amendment. I reject the thinking of critics who say that modifying the Hatch Act within the context of civil service reform will inject too much politics into the system. There is no greater priority for Federal employees than broadening the extent to which they may participate in political activities while strengthening protections to both the public and employees against coercion and improper political activities.

Extending constitutional rights of free speech and association to Federal employees is an integral part in the reform of the entire civil service system.

I urge my colleagues to defeat any motion which may be offered during today's debate which seeks to delete title IX from H.R. 11280.

I urge my colleagues to support H.R. 11280, the President's civil service reform bill, as reported out of the House Post Office and Civil Service Committee.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Michigan (Mr. FORD), a member of our committee.

Mr. FORD of Michigan. Mr. Chairman, today, we are considering the President's civil service reform bill. I have supported the administration's efforts to bring more accountability to the management of Government programs through the creation of a senior executive service and by streamlining the appeals process for grievances. In order to maintain a fair

balance, however, between these increased management prerogatives and flexibility and the legitimate rights of Federal employees, a progressive labor-management program is essential.

In view of this need to achieve a balanced bill and at the urging of the administration, Congressman CLAY, as the chairman of the Subcommittee on Civil Service, and Congressman SOLARZ, as a member of the full committee, joined me in an effort to arrive at a compromise labor-management section to this bill. Title VII of the committee print, which I strongly supported, was the result of those efforts with assistance of the committee's Democratic caucus and would have insured a proper balance between the competing interests of management and flexibility and employee rights. While we made major concessions in the committee print, there was only insignificant movement by the administration from its initial proposal.

Title VII, as approved by the committee, is based upon H.R. 9094, a bill sponsored by Mr. CLAY and myself, for which public hearings were held on September 15, 1977 (serial No. 95–31). Earlier, public hearings were held on related labor-management legislation on April 21, 26, 1977 and May 3, 5, 10, 1977 (serial No. 95–30).

A committee print of title VII was used for markup purposes. That print was similar to H.R. 9094 except that it: First, did not grant agency shop automatically upon election of an exclusive representative; a second election was required for agency shop; second, contained no provision for an "alternative labor organization"; third, a management rights clause was added; and fourth, there was no provision for the negotiation of pay and other major money related fringed benefits.

The administration's labor-management proposal was similar to Executive Order 11491, under which the existing labor-management relations program is operated, with two exceptions: First, it established an independent full-time Federal Labor Relations Authority (FLRA) as the successor to the Federal Labor Relations Council; and second, it permitted agencies and unions to negotiate most grievance and arbitration matters which may now be appealed only under statutory procedures.

Title VII, as approved by the committee, represents a balanced, impartial approach to resolving the principal differences between two points of view—the print which, in some respects, would adopt in the Federal sector many practices which are prevalent in the private sector and the administration proposal which, for all practical purposes, would simply codify Executive Order 11491 with its confused, management-oriented, duplicative, antiquated approach to labor-management relations.

The Udall compromise amendments that passed in committee, while modifying title VII even further, are still a step, although a modest step forward in providing protections for legitimate employee rights. Any further cutbacks in title VII, however, would seriously threaten our efforts to achieve this equilibrium.

Collective bargaining is not new to the Federal Government. Under Executive orders, 58 percent of the work force has been organized into exclusive bargaining units, and agreements have been negotiated covering 89 percent of those organized. Though the Civil Service Commission tells us that the Federal labor movement can be traced back to the 19th century, the modern era began in 1962, when Executive Order 10988 was issued. Since that time, there have been several changes in the order. However, the basic thrust and intent remains the same. The system as it now exists still contains the inherent shortcomings that come from being created, governed, and administered by management alone. To continue to tinker with the Executive order system is to delay the obvious: What is now needed in the Federal Government is a labor-relations program based upon legislation.

I have been quite frankly surprised with the rhetoric and hysteria that has accompanied consideration of title VII. It is not a radical departure from the present system, but is a small, incremental step forward.

As the sponsor of H.R. 1589, the Federal Employees Labor Relations Act of 1977, the precedessor to H.R. 9094, which provided for the negotiation of pay and fringe benefits; the negotiation of all agency regulations; and automatic agency shop; and a limited right to strike (based on Canadian law)—all of which, I might emphasize, have been deleted from title VII—I can assure Members that expansion in the scope of bargaining in title VII has been a very modest, incremental step that comes nowhere near the scope of bargaining that most States permit for public employees or that we permit for postal workers.

In fact, this incremental approach was followed by President Ford in 1975, when he amended the Executive order governing Federal labor-management relations to permit negotiation of agency regulations, unless a compelling need existed. Under this amendment an agency could not take an item, that is otherwise negotiable, off the bargaining table by simply issuing a regulation, unless there was a "compelling need" to do so.

However, higher level agencies, such as the Civil Service Commission (the Office of Personnel Management under this bill), can now issue regulations that remove the ability of agencies to bargain over items, even if they wish to do so. The Udall compromise simply takes the "compelling need" test, and moves it upstairs, applying it to Government-wide regulations of the Office of Personnel Management. Even if there is no compelling need for that regulation, the regulation still stands. All title VII does is to say—if the matter that the regulation is the subject of is otherwise negotiable, labor and management must sit down and talk about it in good faith. They need not necessarily agree.

Much of the criticism directed at the Federal Government concerns the size and unmanageability of the executive branch. This situation is merely aggravated by the existence of a centralized monolithic personnel body imposing uniform standards that cut across every level and location in the Federal Government. Such a system fails to take into account the divergent working conditions and needs of different agencies and offices around the Nation. The compelling need test in title VII would in no way hamper the ability of these agencies to issue necessary Government-wide regulations. It would insure, however, that employees would not be deprived of their legitimate right to bargain over the terms and conditions of their employment, except where a genuine need to so exists. Local managers then and the democratically elected employee representatives would be given the flexibility to engage in open discussions and to attack their problems at the local level—when it is appropriate to do so—with greater logic and efficiency than the present system allows. This in turn helps to promote better government for all citizens.

Even if there is no "compelling need" for a regulation, the item may not be the subject to negotiation because it has been excluded by the statutory management rights clause in title VII. Title VII's management rights clause still bars a wide range of subjects from the negotiation process. Management would retain the right to determine the mission, budget, internal security, or personnel necessary to conduct its work; to direct its employees; to assign work, to contract out or take actions necessary in the event of national emergencies. And I might further point out that no matters that are governed by statute (such as pay, money-related fringe benefits, retirement, and so forth) could be altered by a negotiated agreement.

Statutory management rights clauses are totally alien to the private sector. They are part of the negotiation process. And I suspect that in the Federal sector that management rights clauses even stronger than this statutory one may be negotiated—particularly since Federal unions do not have the bargaining chip, the negotiation table to threaten a "withholding of employment."

One of the central elements of a fair labor relations program is effective, impartial administration. Title VII provides for the creation of an independent and neutral Federal labor relations authority to administer the Federal labor management program and subjects the decisions of the authority to judicial review. Currently, the Federal labor-management program is administered by the Federal Labor Relations Council which is composed of three administration officials, the Secretary of Labor, the Chairman of the Civil Service Commission, and the Director of the Office of Management and Budget, none of whom can be considered neutral. In addition, the decisions of the Council are not subject to judicial review.

The Federal labor relations authority, patterned after the NLRB, would insure that the administration of this program is free from bias toward either party. Impartiality is guaranteed by pro-

tecting authority members from unwarranted "Saturday night" removals. The administration during committee markup eventually changed its position from supporting removal of authority members at the President's sole discretion and accepted removal for cause only.

By providing for judicial review of the authority's decisions, similar to that provided under the National Labor Relations Act, the right of both sides to receive an impartial decision is further strengthened, while making the authority more accountable for its actions. Judicial review is one of the primary benefits of a statutory program over an Executive order, and to limit such review also limits the advantages of codification.

Title VII would permit agencies and unions to negotiate grievance and arbitration procedures to cover most, but not all, matters which may now be appealed only under statutory procedures under the Executive order. Binding arbitration has been permitted for grievances (as opposed to statutory appeals) since President Nixon issued his Executive order in 1969. It has worked well as an expeditious, credible and cost-effective means of dispute resolution. Thus, title VII does not represent a change, but rather an extension of the well-tested provisions of the Executive order. The committee print would simply extend the coverage of arbitration procedures somewhat further than the administration has proposed.

From the management's point of view, arbitration provides a businesslike approach to grievance and appeals handling. The union, which must decide whether to arbitrate, can serve as an effective screening device in frivolous, costly grievances. Further, the arbitration process is more efficient, less time consuming, and less formal than the statutory appeals system. Finally, the costs of arbitration (which tend to average about $840 per case, excluding attorneys fees) are generally—though not always—shared equally by the union and agencies, rather than by the taxpayer who bears the burden under the statutory appeals process. The more issues we can arbitrate, rather than going through the statutory appeals process, the more money we can save the public.

Classification appeals would also be subject to the negotiated arbitration procedure under title VII. The fact that pay and classification are nonnegotiable makes this provision important, because it would assure that questions relating to classifications are equitably resolved. For a Federal employee, it is his or her classification that determines their grade level and ultimately how much they earn.

The present classification appeal procedure is a unilateral procedure. Title 5, section 5112(b) of the United States Code provides that an employee may appeal to the Civil Service Commission at any time and the Commission will review the appropriateness of the classification. The procedure does not provide for a hearing before the Commission or for any outside third party review.

The failure to provide for these minimal procedural guarantees has placed the credibility of the classification appeal system in doubt. Because pay is a function of classification the Civil Service Commission has a vested interest in holding grades down. (Under the administration's proposal, this will be intensified, since the Office of Personnel Management, headed up by one politically appointed Director, will replace the Civil Service Commission, which at least in theory is a more neutral body. Fair and unbiased decisions could not be expected to be rendered by one of the parties to the dispute.) Thus, employees would be very skeptical of the decisions rendered by this special interest group.

Title VII would provide for procedural guarantees and eliminate the inherent conflict of interest that now exists. It can afford an employee the right to test the accuracy of their classification through the grievance procedure, just like any other personnel matter, with arbitration as a final step. It is a fair system and one which can keep the faith between management and employees. It is especially important that we bring impartiality into the classification appeal process since we have excluded pay from the negotiation process.

Finally, the administration has already recognized the competency of arbitrators to consider classification issues. Under their proposal when an employee is reduced in grade they can challenge that action as an adverse action through the negotiated grievance procedure. Thus, title VII is not proposing anything which is radically out of the ordinary. It is merely extending the grievance procedure to include grievances concerning upgradings as well as the downgradings which are covered by title VII proposed by this committee and the President.

During committee markup, I offered an amendment to add a new provision, section 704(c), which is intended to preserve the scope of collective bargaining heretofore enjoyed by certain trade and craft employees. This includes certain trade and craft employees of the Department of the Interior, and those trade and craft employees in units or portions of units, transferred, effective October 1, 1977, from the Department of the Interior to the Department of Energy. This provision is required because of two recent rulings by the Comptroller General which invalidated certain collectively bargained provisions and held that specific legislative authorization is necessary for these employees to continue to negotiate such provisions in accordance with prevailing private industry practice. Decisions Nos. B–189782 (February 3, 1978) and B–191520 (June 6, 1978).

Certainly, we should not now be narrowing the preexisting collective bargaining practices of any group of Federal employees. This provision of the bill would have the effect of overruling the two Comptroller General decisions, and would adopt his own suggestion for specific legislative authorization. The provision would specifically authorize the continuation of prior collective bargaining practices, and would allow these employees, whom Congress already sought to protect in the savings provision of 1972 wage board reform law, to continue to negotiate their terms and conditions of employment in accordance with the prevailing practice principle. I do not intend to expand nor contract the scope of bargaining that existed prior to the Comptroller General decisions. In the past, these employees have negotiated wages, pay practices, and other practices in accordance with the prevailing practice principle. This has produced some of the most stable and effective collective bargaining in the history of public employee labor relations. It has enabled the Federal Government to procure and retain qualified craft employees who otherwise might choose employment in private industry, by insuring that they will enjoy comparable terms and conditions of employment.

It is not the intent of this provision to interfere with the current system of providing the employees in question with retirement benefits, life insurance benefits, health insurance benefits, and workmen's compensation. Those benefits would not become negotiable and would continue to be paid to those employees exclusively pursuant to the Federal statutes in effect.

For over 16 years now, Federal public employee organizations have shown themselves to be responsible parties in the Federal government's labor-management program. Even President Ford recognized the maturing of employee organizations, when he amended the Executive order in 1975. The bill reported by the committee also recognizes the progress we have made in labor-management relations in the Federal sector. A close and dispassionate reading of title VII should indicate that it is only a modest, but we feel vitally important step forward.

I ask my colleagues to support the progressive, but responsible approach the committee has produced in title VII.

Mr. DERWINSKI. Mr. Chairman, I yield 5 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Chairman, I would like to compliment the gentleman from Pennsylvania (Mr. NIX) for his even-handed leadership of the committee. This will be a fitting cap to a fine career in this body.

I would also like to compliment the gentleman from Arizona (Mr. UDALL) who with great statesmanship has supported positions he has not always agreed with, and the gentleman from Illinois (Mr. DERWINSKI) (who has continued to suport Executive flexibility during an administration not controlled by his party.

The bill before us is in essence bipartisan. The approach of the Carter administration follows broadly the efforts of the last two Republican administrations. But the fact that the House is now able for the first time to consider the measure reflects above all on the legislative leadership of Mr. UDALL and Mr. DERWINSKI. Their achievement in getting this bill to the House floor cannot be underestimated.

Mr. Chairman, I would like briefly to touch on five amendments I offered in committee, two of which were accepted and three of which I intend to offer for further consideration on the House floor.

The first deals with the issue of decentralization.

A suspicious public looks upon Washington, D.C., as the center not only of excessive bureaucratic authority but as the beneficiary of substantial profit from governmental enterprise. Today every major Federal department is headquartered in Washington, D.C. The vast majority of supergrades, choice political appointments, and other highly paid jobs with the greatest policymaking authority are located in this area. Yet those in the regional and local offices of these major departments and agencies are frequently in far greater contact with the daily administration of Federal programs.

I am convinced there is something inherently wrong with the creation of a "single factory town" which lacks a Main Street, which knows no Willie Lomans or Archie Bunkers. A prudent decentralization of services is needed to bring Government closer to the people who must bear the cost and share the benefits of Federal programs. Hopefully the forthcoming study, required in this bill, will give us new direction in diminishing the arrogance and unresponsiveness which tends to accompany a concentration of power.

A great concern of all of us who have ever served in the executive branch is the inflexibility of promotion policies. This bill is designed above all to bring greater accountability into the senior executive level. I am convinced a secondary goal should be to develop ways to reward and promote on merit at more junior levels. Accordingly, I was pleased the committee accepted my amendment to allow far greater flexibility in promotions than currently exists under the Whitten amendment. First enacted during the Korean war, the Whitten amendment limits the number of promotions which may be made in a single year. Yet one of the problems with an inflexible civil service system is that often competent individuals, particularly women and younger employees, are underutilized by the Federal Government. Qualified individuals may, for a number of reasons, be forced to enter the Federal workforce at levels of responsibility below their capability and the Whitten amendment has been a barrier to the promotion of these individuals. The committee has in my judgment wisely expressed its desire that authority be created for a more flexible application of the Whitten amendment in the future in instances where there is clear evidence of merit and dedication to the career service.

Although I was pleased with committee recognition of the objectives of decentralization and more rapid merit promotion, I was disappointed that the bill continues to miss the mark on three key aspects of Government reform.

First, the committee rejected an amendment I offered to limit, for the duration of this administration, the size of the Federal work force to the number so employed at the outset of the current administration. Statistics issued by the Civil Service Commission indicate that the size of the Federal work force, exclusive of the U.S. Postal Service, has grown in the past year and a half by more than 112,000 and I can conceive of no better vehicle to halt further growth in the Federal bureaucracy than the civil service reform bill itself. Something is wrong with any society that becomes topheavy with bureaucracy and I would hope to obtain bipartisan support for my amendment to place a cap on Federal employment on the House floor.

Second, I was disappointed that the committee failed to approve a provision clarifying the ethics obligations which the Federal Government should require of its employees at all levels. The rejected amendment would have prohibited Federal employees, or unions representing such individuals, from soliciting gifts, favors or related items—either for the Federal employee or the employee's family—from any person, corporation or group which may be substantially affected by the performance or nonperformance of the employee's official duties or the official functions of the agency for which the employee is working. Although our committee has approved ethics legislation dealing with Government officials, most of that legislation does not extend to the rank and file membership of the Federal work force. The majority of the concepts embodied in the rejected amendment are contained in existing Executive Order 11222 and ought, in my judgment, to be incorporated into statute.

Finally, I was distressed that the committee refused to ratify a proposal which, if adopted, would provide for expeditious suspension procedures for federally employed air traffic controllers who deliberately engage in job actions now barred by law or executive order. To permit a limited number of Federal employees to hold the innocent taxpaying public hostage, by slowing down or stopping air transportation, should not be tolerated, and prompt action should be taken to deal with such action, within reasonable guidelines protecting the employee. To permit such abuses of the public trust to continue is unconscionable.

It is my hope that the full House will give careful consideration to the merit of these mandatory provisions and will take affirmative action to strengthen the bill and thereby enhance the integrity and responsiveness of the Federal bureaucracy.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. LEACH. I am happy to yield to my colleague, the gentleman from Indiana (Mr. QUAYLE).

Mr. QUAYLE. Mr. Chairman, I thank my colleague, the gentleman from Iowa (Mr. LEACH) for yielding to me.

Mr. Chairman, I take this opportunity to express my support for civil service reform as a first step to making Government more responsive and effective. During the course of this debate I hope that we can make improvements in this bill, H.R. 11280, that will help bring bureaucracy under control and give the executive branch the tools it needs to carry out its mandate from the people.

Through the adoption of Reorganization Plan No. 2 by a vote of 381 to 19 on Wednesday, the House has gone on record in support of the President in his pledge to reform and reorganize the civil service. The reorganization plans create the mechanism through which reform can be achieved. Now we must face the challenging task of giving the new Office of Personnel Management, the Merit System Protection Board, and the Federal Labor Relations Authority the necessary tools to accomplish real reform.

Under our present civil service system, the Federal bureaucracy has grown unresponsive and now consumes 22 percent of the gross national product. It threatens our economic strength and productivity.

Since 1930, the Federal payroll has increased dramatically by 462 percent while during the same timespan the entire population of the United States increased by only 71 percent.

We have an opportunity through civil service reform to harness this bureaucracy by rewriting the archaic laws which were originally drafted to protect against the political spoils system.

Today we are threatened by an even greater spoils system which through its hiring and firing policies virtually guarantees a job to anyone who passes a year's probation.

The sluggish civil service appeals system can take 6 to 18 months. As one veteran bureaucrat explained it:

> Firing anyone is a practical impossibility. The standard procedure is to promote them out of your department if the worker is disruptive or incompetent.

In 1976, only 0.004 percent of all Federal workers were fired. Most of the terminations were first-year employees. So their supervisors found less than one four-thousandths of 1 percent of all Federal employees remiss in their duties.

Yet the files in my office and other congressional offices would indicate this is an inaccurate figure. I get letters from Federal agencies sometimes weeks or even months after my initial request. When the letters finally arrive, they contain factual errors or they are impossible to understand due to the bureaucratic jibberish which we have all come to expect.

Mediocrity tends to be equated with competence since both are rewarded essentially to the same degree. While persons employed in the private sector are expected to attain a certain performance level in order to receive a pay increase, civil servants are not.

In 1976, only 835 of the classified employees in the Government eligible for pay increases were denied a step advance in pay. This is well below 1 percent.

In order to confront the problem of the bureaucracy we must deal with the bureaucrats themselves, who seem to multiply regardless of our reform or reorganizational efforts.

Every President since Herbert Hoover has pledged to reduce the size of the Federal bureaucracy, but to no avail. At the end of each administration the number of employees has swelled from the previous one. Where the population of the United States has increased 60 times since the founding of the Republic, the size of the bureaucracy has increased more than 8,000 times.

But we cannot honestly blame the Presidents. None of the Presidents to date have had much control over the growth of this sector—each President's appointment powers have been severely limited. President Carter could appoint only 2,200 of the nearly 3 million Federal workers.

This figure includes 500 personal White House staff and one-third of the remainder are private secretaries and confidential aides.

At the burgeoning Department of Health, Education, and Welfare, the President can appoint less than 150 of the 153,000 employees. Throughout Government his entire list of appointees amounts to less than 1 percent of all Federal appointees. Thus these workers are not in anyway responsible to the American people who elect the President. They are part of a system that began long before the current administration and will continue long after President Carter has left Pennsylvania Avenue.

But we need to put a stop to this spoils system.

The civil service system must be revised to give the President more authority over the makeup of the Federal agencies. First, a greater portion of the Federal employees should be appointed by the President.

Second, Congress must develop a system to insure that the same merit incentives which operate in the private sector also operate in the Federal Government. Federal employees should know that a fine job will be rewarded, but inferior work will result in a hearing and dismissal.

Third, we should begin to study immediately to develop a mandatory program of rotation for key bureaucrats in policymaking positions both in Washington and in regional offices throughout the country. We need fresh new ideas, not retreads from year to year and administration to administration.

There have been promises of reform and Government reorganization since before I was born. I would hope that we who stand here today would finally begin to act to develop genuine civil service reform.

Mr. DERWINSKI. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I am glad that, through the wisdom of the leadership, we have decided to postpone this bill for a week or until September. I think that with more time, we will be able to come up with a much stronger bill.

Mr. Chairman, I would like to say at this time that I plan to introduce amendments regarding the FBI which will cover three titles, title I, IV, and VI, and I hope the amendments will all be considered en bloc.

What the amendments ask for, and what I think is a most reasonable request, is that the FBI be excluded from the direct application of the bill's civil service principles. The rigorous and dangerous duties performed by the Bureau's employees do not lend themselves to many aspects of bureaucratic regulations.

Mr. Chairman, there are going to be many important amendments coming up. I think the one to place a civil service ceiling by the gentleman from Iowa (Mr. LEACH) is one of the key amendments. We are certainly wise today in giving the entire body an opportunity to study the amendments and review the entire bill.

Mr. DERWINSKI. Mr. Chairman, I yield such time as he may consume to the gentleman from Maryland (Mr. STEERS).

Mr. STEERS. Mr. Chairman, I rise in opposition to this so-called civil service reform bill, and I will give reasons in greater detail at a later date.

However, I do want to bring out briefly at this time the fundamental problem with this bill. We have talked here a lot about amendments. I say that it is not only the amendments to the bill which are making it questionable; it is the heart of the bill, the Senior Executive Service, which makes it pernicious, regardless of amendment.

I remind the Members that we now have a schedule C which was created under the administration of President Eisenhower, a Republican President. I think that was a step backward, a step toward the spoils system. Now we propose to more than double the number of employees of the Federal Government who will be lackies to the top people in each future administration.

We often talk about the political machinations of President Nixon, and I am a severe critic of those machinations and of that President. We talk also about Mr. Carter not being that sort of man, and we sort of skip over the problem of his successor. But I point out to this body that, even with this President, the selection of proper Government servants is not just a matter of improprieties, scandals, and illegalities; it is also what Mr. Carter was talking about over there in Fairfax the other night, when he spoke so earnestly about weeding out incompetents.

I do not agree with what the American Federation of Government Employees said about President Carter. They accused him of "blatant lies" to the American people. I have no reason to endorse that word "blatant."

There is an old adage about which one we would choose for President: An honest blunderer or a clever knave. Some people have accused President Nixon of being a clever knave, and I do not want to accuse Mr. Carter of being an honest blunderer; but when he talks about weeding out incompetents, I point out that many people have challenged his competence. Has Mr. Carter given us reason to believe that he would pick competent people. Have Mr. Carter and his White House pals been running the country effectively? I wonder whether we should double their power to pick friends, cronies, political helpers, and general hangers-on.

The Senior Executive Service strikes at the heart of the merit principle. It restores the spoils system we got rid of nearly a hundred years ago.

It is my observation that there are bad apples in private barrels, as well as in the Federal public service barrel, and the ratio in the two sectors, public and private, is about the same. The great bulk of Federal servants consists of honest, diligent, intelligent, loyal and expert people, and I know this from direct observation during the years I served as a Government bureaucrat.

This bill, and its clear return to the spoils system, subjects our Federal work force to twin evils in the office of the Chief Executive: A clever knave or an honest blunderer. We have had incumbents of both kinds in the past, and the last thing we should do is more than double the damage, a future incumbent, or this incumbent, can inflict on good government by passing this bill.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Chairman, H.R. 11280 is a comprehensive bill with a noble objective, to "reform" the civil service system. It presented to the committee and to me a serious challenge which I was prepared to meet when the bill was submitted on March 3, 1978.

Yet I was compelled to vote against the bill because I believe it is fatally flawed: It will open the door to politicization.

Cleaning up and streamlining the operations of the Federal Government is a worthy goal, an effort I support fully. Citizens should not have to wade through layers of bureaucracy to get their questions answered, to track down their social security check, or understand our tax laws. Government should be understandable; Government should be accessible. Government should not be a bureaucratic monolith impossible to cope with. Government should be responsive with decisions based on justice, not on political intrigue or pressure.

Pursuant to the goal of developing a sound bill, I participated in 15 hearings, 12 in the Congress and 3 in agency headquarters here in Washington, and 10 days of markup. Additionally, I personally held three "town meetings" in my district to hear the views and suggestions of the citizens of the Washington area, Federal employees and non-Federal employees, individuals probably most familiar with the operations of the Federal Government.

The most persistent thread in the comments we heard from rank-and-file workers was that various provisions of this bill were a threat to the morale and structure of a nonpartisan, professional civil service system.

On February 27, 1978, I introduced H.R. 11365 which contains several strong provisions that would make innovation possible but insulate the Federal Government against a spoils system. During the committee markup, after discussing these provisions with Civil Service Commision officials and other witnesses during the hearings, I attempted to get the safeguards embodied in my bill into H.R. 11280. Most were rejected.

I am dismayed that this committee has apparently articulated the thesis that politicizing the system is essential, in fact, is the centerpiece of a responsive

and revitalized government. In fact, it was said of my amendments to prevent politicization that some would be a "bodyblow" to the bill.

I am afraid that in the name of "civil service reform" the House Post Office and Civil Service Committee has developed "civil service chaos." While the bill has some sound provisions, many elements which would have made it a true landmark for good government are lacking. My primary fear is that this bill will begin a slow unraveling of our merit system, a system that insures the impartial administration of our laws. This conclusion is inescapable: This bill opens the door for the politicization of the civil service system.

AN OPEN DOOR FOR POLITICAL MANIPULATION SENIOR EXECUTIVE SERVICE

The committee's adoption of an amendment to implement the Senior Executive Service in three agencies over a 2-year period is an appropriate go-slow approach. However, the Senior Executive Service, while meritorious in purpose in many ways, will allow too many career jobs to become political because of a fundamental flaw in the way appointments can be made. Currently, there are important safeguards and procedures that keep the designation of career and political positions at the high levels of government quite distinct. Congress decides which jobs will be filled by political appointees at executive levels. For those GS–16, 17, and 18 pay grade levels, the President can designate which jobs should be political according to clear standards.

I offered a substitute to title IV, the Senior Executive Service, which would have made the SES a career service only. My substitute failed. If the President wished to designate certain jobs at these levels to be filled by political appointees, the duties of the job would have had to meet certain standards prescribed in law, such as engaging in the advocacy of administration programs or serving as a confidential assistant to a political appointee.

Under this bill, although there is a numerical limit on the number of jobs that can be filled by political appointees, this limit has no relationship to the responsibilities of the job. Thus, the head of a division handling grants, contracts, or tax returns can be a political appointee. By adopting my substitute, Congress would have been exercising clear controls over which positions are filled by career individuals and which by political appointees. And it would have provided that the type of appointment—career or political—would be determined by the responsibilities of the job, not an arbitrary agency or Government-wide "magic" number.

EXCEPTING POSITIONS FROM THE CAREER SERVICE

Similarly, my amendment to provide clear criteria for excepting positions from the career competitive service for all general schedule jobs would have insured against manipulation of jobs. Under the current law, which this bill does not change, the President can put a "competitive service" position in the "excepted service"—individuals not hired by competitive examinations and appointment—by only determining that "conditions of good administration warrant" this action. There are standards in regulations which can be changed any time. My amendment would have firmly fixed strong standards in law.

We have heard too many stories of a "buddy system" and end runs around the merit system, stories of jobs being "moved" from a competitive hiring designation to "excepted" to accommodate a favored candidate. There is room and there is a need for noncompetitive positions in the executive branch, but there should be strong controls. My amendment, which was defeated, would have provided these controls.

POLITICAL INFLUENCES IN PERSONNEL ACTIONS

The section of the bill on merit employment would have been strengthened had the committee adopted my amendment to clearly bar unwarranted political recommendations in hirings, promotions, and other personnel actions. Under my amendment, political recommendations from Members of Congress, their staff, White House officials, and political appointees in the executive branch would have been explicitly prohibited. The notion that elected and other political officials ought to "determine who gets what jobs" in the career merit system is simply wrong. Some argue that it is a "fact of life." If so, it is wrong. It is time to stop winking at it. If we are going to have true civil service reform, then we must get politics out—once and for all. It has not been that long since the very foundations of our Government were almost pulled out from under us by inside political manipulation. My amendment would have greatly improved this bill.

The bill allows the new Office of Personnel Management to delegate to agencies various personnel functions, such as examining, hiring, and promotions. While allowing agencies to perform personnel functions previously centralized in the Civil Service Commission may speed up these procedures, I am concerned that here again the floodgate may be opened for improper political influences. This is why I offered an amendment to require that every chief personnel official be a career employee. I cannot see any reason why a personnel official, clearly performing an administrative function, should be a political appointee. This was another effort to keep politics out of the merit system; yet the committee rejected the inclusion of this provision.

AN IMPARTIAL MERIT SYSTEM PROTECTION BOARD

The bill establishes a new Merit System Protection Board to handle alleged violations of civil service rules and regulations. I believe the composition of this board would have been strengthened by the requirement that one member be from the career ranks of the Federal Government as I proposed. As it stands, these three political appointees, can be the former board chairman of a corporation or the former head of a campaign. While the bill rightly insures a political mix, I believe that a career employee could have provided an important career employee perspective in the Board's proceedings.

Similarly, the selection of the Chairman of the Board is faulty since the bill provides that "the President shall from time to time designate one of the Board members as the Chairman of the Merit System Protection Board." My amendment, which was defeated, would have required the Board members to elect a chairman every 2 years. Under the bill, the President can choose one Chairman, and the next month choose another. This, I believe, is a loophole that can lead to political shuffling and reshuffling.

CLEAR RESPONSIBILITY AT THE TOP FOR THE MERIT SYSTEM

Under the bill submitted by the administration, the delegation of personnel administration caused me great concern. The bill allowed the President to delegate responsibilities to the Director of the Office of Personnel Management who in turn could delegate to agencies. The General Accounting Office could investigate violations of the merit system if requested by Congress. The Special Counsel could investigate complaints and the Board could hear them. But the bill was very fuzzy as to who in fact was responsible—where did the buck stop?

I offered several amendments which were accepted that make it clear that the Director of the Office of Personnel Management is the individual responsible for compliance with civil service laws and procedures. Thus, for example, if an agency adopts a hiring procedure that gives favoritism to certain applicants, OPM cannot "get off the hook" by saying the agency was in charge. OPM cannot turn a blind eye. OPM is responsible for seeing that merit system principles are enforced and that corrective action is taken when violations occur.

EMPLOYEE RIGHTS AS PRIVATE CITIZENS

I continue to believe that employees should be able to engage in voluntary political activities as private citizens and I helped draft H.R. 10, which would revise the current Hatch Act prohibitions on those rights. However, I do believe it is wrong to tie those revisions to a legislative vehicle that opens the door to politics within the system. The Hatch Act has never protected employees from on-the-job political pressures; a strong, impartial merit system provides that protection. But this bill severely weakens many of those protections.

OPEN AVENUE OF COMMUNICATION FOR OPM AND THE BOARD

I am pleased that the committee adopted my amendments to allow both the OPM and the Merit System Protection Board to express their views directly to Congress without clearance by another agency. Our committee has too often been frustrated by the Office of Management and Budget's stranglehold on agency statements to Congress. Under my amendment OMB can make its views known; there is no barrier. But these agencies can express their views on policies, answer questions directly, and present testimony to congressional com-

mittees without first getting their views cleared and laundered by OMB. This is a most important Government reform.

EMPLOYEE PAY: A MIXED PICTURE

The committee adopted my recommendation that supervisory employees in GS–13–15 grades continue to receive annual comparability adjustments. Keeping Federal pay rates competitive with those of private industry is a sound principle, established by the 1970 Federal Pay Comparability Act. Had we deprived employees in these grades annual comparability, I believe we would have violated the basic principle of our Federal pay system.

However, the committee did not accept my amendment that would have guaranteed true comparability. My amendment would have removed the loophole in the current law that has allowed Presidents of both parties to deviate from true comparability six times since 1970. We understand the President will follow this unfortunate precedent again this year. The concept of comparability is negated if inherent in the law is an escape hatch allowing the President to thwart it.

The new merit pay system, to reward GS–13, 14, and 15 supervisory employees for performance on the job, is a worthy concept. However, it would be a new system and I believe Congress needs to know in the future whether it is actually working, whether it is in fact improving performance. Thus, I am pleased that the committee accepted my amendment to require the Office of Personnel Management to report in 3 years on whether it is working and how. My amendment requires OPM to show us in quantitative terms if it is achieving the purposes set out in this legislation. It is my hope, for example, that we can determine that because of merit pay incentives, social security claims processing has been speeded up or decisionmaking on grants has been expedited and that such improvements are saving taxpayer dollars. My amendment also requires OPM to recommend changes in the law to improve the new pay system. Instead of letting a program grind on interminably without close scrutiny, this amendment will provide a proper mechanism for a review in 3 years.

CONTROLLING GOVERNMENT GROWTH

I am pleased that the committee has essentially incorporated my bill, H.R. 8332, which begins a process of curbing the growth of top, political appointive positions. There has virtually been no control in the growth of executive level positions in the Federal Government, since Congress has created them sporadically without any sense of overall planning or consistency. In fact, the Civil Service Commission is unsure of the exact number of executive level positions.

Creating a new Assistant Secretary position at executive level III or a deputy at executive level IV may be justifiable. Yet we have the questionable situation of the Administrator of the National Aeronautics and Space Administration at level II—$57,500—and the Administrator of the General Services Administration at level III—$52,500.

Under my bill and the provisions added to H.R. 11280, the number of positions becomes fixed and the President is required to send to Congress a plan in 2 years for bringing some order and coherence to what is presently a hodgepodge.

Similarly, the committee has incorporated certain provisions of H.R. 5054 which will bring some sense to the "supergrade sprawl." This bill reaffirms the concept of a central supergrade pool and repeals the many "extraneous" authorities outside the pool that have been enacted.

Both of these sections represent an attempt to have a government that is controlled, orderly and rational.

I am concerned and will continue to oppose an amendment adopted on a voice vote to require the Office of Personnel Management to conduct a study of the location of Federal agencies and a review of the possibility of relocating agencies out of the Washington, D.C., area. First, this is an inappropriate mission for the OPM. Second, the amendment does not provide clear direction for the study by specifying the criteria that should be considered, for example, the effect on employment or unemployment, the need for access to the President and Congress, cost to the taxpayer, environmental considerations, or delivery of services. Third, there is no apparent purpose or demonstrated need for the study. Another useless study will not improve Government efficiency.

Despite these meritorious changes, the bill adds up to a minus—not a plus—for the Federal employee and the American taxpayer. This bill is an unfortunate chapter in the history of an impartial, nonpolitical Federal Government. It may shake the very foundations of our merit system. It suggests that political affiliation is more important than competence. By creating cracks for political influences to seep into the system, it makes the argument more valid that Federal employees should be denied rights of citizenship in order to protect them. Should H.R. 11280 be enacted into law, protections for the employee will be greatly diminished and the merit system will be placed in great jeopardy.

Mr. DERWINSKI. Mr. Chairman, I yield myself 30 seconds just to say—and I would like my friend, the gentleman from Virginia (Mr. HARRIS) to listen—that I have a solution to this minifilibuster we ran into.

I have been accused of being a friend of the White House. Therefore, I am going to ask the President to threaten to make personal appearances for the gentleman from Virginia (Mr. HARRIS), for the gentlewoman from Colorado (Mrs. SCHROEDER), for the gentleman from Missouri (Mr. CLAY), for the gentleman from Michigan (Mr. FORD), and for the gentlewoman from Maryland (Mrs. SPELLMAN), unless they cease their filibuster against the bill.

Mr. UDALL. Mr. Chairman, I yield such time as she may consume to the distinguished gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I rise in support of H.R. 11280, the Civil Service Reform Act of 1978. In producing this bill, the Committee on Post Office and Civil Service has gone through one of the longest markups in its history. Nary an issue of civil service law was omitted from this discussion or absent from the administration's proposal or the amendments offered to it.

I believe this bill represents a fine example of the kind of give-and-take which should, and must, go on between Congress and an administration in order to create acceptable legislation which has such scope and impact. Everything in this bill is not acceptable to all concerned, but there are more pluses than minuses for all.

Before I discuss my own amendments to the bill, I want to make a couple of general comments about provisions in the bill.

One of the reasons this bill was presented to Congress was to loosen alleged restrictions on firing incompetent Government employees. This motivation was all blamed upon the laws in force. As a one-time executive branch civil servant myself, I must say that I have personnally witnessed these difficulties. However, I cannot place all the blame on the laws. I want to point out a couple of other factors which I believe play a more major part.

First, few managers like to fire people. As Mr. SOLARZ pointed out in our committee debate, the firing rate in large private sector corporations is not that much greater than in the Government. How often do we read in the business pages of a formerly powerful industrial manager who has been "promoted" to be vice president of nothing? What do we say about the private firms which are springing up which are hired by other private companies to do their firing? Consumers pay for the expenses of keeping these employees on and paying for their easing out, just as taxpayers pay for those Government workers who are not doing their jobs.

Second, Government managers are directed by politicians. The 750 or so high-level jobs a new administration fills are not staffed, in general, by people who have been in the business of firing anyone but by people who have done their best not to offend, at least directly, any registered voter.

Mr. Chairman, these are two factors of the human condition applied to the executive branch which I believe override the ease or difficulty of the law itself. To the many, many competent Federal employees who are concerned that this bill will mean mass dismissal, I say that in years to come they will have to put up with colleagues who do not pull the load. To those who claim this bill will make the Government as efficient as the private sector, I say look at the private sector.

Mr. Chairman, the second point I want to discuss in general is the firefighters' hours legislation which was attached to the bill. I was taken aback when the President vetoed the bill, H.R. 3161. As chairwoman of the Subcommittee on Employee Ethics and Utilization I was, I assure you, under the impression that

the President's promise that he would sign this legislation was in effect. Others were also. We passed the bill by a substantial margin and the Senate passed it by unanimous consent. Never, although I asked them, did the Civil Service Commission propose alternatives to the bill which they would find acceptable. Never, before the President's veto message, had the administration cited the figures on its costs in that message, figures which were twice as high as our own Budget Office compiled. I have yet to find the horrors in the bill which the President discovered at the last minute. I urge my colleagues to vote to retain this amendment if a move is made to remove it.

I introduced three amendments which were accepted by the committee and upon which I would like to add comment. These amendments modify veterans preference, enlarge whistleblowing protections, and modify present dual compensation laws.

VETERANS PREFERENCE

My amendment makes three changes in the administration's proposed changes in present veterans preference law. The amendment was approved by a 16 to 9 vote, as a substitute for Congressman HANLEY's amendment to retain most of the present law.

My amendment first alters the administration's proposal to reduce present lifetime veterans preference to 10 years following discharge by permitting one time use of veterans preference in successful competition for a permanent job in the 15-year period after discharge. This change will include all veterans discharged since the Vietnam era began—August 5, 1964—under the new veterans preference policy.

Vietnam era veterans will have a better crack at Federal jobs under this amendment. We know for a fact that veterans preference has worked well in assisting veterans in obtaining Federal jobs; 50 percent of the Federal work force, versus 25 percent of the national work force, is veterans. But lifetime veterans preference has not worked well: The 8 million Vietnam era veterans—nearly one-third of the 27 million total veterans—only hold 9.6 percent of the Federal jobs which veterans overall have obtained. This is not because Vietnam era veterans do not want Federal jobs, it is because, even with preference, they cannot compete with the more experienced, older veteran with lifetime preference of his own.

The one time use aspect of this part of my amendment is an idea that has been adopted by some States, including Colorado, New York, and Oregon, with little repercussion. Only one-third of veterans ever seek to use preference more than once. Moreover, multiple preference can only be used again by a veteran who seeks a job on another register, rather than for promotion in his own agency. This thwarts those who are working their way up the promotion ladder of such agency.

The second part my amendment replaces the administration proposed protection against layoffs, retention preference—3 years plus a time equal to length of military service—by a flat 8-year period after beginning a permanent Federal job. Following that period the veteran would have job retention equal to that of nonveteran coworkers: that is, on basis of length of service and quality of performance. Under present law veterans have lifetime retention preference and "bumping rights" over nonveteran employees.

Lifetime veterans preference cuts against younger veterans, too. The older veteran with more time in service always has a higher preference. Young veterans get bumped—although not as fast as nonveterans—in any major reduction in force.

Moreover, a supervisor doing hiring is not going to hire a veteran with a higher amount of preference than himself, if it can at all be helped. For the rest of his career he faces the possibility that he, rather than his subordinate, will be out in the street after a reduction in force.

Present law permits veterans with a 50 percent or more disability eligible for noncompetitive appointment to Federal jobs. My amendment reduces this requirement to 30 percent. This doubles this disabled veterans pool to 996,000. Along with the provisions of the administration bill which retain present lifetime 10-point veterans preference for our 2.2 million disabled veterans, and the reduction of numbers of general 5-point veterans pool, far greater opportunities for Federal employment for those who have suffered most in serving our Nation will be present than are now.

Mr. Chairman, I want to let my colleagues know that since the committee reported H.R. 11280, Congressman BONIOR, chairman of the Vietnam veterans in Congress, has come forth with a very reasonable amendment to my amendment to make absolutely sure that all Vietnam veterans are covered by its intentions. This combination will assure that the intention of veterans preference—to provide readjustment and to provide special assistance to disabled veterans—will thrive.

WHISTLEBLOWING PROTECTION

Right now, a Federal employee who "blows the whistle"—sometimes even to a congressional committee—on activities at his agency which are a violation of law, mismanagement, abuse of authority, waste of funds or a danger to the public may be more likely to be harassed or fired than praised or rewarded. There is no effective means other than drawn out administrative and court proceedings for a whistleblower to set things right. We all lose when reasonable and constructive criticism of agencies by those who know them best is stifled.

My amendment to H.R. 11280 enhances the ability of the Special Counsel at the Merit Systems Protection Board to protect whistleblowers from reprisals by other agency personnel. It also increases the clout the Special Counsel has to assure that proper corrective actions are taken to prevent further reprisals.

My amendment also enlarges the scope of matters which may be disclosed. The administration proposal only permitted public disclosure by a whistleblower of violations of laws or regulations. My amendment permits, with the proviso that all matters of national security or privacy be pursued within Government, that a whistleblower may disclose mismanagement, abuse of authority, waste of funds, and danger to public health or safety. Matters in such categories—for example, an agency's purchase of 10 cent bolts for $8 a piece—may not violate any laws, but certainly the public should have an opportunity to hear about. If we in Congress are going to act as effective checks on excesses in the executive branch, we have to hear about such matters.

I want to thank Congressmen HANLEY, LEHMAN, and GILMAN for their assistance in its development, and especially thank Congressman HANLEY for his amendment to it during committee markup which adds to the effectiveness of the Special Counsel in assuring that in whistleblower situation proper corrective actions are taken by agencies.

DUAL COMPENSATION OF RETIRED MILITARY PERSONNEL WORKING FOR THE FEDERAL GOVERNMENT

My amendment to limit the total compensation for future retired—nonwartime disabled—military personnel holding Federal jobs to executive level V—now, $47,500 per year—was adopted by the committee by voice vote.

There are now an estimated 2,000 retired military officers working in the Federal Government who draw combinations of military retired pay and Federal salaries amounting to $50,000 to $80,000 per year. Such people have created the bad connotation of the term "double dipper", and the vast majority of retired military personnel, with $200 to $300 per month pensions, low level civil service jobs, and total incomes at about the U.S. average have suffered by this connotation. Military officers who stay in the military also are affected by those who do not: Those who stay have their pay capped at executive level V.

The present dual compensation law, with its exceptions and its distinctions, makes any debate on this matter a burdensome task. The President's Commission on Dual Compensation earlier this year suggested many changes in the present military retirement system. Although these suggestions have yet to be proposed to Congress, when they are, I believe that my amendment, which eliminates many of the problems we have faced reaching the real issues, will help us have the considered debate these issues deserve.

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. PANETTA).

● Mr. PANETTA. Mr. Chairman, it is always easy to say that any bill is the most important piece of legislation we will consider this year. Perhaps it is true of H.R. 11280, the Civil Service Reform Act of 1978, but I am concerned that by using such sweeping language we will lose sight of what is really important about this bill.

First, it is fair to say that every sin-

gle piece of legislation this House passes from now on will be affected by the proposals contained in this bill. Each time a bill leaves the Congress and goes on to the bureaucracy. its very success is dependent upon the management talent of our civil service. By giving that talent an opportunity to use modern management tools to improve efficiency and effectiveness, we will be improving every single piece of legislation we pass here.

Second, it is also fair to say that while the President has justifiably stressed reorganization of the Government, all of these proposals will be meaningless and worthless unless we regain control of the processes within the bureaucracy. The time, thought and effort put into reorganization both by the President and the Congress deserves the benefit of the improvements H.R. 11280 will bring to the civil service.

And third, we must remember that the expression of taxpayer dissatisfaction symbolized by proposition 13 in California was not merely a call to cut back government. It was a statement of frustration with the operation of government and with its unresponsiveness to the people. This bill, again, gives us the opportunity to respond to the feelings symbolized by proposition 13 in a significant and responsible fashion.

By showing the people that we do understand, care about, and share their concern about how our Government works, we can play an important role in helping people regain trust and confidence in Government, in democracy. This, indeed, is an important part of why we are here as Representatives of the people.

While there are legitimate concerns about aspects of this long and complex bill, I hope Members will make good faith efforts to resolve those disputes amicably and positively. While some of us may argue that energy is more important than civil service reform or that tax reform is more important, I believe that these worthwhile measures will not receive the support they deserve from the people unless and until the people see their Government working for them again. The best way to do this is to implement the broad principles contained in H.R. 11280. In so doing, we will quite possibly be acting on the bill that is most important of all to the people themselves.●

Mr. UDALL. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GARCIA), a member of our committee.

Mr. GARCIA. Mr. Chairman, I rise in support of the provision in this bill which will limit a veteran's preference for employment in the Federal civil service. I support the changes in this bill regarding veterans preference because I truly believe it will help those veterans America has been trying to forget. I am talking about those veterans who served in Vietnam. That war is an experience we as a Nation, prefer to overlook—and in the process we have also overlooked those who served our country there—a tremendous number of whom did not have the resources to avoid the draft or to leave the country. A great many of these came from communities such as my own. I see them today—and they are still hurting.

I believe the modification in the preference will help the Vietnam veterans because they will no longer have to compete with veterans of previous wars, whose score for a Federal civil service job is the result of many years of work experience as well as the 5-point preference. I am a veteran of the Korean war and I am ready to put aside my own self-interests, and the self-interests of those who served with me and before me, so that we may achieve a more equitable situation for those served in Vietnam.

I urge my colleagues to join me in defending the rights of our disenfranchised veterans, who have been the victims of America's actions several times over.

● Mr. GOLDWATER. Mr. Chairman, it has come to my attention that during consideration of House Resolution 11280, the Civil Service Reform Act, there has been discussion as to whether the Federal Bureau of Investigation should be excluded from participation in certain provisions of the measure. It is in conjunction with this possible exclusion that a question has been brought to my attention that so excluding the FBI would mean that it would not be under the "whistleblower" clauses of that act. The concern expressed has been that without such "whistleblower" protections, there would not exist the capability for FBI employees to bring to the attention of proper authorities instances of excess, impropriety, mismanagement and the like. I would like to state for the record that it is my understanding that there are, indeed mechanisms available to FBI employees to report such activities, should they exist. Such mechanisms exist both within the FBI itself and the Department of Justice, of which it is a part.

There are two bodies within the FBI which report directly to the Director—the Office of Legal Counsel and the Planning and Inspection Division. The Office of Legal Counsel is charged with advising the Director on the propriety, legality and correctness of any action, actual or contemplated. The Planning and Inspection Division is responsible for conducting a continuing program of inspection of all FBI operations at both the Headquarters and field level. During these inspections employee participation is actively solicited and any allegation may be received which would bear upon matters which might be termed "whistleblowing." All allegations receive a vigorous investigation, the results of which are reported to the Director for whatever action he deems appropriate.

Further, within the Planning and Inspection Division there is an Office of Professional Responsibility which investigates more serious allegations of misconduct or possible criminality. The results of these investigations are provided the Director and the Department of Justice. Allegations may be brought to the attention of this Office by any employee at any time. In addition, there is within the Department of Justice a separate Office of Professional Responsibility which investigates similar allegations, to include those made by or against FBI personnel. The investigations may be conducted with or without the assistance of the FBI, as the situation dictates.

I would also note that beyond this level of protection the FBI also receives active oversight from six committees of Congress—the House Judiciary, Intelligence, and Appropriations Committees, and their counterparts in the Senate.

It is possible that some might question whether, even with the existence of such internal bodies clearly evidenced, it might not be possible that retribution could be visited upon an employee who chose to exercise "whistleblower" rights and responsibilities. I would note that should an unlikely event occur there still resides with the Attorney General the ability to audit and correct any personnel action taken by the Director of the FBI. These provisions are set forth in title 28, Code of Federal Regulations, subpart X, section 0.137.●

Mr. UDALL. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

The CHAIRMAN. All time for general debate has expired.

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. DANIELSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that the Committee, havreported that the Committee, hav-11280, to reform the civil service laws, had come to no resolution thereon.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill just debated, H.R. 11280.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PERMISSION FOR SELECT COMMITTEE ON ASSASSINATIONS TO SIT NEXT WEEK DURING 5-MINUTE RULE

Mr. STOKES. Mr. Speaker, I ask unanimous consent that the House Select Committee on Assassinations be permitted to sit throughout next week, notwithstanding the fact that the House may be sitting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 11622, FUELS TRANSPORTATION SAFETY AMENDMENTS ACT OF 1978

Mr. MURPHY of Illinois, from the Committee on Rules, submitted a privileged report (Report No. 95–1476), on the resolution (H. Res. 1311) providing

for the consideration of the bill (H.R. 11622) to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas, petroleum, petroleum products, and certain other materials, to provide standards with respect to the siting, construction, and operation of liquefied natural gas and liquid petroleum gas facilities, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS TO FILE REPORT ON H.R. 11942, AMENDING THE CLAYTON ACT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on International Relations have until midnight to file its report on the bill H.R. 11942, to amend the Clayton Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 13007, ELECTRONIC FUND TRANSFER ACT

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1278 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1278

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13007) to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes for the minority to the distinguished gentleman from California (Mr. DEL CLAWSON), and pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1278 provides for an open rule with 1 hour of general debate on H.R. 13007, the Electronic Fund Transfer Act. The rule provides for one motion to recommit.

This bill amends the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services. Since this new payment mechanism of electronic fund transfer lacks established rules and regulations, this legislation attempts to correct this situation and protect the consumer. The two most crucial problems presented by electronic banking because of potential crimes are who should bear liability for unauthorized transfers and whether or not anyone should be permitted to distribute validated EFT cards or other means of access on an unsolicited basis. Presently there is no Federal law to protect consumers in this regard. Thus, I urge the adoption of House Resolution 1278 in order that H.R. 13007 may be considered.

Mr. DEL CLAWSON. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 1278 provides 1 hour of general debate for the consideration of the bill H.R. 13007, the Electronic Fund Transfer Act.

Mr. Speaker, this is a rare rule, in that it does not include any waivers of points of order. It does allow all germane amendments to be offered. It is an unencumbered, unusual product of the Committee on Rules.

Mr. Speaker, the bill made in order by this rule establishes rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer service.

Mr. Speaker, the rule is completely acceptable and I recommend its approval and adoption.

Mr. Speaker, I have no further requests for time.

Mr. MURPHY of Illinois. Mr. Speaker, I have no additional requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time in order to inquire of the distinguished majority leader as to the program for the balance of the day and for next week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, it is our plan to complete action today on the electronic fund transfer bill, which will come up immediately in the Committee of the Whole. Having done that, we will rise and that will conclude the business for this week.

We would hope to come in at noon on Monday and begin with the foreign aid appropriations. We want to complete consideration of that appropriation bill.

When that is done, we plan to take up House Joint Resolution 638, to extend the deadline for ERA ratification. That is under an open rule with 2 hours of debate. We would hope to take the rule and general debate on Monday.

Then on Tuesday we would hope to come in at 10 o'clock to conclude action on that resolution extending the deadline for ERA ratification, and to take up House Concurrent Resolution 683, the second budget resolution, completing the general debate on Tuesday.

On Wednesday we will meet at 10 a.m. and conclude consideration of the second budget resolution. Following that, if there is time left on Wednesday, and surely on Thursday, when we will again come in at 10 a.m., we will take up the conference report on H.R. 13467, supplemental appropriations; the conference report on H.R. 12935, legislative appropriations; the conference report on H.R. 12602, military construction authorizations; the conference report on H.R. 12240, intelligence and related program authorization; and the conference report on S. 9, Outer Continental Shelf Lands Act.

After that we would like to return to the civil service reform bill and complete consideration. We also hope to take up H.R. 12432, the Civil Rights Commission authorization, and complete consideration thereon.

In the time remaining we would then take up Senate Joint Resolution No. 4, the Hawaiian Native Claims Study Commission Act, and H.R. 11711, adjustment assistance programs improvements. Each one of those bills is under a 1-hour rule.

Then we have scheduled H.R. 11622, Fuels Transportation Safety Act amendments, and that is also a 1-hour open rule.

The August district work period will begin at the close of business on Thursday and continue until we reconvene at noon on Wednesday, September 6, 1978.

The House will adjourn by 9 p.m. on all days except Wednesday, on which day we may work later.

Conference reports, of course, may be brought up at any time, and any further program will be announced later.

Mr. RHODES. Mr. Speaker, would the gentleman be willing to conjecture and delve into the recesses of his mind and give us some idea as to what might happen after the August recess?

I know it is still the intention of the majority leadership—and the minority leadership shares in that—to adjourn this session of the 95th Congress at some time early in October. If that is indeed to be accomplished, it seems that there should be some action taken to sort out those bills from the many bills which are now going through the various committees that must be acted upon or on which the leadership desires that action be taken in this Congress, with full consciousness of the fact that there are many bills which, of course, Members of the House might want to bring up but which under no circumstances will be considered by the other body.

The idea that I have in mind is, of course, that we might be able to put together an agenda which would give all of us some very good idea as to what bills will be considered and when they will be considered so we can definitely plan on a time for adjournment.

Is the majority leader preparing the groundwork to do such a thing as this?

Mr. WRIGHT. Mr. Speaker, if the gen-

tleman will yield, the answer is "Yes." We have been engaged in that kind of an exercise now for some days.

There are, as the gentleman rightly observes, some bills that are "musts." We must complete action, for example, on the budget resolution. We want very desperately to complete action on a comprehensive energy program. There is an aircraft noise abatement bill, there is an airline deregulation bill, there is a Highway Improvement Act, and there are numerous expiring authorizations that ought to be attended to.

Once all appropriations, all expiring authorizations, the energy legislation, and the tax bill are handled, there is actually a modest number of remaining "must" bills.

We still hope to be able to adjourn on or about the 7th of October. There may be some unavoidable slippage. We hope to be able to avoid a postelection session. That may, however, become unavoidable.

Mr. Speaker, I would be happy to meet with the minority leader and discuss with him these particular pieces of legislation.

Mr. RHODES. Mr. Speaker, as my good friend, the majority leader, knows, we have talked about this informally, and I stand ready to sit down with him at any time to try to determine what pieces of "must" legislation there are. Of course, one of the reasons this colloquy was prompted was because of the fact that we have been considering a bill today which I think most people feel has no chance whatsoever of becoming law.

I do not know the probable fate of the bill which is now before us, but I sort of have my doubts about that, too. I do not see any reason—there may be reasons of which I am not aware—why it should be necessary to take up the time of the Members of the House considering a bill which obviously will have to go over to the next session, and I would hope we could work something out so that that would not be necessary except in the most remote circumstances.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, on the point that the gentleman from Texas just mentioned, I understand that the news wires this afternoon carried a statement by the majority leader of the other body in which he said he had abandoned any hope of adjourning on October 7. I wonder if that is also the view of the House leadership.

Mr. WRIGHT. If the gentleman will yield, that is not the view of the House leadership at this time.

Mr. BAUMAN. It is still the hope of the leadership to work toward that date?

Mr. WRIGHT. We have not abandoned that hope.

Mr. BAUMAN. I have one further question. I notice that the majority leader has announced the scheduling of ERA ratification on Monday and Tuesday. In conversations with the managers of the foreign aid bill on both sides of the aisle in the last 2 days—and perhaps the gentleman has also spoken with them—they indicated it would be almost impossible to finish the foreign aid bill in an additional 1 full day of debate and that it might even go into 2 days. Can the gentleman give us a more realistic estimate as to what the program on Monday and Tuesday might be if that occurs? Will we still bring up the ERA bill on Wednesday?

Mr. WRIGHT. We would have to do the best we can, I say to my friend, the gentleman from Maryland, depending upon the time frames with which we are confronted. It is mandatory to complete action on the budget resolution. That, I would suggest, should be considered the centerpiece of next week's program, and we cannot allow anything to squeeze that out. Obviously, the law compels us to act within certain time frames on that particular legislation.

I cannot forecast for the gentleman how long it will take us to complete action on the foreign aid bill, or any of these bills, really. We have simply tried to put together the best program we thought might be realistic.

Mr. RHODES. Mr. Speaker, may I ask about the priorities the majority leader places on the program? If indeed the foreign aid appropriation bill goes well into the night, is it possible that at some point the bill will be called and taken off of present consideration and that we would then proceed to the ERA rule, rather than have the ERA rule slip until Tuesday?

Mr. WRIGHT. If the gentleman will yield, I would prefer not to anticipate that contingency. We confidently expect to conclude the consideration of our foreign aid appropriation bill by a reasonable hour on Monday.

Mr. RHODES. Mr. Speaker, I am glad to see the majority leader has his usual optimism, and I hope the gentleman is correct.

ADJOURNMENT TO MONDAY, AUGUST 14, 1978

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 12 noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUR OF MEETING ON TUESDAY, AUGUST 15, 1978

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, August 14, 1978, it adjourn to meet at 10 a.m., on Tuesday, August 15, 1978.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6669, NATIONAL CLIMATE PROGRAM ACT OF 1977

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill H.R. 6669, National Climate Program Act of 1977.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ELECTRONIC FUND TRANSFER ACT

Mr. ANNUNZIO. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13007) to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. ANNUNZIO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13007, with Mr. PANETTA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Illinois (Mr. ANNUNZIO) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. WYLIE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. ANNUNZIO).

Mr. ANNUNZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate this opportunity to explain the contents and purpose of H.R. 13007. The Electronic Fund Transfer Act. This landmark legislation would for the first time provide protection for consumers when they use electronic fund transfer services, such as 24-hour cash cards or telephone billpaying services. The bill would require disclosure of the rights and liabilities of consumers and financial institutions when electronic fund transfer services are used. Consumer liability for unauthorized transfers would be limited to $50. However, there are several qualifications to the $50 limit, such as that the $50 limit would not apply if a consumer engaged in fraud, would not apply if a consumer wrote his secret number on the card and this caused the loss, and would not apply if the consumer failed to notify the institution within a reasonable time after learning that his or her EFT card had been lost. Distribution of unsolicited validated EFT cards would

be prohibited and prompt error correction would be required.

The House Banking, Finance and Urban Affairs Committee reported this legislation out by a unanimous-voice vote and the Subcommittee on Consumer Affairs reported out this legislation by a strong margin of 7 to 2. All 10 members of the subcommittee and an additional 6 members of the full committee are cosponsoring the bill.

HEARINGS

This legislation has gone through many changes. The subcommittee on Consumer Affairs went to great lengths to get input on this legislation from all concerned parties. Extensive hearings were held here in Washington and three field hearings were held around the country. We heard from consumers, bankers, merchants, consumer groups, and Federal agencies. We have listened well to their suggestions and drafted a bill that meets the needs of consumers, but carefully avoids burdens on financial institutions.

NEED FOR EFT LEGISLATION

Electronic banking is a new way by means of computer technology to pay for goods and services instead of paying by cash, checks, or credit card. The most usual method used for electronic fund transfers is for the consumer to initiate the transaction by inserting a plastic card, which looks like a credit card, into an electronic terminal and then punch in a secret number. The consumer is then able to perform any number of transactions such as withdrawing cash, transferring funds from checking to savings, or paying a bill. Although these EFT cards look like credit cards, there are important differences. Unlike credit cards where, by law, a consumer can incur no more than a $50 liability if the card is lost or stolen, with EFT cards there is no such limit. Not only is there no limit for the consumer on his or her liability, but also rather than the loss being credit extended, with EFT cards, it is the consumer's hard-earned money deposited in an institution that can be lost forever. Unfortunately, many institutions have emphasized the convenience and so-called safety of electronic banking services and failed to point out the dangers in EFT use.

Most consumers are not aware of the great risks they run in using EFT services today. Some consumers have, to their great misfortune, found out these risks the hard way—after their money was stolen and the financial institution refused to recredit their account.

There is a need for this legislation because today there is no Federal law to protect consumers who use EFT services and only a few States have EFT consumer protection laws. Electronic banking is rapidly growing and spreading across the country. There are already an estimated 10,000 automated teller machines in operation. The State of Wisconsin alone had approximately 1 million EFT transactions during 1977. As electronic banking services grow, criminal activities such as fraud and embezzlement are mounting and consumers are suffering losses calculated in the thousands of dollars. Federal EFT legislation is urgently needed now.

SUBCOMMITTEE MEMBERS' AND CHAIRMAN REUSS' CONTRIBUTIONS

Mr. Chairman, a great deal of the credit for this legislation goes to members of the House Banking Consumer Affairs Subcommittee who have worked long and hard to bring this bill to the floor. The members of the Subcommittee are: GLADYS NOON SPELLMAN, BRUCE F. VENTO, the late CLIFFORD ALLEN, FERNAND J. ST GERMAIN, JOSEPH G. MINISH, WALTER E. FAUNTROY, CHALMERS P. WYLIE, MILLICENT FENWICK, and THOMAS B. EVANS, JR.

I want to pay special tribute to the ranking minority Member, the gentleman from Ohio (Mr. WYLIE) for his great cooperation and hard work on this bill. He has offered a number of excellent suggestions which have improved the bill and as always he has made my job as chairman a much easier one. Through Mr. WYLIE's assistance, the subcommittee was able to hold field hearings in Columbus, Ohio, one of the key test markets for EFT in this country. I also have special thanks for Mr. VENTO. He has followed this legislation carefully and contributed significantly to the high quality of this bill. With Mr. VENTO's help, the subcommittee was able to hold field hearings also in St. Paul, Minn., where excellent witnesses provided the subcommittee with the input of the people which was a refreshing relief from the input of Washington lobbyists.

I want to express special appreciation to Chairman REUSS. His efforts in support of this legislation have been tireless. His contributions have made this legislation a thoughtful and fair bill that we all can be proud of.

CONTENTS OF THE LEGISLATION

This bill addresses the major EFT consumer protection issues such as limiting liability for unauthorized use and prohibiting unsolicited distribution of validated EFT cards. Limiting consumer liability for unauthorized use of EFT cards is extremely important because consumers in all parts of the country are suffering losses because of EFT services. A consumer from Texas had $2,300 stolen from his checking account. The theft occurred as a result of the loss or theft of only his EFT card. The secret number was not lost or stolen. In spite of the fact that institutions claim no thief could ever gain access to a consumer's account without both the EFT card and the secret number, this thief did manage to do so. The consumer wrote me a letter in which he stated that,

> Strictly speaking as a consumer, I feel totally victimized by the system as relates to my loss. I hazard to guess that other owners of such a "debit card" are unaware of the potential for the same thing to happen to them.

A consumer from Ohio had $1,350 stolen from her savings account. She believes the debit card and secret number were stolen. Although she was willing to take a lie detector test that she had no knowledge of the withdrawals, the institution refused to repay her losses.

The $50 standard of this bill is similar to the Truth in Lending Act's $50 limit for consumer on liability for credit card losses, which has proved to be quite successful. Adopting a similar $50 standard for electronic fund transfers would help end confusion between credit cards and debit cards and would be a major factor in persuading consumers to accept electronic fund transfer services. If, to the contrary, industry is permitted to adopt a negligence standard, providing no institution liability if the consumer was negligent, then every loss will result in costly litigation since banks will always claim consumer negligence. Banks will have no incentive to provide secure electronic fund transfer services. We will be telling the banks they have no responsibility to protect consumers and we will be telling the consumer that every time they lose a nickel they will have to hire a lawyer and go to court to get their money back. These lawsuits will be expensive and time-consuming to both consumers and financial institutions.

This bill does not make an institution bear all the responsibility for unauthorized use losses. It only requires that the institution share the risk of loss with the consumer. Sharing the risk is certainly fair since it is the banks that are offering this service and who can control how secure it is. Of the few States that have limits on liability, seven have adopted a $50 limit. Some State officials, such as those in Wisconsin and Iowa (where a $50 limit has been adopted), have indicated that the banks are not experiencing any difficulty with the $50 limit. Consumer losses from unauthorized use will be much worse if distribution of unsolicited EFT cards is continued to be permitted.

Even though a law was passed to stop unsolicited distribution of credit cards because of tremendous losses suffered by consumers and credit card issuers, institutions demand the right to distribute validated EFT cards unsolicited. This is also in spite of the fact that the number of credit cards in circulation has grown enormously without unsolicited distribution. A consumer from Georgia suffered a devastating financial loss because her bank sent her first an unsolicited EFT card and then an unsolicited secret code. A thief stole and used the card and number. The thief, who has been arrested, stole first the card and then the secret number from the consumer's mailbox. The thief then over a period of several months withdrew $50 to $100 a day from the consumer's savings account until all $4,500 was withdrawn. The bank then notified the consumer that the account was empty.

The bank has refused to reimbuse her. It claims she waited too long to notify them of the loss. The $4,500 stolen was the proceeds from a life insurance policy on a family member. So the consumer, who has little money, is now without the insurance proceeds. This loss happened even though the consumer was careful, because her bank was irresponsible. This is the nightmare institutions claim can never happen. It has happened and it will undoubtedly happen many more times if distribution of unsolicited vali-

dated EFT cards is permitted and consumer liability is not limited.

The correction of errors section is one of the most important in the bill. The time period to correct errors of 11 days after error notice or 45 days, if the institution has provisionally recredited the consumer's account, is both fair and reasonable.

Section 914 of the bill deals with a consumer's right to privacy with regard to his or her electronic fund transfers. This is an important right considering the centralization of records that EFT permits. The section specifies six circumstances under which EFT information may be disclosed by an institution. This section of the bill is intended to be consistent with the privacy title of the Financial Institutions Regulatory Reform Act.

This legislation spells out the relationship between this bill and State laws. Section 920 reflects respect for State laws by providing that State laws will only be superseded if they are inconsistent with the Federal law and then only to the extent of the inconsistency. Furthermore, the committee report makes clear that unless there is express action by the Federal Reserve Board to preempt a State law, both the Federal and State law would remain in effect. For preemption to occur, the Board would need to take affirmative action which would occur only with notice and opportunity for comment by interested parties.

Section 921 provides that if a State with a substantially similar law and adequate provision for enforcement applies for an exemption so it can enforce the Federal EFT law, the Board must grant it an exemption. This section affords States the opportunity to experiment and to legislate with their own particular local situation in mind to produce a strong State law. These two sections successfully recognize the important balance necessary between the need for a comprehensive, uniform Federal EFT law and the need to be responsive to particular State conditions.

Opponents of this legislation would like to strike out one of its key provisions, criminal liability. Taking out criminal liability would give anyone with an electronic fund transfer system a license to steal. No matter how flagrant the violation, no matter how many thousands of consumers would be financially destroyed, the individual responsible would not be prosecuted. Contrary to what opponents say, the bill's criminal penalties do not apply to technical or accidental violations. Criminal penalties apply only to violations which are willful, knowing, and with intent to defraud. There is no substance to claims that the FBI or Justice Department will need to spend thousands of hours investigating EFT cases. Under the Truth in Lending Act there have been few criminal prosecutions because the standard of proof is so high. The EFT bill requires an even higher standard of proof since any violation must have been done with an intent to defraud. The criminal penalty in the bill is, as in Truth in Lending, 1 year in jail or a fine of $5,000, or both. These criminal penalties will be an effective deterrent to violations of this EFT legislation, an effective deterrent that neither civil nor administrative enforcement can match. Given the fact that the financial harm for a violation of this law could be catastrophic to consumers, these criminal penalties are certainly appropriate.

CONCLUSION

Opponents of this bill have attacked it as being premature, but this can hardly be the case since the Federal Home Loan Bank Board has already studied the issue for 4 years and issued final regulations, and the National Commission on Electronic Fund Transfers has also studied the issue for several years and recommended consumer protection legislation. Electronic fund transfer services are available now and consumers are losing thousands of dollars using these services today, so legislation cannot wait. Also, if we were to wait, institutions would later claim it was too late to change their computer systems.

This legislation has been carefully and thoughtfully drafted to reflect the needs of consumers, bankers, and merchants. I believe passage of comprehensive and fair legislation is essential to acceptance by consumers of electronic fund transfer services. Enacting this bill, then, will prove a great benefit to industry as well as to consumers.

I urge you to vote for this important consumer protection legislation.

I yield now to my distinguished chairman of the full committee, the gentleman from Wisconsin (Mr. REUSS).

Mr. REUSS. Mr. Chairman, I rise in support of H.R. 13007, the Electronic Fund Transfer Act. I would also like to once again commend my colleague, Mr. ANNUNZIO, for providing the House an opportunity to discuss this important and long overdue legislation. I support the objectives of this measure and would like to comment on the need for its enactment.

Although electronic banking has grown at an incredible rate in the last decade, many problems have arisen with the systems. Newspapers across the country have reported tragedies in which consumers lost all or most of their life savings through stolen or unauthorized use of their debit cards. Because only a handful of States have liability clauses covering electronic fund transactions, countless consumers have been forced to absorb these losses.

Because of this adverse publicity, many consumers are wary of using the machines and development of the technology has been hampered. History shows us that consumers are slow to accept change. This can be seen by the years of coaxing required by the banking industry to make checks acceptable to consumers who were used to dealing on a cash basis. This can be seen again by the media blitz which preceded a wide usage of credit cards. Consumers are now being asked to accept banking by computer with the knowledge that there is no liability limit if their cards are stolen or used by unauthorized persons.

H.R. 13007 will go a long way in assuring consumers that electronic banking can be trusted and is an acceptable method of transacting their money. By establishing uniform guidelines and most importantly, a clear cut $50 liability limit, consumers will overcome many of their apprehensions of banking by electronic means.

Pending passage of the act, consumers can be assured that debit cards are similar to credit cards in most ways. Without the act, there is no such assurance.

For these reasons, I believe that H.R. 13007 will prove a great benefit to the banking industry and consumers alike. Only through a wide acceptance of electronic fund trasfers can the machines prove profitable for banks. As the system gains acceptance, it will become increasingly more feasible for the industry to develop terminals outside of banks—in shopping centers, work places, and recreational facilities.

And as the technology expands and develops, banking by computer will prove to be of great convenience to consumers.

Only through the passage of H.R. 13007 can the predictions of the checkless, cashless society of the future be realized. The act will prove a great boon to consumer acceptance of electronic banking while not unduly restricting development of this growing technology.

Mr. ANNUNZIO. Mr. Chairman, I thank the chairman of the committee.

Mr. WYLIE. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, first of all, I want to acknowledge the complimentary remarks of my chairman of the subcommittee, the gentleman from Illinois (Mr. ANNUNZIO), and say to my friend the feeling is mutual.

I want to compliment the chairman of the subcommittee, Mr. FRANK ANNUNZIO, for his diligent and conscientious hard work in helping to formulate workable legislation on this new method of bill paying. I think it is fair to say that the gentleman from Illinois (Mr. ANNUNZIO) and I started from different vantage points when he introduced his original EFT bill. "EFT" of course is an acronym for electronic fund transfer. I think it is fair also to say by working together we have developed a fair and equitable bill which will prove beneficial to those who offer this service and the consumers who use it.

I appreciate the fact that the chairman mentioned the hearings which we held in my own city of Columbus, Ohio, which has become known as Test City, U.S.A. I guess the theory is that if it will sell in Columbus it will sell anywhere.

While there we visited the second busiest electronic fund transfer terminal in the United States on the campus of Ohio State University. We found the students there, the young people at Ohio State University really do use the EFT and regard it as an efficient method of transferring funds and they use it as a convenient way to pay their bills.

Mr. Chairman, an electronic funds

transfer is activated by insertion of a plastic card similar to a credit card on which is encoded an electronic tape in an EFT receptacle on which is implanted with an electronic tape. The card holder has an individual personal identification number known only to the customer unless he gives the number to someone else. The process is activated when the card holder punches in his personal identification number into the automatic terminal device. Then, the type of transaction is selected, the amount of money involved, the name of the person, and other pertinent information is punched into the terminal and simultaneously is displayed on a small television-like screen which can be shielded from the view of passersby. At the end of the transaction, the card holder receives a slip which he may examine and place in his file for future reference and conformance with the transaction when his monthly statement arrives.

I think it should be pointed out at the outset that this is a type of service which should be made available to a consumer if that consumer determines that this method of paying his bills will benefit him. If the consumer does not want it, he does not have to sign up for it. If the consumer does sign up for and receives a debit card and finds this method of bill paying not to his liking, all he has to do it cut up the debit card in little pieces.

EFT is not to be confused with cash or check or a credit card. It is a new technology that should be allowed to develop as much as possible in the marketplace. We might never know what advantages it can provide if its developers are not allowed to experiment. The technology is really in its infancy and should be allowed to grow. At the same time, an electronic blip which signifies that money has been taken from your account and transferred to someone else's can be frightening to some people. This bill provides the basic framework of that fine line between allowing the industry to develop and at the same time providing adequate consumer protection.

EFT is not a familiar term to the average American. Even after the passage of this bill, most Americans will still buy groceries with cash or check.

Self-service banking made its debut in the Columbus test market more than 10 years ago. After a decade, automated banking is second nature to thousands of central Ohio residents. The 24-hour automated teller machine which enables a person to get cash 24 hours a day, 7 days a week, is commonplace and popular. The pay-by-phone systems probably came first in terms of EFT bill paying services, although the college student who received money by telegraph was probably the first beneficiary of EFT.

Direct deposit and automatic payments—money transferred from social security or your payroll account to your bank for deposit—provide examples of EFT services which have been around for some time. The direct deposit of a social security check can give a senior citizen immediate and convenient access to his money. The most recent innovation is the point-of-sale terminal at retail establishments; the instant transfer of money from a customer's bank account to a merchant's account can offer great benefits in that you can bank when you choose.

In the book, "The Bankers," by Martin Mayer, reference is made to a study by the Special Committee on Paperless Entries, called SCOPE, sponsored by the California banks with the help of the Federal Reserve Bank of San Francisco. It was noted that in the previous year, the number of checks in California had reached a total of over 180 million a month, amounting to over two billion for the year. If EFT could reduce by 30 percent the number of these checks, there would be a substantial reduction in the cost of banking to the consumer and increased efficiency. One idea of EFT is to minimize the use of paper and the cost of handling that paper. On the average, 43 people handle a check from the time it is written until it is returned cancelled. Another purpose is to eliminate the requirement of using a check which is sometimes cumbersome. Have you ever tried to cash a check written on an Ohio bank in Chicago?

This legislation is significant because we are plowing new ground. The concept of EFT is to minimize the use of paper, to reduce costs and speed up financial transactions.

H.R. 13007 is a good bill, and I hope it becomes law before the end of the 95th Congress. The Banking, Finance, and Urban Affairs Committee has reported a bill that will protect consumers and electronic funds transfer users enough to encourage the growth of electronic funds transfer systems on the one hand. It is, at the same time, reasonable and workable enough for merchants and financial institutions to want to continue developing this new technology on the other.

COVERAGE

Section 903 defines "electronic funds transfer" as a paperless transaction by so-called 24 hour tellers or from cash dispersing machines, it also includes telephone bill-payer services, point-of-sale terminals at grocery stores, direct payroll deposit programs and pre-authorized payments.

FINANCIAL INSTITUTIONS

Institutions providing EFT services, like banks, S&L's, credit unions and non-deposit taking institutions would be required to disclose to the consumer the terms and conditions for use of an EFT account including liabilities, rights and duties, as outlined in section 904.

CONFIRMATION AND DOCUMENTATION

Since electronic banking is essentially paperless, consumers would otherwise be without proof of payment for all transactions, were there not some provisions for the documentation of transfers. Section 905 entitled "Transaction Confirmations" provides the methods by which transactions must be confirmed. With limited exception, prompt or immediate paper notification is required for each EFT transaction with a follow-up notification on the periodic statement. Receipts or periodic statements are, by law, prima facie proof of payment.

ERROR CORRECTION

It is said that computers are only as good as the persons operating them; there are bound to be mistakes from time to time. Wisely, we have included elaborate error resolutions procedures in section 908. Besides listing various types of recognized errors, the Fed is given authority to further extend the definition of error through regulations.

In addition, financial institutions are given 45 days to investigate alleged errors provided they have provisionally recredited the account during the term of the investigation.

LIABILITY: (1) UNAUTHORIZED USE, (2) SYSTEM MALFUNCTION

Liability for unauthorized use of debit cards and liability for EFT system malfunction are treated in sections 909 and 910, respectively.

A debit card is a piece of plastic resembling a credit card. On the back of the debit card, however, is a strip of tape electronically coded so that the card can access and activate EFT equipment like a 24-hour teller. Another distinction between a debit and credit card is that with a debit card you get a confidential personal identification or PIN number. To access EFT equipment, a user must place his card in the machine and also punch in his secret PIN number before initiating any transactions.

Once the machine is activated, the instantaneous nature of the transaction is sometimes frightening, because an account can be wiped out in seconds if the debit card and PIN number fall into the wrong hands. Therefore, some inducement is required for customers to be careful with their card and even more careful with their PIN number. Fairness in the allocation of liability for loss is necessary for the system to work. In this regard, we follow the precedent set by the uniform commercial code. Those in the best position to prevent or detect misuse should bear liability. Since it is the consumer that has dominion over his card and PIN number, he should be responsible for its use. EFT equipment and systems are provided, operated and maintained by the institutions, therefore it is the institution that should bear liability for system malfunction.

Consumers who are negligent enough to write the PIN number on the back of their cards or who irresponsibly give the card to other persons should bear liability for misuse.

MISCELLANEOUS CONSUMER PROTECTIONS

Section 910 prohibits false and misleading advertising of EFT services. In section 912 we insure that consumers are not forced to use EFT. Traditional payment mechanisms like cash, check, and credit cards will remain intact. Another consumer protective measure is found in section 913 where waiver of rights by contract is prohibited.

PRIVACY

One of the first problems addressed by the EFT Commission Report was privacy. Automated information retrieved

as it applies to personal financial records has become a real threat to privacy. A comprehensive, intimate, social diary can be constructed at the press of a button. Section 914 is in keeping with the need to maintain confidentiality of personal financial records. Information is disclosed only on a verified or need to know basis. This section is also in keeping with the final recommendations of the Privacy Protection Study Commission.

SOLICITED AND UNSOLICITED DEBIT CARDS

Let us not repeat the mistakes made through the unsolicited distribution of credit cards. Many financial institutions and consumers were hurt by that practice, which also ended in extensive litigation. On the other hand, we must not be so restrictive as to impair the marketing of EFT services. Since the success of EFT is contingent on widespread acceptance and use, I believe that distribution of a nonvalidated debit card on an unsolicited basis can be beneficial to the consumer. If the consumer wants the services, he gets his card validated after signing the disclosure form. Section 915 specifies the details on the issuance of debit cards.

PRICING OF EFT SERVICES

So that consumers are not unwittingly steered to use EFT over other payment mechanisms, section 916 provides that surcharges cannot be tacked onto the use of check, cash, or credit cards.

HOUSEKEEPING PROVISIONS

The remainder of the bill consists of housekeeping provisions common to most titles of the Consumer Credit Protection Act. They deal with civil and criminal liability (Sec. 917, 918), Administrative Enforcement (Sec. 919), Relation to and Exemption from State Laws (Sec. 920, 921), and we wind up with Reports to Congress (Sec. 922), Regulations (Sec. 923), and Effective Date (Sec. 924).

Mr. STANTON. Mr. Chairman, will the gentleman yield

Mr. WYLIE. I am pleased to yield to the gentleman from Ohio, the ranking Republican member of the Committee on Banking, Finance and Urban Affairs.

Mr. STANTON. Mr. Chairman, I appreciate the gentleman's yielding.

I rise in strong support of this legislation. This Electronic Fund Transfer Act provides the basic framework which defines the rights, liabilities, and responsibilities of all participating in the EFT system.

Mr. Chairman, I would also like to take just a second to extend my compliments to the gentleman in the well, the gentleman from Ohio (Mr. WYLIE), and to his counterpart, the chairman of the subcommittee, the gentleman from Illinois (Mr. ANNUNZIO), who, between them, have produced the major part of this legislation and who have worked closely together. We in the full committee appreciate their efforts.

Mr. Chairman, I am very pleased to announce to the House that whatever controversy we had has been settled in a good, precise legislative manner.

I know of no objection to this bill, Mr. Chairman.

Mr. Chairman, the Electronic Funds Transfer Act creates a basic framework defining the rights, liabilities, and responsibilities of all participants in an EFT system. We have fashioned a bill providing for consumer protection without impairing the development of an evolving technology.

This new generation of automated self-service banking offers tremendous potential in consumer convenience, lower cost, increased efficiency, and security. But no automated systems are foolproof; computers are no better than the people who operate them. Mistakes are bound to occur. Current law provides no machinery for resolving some of the problems that will inevitably arise because existing State and Federal laws governing checks and credit cards were not drafted with EFT in mind, leaving the rights of consumers, as well as financial institutions and retailers, undefined.

Principally, the bill addresses the need for full disclosure of EFT terms, adequate receipts as evidence of transactions, liability for unauthorized use, institutional liability for wrongful payment, prompt error correction and the marketing of EFT cards and services. Moreover, H.R. 13007 insures that EFT is an alternative to and not a substitute for present payment systems.

When the National Commission on Electronic Funds Transfer made its final recommendations to the Congress, they spoke about the four principal types of EFT that are available to consumers today: automated teller machines, where a variety of banking transactions can be performed at any hour of the day; pay-by-phone systems, permitting the customer to call his bank and order payment to third parties; direct deposit and automatic payment programs, where regular payroll deposits and bills are paid automatically; and, finally, point-of-sale terminals, which is a computer at a retail establishment enabling the consumer to access his bank account from the premises of the retailer.

Among other things, the Commission report observed that since the use of these EFT services was becoming widespread it would be beneficial for consumers and providers of EFT to set some ground rules for the system. Once the rules implementing EFT became a fixed matter, consumers would be less reluctant to use EFT because their rights would be protected. Financial institutions would have the benefit of knowing what the law is before investing in the expensive technology of EFT.

I would also remind my colleagues that this bill deals exclusively with the consumer aspects of EFT, the structural issues such as interstate branching, terminal sharing and the role of non-deposit-taking institutions have been left for another day.

Eight States already have laws dealing with the consumer aspects of EFT and 26 more States have other laws relating to EFT, while the Federal Governernment has nothing. I therefore urge my colleagues to support the Electronic Funds Transfer Act. It will pave the way for a nationwide, uniform EFT system with benefit to consumer and to the economy. We have studied the matter enough. The time to act is now. Consumers are in need of protection and financial institutions are in need of certainty.

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Ohio (Mr. STANTON) for his compliment and for his contributions to making this bill the good piece of legislation which we now have on the floor today.

Mr. Chairman, I have included for the record, in layman's language, a capsulized explanation of the provisions of the bill.

Mr. ANNUNZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I rise in strong support of the bill.

We spent many hours in working on this legislation, starting in September 1977, with both the majority and minority members working hard on it.

I think this subcommittee is one of the finest, if not the finest, subcommittees on banking with whom I have worked.

Mr. Chairman, we started out and explored all of the facets of the electronic machines being used at the present time in financial transactions.

I think the bill we have come forward with is a well-thought-out, well-conceived bill.

Mr. Chairman, I want to pay special tribute to the chairman of the subcommittee and to the ranking minority members who have worked so diligently on this legislation and gave me an opportunity to participate freely and fully as a new Member of Congress in drafting this legislation.

Mr. Chairman, I also compliment the staff for their fine work on it.

Mr. Chairman, we have before us perhaps one of the most important consumer protection measures to come before the Congress.

I say this advisedly after working since September 1977 with my good friend from Illinois, FRANK ANNUNZIO, the other members and the staff of the Subcommittee on Consumer Affairs. We are on the brink of a whole new way of carrying on consumer affairs in retailing and banking. With the development of computer technology, we have seen opening before us the prospects of a virtually cashless, checkless society.

This is a possibility because of new techniques involved in electronic fund transfers provide a whole new spectrum of services from instant cash, salaries automatically deposited to one's account, to supermarket shopping without cash or checks. The future seems boundless for this new technology—except for the vulnerabilities in the systems that open them to consumer losses and crimes against which the victims may be completely helpless.

At the present time, I am told, electronic hobby stores sell sophisticated computer equipment which in the hands of skilled, unscrupulous technicians through their telephones, can gain easy access to customers' accounts in many financial institutions throughout the country.

The industry has attempted to mini-

mize the very real dangers of fraudulent uses of the electronic fund transfer systems and also to limit its responsibilities in extending protections to consumers. Nevertheless, the losses to the victims can be traumatic and financially disastrous.

Because access to electronic fund transfer systems is as close as the telephone, its scope is truly nationwide and has become one of Federal jurisdiction.

The Subcommittee on Consumer Affairs under FRANK ANNUNZIO's leadership has thoroughly studied the findings of the National Commission on Electronic Funds Transfer and has worked with all segments of the financial community to identify problems, abuses, benefits, and safeguards. The approach of the subcommittee has been a carefully reasoned one, limited to a bare bones approach of providing fundamental protection to the consumer without inhibiting innovation by the industry to exploit the cornucopia of services inherent in this new technology. What the committee seeks to do is to prevent EFT from becoming an electronic monster without a master.

I am not sure that even the most enthusiastic advocate of electronic fund transfer systems can envision their eventual applications, but I believe it is imperative that the Congress move now to extend the Consumer Protection Act to establish certain fundamental rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services.

While there are other protections I would like to have seen in the bill before us, I am grateful for the inclusion of the $50 limitation of liability for account holders who lose a card or other means of access to EFT. I think very valuable, too, are the spelling out of the liability for system malfunctions and the prohibition of unsolicited cards or other means of access to EFT.

As a first important step to protect the users and prospective users of EFT, I urge the adoption of H.R. 13007.

Mr. ANNUNZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. BARNARD), a distinguished member of the full committee.

Mr. BARNARD. Mr. Chairman, let me at this time associate myself with the remarks of the chairman of the subcommittee and also with those of the ranking minority member.

Mr. Chairman, this legislation has been given very careful and deliberate study by the committee. Most adequate hearings were conducted which members of the industry and representatives of these regulatory authorities were heard. I think a very fair sounding was given to this piece of legislation, and I commend it to my colleagues in the House. It is a fair piece of legislation, and it certainly deserves a positive vote.

Mr. Chairman, it is an aniticipatory law. It is one that foresees possible dangers and corrects them before they occur.

For that reason, Mr. Chairman, we can recommend the bill to the Members and ask our colleagues to support it.

Mr. ANNUNZIO. Mr. Chairman, I have no further requests for time, and I reserve the balance of my time.

Mr. WYLIE. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. FENWICK), a member of the Subcommittee on Consumer Affairs.

Mrs. FENWICK. Mr. Chairman, I rise in strong support of this legislation, too.

I must say that when we first came to the whole subject, as a consumer advocate, I was very much in doubt as to whether this sort of thing would be useful. We were driven by our chairman and by our ranking member, the gentleman from Ohio (Mr. WYLIE). We were driven hard in this subcommittee and forced to listen to what is happening to the whole banking system in this regard in our country today.

Mr. Chairman, we were fortunate to have two leaders of this kind, and it is a great tribute to them that the bill has been brought out with such unanimous approval because it is a difficult subject. It is new. It seems to suggest all sorts of dangers to the ordinary consumer faced with his money being snatched away from him by the push of a button. If the machine is here, if it is being used in Ohio, as long as it has been used and is being used now, it is going to be used next year. We must come to grips with a system that will as far as possible protect the consumer and make it possible for the banks to administer. It is that compromise, that bringing together without loss on either side, of two interests which first appear to be conflicting which is the whole art of legislation. We should not deny the consumer the protection, nor should we deny the banking system the convenience. We find in good legislation not the chipping away of the rights of either but the coming together of the rights of both. I think this is a very good, sound piece of legislation in that regard.

I thank the Chairman.

● Mr. PATTERSON of California. Mr. Chairman, there is a great need for the legislation before us today. H.R. 13007, the Electronic Fund Transfer Act. This bill is the result of many long months of consideration by the subcommittee and the full committee and I am pleased today to rise in support of the act.

In hearings before the subcommittee, testimony was heard from members of the banking industry, from Consumer groups and individuals, from merchants and retailers. I firmly believe that we have received all possible input in forming this legislation and as a result, have produced a comprehensive and fair bill.

H.R. 13007 establishes guidelines for financial institutions to follow in the developing technology of electronic banking. Many consumers are frightened of banking by computer and what they view as a dehumanized approach to handling their money. The success or failure of this new payment mechanism hinges on consumer trust. However, to date, there has been little reason for consumers to overcome their wariness of these systems because of the absence of legislation addressing the many problems that can arise in EFT transactions.

H.R. 13007 will establish appropriate consumer safeguards for EFTS and will establish a uniform system of handling EFTS by financial institutions, yet will allow the orderly development of EFT systems for the benefit of our banking system. I will briefly review the sections of the act I deem the most essential:

In my opinion, section 303 of the act is the most vital. This section limits consumer liability to $50 if a consumer's debit card is stolen. This provision is modeled after the Truth in Lending Act's liability limit for credit card customers, which has proved very successful.

Also of key importance is section 915, which prohibits financial institutions from mailing out unsolicited validated debit cards. Consumers must be protected from the possibility of losing huge sums of money through the use of cards they never received. The potential for abuse is too strong to allow validated cards to be issued on an unsolicited basis.

Section 908, dealing with correction of errors, is one of the most important sections of this legislation. The act requires speedy corrections of errors, with 11 days allowed for the financial institution to resolve an error. This section is very necessary to the act, for without this stipulation a long error-resolution process could place great hardship on a consumer by tying up his funds.

As with any technology, many consumers will choose not to change but to cling to their traditional method of payment. Two provisions of this act are designed to insure that consumers have this right. Section 916, the discriminatory pricing section, prohibitis any seller from charging more for goods or services paid for by check than he would charge if paid for by EFT. This will insure that consumers will continue to have an option to use checks, and will not be penalized in any fashion for making that choice. Also, section 912 protects consumers from being forced to use EFT services. Under this section, no person may as a condition of extending credit, require EFT as a method of payment. Likewise, a consumer cannot be required to establish any account for the receipt of EFT as a condition of employment or receipt of a Government benefit.

H.R. 13007 was approved by the full committee by a 42–0 vote. This is a bill of which we may all be proud. This timely and thorough legislation provides significant consumer safeguards and will go a long way in promoting use of EFTS. I urge my colleagues to support the act.●

● Mr. LAFALCE. Mr. Chairman, I rise in support of H.R. 13007, the Electronic Fund Transfer Act of 1978. I particularly want to take this opportunity to commend the distinguished chairman of the Subcommittee on Consumer Affairs, the gentleman from Illinois (Mr. ANNUNZIO), for his long and arduous labors on behalf of this piece of legislation.

As a member of the Banking Committee and a participant at a number of public hearings concerning electronic

fund transfer system (EFTs), I have been very concerned with the vital need to strike a balance between providing essential protection for consumers' interests and creating the proper atmosphere for the full development of EFTS. I believe that the Banking Committee has, with the inclusion of the amendments being adopted today, struck the correct balance between these two requirements.

This bill will amend the Consumer Credit Protection Act to insure that all participants who utilize electronic fund transfer systems will be fully apprised of both their rights and responsibilities. The consumer will be more than adequately protected in terms of the correction of errors, liability for unauthorized transfers and system malfunctions, and confidentiality. Financial institutions will not have the necessary parameters and guidelines to proceed with the further development of these useful payment mechanisms, especially in regard to the issuance of debit cards and periodic statements.

I believe that the resolution of the question concerning discriminatory pricing is very welcome, because merchants will not be able to pass on any cost savings due to EFTS to their customers. A prohibition of that right certainly would not have been in the real interests of either the financial institutions or the merchants or consumers.

The passage of this bill will remove much of the uncertainty currently surrounding EFTS and will establish similar regulations for EFTS as those which already and, I might add, effectively exist for credit cards. No longer will either consumers or financial institutions be left in doubt as to each other's rights and duties and as to remedies for possible inequities involved in the use of the EFTS. Consumers will no longer be liable, in a financial sense, for an error on the part of the system and for the unauthorized access to their account by a third party; and financial institutions will now be adequately protected against fraud and other criminal uses of their systems. This is particularly important for consumers, since the creation of EFTS provided the possibility for a third party to have complete access to one's account, and this could involve the loss of hundreds or even thousands of dollars for the individual consumer.

For these reasons, Mr. Chairman, I strongly urge all of my colleagues to support the Electronic Fund Transfer Act which will afford financial institutions. merchants, and consumers with legal protection necessary for the mutually beneficial use of EFTS.●

● Mr. FARY. Mr. Chairman, I am pleased to rise in support of H.R 13007, the Electronic Fund Transfer Act. I am proud to be a sponsor of this important bill and I urge my colleagues to support it.

This legislation will, for the first time, establish uniform guidelines for the banking industry to follow in electronic fund transfer systems. The bill will cover electronic fund transfers such as telephone bill paying services, 24-hour cash dispensing machines, point of sale transactions, direct deposit of salary and preauthorized payments.

Electronic fund transfer systems are a rapidly growing technology. EFTS terminals are now located throughout the country, the most commonly offered service being automated teller machines. However, very few States have legislation governing EFT transactions. As a result, many consumers have lost hundreds of dollars when their cards were stolen or used by unauthorized persons. H.R. 13007 establishes a $50 liability limit very similar to the Truth in Lending Act's $50 liability limit for credit card customers. The few States which have liability statutes have adopted a $50 liability limit for consumers and all indications are that this is a workable solution for both the banks and consumers.

In addition to the liability measure, I view the section prohibiting the issuance unsolicited, validated debit cards of key importance to the act. A reoccurring problem with EFTS has been the issuance of unsolicited cards, complete with identification number and validation for use. There have been several cases where consumers have lost huge sums of money through the use of unsolicited cards, issued in their names, which never reached their hands. H.R. 13007 will effectively eliminate the threat of consumers losing their money in this manner. The act will allow the distribution of unsolicited cards, but with the stipulation that arrangements must be made by the consumer for validation of the card.

A great deal of work has gone into the shaping of this legislation. Extensive hearings were held by the Consumer Affairs Subcommittee in Washington, Chicago, Columbus, Ohio, and St. Paul, Minn. Testimony was heard from members of the banking industry, merchants, and consumer groups. All interested parties have been given ample opportunity to lend their suggestions to the shaping of this legislation.

The fact that H.R. 13007 cleared the full House Banking, Finance and Urban Affairs Committee without a single dissenting vote clearly shows that we have before us a fair and thorough bill.

I am pleased to lend my support to this measure and I urge my colleagues to do the same.●

● Mr. PRICE. Mr. Chairman, I am pleased to give my support to H.R. 13007, the Electronic Fund Transfer Act. This measure is the culmination of many months of extensive hearings and mark-up sessions and I believe we have before us today a bill which adequately protects consumers and that will not restrain development of electronic fund transfer technology.

I compliment the chairman of the subcommittee Mr. ANNUNZIO and the full committee for their dedication to this measure. There is a very real need for a basic framework for electronic fund transfer systems and for consumer protection in such transactions. I believe this bill accomplishes these objectives.

There are several sections of this bill which I feel are particularly essential to the act:

The provision limiting consumer liability to $50 is, in my opinion, the single most important protection offered by the bill and the most urgently needed. Electronic banking is a rapidly growing means of computer technology which is distinct from any other system of transacting money. The most headway has been made in the development of automated teller machines, most of which offer 24-hour service. To operate the machines, the customer is given a debit card and a personal identification number to use in making deposits, withdrawals or monthly installments. Because a debit card looks like a credit card, most consumers have equated the two cards as operating on the same principles. However, nothing could be further from the truth.

Losses incurred through stolen credit cards are protected under the Truth in Lending Act, with a specific $50 liability limit for consumers. There is no such Federal law covering EFTS transactions. There are only a few States which have any liability limit at all. H.R. 13007 will correct this discrepancy by imposing a similar law for consumers in the case of stolen debit cards.

Another important provision of the bill is the section outlining requirements for documentation of transfers. There has been little conformity to date in what is documented by banks in EFTS transactions and this has thoroughly confused many consumers. On the basis of the banks limited statements, many consumers have been unable to track transactions. The statements might give the day and the amount but no record of where the transaction took place. It is easy to see the difficulties that can arise from such a lax accounting system. If a dispute arises between a customer and a financial institution over a transaction, there is often little record of the transaction, save the date and the amount.

H.R. 13007 requires that banks provide customers with the following information: name and address of the financial institution, date, amount of transaction, account number, identification of transaction, name of seller, city and State of purchase transaction, ending balance and fees and service charges.

The bill also stipulates that the financial institution must send a monthly statement for each month in which a transaction occurs. Consumers must also be provided a receipt for all terminal transactions. This bill will greatly aid consumers in acquainting themselves with this new system.

Another important section of the bill deals with the problems posed by unsolicited, validated debit cards. The bill insures that a consumer will not receive a validated card from a financial institution by mail, unless it is at their request.

I believe we have before us a workable and credible bill. I am in full support of the act, and I urge my colleagues to lend their support.●

Mr. WYLIE. Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

Mr. ANNUNZIO. Mr. Chairman, I

have no further requests for time, and I yield back the remainder of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 13007

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IX—ELECTRONIC FUND TRANSFERS

"Sec.
"901. Short title.
"902. Congressional findings and legislative purpose.
"903. Definitions and rules of construction.
"904. Disclosures required.
"905. Transaction confirmations.
"906. Periodic statements.
"907. Preauthorized transfers.
"908. Correction of errors.
"909. Liability for unauthorized transfers.
"910. Liability for system malfunction.
"911. False or misleading advertising.
"912. Compulsory use prohibited.
"913. Waiver prohibited.
"914. Confidentiality.
"915. Issuance of cards or other means of access.
"916. Discriminatory pricing prohibited.
"917. Civil liability.
"918. Criminal liability.
"919. Administrative enforcement.
"920. Relation to State laws.
"921. Exemption for State regulation.
"922. Reports to Congress by the Board and Attorney General.
"923. Regulations.
"924. Effective date.

"§ 901. Short title

"This title may be cited as the 'Electronic Fund Transfer Act'.

"§ 902. Congressional findings and legislative purpose

"(a) The Congress finds and declares that:

"(1) The use of electronic and computer systems to transfer funds offers many opportunities to provide credit, debit, and payment services more conveniently and efficiently, thereby benefiting all participants in the Nation's payments system.

"(2) Many aspects of electronic fund transfers are undergoing evolutionary changes and, thus, projections about future events necessarily involve a degree of speculation. Consequently, the appropriate approach to these new financial service concepts is, in general, to permit their further development in a free market environment and, to the extent possible, in a manner consistent with the nature and purpose of existing law and regulation governing financial services.

"(3) Existing law and regulations in the consumer protection area are incomplete or are not applicable to some aspects of the new financial service concepts.

"(b) The purposes of this title are to provide a basic framework establishing the rights, liabilities, and responsibilities of all participants in electronic fund transfer and to guarantee consumers and other customers of the system a number of basic rights in an electronic fund transfer environment.

"§ 903. Definitions and rules of construction

"(a) The definitions and rules of construction set forth in this section shall apply for the purposes of this title.

"(b) The term 'Board' refers to the Board of Governors of the Federal Reserve System.

"(c) In determining any time limit under this title which is applicable to any institution or customer thereof, the term 'business day' means any day on which the offices of that institution are open to the public for the transaction of substantially all functions.

"(d) The terms 'card' and 'other means of access', mean a card, code, or other means of access to a consumer account for the purpose of enabling the account holder or a person acting with such holder's authorization to initiate electronic fund transfers transferring money or credit to or from the account.

"(e) The term 'consumer account' means a demand deposit, savings deposit, or asset account (other than a trust account or a credit balance in an open end credit plan as defined in section 103(1) of this Act) established primarily for personal, family, or household purposes, and the term 'account' refers to a consumer account unless the context otherwise indicates.

"(f) The term 'electronic fund transfer' means any transfer of funds, other than by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit a consumer account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposit of funds, and transfers initiated by telephone. Such term does not include (1) any check guarantee or authorization service which does not directly result in a debit or credit to a consumer account; (2) any transfer of funds, other than those processed by automated clearinghouse, made by a financial institution on behalf of an account holder by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of an account holder; (3) any transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission, as determined under regulations of the Board; (4) transfers from savings accounts to demand deposit accounts, for the purpose of covering an overdraft or maintaining an agreed upon minimum balance in the demand deposit account; and (5) any preauthorized transactions received by a financial institution in nonelectronic form. Except for the requirements of section 905(c) and section 912 an electronic fund transfer shall not include a credit to an account initiated by the Department of Treasury pursuant to Treasury Department Circular 1076, Revised (31 CFR part 209).

"(g) The term 'electronic terminal' means an electronic device, other than a telephone, through which an individual initiates an electronic fund transfer. Such term includes, but is not limited to, point-of-sale transfers, automated teller machines, and cash dispensing machines.

"(h) The term 'financial institution' means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds a consumer account belonging to an individual; and the term 'institution' refers to a financial institution.

"(i) The term 'holder' when used in relation to a consumer account means the individual who is recognized as the owner of the account by the financial institution where the account is held. Where two individuals are joint owners of the account, the term refers to either or both of such individuals as the context may indicate or as may be determined under regulations of the Board. Where there is a separation of legal and equitable ownership, the term refers to the individual having control of the account, except that any financial benefits shall inure to the beneficial owner.

"(j) The term 'individual' means a natural person.

"(k) The term 'preauthorized electronic fund transfer' means an electronic fund transfer authorized in advance to recur at substantially regular intervals.

"(l) The term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, or any territory or possession of the United States or any political subdivision of any of the foregoing.

"(m) The term 'unauthorized electronic fund transfer' means an electronic fund transfer from a consumer account initiated by a person without authority to initiate such transfer and from which the account holder receives no benefit. The term does not include any transfer described in section 909(a).

"§ 904. Disclosures required

"(a) The terms and conditions on which any institution maintains any consumer account which is subject to electronic fund transfers shall be disclosed in writing, clearly and in readily understandable terms, by the institution to the account holder at the time a consumer account becomes accessible to an electronic fund transfer. Such disclosures shall include, to the extent applicable:

"(1) The rights, duties, and liabilities of the account holder and of the institution under this title.

"(2) A description of the electronic fund transfers which the holder can initiate or authorize to be initiated, including any limitations on the frequency or dollar amount of such transfers, except that the details of such limitations need not be disclosed if their confidentiality is necessary to maintain the security of an electronic fund transfer system.

"(3) Whether the account holder can authorize a person other than an account holder to initiate any of the transfers described in paragraph (2), and how and to what extent such authority can be conferred.

"(4) Any service charges or other charges which the institution may make in connection with the operation of the account or any transactions therein.

"(5) The policy of the financial institution with respect to reversal of transfers, including, if applicable, a specific notice that transactions may not be reversed.

"(b) For any consumer account to or from which electronic fund transfers are being made and have been made by use of a card or other means of access prior to the date specified in section 924(a), the disclosures required under subsection (a) shall be made not later than the first periodic statement required by section 906 after such date.

"(c) For any consumer account to or from which electronic fund transfers begin to be made on or after the date specified in section 924(a), the disclosures required under subsection (a) shall be made by an institution to the account holder upon approval of the application and prior to initiation of the first electronic fund transfer to such consumer account.

"(d) A financial institution shall notify an account holder in writing at least thirty-one days prior to the beginning of the periodic statement cycle in which any change in any term or condition of the account required to be disclosed under subsection (a) becomes effective if such change would result in greater cost or liability for such holder or decreased access to the account. Subject to any restrictions which may be imposed by regulation by the Board, a financial institution may implement a change in the terms or conditions of an account without prior notice when such change is immediately necessary to maintain or restore the security of an electronic fund transfer system or a consumer account.

"(e) The Board shall issue model forms and clauses within one year of enactment for optional use by financial institutions to facilitate compliance with the disclosure require-

ments of this section and to aid account holders in understanding the rights and responsibilities of participants in electronic fund transfers by utilizing readily understandable language. Such model forms and clauses shall be adopted after notice duly given in the Federal Register and opportunity for public comment in accordance with section 553 of title 5, United States Code. The Board shall take account of variations in the services and charges under different electronic fund transfer systems and, as appropriate, shall issue alternative model forms and clauses for disclosure of these differing account terms.

"§ 905. Transaction confirmations

"(a) Except as provided in subsection (d), whenever an electronic fund transfer except a preauthorized transfer takes place with respect to any account, a confirmation containing the following information in writing shall be made available by the institution directly or indirectly to the account holder:

"(1) The date and amount of such transaction.

"(2) The account identification of the account with respect to which the transaction occurred.

"(3) Whether the transaction involved—

"(A) payment for goods and/or services,

"(B) a deposit of funds, or

"(C) a withdrawal of funds.

"(4) If a third party such as a seller of goods or services is involved in the transaction, the name of such third party and the city and State or foreign country in which the sale or other transaction related to the electronic fund transfer took place.

"(b) The information required under subsection (a) shall be made available at the time and place of any transaction to which the electronic fund transfer relates if that transaction takes place on the premises of the institution in which the account is held or at an electronic terminal off the premises of the institution. This requirement shall not be deemed to require that an electronic terminal be designed so that it ceases to operate if confirmation is temporarily unavailable from the terminal provided the account holder is made aware that no confirmation can be given at the time such account holder attempts to initiate a transactions and then such holder has the option whether to proceed with the transaction.

"(c) For a consumer account which is scheduled to be debited or credited by a preauthorized electronic fund transfer, the account holder shall promptly be given, directly or indirectly, by the institution, confirmation of the transfer by either positive notice when the debit or credit is made as scheduled, or negative notice when the debit or credit is not made as scheduled, in accordance with the regulations of the Board. The type of notice elected by the institution shall be disclosed to the account holder in accordance with section 904. The institution shall not be required to give such notice of the party initiating a preauthorized credit to the account holder's account provides a statement of the transfer to the account holder on or about the date the transfer takes place.

"(d) If an electronic fund transfer is initiated at a place other than an electronic terminal and not on the premises of the institution and is not preauthorized, an institution shall furnish a transaction number to the account holder (or person acting with such holder's authority) at the time the transfer is initiated. The institution shall, directly or indirectly, promptly confirm the transfer by furnishing the account holder with positive notice when the transfer is made or negative notice when the transfer is not made. The type of notice elected by the institution shall be disclosed to the account holder in accordance with section 904.

"(e) Whenever an electronic fund transfer transaction requires an account holder to begin using credit funds to enable the transaction to be completed, the account holder shall be notified, directly or indirectly, by the institution of the amount of credit funds transferred into the account to complete the transaction if the use of credit funds is the first such use in the billing period in which it occurs, and no such funds were in use at the commencement of that period. Any notice required under this subsection shall, within five days after the transaction to which it relates, be delivered in person, dispatched by mail, or dispatched by such other means as the Board may by regulation approve.

"(f) Any transaction confirmation furnished pursuant to this section and any periodic or other statement furnished pursuant to section 906 shall constitute prima facie evidence of the transactions therein set forth.

"§ 906. Periodic statements

"(a) An institution shall furnish to each account holder a periodic statement for each account which is accessible by electronic fund transfer at least once a month for each month in which an electronic fund transfer affecting the account has occurred, or at least once in each calendar quarter, whichever is more frequent. Such periodic statement shall include:

"(1) The name and address of the institution.

"(2) The date, amount, and identification of the account into or out of which funds were transferred for each electronic fund transfer occurring during the period covered by the statement.

"(3) An identification of each transaction indicating whether the transaction involved—

"(A) payment for goods and/or services

"(B) a deposit of funds,

"(C) a withdrawal of funds,

"(D) an extension of credit, or

"(E) the repayment of an extension of credit.

"(4) In the case of any transaction in which an electronic fund transfer is used to purchase goods, property, or services, or to repay an extension of credit, the name of the seller or credior in each such transactiotn and the city and State or foreign country in which such transaction occurred.

"(5) The balance as of the close of the period covered by the statement for each account of the holder that can be accessed by an electronic fund transfer.

"(6) Any service charge or other charges to the account holder occurring during the period covered by the statement.

"(b) A periodic statement required by this section shall, not later than the fifteenth day following the close of the period to which it relates, be delivered to the account holder in person, dispatched by mail, made available to the account holder pursuant to such holder's instructions to the institution, or dispatched by such means as the Board may by regulation approve.

"(c) In the case of a consumer passbook account which may be accessed by electronic fund transfers, a financial institution may, in lieu of complying with the requirements of subsections (a) and (b), upon presentation of the passbook provide the account holder in writing with the amount and dates of each such transfer involving the account since the passbook was last presented.

"§ 907. Preauthorized transfers

"(a) An institution may not make a preauthorized electronic fund transfer from an account except in accordance with a written authorization of the account holder, a copy of which shall be provided to the account holder when made.

"(b) An account holder may stop payment of a preauthorized electronic fund transfer from the holder's account by notifying the institution in writing unless State law permits such notification to be oral at any time until the institution makes payment to the seller.

"§ 908. Correction of errors

"(a) For the purpose of this section, an error consists of any of the following:

"(1) An unauthorized electronic fund transfer.

"(2) An incorrect electronic fund transfer from or to a consumer account.

"(3) The omission from a periodic statement of an electronic fund transfer affecting a consumer account which should have been included.

"(4) A computational error by the financial institution.

"(5) The receipt of an incorrect amount of money from an automated teller machine.

"(6) An institution's failure to comply with an account holder's request for any information or documentation required by this title concerning any electronic fund transfer in the account.

"(7) An institution's failure to stop payment on a preauthorized transfer from an account when properly instructed to do so.

"(8) The failure to make an electronic fund transfer to or from an account.

"(9) Any other error described in regulations of the Board.

"(b) Every institution at which any account subject to this title is maintained shall notify each account holder of the identity of a person or office and the address and telephone number at which the account holder may, in person, by phone, or in writing notify the institution of any error in the account. In order for the institution to be subject to the duties and liabilities imposed by this title with respect to the correction of errors, such notice to the institution must include the information required under subsection (c) and be mailed, telephoned, or delivered in person within sixty days of the last day of the time period covered by the periodic statement which relates to the alleged error, but the failure of an account holder to give such notice, or to give such notice within that period, does not affect any rights or remedies such holder may otherwise have. No notice or information given orally (whether in person or by telephone) to an institution by any individual shall create any liability on the part of the institution under this section, other than that arising out of the duty of the institution to inform such person of the requirement that the notice or information be confirmed in writing, unless such information is confirmed in writing, signed by or on behalf of the account holder, and mailed or otherwise delivered to the institution within the time required by this subsection.

"(c) Any notice of an error under this section shall set forth or otherwise reasonably enable the institution to identify the name and account identification of the account holder, and shall describe or identify the error which the account holder believes has been made.

"(d) Except as provided in subsections (e) and (g), if the financial institution determines that an error did occur, it shall promptly, but in no event more than one business day after such determination or eleven business days after notification, whichever is earlier, correct the error, subject to section 909, including the crediting of interest where applicable.

"(e) If a financial institution receives notice of an error in the manner and within the time period specified in subsection (b), it may, in lieu of the requirements of subsection (d), provisionally credit the consumer account for the amount alleged to be in error, subject to section 909, including interest where applicable, pending the con-

clusion of its investigation. Such investigation, shall be concluded not later than forty-five days after receipt of notice of the error. During the pendency of the investigation, the consumer shall have full use of the funds provisionally credited. Such provisional credit shall be made within ten business days after receiving such notice if the error involves a transaction between only the institution and the account holder, and within twenty business days if the error involves a transaction including a third party, such as a seller of goods.

"(f) If, as a result of an error on the part of the institution, any electronic fund transfers or payment of checks or other instruments or orders are refused, the institution shall notify each payee that such was the case, and shall pay or reimburse any charges incurred by the account holder as a result of such error or nonpayment.

"(g) If the financial institution asserts, after its investigation pursuant to this section, that an error did not occur, it shall deliver or mail to the account holder an explanation of its findings within three business days after the conclusion of its investigation, and upon request of the holder, deliver or mail to the holder reproductions of relevant documents which the financial institution relied on to conclude that such error did not occur.

"(h) If in any action under section 917 the court finds that a financial institution willfully asserted that a consumer account was not in error, knowing that the evidence available to the institution at the time of its investigation with respect to such error was clear and convincing, and that the only conclusion that could reasonably be drawn from such evidence was that the account was in error, then the holder shall be entitled to treble damages determined under section 917(a)(1).

"§ 909. Liability for unauthorized transfers

"(a) An institution is not liable to an account holder for a loss to the account if—

"(1) the loss is by means of an electronic fund transfer that is the result of fraud in which the account holder has participated,

"(2) an account holder provides the means of access to such holder's account to a third party, or writes or otherwise discloses the identifying access code or number on the card or other means of access, and the loss to the account results from an electronic fund transfer initiated, directly or indirectly, by the third party before the account holder notifies the institution that such third party no longer is to have access to the account and authorizes the institution to take the necessary steps to eliminate the access, or

"(3) an account holder has failed to notify the institution within a reasonable time after the account holder knows of the loss or theft of a card or other means of access: *Provided, however,* That unless paragraph (1) or (2) applies, the institution shall be liable to the account holder for loss in excess of $50 that could not have been avoided had the account holder made timely report of the loss or theft.

"(b) Except as provided by subsection (a), an institution shall be liable to an account holder for any losses to such holder's account resulting from an unauthorized electronic fund transfer of funds from the account if—

"(1) the means of access for such transfer was not a card or other means of access issued in accordance with section 904 and 915 and accepted by the account holder;

"(2) such transfer of funds occurs after the institution has been notified of the loss or theft of a card or other means of access;

"(3) the institution has not provided a method whereby the user of the card or other means of access can be identified as the person who is authorized to access the account by electronic fund transfer;

"(4) the institution has not furnished the account holder with written notice of the account holder's potential liability for losses in a form which sets forth the pertinent conditions clearly and in readily understandable language so that the account holder could reasonably be expected to have noticed it and understood its meaning; or

"(5) the institution has not furnished the account holder with a telephone number of the institution which any authorized user of the card or other means of access may use to notify such institution in the event of loss or theft of the card or other means of access.

"(c) Except as provided in subsection (a), providing for no liability on the part of the institution, and subsection (b), providing for full liability on the part of an institution, an institution is liable for all losses to the holder of a consumer account in excess of $50 resulting from unauthorized electronic fund transfers with respect to that account.

"(d) For the purpose of subsections (a) (2) and (b)(2), an institution is notified if an account holder or person acting on behalf of such holder takes such steps as may be reasonably required in the ordinary course of business to provide such institution with the pertinent information, whether or not any particular officer, employee, or agent of such institution does, in fact, receive such information.

"(e) In any action to enforce liability on the part of an institution for lesses to any consumer account resulting from an electronic fund transfer, the burden of proof shall be upon the institution to show that such transfer of funds was authorized or, if the transfer of funds was unauthorized, then the burden of proof shall be upon the institution to show that a condition set forth in subsection (a) applies, or that a condition set forth in subsection (b) does not apply.

"(f) Nothing in this section imposes liability upon an account holder for losses resulting from an unauthorized electronic fund transfer in excess of the holder's liability for losses under other applicable law or under any agreement with the institution.

"(g) The liability of an account holder for any unauthorized transfer from such holder's account where an extension of credit is or may be involved shall be determined in accordance with section 133 of the Truth in Lending Act.

"§ 910. Liability for system malfunction

"(a) Subject to the limitations in subsection (b), a financial institution shall be liable to an account holder or any person claiming under such holder for all damages proximately caused by—

"(1) the financial institution's failure to make an electronic fund transfer, in accordance with the terms, and conditions of an account, in the correct amout or in a timely manner when properly instructed to do so, except—

"(A) where the account has insufficient funds legally available for use;

"(B) where such transfer would exceed an established credit limit; or

"(C) where the transfer was initiated at an electronic terminal which, in connection with that transfer, was functioning solely as a machine dispensing cash.

"(2) the financial institution's failure to make, in accordance with the terms and conditions of an account, an electronic fund transfer due to insufficient funds when the financial institution failed to credit a deposit of funds to the account which would have provided sufficient funds to make the transfer; or

"(3) the financial institution's failure to stop payment on a preauthorized transfer from an account when instructed to do so in accordance with the terms and conditions of the account.

"(b) A financial institution shall not be liable under subsection (a) (1) or (2) if the financial institution shows by a preponderance of the evidence that its action or failure to act resulted from a technical malfunction—

"(1) caused by circumstances beyond its control, that it exercised reasonable care to prevent such an occurrence, and that it exercised such diligence as the circumstances required; or

"(2) of which the claimant knew or had reason to know at the time such claimant attempted to initiate an electronic fund transfer or, in the case of a preauthorized transfer, at the time such transfer should have occurred.

"(c) In the event a system malfunction prevents the execution of an electronic fund transfer initiated by an individual to another person, and such other person has agreed to accept payment by such means, the individual's obligation to the other person shall be suspended until the malfunction is corrected and the electronic fund transfer may be completed, unless such other person has subsequently demanded by written request payment by means other than an electronic fund transfer.

"§ False or misleading advertising

"No institution or seller may disseminate, or cause to be disseminated, any false or misleading advertisement which may induce any individual to engage in an electronic fund transfer.

"§ 912. Compulsory use prohibited

"No person may—

"(1) condition the extension of consumer credit to an individual on such individual's repayment by means of preauthorized electronic fund transfers;

"(2) require an individual to establish any account for receipt of electronic fund transfers as a condition of employment or receipt of a Government benefit; or

"(3) require an individual to make payment for goods or services by electronic fund transfers.

"§ 913. Waiver prohibited

"No writing or other agreement between an individual and any other person may contain any provision which constitutes a waiver of any right conferred or cause of action created (except as a compromise or settlement of a dispute between the parties) by this title. Nothing in this section prohibits, however, any writing or other agreement which grants to an individual a more extensive right or greater protection than contained in this title.

§ 914. Confidentiality

"An institution may not disclose information regarding any electronic fund transfer with respect to a consumer account except:

"(1) to the account holder;

"(2) to any other person who is a party to the transfer or is necessary to effectuate the transfer, but only to the extent that the information disclosed is necessary to effectuate or correct the transfer;

"(3) to communicate the terms and history of a credit transaction as defined in section 103(e) of the Truth in Lending Act involving the account holder to a consumer reporting agency as defined in section 603 (f) of the Consumer Credit Protection Act or to any other person meeting the requirements of section 604(3) of the Consumer Credit Protection Act;

"(4) to a person authorized by law to have access to the records of the financial institution in the course of such person's official duties;

"(5) pursuant to a court order; or

"(6) pursuant to the express written authorization of the account holder for a particular purpose.

"§ 915. Issuance of cards or other means of access

"(a) No person may issue to an individual any card or other means of access to such individual's consumer account, without further action by such individual in accordance with subsection (b), which may be used for the purposes of initiating an electronic fund transfer, unless such issuance is—

"(1) in response to a request or application therefor; or

"(2) as a renewal of, or in substitution for, an accepted card, code, or other means of access, whether issued by the initial issuer or a successor.

"(b) A financial institution may distribute to an individual on an unsolicited basis a card, code, or other means of access for use in initiating an electronic fund transfer from such individual's consumer account, if—

"(1) such card, code, or other means of access is not validated;

"(2) such distribution is accompanied by a complete disclosure, in accordance with section 904, of the individual's rights, duties, and liabilities which apply if such card, code, or other means of access is validated;

"(3) such distribution is accompanied by a clear explanation, in accordance with regulations of the Board, that such card, code, or other means of access is not validated and how the individual may dispose of same if validation is not desired; and

"(4) such card, code, or other means of access is validated only in response to a request or application from the individual, either in writing or by personal visit of the individual to the institution.

"(c) For the purpose of subsection (b), a card, code, or other means of access is validated when it may be used to initiate an electronic fund transfer.

"§ 916. Discriminatory pricing prohibited

"No seller may charge more for any consumer goods, property, or services if payment is made by check than the seller would charge if payment were made through an electronic fund transfer transaction.

"§ 917. Civil liability

"(a) Except as otherwise provided in this section, any person who fails to comply with any provision of this title with respect to any individual is liable to such individual in an amount equal to the sum of—

"(1) any actual damage sustained by such individual as a result of such failure;

"(2)(A) in the case of an individual action, under this subparagraph, an amount not less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery under this subparagraph in such action shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the person; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

"(b) In determining the amount of award in any class action under subsection (a)(2)(B), the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the person, its resources, the number of individuals adversely affected, and the extent to which its failure of compliance was intentional.

"(c) Except with respect to sections 909 and 910, a person may not be held liable in any action brought under this section for by a preponderance of evidence that the violation was not intentional and resulted from a violation of this title if the person shows a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) No action under this section may be brought in any United States district court or in any other court of competent jurisdiction later than one year after the date of the occurrence of the violation.

"(e) Any action under this section may be brought in any United States district court without regard to the amount in controversy or in any other court of competent jurisdiction.

"(f) Any person who fails to comply with any requirement imposed under section 911 with respect to any individual who suffers actual damages from the violation is liable to such individual as provided in this section.

"(g) No provision of this section or section 918 imposing any liability shall apply to any act done or omitted in good faith in conformity with any regulation or official interpretation by the Board, or any failure to make disclosure in proper form if a financial institution utilized an appropriate model form or clause issued by the Board, notwithstanding that after such act or omission has occurred, such regulation or interpretation is amended, rescinded, or determined by judicial or other competent authority to be invalid for any reason.

"§918. Criminal liability

"Whoever willfully and knowingly and with intent to defraud—

"(1) gives false or inaccurate information or fails to provide information which is required to be disclosed by this title; or

"(2) otherwise fails to comply with any provision of this title;

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"§919. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under:

"(1) Section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency,

"(B) member banks of the Federal Reserve System (other than national banks), by the Board, and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation.

"(2) Section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of any institution subject to any of those provisions.

"(3) The Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any credit union insured under such Act.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

"(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed an unfair or deceptive act or practice in or affecting commerce under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.

"§ 920. Relation to State laws

"This title does not annul, after, or affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to electronic fund transfers, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency.

"§ 921. Exemption for State regulation

"The Board shall, by regulation, exempt from the requirements of this title any class of practices involving electronic fund transfers within any State if the Board determines that under the law of that State that class of practices is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 922. Reports to Congress by the Board and Attorney General

"Not later than twelve calendar months after the effective date of this title and at one-year intervals thereafter, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with this title is being achieved, and a summary of the enforcement actions taken by the Board under section 919.

"§ 923. Regulations

"The Board shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this title.

"§ 924. Effective date

"(a) Except as provided in subsection (b), this title shall take effect upon the expiration of one year after the date of enactment.

"(b) Subsections 909 and 915 of this title shall take effect upon enactment.".

Mr. ANNUNZIO (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there amendments to the bill?

AMENDMENT OFFERED BY MR. WYLIE

Mr. WYLIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYLIE: Page 11, strike lines 8 through 20 and insert:

"(c) For a consumer account which is scheduled to be debited or credited by a preauthorized electronic fund transfer, the account holder shall promptly be given, directly or indirectly, by the institution, confirmation of the transfer—

(1) by positive notice when the debit or credit is made as scheduled, or

(2) by negative notice when the debit or credit is not made as scheduled, or

(3) with respect to any preauthorized debit, the institution may also elect to provide confirmation of the transfer on the next monthly statement furnished to the account holder, by indicating on such statement either that the debit was completed as authorized or that the debit was not completed as authorized.

The notice given by the institution shall be in accordance with regulations of the Board.

Mr. ANNUNZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment may be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. WYLIE. Mr. Chairman, I have discussed this amendment with the chairman of the subcommittee, but I would like to make just a brief explanation for the record as to what it does. It is an amendment which I think will avoid unnecessary paperwork, which is in the spirit of the EFT bill as a whole. It provides for the notice of a preauthorized debit or credit in an EFT operation. It is in keeping with the recommendation of the Electronic Fund Transfer Commission which the gentleman from New Jersey (Mr. MAGUIRE) mentioned a short while ago. It will result in a saving of paperwork. Thereafter it provides for notice when the first preauthorized debit or credit is initiated. It provides for regular notice each periodic billing furnished thereafter unless there is a change, and if there is a change, then there must be notification that something has gone awry with the debt or credit.

I think the gentleman from Illinois (Mr. ANNUNZIO), the chairman of the subcommittee, is willing to accept the amendment.

Mr. ANNUNZIO. If the gentleman will yield, I appreciate my colleague, the gentleman from Ohio (Mr. WYLIE), offering the amendment. I have examined the amendment carefuly. It adds to the quality of the bill, and I accept it on this side.

Mr. WYLIE. I thank the chairman for accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. WYLIE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROUSSELOT: Page 27, strike out lines 16 through 19 and insert in lieu thereof the following:

§ 916. Non-surcharge provision

"(a) No seller may impose a surcharge on any individual who elects to pay for consumer goods, property, or services by cash, check, or similar means rather than by an electronic fund transfer; but any seller may offer a discount to induce any individual to pay for consumer goods, property, or services by means of an electronic fund transfer, check or cash.

"(b) The Board shall prescribe regulations to require that any discount described in subsection (a) and offered by a seller shall be offered to all prospective buyers and its availability shall be disclosed clearly and conspicuously to all prospective buyers.

"(c) For purposes of this section—

"(1) the term 'discount' means a reduction made from the regular price and does not mean a surcharge; and

"(2) the term 'surcharge' means any means of increasing the regular price to an individual which is not imposed upon individuals paying by means of an electronic fund transfer.

Mr. ANNUNZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The question from California (Mr. ROUSSELOT) is recognized in support of his amendment.

Mr. ROUSSELOT. Mr. Chairman, I will not take the 5 minutes. First of all, I want to take this time to thank the chairman of the subcommittee who has been very diligent, as already previously mentioned, in trying to write fair and equitable legislation in the area of electronic funds transfers. The gentleman from Ohio (Mr. WYLIE) who has worked long and hard to make sure that this is a workable piece of legislation. Both the chairman and the ranking member have made a real effort, as many of us have on the committee, to try to make sure that this will be workable for those who have to use it, that it will not just impose undue paperwork on the financial institution operations.

I want to briefly say that I think this amendment to H.R. 13007 is necessary to give better terminology to what we are trying to accomplish.

Mr. Chairman, there is a discrepancy between what the bill says and what the Banking Committee report states with respect to section 916 of H.R. 13007. I am offering an amendment to rectify that discrepancy to make it absolutely certain that financial institutions and retailers can pass on to consumers the savings to be derived from EFT use.

But first I would like to reiterate some of the remarks I made in the committee's report on this bill. The title of section 916, "Discriminatory Pricing," is misleading and its presence in the bill is misleading. Furthermore, I note that there is no such provision in the Senate version of the bill. Therefore, my amendment changes the title of the section to "Non-surcharge Provision."

We want to insure that EFT grows in a free market environment. If it is cheaper to transact business through EFT we should insure that merchants and financial institutions have the opportunity to pass these savings on to the customer. Moreover, merchants should have the option of offering a discount to encourage EFT use as a marketing tool, regardless of cost.

I want to make it clear that I continue to believe that section 916 is completely unnecessary. The Federal Government should not be in the business of determining the pricing of payment services at all. The Senate bill does not contain this provision, and I hope that the final bill will not contain it either. Nevertheless, as an accommodation to the author of the bill I offer this amendment to clarify its purpose and soften its impact.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. I appreciate the gentleman from California's yielding. I appreciate the contribution that he has made to this legislation. I have examined his amendment and discussed this with the minority. It does clarify the language in the bill. I am ready to accept the amendment on this side.

Mr. ROUSSELOT. I thank the gentleman.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my distinguished colleague from Ohio.

Mr. WYLIE. I, too, have examined the amendment. I think it is clarifying and in the spirit of the legislation as a whole.

Mr. Chairman, I appreciate the gentleman's willingness to be helpful on the bill and for the gentleman's contribution to making it better legislation.

Mr. Chairman, I accept the amendment.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I know when I am ahead.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. ROUSSELOT).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. VENTO: Page 11, line 7, immediately after "transaction," insert the following:

If such holder elects to proceed with the transaction, the holder shall be notified at the time and place of the transaction that if the holder indicates he or she wants a confirmation of the transaction, the institution shall directly or indirectly furnish the holder with confirmation by positive notice within five days of the time of the transaction.

Page 17, line 16, immediately before "If" insert: (1).

Page 18, immediately after line 5 insert the following:

(2) If an institution elects to provisionally credit a consumer account as provided for in paragraph (1), the institution shall furnish the account holder prior to the credit of funds the following written notice:

NOTICE

Federal law permits this institution to delay completion of its investigation of your alleged error for forty-five days after your error notice if the institution provisionally

credits your consumer account for the amount alleged to be in error, including interest where applicable. During the investigation you shall have full use of the funds provisionally credited. However, if upon the conclusion of the investigation the institution determines that no error occurred, the institution may require you to pay the provisionally credited funds back, with interest. Consequently, you should keep any documentation relating to the alleged error, since you may disagree with a conclusion by the institution that the alleged error did not occur.

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be consider en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, these are two very simple amendments. They provide, first of all, in the case of a nonfunctioning automated machine that there will be directly or indirectly sent a receipt. When the machine is not issuing a receipt, it would be sent soon after.

The second amendment provides where there is a situation where an institution provides an error resolution method that they can provisionally credit the account. This would provide notice to the consumer that it had been credited provisionally, that he still may be called upon to document the error. It does not shift the burden of proof in terms of error resolution.

Mr. Chairman, I think it is a good addition to the bill in terms of what we intend on this issue.

Mr. ANNUNZIO. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I have had an opportunity to examine the amendments and I am ready to accept them on this side as further help in clarifying the legislation.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, I have been able to examine the amendments just a few minutes ago; but based on what the gentleman from Illinois and the gentleman from Minnesota have said about them, at first blush they seem all right. I would want to reserve the opportunity to examine them in greater detail later on if we do go to conference on the bill; but at the moment, I accept the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota.

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. BARNARD

Mr. BARNARD. Mr. Chairman, I offer a block of amendments.

The Clerk read as follows:

AMENDMENT OFFERED BY MR. BARNARD

Page 6, line 2 strike the word "transfers" and insert in lieu thereof the terms "transfer machines."

Mr. CHAIRMAN. This is a technical amendment intended to clarify the reference made to examples of electronic fund transfer hardware. Subsection (g) of section 903 defines the types of computer hardware which may be employed by an individual to initiate an electronic fund transfer. In this context, it is inappropriate to include the term "point-of-sale transfers"—a transfer being a type of transaction. What the definition of electronic terminal was intended to encompass were such point-of-sale transactions accomplished by machines. The amendment serves to accomplish that goal.

AMENDMENT OFFERED BY MR. BARNARD

Page 7, line 12 is amended by inserting the following phrase after the term "transfers": "in accordance with subsection (b) and (c)".

Mr. CHAIRMAN. This is a mere technical amendment designed to clarify the timing of the required disclosures in subsection (a) by cross-referencing the two subsections immediately following. Subsections (b) and (c) jointly set forth the rules regarding disclosures for consumer accounts presently assessed by electronic fund systems and, in the future, to be subject to electronic fund transfers. By incorporating subsections (b) and (c) into subsection (a), an institution will be more clearly cognizant of its disclosure obligations.

AMENDMENT OFFERED BY MR. BARNARD

Page 8, line 11, immediately before the word "For", insert the following: "Except for infrequent special transfers performed as a special service,".

Mr. CHAIRMAN. All members are aware of emergency financial services financial institutions provide to their customers. A financial institution may agree to transfer funds under circumstances which could technically be considered an electronic fund transfer subject to the disclosure requirements of this act. For example, suppose an institution receives a telephone call from an account holder whose car has broken down while on an out-of-State trip. The account holder requests a transfer of funds from his savings account to his checking account in order to issue a check for the repairs. The institution is doing the consumer a favor. It is a type of service that institutions have been performing for generations, not a new service needing new consumer protections. The institution should not now be required to give the lengthy disclosures set forth in the act; and as a practical matter, it may not have a readily accessible record to indicate those for whom such favors were performed. Furthermore, to mandate section 904 disclosure in the case of infrequent special transfers is apt to prompt an institution to reassess carefully whether it is prudent to continue its practice of granting such a favor to a non-EFT customer, in light of the new attendant costs of such a favor. The amendment proposed to section 904(b) precludes such a harsh result.

AMENDMENT OFFERED BY MR. BARNARD

Page 8, lines 21 through 23, strike the following phrase, "and prior to initiation of the first electronic fund transfer to such consumer account" and insert in lieu thereof: "or at the time the institution first has knowledge than an electronic funds transfer will be or has been initiated to such consumer account, whichever event occurs earlier.".

Mr. CHAIRMAN. In many situations involving EFT transfers, the institution will not be able to make the required disclosure prior to the first transfer since the customer might have contracted to allow the transfer without the institution's knowledge. One example of such a situation which readily comes to mind is the agreement between an employer and an employee automatically to credit the employee's account with his or her salary each payday.

Under section 904(c) as presently drafted, the only choice an institution without specific knowledge of such an agreement may have is to reject the deposit or be found liable for a violation of the law—a harsh result for the customer who will unexpectedly lose access to funds while the redtape is being cleared up. In such an instance, the earliest an institution should be expected to make the required disclosures is when it has knowledge that the consumer will be using its electronic fund transfer services. The amendment merely incorporates this logic.

AMENDMENT OFFERED BY MR. BARNARD

Page 12, strike subsection (e).

Mr. CHAIRMAN. Subsection (e) would have required a financial institution to notify the consumer the first time a credit account was assessed during a billing cycle in order to complete a transaction. Such a provision essentially would have transformed a credit card into an electronic fund transfer card.

Simply because a consumer chose to pay off the balance of his or her credit account each month rather than choose to allow an amount to remain outstanding on the next month's bill, the provision would have imposed on the credit granting institution an additional notice obligation. It would have altered the entire credit card industry by imposing a totally new and unnecessary requirement based on an arbitrary standard.

Finally, it should be pointed out that whenever credit funds are used, the disclosure requirements of the Truth in Lending Act and the Fair Credit Billing Act cover the transaction.

AMENDMENT OFFERED BY MR. BARNARD

Section 907(b) is amended to read as follows:

"(b)(1) An account holder may by written order to a financial institution stop payment of a preauthorized electronic fund transfer from the holder's account, but the order must be received at such time and in such a manner as to afford the financial institution a reasonable opportunity to act on it prior to any action by the financial institution with respect to the preauthorized electronic fund transfer.

"(2) An oral order is binding upon the financial institution if received within a reasonable itme, but only for 14 calendar days unless confirmed in writing within that period. A written order is effective for only six months unless renewed in writing."

Mr. CHAIRMAN. Electronic fund transfer is simply one form of a broader category of payments regulated by a well established body of uniform national principles contained in the Uniform

Commercial Code (UCC). The issue of how a consumer is to stop payment on an electronic fund transfer transaction should not be treated any differently than § 4–403 of the UCC would treat a stop payment on a check. It is in furtherance of this effort to treat similar transactions similarly that the amendment to section 907(b) is modeled on § 4–403 of the Uniform Commercial Code.

Subsection (b) of section 907 as found in the reported bill would have imposed on institutions an unworkable standard to the extent it may have been interpreted to require acceptance by the institution of all stop payment orders mailed to it up until the very moment of transfer. Such a standard would seemingly have been in disregard of modern day business practice and needs and might have impeded the healthy development of electronic fund transfer. Under that provision even an institution doing its best to remain accountable to its account holders might nonetheless have been held responsible for a stop order mailed, for example, on a day prior to the intended transfer although actually received after the transfer had occurred.

As a practical matter, an institution needs some "lead time" in order to process a stop order. The number of days required may, from institution to institution, vary depending on the internal procedures of each. While 1 day could be sufficient time for an institution to note and effectuate the changed directive, it might take another institution 3 days or perhaps longer because of a far-flung branching system. Thus, it would not be for the consumer's benefit to impose a definite number of days which reflects the accounting procedures of all institutions. Rather, § 4–403 of the Uniform Commercial Code supplies the ideal solution both for the consumer and the institution in its imposition of a "reasonable opportunity test." Indeed, such a standard based upon § 4–403 of the Uniform Commercial Code has the additional advantage of bringing with it more than a decade of accumulated judicial pronouncements in 49 States clarifying the respective duties of consumer and institution alike.

AMENDMENT OFFERED BY MR. BARNARD

Page 22, line 2, strike out "unauthorized".

Explanation: clarifies so that best provision will prevail as was intended.

Page 22, line 9 is amended by inserting the following phrase before the terms "in accordance": "as to the amount of any credit extended".

Explanation: This amendment would clarify the committee's intent that when credit funds are used, consumer liability will be governed by the terms of § 133 of the Truth in Lending Act. The section as now drafted implies that the Truth in Lending Act would govern consumer liability when both credit funds and DDA or savings accounts funds are involved in the same transaction. For example, if a transaction involved a $100 debit to an account, but the consumer had only $50 in his DDA, then credit funds might be used to complete the transaction. This amendment assures that credit funds are covered by Truth in Lending and DDA funds would be covered by the act.

AMENDMENT OFFERED BY MR. BARNARD

Page 28. Section 917(a)(2)(B)(ii) is amended to read as follows:

"(ii) the total recovery under this subparagraph in any class action or series of actions arising out of the same failure to comply by the same person shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the defendant; and".

Page 29, line 21, add the following clause after the term "Board": "or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretation or approval under such procedures as the Board may prescribe therefore.".

Page 30, immediately after line 3, insert the following:

"(h) Except with respect to section 909 and 910, an institution may not be held liable in any action brought under this section for failure to comply with any requirement of this title, if within 30 days after discovering the failure whether through the institution's own procedures, and prior to the initiation of an action under this section or the receipt of written notice of the failure from the account holder, the institution notifies the account holder of the failure in writing and complies with the requirements of this title, and makes an appropriate adjustment to the account holder's account and pays the account holder any actual damages."

Page 29, line 6, add the following sentence: "Examples of bona fide error include clerical, calculation, computer malfunction and programming and printing errors, but an error of legal judgment with respect to a person's obligations under this title is not a bona fide error."

Mr. CHAIRMAN. All but the last of these amendments are based on analogous provisions in section 915 of the Senate's Fair Fund Transfer Act, S. 3156. The primary reason for these amendments is to assure that financial institutions which are making a good faith effort to comply with the act are not subject to unwarranted civil litigation.

Class Action Recovery—§ 917(a)(2)(B)(ii)

Although the intent behind this section is to subject an institution to a maximum $500,000 recovery per violation, such intent may be circumvented if the same institution is made the defendant in more than one class action involving the same course of conduct. As section 917(a)(2)(B)(ii) is presently worded it permits the "maximum" recovery in each such class action.

The amendment eliminates the ambiguity as to an institution's maximum liability in multiple class actions. Where several class actions are instituted against an institution as a result of the same violation, the amendment makes clear that the institution's maximum aggregate liability could not exceed $500,000 or 1 percent of net worth, whichever is less.

Federal Reserve System Interpretation or Approvals

The Electronic Fund Transfer Act is a highly complex, often purposely ambiguous statute which attempts to embody a technology yet in its infancy. One cannot realistically expect to foresee how it may impact even on varied and intricate electronic fund transfer services presently being offered; and the future is, of course, far more difficult to predict.

This second amendment to section 917 provides an additional defense which would relieve a financial institution of any civil liability. It is an amendment which recognizes that an institution making an effort to comply with the act's provisions by seeking and in good faith relying on Federal Reserve System approval of its actions or an interpretation of a vague provision of the act, should be afforded complete protection from suit. An institution should have a clear reference source to enable it to know what it must do to comply with the act and how to avoid its onerous penalties. The amendment provides this important source and safe harbor.

Voluntary Cures

The rationale behind the addition in the Electronic Fund Transfer Act of this system borrowed from Truth in Lending is that an institution should not be liable for violations of the act which it voluntarily attempts to cure promptly (within 30 days after discovery) and on its own initiative. Its purpose is to encourage and assure compliance and to discourage suits. The provision will stimulate corrective action as to problems uncovered through internal monitoring and compliance control, much to the benefit of the consuming public. Without such a provision, an institution would have little incentive to make public and correct a problem before it was raised by the consumer.

Bona Fide Errors

This last amendment of section 917 sets forth a partial list of the types of transactions which do and do not constitute a bona fide error. It is an important addition both to the institution, enabling it to understand the sort of circumstances under which it remains subject to liability, and to the consumer, in knowing when he or she has an actionable complaint against the institution.

AMENDMENT OFFERED BY MR. BARNARD

Section 923 is amended to read as follows:

"The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. In prescribing such regulations, the Board shall take into account, the continuing evolution of the technology in electronic fund transfers."

Mr. CHAIRMAN. This amendment provides the Federal Reserve Board with several important guidelines which are to be utilized by the Board in formulating regulations pursuant to this act. Congress has on two prior occasions with major consumer legislation—the Truth in Lending Act and the Equal Credit Opportunity Act—given virtually identical authority to the Board. In keeping

with the broad powers given the Board under those acts, this provision authorizes the Board to prescribe regulations containing classifications, differentiations or other provisions which the Board deems necessary. Moreover, such regulations should not only attempt to effectuate the purpose of the act, prevent circumvention or evasion and facilitate compliance, but just as importantly, should strive to provide whatever flexibility is needed in order to foster the continuing evolution of electronic fund transfer technology.

Mr. BARNARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BARNARD. Mr. Chairman, the amendments in this series are purely technical amendments which we have reviewed in very careful detail with the majority as well as the minority. They are very much needed, and I think they will improve the bill.

Mr. ANNUNZIO. Mr. Chairman, will the distinguished gentleman from Georgia yield?

Mr. BARNARD. I yield to the gentleman from Illinois.

Mr. ANNUNZIO. Mr. Chairman, I want to express my appreciation to the gentleman from Georgia for his contribution to this legislation. I have examined the amendments which are technical in nature. They further help to clarify the bill and I am ready to accept them on this side.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Ohio.

Mr. WYLIE. Mr. Chairman, these amendments have been discussed by the gentleman from Georgia (Mr. BARNARD), the gentleman from Illinois (Mr. ANNUNZIO) and I, and worked out. I think, again, they are clarifying. They clear up some ambiguities which might otherwise arise.

Mr. Chairman, I am happy to accept the amendments.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I have looked at these amendments. I appreciate the gentleman from Georgia discussing them with us. They permit us to clarify some points of concern.

One point I am concerned about is this: I know the gentleman's intent is good in terms of section 904(b). I understand these people, with infrequent special transfers, are performing a special service which would exempt that type of transfers from the disclosure provisions of this bill.

I think it should be understood clearly that these are special and unusual transfers. If we are dealing with consumers, it may be the case in these instances, specifically where someone is not familiar with dealing with electronic funds transfer technology, they may have the most difficulty.

But the references I have heard and the examples the gentleman has given me have satisfied me generally, although it is a concern I have.

Mr. Chairman, I thank the gentleman for yielding.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, as I understand it, the reference in these amendments is to section 904(b) of the bill?

Mr. BARNARD. The gentlewoman is correct.

Mrs. FENWICK. That paragraph reads as follows:

> For any consumer account to or from which electronic fund transfers are being made and have been made by use of a card or other means of access prior to the date specified in section 924(a) the disclosures required under subsection (a) shall be made not later than . . .

How is the gentleman changing that section?

Mr. BARNARD. Mr. Chairman, what we are doing is making an exception to these infrequent transfers and transfers for a special purpose. As an example, what we are talking about is this: If one had a wire transfer which came about once a year or twice a year, it would not come under the province of this bill.

This is more for the convenience of the customer than it is to make an obligation on the part of the institution.

We have gone over this, and we think this law really applies more to transfers that would be of a regular nature. This would exempt those other types of transfers.

Mrs. FENWICK. How would the extraordinary ones be handled?

Mr. BARNARD. They would, of course, have to be specially authorized by the consumer or by the customer.

Mrs. FENWICK. I see. Mr. Chairman, I thank the gentleman.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, these amendments to which the gentlewoman from New Jersey just referred basically eliminate some unnecessary paperwork that could occur?

Mr. BARNARD. The gentleman is correct.

Mr. ROUSSELOT. Mr. Chairman, I compliment the gentleman from Georgia (Mr. BARNARD) for offering these amendments, and I compliment the chairman and the ranking minority member of the committee for accepting them, because they definitely improve the bill.

Mr. BARNARD. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Georgia (Mr. BARNARD).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to the bill?

If not, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PRICE) having assumed the chair, Mr. PANETTA, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 13007) to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services, pursuant to House Resolution 1278, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 314, nays 2, answered "present" 2, not voting 114 as follows:

[Roll No. 690]

YEAS—314

Addabbo	Brown, Mich.	Devine
Akaka	Brown, Ohio	Dickinson
Alexander	Broyhill	Dingell
Ambro	Buchanan	Dodd
Anderson, Calif.	Burgener	Drinan
Anderson, Ill.	Burke, Fla.	Duncan, Oreg.
Andrews, N.C.	Burke, Mass.	Edgar
Andrews, N. Dak.	Burleson, Tex.	Edwards, Ala.
Annunzio	Burlison, Mo.	Edwards, Calif.
Archer	Burton, Phillip	Duncan, Tenn.
Ashbrook	Byron	Edwards, Okla.
Ashley	Carney	Eilberg
Aspin	Carr	Emery
AuCoin	Carter	English
Badham	Cavanaugh	Erlenborn
Bafalis	Cederberg	Ertel
Baldus	Chappell	Evans, Colo.
Barnard	Chisholm	Evans, Del.
Baucus	Clausen, Don H.	Evans, Ga.
Bauman	Clawson, Del	Fary
Beard, R.I.	Clay	Fenwick
Beard, Tenn.	Coleman	Findley
Bedell	Collins, Ill.	Fisher
Beilenson	Collins, Tex.	Fithian
Benjamin	Conable	Flippo
Bennett	Conte	Flood
Bevill	Conyers	Florio
Biaggi	Corcoran	Flynt
Bingham	Cornell	Foley
Blanchard	Coughlin	Ford, Mich.
Blouin	Crane	Forsythe
Boggs	D'Amours	Fountain
Bolling	Daniel, Dan	Fowler
Bonior	Daniel, R. W.	Fuqua
Bonker	Danielson	Gammage
Bowen	Davis	Garcia
Brademas	de la Garza	Gaydos
Brinkley	Delaney	Gilman
Brodhead	Dellums	Ginn
Brown, Calif.	Derrick	Glickman
	Derwinski	Goldwater
		Gonzalez

Goodling	Madigan	Rousselot
Gore	Maguire	Roybal
Mahon	Mann	Ryan
Gradison	Markey	Santini
Grassley	Marks	Satterfield
Green	Marlenee	Scheuer
Guyer	Martin	Schroeder
Hall	Mathis	Schulze
Hamilton	Mazzoli	Seiberling
Hammer-schmidt	Meeds	Sharp
	Mikulski	Sikes
Hanley	Mikva	Simon
Hannaford	Miller, Ohio	Skubitz
Hansen	Mineta	Slack
Harkin	Minish	Smith, Iowa
Harris	Mitchell, Md.	Snyder
Heckler	Mitchell, N.Y.	Solarz
Hefner	Moakley	Spellman
Heftel	Moffett	Spence
Hightower	Mollohan	Staggers
Holland	Montgomery	Stark
Holt	Moore	Steed
Holtzman	Moorhead, Calif.	Steers
Howard		Steiger
Hughes	Murphy, Pa.	Stockman
Hyde	Murtha	Stokes
Ireland	Myers, Gary	Stratton
Jacobs	Myers, John	Studds
Jenkins	Myers, Michael	Stump
Johnson, Calif.	Natcher	Taylor
Jones, N.C.	Neal	Thompson
Jones, Okla.	Nedzi	Thornton
Jones, Tenn.	Nichols	Treen
Jordan	Nowak	Trible
Kasten	Oberstar	Udall
Kastenmeier	O'Brien	Ullman
Kazen	Obey	Van Deerlin
Kelly	Panetta	Vander Jagt
Keys	Patten	Vento
Kildee	Patterson	Volkmer
Kindness	Pepper	Walgren
Kostmayer	Perkins	Walker
Krebs	Pettis	Waxman
LaFalce	Pickle	Weaver
Lagomarsino	Pike	Weiss
Leach	Poage	Whalen
Lederer	Preyer	White
Leggett	Price	Whitley
Lehman	Pritchard	Whitten
Lent	Pursell	Wiggins
Levitas	Quillen	Wilson, Bob
Livingston	Rahall	Wilson, Tex.
Lloyd, Calif.	Railsback	Winn
Long, Md.	Rangel	Wirth
Lujan	Regula	Wolff
Lundine	Reuss	Wright
McClory	Rhodes	Wylie
McCloskey	Rinaldo	Yates
McCormack	Roberts	Yatron
McDade	Robinson	Young, Alaska
McEwen	Roe	Young, Fla.
McFall	Rogers	Zablocki
McHugh	Rooney	Zeferetti
McKay	Rose	
McKinney	Rosenthal	

NAYS—2

Gephardt	Moss

ANSWERED "PRESENT"—2

Krueger	Mattox

NOT VOTING—114

Abdnor	Fraser	Miller, Calif.
Ammerman	Frenzel	Moorhead, Pa.
Applegate	Frey	Mottl
Armstrong	Giaimo	Murphy, Ill.
Boland	Gibbons	Murphy, N.Y.
Breaux	Gudger	Nix
Breckinridge	Hagedorn	Nolan
Brooks	Harrington	Oakar
Broomfield	Harsha	Ottinger
Burke, Calif.	Hawkins	Pattison
Burton, John	Hillis	Pease
Butler	Hollenbeck	Pressler
Caputo	Horton	Quayle
Cleveland	Hubbard	Quie
Cochran	Huckaby	Richmond
Cohen	Ichord	Risenhoover
Corman	Jeffords	Rodino
Cornwell	Jenrette	Roncalio
Cotter	Johnson, Colo.	Rostenkowski
Cunningham	Kemp	Rudd
Dent	Latta	Runnels
Dicks	Le Fante	Ruppe
Diggs	Lloyd, Tenn.	Russo
Dornan	Long, La.	Sarasin
Downey	Lott	Sawyer
Early	Luken	Sebelius
Eckhardt	McDonald	Shipley
Evans, Ind.	Marriott	Shuster
Fascell	Metcalfe	Sisk
Fish	Meyner	Skelton
Flowers	Michel	Smith, Nebr.
Ford, Tenn.	Milford	St Germain
Stangeland	Tsongas	Watkins
Stanton	Tucker	Whitehurst
Symms	Vanik	Wilson, C. H.
Teague	Waggonner	Wydler
Thone	Walsh	Young, Mo.
Traxler	Wampler	Young, Tex.

The Clerk announced the following pairs:

Mr. Rodino with Mr. Milford.
Mr. Richmond with Mr. Mottl.
Mr. Le Fante with Mr. Abdnor.
Mr. Jenrette with Mr. Armstrong.
Mr. Breaux with Mr. Flowers.
Mr. Giaimo with Mr. Hillis.
Mr. Shipley with Mr. Nix.
Mr. Teague with Mr. Rudd.
Mrs. Lloyd of Tennessee with Mr. Caputo.
Mr. Brooks with Mr. Hubbard.
Mr. Dent with Mr. Quie.
Mr. Harrington with Mr. Cohen.
Mr. Metcalfe with Mr. Luken.
Mr. Sisk with Mr. Broomfield.
Mr. Breckinridge with Mr. Nolan.
Mr. John L. Burton with Mr. Ford of Tennessee.
Mr. Ammerman with Mr. Lott.
Mr. Early with Mr. Ruppe.
Mr. Diggs with Mr. Gudger.
Mr. Corman with Mr. Latta.
Mr. Cornwell with Mr. Butler.
Mrs. Burke of California with Mr. Eckhardt.
Mr. Boland with Mr. Pressler.
Mr. Applegate with Mr. Quayle.
Mr. Cotter with Mr. Fraser.
Mr. Dicks with Mr. Michel.
Mr. Downey with Mr. Gibbons.
Mr. Evans of Indiana with Mr. Marriott.
Mr. Fascell with Mr. Huckaby.
Mr. Hawkins with Mr. Kemp.
Mr. Ichord with Mr. Cleveland.
Mr. Long of Louisiana with Mr. Cunningham.
Mrs. Meyner with Mr. Dornan.
Mr. Miller of California with Mr. Fish.
Mr. Moorhead of Pennsylvania with Mr. Cochran of Mississippi.
Mr. Murphy of Illinois with Mr. Frenzel.
Mr. Waggonner with Mr. Tucker.
Mr. Vanik with Mr. Pease.
Mr. Tsongas with Mr. Risenhoover.
Mr. Pattison of New York with Mr. Roncalio.
Mr. Ottinger with Mr. Runnels.
Ms. Oakar with Mr. Skelton.
Mr. Rostenkowski with Mr. Watkins.
Mr. St Germain with Mr. Russo.
Mr. Traxler with Mr. Frey.
Mr. Charles H. Wilson of California with Mr. Hagedorn.
Mr. Young of Missouri with Mr. Harsha.
Mr. Horton with Mr. Hollenbeck.
Mr. Jeffords with Mr. Johnson of Colorado.
Mr. Sarasin with Mr. Sawyer.
Mr. Sebelius with Mr. Wydler.
Mr. Walsh with Mr. Thone.
Mr. Symms with Mr. Stanton.
Mrs. Smith of Nebraska with Mr. Stangeland.
Mr. Wampler with Mr. Shuster.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANNUNZIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill H.R. 13007, just passed by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR ORDERLY SHIPMENT OF OFFICIAL RECORDS AND PAPERS OF MEMBERS OF THE HOUSE OF REPRESENTATIVES

Mr. ANNUNZIO, from the Committee on House Administration, submitted a privileged report (Rept. No. 95–1477), on the resolution (H. Res. 1297) to provide for the orderly shipment of official records and papers of Members of the House of Representatives, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 3040, AMTRAK IMPROVEMENT ACT OF 1978

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 3040) to amend the Rail Passenger Service Act to extend the authorization of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–1478)

The commitee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3040) to amend the Rail Passenger Service Act to extend the authorization of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Amtrak Improvement Act of 1978".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 601(a)(1) of the Rail Passenger Service Act (45 U.S.C. 601(a)(1)) is amended—

(1) in clause (1) thereof (A) by striking out "except for" and all that follows through "sentence" and inserting in lieu thereof "including the payment of the additional operating expenses of the Corporation which result from the operation and maintenance of the Northeast Corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.)", (B) by striking out "and" immediately after "1977,", and (C) by inserting ", and not to exceed $600,000,000 for the fiscal year ending September 30, 1979" immediately after "1978";

(2) in clause (2) thereof (A) by striking out "and" immediately after "1977,", and (B) by striking out "1978:" and inserting in lieu thereof "1978, and not to exceed $130,000,000 for the fiscal year ending September 30, 1979, which shall include funds for expenditures for compatible equipment under section 703 (5) of the Railroad Revitalization and Regu-

latory Reform Act of 1976 (45 U.S.C. 853(5)); and";

(3) by striking out clause (3) and redesignating clause (4), and all references thereto, as clause (3); and

(4) in clause (3) thereof, as so redesignated, by inserting ", and not to exceed $25,000,000 for the fiscal year ending September 30, 1979" immediately after "1978".

(b)(1) Section 601(a)(2) of such Act (45 U.S.C. 601(a)(2)) is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(3)".

(2) Section 602(d) of such Act (45 U.S.C. 602(d)) is amended by striking out "clause (4)" and inserting in lieu thereof "clause (3)".

BUDGET ESTIMATES

SEC. 3. Subsection (b) of section 601 of the Rail Passenger Service Act (45 U.S.C. 601(b)) is repealed.

ROUTE REEXAMINATION

SEC. 4. (a) The Secretary of Transportation (hereinafter in this section referred to as the "Secretary"), in cooperation with the National Railroad Passenger Corporation (hereinafter in this section referred to as the "Corporation"), shall immediately develop preliminary recommendations for a route system for the Corporation which will provide an optimal intercity railroad passenger system, based upon current and future market and population requirements, including where appropriate portions of the Corporation's existing route system. In developing such recommendations, the Secretary shall consider—

(1) any unique characteristics and advantages of rail service as compared to other modes of transportation;

(2) the role that rail passenger service can play in helping meet the Nation's transportation needs while furthering national energy conservation efforts;

(3) the relationship of benefits of given intercity rail passenger services to the costs of providing such services, computing the benefits in passenger per train mile and revenues earned and computing the costs in loss or profit per passenger mile rather than total loss or profit per route;

(4) the transportation needs of areas lacking adequate alternative forms of transportation;

(5) frequency and fare structure alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service; and

(6) the adequacy of other transportation modes serving the same points to be served by the recommended route system.

(b) The Secretary shall, no later than May 1, 1978, develop and publish the preliminary recommendations described in subsection (a) of this section and submit a copy of such recommendations to the Rail Services Planning Office and to both Houses of the Congress. The Secretary shall at that time also provide copies of the preliminary recommendations to the Corporation, the Office of Rail Public Counsel, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation, and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act to represent railroad employees, and the United States Postal Service. In addition, copies of the preliminary recommendations shall be made available by the Secretary to interested persons at a reasonable cost. Such recommendations shall include—

(1) a recommended route system by end points and principal intermediate points to be served;

(2) quality and type of service recommended for each route, including frequency, speed, and classes of services offered;

(3) ranges of projected operating expenses, ridership, and revenues, by route, including a measure calculated by loss or profit per passenger mile and separated for non-State supported routes and State supported routes;

(4) an estimate of the equipment and facilities necessary to support the recommended system;

(5) a recommendation for coordinating passenger rail service at points on the system with other modes of transportation serving such points; and

(6) based upon the route level projections, an estimate of operating and capital appropriations required to operate the system for fiscal years 1980 through 1984.

(c) During the period beginning May 1, 1978, and ending August 31, 1978, the Rail Services Planning Office shall conduct public hearings on the preliminary recommendations developed by the Secretary under this section. Such public hearings shall be held in such places and at such times as the Office determines will afford the affected States and communities the greatest opportunity to participate. The Office of Rail Public Counsel, to the extent practicable, shall provide the services of attorneys and such other personnel as may be required in order to protect the interests of those communities and users of rail passenger service which the Director of the Office of Rail Public Counsel determines, for whatever reason (such as size or location), might not otherwise be adequately represented in the course of the hearings and evaluations which the Rail Services Planning Office is required to conduct. During such period, in addition to holding public hearings, the Rail Services Planning Office shall invite comment on such recommendations from the Corporation, the Interstate Commerce Commission, the Secretary of Energy, the Governor, department of transportation and public utilities commission of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act to represent railroad employees, interested citizens groups, and the United States Postal Service.

(d) The Rail Services Planning Office shall, no later than September 30, 1978, submit to the Secretary a summary and analysis of the evidence received in the course of its proceedings conducted under subsection (c) of this section, together with its critique and evaluation of the preliminary recommendations of the Secretary. The Secretary shall thoroughly consider the material submitted by the Office with respect to such recommendations and, based on such consideration (and further evaluations of the Secretary), develop final recommendations for a route system for the Corporation as he deems appropriate. In developing such final recommendations, the Secretary shall also consider the impact of such recommendations upon existing tourism markets and the potential for future tourism in areas to be served by the recommended route system. Such final recommendations shall include a summary of the significant recommendations received, together with the reasons for adopting or not adopting any such recommendation.

(e)(1) The Secretary shall, no later than December 31, 1978, submit the final recommendations designating the basic route system, together with supporting and explanatory material, to both Houses of the Congress and to the Committee on Appropriations and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate. The final recommendations shall be deemed approved, and shall take effect, at the end of the first period of 90 calendar days of continuous session of the Congress after such date of submission, unless either the House of Representatives or the Senate adopts a resolution during such period stating that it does not favor such final recommendations.

(2) If either the House of Representatives or the Senate adopts a resolution of disapproval under paragraph (1), the Secretary shall, within 45 days after the date of adoption, determine and resubmit a revised recommendation. Each such revised plan shall be submitted to the Congress for review pursuant to paragraph (1) of this subsection.

(3) For the purposes of this subsection—

(A) continuity of a session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment for more than 3 days to a day certain are excluded in computing the 90-day period.

(f) Notwithstanding any other provision of law, the route system of the Corporation in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, except with respect to those routes initiated by the Corporation subsequent to January 1, 1978, pursuant to section 404(a) of the Rail Passenger Service Act (45 U.S.C. 564(a)). Nothing in this subsection shall be construed by the Corporation as precluding the rerouting of existing rail passenger service, or construed as requiring the Corporation to maintain service provided under an agreement with a State pursuant to section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) if such State fails to meet its share of the costs of such service or requests discontinuance of such service.

(g) Subject to subsection (f) of this section, immediately upon approval of the final recommendations of the Secretary, the Corporation shall implement the basic route system designated in such recommendations and shall complete such implementation as soon thereafter as possible, but in no event later than 12 months after the date of such approval.

(h)(1) The provisions of section 404(c)(1) of the Rail Passenger Service Act (45 U.S.C. 564(c)(1)), including the criteria and procedures developed under such section, shall not apply to the preliminary or final recommendations developed by the Secretary under this section. After the date of approval of the basic system designated in the final recommendations of the Secretary, any additions, deletions, or modifications in such basic system may be made by the Corporation in accordance with the criteria and procedures developed under such section 404(c)(1).

(2) During the period beginning on the date of enactment of this section, and ending 12 months after the date of approval of the new basic route system designated by the Secretary under this section, the provisions of section 801(a) of the Rail Passenger Service Act (45 U.S.C. 641(a) (including the regulations of the Commission promulgated thereunder) shall not apply to the development or implementation of the new basic system.

(i) Subject to subsection (f) of this section, the basic system designated in the final recommendations of the Secretary shall, after the date upon which such recommendations are approved, supersede any other system or route previously in effect.

RAIL PASSENGER SERVICE REPORT

SEC. 5. Section 703(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(2)) is amended—

(1) by inserting "(A)" immediately after "TRANSPORTATION.—"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) Within one year after the date of the enactment of this subparagraph, the submission by the Secretary to the Congress of a report on the conflict between the needs of commuter rail passenger service and the needs of intercity rail passenger service in the Northeast Corridor and on the allocation of access rights to key Northeast Corridor terminals, especially Pennsylvania Station in New York, New York.".

STUDY OF RELATIONSHIP OF AMTRAK FARE STRUCTURE TO THE INTERCITY BUS INDUSTRY

SEC. 6. The Comptroller General shall, in consultation with the Secretary of Transportation and the Interstate Commerce Commission, conduct a study of the economic relationship of the fare structure of the National Railroad Passenger Corporation to the intercity bus industry. The Comptroller General shall, no later than December 31, 1978, submit a report to the Congress setting forth the results of such study.

HEARINGS ON UNFAIR OR PREDATORY PRACTICES

SEC. 7. Notwithstanding the provisions of section 306 of the Rail Passenger Service Act (45 U.S.C. 546), the Interstate Commerce Commission shall have, upon the application of any aggrieved motor carrier, jurisdiction under any applicable provision of part 1 of the Interstate Commerce Act over any rate, fare, charge, or marketing practice of the National Railroad Passenger Corporation with respect to any route or service which operates at a loss for the purpose of hearing the complaint over an unfair or predatory practice.

NORTHEAST CORRIDOR

SEC. 8. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is amended—

(1) in paragraph (1)(A)(i) thereof, by inserting "at most" immediately before "a 3-hour-and-40-minute" and "a 2-hour-and-40-minute", respectively;

(2) in paragraph (1)(B) thereof, by inserting "or other responsible parties" immediately after "(or local or regional transportation authorities)"; and

(3) by adding at the end thereof the following new paragraph:

"(5) COMPATABLE EQUIPMENT.—The Secretary shall develop economical and reliable rolling stock and related equipment designed to be compatible with the track, operating, and marketing characteristics of the Northeast Corridor at and after the completion of the Northeast Corridor improvement project, including the capability to reliably meet the trip times set forth in paragraph (1)(E) of this section in regularly scheduled revenue service in the Northeast Corridor. The Secretary shall consult with the Corporation in the development of such equipment. Before purchasing such equipment with Federal financial assistance, the Corporation shall obtain the Secretary's concurrence that the equipment meets the goals specified in this paragraph. The Corporation shall submit requests for authorization of appropriations for the production of such equipment and shall, together with the Secretary, include equipment planning in the reports required by paragraph (1)(E) of this section.".

EXPENSES OF ELECTRIFICATION CONVERSION

SEC. 9. Section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1)) is amended by inserting immediately before the semicolon at the end thereof the following: ", of which not less than $27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast Corridor pursuant to this title".

PURCHASES OF DOMESTIC ARTICLES, MATERIALS, AND SUPPLIES

SEC. 10. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(j)(1) Except as provided in paragraph (2) or (3) of this subsection, the Corporation shall purchase only—

"(A) unmanufactured articles, materials, and supplies which have been mined or produced in the United States; and

"(B) manufactured articles, materials, and supplies which have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

"(2) The Secretary may, upon application of the Corporation, exempt the Corporation from the requirements of paragraph (1) of this subsection with respect to the purchase of particular articles, materials, or supplies, if the Secretary determines that—

"(A) imposing such requirements with respect to such articles, materials, or supplies is inconsistent with the public interest;

"(B) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable; or

"(C) such articles, materials, or supplies or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

"(3) The provisions of this subsection shall not apply—

"(A) in any case in which the cost of the articles, materials, or supplies purchased is less than $1,000,000; or

"(B) in the case of articles, materials, or supplies purchased pursuant to a contract entered into before the date of enactment of this subsection.

"(4) For purposes of this subsection, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

FOR-PROFIT STATUS OF AMTRAK

SEC. 11. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by inserting "operated and managed as" immediately before "a for profit corporation".

COMMON STOCK OWNERSHIP

SEC. 12. The Secretary of Transportation shall evaluate the common stock ownership of the National Railroad Passenger Corporation and shall, no later than December 31, 1978, submit a report to the Congress setting forth his recommendations with respect to retention, retirement, or conversion of such common stock. In making such recommendations, the Secretary shall consider the best interests of the United States.

RAILROAD SAFETY SYSTEM PROGRAM

SEC. 13. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 807. RAILROAD SAFETY SYSTEM PROGRAM

"(a) No later than January 1, 1979, the Corporation shall, in consultation with railroad labor organizations, develop and implement a Rail Safety System Program for employees working on property owned by the Corporation. Such program shall be designed to serve as a model for other railroads to use in developing safety programs.

"(b) The Railroad Safety System Program required under this section shall include but not be limited to—

"(1) a periodic analysis of accident data, including primary and secondary causes, if known;

"(2) a periodic evaluation of the activities undertaken under the Program, particularly the specific steps taken in response to accident causes;

"(3) a periodic identification of the expenditures for occupational health and safety activities included in the Program;

"(4) a periodic identification of the reduction of costs, fatalities, and casualties resulting from accident prevention under the Program;

"(5) a periodic identification of direct accident costs, including claims arising out of such accidents; and

"(6) an identification and evaluation of such other information or data as the Corporation considers necessary or appropriate.".

CONVERSION OF RAILROAD TERMINALS

SEC. 14. Paragraphs (2), (3), and (5) of section 4(1) of the Department of Transportation Act (49 U.S.C. 1653(1)) (2), (3), and (5)) are amended by striking out "60 per centum" each place it appears and inserting in lieu thereof "80 per centum".

FACILITY AND SERVICE AGREEMENTS

SEC. 15. The third sentence of section 402 (a) of the Rail Passenger Service Act (45 U.S.C. 562(a)) is amended by inserting "or for the use of tracks and facilities" immediately after "provision of services".

REIMBURSEMENT FOR STAFF SERVICES

SEC. 16. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended by adding at the end thereof the following new sentence: "The State or agency shall be entitled to reimbursement for staff services in an amount equal to 3 per centum of the Corporation's share of operating losses and associated capital costs.".

PETITIONS TO THE INTERSTATE COMMERCE COMMISSION

SEC. 17. Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended—

(1) by redesignating paragraphs (2) and (3), and all references thereto, as paragraphs (3) and (4), respectively; and

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) Whenever a State, regional, or local agency requests the Corporation to institute service pursuant to this subsection, or to enter into a contract or other agreement or modify an existing contract or agreement relating to rates, fares, charges, scheduling, marketing, or operations of service provided pursuant to this subsection, and the Corporation fails to institute such service or to enter into or modify such contract or agreement, as the case may be, such State, regional, or local agency may petition the Commission for an order directing the Corporation to comply with its request. If the Commission determines, upon receipt of such a petition and after notice and an opportunity for a hearing, that the request which is the subject of such petition is consistent with the public interest and the purposes of this subsection, the Commission may enter an order directing the Corporation to comply with such request or to take such other action as the Commission considers appropriate.".

ADDITIONAL SERVICE

SEC. 18. Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) is amended by adding at the end thereof the following new subsection:

"(d) The Corporation is authorized to operate commuter rail passenger service under an agreement with a State (or local or

regional transportation agency) if such State or agency agrees to reimburse the Corporation for the avoidable cost of operating such commuter rail passenger service. For purposes of this subsection, the term 'commuter rail passenger service' means rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets and by morning and evening peak period operations.".

MAIL SERVICE

SEC. 19. The National Railroad Passenger Corporation shall utilize all feasible means, including taking into account the needs of the United States Postal Service in establishing schedules, to attract and service the bulk mail needs of the Postal Service.

EFFECTIVE DATES

SEC. 20. (a) Except as provided in subsection (b) or (c) of this section, the provisions of this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) The provisions of section 7 of this Act shall take effect on January 1, 1979.

(c) The amendments made by section 9 and section 16 of this Act shall take effect on October 1, 1978.

And the House agree to the same.

HARLEY O. STAGGERS,
FRED B. ROONEY,
RALPH H. METCALFE,
BARBARA A. MIKULSKI,
JAMES J. FLORIO,
SAMUEL L. DEVINE,
J. SKUBITZ,
Managers on the Part of the House.

HOWARD W. CANNON,
RUSSELL B. LONG,
DON W. RIEGLE,
JOHN C. DANFORTH,
HARRISON SCHMITT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3040) to amend the Rail Passenger Service Act to amend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

Senate bill

The Senate bill provided that this legislation may be cited as the "National Railroad Passenger Corporation Authorization Act of 1978".

House amendment

The House amendment provided that this legislation may be cited as the "Amtrak Improvement Act of 1978".

Conference substitute

The conference substitute is the same as the House amendment.

AUTHORIZATION OF APPROPRIATIONS

Senate bill

The Senate bill authorized $510 million for fiscal year 1979 for operating expenses; $120 million for fiscal year 1979 for capital expenditures; $25 million for fiscal year 1979 for debt reduction.

House amendment

The House amendment provided $600 million for fiscal year 1979 for operating expenses; $130 million for fiscal year 1979 for capital expenditures; $25 million for fiscal year 1979 for debt reduction.

Conference substitute

The conference substitute is the same as the House amendment.

BUDGET ESTIMATES

Senate bill

No provision.

House amendment

The House amendment amended the Rail Passenger Service Act to repeal subsection (b) of section 601 of such Act, which, in part, provided that "no officer or agency of the United States shall have any authority to require the corporation to submit its legislative recommendations, proposed testimony, or comments on legislation to any officer or agency of the United States for approval, comments, or review, prior to submission of such recommendations, testimony, or comments to the Congress".

Conference substitute

The conference substitute is the same as the House amendment.

ROUTE REEXAMINATION

Senate bill

The Senate bill provided for a reexamination of the Amtrak system by both the Secretary of Transportation, the Rail Services Planning Office, and the Congress. The Secretary was to present to the Congress a preliminary recommendation on May 1, based, in part, upon the adequacy of alternative forms of transportation and the impact of frequency and fare structure alternatives. The Rail Services Planning Office was to conduct public hearings on the preliminary recommendations during the summer of 1978. The Secretary was to submit a final recommendation by December 31, 1978, and the Congress was to be given a 60-day period in which to adopt a resolution of disapproval. If neither the House nor the Senate adopted such a resolution, the Secretary's recommendations would have been deemed approved and would have taken effect at the end of the 60-day period. In the event either House of Congress adopted a resolution of disapproval, the Secretary was to submit revised recommendations which were to be subject to the same congressional review process as the original recommendations.

The route reexamination procedure, as outlined in the Senate bill closely paralleled the procedures set forth in the Regional Rail Reorganization Act of 1973 for development and adoption of the Final System Plan. Under section 208 of the Regional Rail Reorganization Act of 1973, either House of Congress was given the authority to disapprove the plan submitted by the United States Railway Association. The Senate believed that the procedure worked well for the final system plan and incorporated a similar procedure for the Amtrak route reexamination.

During the lengthy process of public hearings, departmental recommendations, and congressional approval of the new route structure, provisions in present law relating to institution of new service were to be suspended. The reason was that the implementation process for the new route system is itself a procedure that becomes a substitute for sections 403 and 404 of the Rail Passenger Service Act. These are the two sections that relate to route and service criteria and procedures. However, the suspension was to be applicable only to the proposed new route structure, not the existing route structure.

The Senate intended that Amtrak immediately begin the process of utilizing its criteria and procedures for making route and service decisions. The authority to make these determinations was given to Amtrak's Board of Directors in the Amtrak Improvement Act of 1975. The route criteria process ranks all of Amtrak's routes, selects the lowest ranking ones for intensive analysis, and provides procedures for discontinuing or changing routes that fail to meet all standards, including the projected effects (versus costs) of possible improvements. Amtrak's criteria used to judge the performance of the routes are based on economic as well as social and environmental factors. While these two latter standards are sometimes unclear as a result of subjective interpretations, Amtrak itself, according to its testimony, considers the criteria to be sufficiently precise to perform their function of grading routes and providing guidance to the Amtrak Board in its decisions on whether or not to retain or change a route or services. The Senate believed that the system could be significantly strengthened by eliminating those trains that represent the worst financial drag; and, when the new fiscal year begins on October 1, 1978, the transition to a somewhat reduced but more efficient passenger train network will be well underway.

House amendment

Subsection (a) of section 4 of the House amendment directed the Secretary of Transportation, in cooperation with Amtrak, immediately to develop preliminary recommendations for an Amtrak route structure which will provide an optimal intercity railroad passenger system, based upon current and future market and population requirements, including where appropriate portions of the existing route structure. In developing these recommendations, the Secretary was required to consider any unique advantages of rail service vis-a-vis other modes of transportation; energy conservation aspects of rail passenger service; the relationship between the benefits and cost of providing such service, computing the costs in loss or profit per passenger mile rather than total loss or profit per route; the transportation needs of areas lacking adequate alternative forms of transportation; and the impact of service frequency alternatives on ridership, revenues and expenses.

Subsection (b) of section 4 of the House amendment required the Secretary to submit the preliminary recommendations to Congress no later than May 1, 1978. Copies were to be submitted to various persons and entities interested in and potentially affected by the recommendations. The preliminary recommendations were to include a recommended route. The recommendations were required to contain an estimate served; quality and type of service for each recommended route; and ranges of projected operating expenses, ridership, and revenues by route. The recommendations also were regulated to contain an estimate of equipment and facilities for the recommended system, a recommendation for coordinating service proposed in the recommendations with that of other transportation modes; and an estimate of operating and capital appropriations required to operate the recommended system for fiscal years 1980 through 1984.

Subsection (c) of section 4 of the House amendment required the Rail Services Planning Office (RSPO) to conduct public hearings on the preliminary recommendations during the period from May 1, 1978 to August 31, 1978. The hearings were to be held in such a manner so as to afford affected States and communities maximum possible participation. RSPO was also required to

invite comments on the recommendations from certain persons and entities interested in and potentially affected by the recommendations.

Subsection (d) of section 4 of the House amendment required RSPO to submit to the Secretary by September 30, 1978, a summary and analysis of the hearings and an evaluation of the preliminary recommendations. The Secretary was required to consider this input in developing final recommendations for an Amtrak route structure. He was also required to consider the impact of these recommendations upon existing and potential tourism markets. The final recommendations were to include a summary of significant recommendations received by the Secretary and reasons for adopting or rejecting each of those recommendations.

Subsection (e)(1) of section 4 of the House amendment required the Secretary to submit the final recommendations with explanatory analyses to both Houses, and certain Committees of Congress, by December 31, 1978. These recommendations were to be effective only if both Houses adopted a resolution of approval. If either House passed a resolution of disapproval, the Secretary was to prepare and submit revised final recommendations for Congressional review in the manner described above.

Subsection (e)(2) of section 4 of the House amendment provided that the Amtrak route system in effect on January 1, 1978 shall not be modified or restructured prior to October 1, 1979. Minor exceptions to this requirement were the addition by Amtrak of routes or services discontinued by other railroads pursuant to section 404(a) of the Rail Passenger Service Act and the rerouting of existing service. In addition, Amtrak was not required to maintain service provided to a State under section 403(b) of the Rail Passenger Service Act if the State failed to pay its share of section 403(b) costs or requests discontinuance of the service.

Subsection (e)(3) of section 4 of the House amendment provided that upon approval of the final recommendations, Amtrak was required to commence implementation of the recommended system and complete implementation as soon as possible.

Subsection (f) of section 4 of the House amendment provided that section 404(c)(1) of the Rail Passenger Service Act and the criteria for route and service additions, modifications, and deletions, developed discontinuances thereunder shall not apply to the preliminary or final recommendations. After the final recommendations were approved by Congress, the route and service criteria were to be employed to alter the new system.

Subsection (g) of section 4 of the House amendment required RSPO, in the course of the conduct of the public hearings, to evaluate alternatives to the existing Amtrak organizational structure and of Amtrak's relationship to the Federal government, including the Office of Management and Budget, the Secretary, and Congress.

Conference substitute

The conference substitute follows the House amendment but contains several important provisions from the Senate bill. The overall outline of the route reexamination is as follows: (a) development of preliminary recommendations by the Department of Transportation; (b) publication and submission to the Congress of the preliminary recommendations; (c) hearings conducted by the Rail Services Planning Office on the preliminary recommendations; (d) submission to the Secretary of the Rail Services Planning Office's recommendations; (e) submission by the Secretary to the Congress of the final recommendations and subsequent approval of those recommendations by the Congress; (f) starting date for modifications or restructuring of the route system; (g) completion date for final implementation; (h) suspension of Discontinuance of Service requirements and ICC Adequacy of Service regulations regarding the final plan; and (i) preemption of the existing route system by the final plan.

The conferees believe that the Secretary of Transportation, in developing his recommendations on the new route system, should examine fare structure alternatives and their impact on ridership, revenues and expenses of Amtrak. There is a serious need on the part of Amtrak, to increase its revenues in order to reverse the rising level of Federal financial support for operations. The conferees are cognizant of the fact that the elasticity of demand for rail passenger service may well vary from route to route, or even season to season, but the conferees strongly feel that Amtrak fares must be altered to reflect, more appropriately, the true cost of providing passenger services.

It is the intention of the conferees, in establishing the route reexamination procedure, to encourage a broad level of public participation in order to focus attention on the rail passenger needs of the public and the costs and benefits associated with rail passenger operations. As a result, the conferees have endorsed the activities of the Office of Rail Public Counsel to provide legal services to communities and users of rail passenger service which might not otherwise be adequately represented during the course of the summer hearings.

In addition to the criteria set forth in both the Senate and House versions for the Secretary to use in developing his recommendations, the conferees wish to point out the importance of tourism and the impact rail passenger service may have on the tourism industry. Many States, particularly in the West, do not exhibit high concentrations of population, but rely heavily on tourism to maintain their economic growth. In areas where alternative modes of transportation are lacking, the relative importance of rail passenger transportation to tourism should be weighed heavily in the Secretary's final recommendations.

The conferees have established a procedure for final approval of the recommended route plan that, while granting adequate time for congressional study and review, will not be overly burdensome and time consuming to the new Congress. The Secretary of Transportation will submit his final recommendations to the Congress by December 31, 1978 and the Congress will be given a period of 90 calendar days of continuous sessions in which to adopt a resolution of disapproval. If neither House of Congress adopts such a resolution, the final recommendations will be considered approved at the end of the 90-day period. In the event either House of Congress adopts a resolution of disapproval, the Secretary will submit a revised recommendation with 45 days which will be subject to the same congressional review process as the original recommendation. This procedure parallels the procedures set forth in the Regional Rail Reorganization Act of 1973 for development and adoption of the Final System Plan. The conferees believe that the procedures worked well for the Final System Plan and as a result, have recommended that a similar procedure be followed for the Amtrak route reexamination.

The conferees, in assessing the merits of an immediate restructuring of the Amtrak route system upon final approval of the Secretary's plan, have agreed that no modifications or restructuring should occur until the start of fiscal year 1980. The conferees believe that the uncertainty over the final date of approval, the costs of transition to the new route system, and the level of public confusion over new routings during the peak spring and summer months support the adoption of a "freeze" on the route system until the new fiscal year. However, the conferees wish to emphasize that the freeze relates only to train routes and not to internal operations or fare changes. The conferees do not wish to preclude or discourage any management decisions that may help to decrease Amtrak's operating deficit. Furthermore, the conferees wish to point out that although the route system is frozen until October 1, 1978, Amtrak management should begin planning for implementation of the new system immediately upon approval of the final recommendations and shall complete such implementation as soon thereafter as possible, but in no event later than 12 months after the date of approval.

Finally, the conference substitute contains two provisions suspending sections 404(c)(1) (Discontinuance of Service) and 801(a) (Adequacy of Service) of the Rail Passenger Service Act for the purposes of implementing the new route system. The conferees believe these requirements, as relating solely to the new route system, would be too burdensome to Amtrak in planning and implementing the new system.

RAIL PASSENGER SERVICE REPORT

Senate bill

No provision.

House amendment

Section 5 of the House amendment amended section 703(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 to require within 1 year, the submission by the Secretary to the Congress of a report on the conflict between the needs of commuter rail passenger service and intercity rail passenger service in the Northeast Corridor and on the allocation of access rights to key Northeast Corridor terminals.

Conference substitute

The conference substitute is the same as the House amendment.

STUDY OF RELATIONSHIP OF AMTRAK FARE STRUCTURE TO THE INTERCITY BUS INDUSTRY

Senate bill

No provision.

House amendment

Section 6 of the House amendment stated that the Comptroller General shall, in consultation with the Secretary of Transportation and the Interstate Commerce Commission, report on the economic relationship of the fare structure of the National Railroad Passenger Corporation to the intercity bus industry no later than December 31, 1978.

Conference substitute

The conference substitute is the same as the House amendment.

HEARINGS ON UNFAIR OR PREDATORY PRACTICES

Senate bill

No provision.

House amendment

Section 7 of the House amendment stated that notwithstanding the provisions of section 306 of the Rail Passenger Service Act, the Interstate Commerce Commission shall have, upon the application of any aggrieved motor carrier, jurisdiction under any applicable provision of Part I of the Interstate Commerce Act over any rate, fare, charge, or marketing practice of the National Railroad Passenger Corporation with respect to any route unfair or service which operates at a loss for the purpose of hearing the complaint over unfair or predatory practices. The ICC's jurisdiction under Part I of the Interstate Commerce Act, for the limited purpose of the conduct of the hearing, is contingent upon the aggrieved motor carrier filing a petition before the Commission. Where appropriate the Commission may consider any such petitions on a consolidated basis.

Conference substitute

The conference substitute is the same as the House amendment.

NORTHEAST CORRIDOR

Senate bill

Section 4 of the Senate bill amended section 703 of the Railroad Revitalization and Regulatory Reform Act (4–R Act) by (a) including "other responsible parties" as eligible for the Federal matching share program for the improvement of nonoperating portions of stations used in intercity rail passenger service, and (b) adding a new subsection that directed the Secretary of Transportation, in consultation with Amtrak, to develop rolling stock and equipment that is compatible with the design of the Northeast Corridor project and directed Amtrak to obtain the Secretary's concurrence before purchasing any such equipment with Federal financial assistance.

House amendment

Section 8 of the House amendment was similar but (a) included a technical clarification providing that the statutory trip time goals were to be construed as maximum goals, and (b) did not require Amtrak to obtain the Secretary's concurrence before purchasing compatible equipment for the Northeast Corridor project.

Conference substitute

The conference substitute follows the House amendment but includes the Senate provision directing Amtrak to obtain the Secretary's concurrence on equipment purchases.

EXPENSES OF ELECTRIFICATION CONVERSION

Senate bill

No provision.

House amendment

Section 9 of the House amendment earmarks not less than $27 million of the funds provided in section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 for the purpose of equipment modification or replacement which will be necessary as a result of the modernization of the Northeast Corridor.

Conference substitute

The conference substitute is the same as the House amendment.

PURCHASES OF DOMESTIC ARTICLES, MATERIALS, AND SUPPLIES

Senate bill

Section 6 of the Senate bill provided that no grant of more than $1 million could be made for the purchase of steel or rolling stock unless substantially all the steel and rolling stock had been manufactured in the United States or unless the Secretary of Transportation determined that such requirement was inconsistent with the public interest, the cost of compliance was unreasonable or the materials could not reasonably be purchased in the United States.

House amendment

Section 10 of the House amendment amended Section 305 of the Rail Passenger Act to provide that all purchases amounting to more than $100,000 of unmanufactured articles, materials and supplies or manufactured articles, materials and supplies must be from the United States unless the Secretary of Transportation determined that such requirement was inconsistent with the public interest, the cost of compliance was unreasonable or the materials could not reasonably be purchased in the United States.

Conference substitute

The conference substitute follows the House amendment but sets the threshold amount at the Senate figure of $1 million.

FOR-PROFIT STATUS OF AMTRAK

Senate bill

No provision.

House amendment

The House amendment changed section 301 of the Rail Passenger Service Act to remove Amtrak's for-profit status but to require that the corporation be "operated and managed as" a for-profit corporation.

Conference substitute

The conference substitute is the same as the House amendment.

COMMON STOCK OWNERSHIP

Senate bill

No provision.

House amendment

Section 12 of the House amendment required the Secretary of Transportation to evaluate the common stock ownership of the National Railroad Passenger Corporation and report to Congress by December 31, 1978, on his recommendation with respect to retention, retirement, or conversion of such stock. In making his recommendation, the Secretary shall consider the best interest of the United States.

Conference substitute

Conference substitute is the same as the House amendment.

RAILROAD SAFETY PROGRAM

Senate bill

No provision.

House amendment

Section 13 of the House amendment directed the corporation to develop and implement a rail safety program following but not limited to specific criteria enumerated in subsection (b) of the section. The House amendment contained a specific authorization of $250,000.

Conference substitute

The conference substitute is the same as the House amendment except for the specific authorization of $250,000. It is the intention of the conferees that the corporation pay for the development and implementation of the Rail Safety System Program out of operating funds. It is anticipated that the development of the program will provide an opportunity for the corporation to pull together, coordinate and upgrade existing safety programs at all of its facilities and in all of its operations so that the program may serve as a model of safety performance for the rest of the industry.

CONVERSION OF RAILROAD TERMINALS

Senate bill

No provision.

House amendment

Section 14 of the House amendment raises the Federal share for projects to convert or modernize railroad terminals from 60 percent to 80 percent.

Conference substitute

The conference substitute is the same as the House amendment.

FACILITY AND SERVICE AGREEMENTS

Senate bill

The Senate bill amended section 402(a) of the Rail Passenger Service Act to provide that compensation for both services and the use of tracks and facilities was to be based on an "avoidable" cost concept. The Senate bill defined avoidable costs as those reasonable and necessary expenses which would be incurred by the railroad in providing service to Amtrak which the railroad could establish it would not incur if such service to Amtrak did not exist. The Senate bill explicitly excluded from avoidable costs fixed common costs, allocation of any common costs which do not vary as a consequence of providing the service return on investment, rent, and any other costs which the carrier cannot establish that it would not have reasonably and necessarily incurred but for the existence of the service. Finally, the Senate bill provided detailed standards for fixing incentive compensation for the provision of services.

House amendment

No provision.

Conference substitute

The conference substitute amends section 402(a) of the Rail Passenger Service Act by directing the ICC, in fixing "just and reasonable" compensation, to include tracks and facilities under the incremental cost concept. The conference substitute changes the law to permit incentives for good quality track and facilities. The conferees do not intend to affect any existing contracts between railroads and Amtrak. Neither do the conferees intend for incentive payments to be made only for improvement in track and facilities. Incremental costs now become the threshold for determining "just and reasonable" compensation should the Commission have to resolve the matter. Furthermore, the conferees expect the Commission and the courts to give this amendment prospective application only.

REIMBURSEMENT FOR STAFF SERVICES

Senate bill

No provision.

House amendment

Section 15 of the House amendment changed section 403(b)(1) of the Rail Passenger Service Act to provide that a State which has entered into an agreement with Amtrak for provision of rail passenger service shall be entitled to reimbursement for staff services in an amount equal to 3 percent of Amtrak's 50 percent share of the operating losses and associated capital costs of such service.

Conference substitute

The conference substitute is the same as House amendment.

PETITIONS TO THE INTERSTATE COMMERCE COMMISSION

Senate bill

No provision.

House amendment

Section 16 of the House amendment changed section 403(b)(1) of the Rail Passenger Service Act to permit a State, regional or local transportation agency whose request to Amtrak to institute service under section 403(b)(1) or to modify any aspects of such service has been refused to petition the Commission for an order directing Amtrak to comply with the request. If the Commission determines, after notice and hearing, that the request is consistent with the public interest and the purposes of section 403(b)(1), it may order Amtrak to comply with the request or to take other appropriate action.

Conference substitute

The conference substitute is the same as the House amendment.

ADDITIONAL SERVICE

Senate bill

No provision.

House amendment

Section 17 of the House amendment added a new section to section 403 of the Rail Passenger Service Act giving Amtrak discretionary authority to enter into contracts with the States or local or regional transportation agencies for the operation of commuter rail passenger service. The section provided that Amtrak should receive reimbursement on an avoidable cost basis taking into account revenues attributable to the provision of such service.

Conference substitute

The conference substitute is the same as the House amendment.

MAIL SERVICE

Senate bill

No provision.

House amendment

Section 19 of the House amendment directed Amtrak to utilize all feasible means, including taking into account the needs of the Postal Service in establishing schedules,

to attract and service the bulk mail needs of the U.S. Postal Service.

Conference substitute

The conference substitute is the same as the House provision.

EFFECTIVE DATES

Senate bill

No provision.

House amendment

Section 18 of the House amendment provided that those sections relating to electrification conversion and staff services would not take effect until October 1, 1978; all other provisions would take effect upon adoption of the bill.

Conference substitute

The conference substitute is the same as the House amendment except that the section relating to ICC hearings on unfair or predatory practices will not take effect until January 1, 1979.

HARLEY O. STAGGERS,
FRED B. ROONEY,
RALPH H. METCALFE,
BARBARA A. MIKULSKI,
JAMES J. FLORIO,
SAMUEL L. DEVINE,
J. SKUBITZ,
Managers on the Part of the House.
HOWARD W. CANNON,
RUSSELL B. LONG,
DON RIEGLE,
JOHN C. DANFORTH,
HARRISON SCHMITT,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO FILE REPORT ON H.R. 11979

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce may have until midnight tonight to file a report on the bill, H.R. 11979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON AGRICULTURE TO MEET DURING SESSIONS OF THE HOUSE NEXT WEEK

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture may be permitted to meet next week during sessions of the House under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, the gentleman from Washington (Mr. FOLEY) knows better than the gentleman from Maryland that if these meetings are for the purpose of marking up the grain reserve bill there are a lot of members of the gentleman's committee opposed to that. I think that at 20 minutes to 3 on a Friday, with 10 Members required for an objection, it is a little bit difficult for the Members to work their will on this matter.

Mr. FOLEY. If the gentleman will yield, Mr. Speaker, I might advise the gentleman that the so-called international grain reserve bill or international wheat emergency reserve legislation has been marked up by the committee, is in a committee print, and is pending as the first order of business on Tuesday for a pro forma final vote on the committee. All of the amendments have been considered on the bill, and it is ready for reporting.

Mr. BAUMAN. Further reserving the right to object, Mr. Speaker, the problem is that under the new rules, 10 Members are required to object, and it is now 20 minutes to 3. There was no notice of the request given beforehand.

Mr. ROUSSELOT. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard. The Chair will state that it takes 10 Members to object. The objectors will have to remain standing.

(Messrs. ROUSSELOT, BAUMAN, GRASSLEY, ASHBROOK, CONABLE, DERWINSKI, CORCORAN of Illinois, DEL CLAWSON, WYLIE, and HAMMERSCHMIDT objected.)

The SPEAKER pro tempore. A sufficient number have objected.

Objection is heard.

PERMISSION FOR COMMITTEE ON AGRICULTURE TO MEET DURING SESSIONS OF THE HOUSE NEXT WEEK

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that, except for consideration of the international grain reserve bill, the Committee on Agriculture may be permitted to meet next week during sessions of the House under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, why is it necessary to take up all these bills in committee now? We have a tremendously overcrowded legislative schedule for the floor next week.

Why does the gentleman want to deny the members of the Committee on Agriculture the chance to be here and participate in all of these pieces of legislation, just listed by the majority leader?

Mr. FOLEY. If the gentleman will yield, Mr. Speaker, I will tell the gentleman that the committee has several bills pending and awaiting action, which are, in the judgment of the chairman himself, not controversial. If we can have an opportunity to report them out, I think next week is going to conclude most of our committee business.

Mr. ROUSSELOT Further reserving the right to object, could we know what those bills are?

Mr. FOLEY. There are several bills naming various agricultural research stations.

Mr. ROUSSELOT. What is that again?

Mr. FOLEY. Several bills to designate the names of agricultural research stations on behalf of some of our colleagues, past and present. There is legislation to require reporting of foreign land transactions, registration of transactions in agricultural land involving foreign sources.

Mr. ROUSSELOT. Those are the only two bills; is that correct?

Mr. FOLEY. In the category of institutions.

Mr. ROUSSELOT. If it is just those two bills? How important is it to name agricultural stations after our colleagues? Do we really need to have the committee meeting during an already short week? There is an extremely full schedule next week. Is the gentleman aware of the schedule next week?

Mr. FOLEY. I have the schedule in front of me, I will tell the gentleman.

Mr. ROUSSELOT. The gentleman puts an unfortunate demand on members of his own committee when there is such a crowded schedule on the floor. It is difficult enough, as it is, to keep up with what is happening; and today is the deadline of the Committee on Rules to schedule bills.

Mr. FOLEY. Except for emergency situations, the gentleman is correct, unless the legislation should appear on the Suspension Calendar.

Mr. ROUSSELOT. The gentleman is not going to tell me that the naming of agricultural stations after our colleagues is pressing?

Mr. FOLEY. No; I would not say that those are the most important bills. They are, however, the most numerous. The two most significant bills are one which requires registration by foreign sources of ownership in agricultural land.

The gentleman from Iowa (Mr. GRASSLEY), a member of the committee, I believe, considers that a matter of some interest. It is of interest to him and to other Members of agricultural regions. He has been most outspoken about it and considers it important, I think, I will tell the gentleman. It is a significant problem today.

The second issue is the issue involving the agricultural transportation study. Many members of the committee feel very strongly that that is a serious problem in agriculture. Both the gentleman from Montana (Mr. MARLENEE) and the gentleman from Iowa (Mr. GRASSLEY), I think, will support this legislation.

Furthermore, many Members are interested in examining in a comprehensive way the particular problems facing agriculture in these respects.

However, if the gentleman wants to object, that is his prerogative.

Mr. ROUSSELOT. Further reserving the right to object, I have made my point. The gentleman understands it. If there are only those two or three bills, fine.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. BAUMAN. Reserving the right to object, do I understand from the colloquy that just occurred that those are the only bills that the gentleman asked permission for, and specifically the grain reserve bill is excluded?

Mr. FOLEY. If the gentleman will yield, I asked permisison, Mr. Speaker, for the committee to sit next week except for consideration of the grain bill. I do not by the colloquy suggest that that is a complete and exclusive list of the legislation pending before the committee, but if the gentleman from Iowa (Mr. GRASSLEY) has a bill, and others, and if the gentleman wants to exclude other bills except the ones I have named. I

would say there are seven or eight bills that deal with agricultural institutional titles, the bill I mentioned with respect to foreign agriculture registration, the bill I mentioned with respect to transportation study; and other members of the committee have bills that are pending, including members on the gentleman's side, and if the gentleman objects to consideration, I will be glad to take them off the calendar.

Mr. BAUMAN. I thank the gentleman for his clarification.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERSONAL EXPLANATION

Mr. AKAKA. Mr. Speaker, on rollcall No. 685, passage of H.R. 13511, Revenue Act of 1978, I was unavoidably detained in my office and I missed the vote on passage. Had I been present, I would have voted for the passage of H.R. 13511.

THE CONTINUING CASE FOR LOWERING THE MARGINAL TAX RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 5 minutes.

● Mr. KEMP. Mr. Speaker, last evening the House, in a surprisingly partisan vote, rejected a motion to recommit the Revenue Act of 1978, the tax bill, to the Committee on Ways and Means with instructions to report that bill back to the Committee on Ways and Means with instructions to report that bill back immediately to the House with the Kemp-Roth amendment to lower individual income tax rates by about 33 percent over the next 3 years included in its provisions.

But the morning's light has not changed the compelling necessity of enacting the Kemp-Roth legislation. One vote does not a struggle to save the economy make. For the committee's bill, which went on to pass the House, will still mean the American people will pay a staggering $262.5 billion in additional taxes between now and 1983. That is a quarter of a trillion extra tax dollars.

I want to take a look, from a new perspective, on why the case for Kemp-Roth remains so compelling.

THE PROBLEM

In the last decade, the U.S. economy has experienced a combination of problems unique in our history: stagnation and inflation.

The productivity of the economy has fallen steadily since the late 1960's. The value of the U.S. capital stock, as measured by the stock market, is roughly one-third its value (in real, noninflated terms) compared to February 1966. And the purchasing power of the U.S. dollar has fallen by roughly two-thirds in the 1970's.

Conventional economic wisdom has no solution to this malaise. It argues that inflation can only be decreased through austerity. Stagnation can only be overcome by inflation.

Monetary inflation has neutral production and incentive effects when a nation's tax system is proportional. That is, when the income tax is a flat rate, no amount of inflation can increase the real rate of taxation on income. If the rate is 10 percent and the loaf of bread is $1, the tax is 10 cents; in a 10-slice loaf, the baker gives the equivalent of one slice to the government. And if the monetary standard declines to the point where a loaf of bread is $1 million, the tax rate yields $100,000 to the government, also only enough to buy one slice of a 10-slice loaf. When the tax rate is progressive, a decline in the monetary standard automatically increases the number of slices the baker must give to the government out of each transaction. It is this phenomenon that discourages production by eroding incentives to produce.

WHAT IS THE CORRECT PRESCRIPTION?

Because inflation has increased the real rates of taxation on all suppliers of labor and capital—across the entire range of the progressive tax schedules—the solution to the problem of economic stagnation is to adjust real rates of taxation downward. The adjustment must come across the board because inflation has been operating across the board destroying incentives.

Since 1970, the U.S. monetary standard has declined by more than 60 percent. Thus, the U.S. dollar is worth less than 40 cents in 1970 purchasing power, as measured by the Consumer Price Index. To precisely offset the effects of this inflation would involve leaving the rates exactly where they are, but increasing the thresholds at which the marginal tax rates are encountered by 60 percent. For example, the 25-percent bracket is now encountered at $12,000. A correction would mean an upward adjustment of the threshold so the 25-percent bracket is not encountered until income is $19,200. At the top, the 70-percent bracket is now encountered by a married couple filing a joint return at $200,000. Adjustment for inflation would mean the 70-percent bracket would not be encountered until the couple's taxable income was $320,000.

The Kemp-Roth bill makes these adjustment by leaving the thresholds in place but lowering the rates by 10 percent each year over the next 3 years starting on January 1, 1979.

Why? Because moving the rates downward, instead of adjusting the thresholds upward, has a greater effect on increasing incentives to production. The top brackets, from 50 to 70 percent, are eliminated entirely by this reform, leaving the top rate at 50 percent. These high brackets, which yield trivial amounts of revenue to the Government, are nonetheless enormously high barriers to commerce, taking from five to seven slices from our baker's loaf. The Steiger-Hansen capital gains tax rate reduction bill also makes an important adjustment of marginal tax rates, reducing to 25 percent from roughly 50 percent the marginal tax rate on capital gains. This returns the rate to its position of 1969, the year in which the marginal rate on capital gains was doubled. This adjustment still does not take account of the inflation since 1969.

The Kemp-Roth and Steiger-Hansen bills effectively treat the stagnation component of the Nation's economic problem.

CONVENTIONAL CRITICISMS OF KEMP-ROTH

Because the conventional theories do not treat inflation as a special problem in an environment of progressive tax systems, they per force see no need to distinguish between average taxes and marginal tax rates. That is, in a world of stationary prices, a given tax rate has no dynamic effect. A 10-percent tax rate always generates the same revenue at a given nominal income. And a 70-percent tax rate always generates the same revenue at a given nominal income. But obviously there is a dynamic effect: A 70 percent tax rate will produce far more real income when $1 million buys 1 million loaves of bread than when it buys only one loaf. The instrument we use to examine this dynamic effect is the Laffer curve, which applies the law of diminishing returns to tax-rate policy. Once the critics of Kemp-Roth accept the dynamic analysis of the Laffer curve, as Prof. Walter Heller did in his July 12 essay in the Wall Street Journal, they become forced by logic—as we will see—to drift away from their own economic models.

By insisting on looking at averages rather than margins, the critics of Kemp-Roth can ask why West Germany, for example, does so much better than the United States these days when it spends 35 percent of its national income through the Government, and a mere 23 percent flows through Washington, D.C. The answer is that West Germany's marginal tax rates are lower than they are in the United States. This is true not only because the rates themselves are nominally lower (50 percent at the top, no capital-gains tax rate at all), but also because the German monetary authority has been much more restrained in money creation during the 1970's, with individuals not pushed as rapidly into higher tax brackets as they have been in in the United States. The lower rates, by encouraging greater production, increase the amount of revenues available to the Government to spend.

The exact reverse of West Germany's case can be observed in India, which taxes at such extraordinarily high income-tax rates (67 percent at $12,000), that there is only a dribble of revenues available for state spending. Only 9 percent of India's gross national product is spent by the National Government.

AVERAGES AND MARGINS

The Laffer curve is merely an instrument that enables us to think in dynamic, rather than static, terms when we consider the effects of inflation on marginal tax rates. The curve applies to individual economy activity, in which each individual faces a different marginal tax rate. It does not apply to average tax rates, which have no relevance in determining individual eco-

nomic activity. Yet critics of the Laffer curve and of Kemp-Roth, Steiger-Hansen, et cetera, insist on speaking of average taxes, average savings rates, and average incomes.

An individual earns $100,000 of taxable income and pays 30 percent to the Government in the taxable year. His average tax is 30 percent. At $100,000, though, the individual faces a marginal tax rate of 70 percent. If he puts forth $1 more in effort, the government takes not 30 cents, but 70 cents. Which rate has more disincentive effect? The average or the marginal? Through intuition and individual experience, we know our individual economic calculus focuses on the marginal rate of 70 percent when deciding whether or not to put forth the extra $1 of effort.

So, too, do we find the Keynesians questioning the argument that lower Federal income tax rates will so expand production that a temporary fall in Federal revenues, should one occur, will easily be financed through an expansion of savings—

Why, in the face of Laffer's assertions, has "Denison's Law" held true through thick and thin for the past 100 years or so? Edward F. Denison of Brookings has found that U.S. gross private domestic saving has been virtually invariant year-in and year-out in the face of high taxes, low taxes, or virtually no taxes.

This is from the statement of Professor Heller before the Joint Economic Committee of Congress on June 28. In this context, Professor Heller clearly does not understand that average savings rates need not increase at all in order that savings as a whole increase.

Production is a mathematical combination of consumption and savings. That is, everything that is produced is either consumed now or saved for future consumption. If high marginal tax rates are discouragaing production, both consumption and savings are limited thereby. If those unnecessarily high marginal tax rates are eased, thus encouraging greater production, both consumption and savings increase. The pie grows larger, and the slice of the production pie given over to future consumption remains exactly the same as a proportion of the pie. But its absolute size increases. Denison's law holds that the savings rate has been stuck for a century at 16 percent of the total pie. Observe, though, that by increasing the radius of an 8-inch pie to 10 inches, a 25 percent increase, the slice that is 16 percent of the total pie grows from 32 square inches to 50 square inches, a 56-percent increase. Denison's law is meaningless because it is a static tool, not a dynamic one. Denison's law is dead economics.

THE PROHIBITIVE RANGE

As a graphic depiction of the "law of diminishing returns," the Laffer curve simply states an eternal verity. There is a point at which adding an extra straw will break the camel's back. Liberal and conservative Keynesians alike now join in asserting that the point has not been reached in the U.S. economy. Here, again, is Professor Heller:

And even if there was something to the Laffer thesis, who is to say that we are in a high enough tax zone to produce those dire effects of higher rates and delightful effects of lower rates that Laffer postulates? Not William Fellner: "The U.S. is not yet at high enough tax rates to produce anything like the revenue explosion Laffer is predicting . . . where the U.S. economy is along such a curve is completely undocumented, unexplored, and unknown.

The liberal Professor Heller thus relies on the conservative Professor Fellner in denying that the U.S. economy is now in the prohibitive range of the Laffer curve, an idea both these Keynesians accept. If, though, the economy is not in the prohibitive range of this tax curve, Messrs. Heller and Fellner must logically be prepared to argue that economic welfare can be improved by raising tax rates. That is, the camel can carry more straw. Except for the turning point on the curve, after all, tax rates are either unnecessarily high and can be reduced with production gains and no revenue loss. Or, tax rates are unnecessarily low and can be raised to produce revenue gains. Indeed, Professor Heller completed his testimony by recommending a "moderate tax cut of $15 or $20 billion (or even $25 billion if monetary policy tightens a lot) * * *." Again, Professor Heller chooses to speak of "tax cuts" in static, rather than dynamic terms, as if the Treasury would actually lose the $15, $20, or $25 billion in revenues his unspecified tax rate reductions would imply.

Professor Laffer would argue that there would be an absolute revenue loss of those dimensions if the "tax cuts" took the form of rebates, which have no incentive effects on production. But he would further argue the probability that Kemp-Roth, Steiger-Hansen would finance themselves. Indeed, Laffer would expect Steiger-Hansen to finance itself several times over in the first year, and would absolutely not lose the $2 billion in revenues the Treasury calculates by static analysis.

In fact, it is likely that Steiger-Hansen has already financed itself, in the sense that the marketplace since April 7 has reversed its downward trend and become bouyant, expanding production on the mere anticipation of a halving of the capital gains rate. It was on April 7, that Representative STEIGER learned that he had a majority of the House Ways and Means Committee in support of his amendment. In an economy of $2 trillion, with total Federal, State, and local revenues approaching $800 billion annually, it seems reasonable to calculate that at least $2 billion has been added already to Federal, State and local revenues by the economy's reversal due to Steiger-Hansen prospects for success.

Should Steiger-Hansen not succeed in Congress, or be vetoed by the President this fall, economic activity would drop to a lower path. The economists would refer to it as an "inventory recession." The tax base would quickly shrink with several times $2 billion lost to government treasuries.

LAFFERS "UNCERTAINTY"

In his July 13 essay in the Wall Street Journal, Professor Heller quotes Arthur Laffer as having told Newsweek:

There's more than a reasonable probability that I'm wrong."

This was quoted after a floor debate last evening.

This statement must be understood in the context of Laffer's precision as an econometrician. He believes, of course, that there is a very high probability he is right, or he would not risk his reputation in advising the political class on a course of action his academic peers see as unorthodox.

But there is no way for a single mind to know precisely the optimum point on the Laffer curve, which is why there are no numbers on the curve except at the extremes. It is the task of the economist to advise on probabilities to the political class, but the task of the political class to take the risks necessary in groping toward the optimum point on the curve.

In the 1920's, Treasury Secretary Andrew Mellon defended his proposals for sharp tax rate reductions by employing a private sector analogy that rested on the law of diminishing returns. Henry Ford, he said, could produce 1,000 automobiles and charge $1 million each, or he could produce 1 million automobiles and charge $1,000 each. Revenues to Ford Motor Co. would be the same in each instance. Ford, though, is pushed to finding the optimum point on the curve by competition, with the result that he does produce the maximum number of units at the lowest possible price.

The public sector, Mellon continued, has the same range of alternatives in selecting the optimum tax rates, which is the "price" it charges for public goods and services. The public sector, though, has no competition. By its nature, it is monopolistic. There is only one Capitol Hill, only one White House. The political class must find the optimum point on the Curve by internal competition. As in the economic marketplace, tension is between price and volume.

If one political party stresses tax rate reduction and the other stresses increases in the volume of goods and services, we would expect the first party to win elections when the tax rates are in the prohibitive range of the Laffer curve and to lose elections when the tax rates are in the normal range, with the electorate then desiring higher tax rates to finance a higher volume of public goods and services. As an econometrician, Laffer now advises the political class that there is a very high probability tax rates have been inflated into the prohibitive range, and can be reduced with no revenue loss, but there remains more than a reasonable probability he is wrong. Only political competition can make that determination.

IF LAFFER IS WRONG

Professor Heller concludes, in his essay in the Wall Street Journal, that if Laffer is wrong, he may be leading the Republican Party "over the cliff." By the same token, he could as easily conclude that if Laffer is right, he may be leading the Republican Party into a era of political dominance. The political class, though, does not look to a single economic adviser in reckoning a path to dominance, but rather to the electorate itself, for that is where the votes are. If the gen-

eral electorate now believes the tax rates are higher than need be to produce the desired level of goods and services by the Government, it will choose the politician who advocates such price adjustment over the politician who does not. The politician must look not to an economist but to his or her own constituency for such market analysis.

SPENDING CUTS

On the Wall Street Journal editorial page of July 18, Herbert Stein argued "The Real Reasons for a Tax Cut."

This former chairman of President Nixon's Council of Economic Advisers: first, rejects the theory behind the Laffer curve, without saying why; second, supports passage of the Kemp-Roth bill, but suggests phasing in over 4 rather than 3 years; and, third, argues the necessity of concurrent reductions in Federal expenditures, explicitly suggesting that lower tax rates will mean lower revenues will mean more prudence by the political class in expending public funds.

Here, again, is a static analysis of the economy, this time from a conservative Keynesian. But unlike Heller, who believes a "moderate" tax cut of $25 billion (with tight money) will have beneficial effects on the economy, Stein seems to assume to positive effects of a tax cut either through increased demand or increased supply. In this traditional conservative view a tax cut is simply a means of starving the public sector. Indeed, opponents of Kemp-Roth cite Stein's essay as evidence of a "hidden agenda" by conservatives to force a starving of the public section of needed social support programs.

As an adviser to the political class, Stein is simply arguing for a reduction in social spending, a political, not an economic proposal that may or may not find favor with the electorate.

In a dynamic scenario, we would expect sizable reductions in public expenditures for social support programs, but as a natural process that unfolds with economic expansion. In other words, individuals now being supported wholly or partly by the Government "safety net" of welfare payments, food stamps, unemployment benefits, medicaid, and so forth, will be drawn into the expanding private sector. They not only stop drawing resources from the productive economy through tax/spending transfers, they become contributors to the treasuries of Federal, State, and local governments.

There is an implied assumption in the budget forecasts of the Carter administration that nothing can be done to reverse the process by which American citizens are forced to turn to social-support transfers in order to survive. Indeed, the administration appears to make straight-line projections along an upward slope for social spending, with fewer people in the productive sector and more people crammed into the safety net. Thus, spending projections are as static as the revenue projections. The forecasters assume annual rates of inflation in excess of 6 percent in the next 5 years and then calculate an increased revenue flow to the Treasury as a result of an upward shift of the entire work force into higher tax brackets. There is zero allowance for the continuing disincentive effects of this process.

What we should expect to happen to Federal spending as a result of Kemp-Roth, Steiger-Hansen is twofold: An increase in revenues through expansion of the tax/production base. And a reduction in transfer payment expenditures at Federal, State, and local levels, as individuals become ineligible for such payments by virtue of being elevated into more rewarding private sector employment. If only a third of present transfer payments at all levels of Government are reduced thereby, Government outlays shrink by $100 billion per year. If a sixth of transfers are eliminated, outlays fall by $50 billion. If a tenth of transfers are eliminated, the static costs of Kemp-Roth are financed, which, of course, does not include the certain revenue increase over and above Treasury's static assumption of a $98 billion 3-year loss, a figure arrived at by deducting from projected increases in revenues from inflated tax brackets.

These arguments totally refute last night's arguments against Kemp-Roth.●

WHAT'S WRONG WITH WELFARE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, there is a well known saying that if you give a man a fish, you feed him for a day—if you teach a man to fish, you feed him for life. Obviously, the Government has not followed this philosophy in its policy on welfare programs.

As far back as 10 years ago, Art Naparstek and George Martin, Jr., writing in Current History, said "the thrust of the Government's programs has been to deal with the symptoms of poverty, not its causes." Our policy, they go on to say, "encourage(s) dependency and undermine(s) self-respect."

In analyzing the condition of our welfare programs today, little, if anything, has changed. A recent study conducted by the Joint Center for Urban Studies of MIT and Harvard University shows that the general public's perception of the poor in Amerca is that they are lazy, shiftless, dishonest, prone to illegitimacy and family breakdown, and lack of education. The study also tends to refute the widely held hypothesis that racial prejudice is a major factor behind these popular beliefs.

Professor John Tropman, a Ph. D. in social work at the University of Michigan, has just completed an article in which he discusses these public attitudes toward the poor. According to Tropman, "one reason the poor have been so disliked is that they represent a threat to fundamental values and mores," the work ethic, the sense of "individual responsibility for one's destiny, assumptions central to American culture."

As for the extremely high rate of unemployment among the poor, the lack of sympathy for them seems to be rooted in the belief that the destitute simply do not want to go to work.

Whatever the basis for this perception, the point should certainly be clear to us in Government that the way in which we try to help the poor is worth reevaluation. I can certainly relate to you that the taxpayers in my congressional district resent it when their dollars are handed out to the underprivileged with no beneficial result in the long run. They see it as an example of merely giving a man a fish, instead of teaching him how to catch his own.

I concur. And as a Member of the House I will do what I can to push for an effective welfare reform program. A few weeks ago I told this body of a case in Los Angeles County where a 33-year-old woman claimed to have 48 children, and managed to collect a quarter-million dollars in welfare payments. No doubt this is only one incident of many. But if the Government can take the attitude that public assistance should be a temporary thing—something to help the needy get a start at finding a job, or training for one, then I believe the American people, by and large, will change their perception of those on the bottom rung of society's ladder.●

SOVIET INVASION OF CZECHOSLOVAKIA—A DAY OF SHAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, on August 21, the people of Czechoslovakia and Americans of Czechoslovakian descent will commemorate the 10th anniversary of the 1968 invasion of Czechoslovakia by the Soviet Union. On this day, about 500,000 men, who were sent by the Soviet totalitarian oppressor, commandeered this peace-loving Czech nation and suppressed all moves toward freedom and liberty, repudiating and negating almost every article in the United Nations Declaration of Human Rights.

This unprovoked act by the Soviet Union serves as a bitter and grotesque reminder to the world that there is no place for belief in human freedom and human dignity in the ideology of the barbaric Soviet authorities running the Kremlin. Today, Soviet brutality and inhumanity still rule in the capitive nation of Czechoslovakia. Therefore, we, as Americans, must be persistent in our continual just support of the Czechoslovak people in their genuine desire for self-determination and freedom from outside domination.

Mr. Speaker, I have cosponsored legislation, House Concurrent Resolution 672, resolving that it is the sense of the Congress that the President should use his influence and leverage to induce the Soviet Union to withdraw all troops occupying Czechoslovakia, and I urge the support of my colleagues in Congress for this bill. The Czechoslovak National Council of America has issued an appeal in commemoration of the sad and disheartening invasion of Czechoslovakia, and a copy of my bill and the appeal follow:

H. CON. RES. 672

Whereas in 1968 Czechoslovakia was a peace-loving country whose government, headed by Alexander Dubcek, enjoyed posi-

tive support from the vast majority of Czechs and Slovaks; and

Whereas the invasion of Czechoslovakia by the military forces of the Soviet Union in 1968 contravened the independence of a sovereign state and denied its peoples the right of self-determination; and

Whereas such an unprovoked intervention was in violation of the United Nations Charter which stipulates that "All Members shall refrain in their international relations from the threat or use of force against the territorial sovereignty or political independence of any state"; and

Whereas the occupation of Czechoslovakia by a fellow member of the United Nations has continued for ten years and alters the European balance of power; and while opponents of such occupation and defenders of human rights are increasingly subjected to harassment, repression, persecution, and incarceration; and

Whereas their continued yearning for freedom has found a new expression in Charter 77, the Human Rights Manifesto which requests of the Government of Czechoslovakia the implementation of the principles of the Final Act as well as adherence to the Czechoslovak Constitution; and

Whereas the signers of Chapter 77 and other champions of human rights in Czechoslovakia continue to oppose and to expose violations of human rights by the Soviet-imposed government of Czechoslovakia: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the President should use his influence and leverage to induce the Soviet Union to withdraw all troops occupying Czechoslovakia and, should such withdrawal not be effected by December, 1978, to—

(1) reevaluate sales of United States commodities and technology to the Soviet Union;

(2) reevaluate all licenses for the export to Warsaw Pact countries who participated in the invasion of all paramilitary and other high technology products, including computers and any other products used in the expansion of industrial development and communications systems;

(3) express support for the people of Czechoslovakia (as they commemorate August 21, 1968, as the "Soviet Day of Shame") in their efforts to achieve the withdrawal of the troops of the Soviet Union from Czechoslovakia;

SEC. 2. It is further the sense of the Congress that the President, acting through the United Nations and other international organizations, should take such additional steps as may be necessary to end as quickly as possible the continuing intervention in Czechoslovakia by the Soviet Union.

CZECHOSLOVAK NATIONAL COUNCIL OF AMERICA

Chicago, Ill., August 21, 1978.

FREEDOM IS INDIVISIBLE

On this sad occasion of the Tenth anniversary of the brutal Soviet-led invasion and occupation of peaceful and freedom-loving Czechoslovakia, we American citizens of Czech, Slovak and Subcarpatho-Ruthenian descent, again remind the entire world of this Soviet violation of key principles of international law incorporated into the Charter of the United Nations:

The brutal Soviet aggression and occupation:

(1) Violated the sovereignty of a member state of the United Nations (Article 2, Section 1);

(2) Was carried out in violation of Article 2, Section 4, which prohibits the use of military force in the relations between individual members of the United Nations;

(4) Was in conflict with Article 2, Section 7, which prohibits outside intervention in matters essentially within the domestic jurisdiction of any state;

(5) Was in conflict with a number of resolutions of the General Assembly of the United Nations, particularly with Resolution 2131 (XXI) adopted at the meeting of December 21, 1965, upon the Soviet Union's own motion, prohibiting any intervention in the domestic affairs of any state and guaranteeing its independence and sovereignity.

The continued Soviet occupation of Czechoslovakia is another crime against the right of a small country to determine its own destiny and aspirations. The invasion was an intervention by the forces of reactionary communism to prevent the Czechs and Slovaks from establishing their own social order that did not endanger anyone and sought to contribute to the building of bridges across the discords of a divided world and to lend aid to a better understanding and cooperation among all nations on the basis of true progress and humanity.

The people of Czechoslovakia have not resigned themselves to these aggressive plans of Moscow. The day of August 21, is being commemorated in Czechoslovakia as a *Day of Soviet Shame* in a mighty and disciplined resistance against Soviet pressure. We are joining our friends in Czechoslovakia in asking the entire civilized world to support the people of Czechoslovakia in their effort to achieve "The withdrawal of Soviet troops from Czechoslovakia." ●

ONCE AGAIN THE ANNUAL CAPTIVE NATIONS WEEK MAKES ITS FUNDAMENTAL POINT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 5 minutes.

● Mr. FLOOD. Mr. Speaker, for almost 20 years the annual Captive Nations Week observance has provided us a national forum to reexamine our foreign policy directions. This past 20th observance of the week was no exception. On the contrary, the assemblies, rallies, and events of the week made their fundamental point, namely that a complete policy of human rights will not be attained unless it is posited within the firm and realistic framework of the captive nations ideology, which itself is partly based on the principle of our own American Revolution.

As further points of evidence showing the effectiveness of the week. I commend to the reading of my colleagues the following items: First, the proclamations by Gov. Joseph P. Teasdale of Missouri, Gov. Ella Grasso of Connecticut, Gov. Juan Luis of the Virgin Islands of the United States, and Mayor John E. Reardon of Kansas City, Kans.; second, an article by Stephen S. Rosenfeld in the July 14 Washington Post; and third, two letters of rebuttal to the article, one of which was tersely written by Dr. Lev E. Dobriansky of Georgetown University and chairman of the National Captive Nations Committee:

PROCLAMATION: OFFICE OF THE GOVERNOR, STATE OF MISSOURI

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, Mainland China, Armenia Azerbaijan, Georgia, North Korea, Albania Idel-Ural, Serbia, Crotia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of people in these conquered nations constitutes a powerful deterrent to any ambitions of communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities, expressing their sympathy with and support for the just aspirations of captive peoples for freedom and independence:

Now, therefore, I, Joseph P. Teasdale, Governor of the State of Missouri, do hereby proclaim that the week commencing July 16, 1978, be observed as "Captive Nations Week" in Missouri and call upon its citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

OFFICIAL STATEMENT BY THE GOVERNOR: STATE OF CONNECTICUT

For more than 200 years, the citizens of our state and nation have shared a deep devotion to the highest ideals of justice and freedom.

However, many people throughout the world continue to be denied their basic human rights and liberties. In more than 28 countries, social, economic, domestic, political, educational, spiritual and other fundamental liberties are surpressed.

One outstanding organization devoted to promoting a greater public awareness of the plight of these people is the Connecticut Committee for Captive Nations. The dedicated members of the Committee labor diligently to stimulate worldwide support and encouragement for the citizens of these lands.

In recognition of the longing for independence by those men and women who live under oppressive rule, the United States Congress and many of our states annually proclaim Captive Nations Week.

As a tribute by the citizens of our state to the indomitable devotion of those people to liberty and self-determination, I am therefore proud to designate the week of July 16 through 22, 1978 as Capitive Nations Week in Connecticut.

PROCLAMATION BY THE GOVERNOR OF THE VIRGIN ISLANDS

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human

rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations;

Now, therefore, I, Juan Luis, Governor of the Virgin Islands of the United States, by virtue of the authority vested in me, do hereby proclaim the week of July 16-22, 1978, as Captive Nations Week in the Virgin Islands, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

In witness whereof I have hereunto set my hand and caused the Seal of the Government of the Virgin Islands of the United States to be affixed at Charlotte Amalie, St. Thomas this 14th day of July A.D., 1978.

PROCLAMATION

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, George, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations:

Now, therefore, I, John E. Reardon, Mayor of the city of Kansas City, Kansas do hereby proclaim the week of July 16-22, 1978, as "Captive Nations Week" in Kansas City, Kansas, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their offorts for the peaceful liberation of oppressed and subjugated peoples all over the world.

THE "CAPTIVE NATIONS" FANTASY

(By Stephen S. Rosenfeld)

Amid the general nastiness pervading Soviet-American relations, there is a readiness in some Washington quarters to make hay out of "Captive Nations Week," coming up next week. The observance treats the communist countries and especially the various Soviet nationality groups as Moscow's captives, and as nations, and calls in effect for the dissolution of the Soviet bloc and the dismemberment of the Soviet Union. To describe it in these true terms is to make plain why Captive Nations Week has never been more than a vehicle of anti-communist and anti-Soviet extremism.

Yet in the current atmosphere a search is on for ways to punish the Kremlin for its political sins, or to convey revulsion without compromising "real" interests like arms control, and the captive-nations idea is a convenient club at hand.

There is something reckless and wrongheaded about the idea, but there is something disarming, too. In the 1960s when many people (including me) were more hopeful about Soviet-American prospects, it was in vogue to dismiss captive nations as an exercise in irredentism and ethnic politics. But that tendency does not have the same force now.

The main reason, I think, is rising awareness of ethnicity. The phenomenon has complex roots and expressions. In its international aspect, it has helped legitimize demands for nationhood on the part of ethnic groups previously held down. It is, after all, quite arbitrary that 30 or 40 tiny ethnic communities of a couple of million or fewer souls should become states while 48 million Ukrainians remain subordinate. If the world can demand nationhood for the 22nd or 23rd Arab group to claim it, whichever the Palestinians are, how can others be denied?

A second reason why the captive-nations concept is not so readily dismissed is the human-rights movement. It has lent respectability to an array of political causes of the right as well as the left, as long as they can somehow claim to assert an individual's or group's "rights."

From the "captive nations" point of view, the Carter administration held high initial promise. It emphasized human rights and generally seemed self-confident and muscular in its approach to Soviet power. Zbigniew Brzezinski had long been on record favoring an activist "bridge building" policy toward East Europe, and viewing the non-Russian Soviet nationalities as the ruling Russian minority's eventual Achilles heel. Early on, the administration pushed for more radio broadcasting in local languages to the Soviet Union and East Europe.

In fact, this promise has not been fulfilled. The human-rights focus has been on individual rights, not nationality rights. The administration has pursued its several predecessors' policy of cultivating East European nationalism with a careful eye to East Europe's judgment of what the traffic with the Soviet Union will bear. There has been no change in the approach, in the limited ways open, to Soviet nationalities. Radio operations go on just as before.

Even in the State Department, the impetus for taming the cold-war element of captive nations is attributed to Brzezinski. The captive-nations people barely got a proclamation out of Carter last year, though the law requires one. In that proclamation and in the new one issued this week, there is only an innocuous appeal for "basic rights."

This is, I would argue, just about right. Politically, the administration will take some heat for its diffidence, although among ethnics themselves only certain subgroups (first-generation emigrants from the Ukraine and Hungary, for instance) seem any longer to care much. The ethnics, traditionally part of the Democratic urban coalition, mostly have other complaints.

Diplomatically, the "captive nations" idea is deeply flawed. To wait for time to etch deeper divisions among Soviet nationalities and impart more self-confidence among East Europeans is one thing. This is happening, more or less, and the United States must puzzle out its long-term consequences.

But to hold out the promise of nationhood to constituent parts of the Soviet Union and to invite East Europe to break completely free of Soviet control is to tempt foolish acts that the United States will inevitably be poorly placed to support. It is thus to heedlessly provoke Soviet power.

At least since the Hungarian uprising, successive administrations have conducted a compromised, halfway policy in respect to the "captive nations," teasing or challenging Soviet power but always within limits. Captive Nations Week indulges the fantasy that the United States need not respect limits. It makes the facile equation that whatever discomfits the Russians benefits us. It is a dream—a dangerous dream.

LETTER TO THE EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIR: Stephen Rosenfeld's article, "The 'Captive Nations' Fantasy" (July 14) is another example of little understanding and great confusion regarding the captive nations idea and Public Law 86-90. Of course, he's not alone in this; in Government the condition is rife. Former President Ford lost an election because of his illusion. The illusions expressed by Rosenfeld, if they continue to be widely nursed, could in time cause us to lose a country as we know it.

Ignoring the heated and supportive verbiage in the article ("anti-Soviet extremism," "fantasy," "dangerous dream," etc.) it is immediately evident, from the viewpoint of substance, that Rosenfeld is badly confused as to concepts and history. Ethnicity and nationality are not synonymous. A Russian in Azerbaijan would be an ethnic and might elect for diverse reasons to become an Azerbaijanian national citizen, not dissimilar from a Chinese coming to our country where we are all ethnics. Even Moscow recognizes Azerbaijan as a nation, not to mention Lithuania, Ukraine, etc. Contrary to Rosenfeld's illusions, none of the compact non-Russian nations in the USSR has to establish its "nationhood." It has it; it even has its nominal republic. What each strives for is its independent statehood which, contrary to the illusions in the article, is not identical with nationhood. In short, the USSR is the last remaining major empire, centered in Russian Moscow, and with the exploitation of these non-Russian resources it is the only real, present threat to our national security.

If an object cannot be accurately defined and analyzed, what can you expect of policy opinions, directions, and decisions? Despite another of Rosenfeld's illusions, East European nationalism extends to the Urals, and non-Russian nationalism in the USSR is a basic reality we must face up to, and all that this implies in terms of Russian economic and political imperialism. If space were permitted, many factual errors and misinterpretations in the article could be elaborated on. Suffice it to say that human rights, as well as poltrade, is old hat for captive nations thought, and we'll assist the Administration in catching up if it is true to its principles and logic; the captive nations context extends well beyond Eastern Europe, and the idea's appeal is scarcely restricted to "ethnics"; and if intelligently and "diplomatically" implemented, the idea would radically transform the global image of the ersatz state known as the USSR. As the evidence well shows, the supreme irony is that Moscow understands this and fears it use; our policy-makers don't fully understand it and thus fear to use it.

Yes, what appears as "fantasy" is the ready product of one's own illusions. Realistic captive nations thought does generate "a dangerous dream," one fit for a dangerous world.

Respectfully,

LEV E. DOBRIANSKY,
Professor, Georgetown University, Chairman, National Captive Nations Committee.

LETTER TO THE EDITOR,
The Washington Post,
Washington, D.C.

DEAR SIR: In his July 14 article on "The 'Captive Nations' Fantasy," Stephen Rosenfeld's views not only distort the historical being of the captive nations but, his con-

clusions as to why they continue to be remembered, ignore reality as well.

Nationhood, which is determined by a permanent population, geographical contiguity, historical background, language, religion, law and distinct customs, exists for the captive nations down to the present. This in and of itself precludes any "promise" of its return. Independent statehood, which allows for a sovereign government with authority and civil rule over its own territory, is what has been lost. The force of nationalism, based on the above and especially applicable to the non-Russiannations and peoples within the Soviet Union, is what Moscow fears the most. Strange that there was never any doubt in questioning the illegitimacy of Nazi Germany, Fascist Italy or Japan, yet there prevails an inordinate fear of dismembering the Soviet Russian Empire by allowing it to pose as a legitimate "country" called the Soviet Union.

Whether they chose to come here for socio-economic reasons or fled revolutions, so-called "ethnics" are no less American than those born and, what Mr. Rosenfeld either refuses or fails to recognize is that, as Americans, they are concerned about their government's policies both domestic and foreign.

What further seems to escape Mr. Rosenfeld is that national rights can hardly be realized while daily injustices prevent the most basic of individual human rights.

If our leaders shy away from moral and political principles be they through proclamations, appeasement, questionable concessions and accommodations or whatever, we, Americans, are free to exercise our right to disagree at any time. Our strength in pursuing "a dangerous dream" was tested a long time ago when Thomas Jefferson swore "upon the alter of God, eternal hostility against every form of tyranny over the mind of man. . . ." ●

Sincerely,

VERA A DOWHAN.

A TRIBUTE TO "TIGER" TEAGUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. CORNELL) is recognized for 5 minutes.

● Mr. CORNELL. Mr. Speaker, earlier this week this Chamber approved legislation to designate the Veterans' Administration Center in Temple, Tex., as the "Olin E. Teague Veterans' Center." I would like to add my voice to the many Members of this House who have expressed their admiration for our distinguished colleague from Texas, the Honorable OLIN "TIGER" TEAGUE.

The motto of the Veterans' Administration, taken from the words of President Lincoln, commits this Government "to care for him who shall have borne the battle and for his widow and his orphan." The person who has done the most to fulfill this promise has not been a President, however, or an Administrator of the VA, but our friend from Texas, "TIGER" TEAGUE. As a young Congressman, "TIGER" TEAGUE authored the GI bill of rights, which remains the most successful educational scholarship program this Government has ever undertaken. Among the other programs he has conceived and introduced to this House are the war orphans scholarship program, the Vietnam war education program, the VA nursing care program, the serviceman's group life insurance program, and the medical scholarship program.

Most Members of this Chamber would be happy to have one or two major pieces of legislation they have introduced enacted into law. OLIN TEAGUE has been a major force in shaping virtually the complete array of Veterans' Administration programs. Every veteran, indeed every American, owes a great debt to the tireless efforts of "TIGER" TEAGUE.

It is especially appropriate that the VA hospital in Temple be named after our friend and colleague, for "TIGER" spent many months in that hospital recovering from wounds received in World War II. It is truly fitting that this center, which is dedicated to the care of this Nation's veterans, be named after the man who has dedicated his life to serving his country and his fellow veterans.

Mr. Speaker, I hope that this Chamber will long remember the years of hard work, imagination, and dedication that OLIN TEAGUE brought to this Government. He is retiring at the end of this term, thus earning a well-deserved opportunity to devote more time to his family and his private pursuits. I have been honored by the opportunity to serve with "TIGER" on the Veterans' Affairs Committee and know the depths of his commitment to the welfare of the American veteran and his or her survivors. We can do ourselves no greater honor than to acknowledge the contribution of OLIN "TIGER" TEAGUE.●

LET US NOT MUZZLE FREE EXPRESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

● Mr. FUQUA. Mr. Speaker, I would like to briefly address a situation reported in the press and media the last few days which deeply concerns me.

It involves the smoking dispute among our Nation's leading health officials and the controversy surrounding statements by Dr. Gio Batta Gori, Deputy Director for Cancer Cause and Prevention at the National Cancer Institute.

I certainly do not intend to involve myself or use this platform to argue whether or not smoking limited numbers of certain "less hazardous" cigarettes is "tolerable" from a health standpoint.

My point is much more basic than this. There have been reports that Dr. Gori's position is in jeopardy because he saw fit to make his findings public.

Even the prospect of Dr. Gori losing his livelihood because he gave the American public the benefit of his professional opinion, one I might add that is shared by others, is absolutely ludicrous.

It erodes the very basic cornerstone of freedom, established wisely by our country's founders in the first amendment—the freedom of speech.

To muffle a learned opinion simply because it does not fall in line with your own thinking blatantly violates every principle on which this Nation was founded and stands.

Daily, right here in this very Chamber, we exchange opinions and views which vary greatly at times. It is healthy and it is necessary for a strong democracy.

I submit that the distinguished Secretary of the Department of Health, Education, and Welfare can put his hands over his ears and not listen if he chooses. But let the American people listen and let our learned professionals have the basic right to give us their opinions without fear of reprisals.●

EL PASO CITY PLANNER HAS LEFT HIS MARK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. WHITE) is recognized for 5 minutes.

● Mr. WHITE. Mr. Speaker, my home city of El Paso for the past three decades has enjoyed the distinction of being one of the Nation's fastest developing metropolitan centers. Yet, the city has avoided willy-nilly sprawl; and, indeed, its spectacular growth has been fastidious and controlled. These happy circumstances are due mainly to the excellent activities of Mr. Jonathan R. Cunningham who has been director of planning for the city of El Paso for the past 20 years. Mr. Cunningham is now retiring, and I should like to take note of his brilliant accomplishments for the record, and to thank him in behalf of all of the citizens of El Paso. Monuments to his acumen and his professionalism are plentiful and permanent; and since El Paso has been cited as one of the top ten markets in the country for development potential in the immediate future, the solid groundwork Jon Cunningham has laid for the city will continue to serve us well into the years ahead.●

PROPOSED FEDERAL RESERVE ACT AMENDMENTS OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, I am inserting in the RECORD at this point a bill H.R. 13847, amending the Federal Reserve Act, with an explanation that will be useful to Members.

The bill is as follows:

H.R. 13847

A bill to facilitate the implementation of monetary policy and to promote competitive equality among commercial banks

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Federal Reserve Act Amendments of 1978.

REPORTING REQUIREMENTS

SEC. 2. Section 10 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"The Board may require any depository institution specified in this paragraph to make, at such intervals as the Board may prescribe, such reports of the total amounts of such categories of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary aggregates. Such reports shall be made (1) directly to the Board in the case of member banks, and (2) to the Board through the (A) Federal Deposit Insurance Corporation in the case of insured State nonmember banks;

(B) National Credit Union Administration in the case of insured credit unions, (C) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation or which is a member as defined in section 2 of the Federal Home Loan Bank Act, and (D) such State officer or agency as the Board may designate in the case of any other type of bank, savings and loan association, or credit union. The Board shall endeavor to the maximum extent feasible to avoid unnecessary burdens on reporting institutions and the duplication of other reporting requirements, and any data therefrom shall be made readily available to the Board. The Board may classify depository institutions for the purposes of this paragraph, and may impose different requirements on each such class."

RESERVE REQUIREMENTS

SEC. 3. Section 19(b) of the Federal Reserve Act is amended to read as follows:

"(b)(1) For the purposes of this subsection—

"(A) The term 'reservable liabilities' means, in the case of any bank, the amount by which the sum of such bank's deposit liabilities and its net Federal funds and other borrowings which mature 48 hours or less after receipt by such bank exceed its exempted liabilities.

"(B) the term 'exempted liabilities' means, in the case of any bank at any given time, the product of $100,000,000 times the quotient of the nominal gross national product for the calendar year ending not less than 6 nor more than 18 months previously divided by the nominal gross national product for the calendar year 1978, as determined by the Board.

"(C) The terms used in this subsection may be further defined by the Board, consistently with the provisions of this subsection, to such extent as may be necessary to carry out the purposes thereof.

"(2) Any reference in this Act to member banks with respect to any requirement or authority relating to reserves required by this section shall be deemed to apply to all banks which are actually required to maintain reserves under paragraph (4) or (5) of this subsection.

"(3) Any bank shall be subject to reserve requirements if—

"(A) it is neither a savings bank nor a mutual savings bank as defined in sections 3(f) and 3(g) of the Federal Deposit Insurance Act, and

"(B) it is either an insured bank as defined in section 3(h) of the Federal Deposit Insurance Act or a bank which is eligible under section 5 of that Act to make application to become an insured bank.

"(4)(A) Except as provided in subparagraph (B) of this paragraph, all banks subject to reserve requirements shall maintain reserves against their reservable liabilities (in excess of zero) in the ratio of 6.0 per centum, or in such other ratio not greater than 6.5 per centum and not less than 5.5 per centum as the Board may by regulation prescribe solely for the purpose of implementing monetary policy.

"(B) Upon a finding by the Board that extraordinary circumstances require such action, the Board may impose reserve requirements outside the limits otherwise prescribed by subparagraph (A) of this paragraph for a period not exceeding 30 days but which may be extended for further periods not exceeding 30 days by affirmative action by the Board in each instance. The Board shall promptly transmit to the Congress a report of any exercise of its authority under this subparagraph and the reasons for such exercise.

"(5) If the Board determines that such action is necessary to the implementation of monetary policy, then in addition to any reserves required to be maintained pursuant to paragraph (4) of this subsection, any bank subject to reserve requirements shall maintain reserves in such ratios as the Board may prescribe against

"(A) net balances owed by domestic offices of banks in the United States to their directly related foreign offices and to nonrelated foreign banks and

"(B) loans to United States residents made by overseas offices of banks with offices in the United States.

"(6) During any period that a bank is maintaining reserves pursuant to paragraph (4) of this subsection, such bank shall be entitled to all the privileges of membership in the Federal Reserve System except that, if it is not otherwise a member, it may not hold stock in, or vote for any director of, a Federal Reserve bank.

"(7) A nonmember bank which is subject to reserve requirements but whose reservable liabilities do not exceed zero shall be entitled to the same discount and borrowing privileges as member banks during any period that the Federal Deposit Insurance Corporation or the appropriate State supervisory authority certifies to the Federal Reserve bank in whose district such nonmember bank is located that such discount and borrowing privileges are needed in order to enable such bank to function on a safe and sound basis in meeting the needs of the community served by such bank.

AUTHORITY OF STATE BANK SUPERVISORS

SEC. 4. Nothing in this Act or in the amendments made by this Act shall be construed in derogation of the authority of any officer or agency of any State over any institution organized or existing under the laws of such State.

EFFECTIVE DATES

SEC. 5. (a) The amendment made by section 2 of this Act shall take effect on the first day of the sixth calendar month which begins after the date of enactment.

(b) The amendment made by section 3 of this Act shall take effect on July 1, 1979, or such earlier date as may be designated by the Board of Governors of the Federal Reserve System.

Mr. Speaker, the committee has held hearings on proposals dealing with the payment of interest on bank reserves and the problem raised by the Federal Reserve, erosion of membership.

The purpose of our hearings was to develop legislation which would facilitate and improve the conduct of monetary policy, promote competitive equity, and resolve the Federal Reserve System's membership problems, with minimal cost.

Two problems relating to the conduct of monetary policy have been highlighted at our hearings. The first problem concerns the Federal Reserve's inability to obtain accurate up-to-date information on the location and quantity of deposits and cash in the banking system. There was a definite consensus that the Federal Reserve should be able to obtain whatever information it needed to control the money supply from all depository institutions.

The second problem is caused by differences in reserves requirements by class of bank and type of deposit. Requirements now range from zero to 16¼ percent. As the public switches among demand, savings, and time deposits of various maturities, and as deposits are transferred between banks of different sizes and between member and nonmember banks, the average reserve requirement changes. As a result, the amount of deposits which the banking system can create with any given amount of reserves also changes. These unexpected changes can become cumulative and result in long-lasting undesired departures from announced money supply target ranges. The hearings produced a general consensus that a system of more uniform reserve requirements would greatly improve the ability of the Federal Reserve to control the money supply.

Any system of nearly uniform reserve requirements must contain rates which would maintain the viability and competitive equity of smaller banks. This is most sensibly and easily achieved by exempting small banks from reserve requirements. Such banks would, of course, continue to hold vault cash and interbank clearing balances in order to carry on their daily business.

During the hearings, testimony was heard on four proposals before the committee. These were:

First. The first bill, H.R. 13476, introduced at the request of the Federal Reserve, would extend reserve requirements to demand deposits and transactions accounts in all depository institutions. It would also permit the Federal Reserve to collect information relative to monetary control directly from these institutions.

Second. The second bill, H.R. 13477, also introduced at the request of the Federal Reserve, would authorize payment of interest on required reserves. It would limit the total payments to 7 percent of the Federal Reserve Banks' net earnings plus receipts from the sale of services to member banks. This bill was estimated to cost more than $500 million per year.

Third. A third bill, H.R. 12706, introduced by Mr. STANTON and cosponsored by 12 other members, calls for explicit pricing of services and authorizes payment of interset on reserves at a rate of up to the average yield on 3-month Treasury bills during the preceding quarter. It also calls for a study and the impact of permitting member banks to invest some of their reserves in U.S. Treasury securities.

Fourth. A fourth proposal, an amendment to the Stanton bill, contained five provisions: Payment of interest on reserves, but no more than the amount collected from sale of services and earnings from discounts and advances; fixed reserve requirements on a progressive scale, with banks under $10 million in demand deposits exempt from reserve requirements; tying of the discount rate to the average yield on 3-month Treasury bills; authorization for the Fed to collect the information it needs for monetary purposes from all depository institutions through the regulatory agencies; and, transfer of the Fed's $575 million surplus to the Treasury.

While substantial objections were found to all these proposals, persuasive arguments were made that the desired goal of better monetary control, equity among banks, and elimination of an unfair cost of Fed membership could nevertheless be achieved by other methods.

Taking into account views expressed

during the hearings, and considerations suggested by the Secretary of the Treasury in a letter to Chairman REUSS of August 4, 1978, the following simple bill is proposed:

TITLE I

Authorize the Federal Reserve to collect through the appropriate regulatory agencies current liability and asset data from all depository institutions needed for monetary control purposes.

TITLE II

Restructure reserve requirements so that all reserveable liabilities of all commercial banks (demand deposits, time and savings deposit, and overnight bank borrowings) will be subject to a uniform 6 percent reserve requirement, variable up to 6.5 percent and down to 5.5 percent by the Board of Governors for purpose of monetary control only. In extraordinary circumstances, the Board may waive the limits temporarily with an explanation to Congress. The limits also may be waived for certain foreign related deposits. The first $100 million in reserveable liabilities will be exempt for all banks. Federal Reserve membership for State chartered banks, as at present, would continue to be voluntarily; non-member banks subject to the reserve requirement (that is, with more than $100 million in reserveable liabilities) would be given full access to the discount window and Federal Reserve services. Other non-member banks will have access to the discount window upon certification of need by the FDIC or appropriate state bank supervisory authority. As at present, membership for State banks could be obtained by paying in the statutory proportion of their capital, on which they receive 6 percent interest, and would of course receive full membership benefits including the right to vote for Directors of the Federal Reserve banks. The $100 million exemption in reserveable liabilities would be indexed to the previous year's changes in nominal GNP.

Mr. Speaker, the earlier proposal for tying the discount rate to the Treasury bill rate by statute would be eliminated.

Another proposal to turn over $575 million of Fed surplus to the Treasury would be eliminated. Instead, effort would be made outside the bill to permit the orderly transfer of the entire $1 billion plus reserve (which is unnecessary and not required by statute) to the Treasury for general purposes. While this is essentially a bookkeeping item it would have the desirable effect of reducing the national debt and the deficit by that amount.

The question of charging for services would be left to Federal Reserve regulation. House Banking Committee legal staff has concluded that this would not require congressional action. Such action would be required for the payment of interest on reserves.

EFFECTS OF THE PROPOSAL

First. The first $100 million of reservable liabilities will be exempt from reserve requirements for all banks. Thus banks with less than $100 million in reservable liabilities would be totally exempted from reserve requirements, which removes the major cost burden of Fed membership. All but some 1,100 of the Nation's nearly 14,000 banks will be exempt from any Federal reserve requirements.

Some 780 of those 1,100 banks will be subject to reserve requirements are already member banks and hold reserves. That leaves 330 nonmember banks with over $100 million of reservable liabilities that would become subject to reserve requirements. Many of these 330 nonmember banks are foreign banks, which under the International Banking Act of 1978 now nearing legislative completion, would be required to hold reserves anyway, and would, of course, get the same benefits as domestic banks.

Second. Virtually all member banks which would continue to have to hold required reserves would have their reserve requirements substantially reduced. Only banks which now have extremely high proportions of total deposits in savings and time deposits could be adversely affected.

Third. The membership question will be essentially resolved by the revisions in reserve requirements. First, smaller banks would face no real membership burden. Second, since all banks with liabilities over $100 million would have to hold reserves, whether members of the Fed or not, a major incentive for large banks to withdraw from the Fed would be eliminated.

Fourth. A uniform 6 percent requirement on reserveable liabilities in excess of $100 million would improve monetary control. It would minimize the problem that now exists because of the shifting of deposits among demand, savings and time deposits and among banks with differing marginal reserve requirements.

Fifth. The Fed would have unrestricted power to change reserve requirements temporarily in extraordinary circumstances, and would retain discretionary authority to adjust reserve requirements up or down one-half percentage point for purposes of monetary control. These limits are designed to proscribe the Federal Reserve's power to set what are in reality taxes on banks.

Sixth. All banks of comparable size would be treated alike in terms of Federal Reserve requirements, thus providing competitive equity. A commercial bank cannot gain a competitive advantage on the basis of lower reserve requirements by changing from membership to nonmembership status.

Seventh. For large banks, reserve requirements will be reduced on demand deposits and raised on savings and time deposits. Thus they will compete more aggressively for demand deposits and less aggressively for savings and time deposits. As a result, small banks and thrift institution will be able to compete more effectively for savings and time deposits, especially for long maturity CD's. The housing industry should benefit.

Eighth. The discount window would be open to nonmember banks with more than $100 million in reserveable liabilities. This will give assurance of liquidity for the major banks.

Ninth. Nothing in the bill would divest State bank supervisors of jurisdiction or authority. Nonmember banks of over $100 million reservable liabilities, while required to hold reserves, would not have to become members of the Fed and would not be brought under Federal Reserve regulation in any way. (If a State-chartered bank should choose to join the Fed, it would then simply be examined by the Federal Reserve instead of the FDIC; it would still be subject to State regulation, supervision, and examination.)

Tenth. The cost to the Treasury would be far less than any previous proposals. The pretax cost will be under $150 million per year compared to the $705 million involved in the Fed's proposal to cut reserve requirements for larger banks and pay interest on reserves. These cost estimates assume Federal Reserve imposition of $410 million in charges for services, as contained in the Fed's own proposal, and no payment of interest on reserves.

The reduced cost is achieved by requiring all banks with over $100 million to maintain reserves, instead of paying interest on reserves as an inducement to remain in the Fed. Furthermore, payment of interest on reserves would result in most of the dollar outlay going to the biggest banks, which are least likely to withdraw from the Fed anyway.

SUPPORT FOR THESE PRINCIPLES FROM WITNESSES

Federal Reserve access to more data for purposes of monetary control was strongly supported by the Independent Bankers Association, the Federal Deposit Insurance Corporation, the American Bankers' Association and Beryl Sprinkel, executive vice president and economist, Harris Trust & Savings Bank of Chicago.

George A. LeMaistre, Chairman of the Federal Deposit Insurance Corporation, commenting on whether the Fed needs discretionary power to set reserve requirements for purposes of monetary control, said,

What the Federal Reserve does need to conduct monetary policy effectively is information about monetary aggregates.

The American Bankers' Association testified:

The gathering of additional information from non-member institutions, provided the data are needed for monetary policy purposes and that data gathering is done in a way that minimizes the reporting burden placed on those institutions, has our support.

The Independent Bankers Association stated:

To improve the Fed's capability to manage monetary policy it may only be necessary to authorize it to obtain summary statistics on assets and liabilities of all depository institutions as proposed in an amendment to the Stanton bill.

Beryl Sprinkel stated:

It can be demonstrated that the Federal Reserve can regulate the money supply with zero reserve requirements so long as it is able to determine the monetary base.

Restructuring of reserve requirements at a flat rate received strong support.

The FDIC stated:

Estimating the impact on the monetary aggregates of a particular change in reserves becomes more difficult when different banks are subject to different reserve requirements. . . ., a shift of funds among member banks has precisely the same effect of blurring the precision of monetary policy that disturbs the Federal Reserve when nonmember banks are involved.

The ABA testified:

But economists in the banking industry believe that a much greater source of instability is the graduated levels of reserve requirements among banks who are already members of the Fed. Elimination of these

differences would be a significantly greater contribution to monetary stability—and an act of simple fairness to the institutions involved.

Milton Friedman stated in a letter:

Differential requirements simply introduce unnecessary random variations into the relation between total reserves available and the total money supply as a result of shifts of deposits between different banks and different categories of deposits.

Beryl Sprinkel stated:

The "conduct of monetary policy" would be improved by adopting uniform reserve requirements for banks rather than the present system of variable reserve requirements.

Reduction of reserve requirements was strongly supported.

The FDIC stated, in opposing uniform reserve requirements, that:

Equity can be achieved in other ways—such as paying interest on reserves, permitting reserves to be held in the form of marketable securities, or reducing reserve requirements.

The ABA stated:

We believe reduction in reserve requirements should be the preferred method used to alleviate the current membership burden.

Greater access to the discount window also received support.

Chairman LeMaistre of the FDIC suggested "some means * * * to make that service (discount window) available to all banks." He noted that if a bank is in difficulty, a loan is "sometimes necessary" to work out a purchase assumption agreement or merger. He recommended making the discount window open to nonmembers upon certification by the FDIC.

TABLE I.—*Total cost to the Government of a 6-percent Uniform Reserve requirement with the $100 million exemption*

[Dollars in billions]

Current total required reserves (based on Dec. 31, 1977 call data)	$36.9
Required reserves of member banks under the 6-percent plan	26.4
Required reserves of 330 nonmember banks with over $100 million in reservable deposits under the 6-percent plan	2.7
	29.1
Total required reserves under the 6-percent plan	−29.1
Total reserves released under the 6-percent plan	7.8

[Dollars in millions]

Annual earnings on $7.8 billion reserves at 7 percent	$546
Less expected annual receipts from selling services	−410
Total cost	136

ASSASSINATIONS COMMITTEE DENIES WRONGDOING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STOKES) is recognized for 5 minutes.

● Mr. STOKES. Mr. Speaker, on Monday, August 7, 1978, allegations were made against one of the investigators of the Select Committee on Assassinations by a man in St. Louis.

Following is a statement made to the press in behalf of the Select Committee, on Thursday, August 10, 1978.

The Select Committee will continue further investigation into this matter, and you may be assured that we will draw to the attention of the House the material that develops from this investigation.

STATEMENT OF G. ROBERT BLAKEY

On Monday, August 7, 1978, a man who has been associated with an attorney for the convicted assassin of Dr. Martin Luther King, Jr. held a press conference in which he made several serious allegations concerning the conduct of an investigator for the Select Committee on Assassinations. The man making the charges has given a statement under oath to the Committee, though he has never been an employee of the committee.

Since the integrity of the committee's investigation of the assassination of Dr. King has been questioned, the committee is looking into the allegations. The investigator charged with misdeeds, a law enforcement officer who has a top secret security clearance based on an extensive background examination of his character, has been interviewed, as have other members of the committee staff who may have had information concerning the investigator's conduct.

On the strength of a preliminary investigation, the committee categorically denies each and every allegation of wrongdoing. It states with assurance that no federal, state or local law or any rule of the House or of the committee has been violated by the investigator or by any other member of the committee staff.

The committee will continue to conduct a complete investigation of the allegations. If any indication of wrongdoing is uncovered, prompt and appropriate action will be taken and brought to public attention. The committee is determined that the American people will not be misled by attempts to discredit the committee and its investigation.●

PERSONAL STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 5 minutes.

● Mr. WEISS. Mr. Speaker, the following is how I would have voted on several rollcall votes had I been present:

Rollcall No. 656, an amendment to H.R. 13635, Department of Defense appropriations, striking the $3 million appropriation for the AVCR–1360 diesel engine. This amendment was defeated by a vote of 269 to 107. I was paired in favor of the amendment and would have voted for the amendment.

Rollcall No. 657, an amendment to H.R. 13635, increasing appropriations for the Army's food research programs by $1 million. This amendment was defeated by a vote of 277 to 103. I would have voted against this amendment.

Rollcall No. 658, an amendment to H.R. 13635, permitting up to 10 percent of the appropriated funds for contracts to be used for payments under contracts in labor surplus areas. This amendment was defeated by a vote of 213 to 165. I would have voted in favor of this amendment.

Rollcall No. 659, an amendment to H.R. 13635, prohibiting use of funds for procurement of vehicles not manufactured in the United States. This amendment was defeated by a vote of 302 to 72. I would have voted against this amendment.

Rollcall No. 660, an amendment to H.R. 13635, striking language establishing a limitation on the competitive rate program for the transportation of household goods. This amendment was passed by a vote of 269 to 96. I was paired in favor of the amendment, and would have voted in favor of it.

Rollcall No. 661, an amendment to H.R. 13635, reducing total appropriations in the bill not required by law by 1 percent. This amendment was defeated by a vote of 222 to 136 with 1 voting "present." I would have voted in favor of this amendment.

Rollcall No. 662, an amendment to H.R. 13635, reducing total appropriations in the bill not required by law by 2 percent. This amendment was defeated by a vote of 252 to 102. I was paired in favor of this amendment and would have voted for it.●

THE TAX CREDIT FIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHEUER) is recognized for 5 minutes.

● Mr. SCHEUER. Mr. Speaker, there has been a great deal more heat than light generated from debate on the Packwood-Moynihan legislation. Yesterday's lead editorial in The Washington Star reflected my deeply held feeling that this legislation is right as rain for our country at this time in our history and offers to all of our parents educational opportunities which many of them have until this point been unfairly denied.

I am sure my colleagues will be impressed with this thoughtful statement.

The editorial follows:

[From the Washington Post, Aug. 10, 1978]

THE TAX CREDIT FIGHT

As the Packwood-Moynihan tuition tax credit bill works its way toward crucial Senate floor action, the quality of the debate steadily deteriorates. What its sponsors view as a measure to promote diversity, choice and fiscal equity in education is denounced as a budget-busting money grab by the rich, or—as *The Washington Post* pronounced the other day—a "radical and ill-considered reversal of longstanding American values . . . a fundamental assault on the public schools," and even a boon for racial segregation.

These conflicting perceptions of the bill cannot be bridged, even allowing for the usual excesses of editorial rhetoric. And indeed the bill clearly raises issues—constitutional, fiscal and educational—of a fundamental sort.

If you think that American education, especially in the lower grades, is always to be a public monopoly; or that "root, hog, or die" must be the iron rule for private religious education; or that the First Congress

erected "an eternal wall of separation between church and state," the case for the tax credits is weak indeed.

Happily, those principles, however fervently urged by secular educational lobbies or editorial writers, are largely subjective. They are nowhere chisled in stone. Still less are they to be found in the Constitution. The Constitution is silent as to how Americans shall elect to educate their children. All it says about religion, apart from banning religious tests for office, is that Congress (and now, by judicial interpretation, the states) may not promote "an establishment" nor interfere with its free exercise.

Set aside the dubious—at times even hysterical—claim that tuition tax credits constitute some sort of foul play against American principles, and what is left? A few practical questions of policy, it seems to us. Would the program injure or strengthen public education? Would it encourage or discourage the proliferation of so-called "segregation academies"? Would it accentuate or arrest racial disparity in education?

It is unthinkable, to us at least, that Congress would seriously contemplate a measure that threatened the basic place of public schools in U.S. education. That primacy is all but universally conceded, and the reasons for it well understood. Rather, the anxieties about the future of public schools, given tuition tax credits, seem to stem from a vast insecurity. The notion, we gather, is that clients of public education are a captive audience, awaiting an incentive to bolt.

Such fears, we faithfully believe, are overwrought. But even if some parents do feel "trapped" in deteriorating and undisciplined public schools (especially in the inner cities), and would welcome an escape hatch, we can attach no other meaning to the ideal of American cultural diversity than that they should have that option. That option is always open to the well-to-do, who usually have mobility to move to the suburbs or the money to pay the steep price of private education, whether or not a fraction of that price may be subtracted from income tax bills—or both.

Prof. James S. Coleman touched on this point in a recent supportive letter to Senator Moynihan. Tax credits, he suggested, "will help give low income people some of the educational opportunity for their children that high income people already have. In a sense," he continued, "it provides an aid to parents to rescue their children from school situations that they find bad; and . . . this is especially the case for black parents who are locked into a given residential situation." Professor Coleman's view has been echoed and endorsed by a number of black scholars, including Thomas Sowell and Walter Williams.

But suppose that a substantial number of public school clients did seize tax credits as an average of "escape." Are the public schools so fragile, so far gone in demoralization and in discipline, as to be incapable of responding? Or would keen competition spur them to reform and to compete? The latter, we firmly believe.

Of course, the nitty-gritty of the matter, politically speaking, is the ageless quarrel over public help for schools of religious affiliation, mainly Roman Catholic. It is notable that every recent Democratic presidential candidate, including Mr. Carter, has given handsome pledges to the Catholic educational community. In an October 1976 letter to the Association of Chief Administrators of Catholic Education, Mr. Carter wrote that he was "firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools." As governor of Georgia, he said, he had supported "annual grants for students attending non-public colleges" and he was of the view that "we must develop similar supportive programs at the national level for nonpublic elementary and secondary schools if we are to maintain a healthy diversity of educational opportunity." Senator Moynihan himself could hardly have stated the promise more clearly. But as everyone has noticed, Mr. Carter's explicit pledge has gone a-glimmering now that he is faced with an opportunity to make good on it. Why that is so, we can't imagine. But if the president finds it expedient to renege he owes the Catholic educators at least an equivalent legislative alternative.

Of all the attacks on the tuition tax credit proposal, the shabbiest is the insinuation that they are a sugar-coated scheme for promoting racial segregation in the schools. In fact, the main—and the neediest—beneficiaries would be Catholic parochial schools with an old and honorable record of racial equity. And as for the so-called "segregation academies" mushrooming up across the South at the heels of school integration, their students, insofar as racial exclusiveness is their aim, would be ineligible under the tax laws. So much is clearly provided in the latest draft of the bill.

We recognize, again, that there are those who fervently believe that the bill is not in the national interest; that this country is better off with a public monopoly of educational funds. Obviously, keen opposition to the Packwood-Moynihan bill can be squared with that outlook. It cannot, however, be squared with the profession of faith that educational and cultural diversity are what this nation is all about—or should be.

NUCLEAR AND THE ENERGY FREEDOM OF THE WEST

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, I have, over the past two decades, followed closely what the Soviets have been doing in the nuclear energy field. Their dedication to the use of this energy source to the ultimate degree in the military area is known to all of us. I have also found that the efforts being applied to the development of nuclear energy for civilian purposes is also obviously aimed at attaining a position of technological leadership in the world and, as indicated by the construction program now in progress, at the utilization of this energy source. This effort covers all of the promising concepts of nuclear reactions—the fission reaction, including the breeder concept, and nuclear fusion reactions.

One aspect of the Soviets' civilian nuclear energy program which has interested me is the role perceived in the Soviet Union toward this energy source in an ideological sense and from the standpoint of international politics. In this respect we fortunately have an excellent insight on these matters from an article which was published in the June issue of the "Bulletin of the Atomic Scientists." This article, entitled "Nuclear and the Energy Freedom of the West" was prepared by the internationally renowned Soviet scientist, Prof. A. D. Sakharov. He is probably more generally known at the present time for his designation as a dissident in the Soviet Union. Without dwelling on this aspect of his career at this time, I would like to call the attention of my colleagues to the fact that Professor Sakharov holds a position of preeminence in nuclear sciences as the developer of Soviet nuclear weapons and power reactors. This work of his has involved him in all aspects of nuclear technology. I wanted to mention this point to establish his qualifications in the field of nuclear energy.

I would like to include Professor Sakharov's article in its entirety at the close of my remarks for the benefit of all of my colleagues. A few of the highpoints of his important statement deserve emphasis. Sakharov first reviews the advantages of nuclear energy over oil or coal from the standpoint of safety and environmental impact. He decries the lack of understanding of the antinuclear elements in our own society of these facts. He specifically emphasizes the greater ease of solving the waste problem of nuclear energy compared to fossil-fueled energy sources. He goes on to cover all of the factors that are continually brought up by the anti-nuclear elements in our society—proliferation, nuclear fuel resources, and our modern society's need for energy—and disposes of them from the standpoint of a knowledgeable professional.

Then he goes on concerning the international and ideological aspects of the energy in general and nuclear energy in particular which warrants our special attention. He said:

> Therefore I assert that the development of nuclear technology is one of the necessary conditions for the preservation of the economic and political independence of every country—of those that have already reached a high development stage as well as of those that are just developing. For the countries of Western Europe and Japan, the importance of nuclear technology is particularly great. If the economy of these countries continues to be in any important way dependent on the supply of chemical fuels from the USSR or from countries which are under her influence, the West will find itself under constant threat of the cutting off of these channels. This will result in a humiliating political dependence. In politics, one concession always leads to another and where it will finally lead is hard to foresee.

He then refers to the time when, as he says, he was "one of the boys" in the Soviet Union and had access to the top planning activities in the Soviet Union. He refers to the political interests which exist in the Soviet Union to create and exploit energy shortages in the West. He even mentions the possibility that the campaign in our own society against the development of nuclear energy may be inspired by the U.S.S.R. He admits that he has no reliable facts to substantiate such an effort, but I believe his mentioning of this possibility should be noted by us as a sobering factor when we contemplate our energy dilemma. He then ends his article with the following:

> What is involved here is not just comfort, or preservation of the so-called quality of life, but the much more fundamental problem of economic and political independence, and the preservation of freedom for their children and grandchildren.

I join him in his expression of hope that we will all agree on the proper de-

cision in time and increase our utilization of nuclear energy at a greater rate. The political independence and the preservation of freedom considerations to which he refers as justification for the utilization of nuclear energy mandate this step.

The article follows:

NUCLEAR AND THE ENERGY FREEDOM OF THE WEST

(By A. D. Sakharov)

One often hears on the radio or reads in the press about demonstrations involving thousands of people, about speeches by well or not well-known statesmen, about various campaigns in the Western countries—all directed against the development of nuclear energy production, against construction of nuclear power stations, against breeders, etc. Although I felt rather amazed by this and even somewhat indignant, for a long time I restrained myself from any public statement, especially since, naturally, nothing of this kind takes place in the USSR. Gradually, however, I came to the conclusion that this subject deserves attention and that I have something to say about it.

The basic reason for anti-nuclear feelings among people is probably the fact that they do not have sufficient information about the complex and very specialized problems involved. Due to this lack of information, the natural and legitimate concern of contemporary man for preservation of his environment is misdirected.

It is difficult to explain to a nonspecialist (though it is actually true) that the nuclear reactor of a nuclear power station is nothing like an atomic bomb, that the power station burning coal or oil offers much greater danger and harm to the environment as well as a biological threat to people than does a nuclear station or breeder reactor of the same capacity rating.

Many responsible statesmen of the West, industrial leaders and nuclear scientists have now come to understand (though belatedly) that it is necessary to bring the basic technical facts to the attention of the public. They now understand the need for large-scale scientific and technical propaganda. This is truly very important. Hans Bethe, Nobel laureate in physics, wrote an excellent, well-argued article on "The Necessity of Fission Power," which was published in the Scientific American in January 1976. Bethe is the author of theoretical works on thermonuclear processes in the stars, on quantum electrodynamics and nuclear physics. His works are a part of the history of physics. European readers probably know also the name of the physicist F. Janouch who has repeatedly expressed himself on the same subject.

I am in complete accord with the reasoning of these and many other authoritative writers.

The development of nuclear technology has proceeded with much greater attention on the problems of safety techniques and preservation of the environment than the development of such branches of technology as metallurgy, coke chemistry, mining, chemical industry, coal power stations, modern transportation, chemicalization of agriculture, etc. Therefore, the present situation in nuclear power is relatively good from the point of view of safety and possible effects on the environment. The ways to improve it further are also quite clear. The basic peculiarity that distinguishes nuclear technology from that using chemical fuels is the high concentration and small volume of the dangerous by-products and the small size of the process as a whole. This makes it easier to solve the safety and environmental problems for a nuclear power station than it is for a power station using coal, oil, etc.

At the same time it is obvious that it is necessary to force the pace of development of nuclear technology, since it is the only economically feasible method—available in the next few decades—of replacing the use of oil. (According to most estimates, oil will become both too expensive and scarce by the end of the century due to the exhaustion of convenient deposits and increased extraction costs.) Moreover, it is very important not only to construct "conventional" nuclear power stations working on enriched uranium, in which the rare uranium isotope uranium-235 is used, but also to solve the problem of producing fissionable material from the main uranium isotope and eventually from thorium.

This will make it economically feasible to utilize poor uranium ores, large deposits of which are found in the Earth's crust. Later this will make it possible to utilize thorium ores, the deposits of which are even more abundant. As is well known, fast neutron reactors (breeders) are only one of the possible solutions of this problem. Both their engineering design and the development of safety measures are well advanced. Apparently, in the near future it will become necessary to start building industrial fast-neutron reactors. Naturally, maximum attention to safety measures will be called for.

I have already written about one possible alternative solution to the problem of producing fissionable materials, and I would like to mention it here. (I have also emphasized that I am not the originator of this idea.) I am speaking about a proposal to build a large underground chamber (probably with a hermetically sealed heat-proof, corrugated shell) in which explosions of especially prepared thermonuclear charges of minimal power are caused to occur periodically. The products of such explosions are subsequently withdrawn from the chamber and processed. With charges of this kind, very effective production of fissionable material can be attained by letting the neutrons from the thermonuclear reaction be absorbed by uranium or by thorium. Of course, attractive as this idea is, there are many serious difficulties in its implementation.

One other problem, much discussed in the literature, is the possible theft of fissionable materials from a power station or from a reprocessing plant. The stolen materials could be used to produce a primitive atomic bomb. As far as the possibility of theft is concerned, I think that proper organization and technical security measures will make such a possibility minimal. Besides, one can hardly envy the thief who would dare to steal a fuel rod from a nuclear reactor: most likely he himself will perish and the plutonium contained in one rod will not be sufficient to produce an atomic bomb.

As far as the possibility of producing a "do-it-yourself" atomic bomb is concerned, I am bound by security regulations, as Bethe evidently is. However, like Bethe, I can assure readers that this is a very complex procedure, not easier than, for example, building a "do-it-yourself" space rocket. In addition, one can assume that the individual obtaining a working atomic bomb will be handicapped by the denaturing of plutonium and other fissionable materials with neutron-active additives.

The whole problem of nuclear energy production should be considered from more than just the economic and technical points of view. In the rest of this article, I want to discuss the international and political implications of this problem. When I had already started working on this article, I happened to hear on the radio a broadcast about a book by the English astrophysicist Fred Hoyle. I have not read this book but judging from the broadcast, Fred Hoyle's point of view and his apprehensions are close to mine.

Policy-makers always assume, not without reason, that one of the many factors in determining the political independence of a country, its military and diplomatic strength and its international influence is the level of economic development of a country and its economic independence. This assumption is doubly valid in the case of two world systems opposing each other. But the level of a country's economy is determined by its energy technology: that is, by the utilization of oil, gas and coal at present; of uranium and thorium in the near future; and, perhaps, deuterium and lithium in the more distant future, when the very complex technical problems of controlled thermonuclear synthesis will have been solved.

Therefore I assert that the development of nuclear technology is one of the necessary conditions for the preservation of the economic and political independence of every country—of those that have already reached a high development stage as well as of those that are just developing. For the countries of Western Europe and Japan, the importance of nuclear technology is particularly great. If the economy of these countries continues to be in any important way dependent on the supply of chemical fuels from the USSR or from countries which are under her influence, the West will find itself under constant threat of the cutting off of these channels. This will result in a humiliating political dependence. In politics, one concession always leads to another and where it will finally lead is hard to foresee.

I have already had an opportunity to tell about a statement of an important Soviet official which I heard in 1955 when I still could be considered "one of the boys." He was talking about the reorientation of Soviet policy in the Near East, about the support of Nasser in order to create an oil crisis in Western Europe and thus obtain an effective lever for exerting pressure on her. Now the situation is much more complex and full of nuances. But some parallels undoubtedly exist. There exists a political interest on the part of the USSR in exploiting energy shortages in the West.

Is the present campaign against the development of nuclear power inspired by the USSR (or other countries of Eastern Europe)? I know of no reliable facts supporting this. If this were so, then insignificant and unnoticeable efforts are sufficient substantially to influence the dimensions of this campaign because of widespread anti-nuclear prejudice and lack of understanding of the inevitability of the nuclear era.

I must end this article on the same note that I started it. People must have the opportunity, that is, the knowledge, and the right to consider the mutually connected economic, political and ecological problems involved in the development of nuclear power, as well as the problems involved in alternative ways of economic development. And they must have the opportunity to consider these issues soberly and responsibly, without unfounded emotions and prejudices. What is involved here is not just comfort, or preservation of the so-called quality of life, but the much more fundamental problem of economic and political independence, and the preservation of freedom for their children and grandchildren. I am sure that in the end a proper decision will be reached.●

TUITION TAX CREDITS—A BREAK FOR THE POOR AND MINORITIES

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. SEIBERLING. Mr. Speaker, in an article in yesterday's Washington Post, Roy Innis, the national director of the Congress of Racial Equality, makes a very strong argument in behalf of tui-

tion tax credits at the elementary and secondary levels as having "a tremendous potential impact on poor and minority youngsters throughout this country by giving them what they desperately need: options."

Mr. Innis points out that until now the parents of these children have had no choice and no power in deciding where their children would be educated and what the quality of the education would be. He states that tuition tax credits tend to shift the power from those who control, that is the educational establishment, to those they control, that is the parents and kids.

Mr. Innis adds that the schools have often failed poor and black people in the past, but that this legislation will provide a competitive stimulus to the public schools. In his words:

The presence of even the comparatively small number of alternatives, even just the potential of parents' being able to reject a school that is not doing its job, can work great changes in the public schools. Innovation in both public and private education would be stimulated by a tuition tax credit.

Mr. Speaker, the full text of Mr. Innis' article follows these remarks:

A TAX BREAK FOR BETTER EDUCATION

(By Roy Innis)

CORE is an organization that has gone through many battles for educational quality and that today is rooted in major black communities throughout the nation. We believe the passage of tuition tax credit at the elementary and secondary levels will have a tremendous potential impact on poor and minority youngsters throughout this country by giving them what they desperately need: options.

The arguments advanced against tuition tax credits fall into three categories: constitutional, fiscal and philosophical. To those who say, as Sen. Ernest F. Hollings (D-S.C.) did in a Washington Post op-ed column Aug. 7, "The scheme is blatantly unconstitutional. Every Supreme Court decision and all the constitutional scholars agree on that score," we would reply: wrong. Respected constitutional scholars have weighed in on both sides of the issue. Moreover, we are willing to take our chances on the constitutionality of this bill, which has an expedited court hearing provision. We shouldn't forget that there were those who said *Plessy v. Ferguson* was the law of the land and shouldn't be challenged.

Much has been said about the fiscal implications of the bill. Those objections have been met by the Senate Finance Committee, which on Aug. 3 changed the bill to make the cost comparable to the administration's alternative. Those who vote against it are not voting on the basis of cost. They are voting against the revolutionary philosophy that the bill embodies.

And make no mistake. This bill will indeed have a revolutionary effect on millions of poor parents and children in this country. Those are the parents and children who until now have had no choice—and with no choice, no power. What is revolution, after all, but a shift of power? We are proposing that we shift the power from those who controlled (i.e., the educational establishment) to those they controlled (parents and kids).

Now we have come to what the fight is really all about. Black people have had to rely in the past on the public schools of this country to educate our children and enable our people to better their conditions. Those schools have often failed us. They have been sadly wanting not only in the efficacy of their teaching but even in their inability to guarantee the safety of our children. It is for that reason that CORE has established community schools and supports the efforts of parents who seek a better education for their children in private and parochial schools. Those parents who are willing to make an investment in their children's future deserve a credit.

But this bill is not just for the parents who exercise their option. We at CORE have not given up on the public schools; we recognize that whatever legislation is passed, the majority of American children—and the vast majority of minority children—will be educated in public schools. We know we must find a way to make the public schools better, to make them responsive to their constituency.

To us, it is perhaps most important that this legislation would provide a competitive stimulus to the public schools. The presence of even the comparatively small number of alternatives, even just the potential of parents' being able to reject a school that is not doing its job, can work great changes in the public schools, innovation in both public and private education would be stimulated by a tuition tax credit.

This measure, to borrow the words of an earlier time, would empower the people—and that's the question of philosophy. We believe it is time that the laws of this country give more than lip service to freedom of choice and quality education.●

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted to:)

Mr. GIAIMO (at the request of Mr. WRIGHT), for today on account of representing the House at the papal funeral.

Mr. RISENHOOVER (at the request of Mr. WRIGHT), after 1 o'clock today through August 17, on account of official business.

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CORCORAN) to revise and extend their remarks and include extraneous material:)

Mr. KEMP, for 5 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. PATTERSON of California) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. FLOOD, for 5 minutes, today.

Mr. CORNELL, for 5 minutes, today.

Mr. FUQUA, for 5 minutes, today.

Mr. WHITE, for 5 minutes, today.

Mr. REUSS, for 5 minutes, today.

Mr. STOKES, for 5 minutes, today.

Mr. WEISS, for 5 minutes, today.

Mr. SCHEUER, for 5 minutes, today.

Mr. LUNDINE, for 30 minutes, on August 14.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CORCORAN) and to include extraneous matter:)

Mr. SCHULZE.

Mr. ANDERSON of Illinois.

Mr. DERWINSKI.

Mr. EMERY.

Mr. DUNCAN of Tennessee.

Mr. LUJAN.

Mr. DORNAN.

Mr. RHODES.

(The following Members (at the request of Mr. PATTERSON of California) and to include extraneous material:)

Mr. ANDERSON of California in three instances.

Mr. OBEY.

Mr. GONZALEZ in three instances.

Mr. MOTTL.

Mr. FOLEY.

Mr. ROONEY.

Mr. EDGAR.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on August 10, 1978, present to the President, for his approval, bills of the House of the following title:

H.R. 2777. To provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes; and

H.R. 10787. To authorize appropriations for activities and programs carried out by the Secretary of the Interior through the Bureau of Land Management.

ADJOURNMENT

Mr. PATTERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 50 minutes p.m.), under its previous order, the House adjourned until Monday, August 14, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4765. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to Israel (transmittal No. 78–70), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4766. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to the Republic of China (transmittal No. 78–73), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4767. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to Spain (transmittal No. 78–76),

pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4768. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Thailand (transmittal No. 78–78), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4769. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Navy's proposed sale of certain defense equipment to Iran (transmittal No. 78–82), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4770. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Korea (transmittal No. 78–86), pursuant to section 813 of Public Law 94–106, to the Committee on Armed Services.

4771. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to the Republic of China (transmittal No. 78–93), pursuant to section 813 of Public Law 94–106; to the Committee on Armed Services.

4772. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Israel (transmittal No. 78–70), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4773. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Israel (transmittal No. 78–71), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4774. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to the Republic of China (transmittal No. 78–73), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4775. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Pakistan (transmittal No. 78–75), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4776. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Spain (transmittal No. 78–76), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4777. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Korea (transmittal No. 78–77), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4778. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Thailand (transmittal No. 78–78), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4779. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Iran (transmittal No. 78–79), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4780. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Iran (transmittal No. 78–80), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4781. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Iran (transmittal No. 78–82), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4782. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Korea (transmittal No. 78–83), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4783. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Israel (transmittal No. 78–84), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4784. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Navy's intention to offer to sell certain defense equipment to Israel (transmittal No. 78–85), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4785. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Korea (transmittal No. 78–86), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4786. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the Republic of China (transmittal No. 78–88), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4787. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Thailand (transmittal No. 78–89), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4788. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Spain (transmittal No. 78–90), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4789. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Iran (transmittal No. 78–92), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4790. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to the Republic of China (transmittal No. 78–93), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4791. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting the first annual report of the Task Force on Environmental Cancer and Heart and Lung Disease, pursuant to section 402 of the Clean Air Act Amendments of 1977 (Public Law 95–95); to the Committee on Interstate and Foreign Commerce.

4792. A letter from the Principal Deputy Under Secretary of Defense (Research and Engineering), transmitting a report on Department of Defense procurement from small and other business firms for October 1977, pursuant to section 10(d) of the Small Business Act, as amended; to the Committee on Small Business.

4793. A letter from the Comptroller General of the United States, transmitting a report on the need for improving the process of removing certain employees from the Federal personnel system (FPCD–78–71, August 10, 1978); jointly, to the Committees on Government Operations, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on International Relations. H.R. 11942. A bill to restore effective enforcement of the antitrust laws. (Rept. No. 95–1397, Pt. II). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 1311. Resolution providing for the consideration of H.R. 11622. A bill to amend the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas, petroleum, petroleum products, and certain other materials, to provide standards with respect to the siting, construction, and operation of liquefied natural gas and liquid petroleum gas facilities, and for other purposes (Rept. No. 95–1476). Referred to the House Calendar.

Mr. THOMPSON: Committee on House Administration. House Resolution 1297. Resolution to provide for the orderly shipment of official records and papers of Members of the House of Representatives (Rept. No. 95–1477). Referred to the House Calendar.

Mr. STAGGERS: Committee of conference. Conference report on S. 3040. (Rept. No. 95–1478). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 13655. A bill to amend the Public Health Service Act to revise and extend the program of assistance under that act for health maintenance organizations; with amendment (Rept. No. 95–1479). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 13650. A bill to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes; with amendment (Rept. No. 95–1480, Pt. I). Ordered to be printed.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 13611. A bill to strengthen and improve the early and periodic screening, diagnosis, and treatment program, and for other purposes (Rept. No. 95–1481). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11979. A bill to amend section 5 of the Department of Transportation Act; relating to local rail service assistance; with amendment (Rept. No. 95–1482). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 12101. A bill to amend the Farmer-to-

Consumer Direct Marketing Act of 1976 for the purposes of directing the Secretary of Agriculture to make grants to assist persons in developing innovative methods of direct marketing and extending the authorization of appropriations of such act, and for other purposes; with amendment (Rept. No. 95-1483). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. H.R. 13750. A bill to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes; with amendment (Rept. No. 95-1484, Pt. I). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 11733. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes; with amendment (Rept. No. 95-1485). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FITHIAN (for himself, Mr. HAMILTON, and Mr. STANGELAND):

H.R. 13834. A bill to suspend the duty on freight cars until the close of June 30, 1982; to the Committee on Ways and Means.

By Mr. FOLEY (for himself, Mr. AMMERMAN, Mr. BALDUS, Mr. BEDELL, Mr. BRECKINRIDGE, Mr. BROWN of California, Mr. GLICKMAN, Mr. HARKIN, Mr. HIGHTOWER, Mr. JENRETTE, Mr. JONES of North Carolina, Mr. NOLAN, Mr. ROSE, Mr. WEAVER, Mr. MCHUGH, and Mr. ZABLOCKI):

H.R. 13835. A bill to authorize the establishment of an international emergency wheat reserve, and for other purposes; jointly, to the Committees on Agriculture and International Relations.

By Mr. HANSEN:

H.R. 13836. A bill to facilitate the implementation of monetary policy and to promote competitive equality among commercial banks; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HUGHES:

H.R. 13837. A bill to amend section 319(a) of the Immigration and Nationality Act to provide that spouses of members of the Armed Forces of the United States need not petition for naturalization in a State in which they have resided for 6 months; to the Committee on the Judiciary.

By Mr. JEFFORDS:

H.R. 13838. A bill to amend the Agricultural Act of 1949 for purposes of providing that milk shall continue to be supported at not less than 80 percent of the parity price for milk until October 1, 1981, and for other purposes; to the Committee on Agriculture.

By Mr. MOAKLEY:

H.R. 13839. A bill to amend the Railroad Retirement Act of 1974 to eliminate the reduction of railroad retirement annuities by amounts payable as social security benefits in cases of persons who had at least 10 years of service, and had attained the age of 65 as of the effective date of such act; to the Committee on Interstate and Foreign Commerce.

By Mr. MOTTL:

H.R. 13840. A bill to authorize the appropriation of the funds necessary to enable the Inspector General, as the supervisory authority in the investigative operations of the Department of Health, Education, and Welfare, to perform his congressionally mandated functions in combating fraud and abuse in programs administered by that Department; to the Committee on Government Operations.

H.R. 13841. A bill to amend part A of title IV of the Social Security Act to provide increased Federal matching of State expenditures for management information systems and fraud control units under the AFDC program; to the Committee on Ways and Means.

H.R. 13842. A bill to amend the Internal Revenue Code of 1954 and the Social Security Act to allow the disclosure of the mailing address of an individual for use in collecting certain unpaid student loans and for use in verifying information given by an applicant for such a student loan, and for other purposes; to the Committee on Ways and Means.

H.R. 13843. A bill to direct the Secretary of Health, Education, and Welfare to more effectively obtain records of deaths for the purpose of preventing fraud and waste in payments under the Social Security Act; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

curity Act to broaden and regularize State and Federal matching of records for purposes of the various welfare programs and certain related programs; jointly, to the Committees on Ways and Means, Interstate and Foreign Commerce.

H.R. 13844. A bill to amend the Social Se-

By Mr. PANETTA (for himself, Mr. RICHMOND, Mr. SYMMS, Mr. NOLAN, Mr. SISK, and Mr. VOLKMER):

H.R. 13845. A bill to amend the Perishable Agricultural Commodities Act; to the Committee on Agriculture.

By Mr. RANGEL (for himself, Mr. BIAGGI, Mr. CLAY, Mr. DOWNEY, Mr. FISH, Mr. GARCIA, Mr. GUYER, Mr. HANLEY, Mr. LUNDINE, Mr. MCEWEN, Mr. MCHUGH, Mr. MADIGAN, Mr. MITCHELL of Maryland, Mr. NOWAK, and Mr. RICHMOND):

H.R. 13846. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income amounts received as prizes in connection with the New York State olympic lottery; to the Committee on Ways and Means.

By Mr. REUSS (for himself, Mr. ST GERMAIN, Mr. MITCHELL of Maryland, Mr. MOORHEAD of Pennsylvania, Mr. MINISH, Mr. ANNUNZIO, Mr. FAUNTROY, Mr. NEAL, Mr. PATTERSON of California, Mr. BLANCHARD, Mr. LAFALCE, Mrs. SPELLMAN, Mr. DERRICK, Mr. HANNAFORD, Mr. LUNDINE, Mr. PATTISON of New York, Mr. CAVANAUGH, Ms. OAKAR, Mr. VENTO, Mr. BARNARD, Mr. WATKINS, and Mr. GARCIA):

H.R. 13847. A bill to facilitate the implementation of monetary policy and to promote competitive equality among commercial banks; to the Committee on Banking, Finance and Urban Affairs.

By Mr. VANIK (for himself and Mr. LEDERER):

H.R. 13848. A bill to carry out the obligations of the United States under the International Sugar Agreement, 1977; to protect the welfare of consumers of sugar; and for other purposes; jointly, to the Committees on Agriculture, and Ways and Means.

By Mr. BEVILL:

H.R. 13849. A bill to protect the confidentiality of the identities of certain employees of the Central Intelligence Agency; jointly, to the Select Committee on Intelligence and the Judiciary.

By Mrs. MEYNER (for herself, Mr. MANN, and Mr. ZEFERETTI):

H. Con. Res. 692. Concurrent resolution requesting the President to convene a White House Conference on Foreign Trade; jointly, to the Committees on International Relations, and Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

465. The SPEAKER presented a memorial of the Legislature of the State of Texas, relative to a constitutional amendment requiring a balanced annual Federal budget; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

527. By the SPEAKER: Petition of the board of directors, ERAmerica, Washington, D.C., relative to extending the time period for ratification of the equal rights amendment; to the Committee on the Judiciary.

528. Also, petition of the Better Roads and Transportation Council, Denver, Colo., relative to the proposed Surface Transportation Act of 1978; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11280

By Mr. FRENZEL:

—On page 292, line 15, strike the word "or".

On page 292, line 16, after the word "Panel;" insert the following: "or (H) the Federal Election Commission;".

H.R. 11280

By Mr. HANNAFORD:

—Page 200, line 13, insert "(a)" after "SEC. 308.".

Page 200, after line 20, insert the following new subsection:

(b)(1) Section 8339 of title 5, United States Code, relating to computation of annuity, is amended by adding at the end thereof the following new subsection:

"(n)(1) An employee or Member who, at the time of retiring—

"(A) if married, notifies the Office of Personnel Management under subsection (j) of this section that he does not desire any spouse surviving him to receive an annuity under section 8341(b) of this title; or

"(B) if unmarried, does not elect a reduced annuity under subsection (k)(1) of this section;

may, during a period of one year beginning on the date of the retirement of such employee or Member, elect a reduced annuity with a survivor annuity under subsection (j) or (k)(1) of this section, as the case may be, if during such period such employee or Member deposits into the Fund the amount specified in paragraph (2) of this subsection.

"(2) The amount to be paid under paragraph (1) of this subsection is an amount equal to the sum of—

"(A) the full amount by which the annuity paid to such employee or Member would have been reduced for the period beginning on the date of his retirement and ending on the date on which he makes an

election under paragraph (1) of this subsection if he had elected at the time of retirement to receive a reduced annuity under subsection (j) or (k)(1) of this section, as the case may be; plus

"(B) interest on such amount at the average annual interest rate earned during such period by securities held by the Fund.

"(3) An election by an employee or Member under paragraph (1) of this subsection voids prospectively any election previously made by such employee or Member under subsection (j) or (k)(1) of this section.

"(4) An annuity which is reduced by reason of an election made under paragraph (1) of this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the employee or Member whose annuity is so reduced.

"(5) Rights and obligations resulting from the election of any reduced annuity under this subsection shall be the same as those rights and obligations which would have resulted had the employee or Member involved elected such annuity at the time of retiring.".

(2)(A) Section 8339(j) of title 5, United States Code, is amended by adding at the end thereof the following new sentence: "An employee or Member who, at the time of retirement, elects not to receive a reduced annuity under this subsection may, as provided in subsection (n) of this section, later elect to receive such an annuity.".

(B) The first sentence of section 8339(k) of title 5, United States Code, is amended—

(i) by inserting "or as provided in subsection (n) of this section" before ", an unmarried employee"; and

(ii) by inserting after "retired employee or Member" the following: ", except that an election under subsection (n) of this section may be made only with respect to an individual who had an insurable interest in such employee or Member at the time of the retirement of such employee or Member".

(3)(A) Subject to the provisions of subparagraph (B), the amendments made by this subsection shall apply with respect to employees and Members retirng before, on, or after the date of enactment of this Act.

(B)(i) For purposes of applying the provisions of paragraph (1) of section 8339(n) of title 5, United States Code, as added by this subsection, to employees and Members retiring before the date of enactment of this Act—

(I) the period referred to in such paragraph shall be considered to begin on the date of the enactment of this Act; and

(II) the amount referred to in such paragraph shall be computed without regard to the provisions of paragraph (2)(B) of such section 8339(n) respecting interest.

H.R. 11280

By Mr. LEVITAS:

—On page 137, line 12 after "(ii)" insert the following: "the Federal Bureau of Investigation,".

—On page 213, line 5 after "(B)" insert the following: "the Federal Bureau of Investigation,".

—On page 257, line 17 strike out after "through" and insert the following: "(c)(1) and (c)(3) through (g) of ".

—On page 258, line 15 after "Code" and before the parenthesis insert the following: "and section 5108(c)(2) of title 5, United States Code".

—On page 273, line 15 after "(B)" insert the following: "the Federal Bureau of Investigation,".

H.R. 11280

By Mr. FISHER:

—Page 221, line 25, insert 'the preceding sections of" after "purpose of".

Page 221, insert after line 22 the following:

"3137. Annual report by the General Accounting Office

"The General Accounting Office shall submit to each House of the Congress on or before March 1 of each year a report on the Senior Executive Service which shall contain, based on audits and reviews which shall be conducted by the Office during the year covered by the report, an assessment of—

"(1) the extent to which the laws, rules, and regulations governing employment in the Senior Executive Service have been complied with; and

"(2) the effectiveness and soundness of management by senior executives.

Page 220, line 12, insert "by the Office of Personnel Management" after "report".

Page 222, in the matter following line 15, strike out the items relating to sections 3135 and 3136 and insert in lieu thereof the following:

"3135. Biennial report by the Office of Personnel Management.

"3136. Regulations.

"3137. Annual report by the General Accounting Office.".

—Page 225, strike out line 15 and all that follows down through line 24 and insert in lieu thereof the following:

"(c)(1) The Office of Personnel Management shall establish one or more qualifications review boards, as appropriate, the members of which shall be appointed on the basis of their knowledge of public management and other appropriate occupational fields. It is the function of the boards to certify the managerial qualifications of candidates for entry as career appointees into the Senior Executive Service in accordance with regulations prescribed by the Office of Personnel Management. Of the members of each board—

"(A) one-half shall be career appointees; and

"(B) the other half shall be appointed from outside the civil service, not more than half of whom shall be adherents of the same political party.

—Page 272, strike out lines 19 through 24 and insert in lieu thereof the following:

EFFECTIVE DATE; EXPERIMENTAL APPLICATION

SEC. 503. (a) The amendments made in this title shall take effect as provided in this section. Not later than 60 days after the date of the enactment of this title, the Director of the Office of Personnel Management shall prescribe regulations providing for an initial, experimental application of the amendments made by this title. Such regulations shall provide that the merit pay system and the cash award program will apply with respect to positions only in the 3 Executive departments designated by the Director for the initial, experimental applications under section 415 of this Act of the amendments made in sections 401 through 412 of this Act and the provisions of section 413 of this Act.

(b) Within 30 days after the end of each of the first two full fiscal years to which such amendments apply, the Director shall prepare and transmit to each House of the Congress a report on the merit pay system and the cash award program, including an evaluation of their effectiveness and the manner in which they are administered. The second such report shall include proposed regulations which would provide for adjustments which would be appropriate in the event such system or such program does not continue by reason of subsection (c).

(c) The provisions of the regulations under subsection (a) providing for an initial, limited experimental application with respect to the merit pay system and the cash award program shall cease to have effect and the amendments made by this title relating to such system and such program shall have full effect (without regard to the limitations under subsection (a)) beginning on the 90th day of continuous session of Congress following the date on which the second annual report is transmitted to Congress under subsection (b) of this section, unless the Congress before such day adopts a concurrent resolution which states that the Congress does not favor the continuance of such system or such program. If such a resolution is adopted with respect to such system or such program before such date, then the provisions of such regulations and such amendments relating to such system or such program, as the case may be, shall cease to have effect on such 90th day (or, if later, 30 days after the date of the adoption of such resolution).

(d) For purposes of subsection (c), the continuity of a session of Congress shall be considered to be broken only by an adjournment of the Congress sine die, and the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 90-day period under such paragraph.

—Page 272, strike out lines 19 through 24 and insert in lieu thereof the following:

EFFECTIVE DATE; EXPERIMENTAL APPLICATION

SEC. 503. (a) The amendments made in this title shall take effect as provided in this section. Not later than 60 days after the date of the enactment of this title, the Director of the Office of Personnel Management shall prescribe regulations providing for an initial, experimental application of the amendments made by this title. Such regulations shall provide that the merit pay system and the cash award program will apply with respect to positions only in 3 Executive departments designated by the Director.

(b) Within 30 days after the end of each of the first two full fiscal years to which such amendments apply, the Director shall prepare and transmit to each House of the Congress a report on the merit pay system and the cash award program, including an evaluation of their effectiveness and the manner in which they are administered. The second such report shall include proposed regulations which would provide for adjustments which would be appropriate in the event such system or such program does not continue by reason of subsection (c).

(c) The provisions of the regulations under subsection (a) providing for an initial, limited experimental application with respect to the merit pay system and the cash award program shall cease to have effect and the amendments made by this title relating to such system and such program shall have full effect (without regard to the limitations under subsection (a)) beginning on the 90th day of continuous session of Congress following the date on which the second annual report is transmitted to Congress under subsection (b) of this section, unless the Congress before such day adopts a concurrent resolution which states that the Congress does not favor the continuance of such system or such program. If such a resolution is adopted with respect to such system or such program before such date, then the provisions of such regulations and such amendments relating to such system or such program, as the case may be, shall cease to have effect on such 90th day (or, if later, 30 days after the date of the adoption of such resolution).

(d) For purposes of subsection (c), the continuity of a session of Congress shall be considered to be broken only by an adjournment of the Congress sine die, and the days on which either House of the Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 90-day period under such paragraph.

EXTENSIONS OF REMARKS

ASSISTANCE FOR SENIOR VETERANS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Ms. MIKULSKI. Mr. Speaker, today I am introducing a resolution to assist the senior veteran. The veterans who valiantly served the United States during WW I, WW II, and the Korean and Vietnam wars received certain commitments from this country, and I feel that we have now reached a point in time when we must consider a new aspect of that commitment.

When the men were called to fight for the United States during WW II, they had to make many sacrifices. These men, who so bravely served in the Armed Forces, had to leave their jobs and their education in the lurch and their families behind. When they returned from several years involvement in a victorious war, these men found their lives in a state of flux. It was then that the GI bill and veterans preference, besides other benefits, were initiated to help reward these men for their accomplishments, and also more importantly, these benefits were meant to help the men readjust and to make up for lost time.

Now we have reached a new phase. These veterans now have different concerns and priorities. They no longer need to worry about financing their own education or finding a job after finishing school or just finding a first job after being released from the service.

What these men, whose average age is 58, are most concerned about is planning for the future making sure that they will be able to continue to take care of their families if they become ill. A heart attack, a stroke, cancer, or any catastrophic illness can easily deplete a family's hard earned lifetime savings. We must now face the new direction of veterans concerns.

There are currently 26 million WW II vets out of a total veterans' population of 29 million. The Veterans' Administration, within the next 10 years, will have to change its focus to adapt its services to be able to handle the new wave of aging veterans. New needs will have to be satisfied by the Veterans' Administration and new services developed which have not been previously in demand. For that reason, I am introducing legislation which calls for the Veterans' Administration to prepare and to submit to the Veterans' Affairs Committees of both the House and the Senate a plan which specifically details how it will handle the influx of senior veterans. I believe that it is important that this plan should include:

(1) Providing retirement counseling and planning services for senior veterans.

(2) Converting unused acute-care hospital facilities under the jurisdiction of the Administrator to long-term care facilities.

(3) Expanding the number of hospital-based home care units under the jurisdiction of the Administrator.

(4) Expanding and improving long-term care and catastrophic health care programs of the Veterans' Administration.

(5) Establishing new facilities to provide daytime care—in lieu of nursing home care—for senior veterans who are able to live with their families.

(6) Establishing hospice programs for terminally ill senior veterans.

(7) Extending health care services to surviving spouses of veterans.

The Veterans Administration needs to have concrete and dynamic plans to best serve the aging veteran, and I believe that my legislation will assist the Veterans' Administration in better providing for those needs.●

RESOLUTION ON EQUATORIAL GUINEA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. DORNAN. Mr. Speaker, yesterday and the day before, I called the attention of this House to the brutal murders taking place in the tiny country of Equatorial Guinea. Yesterday, at a luncheon I sponsored for the Roman Catholic Bishop of Equatorial Guinea, Bishop Rafael Nze Abuy, 12 of our distinguished colleagues heard of the terrible atrocities being perpetrated on these poor people by this demoniacal regime. We heard of the intensity of Cuban and Soviet interest in using this cruel government, and in using the strategic location of the nation's island territories.

Today, I am asking every Member of this House who has voiced strong support for the U.S. campaign for human rights, to join with me in cosponsoring this resolution condemning the murder of innocent people in this small African country and in protesting the total elimination of the Catholic faith.

I am asking every Member of this House to stand forth and support whatever efforts can be made, no matter how limited, to stop this slaughter and end this nightmare.

The text of my resolution follows:

H.J. RES. —

Whereas the President-for-Life of Equatorial Guinea, Francisco Macias Nguema, having replaced the government of his country with a brutal personal tyranny, has begun and pursues a campaign of persecution against religion, and genocide against his own people;

Whereas, reliable reports indicate that as many as 50,000 people have died in the persecutions of the Macias government;

Whereas, in addition, Macias has lent his country to the use of other nations whose forces' presence in Equatorial Guinea not only threatens the independence of that nation but also the security of neighboring states and the peace of the world; be it

Resolved, That the Senate and the House of Representatives of the United States abhor and condemn the Macias tyranny;

Further, that they call upon the United States government to use its offices to encourage countries with interests in Equatorial Guinea to employ their influence towards the end of eliminating persecution of religion and genocide in Equatorial Guinea;

Further, that they call upon member nations of the world community to support any and all other measures that may end the persecution of religion and genocide in Equatorial Guinea except measures that could threaten the independence or territorial integrity of the nation.●

WHAT U.S. BUSINESS IS WEARING OVERSEAS TODAY

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. BOB WILSON. Mr. Speaker, as a former advertising man and now a Member of Congress with a great concern for our system of free enterprise, I cannot but help noting the steps we have taken in recent years that ties the hands of our own, uniquely American, private industry. At home and abroad, government seems to delight in placing obstacle after obstacle in the path of business. Competition is always rough, but maybe if government would decide to let a free domestic and international marketplace work, we might even surprise ourselves as the following advertisement by Pullman, Inc. tells us.

I include this in the RECORD as a portion of my remarks:

WHAT U.S. BUSINESS IS WEARING OVERSEAS TODAY

If you think it's easy to do business overseas today, chances are you aren't carrying an American passport.

The whole world of international business has to fight against competition, distance, language, and cultural awkwardness, currency problems and other generalized obstacles to success.

But with an American passport, you also get to struggle against restrictions of your own government. While your counterparts in other countries are encouraged, supported, funded, and actively facilitated by theirs.

Despite it all, the capital-producing creativity of American business has never been equalled by any other system or society on earth.

Pullman's engineering and construction operations, for example, have taken U.S. plant technology to places that you just can't get to from here, with everything from

blueprints to bridges to transportation to financing.

Even with both hands tied behind our backs U.S. business has the strength to prevail.

Cut us loose and who knows what wonders you might see?●

IN TRIBUTE TO GEORGE MAHON

SPEECH OF

HON. CLARENCE E. MILLER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 9, 1978

● Mr. MILLER of Ohio. Mr. Speaker, when the Congress concludes its business this year, it will mark the end of an era that has spanned more than four decades. Representative GEORGE HERMAN MAHON, the dean of the House of Representatives, announced last summer that he will retire with the close of the 2d session of the 95th Congress. He is the dean of the House because he has served the people of Texas here for 44 years. He is the only Congressman the 19th District of west Texas has ever had. Without question, he is one of the best ever to serve in Government.

As a member of the House Appropriations Committee, he has earned my respect and admiration. I have been particularly impressed by his manner and style—as honest as he is lean and intense. He has the uncanny ability to raise a point without raising the roof. He has the style of a minister and the effectiveness of a diplomat. His philosophy of long-standing demands the careful attention of today's Congress: "pay for it, or put it off until we are willing or able to do so."

GEORGE has stood by that philosophy for 44 years, but it has never been more important than now. His service in the House will remain as a monument to governmental integrity and public service responsibility. Always busy, but then, never too busy to listen, to comment, to direct, to advise or assist on a matter of far-reaching importance or an issue of relative insignificance. He will leave his place as nothing less than a great statesman, and a fine gentleman.

The Congress has changed dramatically in four decades. Critical issues have come and subsided. Arguments can be made that changes have been for the better or otherwise. There is one point which cannot be debated: that GEORGE MAHON has served this House, this Nation and the people of his district well. So well, that the Congress, in actuality, will never be the same again. We will not be as rich. We will not be as blessed.

George Will's column in the Washington Post shortly after Mr. MAHON announced his retirement last summer best captures the quality of our distinguished colleague. With your permission, I would like to enter Mr. Will's remarks in the RECORD at this point.

AN UNRETIRING CHAIRMAN HAS DECIDED TO RETIRE

He was born with the century, in 1900, in Mahon, La., but soon his family, 10 strong, moved to Texas. There, mother kept the children's noses in books, including the one read on countless 19th century hearths—"Pilgrim's Progress."

In 1934, West Texans sent George H. Mahon to Congress, where Lyndon Johnson was a staffer. Mahon began wrestling with the nation's budget when Jimmy Carter was wrestling with high school algebra.

Today, after 43 years of service, Mahon is senior to all his colleagues. He is retiring at the end of this term because he would be 80 before the end of another. That is a poor reason for the House, or any other institution, to lose the services of a man whose abilities remain formidable.

Mahon is six-feet-two, erect and lean. He looks as though he was whittled from a fence post by the West Texas wind. His capacious memory is papered, floor to ceiling, with poetry and hymns, which sometimes ring down the fairways when he is golfing.

This morning he poses on the Capitol steps with a small regiment in bright polyester, Texas ladies here to keep an eye on Congress. Returning to his office, he passes a congressman leaving the House floor in shirt sleeves and murmurs disapproval of the slack standards of the age.

He is one of the last links with the New Deal, but his credo as chairman of the House Appropriations Committee has been less Hyde Park than West Texas. "Pay for it or put it off until we are willing or able to do so."

When he was born, there were 26,000 federal workers in Washington. By 1940 there were 166,000, about the number the Department of Health, Education and Welfare employs today. Don't blame Mahon.

Rep. Thomas Reed of Maine, Speaker of the House when Mahon was born, once heard a chaplain pray that Reed would conduct the House according to the will of God without regard to partisan politics. Reed exclaimed, "I never heard a more preposterous prayer addressed to the throne of Grace."

Reed was right. The House is an inherently partisan place. But no man has taken less advantage of large opportunity to abuse power than has Chairman Mahon.

The portraits on the wall of his office include a baleful one of Thaddeus Stevens, the radical Republican of Reconstruction whom the late Stewart Alsop well described as "the most merciless and vindictive politician the United States has produced." No two men who have served on Capitol Hill are less alike than Stevens and Mahon.

His conversation constantly teeters agreeably on the edge of a chuckle. Like the red-and-white check necktie he is wearing with an otherwise subdued ensemble, there is about him an unexpected and, happily, irrepressible impulse to lightness. He has been an ornament to a city with more than its fair share of the pompous, a city that is not about to take G. K. Chesterton's point:

"It is really a natural trend to lapse into taking oneself gravely, because it is the easiest thing to do. . . . For solemnity flows out of men naturally, but laughter is a leap. It is easy to be heavy: hard to be light. Satan fell by force of gravity."

The hall outside his office is full of scaffolding for the workmen whose job is the perpetual one of maintaining the special mellowness of the Capitol's rich interior decorations. The scaffolding, Mahon chuckles, is for hanging miscreants, and there never is enough scaffolding. And a ladder leaning against the wall puts him in mind of a hymn:

"We are climbing Jacob's ladder, Soldiers of the Cross."

Mahon is an American type—an alloy of piety, industriousness, reticence and abstemiousness—that once was as common as, and soon may be as scarce as, the homing pigeon.

As Mahon approaches the yellow leaf (I say approaches: His father, who moved to Texas for his health, lived to be 97), he can take leave of government serene in the knowledge that the government is better than it would have been if he had not come to it, and that he is as good a person as he was when he came.●

THE WHITE HOUSE LOBBY ON VETERANS PREFERENCE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. TEAGUE. Mr. Speaker, did the administration plant the recent article on veterans preference in the Wall Street Journal?

Mr. Speaker, on July 26, an article appeared in the Wall Street Journal entitled "Congress and the Veterans Lobby," which was reprinted in the July 31 issue of the Washington Star. My question is, was this story planted by the administration? I hasten to say that I have no evidence that it was. My reason for raising this question is because there has crossed my desk in recent days a copy of a letter sent to friends and organizations across the country, on White House stationery, signed by Richard A. Pettigrew, Assistant to the President for Reorganization, urging support for the President's Civil Service Reform Act with its provision to limit or terminate veterans preference in the Federal civil service. Included with this letter, which is dated July 31, 1978, are a number of papers in support of the President's position including a copy of the July 26 Wall Street Journal article, "Congress and the Veterans Lobby." It is unprecedented, to my knowledge, that the White House would be sending out reprints of an article in support of its position. That is why I have raised the question, did the administration, in effect, plant this story in the Wall Street Journal?

Mr. Speaker, on August 4, 1978, I wrote a letter to the Wall Street Journal, in which I strongly disagreed with statements made in the article and in which I pointed out that it appeared that the article was advocating the party line by the administration, to get rid of veterans preference. Today, I have received a letter from the Veterans of Foreign Wars which also relates to this article in the Wall Street Journal. I request, therefore, that a copy of my letter of August 4 to Mr. Alan L. Otten of the Wall Street Journal, and a copy of the letter from the VFW dated July 28, 1978, be made a part of my remarks.

Last, Mr. Speaker, with regard to the administration's efforts to take away veterans preference from the Vietnam veterans, I was shocked to receive a copy of a letter from Mr. Alan K. Campbell, Chairman of the Civil Service Commission to Mr. Max Cleland, Administrator of the Veterans' Administration, in which Mr. Campbell stated that the Commission will certainly need the help of the Veterans' Administration in gaining congressional approval of the veterans preference modifications in the civil service reform bill, as amended, and that

Mr. Campbell would be back in touch with Mr. Cleland about specific ways in which the Veterans' Administration can help the Commission in its efforts to gain congressional approval of the veterans preference modifications. The Veterans' Administration is the spokesman in the administration on all matters and programs relating to veterans and their dependents. Traditionally, the Veterans' Administration has been the advocate of veterans' benefits and has avoided being put in the position of being the adversary. This letter to which I refer, dated July 31, 1978, from Mr. Campbell to Mr. Cleland regrettably indicates that the administration in its efforts to take veterans' preference away from Vietnam veterans, is now using the offices of the Veterans' Administrator to accomplish this purpose.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., August 4, 1978.

Mr. ALAN L. OTTEN,
The Wall Street Journal, 1025 Connecticut Avenue, NW., Washington, D.C.

DEAR MR. OTTEN: It has always been a favorite subject of political columnists to use unidentified Members of Congress as whipping boys. At the same time once a war is over, they cannot resist the temptation to quickly forget the sacrifice made by those citizens who made an extra contribution in the national interest by serving in the Armed Forces during a period of war.

You have incorporated both of these principles in your article entitled, Congress and the Veterans Lobby, which appeared in the Wall Street Journal on July 26, 1978 and reprinted in the Washington Star on July 31, 1978. As a Member of the Veterans' Affairs Committee of the House for 32 years, and as Chairman for almost 18 years, it was my privilege to work with so-called veterans lobbyists. I have always held that good lobbyists serve a useful purpose in Government. They are specialists in their own areas of references and since a Congressman cannot begin to be an expert in everything that comes before the House, a Congressman must learn as much as possible from a number of reputable and knowledgeable people that are available. The so-called veterans lobbyists I have known, have been educators and advocates of their causes, and have been extremely helpful arriving at decisions on legislation in which they have an interest.

Your article leaves the impression that Congress is caving in on the pension program. I think it is fair to say that I am a fiscal conservative. However, I have never had any aversion to spending tax money when the money is well spent and the need for it is apparent. As Chairman of the Veterans' Affairs Committee, I was at least partially responsible for the expenditure for a great deal of money. I do not regret a penny of it. Our veterans gave everything they had for their country, and deserve in return everything a grateful nation can possibly afford to do to alleviate their problems at a time when they are in greatest need. Even in veterans' affairs, however, reckless or sentimental squandering of tax dollars is not the answer to the problems. The pension bill to which you refer, is expensive, but taken into consideration with our present economy and gross national product, the cost of veterans benefits is much less than it was when we had far fewer veterans several years ago.

My main purpose for writing is to disagree with your views on veterans preference, which appear to be the party line being advocated by the Administration in its efforts to get rid of veterans preference, except for the service-connected disabled. I just can't understand why the Federal Government wants to eliminate 5 point preference for citizens who were drafted to serve in the Armed Forces during one of the most unpopular wars in history. Even more baffling is at the very time the Administration is trying to get rid of veterans preference for persons who served in the Armed Forces, persons who served as volunteers in the Peace Corps, Vista and Action Programs, are made eligible for a non-competitive appointment in the Federal Civil Service by a Presidential Executive Order.

You state that veterans seeking Federal employment use their preference again and again. We are told that there are no statistics on how often a veteran does use his veterans preference.

You state that many veterans use their preference more than once by switching jobs to leave Government jobs and then return. Again, the Civil Service Commission cannot substantiate such a statement with any reliable statistics.

With regard to military careerists, you would throw out the baby with the bath water. To curb veterans preference for military retirees, the Administration is willing to sacrifice veterans preference for the millions of veterans who were drafted for two years—the very veterans which veterans preference is intended to help.

You state women are being hurt by the Veterans Preference Act at entry level jobs for college graduates. The facts don't bear this out. During 1977, for example, new hires included 213,000 females and 163,000 veterans.

There is nothing mandatory in the law requiring that the Federal Government select veterans who may be at the top of a register when the appointing officer does not choose to hire such veteran because of his lack of job qualifications, or for medical, or suitability reasons. You omitted a very important provision of the law which permits an appointing officer to pass over a veteran eligible and select a non-veteran further down the list. Passing over a veteran has been a part of the law since 1923. The appointing officer must file with the Civil Service Commission the reasons why the veteran has been passed over and the reasons approved by the Civil Service Commission. During Fiscal year 1977, we are told that 2,196 veterans were passed over with 1,587 approved by the Civil Service Commission. These statistics put to rest the slanderous taint of your statement that veterans preference gives "the Federal Government something less than the best qualified work force."

You parrot press handouts when you state that preserving veterans preference will hurt Vietnam era veterans. This is a lot of hogwash. The average age of World War II veterans is 60; for Korean veterans, it is 50. There is no reliable information that I have seen which can prove that Vietnam era veterans, whose average age is less than 30 are competing for the same jobs as Korean and World War II veterans. The truth of the matter is that the great majority of World War II veterans are preparing to retire from the Federal Civil Service and the Korean veterans are following closely behind. The ones that will be hurt by a change in the present veterans preference laws, as supported by the Administration in the Schroeder amendment, are the Vietnam era veterans.

Your article made no reference to the recommendations of the veterans organizations, whose members will be most affected by the Congressional approval of the President's recommended restrictions on veterans preference. Perhaps you do not know that both the American Legion and the VFW have more than a half-million members who served during the Vietnam era. Likewise, the Disabled American Veterans and AMVETS have a large percentage of Vietnam era veterans as members. Another veterans organization is the National Association of Concerned Veterans, which speaks exclusively for Vietnam era veterans. All of these veterans organizations are unanimous in their opposition to the Administration's recommendation to eliminate veterans preference. These veterans organizations point out that to curb will be a gross violation of the long held principle that veterans of all wars should have equal benefits for equal service. Most important, they make it crystal clear that the Administration's proposal on veterans preference will not help Vietnam era veterans, but on the other hand, will take away a benefit which veterans of previous wars have been provided.

I have long held that a Member of Congress must examine all sides of an issue and have the courage to face up, on a long range basis, to the real problem rather than accept every short-term solution.

Members of Congress who vote against the Administration's recommendation on veterans preference will not be giving in to powerful veterans lobbyists, but to the contrary, will be voting in the best interests of the nation by continuing to tell our young citizens that our nation is grateful for what they did for our country when they served in the Armed Forces during the Vietnam war.

Sincerely,

OLIN E. TEAGUE,
Member of Congress.

JULY 28, 1978.

EDITORIAL EDITOR,
Wall Street Journal,
22 Courtlandt Street, New York, N.Y.

DEAR SIR: The Veterans of Foreign Wars of the U.S. wishes to thank Alan L. Otten, the author of Congress and the Veterans Lobby, Wall Street Journal, July 26. He credits veterans groups for having the administration "surrendering altogether," making "every politician a bedwetter" and "herd(ing) politicians before them." Mighty heady stuff!

Of course, none of this is true, nor did Mr. Otten prove his "muse." Nor did he prove his charge that veterans groups are actually working against the best interests of the eight million plus veterans of the Vietnam era. Just the opposite!

Mr. Otten above all others should know that the Carter 1979 budget proposals reduced the VA budget from 5.9 percent of total federal budget to 3.8 percent, while at the same time, welfare and other so-called social programs were increased a whopping 22 percent. Look again, Mr. Otten, it isn't the nation's veterans who are getting the attention from Carter or the Congress.

Before getting into the two examples cited by Mr. Otten, the pension program and veterans preference, let me inform you that the V.F.W. has been in the forefront not only in support of all veterans programs, which incidentally benefit Vietnam veterans, too, but also specific programs for these veterans.

We have fought for cost of living increases for the GI Bill—increases the administration did not have the courtesy to ask Congress to fund. Extensions of the limiting dates the educational assistance could be used—far greater than the World War II or Korean veteran had given to him. Higher home loan guarantees. Mobile home loans—never before allowed a veteran. And many, many more benefits newly won for these veterans he says we work against.

Now to the specifics of the two programs he charges that will hurt the Vietnam veteran.

The pension program for veterans is a needs program. That is, a veteran must show an income which qualifies him for help. The present programs are inequitable and provide a pension income far below the national poverty level. The new adjusted plan—devised by the Congress, not veterans orga-

nizations, as he says—will eliminate these injustices and bring a guaranteed income for a single veteran of $4,000. Hardly a monstrous sum as Mr. Otten alleges. True, that it looks large when it is attributed to veterans, but if this group was placed in the welfare category—a designation abhorrent to those who served their country in time or war—the sum would still be the same. Mr. Otten might be interested to learn that over 12,000 Vietnam veterans already are receiving a pension, so this program is not just for the old, needy veteran.

Veterans preference has become an emotional issue with the Carter crowd, shouting how their changes will help the Vietnam veteran and the disabled. Let's get rid of these falsehoods once and for all. Veterans preference in federal and state employment now does just that. The changes proposed will hurt the Vietnam veteran and hurt him badly, and could do the same for the disabled.

If Carter's proposal is adopted, over three million Vietnam veterans will lose their rights the day the law goes into effect. If the compromise proposal moving in the House of Representatives is adopted, only 496,000 will lose, but in 1985, which is the 15th year of eligibility for many Vietnam veterans, over four million will lose the right of preference.

The disabled veteran now has preference over all in hiring, but the Carter proposals contain so many ways to end-run the new laws—50,000 Demonstration Project jobs, 40,000 Special Emphasis jobs, etc., all allowing jumping over disabled veterans—that we see the end of veterans preference.

Truly, the administration's proposals are to do just one thing: appease women and minorities. Yet, minority leaders have testified in favor of keeping the laws as they are so that minorities can get a foot in the door of the federal job market using veterans preference.

Lastly, much has been made of the reduction in force protection allowed a veteran and its proposed limit to just eight years. Picture the fairness of two people side by side. One went to Vietnam and fought for his country in a divisive war, the other entered federal service. The veteran returns and enters the government. After eight years—both of the men equal in job efficiency—the veteran can be fired while the one who did not fight, stays.

Come on Mr. Otten, don't you think you have been hoodwinked by the shouts of the Carter administration rather than the veterans organizations who do, in fact, have the Vietnam veteran at heart? Come visit us at your convenience, we will give you the facts.

Sincerely,

JOHN WASYLIK,
Commander-in-Chief.●

BALANCE OF POWER(S) SERIES BOOK IV—INTRODUCTION—SOVIET DOCTRINES AND INTENTIONS

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, on July 10, 1978, I started inserting into the CONGRESSIONAL RECORD a series of articles on Soviet doctrines and intentions—Book IV of my Balance of Power(s) series. Because differences in assumptions, goals, attitudes, and ethics between the United States and Soviet approaches to national security problems create asymmetries which underlie every element of the balance of power, it is appropriate to raise these neglected questions as this 3-year series concludes.

Today, I would like to outline this series on Soviet doctrines and intentions will be developed according to the following outline:

First. Myths and Realities of Soviet Military Doctrine.

Second. Meaning of Soviet Military Doctrine.

Third. Soviet Strategic Doctrine and Nuclear War.

Fourth. Soviet Approach to Negotiations.

Fifth. Arms Control.

Sixth. Militarization of Soviet Society.

Seventh. Defense Industrialists in the U.S.S.R.

Eighth. National Intelligence and the U.S.S.R.

Ninth. Soviet Assessment of the World Correlation of Forces.

Tenth. Growth of Soviet Military Might.

Eleventh. First Strike Capability in Soviet Military Planning.

Mr. Speaker, it is my hope that by directing attention to these critical issues this series may contribute in some measure to a fuller appreciation of the challenges to be met by the U.S. national defense effort, and how best to proceed. Within the limitations imposed by the constraints of time, this section may be enlarged.●

NO REASON FOR METRIC

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. RUDD. Mr. Speaker, a good article in yesterday's Wall Street Journal questioned the whole rationale behind the effort to change our country's system of measurement to the metric system.

The article noted that there is no reason to change people's lifestyle and cause tremendous dislocations by changing weights and measures, unless some driving force, such as economic necessity, requires it.

This is not the case in the bureaucratic effort to convert to metric.

I would like to include the Wall Street Journal article at this point in the RECORD.

[From the Wall Street Journal, Aug. 9, 1978]

LET METRICS COME TO THE U.S. INCH BY INCH

(By P. J. Wingate)

Progress hasn't exactly been rapid in moving to the metric system. The 17 members of the U.S. Metric Board, created by law in 1975 to assist the United States in going metric, took nearly two years to get themselves appointed and confirmed by the Senate.

The situation brings to mind the case of the young businessman who was transferred by his company to France and took his family along. Shortly after they moved into a small town north of Paris the husband came home to find his wife close to tears.

"I get along fine with the language," she said, "but this damned metric system is driving me wild. Today I went to the butcher shop and asked for a kilometer of ground beef. The butcher told me in perfect English: 'Madam, I think you mean a kilogram. A kilometer is over half a mile and even Burger King doesn't order that much.' I'll be glad when we go back home where I'll know what I'm talking about."

Her husband told her she would get the hang of it all after a while but then he added: "By the time we get home, three years from now, the whole United States may be talking metric."

The young husband may be right but the odds are against him. Metric is moving in the U.S. but very slowly.

Chemists and physicists in the U.S. adopted the metric system in their laboratories before World War I but progress has been slow ever since then. In fact, chemists never did go the whole way. They report their laboratory results in grams, centimeters and the like but when the process moves out into the plant it is still likely to be measured in pounds, feet and other English units. During the past two decades some movement toward metric units in the plant has occurred, mostly because of the driving force resulting from increased foreign sales.

In fact, driving force or lack of it probably will do more than the Metric Board to determine how fast the metric system moves ahead in America. And the Metric Board should keep that in mind. If Americans are engaged in foreign business they will feel a driving force to go metric just as chemists and physicists did a century ago when they found that nearly all scientific papers gave their results in metric units. But purely domestic businessmen will feel no driving force and will resist it. Barbers, for example, will not find many people asking to have their hair cut a millimeter or a centimeter shorter.

Most of us simply see no reason to leave the units we have grown accustomed to, and in some cases even pounds and feet seem too modern to suit us. In the horsebreeding and racing business a horse's height is measured in hands (4 inches) and the distance he runs is furlongs (220 yards). And an Australian or English trainer may measure the horse's weight in stones (14 lbs.). The trainer's weight, too. Sailors measure the depth of water under their vessel in fathoms (6 ft.) while out on the ocean the ship's speed is measured in knots.

A knot is one nautical mile per hour and a nautical mile is 1.152 U.S. miles. But, of course, an international nautical mile is only 1.151 U.S. miles, all of which gives some idea of why sailors are likely to keep on talking about knots instead of either kilometers or miles per hour.

Furthermore, while no one has yet found a way to add a cubit (18 inches) to his natural height, going all the way back to biblical days, the cubit has not yet vanished entirely from the English language. Nor have the jot and the tittle. These two units of measure may have been a more precise value in St. Matthew's day (see Chapter 5, verse 18 of the King James Bible), but most people still know they are very small—about the size of an iota. Winston Churchill used them and so does Jimmy Carter.

It is true that the firkin (of butter, for example) has just about gone the way of the cubit but a rasher (of bacon) is still hanging in there giving color to the language and helping to date historical novels. The are, as a unit of area, has also vanished but its big brother, the hectare (100 ares or about 2.47 acres) is still much loved by lawyers and others dedicated to precedent and the past.

These units have little or no reason for holding on but they do until some real driving force pushes them out. So the pound, the foot and the degree Fahrenheit are likely also to stick around until real forces, such as foreign sales, drive them out.

Is there much reason to have signs give the distance between American cities in kilometers instead of miles? Will it increase the understanding of most Americans to say

Baltimore is 64.5 kilometers from Washington instead of 40 miles?

Visitors from foreign lands may like it better, but few nationalities hesitate when they must choose between inconveniencing themselves or visitors. And will it help to have the weatherman give us the barometric pressure in kilopascals rather than inches of mercury? Most of us have the devil of a time figuring out what inches of mercury mean.

Finally, how long will it take for the public to grow accustomed to having the beauty queen's measurements given in centimeters instead of inches? Will it help if 36–22–32 is converted to 91–55–81? Hardly.

In fact, if Scarlett O'Hara's measurements had been reported as 91–55–81, Rhett Butler might have given his most famous line early in the book instead of waiting until near the end to say: "Frankly, my dear, I don't give a damn."

Go slowly, Metric Board, and let the natural forces of the marketplace set the tempo of the march to metric.●

HOW VOLUNTARY IS THE U.S. METRIC CONVERSION PLAN?

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. CRANE. Mr. Speaker, a few weeks ago when the House was considering H.R. 13467, the second supplemental appropriations bill, I proposed an amendment to delete the $275,000 earmarked for the U.S. Metric Board. The debate on my amendment indicated that there is considerable confusion over the role of Government in promoting a shift to the metric system. Section 3 of the Metric Convrseion Act of 1975 states that the "policy of the United States shall be to * * * establish a United States Metric Board to coordinate the voluntary conversion to the metric system." Since any move toward the metric system is to be voluntary, a costly Government entity is simply unnecessary. It makes little sense to spend taxpayer money to persuade, convince, or coerce taxpayers to "voluntarily" convert to metrics. If such a conversion is to take place at all, it should come naturally, as demanded by the marketplace, not in response to pressure from a Government agency.

The Wall Street Journal recently contained an article questioning the role of a Government agency as a driving force behind "voluntary" conversion. Because this article relates directly to an issue we debated a few weeks ago, I include it at this point:

LET METRICS COME TO THE U.S. INCH BY INCH

(By P. J. Wingate)

Progress hasn't exactly been rapid in moving to the metric system. The 17 members of the U.S. Metric Board, created by law in 1975 to assist the United States in going metric, took nearly two years to get themselves appointed and confirmed by the Senate.

The situation brings to mind the case of the young businessman who was transferred by his company to France and took his family along. Shortly after they moved into a small town north of Paris the husband came home to find his wife close to tears.

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Go slowly, Metric Board, and let the natural forces of the marketplace set the tempo of the march to metric.

Mr. Speaker, to eliminate any confusion over the Government's role in metric conversion, I have introduced H.R. 13451. This legislation abolishes the unnecessary Metric Board and permits the Department of Commerce to carry on whatever coordination may be needed for voluntary conversion to metric units.●

BART LANIER STAFFORD III, A MOST SINGULAR PERSON

HON. RICHARD C. WHITE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. WHITE. Mr. Speaker, I am submitting for the RECORD a selection of three short poems by Bart Lanier Stafford III, of El Paso, who I am proud to claim as a constituent. I submit these works not for their literary quality, which is considerable, but because of the incisive social commentary they represent, commentary which I believe can be beneficial to my colleagues. Mr. Stafford's accomplishments—including three graduate degrees—are, I think, especially noteworthy considering that he has been terribly physically handicapped since near infancy by cerebral palsy. He is now a member of the staff of the University of Texas at El Paso from where his wondrous and prolific writings flow. A sample:

I must confess to a prejudice against the people who are presently my chronological peers. They tend to desire to protect the status quo which they believe is beneficial to them as secure individuals, not caring about the position of other people so long as nothing in their lives happens to be altered. I admit to being a political innocent. I automatically ally myself with the young people who blow the winds of change across our land. I respond to the enthusiasm, the activity, the dynamism of our Nation's youth on almost every issue that might arise. As a deeply emotional person, I respond positively to the drive and the need for change that young people have in such abundance.

We might take heed of this observation by Mr. Stafford, and we might benefit from the messages contained in the

following three poems taken from his two published books:

ATTICA PRISON GRIEVANCE

(By Bart Lanier Stafford III, "An Obscured Radiance")

I never use toilet paper
in pink, green, blue or
white flowered abundance
(some of it even perfumed!)

that I do not remember
that the Attica prisoners
were issued one roll a month,

and that this was one of
the grievances for which
men were willing to die.

THE CELEBRANT

(By Bart Lanier Stafford III, "An Obscured Radiance")

He was a huge, loud
and very cheerful man
who operated the collator
in our agency's pressroom.

There were twenty-four bins
for paper and he had to rush
to keep them full and flowing,
the machine clattering angrily.

He would shout old songs
over the clanging racket
to relieve the tedium
and keep himself going.

People would enter our room
and hear collator, multilith
and mimeograph, but mostly they'd
hear his voice booming away.

"When them saints they all come marching home"

He was our magic talisman,
our special mascot; if he
could make it past the boredom,
there was hope for each of us.

He sang at Mary's wedding,
loaned money for Tom's teeth,
gave blood to my daughter,
was almost a part of our team.

Yet when birthdays came around,
or retirement parties, he didn't
celebrate them with us because
it was 1943 and he was Black.

THE VIEW FROM HUDSPETH HALL, UNIVERSITY OF TEXAS AT EL PASO

(By Bart Lanier Stafford III, Too Many Sparrows)

From my office window
I can see across
the gulley that was
the raging Rio Grande.

The tiny shacks dangle
from the jaws of poverty,
doors bravely pink or blue
to warm them with color.

The people just over
our border are cold now,
they steal, beg, shrug
thin bodies in despair.

A good day comes when small
kids are too hungry to cry,
or a young grandmother finds
a wooden box for firewood.

And a neighbor without
a name or a work card
steals a skinny fowl
so two shacks can eat.

Each day passes somehow, while
waiting, scheming, surviving;
soon winter will slink away
and they'll all be much older.

I know all of this from my
window's safety, however
the border is so wide
that I can do nothing.

I can barely see the kids
scrabbling on rocky hillocks,
I cannot hear their hungry cries
and am unable to feel their despair.

My sterile checks to charities
would not reach these people;
they have no street addresses,
are registered with no agencies.

And so, feeling completely impotent,
I squat here in my steam-heated office
eating my breakfast Danish and coffee,
just another fat Anglo getting fatter.●

AIRLINE USE OF TICKET TAX FOR NOISE REDUCTION: THE NATIONAL PRESS REACTS

HON. JAMES J. DELANEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. DELANEY. Mr. Speaker, as the controversy over the so-called Airport and Aircraft Noise Reduction Act and the Noisy Aircraft Revenue and Credit Act continues to mount, I thought my colleagues would be interested in the reaction from the national press.

Today I enter in the RECORD editorials from three greatly respected publications, the Washington Post, the New York Times, and Business Week. All of the editorials express grave doubts over the wisdom of allowing airlines to use a funding mechanism established by the Federal Government to hide the cost of compliance with FAA regulations from the consumer. It is my hope after reading these editorials my colleagues will join me in the effort to defeat title III of H.R. 8729 and prevent the substitution of the Ways and Means bill (H.R. 11986) for that title. For further information on this legislation I refer my colleagues to my remarks in the CONGRESSIONAL RECORD of August 4, page 24546.

The editorials follow:

[From the Washington Post, Feb. 23, 1978]

THE HIGH COST OF QUIET

According to the airline industry, the cost of compliance with the 1985 federal noise standards will be $5 billion to $8 billion. The airlines, understandably, are worried about it. Given their other capital needs in the next decade and their unstable profits, they aren't sure they can raise all the money they will need. But that, it seems to us, is an insufficient reason for Congress to create a unique tax fund that would pay part of the bill.

The idea, now getting serious consideration on Capitol Hill, is that part of the money raised by the taxes on air tickets and cargo should be handed to the airlines to buy new, quieter engines for old airplanes. It is a nice idea—if you happen to own an airline. Ticket prices won't go up. The money you get from the treasury won't be taxable. And maybe as much as a quarter of the costs imposed by those new noise standards would be met painlessly.

It is also a nice idea for the politicians who feel the pressure to help industry meet new federal standards; the subsidy will be almost hidden. Thus, the idea was endorsed along the way by both the Ford and Carter administrations, as well as the airline industry, and approved by a subcommittee of the House. There is even an indication that enactment into law of the proposal is the key to prying an airline deregulation bill out of the House. This is something the Carter administration fervently wants.

Nevertheless, the idea is a bad one. It would set a precedent for using federal taxes to raise money to help industry comply with federal laws. If a federal tax on airline tickets is to be used to help the airlines with their noise problem, why not one on utility bills to help the power companies with their smoke problems? Or one on gasoline to help automobile owners re-fit old cars to eliminate exhaust emissions? The possibilities are endless.

There are already enough well-established ways for government to help industries and individuals in need of special aid without creating a new one. If the airlines really must have the $1.25 billion this proposal would give them over the next five years, Congress can provide it through direct appropriations. That would be the straightforward way to do it.

But since the central part of the proposal is a finding that the Airport Trust Fund doesn't need all the revenue raised by the 8 percent tax on tickets and the 5 percent tax on cargo, a better solution would be to reduce those taxes. The airlines could then raise their base fares by the same amount without increasing ticket prices. That would raise the same amount of money for paying the cost of quiet. The distribution of it among airlines wouldn't be the same, but that is the problem of individual airlines. It is a lesser problem than the one posed by creating a new mechanism for using federal taxes to help private industry.

[From Business Week, Aug. 14, 1978]

PAYING THE COST OF QUIET

Hard cases make bad law, say the lawyers. And misplaced sympathy is likely to make cases look a lot harder than they really are. Over a year ago, the Transportation Dept. agreed that the U.S. airlines, then in weak financial shape, would need federal help to meet their 1985 deadline for noise abatement measures. Transportation Secretary Brock Adams endorsed a bill introduced by Representative Glenn M. Anderson (D–Calif.) that would, in effect, divert one-quarter of the revenue from the 8 percent passenger ticket tax to the airlines to use for replacement, re-engineering, and retrofitting of noisy equipment.

Today the airlines are flying high, with record earnings and growing traffic. The Civil Aeronautics Board has given them wide latitude in setting fares. So far they have used it mainly to build revenues with promotional fares, but, if they needed to cover increased costs, they could apply for higher rates. And yet the Transportation Dept. is still backing federal help in meeting the noise abatement standards.

Revenues from the ticket tax are supposed to finance airport improvements to promote safety. Passing the Anderson bill would limit the funds available for this high-priority purpose. It is true that government spending on the airports has been lagging, but there is no indication that it is not needed.

Moreover, the airlines today have no stronger claim to help than industries that must meet air and water pollution standards. If the carriers are allowed to buck part of the cost back to the government, why should chemical manufacturers or oil refiners pay all the bills themselves?

One way or another, the cost of taking the noise out of aircraft—like the cost of all government environmental programs—must come out of the consumers' pockets. But the cost should not be disguised as part of a tax that is intended for something else.

[From the Washington Post, Aug. 8, 1978]

THIS YEAR'S TREASURY AIR RAID

Among the leading contenders for the Great Treasury Raid Award of 1978 is the airplane noise reduction bill now working its way through Congress. Through a unique

back-door device, the bill would divert about $3 billion from the Treasury to the airlines during the next five years. The diversion would be fairly painless; no new taxes, no direct appropriations, no increase in federal spending. The airlines would collect the $3 billion as part of taxes that already exist but, instead of sending the money to Washington, they would spend it themselves on quieter airplanes and airplane engines.

It's a clever idea—if you happen to own an airline and need the money to meet federal noise standards or if you happen to be a member of Congress and want to give the airlines a helping hand. But it is nevertheless a bad idea. Anyway you analyze the proposal it is the imposition of a federal tax for the sole purpose of helping an industry to comply with federal law. Once that precedent is set, the possibilities are endless for similar taxes to help other industries meet air- water- and noise-pollution standards.

The idea works like this: The airlines would continue to collect an 8 percent tax on domestic tickets and a 5 percent tax on domestic air freight. They would also collect an increased departure tax on passengers leaving the country. But unlike other tax money, which goes to the government, this would be different. Each airline could keep up to 25 percent of the ticket tax, 40 percent of the freight tax and all of the increased departure tax as long as it was spending that much money on new and less noisy equipment.

The key congressional committees that have approved this scheme had to make two decisions before they even considered it. The first was that the current level of taxes generate more revenue that ought to be spent on airports and air-safety programs; all of the money raised by these taxes is now earmarked exclusively for those programs. The other is that the airlines need a substantial amount of federal aid in the next few years. Both decisions may be logical, but they certainly do not compel this disingenuous result.

There are more straightforward ways of accomplishing the same thing. Congress, could, for instance, keep the existing tax rates and appropriate funds directly to each airline. Or it could cut the taxes and let the airlines raise their fares. But if it did the former, voters might not like the idea of a profitable airline's getting, say, $250 milion a year from the Treasury. If it did the latter, the $3 billion would not be tax exempt. It is not surprising, therefore, that the airlines and their many friends on Capitol Hill find the scheme attractive. But it is lamentable that both houses of Congress seem about to fall for it.

[From the New York Times, August 9, 1978]

AIRLINE SOUND AND FURY

A few months ago it appeared that the quid pro quo for airline deregulation legislation would be Federal money to help the airlines meet new aircraft noise standards. Only by supporting noise control subsidies could the Administration muster the votes in the House to open air routes to new competitors and allow carriers to set their own fares. Congressional ardor for noise control funds has, however, cooled somewhat with reports of fat airline profits, and the deregulation effort is now apparently strong enough to stand on its own.

That is welcome. Airline deregulation is a fine first step towards reducing the inflationary role of government in private markets. The connection between deregulation and noise control has always been political, not logical. It is now up to the House to look hard at the dubious case for noise control subsidies. The subsidy program now contemplated would have very little impact on the airlines' ability to finance quiet aircraft. But it would set an unfortunate precedent for other industries to look first to the Federal Government for cash to clean up pollution.

The key provision of the House plan would divert a quarter of the revenues from the current 8 percent domestic ticket tax now going to the airport construction trust fund and use it to pay for quieter aircraft engines. No additional tax would be needed to make up the revenue loss to the trust fund; it now runs a substantial surplus. The airlines say they must have the Federal money because their bill for the new equipment will be enormous in coming years, and their ability to raise private capital will be limited by their large existing debts and poor profit record.

Some critics of the proposals dispute the industry's claims, citing its fine profits in recent months. But there is really no need to decide here who is right, since the program is unlikely to change airline finances for better or worse. Industry opinion notwithstanding, the competitive market in which the airlines operate would prevent them from using the subsidy to increase total revenues. It might temporarily increase revenues. But competition among the carriers—competition informally encouraged by the Government, and soon to be required by law—should ensure that passengers get the tax money back. Any excess profits will be returned in the form of somewhat lower fares than could otherwise be expected.

The subsidy, then, is no subsidy at all: The effect would be virtually the same if the ticket tax were simply reduced from 8 percent to 6 percent and competition continued to determine ticket prices. That, ironically, is just what alternative legislation proposed by Congressman Charles Vanik—and bitterly opposed by the airlines—would do.

Since it wouldn't really change anything, cynics argue that Congress might as well make the airlines happy by approving the bill. But this route has its dangers. The program generates the appearance, if not the reality, of a Government bailout for one industry's special environmental program. And, as such, it could pave the way psychologically for special pleadings by other industries. The aircraft noise subsidy program is, in itself, neither good nor bad: It is meaningless. Competition among the carriers should nullify its economic impact. But that is certainly not sufficient reason to commit the Federal Government symbolically to a policy of cleaning up other peoples' messes.●

H.R. 7308, THE FOREIGN INTELLIGENCE SURVEILLANCE ACT

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. SIKES. Mr. Speaker, a surprising amount of pressure has been brought on Congress in support of H.R. 7308 for a Foreign Intelligence Surveillance Act. Supporting it are Admiral Turner, the Director of Central Intelligence; Mr. Webster, the Director of the Federal Bureau of Investigation; and Admiral Inman, the Director of the National Security Agency. It has strong support within Congress. It is somewhat puzzling that so much pressure should be generated for a bill which beyond question weakens America's intelligence gathering capabilities. The objective of the bill is very simple. It sets up a special court that would take from the the President the power to use electronic means to gather, in the United States, foreign intelligence information vital to our foreign policy and security interests. This Presidential prerogative, based on sound constitutional principles, would be transferred to a newly established "Special Court." An individual judge of this court would then be in a position to authorize—or refuse to authorize—foreign intelligence electronic surveillance. This is wrong. Among other faults, it esablishes a new, unnecessary layer of officialdom.

Certainly, it cannot be denied that electronic surveillance in the national security area can be abused—if unregulated. However, it is not the appropriate response to mandate a judicial warrant for such activities where directed against foreign powers and their agents. A better, more reasoned approach would set strict guildelines mandating written authorization from the most senior members of the executive branch, and it would establish meaningful congressional oversight.

This subject needs sensitive treatment, for we are dealing with important intelligence and counterintelligence activities which are vital to our foreign policy and security interests. The unprecedented injection of the courts is unnecessary and unwise, and it could very well unduly burden the legitimate activities of our intelligence agencies.

Under the guise of reform, this bill is an overreaction. In our zeal in today's world to overregulate, we create a new agency. This runs counter to the oft-stated claim that we seek less regulations in Government. Under the special court procedure, it should be obvious that there could be over abuse just as readily if not more readily than the abuses that are charged today. Beyond question, the new procedure would further weaken intelligence gathering processes. They have already been seriously damaged by the drive to reveal every phase of intelligence operations in our country, to open all of our secrets to the press, and to make it more difficult for foreign nations tc cooperate with the United States for fear that their own intelligence gathering operations would be compromised.

Surely it would be seen that the new system involving a special court establishes a confused and more complicated procedure.

There is no precedent for establishing such a court as set forth in H.R. 7308. Under the bill, foreign powers—that is, embassies, trade mission, consulates, et cetra—and foreign agents—including foreign officials, espionage personnel, et cetera—could not be subjected to electronic surveillance—even TV surveillance—without first applying to the special court and securing a judicial warrant.

There is no other country which requires such judicial intervention before engaging in national security electronic surveillance.

I cannot see that a bill which mandates a judicial warrant is needed in order to adequately protect the Attorney General and intelligence agents from criminal and civil liability. Would not any statute which sets strict standards

and which explicitly protects anyone operating in good faith and in compliance with the statute afford equal protections?

In summary, as I understand the bill: It solves no known problems and corrects no known abuses; diminishes the effectiveness of intelligence; creates substantial new security hazards; does not establish new safeguards for the rights of Americans; injects the judiciary into foreign intelligence in a manner inconsistent with the Constitution as interpreted by the judiciary for over 100 years; establishes a special court which is probably unconstitutional and; requires a judicial warrant be based on a criminal standard when the purpose is to collect foreign intelligence.●

BALANCE(S) OF POWER SERIES BOOK II (E)—TECHNOLOGY AND RESEARCH

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, today's selection focuses on an area where the United States has traditionally enjoyed a competitive edge with the Soviet Union, and where we can least afford to fall behind: defense research and development and the technology base in general. Since a Soviet technological breakthrough has the potential to drastically change not only the military balance, but the strategic balance as well, congressional support for U.S. efforts to maintain the best possible technology base must remain a high priority.

The following article, while dated, outlines accurately the research and development strengths and weaknesses of the United States and the Soviet Union, suggesting the future dangers which U.S. technology must be preparing now to defend against. The conditions outlined continue to require our attention.

This article, first appearing in Aerospace Perspective, March 1976, is a summary of a Department of Defense report to the 94th Congress.

[Aerospace Perspective, March 1976]

SOVIET TECHNOLOGY SURGING

(Among the prominent issues in the election year primaries is the status of our national defense, particularly as it compares with that of the Soviet Union. The breadth of national considerations and voter interests limits the degree of attention political candidates can devote to this vital subject. As a result, campaign discussions provide only minimal information as to the U.S. posture in defense technology. Recently, the Department of Defense submitted to Congress a thorough and impressive document detailing Soviet technological gains and the U.S. research and development initiatives required to counter the Soviet challenge. Its importance merits widest dissemination and we have summarized its content for the benefit of our readers.)

For more than a quarter of a century, the United States has enjoyed technological superiority over the Soviet Union. The American people have tended to lean on this technological edge in their attitudes toward defense. They have placidly accepted the budget-induced, widening U.S. deficit in numbers of deployed weapons systems. After all, does not the superior performance of American weaponry more than offset the great Soviet quantative advantage?

It does, up to a point. But what if the Soviets were to gain the upper hand in quality while they continued to widen the numbers gap? That horrendous prospect is a clear possibility for the not very distant future. Take it from the man best positioned to know: Dr. Malcolm R. Currie, Director of Defense Research and Engineering, who says flatly that "the Soviet Union can achieve dominance in deployed military technology in the 1980s."

Soviet technology is surging, Dr. Currie told Congress, thanks to a broad, steady program of research and development over the past decade. The program has been characterized by sustained heavy investment in both manpower and facilities. In terms of monetary outlay, Soviet military R&D funding reached the U.S. level at least five years ago and has been growing consistently at a greater rate. Of particular concern is the fact that the Soviet program has "matured." One of its weaknesses for many years was a cautious, incremental approach to R&D, an acceptance of small gains in capability because of reluctance to risk giant steps that might not pay off. This has changed; there is now more innovative effort, greater willingness to take risks in order to gain really significant advances.

U.S. EDGE REDUCED

A decade of determined effort on the part of the USSR has sharply reduced the United States' technological edge. Dr. Currie sums it this way:

"The United States continues to hold a technological lead over the Soviet Union in most areas critical to our national security. But that lead has been diminishing. In some important areas it is gone; the Soviets are ahead."

In addition to the qualitative aspect of technology advance, the USSR has made new strides in producibility. The Soviets have built a very large, high-technology production capacity which greatly exceeds that of the United States and they are deploying large numbers of new and improved weapons at a rate that the U.S. cannot match.

That, in brief, is the current picture, or what Dr. Currie calls the "snapshot" view. But, he says, since technology balance is dynamic, *"trends* are more important than a static snapshot at a point in time. Our ability to perceive trends and our ability to assess and project properly their underlying significance are fundamental to our future security and, indeed, to our survival. The decisions we make now, based on these perceptions and assessments, will determine our relative posture in the world in the 1980s."

"MIXED COMMITMENT" DRAWBACK

The Pentagon's R&D boss doesn't like the look of the trends. He compares the U.S. and Soviet programs of technology advancement this way:

The United States defense R&D effort, traditionally innovative, continues to produce very high quality products. It is efficient because of competition and incentives basic to the U.S. system and it profits to great degree from its close ties with an equally strong civil R&D program. A major drawback is "mixed commitment," with sometimes uncertain long-range goals and often inefficient funding of projects.

Soviet handicaps include some bureaucratic inertia and a relatively weak civil R&D program that does not provide input to the military technology effort to the degree that U.S. defense benefits from civil research. These hindrances are more than counterbalanced by the continuity of the Soviet effort, the heavy commitment of first-rate scientists and engineers and a large and growing investment. All measurable indices of activity are at record levels—and still mounting. An enormous advantage accrues to the Soviets because American R&D is conducted for the most part in the open, with few secrets. Thus, says Dr. Currie, "We provide clear 'footprints' for them with which they can work to equal us swiftly in areas where we still hold the lead."

RELATIVE DECLINE

The U.S. program is by no means stagnant. In terms of output, it continues to show solid gains, with an impressive number of significant 'milestone' achievements. There has been steady improvement in R&D management and the U.S. is getting a better return per dollar invested. Congressional understanding and support in recent years has halted the R&D decline of the last decade.

Yet, on a *relative* basis, the United States *is* declining, like a runner who runs a good race but finds himself being overtaken by a less talented competitor with greater determination and commitment. In summary appraisal of overall balance and the direction in which it is heading, Dr. Currie makes this statement:

"The trends with respect to the Soviet Union are especially sobering and portray a potentially grave situation in the mid-1980s. Given an extrapolation of current trends, and without appropriate action on our part, it is my judgment that on balance—and including a combination of quality and quantity—the Soviet Union can achieve domination in deployed military technology in the 1980s. . . .

"In our highly complex society our vulnerabilities can be great. The possibilities of surprise are numerous and staggering. The consequences of surprise could be disastrous."

The DDR&E director is not saying that the Soviets *will* take over technological leadership, only that it *can* happen, if we let it. In his words:

"I want to make it clear that this statement is not a prediction. It becomes so only if we do not act appropriately. Neither is it a cry for increased spending willy-nilly. Rather it is a sober assessment of current trends—trends which are not immutable if we maintain an appropriately strong program of our own with a sense of long-range commitment."

RESPONSE TO THE SOVIET CHALLENGE

What constitutes "appropriate action" to ward off the threat of Soviet dominance in military technology?

In his posture statement to the Congress detailing the Fiscal Year 1977 Department of Defense budget request for Research, Development, Test and Evaluation, Dr. Currie spelled out the answers.

First, a continuing high level of investment in defense R&D, coupled with stronger efforts to get the greatest possible output from the investment. The Department of Defense is asking for just under $11 billion for RDT&E, a funding level which Dr. Currie says "provides strengthening at a point in our history when strengthening is required." The $11 billion figure is the highest ever, which is not particularly meaningful since everything from automobiles to shoelaces are at highest-ever price levels. It is lower by a full billion dollars than what Dr. Currie considers a "fully justifiable" request. In fact, Dr. Currie suggests, the budget plan might prove unduly conservative. But, given further improvement in resources management, the figure is adequate.

Appropriate action does not involve sweeping changes in the U.S. R&D program. Although Dr. Currie admits that "we have consistently underestimated the progress of our competitors," the surprises in the latest evaluation of the Soviet lie in the rate of gain in certain areas rather than the general direction of USSR technological advance. Generally speaking, the FY 1977 U.S. program in-

cludes continuance of major projects initiated in earlier years, introduction of certain new projects to full-scale development, and exploration of a wide range of new concepts, "options" for the future. The program is extremely broad and cannot be fully detailed here, but selected examples of major projects provide a general view of the American research and development counterthrust.

STRATEGIC PROGRAMS

"It is by no means clear that the Soviet Union regards nuclear war as unthinkable," says Dr. Currie. "There is strong evidence to the contrary, that the Soviets do not accept the premise of mutual suicide." The growing offensive capability of the USSR may open the door for "potential blackmail." Thus, to maintain deterrence, the U.S. must upgrade its own offensive capability.

The USSR is deploying larger numbers of more accurate ICBMs with increasing destructive yield. This poses a double threat: first, an imbalance, in the Soviets' favor, of total ICBM yield, and second, the prospect of decreased survivability of the U.S. ICBM force.

The immediate countermeasure is to improve, to the greatest degree possible, the capability of the Minutemen III land-based ballistic missile force. This involves a program of silo "hardening" for better survivability, together with developmental work to increase warhead yield and accuracy.

But the relatively small Minuteman is limited in "throw-weight" and, even with improvements, its survivability is uncertain in light of anticipated further gains in Soviet destructive power. So DOD will continue work on a new missile system, tentatively designated M–X. This ICBM will be considerably larger than Minuteman, though "small" by Soviet standards. M–X's greater throw-weight would permit deployment of many high-yield, more accurate re-entry vehicles, and the weapon would have far greater survivability than Minuteman, whether housed in existing silos or in a new "alternative basing mode."

NEEDLES IN THE HAYSTACK

The U.S. force of sea-launched ballistic missiles is currently considered virtually invulnerable. Submarine-based and deployed over millions of square miles of ocean, the SLBMs cannot be destroyed because they cannot be found; they are literally "needles in the haystack."

But DOD is acutely aware of the Soviets' growing anti-submarine warfare capability and concerned that advances in detection systems may make it possible to find needles in the haystack. The countermeasures, to borrow Dr. Currie's words, is to "keep the same number of needles but to enlarge the haystack." Haystack enlargement is possible by introducing to operational service the Trident system now in development. Trident includes a new missile and a new submarine. The greater range of the missile—some 4,000 nautical miles—enormously expands the operating envelope of the submarines, as does the higher "quiet speed" of the sub itself. The Trident system is slated for initial operational use in 1979.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION PROGRAM

[Fiscal years; in millions of dollars]

	1975	1976	19TQ [1]	1977	1978
BY MISSION AREA					
Mission area:					
Tactical	2,985.9	3,361.4	831.6	4,227.7	4,720.9
Strategic	2,135.3	2,341.9	582.1	2,406.3	2,360.3
Defensewide systems	659.0	710.7	169.6	765.9	917.1
Technology base	1,397.9	1,537.8	393.7	1,765.7	1,998.9
Management and support	1,202.7	1,276.4	339.1	1,416.1	1,460.9
Adv. tech. dev	255.0	299.9	81.1	360.6	444.6
Total R.D.T. & E	8,635.8	9,528.1	2,397.2	10,942.3	11,902.7

	1975	1976	19TQ [1]	1977	1978
BY COMPONENT					
Department:					
Army	1,769.6	1,974.9	512.7	2,386.2	2,572.7
Navy	3,051.6	3,317.2	826.1	3,925.2	4,325.7
Air Force	3,298.9	3,606.6	906.9	3,924.6	4,208.2
Defense Agencies	515.7	629.4	151.5	706.3	796.1
Total R.D.T. & E	8,635.8	9,528.1	2,397.2	10,942.3	11,902.7

[1] Transition quarter, reflecting Government change in fiscal year dating.

Note: Breakdown of defense R.D.T. & E. shows heavy emphasis on tactical research and development, with fiscal year 1977 funding request for greater than any other mission area. In lower chart, comparison of fiscal year 1977 and previous years funding shows increasing emphasis on Navy effort to counter a very strong Soviet push in oceanic warfare.

Maximum deterrence demands continued dependence on the third element of the U.S. "Triad" of strategic offensive systems—the manned bomber force. The current bomber force is adequate against the current level of Soviet defenses, but again, USSR technology is advancing in this area, too. The time is approaching when Soviet air defense sophistication will outmode existing bombers. To maintain its three-sided retaliatory capability the U.S. needs a manned aircraft of greater performance to penetrate tomorrow's defenses.

CRUISE MISSILE BONUS

Companion to the manned bomber is the air-breathing cruise missile. Where the bomber attacks "tough," well-defended targets, the cruise missile offers high success probability in strikes against targets not defended by high-quality surface-to-air missiles, objectives which constitute the vast majority of the target list. The cruise missile provides a bonus to manned bomber penetrability through the "dilution and decoy effect" presented by hundreds of air vehicles operating in the air defense network. DOD is developing two versions of the cruise missile: the Air Launched Cruise Missile, fired from B–52s or B–1s, and the Sea Launched Cruise Missile, designed for launch from the standard submarine torpedo tube. The airframes are different, but costs are substantially reduced because the weapons employ essentially identical guidance, propulsion and warhead systems, the costliest elements.

In the area of strategic defense, the DOD program contemplates continuing efforts in ballistic missile defense. Although the Safeguard antiballistic missile system is being deactivated, DOD will explore a variety of options for the future, insurance "against the Soviets achieving a technological lead that might encourage their abrogation of the ABM Treaty." DOD is also developing, and planning deployment of, a number of types of advanced radars for warning of ballistic missile or bomber attack.

In space research, DOD's principal effort is planning for the operational advent—in 1980—of the Space Shuttle. A big part of the effort involves modifying existing military space payloads and designing new ones for Shuttle compatibility. Since these payloads will have to be boosted to higher altitudes after initial orbital insertion by the Shuttle, DOD is working on an interim Upper Stage, a lowcost gap-filling system to be used until NASA's more elaborate Space Tub becomes available for high altitude orbit positioning.

A DOD space project of particular importance is NavStar, a multiple satellite system which will broadcast information that will allow properly equipped users to fix automatically, with high precision, their positions and velocity anywhere in the world. NavStar offers great enhancement of capability in such operations as missile delivery, blind bombing, navigation, artillery fire, troop movement and rendezvous. Its special attraction is that it eliminates the need for installing positioning equipment on foreign soil, currently a distinct disadvantage to the U.S. in global operations. Described by Dr. Currie as "one of the most important and far-reaching programs in the Department of Defense," NavStar is slated for limited operational status in the early 1980s and service use of a fully operational, 24-satellite system in the mid-1980s.

TACTICAL PROGRAMS

The high costs of strategic weapon systems—Trident and B–1, for example—might lead one to believe that the budgetary focus of defense R&D is in the strategic area. It is not. Actually, the FY 1977 budget plan contemplates spending 22 percent of the total on strategic programs and 40 percent on tactical programs. For good reason.

Tactical warfare techniques are undergoing a major transformation due to technology advances and there is pressing need for modernization of U.S. and NATO general purpose forces. In terms of weapon quality, the U.S. still holds a lead in some areas—such as tactical airpower and guided ordnance—but the USSR is ahead in several important categories—artillery, ocean surveillance, battlefield mobility, air defense and tactical cruise missiles. In sheer numbers, the Soviets and their Warsaw Pact allies are overwhelmingly superior.

This great numerical advantage influences the direction of the U.S. research and development effort. As the U.S. qualitative lead wanes, it becomes more important to deploy weapons in large numbers. Thus, "affordability" becomes a critical factor in development planning. The thrust is toward less sophisticated, hence less costly, weapons systems capable of deployment in quantity within budget limitations.

The prime examples are the Air Force F-16 and the Navy F-18, "affordable" air superiority fighters to complement the more sophisticated F-15 and F-14 in what DOD calls a high/low mix." The capability of these will be bolstered by development of advanced air-to-air missiles.

AIR DEFENSE MEASURES

The Soviet/Pact nations have built an extremely dense system of air defense, featuring great numbers of high quality, radar and infrared-guided missiles and guns. This dic-

tates a major R&D countereffort to develop "defense suppression" systems, without which losses of NATO strike aircraft would be unacceptably high. Among a broad variety of projects in this category are threat warning systems, self-protection jammers carried by attack aircraft to negate enemy radars, and missiles that home on ground radars.

A particularly important tactical R&D effort is a program to improve the command and control function by means of an airborne command post equipped with a complex of supersophisticated radar and communications gear. Dr. Currie calls this development a "force level multiplier," meaning that it permits maximum utilization of available forces, hence offsets to a degree NATO's numerical inferiority. The principal project is AWACS (Airborne Warning and Control System), a modified jet transport whose electronic equipment integrates the functions of battlefield surveillance, warning, target finding and battle management.

In the area of land combat, NATO forces in Europe are confronted by an enormous mass of highly mobile armor and artillery. There is little chance of matching the Pact nations tank for tank, so DOD is aiming at service introduction of a number of high-quality anti-armor systems. An important project is the A-10 Close Air Support Aircraft, which offers long loiter time in the target area, high survivability and very accurate weapons delivery. Equipped with a new type of cannon, Maverick missiles and Rockeye bombs, the A-10 "has an armor killing capability unmatched by any other aircraft in the inventory." Other airborne developments include the Advanced Attack Helicopter, in flight test status, and the laser-directed *Hellfire* missile. Major ground-based developments include the XM-1 Main Battle Tank, designed to couple exceptional firepower and survivability with affordable cost, and the Cannon-Launched Guided Projectile, a significant anti-armor weapon which has the same "kill probability" against a tank as 2500 rounds of conventional artillery.

Reliable and accurate location of targets will be achieved by new target-finding battlefield radars, by remotely-monitored sensors, by unmanned Remotely Piloted Vehicles and by an Advanced Scout Helicopter. The latter, a major new start, is being designed to overcome deficiencies in existing scout helicopters, such as inability to operate at night and high vulnerability to enemy defenses.

SAM-D SYSTEM

As a countermeasure to enormous—and still increasing—numbers of Pact attack aircraft, the field armies need an entirely new family of air defense weapons. The principal project is SAM-D, which will provide a new plateau of capability; it will be far more lethal than existing weapons, will have greater survivability and will have the ability to engage multiple targets simultaneously. SAM-D's missiles operate in the medium-to-high-altitude range; for shorter-range use, DOD is adopting the French/German Roland and is working on a new shoulder-fired, infrared-guided missile system called Stinger.

OCEAN CONTROL PROGRAMS

Says Dr. Currie "The Soviet threat (in naval warfare) provides an increasingly severe challenge that threatens technology obsolescence of our naval forces in all tactical warfare areas unless we pursue vigorous force improvement and develop new capabilities." He details these features of the Soviet build-up:

A large tactical submarine force, being upgraded by replacement of older diesel subs with nuclear submarines;

A large force of long-range land-based naval aircraft, also being upgraded by introduction of new aircraft types:

A surface fleet which is evolving from a homeland defense force to new global capability through the addition of aircraft carriers and other ships with increased endurance; and

A world-wide surface surveillance and command/control capability for coordinated employment of naval forces.

ANTISUBMARINE SYSTEMS

To counter the growing number of Soviet subs, DOD is placing strong emphasis on development of new antisubmarine systems and is "on the threshold" of a vastly improved capability. The developmental thrust includes improvements to existing patrol aircraft, backed by an exploratory program called VPX, aimed at a completely new patrol plane for use in the mid-1980's. A major project is *LAMPS III*, an effort to expand the antisubmarine reach of surface ships by the use of on-board helicopters. Also in development are a broad variety of sonobuoys, sensors and signal processors to upgrade the submarine detection capability and new weapons—such as advanced torpedos and mines—to neutralize the threat.

Like the land armies, the U.S. fleet needs a better air defense system and work is under way to produce it. Fleet defense is accomplished by a combination of area defense systems, which operate against attacking aircraft and missiles at some distance from the fleet, and self defense systems, which protect the individual ship at distances of less than 10 miles. For area defense, the Navy has the high-performance F-14 aircraft, to be complemented by the earlier-mentioned F-18 in development. The missile component of the area defense mission is the highly sophisticated *Aegis*, a fully-integrated detection-to-kill system which has reached test status. For self defense, a key development is *Phalanx*, a low-cost, high-rate-of-fire 20 millimeter gun system effective against the majority of Soviet missiles. Since *Aegis* and *Phalanx* are some distance down the road, DOD is also working on programs designed to provide substantial gains in effectiveness to existing fleet defense equipment.

Offensively, development is under way on a tactical variant of the Sea Launched Cruise Missile, which will be available in the 1980s. A nearer-term offensive weapon is the *Harpoon* missile, the answer to a long-felt need for an all-weather anti-ship weapon for use by air, sub and surface forces. *Harpoon* is approaching operational status.

TECHNOLOGY BASE PROGRAMS

In addition to the foregoing examples of hardware developments, DOD is conducting an extremely broad program of basic and applied research which is of critical importance because it is the source of tomorrow's defense capability. Called the Technology Base, it represents some 20 percent of the total Research, Development, Test and Evaluation program. Dr. Currie describes its significance:

"Relative to potential adversaries, our population is limited and our cost of supporting military personnel is high. I believe we must, therefore, base our military posture primarily on technical leadership rather than on numerical superiority. With numerical inferiority in both personnel and equipment, we must have superior training and performance. We thus stake our national security on maintaining technical superiority. We must retain this superiority through continued investment in our Technology Base."

Technology Base programs, or longer-range R&D, are divided into three groupings. First, there are those advanced explorations conducted only by DOD; examples include armaments, high performance aircraft, new types of ships, sensors, electronic warfare systems and methods to defend against chemical and biological warfare. Next, there is technology-building in areas where the DOD effort is part of a broader national program; jet engines, materials, electronics in general and environmental sciences, to name a few fields of endeavor. Finally, DOD explores such general fields as medicine, energy conservation and environmental quality, but because of differing needs addresses parts of the research spectrum not being covered by other agencies. The DOD Technology Base effort provides a great degree of spin-off value to the nation's commercial manufacture. One of many examples was a $2 million 1958 investigation of ultra-compact electronics which has mushroomed into a billion-dollar-a-year electronic calculator and digital watch industries.

In earlier years, the Technology Base program was badly eroded by inflation and inadequate funding; the net level of effort was reduced by 40 percent between 1967 and 1975. The trend was reversed with a substantial money increase in FY 1976 and the new budget plan contemplates a further increase, to more than $1.7 billion in FY 1977 and to almost $2 billion the following year.

MANAGEMENT STRATEGY

If the U.S. is to maintain its technological lead, effective management of R&D is as important as the performance of the end product. The basic strategy approach recognizes that R&D is constrained by resource limitations, therefore DOD must make tough selection decisions rather than attempt to pursue all of the attractive research and development opportunities available. Says Dr. Currie:

"The basic rationale is to create an initial range of technological options without investing too heavily in any of them, retain a choice between competing options to the point where further development involves major commitments, manage the surviving program within well-defined limits, and review the need for each program at every selection point."

He lists several points of management emphasis, among them:

Stimulating utmost competition throughout the R&D process;

Avoiding proliferation, eliminating duplication by requiring joint-Service programs whenever possible and by establishing joint U.S./NATO programs;

Working toward improved DOD–contractor environment to encourage broad industrial base capable of meeting defense technology needs. "We recognize that American industry cannot respond with more effective systems if it is saddled with overapplication of specifications and standards, excessive management burdens or excessive requirements on small contractors."

Managing total cost. A key element is DOD's relatively new "Design to Cost" philosophy, which does two things: it makes cost a design factor equal in importance to performance and schedules, and it establishes specific costs goals which must be met by tradeoffs in performance and schedules. Design to Cost is paying off. "Managers at every level investigate and weigh the effects of every decision on their cost thresholds. Designers, who have been encouraged to push for higher performance for the past quarter-century, are now undergoing a 'cultural revolution' to make cost an equal partner with performance. In sum, it appears that our Design to Cost policy is establishing the discipline necessary to manage cost as successfully as we have managed performance."

MANAGEMENT FLEXIBILITY AND EMPLOYEE RIGHTS

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. FORD of Michigan. Mr. Speaker, the House is scheduled to consider the President's civil service reform bill on Friday. I have supported the adminis-

tration's efforts to bring more accountability to the management of Government programs through the creation of a senior executive service and by streamlining the appeals process for grievances. In order to maintain a fair balance, however, between these increased management prerogatives and flexibility and the legitimate rights of Federal employees, a progressive labor-management program is essential.

In view of this need to achieve a balanced bill and at the urging of the administration, Congressman CLAY, as the chairman of the Subcommittee on Civil Service, and Congressman SOLARZ, as a member of the full committee, joined me in an effort to arrive at a compromise labor-management section to this bill. Title VII of the committee print, which I strongly supported, was the result of those efforts with assistance of the committee's Democratic caucus and would have insured a proper balance between the competing interests of management flexibility and employee rights. While we made major concessions in the committee print, there was only insignificant movement by the administration from its initial proposal.

The Udall compromise amendments that passed in committee, while modifying title VII even further, are still a step, although a modest one forward in providing protections for legitimate employee rights. Any further cutbacks in title VII, however, would seriously threaten our efforts to achieve this equilibrium.

There are indications, though, that there may be efforts to further erode title VII on the floor, particularly the provisions regarding the scope of issues that are bargainable or the substitution of the codification of the Executive order for title VII.

Collective bargaining is not new to the Federal Government. Under Executive orders, 58 percent of the workforce has been organized into exclusive bargaining units, and agreements have been negotiated covering 89 percent of those organized. Though the Civil Service Commission tells us that the Federal labor movement can be traced back to the 19th century, the modern era began in 1962, when Executive Order 10988 was issued. Since that time, there have been several changes in the order. However, the basic thrust and intent remains the same. The system as it now exists still contains the inherent shortcomings that come from being created, governed, and administered by management alone. To continue to tinker with the Executive order system is to delay the obvious: What is now needed in the Federal Government is a labor-relations program based upon legislation.

I have been quite frankly surprised with the rhetoric and hysteria that has accompanied consideration of title VII. It is not a radical departure from the present system, but is a small, incremental step forward.

As the sponsor of H.R. 1589, the Federal Employees Labor Relations Act of 1977, which provided for the negotiation of pay and fringe benefits; the negotiation of all agency regulations; and automatic agencyship; and a limited right to strike, based on Canadian law—all of which, I might emphasize, have been deleted from title VII—I can assure Members that the expansion in the scope of bargaining in title VII has been a very modest, incremental step that comes nowhere near the scope of bargaining that most States permit for public employees or that we permit for postal workers.

In fact, this incremental approach was followed by President Ford in 1975, when he amended the Executive order governing Federal labor-management relations to permit negotiation of agency regulations, unless a compelling need existed. Under this amendment an agency could not take an item, that is otherwise negotiable, off the bargaining table by simply issuing a regulation, unless there was a compelling need to do so. However, higher level agencies, such as the Civil Service Commission—the Office of Personnel Management under this bill—can now issue regulations that remove the ability of agencies to bargain over items, even if they wish to do so. The Udall compromise simply takes the "compelling need" test, and moves it upstairs, applying it to Government-wide regulations of the Office of Personnel Management. Even if there is no "compelling need" for that regulation, the regulation still stands. All title VII does is to say—if the subject matter of the regulation is otherwise negotiable, labor and management must sit down and talk about it in good faith. They need not necessarily agree.

Much of the criticism directed at the Federal Government concerns the size and unmanageability of the executive branch. This situation is merely aggravated by the existence of a centralized monolithic personnel body imposing uniform standards that cut across every level and location in the Federal Government. Such a system fails to take into account the divergent working conditions and needs of different agencies and offices around the Nation. The "compelling need" test in title VII would, in no way, hamper the ability of these agencies to issue necessary Government-wide regulations. It would insure, however, that employees would not be deprived of their legitimate right to bargain over the terms and conditions of their employment, except where a genuine need to so exists. Local managers and the democratically elected employee representatives would then be given the flexibility to engage in open discussions and to attack their problems at the local level—when it is appropriate to do so—with greater logic and efficiency than the present system allows. This, in turn, helps to promote better government for all citizens.

Even if there is no "compelling need" for a regulation, the item may not be subject to negotiation because it has been excluded by the statutory management rights clause of title VII. Title VII's management rights clause still bars a wide range of subjects from the negotiation process. Management would retain the right to determine the mission, budget, internal security, or personnel necessary to conduct its work; to direct its employees; to assign work, to contract out or take actions necessary in the event of national emergencies. And I might further point out no matters that are governed by statute—such as pay, money-related fringe benefits, retirement, and so forth—could be altered by a negotiated agreement.

Statutory management rights clauses are totally alien to the private sector. They are part of the negotiation process. And I suspect that in the Federal sector that management rights clauses even stronger than this statutory one may be negotiated—particularly since Federal unions do not have the bargaining strength at the negotiation table of threatening a "withholding of employment."

For over 16 years now, Federal public employee organizations have shown themselves to be responsible parties in the Federal Government's labor-management program. Even President Ford recognized the maturing of employee organizations, when he amended the Executive order in 1975. The bill reported by the committee also recognizes the progress we have made in labor-management relations in the Federal sector. A close and dispassionate reading of title VII should indicate that it is only a modest, but we feel vitally important, step forward.

I ask my colleagues to support the progressive but responsible approach the committee has developed in title VII, and to reject any weakening amendments or attempts to substitute the Executive order.●

CONGRESSMAN ELLIOTT LEVITAS EXHIBITS COURAGE IN OPPOSING SUPPLEMENTAL FISCAL ASSISTANCE BILL

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. FOUNTAIN. Mr. Speaker, I want to bring to the attention of the House an editorial which appeared last Sunday in the Atlanta Journal/Constitution praising our colleague ELLIOTT LEVITAS. The editorial commended Congressman LEVITAS for his courage in offering the successful motion in our Intergovernmental Relations and Human Resources Subcommittee to defer consideration of the President's supplemental fiscal assistance proposal.

As stated in the editorial, "Representative LEVITAS is not opposed to helping the cities. But he is opposed to poorly written legislation."

The editorial continues:

> And so ELLIOTT LEVITAS had the courage of his conviction. He proposed to the House subcommittee that action on the urban aid package be postponed indefinitely—which virtually guarantees the bill's demise.
>
> It took courage for a Georgia Congressman to buck the Carter administration on a key piece of legislation.

That recognition of ELLIOTT LEVITAS is well deserved.

The administration sent up a poorly conceived and unneeded bill which the subcommittee wisely rejected. The sub-

committee action demonstrates courage on the part of all seven of its members who voted against the bill. It represents a triumph of principle and commonsense over heavy political pressures, with the taxpayers the winners.

The defects of the proposed supplementary fiscal assistance program are so fundamental that the bill is beyond salvage. Far from being a program to aid distressed communities, it would allocate money to fully 70 percent of the Nation's local governments. The quirks in the allocation formula result in its favoring wealthy communities over poorer ones.

How the program would operate in the Washington metropolitan area is instructive. The District government is treated as the third most distressed city among the country's 100 largest municipalities, and would receive a per capita payment of $14.29. Among the 100 largest cities, only Newark and New York would receive larger per capita amounts. On the other hand, no other large city or any county in the Washington area would receive a penny. However, payments would be made to such wealthy places as Chevy Chase Village, Chevy Chase Town, and Somerset. It would be difficult to devise a more irrational formula.

This legislation would surely encourage local governments to become permanently dependent on the Federal budget for such basic local services as police and fire protection and trash collection.

The local perception of need is a very flexible one when the Federal Government stands ready to hand out money. Last week, for example, I received a mailgram from the mayor of Jacksonville, Fla., which read: "Needless to say, these funds are most urgently needed and important to Jacksonville." This is the same city for which large advertisements were recently placed in the Wall Street Journal announcing its "property taxes are among the lowest in the Nation and they've been going down * * * There is no State or local income tax. And independent research shows the cost of living for an executive is $10,000 a year lower here than in New York."

There is no justification for another general revenue sharing program when we already have one providing almost $7 billion a year in assistance. This is especially true at this time when the Federal Government has an astronomical national debt, a huge budget deficit, and when inflation is the most critical domestic problem facing all of us. Moreover, it is not widely known that the existing general revenue sharing program targets money more effectively to the large central cities than the administration's proposal.

I believe there is need for a carefully designed program to help the relatively limited number of local governments that are genuinely distressed as a result of long-term economic decline and we plan to give this matter early attention next year. However, this cannot be accomplished by formulas using unemployment or growth rates regardless of what those programs are called.

The editorial referred to follows:

[From the Journal/Constitution, Aug. 6, 1978]

COURAGE

If there were awards for political courage we believe a prime recipient would be Rep. Elliott Levitas of Georgia's 4th Congressional District.

Much is made of the fact, and understandably so, that at long last we have a Georgian serving as president. And it follows that he should expect the support of the Georgia congressional delegation.

That doesn't mean that Georgia's senators and representatives must always vote for whatever the Carter administration recommends to Congress—and not all do by any means.

But Rep. Levitas has gone beyond simply voting against a Carter-backed measure. He has had the temerity to make the motion which had the effect of shunting one of the Carter administration's pet pieces of legislation into limbo.

It is a $2 billion urban aid bill. Under its provisions Atlanta would receive $2.5 million—and hard-pressed New York City would receive $140 million.

Rep. Levitas is not opposed to helping the cities. But he is opposed to poorly written legislation. That is one target he fires at with regularity. He pointed out that the urban aid legislative package was "a very poor piece of legislation." Nor did he stop there. He said he tried to get the White House and the Treasury Department to get together with House members to put together an acceptable bill. His efforts were ignored.

And so Elliott Levitas had the courage of his convictions. He proposed to the House subcommittee that action on the urban aid package be postponed indefinitely—which virtually guarantees the bill's demise.

It took courage for a Georgia congressman to buck the Carter administration on a key piece of legislation. It took courage for a congressman from metropolitan Atlanta to ring the death knell on legislation which would have benefited Atlanta.

We're grateful that Elliott Levitas has that kind of courage.●

MONROE VETERAN WITH LEUKEMIA WINS BENEFITS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. CARTER. Mr. Speaker, on Aug. 4, I inserted into the RECORD a newspaper article about the approval of service-connected compensation by the Veterans' Administration for Mr. Donald Coe, of Tompkinsville, Ky.

You will recall that Mr. Coe was my constituent who contracted hairy cell leukemia as a result of his exposure to nuclear tests while in the Army in 1957. After 1½ years, the VA has acknowledged that his disease resulted from his exposure to the radiation at that time.

The Louisville Courier-Journal also carried a story on that day about the decision by the Board of Veterans Appeals, and I wish to submit this article for the RECORD as well.

MONROE VETERAN WITH LEUKEMIA WINS BENEFITS

(By Ed Ryan)

WASHINGTON.—Donald E. Coe is no longer a bitter man.

While watching his sons chop wood on his remote Monroe County farm yesterday, he received word that he had won his long fight with the Veterans Administration.

It was announced in Washington that a VA appeals board had ruled that Coe's leukemia is the result of radiation from atomic-bomb blasts he watched as a soldier 21 years ago.

Coe, his wife and seven children are now eligible for full service-related disability benefits.

A year ago, the VA rejected the claims of Coe, who was given only six months to live at the time.

"I was bitter then," Coe acknowledged in a telephone interview from his farmhouse in the Turkey Neck Bend section of Monroe County.

"But who wouldn't have been, the way they (VA) were handling it. I got kind of angry. . . . But I'm not bitter now."

A VA representative from Louisville will come today to Coe's home to explain what the new benefits will mean.

It is estimated that the 45-year-old Coe will be eligible for at least triple the $209 a month he now receives from the VA for nonservice-connected total disability.

More important, according to VA officials in Washington, his wife and children will be eligible for medical and educational payments from the government.

Jess Brown, national appeals officer of the Disabled American Veterans, said that each of Coe's children, who range in age from 2 to 20, can receive as much as $300 per month for college or postsecondary vocational training.

With the exception of Coe and his family, the person probably most gratified by the VA action was U.S. Rep. Tim Lee Carter, the Republican from Tompkinsville.

"I am deeply pleased," said Carter, a physician who has persistently argued with the Veterans Administration over the merits of Coe's medical case.

"Now Mr. Coe knows that if he dies his wife and children will receive the benefits they deserve," Carter said.

Carter went to the White House last year to seek the assistance of presidential aides in the case. Accompanying him was Paul Cooper, a former Idaho GI with leukemia who watched the same atomic-bombs tests in the Nevada desert in 1957.

Cooper, who died earlier this year, had won his benefits from the Board of Veterans Appeal after a long fight that was similar to Coe's.

In congressional hearings earlier this year, the Pentagon said it was beginning to gather lists of the men who observed atomic tests and to study their medical histories for signs of radiation.

Counting experiments in the Pacific Ocean in the 1940s, Pentagon officials said anywhere from 58,000 to 177,000 men may have been exposed to radiation.

(The men were involved in an effort to determine whether infantry troops could be useful in a limited nuclear war.)

Brown, the official from the Disabled American Veterans, said yesterday that Coe's victory wouldn't necessarily mean that other former soldiers who took part in the atomic tests are eligible for benefits because of radiation.

The VA probably will examine the claims on a case-by-case basis, he said.

Coe was besieged yesterday by congratulatory calls and reporters.

"NBC is out on the front porch," Coe said while being interviewed on the telephone. "I'm happy. I felt all the time it would be approved."

For two months last winter, Coe was in and out of Vanderbilt Hospital receiving treatment for his cancer.

When his spleen was removed, his weight went from 205 to 165 pounds.

On several occasions, Rep. Carter scheduled Coe as a key witness in the congressional hearings on the atomic tests. But, because of the severity of his illness, Coe couldn't make it.

There was even a plan to bring Coe to the hearings on a stretcher, after Coe insisted that he should show up to testify.

But the early-morning fog and rain was so bad that day at the Nashville airport that Coe's charter airplane couldn't get off the ground.

His health has improved recently.

"I feel very well, but my neck bothers me, and my eyes bother me, and I tire awfully easy," he explained yesterday.

One good sign is that his appetite is back, and his weight has returned to a normal 205 pounds.

The Coe household has been tense in the last few days, knowing that the VA appeals board was about ready to hand down a decision.

Up until this week, Coe had a motto—"No word is good word."

"But my wife finally called the VA yesterday (Wednesday) and they told her we would be notified in the mail," he said. "That didn't sound good. I knew if it was approved somebody would call me."

They called Donald Coe yesterday with the good news.●

"THE ROAD TO PROSPERITY"—PART XVIII—WHAT THE PEOPLE ARE WRITING

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. STEIGER. Mr. Speaker, ever since June 26, the day on which President Carter called a news conference and attacked the Investment Incentive Act, I have received literally thousands of letters of encouragement from private citizens of modest means. To publish each of the personal tax examples that people have described would take up a regular issue of the CONGRESSIONAL RECORD. To offer an idea of what people are writing, I've chosen a handful of letters at random, and I'm grateful to the writers for permitting me to share them here.

SMITHTOWN, N.Y.,
August 1, 1978.

DEAR CONGRESSMAN STEIGER: Let me give you my recent experience with the capital gains tax, as one example of how it can hit the middle income.

My 1976 taxable income was $20,218 of which $14,132 was a capital gain—realized from the sale of 5 acres I've held for over 20 years. My tax for that year was $4,772 per Form 1040, Schedule D.

If I had had no capital gain my tax would have been $432. The tax on the capital gain alone was $4340.

Recently I received a notice from IRS that I owed $619.80 minimum tax on the capital gain ($14,132—$10,000) x 15 percent.

I had not been aware that I was liable for any tax on capital gain other than that per Schedule D. The minimum tax prior to 1976 applied to a taxable gain of $30,000 and over.

The Schedule D (1976) made no reference to the possibility of additional tax under the minimum tax.

My taxable gain tax became $4340+$619.80, a total of $4,960, a tax rate of 35 percent.

I paid the additional tax and a penalty of $39, with some reluctance. I am age 78, my wife 77. Our income (taxable) is from pension, and some investment income.

I feel the minimum tax should not apply to a person whose taxable income less the capital gain is no more than $_____.

Yours respectfully,

(Name on file).

LAGUNA HILLS, CALIF.,
July 2, 1978.

Hon. WILLIAM A. STEIGER,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE STEIGER: An enormous amount of money must be "locked in" by the present high capital gains tax, which could be released by a more reasonable tax, thus providing "venture capital" for business.

President Carter's assertion that lower capital gains taxes would benefit only rich people is sheer demagoguery. On numerous occasions during The Great Depression, I took capital gains when my income was no more than $2,000 to $2,500 from my writing.

After thirty years as an author, I became a paraplegic as a result of an accident, and for the past twenty-one years, I have been confined to a wheelchair.

I needed a reasonable tax on my capital gains when, deeply in debt, I became paralyzed. And now, like countless elderly citizens, I need a 25% capital gains tax. Unfortunately, I must now pay so much more that I can't sell stocks that now have a flat record of earnings to go into more active growth stocks.

Sincerely,

JOHN SCOTT DOUGLAS.

COLORADO SPRINGS,
July 5, 1978.

DEAR MR. STEIGER: I am not a millionaire! I am an old lady 78 years of age, who taught school for twenty years at a beginning salary of $120 per month. I denied myself many things to save enough money for my old age. I invested these savings in some stocks that have paid good dividends and because of inflation have increased in value. Now, when I need to use some of these profits, and I sell my stocks which I have held from 20 to 40 years, I have to pay a high capital gains tax. It just isn't fair to the small investor.

I hope you can do something about this. It should be a diminishing capital gains rate according to the time a stock is held.

I hope you can do something about this. It is *not* only the rich people who have investments.

Thank you,

LUCILE MILLER.

TOMAH, WIS., *June 27, 1978.*

Hon. WILLIAM A. STEIGER,
Congressman,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN STEIGER: You are to be commended on your proposal to cut capital gains taxes to pre-1969 levels.

For what it's worth, I have a classic personal example to give you.

In 1959, I acquired a farm near my home in Southern Wisconsin with what was then my life savings of $2,500 and borrowed the balance of the purchase price. Since then my job has taken me away from the area and my Mother now also lives in Tomah. I no longer have an interest in that area and would like to sell the property.

Due to career advancement and inflation, I am in a substantially higher tax bracket than when I purchased the property. Of course the property has increased in value over 19 years, but when I consider what the taxes would be if I sold the property, I cannot justify disposing of it. At present, I receive about $2,000 a year income from the property which is offset by taxes and interest, so from a tax standpoint this investment is revenue neutral. However, conservative reinvestment of the net proceeds from the sale of this property under lower capital gains rates would provide $2,500 of annual tax revenue to say nothing of future taxes on capital gains from rollover of investments.

I am in the middle income brackets and not one of the "fat cats" referred to by your opposition. A reduction in capital gains taxes will help people in the middle income brackets who are paying substantially higher income and social security taxes due to the effects of inflation on their wages and standard of living.

My letter has been lengthy, however, I hope this example will help to point out this problem with the present tax structure which you are attempting to correct.

Sincerely,

HARRY W. WELLENKOTTER.

ISSAQUAH, WASH.

DEAR REPRESENTATIVE STEIGER: One of the local radio stations has a call-in time for comments on public issues. The day after the President's June 26 news conference everyone who called was disagreeing with the President about the capital gains tax.

My case is a good example. After my husband died I invested in a large house and yard. I have been looking at places in California because both my daughters live there. I haven't had enough income to pay income tax for several years. Now that I am a senior citizen, I would rather go into a mobile home retirement community than to take care of a big house and yard, but if I sell my house at an inflated price, instead of having the profit to use for the inflated monthly space rent in a mobile home park, I would have to pay too much of the profit in taxes.

So apparently I can't afford to move to California to be near my daughters, because of the high capital gains tax.

Yours truly,

MRS. G. F. ALCORN.

NEW ORLEANS, LA., *July 14, 1978.*

Hon. WILLIAM STEIGER,
Representative from Wisconsin,
Washington, D.C.

DEAR MR. STEIGER: I have read about your proposals for a better deal for the public on Capital Gains, whereas Mr. Carter says 80% of the Capital Gains tax savings go to one-half of 1% of the American taxpayers who make over $100,000.00 per year. Thus, I must suffer because he wants to take some money from some multi-millionaires.

Mr. Carter is very badly misinformed on this subject.

I am submitting some facts to you with the hope that the submission to you can substantiate your position. I also want to show you how we have already been gouged on advalorem taxes.

I happen to be 83 years of age. I have been working for the last 68 years. This is my last year for earned income. Hereafter, I must sustain myself principally from the income I can obtain from my savings in a life of frugality.

I have never inherited any money and my earned income has never exceeded $15,000 in any one calendar year. My first pay check was from the Southern Pacific Railroad at the rate of $20 per month, in 1910.

I served a comparatively short period in World War I and not long after I received my Honorable Discharge in 1918, I was married on a salary of $2,000 per year.

I will give you just one illustration involving two pieces of land. On March 11, 1952, I acquired Plot 34 of Delacroix Plantation for $1,300. On April 28, 1952, I acquired Plot 26 of the same plantation for $1,300 out of my savings.

At that time, there was a standing prin-

ciple of city assessments that there would not be any change made in the initial assessment unless you either sold the property or made some improvements. The initial assessment on Plot 34 was $460. On Plot 26 it was $480. Total $940. In 1963, 11 years later, the assessment on Plot 34 continued at $460. but Plot 26 was raised from $480. to $900. (there were no improvements). From 1964 to 1966, it continued the same as 1963.

By 1978, the plot assessments had gone from a total of $940 to $9500, and the millage had approximately doubled—making the increase in advalorem taxes about 20 times what they were.

I have been forced to sell, and now what appeared to be a profit will melt into significance if Mr. Carter has his way. I hope you can do something for the large number of people who have frugally anticipated their incapacity and tried to prepare for it, only to discover that the President will make a grab for a higher tax bracket strictly on an individual's life savings.

I hope you can do something for us.

Sincerely yours,

RENE A. STIEGLER.

MONKTON, MD., *July 1, 1978.*

DEAR CONGRESSMAN STEIGER: I am by no means a millionaire. As a retired individual on pension, I try to augment same by a modest investment in securities. The dividends or interest doesn't even keep up with inflation, so the only way to make any profit is judiciously (we hope) buying and selling, the capital gains being the real object. With the squeeze on capital gains, that source too is drying up. Keep up the good work! To bash a few millionaires the President is willing to hurt a lot of small people too.

Very respectfully,

KEMP TOLLEY.

SAN DIEGO, CALIF., *July 9, 1978.*

Hon. WILLIAM A. STEIGER,
House Office Building,
Washington, D.C.

DEAR MR. STEIGER: I strongly support your bill to reduce the capital gains tax.

It is absurd for the administration to state that elimination or reduction of the capital gains tax would only benefit the rich. Perhaps my example can prove the point.

I am a retiree living on the capital gains from a small building I sold in 1969. Unfortunately, ever since then I have had to use not only the interest from the gain on the building but also the principal in order to have enough money to live on. Formerly, those dollars could buy a modest amount of living expenses. Today they cannot. I am being paid back in dollars which buy less and less and yet I am forced to pay a high capital gains tax. The "benefit" of my gain has long disappeared because of inflation. In 1983, the proceeds from that sale will be gone. As a consequence, I have had to take risks through small purchases of stocks to try to build up a modest amount of capital to take the place of the money which will be gone. If I am fortunate enough to make a capital gain, it, in turn, is illusory. It is eroded by inflation and an excessive capital gains tax.

Many of us on fixed incomes have no alternative but to live on capital gains and investments. We—in the lower tax brackets—desperately need help.

It is not logical nor is it fair to lump both rich and not-rich in the same package when discussing the pros and cons of reducing the capital gains tax.

Sincerely yours,

LUCILLE MOSES.

PEORIA, ILL.,
July 10, 1978.

DEAR REPRESENTATIVE STEIGER: I appreciate the effort you are making to cut capital gains taxes. I do not agree that the cut would benefit only the wealthy. I am a senior citizen who bought a scattering of inexpensive stocks some twenty or thirty years ago hoping to have a little nest egg on retirement to help off-set inflaton. Realizing how our money has depreciated and then to pay 50% tax on top of it is just too much to take. I believe the number of years investments are held should count for something.

Sincerely,

MRS. ROBERT BRANHAM.

PHOENIX, ARIZ.,
July 13, 1978.

Representative WILLIAM A. STEIGER,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. STEIGER: I wish to write you and tell you of my support regarding your Bill to roll back the taxation on realized long term capital gains. I am a middle income taxpayer who has been hurt.

In 1977 we sold our home in Anchorage, Alaska and moved to Phoenix, Arizona. We made $4,456 on the sale of our home in Anchorage. We had to pay long term capital gain on $2,228. Thus, my total income tax came to $3,480.31. However, the investment capital, I made on my home, which had been taxed long ago, was taxed again. By the way my income is only in the mid-twenties. The $3,480.31 is too much for a family of five to pay as income tax, I feel. I also resent President Carter calling your Bill just for the rich, since I had to pay on my equity, which does not seem fair.

Thank you for your interest and consideration.

Sincerely yours,

MARVIN G. WEBER.

MENLO PARK, CALIF.,
July 8, 1978.

Hon. WILLIAM STEIGER,
Representative, Wisconsin,
Washington, D.C.

DEAR SIR: The President has stated that the passage of the above amendment would be of benefit to millionaires only. I do not agree with the President. If this amendment were to pass, I believe the great benefit would be to persons, who are in circumstances similar to mine.

I am a widow in my seventies who is locked into a fixed income. The rate of inflation and the loss of the purchasing power of the dollar frightens me. I have no means whereby to keep up with inflation nor to increase my fixed income. Money deposited in banks and saving and loans earn interest well below the inflation rate. Where do I invest my capital so as to increase my income to adjust to the ever increasing cost of living?

I believe that if I could invest, sell and make a profit on my capital gains without the penalty of paying a large capital gains tax, I would have the opportunity or at least the choice to increase my capital rather than sit by and watch the daily deflation of my dollar.

I urge you to continue to work toward the passage of your amendment.

Very truly,

MRS. HAROLD HJELM.

MILWAUKEE, WIS.,
July 17, 1978.

Representative STEIGER,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE STEIGER: As a teacher employed by the Milwaukee Board of Education, I am pleased with your efforts to pass the Steiger Amendment. The average small investor may now be hopeful that his typically meager savings will at least keep pace with inflation instead of losing much of their value.

American goods must compete in world markets with goods from other countries which have little or no capital gains tax. Formerly one-third of the capitalization of corporations was borrowed and two-thirds was from the corporations' own funds. Now two-thirds of the capitalization is borrowed and only one-third is from corporation funds. Interest is being raised because the government borrows many billions in competition with the private sector. This reduces industry's ability to raise funds desperately needed to update obsolete equipment. The United States formerly had the most modern equipment of any industrial country. Now West Germany and Japan have much more efficient equipment.

Unless U.S. industry is given tax relief it risks bankruptcy in any attempt to replace obsolete equipment. Unless capital gains taxes are reduced to pre-1969 levels and double taxation of dividends are eliminated the average investor cannot afford to risk his savings for the expansion and updating of industry.

In case it is impossible to enact the Steiger Amendment surely it is not too much to hope that corporations will be allowed to deduct dividend payments and be given a reduced corporate tax rate with accelerated depreciation allowance. This should increase employment and give the government more income. It would also increase the government's income from capital gains taxes by increasing sales of securities now locked in by the confiscatory capital gains tax.

Yours very truly,

MARY JANE GOLDSMITH.

DEAR CONGRESSMAN STEIGER: As a low income, semi-retired, senior citizen and home owner, I heartily applaud your efforts to force a reduction in Capital Gains taxes My support for this action stems not entirely from my desire to see drastic reductions in all types of taxes (thus forcing significant cut-backs in government waste and spending), but largely because I feel that Capital Gains taxes are nearly as unjust and inequitable as Property Taxes and Inheritance Taxes.

I know from experience, that most homeowners change homes several times during their lifetime; moving upward in early life to meet the needs of growing families and improved social status; then in later life, when the family has left the nest and when income drops and/or becomes fixed, the need arises for a retrenchment and dad and mom either want less home to maintain, or are forced by soaring property taxes, to move back down the scale or cease being homeowners completely. Government caused inflation keeps pushing real estate prices upwards, thus bringing a capital gain to the seller, but this capital gain as measured against the inflated cost of living, and when measured against upkeep, interest on indebtedness, loss of interest on the paid off portion of the debt, and the soaring costs of home maintenance, is usually an illusory mirage.

Individuals, particularly those with more conservative backgrounds, are inclined to buy and sell small properties as a means of augmenting their incomes. I have known many individuals who, like myself, have from time to time purchased run down properties, fixed them up and resold them for a profit. These people were not wealthy, they were not big corporations or industrial complexes.

There are far more dollars put into private pockets (and into general circulation) of low and middle income families in this manner, than through increasing investment credits or cutting corporate income taxes. And believe me, I strongly support both these latter incentives to industrial expansion.

Capital Gains profits have always been, and still are, the poor man's only opportunity to feel like a capitalist.

MERLE D. GOW.

JACKSONVILLE, FLA.

An Open Letter to President Carter:

DEAR SIR: You might not read this letter because I am just a plain citizen who nevertheless believes that someone can emerge

from deep poverty and achieve a good life under the free enterprise system.

Your news conference made reference to the fortunate few who own securities and other property.

In 1929 my father died when I was 12 years old with no resources and a mother to support.

I tried hard but couldn't make it without seeking the help of our town fathers. They offered me 50¢ per hour for cutting railroad ties with a crosscut saw. We survived the thirties somehow.

Four years of Navy during World War II made it possible for me to attend college at age 29 and graduate at age 32. Wall Street beckoned and I started a career in the most hazardous and volatile of industries. At age 35 I bought my first car and at age 42 my first home for our family.

Every spare dollar of savings went for common stock. Congress passed laws that would enable me to pay a maximum tax of 25% on any profit from the sale of my home or securities.

My government has deceived me by changing the laws on which I planned my life. Now my President condemns me as a citizen with too many advantages.

Mr. President, is it wrong for a poor man to become less so?

Sincerely,

JOSEPH A. LETTMAN.●

POPE PAUL VI

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 7, 1978

● Mr. VENTO. Mr. Speaker, the death of Pope Paul VI left the world stunned and with a numbing feeling of loss. Catholics and non-Catholics alike admired and respected this humble, sensitive, courageous and idealistic leader.

There is much for which Pope Paul will be remembered. During his reign, the liturgy of the Catholic Church was dramatically changed to expand its understanding and acceptance by all Catholics.

Pope Paul was a scholar and a connoisseur of theology, and he had a reputation for being receptive to new ideas. He internationalized the Vatican hierarchy so that representatives from other countries could share in vital church decisions. He also brought in many young priests to open the Vatican to fresh thoughts and concepts.

The world heard the Pope make impassioned pleas for peace and social justice, and it was from a genuine concern for the lives of all people that he strove to reach those people and churches that had for so long been outside the realm of Vatican cordiality or exchange.

Pope Paul traveled the world and increased communications with other churches, atheists and Communists. He was the first Pope in modern times to leave Europe and his visit to the United States in 1965 is still a memorable event for American Catholics.

Pope Paul ruled the church during a difficult, confusing time. Many of his decisions were extremely controversial, yet he stood firm and strong in spite of critical reactions from large groups of Catholics. He was determined to maintain the vitality and strength of the church in times of great stress.

Perhaps the best tribute to the man can be seen in the worldwide reaction to his death, although it is not surprising that Communist and non-Communist countries alike should share in the mourning. During his years as Pope, a host of world leaders, including key Communist officials, visited the Vatican. The Pope's overtures to the Communists are considered the main reason the church was able to settle the 18-year-old controversy about Cardinal Mindszenty and gain other concessions from the Communist world.

For Catholics, Pope Paul's death is a personal loss. For non-Catholics, his death also leaves a feeling of emptiness and genuine sorrow. There is no question that he had great impact on both the religious and the secular life around him. The world has lost a compassionate leader and friend.

I would like to commend to my colleagues this statement by Archbishop Jean Jadot, apostolic delegate in the United States:

STATEMENT OF THE APOSTOLIC DELEGATE FOLLOWING THE ANNOUNCEMENT OF THE DEATH OF POPE PAUL VI, AUGUST 6, 1978

Paul VI was above all a man of faith. It is not possible to understand his life, much less his pontificate, without realizing that he was a person governed by a threefold faith: faith in Jesus Christ, faith in the Church, faith in man.

For Paul VI Christ is living and operating in our midst: as the way, the truth and the life for everyone.

He also believed in the Church: the religious society that constitutes the Catholic Church is the instrument which Christ uses to enlighten and vivify the world.

He believed in the human person. Created in the image of God, each member of the human family of whatever culture, race, sex, personal conviction or social condition is worthy of the greatest respect and able to improve.

It is in this threefold faith that one is able to appreciate the constant concerns of Paul VI for doctrinal truth, for authentic prayer, for unity, for justice and peace, for dialogue, for courage and for hope against all hope.

Looking back in time, history will discover the moral greatness, the astonishing wisdom and the profound humanity of a man of God sharing with all his heart the joys, the pains, the hopes and the frustrations of his time.●

BALANCE(S) OF POWER SERIES BOOK III (D)—THE HORN OF AFRICA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in continuing consideration of the shifting balance of power worldwide, I am introducing today a recent analysis of the situation in one of the most rapidly changing regions of military confrontation: the Horn of Africa.

Because the alinement of forces in the Horn has proved so volatile, and because the relative strengths of the forces in the area have been so greatly influenced by the role of Soviet and proxy forces, an accounting of the balance at any point in time is less significant than an analysis of the dynamics.

As the following article shows, the dynamics of the Horn situation reflect very largely the involvement of the Soviet Union. Entitled "Soviet Thrust Into the Horn of Africa: The Next Targets," this article by Peter Vanneman and Martin James presents a clear picture of Soviet purpose and strategy in its Horn activities. It is in this context that military developments in the region must be understood.

The article first appeared in Strategic Review, spring 1978.

The massive intrusion by the Soviet Union into the Horn of Africa represents the more prominent of two new Soviet foreign policy salients, one in the Middle East and the other in Africa. The immediate targets are two countries that are central to America's dwindling policy assets in the Indian Ocean-Persian Gulf region: Saudi Arabia, the world's largest producer of petroleum, and Kenya, the last pro-Western state on the eastern coast of Africa.

As the Saudi Arabian Foreign Minister, Prince Saud bin Faisal, expressed it: "The fact is that we have thousands of foreign troops present in Ethiopia. It is without a doubt a threat to the security and stability of the entire continent of Africa and the Middle East." Having witnessed the steady Soviet-sponsored military build-up in South Yemen to the south and Iraq to the north, the Saudis are all the more acutely sensitive to Soviet initiatives in the Horn. Saudi interest in the purchase of sophisticated military equipment (including F–15 fighter planes) from the United States should be viewed in the context of these security concerns, rather than in an Arab-Israeli framework.

The short-term Soviet objectives on the Horn are: to escalate pressures against Saudi Arabia by acquiring naval and air facilities as Massawa and Assab on the Red Sea; to put pressure on Kenya, particularly with respect to impeding Western access to the port of Mombassa, the only major port now open to U.S. naval vessels on the east coast of Africa; to gain a strategic position whence to be able to threaten the interruption of shipping lanes vital to Europe and Japan; to enhance the Soviet Union's global prestige by engineering another military victory for one of its allies; and to legitimize its African activities by ostensibly defending the sacred African principle of national territorial integrity. In this light, the much-heralded loss by the Soviet Union of its military facilities at Berbera in Somalia appears less significant than has generally been supposed. Indeed, it is entirely possible that Soviet personnel might ultimately reappear in Somalia; it is noteworthy that the latter did not sever diplomatic relations with Moscow even while fighting against the Soviets in Ethiopia.

The intervention on the Horn reflects another carefully orchestrated and sophisticated use of military power, designed to maximize the USSR's global influence and ameliorate her mushrooming internal economic difficulties. After successfully sponsoring a proxy war in Angola,[4] the Soviet Union explicitly signaled her intent to employ that new instrument of her foreign policy elsewhere by including a specific provision on "wars of national liberation" in the new "Brezhnev" Constitution.[5] No other constitution in the world commits its people to such a specific foreign policy goal. The unprecedented tours across Africa and the Middle East by the

Footnotes at end of article.

Soviet and Cuban Presidents in the spring of 1977 gave ample notice that these regions would be the next arenas of "national liberation war:" [6]

Proxy war is an adjunct to Soviet economic policy. It is designed to supplement and complement efforts to bolster the Soviet Union's sagging economy. Indeed, economic considerations seem to dominate Soviet activities in Africa and the Middle East. Reviewing the first comprehensive Soviet book on Soviet-African relations, the government newspaper Izvestia remarked: "Quite unexpectedly, most of the book is devoted to questions of economic cooperation. . . ." [7]

Soviet support of Ethiopia conforms to a fundamental tenet of the USSR's foreign policy: the Brezhnev Doctrine, which proclaims the unilateral right to defend beleaguered "socialist" regimes.[8] Somali troops invaded Marxist Ethiopia's Ogaden region in July 1977 in support of insurgents there. When Somalia—then apparently a Soviet client—ignored Moscow's diplomatic pressures for a withdrawal of the forces, the Soviets initiated a massive military build-up to bolster the unstable Ethiopian regime. Over a period of months this escalated into a major military confrontation—a new and successful test of the utility of proxy war in the advancement of Soviet foreign policy aims.

STRATEGIC ACCESS AND DENIAL: THE SAUDI TARGET

The collapse of the monarchy and its replacement by a pro-Soviet regime in Saudi Arabia, the world's largest producer of petroleum, would dramatically shift what the Soviets characterize as the "global correlation of forces." Access to resources is increasingly important in world politics, even for the supposedly well-endowed USSR, as some studies on Soviet oil reserves suggest. Thus, most Soviet activities in the Red Sea area are aimed, at least in part and perhaps even primarily, at undermining the stability of the Saudi Government and constraining its influence.[9]

Soviet naval and air facilities at Massawa and Assab in Ethiopia would be more valuable than those "lost" at the much touted base at Berbera in Somalia. The Ethiopian facilities are within easy reach of the main Saudi port at Jidda and the multi-billion dollar industrial complex now being constructed at Yenbo on the Red Sea. Thus, they are perfectly positioned for support of efforts to destabilize Saudi Arabia and harass vital oil shipping lanes to Europe and Japan.

Soviet intentions often are mirrored in articulated Soviet "fears." An example came in an Izvestia commentary, shortly after the Somali invasion: "The Horn of Africa . . . has been assigned no small role in the plans for turning the Red Sea into an Arab Lake. The nationalism of the feudal masters is directed against the revolution in Ethiopia." This language clearly invokes the Brezhnev Doctrine, which would serve to vindicate Soviet pressure on Saudi Arabia in the guise of defending "socialist" Ethiopia. As the then Soviet President Podgorny put it, "I would like to touch on the question of the situation in the Red Sea region. Recent events indicate that imperialists, using certain Arab countries, Saudi Arabia above all, are trying to establish their controls there. . . ."

The USSR's most faithful ally in the Arab world, South Yemen, lies on Saudi Arabia's southern border. The Soviet Union has poured large quantities of tanks, heavy artillery, advanced aircraft and armored trucks into that country. Hundreds of East Germans are setting up communications and internal security systems. Cubans have helped train Yemeni soldiers, and three thousand Cubans transited the country en route to Ethiopia. In addition, three thousand Yemeni troops were reportedly fighting alongside the Ethiopians.

The use of South Yemen, with its magnificent port at Aden, as a staging area for the massive Soviet-Cuban intervention in Ethiopia bodes ominously for Saudi Arabia. Not long ago the Soviets, operating from South Yemen, instigated an insurrection in another monarchy on the Arabian peninsula, the Sultanate of Oman.

SOVIET RESOURCE STRATEGY

Soviet global strategy is increasingly guided by concern for access to raw materials. Not only is the Soviet Union constantly improving its capacity to deny Western and Chinese access to strategic raw materials, but it obviously has plans for its own use of these raw materials. Such plans were reflected in the joint communique on the occasion of a visit by Ethiopian leaders to Moscow in May 1977: "Recognizing the insistent need to restructure international economic relations . . . the two sides will strive to expand . . . exploitation of natural resources . . . to build economic cooperation on a long term basis."

The Soviet Union has proven itself adept at acquiring and reselling raw materials (including oil) at a profit in order to earn hard currency to purchase technology. It has skillfully employed the most capitalistic devices toward these ends. There are Soviet banks throughout Europe, Asia and the Middle East. Soviet multinational corporations which sell and ship oil and other raw materials are multiplying. The use of military power is carefully meshed with Soviet foreign economic policy.

Thus, commenting on American efforts to bolster the Somali regime, Pravda betrayed the Soviets' own concern for access to energy sources and raw materials when it noted: "Somalia's strategic location is at the entrance to the Red Sea, on the petroleum sea lanes that are vitally important to the West. In addition, Somalia is the site of the world's largest uranium mines. . . ."

The global energy and raw material shortages have emboldened the Soviet Union to embark on more aggressive and higher-risk foreign adventures because the potential benefits are so substantial. The large-scale Soviet intrusion into the Horn may reflect Moscow's fears of domestic economic dislocation as well as competition with the West. American strategic analysts should entertain the possibility that Soviet anxieties about a crisis in the Soviet economy fanned by rising energy and raw materials costs may animate aggressiveness even more than the motive of strategic denial to the West. In short, strategic access is perhaps a more dangerous new motivation in Soviet foreign policy than strategic denial. The two, of course, are usually concomitant goals.

THE ERITREAN CRISIS

The oldest insurgency in Africa is ravaging Eritrea, the northeastern province of Ethiopia on the Red Sea, which hosts the important ports of Assab and Massawa. Since the Eritrean terrain is superbly suited to guerrilla warfare, suppressing the insurgency would involve an extended operation—one that could truly assume the dimensions of a Soviet-Cuban Vietnam. At least 25,000 Cuban forces, and probably many more, would be required to pacify Eritrea. The best estimates put the Cuban presence in all of Ethiopia at 17,000—although it should be pointed out that similar calculations in Angola proved too low. It is doubtful that the Cuban regime could sustain internal political support for two demanding counterinsurgency operations in Africa simultaneously—the second being the continuing campaign in Angola against Jonas Savimbi's UNITA (National Union for the Total Independence of Angola).

Nevertheless, several factors militate against an abrupt Cuban withdrawal from Ethiopia. The Ethiopians clearly intend to terminate the Eritrean rebellion, which threatens their only access to the Red Sea at Massawa and Assab. Moreover, the Ethiopian regime considers Eritrea the source and homeland of ancient Ethiopian civilization, despite the fact that it was attached to former Emperor Haile Selassie's empire in 1952 and not fully and legally incorporated until 1962. The Ethiopian leader, Colonel Mengistu, articulated these historic links: "Eritrea has always been an integral part of Ethiopia, so much so that the Northern region has been one of the cradles of Ethiopian history and culture. . . . Ethiopia has always been a Red Sea state, except for a brief period, when colonialists controlled the region . . . the very name Eritrea is a colonial creation."

The Soviet Union quite clearly intends to support Ethiopian initiatives in Eritrea. *Pravda* explicitly proclaimed that Eritrean secession would amount to a "victory for imperialism." The Soviets seek to protect their access to the ports of Massawa and Assab as part of the long-range strategy of undermining Saudi Arabia, which is supporting the Eritrean insurgents. Soviet gunboats, and possibly Cuban aircraft, defended the ports against an insurgent assault early in 1978. Cuba is more reluctant than the Soviet Union to become involved in quelling a rebellion which Cuba had explicitly endorsed until recently. Both external powers risk becoming bogged down in a long, drawn-out counterinsurgency far from their borders with all the costs entailed, including the pejorative symbolism involved in so-called revolutionary states suppressing a rebellion.

What is likely in Eritrea is a political solution based upon a deal with one or more of the disparate liberation fronts and leading to some form of Eritrean autonomy. This would relieve the Cubans and the Soviets of the onus of suppressing a revolution—and indeed, might cast them in a favorable image. The transfer of Cuban, Russian and Ethiopian forces from the Ogaden to Eritrea is clearly intended as a signal for some elements of the insurgents to settle for a form of autonomy.

* * * have identified with Ethiopia. It is not difficult to imagine an arrangement between these elements and the forces of the Eritrean Popular Liberation Front (EPLF), backed by Soviet, Cuban and Ethiopian power (see table). The EPLF is quite dynamic and popular, with strong support among the youth, Christians and Muslims alike. It is also strong in the cities, which would be easiest to pacify.

The Soviets, of course, are past masters at creating federal constitutional facades that guarantee a paper autonomy: their own constitution grants the Soviet republics the right to secede. New troop arrivals in Eritrea will focus primarily on defense of the ports and the provincial capital of Asmara while negotiations procede—although decisive military action cannot be ruled out if the insurgents refuse to negotiate. The rapid escalation of the Cuban presence suggests that this option is still open.

The Soviets are in a position gradually to strangle the flow of weapons to the rebels by pressuring Iraq, Syria and South Yemen, the chief sources of weapons. American inaction in the area plus the presence of Soviet warships in the Red Sea could rapidly lead to the drying up of Saudi support. It is perhaps symbolic that the Arab Foreign Ministers Conference in March 1978 promised military aid to non-Arab Somalia, but not to the Eritreans.

THE CUBAN PROXY

In a proxy war the armed forces of one nation serve the interests of another nation. These forces may also serve the separate interests of the proxy as well as those of the

Footnotes at end of article.

principal sponsoring power. The principal power is the sponsor in the sense that its material support makes the venture possible, and its clear disapproval would seriously deter the proxy from embarking on the venture. The proxy force is not a surrogate force—that is, it is not a substitute for the sponsor's power. The sponsor delegates certain responsibilities to the proxy and retains others for its own forces.

While Soviet and Cuban interests generally coincided in Angola, it is the USSR's interests that predominated in Ethiopia. Compared with their respective levels in Angola, there were more Soviet military personnel and fewer Cubans present in Ethiopia during the Ogaden War. The estimated Soviet military presence in Ethiopia was 1,500 as compared with 450 in Angola; the Cubans in Ethiopia numbered 17,000, as contrasted with 23,000 in Angola.

Frequently the interests of the proxy and the sponsor tend to diverge, and this may well be the case in Eritrea. While *Pravda* warned that secession would be a victory for imperialism, the Cuban leadership clearly has been divided over the use of its troops in Eritrea. While the Cubans have been reluctant to suppress the oldest liberation struggle on the African continent—one with which they have long-standing contacts—major Soviet policy concerns have been focused on the two Eritrean ports of Assab and Massawa. To some extent this reflects the natural disparity between a global superpower and a minor power.

Cuban troops in Eritrea largely performed defensive chores at Asmara, Massawa and Assab in the early stages of the Ethiopian intervention—they staged this presumably in order to preserve Cuba's mediating role. Castro's image as the proponent of national liberation would be severely damaged if his troops were blatantly to suppress Eritrean insurgents. Nevertheless, the escalation of the Cuban presence from 11,000 to 17,000 in a few months suggested pressure on the Eritreans to reach a political accommodation with Ethiopia. Even if the Cubans do not intervene offensively (and the line between offensive and defensive operations is rather subtle in such complex scenarios) their increased presence releases Ethiopian troops for the task, while buttressing the unstable regime in Addis Ababa—a role for which the Cubans' experience in Angola is directly relevant.

It should be stressed again that the Cubans are not mere puppets of the Soviet Union, notwithstanding the extraordinary coordination and orchestration of the military tactics of the two powers. Cuba probably would have intervened in Angola even without Soviet support, though perhaps on a lesser scale.

Moreover, the evidence suggests that the Soviets encouraged the partly abortive invasion of Zaire in order to undermine Cuban influence in Angola. While the Soviet Union remained ostensibly neutral in the attempted coup in Angola in the spring of 1977, the Cubans crushed it. Although Soviet influence in the Cuban economy is enormous, Castro retains a trump card—rapprochement with the United States. Castro's idealism will tend to restrain Cuba in Eritrea, despite Soviet pressure and the militancy of Raul Castro's faction. Eritrea will further delineate the Soviet-Cuban proxy relationship, which clearly is not completely symmetrical.

THE AFRICAN TARGET: NEUTRALIZING KENYA

By helping to fend against Somali irredentism in the Ogaden, the Soviet Union began a process of ingratiating itself with the most pro-Western African state between the Horn and the Cape. Somalia has consistently claimed areas of the Northern Frontier District (NFD) of Kenya, and in the 1960s Somali "Shifta" guerrillas staged bloody raids in the area. One of the five stars in the Somali flag represents this region.

As a result, Kenya provided logistical support for Ethiopia and her Russian and Cuban allies by allowing arms to be shipped through her excellent port at Mombasa. The Kenyan government also renewed a mutual security pact with the new Marxist regime in Ethiopia (originally concluded with the monarchy of Emperor Haile Selassie). Moreover, Kenya went so far as to offer forces to fight with the Russians, Cubans and Ethiopians to repel the Somali army in the Ogaden. Finally, Kenya gave indications of turning to the Soviets for arms, since its military forces are among the weakest in Africa, and the cost of arming could seriously undermine Kenya's economic prosperity.

The new rapport between Kenya and Ethiopia was reflected in the fact that Kenya was one of the few African countries publicly to support Ethiopia in the Ogaden war. After the war, in a reversal of roles, Ethiopia pledged military support for Kenya under their mutual defense pact, thus leaving open the possibility of Soviet-Cuban involvement in the defense of Kenya's Northern Frontier District.

Kenya is one of the most stable states in sub-Saharan black Africa, but is facing troubled times. The stabilizing presence of its founding father, the elderly Jomo Kenyatta, may soon disappear. A recent election was called off when it became evident that the ruling party might suffer significant losses. The Soviets have long-standing contacts with Kenyatta's persistent opponent, Oginga Odinga, and Soviet influence along Kenya's borders—in Uganda, Tanzania and now Ethiopia—is substantial.

The new Soviet Constitution (Article 29) guarantees the "inviolability of borders" and "territorial integrity of states." In Ethiopia the USSR demonstrated its intention and capacity to defend those principles. Kenya faces the same threat from Somalia. American impotence in Angola and on the Horn must give pause to those leaning on U.S. support—and Kenya is the most important black African state in that category.

Since African national boundaries were drawn by colonial powers without regard to geographic or ethnographic considerations, irredentism threatens every nation. To guard against this ever-present threat of national disintegration through border disputes, the Organization of Africa Unity's charter enshrined the principle of inviolability of borders. One should not underestimate the symbolic importance in African eyes of the use of Soviet power to defend successfully the territorial integrity of an African nation.

In attempting to mitigate Soviet influence in Somalia after the conclusion of the Ogaden war, the United States confronts the dilemma of arming Somalia at the expense of its relations with Kenya. Kenya broke diplomatic relations with Iran when the latter offered to arm Somalia to bolster Somali resistance to the USSR. On the other hand, the evidence indicates that Somalia will succumb again to a Soviet embrace unless U.S. initiatives are substantial. The Soviet Union could then revive its dream of an anti-Saudi confederation in the Red Sea region.

Kenya is the linchpin of Western support on the east coast of Africa. Even her "neutralization" (like Tanzania's) would profoundly affect the East-West balance of power in Africa, much as a pro-Soviet regime in Saudi Arabia would shift the global balance. The Soviets, in short, are playing for high stakes on the Horn of Africa—stakes that are shared, in one measure or another, but with different perspectives and priorities, by their Cuban proxy.

ERITREAN INSURGENTS

ELF [1]

Estimated strength: 20,000–25,000.
International support: Syria, Saudi Arabia,
Religion: Muslim.
Ideology: Conservative.
Leader: Ahmed Nasser.

EPLF [2]

Estimated strength: 20,000–25,000.
International support: South Yemen, Soviet Union,[4] Iraq.
Religion: 50 percent Christian, 50 percent Muslim.
Ideology: Marxist, Pan Arab.
Leader: Isias Aferwerki, R. M. Nur.

ELF–PLF [3]

Estimated strength: 5,000–6,000.
International support: Saudi Arabia, Iraq, Gulf States.
Religion: 50 percent Christian, 50 percent Muslim.
Ideology: Marxist.
Leader: O. S. Sabbe.

FOOTNOTES

[1] Eritrean Liberation Front—founded in Cairo by politicians who lost their jobs when Ethiopia absorbed Eritrea in 1962.

[2] Eritrean Popular Liberation Front—most active among civilians and youth.

[3] Eritrean Liberation Front-People's Liberation Front—strong propaganda arm; weak military arm.

[4] Always indirect, Soviet aid has dwindled during the Ogaden war.

FOREIGN EXCHANGE STUDENTS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 10, 1978

● Mr. CARTER. Mr. Speaker, each year many foreign students come to this country to attend school, and many of our own students go abroad to learn in other countries. This cultural and educational experience can provide benefits that last long after the formal education has ended.

A particularly good example of this was reflected in a letter my wife, Kathleen, received from a former student at a small school in the district I represent. Manoutchehr Ardalan, counselor at the Embassy of Iran here in Washington, has shared some of his observations and recollections of his time at Oneida Baptist Institute as its first foreign student.

I wish to allow the other members of this body to read this letter as well so that they might see firsthand the kind of positive, mutual influence that can be obtained from such educational experience.

IMPERIAL EMBASSY OF IRAN,
Washington, D.C., July 26, 1978.

Mrs. TIM LEE CARTER,
c/o Office of Congressman T. L. Carter, U.S. House of Representatives, 2161 Rayburn House Office Building, Washington, D.C.

DEAR MRS. CARTER: It has been a real pleasure associating with you and Congressman Carter for the past several years. Your genuine hospitality and friendship is characteristic of some of the most outstanding features of Americans everywhere.

I personally take special gratification from your expressions of kindness as it revives very fond memories of the four years I spent in a little known, private Baptist boarding high school in your great state.

In other words, the airline industry, in 1953. I was the first foreign national to have ever enrolled there. My father at that time was the Permanent Representative of Iran at the U.N. Although I felt somewhat strange and separated from my parents, the friendship and guidance I received from Mr. and Mrs. Sparks (the President of the high school at that time) removed any apprehensions

that I might have had as a young 13 year old. I was quickly integrated into the school's program and established an endearing relationship with all my classmates.

I was later to become a roommate to another student by the name of Barkley Moore. We roomed together for nearly two years. Barkley, who is now President of Oneida Baptist Institute, was a prolific reader, a fastidious worker and with the dedicated sense of zeal and purpose consistent with high Christian ideals and ethics of the school. His friendship was a source of encouragement and inspiration to me. I am happy to say that perhaps I may have influenced his thinking to some extent, since he later joined the Peace Corps and went to Iran to serve in exemplary fashion for nearly 5 years.

I graduated from high school with the highest grades of my senior class, and my entrance to school helped pave the way for more foreign nationals, including scores of my own countrymen to follow.

I had the opportunity to travel at great length throughout Kentucky, both as an assistant to softball and basketball teams and whenever I went to Lexington en route to visit my parents in New York. There were many features of life in this remote area that left me with an enduring impression. Among my memories are: the hardwork and dedication of local inhabitants, their faith and hope for a better life, their decency and openness.

It is true that the overwhelming number of people were at that time (1953–57) out of touch with the mainstream of national and international events. For the most part they had no notion of Iran or its unique history and cultural legacy to the world. They could not differentiate between Iranian and Arab, but they readily accepted me into their ranks and learned to appreciate the ideas and attitudes that I represent. I have since returned to my alma mater and have witnessed first hand the enormous transformation and expansion that the school has undergone in the past 20 years. Where at one time I was the only foreign national, today from what I gather, there are over 40 foreign students, in a school of 200–300. This in itself is an important indication of sophistication and broadening of people's perspective in this area.

Perhaps in this way, Americans and Iranians at a grass root level can learn more about each other everyday and strengthen the many ties of amity that have existed between our two countries since the turn of the century.

As a last note, I should only like to say that Barkley Moore has been instrumental in the past several years in introducing into this rural area a sense of achievement and purpose in keeping with the awesome responsibilities that the United States faces as a member of the international community.

I hope that this will give you some idea of my fond memories and experiences in Kentucky.

Sincerely,

MANOUTCHEHR ARDALAN,
Counselor.●

POPE PAUL VI

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. ROONEY. Mr. Speaker, I wish to join with my colleagues, my constituents and people throughout the world in expressing a deep sense of loss occasioned by the death of Pope Paul VI. As the College of Cardinals prepares to choose the 263d leader of the Roman Catholic Church, I feel that now is an appropriate time to reflect on the impact of Pope Paul VI, not only on the Roman Catholic Church but also on the world at large.

During the 15 years that this frail and gentle man was Pope, he lived and displayed a quality of humaneness that well served his church, as its leader, and the world, as a spokesman of conscience. As the most traveled Pope in history, he spread to six continents the ecumenical spirit between all faiths as well as serving as an influential voice on issues covering the spectrum of social and economic concerns of the world.

He was as ardent a spokesman for the poor, hungry, and oppressed of the world as he was in stating what he believed to be the dogma of his church. He attempted to open the doors of communication between churches of all beliefs and nations of all political persuasions.

As the successor to the innovative Pope John, Pope Paul carried on the work begun by Vatican I and II. While the changes that resulted from the Vatican Councils created dissent, Pope Paul at all times guided his church with a calmness born of an unflagging belief in its teachings.

While we mourn his passing, we should temper our feelings of sorrow with the knowledge that while Pope Paul VI is no longer among us, the qualities he displayed during his years as Pope will be remembered always.●

DEPARTMENT OF COMMERCE UNFAIR TO MAINE'S ATLANTIC GROUNDFISHING

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. EMERY. Mr. Speaker, recent cod closures for the Gulf of Maine which began midnight August 5 and future closures to begin midnight August 15 through 1978 are having severe economic ramifications on groundfishermen in the State of Maine. These actions by the Department of Commerce compel me to speak out and protest against a situation which will be felt by Maine fishermen long after the fishery reopens.

Current regulations allow bottom trawlers to equip themselves with a net mesh size less than 5⅛ inches and harvest up to 1-percent cod by weight in the total catch. Gill netters, on the other hand, have no flexibility to regear. What the regulations fail to mention, however, is that a fisherman has no way of knowing what percent of his total catch in the net is cod, yet when he brings it in to see, he is not allowed to discard the excess. One way or the other, he is usually in violation of the law.

The effect of the recent regulations is to completely shut down the Atlantic groundfishery. Unless the New England Regional Fishery Management Council and the Department of Commerce can work together to resolve this very volatile situation, numerous fishermen will be forced to declare bankruptcy and lose their vessels.

I propose that the council and the Department of Commerce work together and devise an interim plan which will allow for uniform regulations while specific, long-term objectives are being drawn up for a final management plan for Atlantic groundfish.

Unless the council and the Commerce Department devise a workable plan for the Maine groundfish industry, it will collapse because of Federal regulations which, up until 2 years ago, did not even exist. What the foreigners could not accomplish in two decades, the U.S. Government was able to achieve in merely 2 years.●

RHODESIA

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, August 11, 1978

● Mr. HARRY F. BYRD, JR. Mr. President, William Randolph Hearst, Jr., editor-in-chief, the Hearst Newspapers, queried at some length British Foreign Secretary David Owen as to his government's position in regard to Rhodesia.

In his signed column in the Hearst Newspapers of Sunday, August 6, Mr. Hearst expressed the conviction that the United States "and the British have continued to weaken Rhodesia militarily and economically while Soviet Russia, Cuba and East Germany have built up the guerilla forces."

The Senator from Virginia feels that Mr. Hearst is totally correct in this assessment.

Mr. Hearst also asserted that the British and American Governments "are paving the way for eventual establishment of an anti-Western black dictatorship in Rhodesia."

Here again, I completely agree.

I insert in the Extension of Remarks Mr. Hearst's Editor's Report "Rhodesia: Sacrificial Lamb."

The report follows:

[From the Hearst Newspapers, Aug. 6, 1978]

RHODESIA: SACRIFICIAL LAMB

(By William Randolph Hearst Jr.)

LONDON.—The tragedy that is looming in Rhodesia seems starkly evident here in London.

Talks with British Foreign Secretary David Owen and, among others, Lord Home, former Conservative British prime minister, strengthened my conviction that only a bold reversal of present Anglo-American policy will avert a terrible catastrophe in the southern African state, where a black and white coalition government is striving to arrange for gradual transfer of power to the black majority.

My main purpose in coming back to London at the conclusion of a brief visit to European capitals was to try to find out from the British foreign secretary why he, with the support of our Cy Vance, was so determined to impose the two terrorist leaders of the so-called Patriotic Front on the set-

tlement which Rhodesian Prime Minister Ian Smith reached with the country's three moderate black leaders, reportedly representing 85 per cent of the country's voters.

The refusal of the American and British governments to support the interim settlement is threatening its collapse. It is leading to an intensification of civil war and encouraging the Soviet and Cuban-backed terrorist leaders, Joshua Nkomo and Robert Mugabe, to assume they can seize power and establish a black dictatorship in Rhodesia.

These views of mine were not unknown to Dr. Owen, since his information director, Mr. Hamilton Whyte, said he had given my reports on Rhodesia to him. Nevertheless, the young, attractive former doctor, who is married to an American girl, graciously received me along with Joe Kingsbury Smith, and Seymour Freidin, our London correspondent, in the historic room of British foreign secretaries at the Foreign Office. He seemed less tense and somewhat more flexible about the Rhodesian situation than when we had met with him in the House of Commons in May of last year.

I reminded him right off that I felt his government and the Carter administration had failed to keep the promise his prime minister, James Callaghan, and then Secretary of State Henry Kissinger had given Mr. Smith in 1976. The promise was that if Smith reached an agreement with black leaders for the transfer of power to black majority rule, the United States and Britain would support it and lift the economic sanctions presently imposed against Rhodesia. Why, I asked, have the British and American governments reneged on that pledge.

Dr. Owen pointed out he was not foreign secretary at the time but he understood Mr. Smith was not prepared to concede that during the transition period there should be a transfer of law and order authority to a neutral figure, or to the black majority. Mr. Smith has maintained that law and order should remain under control of the black and white transition government.

"The crucial issue was always law and order, and that issue has bedevilled agreement," the foreign secretary said.

Referring to the insistence of Nkomo and Mugabe that their guerrillas must be incorporated in the Rhodesian security forces during the transition period, Dr. Owen continued:

"You have to understand the feeling inside black Africa, where power is usually gauged by who controls the army and police forces. They haven't the same traditions we of a civilized and decentralized control."

When asked if incorporating the guerrilla forces into the security forces wouldn't place Nkomo and Mugabe in a position to seize power, the foreign secretary said it would have to be done in a way which would leave the balance of power in neutral hands. "Nobody denies this is one of the most difficult issues we face."

Britain, he added, has proposed that one of its distinguished field marshals, Lord Carver, should be resident commissioner during the transition period with control over law and order. He said he and Secretary of State Vance had succeeded in persuading the Patriotic Front leaders to agree that control of law and order should be reserved for the resident commissioner.

However, Nkomo and Mugabe refuse to accept the settlement Prime Minister Smith reached with the moderate black leaders. They want a new settlement in which they would play the dominant role and Mr. Smith representing the 200,000 whites would not participate.

The American and British governments have proposed bringing Nkomo and Mugabe together with Prime Minister Smith and the moderate black leaders in an all-party conference. The purpose would be to achieve a compromise agreement based on establishment of an executive council that would include the two terrorist leaders. This council that would draft a new constitution providing for black majority rule. It would also organize elections under the supervision of a British resident commissioner responsible for law and order. Both the Patriotic Front and the Salisbury coalition government have set conditions for attending such a conference which are unacceptable to the other side.

Dr. Owen thought there was still "a chance" of getting a compromise agreement at an all-party conference. "The worse the situation becomes in Rhodesia, the more people are beginning to look back to the Anglo-American plan," he said. "But every week that goes by will make it harder to get the Anglo-American plan implemented.

"I see the precipice yawning. The Salisbury government is losing control 30 to 40 miles outside the capital. As that society gets closer and closer to the precipice, we may be getting closer to a settlement. But as you get closer to the precipice, the dangers get greater."

The foreign secretary said it would have been "the height of folly" for the United States and Britain to support the Salisbury settlement because "we would have backed something we knew would not have won the acceptance of the people."

When I pointed out we were told in Salisbury by the moderate black leaders as well as Prime Minister Smith that Nkomo and Mugabe wouldn't get more than 15 percent of the vote in free elections, Dr. Owen replied: "We were all told that."

Asked what indications there were that the Salisbury leaders did not represent the majority of the black and white population, he said: "You get them from the extent to which the fighters (guerrillas) are supported by the people in the villages. If the security forces were dealing with a totally supportive population, I think you would have seen a reduction in the level of violence."

This struck me as rather naive. The experience in Vietnam showed that virtually defenseless peasants are not going to resist well-armed guerrilla forces. The test of whether the majority of blacks in Rhodesia support the Salisbury settlement would come in free elections. That Nkomo and Mugabe have rejected the Salisbury government's invitation to participate in such elections is a clear indication they lack popular support.

Dr. Owen recalled that he refused to condemn the Salisbury settlement when the UN Security Council voted to do so. "People forget that now," he added. "I don't take any joy in his (situation). I have not knocked the internal settlement. I've said very little. I've given it as good a chance as I could have done."

With all due respect to the foreign secretary, I don't agree. If the British and American governments had lifted sanctions against Rhodesia, then the settlement would have had a good chance of succeeding. Prime Minister Smith and the moderate black leaders were confident Nkomo would have joined the settlement if it had been supported by Washington and London Instead, we and the British have continued to weaken Rhodesia militarily and economically while Soviet Russia, Cuba and East Germany have built up the guerrilla forces.

I told Dr. Owen the Soviets don't hesitate to take sides in Africa, but we seem to be afraid to do so. He said it wasn't a question of taking sides, but a question of "a fair solution." I can't believe he really thinks it's a "fair solution" to wreck the settlement that would establish a pro-western, multiracial, black majority rule political system in Rhodesia that could prove a model for racial power-sharing in South Africa. But he said just that.

Joe will give you a fuller report in tomorrow's News American on what else the foreign secretary had to say, but I can tell you now that after listening to him patiently explain the British and American governments' position, it only served to reinforce my sad conclusion that he and Cy Vance are paving the way for eventual establishment of an anti-western black dictatorship in Rhodesia. Not that they alone are to blame. The policy they are pursuing has the approval of President Carter and Prime Minister Callaghan, and of course, Andy Young.

It is an unrealistic policy based on the hope of a solution that would bring the power-hungry, Moscow-oriented terrorist leaders into a new settlement with the moderate blacks for black rule that, while excluding the white minority from any effective voice, would expect them to remain in Rhodesia without any protection of their interests.

In my opinion, the moderate blacks won't go for it because they know they would eventually be liquidated by Nkomo and Mugabe. The whites won't go for it because they would either be massacred or driven out.

The truth of the matter is that Carter and Callaghan, and their foreign secretaries, are willing to sacrifice Rhodesia in order to curry favor with Africa's black rulers. The latter are opposed to any protection for white minority interests and want not majority rule in Rhodesia but the same type of black dictatorship they have imposed on their own countries.

The fear in the White House and Whitehall is that if we don't sacrifice Rhodesia, black Africa will align itself with Russia. This anxiety appears unjustified in view of the anti-Soviet sentiment that dominated the recent Organization of African Unity summit meeting in Nairobi, where the Soviets were told by Guinea-Conakry President Ahmed Sekou Toure, one of the founders of African radicalism, that "Africa is not about to throw off one colonial yoke for another."

Instead of banking on the brink of chaos to bring a settlement that will undoubtedly lead to a black dictatorship in Rhodesia, the American and British governments should honor their countries' pledges to support Ian Smith's agreement with the moderate blacks.

As Lord Home said to us: "The situation was tackled wrongly by both our governments. We ought to have had a political presence with the provisional government in Salisbury from the start—helping to guide them. The emphasis has been put by both our governments on helping the Patriotic Front leaders rather than helping the other people. It's very late now."

It is very late, and I have little hope that sanity will prevail unless Congress assumes the sensible leadership that President Carter and Prime Minister Callaghan lack in respect to Rhodesia.●

VALIANT NEW MEXICANS ATTEMPT BALLOON CROSSING OF ATLANTIC

HON. MANUEL LUJAN, JR.

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. LUJAN. Mr. Speaker, I rise on this occasion to inform my colleagues of an attempt by man to conquer the challenge of nature.

Three men from my home of Albu-

querque, N. Mex., Ben Abruzzo, Maxie Anderson, and Larry Newman will be lifting off from Presque Isle, Maine at any moment in a giant balloon in their second effort to cross the Atlantic in a lighter-than-air craft.

Their first attempt was thwarted by Mother Nature in much the same way two Britishers were foiled less than 2 weeks ago. However, this time my friends are getting an assist that they lacked last time up.

I refer to the hot air which this speech should add to their present supply and which might be that little extra something that will carry them to their goal.

Since this august body so often has an oversupply of that same stuff which is used to lift balloons, I would ask that my colleagues join me in wishing this daring threesome good luck, good wishes, and Godspeed.●

WHILE ANGELS WEEP

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. DORNAN. Mr. Speaker, for years it has been intellectually fashionable to attribute horrible crimes to a mental disorder in the criminal. Hitler, Himmler, Mao, Stalin, and Nero were often depicted as the victims of some kind of dreadful psychosis.

This is an easy answer. But I wonder if it does not reflect a deep urge to believe in a prevalent myth—the natural goodness of human nature. I suppose it is more easy for us to absorb the idea that some psychopathology is at work in the commission of unspeakable crimes against humanity, than it is to accept the idea that there is a moral weakness in the very constitution of humanity itself. It is hard, in other words, to accept the idea of sin. We thought we had dismissed the idea of sin long, long ago. But the reality of man's inhumanity to man keeps returning to haunt us. And the simple charge that all the criminals are merely sick is a hypothesis approaching the lightness of air.

Mr. Speaker, the very name of the country, "Cambodia," is enough to make angels weep. There are few instances in the world where "madness," if that is what it is, reigns supreme. There are certainly few repressions in the history of this world that approach the ruthlessness of the war carried on by the Cambodian Communists against every vestige of civilization.

Religion and the family, two of the primary pillars of civilization itself, have been the objects of a concerted attack by Khmer Rouge ruffians. Wages, property, commerce of any sort is declared illegal; and the most cruel reprisals are visited upon a helpless people who deviate, the slightest, from the regime's stark regimentation.

The most authoritative work on this subject has been undertaken by John Barron and Anthony Paul. I wish to commend their latest piece on the subject, appearing in the most recent issue of "Reader's Digest," to my colleagues:

CAMBODIA: THE KILLING GOES ON

(By John Barron and Anthony Paul)

(Note. Eighteen months ago, authors Barron and Paul shocked the world with the first in-depth report on communist atrocities in Cambodia (see "Murder of a Gentle Land," The Reader's Digest, February '77). Today, despite the desperate efforts of red leaders—who call themselves *Angka Loeu* (Organization on High)—to conceal their crimes, the tragedy of Cambodia continues to unfold.

(Since the communist takeover in April 1975, at least 90,000 Cambodian civilians have fled their homeland, bringing eyewitness testimony to the West. And in recent months, additional information has become available through the growing number of Khmer Rouge (communist) soldiers who have deserted their masters in fear and revulsion. What follows is an updated report on an almost unimaginable horror—the systematic genocide inflicted by a dictatorship upon its own people.)

Rightly or wrongly, the prisoners were suspected of having conspired against the communist rulers of Cambodia. Rounded up and trussed like animals, they were herded last July into the Security Center at Siem Reap in northwest Cambodia. Khmer Rouge soldiers then wired their thighs and genitals to army field generators, and turned on the power. As the captives writhed in agony, many lost control of their bowels and stood, trembling, in their own waste.

Leam Lis, 17, a trusted communist messenger, witnessed the torture, and shortly afterward drove the Khmer Rouge's chief executioner to the extermination grounds off Highway 6, 50 kilometers to the east. Leam watched as a procession of ten trucks delivered about 300 of the doomed men from the Security Center.

"Four large pits had been dug by a bulldozer," recalls Leam. "The bound and blindfolded prisoners were dragged to the edge of the pits, and hit with heavy hoes or thick bamboo sticks. There were shouts of pain, and moaning. Blood ran from their nostrils and mouths as the hoes crushed the back of the heads. Some were not yet dead when the bulldozer pushed earth over them."

TYRANNY AND TERROR

Leam's account, which he gave to us in a Thai refugee camp early this year, is not an isolated, atypical report. Rather, it is consistent with a growing body of testimony showing that Cambodia remains a caldron of tyranny and terror unequaled in modern times.

Within the last year, the Khmer Rouge have further exposed their savage character by committing similar atrocities against their Vietnamese and Thai neighbors. Their barbarity has appalled even the Vietnamese communists, themselves no strangers to terror tactics. Last January, following Cambodian raids on Vietnamese villages, the communist government of Vietnam stated: "They beheaded, disemboweled and cut out the livers of Vietnamese women and children, burned down houses, looted property and tore babies into pieces." [1]

On January 28, 1977, Cambodian forces crossed into Thailand at night and slaughtered inhabitants of three villages. Declared the Thai government: "Khmer Rouge soldiers fired their guns at the innocent Thai villagers and burned all houses to the ground. These murderers did not only gun down everybody in sight, including helpless women; they also disfigured the bodies and slashed the throats of children and babies."

To corroborate their charges, both the Vietnamese and Thai governments displayed grisly photographs of slashed and multilated corpses. The Cambodian government did not trouble to deny the massacre. Rather, it made the preposterous claim that the three Thai villages were in fact part of Cambodia, and added that it was merely "arranging its own internal affairs."

WASTELANDS

Immediately after their conquest of Cambodia, the communists banished every man, woman and child from the cities. Some four million people were driven into the countryside. Today, the cities are desolate, decaying wastelands. The capital, Phnom Penh, which had contained three million people, now holds no more than 15,000. There are no shops, and in the side streets people grow vegetables and raise rabbits and chickens. There is no mail, no telegraph, no train service.

Throughout the country, modern medicine has all but disappeared. Medical care consists mainly of herbal medicines administered by poorly trained cadres. Although the epidemics of cholera, malaria and dysentry that decimated the population in 1975 and 1976 appear to have subsided, refugees say people still are dying of these diseases in large numbers.

Cambodia has been transformed into one vast forced-labor camp, with the surviving population regimented into rural villages or new communes carved out of the bush and jungle.[2] A few factories have been restored to operation, and there is some cottage industry. But the vast majority of Cambodian men, women and children toil in the fields 7 days a week, 12 to 14 hours a day. Generally, the only surcease occurs when villagers are given a day off to watch executions.

"Reasons for Death." *Angka Loeu* relentlessly continues to eradicate all institutions and vestiges of previous Cambodian society. The reading of anything foreign is punishable by death. People are forbidden to travel, and communication is mainly by *Angka* messengers. Money, wages, commerce—all have been abolished. Everyone dresses alike in black trousers and black shirts issued by *Angka Loeu*.

For many centuries, the fundamental institutions of Cambodian society were religion and family. No longer. Before the takeover, at least 90 percent of all Cambodians were Buddhists. The communists have destroyed most temples, or converted them to state use. Monks have been pressed into the labor force, and some have been slain.

Last summer, Som Suchat, a 41-year-old laborer, saw a monk wander into the village of Kok Mon wearing his long saffron-yellow robe. "The man was about 30. When the Khmer Rouge demanded that he take off his robe, he refused. He said he wanted to find happiness by his own path. I heard the Khmer Rouge tell him, 'We'll help you find happiness.' They tied his hands and cut off his head with a machete."

To weaken the family, the communists segregate husbands, wives and children into separate work groups. Children spend more time undergoing indoctrination by *Angka*

[1] In response to Cambodian attacks, several Vietnamese divisions, supported by aircraft, heavy artillery and tanks, plunged into Cambodia in September and December of 1977. They inflicted heavy casualties on Khmer Rouge troops, and the fighting continues.

[2] Authorities calculate that the population of Cambodia at the end of the war in 1975 was approximately seven million. No one can know precisely how many people died as a result of the great forced march from the cities, subsequent famine and epidemics, massacres and executions. On the basis of our previous research, we estimated that, between April 1975 and January 1977, at least 1.2 million perished. Later research persuades us that, if we erred, it was on the low side.

mentors than they do with their parents, and both boys and girls are subject to military conscription as early as age 14. Everyone must eat in communal dining halls. And no one may marry without prior approval of *Angka Loeu*. Reports Phin Sin, a former deputy commander in the 116th Khmer Rouge Division: "Flirtation, love affairs, adultery—all are reasons for execution."

Angka Loeu divides the population into Old People and New People. The Old People are those who resided in communist territory before Phnom Penh fell; New People are those banished from the cities. While all are subject to the same Draconian discipline, *Angka Loeu* tends to be less vengeful toward the Old People.

Sik Non, a young accountant, was one of some 800 Phnom Penh exiles assigned to live with about 400 Old People in the village of Trapeang Chor. His experiences are representative of contemporary village life:

"The villagers were awakened at 5:30 a.m. and labored until their first meal of rice soup at 11 a.m. They continued from 12:30 p.m. to 5 p.m., when they again were fed rice soup. On moonlit nights they labored from 6 p.m. to 10 p.m.

"If you pretended to be sick, you were scolded. After a second scolding, the person would just disappear. The Khmer Rouge would say, 'He's been sent to Angka Loeu.' I saw no one killed. But did see bones and putrefying bodies whenever I went into the jungle looking for wood for the blacksmith's forge.

"By last August we were getting half to three fourths a can of rice soup a day, and up to 700 people had died of hunger and disease. I could see the village vanishing before my eyes.

"Since we had nothing to lose, 28 of us decided to run away. We spent 14 days in the jungle, walking along a mountain range and avoiding towns or villages. South of Battambang, a Khmer Rouge squad found us and opened fire. The group scattered. After hiding in the jungle for some hours, I came back to find 25 bodies—including my wife's."

"LIKE A NIGHTMARE"

After the fall of Phnom Penh, the cowed and enfeebled population at first offered no resistance to its new masters. But in time, Angka Loeu policies and their deathly results provoked rage within the ranks of the communists themselves. By 1976, plots against the Phnom Penh dictatorship were being discussed by Khmer Rouge leaders in the northern provinces.

In May of that year, the Chong Kal district chief, Comrade No, spoke passionately to an assembly of some 35 chiefs of villages, communes and other districts of Oddar Meanchey Province. "We must overthrow the rulers," he declared. "For Cambodia's sake, we must fight these people."

Among those listening was Chek Pek, the 34-year-old chief of Choeung Tien village. Long a communist supporter, Chek was dismayed and disgusted by the ravages wrought on his people. He knew that many had gone to their deaths at the Samrong Security Center, presided over by a mad executioner, Comrade Da, who sometimes ate the livers of his victims.

Comrade No, Chek and the other chiefs planned formation of clandestine forces to attack Phnom Penh in the spring of 1977. The chief of adjoining Siem Reap Province, Comrade Soth, joined the conspiracy. It ultimately spread to include Khmer Rouge commanders and Angka Loeu administrators in the provinces stretching from Battambang in the northwest to Kompong Chom near Phnom Penh itself. For a time it seemed possible that disaffected communists might actually rid Cambodia of Angka Loeu.

However, by January 1977 Angka Loeu had begun to unravel the plot. The next month it instigated a ferocious wave of purges. Many provincial leaders and Khmer Rouge officers were arrested. Comrade Soth and his wife and children were helicoptered to the capital, where all reportedly were bludgeoned to death. His deputy, Comrade Hean and two other conspirators were drenched with gasoline and burned alive.

Angka Loeu turned its fury upon civilians as well. While in the Kompong Nong infirmary last September, Prak Ling Horn, 23, witnessed a small portion of the purge:

"In the afternoon, Old People were told to move from one ward to another. That night, kerosene lamps were lighted in the ward the Old People left. Some 20 persons remained there. About midnight, a Khmer Rouge squad with lengths of heavy bamboo and water pipe moved through the ward bludgeoning everyone to death. No one escaped."

Finally, the world has begun to awaken and to decry the horror of Cambodia. Last April in Oslo, all major Norwegian political parties sponsored an international inquiry into the continuing genocide. As the hearing began, U.S. President Jimmy Carter declared the Cambodian government "the worst violator of human rights in the world today." The Canadian parliament unanimously expressed its outrage, and called upon all nations to protest the slaughter.

At the Oslo meeting, Cambodian refugees from all walks of life gave poignant eyewitness accounts of terrible agony, torture and murder. The noted French journalist Jean Lacouture, who as late as 1976 was an ardent supporter of the Cambodian communists, stood before the hearing to confess he had been wrong. He charged that the Cambodian revolution has been "dishonored by a frenzied practice based on depraved principles . . . a murder-delirium."

The mood of the hearing was summed up by a simple Cambodian village schoolteacher, Chou Try:

"Can you close your eyes? Can you let these things go on until our race disappears? I cannot believe this of you!" ●

PANAMA CANAL: SOVIET NEWSPAPER PRAVDA SEES CLOSER RELATIONS BETWEEN U.S.S.R. AND PANAMA

HON. DANIEL J. FLOOD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. FLOOD. Mr. Speaker, on numerous occasions in addresses to this body of the Congress, I have stressed that in its consideration of the Panama Canal question the transcendent issue involved is not between the United States and Panama but between the United States and the U.S.S.R. This fact was emphasized in my remarks on July 26 entitled "Panama Urges United States to Give Up Guantanamo Naval Base" (CONGRESSIONAL RECORD, July 26, 1978, p. 22[illegible]).

It is, I believe, quite significant that the Panamanian chief negotiator for the recently ratified new Panama Canal treaties was Romulo Escobar Bethancourt, a dedicated Marxist. The Spanish language press of Panama now reports he is a member of the Panamanian advisory team in connection with planning Panama's implementation of those treaties.

The latest news about the Panama-Moscow relationship is an AP dispatch from Moscow published in a six line news story tucked away on page C6 of the August 9, 1978 Washington Post, which announced that Pravda, a Communist daily newspaper, praised Panama for developing "warmer relations" with the U.S.S.R. and other Communist countries.

The indicated news dispatch follows as part of my remarks:

PRAVDA SEES CLOSER TIES WITH PANAMA

MOSCOW.—The communist daily newspaper Pravda praised Panama yesterday for taking steps to develop warmer relations with the Soviet Union and other communist countries.●

A NEW SHIP JOINS THE FLEET

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. PATTERSON of California. Mr. Speaker, on Saturday, July 29, I was privileged to attend, along with our colleague GLENN M. ANDERSON, the launching and christening of the U.S.S. *Wadsworth*. This new ship, a fast frigate designated FFG–9, will soon be able to take its place with the other ships of our U.S. Navy that are so essential if we are to retain our freedom. Ship christenings are always events that, by their very nature, inspire a sense of pride and patriotism—and, in fact, send a tingling down one's spine. At a launching, the main speaker, in his remarks, should set the stage for events that follow with a short, appropriate, and inspirational message. And it was just such a message that our colleague GLENN ANDERSON of California delivered at the launching of the *Wadsworth*. I thought his remarks so appropriate that I would like to share them with you and the other Members.

The remarks follow:

LAUNCHING AND CHRISTENING OF THE WADSWORTH (FFG–9)

(By GLENN M. ANDERSON)

Thank you, Captain Kaune, Admiral St. George, Admiral Otth, Congressman and Mrs. Jerry Patterson, Mrs. Roberts, Mrs. Peacher, Ladies and Gentlemen:

It is indeed a pleasure for Mrs. Anderson and me to be here with you today. I am delighted to have been asked to participate in the launching of the U.S.S. *Wadsworth*. The addition of this ship to the U.S. Navy is visible evidence that, despite the claims of some, we are not abandoning our Navy and relegating it to second or third class status. The Congress is determined to prevent that. Our Navy MUST be the best afloat—and it must remain so. For only by being the best can we be assured that our nation and our allies will remain free in today's troubled world.

For in this world—with global spheres of influence and areas of potential conflict, and with the growing importance of the seas both as a means of transportation and a source of resources—the importance of a strong, vigorous Navy is obvious. For seldom before have we faced as pressing a need for a fighting force that combines effectiveness, speed, and the ability to be ready for action almost anywhere in the world as we do today.

The *Wadsworth* and her eight sister ships to be constructed here at Todd Shipyard will play an important role in maintaining our naval readiness in the years ahead. Equipped with the latest weaponry, fire control, and navigational systems, when commissioned and operational the power of this fighting ship will be much greater than her relatively compact size would indicate.

With a weight of approximately 2,500 tons and a length of 450 feet, her sophisticated equipment will permit achieving maximum combat capability with a minimum number of crew. The *Wadsworth* and the other ships in her class will be a welcome symbol of our strength as a nation on the high seas.

Our Naval vessels have been among the most important embodiments of American strength throughout our more than 200 years of history. The name of this ship is especially fitting, since it is one with a long tradition of excellence in the United States Navy. It carries the name shared by two destroyers which played important roles in previous years.

The first U.S.S. *Wadsworth* was the flagship of the first division of American destroyers to arrive at the British Isles during World War I, and which gave a greatly needed sense of encouragement to our embattled allies.

The second *Wadsworth* saw extensive combat during the great conflagration of World War II, earning six battle stars and the Presidential Unit Citation.

These ships carried on the high tradition begun by Commodore Alexander Scammel Wadsworth, whose name will continue to be commemorated by the ship we are launching today. During the War of 1812, he received a silver medal for heroism as second lieutenant of that famous fighting ship, the U.S.S. *Constitution*—Old Ironsides. He was also promoted for gallantry as the first lieutenant of the frigate *Adams* as our nation re-established its sovereignty on the high seas.

Later, Commodore Wadsworth commanded the Pacific Squadron of the U.S. Navy, and was also Inspector of Ordnance.

Mrs. Patricia P. Roberts, the great-great-great-granddaughter of Commodore Wadsworth, is here today to serve as the sponsor of this ship, which is named after her famous ancestor. And I understand that her mother, Mrs. Rebecca Peacher, is also present.

The construction of the *Wadsworth*, and the other ships of her class here at Todd Shipyard is another tradition I am pleased to see continue. It is indicative of the high regard in which this yard, its skilled shipyard workers, and its efficient engineering and management team are held by the Department of the Navy.

Historically, the Los Angeles-Long Beach Harbor area has played an important role in our nation's defense. As we launch the *Wadsworth* today, we see that role continue—as we help to revitalize our nations first line of defense, the U.S. Navy!

Thus, as we christen this ship today, we see reflected in her the tradition of the U.S. Navy; the pride in workmanship and skill of the men and women who built her; and a ship benefitting the illustrious name it will bear so proudly as it joins our fleet.

Wadsworth is a name that, in past conflicts, has justly inspired pride. For Commodore Alexander Scammel Wadsworth, and the two ships named after him, all proved their excellence and mettle in the crucible armed conflict.

Let us hope that this latest *Wadsworth* will serve our nation as well in times of peace as her namesakes did in war. And that she sails the seas as a symbol of not only our strength but of our determination to remain free.

Thank you.●

REHABILITATION IS GOOD BUSINESS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. BRADEMAS. Mr. Speaker, 3 months ago the House of Representatives passed legislation which would continue the 58-year-old vocational rehabilitation program which trains disabled persons for employment.

I refer to the Comprehensive Rehabilitation Services Amendments of 1978, which the House passed on May 16. This legislation, H.R. 12467, would reauthorize the Rehabilitation Act of 1973. This act is scheduled to expire in 6 weeks.

The Comprehensive Rehabilitation Services amendments would assist the vocational rehabilitation program in realizing its important goal of preparing handicapped individuals for employment.

Let me just point out that the bill would establish three employment programs.

The first of these would be a community service employment program under which handicapped individuals would be assisted in taking the difficult steps from dependence to employment in the private sector.

The second is an expanded project with industries program under which industries would be encouraged to train and employ handicapped individuals.

Third, these provide for a business opportunities program under which Federal loans and other assistance could be made available to assist handicapped individuals in establishing their own businesses.

Mr. Speaker, these three features would substantially strengthen the existing partnership between vocational rehabilitation and private industry.

I would illustrate this point further by commending to the reading of my colleagues an excellent article which appeared in the New York Times on August 6, 1978. The article, which describes the experience of the Minnesota Mining and Manufacturing Co. in training and employing disabled persons, makes vividly clear that rehabilitation is good business.

The article follows:

[From the New York Times, Aug. 6, 1978]

REHABILITATION IS GOOD BUSINESS

(By Michael W. Fedo)

ST. PAUL.—Two years ago, Robert Schroeder, a shipping clerk at the Minnesota Mining and Manufacturing Company here, strained his back on a warehouse loading dock. Doctors said the injury would prevent him from returing to the job he'd held for 19 years, but the company's rehabilitation counselor enrolled him at a business college. Today Mr. Schroeder is a raw materials analyst at 3–M, earning more than he did as a warehouseman.

Hundreds of ill or disabled 3-M employees are working instead of collecting disability benefits, the result of "in-house retraining," a rehabilitation concept pioneered by the company that is taking hold in corporate boardrooms across the country.

Paul Ashton, who directs 3-M's program, says it was started six years ago because 3-M felt it owed a responsibility to its workers—and because rehabilitation is good business. "Finding, hiring and training a person for a particular job can run into several thousand dollars," Mr. Ashton said. "When illness, injury or emotional problems prevent that person from performing a job, the company can lose its investment. And paying insurance costs to a disabled employee instead of paying a salary to a productive one, is a further drain."

The company, which has 40,000 employees, estimates it saved $300,000 in Workmen's Compensation payments in the first 18 months of the program, which is voluntary.

By keeping Mr. Schroeder on the payroll, for example, 3-M figures it made a solid investment. It spent $45,000 on his retraining and rehabilitation and saved $100,000 in total insurance liability.

Susan Alt, editor of Business Insurance magazine, says there is another reason why companies are looking to in-house retraining: mandatory rehabilitation laws. Three states—California, Georgia and Hawaii—recently passed legislation requiring companies to pay for such programs and others are studying the question. So interest in the 3-M experience is high. Last year 3-M ran a newspaper ad offering to help other corporations develop their own programs. More than 500 responded.

OTHER COMPANIES

Some companies had actually started earlier. The Control Data Corporation began in-house rehabilitation in 1976. John Moe, manager of employee assistance, says the program has saved nearly $200,000 a year.

And Paul Scher, corporation manager of handicapped programs at Sears, Roebuck & Company, says, "While our programs have not reached the sophistication of 3-M's, we're active on the East and West Coasts. Even if it costs $30,000 to rehabilitate a worker over a few years, the company is still money ahead in the long run."

A disabled Sears employee is entitled to two-thirds salary until he's 65 years old. "If we have a worker injured or take ill at age 40," he said, "and that person was earning $12,000 a year, he will receive $8,000 a year for 25 years. If you replace that worker with a less experienced worker at $10,000, you're paying $18,000 for a service that used to cost just $12,000."

Employee rehabilitation began at Burlington Northern Inc. in 1976, just in time for Del Ocker, a B.N. painter, who hurt his back in a truck accident the year before. He was told he'd have to leave the job he'd held for 10 years.

The railroad sent Mr. Ocker to data processing school and he is now a programmer for the company. "It gave me a lift to know the railroad cared about me," he said. "After my surgery, they were right there to assure me I wasn't abandoned."

REHABILITATION COMMITTEE

"What we try to do," Mr. Ashton said, "is to get the handicapped employee mentally, psychologically and temperamentally prepared to resume the job and his or her daily living routine."

When Sandy Hanson, a salary analyst at 3–M, was thrown from a horse and suffered a broken back on Christmas Day, 1976, Mr. Ashton was at the hospital when she came out of surgery, and said the company was holding her job for her.

A paraplegic as a result of the accident, Miss Hanson could still do her job, but adjustments had to be made. She was taught to drive her car with hand controls.

A bathroom situated near her office was renovated to accommodate her wheelchair and her desk was placed on blocks so she could work from the chair.

3-M has set up a rehabilitation committee that consists of representatives from all departments concerned with employee services including employment, personnel research, insurance and employee relations.

The committee is trained to better understand the problems of the handicapped. For example, it recently heard lectures by an authority on multiple sclerosis and a representative of the State Services for the Blind.

Largely through efforts by the committee, classes in sign language are being offered to supervisors who must communicate with employees who are hard-of-hearing.

The committee also gives local physicians tours of 3-M facilities so they will understand what specific jobs require.

"A while back a woman whose finger was amputated stayed out of work for 18 months," Mr. Ashton said. "But when her doctor actually saw the type of work she'd be doing, he said if he had known, she could have returned a year before."

DRAMATIC SAVINGS

The savings resulting from rehabilitation can be dramatic. According to Mr. Ashton, if a 30-year-old 3-M employee became disab ed and took benefits instead of returning to work, the cost to the company would be about $150,000 until that person reached age 65. "And that's money we're paying to someone who is no longer producing income for the company.

"Companies are paying high insurance premiums because they have people sitting at home who can work. If we don't reach them in time—that is, soon after they've been injured or taken sick—they develop what I like to call pensionitis. It becomes easy for them to sit around and collect. They begin to doubt that they can fill any position."

In many cases retrained employees wind up with better jobs than they previously held. Mr. Schroeder, for instance, says his new position at 3-M "has a real future for me."

And Frank Kostohris, who used to work in the film manufacturing plant until he hurt his back, now works as a fork-truck operator. "I like the new job better," he said.

Others have had to take lower-paying positions. "It's a blow to have to tell someone who may have been making $8 an hour that he now only qualifies to take a job paying $5 or $6," said Mr. Ashton. "But the benefits a disabled employee might get are obviously going to be far less than he would receive if he worked—even at a lower-paying job."

While most corporations with rehabilitation programs concentrate on job-connected injuries, 3-M deals with all injuries and illnesses. Victims of multiple sclerosis, for example, presently work as phone operators, sales representatives and maintenance engineers at the company.

JOBS RESTRUCTURED

"As the disease—whatever it may be—progresses, and their jobs beocme too difficult, we try to move them where they'll be more comfortable," Mr. Ashton said.

Labor unions acknowledge that internal vocational rehabilitation contributes significantly to employee morale, and they have been cooperating with management's efforts to keep disabled workers on the job. However, a few union business agents have intimated that companies are trying to deny people benefits in order to save money. In response, Mr. Scher says: "It's best for the employee, but even so vocational rehabilitation is not a charity—it's a business."

Still, there is an element of altruism that surfaces when counselors deal with those who suffer debilitating, even terminal illnesses.

"We're not only interested in putting people into new jobs or new careers," said Mr. Ashton, "but in helping them through the current moment, no matter how short-lived that moment is."●

LIFE IN CAMBODIA DURING 1975 AND 1976

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, I would like to place in the RECORD the following documents describing life in Cambodia during 1975 and 1976:

DECEMBER 19, 1975.

LIFE IN CAMBODIA

(Extracts from a cabled report from the American Embassy in Bangkok)

(The names of the refugees who provided this account and the name of their village have been excised to protect the identity of family members or friends still in Cambodia.)

Two Catholic Relief Service (CRS) employees from Phnom Penh have arrived in Thailand, after working first in an area south of that city and then in the Sisophon area in the far northwest. A description of their life and observations follows:

The Embassy debriefed December 11 two Cambodian CRS employees who had recently managed to flee their country into Ta Phraya, Thailand. Previously serving as special forces soldiers in South Viet-Nam prior to working for CRS in 1974–75, the two were well-known and trusted employees of CRS. Their observations about their experiences since the fall of Phnom Penh are the best we have heard in recent months. Until their flight to Thailand in mid-November, they were successful in hiding the fact that they worked for an American organization.

The Fall of Phnom Penh. There was confusion for the first two days after the fall. One employee, P— S—, was sent in the direction of Kompong Speu to the southwest on April 19 by Khmer Communist (KC) female soldiers, but the road became so congested that the rear half of the exodus was separated and sent in other directions. P— S— observed when passing the Russian Hospital April 20 that large numbers of non-ambulatory patients were lying on the ground outside the hospital; they told him they were removed to facilitate a general clean-up of that building.

Resettlement. Both subjects ended up in an area south of the capital working in the rice fields. They lived in K— village (Kandal Province) along the Bassac River.

Story of a Liberated Village. Villagers who had lived permanently in K— told the two that the village was never actually under Government of the Khmer Pepublic (GKR) control. They claimed that from 1970 through 1972 the North Vietnamese Army (NVA) controlled it. Throughout that period there was sporadic but violent conflict between the NVA and the Khieu Samphan faction of Khmer Communists (KC) also operating in the area, over the fact that fully armed NVA forced the KC with only 20 weapons per 100 men to lead assaults against GKR army positions, with the NVA following behind. In 1972 the NVA departed the area, relinquishing control to the KC. According to one farmer, the NVA left hidden arms caches disguised as Chinese tombs for use in the event of a return to the area. The KC forced the farmers to dig up some of them uncovering AK-47's and SKS rifles.

K—: Civilians. The new arrivals seem to have been integrated into the existing population of K— village. Married couples who had been in the zone before April 21 were allowed to remain together, whereas new arrivals were strictly separated by sex both in the fields and at night. Sexual relations or talk of marriage were punished by public execution, the two claimed. As justification, the KC said that everyone must devote himself to strengthening the economy before thinking of raising a family. No one was permitted to leave his house or barracks after 6:00 p.m. without obtaining permission. K— said the death rate among children was extremely high; on the worst day thirty died, primarily of malaria and were buried in a common grave. With a general shortage of food, stealing food was punished by public execution, usually done by rifle or pistol.

K—: Military. In the fields there was one male guard to every ten male workers and one female per ten female workers. The KC wore black pajamas and performed some work. They were men and women of all ages, armed usually with M-1 and M-2 carbines. As refugees from other parts of Cambodia have also reported, the two saw some KC wearing green uniforms. They carried AK-47's or possible sub-machine guns. None ever worked in the fields. P—S— suggested that they may have been an elite combat reaction force for use against pockets of resistance or village uprisings.

Transfer of Population. On September 14 fifty families from K— village joined others from nearby villages to travel to C— in five ferry boats carrying 500 people each. Passing by the Phnom Penh docks the following day, they saw no boats, only one truck being loaded from a warehouse with what looked like bridge repair materials. (Another Embassy here spoke with a Vietnamese refugee who had piloted a boatload of rice to Phnom Penh in early October; he reported there was no sign of life in the capital city until, after a three-hour wait, an official came to yell at them to unload the rice themselves and depart.) After arriving in C— on September 17, the people were trucked to Pursat in Molotova-type six-wheeled vehicles with Chinese characters stamped into the metal. From there, they moved on September 19 in a 23-car train to Sisophon. A KC guard travelled on top of each of these passenger-carrying freight cars, and a Cambodian drove the train. Finally, the group moved to an area on Highway 6 north of N— village, sleeping along the road until other workers had finished building a work camp. While waiting along the road, they observed a convoy transporting rice, refugees, and green-uniformed soldiers travelling in GMC trucks toward Siem Reap on September 23 or 24.

The Work Camp. The KC soon put the people to work to build dikes and irrigation ditches, as well as to work on the highway. The KC aim was to produce a dry-season rice crop in the area, something which apparently had not been done there previously. The two Cambodians reported that people in the area were astonished by the idea but were afraid to tell the KC. They said that much of Sisophon District was still flooded when they left in November (this flooding perhaps encouraging the KC to think they could produce a dry-season rice crop), which meant that there would be no wet-season rice crop to harvest now in those areas. In this work camp, fraternization with members of the opposite sex was also forbidden. Food was obtained primarily by foraging for it in the forest.

NOVEMBER 1, 1976.

LIFE IN SISOPHON DISTRICT OF NORTHWESTERN CAMBODIAN

(Excerpts from an Airgram report by an Officer of the American Embassy at Bangkok)

(The identification of the refugee and his village have been excised to protect family and friends remaining in Cambodia.)

SUMMARY

Following is the story of the newest refugee arrivals in the camp at Aranyaprathet, including a report of reduced cultivation of rice land in their area of northwestern Cambodia—traditionally the country's rice bowl.

INTRODUCTION

Twenty-six thin Cambodian males arrived as refugees in Aranyaprathet approximately one week ago from the village of R——— in Sisophon district of Battambang province. One of them, C———, described life there for the visiting Administrator of the Department of State's Bureau of Security and Consular Affairs, Leonard Walentynowicz, and the reporting officer

ORGANIZATION

R——— is one of a group of adjacent villages long organized as a commune. When the Khmer Communists unveiled their concept of "cooperatives" after the takeover, the commune was divided into ten of them. On August 15, 1976, the ten cooperatives became two, each comprising 700 families. KC troop strength for the commune has varied between 30 and 50, and administration has been largely in military hands, although there are several KC civilian officials, none of them local people, assigned to the commune, as well.

RICE PRODUCTION

Rainfall this year has been somewhat less than normal and will have an impact upon the area's rice harvest at the end of the year, C——— predicted. More important, however, will be the fact that less land is being cultivated in 1976 than in 1975 due to general weakness of the population owing to malnutrition (the food shortage is particularly severe at the present time) and debilitating disease, for which there is no medicine. Asked to estimate the decrease in the number of rice fields cultivated this year as opposed to last in the R——— area, C——— suggested fifty per cent.

EXECUTIONS

"Every once in a while", clarified to mean about once a month, a few people from R——— were executed, C——— claimed. Victims were former soldiers, civil servants, and other "educated" persons, killed when their identities were discovered. The last execution occurred in early September. The victim was described as a nice, former soldier in his fifties, of whose background the KC had just learned. He, like others before him, was taken out of the village quietly at night and clubbed to death a short distance away.

ESCAPE

C——— said there was evidence that the KC had just been able to identify a number of persons in R——— and that there were indications that they were slated for execution immediately. (Another source claimed that KC friends or relatives had tipped off those persons.) Thus, he, 24 former soldiers, and the teenaged son of one, fled the village and came to Thailand. They left their dependents in R——— because they thought, should they meet the KC en route, it was better that they die themselves rather than risk the lives of their families, as well. They had no such problem, fortunately. (In Aranyaprathet immigration jail—a cage near a restaurant—are two Cambodians who arrived in Thailand October 25 and were charged with illegal entry. They started out in a group of 40, were ambushed, and said they were the only ones who escaped.) They crossed high water in places.

Asked whether the group of 26 was not concerned about their families in R———, C—— said he assumed the KC would be true to form as in the past and not harm them. The usual practice, which he expected to see carried out this time, as well, was for the KC to move the remaining family members out of the village into another area. Asked who would till the fields if too many persons fled, he replied that the KC claim not to care, that those who flee are rubbish and the country is well rid of them. They also spread the word that Cambodians are killed when they arrive in Thailand, but this does not deter people from trying to leave.●

VOTING RECORD

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. FOLEY. Mr. Speaker, I hereby submit a compilation of my voting record for the first half of the month of July of the 2d session of the 95th Congress.

451. H.J. Res. 13. National Grandparents Day. Lehman, D-Fla., motion to suspend the rules and pass the joint resolution to request the president to designate the first Sunday in September after Labor Day in 1978 as National Grandparents Day. Motion agreed to 362–8; July 10, 1978. Yes.

452. H.J. Res. 1007. Asian/Pacific American Heritage Week. Lehman, D-Fla., motion to suspend the rules and pass the joint resolution to request the president to designate a week in the first 10 days of May 1979 to be designated Asian/Pacific American Heritage Week to commemorate the contributions and accomplishments of the two million Americans of Asian and Pacific descent. Motion agreed to 360–6; July 10, 1978. Yes.

453. H.J. Res. 773. National Port Week. Lehman, D-Fla., motion to suspend the rules and pass the joint resolution to request the president to designate the week of Sept. 17, 1978, as National Port Week to recognize the economic and national security importance of the nation's ports. Motion agreed to 363–11; July 11, 1978. Yes.

454. H.R. 13087. Substitute Treasury Checks. Mitchell, D-Md., motion to suspend the rules and pass the bill to authorize the Treasury secretary, at his discretion, to issue substitute checks for stolen or lost Social Security checks without indemnification by the recipient. Motion agreed to 375–0; July 10, 1978. Yes.

455. H.R. 12106. Transportation Safety Board. Anderson, D-Calif., motion to suspend the rules and pass the bill to extend the National Transportation Safety Board for one year with an authorization of $16.4 million for the board's operations in fiscal 1979. Motion agreed to 340–32; July 10, 1978. Yes.

456. H.R. 12536. National Parks Additions. Thompson, D-N.J., amendments, en bloc, to delete a provision in the bill to authorize the Interior Department secretary to acquire all lands within the present boundary of the Delaware Water Gap National Recreation Area in Pennsylvania and New York for the wild and scenic rivers system and for recreational purposes. Rejected 110–275; July 10, 1978. No.

457. H.J. Res. 1024. Agriculture Supplemental Appropriations, Fiscal 1978. Passage of the joint resolution to appropriate $57,145,000 for staff salaries for the Agricultural Stabilization and Conservation Service and to increase transfer authority from the Commodity Credit Corporation fund to ASCS by $23,391,000, for fiscal 1978. Passed 340–48; July 11, 1978. Yes.

458. H.R. 11827. Strip Mining. Roncalio, D-Wyo., motion to suspend the rules and pass the bill to amend the 1977 Surface Mining Control and Reclamation Act to authorize an additional $25 million each in fiscal 1979–80 for Interior Department inspections of mines and assistance to small operators. Motion agreed to 323–74; July 11, 1978. Yes.

459. HR 12536. National Parks Additions. Baucus, D-Mont., amendment to delete a provision in the bill to designate 927,550 acres in Glacier National Park in Montana as wilderness. Adopted 216–181: July 11, 1978. Yes.

460. HR 12536. National Parks Additions. Symms, D-Idaho, amendment to provide for the exclusion of 4,400 acres of the Blue Jacket Mine area in Idaho from the Hells Canyon Recreation Area. Rejected 147–249: July 11, 1978. Yes.

461. HR 12536. National Parks Additions. Oberstar, D-Minn., amendment to provide for a master development plan, to be submitted to Congress one year after enactment of the bill, for inclusion of segments of the Upper Mississippi River in Minnesota in the Wild and Scenic Rivers system. Adopted 205–192: July 11, 1978. No.

462. HR 12536. National Parks Additions. Oberstar, D-Minn., amendment to delete the provision in the bill to amend the Wild and Scenic Rivers Act deleting the limitation on acquisition authority of the St. Croix River in Minnesota and Wisconsin. Rejected 175–218: July 11, 1978. No.

463. HR 12536. National Parks Additions. Passage of the bill to authorize $1.25 billion in fiscal 1979–83 for establishment of new areas and additions in the national park, national trails, wild and scenic rivers and wilderness systems. Passed 341–61: 237–28, July 12, 1978. Yes.

464. S Con Res 95. Soviet Dissident Trials. Zablocki, D-Wis., motion to table the Ashbrook, R-Ohio, motion to appeal the ruling of the chair sustaining a point of order against a motion to commit the resolution to the International Relations Committee with instructions to report it back with an amendment stating that it was the sense of Congress that U.S. representatives to the strategic arms limitation talks with the Soviet Union be recalled to show U.S. commitment to human rights principles. Motion agreed to 277–120: July 12, 1978. Yes.

465. S Con Res 95. Soviet Dissident Trials. Adoption of the concurrent resolution urging the Soviet Union and its leadership "to seek a humanitarian resolution" to the "deplorable" trials of Anatoly Shcharansky, Viktoras Petkus and Aleksandr Ilyich Ginzburg, who defended the principles of the Helsinki agreement in the Soviet Union. Adopted 380–10: July 12, 1978. Yes.

466. H Con Res 599. Uranium Export to India. Adoption of the resolution to disapprove the president's approval of the export of low-enriched uranium to India. Rejected 181–227: July 12, 1978. No.

467. HR 15. Elementary and Secondary Education. Quie, R-Minn., amendment to allow local education agencies, as well as states, to qualify for special matching federal grants if they had their own compensatory education programs. Rejected 150–240: July 12, 1978. Yes.

468. HR 15. Elementary and Secondary Education. Edwards, R-Okla., amendment to count two-thirds instead of 100 percent of the children in each state from families receiving Aid to Families with Dependent Children payments in excess of the poverty level, for the purposes of determining state compensatory education allocations. Rejected 175–212: July 12, 1978. No.

469. H Res 1267. Andrew Young Impeachment. Wright, D-Texas, motion to table the

McDonald, D-Ga., resolution to impeach U.S. Ambassador to the United Nations Andrew Young. Motion agreed to 293–82: July 13, 1978. Announced yes.

470. HR 15. Elementary and Secondary Education. Kildee, D-Mich., substitute amendment, to the Holt, R-Md., amendment, to prohibit duplication by community education programs of services offered by other government agencies unless the commissioner of education determined that collaboration existed between the education agency and the other government agencies. Adopted 197–195: July 13, 1978. Yes.

471. HR 15. Elementary and Secondary Education. Ashbrook, R-Ohio, substitute for the bill to distribute funds authorized by the bill in block grants to states. Rejected 79–290: July 13, 1978. No.

472. HR 15. Elementary and Secondary Education. Passage of the bill to extend the Elementary and Secondary Education Act of 1965 for five years, through fiscal 1983. Passed 350–20: July 13, 1978. Yes.

473. H.R. 10929. Defense Procurement Authorization. Price, D-Ill., motion to close to the public the conference committee meetings on the bill to authorize fiscal 1979 funds for Defense Department weapons procurement and military research and development when classified national security items were being discussed, as authorized under House rules, but to allow the attendance of members of Congress at all meetings. Motion agreed to 312–5; July 14, 1978. Yes.

474. HR 12163. Energy Department Authorization. Flower, D-Ala., amendment to reduce funding for the Clinch River nuclear breeder reactor project by $150 million, to limit work on that project to completion of studies and tests and to require a study of advanced breeder reactor technologies to be prepared by March 1, 1981. Rejected 142–187: July 14, 1978. No.

475. HR 12163. Energy Department Authorization. Flowers, D-Ala., amendment to add $75 million for initial construction costs for a facility to demonstrate the SRC–II process of producing liquid boiler fuels from coal. Adopted 165–132: July 14, 1978. Yes.

476. HR 12028. Veterans' Home Loan Program. Robert, D-Texas, motion to suspend the rules and pass the bill to amend the U.S. Code to increase to $30,000 grants for specially adapted housing for certain disabled veterans, to $25,000 for VA loan guarantees, and to permit Vietnam-era veterans with 90 days of service to qualify for VA home loan programs. Motion agreed to 373–0: July 17, 1978. Yes.

477. HR 12232. Unemployment Compensation Amendments. Corman, D-Calif., motion to suspend the rules and pass the bill to amend the 1976 Unemployment Amendments to: 1) pay members of the National Commission on Unemployment Compensation who were not full-time federal employees; 2) extend for one year, to May 31, 1981, the effective date of the provision that unemployment compensation benefits be reduced by the amount of retirement benefits received; and 3) extend for two years the exemption for farm employers of the payment of employment taxes for seasonal alien agricultural workers. Motion agreed to 300–81: July 17, 1978. Yes.

478. HR 12380. Extended Unemployment Benefits. Corman, D-Calif., motion to suspend the rules and pass the bill to limit to two years beyond the regular unemployment period the time within which an individual may receive extended unemployment benefits under the 1970 Federal Extended Unemployment Compensation Act. Motion agreed to 381–4: July 17, 1978. Yes.

479. HR 10848. Supplemental Security Income Benefits. Corman, D-Calif., motion to suspend the rules and pass the bill to allow persons whose SSI payments were discontinued because they became employed to be considered disabled and immediately receive SSI benefits for three months, pending a review by the Social Security Administration, if they had received SSI benefits within the previous five years. Motion agreed to 351–32: July 17, 1978. Yes.

480. HR 12163. Energy Department Authorization. Fish, R-N.Y., motion to recommit the bill to the Science and Technology Committee with instructions to report the bill back to the House with an amendment containing language called for in the rejected Flowers, D-Ala., amendment. Motion rejected 157–238: July 17, 1978. No.

481. HR 12163. Energy Department Authorization. Passage of the bill to authorize $4 billion in fiscal 1979 for research and development programs and activities of the Energy Department. Passed 325–67: July 17, 1978. Yes.

482. HR 1609. Coal Slurry Pipelines. Adoption of the rule providing for House floor consideration of the bill to encourage construction of coal slurry pipelines. Adopted 376–7: July 17, 1978. Yes.

483. HR 1609. Coal Slurry Pipelines. Udall, D-Ariz., motion that the House resolve itself into the Committee of the Whole for consideration of the bill to promote development of coal slurry pipelines. Motion agreed to 344–23: July 17, 1978. Yes.

484. H J Res 738. Native American Religious Freedom. Johnson, R-Colo., demand for a second on the Udall, D-Ariz., motion to suspend the rules and pass the joint resolution to express the sense of Congress that the president direct the federal agencies to re-evaluate existing laws and regulations that prevented native Americans from practicing their traditional religions. Second ordered 396–2: July 18, 1978. Yes.

485. H.R. 12443. Immigration Policy Revision. Eilberg, D-Pa., motion to suspend the rules and pass the bill to amend the Immigration and Nationality Act to provide a single world-wide ceiling on immigration into the United States and to establish a Select Commission on Immigration and Refugee Policy to study U.S. immigration policies. Motion agreed to 396–20: July 18, 1978. Yes.

486. HR 12508. Immigration of Adopted Children. Eilberg, D-Pa., motion to suspend the rules and pass the bill to amend the Immigration and Nationality Act to raise the limit for immigration preference on the number of children that could be adopted by a single family, and to liberalize immigration and naturalization requirements for children of parents applying for U.S. citizenship. Motion agreed to 413–0: July 18, 1978. Yes.

487. HR 12252. Payment to States' Veterans Cemeteries. Roberts, D-Texas, motion to suspend the rules and pass the bill to pay state and local governments $150 to cover the expenses of burying any veteran in a veterans' cemetery operated by a state or local government. Motion agreed to 407–9: July 18, 1978. Yes.

488. HR 12011. Hospital Care for Veterans in U.S. Territories. Roberts, D-Texas, motion to suspend the rules and pass the bill to extend indefinitely the authority of the Veterans Administration to contract with private hospitals for medical care of veterans in Alaska, Hawaii and U.S.-controlled territories. Motion agreed to 415–0: July 18, 1978. Yes.

489. HR 11891. Disabled Veterans' Medical Aid. Roberts, D–Texas, motion to suspend the rules and pass the bill to establish higher benefits payments for home health care for disabled veterans requiring constant medical attention. Motion agreed to 418–0: July 18, 1978. Yes.

490. HR 6075. Pregnancy Disability. Hawkins, D–Cal., motion to suspend the rules and pass the bill to prohibit employment discrimination based on pregnancy. Motion agreed to 376–43: July 18, 1978. Yes.

491. HJ Res. 738. Native American Religious Freedom. Udall, D-Ariz., motion to suspend the rules and pass the joint resolution to express the sense of Congress that the president direct the federal agencies concerned to re-evaluate existing laws and regulations that prevented native Americans from practicing their traditional religions by denying them access to sacred lands, instruments or ceremonial practices. Passed 337–81: July 18, 1978. No.

492. HR 1609. Coal Slurry Pipelines. Passage of the bill to promote development of coal slurry pipelines. Rejected 161–246; July 19, 1978. No.

493. HR 11983 Federal Election Commission-Public Financing. Sisk, D-Calif., motion to order the previous question on the adoption of the rule providing for House floor consideration of the fiscal 1979 authorization bill for the Federal Election Commission. Motion agreed to 213–196: July 19, 1978. No.

494. HR 11983. Federal Election Commission. Passage of the bill to authorize $8.6 million for the Federal Election Commission for fiscal year 1979, with the stipulation that none of the money could be used to fund random audits of candidates for the House and Senate. Passed 366–37: July 19, 1978. Yes.

495. HR 13385. Debt Limit Increase. Adoption of the rule providing for House floor consideration of the bill to provide for a temporary increase in the public debt ceiling. Adopted 303–98: July 19, 1978. Yes.

496. HR 13385. Debt Limit Increase. Vanik, D-Ohio, amendment to reduce the temporary increase in the public debt ceiling by $16 billion, to $798 billion from $814 billion. Adopted 363–37; July 19, 1978. Yes.

497. HR 13385. Temporary Debt Limit. Passage of the bill to increase the temporary public debt limit to $798 billion through March 31, 1979. Passed 205–202; July 19, 1978. Yes.

498. HR 11504. Agricultural Credit. Richmond, D-N.Y., motion to order the previous question on the Symms, R-Idaho, motion to recommit to a House-Senate conference committee the conference report on the bill to revise existing farm credit programs, to create an economic emergency loan program for farmers and ranchers and to extend the Emergency Livestock Credit Act through Sept. 13, 1979. Motion agreed to 282–105; July 19, 1978. Yes.

499. HR 11504. Agricultural Credit. Adoption of the conference report on the bill to revise existing farm credit programs, to create an economic emergency loan program for farmers and ranchers and to extend the Emergency Livestock Credit Act through Sept. 30, 1979. Adopted 362–28; July 19, 1978. Yes.

529. HR 7577. Economic Opportunity Act Amendments. Passage of the bill to extend the Economic Opportunity Act of 1964 for three years, through fiscal 1981, and to make changes in various anti-poverty programs covered under the act. Passed 346–38; July 26, 1978. Yes.

530. S Con Res 98. Congressional Adjournment. Adoption of the concurrent resolution to allow Congress to continue meeting beyond the mandatory adjournment date of July 31 provided for in the 1946 Legislative Reorganization Act as amended. Adopted 302–44; July 27, 1978. Yes.●

ARE AIRLINE EARNINGS SUFFICIENT TO MEET MANDATED REPLACEMENT OF THREE-FOURTHS OF PRESENT FLEET FOR PUBLIC BENEFIT?

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. ANDERSON of California. Mr. Speaker, the Airport and Aircraft Noise Reduction Act, H.R. 8729, has recently been disparaged by a few people because it attempts to insure the solution to an environmental problem related to this almost totally Government-regulated industry. It would do this in several ways. One of these, title III, focuses on use of existing user taxes for a temporary period to insure by means of incentives that existing aircraft noise rules are maintained. Beyond this. it is intent also to encourage replacement with equipment providing more noise reduction than required and with equipment substantially more energy efficient—not otherwise required. Some feel that because the airlines are now reporting profits it is unthinkable that these incentives be provided to achieve these public purposes.

A recent paper prepared by the Air Transport Association, whose president, Paul Ignatius, is a highly respected former public official, may be useful to some Members concerning the background of the noise rules and the profit situation of the airlines. The paper follows:

BACKGROUND

In 1969, the Federal Aviation Administration promulgated a rule known as Part 36 which became a part of the Airworthiness Certification Rules for U.S. airplanes. The effect of this rule was that all airplanes newly designed and type-certificated were required to meet the noise standards established in the rule.

In 1973, the FAA promulgated an amendment to Part 36 directing that all two or three engine jet aircraft manufactured in the U.S. after December 1, 1973, and all four engine jet aircraft manufactured in the U.S. after December 31, 1974, were required to meet Part 36 noise requirements, even though the aircraft had been type-certificated prior to the enactment of Part 36. In essence, these rules to reduce aircraft noise were developed in the same manners as were rules to control emissions from automobiles. They were written to effect aircraft built or purchased in the future. Purposefully, they were not intended to effect aircraft previously certificated by the Federal Government and in operation by U.S. airlines.

However, in 1976, the FAA promulgated an amendment to Part 91 of the Federal Aviation Regulations. This rule provided that no person shall operate an aircraft in the United States after 1984 that does not meet the standards provided for new aircraft in Part 36. This provision effectively applies—retroactively—Part 36 to aircraft which were not originally covered by the rule. This is causing an impact on the airlines similar to that of a rule requiring all existing automobiles to be retrofitted with emission controls.

Thus, the airlines are in a unique position because they are faced with the requirement to retrofit or replace aircraft which were previously approved by the FAA to meet all Federal standards. This treatment is different than the treatment accorded all other transportation modes. For example, in 1966 the Environmental Protection Agency determined that it would not require railroad locomotives to be retrofitted for noise reduction because, among other reasons, that would be too expensive for the railroads to undertake.

AIRLINE EARNINGS ARE INADEQUATE TO MEET FUTURE CAPITAL NEEDS

Do recent traffic and earnings indicate ability of the airlines to finance normal growth and replacement plus $7 billion in retroactive noise abatement costs? The answer clearly is "No." Any other conclusion represents only a short term perspective.

Airlines are reporting significant increases in traffic and profits. In the first half of 1978, industry earnings are anticipated to total about $500 million—a record profit of any first half in the industry's history.

FINANCIAL RECORD IS SUBSTANDARD

Despite recent record earnings, the industry's financial performance continues to be inadequate to meet normal capital needs. The additional capital burden imposed by the retroactive FAA noise regulations requires a special financing system to partially meet the added costs.

The airline industry financial performance is substantially poorer than the average for U.S. industry. For example, airline profit margin (net profit as a percent of sales) was only 3.8 per cent in 1977 and 2.6 per cent in 1976, compared with 5.2 per cent and 5.3 per cent respectively for all U.S. industry—about half as good as the rest of U.S. industry.

In fact, in terms of profit margin, the current "record earnings" of the airlines do not represent historical improvements. Between 1966 and 1975 airline earnings never equalled the $428 million earned in 1966 when the profit margin was 7.4 per cent.

Over the most recent nine year period, 1969–1977, the airline industry profit margin was only 1.5 per cent. Recent five year comparisons of (1) return on capital, (2) return on equality and (3) profit margins show the airlines well below the average for U.S. industry.

Financial performance—5-year average [1]

	Return on equity	Return on capital	Profit margin [2]
U.S. industry	12.9	9.7	4.5
Air transportation industry	7.9	4.3	2.0

[1] 1973–1976 plus latest 12 months for 1977.
[2] 1974–1977, using latest 12 months.

Over the years, airlines have generally paid low dividends to their stockholders. For example, in 1977, airline dividends as a percentage of earnings amounted to 10 percent whereas the average dividend paid out by all U.S. industries was over one third of their earnings.

Past financial performance is a major consideration in assessing ability to obtain capital. However, future financial prospects could even be more important.

FUTURE EARNINGS ARE CLOUDED

What about the future? A downturn in airline earnings in 1979 is forecast by a majority of financial analysts. Yet a prime determinant of airline financial health is the condition of the economy as a whole. The airlines are peculiarly susceptible to national economic trends. This is especially true in the volatile discretionary portion of the industry's market—the vacation travelers, who are currently most likely to take advantage of discount fares, and who comprise the major portion of the record traffic growth experiences in recent months. The consensus of 39 business forecasting economists is that real GNP growth will slow down during the latter part of 1978, and that 1979 will be characterized by lower growth rates than 1978.

Consequently the airline industry is in a tenuous position. Buoyed by a combination of new low-fare services and a relatively good economy, traffic has grown during the first half of 1978 at an inordinately high rate, although yields (revenue per passenger mile) have understandably declined as the percentage of discount passengers has increased. At the same time, the airlines have significantly increased load factors, aircraft utilization, and aircraft seating capacities, to or near the all time highs in jet history.

PRODUCTIVITY IMPROVEMENT EXHAUSTED

In other words, the airline industry, in achieving these record operating performance levels, has nearly exhausted potentials for further increases in productivity on existing fleets. At the same time, it faces significant cost increases. At the new peak operating performance levels, even a small drop in the very high traffic growth would eliminate any profit gains achieved through recent productivity improvements. For example, in the first quarter of 1978 traffic was up 13.8 percent over 1977's first quarter. If, however, traffic had only grown 10.6 percent, the record operating profit for the first quarter would have resulted in an operating loss.

In view of the anticipated softening of the economy for 1979, the minimum options for further productivity improvement from present airline fleets, the high increases in costs of airline goods and services, and the high traffic growth required to offset those cost increases, 1979 airline earnings are expected to fall below the 1978 level.

CAPITAL REQUIREMENTS HIGH

The basic capital requirements for the airlines to accommodate minimum anticipated growth and to replace less efficient, aging aircraft are projected to total $22 billion through 1984. The $5 billion in aircraft currently on order (which includes all orders through July, 1978) leaves $17 billion in orders still to be placed for delivery before 1985. If the $7 billion in capital needed to accomplish the most cost-effective retrofit/replacement program to meet the retroactive provisions of the FAA noise regulations are added to the basic needs, capital requirements jump to $29 billion through 1984.

The relatively poor airline historical financial performance combined with the concern for improved earnings in the future already have kept airline orders for new equipment well below the minimum projected requirements. Particularly noteworthy is the fact that the projections of the basic need for $22 billion, without the added requirements for noise retrofit, are based on very conservative assumptions. These include a normal traffic growth of 6 percent per year,* a 60 percent average system passenger load factor, maximum CAB standard seating, an 18-year aircraft service life before retirement, and an annual increase of 6 percent for inflation in the cost of aircraft.

If a 9 percent annual traffic growth and a 9 percent annual aircraft inflation factor were assumed, the $22 billion basic need increases sharply to $35 billion (or $42 billion with the noise regulation requirements).

Thus, it is evident that an immense capital formation task confronts the airline industry regardless of the recent record profits in absolute dollars. Compliance with the retroactive provisions of FAA noise rules will add a substantial burden to the already difficult problem of meeting minimum capital requirements.●

*As compared to the 10.6 percent required for a breakeven first quarter 1978.

TVA MAY BE SOFTENING POSITION IN SNAIL DARTER-DAM DISPUTE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. DUNCAN of Tennessee. Mr. Speaker, yesterday at a joint news conference, the Tennessee Valley Authority and the Department of the Interior released their joint report, "Alternatives for Completing the Tellico Project." It is notable, in light of the Endangered Species Act-Tellico controversy, that the report indicates that because of the success of snail darter transplants from the Little Tennessee River to the Hiwassee River, the endangered species issue may not be the one which ultimately controls the final decision as to how the Tellico project is completed.

House subcommittee hearings on possible amendment of the Endangered Species Act are imminent, and sometime in the near future, there will be floor consideration of the reauthorization of the Endangered Species Act. Since the Tellico issue has played, and will continue to play, an important role in these proceedings. I would like to encourage my colleagues to read the TVA-Interior report. In the meantime, I would recommend to my colleagues the following article from this morning's Washington Post which summarizes yesterday's press conference and the joint report:

[From the Washington Post, August 11, 1978]

TVA MAY BE SOFTENING POSITION IN SNAIL-DARTER-DAM DISPUTE

(By Bill Richards)

In an unusual reversal of roles, the little snail darter was pronounced a species on the rebound by federal officials yesterday while its nemesis, the giant Tellico Dam, may be facing extinction.

Until recently the rare three-inch perch lived only in the shadow of the nearly completed $120 million federal dam on the Little Tennessee River. Conservationists warned that when the Tellico was finished and the river was closed off the snail darter would be no more. In June the U.S. Supreme Court ruled the Tennessee Valley Authority had to stop work on the dam to save the snail darter and its singular habitat.

But yesterday the TVA and the Interior Department jointly announced the snail darter—with a little nudge from the government—seems to have found a new home. In 1976, when the Tellico Dam controversy was reaching a shrill stage, federal experts moved 710 snail darters to the Hiwassee River, some 18 miles from the dam site.

TVA Chairman S. David Freeman said yesterday that samplings of the transplanted snail darters indicate they are flourishing in the Hiwassee with up to 3,700 fish now in the river.

That was the good news, Freeman told reporters at a news conference. The bad news is that silting and other construction problems have sharply cut the remaining snail darters at the dam site to only about 500. In fact, Freeman conceded, by the time a decision is made by TVA on what to do with Tellico there may not be any snail darters left there to worry about.

In a 113-page report on the future of the project by the two federal agencies there were indications that the TVA, which has lobbied strongly for permission to complete the dam, may be softening its position.

The report, released yesterday, listed three major choices for the future of the dam, which is more than 90 percent complete. They were:

Completing the project as originally planned with protection for the snail darter accomplished by moving the rest of the fish to a new breeding area. The fish are covered by the 1973 federal Endangered Species Act, which was the basis for the Supreme Court's decision to halt work on Tellico.

Leaving the existing dam unfinished and building a separate new dam and reservoir on a tributary of the Little Tennessee River. This option was rejected in the study as too costly and without benefit.

Development of the river and surrounding land at the Tellico site without closing the dam except in a flood emergency, with a second alternative of removing the earthen portion of the dam and letting the river return to its natural course.

Freeman declined yesterday to say which option he would favor. The TVA chairman, who was appointed last year, said the TVA board would probably make a recommendation to Congress and the president on the dam's future after the remaining two board members are appointed.

Freeman and Assistant Interior Department Secretary Robert L. Herbst said yesterday that rising land values at the dam site would insure that any decision would probably end up as profitable. The cost of completing the dam to recently enacted "superflood" standards would be slightly less than leaving it incomplete and taking the riverside development option, the officials said.

But Freeman noted that the no-dam option would mean more local jobs and only a relatively small increase of one tenth of a percent in TVA's fuel bill. The giant power authority would lose no generating capacity if the dam is not built, he said, and several valuable archeological and historical sites would be preserved.

The final decision on the dam, said Freeman, "is as much a question of values as cold hard fact." ●

CARTER ADMINISTRATION'S RATINGS

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. RHODES. Mr. Speaker, I note that the Carter administration has become rather petulant about its sinking ratings in the public opinion polls of the land. They have even released a list of alleged accomplishments and expressed puzzlement over their continued descent from grace.

During the 19 months since Mr. Carter took office, he has given away the Panama Canal, disrupted 75 years of progress in utilizing our water resources, embarked on a unilateral nuclear fuel ban, destroyed détente, brought us 11.4 percent inflation, made the dollar the doormat of world currencies, muddied up settlement chances in the Middle East, levied the largest tax increase in history on America's working men and women, muffed the energy challenge, run up $50 billion in budget deficits, increased Federal employment, and left the landscape littered with the shards of countless broken promises.

The double-cross has become the identifying symbol of the Carter administration. The American people realize the truth of the old saying, "Fool me once, shame on you—fool me twice, shame on me." Their rating of the administration's performance indicates they do not intend to be fooled again.●

DISTINGUISHED SERVICE BY THE U.S. ARMY RESERVE'S 356TH CIVIL AFFAIRS 11TH BRIGADE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. BINGHAM. Mr. Speaker, with the deactivation of the 356th Civil Affairs Brigade, U.S. Army Reserve of the Bronx at the end of this month, I would like to commend the brigade's officers and enlisted personnel for over 25 years of faithful and outstanding service rendered to the Bronx, the city and its peripheral communities.

The 356th Civil Affairs Brigade, under the command of Col. Ralph A. Torino, has maintained a continuing record of involvement in and contribution to various aspects of community life and affairs. Its personnel have expertise in the handling of disasters—in supervision; restoration and emergency replacement of public facilities including communication, transportation, water, gas, electricity, and waste disposal; and in restoration of Government stability. In past years brigade personnel have increased their skills in municipal administration through studies at New York University; worked directly with city agencies in setting up policies and guidelines in the event of disaster; assisted with community medical examinations; and participated in the initial steps of the Bronx river restoration program.

Going further afield geographically, the brigade rendered assistance to the city of Scranton, Pa., in 1973 when it was confronted with hurricane disaster and conducted studies in six counties in South Carolina which might be faced with a similar situation. It developed civil disaster and emergency preparedness projects in many upstate counties of New York and this very year conducted surveys to identify hazardous materials transported into and through Westchester County, on the very borders of our borough, defining the nature and potential magnitude of hazards associated with such materials. They also conducted a resources survey in 38 towns and villages of Westchester County and the city of Rye, N.Y., compiling information concerning equipment and supplies which could be utilized in the event of emergency.

In recognition of the contribution made by the Army's civil affairs units, and as a special tribute to the 356th Civil Affairs Brigade which will retire its unit flag and colors into history on August

31, the mayor of the city of New York has proclaimed August 13 as Army Civil Affairs Day. I congratulate the men and women of the 356th on the fine job they have done. Many of them will be assigned to other Reserve units, but with the Reserve or not I know all will continue to serve not only their communities but their city, state and country—and they deserve our thanks and appreciation.●

TUITION TAX CREDIT: A COSTLY ASSAULT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. STOKES. Mr. Speaker, tuition tax credit has been one of the most controversial issues before the House during the current session of Congress. On many occasions, I have registered my strong opposition to this imprudent legislation. I firmly believe, Mr. Speaker, that it would undermine the principle of public education in this Nation. Passage of this legislation would promote a two-caste system—public schools for the poor and private schools for the moderately affluent and rich.

In this regard, Mr. Speaker, I submit to you an article which appeared in yesterday's Washington Post which was written by our distinguished colleague in the Senate, ERNEST F. HOLLINGS. He has given a concise and intuitive commentary on the corrosive effects of tuition tax credit. In addition, I would also like to bring your attention to the Post editorial which concurs with Senator HOLLINGS' assessment.

The articles follow:

TUITION TAX CREDIT: A COSTLY ASSAULT ON OUR "BEST INVESTMENT"

(By Ernest F. Hollings)

This week in the Senate, public education runs head on into the tuition tax credit plan. That proposal would turn our education on its head, benefit the few at the expense of the many, proliferate substandard segregation academies, add to the federal deficit, violate the First Amendment and destroy the diversity and genius of our public schools.

Tax credits for private elementary and secondary education are proposed with the assumption that government has an equal duty to both public and private schools. Let us be clear at the outset that the duty is not equal. The government's duty to the public is to provide public schools. Its duty to private or church schools is to leave them alone. Packwood-Moynihan proposes that the duty to leave the private schools alone be inverted to the duty to support them.

Federal assistance to public education is targeted, special-purpose aid such as aid to the needy and handicapped, compensatory education, guidance and testing. The average federal subsidy to the public-school student is $128. The private-school is allowed to participate in that targeted aid, too, and the average per-pupil expenditure is $40. Ninety-eight percent of the Catholic schools participate in one or more of these federal aid programs. But now we are being asked to reverse course by providing an additional $250 for the private-school student—double that of the public-school child—and making it general assistance to boot, a windfall for private institutions rather than a helping hand for a deserving child. For Congress to authorize general aid for the private school while prohibiting it to the public would be horrendous.

As predicted, parochial school enrollment diminished between 1965 and 1975. Costs were not the major reason. The loss was due to the lowering birth rate, the migration of Catholics to the suburbs and the abandonment of the inner-city schools, both public and private. It is a sad fact, but both have suffered; it is not because the public has pushed the parochial out. Now the drop-off has bottomed out, with a slight increase in parochial enrollment and a boom in private "protest schools." Nearly one of every five private schools is such a "protest school."

Packwood-Moynihan is not tax relief for Middle America. Only 3½ percent of families would be eligible for the tax credit at the elementary and secondary level. The proposal would benefit 4½ million private-school students at the expense of 44½ million public-school children. Because private-school students are predominantly upper and middle class, those families with the greatest ability to pay would reap the benefits. The million would take a $250 credit for sending his son to Exeter, while families whose incomes are below $15,000 would receive only 17 percent of the benefits paid out.

Equal educational opportunity, mandated for public schools, is not required of the private—which are selective and generally choose the brightest, the advantaged, those without discipline problems and those fleeing from inner-city, integrated schools. The public school, by contrast, must take all comers. Additionally, it must abide by laws and court decisions that private institutions can ignore. The public school is bound by both law and conscience to reach out to every child as a matter of birthright. That is what public education is all about.

Far from being cost-containing, the tuition tax credit is budget-busting. The Congressional Budget Office estimates that just three years after the revised plan took effect, the elementary and secondary credit would cost $1.1 billion. If tuitions were raised, or if more children attended private schools, the cost would soar. Meanwhile, the American people would not sit idly by while their representatives opened the Treasury gates to private education at the expense of the public school. They, too, would demand an equal amount of general assistance for the public schools, and within five years that would mean an annual cost of at least $10 billion.

The scheme is blatantly unconstitutional. Every Supreme Court decision and all the constitutional scholars agree on that score. But more than that, it is undesirable. Americans since Thomas Jefferson have always insisted on the separation of church and state. People realize that with general aid would come general control, and it would not be long before prayer were prohibited in the parochial school as it is today in the public school.

In a recent nationwide Roper survey, 64 percent of the American people opposed the tuition tax credit for private and parochial elementary and secondary eduaction. Interestingly, only 43 percent of the Catholics surveyed favored it—while 48 percent of them were opposed.

As parent, citizen and officeholder, I am convinced that public education is the best investment a nation can make. It develops a diversity, a competitiveness, and a competence nowhere else available. Our public schools are run by 16,000 local school boards. Those who pose the straw man of a public-education monopoly have not breathed the diversity and vitality of 107,272 public schools.

TUITION TAX CREDITS

Bad in principle from the beginning, the tuition tax credit bill is now about to come to the Senate floor by an appropriately dubious route. The single thing to be said for last week's maneuvers is that they have drawn attention to the bill's defects. Those defects are numerous, profound and far beyond the remedy of any routine amendment or fiddling with wording.

Sen. Ernest F. Hollings (D-S.C.) puts the issues accurately in the article that we print today on the opposite page. The bill proposes giving federal aid to anybody who pays tuition, with the amount of aid based not on families' need but on the size of the tuition. That's unacceptable, but, as far as college students go, it's a secondary matter. The central danger in this bill is the unrestricted federal aid that it would extend, for the first time, to every kind of private elementary and secondary school.

This legislation would let people deduct part of any tuition payment from their federal income taxes. The federal government would, in this fashion, pay part of every tuition bill. The device is known as a tax subsidy. The Senate Finance Committee, that haven for every kind of special pleading, reported a bill last winter but never took it to the floor. It was waiting for the House, which passed a similar bill in June. Under that version, the U.S. Treasury would by 1980 pay, through tax credits, one fourth of every student's tuition up to $250 in colleges and $100 for schools. The cost would be $1.1 billion a year.

What about people with incomes so meager that they pay little or no tax, and have no use for a credit? The House, to meet that objection, wrote in a refund clause giving cash to anyone whose tax is smaller than the credit. The cost is small; the importance of the refund was that, when the bill got to the Senate, it was required to go to the Appropriations and Budget committee as well as to its warm friends in the Finance Committee.

On Tuesday, the Appropriations Committee voted a negative report—a recommendation to the Senate to kill the bill. On Wednesday, the Budget Committee voted a negative report, citing not only the bill's cost but also its radical and ill-considered reversal of long-standing American values. On Thursday, the Finance Committee hastily reported out a substitute bill, dropping the refund clause to avoid the other committees. That is the bill that will come to the floor—perhaps today. The new bill evades the other committees' jurisdiction, but it does nothing to meet their objection to it.

Since President Carter has said that he will veto this bill, some senators have apparently concluded that it offers a free ride—an opportunity to please some of their constituents, while relying on Mr. Carter to save them from the consequences. That's too easy. This bill is a fundamental assault on the public schools. Any vote for it in the Senate is a threat to the public school system. Regardless of the bill's outcome, the people who support it can properly be held accountable for their votes in precisely those terms.●

INFLUENZA CONFEREES AGREE ON VALUE OF IMMUNIZATION PROGRAM

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. OBEY. Mr. Speaker, because of the interest of many of the Members in the proposed influenza immunization

program, I have included the following summary of the most recent Conference on Influenza held at Secretary Califano's request on July 26, 1978.

The material follows:

INSTITUTE OF MEDICINE,
NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., July 28, 1978.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: We are writing to report to you concerning the Conference on Influenza held at your request on July 26, 1978. Our summary of that meeting is attached and contains the specific conclusions and recommendations of the group as we perceived them; a more detailed report of the meeting will be forthcoming within the next two weeks.

Several comments may be in order concerning both the process and the product of the Conference. First, the group that assembled included a very broad representation of the many groups concerned with immunization and public health, both from the professional and the public sectors. The format of the meeting offered full opportunity for discussion and the expression of dissenting opinions. While numerous points of view were expressed concerning some details of the issues at hand, it became evident during the meeting that dissent on the major issues of influenza vaccine safety, efficacy, and adequacy of testing was restricted to a very small group of persons. Efforts were made to offer that group a full opportunity for expression of views. This is pertinent in that, after this public debate and discussion, the consensus we report to you was nearly unanimous among the broadly constituted group of participants.

The major conclusions of the Conference can be readily summarized: adequate data have been carefully gathered, assessed, and utilized to develop expert recommendations by the Advisory Committee on Immunization Practices (ACIP) of the U.S. Public Health Service. These were reviewed for the Conference, and complete data concerning safety and efficacy of inactivated influenza vaccines over the past many years were presented. Both the process and the conclusions of the ACIP deliberations were considered to be appropriate. A major conclusion of the Conference was that the ACIP recommendations concerning the dose and formulation of influenza vaccine and the indications for its use in 1978–79 merited approval by the Department of Health, Education, and Welfare. Furthermore, there was general support for the concept of influenza immunization policy which has been developed in the series of technical and public meetings that have been held in 1977 and 1978.

In your second broad charge to the Conference you asked that the concerns voiced recently in the press and in Congress concerning influenza vaccine and the Government's participation in influenza immunization programs be addressed specifically. In our opinion this second charge was equally well met by the group. Each of the various topics of concern was examined in some depth, after considerable review the evidence clearly indicated that, the previous recommendations were sound. These points are discussed in the accompanying summary of the Conference and will also be dealt with in the final report.

In regard to the possibility of mounting a program this season, it was clear that most State and local health departments would like to do so: and a significant number would participate even if funds were not available until late September. However, except for California and possibly one or two others, it is unlikely that any health department sponsored programs will occur in the absence of some Federal support. Furthermore, without Federal assistance any increased influenza vaccination effort would likely divert resources from the childhood immunization initiative. The issue of legal liability and compensation for injury was of considerable concern, but in the judgment of many public health representatives it should not preclude initiating public influenza immunization activities. This is not to say that a general solution to the problem is not urgently desired. There was a clearly evident wish to see better coverage for persons who are not now able to secure vaccine for financial reasons. There was also much enthusiasm for the incorporation of influenza vaccination into the regular, ongoing preventive medicine effort as opposed to crash programs.

There is no doubt that further research, both basic and applied, is desirable and some important areas are outlined in the Conference summary. However, it is important to recognize that much has been and is being achieved. For instance, we know more about the charactiristics of the virus, the epidemiology of the disease, and how to more accurately predict effectiveness without human trials. In addition, antiviral substances are being tested that may prove to have practical application.

We conclude that the public influenza meeting of July 26 provided a forum both for open discussion of issues of concern to the public and for review and confirmation of the advice of numerous expert advisory panels, particularly the recommendations of the January 30, 1978 influenza conference and the ACIP.

With these comments we respectfully submit the enclosed Chairperson's Summary.

FREDERICK C. ROBBINS, M.D.,
Chairperson.
JUNE E. OSBORN, M.D.,
Vice Chairperson.

CHAIRPERSONS' SUMMARY

In his charge to the Conference on Influenza at the Hubert H. Humphrey Building on Wednesday, July 26, 1978, Secretary Joseph A. Califano, Jr. asked eleven specific questions. The following comments summarize the conclusions and viewpoints of the approximately 100 conference participants and attendees with respect to those questions:

1. Should the list of high-risk population groups for whom flu shots have been recommended be revised in any way?

The majority of participants clearly favored continuing the recommendation for annual influenza immunization of high-risk persons as they are now defined by the Public Health Service Advisory Committee on Immunization Practices (ACIP). A few of those present would propose wider use of vaccine in order to reduce morbidity as well as mortality, and one private citizen raised objection to using any influenza vaccine. With respect to immunizing elderly persons, it was agreed that additional information about the degree of risk from influenza for elderly individuals without evident chronic illness would be useful but that available data indicate age alone to be a sufficient risk factor to support the validity of current recommendations.

2. Based on current information, are the recommendations of the Advisory Committee on Immunization Practices on dosages and on the detailed use of flu vaccine appropriate?

It was the consensus of the participants that the ACIP recommendations on dosage and detailed use were appropriate. (See response to Question 5 for additional details.)

3. Based on our current information, does comparison of benefits and risks still support the recommendations of the January 30 conference?

The data bearing on benefit and risks of influenza vaccines were again reviewed. The risk of death from influenza is clearly several hundred times more likely than death attributable to the vaccine. The precise ratio will vary somewhat since such factors as age and health of the individual and prevalence of influenza will differ. The evidence presented at this conference, however, reinforces the conclusion reached in January that the benefits of the vaccine greatly outweigh the risks. It may be noted that there is an international as well as national consensus in this matter.

4. How extensive an effort can State and local health departments mount in immunizing high-risk individuals against the flu without funding from the Federal government?

A survey conducted July 19-21, 1978 of the 63 existing Federal immunization project grantees (all State and territorial and some large local health departments) revealed that 48 intend to apply for an influenza grant if funds become available by late August; 42 would apply if funds did not become available until late September (these 42 include approximately 73 percent of the Nation's high-risk population). The effect of delaying Federal support could be seen in that it was anticipated in April that approximately 8 million additional high-risk individuals might be immunized in the first year of the Federally-supported program, whereas this survey indicated that if funds became available in late August, approximately 4.7 million individuals might receive vaccine in the public sector this fall. If funds did not become available until late September, that number would be reduced to approximately 3.6 million. The importance of Federal support in achieving even this level of protection is underlined by the fact that only 678,000 doses were estimated in this survey to be administered by these agencies if there is no Federal support.

5. Have our clinical trials provided an adequate sample to test the vaccine and to determine whether it is safe and effective?

The approximately 2000 subjects enrolled in the clinical trials is adequate. These are, in fact, the largest clinical trials conducted, with the exception of those in 1976. It was noted that in addition, extensive information exists from numerous studies of influenza vaccine conducted during the past 30 years. The amount of documentation sought annually is influenced by such matters as the degree of similarity of the contemporary vaccine to the previous year's vaccine and the need for clinical confirmation of new laboratory test technology. This past spring it was anticipated that the occurrence of A/USSR influenza in vaccine study populations might well invalidate the results of some trials. Consequently, the number of subjects targeted for was increased in early planning. However, subsequent experience showed that vaccine populations largely escaped infection with A/USSR influenza, and it became possible to obtain statistically valid results with fewer volunteers. The vaccine dosages selected by the ACIP induced significant leve's of antibody in more than 60 to 90 percent of the participants. Side reactions with these dosages were not statistically more frequent than those observed in control subjects who received a saline placebo. Less data were available on children between 3–12 years of age; and since additional results for this age group are expected shortly, the ACIP plans to review the additional information before finalizing its recommendations for this younger age group.

6. What are the risks of vaccine compared with its potential benefits for the high-risk groups such as chronically ill children and the elderly?

Based upon the clinical trial data, the immediate side effects of 1978–79 influenza

vaccine are expected to be mild and infrequent in persons of any age group or health status. The only known, serious reactions observed with influenza vaccines have been the rare instances (1 in 100,000) of Guillain-Barré Syndrome and the even rarer anaphylactic type allergic reactions. There is no basis for assuming that either of these occurs more frequently in the chronically ill or the elderly. In fact, observations during 1976–77 demonstrated that the frequency of Guillain-Barré Syndrome after vaccination for persons 65 years of age and older was similar to that seen in younger adults and similar in those receiving monovalent and bivalent vaccines. Thus, the benefit-to-risk ratio is even higher for these groups than the general population since they are at no greater risk of reactions but at greater risk of death from influenza.

Recent claims in the press and in Congressional debate to the effect that influenza vaccine causes neurologic disturbances other than Guillain-Barré Syndrome and "hypersensitivity" resulting in an accentuation of the severity of influenza were discussed. No evidence was found to support the contention that such adverse effects occur.

7. Based on what we know now, is the conclusion of the last conference that influenza will almost certainly appear—although to an unknown extent—still valid?

At the time of the January 30 conference, the United States was having substantial influenza with associated excess mortality due to H3N2 influenza A viruses (A/Victoria and A/Texas). Just before that conference was convened, the first identification of A/USSR(H1N1) influenza virus in the United States was made. Subsequently there were numerous epidemics due to the A/USSR virus, largely in colleges and institutions and affecting almost exclusively the population less than age 25 years. In all, 46 States had at least one isolation of H1N1 virus, and all 50 States had H3N2 viruses identified. Influenza B virus was isolated from a much smaller number of States. The conference participants agreed that the experiences of the past coupled with those of the most recent year indicate that there almost certainly will be influenza in the 1978–79 influenza season. Furthermore, all three strains (H3N2, H1N1, and B) have been identified in the southern hemisphere in the past 4 months—from past experience, commonly a good indicator of which virus will be seen in the next season in northern hemisphere countries. In the coming year, appearance of one or more of these three strains is likely; however, the extent of spread cannot be predicted with confidence.

8. Is present flu vaccine inherently defective because the mechanism by which it seeks to protect is not suitable for combating flu viruses?

It has been repeatedly demonstrated that inactivated influenza vaccine administered by injection *is* effective in protecting most vaccinees against disease caused by influenza strains similar to those incorporated in the vaccine. Since the early 1940's there have been 23 well-controlled clinical trials in the United States designed to assess vaccine effectiveness. Of these, 21 demonstrated protection against influenza in 70 to 90 percent of vaccine recipients. Thus, existing data point overwhelmingly to efficacy of influenza vaccine for the majority of its recipients.

Two concerns recently raised in Congress and in the press were discussed: One was that influenza vaccine had never prevented an epidemic (with the inference that it was, therefore, ineffective in general). The point was made that, in order to prevent an epidemic, a large proportion of the population at risk would need to be immunized in advance of exposure to influenza. This level of immunization has never been achieved in large population groups, and thus the question of whether an epidemic could be prevented is somewhat moot. However, the regular use of influenza vaccine by the military has provided experience on a smaller scale which strongly suggests that epidemics *could* be prevented were the vaccine deployed for that purpose. The other concern dealt with the claim that the epidemics of A/USSR influenza at the Naval and Air Force Academies this past spring were evidence of vaccine failure. It was pointed out by conference participants that no such conclusion could be reached since vaccines used at the Academies (prior to the epidemic) did not contain the A/USSR viral antigen.

With respect to questions on alternative influenza vaccines, some scientists theorize that it may be possible to develop live influenza vaccines that are superior to the inactivated vaccines. This is in an area of active research. However, it was noted that there is no convincing evidence that the live influenza vaccines currently used in a few countries are safer or more effective than the inactivated vaccines used in the United States and most other nations.

9. Should flu vaccine be administered as a monovalent or trivalent vaccine?

Evidence from previous and current clinical trials indicates that there is no increase in the rate of side effects from a vaccine containing two or three virus strains as compared with a monovalent vaccine containing a comparable amount of viral antigen. Indeed, the current clinical trials indicated that the side effects observed in those who received the trivalent vaccine were no different from those observed in individuals who received the saline placebo. Since up to three strains may appear in this country during the coming season, the best individual protection will be afforded by the trivalent vaccine.

10. Will flu immunization programs divert resources from the childhood immunization effort?

Conference participants, particularly those from the public health sector, agreed that, depending on the timing, level, and stability of Federal support and the expectations for short-term achievements, the delay in making Federal funds available would make it essentially impossible to achieve the original influenza immunization target without diversion of resources from other activities, most notably the childhood immunization effort. It was concluded, however, that providing Federal funds to achieve less ambitious goals, even if not until late September, could still allow for an increase in the public provision of influenza vaccine and not significantly divert efforts from childhood immunization efforts.

11. Should further research be undertaken in any area? Although much is already known about influenza viruses, influenza vaccines, our knowledge is far from complete. Basic research on the virus and on mechanisms of immunity needs to continue as does research such as that of improving vaccines, extending an understanding of the epidemiology of various influenza risk factors, and evaluating the effectiveness of antiviral agents. Research into improving the mechanism of surveillance of influenza disease and of vaccine use and exploring alternative vaccine delivery systems should be strengthened. The need for supporting continued research, however, should not impede use of the now-available, effective means of reducing severe impact of influenza through immunization.

In conclusion, influenza is a disease which inevitably occurs almost every year in this country and which regularly does have serious consequences for individuals and society. A safe and effective vaccine exists which, with modification of the formula when there are changes in prevalent viruses, can be expected to reduce the serious complications and death associated with influenza. The conference participants agreed that influenza vaccine should be used and that the Federal government should take steps to develop and support a national influenza program to permit more high-risk individuals to receive a known effective preventative which heretofore has essentially only been available to those who can afford it.

FREDERICK C. ROBBINS, M.D.,
Chairperson.
JUNE E. OSBORN, M.D.
Vice Chairperson.●

THERE IS NEWS FOR ANDY YOUNG IN AFRICA'S REFUGEE COUNT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. DERWINSKI. Mr. Speaker, Leo Cherne serves as chairman of the International Rescue Committee. I wish to insert an excerpt from his article appearing in the July -August issue of the News American which was reprinted in the Chicago Tribune of August 8.

It is my understanding that as a former Member of Congress, Ambassador Andy Young religiously reads the CONGRESSIONAL RECORD, and I hope that this article will catch his attention:

THERE'S NEWS FOR ANDY YOUNG IN AFRICA'S REFUGEE COUNT

(By Leo Cherne)

When people separate themselves from their roots, leave their homelands, and risk death in the process, we have a gauge more accurate than any other with which to measure the desperation of people and the completeness with which human beings are denied the basic freedoms in the countries from which they flee.

The number of refugees is increasing. The International Rescue Committee is at this moment assisting Czechs who flee to Austria, Soviet Jews at urgent need in Europe, Chinese who are trying to reach the safety of Hong Kong, Ugandans who seek protection in Kenya, Angolans on the edge of starvation in Zaire, the Vietnamese—only some of whom have been permitted to land in Thailand and Malaysia and some as far as Australia. There is an unending and not decreasing number of the wretched who vote with their feet in this continuous tragic plebiscite. . . .

The single most serious criticism I would make of the Carter administration's human rights record thus far is that it has been infinitely more harsh in its application against our allies than our adversaries. Allies rarely threaten us with the possibility of war and aggression, and rarely seek to impose their philosophic models upon us. We risk little retaliation in being outraged by their human rights failures. But our adversaries, especially the Soviet Union and Cuba, are precisely those nations which threaten peace and with whom we seek some protection against the dangers of the escalating arms race and their further encroachment into the world around them.

The human rights thrust of the Carter administration is concentrated on Africa to a greater extent than on any other area. Freedom House . . . classifies all nations in the world according to uniformly and critically applied criteria. In this year's classification of the 50 nations of Africa, there are four nations which are regarded as free

and which honor civil, political, and economic rights. They deserve special mention: Djibouti, Gambia, Botswana, Mauritius. There are 16 nations which are classified as partly free, and there are 30 which by all of the criteria are classified as not free. In short, the state of human rights in Africa is a tragic one.

Among those 50 nations are two [white] supremacist nations, South Africa and Rhodesia. . . . If one were to judge from the public statements made by our ambassadors to the United Nations, one would assume that South Africa and Rhodesia are imbedded in a continent which is otherwise meticulous in its observance of the rights of the blacks who are the citizens and inhabitants of their own wholly independent sovereign countries. . . .

What I am about to report is not in mitigation of the indefensible policies of racism and apartheid in South Africa and Rhodesia, but the blunt fact remains that more than 97 per cent of the [African] victims of cruel violations of human rights who are in flight have fled black tyranny!

There are some 2,600 who are identified as having fled from South Africa. There are two estimates of the numbers who have fled Rhodesia or Zimbabwe. I'll take the higher one, 72,000. These stand in contrast to the more than 150,000 who have been compelled to flee Burundi; 145,000 from Equatorial Guinea; nearly a million who have fled Ethiopia; almost 200,000 who have fled Rwanda [and that's more than half of the total population of that country].

There are 260,000 who have fled Zaire. Angola alone has produced more than one million black refugees. Last spring Angola's President Neto said quite flatly, "We aren't a bourgeois democracy; from now on the dictatorship will be a little more strong." I heard no protest. Several months later Mozambique's President Machel was more frank: "The experiences of the Chinese people are regarded by us as sources of knowledge on how to liquidate the abrasive forces in the service of imperialism." I heard no protest.

As for Andy Young, his nearly total myopia to the sheer nonexistence of rights for millions of blacks who live in black countries leaves me bewildered. Even more bewildered than I was when he assured us that Cuban troops in Angola were making a contribution to the stability of that country. The million blacks who have fled Angola are, I'm afraid, not the beneficiaries of that stability.●

A COMMON HERITAGE PHILOSOPHY FOR THE LAW OF THE SEA

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. EDGAR. Mr. Speaker, today I am introducing H. Res. 1312, the Common Heritage Fund Sense resolution. The major objective of this resolution is to put the House on record as favoring the establishment of a "Common Heritage Fund" as part of the Law of the Sea Treaty now under negotiation in the United Nations Conference on the Law of the Sea. As you know, that giant conference is well into its 5th year. Immediately ahead is a 4-week—August 21 to September 15—working session in New York City.

The purpose of the proposed Common Heritage Fund would be to insure that a significant portion of the trillions of dollars of ocean mineral wealth, both offshore and in the deep ocean, is regarded as "the common heritage of mankind" and used "to assist developing nations, to fight pollution and to assist in some measure the work of the United Nations, especially in the area of peacekeeping."

For those who have followed the Law of the Sea Conference, the phrase "common heritage of mankind" is a familiar one. However, its precise meaning has been in dispute for more than 10 years, since Ambassador Arvid Pardo of Malta used the phrase in his historic address to the United Nations General Assembly on November 1, 1967. But there is, I think, broad agreement that the phrase "common heritage" implies that the new law of the sea must in some way reflect and improve upon the traditional view that, except for a narrow territorial sea, the oceans and their resources are either "common property" or "no one's property."

A central question in the Conference is: "Where does the common heritage begin?" Does it begin just beyond a 3-mile territorial sea? Or a 12-mile territorial sea? Or does it begin 200 miles out? Or even further out? This is an absolutely basic question because in dollar value, the overwhelming proportion of exploitable ocean mineral wealth is within 200 miles of shore. Indeed, the value of that "within 200" mineral wealth is estimated to be $30 trillion.

The conventional answer to my question is that the principle of the common heritage does not begin to apply until at least 200 miles from shore. That is the position taken in the treaty text now before the Conference, the informal composite negotiating text (ICNT). The practical result of that treaty will be to give the coastal States—and especially a fortunate few among them—all of that immense off-shore wealth. It is not surprising that Dr. Pardo has characterized the resource zone provided for in the treaty as a "monumental grab for riches, unprecedented in world history." With it, he has said, "the rich get richer, the poor remain poor and the landlocked countries which, with few exceptions, are the poorest of the poor, become poorer."

The dimensions of this great "sea grab" are becoming ever more clear. A recent study examines "who gets what" as a result of the 200-mile exclusive economic zone (EEZ) provided for in the treaty. This study shows that of some 25 million square nautical miles of EEZ awarded by the treaty, more than half, that is, 53 percent, will go to 10 nations, 6 of them already very rich. Third World states are beginning to see that in its present form, the EEZ hurts the Third World much more than it helps.

Mr. Speaker, I do not believe that the Members of this House should remain silent about this great sea grab, the arbitrary exclusion of the real ocean wealth from the common heritage. I realize that the administration believes, and many learned commentators believe, that it is too late to stop that grab, and that it is too late to revive the common heritage and give substance to it. Perhaps it is too late. But I think we should try, for the issues at stake are momentous issues.

A real common heritage would not only be worthwhile in its own terms, but it might also do much to revive the faltering Conference. For while some delegates say it is too late to restore the common heritage, another view is beginning to be heard in the Conference. That view holds that unless the great sea grab is reversed, the Conference will remain deadlocked. This view holds that the steady erosion of the common heritage is making the Conference more radical, more ideological. It is making the Third World less willing to compromise on such important issues as the nature and powers of the International Seabed Authority and the sharing of the living resource off coastal states with neighboring landlocked developing states. This alternative view finds great merit in the bold and imaginative Common Heritage Fund proposal which the delegation of Nepal introduced at the spring session of the Law of the Sea Conference in Geneva.

Mr. Speaker, the resolution I am introducing would provide for some sharing of the mineral wealth within 200 miles of shore, that is, some sharing of that wealth with the international community. In a word, it would state that there is a common heritage dimension to that offshore wealth and a common heritage claim on some portion of it.

I believe that a thorough discussion of this resolution would make a major contribution to clarifying some of the great issues before the Law of the Sea Conference, issues which are of immense importance to mankind. And I think that would be a very healthy thing.

I am sure that I speak for many Members of the House when I say that in my view the issues before that Conference urgently need clarification. It is my impression that many of those issues are being discussed in a language so technical that most Members, including myself, find it very hard to follow the discussion, much less take part in it. Yet what is at stake in that Conference is the fate of the oceans and with it, as Thor Heyerdahl reminds us, the fate of mankind.

It is for this reason that I would urge that this resolution go directly to the House International Relations Committee and that that committee hold hearings on it. Those hearings could be and should be the occasion for a broad-ranging inquiry into U.S. ocean policy and how it relates to our ideals and objectives as a Nation. All too often congressional action involving the oceans begins in specialized committees and takes the form of very specialized legislation, for example, on fishing limits, on deep sea mining, on tanker catastrophes. The House International Relations Committee and the Senate Foreign Relations Committee are forced to comment on finished products of other committees which, capable as they are, necessarily look at ocean policy from rather specialized points of view.

Mr. Speaker, it may well be that a bolder and more imaginative approach to the ocean problem will yield similar results but on a much larger stage, that is, the world as a whole. For if the nations of the world can work together to save the oceans and to use their resources to build development and peace, the world will have taken a giant step forward.

It may be that the Common Heritage Fund suggested in this resolution will help achieve these high purposes. In my view, it is at least worth a close look.●

LET'S CLEAN UP HEW FRAUD

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. MOTTL. Mr. Speaker, waste, abuse, mismanagement, and outright fraud are responsible for the Department of Health, Education, and Welfare losing somewhere between $6.4 billion and $7.4 billion of American taxpayers' money in 1977.

This figure, recently acknowledged by the Department's inspector general Thomas Morris, exceeds the 1975 total of Federal taxes paid by individuals in each State of the Union—except four: New York, Texas, California, and Illinois.

Such a report should have ignited public outrage and generated widespread media attention, but it did not. The public reaction was subdued. Congress immediate emotional response was that of perturbation—but it was short-lived. In a lack-of-confidence vote last June, the House effected an across-the-board reduction in funds for HEW. We accepted two amendments, one by Representative ROBERT MICHEL and the other by Representative CLARENCE MILLER; together they cut $1.397 billion from the amount recommended by the House Appropriations Committee for HEW in fiscal year 1979.

Ideally, this reduction should incite Department officials into cracking down in the worst problem areas in HEW. However, because no real directives are set forth in these floor amendments, I fear that Department officials will take the easy way out and demand sizable spending reductions in all programs rather than pick out those programs most flagrantly wasteful and poorly-run and correct these deficiencies.

This across-the-board cut could seriously jeoprdize those very necessary and valuable social welfare programs so many of us have fought hard to enact and consistently worked to improve.

Therefore, I offer you all an alternative. Today, I am introducing a legislative package, comprised of five bills, which are devised to get down to the real nitty-gritty of the matter. These five bills should effectively curb the most wasteful, abusive and fraudulent practices in HEW and its adjunct programs.

According to the Inspector General, the biggest losses can be attributed to errors and faulty management systems. My legislative proposals seek to correct these deficient management practices and systems which permit and actually encourage the fraud, abuse, and waste responsible for HEW losing so much of American taxpayers' hard-earned dollars. I surmise that $1.2 billion dollars will be saved if my five bills are enacted into law.

Four of my five bills effect tighter front-end controls over eligibility and claims payment procedures as well as demand higher standards of integrity on the part of all concerned.

The first bill provides higher Federal matching of State expenditures for management information systems and fraud control units under the Aid to Families with Defendent Children (AFDC) program. Current law provides for substantially increased Federal Matching Funds for Medicaid Management Information Systems and for funding of State Medicaid Fraud Control Units. These two provisions have proven to be positive incentives to improving the integrity and management of the medicaid program. Although the basic AFDC program is one of the principal means of obtaining medicaid eligibility, similar incentives do not exist for State administration of AFDC. Therefore, by providing for increased Federal matching of State expenditures for antifraud efforts, I hope to improve the integrity and administration of the AFDC program.

My second bill amends the Social Security Act to broaden and standardize State and Federal matching of records for the various welfare programs and certain related programs. As a condition of eligibility for Federal matching funds for AFDC and medicaid, each State will have to annually match its welfare rolls against all relevant State and Federal records. A partial listing of relevant records includes: Federal, State, and local government employment records—including military personnel—wage reports of private employers; and benefit records under the social security, supplemental security income (SSI) and railroad retirement programs. The bill also will require the HEW Inspector General, on a regular basis, to match all civilian and military payrolls against the individual State and master lists of welfare recipients, general assistance recipients, and food stamp recipients.

The third bill will authorize the Secretary of HEW to obtain records of recent deaths in order to prevent illegal payments made to doctors, hospitals, and nursing home administrators, and social security workers on behalf of the deceased. The existing practice of asking funeral directors to report deaths to the Social Security Administration is inadequate and unreliable. Inspector General Thomas Morris, before a Senate Governmental Affairs Subcommittee on July 20, remarked that he was denied access to the only Federal register of deaths, that is kept by the National Center for Health Statistics, because of a law requiring confidentiality. The Privacy Act forbids a Federal agency from making available to any person or to another agency an item on file about an individual without the individual's consent except in special circumstances. The exceptions include disclosure of a record "for a routine use," defined as "for a purpose which is compatible with the purpose for which it was collected." My bill would give the Secretary of HEW—through the Office of the Inspector General—the legal authority to establish an effective means of obtaining records of deaths in order to prevent illegal social security payments.

The fourth bill will enable the Commissioner of Education, (and officials of participating educational institutions), to verify a candidate's eligibility for a loan and to collect on these defaulted loans. The bill amends the Internal Revenue Code to: First, allow the disclosure of information from Federal tax returns to the Secretary of HEW for verification of the information provided by applicants for Guaranteed Student Loans or National Direct Student Loans; second, allow the Secretary of HEW to disclose such information to higher educational institutions and lenders participating in these programs; third, allow the disclosure of the Commissioner of Education of the mailing addresses provided on the tax returns of individuals who have defaulted on Federal student loans; and, fourth, allow the Commissioner to disclose, upon written request, those addresses to institutions of higher education and lenders for the purpose of locating such defaulters. In case the address provided on Federal tax returns is no longer valid, my bill would also permit disclosure of the mailing address of any individual who has defaulted on his loan for whom a record is kept under the provisions of the Social Security Act.

Many contend, and I agree, that medical professionals—doctors, practitioners, technicians, and nursing home and hospital administrators—are responsible for a good deal of the loss of funds in HEW. Requiring unnecessary surgery and hospital stays; billing for multiple services rendered to relatives accompanying the patient; billing for services more extensive than those actually provided; directing patients to particular pharmacies; and billing for services not rendered are among the most common of those fraudulent practices perpetrated. These problems can be dealt with effectively by the legislation we passed last fall — the "Medicare-Medicaid Anti-Fraud and Abuse Amendments"—now Public Law 95–142. This law strengthens sanctions for program violations, expands information disclosure requirements, institutes administrative reform, and improves the Professional Standards Review Organization program. Passage of this measure was a wise move.

However, it seems the Office of the Inspector General and other closely tied investigative offices in HEW are in need of additional manpower so as to effectively carry out their investigative duties. At first, the Office of the Inspector General's staff allocation was sufficient—its efforts to combat fraud and abuse were remarkably fruitful. But as the Office became increasingly visible, it began to receive referrals from outside sources. With the passage of Public Law 95–142, the Medicare-Medicaid Anti-Fraud and Abuse Amendments the Office's responsibilities further grew so that now, the present staff is unable to surmount the extreme backlog in existing cases.

The effectiveness of the Office's investigative activities is dependent upon timely attention being given to its total workload. But these cases cannot be attended to without additional manpower resources. Therefore, in my fifth and final bill, I provide for the authorization of funds necessary for the Inspector General to perform existing congressionally mandated functions for combating waste, fraud, and abuse—as well as those proposals for meeting similar objectives which are currently under consideration in the Congress and which, if enacted, would require adequate funding to be truly effective.

The American people know the Government has a job to do, but they want it done well—with as little waste as possible and with the maximum result. My legislative package should effectively eliminate a great deal of fat in HEW programs.

I urge each and every one of you to take a careful look at these bills and join me as cosponsors. Should you have any questions, I urge you to contact Glenn Davidson, of my staff.●

TRIBUTE TO POPE PAUL VI—BLESSED ARE THE PEACEMAKERS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. BIAGGI. Mr. Speaker, the Roman Catholic community was plunged into mourning with the sudden death of Pope Paul VI this past Sunday. His death ends one of the most important of the papal reigns in the 20th century Catholic Church history.

Giovanni Battista Montini was a tireless and lifelong servant of God, a man whose quest for peace became his universal trademark. Pope Paul was elected the spiritual leader of the world's 683 million Roman Catholics in 1963. He followed the beloved Pope John XXIII who had begun to make many changes in the Catholic Church structure. Many referred to the 1960's as an era of revolution in the church. Pope Paul was a reluctant leader—someone who preferred evolutionary changes to revolutionary ones. Nonetheless he provided expert and compassionate leadership and the church emerged from the 1960's and entered the 1970's stronger and more unified.

Paul saw his main mission as Pope to champion the cause of world peace. He pursued this goal in a tireless fashion and in ways unknown to his predecessors. He left the Vatican to travel to world capitals. He made a historic visit to the United States the highlight of which was an emotional address to the United Nations in which he pleaded to the world community "Never again war. War never again." He traveled to the Holy Land, and sought to mediate peace in Vietnam. He met with world leaders in the Vatican to again convey the message of peace.

Pope Paul had difficult times in his own church. The early 1970's proved to be turbulent ones for the Catholic Church. Thousands of priests were leaving the order. Much of the problem was caused by demands for change. Paul sought to blend the modern with the traditional. He abolished church rules which were obsolete or overly arbitrary but defended others such as celibacy for priests.

His most controversial position was that in defense of human life. His classic encyclical humanae vitae rejected artificial birth control. His position was difficult for many Catholics to understand but for many other Catholics it was a demonstration of Pope Paul's consummate commitment to preserving strong moral values in the world. While many disagreed with the Pope ideologically or philosophically over the years no one doubted the sincerity or intensity of his commitment.

Pope Paul had an overriding sense of concern for the poor, the oppressed of the world. His love for his fellow man knew no bounds. His desire to improve the quality of life was endless.

I was especially interested to learn of the Pope's deep concern about the conditions of political prisoners in jails in Northern Ireland. At the Pope's direct request, Archbishop Dr. Tomas O'Fiaich, Catholic Primate for Ireland, spent an entire day in the Long Kesh prison and his findings were most disturbing. I recounted them in an earlier Extension of Remarks this week.

Pope Paul was a leading advocate of peace in an unsettled world. His quest for peace and dignity for all men was insatiable but tragically not realized in his lifetime. We can only try to pursue this course in his memory. The world truly mourns the loss of a true leader, Pope Paul VI.●

"COME BACK, WE NEED YOU" REFLECTIONS OF SAMUEL D. FOSTER ON WASHINGTON THE MAN AND OUR GOVERNMENT TODAY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. SCHULZE. Mr. Speaker, it gives me great pleasure today to bring to the attention of my colleagues a speech given by one of my constituents, Samuel D. Foster, of Wayne, Pa., who is the past-president of the Philadelphia-Continental Chapter of the Pennsylvania Society of the Sons of the American Revolution. The speech provides us with some interesting and thought-provoking insights into how our first President would perceive the bureaucratic maze we call the Federal Government today.

The article follows:

"COME BACK, WE NEED YOU"

(By Samuel D. Foster)

It is best to speak of George Washington as that great man who was created from his vast experience. It was as President of the United States that he became that complete man who best warrants our attention and praise.

Washington was a man of principle, a man of strong inward character. Thomas Jefferson described him in these words, "His integrity was the most pure, his justice the most flexible I have ever known. He was indeed a wise, a good and a great man."

We know that Washington was a person who practiced and believed in private capitalism. He wanted independence for both the nation and the individual citizen. He desired that the people be masters of the state and not that the state be masters of the people.

Through the intervening years, our government has become strangely altered. That philosophy with its objective, "to secure the blessings of Liberty," is amended as if to declare the dependence of all citizens upon government.

Our compatriot, the senior senator of Pennsylvania, Richard S. Schweiker has said, "I am becoming increasingly suspicious of the Federal government's ability to solve the nation's problems."

These are the problems largely generated because government has stretched its grasp as well as its ability. By legislation it has attempted to remake the American culture, a culture that was sound and certain of success because it was the direct growth of living experience. These new problems of government have been caused by the enforced theories of opportunists who believe that they can dictate morals. economics and the personal attitudes of others.

Changes are now taking place that George Washington could not have supported.

The Bill of Rights reads: "Congress shall make no law respecting the establishment of religion." I cannot imagine Washington or the other signers of the Constitution ever declaring that this should prohibit prayer in schools or limit religious practice.

Today we are being conditioned to laws that intend to protect us from the hazards of modern life. There are literally no facets of health, housing, education or business activity into which government has not directed its regulations. Encroachment spreads under the demand that it became more "responsive."

We ask, "Where does the Constitution give such powers to the national government?" In reply we are told, "under the clause General Welfare." As such it is expanded into an Alice in Wonderland clause that means whatever anyone wants it to mean. If constitutional law can thus be made to suit the occasion or fashion, then no part of our Constitution can remain sure.

Bureaucracy can and does publish regulations by its own authority with police compulsion to back them. It has become government within a government. Our national government has become so complex that no one understands it. To this tangle came the supplicants who expect results beyond the ability of the government. Congress tries to help but in turn becomes disoriented by perplexing demands and further entangled in programs of short-sighted expediency.

George Washington looked upon the rights of citizens as being extended and codified by the Constitution. He knew well that all governments are fundamentally organized force and coercion. He desired freedom and liberty for all citizens believing that true freedom is the absence of coercion.

The real depostism against which Washington warned has been hatched. Today Congress and the President are enmeshed between two contradictory ideals or philosophies of rule. The one under which our people have thrived and grown great is that of individual freedom and private enterprise.

The second philosophy is that of authoritarian government. This ideal is the plan of dictators with regulation of the very lives of the citizens. There is a serious trend in that direction under which those difficulties not solved by persuasion are solved by coercion.

There are many doors now open through which the tides of regulation and autocracy already pour. If this is to be the way the citizens will no longer have to shoulder the responsibilities for our fate. As George Orwell has suggested the solution will be: Big Brother will solve all of the problems.

We are all admirers of George Washington and the principles of government for which he stood. If I could I would send an urgent message to him.

"Mr. President, your plan of government worked exceedingly well. Your honesty and belief in a proud and nationalistic country carried us to worldwide strength and influence. Your warning against foreign entanglements has been proven to be right many times over. Your confidence that the individual could solve his own problems was on the mark.

"We are willing to admit that much tinkering has been done in an effort to improve on your work. However it appears that much which was done and with the best of intentions has produced the worst results. Some now in power seem ready to say: Goodbye George Washington, while we rush toward our own evolved tyranny.

"Mr. President, your skillful hand and those of your fellow patriots once brought success against terrible odds. Again we need that wisdom and guidance.

"I entreat, George Washington, come back—we need you." ●

POPE PAUL VI

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 11, 1978

● Mr. BROWN of California. Mr. Speaker, the death of Pope Paul VI has generated numerous tributes and analyses of this world leader, and Catholics and non-Catholics alike have been reminded of his life and actions while he was Pope. There is little I can add to the thousands of words already spoken, except to repeat the thoughts of others.

One unusual tribute to Pope Paul was recently brought to my attention, however, which I believe deserves wider circulation. More than a month before Pope Paul VI died, Colman McCarthy, of the Washington Post, wrote of his accomplishments, and especially his leadership in addressing two of the major ills facing our global community, the worldwide arms race and the maldistribution of wealth in the world. It is for these contributions that non-Catholics especially remember Pope Paul, as expressions of the fundamental values of Christianity.

Mr. Speaker, I place this editorial in the RECORD at this time.

[From the Washington Post, June 26, 1978]

POPE PAUL, CHAMPION OF THE CHURCH—AND THE PEOPLE

(By Colman McCarthy)

The Vatican, adept at pageantry, might have marked this month's 15th anniversary of Pope Paul's election by the kind of jubilant celebration that Italians relish and saints bless. But neither the citizens of Rome—still grieving the Moro tragedy—nor Peter's successor are in a mood for gaiety. Paul VI, who said last autumn "I see the end of my life approaching," is 80, frail and said to be failing. For the man who pledged 15 years ago to become "a pilgrim pope," the final pilgrimmage quietly dominates the thoughts of Paul and those close to him. Only in his usual weekly audience did the pope note his anniversary.

After his death, Pope Paul will earn the respectful tributes always given newly departed leaders. But even while he lives, it can be argued that Paul is likely to be regarded in history as one of the four or five greatest of Rome's 263 popes.

I have had that view for much of Paul's reign, but most of those with whom I share it say that I am being no more than the loyal Catholic. That may be, but I am loyal to a number of traditions, people and ideas that do nothing but disappoint me. With Paul, the disappointments have been few. For 15 years, he has been giving a stirring example of what all leaders dream but few achieve: growth in office.

He came to power as a retiring intellectual but instead of settling in behind the Vatican's walls and mysteries, as most popes have done, he became a world traveler to 16 countries on six continents. He had a close friendship with Pius XII, a rigid anti-communist, but, as pope, Paul has created a running dialogue with Marxists from Rome to the Kremlin. As archbishop of Milan, he supported strong papal authority. But as pope, he has reformed the Curia—the church's bureaucracy—and summoned five synods to get the advice of his brother bishops. A prayerful and spiritual man, he also has taken the church into economics, social justice and disarmament through such encyclicals as "Populorum Progressio" and "Mense Maio."

Imperceptibly, these shiftings created a style of evenness that is more the mark of the successful politican of the world than a spiritual leader. In fact, or at least it seems evident now, Paul was seizing an initiative that few of his predecessors ever saw as their proper role: seeking to help not merely the church but also *omnes gentes*, all people.

His thinking was expressed in an interview he gave after his dramatic address to the United States in 1964 in which he cried out, "No more war!": "I quoted St. Paul in my talk but I did not have to evangelize. The talk I gave was situated on another plane—if I dare say so, the plane of Socrates. I was looking for what was reasonable and just, equitable and salutary, what every responsible man ought to think. If I evangelized, it was to preach that Gospel virtually contained with the Gospel, which is the Gospel of reason and justice."

That philosophy might have been better received if Paul had not stumbled into one needless blunder—"Humanae Vitae," his 1968 encyclical banning artificial contraception. Outside the church, it raised the same kind of scorn that greeted Rome's 1870 pronouncement on papal infallibility. Among Catholicism's 600 million members, it rived the church as though a new schism had come. Actually, the schismatics this time were loyal—though questioning—bishops, theologians and laymen. They won popular support by shifting the argument away from birth control to the question of individual conscience versus obedience to Paul. Conscience won.

The fight need never have happened. Birth control is not an issue of changless doctrine; the Vatican first spoke of it only in 1931. The next pope may well offer a view that "evolves" from Paul's. But the bitterness of the battle changed Paul into a brooding man who became even more of a contrast to his predecessor, bubbly Pope John. It also changed the public's view of Paul—from the open-minded scholar whose views of peace and social justice were buoyantly liberal and humane to a cleric hunkered down to defend a silly cause while society, and much of his own church, passed him by.

The tactical error of one encyclical should not keep history from a kindly judgment on Paul. Two issues dominate the 20th century: the arms race and the distribution of wealth. On both of these, he has been singularly strong. He has been the conscience of the global anti-war movement and the moral voice for defending the poor against the rich, two roles that no other world leader has had the daring—or freedom of action—to embrace in the same intense and selfless way. ●

SENATE—*Monday, August 14, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. KANEASTER HODGES, JR., a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O magnify the Lord with me, and let us exalt His name together.—Psalms 34:3

Almighty and eternal God, hidden from sight but vivid in experience, Thou art great and greatly to be praised. Thou art our Creator, Redeemer, and Judge. Help us to stay close to Thee this day, for we know not what it may bring forth.

Give us grace to debate without pugnacity, to contend without being contentious, to be firm in honest convictions while charitable with our colleagues, and always to demean ourselves according to the heritage of free men in this lofty deliberative forum. Inspire, direct, and control the movement of our minds and mouths to the glory of Thy name and for the welfare of this Nation.

We pray in the Great Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 14, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KANEASTER HODGES, JR., a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HODGES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the acting majority leader, the Senator from New York, is recognized.

THE JOURNAL

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader, the Senator from Alaska, is recognized.

Mr. STEVENS. Mr. President, I ask unanimous consent that Charles Ewald, of my staff, be granted the privileges of the floor today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TUITION TAX CREDITS

Mr. STEVENS. Mr. President, I would hope that Members of the Senate will give serious consideration to the debate that is going on now on the Tuition Tax Credit Act of 1978. For myself, I see this bill as it has been reported by the Finance Committee as part of the overall tax reduction package for this Congress. It seems to me that if the tax reductions that we are to place into effect are to be meaningful for a broad spectrum of our populace, this is one of the bills which must have firm support.

The Roth-Kemp proposal, in my opinion, ought to dovetail with this, the Goldwater amendment, and the other proposals that are before us to spread the effect of tax relief for our citizens as widely as possible.

There are people who are not affected as much by income tax reduction as they might be affected by the property tax relief, as proposed by Senator GOLDWATER, or the tuition tax credit, as proposed by Senators MOYNIHAN and PACKWOOD. I believe that the American public may soon arrive at the day where they genuinely hate taxes. I do not think any of us like them. The day when the American public expresses an outright hate for taxes will be a day when the governments of our democracy will be under great strain.

I would hope that the Members of the Senate will listen to this debate and that we will be able to wind up this bill as soon as possible and send it to conference where the will of the Congress with regard to tuition tax relief can be put into effect.

We have no further request for time on my side. Mr. President, I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Does the acting majority leader yield back his time?

Mr. MOYNIHAN. I yield back the majority leader's time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

MILITARY ATTRITION: A TOTAL LOSS TO THE TAXPAYER

Mr. HARRY F. BYRD, JR. Mr. President, the Senate Armed Services Committee for 2 years has been conducting a review of the All Volunteer Force—including its successes, its problems, and its prospects.

As a member of the committee, I have followed this matter closely and have become convinced that the All Volunteer Force has serious—if not insurmountable—problems.

One of the most serious of these problems is attrition—that is, the failure of individuals to fulfill their commitment of service.

This is a problem that is only now beginning to be adequately recognized.

It is not generally known that more than 40 percent of those individuals joining our armed services now fail to complete their first term of duty.

At current rates, out of every 100 individuals joining the Armed Forces, 40 leave the service before their obligated period of service is completed. The rates for the individual services range from 37 percent for the Air Force to 42 percent for the Army.

Losses of this magnitude are extremely disruptive and expensive.

Each of these individuals had to be recruited—at an estimated average cost of $1,250—and each had to be transported, trained, housed, clothed, fed, and paid.

The total dollar cost to the taxpayer of recruiting, training, and maintaining each of these individuals up to the end of the training period is variously estimated at from $4,300 for the Marine Corps to a high of over $11,700 for the Navy.

If you multiply this cost by the amount of attrition in any 1 year, you have a huge sum.

In fiscal year 1977, for instance, the total attrition for all services was 130,400. Thus the dollar cost of attrition in that year alone was somewhere between $560 million and $1.5 billion.

If you split the extremes, the loss comes to roughly $1 billion.

That is the amount of money wasted by attrition. It buys no defense capability; and it represents a total loss to the taxpayer.

On dollar cost alone this is a disturbing matter.

But it is made even more disturbing by two other factors.

First, the vast majority of those who leave the service before their term is completed are discharged because of failure to meet minimum performance or behavior standards.

Of the 130,000 individuals who left the service in fiscal year 1977 prior to completing their first term, over 97,000 left for failure to meet minimum behavior or perfomance standards. That means that more than 75 percent of attrition was caused by poor performance of one kind or another.

The remaining 33,000—or 25 percent—of attrition was caused by such factors as medical problems, hardship, death, and other causes.

Desertion and absenteeism have been major factors in this attrition. In 1977, for example, the Navy's desertion rate reached an all-time high of 31.6 desertions per 1,000 individuals, totaling 14,539 desertions in fiscal year 1977 alone. At the same time, the Navy's absentee rate was at a near-record rate of 76.9 per thousand individuals. Both these rates are considerably higher than those encountered even at the height of the Vietnam war.

The Marine Corps and the Army have also experienced high rates of desertion and other offenses with the All Volunteer Force, although Army rates have recently improved considerably.

Even more disturbing than the high rate of disciplinary problem, however, is the fact that the majority of those individuals who leave the service for failure to meet minimum performance or behavior standards can and do qualify for veterans benefits. An individual becomes eligible for such benefits after serving 6 months and 1 day.

Among those benefits are disability compensation, hospitalization, nursing home care, alcohol and drug treatment, outpatient medical and dental care, vocational rehabilitation, home loans, educational assistance, and burial expenses.

The attrition problem has been exacerbated by a certain laxness on the part of the Armed Forces and also by the ready availability of veteran's benefits even for those whose performance is less than satisfactory.

For instance, the Navy, until recently, was permitting individuals to avoid deployments or arduous duties by allowing substandard performers to receive minor punishments and then providing them with new duty assignments. To quote recent Navy testimony before the Senate Armed Services Committee this year:

A recognized problem in the Navy is that

substandard performance and behavior has often had its roots in an individual's desire to avoid deployments, arduous duty, to effect a change of duty station or to avoid other service obligations or family separation.

The Navy, in fact, was providing a certain incentive for substandard behavior.

Even worse, in recent years the Navy has actually been providing an incentive for desertion. This may be part of the reason for the Navy's soaring desertion rates.

Under current policy, the Navy does not charge most deserters with desertion. Instead, they are charged with a lesser offense and, in most cases, discharged from the Navy with a general discharge—under honorable conditions.

In effect what this policy does is say to the sailor who wants to get out of the Navy: "Go over the hill, desert! Stay away a few months and then turn yourself in. The Navy will let you out of the service and give you a discharge which qualifies you for veteran's benefits. Uncle Sam will reward your desertion by sending you to college."

Statistics tend to confirm the view that Navy treatment of deserters has actually been an incentive to desert. Ninety-five percent of Navy deserters eventually are returned to Navy control and subsequently discharged. On the other hand, the Marine Corps, which deals more strictly with deserters, has experienced only an 18-percent rate of return of deserters.

The other services have also provided incentives for substandard performance by rewarding misbehavior with an early departure from the service and either an honorable discharge or a general discharge—under honorable conditions—both of which qualify an individual for handsome rewards via veterans benefits.

These problems have contributed greatly to the unacceptably high rates of attrition which our Armed Forces have experienced in recent years. It is time that the Defense Department and the individual services take strong action.

We cannot continue to waste our tax funds and we cannot afford to permit high rates of indiscipline in our Armed Forces.

These problems are only beginning to be addressed by the armed services and by the Defense Department and some corrective actions are being initiated. The Navy, for instance, has, since December 1977, returned all deserters to duty at the command from which they deserted and this is done at the deserter's own expense.

The Defense Department has initiated programs to reduce the rate of attrition, but the problem is by no means solved. It continues to be a costly and corrosive problem.

The leadership of the Department of Defense and the leadership of each of the services have been put on notice that improvements must be forthcoming.

It is essential that corrective steps be taken.

At a minimum, recruiting procedures must be tightened to screen out more substandard performers, and practices within the services which reward failure to meet standards must be abolished.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 5 minutes remaining.

Mr. HARRY F. BYRD, JR. I yield back the remainder of that time.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TUITION TAX RELIEF ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 12050, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

The Senate resumed consideration of the bill.

Mr. MOYNIHAN. Mr. President, this commences the second day of debate on the Tuition Tax Relief Act of 1978.

I should like to begin today's debate by referring to the opening statement made by our revered senior colleague, ABRAHAM RIBICOFF, the senior sponsor of this legislation. He opened the debate with a long and eloquent advocacy and defense of the proposal on Friday morning, August 11. In the course of that statement, he referred to his own role in the history of this matter; as the first Democratic Secretary of Health, Education, and Welfare, it was he who first dealt with this complex of issues on behalf of President Kennedy. I referred to them as the triad of issues that confronted the Nation in the early 1960's.

We were faced with the extraordinary persistence of racial segregation in some parts of the Nation despite the direct assertion by the Supreme Court this was illegal and unconstitutional. We have experienced intense difficulty in establishing a system of what was originally simply known as Federal aid to education—meaning Federal aid to elementary and secondary schools. The establishment of such a system has been made more challenging in the final analysis by the justifiable insistence on the part of many of us, and on the part of those involved with the nonpublic sector in education, that it, too, share, to some degree, in the benefits of any program to be enacted. This insistence was grounded in a justifiable fear—a fear that if the program began without such participation, it would work to the significant detriment of the competitiveness, if you will, the attractiveness and certainly the viability of the nonpublic sector.

Mr. President, it should be noted that, in fact, the sharp decline in the nonpublic sector of education began with the advent of this Federal aid. When Federal aid began to flow in the mid-1960's the sectors which received no part of this aid began to decline.

Now, I remarked that Senator RIBICOFF had been extraordinarily successful in addressing the first two of these matters at a national level, but that we had still not resolved the third. It is now time to confront the matter directly. Yet, as and now we do, indeed, come to the subject de novo, if you will, on the floor of the Senate. This, I believe, is the first debate in the history of the Senate on such an issue, the first debate to raise issues of constitutional meaning, intent, and history in the context of such an issue.

As I observed on Friday—and I would like to repeat the observation this morning—we indeed come to this subject for the first time on the floor of the Senate, but we do not come without a sense of history. We arrived at this point with a history of profound commitment to this issue—of promises made, of undertakings begun, by individuals and by parties.

But I believe I would not be mistaken if I said that these commitments, these undertakings, go back furthest in my own party, the Democratic Party. Indeed, the inability to agree on the matter first appeared in my party.

The record of the other party, of the Republican Party, is perhaps more recently established. But there, the record is very much more explicit, as I think it may be readily seen.

The acting minority leader spoke on the floor this morning of the very considerable preponderance of support of the Members on his side of the aisle for this measure. It is very clear to me that were it within the power of the Republican Members of the Senate to approve or disapprove, to enact or fail to enact this measure, it would be enacted. It would be a very direct and immediate response.

The distinguished majority leader said yesterday in a television interview that, as the debate continues, it is too close to make any accurate or confident prediction as to the final outcome at this point. The fact that the matter is not resolved reflects entirely the unsettled opinion on the Democratic side of the Chamber. Thus, it seems that the issue will be resolved largely in terms of the degree to which my party supports or does not support this measure.

Mr. President, I wish to state something that is not an easy thing to state—that, if the members of my party either support or do not support this measure, they will have either kept or failed to keep the clear commitments of the Democratic Party over the past 15 years in this matter.

I do not mean to suggest that any individual Senator in this Chamber is in any way bound. Certainly not. I know of no Senator who is not free to make any choice he will. And I know of no Senator who is obliged to make a particular choice because of any past associations.

It is the responsibility of the Senate and of the individual Senator to make an informed, free choice, in the light of current knowledge and prudent judgment. But that does not free us of our history here.

Our history is one of having promised the American people repeatedly at election time that we would do this, if successful in our quest for office. Our history as a party contains the same, repeated promise.

It was precisely with that history in mind that the senior Senator from Connecticut—a man who is without equal in the respect which he commands in this Chamber, and who is unique in the experience which he brings to this Chamber—said on the floor Friday, August 11:

I do not know whether this bill will pass or fail, but I predict that what has been stated here today in the United States Senate will come to fruition. There is no question that if this bill does not pass, it will become one of the key issues in the 1980 presidential campaign, and rightfully so. My feeling is that what has been started on this floor today will allow no evasion, that the condition and the platforms of both major parties will tell the American people where they stand on this issue clearly and precisely, so that the work that is being done here is most important.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to my brother in this enterprise.

Mr. PACKWOOD. Mr. President, the Senator from New York is exactly right.

While we have had good debate, and will continue to have good debate, on this subject, it is a political issue, and it will be a political issue.

Give or take a vote or two, about two-thirds of the Republican Senators will support the inclusion of primary and secondary schools. My guess is, on the count I have, that as to higher education, 80 percent to 90 percent of the Republicans will support the inclusion.

There is also no question in my mind that Republican platforms henceforth, if it was not clearly understood in the past, specifically will indicate that we do favor tuition tax credits for primary and secondary private schools, be they sectarian or otherwise.

I know that the debate will continue in the vein of last Friday, which was a good, intellectual debate, but no one should misunderstand that this issue fits very well the Republican philosophy of diversity, decentralization, pluralism, individualism, the right of parents to choose schools for their children, the right of individuals to choose their own schools if they are paying their way, and not have the Government discriminate against them simply because they choose a private school.

Mr. MOYNIHAN. I thank the Senator from Oregon. With ever-so-slightly conflicting emotions, I must acknowledge the preciseness with which he has described our situation in this Chamber today.

Members of his party will support this measure. His party has committed itself to these approaches and to keeping this commitment.

The question I ask the President is, "Will my party keep its commitments?"

Mr. President, in that spirit, and in the spirit of Senator RIBICOFF's statement of Friday, I should like to address four questions to my fellow Democrats. I do so not out of a concern, not for the "integrity" of my party, for that would be too strong a term.

Commitments can be made and then not kept with no failing of integrity, if there is a genuine change in perceptions. This is a part of political life, as well it should be.

Rather, I speak of my party's credibility, of my party's honor. Is the word "credibility" so overused as to have completely lost meaning? I do not know. But certainly the perception of straightforward and honest dealing in a manner of large consequence is an issue here.

And in some measure, the honor—yes, the honor—of this party, the oldest organized political party, is involved. So, too, is its sense of the future.

We do not so lack in divisive issues. Our agenda is not so short of complex and intractable problems. Yet it seems to me that we should not take lightly the warning of Senator RIBICOFF that this has the potential of becoming one of the central political issues of the next presidential campaign. In fact, it could be resolved now, in toto, simply by adopting these measures before us and leaving it to the executive branch to administer, and to the judicial branch to adjudicate, such other issues as cannot be resolved here on the floor.

We have before us the opportunity to bring a measure of social peace to this country, the opportunity to right what many perceive as an ancient wrong, the opportunity to respond to the respectful petition of a large segment of this Nation, which presents its proposal in the most elemental form of a petition of right. It asks simply to be heard in court—not an extraordinary request in our political tradition. It would indeed be extraordinary, however, if the request for the petition to be heard were summarily denied.

Therefore, Mr. President, I present four questions for Democrats which I hope my party will address in the course of this debate.

First—curiously not mentioned in our debate on Friday—is this: Do we truly think that the House of Representatives, with its heavy Democratic majority, was wrong, indeed passed an unconstitutional measure, when, on June 1, 1978, it approved legislation providing tuition tax credits at the elementary and secondary school level? Is it understood that it is this very bill, H.R. 12050, in the form reported by the Finance Committee, which is now before the Senate?

I have a second question for Democrats: Are we to think that Senator ABRAHAM RIBICOFF, the first Democratic Secretary of Health, Education and Welfare, was wrong—in the sense that he proposed an unconstitutional measure—when he first proposed tuition tax credits in 1963, or when he said on August 11, "We can only discover if this is a constitutional form of aid to parents who pay nonpublic school tuition if we try"?

Mr. President, a third question for Democrats: Are we to think that Senator Hubert H. Humphrey and Senator GEORGE MCGOVERN were wrong—in the sense that they proposed an unconstitutional measure—when, in the course of their presidential campaigns, each specifically pledged his support for tuition tax credits for elementary and secondary schools?

Finally, Mr. President, a fourth question for Democrats: Are we to understand that the Democratic Party was wrong—in the sense that it proposed an unconstitutional measure—in 1972 and in 1976, when its platform twice committed itself to aid of this form for children in nonpublic schools?

Let me be clear that in neither case was there a specific reference to tuition tax credits as such, but—at least in 1976, when I drafted this plank—it was tuition tax credits that were principally in the minds of the authors of the platform.

I think it is fairly clear that the same notion emerged from the 1972 platform, which read:

The next Democratic administration should channel financial aid by a constitutional formula to children in nonpublic schools.

This was the platform. The candidate of our party at that time, in an address in Chicago, Ill., in September 1972, spoke specifically of tuition tax credits.

Surely there is no reason to think the platform was at variance with the true party commitment. The platform was drafted with Senator MCGOVERN's knowledge, and principally by his supporters. And the previous candidate, then vice president Humphrey had also proposed tuition tax credits. Thus, our long-standing commitment here is surely no secret. During the election season we have made the maximum effort to advertise it.

Mr. President, it seems to me, then, that we face a moment of truth here. I cannot imagine that our party would very readily face the American people in 2 years' time and repeat these promises, perhaps as if they comprised an anatomical ritual that exorcises some anxiety or fulfills some ideological commitment, but ultimately were never to be realized in the free world.

Our honor is at issue here. If we are against this, let us say so. And if we are not to be seen as trifling with our honor, why do we not face the very facts that Seantor RIBICOFF faced on Friday when he spoke, directly and respectfully, for

example, to the constitutional question which properly engages the concerns of the Senate? These are the words of Senator RIBICOFF. He said:

> There is one more issue concerning the elementary and secondary portion of this legislation which must be addressed—the constitutional question. If I thought that this bill clearly failed the tests used by the Supreme Court in striking down aid programs designed by the States, I would not support it. I am not interested in dramatic but futile gestures. However, our Supreme Court has never ruled on a Federal law in this area. The Congress does have the right to pass laws about which there exists a constitutional question. The Supreme Court does not issue advisory opinions; it only rules on actual controversies. We can only discover if this is a constitutional form of aid to parents who pay nonpublic school tuition if we try.

Mr. President, I will conclude for the moment my discussion of the difficulties this matter presents for my party and of the difficulties it will present if we do not respond as I hope we shall respond. One of the matters that has been disappointing here has been the attitude of the Department of Health, Education, and Welfare and of the administration. One should not make distinctions that are not real in seeking to brand as unconstitutional a measure which clearly does not deserve any such final judgment, a measure which clearly was contemplated as constitutional and proposed as a party measure during election seasons.

It was the Senator from Oregon who made this point most explicitly. I must confess to have engaged in what I hope will be seen as an effort at candor and openness when I responded on this floor to the question of whether the Attorney General had held that this legislation was unconstitutional. I said, yes, that was the case, not meaning to quibble.

The Senator from Oregon came forward immediately to correct me. He is too kind, too much of a gentleman, to have suggested he was actualy correcting me. But it was he, not I, who stated the fact. The answer is no. There is no opinion of the Attorney General holding that this legislation is unconstitutional.

Quite the contrary. The Secretary of HEW, a man who certainly is a Democrat, was around in Washington when Senator RIBICOFF was around and knows the commitments we made. He knows them pretty well. He also knows that when he sought an opinion from the Attorney General, he deliberately distorted the content of our legislation, and asked the Attorney General to rule upon a caricature of it. He presented the Attorney General a proposition against which he was the most partisan attorney.

The Office of Legal Counsel is, in the sense I have described, the lawyer to the Attorney General. He gives the Attorney General opinions and arguments to bolster his case, and the Attorney General's case in this instance was that of the administration. And the Secretary of HEW asked a question carefully designed to produce the answer he received, and altogether ignoring the exceptional efforts made by the drafters of this legislation to respond to the three-part, or Nyquist test.

The Attorney General asked an opinion: Would this measure be constitutional if it consisted only of tuition tax credits for elementary and secondary schools?

Now, one does not wish to impute bad faith, and there is no such imputation here, but was that a supportive act? Was that a quest for knowledge? Was that the act of someone trying to resolve a question and fulfill a commitment of his party, or was it, as I fear—indeed, as I feel—unseemly?

Mr. PACKWOOD. Mr. President, will the Senator yield so that I may respond?

Mr. MOYNIHAN. I am happy to yield to the Senator from Oregon.

Mr. PACKWOOD. One of the acknowledged experts in this field and one upon whom we will rely from time to time is Philip Kurland. Of course, Philip Kurland wrote on exactly the question to the Senator from New York on March 29 as follows:

> DEAR SENATOR MOYNIHAN: I write in response to your request for my opinion on the views of the Department of Justice regarding the constitutionality of your tuition tax credit bill. Let me say at the outset that this Attorney General, like his predecessors, is sometimes wrong but never in doubt.

Mr. MOYNIHAN. That is wonderful irony. This Attorney General, like his predecessors, is sometimes wrong but never in doubt, an institutional quality of attorneys general.

Mr. PACKWOOD. Of all attorneys general.

Mr. MOYNIHAN. Of all attorneys general.

Mr. PACKWOOD. Just as all Treasury Departments are almost uniformly opposed to any kind of exemption that will give more money to taxpayers that the Treasury might not get. It does not matter if they are Republican or Democrat. They have the same view about it. Mr. Kurland's letter goes on to say:

> You should take the Attorney General's opinion for what it is: a partisan expression of opinion on behalf of a client. Lawyers are frequently asked to make out the best case that they can to support a client's position. And the Attorney General's opinion is exactly that kind of document in support of the position of Messrs. Carter and Califano.

Mr. MOYNIHAN. That is precisely what Professor Kurland said, and I think it would be helpful to point out that Philip B. Kurland is one of the most distinguished constitutional scholars in this Nation. He is, of course, professor of law at the University of Chicago.

Mr. PACKWOOD. Mr. President, at this juncture it might be worthwhile to read his credentials in the record.

Mr. MOYNIHAN. I think that will be worthwhile.

Mr. PACKWOOD. Philip Kurland, professor of law University of Chicago Law School; graduate of University of Pennsylvania, Harvard Law School, Ph. D. University of Notre Dame; law clerk to Judge Jerome N. Frank; law clerk to Supreme Court Justice Felix Frankfurter, 1945–46; chief counsel, Subcommittee on Separation of Powers, U.S. Senate Judiciary Committee, 1967–77; consultant, U.S. Department of Justice, 1976; Guggenheim Fellow, 1950–51, 1954–55; and author of:

Religion and the Law;

The Supreme Court and the Constitution, 1965;

The Great Charter, Felix Frankfurter on the Supreme Court, '70;

Politics, the Constitution and the Warren Court, 1970;

Mr. Justice Frankfurter and the Constitution, 1971;

Landmark Briefs and Arguments of the Supreme Court of the United States, which took him 3 years to publish, 88 volumes, 1975–1978; Watergate and the Constitution, 1978; and the editor of the Supreme Court Review, 1960.

Mr. MOYNIHAN. Precisely, and the author in 1961 of a study of the ruling by the Supreme Court on the religion clauses of the first amendment, in which he wrote:

> Anyone suggesting that the answer as a matter of constitutional law is clear one way or the other is either deluding or deluded.

And that is why, Mr. President, it was painful to see the Secretary of HEW put this biased and crudely deformed question to the Attorney General and get a predictable answer, an answer which carries no convictions.

What has been the result but to suggest artifice and evasion and the posture of either deluding or being deluded? With regard to the influence of that decision, of that advisory opinion, on the position of the administration, let me note that the Committee on Finance held hearings on this measure in January and the Department of Health, Education, and Welfare, and the Treasury both stated their opposition then. The memorandum of Secretary Califano to President Carter in opposition was made public at about that time.

The Committee on Finance acted in February, approving the measure by a 14-to-1 vote. The Attorney General's opinion was handed down on March 7.

The mildest thing I would say is that it has been disappointing, and it does call into question the quality of commitments made by the Democratic Party in this area, and it does seem to me to add an urgency and a cogency to the opportunity we have here to put this issue behind us. Indeed, it is an opportunity to act upon a petition of rights by saying a commonly perceived constitutional wrong can be righted by the court in direct response to this legislation.

If it should turn out that there was no wrong, then it will be settled that there was a right, and that, too, will be a satisfactory resolution of this profoundly tormenting and protracted problem.

Mr. PACKWOOD. The Senator has been very frank on this. Let us be brutally frank. Apart from a few people, including Senator HODGES, the present occupant of the chair, who is one who has some constitutional doubts about it, which I hope we can settle, and I hope

we can do it with the Senator from South Carolina (Mr. HOLLINGS), the Department of Health, Education, and Welfare would be opposed to this bill if there was no question but that it was constitutional. It would not matter if every one of those State court decisions had been supported by the Supreme Court in terms of constitutionality, they would come and testify against this legislation. They are using the argument of constitutionality as a smokescreen.

Mr. MOYNIHAN. I have to agree with the Senator from Oregon. He is one who understands the curiously mixed and difficult task facing us and knows that there is an ideological movement which is horrified by the existence of nonpublic schools. It reached its greatest moment in his own State of Oregon when the Oregon statute—which William B. Ball, a wonderful writer on these matters, describes as the brainchild and banner of the Imperial Council AAO Nobles Mystic Shrine—was adopted requiring all children between 8 and 16 to be enrolled in public schools.

It was only a Supreme Court ruling, Pierce against Society of Sisters, that later held otherwise.

"A combination," Ball writes, "of 100-percent Americanism," and he says, "a concept prickly with negative allusions to Catholics, Jews, Negroes, Germans, Irish, south, and central Europeans."

Another idea was the one that he puts in quotation marks as "public schools only." We forget how much this became an ideological movement in American life, and how it persists as a mind set by persons who would be appalled to associate themselves with either that era or with those opinions.

I had an experience which had a quality that James Joyce described as epiphany, a showing through of the essence of a phenomenon.

Last year about this time the Woodrow Wilson International Center for Scholars, with which I have been associated ever since its founding, held an evening—as it does, often with great benefit to the capital—to discuss a report which had been drafted by five former U.S. Commissioners of Education.

It happens that I knew each of these five men, from different parties and administrations, each of whom served in the last 15 years. HEW commissioned them to consider as a group the future course of American elementary and secondary education for the remainder of the century.

It was an interesting endeavor, and it produced a nice evening. These men gave up their time and received nothing more than their expenses, having spent about a year reviewing the last quarter century of education in the United States.

We had dinner in the Great Hall of the Smithsonian building on the mall, and then we repaired to the lecture rooms, where a discussion of the report ensued.

It was only half-way through the debate that I became aware that in all the documents and all the statements of the five former Commissioners of Education considering the future there was no reference of any kind of nonpublic schools. The nonpublic sector of education did not exist for them.

They had invited, from all over Washington, representatives of educational organizations, teachers' groups and research groups, yet they had not invited a single person from a nonpublic school organization—nobody from the religious schools, nobody from the nondenominational schools, nobody from the old private schools that we associated with New England. These schools just did not exist for them.

If you were to say to any one of these men, "Are you of the mind-set of Nobles of the Mystic Shrine? Do you find yourself appalled and alarmed by the presence in the United States of such an unseemly proportion of—how shall we say it, how does Ball put it—"Catholics, Jews, Negroes, Germans, Irish, south and central Europeans?" If you were to ask them, "Are you of the public schools-only mentality?" they would be distressed, and they might even be offended. And they would have reason to be offended because they do not think of themselves as such people, yet their mind-set is so deep that they have simply erased the nongovernment schools from their consideration.

They can spend a year thinking of the future of American education in the remainder of the 20th century, and it never occurs to them that there are any schools but the public ones. I do not suggest that this represents even a tacit wish that the others somehow disappear, but certainly theirs is a mind-set that would be less than alarmed by such a disappearance, and which, indeed, has held sway during a sequence of events which has certainly witnessed the considerable erosion of the nonpublic sector of education. We have seen the statistics, and although I do not mean to suggest that a correlation implies modality, a sharp dropoff of enrollments, in the private sector really did begin with Federal aid in large quantities to the public sector.

So, Mr. President, I would conclude my opening remarks this morning by suggesting that the Democratic Party has a clear responsibility here. If we are not going to keep our commitments, we ought to explain on the floor of the U.S. Senate why we choose not to. At the very least, we must explain why we will not do what our candidates have promised to do.

But beyond that, we have not infrequently been the party of reconciliation in this country. We have not infrequently been the party which has hastened the assimilation of disparate groups from other cultures into the mainstream of American culture. It would be no small achievement for us to have proven the vehicle by which legitimacy, at long last, was conferred upon these immigrants, distrusted for their faiths and distrusted for their strangeness.

One can, perhaps, understand the distrust, and even the fear and dislike. There was no previous record of a people's having encountered new and strange populations to the degree that the United States did in the 19th century. I do not altogether stigmatize the Nobles of the Mystic Shrine who were frightened by the Society of Sisters. They had never seen anything like it, as it were.

But that is all behind us, is it not? For me one of the most compelling passages in the Brown decision was that in which the Court stated that the ruling of Plessy might have been acceptable in the context in which it in fact occurred, in the sense that the country might have so held in 1896. "But" said the Court, "circumstances have so steadily changed * * *." I quote the decision:

> In approaching this problem, we cannot turn the clock back to 1868 when the Amendment was adopted, or even to 1896 when *Plessy* v. *Ferguson* was written. We must consider public education in the light of its full development and its present place in American life throughout the Nation. Only in this way can it be determined if segregation in public schools deprives these plaintiffs of the equal protection of the laws.

And, of course, they properly decided that it did.

Commencing in the latter part of the 19th century, fear of foreigners, hyperactive Americanism, and bigotry against that array of persons and groups named by Ball began to bring about a new reading of the Constitution and of the very intent of the first amendment.

I suggest the time has come that the Court, faced with the similar question of whether these nongovernment schools have in some sense been historically denied the equal protection of the laws, hold that it is time to provide it. Its denial is part of our past. It is not part of our present.

How anomalous that this hold of nativism should continue in the Court. Or is it the case that it does not continue in the Court at all? We would find that out by the simple expedient of adopting this measure and letting the Courts rule. I do not think it would be accurate to characterize the Court's current position as other than difficult to fathom and almost impossible to predict.

But, however, the Court does rule, the important consideration is that its ruling will be accepted. Nobody associated with this legislation intends anything but the absolute acceptance of whatever the Court hands down. But given that acceptance, and pending any decision, we must not be expected to yield up our own analytic abilities, our own sense of historic reality, our own disposition to state what we feel the outcome ought to be.

I believe it was Abraham Lincoln who most perfectly stated what is the right of citizens as well as their duty, when he spoke of the Dred Scott decision. He affirmed the responsibility of citizens not to suspend their own critical faculties in the face of Supreme Court decisions which they find difficult to understand or difficult to justify, given their own reading of the law and of history. We are not required to agree with the

Court; we are only required to obey. Our obedience is given freely and happily, and, in this matter as in all others, will follow the outcome of the lawsuits that would follow this measure's enactment, and for which we have provided.

Mr. President, I have not yet located that passage of Abraham Lincoln on Dred Scott. I ask unanimous consent that when I do find it, it be printed in the RECORD at an appropriate place.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair. Mr. President, the retrieval system has worked—the retrieval system in the person of Dr. Finn. I would now like to read the Lincoln statement; it was in his Springfield statement of June 27, 1857, in debate with Douglas. I quote this passage:

> Judicial decisions have two uses—first, to absolutely determine the case decided; and secondly, to indicate to the public how other similar cases will be decided when they arise. For the latter use, they are called "precedents" and "authorities."
>
> We believe as much as Judge Douglas (perhaps more) in obedience to, and respect for, the judicial department of government. We think its decisions on constitutional questions, when fully settled, should control not only the particular cases decided, but the general policy of the country, subject to be disturbed only by amendments of the Constitution as provided in that instrument itself. More than this would revolution. But we think the Dred Scott decision is erroneous. We know the court that made it has often overruled its own decisions, and we shall do what we can to have it to overrule this. We offer no resistance to it.

(Mr. HOLLINGS assumed the chair.)

Mr. MOYNIHAN. That seems to be the perfectly formulated statement of what ought to be the position of persons who feel the Court has ruled wrongly and wish to see the Court rule otherwise.

Having considered carefully the precedents which the Court has established, let me add that it is our position that this legislation will be found to meet the three-part test which has been laid down. And let me ask this: if it were not so likely to do, why, then, did the Secretary of Health, Education, and Welfare deliberately distort the measure into a caricature before obtaining an opinion from the Office of Legal Counsel, a source which is not only disposed to but in a sense obligated to make the best case possible?

The Office of Legal Counsel would have made the best argument possible against the actual measure, but it would have been a very difficult argument to make with a straight face, because this measure is so clearly designed to meet the tripartite test the Court has set forth. So the Secretary of HEW chose instead to say, "Suppose it was not this measure? Suppose it was some other measure, altogether different—a question designed as if to invite rebuke? Suppose it was a measure that on its surface would arouse the utmost alarm of Justices? What then would you say, Mr. Attorney General?"

Not surprisingly, then, the Attorney General said "You are right. If it were another measure, it would be unconstitutional. I quite agree."

The Secretary of HEW did ask the Attorney General what his judgment of our measure would be. He said, "Suppose it was not the measure they have proposed? Suppose it was another one, so different in its nature as to be unrecognizable? What then would you say?"

Well, it is not that difficult to have your way with the Office of Legal Counsel if you are willing to put yourself through those exertions, but one does wonder whether such behavior can be characterized as good faith behavior. I do not suggest otherwise.

What did the Secretary of HEW think the President of the United States had in mind when, in October of 1976, with 2 weeks before the election, he gave a written statement of the firmest kind that he would support measures to provide aid to nonpublic schools?

What did the Secretary of HEW think the Presidential candidate meant? Did he think the Presidential candidate acted in bad faith? Did he suppose that it was an established practice of my party to promise this—to woo the ethnic vote, or whatever—a few weeks before the election and forget about the promise immediately thereafter? Is this simply considered a ritual of our party addressed to marginal people who will never know that the promises made to them are of a different category than promises made to 100-percent Americans?

What an awful thought. I cannot imagine that the Secretary of HEW entertained it. But why, then, did he act as he did? Why did he not say that here is an opportunity for us to keep some promises made and to do so in a straightforward and seemly manner and, in the course of doing so, to alleviate some of the tension and division in American life, to avoid another divisive issue, to prove our capacity to solve problems and resolve conflicts, and to grow in our understanding of one another?

Which of us is not proud of our advances in understanding between races? This is an ethnic society, an immigrant society combining many different groups. It always has been so and becomes more so, not otherwise. And we have found it successful. We have found that people come to this country and accept its ways and adopt its traditions, even as they add to them and in some sense change them.

Well, perhaps it took us two centuries to find this out, but now let us show it. We will be a little more proud of ourselves if we enact this legislation.

We are not a country so brimful of success at this moment that we could not well use an opportunity to feel a little more proud of ourselves.

I thank the Chair.

Mr. HODGES. Mr. President, I believe the latest remarks of the Senator from New York deserve study and thought. As always, he is eloquent; as always, he has a vast background from which he draws, and acquaintanceship with people in important places. But I suggest these remarks need to be looked at sharply.

The party to which he refers happens to be my party also. It is a great party.

I am going to respond only to some suggestions and questions he raised. I wrote them down, because I think it important to look at the words he used. Then let us respond.

He said the Democratic Party's credibility is in question. He said the honor of the party is at stake. He said the least the party can do is be straightforward and honest dealing.

I want first to read a quote from a gentleman who ought to be quoted, Thomas Jefferson. Jefferson, when he wrote his famous statement about the separation of church and state, used the phrase "thus building a wall of separation between church and state." Before he sent that to the Baptists he wrote his Attorney General, Levi Lincoln, and said the following:

> The Baptist address admits of a condemnation of the alliance between church and state, under the authority of the Constitution. It furnishes an occasion, too, which I have long wished to find, of saying why I do not proclaim fastings and thanksgivings, as my predecessors did. I know it will give great offense to the New England clergy; but the advocate of religious freedom is to expect neither peace nor forgiveness from them.

And I might add parenthetically some of the New England representation in the Congress:

> Will you be so good as to examine the answer, and suggest any alterations which might prevent an ill effect, or promote a good one among the people? You understand the temper of those in the North, and can weaken it, therefore, to their stomachs; it is at present seasoned to the southern taste only.

Let us talk for a moment about which party's honor and integrity is at stake here. The Senator from New York, a Democrat, comes down very hard on President Carter, but he leaves out the critical line in the statement that President Carter made at the time and written in response, I think, to some Catholic executives, school authorities. The statement said, "If it is constitutional," and they have done everything they can to shore up the constitutionality of their bill.

Hypocrisy? They take a perfectly good horse, which is aid to private postsecondary education, and try to mount on it a masked rider, which is clearly unconstitutional, aid to elementary and secondary private schools.

What skills are going to be affected? Who are these private elementary and secondary schools? Seventy-five percent of them are Catholic, 5 percent are Lutheran, and 10 percent are others. They are "90-percent plus" religious institutions.

That is fine; that is what makes America great, the freedom to do that sort of thing.

Why do they exist? Because these religious groups, particularly the Catholic Church in its own wisdom, desire to educate the young in their own religious doctrines. That is why they are there, by choice. They have the free exercise of religion granted under that same first amendment they are trying to breach. So it is by choice that they try to do that. These groups are the ones who are interested in this.

I shall have, later on, in a separate address about who really benefits by this and who really is interested in this legislation, statistics to show that. But I rise now to protect the honor of the Democratic Party and to ask the question on this bill, who is hypocritical?

I paid close attention during the Panama Canal debate because I had not made up my mind. The distinguished Senator from Oregon got up earlier and said that, give or take a vote, two-thirds of the Republicans are going to vote for this bill. But I remember those Republicans, day after day, who got up on this floor. They would hold up polls in their hands, just like this, Mr. President. They would say, "The American people are against giving away the Panama Canal. Why is this body not responsive to the American people?"

I refer to it as weathervane politics in legislating, but they thought it was wonderful argument, and day after day, we heard it from that side of the aisle.

The Roper poll shows that two-thirds of the American people are against Federal aid to elementary and secondary education.

I also call on these same Republicans, that Grand Old Party, these same people then talking about listening to the people, when it was cold and in the winter—apparently, that has frozen their minds; they have forgotten those thoughts now—where are those arguments? Come forward with them again.

This issue of aid to elementary and secondary education has been voted on 1, 2, 3, 4, 5, 6, 7, 8, 9—10 States have voted on it since 1967. And how have they decided, the people whom the Republicans are always telling us to listen to? I agree with them on that score: listen to the people. You do not have to be a weathervane, but listen to them. New York State, in 1967: vote against it, 72.5 percent: vote for it, 22.5. Michigan in 1970 turned it down, Nebraska in 1970 turned it down. Oregon in 1972 turned it down, 61 percent to 39 percent. Idaho turned it down, Maryland turned it down, Washington turned it down, Missouri, and lastly, Alaska in 1976.

Is it not strange that the same New England folks are here again trying to breach the wall? What about that listening to the people in Oregon? What about listening to people in New York State? That was a great and wonderful argument when it served their purpose and they thought they could gain some votes with the American people. But when you live by quoting the polls, you will die by quoting the polls, also. It is not with you on this one. Where is that great Republican Party, trying to harvest votes out of the discontent of the American people now?

Let us look at the second place. I have sat here for the last month and voted day after day, bill after bill, and listened to them quoting, "Cut the budget," they said, "the people don't want to spend money; cut the budget." This bill was going to cost $5 billion when they originally proposed it—$5.7 billion or thereabouts. They have cut it back now to get it through. Still it is going to cost over $2 billion. Two-thirds of those Republicans are going to vote for it. Yet they will turn right around and go home and tell people, "We are trying to cut Government, trying to cut the cost of spending, cut the cost of Government, cut spending."

Who is hypocritical? Who does one thing and says another?

The last point I want to make is that from that other side of the aisle, the Republicans consistently and constantly talk about, Let us get Washington out of your lives." If I have heard that once, I have been here on this side of the aisle. You can do it all in Washington, they say.

And what does this bill propose? How are they going to save primary elementary and secondary education? Oh, they want to come in, and Washington is going to help them out. Hypocrisy I say; hypocrisy, I say. You cannot have it one way and then the other, also.

I say the mark of a great party is consistency. If you want to talk about cutting costs, if you want to talk about getting Washington out of people's lives, if you want to talk about following the will of the people, then drop this bill.

If you want to talk about independence and self-reliance, let those religions—and 90 percent of these schools are religious; that is why they are there—let the people in their own integrity, in their own hearts, and in their own motivation, save the schools. Because they will.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HODGES. Yes, I yield for a question.

Mr. MOYNIHAN. On October 19, 1976, Jimmy Carter, campaigning for President, wrote to the president of a group of administrators of religious schools.

Mr. HODGES. Let us be precise, if the Senator will. To whom did he address the letter?

Mr. MOYNIHAN. Mr. Russell Bleich, president of Chief Administrators of Catholic Education said:

> I am firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools. I am firmly committed to seeing that children who attend parochial schools benefit fully from educational programs.

I ask the Senator from Arkansas, Does he share the view? Does he think the administration wants to be fully committed in that way?

Mr. HODGES. Yes; to constitutionally acceptable ways, yes.

Mr. MOYNIHAN. I thought there was a difference; having found that something is constitutional, it may still not be desirable. Very well. He accepts the idea that whatever is constitutional should be done—within reasonable limits?

Mr. HODGES. Certainly not, because I think that there is a point at which it is going to cost too much. The Senator from New York is from a State where we recently guaranteed $1.7 billion worth of bonds. I do not think that is wise in every case. I voted for that. So I think it would take a particular issue.

Mr. MOYNIHAN. Clearly it is a simple matter of prudence, especially as to the amounts of money, but the principle remains—that something should be done if it is constitutional.

May I ask the Senator if he is aware of the factual assertion on the basis of which the Supreme Court has distinguished between the constitutionality of Federal aid to religion-based private schools at the college level and religion-based private schools at the secondary level?

Mr. HODGES. In which case?

Mr. MOYNIHAN. In Tilton against Richardson.

Mr. HODGES. The Senator is talking about the impressionability?

Mr. MOYNIHAN. Yes.

Mr. HODGES. Yes; I am aware of that.

Mr. MOYNIHAN. Would the Senator vote for tuition tax credits if only colleges and universities were included?

Mr. HODGES. I am inclined in that direction, yes.

Mr. MOYNIHAN. Why does he think that is constitutional?

Mr. HODGES. For a number of reasons. One, the Supreme Court clearly has held that it is constitutional.

Two, the Supreme Court distinguishes, and I also would distinguish, between institutions that regularly and ordinarily charge tuition—the Supreme Court distinguishes between higher education and that which is required, which is elementary and secondary education, required now by every State. What the Senator is doing—however, if the Senator will allow me to finish my remarks with respect to which party is or is not hypocritical, I shall be happy to respond. But I think that what the Senator is doing is leading off into the constitutional question, which I shall be perfectly happy to address.

I have an entire speech on that.

Mr. MOYNIHAN. Would the Senator then allow me to state what the Supreme Court has ruled in Tilton?

Mr. HODGES. I would be happy for the Senator to do that when I have completed my remarks.

Mr. MOYNIHAN. Fine.

The Senator has said that he would support tuition tax credits at the college level on the grounds the Supreme Court has ruled they are constitutional.

Mr. HODGES. No; the Senator has not listened closely.

Mr. MOYNIHAN. Will the Senator correct me?

Mr. HODGES. I would be inclined to do that.

Mr. MOYNIHAN. Oh, inclined to do that.

Mr HODGES. And then the Senator jumped to the second step and asked about the constitutionality of it.

But I think the Senator has to listen to what I say and not lead me where he wants me to go quite so readily.

Mr. MOYNIHAN. But surely the Senator said that the Supreme Court had found tuition tax credits to secondary institutions——

Mr. HODGES. No; I did not say that.

Mr. MOYNIHAN. Colleges.

Mr. HODGES. I thought the Senator said aid.

Mr. MOYNIHAN. All right, aid.

Mr. HODGES. There is a considerable difference.

If the Senator said tuition tax credits, then I did not hear him properly. I would say the Supreme Court has indicated aid is constitutional.

Mr. MOYNIHAN. Aid. Correct.

That is exactly what the Tilton decision involves.

Mr. HODGES. Yes.

Mr. MOYNIHAN. All right. I will return at the Senator's convenience to the basis of the Tilton case.

Mr. HODGES. I would say to the Senator that the same Attorney General's opinion to the President of the United States, which he does not like at all, and questions the motives, and so on, indicates that in his opinion probably the tax credits for postsecondary education are constitutional.

Mr. MOYNIHAN. The Senator is correct. I thank the Senator.

Mr. HODGES. And only that for elementary and secondary private school is not.

Mr. President, I ask unanimous consent that the Roper poll to which I had reference and the various elections in the States to which I had reference, be printed in the RECORD.

There being no objection, the material was ordered the be printed in the RECORD, as follows:

[*From "The American Public and the Income Tax System" by The Roper Organization, Inc. July, 1978]

TAX REFORM

A major issue with regard to tax reform during the past year has been that of providing tax aid for education. This study explored public opinion on tax aid for college tuition and for private elementary and secondary school tuition.

Of four plans to provide tax aid for college tuition, the Carter proposal to make more middle income people eligible for government grants or loans by raising income eligibility was the most popular. A relatively small minority approved direct government aid to colleges and universities. But the public turns thumbs down on a flat $250 personal tax deduction when a child is in college—either for everyone regardless of income or for those with less than $25,000 income.

Furthermore, the public gives a resounding "No" to extending tax aid to private elementary and secondary schools. The idea is equally disapproved when parochial schools are mentioned and when they are not mentioned.

Tax Aid For College Tuition

With college tuition costs rising at a rapid rate, a number of proposals have been made for providing tax aid for college tuition. In this study four plans were put before the public as means of helping people cope with the cost of college. The question explained that all four would mean higher tax rates to bring in the extra billion and a half dollars each plan would cost.

The public turns thumbs down on a flat $250 annual tax reduction for each year a child is in college—either for everyone regardless of income or for those with less than $25,000 income. The Carter proposal to make more middle income people eligible for government grants or loans by raising the income eligibility for them was the most popular of the four plans, approved by one-third of the public. Only 1 in 5 approved direct government aid to colleges and universities so they can hold down tuition fees. Only 16% favored none of the plans.

All subgroups of the population agreed pretty much along the same lines on the four plans, including those who have children of college age.

There's a good deal of concern about the high cost of college. Here are four approaches that have been suggested for helping people cope with the cost of a college education—all of which would mean higher tax rates to bring in the extra billion and a half dollars that each of these four plans would cost. (Card shown respondent) Which of these plans would you favor, or wouldn't you favor any of them if it meant raising the tax rate?

[In percent]

	Total public	Total taxpayers	Have children 19 to 22
Number of respondents	2,007	1,684	189
Plan C: Make more middle income people eligible to get Government grants or low-cost college loans by raising the income ceiling under which these grants and loans are available	34	36	35
Plan D: Provide direct Government aid to colleges and universities so they can hold down tuition fees	20	20	16
Plan B: A $250 reduction in taxes for those with less than $25,000 of income for each year a child is in college	14	14	19
Plan A: A $250 reduction in taxes for everyone regardless of income for each year a child is in college	9	10	11
None	16	16	15
Don't know	7	5	4

TAX AID FOR PRIVATE ELEMENTARY AND SECONDARY SCHOOLS

The public gives a resounding "No" to extending tax aid to private elementary and secondary schools. It was explained that the same four plans for college aid could be used for lower private schools, but that doing so would mean tax rates high enough to bring in four and a half billion dollars rather than one and a half billion dollars. On this basis, the public said it was opposed to extending aid to lower schools by 64% to 28%. For half the sample, the question asked about private and parochial schools, for the other half the question asked only about private schools, with no mention of parochial. Answers were virtually identical regardless of mention of parochial schools.

A majority of all subgroups are opposed to tax aid for private elementary and secondary schools with the exception of Catholics and even Catholics are more opposed (84%) than in favor of it (43%).

These same four plans could be used for children in private elementary and secondary schools as well as for children in colleges. But if they were extended to private schools it would mean tax rates high enough to bring in four and a half billion dollars rather than one and a half billion dollars. Would you be in favor of or opposed to extending tuition aid to private schools?

These same four plans could be used for children in private and parochial elementary and secondary schools as well as for children in colleges. But if they were extended to private and parochial schools it would mean tax rates high enough to bring in four and a half billion dollars rather than one and a half billion dollars. Would you be in favor of or opposed to extending tuition aid to private and parochial schools?

[In percent]

	Total public	Parochial schools: Not mentioned	Parochial schools: Mentioned	Total taxpayers
Number of respondents	2,007	1,004	1,003	1,684
Favor extending tuition aid to private schools	28	28	28	28
Opposed to it	64	65	63	66
Don't know	8	7	9	6

[In percent]

State	Year	Vote against	Vote for
New York	1967	72.5	27.5
Michigan	1970	57.0	43.0
Nebraska	1970	57.0	43.0
Oregon	1972	61.0	39.0
Idaho	1972	57.0	43.0
Maryland	1972	55.0	45.0
Maryland	1974	56.5	43.5
Washington	1975	60.5	39.5
Missouri	1976	60.0	40.0
Alaska	1976	54.0	46.0

(Mr. ZORINSKY assumed the chair.)

Mr. HODGES. Mr. President, I will conclude this part of my remarks with one or two additional statements.

Mr. President, I think it is important as we look at this legislation to understand and see, really, where we are going, not where they tell us it leads us, but where, in fact, it does lead us.

One of the problems in Washington is that Washingtonians only talk to other Washingtonians, and that all the remarks on this floor are of high officials talking about differences of opinion and long conversations with ther high officials in Washington, D.C.

Let us be candid and frank all the way through. The Washington, D.C., public school system is 94.8 percent black. The Washington, D.C., area, however, is surrounded by very fine public schools, the overwhelming majority of which are white.

Washington, D.C., has some very fine private elementary and secondary schools. There are some here in the city that would benefit tremendously from this legislation because it would shore up and enhance those very private schools.

But if we want to see what policies are supporting and encouraging private elementary and secondary schools, of encouraging white flight, if we want to see the final results, look at the Washington, D.C., public schools, because we see here a living lesson of what is going to happen. Not some obscure theory, not some weathervane legislation that seeks to determine where the winds or the people are now blowing, but real life, real children, real sadness, real deprivation, real lessening of support for the public schools, and real leaders taking their children and sending them across the rivers.

Make no mistake about it, when people come to the Halls of Congress, when people come to work in high positions here, where do they look for a home? They ask, where are the schools? They

do not live in the District. They do not want to put their children in the District schools.

Mine are here, but there are not very many. Who is hypocritical?

I say the Democratic Party stands for all the people. It does not come forward with a bill that mainly helps the rich. It does not have to talk about the $20,000 and $30,000 and $40,000 brackets that need help, too.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HODGES. If the Senator will let me finish.

Mr. MOYNIHAN. All right.

Mr. HODGES. This bill has nothing in it for people, the average family of four, who earns less than $7,250. This bill will not help them a bit. Not a dollar.

So to those two-thirds of Republicans who live out in McLean, who live on one side of the river or the other, and who will not put their children in these schools, I say who is hypocritical and who is not?

I yield the floor—excuse me, the Senator wanted to ask a question.

Mr. MOYNIHAN. Yes, I would.

Allow me to state the question, Mr. President.

The PRESIDING OFFICER. Does the Senator from Arkansas yield the floor?

Mr. HODGES. I yield for a question.

The PRESIDING OFFICER. The Senator yields for a question.

Mr. MOYNIHAN. Does the Senator think that Senator GEORGE MCGOVERN was wrong in 1972 when, as a Democratic Presidential candidate, he pledged to support a system of tuition tax credits?

Mr. HODGES. I know Senator MCGOVERN carried one State, Massachusetts, which I believe is heavily Catholic. Maybe it helped there. But I suggest to the Senator, the Senator was wrong if he meant by that a bill such as this.

But the best way to know is to have the Senator himself speak to that. He is in this body. He is a distinguished Member of this body. He is one of the broadest minded, most capable people in this body.

I suggest that the Senator should ask him.

Mr. MOYNIHAN. A perfectly fair response, but I did want to ask.

Mr. HODGES. I will say, he carried a State where that would probably be a most important issue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I would like for a moment to pursue the important statement by the Senator from Arkansas that he is inclined to support a system of tuition tax credits for colleges and——

Mr. HODGES. Will the Senator yield for a moment?

Mr. MOYNIHAN. I will yield for a question, of course.

Mr. HODGES. Yes.

I think that if the Senator will look back, if I did not say it, I intended to say it, I am inclined to support either tuition tax credit or some other system for aid to public secondary education.

Mr. MOYNIHAN. No more than what was said.

The Senator is inclined to support a system of that or some other form of aid. There are alternatives.

Mr. HODGES. Yes.

Mr. MOYNIHAN. The Senator from Arkansas did say that the Attorney General, much less the Office of the Legal Counsel, stated in his letter to Secretary Califano, "I am of the opinion that similar aid at the college level would be constitutional."

I do not know what the outcome of this debate will be. But at least we are going to see in the RECORD the level to which the Supreme Court's reasoning has declined.

I ask the Senator from Arkansas: Did he know the basis on which the Court distinguished between Federal aid to private colleges and Federal aid to private high schools, ruling one was constitutional and the other was not?

It is a very simple statement from Tilton against Richardson, and I will read it. I will refer to it again before this debate is over, when there are more than four of us in the Chamber, including the distinguished Presiding Officer. We have 5 percent of the Senators here, and perhaps only one whose opinion is not finally made up on this matter. But I will find occasion to read this, because Senators must hear it.

The Attorney General said that tuition tax credits to colleges are constitutional; tuition tax credits to a high school are unconstitutional. Why? Because of Tilton against Richardson. And what does Tilton against Richardson have to say on the subject? Heaven help the Chief Justice, a distinguished jurist, for he had to make this distinction. It is insupportable. He said:

> There are generally significant differences between the religious aspects of church-related institutions of higher learning and parochial elementary and secondary schools. The "affirmative if not dominant" policy of the instruction in pre-college church schools is "to assure future adherents to a particular faith by having control of their total education at an early age." . . . There is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination.

Mr. President, I reiterate this:

> There is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination.

It is on the assertion that there is substance to that contention that the Attorney General solemnly assures us that tuition tax credits for a college freshman are constitutional and tuition tax credits for a high school senior are unconstitutional.

Mr. President, I stand here in this Chamber and say there is no substance to that contention. It is utterly unsupportable. It has, in fact, been spared inquiry.

I took the liberty of writing a series of past presidents of the American Psychological Association to ask if there was any substance to this contention, and I will sum up their responses very simply. This is from M. Brewster Smith, the president of the American Psychological Association, a long-established, much respected organization:

> There is no comparable comprehensive treatment of religious change over the high school years that I know of, and while surely a close search might turn up scattered studies, I think it is fair to say, in answer to your question, that solid evidence regarding the high school vs. college comparison in which you are interested does not exist.

Mr. President, of course it does not exist. Anyone with even a passing amateur's knowledge would know that by the standards of research, the standards of measurement, this is very likely a proposition that is untestable.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. PACKWOOD. The Senator is also aware that in the last two sessions of Congress, we have passed day care credits. You are allowed to take up to $400 off your income tax for day care, on the very plausible theory that we want to encourage people to get off welfare, to work, and there must be some place for them to put their children.

This day care credit can be paid to a church day care center. In my experience—our child was in one at one time—most church-related day care centers are in the church, not in the school.

Mr. MOYNIHAN. We will find that, when asked, the Court will rule that preschool children are also less impressionable.

Mr. PACKWOOD. That is correct. It is only 6 to 17 that is the dangerous age.

Mr. MOYNIHAN. I am pleased that the Senator from Texas has arrived, and we have six Members present. The point is that scientists do not make statements like that. I do not know how to say it to this audience. In social sciences, you do not make statements like that. You cannot prove them; you cannot even set up a hypothesis. No responsible professor would ever let a Ph. D. candidate try. He would say, first, that Senator Proxmire would object. Second, he would say, "No, there is no way to measure this."

What does "impressionable" mean? What is impressionable with respect to religious matters? What is religious? Psychology is a rigorous subject.

Mr. PACKWOOD. I assume that a 4-year-old child in a church day care center in a school run by a nun wearing a crucifix, with a picture of Christ on the wall, and with Catholic symbols, might be thought to be placed in a religious circumstance. But that is all right. The 3-, 4-, or 5-year-old is totally lost in this and no impression is made on that child at all, so that is all

right. But all of a sudden they become 7, and you move them out of the church, across the parking lot, to the school, which is certainly a less religious setting than the church, and that becomes unconstitutional in the minds of some.

Mr. MOYNIHAN. There is simply a proposition that if you will believe that, you will believe anything.

I do not know whether it will help to ask the Senator from Arkansas and the Senator from South Carolina. I ask the Senator from Nebraska to believe me when I say that the whole basis for the assertion by the Supreme Court that Federal aid to colleges—private colleges and church-related colleges—is constitutional and aid to church-related high schools is not rests upon a difference in impressionability of college freshmen as against high school seniors.

I ask the Senator from Nebraska to realize that the Attorney General wrote, without question in the last line of his letter to Secretary Califano—and he did not even bother to ask the Office of Legal Counsel; he just volunteered, obiter dicta:

> However, I am of the opinion that similar aid at the college level would be constitutional.

Why? The entire argument rests upon this line in Tilton against Richardson, and it is insupportable.

Not only is there no evidence that "there is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination," but also, most social scientists would say that is not the kind of proposition you could reasonably set forth. Typically, the Court writes, "Common observation would seem to support that view."

Backward reels the mind. Would Cardinal Newman have said so? He would say, "Nonsense." He would say that young men aged 14 to 17 are impenetrable with respect to a religious thought. Only by the time they have reached their second year in college would they even begin to consider what Aquinas might have meant or what Luther intended, much less to examine the Upanishad or the Koran.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. TOWER. Will the Senator clarify this point for me: Does not the bill provide for a constitutional test on the question of aid to students, or tuition tax credits, in elementary and secondary schools before the measure takes effect?

Mr. MOYNIHAN. Precisely. The Senator is correct, and it is thoughtful of him to raise that point. It was mentioned in our debate on Friday, when we said we were trying to be open about the fact that there will be a contest, and no one knows what the judgment of the Court will finally be. All we know is that whatever the judgment of the Court will be, we will accept it.

But because of that uncertainty when we designed this measure we deliberately mandated that no aid to elementary and secondary schools would take place until fiscal 1980—October 1, 1980—in order that when it came before the Court we would not have already created an interest group—an interest group of 14 million American parents, or 10 million, or 1 million, or however many—which would say, "You cannot take this away from us; we have received it from Congress; the Court must do what Congress said was right, whatever the Court thinks is right."

I have already said—and we know these things happen—that we did not want a Presidential election to come along in which a man simply declares, "Elect me, and I will find some judges who think what I plan to do is constitutional." That could happen, and it is perfectly possible in a democracy. We did not want any of that. We wanted the Court to rule under no pressure from an existing interest group created prior to its ruling.

Mr. TOWER. Given that fact, it occurs to me that the whole question of constitutionality as this measure relates to primary and secondary education is somewhat moot. I do not know what all the fuss is about. Perhaps the Senator from New York can explain why the big brouhaha over it if indeed the bill carries the provision that the Senator from New York has indicated it does carry.

Mr. MOYNIHAN. I wish I could explain that to the Senator from Texas. It is perhaps not for me to do the explaining, inasmuch as I think we could quietly and responsibly adopt this measure and await the decision of the Court. I have said earlier that many of the people who support this legislation see it as a petition of right. They would ask to be heard in court, and that is an assertion of the oldest and most precious of the traditions of parliamentary practice.

Mr. TOWER. I am delighted the Senator from New York made a reference to an old and established practice in the Parliament of the United Kingdom.

Mr. MOYNIHAN. Indeed.

Mr. TOWER. Which is I think a very good analogy.

Mr. MOYNIHAN. And it carries on in here in this petition of right. Let right be done. Let the Court decide what is right.

Mr. TOWER. We might get a ruling from Windsor Castle.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield to the Senator from Oregon.

Mr. PACKWOOD. If I may further respond to the Senator from Texas, and I do not hold out a motive to any Member of this body, but I think I can speak from firsthand experience of the number of people who have talked with me about this issue of constitutionality who when presented with the argument of the expedited Court contest and the fact that there would be no aid to primary and secondary schools if this part of the bill is unconstitutional, with that mask stripped away they very bluntly said they are opposed to giving money to Catholic schools anyway. It is an anti-Catholic bigotry that has existed in this country for the better part of a century and a quarter at least in the school system and continues to exist in the minds of many people today.

The irony today is that it is no longer just anti-Catholic. It is antireligious because as the Catholic schools have been declining, and continue to decline, we have seen since about 1965 a slight growth in basically fundamental Protestant Christian schools because they can no longer ironically be taught in the public schools what they used to be taught, or at least what they used to be able to absorb which was kind of an acceptable Protestantism. Since about 1965, maybe 1960 onward the public schools have been stripped of the right, and perhaps correctly, to make references to the King James Bible and to exude this respectable Protestantism so they asserted to create their own schools. They by and large support this provision also.

So apart from the argument of constitutionality, which I think we have answered, if someone says, "No, I am opposed to it anyway," they have to say "No" for one of two reasons, either "I am opposed even if it is constitutional for any aid going to parents to those who chose to send their child to religious schools" or "I think it is so necessary that we have a complete monopoly of education in this country by the public school system that I am opposed to anything that might give aid and comfort to a private school system be it a sectarian system or not."

Mr. TOWER. If the Senator will yield, as he well knows there are unfortunately many who believe the States should have a monopoly on education. God forbid if that should ever happen in this country. I hope we will always permit our citizens to have an option in the way they choose to educate their children.

I elected to send my children to private school, not a denominationally connected school, but a private school for their secondary education. I elected to send them to a Methodist connected university for their higher education. And at the same time I willingly pay my taxes to support the public education institutions. Indeed, I taught in a tax supported institution. And I think that there is a place for both. But I thought we should always preserve the option for people.

We have seen what happens when the State gets a monopoly on education in societies and the way things are trending these days, I think that the public schools of the States are coming more and more under the influence of the Central Government. We are going to create the Department of Education. Apparently, I know there are some for it and some against it, and it is an arguable case on both sides. But we could be moving strongly in the direction of centralized, if not controlled, at least very pro-

found influence over public education in this country.

That makes it, in my view, all the more urgent that we preserve the option for the people in our society in terms of education.

Mr. PACKWOOD. We had testimony from James Coleman, who did some of the landmark work on school busing and integration, and from Thomas Sowell, the professor at UCLA, both black, and from Roy Wilkinson, of the Congress of Racial Equality, all of whom testified over and over that the most positive effects of this legislation are not for the rich but for the poor.

The irony is: I have been in this Chamber 10 years, and I have heard Senator after Senator who is opposed to this legislation talk about the rights of the poor and what good does it do you to have a right if you do not have the money to exercise it, what good does it do you to have the right to food or a right to housing if you cannot afford it? And yet this very bill for the urban poor and especially the urban poor black who have not the money to march with their feet to the suburb and go to a school of their choosing, this bill may be the difference between whether or not they have the financial ability to exercise the right to choose a private school.

Mr. HODGES. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. I yield.

Mr. HODGES. As I understand the bill as it relates to elementary and secondary education it provides a tax credit so that if you pay or under the schedules are required to pay $250, and you had a child in an elementary or secondary school, and paid tuition, up to half of that tuition with a maximum of $250 could be taken off your income taxes; am I correct?

Mr. PACKWOOD. That is correct.

Mr. HODGES. Is the Senator aware that under the present tax schedule for a family of two adults and two children no tax is due and payable until the gross exceeds $7,250?

Mr. PACKWOOD. That is correct. That is why both Senator MOYNIHAN and I at a later date will offer an amendment to include refundability.

Mr. HODGES. The Senator then is now telling the Senate that after these glorious wonderful arguments there is another thing he is going to do, that he has not laid out before us everything that is going to come?

Mr. PACKWOOD. No; we made no secret of this all along.

Mr. HODGES. Is there something else on the Christmas tree? Is there another ornament?

Mr. PACKWOOD. Refundability had been an essential part of this bill for a lengthy period of time. It was removed from the bill because the Budget Committee said, to take the issue of refundability alone and present consideration of this bill on technical grounds, that they had to give a waiver before the bill could be considered if it had refundability in it.

Therefore, in order to make sure that this bill was considered and not stopped on a technicality, we took refundability out, and at the time, at a press conference, we stated that Senator MOYNIHAN, Senator ROTH, and Senator RIBICOFF, and I would add an amendment to include refundability.

Mr. HODGES. What the Senator is saying then is that those people who would owe no tax at all are going to be given $250 if they send their children to private elementary or secondary school?

Mr. PACKWOOD. That is roughly how it works. That is not exactly the idea, but that is roughly the idea.

Mr. HODGES. That is the final result?

Mr. PACKWOOD. Yes.

Mr. HODGES. So the cost of it will exceed what the Senator is telling us now the cost of it is, is that correct?

Mr. PACKWOOD. The difference between refundability and nonrefundability, $2.820 billion and $1.848 billion.

Mr. HODGES. Would the Senator, since we have added refundability, or the Senator intends to add refundability, back at the elementary and secondary private level, explain to me how someone would go about doing that? Would he submit his tuition; how would that work?

Mr. PACKWOOD. Well, the same way any other refundability works. If you owe the Government more money than all of your deductions or credits would entitle you to, you would pay them some money. If you add up all your deductions and credits, and if you have paid more money than those deductions and credits require you to pay or you have an entitlement or a credit, the Government gives you a refund. It is not an uncommon procedure.

Mr. HODGES. So you would then have to write in for the difference, or, if you made no money, and had no W–2 forms, you would be required to file a tax form?

Mr. PACKWOOD. Well, 94 percent of the people in the country today are covered by income tax forms.

Mr. HODGES. I understand. But essentially we are talking about the 6 percent that are not.

Mr. PACKWOOD. No, no. You are talking about the 94 percent that are covered. The Senator is talking about the 6 percent that are covered by no form at all, any kind. They are not required to fill one out, and my hunch would be they are a relatively small part of the group that now goes to private schools or would go to private schools. I have no empirical proof of that, but this argument has been used over and over about what of the great bulk of people who pay no income tax? I say again, 94 percent are covered.

That may be your filing one for your spouse and children or maybe filing one for an aged parent. But 94 percent are covered by some form of income tax whether or not a payment is owed, a tax return is filed. So all they will have to do if they have had to file one anyway and have attempted to send a child to private school is put down on one line what they spent, and they will be entitled, if they had paid no tax or if they paid less tax than they were entitled to as a credit, they would get some money back.

Mr. HODGES. $300 million, I take it, is based upon those people now sending their children to private elementary and secondary schools who would not owe a tax?

Mr. PACKWOOD. No, it is based upon an estimate by the Joint Committee on Internal Revenue Taxation as to what would be the likely effect of attendance if this bill is passed.

Mr. HODGES. How much of that estimate is additional children going into the private system?

Mr. PACKWOOD. That I would have to check. I can get the Senator an answer this afternoon.

Mr. HODGES. I would like to hear an answer.

I thank the Senator.

Mr. PACKWOOD. Mr. President, last Friday the name of Antonin Scalia was mentioned, and there was an attempt to impugn his reputation on the floor of the Senate much as any of us, in the practice of law, would attempt to impeach the credibility of a witness. And an attempt was made to say that he was John Mitchell's attorney, and that anyone who would serve under John Mitchell, who served at attorney general, is a man not to be trusted.

I want to read a résumé of Antonin Scalia into the RECORD so that the RECORD may be clear as to the integrity of this man:

ANTONIN SCALIA

Graduate of Harvard Law School magna cum laude 1960.

Note editor of the Harvard Law Review. Sheldon Fellow, Harvard University.

Private practice of law, prominent Cleveland law firm of Jones, Day, Cockly, and Reavis—7 years.

1970: Entered teaching: professor of law, University of Virginia.

1971: Took leave of absence to enter Government service to be general counsel new Office of Telecommunications Policy.

It is not the case that he was ever the "lawyer for John Mitchell."

1972: First chairmanship of the Administrative Conference—a prestigious and well respected independent agency of the Government which seeks to improve administration procedures throughout the agencies. Composed of prominent judges, high Government officials, lawyers, and other members of the private sector.

1974–77: He was next confirmed by this body to be the head of the Department of Justice Office of Legal Counsel, a position which he held first under William Saxbe (a distinguished former member of this body) and later under Attorney General Edward H. Levi.

During his period of Government service he testified frequently before this body and he served with honor and distinction.

After leaving the Government in June 1977, Mr. Scalia became a visiting scholar at the American Enterprise Institute and he is now professor of law at the University of Chicago.

Professor Scalia has published legal writings in the Harvard Law Review, the Michigan Law Review, the Virginia Law Review, the Duke University Law Review and the University of Chicago Law Review.

Mr. President, last Friday there was a discussion between the Senator from Arkansas and myself about what our constitutional founders intended with the first amendment clause. I propounded the theory that they did not intend to prohibit the payment of Government money to private primary and secondary sectarian schools, and I supported some evidence to that effect.

The response of the Senator from Arkansas was, "Well, of course, they were in favor of slavery and opposed to the right of women to vote also. Does that make it right?"

I did not enter the evidence to determine the righteousness or wrongness of it.

I have found, in discussing this topic, that principally because of Jefferson's letter about the wall of separation of church and state there has grown up in this country an assumption—not a presumption, but an assumption—that we have always had public schools in this country and that we have never publicly supported with public finances private church schools.

I will have to confess that I labored under that misimpression prior to my starting to do research on this subject. It is not just a possible mistake; it is irrevocable, irredeemable, and it is without question, that at the time this country started, and continuing up roughly until the early years of the 1819, 1820, 1821 period in Delaware, the 1820's in some other States, and the 1830's and 1840's in other States, that up to the 1818's and 1819's, there were no public schools in this Nation as we know them today, and by that I mean publicly financed, publicly supported, non-church-connected schools. There were none.

Last year I wrote to the Library of Congress in my first endeavor to inquire on this subject, and I asked them for a very brief history of public and church education in this country, and this is their answer on August 18 last year:

Reference is made to your inquiry of August 10, 1977, requesting information on the above matter, specifically, you ask (1) whether State aid to private church-related schools was a fairly common practice in the United States at least during the first half of the 19th century, and (2) whether such aid violated relevant Federal constitutional safeguards.

The answer to these questions is yes and no, respectively.

Yes, to No. 1. No, to No. 2.

It is a pleasure to get a response to a direct question.

I wrote again on January 30, 1978, and they responded, the Library of Congress responded, again as follows on that same subject:

In response to your request of January 30, 1978, for a memo regarding the status of schools in America from 1770 to 1820, the following generalization can be made: All, or almost all, the schools during this period were private, were religious, and were publicly supported, that is, denominational schools received public school funds.

There were a few so-called "public" schools, or town schools, in Massachusetts, Connecticut, and New Hamphire, but even these taught the doctrines of a specific religion, in this case, Congregational Calvinism.

As one educational historian wrote describing the period from 1775 to 1820, "public provision for religion and public support for private and church schools, in some form or other, direct or indirect, explicit or implicit, were either embodied in constitutions, or granted by laws, or carried out in customs or practice.—(From Gabel, Richard J., Public Funds for Church and Private Schools, Washington, D.C. Catholic University of America (1937) p. 137.)

Aid granted to private or semiprivate schools, church schools, primary and secondary, took many forms:

Connecticut, in 1774, turned over all proceeds of liquor licenses to the towns, where collected, to be used for schools. New Orleans, in 1826, licensed two theaters on condition that they each pay $3,000 annually for the support of schools in the city. New York, in 1799, authorized four state lotteries to raise $100,000 for schools, a similar amount again in 1801, and numerous other lotteries before 1810.

And again I want to emphasize, over and over again in this RECORD, the money to be turned over, not just to the school but to the church, which then used it for the purpose of educating those in primary and secondary schools who chose to go to primary and secondary schools:

Kentucky, between 1805 and 1808, authorized its thirty academies to raise $1,000 each, by lotteries . . . Louisiana conducted two lotteries in 1820 for the support of schools. Maryland authorized five lotteries, to raise $50,000 a year for five years for schools, between 1816 and 1821. Individual cities often set up their own lotteries without any special authorization. Congress—

Just to make clear that this was not just a State matter—

passed joint resolutions, between 1812 and 1836, authorizing fourteen lotteries to help provide schools and public buildings for the city of Washington . . . bank taxes were a favorite source of income for schools, between about 1825 and 1860, banks being chartered on condition that they would pay over each year for schools a certain sum or percentage of their earnings.

The source of this is Elwood P. Cubberly, "Public Education in the United States," still today, I think, regarded the outstanding book on public education and education generally in the United States.

In fact, it can be said that every State that sent delegates to the Constitutional Convention levied a variety of taxes and allowed local governments to levy a variety of taxes, the proceeds of which were paid directly to churches for the purpose of supporting the church-run primary and secondary schools.

Cubberly sums it up as follows:

In the beginning it was common to aid church schools on the same basis as the state schools, and sometimes, in the beginnings of state aid, the money was distributed among existing schools without at first establishing any public schools. In many eastern cities church schools at first shared in the public funds. In Pennsylvania church and private schools were aided from poor-law funds up to 1834.

The problem is not whether the money should go to public education, not whether it should go to churches to be used to create schools to educate children; the problem was as to which churches it was going to go to.

The Senator from Arkansas today mentioned Thomas Jefferson, and again made reference to that letter on the separation of church and state.

Let the record show that when Thomas Jefferson was President, he submitted to the Senate in 1803 a treaty concluded with the Kaskaskia Indians, and a part of that treaty reads as follows:

And whereas the greater part of said tribe have been baptized and received into the Catholic Church to which they are attached, the United States will give annually, for seven years one hundred dollars toward the support of a priest of that religion, who will engage to perform for said tribe the duties of his office, and also to instruct as many of their Children as possible, in the rudiments of literature, and the United States will further give the sum of three hundred dollars, to assist the said tribe in the erection of a church.

Mr. President, those are not the writings and that is not the treaty of a man who says that you cannot use public funds for private sectarian education.

Now let us get back to what happened in this country. Things were going along just dandy, and all those churches were getting money to educate the population to the extent that the population wanted to go to primary or secondary schools. The problem came with which churches would get it, and there was a continual squabble between the "in" churches and the "out" churches.

However, it was a fight between the "in" and "out" Protestant churches until about 1830 to 1840, and even among the Protestant churches, the "ins" fought each other. They even fought the creation of a public school system as we know it today. New Jersey is an example. Again to quote from Cubberly:

In New Jersey, the first general school law of 1829 was repealed a year later through the united efforts of church and private school interests, who fought the development of state schools, and in 1830 and 1831 new laws had permitted all private and parochial schools to share in the state appropriation for education.

The State appropriation for education. Let there be no doubt about what the fathers of this country intended, what they practiced, what they did. They gave money to the church schools if they approved the churches. By the farthest stretch of the imagination, it would have been totally foreign to them to say there could be no connection between public expenditure of funds and churches and

church education. Again quoting from Cubberly:

After the beginning of the forties, when the Roman Catholic influence came in strongly with the increase in Irish immigration to the United States, a new factor was introduced and the problem, which had previously been a Protestant problem, took on a somewhat different aspect. Largely through the demands of the Catholics one of the most interesting fights in the whole process of secularizing American education was precipitated in the city of New York.

* * * * *

By 1840 . . . Governor Seward, of New York, urged the establishment of schools in the cities of the State in which the teachers should be of the same language and religion as the foreign patrons.

Imagine that. Bilingual education. A terrible thing that they would ever think of doing something like that, though the fact is that 130 years later we are doing it:

This dangerous proposal encouraged the Catholics, and they immediately applied to the New York City Council for a division of the city school fund, and, on being refused, carried their demand to the legislature of the State. A Hebrew and a Scotch Presbyterian Church also applied for their share, and supported the Catholics in their demands.

Now, it was bad enough that the Catholics wanted the money that the other churches were getting, but then for the Jews to come in and want the money. But do you know what the straw that broke the camel's back was? The Scotch Presbyterians wanted money:

On the other hand, the Methodists, Episcopalians, Baptists, Dutch, Reformed, and Reformed Presbyterians united . . . in opposing all such division of the funds.

So let us not again get confused about whether this money was going for public education or not. It was going for education through the approved churches; and it so happened that certain of the churches—that were not the approved churches—disapproved it.

Mr. HODGES. Mr. President, will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. HODGES. I think the Senator has reflected very accurately the difficulties that were encountered and the deep divisions and acrimony between denominations and religions. That existed when there were very few denominations in this country. Does the Senator not think that he has made, very indirectly but very explicitly, the point made by the U.S. Supreme Court so often, and that is when you start making money available for private religious elementary and secondary education, or for religious education generally, you come by these sorts of deep divisions within our society, and it becomes very difficult for them to meet change?

Mr. PACKWOOD. No. No.

Mr. HODGES. How does the Senator believe that, if you have created the acrimony and you have the bigotry?

Mr. PACKWOOD. I think there would have been no problem at that time had all the religions been treated equally, and our bill treats every religion equally. Be it Roman Catholic, be it Dutch Reformed, be it Lutheran, be it Jewish, they are all treated equally.

Mr. HODGES. May I propound a further question on that point?

Mr. PACKWOOD. I would like to finish, if I might.

Mr. HODGES. Certainly; I can come back to my question.

Mr. PACKWOOD. The problem was that the "ins" had control of the money, and the "outs" did not. There is nothing unusual about that fight; it certainly is not confined to education. Any group, any time, any place that has control of anything does not want to share it. In fact, the tendency is just the opposite. They want to get a little more, a little more, and a little more, until they have got it all. And the only way—this is the irony—that these respectable Protestant religions could get out of this was to go to the creation of the public school system as we now know it, from 1840 or 1850 onward; and from that time on until about 1965, the public schools exuded a certain Protestant fundamentalism.

I do not want to say taught, but exuded. The days or holidays that we took off were never Jewish holidays. They were never All Saints Day that the Catholic Church took off. They were the Protestant holidays. The Bible that we read from in the public schools, or that we were read from, was the King James version. Until about 1960 to 1965 this was apparently acceptable until the Supreme Court started to say, "You cannot do that."

That was the way the respectable religions got around helping the Jews, the Roman Catholics, and Heaven forbid the Scotch Presbyterians from getting an equal share.

By the time of these recent Supreme Court decisions, 1965 onward decisions, there was a new group of "ins," and it was not the churches any more. They were not even related to the church. The new "ins" were the professional educators and those who revolve around them. The money now went to them. Just as a century earlier the church "ins" did not want to share any of their money and wanted to hog it all, now the public education lobby, especially led by the NEA, wants to hog it all and not share it with anybody.

It is as understandable today as it was understandable 140 years ago that the "ins" did not want to share, because to lose control, and I emphasize control, of the money, and you do lose control of it when you have a tax credit when I can send my child where I want and take it off my income tax, the Department of Health, Education, and Welfare, and the career bureaucrats in the sub-Department of Education down there do not have much control—to lose control of the funds means to lose control of the educational policy of this country.

One of the Senators talking in opposition to this bill on Friday said:

It is interesting in this perspective, that the tax credit bill, which in terms of dollars would constitute one of the largest federal educational programs in the nation's history, would have the contrary effect of further dispersing control over educational policy in both the executive and legislative branches of the government.

You bet it would. That is exactly what we have in mind, making sure that we can disperse this, decentralize it, pluralize it.

I was struck by his use of the word "legislative," though, because we have seen that so frequently in this battle. It would mean that the Human Resources Committee would no longer have sole control over education. No matter that there might be a better system or a better way, it could not be a better system if the members of that committee lost control over the educational policy-making decisions in this country. First things first, after all.

As far as the loss of control by the professional educators in this country, as far as their loss of control, it could not have been better said than by John Ryor, the president of the National Education Association. As I said, they are the leading "in" today in the area of primary and secondary education, and they are the most paranoid about losing control.

John Ryor and I, along with Thomas Sowell, professor of economics at UCLA, and Ernest Boyer, the Commissioner of Education, appeared on a televised debate which was taped on March 20.

In the course of the debate, Mr. Ryor kept hammering home about the unconstitutionality of giving money to the private schools. In wanting to probe a bit and see if his real argument was unconstitutionality, I posed the following question:

Mr. PACKWOOD. Let's separate private religious education from other private education for a moment. Would you be willing to allow the tax credit for the primary and secondary schools that are not religious?

Mr. RYOR. No; I do not think we should subsidize any private interest with public funds regardless of the basis.

Mr. PACKWOOD. For the schools that are not religious, there is no first amendment problem. Why would you not allow the tax credit for them?

Mr. RYOR. I would not allow the tax credit unless the money was controlled by public agencies.

There we have it, unless it is "controlled by public agencies" that are dominated by the NEA.

That is the philosophy of this bill and that is the hold we are trying to break. Concerning the issue of constitutionality or unconstitutionality of the issuance of aid to parents of those children who go to sectarian schools, for many, many people—and I am not impugning the motives of anybody in this Senate—for many, many people, the issue is not at all constitutionality; it is power. It is who has it now, who is in, and who might get it.

The public schools today have 91 percent of the students who go to primary

and secondary schools in this Nation; private schools, religious and otherwise, have 9 percent. Ten years ago that percentage was 87 and 13.

Without this tax credit, we will see private education in this country shrinking to, I will take a guess, 3 percent, 4 percent, 2 percent, I am not sure. It will be the Deerfields and the Exeters and the Grotons of this world, for those who make $60,000, $70,000, $100,000, a year can afford to send their children and care less about this tax credit. A $250 tax credit to those people is de minimis in a school that charges $3,500 to $5,000 a year tuition.

If there was a way the public education lobby could shut down those schools they would like to.

I will tell you this, Mr. President. If this legislation passes, and by chance in 10, 12, 15 years we have 15 percent of the people in private schools and 85 percent in public schools, and if with 85 percent the public schools cannot make it—with 85 percent of the children going, if for some reason they are losing prestige, if for some reason the parents are having doubt, if for some reason they are being beaten at a fraction of the price, and most of the public schools are being beaten on comparative tests—if the public schools cannot excel with 85 percent of the students then there is something wrong that will not be cured by their having 100 percent of the students.

I yield the floor.

Mr. MOYNIHAN. Mr. President, I rise to congratulate the Senator from Oregon on bringing into historical and political perspective some of the issues before us. It is a noble effort and it may or may not succeed.

In 1961, as the Kennedy administration was taking office, I published in the old Reporter magazine an account of the origins of the public school system in New York State. The idea that there had been a time when education was wholly based on publicly supported sectarian schools astonished people then, but they overcame their astonishment quickly, particularly in the White House.

May I make the point with which I know the Senator from Oregon would agree—that the public schools were an invention of the 19th century, and they were a superb invention. There was no possible way the fragmented church systems of this country could provide universal education, and it was universal education we required, not only to foster personal development but also as a prerequisite for a democratic belief in universal suffrage.

The belief in, and the arguments for a public school system came at a time in the Northern States when property qualifications for voting and related restrictions were disappearing, and the public schools were promulgated as an aspect of the expansion of democratic possibilities in society. They were a magnificent invention, and they are magnificent institutions.

It was never intended, however, that they should be a monopoly. It was never intended that their existence precluded the existence of other, earlier forms. It ought never have been desired. No doubt should ever have been cast on the legitimacy of those institutions that preceded them.

We are a pluralistic society. We cannot foster a public school system without having a very generalized set of secular beliefs. And such a set of beliefs just does not make room for persons who differ in a society that encourages individual expression.

How long have we thought of the Amish in Pennsylvania as a people who simply differed in these matters and for whom, as a matter of fact, we have had occasion to find that "laws do not apply to you in certain respects if you are Amish."

That does not bother me at all. No one ever suggested that the Amish do not take the most extraordinary care in the upbringing of their children. Of course, they do not accept certain standards which are general—but they are separate. And they have a right to be.

It is the acceptance of differences, some quite marginal and others quite fundamental, which has made possible this society's extraordinary mix of peoples, opinions, and backgrounds. It is in that spirit that we rise here—not with hostility toward the public schools. The public schools will prosper, and are recognized as appropriate educational institutions so long as persons who do not desire to attend them are not forced into them.

(Mr. BUMPERS assumed the chair.)

Mr. MOYNIHAN. This pluralistic society does not demand uniformity, though most people in it do, and should. This is characteristic of any society.

But there are people who march to a different drummer. Some of them belong to groups whose traditions are rooted in the 18th century. In New York City, my city, for example, one of the most interesting groups of relatively new arrivals is the Hasidim, a group of persons descended from Polish Jews who, in the 18th century, underwent a reaction to what they thought to be an overly intellectualized Hebraic orthodoxy. Their response was very much akin to the Methodist response in England against the Church of England, which in those days was appalled above all things by what was termed enthusiasm. The Methodists were enthusiasts. The Hasidim are enthusiasts in the same way. They sing, they dance, and they are very open in their expression of religious emotion and feeling.

The Diggers of 17th century England had some of these qualities, too. But the Hasidim now live in New York, and have retained intact the modes of dress and appearance which date back to the 18th-century Poland. They wear round fur hats that were actually the hats of Polish noblemen in those days; the Amish do the same, exhibit similar traditional patterns of dress and custom, rooted in their 18th-century German background.

They are very distrustful of public schools. They would be very distrustful of ordinary Hebrew schools. They want schools that reflect their own religious sensibilities and doctrinal beliefs, as much the one as the other.

Well, they ought to have them. They are not trying to prevent their children from being educated. Quite the contrary—it is out of their concern for their children's education that they insist on being different from what is considered the norm. They ought to have the education they desire, that is all. The fact that they can will strengthen the underpinnings of the educational animus and institutions of this country, rather than weaken them.

I do not understand the fear of such phenomena in this country, except to say that it has always been with us. But one fact remains: as the Court said in the Brown decision, what could be conceived in an earlier age as an opinion may gradually change through experience. The most powerful thing we have learned is that, for all the diversity of background of the American people, after a generation or two, we witness a very remarkable durability in the central institutions of our society. They emerge intact, often, after having the experienced the challenges of excessive patriotism.

If America has experienced a problem with its newcomers over the years, it is that they have been less critical of this society for a generation or so than might be the norm in a fairly contentious democratic polity. But far from having their loyalty in question, it has been often the other way around—they sometimes seem a little too unquestioning of the accepted proprieties and orthodoxies of this society.

Mr. President, we stand here in defense of pluralism and in defense of diversity. I ask my party yet another question. I do not want to spend the whole day asking questions of my party, although if need be, I will. But I ask, are we to become the party of the bureaucracy? Are we caught up in a kind of statist tendency that we cannot break, no matter how strongly we resolve to do so? Will we say during political campaigns that we are against certain trends—perceiving, perhaps, that the public is alarmed by them—but when the campaigns are over, we see fit to revert to the norm? We let the HEW bureaucracy tell the Secretary of HEW that this bill is bad, and the Secretary of HEW sends over to the Attorney General for an opinion to that effect, and he automatically gets it back.

Are we the party of the bureaucracy? Is there an unexamined but now uncontrolled acquiescence in the expansion of the powers of the State that has become so implicit in our thoughts and even in our language that we no longer even recognize in ourselves? We refer to the "public school" as against the "nonpublic school" without even recognizing the semantic advantage we give to the former.

Mr. President, in the end, the matter will turn on what the Senator from Oregon said: Is it not really religion; is it not really cost? Is it just power and an association with all things tending to the advantage of the State that animates our decision? If it is, it is a lamentable comment upon us.

I hope the Senators in opposition will address themselves to this proposition: The Attorney General has stated that tuition tax credit to a freshman in a Methodist college is constitutional; tuition tax credit to a senior in a Lutheran high school is unconstitutional. Now, I am sorry; if you believe that, you believe anything. Or, in any event, if you believe that, surely you should also be able to believe that somebody might think differently. Somebody might maintain that a tax credit to a Lutheran high school senior is constitutional, but not one to a junior.

Or one might say that since you draw the line between a junior and a freshman, you cannot draw the line between preschool and elementary school, because aid to preschool children has been challenged and has been upheld.

Surely, an openness to possibility argues that this is something the Court should be allowed to decide. If some arcane constitutional doctrine is going to distinguish between 18-year-olds and 19-year-olds in terms of their impressionability, then let the Court think about this one more time; let the Court directly rule on this. If that is the basis of our contention, then surely we are right in asking this.

We would say that to refuse to let the Court rule on that issue is to suggest that that issue is not really what is in your mind; or to insist on the money issue when that issue is not really what is in your mind. What is at issue here is an extraordinary—albeit tacit—decision in the direction of statism.

It is the disease of liberalism in our age. It has gotten into our bloodstream. We do not seem to be able to get it out. We are so caught up with it that we sometimes do not even recognize it.

I do not know when this began. I mean, if we breathe it in the air of the 20th century, must we retreat into the atmosphere of the earlier ages—as perhaps the Amish or Hasidim do—in order to be unaffected by it?

But to those who truly assert that their problems are constitutional, I ask, if that is the case, how can they refuse us the plain request that the Court be allowed to decide? What has come of the tradition of a petition of right? Let right be done by the Court.

We will accept and decision of the Court. What has come of us when such a petition is denied? And to those who believe the cost would be unbearable, impossible, please do tell us what cost would be agreeable.

On Friday, the Senator from Arkansas may or may not have known that we have made some adjustments in our bill. We had taken out an early provision which mandated that tuition paid to public schools could be deducted in the same manner, and we did so for a variety of reasons. First of all, tuition was unconstitutional in many States. In any event, we took it out.

When we did, he said that we had sharply shifted the balance away from the Constitution. We asked him to describe what balance he would consider that is constitutional.

But surely, when mathematical allocations of benefits are invoked as demonstrating a balance or tipping point, then, surely, we are in the realm of judgment and scarcely in an area of prudence as against constitutionality.

What is public policy? What is wise public policy as opposed to permissible public policy? How much more would we have to say before we establish to our friends what they probably do not know?

I am prepared to say that most persons, even Members of this Senate who have versed themselves in public law and American history, do not know the history the Senator from Oregon described. They just do not know it.

I mean, when we go to school in this country we are not taught educational history and do not know the extraordinary, almost aberrant nature of the Court's rulings.

A year ago in June, the Court was moved to decide that it was constitutional to provide a textbook to a student in a church-related school, but not a teaching aid. Not a map. A book of maps, which is an atlas, well, that introduces complexities which no doubt remain to be solved.

Mr. HODGES. Will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield for a question.

Mr. HODGES. From what case, what is the name of that case? Does the Senator himself know?

Mr. MOYNIHAN. Wolman against Walter.

Mr. HODGES. Decided when?

Mr. MOYNIHAN. June 1977.

Mr. HODGES. And what does it distinguish between?

Mr. MOYNIHAN. It says that we can provide a textbook, but not a teaching aid.

Now, the Senator from Arkansas is wondering if I have not made an extraordinary blunder, and he is right to wonder, for to imagine that the Supreme Court would solemnly distinguish between a textbook and a teaching aid and find one constitutional and the other unconstitutional is to bring one's own credibility into doubt.

I accept the thought. Backward reels the mind.

Mr. PACKWOOD. If the Senator will allow me, that case specifically held on June 24, 1977, that it was right to provide books and standardized texts, not all right for private schools, not all right to provide globes, maps, or, interestingly, busing to a field trip.

Mr. MOYNIHAN. No busing.

Mr. PACKWOOD. Or even busing them to school and back, that is all right, but not to a field trip.

Mr. MOYNIHAN. The distinction is clear: Busing to a field trip is unconstitutional, while busing to school is constitutional. It is all there in the debates of the House of Representatives and the U.S. Senate in 1787.

I mean, just read it. Read where it says that persons in high school are susceptible to religious indoctrination and there comes with their arrival at college the onset of skepticism in critical faculties such as to make them impervious to the most persuasive efforts of wily indoctrinators who lurk in the hallways of those institutions, seeking to impart their primitive doctrine.

If we believe that, we would believe anything. If we believe that such a thing as susceptibility to religious indoctrination is measurable in constitutionally significant ways.

But spare those good gentlemen across the street. They did not ask for this mystery. They have been asked to provide a constitutional justification for the religious bigotry of the 19th century and the quality of our subsequent efforts suggests the lack of enthusiasm with which they have gone about it. Remember, the Supreme Court has got into the practice of citing social science research when empirical assertions are made.

I speak with some feeling on this subject because I will be happy to say that a work in which I was associated with Frederick Mosteler entitled "On Equality of Educational Opportunity" was, in fact, cited by the Supreme Court several years ago, very correctly, it seems to me, in evidence that the social scientists had not agreed among themselves on a variety of matters.

If that was the case, then certainly it was not for the judges to assert an even larger competence in the area.

The citation of social science in the Brown decision was an important one and established a tradition with respect to the Clark research, for instance, that when the Supreme Court said something is so, in an empirical way, the justices would say, "Here is the fellow who says so."

Later in the day, I will have occasion to speak to some of the extraordinary bigotry on which some of the court decisions seem to have been based.

I will speak to Justice Douglas' decisions citing the book entitled "Roman Catholicism."

But the afternoon can wait for that.

I would like to say for the moment simply that the Court had no evidence to reject this proposition. It did not even have any logic to it.

The logical conclusion of the Court's statement is an individual test of each child's level of religious impressionability.

At the point where that religious impressionability index drops below 5, on a scale of 1 to 10, assistance becomes constitutional. Some children will remain religiously impressionable as long as they attend school. Others will never be religiously impressionable, having lost that capacity before learning to speak or never having acquired it.

Let the American Psychological Association develop a dependable index of religious impressionability. Those who never rise above five on the scale will be eligible from the outset for public support. Those who find themselves irredeemably in the higher range of scores will never get it. No finer weapon to discourage religion could be devised than an American Psychological Association index of religious susceptibility to apply the Tilton against Richardson standard.

On the other hand, it might lead to dissembling. Persons who are of a naturally devout nature might find that they can feign irreligion. They might develop techniques of atheistic assertion and of blasphemy, of dark and occult beliefs such as would shock their parents and appall their society, but which would make them eligible for public assistance in the minds of the justices of the Supreme Court.

This could be funded, if Senate grantwatchers do not learn of it. This could be an appropriate area for Federal funding. Some people wear their blood type around their neck. People could be given a religious impressionability rank, and it could be put on their social security card, and things like that. They would be known as eligible for education tax credits from the first, and those who were not eligible would not be.

Then we have the problem that, after a while, a majority of the young people, if my judgment of their desire for education as against their desire for religiosity is correct, would be found to score below five, and it would be necessary to recalibrate the test. But that, too, could be undertaken by the Department of Health, Education, and Welfare.

International comparisons could be made. We could learn whether the children of simple peasant societies are naturally more religious or possibly more irreligious. We would have to learn to distinguish between the advanced religions and those thought to be less so.

In the part of Ireland from which my family comes—if I may divert just a moment—in a small part of western Ireland, in Kerry, the Moynihan farm is located, you might say, in the cleavage of the two breasts of Dana the one-eyed, known in less eloquent parlance as the paps. They are known to mythology, however, as the two breasts of Dana the one-eyed. This part of the Druidic past is long beyond us and formally has been eschewed by the people of Ireland since the time of Patrick.

Nonetheless, it always has remained an interesting thing to me that whenever I visit that native region, I find that the nipples on the tops of the teats are in good repair, they being stone cairns put up in the Druidic Age but somehow surviving 14 centures.

Are the people who go up in the light of the moon and fix up those stone cairns religious, or are they irreligious? How would they score on the Tilton against Richardson religious impressionability scale?

However, the religious impressionability scale is clearly ahead of us, and it may help solve the problem of a glut of Ph. D.'s, which is already emerging and has given some alarm to the graduate schools.

But what are we to say, Mr. President? One does not wish to ridicule, but what are we to say in view of the ridiculous? There is no such thing as a measure of religious impressionability that dependably can be associated with an age, with a class, with a level of schooling.

Twelfth grade is impressionable; 13th grade is not. That does not work.

I made this mock assertion: What if we associate this condition with the individual as against his year in school? That would not work, either. But that is what the court has been reduced to, and that is why we come along with a very straightforward, honest effort to say, "Look, think of it this way. Here is aid that meets your standards. And you can stop being forced into these insupportable distinctions of a constitutional difference between textbooks and maps, between the last year of high school and the first year of college, that preschool is one thing and kindergarten is another."

I do not wish in any way to challenge the dedication of the justices in drawing these distinctions, but they have been faced with a kind of assault on the judicial sensibility. They are asked to make distinctions where there is no difference.

It is the judgment of Philip Kurland, in which I find myself agreeing, that, in the main, what one learns from these decisions is that the justices have followed their own predilections and not any constitutional doctrine, because there is no constitutional doctrine.

Mr. President, what are we, as a Senate, to do, in the face of an assertion by the Attorney General that the tax credits to freshmen in this bill are constitutional and those to high school seniors are unconstitutional? That is not a basis which would command the respect of anyone who has any regard for the idea of constitutionality. Prudent, good, useful public policy perhaps; sane, intelligent, desirable legislation, yes. Constitutional, no.

They cannot argue a constitutional case and should not. If there is a constitutional question, it is to be resolved by those people who got us into this doubtful circumstance in the first place which is the court whose rulings I suggest are not now coherent, are in many ways ahistorical and cry out for one large, general purpose, clear, guiding decision which would be among the benefits that would come from this legislation. I make the point that it is not a decision which would necessarily go with the sponsors of this legislation but rather would be accepted by them as settling the matter once and for all.

In the name of social peace, reconciliation, and educational justice we have put forward this legislation. It has been adopted by the House of Representatives and it was reported to this floor by the Committee on Finance by a vote of 15-to-1, and I cannot doubt that when this debate is concluded it will have the support of a majority of Members on both sides of the aisle.

I see the Senator from South Carolina is on his feet as he has been for some time and as we have had the floor for the better part of the morning perhaps he wishes to speak to some of the observations we have made here.

Mr. HOLLINGS. Mr. President, does the Senator yield the floor?

Mr. MOYNIHAN. Mr. President, I yield the floor.

Mr. HOLLINGS. I thank my distinguished colleague.

Mr. President, our distinguished colleague from New York has taken us on quite a trip from the nipples on the teats of Dana to the leading psychologists, from the Democratic Party platform, to, through his associate in this assault, the Senator from Oregon, a charge of Catholic bigotry.

Let me try to bring some coherence and concentration into some of the fundamentals involved in this debate. We find that we are being charged with things never contended and with positions never assumed.

There is much of which we all agree on the early history of education in the life of our Republic. The importance of education to the life of our Republic cannot be overemphasized. In the way a country goes about educating its young people, we see that nation's character. its values, its fundamental commitments, its way of life. The Greek philosopher, Diogenes, was right over 2,300 years ago when he wrote:

> The foundation of every state is the education of its youth.

Nowhere has this been so true as in America. The system of education which this country has built up over the past 200 years is unmatched in all of history. No other facet of our national endeavor has done as much to build this country—to forge unity from a diversity of over 30 ethnic groups, to weld our people in a common purpose, to encourage civic action, and to build a nation both materially strong and morally rich.

The saga of American education includes both the public and the private school. It took both of them to bring us where we are, and it is my hope as a citizen that public and private will continue to exist alongside one another as far down the road as the eye can see. We are not here today to pit public against private, nor to downgrade the splendid contribution our private and church schools have made to our Nation's development. We are here to discuss what the proper role of the Federal Government should be concerning the public and private schools.

Let us begin at the beginning. The first schools in Colonial America were church schools; 350 years ago, the ties that bound church and state were close and tight, and part of the baggage that our forebears brought from Europe was this centuries old connection. To them, education meant religious education, and in a world where there were few books other than the Bible, the training of the young was focused almost exclusively on the propagation of the faith. Nine of the 13 colonies had established, tax-supported churches. Religious toleration, while more widely practiced in America than in Europe, was by no means 100 percent achieved. The quality of education provided by the churches

varied considerably from colony to colony, and from region to region. In my own South, education was the province of the few, and the private tutor was more frequent than a schoolhouse for the well-to-do. For the classes below, instruction of a formal nature was more the exception than the rule. The congregational churches of New England by and large placed a greater emphasis on education and the building of schools, and the record shows that the first public school in America, open to everyone on equal terms and financed primarily from the public treasury—was founded in Massachusetts in 1635. The ties to church were still very strong, however, because just about every facet of life in New England and elsewhere was bound up with the purposes of an organized religion.

Then came the Revolutionary War era, and nothing was ever the same again. It was a time of great ferment in the Western World generally, but most especially in America. Old shackles and institutions were being discarded, and the thirst for freedom was fast on the rise. Just as this revolutionary era changed the relationship between citizen and government, so too did it forever alter the ties between church and state.

I think it is very important that we emphasize the process of evolution, of change. Legal decisions are an evolutionary process. My colleague from New York goes with great delight to the first amendment and says, "You find the difference between a map, a chart, or bus or piece of equipment," and he just revels in the fact that you cannot find that. He should go further. He should go to the Constitution itself and find the word "education." He will not find that. It does not appear.

But just as sure as we stand here and debate, public education is fundamental and has been since the Revolutionary days.

The Revolution set in motion the disestablishment of religion in America, and while it took some years for this to be accomplished in some areas, the course was set and the direction of events was clear for all to see. There would be no State religion in the new Nation. There would be instead religious liberty, the freedom to believe or disbelieve, tolerance for men and women of all persuasions.

The Founding Fathers realized full well the importance of education in a country where the people were going to participate so actively in the decision-making process.

Later, I intend to emphasize the benefit and the value, and the appreciation that we have for public education, because too often we are deflected down side roads of psychologists and mythological Irish history and charges of Catholic bigotry and other things that really are not part of this debate. We are talking about the public school system in America.

Even while they were debating at the Constitutional Convention, the Congress of the Confederation was passing the Famous Northwest Ordinance of 1787.

Through this law and the Land Ordinance of 1785, the new Nation actively encouraged a system of free public education. Specifically public land was provided and dedicated for the support of public education. In each 6-square mile township consisting of 36 sections, one section—the one in the middle, No. 16—was set aside "for the maintenance of public schools."

This utilization of the public land for public education put schooling on a sound footing in an area which now constitutes our Middle West. Thus the national mandate for free public education goes back to the earliest days of our existence as an independent country.

The great Daniel Webster was later to say that he doubted whether "one single law of any lawgiver, ancient or modern, has produced effects of more distant, marked, and lasting character than the Ordinance of 1787. It set forth and declared it to be a high and binding duty of Government to support schools and advance the means of education."

If anyone here who is close to my good friend Jack Kilpatrick, the distinguished columnist, he should ask Mr. Kilpatrick to please read Daniel Webster. Mr. Kilpatrick finds no duty. He says in his column this weekend, that there is no public duty to provide public education. But there is that high and binding duty. The duty is fundamental. It is basic. It is based on our early history. It dates from those laws of 1785 and 1787 right up to our own time, when Hawaii and Alaska were not permitted entry into the Union until they provided free public education in their constitutions. Since Mr. Kilpatrick likes to write on constitutional and historical subjects, I would like to see any column of his to the effect that Congress has done wrong.

The point is he has never written that article. We have given those lands to foster public education, and that, Senator Daniel Webster said, was the one single law that distinguished this great Republic of the United States of America.

I hasten to add that it was not one law or any one man who launched the Nation It was many men, confronting common problems, thinking common thoughts. The impulse toward freedom of religion and the separation of church and State was abroad in the land. Nowhere was this impulse more eloquently and effectively propounded than in the words of Thomas Jefferson. Now, there is a Virginian for these writers who were trying to impress people over the weekend with their singular articles about going gently. They were not quoting Jefferson, the great Virginian. It was his statute for establishing religious freedom that was the proudest accomplishment of his accomplished life.

The fact that Thomas Jefferson served as President of the United States is not inscribed on his tombstone—but recognition of his authorship of the Virginia Statute for religious liberty is inscribed, at Jefferson's own request. This indicates the importance he placed on it.

The statute clearly states, "No man shall be compelled to frequent or support any religious worship place or ministry whatsoever." Jefferson believed in the building of a "wall of separation between chuch and State." Indeed, the term itself traces back to him.

"A wall of separation between church and State"—Jefferson helped build it, and the Supreme Court of the United States has confirmed and upheld it. It is not just what the Senator from South Carolina says, what the Senator from New York says, or even what that great psychologist, Brewster Smith or that mythological figure, Dana from Ireland says, but rather when we look to the law, what the Supreme Court has found. My colleague from New York tries his best to ignore this third branch of Government.

In Everson against Board of Education, the Supreme Court found that the first amendment meant the following, and I quote:

> The establishment of religion clause of the First Amendment means at least this: Neither a State nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or nonattendance.
>
> No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called or whatever form they may adopt, to teach or practice religion. Neither a State nor the Federal Government can openly or secretly participate in the affairs of any religious organization or groups and vice versa. In the words of Jefferson, the clause against establishment of religion by law was intended to erect "a wall of separation between the church and the state."

Mr. President, those are not just interesting historical facts—this is what the court has found. And I emphasize this because we heard some discourse earlier that all we have had are State court decisions, we are told the Supreme Court has never had a chance to rule. But we have just heard Justice Black outlining what the Federal Government can and cannot do.

Mr. President, the measure we are debating today is patently and outrageously unconstitutional. It flies in the face of the establishment clause of the first amendment and is therefore violative of the 14th amendment, too. The Attorney General of the United States has written a formal opinion which concludes that a tuition tax credit for families with children in private elementary and secondary schools is unconstitutional. That position is supported by most American constitutional scholars, whose arguments seem more to the point than those of certain Canadian scholars who have been dragged into this argument by proponents of the tax credit.

The conclusion that tuition credits are unconstitutional is not based on some arcane or outmoded doctrine. Rather, it is dictated by the most recent cases of the Supreme Court—cases decided during the 1970's—that give continuing vitality to the historic scope of the first amendment.

In Lemon against Kurtzman, 1971, the court summarized the three tests that a program of financial aid must pass for it to square with the Constitution. First, it must have a secular purpose. Second, it

must neither advance nor inhibit religion. And third, it must not foster excessive entanglement with religion. In Lemon, a program that provided salary supplements was struck down as unconstitutional because of the inherent tendency, in religious private schools, for religion to enter the classroom. By supporting the teacher's salary, the program was subsidizing the provision of religious instruction and the inculcation of religious values. And providing public support for that purpose clearly has the effect of advancing religion. Hence, it cannot pass constitutional muster.

The court applied the same analysis in Committee for Public Education against Nyquist, 1973. At stake in this case was a program that provided tuition reimbursement grants for low-income parents of children in nonpublic schools, and income tax relief for middle-income parents. The purpose and operation of the program—using the tax system to provide benefits for families paying tuition in private schools—could hardly be closer to the purpose of the tuition tax credit proposal we are currently considering. And the result was clear: The program was unconstitutional. Though the aid went to the family, rather than to the school as in Lemon, the effect was unmistakably to provide desired financial support for nonpublic, sectarian institutions. The aid thus provided could—and clearly would—be used in some substantial measure for religious instruction. Thus, the court concluded that:

> The money involved represents a charge made upon the State for the purpose of religious education.

The court found that the aid had the impermissible effect of advancing the sectarian activities of religious schools.

The court noted a second possible constitutional defect in the New York program—that it could foster excessive entanglement of the Government with religion. Aid to private schools through the tax system is not frozen in amount; the court noted that where a major part of that pressure in tax benefits comes from religious schools, there is enormous potential for church-state conflict and for seriously divisive political consequences. This risk of entanglement was termed by the court a "warning signal" that should not be ignored in applying the first amendment.

It is worth pausing to focus on Nyquist, since it is so closely on point. It can hardly be denied that the legislation under consideration would have the effect of providing financial aid to private schools, and that would be for sectarian instruction. Indeed, that is more than its effect. To a large extent, that is its purpose. Nothing is clearer under the first amendment than this: The Constitution prohibits the Government from taxing its citizens to support the religious activities of others. All Americans ought to be free to worship according to their own religious beliefs. But no American should be coerced into subsidizing the religious beliefs of others.

Nor can it be denied that this bill—just like the relief program in Nyquist that it so closely resembles—would lead to the possibility of religious strife in the political process. Indeed, this bill would be an invitation extended by this Congress, to engage in continuing debates, year after year, in which religious views will play a major role. The tuition tax credit, as now scaled back, is $250 a child. But beneficiaries of the credit will hardly forget that the credit originally proposed was $500. As inflation continues to run rampant, it hardly requires prophetic vision to predict that we will be asked to raise the $250. And as such proposals are advanced and debated, religious interests and religious views cannot help but come to the fore. Thus, the tuition tax credit presents another serious constitutional problems—the problem of church-state entanglement. The first amendment sounds a warning signal—to avoid excessive entainglement. And as is so often the case under our Constitution, this warning helps us to steer clear of serious practical problems in the political process that we would otherwise have to face. The warning to avoid entanglement is clear. And it is wise. We would be foolish to ignore it.

The Nyquist case was decided nearly five years ago. But only last summer, in the Wolman against Walter case, decided in June of 1977, the Supreme Court clearly reaffirmed Nyquist and all that it stands for. Once again, the court carefully enforced the provisions of the first amendment, striking down an Ohio programs whose effect was to provide aid, in the form of materials and services, to private school children—aid that could, and inevitably would, be used by those schools to support the provision of religious instruction and religious beliefs.

The Supreme Court has spoken. It has prohibited aid to private schools that—like a tuition tax credit—can be used to advance religion. Tuition tax credits are general aid—the assistance they provide can be used for any purpose at all by the private schools. They cannot help but advance religion. They cannot help but foster entanglement. They are—put simply—clearly and unequivocally, unconstitutional.

Mr. President, that is the history and those are the facts. Although some politicians and scholars may wish these cases had been decided differently, most agree that, under those decisions, a tuition tax credit for private school elementary and secondary students is unconstitutional.

Senator MOYNIHAN does not really dispute this conclusion. This January, he stated:

> Now I would say to you that this bill is constitutional, by which I do not mean that I predict the court tomorow would hold it so. I mean instead that a fair reading of our Nation's history demonstrates that the first amendment was never meant—and until recently, never understood—to bar the sort of aid which we propose.

This is an interesting viewpoint. It has a lot of appeal. For it gives each of us the freedom to make up our own minds about what the Constitution says. If we do not happen to like what the Supreme Court has ruled, we are free to ignore it—relying instead upon what we happen to deem to be a "fair reading of our Nation's history."

The possibilities are intriguing. A school board might decide that a fair reading of this Nation's history permits it to operate a dual school system—even though there once was a decision called Brown against Board of Education.

I am as great a believer in liberty as Senator MOYNIHAN. But article III of the Constitution says that:

> The judicial power of the United States, shall be vested in one Supreme Court, and that the judicial power shall extend to all cases . . . arising under the Constitution.

Much as each of us would like to be free to declare his own allegiance to his own fair reading of our Nation's history, article III provides otherwise—and makes the Supreme Court the final arbiter of the Constitution.

In an article he wrote this spring for Harper's, our good friend from New York relies for support for his interpretation of the First Amendment on that eminent constitutional scholar, Ulysses S. Grant, and that renowned source of constitutional guidance, the 1876 Republican Party platform. I had never before realized that in the address by Grant to which Senator MOYNIHAN refers us—remarks before the Army of Tennessee in Des Moines—the Nation was receiving a legal disquisition of great authority—nor had I realized that the politicians who drafted the election platform for the Republican Party in 1876 viewed themselves as resolving serious questions of constitutional law that might arise a century later.

One might think that, in determining what the first amendment prohibits, a good starting place is recent Supreme Court decisions. Yet in the article's extended discussion of constitutional interpretation, only the most fleeting reference is made to the controlling Supreme Court decisions in this area.

Mr. President, in considering whether tuition tax credit legislation is constitutional, I look not to Ulysses S. Grant, but to the Supreme Court of the United States. And I conclude—as Jefferson believed strongly in the building of a wall of separation between the church and state. I quote him—"It is sinful and tyrannical to compel a man to furnish contributions for the propagation of opinions which he disbelieves and abhors; and it is also wrong to force him to support this or that teacher of his own religious persuasion."

I might just divert for one second, Mr. President, to say that we will elaborate on that particular point. The Senator from Oregon talks about discrimination, he talks about who is hogging the aid, and he comes back and asks who is grabbing it and doing all these other unfair things. The truth of the matter is that what he asks the Senate to approve is financial support for religion, and many do not believe in that. On that score it was Thomas Jefferson—and it is just as true today as it was at that time—who said, "It is sinful and tyrannical," and I believe that. It is not anti-Catholic. Wait until we quote just exactly who the wall supporters are. We have the ADA. I would not think they would be anti-Catholic, Senator. We have all kinds of organizations, the AFL–CIO. Is that

anti-Catholic bigotry? We have the American Association of Colleges of Teacher Education.

That is not anti-Catholic bigotry.

James R. Kirkpatrick, the American Association of School Administrators. That is not anti-Catholic.

William B. Welsh, the American Federation of State, County, and Municipal Employees, AFL–CIO. The distinguished Senator from New York (Mr. MOYNIHAN), priding himself on his distinguished service first under President Kennedy and the Department of Labor, has tremendous respect and regard for the AFL–CIO.

George Henderson, American Alliance of Health, Physical Education, and Recreation. That is not anti-Catholic bigotry.

John Shattuck, American Civil Liberties Union. That is not anti-Catholic.

Albert Shanker, of New York—the great State of New York—American Federation of Teachers, AFL–CIO. That is not anti-Catholic bigotry.

Bette Chambers, American Humanist Association. That is not anti-Catholic.

Andrew L. Gunn, Americans United for Separation of Church and State. That is not anti-Catholic bigotry.

Joyce B. Miller, Coalition of Labor Union Women.

Fred Weintraub, Council for Exceptional Children.

Sam Husk, Council of Great City Schools.

Ruth J. Hinerfeld, League of Women Voters of the United States of America—certainly that is not involved in anti-Catholic bigotry.

Bill Hambrick, National Association of Elementary School Principals.

Wesley Apker, National Association of State Boards of Education.

Leon Shull, Americans for Democratic Action.

Then they talked about the Democratic Party platform, and where, oh where are we Democrats? Well, I would rather think the distinguished Senator asking where the party is would stand nearer that particular group than the Senator from South Carolina, but "they ain't no mistake," the Americans for Democratic Action, in a letter signed by Vicky Austin, comes out foursquare:

> Tuition tax credits on the primary and secondary level are equally reprehensible. Under the tuition tax credit plan, approximately two times as much federal aid would go to the private or parochial school student than would go to the public school student. It would give federal aid to private schools that do not need to comply with federal civil rights and Title IX guidelines, and could encourage segregation along religious, racial and class lines.

Let me read further from this list of distinguished authors.

Bayard Rustin, the A. Philip Randolph Institute. That is not involved in anti-Catholic bigotry.

Joseph Schneider, Council for Educational Development and Research.

Daniel B. Taylor, Council of State Chief School Officers.

W. J. House, the Horace Mann League.

Benjamin Hooks, NAACP. Certainly that is not antireligious. We have been charged with being antireligious.

Owen B. Kiernan, National Association of Secondary School Principals.

Joanne Goldsmith, National Coalition for Public Education and Religious Liberty.

Grace Baisinger, National Council of Parents and Teachers—one of the most distinguished of all of our groups in this country.

Esther R. Landa, National Council o Jewish Women, another distinguished group.

Margaret Buvinger, National School Boards Association.

Frank Jackalone, National Student Lobby.

Ronald H. Brown, the National Urban League.

Howard G. Paster, United Auto Workers.

James A. Hamilton, National Council of Churches. I almost knocked over the desk and the chair trying to get recognition this morning when they were talking about being anti-Catholic and anti-religious—but they just kept on with their dialog.

But here we have on record the National Council of Churches—and the Senator from Oregon has the letter, just as does the Senator from South Carolina.

Stanley J. McFarland, National Education Association.

Frank Viggiano, National Student Association.

Carl Holman, National Urban Coalition.

Robert Alpern, Unitarian-Universalist Association.

George H. Outen, Board of Church and Society, the United Methodist Church.

Now, Mr. President, this particular group constitutes the National Coalition To Save Public Education, and they have written a very cogent letter summing up their reasons. Mr. President, I ask unanimous consent that the letter in its entirety be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL COALITION TO SAVE PUBLIC EDUCATION

As the elected leaders and designated staff representatives of organizations united in the National Coalition to Save Public Education, we are writing with the specific purpose of urging your support for the Hollings Amendment to the Tuition Tax Relief Act, otherwise known as the Packwood-Moynihan-Roth bill (H.R. 3946). The amendment would delete coverage under the bill for tuition paid to elementary and secondary schools.

Unless the Hollings Amendment is adopted, the uniquely American approach to public education will be destroyed for the sake of modest tax relief for tuition-paying parents. In our judgment, this is far too high a price to pay.

Our public education system was established on the premise that the instruction offered would be of sufficiently high quality to attract the children of all Americans, not just those lacking the means to pay for private schooling. For the most part, this premise has proved sound: 90% of today's school-age population attends public school, and the public education system can take considerable credit for the nation's technological and economic achievements as well as for the social cohesion that has made American democracy work.

All of this will be gravely jeopardized if the federal government gets into the business of subsidizing non-public education. Public education would no longer be the norm as Horace Mann and other early school reformers intended; instead, public schools would be viewed as inferior: after all, why would Congress offer a bonus to parents who take their children out of public school unless by implication the public schools were viewed as second-rate?

The subsidy would accelerate the exodus of middle-class children from our large urban school systems and undo twenty years of progress toward integration within the public school framework.

Moreover, as increasing numbers of families take advantage of the subsidy, the schooling of those children remaining in the public system will deteriorate as political support for bond measures and school taxes withers away. In short, our educational system would be effectively resegregated and stratified by race and class. Surely this is an outcome that must be avoided.

It has been argued that tax credits for elementary and secondary tuition would not destroy public education but would merely allow non-public schools to compete on an equitable basis. But the fact that under Packwood-Moynihan the non-public institutions would not be required to meet various federal mandates for the education of handicapped pupils, for bilingual instruction, etc., suggests that precisely the opposite would occur: it would be the *public* schools which would be forced to operate at a disadvantage. In addition, aid to non-public schools carries with it the danger that public funds will be used to support sectarian purposes or ideological viewpoints in violation of the Constitution and American principles.

Finally, we raise an issue which Senator Moynihan himself has raised provocatively in another context, namely *cui bono*—who benefits. The Congressional Budget Office estimates that Packwood-Moynihan would cost the treasury some $5.8 billion by FY 1983; CBO's projections indicate that 46% of the benefits would go to families earning more than $25,000 per year, whereas middle-income families—those earning between $15,000 and $25,000—would receive only 32% of the benefits. Needy families would get the short end of the stick—only 22% of the benefits, according to the CBO figures.

So for the sake of an institution which has served America well—public education—as well as for the sake of fiscal restraint and tax equity, the seventy million voting Americans represented by our Coalition call upon you to support the Hollings Amendment.

Sincerely,

George B. Imig, American Assoc. of Colleges for Teacher Education.

James R. Kirkpatrick, American Association of School Administrators.

William B. Welsh, American Federation of State, County and Municipal Employees, AFL–CIO.

George Henderson, American Alliance of Health, Physical Education and Recreation.

John Shattuck, American Civil Liberties Union.

Albert Shanker, American Federation of Teachers, AFL–CIO.

Bette Chambers, American Humanist Association.

Andrew L. Gunn, Americans United for Separation of Church and State.

Joyce B. Miller, Coalition of Labor Union Women.

Fred Weintraub, Council for Exceptional Children.

Sam Husk, Council of Great City Schools.

Ruth J. Hinerfeld, League of Women Voters of the United States.

Bill Hambrick, National Association of Elementary School Principals.

Wesley Apker, National Association of State Boards of Education.

Leon Shull, Americans for Democratic Action.
Bayard Rustin, A. Philip Randolph Institute.
E. Joseph Schneider, Council for Educational Development and Research.
Daniel M. Taylor, Council of Chief State School Officers.
W. J. House, Horace Mann League.
Benjamin Hooks, NAACP.
Owen B. Kiernan, National Association of Secondary School Principals.
Joanne Goldsmith, National Coalition for Public Education and Religious Liberty.
Grace Baisinger, National Congress of Parents and Teachers.
Esther R. Landa, National Council of Jewish Women.
Margaret Buvinger, National School Boards Association.
Frank Jackalone, National Student Lobby.
Ronald H. Brown, National Urban League.
Howard G. Paster, United Auto Workers.
James A. Hamilton, National Council of Churches.
Stanley J. McFarland. National Education Association.
Frank Viggiano, National Student Association.
M. Carl Holman, National Urban Coalition.
Robert Alpern, Unitarian Universalist Association.
George H. Outen, Board of Church and Society, United Methodist Church.

Mr. HOLLINGS. Now, Mr. President, they want to know where my party is. Since we have brought the party into this, I think back to DeToqueville, the French philosopher who said when he visited America over 125 years ago:

In America there are many men of integrity in both political parties.

But he added:

In America there is no party of integrity.

If my colleague wants to know where the party is, I would hope, for starters, this is where it is with these groups that I have mentioned, from the Urban League to the AFL–CIO to the League of Women Voters to the National Council of Jewish Women to the Parent-Teachers Association to the National Council of Churches, right up and down the aisle, secular or sectarian. And let me add that none of them is trying to "hog it all." They are truly and genuinely concerned. Mr. President, about the future of public education.

Let us go back and complete that other thought with respect to the early days and the Founding Fathers, because Jefferson's colleague, James Madison, who had as much or more to do with the writing and ratification of the Constitution as any man, was of a like persuasion, holding that the national Government lacked jurisdiction over religious matters, and lacked any "shadow of right to intermeddle" with it.

Madison's "Memorial and Remonstrance Against Religious Assessments" in 1785 is one of the great documents in the march of America toward freedom, although, sad to say, it is not among the most widely known. Madison wrote:

Religion is wholly exempt from the cognizance of civil society and since religion is exempt from the authority of the society at large, still less can it be subject to that of the legislative body whose jurisdiction is both derivative and limited.

We might heed particularly one of Madison's remonstrances:

The same authority which can force a citizen to contribute three pence only of his property for the support of any one establishment may force him to conform to any other establishment in all cases whatsoever.

Mr. PACKWOOD. Will the Senator yield?

Mr. HOLLINGS. No, I want to keep on. I am having a difficult time trying to keep all my thoughts together and cover all the points made. I want to be courteous, but I want to complete these points.

Mr. President, it might be well here to point out the test goes, not just to the simple wording of the first amendment but to the intent and the historical determination of the Congress and the courts and the people over the last 200 years. My friend comes in with an ingenious approach. He had a different one with respect to the bill on Friday when we last debated, but now on Monday, he says, "Aha, how do you answer this question: Do you favor it for higher education?" If you answer yes, you favor it for higher education, then ipso facto, bam-bam, you have to favor it for the public education system.

That is absolutely false. It is false in premise; it is false in law; it is false in principle, and it is easily distinguishable if they would only stop for a second, as the Court has had to deliberate over the many years. These distinguished jurists over the years have been trying to consider and determine, as they did for example in Plessy against Ferguson, cases before the Warren court, and many other cases.

We ought to see what Earl Warren, for example, said about public education.

(Mr. ABOUREZK assumed the chair.)

Mr. HOLLINGS. Chief Justice Warren, at a very important point in his Brown against the Board of Education, said:

Today education is perhaps the most important function of State and local governments.

He was discussing elementary and secondary education.

I refer to Mr. Kilpatrick who found no function at all. I refer to Justice after Justice and Congress after Congress, leader after leader, and they have all found that. But here on the floor it has been so twisted that the Senator from Louisiana comes on the floor and says there is no responsibility on the part of Government. Rather, he says, it is up to the individual citizen.

Think of that for a minute. Think of the compulsory attendance laws that we have in all the States. They do not wait until a citizen wakes up in the morning, or does not wake up in the morning, for the parent to perhaps say or perhaps not say that his children shall attend school. Our children of this audience today are required by law to attend elementary and secondary school. That is the fundamental policy.

What is the big difference when it comes to higher education? To go right down the list, we find, first the impressibility the courts refers to much like in the day care centers. The day care centers have children of tender years.

Second, we find diversity. The Senator could not find the diversity in a student body. I did serve on a Lutheran college board, and the Senator was asking about a Lutheran elementary school and a Lutheran college. The Senator could go to the Newberry College, where I served some 7 years. I have also served on the State university boards in my State. But I served on a private college board. In 1978, 30 percent of the students enrolled at Newberry College are Lutheran, and at Baptist College 60 percent are Baptist. You can go to Presbyterian college, or to Wofford, the Methodist school, and find about the same thing. If you look at the makeup of the student body in these schools of higher learning there is a tremendous diversity coming from all walks of life. You will not find that in the little parochial school of the Catholic Church.

This is not anti-Catholicism, but these are facts. Some church leaders speak of it as a mortal sin, in some parishes still today, if you do not send your child to a Catholic school in order to be taught and inculcated with the principles and faith of the Catholic dogma.

There we are. It is a religious belief. The overwhelming percentage of students attending the Catholic schools are made up of Catholics, at the elementary and secondary level, and this vast majority of little Catholic children are responding to the teaching of the Church. Whom are they taught by? The Senator cannot see the difference with a Lutheran college. In the Catholic school level, they are taught by the various priests and the nuns. Over the years that is the way they have taught their school.

I have a diversity of employees in my own Senate office. One young lady as we were talking about this last week said, "Well, I attended Catholic schools both at the elementary and secondary level. It was supposed to be integrated. But not one black child attended that school while I was in the Catholic school."

I can, if necessary, identify the school.

Of course, I know that has changed a little in some of the southeastern areas, particularly in my own backyard in South Carolina. They do have black students within the parochial schools. Generally, if we look at the diversity within the student body, the persons by whom they are taught, and the curriculum, I am confident, if you would go to the Lutheran parochial school at the elementary and secondary level, you will get a certain catechism, you will get a certain Bible teaching at that young age because that is how it is organized. But I am equally confident that you can go to Newberry College for 4 years and get a degree without ever attending a religious class.

I say to the Senator from New York, and I hope the microphone is open because I see him in the cloakroom and I want him to listen, there is a definite difference between the elementary and secondary level and the institutions of higher learning. That is why the Supreme Court, the very Court that he says has never had opportunity, had that opportunity—for example, with the GI bill of rights. They said the majority of students affected are nonchurch students: namely, 80 percent of the college students, or slightly over now—80 percent of those college students attend what might be termed a public college, a State university, local municipal schools

or otherwise, without church affiliation; 85 percent are nonchurch affiliated at the higher level, whereas over 85 percent at the elementary and secondary private level are church affiliated.

So the impact, then, of the assistance given by Congress at the higher level is not a major, majority impact on religion. It does not establish a religion. I would agree with my colleague that when they get to the tough decisions and have to split hairs between a textbook and a bus ride, between secular and sectarian aid and assistance, the Court is, amidst the greatest difficulty trying to interpret and trying to maintain the law and trying to maintain an integrity and an understanding which I think they have. And which, incidentally, the Senator from Oregon thinks they have and the Senator from New York thinks they have, because they lifted the Court language and put it in their bill. They lifted that Court language.

If you look in the bill itself, you will find a declaration of purpose at the very beginning. At last, we have the Senator from New York reading a few lawbooks, rather than psychiatry and Irish mythology. We are finally going to get him over to the Court.

Listen to one bright glow of sunshine that finally comes into the constitutional doctrine and law. He puts in his bill:

> The Congress further finds that the provision of such assistance in this matter fully complies with all provisions of the Constitution; that it does not constitute excessive governmental entanglement with religion;

That is one of the tests in Lemon against Kurtzman, coming right on down to the Nyquist situation, going right on down through Wolman against Walter. Last year. Oh, the Supreme Court has taken several opportunities to speak out and elaborate the three-part test. That was one of the parts. Here is what he puts in his bill:

> That it is wholly secular in purpose and that such assistance will neither advance nor hinder religion.

That is part No. 2. That is again Lemon against Kurtzman:

> The primary purpose of this act is to enhance equality of educational opportunity for all Americans at the schools and colleges of their choice.

That is the third part of the test: What is the intent of the legislative body?

Those are the three parts of the constitutional test that they have tried to bring into this particular doctrine. You do it at the level of higher education, the college level, which has been passed, oh, six times through this Congress.

I voted for it. There is a good chance of voting for it again if we can clear a way.

Why would I, 11 years ago, if you please, make a talk when I first came to the national Congress, why would I put in a tax tuition credit for higher education, but feel so strongly as I do in opposition to any kind of delving into the public schools? It is just exactly that: There should not be any entanglement, there should not be any involvement, there should not be any governmental delving into the matters of religion. If they can, on a categorical basis, receive assistance, then find that Congress that has allowed them to participate as students on the categorical basis. Mr. President, we have yet to give general assistance to the elementary and secondary schools, public schools, of America, much less private. We have, until 1965, to all intents and purposes, other than the grant provisions that I have indicated previously, left the schools alone. We have tried to say that this was the local and State governments responsibility. In Washington, all of those at the State level—State attorneys general, chief executives, the supreme courts at the State level and otherwise, including each U.S. Supreme Court, have, until this day, said "Mr. Congress, stay out of the nonpublic elementary and secondary schools."

And they say, "Wait a minute. What we want to do"—and they are talking about discrimination. Can you imagine that? The NAACP does not know anything about discrimination? The American Civil Liberties Union does not know anything about discrimination? The Urban League does not know anything about discrimination? The Council of Jewish Women does not know anything about discrimination? But they have all of a sudden found discrimination. They have found discrimination that they want stopped, so we will not "hog it all," as the Senator from Oregon says.

Mr. President, I quoted Madison and Jefferson, but these are not the isolated musings of a few philosophers or ivory tower theorists. They are the fundamental beliefs of those who founded our country and they bespeak the common wisdom of men who knew too well the long history of persecution and intolerance and trouble that almost inevitably were the handmaidens of the unions between church and state. They were determined that no such clouds would darken the American experiment.

The framework of our Government is, of course, the Constitution, an instrument of government founded four-square on the principle that government has no power to legislate in the area of religion. Just as it may not limit its free exercise, neither may it provide for its direct support. What was implicit in the Constitution as drafted at Philadelphia was soon thereafter made explicit by the first amendment.

Now, back to 1965. There we have a very interesting departure with respect to various happenings in education in America. In the midfifties, we had Sputnik. At the advent of Sputnik, there was a great unease and concern, upheaval and turmoil, relative to what we really were providing by way of scientific, engineering, and research talent and capability in this land of ours. Here were the Russians—we were always smarter than the Russians, we thought. We are smarter than the Germans, we are smarter than everybody. We are smarter than the British, we are smarter than the French. The Russians? Oh, my heavens, we are really smarter than that crowd of people.

But here they were, up in space, headed, if you please, to the Moon. And where were we? We were just coming home from Korea. That is where we were. And we were beginning to wonder, then, what about the educational system that had served us so well in World War II and in Korea? All of a sudden, technology was the concern.

We started emphasizing science and technology within the public school systems, within the universities and colleges and we were not going to be outscienced or outspaced or out-technologied by any Soviet people.

Then, when we finally got into Vietnam, by that time we were moving toward the Moon under the leadership of John F. Kennedy, and into space by our two distinguished colleagues, the Senator from Ohio, JOHN GLENN, and the Senator from New Mexico, JOHN SCHMITT. We then saw the young college students in the midsixties come in, and they were talking about Vietnam and being sent off.

They said it was unfair to be sent to this war, for various reasons. We had to look at them and agree with one premise. That was that it certainly was unfair for certain ones to be sent there fighting and getting killed and these others standing there demonstrating and breaking up the countryside and subjected to no law, with all the draft dodgers and everything else. We began to think of equal justice under law.

In 1965, we passed the Elementary and Secondary Education Act on the heels of the Civil Rights Act of 1964. When we enacted that particular statute, there came the locales in the States, with their tight fiscal situation, saying, "Wait a minute, you've now mandated to throw open all the school doors." We need help to implement this education for all policy.

Talking about "hogging it all," we will get around to whose responsibility is what, who keeps open doors, who closes the doors, who is discriminated against and who is not, and whether we throw open our doors to everyone.

They put these burdens on us, and how are we going to finance it?

The Congress then in its wisdom started enacting various statutes. It passed title I of the Elementary and Secondary School Act for the disadvantaged children. The private schools came along and said, "All right, if you're going to have that for disadvantaged children, we have disadvantaged children in our particular classrooms, so we would like to have those also."

So they participated also in the programs for disadvantaged children.

Then they had the bilingual requirement.

Then section 504, of the Vocational Rehabilitation Act for the handicapped. That one said they had to provide for the education of our handicapped students.

Thereupon, Congress started passing targeted, categorical grant money to individual students for a particular purpose, with no real impact on religion, because it went in a particular fashion for a particular purpose, and the majority were not handicapped or were not disadvantaged or were not bilingual.

It did not have that major impact and

went into the degree they were eligible for participation.

If a Catholic school came to me and said, "Look here, we are now, rather than just 98 percent Catholic," but here they are, every religion, no one having over 50 percent, but 98 percent are poor, they would qualify for the whole one.

Title IX of the Civil Rights Act of 1964 was sex discrimination. Title VI of the Civil Rights Act itself, that there be no discrimination as to race, creed, color, or national origin, and section 504 of the Vocational Rehabilitation Act for the handicapped.

Mr. President, this brings us to one of the major points in the entire debate, the idea of competitiveness. Let us fix in on that because the Senator from New York has been making graduation speeches. He has been writing various news articles. He has written Outlook articles in the newspaper.

In one particular article in the April Harpers magazine, Senator MOYNIHAN noted:

> A pervasive sense in American society that government has got to stop choking the life out of institutions that could be seen to compete with it.

Senator MOYNIHAN said:

> It is an issue that reflects a broad revival of interest in religious education, an upheaval in constitutional scholarship, and a pervasive sense in American society that Government has got to stop choking the life out of institutions that could be seen to compete with it.

Along that line, the Senator goes on and further says that the Federal Government has systematically organized its activities in ways that contribute to the decay of nonpublic education and he finds "the bureaucracy is never open and often truly dishonest."

Then he says that it is remarkable that the bureaucracy gets away with this.

So this monolithic, great Federal bureaucracy does not allow any competition.

The Senator from Oregon says, "Hog it all, they're going to hog it all."

That is what they are doing and we are here against Catholic bigotry. We will stop them here with our bill today.

More nonsense you have never heard in your whole lifetime. What really is the case with respect to public education, civil rights, and those trying to really create an equal educational opportunity?

Well, here they come. They come with all of these particular requirements that tie the hands behind the back of public education. Here is education tied one hand back here with title I, for the disadvantaged. See how many disadvantaged get into some of these private schools. They have to take an entrance exam to begin with. Do we think the disadvantaged can pass this entrance exam?

Come to some of the private schools here—and they are fine ones. I have had one daughter attend the Cathedral School in the city of Washington. As I stated earlier, I had another daughter graduate from Woodrow Wilson High School, a public high school.

But when asked about St. Alban's at that particular time, they said, "Well, yes, your boy can qualify, but what we are looking for are some to sing in the choir and we would like to know if he has got a good voice."

He did not have any voice. He sounded like his daddy. He could not sing. He does not get in St. Alban's. Who is discriminating? Who is hogging it all?

Look at some of the endowments of these schools. We go down that list, Phillips-Exeter has a $60 million endowment. Sixty million bucks written off the taxes.

Who is hogging what? Where is an endowment at Charleston High or Woodrow Wilson High? The endowment is in the good conscience of the public servants of America, and they will stand up and defend the public school system because they do not have any money.

Phillips Andover, 57 million bucks endowment. St. Paul, under the church schools, $46 million endowment.

Should I go down the entire list?

Sure, they have the money and they have the solution, no equal educational opportunity or title I for the disadvantaged, no title VI for the race discrimination, or title XI for sex discrimination. They can take who they want.

One school is there for boys. Do not send a girl there because that is a private school and the Congressman and the Senator and the President and the Supreme Court have nothing to do with that all-boy school, and should not have anything to do with it because it is private.

But do they not look around to finance it?

And when my daughter applies under title VI, title XI, she cannot come in. Do not tell me here about competition because the public schools of America allow both sexes, all sexes.

Well, there we are. They have another hand tied with title VI. That is title IX, as we were, on sex discrimination, but title VI, no discrimination on race, creed or color.

They were talking about the IRS; this is a great crowd from the Finance Committee to be talking about the IRS.

Look at the Civil Rights Commission report on the IRS and find out what kind of capability they have. We increased the Civil Rights Commission budget, the equal employment opportunity budget, and many others. I do not have the IRS budget, but I wish I did.

Ask Dr. Arthur Fleming, the head of the Civil Rights Commission, what he thinks about IRS and its enforcement of nondiscrimination, and then come around and tell me to compete. No blacks, no women, no disadvantaged, no handicapped—slam the door. Take the exam.

I know of one school that must have known something about Congress long before the public polls showed it. They said, "We have enough children of Congressmen and Senators now." Imagine that, I say to the Senator from New York: "We have enough children of Senators and Congressmen now." That is one private school here in the District of Columbia.

Oh, how grand. Who is hogging what? They must have had something against Congressmen and Senators. Is that the diversity they are talking about? They can pick and choose, just so they do not get any who are dumb or discipline problems or do not get any women in the boys' school or boys in the women's school, just so they do not get any handicapped—because "We don't have ramps and we don't have time to fool with those."

But they come on the floor of the U.S. Senate and talk about what? Competition. Here comes the Congress of the United States, on the one hand, with these titles requiring of public schools that which they cannot require of private schools. They are required of all public education. Here comes the U.S. Supreme Court enforcing those requirements.

The Lau decision on bilingual is another limb tied behind your back. If the little kid speaks Spanish, then under the law which Congress passed, you must have someone who speaks Spanish to teach the little Spanish-speaking child the various courses in English. First, teach the child English as best you can and have someone instruct him so the child can understand what is going on in public education, what is going on in his school, what the course is all about. Who makes that requirement? Congress does. It is a requirement of whom? It is made a requirement of the public schools of America, not the private schools. Oh, my; oh, me. They come around and start talking about competition. The hands of public education have been tied by the Court itself in the Lau decision on bilingual.

So they come now with Roy Innis, talking about equal educational opportunity. He had not read the decision.

Mr. President, he wrote on Friday about freedom of choice. It is very interesting that he wrote about freedom of choice, because that was the argument that the lawyers made in the Swann decision, which said that they had freedom of choice and could go to the neighborhood school.

Now comes a writer about competition and diversity, and Roy Innis comes out about an argument for better education, and he concludes—

> We believe it is time that the laws of this country give more than lip service to freedom of choice and quality education.

This is from CORE. I understand CORE has been taken over. It is not the CORE I knew when I was Governor of South Carolina, I can tell you that. This sounds more like me when I was Governor, and that is what the Court found against. The Court told us not to come around with this freedom of choice. The Court said we are not going to have a two-tiered school system. We are going to have an equal opportunity school, as Congress mandated in 1965.

So in the Swann case they knocked down freedom of choice. But here it raises its head on the floor of the U.S. Senate, with the charge that those who are opposing it are discriminating.

Here is what the distinguished Senator from Oregon said, and I wrote it down so I could get the exact quote. When he opened this morning, the Senator from Oregon said we have not discriminated against them simply because he chooses a private school—not dis-

criminated against them simply because he chooses a private school.

Mr. President, I ask unanimous consent that I may yield momentarily to the majority leader, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from South Carolina (Mr. HOLLINGS).

ORDER FOR CONSIDERATION TODAY OF H.R. 13468, D.C. APPROPRIATIONS BILL

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared all around.

I ask unanimous consent that at 3 p.m., the Senate proceed to the consideration of Calendar No. 998, the D.C. appropriation bill; that the vote on final passage occur at 4 p.m.; that paragraph of rule XII be waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

TUITION TAX RELIEF ACT OF 1978

The Senate continued with the consideration of the bill.

Mr. HOLLINGS. Mr. President, I ask Senators to listen to these words, because this is very important.

As to the idea of who is competing, if anyone wants to know where the competition is, we will be glad to point it out.

The Catholic schools are not being closed. The enrollment decline in our parochial schools has bottomed out. It has bottomed out in the last 2 years. According to the most recent studies, in 1977 there was a slight increase. So they are not being forced out.

If anyone wants to know about competition, it is the public schools of America that have their doors open to diversity, to the bilingual, the handicapped, the equal opportunity schools.

If diversity means rich; if diversity means, yes, we have students who can study at the Sorbonne, in Paris; if diversity means we can slam the door in the face of those who are not quite prepared and who the public schools must take; if diversity means that if you are a discipline problem, let mama take care of you, if you can find your mother, but do not bother us because we do not have time for that, so go on over to the public school—if that is what diversity means, then someone has been busy changing definitions.

Look at the 107,000 public schools in America, with 16,000 elected and appointed school boards. Could there be a greater diversity in education, be it public or private? Can you find it? I do not know who serves on the boards; but if a poor person got on the board at Andover or Exeter, I would be so surprised I would call for an investigation. He would have sneaked in. If a discipline problem is on that board, then it is going to be a surprise to me.

The truth of it is that we should learn how diversity comes about. Let us see who has spoken about public education.

I quoted Chief Justice Warren. I also want to quote William O. Douglas:

> The public school was a true melting pot and the public school teacher was the leading architect of the new America that was being fashioned.

That is Justice Douglas talking about the early days and the contributions made by public education, public schools that supposedly are afraid of diversity. They are nothing but diversity. That is all they are.

Pointing the finger at who is diversity and who has a sameness, look at the boards of the school systems in the public sector in America and look at the boards of private education. If you want to find a sameness and a lack of diversity you can go to some of these schools. I do not mean to ridicule or disparage whatsoever, but obviously the parochials are in parochial garments. From their dress, from their appearance, from their religious beliefs and there is a high degree of uniformity and sameness.

The Lutheran school is organized on the basis of the Lutheran religion. The Catholic school on the basis of Catholic faith. But some of these others are organized on the basis of money. That is the way they are.

Let us find out what Lyndon Johnson said, and he said this at a college graduation at Brown University.

> At the desk where I sit I have learned one great truth. The answer for our national problems, the answer for all the problems of the world comes to a single word. That word is education. There is no substitute for education unless it is the American public school system.
>
> The American people amongst their notable contributions to the arts and crafts of civilization have insisted that education not be the prize possession of the few.

That is what President Johnson said. That is where our party stands.

But the Senator from New York wants to finance the few in the name of diversity and competition.

We can quote many others. There are many quotes here with respect to Hubert Humphrey and John Kennedy, but let me move on.

I am quoting now from Friday's statement by the Senator from Louisiana, the distinguished senior Senator, Senator LONG:

> The suggestion here is that we allow some tax consideration to help ease the burden on the taxpayer who is paying to educate his own children in addition to paying to educate those in the public schools. To me, that is simply a consideration of equity and justice. That citizen is paying to educate all children with his tax money generally. He is not benefiting from that.

I cannot imagine a statement with which I disagree more. I will read it again because he finds no benefit in public education. He finds equity and justice, and that is the cosponsors of this particular bill, and the distinguished doctor in education now is looking up. I have his attention, and will quote once again:

> The suggestion here is that we allow some tax consideration to help ease the burden on the taxpayer who is paying to educate his own children in addition to paying to educate those in the public schools. To me, that is simply a consideration of equity and justice. That citizen is paying to educate all children with his tax money generally. He is not benefiting from that.

Heavens. I do not know how we are going to prepare our society. I do not know how we will maintain a strong national defense. I do not know how we will have the enlightened leadership that goes into the competitive new world from this particular Senate unless we shed our minds, our souls, and our consciences of that kind of an approach about not beneting at all from public education.

He is saying, in effect, "Look, I pay taxes on my home, but I send my child to a private school. All the other children are going to the public school that I help finance. Since I am sending my child to the private school I am not benefiting."

There is no misunderstanding or play on words.

What is the overriding public purpose? Mr. President, I ask the Senator from Oregon, the Senator from New York, the Senator from Arizona, and others, what is the overriding public purpose, if we cannot find it in public education? California found it. California had a very interesting vote earlier this summer in proposition 13.

But I am going to tell Senators what California is saying. After voting proposition 13 and having a 10-percent diminution in property taxes over the State, all the local budgeters, city councilman, and county groups, reorganized and said: "Where are we going to cut?" They had the field polled in California, and they literally went down the list. I cannot remember them all, but the people said: "Cut out the parks. Maybe we do not need all of these parks. If you are going to have to economize, cut out some of the public employees. You have too many of them down there at city hall." And the people of California said: "Yes, you can cut back and hold off on water and sewer services and developments right now until we adjust. You can even cut the firemen and the police officers, law enforcement." But, lastly, they said: "Do not cut our public schools."

That is what they said on benefiting because they understood what the Senator from Louisiana failed to understand on the overriding public purposes of an informed, intelligent, and a literate society in which we live in these great United States of America.

Mr. President, I try to think of some of those public services. In my hometown we have a municipal airport. They have them in many other cities. We are all going down in December to Memphis where they have a little difficulty now. They have an airport there, a magnificent one, to say the least. There are municipal airports all over. Now, imagine a citizen coming and saying: "I do not fly on airplanes. In fact I am afraid to fly. Rather I take the train. And since I have taken the train it is only in equity and only in justice, since I get no advantage from the airplane, that you send me a check." Senator MOYNIHAN and Senator PACKWOOD, please, when you look out for those private schools with those

endowments, please also look out for those riding on the trains in America, send them a check, too.

Then we have in my town a golf course. Now that is taking it pretty far, but they have had a municipal golf course, and when I think of it, and I see Lee Elder. I do not believe Elder started off at, what is that place, Burning Tree. I take it he started off at a municipal golf course. But Lee Elder plays great. I do not play. I would like to try. But let us assume that those around here who do not play golf will say: "Then please figure, Senator from New York, in your little amendment that is going to bring equity and justice, because we are paying taxes now, and you have Federal Government golf courses. Let us take the money out since I do not play golf and send me a little check because I do not play golf or tennis. We have municipal tennis courts."

But there are many a couple who not only do not have children but who cannot send children to either the public school or the private school. You can send them two checks.

If they do not have any children at all, let us send them a check, not just tuition, send them a check under equity and justice. Let us do that. If the chairman of the Committee on Finance sees that that is due and owing, because you do not get a benefit, then let us also send them a little check because they do not play tennis, they do not play golf, they do not have children, and they do not fly on planes, and we can go right on down to every particular public service.

I know an editorial is bound to come on that saying "We do not need a U.S. Congress. If that crowd would only adjourn you might save the Republic."

But we have found, Mr. President, that the overriding public good is there. We all know John F. Kennedy, Lyndon Johnson, from Earl Warren to Justice Douglas, we know from the Urban League, NAACP, we know from Jefferson and Madison to Justice Powell, all point to one singular thing, they point out a great contribution, and I do not think that is going to be refuted, there is really no reason to argue, it is just to wake them up, to sober them up from this binge they are on, and say the great thing of value we have in our society is public education.

Mr. President, when they referred these bills to the Appropriations Committee and the Budget Committee, they were turned down on substance. That was Resolution 401, on the basis of which it was referred, but section 303 of the Budget Act says you cannot appropriate in ensuing years for which a concurrent resolution has not passed Congress. That was one reason. But the over-riding reason was to avoid these budget-busting outlays. Read the report of the Appropriations Committee, and we will get to that later in the debate. When they were turned down they took their 3946 that had two appealing elements, and they were the public and the poor, and they said, referring to public and nonpublic schools alike, with respect to this tax credit, "We are going to treat them all equally." But then they came back in and said, "Oh, no, if we have to economize, we know this ship is springing leaks, we have got to get this one to the shore, we have got to get this one into the dock of a majority vote in the U.S. Senate, so let us get rid of the public." I cannot imagine a public Senator rather than a private agent saying this, but here is a U.S. Senator coming and saying:

> We will get rid of the public on this score and we will get rid of the poor. There will be no refundable tax credit. We will take out the equity because, you know, we spent all winter long on TV and on college campuses and in national periodicals writing all about the equity, because we were thinking really not of Phillips Exeter, we were thinking of this poor little impoverished kid down in the District of Columbia. And believe it or not, we are really thinking of him, so we are going to send him a check.

But the public and the poor were the first to go.

Of course, it caused some rather embarrassing moments and, now the proverbial millionairie who pays no taxes will get his check, not for $500 but $250, for sending his kid to Choate, Andover, Phillips, Exeter, or Lawrenceville and those places. Is not that grand? When the ship sprung leaks, we found the true intent of this crowd that wants to talk about Catholic bigotry, discrimination, equity, justice, and fairness.

What are we going to do? We are going to force the little fellow down in the district, because it is coming from the tax funds of the United States, to pay for what? To pay for the school that will slam its door in his face, because there is just no way he can get in. If he is disadvantaged and unprepared, "We got an entrance exam. Get out." If he is bilingual, and we do not have time for bilingual professors in courses there, "This is a small private college, do you not understand? Get out."

I can list 100 other reasons why the private schools—and we will discuss that later this afternoon when we go into competition—do not have the money in many of the protest academies that have sprung up around the countryside. They do not have the money for a chemistry lab, a physics teacher, a gymnasium, or any of the other things. Yes, they would like this money to start taking action where they can start slamming the door, on the one hand, and building the gymnasium, on the other, with that fellow being taxed with no chance of getting in. As to Senator LONG's parent who is sending his child to private school, no one is keeping that child out of public school, and assuredly the higher public purpose, the public itself is benefiting therefrom.

But here they come now in the name of competition, in the name of diversity, talking, as they say, against discrimination, and they want to discriminatorily tax from the Federal level and say that this money goes to nothing but private schools that you cannot control, that you cannot serve on the board, that do not have to take these particular categories of American school children that the public schools do. And they say that is one thing we want to guarantee, that no public school will benefit. This is solely private. So, we are back down to the costs. You can argue the various costs, and we can give the figures of 128 and 60, and you add 250 to 60, and then you are over $300, and you are adding 50 percent or 100 percent more or 200 percent more and what you have done is in the first instance break the financial dam. Here everybody is going to balance the budget, as the Senate voted last week. They will have broken the financial dam with respect to the general appropriating of funds at the Federal level for education. All for what? For the private schools and none for the public schools. They wonder why the Budget Committee and they wonder why the Appropriations Committee turn it down.

Mr. President, we are up to a multibillion-dollar operation, and they know it, and they maneuver every kind of way they possibly can. They say now on refundability they will have a measure to have refundability and let the poor back in. Maybe if we talk long enough they will let the public back in. Maybe if we talk long enough they will let fiscal commonsense in and find out really how many billions they have in mind.

Mr. President, let us read one step further with respect to what was said by the Senator from Louisiana.

Because he went on, and he talked about a Federal judge friend. He was quoting the judge, as follows:

> He said, "Well now, keep in mind my duty as a Federal judge is one thing and my duty as a parent is something else."

For those who could not be here Friday, the distinguished Senator, who is chairman of the Finance Committee, was telling of a Federal judge who had ruled for integration and ruled for equal opportunity education, but had sent his child to a private school. The judge said:

> Well, now, keep in mind my duty as a Federal judge is one thing and my duty as a parent is something else.

Then the Senator from Louisiana, speaking for himself, said:

> His duty as a parent he felt was to see that his child got the best education that child's talents deserved.
>
> It seems to me that the final responsibility is not on the Government to see that the children are well-educated, even though it has a duty and I want it to do that. The final responsibility is on the parent, even if he has to do it in his own home, to see that the child receives the best education that parent can provide for his child.

Note an exception there. Mr. President. For the duty on the U.S. Senate and the duty on the National Government and the duty on the local and State governments, as is shown by very law of compulsory education and every other practice that we have had over 200 years of history, is to provide the best free public education that we possibly can provide

Now we are at a crossroad. I have some other points to elaborate on, but since I do have the attention of my distinguished friends here, I think we have reached a crossroad, and that is that all government has gotten too large and too expensive. All government is too big. It costs too much money, and we are trying to readjust and cut back in certain

places in the National Congress and at the local and State levels, by proposition 13 and everything else. And the question boils down to this: In the coalition, the Senator from Arkansas, the Senator from South Carolina, and many others interested in this have said we just do not have enough money for the so-called diverse system of private education or parochial education and public education. There just are not enough tax dollars to go around.

The teachers are being paid better now. When I first came to the legislature some years ago, the average pay for the teachers on a 9-month basis, was $1,296, a year. We have had to bring our teachers to a competitive level financially. They are reaching a level there that is near competition, but the fact of the matter is, even though South Carolina is at the top of the States in its measure of endeavor, the amount of State effort made in order to support public education, it is very difficult for a low per capita income State to compete within the public education system today.

That is where the competition is: Within public education. Make no mistake about that; do not go around with this hogwash on private education, that we owe a duty there, to parochial schools, that we start financing the church. That is their job, and it should remain their business.

But the competition now is out there to try to continue to pay these bills for all these public services and public education, just now reemerging after the fifties and the sixties and the discipline problems, with all the court decisions.

Go back to that Supreme Court decision that says you cannot cane that child again. I remember when I was in public school, they could make you hold out your hand and whack you several times, and more than that in other places, until the Supreme Court ruled otherwise. But we no longer can keep public education in competition on these discipline problems, and we are having problems in discipline in public education in America.

They say, "Give him his civil rights; you can't expel him, you can't hold him up, you have got to keep him in the school, you cannot use corporal punishment." There is one decision recently that you can use some corporal punishment. But we are coming to this particular era where bond issues are being voted down, and the signal to be given from the Federal level is very, very important at this time in education in America. Are we to give a signal that from here on, let us abandon the public schools?

You know the story about the Secretary of HEW going up to New York—oh, great old New York—and he went to go into a school there, a public school, and we have all learned in unique fashion that the public school really came from the private—that is a wonderful little piece of history, and I am enthralled with it, really—but when the Secretary of HEW goes into that school today, due to the decisions by Congress and the courts, everyone has to check his knife at the door, and they said:

Mr. Secretary, you are no exception. We search all the students and teachers for weapons, and we check them at the door, and when school is over we will reissue your weapon.

That is a sad thing, but it is something that we are having to contend with, by the policies set by the school boards that we have and the leadership we have in this country.

The American public does not approve of it. They are trying their dead level best to bring out the parents and have them participate, as in the private schools. I know one private school in the District of Columbia that requires its parents to come and spend one full day every month either in the library or in some activity. The public schools cannot do that. You can enforce what you wish at the private school level, and call it diversity at the end, and call it competition, but I think it is downright unfair. And you know it is unfair. The private schools can do that, but we cannot force the parents. You cannot do that in public education.

But we are working at it. We are improving the situation every day. We are paying our teachers more. We are coming out of this emphasis on peripheral type subjects. We are now going back to the basics, the reading, writing, and arithmetic in public education; and while we are about to do that, no one had any idea, because this did not come from education, that a little tack-on in the Finance Committee that had not cleared appropriations, had not cleared budget, and had not cleared judiciary, where they have a new judicial procedure, and that had not even cleared the Education and Human Resources Committee, could be seriously debated on the floor of the Senate, and almost succeed—and may do so, I do not know.

They say it is historic, and talk about party platforms. I say it is historic, but the platform is that of equity, justice, and the basic heritage of public education and the policy of unfettered religion in our country.

At that crossroad, are we going to try, now, to say we are going to finance these private schools with all these particular policies, that, as soon as you mention them, they want to say you are anti-religion, or anti-this or anti-that?

Necessarily we get rancor. One editorial will say I should speak more gently. But I waited. I waited for the Human Resources Committee. I waited on those in education to come forward, but I could see what was coming down, and I knew they had the decks stacked. I read and looked at that hearing. They had the kangaroo procedure: one Senator nods his head, and we know all they will do is run the witness through, and say, "Your time is up, get out," when the witness is unfavorable.

Then they wrote the report, if you please, in the Finance Committee, and you can hardly find the word education in it. The staff hardly knows anything about education. They did not tell you anything about its history. They only said how to get the money.

This is an adulteration of procedures within the Congress. I am not talking about constitutionality. I am talking about desirability. It is an undesirable procedure at best, to come along now and wonder why we are excited, disturbed, and upset. They can attempt this fundamental change at this particular level by sneaking it through without reference to any of these committees which have a responsibility for this area.

Can you imagine, a tuition tax credit? Poor people just do not pay any tuition. This is all premised upon paying something. They start right then disregarding the poor and trying to plead the case of the poor.

Then, if we are worried about the cost, get rid of that public crowd and just get our foot in the door in any way we possibly can and start generally financing public education.

I believe if we do this, if we cannot stop it, it goes forward. I am not talking about getting stopped at the Court, though I think it will, I really do. Let us assume for the purpose of argument that it does not stop it. I then find an America unlike John F. Kennedy, who said:

I believe in an America where the separation of church and state is absolute. I believe in an America where no person is taxed to support a church or church school.

Now we come in contrast with:

I believe in an America to tax Americans for religion and religious purposes. I believe in an America that will give a refundable tax credit to the rich, private schools in this country. I believe in an America, where Roy Anderson was talking about freedom of choice, with Senators talking about being disadvantaged, discriminated; where we can discriminately choose that private school and slam the door in our neighbor's face who has to pay those taxes.

Once we do that, it goes without saying that as Senators we will be called upon to answer, if nothing else, if we do create the inequity at least with respect to the principle, the financial inequity, and then on the one hand we come trying to impose public education to equal that of private education. It is a veritable civil war with various interest groups coming each year.

"Who are you up here for?"

"I am here for parochial schools."

"I am here for public schools."

"I am here for Andover-Exeter. We have to get our money."

We will have religious wars, a civil war on the floor of the Senate each year for more money, and then they will say it is our conscience with respect to civil rights. Then they will say, "You are not going to see those things. We are not going to let the IRS in."

"We are going to send in the Civil Rights Division," if the Civil Rights Division can come down without entanglement in the Catholic or parochial school.

The Court is saying so now, but let us assume that they get what they want, that they can get it by the courts. Then the Government will come down with the Civil Rights Commission and all the other particular commissions and start examining the various schools. Then they will have to take care, just as they do at the public level. The discipline problems will have to be accepted. Then we will find that, since it is public support they are asking for, we will have a publicly supported system of private and pa-

rochial schools and a publicly supported system of public schools. The public just does not have that much money. We just cannot and should not try to extend our financial capacity that way.

More than anything else, our leadership and interest in education should win support from the parents and those interested in education.

Many of the protest schools, and we will get into this particular subject later in the debate—are having a hard time at this particular juncture also, just like public schools are. Some have gone bankrupt. Some have been in existence for 10 years. Talk about the competition. The Catholic conference's own material refutes the premise that Protestant schools are losing enrollment. The Protestant schools in the Southland of America are breaking out like the measles.

Some years ago when we had Brown against the Board of Education, there were some 30 private schools in South Carolina and now there are over 200. Some of them have been in business now for 10 years and are falling on financial difficulties. They find they are not able to support excellence which people are demanding. There is a mix as you find it in public education and I find it in private education.

The Senator speaks with great conviction about this diversity and capacity in character, in excellence, you might say, in private schools. That is not uniform. I can show him many private schools that he would not apply to, where there is mediocrity at best.

Those types of schools are beginning to fall by the wayside because they cannot get an athletic program, a science program, or some of the other courses which should be taught. The teachers are not qualified.

There is another aspect in this particular measure that we have gotten into. The bill has the language "where certified." You say, "Well, if you do not have a system for certification at the State level, then compulsory education is mandated by the law."

All the States have compulsory education but there is no certification process. So what we are finding is that you are financing private schools that cannot be certified, and that cannot meet the test of public education, so you are getting private snobbery, discrimination, separatism, white flight schools that do not come up to the competition, if that is what you want to use. They are not competing with any educational system today.

And these are the schools to be financed without any kind of certification?

Where State certification laws are nonexistent, this measure would have you rely on compulsory attendance laws. You have not only the poor fellow being taxed where they are going to slam the door in his face, but you have us financing those things which cannot be certified or that can even compete with public education.

Mr. MOYNIHAN. Will the Senator yield for a brief question?

Mr. HOLLINGS. Yes.

Mr. MOYNIHAN. Is the Senator aware that the legislation before us requires that in order to qualify for a tuition tax credit the school involved, one, must be certified by the State school authorities, as is any school, such that if a school were not certified no credits would be available to a person attending it; and, second, that it must conform to the Internal Revenue Service standards for 501(c)(3) facilities which would be fully in accord with the civil rights statutes of the U.S. Government?

Mr. HOLLINGS. We are aware of the civil rights statutes, but what if a State does not have the certification process? Is it that no such schools could participate? Is that the point?

Mr. MOYNIHAN. Yes.

Mr. HOLLINGS. The Senator stated that if a State did not have the certification process then we would provide that if the compulsory education requirement was there the school would qualify for a tuition tax credit. Now, the Senator is saying that if you do not have a certification process for those private schools——

Mr. MOYNIHAN. The phrase is "applicable State law."

Mr. HOLLINGS. "Applicable State law" alluded to compulsory attendance, not to certification.

Mr. MOYNIHAN. No, sir.

Mr. HOLLINGS. That does refer to certification. I am going to take the Senator's word for that and answer it this way.

Mr. MOYNIHAN. I want not to mislead the Senator in the phrase "applicable State law," which includes certification and a whole range of things. I suppose it probably refers to the health and safety standards. May I just say that the provisions are very simple. I shall state them so that the Senator will understand them.

The legislation refers to schools which are "(A) operated in accordance with applicable State law, and (B) exempt from taxation under section 501(a) as an organization described in section 501(c)(3)."

Mr. HOLLINGS. Mr. President, if the distinguished Senator—let us talk about the applicable State law, because it was spelled out very clearly in the original bill, 3946, and, I think, in 2142, the Senator's original bill, the one of last year.

Has this been put in? I am not charging the Senator with trying to be devious here. What I am saying is that he has "applicable State law." He takes advantage of the Constitution on the one hand and says it is going to be constitutional; we have all these psychiatrists and everything else to get it by the constitutionality. But then he uses that phrase "applicable State law," and he knows and every lawyer knows that there is no certification process for these private schools. For example, in my State of South Carolina, we do not certify the private schools. The potential for entanglement and government involvement would be great and from all indications, this would be unconstitutional. So we do not certify them.

What he has in essence said is, "Hollings, if you ever were concerned, you had better get worried now."

Mr. PACKWOOD. Will the Senator yield?

Mr. HOLLINGS. In just a minute. "You had better get worried now because there is not any way that the private schools of South Carolina can benefit under this one."

Yes, sir, I yield.

Mr. PACKWOOD. Is the Senator suggesting, seriously suggesting, that if a State wants to require certification of private schools, it is unconstitutional to do so?

Mr. HOLLINGS. We can get into that. That is a later subject. I shall discuss constitutionality when you want to get into it with the courts.

Mr. PACKWOOD. What did the Senator just say?

Mr. HOLLINGS. I said exactly what I meant to say, that certification involves a constitutional question.

Mr. PACKWOOD. Of what?

Mr. HOLLINGS. Entanglement.

Mr. PACKWOOD. Certification is entanglement?

Mr. HOLLINGS. That is what the court found. Does the Senator want me

Mr. PACKWOOD. Yes; I do.

to read the citations?

Mr. HOLLINGS. Well, the Senator can amuse himself. What I am saying now, getting back to Senator Moynihan's point, is that they have to be certified, and the point I was making in debate here today is there is no certification process for the private schools by the government of South Carolina. As a result thereof, constitutional or otherwise, desirable or undesirable, there is not anything, I can tell you here and now, that the private school student can take under this particular bill. I think if I get that word around to numerous Senators, I might be able to pick up some votes, because there is no way under this trick law that the children in their States can possibly benefit under this particular measure. So there they are.

Mr. HATCH. Will the Senator yield?

Mr. HOLLINGS. No; I am not going to yield.

Mr. HATCH. Will the Senator yield for a unanimous-consent request?

Mr. HOLLINGS. I am glad to yield.

Mr. HATCH. I thank the Senator.

Mr. President, I ask unanimous consent that Jeanne Newman of my staff may be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Will the Senator yield for a brief question?

Mr. HOLLINGS. I yield to the Senator from New York.

Mr. MOYNIHAN. I am surprised to find that there is a State that has no certification provisions for nongovernment schools. Have they no compulsory attendance?

Mr. HOLLINGS. We have compulsory attendance.

Mr. MOYNIHAN. You have?

Mr. HOLLINGS. Right.

Mr. MOYNIHAN. That would apply.

Mr. HOLLINGS. Oh, we are back now to what I said a moment ago, 3946. That is how the Senator covered it on compulsory attendance. He sees compulsory attendance as equated with certification. That is not necessarily the case at all.

Mr. MOYNIHAN. I am only concerned for the people of South Carolina, not for the effect of this legislation. It seems to me that most States have certification proceedings, which, in effect, license a school as meeting certain standards.

Mr. HOLLINGS. I understand what the Senator is saying, but I know the result. What I am saying is that many of them could not be—I do not know what the proportion is. I think that is one of the things, also, that should be emphasized in the debate when we talk of private schools and private education.

I have, just at random in the last several weeks, talked to numerous educators, public and private. I have consulted with the Bishop of my own diocese, which is the Bishop of the State of South Carolina for the parochial schools.

I have consulted with the educators there, including the superintendent of education. I have consulted with leaders in education in this country. There is a paucity or lack of any kind of real information with respect to private education. The exact number of students, the courses taught, the exact impact that would be had would vary over the country, generally speaking, the certification process and everything else. It is not that the Senator has failed to ask, because I wondered, myself. I know of certain schools that are not certified and could not be and, in all candor it was then that I found out that South Carolina does not have a certification process for private schools. Upon graduation, the students can take an examination and get a State certificate, but the school itself is not certified.

Finally, Mr. President, let me answer one question. Then I shall yield the floor and come back to some of the other questions. We have covered, if you please, the difference with higher education. The court has said simply and solely that religious indoctrination is not a substantial purpose or activity of the church-related colleges—that is not difficult to find; whereas, it is with respect to the elementary and secondary schools.

Our amendment relates to elementary and secondary. It goes to the public school system; it goes to the financing of that public school system. We are having constraints fiscally over the country, and there have been demands made by the people. I shall never forget the former Senator from New York, Mr. Robert Kennedy, and I were debating the matter of public education, 10 years ago, with respect to revenue sharing. At the time, I sponsored revenue sharing, over 11 years ago, now. I said that the money should go for education, public education.

We discussed education in New York at that time. This has been a running matter of interest to this particular Senator. I am familiar with the Hudson Institute study made of the public school system in the city of New York. I have watched the public school system development. I remember well, and unfortunately, their demise. When I went to college, I would say the New York public school graduate was 2 years ahead of the public school graduate of the State of South Carolina when he got to college. In contrast, I say to the Senator, we are ahead now in our State when you bring those New York students down to college. It is a matter of competition.

It has been a moving, changing subject. But it is one that is fundamental to our society. We cannot, at this particular time in history, come in just casually with a tuition tax credit measure like this—just a little finance matter before the Finance Committee—give persons who attend private schools a little money for equity and justice and fairness. They are not benefiting from public education. And they do not worry about the fact that they are not complying with civil rights; they do not worry about the fact that they do not have to comply, as the Archer amendment said. They did put the language in on the House side. The Senators did have the decency to leave it out here. But let us talk about what the House passed with such sanctimony.

The House passed the Archer amendment and said, "Make no mistake, we have no idea of these private schools ever complying with the civil rights."

They are not an institution, if you please, for receiving public aid.

They said on page 11, if we look, that any educational institution which enrolls a student for whom a tax credit is claimed under this act shall not be considered to be the recipient of Federal assistance under this act.

That is what we want to do, get them out from under all these things that are pleaded. We cannot plead today what the House passed, on the one hand, and plead nondiscrimination, sex, race, religion-wise, rehabilitation, bilingual-wise, on the other hand, because that is what they meant when they passed that with the Archer amendment.

Mr. President, I see my distinguished colleague from Arkansas has been waiting here, so I yield the floor.

Mr. MOYNIHAN. Before the Senator does that, I do not wish to interfere with any comment the Senator from Arkansas might have, but there are several points in the Senator's speech this afternoon to which I would like to address myself. I wonder if the Senator from Arkansas would allow me 5 minutes in which to do so, and then I will yield to him.

Mr. HODGES. I am happy for the Senator from New York to take whatever time he feels necessary.

I yield the floor to him and simply let him——

Mr. MOYNIHAN. I will take a very short time. Then perhaps I will take 10 minutes, no more.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, there are three points I wish to make and I will be succinct.

First, I would like to take exception in the most unrancorous way with the statement of the Senator from South Carolina that I was trying to avoid the third branch of Government.

I cannot see how any such characterization could be used with respect to someone who has spent most of a day and a half now saying that if there are those who question the constitutionality of this measure, surely there is only one way to settle the matter and that is the way Senator RIBICOFF stated in his opening address, which is to adopt the bill and then to let the Court decide.

Far from trying to avoid the Court, I am seeking the Court's help.

I have said that this was an issue on which there were differences of opinion, pervasive and widespread, and that only by going to the Court could we resolve it and avoid the rancor and difficulty of its continued irresolution.

I have said that whatever the Court decides will resolve the matter, certainly for such as I, and far from seeking to avoid the Court, we seek the decision of the Court.

I have described our measure as a petition of right. We ask the Court to judge.

Mr. HOLLINGS. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield for a question.

Mr. HOLLINGS. I am just referring to the initial finding the Senator makes. He makes a finding; rather than avoid them, he wants to overrule them. He finds the provisions are such substance in this matter, fully compromised with all provisions of the Constitution.

He made a finding on his own and then goes down that the Court said must be necessary in order to bolster that finding.

Mr. MOYNIHAN. May I say, we will be happy to amend that preamble if it troubles the Senator.

We seek the decision of the Court. We will accept it, whatever it may be.

We have a more than ordinary degree of confidence that it will accept this measure. But we seek the Court, we do not seek to avoid it.

Second, the Senator stated that there was not enough money to go around to provide public aid to these other institutions. I would like to make the simple point that if it is concern for public expenditure that animates anyone here—and I doubt it—they should face the elementary proposition that the 5 million students in nonpublic schools today constitute the equivalent expenditure of some $9 billion, for which we propose a tuition tax credit on an annual basis of less than half a million.

In my own city of New York, if just the Roman Catholic parochial schools were to close, we would be forced to add to the budget some $900 million a year.

Finally, I want to bring up a subject which is rather sensitive—only because it would not be understood if the matter were not raised.

I wish to make it clear that in no way do I suggest the Senator from South Carolina was in a position to know what he said was not, in fact, the case. But he did speak of parishes wherein it is to this day a mortal sin—he used the words "mortal sin"—in the Catholic Church not to send children to Catholic school.

Now, there is no reason for the Senator to have thought otherwise. Yet this is misinformation that many people share.

But I would say to my friend from

South Carolina gently and with no intention other than to set the record straight, that this is not so and can never have been the case.

It is a misreading that is not unusual. But it is not now and never has been a teaching of the Roman Catholic Church that it is a mortal sin not to send children to a Catholic school. It simply is not.

The Senator raised the question of religious bigotry in this matter, and I hope——

Mr. HOLLINGS. If the Senator will yield, it was the Senator from Oregon that talked about bigotry. I was following his comments.

Mr. MOYNIHAN. The Senator from Oregon spoke about bigotry in its historical context. Let me say that we do not come to this floor to discuss this matter. Little, if anything, turns on this question save some of the historical impedimenta that make the judicial decisions difficult today.

But I would like to suggest that there has been a lack of sensitivity on this subject in some areas, and that it has often been surprising. I provide as an example the decision in the Lemon against Kurtzman case of 1971, drafted by one of the most respected and beloved men ever to sit on the Supreme Court, Mr. Justice Douglas.

None would question his stature as a judicial scholar, as a liberal, as a libertarian, as an altogether admirable man.

But I would like to point out a passage in his opinion in that case where he states:

> We do not deal with evil teachers, but with zealous ones who may use any opportunity to indoctrinate a class.

Then he cites in a footnote a work by a Loraine Boettner, entitled, "Roman Catholicism," published in 1962 in Philadelphia by the Presbyterian and Reformed Publishing Co.

This is the passage which the Justice cites:

> In the parochial schools, Roman Catholic indoctrination is included in every subject. History, literature, geography, civics, and science are given a Roman Catholic slant. The whole education of the child is filled with propaganda. That, of course, is the very purpose of such schools, the very reason for going to all of the work and expense of maintaining a dual school system.
>
> Their purpose is not so much to educate but to indoctrinate and train, not to teach Scripture truths and Americanism but to make loyal Roman Catholics. The children are regimented and told what to wear, what to do and what to think.

Here we see a Justice of the Supreme Court who opposed aid to Catholic schools citing in evidence a passage which tells you all you need to know about the book from which it was derived—a passage which says these Roman Catholic schools do not teach Scripture truths. They are heretical schools. And what is their heresy? Their heresy is having fallen away, I fear, from the Church of Scotland. It is a wonderful book. I will cite some other passages.

The Justice cites the work generally. On page 7 he says:

> The fact is that through these ages and in her official capacity the Roman Church has been guilty of the most atrocious crimes, practiced in the name of religion, including murder, robbery, persecution of all kinds, bribery, fraud, deception, and, practically every other crime known to man. Such crimes have been practiced not merely by church members, but by Popes, Cardinals, Bishops, and priests who, as a study of Church history will show, undeniably were evil men.

At another point he says:

> We must . . . be prepared to engage in controversy. We possess a priceless heritage in Protestant America . . . something God has given us, not something formulated in the minds of men. The Scriptures exhort us to "contend earnestly for the faith which was once for all delivered unto the saints." (Jude 3). We must carry the battle to our adversaries. Not one Roman Catholic in a hundred, priest or layman, knows the true story of his own church. They are forbidden to read the truth. What they are given under the name of "Catholic truth" is a gross perversion of theology, church history, science, and secular history. (pp. 450–51.)

At another point in this book, the author cited by Justice Douglas questions whether Catholic citizens should be allowed to teach in any kind of school.

There is no harm in books like this. They are not, indeed, without their charm. But it seems scarcely to serve the purpose of secularism to say that the real failing of the Roman Catholic schools is that they do not teach Scripture truths. What this gentleman wants is the true truth taught, not the false truth.

Here we see a Justice of the Supreme Court citing this as sociological, educational information.

I suggest that there is an insensitivity associated with such citations and that it portrays a mind-set which has been insensitive for a very long time. It would be inconceivable to my mind that a comparable citation from the Ku Klux Klan or the Protocols of the Elders of Zion would pass unremarked in the public press.

I would not mind had Justice Douglas cited a determined secularist saying that there should be no religious teaching in school, but the Justice cited the passage that said the Catholic schools teach the wrong religion. No doubt that is the view of many people, but it scarcely is the stuff of a Supreme Court decision.

Mr. HOLLINGS. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield for a question.

Mr. HOLLINGS. The Senator from New York, of course, is not associating me with that. is he?

Mr. MOYNIHAN. No; I am not.

Mr. HOLLINGS. I am not an authority on the Catholic religion, but I do not speak lightly. I could not tell what the up-to-date practices are, because in the Catholic Church, as in other churches, there have been changes.

Mr. MOYNIHAN. There have been changes.

Mr. HOLLINGS. With respect to my comment about mortal sin, I will just use the bishop's name. His name is John Joseph Russell, so the Senator will know from whence I speak. Different bishops have made different findings. That was his finding at that particular time. I can elaborate further, but I do not think it assists the argument.

I would not want a newspaper reporter or anyone else to think I had gotten into a religious debate and that I had spoken lightly or had made a mistake. If I make a mistake, I will be glad to say so. I might just as well use the gentleman's name, so the Senator will know that I was not just talking casually.

Mr. MOYNIHAN. I accept that.

Mr. HOLLINGS. I had nothing to do with Lemon against Kurtzman.

Mr. MOYNIHAN. Nothing whatever.

I only say it was a not uncommon perception. It happens not to have been so, and there you have it. But it is the case that a good deal of our present situation derives from a certain religious animosity of the 19th century and more generalized antireligious—or simply prosecular—sentiments of the 20th century.

The present ones are dominant views. They are dominant views, but they are not universal ones.

The point is that a competent democracy makes provisions for pluralism. It makes allowances for those who march to a different drummer. It will obtain more conformity if it does not insist upon it; if it allows persons to provide a special experience for their children—be it in an Amish school in Pennsylvania, or in a Hassidic school in Crown Heights, or in the Virginia Military Institute, which is a special school—in response to the personal judgment about the formation of children that parents will have. This individuality is legitimate, acceptable, and not to be discouraged.

I make this point to those of my friends who share my judgment that the public schools are the natural vehicle for the education of the great majority of our students: To the degree that alternate arrangements—parallel but alternate—are available, there will be less dispute within the public school system as one set of opinions or the other seeks to attain some measure of advantage. This always has been the case.

In the beginning, the difficulty in public schools turned on which Bible would be used. We have also had cases in which public schools have been roiled up in profound battle over which theory of evolution should be used.

I often have thought that nobody can be so sure of anything as to insist upon any level of orthodoxy with respect to education. For what it is worth, I look back to the Scopes trial, in which the defender of the Biblical view of evolution was subjected to scorn and ridicule—that he should be so ignorant of the theories of Charles Darwin.

One need not be any more than an interested layman to know that, after the passage of a half century, those confident assertions have become increasingly quaint as new doctrines become law.

No great harm has ever been done in permitting orthodox beliefs to be challenged from the traditional points of view as well as from the radical ones.

A great deal more knowledge and a great deal more opinion is circular than perhaps we choose to think, and what

seems outmoded today frequently becomes novel on the morrow.

But the point I wish to make to the Senator from South Carolina in response to his capable and sustained argument is as follows:

If we are wrong in our beliefs about the constitutionality of our proposal, there is only one way for him to establish that fact finally, and that is to enable us to take the issue to the Supreme Court. If he is not willing to do it, then I suggest he is not confident in his position.

Anyone who says that this is not a measure that would pass the scrutiny of the court, but declines to allow that scrutiny to be brought to bear is, in my opinion, suggesting less than complete confidence in the belief he asserts.

We are confronted here with a situation in which the court has solemnly told us that it is constitutional to provide Federal aid to college freshmen but not to high school seniors.

The Attorney General has said that one-half of this legislation is clearly constitutional and the other and quite distorted version of the remainder is not.

That is not an argument that settles anything. It does, however, clearly suggest that it is time for the court to be given a look at the subject in its entirety.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield to the Senator from Oregon.

Mr. PACKWOOD. Again I might add it was perfectly permissible to send your child from zero to six to the Catholic, the Jewish, or the Lutheran day school run in the basement of the church and take a credit off your income tax, and that is constitutional.

Mr. MOYNIHAN. That is constitutional.

The field is in chaos.

I cited Philip Kurland this morning to the effect that anyone who says there is constitutional certainty in these matters is deluding or deluded. I have not heard anyone say otherwise.

Mr. PACKWOOD. Again we should put into the RECORD the constitutional experts because time and time again we are being hit by the argument of constitutionality, and the Senator from South Carolina in his press conference said every constitutional expert agrees this is unconstitutional.

The telegram I read last Friday and will read again is signed by Robert H. Bork, Yale University Law School; Prof. Gerhard Casper, University of Chicago Law School; Wilber Katz, University of Wisconsin Law School; Philip Kurland, University of Chicago Law School; Victor Rosenblum, Northwestern University Law School; Antonian Scalia, University of Chicago Law School; and Ralph Winter, Jr., Yale Law School; all of whom say that this bill is probably constitutional but certainly arguably constitutional and that we should not use the argument of unconstitutionality to defer action in this legislative body.

Mr. HODGES. Mr. President, will the Senator yield for a questions?

Mr. PACKWOOD. I yield.

Mr. MOYNIHAN. I believe I have the floor.

The PRESIDING OFFICER. The Senator from New York still has the floor.

Mr. MOYNIHAN. I am happy to yield to the Senator from Arkansas to whom I offered to turn over the floor. I talked longer than perhaps I should have.

Mr. HODGES. And I disappeared.

The PRESIDING OFFICER. The Chair understands the Senator from New York is yielding for a question or the floor?

Mr. MOYNIHAN. For a question.

Mr. HODGES. These constitutional scholars which were just mentioned were also mentioned Friday. Is it not correct that the flag which was run up and they saluted was quite a different flag than the bill which is before us now and in some important constitutional ways? That bill had refundable credits. As to that bill, the one they saluted so nicely, actually they were very uncertain about that bill, but it also had in it public schools; did it not?

Mr. PACKWOOD. That is correct.

Mr. HODGES. And, therefore, it is not fair to these men, is it, to have them passing on a bill which is no longer in existence? As a matter of fact, the bill number they were writing about is not this bill.

Mr. PACKWOOD. I read another telegram which arrived this morning:

> We understand that question has been raised whether our views regarding the constitutionality of tuition tax credit legislation in the form of S. 2142, expressed in a mailgram to Senator HAYAKAWA dated April 3, 1978, apply likewise to the House-passed tuition tax credit bill now under consideration by the Senate, H.R. 12050. They assuredly do.
>
> The last signatory of that earlier mailgram, Prof. Gerhard Casper, is out of the country and could not be reach for comment.

All the same gentlemen signed that telegram concerning this bill we are now considering.

Mr. HODGES. Is there no difference between the House bill and the one the Senators now propose?

Mr. PACKWOOD. They are referring to the one before us. The House bill that is currently before us is what the telegram relates to.

Mr. HODGES. I see.

Mr. MOYNIHAN. I plead with the Senator from Arkansas, whatever else his views on this matter may be, to know that we are not trying to fool anyone here. We have been as open as I think we know how to be, and willing to accept the fact that there will be honest differences of opinion among us. We have not attempted to belittle or disparage such differences. We have said, to the contrary, that we think they can best be settled, and that the only place where they can finally be settled is in the court. But I also plead with my friend.

Mr. HODGES. Mr. President, will the Senator yield for a question at that point?

Mr. MOYNIHAN. I yield.

Mr. HODGES. If the Senators are so convinced of the constitutionality of tuition tax credit to elementary and secondary education, let us divide the bill and vote separately and send them to the Court separately. Are the Senators willing to do that?

Mr. MOYNIHAN. No; the Senators are willing because the Court has pronounced a general test which requires that the purpose be general—a three-part test of which the most important part is that the purpose be general—and we have attempted to meet the test. There is no reason why we should not. We are confident that just as the House of Representatives has passed a bill substantially equivalent to this one, confident of its constitutionality, we propose it confident of its constitutionality.

Mr. HODGES. If the Senator is so confident, let us separate it. I suggest again, as I did this morning, that the Senator is taking a white horse of college tax credits and putting the masked rider on it and trying to lob it through.

Mr. MOYNIHAN. The measure has a separability clause. The measure contemplates the possibility of the Court declaring one part constitutional and another part, a separable part, not acceptable.

We are willing to go to the Court, and we are willing to accept its decision.

Who is not? Who are those who will not accept the judgment of the Court? Why will they not? On the question of bona fides with respect to constitutionality, we stand here saying that we believe our case and wish nothing more than to submit it to the highest tribunal, and that we will abide by its decision. What more can we say? Who does not want to have that final decision?

When he opened this debate on Friday morning, the Senator from Connecticut, the senior sponsor of our legislation, the first Democrat Secretary of HEW said the Supreme Court does not issue advisory opinions.

Mr. HODGES. Mr. President, will the Senator yield for a question?

Mr. MOYNIHAN. I am happy to yield.

Mr. HODGES. The Senator makes a great virtue out of submitting it to the Supreme Court and then says, "We are willing to abide by its decision." Will the Senator indicate to me what decision of the Supreme Court he will not abide by, as if there were any he will not abide by?

Mr. MOYNIHAN. No, no; unfair, unfair. This Senator said repeatedly this morning in this Chamber, and I believe the Senator heard it, that we do not owe the Supreme Court the suspension of our critical faculties. What we owe it is obedience to its final decisions. This Senator has said that over and over again. We will obey the Court.

The Court can only function if people with different opinions come before it. That is the point. We say we will put this matter to the highest tribunal and abide by its decision. Of course we will abide by the decision. And if that is not a fair proposition, if that does not indicate an open willingness to see the matter resolved, those who will not let us go to court ask for the social conflict and division that will attend the persistence of this unresolved issue.

Why can we not see the wisdom of getting a final and conclusive decision? Why can we not see that there are more than enough issues that divide us and more than enough problems that prove intractable here before us?

Here in our hands is the chance to resolve an issue that has been with us quite literally since 1876.

Mr. HODGES. Mr. President, will the Senator yield for 1 minute of rebuttal?

Mr. MOYNIHAN. The Senator is happy to yield the floor, not unaware that there is a minute left.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. President, we have heard a lot on this floor in the last days about the separation.

The PRESIDING OFFICER. Will the Senator desist a moment until the Senate is in order? Conversations must cease. Staff members will please remove themselves from the floor. The Senator from Arizona.

Mr. GOLDWATER. We have heard a lot in the last days about the separation of church and state, and I have listened to a lot of comment on this over the weekend.

Mr. President, I asked HEW to compile a list for me of every piece of property, anything of value, that has been given by the Federal Government to any church.

I ask unanimous consent that that updated information be printed in the RECORD at this point in by remarks, and I suggest that my colleagues look at this.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—TRANSFERS OF REAL PROPERTY TO DENOMINATIONALLY SPONSORED ORGANIZATIONS FOR HEALTH AND EDUCATIONAL USE

[Legend: H—Health, E—Education]

State and facility: Transferee	Acres	Buildings	Acquisition cost	Fair value	Use	PBA (percent)	Date of transfer	Sponsoring denomination	On-site or off-site
OCT. 1, 1976 THROUGH SEPT. 30, 1977									
New Jersey:									
Camp Kilmer: Christian School Association	11.40		$393,475	$438,000	E	100	Dec. 1, 1976	Christian	On-site.
Do.	.74	1	37,700	17,500	E	100	Apr. 20, 1976	do	Do.
New Mexico: Army Reservation Center, Santa Fe: College of Christian Brothers.	2.00		0	200	H	100	May 2, 1977	Catholic	Do.
Total	14.14	1	431,175	455,700					
JULY 1, 1973 THROUGH SEPT. 30, 1976									
California:									
Santa Fe flood control basin, Los Angeles County: City of Hope National Medical Center.	6.82		1,448	45,000	H	100	Sept. 15, 1974	Jewish	Do.
U. Fleet Antiair Warfare Training Center, San Diego Pasadena College.	3.27		1,688	35,600	E	100	Sept. 26, 1973	Church of the Nazarene	Do.
Illinois: VA hospital, Hines: Loyola University	2.18	1	1,452,115	640,000	E	100	May 30, 1974	Catholic	Do.
New Jersey: Camp Kilmer: Christian School Association	1.28	2	84,874	29,000	E	100	Mar. 21, 1975	Christian	Do.
Pennsylvania: Valley Forge General Hospital: Northwest Bible College.	77.00	76	10,374,386	1,307,730	E	100	Aug. 3, 1976	Assembly of God	Do.
Texas:									
Bergstrom Air Force Base: Saint Edward's University		3	36,000	1,500	E	100	Aug. 17, 1976	Catholic	Off-site.
Fort Sam Houston: Archdiocese of San Antonio		1	2,479	400	H	100	June 19, 1975	do	Do.
Goodfellow AFB: St. John's Hospital		1	16,800	500	H	100	June 9, 1975	do	Do.
Brooks Air Force Base: Archdiocese of San Antonio		1	40,000	500	E	100	July 3, 1975	do	Do.
Fort Sam Houston: Our Mother of Mercy School		1	10,425	300	E	100	Aug. 20, 1975	do	Do.
William Beaumont Hospital: St. Charles Seminary High School.		2	26,422	1,000	E	100	Jan. 31, 1974	do	Do.
Fort Sam Houston: St. Anthony School		2	6,216	600	E	100	Dec. 14, 1973	do	Do.
Carswell AFB: Holan High School		1	1,130	250	E	100	Mar. 11, 1974	do	Do.
Total	90.55	91	12,053,983	2,062,380					
FISCAL YEAR 1973									
Arkansas: Jessieville Work Center, Forest Service: St. Michael's School (Sisters of Our Lady of Charity and Refuge).		1	5,000	500	E	100	Feb. 22, 1973	do	Do.
Colorado: Federal Youth Center, Denver: Mercy Hospital (Sisters of Mercy).	14.65		585	75,000	H	100	Apr. 23, 1973	do	On-site.
Indiana: Newburgh locks and dam project: University of Evansville.	4.60		8,750	14,000	E	100	Oct. 24, 1972	Methodist	Do.
Mississippi: Jackson Installation: Mississippi College	220.00	14	901,141	333,605	E	100	Mar. 27, 1973	Southern Baptist	Do.
New Mexico: Kirtland AFB: University of Albuquerque		1	3,000	200	E	100	Nov. 6, 1972	Catholic	Off-site.
Pennsylvania: Nike site 02: Teen Challenge Training Center.	19.99	8	689,663	20,000	H	100	Mar. 8, 1973	Assembly of God	On-site.
Texas: Perrin AFB: St. Augustine School		1	9,000	225	E	100	Feb. 16, 1973	Catholic	Off-site.
Total	259.24	25	1,617,139	443,530					
FISCAL YEAR 1971									
Texas:									
Berean Christian School: Carswell AFB		1	8,200	4,000	E	95	Oct. 10, 1970	Christian	Do.
Berean Christian School: Perrin AFB		3	55,000	3,600	E	95	Jan. 11, 1971	do	Do.
San Marcos Baptist Academy: Bergstrom AFB		1	23,100	2,100	E	95	July 8, 1970	Baptist	Do.
Total		5	86,300	9,700					
FISCAL YEAR 1972									
New Mexico: Fort Wingate: St. Francis Elementary School.		1	61,861	1,000	E	100	Dec. 29, 1971	Catholic	Do.
Washington: Army Nike-Ajax site 32-33: Christian Enterprises, Inc.	7.74	6	300,000	29,800	E	100	Mar. 22, 1972	Christian	On-site.
Total	7.74	7	361,851	30,800					
FISCAL YEAR 1970									
Missouri: Army Reserve construction site: William Woods College.	4.21		7,400	16,850	E	100	Jan. 27, 1960	Disciples of Christ	Do.
Nevada: Bureau of Outdoor Recreation: First Good Shepherd Luthern Church.	.15		1	9,000	E	100	Feb. 10, 1970	Lutheran	Do.
New York: Nike Site 23, Hicksville: Good Shepherd Lutheran School.		2	20,000	1,000	E	95	Feb. 17, 1970	do	Off-site.
Oregon: Baker AFS: Baker College	15.37	39	1,518,365	692,869	E	100	Sept. 13, 1969	Church of Christ	On-site.
Texas:									
Perrin AFB: Berean Christian Schools		3	80,000	2,600	E	95	May 25, 1970	Christian	Off-site.
Bergstrom AFB: Dolores School		3	178,500	3,700	E	95	June 29, 1970	Catholic	Do.
Ellington AFB: Shrine of the True Cross School (fence and poles).			6,000	2,630	E	95	Mar. 13, 1970	do	Do.
Lake McQueeney Recreation Annex: Texas Lutheran College.	.54	5	16,694	29,300	E	50	Mar. 9, 1970	Lutheran	On-site.
Total	20.27	52	1,826,960	757,949					

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—TRANSFERS OF REAL PROPERTY TO DENOMINATIONALLY SPONSORED ORGANIZATIONS FOR HEALTH AND EDUCATIONAL USE

[Legend: H—Health, E—Education]

State and facility: Transferee	Acres	Buildings	Acquisition cost	Fair value	Use	PBA (percent)	Date of transfer	Sponsoring denomination	On-site or off-site
FISCAL YEAR 1969									
Alabama:									
Craig AFB: Selma University		1	$700	$50	E	95	May 19, 1969	Baptist	Do.
Redstone Arsenal: Oakwood College		1	7,388	1,000	E	95	Sept. 9, 1968	Seventh-day Adventists	Do.
Colorado:									
Mesa Verde National Park: Navajo Gospel Crusade		2	7,415	293	E	95	July 3, 1968	Nondenominational	Do.
Chatfield Dam and reservoir: Western Bible Institute		1	3,500	900	E	95	May 26, 1969	do	Do.
Kansas: Haskell Wetlands: Baker University	572.68		39,997	209,000	E	100	Aug. 30, 1968	Methodist	On-site.
New Mexico: VA Hospital, Albuquerque:									
All Tribes Schools, Inc		3	6,000	600	E	95	June 2, 1969	Seventh-day Adventists	Off-site.
Immaculate Conception School		2	4,000	400	E	95	do	Catholic	Do.
Nazarene Indian School		5	10,000	1,000	E	95	do	Church of the Nazarene	Do.
New York: McGuire AFB: Niagara University		1	121,000	9,000	E	95	June 23, 1969	Catholic	Do.
Total	572.68	16	200,000	222,243					
FISCAL YEAR 1968									
Kansas: Fort Riley: Enterprise Academy		2	25,098	2,000	E	95	May 10, 1968	Seventh-day Adventists	DO.
Louisiana: England AFB: Sacred Heart School		1	7,300	750	E	95	Dec. 13, 1967	Catholic	Do.
Minnesota: VA hospital, St. Cloud: Diocese of St. Cloud	15.25		1,650	4,000	E	100	Sept. 11, 1967	do	On-site.
South Carolina: Shaw AFB: Voorhees College		1	1,900	150	E	95	Oct. 16, 1967	Episcopal	Off-site.
Texas:									
Kelly AFB: Central Catholic High School		1	3,000	900	E	95	June 27, 1967[1]	Catholic	Do.
Lavon Reservoir: Christian College of Southwest		2	8,000	1,000	E	95	Apr. 18, 1968	Church of Christ	Do.
Total	15.25	7	46,948	8,800					
FISCAL YEAR 1967									
Kansas:									
Fort Riley: Enterprise Academy		2	2,400	900	E	95	Dec. 14, 1966	Seventh-day Adventists	Do.
Do		9	24,630	3,000	E	95	Feb. 21, 1967	do	Do.
Kentucky: Ohio River lock and dam 35: Villa Madonna College.	12.73	13	157,569	22,000	E	100	Mar. 10, 1967	Catholic	On-site.
Louisiana: New Orleans Naval Activity:									
Archdiocese of New Orleans	3.74		40,275	100,346	E	100	Aug. 19, 1966	do	Do.
Do	16.56		223,216	347,867	E	90	do	do	Do.
Touro Infirmary	5.48		70,837	101,560	H	100	do	Jewish	Do.
Montana: Fort Missoula: Roman Catholic Bishop of Helena	21.87		7,545	21,870	E	70	Jan. 17, 1966[1]	Catholic	Do.
New Jersey: Camp Kilmer: Christian School Association of North Central New Jersey.	2.87	2	76,555	29,300	E	80	Sept. 6, 1966	Nondenominational	Do.
Texas: Ellington AFB:									
Jesuit Fathers of Houston, Inc		3	17,600	2,250	E	95	May 5, 1967	Catholic	Off-site.
Resurrection Parochial School		4	16,800	1,435	E	95	Nov. 30, 1966	do	Do.
Do		1	8,000	750	E	95	May 5, 1967	do	Do.
Puerto Rico: Fort Buchanan:									
Academia Discipiaos de Cristo		1	14,000	1,500	E	95	Aug. 9, 1966	Disciples of Christ	Do.
Colegio Oratoria San Juan Bosco		1	14,000	1,500	E	95	do	Catholic	Do.
Colegio San Migual		2	2,700	800	E	95	Feb. 16, 1967	do	Do.
South Dakota: Pierre Airport: Blue Cloud Abbey (retransfer)		2	9,081	500	E	95	Dec. 20, 1976	do	Do.
Total	63.25	40	685,208	635,578					
FISCAL YEAR 1966									
Alaska: Clear AFB: Artic Missions, Inc		2	57,000	5,147	E	95	Mar. 3, 1966	Nondenominational	Do.
Kansas: Fort Riley:									
Enterprise Academy		2	1,725	600	E	95	Feb. 18, 1966	Seventh-day Adventists	Do.
Do		8	3,655	2,700	E	95	June 8, 1966	do	Do.
Louisiana: Bienville Homes H/P: Seventh Ward Hospital		2	14,298	1,000	H	95	Jan. 4, 1966	Catholic	Do.
Mississippi: Staff House, GSA Depot: Mary Holmes Junior College		2	7,400	500	E	95	Feb. 21, 1966	Presbyterian	Do.
Missiouri:									
Table Rock Reservoir: The School of the Ozarks		6	38,886	1,600	E	95	Nov. 19, 1965	do	Do.
O'Reilly General Hospital:									
The School of the Ozarks		10	161,652	1,900	E	95	Mar. 16, 1966	do	Do.
Evangel College		7	137,722	2,760	E	95	Mar. 18, 1966	Assembly of God	Do.
Kirtland AFB: Lybrook Navajo Mission		1	2,366	500	E	95	Feb. 24, 1966	Church of Brethren	Do.
New Mexico: AEC, Los Alamos: McCurdy School		2	29,384	1,000	E	95	Mar. 16, 1966	Evangelical United Brethren	Do.
Oklahoma: Fort Chaffee, Arkansas: Cookson Hills Christian School		5	32,000	2,675	E	95	Mar. 17, 1966	Christian	Do.
South Carolina:									
Shaw AFB: Morris College		2	53,000	500	E	95	Dec. 8, 1965	Baptist	Do.
Fort Stewart, Ga.: Voorhees Junior College		25	214,300	35,850	E	95	Apr. 6, 1966	Episcopal	Do.
Texas:									
Kelly AFB: Archdiocese of San Antonio		2	500	600	E	95	Dec. 16, 1965	Catholic	Do.
Border Patrol Station: El Faro School		1	2,896	200	E	95	Nov. 19, 1965	Mennonite	Do.
Carswell AFB: Fort Worth Christian School		1	10,900	500	E	95	Nov. 22, 1965	Church of Christ	Do.
Lackland AFB:									
Grace Bible Church and School		2	23,200	1,500	E	95	Aug. 27, 1965	Lutheran	Do.
International Bible College		2	61,400	3,000	E	95	do	Nondenominational	Do.
Longhorn Army Ammun. Pl.: Jefferson Academy		1	14,924	350	E	95	do	Seventh-day Adventists	Do.
Low Frequency Radio Range: Lubbock Christian College		1	19,018	1,050	E	95	Mar. 16, 1966	Church of Christ	Do.
Fort Worth Army Depot: School Sisters of Notre Dame		1	3,000	50	E	95	Jan. 26, 1966	Catholic	Do.
Total		85	889,226	63,982					
FISCAL YEAR 1965									
(Supplement to report for period ending June 30, 1964)									
California: Camp Elliott: California Western University	305.57		4,652	893,500	E	100	Apr. 15, 1965	Methodist	On-site.
Hawaii: Iroquois Point Complex: Roman Catholic Bishop of Honolulu.	8.83		4,216	149,600	E	80	June 30, 1965	Catholic	Do.
Kansas: Milford Dam and Reservoir: Kansas Wesleyan University.		1	1,500	1,200	E	95	Sept. 3, 1964	Methodist	Off-site.
New Mexico: AEC, Los Alamos: Lybrook Navajo Mission		1	14,291	500	E	95	Mar. 10, 1965	Church of the Brethren	Do.
New York: Mitchel AFB: Diocese of Long Island	7.90		18,000	265,000	E	70	Dec. 30, 1964	Episcopal	On-site.
South Dakota:									
Ellsworth AFB Nike Site: Sunshine Bible Academy	21.00	11	952,402	18,000	E	100	Dec. 11, 1964	Nondenominational	Do.
Pierre Municipal Airport:									
Sunshine Bible Academy		1	4,850	300	E	95	Aug. 28, 1964	do	Off-site.
Do		2	40,892	1,050	E	95	July 22, 1963	do	Do.
Do		1	20,446	800	R	95	May 28, 1964	do	Do.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE—TRANSFERS OF REAL PROPERTY TO DENOMINATIONALLY SPONSORED ORGANIZATIONS FOR HEALTH AND EDUCATIONAL USE

[Legend: H—Health, E—Education]

State and facility: Transferee	Acres	Buildings	Acquisition cost	Fair value	Use	PBA (percent)	Date of transfer	Sponsoring denomination	On-site or off-site
Texas:									
Kelly AFB:									
International Bible College		1	$3,400	$1,000	E	95	Sept. 25, 1964	do	Do.
International Bible College (fence)			600	1,000	E	95	Oct. 27, 1964	do	Do.
International Bible College		1	4,000	600	E	95	Oct. 28, 1964	do	Do.
Brooks AFB: Our Lady of Guadalupe School		1	12,100	1,000	E	95	June 9, 1965	Catholic	Do.
Atlantic Reserve Fleet: St. Theresa Church and School		1	42,008	2,000	E	95	Feb. 15, 1965	do	
Vermont:									
Ethan Allen AFB:									
St. Michael's College	123.00	14	443,975	358,000	E	100	July 29, 1964	do	On-site.
Do	4.70	5	303,777	12,260	E	100	Dec. 14, 1964	do	Do.
Washington: Fort George Wright AFB: Sisters of Holy Names.	1.02	1	81,348	5,560	E	100	Apr. 14, 1965	do	Do.
Total	517.02	41	1,952,457	1,711,370					
FISCAL YEAR 1964									
Arizona: Navajo to Army Depot: Navajo Mission School of SDA.		4	10,500	4,000	E	95	Apr. 13, 1964	SDA	Off-site.
Arkansas: Camden Post Office: Ouachita Baptist College	.30	1	62,064	34,000	E	100	Jan. 13, 1964	Baptist	On-site.
California: March AFB: Grace Christian School		3	13,359	1,589	E	95	Jan. 21, 1964	Brethren	Off-site.
Colorado: Bureau Reclamation, Wiggins: Lutheran Hospital and Medical Center.		1	595	300	E	95	Sept. 17, 1963	Lutheran	Do.
Georgia: Moody AFB: Georgia Christian School		1	6,421	500	E	95	Aug. 15, 1963	Church of Christ	Do.
Kansas:									
Milford Dam and Reservoir project: Enterprise Academy.		2	7,350	950	E	95	Apr. 22, 1964	SDA	Do.
Do		7	6,115	1,600	E	95	Jan. 23, 1964	SDA	Do.
Missouri: Springfield Federal Depot: Evangel College	7.31	14	231,276	8,784	E	100	Mar. 26, 1964	Assembly of God	On-site.
New Mexico: Penasco Clinic: Archdiocese of Santa Fe	.76	2	21,441	5,250	H	90	May 21, 1964	Catholic	Do.
New York: Mitchel AFB: Hebrew Academy of Nassau County.	4.54	2	57,516	175,000	E	70	Apr. 6, 1964	Jewish	Do.
Ohio: Wright-Patterson AFB: St. Christopher School		1	1,482	200	E	95	Sept. 13, 1963	Catholic	Off-site.
South Dakota: Pierre Municipal Airport: Plainview Academy.		2	9,081	500	E	95	Aug. 6, 1963	SDA	Do.
Tennessee: Oak Ridge gaseous diffusion plant: Hiwassee College.		1	13,512	500	E	95	Dec. 23, 1963	Methodist	Do.
Texas:									
Laredo AFB: Bethel Grade School		9	95,000	3,650	E	95	Jan 8, 1964	Independent Faith	Do.
Camp Gary: Grace Lutheran School		1	6,410	350	E	95	Jan. 15, 1964	Lutheran	Do.
Longhorn Ordnance Works: Jefferson Academy		3	30,510	3,000	E	95	Oct. 29, 1963	SDA	Do.
Laredo AFB: Ursuline Academy		1	11,000	600	E	95	Nov. 28, 1963	Catholic	Do.
Washington:									
VA Hospital, Vancouver: Sisters of Charity of Providence.	11.61		4,800	174,000	H	100	June 8, 1964	do	On-site
Bremerton Annex: Christian Schools, Inc	5.80		1,236	15,800	E	80	July 22, 1963	Christian	Do.
Total	30.32	55	589,668	430,573					

[1] Not included on last report.
[2] Not included on previous report.

State: Surplus facility: Transferee	Property Transferred: Acres	Property Transferred: Buildings	Acquisition cost	Fair value	Use	Percent PBA	Date of transfer	Sponsoring denomination	On-site or off-site
PERIOD JULY 1, 1961, THROUGH JUNE 30, 1962									
Alaska: Fort Wainwright: Catholic Bishop of Northern Alaska.		1	$5,195	$500	E	95	Sept. 8, 1961	Catholic	Off-site.
Arizona: Kingman AF Station: Navajo Mission School of SDA (Retransfer) (Equipment).			6,000	1,525	E	95	May 21, 1962	SDA	Do.
California:									
Fairchild AFB: Northern California Conference of SDA		2	1,200	600	E	95	Nov. 9, 1961	SDA	Do.
Fort Ord: Sacred Heart Church School		1	4,549	800	E	95	Mar. 20, 1962	Catholic	Do.
Colorado: AEC Millsite: Navajo Gospel Crusade, Inc		1	38,616	4,162	E	95	May 23, 1962	Nondenominational	Do.
Hawaii:									
Pearl City H/A: Iolani School		1	2,233	1,200	E	95	June 18, 1962	Episcopal	Do.
Naval Air Station: St. Joseph's School		2	27,879	3,000	E	95	Nov. 15, 1961	Catholic	Do.
Kansas: Hutchinson Air N.G.: Prairie View Hospital		1	37,620	400	H	95	Sept. 1, 1961	Mennonite	Do.
Missouri: Fort Leonard Wood: College of Our Lady of the Ozarks.		6	32,070	2,400	E	95	Mar. 6, 1962	Catholic	Do.
Nebraska:									
Nebraska ordnance plant: Antelope Memorial Hospital.		2	3,576	600	H	95	June 16, 1961	do	Do.
Nebraska ordnance plant: Benedictine Fathers, Inc		6	10,728	1,800	E	95	do	do	Do.
Nebraska ordnance plant: Platte Valley Academy		6	10,728	1,800	E	95	July 20, 1961	SDA	Do.
North Carolina: USMC Air Station: Annunciation School Parish (Retransfer).		1	21,838	2,000	E	95	June 1, 1962	Catholic	Do.
Ohio: Clinton County AFB: Wilmington College	148.62	10	102,068	39,800	E	100	Mar. 20, 1962	Society of Friends	On-site.
Oregon: John Day lock and dam: Western Oregon Conference SDA.		2	2,500	1,500	E	95	Dec. 7, 1961	SDA	Off-site.
South Dakota:									
Black Hills Ordnance Depot: Brainard Indian School		1	12,071	800	E	95	Sept. 28, 1961	Methodist	Do.
Ellsworth AFB: Plainview Academy		1	22,218	800	E	95	June 19, 1961	SDA	Do.
Fort Randall Dam: Sunshine Bible Academy		1	20,462	400	E	95	Dec. 4, 1961	Nondenominational	Do.
Texas:									
Lackland AFB: San Antonio Arch. Cath. S. Syst		1	20,279	1,300	E	95	Jun. 14, 1972	Catholic	Do.
Do		1	16,282	1,000	E	95	Mar. 19, 1962	do	Do.
Do		1	10,644	600	E	95	do	do	Do.
Lackland AFB: San Marcos Baptist Academy		1	72,129	10,000	E	95	Apr. 12, 1962	Baptist	Do.
Carswell AFB: St. Paul's Parochial School		1	9,437	600	E	95	May 4, 1962	Catholic	Do.
Carswell AFB: St. Peter's Parochial School		1	7,674	600	E	95	May 18, 1962	do	Do.
Carswell AFB: St. Rita's Parochial School		1	7,901	600	E	95	do	do	Do.
Waco Reservoir: Westminister College and Bible Institute		1	3,200	400	E	95	Feb. 23, 1962	Cong. Methodist	Do.
Brooks AFB: San Antonio Arch. Cath. S. Syst		1	10,500	1,000	E	95	Jan. 26, 1962	Catholic	Do.
Carswell AFB: Fort Worth Christian Schools, Inc		2	65,668	1,800	E	95	Jan. 11, 1962	Church of Christ	Do.
Cactus Ord. Works: St. John's Parochial School		1	11,717	600	E	95	Feb. 16, 1962	Catholic	Do.
U.S. Navy Air Station: Corpus Christi Minor Seminary		1	6,224	1,000	E	95	July 31, 1961	do	Do.
Bergstrom AFB: Dolores Church School		2	49,456	1,180	E	95	Dec. 8, 1961	do	Do.

State: Surplus facility: Transferee	Property Transferred Acres	Buildings	Acquisition cost	Fair value	Use	Percent PBA	Date of transfer	Sponsoring denomination	On-site or off-site
Washington:									
George Wright AFB: Society Sisters of Holy Names	76.80	53	$717,025	$183,500	E	100	Aug. 28, 1961	do	On-site.
George Wright AFB: Spokane Lutheran School Association	14.00	11	175,056	17,100	E	80	Nov. 28, 1961	Lutheran	Do.
Camp Hanford: Christ the King School		1	6,000	3,000	E	95	Oct. 6, 1961	Catholic	Off-site.
Puerto Rico:									
Ramey AFB: Colegio Nuestra Senora de la Prov		1	53,000	600	E	95	Mar. 12, 1962	do	Do.
Fort Buchanan: Colegio San Luis Rey		5	31,870	3,100	E	95	May 17, 1962	do	Do.
Total	239.42	130	1,635,613	292,067					

TRANSFERS OF REAL PROPERTIES TO DENOMINATIONAL SPONSORED ORGANIZATIONS—FOR HEALTH AND EDUCATIONAL USES THROUGH JUNE 30, 1961

[Legend: (1) Onsite—Land and/or buildings conveyed by deed with restrictions; (2) offsite—Buildings and other facilities transferred for removal and relocations, department has no records of transfers made prior to January 1, 1950, by predecessor agency; (3) H—Health transfers; (4) E—Educational transfers; and (5) PBA—Public benefit allowances granted of fair value]

State and surplus facility	Transferee	Property transferred Acres	Buildings	Acquisition cost	Fair value	Use H	Use E	Percentage PBA	Date of transfer [1]	Sponsoring denomination
ALABAMA										
Onsite: None										
Offsite: Craig AFB	Assumption of Our Lady		2	$30,243	$1,000		E	95	Nov. 4, 1960	Catholic.
Total			2	30,243	1,000		1			
ALASKA										
Onsite: None										
Offsite:										
Elmendorf Air Force Base	Copper Valley School	0	3	10,000	150		E	95	Apr. 23, 1956	Do.
Eska Mine	Faith Hospital of Central Alaskan Missions, Inc.	0	2	5,000	600	H		95	June 5, 1956	Mission.
Elmendorf Air Force Base	Alaska Methodist Church School	0	1	3,000	300		E	95	July 6, 1956	Methodist.
Anchorage International Airport	Providence Hospital	0	1	39,620	3,000	H		95	Jan. 14, 1957	Catholic.
Ladd Air Force Base	Catholic Bishop of North Alaska	0	1	11,880	750		E	95	June 2, 1958	Do.
Fort Richardson	North Pacific Union Conf. of SDA (School of Anchorage).	0	2	2,687	1,000		E	95	Nov. 12, 1958	SDA.
FAA Station, King Salmon	North Pacific Union Conf. of SDA (Bristol Bay Mission School).	0	3	6,000	1,500		E	95	Mar. 9, 1959	SDA.
U.S. Naval Station, Kodiak	St. Mary's School	0	1	69,300	1,500		E	95	May 20, 1959	Catholic.
Elmendorf Air Force Base	Alaska Mission of SDA	0	1	22,372	700		E	95	Oct. 23, 1959	SDA.
Fort Richardson MR	Alaska Methodist University	0	2	23,160	2,100		R	95	Apr. 6, 1960	Methodist.
Elmendorf Air Force Base	Alaska Mission of SDA	0	1	22,892	500		E	95	Apr. 4, 1960	SDA.
FAA Station, Bethel	Moravian Children's Home and School.	0	2	68,400	6,800		E	95	June 16, 1960	Moravian Church of America.
FAA Repeater Station, Kaltag	Catholic Bishop of North Alaska (St. Mary's School and Holy Cross School).	0	3	117,000	11,700		E	95	Sept. 16, 1960	Catholic.
Total		0	25	401,311	30,600	2	11			
ARIZONA										
Onsite: Thunderbird Field No. II	Arizona Conf. Corp. of SDA (Thunderbird Academy).	720	31	743,000	258,784		E	80	July 2, 1953	SDA.
Offsite:										
Williams Air Force Base	St. John's Indian School		1	495	110		E	95	Jan. 15, 1951	Catholic.
Do	Cook Christian Training School		1	495	105		E	95	Jan. 17, 1951	Christian.
Do	Arizona Academy of SDA, Phoenix		2	958	200		E	95	Jan. 25, 1951	SDA.
Do	St. Anne Kindergarten		2	1,000	225		E	95	Jan. 26, 1951	Catholic.
Do	St. Peter's School		1	506	130		E	95	do	Do.
Do	San Solano Missions		5	2,439	450		E	95	do	Do.
Do	Grand Canyon College		5	2,506	450		E	95	Feb. 7, 1951	Baptist.
Do	Cook Christian Training School		1	473	110		E	95	Feb. 16, 1951	Christian
Coolidge Army Air Field	Navajo Mission School of SDA		1	1,825	132		E	95	Apr. 30, 1951	SDA.
Poston War RAP	do		7	30,829	2,121		E	95	Nov. 15, 1951	SDA.
Navajo Ordnance Depot	do		1	4,500	75		E	95	May 15, 1950	SDA.
Williams Air Force Base	St. John's Indian School		2	990	200		E	95	Oct. 21, 1952	Catholic.
Poston War rel. project	Mennonite Mission School		1	525	105		E	95	Mar. 20, 1953	Mennonite.
Williams Air Force Base	Navajo Mission School of SDA		2	1,001	210		E	95	Apr. 9, 1953	SDA.
Do	St. John's Indian School		1	506	110		E	95	May 1, 1953	Catholic.
Do	do		1	495	115		E	95	June 29, 1953	Do.
White Rock housing project	Navajo Mission School of SDA		3	12,951	7,905		E	95	Aug. 25, 1953	SDA.
Williams Air Force Base	Grand Canyon College		2	990	180		E	95	do	Baptist.
White Rock housing project	Navajo Mission School of SDA		2	5,000	1,250		E	95	Dec. 14, 1953	SDA.
Denver Federal Center	Navajo Mission School		1	1,217	1,735		E	95	Mar. 22, 1954	SDA.
Poston War Relocation Center	Navajo Mission School of SDA		1	18,994	580		E	95	Aug. 8, 1955	SDA.
Vanadium Corp. of America	Navajo Mission School and clinic		1	8,000	300	H		95	Apr. 16, 1956	SDA.
Navajo Ordnance Depot	Mennonite Mission Boarding School		1	16,000	750		E	95	June 7, 1957	Mennonite.
Homojo Government housing project	Navajo Mission School of SDA		1	2,100	250		E	95	Dec. 3, 1957	SDA.
Mare Island Naval Shipyard	do		1	4,322	500		E	95	Jan. 23, 1958	SDA.
Do	Tucson Intermediate School, SDA		2	8,645	1,000		E	95	do	SDA.
Navajo Ordnance Depot	Navajo Mission School of SDA		1	5,242	500		E	95	Jan. 31, 1958	SDA.
Luke Air Force Base	Good Shepherd School for Girls		3	9,624	1,700		E	95	June 20, 1958	Catholic.
Gun site No. 60 (California)	Navajo Mission School of SDA		4	8,832	2,800		E	95	July 29, 1958	SDA.
Navajo Ordnance Depot	do		2	3,600	1,000		E	95	Feb. 20, 1959	SDA.
U.S. Naval Amphibious Base	Thunderbird Academy		2	7,951	2,400		E	95	May 15, 1959	SDA.
Mare Island Naval Shipyard	do		2	8,645	1,000		E	95	Mar. 23, 1960	SDA.
AA Gun Site No. 60 (California)	Navajo Mission School of SDA		3	5,152	1,700		E	95	Aug. 16, 1960	SDA.
Golden Gate AA Site (California)	do		1	2,208	700		E	95	Sept. 16, 1950	SDA.
Tiburon AA Site (California)	do		1	2,208	700		E	95	Sept. 19, 1960	SDA.
Luke Air Force Base	Southwest Indian School		4	17,247	2,000		E	95	Nov. 4, 1960	Gospel Mission.
Mare Island Naval Shipyard	Navajo Mission School of SDA		2	3,645	1,000		E	95	Jan. 4, 1961	SDA.
Total		720	105	950,116	293,582	1	37			
ARKANSAS										
Onsite:										
Camp J. T. Robinson, Little Rock	Central Bapist College	335	71	1,989,207	302,025		E	100	Jan. 23, 1950	Baptist.
Walnut Ridge AB	Southern Baptist College	121	110	1,493,552	436,351		E	100	Apr. 29, 1948	Do.
Offsite:										
Adams Field, Little Rock	St. Peters Parochial School		1	500	500		E	95	Dec. 2, 1957	Catholic.
Fort Chaffee	St. Scholastica's Academy		1	11,650	800		E	95	Nov. 21, 1958	Do.
Total		456	183	3,494,909	739,676		4			

Footnote at end of table.

TRANSFERS OF REAL PROPERTIES TO DENOMINATIONAL SPONSORED ORGANIZATIONS—FOR HEALTH AND EDUCATIONAL USES THROUGH JUNE 30, 1961—Continued

[Legend: (1) On site—Land and/or buildings conveyed by deed with restrictions; (2) offsite—Buildings and other facilities transferred for removal and relocations, department has no records of transfers made prior to January 1, 1950, by predecessor agency; (3) H—Health transfers; (4) E—Educational transfers; and (5) PBA—Public benefit allowances granted of fair value]

State and surplus facility	Transferee	Property transferred: Acres	Property transferred: Buildings	Acquisition cost	Fair value	Use: H	Use: E	Percentage PBA	Date of transfer[1]	Sponsoring denomination
CALIFORNIA										
Onsite:										
Camp McQuade	Monterey Bay Academy, SDA	300.00	237	$1,619,888	$349,189		E	100	Oct. 7, 1948	SDA.
Azure Vista housing project	California Western University	4.11		18,530	94,750		E	100	Sept. 25, 1957	Methodist.
Sherman Institute	St. Thomas School	.55		225	2,200		E	60	June 2, 1958	Catholic.
Linda Vista housing project	San Miguel School	46.97		48,980	220,000		E	80	Apr. 7, 1959	Episcopalian.
Do	University of San Diego, of the Diocese.	51.00		53,209	175,000		E	80	May 11, 1959	Catholic.
Air Force rocket engineering facility	St. Joachim School	1.62		810	12,960		E	60	June 10, 1960	Do.
Offsite:										
Santa Ana Army Air Base	Southern California Bible College		1	2,205	441		E	95	Feb. 23, 1950	Assembly of God Church.
Sharpe General Depot	Golden Gate Academy		1	2,500	125		E	95	May 17, 1950	SDA.
Camp Beale	Pacific Union College			56,319	3,510		E	80	July 26, 1950	SDA.
March Air Force Base	Ontario Christian School		1	2,360	458		E	95	Nov. 28, 1950	Christian.
Hammer Field	Bakersfield Junior Academy		1	6,101	5,129		E	95	May 2, 1951	SDA.
Santa Ana Army Air Base	Whittier SDA School		1	12,208	1,000		E	95	May 11, 1951	SDA.
Do	do		1	12,208	1,000		E	95	do	SDA.
March Air Force Base	Hemet SDA School		1	8,574	600		E	95	Aug. 27, 1951	SDA.
Do	Newbury Park Academy		1	12,658	800		E	95	Aug. 27, 1951	SDA.
Homoja housing project	University of Santa Clara		1	2,700	300		E	95	Oct. 17, 1953	Catholic.
March Air Force Base	Whittier SDA School		2	25,316	1,800		E	95	Sept. 14, 1953	SDA.
Hammer Field	Immanuel Bible School		1	34,695	4,245		E	95	May 26, 1954	Lutheran.
Naval advanced base	St. Joseph's School, Oblates of		1	12,000	600		E	95	Sept. 21, 1954	Catholic.
Hammer Field	Immanuel Bible School		1	34,438	1,850		E	95	Sept. 30, 1954	Lutheran.
Do	Madera SDA School		1	3,049	600		E	95	Nov. 8, 1954	SDA.
Do	Clovis SDA School		1	2,050	600		E	95	do	SDA.
Do	do		1	3,049	600		E	95	Apr. 11, 1955	SDA.
Edwards Air Force Base	Lancaster SDA School		1	2,128	1,000		E	95	May 12, 1955	SDA.
Camp Kohler	Sacramento Junior Academy		1	47,630	2,556		E	95	Oct. 31, 1955	SDA.
Frontier war housing project	California Western University		3	143,100	3,118		E	95	Nov. 1, 1955	Methodist.
Homoja Government housing project	Highland Avenue Lutheran Elementary School		3	12,843	900		E	95	July 26, 1956	Lutheran.
Benicia Arsenal	Holy Redeemer College H.S		1	8,500	1,000		E	95	Oct. 23, 1956	Catholic.
Homoja Government housing project	Immaculate Heart College		1	4,281	300		E	95	Nov. 16, 1956	Do.
Do	St. Alphonsus School		4	12,562	1,100		E	95	Feb. 27, 1957	Do.
Benicia Arsenal	do		1	8,500	1,000		E	95	May 7, 1957	Do.
Azure Vista housing project	California Western University		2	40,570	3,500		E	95	June 7, 1957	Methodist.
Homoja Government housing project	Holy Redeemer College		1	1,900	250		E	95	Aug. 20, 1957	Catholic.
Mare Island Naval Shipyard	Queen of the Holy Rosary College		4	17,290	2,000		E	95	Dec. 30, 1957	Do.
Do	Feather River Sanitorium & Hospital		2	8,645	1,000	H		95	do	SDA.
Do	Chico SDA School		2	8,645	1,000		E	95	Dec. 31, 1957	SDA.
Do	Redwood Empire Junior Academy		1	4,322	500		E	95	do	SDA.
Do	Miranda SDA School of the Redwoods		2	8,645	1,000		E	95	do	SDA.
Do	Sacred Heart School		1	4,322	500		E	95	Jan. 3, 1958	Catholic.
Do	St. Pius X Seminary		2	8,645	1,000		E	95	do	Do.
Do	Paradise Junior Academy		2	8,645	1,000		E	95	Jan. 6, 1958	SDA.
Do	Marin Catholic High School		3	12,967	1,500		E	95	do	Catholic.
Do	St. Anthony School		1	4,322	500		E	95	do	Do.
Do	St. Helena Sanitarium and Hospital		8	34,580	4,000	H		95	do	SDA.
Do	Monte Vista Christian School, Inc		2	8,645	1,000		E	95	Jan. 9, 1958	Christian.
Do	Doric Elementary School		1	4,322	500		E	95	Jan. 17, 1958	SDA.
Do	Northern California Conf. of SDA		10	43,225	5,000		E	95	Jan. 23, 1958	SDA.
Do	Dinuba Junior Academy		2	8,645	1,000		E	95	Mar. 19, 1958	SDA.
Chabot Terrace housing project	First Assembly of God Church Inc		1	47,900	1,000		E	95	June 27, 1958	Assembly of God Church.
Gun site No. 60	La Sierra College Prep. School		1	2,208	700		E	95	July 29, 1958	SDA.
Do	Beaumont Elementary School of SDA		1	2,208	700		E	95	July 31, 1958	SDA.
Do	Paradise Valley Sanitarium & Hospital		3	5,152	1,700	H		95	Aug. 11, 1958	SDA.
Do	St. Jude Hospital		1	2,208	700	H		95	Aug. 12, 1958	Catholic.
Do	Ontario Christian School		1	2,208	700		E	95	do	Christian.
Do	West Coast Talmudical Seminary		1	2,208	700		E	95	Aug. 13, 1958	Hebrew.
Do	Girls' Town Christian School		1	2,208	700		E	95	do	Christian.
Gun site No. 60	Light and Life Christian Day School		1	2,208	700		E	95	Aug. 13, 1958	Do.
Do	Brethren High School		1	3,680	1,400		E	95	Aug. 15, 1958	Catholic.
Golden Gate AA site	Convent of the Good Shepherd		1	2,208	700		E	95	Aug. 18, 1958	Do.
Do	Napa Junior Academy		1	2,208	700		E	95	do	SDA.
March Air Force Base	Beaumont Elementary School, SDA		1	12,433	1,000		E	95	Aug. 20, 1958	SDA.
Golden Gate AA site	Woodside Priory School for Boys		1	2,208	700		E	95	Aug. 29, 1958	Catholic.
Alameda antiaircraft site	St. Joseph School		1	2,208	700		E	95	Sept. 3, 1958	Do.
U. S. Naval Air Station, Miramar	Paradise Valley Sanitarium and Hospital.		1	4,500	700	H		95	Oct. 1, 1958	SDA.
Naval supply annex	Rio Lindo Academy		1	7,664	500		E	95	Oct. 3, 1958	SDA.
March Air Force Base	Claflin Memorial School		2	61,734	4,700		E	95	do	SDA.
Edwards Air Force Base	Mojave SDA School		1	3,600	2,000		E	95	Oct. 9, 1958	SDA.
Naval Air Station, Miramar	Calexico Mission School		1	4,500	700		E	95	Oct. 31, 1958	SDA.
Lemoore Army Air Field	Armona Union Academy		1	500	500		E	95	Dec. 15, 1958	SDA.
Mare Island Naval Shipyard	St. Vincent's School for Boys		1	4,322	500		E	95	Jan. 8, 1959	Catholic.
Do	Sierra View Junior Academy		1	4,322	500		E	95	Feb. 13, 1959	SDA.
AA site No. 60	Girls' Town Christian School		1	1,472	600		E	95	Mar. 9, 1959	Christian.
USN amphibious base	SDA Church School, Ramona		1	3,492	1,400		E	95	Apr. 10, 1959	SDA.
Naval Air Station, Lemoore	Armona Union Academy		1	9,406	2,000		E	95	Apr. 22, 1959	SDA.
Gun site No. 60	Calexico Mission School of SDA		3	5,152	1,700		E	95	May 22, 1959	SDA.
Tiburon AA site	Redwood Empire Junior Academy		1	2,208	700		E	95	Oct. 27, 1959	SDA.
San Bruno AA site	Mary's Help Hospital		1	2,208	700	H		95	Jan. 5, 1960	Catholic.
March Air Force Base	Beaumont Elementary School of SDA.		1	15,963	2,400		E	95	Jan. 19, 1960	SDA.

State and surplus facility	Transferee	Property transferred: Acres	Property transferred: Buildings	Acquisition cost	Fair value	Use: H	Use: E	Percentage PBA	Date of transfer [1]	Sponsoring denomination
Bay Farm AA site	Convent of the Good Shepherd		1	$1,104	$350		E	95	May 10, 1960	Catholic.
Lindsay Govt. Camp	Sierra View Junior Academy		1	5,771	2,400		E	95	Oct. 19, 1960	SDA.
Do	Armona Union Academy		2	10,636	4,245		E	95	do	SDA.
Do	Sierra View Junior Academy		1	5,771	2,425		E	95	Dec. 13, 1960	SDA.
Ford Ord	Monterey Peninsula SDA School		3	9,576	1,100		E	95	Dec. 22, 1960	SDA.
Do	do		1	6,793	1,000		E	95	Jan. 12, 1961	SDA.
Naval Hospital Oakland	Holy Redeemer College		1	63,500	6,000		E	95	Apr. 10, 1961	Catholic.
Poston War RAP	Pacific Union College		2	12,200	950		E	95	Nov. 15, 1951	SDA.
Total		404.25	363	2,781,798	964,881	6	80			
COLORADO										
Onsite: None										
Offsite:										
Fort Francis E. Warren	Colorado Conf. of SDA		4	27,013	2,590		E	95	June 27, 1950	SDA.
Rocky Mountain Flats	Holy Cross Parish		2	32,000	32,000		E	95	Sept. 25, 1957	Catholic.
Lowry AFB	Western Bible Institute		30	85,056	57,000		E	95	Oct. 23, 1959	Nondenominational.
Total			36	144,069	91,590	0	3			
CONNECTICUT										
Onsite:										
Elmwood Acres housing project	St. Bridget's Church School	9.07	2	50,536	24,550		E	80	Nov. 16, 1956	Catholic.
White Oaks housing project	St. Maurice RC Church School	3.08	1	40,347	28,043		E	80	July 22, 1954	Do.
Offsite: None										
Total		12.15	3	90,883	42,593	0	2			
DELAWARE										
Onsite: None										
Offsite: None										
DISTRICT OF COLUMBIA										
Onsite: Hahnemann Hospital	Stoddard Baptist Home	1.01	4	186,625	188,887	H		100	Aug. 12, 1959	Baptist.
Offsite:										
Fort Belvoir	Holy Cross College		2	1,000	150		E	95	June 26, 1950	Catholic.
Do	Atonement Seminary of Holy Ghost		2	5,000	840		E	95	Mar. 27, 1951	Do.
Do	Holy Cross College		3	15,000	750		E	95	May 1, 1953	Do.
Total		1.01	11	207,625	190,627	1	3			
FLORIDA										
Onsite:										
Lodwick Aviation MA	Florida Sanitorium and Benevolent Association.	5.25	2	179,046	75,000	H		100	Nov. 23, 1948	SDA.
Deland Naval Air Station	John B. Stetson University	120.00	6	704,501	218,116		E	100	Oct. 23, 1947	Baptist.
Offsite: None										
Total		125.25	8	883,547	293,116	1	1			
GEORGIA										
Onsite:										
Wherry Housing—Warner Robbins AFB.	Sacred Heart School	1.22		500	8,700		E	70	June 1, 1960	Catholic.
Fort Oglethorpe	Redemptionist Fathers	6.36	10	99,876	18,500		E	100	Apr. 8, 1948	Do.
Offsite: Fort Benning	St. Joseph Preparatory Seminary		1	25,792	325		E	95	July 16, 1950	Do.
Total		7.58	11	136,168	27,525	0	3			
HAWAII										
Onsite: USO Recreation Center	Kings Gospel Center	0.75	1	108,963	70,200		E	80	May 15, 1953	Japanese Holiness Church.
Offsite:										
Waianae Kai Military Reservation	Hawaiian Mission of SDA		3	8,896	620		E	95	June 5, 1952	SDA.
Fort Shafter M.R.	Hawaiian Mission Academy		2	22,000	1,640		E	95	Dec. 15, 1952	SDA.
Wheeler Air Force Base	Church College of Hawaii		4	20,437	3,415		E	95	Apr. 25, 1955	Mormon.
Sand Island M.R.	Aloha Kindergarten and Grade School.		1	7,800	390		E	95	Mar. 15, 1956	Protestant.
Fort Shafter M.R.	Sunset Christian School		1	4,060	300		E	95	Nov. 15, 1956	Christian.
Corps of Engineers	Sunset Beach Church School		1	7,200	500		E	95	Mar. 22, 1957	Do.
Dept. of Navy, Kahului	Saint Anthony Boys' School		2	90,400	6,200		E	95	Sept. 9, 1957	Catholic.
Schofield Barracks M.R.	St. Joseph's School		6	39,981	12,000		E	95	May 14, 1959	Do.
Do	King's Gospel Center		1	6,636	2,000		E	95	do	Japanese Holiness Church.
Total		0.75	22	316,373	97,265	0	10			
IDAHO										
Onsite: None										
Offsite: None										
ILLINOIS										
Onsite: None										
Offsite:										
U.S. Naval Air Station	Lewis College of Science and Tech		2	8,081	520		E	95	June 18, 1951	Catholic.
Camp Ellis	Broadview Academy		3	9,918	480		E	95	Feb. 7, 1952	SDA.
Do	Illinois Conference of SDA		3	10,492	480		E	95	do	SDA.
AAA Gun Site No. 80	Quincy College and Seminary		2	4,600	800		E	95	Nov. 24, 1958	Catholic.
Camp Ellis	Illinois Conference of SDA		2	7,186	320		E	95	Feb. 7, 1952	SDA.
Total			12	40,277	2,600	0	5			

Footnote at end of table.

TRANSFERS OF REAL PROPERTIES TO DENOMINATIONAL SPONSORED ORGANIZATIONS—FOR HEALTH AND EDUCATIONAL USES THROUGH JUNE 30, 1961—Continued

[Legend: (1) On site—Land and/or buildings conveyed by deed with restrictions; (2) offsite—Buildings and other facilities transferred for removal and relocations, Department has no records of transfers made prior to January 1, 1950, by predecessor agency; (3) H—Health transfers; (4) E—Educational transfers; and (5) PBA—Public benefit allowances granted of fair value]

State and surplus facility	Transferee	Property transferred: Acres	Property transferred: Buildings	Acquisition cost	Fair value	Use: H	Use: E	Percentage PBA	Date of transfer [1]	Sponsoring denomination
INDIANA										
Onsite: None										
Offsite:										
Camp Atterbury	Taylor University		44	$271,140	$20,808		E	95	Aug. 13, 1956	Protestant.
AAA gun site No. C-90	St. Joseph's College		4	32,000	1,600		E	95	Oct. 1, 1958	Catholic.
Total			48	303,140	22,408	0	2			
IOWA										
Onsite: None										
Offsite: None										
KANSAS										
Onsite: None										
Offsite:										
Fort Riley	Enterprise Academy		2	19,292	1,300		E	95	Sept. 30, 1959	SDA.
Do	do		3	73,791	650		E	95	Apr. 2, 1959	SDA.
Schilling AFB	Kansas Wesleyan University		1	12,259	500		E	95	June 16, 1959	Methodist.
Total			6	105,342	2,450	0	3			
KENTUCKY										
Onsite: None										
Offsite:										
PHA War Housing, Piketon	Georgetown College		39	142,041	36,000		E	95	June 29, 1955	Baptist.
Do	do		9	37,605	4,788		E	95	July 31, 1956	Do.
Do	Lindsay Wilson College		4	18,956	4,800		E	95	June 29, 1955	Methodist.
Do	Campbellsville College		18	85,397	23,000		E	95	do	Baptist.
Camp Atterbury	Kentucky Wesleyan College		20	81,708	9,784		E	95	Aug. 10, 1956	Methodist.
Fort Knox	St. Catherine's Grade and High School.		1	17,245	500		E	95	July 11, 1960	Catholic.
Do	St. Mary of the Woods School		1	17,245	745		E	95	Sept. 14, 1960	Do.
Total			86	400,197	79,347	7				
LOUISIANA										
Onsite: None										
Offsite:										
Harding Field	St. Joseph's Academy		2	16,901	1,200		E	95	Feb. 2, 1953	Do.
Do	Christ-the-King Mission		3	2,120	106		E	95	Feb. 4, 1953	Do.
Chennault AFB	Immaculate Heart of Mary Church		3	49,535	1,950		E	95	Jan. 24, 1961	Do.
Toal			8	68,556	3,256	3				
MAINE										
Onsite: None										
MARYLAND										
Onsite: None										
Offsite:										
AAA National Guard site No. 5	Beltsville 7th Day Adventist School		1	5,000	500		E	95	Jan. 29, 1958	7th Day Adventist.
AAA National Guard site No. 8	Holy Redeemer School		1	5,000	500		E	95	Jan. 30, 1958	Catholic.
AAA National Guard site No. 5	St. Augustine's School		1	5,000	500		E	95	do	Do.
Do	St. Bernard's School		1	5,000	500		E	95	do	Do.
AAA National Guard site No. 8	H. J. Detwiler School		1	5,000	500		E	95	Jan. 31, 1958	7th Day Adventist.
AAA National Guard site No. 10	Divine Savior Academy		2	10,000	1,000		E	95	do	Catholic.
AAA National Guard site No. 5	St. Conrad Friary		1	5,000	500		E	95	Feb. 4, 1958	Do.
AAA National Guard site No. 8	Mount St. Mary's College		2	10,000	1,000		E	95	Feb. 5, 1958	Do.
U.S. naval air station	Ursuline Academy		2	18,776	1,000		E	95	Feb. 11, 1958	Do.
AAA National Guard site No. 5	Oblates of St. Francis de Sales		1	5,000	500		E	95	Mar. 6, 1958	Do.
Do	do		1	23,868	2,000		E	95	Mar. 25, 1959	Do.
AAA National Guard BA-90-N	Calvary Christian Day School		1	5,000	500		E	95	Mar. 31, 1958	Lutheran.
Do	Levindale Hebrew Home and Infirmary.		1	5,000	500	H		95	do	Jewish.
AAA National Guard BA-71-N	St. Joseph Cupertino Seminary		2	10,000	1,000		E	95	May 22, 1958	Catholic.
U.S. naval air station	Holy Trinity School		3	28,167	1,500		E	95	June 22 1959	Do.
Do	Little Flower School		2	18,778	1,000		E	95	June 23, 1959	Do.
Do	Woodstock College		1	5,000	475		E	95	Feb. 4, 1959	Do.
North Severn Naval Housing	do		2	16,193	1,000		E	95	Sept. 29, 1960	Do.
U.S. naval air station	Waldorf 7th Day Adventist School		1	9,389	500		E	95	July 8, 1959	7th Day Adventist.
North Severn Naval Housing	St. Stephens School		2	18,064	1,000		E	95	Sept. 16, 1959	Catholic.
Do	Good Shepherd School		1	8,096	500		E	95	Sept. 29, 1960	Do.
AAA gun site W-71-N	Ammendale Normal Institute		1	5,000	500		E	95	June 2, 1961	Do.
Do	St. Clare's School		1	5,000	500		E	95	June 6, 1961	Do.
Total			35	231,331	17,475	1	22			
MASSACHUSETTS										
Onsite: Nitre Depot	Immaculate Conception Church School.	7.03	2	44,000	40,000		E	100	Aug. 5, 1948	Do.
Offsite: Otis AFB	Congregation of the Sacred Heart		2	16,738	400		E	95	Aug. 15, 1960	Do.
Total		7.03	4	60,738	40,400	0	2			
MICHIGAN										
Onsite: National Guard Training Center	St. Francis of Assisi Congregation	11.11	0	694	2,420		E	80	Oct. 12, 1951	Do.
U.S.A. Reserve Center	do	3.79	0	800	33,000		E	80	Jan. 19, 1961	Do.
Offsite:										
Camp Atterbury	Emmanuel Missionary College		20	48,550	10,212		E	95	Aug. 13, 1956	SDA.
Do	do		1	3,948	425		E	95	Nov. 13, 1956	SDA.
AAA gun site No. 80	Spring Arbor Junior College		6	13,800	2,400		E	95	Nov. 24, 1958	Methodist.
Do	Precious Blood Parish		2	4,600	800		E	95	do	Catholic.
Total		14.90	29	72,392	49,257	0	6			

State and surplus facility	Transferee	Property transferred: Acres	Property transferred: Buildings	Acquisition cost	Fair value	Use: H	Use: E	Percentage PBA	Date of transfer[1]	Sponsoring denomination
MINNESOTA										
Onsite: None										
Offsite: None										
MISSISSIPPI										
Onsite: None										
Offsite:										
U.S. naval base	St. Joseph School		1	$1,095	$200		E	95	June 8, 1959	Do.
Do	St. Thomas School		2	2,190	400		E	95	Apr. 13, 1959	Do.
Total		0	3	3,285	600	0	2			
MISSOURI										
Onsite:										
O'Reilly V.A. Hospital	St. Agnes High School	13.70	2	34,001	45,900		E	60	Dec. 13, 1954	Do.
Jefferson Barracks	St. Bernadette School	13.00	4	224,066	193,115		E	100	Mar. 7, 1951	Do.
P.H.S. Marine Hospital	Sisters of St. Joseph Carondelet	14.00	8	1,335,470	1,989,880	H		100	Oct. 3, 1953	Do.
O'Reilly V.A. Hospital	Evangel College	58.51	69	1,527,587	984,550		E	100	Dec. 13, 1954	Assemblies of God.
O'Reilly V.A. Hospital	do	21			600		E	100	Nov. 29, 1955	Do.
Offsite:										
O'Reilly V.A. Hospital	Assumption Monastery		1	7,707	500		E	95	Mar. 4, 1955	Do.
Sedalia A.F.B	do		2	8,474	1,272		E	95	Jan. 19, 1954	Do.
O'Reilly V.A. Hospital	St. Agnes High School		1	46,475	1,250		E	95	July 11, 1955	Do.
O'Reilly V.A. Hospital	Burge Hospital		1	14,838	1,064	H		95	Sept. 3, 1957	Medhodist.
Fort Crowder	do		1	2,340	500	H		95	Jan. 5, 1960	Do.
Sedalia A.F.B	Central College		4	14,211	2,133		E	95	Jan. 19, 1954	Do.
O'Reilly V.A. Hospital	Drury College		2	15,216	14,400		E	95	July 6, 1955	Congregational.
O'Reilly V.A. Hospital	do		2	38,548	3,469		E	95	Apr. 4, 1955	Do.
O'Reilly V.A. Hospital	Evangel College		3	48,438	4,004		E	95	Nov. 22, 1955	Assemblies of God.
O'Reilly V.A. Hospital	do		2	40,784	2,848		E	95	June 6, 1955	Do.
O'Reilly V.A. Hospital	Missouri Baptist Hospital		2	32,844	2,132	H		95	Apr. 1, 1955	Baptist.
Total		99.42	104	3,390,999	3,247,617	4	12			
MONTANA										
Onsite: None										
Offsite: None										
NEBRASKA										
Onsite: Plattsburgh Rifle Range	Immanuel Deaconess Institute	20.30	20	15,000	16,168		E	100	July 20, 1948	Lutheran.
Offsite:										
Fort Randall	Calvary Life College		1	27,212	300		E	95	June 15, 1957	Methodist.
Offutt A.F.B	Father Flanagan's Boy's School		1	935	200		E	95	Feb. 27, 1961	Catholic.
Omaha District Service Base	St. John Vianney Seminary		2	4,000	600		E	95	Sept. 12, 1960	Do.
Nebraska Ordnance	do		6	10,728	1,800		E	95	June 16, 1961	Do.
Nebraska Ordnance	St. Mary's School		1	726	300		E	95	Dec. 23, 1960	Do.
Nebraska Ordnance	Antelope Memorial Hospital		2	3,576	600	H		95	June 16, 1961	SDA.
Nebraska Ordnance	Platte Valley Academy		4	7,152	1,200		E	95	June 26, 1961	SDA.
Nebraska Ordnance	do		2	3,576	600		E	95	July 20, 1961	SDA.
Total		20.30	39	72,905	21,768	1	8			
NEVADA										
Onsite: Basic Magnesium, Inc	Sisters of Third Order of St. Dominic (Rose de Lima Hospital).	12.80	2	464,741	326,500	H		100	May 19, 1948	Catholic.
Offsite: None										
Total		12.80	2	464,741	326,500	1	0			
NEW JERSEY										
Onsite: Shark River Hotel	Central Jersey Christian Schools	4.6	2	200,482	32,000		E	80	Aug. 2, 1957	Christian.
Offsite:										
AAA gun site No. 29	St. Benedict's Preparatory School		4	20,000	2,000		E	95	Nov. 20, 1957	Catholic
Fort Monmouth	Dominican Fathers		3	16,887	1,650		E	95	Apr. 4, 1958	Do.
VA hospital	Don Bosco College		1	400	100		E	95	Sept. 4, 1958	Do.
Total		4.6	10	237,769	35,750	0	4			
NEW MEXICO										
Onsite: Bruns General Hospital	St. Michael's College	122	48	1,324,455	330,301		E	100	Mar. 15, 1949	Do.
Offsite:										
White Rock HP	College of Christian Brothers		2	8,634	4,894		E	95	Sept. 8, 1953	Do.
Do	St. Michael's High School		4	11,938	4,920		E	95	Oct. 2, 1953	Do.
AEC White Rock	Holy Cross Parochial School		4	10,000	2,290		E	95	Jan. 19, 1954	Do.
Do	Brethren-in-Christ Navajo Mission		1	4,317	2,335		E	95	Dec. 26, 1954	Brethren-in-Christ Church
Do	College of Christian Brothers		6	20,570	9,390		E	95	Dec. 26, 1954	Catholic.
Do	Brethren Navajo Mission Boarding School.		2	7,301	3,515		E	95	Dec. 26, 1954	Brethren Church.
Sandia Base	C. Warren Jones Indian School		3	15,441	1,200		E	95	Feb. 4, 1955	Church of the Nazarene.
AEC HP, Los Alamos	Sacred Heart Academy		2	20,000	4,000		E	95	Feb. 7, 1955	Catholic.
Sandia Base	Menaul School		3	8,064	475		E	95	Feb. 10, 1955	Presbyterian.
Do	Pilgrim Indian Mission School		1	10,608	764		E	95	Aug. 22, 1955	Seventh-Day Adventist.
Kirtland AFB	Sandia View Academy		3	34,109	3,600		E	95	Oct. 24, 1955	Do.
AEC, Los Alamos	do		2	78,948	5,376		E	95	Nov. 2, 1955	Do.
Do	St. Michael's High School		1	52,353	1,600		E	95	Sept. 24, 1957	Catholic.
Kirtland AFB	All Tribes Indian School		1	11,211	1,500		E	95	Apr. 13, 1958	Seventh-Day Adventists.
AEC White Rock	Berean Mission Navajo School		1	12,968	600		E	95	Jan. 13, 1958	Berean Mission, Inc.
Do	Brethren-in-Christ Navajo Mission		2	7,319	650		E	95	Jan. 13, 1958	Brethren-in-Christ Church
Kirtland AFB, Albuquerque	Brethren Navajo Mission		1	13,528	1,200		E	95	Aug. 7, 1958	Brethren Church.
Walker AFB, Roswell	Immaculate Conception School		1	16,607	400		E	95	Oct. 31, 1958	Catholic.
Kirtland AFB, Albuquerque	All Tribes Indian Mission School		2	8,000	700		E	95	June 30, 1959	Seventh-Day Adventists.
Do	Lybrook Navajo Mission		2	8,000	700		E	95	June 30, 1959	Church of the Brethren.
Do	Berean Mission School		1	8,000	672		E	95	June 30, 1959	Berean Mission, Inc.
Do	Brethren Navajo Mission School		3	12,000	1,050		E	95	June 30, 1959	Brethren Church.
Do	Lourdes Vocational School		1	4,000	350		E	95	June 30, 1959	Catholic.
Naval Ordnance, White Sands	Sandia View Academy		2	14,360	1,500		E	95	Nov. 9, 1959	Seventh-Day Adventists.
Kirtland AFB, Albuquerque	Bataan Methodist Hospital		1	3,850	1,000	H		95	May 22, 1961	Methodist.
Total		122	100	1,725,311	384,982	1	25			

Footnote at end of table.

TRANSFERS OF REAL PROPERTIES TO DENOMINATIONAL SPONSORED ORGANIZATIONS—FOR HEALTH AND EDUCATIONAL USES THROUGH JUNE 30, 1961—Continued

[Legend: (1) On site—Land and/or buildings conveyed by deed with restrictions; (2) offsite—Buildings and other facilities transferred for removal and relocations, Department has no records of transfers made prior to January 1, 1950, by predecessor agency; (3) H—Health transfers; (4) E—Educational transfers; and (5) PBA—Public benefit allowances granted of fair value]

State and surplus facility	Transferee	Property transferred: Acres	Property transferred: Buildings	Acquisition cost	Fair value	Use: H	Use: E	Percentage PBA	Date of transfer [1]	Sponsoring denomination
NEW YORK										
Onsite:										
Pine Acres Niagara Falls PHA project	Bishop Duffy High School, Diocese of Buffalo.	7.58	2	$169,076	$72,076		E	60	Feb. 26, 1948	Catholic.
Lake Ontario Ordnance Works	Buffalo Academy of Sacred Heart	12.0		7,500			E		July 31, 1948	Do.
Department of Army	New York Protestant Episcopal PS.	.06		3,000	1,521		E	100	May 11, 1955	Episcopal.
Rhoads General Hospital	Roman Catholic Diocese of Syracuse, N.Y.	23.7		23,700	23,700		E	80	Dec. 9, 1959	Catholic.
General Electric Company	Syracuse University	20.0	11	8,088,143	2,231,227		E	70	Sept. 3, 1946	Methodist.
Offsite:										
U.S. naval training center	St. Germaine's Home		1	1,852	1,200		E		Mar. 20, 1951	Catholic.
Do	Franciscan Friars		8	12,940	3,360		E		Mar. 27, 1951	Do.
Do	Marist Prep School		2	2,705	840		E		June 8, 1951	Do.
Do	do		2	4,012	480		E		June 15, 1951	Do.
Veterans' Administration hospital	St. Andrews Novitiate		1	8,000	2,000		E		June 2, 1954	Do.
Do	Lincoln Hall		1	7,500	1,500		E		June 2, 1954	Do.
Schenectady General Depot	Mill Hill Fathers		3	1,966	75		E		July 1, 1954	Do.
Veterans' Administration hospital	Houghton College		1	5,976	500		E		Dec. 7, 1956	Methodist.
Do	Notre Dame High School		1	5,976	500		E		Mar. 6, 1957	Catholic.
Do	Our Lady of Mercy HS		1	5,976	500		E		Mar. 25, 1957	Do.
Do	Robert Wesleyan College		2	11,951	1,000		E		Sept. 20, 1957	Methodist.
Do	do		2	11,951	1,000		E		Nov. 25, 1957	Do.
AAA gun site NFJ92	Oblates of St. Frances		2	10,000	1,000		E		May 5, 1958	Catholic.
Schenectady General Depot	Mill Hill Fathers		3	5,370	1,450		E		Oct. 1, 1958	Do.
AAA gun site NY-45	Jewish Chronic Disease Hospital		3	15,000	1,500	H			Jan. 19, 1959	Jewish.
Schenectady General Depot	Mill Hill Fathers		2	3,515	1,000		E		Sept. 15, 1959	Catholic.
Veterans' Administration hospital	Good Samaritan Hospital		1	5,000	1,000	H			Mar. 24, 1960	Do.
Total		63.34	59	8,411,109	2,347,429	2	21			
NORTH CAROLINA										
Onsite: Laurinburg-Maxton AAF	Presbyterian Junior College	273.0	47	440,940	113,406		E	100	Aug. 27, 1948	Presbyterian.
Offsite: AAA gun sites 13 and 20	Atlantic Christian College		1	5,000	475		E	95	Apr. 8, 1959	Disciples of Christ.
Total		273.0	48	445,940	113,881	0	2			
NORTH DAKOTA										
Onsite: None										
Offsite:										
Fort Lincoln	Cheyenne River Academy		4	24,300	2,100		E	95	Feb. 10, 1956	SDA.
Do	St. Mary's Grade School		1	11,600	800		E	95	June 5, 1956	Catholic.
Total			5	35,900	2,900		2			
OHIO										
Onsite:										
VA hospital site	Ohio Conference of SDA	14.66		15,075	11,733		E	70	Nov. 8, 1955	SDA.
Do	University of Dayton	25.71	1	739,686	406,405		E	100	Mar. 29, 1960	Catholic.
Offsite:										
Clinton County AFB	Bluffton College		2	4,621	500		E	95	Aug. 18, 1960	Mennonite.
Wright-Patterson AFB	Cedarville College		2	49,288	500		E	95	May 21, 1957	Baptist.
Department of Agriculture	Pontifical College		1	14,806	300		E	95	June 9, 1960	Do.
Clinton County AFB	St. Helen School		2	2,200	500		E	95	Aug. 18, 1960	Do.
Wright-Patterson AFB	St. Mary of the Woods School		2	21,433	320		E	95	Feb. 20, 1958	Do.
Do	Wilberforce University		1	41,000	1,525		E	95	Feb. 6, 1959	Methodist.
VA hospital site	Mount St. John Normal School		1	5,000	500		E	95	July 28, 1955	Catholic.
Wright-Patterson AFB	do		2	10,000	860		E	95	Aug. 1, 1955	Do.
Total		40.37	14	903,109	423,143		10			
OKLAHOMA										
Onsite: None										
Offsite:										
Tinker Field	Central Christian College		1	8,048	622		E	95	Feb. 18, 1955	Church of Christ
Will Rogers Field	Oklahoma Bible Academy		1	15,505	1,500		E	95	June 16, 1958	Unknown.
Tinker Field	St. Gregory's College		2	22,500	3,000		E	95	May 29, 1958	Catholic.
Old Shawnee Agency	do		2	325	300		E	95	Aug. 28, 1959	Do.
Total		0	6	46,378	4,922		4			
OREGON										
Onsite:										
Youngs Bay, Oregon	Garden of the King Enterprises, Inc.	16.53	10	129,800	30,700		E	100	Nov. 8, 1956	Protestant.
Riverwood Park project	Garden of the King Enterprises, Inc. (Astoria Girls' School).	15.25	4	126,258	9,000		E	60	May 2, 1958	Do.
Offsite:										
Camp Mongold	Western Mennonite School		2	68,366	964		E	95	Apr. 3, 1952	Mennonite.
Detroit Reservoir project	do		1	35,000	1,590		E	95	June 9, 1952	Do.
Do	Western Evangelical Seminary		3	112,904	7,603		E	95	Oct. 6, 1952	Evangelical.
McNary lock and dam	St. Andrew's School		1	3,000	100		E	95	Apr. 18, 1953	Catholic.
The Wallac Dam project	St. Mary's Academy		2	2,360	205		E	95	Mar. 28, 1955	Do.
Camp Hanford	Laurelwood Academy		12	34,900	11,540		E	95	Aug. 27, 1958	SDA.
Do	Columbia Christian College		4	7,600	3,840		E	95	Sept. 18, 1958	Christian.
Camp Adair	Melody Mountain Ranch School		1	104,447	10,000		E	95	Sept. 24, 1958	Protestant.
Camp Hanford	Lebanon SDA School		3	5,700	2,800		E	95	do	SDA.
Bonneville Power Administration	Jesuit High School		1	1,991	500		E	95	Mar. 5, 1959	Catholic.
Big Eddy substation	Garden of the King Enterprises, Inc. (Astoria Girls' School).		1	1,322	500		E	95	Mar. 19, 1959	Protestant.
John Day lock and dam project	Lebanon SDA School		1	1,200	900		E	95	Dec. 15, 1958	SDA.
U.S. Naval Station, Tongue Point	St. Therese School		1	650	500		E	95	Apr. 18, 1960	Catholic.
Do	do		1	2,000	500		E	95	May 9, 1960	Do.
Camp Adair	Laurelwood Academy		1	104,447	10,000		E	95	Dec. 15, 1960	SDA.
Total		31.78	49	741,945	91,242	0	17			

State and surplus facility	Transferee	Property transferred: Acres	Property transferred: Buildings	Acquisition cost	Fair value	Use: H	Use: E	Percentage PBA	Date of transfer[1]	Sponsoring denomination
PENNSYLVANIA										
Onsite:										
Veterans' Administration hospital site.	Diocese of Harrisburg	10.1		$26,008	$38,129		E	80	Jan. 16, 1957	Catholic.
Lacey Park housing project	St. John Bosco School	4.3		8,819	5,000		E	80	Aug. 2, 1957	Do.
Offsite:										
HRB Singer's	St. Jude's Parish School		1	6,800	500		E	95	Mar. 4, 1960	Do.
AAA Gun Site No. 60	do		3	11,180	3,500		E	95	Mar. 28, 1960	Do.
AAA Gun Site No. 3	Muhlenberg College		2	10,000	1,000		E	95	May 9, 1958	Lutheran.
AAA Gun Site No. 94	George School		2	10,000	1,000		E	95	May 20, 1958	Quaker.
Do	Moravian Seminary		2	10,000	1,000		E	95	May 26, 1958	Moravian.
AAA Gun Site No. 3	LaSalle College		2	10,000	1,000		E	95	do	Catholic.
AAA Gun Site No. 41	Villa Maria High School		1	5,000	500		E	95	May 23, 1958	Do.
AAA Gun Site No. 9	Eastern Pilgrim College		1	5,000	500		E	95	June 4, 1958	Pilgrim Holiness.
AAA Gun Site No. 3	Blue Mountain Academy		1	5,000	500		E	95	do	Seventh-day Adventist.
AAA Gun Site No. 60	Villa Maria High School		1	5,000	500		E	95	June 10, 1958	Catholic.
AAA Gun Site No. 91	do		1	5,000	500		E	95	June 25, 1958	Do.
AAA Gun Site No. 90	Blessed Sacrament Parochial School.		2	5,500	1,000		E	95	Apr. 28, 1960	Do.
Do	Villa Maria College		3	7,250	1,500		E	95	May 10, 1960	Do.
Do	Society of Sisters of St. Benedict		2	5,500	1,000		E	95	May 23, 1960	Do.
AAA Gun Site No. 70	Mercyhurst College		3	7,500	1,500		E	95	May 31, 1960	Do.
New Cumberland General Depot	St. Jude's Parish School		2	38,315	3,000		E	95	Apr. 24, 1961	Do.
Total		14.4	29	181,872	61,629	0	18			
RHODE ISLAND										
Onsite: None										
Offsite: U.S. Naval auxiliary landing field	Mount St. Charles Academy		1	188,800	900		E	95	May 27, 1961	Catholic.
Total		0	1	188,800	900	0	1			
SOUTH CAROLINA										
Onsite: None										
Offsite: Camp Pickett	Bob Jones University		20	69,320	20,000		E	95	June 10, 1955	Nondenominational.
Total		0	20	69,320	20,000	0	1			
SOUTH DAKOTA										
Onsite: None										
Offsite:										
Fort Randall	Dakota Christian High School		1	51,577	500		E	95	Dec. 15, 1955	Presbyterian.
Do	St. Mary's School for Indian Girls		2	55,451	850		E	95	do	Episcopal.
Do	St. Otto's School		2	7,749	700		E	95	do	Catholic.
Do	Wessington Springs College		3	53,102	1,200		E	95	do	Methodist.
Do	Corsica Christian School		1	21,058	300		E	95	do	Unknown.
Ellsworth AFB	Plainview Academy		1	22,218	800		E	95	June 19, 1861	Do.
Total			10	211,156	4,350	0	6			
TENNESSEE										
Onsite: VA hospital	Baptist Memorial Hospital	9.54	20	2,206,258	1,794,883	H		100	Oct. 13, 1959	Baptist.
Offsite:										
Memphis General Depot	Lambuth College		2	8,455	325		E	95	July 1, 1958	Methodist.
Camp Breckenridge	Nashville Ag. College		9	36,269	9,600		E	95	July 1, 1955	SDA.
Do	Tusculum College		9	23,652	9,600		E	95	do	Presbyterian.
Total		9.54	40	2,274,634	1,814,408	1	3			
TEXAS										
Onsite:										
Ward Island NATTC	University of Corpus Christi	232.83	70	3,930,100	570,000		E	100	Aug. 6, 1951	Baptist.
Camp Bowie	Howard Payne College	211	12	180,716	61,670		E	100	July 6, 1954	Do.
Normoyle Ordnance Depot	Baptist Memorial Hospital	10	3	15,663	19,075	H		100	Dec. 31, 1959	Do.
Do	Missionary Servants of St. Anthony	7.74	3	12,123	20,075		E	100	do	Catholic.
Do	Third Order of St. Francis	16.11		25,233	23,000		E	70	do	Do.
Zuehl AF Auxiliary Field	Texas Lutheran College	230.64		358,600	23,900		E	100	Oct. 21, 1960	Lutheran.
Offsite:										
Ben Brook Dam	Southwestern Junior College		4	12,200	1,270	E		95	Nov. 21, 1951	Seventh-Day Adventist.
Fort Worth QM Depot	Texas Wesleyan College		1	6,000	525	E		95	Nov. 5, 1951	Methodist.
Grapevine Dam	do		8	1,580	160	E		95	Nov. 21, 1951	Do.
Ben Brook Dam	do		2	2,450	475	E		95	do	Do.
Do	Southwestern Junior College		9	24,075	2,950	E		95	Mar. 7, 1952	Seventh-Day Adventist.
Belton Reservoir	Madelyn Halligan Kelly Memorial Hospital.		1	400	100	E		95	May 21, 1953	Catholic.
Bd. for Texas St. Hosp. & Spec. Schs	Southwestern Junior College		18	10,836	1,085	E		95	Oct. 5, 1951	Seventh-Day Adventist.
University of Corpus Christi	Texas-Mexico Industrial Institute		1	1,566	152	E		95	July 2, 1954	Presbyterian.
Brown County Vocational School	Howard Payne College		13	180,716	61,670	E		100	July 26, 1954	Baptist.
Love Field	do		1	8,000	820	E		95	Feb. 1, 1955	Do.
Do	Southwestern Christian College		3	44,400	2,830	E		95	do	Church of Christ.
Kelly AFB	Our Lady of Perpetual Help Society		1	4,503	650	E		95	July 21, 1955	Catholic.
Bergstrom AFB	St. Mary's School		1	13,813	1,500	E		95	Sept. 29, 1955	Do.
Carswell AFB	Southwestern Baptist Theological Seminary		2	15,515	1,150	E		95	Nov. 1, 1955	Baptist.
Amarillo AFB	St. Joseph's School		1	7,650	800	E		95	Nov. 16, 1955	Catholic.
Camp Bullis	Schreiner Institute		15	2,500	1,200	E		95	Dec. 28, 1955	Presbyterian.
Petersburg Ind. School Dist	Wayland Baptist College		1	7,200	1,200	E		95	Aug. 15, 1955	Baptist.
Hale Center School Dist	do		1	7,200	1,200	E		95	Aug. 24, 1955	Do.
Fort Hood MR	Lutheran Elementary School		1	37,440	1,800	E		95	June 18, 1956	Lutheran.
University of Corpus Christi	Perpetual Help School		1	61,425	5,700	E		95	Mar. 15, 1956	Catholic.
St. of Texas Mission Medical Center	Concordia Lutheran School		1	6,880	960	E		95	Apr. 19, 1956	Lutheran.
Fort Hood MR	First American Lutheran Elementary School		1	8,284	1,100	E		95	July 24, 1956	Do.
Do	St. Joseph's School		2	23,888	2,800	E		95	do	Catholic.
Do	St. Mary's School		1	11,497	1,400	E		95	do	Do.
Bergstrom AFB	Dolores Church School		1	13,105	900	E		95	Oct. 15, 1956	Do.
Laredo AFB	Ursuline Academy		2	15,307	800	E		95	Nov. 30, 1956	Do.
Kelly AFB	San Antonio Catholic school system		3	17,754	1,900	E		95	Jan. 31, 1957	Do.
Reese AFB	Lubbock Christian College		1	85,295	6,000	E		95	Feb. 8, 1957	Church of Christ.
Lake Brownwood Dam	Howard Payne College		1	310	50	E		95	Feb. 15, 1957	Baptist.
Clovis AFB	Lubbock Christian College		4	27,402	3,200	E		95	Apr. 12, 1957	Church of Christ.
Medina AFB	Baptist Memorial Hospital		2	430	170	H		95	Apr. 30, 1957	Baptist.
Harlingen AFB	St. Alban's Day School		1	11,264	500	E		95	May 27, 1957	Episcopalian.
Do	St. Benedict's Parochial School		1	15,545	500	E		95	do	Catholic.
Fort Sam Houston	San Antonio Catholic school system		2	30,182	2,600	E		95	June 26, 1957	Do.
Bergstrom AFB	San Jose Church School		1	6,368	600	E		95	June 29, 1957	Do.

Footnote at end of table.

TRANSFERS OF REAL PROPERTIES TO DENOMINATIONAL SPONSORED ORGANIZATIONS—FOR HEALTH AND EDUCATIONAL USES THROUGH JUNE 30, 1961—Continued

[Legend: (1) On site—Land and/or buildings conveyed by deed with restrictions; (2) offsite—Buildings and other facilities transferred for removal and relocations, department has no records of transfers made prior to January 1, 1950, by predecessor agency; (3) H—Health transfers; (4) E—Educational transfers; and (5) PBA—Public benefit allowances granted of fair value]

State and surplus facility	Transferee	Property transferred: Acres	Property transferred: Buildings	Acquisition cost	Fair value	Use: H	Use: E	Percentage PBA	Date of transfer [1]	Sponsoring denomination
TEXAS—Continued										
St. of Texas Mission Medical Center	San Antonio Catholic school system		2	$27,009	$3,200		E	95	Apr. 30, 1957	Do.
Fort Hood MR	Baylor University		6	49,656	5,040		E	95	July 16, 1957	Baptist.
Bergstrom AFB	Dolores Church School		2	20,138	1,900		E	95	Oct. 31, 1957	Catholic.
Fort Hood MR	St. Joseph's Church School		2	16,552	1,680		E	95	Nov. 12, 1957	Do.
Do	Trinity Lutheran Church School		2	16,552	1,680		E	95	do	Lutheran.
Department of State	Rio Grande Bible Institute, Inc		1	18,000	400		E	95	Nov. 22, 1957	Protestant Interdenominational.
Reese AFB	Lubbock Christian		7	61,572	9,800		E	95	Nov. 29, 1957	Church of Christ.
Harlingen AFB	Marydale School		1	6,535	400		E	95	Dec. 3, 1957	Catholic.
Fort Hood MR	Trinity Lutheran School		2	4,124	470		E	95	Dec. 20, 1957	Lutheran.
Harlingen AFB	Rio Grande Bible Institute, Inc		1	7,341	500		E	95	Dec. 18, 1957	Protestant.
First American Lutheran Church	Grace Lutheran Church		1	37,440	1,800		E	100	Sept. 1, 1957	Lutheran.
Do	do		1	8,284	1,100		E	100	Sept. 1, 1957	Do.
Camp Swift Military Reservation	St. Agnes Parochial School		1	25,500	3,000		E	95	Mar. 17, 1958	Catholic.
Carswell AFB	Bible Baptist Seminary		2	76,756	4,400		E	95	Mar. 12, 1958	Fundamental Baptist.
Reese AFB	Lubbock Christian College		1	40,194	4,000		E	95	Apr. 16, 1958	Church of Christ.
San Antonio AF Station	Sacred Hearts School		2	3,234	460		E	95	Apr. 25, 1958	Catholic.
Fort Hood MR	Trinity Lutheran School		1	3,568	300		E	95	May 29, 1958	Lutheran.
Camp Bowie	Howard Payne College		3	21,450	2,500		E	95	Oct. 17, 1958	Baptist.
Bergstrom AFB	Mission of San Jose School		3	14,239	1,500		E	95	Aug. 30, 1958	Catholic.
Brooks AFB	St. James School		2	21,000	1,460		E	95	Nov. 27, 1958	Do.
Bergstrom AFB	St. Louis School		1	4,470	500		E	95	Aug. 30, 1958	Do.
Do	Seventh-Day Adventist School		1	4,628	500		E	95	Aug. 30, 1958	Seventh-Day Adventist.
Carswell AFB	Southwestern Baptist Theological Seminary.		8	27,957	3,300		E	95	Nov. 14, 1958	Baptist.
Do	do		2	47,985	1,720		E	95	Oct. 31, 1958	Do.
Fort Hood MR	Trinity Lutheran School		1	8,276	840		E	95	Aug. 18, 1958	Lutheran.
Lampass Reservoir project	Mary Hardin-Baylor College		1	50,621	650		E	95	Feb. 12, 1959	Baptist.
Kelly AFB	International Bible College		1	19,493	900		E	95	Mar. 31, 1959	Nondenominational.
Do	do		2	55,333	1,300		E	95	Feb. 27, 1959	Do.
Laredo AFB	Holding Institute		1	5,193	400		E	95	May 22, 1959	Methodist.
Biggs AFB	El Paso Catholic Diocesan School		3	3,300	1,200		E	95	June 8, 1959	Catholic.
Canyon Reservoir	Grace Lutheran School		1	800	200		E	95	Apr. 24, 1959	Lutheran.
AEC, Los Alamos	Lubbock Christian College		1	499,133	30,000		E	95	June 5, 1959	Church of Christ.
James Connally AFB	Westminster College & Bible Institute.		2	22,160	2,200		E	95	Jan. 7, 1959	Congregational Methodist.
Moore AFB	Rio Grande Bible Institute		3	14,199	850		E	95	Jan. 9, 1959	Protestant.
Carswell AFB	Fort Worth Christian Sshool		2	79,895	2,600		E	95	July 20, 1959	Church of Christ.
Camp Bowie	Howard Payne College		2	9,500	600		E	95	July 20, 1959	Baptist.
Randolph AFB	St. Henry's Parochial School		1	13,508	1,000		E	95	Sept. 22, 1959	Catholic.
Carswell AFB	Southwestern Baptist Theological Seminary.		2	34,501	1,600		E	95	July 20, 1959	Baptist.
Do	do		8	113,037	1,800		E	95	July 13, 1959	Do.
Jim Ned Cons. ISD	Howard Payne College		1	5,500	3,000		E	100	Dec. 31, 1959	Do.
Air Force Plant 66	Baylor University		1	2,000	500		E	95	Jan. 20, 1960	Do.
Do	do		1	151,655	6,400		E	95	Jan. 11, 1960	Do.
Laredo AFB	St. Augustine Parochial School		2	42,275	1,260		E	95	Mar. 31, 1960	Catholic.
Fort Sam Houston MR	San Antonio Catholic School		1	17,015	1,300		E	95	Feb. 25, 1960	Do.
Waco	Baylor University		17	23,775	2,252		E	95	Dec. 30, 1960	Baptist.
Falcon Village	Rio Grande Bible Institute		1	12,599	1,200		E	95	July 29, 1950	Protestant Interdenominational.
Waco Reservoir	St. Francis School		5	1,600	280		E	95	Dec. 20, 1960	Catholic.
Do	do		2	34,000	2,000		E	95	Nov. 30, 1960	Do.
Brooks AFB	Society of St. Theresa of Jesus		1	16,007	1,100		E	95	Sept. 30, 1960	Do.
Navarro Mills Reservoir project	Westminster College and Bible Institute.		1	100	20		E	95	Sept. 30, 1960	Congregational Methodist.
Kelly AFB	San Antonio Arch diocesan Catholic school system.		1	32,511	1,200		E	95	Mar. 9, 1961	Catholic.
Do	do		1	6,390	460		E	95	Mar. 9, 1961	Do.
Camp Gary	Grace Lutheran Church School		1	9,729	700		E	95	Mar. 10, 1961	Lutheran.
Falcon Village	Holding Institute		3	22,530	2,300		E	95	Mar. 15, 1961	Methodist.
Kelly AFB	Texas Lutheran College		2	5,593	830		E	95	May 18, 1961	Lutheran.
Camp Bowie	Seventh-Day Adventist School		1	5,714	1,000		E	95	June 30, 1961	Seventh-Day Adventist.
Total		708.32	325	7,123,541	952,979	2	95			
UTAH										
Onsite: None										
Offsite:										
CAA	Milford SDA Elementary School		1	1,510	517		E	95	May 8, 1952	SDA.
Fort Douglas	Brigham Young University		1	14,055	1,566		E	95	Apr. 7, 1955	Mormon.
Vanadium Corp. of America	Navajo Mission and Clinic		1	1,821	300		H	95	Apr. 16, 1956	SDA.
Tooele Ordnance Depot	Brigham Young University		3	17,480	200		E	95	Oct. 11, 1957	Mormon.
Total			6	34,866	2,583	1	3			
VIRGIN ISLANDS										
Onsite: None										
Offsite: None										
VIRGINIA										
Onsite: None										
Offsite:										
Camp Pickett	St. Emma Ind. & Ag. Institute		2	6,932	2,000		E	95	June 20, 1955	Catholic.
USN amphib	do		3	4,200	1,500		E	95	Apr. 14, 1958	Do.
USN amphibious base	do		1	1,400	500		E	95	May 16, 1958	Catholic
Do	do		4	12,688	2,000		E	95	July 12, 1960	Do.
Camp Pickett	Ferrum Junior College		10	34,660	10,000		E	95	Jun. 20, 1955	Methodist.
USN air station	do		5	29,835	2,500		E	95	Apr. 2, 1959	Do.
Do	Shenandoah Valley Academy		4	23,868	2,000		E	95	Apr. 8, 1959	SDA.
USN amphibious base	The Blue Ridge School		2	2,800	1,000		E	95	Jun. 12, 1960	Episcopal.
Total			31	116,383	21,500	0	E			
VERMONT										
Onsite: None										
Offsite: None										

State and surplus facility	Transferee	Property transferred: Acres	Buildings	Acquisition cost	Fair value	Use: H	E	Percentage PBA	Date of transfer[1]	Sponsoring denomination
WASHINGTON										
Onsite:										
Michigan St. Dormitories	Seattle Christian School Association.	1.67	1	$92,871	$24,200		E	80	Oct. 16, 1951	Christian.
Burton homes	Garden of the King Enterprises, Inc.	11.48	1	127,443	56,771		E	100	Oct. 25, 1955	Protestant.
VA hospital	St. Patrick's School	20.28	3	28,900	9,126		E	80	Mar. 7, 1956	Catholic.
Fort Casey	Seattle Pacific School	100.00	13	212,600	36,386		E	50	May 18, 1956	Methodist.
Stewart Heights	Western Washington Conf. SDA	4.62	2	81,147	19,000		E	80	July 5, 1956	SDA.
Stewart Heights hsg, proj	Northwest Bible College, Inc.	22.64	1	90,533	41,200		E	100	Sept. 24, 1958	Assembly of God church.
Offsite:										
Soil cons. serv. nursey	Kings Inc		4	4,198	1,000		E	95	Aug. 27, 1951	Protestant.
Blyn Mountain radar station	Seattle University		1	12,000	513		E	95	Sept. 21, 1951	Catholic.
McNary lock and dam	Walla Walla College		1	79,100	1,084		E	95	Jan. 9, 1953	SDA.
Fort Lewis Military Reservation	Seattle Christian School Association.		1	1,200	100		E	95	Jan. 12, 1953	Christian.
McNary lock and dam	St. Andrew's School		1	3,000	100		E	95	Apr. 18, 1953	Catholic.
Yakima Training Center	Kings Inc		5	4,800	1,180		E	95	Feb. 9, 1953	Protestant.
Fort Lawton	Samaritan Hospital		3	4,500	450	H		95	Oct. 19, 1953	Do.
American Lake Gardens HP	Olympia SDA School		2	8,500	1,571		E	95	Nov. 20, 1953	SDA.
Fort Lewis	do		4	2,300	460		E	95	Nov. 27, 1953	SDA.
Yakima Firing Center	Auburn Academy		3	12,000	655		E	96	Jan. 4, 1954	SDA.
Fort Lewis	Olympia SDA School		1	14,441	876		E	95	Apr. 1, 1954	SDA.
Do	Chehalis SDA School		1	49,088	1,642		E	95	May 5, 1954	SDA.
Auburn General Depot	King's Garden, Inc		1	5,130	63		E	95	Jun. 21, 1954	Protestant.
Fort Lawton	Walla Walla College		1	1,500	150		E	95	Apr. 25, 1955	SDA.
VA hosp. res	do		1	3,000	1,000		E	95	May 13, 1955	SDA.
VA hospital site	St. Patrick's School		3	28,900	1,649		E	95	Dec. 10, 1955	Catholic.
Fairfield Air Force Base	Upper Columbia Academy		2	3,482	1,000		E	95	Nov. 25, 1957	SDA.
Vashon AAA site	Tacoma SDA Junior Academy		1	2,430	750		E	95	Jan. 20, 1958	SDA.
Winslow AAA site	SDA Church School		1	2,430	750		E	95	Jan. 27, 1958	SDA.
Do	Mountlake Christian School		1	2,430	750		E	95	Jan. 30, 1958	Christian.
Vashon AAA site	King's Garden, Inc		2	4,860	1,500		E	95	Feb. 7, 1958	Protestant.
Edmonds receiver site	do		1	5,700	600		E	95	May 22, 1958	Do.
Camp Hanford	Walla Walla College		14	39,600	15,360		E	95	Aug. 20, 1958	SDA.
Do	Upper Columbia Conf. of SDA		4	15,725	3,905		E	95	Aug. 22, 1958	SDA.
Do	St. Joseph's Hospital		1	1,900	960	H		95	Sept. 2, 1958	Catholic.
Do	Upper Columbia Academy		4	9,900	3,840		E	95	Sept. 9, 1958	SDA.
Do	Our Lady of Lourdes Hospital		1	1,900	960	H		95	Sept. 22, 1958	Catholic.
Do	Vancouver Boys' Academy (Kings' Inc.)		2	3,800	1,920		E	95	Sept. 23, 1958	Protestant.
VA hospital (Firland)	Walla Walla College		3	28,900	1,659		E	95	Oct. 13, 1958	SDA.
West Park Annex	Mountainlake Christian School		1	17,886	2,500		E	95	June 9, 1959	Christian.
Camp Hanford	Northwest Bible College		2	8,378	1,860		E	95	Oct. 23, 1959	Assembly of God Church.
Do	Bethlehem Lutheran Parochial School.		1	9,711	2,040		E	95	Dec. 28, 1949	Lutheran.
Vashon AAA site	Vancouver Boys' Academy (King's Inc.)		2	4,860	1,500		E	95	Feb. 2, 1960	Protestant.
Camp Hanford	do		2	8,400	1,920		E	95	Mar. 22, 1960	Do.
USN Air Station, Whidbet Island	St. Joseph's General Hospital		1	23,680	1,350	H		95	Sept. 1, 1960	Catholic.
Total		160.69	100	1,063,123	244,310	4	37			
WEST VIRGINIA										
Onsite: none										
Offsite: AAA site No. 11	Don Bosco Agric. School		2	10,000	1,000		E	95	Jan. 27, 1958	Do.
Total			2	10,000	1,000	0	1			
WISCONSIN										
Onsite: none										
Offsite: none										
WYOMING										
Onsite: None										
Offsite: None										
PUERTO RICO										
Onsite: None										
Offsite:										
Camp Losey	Colegio Bautista de Cardina		1	28,229	3,000		E	95	Apr. 16, 1958	Baptist.
Do	do		2	30,025	6,000		E	95	Sept. 16, 1958	Do.
Fort Buchanan	do		1	34,500	750		E	95	Mar. 2, 1961	Do.
Camp Losey	Catholic University of Puerto Rico		1	1,500	1,000		E	95	May 16, 1958	Catholic.
Total			5	94,254	10,750	0	4			
Grand total		3,309.48	2,005	38,566,355	13,124,791	29	489			

[1] Dates prior to Jan. 1, 1950, indicate cases processed by W.A.A., our predecessor agency. All others were processed by DHEW, which has the compliance responsibility for all cases.

Mr. GOLDWATER. I do not think there is a State in the Union or a denomination that has not received some of this literally hundreds of millions of dollars that the Federal Government has given to churches in the last 30 years.

DISTRICT OF COLUMBIA APPROPRIATIONS, 1979

The PRESIDING OFFICER. Under the previous order, the hour of 3 o'clock having arrived, the clerk will report H.R. 13468 by title.

The assistant legislative clerk read as follows:

Calendar 998, H.R. 13468, an act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with amendments.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum and request that the time be equally divided on the bill.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold his suggestion?

Mr. MOYNIHAN. I withhold my suggestion.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I ask unanimous consent that the rollcall vote on the passage of the D.C. appropriations bill be a 25-minute rollcall; that it not exceed 25 minutes. This will accommodate some Senators who have to go to the White House and some Senators who are coming in.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. It will begin at 4 o'clock. It need not be 25 minutes if all Senators are here, but it will have that outside limit on it.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will proceed to call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, we have before us the appropriations bill for the District of Columbia, and I would like to thank the majority leader, Senator ROBERT C. BYRD, for his efforts last Friday to bring this bill to the floor of the Senate.

In that regard, I would also like to thank the minority leader, Senator BAKER, for his efforts in assisting in this regard.

I know I remained and changed my original plans to leave town, hoping they might be successful, knowing how hard they were working on it, and I share the leaders' interest in trying to move this bill.

It has been carefully worked out with Senator MATHIAS, the ranking minority member. It is a bill which has no matters of great controversy involved. In fact, I will point out that it passed the Appropriations Subcommittee unanimously, and it passed the full committee unanimously.

I also thank the majority leader for his generous and kind remarks of appreciation for the work that I and the other members of the subcommittee have done in what some people describe as a "thankless job."

I might point out, however, that it is a job that would be impossible to do without the help of Senator MATHIAS who, as I have stated on many occasions previously, has far more expertise in this area than I have, and I also thank Senator BUMPERS, Senator DECONCINI, and Senator WEICKER; and as for the staff, Mike Hall, our permanent staff counsel; Marty Franks, and Bob Paquin, of my staff.

This week, Thursday, the House goes out in recess. There had been hope, I had hoped, to schedule a conference with the House on the D.C. appropriations bill this week. Had we been more successful in bringing this to the floor last Friday we almost certainly would have had a conference this week. We now are no longer certain that the conference can be arranged with the House for this week. We may have to wait until after the Labor Day recess, so the bill may be slowed down almost a month.

I do want to thank the distinguished majority leader and the distinguished minority leader for their excellent and generous efforts to help us move the D.C. appropriations bill along.

I would hope in that regard, however, that we might meet in conference shortly after we come back from Labor Day. I do not think anyone in his right mind thinks we will actually recess at the time we have been told by the House and Senate, that is, by October 7. I think we all realize that it will be as ethereal a recess date as the October 10 recess date last year, which I think dragged on until December 15. But there are those who are looking forward to the possibility. I think Jimmy the Greek has given 5-to-4 odds that we will be out before Christmas Eve.

I am pleased to have the opportunity to bring to the floor the committee's recommendations on the District of Columbia Appropriations Act for fiscal year 1979. We held a day of overview hearings on February 1, and we held 6 days of hearings in May. On July 19, we held additional hearings to consider the fiscal year 1978 supplemental request, and by now I have read dozens of memos and hundreds of pages of materials regarding this budget.

All of the items recommended in the bill have been gone over at great length before the subcommittee and before full Appropriations Committee. I would like to reemphasize one or two things that have been highlighted at the subcommittee level and at the full committee level. One is that we have based this budget upon anticipated local revenues being raised in the city. Since becoming chairman of the District of Columbia Appropriations Subcommittee, I have found out that each time we made these projections of local revenues, they have actually turned out to be lower. This year, when we had the delays in conference committee for awhile because of a controversy of sorts that had grown up over the Convention Center, we found out that two things happened: First, the city made more money than we had anticipated; and second, there turned out to be less money needed than previously projected because the city remained on the continuing resolution for several months. There may be a moral there; I am not sure.

But the point of the whole thing, Mr. President, is that we have based this balanced budget—and it is indeed a balanced budget—on projected revenues from the city. But I have stated in subcommittee and again in committee that if our estimates of local revenues prove wrong, I will urge the subcommittee and the committee to increase the Federal payment to make up the difference, if indeed the city makes a good faith effort to collect these revenues, and I think they can easily do so, but if they make a good faith effort to collect them and are unable to do so, certainly I would urge a larger Federal payment to make up the difference. I have heard concern expressed by some people in city hall; it is obvious that they have not taken the time to listen to the fact that we had made that commitment earlier. So I just thought I would repeat it here today.

On July 19 the committee held an additional hearing to consider the fiscal year 1978 supplemental request and the fiscal year 1979 amendment request that was transmitted to the Congress on July 11. The late submission of the city's additional requirements is a matter that delayed our action on the bill this year as the House and the Senate waited the additional time in order to learn the city's full request for fiscal year 1979. As you know, Mr. President, the lateness of the city's budget transmittal to the Congress has been a problem for the last 4 years. In order to help remedy the situation, one of the recommendations that we are making to the Senate is to establish a February 1 transmittal due date for the submission of the city's budget to Congress. This recommendation is one that also has been made by the House and it is a reform that is badly needed.

The District of Columbia budget request for fiscal year 1979 is $1,428,442,000, of which $1,298,652,000 is for operating expenses and the remaining $129,790,000 is for capital improvements. The committee has also considered a 1978 supplemental request which totaled $27,406,100 and a 1979 budget amendment request which totaled $31,813,300. The committee analyzed these requests in great detail and the budget we are recommending is fully balanced and provides full funding for all the basic city needs. I would also like to report that while the target ceiling in the first concurrent resolution for budget authority for the District of Columbia was $500 million, the total in Federal funds recommended by the committee is $258.2 million or $241.8 million less than the budget ceiling.

There are two major reasons why the committee is able to recommend a Federal funds total less than the target ceiling. First, instead of providing additional funds for loans for capital projects, the city is able to fund its needs this year with cash balances remaining from previous years due to the delay in a number of capital projects. The second reason that permits us to recommend a Federal funds total which is less than the ceiling is that large increases in local revenues make it possible to reduce the Federal payment. These actions can be taken while providing for all the basic needs of the city and doing so with a fully balanced budget.

For fiscal year 1979 the committee recommends a total budget of $1,364,781,500, of which $1,287,291,500 is for operating expenses and $77,490,000 is for the capital improvements program. This represents an increase of $47,841,700 over the level provided last year for operating expenses and a decrease of $51,683,400 over the level provided for the capital outlay program for a net decrease of $3,841,700 compared with the level provided in fiscal year 1978. The recommendations for the capital outlay program can be reduced primarily because of the delay in the convention center project. The committee also recommends a total of $21,930,100 for the 1978 supplemental request which is $5,476,000 less than requested. The recommendations for the 1978 supplemental provide the city with the additional funds needed to pay bills that have come due because of unforeseeable and unexpected circumstances. Due to the lateness of fiscal year 1978, the committee does not recommend the initiation of any new programs or funds to provide for new positions. This permits us to reduce the supplemental request. The city has requested $31,813,300 for a 1979 amendment and the committee recommends that we defer consideration of this request until later in the year after we have received the city's additional supplemental request for 1979 and until after the House has had the

opportunity to hold hearings on these requests and to give them consideration.

Instead of taking the Senate's time in going over each and every detail of the bill, I would like to provide a brief summary of some of the highlights. The Federal payment in fiscal year 1978 is $276 million. The committee is recommending a decrease in the Federal payment to provide the city with a Federal payment in fiscal year 1979 of $238 million. This reduction is made possible because of several increases in local revenues. The subcommittee has given its commitment to the city that if the local revenue projections do not hold true we will assist them in obtaining an additional Federal payment to fund needed programs.

The most notable of these local revenue increases results from approval of the city's request for a new parking enforcement program which will raise an additional $17,450,000 in 1979. This and several other recommendations by the committee, all based on advice and projections from the city, provide for a total increase of $42,816,000 in local revenues. This increase in the local revenues permits a reduction in the Federal payment while at the same time it permits us to recommend several funding increases over the level recommended by the House for needed program improvements. I would like to touch briefly on several of these items of increase recommended by the committee.

First, $9.9 million in Federal funds would be included so that the city will have adequate funds to retire the R. F. K. Stadium bonds that come due on December 1, 1979. The Congress provided $9.9 million in the 1978 bill for this purpose and this additional money will provide the full amount that is required to retire the bonds which come due on December 1, 1979.

Also, an additional $1.9 million would be provided to the public schools for the maintenance of school facilities. This is the amount requested by the School Board, but denied later in the process by the Mayor and the City Council. The committee has long urged the schools to spend more on the maintenance of its facilities some of which are falling rapidly into disrepair.

These actions would also provide an additional $7.4 million over the amount recommended by the House to implement the parking enforcement program that I discussed earlier.

The committee has also recommended additional funding for the Advisory Neighborhood Commissions program and for the D.C. Commission on Arts and Humanities. The committee has recommended that we provide an additional $250,000 over the House mark for the ANC program and provide the full $100,000 requested for grant funds for the Commission on the Arts and Humanities.

An additional major item in this bill is the several recommended prohibitions on the use of D.C. funds with regard to the CETA program. The purpose of these prohibitions are to help insure that the city uses the CETA program to meet the program's primary purpose of providing training and temporary employment for unemployed individuals instead of using the program in several unauthorized ways as detailed recently in the local press.

Finally, I would like to touch on two items that the committee is in substantial agreement on with the House. The first action relates to the city's police and fire retirement program which has been referred to by Senator EAGLETON as the "premier rip-off system in the United States." The looseness of the retirement and disability program has resulted in almost 80 percent of the police and fire retirees being on 100-percent tax-free disability pensions. The committee has concurred in the House action of reducing the funds available to pay disability pensions by $10 million and has directed the city to initiate the needed administrative reforms to permit this funding reduction.

Second, there is the matter of the welfare program in the District of Columbia which now has an error rate of 42.7 percent. In spite of the additional positions we have given the city to focus on reaccreditation and to generally assist in reducing this high error rate which wastes over $15 million a year, the error rate has continued to grow each year. The House has denied the city's request for an additional $5,057,100 for increases in the welfare program and for funds requested to provide for the 1979 cost-of-living adjustments to program recipients. The committee has essentially concurred with the action of the House. At the same time Senate Report 95–1076 directs the city to provide all eligible individuals with the full level of benefits and it directs the city to reduce the error rate to make funds available to pay the cost-of-living adjustment. It seems to me that since the Congress provided the city with 180 positions in the 1978 bill to attack this error rate problem that substantial improvements should be made in 1979 making additional funds available to be used for full funding of the program and for the provision of a cost-of-living adjustment to program recipients as well.

Mr. President, I would like to thank Senator MATHIAS, the ranking minority member of the subcommittee, for his excellent assistance and support in the preparation of these recommendations.

Mr. President I ask unanimous consent that a table be printed in the RECORD at this point which details the committee's recommendations.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Agency and item	New budget (obligational) authority, fiscal year 1978	Budget estimates of new (obligational) authority, fiscal years 1978 and 1979	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended by the Senate committee	Senate committee recommendation compared with—		
					New budget (obligational) authority, fiscal year 1978	Budget estimates of new (obligational) authority, fiscal years 1978 and 1979	House allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
TITLE I—TEMPORARY COMMISSION ON FINANCIAL OVERSIGHT OF THE DISTRICT OF COLUMBIA							
Salaries and expenses	$3,000,000	$3,000,000	$3,000,000	$3,000,000			
TITLE II—DISTRICT OF COLUMBIA FEDERAL FUNDS							
Federal payment	276,000,000	317,000,000	264,000,000	238,000,000	−$38,000,000	−$79,000,000	−$26,000,000
Payment in lieu of reimbursement for water and sewer services to Federal facilities	28,116,000	10,300,000	10,300,000	10,300,000	−17,816,000		
Federal payments to retire R.F.K. Stadium bonds				9,900,000	+9,900,000	+9,900,000	+9,900,000
Loans to the District of Columbia for capital outlay	92,000,000	129,790,000			−92,000,000	−129,790,000	
Total, Federal funds	396,116,000	457,090,000	274,300,000	258,200,000	−137,916,000	−198,890,000	−16,100,000
DISTRICT OF COLUMBIA FUNDS—OPERATING EXPENSES							
General operating expenses	90,862,600	96,326,800	93,718,500	95,133,100	+4,270,500	−1,193,700	+1,414,600
1978 supplemental		(3,203,200)		(2,719,400)		(−483,800)	(+2,719,400)
Public safety	263,771,000	274,412,800	266,473,800	265,961,200	+2,190,200	−8,451,600	−512,600
1978 supplemental		(1,139,700)		(889,700)		(−250,000)	(+889,700)
Education	264,679,200	282,898,600	282,201,200	283,605,400	+18,926,200	+706,800	+1,404,200
1978 supplemental		(143,600)		(68,600)		(−75,000)	(+68,600)
Recreation	17,551,000	18,677,400	18,392,700	18,392,700	+841,700	−284,700	
1978 supplemental		(58,000)		(58,000)			(+58,000)
Human resources	283,462,300	294,474,800	284,767,700	283,321,300	−141,000	−11,153,500	−1,446,400
1978 supplemental		(9,353,900)		(8,086,000)		(−1,267,900)	(+8,086,000)
Transportation	59,713,900	77,551,700	71,380,900	78,735,200	+19,021,300	+1,183,500	+7,354,300
1978 supplemental		(4,340,400)		(1,082,200)		(−3,258,200)	(+1,082,200)

Agency and item	New budget (obligational) authority, fiscal year 1978	Budget estimates of new (obligational) authority, fiscal years 1978 and 1979	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended by the Senate committee	Senate committee recommendation compared with— New budget (obligational) authority, fiscal year 1978	Budget estimates of new (obligational) authority, fiscal years 1978 and 1979	House allowance
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
DISTRICT OF COLUMBIA—OPERATING EXPENSES—Continued							
Environmental services	68,191,900	73,309,900	72,962,500	72,119,800	+3,927,900	−1,190,100	−842,700
1978 supplemental		(1,669,700)		(1,550,400)		(−119,300)	(+1,550,400)
Persona' services	65,549,400	69,300,000	69,300,000	69,300,000	+3,750,600		
1978 supplemental		(7,000,000)		(7,000,000)			(+7,000,000)
Settlement of claims and suits			72,800	322,800	+322,800	+322,800	+250,000
1978 supplemental		(21,800)				(−21,800)	
Repayment of loans and interest	125,668,500	111,700,000	111,700,000	120,400,000	−5,268,500	+8,700,000	+8,700,000
1978 supplemental		(475,800)		(475,800)	(—)		(+475,800)
Total, operating expenses	1,239,449,800	1,298,652,000	1,270,970,100	1,287,291,000	+47,841,700	−11,360,500	+16,321,400
1978 supplemental		(27,406,100)		(21,930,100)		(−5,476,000)	(+21,930,100)
CAPITAL OUTLAY							
Capital outlay	129,173,400	129,790,000	77,215,000	77,490,000	−51,683,400	−52,300,000	+275,000
Total, District of Columbia	1,368,623,200	1,428,442,000	1,348,185,100	1,364,781,500	−3,841,700	−63,660,500	+16,596,400
1978 supplemental		(27,406,100)		(21,930,100)		(−5,476,000)	(+21,930,100)

Mr. LEAHY. Mr. President, I yield to the ranking minority member for any comments that he might have to make. As I said earlier, Senator MATHIAS is really the brains of the committee, the one who has the expertise, and I am delighted that we were able to show the unanimity we did show on the matter this year.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent that Michael Shorr of the staff of the distinguished senior Senator from New York (Mr. JAVITS) may be granted the privilege of the floor during the consideration of all matters pertaining to the D.C. appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Will the Senator from Maryland yield for one other procedural point I overlooked?

Mr. MATHIAS. Surely.

Mr. LEAHY. Mr. President, I make the usual unanimous-consent request that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment, provided that no point of order shall be regarded to have been waived by reason of agreement to this request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 25, strike "$264,000,000" and insert "$238,000,000";

On page 3, line 8, after "1611)" insert a colon and the following:

Provided, That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, $9,900,000, without fiscal year limitation, for the purposes of the sinking fund established by section 6(a) of the District of Columbia Stadium Act of 1957, as amended

On page 3, line 19, strike "$93,718,500" and insert "$95,133,100";

On page 5, beginning with line 1, insert the following:

For an additional amount for "General operating expenses", fiscal year 1978, $2,719,400, including payments made pursuant to the Water and Sewer Repair and Compensation Act of 1976, D.C. Law 1-98, effective March 29, 1977.

On page 5, line 1, strike "$266,473,800" and insert "$265,961,200";

On page 6, beginning with line 4, insert the following:

For an additional amount for "Public Safety", fiscal year 1978, $889,700.

On page 6, line 8, strike "$282,201,200" and insert "$283,605,400";

On page 6, line 13, strike "$216,838,600" and insert "$218,242,800";

On page 7, line 3, strike "$5,392,000" and insert "$7,257,800";

On page 7, beginning with line 6, insert the following:

For an additional amount for "Education", fiscal year 1978, $68,600.

On page 7, beginning with line 11, insert the following:

For an additional amount for "Recreation", fiscal year 1978, $58,000.

On page 7, line 16, strike "$284,767,700" and insert "$283,321,300";

On page 8, beginning with line 9, insert the following:

For an adidtional amount for "Human resources", fiscal year 1978, $8,086,000.

On page 8, line 15, strike "$71,380,900" and insert "$78,735,200";

On page 8, beginning with line 21, insert the following:

For an additional amount for "Transportation", fiscal year 1978, $1,082,200: *Provided further*, That authorization is hereby provided to the government of the District of Columbia to fund the additional cost of snow and ice removal out of funds heretofore appropriated to such government for fiscal year 1978 for Washington Metropolitan Area Transit Authority but not to exceed $1,254,700.

On page 9, beginning with line 13, insert the following:

For an additional amount for "Environmental services", fiscal year 1978, $1,550,400.

On page 9, beginning with line 20, insert the following:

For an additional amount for "Personal services", fiscal year 1978, $7,000,000.

On page 10, line 2, after "Stat. 121)" insert "and for payment to Robert J. Pierce, not to exceed $250,000, pursuant to provisions of District of Columbia law";

On page 10, line 4, strike "$72,800" and insert "$322,800";

On page 10, line 16, strike "$111,700,000" and insert "$120,400,000";

On page 10, beginning with line 17, insert the following:

For an additional amount for "Repayment of loans and interest", for fiscal year 1978, $475,000.

On page 11, line 5, strike "$77,215,000";

On page 11, line 11, strike "$2,855,400" and insert "$,880,400";

On page 16, line 7, strike "37,126" and insert "37,239";

On page 18, beginning with line 7, insert the following:

SEC. 220. (a) No funds appropriated by this Act shall be available to pay any part of the salary of any employee of the government of the District of Columbia, or any department, agency, office, or other entity thereof, if any part of such employee's salary is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and the annual salary of such employee is in excess of that paid for the position of GS-9, step 1, under the General Schedule,under section 5332 of title 5, United States Code.

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety-day period following the date of the enactment of this Act.

SEC. 221. (a) No funds appropriated by this Act shall be available to pay any part of the salary of an employee of the government of the District of Columbia, or any department, agency, office, or other entity thereof, if any part of such employee's salary is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and has been so paid for an aggregate period of at least twenty-four calendar months.

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety-day period following the date of the enactment of this Act.

SEC. 222. (a) No funds appropriated by this Act shall be available to pay any part of the salary of any employee of the Council of the District of Columbia, or committee or subcommittee thereof, or any employee of any elected official of the government of the District of Columbia, if any part of the salary of any such employee is paid from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute).

(b) Subsection (a) of this section shall take effect upon the expiration of the ninety-day period following the date of the enactment of this Act.

SEC. 223. No funds appropriated by this Act shall be available to pay any part of the salary of any individual hereafter employed by any department, agency, office, or other entity of the government of the District of Columbia, having ten or more employees, if, at the time of such employment any part of the salary of more than ten per centum of the employees of such department, agency, office, or entity is paid partly from funds appropriated pursuant to the authority of the Comprehensive Employment and Training Act of 1973 (or successor statute), and

partly from funds of the District of Columbia.

SEC. 224. Notwithstanding any other provision of this Act, the provisions of sections 220, 221, 222, and 223 of this Act shall be deemed repealed upon the date of the enactment of the Act entitled "An Act to amend the Comprehensive Employment and Training Act of 1973, to provide improved employment and training services, to extend the authorization, and for other purposes.".

Mr. MATHIAS. Mr. President, the first thing I would like to do today is thank the chairman of the subcommittee, the distinguished Senator from Vermont (Mr. LEAHY) for the careful job he has done on this bill, and for all the many hours and hard work he has put into what is, essentially, despite the fact that he protests, a thankless task for him.

I think he has covered all the major points in the bill, and so I am not going to take the time of the Senate to go over the ground that has been covered.

I expressed my view at the subcommittee markup that the figure arrived at for the Federal payment was, I think, too low by perhaps the sum of $26 million, but I understand that the subcommittee arrived at this figure after studying the District of Columbia's own books and their own prognostication as to increased tax revenues, and that, therefore, if these prognostications are accurate, even with the very low Federal payment recommended, this does represent part of a balanced budget. As the first months of the fiscal year 1979 pass, we shall then see if this is true or not.

The chairman has assured me that in case a shortfall appears to be developing, he will, in timely fashion, consider a supplemental, with additional Federal payment funding to accommodate such a shortfall of income. I take the chairman's commitment on that as a very serious one, as I know he does, and it is on that basis that I join Senator LEAHY in recommending this measure to the Senate. I know that he is sincere in his promise to take a hard look at the fiscal and monetary picture as the fiscal year evolves, and that his assurances can be counted on that the District Government can be accommodated so that their budget will remain in balance and adequate funds will be available for all District programs and projects which have been approved by Congress.

Of course, both of us, I know, take full cognizance of the fact that these programs approved by the Congress are actually required by the activities of the Federal Government.

Many of them would not be required in a municipality if it were not the seat of the Federal Government.

Having all this in mind, I am sure that the subcommittee will be keeping a very watchful eye on the fiscal developments in the District of Columbia.

I want to again thank the chairman for his courtesy and his cooperation during the hearings on the bill, and during the committee consideration of this bill. He is a very constructive Member of the Senate with whom it is easy to work.

Sometimes the impression is given around the District of Columbia that his heart is as hard as the granite of his native State. But I think anyone who has followed the development of this bill carefully knows that that is not true; that every program recommended by the municipal government has found a place in this bill; that the human concerns, the human needs, which are represented by the bill have been carefully weighed by him; that what is necessary to be done has been done.

I would like to pay tribute to the human consideration with which Senator LEAHY has dealt with this difficult task.

It is a lean budget, it is a tight budget, but it is a budget which reflects the realities. I believe that is the kind of budget which both the people of the District of Columbia wanted and the people of the United States at large expect us to produce.

So with the possibility that we may have to consider a supplemental, Mr. President, I urge the Senate to approve this District of Columbia appropriations bill.

Mr. LEAHY. I thank my colleague from Maryland for his kind and gracious statement. I can assure him that my heart, instead of being made of Vermont granite, has only the sweetness of Vermont maple syrup. It has nothing to do with granite.

Sometimes I either hear about or read editorials that are printed about our activities here. It is obvious that none of the editorial writers or speakers have ever bothered to sit in on even one of our markup hearings or sit in on one of our hearings, which go on into great detail. They will complain about our committee cutting out funds, or complain about our digging into particular programs. That guarantees only one thing: Every time that happens, I know my office will get flooded with mail from District of Columbia taxpayers who say, "Thank God your committee is watching where the taxpayers' dollars are spent."

In that regard, we should say there has been cooperation, I know, from Mr. Coppie and the city. Every time we have asked for information it is given to us.

I will state again as I have before, Mr. President, I do not like the hybrid kind of home rule situation we have here, a situation which on many programs puts the city in the position of saying, "We do not really have to look at that very much because the people on the Hill will look at it." None of us on the Hill begin to have the amount of time necessary to look at the city programs with the detail we should, so the buck gets passed right back down there and we must take actions that require them to be frugal and careful with the taxpayers' money.

I would hope the day would come that, if we are going to have home rule, that we have home rule in fact and not in name.

Mr. President, I am not aware of any amendments to this bill.

If there are no amendments, I am willing to yield back the remainder of my time and go to third reading.

Mr. MATHIAS. Mr. President, I will inquire whether there are any amendments on our side. If there are none, I will join the Senator from Vermont.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum with the time to be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to further amendment. If there be no further amendment to be proposed the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. LEAHY. I yield back the remainder of my time.

Mr. MATHIAS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. ROBERT C. BYRD. Mr. President, it appears that the Senators are willing to have a voice vote on passage of this bill. That being the case, I ask unanimous consent that the order for the vote to occur at 4 p.m. today be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill, having been read the third time, the question, Shall it pass?

So the bill (H.R. 13468), as amended, was passed.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATHIAS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I once had the honor of acting as chairman of the D.C. Appropriations Subcommittee. I believe it was Jacob who worked for Laban, the father of Rachel, for 7 years. He was promised—before I begin to say this, let me be sure that the distinguished junior Senator from Arkansas, who is an ordained minister, corrects me if I make an error.

My recollection of this Biblical story is somewhat faded by the murky mists of the passing years.

Jacob worked for Laban under a contract—I suppose it was an oral contract in those days—by which he was to give Laban 7 years of labor in return for Rachel, younger daughter of Laban. At the end of 7 years Jacob expected Laban to carry out his part of the contract.

But Laban, instead of giving Rachel to Jacob, gave Leah, sister of Rachel. I forget how the story describes Leah's eyes, but I recall that Leah seems to have had some problem with her eyes. Perhaps she had weak eyes. But Rachel, we are told, was beautiful, and the 7 years seemed but a day to Jacob.

In any event, Laban then promised Jacob that if he worked 7 additional years, he could have not only Leah, but also Rachel. So Jacob worked 7 additional years and married Rachel.

I was chairman of the D.C. Appropriations Subcommittee for 7 years, the long-

est period that anyone has served as chairman of that subcommittee in this century. I can assure you that those 7 years did not go by as a day as they did for Jacob; they were difficult years.

Mr. TOWER. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. TOWER. Did you get the girl at the end of the 7 years?

Mr. ROBERT C. BYRD. No, but I can say this: I got weak eyes from all of the poring over that bill, year after year. In those 7 years, and indeed, in the 20 years I have served in the Senate, I do not recall the D.C. appropriations bills ever having passed the Senate with so short a debate. Perhaps that statement may not be accurate insofar as the 20 years is concerned, but certainly, it is accurate insofar as the 7 years are concerned in which I handled the bill.

Today, that bill has been passed in less than 20 minutes—less than 15 minutes, I suppose. This can be attributed to the remarkable preparation made beforehand, the study, the forethought, the labor, and the skill of the manager and ranking manager of the bill (Mr. LEAHY and Mr. MATHIAS). They have done an amazing job on what has been, many times, one of the most difficult appropriations bills out of the 13 regular appropriations bills.

So I compliment them. I express my appreciation to them.

I thank both the Senators for the good work they have done, and all of the members of the subcommittee.

Mr. President, the District of Columbia appropriations bill for fiscal year 1979 is a thoughtful bill. It has been carefully reviewed and contains important recommendations for more efficient operations of agencies and departments of the D.C. government. Again, let me thank Senators LEAHY and MATHIAS and members of the committee for their fine work.

Mr. LEAHY. I thank the Senator from West Virginia very much. If it were not for the fact that we need him so badly as the majority leader, we would be happy to give him back the chairmanship and change places. I feel that the Senator from West Virginia owns a place in the Guinness Book of Records for the years that he served. I can assure my very, very good friend from West Virginia that if Guinness so notes his 7 years' achievement, the Senator from Vermont will do nothing whatsoever to knock him out of the pages of that book.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. LEAHY. I thank the Senator very much and I must say, in all seriousness, that there are days, when I am walking around the fields of my farm in Vermont, when I sometimes wonder how I got involved as chairman of the D.C. Appropriations Subcommittee. But I look at the distinguished people who have preceded me, people such as the distinguished majority leader, and I look at people like Senator MATHIAS, who has put so many years of service in there for the District, and I feel humbled by it. I must say that I have enjoyed many aspects of it. I have enjoyed the work with the people of the city, the fact of learning of the intricacies of urban problems, something that a person from Vermont would not normally know. All in all, like so many experiences in the Senate, I have found it personally very much of a plus.

I have also enjoyed the experience, also, as the experience goes, of being on the Appropriations Committee.

I apologize to the Senator from Utah. I have spoken longer than I had intended to.

Mr. GARN. I wanted the Senator only to yield briefly.

Mr. President, I do not want to detract from what the distinguished majority leader said about the performance of my colleagues. I agree with what he said. I only want to say that had I been on the floor, I would have objected to vitiating the rollcall. And had there been a vote, I want the RECORD to show that I would have voted against the appropriations bill.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Secretary of the Senate, in the engrossment of the amendments to H.R. 13468, be authorized to make any technical and clerical corrections.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Will the Senator yield to me?

Mr. LEAHY. Yes.

Mr. CHILES. I wonder if it would be proper for me to propose a unanimous-consent agreement to have the staff be able to make the technical corrections and additions to the bill so it will conform completely with the story told by the Senator from West Virginia.

Mr. LEAHY. I would object.

Mr. MATHIAS. Mr. President, I want to say to the distinguished chairman that there are some people around the District of Columbia who feel that he has neglected his farm and that he ought to be spending more time on his farm in Vermont and less in the District of Columbia. But I hope that he is not going to be deterred by those sentiments and is going to continue to devote the kind of patient time and interest and prudent judgment that he has so far to this subcommittee. I look forward to working with him for a long time to come on this appropriation.

Mr. LEAHY. I thank the Senator from Maryland.

Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. SARBANES) appointed Mr. LEAHY, Mr. DECONCINI, Mr. BUMPERS, Mr. MAGNUSON, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG conferees on the part of the Senate.

Mr. LEAHY. Mr. President, as I said before, the help of the Senator from Maryland and the other members of the committee, and Mike Hall, our staff counsel and Veneda Carre of the committee staff and others who have worked on this is appreciated.

Mr. President, I have nothing further. I suggest the absence of a quorum.

If I may withhold that, I have two quick things. I ask unanimous consent that Susan Branigan of my staff be granted the privilege of the floor during the debate ond votes today and any succeeding days on any matters involving the tuition tax credit.

I make the same request for Robert Paquin of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I yield to the Senator from New York.

TUITION TAX RELIEF ACT OF 1978

The PRESIDING OFFICER. The clerk will state H.R. 12050.

The assistant legislative clerk read as follows:

A bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

The Senate continued with the consideration of the bill.

AMENDMENT 3445

The PRESIDING OFFICER. The pending question before the Senate is amendment No. 3445, offered by the distinguished Senator from Arizona.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Richard Weisman of my staff be granted the privilege of the floor for the duration of the debate on H.R. 12050.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, as the Senator from Arizona does not appear to be on the floor at this moment, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I thank the Chair.

Mr. President, I would like to take the opportunity as we resume debate on this important legislation to restate four questions which I addressed to the Democratic Members of the Senate at the outset of today's session of the debate.

I said that it seemed to me in light of the very heavy support for this legislation coming from the Republican side of the aisle—where, of course, there are two distinguished Republican sponsors—and with the expectation that some two-thirds of the Republican Senators would likely support the bill in its entirety, and with the expectation that an even larger number would support it with respect to one or both provisions, that the question very much becomes, Will the Democratic Party support this legislation?

It is clear that the fate of the measure will turn on the extent to which the majority party supports it. This, I reiterate, presents difficult and important questions for us.

I numbered four questions. I would like to speak to them and elaborate somewhat upon them.

The first question, as I put it, is: Are we to think that the House of Representatives, with its heavy Democratic major-

ity, was wrong and approved an unconstitutional measure when on July 1 it passed legislation providing tuition tax credits for elementary and secondary schools?

This is the bill, H.R. 12050, in the form reported by the Finance Committee, which is now before the Senate.

The second question I put to my brother Democrats was: Are we to think that Senator ABRAHAM RIBICOFF, the first Democratic Secretary of Health, Education, and Welfare, was wrong and proposed an unconstitutional measure when he first called for tuition tax credits in 1963, or when he said on Friday, "We can only discover if this is a constitutional form of aid to parents who pay nonpublic school tuition if we try?"

Are we to deem his judgment faulty when he said:

> If I thought this bill clearly failed the tests used by the Supreme Court in striking down aid programs designed by the States, I would not support it.

The third question I addressed to my fellow Democrats was: Are we to think that Senator Hubert H. Humphrey and Senator GEORGE MCGOVERN were wrong and proposed an unconstitutional measure when, in the course of their presidential campaigns, each specifically pledged his support for tuition tax credits for elementary and secondary schools?

Finally, Mr. President, I asked a fourth question: Are we to understand that the Democratic Party was wrong and proposed an unconstitutional measure in 1972 and 1976 when in its platforms it twice committed itself to aid for children in nonpublic schools? Are we to conclude that our party held out a false hope?

Mr. President, it seems to me that these are matters of very large concern to this party of ours because we have so consistently—for almost two decades now—presented ourselves at election time to voters with these unfulfilled promises. I would not hesitate to suggest what is clearly the case—that the voters I speak of represent a constituency with which we have historically been very closely associated. Have we been falling into the habit of promising in the election, in the quest for power, what we have no intention of delivering when we are successful in that quest?

This would be a very ponderous judgment to make about any organization and fatal to many of the things we most cherish in our beliefs about ourselves as a democratic party.

I think of the time in New York City in July 1976, when the Democratic National Convention was in session and printed copies of the platform were distributed. This was a matter of some interest to me. I was a delegate. I had been a member of the platform committee and was a member of the drafting committee. I drafted one of the two planks to which I referred in the fourth question I addressed to the members of my party.

We printed up the platform, and affixed to it a rather striking cover with a striking statement by Harry S. Truman. It said simply, "The platform is the party's contract with the people."

We meant it when we drafted it, and we knew what we were referring to. We were referring particularly to this proposal. It had been most recently espoused by Senator GEORGE MCGOVERN when he was our candidate in 1972. It was clearly in our minds as an example of what we intended—not the only alternative, but clearly that measure which had the most support. Senator Humphrey had pledged himself to it in 1968. Senator MCGOVERN had done so in 1972.

We were carrying on a tradition. I had occasion to remind the members of our platform drafting committee that the beginning of Federal aid to education, as the term came to be used in reference to elementary and secondary education, had come about with the adoption of the Elementary and Secondary Education Act of 1965, in the aftermath of a negotiation in which I was involved. It led to the insertion in the 1964 platform of a statement that the Democratic Party is committed to providing aid to all students and, within the limits of the Constitution, to all schools.

It was very clear then that you could provide aid for students and their parents directly. That was a well-settled proposition. It was in the aftermath of the inclusion of that measure in the 1964 platform that there developed strong support for the Elementary and Secondary Education Act; it went forward and was adopted very early in the Congress that followed. Yet, that intended commitment was not followed by any Government action, by any action on the part of the Department of HEW, that in any way would approximate what was expected and intended.

A small office was set up in HEW, in the Office of Education, dealing with nonpublic schools. It did little. Indeed, one of the early acts of the administration now in office was to schedule the dismantling of the office, which was not a very large enterprise. I believe it had three employees. So there truly was a question of our having kept faith.

As a party, we had espoused a measure of great importance, a measure of which we were properly proud—the beginnings of regular, ongoing Federal participation in the financing of elementary and secondary education. We had done so by making a pledge to the nonpublic sector, and we had not kept it.

So, in our 1976 platform, I inserted a simple statement that the Democratic Party reaffirms its pledge, acknowledging an earlier one not kept. It was, of course, agreed to.

Then came the 95th Congress and the opportunity to begin keeping it. The President proposed nothing. I was disappointed in that; but, then, the President's educational measures were not large. There was a judgment of priorities, as there had to be. So it remained for us to act here, in this branch of Government.

We waited a year before we acted; then we did. We held hearings on a measure that is substantially the President's bill. We took it to full committee, where it was accepted by both parties and adopted by a vote of 14 to 1. It was a remarkable affirmation of support.

No sooner had this happened than the Secretary of HEW rushed to counter us, in a well-publicized memorandum to the President. He said this measure was coming along and had to be stopped; he said that the aid to students and colleges and universities could best be stopped by proposing the ultimate extension of an existing program—a good program—the Boggs program.

I hope we will be forgiven if my colleague from Oregon and I seem to be excessively autobiographical in these matters, but an affirmation of commitment is important here. One's record is a measure of commitment. We have said repeatedly that public schools come first and that low-income people come first. And we have kept that commitment.

It happens that the basic economic opportunities grants, the Pell grants, as they properly are known, were first proposed in a Presidential message which I drafted, as counselor to the then President.

So we were surprised at the vehemence with which the Department responded to our proposal. We had thought we had done nothing more than the party had pledged to do. In fact, the President had stated in a most explicit way his desire for some similar measures. He did not speak of this measure, but he spoke in general terms of doing something which this measure addresses in specific terms.

Then there was the sad business of that distorted request for a constitutional opinion from the attorney general, which produced the predictable answer to the distorted proposition presented, but which must be obiter dicta, as I have described it: That is, the attorney general saying that tuition tax credits for colleges are constitutional.

Here, Mr. President, it seems to me that we enter a realm of serious inquiry as to the meaning of the words which are contained in this legislation. The idea of constitutionality is the guiding principle for the basic law of the land, a law very much concerned with that which the Government may do and may not do. Here we may obtain some guidance in a troubled field where there is not much clarity.

The Supreme Court has declared that aid to private institutions of higher education is constitutional. Then, in the commanding case, it made the quite extraordinary and unsupported assertion that there was a difference between the religious impressionability of students in college as against students in high school or elementary school, and that, on that foundation, a constitutional distinction could be drawn.

Mr. President, if there is such a difference, no one has ever established it, much less have they established which way it goes. It is not an empirical proposition. There is no evidence for it. It would be extraordinarily difficult even to frame it in terms that would admit objective inquiry.

We have taken the liberty of asking the president of the American Psychological Association whether there is any such finding, any such data, and his answer is no—there is none.

That might or might not be an argument which an attorney would make before the Supreme Court; but at the very least it suggests to us the fragility, at

times the almost idiosyncratic nature of the Court's decision, is such that the whole subject fairly begs for one opportunity to be put clearly before the Court. But first, Congress itself must say, "Look, we think this should be done."

On Friday morning Senator ABRAHAM RIBICOFF, former Secretary of HEW, put this clearly when he said:

> We can only discover if this is a constitutional form of aid if we try.

Coming from such a man it is an assertion which we must heed. He added:

> If I thought that this bill clearly failed the test used by the Supreme Court in striking down aid programs designed by the States, I would not support it.

This is the man who has spoken for our party in these matters for so long saying he does support it because he does so conclude.

So I ask my party, what is to be made of us if we reject this evidence? What is to be judged of us if we forego a simple opportunity to keep our contract with the American people as we chose to delineate it? What do you say of people who make promises they do not keep? What do you say of people who repeatedly make promises they do not keep?

That is what confronts us in this matter and it is not with any great satisfaction that I raise these issues. But it is based on a sincere conviction that if I do not, someone else will. These pledges have been too public, too persistent, and the pattern has been too clear not for it to be asked at this moment, when, for the first time since Senator ABRAHAM RIBICOFF first proposed it 15 years ago, the issue is before us on the floor of the Senate. How will my party respond?

Mr. President, I shall reiterate one last time the question of party responsibility in this matter. I do very much hope that before this debate is concluded it will come to be seen by the members of my party in the Senate that to fail in the support of this measure, to be deficient in enacting it, will be to call into question the commitments of our leaders and of the party as a collectivity over a long period of time. And it will be to do so in a way that does not promise to enhance the degree of intraparty harmony and effectiveness which we hope to achieve in the years ahead.

We are a party that has repeatedly pledged that we would do what we are now at long last in a position to do.

We have said it over and over again; our Presidential candidates have promised it; our platform has pledged it; here it is before us. To fail in this moment to rise to that clear opportunity is to cast a shadow not only upon this area of commitment but upon the nature of our commitments generally.

I do not suggest that we should be unanimous in this. We were not unanimous in our promotion of it in the first place. But there is no question that the men who campaigned for the Presidency under our party's banner, men who accepted our platforms, remember that ritual. I hope it does not ultimately prove an empty one, in which the successful candidate at each party convention says, "I accept the platform," only to abandon it later.

Here is the chance to fulfill that commitment. I cannot imagine that we will not do so.

I see the Senator from Oregon is in the Chamber.

Mr. PACKWOOD. Mr. President, I was not rising to interrupt the Senator from New York, except to indicate again, of course, I speak as a Republican. I am sure he is right. This will not be the end of this matter no matter which way the vote goes. This will not be the end of it. But it is a significant change of philosophy from the philosophy that has been followed in the past. And I think it is one that has been in harmony with at least many views expressed by Republicans before, which is one of decentralization, diversity, pluralism, an effort to make sure that we do not overly centralize the running of the country from Washington, D.C., be it in the educational field or otherwise. There is no question in my mind that Republican platforms will endorse the subject very specifically of tuition tax credits for primary and secondary schools in terms as clear as that and that our candidates, the bulk of them, will stand on that position.

What the Democratic Party chooses to do is, of course, out of my control. But no one should assume that it will not become a political battle. Senator RIBICOFF said it the other day.

(Mr. LEAHY assumed the chair.)

Mr. MOYNIHAN. Senator RIBICOFF said it most emphatically. He said it would be a central issue in the 1980 Presidential election.

Mr. PACKWOOD. I would go further than that. The Senator from New York has made reference to the letter sent to the Catholic educators by President Carter, then candidate Carter, 2 weeks before the election pledging his support through constitutional means for parochial schoolchildren. He did not say private, he said parochial schoolchildren.

It might be argued that he did not quite say tax credits, because the words "tax credits" or "tax deductions" did not appear in that letter. But there is no question that President Carter pledged himself to constitutional methods for aiding parochial school students, and there is no question but that the listeners at that convention thought, and what parochial school associations around the country, Catholic and non-Catholic thought, they understood what that statement meant.

Now, time after time the Senator from New York and I have seen editorials in parochial publications. The words that are used are "doublecross," "treason," "lie." In one case one editorial indicated that for the last time "has this publication been taken for granted and for the last time is this publication to be counted on as a guarantor of Democratic votes and guarantor of Democratic endorsement." Not one more time or one more inch will at least the editor of that publication believe those words again.

I do not know if one of the problems that President Carter had with many groups is that you hear what you want to hear, perhaps. All I know is that parochial educators, Catholic and otherwise, in this country heard they thought President Carter say, "I promise to support tax deductions or tax credits," and they now feel betrayed and the Republicans will take that issue to the public and pledge ourselves to the support of an effort to give to private education in this country, primary and secondary education, the tax credit that this bill espouses.

Mr. President, that is all I want to say to the Senator from New York. I have other things to say, but I do not want to interrupt him.

Mr. MOYNIHAN. I thank the Senator.

I would like to repeat for those who have come onto the floor—and I see the Senator from Rhode Island is here, and I believe we are going to have an exchange in a short while—but I would like to repeat that this matter before us with respect to the first amendment, and so forth, is such an open one that in the commanding decision, which is Tilton versus Richardson in 1970, the Court, almost as an obiter dictum, in finding the Higher Education Facilities Act constitutional, simply said:

> There is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination. A common observation would seem to support that view.

Well, the Court did not say that even so it would not find aid to high school seniors constitutional. It was just indicating why it found the aid to colleges constitutional.

Mr. PACKWOOD. I wonder if the Senator will yield there for a moment?

Mr. MOYNIHAN. Yes.

Mr. PACKWOOD. It is interesting that in the GI bill, the Veterans' educational benefits bill, payments will be made to the following educational institutions: Any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers college, normal school, professional school, university, scientific or technical institution, and this is constitutional.

We have checked with the VA. They have made payments to primary and secondary sectarian schools under the GI bill of rights, along with public schools, primary and secondary, under the GI bill.

There must be an assumption that the ones who have gone through the military service have been indoctrinated that any kind of religious school payments are safe. In this case they are payments to the institution, not payments to the individual on behalf of the institution but to the institution. So by the time, as we have said earlier, you are allowed to make payments to the church to take care of your preschool children until they are 6, you are entitled to make payments to colleges, public and private, if you are a veteran you are entitled to have payments made to primary and secondary sectarian schools, it is a very narrow group that seems susceptible to being unduly influenced by religion.

Mr. MOYNIHAN. Well, the Senator is right, and the extent of the disarray in this field was the repeated message of the witnesses before the Committee on Finance subcommittee during hearings

on this bill, along with a new element which seems to me so important, and that is the recovery of our past with respect to the intention of the drafters of the first amendment.

The first amendment never meant anything at all such as the courts have found themselves saying, first in the Everson decision of 1947, and in this zig-zag way ever since.

I recall for my fellow Senators the language considered in the Senate on Wednesday, September 9, 1789, the penultimate occasion on which the first amendment was considered:

> Congress shall make no law establishing articles of faith or a mode of worship or prohibiting the free exercise of religion or abridging the freedom of speech or the rights of people to peaceably assemble and to petition the government for a redress of grievances.

If only we had stopped there we would have avoided an extraordinary amount of confusion, once the collective memory has faded, that to establish religion means to establish articles of faith or a mode of worship. I mean, that is what they said they meant, there was going to be no national church, which was the term Madison had proposed in the House earlier in July.

We have recently recovered that history. It is odd that it has vanished with us, but it did. Now it is back.

The Senator from Oregon pointed out that one of the great early disputes in the distribution of public aid to the different church schools was the request of the Scots Presbyterians.

Mr. PACKWOOD. Is it a terrible thing that they should want their share?

What is interesting is that the Senator from South Carolina quoted from Everson. I believe this is what he said I do not have exactly what he said, but paraphrasing, he said that no tax can be levied for the support of any church, or words to that effect.

Yet it is interesting that at least from the time of adoption of the first amendment, for the next 40 years, at least, the very people who founded this country, wrote that first amendment, sat on city councils, were members of State governments that appropriated public funds to churches to run schools—I want to emphasize that again, not to students, not to the school, but appropriated public funds to the church—the thought never entered their minds that that was support of religion. They thought it was support of education. They thought it was a perfectly normal thing and, presumably, they were acting on what they thought was constitutional. They wrote that amendment. There was nothing wrong with giving money to churches to run schools for the benefit of the public. Not a tax credit, mind you, but a tax that is collected and then given to the church.

Somehow this has been construed by latter day Justices of the Supreme Court to say that this can no longer be done.

Now, Charles Evans Hughes, the former Chief Justice of the United States, once said the Constitution is whatever the Supreme Court says it is, and that is true. We may disagree with it, but we will live with it, as anyone should. Amend it, argue new cases before them, try to get them to reverse themselves, as they have done on occasion, but there is no way that any Justice of the Supreme Court can point to the early-day history of this country and conclude that our Founders thought there was anything wrong with giving public money to a church to provide for a school, to support education.

Mr. MOYNIHAN. Nothing whatever: and Chief Justice Burger has so stated on a number of occasions in rulings of the Court.

The Court has begun to recover its history. It is an odd thing. It has been almost an intellectual event, the rediscovery of the early history. There is something to be written about how that started coming about.

For example, Walter Berns' new study, "The First Amendment and the Future of American Liberty," is a remarkable piece of work, as is the study by Michael J. Malbin on "Religion and Politics: The Intentions of the Authors of the First Amendment."

Malbin was a graduate student of Berns. They studied the same subject and came to slightly different conclusions; which is a function of graduate students; I think.

We will mark the event with this matter. As I say, it once became a threatening matter to the Nation in the context of the great immigrations of the 19th century. It became threatening; it was perceived as a threat, and a great deal of the concerns about Americanism—the term "nativism"—respond to that reality.

That is what the Court said when, in the Brown decision, it reversed Plessy against Ferguson. It said that what might have been argued in 1896 could not be sustained under the changed conditions of 1954.

That is present here. We will find the Court far more accepting of the constitutional origins here, and looking into the purposes of the legislation. I am absolutely convinced the Court will say it is a perfectly straightforward tax measure that in no way arouses any constitutional alarm. They will say that what is acceptable for a college freshman is clearly acceptable for a high school senior, and that to draw a constitutional distinction between someone in the 11th grade and someone in the 13th grade would not be supportable. The Supreme Court does not run to that kind of stricture.

I see the Senator from Rhode Island has risen; does he wish to join in this matter?

Mr. CHAFEE. Mr. President——

Mr. MOYNIHAN. I would like to yield for a question, if that is the Senator's desire.

Mr. HOLLINGS. First Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. HOLLINGS. I ask unanimous consent that Alfred Pollard and Tom Polgar of Senator MORGAN'S staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I make the same request in behalf of Richard Stranger and Sandra Allen of the Joint Tax Committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. If the Senator wishes to have the floor, of course, he may.

Mr. CHAFEE. Yes, I would like to have the floor, if I might, for a while. I shall not be too long.

Mr. President, I would appreciate the attention of the principal proponents of this measure, because there are some questions that I have that I would like to direct their attention to in the course of my remarks; to direct to the attention of the Senator from New York and the Senator from Oregon.

I must say, Mr. President, like all of us, this is a measure that deeply troubles me, because I have many, many constituents in my State whose children do attend nonpublic schools, and who would obviously be beneficiaries of this measure.

Mr. MUSKIE. Mr. President, will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. MUSKIE. Does the Senator have any idea how long he would like to occupy the floor? I ask the question not to press him, but I am trying to modify my plans for the next hour or two.

Mr. CHAFEE. I was going to be about 15 minutes, perhaps.

Mr. MUSKIE. I thank the Senator.

Mr. CHAFEE. I would make it 12 if I could be sure that the Senator from Maine would remain on the floor.

Mr. President, this is a matter to which, along with all the rest of the Senators, I have given a good deal of thought.

One of the things that comes to my mind is, why do the proponents of the measure continually say that the nonpublic schools are in danger of being vanquished, pushed right off the map, when indeed the statistics show otherwise?

We touched on this in some measure last Friday but, because of the press of time and airplanes' departing, and so forth, we could not get a full discussion of it.

I agree that the statistics to some degree are not absolutely perfect; but nonetheless they give us a pretty good lead. Just to review the bidding, if I might: After World War II, starting in around 1948, there was a dramatic increase in the number of nonpublic school children in the country, both in numbers and in percentage of the total, and there was a tremendous building program undertaken for nonpublic schools. So the nonpublic school enrollment went up as a percentage, and indeed in total numbers, until about 1965, when it reached its peak. Then it underwent a dramatic decline until 1970, and since then it has stabilized, so that the percentage of children in nonpublic schools as a percentage of the total number of elementary and secondary school children has remained constant at just about 10 percent.

Now, indeed, Mr. President, this is really remarkable, that it has remained constant, because of two factors which I

would call to the attention of the Senator from New York.

First of all, we have got to concede that as a percentage of the total, the nonpublic school children have remained constant since 1970. The statistics show it, and if he wishes to dispute that, obviously we can.

Second, there are two factors that make it even more unusual that the percentage of youngsters in nonpublic schools has indeed remained constant, because of this factor: There is a total decline in the number of children in the elementary and secondary grades. That has come about with the declining population in that group. So, for example, in the schools that have been affected, the total reached its peak in 1971, of 46 million in elementary and secondary schools. This fall it is estimated there will be 42 million children in elementary and secondary schools, which represents a decline of about 7 percent, overall, in that group of youngsters. But the decline is continuing, so the percentage of those in the elementary group as opposed to the secondary group shows an even greater drop from the peak years.

Now, this is very important to note, because the largest number of nonpublic schools are for the elementary grades. So, as you have a large decline in the elementary group, then it is reflected out of proportion in the nonpublic statistics.

There is point 1, which I believe is very important.

Point 2: The Senator from New York has remarked that in his State of New York there has been a decrease in the number of schools and the number of children overall in the nonpublic schools of rather dramatic proportions.

That is true because the great growth in the country in population has occurred not in his section of the country, not in the New England States, but, of course, it has occurred in Arizona, in the Southwest, in Florida, in Texas, in California. These are the boom population growth areas of the Nation. These are the very sections of the country that do not have a large number of available nonpublic schools. In other words, the parish school is not there, the nonpublic school is not there.

So as we have the large growth in population there is not the school available in Phoenix, Tucson, Tallahassee, Orlando, wherever it might be, for the youngsters to go to. Automatically they gravitate into the public school system.

Undoubtedly, there is construction there, but it takes longer to build a nonpublic school than it does a public school. We know that from experience.

So these are two very significant factors.

The Senator from New York has pointed out that in his own city of New York there has been a very, very high drop in the number of youngsters attending nonpublic schools. Well, that can be explained. We would expect that to occur if there was all the money in the world to pay for youngsters to go to nonpublic schools because the fact is New York City at best has retained its population at a constant figure since 1950, but beyond that the percentage of older people; that is, over 65, within that city is constantly growing. In other words, the young married couples, the young people, who have the schoolchildren are not there, so the total number of youngsters available to attend public and nonpublic schools in the city of New York has dropped.

In my own State we pick up the newspaper and read that some public schools are closing. They are closing schools because there are not the youngsters available to go to them. So there has been a drop in the number of public schools as indeed there has been a drop in the number of nonpublic schools.

These, it seems to me, are very important points. When the Senator in fostering his bill and seeking support of it says that we have to retain pluralism, that the nonpublic school is an endangered species, that, in his own words, it is in danger of being vanquished, the facts just do not bear it out. The facts show that since the last great shakeout, since the great decline, which came for all kinds of reasons, since 1970, the percentage of youngsters in nonpublic schools in the Nation has remained constant and indeed has gone up a bit.

The second point I would like to make is this: One of the chief reasons the proponents of this measure use is that it is good to have competition between nonpublic and public schools; that this brings up the level of both; that this is the whole essence of the American system—competition.

I would like to have that explored a little further, if I might, Mr. President, by the proponents. Of course, we remember the old days when we used to say there is nothing better than competition—competition in the newspaper field, for example. No city had more competition in the newspaper field than the city of Boston and few cities had as bad newspapers as the city of Boston. So it does not always hold true.

Nor, in fact, can we look at certain sections of the country where there is a high percentage of nonpublic school youngsters and say to ourselves: "This has resulted in a better public school system." I do not know about that. I wonder if the Senator from New York would be prepared to stand before us and say that from his State where the percentage of youngsters in nonpublic schools is higher than the national average of 10 percent, the result has been a better public school system? I do not think so.

Certainly, it is my impression that the finest public schools in the United States are in the Midwest or in the Far West or in the Southwest. In those areas where this high competition in fact does exist I have not seen it result in better public schools.

Mr. PACKWOOD. Will the Senator yield?

Mr. CHAFEE. I would like to finish one point.

A lot of discussion on this floor sounds like a presentation of a case before the Supreme Court. Is it constitutional or is it not constitutional? It is not going to be decided by us, that is for sure. It will be decided by I will not say a higher body but a different body. What I think we ought to concentrate our energies upon, Mr. President, is what is best for the education of the youngsters in this country. We indeed have a particular responsibility to the youngsters who are attending the public school system in the United States.

It seems to me that when we take an oath of office, when we take on obligations in handling public funds, that we have a duty to see that those publicly supported institutions, be they the publicly supported libraries or be they the publicly supported school systems, should be the very best that we can make them.

I think we readily will acknowledge that the private school system, the nonpublic school system, is probably going along and doing a better job teaching the youngsters than the public schools. I think the public schools are laboring under a lot of problems. A lot of these problems they brought on themselves. But it is not themselves, it is ourselves. They have been brought on by the public, which is you, Mr. President, me, and others, not paying enough attention to those schools. They may, in some instances, have been brought on by overaggressive unions which appear on occasion to be more anxious to achieve benefits for their members than to make improvements in the system.

So I wish a little less time was spent in arguing this before the Supreme Court and more time spent on how we can produce the best public school system anywhere in the world.

I am glad to yield for a question.

Mr. PACKWOOD. I wanted to know if the Senator was aware that the five States which have the highest attendance in nonpublic elementary and secondary schools are also the five States with the highest expenditure, and, conversely, the States with the lowest expenditure have the lowest number. It is not true that because there is a high incidence of attendance in parochial that there is a declining support of public education.

Mr. CHAFEE. If I could just respond to that, obviously, without seeing the statistics I would suspect that New York City, for example, is one of the highest, probably.

Mr. PACKWOOD. New York State.

Mr. CHAFEE. New York State. Well, we have to look at the statistics. I suspect that probably one of the lowest might be in the Southwest or in the South. But those statistics deal with much more than what kind of an education they are getting for their dollar. That does not mean that more attention or more money would not produce better education in those institutions or schools where the per capita investment or the per pupil investment is high.

Mr. PACKWOOD. I would like to thank the Senator from Rhode Island for his statements about constitutionality. Both Senator MOYNIHAN and I for the better part of 2 days have been wanting to put aside the argument of constitutionality and go on to the substance of whether or not this is good or bad

legislation. That is why there is in it a deferral provision so it will not go into effect for primary and secondary schools for 2 years, time for an expedited Court test. The Senator from Rhode Island is right, that no matter what we argue here, the decision will not be made here. I can assure him someone will sue.

I can assure him that someone will sue if this legislation should pass, and we have expeditiously arranged for that case to be heard. I should be happy if, from quarter to five onward, we heard nothing more about the issue of constitutionality.

Mr. CHAFEE. I would appreciate it—I do not want to infringe on any time the Senator from Maine wanted. I would appreciate it if I could get a reply to the two questions: One, what is this talk about the nonpublic schools' being vanquished? The facts just do not show it.

Second, what about this suggestion that you get a better public school system when you have competition? Who knows that is the best public school system? I suspect that the Senator from New York has given this a good deal of thought, and he has seen the results of the public schools in different sections of the country. I shall take a gamble here, though lawyers should not gamble, and ask a question to which he may have the answer.

I say this to the Senator from New York, and I shall rely on his experience, as he has seen these youngsters come from public schools throughout the Nation. It has been my experience that the youngsters who come from the public schools are receiving a better education in the public schools of the West and the Midwest than they are from the public schools in the East. That is not saying that plenty of youngsters do not come out of the public schools in the East with a good education; of course, they do. But overall, it is my impression that they receive a better education in the public schools—I think the public schools are better in the Midwest and the West. That may be heresy for one from the East to say that, but I suspect that. Those are the very areas where the percentage of youngsters in nonpublic schools is lower than it is in our section of the country.

Mr. MOYNIHAN. Let me thank the Senator for raising these questions and repeat the thanks of my colleague from Oregon for the suggestion that we set aside the constitutional issues, which are clearly not for us to decide. Senator RIBICOFF dealt with that properly on Friday morning. He said that, in his firm conviction, this is a wholly constitutional measure and that is as far as we ought to go and the Supreme Court will pass one way or the other.

Now, to the Senator's question: let me refer to a question I asked him on Friday, when he said that he was looking at the statistics on enrollment in public and nonpublic schools and he finds that they correlate. I asked him if he had run a correlation, because when he presented some questions to me about the data, I was hesitant on a couple of points. He said he did not want any "uh's" from me and he was obviously going to be fairly strict with me. So I asked him, had he run a correlation or had he just looked at these two lists and found that they looked alike? Because if we are going to talk about statistics, we have to talk statistics. If we are going to talk beta weights, we talk beta weights. If we are going to say it looks alike, then we say it looks alike; if you say there are statistics, we say, have you run a correlation?

I tried to be then and I shall try to be now very open about the extent of our statistical knowledge and the quality of our statistical knowledge. I have to say to him that the first fact is that we have very poor statistical knowledge about the private sector, the nonpublic sector. These are estimates. I do not know why they should be poor. There is no reason why the National Center for Educational Statistics cannot get these things at a high level of confidence, but they do not. I think there is a reason: because the Federal educational establishment does not want to have anything to do with these schools.

They just do not want to know they are there. They do not talk about them when they project the future, they do not count them when they record the present. They just sort of wish they would go away.

I quoted "The Condition of Education 1978." The projections on nonpublic schools sort of run at one round figure up to the next decade. They do not even vary.

Now, to the Senator's proposition about enrollment trends. He is quite accurate in saying that the sharp drop in nonpublic school enrollments took place in the second half of the 1960's. It was not until the 1970's that public school enrollments began to decline. Whether or not there is any causal relationship between the fact that the nonpublic school enrollment began to decline at just about the time that Federal aid became available to the public sector, I do not know. It is a legitimate question for which there is no answer.

I make the point that the National Center for Educational Statistics, in its "Condition of Education 1978," gives the estimated nonpublic enrollment at 5 million in 1972. They have estimated enrollment in 1972 at 5 million; 1974, 5 million; 1976, 5 million; 1978, 5 million.

They have then a series of intermediate alternative projections. They project 5 million for each year between 1978 and 1986. In that case, they have the elementary and secondary public school enrollment dropping from 42.8 million to 40.2 million.

Then they have low alternative projection. It goes from 42.8 to 38.1 million in the public sector. Again, it just goes 5 million, 5 million, 5 million, in the nonpublic.

Then they have the high alternative projection, which shows public school enrollments rising from 42.8 to 43 million, and nonpublic again goes 5 million, 5 million, 5 million, 5 million, 5 million. The computer got stuck. They simply do not know.

Now, I do know that private as a percentage of the total has dropped by one full percentage point from 1970. I know that since 1970, private, as a percentage of public——

Mr. CHAFEE. I wonder if the Senator will yield?

Mr. MOYNIHAN. Not until I have finished.

Mr. CHAFEE. Just on that statistic.

Mr. MOYNIHAN. Surely. Go ahead.

Mr. CHAFEE. We are looking at exactly the same statistics and somehow, we come out differently. It may well be my figures.

In 1971, the Senator said, the percentage of private was 10 percent.

Mr. MOYNIHAN. No, in 1970, private as a percentage of total was 10.53.

Mr. CHAFEE. In 1970, 10.5?

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER. The Chair reminds the Senators that it is the Chair's understanding that the Senator from Rhode Island had the floor.

Mr. MOYNIHAN. Will the Chair restate that?

The PRESIDING OFFICER. It is the Chair's understanding that the Senator from Rhode Island had the floor in the beginning.

Mr. MOYNIHAN. I thought the Senator had yielded to me.

Mr. CHAFEE. Yes, I have yielded—I will yield.

The PRESIDING OFFICER. When the Senator yields, will he be yielding the floor or for a question only?

Mr. CHAFEE. No, I shall yield the floor.

The PRESIDING OFFICER. That clears up the confusion in the Chair's mind. I appreciate it.

Mr. MOYNIHAN. I thank the Senator. Will he proceed?

Mr. CHAFEE. I hate to quibble over these figures.

Mr. MOYNIHAN. That is the condition of anyone dealing with statistics, particularly in this area.

Mr. CHAFEE. My statistics show that total public enrollment in 1970 was 45,909,000.

Mr. MOYNIHAN. No. We must have different series. Mine show 433 for 1970, public.

Mr. CHAFEE. It just makes it so difficult. Mine came from the National Center for Educational Statistics.

Mr. MOYNIHAN. So did ours. They are the same source, though they are based on census surveys in the first instance.

I certainly do not insist, but I would say to the Senator our data shows total public in 1970 at 43.3 million. So that there was a decline in private as a percentage of total from 10.53 to 9.43.

Remember, in 1976 the data are for the school year 1976–77 and we are missing 1 year. We will pick it up probably in the autumn.

Now, as for the regional variations, clearly there are regional variations. We can imply that from the new schools chartered under 501(c)(3) by the Internal Revenue Service.

California has a strikingly larger number of new schools in the private sector. But look at the Senator's own State of Rhode Island where the largest number of private schools are Catholic.

Between 1967-1968 and 1977-1978, the enrollment in Catholic schools in Rhode Island dropped 43 percent.

The national figure, if I recall, was 39 percent.

The Senator's is slightly higher. Rhode Island's Catholic schools lost 19,297 pupils in that decade, 43 percent of the total. The number of elementary schools dropped by half, from 111 to 64. The number of secondary schools dropped by slightly less than 23 to 13.

The Catholic schools of Rhode Island are well on their way to disappearing. I certainly would say that. Whether their circumstances would change in the context of this legislation, I cannot say.

I do not think I know enough. I do not think anybody does.

I would say in the context of this legislation, there will no longer be an overwhelming economic determinant of the capacity of the Catholic schools to survive.

If they decline, it is because people feel they do not need them longer, not because they cannot afford them.

It is the universal testimony of the people we dealt with in this particular system that if they do not get some assistance, they will disappear.

To the Senator's second question, he says it is his impression that the public schools of the region which have fewer private schools are better, and we asked about the question of competition.

May I say, I do not think any person who is propounding this legislation over here in the center aisle has spoken of competition in a direct marketplace sense. I think of it as pluralism more than competition. I mean, if we had anything like true economic competition, there would long since have been a huge move to increase private sector education because, on balance, it is about one-fourth the cost.

Public school education in this country on the whole costs about four times the amount of the comparable private sector outlays per pupil and nobody moves to diminish its size. The public school sector is valued for other reasons. If it were just a competitive matter, the manifestly greater efficiency of one system would be an issue of public debate. But we never hear the matter discussed.

I would put it a different way. As the Senator probably knows, all around the world there are seed banks in which seeds are being preserved of different varieties of corn, wheat, weeds, chickpeas, and so forth, out of a fear of the risk to the species, the genus, I guess one would say, of overconcentration in certain genetic pools. Even chickpeas have gene pools.

The more advanced the more easily cultivated, the more advantageous in one form or another, are driving out the older primitive ones. Yet, scientists are holding onto those earlier ones. We never know what might turn out to be valuable tomorrow.

I have always had in my mind the kind of educational diversity in which we hold onto a rare species of school.

How many high schools teach Greek any longer in America? Not many. But one would hope the teaching of Greek would not disappear, would hold on someplace until the day came we might want to start it up again.

How many schools transmit Amish beliefs or Hasidic beliefs, or the practices of a military academy?

I think of this as the maintenance of diversity such that we have alternatives when we want to change the uniformity we have adopted.

The Senator asked whether the schools of the Middle West, in places where there is not a large proportion of private schools of this kind, are better than the Eastern schools?

Unless we do something on a satistically reliable basis, impressions will not get us very far. In fact, impressions are always a very narrow sample and they are idiosyncratic.

We have begun to learn to measure educational achievement. But we have been very loath to do so.

One of the scandals of public education in the United States today is the incredibly slow pace with which national assessment has advanced.

For all the advantage the public school system has of openness and access, just try to measure what the students learn there, and you will find that the reluctance is very great.

The best data of a certain kind of educational achievement will be found in a series now concluded, the achievement scores on the selective service examinations which were given every year from 1948 to 1973—that is 25 years—and it is the best single collection of data by States that exists or ever has existed.

It is rather striking, for the achievement tests were uniform and so were the medical tests. There you see an absolutely startling difference between States. I will not speak of those States which have awful records, but the Senator is absolutely right in saying that the Middle West has very good records. There are Senators in the Chamber whose States do not turn out so well.

An issue on which I have done some work, as a matter of fact—and never got anybody very much interested in—was that there is an inverse ratio between failure in the mental test and failure in the physical test. Wherever people are very smart, they are also unhealthy; and where they are not very smart, they are very healthy.

In any event, that is an effort to answer the Senator's question. But I say this: What I said on Friday was that unless we adopt this legislation or legislation which would have a comparable effect—and we will adopt this or we will not; nothing else with comparable effect will happen—the private sector of education will become an elite sector. It will be the Deerfields, the St. Marks, the Andovers, and the Exeters of which we have heard today. You will not have any more neighborhood schools that are nonetheless run on alternative bases and provide options to people who have no more than the ordinary opportunities of the ordinary American.

If you care about those schools, you care about this legislation. If you do not care about those schools, this legislation makes perhaps a marginal claim on your support.

Mr. President, we do have some regional reading scores which I will be happy to present to the Senate, but I believe the Senator from Maine wishes to speak.

Mr. CHAFEE. The Senator from Maine has been waiting to speak, but it is not I who have been detaining him. [Laughter].

Mr. MOYNIHAN. It was the Senator from Rhode Island who asked the question, to which he is entitled to an answer, which I proposed to give him whether he would tarry or not.

Mr. CHAFEE. I wanted a sip of water, not the hydrant. [Laughter.]

Mr. MOYNIHAN. Then the Senator went to the wrong post. [Laughter.]

We do have a figure on performance for 9-, 13-, and 17-year-olds. They are largely predictable, and follow almost exactly the pattern of the selective service statistics.

At age 17, the Central region is 2.41 points above the national mean. The Northeast is 1.48 percent above. The West is 1 percent below. The Southeast is 4.11 percent below.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that at 55 minutes past the hour of 5, I be allowed to have 5 minutes to discuss my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, if anybody has any urgent request for any more educational statistics, we can provide them. Failing that, I believe the Senator from Maine had hoped to address the issue, and the Senator from Arizona may wish to do so.

Mr. DECONCINI. Mr. President, the Senator from Maine has been waiting for some time. I have a request for 5 minutes or less, just for a statement, but I defer to the Senator.

Mr. MUSKIE. I would have no objection to the Senate proceeding. I would like to make my statement in plenty of time to let the Senator from Arizona (Mr. GOLDWATER) have his time. Other than that, I am under no pressure. If the Senator wishes to proceed and that accommodates other Senators, that is fine with me. Then I would like to follow the Senator.

Mr. DECONCINI. I thank the Senator.

Mr. MOYNIHAN. Mr. President, I yield the floor.

Mr. DECONCINI. Mr. President, I am pleased to support the Tuition Tax Relief Act of 1978. In my estimation, passage of this measeure will help insure the continuance of the vital nongovernmental components of our educational system.

Perhaps no other nation in the history of the world has placed such great emphasis on unimpeded access to educational opportunity for all its citizenry as has the United States. From the earliest colonial settlements, Americans have recognized, albeit imperfectly at times, that the advantages of education could not be confined to a privileged elite, if the ideals of liberty, equality, and in-

dividualism were to have anything more than symbolic significance. The history of this country and, in fact, of the Western World, amply demonstrates the indissoluble link between the dispersion of educational opportunity to ever wider segments of the population and the growth and vitality of democratic political and social institutions.

At every level American education is characterized by remarkable heterogeneity. Thus, private preparatory schools have coexisted with both public and parochial institutions in providing elementary and secondary instruction to the Nation's children. And, post-secondary education is, if anything, even more richly variegated—ranging from 2-year vocational and technical schools through small State colleges and private liberal arts institutions to world renowned centers of advanced learning, some of which are maintained by private endowment and some by public funds. This diversity is one of the major strengths of the American approach to education; it both reflects and reinforces the social-cultural pluralism from which our country draws so much of its dynamism and vitality and makes it possible for those of varying tastes, interests, and needs to find the kind of institution and/or curricular offering that best meets their particular requirements.

Unfortunately, recent developments threaten to reverse the historic trend toward both wider accessibility and diversity in American education. The crux of the problem is quite simple: schools and colleges across the country—public and private—are facing a devastating combination of declining enrollment and sharply escalating costs.

For example, tuition and fees in public and private colleges increased more than 93 percent between 1967 and 1976, while the median after-tax income of the families with college-age children rose just 66.8 percent. The average annual total cost of a private university will be $5,110 for 1978–79, with the cost of attendance at a public university averaging $3,054. Further, the cost of private elementary and secondary schools has increased substantially in recent years and enrollment in these schools has dropped sharply—from 6.3 million in 1965 to 4.5 million in 1975.

Mr. President, one of the criticisms being levied against this proposed legislation is that the benefits will go primarily to the well-to-do. I respectfully disagree with those who make this charge. According to the Joint Committee on Taxation, 78 percent of the benefits of tuition tax credits would go to families earning less than $30,000 a year. The bulk of the benefits (55 percent) would go to middle-income families earning between $10,000 and $30,000 a year.

Another argument being used by those opposing H.R. 12050 is that it is unconstitutional, particularly the elementary and secondary tax credit provision. Mr. President, I would like to point out that the Supreme Court has never ruled on the constitutionality of a Federal tax credit for tuition paid to college, vocational, elementary and secondary schools. Many who say that this legislation is unconstitutional base their opinion, at least, in part on the Nyquist decision. In this decision, the Supreme Court overturned a State statute which gave almost 100 percent of its benefits to parochial school students. The Court said in its opinion that a bill with a broader class of beneficiaries may be constitutional. H.R. 12050 of course meets that test. Only 24 percent of the benefits go to students attending church-sponsored elementary and secondary schools.

Mr. President, I also want to compliment the Senate Finance Committee for its willingness to try and meet the objections of those who contended that the originally reported bill, H.R. 3646, was too costly. The committee responded by reporting H.R. 12050 which would reduce the cost of the bill when fully implemented by approximately 45 percent.

Mr. President, I believe that H.R. 12050 is consistent with the principles that have guided American educational philosophy and policy. In my view, pluralism is at the center of all we Americans do—it is as central to our educational system as it is to our politics and our culture. Unlike repressive societies we support and encourage diversity of all sorts. To the extent that this legislation will assist an ailing nonpublic educational sector, it will also directly contribute to a continuation of this vital tradition. I, personally, would be greatly saddened if the ravages of inflation and other economic woes forced the closing of private educational institutions. Certainly we cannot deny that our public schools are among the best in the world, but we are better off as a people and a Nation as the result of diversity in our educational system.

Mr. President, I hope, that my colleagues will not view this legislation as a narrow, sectarian measure. Because, in truth, its purposes are broad, and its effects will be positive for all of us. We cannot here say for sure what the Supreme Court may decide about the constitutionality of this legislation. However, as I read our Constitution, tuition tax credits in no way involve the "establishment of religion, or prohibiting the free exercise thereof." I hope, therefore, that we will act favorably on the measure, and I commend the distinguished sponsors of the legislation for their efforts.

Mr. President, I also offer my support for the amendment of my colleague from Arizona to be taken up at 6 p.m.

I thank the Senator from New York and the Senator from Maine.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator from New York.

Mr. MOYNIHAN. Mr. President, if the Senator from Maine will allow me one-half moment of comment, I express on behalf of the Finance Committee, and I am sure I speak for my colleague, Senator PACKWOOD, in conveying our appreciation for the generous remarks made by the Senator from Arizona and tell him that we are more than sensible of the honor that he does us by supporting this legislation. He has been a distinguished legal officer in his own State. He is an admired and valued Member of the Senate, and we very much appreciate his remarks.

I thank the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, the pending legislation has stimulated a wide range of discussion of a fascinating complex of issues from educational opportunity, to diversity of education, to its economic costs, the role of Government providing various kinds of education, performance of education; and all of these are relevant issues that should be discussed and debated at length.

In 20 years in the Senate I have found that when legislation of this kind is introduced, it often stimulates a change in our institutions that by and large is unanticipated at the time the policy is established.

It is not a simple matter to predict the flow of mercury when pressure is applied at any point. So I suspect that what we are debating here if the proposed changes are implemented will produce changes in the pattern of education in this country and its impact upon our youngsters that we probably will not identify with very great precision in the course of this debate.

But I shall confine my remarks this afternoon to what I have come to regard as my prime responsibility in the Senate since the adoption of the Budget Act, and that is the budgetary implications that may flow from this legislation if enacted into law.

Mr. President, 2 weeks ago tonight the Senated voted 59 to 28 to balance the budget by 1981.

Soon the Senate will consider two bills which will guarantee that a balanced budget cannot be achieved by 1981—or even anytime in the foreseeable future.

One of these bills alone could add $14 billion to the deficit by 1983. And it would add more than $5 billion a year after that.

The other bill will add $6 billion to the deficit by 1983. And more than another billion and a half every year after that.

If Congress wants both bills—and the House has already passed both in some form—the total 5-year addition to the deficit could be more than $20 billion.

And the annual cost of these two programs would be nearly $7 billion, even if neither program is never expanded. But we all know both will be enlarged as time goes on.

I refer, of course, to the so-called tuition assistance bills reported by the Committee on Finance and the somewhat less expensive alternative offered by President Carter.

And last Friday the Finance Committee reported a new addition to the family of tuition tax credit bills.

This new addition is a strapping little brother to the somewhat more expensive tax credit bills recently rejected by the Budget and Appropriations Committees.

The apparent reason for this offspring's birth is to avoid the budget process and the appropriations process.

But while Junior's legitimacy may be in some doubt, his parentage is not. He looks a lot like his older brother. Junior

will cost more than $8½ billion during the next 5 years. And it is a good bet his parents intend junior to grow to be just as big as his brother before long.

I understand that before I arrived in the Chamber this afternoon some explicit indications of that prediction were started.

As chairman of your Budget Committee, I must warn the Senate that there is no way any of these bills can be enacted, if we are to come near a balanced budget by 1981—or even within the next 5 years.

Therefore, much as I would like to vote for some of these attractive bills, I will vote against all of them and urge my fellow Senators to vote likewise.

And we must watch with interest how the 59 Senators who voted last Monday to balance the budget by 1981 vote on these multibillion dollar additions to the deficit.

Because 32 of these 59 are cosponsors of one or another of these budget-busters.

Mr. President, I can understand why Senators who want a balanced budget would also like to vote for these deficit deepening tuition aid bills.

I know the pressure which exists to pass these bills.

The citizens of my State are just as anxious for relief from tuition costs as anyone else.

I know what it is to pay to put children through parochial schools, college, and even graduate school, because I had all three of those experiences.

I have 5 children of my own. I have paid my share of tuition bills. But our responsibility, Mr. President, goes beyond responding to the popular causes of the moment. We are talking here about enacting a tax credit bill which would add more than $5 billion a year to the deficit within 5 years. Even little junior would cost nearly $3 billion every year within 5 years, and that assumes we can stunt his growth.

We are talking about adding the President's alternative program which will add more than another $1.5 billion a year to the same deficit by 1983.

So we are talking about a combined cost of these bills, and there are those who would like to see all three enacted, which could reach $7 billion a year in deeper deficits by 1983.

All this, Mr. President, at a time when we still have not figured a way to get the deficit down below $40 billion a year. The Budget Committee completed its consideration of the second concurrent budget resolution last Friday. The resulting deficit projected was $42.8 billion, and we thought we had made substantial and significant progress, because that was a reduction from the $60 billion which the President has projected in January of this year. And still we are at $42.8 billion for fiscal year 1979.

Mr. President, this year's budget resolution does contain some allowance for a tuition tax credit. That allowance is $300 million. That allowance covers only one-half of the first year's cost proposed in the Committee on Finance original tuition tax credit bill. It covers only 60 percent of the first year cost of little junior as reported by the Committee on Finance last Friday.

This $300 million allowance covers only about 5 percent of the costs 5 years from now of the original tax credit bill, the bill which the tuition tax credit proponents really preferred and want to pass. It covers only about 10 percent of junior's annual cost after 5 years.

The budget resolution, Mr. President, also allowed up to $700 million for the President's alternative tuition assistance spending program. The first year cost of the bill which the Human Resources Committee has reported is $1.4 billion, twice the amount budgeted. So all these bills in all their forms violate this year's budget, and their $7 billion a year eventual cost will destroy all our efforts to balance future budgets.

Sure, these bills are attractive, and they do have powerful constituencies. But just where is that extra $7 billion to pay for them going to come from? Who is going to pay for these bills? I will tell you who. It is you and I and every American taxpayer and every child of any of us for the rest of our lives. We will pay for these bills in the form of higher taxes, higher tuition, and higher interest on a higher national debt. That is the sum total of it all.

I know the polls show Americans favor proposals of this kind. These polls have shown favorable majorities for such bills for all the 20 years the Senate has considered them, and I have been here all that time.

But those polls also show something else. They show that most Americans know there is no such thing as a free lunch, especially when the Federal Government provides it. According to a recent Harris poll, 7 out of every 10 Americans feel that the trouble with getting something special from Government for your group is that you will end up paying for it four or five times over in higher taxes. How true that is in the case of these tuition bills.

Let us see how the tax credit, which seems to confer such an attractive gift, actually costs most Americans more than they can ever get from it. After all, even if a family gets some money for 4 or 8 or even 12 years under these proposals, they will pay for that gift all their lives in higher taxes. They will pay the bill for the benefits others receive, and their children will pay the bill. They will all pay the bill every year on every tax return all the rest of their lives.

I asked the staff of the Budget Committee recently to estimate the value American families of four would actually get from a $5.3 billion tax credit if they received an average tax credit of $400 a year for 4 years. That would be $1,600 out of the $21 billion the bill will cost during a full 4-year period.

Then I asked the staff to compute how much these different families would have to pay in the form of higher taxes during their working lives for this tax break.

Similar calculations could be made, of course, for other bills like junior, whose costs and benefits are somewhat lower.

Here is what the staff found: First of all, many families will pay higher taxes but get nothing for their money. Every family whose children are beyond college age will pay taxes for the program but never get anything in return. Many senior citizens in our country, who continue working, and every older working American, whose children have finished school, will also pay taxes for this program all the rest of their working lives, but they will get nothing.

Many families of all ages, more than one out of three do not have any children who go to college or to a private grade or high school. These families and their children will get nothing, but they will all pay higher taxes all the rest of their lives for the benefits more fortunate families will get.

Young couples lose as well.

Any 20-year-old married couple whose joint income is more than $15,000 a year will lose from this bill, unless more than one of their children eventually goes to college.

So will any taxpaying family of four, whose parents are about 30 and who have a joint income over $25,000, even if both their children attend 4 years of college a decade later.

So when all the results are in, many of those families who get something at some time from the tax credit bill will lose over the long run.

There is, after all, no such thing as a free lunch.

The cost to families in increased taxes throughout their working lives to pay for this "tax break" will be greater than many families will ever get in value from it.

In fact, for the most part, only families already eligible for existing direct Federal grants for tuition assistance would, over their taxpaying lifetimes, come out ahead under this bill.

And the existing grant program averages almost $900 per student per year—much more than any of the proposed tax credits would provide.

So for the families this bill would mainly aid, it is unnecessary.

And for the rest of us, this bill is really a kind of Trojan horse—an apparent gift which in fact will cost us all dearly.

Let us take a minute to remind ourselves of the story of the Trojan horse.

Remember how the Greeks, the enemies of the people of the city of Troy, presented a beautiful gift to the Trojan people? It was a giant carved horse allegedly given to enrich their city.

Too late the Trojans learned that the horse was hollow. It contained their most feared enemies. And when darkness fell, out these enemies came and ravaged the city.

The warning the Trojan king gave his fellow citizens about the horse—to "beware of Greeks bearing gifts"—echoes down the ages to us now as we consider this "gift" of tuition paid for with tax dollars.

For as surely as the Trojan horse contained the feared foreign enemies, these multibillion dollar tuition bills will unleash our worst domestic enemies—more deficit spending, more inflation, and more unbalanced budgets.

Let us just examine how expensive these bills really are.

Let us look at each bill we are serious-

ly asked to consider in these days of $40 and $50 billion deficits.

Most expensive is H.R. 3946, the tuition tax credit bill originally reported earlier this year by the Committee on Finance.

It provides credits to taxpayers for tuition for college, for graduate school, for grade school, for high school, and even for part-time students.

It also provides direct payments to those same taxpayers, if their credit is larger than the tax they owe.

It even provides payments to people who owe no taxes at all.

And it provides this aid equally to rich and poor alike.

It will add at least $5.3 billion to the deficit each year by 1983—for a total of $14 billion by that time. And if the level reached at that time—$5.3 billion—is continued for the next 5 years without any increase in the grant or in the amount available, or in the number of eligibles, the next 5 years would add to the deficit by $26 billion—or $40 billion over a 10-year period.

This is the bill both the Budget Committee and the Appropriations Committee have voted to urge the Senate to reject.

So the proponents of the tax credit have created little junior.

They gave birth to junior to avoid some of the objections to the cost of the original bill which have been lodged by the Appropriations Committee and the Budget Committee.

But even junior will cost almost $3 billion a year by 1983 and a total of more than $8½ billion in new deficit by that time.

At the same time, the proponents of the original bill may take some of the most costly provisions deleted from big brother and offer them as amendments in the Senate to beef junior up.

And no matter how we come out on these amendments, we know that we have not seen the last of big brother, even if only junior is enacted.

The proponents of the original, more expensive bill will soon be back to help junior grow.

Now the President has proposed an alternative program, which is better targeted on those in need and restricted to college education.

No payments to millionaires here.

No deficit financed private grade and high school tuition payments.

But still an average annual cost of more than $1.2 billion a year during the next 5 years.

And a total addition to the deficit by 1983 of more than $6 billion.

So the combined deficit-financed cost of the tax credit and the President's bill could be as large as $20 billion within 5 years and $7 billion more a year after that.

And these two deficit-financed proposals are offered at the same time as the Federal Government is already spending nearly $8 billion a year to support higher education, and almost $21 billion a year to support education at all levels.

So before we plunge forward and add another $20 billion to the deficit for education aid, let us take a look at the more than $7 billion in Federal aid for tuition costs which is already available to college students without our writing in the law.

First is the basic educational opportunity grants program. Under this program, a student from a low- or moderate-income family may obtain a grant of up to $1,800 a year for attending college.

Last year more than 2.4 million students received basic educational opportunity grants, which averaged $895 each.

Congress appropriated $2.2 billion for this tuition grant program last year alone.

Students who need even more Federal aid to finish their education can get up to another $1,500 a year under the supplemental educational opportunity grants program. Congress appropriated $220 million for this student-aid program last year.

The Federal Government also helps fund the State incentive grant program, which makes college grants of up to $1,500 a year to eligible students.

Last year Congress provided $64 million for the State incentive grants program and the State provided another $64 million.

In addition to these grants, loans are also available through the Federal Government for college costs.

A college student can obtain a loan of up to $5,000 for undergraduate school and another $10,000 for graduate school from the national direct student loan program.

Repayment of these loans, which bear only 3 percent interest, is made over a 10-year period after graduation.

Congress has appropriated $3.6 billion for this revolving fund program during its 20-year existence. We appropriated $311 million just last year.

Loan aid is also available through the guaranteed student loan program. Under this program, a college student can obtain a Government guaranteed loan of up to $7,500 during undergraduate years and up to $2,500 a year more for every year of graduate school.

In many cases the Government will pay the 7 percent interest on these loans during the student's school years.

After graduation, the student has up to 10 years to repay these loans.

Last year these two loan programs generated $2.4 million in additional tuition assistance for 1.9 million college students.

In addition, the federally funded college work study program pays for work by students on campus for up to 15 hours a week. Last year Congress appropriated $435 million for college students participating in the work study program.

And let us not forget the GI bill, under which more than 1,300,000 college students are receiving benefits today. Any of the 5.5 million veterans now eligible for this program can obtain up to $311 per month for as long as 45 months for college and post graduate studies.

Last year the Federal Government provided $2.1 billion to pay for this college education through the GI bill.

So the Federal budget is not stingy about education. Last year alone we appropriated almost 21 billion Federal dollars to support education in this country. And more than $7 billion of that amount was directed solely to these tuition aid programs, which directly benefited more than 52 percent of all college students in this country.

And now some Senators—yes, including many who voted the other night to balance the budget by 1981—are asking us to add another $7 billion a year to these programs and to the Federal deficit.

Even if we could afford these new subsidies, they would provide little tuition relief to those who receive them.

First of all, the effect of dumping another $7 billion a year in spending into the economy will itself be inflationary for everyone.

And what college board of trustees—and I am a member of one—will be able to withstand the temptation to raise tuition by exactly the amount of the tax credit, since it goes to every single student in equal shares?

What State school which now charges a tuition fee less than these proposed payments will not raise fees to soak up this new free money?

I recognize that poll after poll seems to suggest a great demand for these tax credits.

But what would the average taxpayer say if the pollsters pointed out that much of the money distributed under these programs will simply be lost to inflation?

That the richest millionaire would receive the same benefits as the poorest citizen?

That many taxpayers whose children leave public high school and go to work will get nothing?

That the taxes paid to finance benefits to others will in many cases vastly exceed any benefit a family will ever get?

That all these bills will have to be financed from the deficit?

Fortunately, we do have the answers to some of these questions, because the pollsters have asked them.

According to the Harris poll released on May 18 of this year, Americans want Federal aid for tuition.

But 3 out of 5 of these same people oppose any plan—like the tax credit proposals before us—which give rich and poor the same benefit.

A recent Roper poll reports that the public rejects by more than 2 to 1, proposals like this tax credit which extend Federal aid to elementary and secondary schools.

And there is one finding in the polls which should rivet our attention. The Harris poll, just 90 days ago, revealed what we should have known all along: That the public does not want new tuition aid which—like these bills—would add to the deficit.

So I think we underestimate the citizens we represent if we believe that what they really want is another big dose of deficit in the name of tuition assistance.

And so I must return to the 59 Senators who voted the other night to balance the budget by 1981.

Sure we want to balance the budget.

I hope we can.

But let me tell you this:

The enactment of any of these multi-billion dollar tuition bills absolutely guarantees that we will be deep in deficit for years to come.

Mr. President, I think our response to all these bills must be clear.

If we were presiding over the distribution of a $5 or $6 billion surplus we might decide that these bills should be enacted.

Because, like the Trojan horse, they are powerfully attractive, despite their multi-billion dollar cost.

But the truth—and we all know it—is that we cannot afford them.

Our citizens cannot afford the deficit and inflation this Trojan horse releases into our midst.

And it is our duty—even though we may take some political heat for it—to eliminate the unprecedented continuing deficit we already have, before we add these new multi-billion dollar budget-busters.

So for me the choice is clear.

And I hope it is for you.

And I hope it is for the 59 Senators who voted last Monday night to balance the budget by 1981.

I would like to add a word about the Goldwater amendment, not in itself, because I understand, I think, what motivates my good friend from Arizona to offer it, but because I think it illustrates a point about this kind of legislation and what will happen to it if it goes on the books.

The Goldwater amendment is an excellent example of the major revenue losing amendments that inevitably will increase the long term budgetary costs of the tuition tax credit bill because somebody will be trying to straighten out what he sees to be the inequities of the resulting policy unless changes are made and those changes will inevitably involve cost.

The tax credit for elementary and secondary school tuition in H.R. 12050 would constitute a substantial shift in Federal education aid policies toward private schools, and away from public schools. As a result, it is very likely that an amendment such as the Goldwater amendment would be offered to give some comparable additional tax relief to taxpayers supporting the public school system and not otherwise benefiting from the tuition credit.

According to the best estimates now available, the Goldwater amendment will cost $1.5 billion annually after it first becomes effective in fiscal year 1981.

We can be certain that unless the tuition tax credit bill is defeated completely, its provisions inevitably will be expanded in numerous ways comparable to the Goldwater amendment—both in this bill as well as in future legislation.

For example, other Senators will be likely to offer amendments to make the credit refundable. That subject has been raised this afternoon. After all they will say, why limit the credit benefits to taxpayers? They will offer that to the Goldwater amendment if it becomes law.

Others will offer to make the maximum credit $500 for elementary and secondary school tuition—the same maximum credit as for college tuition. After all, they will say, why should not the maximum elementary and secondary school credit be the same?

Others will want to extend the credit to graduate students, and others to part-time students.

And finally, in time, others will want to expand the maximum college credit to $1,000 and even higher levels. And all these amendments each would cost billions of dollars—just like the Goldwater amendment.

Just like the application of the tuition credit to elementary and secondary tuition, the Goldwater amendment first becomes effective in fiscal year 1981. These deferred effective dates avoid the discipline of the budget process, and avoid competition with other budgetary decisions Congress will be making in the future for fiscal year 1981 and later years. The Goldwater amendment will serve as a blueprint for other revenue losing amendments to the tuition credit bill which also are likely to be made prospective to fiscal year 1981, thereby reducing the ability of Congress to cut future year budget deficits.

The Goldwater amendment and the entire tuition tax credit bill, H.R. 12050, must be defeated if we are to meet our goal of balancing the budget a few short years from now.

I have been saying over and over again in the last 4 years that probably the most difficult problem we face if we are to get a handle on the budget is to control uncontrollables. We are now considering one of the biggest uncontrollables to come before the Senate in my 20 years in the Senate.

(Mr. PELL assumed the chair.)

Mr. DECONCINI. Will the Senator yield for a question?

Mr. MUSKIE. Yes, I am happy to yield.

Mr. DECONCINI. Early in his remarks, the Senator from Maine talked about inability to balance the budget if this particular legislation were passed and if the Goldwater amendment were passed. Is that not fraught with some contradiction? Really, is it not a matter of where we place our priorities and whether or not we reduce spending in some other areas; that if truly, we are to meet our responsibility in this body, we are to set those priorities, and if this is where we are to give the taxpayer a reduction, then we should meet the responsibility somewhere else?

How does the Senator respond to that?

Mr. MUSKIE. That is the rationale with which other Senators and I comforted ourselves for 16 years in my Senate career. We all made our individual priorities, we all said that we were carrying around in our heads a balanced budget of our own that made room for our priorities, but not necessarily everybody else's. The result was no discipline with respect to priorities. We approved every priority so that we could get the votes for our own priority.

The second most important point, I say to my good friend from Arizona, is the point I have just completed: The biggest problem in the budget is uncontrollables. By that, I mean spending that can be reduced or controlled only by changing existing law.

When we enact these tuition tax credit bills into law—this includes the Goldwater amendment—we add to the uncontrollables. Uncontrollables have grown from 59 percent of the budget just 10 or 12 years ago to 73 percent, close to 75 percent, this year.

The Senator says, well, balance the budget elsewhere. Out of the remaining 25 percent? What does 25 percent of today's budget amount to? Figure it out. $125 billion. That is what we have available to us, that $125 billion of controllable spending, with which to balance a budget that is $42 billion out of whack. That means we would have to cut every other program of the Government by 40 percent, including these direct programs of student assistance. Those are not uncontrollables. We would have to cut them and every other function of the Government, from national defense, which is pretty much the result of annual authorization bills, we would have to cut every other function in the Government in order to get balance.

So we say, let us add to these uncontrollables and take that out of the present controllables. We cannot do it.

Mr. DECONCINI. Will the Senator admit to the fact that it is a matter of priorities, and that this body is to set those priorities? They may be different from what the Senator's priorities are, but is that not the process?

Mr. MUSKIE. If the Senator wants my candid opinion, yes, the Budget Act makes priorities of equal importance to the balancing of the budget and so on. But let me say, I have been in charge of the process on this side for 4 years. The big problem we face right now is inflation, the declining value of the dollar. For me, there is only one priority at the present moment in time: That is, controlling inflation and holding Government spending down to the bare minimum. That is my one priority.

The Senator is entitled to his own. But I have a special responsibility as chairman of the Budget Committee and I am making that statement in that capacity, not as an individual Senator.

Mr. DECONCINI. I understand.

Mr. MUSKIE. I think the Senator from Arizona has the floor.

Mr. GOLDWATER. A parliamentary inquiry. Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. GOLDWATER. I think the hour is now 5:55. I have the floor for 5 minutes.

The PRESIDING OFFICER (Mr. METZENBAUM). The Senator is 1 minute in anticipation of that moment.

Mr. GOLDWATER. It depends on what clock you are looking at.

Mr. MOYNIHAN. Will the Senator yield me 1 minute?

Mr. GOLDWATER. Yes, by that clock.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Gerald Rosen of Senator GRIFFIN's staff be granted the privilege of the floor throughout the duration of consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. I should like to thank the chairman of the Budget Committee for a forceful and effective statement. He makes the case that the committee

cannot support the Goldwater amendment because it was not part of the Finance Committee budget request. The tuition tax legislation before us, however, was part of our budget request and has been so incorporated by the Budget Committee.

One final quick comment: In providing support for the non-Government sector of elementary and secondary schools, the Congress will be supporting a vastly more efficient sector of the educational system.

The PRESIDING OFFICER. Under the previous order, the hour of 5:55 having arrived, the Senator from Arizona (Mr. GOLDWATER) is recognized for 5 minutes.

Mr. GOLDWATER. I thank the Chair.

First, Mr. President, I ask unanimous consent that my assistant, Mr. Terry Emerson, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GOLDWATER. Mr. President, in the printing of the amendment, inadvertently, there was left out a sentence. I ask unanimous consent that the printed amendment be modified as follows: In line 18, page 2, at the end of the word "years", add "beginning after December 31, 1980."

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment was modified.

The PRESIDING OFFICER. Will the Senator please send the modification to the desk?

Mr. GOLDWATER. Yes.

Mr. President, I have listened to the Senator from Maine and I have full sympathy with the problems he is faced with. I realize that only 30 percent of the money we talk about in this Congress can be worked on as a possible means of cutting down the expenses of Government. But, Mr. President, I think there are ways that this can be cut and I admire the Senator from Maine for the courage he has shown in trying to do it. I do not have a lot of admiration for my colleagues who keep trying to add to that 30 percent.

I will admit that the costs he used in relation to my amendment are substantially true. On June 8, 1973, I was provided by the Department of the Treasury with a written estimate of the cost of my residential property tax proposal. At that time, the estimate was about $1 billion annually.

The proposed tax credit was the same then, as it is today, $150. But there were other features in my bill that would have made it more costly.

For example, the bill which the Treasury Department reviewed in 1973 had a refundable provision under which all elderly taxpayers, 62 years of age or over, would be granted a cash rebate of the tax credit if their incomes were so low that they could not otherwise benefit from it.

Second, I have now added a restriction in the bill on using the same amount of property taxes twice: once as an itemized deduction and again as a tax credit. The portion of property taxes used for the tax credit cannot be claimed under my new proposal as a deduction.

Third, any taxpayer who claims the tuition tax credit will not be eligible to use the property tax credit in the same tax year. Thus, the number of taxpayers who are covered by my proposal will be reduced by the number of persons claiming the tuition tax credit.

These three changes will substantially reduce the cost of the property tax credit.

Nevertheless, the Joint Tax Committee has given me an informal estimate that is higher than the one provided by the Department of the Treasury. The Joint Committee staff estimates my amendment would cost $1.5 billion, on the ground that property taxes have increased since the earlier estimate was made.

Now, in view of the fact that the tax credit is but $150, I cannot believe that very many property owners would pay a real estate tax of $150 today who did not already pay at least that much in 1973. Moreover, I believe the Committee staff has failed to take adequate account of the major reductions in cost that result from the important changes I have made in the bill.

At this time, I do not have anything in writing from the committee staff showing what assumptions were made in arriving at the estimate, so I think the figure of $1 billion is about as good as the $1.5 billion estimate.

In any case, those are the ball-park figures we are talking about.

I might state further that this amendment is not a last-minute idea. I remember introducing this in 1961. I got the magnificent total of 10 votes and there are 4 of those gentlemen still left with us, so I think I can count on at least 5 and, hopefully, more.

Mr. President, let us look at the moneys that are spent in this body. They are from the International Monetary Fund, where money is loaned at 2 percent and they do not start paying for 10 years. We look at foreign aid, where we have tossed hundreds of billions of dollars down the drain without doing a terrible amount of good.

We just created the other day a Consumer Bank and Lord knows how much money that is going to cost. It goes on and on.

All I am asking in my amendment is that for each of the 50 million single family, owner-occupied households in this country—not a person paying rent, but a person who is paying property taxes on his or her residence—of which a portion of those taxes go to education, that he be allowed up to $150 deduction on his tax. This becomes a cost that I think would be justified as a credit because of other costs of a similar nature that are under the pending bill as to private schools.

Mr. President, in the great majority of States, and the District of Columbia, the property tax is still the major single source of revenue for public elementary and secondary schools.

In 30 States and the District of Columbia, more than 40 percent of elementary and secondary school revenues are derived from local taxes, which are preponderately real estate taxes.

In only five States, Kentucky, North Carolina, New Mexico, Alaska, and Hawaii, do local taxes constitute less than 20 percent of total public school revenues.

My amendment states that the property tax can be used as the basis for the tax credit in all States where it provides "a substantial source of revenues raised for the support of public education."

Clearly, the property tax is a "substantial" source of revenues in any State where it provides 20 percent or more of total revenues. Moreover, I think we could agree that the property tax would qualify as a substantial source of funds in any State or locality where it reaches the level of about 15 percent.

This would qualify the tax in all States except possibly two or three.

This provision is put in the bill to guarantee that in those few areas where property taxes are not important as a source of public school financing, taxpayers will not be left out from the public school tax credit. But in nearly all States, the real estate tax will be the basis of the tax credit.

I ask unanimous consent that this table be printed in the RECORD at this point in my remarks.

There being no objection, the table was ordered to be printed in the RECORD as follows:

Percentage of public school revenues derived from local sources, 1977–78 (elementary and secondary)

U.S. aggregate	47.6
70 percent and over:	
District of Columbia	83.7
Nebraska	74.7
New Hampshire	85.7
South Dakota	73.6
60 to 70 percent:	
Connecticut	63.4
Massachusetts	61.3
Michigan	61.6
Oregon	65.2
Vermont	66.4
Wisconsin	60.7
Wyoming	62.8
50 to 60 percent:	
California	50.7
Colorado	57.9
Iowa	55.0
Missouri	56.3
Maryland	52.0
Nevada	57.4
New Jersey	56.7
New York	57.6
Rhode Island	52.5
Ohio	53.3
Virginia	58.7
40 to 50 percent:	
Arizona	45.7
Idaho	41.3
Illinois	45.9
Indiana	42.5
Kansas	42.5
Maine	45.7
Montana	40.0
North Dakota	45.0
Pennsylvania	46.4
30 to 40 percent:	
Arkansas	32.1
Florida	38.1
Georgia	35.8
Minnesota	36.3
Oklahoma	33.8
South Carolina	30.9
Tennessee	36.9
Texas	38.1
Utah	38.5
Washington	30.9

20 to 30 percent:	
Alabama	21.0
Delaware	22.0
Louisiana	24.9
Mississippi	23.2
West Virginia	27.2
Less than 20 percent:	
Alaska	17.5
Hawaii	5.9
Kentucky	16.3
New Mexico	16.5
North Carolina	18.7

Source: National Education Association "Estimates of School Statistics 1977–78."

Mr. GOLDWATER. Mr. President, the great bulk of money for public schools has historically come from property taxes. It does come in a growing measure now from Federal funds. This is why I stood on this floor, year after year, fighting Federal aid to education, because I could see the costs going over $18 billion and they are now over $20 billion. I could see our entire educational program being taken over by a union, the National Education Association. They are the ones who do not want to see this thing happen. They are the big activating and motivating force behind the objection to both credits for tuition to private schools and my own.

Mr. President, I repeat that amendment does not grant a tax credit to the renters of a household.

For the most part, the amendment applies only to owner-occupied, single-family residences.

It does not apply at all to commercial apartment developments or other types of business realty.

Since the owner of an apartment building will not get a tax credit under the amendment, I have not included renters either.

As to the few number of taxpayers who may be renting the house they own to another party, the ceiling of $150 put on the tax credit will prevent them from benefiting in almost all cases from taxes paid both on their principal residence and their rental home.

But if it would help any Senator to support the amendment, I would be agreeable to modify it to specify that the tax credit is only granted to a taxpayer for a house he owns and uses as his principal residence.

Now, I would like to explain that the $150 tax credit is not pulled out of the air.

I have reviewed the property tax relief programs of the several States which have adopted circuit breaker statutes that rebate excess tax burdens to particular groups of homeowners, such as the aged or low-income families.

The national average benefit given by the States with such programs is about $150. Thus, I selected $150 as the amount of property tax relief provided in the Federal program which my amendment would create.

In closing, I have to say, Mr. President, this has not entered into the argument, but elementary education in this country has never been at such a bad level as it is now. If the answer is more Federal spending for elementary education, I am afraid we are going in the wrong direction. All we have to do is look at the results of tests given in our military academies to find out where our elementary education is going. All we have to do is look at colleges that have to teaching reading, writing, and arithmetic.

Thus, I would hope that instead of direct Federal financing, a tax credit might be granted for taxes imposed by local governments to finance their schools.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the hour of 6 p.m. having arrived, the Senate will proceed to vote on amendment No. 3445 offered by the Senator from Arizona, as modified. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Georgia (Mr. NUNN) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) and the Senator from Minnesota (Mrs. HUMPHREY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 21, nays 69, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—21

Allen	Griffin	McIntyre
Biden	Hatch	Meicher
Curtis	Hathaway	Roth
DeConcini	Helms	Stevens
Durkin	Laxalt	Talmadge
Garn	Lugar	Thurmond
Goldwater	McClure	Tower

NAYS—69

Anderson	Hansen	Muskie
Baker	Haskell	Nelson
Bartlett	Hatfield, Mark O.	Packwood
Bayh	Hatfield, Paul G.	Pell
Bellmon	Hayakawa	Percy
Bentsen	Heinz	Proxmire
Bumpers	Hodges	Randolph
Burdick	Hollings	Ribicoff
Byrd, Harry F., Jr.	Huddleston	Riegle
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jackson	Sasser
Case	Javits	Schmitt
Chafee	Kennedy	Schweiker
Chiles	Leahy	Scott
Church	Long	Sparkman
Cranston	Magnuson	Stafford
Culver	Mathias	Stennis
Danforth	Matsunaga	Stevenson
Dole	McGovern	Stone
Domenici	Metzenbaum	Wallop
Eagleton	Morgan	Weicker
Glenn	Moynihan	Williams
Gravel		Young
		Zorinsky

NOT VOTING—10

Abourezk	Ford	Nunn
Brooke	Hart	Pearson
Clark	Humphrey	
Eastland	Johnston	

So the amendment No. 3445, as modified, was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to determine, if I may——

The PRESIDING OFFICER (Mr. GLENN). May we have order in the Senate? Conversations will cease, so that we can hear the majority leader. Will Senators please take their seats or retire to the lobby or the cloakroom? Will conversations please cease on the floor?

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to determine, if I may, what the prospects are for further votes into the evening. May I see a show of hands as to amendments during the remainder of the day?

Mr. MOYNIHAN, Mr. PACKWOOD. Any others?

Could either or both of these distinguished Senators inform the Senate as to how much time they desire to take on their amendments?

Mr. MOYNIHAN. About a half hour on my amendment.

Mr. PACKWOOD. I would expect to take about an hour on mine.

Mr. ROBERT C. BYRD. I wonder whether we could have a time agreement on the two amendments.

Mr. PACKWOOD. I would be reluctant at the moment to enter into a time agreement. I do not think mine would take more than an hour.

Mr. MOYNIHAN. We, of course, are working together, and the first amendment would be done in a half hour.

Mr. ROBERT C. BYRD. Would the Senator prefer not——

Mr. MOYNIHAN. I would prefer not to enter into a time agreement.

Mr. ROBERT C. BYRD. Does the Senator from New York intend to call up his amendment first?

Mr. MOYNIHAN. That is right.

Mr. ROBERT C. BYRD. And he expects to have a rollcall vote on it?

Mr. MOYNIHAN. I do.

Mr. PACKWOOD. I expect a rollcall vote.

Mr. ROBERT C. BYRD. Then, it would appear that we will be here a while, with prospects for a couple of votes.

Mr. PACKWOOD. Yes—for certain.

Mr. ROBERT C. BYRD. Is it possible now to get an agreement on a time for a vote on the amendment by Mr. HOLLINGS tomorrow?

Mr. PACKWOOD. Not right now, but I think before the evening is over we could have an agreement. Not right now, so far as I am concerned, but I think that before the evening is over we can get it.

Mr. HOLLINGS. Will the Senator tell us the nature of his amendment? I am not familiar with the amendments.

Mr. MOYNIHAN. These are preambular amendments.

Mr. PACKWOOD. Both.

Mr. HASKELL. Mr. President, would it be too much to ask the Senator from New York what a preambular amendment is?

Mr. MOYNIHAN. An amendment to the preamble.

Mr. ROBERT C. BYRD. Mr. President, I have no desire to hold the floor longer. I suggest that the Senator from New York may wish to call up his amendment.

UP AMENDMENT NO. 1651

(Purpose: To add to the statement of findings the importance of the existence of diverse public and nonpublic educational institutions of high quality)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN), for himself and Mr. PACKWOOD, Mr. ROTH, and Mr. RIBICOFF, proposes an unprinted amendment numbered 1651.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 25, insert the following: after "-cans." and before "Federal,"

"The Congress finds that the existence of diverse public and nonpublic educational institutions of high quality, at the primary, secondary, and postsecondary levels, is important to an educational system suited to the pluralist preferences and aspirations of the American people."

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken.

May we have order in the Chamber, please? Will Senators please take their conversations to the cloakroom or the lobby?

The Senator from New York is recognized.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. MOYNIHAN. Mr. President, I yield for a unanimous-consent request to the Senator from Indiana.

Mr. BAYH. I thank my colleague from New York.

Mr. President, I ask unanimous consent that Barbara Dixon, of my staff, be accorded the privilege of the floor during the debate and votes on the bill and amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Greg Fusco, of Senator JAVITS' staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that Bob Collins, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator from Washington.

Mr. MAGNUSON. How long does the Senator expect we will be here tonight?

Mr. MOYNIHAN. We expect in the area of 2 hours.

Mr. MAGNUSON. Two hours?

Mr. MOYNIHAN. That is right.

Mr. MAGNUSON. Are there substantial amendments the Senator is making?

Mr. MOYNIHAN. These are in our view substantial amendments.

Mr. MAGNUSON. All right.

Mr. MOYNIHAN. The first of which I shall address myself to is more by way of making a statement of educational policy.

Mr. MAGNUSON. I am not objecting to it. I simply want to get an inkling of how long we will be here tonight.

Mr. CHILES. Are there Senators who are going to be opposed to those amendments, or is this something we could do by modification by unanimous consent?

Mr. MOYNIHAN. No, I think it is the case that we hope the Senate might hear us on these matters and as our colleagues judge the worth of these amendments they will make some judgment about the worth of the legislation itself.

Mr. PACKWOOD. If I might say, I think there will be some opposition. I do not think they are voice vote, no problem, everybody-for-them amendments.

Mr. MOYNIHAN. Mr. President, I am more than aware, as are my associates, that we have a moment when the Senate will be attending to some of the arguments that we have been making—and some of those made against us—in what is now 2 long days of debate ranging from very large constitutional issues to very specific questions of public finance.

The amendment which I have sent to the desk simply adds to the preamble of the legislation the statement that Congress finds that the existence of diverse public and nonpublic educational institutions of high quality at the primary, secondary, and post-second levels is important to an educational system suited to the pluralist preferences and aspirations of the American people.

Mr. RIBICOFF. Mr. President, may I make a point of order?

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. RIBICOFF. The Senate is not in order.

The PRESIDING OFFICER. The Senator's point is well taken.

We have had fairly good order the last few minutes. Could we have all conversation cease, please, so we may hear the Senator from New York, so proper attention may be given to his amendment, his preamble to the legislation?

The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, the purpose of this amendment is to focus in particular the attention of the Democratic Members of the Senate to a difficulty which our party has faced in recent years which is the charge that we are becoming the party of the bureaucracy, that we are becoming a party wedded to governmental solutions, to the continual expansion of State functions.

It seems to me and to some of my associates that that question will be tested in the way in which we support or fail to support this legislation as in few issues before us in recent times because our party, responding to the clear direction of public opinion, has repeatedly endorsed this measure in its general form or called for measures of this general form for a period of 15 years since tuition tax credits were first proposed by Senator ABRAHAM RIBICOFF in 1963, the year he entered the Senate from having been the first Democratic Secretary of Health, Education, and Welfare. Now, after 15 years, the measure is on the floor.

So this morning I put four questions to fellow Democrats in this Chamber:

Are we to think that the House of Representatives with its heavy Democratic majority was wrong to approve this legislation?

Are we to think that Senator ABRAHAM RIBICOFF was wrong and proposed an unconstitutional measure when he first proposed tuition tax credits or when he said on Friday, "If I thought that this bill clearly failed the tests used by the Supreme Court in striking down aid programs designed by the States, I would not support it"?

Are we to think that Senator Hubert H. Humphrey and Senator GEORGE MCGOVERN were wrong and proposed an unconstitutional measure when in the course of their Presidential campaigns each specifically pledged his support for tuition tax credits for elementary and secondary schools?

And finally, are we to understand that the Democratic Party was wrong and proposed an unconstitutional measure in 1972 and 1976 when in its platforms it committed itself to aid for children in nonpublic schools? Are we to conclude that our party held out false hopes?

Mr. President, on Friday morning in a brilliant address which began this debate Senator RIBICOFF stated the plain fact, as I see it, when he said:

I do not know whether this bill will pass or fail, but I predict that what has been started here today in the U.S. Senate will come to fruition. There is no question but that if this bill does not pass, it will become one of the key issues in the 1980 Presidential campaign—and rightly so.

Mr. President, I ask whether my party which has so courageously espoused this proposal over 15 years now wishes to turn its back upon it.

Mr. RIBICOFF. Mr. President, will the Senator yield at this point?

Mr. MOYNIHAN. I am happy to yield to the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I have followed the debate so far, and it seems to me that a few questions have been raised that I wish to discuss with my distinguished cosponsors. It seems that the debate is posing a conflict between public schools, on one hand, and a monolithic sectarian system of schools on the other. There has been much talk that this bill has been designed to take care of Catholic parochial schools.

Will the distinguished Senator explain to us what schools are we talking about in this bill?

Mr. MOYNIHAN. Well, I would put it this way: We are, first of all, talking primarily about schools which have a church affiliation. We have gone into great detail in our earlier debates documenting the fact that the first schools in the United States, without exception, had this affiliation, and some continue to exist.

I could give the Senator some examples. The largest number are Catholic schools. That is the oldest system, older than the Protestant schools that joined the public school system in the first half of the 19th century.

There are 166,000 students in schools run by the Missouri Lutheran Synod. There are 76,000 students in Seventh Day Adventist schools. There are 49,000 in Calvinist schools. There are 230,000 in Evangelical Christian schools. There are 90,000 in Jewish day schools, 14,000 in Quaker schools; 76,000 in Episcopal schools.

Military schools are an old tradition and an honored one in this country, and there are 14,000 students in those schools.

There are about 277,000 students in schools not affiliated with a church, generally described as independent schools. It is immensely varied. It goes to every State of the Union.

Some of these schools date well back into the 18th century. Some are recent. The State of California has shown perhaps the greatest productivity of new schools in recent years.

Mr. RIBICOFF. There has been much talk, too, in the debate so far that private schools are full of people of the same economic and social groups, whereas the public school has great diversity.

Is that actually the case today when you talk about neighborhood schools today, that the neighborhood has a degree of sameness throughout? It usually comes in neighborhoods where people of the same ethnic background, same social background, and same economic background reside. Do you not have great variety in these private schools that I have often found in the public school system?

Mr. MOYNIHAN. I think that is exactly the statistical case. There is no profile of the nongovernment school in this country because none would be possible. No two are alike.

Four hundred thousand students in the nonpublic schools are minority group members. One of the largest Catholic schools in the United States, if not, I think, the largest, is in Holy Angels Parish in Chicago which is in a black neighborhood and is predominantly black.

The characteristic of these schools from the Hassidic Day Schools in Crown Heights in Brooklyn to the Amish schools in rural Pennsylvania to the big city schools in Chicago to the military academies founded in the 18th century, is their diversity, but it is a diversity that extends to the full range of the characteristics of the American population, which is an immensely diverse population.

Mr. RIBICOFF. Even the so-called better private schools, do you not find a trend, with large scholarship grants, that there is a diversity not only of the so-called rich kids but you have poor, middle class, minorities, and, as a matter of fact, that they go out deliberately to seek a representative group of students in the private schools throughout our land; is that not so?

Mr. MOYNIHAN. I think that is entirely the record, and you can almost make the general judgment that as the school moves up from being strictly a neighborhood school to a regional or national characteristic. That is distinctively the case.

Mr. RIBICOFF. Much has been made about the cost of this bill, and it will cost money. I do not think it is our contention that somebody is getting something for nothing. The taxpayers will pay.

But is it not true that there has been a decline in the private school enrollment over the past number of years because of the onerous financial burden? Where do the children go who drop out of the private school system? They go to the public schools, is that not true?

Mr. MOYNIHAN. In the main that is what we have to assume, and that appears to be the case.

Mr. RIBICOFF. Is it not the case that the average pupil expenditure for the primary and secondary school is $1,600?

Mr. MOYNIHAN. About $1,800 now, I believe.

Mr. RIBICOFF. It has gone up.

The average proposal for the elementary and secondary level would be about $170 a year.

Mr. MOYNIHAN. About that.

Mr. RIBICOFF. If these schools go under, the private schools, because of their inability to finance themselves, you would have the potential of some 5,300,000 students who would come as a burden on the public school system; is that not so?

Mr. MOYNIHAN. That is exactly the case.

I can add another figure. We do not have an exact number, but as best anyone can say the nongovernmental elementary and secondary schools of this country cost about one-quarter per student of what the government schools cost, and the point the Senator from Maine (Mr. MUSKIE) was making earlier is that if we lose these students at the rate we have been losing them, we will lose the most efficient sector of our education.

We have estimated—it is obviously only an estimate—that if these students were to go into the public sector you would add approximately $9 billion a year in educational expenditure to the public sector.

Mr. RIBICOFF. So that would be a substantial burden on public education and the taxpayers that they now do not have.

Mr. MOYNIHAN. And $9 billion additional spent for no additional product. That is the definition of an inflationary measure.

Mr. RIBICOFF. There are those who contend that this proposal would destroy the public school system. What has been the impact of Federal aid to the private colleges? Has that harmed the State college system?

Mr. MOYNIHAN. It certainly has not yet reversed the shriveling of the private colleges and universities. Twenty-five years ago they had half the enrollment in the country. Today they have 22 percent.

I might add that there can be no mistaking the sharp falloff in enrollment in private elementary and secondary schools that commenced just after Federal aid to public schools begins.

Mr. RIBICOFF. I think maybe we should ask the assistance in this colloquy of the distinguished Senator from Oregon. There has been much debate in this Chamber over the last 2 days concerning the constitutionality of tax credits.

Are any of these funds going directly to church-related or private elementary and secondary schools?

Mr. PACKWOOD. No, not at all. They are tax credits which are taken off your income tax. You make the choice of where you want to go to school, primary, secondary, or college. You pay your tuition and you take a portion of it off your income tax.

Mr. RIBICOFF. The Senator from Oregon and, I believe, the Senator from New York and the Senator from Delaware, and myself have not been the ones, have we, to state this is an absolutely constitutional matter? We have said we believe it is, but we do not decide constitutional questions. That question has to be decided by the Supreme Court of the United States.

Is it not true that there is a divergence among constitutional scholars as to whether this proposal is or is not constitutional?

Mr. PACKWOOD. There is a split of opinion among men and women of equal repute, equal ability, as to whether or not the tax credit idea is constitutional. That is why we have put into this bill an expedited court test and a 2-year delay in the primary and secondary tax credit, and the court can test it before any dollar of credit is claimed in anybody's income tax.

Mr. RIBICOFF. In other words, there has been a very, very careful drafting of this measure to assure the policy we are discussing concerning the advisability would be determined as to its constitutionality by the Supreme Court of the United States before there was any expenditure or any tax credit given any single individual in this country.

Mr. PACKWOOD. Drafted very carefully and in good faith because we know there are people who are convinced that this is unconstitutional. But what we are saying is give us a chance. We are all going to live with the Supreme Court decision, whatever it might be, whether we like it or not. We will live with it, and all we are asking is a chance to get it to the Court and not have this body try to decide whether or not it is constitutional.

Mr. MOYNIHAN. The Senator from Connecticut, knows that we did not proceed in a way that would create a large public interest in tuition tax credit before the Court had a chance to rule, such that the Court might feel pressured by an existing condition.

It was our desire that the Court be able to rule with complete freedom to say what it thinks. But as you know, the Attorney General has already advised us of his opinion that the college and university credits are constitutional, and there is no ground for thinking—no reasonable ground, in my view—for thinking the same would not apply to elementary and secondary.

Mr. RIBICOFF. The distinguished Senator from New York is a most experienced educator on every level, and has taught at our most prestigious colleges and universities. I would like his appraisal of the importance of diversity of educational experiences in this Nation. Is this an enrichment of American society or a detriment to American society?

Mr. MOYNIHAN. This is precisely the point of the amendment, to confirm what we have got, what we finally are learning to live with as one of the greatnesses of the American society, that it has managed to maintain diversity in unity.

In an odd way, it is there on the great seal: "E Pluribus Unum."

From the beginning, we have sensed our diversity. The diversity of church education at the time of the original colonies was already evident, and we took it as something to be preserved. The whole point of the first amendment, unmistakably, was not to prevent any assistance to church related education. That was the only kind of education there was, and it was to be encouraged rather than otherwise. The point of the first amendment was that Congress should not establish a national religion, choose one over the others, because there were already so many there could not have been unity by preferring one.

It has turned out to be a rich heritage. If I may use a biological reference, we have an incomparable genetic pool in the variety of our cultures. It is what makes for our strength. If we ever become truly uniform and homogenized, we become exposed to the kind of disasters that befall any species that acquires too narrow a range of characteristics.

Mr. RIBICOFF. As you look at the entire spectrum of education throughout the world, what nations or what countries are completely devoid of nonstate schools? I mean what nations are without nonstate education?

Mr. PACKWOOD. The Library of Congress has made a study on that. The only ones they can find are the Communist countries plus several nations, either extremely small such as San Marino, or extremely poor, such as the Central African Republic. If you will, they are poverty-stricken, one-party dictatorships, with one or two exceptions.

Mr. RIBICOFF. In other words, the norm for most civilized society is that while public schools are an absolute necessity and public education is afforded, there is a recognition that there is a place in society for the private nonstate school?

Mr. MOYNIHAN. I would say exactly, if I may, and offer the thought that you will find a single educational system in any country where you will find a single political party, and the reverse is equally applicable: Any country that has more than one party has more than one system of education. It is an aspect of the liberty of this society. It is something of value that ought to be preserved, and it was with the thought that Congress should so declare that we have submitted this amendment.

Mr. RIBICOFF. I thank my colleague for the comments. While this may seem just an introductory amendment, it is important to state the philosophy that exists in this country and should continue to exist.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. MOYNIHAN. Happy to yield.

Mr. HELMS. This colloquy between the three distinguished Senators has been very helpful to the Senator from North Carolina. I would like to ask a question to determine whether this is the intent of the sponsors of this legislation: Is it the intent and the position of the sponsors of the legislation that any educational institution which enrolls a student for whom a tax credit is claimed under this act shall not be deemed to be a recipient of Federal assistance under the act?

Mr. MOYNIHAN. No; I believe the Senator speaks of the Archer amendment, as it is called in the House committee.

Mr. HELMS. Yes.

Mr. MOYNIHAN. It is not included in the bill before us.

Mr. HELMS. I understand that; but what is the Senator's own feeling about this?

Mr. MOYNIHAN. I see the Senator from Oregon has risen. I yield to him.

Mr. PACKWOOD. As I indicated earlier, that amendment was never considered in our bill. We drafted our bill 6 or 7 months ago, and when we saw the procedural delays we would be involved in, we simply took the House bill as passed, stripped it down, and put our language in it. All the students must have the 501(c)(3) exemption before the parents are eligible for the tax credit. But, as I indicated to the Senator from North Carolina before, I first heard of the Archer amendment when it was passed on the House floor. I do not believe it was a committee amendment.

I am quite sure that if it prevails, if there is a tax credit allowed it would not nullify the provision we had, that indeed you would still have to comply with section 501(c)(3) and promise not to discriminate. That is as much as I know about the amendment.

Mr. MOYNIHAN. I think I can say to the Senator from North Carolina that we are thinking of schools that are certified by their State and are given their tax deductible status by the Internal Revenue Service.

Mr. HELMS. Perhaps I inferred incorrectly from what the distinguished Senator from Connecticut said that he did not regard a student for whom a tax credit is claimed to be considered a recipient of Federal assistance under this act; but the Senator was speaking for himself and not the sponsors of the bill, is that correct?

Mr. MOYNIHAN. I think that is correct.

Mr. PELL. Mr. President, will the Senator from New York yield for an observation?

Mr. MOYNIHAN. I am most happy to.

Mr. PELL. I am sure we all would agree that nonpublic schools play a vital role in the educational system of this country, that nonpublic schools have contributed significantly to the quality of education in America, a strong and diversified system of American education requires the continued viability of these nonpublic schools, and a Federal program of assistance is needed to assist the schools. I am sure the Senator will agree with that.

As I inquired of the leadership just this morning, coming up this week will be S. 1753, the ESEA bill, which contains a generous amount, $0.5 billion, which could be cut back if it is too generous for our colleagues. This money would be used for direct aid of youngsters in nonpublic schools for the purpose of furnishing textbooks, instructional materials, testing services, guidance and counseling services, speech and hearing services, psychological testing services, and transportation; and this money would make a real incursion on the burden the private, nonpublic schools are carrying now. I agree with everything the Senator has said about the contribution that nonpublic schools make to our Nation, and the services he earlier mentioned are presently available under our own title XII, and that is why I made the point of reading them.

My own feeling is the nonpublic schools need the help; that the tax credit route is not the best way to skin the cat in getting there. But even if we do not do it this route, which costs $0.6 billion, this other route, title XII, remains to be taken up later on in the week. It costs $0.5 billion. I would hope that our colleagues would be aware of that as the fallback position. Those who have the Senator's position, should be aware that they would have this to fight for at a later date. I recognize, obviously, that this proposal plus the Senator's proposal might be a little bit too generous, but I would hope that we could get through one or the other.

Mr. MOYNIHAN. May I say first that there are few persons who are more entitled to speak on this matter than the senior Senator from Rhode Island whose sponsorship of the Pell grants, after the GI bill, in our generation of legislation, is the most notable event of its kind.

Mr. PELL. I thank my colleague so much for that reference. I have heard so much reference to the Boggs grants and Senator Boggs has been gone for so long. I am happy to hear them referred to as the Pell grants.

Mr. MOYNIHAN. Pell grants it shall be.

I am also aware of the proposed new title XII. It is a landmark event. To my knowledge, there has been no such proposal ever on the floor of the Congress, and I shall support it.

I would have to say that to support one does not preclude supporting the other. I know, for instance, in the State of Rhode Island—we had a little colloquy early on with the junior Senator—the Catholic school system has lost 43 percent of its students in the last 10 years.

Mr. PELL. But we still have 12 percent at the parochial schools and 3 percent more in others.

Mr. MOYNIHAN. And does the Senator want to have it down to 1 percent in each? That is the prospect he faces.

I will have to say the Senator's proposal may face constitutional questions more formidable than we.

Mr. PELL. It is title XII, incidentally, not title VIII.

In this particular program, I do not think we will face those questions because every one of these efforts has been used before and I believe has been tested in the courts.

Mr. MOYNIHAN. More is the reason to support title XII of Senator Pell's new bill, and he shall have my support.

Mr. President, before I conclude, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. I would like to state once again the extraordinary honor which I feel, having had the opportunity to cosponsor with the senior Senator from Connecticut this measure. His support gives us heart in the sense that we are doing the right thing and that it will prevail.

With that, Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. There is no time limit on this amendment.

SEVERAL SENATORS. Vote.

Mr. MOYNIHAN. A vote has been called for, Mr. President.

Mr. HOLLINGS. Mr. President——

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I will vote for the amendment. The congressional finding at this particular instance of a diversity in public and nonpublic education no one can quarrel with, and the pluralistic preference and aspirations of the American people cannot be quarreled with by anyone.

If I wanted to write pure constitutional history, perhaps we would object to it, but the fact of the matter is that, when the court looks at a measure of this kind, if and when it does, they are going back to find whether that was the true intent and how seriously it was considered. They will find exactly the consideration given at the particular time the vote was taken on this measure.

The Senator from New York has had a tendency all day long to change this into the Democratic Convention. He has charged us as Democrats to respond, and he started with this amendment again as Democrats and how we are going to act as Democrats.

I think as Americans, irrespective of party, that we all agree with the need for diversity and the so-called pluralistic preferences constitutionally found.

I could argue at length, but I think it is in order to save time.

Other than giving the emphasis of "constitutionally found," I could not hear the answer given by the distinguished Senator from New York to the question by the Senator from North Carolina when he asked whether the recipient should be considered as a recipient of Federal assistance under this act. I do not want to sound rude and say answer yes or no, but I am trying to get a yes or no answer.

Mr. MOYNIHAN. Yes. I indicated that there is no such provision in our bill comparable to the one in the House bill. Technically, the parents or taxpayers are the recipients, but, in order to take credit, their school has to comply with applicable laws of its State and also has to be cleared by the IRS under 501(c)(3).

Mr. HOLLINGS. So title VI of the Civil Rights Act of 1968 would apply, and title VI of the 1972 Civil Rights Act on sex discrimination would apply?

Mr. MOYNIHAN. The IRS has comparable if not identical prohibitions against discrimination.

Mr. HOLLINGS. And title VII on bilingual aid and also section 504 of the Vocational and Rehabilitation Act with respect to the handicap would all apply?

Mr. MOYNIHAN. I will have to withhold my assertion that that is what the IRS certification extends to. I know it extends to discrimination on the basis of race and national origin as envisioned in those first two measures of the Civil Rights Acts. Whatever it extends to it extends to.

Mr. HOLLINGS. I thank the Senator.

Mr. PACKWOOD. Mr. President, I ask unanimous consent for Lawrence Grisham, of Senator PERCY's staff, to have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask unanimous consent for Dan Grady to have the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, I ask unanimous consent that John Hamm, of my staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Georgia (Mr. NUNN), the Senator from Florida (Mr. CHILES) and the Senator from Kentucky (Mr. FORD) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Nevada (Mr. LAXALT) and the Senator from Kansas (Mr. PEARSON) are necessarily absent.

The result was announced—yeas 87, nays 0, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—87

Allen	Hansen	Moynihan
Anderson	Haskell	Muskie
Baker	Hatch	Nelson
Bartlett	Hatfield,	Packwood
Bayh	Mark O.	Pell
Bellmon	Hatfield,	Percy
Bentsen	Paul G.	Proxmire
Biden	Hathaway	Randolph
Bumpers	Hayakawa	Ribicoff
Burdick	Heinz	Riegle
Byrd,	Helms	Roth
Harry F., Jr.	Hodges	Sarbanes
Byrd, Robert C.	Hollings	Sasser
Cannon	Huddleston	Schmitt
Case	Inouye	Schweiker
Chafee	Jackson	Scott
Church	Javits	Sparkman
Cranston	Kennedy	Stafford
Culver	Leahy	Stennis
Danforth	Long	Stevens
DeConcini	Lugar	Stevenson
Dole	Magnuson	Stone
Domenici	Mathias	Talmadge
Durkin	Matsunaga	Thurmond
Eagleton	McClure	Tower
Garn	McGovern	Wallop
Glenn	McIntyre	Weicker
Goldwater	Melcher	Williams
Gravel	Metzenbaum	Young
Griffin	Morgan	Zorinsky

NAYS—0

NOT VOTING—13

Abourezk	Eastland	Laxalt
Brooke	Ford	Nunn
Chiles	Hart	Pearson
Clark	Humphrey	
Curtis	Johnston	

So Mr. MOYNIHAN's amendment (UP No. 1651) was agreed to.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that Polly Gault of Senator SCHWEIKER's staff and Steve Kittrell of Senator DOLE's staff be granted privilege of the floor.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

UP AMENDMENT NO. 1652

(Subsequently numbered amendment No. 3474)

(Purpose: To clarify that only the United States Supreme Court can determine the constitutionality of the provisions of tuition tax credit legislation)

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 1652:

On page 14, line 14, beginning with "The Congress," strike out all through "religion" on line 19, and insert in lieu thereof the following:

"The Congress further finds that the constitutionality of federal tuition tax credits for the educational expenses of students attending non-public schools can only be established by the enactment of a law providing such tax credits, which will in turn provide the Supreme Court of the United States with an opportunity to rule in a decisive and determinative manner."

Mr. PACKWOOD. Mr. President, I shall not take long, I would enter into a time agreement on this.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Will the Senator yield?

Mr. PACKWOOD. Yes.

Mr. EAGLETON. Mr. President, is there a unanimous-consent agreement on this amendment?

The PRESIDING OFFICER. There is none.

Mr. EAGLETON. I will object to any unanimous-consent agreement on this matter. This goes to the very vitals of the constitutional debate. I intend to address myself on that issue tomorrow. We can debate it for 6, 7, 8 hours tonight, but I will enter into no unanimous-consent agreement.

I thought, at first blush, that this amendment was as innocuous and meaningless as the previous Moynihan Amendment which has commanded our presence here tonight. I thought that this was yet another exercise in egocentricity by Senator MOYNIHAN whereby he could chalk up another unanimous vote.

Mr. SCOTT. Will the Senator yield?

Mr. PACKWOOD. I believe I have the floor.

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. Mr. President, I have no desire to delay the Senate. I was willing to enter into a time limitation of 15 minutes on a side. That is obviously going to be objected to.

We have been in session 10 hours today. I am perfectly willing to debate with the Senator from Missouri at whatever length he wants tomorrow on this amendment, or I will stay with him tonight, if he wants to debate. But if there is going to be no vote on this particular amendment, and if it is now the pending business, I am not sure there is much point in any of the other Senators staying.

I will yield to the Senator.

Mr. SCOTT. I appreciate the distinguished Senator yielding.

Mr. President, I have serious doubt as to the constitutionality of this bill and because of that I did, and still do, have an amendment that would strike out the findings, the section 1(b) of the bill as introduced.

Now, we have just voted on an amendment called an innocuous amendment, one with no meaning. But this does have some meaning to it, finding that it is necessary that Congress finds that the constitutionality of Federal tuition tax credits for the educational expenses of students attending nonpublic schools can only be established by the enactment of a law providing such tax credits, which will in turn provide the Supreme Court of the United States with an opportunity to rule in a decisive and determinative manner.

The Supreme Court has done that. It has done it on several occasions. Nyquist is on all fours with this proposal before us.

The PRESIDING OFFICER. Will the Senator from Virginia cease for a moment? There is too much conversation going on on the floor.

The Senate will be in order. Members will cease conversation.

Mr. PACKWOOD. Mr. President, do I have the floor?

The PRESIDING OFFICER. Yes, the Senator from Oregon has the floor.

Mr. PACKWOOD. Mr. President, I do not mind yielding for a question or for an agreement to a time limit, but I did not yield to the Senator from Virginia to initiate the debate on this amendment.

The PRESIDING OFFICER. The Senator has the floor.

Mr. SCOTT. Will the Senator yield further?

Mr. PACKWOOD. Yes.

Mr. SCOTT. I appreciate the courtesy of the Senator in yielding.

I would say that I will discuss this matter in some detail on my own time tomorrow.

I thank the distinguished Senator.

Mr. PACKWOOD. Mr. President, as I said earlier, it is obvious we are not going to have a vote on this tonight on this issue.

I am prepared to discuss it as long as anybody wants to discuss it.

I will say, very briefly, while we are waiting for the majority leader, why I made this change. Two Senators in the Chamber, not counting the Senator from Virginia, took strong exception to the language that we made a finding that this bill was constitutional. They said we were attempting to preempt the Supreme Court. It was not our intention to do that. I do not think Congress can declare this constitutional.

So I changed this language to somehow say that the only way we are going to find out whether this is constitutional—and I am prepared to argue at length that no one can be sure whether or not it is constitutional—is to pass a bill for Federal tax credits which has not been tested in court, and then let the Court decide it. That is the reason why we put a 2-year delay in this bill. Credits for primary and secondary schools do not go into effect for 2 years. There is an ordered, expedited court test. The Supreme Court will make a decision long before the first dollar of credit is claimed on the income tax.

All this amendment to the preamble says is that the only way the Supreme Court ever is going to get a chance to pass on the constitutionality of Federal tax credits for primary and secondary education, which they never have passed on——

Mr. SCOTT. Mr. President, will the Senator yield briefly?

Mr. PACKWOOD. I yield.

Mr. SCOTT. I am told by the clerk that apparently the Senator sent the wrong amendment to the desk and that it is identical with the Moynihan amendment. If that is true, the distinguished Senator may want to revise it.

Mr. PACKWOOD. I thought the amendment that was read was not the Moynihan amendment.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. ROBERT C. BYRD. It is my understanding that there are Senators who wish to talk on this amendment before a vote is reached. Let me see if I understand the temper of the Senate correctly at this point.

Could we agree on a time to vote on this amendment this evening or in the morning, sometime tomorrow?

Mr. HOLLINGS. If there is a time agreement to vote on my amendment up or down. That is what I have been trying to do.

Mr. ROBERT C. BYRD. Is there a possibility that we could get an agreement to vote on the pending amendment and then on the amendment by Mr. HOLLINGS, both tomorrow?

Mr. PACKWOOD. I would agree to a 40-minute limitation on the pending amendment.

Mr. EAGLETON. I would object.

Mr. ROBERT C. BYRD. Can we agree to vote on the pending amendment tomorrow morning or tomorrow at some point, and then an agreement to vote on the amendment by Mr. HOLLINGS following that?

Mr. HOLLINGS. I suggest to the distinguished majority leader that we could vote on the Senator's amendment at 2 o'clock, up or down, and then vote on mine, or vote on my amendment first, one way or the other. But I have not been able to call up my amendment yet. On amendment 3466, I can agree to an up-or-down vote at 2 o'clock tomorrow. We could vote first on the amendment of the Senator from Oregon and then on mine, if there is an understanding that he will not amend mine and I will not amend his.

Mr. PACKWOOD. I know that the Senator from Ohio (Mr. METZENBAUM) has an amendment to the Hollings amendment. He spoke to me about it. So I could not enter into that agreement.

Second, if the amendment is not tabled, Senator MOYNIHAN and I have one or two amendments to offer to the Senator's amendment. So we would not want to vote up and down.

Mr. ROBERT C. BYRD. The Senator says "if the amendment is tabled." Does he refer to the amendment by Mr. HOLLINGS?

Mr. PACKWOOD. Yes.

Mr. ROBERT C. BYRD. Could we agree for a time to vote on the amendment by Mr. PACKWOOD, to be followed after a period of time tomorrow with a vote on the amendment by Mr. HOLLINGS?

Mr. HOLLINGS. They will not give me an up-and-down vote. If he objects to mine, I will object to his.

Mr. ROBERT C. BYRD. Could we agree to an up-and-down vote on the amendment by Mr. HOLLINGS?

Mr. MOYNIHAN. The fact is that we propose to move to table the amendment by Mr. HOLLINGS; and in the event the motion to table does not succeed, we propose to submit one or more amendments to his amendment.

Mr. ROBERT C. BYRD. Could we agree to a time to vote on the Packwood amendment at a reasonable time tomorrow, so that Mr. HOLLINGS could call up his amendment, and we could let developments take their course?

Mr. PACKWOOD. I am amenable to a time limit to vote on——

Mr. MOYNIHAN. There seems no reason why we cannot conclude this matter tomorrow. We have some votes we want to take, but they could go in sequence.

Mr. SCOTT. If the Senator will yield, the distinguished Senator from New York sees no reason why we cannot have a vote, if we do things his way.

Mr. President, I have spent the whole weekend working on this matter and preparing some comments directed at an amendment I have prepared. Now that has been changed by the amendment before us and by the amendment that has just been agreed to by unanimous vote, the so-called harmless amendment. We have changed the declaration of policy, whereby we, as the Senate, find an act of Congress constitutional. It is presumed to be constitutional, but why are we invading the judicial function?

Now I have to reword my amendment, because of these harmless amendments. This will take some time. I also will have to revise my remarks because of these harmless amendments.

So there has to be a little quid pro quo here. If the distinguished floor managers want cooperation, they should not spring the so-called innocuous amendments before us, when we have amendments, too. I have often heard that we are a body of 100 coequal Senators, and I submit that the two distinguished floor managers are not more equal than the other 98.

Mr. PACKWOOD. The Senator would not object to a time limit on this amendment. It will be voted up or down. If it is voted down, the bill is no different. If it is voted up, it is still subject to amendment to knock the whole thing out.

I am perfectly willing to get an agreement on this amendment or to start early in the morning and talk, as long as somebody wants to talk on this amendment, until we are talked out, and then we will vote on it.

Mr. ROBERT C. BYRD. Let me at least make the effort.

Mr. President, I ask unanimous consent that a vote occur on the amendment by Mr. PACKWOOD tomorrow at 11 a.m.

Mr. METZENBAUM. I object. I do not object to the vote being taken. I just would like to be able to be present to vote on it. Could we make the hour 2:30?

Mr. ROBERT C. BYRD. I will not be present, either, but the Senate can work its will without me.

Mr. METZENBAUM. It seems to me that it does not matter whether the amendment is acted upon at 11 or 2:30.

Mr. ROBERT C. BYRD. Provided it is not too late. I hope the Senate will complete action on this bill tomorrow. We have been on it Friday and today.

Mr. METZENBAUM. I am not trying to delay the matter.

Mr. ROBERT C. BYRD. I will give the Senator a pair. Whatever way he wants to vote, I will vote the opposite.

[Laughter.]

Mr. HOLLINGS. You cannot beat that.

Mr. ROBERT C. BYRD. I will be here. I will give the Senator a pair, if we can reach an agreement to vote at 11 o'clock, so that we can get to the amendment by Mr. HOLLINGS.

Mr. EAGLETON. I would have no objection, if we could get some tentative agreement as to when Senator HOLLINGS will be able to get a vote on his amendment, so that we can bring this matter to a conclusion.

There is an interrelationship between the Packwood amendment and the Hollings amendment. The Packwood amendment seeks to declare the sense of the body that what we are trying to do is constitutional and that this is the only way under the sun it can be done. The Hollings amendment seeks to strike from the bill the elementary and secondary provisions which make the bill per se constitutional.

So there is an interrelationship between the Packwood amendment and the Hollings amendment. We should vote on both in an orderly sequence tomorrow.

Mr. HOLLINGS. The Senator says, "I do not mind—just give me an up-and-down vote on mine and I would like to table yours; and if I cannot table it, I would like to amend it and substitute it and harass you for another 2 days around here." That is what he is saying.

Mr. ROBERT C. BYRD. I do not believe the Senator is willing to go another 2 days.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object.

Mr. DURKIN. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Ohio reserves the right to object.

Mr. ROBERT C. BYRD. Mr. President, could we agree on the vote on the Packwood amendment at, say, 11:30 a.m.?

Mr. METZENBAUM. Mr. President, would the leader be willing to have the vote on the amendment at 1 o'clock?

Mr. ROBERT C. BYRD. Yes; could we vote on the amendment by Mr. PACKWOOD then at 1 o'clock tomorrow? And I would hope that that being done we could then with reasonable expedition——

Mr. DURKIN. Mr. President, I think I might have to object to that unless we get agreement to vote on both.

The PRESIDING OFFICER. The Senator from New Hampshire still reserves the right to object.

Does the Senator from Ohio still reserve the right to object?

Mr. METZENBAUM. No.

Mr. EAGLETON. Mr. President, will the leader propound in sequence the vote at 1 o'clock on the Packwood amendment and a vote at 5 o'clock on the Hollings amendment? I could not object to that.

Mr. SCOTT. Mr. President reserving the right to object.

Mr. ROBERT C. BYRD. I make the request.

The PRESIDING OFFICER. The Senator from Virginia reserves the right to object.

Mr. DURKIN. Mr. President, I reserve the right to object.

Mr. SCOTT. Mr. President, I do have about 2 hours that I want to discuss this prior to any vote on the Hollings amendment, and I am sure that the distinguished Senator from South Carolina wants time to discuss his own amendment, and I would like to make my comments prior to the time there is a vote on the Hollings amendment.

Mr. ROBERT C. BYRD. Very well.

Mr. SCOTT. I think it is pertinent to that portion of the bill.

Mr. ROBERT C. BYRD. Very well.

Could we vote at 1 o'clock on the amendment of Mr. PACKWOOD and 6 o'clock on the amendment by Mr. HOLLINGS, with the understanding that the Senator from Virginia has 2 hours?

Mr. SCOTT. Two hours.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, will the leader yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. METZENBAUM. I may have an amendment and I may not have an amendment to the Hollings amendment. If we enter into this unanimous-consent agreement will my amendment then be in order to be brought up and voted on prior to the 6 o'clock hour? I am perfectly willing to agree to a time limit if the amendment does come up that it will come to a vote prior to that time.

Mr. ROBERT C. BYRD. Yes; the request I have made would allow an amendment because I did not include the request that the Hollings amendment be voted on and that no amendment be in order.

Mr. HOLLINGS. I say to the leader that we just made a unanimous-consent agreement to just vote open house, and I object now. I cannot tell what his amendment is.

Mr. METZENBAUM. I am happy to explain my amendment.

Mr. HOLLINGS. Yes; I have been trying to explain mine.

[Laughter.]

Mr. HOLLINGS. I never heard of this one until just this afternoon. Just let us get his at 1 o'clock. We can at least do that.

Mr. ROBERT C. BYRD. Let us do that. If it is agreeable vote on the amendment by Mr. PACKWOOD at 1 o'clock p.m. tomorrow and then go from there.

Mr. HOLLINGS. And as to the Senator from Virginia, I agree with him, because he has been very considerate. He was ready on Friday and earlier today. I hope that he would help us in the morning because it does go to the preamble language and does go to the constitutionality, and I know that is the point he wants to speak to.

Mr. DURKIN. Mr. President, reserving the right to object, will the Senator from West Virginia be willing to propose the vote on the Packwood amendment, say, at 11 o'clock rather than 1 o'clock?

Mr. METZENBAUM. I object.

Mr. ROBERT C. BYRD. Mr. President, would the Senator from Ohio be willing to have the vote, say, at 12 o'clock? That would give us more time during the afternoon to settle the issue.

Mr. METZENBAUM. The Senator from Ohio does not have objection to it except I wish to vote on it and I cannot be here at 11 o'clock. It is physically impossible for me to get back.

Mr. ROBERT C. BYRD. If I give the Senator a pair, will that make a difference?

Mr. METZENBAUM. It does not help. I appreciate the courtesy extended. I do not think that will help.

Mr. ROBERT C. BYRD. Would 1 o'clock be better? Would 1 o'clock be the earliest?

Mr. METZENBAUM. One o'clock.

Mr. DURKIN. I object to 1 o'clock.

Mr. EAGLETON. Is it the customary practice that a Senator object to any amendment because of personal social agenda appointments for him not to be here at the appointed hour and thereby require the Senate to stay in session for 3 extra hours to accommodate the social engagement? I have never delayed the Senate for such an occasion.

Mr. METZENBAUM. I say to the Senator if I were going to Cleveland for a social matter I would accept it. But the fact is I am going to testify in an environmental protection miner hearing involving 15,000 Ohio miners and people of southeastern Ohio, and I believe it is part of senatorial responsibilities to be there.

Mr. EAGLETON. The point is the Senator is willing to delay 99 other Senators. We could vote at 11 o'clock. The Senator is going to delay 99 other Senators for his own personal convenience.

Mr. METZENBAUM. Ninety-nine other Senators will not be delayed.

Mr. EAGLETON. This amendment of Senator PACKWOOD is just as useless as any amendment I know of.

Mr. METZENBAUM. I am willing to stay here this evening and vote this evening. The Senator is the one who did not want to vote this evening.

Mr. ROBERT C. BYRD. Mr. President, if the Senator from Ohio will allow me, I would give him a pair which would serve his purpose, and I may say to the Senator from Missouri that I have never nor will I ever delay the Senate simply because for some reason I cannot be present. When we get into that situation where a Senator will not let the Senate vote simply because he cannot be here then we are not going to be able to get very far very fast. That is the reason I offered to give the Senator my pair.

Mr. LONG. Mr. President, I believe the Senator is against the amendment. If it is Mr. PACKWOOD's amendment I suppose I am for it. I am glad to give the Senator a live pair, and I will be here and pair with the Senator. I will be glad to do that.

Mr. ROBERT C. BYRD. I hope the Senator from Ohio would let us vote under those circumstances. It is a perfectly legitimate arrangement in which his vote is paired against the Senator from Louisiana or mine.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PACKWOOD. I just heard the Senator from Missouri say that my amendment is now useless. Before he said it went absolutely to the guts of the matter. He does not want to agree to a time. If he has no concern about the time limit, I will agree to vote tonight and vote tonight.

Mr. METZENBAUM. The Senator from Oregon said he is willing to agree to a half hour on the amendment a half hour ago. I will stay here for a half hour this evening and vote on it.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, let me put the request once more to vote on the amendment by Mr. PACKWOOD at 1 o'clock tomorrow. This will allow the amendment to be set aside by unanimous consent. In the meantime other amendments will be called up and allow us to make some progress. And I would hope then following that vote we could get on with the amendment by Mr. HOLLINGS, with all reasonable men working together, and complete action on that bill tomorrow night.

I make that unanimous-consent request.

The PRESIDING OFFICER. Is there objection?

The Chair hears none. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

There will be no more rollcall votes tonight.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I ask unanimous consent that a member of my staff, Lyle Morris, be accorded the privilege of the floor during consideration of this bill and votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Mr. Horowitz, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, the subject before us today—providing Federal assistance to alleviate the cost of education through tax credits—is not a new topic. The Senate has passed some form of tuition tax credit six times in the past 10 years and the need for this legislation has been clear. Escalating tuition costs preclude some students from continuing their education. From 1967 to 1976, total annual college costs increased approximately 75 percent. While income levels also increased over this period, so did the tax burden. According to a CRS study, the median aftertax income increased by 66.8 percent, thus not keeping pace with the 75-percent increase in total college costs.

It is the middle-income group that has been hit the hardest by this cost increase because their incomes are not high enough to absorb the higher costs and yet their incomes are too high to be eligible for most Federal assistance. The most significant long-term decline in college attendance is from those with incomes about $10,000; a decline from 52 percent to 48 percent for the $10,000 to $15,000 range and a 68-percent to 58-percent drop for the above $15,000 range. At the elementary and secondary school levels, with a 13-percent drop in nonpublic school enrollment, the middle-income student is again the one most affected. Private schools primarily educate the lower and middle income groups with 71 percent of private school students coming from families with incomes below $25,000. Fewer than 4 percent of those attending private schools have incomes greater than $50,000.

The effect of these trends is obvious. If the cost of tuition keeps rising and families become less able to afford payment, then those schools whose very existence depends on these tuition payments will be forced to close. And with the decline in the private segment of our educational system, so goes the pluralism and diversity that has been a main contributor to our system's excellence. The public and private schools are complementary, each adding to the success of the whole system. The importance of private institutions lies in their ability to address more select needs and interests than do public schools, thereby fulfilling an important function in the educational process.

Mr. President, I support the concept of tuition tax credits as a means by which this trend can be arrested. Tax credits provide direct and accessible aid that maximizes the role of the individual and minimizes the role of the government. Tax credits provide the simplest and most equitable way to provide middle income families with both tax and tuition relief. It places dollars directly where they are needed and provides assistance to needy families who have been deemed ineligible for aid under the present student assistance programs.

Unlike the present student aid program, tax credits do not pump money into programs that have been proven to be wasteful and ineffective. Compared to the present student aid program, which last year spent an incredible $623.5 million on administrative costs alone, the tuition tax credits would not require any additional overhead expense, they do not require the completion of complex forms nor the submission of confidential financial information, they do not create uncertainty as to eligibility for aid and they do not require parents to plead poverty in order to receive aid.

It is my understanding that the majority of my colleagues are in favor of the provision of tax credits at the college level but that many have reservations regarding the portion of the bill dealing with elementary and secondary school students. Apparently this opposition is based on possible effects on the public school system, on the constitutional question, on the segregation issue and on the cost of the legislation.

Mr. President, I would like to address these concerns because I feel that too many misconceptions and misinformation have been circulating about tuition tax credits. One of the concerns which I find especially disquieting is the opposition that has been generated mostly by elementary and secondary school bureaucrats. It has been alleged that Federal aid to private pre-college level institutions will mark the decline in public

school attendance because the tax credit provides more aid to private than public institutions. Mr. President, it is true that of the benefits that will accrue to the parents of elementary and secondary school students as a result of this bill, the majority will go to those whose children are attending non-public schools.

However, it must be remembered that under existing aid programs, the Federal Government spends an average of $352 per public elementary and secondary school student and only $98 for each private school student. The proposed tax credit would only provide an additional $170 per private school student bringing the total amount of aid to $268. Do the opponents really believe that an additional $170 will induce a mass exodus from the public schools? I hardly think that such a relatively small contribution to the continued existence of the private schools will be the "death of the public schools."

On the contrary, providing aid to insure that these private schools will not have to shut down will actually keep down the capital costs of operating public schools. The closing of these private institutions would require that some 5.3 million elementary and secondary students be absorbed by tax-supported schools at an extra cost of $9.2 billion per year.

Mr. President, I find it interesting that the administrators and teachers who make up the public school bureaucracy are opposed to providing any Federal assistance to the parents of elementary and secondary school students. For, in effect, what these opponents are claiming is that, given the choice between public and private schools, parents would prefer to place their children in the latter.

They are claiming that making private schools more affordable will increase the competition between the two types of institutions by putting them on more equal ground. Mr. President, I support this type of competition and think that it can only serve to better the overall quality of our schools. If the public school administrators truly feel threatened by a $170 credit, then I must assume that their schools are in serious trouble and perhaps parents should disenroll their children.

Another concern that has been expressed by the opposition of the Tuition Tax Relief Act is the constitutional issue of separation of church and state. Mr. President, I find it hard to believe that providing aid to secular schools would constitute a violation of the Constitution. The first amendment states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The tuition tax credit will provide aid to about 10 percent of all elementary and secondary schools and of that 10 percent, about 20 percent are not church affiliated. I hardly term an average $170 tax credit to parents whose children are attending only 13 percent of all our elementary and secondary schools "establishment of a religion."

The Supreme Court has never before ruled on the constitutionality of a Federal tax credit but have only dealt with State aid. In addition, the Court has continually upheld legislation providing indirect aid to churches and church-related schools. Regardless, the Tuition Tax Relief Act contains a provision to guarantee that the Court will be able to expeditiously review this issue without any hardship on the taxpayer. I would hope that my colleagues would not view this legislation negatively because of the possibility that the Court may declare the elementary and secondary provision unconstitutional. The bill must be viewed and assessed according to its merits and we must let the Court decide the constitutional issue.

A third concern which has been expressed by the opposition of this bill is that it will foster segregation in our elementary and secondary schools. Further, they claim it will benefit middle and upper income families at the expense of the low income families and allow whites to escape racially mixed schools. Mr. President, I do not believe it can be logically argued that upper income parents who are not already sending their children to private schools, would do so with the knowledge of a possible $250 credit. That amount is not sufficient inducement for the upper income families. A $250 credit would, however, provide an incentive to those middle income parents who might otherwise disenroll their children from private schools for financial reasons and it would provide an incentive to those lower-income parents to view private schools as a viable, affordable alternative. It will especially aid the lower income group because it will increase their range of choice.

Another very important point to be raised in light of the segregation issue is the ineligibility for claiming a tax credit for those parents who send their children to schools which discriminate on the basis of race. Written into the Tax Credit Relief Act is a provision stating that a school must be a qualified tax exempt organization under IRS regulations—that is to say that the school can not be racially discriminatory in order for the parents to claim the tax credit. The bill also provides for regular reports on the effectiveness of IRS enforcement of the regulations. It is clear to me, therefore, that this bill will not foster segregation but will have the opposite effect by increasing the educational opportunities of the less advantaged.

The last concern I would like to address is the total cost of this legislation. Many opponents of tax credits have criticized the bill for its cost to the Treasury and so the Finance Committee amended the act to reduce the revenue impact. In 1978, the tax credit would be only $30 million and is truly insignificant when compared with this year's $12 billion Federal outlay for public education. The amended bill, when fully effective in 1983, will cost $2.8 billion, which is $900 million less than the education assistance proposal put forth by the Human Resources Committee. With all due respect to the Committee, I would prefer to see my tax dollars go directly to families via a tax credit rather than have it whittled away by educational institution's application processing costs and HEW's administrative overhead. The Tuition Tax Relief Act, while providing an efficient means for alleviating educational costs, is also, and more importantly, preferable for the freedom of choice it provides. By expanding the educational opportunities, a basic economic decision is made by the marketplace, not by the Government and I have complete faith in the ability of parents and the marketplace to make those decisions which will have the best effect on the cost and quality of our schools, public and private.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, with the understanding that Senators may stay this evening and debate the amendment if they wish, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:30 a.m. tomorow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF CONSIDERATION OF H.R. 12050 TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the two leaders on tomorrow and any orders for the recognition of Senators, if there be such, the Senate resume consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business with statements by Senators limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there morning business?

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on August 11,

1978, he approved and signed the following joint resolution and acts:

S.J. Res. 102. A joint resolution entitled "American Indian Religious Freedom";

S. 920. An Act relating to the disposition of certain recreational demonstration project lands by the State of Oklahoma; and

S. 2463. An Act to amend the Surface Mining Control and Reclamation Act of 1977 (Public Law 95-87) to raise certain authorized funding levels contained therein, and for other purposes.

MESSAGES FROM THE HOUSE

At 4:41 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that Mr. CARTER was appointed a conferee on the part of the House in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 11445, an act to amend the Small Business Act and the Small Business Investment Act of 1958, vice Mr. STANTON, resigned.

The message also announced that the House agrees to the amendments of the Senate numbered 1 and 2 to H.R. 2931, an act to amend chapter 89 of title 5, United States Code, to establish uniformity in Federal employee health benefits and coverage provided pursuant to contracts made under such chapter by preempting State or local laws pertaining to such benefits and coverage which are inconsistent with such contracts; that the House agrees to the amendment of the Senate numbered 3 to the bill, with an amendment; that the House agrees to the amendment of the Senate numbered 4 to the bill with an amendment; and that the House agrees to the amendment of the Senate to the title of the bill with an amendment; in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the amendment of the Senate numbered 1 to H.R. 10878, an act to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967, and for other purposes, with an amendment; and that the House agrees to the amendment of the Senate numbered 2 to the bill, with an amendment; in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 13007. An act to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services; and

H.R. 13511. An act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

The message further announced that the House has agreed to House Concurrent Resolution 687, directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 10732, in which it requests the concurrence of the Senate.

HOUSE BILL PLACED ON CALENDAR

The following bill was read twice by its title and placed on the calendar:

H.R. 13007. An Act to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 13511. An Act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes; to the Committee on Finance.

ORDER FOR REFERRAL OF S. 2053

Mr. CANNON. Mr. President, I ask unanimous consent that when S. 2053, the Deep Seabed Mineral Resources Act, is reported, it be referred to the Committee on Foreign Relations for not to exceed 30 days.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES RECEIVED DURING THE RECESS

Under authority of the order of August 11, 1978, the following reports of committees were submitted on August 11, 1978, during the recess of the Senate:

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 1920. An act to amend section 5064 of the Internal Revenue Code of 1954 to provide for refund of tax on distilled spirits, wines, rectified products, and beer lost or rendered unmarketable due to fire, flood, casualty, or other disaster, or to breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief while held for sale (Rept. No. 95-1112).

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 8811. An act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court (Rept. No. 95-1113).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 10161. An act for the relief of Eastern Telephone Supply & Manufacturing, Inc. (Rept. No. 95-1114).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 3274. A bill to designate the U.S. Department of Agriculture's Bee Research Laboratory in Tucson, Ariz., as the "Carl Hayden Bee Research Center" (Rept. No. 95-1115).

By Mr. EAGLETON, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

S. 518. A bill to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes (Rept. No. 95-1116).

By Mr. MATHIAS, from the Committee on the Judiciary, with an amendment:

S. 1185. A bill to regulate interstate commerce with respect to parimutuel wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes (Rept. No. 95-1117).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BENTSEN:

S. 3404. A bill to provide rapid depreciation for certain expenditures required by mandatory OSHA health and safety standards; to the Committee on Finance.

By Mr. ABOUREZK:

S. 3405. A bill to establish certain rules with respect to the appearance of witnesses before a grand jury in order to protect the constitutional rights of such witnesses under the fourth, fifth, and sixth amendments to the Constitution; to provide for independent inquiries by grand juries; to require periodic reports to Congress, and for other purposes; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 3406. A bill to amend chapter 55 of title 10 of the United States Code to qualify certain former spouses of members of the uniformed services for medical and dental benefits, and for other purposes; to the Committee on Armed Services.

By Mr. MELCHER (for himself and Mr. PAUL G. HATFIELD):

S. 3407. A bill to place in trust status about 1.8 acres on the Fort Peck Indian Reservation, Mont.; to the Select Committee on Indian Affairs.

By Mr. INOUYE (for himself, Mr. GRAVEL, and Mr. STONE):

S. 3408. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation, jointly, by unanimous consent.

By Mr. BIDEN:

S. 3409. A bill to establish a program of grants to States and units of local government which have established property tax relief programs; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BENTSEN:

S. 3404. A bill to provide rapid depreciation for certain expenditures required by mandatory OSHA health and safety standards; to the Committee on Finance.

● Mr. BENTSEN. Mr. President, according to a survey recently conducted by the McGraw Hill Co., it will cost American business $3.4 billion this year to comply with OSHA-mandated safety regulations.

Obviously, Mr. President, the American worker must be fully protected on the job. But equally obviously, the job of the American worker also needs a little protecting. Without jobs, there is going to be precious little to protect in this society.

Recent hearings conducted in the Joint Economic Committee disclosed that Federal regulation alone costs American business and the American consumer more than $100 billion annually; $3.4 billion of this sum is right here in OSHA regulations.

After American businessmen comply with these regulations, they will have less profit; they will have less money to invest; they will be less able to modernize; and they may well raise prices to compensate, thereby fanning the fires of inflation.

We are confronted, Mr. President, with a worthy objective—worker protection—that bears a heavy price tag: $3.4 billion. I am proposing legislation today that will help us achieve that objective while, at the same time, helping to reduce the cost burden on American business and consumers.

Under my bill, the cash-flow burdens of OSHA-mandated equipment would be reduced by allowing amortization of such equipment over a 3 year period while retaining the full investment tax credit now available for such expenditures.

Compliance with OSHA standards can place severe strains on a business, especially small businesses. Funds for compliance are capital expenditures that can only be recovered through amortization. However, particularly with small businesses, the funds come out of cash flow. When a small firm cannot afford to comply, it is forced to shut down; jobs disappear; competition is reduced; big business is subsidized, and the end result is frequently higher consumer prices.

Alternatively, some firms will take money from planned expenditures in productive equipment and divert it to OSHA compliance. This practice places American business at a competitive disadvantage in the international marketplace, contributes to our balance-of-trade problems, and weakens the strength of the dollar.

Mr. President, there is no sense in protecting the American worker if we are going to export his job or drive his employer out of business with redtape and a sea of regulation.

Combating the high cost and choking burden of Government regulation is one of the most urgent legislative priorities facing this Congress. The legislation I have introduced today will help the process along.

It does not compromise on the issue of worker safety. What this legislation does, Mr. President, is provide American business with that rarest of commodities—an incentive—to help them meet the cost of compliance. We are saying to the American businessman: You can now amortize your OSHA-mandated expense in 3 years rather than in 10. You can recover your capital faster. And you will still be able to receive the full benefit of the investment tax credit. We are asking you to spend money, but we are also prepared to help you recover your investment.

In an economic environment that is short on the carrot and long on the stick, I think this is precisely the sort of legislative initiative that is urgently required if we are to break the hammerlock of regulation and control that is inhibiting our economic performance in this country.●

By Mr. ABOUREZK:

S. 3405. A bill to establish certain rules with respect to the appearance of witnesses before a grand jury in order to protect the constitutional rights of such witnesses under the fourth, fifth, and sixth amendments to the Constitution; to provide for independent inquiries by grand juries; to require periodic reports to Congress, and for other purposes; to the Committee on the Judiciary.

GRAND JURY REFORM ACT OF 1978

● Mr. ABOUREZK. Mr. President, when I first introduced grand jury reform legislation in May of 1977, my goal was to restructure the institution to correct the defects which made it vulnerable to political abuse. I felt strongly then, as I do now, that the examples of grand jury abuse which abounded in the early 1970's, and which I detailed then in my introductory statement, had to be taken seriously by those of us who are concerned about the trend of the erosion of individual rights and liberties in this country.

In introducing more comprehensive legislation today—the Grand Jury Reform Act of 1978—I am reiterating that concern. I feel strongly that we not forget, nor allow the passage of time to diminish our memories of that period when grand juries were used as a weapon to silence those in our society who openly disagreed with the establishment and the administration.

The grand jury has historically been regarded as functioning as an independent body between the Government, represented by the prosecutor, and the accused. The responsibility of grand jurors is to ascertain whether the charges brought against an individual are founded upon just cause rather than malice, and to make a judgment to indict based on the evidence presented to them. But rather than exercising independence in this process, and performing as a shield between the accuser and the accused, the grand jury is, in most cases, a rubber stamp for prosecutorial decisions. And as such, the institution is, and has been, subject to manipulation by Government officials responsive to politics, not justice.

Today little has changed. The grand jury is still a captive of the Government. What goes on inside the grand jury room is guided solely by the prosecutor. There are still no countervailing checks and balances to prosecutorial discretion. And therein lies the present danger—a danger we know is not illusory, but very real.

Enactment of the Grand Jury Reform Act of 1978 would right these wrongs and bring this institution back to its intended purposes. The following is a general overview of what the bill does:

First. It increases grand jury independence by requiring that the grand jury be adequately instructed about its powers, rights, and responsibilities; by requiring that the grand jury vote on subpenas, and requests for a contempt hearing; and by prohibiting prosecutors from using the grand jury in fishing expeditions for intelligence gathering.

Second. The bill establishes standards for investigations. It provides for a minimum notice requirement of 7 days for a subpena. It provides that when an investigation includes violations of substantive criminal statutes as well as conspiracy, the grand jury may not be convened in the district where only the conspiracy occurred. It also requires that the scope of the investigation be stated by the prosecutor, and that the witness be so notified in his/her subpena. All questions asked or documents subpenaed must be relevant to that inquiry. And, it abolishes reiterative contempt, a position also endorsed by the ABA, and would limit imprisonment for contempt to 6 months.

Third. My proposed Grand Jury Reform Act also addresses the right-to-counsel issue by permitting the witness to have a lawyer accompany him while testifying. A witness is not presently entitled to the advice of counsel inside the grand jury room—a practice the American Bar Association has recently suggested be ended.

Fourth. Currently a witness before a grand jury may be confronted with evidence seized in violation of his/her constitutional rights, and the Supreme Court has recently held that an indictment can be based on such illegally seized evidence. *United States* v. *Calandra*, 414 U.S. 338 (1974). This bill will remedy this situation by preventing the use of illegally seized evidence.

Fifth. The bill establishes a mechanism for independent grand jury inquiry when there exists a question of possible criminal activity on the part of any Government official. The bill provides that the grand jury may initiate such inquiry itself. It also provides for an independent court-appointed prosecutor to assist the grand jury and sign any indictment in lieu of the U.S. attorney in certain investigations.

Sixth. And the bill provides for consentual immunity. When the witness consents to the immunity, the type of immunity, and the only type of immunity to be granted will be transactional.

The specific provisions of my proposed legislation, which were designed to address substantive areas of reform follow:

First. With respect to the issue of recalcitrant witnesses: Twelve or more members of the grand jury must vote to make application to the court for an order directing a recalcitrant witness to show cause in a hearing why he/she should not be held in contempt.

The bill gives the witness 5 days notice of a contempt hearing. Upon a showing of special need after a hearing, shorter notice may be given, but not less than 48 hours.

The witness has the right to appointed counsel in contempt proceedings, if the witness is unable to afford it.

Imprisonment shall be in a Federal institution if one is located within 50 miles of the court.

My bill reduces the period of imprisonment from a maximum of 18 to 6 months for civil contempt, and prohibits reiterative contempt, by making the 6 months cumulative, and applying it against any confinement resulting from

prior, subsequent, or related grand jury investigations.

The bill provides that the confined person shall be admitted to bail, pending appeal unless the appeal is patently frivolous and taken for delay. Appeals shall be disposed of pursuant to an expedited schedule, eliminating the unique "30-day rule", which requires that appeals be decided within 30 days.

The bill provides that a refusal to answer questions or provide other information shall not be punished if the question or the request is based on any violation of the witness' constitutional or statutory rights.

Second. With respect to the issue of notice to the grand jury of its rights and duties; my bill requires that the district court judge who empanels the grand jury give instructions in writing to the grand jurors at the beginning of their term and insure that the grand jury reasonably understands them. These instructions shall include: The grand jury's powers with respect to independent investigation, the necessity of legally sufficient evidence to indict, and the power of the grand jury to vote before a witness may be subpenaed be given a contempt hearing or indicted; prescribes that failure to so instruct the grand jury is just cause for a refusal to testify.

Third. With respect to the issue of independent inquiry, my bill allows the grand jury, upon notice to the court, to request the attorney for the Government to assist it in an inquiry into offenses committed by Government or former Government officials. The grand jury shall serve for 12 months with no more than two extensions for a maximum of 24 months.

Provides that the court, upon a vote of the grand jury, may appoint a special attorney to assist the grand jury in such an investigation, if the attorney for the Government is found to have refused to assist in, or to have hindered or impeded the investigation. Such attorney will be paid a reasonable rate and may fix compensation for such assistants as is deemed necessary, with the approval of the court. Such attorney shall sign any indictment in lieu of a Government attorney.

Fourth. With respect to the issue of the rights of grand jury witnesses: The legislation requires that subpenas are not returnable on less than 7 days notice, unless a special need has been determined after a hearing; and then they are not returnable on less than 2 days notice. The subpena must advise the witness of the right to counsel, whether his/her conduct is under investigation, the subject matter of the inquiry, and the substantive statutes involved. Any witness not advised of these rights cannot be prosecuted, subjected to penalty, or have the evidence used against him/her in court.

Gives witnesses the right to have counsel in the grand jury room, such counsel to be court appointed where appropriate. Counsel shall not be bound by secrecy and shall take part in the grand jury proceeding.

Prescribes that when an investigation includes violations of substantive criminal statutes as well as conspiracy, the grand jury may not be convened in the district where only the conspiracy is alleged. On the motion of the witness the court shall transfer the investigations to another district in which the proceedings may be properly convened. The court shall take into account the distance of the proceedings from the residence of the witness, other burdens on the witness, and the existence and nature of any related proceedings.

Provides that once a grand jury has considered a matter to another grand jury unless the Government shows and the court finds that the Government has discovered additional relevant evidence.

Provides that a transcript shall be made of the proceedings and be available to the witness and counsel within 48 hours or within a reasonable time if 48 hours is not possible. After examination of such transcript a witness may request permission to appear before the grand jury again to clarify his testimony which shall become part of the official transcript and be circulated to the jury.

Stipulates that if the attorney for the Government is given written notice in advance that a person subpenaed intends to claim his fifth amendment privilege against self-incrimination, the witness shall not be compelled to appear before the grand jury. The witness must consent to immunity. There will be no compelled testimony.

Gives the witness and his/her counsel the right to examine and copy any statement of the witness in the possession of the United States which relates to the matter under investigation.

Provides that no person shall be required to testify or be confined if, upon evidentiary hearing, the court finds:

(a) A primary purpose or effect of the subpena is to secure for trial evidence against a person already under indictment, or formal accusation; (b) Compliance with the subpena is unreasonable or oppressive and involves unnecessary appearances; or the only testimony that can reasonably be expected is cumulative, unnecessary, or privileged; (c) The primary purpose of the subpena is punitive: to harass the witness, to induce the witness to commit perjury or false utterance or to place the witness in contempt.

Gives the court in the district out of which the subpena was issued, the court in the district in which the subpena was served, and the court in the district in which a witness resides concurrent jurisdiction over motions to quash and other relief. It allows such motions at any time. If a motion is made prior to or during an appearance, the appearance is stayed, pending ruling. If the motion is made during or subsequent to the appearance, the motion must be made in the district of the empaneled grand jury.

Provides that any person may approach the attorney for the Government to request permission to testify on a matter before a grand jury or to request that an inquiry be initiated. The attorney for the Government shall keep a public record of all denials of such requests. Any individual dissatisfied with the disposition of his request may appear before the grand jury if the court finds that such appearance would serve a relevant purpose.

Fifth. With respect to the issue of reports concerning grand jury investigations:

My bill requires the Attorney General to file detailed annual grand jury reports, describing:

(a) The number and nature of investigations in which grand juries were utilized; (b) the number of reports for orders requesting testimony, and the number granted; (c) the number of immunity grants requested, the number consented to, and the nature of the investigations; (d) the number of witnesses imprisoned for contempt, and the date of their confinement; (e) an assessment of the effectiveness of immunity, including the number of arrests, indictments, no-bills, etc., resulting from immunity; and (f) a description of the data banks, et cetera, by which grand jury data is processed and used by the Justice Department.

Sixth. With respect to the issue of evidence taken during the grand jury process: my bill requires the Government to introduce all evidence in its possession which it knows will tend to negate the guilt of a potential defendant.

Prohibits the grand jury from returning an indictment on the basis of summarized or hearsay evidence alone, except for good cause shown.

Requires that questioning of witnesses and subpenas for documents be relevant to the subject matter under investigation.

Requires that the only evidence that can be presented to a grand jury is evidence properly seized and legally obtained.

Seventh. With respect to the issue of immunity: My bill provides that a witness must consent to immunity, thereby preserving his or her fifth amendment rights. If the witness consents to the immunity, the sort of immunity granted would be transactional, as I discussed earlier.

I urge my colleagues to join with me in an effort to restore some of the rights of the individual which have been lost in the recent past. If this proposed legislation passes, it will restore the grand jury to its proper role—as a guardian of the people; a sword to ferret out governmental abuse and corruption.

Mr. President, I ask uanimous consent that the text of the Grand Jury Reform Act of 1978 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Grand Jury Reform Act of 1978".

Sec. 2. The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Uncooperative witnesses.
Sec. 4. Unauthorized disclosure of grand jury information.
Sec. 5. Rights and duties of grand jurors; independent inquiry.
Sec. 6. Immunity.
Sec. 7. Rights of grand jury witnesses.
Sec. 8. Recording, transcribing, and availability of grand jury proceedings.
Sec. 9. Preliminary examination.

Sec. 10. Reports concerning grand jury investigations.
Sec. 11. Effect on other laws and rules.

UNCOOPERATIVE WITNESSES

SEC. 3 (a) Section 1826 of title 28, United States Code, is amended to read as follows:

"§ 1826. Recalcitrant witnesses

"(a)(1) Whenever a witness in any proceeding before or ancillary to any court or grand jury of the United States refuses without just cause shown to comply with an order of the court to testify or provide other information, including any books, papers, document, record, recording, or other material, the attorney for the Government may apply to the court for an order directing the witness to show cause why the witness should not be held in contempt.

"(2) After submission of such application and a hearing at which the witness is entitled to be represented by counsel, the court may, upon a finding that such refusal was without just cause, hold the witness in contempt and order the witness to be confined. Such confinement shall be at a suitable Federal correctional institution, if one is located within fifty miles of the court ordering confinement, unless the witness waives this right. Upon a showing of need or hardship, the court ordering confinement may grant a request by the witness to be imprisoned at a suitable correctional institution near the place of residence or employment of the witness, or the witness' family or relatives or the attorney of the witness.

"(3) Confinement under this section may continue until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the term of the grand jury, including extensions, before which such refusal to comply with the court order occurred, and in no event shall such confinement exceed six months.

"(4) No hearing shall be held under this subsection unless five days' notice is given to the witness who has refused to comply with the court order. A witness may be given a shorter notice of not less than forty-eight hours if the court, after a hearing and upon a showing of special need by the attorney for the Government, so orders.

"(b) No person who has been confined under this section for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events may be again confined under this section or under section 401 of title 18, United States Code, for a subsequent refusal to testify or provide other information concerning the same transaction, set of transactions, event, or events.

"(c) Any person confined pursuant to this section shall be admitted to bail or released in accordance with the provisions of chapter 207 of title 18, United States Code, pending the determination of an appeal taken by him from the order of his confinement, unless it affirmatively appears that the appeal is frivolous or taken for delay. Any appeal from an order of confinement under this section shall be disposed of as soon as practicable, pursuant to an expedited schedule, and in no event more than thirty days from the filing of such appeal.

(d) In any proceeding conducted under this section, including all necessary appeals, counsel may be appointed in the same manner as provided in section 3006A of title 18, United States Code, for any person financially unable to obtain adequate representation.

"(e) A refusal to answer a question or provide other information before a grand jury of the United States shall not be punishable under this section or under section 401 of title 18, United States Code, if the question asked or the request for other information is based in whole or in part upon evidence seized or otherwise obtained by an unlawful act or in violation of the witness' constitutional rights or of rights established or protected by any statute of the United States.".

(b) Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. Refusal of a witness to testify in a grand jury proceeding

"No person who has been imprisoned or fined by a court of the United States under section 401 of this title for refusal to testify or provide other information concerning any transaction, set of transactions, event, or events in a proceeding before a grand jury (including a special grand jury summoned under section 3331 of this title) impaneled before any district court of the United States may again be imprisoned or fined under section 401 of this title or under section 1826 of title 28, United States Code, for a subsequent refusal to testify or provide other information concerning the same transaction, set of transactions, event, or events.".

(c) The table of sections for chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"403. Refusal of a witness to testify in a grand jury proceeding.".

UNAUTHORIZED DISCLOSURE OF GRAND JURY INFORMATION

SEC. 4. (a) Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1512. Violations of grand jury secrecy

"(a) Whoever knowingly discloses any evidence introduced, statement made, or other matter occurring before any grand jury summoned or impaneled by a court of the United States shall be fined not more than $500 or imprisoned not more than six months, or both.

"(b) Whoever knowingly discloses any evidence introduced, statement made, or other matter occurring before any grand jury summoned or impaneled by a court of the United States, with the intent to secure compensation therefor, to affect the actions of or any decisions by that jury, to affect further legal proceedings against any witness, or to affect further legal proceedings as to the subject matter of any investigation by that jury, shall be fined not more than $20,000 or imprisoned not more than five years, or both.

"(c) This section shall not apply to—

"(1) disclosure to or by an attorney for the Government in the performance of his duties, provided that a record is presented to the court of the date and purpose of each disclosure and of the name of the person to whom the disclosure is made;

"(2) disclosure directed or permitted by a court;

"(3) disclosure by a witness who has appeared before such grand jury, or by his attorney, of any matter about which the witness has testified, or produced other information before the grand jury; or

"(4) any representative of the press, broadcasting, or information media, acting in his professional capacity.

"(d) Subsection (a) shall not apply to disclosure by any person other than a person present at the grand jury proceeding.

"(e) As used in this section—

"(1) 'attorney for the Government' includes the Attorney General, an authorized assistant of the Attorney General, a United States attorney, and an authorized assistant of a United States attorney;

"(2) 'disclosure by a witness' includes disclosure by others of matter the witness has previously disclosed when made as a consequence of such disclosure by the witness.

"(f) Nothing contained in this section shall be construed to affect the power of the court to punish any person for contempt for violation of any rule or order of the court.".

(b) The table of sections for chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1512. Violations of grand jury secrecy.".

RIGHTS AND DUTIES OF GRAND JURORS; INDEPENDENT INQUIRY

SEC. 5. (a) Chapter 215 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 3329. Rights and duties of grand jury and attorney for Government

"(a) Upon impanelment of each grand jury before a district court of the United States, the court shall give adequate and reasonable notice to the grand jury of, and shall assure that the grand jury reasonably understands—

"(1) its duty to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district;

"(2) its rights, authority, and powers with respect to an independent inquiry under section 3330 of this title;

"(3) its right to call and interrogate witnesses;

"(4) its right to request the production of documents or other evidence;

"(5) the subject matter of the investigation;

"(6) the criminal statute or statutes involved, if these are known at the time the grand jury is impaneled;

"(7) the necessity of legally sufficient evidence to form the basis of any indictment as provided under section 3330A(1) of this title;

"(8) the duty of the grand jury by an affirmative vote of twelve or more members of the grand jury to determine, based on the evidence presented before it, whether or not there are sufficient grounds for issuing indictments and to determine the violations to be included in any such indictments;

"(9) the obligation of secrecy and that it is a criminal offense to disclose to any person any information concerning any grand jury proceeding; and

"(10) such other duties and rights as the court deems advisable.

The court's failure to instruct the grand jury as directed in this section shall be just cause within the meaning of section 1826 of title 28, United States Code, for a witness' refusal to testify or provide other information before such grand jury, until such time as the court instructs the grand jury in accordance with this section.

"(b)(1) Any person, including a witness who has previously testified or produced books, records, or documents, may make a written request to the attorney for the Government, or a special attorney appointed pursuant to this title, and request to testify in an inquiry before a grand jury, or to produce books, records, or documents, or to appear before a grand jury and request that the grand jury proceed in accordance with its powers under section 3330 of this title.

"(2) The attorney for the Government, or the special attorney—

"(A) shall forward any request under this subsection to the grand jury and may make a recommendation as to such request;

"(B) shall take reasonable steps to notify any person of his intention to present evidence against the person and request a presentment or indictment and of the person's right to testify or present evidence under this subsection and such notice shall be given a reasonable time in advance of any request for such presentment or indictment unless the attorney for the Government or the special attorney can prove to the satisfaction of the court that notice would result in the flight of the person, would endanger other witnesses, or would unduly delay the investigation and prosecution; and

"(C) shall establish a pubic record of all

requests and the action taken on each such request.

"(3) The grand jury shall not be required to hear any witness, or consider any book, record, or document, but shall consider all requests forwarded to it by the attorney for the Government or the special attorney. Unless the grand jury, upon an affirmative vote of a majority of its members, refuses to hear the testimony, or consider the documents offered by, a person, under this subsection, the attorney for the Government or the special attorney shall subpena the evidence or witness offered. If the grand jury refuses to hear the testimony or consider the documents offered, the attorney for the Government or the special attorney shall notify the person making such request, in writing, of the refusal.

"(4) Upon appearing pursuant to a subpena, such person shall be permitted to testify, only upon submission of a waiver of immunity, as to relevant and competent matters under consideration by the jury and shall be subject to examination by the attorney for the Government or the special attorney.

"(c) The attorney for the Government and the special attorney shall not bring before the grand jury any witness who has given written notice in advance of the witness' appearance that such witness intends to exercise his privilege against self-incrimination, nor bring to the attention of the jurors, in any way, the invocation of the privilege by such witness, unless such witness has been given a grant of immunity.

"(d) The attorney for the Government or a special attorney shall not initiate, and a grand jury shall not conduct, an inquiry into a transaction or event, if any other jury has failed to return an indictment based on the same transaction or event, unless the court finds, upon a proper showing, that additional evidence relevant to such witness and previously unavailable to the Government has been discovered.

"§ 3330. Independent grand jury inquiry

"(a)(1) Any grand jury impaneled before any district court (including a special grand jury summoned under section 3331) may, after giving notice to the court, inquire upon its own initiative into offenses against the criminal laws of the United States alleged to have been committed within that district by any officer or agent of the United States or of any State or municipal government or by any person who, at the time of the alleged commission of the offenses, was an officer or agent of the United States or of any State or municipal government. Such grand jury may request the attorney for the Government to assist the grand jury in such inquiry.

"(2) The grand jury shall serve for a term of eighteen months after giving notice to the court under paragraph (1) unless an order for its discharge is entered earlier by the court or upon a determination of the grand jury by an affirmative vote of twelve or more members that its business has been completed. If, at the end of such term or any extension thereof, the district court determines the business of the grand jury has not been completed, the court may enter an order extending such term for an additional period of six months. No grand jury term so extended shall exceed thirty-six months from the date on which notice to the court was given under paragraph (1).

"(3) If a district court within any judicial circuit fails to extend the term of a grand jury engaged upon an independent inquiry under this section or enters an order for the discharge of such grand jury before such grand jury determines that it has completed its business, the grand jury by an affirmative vote of twelve or more members may apply to the chief judge of the circuit for an order for the continuance of the term of the grand jury. Upon the making of such an application by the grand jury, the term thereof shall continue until the entry by the chief judge of the circuit of an appropriate order upon such application. No grand jury term so extended shall exceed twenty-four months.

"(b)(1) In the event that the attorney for the Government is unable to impartially assist, refuses to assist or hinders or impedes the grand jury in the conduct of any inquiry under subsection (a), the grand jury may, upon the affirmative vote of twelve or more of its members, request at any point in such inquiry that the court appoint a special attorney in lieu of the attorney for the Government, to assist the grand jury in the conduct of any independent inquiry referred to in subsection (a). Such special attorney, with the approval of the court, may appoint and fix the compensation of such assistants, investigators, and other personnel as he deems necessary. The special attorney and his appointees shall be appointed without regard to the provisions of title 5 of the United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the special attorney and any appointees shall be paid at a reasonable rate to be determined by the court. The special attorney shall be reimbursed for actual expenses incurred by him and his appointees in the performance of duties pursuant to this section.

"(2) Notwithstanding sections 516, 518, and 519 of title 28 or any other provision of law, a special attorney appointed under this section shall carry out the functions of an attorney for the Government and shall have the exclusive authority to—

"(A) assist in the conduct of independent grand jury investigations under this section,

"(B) prepare and sign any indictment returned by a grand jury pursuant to such inquiry in lieu of any attorney for the Government, and

"(C) conduct all other phases of any criminal prosecution arising out of such inquiry (including the argument of appeals in the United States court of appeals and the United States Supreme Court).

"(3) A special attorney appointed under this section is authorized to obtain from any department or agency of the United States any files, records, documents, or other materials which he deems necessary or appropriate in the carrying out of his functions under this section.".

(b) The Administrator of General Services shall furnish offices, equipment, supplies, and services to a special attorney appointed under section 3330 of title 18, United States Code, in the same manner as such items are furnished to agencies and departments of the United States.

(c) Section 524 of chapter 31 of title 28, United States Code (relating to appropriations for administrative expenses), is amended by adding at the end thereof the following new sentence: "Such appropriations shall also be available for payment of the compensation and other expenses of the special attorney appointed under section 3329 of title 18 to assist a grand jury in the conduct of an independent investigation.".

IMMUNITY

SEC. 6. (a) Chapter 119 of title 18, United States Code, is amended by inserting immediately after section 2513 the following new section:

"§ 2514. Immunity of witnesses

"(a) In any proceeding before a grand jury impaneled before a district court of the United States, the attorney for the Government may submit an application to the court for an order that a witness shall testify or produce books, papers, or other evidence subject to the provisions of this section only if—

"(1) there is an affirmative finding by twelve or more of the members of the grand jury that such testimony or the production of books, papers, or other evidence by the witness is necessary to the public interest;

"(2) the witness gives her or his written consent to such application; and

"(3) the Attorney General approves such application.

"(b) Whenever in the judgment of an attorney for the Government the testimony of any witness, or the production of books, papers, or other evidence by any witness, in any cases or proceeding before any court of the United States, is necessary to the public interest, such attorney for the Government, with the written consent of the witness, and upon the approval of the Attorney General, shall make application to the court for an order granting the witness immunity so that the witness shall testify or produce evidence subject to the provisions of this section.

"(c) Pursuant to subsections (a) and (b) of this section, upon the court's order granting immunity, such witness shall not be excused from testifying or from producing books, papers, or other evidence on the ground that the testimony or evidence required of such witness may tend to incriminate her or him or subject her or him to a penalty or forfeiture, and no such witness shall be prosecuted or subjected to any penalty or forfeiture on account of any transaction, matter, or thing concerning which she or he is compelled, after having claimed her or his privilege against self-incrimination, to testify or produce evidence; nor shall testimony so compelled be used as evidence in any criminal proceeding (except in a proceeding described in the next sentence) against such witness in any court. No witness shall be exempt under this section from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.".

(b) The table of sections for chapter 119 of such title is amended by inserting immediately after the item relating to section 2513 the following:

"2514. Immunity.".

(c) Section 6002 of title 18, United States Code, is amended—

(1) by striking "(1) a court or grand jury of the United States;";

(2) by striking "(2)" and inserting in lieu thereof "(1)"; and

(3) by striking "(3)" and inserting in lieu thereof "(2)".

RIGHTS OF GRAND JURY WITNESSES

SEC. 7. (a) Chapter 215 of title 18, United States Code, is further amended by adding at the end thereof the following new section:

"§ 3330A. Counsel

"(a) Every witness subpenaed to appear and testify before a grand jury impaneled before a district court or to produce books, papers, documents, or other objects before such grand jury shall be entitled to the assistance of counsel, including assistance during such time as the witness is questioned in presence of the grand jury.

"(b) Such counsel may be retained by the witness or shall be appointed as provided in section 3006A of this title in the case of any person financially unable to obtain legal representation.

"(c) Such counsel shall be allowed to be present in the grand jury room during the questioning of the witnesses and may participate fully in all proceedings before the grand jury.

"(a) In the case of any proceeding before a grand jury impaneled before a district court, except with the consent of the witness or when the court, after a hearing and upon a showing by the attorney for the Government or a special attorney appointed under this title, finds special need, no subpena may require any witness to testify or produce other information at such proceeding at any

time before the expiration of the one-week period beginning on the date of service of the subpena. In no event may a subpena be issued less than forty-eight hours prior to the intended date for the testimony.

"(b) Upon the service of any subpena requiring any witness to testify or produce other information at any proceeding before a grand jury impaneled before a district court, the witness shall be given adequate and reasonable notice of—

"(1) his right to counsel as provided in section 3330A of this title;

"(2) his privilege against self-incrimination;

"(3) the subject matter of the grand jury investigation;

"(4) whether his own conduct is under investigation by the grand jury;

"(5) the substantive criminal statute or statutes, violation of which is under consideration by the grand jury, if these are known at the time of issuance of the subpena;

"(6) His/her rights regarding immunity under section 2514(a)(2); and

"(7) any other rights and privileges which the court deems necessary or appropriate.

"(c)(1) The district court which issued a subpena, or the district court for the district in which the person resides or is served shall have concurrent jurisdiction to hear, and take appropriate action with respect to any motion relating to, including any motion to quash, such subpena.

"(2) A motion relating to a subpena may be made at any time prior to, during, or when appropriate, subsequent to the appearance of any witness before a grand jury. Any motion made during or subsequent to the appearance of the witness before the grand jury may be made only in the district in which the grand jury is impaneled.

"(3) If a motion is made under this section before the day on which the person subpenaed has been ordered to appear or books, records, or documents have been ordered to be produced, the appearance of such person, or the production of such documents, shall, upon appropriate aplication, be stayed until the court has ruled on such motion.

"(d) Upon proper motion, the court may quash a subpena and take other appropriate sanctions when it finds that—

"(1) a primary purpose or effect or requiring such person to so testify or to produce such objects to the grand jury is or will be to secure for trial testimony or to secure other information regarding the activities of any person who is already under indictment by the United States, a State, or any subdivision thereof for such activities; or of any person who is under formal accusation for such activities by any State or any subdivision thereof, where the accusation is by some form other than indictment;

"(2) the witness has not been advised of his rights, as specified in subsection (b);

"(3) the evidence sought is not relevant to the grand jury investigation properly conducted within the grand jury's jurisdiction;

"(4) compliance with the subpena would be unreasonable or oppressive, as such subpena would require unnecessary appearances by the witness, would lead to testimony or other information that is cumulative, unnecessary or privileged, would be primarily for punitive purposes or would not involve other like circumstances; or

"(5) a primary purpose of the issuance of the subpena is to harass the witness, to induce the witness to commit perjury or false utterance, or to place the witness in contempt.

"(e) Upon proper motion, the court shall quash a subpena and take other appropriate sanctions when it finds that—

"(1) the witness has already been confined, imprisoned, or fined under section 1826 of title 28, United States Code, or section 401 of this title for his refusal to testify before any grand jury investigating the same transaction, set of transactions, event, or events;

"(2) the witness has given written notice that such witness intends to exercise his privilege against self-incrimination, unless a grant of immunity has been obtained; or

"(3) the grand jury is inquiring into the same transaction or event that was under consideration by another grand jury which failed to return an indictment based on such transaction or event, unless a court finds upon a hearing that there is no additional, newly discovered evidence relevant to such witness which was previously unavailable to the Government.

"(f)(1) A grand jury impaneled to conduct an inquiry into offenses against the criminal laws of the United States may be convened only in a district, or districts, in which it is believed criminal conduct may have occurred which are elements of such offenses; except that when a grand jury is to be convened to conduct an inquiry into both violations of substantive criminal statutes and violations of statutes forbidding conspiracy to violate substantive criminal statutes, the grand jury may not be convened before a district court in a district in which the only criminal conduct alleged to have occurred in that district is conspiracy to commit the substantive criminal act.

"(2) The district court may quash a subpena or transfer any grand jury proceedings or investigation into any other district where it might properly have been convened if the court finds that a witness' appearance would impose a substantial and unnecessary hardship on such witness or his family because of the location of the proceeding. In considering whether such hardship exists, the court shall take into consideration all the relevant circumstances, including the distance of the grand jury investigation from the places of residence of witnesses who have been subpenaed, financial and other burdens placed upon the witnesses, and the existence and nature of any related investigations and court proceedings.

"§ 3330C. Evidence presented to the grand jury

"(a) The attorney for the Government shall not be permitted to present to the grand jury any evidence seized, derived from, or otherwise obtained by any unlawful act or in violation of the witness' constitutional rights or of rights established or protected by any statute of the United States.

"(b) An attorney for the Government shall present to the grand jury all evidence in such attorney's possession which he has reason to know will tend to negate the guilt of the person under investigation.

"(c) A grand jury may indict a person for an offense when (1) the evidence before such grand jury is legally sufficient to establish that such offense was committed, and (2) competent and admissible evidence before such grand jury provides reasonable cause to believe that such person committed such offense. An indictment may be based on summarized or hearsay evidence alone only upon showing of good cause to the court which impaneled the grand jury.

"(d) The district court before which a grand jury is impaneled shall dismiss any indictment of the grand jury if such district court finds that—

"(1) the evidence before the grand jury was legally insufficient to establish that the offense for which the indictment was rendered was committed;

"(2) there was not competent and admissible evidence, or summarized or hearsay evidence allowed by the court upon a showing of good cause, before the grand jury to provide reasonable cause to believe that the person indicted committed such offense;

"(3) the attorney for the Government has not presented to the grand jury all evidence in his or her possession which the attorney knows will tend to negate the guilt of the person indicted; or

"(4) the attorney for the Government has submitted to the grand jury evidence seized or otherwise obtained by an unlawful act or in violation of the witness' constitutional rights or of rights established or protected by any statute of the United States.".

(b) Section 3006A (a) of title 18, United States Code (relating to appointments of attorneys), is amended—

(1) by striking out "or," before "(4)" in the first sentence thereof; and

(2) by inserting before the period at the end of the first sentence thereof: ", or (5) who is a witness before a grand jury impaneled before the district court".

RECORDING, TRANSCRIBING, AND AVAILABILITY OF GRAND JURY PROCEEDINGS

SEC. 8. (a) Chapter 215 of title 18, United States Code, is further amended by adding at the end thereof the following new sections:

"§ 3330D. Recording of grand jury proceedings

"A complete and accurate stenographic or electronic record of all grand jury proceedings shall be kept, except that the grand jury's secret deliberations and consultations between witnesses and their counsel shall not be recorded. Such record shall include the court's notice to the grand jury of its rights and duties and all other comments or charges by the court to the jury at any time; all introductory comment, or other comments, directives, and other utterances made by attorneys for the Government or special attorneys to the grand jury, witnesses and their counsels; all questioning of and testimony of witnesses; all interchanges between the grand jury and attorneys.

"§ 3330E. Availability of grand jury transcripts and other statements

"(a) Any person summoned to testify or provide other information before a grand jury impaneled before a district court shall be entitled, prior to testifying or providing other information, to examine and copy any statement in the possession of the United States which he has made and which relates to the subject matter under inquiry by the grand jury. Such examination and copying may be made by the attorney for such person if such person gives his written approval. As used in this subsection, the term 'statement' has the meaning provided by section 3500 (e).

"(b) Any witness who testifies before a grand jury, or his attorney with such witness' written approval, shall, upon request, and under such conditions as the court deems reasonable, be entitled to examine and copy a transcript or electronic recording of the record for the period of such witness' own appearance before the grand jury, and if a witness is proceeding in forma pauperis, he shall be furnished, upon request, a copy of such transcript. Such transcript shall be made available for inspection and copying not later than forty-eight hours after the conclusion of such witness' testimony, unless, for cause shown, more time is required to prepare such transcript. After examination of such transcript, a witness may request permission to appear before the grand jury again to explain his testimony. Additional testimony given under this subsection shall become part of the official transcript and shall be shown to the members of the grand jury.

"(c) Upon a showing of good cause, the court may, at any time, order that the disclosure of the recorded proceedings of a grand jury be denied, restricted or deferred, or make such other order as is appropriate. Upon motion by the Government, the court shall permit the Government to make such show-

ing, in whole or in part, in the form of a written statement to be inspected by the judge alone. If the court enters an order granting relief following such a showing, the entire text of the party's statement shall be sealed and preserved in the records of the court to be made available to the appellate court in the event of an appeal by the defendant.

"(d) A reasonable time prior to trial, and after the return of an indictment or the filing of an information, a defendant shall, upon request and under such conditions and limitations as the court deems reasonable, be entitled to examine and copy a transcript or electronic recording of—

"(1) the grand jury testimony of all witnesses to be called at trial;

"(2) all statements to the grand jury by the court and the attorney for the Government or special attorney, relating to the defendant's case;

"(3) all grand jury testimony or evidence which in any manner could be considered exculpatory; and

"(4) all other grand jury testimony or evidence which the court may deem material to the defense.".

(b) Section 3500(e), title 18, United States Code, is amended—

(1) by inserting "or" at the end of paragraph (1);

(2) by deleting "; or" and inserting a period at the end of paragraph (2); and

(3) by deleting paragraph (3).

(c) The table of sections for chapter 215 of title 18, United States Code, is amended by adding at the end thereof the following new items:

"3329. Notice to grand jury of its rights and duties.
"3330. Independent grand jury inquiry.
"3330A. Certain rights of grand jury witnesses.
"3330B. Subpoenas.
"3330C. Evidence presented to the grand jury.
"3330D. Recording of grand jury proceedings.
"3330E. Availability of grand jury transcripts and other statements".

PRELIMINARY EXAMINATION

SEC. 9. (a) Chapter 217 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3368. Preliminary examination

"(a) A defendant is entitled to a preliminary examination, unless waived, when charged with any offense, other than a petty offense, which is to be tried by a judge of the district court.

"(b) Such preliminary examination may be held prior to, or within a reasonable time following, the filing of an indictment or information in the district court.".

(b) The table of sections for chapter 217 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3368. Preliminary examination.".

REPORTS CONCERNING GRAND JURY INVESTIGATIONS

SEC. 10. Section 522 of title 28, United States Code (relating to reports of business and statistics), is amended by striking out "The Attorney General" and inserting in lieu thereof "(a) The Attorney General" and by adding at the end thereof the following new subsection:

"(b) The Attorney General, at the beginning of each regular session of Congress, shall report to the Congress and to the Administrative Office of the United States Courts with respect to the last preceding fiscal year on—

"(1) the number of investigations undertaken in which a grand jury or a special grand jury was utilized together with a description of the nature of each investigation undertaken;

"(2) the number of requests by United States grand juries to the Attorney General for approval to apply to the court for an order compelling testimony under section 2003 of title 18, and the number of such requests approved by the Attorney General;

"(3) the number of applications to district courts for orders granting immunity under title 18;

"(4) the number of applications to district courts for orders granting immunity under title 18 that were approved and the nature of the investigations for which the orders were sought;

"(5) the number of instances in which witnesses in the investigations enumerated in paragraph (1) were held in contempt and confined, and the dates and lengths of such confinement;

"(6) the number of arrests, indictments, nobills, trials, and convictions resulting from testimony obtained under orders granting immunity, the offenses for which the convictions were obtained, and a general assessment of the importance of the immunity;

"(7) a description of data banks and other procedures by which grand jury information is processed, stored, and used by the Department of Justice; and

"(8) other appropriate information concerning grand jury activity during such year.

The matters contained in the report required to be made by this section shall be set forth according to judicial district.".

EFFECT ON OTHER LAWS AND RULES

SEC. 11. (a) The enumeration of this Act of any rights and privileges of grand jury witnesses shall not affect any other rights and privileges to which such witnesses may be entitled under any law or rule of law.

(b) Notwithstanding section 3771 of title 18, United States Code, no rule contained in the Federal Rules of Criminal Procedure shall apply to the extent that such rule is inconsistent with the provisions of this Act.●

By Mr. INOUYE (for himself, Mr. GRAVEL and Mr. STONE):

S. 3408. A bill to provide for the development of aquaculture in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation, jointly, by ananimous consent.

NATIONAL AQUACULTURE POLICY ACT OF 1978

● Mr. INOUYE. Mr. President, today I am pleased to introduce the National Aquaculture Policy Act of 1978.

Aquaculture is the cultivation of aquatic organisms both in inland waters and the open sea. To define it thus is to stress the consonance between aquaculture and agriculture. The cultivation of both aquatic and terrestrial organisms has been practiced by man for many centuries.

When I survey the present status of aquaculture in the United States I see a comparison with the status of U.S. agriculture well over a century ago, when Congress passed the first Morrill Act. At that time the great abundance of native game was showing the severe impacts of intensive hunting and agricultural practices introduced from Europe were pushing rapidly westward across our Nation. Today we are witnessing severe impacts on our once abundant coastal fisheries, and we have recently extended seaward our fisheries management control.

The Morrill Act, that first of a series of land grant college actions, was a recognition of the need to better focus modern science and technology on efforts intended to systematically improve agricultural practices, and thus give public assistance to our agricultural producers. The results were profound, and today the successes of these actions are legion.

I believe that we have the immediate opportunity to make an even quicker advance in aquaculture. The tremendous base of science and technology in the United States could compress 50 or 60 years of agricultural history into 10 or 15 years of aquacultural development. This could take aquaculture development, before the end of the century, to a place in history comparable with U.S. agriculture during the First World War, when our farmers so ably helped a world in need of their production.

At present, the world supplies of fishery resources predominantly come from the hunting and gathering of wild stock. Whereas the controlled cultivation of such resources, aquaculture, provides about 10 percent of the world's production of fish products, in the United States it provides only about 3 percent of our production.

We have already fished some wild stocks beyond the level of maximum sustainable yields. The cultivation of certain stocks is a necessary and complementary effort to that of increasing production by more efficient fishing. Aquaculture can assist the replenishment or enhancement of common property stocks, in addition to providing increased, or new, private property stocks.

The U.S. demand for fishery products is high and is increasing. The importation of fishery products now exceeds exportation many-fold, both in measures of quantity and of cash value.

We import over half of the fish consumed in the United States. Increased aquaculture production can increase our supplies of food and other renewable resources, add stability to those supplies, and improve our balance of trade.

The legislation I am introducing today has many similarities to aquaculture legislation previously introduced in the Senate, and to H.R. 9370, the National Aquaculture Organic Act of 1978, which has already passed the full House. I am a cosponsor of two bills, S. 1043 and S. 2218, introduced by Senators BENTSEN and STONE, respectively. I offer this legislation as an initiative to effect some compromise between those earlier proposals, and to move us to action during this session of Congress.

I would like to call your attention to four features of the bill. First, it gives emphasis to the congressional action as a statement of a national aquaculture policy. Second, it involves the Office of the President, through the Director of the Office of Science and Technology policy, in the formulation of a national aquaculture plan which is to be implemented by a series of aquaculture development programs in the Department of Agriculture, the Department of Commerce, and the Department of the Interior. Third, it provides a progressive set of incentives for increased private and public investment at the local and State levels. Fourth, the legislation lays stress

on State participation throughout: In planning, in coordinating, and in assisting the development of aquaculture.

These features are intended to strengthen the delivery of Federal help to private producers, on whom the burden for achievement is placed. The Federal plan is not intended to be a heavily structured imposition from above, but rather a network reaching down to the grass-roots level (should I say sea-grass roots?) to receive the signals to which it should respond. I see the future success, or failure, of the National Aquaculture plan as something to be measured by the rate of increase of production by the entrepreneurs in a new industry. I believe this is an industry with a potential to rapidly increase its national significance.

This legislation is not intended to diminish in any way existing programs of the Federal Government. It is intended to augment them by a modest amount while providing structure and purpose to the national endeavor.

This bill does not specify a lead agency. I do not believe that Congress has been provided sufficient knowledge to judge the merits, or demerits, of the existing programs. The Office of Science and Technology Policy is asked to make such a survey and chart an optimum course for scientific and technical activity in support of aquaculture. The Office will also consider the administration of such activity and decide whether departmental programs are sufficiently distinct, or separable, to recommend a horizontal program coordination, or whether the programs need the heirarchical structure of a lead agency designation.

I have considered and rejected the separation of aquaculture programs solely by consideration of fresh water biology versus salt water biology. I am more inclined toward considerations of economic principles: Private goods versus common goods. Within my constituency there are complete aquaculture systems, cultivating aquatic plants and animals, which progress from fresh water to brackish water conditions, and which wholly reside on private land as private property. This is like most U.S. agriculture.

On the other hand, there are aquaculture systems which graze their stock on the commons provided by our coastal waters. An equally significant opportunity for aquaculture is to assist the management or enhancement of common property fishery stocks.

It would appear that the Department of Commerce and the Department of the Interior have good resources and experience for working with wild stock, naturally evolved stock, and for working with management problems of common property goods. The Department of Agriculture has a history of assisting the producer of private goods, and of aiding the development of new strains or varieties of cultivated stock. For these reasons I believe the national aquaculture plan should define responsibilities by both biologic and economic considerations for both private goods and common goods.

The legislation specifically excludes from the definition of aquaculture the open ocean ranching of Pacific salmon for profit. This is a recognition of the importance of international agreements and State laws to the management of that fishery.

Let me explain further some sections of the legislation.

The national aquaculture plan is to be formulated and implemented in an orderly but unobstructed way. The Director of the Office of Science and Technology Policy is to assess the current aquaculture activities in the United States. This should require the merging of information from at least four sources: First, the National Academy of Sciences (which has this year completed the report "Aquaculture in the United States: Constraints and Opportunities"); second, plans and information available in the Department of Agriculture, Department of Commerce, and Department of the Interior; third, information available from State governments; fourth, information from various trade organizations serving the aquaculture industry. The assessment is to be used by the Director in identifying major policy issues, and in considering alternative ways to reformulate these issues into planning objectives.

The national aquaculture plan should be a translation of these planning objectives into management objectives, and a decomposition of the plan into programs which can be implemented by the Federal agencies. Mechanisms for advisory input and for interagency coordination are provided in the legislation.

One section of the bill is specific to the identification of State aquaculture agencies. The National Academy of Science has reported that in many States more than 30 requirements, such as permits or licenses, must be met before a producer may legally commence operations. To address this problem, incentives are provided to encourage the identification of responsibility for aquaculture at the State level in the expectation that this will result in more rational and expeditious regulation. A State aquaculture agency can be of aid to a Federal manager of an aquaculture program element by providing one contact point for establishing consistency with existing laws and regulations. The State agencies would also be expected to assist in the planning and the implementation of the Federal programs.

Three sections of the bill are designed to give incentives and reduce risks for the investment of capital in aquaculture: grants and contracts, demonstration projects, and guarantees of obligation. They are purposefully tiered, by order in the bill, to provide increasing levels of incentives or assistance.

Grants and contracts are mechanisms to assist a Federal manager give support to persons, or institutions, of innovative excellence. They can also be a means of augmenting the applied research being done in Federal facilities.

Demonstration projects represent a mechanism for technology transfer and education, which can reduce risk by providing for such needs as: management information, disease control, or reliable supplies of seed stock. Demonstration projects are to be implemented only with State cooperation as a means of assuring both a sufficient intensity of need and a sufficient number of users.

Guarantees of obligation are intended to permit the Federal Government to be a partner of last resort in the acquisition of capital. I am encouraged in my optimism for aquaculture by evidence that the supply of credit for aquaculture enterprises has been increasing in recent years. Private investment has grown, and will continue to grow, as the purposefulness of our national interest in aquaculture solidifies. Federal assistance is augmenting private lending through such programs as are administered by the Farmers Home Administration in the Department of Agriculture, by the Economic Development Administration or the Small Business Administration in the Department of Commerce, and by the Farm Credit Administration.

There is, though, evidence that some aquaculture enterprises still suffer a lack of opportunities to obtain credit. I believe that these are frequently the most innovative parts of a fledgling industry and the assistance is lacking simply because of the potential lender's inability to assess the risks. Knowledge to improve that assesment may be available to the Federal Government. Many of these attempts at innovation are focused on mariculture (salt water or brackish water aquaculture) and deal with food production systems that have hitherto been underutilized or ignored. For these reasons the bill proposes that a fund be established and guarantees of obligation be authorized for the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior to use in such deserving cases as cannot be served by the other credit instruments those Secretaries have available.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3408

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled. That this Act may be cited as the "National Aquaculture Policy Act of 1978".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) Through intensive applications of science and technology, agriculture has met man's needs for food supplies and for other renewable resources by extensive husbandry of terrestrial plants and animals, but similarly extensive husbandy of aquatic animals or plants has not been achieved.

(2) Many segments of the world population are now facing serious nutritional deficiencies and food shortages due to environmental degradation, adverse climatic conditions, and the steady growth of population. These problems will become more severe, and the resulting demand for increased food production will have to be partially met through the application of scientific and technological advances from research on aquaculture and other hitherto underutilized food production systems.

(3) The world demand for seafood is increasing, but the harvest of some natural

populations of fish and shellfish has exceeded levels of maximum sustainable yield.

(4) Aquaculture is contributing to world food supplies with production equal to 10 per centum of current landings of seafoods, and that production has the potential for significant increase before the end of this century.

(5) Certain stocks of fish and shellfish of importance to the United States are declining, or are depleted, which has had an undesirable impact on both commercial and recreational fisheries.

(6) There is an extensive market for seafood in the United States, but the United States imports in excess of 50 per centum of its fish and shellfish for human consumption (and those imports are ten times the level of exports). This dependence on imports results in balance of payment drains, and the supplies are uncertain and often irregular.

(7) Less than 3 per centum of current United States fisheries production results from aquaculture, but there is good potential for expanding aquaculture production in the United States so that such production can equal or exceed the worldwide average, thereby helping to provide United States consumers with a stable supply of high quality aquatic foods and assisting the United States in its balance of payments.

(8) Growth of aquatic plants is a source of food for human and animal consumption, a source of industrial materials and pharmaceuticals, a potential source of energy, and can be used to assist pollution control and abatement.

(9) The rehabilitation and enhancement of the publicly owned fish and shellfish resources are desirable applications of aquaculture technology as a means to insure the general public benefits to be derived from the utilization of these common property resources.

(10) Aquaculture in the United States has traditionally been concentrated on a few species, but many other aquatic species have a potential for commercial culturing and other uses. While many scientific and technological problems are unsolved, there is sufficient knowledge to further the development of aquaculture production systems for additional species of fish, shellfish, and plants. The Congress recognizes the importance of developing aquaculture of both plant and animal species.

(11) The application of aquaculture technology offers opportunities for the recovery of wasted thermal energy, nutrients, and other resources.

(12) Water areas, whether fresh, brackish, or marine, which are suitable for aquaculture are, in many cases, underutilized, and their total acreage is diminishing as such areas are put to other uses or destroyed.

(13) In those areas of the United States which are suitable for aquaculture but have land-use or water-use management policies that may inhibit the development of aquaculture facilities, consideration should be given to changing those policies so that aquaculture will be considered along with the other possible uses of such areas.

(14) The development of aquaculture in the United States has been inhibited by many economic, legal, and production factors; these include inadequate credit, diffused legal jurisdiction, lack of management information for such stocks as are available, or the lack of reliable supplies of seed stock.

(15) Government programs that help to reduce the risks associated with production of agricultural commodities have not been generally available to producers of aquatic species.

(16) Current efforts to develop aquaculture in the United States are numerous but sometimes diffuse; a strong commitment by the Federal Government will bolster and consolidate these efforts and make aquaculture more viable, thereby stimulating private and public investment and development.

(17) As with agriculture, much knowledge and many initiatives for aquaculture development exist at the State and local levels and should be used to assist any Federal effort in fostering cooperation between individuals and institutions to improve the aquaculture industry.

(18) The principal responsibility for aquaculture development in the United States must rest with the private sector.

PURPOSE

SEC. 3. It is the purpose of this Act to promote aquaculture in the United States by—

(1) declaring a national aquaculture policy;

(2) establishing and implementing a national plan for aquaculture; and

(3) developing programs and encouraging activities, in both the public and private sectors of the economy;

which will result in increased aquaculture, the coordination of domestic aquaculture efforts, the conservation and enhancement of aquatic resources, the creation of new industries and job opportunities, and other national benefits.

DEFINITIONS

SEC. 4. As used in this Act, unless the context otherwise requires—

(1) The term "aquaculture" means the propagation and rearing of aquatic species in controlled or selected environments, including ocean ranching, but not including private ocean ranching of Pacific salmon for profit.

(2) The term "aquaculture facility" means any land, structure, or other appurtenance, if such land, structure, and appurtenance is located within the United States and is used for aquaculture. Such term includes, but is not limited to, any laboratory, hatchery, rearing pond, raceway, pen, incubator, or other equipment.

(3) The term "aquatic species" means any natural species, native or introduced, or any variety of species produced by selective reproduction of finfish, mollusk, or crustacean or other aquatic invertebrate, amphibian, reptile, or aquatic plant.

(4) The term "person" means any individual who is a citizen or national of the United States and any corporation, partnership, association, Indian tribe or other entity (including, but not limited to, any community development corporation, producer cooperative, or fishermen's cooperative) organized or existing under the laws of any State.

(5) The term "Director" means the Director of the Office of Science and Technology Policy as established by the National Science and Technology Policy Organization and Priorities Act of 1976.

(6) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Marianas, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States.

(7) The term "United States", when used in a geographical context, means all States.

(8) The term "Fund" means the Federal Aquaculture Assistance Fund established by section 13.

NATIONAL AQUACULTURE POLICY

SEC. 5. The Congress finds and declares that aquaculture has the potential for augmenting existing commercial and recreational fisheries and producing other renewable resources, thereby assisting the United States in meeting its future food needs and contributing to the solution of world resource problems. It is, therefore, in the national interest, and it is the national policy, to encourage the development of aquaculture in the United States.

AQUACULTURE ASSESSMENT AND NATIONAL AQUACULTURE DEVELOPMENT PLAN

SEC. 6. (a) Within one year after the date of enactment of this Act, the Director in cooperation with the Secretary of Agriculture, Secretary of Commerce, the Secretary of the Interior, other Federal departments or agencies, State aquaculture agencies (designated as provided in section 7), and appropriate Regional Fishery Management Councils established under section 302 of the Fishery Conservation and Management Act of 1976 shall make a comprehensive assessment of aquaculture in the United States and shall by regulation establish a National Aquaculture Development Plan (hereinafter in this Act referred to as the "Plan").

(b)(1) The Director shall give interested persons an opportunity to participate in the development and establishment of the Plan in accordance with the provisions of section 553 of title 5, United States Code.

(2) The Secretaries of Agriculture, Commerce and the Interior, shall provide such clerical assistance and staff personnel as may be required by the Director to carry out the provisions of this section.

(3) At the earliest possible time in the development of the Plan, the Director shall hold public hearings; the number and location of such hearings shall be determined on the basis of the following criteria:

(A) geographical proximity of States to one another;

(B) similarity of States in aquacultural activities and potential; and

(C) other relevant factors.

(c) The assessment of aquaculture in the United States required to be made under subsection (a) shall include—

(1) a complete profile of the United States aquaculture industry as to incidence, size, and status of commercial aquaculture enterprises;

(2) identification of private and public institutions and organizations involved in aquacultural research, extension, credit, and market development;

(3) identification of the various aquatic species currently being cultured and a description of the status of commercial development with respect to each such species;

(4) to the extent possible, identification of aquacultural production regions, species, and markets that have significant potential for development;

(5) a catalog and description of all Federal programs and activities which directly or indirectly encourage, support, or assist aquaculture;

(6) a consideration of the need and appropriateness of designating a single Federal lead agency for all matters relating to aquaculture;

(7) identification of legal, regulatory, economic, physical, and social constraints which inhibit the development of aquaculture in the United States;

(8) a determination of the adequacy of Federal guarantees for loans for the construction, repair, expansion, or improvement of aquaculture facilities, disaster loans for persons engaged in aquaculture, and property and stock insurance for aquaculture facilities; and

(9) exposition of the major policy issues which need to be addressed by the Plan and the presentation of policy alternatives in a manner that will facilitate both the formulation and implementation of the Plan.

(d) The Director shall submit a report with respect to the status of aquaculture in the United States to the President and the Congress upon completion of the assessment referred to in subsection (a), but in no event more than 12 months following the date of enactment of this Act.

(e) The Director shall use such assessment as a basis for developing the Plan which shall consist of a series of development pro-

grams for those aquatic species which the Director determines to have a potential for culturing on a commercial or other basis.

(f) The Plan shall set forth those actions which the Director determines should be undertaken, and the period of time within which each action should be completed, with respect to—

(1) the implementation of each development program, including such research and development, technical assistance, demonstration, extension education, and training as may be necessary and appropriate with regard to—

(A) aquaculture facility design and operation;

(B) water quality management;

(C) utilization of waste products (including thermal effluents);

(D) nutrition and the development of economical feeds;

(E) life history, behavior, genetics, psychology, pathology, and disease control (including research regarding organisms which may not be harmful to fish and shellfish but are injurious to humans);

(F) processing and market development;

(G) production management and quality control; and

(H) the development of adequate supplies of seed stock;

(2) research with regard to the effect of acquaculture on estuarine and other water areas, and with regard to the management of such areas for aquaculture;

(3) the identification and analysis of any legal or regulatory constraints which may affect a development program;

(4) the construction, purchase, lease, or acquisition of necessary developmental aquaculture facilities; and

(5) such other actions relating to research and development, technical assistance, demonstration, extension education, and training as the Director deems necessary and appropriate.

(g) The Plan shall include the allocation of funds appropriated pursuant to section 14, in such amounts as the Director deems appropriate, to the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior for implementation of the aquaculture development programs under the respective jurisdictions of such Secretaries.

(h) In preparing an aquaculture development program and in reviewing any such program pursuant to subsection (j), the Director shall, to the extent practicable, take into account any significant action which has been, or which is proposed to be, undertaken by any other Federal agency, any State agency, or any person, and which may affect the accomplishment of the program.

(i) Each action under each aquaculture development program prepared under this section shall be implemented, either individually, jointly, or collectively, by the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as specified by the Director in the program. The Director shall determine which Secretary or Secretaries are to have responsibility for implementing any such action on the basis of—

(1) the responsibilities conferred on the respective Secretaries by law or any executive action having the effect of law (including, but not limited to, Reorganization Plan Numbered 4 of 1970); and

(2) the experience, expertise, and other appropriate resources which each department may have with respect to the action required under the program.

(j) The Plan shall provide a mechanism for its revision, following review on a biennial basis to determine—

(A) if there are any aquatic species not currently identified in the Plan that have potential for aquaculture; and

(B) whether the actions specified in the Plan are being accomplished on a successful and timely basis.

(k)(1) The Director, in consultation with the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior, shall establish and appoint an advisory committee to assist in the assessment and in the development of the Plan.

(2) The Advisory Committee shall consist of fifteen members who shall not be employees of the Federal Government, and at least eight of such members (of whom at least one shall be from each area over which each Regional Fishery Management Council has authority) shall be engaged in private aquaculture enterprises.

(3) The members of the committee, while away from their homes or regular places of business in the performance of services for the committee, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the government service are allowed expenses under section 5703 of title 5 of the United States Code.

STATE AQUACULTURE AGENCIES

SEC. 7. (a) Any State wishing to participate in any national aquaculture development program pursuant to section 10 or 11 and authorized under this Act shall designate a single agency of such State to carry out such program in such State.

(b) Any State wishing to participate in the formulation of the Plan, as provided in section 6, but wishing to defer designation of an aquaculture agency for the State, may designate an aquaculture planning agency for the State as an interim measure.

(c) Any grants made to, or contracts entered into with, an agency of a State, or any agency of any political subdivision of a State, pursuant to section 10, shall be made only with the approval of the aquaculture agency designated for such State, and such approval shall be an indication to the Federal sponsor of compliance with all State and local regulations that apply to that action.

(d) The Director shall inform the Governors of all the States about the provisions of this section and shall consult as he determines appropriate with representatives of the State aquaculture agencies during the development of the Plan.

FUNCTIONS AND POWERS

SEC. 8. (a) In implementing the aquaculture development program prepared under section 6 for any aquatic species, the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as the case may be, shall—

(1) provide advisory, educational, and technical assistance (including training) with respect to aquaculture of such species to interested public and private organizations and individuals, but in providing such assistance, shall, to the maximum extent practicable, avoid duplication of similar assistance provided by other Federal or State agencies;

(2) consult and cooperate with interested persons, Federal, State, and local government agencies, regional commissions, educational institutions, and Indian tribes regarding the development of aquaculture technology;

(3) prescribe such regulations as may be necessary to carry out such a program; and

(4) encourage the implementation of aquaculture technology in the rehabilitation and enhancement of the publicly owned fish and shellfish stocks, as well as in the promotion of private commercial aquaculture enterprises.

(b) In implementing any aquaculture development program, the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior, as the case may be, may—

(1) conduct scale tests of any aquaculture system for the purposes of assessing the biological and economic feasibility of the system;

(2) produce, under the authority of section 11, and sell at cost seed stock for commercial aquatic species when privately produced seed stock is unavailable, unreliable, or insufficient in quantity to meet production needs;

(3) develop methods to enhance aquatic species stocks by aquaculture;

(4) carry out such studies and research with respect to aquatic species as may be appropriate regardless of whether such species is or has been identified as a commercial species; and

(5) conduct such other tests or analyses or take such other actions as such Secretary deems necessary and appropriate.

(c) In addition to carrying out such other functions as are required under this Act, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior shall jointly—

(1) establish and maintain an aquaculture information center which shall function as a national clearinghouse for the collection, selection, analysis, and dissemination of scientific, technical, legal, and economic information relating to each aquaculture development program which is their individual, joint, or collective responsibility;

(2) conduct appropriate surveys, in coordination with other agencies, of public and private aquaculture being carried out in the United States for the purpose of acquiring information on acreages, water use, production, culture techniques, and other relevant matters;

(3) arrange for the mutual exchange of information relating to aquaculture with foreign nations; and

(4) conduct a continuing study to determine whether existing capture fisheries could be adversely impacted by competition from products produced by commercial aquaculture enterprises significantly aided under this Act, and include in such study (A) an assessment of the economic impact by species and by geographical region on such fisheries, and (B) recommended measures to ameliorate any adverse impact.

The Secretaries named above shall report to Congress on the findings made under the study provided for under clause (4) in the biennium status report required by section 9(b)(4).

(d) Any production information submitted under clause (2) of subsection (c) to the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior by any person shall be confidential and shall not be disclosed except to each other or to the advisory committee which may be appointed under section 6(k) or when required under court order. The Secretaries named in the preceding sentence shall by regulation prescribe such procedures as may be necessary to preserve such confidentiality, except that such Secretaries may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information.

(e)(1) The Secretary of Agriculture, the Secretary of Commerce, and the Secretary of the Interior are each authorized to accept any gift, temporary donation, or devise or bequest of real or personal property, or the proceeds from the sale or other disposition of such property or interests therein, for use in carrying out any function that such Secretary may have under this Act. Any such acceptance may be subject to the terms of any restrictive or affirmative convenant, or condition of servitude, if such terms are deemed by the Secretary concerned to be in accordance with law and compatible with the purpose for which acceptance is sought.

(2) Any gift or bequest of money, and proceeds from the sale of other property received as a gift or bequest under this subsection, shall be deposited in a separate account in the Treasury and shall be dis-

bursed upon the order of the Secretary concerned.

COORDINATION OF NATIONAL ACTIVITIES REGARDING AQUACULTURE

SEC. 9. (a) There is established the Interagency Aquaculture Coordinating Committee (hereafter in this section referred to as the "Committee") which shall be composed of the following representatives or their designees:

(1) The Director of the Office of Science and Technology who shall be the Chairman of the Committee unless, after the Plan is established, the President wishes to designate some other official as Chairman.

(2) The Secretary of Agriculture.

(3) The Secretary of Commerce.

(4) The Secretary of the Interior.

(5) The Secretary of Energy.

(6) The Administrator of the Environmental Protection Agency.

(7) The Chief of Engineers.

(8) The Commissioner of the Food and Drug Administration.

(9) The Assistant Secretary of Labor for Occupational Safety and Health.

(10) The Administrator of the Small Business Administration.

(11) The Governor of the Farm Credit Administration.

(12) At least five representatives to be appointed by the Chairman of the Committee from the various State aquaculture agencies designated pursuant to section 7.

(b) The functions of the Committee shall be—

(1) to insure that there is a continuing exchange of information among the agencies represented on the Committee with respect to the nature and status of the programs or projects being carried out by such agencies which relate, or which may relate, to aquaculture in general or to the implementation of the Plan;

(2) to review on a continuing basis the relevant programs and projects of all Federal agencies to determine whether such programs are being carried out in compliance with subsection (c); and

(3) to insure that the aquaculture information center established under section 8(c)(1) is functioning in conformance with the policy expressed in section 5.

(4) to submit biennium report to Congress on the status of aquaculture in the United States; included in that report shall be an explanation of any revision to the plan made pursuant to section 6(j); the first such biennium report shall be completed two years from the date of submission to Congress of the Director's report as specified in section 6 (d).

(c) Each Federal agency which has any function or responsibility with respect to aquaculture or has jurisdiction over any activity which affects, or may affect, the achievement of the purposes of this Act, shall, in consultation with the Committee and to the maximum extent practicable, carry out such function, responsibility, and activity in a manner which is consistent with the purposes of this Act.

(d) Nothing in this Act shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer or any Federal agency to carry out any functions relating to aquaculture which are authorized under any other provision of law.

CONTRACTS AND GRANTS

SEC. 10. (a) The Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior may carry out any function of this Act, other than demonstration projects undertaken pursuant to section 11, relating to any aquaculture development program which such Secretary is directed to implement under the Plan, through grants to, or contracts with, any other Federal agency, any agency of any State, any agency of any political subdivision of a State, any Indian tribe, any regional commission, any educational institution, or any person.

(b) Any contract entered into, or any grant made, under authority of subsection (a) shall contain such conditions and limitations as the Secretary concerned shall by regulation prescribe as being necessary and appropriate to protect the interests of the United States; except that no such contract may be entered into, and no such grant may be made which is in violation of any applicable State or local law.

(c) The amount of any grant made under authority of subsection (a) may not exceed an amount equal to one-half the estimated cost of the project for which the grant is made.

(d) Any State agency, any political subdivision of a State, or any person who receives a grant or contract under this section shall make available to the Secretary concerned and to the Comptroller General of the United States, for purposes of audit and examination, any book, documents, papers, and records that are pertinent to the funds received by such agency, political subdivision, or person under such grant or contract.

SEC. 11. (a) In order to promote the development of aquaculture the Secretaries of Agriculture, Commerce and the Interior are authorized jointly to distribute funds to promote the establishment and operation of aquaculture demonstration projects within each state which has established a State aquaculture agency pursuant to section 7 of this Act, and to carry out the activities described in subsections (b) (c) (d) and (e). Upon a determination by the Secretaries that a proposed demonstration project (1) demonstrates phases of aquaculture which are useful and beneficial to the State and aquaculture producers, and (2) is not duplicative of demonstration projects in the State or region involved, such funds shall be distributed, in the case of any State, to one or more of the following: the State aquaculture agency of such State, the State cooperative extension service of such State, the State agricultural experiment station of such State, and any university of such State eligible to receive funds under the Sea Grant program. The amount of funds distributed in any State for any demonstration project may not exceed an amount equal to one-half the estimated cost of such project.

(b) The recipient in any State of any funds distributed under subsection (a) shall:

(1) establish at least one aquaculture demonstration project which is located within the State;

(2) sell the products of the demonstration project established under clause (1) and pay to the United States that portion of the proceeds as the grants under this section bear to the total cost of operating the project;

(3) provide tours of the demonstration project to aquaculture producers and other interested groups and individuals and, upon request, provide such producer groups and individuals with information concerning the operation of the project;

(4) determine the total income and the total cost of the project; and

(5) annually compile a report concerning income, costs, operating difficulties, and producer interest with respect to the demonstration project, and submit the report to the Secretaries concerned along with any recommendations concerning project changes.

The production of seed stock shall be a permissible demonstration project.

(c) The results obtained from each demonstration project carried out under this section which prove economically practical shall be extended to aquaculture producers in each State through the State cooperative extension service of each State as part of the ongoing education programs of such service.

(d) A Fund shall be established in the Treasury of the United States for the deposit of funds paid to the United States, under subsection (b)(2) and such funds shall be available without fiscal year limitation for use in carrying out the provisions of this section.

(e) Two or more States may cooperate in the designation of a regional project, in which event the sums assignable to all the cooperating States shall be paid to the agency or institution responsible for the operation of the demonstration project.

GUARANTEES OF OBLIGATIONS ISSUED FOR AQUACULTURE FACILITIES

SEC. 12. (a)(1) The Secretary of Agriculture, Secretary of Commerce, and Secretary of the Interior (further reference in this section to the "Secretary" shall mean the Secretary concerned) may, subject to the provisions of this section, guarantee, or make a commitment to guarantee, the payment of interest on, and the principal amount of, any obligation issued by an obligor for any of the following purposes:

(A) The financing of the construction, reconstruction, or reconditioning of any aquaculture facility (including the financing of the purchase cost of any aquaculture facility to be reconstructed or reconditioned); except that no obligation may be guaranteed under this section later than 2 years after the date of the completion of the construction, reconstruction, or reconditioning of the aquaculture facility involved.

(B) The acquisition of stocks of aquatic species in all stages of development necessary to initiate any aquaculture facility.

(C) The financing of the initial operating expenses of any aquaculture facility.

(D) The financing or marketing operations exclusively for aquaculture products.

(E) The refinancing of any existing obligation issued for any of the purposes specified in subparagraph (A), (B), (C), or (D), whether or not guaranteed under this section, including, but not limited to, any short-term obligation incurred for the purpose of obtaining temporary funds for refinancing. Guarantees and commitments to guarantee may be made under this section without regard to section 3679(a) of the Revised Statutes of the United States (931 U.S.C. 665(a)).

(2) The full faith and credit of the United States is pledged to the payment of all guarantees made under this section with respect to both principal and interest, including any interest, if provided for in the guarantee, which may accrue between the date of default under a guaranteed obligation and the payment in full of the guarantee.

(3) Any guarantee, or commitment to guarantee, made by the Secretary under this section shall be conclusive evidence of the eligibility of the obligation for such guarantee, and the validity of any guarantee, or commitment of guarantee, so made shall be incontestable.

(4) The aggregate unpaid principal amount of all obligations guaranteed under this section and outstanding at any one time shall not exceed $100,000,000.

(b)(1) Obligations guaranteed under this section—

(A) shall have an obligor approved by the Secretary as being responsible and possessing the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of the aquaculture facilities;

(B) shall be in an aggregate principal amount which does not exceed 90 percent of the obligation involved;

(C) shall have maturity dates satisfactory to the Secretary, but not to exceed 25 years;

(D) shall provide for payments by the obligor satisfactory to the Secretary; and

(E) shall bear interest (exclusive of charges for the guarantee and service charges, if any) at rates not to exceed such percentage per annum on the unpaid principal as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary.

(2) In guaranteeing any obligation under this section, the Secretary shall give preference to any person with 40 or fewer employees who, together with his affiliates, is primarily engaged in the business of aquaculture or commercial harvesting or gathering of aquatic species.

(3) No obligation shall be guaranteed under this section unless the obligor conveys or agrees to convey to the Secretary such security interest as the Secretary may require to reasonably protect the interests of the United States.

(c)(1) The Secreary may charge a fee for any obligation guaranteed under this section, the amount of which shall be established by the Secretary by regulation but which may not exceed one-half of 1 percent per annum of the outstanding principal balance of the obligation. Fee payments shall be made by the obligor to the Secretary when moneys are first advanced under a guaranteed obligation and at least 60 days before each anniversary date thereafter.

(2) The Secretary shall charge and collect from the obligor such amounts as he may deem reasonable for the investigation of the application for any guarantee, for the appraisal of properties offered as security for any guarantee, and for the inspection of such properties during construction, reconstruction, or reconditioning; except that such charges shall not aggregate more than one-half of 1 percent of the original principal amount of the obligation to be guaranteed.

(3) All fees and other amounts received by the Secretary under the provisions of this subsection shall be deposited in the Fund.

(4) Obligations guaranteed under this section, and agreements relating thereto, shall contain such other provisions with respect to the protection of the security interests of the United States (including acceleration and subrogation, provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payments of taxes, and such other matters as the Secretary may prescribe.

(d)(1) In the event of a default, which has continued for 90 days, in any payment by the obligor of principal or interest due under any obligation guaranteed under this section, the obligee or his agent shall have the right to demand, at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 180 days from the date of such default, payment by the Secretary of the unpaid principal amount of said obligation. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of the obligation and unpaid interest thereon to the date of payment; except that the Secretary shall not be required to make such payment if before the expiration of such period he finds that there was no default by the obligor in the payment of principal or interest or that such default has been remedied before any such demand.

(2) Payments required to be made by the Secretary under paragraph (1) shall be made by the Secretary from the Fund.

(3) In the event of any payment by the Secretary under paragraph (1); the Secretary shall have all rights in any security held by him relating to his guarantee of such obligations as are conferred upon him under any security agreement with the obligor. Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary may, under such terms and conditions as the Secretary prescribes or approves, complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by him pursuant to a security agreement with the obligor.

(4) After any default referred to in paragraph (1), the Secretary shall take such action against the obligor or any other parties liable thereunder that, in his discretion, may be required to protect the interests of the United States. Any suit may be brought in the name of the United States or in the name of the obligee and the obligee shall make available to the United States all records and evidence necessary to prosecute any such suit. The Secretary may accept a conveyance of title to and possession of property from the obligor or other parties liable to the Secretary and may purchase the property for an amount not greater than the unpaid principal amount of such obligation and interest thereon. In the event the Secretary receives through the sale of property an amount of cash in excess of any payment made to an obligee under paragraph (1) and the expenses of collection of such amounts, he shall pay such excess to the obligor.

(5) Whoever, for the purpose of obtaining any loan or advance of credit from any person with the intent that an obligation relating to such loan or advance of credit shall be offered to or accepted by the Secretary to be guaranteed, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage relating to an obligation guaranteed by the Secretary, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of the Secretary under this section, makes, passes, utters, or publishes, or causes to be made, passed, uttered, or published any statement, knowing the same to be false, or alters, forges, or counterfeits, or causes or procures to be altered, forged, or counterfeited, any instrument, paper, or document, or utters, publishes, or passes as true, or causes to be uttered, published, or passed as true, any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income shall be punished by a fine of not more than $5,000, or by imprisonment for not more than 2 years, or both.

(e) The Secretary of Commerce shall promulgate such rules and regulations as may be deemed necessary or appropriate to carry out the purposes and provisions of this section.

(f) For purposes of this section—

(1) The term "actual cost" of an aquaculture facility, as of any specified date, means the aggregate, as determined by the Secretary, of—

(A) all amounts paid by, or for the account of the obligor with respect to such facility on or before that date; and

(B) all amounts which the obligor is then obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of such facility.

(2) The terms "construction", "reconstruction", or "reconditioning" include, but are not limited to, designing, inspecting, outfitting, and equipping of the aquaculture facility involved.

(3) The term "depreciated actual cost" means the actual cost depreciated on a straightline basis over the useful life of the property involved as determined by the Secretary.

(4) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness issued for one of the purposes specified in subsection (a).

(5) The term "obligee" means the holder of any obligation.

(6) The term "obligor" means any person primarily liable for payment of the principal of or interest on any obligation.

FEDERAL AQUACULTURE ASSISTANCE FUND

SEC. 13. (a) There is established in the Treasury of the United States a Federal Aquaculture Assistance Fund. The fund shall be available to the Secretary as a revolving fund for the purpose of carrying out, and administering, sections 11 and 12. The Fund shall consist of—

(1) any sums appropriated to the Fund;

(2) any fees received by the Secretary of Agriculture, the Secretary of Commerce, or the Secretary of the Interior from the sale of products from demonstration projects as provided in section 11;

(3) any fees received by the Secretary of Commerce in connection with any guarantee made under section 12;

(4) recoveries and receipts received by the Secretary of Commerce under security, subrogation, and other rights and authorities under section 12.

All payments made by the Secretary to carry out the provisions of section 12 (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided in appropriate Acts. Sums in the Fund which are not currently needed for the purposes of section 11 or section 12 shall be kept on deposit or invested in obligations of or guaranteed by, the United States.

(b) If at any time the moneys in the Fund are not sufficient to pay any amount the Secretary is obligated to pay under section 12, the Secretary shall issue to the Secretary of the Treasury notes or other obligations (only to such extent and in such amounts as may be provided for in appropriation Acts) in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury prescribes. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations to be issued hereunder and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and obligations. The Secretary of the Treasury at any time may sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Moneys borrowed under this subsection shall be deposited in the Fund and redemptions of such notes and obligations shall be made by the Secretary from the Fund.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS—

(a)(1) For purposes of carrying out the provisions of this Act there are authorized to be appropriated, notwithstanding any authorization for appropriations in any other Act in effect before the date of the enactment of this Act:

(A) $10,000,000 for the fiscal year 1980;

(B) $20,000,000 for the fiscal year 1981; and

(C) $30,000,000 for the fiscal year 1982.

(2) The authorization for the fiscal year 1980 is not to exceed:

(A) $4,000,000 to the Department of Agriculture;

(B) $4,000,000 to the Department of Commerce;

(C) $2,000,000 to the Department of the Interior.

(3) The authorization for the fiscal year 1981 and the fiscal year 1982 shall be allocated as provided in section 6(g).

(4) Not less than 50 percent of the funds authorized to be appropriated to the departments shall be used for the purposes of section 10 and section 11; and of such funds three per centum shall be available to the department for administrative purposes.

(b) There are authorized to be appropriated, without fiscal year limitation, to the Fund such sums as may be necessary and appropriate for purposes of carrying out section 12; but not to exceed $100,000,000.

EFFECTIVE DATE

SEC. 15. This Act shall take effect October 1, 1978.●

● Mr. STONE. Mr. President, I wish to commend my colleague from Hawaii for developing the National Aquaculture Policy Act of 1978 and to express by support as a cosponsor. Earlier this year Senator INOUYE cosponsored the aquaculture bill that I introduced, S. 2218, because of his interest and support of aquaculture. Today, I am joining in his National Aquaculture Policy Act of 1978 because of my firm belief in the future and importance of aquaculture in our country and the world.

Many of us have recognized the unrealized potential of aquaculture and have devoted significant time in looking for the best way to stimulate the development of this industry. We all want to see the potential of aquaculture reach its fulfillment as a food source and as an economic enterprise.

It was with this objective that Senator INOUYE's bill was developed by his staff in cooperation with the staff of the Agriculture Committee, and the staff of the Commerce Committee. It is a compromise statement, but I think it is more than a compromise. The bill is larger than the sum of its parts. It keeps the best of the pending proposals, and eliminates most of the stress factors.

I believe this bill provides a means for us to coordinate our Federal activities without impinging upon existing activities or interests of various departments or agencies. In addition, this bill emphasizes involvement by the States and public in the development of an aquaculture policy for America.

The proposed legislation incorporates grant, contract, and loan authorities, but keeps accountability at a high level. Perhaps most importantly it provides for demonstration projects—a time tested technique we have seen used effectively in agriculture. These demonstration projects in the various States or regions will be able to demonstrate the viability of the industry and the feasibility of aquaculture to the people who count—those on the ground.

Mr. President, the various legislative proposals that have been brought forth all share one common objective—to give leadership, encouragement, and strength to America's aquaculture industry. This is an infant industry but an industry with great potential. I join with my colleague Senator INOUYE, in the hope that this legislative initiative will be able to cut through the morass of narrow interests so we can achieve our common objective.

This bill recognizes the many segments of the industry. I believe we can all support it knowing that it will not detract in any regard from any program, or any interest. Rather, it will lend support and strength to all as well as get on with the job of developing aquaculture in America.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by the Senator from Hawaii (Mr. INOUYE), for himself, Mr. GRAVEL and Mr. STONE, relative to acquaculture, be referred jointly to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Commerce, Science, and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. BIDEN:

S. 3409. A bill to establish a program of grants to States and units of local government which have established property tax relief programs; to the Committee on Governmental Affairs.

REAL PROPERTY TAX REDUCTION ACT OF 1978

● Mr. BIDEN. Mr. President, I am introducing today a bill that will provide Federal incentives to State and local governments to ease the ever-increasing burden of the real property tax upon their citizens.

In recent years, States, and to an even greater degree, local governments and school districts, have been forced to rely more heavily on the real property tax. Local governments, faced by soaring costs as a result of inflation, but in many cases, with property tax bases still eroded from the recession, have been forced to increase their property taxes in an ever upward spiral.

"Tax revolts" are an integral part of American history. There is a new tax revolt with us today, in modern form. It is the increasing dissatisfaction with the property tax. People feel not only that it is too high, but also that it is inequitable. In a recent survey taken in Delaware, when people were asked whether—if necessary to continue essential State services—they favored an increase in income taxes, a sales tax, or a statewide property tax, only 16 percent opted for the property tax. Yet on the local level particularly, the property tax is the only major revenue source for providing essential local services.

One usually thinks of the homeowner as bearing the burden of property taxation. The fact is that many of the people who can least afford it pay property taxes through their rent, as the owner passes along tax increases in the rent he charges. Thus no one is immune from the burden which this tax imposes and which together with inflation eats away at the money needed for subsistence.

Last year, property tax relief was enacted in one form or another in 23 States. But such relief is essentially hit or miss and that does not begin to take care of the problem. Based on 1974 figures, average relief from circuit-breaker programs nationally provided tax relief benefits of only $143 per participant. While this has undoubtedly risen some, so have property taxes as the following figures show.

In the decade from 1966 to 1976, State and local property taxes have climbed at an amazing rate of 131 percent. Total revenues from property taxes in 1976 were $57 billion, a staggering sum that is about half of all Federal collections from the individual income tax. The per capita real property tax burden grew from $135 per capita to $266 in the decade.

The two groups often hit the hardest are the elderly who live on fixed incomes in these inflationary times and families of modest incomes seeking to raise and educate a family. In particular, the elderly find that the property tax can threaten a secure future in their own home, no matter how carefully that future was planned. For modest income families it is a barrier to a reasonable standard of living and to our national goal of a decent home for every family.

This reliance on the property tax places a strain on local governments which are the backbone of our Federal structure of our Government. In some ways, the Federal Government, by virtually monopolizing the income tax, has forced this reliance on property taxes. The Federal Government has an obligation to help ease the burden on those unable to bear it and, in fact is in a unique position to do so. However, its help must leave the flexibility to local governments to plan their finances to meet local needs.

The bill I am introducing today is broad in scope and nature. It seeks to give maximum flexibility to State and local governments in designing a program of real property tax relief to homeowners and renters to meet the specific problems or needs of their locality. The bill provides for a Federal grant equal to half of the tax relief granted under the tax relief program, but with maximum amounts per property to assure that reasonable levels of relief are observed. The program can cover property tax relief to homeowners, or renters, or both. Tax relief must be related to income to qualify, but the specific relationships are left to each locality to determine based on local conditions. Finally, to assure fiscal soundness, there is a limit on the total Federal funds to be given to any State based on a per capita amount.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Real Property Tax Reduction Act of 1978".

FINDING AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) real property taxes represent an es-

sential source of revenue to State and local governments;

(2) increasing reliance on real property taxation to provide revenue for the support of public services places a heavy burden on many individuals, particularly the elderly and families of low and moderate income;

(3) it is important that the impact of real property taxation be made more equitable for local taxpayers;

(4) preserving the strength and equity of State and local revenue sources is important to a strong Federal system of government;

(5) the Federal Government is in a unique position to take action to encourage State and local governments to both strengthen and equalize the impact of real property taxation; and

(6) any action by the Federal Government to deal with the impact of real property taxation should encourage State and local governments to work out solutions best suited to the circumstances of each individual State and local government.

(b) It is the purpose of this Act to—

(1) encourage the establishment and maintenance of strong and equitable State and local revenue systems;

(2) provide financial assistance to State and local governments which provide tax relief to individuals upon whom real property taxes place the greatest burden;

(3) provide a flexible system of Federal financial assistance so that each State and local government can design a system for property tax relief best suited to the needs of its citizens;

(4) encourage State and local governments to establish property tax relief programs for the elderly, families of low and moderate income, and tenants who pay property taxes as a part of their rent; and

(5) lessen the reliance of State and local governments on real property taxes as a means of support for public services.

DEFINITIONS

SEC. 3. For the purposes of this Act—

(1) the term "eligible person" means an individual who owns or rents his principal residence;

(2) the term "eligible program" or "eligible program of real property tax relief" means a program established under the laws of a State or local government which provides relief from State or local property taxes for eligible persons in accordance with the provisions of section 5;

(3) the term "household income" means the aggregate annual income, without regard to source or taxable status, of an eligible person and all other individuals occupying as their primary residence the same household as the eligible person;

(4) the term "personal income tax" means a tax imposed by a State or local government on the income of individuals;

(5) the term "real property tax" means an ad valorem tax imposed on real estate by a State or local government;

(6) the term "real property tax relief" includes—

(A) "direct real property tax relief", which means real property tax relief granted to an eligible person who owns his principal residence; and

(B) "indirect real property tax relief", which means real property tax relief granted to an eligible person who rents his principal residence;

(7) the term "Secretary" means the Secretary of the Treasury; and

(8) the term "State" means each State of the United States and the District of Columbia.

PAYMENTS TO STATES

SEC. 4. (a) The Secretary is authorized to make payments to State governments out of funds authorized under section 6, if he determines that a State or a unit of local government within a State has established a program of real property tax relief in accordance with section 5. Payments to a State under this section shall be used by that State in a program of property tax relief established in accordance with section 5 or for grants to units of local government within that State for use in property tax relief programs established in accordance with section 5.

(b)(1) Payments to any State under this section in any fiscal year shall not exceed an amount equal to the product of the population of that State multiplied by $10.

(2) In the case of direct property tax relief, payments under this section shall not exceed 50 percent of the total direct real property tax relief granted by any State or local government to each eligible person, up to a maximum payment of $375 per eligible person.

(3) In the case of indirect real property tax relief, the payments under this section shall not exceed 50 percent of the total indirect real property tax relief granted by any State or local government to each eligible person up to a maximum payment per eligible person of 12.5 percent of the annual rent paid by such eligible person or $375, whichever is less.

(c) In the case where two or more eligible persons reside in the same household and hold co-ownership or co-tenancy rights in their principal residence in the same calendar year, the amount of any payments to the State for such household shall be determined by treating all such persons as one eligible person in such calendar year.

(d) Payments under this section shall only be made for real property tax relief granted to an eligible person by a State or local government for the principal residence of that person.

(e)(1) Whenever a State government and units of local government within that State have established property tax relief programs in accordance with section 5, payments to the State under this section shall be apportioned among such property tax relief programs on the basis of (A) State law or (B) agreements between the State and the units of local government administering such local programs. In the absence of State law or any such agreement, payments under this section shall be determined solely on the basis of real property tax relief granted by the State to eligible persons.

(2) No State shall apportion any part of any payments made under this section to any unit of local government which has not established a real property tax relief program in accordance with section 5.

STATE AND LOCAL PROGRAMS FOR REAL PROPERTY TAX RELIEF

SEC. 5. (a) In order to receive payments under this Act, a State or unit of local government shall establish a program of real property tax relief which provides relief to eligible persons from State and local property taxes.

(b) Each state or unit of local government may select the mechanism by which real property tax may be granted in its eligible program from among—

(1) tax credits against personal income taxes;

(2) tax credits against real property taxes;

(3) refunds or rebates of real property taxes, or comparable cash payments; or

(4) such other mechanisms as the Secretary may prescribe by regulation.

(c) Each State or unit of local government may limit its eligible program to eligible persons within specified age groups, or may modify the real property tax relief provided for different age groups.

(d) An eligible program of a state or unit of local government shall provide that property tax relief shall be provided to an eligible person only if his real property taxes exceed a stated percentage of household income, using a sliding scale where the percentage increases as household income increases.

ADMINISTRATION

SEC. 6. (a) The Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

(b)(1) The Secretary may not make any payment under this Act to any State unless an application therefor has been submitted to and approved by the Secretary. Such application shall be submitted to the Secretary at such time, in such manner, and containing such information and assurances as the Secretary may by regulation prescribe. Such application shall contain an agreement by the State to provide the Secretary with such additional information, reports, and assurances as the Secretary finds necessary to carry out the provisions of this Act.

(2) If the Secretary disapproves the application of a State under this subsection, the State may take action to obtain judicial review of such action in accordance with the provisions of subsection (d).

(c) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State finds that—

(1) the State or a unit of local government within the State for whom an application was approved under subsection (b) no longer has an eligible program; or

(2) there is a failure by the State or a unit of local government within the State to comply substantially with any regulations promulgated by the Secretary which are applicable to this Act,

the Secretary shall notify such State that further payments will not be made to the State under this Act until the Secretary is satisfied that the State or unit of local government has a program which meets the requirements of this section or until there will no longer be such failure to comply with such regulations. Until he is so satisfied, the Secretary shall make no further payment to the State under this Act.

(d)(1) If the Secretary disapproves the application of any State under subsection (b), or withholds payments from any State under subsection (c), such State may, within sixty days after notice of such action, file with the United States Court of Appeals for the circuit in which the State is located, a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, except that the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may in such a case make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

ADDITIONAL COSPONSORS

S. 2860

At the request of Mr. MELCHER, the Senator from New Mexico (Mr. SCHMITT)

was added as a cosponsor of S. 2860, the Solar Satellite Research, Development, and Demonstration Program Act of 1978.

S. 3007

At the request of Mr. DOLE, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 3007, a bill regarding certain changes to the treatment of individuals as employers.

AMENDMENTS SUBMITTED FOR PRINTING

DUTY ON POPPY STRAW CONCENTRATE—H.R. 3790

AMENDMENT NO. 3469

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to H.R. 3790, an act to suspend until the close of June 30, 1980, the duty on concentrate of poppy straw used in producing codeine or morphine.

● Mr. LONG. Mr. President, prior to the Tax Reform Act of 1976, there was no specific rule relating to the allocation of a portion of the total consideration paid to acquire a sports franchise, including depreciable player contracts and other assets, such as nondepreciable franchise rights, which might be acquired at the time of acquisition of a franchise. Generally, this allocation was made on the basis of the estimated fair market values (or relative fair market values) of the various assets.

The 1976 act added a provision (section 1056 of the Internal Revenue Code) providing that, in the case of the sale, exchange, or other disposition of a sports franchise (or the creation of a new franchise), the amount of consideration allocated to a player contract by the transferee is not to exceed the sum of the adjusted basis of the contract in the hands of the transferor immediately before the transfer and the gain (if any) recognized by the transferor on the transfer of the player contract. Additionally, in the case of the sale or exchange of a sports franchise, it is presumed that not more than 50 percent of the consideration is allocable to player contracts unless the taxpayer can satisfy the IRS that under the facts and circumstances of the patricular case, it is proper to allocate an amount in excess of 50 percent. The provisions relating to the allocation of basis to player contracts applying to sales or exchanges of franchises after December 31, 1975, in taxable years ending after that date.

The committee amendment I am submiting today makes the basis allocation limitation rules inapplicable to a sale or exchange of a sports franchise before March 1, 1977 if, prior to December 31, 1975, the person who is the principal shareholder of the transferee at the time of the sale or exchange was committed to and did purchase more than 50 percent of the voting stock of the transferor. The committee believes that if such a commitment had been entered into prior to the effective date of the 1976 Act provision concerning acquisition of sports franchises and if the other conditions of the amendment had been met, it is appropriate to apply the transitional rule provided by the amendment.

The amendment would benefit Mr. William H. Sullivan, Jr., and the New England Patriots Football Club, Inc.●

REVOCATION OF ELECTION TO RECEIVE RETIRED PAY AS JUDGE OF TAX COURT—H.R. 8811

AMENDMENT NO. 3470

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to H.R. 8811, an act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court.

● Mr. LONG. Mr. President, the Tax Reform Act of 1976 excluded from an employee's income, for Federal income tax purposes, amounts contributed by an employer to a qualified group legal services plan for employees, as well as the value of any services received by an employee or any amounts paid to an employee under the plan as reimbursement for legal services for the employee, his spouse, or his dependents (section 120 of the Internal Revenue Code).

A question has arisen whether these excludible amounts should be subject to payroll taxes under the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA). The 1976 act did not expressly exclude these amounts from the definition of "wages" which are subject to FICA and FUTA payroll taxes.

The committee amendment I am submitting today provides that any contribution, payment, or service which is excludible from an employee's gross income under the qualified group legal services plan provisions also is to be excluded from "wages" for FICA and FUTA payroll tax purposes. The committee believes that it is consistent with the present law income tax exclusion, and the purposes of the legal services plan provisions, to extend the exclusion to cover FICA and FUTA payroll taxes.●

REVENUE LAW TIMING REQUIREMENTS—H.R. 7320.

AMENDMENT NO. 3471

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to H.R. 7320, an act to revise miscellaneous timing requirements of the revenue laws, and for other purposes.

● Mr. LONG. Mr. President, under present law, Federal gift and estate taxes are imposed upon lifetime and death transfers by nonresident aliens with respect to property which is situated in the United States (sections 2501, 2511, and 2101–2108 of the Internal Revenue Code). For this purpose, nonresident aliens are allowed charitable deductions for transfers to domestic corporations which are organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, but not for transfers to foreign charities (sections 2106(a)(2) and 2522(b)(2) of the code).

It has come to the Finance Committee's attention that the rule which allows gift and estate tax deductions to nonresident aliens only for transfers to a domestic charity creates a hardship in the special circumstances of the Foundation Josee et Rene de Chambrun. This foundation was created to preserve the home of General Lafayette, near Paris, along with his personal papers, belongings, and correspondence. Because the home of General Lafayette is located in France, it is not convenient for the foundation to be organized as a domestic corporation. However, the foundation, similar to many domestic charities, maintains prperty which is important to the history of this country. The foundation has qualified for income tax exemption in the United States.

In light of the special circumstances of this case, the committee has decided to allow deductions for Federal gift and estate tax purposes to Josee and Rene de Chambrun and their estates for transfers to the Foundation Josee et Rene de Chambrun to the same extent as if the Foundation were a domestic corporation.

The committee amendment would be effective for gifts made in calendar quarters, and for decedents dying, after the date of enactment.●

UNEMPLOYMENT COMPENSATION ELIGIBILITY PERIOD—H.R. 12380

AMENDMENT NO. 3472

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to H.R. 12380, an act to amend the Federal-State Extended Unemployment Compensation Act of 1970, with respect to an individual's eligibility period for benefits under such act.

● Mr. LONG. Mr. President, I am submitting an amendment on behalf of the Committee on Finance to correct an anomalous situation which occurs in applying the social security retirement test to certain types of income from farming or from renewal commissions based on prior sales of insurance contracts. This amendment has been considered by the Committee on Finance, and the committee voted to direct that it be offered as and amendment to an appropriate House-passed bill. The amendment is necessary to correct an unintended result of the 1977 Social Security Amendments, which eliminated the monthly exception to the social security retirement test.

Under the former monthly exception, full social security benefits were payable for any month in which an individual had no significant employment or self-employment activity even if they would otherwise have been reduced because of his annual earnings. Without this monthly exception, some farmers and self-employed insurance agents will lose social security benefits even though they may be completely retired. This happens

because they technically are considered to have self-employment income on the basis of proceeds from crops produced in a year before retirement or from renewal commissions on insurance policies sold before retirement.

Under the social security program, benefits are payable not on the basis of individual need as measured by an income test but as a matter of social insurance payable in relation to prior earnings upon the occurrence of specified events (disability, death, retirement in old age). The purpose of the provision of the social security law under which benefits are reduced for earnings above a certain amount is to serve as a test of whether one of those events—retirement in old age—has, in fact, occurred. Since that provision is intended as a retirement test and not as a needs test, it is inappropriate to apply it in a manner which results in the reduction of benefits to persons who have actually completely retired but who continue to receive some of the fruits of their earlier labors. For this reason, the amendment modifies the treatment of two types of income. Under the amendment, there would be no reduction in benefits because of farm income from the sale of a crop produced in a prior year provided that, in the year in which the income is actually received, the retired farmer does not engage in any substantial farming activities. An individual could claim this exemption in only 1 year. The amendment also provides that social security benefits will not be reduced because of renewal premiums from prior-year sales of insurance if they are received after age 65 and in a year in which the individual is not engaged in selling insurance. This provision would apply to the self-employed insurance agents who actually made the sale and also to other individuals who qualify for such renewal premiums because of their contribution to the sales effort.

The costs of this amendment are estimated to be approximately $1 million to $2 million in each of the next 5 fiscal years. The amendment will have negligible impact on the long-range costs of the social security program.●

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION—H.R. 12232

AMENDMENT NO. 3473

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to H.R. 12232, an act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes.

● Mr. LONG. Mr. President, at the direction of the Committee on Finance, I am submitting an amendment which is designed to provide relief to the Jefferson County, Colo., Mental Health Center in connection with certain social security tax liabilities.

In 1975, the Jefferson County Mental Health Center in response to a survey initiated by the Internal Revenue Service was unable to find any indication that it had waived its taxes. As a result, the IRS directed the center to refund those taxes for the prior 3 years to any employees who did not elect to have their social security coverage continued. The center made the refund and applied to IRS to have the amount of those taxes repaid to it. At that point, the IRS discovered that a valid waiver of immunity had, in fact, been filed and that it was therefore, unable to refund the taxes paid to the center. The center is seeking relief only for the employee share of the social security taxes involved and only for the period prior to the time when IRS notified the center that its previous instructions were in error. (This notification occurred on May 14, 1975, and the amount of employees taxes which had been refunded at that point was $74,128).

The Finance Committee's Subcommittee on Taxation and Debt Management held a hearing on this proposal in October 1977. The administration witnesses indicated agreement that relief to the Jefferson County Mental Health Center is appropriate. However, the administration expressed concern over the possible loss of social security coverage for the affected employees and the possibility that they may not have made an informed choice in opting for the refund.

Under the committee amendment, the Secretary of the Treasury would be directed to refund to the Jefferson Mental Health Center approximately $74,000 representing the employee social security taxes which it had refunded to its employees on the basis of the IRS misinformation. The wages on which those taxes were paid would not be used for determining social security eligibility or benefit amount. However, the affected employees would be given an opportunity to elect to restore the deleted coverage upon repayment of the refunded taxes. Such repayment could be made in installments over a reasonable period of time as determined by the Secretary of the Treasury. The Department of Health, Education, and Welfare would be required to make a reasonable good faith effort to contact the affected employees and to inform them of the consequences of their decision as to whether or not to repay the taxes. (The exact amount to be refunded to the center will be subject to verification by the Secretary of the Treasury of the amount that the center repaid to its employees.)●

TUITION TAX RELIEF ACT OF 1978—H.R. 12050

AMENDMENT NO. 3474

(Ordered to be printed.)

Mr. PACKWOOD (for himself, Mr. MOYNIHAN, Mr. ROTH, and Mr. RIBICOFF) proposed an amendment to H.R. 12050, an act to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PENITENTIARIES AND CORRECTIONS

● Mr. PAUL G. HATFIELD. Mr. President, I wish to announce that the Subcommittee on Penitentiaries and Corrections of the Committee on the Judiciary will resume its hearings on S. 3227, the Therapeutic Communities Act of 1978, next week. The third day of hearings on this bill is scheduled for Friday, August 18, 1978, at 9:30 a.m. in room 5110, Dirksen Senate Office Building, Washington, D.C.

Persons wishing to testify or to submit a statement for the record should contact the subcommittee staff by writing to the Subcommittee on Penitentiaries and Corrections, A–407 Annex 3, 119 D Street NE., Washington, D.C. 20510, or by calling (202) 224–5461.●

COMMITTEE ON HUMAN RESOURCES

● Mr. WILLIAMS. Mr. President, the Committee on Human Resources will hold a hearing on the nomination of Jerome R. Waldie, Richard V. Backley, Marian Pearlman Nease, Frank F. Jestrab, and A. E. Lawson to be members of the Federal Mine Safety and Health Review Commission. These hearings will be held on Thursday, August 24, 1978, in room 4232 of the Dirksen Senate Office Building, at 9:30 a.m. Persons wishing additional information should contact Mike Goldberg of the committee staff at 224–3674.●

ADDITIONAL STATEMENTS

ISRAELI SETTLEMENTS IN THE WEST BANK

● Mr. ABOUREZK. Mr. President, I am enclosing an article from Time magazine dated August 21, 1978, which describes the inexorable progress of Israeli settlements in the West Bank. This article illustrates one of the most dangerous aspects of Israel's expansionism in the Middle East and why thousands of people have been killed in the past and why thousands more will most likely die before the conflict is ended.

The Time article and the accompanying Washington Post article of August 14, both of which describe settlement activity in the West Bank, should be remembered by everyone concerned as the major cause for future conflict in the Middle East.

Mr. President, someday, hopefully, the U.S. Congress and the Government will stop its financial, military, and political support of one of the two active settler states left in the world, the other being South Africa.

I submit the following articles for the RECORD:

[From the Washington Post, Aug. 14, 1978]

ISRAEL IS CONSIDERING FIVE MORE SETTLEMENTS

(By Yuval Elizur)

JERUSALEM—Israeli officials plan to establish five new Jewish settlements in the occupied West Bank, Israeli Radio and Agriculture Minister Ariel Sharon disclosed yesterday.

The controversial plan—which some observers say could seriously raise tensions in the Middle East as the Sept. 5 summit meeting of Israeli, Egyptian and U.S. leaders nears—first became known here two weeks ago, but military censorship held up its publication until yesterday.

A Cabinet committee headed by Sharon

approved the plan several days ago, Israeli Radio said. Deputy Prime Minister Yigael Yadin said, however, that the plan has not yet come before the full Cabinet or major parliamentary committees, whose approval would be needed.

Cabinet secretary Aryeh Naor noted last night that the committee's decision to approve the plan came before the Camp David summit meeting had been scheduled. He said he expects the full Cabinet to consider the matter at its regular meeting next Sunday.

There were reports, nevertheless, that Sharon is going ahead with preparations for the settlements—three in the northern part of the Jordan Valley and two in the Jericho area.

Sharon, a hawkish member of Prime Minister Menachem Begin's Cabinet and the official responsible for settling occupied territories, has described the most recent plan as "the last chance to intensify Israeli settlement in this strategic area."

A senior source in the government's settlement program was quoted by United Press International as saying, "We have to do it now. Next year will be too late."

Israeli settlement of the occupied territories has been a serious irritant in relations between Israel and the United States, which considers such activities illegal. Egyptian President Anwar Sadat has pointed to such moves in the Sinai and West Bank as major obstacles to a negotiated peace.

[President Carter, who has condemned previous settlements in the occupied territories, was asked about the new plans last night, AP reported.

["Well, I wish they wouldn't create any more settlements," Carter said. He declined to comment on the impact the plans might have on the summit, according to AP.

[Initial Egyptian reaction to the Sharon plan was swift, though low-key, UPI reported.

["If true, this is going to cast a big cloud on the Camp David summit," one government official in Cairo said. "Positions (of Egypt and Israel) are wide apart already and this is why President Carter called the summit. To build new settlements now would complicate matters further."]

Members of the Israeli "Peace Now" movement, composed mainly of young people who oppose Begin's foreign policy, had defied censorship by sticking up posters on billboards and street corners giving details of the plan. Yesterday Sharon gave in and ended the censorship.

The state-owned Israel Radio said Sharon outlined his plan several weeks ago to representatives of the five settlement movements and asked them to organize groups to establish the new communities. Although most of the people at the meeting belong to the opposition Labor Party, four of the five movements promised to cooperate.

The Labor-dominated governments that preceded the present government also advocated the establishment of settlements in the strategically vital but sparsely populated Jordan Valley. Twenty settlements have been established there since 1967, and some have become successful agricultural enterprises.

The five new settlements that Sharon wants to put up actually were planned in principle by the previous government.

Even so, the Peace Now movement, the leftist Mapam movement and certain elements in the Labor Party say that under the present circumstances, with the Camp David talks only three weeks away, Israel should refrain from additional settlement efforts. Sharon, on the other hand, is convinced that before Israel makes a political commitment that might tie its hands, it must strengthen its security in the new settlements from the perspective of security rather than from a political point of view. Sharon demanded and obtained the help of the military censor in keeping the news from leaking to the press.

TWO STANDARDS OF JUSTICE

God's command to Jacob is being obeyed by his Jewish descendants. High on a hilltop above the valleys of the West Bank, 35 families belonging to Israel's ultranationalist *Gush Emunim* are building a new settlement named Beth-El. They claim that 120 Jewish families are waiting to move into the settlement, nine miles north of Jerusalem, in territory that Israel has occupied since the 1967 war. There are plans for schools, a religious study center, an industrial area and even a holiday resort.

One mile south of Beth-El is the Palistinian town of Al-Bireh (pop. 22,000). Last month Israeli military governor issued an order closing 7,000 dunams (1,750 acres) just north of Al-Bireh to Arab development and construction. The order further decreed that all construction work presently under way must be stopped. Al-Bireh officials and residents are angry because the ruling effectively prevents any kind of expansion for the town's growing population.

Al-Bireh, whose slogan is "City on the Move," has always prided itself on its progressive image. In 1972, pressed for more space, townspeople asked Israeli permission to expand municipal boundaries to adjacent lands owned by Al-Bireh residents. The Israelis not only rejected the request but forbade development in two areas, including a site on which Arab businessmen wanted to build a resort.

Israeli officials claim that the latest Al-Bireh order was necessary for security reasons. They point out the disputed land adjoins the military governor's headquarters. As one official explained, "We do not want to be confronted one morning by houses on the borders of our military camps." That may be a valid point, except that Beth-El, meanwhile, is being built on land originally expropriated by Israel solely for military purposes. Abdul Jawad Hussein, a retired businessman who owns part of the land where Beth-El is being built, says that since 1969 the Israelis have fenced off the land and prevented his family from using it. In return, he has been paid one Jordanian dinar ($3) per dunam, or $141 in annual rent for his twelve acres.

Just across the road from Beth-El, a cooperative composed of 62 Arab schoolteachers who organized to buy land and build homes, has also run into trouble. Now much of their land too has been restricted by the Israelis'. Says Ahmad Thalji, a retired schoolteacher: "I bought one dunam 20 years ago. Now I am told I cannot build a house. I hear people always speaking about human rights. Where are the human rights in this injustice?"

To West Bankers, who have sent complaints to the U.N. and to President Carter, the Al-Bireh case is the latest evidence that Israel is pursuing a policy of creeping annexation of the West Bank. Despite protests from the U.S. and elsewhere that Israeli policy contravenes the Geneva convention forbidding civilian settlements in occupied territory, construction at Beth-El continues.●

ZAGORIA NOMINATION

● Mr. BAKER. Mr. President, on Saturday the White House announced that Mr. Samuel D. Zagoria had asked that his name be withdrawn as a nominee to the Federal Election Commission. This development marked the culmination of a lengthy and unfortunate disagreement with the White House over Republican nominees to the FEC.

Mr. President, I am very pleased that this problem has been resolved to the satisfaction of all the parties involved. Sam Zagoria is a decent and honorable man. He is a distinguished public servant and a fine Republican. As I stated at his confirmation hearings, and earlier to him privately, I deeply regret that he was caught up in this disagreement. Sam Zagoria was a victim of circumstances in the truest sense of the phrase. The White House informs me that he will be nominated to another Government position; and should that nomination require the advice and consent of the Senate, I expect that he will have my support.

Mr. President, the course of action initiated by Mr. Zagoria and agreed to by the White House is a fitting and appropriate means of resolving this unfortunate disagreement. Congressman RHODES and I look forward to working with the White House in the selection of the new Republican nominees to the FEC.●

AIRLINE DEREGULATION

● Mr. McGOVERN. Mr. President, the passage of the airline deregulation by the Senate earlier this year—and the consideration being given that concept in the House of Representatives—continues to trouble residents of my State who share my concern with the need for viable commercial airline service in rural America.

The Civil Aeronautics Board, acting in advance of any legislative action on this matter, has already moved to provide increased flexibility to the Nation's airlines in their fare structures. Relaxation of existing CAB rules and regulations on airline routes can be anticipated to the full extent the CAB has the mandate to do so.

Available statistics indicate that the less restrictive CAB policies are substantially increasing load factors for most commercial airlines. This trend should be encouraged.

By the same token, however, it will not benefit smaller States that do not have major airline trunk service, if residents of those areas are denied access to the national airways system by the elimination of local service.

In advance of what many believe will be a completely deregulated airline environment in the years ahead; several airlines are already moving to strengthen their economic position to "do battle" with the major trunk carriers.

Directly affecting South Dakota—Western Airlines is negotiating with Continental—and North Central Airlines has reached an agreement in principle to merge with Southern Airways. At the same time, the CAB is considering its staff proposal that the existing subsidy arrangements be substantially altered. Nothing would trigger the withdrawal of regional carriers from smaller service points faster—than would a major change in the existing subsidy arrangements.

Recognizing these problems—and sharing my deep concern for commercial airline service in South Dakota—Gov. Harvey Wollman of our State has issued

an executive order creating a task force to study the airline problem we face and to come forward with realistic and feasible solutions.

Mr. President, I ask that Governor Wollman's executive order be printed in the RECORD.

The executive order follows:

EXECUTIVE ORDER 78–11

Whereas, the people of South Dakota are faced with the urgent problem of losing scheduled air service; and

Whereas, Federal airline deregulation, loss of subsidy payments, retirement of Convair 580 aircraft, airline mergers, escalating labor, equipment and fuel prices are collectively contributing to the problem of loss of air service; and

Whereas, it is the concern of the State to insure that it's citizens receive adequate air transportation inasmuch as South Dakota has no rail passenger service and limited bus service; and

Whereas, the 1977 legislative assembly did pass House Concurrent Resolution Number 509 expressing concern for the future of airline service in South Dakota,

It is therefore by executive order directed that the Department of Transportation, Division of Aeronautics be afforded the necessary support to study the air service problem by creating a Task Force according to the provisions of this order.

Section 1: Organization.

The duties and functions of the Airline Deregulation Task Force, herein after referred to as a Task Force, shall be performed under the direction and control of the Director of the Division of Aeronautics, South Dakota Department of Transportation; provided, however, that the Task Force shall exercise any advisory and research functions assigned to it by the provisions of this order and shall be responsible for reporting all findings by December 1, 1978 to the Governors Economic Cabinet Subgroup, the State Board of Transportation, the South Dakota Aeronautics Commission, and the Transportation Committees of the State Legislature.

Section 2: Composition.

The Task Force shall be composed of the following members appointed by the Governor:

a. A representative of the Division of Aeronautics, South Dakota Department of Transportation. Such a representative shall also serve as chairman of the Task Force.

b. A representative of the Division of Policy Development, South Dakota Department of Transportation.

c. A legal representative of the South Dakota Department of Transportation.

d. A representative of the Attorney General's office.

e. A representative of the State Planning Bureau.

f. A representative of the State Council on Local Affairs.

g. A representative of the Business Research Bureau, University of South Dakota.

h. A representative of the Public Utilities Commission.

i. A representative of the Airport Managers Association.

j. A representative of the South Dakota Municipal League.

k. Representatives of North Central, Western, Ozark and Frontier Airlines and

l. A representative of the South Dakota Congressional Delegation.

m. Members of the general public.

The Task Force shall be composed of not more than nineteen members appointed by the Governor and, shall broadly represent the nine air carrier municipalities of the state.

Section 3: Responsibilities.

The Task Force shall:

(a) Study scheduled air service to determine the desirable level of future air service.

(b) Inventory air transportation history and future needs in South Dakota.

(c) Work with the Old West Regional Commission and neighboring states to identify alternatives for replacement air service.

(d) Study economic, legal and regulatory conditions pertaining to the airline industry and report any statutory or constitutional changes and prepare legislation or amendments.

(e) Report findings and recommendations by December 1, 1978 to the Governors Economic Cabinet Subgroup, the State Board of Transportation and the South Dakota Aeronautics Commission.

Now, therefore, I, Harvey Wollman, Governor of the State of South Dakota by the virtue of the authority vested in me by the Constitution and the Statutes of this State, do hereby order and direct that a Task Force be created to assist the Department of Transportation, Division of Aeronautics in a study of the problems surrounding scheduled air service in South Dakota.

Be it further ordered, that this executive order shall expire on July 31, 1979.

Dated at Pierre, The Capital City, this 7 day of August, 1978.●

THE ENERGY ISSUE

● Mr. RIBICOFF. Mr. President, one of the most critical issues facing the Nation is the energy crisis and our ability to effectively deal with it. It is not only a reality for the American economy but its solution is a symbol for the rest of the world. The strength of the dollar and our worldwide economic position rest on achieving a solution.

We must make hard decisions on the way we will produce and use various forms of energy. The enactment of a national energy plan is essential. Passage of the various parts of the energy program which have been cleared by the House and Senate will signify that there is a national will to deal with the energy challenges facing the United States.

Mr. President, we in Congress have an obligation to sweep away theory and rhetoric and face reality. We cannot wait any longer in taking final action on the pending energy legislation. An August 13, 1978, editorial in the Washington Post, "Illusions About the Gas Game," is worthy of careful reading and understanding. I ask that the editorial be printed in the RECORD.

The editorial follows:

ILLUSIONS ABOUT THE GAS GAME

The collapse of the natural-gas compromise in Congress—an event that appears very likely—would have dire political consequences. It would signify the demise of President Carter's energy plan. It would tell voters that a disorganized and chaotic Congress wouldn't make up its mind. It would warn other nations that the United States does not care to fashion any sort of an energy policy beyond the status quo. It would be a failure of government.

The immediate responsibility for rescuing the compromise lies with the 42 senators and representatives who serve on the conference committee. Last May the conferees announced an agreement, in principle. Ever since then they have been trying to reduce the principle to legislative language, with the quarrels deepening as time passed. The peculiarly depressing thing about this spectacle is that the negotiators on both sides are being pushed and hounded by constituencies committed to utterly unrealistic hopes and beliefs.

The corridors of the congressional office buildings have lately been crowded with independent gas producers in their tooled boots, demanding that Congress sink the compromise. It's not the big oil companies that carry the political weight when emotions rise. It's the thousands of independents and wildcaters who swing congressional votes—and congressional elections. A good many of those independents have persuaded themselves that, if the compromise loses, Congress will go on to deregulate gas completely next year. That, in our judgment, is absolutely wrong. If the compromise loses, nobody in Congress will touch the issue again for a decade. For the men caught in the middle of this conference, it has been an ugly and bruising experience. None of them intend to repeat it.

On the other side, among the consumers' lobbies, the prevailing spirit is an obdurate and impervious naiveté. It sees the entire issue as purely a moral test—a celestial struggle between the infinite goodness of the consumer and the infinite greed of the producer—in which all considerations of production costs, market conditions and prices of competing fuels are irrelevant. All matters of fact, like the recurrent gas shortages, are brushed aside as products of monstrous conspiracies among the gas and oil companies.

If there is no compromise and no legislation, the prices of natural gas will continue to be set by the federal regulators. Ironically, people on each side are convinced that the regulators will favor them. They can't all be right. Past history suggests strongly that regulation would produce a pattern of irregular rises in prices, but not as fast as the compromise would provide. The Producers who want to gamble on a rapid jump in regulated price ceilings are probably wrong. The consumer lobbyists who are counting on a price rollback are certainly wrong.

What if there's no legislation? To meet the shortages, the United States will begin importing Mexican gas at a price half again as high as the highest permitted to any American producer. Then it will turn to Algerian gas and Alaskan gas, both brought at prices twice as high as the Mexican gas. All those costs will eventually find their way to you-know-who. The idea that continued regulation will protect the consumer, and guarantee him a continued supply of fuel at low prices, is the most expensive illusion of all. Meanwhile, the litigation and uncertainty churned up by the regulatory process will probably keep U.S. production lower than it would have been under legislation.

The gas compromise is nobody's ideal. In the long struggle to accommodate a great variety of conflicting views, it has become enormously complicated, and that kind of complexity always makes trouble. There is only one thing that you can really say for the compromise—but it is the one thing that matters: The legislation would serve everybody, consumer and producer alike, better than the alternative, which is no legislation at all for years to come.●

ALEKSANDR PODRABINEK TO BE TRIED

● Mr. PELL. Mr. President. word has just reached the West that the trial of Aleksandr Podrabinek, a brave and fearless young man, will commence on Tuesday 35 miles east of Moscow. Podrabinek, 25 years old, is to be charged with article 190–1 of the RSFSR Criminal Code, the "circulation of fabrications which defame the Soviet state."

The evidence against Podrabinek, the "defamatory fabrications" Podrabinek is accused of circulating, undoubtedly will be the information he disseminated as

head of the Working Commission to Investigate the Abuse of Psychiatry for Political Purposes, a group which works closely with the Moscow Helsinki monitors. Podrabinek took it upon himself to draw attention to the fate of men and women incarcerated in psychiatric hospitals in the U.S.S.R. for their political or religious beliefs. Information about these abuses of psychiatry—facts which are extremely difficult to come by—was compiled and distributed in the form of bulletins issued by the group. For example, bulletins Nos. 3, 4, and 7 provided information on the case of Yosep Terelya, the 35-year-old Ukrainian poet, who has spent over 14 years in Soviet prisons and psychiatric hospitals for refusing to renounce his beliefs. Podrabinek's group reported that Terelya suffers from a heart ailment, that letters from his wife are not delivered to him, that she has appealed to the World Psychiatric Congress for assistance in freeing her husband, and that he had recently been transferred to Dnepropetrovsk Special Psychiatric Hospital. For selflessly reporting on the facts of Terelya's situation, and others like him, Podrabinek faces a possible 3 years in labor camp.

We in the Congress must speak out against the injustice of prosecuting a courageous and noble young man who sought only to relieve the suffering of those around him. I vehemently protest the trial of Aleksandr Podrabinek and, once again, remind the Soviet authorities that the continued persecution of men and women like Podrabinek will have serious implications on the climate of United States-Soviet relations.●

RULE CHANGE URGED BY STOP ERA ORGANIZATION

● Mr. ABOUREZK. Mr. President, I was amused recently when I received a letter from Phyllis Schlafly's STOP the ERA organization. The letter states:

That extending the time limit for ratification is just plain unfair.

The letter then goes on to quote numerous editorial statements concerning the proposed extension for ratification of the equal rights amendment including the following: "Manipulating the rules," "Don't rig the rules for ERA," and "Changing the rules in the middle of the game."

I find this amusing in light of the fact that Ms. Schlafly has long been in the business of "changing the rules in the middle of the game."

So that my colleagues may share the joke, I submit the following letter Ms. Schlafly sent to former Virginia Congressman Jim Thomson in 1976.

The letter follows:

STOP EQUAL RIGHTS AMENDMENT,
January 5, 1976.

HON. JAMES THOMSON,
Virginia House of Delegates,
Richmond, Va.

DEAR DELEGATE THOMSON: This is a confidential letter which I am writing to you because our friends look to you as the principal leader in the Virginia Legislature in the effort to defeat the Equal Rights Amendment. We are most grateful for your successful work in this regard in the past, and I personally requested all my Virginia friends to give you full support in the recent election.

The purpose of this letter is to apprise you of a plan of action which, in your capable hands, could, I believe, bury ERA permanently and give your Legislature the opportunity to give attention to other pressing issues.

This plan involves the adoption of a Rule in your Legislature requiring a three-fifths majority for ratification of a Federal constitutional amendment—a device made practical by the appointment and confirmation of John Paul Stevens as Associate Justice of the U.S. Supreme Court. Please bear with me while I explain.

In 1970 the people of Illinois adopted a new State Constitution, which went into effect in 1971. Article XIV, Section 4 provided (and this was a change from our old Constitution):

"The affirmative vote of three-fifths of the members elected to each house of the General Assembly shall be required . . . to ratify a proposed amendment to the Constitution of the United States. . . ."

Our Legislature has wrangled about the three-fifths rule each of the four years that ERA has been considered. For the first couple of years, the President of the Senate stuck by the Illinois Constitution and ruled that ratification requires a three-fifths majority. The Speaker of the House tried to rule for a simple majority, but was overruled by the members.

During this period, ERA received a simple majority vote in both Houses, but not a three-fifths majority. So the pro-ERAers in the Legislature went into Federal Court to try to get Article XIV, Section 4 of the Illinois Constitution declared unconstitutional so that ERA could be declared already ratified.

Meanwhile, in the election of 1974, the leadership of our Legislature changed completely, and the new President of the Senate was announced as favoring the simple majority. So, one day in 1975, the Senators, from the floor, without any advance notice of any kind, proposed and passed a Senate Rule requiring a three-fifths majority for ratification of Federal constitutional amendments. This Rule read:

"Be it resolved by the members of the Illinois Senate of the 79th General Assembly that, in voting to ratify a proposed amendment to the United States Constitution, the required vote for ratification shall be the affirmative vote of three-fifths of all the members of the Illinois Senate in the 79th General Assembly."

A three-judge Federal Court considered this case a long time. When the decision was finally handed down on February 19, 1975, it was written by none other than Judge John Paul Stevens. He wrote a scholarly 16-page opinion, (reported in *Dyer v. Blair*, 390 F. Supp. 1291) the gist of which is:

(1) The Illinois Senate and House each has full power to require a three-fifths majority in voting on Federal constitutional amendments. "We have concluded that Article V [of the U.S. Constitution] delegates to the state legislatures . . . the power to determine their own voting requirements."

(2) The three-fifths requirements in the 1970 Illinois Constitution is not mandatory on the Illinois General Assembly, but it is "precatory" and may be accepted by the Illinois General Assembly.

(3) The Court specifically upheld the three-fifths requirement of the Illinois Senate at the time of the ERA vote.

Please note that the Rule upheld was three-fifths of the total number of Members of the Legislature (not three-fifths of those present and voting).

The theory behind Justice Stevens' opinion is that the U.S. Constitution gives the power of ratification to the State Legislatures, and they have full authority to set their own rules under which they exercise this power. Thus, either House can adopt a simple two-thirds or three-fifths rule—and it is binding. Both Houses do not have to have the same rule, and neither House need answer to any other authority for the adoption of its rule.

I am sure you see the implications of this. In our Legislature (as I am sure there are in every Legislature), there are a certain number of members who can be persuaded to vote for a three-fifths rule who are nevertheless committed to vote for ERA. There could be many different reasons for this. They may be strict constructionists. They may believe that a constitutional amendment is of such importance that it should require a super-majority. They may even welcome the chance to vote on both sides of a hot issue.

The spread between the vote on the Rule and the vote on ERA can make the crucial difference. In the Illinois Senate, for example, we passed the three-fifths rule by a simple majority of 50 votes (including a couple of pro-ERA Senators), and *then* it took 36 votes to ratify ERA, which the proponents could not achieve.

I highly recommend this procedure to get rid of the ERA issue in your Lesiglature so that you can move on to other pressing business. In your Legislature, if the proponents knew they had to get a three-fifths majority instead of a simple majority, they might abandon their efforts and give you some peace.

Now that Justice Stevens is on the U.S. Supreme Court, no one can say that such a Rule is something irregular or unconstitutional.

Enclosed is a newspaper column I wrote that gives the heart of the argument in favor of requiring a super majority.

If you would like me to provide you with a xerox copy of Justice Stevens' 16-page opinion, I can do so. If you have any other questions, feel free to write me or phone me at 618-462-5415, or to phone my lawyer husband Fred Schlafly at his office 618-465-7733. Fred was in this case an amicus curiae representing some of our anti-ERA legislators.

With all best wishes, and thanking you again for your defeat of ERA in your Legislature,

Faithfully,

PHYLLIS SCHLAFLY.●

TAX BASED INCOMES POLICY

● Mr. McGOVERN. Mr. President, many thoughtful economists, in searching for ways to slow the inflationary pressures that are ever more quickly sapping the strength of our economy, are discussing the possibility of adopting a tax based incomes policy (TIP). Recently I had the opportunity to exchange views on this subject with Dr. Barry Bosworth, who appeared before the Joint Economic Committee. While obviously cautious in his estimate of the ultimate usefulness of this approach, which claims to combat inflation by holding down wage increases, he did list it as one of the alternatives under consideration by the Administration.

This recent article, in the August issue of Dun's Review, contains a very clear explanation of how the various TIP proposals would work. As we all search for ways out of the swamp of stagflation, I am certain this proposal will receive increasing attention. Because it contains such a fine overview of the issues and options involved in a tax based incomes

policy, I ask that it be printed in the RECORD.

The article follows:

TIP: THE ANSWER TO INFLATION?

(While organized labor is balking and the Carter Administration is chary about the political pitfalls, a tax-based incomes policy is the only new idea that has come to the fore.)

"We're going to play more rounds of this silly game unless we come up with a new policy."

That's the gloomy view of Brookings Institution economist Arthur Okun as he assesses current attempts to beat back inflation. Okun's "silly game" is nothing more nor less than the old boom-bust cycle, and he sees it resulting from the application of traditional methods of fighting inflation: Tight budget and monetary policies that bring on a recession, at which time the Administration and the Federal Reserve start to pump things up again, leading to a new round of inflation, and so on. As an alternative to such start-stop policies. Okun is among a handful of economists pressing hard for the adoption of a tax-based incomes policy (TIP), and it's conceivable that a hard-pressed Carter Administration will opt for just such an approach.

TIP aims to combat inflation by holding down wage increases. For as University of Pennsylvania economists and TIP pioneer Sidney Weintraub puts its: "In the long run, the price level largely reflects wage increases in excess of productivity increases."

THE OTHER CAUSES

True, there are other reasons for the current inflationary surge—huge federal deficits, the high cost of government regulation and the minimum wage and Social Security tax hikes, for example. But wage pressures contributed significantly to the situation, and those pressures could become just about unbearable next year. A big round of labor negotiations in key industries is due, and the White House is deeply concerned that there may be a repeat of the 1976 bargaining pattern, in which settlements in those industries ranged from 30 percent to 34 percent in wages and fringes over three years. The Administration is determined to limit next year's contracts to a 20 percent to 25 percent ban, but it will not be easy.

Thus far, big labor has turned a deaf ear to White House pleas for restraint. It pressured the White House, which in turn pressured the coal industry last winter to give the mineworkers a 39 percent, three-year package, and the other big unions are determined to do as well. Teamster President Frank Fitzsimmons has already announced that he will settle for nothing less when truckers' contracts expire next March. The recent railroad labor settlement of some 35 percent, in the face of Administration pleas to take less, indicates how difficult the White House job will be. Overall labor settlements in the first quarter rose to 8.5 percent from 1977's 7.5 percent despite White House exhortations to "deescalate" them.

TIP would try to get the heart of the wage-push problem with either a carrot or stick approach—rewarding through tax cuts those workers and companies that hold the wage line or penalizing with a tax increase those firms that grant inflationary wage hikes. TIP was conceived about seven years ago by Weintraub and Yale economist Henry C. Wallich, now a member of the Federal Reserve Board, and it was based on the penalty approach.

Under Wallich-Weintraub, TIP would be confined to the nation's largest companies—either the top 1,000 or 2,000—which would be required by new legislation to limit their total wage and benefits increases to the recent long-term productivity rate plus half the current inflation rate. Right now, that would mean about 2 percent or 1.5 percent for productivity plus 3.5 percent or 4 percent for inflation, according to Wallich. This would be a maximum wage gain of about 6 percent compared with the 8.5 percent rate in the first quarter and the 10 percent-to-11 percent some of the big unions garnered in the last big round of bargaining in 1976. Companies exceeding the 6 percent guideline would be penalized with a 5 percent corporate income tax surcharge.

A plan covering the 2,000 largest companies would encompass 85 percent of the output of the private sector and about 25 percent of the wages and fringes paid in the entire economy, according to Weintraub. Various levels of government would probably be included as well, bringing the wage total to 35 percent. "These are the economy's pacesetters. Everybody else would soon fall into line," says Weintraub. And Wallich believes that adoption of this form of TIP would bring the current inflation rate of about 8 percent down to 4 percent in two to six years.

REWARDING COOPERATION

Arthur Okun gives full credit for the TIP idea to Wallich and Weintraub, but he insists that their stick version is not politically feasible. Says Okun: "The penalty approach looks anti-labor and will be impossible to get through Congress." Okun has come up with his own version, rewarding both companies and workers that hold the wage line. Under Okun's plan, workers in a company that holds wage hikes to 6 percent would receive a tax credit equal to 1.5 percent of their pay up to $20,000—for a maximum of $300. At the same time, the company would receive a tax credit equal to 25 percent of the total granted its employees. For the average worker, the combination of a 6 percent wage hike and a 1.5 percent tax credit would work out to about an 8 percent package because the 1.5 percent credit equals 2 percent before taxes.

Okun estimates that the plan would cost the Treasury about $10 billion-to-$12 billion annually and would knock one percentage point off the inflation rate in each of the next three years. "It could always be renewed for another three years, but I think that one round of labor negotiations under the plan would break the wage spiral," says Okun.

In contrast to the Wallich-Weintraub limited approach, Okun's TIP would be voluntary, but open to all companies. As Okun envisions it, on October 1 prior to the year in which TIP would take effect, the Internal Revenue Service would mail forms to all employers asking them to enlist in the program. Those workers whose employers signed up would find the tax credit reflected in their January 1 paychecks in the form of lower withholding. Firms would be free to grant promotions and merit increases as long as their overall payroll increase remained within the guideline.

Each company would also be required to state how it intended to measure its average wage increases—for example, it could choose to do it by the entire payroll, by individual plants or subsidiaries or by occupational groups. But once a company opted for a particular yardstick, it would have to stay with it for one year. Companies that did not elect to sign up immediately could take the pledge later on. But their employees would not receive their tax benefits until they filed their returns at the end of the year.

Okun says that his plan would contain inflation more quickly than the Wallich-Weintraub approach because of its universality. Among his reservations about Wallich-Weintraub: Limiting TIP to the biggest companies would not solve inflationary settlements in construction and trucking, which are dominated by smaller companies. Okun also argues that his version would achieve widespread acceptance because workers would see their standard of living rising as inflation receded from the current 8 percent level while they continued to receive annual increases of roughly that amount.

ADMINISTRATIVE DIFFICULTIES

Henry Wallich concedes that the Okun plan is far more feasible politically than his approach. But both Wallich and Weintraub maintain that a universal system that involves monitoring tens of millions of individual taxpayers would be extremely difficult to administer. The penalty approach involving 1,000 or even 2,000 corporations would be relatively easy for the Internal Revenue Service to handle without taking on a new army of bureaucrats, according to Weintraub. The University of Pennsylvania economist insists that under his plan only half a dozen lines would have to be added to the corporate tax form and that the monitoring of the nation's major companies would require the hiring at most of twenty more auditors at the IRS.

But Weintraub is virtually alone in his insistence that the stick plan could be implemented with such a small addition to the bureaucracy. Emil Sunley, Deputy Assistant Secretary of the Treasury for tax policy, maintains that there are "tremendous administrative complexities" in either approach, but that they could be handled. Okun admits that his carrot plan would require many more bureaucrats to administer the tax laws, but he insists that it would be worth the price.

How do other economists react to the idea of TIP?

There is a good deal of opposition. For example, Joseph Pechman, Okun's longtime Brookings colleague and one of the nation's leading tax experts, opposes both versions of TIP because they run counter to the goal of simplifying the tax system. He argues that the more social and economic goals the nation tries to implement through the tax system, the more complicated the system is bound to become. Probably the most negative view of TIP is expressed by Washington University economist Murray Weidenbaum, who believes that it would become "an administrative nightmare." The former Nixon Administration Treasury aide maintains that if inflation is found to stem from the wage side, then Congress should amend the labor laws to rein in the unions; if it is determined that inflation comes from price rigidities, then new antitrust statutes should be passed. Weidenbaum might have a case, but the politics of that approach are even more impossible than the politics of TIP.

But between those who are strongly for or against TIP is a wider spectrum of economists such as Arnold Weber of Carnegie-Mellon University, who says: "I'm not wild about the TIP idea, but there are few alternatives." Weber notes that the U.S. uses the tax system to encourage firms to hire the hard-core unemployed or invest in new plant and equipment, so there is no valid reason why it shouldn't use it to fight inflation.

Nothing like the TIP plan has ever been tried in the United States or anywhere else, although Henry Wallich points out that there is a precedent in the Korean War controls program that denied any corporation a tax deduction on that portion of a wage increase deemed to be "excessive." But the definition of excessive was very subjective and the power was rarely invoked. While it is unlike TIP, recent British experience indicates that getting a hold on wages is certainly a major solution to the inflation problem. Three years ago, with wages and prices soaring at rates of 26 percent and 27 percent respectively, a frightened Labor Government entered into a social compact with the trade unions. In exchange for a small tax cut for

lower income workers, the unions agreed to limit their wage demands to the equivalent of $13 a week. Within a year, price and wage increases were down to around 14 percent.

The compact was renewed the following year and again in 1977. The 10 percent wage target set last year has now brought Britain's inflation rate down to around 7.5 percent. The Labor Government is now negotiating with the unions for a new wage target of 5 percent, which could reduce the inflation rate still further. While moral suasion surely played a role in the government's effort, its ultimate weapon was the trade union movement's fear that a continuation of galloping inflation would bring the Conservatives to power.

The Carter Administration last winter seriously considered recommending the Okun version of TIP to Congress. Both top White House economist Charles L. Schultze and Council on Wage and Price Stability Director Barry Bosworth were strong advocates of the idea. But the Treasury was opposed. It didn't want to shoulder the burden of administering the program through the Internal Revenue Service, and it was afraid that TIP would bury once and for all the longtime drive towards tax simplification.

In the end, President Carter backed away from TIP for two reasons: the implacable opposition of organized labor and the fear that as TIP wended its way through the legislative process, it would become filled with loopholes and exemptions demanded by powerful pressure groups. Even Arthur Okun, a politically savvy Washington operator who has close ties with many key Senators, admits that "if I had been sitting next to the President, I couldn't have advised him to send it up to the Hill last year because the politics were impossible."

But that was before inflation began to heat up again. Okun concedes that the politics of recommending TIP are still very difficult, but maintains that labor might grudgingly conclude that it is worth a whirl in preference to tight monetary and fiscal policies that will only send the unemployment rate soaring again. Weintraub, who will go for the Okun version if he can't get his own, is impatient with arguments that such government intervention in the wage mechanism would be still another blow to the free-market economy. Says Weintraub: "Those who resist this moderate intervention into the market system are insuring its demise, because the government will end up taking even stronger measures to fight inflation. TIP would improve the market system, not dethrone it."

NO ALTERNATIVE

While the chances of getting TIP in place before the Teamsters' contract runs out next March are not very good, the possibility should not be ruled out entirely. As inflation ratchets up month after month, the White House is becoming increasingly desperate for a new idea and it is very fearful that monetary and fiscal restraint will push the economy into still another recession next year.

Even Treasury Secretary W. Michael Blumenthal now says the TIP idea "is worthwhile pursuing," although it faces many practical problems. And for all its political pitfalls, TIP would be far easier for a Democratic Administration to push through than a Republican one. Much like the British experience, labor could take something from the Democrats that it could never accept from the Republicans. "Nobody really likes TIP, but we don't have anything else," says a top White House policymaker. That may be a hard way to sell a new idea, but like the idea of growing old, the alternative may be worse.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I submit for the RECORD the notification I have just received.

The material follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 9, 1978.

In reply refer to I-5669/78ct
Hon: JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-69, concerning the Department of the Air Force's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $19 million and support costs of $.6 million for a total estimated value of $19.6 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

Attachments.

[Transmittal No. 78-69]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.
(ii) Total Estimated Value:

[In millions]

Major Defense Equipment*	$19.0
Other	.6
Total	19.6

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

(iii) Description of Articles or Services Offered: One hundred (100) GBU-15(V)4/B electrical optical glide bomb kits (less warhead), 200 FMU-124A/B fuzes, modification kits, technical data and spare parts.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 19, 1978.

PRELIMINARY NOTIFICATION PROPOSED ARMS SALES

Mr. President, Section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that Act in excess of $25 million or, in the case of major defense equipment as defined in the Act, those in excess of $7 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the Chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the Committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the record in accordance with previous practice.

I wish to inform Members of the Senate that such a notification was received on August 9, 1978.

Interested Senators may inquire as to the details of this preliminary notification at the offices of the Committee on Foreign Relations, Room S-116 in the Capitol.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 9, 1978.

In reply refer to I-7052/78ct
Dr. HANS BINNENDIJK,
Subcommittee on Foreign Assistance, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Northeast Asian country tentatively estimated to cost in excess of $25 million.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I submit for the RECORD the 19 notifications I have just received.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-4920/78ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-70, concerning the Department of the Navy's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $33.7 million and support costs of $2.7 million for a total estimated cost of $36.4 million. Shortly after this letter is delivered

to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

Attachments.

[Transmittal No. 78-70]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SELECT 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.
(ii) Total Estimated Value:
Major Defense Equipment,* $33.7 million.
Other, $2.7 million.
Total, $36.4 million.
(iii) Description of Articles or Services Offered: One hundred (100) Walleye MK I and one hundred (100) MK-22 Extended Range Data Link (ERDL) bombs.
(iv) Military Department: Navy.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-1350/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-71, concerning the Department of the Army's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $12.6 million and support costs of $1.6 million for a total estimated cost of $14.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-71]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.
(ii) Total Estimated Value:
Major Defense Equipment*, $12.6 million.
Other, $1.6 million.
Total, $14.2 million.
(iii) Description of Articles or Services Offered: Forty-eight thousand (48,000) 175mm High Explosive Projectiles, M437A2, with supplement charge.
(iv) Military Department: Army.
(v) Sales Commission, Fee, etc., Paid, Offered or Agreed to be Paid: None:
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-4565/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-73, concerning the Department of the Army's proposed Letter of Offer to the Republic of China for major defense equipment, as defined in the International Traffic in Arms Regulation (ITAR), estimated to cost $72.1 million and support costs of $3.3 million for a total estimated cost of $75.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-73]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Republic of China.
(ii) Total Estimated Value: Major Defense Equipment,* $72.1 million.
Other, $3.3 million.
Total, $75.4 million.
(iii) Description of Articles or Services Offered: One hundred (100) 155mm self-propelled, full-tracked, Howitzers, M109A2.
(iv) Military Department: Army.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-4633/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-75, concerning the Department of the Navy's proposed Letter of Offer to Pakistan for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $9.3 million and support costs of $.9 million for a total estimated cost of $10.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

Attachments.

[Transmittal No. 78-75]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Pakistan.
(ii) Total Estimated Value:
Major Defense Equipment,* $9.3 million.
Other, $.9 million.
Total, $10.2 million.
(iii) Description of Articles or Services Offered: Forty (40) MK-46 Mod 2 torpedoes and associated equipment.
(iv) Military Department: Navy.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-3607/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-76, concerning the Department of the Navy's proposed Letter of Offer to Spain for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $41 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-76]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Spain.
(ii) Total Estimated Value:
Major Defense Equipment,* $0.0 million.
Other, $41.0 million.
Total, $41.0 million.
(iii) Description of Articles or Services Offered: Three (3) MK-13 Mod 4 Guided Missile Launching Systems.
(iv) Military Department: Navy.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11,1978.

In reply refer to I-3440/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-77, concerning the Department of the Army's proposed Letter of Offer to Korea for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $8 million and support costs of $1 million for a total estimated cost of $9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-77]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Korea.
(ii) Total Estimated Value:
Major Defense Equipment,* $8.0 million.
Other, $1.0 million.
Total, $9.0 million.
(iii) Description of Articles or Services Offered: One thousand one hundred eight (1,108) TOW guided missiles, BGM-71A-1.
(iv) Military Department: Army.
(v) Sales Commission, Fee, etc. Paid, Offered, or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-3272/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 78-78, concerning the Department of the Army's proposed Letter of Offer to Thailand for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $15.5 million and support costs of $18.0 million for a total estimated cost of

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

$33.5 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments

[Transmittal No. 78-78]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Thailand.
(ii) Total Estimated Value:
Major Defense Equipment*, $15.5 million.
Other, $18.0 million.
Total, $33.5 million.
(iii) Description of Articles or Services Offered: Annual ammunition purchase for stocks consumed in practice and in combat. Includes 5.56 mm through 155 mm ammunition in addition to mines and components.
(iv) Military Department: Army.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-2142/78ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Appropriations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-79, concerning the Department of the Army's proposed Letter of Offer to Iran for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $9 million and support costs of $1.8 million for a total estimated cost of $10.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-79]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.
(ii) Total Estimated Value:
Major Defense Equipment,* $9.0 million.
Other, $1.8 million.
Total, $10.8 million.
(iii) Description of Articles or Services Offered: One hundred (100) M548 tracked cargo carriers, 6 ton, with machine guns.
(iv) Military Department: Army.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-5673/78ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-80, concerning the Department of the Navy's proposed Letter of Offer to Iran for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $12.8 million and support costs of $.9 million for a total estimated cost of $13.7 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-80]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.
(ii) Total Estimated Value:
Major Defense Equipment,* $12.8 million.
Other, $.9 million.
Total, $13.7 million.
(iii) Description of Articles or Services Offered: One hundred eighty-six (186) AIM-9H SIDEWINDER missiles.
(iv) Military Department: Navy.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-5668/78ct.
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U..S Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-82, concerning the Department of the Navy's proposed Letter of Offer to Iran for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $38 million and support costs of $1 million for a total estimated cost of $39 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-82]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.
(ii) Total Estimated Value:
Major Defense Equipment,* $38.0 million.
Other, $1.0 million.
Total, $39.0 million.
(iii) Description of Articles or Services Offered: Two (2) T-ATF ocean type tugboats.
(iv) Military Department: Navy.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-5663/78ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN; Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-83, concerning the Department of the Army's proposed Letter of Offer to Korea for major defense equipment, as defined in the International Traffic in Arms Regulations, (ITAR), estimated to cost $22.4 million and support costs of $1.6 million for a total estimated cost of $24 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-83]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Korea.
(ii) Total Estimated Value:
Major Defense Equipment*, $22.4 million.
Other, $1.6 million.
Total, $24.0 million.
(iii) Description of Articles or Services Offered: Thirty seven (37) M109A2, 155mm, self propelled howitzers and support equipment.
(iv) Military Department: Army.
(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-4921/78ct
Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN; Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-84, concerning the Department of the Navy's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $17.5 million and support costs of $1.3 million for a total estimated cost of $18.8 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-84]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.
(ii) Total Estimated Value:
Major Defense Equipment*, $17.5 million.
Other $1.3 million.
Total, $18.8 million.
(iii) Description of Articles or Services Offered: One hundred (100) AGM-45A-9 SHRIKE missiles and one hundred (100) AGM-45A-10 SHRIKE missiles.
(iv) Military Department: Navy.
(v) Sales Commission, Fee, etc. Paid, Offered or Agree to be Paid: None.
(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

herewith, Transmittal No. 78-85, concerning the Department of the Navy's proposed Letter of Offer to Israel for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $22.5 million and support costs of $1.7 million for a total estimated cost of $24.2 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-85]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Israel.

(ii) Total Estimated Value:
Major Defense Equipment*, $22.5 million.
Other $1.7 million.
Total, $24.2 million.

(iii) Description of Articles or Services Offered: One hundred seventy (170) AIM-7F Sparrow missiles.

(iv) Military Department: Navy.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-4918/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-86, concerning the Department of the Army's proposed Letter of Offer to Korea for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $52.8 million and support costs of $2.1 million for a total estimated cost of $54.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-86]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Korea.

(ii) Total Estimated Value:
Major Defense Equipment*, $52.8 million.
Other, $2.1 million.
Total, $54.9 million.

(iii) Description of Articles or Services Offered: Twenty two (22) AN/TPQ-36 Mortar locating radar and related equipment.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-4761/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-88, concerning the Department of the Army's proposed Letter of Offer to the Republic of China for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $15.8 million and support costs of $1.1 million for a total estimated cost of $16.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-88]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Republic of China.

(ii) Total Estimated Value:
Major Defense Equipment*, $15.8 million.
Other $1.1 million.
Total $16.9 million.

(iii) Description of Articles or Services Offered: Twenty five (25) 8 inch, self-propelled full tracked howitzers (M110A1).

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY
Washington, D.C. August 11, 1978.

In reply refer to I-4734/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-89, concerning the Department of the Army's proposed Letter of Offer to Thailand for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $10 million and support costs of $.9 million for a total estimated cost of $10.9 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

Attachments.

[Transmittal No. 78-89]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Thailand.

(ii) Total Estimated Value:
Major Defense Equipment,* $10.0 million.
Other, .9 million.
Total, $10.9 million.

(iii) Description of Articles or Services Offered: Forty Thousand (40,000) 2.75'' Rockets.

(i) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-3608/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-90, concerning the Department of the Army's proposed Letter of Offer to Spain for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $12.1 million and support costs of $3.9 million for a total estimated cost of $16 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, U.S.A.

Attachments.

[Transmittal No. 78-90]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Spain.

(ii) Total Estimated Value:
Major Defense Equipment*, $12.1 million
Other, $3.9 million.
Total, $16.0 million.

(iii) Description of Articles or Services Offered: One hundred twenty nine (129) vehicles consisting of: Carrier personnel, M113A1 (77 each), Carrier mortar, 81mm, M125A1 (33 each), carrier command post, M577A1 (11 each), and carrier cargo M-56 (8 each).

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 11, 1978.

DEFENSE SECURITY ASSISTANCE, AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-5819/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-92, concerning the Department of the Army's proposed Letter of Offer to Iran for other than major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $200 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-92]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.

(ii) Total Estimated Value:
Major Defense Equipment,* $0.0 million.
Other, $200.0 million.
Total, $200.0 million.

(iii) Description of Articles or Services Offered: To establish and manage a helicopter logistics support organization in Iran and to train Iranian personnel to manage and operate the helicopter logistics support organization.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 11, 1978.

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 11, 1978.

In reply refer to I-5672/78ct

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78-93, concerning the Department of the Army's proposed Letter of Offer to the Republic of China for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $116.3 million and support costs of $9.1 million for a total estimated cost of $125.4 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.

Attachments.

[Transmittal No. 78-93]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Republic of China.

(ii) Total Estimated Value:
Major Defense Equipment,* $116.3 million.
Other, $9.1 million.
Total, $125.4 million.

(iii) Description of Articles or Services Offered: Five (5) battery I-Hawk air defense systems with support.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: August 11, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

UNITED STATES-JAPANESE ECONOMIC STATUS

● Mr. GLENN. Mr. President, recent discussions of the United States-Japanese economic situation have focused on the decline of the dollar's value as it relates to the yen. The growing attention that is being paid to the exchange rate is obviously warranted and developments must be monitored. Of much greater concern than the quantitative dollar-yen relationship, however, is the apparent disharmony caused by American and Japanese efforts to bolster the respective economies. Ambassador Mansfield correctly identified as a major problem the perception that the Japanese market is less open to our goods than is our market to Japan's product. Certainly there are examples of "administrative guidance" and quotas that support this interpretation. On numerous occasions, as chairman of the East Asian Subcommittee of the Foreign Relations Committee, I have enunciated my conviction that diligent, cooperative efforts are the only means of easing the growing frictions between the United States and Japan.

Mr. President, it is with these concerns that I shall submit for the RECORD an insightful article written by James N. Wallace which appeared in the U.S. News & World Report of August 14, 1978. His observations are persuasive evidence of the critical need to intensify our commitment to spanning the gap which the current economic imbalance has widened. The health of the international economic system, as well as that of our domestic economy, demands that we continue to tackle these problems in a cooperative spirit underpinned by patience and understanding.

The article by Mr. Wallace follows:

[From News & World Report, Aug. 14, 1978]

WHY U.S. AND JAPAN ARE DRIFTING APART

(By James N. Wallace)

TOKYO.—Japan's surging exports and America's sagging dollar are fast undermining a quarter-century-old partnership between the two Pacific powers.

Behind the tension: a dollar that buys only about 190 yen—the lowest exchange rate since a 360-to-1 rate was set in April, 1949—and Japan's record 6.3-billion-dollar surplus in trade with the U.S. over the past six months.

The average Japanese still is fascinated with offshoots of U.S culture—McDonald's hamburgers, "Star Wars" movie-fan clubs and suggestive T-shirt slogans. Only foreign visitors see anything odd in preteen Japanese girls practicing baton twirling in a Buddhist temple courtyard while a phonograph blares "On Wisconsin."

Yet just below this East-meets-West surface, economic conflict is creating major problems for the future. It is generating serious frustrations among politicians and businessmen of both nations and is eroding Japanese respect for U.S. leadership that turned former enemies into close, dependent allies.

Above all, there is a sharp reduction of Tokyo's confidence in the capability of President Carter's administration to manage the U.S. economy and maintain America's No. 1 position as leader of the Western world.

Charges, countercharges. A new note of animosity is edging into trade disputes. Some Japanese claim that "racism" accounts for what they insist is greater U.S. pressure on Tokyo than on white European nations to make trade concessions. And many U.S. officials here in the capital say Japan drags its heels when urged to reduce the huge trade imbalance. "It's time," says one American, "that our friends in Tokyo do more than just talk."

This growing bitterness reflects the inability or unwillingness of each nation to keep promises that were made earlier. Some Americans insist that Japan never intended to fulfill its January pledge to cut this year's trade surplus with the U.S. in half. Japanese counter that Washington reneged on a promise, which was made at the same time, to have an effective energy bill in force within 90 days.

Japanese openly complain that the U.S. wants to penalize them for their years of hard work and sacrifice. Instead of worrying about the declining dollar, one prominent commentator says, Japan should declare "strong yen" holidays so workers can "calmly look back at over 30 years of high-growth toil that has put the Japanese economy where it stands today."

Ironically, U.S. postwar policies and nearly 2 billion dollars in economic aid through 1950 played a primary role in transforming a devastated Japan into America's major economic competitor.

After the war, U.S. food kept millions of Japanese from starving. In the early 1950s, American farm products—sold for yen that then were returned to the Japanese government—provided the initial capital for rebuilding and modernizing Japan's industry.

Defense umbrella. Just as important, U.S. promises to defend a demilitarized Japan spared the nation the burden of maintaining its own military forces and enabled Tokyo to concentrate its vast energies on economic expansion. Even today, Japan spends less than 1 percent of its gross national product on its military forces.

Every Japanese over 40 is well aware of America's role in the nation's recovery. But there is very little public acknowledgment of how much is owed to U.S. support. And because most political leaders avoid discussing military matters, there is even less recognition among Japanese that they depend on the U.S. for their defense.

From Prime Minister Takeo Fukuda on down, Japanese blame America's massive trade deficit and weakened dollar almost solely on the failure to curb oil imports and control inflation. They insist that unless this is done, any easing of Japan's restrictions against imports would be valueless.

Tokyo analysts emphasize that between 1973 and 1977 Japan's economy grew 13 percent, with almost no increase in oil consumption. During the same period, they say, the U.S. economy expanded only 7.9 percent, while oil consumption rose 7.2 percent. Japanese also claim that their annual inflation rate is only 4 percent, less than half America's double-digit rate.

Most Japanese officials blame U.S. woes more on weak Carter leadership and congressional politics than on erosion of the American character.

Tokyo experts are uncertain whether Washington is practicing "benign neglect" of the dollar or is deliberately driving down its value to reduce the trade deficit by cheaper prices for U.S. exports. Either way, they are baffled by a government that, in Japanese eyes, seems unconcerned about maintaining the worth of its currency.

Some Japanese are beginning to detect even broader weaknesses in American society. They are puzzled, for instance, by trade unions' demanding large wage increases that risk setting off both inflation and recession.

They contrast this "confrontation attitude" unfavorably with the more cooperative attitude of Japanese labor in times of economic difficulty. Last spring, Japan's unions accepted business and government arguments that the national economy could afford pay hikes of only 5 to 6 percent and settled for raises slightly below price increases of the preceding year.

Signs of declining "discipline" in America also bother some Japanese, particularly those in their 40s and 50s who worked 60-hour weeks at low pay to create Japan's economic miracle two decades ago. Such Japanese are dismayed by newspaper reports about those Americans who would rather receive $400 a month on welfare than work for $600.

Tokyo's immediate worry, however, is not American mores, but the threat of American protectionist pressures after congressional elections in November, especially if the new Congress meets just as the U.S. may be heading into an economic slump. The biggest fear is the imposition of surcharges on all imports from Japan. Some congressmen are urging Carter to do just that under legislation already on the books.

Limiting exports. Partly to head off across-the-board restraints, Japan agreed last April to regulate or discourage some key exports. The goal is to hold overseas sales—but not their dollar value—slightly below totals for the fiscal year that ended last March. Special attention is being paid to products that made up 45 percent of Japan's 84.6 billion dollars in exports and accounted for an overwhelming share of the country's lopsided surplus in trade with the United States.

Automobiles, the largest export to the U.S., are restricted under a uniquely Japanese system of "administrative guidance." The power-

ful Ministry of International Trade and Industry has told manufacturers to hold down auto shipments to about 2 percent below levels of the previous year.

This action may have limited impact on 1978 trade totals. Auto exports are expected to fall significantly in the coming months, but for the first half of the calendar year they were 31.5 percent above the same period in 1977.

Exports of color television sets to the U.S. dropped 37 percent to 627,000 units in the first five months of the year, mainly because of the three-year "orderly market agreement" adopted at U.S. insistence in May, 1977. But competition from South Korea and Taiwan also cut into Japanese sales.

Steel exports were slashed nearly 22 percent during the first six months of 1978 by an American-instituted "trigger price" that last February raised the price of Japanese steel sold in America by about 10 percent.

Other major exports, including motorcycles, watches, cameras and copying machines, are restricted only by government promises to limit overseas sales. Some Western trade specialists say that these items—not subject to specific quotas—will be the best indicator of Tokyo's determination to reduce its still-growing trade surplus.

Complicating this Pacific trade conflict is Japan's seeming immunity from classic economic laws governing what happens when a currency soars in value. Although Tokyo's top trade negotiator, Nobuhiko Ushiba, warned that a 200-yen-to-$1 exchange rate can badly impair Japan's economy by raising the price of its exports, there has been little evidence of damage so far.

Each rise in the yen's value from about 290 to the dollar 19 months ago to the 190-to-1 level in early August has brought predictions that Japan would lose its export competitiveness. Yet nothing of that sort has happened.

Makers of toys, stainless steel flatware, china, scarves, mosaic tiles, eyeglass frames and some textiles have lost up to half their overseas orders. But these are small, labor-intensive or technologically outmoded industries. Except for shipbuilding, which has been hit by a worldwide slump, Japan's big industries are increasing exports not subject to specific controls.

One major reason for Japan's ability to cope with the yen's rapid rise is its basic trade structure. Food and raw materials make up about 80 percent of all imports, and most are paid for in dollars. As the dollar declined, so did costs to Japanese manufacturers.

Most industries also can squeeze more productivity from facilities that frequently were working below capacity after the 1973 oil crisis. Also of help: dedication of Japanese workers to their jobs, and such technical innovations as assembly lines, controlled by punched tape, that turn out hi-fi components.

Inflation in the U.S., Japan's biggest single market, is a major plus for this country's exporters. Auto sales provide a dramatic example of how this works.

To cope with the yen's swift rise, Japanese auto makers have raised dollar prices in the U.S. seven times since May, 1977—an average boost of 25 percent across the board. But U.S. auto companies, facing inflation and seeking bigger profit margins, also were raising prices. This kept the price spread between domestic and imported cars narrower than analysts had expected.

The spread is beginning to widen, however, and now ranges from $400 to $1,000 on comparable models.

Japanese manufacturers say sales in America are dropping slightly but that they do not expect any sharp decline. They are confident that many American buyers will continue to be willing to pay premium prices for the fuel economy and relatively trouble-free performance of Japanese-made autos.

Little impact at home. Except for reducing the cost of imported raw materials, the change in the dollar-yen rate has had little impact on Japan's domestic economy. There has been no big increase in imported consumer goods, and only a handful of retail prices have been trimmed because of cheaper dollars.

Japanese welcome price cuts on such items as phonograph records, fountain pens, color film, refrigerators, lemons and instant coffee, but these goods account for only a tiny fraction of consumer spending in one of the world's highest-priced economies.

In Tokyo, along with the jump in the yen's value, there is an unmistakable rise in the number of Americans and Japanese who fear that the two nations are on an economic collision course and that relations over all will suffer.

Ideas differ on what might set off a crisis; another 25 percent drop in the dollar's value; new U.S. restrictions on Japanese imports, and blunt American insistence that the Japanese market be thrown open to more U.S. imports—a move Tokyo officials have restricted.

What most people agree on is that conflict is inevitable unless trade and monetary problems are tackled with considerably more good will and imagination than leaders in either capital have shown in recent months.

Says U.S. Ambassador Mike Mansfield: "We have some tough days ahead of us. And if we don't succeed this year in achieving at least a strong beginning toward fundamental solutions to the imbalance in our economic relationship, we are going to have even tougher days further down the road."●

SUNSET PLAN WOULD REVIEW FEDERAL SPENDING PROGRAMS

● Mr. KENNEDY. Mr. President, I would like to call the attention of my colleagues to an article which appears in the August 21 issue of Forbes magazine, "Kemp-Roth and Proposition 13: The Cart Before the Horse?" It discusses an important alternative to the drastic tax-cutting proposals which are now before the Congress.

The alternative I speak of is the "Sunset" plan proposed by my distinguished colleague from Maine, Senator ED MUSKIE. The plan would provide for review of about one-fifth of Federal spending programs every 2 years. Under the Sunset plan, Congress would have a chance to evaluate the worth of existing programs and eliminate those which it found to be wasteful or ineffective. It could also reduce duplication of programs in different agencies of the Government.

This proposal would enable us to reduce Federal spending in a far more rational, sensible manner than would be possible under proposals like proposition 13 or the Kemp-Roth tax cut bill. Kemp-Roth type proposals constitute "meat ax" legislation: they would have us take a wild chop at Federal spending, rather than permit the kind of skillful surgery which is really needed. Tax cut plans encourage the Government to increase deficit spending or cut back programs at random. It would be far better for the Congress to review the laws and programs it has already established, making rational and careful judgments about which programs need to be cut or reduced in spending, as Senator MUSKIE has proposed.

I support Senator MUSKIE's Sunset bill. I urge my colleagues to give it careful consideration. In order that Members of the Senate may read about it, I ask that the Forbes article be printed in the RECORD.

The article follows:

KEMP-ROTH AND PROPOSITION 13: THE CART BEFORE THE HORSE?

(By James S. Byrne)

The very politicians who have given us our marvelous tax system are now vying with one another to persuade the voters that they sincerely believe in *lower* taxes. Even before California's Proposition 13, the message was slowly getting through that—much as they like government services—American citizens do not enjoy paying for them.

The latest entry in the tax-cut derby is Senator Edmund Muskie (D–Me.). This one-time presidential hopeful is pushing hard for what he calls a "Sunset" bill. This bill hasn't gotten the attention that Proposition 13 has received, nor that the press has lavished upon the Kemp-Roth bill (*see* John Berry article below), which would cut income taxes by 30 percent over three years. The Muskie bill, however, is by far the most honest and realistic approach to the matter. It puts first things first by focusing on government spending rather than on government taxing.

"Dammit," thunders Muskie, "the Republicans are going to use the government spending issue. We shouldn't give it away." In Muskie's view that's exactly what the Democratic leadership in Congress is doing.

Muskie is frustrated precisely because he thinks he had just the thing for all the Democrats who will be scratching this fall for an election response to the public sentiment that turned California government on its ear with Proposition 13. The Sunset bill's concept is excruciatingly simple: All federal spending programs would automatically close down within ten years unless Congress specifically votes to extend them.

In both Proposition 13 and the Kemp-Roth bill there are big measures of wishful thinking: Cut taxes and, somehow, government spending would be reduced. But this ignores a little thing known as deficit spending. It also ignores off-balance-sheet government spending. There is no guarantee that faced with lower tax revenues government wouldn't simply step up deficit financing. Given the ways politicians behave this is almost a certainty.

Much as businessmen may feel sympathy for Proposition 13 and the Kemp-Roth bill, they would do well, too, to realize that such drastic tax-cutting measures pose a threat to the business community. If you cut personal income taxes and property taxes without cutting government spending, you create tremendous pressures to raise taxes elsewhere—and business becomes an obvious target. Already voices are being heard in the land suggesting that legislatures should replaces the money by taxing the "fat cats."

In sharp contrast, Muskie, chairman of the Senate Budget Committee, has picked the right target. His motives may be political but his reasoning is sound. The biggest problem with federal spending, as almost any budget expert will tell you, is not that new programs get added but that few ever get dropped. The current budget process, Muskie argues, doesn't ask whether a program is worth keeping, but merely how much it should get each year.

The Sunset bill would require that about one-fifth of the spending programs in the budget be reviewed every two years, "and," says Muskie, "like programs would be recon-

sidered simultaneously, with an eye toward minimizing duplication and waste." The bill would ensure that no program could slip through by focusing on what the budget technicians call "subfunctions." There are 66 of these groupings within the federal budget, each of which includes all of the spending for a particular purpose regardless of which program it falls under or which department actually runs it. (Examples: Subfunction 272 is energy conservation, and 501 is elementary, secondary and vocational education. Both of these would be reviewed by September 1982 under Muskie's bill.)

There are a host of notable examples of old programs that refuse to die. These, now virtually invulnerable to cuts, would become extremely vulnerable under Muskie's bill. Examples:

Medicaid. Passed in 1965, and costing the federal government about $11 billion this year, has never had a top-to-bottom review by Congress. Medicaid's purpose is to help low-income families pay their medical bills, but there are those who believe it has done more to help doctors line their pockets. In any event, its existence in its present form constitutes a major stumbling block to rationalization of the nation's health-care financing.

Rivers and Harbors. Some laws under which millions of dollars are spent each year for improvements to rivers and harbors date back to 1899 and have never been reviewed, according to the Congressional Budget Office.

Countercyclical Revenue Sharing. Muskie himself was the author of a bill passed over a veto in 1976 to provide up to $1.4 billion a year to recession-hit state and local governments. Along with conservative supporters; such as former Senator Bill Brock (R-Tenn.), Muskie insisted that it include a provision to turn off the federal money tap when the national unemployment rate fell below 6%. (The June rate was 5.7%.) Now the Carter Administration has proposed continued funding of the program by focusing it solely on cities—adding about 10,000 new recipients. Muskie says he is sympathetic to the goal of aiding cities where unemployment still is high, but he thinks this is the wrong way to go about it. Rather than renege on the phase-out, design a special program for cities that are in need, he argues.

In sum, the political virtue of Sunset legislation is clear. It would give an opportunity to challenge the premises of existing programs, the backers of which often hide behind two Capitol Hill verities: 1) that it is far easier to keep an old program going than to enact a new one; and 2) that it is far, far easier just to get money for one more year of an old program than to have to answer searching questions about a program's true worth.

Muskie has rounded up a diverse group of supporters for Sunset. The White House loves it, and so do such unlikely allies as the Chamber of Commerce of the U.S. and Senators Edward M. Kennedy (D-Mass.) and Robert P. Griffin (R-Mich.).

It has its opponents, too.

The National Association of Manufacturers and the Business Roundtable, outspoken champions of reducing federal spending, will be in the trenches fighting the Sunset bill if there is the least chance that tax incentives—such as the investment tax credit and deduction of intangible drilling costs—would be subject to it. Senator Kennedy plans to lead a floor effort to require exactly such reviews of tax incentives.

Powerful senators like Russell Long, chairman of the Finance Committee, are no fans of Sunset. Congressional committee chairmen know their precious turf will be invaded and their constituent groups possibly pushed out into the cold by the forced program reviews. And that's part of the reason, too, why both the Senate and House leadership is so lukewarm to Sunset.

The opponents mount two arguments. First, they claim, most programs get reviewed anyway each year or so. Second, operation of the bill would require an enormous increase in congressional staff. Muskie disputes both points, ticking off some programs that have not been reviewed. As for the latter, he snorts, "Congress has built a tremendous staff, without Sunset, to write new laws. I think that part of the staff responsibility should be to spend some time reviewing those laws."

The Sunset bill has been reported out of committee, and Muskie is confident that, one way or another, he will get it onto the floor in spite of filibusters on energy and several other issues. It should pass if he can get it to a vote. Given Speaker Thomas P. O'Neill's lack of interest, Sunset legislation has not been moving in the House. But the Chamber of Commerce is trying to stir up support there, too.

Unfortunately, Sunset lacks the sex appeal of Proposition 13 or the Kemp-Roth bill. But where the latter two involve, essentially, symptom therapy, the former attacks the root causes of unnecessarily high taxes: excessive and unnecessary government spending.●

THE SOVIET BATTLE AGAINST ITSELF

● Mr. STONE. Mr. President, could you, in all good conscience, keep silent if you knew of a physicist, Lev Ubozhko, who was first arrested for distributing samizdat—unofficial—literature and then sent to a psychiatric hospital for 6 years because of that distribution? Could you, in all good conscience, keep silent if you knew this was only one small case out of over 200 documented cases of psychiatric internment of political dissidents? Could you keep silent if you knew that silence helps condemn them? Most people in the Soviet Union prefer to turn the other ear because of the remarkable efficiency and brutality of the Soviet internal security organs, and the remarkable price those organs demand for any kind of insubordination.

For a rare few, however, the burden of the fate of those hundreds of people is too great to be dismissed and ignored. For some, like Aleksandr Podrabinek, the moral impulse to speak out and help is stronger than the powerful threat of the deadly risks involved. The time has unfortunately come for Podrabinek to pay his price to the Soviet state. His trial has been set for early this week and he faces the maximum sentence of 3 years imprisonment for circulating "fabrications known to be false which defame the Soviet state and the social system." These "fabrications" involve detailed descriptions of over 200 cases of perfectly sane individuals throughout the Soviet Union who found themselves in psychiatric wards because they were crazy enough to defy the state. His most reprehensive crime, however, was refusing to cooperate with the KGB during their investigation of the case of a fellow dissident, Yuri Orlov. During that investigation, the KGB warned Podrabinek that he would be arrested and convicted if he did not cooperate and, true to their word, the Soviets arrested Podrabinek the opening day of Orlov's trial.

Podrabinek's courage and sense of morality stand in marked contrast to the cowardice and brutality of the Soviet authorities, against whom Aleksandr has been waging his own quiet battles. The Soviets, too, like to wage their battles quietly so that they can mask the true nature of the destruction they bring. But to quiet a battle requires the muffling of its bombs, and so the Soviets have been painstakingly muting all sounds which reverberate from their little wars with their own people. What the Soviets are finding difficult to comprehend, however, is that those sounds become harder to stifle as the battles grow larger and more people are attentively listening for the smallest echoes.●

SEABROOK: REGULATORY DELAY MAY BE OVER

● Mr. DOLE. Mr. President, an editorial in the Washington Star on August 13 demonstrated the core of the controversy over building the Seabrook Nuclear Generating Station. The regulatory red-tape involved in construction and licensing of nuclear powerplants has needlessly delayed a worthwhile project.

Because of Government regulations, it now takes 10 to 12 years to license and construct a nuclear plant in the United States, roughly twice the length of time it takes in other countries. For each year that completion is delayed, an additional $120 million is added to the cost of a nuclear plant. A reduction in licensing and construction time from 11 years to 8 years would reduce the average family's electric bill by $40 per month over the life of the reactor.

Mr. President, due in large part to the efforts of Governor Thomson of New Hampshire, the delays in construction at Seabrook may be over. The Senator from Kansas hopes that the tribulations of Seabrook will persuade Congress to correct the bureaucratic mess that threatened to prevent construction of the Seabrook plant.

Mr. President, I ask that the editorial from the Washington Star be printed in the RECORD.

The editorial follows:

THE BLEAK COMEDY OF SEABROOK

After two costly government-ordered work stoppages since 1976, the Nuclear Regulatory Commission has approved the resumption of construction on the ferociously controversial Seabrook nuclear generating station in New Hampshire.

But we'll bet you 20 candles against a 40-watt bulb that this will be a far from conclusive decision in the Seabrook issue. The $2.3 billion plant has become a crusade for anti-nuclear forces banded together as the Clamshell Alliance. Since the Environmental Protection Agency on August 4 sanctioned the Seabrook cooling system—a decision that cleared the way for Thursday's NRC action—the Clamshell Alliance has declared it intends to renew its campaign of civil disobedience.

An attorney for the anti-nuclear troops said he has already filed suits against the decisions by the NRC and the EPA, clearly indicating that the legal assault—"legal harassment," in the view of Public Service of New Hampshire, the utility building the 2,300-megawatt facility—will not abate.

What a bleak, black regulatory comedy the Seabrook affair has been.

The utility more than five years ago submitted its application to the Nuclear Regulatory Commission, and construction finally began in July 1976 after the EPA gave tentative approval to cooling the plant with ocean water and discharging it back into the sea. But environmentalists raised a hoohah: EPA withdrew approval in November 1976, and NRC suspended the construction permit.

The utility then appealed to Douglas Costle, the EPA administrator, who eventally ruled in the plant's favor; NRC reinstated the construction permit. But Mr. Costle's decision was challenged and earlier this year a federal court of appeals overturned it on procedural grounds; the NRC again suspended construction pending EPA's review of the cooling system.

Another element in the Seabrook jumble involves the matter of alternate sites. Initial construction was allowed to begin without a study of other locations, required under the National Environmental Policy Act. That item was also before the Nuclear Regulatory Commission Thursday and the NRC said it has "deferred decision" on whether to suspend studies of other possible sites. Whatever in the world that means.

The entire issue of nuclear generation, symbolized by the Seabrook dispute, can be taken to illustrate the sore divisions among us about technology and its application. Nuclear generation is coming—the clean-collar, middle-class Luddites of the Clamshell Alliance are but a rear-guard action, their overheated rhetoric emblematic perhaps as much about our apprehension of the future as about nuclear power generation. The opposition of the anti-nuclear legions has probably had a constructive quotient, forcing more intense consideration of the technology involved.

However, the time is coming, if not already here, when such opposition turns into zealotry and confers no benefit on anyone—except the activists cuddling with their cause.

President Carter in March proposed streamlining licensing for nuclear power plants. There have been hearings in both Senate and House, but it appears unlikely that a bill will emerge from this waning Congress. If the ridiculous case of Seabrook illustrates nothing else, it should clearly and loudly tell the feds that the critical issue of licensing must be resolved.●

POPE PAUL VI

● Mr. EAGLETON. Mr. President, with the death of Pope Paul VI, the world mourns the passing of a gentle and peace-loving man.

When Paul assumed the papacy in 1963, his tenure began in the midst of a time of self-examination by the church. Pope Paul continued with the Second Vatican Council begun by Pope John XXIII, a gathering which resulted in reforms for the Catholic Church. Paul implemented those reforms he found essential for the modernization of the church and rejected those he felt were not in keeping with the church's strong traditions.

Pope Paul's keen insight and forward thinking enabled him to guide the Catholic Church into a changing society without breaking with centuries of tradition.

Chief among Pope Paul's attributes was his commitment to peace. He traveled to every continent but one during his papacy carrying this message. And his struggle for peace and justice extended to a wide range of situations. Paul was equally at home with factory workers and heads of state as he sought to overcome the ills that plague society. No burden was too great for His Holiness. He accepted each challenge with equanimity.

Pope Paul's stature and compassion as a church leader and as a world leader will not easily be matched. He will be missed, but the presence he brought to bear during his days on Earth will remain with us.●

ALASKA "D–2" LANDS

● Mr. LAXALT. Mr. President, this year Congress will be dealing with the permanent disposition of public lands in Alaska, withdrawn in section 17(d)(2) of the Alaska Native Claims Settlement Act for study as potential additions to the national park, wildlife refuge, forest, and wild and scenic river systems. Several bills for the settlement of these so-called "d–2" lands are now before Congress.

Mr. President, as the senior Senator for Alaska has pointed out on many occasions, Alaska is a special kind of State—a State where the lifestyle of the people is closely tied to the use of the land. Alaskans have consistently sought to protect Alaskan wildlife species and scenic wonders of national importance. In fact, two-thirds of the wildlife refuges in the United States and 24 percent of the Nation's national parks are already located in Alaska. But, in the face of legislation which would create over 100 million acres of park systems and include 75 million acres of wilderness, Alaskans rightly fear that the traditional uses on which their lifestyles have depended will be severely restricted. It is hard for us here to understand the vast amounts of land in question or the magnitude of the decision before us. The area considered by some of the legislation is one-fifth of the State of Alaska—15 times the total land area of the State of Maryland.

As Senator STEVENS stated in a recent article in the Baltimore Sun, the decision on numbers of acres is far less important than the decision on what activities will be allowed on these lands. We must allow flexibility of management for this vast amount of land.

These lands are de facto wilderness and we do have a chance to do some real planning to accommodate all of the interests. As Senator STEVENS pointed out, "We must strike a balance—environmental protection and enough flexibility to allow development for recreations and other uses and to permit decisions about use in the future to be made as circumstances require."

I ask that the recent article by Senator STEVENS be printed in the RECORD.

The article follows:

ALASKA'S WILDERNESS

Congress is endeavoring to resolve a significant environmental issue affecting the status of millions of acres of federal-public land in Alaska. The area is equivalent in size to 15 times the total land area of the state of Maryland. The decision to designate certain amounts of this vast Alaskan acreage as national parks, wildlife refuges and wilderness areas will be very important for all Americans of this and future generations. As can be imagined, the progress of the legislation as it moves through Congress is of particular importance to the citizens of my state.

Alaska is a special kind of state. Alaskans have a traditional life-style which is tied particularly to the use of these federal-public lands. We in Alaska join conservationists everywhere in the efforts to protect Alaskan wildlife species and scenic wonders of national importance. Because of the interest of Alaskans, two-thirds of the wildlife refuges in the United States and 25 per cent of the nation's national parks already are located in Alaska.

One area alone, the Arctic Wildlife Range, is 9 million acres in size—almost one and-a-half times the size of Maryland. The immense size of these areas makes it difficult for Congress to grasp the implications of this legislation. The decision on numbers of acres is far less important than the decision on what activities will be allowed to occur on these lands. Alaskans fear these areas may be closed or restricted, preventing traditional uses on which their life-styles have depended.

For instance, in Alaska, which has fewer miles of paved roads than the combined total of Baltimore and Montgomery counties, the use of the airplane and motor boats is essential. Travel to the remote parts of Alaska is almost exclusively by air or water, but provisions in the proposed legislation do not guarantee that airplane and motorboat use will be allowed. As a rule, motorized transportation is prohibited in areas designated by Congress as wilderness. It has been proposed by some that a specific exception be made for Alaska, but the history of such exceptions is not comforting to us. In 1964, Congress designated the Boundary Waters Canoe Area in Minnesota as wilderness and specifically allowed motorized transportation. Legislation is now pending before Congress (under consideration by the same committees which are considering Alaska lands legislation) which would prohibit motorized transportation in the Boundary Waters area. Consequently, Alaskans believe that special provisions inserted in this legislation now would only be eliminated by future Congressional action.

Alaska is a *de facto* wilderness; by that I mean, fully 99 per cent of its land qualifies for designation as wilderness under present congressional guidelines. Because of this unspoiled state, Alaska represents a chance to provide for real planning to accommodate the different national interests involved, particularly from a recreational standpoint. If these areas are to be established for use and enjoyment by the American public, Congress must ensure that adequate provision is made for a wide range of visitor activities.

Legislation presently before Congress would create areas of enormous size without providing for the planning and development of necessary visitor and interpretive facilities. For example, the House bill, H.R. 39, would create an 8-million acre wilderness park in which no visitor facilities would be permitted. In fact, the legislation requires that visitor use be limited to ensure that visitors' facilities would not be needed. This wilderness park is larger than the combined size of Maryland, Delaware and the District of Columbia. Consequently, only those wealthy enough to be able to reach the area by chartered aircraft, and strong and fit enough to camp, hike, and canoe for an extended period of time, would be able to enjoy this area. Legislation creating new parks and refuges in Alaska must ensure that a variety of recreational uses is allowed. H.R. 39, now pending in the House of Representatives, does not do that.

What is needed for the public lands in Alaska is a planning mechanism that will allow flexibility in management. Up to now, Congressional debate has centered on an all-or-nothing approach. Congress must strike

a balance which provides a high level of environmental protection particularly for wildlife and wildlife habitat and still provide enough flexibility to allow development for recreational and other uses and to permit decisions about the use in the future to be made as circumstances require.●

ALLISON CHUN WINS NATIONAL ESSAY COMPETITION

● Mr. INOUYE. Mr. President, recently Miss Allison Chun, a student at Kalani High School in Hawaii, won first prize in a national essay competition sponsored by the Propeller Club of the United States. That prize was a $250 savings bond.

Of greater significance is the fact that Allison Chun and the other participants in this contest learned a lot about the subject of the contest, "The American Merchant Marine: Its Vital Role in the World of Commerce." And in writing her essay, Allison Chun also helped others gain an increased appreciation of the role of the American merchant marine and its important contributions to our welfare.

Mr. President, for the purpose of sharing Miss Chun's excellent prize-winning essay with my colleagues, I request that it be printed in the RECORD.

The essay follows:

THE AMERICAN MERCHANT MARINE: AMERICA'S "FIRST ARM OF ECONOMIC SECURITY"

The American Merchant Marine is described as all vessels in commercial service under the American flag. It is important to the United States in many ways and is nicknamed the "First Arm of Economic Security." The Merchant Marine is one of the key ingredients in the survival of Americans and of America's economy.

The benefits which the United States receive from the Merchant Marine are divided into two major areas: military preparedness and economic value. In turn, the economic benefits can be divided into four areas: services provided by the Merchant Marine, numbers of people employed by it, amount of resources purchased by it, and its contribution to the growth and development of America's foreign trade.

Among the most important benefits that the U.S. receive from the Merchant Marine are the shipping services which it provides for America. The main purpose of shipping is to transport goods from a place where they are of relatively little use to a place where they are needed or of much value and use. Shipping services provide Americans with many of the essential things that they need in order to survive. It provides Americans with foods and goods such as clothing, oil, gas, and medical supplies. Lumber, cement, glass, plumbing fixtures, appliances, paper products, other construction materials, cars, buses and other bulky goods are all shipped to us because they are too bulky to be carried by air. Flammable goods such as fuel, oil, gas, petroleum and petroleum products, explosives, and nuclear products are also shipped because of their potential danger of catching fire on air freighters. Shipping is also cheaper than air transport. A merchant ship can carry larger quantities of any product than an airplane can although air freight services are swifter.

Shipping also provides people with other services in addition to shipping of goods. One such service is the movement of passengers. Examples of this are pleasure cruises or holiday travel on passenger liners, or charters for military and recreational purposes.

In addition to moving of goods and people the Merchant Marine is also a large and important employer. It employs 50–60,000 workers on ships, 20,000 of which are subsidized workers. These subsidized workers are used on the reserve fleet for military purposes in case of a war or some other crisis. Support services such as the shipbuilding and repair industry, employ roughly 100,000 workers, twenty percent of which are involved with construction of just one type of merchant ship.

Thirdly, following services and employment, comes the area of resources bought by the Merchant Marine. The resources referred to are those such as goods and supplies which the Merchant Marine finds essential for maintenance of the vessels and building of ships. Forty million dollars were spent in one year for supplies and stores necessary for the survival and maintenance of the crews and for upkeep of the vessels. Forty-nine million dollars were spent on fuel alone. The Merchant Marine has other operating expenses such as insurance and repairs which cost forty million and thirty-two million dollars respectively. There are also fees and charges to pay while in certain ports. The Merchant Marine also spent two billion dollars in ten years for the purchase of equipment, supplies, and raw materials essential for the construction of ships. So much is spent on the buying of resources and stores that it contributes greatly to the economy. It is also important to industries that sell these goods to the Merchant Marine. Steel companies that provide the steel needed for shipbuilding are heavily dependent on the business it receives from the Merchant Marine. The amount of money spend on resources also helps to keep up the naval stores industry which sells the Merchant Marine a lot of supplies.

In the fourth area, American foreign trade, the Merchant Marine benefits the U.S. in two ways: first, the U.S. can purchase a product that it needs from a country which has an abundance of it at a low cost because there is no demand for that product in that country. Secondly, once the U.S. starts importing this product, there is no need to work as hard at producing it as was necessary prior to the start of the trading. More effort can be put into increasing the production of other U.S. products in order to gain more excess of it for foreign trading.

The United States economy also benefits in other way from the Merchant Marine. One of the other ways the U.S. benefits is from the taxes the Merchant Marine pays. It pays federal taxes such as corporate income and income tax on wages. The estimated amount paid on these taxes by the Merchant Marine comes out to roughly forty to fifty million dollars a year. The Merchant Marine also pays ten million dollars in taxes for purchased goods.

The aforementioned benefits are very important to the United States economy and to the well-being and security of U.S. citizens. The Merchant Marine services, however, are not entirely without their problems. There are a number of things which affect the Merchant Marine in such a way that its services are lost. Dock strikes are one of the major difficulties which affect the Merchant Marine. When dock workers strike, there is no one to load and unload the shipping vessels. As a result, the Merchant Marine's most important service, shipping, is halted. The resulting effects on the economy and citizens is illustrated by an actual occurrence, the 1971–1972 ILWU dock strike.

During the 1971–72 dock strike, 15,000 ILWU workers walked out of twenty-four ports on July 1, 1971 in protest against the Pacific Maritime Association. On Oct. 9, they were forced back to work by a Taft-Hartley injunction. On Dec. 25, the injunction expired. Negotiation broke down and the strike resumed on Jan. 17, 1972. The strike lasted for over 123 days and was the longest of its kind in maritime history.

The results of this strike were felt just about everywhere in the U.S. The places hit the hardest were the West Coast States and Hawaii. The loss of the services caused by the shipping halt resulted in shortages of vital supplies like gas, food, and bulk products such as toilet paper. The shortages caused hoarding of these goods and the inflation of prices, especially that of foods. To make up for the shortages, relief ships were chartered and goods were flown in by air. Due to limited cargo space, air freight was unable to transport a sufficient amount of supplies, necessitating more trips therefore making the cost more expensive.

Foreign trade also suffered. The losses on imports and exports were approximately $1.4 billion. Export crops and goods were blocked and hundreds of millions of dollars were lost. The U.S. became afraid that because of this, foreign purchasers of U.S. exports would take their business elsewhere thinking that U.S. exporting was too unstable. Foreign imports were also blocked from coming in or were left unloaded. This resulted in a significant loss in foreign trade benefits.

If such effects were to be prolonged indefinitely, the economy would be severely affected. The U.S. would have to transport all its goods by other means which would not be as efficient or as cheap. Both prices and shortages would increase. There would be drastic food and fuel shortages. Alternate transport methods would not be able to fill all the peoples' needs and the nation would suffer. Hawaii would be among the first to be affected because of their dependence on shipping for 97.3 percent of all their supplies.

Many companies would go out of business from lack of supplies and many of their workers would become unemployed. Thousands of people whose jobs are connected with shipping would be laid off. The entire shipbuilding industry would collapse. Steel companies and other suppliers of resources to the Merchant Marine would suffer huge losses in business. There would be mass poverty throughout the country. The government would lose a large amount of money in the form of taxes from the Merchant Marine. Lastly, foreign trade would become almost non-existent and all of its benefits would be lost. United States foreign relations would doubtless deteriorate as a result.

In view of these evidences, it may be said that we cannot survive without the Merchant Marine. Its contributions to the United States are too essential for us to do without. The United States is dependent on these services. Without them the United States is a lost, poverty-stricken, and dying nation. The Merchant Marine is essential for our survival.

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THE TRIAL OF ALEKSANDR PODRABINEK

● Mr. DOLE. Mr. President, we have just learned that Aleksandr Podrabinek, a 25-year-old medical attendant and human rights activist will be put on trial Tuesday, in a small town 35 miles east of Moscow, for alleged violations of article 190–1 of the RSFSR Criminal Code involving "the circulation of fabrications which defame the Soviet State."

ANOTHER IN A SERIES OF TRIALS

This is yet another in a whole series of recent repressive actions by the Soviet authorities against citizens involved in the investigation of the abuses of basic human rights in that country. Aleksandr Podrabinek's particular offense is that for several years, as the head of the working commission to investigate the abuse of psychiatry for political purposes, he has been collecting documents on cases of psychiatric abuse, involving the forced detention of political and religious dissidents in psychiatric hospitals in the U.S.S.R. His book "Punitive Medicine," which appeared in Samizdat in 1977, detailed examples of these political prisoners in psychiatric hospitals.

ONE EXAMPLE OF PSYCHIATRIC ABUSE

One such example, is the case of Arvidas Chekhanavichus, (Ar-vée-das Chek-a-ná-vi-chus) a Lithuanian, arrested in April, 1973, for "anti-Soviet agitation and propaganda." In other words, Chekhanavichus defended the rights of Lithuanians to express themselves through the medium of their own language and culture. Declared not responsible for his actions, Chekhanavichus was sent for compulsory treatment to the Kaunus Psychological Hospital from which he twice escaped. He has been recently transferred to the Republic Psychoneurological Hospital in Vilnius.

Last September, the World Congress of Psychiatrists meeting in Hawaii passed a resolution condemning this kind of abuse in Soviet psychiatry and called for stop to any further abuses. Aleksandr Podrabinek took the first step in that direction. Apparently, his government has not yet gotten the message.

SOVIETS CONTINUE TO VIOLATE AGREEMENT

The trial of Podrabinek, who faces a possible sentence of 3 years in a labor camp, is unfortunately another indication that the Soviet Government intends to continue to ignore its obligations as a signatory of numerous international agreements dealing with human rights, including the Helsinki Final Act. We, on the other hand, cannot ignore these international obligations and pretend not to see the Soviets violating them. We must point them out every time and insist on compliance with each and every paragraph of every agreement we sign with the Soviets.

In condemning the trial of Podrabinek, therefore, I wish to note that such lack of good faith in implementing the provisions of international agreements raises legitimate doubts about the extent the Soviets can be trusted in other areas and places further burdens on the improvement of our mutual relations. And, of course, we must not forget the very real tragedy of a man whose life is ruined for supporting a philosophy of decency, kindness and caring. We owe it to Aleksandr Podrabinek to recognize his very real courage in fighting for truth and human rights and protest his mistreatment at the hands of his government.●

ASEAN-U.S. MINISTERIAL MEETINGS

● Mr. GLENN. Mr. President, on August 2–4, I, along with my distinguished colleagues, Senator STONE of Florida, and Senator ROTH of Delaware, and distinguished Members of the House of Representatives Mr. WOLFF of New York, and Mr. BURKE of Florida, participated as official members of the U.S. delegation with senior government officials representing the Association of Southeast Asian Nations (ASEAN). These meetings marked the first ministerial level discussions between the United States and ASEAN and provided an opportunity for an open and worthwhile exchange of views on a variety of political and economic topics of mutual and worldwide concern.

The five ASEAN member countries, Indonesia, Malaysia, the Philippines, Singapore, and Thailand established their organization in 1967 with the purpose of accelerating economic growth, social progress and cultural development and to promote peace and stability throughout the Southeast Asian region. The establishment of ASEAN marks the sole successful attempt at regional cooperation and integration in Southeast Asia since the end of colonial control. ASEAN, conscious of past failures and political divisions among themselves as well as the fact that in many respects their countries were economically competitive, chose a careful and deliberate course during its early years of development. More recently, with the establishment of a solid basis for cooperation, the organization has shown a marked increase in momentum. While many concrete and important decisions on future cooperation have yet to be made, ASEAN has, nonetheless, become a firmly established entity—symbolic of regional cooperation and stability.

ASEAN represents a large and diverse group of people. The combined population of the five countries is 245 million, larger than Western Europe, Africa, or South America. Annual per capita income ranges from $300 in Indonesia, a country with vast reserves of largely untapped natural resources, to $2.850 in the industrialized island state of Singapore. ASEAN is becoming an increasingly important trading partner for the U.S. In 1977 international trade between ASEAN and the United States totaled $11 billion, up 15 percent from 1976. Exports from ASEAN countries account for 90 percent of U.S. imports of natural rubber, 72 percent of tin, and 10 percent of all U.S. imports of crude petroleum. ASEAN economic growth rates ranging from 6 to 11 percent over the past 6 years have exceeded world averages. U.S. private investment in the area amounts to $4.4 billion or approximately 15 percent of all U.S. investment in the developing world.

The past 3 years have been the most active period for ASEAN. Summit meetings in 1976 and 1977 led to the formal establishment of a Secretariat, a more defined organizational structure, agreement to establish five industrial projects and an intra-ASEAN trade preference scheme. ASEAN ministers met for the first time with the U.S. in Manila in September of 1977. Under Secretary Cooper of the State Department headed the U.S. delegation to those talks. In addition to its consultations with the U.S., ASEAN holds regular consultations with Japan, Australia, New Zealand, Canada, and the EEC.

A total of 13 foreign and senior economic ministers were in Washington for the recent meetings. The spokesman for ASEAN and leader of the Philippine delegation was Foreign Minister Romulo. Other delegation heads were: Minister Widjojo, Coordinating Minister for Economics, Finance, and Industry for Indonesia; Minister Rithauddeen, Foreign Minister for Malaysia; Minister Rajaratnam, Foreign Minister for Singapore, and Minister Upadit, Minister of Foreign Affairs for Thailand.

The Ministers met with both President Carter and Vice President MONDALE. The U.S. delegation was led by Secretary of State Vance and included Secretary Kreps of the Department of Commerce, Treasury Secretary Blumenthal, Agriculture Secretary Bergland, and Secretary of Energy Schlesinger as well as AID Administrator Gilligan. Other senior U.S. Government officials participating were Chairman Moore of the Export-Import Bank, Ambassador Wolff of the President's Office of the Special Trade Representative, Acting President Poats of the Overseas Private Investment Corp., and International Communications Agency Director Reinhardt.

The meeting began on the afternoon of August 2 with a meeting hosted by myself and Senator SPARKMAN and including six other members of the Foreign Relations Committee. Our discussion focused primarily on economic issues. ASEAN outlined its achievements and asked for a more visable U.S. economic role in the ASEAN region, underlining its concern that the United States take a more responsive attitude on North/South issues, especially on commodity policies.

Later in the evening the ASEAN delegations attended a reception hosted jointly by Commerce Secretary Kreps and Richard L. Lesher, president of the U.S. Chamber of Commerce. This reception provided a forum for business executives from around the country to meet and discuss business issues and policies with the ASEAN officials. Some of the ASEAN ministers participated in further meetings with American businessmen held August 8 in New York.

Wednesday morning the ASEAN delegations attended a breakfast hosted by Representatives ZABLOCKI and WOLFF of the House International Relations Committee to discuss a full range of issues on such topics as normalization of relations with the People's Republic of China and the growing problem of Indochinese refugees.

The Thursday session was chaired by

Secretaries Vance and Kreps and began with an exchange of views on recent developments affecting ASEAN and the United States including consideration of the refugee problem. The afternoon session dealt primarily with economic matters beginning with an exchange of views on North/South issues with particular reference to commodity policy issues. Under Secretary Cooper stated that he felt there had been some narrowing of differences in regard to the Common Fund but much hard work remains to be done. Secretary Vance pledged active U.S. pursuit of an agreement, recognizing both the practical and symbolic importance of a successful negotiation. Deputy Special Trade Representative Wolff answered ASEAN requests for improvements in GSP.

The United States announced its support for the enabling clause in GATT which would make GSP a permanent part of the world trading system. Chairman Moore and Mr. Poats outlined the expanded role of Eximbank and OPIC in the region and announced intended visits by the Eximbank Chairman and an OPIC organized investment mission for the autumn of this year. Other activities included an address to the National Press Club by Minister Rajaratnam and a dinner hosted by Secretary of State Vance.

Friday morning Treasury Secretary Blumenthal gave an overview of economic trends relevant to United States-ASEAN relations including a discussion of U.S. tax policies. The afternoon session dealt with United States-ASEAN development cooperation and the results of a recent meeting of technical experts from both sides in Manila. There was an exchange of views on food, energy, science, and technology and narcotics and agreement to establish the framework for further cooperation in those areas. There was also an agreement to establish a working group for expanded regional education and cultural exchange programs. In the meeting with President Carter the ASEAN ministers heard a reaffirmation of an abiding U.S. interest in Southeast Asia and recognition of the strength and viability ASEAN. In an afternoon press conference Minister Romulo emphasized that ASEAN came with a hand extended in friendship rather than begging for a handout. The ASEAN countries, he said, had effectively disproved the "domino" theory of the eventual collapse of free enterprise economies in Southeast Asia. Following the meetings on Friday ASEAN hosted a dinner at which Vice President MONDALE was the guest of honor.

The meetings were successful both practically and symbolically. There was visible progress toward the facilitation of U.S. private investment in the area as well as advances in the field of development cooperation. ASEAN representatives were able to meet with leaders of Government, labor, and business as well as present their achievements and aspirations to the media. Most importantly, both sides left with a heightened understanding of each other's concerns and goals for the future. I hope that this meeting marks the beginning of a continuing dialog between the United States and the five key nations of Southeast Asia comprising ASEAN.●

RANGE CONDITIONS OF PUBLIC GRAZING LANDS

● Mr. LAXALT. Mr. President, I recently had the privilege to testify concerning S. 2475 and H.R. 10587, bills to improve the range conditions of the public grazing lands. I ask that my statement be printed in the RECORD.

The statement follows:

STATEMENT BY SENATOR PAUL LAXALT

Mr. Chairman, I wish to commend the Committee for holding these hearings on S. 2475 and H.R. 10587. As we all are aware, this is an effort to address in a single bill several issues that effect the future of the Western public lands, and I might add, that this is a historic opportunity for Congress to assert a clear and deliberate policy toward resolution of many of the problems involving the management and improvement of the public lands administered by the Bureau of Land Management and the Forest Service. I was pleased to be able to join my distinguished colleague from Idaho, Senator Church, in introducing this legislation in the Senate.

As you are aware, Mr. Chairman, this proposal addresses the following matters: problems with levels of range improvement funding; an over population of free roaming wild horses and burros, which is of particular concern in Nevada; uncertainty as to what scale and type of range improvements projects may proceed under current law and court decisions; the potential hardship to the ranching community throughout the West, and particularly in my State of Nevada, from proposed increases in grazing fees; and several other matters of serious concern.

I believe everyone agrees with the comprehensive approach to range improvements that S. 2475 and H.R. 10587 represent. The range land improvement funding provisions, in my view, represent a serious commitment that has been long overdue.

With your indulgence, Mr. Chairman, I would like to point out that I have been more than disturbed by the series of misleading reports which have colored the opinion of Congress, the media, and the public nationally on the problems and conditions of the Western public lands. In this context, I call your attention to the BLM report "Effects of Livestock Grazing on Wildlife, Watershed, Recreation and Other Resource Values in Nevada".

Now known as the "Nevada Report", this document became a key piece of evidence in the *Natural Resources Defense Council* vs. *Morton* suit, which resulted in a landmark judgment which has had a serious impact on Nevada and the West, and will continue to have an impact into the unforseeable future. In my view, Mr. Chairman, the reports purposes were obviously preconceived. It was prepared by five Washington BLM "experts" who spend eleven days in Nevada in 1973, and, despite severe scarcity of basic information on the range at that time, managed to survey over 47 million acres and determine the conditions on them. I think it is important to note that the BLM team, while in Nevada, made no contact with local, state, or University personnel or repositories of competent and pertinent information, and the team said they were not charged with reporting BLM's past accomplishments in Nevada in range management. An obvious oversight after BLM's 40 years in my State of Nevada. After recommending steps to be taken to compensate for certain purported deficiencies, on the basis of the report, BLM in Washington came to the conclusion ". . . the evaluation report points to a critical resource condition on BLM lands . . ." and attributes this to livestock overgrazing.

At this point, I would like to point out that federal statistics and knowledgeable observation, paint a far different picture. For example, Nevada's sheep counts for 1920 show 1,340,000 head, and this steadily diminishes each decade to 1973, the year of the previously mentioned BLM evaluation which shows over one million less—171,000. Now, in 1978, the sheep industry in Nevada is in effect wiped out. Mr. Chairman, I think this speaks for itself.

Mr. Chairman, the provisions of S. 2475 and H.R. 10587 that spell out those range improvements that can be made before completion of an Environmental Impact Statement are most important and indeed necessary. These include such range improvements as fencing, small water developments, fish and wildlife projects, restoration of native vegetation, and vegetative manipulation through grazing management. These improvement efforts should speed the process of getting on with the important business of maintaining and upgrading our public lands in the West.

Mr. Chairman, the results of passage of the Wild Free Roaming Horse and Burro Act of 1971 has far surpassed anyone's wildest imagination. Populations of wild horses and burros now pose a serious problem in my State of Nevada, and I might add, that we have approximately 60 percent of the wild horse and burro population in the nation. In certain areas of Nevada, these wild horse and burro populations now pose a serious threat to wildlife, livestock, over all range conditions, and even to the horses and burros themselves. Consequently, I support the provisions of S. 2475 and H.R. 10587 relating to wild horses and burros which would allow the Secretary additional discretion and control over these animals.

Mr. Chairman, I understand that the major area of controversy with the Administration appears to be the Sections of S. 2475 and H.R. 10587 dealing with grazing fees. I believe it is important to recognize that grazing fees paid by permittees for grazing on public lands can, at certain times, make or break a ranching operation. Even a small increase in grazing fees can have serious impacts on some ranchers even to the extent of forcing some ranchers out of business. Mr. Chairman, I cannot support this as public policy. I support the grazing fee formula recommended by the Grazing Fee Technical Committee. I introduced this recommendation in the form of legislation (S. 2458) on January 30, 1978, and I am pleased that this same formula is included as part of this comprehensive legislation.

Mr. Chairman, the Administration continues to press for a fair market value basis for a grazing fee based upon the results of the Private Land Lease Survey. I must express doubts about the reliability of the Private Land Lease Survey. For example, Mr. Chairman, my staff informs me that for years 1976 and 1977, there were no responses from Arizona or Nevada to the Private Lands Lease Survey. Up to 25 percent of the public land permittee are from these two states. Given this fact, how can we accept that a fair market value has been determined for grazing fees for these two states.

In my view, the Technical Committee's recommended formula is far more equitable because it takes into consideration the short term cost of production and beef prices, while at the same time being sensitive to the long range forage valeus. Mr. Chairman, this formula will have minimum adverse economic impact upon our Western livestock industry. The public land grazing land fee issue has

been with us for many years. I hope we can once and for all settle this issue by establishing statutorily this grazing fee formula.

This concludes my statement, Mr. Chairman, and thank you for the opportunity. I look forward to participating in the discussions during the hearing procedures.●

GENOCIDE CONVENTION SHOULD BE RATIFIED EARLY IN THE NEXT SESSION

Mr. PROXMIRE. Mr. President, in the past 30 years, the Senate Committee on Foreign Relations has considered the United Nations Genocide Convention five times. And five times—in 1950, 1970, 1971, 1973, and 1976—the committee favorably reported the treaty to the Senate.

How did the Senate respond to the committee's recommendation? On each of these occasions, the Senate refused to ratify the Genocide Treaty. We have not joined the 83 nations that have outlawed the crime of genocide.

For 11 years, I have urged my fellow Senators to ratify the Genocide Convention. Last month, when I concluded my July 31 speech, I was pleased and proud to learn that my friend, Senator JAVITS, will attempt to place the treaty on the Foreign Relations agenda early in the next session. I salute the distinguished Senator from New York for his strong and consistent support of the Genocide Convention. His announcement has renewed my commitment to the treaty. I am even more determined to see it ratified in the next session.

Mr. President, this will be the sixth time that the committee has taken up the Genocide Convention. What can we expect from the committee's deliberations? Will they again favorably report the treaty?

Undoubtedly, they will. The case for the Genocide Convention is stronger than ever. Daily we are reminded of atrocities perpetrated against many of the world's citizens. Need I mention Cambodia, Uganda, or Nicaragua. President Carter strongly supports the convention, as do many major interest groups, including the American Bar Association. We continuously reaffirm our official commitment to human rights, yet we have failed to ratify this crucial human rights document. Our support for the Genocide Convention has never been more important.

The Foreign Relations Committee will undoubtedly agree with me. But what about the Senate? Will the Senate oppose the committee a sixth time? Will we again fail to protect the most fundamental of human rights—the right to live?

I sincerely hope not. Mr. President, I call upon my colleagues to reflect seriously upon the Genocide Convention. In the coming months, I trust that each and every Senator will ask what he or she can do to further the cause of human rights.

What can we do, Mr. President? We can act quickly in the next session to ratify the Genocide Convention.

SENATE RESOLUTION 464, REORGANIZATION PLAN NUMBERED 2 INDEFINITELY POSTPONED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar No. 972 be indefinitely postponed—that is a resolution relating to Reorganization Plan Numbered 2—the time having expired on Friday last.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following proceedings occurred earlier:)

Mr. PERCY. Mr. President. will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator from Illinois for a unanimous-consent request.

HOW TO SAVE ENERGY BY SAVING ENERGY

Mr. PERCY. Mr. President, I express deep appreciation to my distinguished colleague and it is quite fortuitous that he is one of the founders of the alliance to save energy from New York and is floor managing the bill today.

Mr. President, beginning at 4 o'clock today John deButts, a distinguished constituent of Senator MOYNIHAN and Senator JAVITS, and chairman of the board of A.T. & T., will accompany me to the special exhibit set up by A.T. & T. that will be available for all Senators, members of their families, members of the staff, to see an exhibit truck and trailer how the American public can save energy in every single home in America and save money at the same time.

Mr. President, energy conservation must play a more prominent role in the Nation's energy program. Conservation is something we can do right now, both in our industries and as individuals. But conservation should not mean drastic setbacks in our varied way of life and standards of living. Rather, the focus of conservation can and should be on how to live better using energy more efficiently.

We need to raise the consciousness of American people about conservation. Too many homeowners have heard the saying, "Energy conservation begins at home," looked around their houses, and have not known what to do. Often, they inquire of their Congressmen. It is important for Senators and Representatives to know specific energy conservation modifications and improvements so we can suggest them to constituents and, incidentally, so we can install them in our own homes.

John deButts, chairman of the board of A.T. & T. and board member of the Alliance to Save Energy, recently told me about a portable exhibit demonstrating in miniature a variety of household energy conserving devices. They range from insulated walls to water-saving toilets. The devices are demonstrated in such a way—with digital readouts showing the amount of energy saved and used, and taped messages on telephone receivers explaining the techniques—that people can immediately see the dollars and cents rationale behind energy conservation. It is a very impressive exhibit, of immediate practical relevance to almost everybody. The exhibit, housed in a house trailer, was constructed by C. & P. Telephone Co.

ARCO Solar, a subsidiary of Atlantic Richfield, has graciously loaned the alliance a solar panel operating a small television which will be on display outside the trailer. Robert O. Anderson, chairman of the board of Atlantic Richfield, serves on the board of advisors of the Alliance to Save Energy.

The Alliance to Save Energy, of which Senator CRANSTON and myself are cochairmen, and several hundred Members of Congress are Members, has arranged for the exhibit to be on the Capitol grounds, on the Senate side of East Capitol Street extended, August 14 through the 16 from 8 a.m. to 4 p.m. so that Senators, Representatives, staff members and other interested people can see it and learn from it.

John DeButts and I will be there at 4, Monday, August 14 to walk through the exhibit and I invite all my colleagues to be there too.

The success of increased energy conservation will depend, to a large extent, on the development of attitudes and habits which foster an efficient use of energy; and we can help develop those attitudes and habits by being more responsive to the homeowners of this country.

In order to be more responsive and effective in answering constituent inquiries as to how they can help conserve energy in their homes, I urge you to make every effort to visit the exhibit during those 3 days.

Mr. President, I wish to express appreciation to my distinguished colleague and again commend he and Senator JAVITS on the leadership role that they have played in the field of conservation energy which I think is very much in the national interests, and if we pass no other bill, as a part of our energy package—the natural gas bill, we just cannot deliver it—I hope we will go right ahead with the utility rate bill, with the conservation bill, and coal gasification, which are so important. They constitute a package that is important enough and impressive enough for us to move forward and begin to say we are developing a national energy policy because the greatest source of energy available to this country, immediately, low cost, highly efficient and ecologically sound, is conservation energy.

I commend again my distinguished colleague for his leadership in this field and for yielding at this time.

Mr. MOYNIHAN. Mr. President, I think that this interlude should not pass without it being stated what is so patently the case, that is, the Senator from Illinois who has given the leadership of the Nation in the national alliance to conserve energy of which New York State is but one component. It has been a remarkable task of organization which could easily have consumed the energies of one executive of extraordinary ability, which he certainly is, doing nothing else, and he has managed to do that and yet

remain, be the active and informed and innovative legislator in so many other fields, is a measure of not just ability but devotion in this area, and we are much in his debt.

Mr. PERCY. I thank my distinguished colleague.

CHICAGO CITY COUNCIL URGES HALT TO SURPRISE MEDIA SEARCHES

Mr. PERCY. Mr. President, on May 31, the Supreme Court ruled in Zurcher against Stanford Daily that the police, armed with a warrant, could conduct surprise searches of newsrooms for evidence of a crime, even though no newsperson is suspected of any complicity in that crime. Since that decision, there has been grave concern expressed throughout the country about the potential power that this court decision places in the hands of the police. There is a growing fear that this decision may have a profoundly harmful impact on freedom of the press, and, indeed, on every citizen's right to privacy.

The idea of policemen rummaging around a newsroom—opening drawers, rifling files, searching through wastebaskets—is totally contrary to our fundamental belief in a free press. It is an image drawn from a police state.

A reporter's stock in trade is the ability to gather information, often from confidential sources. If we permit these police searches, such sources will soon dry up and, with them, the public's access to information independent of government.

In response to the Supreme Court's ruling, the Chicago City Council Committee on Federal and State Legislation, under the distinguished chairmanship of our former colleague, Roman Pucinski, recently held hearings to examine the ominous implications of Zurcher. The committee received testimony from Clayton Kirkpatrick, editor of the Chicago Tribune, Paul Beavers, news director of WMAQ–TV, Don Reuben, attorney for both news operations, and Anthony Damato, professor at Northwestern Law School. The committee approved a resolution on freedom of the press which the city council passed unanimously on July 7. The resolution strongly asserts that the Supreme Court's decision endangers the first amendment guarantee of freedom of the press. Furthermore, it urges Congress to pass legislation that would preserve freedom of the press, and to review present standards for search and seizure as they affect all citizens of the United States.

I congratulate Chairman Pucinski and his colleagues on their swift response to this very troubling decision by the Court.

Zurcher should not remain the law of the land. It is not only a blow to freedom of the press but also a serious infringement of our right to privacy. Reporters are not the only ones threatened by this decision. This ruling unlocks the doors of innocent citizens' homes and offices for surprise searches for evidence. It renders almost meaningless the confidentiality promised by clergymen, doctors, psychiatrists, and lawyers. As Justice John Paul Stevens noted in his dissent in Zurcher:

> Just as the witnesses who participate in investigation or a trial far outnumber the defendants, the persons who possess evidence that may help to identify an offender, or explain an aspect of a criminal transaction, far outnumber those who have custody of weapons or plunder. Countless law abiding citizens—doctors, lawyers, merchants, customers, bystanders—may have documents in their possession that relate to an ongoing criminal investigation. The consequences of subjecting this large category of persons to unannounced police searches are extremely serious. The ex parte warrant procedure enables the prosecutor to obtain access to privileged documents that could not be examined if advance notice gave the custodian an opportunity to object. The search for the documents described in a warrant may involve the inspection of files containing other private matter. The dramatic character of a sudden search may cause an entirely unjustified injury to the reputation of the person searched.

The Citizen's Privacy Protection Act, S. 3164, introduced on June 5, 1978, by Senators BIRCH BAYH, HOWARD METZENBAUM, and myself would put a halt to surprise searches of innocent people. It would require Federal, State, and local law enforcement officials to forego a search warrant and, instead, obtain a subpena for evidence of a crime when that evidence is in the hands of someone not suspected of the crime. The measure would still allow police to obtain a search warrant if there is probable cause to believe that the evidence would be destroyed, hidden, or removed. I urge my colleagues to act quickly on this legislation, and protect these fundamental rights.

Mr. President, I ask unanimous consent that the text of the Chicago City Council's resolution on freedom of the press and the accompanying letter from Roman Pucinski, the chairman of the council's Committee on Federal and State Legislation, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITY COUNCIL,
Chicago, Ill., July 12, 1978.

Hon. CHARLES H. PERCY,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR PERCY: As Chairman of the Chicago City Council Committee on Federal and State Legislation I am enclosing for your information a copy of a resolution on "Freedom of the Press" unanimously passed by the City Council of the City of Chicago on July 7, 1978. This resolution memorializes the U.S. Congress ". . . to enact legislation which would protect newspapers and other media from governmental search where there is no reasonable basis for belief that the parties involved in the media have been guilty of any crime." This resolution further urges ". . . Congress to review present standards for search and seizure as they affect all citizens of the United States."

Sincerely,

ROMAN PUCINSKI,
Chairman, Committee on Federal and State Legislation.

RESOLUTION ON FREEDOM OF THE PRESS

Whereas the freedom of the press has been one of the tenets of American beliefs; and

Whereas newspapers and other media publicly disseminating information have historically been active and often essential in protecting our people from excesses and improprieties whether by a private or governmental body; and

Whereas to preserve freedom of the press and to protect media investigation and analyses in our country it is essential that newspapers and other media publicly disseminating information be protected from governmental review of their files and records or governmental harrassment where there is no reasonable basis for belief that the parties involved in the media have been guilty of any crime; and

Whereas Congress has the obligation to uphold the principal of freedom of the press; and

Whereas the right of the various media to be protected in the confidential nature of their investigations has been endangered by a recent decision of the United States Supreme Court to the effect that the Constitutional guarantees of freedom of the press do not protect the media from governmental search and that a warrant for such search can be issued even though the party involved is not presumed guilty of or involved in any crime;

Now Therefore be it resolved that the City Council of the City of Chicago memorialize the Congress of the United States to enact legislation which would protect newspapers and other media from such governmental searches;

We further urge Congress to review present standards for search and seizure as they effect all citizens of the United States.

SOLOMON GUTSTEIN, 40th,
MARIANE HUMES, 8th,
GEORGE J. HAGOPIAN, 30th,
ROBERT T. KELLAM, 18th,
ESTHER SAPERSTEIN, 49th,
TIMOTHY C. EVANS, 4th,
WILLIAM O. LIPINSKI, 23d,
EUGENE C. SCHULTER, 47th.

NEW ACCIDENT FIGURES CONFIRM NEED FOR IMPROVING TRUCK SAFETY

Mr. PERCY. Mr. President, truck safety is a pressing concern for every American who drives a car. In Illinois alone, in 1976 there were over 92,000 truck accidents which killed 527 people and injured 18,885 more.

The figures from across the Nation are similarly grim. Last week the National Highway Traffic Safety Administrator, Joan Claybrook, advised me that over 6,600 Americans died in truck accidents in 1977. This is a 7.9-percent increase over 1976, and a startling 20.8-percent jump over 1975. NHTSA's figures show that in a car/heavy truck collision, the car occupant has only a 43-percent chance of living.

Mr. President, I ask unanimous consent that the complete text of Administrator Claybrook's letter to me may be printed in the RECORD at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. I am pleased to announce today that my distinguished colleague from Massachusetts, Senator KENNEDY,

is joining me as a cosponsor of S. 2970, the Truck Safety Act of 1978. Senator KENNEDY is a respected leader on trucking matters, and has held extensive public hearings on trucking regulation. He is the principal sponsor of legislation to reform truck length limits, which I am pleased to cosponsor. I am happy to have the benefit of Senator KENNEDY's expertise on the Truck Safety Act.

I spoke of this much-needed legislation in this Chamber in April when I introduced the bill. Since then, I have been pleased with the comment it has received. I plan to continue to consult with interested groups on the measure.

Specifically, S. 2970:

Raises civil fines from $500 maximum to $2,500 maximum for each substantial violation and $10,000 for extremely serious safety violations.

Enlarges the scope of Federal safety regulation by including any truck over 10,000 gross vehicle weight rating in interstate commerce—interstate trucks—and affecting interstate commerce—intrastate trucks.

Authorizes the Secretary of Transportation to regulate the working conditions and operating practices of employees, to insure that trucks are so maintained as to prevent accidents, and to conduct research into new enforcement techniques and training programs.

Authorizes the Secretary to arrange to conduct on-the-job inspections and investigations.

Gives trucking employees the right to require DOT investigations of violations of safety regulations.

Requires the DOT to serve citations upon alleged violators of safety laws who are then given 15 days to notify DOT of their intent to contest the citation.

Authorizes an administrative adjudicatory hearing before the National Transportation Safety Board (NTSB) in cases of contested citations.

Provides for judicial review and enforcement of NTSB decisions and orders.

Protects trucking employees from discharge or discrimination for their attempts to promote greater trucking safety.

Authorizes DOT to establish penalty schedules designed to induce timely compliance with the law.

Authorizes moneys to be appropriated from the highway trust fund for the purpose of offering financial incentives to States for implementing truck safety programs which have been approved by the Secretary.

Requires the Secretary to write a yearly report to Congress outlining his progress in increasing truck safety on the Nation's highways.

The Truck Safety Act is aimed at reducing needless carnage on the Nation's highways. Whereas people used to be afraid to fly in airplanes, today many are too often afraid to drive to the airport.

Senator KENNEDY and I may soon be offering S. 2970 as a floor amendment to other legislation. But whether it is dealt with as an autonomous bill or an amendment, the purpose is the same: saving lives.

EXHIBIT 1

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION,
Washington, D.C. 12, 1978.

Hon. CHARLES PERCY,
Ranking Minority Member,
Senate Governmental Affairs Committee,
Washington, D.C.

DEAR SENATOR PERCY: In response to your request, we have prepared the following data on truck accident fatalities for the last three years.

	1975	1976	Percent change	1977	Percent change
Vehicle miles traveled (in millions)	274,454	306,950	11.8	(1)	
Registrations	25,775,700	27,719,600	7.5	[2] 29,218,000	5.4
Total fatalities	5,477	6,130	11.9	6,614	7.9
Pickup/vans	4,332	4,893	13.0	5,215	6.6
Heavy trucks [3]	717	859	19.8	950	10.6

[1] Figure unavailable.
[2] Estimate.
[3] Single Unit Trucks over 26,000 Gross Vehicle Weight (GVW) and articulated trucks.

I am also enclosing a copy of the "Heavy Trucks—Special Report" that has other pertinent information about heavy truck involvement in fatal accidents.

Please let us know if there is any other information we can provide for you and your staff on this issue.

Sincerely,

JOAN CLAYBROOK.

SCIENTIFIC EVIDENCE CONFIRMS NEED TO BAN LIQUID PROTEIN: WARNINGS INSUFFICIENT

Mr. PERCY. Mr. President, scientific evidence continues to mount documenting the apparent dangers of predigested liquid protein diets used in conjunction with a total fast. Fifty-eight known deaths have now been associated with the use of liquid protein. Eleven were women between 25 and 44 who had no pre-existing health condition which might have contributed to the deaths.

On November 22, 1977, in a letter to Donald Kennedy, Commissioner of the Food and Drug Administration, I urged that liquid protein be immediately removed from the Nation's markets pending proof of its safety and efficacy. No action was taken, other than merely to warn potential users of the danger.

Several new scientific studies substantiate my earlier position. I have attached to my statement several of these studies.

The first, by the FDA, concludes that over one-third of the women who used liquid protein reported illness and that one-quarter of those who became ill said they had to seek medical care. Twenty-five percent of those who fell ill were hospitalized. I have attached for the RECORD copies of letters from Commissioner Kennedy dated June 23, 1978, and July 17, 1978. These letters outline the contents of the national survey. I have also included a management summary.

This new scientific information regarding liquid protein diets is alarming. How much longer will it be before this dangerous health hazard is banned from our Nation's pharmacies, health food stores, and supermarkets? How many more people will die lacking awareness of the seriousness of the risk or from desperate crash dieting?

Additional scholarly studies in this regard are contained in the July 14, 1978, issue of the Journal of the American Medical Association. One of these studies, "Liquid Protein Diets and Torsade de Pointes" by Bramah M. Singh, M.D.; Thomas D. Gaarder, M.D.; Thomas Kanegae, M.D.; Mark Goldstein, M.D.; John Z. Montgomerie, M.D.; Harold Mills, M.D.—all from Los Angeles area institutions—concludes:

Our data leaves little doubt that the observed electrocardiogram abnormalities must be attributed to the liquid protein diet.

The same issue contains the article, "Cardiac Complications of Protein-Sparing Modified Fasting" by four Army physicians stationed at the William Beaumont Army Medical Center in El Paso, Tex. The authors, Capt. Jerry M. Brown, Maj. Joseph F. Yetter, Lt. Col. Melvin J. Spicer, and Capt. Jack D. Jones, conclude:

Strict protein-sparing modified fasting is not without immediate attendant risks, and potential cardiac sequelae (abnormal conditions) may not yet be recognized.

An editorial in the same issue, "Liquid Protein Mayhem" by Dr. Theodore B. Van Itallie, an authority on nutrition at St. Luke's Hospital Center in New York City, stated:

It is simply not possible to ignore the growing implications that prolonged use of liquid protein diet is hazardous and potentially fatal. The liquid protein diet has never been adequately studied, either in laboratory animals or in human volunteers. Its potential for causing harm short of death is poorly understood. In light of these facts, its use in the treatment of obesity cannot be justified.

Another critical conclusion was reached in the May 4, 1978, issue of the New England Journal of Medicine in an article entitled "Sudden Death in a Patient on a Liquid Protein Diet" by Robert R. Michiel, M.D.; Jeffrey S. Sneider, M.D;. Richard A. Dickstein, M.D.; Harvey Hayman, M.D.; and Robert H. Eich, M.D. The article is associated with the Department of Medicine

in the Division of Cardiology, the State University of New York, Upstate Medical Center, Syracuse, New York. The authors wrote:

Our patient had evidence of loss of lean body mass attributable to the diet that she pursued as recommended in the Last Chance Diet. Her clinical course and pathological findings suggest that her death was related to the cardiac effects of starvation resulting from the diet.

Lastly, in a letter to Commissioner Kennedy, Dr. Philip Felig, vice chairman of the Department of Internal Medicine at Yale University School of Medicine, wrote:

Until the efficacy of the protein-sparing modified fast has been established and the cause of deaths in patients on liquid protein has been clarified, all forms of diet therapy consisting solely of protein should be viewed as potentially hazardous. The liquid diet should consequently be restricted to investigational use. I believe that the public's interest is best served if this course of action is taken by the Food and Drug Administration.

In view of this accumulated and growing scientific evidence, I again urge the Food and Drug Administration to remove liquid protein from consumer sales, pending proof of its safety and efficacy. I understand that the FDA will soon propose new warning labels for liquid and powdered protein substances. Warning labels are not enough in view of the real dangers to human health associated with the use of liquid protein. Rather than leading to a healthier, happier life, for many persons liquid protein has led to the hospital and to the grave.

Mr. President, I ask unanimous consent that the materials I have referred to be printed in the RECORD

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOOD AND DRUG ADMINISTRATION,
Rockville, Md. June 23, 1978.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: The cooperative Center for Disease Control-Food and Drug Administration investigation into deaths associated with the use of liquid protein diets is continuing. A nationwide telephone survey was recently completed to develop data on the number of women between the ages of 25 and 44 who have used liquid protein diets for a month and more during 1977. I will send you a full report of the survey; however, preliminary information allows us to more accurately calculate estimates of the mortality rates for users of these diet regimens. In general, the survey results confirm the earlier crude estimates presented in Los Angeles last December by Dr. Foege, Director of CDC, to the House's Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce.

At the present time, we have reports on the deaths of 16 women whose clinical history fits the distinctive pattern previously described to you. One of the 16 deaths was a Canadian citizen, and 4 of the deaths were women not in the 25 to 44 age group. The remaining 11 deaths were American women 25 to 44 years of age. Data from the telephone survey allowed an estimate of the number of women on the diet for a month or more in 1977. Taking into account the fact that death data are available for less than a full year, we have an estimated adjusted annual mortality rate of 22 deaths per 100,000 women in this age group on the diet for more than a month. Using the survey data for women on the diet for 2 months or more (all of the deaths having occurred in women who were dieting for more than 2 months), the estimated mortality rate is 59 deaths per 100,000 white women 25 to 44 years of age. As Dr. Foege stated at the hearing in Los Angeles, the estimate of the death rate for cardiac deaths of similar character, not associated with use of a diet, in women in this age group (an estimate still to be confirmed by studies now in progress) is about 2 per 100,000 women per year. The liquid-protein dietary regimen, if followed exclusively for more than 2 months, would appear to account for almost a 30-fold increase in mortality.

To put these figures into better perspective, the following table lists mortality rates of the most frequently recognized causes of death for white women in these age groups.

Age, 25–29. Annual mortality rate/100,000 for most common cause, 12.7. Most common cause of death, motor vehicle accidents.

Age, 30–34. Annual mortality rate/100,000 for most common cause, 11.9. Most common cause of death, motor vehicle accidents.

Age 35–39. Annual mortality rate/100,000 for most common cause, 20.3. Most common cause of death, breast malignancy.

Age, 40–44. Annual mortality rate/100,000 for most common cause, 35.5. Most common cause of death, atherosclerotic heart disease.

We will keep you apprised of further developments as they become available.

Sincerely yours,

DONALD KENNEDY,
Commissioner of Food and Drugs.

FOOD AND DRUG ADMINISTRATION,
Rockville, Md., July 17, 1978.

Hon. CHARLES H. PERCY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PERCY: In my letter of June 23, 1978, concerning the cooperative investigation by the Food and Drug Administration (FDA) and the Center for Disease Control (CDC) of deaths associated with the use of liquid protein diets, I discussed a nationwide telephone survey we had conducted and promised to send you a copy of the survey report. This is enclosed.

The telephone survey was performed under contract to develop data on the number of women between the ages of 25 and 44 who were dieting to lose weight during calendar year 1977. The primary purpose for the survey was to determine the incidence of use of protein products, particularly liquid protein-derived products, by women dieters in the age range of interest. By combining this information on product usage with data for deaths that we are aware of which occurred during the latter half of 1977, a more precise estimate could be made of the mortality rate among women dieters.

My letter of June 23 indicated that the estimated mortality rate due to cardiac arrhythmias and related cardiac abnormalities among liquid protein users dieting for two or more months is 59 deaths per 100,000 white women 25 to 44 years of age. This rate is in contrast to the estimated rate for cardiac deaths of similar character, not associated with use of a diet to lose weight, of about 2 per 100,000 per year in women in this age group. A study by CDC and the National Center for Health Statistics to more accurately determine this latter rate is still in progress.

We will be glad to respond to any questions you or your staff may have regarding the enclosed report.

Sincerely yours,

DONALD KENNEDY,
Commissioner of Food and Drugs.

A NATIONAL SURVEY OF THE USE OF PROTEIN PRODUCTS IN CONJUNCTION WITH WEIGHT REDUCTION DIETS AMONG AMERICAN WOMEN

(By Raymond E. Schucker, Ph.D., Office of the Associate Director for Nutrition and Consumer Sciences, Bureau of Foods, Food and Drug Administration, Washington, D.C., and Walter J. Gunn, Ph.D., Chief, Research and Evaluation, Bureau of Health Education Center for Disease Control, Atlanta, Ga.)

I. MANAGEMENT SUMMARY

In December 1977, Dr. Julius Richmond, Assistant Secretary for Health, named a protein diet task force in the Public Health Service to investigate a number of sudden deaths reported among young and middle aged women who had been using protein products in strict dieting programs. As a part of their investigation, the Task Force requested scientists of CDC and FDA to design and direct a joint nationwide study of the prevalence and manner of use of such products by women in the range of 25 to 44 years of age. The most important findings are summarized below:

1. While fewer than 10% of the women interviewed claimed to have used some form of protein product as part of the diet or fasted in 1977 as a means to lose weight, these practices were reported at all income levels in the population.

2. Including an allowance for uncertainty due to sampling, an upper limit estimate (.95 confidence) of 98,000 white females aged 25–44 in the United States used a liquid protein-derived* product in 1977 for a minimum of one month or more as a principal or sole source of nourishment. Of these, an estimated 37,000 used the liquid product form for two months or more.

3. The reported users of protein products were generally above average on a weight/height obesity index relative to a normative random sample of adult women of the same age from the Health and Nutrition Examination Survey (HANES). The median obesity index for white female liquid protein users fell within the eighth decile of the HANES sample.

4. Of those who used liquid protein *alone*, on a daily basis without taking any other food, 64 percent said they were taking a potassium supplement and 86 percent said they were taking vitamins and/or minerals as a supplement. In the case of powdered protein users, only 26 percent were taking potassium and 79 percent were taking vitamins and/or minerals. For those who were using a total fast to lose weight, only 17 percent said they were taking supplemental potassium and 59 percent were taking vitamins and/or minerals.

5. Three-quarters or more of those dieting for less than one month, whether using protein products or not, were receiving *no* medical supervision at all, and only 5 to 10 percent were under continuous medical supervision. While a higher percentage of long-term dieters sought continuous medical supervision, no more than 25 percent of the liquid protein product users did so.

6. About one-third of all liquid protein users said they had become ill as a result of the product. One-quarter of these said they had to seek medical care, and of these, one-fourth said they were hospitalized.

7. Although the number of women using liquid protein has fallen off (but not completely ceased) since November 1977, the use of powdered protein appears to be increasing. There is an increase in the number

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*The shorter terms liquid or liquid protein used throughout this report refer to liquid protein-derived products, which typically are aqueous solutions of partially hydrolyzed gelatin.

of women who are using total fasts as a means of losing weight.

8. The majority of former liquid protein users said they were not willing to use these products again in the future, and most often cited adverse physical and/or emotional reactions, illness, and concern about safety as the reasons.

[From the Journal of the American Medical Association, July 14, 1978]

LIQUID PROTEIN DIETS AND TORSADE DE POINTES

(By Bramah N. Singh, MD; Thomas D. Gaarder, MD; Thomas Kanegae, MD; Mark Goldstein, MD; John Z. Montgomerie, MD; Harold Mills, MD)

(From the Division of Cardiology (Drs. Singh and Mills) and Department of Medicine (Dr. Goldstein), Cedars-Sinai Medical Center, Department of Medicine (Drs. Singh and Mills), University of California Los Angeles School of Medicine, Department of Medicine, (Drs. Gaar and Montgomerie), Univerisity of Southern California School of Medicine, Cardiology Division (Dr. Kanegae) Roos Loos Medical Center, and Department of Medicine (Drs. Gaarder and Montgomerie), Rancho Los Amigo Hospital, Los Angeles.)

[Figures not printed in RECORD.]

(Three women, aged 27, 33, and 35 years, experienced recurrent syncope five months after losing 36 to 41 kg using liquid protein diets. No abnormalities were noted during physical examination except in one who was hypothyroid. Serum potassium levels varied between 2.9 and 3.9 mEq/liter. The ECGs demonstrated prominent U waves, QU prolongation, and ST and T wave abnormalities, with left axis deviation in two patients. Syncopal episodes were due to ventricular tachycardia and fibrillation, which were not responsive to conventional antiarrhythmic agents used in two patients. Patients using liquid protein diets may thus experience reversible QU prolongation giving rise to serious arrhythmias that are probably best treated with drugs that shorten the QT interval. Caution should be exercised in the use of liquid protein diets for weight reduction in obesity. (*JAMA* 240:115–119, 1978))

Most cases of fatal and recurrent ventricular arrhythmias occur in patients with organic cardiac disease. However, sporadic cases of sudden death and recurrent ventricular tachycardia (VT) have been associated with gross QT prolongation in patients without clinical evidence of heart disease. Of particular interest is the atypical VT (*torsade de pointes*) causing sudden death or recurrent syncope that may be aggravated by conventional antiarrhythmic agents. *Torsade* may occur in the setting of a toxic reaction with quinidine and quinidine-like agents, phenothiazines, notably thioridazine, tricyclic antidepressants, and in the hereditary syndrome of QT prolongation with and without deafness. Recent reports have indicated that severe electrolyte deficits such as hypokalemia and hypomagnesemia may also induce *torsade*.

The possibility that severe metabolic and electrolyte derangements may produce *torsade* or other ventricular arrhythmias has recently been raised from reports of sudden death in young women using weight-reducing liquid protein diets. Recently, three such patients were admitted into hospitals in the Los Angeles area for the investigation of recurrent syncope. All had many of the ECG features of *torsade de pointes*, with abnormal QU prolongation. Two died of intractable arrhythmias; the patient who survived was treated with phenytoin sodium, which appeared to control the recurrent *torsade*. We suggest a tentative antiarrhythmic approach for other cases that might be encountered.

REPORT OF CASES

CASE 1.—A 27-year-old woman entered the hospital on Oct. 13, 1977, for the evaluation of recurrent syncope. Five months previously when she weighed 121 kg, she was given a liquid protein diet (15 ml/day, with potassium supplements) for weight reduction. She lost 41 kg and remained well until Oct. 11, 1977, two days before admission into hospital, when she experienced a transient syncopal spell with apnea. When seen at an emergency room of a local hospital, the question of a hysterical reaction was raised. On the following day, four similar episodes of syncope with apnea supervened.

At the time of admission, the patient weighed 76 kg. Her heart rate was 95 beats per minute and regular, her blood pressure (BP) was 85/54 mm Hg (supine without postural fall), her respirations were 20/min, and her temperature was 37.4 °C rectally.

Results of routine laboratory investigations were all normal, with a serum potassium value of 3.9 mEq/liter; calcium, 8.4 mg/dl; and magnesium, 1.8 emEq/liter. Toxicological tests for hynotics, sedatives, and amphetamines were negative. The chest roentgenogram and an echocardiogram were normal. An ECG taken 24 hours after hospital admission (Fig. 1) showed low-voltage T waves, prominent U waves, prolonged QU interval, and left anterior fascicular block.

In the hospital, the patient experienced two further syncopal spells, the first of which was short-lived; for the second, caridopulmonary resuscitation (CPR) was required to restore sinus rhythm. An ECG taken during CPR showed VT (Fig. 2). The patient was transferred to the Medical Intensive Care Unit after intravenous administration of 200 mg of phenytoin sodium. During the next 24 hours, no further episodes of syncope occurred, and the patient was given an 800-calorie diet. On Oct. 16, 1977, a further episode of self-terminating VT (Fig. 2) was reported. The following day, three episodes of VT were reported during continuous ECG monitoring, each episode was associated with apnea and loss of consciousness.

Administration of phenytoin sodium was commenced with 300 mg and continued with 100 mg every six hours thereafter. However, before therapy with phenytoin could be completed, the patient had further episodes of VT, one of which became sustained and refractory to electrical shocks with maximal energy defibrillation. Successful defibrillation was finally achieved after intravenously injected epinephrine. Lidocaine hydrochloride infusion, 2 mg/min, was then commenced, and therapy with phenytoin was completed within 24 hours, at which time, lidocaine infusion was stopped. Oral phenytoin sodium, 100 mg three times a day, was given, and no further episodes of ventricular arrhythmias supervened. Twenty-four hours after the commencement of therapy with phenytoin (Oct. 18, 1977), there was a substantial improvement in the appearances of the ECG (Fig. 2).

The patient continued to lose weight on an 800-calorie diet. Continuing this diet, she was discharged on Oct 27, 1977. Two days later, she was readmitted with a left-sided pleural effusion and pyrexia, which were attributed to phenytoin therapy. Therefore, the latter was discontinued, and a complete regression of symptoms occurred. Five days after the discontinuance of therapy with phenytoin, an ECG showed no abnormalities. The patient remains well.

CASE 2.—A 33-year-old woman was admitted to the hospital Oct. 27, 1977, with a one-day history of three syncopal episodes during brief periods. On one occasion, a seizure-like activity was present. The patient had been adhering rigidly to a liquid protein diet for six months before admission, commencing in March 1977, during which time she lost 41 kg. She felt weak and tired following exercise for two weeks before admission but was not short of breath. She become intolerant of cold and was aware of mental sluggishness for a month before admission. Her menses had been regular.

The patient had lifelong obesity, without history of diabetes mellitus, hypertension, or heart disease. In March, before commencing the diet, findings of thyroid tests and the ECG were normal (Fig 3). Ten days before admission, her serum potassium level was 4.2 mEq/liter, and uric acid value was 7.2 mg/dl. The liquid protein diet consisted of 30 ml four times daily, supplemented with potassium chloride, 1-g tablet four times a day, and prenatal vitamins, which contain calcium, magnesium, and other vitamins including vitamin C. Fluid intake consisted mainly of diet soft drinks. She received no thyroid medication at the time of admission, and she denied drug or alcohol abuse. She had discontinued the diet four days before admission and had started eating a light diet.

At the time of admission, her BP was 90/60 mm Hg, respirations were 18/min, and her temperature was 35.8 °C orally. Except for the clinical evidence of hypothyroidism, other findings were normal. Thyroid function tests shower a thyroxine test value of 1.6 g/dl (normal, 5.0 to 13 μg/dl), and triiodothyronine test resin uptake was 25%. Free thyroxine index was 0.40, and thyroid-stimulating hormone was 90 units (normal, 0 to 12 units). The serum potassium value was 3.6 mEq/liter; magnesium, 1.7 mg/dl; and calcium, 8.8 mg/dl. Results of other routine laboratory tests, including a chest roentgenogram, were within normal limits. The ECG (Fig 3) showed low-voltage QRS, flat or inverted T waves, and prolonged QT_c interval, minute R waves. On the day after admission, the ECG showed QT_c of 0.43 seconds and prominent U waves, with notably prolonged QU_c interval (Fig 3).

In the intensive care unit, the patient received a 1,000-calorie low-sodium diet and 5% dextrose intravenously, as well as multivitamins, thiamine, and magnesium orally. She complained of cold intolerance but felt well otherwise. The next morning she became unconscious during an episode of VT that was defibrillated successfully. The VT demonstrated the changing QRS axis typical of *torsade de pointes*. After reversion to sinus rhythm, the ECG still showed grossly abnormal inverted T and U waves. Lidocaine infusion was begun, and because her serum potassium level was 3.0 mEq/liter, she was given potassium intravenously. An echocardiogram showed no pericardial effusion or mitral valve prolapse.

Throughout the day, the patient had severe, repeated episodes of VT, each episode responding to electrical cardioversion. In the afternoon of the day after admission, the patient had another episode of VT that deteriorated into ventricular fibrillation (VF). Cardioversion was initially unsuccessful. Cardiopulmonary resuscitation was maintained for 45 minutes, during which time the patient had periodically an almost flat line on the ECG. Her heart rhythm was electroconverted on more than ten occasions. Dopamine hydrochloride drip was started, endotracheal intubation was performed, and the patient received respiratory assistance. She received several ampuls of calcium chloride, three injections of 100 mg of procainamide hydrochloride, 500 mg of phenytoin sodium, 500 μg of triiodothyronine, and 125 mg of methylprednisolone sodium succinate. Sinus rhythm was restored, and BP returned to normal. She also received a rapid infusion of 500 ml of 20% glucose, with 30 mEq of potassium and 5 units of soluble insulin.

The patient regained consciousness and appeared well oriented. However, two hours

later, she experienced another episode of VT followed by VF that was refractory to treatment. Autopsy demonstrated a normal-sized heart, with round cell infiltration of the myocardium and of the thyroid gland that was moderately enlarged.

CASE 3.—A 33-year-old woman was hospitalized because of recent symptoms of headache, fatigue, and recurrent syncope. She was well until five months previously when she had begun taking a liquid protein weight-reducing diet. During this period, she lost 36 kg.

On admission (Aug. 23, 1977), the patient appeared well, with evidence of recent weight loss. Her BP was 88/50 mm Hg, and her pulse rate was 110 beats per minute. Results of laboratory tests were normal. Serum electrolyte levels were as follows: sodium,. 140 mEq/liter; potassium, 2.9 mEq/liter; bicarbonate ion, 34 mEq/liter; chlorine, 91 mEq/liter; calcium, 8.9 mg/dl; magnesium, 1.5 mg/dl. There were no abnormalities on the chest roentgenogram; the ECG demonstrated left axis deviation, sinus rhythm, intraventricular conduction defect, ST–T wave abnormalities, prominent U waves, and prolonged QU interval.

Eight hours after entry into the hospital, the patient experienced rapid tachycardia that reverted spontaneously to sinus rhythm. The serum potassium level at the time was 4.0 mEq/liter. An ampul of magnesium sulfate and an ampul of calcium chloride were given by slow intravenous infusion, the patient having had intravenous potassium administered at the time of admission. About 12 hours after admission, further QRS prolongation to about 120 msec was noted on the ECG; the patient was hypotensive and obtunded. Two hours later an episode of tachycardia (150 per minute) with wide QRS complexes was noted on the ECG. Reversion to sinus rhythm occurred spontaneously.

Dopamine infusion was instituted with the placement of a Swan-Ganz triple-lumen catheter and a percutaneously inserted intraarterial cannula for continuous monitoring of the arterial pressure. The patient became alert and orientated and remained stable for the next 12 hours. However, 30 hours after admission, VT occurred, which reverted to normal sinus rhythm after electrical cardioversion. Lidocaine infusion was then instituted.

Thirty-seven hours after entry into hospital, recurrent episodes of VT deteriorating into a sine-wave pattern with total electromechanical dissociation was noted. During approximately three hours of CPR, multiple electrocardioversions, as well as multiple drug regimens, including intracardiac epinephrine, intravenous lidocaine, procainamide, glucagon, bicarbonate, and calcium, as well as digoxin were sequentially administered. Unexpectedly the rhythm converted spontaneously to sinus tachycardia with narrow QRS complexes, with a BP of 130/80 mm Hg. The left axis deviation noted at the time of admission regressed to normal limits. Large doses of intravenous dexamethasone, 4 mg/day, were started, therapy with digoxin and lidocaine was continued, and a small-dosage dopamine infusions was maintained. However, 60 hours after admission, bradycardia with associated wide QRS complexes set in suddenly. It rapidly progressed to asystole. Multiple drug administrations and CPR were unsuccessful in restoring cardiac rhythm during the next three hours. Autopsy disclosed prominent round cell infiltration in the myocardium, with no other abnormalities.

COMMENT

All our three patients were young and obese, and each had lost 36 to 41 kg during three to five months using a liquid protein diet before the onset of syncope. However, the most important finding was the striking similarity in the ECG appearances with notably prolonged QU_o interval and nonspecific T wave abnormalities associated with paroxysmal VT. This observation is of particular importance in the light of the increasing number of unexplained sudden deaths in young patients using liquid protein diet reported to the Center of Disease Control.

Our data suggest that the mode of death is VT or VF due to gross repolarization abnormalities in the heart. The mechanism of the QU_c prolongation in these patients is, however, unclear, but a causal relationship between delayed repolarization and serious ventricular arrhythmias here appears inescapable. On the other hand, it is not known what proportion of patients using various liquid protein diets have such ECG abnormalities and whether all such patients are at risk for the development of serious arrhythmias.

A variety of clinical conditions with abnormally long QT_c or QU_c interval of the ECG have been associated with VT or sudden death. However, none of the recognized syndromes with such abnormalities could be identified to account for the observed ECG abnormalities in our three patients. In one of our patients, an ECG taken before the diet was commenced showed normal QT_c or QU_c intervals. Furthermore, in the patient who survived (case 1), there was a complete regression of the ECG abnormalities present at the time of hospital admission. The change in the ECG appearances was unlikely to be related to phenytoin therapy since the improvement persisted after the drug therapy was discontinued.

Similarly, the ECG disturbances found in our cases could not be attributed to the chronic ingestion of arrhythmogenic drugs, nor could they reasonably be related to the derangement of serum electrolytes even though severe hypokalemia, hypocalcemia, or hypomagnesemia are known to produce life-threatening ventricular arrhythmias. In all three patients, the serum electrolyte levels were normal; in two, the serum potassium value was in the lower range of normal, and the lowest recorded level was 2.9 mEq/dl in the third patient. Despite these marginally depressed serum potassium and magnesium levels, the ECG appearances were compatible with hypokalemia, but the presence of the left axis deviation in two of the three patients is unusual. Although it is not a well-known complication of hypokalemia, it has been reported in cases of severe hyperkalemia. It should be emphasized that a precise quantitative relationship between serum potassium levels and the evolution of ECG changes is, of course, not always found, and the possibility that profound electrical abnormalities in the myocardium may well exist without a comparable reduction in the serum potassium concentration cannot be excluded.

Our second patient had clinical and biochemical evidence of hypothyroidism during the period that she was using the liquid protein diet. Hypothyroidism is, however, an unlikely mechanism for VT or VF in this patient in the light of the findings reported by Feedberg et al., who showed that hypothyroidism is associated with a uniform prolongation of the absolute refractory period, whereas thyrotoxicosis produces the converse, thus accounting for the well-known propensity for associated atrial arrhythmias.

Our data leave little doubt that the observed ECG abnormalities must be attributed to the liquid protein diet. The mechanism through which these changes might arise is uncertain. Sudden death during therapeutic starvation for obesity has previously been verified in a few patients in whom it was attributed to acidosis.

The arrhythmias in our three patients exhibited many of the features of *torsade de pointes*, the recognition and management of which has recently been reviewed by Krikler and Curry. They emphasize the recurrent and often self-terminating nature of the VT occurring in association with QU_c interval prolongation in most but not all patients, each episode being initiated by an ectopic ventricular beat occurring late rather than early in diastole in contrast with the classic form of ventricular tachycardia found in ischemic or other types of cardiac disease. Another difference relates to the further lengthening of the QT_c or QU_c intervals by conventional antiarrhythmic drugs, which may thus aggravate rather than control the ventricular arrhythmias. It is notable that the two of our patients who died were treated with a variety of conventional antiarrhythmic agents, including procainamide. The only patient who survived was given phenytoin as the sole antiarrhythmic drug, except for a brief period of lidocaine infusion. A further point emphasized by Krikler and Curry is that, barring the correction of the underlying disorder and the repletion of electrolyte deficits, isoproterenol infusion may be effective in preventing recurrent *torsade* since catecholamines may rectify repolarization abnormalities in this setting.

While experience is limited, it is difficult to make recommendations regarding the correct approach to arrhythmias that may be encountered in patients using low protein diets. However, since the diet may induce ECG-repolarization abnormalities, from theoretical and initial clinical considerations, drugs that prolong the QT_c or QU_c intervals should be avoided in the treatment of ventricular arrhythmias associated with this disorder. The role of drugs like propranolol and lidocaine, which do not alter QT_c or QU_c interval substantially, remains uncertain, as does that of ventricular pacing. However, until the mechanism of these cardiac complications apparently resulting from the use of liquid protein diets in some patients has been clarified, caution should be exercised in promulgating this mode of therapy for weight reduction.

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CARDIAC COMPLICATIONS OF PROTEIN-SPARING MODIFIED FASTING

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The opinions expressed herein are those of the authors and do not necessarily reflect those of the US Army or Department of Defense.)

[Figures not included in RECORD]

Cardiovascular abnormalities developed in a patient during a protein-sparing modified fasting diet. Syncope was the complaint at the time of examination. Hypotension, persistent QT interval prolongation, and a low QRS voltage were observed before the development of refractory ventricular tachycardia. At autopsy, antemortem thrombi were attached to the left ventricular endocardium and a fenestrated aortic valvule. Strick protein-sparing modified fasting is not without risk of sudden death even with close medical supervision. (JAMA 240: 120-122, 1978)

The Last Chance Diet[1] has popularized protein-sparing modified fasting[2]; remarkable weight losses with relatively minor

side effects are reported. At our institution, close medical follow-up includes attention to vitamin, mineral, and potassium supplementation and screening for uric acid elevations. However, death occurred in a patient who adhered strictly to this diet and lost weight rapidly.

REPORT OF A CASE

A 34-year-old woman was transferred to William Beaumont Army Medical Center for evaluation of a syncopal episcode. The patient previously enjoyed good health and was being followed up closely by a physician, with physical examination and laboratory determinations every two weeks. She had lost a total of 40.5 kg. (from 107.7 to 67.2 kg) in five months on a diet consisting of 300 calories/day exclusively derived from a liquid protein hydrolysate. Her medications were vitamins and potassium chloride (20 mEq/day); she had taken no oral contraceptives for six years.

Medical History.—The patient had no complaints during her visits, and there was no history of prior syncopal episodes. Laboratory determinations (automated multiple analysis system, electrolyte value) remained normal during the interval of weight loss. Moderate physical exertion on a hot, arid day appeared to be the only factor contributing to her syncopal episode. The patient did not smoke cigarettes or consume alcoholic beverages. There was no family history of sudden death or cardiovascular disease. Past medical history included adolescent onset of obesity and borderline hypertension that had normalized with dieting.

Examination Findings.—At the time of examination, the patient was disoriented and stuporous, with a blood pressure of 65/0 mm Hg. Complete mental clearing occurred after the infusion of approximately 2 liters of 5 percent dextrose in normal saline with 20 mEq of potassium chloride per liter. Her blood pressure had risen to approximately 90/60 mm Hg, with no orthostatic changes. Findings from the remainder of her physical examination were normal except for redundant folds of skin over the torso and proximal extremities.

Laboratory evaluation showed a normal complete blood cell count except for 18 percent bands. Platelet count, ESR, prothrombin time, activated partial thromboplastin time, electrolyte, creatine phosphokinase-MB isoenzyme, and blood chemistry values were all normal, except for total protein of 5.5g/dl. The serum potassium and calcium values were normal on multiple determinations, as was the serum magnesium level. Urine specific gravity was increased (1.028), but analysis results were otherwise normal. Three sets of anaerobic and aerobic blood cultures were sterile. Findings from serum protein electrophoresis and thyroid function studies were normal. Rapid plasma reagent and antinuclear antibody tests were negative. Arterial blood gas levels were normal.

Initial chest roentgenogram showed pulmonary interstitial markings with B lines of Kerley, and it remained unchanged eight hours after admission. There was no cardiomegaly (Fig. 1) The initial ECG (no other available for comparison) performed with the patient notably hypotensive showed low QRS voltage. The QT interval, corrected for heart rate (QT_c), was striking prolonged (QT_c, 0.58 seconds; normal, by <0.44), with both prolonged Q to onset of the T wave and increased T-wave duration.

Rhythm strips demonstrated a low atrial focus in leads I, II, and III, but in a V_1, an accelerated junctional focus was transiently dissociated from the atrial impulse (Fig. 2). In lead V_6, sinus-node activity appeared after an atrial fusion beat (Fig. 2). No ventricular ectopy was noted during continuous monitoring, and a repeated ECG eight hours after admission was normal except for unexplained low QRS voltage and QT interval prolongation (QT_c, 0.59 seconds).

Although the patient remained hypotensive, urinary output was adequate. Cosyntropin stimulation elicited a normal adrenal response from a normal baseline serum cortisol level. The patient felt well and had no signs of distress while remaining in an intensive care unit. Abruptly, approximately 24 hours after admission, refractory ventricular tachycardia developed without premonitory signs of ventricular ectopy. Lengthy cardiopulmonary resuscitory maneuvers were unsuccessful.

Autopsy findings.—An autopsy, aside from mild passive congestion of the lungs, abnormalities were confined to the heart. The heart weight was normal (300 g) and showed no dilation; valve circumferences and chamber sizes were within normal limits. The coronary arteries were free of identifiable atherosclerosis, thrombi, or emboli. Adherent to the anterior left ventricular endocardium was a 15×10×5-mm irregularly shaped, firm, dull-red thrombus. The right cornary cusp of the aortic valve was fenestrated. Entwined with the more distal fibrous cord of the fenestrated cusp was a firm, gray, 3×3×12-mm elongated thromboembolus (Fig. 3). All other valve leaflets, the epicardium, myocardium, and endocardium showed no abnormalities.

Microscopic examination of both thrombi confirmed them to be antemortem. Histologically, the left ventricular endothelium and myocardium showed no abnormalities. No systemic emboli or venous thrombi were demonstrated. Examination of the brain was excluded.

COMMENT

The literature on fasting generally regards it as a relatively safe and acceptable alternative in dieting. However, Garnett et al described refractory ventricular fibrillation in an otherwise healthy 20-year-old woman following a 30-week near-starvation diet supplemented with vitamins, potassium, and limited amounts of protein supplements. Their patient had completed the modified fast and did well until approximately seven days after a refeeding regimen was instituted.

New ECG abnormalities, substantive QT interval prolongation (QT_c, 0.56 second), and low QRS voltage were noted subsequent to syncope, ventricular fibrillation, and immediate successful resuscitation. The ECG changes persisted for 1½ days before the terminal episode of fibrillation. Electron microscopy of the mycoardium showed an apparent increase in sarcolemmic mitochondria and disruption and a small number of myofibrils.

The clinical findings of Garnett et al—QT_c, interval prolongation with no biochemical or metabolic explanation, ventricular ectopy, and ventricular fibrillation—are similar to those of our case. In addition, surveillance by the Center for Disease Control has accumulated data on ten patients, including our patient, who died suddenly while dieting or refeeding after prolonged protein-sparing modified fasting. The QT interval prolongations, low ECG voltage, and refractory ventricular tachycardia were the dominant clinical findings. These common findings suggest that QT_c, interval prolongation heralds an unpredictable period of ventricular instability in patients who semistarve.

Thurston and Marks reported ECG abnormalities in seven of nine patients who met Dally's criteria for the diagnosis of anorexia nervosa. Five of these nine subjects had minimal QT interval prolongations. Spencer thought the cause of sudden death in two patients who fasted and had congestive heart failure was ventricular fibrillation.

The association of QT interval prolongation and sudden death is well known. The hereditary syndromes of QT interval prolongation with deafness (Jervell and Lange-Nielsen) and without deafness (Romano-Ward) are characterized by a recurrent syncopal episodes secondary to ventricular tachycardia and sudden death without low low QRS voltage. These patients respond best to propranolol hydrochloride, phenytoin sodium, and stellate ganglion blocks, all of which may shorten the QT interval. In our case, we have no controlled experience with antiarrhythmics but noted refractoriness to lidocaine hydrochloride, procainamide hydrochloride, propranolol, and phenytoin.

Classically, thrombosis occurs in the following three circumstances: endothelial damage, increased coagulability of blood and conditions of abornmal (slow) flow. Perhaps myocardial dysfunction, as reflected in a low QRS voltage, hypotension, and pulmonary edema, accounted for the development of a left ventricular mural thrombus in our patient. Evidence supporting a hypercoagulable state or endothelial damage is lacking. Apparently, a portion of this thrombus broke away and became entwined with the cords of the fenestrated right coronary cusp. Because of this attachment, intermittent occulsion of the right coronary artery could be postulated as a cause of cardiac arrythmias; however, in the cases detected by the Center for Disease Control, no similar findings were indentified.

Physicians and the public are becoming aware of sudden deaths occuring during the protein-sparing modified fast and in the immediate refeeding period. The high incidence of low QRS voltage and QT_c interval prolongation and the reported association of ventricular ectopy to include ventricular tachycardia in the cases of prolonged near starvation reviewed provide the most plausible cause for these deaths.

An antemortem thrombus originating on a normal left ventricular endocardium is a distinctly unusual pathological finding; ventricular dysfunction may exist in patients undergoing strict prolonged protein-sparing modified fasting. Strict protein-sparing modified fasting is not without immediate attendant risks, and potential cardiac sequelae may not yet be recognized.

[From the Journal of the American Medical Association, July 14, 1978]

LIQUID PROTEIN MAYHEM

In this issue of The Journal, Singh et al (p 115) and Brown et al (p 120) report a total of three deaths of female patients who had adhered faithfully to a liquid protein diet (providing about 300 kcal/day in the form of protein hydrolysate) for five to six months. The immediate cause of death in every case was refractory ventricular tachycardia and fibrillation. A fourth patient experienced repeated episodes of ventricular tachycardia, but, after a stormy course, her condition was controlled with phenytoin sodium. The patient subsequently recovered. The ECGs of all four patients showed gross abnormalities of repolarization characterized by prominent U waves and QT prolongation. All of the patients were relatively young women aged 27 to 35 years, and, except for their obesity, all had been in good health before undergoing supplemented fasting.

At the time the cardiac complications were first observed, the patients had lost 36 to 41 kg (about 0.27 kg/day) but had not yet reached their desirable weight. All had been taking potassium supplements (20 to 40 mEq/day), and all received some degree of medical supervision. Laboratory data obtained soon after hospital admission showed the serum potassium levels to be normal in three of the patients and low (2.9 mEq/liter) in the fourth. None of the other laboratory tests appeared to throw light on the mechanism of the arrhythmias. At autopsy, no gross abnormalities of the coronary arteries or myocardium were noted. However, on histological examination, prominent round-cell infiltration of the myocardium was demonstrated in two of the patients. In the third patient who died, electron microscopy of the myocardium disclosed an apparent increase in sarcolemmal mitochondria and disruption and fewness of myofibrils.

Officials of the Food and Drug Administration and the Center for Disease Control are currently investigating 46 deaths associated with the use of liquid protein diets.[1] At last count, 15 of the fatalities were in women without serious underlying disease who died from cardiac arrhythmias after prolonged and exclusive use of liquid protein products. These unnecessary deaths are a somber reminder of the tragic consequences that can occur when therapy outstrips its research base. It appears that the liquid protein materials were never tested in appropriate laboratory animals to determine their safety for prolonged use for weight reduction.

Moreover, there is a serious dearth of detailed clinical studies of the metabolic effects of the liquid protein diet. It is also disturbing that the principal ingredient of the liquid protein mixture is a hydrolysate made largely from collagen or gelatin obtained from cowhides and other sources of connective tissue, materials of notoriously poor protein quality. Indeed, laboratory assays of some of these dietary producers have shown them to possess a protein efficiency ratio of less than zero. The same products have also been shown to be grossly deficient in essential trace element.

The liquid protein diet derives from a relatively new approach to weight reduction that was described by Apfelbaum et al[2] in 1967 and further developed by Blackburn et al,[3] Genuth et al,[4] and Baird et al.[5] This approach, which has been variously described as supplemental, protein-supplemented fasting, and protein-sparing modified fasting, involves adherence to a diet with a low energy content (300 to 600 kcal) and is composed almost entirely of protein or a mixture of protein and carbohydrate. In his original three-week study of moderately obese women, Apfelbaum et al[2] fed 55 g of protein (as casein) per day and reported that, although nitrogen balance was negative during the first week, it subsequently came into equilibrium. Bistrian et al[6] have used a diet consisting of 1.5 g of high quality protein per kilogram of desirable weight, while Genuth and his associates[4] used 45 g of egg albumin and 30 g of sucrose per day together with supplementary vitamins and minerals.

Although some disagreement remains as to whether such diets are completely and indefinitely effective in sparing body protein, there is little doubt that they decrease the overall nitrogen losses associated with total caloric starvation. However, it must be noted that the variants of supplemented fasting briefly described above all use food sources that yield proteins of high biologic value. Also, the regimen of Blackburn et al[3] provides a sufficiently high protein intake to make it likely that some of the amino acids are available to meet essential carbohydrate needs.

Even the supplemented fasting regimens that make use of protein of high quality are not always benign. The ones that are ketogenic are poorly tolerated by many patients with only mild obesity; moreover, a variety of distressing side effects have been reported by many patients; these include fatigue, dehydration, orthostatic dizziness, hair loss, skin dryness, cold intolerance, muscle cramps, amenorrhea, and decreased libido. Although these side effects are common, they are generally minor and well tolerated by the massively obese subject.

As regards the liquid protein diet, described in the popular press as the "last chance" diet,[7] it is difficult to find an excuse for using protein products of poor quality in regimens that, in any case, tend to deplete body protein. Although the role of the biologic quality of the protein used in such regimens has not been determined, it is conceivable that the ingestion of an unbalanced mixture of amino acids to supplement a fast will exacerbate rather than reduce the stress of starvation.

The precise mechanism of the fatal cardiac arrhythmias associated with prolonged adherence to the liquid protein diet remains to be worked out. It is possible that, despite serum potassium values, which are often in the normal range, and in spite of some potassium supplementation, an intracellular potassium deficiency, which is known to be capable of damaging the myocardium, slowly developed in patients who exhibited cardiac arrhythmias.[8] Thus, it is not clear whether the deleterious effects of liquid protein diets occur because of some insidious dietary deficiency, eg, of protein, potassium, or a trace element, because of the presence of a toxic agent of some sort in the preparation, or because of some totally unexpected cause.

The few remaining proponents of the liquid protein diet argue that, in spite of the reported fatalities associated with its use, this dietary approach is still acceptable because it is uniquely effective in the treatment of resistant obesity and will, therefore, be invaluable in reducing the morbidity and mortality associated with this disorder. Such reasoning is fallacious; there are safer alternatives to the liquid protein diet that are equally effective and nutritionally more rational. But, in any case, no drastic weight reduction regimen makes sense unless adequate provision is made for subsequent maintenance of weight loss. Nor is there any basis for using protein-supplemented fasting in the treatment of mild obesity. Physicians should be aware that even supplemented fasting regimens that use proteins of high quality are still considered to be at the investigational stage by workers at several medical centers in the United States.

More to the point, it is simply not possible to ignore the growing indications that prolonged use of the liquid protein diet is hazardous and potentially lethal. The liquid protein diet has never been adequately studied, either in laboratory animals or in human volunteers. Its potential for causing harm short of death is poorly understood. In light of these facts, its use in the treatment of obesity cannot be justified.

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FOOTNOTES

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[From the New England Journal of Medicine, May 4, 1978]

SUDDEN DEATH IN A PATIENT ON A LIQUID PROTEIN DIET

(By Robert R. Michiel, M.D., Jeffrey S. Sneider, M.D., Richard A. Dickstein, M.D., Harvey Hayman, M.D., and Robert H. Eich, M.D.)

(From the Department of Medicine and the Division of Cardiology, State University of New York, Upstate Medical Center.)

Sudden death in adults without serious underlying heart disease has emerged as a major complication of the liquid protein diets.[1,2] Fifteen such cases have been reported to the Center for Disease Control and the Food and Drug Administration since July 1, 1977. This communication describes the course of one of these patients who was admitted to the Upstate Medical Center with intractable ventricular arrhythmias. The findings on post-mortem examination of the heart, skeletal muscle and liver are compatible with starvation.

CASE REPORT

A 38-year-old woman was admitted to Crouse-Irving Memorial Hospital on October 22, 1977, complaining of syncopal episodes. In February, 1977, she had weighed 153 kg and, against her physician's advice, had begun "The Last Chance Diet" based on Dr. Robert Linn's book of the same name.[3] According to the patient and her family she adhered to the diet rigidly. She took 600 kcal of liquid protein (beef-hide extract) daily. She also received supplements of multivitamins, calcium, folic acid and potassium, 24 meq daily in the form of a slow-release tablet (Slow K). During the eight months on this diet, up to the time of admission, she felt well and was able to continue her regular job as a secretary. A 63-kg weight loss was documented during these eight months. Serial laboratory tests, including serium electrolytes, uric acid, calcium, complete blood count and liver-function tests, were normal except for a transiently elevated serum glutamic oxalactic transaminase.

One week before admission thyroid tests were obtained as part of her routine follow-up observation. The serum level of thyroxine by radioimmunoassay was 3.6 μg per deciliter (normal, 4.6 to 11.6), free thyroxine 0.9 ng per deciliter (normal, 0.9 to 2.3) and thyrotropin 40 μU per milliliter (normal <10). She was clinically euthyroid at that time.

Two days before admission she had an episode of dizziness while driving. Several minutes later she had a syncopal episode in a gas station. Over the next few hours, she felt unwell and vomited several times. On the next day she felt well. On the morning of admission she was found at home in an unresponsive state with her eyes rolled back and her arms moving stiffly. She was not incontinent. There was no history of recent head trauma or alcohol use. She was then transported to the emergency room.

The pertinent past medical history included a hospitalization for a perirectal abscess in 1973, when the serum levels of thyroxine (Murphy-Pattee method) were 4.5 and 5.5 μg per deciliter (normal, 6.0 to 11.8) and the free thyroxine 0.4 ng per deciliter. She was clinically euthyroid and was not treated. A routine electrocardiagram obtained at that time revealed sinus rhythm, a prolonged QTc interval (0.50 second) and minor nonspecific polarization abnormalities. There was no history of cigarette smoking.

In the emergency room, the patient was awake and alert. Physical examination revealed an obese, oriented female with a blood pressure of 110/70 mm Hg, pulse of 80 beats per minute and regular, and respirations at a rate of 12 per minute. The pupils were equal and reactive to light, and the fundi were normal. There was no jugular venous distention, and the carotid pulses were normal. A nodule 2 cm in diameter was palpated in the left lobe of the thyroid gland. The lungs were clear to percussion and auscultation. Cardiac examination revealed a nonpalpable apical impulse, normal heart sounds and no murmurs, gallops or rubs. The abdomen was obese, without organomergaly by

palpation. The peripheral pulses were normal, and there was no clubbing, cyanosis, edema or calf tenderness. Neurologic examination gave entirely normal results.

The initial electrocardiogram (Fig. 2) revealed sinus rhythm, low voltage, a prolonged QTc interval (0.56 second) and nonspecific repolarization abnormalities. X-ray study of the chest gave normal results. The initial laboratory-test values included a serum sodium of 144, potassium of 4.2, chloride of 109 and bicarbonate of 15 meq per liter, calcium of 10.1 (normal, 8.5 to 10.5), magnesium of 1.8 (normal, 1.8 to 2.5), phosphorus of 2.3, creatinine of 1.3, uric acid of 7.5 and cholesterol of 220 mg per deciliter, glutamic oxalacetic transaminase of 72 mU per liter (normal, 8 to 40) and creatine phosphokinase of 45 U per liter (normal <80) and albumin of 3.8 g per deciliter. The urea nitrogen was 11 mg per deciliter, and a complete blood count was normal. Areterial-blood gases drawn while the patient was breathing room air revealed a pH of 7.45, with oxygen tension of 108 and carbon dioxide tension of 24 mm Hg.

Shortly after arrival in the emergency room an episode of ventricular tachycardia occured, with loss of consciousness after one minute. Electrical cardioversion was required. The patient was given 100 mg of lidocaine by rapid intravenous injection and started on a constant infusion of 4 mg per minute. She was transported to the Coronary Care Unit, where she had recurrent episode of ventricular tachycardia. Intubation was performed shortly after arrival in the Coronary Care Unit. Numerous electrical cardioversions and multiple drug regimens were used in efforts to control the recurrent venticular tachycardia. Concurrently, a transvenous pacemaker was inserted into the right ventricle in what proved to be an unsuccessful attempt to control the rhythm with overdrive suppression.

When the lidocaine infusion was seen to be ineffective, procainamide, 500 mg, was given intravenously over 25 minutes, and an infusion of 4 mg per minute was started. The QRS interval markedly widened, and the procainamide was stopped, with subsequent narrowing of the QRS interval. Intravenous propranolol was given in 0.5-mg increments to a total of 15 mg over a one-hour period, with little effect. Phenytoin, 500 mg given intravenously over 15 minutes, and magnesium sulfate, 3 g given intravenously followed by a constant infusion at a rate of 15 to 30 mg per minute, appeared to be most effective in controlling the ventricular arrhythmias, providing a two-hour period of predominantly sinus rhythm. Despite the constant infusion of magnesium, the serum magnesium never rose above 2 mg per deciliter. The serum potassium fell to 3.5 meq per liter, and a potassium chloride infusion was begun. A left-stellate-ganglion block was attempted, but was not accompanied by Horner's syndrome, and had no effect on the cardiac arrhythmias. Approximately 12 hours after admission, the cardiac rhythm degenerated to ventricular fibrillation, and defibrillation was unsuccessful.

On gross post-mortem examination the lungs were mildly congested. The heart weighed 325 g. There was 5 ml of straw-colored pericardial fluid. The left ventricle was mildly dilated. The coronary arteries were widely patent and showed no atherosclerotic changes. The heart valves were normal. The liver was mildly congested, the adrenal glands were normal, and a 2-cm cyst in the left lobe of the thyroid was present. The brain was not examined. Microscopical sections of the heart revealed diffuse reduction in size of myofibers, fragmentation of fibers and lipofuscin deposition. There was focal reduction in size of skeletal-muscle fibers, moderate fatty change in the liver with reduction in size of hepatocytes and intracytoplasmic periodic-acid-Schiff-positive inclusions, and chronic nonspecific fibrosing thyroiditis, with a fibrous calcified cyst.

DISCUSSION

Sudden death has been reported in starvation, being noted in times of famine, as in the unoccupied zone of France during World War II.[4] It has also been reported as a consequence of therapeutic starvation for obesity. Two such cases were reported by Spencer and Durh[5] in women with pre-existing heart disease and congestive heart failure. At autopsy, one patient had coronary-artery disease with a previous myocardial infarction and left ventricular dilatation and hypertrophy. The other patient had patent coronary arteries and hypertrophy of all cardiac chambers. More pertinent is a well documented case reported by Garnett et al.[6] of a 20-year-old woman with no history of cardiac disease and with a normal electrocardiogram except for a prolonged QTc interval during a period of hypokalemia. This patient underwent a 30-week fast during which studies of potassium exchange revealed loss of lean body mass. On the seventh day of refeeding intractable ventricular arrhythmias developed, and she died. Her electrocardiogram after the initial cardiac arrest and resuscitation showed low QRS voltage and a markedly prolonged QTc interval. At post-mortem examination the heart was dilated, and the coronary arteries were normal. Microscopical examination of the myocardium revealed small myofibers and an increased amount of lipofuscin. Paucity and disruption of myofibrils and increased numbers of mitochondria were seen on electron microscopy.

Similar pathological findings on light microscopy have been reported in animal studies and in autopsies of famine victims.[7] Gross cardiac atrophy was found in 85 per cent of the autopsies of 492 victims of pure starvation from the Warsaw Ghetto, with a mean estimated loss of 19.3 per cent of heart weight. Most studies show that the degree of cardiac atrophy with pure starvation is nearly proportional to the whole-body weight loss.[7]

The liquid protein diets are based on the protein-sparing modified fast, which is said to result in weight loss with preservation of lean body mass by providing 1.2 to 1.4 g of protein in the form of lean beef or egg albumin per kilogram of ideal body weight.[8, 10] In the commonly used version of the liquid protein diet, a liquid extract of beef hide is employed as the protein source.[3] Our patient had evidence of loss of lean body mass attributable to the diet that she pursued as recommended in *The Last Chance Diet*.[3] Her clinical course and pathological findings suggest that her death was related to the cardiac effects of starvation resulting from the diet. On admission her serum levels of potassium, magnesium and calcium were normal. She was chemically hypothyroid, but her hospital course and the post-mortem findings could not be explained on that basis. The prolonged QTc interval was recognized initially at admission, but the ventricular arrhythmias could not be controlled by agents that shorten the QT interval—lidocaine, propranolol and phenythoin—or any other agents.

The actual cause of death in patients on the liquid protein diet remains a mystery. However, on the basis of this case and the other cases reported by the Center for Disease Control and the Food and Drug Administration,[1,2] a number of generalizations can be made regarding patients on the liquid protein diet. First of all, refractory ventricular tachycardia in women without apparent underlying heart disease is a problem associated with the diet. Secondly, syncope can be a premonitory symptom of these arrhythmias. Thirdly, hypokalemia is present in some but not all the patients with refractory ventricular arrhythmias. Fourthly, QTc prolongation and low QRS voltage are frequent in patients having refractory ventricular tachycardia. Fifthly, starvation, with loss of lean body mass, can occur on the diet. And, finally, good medical supervision of the liquid protein diet affords no protection against refractory ventricular arrhythmias.

The actual frequency of sudden death among people on the liquid protein diet is unknown. However, until the mechanism of sudden death is understood, the above case should serve as a caveat to those interested in this diet and to the physicians entrusted with their care.

(We are indebted to Eugene H. Kagan, M.D., Department of Pathology, Crouse-Irving Memorial Hospital, Syracuse, who cooperated in the preparation of this case report.)

FOOTNOTES

[1] Deaths associated with liquid protein diets. Morbid Mortal Weekly Rep. 26:383, 1977.

[2] Follow-up on deaths in persons on liquid protein diets. Morbid Mortal Weekly Rep 26:443, 1977.

[3] Linn R: The Last Chance Diet Book, New York, Bantam, 1977.

[4] Zimmer R, Weill J, Dubois M: The nutritional situation in the camps of the unoccupied zone of France in 1941 and 1942 and its consequences. N Engl J Med 230:303–314, 1944.

[5] Spencer IOB: Death during therapeutic starvation for obesity. Lancet 1:1288–1290, 1968.

[6] Garnett ES, Barnard DL, Ford J, et al: Gross fragmentation of cardiac myofibrils after therapeutic starvation for obesity. Lancet 1:914–916, 1969.

[7] Keys A, Brozek J, Henschel A, et al: The Biology of Human Starvation. Minneapolis, University of Minnesota Press, 1950, pp. 185–186, 200–202.

[8] Blackburn GL, Bistrian BR, Flatt JP, et al: Role of a protein-sparing modified fast in comprehensive weight reduction program, Recent Advances in Obesity Research 1. Edited by A Howard, London, Newman, 1975, pp 279–281.

[9] Bistrian BR, Blackburn GL, Flatt JP, et al: Nitrogen metabolism and insulin requirements in obese diabetic adults on a protein-sparing modified fast. Diabetes 25:494–504, 1976.

[10] Bistrian BR, Blackburn GL, Stanbury JB: Metabolic aspects of protein-sparing modified fast in the dietary management of Prader-Willi obesity. N Engl J Med 296:774–779, 1977.

YALE UNIVERSITY,
New Haven, Conn., February 9, 1978.

DONALD KENNEDY, Ph.D.
Commissioner,
Food and Drug Administration,
Washington, D.C.

DEAR COMMISSIONER KENNEDY: I have been requested by Dr. Harold Sours of the CDC to evaluate the background material with regard to deaths associated with liquid protein diets. A copy of my report is enclosed. My reason for writing to you relates to the article on protein diets in the FDA Drug Bulletin of January-February, 1978. I believe that in meeting its obligations to warn the medical community of a potentially dangerous mode of therapy, the FDA should take note of the following:

1. There are inherent dangers in any protein-sparing modified fast (PSMF) whether it consists of liquid or solid protein. These include increased losses of calcium and magnesium, as well as potassium.

2. There is a lack of any published short term or long term studies comparing PSMF with conventional, ("balanced") hypocaloric diets with respect to efficacy in compliance, protein-sparing or reduction in mineral losses.

3. In view of the potential risks and unsubstantiated benefits, liquid protein diets should be considered investigational in all patients, not just pregnant women, children and adolescents as indicated by Dr. Blackburn in your Bulletin. Conventional medical supervision and/or the administration of potassium supplements cannot be considered adequate safeguards since in thirteen of the fifteen deaths the women were under medical treatment and did receive supplemental potassium.

Until the efficacy of PSMF has been established and the cause of deaths in patients on liquid protein has been clarified, all forms of diet therapy consisting solely of protein should be viewed as potentially hazardous. The liquid diets should consequently be restricted to investigational use. I believe that the public's interest is best served if this course of action is taken by the FDA.

Sincerely yours,

PHILIP FELIG, M.D.

CORRECTION IN THE ENROLLMENT OF H.R. 10732

Mr. STEVENS. Mr. President, there is a concurrent resolution at the desk that I ask the clerk to report.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

House Concurrent Resolution 687 directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 10732.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the concurrent resolution.

Mr. STEVENS. Mr. President, let me state that this is a clerical correction that we previously attempted to correct with a Senate resolution. There has been some dispute about the effectiveness of what we did, so the House has sent us its own concurrent resolution.

I ask unanimous consent that it be considered immediately and agreed to.

The resolution (H. Con. Res. 687) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HODGES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THAT EMBARRASSING OIL GLUT

Mr. STEVENS. Mr. President, the Christian Science Monitor last Thursday contained a column by Mr. Ralph Rechel which discussed the apparent surplus of oil on the west coast. This is a problem that has concerned me since it became obvious that the refining capacity on the west coast would not be sufficient to process all of the oil that the Alaska pipeline was capable of providing. The situation is one which should concern everyone in the Nation. The inability of Alaskan producers to obtain full price for their oil threatens to decrease domestic production. Cumbersome transportation systems that we have been forced to rely upon are stretching our domestic tanker fleet to its limits, are environmentally dangerous and waste energy.

I am gratified to see that the House Subcommittee on Special Investigations chaired by Congressman RUNNELS intends to hold hearings in August in San Francisco to explore the options concerning the distribution of Alaskan oil.

It is no surprise to the Senate, I am sure, that I prefer an exchange arrangement whereby Alaskan oil would be sold to east coast refiners and shipped to Japan and Middle East oil would be sold to Japan and shipped to east coast refiners. The result of this exchange would be enormous savings in tanker cost and full production of our domestic reserves. The merits of an exchange are obvious and I hope it will be fully explored in the House hearings.

Mr. Rechel's article explains some of the background of our current situation and I recommend it to the Senate and ask unanimous consent that it be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Aug. 10, 1978]

THAT EMBARRASSING OIL GLUT

(By Ralph E. Rechel)

A Pacific Coast oil surplus of unforeseen size now embarrasses the Department of Energy. This is one result of the first large-scale federal intervention in the production and distribution of crude oil—Congress's authorization of the Alaska pipeline and related shipping facilities. Since it seems certain that public rather than private policy will continue to dominate some or many of the big decisions in oil and energy, what can we learn from this experience?

First, the timing was full of "historical accidents." These are among the unknowable risks in long-gestation, large-scale public works projects. They are not the responsibility of the new Energy Department now struggling to straighten things up.

The development and transportation of Alaska's Prudhoe Bay oil was taken out of the hands of private industry about 1970 by the newly strong environmental interest groups—"Keep Alaska an untouched wilderness." Their efforts resulted in taking the issue out of corporate board rooms into congressional committee rooms. And into years of delay while the pipeline's effect on tundra and reindeer were studied by specialists, argued by single-issue advocates, and voted on by people with no business or technical background and no responsibility for sound enterprise.

If it had not been for the events during President Nixon's effort to control refined products prices during 1972–74 (which caused the famous gasoline "crisis" of early 1974) congressional approval of the pipeline would have been delayed several more years. This crisis did clarify our absolute dependence on energy imported from not necessarily friendly suppliers. From the balance of payments standpoint, further delay would have been bad. From the standpoint of need for major rearrangements of crude oil distribution within the lower 48 states, and the resolution of the State of California's problems, more delay would have been a good thing.

The independent stance taken by the consciously sovereign State of California. This delayed location and technical design of the major West Coast receiving port. Construction is hoped to being shortly. It is undeniable that the final resolution of this hassle was an environmental improvement in one of the state's most sensitive areas, the Los Angeles air basin. Furthermore California's uniquely high air quality control standards act to maximize the refining attractions of light, low sulfur crude oils which must be imported. Thus, while there is a surplus of 550,000 barrels per day of the heavier, more chemical-laden crude from Alaska, West Coast oil refiners are importing 700,000 or more barrels per day of easy-to-refine oil from Indonesia and elsewhere. Otherwise the industry will have to make large-scale refinery investments to accommodate state regulations, the cost of which will be passed to consumers.

California's attachment to an unused natural gas pipeline between the Los Angeles area and Midland, Texas, delayed firm plans for conversion of this line to a crude oil carrier. This conversion, which would take a short length of time and be low in cost compared to a new pipeline, would relieve the need for several hundred thousand barrels per day to go through the Panama Canal in costly small tankers and with the threat of doubled tolls.

While it now looks like this line will become available for conversion to oil, its operation is many months in the future. It will deliver Alaskan crude oil into the network of pipelines extending north and east from Texas-Louisiana producing areas to inland refineries. While it is uncomfortable, even if not illegal, to deny a sovereign state the right to define its own environment, the health of the national economy is at stake.

The energy market forecasts of five to fifteen years ago—the factual basis for decisions on the size of the Alaska pipeline and its investment soundness—which turned out rather poorly. The high prices for crude oil since 1974 have increased U.S. and foreign production faster than was forecast, and such users as electric utilities have shifted to other sources such as hydropower more quickly than anticipated. This is a typical "learning curve" experience and clearly a case where government and industry can do better next time. Part of the problem is that too few alternatives were considered, particularly those relating to changes in state regulations and federal incentives.

The confirmed ability of the big international oil companies to evade real cooperation with governments and to continue in many but not all cases to operate in the company's best interets rather than that of the public. The lack of harmony between these truly independent industrial giants and federal and state governments is due to an excess of political grandstanding and discrediting of corporate motives, plus justifiable fears of deception, on the government side. The companies have a natural resistance to being dictated to by people who don't really know much about their business, especially when the dictates are unprofitable.

A very clear need is for a large measure of quiet, very high-level diplomatic leadership on the part of both industry and government which should work to defuse and sensibly compromise the big dollar issues. These should be kept outside of legislative arenas in most cases, as a lions versus Christians attitude prevails on the part of many legislators. This attitude will only cause more Alaskan oil embarrassments.

SOLICITATIONS THROUGH THE MAILS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 999.

The bill (S. 2543) to amend title 39 of the United States Code to provide better enforcement procedures for prevent-

ing fraudulent solicitations through the mails, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3005(a) of title 39, United States Code, is amended—

(1) by inserting "including the mailing of matter which is nonmailable under section 3001(d) of this title," after "false representations,"; and

(2) by adding at the end thereof the following: "For purposes of the preceding sentence, the mailing of matter which is nonmailable under such section 3001(d) by any person shall constitute prima facie evidence that such person is engaged in conducting a scheme or device for obtaining money or property through the mail by false representations.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1077), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 2543 is to improve the enforcement procedures available to the Postal Service to prevent postal patrons from being victimized by a form of misrepresentation involving solicitation for goods or services in the guise of invoices, bills, or statements of accounts due.

BACKGROUND AND HISTORY

For some years, confidence men have been operating a variety of schemes which have in common the use of the U.S. mails to distribute false billings for goods and services. While individual citizens sometimes are the targets of such schemes, business concerns are the principal recipient of these phony invoices. The U.S. Postal Service Inspection Service recently estimated the loss by businesses to the operators of such schemes at $25 million annually. Businesses—even those which exercise sufficient bookkeeping care so as to be reasonably certain they have not been bilked—have complained of the annoyance and expense associated with what they see as a great proliferation of such phony billings in recent years.

The variations of these schemes are many and ever-changing. Four currently popular varieties include:

Solicitations for contributions for nonexistent minority or charitable causes.

Solicitations for payments of bills for advertisements or listings in imaginary or useless "business", "labor", or "ethnic" directories or publications.

Solicitations for listing in phony international business directories

Demands for payment of previously mailed invoices for office supplies never ordered, and often never supplied.

Such schemes are not new. They have been operating for at least 30 years and gave rise 10 years ago to the enactment of provisions now codified in 39 U.S.C. 3001(d), which provided:

(d) Matter otherwise legally acceptable in the mails which—

(1) is in the form of, and reasonably could be interpreted or construed as, a bill invoice, or statement of account due; but

(2) constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both;

is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

(A) the following notice: "This is a solicitation of goods or services, or both, and not a bill, invoice, or statement of accounts due. You are under no obligation to make any payments on account of this offer unless you accept this offer", or

(B) "in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe."

The vast bulk of these promotions, if they carried a warning at all, have used the notice provided for under subparagraph (A), rather than the alternative notice prescribed by Postal Regulations, which is in two parts, one in 30-point type and the second in 18-point type. Consequently, the Postal Service, effective December 8, 1978, utilized its authority under the statute to require that the previously permissive notice stipulated in the statute must appear, if used, in 30-point type.

At present, any solicitation for goods or services in the guise of a bill, invoice, or statement of account due, must bear a conspicuous notification to the recipient intended to warn in effect, that "this is not a bill."

The newly revised Postal Regulations, however, do not and cannot address the need to strengthen the administrative remedies available in the event of noncompliance. Nor would the simple outlawing of any such phony invoices address the situation, because of the disadvantageous burden of the proof and the fact that there is no way to uncover them prior to their mailing.

Recently, these schemes have been complicated by a variation involving boiler-room type telephone solicitations in advance of the mailed invoice. Testimony before the Subcommittee on Energy, Nuclear Proliferation, and Federal Services indicates these schemes are most common in the Los Angeles area. Since July of 1975, the Postal Inspector Service has been conducting investigations of more than 500 such schemes. It has arrested about 60 people for violating the mail fraud statutes.

The committee believes that vigorous investigation and, where warranted, criminal prosecution, are the best remedies to the situation pertaining—along with cautionary bookkeeping practices by recipients of such solicitations.

However, because criminal cases require a level of proof sometimes difficult to obtain, and because many of these schemes originate outside the United States, the committee believes the amendments to title 39, United States Code, made by S. 2543, are needed to improve the civil remedies in a way that will deny the operators of these schemes the fruits of their labors.

INDEPENDENT SAFETY BOARD ACT OF 1974 TO AUTHORIZE ADDITIONAL APPROPRIATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of H.R. 12106, the Independent Safety Board authorization, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

H.R. 12106, an act to amend the Independent Safety Board Act of 1974 to authorize additional appropriations.

The Senate proceeded to consider the bill.

UP AMENDMENT NO. 1653

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CANNON I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD) for Mr. CANNON proposes an unprinted amendment numbered 1653.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause of the House bill H.R. 12106 and insert the following:

That this Act may be cited as the "Independent Safety Board Act Amendment of 1978".

SEC. 2. Section 309 of the Independent Safety Board Act of 1974 (49 U.S.C. 1907) is amended by adding at the end thereof the following: "There are authorized to be appropriated for the purposes of this Act not to exceed $16,420,000 for the fiscal year ending September 30, 1979, and $17,650,000 for the fiscal year ending September 30, 1980, such sums to remain available until expended.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be read a third time, was read the third time and, as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR THE CONSIDERATION OF S. 2539

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on the pending bill, H.R. 12050, the tuition tax credit bill, the Senate then proceed to the consideration of Calendar Order No. 585, S. 2539, the higher education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. The Chair advises that there are none.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I ask unanimous consent that after the two leaders under the standing order tomorrow are recognized, the distinguished senior Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETING TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, August 15, 1978, to hold a hearing on the nomination of John McGarry as a member on the Federal Election Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATUS OF APPROPRIATION BILLS

Mr. ROBERT C. BYRD. Mr. President, earlier today the Senate passed and sent to conference the District of Columbia appropriations bill for fiscal year 1979. This is the 14th appropriations bill which the Senate has passed since June 1; the 18th which it has passed this calendar year.

Of these 18 bills, 8 are supplemental measures; 7 of the 8 have become public law.

I wish to thank the distinguished chairman of the Appropriations Committee, Mr. MAGNUSON, Mr. YOUNG, the ranking minority member, and all members of the committee for this fine record. The Congressional Budget Act of 1974 set forth, in section 300, a timetable for the enactment of appropriations bills: The seventh day after Labor Day. That deadline is about a month ahead of us; but most of the action which is required to meet that deadline has been completed.

Of the 13 fiscal year 1979 appropriations bills which must be enacted to meet the budget deadline, 1—the transportation bill—has already become law. I want to commend Senator BAYH, chairman of the Transportation Subcommittee. for such timely action on this bill. Nine other measures have passed the Senate and are in conference. Of the remaining three bills, one—foreign operations—has not yet passed the House and this is not available for Senate action. The defense appropriations bill only recently passed the House and is already being marked up in the Senate committee. Finally, the bill making appropriations for the Departments of Labor and HEW has been marked up by the subcommittee, but is awaiting required action on some very pertinent authorizing legislation.

The members of the Appropriations Committee from both sides of the aisle have devoted much time to hearings and to markups. Subcommittee chairmen and the ranking minority members, have brought their bills to the floor and provided excellent guidance as the Senate debated and in some cases amended the committee's recommendations. The process has worked smoothly and efficiently. I think that the members of the committee and its distinguished chairman, Mr. MAGNUSON, deserve a vote of thanks.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in tomorrow morning at 9:30. After the two leaders have been recognized under the standing order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) will be recognized for not to exceed 15 minutes, following which the Senate will resume its consideration of calendar order No. 989, the Tuition Tax Credit bill.

A vote will occur on the amendment by Mr. PACKWOOD at 1 o'clock p.m. However, prior to the hour of 1 o'clock p.m., it is possible that that amendment may be set aside temporarily by unanimous consent and other amendments taken up, and rollcall votes may occur thereon.

Additionally, it is very possible that other measures or conference reports could come up before 1 o'clock p.m. on which rollcall votes could occur.

Following the vote at 1 p.m., it is hoped that Mr. HOLLINGS will then be able to call up his amendment. It is also hoped that that amendment may be disposed of one way or the other on tomorrow, and that final action on that bill can occur tomorrow.

I think it is only fair and reasonable to say that every expectation should be had that the Senate will complete action on this bill tomorrow. Tomorrow will be the third day. It is a controversial bill and an important bill, but I think 3 days are enough on this bill, and so it would be my desire, if it requires going until midnight tomorrow night to finish this bill, that we make every effort to do so.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9:30 tomorrow morning.

The motion was agreed to; and at 7:54 p.m., the Senate recessed until tomorrow, Tuesday, August 15, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate, August 14, 1978:

THE JUDICIARY

Richard S. Arnold, of Arkansas, to be U.S. district judge for the eastern and western districts of Arkansas, vice Terry L. Shell, deceased.

IN THE COAST GUARD

The following officers of the U.S. Coast Guard for promotion to the grade of lieutenant (junior grade):

Gregory L. Oxley	Collin S. Campbell
Donald R. Goldstein	Paul C. Redwine
Thomas P. Johnson	Thero Mitchell
Thomas H. Briggs	Charles H. Denmark, Jr.
Victor A. Loher	
James A. Dale	Jimmie G. Weibley
John O. Skidmore	

IN THE AIR FORCE

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force.

MEDICAL CORPS

To be lieutenant colonel

England, Robert L., [redacted].

To be major

Cloyd, Dale E., [redacted].
Koenigsberg, Edward J., [redacted].

DENTAL CORPS

To be first lieutenant

May, David L., [redacted].
Seek, Brian J., [redacted].
Wood, Leighton W., [redacted].

The following persons for appointment as Reserve of the Air Force, in grades indicated, under the provisions of section 593, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated.

MEDICAL CORPS

To be lieutenant colonel

Carson, James G., [redacted].
Cooper, Warren E., [redacted].
Hays, James M., [redacted].
Heimburger, Steven L., [redacted].
Johnson, Thomas A., [redacted].
Kovacs, Tibor V., [redacted].
Lord, John D., [redacted].
Marks, Alan N., [redacted].
Millett, David P., [redacted].
Mills, Harry B., [redacted].
O'Neil, Howard W., [redacted].
Portnoff, Clifton L., [redacted].
Posey, William C., [redacted].
Rettek, Seymour, [redacted].
Smith, Daniel R., [redacted].
Tripp, Walter M., [redacted].

DENTAL CORPS

To be lieutenant colonel

Edwards, Jack, [redacted].
Ryan, Doran E., [redacted].

The following person for appointment as Reserve of the Air Force, in the grade indicated, under the provisions of section 593, title 10, United States Code:

LINE OF THE AIR FORCE

To be lieutenant colonel

Latham, Donald R., [redacted].

The following person for appointment as Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593 and 8351, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated:

MEDICAL CORPS

To be lieutenant colonel

Wells, William M., [redacted].

The following officer for appointment as Reserve of the Air Force (ANGUS), in the grade indicated, under the provisions of sections 593, 8351, and 8392, title 10, United States Code:

LINE OF THE AIR FORCE

To be colonel

Tunge, Harry A., [redacted].

The following officers for promotion in the Air Force Reserve, under the provisions of sections 8376 and 593, title 10, United States Code:

LINE OF THE AIR FORCE

Major to lieutenant colonel

Kadar, Richard J., xxx-xx-xxxx.
Stillwell, Charles E., xxx-xx-xxxx.
Ward, Clarence E., xxx-xx-xxxx.
Yovanovich, Raymond S., xxx-xx-xxxx.
Zoller, Michael D., xxx-xx-xxxx.

MEDICAL CORPS

Cobb, James R., xxx-xx-xxxx.
Hafner, Peter A., xxx-xx-xxxx.
Hagen, William M., xxx-xx-xxxx.
Hand, Stanley I., Jr., xxx-xx-xxxx.
Hardison, Cary D., xxx-xx-xxxx.
Honaker, Richard E., xxx-xx-xxxx.
Lindley, Ancil L., III, xxx-xx-xxxx.
Mays, Garrett M., xxx-xx-xxxx.
Merwin, Ronnie R., xxx-xx-xxxx.
Perezfigaredo, Rafael A., xxx-xx-xxxx.
Ringler, Harold L., Jr., xxx-xx-xxxx.
Wallace, Edward R., xxx-xx-xxxx.

NURSE CORPS

Borsellega, Johanna E., xxx-xx-xxxx.

The following officer for reappointment to the active list of the Regular Air Force, in the grade indicated, under the provisions of sections 1210 and 1211, title 10, United States Code:

LINE OF THE AIR FORCE

To be major

Album, Hyman H., xxx-xx-xxxx.

IN THE ARMY

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 3370 and 3383:

ARMY PROMOTION LIST

To be colonel

Abraham, Jack B., xxx-xx-xxxx.
Anderson, William T., xxx-xx-xxxx.
Bailey, Malcolm K., xxx-xx-xxxx.
Baker, Phillip S., xxx-xx-xxxx.
Black, Robert W., xxx-xx-xxxx.
Bryant, James C., xxx-xx-xxxx.
Chamberlain, Ray W., xxx-xx-xxxx.
Cosetti, Joseph L., xxx-xx-xxxx.
Crain, Harold A., xxx-xx-xxxx.
Curry, James A., xxx-xx-xxxx.
Dailey, Millard G., xxx-xx-xxxx.
Dell'Olio, Mauro, xxx-xx-xxxx.
Demin, Robert W., xxx-xx-xxxx.
Ellis, James R., xxx-xx-xxxx.
Ernst, Adolph H., xxx-xx-xxxx.
Evans, Harold D., xxx-xx-xxxx.
Fader, Wesley B., xxx-xx-xxxx.
Glueck, Gerald A., xxx-xx-xxxx.
Harth, George P., xxx-xx-xxxx.
Hernandez, Arturo, xxx-xx-xxxx.
Herner, Harlan C., xxx-xx-xxxx.
Hines, Ollie C., xxx-xx-xxxx.
Holland, John F., xxx-xx-xxxx.
Holmberg, Charles A., xxx-xx-xxxx.
Irvine, Charles N., xxx-xx-xxxx.
Johnson, Edward M., xxx-xx-xxxx.
Laskoe, Robert, xxx-xx-xxxx.
Lawson, Charles J., xxx-xx-xxxx.
Miller, Donal, xxx-xx-xxxx.
Miller, Edward M., xxx-xx-xxxx.
Menees, John R., xxx-xx-xxxx.
Mitchell, John S., xxx-xx-xxxx.
Moore, Ira J., xxx-xx-xxxx.
Nelms, Jimmie L., xxx-xx-xxxx.
Palus, Edward M., xxx-xx-xxxx.
Rockwell, Leo R., xxx-xx-xxxx.
Ryan, Joseph T., xxx-xx-xxxx.
Sarbanes, Anthony S., xxx-xx-xxxx.
Schulz, Michael A., Jr., xxx-xx-xxxx.
Schuster, Joseph L., xxx-xx-xxxx.
Skeens, James K., xxx-xx-xxxx.
Stakem, James F., Jr., xxx-xx-xxxx.
Sy, Robert P., xxx-xx-xxxx.
Tillman, Robert J., xxx-xx-xxxx.
Wahlgren, Harold E., xxx-xx-xxxx.
Yamashiro, Isao, xxx-xx-xxxx.

CHAPLAIN

To be colonel

Carter, John E., xxx-xx-xxxx.

ARMY NURSE CORPS

To be colonel

Gillespie, Joyce, xxx-xx-xxxx.

MEDICAL CORPS

To be colonel

Anthony, Courtney L., xxx-xx-xxxx.
Bailey, Richard H., xxx-xx-xxxx.
McNabney, Warren K., xxx-xx-xxxx.
O'Brien, William H., xxx-xx-xxxx.
Simich, Robert L., xxx-xx-xxxx.

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 3367 and 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Albracht, Robert A., xxx-xx-xxxx.
Armstrong, Donald G., xxx-xx-xxxx.
Aono, Raymond T., xxx-xx-xxxx.
Baggett, William T., xxx-xx-xxxx.
Bailey, Francis C., xxx-xx-xxxx.
Baldwin, John A., xxx-xx-xxxx.
Beal, Wesley A., xxx-xx-xxxx.
Beatty, Wiliam T., xxx-xx-xxxx.
Benson, Joseph A., Jr., xxx-xx-xxxx.
Boothby, Charles L., xxx-xx-xxxx.
Boyd, Edgar L., xxx-xx-xxxx.
Braddock, Leon D., Jr., xxx-xx-xxxx.
Buethe, Richard L., xxx-xx-xxxx.
Burroughs, Jerry M., xxx-xx-xxxx.
Byars, Byron R., Jr., xxx-xx-xxxx.
Caldwell, Garnett E., xxx-xx-xxxx.
Caldwell, Hugh, xxx-xx-xxxx.
Carre, Gary L., xxx-xx-xxxx.
Casto, Robert J., xxx-xx-xxxx.
Chandler, Calvin B., xxx-xx-xxxx.
Christy, Terry F., xxx-xx-xxxx.
Cleckley, Gilbert, xxx-xx-xxxx.
Cockerham, William C., xxx-xx-xxxx.
Collenback, William G., xxx-xx-xxxx.
Connulty, Edward A., xxx-xx-xxxx.
Cureton, Jasper M., xxx-xx-xxxx.
Curlonis, Martin J., xxx-xx-xxxx.
Dalva, David L., II, xxx-xx-xxxx.
Dellinger, Douglas, xxx-xx-xxxx.
Depasque, Robert E., xxx-xx-xxxx.
Digiacomo, Carmen J., xxx-xx-xxxx.
Disney, Richard O., xxx-xx-xxxx.
Ehringer, George D., xxx-xx-xxxx.
Erwin, Robert W., xxx-xx-xxxx.
Ethridge, James W., xxx-xx-xxxx.
Familetti, Robert J., xxx-xx-xxxx.
Fanning, Jack, Jr., xxx-xx-xxxx.
Fanning, Thomas J., xxx-xx-xxxx.
Farrington, Reginald S., xxx-xx-xxxx.
Fenstermacher, Willard, xxx-xx-xxxx.
Ferraro, Vito A., Jr. xxx-xx-xxxx.
Finnerty, Robert J., xxx-xx-xxxx.
Fishman, Ronald, xxx-xx-xxxx.
Frederick, Ronald D., xxx-xx-xxxx.
Gaglione, Franklin T., xxx-xx-xxxx.
Garner, Hershel S., xxx-xx-xxxx.
Gauthier, John A., xxx-xx-xxxx.
Golden, Ellis P., Jr., xxx-xx-xxxx.
Gousie, Laurent, xxx-xx-xxxx.
Griswold, Donald R., xxx-xx-xxxx.
Guthrie, John S., Jr., xxx-xx-xxxx.
Hammonds, Donough C., xxx-xx-xxxx.
Hara, Lloyd F., xxx-xx-xxxx.
Harrington, Jeremiah J., xxx-xx-xxxx.
Hatchell, Albert, Jr., xxx-xx-xxxx.
Hayes, Gerard J., xxx-xx-xxxx.
Hildreth, Blake E., xxx-xx-xxxx.
Hill, Tom W., xxx-xx-xxxx.
Holman, Bobby P., xxx-xx-xxxx.
Horton, Marc P., xxx-xx-xxxx.
Hurteau, Joseph C., xxx-xx-xxxx.
Johnson, James J., xxx-xx-xxxx.
Johnson, Robert J., xxx-xx-xxxx.
Jolly, Guy A., xxx-xx-xxxx.
Jones, David L., xxx-xx-xxxx.
Kasile, Joseph D., xxx-xx-xxxx.
Katorincek, Richard, xxx-xx-xxxx.
Kido, Edwin T., xxx-xx-xxxx.
Kim, Philip S., xxx-xx-xxxx.
Kirby, Thomas J., xxx-xx-xxxx.
Knudtson, Jerry G., xxx-xx-xxxx.
Kocienda, Richard V., xxx-xx-xxxx.
Kramer, Donald T., xxx-xx-xxxx.
Krigbaum, Phillip W., xxx-xx-xxxx.
Krupinski, James M., xxx-xx-xxxx.
Larsen, Lance R., xxx-xx-xxxx.
Lawson, Charles H., xxx-xx-xxxx.
Linendoll, Leslie V., xxx-xx-xxxx.
Longobardi, Gerald, xxx-xx-xxxx.
Longway, David R., xxx-xx-xxxx.
Lundgren, Alen C., xxx-xx-xxxx.
Lynch, Charles T., xxx-xx-xxxx.
Malloy, Thomas F., xxx-xx-xxxx.
Malone, Eric D., xxx-xx-xxxx.
Maul, John A., xxx-xx-xxxx.
McCartt, Jack K., xxx-xx-xxxx.
Mergler, George L., xxx-xx-xxxx.
Metters, Samuel, xxx-xx-xxxx.
Miller, Allyn L., xxx-xx-xxxx.
Morales-Pares, Raul A., xxx-xx-xxxx.
Moreno, Richard F., xxx-xx-xxxx.
Morgan, John F., xxx-xx-xxxx.
Moriarty, John L., xxx-xx-xxxx.
Nixon, Robert B., III, xxx-xx-xxxx.
Noland, Billy R., xxx-xx-xxxx.
Northcut, Beade O., xxx-xx-xxxx.
Obradovich, Milan, xxx-xx-xxxx.
Orelli, Patrick J., xxx-xx-xxxx.
Owens, Thomas J., xxx-xx-xxxx.
Palmer, Wilbur H., xxx-xx-xxxx.
Pappas, John G., xxx-xx-xxxx.
Parsons, Richard E., xxx-xx-xxxx.
Pearce, Marion G., xxx-xx-xxxx.
Pope, William J., xxx-xx-xxxx.
Pottratz, Richard D., xxx-xx-xxxx.
Presnell, Darrell D., xxx-xx-xxxx.
Quick, Richard G., xxx-xx-xxxx.
Quinn, Herbert R., Jr., xxx-xx-xxxx.
Race, Howard C., xxx-xx-xxxx.
Robel, Gilbert E., xxx-xx-xxxx.
Robert, John W., xxx-xx-xxxx.
Robertson, William F., xxx-xx-xxxx.
Roland, Frederick S., xxx-xx-xxxx.
Sablatura, Marvin E., xxx-xx-xxxx.
Salley, Michael G., Jr., xxx-xx-xxxx.
Sanders, Bobby R., xxx-xx-xxxx.
Sands, Samuel E., xxx-xx-xxxx.
Santoro, Robert T., xxx-xx-xxxx.
Schaefer, Howard M., xxx-xx-xxxx.
Schember, Thomas A., xxx-xx-xxxx.
Schmitt, Frederick, xxx-xx-xxxx.
Schoonover, William P., xxx-xx-xxxx.
Sellen, William B., xxx-xx-xxxx.
Shelton, William C., xxx-xx-xxxx.
Shine, Joseph F., Jr., xxx-xx-xxxx.
Shuster, John R., xxx-xx-xxxx.
Slauson, Donald D., xxx-xx-xxxx.
Smith, Joe N., xxx-xx-xxxx.
Sperling, Richard A., xxx-xx-xxxx.
Starck, Neil M., xxx-xx-xxxx.
Strand, Ronald R., xxx-xx-xxxx.
Struckel, Donald J., xxx-xx-xxxx.
Sutton, Ray S., xxx-xx-xxxx.
Thomas, Arthur E., xxx-xx-xxxx.
Thomas, Micaja B., II, xxx-xx-xxxx.
Thornton, Elwood J., xxx-xx-xxxx.
Thorpe, Michael D., xxx-xx-xxxx.
Tucker, Don B., xxx-xx-xxxx.
Tyler, John L., xxx-xx-xxxx.
Weese, James L., xxx-xx-xxxx.
White, Frank C., xxx-xx-xxxx.
Whitten, William J., xxx-xx-xxxx.
Wika, Norman B., xxx-xx-xxxx.
Willoughby, James E., xxx-xx-xxxx.
Willyerd, Robert L., xxx-xx-xxxx.
Wilmer, Leonard, xxx-xx-xxxx.
Winzeler, Barry L., xxx-xx-xxxx.
Wittschen, John H., Jr., xxx-xx-xxxx.
Wolfe, Gregory D., xxx-xx-xxxx.

CHAPLAIN

To be lieutenant colonel

Conley, Charles M., xxx-xx-xxxx.
Corrigan, James J., xxx-xx-xxxx.
Ennis, Raymond E., xxx-xx-xxxx.

Self, William A., xxx-xx-xxxx.
Quinn, Clifton, xxx-xx-xxxx.

WOMEN'S ARMY CORPS

To be lieutenant colonel

Ford, Eve M., xxx-xx-xxxx.

ARMY NURSE CORPS

To be lieutenant colonel

Collins, Neal W., xxx-xx-xxxx.
Charney, Robert A., xxx-xx-xxxx.

DENTAL CORPS

To be lieutenant colonel

Brewer, William W., xxx-xx-xxxx.
Degiacomo, William A., xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Calvin, John R., Jr., xxx-xx-xxxx.
Gopez, Camilo A., xxx-xx-xxxx.
Green, James L., Jr., xxx-xx-xxxx.
Lefeber, Edward J., Jr., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Boothyby, Samuel R., xxx-xx-xxxx.
Cancilla, Anthony G., xxx-xx-xxxx.
Gorrell, Edward W., xxx-xx-xxxx.
Henning, David R., xxx-xx-xxxx.
Montano, Andrew, xxx-xx-xxxx.
Riggs, Richard F., xxx-xx-xxxx.
Robb, Thomas H., xxx-xx-xxxx.
Weidenfeller, William H., xxx-xx-xxxx.
Welch, Hershel G., xxx-xx-xxxx.
Wells, Leo G., xxx-xx-xxxx.

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., sections 591, 593, and 594:

ARMY PROMOTION LIST

To be colonel

Bowen, Russell J., xxx-xx-xxxx.

MEDICAL CORPS

To be colonel

McCann, David T., xxx-xx-xxxx.

ARMY PROMOTION LIST

To be lieutenant colonel

Harris, Gerald V., xxx-xx-xxxx.

DENTAL CORPS

To be lieutenant colonel

Clark, David M., xxx-xx-xxxx.
Coyne, Nathaniel J., xxx-xx-xxxx.
Hirsh, Marvin, xxx-xx-xxxx.
Marshall, Kenneth, xxx-xx-xxxx.
Marshall, Tankard R., xxx-xx-xxxx.
Skvarla, William P., xxx-xx-xxxx.
Smith, Harold D., xxx-xx-xxxx.
White, Albert P., xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Bascom, James, xxx-xx-xxxx.
Baum, Harold W., xxx-xx-xxxx.
Bolin, Robert B., xxx-xx-xxxx.
Butler, Donald E., xxx-xx-xxxx.
Callaghan, Patrick E., xxx-xx-xxxx.
Carlson, Curtis H., xxx-xx-xxxx.
Chester, Tempe R., xxx-xx-xxxx.
Collin, Daniel B., xxx-xx-xxxx.
Cooper, Warren E., xxx-xx-xxxx.
Courington, Frederick, xxx-xx-xxxx.
Drake, Frank E., xxx-xx-xxxx.
Freedman, Leo C., xxx-xx-xxxx.
Goedert, Lawrence W., xxx-xx-xxxx.
Hardin, Virgil M., xxx-xx-xxxx.
Heath, Alfred O., xxx-xx-xxxx.
Kahn, Erwin, xxx-xx-xxxx.
Keeney, Glenward T., xxx-xx-xxxx.
Larson, Arthur W., xxx-xx-xxxx.
Lowry, Thomas P., xxx-xx-xxxx.
Marsh, Robert J., xxx-xx-xxxx.
McKeever, Joseph W., xxx-xx-xxxx.
Miller, James A., xxx-xx-xxxx.
Nacol, William S., Jr., xxx-xx-xxxx.
Nault, Burton A., xxx-xx-xxxx.
Parkinson, Richard P., xxx-xx-xxxx.
Peterson, Ralph E., xxx-xx-xxxx.
Petteruti, Joseph L., xxx-xx-xxxx.
Rahm, Adolph E., Jr., xxx-xx-xxxx.
Raines, David R., Jr., xxx-xx-xxxx.
Rozanski, Thomas I., xxx-xx-xxxx.
Rundlett, Fred A., xxx-xx-xxxx.
Sayler, Osbey L., xxx-xx-xxxx.
Taylor, Ronald G., xxx-xx-xxxx.
Weaver, Clyde M., xxx-xx-xxxx.
Win, Maung S., xxx-xx-xxxx.

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

Scheyett, Walter E., xxx-xx-xxxx.

VETERINARY CORPS

To be lieutenant colonel

Slife, Leo N., xxx-xx-xxxx.

The following-named officers for appointment in the Army of the United States, under the provisions of title 10, U.S.C., section 3494:

MEDICAL CORPS

To be lieutenant colonel

Bush, Robert A., xxx-xx-xxxx.
Park, Jinsoo, xxx-xx-xxxx.

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be colonel

Alexander, Glen D., xxx-xx-xxxx.
Camara, Norman F., xxx-xx-xxxx.
Cannon, Ralph D., xxx-xx-xxxx.
Collins, Robert D., xxx-xx-xxxx.
Colwell, Daniel G., xxx-xx-xxxx.
Dehlinger, Robert J., xxx-xx-xxxx.
Dezarn, Robert L., xxx-xx-xxxx.
Fletcher, Boyce E., xxx-xx-xxxx.
Fuller, Frank B., Jr., xxx-xx-xxxx.
Harris, David A., xxx-xx-xxxx.
Hart, Eugene P., xxx-xx-xxxx.
Hernandez-Marrero, A., xxx-xx-xxxx.
Holbrook, Francis J., xxx-xx-xxxx.
Jointer, William B., xxx-xx-xxxx.
Juarbe-Perez, William, xxx-xx-xxxx.
Koett, Karl E., xxx-xx-xxxx.
Leach, Jimmie M., xxx-xx-xxxx.
Liepert, Gerald C., xxx-xx-xxxx.
Merolla, Amedeo C., xxx-xx-xxxx.
Puzio, Thaddeus A., xxx-xx-xxxx.
Roby, Mabry T., xxx-xx-xxxx.
Stuart, Theodore E., xxx-xx-xxxx.
Tidler, John W., xxx-xx-xxxx.
Tyler, James E., xxx-xx-xxxx.
White, James E., xxx-xx-xxxx.
Yslas, Mucio, Jr., xxx-xx-xxxx.

MEDICAL CORPS

To be colonel

Cudmore, John W., xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be colonel

Newman, Harrell G., xxx-xx-xxxx.

ARMY PROMOTION LIST

To be lieutenant colonel

Andrew, Michael A., xxx-xx-xxxx.
Baker, Thomas B., xxx-xx-xxxx.
Berger, Baruch M., xxx-xx-xxxx.
Blade, Gene W., xxx-xx-xxxx.
Brunelle, Donald R., xxx-xx-xxxx.
Campbell, Rupert C., xxx-xx-xxxx.
Isham, Virgil B., xxx-xx-xxxx.
Jolly, Zeb V., xxx-xx-xxxx.
Joyner, William W., xxx-xx-xxxx.
Kilpatrick, Robert G., xxx-xx-xxxx.
Koester, Harold L. E., xxx-xx-xxxx.
Madewell, Richard J., xxx-xx-xxxx.
Case, John O., xxx-xx-xxxx.
Cook, Echol E., xxx-xx-xxxx.
Dupont, George B., xxx-xx-xxxx.
Dupree, Gale G., xxx-xx-xxxx.
Erikson, Darrel L., xxx-xx-xxxx.
Evans, Billy R., xxx-xx-xxxx.
Farmer, Maurice D., xxx-xx-xxxx.
Fidler, Philip R., xxx-xx-xxxx.
Filegar, John Q., xxx-xx-xxxx.
Gallagher, Thomas J., xxx-xx-xxxx.
Geyer, Garfield C., xxx-xx-xxxx.
Gibson, Dudley C., xxx-xx-xxxx.
Gill, Edward L., xxx-xx-xxxx.
Gonzalez, Agustin, xxx-xx-xxxx.
Greenhaw, Robert L., xxx-xx-xxxx.
Griffith, James W., xxx-xx-xxxx.
Hinman, Donald C., xxx-xx-xxxx.
Holland, Francis A., xxx-xx-xxxx.
Hoppes, Ronald A., xxx-xx-xxxx.
Manassero, Michael J., xxx-xx-xxxx.
Milhoan, Kenneth B., xxx-xx-xxxx.
Neuberger, Harold C., xxx-xx-xxxx.
Norman, Duane M., xxx-xx-xxxx.
Ohlhaver, Jon H., xxx-xx-xxxx.
Oliphant, L. D., xxx-xx-xxxx.
Pecoraro, Angelo, xxx-xx-xxxx.
Quinlan, Thomas F. J., xxx-xx-xxxx.
Reich, Douglas R., xxx-xx-xxxx.
Robertson, Wayman D., xxx-xx-xxxx.
Rude, Virgil A., xxx-xx-xxxx.
Smith, Thompson C., xxx-xx-xxxx.
Stockton, James E., xxx-xx-xxxx.
Thompson, Ray L. xxx-xx-xxxx.
Walsh, Mark C., xxx-xx-xxxx.
Ward, Vivian B., xxx-xx-xxxx.
Whitworth, Robert D., xxx-xx-xxxx.
Williams, Louis R., xxx-xx-xxxx.
Zenner, Gary L., xxx-xx-xxxx.

CHAPLAIN

To be lieutenant colonel

Blais, Robert L., xxx-xx-xxxx.

ARMY NURSE CORPS

To be lieutenant colonel

Founds, Carole A., xxx-xx-xxxx.

DENTAL CORPS

To be lieutenant colonel

Antario, Joseph P., xxx-xx-xxxx.
Kaufman, Donald, xxx-xx-xxxx.

MEDICAL CORPS

To be lieutenant colonel

Allen, Lawrence L., xxx-xx-xxxx.
Blossman, Robert C., xxx-xx-xxxx.
Brown, Luther E., xxx-xx-xxxx.
Chestnut, Graham H., xxx-xx-xxxx.
Cierebiej, Albert, xxx-xx-xxxx.
Drennen, Robert V. E., xxx-xx-xxxx.
Ellis, Donald S., xxx-xx-xxxx.
Flynn, James P.G., xxx-xx-xxxx.
Gladue, Joseph R., xxx-xx-xxxx.
Hickerson, James S., xxx-xx-xxxx.
Howard, Leonard R., xxx-xx-xxxx.
King, Merrill J., Jr., xxx-xx-xxxx.
Koss, George W., xxx-xx-xxxx.
Lehotzhy, Helen, xxx-xx-xxxx.
Marquez, Ramon L., xxx-xx-xxxx.
Miller, Leslie L., xxx-xx-xxxx.
Mitchell, Andrew C., xxx-xx-xxxx.
Orapallo, Anthony J., xxx-xx-xxxx.
Padilla-Ramirez, Herman, xxx-xx-xxxx.
Peterson, Carl R., xxx-xx-xxxx.
Pierron, George J., xxx-xx-xxxx.
Simpson, Marion G., xxx-xx-xxxx.
Zahony, Ivan, xxx-xx-xxxx.

MEDICAL SERVICE CORPS

To be lieutenant colonel

Gross, Don A., xxx-xx-xxxx.

IN THE NAVY

The following-named (Naval Reserve Officers Training Corps candidates) to be permanent ensigns in the line or staff corps of the Navy, subject to the qualifications therefor as provided by law:

Michael W. DaBose	Todd W. Rahmes
Joseph L. Ilk	Michael Watts
Karl G. Fremd	Jean M. Wolk

The following-named Navy enlisted scientific education programs candidates to be permanent ensigns in the line or staff corps

of the Navy, subject to the qualifications therefor as provided by law:

Jerry K. Adcock	David P. Shareno
Bradley W. Gale	*Robert D. Suttle
Vernon D. Reed	Paul A. Willis

The following-named (Ex-U.S. Navy officers) to be appointed temporary commanders in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Frederick W. Courington
*Scott L. Walker

The following-named (Ex-Air Force Reserve officer) to be appointed a temporary commander in the Medical Corps in the Reserve of the U.S. Navy, subject to the qualifications therefor as provided by law:

*Aaron S. Wolkoff

*Appointment sent out Ad Interim (During the recess of the Senate). Senate recessed on 30 June 1978—10 July 1978).

HOUSE OF REPRESENTATIVES—*Monday, August 14, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Your faith should not stand in the wisdom of men, but in the power of God.—I Corinthians 2: 5.

Eternal God, our Father, who art above all and in all, without whom life loses its meaning but with whom life gains power for abundant living, we come to Thee seeking light upon our way, love for our way, and life along our way. Give to us Thy Spirit that with wisdom, strength, and patience we may move in the direction of a better nation and a better world.

Bless the Members of this House of Representatives as they work this day. May they cultivate the spirit of unity and so work together that we may sustain our pledge of "one nation, under Thee, with liberty and justice for all."

In the spirit of the Lord of life we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House its approval thereof.

Is there objection to the approval of the Journal?

Mr. STANGELAND. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STANGELAND. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 321, nays 14, answered "present" 1, not voting 96, as follows:

[Roll No. 691]

YEAS—321

Abdnor	Ashley	Blanchard
Addabbo	Badham	Boggs
Akaka	Bafalis	Bolling
Alexander	Barnard	Bonker
Ammerman	Bauman	Bowen
Anderson, Calif.	Beard, R.I.	Brademas
	Beard, Tenn.	Breckinridge
Anderson, Ill.	Bedell	Brinkley
Andrews, N. Dak.	Beilenson	Brodhead
	Benjamin	Brooks
Annunzio	Bennett	Broomfield
Archer	Bevill	Brown, Calif.
Ashbrook	Bingham	Brown, Ohio
Broyhill	Hall	Murphy, Ill.
Buchanan	Hamilton	Murphy, Pa.
Burgener	Hammer-schmidt	Murtha
Burke, Calif.		Myers, Gary
Burke, Fla.	Hannaford	Myers, John
Burke, Mass.	Hansen	Myers, Michael
Burleson, Tex.	Harkin	Natcher
Burton, John	Harris	Neal
Butler	Harsha	Nedzi
Byron	Hawkins	Nichols
Carney	Heckler	Nix
Carr	Hefner	Nolan
Carter	Heftel	O'Brien
Cavanaugh	Hightower	Oakar
Cederberg	Holt	Oberstar
Chappell	Holtzman	Obey
Clausen, Don H.	Horton	Ottinger
	Howard	Panetta
Clawson, Del	Hubbard	Patten
Cleveland	Huckaby	Pattison
Conable	Hughes	Pease
Conte	Hyde	Perkins
Corcoran	Ireland	Pettis
Corman	Jeffords	Pickle
Cornwell	Jenkins	Pike
Crane	Jenrette	Poage
D'Amours	Johnson, Calif.	Pressler
Daniel, Dan	Jones, N.C.	Preyer
Daniel, R. W.	Jones, Okla.	Price
Danielson	Jordan	Pritchard
Davis	Kastenmeier	Quillen
de la Garza	Kazen	Rahall
Delaney	Kelly	Railsback
Dellums	Kemp	Rangel
Derrick	Keys	Regula
Derwinski	Kildee	Reuss
Devine	Kindness	Rhodes
Dickinson	Kostmayer	Rinaldo
Dicks	Krebs	Roberts
Dodd	LaFalce	Robinson
Dornan	Lagomarsino	Rogers
Downey	Leach	Rooney
Drinan	Lederer	Rose
Duncan, Tenn.	Lehman	Rosenthal
Eckhardt	Lent	Rostenkowski
Edgar	Levitas	Roybal
Edwards, Ala.	Livingston	Rudd
Edwards, Calif.	Long, La.	Runnels
Edwards, Okla.	Long, Md.	Ryan
Ellberg	Lott	Santini
Emery	Luken	Satterfield
Erlenborn	McClory	Sawyer
Ertel	McCormack	Scheuer
Evans, Colo.	McDade	Schroeder
Evans, Del.	McFall	Schulze
Evans, Ga.	McHugh	Sebelius
Evans, Ind.	McKay	Seiberling
Fary	McKinney	Sharp
Fascell	Madigan	Simon
Fenwick	Maguire	Slack
Findley	Mahon	Smith, Iowa
Fish	Mann	Smith, Nebr.
Fisher	Markey	Snyder
Fithian	Marks	Solarz
Flippo	Marlenee	Spellman
Flood	Marriott	Spence
Florio	Martin	St Germain
Flynt	Mathis	Staggers
Foley	Mattox	Stangeland
Ford, Tenn.	Mazzoli	Stanton
Fountain	Meeds	Stark
Fowler	Michel	Steed
Frey	Mikulski	Steers
Fuqua	Mikva	Stockman
Gammage	Miller, Ohio	Stratton
Garcia	Mineta	Studds
Gaydos	Minish	Stump
Gibbons	Mitchell, N.Y.	Thompson
Gilman	Moakley	Thornton
Ginn	Moffett	Treen
Glickman	Mollohan	Trible
Gore	Montgomery	Udall
Gradison	Moore	Ullman
Grassley	Moorhead, Calif.	Van Deerlin
Gudger		Vanik
Guyer	Moorhead, Pa.	Vento
Hagedorn	Mottl	Volkmer
Waggonner	Whitehurst	Wydler
Walsh	Whitley	Wylie
Wampler	Whitten	Yates
Watkins	Wiggins	Yatron
Waxman	Wilson, C. H.	Young, Fla.
Weaver	Winn	Young, Mo.
Weiss	Wirth	Zablocki
Whalen	Wolff	Zeferetti
White	Wright	

NAYS—14

Applegate	Latta	Sarasin
AuCoin	Lloyd, Calif.	Steiger
Brown, Mich.	Mitchell, Md.	Walker
Collins, Tex.	Quayle	Wilson, Bob
Jacobs	Rousselot	

ANSWERED "PRESENT"—1

McEwen

NOT VOTING—96

Ambro	Ford, Mich.	Murphy, N.Y.
Andrews, N.C.	Forsythe	Nowak
Armstrong	Fraser	Patterson
Aspin	Frenzel	Pepper
Baldus	Gephardt	Pursell
Baucus	Giaimo	Quie
Biaggi	Goldwater	Richmond
Blouin	Gonzalez	Risenhoover
Boland	Goodling	Rodino
Bonior	Green	Roe
Breaux	Hanley	Roncalio
Burlison, Mo.	Harrington	Ruppe
Burton, Phillip	Hillis	Russo
Caputo	Holland	Shipley
Chisholm	Hollenbeck	Shuster
Clay	Ichord	Sikes
Cochran	Johnson, Colo.	Sisk
Cohen	Jones, Tenn.	Skelton
Coleman	Kasten	Skubitz
Collins, Ill.	Krueger	Stokes
Conyers	Le Fante	Symms
Cornell	Leggett	Taylor
Cotter	Lloyd, Tenn.	Teague
Coughlin	Lujan	Thone
Cunningham	Lundine	Traxler
Dent	McCloskey	Tsongas
Diggs	McDonald	Tucker
Dingell	Metcalfe	Vander Jagt
Duncan, Oreg.	Meyner	Walgren
Early	Milford	Wilson, Tex.
English	Miller, Calif.	Young, Alaska
Flowers	Moss	Young, Tex.

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate has passed without amendment joint resolutions of the House of the following titles:

H.J. Res. 628. Joint Resolution to provide for the designation of a week as "National Lupus Week";

H.J. Res. 946. Joint resolution to designate October 7, 1978, as "National Guard Day"; and

H.J. Res. 963. Joint resolution designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is

requested, a bill of the House of the following title:

H.R. 11579. An act to designate the Veterans' Administration center located at 1901 South First Street, Temple, Tex., as the "Olin E. Teague Veterans' Center."

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3816) entitled "An act to amend the Federal Trade Commission Act to expedite the enforcement of Federal Trade Commission cease and desist orders and compulsory process orders; to increase the independence of the Federal Trade Commission in legislative, budgetary, and personnel matters; and for other purposes," disagreed to by the House; agrees to a further conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CANNON, Mr. FORD, Mr. DURKIN, Mr. SCHMITT, and Mr. DANFORTH to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 153. An act for the relief of Dr. Timothy Kam-Hung Chung;

S. 399. An act for the relief of Dr. Manuel Javier Mariano and his wife, Lilia Zapanta Mariano;

S. 1680. An act for the relief of Roland L. Outlaw and his wife Carolyn H. Outlaw of Lee County, S.C.;

S. 2547. An act for the relief of Soo Yung Kim;

S. 2977. An act for the relief of Renuka Pavla;

S. 3001. An act for the relief of Kirthi Chandher; and

S. 3384. An act to require foreign persons who acquire, transfer, or hold interests in United States agricultural land to report such transactions and holdings to the Secretary of Agriculture, and to direct the Secretary to assess and report the effects of such transactions and holdings.

TRIBUTE TO THE LATE JAMES GRANT BOLLING

(Mr. LONG of Louisiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LONG of Louisiana. Mr. Speaker, and my colleagues in the House of Representatives, I think as most Members know, Jim Bolling died yesterday.

Our esteemed DICK BOLLING lost a faithful and intelligent wife. My wife Cathy and I lost a close personal friend, as did many here in this institution. The House of Representatives and the Nation lost a Member of Congress without portfolio, who was an extremely able and dedicated public servant. Humanity lost a human being of exceptional intelligence, with great political courage, who never hesitated to be an outspoken advocate for her point of view.

She could not tolerate sham. She could not tolerate fraud. Yet she was a person with the capacity for an unlimited amount of kindness, of love, and of compassion. Jim Bolling was truly an outstanding human being and we shall all miss her.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, I would say to my distinguished friend, I share his remarks.

I remember when Jim Bolling came to Washington about 1961. She had worked very hard in the campaign in 1960 and she came to Washington to work in the new administration. I have known her since then. She was a very able, dedicated human being, and highly capable in her work.

She was quite compassionate about the people who worked for her and with her and the people with whom she was associated. She made a very substantial contribution to the well-being of this House and this Congress.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I am among those who had not heard of the passing of Mrs. Bolling until the gentleman made the announcement here in the well just a moment ago.

But I certainly would not, as one who knew her, who had enjoyed the hospitality of the Bollings on numerous occasions and admired her, would not want this occasion to pass without expressing my condolences to the surviving members of her family and her husband.

It has been my very great pleasure to serve on the Committee on Rules with the gentleman from Missouri, (Mr. BOLLING) for almost a decade and a half. Having thus worked together with him on the business of that committee, I feel a special measure of respect for his contributions to the work of this body. I also feel an extra measure of sadness that he has suffered the loss of his wife who shared his endeavors.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I also would like to join in expressing my sympathy to DICK BOLLING and to the other members of the family, both his and hers.

We get a lot of criticism sometimes if members of the family are deeply involved politically with us, and yet this is a clear example of how the capacity of two people, each in an individual way, can be heightened by the work that the one does with the other in the political arena.

Mrs. Bolling worked in DICK BOLLING's office and she shared his political interests and concerns. I rather imagine that, from time to time, they had some philosophic and ideologic arguments about where the country ought to be headed and I rather imagine that Jim won her share of the arguments because she was an extremely bright person and a very capable part of a highly competent team. Congressman BOLLING has our sympathies for losing what is clearly, if not his better half, certainly one-half of a very fine team in the Nation's service.

Mrs. HECKLER. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentlewoman from Massachusetts

Mrs. HECKLER. Mr. Speaker, I also would like to join in expressing my sense of loss and sense of sadness at the tragic news of the death of Jim Bolling. I feel very strongly, having spoken to countless women across the country today about the legislation we have on the House floor, the extension of the equal rights amendment. I express for all of those women the thought that they expressed to me; their sorrow that we have lost one of our greatest advocates particularly on a day when she would be so interested in seeing our cause survive. So as with her husband, her presence was felt beyond her husband's office and beyond her husband's sphere. As much as I respect my distinguished colleague from Missouri, the Honorable DICK BOLLING, her husband, I respect Jim Bolling as well for her influence on America and I express to her family the loss that many women across America feel at this sad time.

Mr. SCHEUER. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Speaker, my wife Emily and I have enjoyed Jim Bolling's friendship since she first came to Washington predating my congressional career and we have rarely if ever had the opportunity to know a woman of such monumental talents, energies, and concerns.

Jim Bolling was an astute politician par excellence. She had a heart that related to the entire world around her. Her concern and involvement with causes of all kinds were marvelous to behald. Along with very sophisticated, astute political talents she had a woman's heart as big as her body. She was capable of extending rich friendship and warm sympathy. To have known her friendship and her encouragement over the years, and to have enjoyed her marvelous repartee, her wit, her sense of humor, her insights, was to have known a superlative human being and I along with many people who have treasured her friendship will miss her deeply.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I am happy to yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, for some 30 years Jim Bolling has been my friend. Vibrant and alive, her ever alert and questing mind reached out to interests so broad and varied that few could keep up with her.

Bereft of her parents at an early age, Jim developed a precocious interest in political life and the life of her Nation. She gave generously of her time, of her talents, and of her substance to those causes in which she believed.

Her life with our colleague, DICK BOLLING, was in many ways a fulfillment of her life's interests.

I know that our friend DICK feels a deep loss, and one that will leave a void in his life forever.

Words are shallow and inadequate vessels to convey the fullness of our feelings at a time like this. May it be of some comfort to DICK to know that there are others among us who, to some degree, share his shattering sense of loss, who under-

stand and feel with him the greatness of the companionship which he shared with this splendid woman, and who in the long future will rejoice with him in the legacy of memory and inspiration that her life has left.

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I will be happy to yield to the distinguished gentleman from Washington.

Mr. MEEDS. Mr. Speaker, I would like to join with the gentleman in the well and the others who have spoken in expressing my sympathy and the sympathy of my wife Mary upon the passing of Jim Bolling.

Not only was Jim Bolling the wife of one of our esteemed colleagues, but she was a close personal friend of both my wife Mary and myself. She was a blilliant person. Often people misinterpreted her caustic approach, but it really was a total inability to suffer inanity. She was too busy constructing to be deterred by negativism.

Every minute of her waking life was spent in thinking and in trying to help people. She started a career at the age of 15 as a political scientist, entering the University of Chicago, the youngest person to have done that. She ran the Young Democrats for Harry Truman in 1948. She was on the staff of Larry O'Brien in the Kennedy campaign and was President Kennedy's only female appointment as congressional liaison to the head of the Department of Health, Education, and Welfare.

She was an author, a photographer, a film producer, and cook, a marvelous person who found time in all that busy life to be a strong helpmate to our friend and colleague, DICK BOLLING. Their marriage was a partnership for creativity.

And so, Mr. Speaker, we grieve today with DICK BOLLING, grieve with him for his deep personal loss; but we also grieve for the loss to society of a person who, in her own right, made a difference.

I thank the gentleman for yielding.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I would like to associate myself with the remarks of the gentleman from Louisiana (Mr. LONG) in expressing the sense of personal grief that I feel at the loss of Jim Bolling. Her death came so suddenly, which was good for her, but which makes it harder for all of us and especially our friend DICK.

Mr. Speaker, the union of the Bollings was not just a marriage. It was a partnership of love and hard work together. I consider DICK BOLLING one of the ablest Members I have ever served with, and I think part of the reason for that is the partnership he had with Jim.

Mr. Speaker, I know that no words can assuage this loss for DICK, but I want him to know that there are others who share his pain and grief. Jim Bolling was able not only to help DICK, but through her abundant energy and spirit, she gave counsel to many other Members of Congress.

Mr. Speaker, I think all of the Members of this House will feel deeply her absence and greatly miss Jim Bolling.

I thank the gentleman for yielding.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I am happy to yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I would also like to join the gentleman in the well and others in expressing my personal sense of shock and loss at the passing of Jim Bolling.

She was the toughest woman I have ever met; and she had an absolutely fierce integrity. I think she saw through phoniness more clearly than any human being I have ever met. She was an extremely shrewd judge of people.

Mr. Speaker, I think Jim Bolling and DICK BOLLING were the most effective man-and-woman team I have seen in politics in my years in Congress.

I enjoyed playing poker with her more than with any other woman I have ever known. I must say that no woman was admired more by my wife than Jim Bolling.

Mrs. SPELLMAN. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I will be happy to yield to the gentlewoman from Maryland.

Mrs. SPELLMAN. I thank the gentleman for yielding.

I have listened to the comments that have been made about Jim Bolling. There is so much that could be added and so very little that I could express as eloquently as has been expressed.

My colleague, the gentleman from Wisconsin (Mr. OBEY) a moment ago said, "She was the toughest woman I have ever known," and I might add and also the gentlest. I have an invitation in my file at the moment inviting me to a shower that is being given for a member of the Congressman's staff. How like Jim it was to have thought about everyone and everything. She was tough where toughness was needed and so gentle in her dealings with her fellow beings. She was so thoughtful and the most gracious of hostesses.

If I had to use one word to describe Jim it would be "real."

I know that everyone who ever knew her is going to miss her, and we all express to DICK our condolences. We are aware that he must feel a loss that is greater than most because she was his partner in every aspect of his life at work, at home, in thought, and in deed. We share with him this very sad day.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I am happy to yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

When we first come to the House, as younger Members we inevitably look to senior Members for guidance and direction. I certainly have gotten that guidance in a broad and deep fashion from DICK BOLLING. My wife, Wren, and I have also gotten that from DICK's wife, Jim, who has been the coach and mentor for us as people, just as DICK has been in the ways of the House.

We want to extend to DICK our great feeling of tremendous loss for a very dear and wonderful friend. I hope that in the future, our lives will grow in wisdom, so that we can be as helpful to others as Jim was to us.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman for yielding.

I, too, wish to join with the gentleman from Colorado (Mr. WIRTH) and the other Members who have presented their remarks on the loss of our good friend Jim Bolling. I just want to reiterate what the gentleman from Colorado (Mr. WIRTH) has just stated, because Jim Bolling did make the transition—and DICK BOLLING also—from private citizen or former State representative to a Member of Congress a lot easier one for myself, my wife, and my children. For that I will always remember her.

Mr. LONG of Louisiana. I thank the gentleman.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. LONG of Louisiana. I am happy to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding.

I do not think I ever met Mrs. Bolling, but hearing this morning what people have said, I can imagine what a terrible loss it must be. I do know our colleague, DICK BOLLING, however, and anything that hurts him is felt by all of us, because there is certainly no one in this House more respected and admired and for whom we have more affection, and it is to his hurt and sorrow now that I address myself.

Mr. LONG of Louisiana. I thank the gentlewoman.

Mr. FLOOD. Mr. Speaker, "Blessed are they that mourn: for they shall be comforted." These words of consolation and assurance, ancient yet ever-new, come again to our minds and hearts as we mourn the passing of Jim Grant Bolling, beloved wife of our friend and colleague in this House, Congressman RICHARD BOLLING. Both Mrs. Flood and I have been privileged to share the friendship of Mrs. Bolling throughout many years. The memory of her life and character remains as a benediction touching the shadows of grief with the light of remembered kindness and grace. To her husband and to all the members of her family and her many friends, we extend our deepest sympathy, mindful of the poet Longfellow's words,

Sail forth into the sea of life,
O gentle, loving, trusting wife,
And safe from all adversity
Upon the bosom of that sea
Thy comings and thy goings be!
For gentleness and love and trust
Prevail o'er angry wave and gust;
And in the wreck of noble lives
Something immortal still survives.

● Mr. MAHON. I have been pleased to listen to the beautiful and meaningful

words which have been spoken today about our late friend, Jim Bolling, and I wish to place in the RECORD an added tribute to her memory.

Jim Bolling was a rare individual. She was thoughtful, charming, and strong—a woman of great stature and ability. She was my friend, and I shall not forget that, just a few days ago, she came by my office and asked that I inscribe a book for her.

I join my colleagues in honoring her memory and in expressing sympathy to DICK BOLLING who has sustained an irreparable loss.●

GENERAL LEAVE

Mr. LONG of Louisiana. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the passing of Jim Bolling, wife of the Honorable RICHARD BOLLING of Missouri.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 12928, PUBLIC WORKS FOR WATER AND POWER DEVELOPMENT AND ENERGY RESEARCH APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 12928) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERSONAL STATEMENT

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, I would like to share with the Members of the House something that happened to me. Last week I voted twice on different issues, and after I had voted, the pair clerk came to me and said that I was not recorded. I do not know whether it is a matter of the machine or whether it was a matter of my card or what, and I do not know whether it has happened to any other Members of the House or not, but I would urge them to check from here on to see whether they are recorded on the Board, as I am going to do.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6669, CLIMATE PROGRAM ACT OF 1977

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 6669) to establish a national climate program, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, at this moment President Carter and Secretary of Agriculture Bob Bergland are within a short distance of my district where the President is making a major address to the annual convention of the Missouri Farmers Association.

I was not able to accompany the President because today's schedule calls for vote on the rule on the equal rights amendment and necessarily includes amending the rule to provide a vote by the House for two-thirds requirement on final passage. Because I need to be here to protect my position in the event the rule would be taken up before 4 p.m. I have to be here in the House and cannot participate in the meeting in Columbia with the President.

HARRIS SURVEY SHOWS AMERICAN PEOPLE SUPPORT TAX RELIEF

(Mr. JONES of Oklahoma asked and was given permission to address the House and to revise and extend his remarks.)

Mr. JONES of Oklahoma. Mr. Speaker, I call attention of the House to some material I will put in the extensions of remarks today that deals with the tax bill the House of Representatives passed last week. We said then it was a good bill. I think the wisdom of that judgment is borne out in a recent Harris survey printed in today's Washington Post which shows that 75 percent of the American people support this level of tax cuts and 66 percent of the American people support relief in capital gains taxes.

Mr. Speaker, I will also submit a column in the Washington Star by former Senator Eugene McCarthy, whose liberal credentials are unassailable and whose thesis is that capital gains tax relief is the absolute best way in which to infuse new life, new capital and new jobs into the American economy.

PERSONAL EXPLANATION

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, in my absence from Washington for official business in the Fourth District of Arizona part of last Thursday, August 10, 1978, and Friday, August 11, 1978, I missed several recorded votes. I would like to go on record as to how I would have voted had I been here as follows:

On rollcall No. 681, an amendment to H.R. 13511 in the nature of a substitute that sought to extend four tax provisions due to expire at the end of the year; "no".

On rollcall No. 683, an amendment to H.R. 13511 that sought to increase the size of the total individual tax reduction by $2 billion, and to provide for a graduated alternative minimum tax on capital gains; "no";

On rollcall No. 684, a motion to recommit H.R. 13511 to the Committee on Ways and Means with instructions to report it back forthwith containing an amendment to provide an across-the-board cut in individual income taxes, averaging 33 percent phased in over 3 years; "yes";

On rollcall No. 685, final passage of H.R. 13511, to amend the Internal Revenue Code of 1954 to reduce income taxes; "yes";

On rollcall No. 686, approval of the Journal of Thursday, August 10, 1978; "yes";

On rollcall No. 687, approval of the rule under which H.R. 11280, to reform the civil service laws, is to be considered; "yes";

On rollcall No. 688, to resolve into the Committee of the Whole for consideration of H.R. 11280; "yes";

On rollcall No. 689, a motion to table a motion to reconsider the previous vote; "yes";

On rollcall No. 690, passage of H.R. 13007, to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic funds transfer services; "yes."

WORLD COUNCIL OF CHURCHES AND TERRORISM

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. DORNAN. Mr. Speaker, yesterday I again had the opportunity to walk among the ruins of the Roman Forum in Rome. As you know, on Saturday I had the honor of attending the funeral of one of the world's great men of peace, the beloved Pope Paul. In wandering through those ruins of the Great Roman Empire on Sunday it was easy as always to wonder what is to become of the Great Republic of the United States of America. Are there signs that we as a people have run our course? Perhaps, a few, and I saw one in a weekend news paper. Christians sending money to pagan murderers and terrorists.

The first editorial that came to my attention in reading the "Daily American" the Rome newspaper for Americans overseas, is a living nightmare for those who are concerned about the survival of our Judeo-Christian culture. The editorial tells of terrorism being supported by the World Council of Churches through an $85,500 grant to the so-called African "Patriotic Front", the terrorists and murders under Robert Mugabe and Joshua Nkomo, to support them in their operations against the nation of Rhodesia/Zimbabwe.

I think all Christians had better pay close attention to any group that in the name of Christianity sends money to the murderers of missionaries and their children. What is this madness when the Council of Churches is funding atheistic powers to kill innocent civilians who serve Jesus Christ.

Terrorism is one of the very things that Pope Paul agonized and grieved over throughout the last years of his life. It appears every corner of our confused humanity. even every religion, has its traitors who are seduced by the Marxist cruelty of "any means to an end."

Mr. Speaker, the article from the Daily American, the Rome edition of August 12, 1978 follows: Read and weep.

SUPPORTING TERRORISM

The World Council of Churches has accepted a very heavy responsibility, both for its collective conscience and for its stewardship of charitable funds, by deciding to contribute 45,000 pounds ($85,000) to the Patriotic Front terrorists operating against Rhodesia.

It is showing less than Christian honesty and forthrightness when it states that the money will be used for 'social programs.' Even if this were the case, no Christian organization should give support of any kind to political groups waging a campaign of indiscriminate terror against innocent civilians—especially when they are armed and backed by atheist totalitarian states.

The amount is not large, but it would be enough to buy quite an assortment of arms and explosives, which could be among those used to massacre Christian missionaries. Or it could pay for the abduction and indoctrination of quite a few African children, or to provide comforts for Cuban weapons instructors.

It is not only the actual amount that matters—which in this case is carefully adjusted so as not to provoke charges of extravagance—but the fact that a solid token of moral support is given.

RESIGNATION AND APPOINTMENT AS CONFEREE ON H.R. 11445, AMENDING SMALL BUSINESS ACT OF 1958

The SPEAKER laid before the House the following resignation as a conferee:

COMMITTEE ON SMALL BUSINESS,
Washington, D.C. August 14, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Due to my service on the Committee on Banking, Currency and Housing and the anticipated legislative matters to be considered by that committee in September, I believe it would be very difficult for me to serve as a conferee on H.R. 11445 as the conference committee on that bill is scheduled to meet in September.

Accordingly, I hereby respectfully submit my resignation as a conferee on H.R. 11445, an Act to amend the Small Business Act and the Small Business Investment Act of 1958.

Sincerely,

J. WILLIAM STANTON,
Member of Congress.

The SPEAKER. Without objection, the resignation will be accepted.

There was no objection.

The SPEAKER. The Chair appoints the gentleman from Kentucky (Mr. CARTER) to fill the vacancy, and the Senate will be notified of the action of the House.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to make a statement.

The floor proceedings of this House are now broadcast by radio beyond the boundaries of this Chamber. More people than ever before may now hear the debate on important matters of legislation. The Chair wishes to remind Members of their continuing obligation to maintain decorum and preserve the dignity of the proceedings of this body. While the freedom of speech in debate should never be denied or abridged, this freedom does not mean license to ignore these fundamental rules and practices of the House. The Chair and any Member appointed to occupy the Chair will take the initiative to preserve order and decorum.

FOREIGN AID APPROPRIATIONS, 1979

Mr. LONG of Maryland. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12931) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Maryland (Mr. LONG).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12931, with Mr. KAZEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, August 4, 1978, the Clerk had read through line 9, on page 14.

Are there any amendments?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 14, line 7:

Strike "$95,000,000" and insert in lieu thereof "$93,700,000."

On page 14, line 9, strike the period, and insert the following: ": *Provided further*, That none of the funds appropriated or otherwise made available in this paragraph shall be obligated or expended for assistance to or in the Central African Empire."

Mr. ASHBROOK. Mr. Chairman, my amendment is designed to cut off aid under the Peace Corps programs to the Central African Empire.

Perhaps the amendment should be titled "The Man Who Would Be Emperor." This would pay tribute to Jean-Bedel Bokassa, a would-be Napoleon who recently crowned himself Emperor.

As you will recall, last December Bokassa held an elaborate coronation ceremony modeled after Napoleon's coronation in 1804. The cost of the extravaganza was $25 to $30 million in a nation where the average income is only $155 a year. I am sure Bokassa's subjects would have preferred a little less ceremony and a little more food for themselves and their children.

The waste of dollars in this impoverished country has continued. Emperor Bokassa recently squandered another $1 million on a personal villa in Switzerland.

I cannot justify using our tax dollars in the Central African Empire when the ruler of that country is throwing away millions of dollars on lavish personal items. This is simply wasted money, money that could be used to provide tax relief for our own citizens.

I would also mention the poor human rights record of the Bokassa regime. There have been widespread rights violations, while political opponents have been sent to jail or death.

According to the December 19, 1977, issue of Time magazine:

During his twelve years as dictator, Bokassa has established a reputation for megalomania and incompetence that rivals that of Uganda's Idi Amin Dada.

And that is a hard act to follow.

My amendment would save the taxpayers $1.3 million. I urge its adoption.

Mr. McHUGH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, as the members of the committee will recall, this amendment was offered to the authorization bill and was rejected at that time by a vote of 228 to 169.

I think the committee properly rejected the amendment, because it flies in the face of what the essential purpose of the Peace Corps has always been. We certainly understand the motivation of the gentleman from Ohio (Mr. ASHBROOK) in offering the amendment. We cannot relate to, and indeed we can certainly condemn, the extraordinary behavior of the so-called emperor of the Central African Empire.

The point is, however, that the Peace Corps program should not be judged by the emperor's behavior. This is a people-to-people program. It is in no way supportive of the emperor and his high jinks in that country. The Peace Corps volunteers are out in the villages. They are working on programs which are essential and very helpful to the people who are oppressed by the emperor to whom the gentleman from Ohio (Mr. ASHBROOK) has referred.

I think it is on the merits of the Peace Corps program itself and what it does in that country that this amendment has to be judged, not on the behavior of the emperor, the individual who leads the government in that country. Of course, that is why the amendment was rather soundly defeated when it was offered previously. Where the Peace Corps is concerned, Congress has always treated this program on its merits and felt that it should not be subject to political considerations relative to the particular government in question.

Mr. Chairman, in a letter all Members of the House have received from the Peace Corps Directors who have served throughout the program's history, reference is made to a statement made by one of the supporters of the program in 1961:

The Peace Corps is not an instrument of foreign policy, because to make it one would deprive it of its contribution to foreign policy.

*

I think that is a very sound principle and one that should guide us during consideration of this amendment.

Mr. Chairman, I also have a list of the kinds of things that the Peace Corps volunteers are doing in the Central African Empire. They include small-scale, food-production programs geared toward individuals at the village level; health and village improvement projects to decrease the incidence of disease and provide villagers with the capacity of improving the quality of life by their own actions; educational programs to provide classroom contact with young minds, trained teachers to contribute to curriculum development, water projects to provide clean water supplies for villagers and lead to other community projects.

I think that this list demonstrates clearly that the Peace Corps is doing constructive work and should not be judged upon the activities of the so-called emperor; but, rather, based upon what the Peace Corps is doing for the people of the Central African Empire.

On that basis, Mr. Chairman, I certainly hope the Committee will reject this ill-advised amendment.

Mr. WINN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Ohio. This is the same amendment which the gentleman from Florida offered on April 25 to the Peace Corps authorization bill for fiscal year 1979. At that time, this House firmly, and I think wisely, rejected the amendment to cut funds for these Peace Corps projects in the Central African Empire, by a vote of 169 to 228.

I can sympathize with the point the gentleman is trying to make. He does not want to use U.S. tax dollars to support dictators, in this case the self-styled Emperor Bokassa I. I doubt that any of us disagree with that underlying aim. But, the point is that Peace Corps programs do not provide cash or commodities to the Emperor, his family, or retainers. Peace Corps fields some 65 individual American volunteers who live and work at the grass-roots level providing very basic, self-help assistance to the people, not the Emperor, of one of the poorest countries in the world.

Peace Corps volunteers are helping the villagers of the Central African Empire to develop local inland fisheries to improve their access to needed protein in their diets. Throughout the country they are working on rural health, education, and helping to install and maintain small-bore wells at the village level to make adequate potable water available.

These activities are not being done for the Emperor or as an expression of support for or approval of the Emperor. These direct, people-to-people Peace Corps projects are a voluntary expression of the traditional American spirit of humanitarian concern for our fellow men. When the people of a village see a volunteer working hard daily, side-by-side with them, on a village water system or a fish pond, those villagers are not saying this volunteer admires or supports the Emperor. They are probably thinking that now they will have clean water and more food on the table. I doubt that they are as inclined to read highly subtle political overtones into these direct and practical Peace Corps activities as some of us whose vocation is politics.

I am opposed to the gentleman's amendment because its underlying effect would be to politicize Peace Corps programs, to treat them like conventional, official AID government-to-government loans and grants. Proponents of this amendment have in the past referred to that provision of the Peace Corps Act which makes the Secretary of State, under the President's direction, responsible for seeing that the general direction of the Peace Corps is basically in line with the broad fundamental goals of American foreign policy. This is supposedly the statutory justification for the gentleman's amendment and its attendant politicization of the Peace Corps. Anything associated in any way with the category of "foreign policy" the proponents of this amendment consider to be primarily and inherently political. That is unfortunate. The House has always observed the difference between the essentially humanitarian, voluntary, people-to-people Peace Corps programs and conventional, government-to-government AID programs which are routinely used as instruments by which the U.S. Government seeks to directly influence the policies of other governments.

In closing, I would like to quote from a cable dated April 6, 1978, in which Secretary Vance reminded all U.S. diplomatic and consular missions of this distinction and its effects on the relations between the State Department and the Peace Corps:

Peace Corps Volunteers are not U.S. Government officials.

* * * * *

The essential role of the Peace Corps is to build links between the U.S. and the peoples of developing countries at the grassroots level, to provide practical and humanitarian assistance on a voluntary basis, and to demonstrate through the personal commitment of the Volunteers the interest and involvement of American citizens in the welfare of individuals in developing countries distinct and separate from the official relations and policies of governments. . . .

* * * * *

Such a role for the Peace Corps represents an intrinsic and important element of the broad foreign policy goals of the U.S. even though to be effective it must remain substantially separate from the formal day-to-day conduct and concerns of foreign policy because of its unique people-to-people character.

As former Secretary Rusk wrote to Chiefs of U.S. Missions: "To make the Peace Corps an instrument of foreign policy would be to rob it of its contribution to foreign policy."

* * * * *

By developing friendship, cooperation, assistanace and humanitarian associations between Peace Corps Volunteers and individual citizens of their host countries, the Peace Corps contributes significantly to that building of international understanding and sympathy between peoples which is an integral long-term objective of American foreign policy.

As I noted before, the House wisely rejected this amendment during the debate on the authorization bill. I urge the House to remain consistent and defeat it again today during our consideration of this appropriations bill.

Mr. BONKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman who just spoke in the well and I both serve on the Subcommittee on International Development. We have been considering legislation to reorganize the Peace Corps, essentially to take the Peace Corps out of ACTION and make it an independent foundation. Throughout our hearings, one recurring theme has been the overall independence of the Peace Corps—apart from the United States foreign policy.

The gentleman from Kansas has made his points very well. The Peace Corps is an expression of American values and good will apart from the State Department, apart from our foreign policy. If we were to drag the Peace Corps into the overall consideration of foreign policy, as to whether or not we should be supporting various regimes throughout the world, then we have lost the purpose and the overall objective of the Peace Corps.

I would also point out that adoption of this amendment would not adversely affect the present government in the Central African Empire. It, in effect, would hurt the oppressed more than the oppressor. We have got to get our perspective on the Peace Corps and its overall commitment to other people throughout the world. It is not a government-to-government program; it is not a commitment to support of a particular government; it is basically a people-to-people program. If these people are being oppressed by dictators, we should not penalize them because of that fact. We should continue to help them.

Mr. Chairman, the final point I want to make is that the Central African Empire is not going to be in power forever. If we were to remove the Peace Corps or any semblance of a U.S. presence in that country, we have lost our opportunity to relate to those people, not only on a people-to-people basis, but as a reflection of our values. The Peace Corps gives us an opportunity to transcend our foreign pclicy objectives by relating to people in the country who may well be its future leaders. Almost every African leader on that continent today has been trained by Western missionaries; the impact of missionaries on that continent cannot be overestimated.

I think the Peace Corps has an independent and objective good will impact among the people in a given country by having a presence there, by having young Americans and older Americans working in that country. We are able to develop the rapport that may influence movements and leaders in the future in the Central African Empire.

So, I think it would be hasty and perhaps counterproductive if we were to act favorably on the gentleman's amendment. It was rejected back in April, and I think the House ought to reject it once again.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, the gentleman from New York (Mr. McHUGH) is absolutely correct. This is an amendment which is similar to the one offered by this gentleman to the authorizing bill.

I would like to say to the gentleman from New York that a great number of our colleagues, after that vote was finalized, expressed some confusion because while the amendment was directed to the Central African Empire, for some reason, whether it was in the shuffle of papers or just what the reason was, a great many of our colleagues thought this amendment was intended to cut off all Peace Corps activities in all of Central Africa.

I would like to say to the chairman and our colleagues, that is not the case. This amendment does not go to all of Central Africa. It goes to one very small little country, whose name is: the Central African Empire.

So hopefully that confusion that existed the first time this amendment was considered will not exist today.

Mr. Chairman, several of our colleagues in their comments have talked about how the Peace Corps was not to be used as an instrument of our foreign policy, that it should not be involved politically. Mr. Chairman, I think the problem with these statements is simply this. That is not what the law says. That may be what the Members want it to be. That may be what the officials of the Peace Corps want us to believe. But, Mr. Chairman, that is not what the Congress said when they wrote the Peace Corps Act. When the Congress wrote the Peace Corps Act, in section 4, paragraph 3, the law says, and this is not merely somebody's opinion, this is what the law says:

(3) Under the direction of the President, the Secretary of State shall be responsible for the continuous supervision and general direction of the programs authorized by this Act, to the end that such programs are effectively integrated both at home and abroad and the foreign policy of the United States is best served thereby.

So I submit, Mr. Chairman, that those of our colleagues who believe the Peace Corps should not be part of our foreign policy are certainly entitled to believe that, but that is not what the law says. I invite anyone who would like to read it to come by the desk. The copy is here for anyone who would like to read what the law says.

Mr. Chairman, in their 1978 publication, Freedom House rated the Central African Empire among the worst violators of political rights and civil liberties. In fact, the Empire's status of freedom was listed as "not free".

The State Department country reports on human rights practices includes a comment that the Department does not know to what extent torture is utilized in the Empire, but that prison detainees are mistreated and beatings are a common form of discipline. This official report states that "preventive" detention of many persons is prolonged without judicial recourse.

There are published reports of two foreign journalists being arrested last year with the American being expelled and the Britisher being severely beaten and incarcerated for a month.

I agree with the Peace Corps Act amendments overall, but I must strongly object to the inclusion of $1,504,000 in the Peace Corps program for the Central African Empire. This is an increased request of $530,000 over last year's level. I must object because of the attitude toward human rights by the leader of the country, Emperor Bokassa, and because of his attitude toward the economic welfare of his "subjects."

The December 19, 1977, issue of Newsweek magazine contained an article about the coronation of Emperor Bokassa—a lavish ceremony which cost about $25 million, nearly a third of the country's annual budget, with the ceremony being a conscious imitation of Napoleon's own coronation. The crown the Emperor wears reportedly cost $2.5 million and he has recently purchased a $1 million Swiss villa to stay in when he goes to Europe on "royal visits."

The Emperor's control of his country has been solidified by the jailing, killing, or disappearance of his opponents. An example of his cruelty is his forcing his Cabinet to witness the fatal beating of convicted thieves 5 years ago.

The Congress of the United States cannot justify any aid programs to this country because the net effect of this assistance would be to help sustain Emperor Bokassa's rule and allow him to use his country's resources for totally inappropriate purposes.

Because of these concerns, the Agency for International Development is unilaterally pulling out of this country and I believe the Peace Corps should reconsider its program in the Empire before any American volunteers there are brought before the Emperor and beaten or thrown in jail. All forms of American assistance should be discontinued as long as Bokassa continues his repressive regime and wasteful spending practices.

I submit for the RECORD, an article appearing in the December 19, 1977, edition of Newsweek magazine.

BOKASSA'S NEW CLOTHES

(Africa had a brand-new Emperor last week—Bokassa I of the Central African Empire. From Bangui, the sweltering capital of Bokassa's empire, NEWSWEEK's Loren Jenkins filed this report:)

The setting was the Jean-Bédel Bokassa sports palace, located next to Jean-Bédel Bokassa University on Jean-Bédel Bokassa Boulevard, Bokassa, 56, a former sergeant in the French army, sat impassively on a gilded, 15-foot-high throne in the winged shape of an imperial Eagle. To his right sat Empress Catherine, 28, sheathed in gold lamé, and his 2-year-old son and heir apparent, Jean-Bédel Georges, wearing a crisp military uniform. Officers of the imperial guard draped Bokassa's shoulders with a 30-foot train of red velvet embroidered in gold and trimmed with ermine. A beplumed general presented him with a diamond-studded scepter and then held up a $2.5 million gem-encrusted gold crown on a velvet cushion. Bokassa stood and slowly raised the crown to his head. Then, like his idol, Napoleon Bonaparte, he crowned himself Emperor.

The Central African Empire—known in French colonial days as Ubangi-Shari—is a landlocked nation of 2.2 million hapless souls teetering on the edge of bankruptcy. But that did not stop its bandy-legged new Emperor from splurging on grandeur. The coronation cost about $25 million, nearly a third of the country's annual budget, and the ceremony was a conscious imitation of Napoleon's own coronation in 1804. For the ensuing festivities, Bokassa imported 40,000 bottles of French table wine, 24,000 bottles of Moet et Chandon champagne, a similar amount of Chivas Regal Scotch, 450 pounds of rose petals, 25,000 fresh-cut flowers and 60 Mercedes limousines—which had to be air-freighted into Bangui.

FIREWORKS AND BARE-BREASTED MAIDENS

The result was a rousing good show. When he wasn't escaping the heat in an air-conditioned Mercedes, the Emperor rode in a green-and-gold carriage drawn by matched grays imported from Normandy (and doomed to die in the fetid climate). The 3,500 invited guests were treated to lavish banquets—and to a ton and a half of fireworks that rained sparks on them as they ate. Lancers in green tunics paraded, bands played, bare-breasted maidens danced and tribesmen coaxed strange sounds out of giant horns. Sparse knots of Bokassa's subjects watched the pageant morosely, but the Emperor himself defended the extravagance. "One cannot create a great history without sacrifices," he declared.

As for the guest-list, anyone who was anyone wasn't there. Bokassa had invited his fellow emperors, Hirohito of Japan and the Shah of Iran, along with Queen Elizabeth II and 150 heads of state. Pope Paul VI was invited to hand Bokassa his crown, as Pius VII had done for Napoleon. But Bokassa was royally snubbed by nearly one and all. Pope Paul informed him that the Vatican was no longer in the business of crowning emperors and instead sent an archbishop to watch. Despite his admiration for the French (Bokassa had wept at Charles de Gaulle's funeral), Paris sent only its Minister of Cooperation. The U.S. was represented by its ambassador. The only Head of State in attendance was the Prime Minister of Mauritius, Sir Seewoosugur Ramgoolam.

The fact is that Bokassa has become an embarrassment, even to his tolerant African peers. He is no Idi Amin, but his rule has been mercurial and arbitrary since he took power in a coup on New Year's Day, 1966. Opponents have been jailed or killed—and some have disappeared. The Emperor is still trying to live down an incident that occurred five years ago, when he led his Cabinet into a prison and made them watch as a group of convicted thieves were beaten to death with clubs and rifle butts. Last summer, he had two Western reporters thrown into jail. Before they were freed, one of them, Michael Goldsmith of the Associated Press, was brought before Bokassa, who accused him of being a South African spy, beat him to the ground and stepped on his glasses.

Bokassa's big day began slowly: the Emperor was an hour and a half late to his coronation. As the guests sweated in despair, a French Navy band ran through its entire repertoire and was replaced by canned music. The Women's Army Corps handed out bags of caramels "pour passer le temps." Finally Bokassa arrived and crowned himself. A 21-gun salute rattled the windows of the sports palace, prompting one startled journalist to ask: "Is that outgoing or incoming?" As he prepared to crown his wife, the Emperor announced that "We, Bokassa I" would scrupulously uphold the constitution.

FROM CATHOLICISM TO ISLAM AND BACK

Next, the ceremonies moved to the Cathedral of Notre Dame de Bangui, where the Emperor's ascension was sanctified by a Solemn High Mass. Conveniently forgotten was the fact that, only a year before, Bokassa had announced his conversion to Islam, in anticipation of aid from the rich and devoutly Muslim regime of Libya. The aid never materialized and Bokassa reverted to his Roman Catholic faith. As the papal delegate, Archbishop Domenico Enricci, looked on, the Archbishop of Bangui officiated at the Mass and an imperial chamberlain with a handkerchief in either hand mopped up the sweath that ran in rivulets from the imperial brow.

That night, Bokassa treated 4,000 people to banquet. There was a giant tureen of caviar and bottles of wine and liquor graced every table. To honor the Emperor's service in Vietnam (where he fought with the French Army and sired one of his 30 children), some of the entertainment was provided by a song-and-dance troupe composed partly of former bar girls from Saigon. But the food ran out before the guests did, and the liquor was pilfered by waiters and soldiers.

MAJORETTES AND PYGMIES

The final act was a parade down the former airport runway now known as Bokassa Boulevard. Wearing a Napoleonic uniform and a cockaded hat, Bokassa reviewed his entire 1,000-man army. Drum majorettes pranced past, led by a leggy baton twirler from Nice. Students and the business community were represented, along with a loyal delegation from the country's Pygmy Women's Association.

No amount of spectacle could conceal the fact that the Central African Empire is one of the 25 poorest nations on earth (per capita income is less than $200 a year). On the last day of the festivities, the U.S. announced that it was phasing out its $1 million annual aid program because of Bokassa's human-rights violations. But nothing could dampen the Emperor's spirits. With more bravado than need, he placed an order for still more Mercedes limousines. Few of his guests were impressed by the long-term prospects for Bokassa's reign. "It's all well and good to carry on about Napoleonic grandeur," said a French businessman. "What Bokassa seems to be forgetting is that after the grandeur came Waterloo."

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I just want to ask one question on this amendment. What benefit could this amendment positively have for our interests in the Central African area?

I think the gentleman from New York has already summed up, as have others, what the purposes of the Peace Corps activity are, not only in Central Africa but elsewhere around the globe. I will not take the full 5 minutes but I simply want to read in part from a letter which was sent to Congress by four former Peace Corps Directors, Republican and Democrat: Mr. Joseph Blatchford, who directed the Peace Corps under Presi-Democrat: Mr. Joseph Blatchford, who directed the Peace Corps under Kennedy; Mr. Jack H. Vaughn, who directed the Peace Corps under President Johnson; and our former colleague Mr. John R. Dellenback, who directed the Peace Corps under President Ford.

They said simply this:

Farsighted Congressional leaders, Secretaries of State of both political parties, and President Kennedy who started the Corps, have always insisted that the Peace Corps should not be used as a political reward or weapon. . . . Decisions as to where Peace Corps Volunteers should serve have been and should be based solely on need, receptivity, and local conditions conducive to the Corps purposes. Any other standard would do the gravest injury to the uniqueness, effectiveness and history of the Peace Corps.

Regardless of whether we agree with that or not—and I happen to agree with it—I think we can take at face value the law quoted by the gentleman from Florida, which states simply that the Peace Corps should be run in accordance with what the the best foreign policy interests of the United States. I think the best foreign policy interests of the United States lie in keeping the lines of communication and assistance open to people. I would agree with the gentleman from Florida that the self-styled emperor of that country is a fool.

But I do not think that you have to endorse the leadership of a country in order to be concerned about the health and the educational problems facing some of the most wretched creatures on the face of this globe.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I too am opposed to this amendment. We have let pass the whole earlier part of this bill. I oppose the process that we have developed in this Congress of a country by country elimination from these various programs. We have let pass bountiful requests to one of the worst countries, Nicaragua, where we certainly have seen the most outrageous violations of human rights in the past few months. We let that pass, but we must stop the country by country attack in this bill.

I support the bill as presented by the committee.

Mr. OBEY. Mr. Chairman, I fully concur in what the gentlewoman from New Jersey (Mrs. FENWICK) has just said. Certainly Congress should not go on the idea of you gore my ox and I will gore your ox. I think we should support the decision that we made last week. It was a sound decision.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

Mr. Chairman, I am opposed to the amendment of the gentleman from Ohio (Mr. ASHBROOK) which would cut funding for the Peace Corps programs in the Central African Empire.

This discussion brings to mind a similar debate which occurred on this same floor only 7 years ago—then the target was Chile, President Allende, but the major issue was the same: Why send the Peace Corps to a nation whose substance and style of politics is so antagonistic to the United States?

As was the case for Chile in 1971, there are good humanitarian and political reasons to continue the Corps program in the Central African Empire. And these reasons are no less convincing now than in 1971 when they were successfully invoked to enable the Peace Corps to continue in Chile.

First, humanitarian reasons. The Central African Empire is one of the poorest nations in the world. With a per capita income of $230 it is considered by the World Bank to be one of the six poorest nations. It also ranks among the 10 poorest in terms of quality of life. If we are serious about our commitment to aiding the "poorest of the poor," then support for the Peace Corps program in this nation is essential.

Let us take a closer look at the programs this amendment would cut. They include: small-scale food production programs geared toward individuals; health and village improvement projects that decrease the incidence of disease and provide villagers with the ability to improve the quality of life by their own actions; water resource projects that provide clean water supplies for villages and lead to other community-level projects. And since very few international agencies function in the Central African Empire, passage of this amendment would seriously curtail grassroots development assistance.

As has been noted in past debates, the Peace Corps is a people-to-people program. Its volunteers do not sit comfortably in air-conditioned office buildings formulating grand strategies for development. They are literally down to earth—living in the villages, working on farms, in health clinics and in schools. They struggle to improve the daily conditions of life for the poorest of the developing world. And they do so not for immense sums of money, but because of their desire to help their fellow man.

Both through its legislative mandate and in practice, the Peace Corps does not advance partisan U.S. political interests. By putting people not politics first, the Peace Corps can avoid pressures that occasionally impair the effectiveness of bilateral assistance programs.

Peace Corps projects do not create brick and mortar monuments to the folly of host country leaders.

These funds cannot be channeled into the pockets of the nations' elites.

With respect to the Central African Empire, no project funds are given to support the crazy schemes of Emperor Bokassa.

The Peace Corps is a fine means by which we can provide an example of our leadership and commitment toward the development of the Third and Fourth Worlds. As was stated in the debate 7 years ago, the Peace Corps volunteers are a "breath of fresh air" in nations often smothered by political unrest and hostility. Do we really wish to cut funding for this program in a nation such as the Central African Empire? Do we really wish to make a sham of all our talk about aid to the poorest of the poor only to slap the wrist of some emperor-clown? I certainly hope not.

I hope that you will show respect for the Peace Corp's nonpolitical mission as you have in the past and defeat this amendment.

Mr. YOUNG of Florida. Mr. Chairman, If the gentleman will yield, the gentleman has suggested that this amendment was doing away with the Peace Corps whereas it deals with only one small part of the operations of the Peace Corps.

Mr. CONTE. I am speaking about the country, the Central African Empire, and I am saying that if there were only 10 people who were homeless and who were hungry, with no opportunity for education, or who were sick, I would still want the Peace Corps to help them.

Mr. YOUNG of Florida. I just wanted to make sure that the gentleman was not directing his remarks at knocking out the whole Peace Corps.

Mr. CONTE. I think everybody knows where we stand on this and let us hope the amendment is defeated.

Mr. DODD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise with some reluctance. I am not a member of this committee, but the substance of this amendment is such that it is very near and dear to my heart.

I am one of two ex-Peace Corps volunteers who serve in this Congress. As a former Peace Corps volunteer, particularly one who served in a nation where the political atmosphere in 1965 and 1966 was one of the most dramatic kind, I find this amendment to be totally lacking in merit. I served in the Dominican Republic.

Shortly before the revolution there in May 1965, when political tensions were extremely high, I point out to my colleagues in this Chamber today that there was a period of time when the U.S. mission was asked to leave the Dominican Republic. We packed up and moved out. Only one single entity was asked to remain and continue its functions as a part of the U.S. mission. That was the Peace Corps.

Mr. Chairman, one of the unique characteristics of the Peace Corps is that it has not been a part of our foreign policy effort, either on the long term or the short term. It has always been construed by other nations as an organization designed to work with the very poorest of the poor in those nations.

Mr. Chairman, if we take this action today and make, in a sense, the Peace Corps a part of our political long-term or short-term foreign policy, we are adding a dimension to the Peace Corps that it has never had in its short history over the past 17 years.

Therefore, Mr. Chairman, as one former member of that organization, one who has seen that organization work and who has seen it work under the most stressful and trying circumstances in the presence of our own military troops, who were then in the Dominican Republic, where the Peace Corps had received the kind of warmth even in the most heated barrios of Santo Domingo in 1966, I would strongly urge my colleagues to defeat this amendment and allow this organization to continue to remain what it has been for the past 17 years, an entity separate and apart from our long-term or short-term foreign policy goals in this country.

Mr. Chairman, again, I urge my colleagues to defeat the amendment.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, in April this body passed H.R. 11877, the Peace Corps Amendments of 1978. During the debate on that bill an amendment was offered similar to this one. At that time that amendment was defeated by a vote of 169 yeas to 228 nays.

Mr. Chairman, let me point out that one of the chief discontents with the Central African Empire is that the emperor, spent a vast sum of money on his coronation, something of which I thoroughly disapprove. However, Mr. Chairman, let me point out that unlike a lot of foreign aid programs, the Peace Corps does not put any money into the hands of the government itself. The money goes directly to support the Peace Corps volunteers.

I urge this body to respond in the same way as we did before and vote to defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, $814,005,483, for the United States share of (1) the increase in subscriptions to (a) paid-capital stock, and (2) callable capital stock, and (2) the fifth replenishment of the resources of the Fund for Special Operations as authorized by the Act of May 31, 1976 (Public Law 94-302), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director of the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

AMENDMENTS OFFERED BY MR. LONG OF MARYLAND

Mr. LONG of Maryland. Mr. Chairman, I offer two amendments relating to international financial institutions, and I ask unanimous consent that they be considered en bloc.

The Clerk read as follows:

Amendments offered by Mr. LONG of Maryland: On page 16 of the bill, line 10, strike out "$814,005,483" and insert "$560,000,000".

On page 18 of the bill, line 4, strike out "$430,000,000" and insert "$100,000,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. LONG of Maryland. Mr. Chairman, the Long-Miller amendments reduce the recommended appropriation for two multilateral banks by $584 million. The amount for the Inter-American Development Bank, IDB, is reduced to $560 million, and the amount for the International Development Association, affectionately known as IDA, is reduced to $100 million.

If the Members remember nothing else about the Long-Miller amendments, I want them to remember just three points.

Even with the proposed reductions, these two international banks would be receiving the largest combined appropriation they have ever received in the history of foreign aid.

The second point is this: Even with the proposed reductions, the Inter-American Development Bank and the International Development Association will be receiving a 14-percent increase over fiscal year 1978, a bigger increase than President Carter requested in the budget for major domestic programs. Compared to this combined 14-percent increase, these are the increases for major domestic programs: Social security, 13 percent; energy, 12 percent; national defense, 9 percent; veterans, no increase at all; public works, minus 11 percent; and community and regional development, minus 11 percent.

Mr. Chairman, the alternative to cutting the amount for these two banks is a meat-axe cut which will be offered if the Long-Miller amendments fail. That is a meat-axe cut which the gentleman from Ohio (Mr. MILLER) has in reserve, and it is my understanding that if the Long-Miller amendments are agreed to, the gentleman from Ohio (Mr. MILLER) will not offer his across-the-board cut.

Let me point out that the across-the-board cut would hurt aid programs such as agriculture, rural development, health, population control, schools and hospitals abroad, disaster assistance, refugee relief, Peace Corps, and support for Israel, Africa, and Greece.

If the Long-Miller amendments to reduce these two multilateral institutions are accepted, as I indicated before, the

gentleman from Ohio (Mr. MILLER) will not offer the 8-percent across-the-board cut. My point is that we want Congress to control the purse and not turn the job over to the executive branch. The House should vote for the Long-Miller amendment and reject any attempts to apply across-the-board reductions.

Mr. Chairman, I would like to ask the gentleman from Ohio (Mr. MILLER) if he would like to speak to that for just a moment.

Mr. MILLER of Ohio. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Ohio.

Mr. MILLER of Ohio. Mr. Chairman, I do have an amendment prepared that would reduce the Foreign Assistance Act approximately 8 percent.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. LONG) has expired.

(By unanimous consent, Mr. LONG of Maryland was allowed to proceed for 5 additional minutes.)

Mr. MILLER of Ohio. If the gentleman will yield further, as I have stated in two "Dear Colleague" letters to the Members, I would not be offering the amendment that I have prepared if the Long-Miller amendment, that is before the House at the present time, reducing the two international financial institutions by $584 million was approved. I intend to hold to that commitment. I think it is very important that we do reduce the overall bill. We have had 2 percent and 5 percent reductions on the appropriation bills. Some will say, as I have heard in the case of Labor-HEW, that some of the domestic programs will be hurt, and I think it is very important that if we are going to reduce here at home we certainly can reduce foreign assistance to other nations. Every opportunity that I have, I want to convev the message that many of the nations that we have aided around the world now are loaning us money in order to support our national debt.

Mr. Chairman, I would like to convey the message that we now owe the various nations around the world $108 billion that the foreign nations have loaned us in order to support our national debt, which is really money which we borrowed to give to them, in the first place.

Mr. LONG of Maryland. I have quite a bit yet to say here and if I could reclaim my time I would appreciate it.

Mr. MILLER of Ohio. I would be happy to do that.

I believe the message is clear that we should support and approve the Long-Miller amendment.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Ohio.

Mr. MOTTL. I thank the gentleman for yielding, and I rise in support of the gentleman's amendments.

Mr. Chairman, any reasonably intelligent person could take a long, hard look at the budget of the U.S. Government and realize the great amount of excessive spending it calls for.

For example, he could point to our national defense projected expenditures of $120 billion and cite numerous instances of waste and inefficiency.

He could note the mind-boggling annual budget of some $180 billion by the Department of Health, Education, and Welfare and observe that many of the programs are wasteful and poorly administered.

Or he could cite the $940 mililon in annual expense of the National Science Foundation and point out that many of its undertakings are ludicrous.

But I submit that the one expenditure that would jump right out at him and cause our reasonably intelligent individual to shake his head in disgust and dismay in our foreign aid program. Some of the projected expenses in this proposed $7.3 billion program for fiscal year 1979 would cause him to ask questions like this:

First. Why have appropriations increased fourfold, from $1.8 billion in 1970 to the proposed $7.3 billion for this year, in just 9 years?

Second. Why are we giving Vietnam—that Southeast Asia nation where so much American blood was spilled in the past 15 years—$1.5 million indirectly this year?

Third. Why are we indirectly spending even one American dollar on the nations of Cuba, Angola, and Uganda?

Our foreign aid program, or more accurately our foreign giveaway program, is a ridiculous waste of taxpayers' money. At times of staggering Federal budget deficits and runaway inflation, we foolishly throw money around in other nations of the world as if there were no tomorrow.

I have consistently voted against foreign aid appropriations, will do so again today, and intend to do so in the future until—at the very least—our economic problems here at home are taken care of.

Just pause for a moment and think of the good more than $7 billion could do for our country. As one possibility, it could be used to reduce the enormous Federal debt. Or it could be added to the proposed income tax reduction to provide even greater relief for middle-income Americans. Or it could conceivably be used to provide additional jobs and institute and/or complete needed public works projects.

We should have learned during the turbulent 1960's that we cannot buy freindship or respect overseas. In fact, the more money that we give some foreign rulers, the more those nations seem to distrust and abhor us.

It is time that we in Congress voted to close our pocketbooks to foreign nations and show the American people that we can be frugal with their hard-earned-tax dollars. I urge you to join with me in voting down H.R. 12931.

Mr. LONG of Maryland. Mr. Chairman, let me point out that mention has been made of the idea that this would hurt the poor people of the world if we cut this bill. Let me point out that only approximately 1 in 8 loans provided by the Inter-American Development Bank in 1977 was even designed to predominantly reach the poor sectors of the developing countries, according to the congressional research report. I know the document was sent around by the gentleman from Wisconsin, and others, and I want to tell the Members that I have seen a lot of statistics in my life and I have written a lot of books on them but keep in mind statistics can be manipulated to prove any point.

IDA and IDB are helping nations which are guilty of violence, such as Argentina, Chile, Haiti, Paraguay, and Uruquay. IDA just announced a $60 million loan to Vietnam for 50 years repayment at no interest—no interest. There is a three-quarters of 1 percent service charge. And they were so arrogant that they did it right in the middle of this congressional debate.

Mr. ASHBROOK. Mr. Chairman, if the gentleman would yield, would he repeat that? That is astounding.

Mr. LONG of Maryland. It is a $60 million loan, 50 years repayment, zero interest, and we pay approximately 30 percent of that. It will come out of U.S. taxpayers' money.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding to me. I report to the gentleman that that same bank has four more of the same type of loans pending for Vietnam.

Mr. LONG of Maryand. Let me point this out: The International Development Association and Inter-American Development Bank, have employees who receive very large salaries. This ought to appeal to all the Members.

The CHAIRMAN. The time of the gentleman from Maryland has again expired.

(By unanimous consent Mr. LONG of Maryland was allowed to proceed for 2 additional minutes.)

Mr. LONG of Maryland. Here is the humble salary of the average Congressman and Senator, $57,500. $66,000 is paid to the U.S. Cabinet officers and $75,000 is paid to Vice President MONDALE.

The top professional staffs of the Inter-American Development Bank receive $73,230, counting their tax credit. The top professional staff members of the World Bank, who are, just like our congressional staff, receive $89,500 including tax credits. This is what the banks are paying. These are institutions, that are supposed to be directing aid to the poor. These are institutions about which we are told that we will be taking money away from the poor people all over the world, and they are going to suffer. I can tell the Members one group whose poverty they managed to solve, and that is the poverty of their top professional staff.

Mr. WOLFF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the

Long-Miller amendment to cut $584 million from the Inter-American Development Bank (IDB) and the International Development Association (IDA).

I am not one to indiscrimantely cut foreign aid programs. Just recently, I LONG, in opposing a reduction in aid to India. I am well aware of the beneficial effects that foreign aid programs can have on both the recipient nations and this Nation. Helping to develop the economies of the lesser developed or third-world nations, eventually augments our own foreign trade. International trade and U.S. exports create jobs for Americans. In this interdependent world, the United States cannot afford to ignore the needs of the developing countries. The United States has long been in favor of the type of aid which helps other nations help themselves.

Why, then, am I supporting the Long-Miller amendment? Because the IDB and the IDA are not helping the poorest people in the nations they aid by any means. Many pork barrel type projects are benefiting the weathy few, or the political elites. A report by the Congressional Research Service shows convincingly that the poor have not been helped, nor have the Bank's programs been targeted to the American ideal of helping people to help themselves. To quote the CRS study:

> It appears that the Bank's efforts in directly meeting basic needs have been modest to date, and it has done little to organize the poor for self-reliant development.

These two goals, to help the poorest, and to give "boot straps" type of aid are the two most important goals of U.S. foreign aid programs. This Nation must send a message to the Inter-American Development Bank and the International Development Association that we will not send our taxpayers' money to the political fat cats in other nations or the wealthy elites.

The Congress has the very important duty of deciding where our priorities lie in distributing more taxpayers' money among the many Federal programs and commitments. Even if $584 million is cut from these two Banks, the Banks will receive a higher percentage increase from last year's funding levels than many important domestic programs, including veterans programs, defense expenditures, social security, and energy programs. The United States cannot afford to contribute to ineffective foreign aid programs that do not even benefit the neediest people.

I do not support cutting foreign aid for the sake of chopping for no good reason. Such an across-the-board approach would needlessly penalize those institutions which are working to help the needy and to promote effective development programs. A selective, well-thought-out cut like this one sends a message to the institutions in question, and saves U.S taxpayers $584 million in funds that would be better spent elsewhere. I urge my colleagues to support Mr. LONG and Mr. MILLER's amendment.

Mr. MOORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to rise in support of the Long-Miller amendment. I have taken a different approach to this problem these last two Congresses, of trying to put a limitation on how the funds are used by the Bank. I have introduced four amendments to this effect, three successfully, and I have seen that those amendments have not really been that successful.

All we can really do is tell our representative on the Boards of those Banks not to vote for certain kinds of loans but our representatives are usually outvoted. Those loans still go through. As a matter of fact, in two out of nine such loans, which were basically not in the American interest, only in two of those instances did the U.S. representative vote against them.

So I have come to the conclusion that the chairman of the subcommittee and the gentleman from Ohio are right. The only way to get at these loans is to cut back the funding. Certainly we need to save money for our taxpayers, but I submit also it is awfully hard to explain to our hard-pressed American farmers or producers that we are using their hard-earned tax dollars to give to countries to put people into competition against them, which our people cannot really compete with because their producers overseas do not have to comply with the requirements of OSHA, social security, minimum wage, and other laws that cause our costs of production to be higher.

So I support the amendment as being probably the only way we can successfully get at the problem.

Mrs. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one of the most discussed items of this foreign aid appropriations bill is the lack of effectiveness of the international lending institutions. These are the organizations which gladly take American money, but give the Congress and the President no say in how it is spent. Defenders of our contributions to these Banks say they are effective ways to insure that American aid money reaches the poor of the world.

The money may be targeted to the poor countries of the world, but we have no guarantee that the aid is benefiting the poor people of the world. There are those in every country who would siphon off the funds aimed at the poor and use it for their own personal gain. This has been documented time and time again and it just reemphasizes the point that our form of foreign aid is not accomplishing its objectives.

As Foreign Service officer, Roger Darling, who works at the Agency for International Development recently wrote in the Washington Post:

> Foreign Aid welfare can never meet the escalating needs of poor nations, and as long as it unwisely tries to do so poor nations will defer confronting and resolving the true causes of their poverty and human suffering.

According to a recent Congressional Research Service study of the World Bank and its effectiveness in channeling money to the poor, the study says:

> The World Bank in clearly not reaching the poorest of the poor and has done little to organize the poor for self-reliant development.

Only one out of eight projects funded by the Inter-American Development Bank (IDB) is even designed to reach the poor.

From another study of the World Bank:

> Although 200 million live in desperate slum conditions, resources devoted to human settlement programs are pitifully short (1.4 percent of total World Bank lending for the years 1971–76). The indifference of both governments and international development agencies is quite obvious.

We also hear that without assistance from the international lending institutions, the plight of the world's poor would be getting worse instead of better. Well, according to the statistics we have available, the world's poor and hungry are not being helped by these organizations in spite of the billions of dollars loaned and given to the Third World countries.

For instance, the growth rate of food production per capita in the developing countries has fallen from 0.7 percent in the years 1961–70 to 0.2 percent in the years 1970–76. Despite large imports, the nutritional status of large portions of the Asian population has declined. By 1985, it is estimated that South and Southeast Asia face a shortfall in essential food of 30 million tons.

Unfortunately, money the Banks give to these countries encourages for the most part export agriculture which does not help the poor but only helps the elite landowners in underdeveloped countries.

We also hear the argument that projects financed in underdeveloped countries provide jobs for the poor of those countries. But the facts are these: More than 40 percent of the labor force in poor countries—283 million people—are unemployed or underemployed. Opportunities for jobs in these countries go to a very small part of the population.

These examples can be repeated over and over again in the various countries to which our tax money goes. Let me repeat that Americans are not hard and callous. We want to help people who are in a bad way. We have been the most generous nation on this Earth. But, we—as representatives of the thousands and thousands of taxpayers and voters who sent us here—owe it to those people to insure that the programs which they are financing are going to be effective.

We have not seen evidence that our tax money is being used effectively to reduce hunger. We would not be doing our jobs if we did not inquire and question and probe. If we do not do these things, more and more tax money will be poured away without any tangible results. I support the Long-Miller amendment.

Mr. LONG of Maryland. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, the gentlewoman pointed out that this may be aiding the poor nations but not the poor people. I wish to state that some of the richest people in the world live in some of the poorest countries. I might add that I have some five pages

of material pointing out the difference between the poor countries and the poor people. Let us take Bangladesh. That is one of the poorest countries in the world. Let me read a statement from two people who spent several years in Bangladesh:

Here's how IDA tubewells benefit the rich and not the poor: The tubewells are distributed first to those with political clout, then to those with the highest bribes, typically the largest landlords. The landlords use the tubewells for their own acreage, selling water at high rates to the peasants, then taking advantage of their monopoly on water to buy the land around them, causing an increase in the number of landless peasants.

Where do these poor people go when they are forced off their land? They crowd into the cities. This tubewell in Bangladesh helped create a few more of these homeless peasants. A project which was funded by IDA.

My predecessor used to say: "You know, this is a device for taking money from the poor people in rich countries and giving it to the rich people in poor countries." And nobody ever said a truer word.

AMENDMENTS OFFERED BY MR. OBEY TO THE AMENDMENTS OFFERED BY MR. LONG OF MARYLAND

Mr. OBEY. Mr. Chairman, I offer amendments to the amendments.

The Clerk read as follows:

Amendments offered by Mr. OBEY to the amendments offered by Mr. LONG of Maryland: Strike out "$560,000,000" and insert in lieu thereof "$797,725,373".

Strike out "$100,000,000" and insert in lieu thereof "$421,400,000".

Mr. OBEY. Mr. Chairman, I rise in support of the amendment I have offered and in opposition to the amendment by the gentleman from Maryland (Mr. LONG).

Mr. Chairman, I think it is important for the House to keep a number of facts, as opposed to slogans, in mind.

No. 1, this committee has already reduced the request of the administration for IFI's by over 25 percent.

No. 2, a substantial portion of the money in this bill for the International Financial Institutions will never be expended. It will never contribute to the national debt because it is in the form of callable capital which is there simply as backup guarantee money for the Banks.

It is in the bill—and I should point out that we are the only country in the world which uses this procedure—it is in the bill because of the specific request of the Senate chairman of the subcommittee and the House chairman of the subcommittee, the gentleman from Maryland (Mr. LONG).

That is one of the reasons that this item appears to be so high. However, let me point out that the bottom line on this whole question is simply whether or not we believe America ought to keep its word. That is what we are dealing with here today. Whether we like it or not—and I do not happen to particularly like it, so I have raised all kinds of Cain with the administration until we obtained a guarantee from them to attempt to negotiate a different kind of replenishment next time around to the bank so that Congress is not locked into any specific figure—the fact is that we are committed under international law to at least the amount listed in this bill for IDA and for the IADB.

We went to the administration and we said, "We understand what the problems are. We are practical people. Can you tell us what the bottom line is? What is the amount that we must appropriate in order to meet America's share of the scheduled outlays for this year, the scheduled disbursement for this year, in the bank?"

They gave us that number. That is the number in the bill. The reason that number is so important is that if we fall one penny below it, it means that we are in violation of an agreement entered into by President Nixon, submitted to the House by President Ford, and approved by the House under President Ford.

Mr. Chairman, I want to point out that the study of the Congressional Research Service, which is referred to very often by the gentleman from Maryland (Mr. LONG), reads as follows on this point:

Given the nature of the instruments in which the aforementioned undertaking is embodied, it seems that an obligation exists under international law.

They go on to cite the report which accompanied the bill which passed IDA IV on the authorizing bill. When Congress considered it. The report said as follows:

The Committee emphasizes this point because it wishes the House to be aware that this authorization bill will result in a binding international commitment by the United States. Congress should be aware now that a valid international commitment will exist when appropriations to cover this agreement are requested.

That is why, in my judgment, the Long amendment would be so disastrous.

Mr. Chairman, let me point out what we are talking about here. Despite what the chairman suggests, this money does reach the poor. The Congressional Research Service study to which he is fond of referring reads as follows:

In 1972, some 28 percent of agriculture lending could be classified as going, some project-oriented, to the poor. By 1977, this had risen to 63 percent, a dramatic shift in the 5-year period. There is also an obvious poverty focus in the bank's urban development programs. Some 70 percent of fiscal year 1977 projects directed some benefits to the poor.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 3 additional minutes.)

Mr. OBEY. Mr. Chairman, they went on to say the following:

The harshest analysis we have read of the bank's operations comes from its own operations evaluation unit. The criticism was more well-informed than that found in the popular press and academic journals.

Mr. Chairman, I just want to talk about what we are really talking about here. We are talking about three things. We are talking about whether we want to meet our commitments or whether we do not; and I want the Members to know what it really costs to support the amount we have in the bill.

A pack of cigarettes. About half the people in this House smoke them. The average cost per capita to American citizens to support the entire international bank structure for an entire year is the cost of a pack of cigarettes every week. Big deal. That is what we are talking about to help some of the poorest people in the world and to keep our influence in the most efficient and effective international aid operation in the world.

The amendment offered by the chairman would save the grandiose sum of about 14 cents a week per capita. That means we would be saving the taxpayers the cost of about a pack of gum every week. I also say, big deal.

So I would urge you to oppose the gentleman's amendment, and to adopt the amendment which I have sent to the desk which provides the equivalent of a 2-percent cut for the two items under question in the chairman's amendment.

It is very difficult to tell what the exact dollar amount is which is needed to sustain our commitment. This amendment is offered in the hope that the disbursements will be a little slow out of the banks and that we will, therefore, still be able to keep our international commitments even though we have reduced slightly the amount of money in this bill for these items that I would urge you to suport.

I am a practical man. I would recognize the need to support some kind of cut, but I urge you to make it responsible. I urge you to support a cut which does not run the absolute risk, as the chairman's cut does, of destroying our credibility and reneging on our commitment that past Presidents have made.

Mr. FLYNT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments.

Mr. Chairman, I support the amendment offered by the subcommittee chairman, the gentleman from Maryland (Mr. LONG) and cosponsored by the gentleman from Ohio (Mr. MILLER). I oppose the amendment to the amendment offered by the gentleman from Wisconsin (Mr. OBEY). This amendment would reduce the appropriations for the International Development Association and the Inter-American Development Bank by $585 million. Without the Long amendment, the fiscal year 1979 appropriations for these two banks would be 54 and 70 percent, respectively. It is important to remember that even with the amendment offered by the gentleman from Maryland (Mr. LONG), the increase in the appropriations for these two multilateral banks would be 17 and 13 percent more than was appropriated in the 1978 appropriations bill. Even if this amendment carries, that percentage increase in 1979 appropriations for IDA and IDB exceeds the President's budget requests for practically all of the domestic spending programs that are administered in behalf of the American people. During a period when our citizens are suffering from inflationary pressures resulting from Federal deficit spending, I feel that it is imperative that the Congress take the initiative in this instance to cut excessive

and unnecessary foreign aid spending to demonstrate to the American people that we are very serious about restoring some sound fiscal management of our budget.

I do not believe that we can ask the American taxpayer to continue to finance increased expenditures of American dollars for foreign aid when Federal resources to help our own citizens are becoming scarcer.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

The gentleman has made a very important point. He has pointed out that even with the cuts, the two banks are still getting a large increase over last year. Forget about the budget request. They ask for whatever they want to make the committee look good, but we are talking about last year. On our extreme right is what the present committee bill is. Next is the Long-Miller amendment with the proposed cuts. That position is still higher than what the President requested for social security, energy, national defense, and so forth.

Mr. FLYNT. Mr. Chairman, I thank the gentleman. I was going to come up with some of those, but I thank the chairman of the committee for making that statement.

Mr. Chairman, I think it is unconscionable at a time of rampant inflation and at a time when the deficit is growing every day that we seek to increase the appropriations for these two multilateral banks by 54 and 70 percent, respectively. It is an unconscionable increase and to do so at this time is, in effect, adding to the deficit, adding to inflation and reducing on a pro rata basis and on a comparative basis funds for domestic programs, many of which are being cut and cut seriously by the budget and by some of the appropriations bills.

The CHAIRMAN. The time of the gentleman from Georgia has expired.

(By unanimous consent, Mr. FLYNT was allowed to proceed for 3 additional minutes.)

Mr. FLYNT. Mr. Chairman, we who support this reduction are not seeking to reduce our assistance in meeting basic humanitarian commitments to help developing countries reach the human subsistence level. The committee has, in my view, properly addressed this commitment in providing increased appropriations for fiscal year 1979 to alleviate hunger and malnutrition, reduce illiteracy, provide medical services, and control population growth. We are not seeking to eliminate assistance designed to directly benefit the poor in these developing nations, but rather to reduce foreign aid assistance for public works and industrial projects in other countries which seldom, if ever, benefit the poorest people in those countries.

Studies and reports recently completed on foreign aid expenditures by the Congressional Research Service, the International Institute for Environment and Development, and the Center for International Policy show that a substantial portion of IDA and IDB funds made available to developing countries never benefit the poorest sectors of these economies. These reports illustrate that the United States has not yet achieved its objective of trying to assist the world's poor in their attempt to help themselves. The Long-Miller amendment affords us the opportunity to redirect foreign aid expenditures so that our objective of helping the poor is more adequately addressed.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I want to thank the distinguished gentleman from Georgia for the wonderful statement the gentleman has made here today.

I want to ask the gentleman a question, if the gentleman thinks we are bound by the actions of a previous Congress or a previous President on appropriations which we consider today?

Mr. FLYNT. It has always been generally accepted that one Congress cannot bind a succeeding Congress, certainly in the area of an appropriation bill. I think that it has been demonstrated time and time again that the executive branch, under whichever political party, cannot bind either the House or the Congress as a whole.

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, I think the gentleman for his statement and certainly agree that this is an independent body and can make up its own mind what it is going to do, regardless of what someone has done in a previous Congress. Our duty is to our constituents; and we owe fealty to no others.

Mr. FLYNT. Mr. Chairman, I thank the gentleman from Kentucky.

Mr. Chairman, unless we adopt this amendment, we will be burdening the American taxpayer with increases of 54 and 70 percent for IDA and IDB, respectively, for fiscal year 1979, without being able to make these financial institutions accountable to Congress or the American people.

I certainly feel that the 13- and 17-percent increases, respectively, are consistent with this Nation's commitment to the problems of developing countries.

Therefore, Mr. Chairman, I urge a vote against the Obey amendment and for the Long-Miller amendment.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. FLYNT. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me just point out, no one is suggesting that this House is legally bound under U.S. law to uphold the Long amendment. What we are saying is that it is recognized in terms of our international commitments that we have a commitment. If the Long amendment passes, we will be the only country in the world that did not meet its commitment.

Mr. FLYNT. Mr. Chairman, I recognize what the gentleman from Wisconsin is saying, but I also recognize the fact that statements have been made today about prior commitments and that we would be reneging on some of those commitments made in good faith. That is simply not the case.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendments offered by the gentleman from Maryland (Mr. LONG).

Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN. Is there objection to the request of the genleman from Massachusetts?

Mr. BRINKLEY. Mr. Chairman, reserving the right to object, I do not intend to object, but I will ask the gentleman from Massachusetts (Mr. CONTE) if he would withdraw his request and make a new request after his regular allocation of 5 minutes.

Mr. CONTE. Mr. Chairman, at the request of the gentleman, I will withdraw my request.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CONTE) withdraws his request, and the gentleman is recognized for 5 minutes.

Mr. CONTE. Mr. Chairman, I oppose the motion made by Mr. LONG to reduce the appropriations for the Inter-American Development Bank (IDB) by $254 million and the International Development Association (IDA) by $330 million for a total of $584 million in additional cuts to the $876.6 million reduction the subcommittee has already made in the President's requested budget for International Financial Institutions.

The subcommittee cuts already represent a greater than 25 percent decrease in the total appropriations sought by the President for these institutions. These cuts strike a fair balance between the fulfillment of international obligations undertaken by the past and present administrations, the achievement of important development policy objectives and the necessity to produce a bill which is not excessively burdensome to the American taxpayer.

However, the remaining funds included in the bill for U.S. participation in the International Financial Institutions, are in the words of Treasury Secretary Blumenthal, "the absolute minimum which is compatible with our national interests in the developing countries and our desires to achieve policy changes in the Banks." Additional cuts will wreak havoc.

With respect to the Inter-American Development Bank, cuts in the U.S. capital subscription could have dire consequences. Other members may decide to default on their replenishment subscription or they may pressure the United States to give up her veto power. In either case, there would be a loss of resources, fundamental to the completion of this year's lending program. Additional cuts in the fund for special operations account will interfere with the Banks concessional lending program for the upcoming year. These are the funds that most directly aid the "poorest of the poor."

With respect to the IDA, the soft loan

window of the World Bank, cuts targeted for the fourth replenishment would prevent drawdowns of U.S. funds needed to meet disbursement requirements during the fiscal year, and put the United States in default on a legally binding international obligation. An obligation authorized by Congress in 1974. Any cut in IDA V, the current replenishment plan, would cause the collapse of that replenishment by effectively suspending the second installment of all contributor countries.

It is important to bear in mind that the amendment offered by the gentleman from Maryland (Mr. LONG) would cripple programs that play a vital role in aiding the poorest of the poor, the very group the gentleman claims is slighted by IFI programs. Therefore, a closer look at the IFI programs directly affected by Mr. LONG's cut is in order.

IDB is the principal source of external public financing for the social and economic development of Latin America. In fact, the Bank is the only major source of external concessional funding designed to help the countries of this region meet the basic human needs of the poor. The portion of IDB concessional loans channeled to the poorest nations increased from 12.7 percent in 1970 to 57.7 percent in 1977. During 1977, 36 of IDB's 64 projects went to help people in the most deprived rural areas of Latin America: $845.5 million in funds were allocated to projects directed toward the increase of food production, the provision of health, electrification, sanitation, potable water, education services to the rural population, and assistance in bringing their products to larger markets.

Mr. CHAIRMAN. The time of the gentleman from Massachusetts (Mr. CONTE) has expired.

(By unanimous consent, Mr. CONTE was allowed to proceed for 5 additional minutes.)

Mr. CONTE Mr. Chairman, IDB analysis demonstrates that almost 80 percent of the direct beneficiaries of the small farm, basic infrastructure, service and employment creating development programs, have incomes at or below an amount equivalent to one-half the average per capita income of the recipient countries. Moreover, 60 percent of the beneficiaries have incomes corresponding to one-third or less of the per capita income in the borrowing country. In human terms, these programs benefited 3.6 million people who by any definition, must be considered poor.

With respect to IDA, a recently published report on the International Development Bank, published by the Congressional Research Service indicated that IDA lending to the poorest nations had increased from 79 percent in 1972 to more than 90 percent in 1977. Except for unusual cases, IDA loans go only to those countries with a per capita income of below the level of $520 measured in 1975 U.S. dollars. In practice, 83 percent of IDA commitments for the period of fiscal year 1975–77 were for nations with per capita incomes of below $265. An additional fact—one-third of IDA lending goes for agricultural and rural development projects aimed mainly at the poorest of the poor—those 800 million persons living in poverty with incomes of less than $75 per year. The IDA assisted agricultural and rural development projects approved between July of 1971 and June of 1977 are expected to directly benefit 67 million people. Of these, one-quarter of a million persons will have been settled on new lands. More than three million hectares of productive land will have been irrigated and some 14 million hectares will have been afforded flood protection.

In education also, the emphasis has shifted toward a system geared to the support of national development programs. One cannot underscore the importance of developing local management and evaluative skills, essential to the developing world's eventual control over their own development.

U.S. investment in the IFI program makes good practical sense because of the multiplier effect. The multiplier effect is characteristic of all Bank growth programs. I will invoke the IDB program to illustrate how it works.

Each dollar that the IDB lends for the social and economic development of Latin America mobilizes $3, in other mostly local resources for Bank-supported projects. If we look only at the actual outlays resulting from payments to the paid in capital fund of the IDA (as opposed to callable capital), 4 cents in U.S. subscriptions generates $1 of investment in Latin American development through the IDB. Even on the concessional loan side (FSO), the multiplier effect is impressive. Here, on average, $1 of U.S. contributions generates greater than $10 in social and economic investments for the continent.

Contrary to the impression given in some quarters, these IFI programs bring economic benefits to the United States. The developing countries currently demand 40 percent of the U.S. total merchandise exports, generating 1 million jobs, and these markets have only begun to be developed. Farm exports to the developing countries have increased dramatically from $2.5 billion in 1971 to $7.3 billion in 1977. As the standard of living rises, their diets change, and food imports increase. IDA is a catalyst in this process. U.S. procurement in addition has totaled $5.2 billion and we are the largest single source of supplies necessary to implement IDA programs. With our trade deficit at an unprecedented high, the need to increase exports has become a national priority. The developing nations are a rapidly expanding market for U.S. goods and the IFI programs, directly and indirectly, expedite its development.

Finally, there are two other major reasons why the Long proposal should not be supported: U.S. influence and integrity.

How can the United States keep up the pressure to improve administration of the Banks and convince the IFI's to lend with greater emphasis on basic human needs, if we totally retreat from our replenishment pledge as suggested by Mr. LONG. If these funds are not allocated, our influence within the institutions will be at an alltime low.

Yet, those opposed to the Banks, claim that our present influence in the Bank is questionable. This is simply not true. Through the level of contributions to the various international financial institutions, we have veto power over changes in each of the charters. With respect to the Inter-American Development Bank, our 34.5-percent charter stipulation insures that we have the power to veto actual programs. Though we have never used this veto power, it is not to be viewed lightly. I understand that more than one government has withdrawn its application for a concessional loan, because of the overriding threat of the U.S. veto.

Now, to integrity. The United States has blasted other countries—and rightly so for not coming through with their pledges in other international bodies. Yet, we are guilty of the same shortcoming. And to complicate the issue, it is at a time when we have succeeded in convincing the OPEC nations to increase their subscription, which, in fact, have risen 150 percent from $100 million to $350 million. The IDA cut suggested by the gentleman from Maryland would cut the funds necessary to fulfill our share of the commitment to replenish the IDA IV amount. This is an international agreement among member nations, legally binding in nature. Dishonor will be the consequence if the United States turns her back on this agreement.

After careful weighing of the costs against the benefits, I believe the IFI's are deserving of reasonable support. They help to build a consensus between aid donors and recipients on the objectives of development and other key problems. They have played a key role in the transportation of our relationship with the Third World from one of conflict and confrontation, to one of compromise and cooperation. In performing these functions, they serve the interests of America well and merit the support expressed in H.R. 12931.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Mr. Chairman, the gentleman spoke a little while ago about commitments and legal obligations. The gentleman realizes, does he not, that when we make these so-called agreements, they are made subject to appropriation by the Congress of the United States? And that it is known worldwide that the Congress must appropriate funds to fulfill any U.S. Government commitments.

Mr. CONTE. The gentleman is absolutely right, but what I am saying to the gentleman and telling this House that President Ford and President Carter made these commitments.

Mr. REUSS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Obey amendment and against the Long-Miller amendments.

Mr. Chairman, I shall not take anywhere near my 5 minutes, except to ob-

serve with sort of a long view of history—not a CLARENCE LONG view, but a lengthy view of history—that about every thousand years the world seems to lose faith in itself. In the first millennium toward its end, the great unifying crown of Charlemagne had fallen apart, the wolves were howling on the outskirts of Paris, and masterless men roamed the streets. The popular belief was that the world was going to end in the year 1000, just 20 or so years off. So people stopped building the cathedrals and edifices and the great things that had engaged them for several centuries.

Here we are, with the year 2000 approaching us in 22 years, and yet we are contemplating action which would strike a near mortal blow to two of the best things we have done, the Inter-American Development Bank and the International Development Association, institutions with international contributors, and with international standards. These are institutions which can impose conditions that no single benefactor could.

I have seen Inter-American Development Bank projects in the Andes, where the poor people with a few tools were constructing farm-to-market roads over the mountains. There were no rich people in sight there scraping off any of the gravy. I have seen in Senegal where the IDA was helping the villagers put in the first wells they have ever had, and there did not seem to be any fat cats dipping into that one.

So let us not knock down these cathedrals, these edifices we have been at such great pains to build in the last 20 years in the apocalyptic belief that the world is going to end in the year 2000. Let us support the bare bones Obey version as against the Long amendments.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. REUSS. I yield to my colleague from Wisconsin.

Mr. OBEY. Mr. Chairman, I would just like to point out that I find it rather strange that the proponents of the Long amendment keep referring only to the increase in the budgeted item under discussion rather than looking at it in the context of the whole bill, because the entire bill, even with the increase for the banks, is still only about 8 percent above last year. The cuts we have already adopted on two occasions give us nothing but an inflation adjustment for this program.

I would also point out that the banks have spent, over the time of their existence, over $2.60 in this country for every dollar we have contributed to the banks. That means that they are good business for the United States.

Mr. REUSS. I thank the gentleman.

Mr. STANTON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Long amendment.

Mr. Chairman, this is an extremely important debate we are having here this afternoon, on several different points, not alone necessarily, as we argue—and I am sure it is very difficult for any of us when we get up in billions and hundreds of millions of dollars, to contemplate exactly what that amount of money is. I would like to refer back to a few minutes ago to the gentleman from Wisconsin (Mr. OBEY) when we got into a philosophical discussion, on what do we owe or not owe or what our obligations are.

I would just like to point out to the members of the committee a couple of points in this regard. First of all, I have been on our Banking Committee for 14 years now, and maybe I am naive, but every couple of years there comes before our committee an authorization. This authorization in modern times comes about because the Treasury Department under Republicans or Democrats, discusses participation with the international lending institutions. They decide the amount of money they would like to have. The Treasury then discusses this with our Committee on Banking. We then decide on an amount to ask the House to appropriate.

On April 6, 1977, there was an authorization bill before this committee that far exceeded the amount of money which we are talking about now. We said the purpose of the bill at the very start, of H.R. 5662 on April 6, 1977, stated that if enacted into law it would authorize additional appropriations for the various development lending institutions, and so forth. It covered such amounts for the third and the fourth replenishments of IDA and the World Bank, and so on.

On that authorization 196 people voted for it. They sent a message, as far as I can conceive, to the international lending institutions that, yes, we are going along and we agree to pay a certain amount of money.

I give credit to the gentleman from New York (Mr. WOLFF), and the gentlewoman from Nebraska (Mrs. SMITH) because they voted against the authorization. The gentleman from Florida (Mr. YOUNG) was not here that day 156 people voted against it. They did not want that kind of money for that purpose. But nowhere on that day did anybody stand up in this well and say: "I want to cut 2 percent," or 5 percent. In fact, the author of the amendment, the gentleman from Maryland (Mr. LONG), voted for it.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. STANTON. Certainly. I would be glad to yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I feel that the IFI's are the fat belly of the foreign aid. We should not cut off the fingers and toes and the ears and the nose. We should cut the fat.

Mr. STANTON. I gladly yielded to the gentleman to tell him he voted for the authorization.

Our friend, the gentleman from Wisconsin (Mr. OBEY), talked about commitments that Presidents Ford and Nixon made. If we do not pay them this year, we will have to pay part of them next year. Am I wrong on that? Part of this is that the Carter administration has said: "Let us settle our debts and put our books in order."

Mr. OBEY. Mr. Chairman, if the gentleman will yield, he is absolutely correct. The first time this was presented to the House, the House turned it down. When President Ford brought it back, the House approved it, and only after the House approved it did Secretary Simon send the letter to the Banks indicating what our schedule would be.

Mr. STANTON. That is right.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent, Mr. STANTON was allowed to proceed for 3 additional minutes.)

Mr. STANTON. Mr. Chairman, all I want to do is to reemphasize that we have already authorized more than we are asking the House today to appropriate, 196 members who understood what they were doing on April 6, 1977, voted to fulfill these particular obligations. All I hope is we take that into consideration when we vote today. I ask the Members to look at how he voted on that authorization and then vote the same way today. But if he voted against it, then of course he might vote against it now. But we authorized it and sent a message to the world, and I say let us do it the same way now.

Mr. CARTER. Mr. Chairman, if the gentleman will yield, I remember quite well when the gentleman and I visited Vietnam in 1965—and I might add, at our own expense—but I wish to ask my friend how are you going to explain to your people that you are loaning, at no interest whatsoever, $60 to $90 million to Vietnam today? I would like to know that.

Mr. STANTON. I will tell the gentleman from Kentucky (Mr. CARTER) that the authorizing committee handled this matter. The gentleman from Ohio (Mr. MILLER) offered an amendment with regard to that particular subject at that time. The House voted on it at that particular time. I have no qualms or conscience whatsoever of going back and repeating anywhere what I have said down here in the well of this House.

Mr. CONTE. Mr. Chairman, if the gentleman will yield, I can tell the gentleman how to answer the question and that is that the U.S. representative to the World Bank voted against the Vietnam loan. There are many other countries who contribute to the Bank. If they want their share to go to Vietnam, then that is their own choice, but the U.S. representative voted against the loan to Vietnam.

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield, I objected to the amendment offered by the gentleman from Florida (Mr. YOUNG) the other day to cut off indirect assistance to Laos, Cambodia, and Vietnam, but I did it not because I wanted to see any money go to Vietnam, but simply because the banks claim that they cannot take the money.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. CARTER, and by unanimous consent, Mr. STANTON was allowed to proceed for 2 additional minutes.)

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. STANTON. With pleasure.

Mr. CARTER. Mr. Chairman, I say to my good friend, the gentleman from Ohio (Mr. STANTON) that really is it not the duty of this Congress, in acting on this appropriation, to work its own will to do what it thinks is best for the people of the United States?

Mr. STANTON. I would always hope that not only is it our obligation, but I always look at every single Member of Congress and believe that he or she votes the way they happen to think is in the best interest of the people of the United States. That is why you voted against the appropriation because you felt that the money could be used in a better way. I agree with the gentleman that he was consistent. He always is.

Mr. CARTER. I will say to my friend that our constituents at the present time are very tax conscious. That is my feeling. I submit that they are going to hold us liable for any loans that we make, interest free, to a past enemy of ours.

Mr. STANTON. I appreciate what the gentleman from Kentucky (Mr. CARTER) is saying.

But I say to my friend that last April 6 we gave a commitment, we voted to authorize a particular loan. It is just like you make a commitment to buy an automobile. You say to the dealer, "I am going to buy that car but I will not pay for it now, I will pay for it in equal installments down the road." You do not say when the time comes "No, I am not going to pay all that I promised to pay for that car."

If anybody wants to argue on that particular point, I will be glad to listen to their views.

However, I agree that it is not that simple.

Mr. CARTER. My commitment is to the American people.

Mr. THOMPSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Obey amendment and against the Long amendment.

I will address myself mostly to a letter which I received from my distinguished friend, the gentleman from Maryland (Mr. LONG), as did a number of others, on July 12.

In the letter he urges members of the steel caucus to support his amendment to cut $584 million from the IDB and the IDA appropriation requests. The implication in the letter is that Bank lending is responsible for the unfair foreign competition which the U.S. steel industry has experienced. I do not believe the implication is true, and I happen to be very much interested in our steel industry and in its preservation.

In the first place, Mr. Chairman, there have been very few steel projects in the development banks since 1975, and none in the International Development Bank. Moreover, as a matter of lending policy, the international development banks do not finance the production of additional quantities of commodities which are or are expected to be in surplus in world markets. On economic grounds, the banks have discouraged, deferred, or refused more proposals for steel projects than they have financed. Moreover, essentially all steel production that has been financed in the past has been for domestic use. The 12 countries which have been assisted by the World Bank and the IDB in building steel capacity are, in the aggregate, very substantial steel importers. The United States continues to have a surplus in its steel trade with these countries, in marked contrast to its deficits in steel trade with the rest of the world.

During the period 1965 to 1975, domestic steel production of the borrowers as a group doubled, but the net steel imports increased ninefold during that same period. Therefore, it cannot be said that the export markets for U.S. steel were lost as a result of Bank loans. Unfortunately, the United States has failed to obtain a major share in the growing steel imports of these countries, presumably for the same reasons which account for the deterioration of the U.S. domestic steel market. Japan and Western Europe steel producers have improved their competitive production in the steel markets of developing countries, as they were able to do in the U.S. steel market. In short, the attempt to link development Bank lending to the difficulties of our steel industry stretches reality very substantially.

Mr. Chairman, a very large proportion, in terms of economics, of multilateral development banks are, in effect, being misrepresented or not understood here. The ordinary capital loans which are extended to the developing countries are not contributions from the donor nations. The loans are made with funds which the banks borrow in private money markets and which are backed by the guarantees of the donor nations, and thus, the guarantees represent a contingent liability in budgetary outlay in the same sense that a salary-and-expense item is in the budget of a department or agency.

Mr. Chairman, I think the approach of the gentleman from Wisconsin (Mr. OBEY) is the best approach; and I do hope that his amendment is accepted and the Long amendment is defeated.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Obey amendments and in opposition to the Long amendments.

Mr. Chairman, the amount requested for IFI contributions, small as it is compared to other items in the federal budget, is in fact even smaller than it looks. For one thing, the Appropriations Committee has already drastically cut it back $876 million from the administration request. Of the remainder, fully 40 percent represents only "callable capital," namely, money which in all probability will never be spent. New budget procedures require that it be appropriated just in case a default occurs and the United States is asked to cover it. The fact is, default on an IFI loan has never occurred. As for the paid-in capital, it is especially hard to begrudge this, since it supplies only the soft-loan windows of the IFIs, financing programs that serve only the poorest of the poor.

Moreover, the request would also be smaller were it not for the fact that: First, more replenishments than usual have coincided; and second, part of the request is to cover arrearages we should have paid in years past.

While proposition 13 fever is understandable, it does not seem very wise to pick on the one item in the budget that lacks a political constituency. Cuts will affect real, live people nonetheless; though they are not American citizens who will be voting in November, still they should count for something. A cut of a few hundred million in this modest budget function will have a much greater relative impact than the same amount cut from other budget functions—which, typically much larger, would be better able to absorb it.

The goal set by the United Nations for the level of foreign aid expected of an advanced industrialized nation is only seven-tenths of 1 percent of that national treasure chest we call the gross national product. Embarrassingly, we have never even come close to achieving this goal. And much of what we classify as foreign aid is in fact military aid—or, if humanitarian or economic aid, is directed, for political purposes, to developing countries whose income levels frankly do not put them in the ranks of the most deserving. By this standard of ability-to-pay, our generosity is regularly surpassed by the Scandinavian countries, and occasionally others.

This is surprising, considering both the hard-nosed and moral cases to be made for foreign aid. Promoting education, population control, land reform, labor-intensive employment or appropriate technology, infrastructure for capital development, improved farming techniques, and the like—these are all ways to raise income and standard-of-living; and, in so doing, they are ways to pre-empt the economic and political instabilities on which revolution, communism, and anti-Americanism thrive.

The United States can do worse than to improve its dialog with developing countries, a part of which is considered to be our role in providing them help through IFI's. This would certainly be less expensive than other actions they have advocated, such as debt moratoriums and commodity price agreements. At a time when we face increasing competition with the Soviet Union in the Third World—and yet shy away from military confrontation—economic and humanitarian aid not only provides concrete political leverage, but is also a way to earn genuine respect and affection.

In terms of access to raw materials, new markets, and strategic locations; and in terms of the potential unrest, and even nuclear capability, that the developing world represents, it is decidedly in both our short- and long-run interest to begin establishing good working relationships.

Increasing income in less-developed countries stimulates considerable demand for U.S. exports, including finished goods, technology, managerial skills, and

whatever is not available locally. Little is, in a primitive developing country. American exports to LDC's are already said to generate one million jobs for American workers.

American firms commonly bid on the projects in LDC's that the IFI's are financing. In addition, the more development spurred in an LDC by the IFI's, the more accessible and attractive it is for American firms to invest on their own. Providing aid through multilateral institutions encourages burden-sharing, since it spotlights what various countries are doing—or not doing.

But this said, there is a simpler case to be made for foreign aid.

Is it hopelessly old-fashioned to be motivated by moral humanitarian concerns, rather than by designs to win friends and influence, to enhance military or political position, to reap dividends of trade and investment, or other such motives ulterior to an act of generosity for its own sake? One hears the good name of our country so often associated with generosity and greatness, that it is no small wonder we can now be preoccupied debating, in essence, whether to share our ample blessings. It is a great country that expects something other than normal satisfaction in return for charity to the desperately poor?

Perhaps we do not receive as much gratitude from recipients as we are due; perhaps foreign aid programs, like those of HEW or any other bureaucracy, are not without their share of fraud and waste; perhaps lending through multilateral arrangements does not permit us as much control over our own contibutions as we would like; perhaps some American money ends up benefiting the deprived population in a country with whose government we are at odds. Is the answer to these frustrations to throw up our hand and withhold aid from those pitiful fellow human beings whose only hope of living in dignity depends on it? Are we so fortunate ourselves, so coddled and sheltered, that we have forgotten how unfortunate others are?

Foreign aid is no academic debate. It is a felt and crying need. Of course the problems of the world are massive, and even our best efforts can make barely a dent; but is that a reason not even to try? I know there is a tax revolt on, that there is still too much unemployment in our own country, that there are a million and one items left to be accomplished on America's own domestic agenda. But we could plunge into another Great Depression and our fortunes would still be infinitely better than many of the world's peoples. In any case, no one is asking that a trade-off be made of CETA jobs programs or a strategic petroleum reserve or F–15 fighter aircraft to make room for our contributions to international financial institutions. The funding requested for IFI's is simply not enough to matter. And neither is anyone asking that we give up our air-conditioners or automobiles or even the $7 billion Californians have recently awarded themselves in property tax relief. We can do our part to relieve the grim conditions of the rest of the world by gestures far short of that. It is not by dint of anything but luck that we were born in the United States and freed from worry about our next meal. Many of the denizens of Zambia, Thailand, Pakistan, and Haiti have not been so lucky. And they do not even have a representative in the halls of Congress to make their pleas. The only thing they have to rely on is the hope that the rest of us have a conscience.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

I think the gentleman has made very important points. The fact is, as he has indicated, if we pass the Long amendment, we will trigger a reduction in contributions to the Inter-American Development Bank of massive amounts of money. What has happened through the years is that as we have been able to convince other people to participate to a greater degree in the international banks, we have been able to cut back our own share of support for the banks, and we have been able to cut back our own bilaterial assistance in Latin America by an amount greater than the amount that we provide to the IADB. If the Long amendment passes, what happens is that the total amount of bank lending shrinks drastically in Latin America. That means there is greater pressure on the United States to bear the burden alone through our AID programs, and that is not going to help the American taxpayers one dime.

Mr. ANDERSON of Illinois. I think the gentleman is correct, and my memory is, I believe, to this effect: That it is on the order of the magnitude of about $3 that is contributed by other countries for every dollar that we contribute.

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Obey amendment and in opposition to the Long of Maryland amendment.

Mr. Chairman, a number of Members may have questions concerning how this foreign aid appropriations bill relates to the budget resolution and whether this amendment would affect those totals.

Mr. Chairman, the totals of the foreign assistance in the second budget resolution are the same as those which were in the foreign assistance appropriations bill as reported by the Appropriations Committee. The Budget Committee adopted those totals for the second resolution ceiling as they were well below targets we had set in the first resolution earlier this session. Since the House has already accepted amendments reducing the total for foreign aid, the bill is now below the levels in the second resolution.

The Budget Committee intent is to incorporate these reductions and other technical changes in a committee amendment which will be offered during floor consideration on Wednesday of the second concurrent budget resolution.

Let me add that the foreign aid appropriations bill, as amended, is already $400 million below the targets which were set in the first resolution this spring.

I appreciate the mood of the House in wanting to trim foreign aid spending even further. I would support an amendment to trim 2 percent in title III as the gentleman from Wisconsin suggests; however, I do not intend to support any amendments which make major slashes in funding for international financial institutions. The Appropriations Committee has already taken a reduction of $877 million in the estimates for these institutions. If we add to that the 2-percent across-the-board reductions being made, I think we will have made sufficient reductions in this area; so I intend to support the 2-percent reduction amendment and intend to oppose any larger cuts. Whatever the outcome, the totals will be below the ceilings on the second resolution and an amendment will be proposed to correct this appropriation at the proper time.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding, the distinguished chairman of our Budget Committee.

The gentleman understands that the LONG (Maryland) amendment is not a slash. It is merely a restraint on an increase. The gentleman's amendment provides that in both of these two development funds that there be a 13-percent and a 17-percent increase, rather than a 54-percent and a 70-percent increase; so I do not think my chairman meant to leave the impression that it was a slash.

Mr. GIAIMO. Mr. Chairman, if the gentleman wishes to take offense at my use of the term "slash", so be it. I prefer the use of the word and I think we would be better off without this slash in the contributions.

Mr. ROUSSELOT. But it is a restraint on a proposed increase rather than such a substantial increase.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would just like to make the point that to claim there is something significant because this is 17 percent above last year is meaningless. That is like saying that if you go to the doctor and have to have an operation and you did not have to pay the doctor anything last month, so you go to the hospital and have the operation and have to pay the doctor the following month that there is something outrageous about the fact that your doctor bill is much higher this month than last month that is not logical.

We think the commitment was made for this month and we have to keep it.

Mr. GIAIMO. The fact is that this is the year we have to make our payment and meet our commitment to the funds.

Mrs. BURKE of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendments.

Mr. Chairman, I am aware that the

temptation to make this bill the "sacrificial lamb" appropriations bill by incurring more cuts to the IFT's is very appealing to many. This attempt is attractive for all the wrong reasons. The perception that there is no "constituency" for this bill clouds the debate and the potential harm to the pursuance of our national foreign policy interests, and also the damage to our individual constituents.

Let the taxpayer know that this bill has already been cut by $1.1 billion—the largest percentage cut, 13 percent, recommended by the Appropriations Committee on any single bill this year. Of this amount, the international financial institutions (IFI's) were cut by $876.5 million.

Further cuts would result in drawdowns of U.S. funds needed to meet disbursement requirements during this fiscal year. The United States would then be some $835 million in default of its congressionally authorized obligations.

Thirty-seven percent of the amount recommended by the committee is for callable capital subscriptions and therefore does not constitute an actual budgetary outlay. That is, there is no expected cost to the taxpayer.

Massive cuts, such as the one proposed by the Long-Miller amendment, would do even more than damage our international credibility and ability to persuade other nations to vote for loans we favor. Cuts would directly impose financial damage to constituents given the economic spinoffs of the banks to our domestic economy. It is interesting to note that on an annual basis the banks return to our economy an average of $400 million through the purchase of export goods. This fact has not been overlooked by the U.S. Chamber of Commerce in stating its opposition to this amendment. Exports support one of every eight jobs in this country.

The World Bank has done a very good job of deciding the proper uses of capital and skill. By its lending practices to the Third World, the Bank not only helps the economic growth of developing nations and improvement of public and private enterprises, but it also furthers the economic viability of the Western World.

The IFI's are helping the developing nations to invest in food production at their end so that world food prices can become more stable. The Bank aids them in developing their own natural energy resources so that the demand for oil is not greater. If the Third World can better cope with the socioeconomic problems that beset it, we in the Western World can continue economic growth without the concomitant rising inflation.

Mr. Chairman, I would like to address the Inter-American Development Bank and particularly to clarify exactly what we are voting on. In the case of that Bank, 70 percent of the amount that is in this appropriation is really guarantee of the Bank's borrowing, rather than a direct outlay. Ninety percent of this money that is going to the International Bank goes directly to the Special Operation Fund. That Special Operations Fund is one where many countries have continued to make a greater contribution. In order for us to have a veto, we must maintain one-third.

What happen is that if the amount of contributions increases and our contribution is cut we will enganger our real power to have a veto over loans under that Special Operations Fund, which is 90 percent of that Inter-American Development Bank.

Now, exactly where has the money gone to for that Bank? I would like to call your attention to some of the studies, particularly a study by the Congressional Research Services that was requested by the Appropriations Committee.

That study shows that the moneys that have come from that Special Operations Fund have gone to the poorest of poor countries of Latin America, and that the amount in the last 5 years that has gone to the poorest of the poor has been 43 percent of their volume in 1977. There is no other bank that can compare with it. This is where we are talking about cutting.

The IDB has had special programs to bring in and provide assistance to co-ops, to women, to the handicapped, and to other areas, particularly to help people who are in the lowest income groups.

One of the things I would like to emphasize also is: Exactly where does the money ultimately go? Over the last 5 years really the money has come back to the United States.

The point of the gentleman from Wisconsin (Mr. OBEY) must be emphasized. For every $1 we have put into international banking institutions the United States has had contracts for $2.50. This has amounted to something like $400 million on an annual basis to our economy. California, the State I come from, has had some 123,000 jobs tied to those exports and has had $16.7 million worth of contracts to the World Bank alone.

We talk about whether or not the people at home understand this, and I know they do not understand it too well; they think it is foreign aid. But most of the time we are giving a guarantee. Thirty-seven percent of this whole appropriation bill for the banks is a guarantee, not dollar cutlay. And what do we get back for those loans? We get 2½ times our money back, and at the same time we help the poorest of poor countries. This is really the best investment we can make in foreign aid, rather than talking about going to direct aid where it is all money and it all goes out. In this way we can give a portion of the amount in loans, and we get it back three or fourfold.

Mr. Chairman, I support the Obey amendment.

Mr. LAGOMARSINO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Long-Miller amendment and in opposition to the Obey amendment.

Why I support the Long-Miller amendment? Because even with the Long-Miller cuts—and actually they are not cuts in the budget; they are cuts over the increases from last year—these financial institutions will receive bigger percentage increases over the previous year than President Carter has allowed for social security, for public works, for defense, for energy, and for veterans. Because even with the Long-Miller reductions, the appropriation will be the largest ever for these IFI's—13 percent for IDA and 17 percent for IDB.

Perhaps the figure, "13," is one we ought to keep in mind. As we know, 2 months ago there was a proposition voted on in California that bore the title 13. That was an outstanding example of what the American people think about Government spending.

I must also vote for the Long-Miller amendment because these IFI's are helping nations which are human rights violators, all the way from Vietnam, which we have heard much about, to Chile, Ethiopia, Nicaragua, Paraguay, Uruguay, Argentina, and Uganda.

I must also vote for this amendment because the two banks affected by the Long-Miller amendment, IDA and IDB, pay excessive salaries as well as fringe benefits. As an example, 95 percent of the World Bank staff is located in Washington, and over 40 percent of these employees are earning more than $36,000 a year. Besides that, this income—and this is a nice little deal—is adjusted to cover any U.S. tax which an employee may have to pay. Do your constituents know about this?

The top executives of these institutions receive salaries of over $100,000 a year. Some of the IFI's employees make as much as 57 percent more than those in comparable positions in the U.S. Civil Service.

Personal loans, I am told, run as low as 4 percent. The administration request for the IFI this year is 82 percent over last year's figure and 207 percent over the year before that. And I think this is probably the most important reason: Because there are no independent audits available for the funds. There is no audit by the Congress. I understand from the people on the committee that they have a very difficult time getting information from these banks as to what is going on with these funds. I think it is very inappropriate for us to be appropriating this kind of money, especially the kind of money that would be required without the Long-Miller amendment, without the people having a real say-so about what goes on. We have had enough problems with our domestic programs in the past year.

Mr. OBEY. Mr. Chairman, will the gentleman yield on that point?

Mr. LAGOMARSINO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would just like to point out that the CRS study examined the audit allegation made and, they do have an audit procedure. The bank is audited by Price Waterhouse.

I would also state that the CRS reports that the World Bank loan supervision system and audit seems to be as rigorous or more rigorous than the loan

supervision system of some U.S. Government agencies, such as EDA and SBA and Foreign Military Sales and the Department of Defense.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. I thank the gentleman for yielding.

Mr. Chairman, we have gone into that very carefully. There is no such thing as a public audit of the programs administered by these banks. There are only evaluations of their own audits. We cannot find out who gets the contracts or who makes any money out of all these projects. If you want to try that, just approach them. The gentleman from Florida (Mr. YOUNG) tried it. We tried to get an audit that is available for public consumption. We could not get anything resembling an audit. So there is no such thing as what the gentleman from Wisconsin is talking about.

Mr. LAGOMARSINO. That is my understanding. I thank the gentleman for his contribution.

Mr. OBEY. Mr. Chairman, will the gentleman yield further?

Mr. LAGOMARSINO. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, let me say that the Bank does require an independent annual project audit, and a report of those audits is available to the Congress.

Mr. LAGOMARSINO. Mr. Chairman, I just know that the American people are unhappy enough about direct U.S. aid projects over which this Congress does have authority to audit and to have oversight, and I think we are asking the American taxpayers too much if we expect them to provide the funds required by the committee bill. I urge rejection of the Obey amendment and approval of the Long-Miller amendment.

Mr. NICHOLS. Mr. Chairman, I move to strike the requisite number of words. I rise in support of Chairman LONG's proposal and in opposition to the Obey amendments.

Mr. Chairman, I rise in support of Chairman LONG's proposal to trim the fat from the bloated and inflated appropriations for the International Development Bank and the International Development Association.

For too long these organizations have operated outside the area of congressional control or public scrutiny. Their officers are not required to testify on behalf of the appropriations we consider today. Audits, such as they are, do not reach the light of day, but instead are fully sanitized.

We do know that while Congress appropriates these moneys for international development of poor nations, the thanks we get is greater foreign competition in manufactured goods and raw materials.

I would like to remind my colleagues that petroleum imports no longer make up the major source of our deficit problems. Instead the Commerce Department once again confirmed last week that it is manufactured goods that are undercutting domestic industries forcing layoffs and short time.

Finally, Mr. Chairman, the percentage increase of the proposed appropriations of the International Development Bank and the International Development Association is completely and totally out of line with congressional and administration efforts to hold the line on spending. While our own defense budget includes only a 9 percent increase for fiscal year 1979, the IDA and the IDB have respective percentage increase of 54 and 70 percent.

My colleague, from Maryland, has recognized these arguments and proposed an amendment to significantly reduce the appropriation for both of these institutions.

I stand in support of my good friend from Maryland's amendment and I hope that my colleagues will vote to significantly reduce the funding level to a more reasonable amount.

Mr. Chairman, I am privileged to represent one of the largest textile districts in America. It is an industry, Mr. Chairman, which has in the past 6 years seen better than 200,000 jobs displaced from foreign textiles coming into this country in tremendous quantities from Japan, Hong Kong, Taiwan, and Korea. In Alabama's Third Congressional District alone more than 1,700 textile workers have become eligible for trade readjustment assistance money in the past year. This Government program compensates American workers who lose work time due to foreign imports.

Ironically, our own foreign assistance development money has gone to some of these very same foreign competitors who are carving into the American textile market and cutting out American jobs. One garment out of every three sold in America this year was produced from outside the United States with foreign labor. I am told that the International Finance Corporation has made 56 loans to 33 countries for nearly $100 million for textile projects. I am advised that the World Bank has made 11 loans for cotton or synthetic fiber textile projects and that an additional $97 million in textile loans is pending.

Mr. Chairman, such development loans severely damage the textile industry of this Nation and prove costly to the overall economy of the country.

Mr. GRASSLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Long amendments and in opposition to the Obey amendments.

I rise in support of the Long amendment and the opposition to the Obey amendment.

Mr. Chairman, members of the committee, we were told last week by the President of the United States—and we were told through his spokesman, Jody Powell—that we, of the Congress, were irresponsible; that one of the bills that was subject to veto was the domestic public works bill. It was the example of irresponsible spending that the President was going to hold up to the entire country, that we here in the Congress—435 of us in the House and 100 in the Senate—are in fact responsible for inflation, and he is going to veto that bill to set an example.

Now, in that bill are a lot of public works projects such as dams that we are told are inflationary, and it is difficult for the President to fight inflation if the Congress does not set a good example. Hence, he cannot get the labor unions and big business to cooperate with his war on inflation.

Now, let me ask the Members, what is any better of an example of irresponsible spending, particularly irresponsible increases in spending, than that exemplified right over there in this chart, those fantastic increases in spending for foreign aid? A lot of that money, ladies and gentlemen, is going to go for public works projects in foreign countries, for people who do not pay taxes into the Federal Treasury because they are in foreign countries or are foreign nationals.

So, are we to conclude that it is irresponsible for the Congress to appropriate money—not to the extent of increases as demonstrated on this chart for foreign aid—for domestic public works projects, and that they are inflationary, but it is all right, because I have to assume it is all right because the President has not said he is going to veto this foreign bill, that it is all right for us to follow this demonstration of irresponsible spending, but that it is not inflationary? I think it is wrong for the President of the United States to say that this Congress is irresponsible in appropriating money for domestic public works projects for the benefit of the taxpaying citizens in this country, but it is responsible and non-inflationary to do the same thing overseas. I cannot justify that to my constituency. I do not think the President of the United States can justify that to any of the 220 million people in this country. But, that is what we are, in effect, being told.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I will be glad to yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate my colleague yielding to me. I think he has made an excellent point about the President's criticism of this Congress for not being more responsible in reducing overspending especially when Congress is aware that the money is being misspent.

Mr. GRASSLEY. All I would ask is that the President be consistent.

Mr. ROUSSELOT. Let me add one thing that the Appropriations Committee itself, this committee that brought this bill to the floor, has stated, in their report. I mention the excerpt because several of my colleagues say that this money only goes to the poor people. Yet, their own report says on page 69:

> There are too few examples of multi-lateral money ever getting to the poorest of the poor.

So, even this committee on which my colleagues serve who have tried to advocate not cutting back this tremendous increase, their own committee report says that it does not go to the poorest of the

poor. So, the gentleman from Iowa's point is even more valid since the President has admonished us to be more frugal.

Mr. GRASSLEY. I thank the gentleman.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. GRASSLEY. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Let me read from the Congressional Research Service study which they have quoted.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. LONG of Maryland and by unanimous consent, Mr. GRASSLEY was allowed to proceed for 1 additional minute.)

Mr. LONG of Maryland. It was not included in the dear colleague letter, but the Congressional Research Service study states:

Whether these intentions to benefit the poor actually . . . benefit the poor would have to be determined by in-field and in-depth evaluation.

So this whole business about their improving the poor and getting better in that respect is merely a statement of what they hope or intend to do. They have not proved they are doing it, according to the research service the gentleman from Wisconsin has been quoting from.

Mr. RICHMOND. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Long-Miller amendments.

Mr. Chairman, we have debated the Long-Miller amendment at great length. I do not think there is much more that can be said, but I think by our supporting the Long-Miller amendment, once and for all we will be giving the two banks, the International Development Assocation and the Inter-American Development Bank, a loud and clear message that the American people and the American Congress demand that they make loans to poor people—not only to the poor nations. As the gentleman from Maryland has stated, many of the poorest nations have as residents some of the richest people in the world. I would like both of these banks to make loans to poor people, to cooperatives, to groups that can become a little less poor, through our financial assistance. We know for a fact these banks are not doing that. That is why I support the Long-Miller amendment.

Another reason why I support the amendment is that the gentleman from Ohio (Mr. MILLER) has committed himself that if we pass the Long-Miller amendment, he will not offer an 8-percent across-the-board amendment, which would emasculate the entire foreign assistance bill. The Long-Miller amendment will give a clear loud message to these banks that we want our money to be loaned to poor people, not to rich people, who can obtain financing through commercial banks.

I am reluctant to see any reductions in foreign assistance, because I believe very strongly in providing humanitarian aid which will benefit the poor and the hungry in other nations.

However, it appears that some further reduction in foreign aid appropriations is inevitable. Should this amendment fail, we can expect our distinguished colleague from Ohio (Mr. MILLER) to offer his amendment to slash all foreign aid appropriations by 8 percent.

If we are then to assign priorities among deserving programs, we must thoughtfully and carefully determine where such reductions will be targeted, and we must avoid any across-the-board cuts.

I support Mr. LONG's amendment as a reasonable alternative to across-the-board reductions which may cut too deeply into appropriations for essential programs. This amendment proposes a reduction which will do the least harm, while furthering our national policy goal of aiding the poorest and the neediest in other lands.

The amendment before us reduces funding for both the IDA and IDB but, nevertheless, the fiscal year 1979 funding levels for these multilateral banks will still exceed those of 1978. The IDA would still receive a 13-percent increase over fiscal year 1978, and the IDB would receive an increase of 17 percent.

Any additional across-the-board reductions in foreign aid would have a devastating effect on programs in vitally important areas such as: Food and nutrition; Peace Corps, population control; refugee assistance; health; and education. Such reductions, granting discretion to the President to determine the specific program reductions that will have to be made, removes from congressional control the vital legislative task of setting foreign assistance levels.

And it is also essential that we maintain as high a level of bilateral humanitarian assistance as possible while the debate continues on the effectiveness of the international financial institutions in alleviating the basic problems of disease, want, and hunger.

Perhaps most significantly, the IDA and IDB have not performed adequately in aiding the rural poor. Lappe and Collins, in their landmark study, Food First, document the charge that the banks have chosen to support export-agriculture at the expense of the needs of the people of the recipient nations.

For example, in the Philippines, the recipient of two World Bank loans designed to help small farmers, only 1 percent of the credit extended went to farmers with less than 7 acres of land.

In Costa Rica, the production of beef for export has doubled under the impetus of an IDB loan, while per capita meat consumption declined 26 percent. Also IDB policy has been indicted for the basic grain shortages that Costa Rica now suffers.

Across-the-board reductions would also have a devastating impact on our programs of military and economic assistance to many nations. If an 8 percent reduction were approved in this legislation, several nations would suffer serious reductions in bilateral assistance.

An 8 percent across-the-board cut would mean that assistance to Israel could be reduced by as much as $150 million. The critically important programs which would be affected are: Economic support assistance; military sales credits; the Israel-United States binational agricultural research fund; aid for resettlement of Soviet and Eastern European refugees; and American schools and hospitals in Israel.

If we must select among the many deserving programs in the legislation before us, I believe that Mr. LONG's amendment is the most effective way to target and control any reduction without curtailing much-needed assistance to the hungry and destitute throughout the world.

The amendment before us makes our stand absolutely clear: We will continue to maintain foreign assistance funding adequate to meet the identified needs of the poor in other nations, and we are not going to let our zeal for cost reductions indiscriminately cut essential humanitarian aid programs.

LONG-MILLER AMENDMENTS, FOREIGN AID APPROPRIATIONS BILL

ARE THE BANKS HELPING THE WORLD'S POOR?

I. Are IDA and IDB providing development funds to the poorest nations?

Facts:

1. Poorest "nations", yes. Poorest "people", NO! Some of the richest people in the world live in the poorest countries; e.g., Jahural Islam, richest man in Bangladesh and chief beneficiary of the IDA tubewell project. Here's how IDA tubewells benefit the rich and not the poor: The tubewells are distributed first to those with political clout, then to those with the highest bribes, typically the largest landlords. The landlords use the tubewells for their own acreage, selling water at high rates to the peasants, then taking advantage of their monopoly on water to buy the land around them, causing an increase in the number of landless peasants.

("Bangladesh: Aid to the Needy?", Center for International Policy, May 1978, Betsy Hartman and James Boyce, pp. 7–8).

2. The World Bank is clearly not reaching the poorest of the poor and "has done little to organize the poor for self-reliant development." Only one out of eight IDB projects is even designed to reach the poor.

(Congressional Research Service study, "An Assessment of the Effectiveness of the World Bank," 1978, pp. 65, 98, 171).

3. "It is clear that the institutions studied, whatever the offcial policy positions, are not ready yet to give high priority to programmes designed to provide assistance to the poorest sectors of the developing societies."

"Although 200 million live in desperate slum conditions, resources devoted to human settlement programmes are pitifully short (1.4 percent of total World Bank lending for 1971–76) . . . The indifference of both governments and international development agencies is quite obvious."

(International Institute for Environment and Development, "Banking on the Biosphere," July 1978, IIED Assessment Project Team, pp. 4, 51, 64).

4. Life for the rural poor is deteriorating:

In India, the proportion of rural people below the basic poverty minimum rose from 39 percent in 1961 to 54 percent in 1970.

In Mexico, only 12 percent of children in outlying provinces are enrolled in primary education compared to 60 percent in Mexico City.

Urban dwellers have 9 times better prospect of medical attention as villagers in India, 11 times in Ghana, and 33 times in Ethiopia.

(The Internationalist, "Streets Paved With Gold," Graham Hancock, June 1978, No. 64, p. 6).

II. Have the banks increased food for the poor?

Facts:

1. The growth rate of food production per capita in the "developing economies" has fallen from .7 percent in 1961–70 to .2 percent in 1970–76.

(The Fourth World Food Survey, Food and Agriculture Organization of the United Nations, Rome, 1977, p. 4).

2. ". . . Despite large imports . . . the nutritional status of large portions of the (Asian) population have declined . . . By 1985, South and Southeast Asia face a shortfall in essential food of 30 million tons."

Far Eastern Economic Review, "Asia's Food Drive Lags," summary of Asian Development Bank study on agriculture, Michael Richardson, August 12, 1977, p. 70).

3. The Banks encourage export argiculture which does not help the poor, "but serves the interests of the elite landholders and consumer groups in underdeveloped countries and the interests of multinational agribusiness."

(Food First, Beyond the Myth of Scarcity, Frances Moore Lappe and Joseph Collins, 1977, p. 204).

Malaysia, a recipient of World Bank palm oil loans, is the largest palm oil producer in the world. Nevertheless, between 1957 and 1970, the poorest fifth of rural hoseholds lost over 40 percent of their average income while the average income of the next fifth fell 16 percent.

("Rural Poverty in West Malaysia," Poverty and Landlessness, E. Lee, 1976, pp. 6–9, as cited in Food First op. cit., p. 426.

Mexico, a recipient of World Bank citrus loans, is facing an acute crisis in supply of basic food for the poor.

(Excelsior, "World Bank and IDB Responsible for the Food Supply of the Country," Aurora Beredejo Arvizu, Tuesday, May 23, 1978).

In Costa Rico, a recipient of livestock loans from the IDB, per capita consumption of meat went down 26 percent while meat production, mostly for export, increased 92 percent from the early 1960's to 1970. (Global Reach: The Power of the Multinational Corporations, Richard Barnet, 1974, p. 179).

"The IDB approach to agricultural development has contributed to Costa Rica's basic grain shortages." (The IDB and Political Influence with Special Reference to Costa Rica, Peter Dewitt, p. 106).

III. Have the banks created jobs for the poor?

Facts:

1. Over 40 percent of the labor force in the poor countries (283 million) are unemployed or underemployed. "Opportunities for productive employment (in developing countries) have mainly gone to a very small part of the total population."

(Employment, Growth and Basic Needs: A One World Problem, International Labor Organization, 1977, pp. 16–18).

2. In Indonesia, "much of foreign aid and loans received in recent years have been earmarked for major capital projects." But they "will not provide the jobs . . . the government must stimulate if it is to neutralize a potential source of major unrest."

(Far Eastern Economic Review, "Weak U.S. Dollar Upsets Indonesia's Balancing Act," Anthony Rowley, July 21, 1978, p. 38).

The World Bank, accepting the Indonesian government's definition of employment—anyone working more than 2 hours a day for at least 2 days a week—claims that unemployment is only 2–3 percent. Unemployment and underemployment come closer to 20 percent.

(Far Eastern Economic Review, "Jakarta Adds On Another Year's Debts," David Jenkins, June 9, 1978, p. 79).

3. Large numbers of tenant farmers in Pakistan were displaced as a result of a World Bank loan to import tractors in the late 1960's.

("Soft Technologies, Hard Choices," Worldwatch Institute, Colin Norman, June 1978, pp. 9–10).

4. "Uprooting of large numbers of poor Brazilian peasants," has resulted from IDB and World Bank financed infrastructure projects in the Amazon because "large scale cattle ranching has replaced peasant small holdings."

(Victims of the Miracle: Development and the Indians of Brazil, Shelton H. Davis, Cambridge University Press, 1977, p. 161).

5. The World Bank and IDB have loaned large amounts ($1.46 billion) for steel plants with $100,000 to $200,000 in capital investment for each job.

(Oversight hearings on U.S. subsidies of foreign steel, 1978, House Appropriations Subcommittee on Foreign Operations).

6. A textile plant in Tanzania funded by the World Bank cost $107 million and provides 4,000 jobs—$260,000 per job. (World Bank News Release, No. 78/126). A thousand times as many jobs could have been created through investment in light capital technology in small farms and cottage industries of the kind we are now trying to promote for unskilled and illiterate workers in poor countries.

IV. Have the banks helped the small farmer?

Facts:

1. In the Philippines, the World Bank made two loans to rural banks which were designed to help small farmers (those with less than seven acres), 73 percent of all farmers in that area, who received less than 1 percent of the credit extended.

(Food First, . . ., op. cit., "What About the World Bank's Assault on Poverty?" revised edition, Ballantine Books, Spring 1979, p. 418).

2. In Kenya, a World Bank livestock project allocated credits in the following way: commercial ranchers, 54 percent; company ranches, 33 percent; 42 individual ranchers, 9 percent; and 25 groups representing 1,500 ranches, 4 percent.

(Ibid., p. 423).

V. Have the banks increased energy supply for the poor?

Facts:

1. While 22 percent of all World Bank lending has gone into the energy field, "almost all energy aid from the agencies (banks) * * * has been * * * designed to serve industrial plants and provide for urban amenities."

(International Institute for Environment and Development, "Banking on the Biosphere," IIED Assessment Project Team, p. 68).

2. In India, only 10 percent of all commercial fuels (electricity and oil) are consumed in the villages which contain 80 percent of the population.

(Atoms for the Poor, Nuclear Power and the Third World, Peter Hayes and Neil Barrett, sec. 5, p. 8).

3. Only one staff member of the World Bank's Energy and Fuel Department works full time on rural energy strategies and planning.

(Op. cit., International Institute for Environment and Development, p. 74).

Mr. HYDE. Mr. Chairman, I rise in opposition to the Long-Miller amendment and in support of the Obey amendment, and I move to strike the last word.

Mr. Chairman, we have heard some fascinating lectures in economics today that range from the primitive to the illiterate, in my humble opinion.

If one stands in front of a slot machine in Las Vegas and can put in $1 and take $2.50 out, one has to have a leak in the think tank to walk away from it. But that is what we are doing. We have a program where we put $1 in and get more than double our money back.

Mr. GRASSLEY. Mr. Chairman, if the gentleman will yield, let us put more money in if it is such a good deal.

Mr. HYDE. It is a good deal and if the gentleman would leave Iowa and just go down to South America and see some of these projects he would learn that they work.

In addition to the economic reasons for supporting this—and it goes beyond simply a better return on the dollar—there is something to be said for stabilizing the economies of the countries in South America. It happens to be, if we check the geography, the closest continent to the United States. We happen to have some friends down there and they happen to have a lot of poverty, and they happen to have a lot of hunger, and they happen to have a lot of illness, and they happen to have a lot of problems. This country has the wherewithal in concert with 130 other countries to put their money together and go in there and initiate projects there to help those people and incidentally, to create markets for ourselves.

Let me suggest if the less developed countries can no longer purchase from us we stand to lose one-third of our exports. Do Members understand and realize that one-third of our exports go to the lesser-developed countries, and that is farm produce and that is manufactured goods, and our deficit of payments, our export imbalance and the falling dollar and all of these things have a direct relationship with the export of goods and services from this country?

There are political reasons, there are economic reasons, and may I be forgiven if I suggest there are humanitarian reasons. The Biblical admonition, I would suggest to my friends, to give food to the hungry and to clothe the naked does not stop when we enter this Chamber. And an aspect of the greatness of this country is the moral leadership we provide. I suggest to the Members that with power goes responsibility and when we can have an operation that politically benefits us, that is in our economic interest, and that permits us to maintain a posture of moral leadership in the world, I just cannot see why we do not go forward with this program.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I thank my good friend for yielding. I would like to ask him to provide me with some information that I have not been able to get and that is how much international trade has been developed for the United States because of the foreign aid program? In relation to all these exports the gentleman has been talking about to these developing countries who

are buying them from us, could the gentleman tell us in dollars, or in percentages, how much of this is related to foreign aid or how much we would be actually exporting without foreign aid?

Mr. HYDE. I have a list of examples that I have obtained from companies in my area who are very interested in maintaining economic relationships with the lesser developed countries because of the export trade this provides.

Mr. YOUNG of Florida. Of course, I can understand that a company that is selling exports would like that relationship to continue but would the gentleman tell me how much of it is directly related to foreign aid and these other associations we are talking about?

Mr. HYDE. We receive $2.50 for every dollar we invest.

Mr. YOUNG of Florida. But who tells us that?

Mr. HYDE. I do not know who the gentleman listens to, but I listen to the Treasury Department, I listen to the State Department, and I listen to the entrepreneurs in my own district.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, I too have the same question as my friend, the gentleman from Florida (Mr. YOUNG). This marvelous slot machine to which the gentleman from Illinois has given reference to, I just do not understand how you can relate one to the other, how we might get back $2.50, or any portion of that from each $1 because I really have not seen any hard and fast evidence, although the gentlewoman from California (Mrs. BURKE) suggested one can depend on the other. It also would seem to be that there are moral and ethical arguments for and against when we start talking about the self-serving end of it and thinking about $1 dollar getting $2.50.

Mr. HYDE. That is what is called a lucky booking in show business, you get paid for doing the moral thing.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mrs. BURKE of California and by unanimous consent, Mr. HYDE was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to answer the question by saying that since the beginning of the IFI's since 1976, the United States has made payments to the banks of $4.6 billion and the U.S. economy has received back, not through indirect means, but rather procurement, through contracting on the material, through employment over $10 billion. Considering the fact that we only contribute 18 percent of what the bank spends around the world, and they buy most of their stuff from us, we received back $2.50 for every dollar we have put in.

I would like to address another point, I understand the frustration about the water problem. I remember that I got down in the well and gave the same speech the gentleman from Iowa (Mr. GRASSLEY) gave, on the Labor-HEW bill but, I do not think that because the administration is inconsistent from time to time that we ought to follow it. We are in fact talking about a big difference between the kinds of water projects that are developed in your districts and in mine and the ones in this bill. But we are talking about water projects to provide people with safe drinking water. One of the main causes of death in the underdeveloped world is from diseases, diseases that are water borne. So the water projects we are providing in those countries is to try to stop that. They are not projects of convenience, they are matters of life and death.

Mrs. BURKE of California. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentlewoman from California.

Mrs. BURKE of California. Mr. Chairman, is it not true that the U.S. Chamber of Commerce has projected the amount of the exports and the amount of the lending, and that is the reason they take the position that they do, that they support the international institutions and oppose cutting back on the amount we contribute for this? It is very easy to calculate the amount of money we receive, you take the investment, and the actual number of lenders in the United States, you take the actual number of manufactured goods that are exported, and in many instances the very builders of these projects are American companies and American contracts.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. HYDE. Mr. Chairman, I ask unanimous consent that I may proceed for an additional 30 seconds so that I may reply to the gentlewoman from California (Mrs. BURKE).

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. HYDE. Mr. Chairman, I appreciate that. The gentlewoman is so right. If we do not accept the Secretary of the Treasury, if we do not accept the State Department, or the rest of the so-called dogooders, then how about the U.S. Chamber of Commerce, which is also very heavily and very strongly for this bill and for full funding?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HYDE) has expired.

(On request of Mr. YOUNG of Florida and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield for a sunshine conversation about the chamber of commerce?

Mr. HYDE. I would be proud to yield to my friend, the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman.

The last time we had this bill on the floor, I read to our colleagues a mailgram from the U.S. Chamber of Commerce saying how all of their members supported the bill and were opposed to a particular amendment that I happened to be offering at the time.

I related to our colleagues the fact that I had just met with chamber of commerce officials from the west coast of Florida just several weeks before that, that was not the position they took. Therefore, I suggest that that mailgram—and I think all of us got it—from the U.S. Chamber of Commerce did not speak the whole truth. I do not think they told their chamber of commerce officials in the various communities throughout this Nation what they told me, and that is the reason I cannot put too much faith in that argument.

Mr. HYDE. Mr. Chairman, if I may regain my time, I just want to say, by negative inference, that I have not heard from other businessmen opposed to this program, and I have heard from many who are for it.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in my capacity as chairman, as I said on one previous occasion in this debate, of the authorization subcommittee which has jurisdiction of substance of this subject matter.

Although I do feel that the issue which occasioned my speaking before in the preliminary stages of discussion on this precise bill, and with reference to the amendment then pending offered by the gentleman from Florida, may be repetitious, I think it is necessary because of the nature of the flow of the discussion that I have heard this afternoon. I think that it is a responsibility that I must discharge. To remain silent would give the impression that I am acquiescing in the amendment offered by the gentleman from Maryland (Mr. LONG). I do not think that I would want that error to be promoted because it is antithetical to the way I feel.

Mr. Chairman, I have considered the statement of my very distinguished and very dear friend, the gentleman from Maryland (Mr. LONG), and I think he cast himself in the role of a surgeon who wants to remove the fat from the belly. However, I am afraid, after hearing the reasons and the argument and the premise upon which that argument seems to be predicated, that my distinguished friend is more like an aging surgeon who is losing his sight to the point where he is still reaching for that scalpel or that surgeon's knife, but he has taken not the belly but the most indispensable portion of the abdomen, the heart.

Let us not make any mistake about the thrust of this amendment which the distinguished subcommittee chairman is offering.

Mr. Chairman, the reason I say this is for essentially the same reason that I said essentially the same thing about the amendment pending before by the gentleman from Florida, and that is, that stripped of all the arguments which are very hard to argue against in a political year, but which we have confronted every single time we have ever given rise to this discussion or debate, I have no illusions

about any votes that I might be able to change. Very, very eloquent speakers have preceded me and have attempted to focus in on the true nature and extent of the issue pending; but I realize that it is very hard to say that in arguing against a program which appears to be and is described as giving aid and comfort to the needy in faraway lands when we are depriving our own citizens of that type of access to aid.

Distinguished people like the gentlewoman from California have already addressed themselves in a very intelligent, factual, and straightforward way, so the only thing I can say is for the record because I cannot let the record go unchallenged, and that is, make no mistake, we are making a fundamental issue as to policy. There is no question that if the Long amendment is adopted and it survives the bill process and it reaches the President for his signature, and he signs it, that it will in effect cripple President Carter in the most sensitive area of responsibility that a President has, and that is conducting the Nation's business and his relationships with other countries.

The same gentlemen I see here pushing the idea of further involvement in keeping pledges made. Again let us not make any mistake. There is a commitment. We have authorized a commitment in the authorization bills. We have a need for the past 5 years, and there is no other word to describe it. So contrary to what was stated just a few minutes ago, the only message we will be sending to all of these countries—and I think the gentleman from New York made that statement—is not that we are going to tell them that they are not diverting enough funds for the poor; we are saying, Look, we are stopping the world; we are getting off. The United States has given you a clear signal that we are not going to keep our commitments, and you are going to be left holding the bag—most of these other nations who are copartners in this endeavor, for they have advanced their contributions on the contingency that we would keep our pledges and promises. After all, we were the ones who inveigled them into the deal to begin with.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 30 additional seconds.)

Mr. GONZALEZ. Again, I must recall to the memory of my colleagues this is the one experiment which now is tested and proved, that has worked, based on a very, very private-initiative type of approach It was initiated under the Eisenhower regime. It was his one great contribution. It has been sustained all through the years because it has worked. The nature of the amendment would make one think that we are asking for more moneys. Actually we are only reaching a point where we are going to be keeping our pledges, which accumulated now and appears to be an increase.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. CARTER, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

I would like to ask my good friend, the gentleman from Texas, if he feels that an appropriation should always reach the level of an authorization?

Mr. GONZALEZ. Each case rests on its own bottom and circumstances to alter things. In this case since the thrust of this amendment will be to completely and radically change our commitment to a national policy that we have upheld, yes, I think it is essential that we keep a commitment that was debated in the authorization bill and which was signaling to these other countries our intention to keep that policy.

Mr. CARTER. If the gentleman would yield further, he well knows that an appropriation rarely approaches an authorization in amount. Many, many times the Committee on Appropriations sees fit to cut the authorization way down, and in cutting this authorization, I will say to my good friend, I submit that we would be following the will of the majority of our constituents.

I thank my good friend for yielding.

Mr. GONZALEZ. I wish to thank my good friend, the gentleman from Kentucky, Dr. TIM CARTER. I respect him and revere him, and I know the thrust of his question. I am not trying to tell him that I do not understand that we have always traveled on this two-track legislative record. I know that. But what I am saying is that in this case the nature of the amendment reaches the essence of the policy. If we do not keep faith with our commitment at this time, it will encumber the President; it will embarrass the President; it will tie his hands and his ability to deal with countries that are critically in need of our attention—and I am speaking of our neighbors here in our front and back yards. It is critical. There would be no hesitation if these moneys were destined for the purpose of raising armies rather than raising standards of living, and I do not think the same gentlemen would be rising to take the position they have if they were to peer into the future and realize what heights of false economy we are reaching in the Long amendment.

If I had the eloquence, I could show that we are making a decision now that will compel us in the future to spend and spend to raise armies and expend American lives, when, alas, it is too late, because of our false economy today.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

Mr. MATHIS. Mr. Chairman, I ask unanimous consent that the gentleman from Texas may proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mrs. FENWICK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is not a question of crippling the ability of the President to conduct foreign policy. To the contrary, the President does not really have any authority or jurisdiction in the operation of these World Bank grants. In fact according to some people who work for him in the Treasury Department, he should not. They say we should not politicize the banks. That means you do not use the banks to further your foreign policy. That is their position.

Read the hearing transcripts. That is exactly what they say. This is not going to hamper the ability of the President to conduct foreign policy.

The President said in a much-celebrated speech made at Yazoo City, Miss., not too many months ago that he was against American dollars going to Vietnam in the form of foreign aid. Yet last week the International Association of the World Bank approved a soft loan to Vietnam for $60 million; so even though the President was against it, it still happened.

I think it is important that we find out just where we are in this debate, what we are talking about. We have heard the word "reduction." We have heard the word "cut." We have heard the word "slash"; but let me submit, Mr. Chairman, that we are not slashing anything. If we support the Long amendment, here is what we are doing. The International Development Bank in the fiscal year 1978 bill was $480 million. The fiscal year 1979 bill as reported by the committee is $814 million. With the Long amendment, it would be $560 million, or still $120 million more than last year.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, the gentleman has made a good point. The gentleman realizes that even with the Long-Miller amendment this will be one of the biggest foreign aid appropriations bills in 25 years and the biggest appropriation for these two Banks combined that they have had in their history.

Mr. YOUNG of Florida. Of course, the chairman is correct.

Let me go on. For the International Development Association, the fiscal year 1978 appropriation was $800 million. This bill for fiscal year 1979 is $1,230 million. That is a big increase. The Long amendment would still keep that figure at $900 million, or $100 million more than last year's bill. With the Long amendment, these two items would be $220 million more than they were for fiscal year 1978.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I have trouble conceptually following the gentleman, when the gentleman said that American tax dollars are going to Vietnam. As I understand, we contribute a sum of money to the World Bank and

those funds are commingled with funds from another hundred or so countries, and then a judgment is made on a nonpolitical basis to build an irrigation project in southwest Vietnam where, by the way, some of those hungry people who need the rice were on our side in the late great conflict. I have difficulty understanding why the gentleman says they are our tax dollars, once they are commingled with the funds of the World Bank to build this irrigation project in southwest Vietnam for hungry people.

Mr. YOUNG of Florida. Mr. Chairman, I would say to the gentleman, any American tax dollars going to Vietnam, whether they go directly through AID or whether they go indirectly through the United Nations development program, whether they go through the World Bank or IDA, the American tax dollar going to Vietnam, no matter what the circuitous route might be, is still an American dollar being spent for Vietnam.

Now, on that subject, let me ask this—and I did not intend to discuss that subject at this point in the debate today—Do the Members know that the rice the Vietnamese intend to grow, after they have rebuilt this irrigation system, they intend to grow and use it to reduce their imports to help their balance of trade deficit?

It would be nice, would it not, if somebody would come to the aid of the United States and help us in our fight to reduce our trade deficit, which is running at a rate of more than $30 billion this year?

If this whole idea about foreign aid investment bringing back so much money is true, why is it that every year our foreign aid bill gets larger, so does our balance of trade deficit?

Mrs. FENWICK. Petroleum.

Mr. YOUNG of Florida. The gentlewoman from New Jersey (Mrs. FENWICK) says it is petroleum, but the fact is that petroleum is only 3d item of the list of imports.

The CHAIRMAN. The time of the gentleman from Florida (Mr. YOUNG) has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. YOUNG of Florida was allowed to proceed for 3 additional minutes.)

Mr. YOUNG of Florida. Mr. Chairman, petroleum is third on the list today. There are items of manufactured goods of one type or another that come before petroleum as to what is causing our balance of trade problem. I suggest that we need to understand what these banks do.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I think the gentleman from Florida (Mr. YOUNG) has made an excellent point. Some of these loans, both the direct loans and some of them which are very soft, have provisions by which there is no interest paid on them for 10 years.

Mr. YOUNG of Florida. Mr. Chairman, if I may clarify that, there is no interest paid during the 50-year life period of the loans. Nothing is repaid for the first 10 years. Then the principal is supposedly paid over the next 40 years, and no interest is paid during the whole period, only a three-fourths of 1 percent administrative charge.

Mr. ROUSSELOT. No interest at all?

Mr. YOUNG of Florida. There is only one charge of three-quarters of 1 percent.

Mr. ROUSSELOT. I wonder where in this country anyone could get that kind of a loan.

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield, there is no interest paid on these loans at all. There is a three-quarters of 1 percent service charge, but no interest rate is charged on the credit. They have 50 years to repay the loan which includes a 10-year grace period.

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield further, I appreciate having these points clarified.

One point of interest is that the gentleman informed us that Vietnam is not going to use this rice for the poor and the hungry, but they are going to export it. Is that correct?

Mr. YOUNG of Florida. That is the report I have received.

Mr. ROUSSELOT. Mr. Chairman, may I ask, how does that help the poor and the hungry that we are told about when they turn around and export the product that we gave them the loans to produce?

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. Mr. Chairman, if I yield to the gentleman, will the gentleman ask for some additional time for me?

Mr. JOHN L. BURTON. I would be delighted. I would be honored to. Would the gentleman like to have the additional time now?

Mr. YOUNG of Florida. Yes.

Mr. JOHN L. BURTON. Mr. Chairman, I ask unanimous consent that the gentleman from Florida (Mr. YOUNG) may be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mrs. FENWICK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. YOUNG of Florida. Mr. Chairman, I will yield to the gentleman if I still have any time remaining.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from California (Mr. ROUSSELOT) is recognized for 5 minutes.

Mr. ROUSSELOT. Mr. Chairman, I yield to my colleague, the gentleman from Florida (Mr. YOUNG), an active minority member, who spent a lot of time working on this isssue.

Mr. JOHN L. BURTON. Mr. Chairman, would my colleague then yield to me?

Mr. ROUSSELOT. I will in just a minute. I will have to yield to Members one at a time.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from California (Mr. ROUSSELOT) is right. The members of this committee have spent a long time on this issue, but I do not think I have used too much time before this committee yet today on this debate.

There is a lot of information I would like to present to the committee as arguments relative to these amendments we are now considering.

We talked about the amount of the amendments and what the effect was going to be. I would now like to talk about how good some of these programs of the World Bank actually are.

Some of our colleagues have told us they have traveled to various countries in the world and seen projects that are working well. I submit that when a congressional delegation visits a country to see a project, of course, they are going to be shown a project that works well. They are not going to bring out the corruption, for instance, Bangladesh, where $3 million of a $12 million project was ripped off. They are obviously going to hide those projects.

The way to find out whether these projects are really working or not is to take a look at the performance audits of the projects financed by the World Bank, but the problem is they do not really exist.

Mr. ROUSSELOT. Mr. Chairman, let me ask, what did the gentleman find when he really pursued this and asked for those performance audits, the type of audits that we receive from our Federal Reserve bank? What kind of reports did the gentleman get?

Mr. YOUNG of Florida. The first year we asked for them, we did not get any.

Mr. ROUSSELOT. The gentleman did not get any report back?

Can the Members imagine, if we asked the Defense Department for the performance audit or this Committee on Appropriations asked for it and got nothing, what would happen on this floor? I can imagine, and so can the rest of the Members.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield further?

Mr. ROUSSELOT. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, further on this particular point, the General Accounting Office, which is an arm of Congress, did a review of the World Bank operation, and it is interesting to note some of the findings they came up with.

They say, first of all—and I want the Members to get this now—that since the Bank is an international organization, it is outside GAO's audit authority, and GAO did not directly examine the banking operations.

They go on to say:

> Few broad studies have been conducted. Ongoing projects and some activities have never been independently reviewed.

They also go on to say:

> The World Bank's Operation Evaluation Department (OED) has not established detailed policies and procedures for planning and executing the project performance audits which makeup a large portion of its total reviews. Furthermore, it has not given its staff written guidance or training in basic audit techniques.
>
> The Director-General informed us that OED uses on-the-job training to provide the

necessary guidance for basic auditing, techniques; however, no written audit instructions or a systematic training program is given.

Mr. ROUSSELOT. So what the gentleman found is that there has been no real performance audits to determine if many of the multilateral Bank loans really help the poorest of the poor. So what the committee's statement in the report says, that it does not necessarily help the poorest of the poor, is correct.

Mr. YOUNG of Florida. If the gentleman will yield, I cannot say there are no such audits. All I can say is we have not been able to see them.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to my distinguished colleague, the gentleman from California (Mr. JOHN L. BURTON), who always has an important contribution to make.

Mr. JOHN L. BURTON. I thank the gentleman for yielding.

Mr. Chairman, I would ask the gentleman this question: Where did the gentleman get the word that none of that rice would be used for domestic consumption for the poor and hungry and that it was going to be used for export? I hope it did not come from that Communist government that we cannot trust.

Mr. YOUNG of Florida. If the gentleman will yield, no, sir. The information on that subject, as a matter of fact, came from a Washington Star newspaper article, which was written after an interview of the unidentified spokesman at the World Bank. In that they report some other interesting items. They say that although the United States voted against the loan, the U.S. representative tacitly supported the loan.

Mr. JOHN L. BURTON. If the gentleman will yield further, if we can put credence in the World Bank, we ought to give them the money. If we can believe what they say, we ought to give them the money; if we cannot believe what they say, we should not give them the money. We cannot have it both ways.

Mr. ROUSSELOT. Mr. Chairman, I wish to make a couple additional points which are brought out in the committee report which I think are important.

My colleague, the gentleman from Florida, and others on this committee, have tried to point out in the past that these loans made by these institutions, under the Long amendment—and that is why I support it—will increase the appropriated dollars by 13 and 17 percent, which is clearly above the inflationary level but is a major contribution. As has already been pointed out, many of these loans are not normal loans. They come through what is called the soft window. In the first 10 years, there is not any payment required. Nothing. The loan is then repaid over the remaining 40 years. Tell me where in this country our constituents can get something like that.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has expired.

(By unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Where can our constituents get that kind of treatment?

Additionally, as the gentleman from Florida pointed out, many of these loans go for 50 years—not all of them, but many of them—and no payment is made during the first 10-year period. Those are very, very soft, lenient loans.

What I think our constituents have been trying to tell us is, as President Carter has said, the Long amendment provides for an increase. It does not say, "Stop the world, I want to get off," as one of our colleagues said. It does provide an increase in funds but not the 54 percent and 70 percent.

Mr. Chairman, I compliment the chairman of this committee for bringing this amendment to the floor to show the Members of this House that we can have a minimal restraint on an increase in an area where it clearly is not needed.

The CHAIRMAN. The time of the gentleman from California (Mr. ROUSSELOT) has again expired.

(On request of Mr. HYDE and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 1 additional minute.)

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I would just like to comment that if you compared the soft loans to very poor countries with what our constituents can get——

Mr. ROUSSELOT. Or any group, say, a church group, or some poor group in this country.

Mr. HYDE. I understand. But I hope the gentleman understands that most of his constituents in San Marino, Calif., have a yearly income in excess of——

Mr. ROUSSELOT. But they do not.

Mr. HYDE. May I finish?

Mr. ROUSSELOT. I will allow the gentleman to finish, but let me point out that in Azusa, Calif., and Highland Park, they do not.

Mr. JOHN L. BURTON. If the gentleman will yield, how about Anaheim and Cucamonga?

Mr. ROUSSELOT. That is not in my district.

Mr. McHUGH. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Long amendment.

Mr. Chairman, I think the length of the debate has clearly reflected the importance of this amendment. I hope the members of the committee who are here or are watching on television fully appreciate how significant this is. I think it would be a understatement—perhaps a gross understatement—to suggest that we are considering the foreign aid bill in a very poor climate. There is indeed a tax revolt in the land. The people of our country are understandably concerned about inefficiency and waste in our Federal Government, as we must be. But, I think it is important that we consider the foreign aid appropriations bill in perspective, and that we make an effort to have our constituents see the foreign aid appropriations bill in perspective.

The fact is that this Government spends a little over 1 percent of its total budget on foreign assistance. The fact is that among the developed nations, we are 13th out of 17 in terms of the percentage of gross national product we devote to development assistance. So, I trust that as we consider this amendment, and as we consider other amendments which are offered to this bill, we will not delude ourselves nor our constituents into thinking that we are, in relative terms, doing much more than other developed countries.

It is also important to note that we have succeeded, under both Republican and Democratic administrations, in getting other countries to participate with us in trying to meet the very serious problems of the developing world. Not too many years ago the United States was virtually the only country trying to help with these desperate problems. The fact is that those administrations, both Republican and Democratic, have in recent years obtained the cooperation of many other countries in sharing this burden. And it has been accomplished primarily through these banks which are the subject of Mr. LONG's amendment. It has been done by gettng them to participate in these nonpolitical institutions.

We should not delude ourselves into thinking that if the United States does not meet its commitments to those banks, the other nations will. As I mentioned, it was we in the first instance that got them to participate. And it has worked to our advantage. A good example is provided by the World Bank. The United States in the last replenishment provided 34 percent of the total contribution. At the present time, we are providing 18 percent of the total contributions, which I think rather dramatically reflects how successful we have been in getting other countries to participate, and thereby reduce our own relative share.

Our subcommittee considered very carefully this particular amendment offered by Mr. LONG. We have, as has been noted before, cut the Administration's budget request for the banks by over 25 percent, a cut of $876 million. When this amendment was offered by Mr. LONG in our subcommittee, it was defeated by a 10-to-3 vote. Mr. LONG then took his amendment, this very same amendment, to the full Committee on Appropriations. That is not a committee which is generally associated with liberal foreign aid policies. The amendment by Mr. LONG was then defeated by the full Appropriations Committee, as it was in subcommittee.

Now Mr. LONG, as is his right, comes to the full House and asks all of us to approve an amendment which was twice rejected for very sound reasons. I hope that this full committee will not adopt it. The amendment would not just send a signal that we are concerned about the banks' policies, but it would in fact be a shift of policy, a policy which has been consistently followed under Republican and Democratic administrations for years.

So, I hope that we will act responsibly, and rise above the political climate in which we find ourselves.

The CHAIRMAN. The time of the gentleman from New York (Mr. McHUGH) has expired.

Mr. McHUGH. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. EVANS of Colorado. Mr. Chairman, reserving the right to object, and I will not object, I think we have been educated and reeducated on this subject. I wonder if we cannot vote and pass on to something else.

I do not object, but I hope we can wind up this debate.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. LONG of Maryland. Mr. Chairman, reserving the right to object, I want to make the comment that there are several people who have been waiting very patiently for their 5 minutes, and after that time I would like to move to close the debate at some reasonable hour.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. There being no further objection, the gentleman from New York is recognized for 2 additional minutes.

Mr. McHUGH. Mr. Chairman, we have discussed this amendment at great length. There is very little that can be said new, perhaps nothing new, but this is an important amendment. This is a case where our contributions to the banks are consistent with our humanitarian values as well as our economic self-interest. As was pointed out previously, we receive from the banks in procurement, salaries and other benefits $2.50 or $2.60 for every dollar we put in. That is not why we contribute to the banks, I trust, but nevertheless it is an economic fact which serves our self-interest.

Beyond that, in the long term, the developing countries are essential to the growth of our export markets, particularly in our agricultural sector which now exports one-third of our domestic production, much of it to those developing countries. It is important in terms of our trade balance that these countries develop so they can purchase an increasing share of our commodities.

Frankly, I do not think the Obey amendment to cut 2 percent more from these two banks is necessary in substantive terms. Our committee has already imposed deep cuts. However, if the Members believe a vote is necessary to send a signal to their constituents, then by all means, I hope they will vote for the Obey amendment and reject the Long amendment.

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in opposition to the Obey amendment. I move to strike the last word.

Mr. Chairman, not long ago I got returns, over 20,000 of them, from the questionnaire I had sent to my district, and 95 percent of the people said: "Cut foreign aid."

When I brought this up in the Appropriations Committee, people all around me said: "Oh, my constituents feel just the same way."

Well now, Mr. Chairman, it is their money, and the judgment of the American people is what we are elected to come here and represent. They see too much waste, they see too much graft, they see too high salaries, they see that this program has not encouraged food production around the world, and it certainly has not made friends for us.

Yes, I got a telegram from the U.S. Chamber of Commerce. Probably in my district I have more active chambers of commerce than most of the Members. I have 307 towns in my district. I have never heard from one single chamber of commerce any word in support of the foreign aid program, but I have had many hundreds of letters againts it. In 4 years I have had a total of three letters from the one-half million people in my district who wanted to increase this program.

I think we ought to listen to the people at home and make enough of a cut to show we are listening; and we are going to demand that these banks shape up.

Mr. YOUNG of Florida. Mr. Chairman, will the gentlewoman yield?

Mrs. SMITH of Nebraska. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, the argument is always made, every time we go to work on these bills, about how the U.S. share is being reduced every year, but nobody ever goes on to say what about West Germany?

What about West Germany? Their share also is reduced. What about France, Canada, Japan, the United Kingdom, Australia, Austria, Belgium, Denmark, Finland, Iceland, Ireland, Italy, Luxembourg, Netherlands, New Zealand, Norway, South Africa, and Sweden? They all reduced their share of contributions to the bank.

Here is an interesting point: Switzerland made a loan of 52 million Swiss francs to IDA, for the second replenishment, a loan of 130 million Swiss francs to the third replenishment, and proposed an intended loan of an additional 200 million Swiss francs under the fourth replenishment. This 200 million Swiss franc loan was rejected by the people of Switzerland in a nationwide referendum.

So what the gentlewoman from Nebraska (Mrs. SMITH) is saying about how the people in her district feel is true and could be said about the people all over America, just as it was proven in Switzerland in a nationwide referendum. There they rejected Switzerland's contribution to IDA.

I think that is something we ought to pay attention to. While our percentage is going down, so are the percentages of contributions of each of these other nations that I have just mentioned.

Again I thank the gentlewoman from Nebraska (Mrs. SMITH) for yielding to me.

Mrs. SMITH of Nebraska. I thank the gentleman from Florida (Mr. YOUNG) for the comments he has made.

Mr. Chairman, I hope my colleagues will vote down the Obey amendment and support the Long of Maryland amendment.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Long of Maryland amendments and in opposition to the Obey amendments.

Mr. Chairman, the debate this year has not differed one iota from the debate held on the same bill last year or for the last 10 years.

We are constantly told that we receive $2.50 for each dollar we invest. That is all well and good but the fact of the matter is that these banks were not established for that specific purpose. They are supposed to be reaching the very poor in underdeveloped countries. The question then must arise on whether or not they are in fact reaching the poor. Every year we are told that they are not. Everyone, regardless of what side he happens to be on refers to some statistics, or to some study that has been made in support of his position. But when officials of the bank testify before the Committee on Foreign Operations, they will be the first to admit that they are not really reaching the poorest of the poor. They say, "We as a bank, are doing the very best we can, we have not completed our job. We need more money so that we can complete our job and really start reaching the poorest of the poor."

Then again when the same individuals testify on matters of human rights, they tell the Congress that they have instructed our representatives to vote against lending money to countries that violate human rights. The truth of the matter is that these banks are making loans to Argentina, to Chile, to Haiti, to Nicaragua, and to Paraguay. These are countries that we definitely know are violating human rights.

But we are consoled by the fact that our representatives votes against it, therefore it is all right.

I say to you that it is not right for these banks to continue to make available funds to countries that do in fact violate human rights.

One other myth that we hear every year is that, "If you don't vote for our requested appropriation we as a contributing country are going to lose influence."

What influence?

Our country's vote against loans to countries that violate human rights has absolutely no influence at all.

Mr. Chairman, I sit on the Committee on Foreign Operations, and every year we are told that if we do not make available the funds demanded by the banks that we will not be living up to our commitment.

Who makes those commitments? Not the Subcommittee on Foreign Operations, not the House of Representatives, nor the Congress of the United States. Those commitments are made by bank executives who go before their peers and commit their Nation and this Congress to a specific amount of money every year. Then we have to bail them out every time this bill comes before this Congress.

Mr. Chairman, I am tired of having to rubber-stamp the demands of those who make commitments without consulting with or even touching base with the Committee on Appropriations, the Subcommittee on Foreign Operations, or any one Member of the House of Representatives.

I must also bring to the Members' attention the fact that the banks seeking these funds are the biggest violators of affirmative action programs in the Federal Government. Just look at their own statistics. Look at what they do insofar as the hiring of women is concerned, and one can be convinced that there is not much opportunity for women in these banks. Insofar as minority groups are concerned, one finds that percentagewise the number of Hispanics and other minorities working for these particular banks is among the very lowest in the Federal Government.

Therefore, Mr. Chairman, I believe that if all of these things are taken into consideration that this House will support the Long amendment. Whatever happens, these banks are going to continue to do their jobs, seeking more funds each year, but in the process I believe that this House and not the banks should at least make some determination as to the dollar amount that they can spend in their operation.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, of course, rise to oppose the Obey amendment and urge that it be defeated and that the Long-Miller amendment be passed. I think the gentleman from Ohio (Mr. MILLER) should get a little more credit in this matter than I have seen given him in the past.

Mr. Chairman, let me ask the gentleman from Wisconsin (Mr. OBEY) a question so as to get this clear in the RECORD: My amendment, the Long-Miller amendment, reduces the amount to the banks by $584 million. It is my understanding that the Obey amendment only reduces it by a very tiny fraction of that, $25 million; am I correct in that?

Mr. OBEY. If the gentleman will yield, Mr. Chairman, my amendment reduces it by the equivalent of 2 percent, which is $25 million.

Mr. LONG of Maryland. It is $25 million, so we have the Obey amendment as a clear contrast.

As I have said and I am fond of saying, the banks are the fat belly of foreign aid. If we are going to reduce anything, let us reduce the fat belly. Let us not cut off the ears, the nose, the toes, and so on. All the gentleman from Wisconsin (Mr. OBEY) wants to do is to trim the toenails. That is no cut at all. I do not think it is worth this House's time.

Mr. Chairman, the gentleman from Wisconsin (Mr. OBEY) wants a cut of one-twentieth of the amount of money that I propose to cut. I hope we will reject the Obey amendment resoundingly.

With respect to this business that these contributions are commitments we must satisfy, let me say that nobody has committed the U.S. Government to anything until the entire U.S. Congress acts. To say otherwise is to say that we are just here to be messenger boys, to run errands, to do what other people tell us. We surely have a function, and that is to save money and to try to save it where we think it is important to save it. There is no commitment unless the Committee on Appropriations recommends the appropriation and the Congress approves it.

There have been references to legal commitments or moral commitments. I do not know of any commitment that we had any part in. Over and over again, I said, "Before you make these commitments to other countries, why do you not talk to Members of Congress?"

They do not come to any of us before they make all of these commitments in these international conferences. They go ahead and make them, and then they come back and have the unmitigated gall to say, "You are committed." I do not think we are committed to anything. We are here to exercise our function as an Appropriations Committee. For heaven's sake, let us exercise it and do not let anybody else talk us out of it.

Mr. CHAPPELL. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Florida.

Mr. CHAPPELL. I thank the gentleman for yielding.

I commend the gentleman on his amendment, and I rise in opposition to the Obey amendment. Is it not true that the banks, these banks we are talking about, are irresponsible in disbursing funds for the development of industries which are in direct competition with our own country, especially true in the field of steel and citrus and palm oil, sugar, and things of this nature? Is that not true?

Mr. LONG of Maryland. The gentleman is absolutely correct. There has been a billion and a half dollars provided by the World Bank complex and IDB for steel alone. Let me speak to those Members who keep calling us protectionists when we want to stop this practice. What on earth is protectionism about? Is trying to prevent a subsidy of our foreign competition protectionism? I thought free trade meant no subsidies—no subsidies to our own people and no subsidies to foreign competitors.

Let me quote the Congressional Research Services study:

> However, it appears that the Bank's efforts in directly meeting basic needs have been modest to date, and it has done little to organize the poor for self-reliant development.

The report also says:

> . . . The Bank is clearly not reaching the poorest of the poor.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. LONG of Maryland was allowed to proceed for 2 additional minutes.)

Mr. LONG of Maryland. The report further states:

> But generally the IDB does not as yet appear to have a structured overall strategy for initiating, drafting, and carrying out loans in which the poor are significant beneficiaries.

The report also states:

> A large portion of project proposals neglected to examine or establish who is actually to benefit from the project.

When one points out that they have not helped the poor, they say, "Oh, well, they helped sell American goods." There is an old Arab proverb: "He who rides two camels can fall in between." We are either out to help the poor or we are out to sell American goods. If we are out to help the poor, for heaven's sake, let us help the poor. If we are out to sell American goods, I have got a better idea. I know millions of Americans who will buy American goods if we give them the money to do it. And we have the advantage. The money stays here and the goods stay here instead of being sent abroad.

I know a gentleman over here who wants to sell Caterpillar tractors. I have seen Caterpillar tractors in India and elsewhere. The reason we have to send Caterpillar tractors abroad, is because we are not building public works projects in the United States that could use and buy Caterpillar tractors.

It is also pointed out that we have to keep our veto in these IFI's. Let me point out we have no project veto no matter how much we give to the International Development Association. None. Zero. No veto. We do have a project veto for the FSO of the IDB, but let me tell the Members something: We never use it.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the Obey amendment and to oppose the Long amendment. I do this very reluctantly because of my high personal regard for the gentleman from Maryland, Dr. LONG, both as an outstanding Member of the House and as a topnotch professional economist. I do this reluctantly because we have identical interests in encouraging high-priority treatment for foreign assistance programs designed to help the poorest of the poor in the so-called Fourth World.

I do so reluctantly because I agree with my friend that the World Bank, the International Development Association, and the Inter-Americar. Development Bank can—and should—do more in helping the poor of the world. I agree with Dr. LONG that they should target more of their programs to create jobs and conditions which can lead to better lives for the billion poorest of the poor who have largely been left behind by conventional world development and strategies based on high technology.

And I hope we can send these two Banks a very strong signal that will help them concentrate their minds because, if they do not do a better job in helping the poorest people of the Fourth World in the next year, I think I and many Members of Congress are going to make an agonizing reappraisal of the situation. We may very well come to the conclusion

that, if the International Banks cannot do the job better, then maybe we ought to do the job ourselves bilaterally and not rely on the Banks.

Now, I have talked to the World Bank people, the "soft loan window" and the "hard loan window." They know they ought to be doing a better job of helping the rural poor. They know they ought to be encouraging technology that is labor intensive and not capital intensive. They know the elite of the world are not using these loan programs properly—to the detriment of their country's development prospects. They know they are subsidizing low-interest rates and making labor artificially more expensive and thereby warping normal economic forces to make high technology improvements seem to be more desirable, which the elite own, which the elite profit from.

The World Bank people know this, but they say, "We are limited by the decisionmaking process." The decisionmaking process is composed of some people of the developing nations, the Third World elitists themselves who are bringing in high technology projects that profit the poor very little. And the decisionmaking process is also misguided by decisionmakers from the developed world whose products they are selling and which may not be in the best interests of the developing world.

I would rather see more resources made available directly to the third world directly in bilateral relationships if the international lending agencies cannot get their act together. I think they should be tougher in order to overcome whatever impediments may exist in the form of decisionmakers—both those who want to sell their high capital projects and Third World decisionmakers and those who are the governing elite in those countries and want to profit from certain high technology installations that their countries may not need at all.

If these international lending institutions cannot do something to counteract the destructive effects of these kinds of decisions, I for one in the future may have to come reluctantly to the conclusion that the international lending agencies are not up to the job of helping the poor, and that our agencies may have to take on more of the tasks.

Just a couple of weeks ago we had hearings before a Subcommittee on Science and Technology, which I chair, that has oversight jurisdiction over international scientific cooperation, planning and analysis, and the gentleman from Maryland (Mr. CLARENCE LONG), the chairman of this Subcommittee on Appropriations, testified eloquently, knowledgeably and professionally, without doubt one of the finest economic minds in this country, about the inadequencies of the international lending program in the developing world and how they are persistently and systematically bringing into the developing world high technology projects that do not provide for their needs and provide very little for their people.

Sander Levin, an Assistant Director of the AID program, when I asked, "Well, wouldn't it make sense to have some seminars at the Harvard Business School or MIT and bring some of these decisionmakers up from the developing world for maybe a week or 10 days in a business-like place? We could perhaps explain to them the destructive effects on their economy of making these persistent and systematic decisions toward high technology, when that is the last thing they need."

He looked at me and, said, in effect, trying to be polite, "You are a very naive, well-meaning fellow, but don't believe for a minute that these decisionmakers don't know what they are doing." His actual response was as follows, if I may read it:

> I am not sure it would. I think they know these things. In my judgment it is more of a question of the power dynamics within those countries. * * * I think one of our purposes must be to encourage the leadership of developing countries to indeed be concerned fundamentally with the needs of the poor majority and not to bend to the needs of the elites within those countries. I really don't think that seminars at Harvard Business School, a wonderful place, really will tell them much that they don't know on those points.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. SCHEUER. This leads me to believe that they know that focusing mostly on high technology is not the way that is going to help their country. Yet it is going to profit them and until they are subjected to sufficient forces and sufficient political pressure to concentrate their minds in making entirely different levels of decisions, nothing is going to happen.

However, I am concerned that the large reductions could be counterproductive by hurting the very growing emphasis in foreign assistance programs on the problems of the poorest of the poor, which my distinguished colleague advocates so effectively.

The distinguished gentleman from Maryland has been a powerful influence in bringing about this changing emphasis which has been underway since about 1973. He can take much credit for the "new directions and new strategies" both in AID's priorities and programs and those of the multilateral lending institution.

And, it goes without saying that I share his impatience and exasperation that more has not been done more rapidly. As I mentioned earlier, 2 weeks ago the Science and Technology Subcommittee, which I chair, held 3 days of hearings on development strategies and the use of appropriate technology. Put simply, appropriate technology means helping nations find better ways to use the right kind of technology to help themselves—and to help the "poorest of the poor" lift themselves out of poverty, hunger, illness, and despair.

The distinguished gentleman from Maryland has been a leader in promoting development strategies based more extensively on the ideas involved with appropriate technology. Our hearings provided ample testimony that my friend from Maryland is correct in pressing for greater efforts and attention to appropriate technology—and for commensurately less emphasis on the large-scale "trickle-down" development strategies of the past, based upon the "feed the horse to feed the sparrows" principle.

I share my distinguished colleague's long-range objectives and interests, his exasperation and impatience. However, for the time being, my proposed alternative to large-scale cuts below the already large $1.1 billion cut in the administration's request is as follows:

Congress should continue to exert a high degree of pressure and encouragement for AID and the multilateral Banks to speed up and expand their present efforts in helping the poorest of the poor, especially in improving the status of women.

I believe that AID, the World Bank and other multinational institutions will be receptive to firm and reasonable pressure to increase such efforts—and the application of appropriate technologies. As specific measures, I would suggest:

First. Pressing for expanded funding on small-scale, light-capital projects.

Second. Asking for the establishment of "special purpose" contingency funds to finance small-scale, light-capital, labor-intensive programs which might otherwise be overlooked.

Third. Requiring AID and the U.S. Executive Directors in the World Bank and the Inter-American Development Bank to act to encourage the use of small-scale, light-capital, labor-intensive and other appropriate technologies by:

Reviewing the choice of technology in all financial decisions—inquiring in each case what alternatives were considered and why they were rejected as well as stimulating consideration of different technologies.

Encouraging experimentation, innovation, and pilot projects which demonstrate which small-scale, light-capital, and other appropriate technologies work and which do not.

Promoting AID, World Bank, and Inter-American Development Bank involvement in all phases of development from research and development through the pilot stage to the diffusion and application of the appropriate technologies.

For now at least, we should rely on continued persuasion, pressure, and encouragement—and not the large additional budget cut recommended in the Long-Miller amendment.

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHEUER) has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. SCHEUER was allowed to proceed for 1 additional minute.)

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. SCHEUER. Yes, I will yield, but first I want to say one last sentence.

Mr. Chairman, I support the Obey amendments. With the greatest reluctance, I oppose the Long amendments,

but a year from now, if there has not been a demonstrable, definable, identifiable change in the strategy and tactics of the international lending agencies, then I fear that the kind of amendment the gentleman from Maryland (Mr. LONG) is sponsoring will get my support.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield now?

Mr. SCHEUER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I appreciate the gentleman's yielding.

Does the gentleman not think the suggestion by both the chairman of the subcommittee—and the gentleman in the well has praised him for his work on this subject—and the gentleman from Florida (Mr. YOUNG) has been a correct one when they say there should be performance audits on these loans so we can see where they go, what they are really doing, and whether they are really helping the poor?

Mr. SCHEUER. I could not agree more than there should be performance audits, and they ought to be made available to every single one of the participating countries.

Mr. ROUSSELOT. Then does the gentleman not think that the amendments offered by the gentleman from Maryland (Mr. LONG), which request a 13-percent increase and a 17-percent increase, would be a way to send these agencies a signal that we need this kind of cooperation?

The CHAIRMAN. The time of the gentleman from New York (Mr. SCHEUER) has expired.

Mr. LONG of Maryland. Mr. Chairman, I ask unanimous consent that all debate on these amendments and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. GONZALEZ. Mr. Chairman, reserving the right to object, I certainly do not want to intervene here to prolong this anymore than is necessary, but the chairman of the subcommittee and the gentleman who was in the well have made statements that would lead the House to believe that certain things presented in the name of factual information are indeed not so.

Therefore, I would like to ask the gentleman if he thinks 10 minutes will give us enough of a chance to try to clarify this issue, and I wonder if he would amend his request to 15 minutes.

Mr. LONG of Maryland. Mr. Chairman, I withdraw my prior unanimous-consent request, and I ask unanimous consent that all debate on these amendments and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will each be recognized for 40 seconds.

(By unanimous consent, Mr. DAVIS and Mr. PHILLIP BURTON yielded their time to Mr. MATHIS.

(By unanimous consent, Mrs. SMITH of Nebraska yielded her time to Mr. YOUNG of Florida.)

(By unanimous consent, Mr. CARNEY yielded his time to Mr. LONG of Maryland.)

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. MATHIS).

Mr. MATHIS. Mr. Chairman, we have heard a lot of debate today relative to the Long amendments and the Obey amendments thereto, but there is one thing that keeps coming back during the debate, and that is the statement that the United States has a commitment to the World Bank. We have heard it said time after time that the United States has a commitment to the World Bank.

My question, one that I would like to have any Member answer, is this: Does the World Bank have a commitment to the United States? Obviously the answer is, no, it does not have a commitment to the United States.

In total disregard for what this Congress has voted over the past several years, particularly the last 2 years, the World Bank and its various windows have disregarded what this Congress intended in terms of the loan to Vietnam and in terms of palm oil production—items which we explicitly have instructed our delegates to the World Bank to vote against.

The loan to Vietnam that was mentioned by the gentleman from Florida (Mr. YOUNG) is in direct opposition to what a majority of the Members want. We have tried to instruct the members of the World Bank as to how we want them to vote, as to how we want them to conduct their business. They have failed to do so. Our only recourse is a rejection of the Obey amendment and to adopt the amendment offered by the distinguished gentleman from Maryland (Mr. LONG).

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. CHAPPELL).

Mr. CHAPPELL. Mr. Chairman, I rise in support of the Long amendment, and I would remind the Members again that we have increased our budget for 1979 over 1978 from 17 percent to 54 percent for IDA and from 17 percent to 70 percent for IDB, while at the same time we have reduced our domestic community and regional development budget by 11 percent, public works by 11 percent, and only increased our national defense 9 percent, energy 12 percent, and social security 13 percent. I think this is a good amendment that the gentleman from Maryland (Mr. LONG) has offered. I support it and I hope we will vote down the Obey amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Chairman, I rise in support of the Long amendment. The foreign aid bill was commenced in the late 1940's, known as the Marshall plan, designed to rehabilitate the war-torn countries of Western Europe, a very sound objective. The American people were promised that this program would last 4 years and cost $17 billion. It has lasted until now, and we have spent over $200 billion, including interest. We have fewer friends in the world than when we spent the first dollar. It has been said that the foreign aid program was not intended for that purpose, and that is true; but neither should we lose friends as a result of it. So I ask, Mr. Chairman: How long will this House continue to abuse the patience of the American taxpayer.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, one focus has been missing in all this debate—and I have sat through all of it—and that is: How does all of this fit into the overall strategy of the United States?

I can understand why our friends in the Soviet Union would oppose any increase here, because wherever there is lack of progress, wherever there are difficulties, wherever there are severe problems or poverty, they move in. But for us to not back up the leaders of our country on this I think is absolutely not in our own strategic interest. I strongly support the Obey amendment and I rise in opposition to the Long of Maryland amendments.

The CHAIRMAN. The Chair recognizes the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, there are two ways in which this country may get its fiscal house in order. One is to take a meat-ax approach and have a certain percentage cut right across the board. The other way is to exercise our own good judgment in assessing priorities and to pick and choose the good ones as opposed to the bad ones or the lower priorities. This is probably a good program but it should be at the very bottom of our priority list and, therefore, we should support the amendment offered by the gentleman from Maryland (Mr. LONG).

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Chairman, the statement just made is an illustration of the thing I was trying to correct. The gentleman from New York referred, not to an official or spokesman of these development banks, but to an official from one of our own bilateral agencies. Therefore, that is a questioinable judgment.

It is the same thing with reference to what has been said here all afternoon, principally by the chairman, the gentleman from Maryland (Mr. LONG), that the record shows that these moneys and these loans from these development institutions are not reaching the poor. We in our oversight hearings, at which the distinguished gentleman from Maryland appeared, and appeared there exhaustively to reach that question, the evidence we got was to the contrary. The hearings conclusively established a very definite concern on the part of the banks to do exactly what the gentleman from Maryland has been asking be done.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I feel it is very important that we do support the Long-Miller amendment and not the Obey amendment. The Obey amendment would reduce the bill before us by $24 million. The Long-Miller amendment would reduce the bill by $584 million.

As we look to the south, and we heard that we need friends in South America—and it is so true—but we also see countries that we have aided in the past, such as Venezuela and the high petroleum cost that they are charging us for their crude oil today, and Brazil, of course, is holding up the price of coffee. We have many problems in paying high prices for many of the items that we purchase in that area. If the Long-Miller amendment is approved, I will not be offering the 8-percent reduction I sent out information on just a few days ago.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Chairman, in 1973 the United States joined with the other countries that participate in the World Bank and made a pledge to contribute to IDA IV, a replenishment necessary to aid the developing world. By 1976, every other country but the United States had fulfilled its pledge. At the present time, the United States is 50 percent short of its pledge.

The administration came to our committee and to this Congress asking us to make up that deficit, which of course explains why the budget request was higher this year. Our committee has cut $876 million out of that request. That is quite enough, and I hope the Long amendment will be defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Chairman, while I have the attention of the gentleman from New York, I would like to point out that while there is a great deal of uproar this year about the World Bank not aiding the "poorest of the poor," this is unfounded. In fact, Chairman LONG is basing a great deal of his argument for cutting Bank funds on this misconstrued fact. Yet, a closer look at his sources—a CRS study conducted in 1977, and numerous articles written in 1977 and early 1978—will reveal that in this instance, the information may be out of date.

I do not have to tell you how quickly things change. This is now 1978, August of 1978. And the Banks in the last 2 months alone have funded numerous projects—in fact 17 out of 24 of those approved—whose benefits go directly to the poorest of the poor. I would like to give some examples.

First, $34.5 million for an agricultural project in Burma.

Goal: Protect land from flooding and saltwater inundation. Annual increases in production of rice will be 90,000 tons, of jute will be 2,000 tons, and of pulses, groundnuts and other products, 19,000 tons.

Beneficiaries: 19,500 farm families of which 500 are presently landless. This will provide farmland to about 70 percent of the landless families in the area.

Second, $65 million for agricultural settlement project in Indonesia.

Goal: Development of the rubber sector through settlement of poor and landless families on unproductive land.

Beneficiaries: 7,600 families will be settled on 38,000 hectares of land. Priority will be given to the landless families in the area.

Third, $30 million to Indonesia for rural credit.

Goal: Long term investment capital for the purchase of livestock and to improve the fisheries.

Beneficiaries: 40,000 small farmers and fishermen.

Fourth, $150 million for cooperative dairy development in India.

Goal: A national dairy development project to increase India's milk production and rural income.

Beneficiaries: At full development, the project will improve the incomes and living standards of some 20 million people with an average per capita income of 50 dollars.

Mr. Chairman, these are just four of the many projects of this type funded in June and July alone. I have more, in fact I have 4 pages of projects geared for the direct benefit of the poorest people on the earth. And these are the cream of the crop of the total. Would you like to hear about these?

One thing is obvious. The World Bank, and IDA in particular, is dedicating millions of dollars to benefit the truly poor. And, if we do not appropriate the funds for the fourth replenishment, these poor are the ones who will bear the burden of these cuts. Time does have a way of changing things. These projects are concrete proof of the "New Direction" of foreign aid.

LOANS WHICH DO IN FACT AID THE POOREST OF THE POOR

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Goal: Long-term investment capital intended for the purchase of livestock and to improve the fisheries.

Beneficiaries: 40,000 small farmers and fishermen.

Fourth, $150 million for cooperative dairy development in India.

Goal: A national dairy development project to increase India's milk production and rural incomes.

Beneficiaries: 3.5 million subsistence farmers directly. At full development the project will improve the incomes and living standards of some 20 million people with an average per capita income of $50.

The increased milk production also leads to additional employment creation and higher levels of nutrition for the children.

Fifth, $10 million for an irrigation project in Guyana.

Goal: Rehabilitate and extend irrigation and drainage facilities and provide supporting services to increase agricultural production on over 75,500 acres.

Beneficiaries: 6,000 farm families, 98 percent of whom have per capita incomes of less than $180. About 83 percent operate farms of less than 10 acres.

Sixth. $10.7 million for agricultural project in Malawi.

Goal: Improve agricultural extension services, expand fisheries development program, improve village health facilities, extend networks of rural roads.

Beneficiaries: 350,000 will benefit through social and infrastructure services, 40,000 small holder families are expected to increase annual farm income from $75 to $120.

Seventh, $16.5 million for Afghanistan water and sewerage project.

Goal: To supply 70 percent of the Kabul urban population with clean drinking water, alleviate unsanitary living conditions, and reduce waterborne diseases which contribute to Afghanistan's mortality rate being the highest in the world.

Beneficiaries: 630,000 urban dwellers, many in the absolute poverty category.

Eighth, $8 million for second urban project in Botswana.

Goal: Provide minimally serviced, upgraded and settlement plots for about 6,500 households, low-cost sewered plots for about 300 households, house improvement loans and primary infrastructure.

Beneficiaries: 38,000 low income people.

Ninth, $16 million for national seed project in India.

Goal: Increase food grain production through increased supply of high quality cereal seed.

Beneficiaries: 7 million persons.

Tenth. $9 million for water supply and technical assistance to Somalia.

Goal: Improved access to water and a reduction in effective water charges to customers.

Beneficiaries: Urban poor living in low-cost and temporary housing (in the city of Mogadishu).

Eleventh, $15 million for agricultural research in Sudan.

Goal: Improved production systems for livestock and crops, conserving and rehabilitating national resources and improving the standard of living of subsistence farmers and pastoralists.

Sudan is the potential breadbasket of the continent with 200,000 arable acres still to be cultivated.

Twelfth, $17 million for population and family health project in Malaysia.

Goal: Reduce the birth rate from 30.3 per thousand to 26 per thousand.

Beneficiaries: Total nation from improved prospects for development as population decreases.

Thirteenth, Six loans totaling $469.5 million to Mexico, $200 million for agricultural credit.

Goal: Provide credit for investments in crop, livestock, and agro-industrial development.

Beneficiaries: 67,000 farm families (390,000 people). One-third is earmarked for low-income producers. Will create 9,000 additional jobs in the livestock sector.

Fourteenth, $100 million for industrial development; $56 million for tropical agricultural development.

Goal: Develop and bring into intensive agriculture production, 2.4 million hectares in the largest underexploited region in the country.

Beneficiaries: 3,000 farmers with incomes of $700 per year.

Fifteenth, $47 million for small and medium scale industry; $16.5 million for an urban development project.

Goal: Relieve critical shortage of low-cost shelters and other basic urban services and provide increased job opportunities in the region.

Beneficiaries: 50,000 low-income residents; $50 million for tourism development.

Members are saying that we ought to send a message. The committee wanted to send a message to family planning and it was my amendment that restored the money for that particular item, and I know how interested the gentleman from New York (Mr. SCHEUER) is in that subject. Now everyone has to have a "whipping post" and without really making a study, without looking in depth at what these banks are doing, they begin to criticize. I say, before we send a message, let us have real proof that such a message is necessary. As of now, none has given me such proof and my information says just the contrary. With this in mind, I hope the Long amendment is soundly defeated.

The CHAIRMAN. The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I want to point out that the committee has already cut this bill to the Banks by 25 percent. My amendment would cut 2 percent more. It gives us a chance of maintaining the commitment that was made by Presidents of the United States, and President Carter is trying to live up to that commitment.

We cannot keep complaining about a weakened President, we cannot have our President go to Geneva and engage in a summit conference in which he makes agreements with other countries to do certain things in the international community, and then when he returns from that conference, the Congress immediately cuts his legs off and puts the United States in violation of international agreements we made many years ago.

I urge the Members to cast a responsible vote and vote for my amendment.

● Mr. ALEXANDER. Mr. Chairman, as bread is the staff of life, water is the drink of life; for plants, and animals, and humans. Even while acknowledging that too much water, in the form of floods, means damage and death to people, homes, crops, and businesses, we know that too little water also means damage and death. Our people have a long history of using private and public investment to deal with both kinds of situations.

In addition, we have developed a tradition through our bilateral aid programs and our participation in international financial institutions of aiding the people of other nations with water resource development efforts.

There has cropped up in recent years increasing debate over the appropriateness of continued Federal participation in the development of our Nation's water resources. Indeed, the discussions seem to be trending further and further in the direction of a water resource nondevelopment policy for our own people even while we continue to participate in international financial institution support of development of water resources in other nations.

The House has rejected this nondevelopment policy for water resources by its action last year and again this year. We know that there are urgently needed projects that are worthy of and deserving of Federal investment. One such project, Cache River Basin, is located in the congressional district in Arkansas that I represent. It has been, and still is under attack, even though the planned design is one that balances food production and environmental protection needs.

As proposed, the Cache project can bring aid to flood control efforts of families, business, and farmers even while it helps to insure the protection, conservation, and enhancement of fish and wildlife habitat in the river basin. The region it serves is just one of the many across the Nation that would be betrayed by the adoption of a national policy of nondevelopment of water resources.

Water is one of our Nation's most abundant and most essential natural resources. Failure to manage this resource in such a way that it works for us while at the same time protecting its environmental values would be to fail the best interests of our people.

The contrast between what many propose for our own people in the area of water resources and what our Nation supports for the people of other countries is clearly evident in the developments of 1977.

In that year the Congress was faced with deciding how to deal with proposals to cut $177.4 million from the original budget request for investment in U.S. water resources. At the time the debate on this was going on the United States, as a participant in the Inter-American Bank and the International Development Association was assuming responsibility for helping finance 23 water resource projects in 19 countries. At the most conservative estimate, the U.S. responsibility for those projects was $232.86 million.

Those of us who recognize the urgent need in our Nation and the rest of the world to manage our resources in such a way that water serves our needs to its fullest potential while at the same time we respond to the need for protecting its environmental values must continue to wage our battle to educate and persuade people to an understanding of the need for wise, orderly, and managed development.

Because I believe my colleagues will be interested in the contrast I mentioned between U.S. water projects in 1977 and those we helped underwrite for other countries I am including a chart, at this point, providing some pertinent information. (Chart follows.)

COMPARISON OF U.S. AND FOREIGN WATER RESOURCE PROJECTS (1977)

U.S. PROJECTS ON "HIT LIST" FOR DELETION IN 1977

State	Type	Name	Original estimate (millions)
Oregon	FC R. WQ	Applegate Lake	$7.4
Louisiana	N	Atchafalaya River and Bayous Boeuf, Black and Chene	5.1
Do	FC. E	Bayou Bodcau and Tributaries	2.4
Arkansas	FC	Cache Basin	2.0
Kansas	FC, WS, R	Grove Lake	1.0
Do	FC, WS, WQ, R	Hillsdale Lake	14.0
Wisconsin	FC, R	La Farge Lake	2.0
Oklahoma	FC, WS	Lukfata Lake	.2
Missouri	FC, R, WS	Meramec Park Lake	10.0
Georgia and South Carolina	HP, R, E	Richard B. Russell	$21.0
Mississippi	R, FC, WS, WQ	Tallahala Creek Inlet	5.0
Kentucky	R, FC, WQ, E	Yatesville Lake	7.2
Tennessee	E, R, WS	Columbia Dam	20.0
California	I, HP, R	Auburn	39.7
Colorado	I	Fruitland Mesa	7.7
Do	I, R	Narrows unit	9.7
South Dakota	I, R, WS	East Oahe	17.0
Colorado and Wyoming	I	Savery-Pot Hook	6.0
Total			$177.4

FOREIGN PROJECTS FUNDED BY INTER-AMERICAN DEVELOPMENT BANK AND INTERNATIONAL DEVELOPMENT ASSOCIATION IN 1977

Nation	Type [1]	Cost (millions)	Loan terms: Interest rate	Loan terms: Payment years
Brazil	HP	$69.8	8	20
Colombia	HP	70.0	8	20
Ecuador	I	11.8	[2] 1	
			[3] 2	
El Salvador	HP	45.4	[2] 1	
			[3] 2	
		45.0	8	25
Guyana	FC, I	49.5	[2] 1	
			[3] 2	
Jamaica	I	12.5	2	36
Mexico	I	54.0	8.4	20
Do	I	41.5	8	20
Panama	HP	98.0	8	26
Bangladesh	I	21.0	.75	50
Do	I	16.0	.75	50
Chad	I	$12.0	.75	50
Do	I	8.0	.75	50
India	I	23.0	.75	50
Kenya	I	6.0	.75	50
Nepal	I	9.0	.75	50
Pakistan	FC, I	40.0	.75	50
Sri Lanka	I	19.0	.75	50
Do	I	5.0	.75	50
Malawi	PD	8.0	.75	50
Burma	PD	10.0	.75	50
Cameroon	PD	10.0	.75	50
Honduras	PD	5.0	.75	50
Total		$689.5		

[1] FC—Flood control; R—Recreation; WQ—Water quality; N—Navigation; E—Employment; WS—Water supply; HP—Hydropower; I—Irrigation; PD—Power development.

[2] In 10-yr grace period.
[3] In 30-yr payment period.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, while the Obey amendment is supposedly accomplishing a 2-percent cut in this particular account, and while it is a 2-percent cut in the IDB fund, it is only seven-tenths of 1 percent in the International Development Association. Just a quick calculation I think will establish that particular figure.

On the argument about whether the World Bank projects are good or bad, whether they work or do not work, I am satisfied we can pick out projects that work, and I can show Members a number of projects that do not work.

I am saying if we do not begin to focus attention on these projects, if we go ahead year after year approving them, then without concern for the adverse, then we will not get rid of the bad ones. That is what we are doing today, focusing on the bad ones.

At this point I am going to submit for the RECORD this international policy report, from the Center for International Policy, in Washington, D.C., that is full of examples of fraudulent practices in some of these programs. It cites specifically examples of how the World Bank officers knew about some of these ripoffs and advised their people in the field to ignore them and go ahead with the loan.

Mr. Chairman, the report follows:

BANGLADESH: AID TO THE NEEDY?

(By Betsy Hartmann and James Boyce)

(Betsy Hartmann and James Boyce were in Bangladesh from 1974 to 1976 on grants from Yale University. They are currently writing a book about the village in which they lived for nine months.)

[Figures not printed in RECORD.]

Each year almost $1 billion in aid flows to Bangladesh, much of it from the United States and U.S.-supported international financial institutions. Roughly a third of the country's food aid comes from the U.S. Yet poverty and famine persist.

Though 90 percent of the population is rural, only one third of government rationed foodgrains go to rural areas and often not to the most needy. In a country where survival often depends on access to arable land, 33 percent of the households are landless and another 29 percent eke out an existence from holdings of an acre or less.

Bangladesh's poverty is rooted in a social order which benefits a small elite at the expense of the poor majority. This elite holds power from the national government down to the village level, and it is through this elite that foreign aid is channeled. Under such conditions Americans can expect their foreign aid dollars to perpetuate rather than alleviate poverty in Bangladesh.

Since its violent birth in 1971, Bangladesh has become famous for its poverty. In the world press, the devastation and displacement of the independence war have been followed by stark reports of hunger and overpopulation. Today no country better symbolizes the plight of the poorest of the poor.

Bangladesh is the world's eighth most populous nation. Its 83 million people live in an area smaller than the state of Wisconsin, and its population density is the highest of any country in the world except Singapore and Hong Kong. Per capita income is around $100 and life expectancy is 46 years, compared to 70 years in most developed countries. Less than a quarter of the Bangladesh population is literate.

Most deaths in Bangladesh are due to malnutrition and infectious diseases. World Bank figures indicate that over half of all Bangladesh families consume less than the minimal 1,500 calories per day and more than two-thirds of the population suffers from protein and vitamin deficiencies. Infant mortality is high; approximately one-quarter of Bangladesh's children die before reaching the age of five. Health care is poorly developed and concentrated in the few urban areas.

Nine out of 10 of Bangladesh's people live in rural areas where most make their living from the land. Agriculture accounts for 60 percent of the country's GNP; and jute, the number two crop after rice, provides four-fifths of Bangladesh's exports.

The country's low level of industrial development is a legacy of colonialism. Before the British conquest in the eighteenth century, Bengal was one of the richest provinces in India. The fine muslin cloth produced by the weavers of Dacca was famous throughout the world, and both agriculture and commerce thrived in the area. To meet the needs of its industrial revolution, the British transformed East Bengal into an agricultural hinterland, producing raw materials for the Empire.

With the end of British rule in 1947, predominantly Muslim East Bengal became East Pakistan. However, the area fared no better under Pakistani rule. The majority of Pakistan's population lived in the eastern wing, yet West Pakistanis dominated the military and civil service. Although East Pakistan's jute was the main source of the nation's foreign exchange, development expenditures were concentrated in West Pakistan. Per capita income rose in the western wing but not in the east. East Pakistan's agricultural production stagnated and the area, long an exporter of rice, had to import food by the mid-fifties to meet its needs.

Tensions between the two wings culminated in the Bangladesh independence struggle of 1971 under the leadership of Sheikh Mujib. Independence brought hope that the country, freed at last from the shackles of colonialism, could develop its economy and address the basic needs of its people. The challenges were tremendous. On the surface, if ever there was a country deserving of foreign assistance, it is Bangladesh.

Within three years of independence, the new nation received $2.5 billion in aid commitments, more than it had received in its 25 years as East Pakistan. Today aid flows to Bangladesh at a rate of almost a billion dollars per year. Much of it comes from the U.S. and U.S.-supported international financial institutions. (See Table 1.) In the current fiscal year, estimated U.S. economic assistance amounts to $128 million, placing Bangladesh among the top recipients of U.S. aid. Since independence, Bangladesh has been second only to India as a recipient of aid from the World Bank's soft-loan affiliate, the International Development Association (IDA).

This massive influx of aid comes from three types of sources: bilateral government-to-government agreements, multilateral organizations, and private sources. (See Figure 1.) Bilateral assistance accounts for two-thirds of total aid, and most is provided by Western nations, with the United States the leading donor. Since 1975 aid from the Soviet bloc and from India has decreased, while aid from the OPEC nations has grown. Multilateral aid, accounting for 30 percent of the total, includes assistance from the World Bank, the International Monetary Fund, the Asian Development Bank, various U.N. agencies and the European Economic Community. Private sources, including voluntary agencies and private suppliers' credits, provide only 4 percent of the total aid flow.

Foreign aid to Bangladesh can be divided into three broad categories: food aid, commodity aid, and project aid. (See Figure 2.)

Food aid consists primarily of rice and wheat, most of it given to the government for sale through its ration system. The foremost food donor is the U.S., through its P.L. 480 programs. Canada and Australia are also major donors.

TABLE 1.—AID COMMITMENTS FOR U.S. BILATERAL AND U.S.-SUPPORTED MULTILATERAL OUTLETS, FISCAL YEARS 1972-77

[In millions of dollars]

Fiscal year [1]	Bilateral		Multilateral			
	AID	P.L. 480	IDA	IBRD	ADB	IMF
1972	199.1	87.2				
1973	101.7	59.4	212.9		9.2	67.9
1974	28.9	50.9	74.1		17.3	7.3
1975	62.0	241.8	[2] 181.0	[2] 54.9	82.1	87.8
1976	36.0	183.2	187.1		21.6	69.6
1977	62.2	83.1	127.0		68.5	71.3
Total	489.9	705.6	782.1	54.9	198.7	303.9

[1] Bilateral data as of fiscal year 1977 is by new U.S. fiscal year (Oct. 1-Sept. 30), with transitional quarter (July 1-Sept. 30, 1976) included in fiscal year 1976.

[2] By consolidation loan-credit agreement, Bangladesh assumed liability for $54,900,000 in IBRD loans and $37,500,000 in IDA credits disbursed in East Pakistan.

Note: Abbreviations: IDA = International Development Association, IBRD = International Bank for Reconstruction and Development (World Bank), ADB = Asian Development Bank, IMF = International Monetary Fund.

Sources: AID, "U.S. Overseas Loans and Grants," July 1, 1945, to Sept. 30, 1976, and to Sept. 30, 1977; International Monetary Fund, "International Financial Statistics," March 1978.

Commodity aid pays for the import of nonfood items. The U.S. Agency for International Development, for example, supplies funds for fertilizer, and IDA provides import credits which the government uses to buy such items as spare parts for its jute mills and raw cotton for its textile mills. Commodity aid is often tied to purchases from the donor country, so that prices paid are sometimes substantially above those available on the world market.

Project aid channels assistance to specific development projects in all spheres of the economy, including industry, agriculture, and infrastructure such as roads, bridges and communications. In theory, the Bangladesh government takes the initiative by requesting aid for particular projects. But in practice, the donors make funds available for projects of their own design and choosing, and the Bangladesh government makes its requests accordingly. The details of the project are worked out in negotiations between the government and the donor, and the final outcome reflects the objectives of each. Though the donors control the pursestrings, their power is circumscribed by the government's control over project implementation.

In recent years major aid donors have sought to coordinate their efforts, partly to increase their leverage on the Bangladesh government. In the fall of 1974 a Bangladesh Aid Group, patterned on the aid consortiums for other developing countries, was formed under the leadership of the World Bank. The Aid Group currently includes 24 nations and institutions which together provide 80 percent of Bangladesh's foreign aid. The World Bank's position as chair of the Aid Group adds to its considerable influence in Bangladesh.[3]

Most Americans support foreign aid in the belief that it helps the millions who live in what World Bank President Robert McNamara calls "absolute poverty": "a condition of life so degraded by disease, illiteracy, malnutrition, and squalor as to deny its victims basic human necessities."[2] But many Americans are puzzled by the fact that despite years of foreign aid involving billions of dollars, the world's poor are becoming even poorer.

Many aid donors have come to recognize that even if a developing nation succeeds in raising its GNP, this does not necessarily benefit the poorest segments of the population. In fact, a rising GNP may reflect an increase in the income of the well-to-do, while the conditions of the poor continue to deteriorate. For this reason, donors have begun to shift their attention from economic growth to meeting "basic human needs": the right to adequate food, shelter, clean water, health care and education.

To meet these basic needs, McNamara and many other aid officials conclude that resources must be redirected to the rural areas where 70 percent of the people in the developing countries live. In particular, aid programs must benefit small farmers, for as McNamara says, "Without rapid progress in smallholder agriculture throughout the developing world, there is little hope either of achieving long-term stable economic growth or of significantly reducing the levels of absolute poverty."[5]

U.S. legislation on foreign assistance reflects this new concern with redirecting aid to meet the basic needs of the rural poor. Congress has mandated that development assistance and food aid be channelled to countries which stress selfreliance, involve the poor in the development process, and take steps to increase the productivity of the small farmer. AID has assimilated this language into many of its project descriptions.

TABLE 2.—*U.S. food aid to Bangladesh—fiscal years 1972–78*

[In millions of dollars]

Fiscal year	Title I loans	Title II grants	Total
1972	-----	87.2	87.2
1973	-----	59.4	59.4
1974	41.2	2.7	50.9
1975	237.3	4.5	241.8
1976*	181.7	2.5	183.2
1977	61.8	19.3	83.1
1978*	91.2	9.8	104.0

* Fiscal year 1976 includes the transition quarter (July 1 to September 30, 1976; 1978 figures are proposed).

NOTE: Aid figures are commitments.

SOURCES: AID, U.S. Overseas Loans and Grants, July 1, 1945 to September 30, 1976, and September 30, 1977; fiscal year 1976 submission to Congress, February 1977.

But while it is easy to speak of meeting the basic needs of the poor, it is far more difficult to ensure that aid will actually further this objective. Programs which on paper are supposed to help the needy often look very different in the field.

FOOD AID—WHO GETS IT?

For the nine months in 1975, the authors did research for a book in a village in northwestern Bangladesh. To minimize the differences between the villagers and themselves, they lived in a small bamboo house, spoke Bengali and wore local clothing. By approaching the villagers as equals, they eventually were able to win their trust. They learned that the supposed beneficiaries of foreign aid, the small farmers and the landless, were the last to receive it. While commodity aid did not directly affect them, food and project aid did. Instead of reaching the poor, such aid benefited those who needed it least.

Our village was typical of many in Bangladesh. The majority of its 300 inhabitants were small peasant farmers, most owning less than two acres of land apiece. One-quarter of the villagers were completely landless, and many others owned so little land that they drew their main source of income from share-cropping or working for daily wages of five taka (roughly 35¢) of the lands of others. Except for the few rich peasants who owned over 10 acres apiece and the landlords who owned over 50, life for most of the villagers was a constant struggle for survival.

In the fall of 1974, Bangladesh experienced a serious famine centered in our district where an estimated 100,000 people starved to death. Emergency measures to feed the hungry were belated and inadequate. In the nearest town, five miles from our village, the government set up a few gruel kitchens where destitute people stood in line all day to receive a single roti (unleavened wheat cake).

Aid officials concede that the mass starvation of the famine was due not so much to a lack of supply of food grains as to inadequate distribution. Merchants hoarded grain, and the government's distribution system broke down. Villagers reported that food intended for the hungry wound up on the black market where it sold at exorbitant prices. Food donations from private organizations met a similar fate. During our stay in the village, milk powder imported by a church-affiliated group for local feeding programs was sold freely on the black market in the town bazaar.

The 1974 famine was not an isolated incident. While we were in Bangladesh, hundreds of thousands of tons of rice and wheat arrived as food aid. Ninety percent of this went to the government for sale through its urban-oriented ration system. Only the remaining 10 percent was earmarked for relief and food-for-works projects, and not all of this reached the poor.

The U.S. provides roughly a third of Bangladesh's food aid, under Titles I and II of the Agricultural Trade Development and Assistance Act (P.L. 480). Under Title I, the Bangladesh government buys American food by means of concessionary loans and then distributes it according to its own policies. Title II food, given as a grant for disaster relief and humanitarian purposes, is usually disbursed through private voluntary agencies. Since 1974, 94 percent of American food aid has come to Bangladesh under the Title I program, giving the Bangladesh government virtually total control over food aid distribution. (See Table 2.)

The Bangladesh government sells the Title I food at subsidized prices through its ration system. Ironically, most goes to those who could best afford to pay the market price: the urban middle class. Twenty-seven percent of rationed food-grains is allotted to members of the military, police, and civil service and to the employees of large enterprises; another 30 percent goes to the predominantly middle-class ration holders in the six urban areas. Nine percent is supplied to mills which sell flour to bakeries catering to the urban consumer.[4] (See Figure 3.) It is no secret that the primary purpose of the ration system is to keep prices low for the politically volatile urban population.

Although 90 percent of Bangladesh's people live in rural areas, they receive only one-third of the government's rationed foodgrains and have last access to government stocks. In theory their ration is half that of a city dweller, in practice they receive even less. The rural ration dealers siphon off a substantial portion of the foodgrains and sell them on the black market. For this reason, a dealership is a key form of political patronage. The local dealer in our area received the job because his father-in-law had

Footnotes at end of article.

been head of the local administrative body, the union council.

During our nine month stay, the people of our village were able to buy rationed foodgrains on only five occasions. Each time their quota was only half a pound of grain per family member. On one occasion we did see food aid reaching needy people. While visiting an adjacent area affected by floods, we saw a union council member handing out cornmeal biscuits from a tin dated 1963 and labeled, "Office of Civil Defense, U.S. Department of Defense." The biscuits had evidently been produced for American fallout shelters during the days of the bomb scares. After more than a decade, the U.S. government decided to dispose of them. They were reportedly on their way to Cambodia when Phnom Penh fell, at which point they were redirected to Bangladesh. Each villager received one rather stale biscuit.

Food aid does increase the overall availability of foodgrains in Bangladesh. However, very little of it reaches the poor whose problem is not lack of supply but lack of purchasing power. Even when rice was plentiful and selling at a reasonable price in the local bazaar, the poor of our village went hungry. After Sheikh Mujib's death in August, 1975, rice prices plummeted from seven *taka* to three *taka* per kilo, partly because hoarders, fearful of reprisals by the new government, hastily unloaded their stocks on the market. While rice prices were at their lowest level in many months, Hari, a landless peasant of our village, died of slow starvation. Unable to find work in the slack period before the autumn harvest, he could not provide food for himself and his family. He was caught in a vicious cycle: without work he could not eat and became weak, and because he was weak, employers were less likely to hire him. When Hari caught a cold, his body, weakened by hunger, could not resist it. Within a week he was dead.

As long as villagers like Hari lack the means to earn a livelihood, no amount of food aid will solve the problem of hunger in Bangladesh. With its present bias in favor of the urban middle class, food aid not only fails to give short-term relief to the poor; it also has adverse long-term effects.

Despite the stipulation in P.L. 480 that American food aid should relate to "efforts by aid-receiving countries to increase their own agricultural production,"[5] the U.S. Embassy in Dacca acknowledged in a 1976 cable that, "The incentive for Bangladesh government leaders to devote attention, resources, and talent to the problem of increasing domestic foodgrain production is reduced by the security provided by U.S. and other donors' food assistance."[6] The budget priorities of the Bangladesh government reflect this fact. While agriculture generates 60 percent of gross domestic product, it receives only 30 percent of the government's development expenditures. Moreover, food aid undermines domestic food production by reducing the government's need to procure grain from local farmers and thus support prices at harvest time.

The sale of foodgrains through the ration system is a major source of government income, providing about one-fifth of the revenue budget in fiscal year 1977. To ensure continuing food aid and income from its sale, the Bangladesh government is said by aid officials to consistently under-estimate the amount of each harvest in its reports to the international donors.[7] Bangladesh might even now be self-sufficient in the production of foodgrains.

PROJECT AID—A TUBEWELL FOR THE LANDLORD

Project aid would seem to offer donors greater scope for translating their concern for the poor into concrete action. Much project aid is directed to the rural areas, where most of Bangladesh's needy people live. The World Bank's IDA, the foremost donor of project aid to Bangladesh, devotes about half its project aid to agriculture and rural development. (See Table 3.)

Though Bangladesh is often described as a land of "small farmers," the reality in the villages is more complex. On the one hand, a large percentage of rural people own no land at all. They work for wages and are chronically underemployed. On the other extreme are landlords whose holdings, though modest by American standards, are large enough to free them from the necessity of working in the fields for a living. They let out their land to sharecroppers, usually on a 50–50 basis, or else cultivate with hired labor.

A recent AID-commissioned study on the hierarchy of interests in land in Bangladesh reveals that less than 10 percent of rural households now own more than half the country's cultivable land, while more than 60 percent of rural families own less than 10 percent of the land. (See Figure 4.) One-third of rural families own no cultivable land at all, and by including those who own less than half an acre, the study concludes that 48 percent of the families of rural Bangladesh are "functionally landless." Pointing to the difficulties of collecting reliable data, the authors of the study note that these figures probably *underestimate* the actual extent of landlessness and the true level of concentration of land ownership.[8]

Not surprisingly, the small minority of families who own over half the land are, in the words of the study, "at the apex of the structure of power in rural Bangladesh; the political economy of the countryside is controlled by them." A "dichotomy between ownership of land and labor on it" is widespread, and disparities between rich and poor are growing. This then is the economic and social context within which rural development efforts and attempts to help the poor take place. Our village was typical in this respect.

Project aid reached our village in the form of a deep tubewell, one of 3,000 installed in northwestern Bangladesh in an IDA project. The tubewell, designed to produce enough water to irrigate 60 acres of land, is a valuable asset, for with it irrigation farmers can grow an extra rice crop during the dry winter season. Irrigation also insures the regular spring and monsoon season crops against drought, and allows earlier plantings which reduce the risk of flood damage.

On paper, the tubewell will be used by a farmers' cooperative formed especially for this purpose. According to the press release which announced the project, each tubewell "will serve from 25 to 50 farmers in an irrigation group."[9] But in reality the tubewell in our village was considered the personal property of one man: Nafis, the biggest landlord of the area. The irrigation group, of which, Nafis was supposedly the manager, was in fact no more than a few signatures he had collected on a scrap of paper.

Nafis inherited his 70 acres of land from his father, who had become rich by serving as a rent collector and procurer of village women for the local zamindar, the great feudal landlord of the colonial era. While attending college, Nafis joined the late Sheikh Mujib's Awami League and soon became an influential figure in local politics. Shortly after independence he was appointed vice chairman of the union council, in which position he misappropriated the few blankets and sheets of corrugated tin which came to the village as postwar relief supplies.

The IDA tubewell was by far Nafis' greatest patronage plum. Though each tubewell cost the donors and the government more than $12,000, Nafis paid less than $300 for his, mostly in bribes to local officials. The tubewell sits in the middle of a 30-acre tract of Nafis' best land. Since it will yield enough water to irrigate twice that area, Nafis says the smaller farmers who till adjacent plots will be able to use his water—at a price. But the hourly rate he intends to charge is so high that few of his neighbors are interested. As a result his tubewell will not be used to its full capacity.

The inefficiency of this arrangement is compounded by the fact that large landowners like Nafis tend to cultivate their lands less intensively than small owners. The small landowning peasant, who tills the soil with his own hands, knows that his work determines how much he and his family will have to eat. He invests more labor in his agriculture, and strives to use every bit of land and every drop of water to its utmost. The landlord's incentive is not so great, and that of the sharecroppers and wage laborers who work his land is often minimal.

A sharecropper knows that half the fruits of his labor will go to the landlord, so he saves his extra efforts for the little land he owns himself. Hired laborers worry about their wage, not about the landlord's yields, and since he must pay for their labor, the landlord uses it more sparingly. So giving a deep tubewell to Nafis is not only inequitable, but also inefficient.

At first we were surprised that the beneficiary of the World Bank's aid should be the richest man in our village, but on closer investigation we learned that this was not so strange. A foreign expert working on the project told us, "I no longer ask who is getting the well. I know what the answer will be, and I don't want to hear it. One hundred percent of these wells are going to the big boys. Each thana[10] is allotted a certain number of tubewells. First priority goes to those with political clout: the judges, the magistrates, the Members of Parliament, the union chairmen. If any are left over, the local authorities auction them off. The rich landlords compete, and whoever offers the biggest bribe gets the tubewell. Around here the going price is 3,000 taka (less than $200)."

"You see," he explained, "On paper, it's a different story. On paper, all the peasants know these tubewells are available. If they want to have one, they form themselves into a democratic cooperative, draw up a proposal and submit it to the union council, which judges the application on its merits. the union council then passes the proposal to the Thana Irrigation Team, which again judges the case on its merits. If the proposal is accepted, the foreign consultants verify that the site is technically sound. So on paper it all sounds quite nice. Here are the peasants organizing to avail themselves of this wonderful resource. When the high-level officials fly in from Washington for a three-day visit to Dacca, they look at these papers. They don't know what is happening out here in the field, and no one is going to tell them."

An evaluation sponsored by the Swedish International Development Authority (SIDA), which helped to finance the tubewell project, confirms that the experience of our village was typical. The evaluator concluded after examining 270 tubewells:

"It is not surprising that the tubewells have been situated on the land of the well-to-do farmers, or that it is the same well-to-do farmers who are the chairmen and managers of the irrigation groups. It [would have] been more surprising if the tubewells had not been located on their land, with the existing rural power structure, maintained largely because of the unequal distribution of the land."[11]

Given the social realities of rural Bangladesh, the outcome of the World Bank's tubewell project was entirely predictable.

Footnotes at end of article.

TABLE 3.—*IDA loans to Bangladesh by sector (as of November 30, 1977)*

[In millions of $]

Project AID:	
Agriculture and rural development	$215.9
(of which irrigation is)	(113.9)
Transportation and telecommunications	67.1
Industry	28.0
Cyclone rehabilitation	25.0
Education	22.6
Urban water supply	22.1
Population planning	15.0
Miscellaneous	49.0
Project AID total	444.7
Commodity AID (import credits)	425.0
Total IDA loans	869.7

Source: IDA, Statement of Development Credits, November 30, 1977.

The village potentates of northwestern Bangladesh were not the only beneficiaries of the project. Corrupt government officials took their share in the form of sundry bribes and kickbacks. The SIDA evaluation notes that the tubewells provided certain officials with "a source of additional income, as they could protract or expedite matters in the decision-making process relating to the allocation of their tubewells. Most actions or non-actions could (and can) be priced." [12] But the man who appears to have benefited most from the tubewell project is neither a government official nor a village landlord. He is a private businessman named Jahural Islam, reputed to be Bangladesh's richest citizen.

Islam was a patron of the late Sheikh Mujib, whose wife sat on the board of directors of Dacca Fibers, one of Islam's companies. After months of behind-the-scenes maneuverings, the details of which remain shrouded in secrecy, Dacca Fibers won the contract for supply of the pumpsets for the IDA tubewell project. In the process, the price tag on the pumpsets jumped to $12 million, although another company had reportedly offered to provide them at the World Bank's original cost estimate of $9 million. According to a report in the Far Eastern Economic Review, at this point the Dacca staff of the Bank urged that the project be postponed or cancelled altogether, but they were overruled in Washington.[13] In the words of one official, Islam's extra $3 million was "easier than robbing a bank."

For the poor of our village, the only conceivable benefit of the project will be the employment generated by Nafis' extra rice crop. Nafis plans to work part of his tubewell land with hired labor and to lease part to sharecroppers. (Since the yields on this irrigated land will be higher, Nafis intends to take two-thirds rather than his customary half of the crop; "After all," he says, "I bought the well.")

Against any employment benefits one must weigh the negative effects of the tubewell: with his extra income, Nafis will be better able to buy out smaller farmers when hard times befall them, driving them into the ever-growing ranks of the landless. He already has an eye on the plots nearest his tubewell.

Aside from buying more land, Nafis is unlikely to invest his extra income in agriculture. He is more likely to spend his money on imported luxuries, such as the Japanese motorcycle he bought while we were in the village. In fact, little of the new wealth which foreign aid has bestowed upon the rich of Bangladesh is ever channeled into productive investment. Many wealthy Bengalis prefer the security of foreign bank accounts.

Footnotes at end of article.

Although Bangladesh is desperately short of industrial capital, Jahurul Islam has not invested his millions in factories, preferring instead the quick and easy profits of the import-export trade. As Bangladesh's most successful entrepreneur, he has now gone multinational, shifting his headquarters to London and focusing his business skills on the oil-rich nations of the Middle East. Meanwhile, the luxury imports and capital exports of the rich cut into Bangladesh's troubled balance-of-payments, undermining the economy.

What lessons has the World Bank drawn from this project? "The Bank is not blind to these things," explains one official, "but our ability to do anything about them is limited. If the government doesn't have the will to help the small farmers, we can't force them to do it. We can advise, we can write provisions into our projects, but without that genuine commitment on the part of the government it just won't work." Most Bank officials seem willing to accept this as a regrettable fact of life. What disturbs them most about the project is not that rich landlords received the tubewells, but that owing to fragmentation of holdings they won't use them to capacity. The latest World Bank irrigation project for northwest Bangladesh remedies that fault by relying on a more "appropriate" technology: 10,000 shallow tubewells designed to irrigate a more modest 15 acres each.

The shallow tubewells have several advantages. They are easier to install and maintain than the deep tubewells. Most importantly, they "require much smaller groups of farmers for optimal utilization," for as the Bank cautiously concedes, "problems have occurred in organizing farmers' groups large enough to use the DTW's (deep tubewells) to capacity." [14] For these reasons shallow tubewells have suddenly become quite fashionable among Bangladesh's aid donors; altogether 35,000 of them are to be installed in the next five years, not only by the IDA but also by the Japanese, the Germans, the Indians and the Asian Development Bank.

What about the rural poor? The World Bank admits, "In a project such as this where the major result is to increase the productivity of the land, to a large extent the distribution of direct benefits must reflect the existing land ownership pattern." But there is hope: "In setting up the institutional arrangements for the project, however, particular attention was paid to ensuring that small farmers get at least a fair chance to benefit from the project." [15] Indeed, the Bank estimates that two-thirds of the families to directly benefit from the project will have incomes below subsistence levels, and that they will own 40 percent of the land to be irrigated.

How will the allocation of the tubewells insure this distribution? Some will be sold for cash or on commercial bank credit to individual buyers, who will undoubtedly be large landowners as only they could afford such an investment. But half the tubewells will be reserved for cooperative groups, formed under the government's Integrated Rural Development Program (IRDP). According to a Bank press release, "For a farmer's group to be eligible for credit at least 50 percent of the land to be irrigated must belong to farmers owning a total of three acres or less. This insures that small farmers will benefit from the project." [16]

Judging from past experience, the impact of such provisions on what actually happens in the village will be minimal. There is little reason to expect the IRDP cooperatives to avoid the pitfalls of the deep tubewell "irrigation groups." A January 1976 report by a Senate study mission notes two weaknesses in the IRDP:

"(1) The larger farmers tend to gain control and decide policy and programs to suit their own profit, and (2) the IRDP workers assigned at the thana level are generally more responsive to their superiors in the bureaucracy rather than to the peasants whom they are intended to serve." [17]

Given these realities, the Bank's assurances concerning small farmers seem curiously naive.

In the social context of rural Bangladesh, powerful large landowners will inevitably secure a disproportionate share of scarce aid-provided resources, notwithstanding the good intentions and special provisions of the aid donors. Like the deep tubewells before them, the World Bank's shallow tubewells will add to the wealth of the country's landed elite. Though excluded from direct benefits, small farmers will feel the indirect effects of such aid as the larger farmers use their increased leverage to buy them out.

What of the landless, who already comprise one-third of the families of rural Bangladesh? Obviously, the donors cannot give agricultural inputs to those who have no land. But the Bank maintains that the landless will indirectly benefit, since irrigation generates employment. One wonders if giving aid to the rich so that they can hire more poor people to work for them at subsistence wages is really the best way to help the poor. Moreover, increased employment is offset by growth in the numbers of landless, which aid to the large landowners only accelerates. How much consolation can a small farmer who is forced to sell his land derive from the prospect of rising employment opportunities in the landlord's fields?

FAMILY PLANNING—EXTENSION WORK IN THE VILLAGES

Family planning is another important focus of project aid to Bangladesh. In fiscal year 1978, AID is giving over $9 million for population planning in Bangladesh, roughly 15 percent of the total aid package. Most of this money is earmarked for the supply of birth control pills and condoms. But given the nature of government family planning services in Bangladesh, it is unclear how much of this will actually reach the poor.

We found great interest in birth control in our village, especially among those who already had enough children to help in the fields and provide for them in their old age. In fact, within a few weeks of our arrival, several village women begged us to help them get pills. They recognized the advantage of birth control; their problem was getting access to it.

Despite the fact that AID had already given large amounts of pills to the Bangladesh government to be distributed free of charge, the only pills the villagers had seen were marketed by a travelling merchant woman at a price of eight *taka*, more than the average daily wage, for a month's cycle. Several daring women had bought them without their husband's knowledge, but lacking instructions on how to use the pills, they soon became pregnant.

In response to the villagers' pleas, we visited the government family planning office in the nearest town and requested that extension workers come to our village. After their arrival, we learned why the demand for birth control in the villages was not being met. Wearing expensive jewelry and silk saris, the extension workers were educated, middle-class town women, separated from the village women by a gulf of arrogance and indifference. They addressed the villagers in upper-class Bengali and in their presence asked us how we could stand the "inconvenience" of living in a "dirty village." After they left, the villagers inquired if they were our sisters from America.

The family planning workers promised to return within three days with a supply of

pills, but it was many weeks before the villagers saw them again. They claimed that they could not come because their jeep had broken down, and they were unable to walk the five miles to the village from the town, a distance many villagers covered by foot every day. This explanation did not inspire confidence, nor did the ensuing discussion. The extension workers began by telling the village women it was immodest not to wear blouses beneath their saris. Unable to afford blouses, the village women sat for a moment in an embarrassed silence. Although the extension workers left behind a carton of pills, the villagers doubted they would ever return to replenish the stock, much less to supervise the women's taking of the pills.

Our village's encounter with the family planning service demonstrates the fact that outsiders cannot simply deliver development to the poor. Drawing its staff from the country's elite, the Bangladesh government not only lacks the will to effect changes that would help the poor at the expense of the rich, it lacks the ability to carry out even those programs which would benefit the poor at no cost to anyone. The concept of public service is alien to those who look upon the majority of their compatriots with disdain. For them, villages are to be escaped, not to be served.

Aid donors are now recognizing the limitations of using upper-class government servants for extension work in the villages. The government's newest $45 million population project, funded by the World Bank and six bilateral donors, provides for the training of 12,000 village women as basic health and family planning workers in a new "barefoot doctor" approach. However, as basic literacy requirement will limit employment to those few women with a primary school education, and these are usually the most well-to-do women in the villages. It remains to be seen whether this approach will succeed in bypassing the deeply rooted social prejudices which block assistance to the poor.

Family planning is closely tied to the whole system of health care delivery in Bangladesh. Although the donors have taken some steps to fund village-oriented programs, they continue to emphasize a technology-intensive, centralized form of medical services. The Bangladesh government is currently under pressure to allow the U.S.-supported Cholera Research Lab on the outskirts of Dacca to be converted into an International Institute for Health, Population and Nutrition Research. The Institute will be funded and controlled by a group of international agencies, including AID.

Critics charge that the Institute will exacerbate the already pronounced urban bias of medicine in Bangladesh. Over three-quarters of Bangladesh's doctors serve the 10 percent of the population who live in urban areas; there is only one doctor for every 40,000 people in the rural areas.[18] The glamor and high pay of the Institute can be expected to lure trained personnel away from efforts to improve health care in the countryside. Moreover, control of the Institute will be in the hands of foreign researchers who often are more concerned with the collection of data than with the delivery of services.

Dr. Zafrullah Chowdhury, the head of a successful small-scale, village-oriented health care project in Bangladesh, writes that in the case of the Institute and similar projects, "The preponderance of foreign research stultifies any growth of local efforts, making a monopoly of health science. The population is used, while the effective solutions to the problems of health and family planning are subtly avoided."[19] The Institute is yet another example of project aid which may harm rather than help the needy.

Footnotes at end of article.

THE IMPACT OF AID ON HUMAN RIGHTS

Foreign aid is extremely important to the Bangladesh government. Aid currently finances four-fifths of the development budget and provides approximately half of the Government's total financing. (See Figure 5.) Aid is now equivalent to more than 10 percent of the country's gross domestic product, another indication of its colossal scale. Aid fills the country's large trade deficit, which is almost double its current level of exports. (See Table 4.) This dependence on aid tends to undermine initiatives towards self-reliance, for the government finds it much easier to rely on the flow of capital from abroad than to make the hard decisions necessary to develop the economy from local resources. Aid can also prevent political change by keeping regimes afloat which would otherwise sink under the weight of popular discontent.

TABLE 4.—FOREIGN AID AND IMPORTS/EXPORTS, FISCAL YEARS 1973-78

[In millions of dollars]

Fiscal year	Imports	Exports	Trade deficit	Foreign aid disbursements	Aid as percent of trade deficit
1973	727	340	387	420	109
1974	925	362	563	640	114
1975	1,402	358	1,044	924	86
1976	1,266	381	885	814	92
1977	937	400	537	572	107
1978[1]	1,274	425	849	816	96

[1] Projection.

Source: World Bank, "Bangladesh, Current Economic Situation and Development Policy Issues", May 1977.

In Bangladesh aid has financed narrow, elite-based governments which cling to power by suppressing political dissent. Sheikh Mujib, whose overwhelming electoral victory in 1970 precipitated the independence struggle, originally enjoyed tremendous popular support. After the war, as "Father of the Nation," he returned from his incarceration in West Pakistan to a hero's welcome in Dacca. But within two years popular enthusiasm for the Sheikh waned as the corruption and nepotism of his ruling Awami League provoked widespread disenchantment.

Smuggling of foodgrains to India and hoarding by merchants pushed rice prices to astronomical levels; by 1974 the inflation rate reached 100 percent and the black market flourished. In late 1974, Mujib responded to his mounting opposition by declaring a state of emergency in which he suspended civil liberties and instituted press censorship. In January 1975 he scrapped the parliamentary system, outlawed all political parties except his own and declared himself President.

Mujib's rule ended abruptly in August 1975 when he was assassinated by disgruntled junior army officers, paving the way for a series of coups. In November 1975, rank-and-file soldiers mutinied against their officers and toppled the government. Under the leadership of the J.S.D. (*Jatiyo Samajtantrik Dal*—Socialist Nationalist Party), a socialist party which owes allegiance to neither Moscow or Peking, the soldiers demanded the release of all political prisoners and called for the creation of a government in "the interest of the poorer class." In the wake of the mutiny, Major-General Ziaur (Zia) Rahman, a well-known nationalist and friend of Colonel Abu Taher, leader of J.S.D.'s armed wing, assumed leadership of a new martial law regime. He soon turned against the J.S.D., imprisoning its leadership (which had just been released from jail) and launching a concerted crackdown against the party's supporters throughout the country.

In July 1976, a special martial law tribunal, meeting in secret within the confines of Dacca Central Jail, convicted a number of J.S.D. leaders of conspiracy and antistate activities. Taher, a hero of the independence war, received a death sentence and was hung in Bengal's first official political execution since the days of British colonial rule.

While promising a swift return to civilian government, Zia instead consolidated his military regime by silencing political opposition. In its 1977 Annual Report, Amnesty International estimates that there are 10,000 to 15,000 political prisoners in Bangladesh, most held without trial. The majority of prisoners are said to belong to the J.S.D., but followers of the late Sheikh Mujib and members of numerous other parties are also incarcerated. Trials, when held at all, often take place in secret before martial law tribunals; defendants do not have the right to legal counsel. Amnesty International has expressed concern about the "wide jurisdiction" of these martial law courts, which are empowered to try both civilians as well as members of the military not only for martial law offenses but also for offenses "punishable under any other law."

Within the jails, Amnesty International reports that the treatment of prisoners "borders on conditions that are inhuman."[20] Jails are grossly overcrowded and food, sanitation and health care are inadequate. Criminal gangs operating with official connivance terrorize political prisoners. Last June, rampaging prison guards attacked inmates at Dacca Central Jail in a blood incident which the government has yet to explain. According to the *Far Eastern Economic Review*, "When order was finally restored, over 3000 prisoners out of a total of 5000 (though Dacca Central Jail's official capacity is 2900) were found to have fallen victim to violence."[21]

Zia has attempted to legitimize his rule by giving it the facade of democracy. He declared himself President in April 1977 and in May held a "referendum" in which he claims to have won 98 percent of the vote. *The Nation* reports that, "Voters were given the choice of publicly placing a marble in either a black box or a box displaying Zia's face."[22] On December 15, 1977, Zia announced the formation of his own political "front," apparently in preparation for national elections later this year. In any elections held under the present circumstances of martial law, Zia will enjoy the obvious advantage. Major opposition parties, including the J.S.D. and the Democratic League of former President Mushtaque, remain banned and freedom of the press is curtailed.

Zia's strong-arm methods have failed to bring stability to the country. Last October a convulsive mutiny again broke out in the armed forces, in what appears to have been a spontaneous expression of rank-and-file discontent. Zia responded with mass executions, setting yet another ominous precedent for the subcontinent. According to a State Department cable revealed by the *Washington Post*, 217 military personnel were executed in the wake of the mutiny, and "30 to 34" of these may have been executed prior to the formalization of military courts."[23] The London *Sunday Times* reports 600 executions.[24] The mass executions have prompted Amnesty International to declare Bangladesh an urgent action case.

To secure his grasp of power, Zia has increasingly devoted scarce government resources to building up his security forces. (See Table 5.) Expenditures for defense, justice and the police have grown from 20 percent of the revenue budget in Mujib's time to 30 percent today. Fearing unrest in the army, Zia in 1976 militarized the police, creating a 12,500-man special task force to carry out "special drives, mopping-up operations and other activities requiring training and techniques."[25]

TABLE 5.—*Government expenditures on "defense, justice and police" fiscal year 1973–1977*

[In millions of taka]

Fiscal year	Expenditures	Percent of total current expenditures
1973	513	17.6
1974	916	20.7
1975	1,308	23.0
1976	1,476*	24.6*
	2,063**	31.1**
1977	2,274	29.6

*Budget proposal of Mujib government.
**Budget revised by Zia government.

Source: World Bank, Bangladesh: Current Economic Situation and Development Policy Issues, May 19, 1977.

Zia has received military assistance from both Great Britain and the United States. The British government is providing $1.3 million worth of telecommunications equipment to the Bangladesh police, and eight senior British military officers are helping to set up a military staff college north of Dacca. The U.S. is channelling security assistance through the International Military Education and Training Program (IMET). The administration's fiscal year 1979 IMET budget request for Bangladesh of $250,000 (up from $200,000 last year) is intended to bring 27 Bengali officers to the United States to study "management techniques." In the context of Bangladesh's martial law regime and the country's small military elite, such assistance acquires a significance far beyond the modest expenditure involved. By strengthening internal security forces, IMET funds could well contribute to a further deterioration of the human rights situation in Bangladesh.

The U.S. State Department is not unaware of human rights abuses in Bangladesh. In compliance with legislation prohibiting food aid to countries with "gross violations" of human rights unless the food goes to needy people, the State Department recently delayed the signing of a P.L. 480 contract with Bangladesh until the government accepted a clause specifying that the food would go to the needy.[26]

The State Department's 1978 human rights report on Bangladesh, however, minimizes the extent of human rights violations in the country. For example, it estimates the current number of political prisoners as "up to 2,000" and reports prisoner releases, while failing to mention fresh arrests which have led Amnesty International to conclude that "there is no ground to revise" its estimate of 10,000 to 15,000 political prisoners.[27] Similarly, the State Department notes "some physical abuse of ordinary prisoners," neglecting to mention the brutal incident at Dacca Central Jail.

As a mitigating factor to human rights abuses, the State Department cites "encouraging evidence that President Zia is moving to implement economic policies designed to meet the needs of the vast bulk of the rural population—nearly all of whom can be defined as the "poorest of the poor'." But the fact that the Bangladesh government finds it necessary to violate human rights and suppress opposition to maintain itself in power, suggests that the regime's policies are not very popular. A narrowly based government, drawing support from the country's small elite, is not only likely to violate human rights, it is also unlikely to advance the economic rights of the poor. In such a context, human and economic rights are inseparable.

Footnotes at end of article.

ECONOMIC RIGHTS

In Bangladesh where millions of people suffer from lack of food, shelter, clothing, education, clean water and health care, the new emphasis of aid donors on meeting "basic human needs" would seem to be singularly appropriate. But the examples of aid in our village demonstrates the difficulties of translating this concern into concrete action.

We have seen how agricultural development projects, which are supposed to indirectly benefit the landless by generating employment, also have the indirect effect of increasing the numbers of landless by accelerating the concentration of land in a few hands.

Similarly, rural works projects are supposed to help the landless by providing them with jobs. These, however, have not been a priority in Bangladesh; and even if more aid were channelled through such projects, the extent to which the landless would benefit is open to question. As an AID-sponsored study points out:

"Such projects (e.g., the building of a farm to market road) provide income to rural workers for a specified period, but do nothing generally to change the fundamental economic conditions that produced unemployment in the first place. At the same time, such projects tend to provide long-term benefits to landholders who, in this example, use the road to gain access to local markets." [28]

In the same vein, the World Bank warns that the scope of reducing unemployment and poverty through rural works projects "would be offset by the inequitable distribution of secondary benefits of the program." [29] As one experienced aid official told us, "It's hard to see much we can really do for the landless." Lacking the means to earn a livelihood, the landless seem doomed to live and die in absolute poverty.

As for the small farmers, who though somewhat better off are still among the poor, the current strategy of the government and the aid donors is to provide them with agricultural inputs and credit through cooperatives. The favored vehicle for instituting such cooperatives is the Integrated Rural Development Program, which now covers about half of the country's 410 thanas. The World Bank has recently embarked upon an ambitious $16 million rural development project in seven thanas, building upon the IRDP and involving rural works, credit for the purchase of farm inputs, construction of government buildings, and agricultural extension. According to a press release, "One of the most important goals of the project will be to reduce the domination of rural institutions by the more prosperous and politically influential farmers and to make farm credits and agricultural inputs . . . available to 'small farmers' through the cooperative system." [30]

How the Bank will accomplish this laudable goal is far from clear. To quote from the conclusions of the Swedish International Development Authority's evaluation of the IDA tubewell project:

"Cooperatives of different types and with different functions have been introduced to the farming community of the subcontinent again and again. There is a long "tradition" of establishing cooperative societies—a tradition which can be said to have set a record in at least one respect—the number of failures. . . .

The reasons behind this are not difficult to understand, as democratically functioning cooperatives never can work if land holdings continue to be as unevenly distributed as they are today. To try to keep the big landowners outside the cooperatives—if they realize that there is something to be gained from being a member—is nothing but wishful thinking.[31]

The social realities of rural Bangladesh stand in the way of aid to the small farmer as well as to the landless.

Rather than springing from the villagers' own initiative, these cooperatives are introduced to the village from outside. While paying lip service to local initiative ("the rural poor must participate in designing and operating a program which involves so many of them" [32]), the World Bank in practice relies on its own experts to design its projects and on government servants to implement them.

In Bangladesh today, rural development, financed by foreign aid and directed by an elite-controlled government, primarily benefits the rural rich. As World Bank President McNamara noted in his 1973 Nairobi speech, "The politically privileged among the landed elite are rarely enthusiastic over the steps necessary to advance rural development."

Writing in Foreign Affairs, Escott Reid, a former senior World Bank official, has gone further than McNamara in spelling out the implications of this fact:

"The power structure in many rural areas of the low-income countries, notably in India, Pakistan and Bangladesh, is a serious obstacle to the success of any large programs of rural development works. The rural elite will try to get control of any development works program to abort or twist it to serve their own purposes. . . .

"Governments . . . have to work out measures providing reasonable assurance to the Bank Group that the projects will be so organized and monitored that they will help the rural poor. In the long run . . . this means that in many very poor countries the governments will have to help the poorer farmers, the underemployed artisans and the landless laborers to organize themselves against those who hold power in the villages." [33]

This prescription sounds oddly naive. Certainly no one acquainted with the present military regime of Bangladesh could entertain illusions about the government helping to organize the poor against the rich in the villages. One must ask how many third world governments are determined to help the rural poor at the expense of the rural rich, and why it is that the rural elite is singled out for abuse but not the urban elite which controls the government. Though there are certain conflicts of interest between the two elites, both benefits from the present order of society and wish to preserve it. Moreover, in Bangladesh most members of the urban middle and upper classes are first or second generation city dwellers with roots still in the villages. The urban elite which controls the government and the rural elite which controls the villages are not only natural allies, they are also blood relations.

These elites monopolize the resources which flow into Bangladesh as aid. But they do not invest their new wealth in ways that will have maximum benefit for Bangladesh, preferring instead to focus on land and commercial ventures or luxury imports and capital exports. Meanwhile, they block any steps toward the social reconstruction which alone could bring development to the poor majority of their compatriots. Against these realities the humanitarian hopes of aid donors are dashed.

DEVELOPMENT THAT MEETS BASIC NEEDS

Certainly, with fertile land, abundant water and other vast untapped resources, Bangladesh has the potential to afford all its citizens a decent livelihood. The primary obstacles to realizing this potential are social rather than technical. Of paramount importance is the question of control of the country's most basic productive resource: the land.

Because there are so many landless in Bangladesh, simply dividing up the largest holdings among them would give each only

a small piece of land. If a ceiling of 10 acres per family were perfectly implemented and the excess land redistributed among the landless, each family would receive less than 0.4 acre. A more drastic four acre ceiling would yield enough surplus to provide each landless and near landless family with a total of 0.86 acre.[34] But even if such a radical reform were carried out, over time lands would be subdivided among children, and for one reason or another some peasants would end up selling out to others, so that eventually a landless group would reemerge. This suggests that land reform, though necessary, would not alone be sufficient to overcome the roots of poverty in Bangladesh. Access to land is only half of the answer to the needs of the rural poor; the other half of the answer lies in the cooperative use of the land.

Cooperation in agricultural production would enable the peasants of Bangladesh to undertake self-help development projects which would remain impossible as long as agriculture is organized on a fragmented, individual basis. Through labor intensive construction of irrigation facilities, drainage canals and embankments, the peasants could collectively begin to master the forces of nature in the face of which single individuals are powerless. As the people of our village remarked, "One bamboo alone is weak; many bamboos lashed together are unbreakable." The certainty that the peasants themselves would reap the fruits of their labor, rather than the village landlords, would release tremendous popular energy and initiative.

Western experts tend to disparage such an alternative approach to development. The authors of the AID study, for example, dismiss this possibility in a single paragraph.

"The least credible of cooperative institutions in contemporary Bangladesh would seem to be joint farming societies. A committed ideologue—with an eye on allegedly successful communes in the People's Republic of China—might hope to foster joint farming experiments in Bangladesh utilizing in the first phase of such a program previously landless agricultural laborers on government lands. But such experiments would have limited economic or political meaning unless the joint farming exercises were implemented on a national scale and were themselves preceded by radical redistribution of existing rights to land. More significantly, the success of joint farming cooperatives would seem to require a total transformation of people's attitudes toward the land. It is difficult to imagine the people in the countryside (even the landless), committed as they are by tradition to venerate individual rights in land, being amenable to joint farming activities of any kind. Only under circumstances in which the state was able and willing to employ extraordinary coercive power can such joint farming cooperatives be envisaged in Bangladesh. Therefore, for reasons that are practical rather than ideological, joint farming cooperatives do not appear to be a viable option within a general program for rural development."[35]

But are joint farming cooperatives in Bangladesh really such a far-fetched idea? Certainly no one should underestimate the difficulties involved in such a major social transformation, but one must distinguish between difficulties and insurmountable obstacles.

The assertion that the peasants of Bangladesh are committed by tradition to "venerate individual rights in land" is an overstatement. Land ownership in Bangladesh has been far from stable. After 1947, the migration of Hindus to India and the breakup of the zamindari system resulted in the transfer of ownership of three-quarters of the country's land to new hands. It was through such a transfer that the father of Nafis—the recipient of the IDA deep tubewell in our village—acquired his extensive landholdings. The villagers recall this with bitterness; they hardly venerate Nafis' rights to the land.

While we were in the village, we witnessed the constant turnover of land, the buying and selling through which small farmers are being gradually dispossessed. Certainly, land is more than just another commodity to the peasants of Bangladesh, for land ownership can spell the differences between survival and starvation. But this is a question of economic security, not of quasi-religious attitudes.

Furthermore, the notion of cooperation was far from alien to the peasants of our village. Many small landowners worked together in informal mutual aid groups. Five or six peasants would join together during the plowing, transplanting or weeding of the fields or at harvest time, working one day on one man's land, the next day on another's and so on. Mostly this was done by small farmers, but sometimes landless friends would join the group, being paid by whoever owned the land that was worked on a particular day. The villagers explained, "When you work alone, time passes slowly. Working in a group, we talk and sing and the work gets done much faster."

A transition to joint farming in Bangladesh would necessarily pass through stages, perhaps building at first upon the existing tradition of mutual aid groups. It would have to rely on the peasants' own initiative—it could never be *imposed upon* them. Once convinced that change was possible, the landless and small farmers could be expected to actively support land redistribution and the growth of agricultural cooperation, for these would bring them improved living standards as well as greater control over their lives and labor.

Rich landowers would probably be less than enthusiastic about such changes, and force might be necessary to break their resistance. Coercion and the violence of state repression, as well as the more subtle violence of starvation, are today routine in Bangladesh. What would be "extraordinary" about and coercion involved in a social reconstruction would not be its scale but rather the fact that it would be employed against the wealthy minority, instead of against the poor majority.

To suggest that the road to development in Bangladesh lies in this direction is not to say that the "Chinese model" can or should be exactly duplicated in the country. The people of each country must chart their own path of development. What the Chinese have shown is that change is not impossible and that starvation is not inevitable. Development is a great challenge, one which can only be met through the mobilization of the talents and energies of the poor themselves.

There is no natural barrier to the satisfaction of the basic human needs of Bangladesh's people. But there is the man-made barrier of a social system which benefits the few at the expense of the many. Governments of, by and for Bangladesh's wealthy elite are clearly unsuited to the task of leading the social reconstruction which alone could bring development to the country's poor. Aid which shores up such governments, even if given in the name of the needy, only postpones an attack on the roots of poverty in Bangladesh.

POLICY IMPLICATIONS

U.S. foreign aid springs from a combination of impulses, some humanitarian, others involving the promotion of trade or the wielding of political influence. Speaking before the World Bank's Board of Governors in 1973, McNamara stated that in his view, "The fundamental case for development assistance is the moral one," but the previous year he alluded to other motives:

"When the highly privileged are few and the desperately poor are many—and when the gap between them is worsening rather than improving—it is only a matter of time before a decisive choice must be made between the political costs of reform and the politicial risks of rebellion . . . Social justice is not merely a moral imperative. It is a political imperative as well."

While McNamara sees a happy coincidence between his moral and political objectives, in practice humanitarian goals may conflict with the dictates of economic and political interests. Sometimes political interests block humanitarian assistance. In Laos a severe drought has raised the specter of famine, but the same cold war mentality which justified our massive bombing of that country now blocks the possibility of U.S. food aid.[36] In other cases, as in Bangladesh, aid of questionable humanitarian value may be supported by those whose overriding concern is short-term political "stability" and by those with an economic interest in the multimillion dollar aid program.

As McNamara argues, in the long run economic development may be the key to political stability. But it does not follow that in the short run political stability is the key to economic development. This is especially true if what is stabilized is the political power of a narrow elite which puts its own interests above those of the country's poor majority. Indeed, the entrenched power of such an elite may itself be a fundamental obstacle to meaningful development.

Unfortunately, aid donors usually gloss over these complexities. For example, in introducing its $205 million budget request for Bangladesh for fiscal year 1978, AID states:

"The U.S. political interests in Bangladesh are limited and reflect a concern for the impact that instability in Bangladesh could have on the subcontinent as a whole. The primary U.S. objective in Bangladesh is developmental and humanitarian."[37]

The extent to which developmental and humanitarian objectives conflict with the interests of the present regime's elite constituency is ignored. As justification for its fiscal year 1978 request for $200,000 for training Bangladesh military officers under the IMET program, the State Department remarks, "We will help to improve an institution which contributes to stability in Bangladesh and in the region."[38] But the stability to be purchased by propping up a narrowly-based military regime in Bangladesh is likely to prove illusory.

The conflict between humanitarian motives and political expediency is not limited to bilateral forms of aid. Some have argued that multilateral institutions such as the World Bank, which are supposedly "above politics," would be a better channel for U.S. development assistance. Under its Articles of Agreement, the Bank is indeed required to base its lending decisions solely on economic criteria and not on political considerations. But the political nature of the World Bank's aid was graphically demonstrated when it cut off all aid to Chile during the three years of Allende's government, only to resume it once the military junta seized power.

The underlying assumption of aid donors' "basic human needs" strategy is that aid can be reformed to live up to its humanitarian and developmental goals, even in countries like Bangladesh. Our experience in Bangladesh suggests that while aid can perhaps be improved, it can never solve the problems of the poor because it fails to address their social roots. To what extent can aid to Bangladesh be redesigned to better help the poor? Appropriate technology, for example, offers scope for limited improvement. Cheap,

Footnotes at end of article.

manually operated tubewells, designed to irrigate only an acre or two, would be more likely to benefit the poor than the sophisticated, expensive tubewells of the current IDA projects. If these small tubewells were plentiful enough—that is, if the countryside were flooded with hundreds of thousands of them—the large farmers would not be able to monopolize their use. Besides being more accessible to small farmers, the operation of such tubewells would be labor-intensive, bringing substantial employment benefits to the landless. But the potential for helping the poor through such technical changes is limited by the social realities of Bangladesh. Production gains from irrigation would still be distributed in proportion to land owned, so that the rural rich would still tend to benefit more than the poor.

A more promising direction for project aid might lie in the development of services for the poor: health care, education, family planning, and the provision of clean drinking water. But as our village's encounter with the government family planning service indicates, one can not assume that such aid will automatically benefit the poor. Clearly, the training of personnel drawn from the villages and a reversal of the present urban orientation of public services are prerequisites for bringing the benefits of such aid to the poor. Successes are possible, as demonstrated by the World Health Organization's tremendous achievement in eradicating smallpox in Bangladesh.

Food aid would obviously be of more benefit to the poor if they received it instead of the rich, but the political nature of food aid in Bangladesh makes such a change unlikely. Proponents of continued food aid to Bangladesh argue that even though the vast majority of it goes to feed the middle and upper classes, still the poor would be worse off without it. Without food aid to supply the ration system, the rich would have to buy their rice on the market. If domestic foodgrain falls short of the country's requirements, market prices would then soar beyond the reach of the poor. So the rich of Bangladesh are in a sense in a position to blackmail the donors: if you cut off our food aid, we won't be the ones to starve.

But as we have noted, the extent to which there is a shortfall between the country's production and its consumption needs is not clear. Moreover, even when food is plentiful and prices low, poor people starve; their problem is access, not supply. Dependents on food aid in fact undermines any impulse towards self-sufficiency. In the words of a Senate study:

"Simple relief aid may solve some guilty consciences, but it will do little to avoid greater catastrophes in the future. It may even have the consequence of allowing the government to defer necessary but difficult policies in the expectation that outside assistance will always be forthcoming."[39]

For this reason the Senate study recommends the phasing out of food aid to Bangladesh over a five-year period, following the advice of experts who believed that a commitment to terminate food aid "was the only way to force the government to take the necessary actions for eventual self-sufficiency."[40] This of course raises the question of why it should be necessary to "force" a government to act in the interests of its own people.

While the reform of aid along these lines would undoubtedly represent an improvement over the present situation, in the end no amount of aid can substitute for the major social changes which alone could mobilize the energies of the poor themselves. Too often aid donors view development as simply a matter of providing the right resources to the right people at the right time. Such an approach is conveniently suited to technocratic management from offices in capital cities around the world. This narrow view underlies many aid programs which in the name of helping the poor actually make their situation worse.

In judging whether a given aid program will help the poor, one must carefully weigh the potential benefits against the negative effects. In particular, aid which has the effect, whether intentional or not, of shoring up the large landowners in the villages or of propping up a repressive, elite-based government is inconsistent with attempts to help the poor. Programs which look good on paper often look very different in the field, and there is a clear need for closer evaluation of the actual effects of aid throughout the world. The American people have the right to know who benefits from the programs they are financing, and Congress has not only the right but the responsibility to review the use of the money it appropriates for both bilateral and multilateral aid-giving institutions. The Swedish evaluation of the deep tubewell project may save the Swedish taxpayer from financing such mistakes again in the future.

Existing legislation provides grounds for a cut-off of aid to Bangladesh which does not directly benefit the poor. Section 502B of the Foreign Assistance Act specifies that "no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights," and Section 116 places the same restriction on economic aid, "unless such assistance will directly benefit the needy people."

Bangladesh's martial law regime not only violates the human rights of its citizens in order to retain power; it also uses foreign aid to strengthen its elite constituency, while blocking social reconstruction which could bring genuine development to the poor. While foreign aid cannot be expected to solve Bangladesh's problems, at least it should not exacerbate them.

FOOTNOTES

[1] Bangladesh Aid Group members as of June 30, 1977: Australia, Belgium, Canada, Denmark, Finland, France, West Germany, Iran, Japan, Netherlands, New Zealand, Norway, Sweden, United Kingdom, United States, Asian Development Bank, European Economic Community, International Monetary Fund, Islamic Development Bank, United Nations Development Program, and World Bank. Observers: Italy, Switzerland, OECD.

[2] McNamara, "Address to the Board of Governors," Nairobi, Kenya, 1973.

[3] *Ibid.*

[4] Figures on distribution through the ration system are based on information in Bangladesh: Food Policy Review, World Bank, December 1977.

[5] Section 2(3) of the Agriculture Trade Development and Assistance Act.

[6] Donald McHenry and Kai Bird, "Food Bungle in Bangladesh," Foreign Policy, Summer 1977.

[7] *Ibid.*

[8] F. Thomasson Januzzi and James T. Peach, "Report on the Hierarchy of Interests in Land in Bangladesh," AID, September 1977.

[9] IDA Press Release No. 70/38, July 1, 1970.

[10] A *thana* is the administrative unit above the union; there are approximately 410 of them in Bangladesh.

[11] Per-Arne Stroberg, "Water and Development: Organizational Aspects on a Tubewell Irrigation Project in Bangladesh," Dacca, March 1977.

[12] *Ibid.*

[13] "Letter from London," *Far Eastern Economic Review*, February 7, 1975.

[14] "Report and Recommendation of the President of the International Development Association to the Executive Directors on a Proposed Credit to the People's Republic of Bangladesh for a Shallow Tubewells Project," June 3, 1977.

[15] *Ibid.*

[16] IDA News Release No. 77/68, June 20, 1977.

[17] "World Hunger, Health and Refugee Problems: Summary of Special Study Mission to Asia and the Middle East," report prepared for the Subcommittee on Labor and Public Welfare and the Subcommittee on Refugees and Escapees, Senate Committee on the Judiciary, January 1976.

[18] World Bank, *Bangladesh: Development in a Rural Economy*, Vol. 1, 1974.

[19] Zafrullah Chowdhury, "Research: a Method of Colonization," *Bangladesh Times*, January 13, 1977.

[20] Amnesty International, *Report of an Amnesty International Mission to Bangladesh* (4-12 April 1977), February, 1978.

[21] Daud Majlis, "Reforms and Injustice in the Jails," *Far Eastern Economic Review*, August 26, 1977.

[22] Kai Bird, "Mutiny in Bangladesh," *The Nation*, December 17, 1977.

[23] Lewis Simons, "Bangladesh Executions: A Discrepancy," *The Washington Post*, February 10, 1978.

[24] "600 Feared Executed in Bangladesh Bloodbath," *Sunday Times*, London, March 5, 1978.

[25] Michael Chinoy, "Dacca's Strongman Consolidates," *Far East Economic Review*, January 16, 1976.

[26] Dan Morgan, "U.S. Holds Back Food Aid in Rights Review," *The Washington Post*, November 22, 1977.

[27] Amnesty International, *op. cit.*

[28] Jannuzi and Peach, *op. cit.*

[29] World Bank, *Rural Development: Sector Policy Paper*, February 1975.

[30] IDA News Release No. 76/22, May 24, 1976.

[31] Stroberg, *op. cit.*

[32] World Bank, *Rural Development: Sector Paper*, February 1975.

[33] Escott Reid (Director of Operations for South Asia and the Middle East, 1962–1965), "McNamara's World Bank," *Foreign Affairs*, July 1973.

[34] Figures based on data in Jannuzi and Peach, *op. cit.*

[35] *Ibid.*

[36] See: Peter Kovler, "Lao's Need: U.S. Rice," *New York Times*, March 14, 1978.

[37] AID: FY 1978 Submission to the Congress: Asia Programs, February 1977.

[38] State Department, Congressional Presentation, FY 1978, Security Assistance Program, Volume I.

[39] "World Hunger, Health and Refugee Problems: Summary of Special Study Mission to Asia and the Middle East," *op. cit.*

[40] *Ibid.*

Is Bangladesh an "International Basketcase?"

In December 1971 at a meeting of the National Security Council, Under Secretary of State U. Alexis Johnson remarked that the new nation of Bangladesh was likely to become an "international basketcase," to which Henry Kissinger replied that it would not necessarily be "our basketcase." When columnist Jack Anderson revealed the minutes of this meeting a month later, the phrase "international basketcase" became an integral part of Bangladesh's reputation. Since that time, reports in the news media have done little to change this image. Photographs of starving Bengali children illustrate articles on hunger in the third world, and accounts of famine, flood and disaster have given the country an aura of hopelessness. But poverty is not the only reality of Bangladesh. In fact, it is a lush, green, fertile land with vast resources waiting to be tapped.

Bangladesh lies in the delta of three great rivers, the Ganges, the Brahmaputra and the Meghna, which flow through it to empty into the Bay of Bengal. The rich alluvial soil

deposited by the rivers and their countless tributaries gives Bangladesh land which is among the most fertile in the world. According to a 1973 report of the U.N. Food and Agriculture Organization (quoted in Food First: Beyond the Myth of Scarcity), the rivers provide inland fishery resources which are "possibly the richest in the world."

Abundant rainfall and warm temperatures make the climate of Bangladesh ideal for agriculture. A special Senate report notes, "The country is rich enough in fertile land, water, manpower and natural gas for fertilizer, not only to be self-sufficient in food, but a food exporter, even with its rapidly increasing population size."

Current agricultural output is far below potential. Bangladesh's present rice yield is only 1.2 metric tons per hectare, compared with 2.5 tons in Sri Lanka and 2.7 tons in Malaysia, which have similar climates, and four tons per hectare in Taiwan where labor input is greater. Bangladesh has no shortage of labor power, and it has more than twice as much cultivated land per person as Taiwan. Irrigation would allow tremendous production increases in the dry winter season, but despite vast surface and ground water resources, only 12 percent of Bangladesh's cultivated land is presently irrigated. Bangladesh's extensive deposits of natural gas could make the country self-sufficient in fertilizer in a matter of years.

Bangladesh has another great resource: the labor of its people. Now chronically underemployed, the rural poor represent a huge, untapped workforce for labor-intensive agricultural and industrial projects. Mobilized for development, Bangladesh's large population could be transformed from a drain on the economy to a powerfu asset.

Bangladesh is far from being a hopeless basketcase. The country's poverty is due not to a lack of resources but rather to the uneven distribution and inadequate utilization of those resources. One does not have to be an optimist to believe that in the future Bangladesh could once again be a land of plenty.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. LONG) to close the debate.

Mr. LONG of Maryland. Mr. Chairman, the gentleman from Illinois (Mr. SIMON) raised a very important point. My observation has been and I may be wrong, that people do not mind being poor if everybody around them is poor, but our foreign aid program and especially the IFI's have made millionaires all over this world and probably have done more to create a glaring contrast between the misery of the average person and the tremendous wealth of the few people around them. If that has not exacerbated the movement toward communism, I do not know what has.

Let me point out if we put in the Obey amendment, that the gentleman from Ohio (Mr. MILLER) has stated to me, and has said just now, that he will offer his 8-percent, across-the-board cut. We all want to get through here today. For heaven's sake, let us get rid of the Obey amendment, and then we can vote up or down the Long amendment. But if we vote it down or if we vote for the Obey amendment, then we will still have to deal with the Miller amendment, and we will have a long evening ahead of us.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Wisconsin (Mr. OBEY) to the amendments offered by the gentleman from Maryland (Mr. LONG).

The question was taken; and on a division (demanded by Mr. LONG of Maryland) there were—ayes 35, noes 34.

RECORDED VOTE

Mr. LONG of Maryland. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 241, noes 153, not voting 38, as follows:

[Roll No. 692]

AYES—241

Addabbo	Ford, Tenn.	Nowak
Akaka	Forsythe	Oakar
Alexander	Fowler	Obey
Ambro	Frenzel	O'Brien
Anderson, Ill.	Garcia	Ottinger
Andrews, N.C.	Gephardt	Panetta
Annunzio	Giaimo	Patten
Armstrong	Gibbons	Pattison
Ashley	Gilman	Pease
Aspin	Glickman	Pepper
AuCoin	Gonzalez	Pettis
Badham	Gore	Pickle
Baldus	Gradison	Pressler
Baucus	Green	Preyer
Beard, R.I.	Guyer	Price
Bedell	Hamilton	Pritchard
Beilenson	Hannaford	Pursell
Benjamin	Harkin	Quayle
Biaggi	Harris	Quillen
Bingham	Hawkins	Rahall
Blanchard	Heckler	Railsback
Boggs	Heftel	Rangel
Boland	Hillis	Regula
Bolling	Holtzman	Reuss
Bonior	Horton	Rhodes
Bonker	Howard	Richmond
Brademas	Hubbard	Rinaldo
Breckinridge	Hyde	Roe
Brodhead	Jacobs	Rooney
Brooks	Johnson, Calif.	Rose
Broomfield	Johnson, Colo.	Rosenthal
Brown, Calif.	Jones, Tenn.	Rostenkowski
Brown, Mich.	Jordan	Ryan
Buchanan	Kastenmeier	Sarasin
Burke, Calif.	Kazen	Scheuer
Burton, John	Kemp	Schroeder
Burton, Phillip	Keys	Seiberling
Carr	Kildee	Sharp
Carter	Kostmayer	Simon
Cavanaugh	Krebs	Skelton
Cederberg	LaFalce	Skubitz
Chisholm	Leach	Smith, Iowa
Collins, Ill.	Leggett	Smith, Nebr.
Conable	Lehman	Solarz
Conte	Lent	St Germain
Conyers	Levitas	Staggers
Corman	Long, La.	Stanton
Cornell	Luken	Stark
Coughlin	Lundine	Steed
D'Amours	McClory	Steers
Danielson	McCloskey	Steiger
de la Garza	McCormack	Stockman
Delaney	McDade	Stokes
Dellums	McFall	Studds
Derwinski	McHugh	Thompson
Dicks	McKinney	Thone
Diggs	Madigan	Thornton
Dodd	Maguire	Traxler
Downey	Mann	Tucker
Drinan	Markey	Udall
Duncan, Oreg.	Marks	Ullman
Eckhardt	Marriott	Van Deerlin
Edgar	Mazzoli	Vanik
Edwards, Calif.	Meeds	Vento
Eilberg	Meyner	Volkmer
Emery	Michel	Walgren
Erlenborn	Mikva	Walsh
Ertel	Mineta	Weiss
Evans, Colo.	Minish	Whalen
Evans, Del.	Mitchell, Md.	Wiggins
Evans, Ind.	Mitchell, N.Y.	Wilson, Bob
Fary	Moakley	Wilson, Tex.
Fascell	Moffett	Winn
Fenwick	Moorhead, Pa.	Wirth
Findley	Moss	Wright
Fish	Mottl	Wylie
Fisher	Murphy, Ill.	Yates
Fithian	Myers, Gary	Yatron
Flood	Neal	Zablocki
Foley	Nedzi	
Ford, Mich.	Nolan	

NOES—153

Abdnor	Flippo	Moorhead, Calif.
Ammerman	Florio	Murphy, Pa.
Anderson, Calif.	Flynt	Murtha
Andrews, N. Dak.	Fountain	Myers, John
Applegate	Frey	Myers, Michael
Archer	Fuqua	Natcher
Ashbrook	Gammage	Nichols
Bafalis	Gaydos	Nix
Barnard	Ginn	Oberstar
Bauman	Goldwater	Perkins
Beard, Tenn.	Grassley	Pike
Bennett	Gudger	Poage
Bevill	Hagedorn	Roberts
Bowen	Hall	Robinson
Brinkley	Hammer-schmidt	Rogers
Brown, Ohio	Hansen	Rousselot
Broyhill	Harsha	Roybal
Burgener	Hefner	Rudd
Burke, Fla.	Hightower	Runnels
Burke, Mass.	Holland	Santini
Burleson, Tex.	Hollenbeck	Satterfield
Burlison, Mo.	Holt	Sawyer
Butler	Huckaby	Schulze
Byron	Hughes	Sebelius
Carney	Ichord	Slack
Chappell	Ireland	Snyder
Clausen, Don H.	Jeffords	Spellman
Clawson, Del	Jenkins	Spence
Cleveland	Jenrette	Stangeland
Coleman	Jones, N.C.	Stratton
Collins, Tex.	Jones, Okla.	Stump
Corcoran	Kelly	Taylor
Cornwell	Kindness	Treen
Cotter	Lagomarsino	Trible
Crane	Latta	Vander Jagt
Cunningham	Lederer	Waggonner
Daniel, Dan	Livingston	Walker
Daniel, R. W.	Lloyd, Calif.	Wampler
Davis	Long, Md.	Watkins
Dent	Lott	Waxman
Derrick	McEwen	Weaver
Devine	McKay	White
Dickinson	Mahon	Whitehurst
Dornan	Marlenee	Whitley
Duncan, Tenn.	Martin	Whitten
Early	Mathis	Wilson, C. H.
Edwards, Ala.	Mattox	Wolff
Edwards, Okla.	Mikulski	Wydler
English	Miller, Ohio	Young, Fla.
Evans, Ga.	Mollohan	Young, Mo.
	Montgomery	Zeferetti
	Moore	

NOT VOTING—38

Blouin	Krueger	Roncalio
Breaux	Le Fante	Ruppe
Caputo	Lloyd, Tenn.	Russo
Clay	Lujan	Shipley
Cochran	McDonald	Shuster
Cohen	Metcalfe	Sikes
Dingell	Milford	Sisk
Flowers	Miller, Calif.	Symms
Fraser	Murphy, N.Y.	Teague
Goodling	Patterson	Tsongas
Hanley	Quie	Young, Alaska
Harrington	Risenhoover	Young, Tex.
Kasten	Rodino	

The Clerk announced the following pairs:

On this vote:

Mr. Hanley for, with Mr. McDonald against.
Mr. Dingell for, with Mr. Teague against.
Mr. Tsongas for, with Mr. Krueger against.
Mr. Le Fante for, with Mr. Breaux against.
Ms Lloyd of Tennessee for, with Mr. Sikes against.

Mrs. SMITH of Nebraska changed her vote from "no" to "aye."

Mr. ROBERTS and Mr. HAGEDORN changed their vote from "aye" to "no."

So the amendments to the amendments were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Maryland (Mr. LONG), as amended.

RECORDED VOTE

Mr. LONG of Maryland. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 359, noes 27, not voting 46, as follows:

[Roll No. 693]

AYES—359

Abdnor	Downey	LaFalce
Addabbo	Drinan	Lagomarsino
Akaka	Duncan, Oreg.	Latta
Alexander	Duncan, Tenn.	Leach
Ambro	Eckhardt	Lederer
Ammerman	Edgar	Leggett
Anderson, Calif.	Edwards, Ala.	Lehman
Anderson, Ill.	Edwards, Calif.	Lent
Andrews, N. Dak.	Edwards, Okla.	Levitas
Annunzio	Eilberg	Livingston
Applegate	Emery	Lloyd, Calif.
Archer	English	Long, La.
Armstrong	Erlenborn	Long, Md.
Ashbrook	Ertel	Lott
Aspin	Evans, Colo.	Luken
AuCoin	Evans, Del.	Lundine
Badham	Evans, Ga.	McClory
Bafalis	Evans, Ind.	McCloskey
Baldus	Fary	McDade
Barnard	Fascell	McEwen
Baucus	Fenwick	McFall
Bauman	Findley	McKay
Beard, R.I.	Fisher	Maguire
Beard, Tenn.	Fithian	Mahon
Benjamin	Flippo	Mann
Bennett	Flood	Markey
Bevill	Florio	Marks
Biaggi	Flynt	Marlenee
Blanchard	Foley	Marriott
Boggs	Ford, Mich.	Martin
Boland	Ford, Tenn.	Mathis
Bolling	Fountain	Mattox
Bonker	Fowler	Mazzoli
Bowen	Frenzel	Meyner
Brademas	Frey	Michel
Breckinridge	Fuqua	Mikulski
Brinkley	Gammage	Mikva
Brodhead	Gaydos	Miller, Ohio
Brooks	Gephardt	Mineta
Broomfield	Giaimo	Minish
Brown, Calif.	Gibbons	Mitchell, Md.
Brown, Mich.	Gilman	Mitchell, N.Y.
Brown, Ohio	Ginn	Moakley
Broyhill	Glickman	Moffett
Buchanan	Goldwater	Mollohan
Burgener	Gonzalez	Montgomery
Burke, Calif.	Gore	Moore
Burke, Fla.	Gradison	Moorhead, Calif.
Burke, Mass.	Grassley	Moorhead, Pa.
Burleson, Tex.	Gudger	Moss
Burlison, Mo.	Guyer	Mottl
Burton, John	Hagedorn	Murphy, Ill.
Burton, Phillip	Hall	Murphy, Pa.
Butler	Hamilton	Murtha
Byron	Hammer-schmidt	Myers, John
Carney	Hannaford	Myers, Michael
Carr	Hansen	Natcher
Carter	Harkin	Neal
Cavanaugh	Harris	Nedzi
Cederberg	Harsha	Nichols
Chappell	Hawkins	Nix
Chisholm	Heckler	Nolan
Clausen, Don H.	Hefner	Nowak
Clawson, Del	Heftel	O'Brien
Cleveland	Hightower	Obey
Coleman	Hillis	Ottinger
Collins, Ill.	Holland	Panetta
Collins, Tex.	Hollenbeck	Patten
Conable	Holt	Pattison
Corcoran	Horton	Pease
Corman	Howard	Pepper
Cornell	Hubbard	Perkins
Cornwell	Huckaby	Pettis
Cotter	Hughes	Pickle
Coughlin	Hyde	Pike
Crane	Ichord	Poage
Cunningham	Ireland	Pressler
D'Amours	Jacobs	Preyer
Daniel, Dan	Jeffords	Price
Daniel, R. W.	Jenkins	Pritchard
Danielson	Johnson, Calif.	Pursell
Davis	Johnson, Colo.	Quayle
de la Garza	Jones, N.C.	Quillen
Delaney	Jones, Okla.	Rahall
Dent	Jones, Tenn.	Railsback
Derrick	Jordan	Regula
Derwinski	Kazen	Reuss
Devine	Kelly	Rhodes
Dickinson	Kemp	Richmond
Dicks	Keys	Rinaldo
Dodd	Kildee	Robinson
Dornan	Kindness	Roe
	Krebs	Rogers
		Rooney
Rose	Stangeland	Wampler
Rosenthal	Stanton	Watkins
Rostenkowski	Stark	Waxman
Rousselot	Steed	Weaver
Roybal	Steiger	Whalen
Rudd	Stockman	White
Runnels	Stratton	Whitehurst
Ryan	Stump	Whitley
Santini	Taylor	Whitten
Sarasin	Thompson	Wiggins
Satterfield	Thone	Wilson, Bob
Sawyer	Thornton	Wilson, C. H.
Scheuer	Traxler	Wilson, Tex.
Schroeder	Treen	Winn
Schulze	Trible	Wirth
Sebelius	Tucker	Wolff
Seiberling	Udall	Wright
Sharp	Ullman	Wydler
Skelton	Van Deerlin	Wylie
Skubitz	Vander Jagt	Yates
Slack	Vanik	Yatron
Smith, Iowa	Vento	Young, Fla.
Smith, Nebr.	Volkmer	Young, Mo.
Snyder	Waggonner	Zablocki
Spellman	Walgren	Zeferetti
Spence	Walker	
Staggers	Walsh	

NOES—27

Bedell	Garcia	Oberstar
Bellenson	Green	Rangel
Bingham	Holtzman	Roberts
Bonior	Kastenmeier	Simon
Conte	Kostmayer	Solarz
Conyers	McHugh	Steers
Dellums	McKinney	Stokes
Early	Meeds	Studds
Forsythe	Myers, Gary	Weiss

NOT VOTING—46

Andrews, N.C.	Kasten	Rodino
Ashley	Krueger	Roncalio
Blouin	Le Fante	Ruppe
Breaux	Lloyd, Tenn.	Russo
Caputo	Lujan	Shipley
Clay	McCormack	Shuster
Cochran	McDonald	Sikes
Cohen	Madigan	Sisk
Diggs	Metcalfe	St Germain
Dingell	Milford	Symms
Fish	Miller, Calif.	Teague
Flowers	Murphy, N.Y.	Tsongas
Fraser	Oakar	Young, Alaska
Goodling	Patterson	Young, Tex.
Hanley	Quie	
Harrington	Risenhoover	

So the amendments, as amended, were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, $300,000,000 for the United States share of the increase in subscriptions to the (1) paid-in capital stock, and (2) callable capital stock, as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

AMENDMENT OFFERED BY MR. MATHIS

Mr. MATHIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATHIS: Page 17, lines 8 and 9, strike ", to remain available until expended".

Mr. MATHIS. Mr. Chairman, the amendment I am offering at this point would make the appropriation for the World Bank effective only for fiscal year 1979. At the present time the United States is the only major contributor to the Bank which appropriates unpaid capital to the Bank prior to any call on that capital.

Congress has granted authority to the Secretary of the Treasury to pay over to the Bank the full amount of our contribution, almost $8 billion since 1945, if there is a call on the capital for that amount or for less. The other large contributors to the Bank, such as the United Kingdom, Germany, Belgium, and the Netherlands, require an act of their legislatures at the time the call is made, on a case-by-case basis. Only the United States makes this blanket commitment years in advance of any call on capital. In fact, there has never been such a call, but we have had our funds obligated for many years.

Under the amendment I am offering, the Secretary of the Treasury would retain this authority, but only on a year-by-year basis, as is done by the United Kingdom and other countries. This would give us in Congress a chance to review how these funds were being used before reappropriating the funds for fiscal year 1980 and beyond.

Mr. Chairman, it might be said this is a form of sunset amendment. It maintains the obligation of the United States to the Bank. If there is a call on capital, which the supporters of the bill would agree is unlikely, the U.S. Government will remain the only major contributor that meets the call without obtaining permission from its legislature at the time the call is made.

The bill as written will unnecessarily tie up these funds for years. We can maintain our commitment to the Bank just as well on a yearly basis, and I would urge adoption of this very simple sunset amendment.

Mr. OBEY. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Georgia is correct. It is a very simple amendment. It is a very simple amendment and very simply what it does is eliminate our ability to participate in the Bank just as a number of other amendments have done today.

The purpose of the callable capital is simply to be there as a reserve against which the banks can borrow funds. That callable capital is in this bill because the Congress has said to the Executive: "Hey, fellows, do not hide the fact that this money is out there as an eventual obligation. Put it in the bill so the Congress knows about it."

They have compiled with the request. If we take out the language which is stricken by the amendment offered by the gentleman from Georgia, we do not have any callable capital against which the banks can borrow, and that means they are out of business and they cannot accept, again because this is another of the limitations, they cannot accept the funding and our participation is therefore ended.

I would also point out this is very similar to a problem we have with a lot of other agencies. There are a lot of agencies around to whom we appropriate funds but they are not immediately expended. For instance, the Defense Department right now has over $40 billion which is committed but not disbursed. This is the normal practice of doing business in the Government for long-term contract items.

I repeat again it would eliminate our ability to participate in the banks. Much as it would be convenient for the committee to accept it, we simply cannot if we want to be a participating partner in the arrangement.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, if there were to be a call on capital, how would the United Kingdom and how would Australia and the other nations respond? Why should we entitle them to respond in a different way than we do?

I think the gentleman is simply wrong when he says the World Bank cannot accept our contribution. This is in no way a restriction. All I am saying is we ought to be treated just exactly like every other major member of the World Bank. What is wrong with that?

What I am simply saying is that it is the Congress that requested that the callable capital be included in the bill. Since we have requested that we have to be consistent with all our requests, and if you take out the language the gentleman is talking about, you do have, in fact, a limitation on funding and they cannot accept the money.

Mr. MATHIS. I am asking the Congress to look at it so as to change that and say, "Look, we want to look at it on an annual basis."

Mr. OBEY. The fact is, under those conditions, the Treasury could not make the subscription because there would, in fact, be no real money available against which they could call.

Mr. MATHIS. Does the gentleman think a call on this capital is about to come?

Mr. OBEY. Of course, I do not. A call on this capital has never been made. That is why the amendment is not needed.

Mr. MATHIS. If a call is not going to come, it simply means that my amendment is harmless.

Mr. OBEY. I have stated the reasons why the gentleman's amendment is not harmless.

I yield back the balance of my time.

Mr. CONTE. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment offered by the gentleman from Georgia (Mr. MATHIS).

Mr. Chairman, I rise in opposition to the amendment of the gentleman from Georgia which deletes the phrase "to remain available until expended" from the appropriation of $300 million for additional U.S. subscriptions to paid-in and callable capital stock in the World Bank. This amendment would require that no portion of the $300 million be turned over to the World Bank after September 30, 1979.

If this amendment is adopted, it would open up a legal can of worms, the issue being whether it is possible for the United States to subscribe to the capital funding for the World Bank with appropriations from this bill.

The Treasury Department thinks not. Ninety percent of our subscription to the World Bank is in the form of callable capital which, as has been stated many times, will only be called up if there is a simultaneous cessation of all repayments by many major borrowers. This has never happened and should never happen unless the world slides into a gigantic depression.

The problem with callable capital is that under the charter, the United States, like all other members, must be ready to make payment on a call at some indefinite future time should the need arise. The definite time limit placed on the sum of money which would be available as a result of this amendment makes such a potential payment impossible. Therefore, it constitutes a restriction on the charter, which the Banks claim, makes acceptance of funds impossible.

Why we are dealing with this issue is beyond me. The possibility of a call on capital is so slight and the circumstances in which such a call would arise so grave as to render this amendment a mere excuse for a debating exercise. If the economic situation worsens to the extent where a capital call is needed, this language will have little meaning. Let us get on to the more serious amendments and avoid unnecessary legal entanglements that adoption of this amendment would raise. For these reasons, I urge its defeat.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, I thank the gentleman for yielding. We could have voted 5 minutes ago.

Mr. CONTE. What did the gentleman say?

Mr. MATHIS. I said to the gentleman we could have voted 5 minutes ago.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Georgia (Mr. MATHIS).

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. MATHIS).

The amendment was rejected.

The CHAIRMAN. Are there any further amendments?

If not, the Clerk will read.

The Clerk read as follows:

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $39,000,000, for the United States share of the increase in subscriptions to capital stock, as authorized by the Act of October 3, 1977 (Public Law 95-118), to remain available until expended.

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent, Mr. BUCHANAN was allowed to speak out of order.)

BAPTISTS IN PSYCHIATRIC CONFINEMENT IN THE SOVIET UNION

Mr. BUCHANAN. Mr. Chairman, tomorrow in a small town east of Moscow, another courageous Soviet dissident will stand "trial" on charges of slandering the Soviet State. Tomorrow the world will once again be treated to the spectacle of one of the superpowers so timid in the face of the unfettered truth that Aleksandr Podrabinek must stand trial for telling it.

Podrabinek is a remarkable 25-year-old who has taken it upon himself to document Soviet abuse of psychiatry. Last year he smuggled out of the USSR a manuscript, "Punitive Medicine," which tells of 200 prisoners in Soviet psychiatric "hospitals." In the past year, Podrabinek has been active in the Working Commission on the Abuse of Psychiatry for Political Purposes and has helped obtain the release of psychiatric prisoners such as Vladimir Borisov and Yuri Belov.

I want to bring to the attention of my colleagues the case of a Soviet Baptist who has recently been declared "paranoid schizophrenic" after the authorities found religious manuscripts in his apartment. Aleksandr Yankovich, born in 1923, is a Russian Baptist who has lived most of his life in the village of Mostovsky, in the Krasnodar region of the Russian Republic. After a search of his place of residence revealed manuscripts, tapes and, 450 rubles, Yankovich was arrested and charged under article 190.1 of the Russian Criminal Code—the same article under which Podrabinek is being accused. After a psychiatric commission held him not responsible for his actions, Aleksandr Yankovich was sent to the Chernyakhovsk Special Psychiatric Hospital where he is being punished for his religious beliefs.

It is with thanks to Aleksandr Podrabinek that we know something of the fate of Soviet Baptists such as Aleksandr Yankovich. Information about Yankovich was made public in one of the bulletins of the Working Commission. Unfortunately, there are many other devoutly religious Soviet citizens who are incarcerated in Soviet labor camps and psychiatric hospitals. It is up to us to weigh how such evidence of Soviet inhumanity to its own citizens should affect our own relations with the U.S.S.R.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $43,000,000 for the United States contribution to the fourth replenishment as authorized by the Act of August 14, 1974 (Public Law 93-373), to remain available un-

til expended and $800,000,000, for the second installment of the United States contribution to the fifth replenishment as authorized by the Act of October 3, 1977 (Public Law 95-118), to remain available until expended: *Provided*, That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Florida: On page 18, line 22, strike the period, and insert the following: ": *Provided further*, That none of the funds appropriated or otherwise made available by this paragraph shall be obligated or expended to finance any assistance or reparations to the Socialist Republic of Vietnam."

Mr. LONG of Maryland. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Maryland reserves a point of order on the amendment.

Mr. YOUNG of Florida. Mr. Chairman, last week the World Bank did what many of us have been talking about for a long time. They approved the first of five loans to Vietnam through IDA, the International Development Association. It was a soft loan.

In a newspaper article which came out after this loan was approved, it was suggested that Mr. McNamara had held off presenting the loan until after the House had spoken on the foreign aid bill. In effect, what they said in this interview was that in view of the voting record of the House during that last week period, it was fairly obvious that the House supported this type of activity. They went ahead then and approved the loan to Vietnam.

Let me say this, Mr. Chairman: There is nothing in this amendment that would have anything to do with UNICEF or the United Nations development program, no other paragraph, except the International Development Association. It relates only to the soft loans for Vietnam. My position is this: If, in fact, the World Bank is correct and if the mood of this House is prevailing in support of World Bank activity on behalf of Vietnam, then I think we ought to make that decision on an up-or-down vote. I do not think the World Bank should assume that based on any other amendments which we voted for or against in the last month or so.

Mr. Chairman, this amendment would give us an opportunity to make that decision. Whatever the decision of the House, of course, I am going to live with it; at that point there is nothing I could do about it anyway. However, I think we ought to have an up-or-down vote on whether or not we actually are going to allow our money to be used indirectly for Vietnam.

Tran Duong, one of their officials, said that the United States was going to pay reparations to Vietnam in the amount of $4.75 billion. He said it would not be accomplished directly, but it would be accomplished indirectly through IDA of the World Bank.

The Members can read that statement if they would like to do so. I have a copy of the wire dispatch here at the desk.

Mr. Chairman, let me say this: Let us understand that this is the same Vietnamese Government, the very same people who were responsible for the killing of 50,000 Americans in Vietnam during our unfortunate involvement there. This is the same government and these are the same people who tortured, who starved, who humiliated thousands of Americans who were held prisoners of war throughout Vietnam.

Mr. Chairman, this is the same Vietnam, the same government, the same people that have refused to make a total or accurate or thorough accounting for Americans who are now listed as missing in action. So for the first time in this debate I make the question of this country, Vietnam, the issue. I think it is time that we decide, Is the World Bank right? Is our prevailing position now one that we support the World Bank's attempts to use our money for Vietnam? If that is the case, let us say it loudly and clearly. But if we do not believe that, if we do not want to turn over American money for the benefit of this same Vietnamese Government that caused so much grief in the thousands and thousands of homes in this land of ours, then we will vote for this amendment and we will say to the World Bank: "No matter what you think, World Bank; no matter what you think, Mr. McNamara, we really do not want American dollars going to Vietnam, directly or indirectly."

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment by the gentleman from Florida (Mr. YOUNG), which prohibits International Development Association financing to Vietnam. It is appropriate and timely that this body expresses itself with regard to financial assistance to Vietnam at a time when that nation is exploring initiatives toward normalcy of relations with our Nation and exploring the possibilities of assistance from our Nation, while at the same time failing to take any substantive steps in providing an accounting for our missing in action.

For more than a year there has been meaningless negotiations, dormant discussions, without any significant accomplishment in resolving the long-lingering, painful issue of our missing in action.

It is a courageous stand that our colleague from Florida has taken in speaking out against aid to that nation, and I join with him, and my other colleagues in voicing my support for his position.

Americans should not be required to contribute any tax dollars for assistance to the Republic of Vietnam, nor should they be made to feel responsible in any way for reparations for the recently ended Vietnam war. Too many Americans have given their lives and the lives of their relatives. Too many American families have grieved too many years of uncertainty without any word about their loved ones missing in Southeast Asia. Too many of our POW's suffered in Vietnam prisons too long.

The IDA (International Development Association) through the World Bank is proposing to assist the Republic of Vietnam in various projects. Such aid has noble, humanitarian objectives, but America's human rights are not being honored by that nation—some 2,000 missing in action not having been accounted for. Until such time as the Republic of Vietnam determines that Americans have the same human and moral rights as the Vietnamese, American funds should not be allocated for their assistance.

In testimony before the Subcommittee on Asian and Pacific Affairs last week, members of the committee heard a heart-rending account of Americans being held by the Vietnamese as late as April 1977. A Vietnamese refugee contended that it is a well-known reason throughout Vietnam that some prisoners are being held captive by the Vietnamese until Americans pay the reparations allegedly promised by President Nixon. The Vietnamese have caused untold grief to the hundreds of families of our MIA's by failing to account for our missing servicemen. Despite pleas from our Government, the Vietnamese have dragged their feet, not giving any information concerning the whereabout of our Americans in Vietnam.

Until such time that the Vietnamese fulfill their humanitarian responsibility and released all information of our missing and all remains of our soldiers, not 1 penny of American aid should go to that nation. Until such time as the Vietnamese accommodate our Nation's request for an accounting of our missing, we should not provide any assistance.

Mr. Speaker, I urge my colleagues to recognize and understand the necessity for this amendment, and to support its adoption. Americans have no moral obligation to finance the Communist regime of Vietnam.

If and when Vietnam finally responds to our demands for an accounting of our missing, then we can duly consider the questions of normalcy of relations and financial assistance.

I am hoping that my colleagues will join with the gentleman from Florida (Mr. YOUNG) in showing the rest of the world how our Nation feels about Vietnam's lack of concern for this humanitarian issue.

The CHAIRMAN. Does the gentleman from Maryland (Mr. LONG) insist on his point or order?

Mr. LONG of Maryland. I withdraw my point of order, Mr. Chairman.

Mr. OBEY. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I think the gentleman from Florida should be fair to the Members of the House who are going to have to vote on this question. He has said that this vote is an up-or-down vote on the question of whether Members of Congress want foreign aid money to go to Vietnam. There is no such thing. As we have said almost ad nauseam over the last 2½ weeks, the question is the same whether we are talking about aid to Chile or aid to the Philippines, or aid to Haiti or aid to Vietnam, or aid to Timbuktu. This is not a bilateral program. This is a multilateral program and as such we have no power—much as we might like it—to eliminate aid to any specific country. All we can do is eliminate our participation in the Bank, which ends our influence on the Bank on all questions surrounding it because the Bank cannot accept our contributions if we limit the funds in any way whatsoever. They cannot accept the contributions from any other country if they limit their contribution in any way whatsoever either.

I would also point out the gentleman drags up this old red herring about the statement of Tran Van Dong that they are going to obtain aid from the United States and reparations from the United States through the device of the International Bank. I wonder how many other statements of Tran Van Dong the gentleman from Florida believes. I would just point out one thing: The idea that we can somehow indirectly provide aid to Vietnam through this device is patently ridiculous. No one would allow U.S. contributions to rise to that level. I would point out that the potential rate of lending from all member countries to the Bank is so low that at $160 million, which is the maximum amount that Vietnam might get in 1978, it would take over 50 years for Vietnam to net the $4.75 billion that Vietnam had allegedly been asking the United States for. I do not think there is a Member of the House who wants to see aid to go to Vietnam.

But the question we have to look at is this: Do we simply want to exercise our unhappiness with the few countries we do not like if the cost is to imperil the U.S. participation in the international banking structure, because that is what we do?

We do not cut off Vietnam's nose. We cut off our own. I submit it is not in the national interest of the United States to do that.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

I certainly do not want to see any aid go to Vietnam, but the only chance we had of getting that message across was to have passed the Long-Miller amendment a little while ago.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. Not quite yet; I will be glad to yield a little bit later.

Mr. Chairman, we want to send a message to the Banks, and that is that the Congress does not want any of our money to go to Vietnam. The Government has told us, the President has told us, the Treasury has told us, that the Banks will not take the money with indirect restrictions. Frankly, I am very doubtful about that. I have read the charters and I think it is very dubious that they are not able to take that limitation.

What happens? The Senate will not accept these restrictions.

We go to conference. The Senate rejects the language. They buy the statement of the President that they cannot take the money. We come crawling back to the House. We wait awhile and finally we take it back to conference. Then we get the prohibitions eliminated.

So I say, we might as well bite the bullet, as long as we are voting money for these Banks, money is going to go to Vietnam, whether we like it or not.

On that, I am inclined to agree with the gentleman from Wisconsin (Mr. OBEY), although I do not agree with the gentleman on other issues.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, there is nothing in this amendment, do not get it confused with other amendments, there is nothing here that says directly or indirectly. It does not go to the World Bank or any other agency. It only relates to the International Development Association, the soft loan window of the World Bank.

Mr. OBEY. Mr. Chairman, will the gentleman yield on that point?

Mr. LONG of Maryland. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, if the gentleman is trying to leave the impression that, therefore, there is no impediment to the Bank accepting our money, the gentleman is again misleading the House. This goes to IDA. That is an international institution. This is an indirect limitation and the gentleman knows it as well as everyone else in this Chamber.

Mr. YOUNG of Florida. Mr. Chairman, if the gentleman will yield further, I disagree very strongly with the gentleman from Wisconsin. That is not what the articles of agreement of the International Development Association say. The gentleman can argue all day long, but will not convince me until the words are changed in these articles of agreement. I have read these articles. I have had the Congressional Research Service read these articles and they say there is nothing in here that limits the IDA fund.

Mr. OBEY. Mr. Chairman, if the gentleman will yield further, the gentleman from Florida is talking about the CRS original letter. They have amended that letter to change their position, and as we said last week, eight former Secretaries of the Treasury say the gentleman from Florida is wrong.

Mr. YOUNG of Florida. Mr. Chairman, I do not care what eight former Secretaries of the Treasury say, I am not wrong. I have read these articles, and I submit to the gentleman that if he would read them also, he will find out I am not wrong.

I just wonder how many of those eight former Secretaries have in fact read these articles. Or were they just told by the present Secretary or by Mr. McNamara that is what they want them to say? I do not know. I wish the gentleman would produce one of those Secretaries who has actually read these articles.

Mr. LONG of Maryland. Mr. Chairman, I have read the articles, and I came to the conclusion myself that if the Banks wanted to amend the charters, they could amend them in such a way that these restrictions would be accepted, but they do not want to amend the charters. They do not want the money on these terms.

It is not that they cannot take this action, but they do not want to amend the charters, and our Treasury does not want to retain the limitations. It is as simple as that.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. LONG) has expired.

(On request of Mr. MAHON, and by unanimous consent, Mr. LONG of Maryland was allowed to proceed for 2 additional minutes.)

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the chairman of the committee.

Mr. MAHON. Mr. Chairman, I have listened to the debate on the pending amendment and the gentleman from Wisconsin (Mr. OBEY is right; I do not know of any Member in this House who wants to make any loans or contributions to Vietnam or to certain other countries we might mention, but, under the circumstances and with this amendment, there is nothing we can do about that at this time under the facts before us.

So, Mr. Chairman, I support the position of the gentleman from Maryland (Mr. LONG), and I hope we can soon come to a vote on this issue and finish this bill by 8 o'clock.

Mr. LONG of Maryland. Mr. Chairman, let me say that, while I sympathize very much with the gentleman from Florida (Mr. YOUNG), because I think on the whole he is right, I have to differ with him on practical grounds. As a practical matter, we cannot get that restriction through, get an agreement in the Senate-House Conference, and get a bill enacted into law this year. Good programs are going to suffer if we do not eliminate this restriction.

Mr. MILLER of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this is a serious amendment on my part, and I really mean this: We have been told by the gentleman

from Wisconsin (Mr. OBEY) that we have no power, and we have been told by the chairman of the committee, my friend, the gentleman from Texas (Mr. MAHON), not less than a minute ago that there is nothing we can do about it.

Well, Mr. Chairman, that may be true. Maybe we have no power. Maybe there is nothing we can do about it, but I will bet the Members one thing: We are never going to know for sure until we try it. We do not know if the Senate is going to accept this or not. We do not know whether or not the World Bank will take the money. We have a lot of assumptions on these subjects, but I suggest that we ought not to sit here and talk about how little power we have and how little we can do about something like this, at least without trying.

Mr. MAHON. Mr. Chairman, will the gentleman from Ohio (Mr. MILLER) yield?

Mr. MILLER of Ohio. I yield to the gentleman from Texas.

Mr. MAHON. Mr. Chairman, if we want to belong to the World Bank and the other multilateral institutions, we can belong; if we do not want to belong, if we want to withdraw, we can withdraw from these multilateral institutions. Congress has that power. We have plenty of power to withdraw if we want to.

But these multilateral banks are supposed to be nonpolitical. They are not political organizations. They operate in a political vacuum insofar as we are concerned, and if we want to belong, OK; if we do not want to belong, let us get out. But as long as we belong, this kind of amendment is not appropriate and will not become the law. I would hope we can dispose of the matter and move on to the next question.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield further?

Mr. MILLER of Ohio. Yes; I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Believe me, Mr. Chairman, I do not like to be in a position of differing with the chairman of the Committee on Appropriations on this, but I just do not feel I am doing my job for the people who sent me here, and I do not believe I am doing my job for the Members of this House if I just capitulate.

Just because somebody tells me I cannot do it, does not mean I am just going to roll over and play dead. I am going to keep on trying to keep Vietnam from getting any of the dollars that come out of the pockets of the taxpayers who live in my district and in this great Nation of ours.

Mr. Chairman, we might as well face up to it. This is the way it is going to be as long as I hold the job I hold as the ranking minority member of this subcommittee.

Mr. Chairman, it has been suggested that we tried to do the same thing to Chile and Haiti and some other countries. But there is no comparison. As far as Chile and Haiti are concerned, I do not think they have ever killed 50,000 Americans in all the time they have existed. I do not think either one of them ever held Americans as prisoners of war. I do not think either of them has ever suffered American prisoners of war to undergo the degradation and the torture and the humiliation that the Vietnamese have inflicted on American fighting men. I do not think Chile and Haiti have ever made the families of American fighting men suffer like Vietnam did. There is just no comparison.

Mr. Chairman, I say that maybe one day the time will come that we might be able to work out some advantageous relationship with Vietnam, but I submit to the Members that that time has not yet come. We have taken the first step. We have allowed Vietnam admittance into the United Nations. We welcomed them with open arms. They are getting money through the United Nations development program. There are all kinds of American dollars going to them through many international organizations. And now we have just seen the first of five loans totaling $170 million approved by the World Bank. Maybe Mr. McNamara is trying to salve his conscience, I do not know. Maybe he feels responsibility for some of the destruction that took place in Vietnam, I do not know. But I do know that, so far as this Member is concerned, the time to tax my taxpayers and send their money to Vietnam has not yet arrived. Whether I have any power to do something about it, I do not know. Whether I can do something about it or not, I am going to fight that fight, and I am not going to give it up just because someone disagrees with me.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Chairman, I have listened for several days over a period of weeks to the debate on this bill and the earlier debate on indirect and direct aid to various countries. The gentleman from Florida has just put his finger on the most vexing problem for most of us. I do not think any of us have failed over the last few years to be deeply moved after meeting with mothers, parents, wives, or families who have been disrupted by the Vietnam war. Many still do not know what happened to the MIA's. To use the argument against this amendment that because the directors of this particular international lending institution do not like proposed restrictions on loans is the same as arguing in favor of permitting aid to a country that hardly 3 years ago was slaughtering Americans, killing our fighting men. That to me is just beyond comprehension. I would certainly urge a vote for this amendment.

Mr. DORNAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, have followed this debate with great interest, and I want to explain very carefully and precisely why I am supporting the amendment offered by the gentleman from Florida (Mr. YOUNG), and why I believe it is a very, very serious amendment. Fifty-nine MIA American remains returned in 5 years, 6 months, and 14 days—that is why. I do not know if my feet will be in concrete against aid to Vietnam for the rest of this century or even this decade. I do not know if I will join some of our colleagues who believe we can turn Vietnam into some sort of Yugoslavia and even there we forgive the killing of dictator Tito, whose secret police still murders people in our country to this year. Maybe we will swallow any indignity to keep Vietnam out of either a Chinese or Soviet orbit. I do not know if I will ever choose to play the so-called "Vietnam card" the way we hear intellectuals talking about playing the "China card" and thereby plunge a dagger into Taiwan's back, a loyal friend.

But this I do know: 5 years, 6 months, and 14 days ago, Mr. Le Duc Tho and our Secretary of State at that time, Mr. Kissinger, worked out a peace proposal calling for an MIA accounting for which they were both given the Nobel Peace Prize. Mr. Kissinger accepted the prize money of $50,000 and very graciously gave that money, I believe, to MIA families for scholarships for children of our missing-in-action heroes. Le Duc Tho turned down the peace award and its $50,000, which I thought was consistent since the Communists barely stopped killing for an instant. In the 5 years, 6 months, and 14 days that have gone by—and I want my colleagues to try and memorize this figure—59 small boxes of bones have been returned for decent burial—out of over 1,300 missing that our State Department and our Defense Department say the Vietnamese conquerors can absolutely account for, as for instance men who crashed in their planes at the corner of Main Street and Broadway, or whatever that symoblic intersection is in downtown Haiphong or Hanoi. What about those pilots who came down in their parachutes at the front door of the foreign ministry, or who descended into the lakes and parks of downtown Hanoi? Hundreds of them—and the Communists have returned exactly 59 small boxes of remains. When the last 23 boxes were returned I asked if I could go to Hanoi to escort our heroes' remains home.

The response I got was a classic: The State Department said, "Congressman, we are trying to accomplish this quietly and bring them back to our country without any fuss." I said, "Really? Have you asked the families if they reject a congressional escort? I will pay my own way at least to Hickam AFB." Then DOD asked the gentleman from Mississippi (Mr. MONTGOMERY) to accompany me, so that the journey to and from Hickam became an official trip. Remember except for the two young marines mortared to death on the last day of the war, April 30, 1975, at Ton Son Nhut Airfield 59 small boxes is all we received back to be taken to the forensic laboratory at Hickman. I am asking you my colleagues why we are not trying at least to send a clear message to these North Vietnamese conquerers of Indochina. I remember they slaughtered in 1 year alone, 1967, over 10,000 innocent civilians in the hamlets and villages, including children and school teachers. These are the Tojos, the Mussolinis, the Hitlers who

won who are in control of millions of lives that they suppress. They run concentration camps still. The refugees still flee by the hundreds and the conquerors laugh in our face over our missing while the world turns its back on our pleas for justice but not on our money.

For them to literally spit in our faces and account for only 59 out of dozens of known alive POW's and hundreds of missing men is an outrage. Now we have yet another Hanoi trip leaving at the end of the week to beg for more bags of bones. A trip I specifically have been blocked from going on. Why, when I have worked on this tragic issue for 13 years? If this August of 1978 journey to Hanoi produces no more remains then this great Nation is truly in its autumn. Can we not send a loud, clear message about our missing to these world banks. Can we not at least try.

This blood money, directly or indirectly, is a travesty upon the human rights issues that this House has been discussing over the past month. We say we care about everything from Nicaragua to Chile to Zimbabwe to the Philippine Islands. Well, how about the human rights of the MIA families whose sons and husbands and fathers went to Vietnam under Mr. McNamara.

When I took my two sons on a trip in 1975 through 10 national parks in the West, I drove them to see the $1 million McNamara mansion on the ski slopes of Snowmass at Aspen. I wanted them to see the grandeur of just one of the homes of the president of the World Bank. The man who gave us the ugly vocabulary of no-win war No. 2 "gradualism, escalated response, freefire zones, sanctuaries, forbidden airbase targets, and body counts." There were not 50,000 dead, but over 57,500 Americans who died, because I include heroin overdose deaths, automobile, motorcycle accidents, and noncombat flying accidents because deaths would not have happened if these young men had stayed in the United States or been on assignment away from the lessened safety of a combat zone.

We are still adding to that death toll with PFOD status changes now, MIA to "presumtive finding of death."

We have Robert McNamara riding around now in a chauffeur-driven limousine, accountable to no one, with no audits of these world banks, and never having to come before our congressional committees. He goes on Meet the Press, Face the Nation, or Issues and Answers with the explicit arrangement—hard ground rules—that not a single aspect of the Vietnam War will ever be discussed. Not the MIA issue, the peace settlement, the loans to Vietnam, none of it. What a travesty. What agony for the families whose men went to Vietnam under Robert Strange McNamara as Secretary of Defense.

My two young sons who are now of draft age learned vividly standing there at the driveway and tennis court of McNamara's Aspen mansion with its decorative outdoor natural gas lights burning around-the-clock that not everyone in life is required to answer for his arrogance and folly. Mr. McNamara and his World Bank associates simply must receive a message from this House, and that is why I support the Young amendment and urge you to do the same, so that the MIA families will know we have not given up putting pressure on Hanoi and Laos for a just accounting.

Please vote yes on the Young amendment.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to note for the record that it was Lyndon Johnson and Richard Nixon who sent to Vietnam the 50,000 Americans who died there. It was Richard Nixon that ordered the bombing of Hanoi on Christmas Eve. I do not think we can claim that we had nothing to do in bringing about these tragedies.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. YOUNG).

The question was taken, and on a division (demanded by Mr. YOUNG of Florida) there were—ayes 30; noes 31.

RECORDED VOTE

Mr. YOUNG of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 152, not voting 46 as follows:

[Rollcall Vote No. 694]

AYES—234

Abdnor	Coughlin	Horton
Addabbo	Crane	Hubbard
Akaka	Cunningham	Huckaby
Alexander	Daniel, Dan	Ichord
Ambro	Daniel, R. W.	Ireland
Ammerman	Davis	Jeffords
Anderson, Calif.	de la Garza	Jenkins
	Dent	Jenrette
Andrews, N.C.	Derwinski	Johnson, Colo.
Andrews, N. Dak.	Devine	Jones, N.C.
	Dickinson	Jones, Okla.
Annunzio	Dornan	Jones, Tenn.
Applegate	Duncan, Tenn.	Kazen
Archer	Early	Kelly
Armstrong	Edwards, Okla.	Kemp
Ashbrook	Emery	Kindness
AuCoin	English	Krebs
Badham	Ertel	Lagomarsino
Bafalis	Evans, Del.	Latta
Barnard	Evans, Ga.	Lent
Baucus	Evans, Ind.	Levitas
Bauman	Fish	Livingston
Beard, R.I.	Flippo	Lott
Beard, Tenn.	Florio	Luken
Benjamin	Flynt	McClory
Bennett	Fountain	McDade
Bevill	Fowler	McEwen
Biaggi	Frey	McKay
Boland	Fuqua	Madigan
Bowen	Gammage	Mann
Brinkley	Gaydos	Marlenee
Brooks	Gephardt	Marriott
Broomfield	Gibbons	Martin
Brown, Ohio	Gilman	Mathis
Broyhill	Ginn	Michel
Buchanan	Glickman	Miller, Ohio
Burgener	Goldwater	Minish
Burke, Fla.	Gore	Mitchell, N.Y.
Burke, Mass.	Gradison	Moakley
Burleson, Tex.	Grassley	Mollohan
Butler	Gudger	Moore
Byron	Guyer	Moorhead, Calif.
Carney	Hagedorn	
Carter	Hall	Mottl
Cederberg	Hammer-schmidt	Murphy, Ill.
Chappell		Murphy, Pa.
Clausen, Don H.	Hannaford	Murtha
	Hansen	Myers, John
Clawson, Del	Harsha	Myers, Michael
Cleveland	Heckler	Natcher
Coleman	Hefner	Neal
Collins, Ill.	Heftel	Nichols
Collins, Tex.	Hightower	O'Brien
Corcoran	Hillis	Oakar
Cornwell	Holland	Panetta
Cotter	Holt	Pepper
Pickle	Sawyer	Volkmer
Pike	Schulze	Waggonner
Poage	Sebelius	Walgren
Pressler	Skelton	Walker
Quayle	Skubitz	Walsh
Quillen	Slack	Wampler
Rahall	Smith, Iowa	Watkins
Railsback	Smith, Nebr.	Weaver
Regula	Snyder	White
Rhodes	Spence	Whitehurst
Rinaldo	St Germain	Whitley
Roberts	Staggers	Whitten
Robinson	Stangeland	Wiggins
Roe	Stanton	Wilson, Bob
Rogers	Steed	Wilson, C. H.
Rooney	Stockman	Winn
Rose	Stratton	Wolff
Rousselot	Stump	Wydler
Rudd	Taylor	Wylie
Runnels	Thone	Yatron
Ryan	Traxler	Young, Fla.
Santini	Treen	Young, Mo.
Sarasin	Trible	Zeferetti
Satterfield	Vander Jagt	

NOES—152

Anderson, Ill.	Flood	Moorhead, Pa.
Ashley	Foley	Moss
Aspin	Ford, Mich.	Myers, Gary
Baldus	Ford, Tenn.	Nedzi
Bedell	Forsythe	Nix
Beilenson	Frenzel	Nolan
Bingham	Garcia	Nowak
Blanchard	Giaimo	Oberstar
Blouin	Gonzalez	Obey
Boggs	Green	Ottinger
Bolling	Hamilton	Patten
Bonior	Harkin	Pattison
Bonker	Harris	Pease
Brademas	Hawkins	Perkins
Breckinridge	Hollenbeck	Preyer
Brodhead	Holtzman	Price
Brown, Calif.	Howard	Pritchard
Brown, Mich.	Hughes	Pursell
Burke, Calif.	Hyde	Rangel
Burlison, Mo.	Jacobs	Reuss
Burton, John	Johnson, Calif.	Rodino
Burton, Phillip	Jordan	Rosenthal
Carr	Kastenmeier	Rostenkowski
Cavanaugh	Keys	Roybal
Chisholm	Kildee	Scheuer
Conable	Kostmayer	Schroeder
Conte	LaFalce	Seiberling
Conyers	Leach	Sharp
Corman	Lederer	Simon
Cornell	Leggett	Solarz
D'Amours	Lehman	Spellman
Danielson	Lloyd, Calif.	Stark
Delaney	Long, Md.	Steers
Dellums	Lundine	Steiger
Derrick	McCloskey	Stokes
Dicks	McCormack	Studds
Diggs	McFall	Thompson
Dodd	McHugh	Thornton
Downey	McKinney	Tucker
Drinan	Maguire	Ullman
Duncan, Oreg.	Mahon	Van Deerlin
Eckhardt	Markey	Vanik
Edgar	Marks	Vento
Edwards, Calif.	Mattox	Waxman
Erlenborn	Meeds	Weiss
Evans, Colo.	Meyner	Whalen
Fary	Mikulski	Wilson, Tex.
Fascell	Mikva	Wirth
Fenwick	Mineta	Yates
Fisher	Moffett	Zablocki
Fithian	Montgomery	

NOT VOTING—46

Breaux	Le Fante	Roncalio
Caputo	Lloyd, Tenn.	Ruppe
Clay	Long, La.	Russo
Cochran	Lujan	Shipley
Cohen	McDonald	Shuster
Dingell	Mazzoli	Sikes
Edwards, Ala.	Metcalfe	Sisk
Ellberg	Milford	Symms
Findley	Miller, Calif.	Teague
Flowers	Mitchell, Md.	Tsongas
Fraser	Murphy, N.Y.	Udall
Goodling	Patterson	Wright
Hanley	Pettis	Young, Alaska
Harrington	Quie	Young, Tex.
Kasten	Richmond	
Krueger	Risenhoover	

The Clerk announced the following pairs:

On this vote:

Mr. Ellberg, for, with Mr. Dingell against.

Mr. McDonald for, with Mr. Shipley against.

Mr. Sikes for, with Mr. Mitchell of Maryland against.

Mr. Le Fante for, with Mr. Miller of California against.

Mrs. Lloyd of Tennessee for, with Mr. Richmond against.

Mr. Breaux for, with Mr. Clay against.

Messrs. MOORE, LOTT, and PEPPER changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments? If not, the Clerk will read.

The Clerk read as follows:

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $25,000,000, for the United States contribution to the increase in resources as authorized by the Act of October 3, 1977 (Public Law 95–118), to remain available until expended.

AMENDMENT OFFERED BY MR. MATHIS

Mr. MATHIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATHIS: Page 19, immediately following line 3, add the following new provision:

"LIMITATION ON UNITED STATES CONTRIBUTION TO THE INTERNATIONAL FINANCIAL INSTITUTIONS

"None of the funds appropriated or made available to the International Financial Institutions pursuant to this Act shall be used for the purpose of establishing or expanding the production for export of steel, grains, sugar, palm oil, citrus crops, tobacco, or tires."

Mr. MATHIS. Mr. Chairman, this amendment is another limitation. Despite the fact that the members of the Committee on Appropriations, I think, have honest disagreements as to whether or not these international institutions can receive funds that have so-called strings attached, we in this body have just passed an amendment that does, in fact, put restrictions on funds.

My amendment does the same thing.

My amendment would provide that none of the funds we appropriate here today could be made available for the purpose of establishing or expanding production of steel, grains, sugar, palm oil, citrus crops, tobacco, or tires.

Mr. Chairman, this is a pretty broad amendment. In fact, it is broader than the amendment the House adopted last year. In fact, the House on two previous occasions has adopted restrictive language in regard to agricultural products, palm oil, citrus crops, sugar, and so on last year. Of course, these restrictions were watered down when the conferees went to conference with the other body and they brought back a virtually meaningless piece of legislation that instructs the delegates to vote no and to oppose any of these loans if, in fact, a judgment is made and the commodities are in surplus or that they have so-called injurious effects to Americans or American institutions.

Mr. Chairman, notwithstanding the fact that this Congress last year instructed our delegates and representatives to the World Bank to oppose these loans, there have still been a number of loans made that provide for palm oil and sugar production to increase, tobacco products, and even in the case of Vietnam, horror of horrors, to increase peanut production.

Also, we know that the World Bank within the past month has made a loan to Yugoslavia for the purpose of producing radial tires for export.

We are talking about a $9.3 million loan in competition with an industry that is already in trouble in this country.

We also know there have been steel loans made to countries that are involved in the production of steel; so what we are trying to do simply here, without redebating the issues that have been debated in the House, is to put a limitation on these funds.

I am sure the gentleman from Wisconsin (Mr. OBEY) is going to tell us that there is no way any of these international institutions can receive money, despite the limitations. I am not certain who will make the argument, but I am certain it will be some of my friends on the Committee on Appropriations.

Mr. Chairman, let me point out that the appropriations bill that the committee brought to the floor has a number of restrictions already present; so I think their argument simply does not hold water.

We have a limitation, for example, that limits the amount of salaries that can be paid to employees of the World Bank. The World Bank obviously accepted the money last year with this restriction on it.

I would also point out to the distinguished chairman of the subcommittee that on page 21, title V, General Provisions, section 503, is also restrictive in nature, because it says:

SEC. 503. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest * * *

I have not heard anybody make the point that the World Bank or any of the windows in the World Bank would refuse to receive this appropriation based on this kind of restriction; so I think it is simply a red herring.

In fact, the gentleman from Maryland (Mr. LONG) has conceded that he thinks the World Bank can in fact receive these funds even though there is a restriction on them. The gentleman from Wisconsin (Mr. OBEY) does not believe so, but I believe we ought to give him an opportunity to find out.

Let us put the restrictions on, and let us protect the interests of American workers who depend on these items that are covered in this bill for their livelihood.

Mr. Chairman, I urge the adoption of the amendment.

Mr. LONG of Maryland. Mr. Chairman, I rise in opposition to the amendment.

I agree with the gentleman from Georgia (Mr. MATHIS) that we have a serious problem here. We are subsidizing production facilities all over the world. Other countries are sending imports into the United States. We are losing jobs here in the United States to these foreign producers.

My opposition to the amendment offered by the gentleman from Georgia (Mr. MATHIS) is simply on practical grounds, as has been my opposition to the other indirect amendments.

The international banks have said they cannot accept the U.S. contribution with restrictions attached. Since the consideration of last year's bill, we have been fed all kinds of legal opinions from the general counsels of all the banks, and they all echo the same thing. Like a chorus, they say that legally they cannot take the money with this type of restriction.

I do not believe that myself. I think they can take the money. I do not think they want to take the money under those terms.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. Mr. Chairman, after I have finished, I will be happy to yield.

The Senate concurs in the view that restrictive amendments to the IFI's are not acceptable. It is impossible to make them bend on this issue in conference. If we persist in this, we are going to do the same thing we did last year: We are going to have to delay the bill past October 1.

We had our chance to tell these banks how we feel about this, and we had a chance to send them a message. We could have just reduced our contributions. The amendment that was offered a little while ago would have cut the money, and that is language that the IFI's understand. We would not have to have any lawyers to deal with that. But unfortunately, the House decided not to accept that cut.

Mr. Chairman, that is the problem we are up against.

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman from Maryland (Mr. LONG) has made the best possible argument he could for my amendment. He has stated my argument very eloquently in terms of what we are doing to subsidize foreign competition and produce a loss of jobs for American workers.

Let me say this to the gentleman: I hope we have not arrived at the point in this body where we are going to be dictated to by the other body as to what kind of legislation we can pass. I do not believe that time has come. I think this House is willing to stand up and do what is right, and I do not think we have to kowtow to what the other body wants.

Mr. LONG of Maryland. Mr. Chairman, if I may respond to the gentleman from Georgia (Mr. MATHIS), I wish we did not have to, but I have a practical problem. As the manager of the bill and as the chairman of the subcommittee,

I must try to get the bill signed into law. The Senate will not agree to these restrictions.

Mr. MATHIS. Mr. Chairman, will the gentleman yield further?

Mr. LONG of Maryland. I yield to the gentleman from Georgia.

Mr. MATHIS. Mr. Chairman, I thank the gentleman again for yielding.

I, too, have been here long enough that I have been on a conference committee or two, and I know that we do not have to give in to the Senate on all occasions, I would say to the gentleman.

Mr. LONG of Maryland. Mr. Chairman, let me say to the gentleman that I chair a subcommittee which probably does not share all my views 100 percent.

Mr. MATHIS. Mr. Chairman, if the gentleman will yield further, I view the gentleman from Maryland (Mr. LONG) as a champion of this cause, and if he is willing to lead the troops in battle, I think this House would support the gentleman.

Mr. LONG of Maryland. Mr. Chairman, let me say that I will try to support the House position on all these amendments.

As a matter of fact, I think the supporters of the banks are making the greatest mistake of their lives letting this type of thing go on. The day is going to come when we will have a revolt of the kind we had with proposition 13.

Mr. MATHIS. Mr. Chairman, let me ask this question: What would happen, let me ask the distinguished chairman of the subcommittee, if in fact he went to conference with the other body and no agreement could be reached? What would happen in that event?

Mr. LONG of Maryland. Mr. Chairman, I am afraid that is impossible.

Mr. MATHIS. Mr. Chairman, I will repeat the question to the gentleman.

If that were to happen, legislatively what is the next step? Would we fund at last year's level?

Mr. LONG of Maryland. There would be no bill, and we would have to operate on a continuing appropriation.

But as chairman of the subcommittee, I have the responsibility of managing this bill, and I am sure the gentleman can appreciate that.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. LONG) has expired.

On request of Mr. CHARLES WILSON of Texas, and by unanimous consent, Mr. LONG was allowed to proceed for an additional one-half minute.)

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. LONG of Maryland. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman from Maryland (Mr. LONG) clarify for the benefit of the House whether he is speaking for or against the amendment?

Mr. LONG of Maryland. Mr. Chairman, I just got through saving that I oppose the amendment on practical grounds.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

In fact, I am surprised at the gentleman from Georgia. I have here a list of the 30 products that had been investigated by the U.S. International Trade Commission under section 201 of the 1974 Trade Act, to determine whether such increased imports had been a substantial cause of serious injury. And aside from my own amendment of dingleberries last year, they have birch plywood door skins, asparagus, zippers, stainless steel table flatware, gloves, shrimp, honey, cast-iron cooking ware, fresh cut flowers, cast-iron stoves, clothespins, and so forth. Maybe before this is over, I may offer an amendment to the gentleman's amendment and incorporate these, because no one should be left out. This language, if the Members have read the bill, is really additional language, in light of sections 508 and 509, and I urge everyone to look at that part of the bill which prohibits funds for the production of commodities which are in world surplus and which would cause substantial injury to U.S. producers. So there is no need for the amendment offered by the gentleman from Georgia.

Mr. Chairman, I am opposed to the amendment of the distinguished gentleman from Georgia which would require the U.S. executive directors of the Development Banks, here funded, to oppose loans for palm oil, sugar, citrus, tobacco, grains, oilseeds, and steel which would directly reduce either U.S. employment or the U.S. share of domestic and foreign markets.

This language is superfluous in light of sections 508 and 509 of this bill which prohibits funds for the production of commodities which are in world surplus and which would cause "substantial injury" to U.S. producers.

A closer look at the World Bank groups funding with regard to many of these commodities contained in these amendments reveals that the banks already do not make loans which would lead to the production of goods intended for export activity if there is presently an excess supply in the world market. In addition, the use of restrictive language such as this serves only to complicate, but not solve, the basic problem of overproduction.

Let us look at two of the commodities which appear in this amendment's "hit list"—grains and steel.

GRAINS

The issue of cereal grain production is an especially complicated one. We must weigh the benefits to our domestic producers against the costs of adequate food supply for the escalating populations. The market demand for these basic foodstuffs in many nations is growing more rapidly than what can be supplied by the domestic producers. In fact, experts predict that unless significant action is taken a deficit of 100 million tons will become a reality by 1985. A shortfall of this magnitude would cause prices to soar. Lest we forget, it was only 3 years ago that a decline of 3 percent in grain production resulted in a price rise of 300 percent because of inelastic demand More importantly, a similar decline would virtually guarantee the reassertion of a massive human tragedy—the death of millions by starvation. Grain imports for the developing world continue to increase and the United States has carved herself a large share of this market. But as part of an overall development strategy, the developing world must facilitate local food production. This is the rationale behind the IFI's concentration on agricultural and rural development projects. There is a great enough demand that the U.S. suppliers can maintain an adequate market while the developing nations simultaneously embark on the quest for greater self-sufficiency in food production—a key facet of the general plan for development. Moreover, it has been shown that development will encourage rather than discourage the overall future demand for food.

STEEL

Loans made by the IFI's have not contributed in any significant way to the problems faced by the steel industry of America today. Before approval, projects must demonstrate economic feasibility which includes an expected rate of return of about 20 percent. The present excess supply of this commodity has been the crucial factor behind the World Bank's denial of funding for numerous steel projects. In fact, no loan for steel has been approved for 3 years. And considering the present situation, it is not expected that any project, barring those geared strictly for domestic consumption, would be approved.

It is in the interest of no one, development banks included, to finance projects which will increase the supply of a commodity beyond the level of what is demanded. Each project's approval is contingent upon this fact. The language proposed by the gentleman from Georgia, I believe, sidesteps the whole problem. It is not an adequate means by which to assure that the U.S. markets are not eroded by foreign competition. The admonition of the United Steelworkers of America, given in testimony before this House, is applicable to each of the commodities in question:

> The Global Crisis in the steel industry can be alleviated only through international multilateral negotiations on the General Agreements on Trade and Tariffs and discussions within the Overseas Economic Community for Development.

This is the crux of the problem—we cannot find satisfactory local solutions by ignoring the fact that trade and overproduction are worldwide in scope. Even nationally, protection of one sector of the American economy can cost jobs from developing in another area. Besides, as evidenced in steel production, the relationship between supply and demand rapidly changes. Congress ought not to try to control it by raising or lowering supply. Experience indicates that the economy can do this better when left to its own devices.

In sum, picking out 1, 2, or 12 commodities for special treatment will not

solve the problem of oversupply or in the long run save very many jobs.

Multilateral agreements, not restrictive amendments are the means by which the economic order of the United States and world can be strengthened and simultaneous assure that our share of the market is safeguarded. Too much is at stake for the United States to use anything less than the most opportune and well-considered solution. This amendment does not provide such a solution.

I ask the House to defeat this amendment.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words. and I rise in opposition to the amendment.

Mr. Chairman, I do not normally find myself in disagreement with the distinguished gentleman from Georgia, who is an effective and ranking member of the Committee on Agriculture. On this particular occasion I do disagree with him, and I disagree in the name of agriculture as I see the interests of agriculture. I believe agricultural interest would be harmed by this amendment. Five of the seven commodities named in this amendment are agricultural products. Some of them are products that we export in great volume. Others are products that we import into the United States to some degree, but in no case, in my judgment—in no case—can it be established that activities of the World Bank or of its regional banks have financed developments which have resulted in serious harm to domestic agricultural markets or threatened our export position.

The palm oil situation was perhaps the most significant that could have led to this suggestion, but palm oil is an inferior product to soybean oil, and import levels have dropped in recent months. We are, on the other hand, constantly increasing our soybean exports from the United States, including exports to developing countries. Of the $25 billion of agricultural exports which the United States boasted last year $7 billion were in sales to developing countries. Only improvement in economic circumstance has made those imports by developing countries possible.

It would be most unwise for the largest agricultural exporter in the world, the United States of America, to take actions which would diminish the movement toward economic development of Third World countries who will otherwise become an increasingly important market for these agricultural commodities.

We produce three times as much wheat in the United States as we consume, and that is only possible because of exports. This amendment could only hurt the development of future export markets. We must protect—and I believe the Congress should soon act to protect—a viable sugar industry. We import great quantities of sugar and currently cannot meet our domestic needs from domestic production. The price of world sugar is destructively low and a strong domestic program as well as an international sugar agreement is needed. This amendment is both unnecessary and ineffective in protecting our sugar industry.

If we adopt this amendment with its seven named commodities the list will inevitably expand as many commodities will insist on some similar recognition. Other contributing countries can then join the game that no funds could be loaned for any long list or series of their allegedly threatened commodities. Orderly international development policies cannot operate in such an environment. Dangerous as this amendment is, it is not even plausibly needed. Take tobacco—one of the five agricultural commodities of this amendment. Tobacco producers are receiving record prices for tobacco in the United States; record prices. There is no indication at all that imports are crippling the tobacco-producing industry. There has never been such a high price for tobacco, and I am glad of it. I think the tobacco program has helped support higher prices for tobacco to the benefit of hundreds of thousands of farmers in this country. Higher prices for tobacco discourage smoking more than encourage it because if tobacco were cheaper it would certainly be used more rather than less. In any case the tobacco producer does not need this amendment and would not be benefitted by it.

The general policy of the banks is and I hope will continue to be, one that discourages loans to development production of commodities already in surplus.

The bill contains the instruction to the U.S. Directors to vote against any proposal for loans that would harm domestic production. The restrictive language that the gentleman from Georgia suggests would attempt to limit loans to a narrower list, but with dangerous consequences. This amendment would have the same effect through commodity restrictions that others sought to accomplish by country restriction. The effect is the same in either case—to threaten continued participation in the banks by the United States.

If we retreat from participation others may follow and international economic development will suffer gravely. All sectors of our economy have much at stake in continued economic expansion throughout the world.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. FOLEY. Mr. Chairman, American agriculture particulary needs an expanding world economy. The only way we can continue to increase the volumes we sell abroad to help our domestic farmers with those crops that we produce in great surplus, such as wheat and feed grains and others, is to insure a developing and expanding world economy. For us to strike at one of the instruments by which the this economic development is accomplished not only is not helping the American farmers and is not only wrong, but it is perverse. And with the understanding that this will not help American agriculture but would harm it, I hope that all those who would otherwise be tempted to support the amendment will reject it.

The CHAIRMAN. The time of the gentleman (Mr. FOLEY) has again expired.

(On request of Mr. MATHIS, and by unanimous consent, Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. MATHIS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. MATHIS. I thank the gentleman very much for yielding.

The gentleman shares my concern for American agriculture and there is no way the gentleman would ever do anything to harm any segment of agriculture, but I ask the chairman of the Agriculture Committee if he feels the 400,000 tons of palm oil that flooded into this country in 1975 did not harm American soybean producers?

Mr. FOLEY. I think there was a period of adjustment, but the gentleman will recall that the import level has been sharply reduced in recent months, and if there was such a problem it is now rapidly evaporating.

The gentleman might agree with me that in the course of trade the United States has always succeeded with relatively open channels of trading in agriculture exports.

Mr. MATHIS. If the gentleman would yield further, we could debate the merits of the palm oil situation all day. The gentleman knows full well we have yet to see the full impact of the loans that have been made because all this palm oil is not yet in cultivation.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(On request of Mr. MATHIS, and by unanimous consent, Mr. FOLEY was allowed to proceed for 1 additional minute.)

Mr. MATHIS. Mr. Chairman, if the gentleman will yield for one final question, and I thank the gentleman for yielding, I wonder if the gentleman could tell us how the American farmers would not be harmed by the $105 million World Bank loan for grain storage quadrants in Argentina, which is not a good agricultural customer of ours but in fact is in competition with us since, as the gentleman full well knows, they are the fourth largest exporter of grain in the world today.

Mr. FOLEY. I suppose from a very narrow standpoint our American farmers might wish Argentina would not be a competitor in wheat export but on the other hand if we are going to encourage development in other countries so we can have expanded markets, we must expect that development might lead to some competition occasionally. Argentina is a long way from our principal competitor and harvests in importing countries are more critical to us.

Besides, I think the American wheat farmers can compete in world markets as long as those markets are open. Increased cash markets for grain as distinguished from food aid will depend importantly on economic stimulation in

the Third World countries. I come back to the basic point—all agricultural exporting countries have an interest in expanded markets which result from development but none more than the United States.

Mr. MICHEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first I want to take this opportunity to commend the gentleman who preceded me in the well for the very fine statement he has made, particularly with respect to our stake in exports of agricultural commodities and what that all means to the American economy.

Obviously I am in opposition to the amendment. The author of the amendment mentioned steel production. I happen to have a steel plant in my own district, but here again I think the facts will show—as the gentleman from Massachusetts indicated there had been no loans approved within the past 3 years. However over the previous 10 years, there were loans approved and made to 12 underdeveloped countries for steel production and we still enjoy a trade surplus with all 12 of those countries. More important is the fact that while domestic production of steel doubled in those 12 countries, our exports of steel to them had increased ninefold.

So, whether it is on the industrial side or the agricultural side, we have a great deal at stake here. We can whet the appetite in those countries for consumer goods with these loans and then benefit from their desire to have more than they can possibly produce domestically. We have the resources to produce industrially and agriculturally for that increased consumer demand abroad and we ought to look at it in this light.

Finally, Mr. Chairman, it was just 2 weeks ago that this House wisely rejected an attempt to add commodity restriction language to the Ex-Im authorization bill. You will recall that, initially, Members were not altogether apprised of what was involved and there was a switch down in the well of about 10 or 11 or 12 votes to make the difference. I hope that we will not have to go through that kind of exercise here today, and feel confident the arguments have been made well enough so that we can soundly defeat this amendment.

Mr. CHARLES WILSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Chairman, the soybean surplus in the United States that we have referred to here today that occurred in 1975, does the gentleman know how many of those foreign facilities were financed with loans from the World Bank or the International Development Bank?

Mr. MICHEL. I cannot say that I do.

Mr. CHARLES WILSON of Texas. The answer is: None of them.

Mr. CHARLES WILSON of Texas. Mr. Chairman, if the gentleman will yield further, I come from one of the heaviest soybean production areas in the United States, and I have done considerable research and there was no money furnished from the international institutions in that respect.

Mr. MICHEL. I thank the gentleman for clarifying the record.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. MATHIS).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MATHIS. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Georgia (Mr. MATHIS) for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 143, noes 239, not voting 50, as follows:

[Roll No. 695]

AYES—143

Addabbo	Fithian	Montgomery
Ammerman	Flippo	Moore
Applegate	Florio	Moorhead, Calif.
Archer	Flynt	Mottl
Armstrong	Fountain	Murphy, Pa.
Ashbrook	Fowler	Murtha
Badham	Frey	Myers, John
Bafalis	Fuqua	Myers, Michael
Barnard	Gaydos	Nichols
Bauman	Ginn	Oberstar
Beard, Tenn.	Grassley	Pickle
Benjamin	Gudger	Poage
Bennett	Guyer	Pressler
Bevill	Hagedorn	Quillen
Biaggi	Hall	Roberts
Brinkley	Hammer-schmidt	Robinson
Brooks	Hansen	Rooney
Broyhill	Harsha	Rose
Buchanan	Hefner	Rousselot
Burgener	Heftel	Rudd
Burke, Fla.	Hillis	Runnels
Burleson, Tex.	Holland	Satterfield
Byron	Holt	Schulze
Carney	Hubbard	Skelton
Carter	Huckaby	Slack
Chappell	Ichord	Snyder
Clawson, Del	Ireland	Spence
Cochran	Jenkins	Stangeland
Coleman	Jenrette	Stratton
Collins, Tex.	Johnson, Colo.	Stump
Corcoran	Jones, N.C.	Taylor
Cotter	Jones, Tenn.	Treen
Crane	Kazen	Vander Jagt
Cunningham	Kelly	Volkmer
Daniel, Dan	Kindness	Waggonner
Daniel, R. W.	Latta	Walker
Davis	Lederer	Walsh
de la Garza	Livingston	Wampler
Dent	Lott	Watkins
Derrick	McDade	White
Devine	McKay	Whitley
Dickinson	Mahon	Whitten
Duncan, Tenn.	Marlenee	Yatron
Edwards, Okla.	Marriott	Young, Fla.
Emery	Martin	Young, Mo.
English	Mathis	Zeferetti
Ertel	Mikulski	
Evans, Ga.	Miller, Ohio	
Evans, Ind.		

NOES—239

Akaka	Foley	Obey
Alexander	Ford, Tenn.	Ottinger
Ambro	Forsythe	Panetta
Anderson, Calif.	Frenzel	Patten
Anderson, Ill.	Garcia	Pattison
Andrews, N.C.	Gephardt	Pease
Andrews, N. Dak.	Giaimo	Pepper
Annunzio	Gibbons	Perkins
Ashley	Gilman	Pettis
Aspin	Glickman	Pike
AuCoin	Goldwater	Preyer
Baldus	Gonzalez	price
Baucus	Gore	Pritchard
Beard, R.I.	Gradison	Pursell
Bedell	Green	Quayle
Beilenson	Hamilton	Rahall
Bingham	Hannaford	Railsback
Blanchard	Harkin	Rangel
Bouin	Harris	Regula
Boggs	Hawkins	Reuss
Boland	Heckler	Rhodes
Bolling	Hightower	Rinaldo
Bonior	Hollenbeck	Rodino
Bonker	Holtzman	Roe
Bowen	Horton	Rogers
Brademas	Howard	Rosenthal
Breckinridge	Hughes	Rostenkowski
Brodhead	Hyde	Roybal
Broomfield	Jacobs	Ryan
Brown, Calif.	Jeffords	Santini
Brown, Mich.	Johnson, Calif.	Sarasin
Brown, Ohio	Jones, Okla.	Sawyer
Burke, Calif.	Jordan	Scheuer
Burke, Mass.	Kastenmeier	Schroeder
Burlison, Mo.	Kemp	Sebelius
Burton, John	Keys	Seiberling
Burton, Phillip	Kildee	Sharp
Butler	Kostmayer	Simon
Carr	Krebs	Skubitz
Cavanaugh	LaFalce	Smith, Iowa
Cederberg	Lagomarsino	Smith, Nebr.
Chisholm	Leach	Solarz
Clausen, Don H.	Lehman	Spellman
Cleveland	Levitas	St Germain
Collins, Ill.	Lloyd, Calif.	Staggers
Conable	Long, La.	Stanton
Conte	Long, Md.	Stark
Conyers	Luken	Steed
Corman	Lundine	Steers
Cornell	McClory	Steiger
Cornwell	McCloskey	Stockman
Coughlin	McCormack	Stokes
D'Amours	McEwen	Studds
Danielson	McFall	Thompson
Delaney	McHugh	Thone
Dellums	McKinney	Thornton
Derwinski	Madigan	Traxler
Dicks	Maguire	Trible
Diggs	Mann	Tucker
Dodd	Markey	Udall
Dornan	Marks	Ullman
Downey	Mattox	Van Deerlin
Drinan	Mazzoli	Vanik
Duncan, Oreg.	Meyner	Vento
Early	Michel	Walgren
Eckhardt	Mikva	Waxman
Edgar	Mineta	Weaver
Edwards, Ala.	Minish	Weiss
Edwards, Calif.	Mitchell, N.Y.	Whalen
Erlenborn	Moffett	Whitehurst
Evans, Colo.	Mollohan	Wilson, Bob
Evans, Del.	Moorhead, Pa.	Wilson, Tex.
Fary	Murphy, Ill.	Winn
Fascell	Myers, Gary	Wirth
Fenwick	Natcher	Wolff
Fish	Neal	Wright
Fisher	Nedzi	Wydler
Flood	Nix	Wylie
	Nowak	Yates
	O'Brien	Zablocki
	Oakar	

NOT VOTING—50

Abdnor	Le Fante	Richmond
Breaux	Leggett	Risenhoover
Caputo	Lent	Roncalio
Clay	Lloyd, Tenn.	Ruppe
Cohen	Lujan	Russo
Dingell	McDonald	Shipley
Eilberg	Meeds	Shuster
Findley	Metcalfe	Sikes
Flowers	Milford	Sisk
Ford, Mich.	Miller, Calif.	Symms
Fraser	Mitchell, Md.	Teague
Gammage	Moakley	Tsongas
Goodling	Moss	Wiggins
Hanley	Murphy, N.Y.	Wilson, C. H.
Harrington	Nolan	Young, Alaska
Kasten	Patterson	Young, Tex.
Krueger	Quie	

The Clerk announced the following pairs:

On this vote:

Mr. Gammage for, with Mr. Eilberg against.

Mrs. Lloyd of Tennessee for, with Mr. Dingell against.

Mr. McDonald for, with Mr. Le Fante against.

Mr. Risenhoover for, with Mr. Mitchell of Maryland against.

Mr. Sikes for, with Mr. Richmond against.

Mr. Teague for, with Mr. Shipley against.

Mr. Breaux for, with Mr. Miller of California against.

Mr. LAGOMARSINO changed his vote from "aye" to "no."

Mr. BUCHANAN changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. WRIGHT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to comment upon the progress we have thus far made on this bill and to express the firm hope and intention of the leadership that we shall conclude this bill this evening.

We have been on the bill for 3 full days and for 4 legislative days. The debate has been full; it has been enlightened, it has been, at times, provocative; and the House has behaved, in general, in a most thoroughly responsible way.

Surely, no Member could contend that he has been shut off or denied the the privilege of speaking on any and/or all amendments. It is the firm hope of the leadership that we shall conclude this bill tonight.

Therefore, I would simply take this time to urge Members to be cooperative. There are, as I understand it, three and possibly four amendments remaining. We want to conclude the bill today, and we want to adjourn prior to 9 o'clock.

The CHAIRMAN. Are there additional amendments to this section? If not, the Clerk will read.

The Clerk read as follows:

SEC. 506. None of the funds appropriated in this Act shall be used for any form of aid or trade, either by monetary payment or by the sale or transfer of any goods of any nature, directly to Cuba.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 22, line 10, insert "or indirectly" immediately after "directly".

Mr. ASHBROOK. Mr. Chairman, the purpose of my amendment is simple. It would prohibit indirect aid as well as direct aid to Cuba.

This amendment should be familiar to my colleagues. It is basically the same amendment that I have offered on several other occasions and which has received overwhelming House support. When we considered the foreign assistance appropriations bill last year, for instance, the House approved my amendment prohibiting direct or indirect aid to Cuba by a vote of 274 to 112.

The fact that his bill already contains a prohibition on direct aid to Cuba is a small step forward. It is still short of the mark, however. If we really do not want American tax dollars going to Cuba directly, we should not want them going indirectly either. Whether direct or indirect aid, it is essentially the same thing albeit a circuitous route.

Cuba has certainly given us no reason to consider providing either direct or indirect aid. Fidel Castro has followed a policy of international adventurism, using his Cuban troops like a mercenary army on behalf of Soviet interests throughout Africa.

In fact, an estimated 30,000 to 40,000 Cuban soldiers are stationed in 19 different African and Arab countries. They have fought to preserve and expand Moscow's influence while the Soviet Union foots the bill.

I cannot justify allowing even $1 of U.S. money to go directly or indirectly to Cuba. It is ridiculous for the United States to give money to such organizations as the United Nations Development Program and have them turn right around and give the money to Cuba. I find it especially ironic that anyone would argue that Cuba is free to export communism throughout Africa but we are totally unable to prevent our tax dollars from indirectly assisting them.

I urge the adoption of my amendment.

Mr. McHUGH. Mr. Chairman, I rise in opposition to the amendment. I will take 1, or at the most 2 minutes, simply to say that we have been through this many times, with the same arguments being made.

This is an amendment which affects not just Cuba, but affects all of our contributions to all of the Banks because, as has been pointed out before, the Banks by their charters are unable to accept any contributions from any country, including the United States, with restrictions such as this attached. Therefore, I think we should be clear that this is another red herring amendment, and specifically would preclude us from participating in the Banks at all.

Second, it might be noted that Cuba is not a member of any Bank, and therefore under present conditions could not be a recipient of our contributions. Therefore, it is misleading to suggest that Cuba is being aided by us directly or indirectly through the Banks.

Accordingly, Mr. Chairman, I hope the committee will reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Florida: On page 23, after line 19 insert the following new section:

"SEC. 510. The President shall direct the United States Governor of the International Bank ofr Reconstruction and Development, the United States Governor of the International Finance Corporation, the United States Governor of the International Development Association, the United States Governor of the Inter-American Development Bank, the United States Governor of the Asian Development Bank, and the United States Governor of the African Development Fund, to propose and seek adoption of an amendment to the Articles of Agreement for their respective institutions to establish human rights standards to be considered in connection with each application for assistance."

The CHAIRMAN. The gentleman from Florida (Mr. YOUNG) is recognized for 5 minutes in support of his amendment.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to my chairman.

Mr. LONG of Maryland. Mr. Chairman, the various members of the subcommittee have examined this amendment and have no objection to it.

Mr. YOUNG of Florida. I thank the gentleman.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

I do not want to prolong this any longer than anyone else on the floor, but I think the gentleman has come up with a really good amendment to get our Directors in these Banks to take some positive action to get other member countries to change the charter of the world banks so that one of the factors they have to take into consideration in making these loans is the human rights factor.

I compliment the gentleman for offering this amendment.

Mr. YOUNG of Florida. I thank the gentleman from Iowa.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. YOUNG).

The amendment was agreed to.

The CHAIRMAN. The clerk will read.

The Clerk read as follows:

This Act may be cited as the "Foreign Assistance and Related Programs Appropriations Act, 1979".

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANSEN: On page 23, after line 19, add the following new section:

"SEC. 511. Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act shall be obligated or expended to provide, review or administer any assistance, credits, guarantees or insurance in or for Panama.

POINT OF ORDER

Mr. LONG of Maryland. Mr. Chairman, I reserve a point of order on the amendment.

Mr. Chairman, I reserved my point of order because I believed we had passed the point in the bill to which this amendment would apply when this amendment was offered, and we did not have a copy of the amendment.

Mr. HANSEN. Mr. Chairman, I stood

to be recognized at that point in the bill.

The CHAIRMAN. Technically the point of order is well taken because the clerk had read a new paragraph beginning on line 20 through line 21 and the gentleman proposes to place the amendment after line 19.

Are there further amendments at the end of the bill?

AMENDMENT OFFERED BY MR. HANSEN

Mr. HANSEN. Mr. Chairman, I offer an amendment at the end of the bill as a new section.

Mr. CONTE. Mr. Chairman, a point of order.

The CHAIRMAN. Does the gentleman from Idaho have an amendment at the desk?

Mr. HANSEN. Mr. Chairman, I offer the amendment, and I have it at the desk.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HANSEN: At the end of the bill add the following new section:

"SEC. 511. Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act shall be obligated or expended to provide, review or administer any assistance, credits, guarantees or insurance in or for Panama.

POINT OF ORDER

Mr. CONTE. Mr. Chairman, a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CONTE. Mr. Chairman, the gentleman's amendment is outside the scope of the bill. The bill has been closed and finished. He adds a new section 511. There is no section 510 in the bill

The CHAIRMAN. The Chair will state for the gentleman that the amendment is still in order at the end of the bill as a new section and it is a general provision. The amendment offered by the gentleman from Florida (Mr. YOUNG) added a new section 510.

Mr. CONTE. Even though the Clerk had read the last line of the bill?

The CHAIRMAN. That is correct. The amendment is at the end of the bill. The Clerk read the last line of the bill. The gentleman from Idaho (Mr. HANSEN) offers an amendment that comes at the end of the bill. The amendment is in order. The Chair overrules the gentleman's point of order.

The Chair recognizes the gentleman from Idaho (Mr. HANSEN) for 5 minutes in support of his amendment.

Mr. HANSEN. I thank the Chairman.

Mr. Chairman, my amendment is very simple. I will repeat it:

Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act shall be obligated or expended to provide, review or administer any assistance, credits, guarantees or insurance in or for Panama.

Mr. Chairman, I think it is important that this is not necessarily to cut off assistance to Panama forever and forever, it is just to say that since the passage this spring of the Panama treaties by the other body, I think it is of vital importance that this type of legislation which includes any type of credit, any type of funding, any type of aid, be considered in the appropriate legislation which is supposed to be submitted for a vote on implementation of these treaties.

I feel that it is important at this time that these appropriations be taken out of the regular order of legislative business and reserved for that special type of consideration.

I might mention that since the treaties have been passed that the government of Panama has issued a new foreign policy, one provision calling for the United States to get out of Guantanamo, another for the Israelis to get out of the Arab lands, another for us to free Puerto Rico and a number of other things. Also a resurgence of human rights violations is occurring which I think is important to this body of Congress as well as to the other which makes reconsideration of treaty approval under articles I and IV of the Constitution a vital matter.

In my amendment we are talking about cutting $20 million worth of foreign aid funds and about $80 million worth of credits and guarantees. I think it is important that these assistance programs for Panama as well as any other costs regarding the proposed Panama Canal transfer be taken care of in separate appropriate legislation and not be considered on an ongoing basis through the regular foreign assistance authorization and appropriations process.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Idaho (Mr. HANSEN) and I have discussed the amendment, and, while I might have preferred that the gentleman cut part of the money instead of all of it, I think that in all great likelihood the Senate will take a different approach and we will have an opportunity in conference to bargain on the actual amount of the cut.

The gentleman makes a valid point in making the claim that we are really being asked to buy a pig in a poke; we are being asked to buy the funding in this bill plus who knows what will be in the implementing legislation.

Perhaps this amendment might encourage the administration to actually come forth with that legislation so that we can know what we are talking about. The gentleman pointed out the change, or at least a statement of the change in Panama's new foreign policy, and in that respect I might also add that the Archbishop of Panama, Archbishop McGrath, who has been quite supportive of the Panama Canal treaties and General Torrijos, has recently attacked the General down there, pointing out that there is a great amount of human rights violations.

So, Mr. Chairman, I would urge my colleagues to adopt this amendment.

Mr. HANSEN. Mr. Chairman, I thank the gentleman from California (Mr. LAGOMARSINO) for his comments.

Mr. Chairman, the Government of Panama issued a new foreign policy on July 19. It gives further confirmation of the Communist influence in the Torrijos regime and its close adherence to the Moscow line, that is, U.S. Get Out of Guantanamo, Israel Get Out of Arab Lands, U.S. Free Puerto Rico. Other clauses raised doubt of Torrijos' intention to honor new canal treaty commitments.

The Panama Committee for Human Rights has detailed a June–July resurgence of repression, documenting the jailings without trial of dissidents and newsmen and recent tortures and murders.

Now, Mr. Chairman, today we are being asked to approve the first of many payments to the Republic of Panama in connection with the constitutionally questionable Panama Canal treaties recently approved by the Senate. In a business as usual request in the current foreign aid appropriations legislation, we are being asked for $100 million in loans, grants, insurance, and aid to Panama despite the fact that such consideration should now be handled under separate implementing legislation.

It is highly inappropriate for us to now consider such proposals under the regular foreign aid bill. The American taxpayer deserves to see one price tag for this treaty, as would occur in the long-promised implementing legislation. Therefore, I am proposing that all aid to Panama in this measure before us today be suspended and embargoed until it can be considered as part of one implementing package of legislation in order for the Congress and American citizens to see just what total costs are involved in the proposed transfer of the Panama Canal.

Recent developments in Panama demand this action now more than ever. To proceed without special scrutiny of the total aid package slated for Panama during the next year and the years to follow would be a gross injustice to American citizens and to the citizens of Panama as well. This is particularly true since such massive assistance can be expected to prop up the crumbling and corrupt dictatorship of General Omar Torrijos, a guarantee of continued repression of human rights within Panama, the endangering of lives of many Panamanian citizens, and virtual assurance of increased Communist activity jeopardizing Canal operations.

Mr. Chairman, I must point out that the Carter administration at first emphatically stated that the treaties would not cost the American taxpayer a single dollar. Then in February of this year they admitted in a letter to every Senator that there would be a $600 million cost to the treaties in addition to anticipated loans, guarantees, and other non-direct programs. In fact, this was reluctantly acknowledged in a letter signed by Secretary of State Cyrus Vance, Secretary of Defense Harold Brown, and Secretary of the Army Clifford Alexander that the treaties would require $633 million in

appropriated funds and lost revenues to the U.S. Treasury. The appropriated funds and lost revenues added to the loans and guarantees promise a total assistance program to Panama of billions of U.S. tax dollars.

The Senate's ratification of the Panama Canal treaties makes it imperative that the House resist business as usual and insist that aid to Panama be considered separately in special implementing legislation. Under articles I and IV of the U.S. Constitution, the House of Representatives has the authority and responsibility to approve or disapprove the large transfer of U.S. property and taxpayer dollars envisioned in the Panama Canal treaty not to mention protecting the peoples' right to know the total amounts involved.

Concerns which should be dealt with by the Congress prior to any decision to transfer the Panama Canal and huge amounts of American dollars are:

First. The recent foreign policy statement by the Panamanian Foreign Ministry that the United States should get out of Guantanamo; allow self-determination for Puerto Rico, and force Israel to withdraw from all occupied Arab lands.

Second. Human rights violations within Panama and the statement of the Catholic Church condemning the present state of affairs under General Torrijos and demanding a change.

Third. The recent attempt of the U.S. Army to spend $40 million without congressional authorization in efforts to prepare for the preimplementation of the Panama Canal treaties.

Fourth. The recent disclosure of Panama's Minister of Housing that $18 million of U.S. aid was missing and unaccounted for.

Fifth. The refusal of the Panamanian Government to negotiate a settlement with American citizens whose Panama property has been nationalized. Over 100 American citizens have been seeking relief in vain from the government of General Torrijos.

Sixth. Panama's specific rejection in the protocols relating to the exchange of instruments of ratification of the DeConcini reservation and other treaty provisions.

Again, Mr. Chairman, I strongly urge this body to support my amendment to embargo all assistance to Panama in the Foreign Aid Appropriations bill before us until such time as proper answers to key questions can be obtained in the course of consideration of duly constituted treaty implementation legislation. This means cutting out all aid to Panama in this bill—provisions which can later be reinstituted in implementation legislation and subsequent supplemental appropriations bills. This request is in keeping with the spirit of House Concurrent Resolution 347, which has well over half the Members of Congress as cosponsors and three similar amendments to previous legislation passed overwhelmingly in this body during recent months.

Mr. Chairman, let us stop the $100 million per year tax dollar rip-off to implement the Panama treaties. Giving up the canal is a sad mistake, but to give up billions with it is to compound the tragedy.

Mr. Chairman, I urge the adoption of the amendment.

Mr. WRIGHT. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Idaho (Mr. Hansen).

It is obvious that the gentleman from Idaho is angry because the other body ratified the Panama Canal treaties. Perhaps many in this body might have voted differently on that question. But that does not excuse nor give any of us justification to vent our pique by arbitrarily treating the people of Panama differently than we have treated every other country in the world.

I would ask the Members to listen to the wording of the gentleman's amendment so that they can see how broad is its exclusion. It states:

> Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act shall be obligated or expended to provide, review or administer any assistance, credits, guarantees or insurance in or for Panama.

It would allow nothing by way of beneficial contact with Panama—no loans, no grants, no cooperative agreements; not even loan guarantees; not even insurance; not even any funds to review or administer any existing program.

No other country is treated in that way. There is no reason that Panama should be. We do not know what the emerging Government of Panama will be like. Elections have been promised for next year.

Would the gentleman deny to the State Department and to the President of the United States and to those who conduct relations with Latin America the privilege of working with whatever government may emerge from the elections in Panama next year?

I know that there was some dissatisfaction arising from news reports which purported to quote from comments made by General Torrijos following the ratification of the treaties in the other body. In April I wrote a letter to the President of Panama, Demetrio Lakas, insisting upon an explanation of exactly what was said and exactly what was intended.

I received a reply.

Mr. Chairman, I shall include in the Record a copy of my letter and of the English translation of the reply. At this point, however, let me simply quote from the letter from Omar Torrijos very briefly, as follows:

> Our two nations have arrived at an agreement which serves as an example of a negotiated solution. The lack of understanding of those who do not live from the solution but rather the problem, turned the process into a scene of insults and threats; in this respect I do not exclude the bad Panamanians who preached violence as the only possible solution. God enlightened us and the truth was imposed on those who preached violent action.
>
> After the ratification of the treaties—there by the Congress, here through a plebiscite, I can assure you that never, in this century, have the relations between our two nations been better; and that never has expeditious, indiscriminate, flowing transit been so sure as now.
>
> The coordination that we have begun to establish with the authorities of the Canal Zone and the existent ones between the armed forces of your country—South Command—and the National Guard, guarantee us that with a deep sense of a team today and always we will be in a condition to eliminate, eradicate or put down any movement tending to damage the Canal.

Mr. Chairman, this letter was written in answer to questions which I had posed in my letter. Together with my original letter, the entire text will be published in the Record following my remarks.

Certainly we do not want to act out of a fit of childish pique. I do not think we want to grandstand on a question as important to all of Latin America as the solution that has been achieved in Panama. I do not think we want to close the door to the possibility that that country may, indeed, emerge as a truly democratic nation.

Mr. Chairman, to pass an amendment of this kind would be simply gratuitously insulting. It would make harder the development in Panama of the very democratic forces which I think all of us want to see emerge.

For that reason, I hope that we will not treat Panama in a way that is any different from the way we treat every other country in the world.

Mr. Chairman, I hope the Members vote "No" on this amendment.

The letter and English translation referred to by Mr. Wright follow:

> Office of the Majority Leader,
> *Washington, D.C., April 25, 1978.*
>
> Hon. Demetrio Lakas,
> *President,*
> *Republic of Panama.*
>
> Dear Jimmy: The comments made by General Torrijos immediately following the Senate vote to ratify the second of the Panama Canal Treaties are being interpreted in various ways in the United States. Some interpretations placed upon the General's comments, if not clarified and corrected, could cause serious difficulties in the enabling legislation which must be passed by both House and Senate.
>
> To be specific, numerous U.S. news accounts have portrayed General Torrijos as threatening to destroy the Canal or to launch a military attack upon the Zone aimed at its physical confiscation, in the event the Treaty had not been ratified. As a result of these news stories, many people in the United States believe that this is what he said.
>
> It is my impression that he did not make nor intend any such overt threat but simply was expressing the apprehension that there could have been a general public uprising which could have destroyed or threatened the safety of the Canal in the event the Senate had rejected the Treaty.
>
> References also have been made to supposed military "contingency plans" on the part of the government of Panama. Some profess to believe that such plans existed with the aim of seizing or destroying the Canal. I prefer to believe that any such plan as may have existed would have had as its purpose the protection, rather than the destruction, of the Canal, since the destruction of that installation would make no sense whatever to the future of Panama or the best interests of the Panamanian people.
>
> There is, of course, a great deal of difference between the two interpretations—and I earnestly hope and trust that my interpretation is the correct one. If I am incorrect

in my interpretation, I think I need to know it. It could make a serious difference in the actions of the House as well as the Senate in regard to the implementing legislation.

In any event, I believe that it needs to be clarified. Could I hear from you and General Torrijos in this regard?

Very best wishes.

Sincerely,

JIM WRIGHT,
Majority Leader,
U.S. House of Representatives.

PANAMA, May 31, 1978.

DEAR JIM: I remember when, in the middle of the Darien jungle, you accompanied us to the celebration of a ceremony that for Panama has had great importance; which consisted of going by helicopter to that place to representatives of the BID and, in the presence of Ortiz Mena and the most outstanding leaders of the indigenous tribes of that region, we promised to make the first contribution to what later would become the highway that, running through Tapón del Derién, would join Alaska with Patagonia. On the Bayano River, which served as a silent and eternal witness to that ceremony, the dam that you saw under construction now being raised; and many people are now traveling over that project, thanks to the cooperation of the most conscientious leaders of your country, among which I include you with all fairness.

Our two nations have arrived at an agreement which serves as an example of a negotiated solution. The lack of understanding of those who do not live from the solution but rather the problem, turned the process into a scene of insults and threats; in this respect I do not exclude the bad Panamanians who preached violence as the only possible solution. God enlightened us and the truth was imposed on those who preached violent action.

After the ratification of the treaties—there by the Congress, here through a plebiscite, I can assure you that never, in this century, have the relations between our two nations been better; and that never has expeditious, indiscriminate, flowing transit been so sure as now.

The coordination that we have begun to establish with the authorities of the Canal Zone and the existent ones between the armed forces of your country—South Command—and the National Guard, guarantees us that with a deep sense of a team today and always we will be in a condition to eliminate, eradicate or put down any movement tending to damage the Canal.

To say it briefly, for the first time Americans and Panamanians are acting in peaceful coexistence.

Your friend,

OMAR.

Mr. LONG of Maryland. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the bilateral budget requests for fiscal year 1979 for Panama total $17,555,000.

The committee has made significant reductions in various forms of bilateral economic assistance and has made a 20-percent reduction in the applicable military assistance accounts, so Panama will not necessarily be able to receive the total budget request.

Mr. Chairman, the various assistance programs should not be tied to the Panama Canal Treaty or to the use of canal revenues to be received by Panama. The treaties have been approved, and the complex implementing legislation will go through this body at a later time. The House will be able to deal with the various details at that point. There are no funds in this bill to implement the Panama Canal Treaty, so this amendment is not needed and should not be included. The amendment would, as the majority leader has said, be especially injurious to United States-Panamanian relations. Whether we like it or not, we have to get along with the people down there and it is important that these relations be maintained at this time.

Mr. Chairman, on May 31 the House amended H.R. 12598, the Foreign Relations Authorization Act of 1978, to include a provision which prohibits the use of any of the funds to be appropriated to effect implementation of the Panama Canal Treaty without a specific act of Congress authorizing such implementation.

The proper place to consider this type of restriction is when the implementing legislation is before the House, and I, therefore, ask that the amendment be defeated.

Mr. BAUMAN. Mr. Chairman, will the gentleman from Maryland yield at that point?

Mr. LONG of Maryland. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Regardless of the outcome of the pending amendment's adoption or defeat, I do think that one point ought to be made very clear. The majority leader spoke of the cooperation that is occurring between the so-called Republic of Panama and the United States.

I had occasion a few days ago to receive from a friend in Panama City a copy of the Panama Herald containing a news story which has been virtually ignored by the American press. About 10 days ago the chief negotiator of the treaties who is also Minister of Information, Romulo Escobar Betancourt, spoke to a group of Panamanians who work at the canal and who are employees of the U.S. Government. He publicly accused the U.S. Government and the Panama Canal Company of sabotaging the canal right now. He said that the United States is engaged in hostile acts and that the slowdown of traffic which occurred this summer—which actually was seasonal—was the result of a deliberate plan on the part of the U.S. Government. Ambassador Jorden felt compelled to write a letter of protest to the Panamanian Government within 24 hours, not only denying this but citing this as a lack of cooperation which is needed if the terms of the treaties are to be properly implemented.

It does appear to me that if the character of the officials of the Government of Panama is such that a wild charge would be made almost on the heels of the signing of the treaties by President Carter, there is ample reason for the House of Representatives to go slow in providing funding for this agreement, and that we really ought to wait and see. I do not expect Panamanian cooperation. I think this is another good example of why the treaties are a mistake. I would suggest that not all is sweetness and light and the amendment offered by the gentleman from Idaho (Mr. HANSEN) is, I think, in good order.

Mr. LONG of Maryland. As the gentleman from Maryland knows, this is the type of situation which lends itself to demagoguery. We are a big country; we are a great country; and I suppose we have to put up with a certain amount of that type of aggravation and be philosophical about it. I think this is one of those situations.

Mr. OBEY. Mr. Chairman, will the gentleman yield for a quick point?

Mr. LONG of Maryland. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

Since Archbishop McGrath's name was mentioned, I simply want to read one sentence from a telegram from the Rev. J. Bryan Hehir, Associate Secretary of the Office of International Justice and Peace, U.S. Catholic Conference:

> . . . we, at the U.S. Catholic Conference, would not associate ourselves with measures to deprive Panama of needed economic assistance, especially at this crucial moment of their political history.

Mr. LONG of Maryland. I thank the gentleman.

AMENDMENT OFFERED BY MR. HARKIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. HANSEN

Mr. HARKIN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. HARKIN as a substitute for the amendment offered by Mr. HANSEN:
>
> SEC. 511. None of the funds appropriated or made available pursuant to this act shall be made available for military training and military credit sales to Panama.

Mr. HARKIN. Mr. Chairman, I, too, have followed a little bit the events that have been unfolding in Panama. I also have some serious questions about the state of human rights in the nation of Panama under its present dictator, Omar Torrijos.

It is true that last month the Catholic Church under Archbishop McGrath condemned the Torrijos regime for a wide variety of different abuses. One of those, however, was the serious violation of human rights that is taking place in that country. They pointed out the number of different human rights violations going on: Beatings; torture; arrests; detention without any kind of trial; and a group of farmers who were arrested in one of the areas, thrown into jail, beaten, and one of them died, as a matter of fact, in prison at that time. So there is firm evidence of violations of human rights in the nation of Panama.

However, I do not feel that we ought to punish the people of Panama themselves for what their dictator may be doing to them. So what I have done in my substitute amendment is to say that out of the $17.5 million that is going to Panama, let us not punish the people of Panama by taking away $15 million for agriculture or for rural development or for nutrition programs. Let us not take

away the $500,000 that is going down there for population planning and health. Let us not take away the $500,000 that is going down there for education. Let us not take away the $50,000 for technical assistance.

Rather, let us take the $1.5 million that goes down there for military training and military credit sales, because this is the kind of money, this is the kind of aid that Torrijos is using for his national guard to suppress the legitimate human rights of his people.

Ambassador Bunker testified before that the national guard is, "really a police system and not a military force"; so by giving them these military training and these military credit sales, we enable Torrijos to use that national guard to suppress the human rights of his people; so I am saying that I support the amendment of the gentleman from Idaho to a certain degree, as long as we can in some way affect the human rights situation down there by cutting off some military aid or instruments that they use to repress people and put them in jail or torture them. But let us not punish the people of Panama. Let us not take away the agricultural and nutrition programs so badly needed down there. This has been my feeling all along on these human rights situations. We cannot punish the people of a country for what its government, a government that is a dictatorship, is doing to them.

Let us keep these good programs, but cut off the military training and credit sales.

Mr. Chairman, I ask adoption of my amendment as a substitute for the amendment offered by the gentleman from Idaho.

Mr. LONG of Maryland. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the subcommittee has spent a lot of time on this problem of military aid to countries that are gross and persistent violators of human rights. Of course, we recognize that it is also hard to keep current in this field. The situation changes from day to day and certainly from year to year. It would be very hard for us as a Congress or the committee to say that we honestly know what the human rights situation is in a country at a given moment. You can read a document, but that does not necessarily tell you what it is. The State Department comes in and says, "Oh, no, that might have been true 6 months ago, but that is not true any more. They are improving rapidly."

We would not know how much to cut, anyway. The subcommittee cut 20 percent from the military training and military credit sales accounts. Then we placed a list of countries in the report which we thought the State Department should take into consideration when allocating these reductions. Let me read, as follows:

There have been serious questions raised about the human rights situations in a number of countries.

The Committee has received testimony, information, and expressions of concern from Members and public witnesses about alleged human rights violations in the following countries: Afghanistan, Argentina, Bangladesh, Bolivia, Cameroon, Chad, Dominican Republic, El Salvador, Ethiopia, Ghana, Guatemala, Haiti, Indonesia, Mali, Morocco, Nepal, Nicaragua, Panama, Paraguay, Philippines, South Korea, Sudan, Thailand, Tunisia, Uruguay, Yemen, and Zaire.

It was our intention to cut the overall accounts and put the burden on the State Department to allocate the specific reductions. I think that was the responsible way to handle it and not deal with it country by country, or to handle the situation moment by moment when we do not know what the situation is.

Mr. Chairman, I oppose the gentleman's amendment.

Mr. HANSEN. Mr. Chairman, I rise in opposition to the substitute amendment.

Mr. Chairman, I will not take much time, but I do think it is important to point out that what the gentleman from Iowa (Mr. HARKIN) is introducing by the substitute is pretty much a manicure when an amputation is needed. He is talking about cutting a million dollars or so, and I am talking about cutting a hundred million dollars.

If the gentleman can go before his congressional district in this election and stand before his people and say, "I not only allowed the Panama Canal to slip into other hands, but I paid them to take it, and we will continue to pay them $100 million each year," then he has a different kind of constituency than I have.

Mr. Chairman, we also have a human rights crisis in Panama which we need to talk about. If we really want to put our money where our mouth is on stopping human rights violations around the world, then we have to ask people to clean up their act before we give them funds for assistance and not just hope they will do it after they get the money.

Mr. Chairman, I urge defeat of the substitute and yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN) as a substitute for the amendment offered by the gentleman from Idaho (Mr. HANSEN).

The amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. HANSEN).

The question was taken; and on a division (demanded by Mr. HANSEN) there were—ayes 31, noes 48.

RECORDED VOTE

Mr. HANSEN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 172, noes 202, not voting 58, as follows:

[Roll No. 696]

AYES—172

Ammerman	Bafalis	Broomfield
Anderson, Calif.	Barnard	Brown, Ohio
Andrews, N. Dak.	Bauman	Buchanan
Applegate	Beard, Tenn.	Burgener
Archer	Bennett	Burke, Fla.
Armstrong	Bevill	Burke, Mass.
Ashbrook	Biaggi	Burleson, Tex.
Badham	Boggs	Butler
	Bowen	Byron
	Brinkley	Carter
Cederberg	Hansen	Pickle
Chappell	Harsha	Poage
Clausen, Don H.	Hefner	Pressler
Clawson, Del	Hightower	Quillen
Cochran	Hillis	Regula
Coleman	Holland	Rinaldo
Collins, Tex.	Holt	Roberts
Corcoran	Horton	Robinson
Cornwell	Hubbard	Rose
Crane	Huckaby	Rousselot
Cunningham	Ichord	Rudd
D'Amours	Ireland	Runnels
Daniel, Dan	Jenkins	Santini
Daniel, R. W.	Jenrette	Satterfield
Davis	Johnson, Calif.	Schulze
de la Garza	Jones, N.C.	Skelton
Dent	Jones, Okla.	Slack
Derrick	Jones, Tenn.	Smith, Nebr.
Devine	Kazen	Snyder
Dickinson	Kelly	Spence
Dornan	Kindness	Staggers
Duncan, Tenn.	Lagomarsino	Stratton
Edwards, Ala.	Latta	Stump
Edwards, Okla.	Leggett	Taylor
Emery	Lent	Thone
English	Livingston	Treen
Evans, Del.	Lloyd, Calif.	Trible
Evans, Ga.	Long, La.	Vander Jagt
Evans, Ind.	Lott	Volkmer
Fithian	Luken	Walker
Flippo	McEwen	Walsh
Flood	McKay	Wampler
Flynt	Marlenee	Watkins
Fountain	Marriott	Weaver
Fowler	Martin	White
Frenzel	Mathis	Whitehurst
Frey	Miller, Ohio	Whitley
Fuqua	Mitchell, N.Y.	Whitten
Gaydos	Montgomery	Wilson, Bob
Gephardt	Moore	Winn
Gilman	Moorhead, Calif.	Wolff
Ginn	Mottl	Wydler
Goldwater	Murphy, Pa.	Wylie
Grassley	Myers, John	Yatron
Gudger	Natcher	Young, Fla.
Guyer	Nichols	Young, Mo.
Hall	O'Brien	Zeferetti
Hammer-schmidt	Oakar	
	Perkins	

NOES—202

Addabbo	Diggs	Long, Md.
Akaka	Dodd	Lundine
Alexander	Downey	McClory
Ambro	Drinan	McCloskey
Anderson, Ill.	Duncan, Oreg.	McCormack
Andrews, N.C.	Early	McDade
Annunzio	Eckhardt	McFall
Ashley	Edgar	McHugh
Aspin	Edwards, Calif.	McKinney
AuCoin	Erlenborn	Maguire
Baldus	Ertel	Mahon
Baucus	Fary	Mann
Beard, R.I.	Fascell	Markey
Bedell	Fenwick	Marks
Bellenson	Fish	Mattox
Benjamin	Fisher	Mazzoli
Bingham	Florio	Meeds
Blanchard	Foley	Meyner
Blouin	Ford, Mich.	Michel
Boland	Ford, Tenn.	Mikulski
Bolling	Forsythe	Mikva
Bonior	Garcia	Mineta
Bonker	Giaimo	Minish
Brademas	Gibbons	Moakley
Breckinridge	Glickman	Moffett
Brodhead	Gonzalez	Mollohan
Brooks	Gore	Moorhead, Pa.
Brown, Calif.	Gradison	Murphy, Ill.
Brown, Mich.	Green	Murtha
Broyhill	Hamilton	Myers, Gary
Burke, Calif.	Hannaford	Myers, Michael
Burlison, Mo.	Harkin	Neal
Burton, John	Harris	Nedzi
Burton, Phillip	Heftel	Nix
Carney	Hollenbeck	Nowak
Carr	Holtzman	Oberstar
Cavanaugh	Howard	Obey
Chisholm	Hughes	Ottinger
Cleveland	Hyde	Panetta
Collins, Ill.	Jacobs	Patten
Conable	Jeffords	Pattison
Conte	Johnson, Colo.	Pease
Conyers	Jordan	Pepper
Corman	Kastenmeier	Pettis
Cornell	Keys	Pike
Cotter	Kildee	Preyer
Coughlin	Kostmayer	Price
Danielson	Krebs	Pritchard
Delaney	LaFalce	Pursell
Dellums	Leach	Quayle
Derwinski	Lederer	Rahall
Dicks	Lehman	Railsback

Rangel	Smith, Iowa	Van Deerlin
Reuss	Solarz	Vanik
Rodino	Spellman	Vento
Roe	St Germain	Waggonner
Rogers	Stanton	Walgren
Rooney	Stark	Waxman
Rostenkowski	Steed	Weiss
Roybal	Steers	Whalen
Ryan	Steiger	Wiggins
Sawyer	Stockman	Wilson, Tex.
Scheuer	Studds	Wirth
Schroeder	Thompson	Wright
Seiberling	Thornton	Yates
Sharp	Traxler	Zablocki
Simon	Tucker	
Skubitz	Ullman	

NOT VOTING—58

Abdnor	Krueger	Rosenthal
Breaux	Le Fante	Ruppe
Caputo	Levitas	Russo
Clay	Lloyd, Tenn.	Sarasin
Cohen	Lujan	Sebelius
Dingell	McDonald	Shipley
Eilberg	Madigan	Shuster
Evans, Colo.	Metcalfe	Sikes
Findley	Milford	Sisk
Flowers	Miller, Calif.	Stangeland
Fraser	Mitchell, Md.	Stokes
Gammage	Moss	Symms
Goodling	Murphy, N.Y.	Teague
Hagedorn	Nolan	Tsongas
Hanley	Patterson	Udall
Harrington	Quie	Wilson, C. H.
Hawkins	Rhodes	Young, Alaska
Heckler	Richmond	Young, Tex.
Kasten	Risenhoover	
Kemp	Roncalio	

The Clerk announced the following pairs:

On this vote:

Mr. Gammage for, with Mr. Eilberg against.

Mr. McDonald for, with Mr. Richmond against.

Mr. Risenhoover for, with Mr. Mitchell of Maryland against.

Mr. Sikes for, with Mr. Hawkins against.

Mr. Teague for, with Mr. Dingell against.

Mr. ROONEY changed his vote from "aye" to "no."

Mr. MOORE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. YOUNG of Florida: On page 23, after line 21, add the following new section:

SEC. . Of the total budget authority provided in this Act, except for budget authority for payments required by law and for direct or indirect assistance, credits, loans, or loan guarantees to or for Israel or Egypt, two per centum shall be withheld from obligation and expenditure: *Provided*, That of the budget authority provided in this Act for each appropriation account, activity, and project, except for budget authority for payments required by law and for direct or indirect assistance, credits, loans, or loan guarantees to or for Israel or Egypt, the amount withheld shall not exceed five per centum.

Mr. YOUNG of Florida. Mr. Chairman, this is the Miller-Conte-Bow-Harkin-Obey-Young, and so on, and so forth amendment, ever since proposition 13. It is a 2-percent across-the-board, and it exempts Egypt and Israel, and it says not more than 5 percent would come out of any particular amount.

While we are on the subject of reducing this bill, there is one subject I would like to mention.

Mr. Chairman, our colleague, the gentleman from Florida (Mr. SIKES) was not able to be here today on the floor, but he had intended to discuss one item with the chairman of the subcommittee. At this point I will do that in his behalf.

His concern is that foreign aid or funds made available through the Export-Import Bank or the Overseas Private Investment Corporation are being used in some cases for establishing or expanding production of commodities which are counterfeits of American trademarked or trade-named products.

The Levi Strauss Co. estimates that it may be losing several million dollars per year on trademarked jeans; Walt Disney Productions has estimated an annual loss of some $10 million; Bausch & Lomb estimates sales losses on Ray-Ban sunglasses at $8 million; Estee Lauder, Inc. estimates losses in the millions on counterfeit cosmetics.

I would like to engage in a colloquy with the chairman, the gentleman from Maryland (Mr. LONG) very briefly as to what he thinks of the concern of the gentleman from Florida (Mr. SIKES) and what he thinks we might be able to do to pay some attention to this matter?

Mr. LONG of Maryland. Mr. Chairman, if the gentleman will yield, I have had the opportunity to examine some of the concerns, and it does seem to me that they are serious concerns and that they merit very careful scrutiny. Obviously we cannot deal with that kind of thing in an appropriation bill because it is far too complicated and because we do not yet know all of the facts. Let me say to the gentleman that I will consult with the other members of the subcommittee with the possible view of holding an oversight hearing into this problem to see what the nature of the problem is and how serious it is and whether any legislation is required to remedy it.

Mr. YOUNG of Florida. I thank the gentleman from Maryland (Mr. LONG) very much for his comments. I am sure the gentleman from Florida (Mr. SIKES) will appreciate that response.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. MILLER OF OHIO TO THE AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio to the amendment offered by Mr. YOUNG of Florida: In line 4 of the amendment strike "two" and insert "eight".

In line 9 of the amendment strike "five" and insert "twenty".

Mr. MILLER of Ohio. Mr. Chairman, I do not intend to take the 5 minutes.

With respect to the original amendment offered by the gentleman from Florida (Mr. YOUNG), that amendment would exempt the funds in the bill for Israel, which amount to $1.4 billion. It also would exempt the funds in the bill for Egypt, which amount to $750 million. My amendment to the Young amendment does not change that.

The bill now comes out to just over $7 billion after we deduct the cuts to date. After we deduct the $1.4 billion for Israel, $750 million for Egypt, and $24 million, which is a mandatory payment to the foreign service retirement and disability fund, we have just over $5 billion.

Mr. Chairman, eight percent of that amount of budget authority of $5 billion comes to $403 million. That is the amount of the cut: $403 million.

Mr. Chairman, I ask for a vote on the amendment.

Mr. LONG of Maryland. Mr. Chairman, I rise in opposition to the amendment.

I doubt that there is anything I have to say which we have not said over many, many times about this type of cut.

Mr. Chairman, I cannot accept it, and I therefore oppose it and ask that it be voted down.

Mr. CONTE. Mr. Chairman, I move to strike the last word.

I want to ask the author of the original amendment a question.

We have adopted a 2-percent cut in different sections of the bill, every section, I believe. Is this over and above the 2-percent cut, thus becoming a 4-percent cut?

Mr. YOUNG of Florida. If the gentleman will yield, Mr. Chairman, this particular amendment relates to the overall bill.

Mr. CONTE. And the other amendments we adopted to several titles would be in addition to this bill; is that correct?

Mr. YOUNG of Florida. Yes, but none of the other amendments went to the overall bill. They were just to specific sections or titles of it.

Mr. CONTE. I am well aware of that. That is my question. The bottom line, then, is that the gentleman is cutting 4 percent?

Mr. YOUNG of Florida. If the gentleman will yield further, the dollar amount of the amendment that I have offered would be just over $100 million.

Mr. CONTE. But the gentleman has not answered my question. We cut 2 percent section by section, did we not?

Mr. YOUNG of Florida. Yes. In certain sections.

Mr. CONTE. Now the gentleman is coming in with a 2-percent cut across the board for the entire bill. The bottom line is, is this a 4-percent cut on the bill?

Mr. YOUNG of Florida. If the gentleman will yield further, it is not a 4-percent cut on the bill. It is a 2-percent cut plus those other 2-percent cuts which were added on specific titles.

This would be just over $100 million in addition to the other cuts we have already made. The other 2-percent cuts did not relate to the entire bill. They related only to certain sections.

Mr. CONTE. They related to every section of the bill; section by section we made the cuts.

Mr. YOUNG of Florida. No, we did not, only in certain specific cases.

Mr. CONTE. I thank the gentleman, Mr. Chairman.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to both amendments.

I want the Members simply to know a few numbers.

This committee cut the bill $1.1 billion before it ever hit the floor. This House on three separate occasions has cut a total of $162 million from the bill below the committee figure. That means we have cut this bill $1,262,000,000, the largest cut of any appropriation bill in this fiscal year.

Mr. Chairman, I want to point out one other thing. Besides being a cut on top of a cut in some areas of the bill, as the gentleman from Massachusetts (Mr. CONTE) has pointed out, both amendments are simply unjust because both of them exempt Israel and Egypt from the other cuts. Without in any way trying to criticize any aid being provided to any country, I simply want to state that under this bill every man, woman, and child in the State of Israel will receive $500 in aid from the United States in this bill. Yet what this amendment does is to exempt those two countries, Israel and Egypt, from further cuts, and it cuts countries where the per capita income for a year is $250. I do not think that is morally defensible. I do not think Israel would want it; I do not think Egypt would want it; and I do not think the American people would.

Mr. Chairman, I yield back the remainder of my time.

Mr. ROUSSELOT. Mr. Chairman, I move to strike the requisite number of words. I will not take the full time.

Since my colleague was not able to yield, this bill, still at $7.2 billion represents a very, very substantial increase over last year. Last year it was $6.7 billion. So the gentleman from Ohio (Mr. MILLER) and the gentleman from Florida (Mr. YOUNG) have merely tempered that increase. They have not in any way done damage to the aid to Israel, and, therefore, I did not think the impression should be left that the committee had really drastically cut that much. They had done a better job than they could have done, but the restraints on increases were not anywhere near as substantial as many of us feel they should have been. The effect of the Miller amendment or the Young amendment are to provide restraint on increases; it is not a drastic slice.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I am informed by the gentleman from Florida (Mr. YOUNG) in direct answer to a question I just put to him that this is still the largest single annual foreign aid appropriation ever considered by the Congress of the United States.

Mr. ROUSSELOT. This bill is indeed the largest single foreign aid appropriation. And it would be still the largest bill with either the Miller or the Young amendment.

Mr. BAUMAN. With the cut.

Mr. ROUSSELOT. Either with the Miller or the Young amendments.

I yield back the remainder of my time.

AMENDMENT OFFERED BY MR. HARKIN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. YOUNG OF FLORIDA

Mr. HARKIN. I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN as a substitute for the amendment offered by Mr. YOUNG of Florida: In lieu of the matter proposed by the YOUNG of Florida amendment, insert the following:

SEC. 511. Of the total budget authority provided in this Act, except for the appropriations for activities, programs, and projects in title I, title II, and the Inter-American Development Bank and the International Development Association, two percentum shall be withheld from obligation and expenditure. Of the amount provided in this Act for each appropriation account, activity and project, except for payments required by law, the amount withheld pursuant to this paragraph shall not exceed five per centum.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER) to the amendment offered by the gentleman from Florida (Mr. YOUNG).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 199, not voting 49, as follows:

[Rollcall Vote No. 697]

AYES—184

Ammerman	Daniel, Dan	Huckaby
Anderson, Calif.	Daniel, R. W.	Hughes
Andrews, N.C.	Davis	Ichord
Andrews, N. Dak.	de la Garza	Ireland
Applegate	Dent	Jacobs
Archer	Derrick	Jenkins
Armstrong	Devine	Jenrette
Ashbrook	Dickinson	Johnson, Colo.
AuCoin	Duncan, Tenn.	Jones, N.C.
Badham	Edwards, Ala.	Jones, Okla.
Bafalis	Edwards, Okla.	Jones, Tenn.
Barnard	Emery	Kazen
Baucus	English	Kelly
Bauman	Ertel	Kindness
Beard, Tenn.	Evans, Ind.	Lagomarsino
Benjamin	Fithian	Latta
Bennett	Flippo	Leach
Bevill	Florio	Lent
Bowen	Flynt	Livingston
Brinkley	Fountain	Lott
Brooks	Fowler	Lujan
Brown, Ohio	Frey	McCormack
Broyhill	Fuqua	McDade
Burgener	Gaydos	McEwen
Burke, Fla.	Gephardt	McKay
Burleson, Tex.	Ginn	Mann
Butler	Goldwater	Marlenee
Byron	Grassley	Marriott
Carter	Gudger	Martin
Chappell	Guyer	Mathis
Clausen, Don H.	Hagedorn	Mazzoli
Cleveland	Hall	Miller, Ohio
Cochran	Hammer-schmidt	Minish
Coleman	Hannaford	Mollohan
Collins, Tex.	Hansen	Montgomery
Corcoran	Harsha	Moore
Cornwell	Heckler	Moorhead, Calif.
Cotter	Hefner	Mottl
Crane	Hightower	Murphy, Ill.
Cunningham	Hillis	Murphy, Pa.
D'Amours	Holland	Murtha
	Holt	Myers, John
	Hubbard	Natcher
	Neal	Schulze
	Nichols	Sebelius
	O'Brien	Slack
	Perkins	Smith, Iowa
	Pickle	Smith, Nebr.
	Pike	Snyder
	Poage	Spence
	Pressler	St Germain
	Quayle	Staggers
	Quillen	Stangeland
	Regula	Steed
	Rinaldo	Stockman
	Roberts	Stratton
	Robinson	Stump
	Rose	Taylor
	Rousselot	Thone
	Rudd	Thornton
	Runnels	Treen
	Satterfield	Trible
		Vander Jagt
		Waggonner
		Walker
		Walsh
		Wampler
		Watkins
		Weaver
		White
		Whitehurst
		Whitley
		Whitten
		Wilson, Bob
		Wilson, C. H.
		Wydler
		Wylie
		Yatron
		Young, Fla.
		Young, Mo.
		Zeferetti

NOES—199

Addabbo	Fish	Nolan
Akaka	Fisher	Nowak
Alexander	Flood	Oakar
Ambro	Foley	Oberstar
Anderson, Ill.	Ford, Mich.	Obey
Annunzio	Ford, Tenn.	Ottinger
Ashley	Forsythe	Panetta
Aspin	Frenzel	Patten
Baldus	Garcia	Pattison
Beard, R.I.	Giaimo	Pease
Bedell	Gibbons	Pepper
Bellenson	Gilman	Pettis
Biaggi	Glickman	Preyer
Bingham	Gonzalez	Price
Blanchard	Gore	Pritchard
Blouin	Gradison	Pursell
Boggs	Green	Rahall
Boland	Hamilton	Railsback
Bolling	Harkin	Rangel
Bonior	Harris	Reuss
Bonker	Heftel	Rhodes
Brademas	Hollenbeck	Rodino
Breckinridge	Holtzman	Roe
Brodhead	Horton	Rogers
Broomfield	Howard	Rooney
Brown, Calif.	Hyde	Rosenthal
Brown, Mich.	Jeffords	Rostenkowski
Buchanan	Johnson, Calif.	Roybal
Burke, Calif.	Jordan	Ryan
Burke, Mass.	Kastenmeier	Santini
Burlison, Mo.	Keys	Sawyer
Burton, John	Kildee	Scheuer
Burton, Phillip	Kostmayer	Schroeder
Carney	Krebs	Seiberling
Carr	LaFalce	Sharp
Cavanaugh	Lederer	Simon
Cederberg	Leggett	Skelton
Chisholm	Lehman	Skubitz
Collins, Ill.	Lloyd, Calif.	Solarz
Conable	Long, La.	Spellman
Conte	Long, Md.	Stanton
Conyers	Luken	Stark
Corman	Lundine	Steers
Cornell	McClory	Steiger
Coughlin	McCloskey	Studds
Danielson	McFall	Thompson
Delaney	McHugh	Traxler
Dellums	McKinney	Tucker
Derwinski	Maguire	Ullman
Dicks	Mahon	Van Deerlin
Dingell	Markey	Vanik
Dodd	Marks	Vento
Dornan	Mattox	Volkmer
Downey	Meeds	Walgren
Drinan	Meyner	Waxman
Duncan, Oreg.	Michel	Weiss
Early	Mikulski	Whalen
Eckhardt	Mikva	Wiggins
Edgar	Mineta	Wilson, Tex.
Edwards, Calif.	Mitchell, N.Y.	Winn
Eilberg	Moakley	Wirth
Erlenborn	Moffett	Wolff
Evans, Del.	Moorhead, Pa.	Wright
Evans, Ga.	Myers, Gary	Yates
Fary	Myers, Michael	Zablocki
Fascell	Nedzi	
Fenwick	Nix	

NOT VOTING—49

Abdnor	Gammage	McDonald
Breaux	Goodling	Madigan
Caputo	Hanley	Metcalfe
Clawson, Del	Harrington	Milford
Clay	Hawkins	Miller, Calif.
Cohen	Kasten	Mitchell, Md.
Diggs	Kemp	Moss
Evans, Colo.	Krueger	Murphy, N.Y.
Findley	Le Fante	Patterson
Flowers	Levitas	Quie
Fraser	Lloyd, Tenn.	Richmond

Risenhoover	Shuster	Tsongas
Roncalio	Sikes	Udall
Ruppe	Sisk	Young, Alaska
Russo	Stokes	Young, Tex.
Sarasin	Symms	
Shipley	Teague	

The Clerk announced the following pairs:

On this vote:

Mr. Gammage for, with Mr. Mitchell of Maryland against.

Mr. McDonald for, with Mr. Richmond against.

Mrs. Lloyd of Tennessee for, with Mr. Hawkins against.

Mr. Breaux for, with Mr. Miller of California against.

Mr. Sikes for, with Mr. Tsongas against.

Mr. Teague for, with Mr. Shipley against.

Mrs. HECKLER, Mr. D'AMOURS, and Mr. ANDREWS of North Carolina changed their vote from "no" to "aye."

So the amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN) as a substitute for the amendment offered by the gentleman from Florida (Mr. YOUNG).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CHARLES WILSON of Texas. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—Ayes 289, Noes 95, not voting 48, as follows:

[Rollcall Vote No. 698]

AYES—289

Addabbo	Byron	Flippo
Akaka	Carney	Florio
Alexander	Carr	Foley
Ambro	Cavanaugh	Ford, Mich.
Ammerman	Chisholm	Ford, Tenn.
Anderson, Calif.	Clausen, Don H.	Forsythe
Anderson, Ill.	Cleveland	Fountain
Andrews, N.C.	Coleman	Fowler
Andrews, N. Dak.	Collins, Ill.	Frenzel
Annunzio	Collins, Tex.	Frey
Applegate	Conable	Gaydos
Archer	Conte	Gephardt
Armstrong	Corman	Giaimo
Ashley	Cornwell	Gilman
Aspin	Cotter	Glickman
AuCoin	Coughlin	Gonzalez
Badham	D'Amours	Gore
Bafalis	Danielson	Gradison
Baldus	de la Garza	Green
Baucus	Delaney	Gudger
Bauman	Dent	Guyer
Beard, R.I.	Derrick	Hagedorn
Beard, Tenn.	Derwinski	Hall
Bedell	Devine	Hamilton
Bellenson	Dickinson	Hannaford
Benjamin	Dicks	Harkin
Bevill	Dingell	Harris
Biaggi	Dodd	Harsha
Blanchard	Dornan	Heckler
Blouin	Drinan	Hefner
Boggs	Duncan, Oreg.	Heftel
Boland	Duncan, Tenn.	Hightower
Bonker	Eckhardt	Hillis
Bowen	Edgar	Holland
Brademas	Edwards, Ala.	Hollenbeck
Breckinridge	Edwards, Calif.	Holtzman
Brodhead	Eilberg	Horton
Broomfield	Emery	Howard
Brown, Calif.	Erlenborn	Hubbard
Brown, Mich.	Ertel	Huckaby
Brown, Ohio	Evans, Del.	Hughes
Broyhill	Evans, Ga.	Hyde
Buchanan	Evans, Ind.	Ichord
Burgener	Fary	Jacobs
Burke, Calif.	Fascell	Jeffords
Burke, Fla.	Fenwick	Jenrette
Burlison, Mo.	Fish	Johnson, Calif.
Burton, John	Fisher	Johnson, Colo.
	Fithian	Jones, N.C.
		Jones, Okla.

Jones, Tenn.	Myers, Michael	Sharp
Jordan	Natcher	Simon
Kazen	Neal	Skelton
Keys	Nedzi	Smith, Iowa
Kildee	Nolan	Smith, Nebr.
Kostmayer	Nowak	Snyder
Krebs	O'Brien	Spellman
LaFalce	Oberstar	St Germain
Leach	Obey	Stanton
Lederer	Ottinger	Stark
Leggett	Panetta	Steed
Lehman	Patten	Steers
Lent	Pattison	Steiger
Long, La.	Pease	Stockman
Long, Md.	Pepper	Stratton
Lujan	Perkins	Stump
Luken	Pettis	Taylor
Lundine	Pickle	Thone
McClory	Pressler	Traxler
McCloskey	Preyer	Tucker
McCormack	Price	Udall
McDade	Pritchard	Ullman
McKay	Pursell	Van Deerlin
McKinney	Quayle	Vanik
Maguire	Quillen	Vento
Mahon	Rahall	Volkmer
Mann	Railsback	Walgren
Markey	Rangel	Walsh
Marks	Regula	Waxman
Marriott	Reuss	Weaver
Mattox	Rhodes	Weiss
Mazzoli	Rinaldo	Whalen
Meeds	Rodino	White
Meyner	Roe	Whitley
Mikulski	Rogers	Whitten
Mikva	Rooney	Wiggins
Mineta	Rose	Wilson, Bob
Minish	Rosenthal	Wilson, Tex.
Mitchell, N.Y.	Rousselot	Winn
Moakley	Roybal	Wirth
Moffett	Rudd	Wolff
Moorhead, Calif.	Runnels	Wright
	Ryan	Wydler
Moorhead, Pa.	Santini	Yates
Mottl	Sawyer	Yatron
Murphy, Ill.	Scheuer	Young, Mo.
Murphy, Pa.	Schroeder	Zeferetti
Murtha	Seiberling	

NOES—95

Ashbrook	Gibbons	Nix
Barnard	Ginn	Oakar
Bennett	Goldwater	Pike
Bingham	Grassley	Poage
Bolling	Hammer-schmidt	Roberts
Bonior		Robinson
Brinkley	Hansen	Rostenkowski
Brooks	Holt	Satterfield
Burke, Mass.	Ireland	Schulze
Burleson, Tex.	Jenkins	Sebelius
Burton, Phillip	Kastenmeier	Sikes
Butler	Kelly	Skubitz
Carter	Kindness	Slack
Cederberg	Lagomarsino	Solarz
Chappell	Latta	Spence
Cochran	Livingston	Staggers
Conyers	Lloyd, Calif.	Stangeland
Corcoran	Lott	Studds
Cornell	McEwen	Thompson
Crane	McFall	Thornton
Cunningham	McHugh	Treen
Daniel, Dan	Marlenee	Trible
Daniel, R. W.	Martin	Vander Jagt
Davis	Mathis	Waggonner
Dellums	Michel	Walker
Downey	Miller, Ohio	Wampler
Early	Mollohan	Watkins
Edwards, Okla.	Montgomery	Whitehurst
English	Moore	Wilson, C. H.
Flood	Myers, Gary	Wylie
Flynt	Myers, John	Young, Fla.
Fuqua	Nichols	Zablocki

NOT VOTING—48

Abdnor	Hawkins	Quie
Breaux	Kasten	Richmond
Caputo	Kemp	Risenhoover
Clawson, Del.	Krueger	Roncalio
Clay	Le Fante	Ruppe
Cohen	Levitas	Russo
Diggs	Lloyd, Tenn.	Sarasin
Evans, Colo.	McDonald	Shipley
Findley	Madigan	Shuster
Flowers	Metcalfe	Sisk
Fraser	Milford	Stokes
Gammage	Miller, Calif.	Symms
Garcia	Mitchell, Md.	Teague
Goodling	Moss	Tsongas
Hanley	Murphy, N.Y.	Young, Alaska
Harrington	Patterson	Young, Tex.

Mr. COTTER and Mr. MOORHEAD of Pennsylvania changed their vote from "no" to "aye."

Mr. SOLARZ changed his vote from "aye" to "no."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. YOUNG), as amended.

RECORDED VOTE

Mr. YOUNG of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 341, noes 44, not voting 47, as follows:

[Rollcall Vote No. 699]

AYES—341

Addabbo	Delaney	Hughes
Akaka	Dent	Hyde
Ambro	Derrick	Ichord
Ammerman	Derwinski	Ireland
Anderson, Calif.	Devine	Jacobs
Andrews, N.C.	Dickinson	Jeffords
Andrews, N. Dak.	Dicks	Jenkins
	Dingell	Jenrette
Annunzio	Dodd	Johnson, Calif.
Applegate	Dornan	Johnson, Colo.
Archer	Downey	Jones, N.C.
Armstrong	Duncan, Oreg.	Jones, Okla.
Ashbrook	Duncan, Tenn.	Jones, Tenn.
Ashley	Edgar	Jordan
Aspin	Edwards, Ala.	Kazen
AuCoin	Edwards, Calif.	Kelly
Badham	Edwards, Okla.	Keys
Bafalis	Eilberg	Kildee
Baldus	Emery	Kindness
Barnard	English	Kostmayer
Baucus	Erlenborn	Krebs
Bauman	Ertel	LaFalce
Beard, R.I.	Evans, Del.	Lagomarsino
Beard, Tenn.	Evans, Ga.	Latta
Benjamin	Evans, Ind.	Leach
Bennett	Fary	Lederer
Bevill	Fascell	Leggett
Biaggi	Fenwick	Lehman
Blanchard	Fish	Lent
Blouin	Fisher	Livingston
Boggs	Fithian	Long, La.
Boland	Flippo	Lott
Bonker	Florio	Lujan
Bowen	Flynt	Luken
Brademas	Foley	Lundine
Breckinridge	Ford, Mich.	McClory
Brinkley	Ford, Tenn.	McCloskey
Brodhead	Forsythe	McCormack
Brooks	Fountain	McDade
Broomfield	Fowler	McEwen
Brown, Calif.	Frenzel	McFall
Brown, Mich.	Frey	McKay
Brown, Ohio	Fuqua	McKinney
Buchanan	Gaydos	Maguire
Burgener	Gephardt	Mahon
Burke, Calif.	Giaimo	Mann
Burke, Fla.	Gibbons	Marks
Burleson, Tex.	Gilman	Marlenee
Burlison, Mo.	Ginn	Marriott
Burton, John	Glickman	Martin
Butler	Goldwater	Mathis
Byron	Gonzalez	Mattox
Carney	Gore	Mazzoli
Carr	Gradison	Meeds
Carter	Grassley	Meyner
Cavanaugh	Gudger	Michel
Cederberg	Guyer	Mikulski
Chappell	Hagedorn	Mikva
Chisholm	Hall	Miller, Ohio
Clausen, Don H.	Hamilton	Mineta
	Hammer-schmidt	Minish
Cleveland		Mitchell, N.Y.
Cochran	Hanley	Moakley
Coleman	Hannaford	Moffett
Collins, Tex.	Hansen	Mollohan
Conable	Harkin	Montgomery
Corcoran	Harris	Moore
Corman	Harsha	Moorhead, Calif.
Cornwell	Heckler	
Cotter	Hefner	Moorhead, Pa.
Coughlin	Heftel	Mottl
Crane	Hightower	Murphy, Ill.
Cunningham	Hillis	Murphy, Pa.
D'Amours	Holland	Murtha
Daniel, Dan	Hollenbeck	Myers, John
Daniel, R. W.	Holt	Myers, Michael
Danielson	Horton	Natcher
Davis	Howard	Neal
de la Garza	Hubbard	Nedzi
	Huckaby	Nichols

Nolan	Rousselot	Tucker
Nowak	Roybal	Udall
O'Brien	Rudd	Ullman
Oberstar	Runnels	Van Deerlin
Obey	Ryan	Vander Jagt
Ottinger	Santini	Vanik
Panetta	Satterfield	Vento
Patten	Sawyer	Volkmer
Pattison	Schroeder	Waggonner
Pease	Schulze	Walgren
Pepper	Sebelius	Walker
Perkins	Seiberling	Walsh
Pettis	Sharp	Wampler
Pickle	Sikes	Watkins
Pike	Skelton	Waxman
Poage	Skubitz	Weaver
Pressler	Slack	White
Preyer	Smith, Iowa	Whitehurst
Price	Smith, Nebr.	Whitley
Pritchard	Snyder	Whitten
Pursell	Spellman	Wiggins
Quayle	Spence	Wilson, Bob
Quillen	St Germain	Wilson, Tex.
Rahall	Stangeland	Winn
Railsback	Stanton	Wirth
Regula	Steed	Wolff
Reuss	Steiger	Wright
Rhodes	Stockman	Wydler
Rinaldo	Stratton	Wylie
Roberts	Stump	Yates
Robinson	Taylor	Yatron
Rodino	Thone	Young, Fla.
Roe	Thornton	Young, Mo.
Rogers	Traxler	Zeferetti
Rooney	Treen	
Rose	Trible	

NOES—44

Alexander	Early	Rosenthal
Bedell	Eckhardt	Rostenkowski
Beilenson	Flood	Scheuer
Bingham	Garcia	Simon
Bolling	Green	Solarz
Bonior	Holtzman	Staggers
Burke, Mass.	Kastenmeier	Stark
Burton, Phillip	Lloyd, Calif.	Steers
Clay	Long, Md.	Studds
Collins, Ill.	McHugh	Thompson
Conte	Markey	Weiss
Conyers	Myers, Gary	Whalen
Cornell	Nix	Wilson, C. H.
Dellums	Oakar	Zablocki
Drinan	Rangel	

NOT VOTING—47

Abdnor	Kasten	Richmond
Anderson, Ill.	Kemp	Risenhoover
Breaux	Krueger	Roncalio
Broyhill	Le Fante	Ruppe
Caputo	Levitas	Russo
Clawson, Del	Lloyd, Tenn.	Sarasin
Cohen	McDonald	Shipley
Diggs	Madigan	Shuster
Evans, Colo.	Metcalfe	Sisk
Findley	Milford	Stokes
Flowers	Miller, Calif.	Symms
Fraser	Mitchell, Md.	Teague
Gammage	Moss	Tsongas
Goodling	Murphy, N.Y.	Young, Alaska
Harrington	Patterson	Young, Tex.
Hawkins	Quie	

Mr. BEILENSON changed his vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. BUCHANAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the legislation before us today is important in many respects. First, it is in the economic and security interest of the United States and secondly, it is vital to the virtual survival of millions of human beings who are less fortunate than we are.

During the course of the debate on this legislation, we have heard reference made to the fact that the American people do not support foreign aid giveaway programs. I would venture to guess that if you asked the average American, "Do you favor foreign aid giveaways?" the answer would be a resounding "no."

On the other hand, I sincerely believe that if you asked the average American whether he or she were willing to contribute a small portion of the vast resources to this Nation to save the lives of perhaps a million children expected to die in the Third World this year from starvation and diseases long conquered in this country, the answer would be an overwhelming "yes."

We have seen in recent months increased activity by the Governments of the Soviet Union and Cuba in Africa in the introduction of weapons of war in Africa. With the funds provided in this bill, we will have the opportunity to do good in the face of Soviet evil and to provide the weapons of peace instead of the weapons for war.

I would say to my colleagues that our weapons for peace will have a substantially more far-reaching and long-lasting effect on the future of this portion of the world than Cuban soldiers and Soviet tanks.

The United States is in an unique position to provide assistance because of our technological superiority, our concern for mankind and our vast wealth.

Notwithstanding this wealth, however, we do have a substantial deficit in our balance of payments. The legislation before us can help to alleviate that deficit. I think this is underlined by the broad support expressed for this bill as reported by the Appropriations Committee by both business and industry.

The chamber of commerce vice president, Hilton Davis, in endorsing this bill said:

> International financial institutions' work is vital to continue growth of developing nations. Expansion of third world markets offers valuable opportunity to improve U.S. export performance and reduce serious trade deficit.

AFL–CIO President George Meany who also called for the passage of this bill without further cuts said:

> Unless the western industrialized nations contribute to the development of economic and social infrastructures in the Third World, the inequities that characterize income distribution under the shadow of totalitarian forms of government that prevails in many of these countries will persist.

These leaders express their support because they believe this legislation to be in our own national interest.

In my own State of Alabama, some 13,000 jobs are directly related to exports. In the 4 years from 1972 to 1976, exports in the primary metal industries increased some 80 percent alone.

As the vice chairman of the steel caucus, I am deeply concerned about the future of the steel industry in the United States. The funds provided by this legislation can help to create new markets abroad and expand existing ones, thus this bill has drawn the endorsement of the United Steelworkers.

I would also like to take this opportunity to underline that much of the money appropriated in this bill will be spent in the United States for goods and services, indeed, a substantial portion of the Agency for International Development funds are spent right here at home.

The most recent figures for Alabama show that some $4.8 million in foreign aid money was spent in our State for goods and services while an additional $21.6 million in foreign aid money was spent for contracts for technical services in Alabama last year, including continued substantial sums for Auburn University's great aquaculture program, which is primarily funded by AID.

In recent years, AID has spent more than $77 million in Alabama for such programs.

In addition, some $3 million in contracts from the World Bank and International Development Association are in effect in Alabama.

While there are substantial economic reasons for our foreign assistance programs, there are also overriding humanitarian concerns. Such noted American religious leaders as Dr. Jimmy Allen and Dr. Foy Valentine of the Southern Baptist Convention, Rabbi Mark Tannenbaum of the American Jewish Committee, Most Rev. Thomas Kelly of the Catholic Conference and Archbishop Iakovos of the Greek Orthodox Archdiocese of North and South America and many others have endorsed this legislation.

In a letter which I believe most Members received, they said, and I quote,

> As the prophets spoke in behalf of the orphans and the widows, so must we address ourselves to the needs of those throughout the globe who live in conditions of absolute poverty, deprived of basic nutrition, without adequate shelter, education, health care or employment. We have both pressing needs and poor people here in our own society, but the added burden of the global poor is that they have even less voice and visibility in our midst.

I would like to take this opportunity to commend the Southern Baptist Convention for its concern for the poor of the world as reflected by the adoption of a resolution on world hunger and its scheduling of a world hunger conference this Fall.

The resolution, which cited the Biblical mandate to feed the hungry, called on all Southern Baptists to "exercise responsible and vigorious Christian citizenship on behalf of the hungry people of the world".

The funds appropriated by this legislation are small in comparison to the total budget of this country, but their impact can be substantiai.

The voices of the starving in the Sahel and in Bangladesh cry out. They look to us for their very survival. We can ill afford to turn a deaf ear to the voices of those who, without our help, face a bleak future if, indeed, they face any future at all.

I, therefore, urge the adoption of this bill without cutting amendments damaging to our own interest and of tragic consequences to those we seek to help, and who without our help will surely suffer, and, in many cases, die.

● Mr. MIKVA. Mr. Chairman, I intend to vote for H.R. 12931, the fiscal year 1979 foreign aid appropriations, because the bill will allow the United States to maintain its position as the most influential voice in the world.

It is common practice for politicians to make Fourth of July speeches about reducing Federal spending. Unfortunate-

ly, some of those speeches ignore the significance of the July 4 date in U.S. history. July 4 marked the emergence of the United States as the leading democracy in the world. That is a position we have maintained for two centuries, and it is a position which all of us want to continue.

Mr. Chairman, I would suggest to my colleagues that if we cut the fiscal year 1979 foreign aid appropriations bill any further we will jeopardize the role of the United States in the world community. The bill before us already has been reduced by over $1 billion from the amount requested by the administration. That is a cut of over 13 percent and it makes this bill the smallest appropriation bill before the Congress except for the District of Columbia appropriation.

In deference to the concern of many Members of Congress about the participation of the United States in international financial institutions (IFI's) like the World Bank, the Inter-American Development Bank, and the International Development Association, almost $900 million has been cut from the amounts requested by the administration for U.S. contributions to the IFI's. To make further cuts in IFI contributions, Mr. Chairman, would be irresponsible. Not only would it jeopardize the economies of many countries throughout the world, but it would also destroy them as markets for U.S. goods and seriously destabilize their governments.

The long-term damage to the United States caused by further reductions to the IFI's could be even more serious, however, it would send out a clear signal that the United States is no longer interested in the problems of the world. Further cuts in U.S. contributions would require the other successful countries in the world to give more, and since we would continue to deal with the recipients of assistance the United States would be reaping the benefits of foreign aid without shouldering its share of the burdens.

Basically, Mr. Chairman, those who want to further reduce this bill are hoping to set the clock back to the days when the United States could "go it alone" in the world. That is one legislative effort that cannot succeed. This bill is an effort to deal with the real world—both internationally and domestically. Under this bill, the United States can exercise its considerable influence in the world without exceeding the very tightest fiscal constraints on our ability to participate in the international lending institutions. I urge my colleagues to support the bill and resist efforts to cut the measure.●

● Mr. SIKES. Mr. Chairman, I am deeply grateful to my distinguished and able friends, the gentleman from Louisiana (Mr. LONG) and the gentleman from Florida (Mr. YOUNG) for their consideration in bringing to the attention of the House the serious problem brought on for American manufacturers by foreign counterfeiting of American products.

It is felt that U.S. foreign aid funds are being used to some extent in that practice. Obviously it is a highly objectionable practice which should be curbed forthwith.

It was necessary that I be away from the Capitol and in my district at the time the subject was discussed. I am deeply concerned with the matter and had it been possible for me to be present I would have joined in the discussion in an effort to find a solution to the problem. I would urge that at the earliest possible time an amendment be adopted or other steps taken to specifically prohibit direct foreign aid or funds made available through the Export-Import Bank or the Overseas Private Investment Corporation to be used for establishing or expanding production of commodities which are counterfeits of American trademarked or trade named products.

I know of no aggregate figure which purports to represent the value of the international market in counterfeit merchandise. However, as has been widely reported in the press, individual American companies have made estimates of losses to counterfeiting. Levi Strauss Co. estimates that it may be losing several millions per year on trademarked jeans; Walt Disney Productions has estimated an annual loss of some 10 million; Bausch & Lomb estimates sales losses on Ray-Ban sunglasses at 8 million, Estee Lauder Inc. estimates losses in the millions on counterfeit cosmetics.

There are laws against commercial counterfeiting in most nations but most of these do not have adequately strong economic sanctions to deter counterfeiters. We do not believe that any foreign government would condone such commercial counterfeiting activity. There should be stronger incentives to foreign governments to step up their existing activity against such international pirates. In my way of thinking it would be unthinkable for one American dollar to be used to support any business abroad which is deliberately attempting to injure American industry. The committee is strongly on record against financing foreign producers of competitive commodities which are in surplus on the world market, if that assistance will cause substantial industry to U.S. producers of the same, similar, or competing commodity. However, further steps are needed. I urge that a full congressional investigation be launched into the despicable practice of international product counterfeiting. I believe that we need to bring the full extent of this problem to the attention of the Congress, the executive branch, and the American people. In the meantime I urge my colleagues to support a product counterfeiting amendment, or to take other steps which will function as a stop-gap until a full range of legislative weapons can be developed against this practice.●

Mr. LONG of Maryland. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. KAZEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12931) making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CEDERBERG

Mr. CEDERBERG. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CEDERBERG. I am in its present form, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CEDERBERG moves to recommit the bill, H.R. 12931, to the Committee on Appropriations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device; and there were—yeas 223, nays 167, not voting 42, as follows:

[Rollcall Vote No. 700]

YEAS—223

Addabbo	Buchanan	Dornan
Akaka	Burke, Calif.	Downey
Alexander	Burke, Fla.	Drinan
Ambro	Burke, Mass.	Duncan, Oreg.
Anderson, Ill.	Burlison, Mo.	Eckhardt
Annunzio	Burton, John	Edgar
Ashley	Burton, Phillip	Edwards, Calif
Aspin	Carney	Eilberg
Baldus	Carr	Erlenborn
Bedell	Cavanaugh	Evans, Del.
Beilenson	Chisholm	Evans, Ga.
Benjamin	Clay	Fary
Biaggi	Collins, Ill.	Fascell
Bingham	Conable	Fenwick
Blanchard	Conte	Fish
Blouin	Conyers	Fisher
Boggs	Corman	Flood
Boland	Cotter	Florio
Bolling	Coughlin	Foley
Bonior	D'Amours	Ford, Mich.
Bonker	Danielson	Ford, Tenn.
Brademas	Delaney	Forsythe
Breckinridge	Derwinski	Fowler
Brodhead	Dicks	Fraser
Broomfield	Diggs	Frenzel
Brown, Calif.	Dingell	Fuqua
Brown, Mich.	Dodd	Garcia

Giaimo	Mann	Sarasin
Gilman	Markey	Sawyer
Glickman	Marks	Scheuer
Gonzalez	Mazzoli	Sebelius
Gore	Meeds	Seiberling
Gradison	Meyner	Sharp
Green	Michel	Simon
Hamilton	Mikulski	Skelton
Hanley	Mikva	Skubitz
Hannaford	Mineta	Smith, Iowa
Harris	Minish	Solarz
Heckler	Mitchell, N.Y.	Spellman
Heftel	Moakley	St Germain
Hollenbeck	Mollohan	Stanton
Holtzman	Moorhead, Pa.	Steers
Horton	Murphy, Ill.	Steiger
Howard	Myers, Gary	Stockman
Hughes	Myers, Michael	Stratton
Hyde	Nedzi	Studds
Ireland	Nix	Thompson
Jeffords	Nowak	Traxler
Johnson, Calif.	O'Brien	Tucker
Jordan	Oberstar	Udall
Kastenmeier	Obey	Ullman
Keys	Ottinger	Van Deerlin
Kildee	Patten	Vander Jagt
Kostmayer	Pattison	Vanik
Krebs	Pease	Vento
LaFalce	Pepper	Walgren
Leach	Pettis	Walsh
Lederer	Preyer	Waxman
Leggett	Price	Weiss
Lehman	Pritchard	Whalen
Lent	Pursell	Wiggins
Levitas	Railsback	Wilson, Bob
Lloyd, Calif.	Rangel	Wilson, C. H.
Long, La.	Regula	Wilson, Tex.
Long, Md.	Reuss	Winn
Luken	Rhodes	Wirth
Lundine	Rinaldo	Wolff
McClory	Rodino	Wright
McCloskey	Roe	Wydler
McCormack	Rogers	Yates
McDade	Rooney	Yatron
McFall	Rosenthal	Zablocki
McHugh	Rostenkowski	Zeferetti
McKinney	Ryan	
Maguire	Santini	

NAYS—167

Ammerman	Devine	Latta
Anderson, Calif.	Dickinson	Livingston
	Duncan, Tenn.	Lott
Andrews, N.C.	Early	Lujan
Andrews, N. Dak.	Edwards, Ala.	McEwen
	Edwards, Okla.	McKay
Applegate	Emery	Mahon
Archer	English	Marlenee
Armstrong	Ertel	Marriott
Ashbrook	Evans, Ind.	Martin
AuCoin	Fithian	Mathis
Badham	Flippo	Mattox
Bafalis	Flynt	Miller, Ohio
Barnard	Fountain	Moffett
Baucus	Frey	Montgomery
Bauman	Gaydos	Moore
Beard, R.I.	Gephardt	Moorhead, Calif.
Beard, Tenn.	Gibbons	
Bennett	Ginn	Mottl
Bevill	Goldwater	Murphy, Pa.
Bowen	Grassley	Murtha
Brinkley	Gudger	Myers, John
Brooks	Guyer	Natcher
Brown, Ohio	Hagedorn	Neal
Burgener	Hall	Nichols
Burleson, Tex.	Hammer-schmidt	Nolan
Butler		Oakar
Byron	Hansen	Panetta
Carter	Harkin	Perkins
Cederberg	Harsha	Pickle
Chappell	Hefner	Pike
Clausen, Don H.	Hightower	Poage
	Hillis	Pressler
Cleveland	Holland	Quayle
Cochran	Holt	Quillen
Coleman	Hubbard	Rahall
Collins, Tex.	Huckaby	Roberts
Corcoran	Ichord	Robinson
Cornell	Jacobs	Rose
Cornwell	Jenkins	Rousselot
Crane	Jenrette	Roybal
Cunningham	Johnson, Colo.	Rudd
Daniel, Dan	Jones, N.C.	Runnels
Daniel, R. W.	Jones, Okla.	Satterfield
Davis	Jones, Tenn.	Schroeder
de la Garza	Kazen	Schulze
Dellums	Kelly	Sikes
Dent	Kindness	Slack
Derrick	Lagomarsino	Smith, Nebr.
Snyder	Thornton	White
Spence	Treen	Whitehurst
Staggers	Trible	Whitley
Stangeland	Volkmer	Whitten
Stark	Waggonner	Wylie
Steed	Walker	Young, Fla.
Stump	Wampler	Young, Mo.
Taylor	Watkins	
Thone	Weaver	

NOT VOTING—42

Abdnor	Kemp	Richmond
Breaux	Krueger	Risenhoover
Broyhill	Le Fante	Roncalio
Caputo	Lloyd, Tenn.	Ruppe
Clawson, Del	McDonald	Russo
Cohen	Madigan	Shipley
Evans, Colo.	Metcalfe	Shuster
Findley	Milford	Sisk
Flowers	Miller, Calif.	Stokes
Gammage	Mitchell, Md.	Symms
Goodling	Moss	Teague
Harrington	Murphy, N.Y.	Tsongas
Hawkins	Patterson	Young, Alaska
Kasten	Quie	Young, Tex

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell of Maryland for, with Mr. Gammage against.

Mr. Richmond for, with Mrs. Lloyd of Tennessee against.

Mr. Hawkins for, with Mr. Teague against.

Mr. Tsongas for, with Mr. Breaux against.

Mr. Miller of California for, with Mr. McDonald against.

Mr. Krueger for, with Mr. Russo against.

Until further notice:

Mr. Stokes with Mr. Abdnor.

Mr. Evans of Colorado with Mr. Young of Alaska.

Mr. Flowers with Mr. Madigan.

Mr. Murphy of New York with Mr. Cohen.

Mr. Patterson of California with Mr. Broyhill.

Mr. Harrington with Mr. Quie.

Mr. Le Fante with Mr. Caputo.

Mr. Metcalfe with Mr. Symms.

Mr. Moss with Mr. Schuster.

Mr. Roncalio with Mr. Kemp.

Mr. Milford with Mr. Kasten.

Mr. Risenhoover with Mr. Del Clawson.

Mr. Shipley with Mr. Findley.

Mr. Sisk with Mr. Ruppe.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 13468. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 13468) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. LEAHY, Mr. DECONCINI, Mr. BUMPERS, Mr. MAGNUSON, Mr. MATHIAS, Mr. WEICKER, and Mr. YOUNG to be the conferees on the part of the Senate.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 12931

Mr. LONG of Maryland. Mr. Speaker, I ask unanimous consent that the Clerk may be authorized to make any necessary corrections in section numbers, punctuation, and cross references in the engrossment of the bill, H.R. 12931.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 13468, DISTRICT OF COLUMBIA APPROPRIATION ACT, 1979

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

The Chair hears none, and appoints the following conferees: Messrs. NATCHER, GIAIMO, and MCKAY; Mrs. BURKE of California; and Messrs. CHARLES WILSON of Texas, BENJAMIN, MAHON, BURGENER, KEMP, and CEDERBERG.

THE FUNERAL IN ROME OF HIS HOLINESS, POPE PAUL VI

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, I have just returned from one of the most moving experiences of my life—the funeral in Rome of His Holiness, Pope Paul VI.

I was privileged to attend as a member of the official U.S. delegation, named by the President and headed by Mrs. Rosalynn Carter. The other members of the delegation were Senator EDWARD M. KENNEDY, of Massachusetts; Governor Hugh

Carey, of New York; Leonel J. Castillo, the U.S. Commissioner of Immigration and Naturalization; and the President's Special Representative to the Vatican, the Honorable Daniel M. Walters.

Mrs. Carter, our First Lady, was a most warm and gracious representative at these solemn ceremonies. In addition to attending the funeral mass itself in St. Peter's Square, she led the U.S. delegation the next day on a visit of condolence to the cardinals of the church, who had come to Rome from throughout the world, in the magnificent Consistory Hall of the Vatican. On Saturday, the day of the funeral, the delegation was visited earlier in the day by the American cardinals at the residence of the U.S. Ambassador. At all of these impressive ceremonies, I think the U.S. group felt a special sense of pride that our delegation was headed by such a lovely and sensitive First Lady.

The funeral, with the size and splendor of the facade of St. Peter's as a backdrop, was an occasion for sadness at the passing of a great Pope Paul. But it was also an occasion for rejoicing that this good man, who had contributed so much to world peace, love, justice, and understanding, was with the God he served so faithfully and for so long.

For me, a son of Italian immigrants who left Italy near the turn of the century for the opportunities of this great Nation, being chosen as a member of the official U.S. delegation was a particularly thrilling experience. The funeral rites were beautiful beyond description with the piazza of St. Peter's bathed in a late afternoon sunshine, which also lit the Eternal City of Rome, stretching away to the left of where the U.S. delegation was seated.

I am grateful to have been chosen by the President to represent my country at the ceremonies. I commend Mrs. Rosalynn Carter as a most appropriate and able leader of our delegation. With millions of others. Catholic and non-Catholic alike, I will remember Pope Paul for his goodness and his tireless efforts in the defense of truth and justice and peace among men.

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 20 minutes.

● Mr. GRASSLEY. Mr. Speaker, I introduced legislation on June 14, 1978, which requires reporting and registration of U.S. agricultural land held, acquired or transferred by foreign interests. The bill was developed by Congressmen KREBS, NOLAN, and myself to assure Congress of obtaining accurate and complete data on foreign ownership. The bill requires foreign investors to report holdings to the Secretary of Agriculture and further directs the Secretary to analyze this information and determine the effects this ownership may produce. I am especially concerned about the effects of foreign ownership on the family farm system and thus feel legislation requiring concrete data is essential.

All investors, foreign and local, recognize farmland as a limited resource and know its value will inevitably increase. The limited quantity of agriculture land makes investment very desirable and using land as a hedge against inflation only increases this desirability.

In June, the General Accounting Office released a preliminary study on foreign investment. The GAO revealed they had studied 25 counties in 5 States to determine the extent of land purchases by foreigners. Their findings showed 0.3 percent of the total acres in these counties were foreignly owned; however the GAO stressed uncertainty in the completeness of the information.

Iowa and Minnesota are the only States requiring all nonresident aliens and corporations to file annual reports on their agricultural landholdings. Figures of 1977 for Iowa showed foreign ownership represented 0.03 percent of their farmland while Minnesota reported 0.09 percent. Although data from these States does not indicate extensive foreign investment or trends in that direction, no information is available as to what is happening on a nationwide basis.

Most other States have collected very little data on foreign ownership of farmland; and while a few do have information, compilation methods vary widely enough that the data is inconclusive.

Several problems exist in the State registration systems, thus making it difficult to determine foreign ownership. In many instances, buyers are listed as corporations and, therefore, the beneficial owners cannot be determined. Other foreign investors use American agents. And still other systems fail to be complete as only those owning a certain number of acres or those holding land valued at a minimum price are required to register, thus those States cannot determine the total acreage owned by foreigners.

Because of these and other variations in systems, there is no uniformity of data between States; no way even to compare their situations, much less come up with anything that could give us a good idea of the situation nationally.

According to the Agriculture Department, farmland prices rose from a nationwide average of $219 per acre to $490 per acre in the last 6 years. This is a price escalation at a rate of 2½ times the rate of inflation. Although part of this price increase comes from farmers bidding against each other for land, some of the increase may stem from investment by foreign buyers.

There is concern that if foreign investors actually are buying land at inflated prices, the price will rise out of reach of small farmers, further threatening the survival of the family farm. Another concern is that foreign ownership, and absentee ownership generally, may cause deterioration of good conservation practices. Still others worry that rural communities may be weakened because farm returns may not be spent locally.

Hearings on the issue were held by the Family Farms, Rural Development, and Special Studies House Agriculture Subcommittee, of which I am the ranking minority member, on June 20, July 19, and July 28. Some witnesses testified foreign investment was beneficial to the United States because of important contributions to the economy and because it reduces the balance-of-payments deficit. Others testified foreign investment was likely to force the family farm out of business. But regardless of the stand on regulation, the hearings confirmed the lack of national data and in my mind raised serious question about the administration's willingness or desire to even find out the extent of foreign investment in U.S. farmland.

There is a basic difference between foreign investment in business and industry and investment in farmland which the administration refuses to acknowledge. Foreign capital in business and industry is job creating and an economic stimulus, while investment in U.S. farmland is not, and some contend may have even the opposite effect. The administration seems to be telling us that we should pay for our oil by selling our land.

The hearings confirmed that more facts are needed on the extent of foreign investment in U.S. agricultural land. Current estimates about the volume of farmland owned by people or institutions overseas are bound on little more than speculation, and this is an area in which speculation and educated guesses are simply not good enough. A nationwide reporting system is essential before Congress will be able to observe the investment trends and make a rational policy decision concerning foreign investment.

The legislation which we have introduced, the Agriculture Foreign Investment Disclosure Act, is a reliable registration system which is both comprehensive and inexpensive. It requires persons, corporations, trusts, and other groups who acquire, hold, or transfer interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and directs the Secretary to analyze information contained in such reports and determine the effects such transactions and holding have, particularly on family farms and rural communities. Other requirements of the bill include registration within 90 days after acquisition or transfer. Violators are subject to a stiff civil penalty not to exceed 25 percent of the fair market value of their interest in the unreported land.

The bill also alleviates any burden on local government. In its recent report, the GAO stated a federally legislated nationwide registration system would be the simplest and most feasible approach of the five systems studied.

H.R. 13356 was reported out of the Subcommittee on Family Farms, Rural Development, and Special Studies on August 8. The Senate passed a similar

Foreign Investment Act (S. 3384) on August 11.

Mr. Speaker, the need for disclosure of foreign investment in U.S. agricultural land is clear. H.R. 13356 is scheduled to be marked up in the full Agriculture Committee on August 15. I urge my colleagues to support the Foreign Investment Disclosure Act as a comprehensive and reliable system for obtaining accurate data. Included is a section by section analysis of H.R. 13356, as amended by the Subcommittee on Family Farms, Rural Development, and Special Studies.

AGRICULTURAL FOREIGN INVESTMENT DISCLOSURE ACT OF 1978 SECTION-BY-SECTION ANALYSIS

SHORT TITLE

Section 1 designates the "Agricultural Foreign Investment Act of 1978" as the short title of the bill.

REPORTING REQUIREMENTS

Section 2(a): Transactions after enactment.—Section 2(a) provides that any foreign person who acquires or transfers any interest, other than a security interest (i.e., mortgage), in agricultural land must file a report with the Secretary of Agriculture within 90 days after such acquisition or transfer. The report shall contain:

(1) the legal name and address of such foreign person;

(2) the citizenship of such foreign person, or

(3) the principal place of business and country where such foreign person is created or organized if such person is not an individual;

(4) the type of interest in agricultural land;

(5) the legal description and acreage of such land;

(6) the purchase price paid for such interest;

(7) and in cases where the foreign person is a transferor of such interest, the name, address, citizenship, or the principal place of business (of such transferee.)

(8) the agricultural purposes for which such foreign person intends to use the land; and

(9) such other information as the Secretary may require.

Section 2(b). Previous holdings.—Section 2(b) provides that any foreign person who holds any interest (other than a security interest) in agricultural land on the effective date of this section must submit a report within 180 days after such date.

The report shall contain essentially the same information as required in Section 2(a).

Section 2(c). Discretionary authority to require additional reports.—Section 2(c) provides that with respect to those individuals required to report under this act, the Secretary may in addition require

(1) such person to submit a report containing the legal name and address of each person who holds an interest in such person plus the citizenship or principal place of business and/or country of organization of such holder.

(2) with respect to the name of any person contained in any report submitted pursuant subsection 2(c)(1), the Secretary may take any action he deems necessary to determine the name, address, citizenship, principal place of business, and/or country or organization of any person whose legal name is contained in such report.

CIVIL PENALTY

Section 3(a) provides that if any foreign person fails to submit a report or submits a report which such person knows to be incomplete, misleading, or false, such person shall be subject to a civil penalty imposed by the Secretary and recoverable in a civil action brought by the Attorney General of the United States.

Section 3(b) provides the amount of the civil penalty imposed under subsection (a) shall be appropriate to carry out the purposes of this act but shall not exceed 25% of the fair market value of the agricultural land in question.

STUDIES

Section 4(a) provides that the Secretary shall submit (1) a report based on his findings and conclusions regarding his analysis of the information obtained under section 2 particularly as they relate to family farms and rural communities; and (2) his findings and conclusions regarding the effectiveness and efficiency of such reporting requirements in providing the information required.

Section 4(a) establishes a timetable for the Secretary to follow in submitting the reports of his findings and conclusions:

(1) with respect to the information obtained in the first 6 month period, within 3 months after the end of such period;

(2) with respect to the information obtained during the first 12 month period, within 3 months after the end of such period;

(3) with respect to each calendar year following the first 12 month period, within 3 months after the end of such calendar year.

PUBLIC INSPECTION

Section 5 provides that any reports submitted to the Secretary under section 2 shall be available for public inspection not later than 10 days after the date on which such report was received.

REGULATIONS

Section 6 requires the Secretary, not later than 90 days after the date of enactment of this act, to prescribe final regulations necessary to carry out the provisions of this Act.

DEFINITIONS

Section 7 defines the term used in this Act.

(1) "Agricultural Land" means any land used for agricultural, forestry, or timber production purposes as determined by the secretary under regulations;

(2) "Foreign Government" means any government other than the federal government or the government of any state or political subdivision of a state;

(3) the term "foreign person" means:

(a) any individual who is not a citizen or a national of the United States or citizen of the Northern Mariana Islands or the Trust Territory of the Pacific Islands, or who is not lawfully admitted for permanent residence or paroled into the United States under the Immigration and Nationality Act;

(b) any person other than an individual or government, created or organized under the laws of a foreign government or with its principal place of business outside of all the states.

(c) any person other than an individual or government created by the laws of any state which is substantially controlled (as determined by the Secretary) by any individual or combination of individuals referred to in subparagraph (a) or (b).

(d) any foreign government.

(4) "person" includes any individual, corporation association, partnership, society, or any other similar organization;

(5) "Secretary" means the Secretary of Agriculture;

(6) "State" means any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States.

EFFECTIVE DATES

Section 8. This Act shall become effective on the date of its enactment with the exception of section 2 which shall become effective on the date on which final regulations become effective.●

THE SOVIET SILENCING OF ONE MORE OUTSPOKEN VOICE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New Jersey (Mrs. FENWICK) is recognized for 5 minutes.

● Mrs. FENWICK. Mr. Speaker, it is perhaps ironic that Soviet dissident Aleksandr Podrabinek, who is known in the Soviet Union and abroad for his outspoken criticisms of Soviets practices, was arrested largely because he refused to speak out against a fellow dissident, Yuri Orlov, as a state witness in Orlov's trial. Now Podrabinek is being forced to take the stand in his own defense at his own trial which is scheduled to begin sometime this week.

Podrabinek is one of the youngest of the Helsinki monitors and has already, in the brief 25 years of his existence, compiled a remarkable record of strength and courage in the face of increasingly repressive forces. Last year, he wrote a detailed exposé of the use of psychiatric treatment as a means of political punishment in the Soviet Union and has kept extensive files on instances of such abuse up to the date of his arrest on May 15, 1978. Through his book, "Punitive Medicine," he let the world know of cases such as that of Anna Chertkovas, a 51-year old Pentecostalist, who was forced to enter a phychiatric hospital in 1973 because of her religious beliefs. Prior to her institutionalization, Soviet authorities refused to grant her a residence permit and bulldozed the small hut she had built outside Alma-Ata on two separate occasions. In an attempt to censor news of such inhuman behavior, the Soviets have responded in the only way they know how—by inhumanely arresting the bearer of such news and threatening him with 3 years imprisonment.

In charging Podrabinek with defamation of the Soviet State social system, the Soviets are also making good on their threat last year to arrest the young dissident if he did not cooperate with the KGB during their investigation of the Orlov case.

Mr. Speaker, I am afraid that what we are seeing is a systematic and ugly campaign by the Soviet Government against all those brave and lonely souls who have dared let the world know of the brutality of their rulers. The silencing of these voices is not only a personal tragedy for the individuals involved, but a critical loss for those in the world who desperately care about the fate of the little known and long-suffering Mrs. Chertkovas.●

COMMEMORATION OF THE ANNIVERSARY OF THE INVASION OF POLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, 39 years ago a tragic event occurred in the history of Poland and the world's

free nations. It was during September, 1939, that the peaceful state of Poland was invaded by the forces of Nazism from the west and the forces of communism from the east. Poland became a tryrannized and persecuted country, deprived of half its territory and millions of its people.

Alone and unaided, the Polish army fought heroically against the overwhelming odds and inhuman terror unleashed by the invaders. Nevertheless, the military might of the enemy proved too strong for the regular army. Thousands of Polish infantry, navy, and air force troops fled the country and took up arms once more with the Allies.

As the Polish army slowly disintegrated, an underground movement was formed, directed by the Polish Government-in-exile. Stray divisions of the Polish army joined together with civilian men, women, and children in fighting the enemy, reacting consistently with spirit and conviction. Refusing to betray their national honor and collaborate with the enemy, 6 million Poles preferred self-respect and death to capitulation and cringing life.

Even in 1945, when World War II ended, there was no peace for Poland. The Polish people suffered deportation and imprisonment in labor camps as the Communists systematically attempted to destroy Polish cultural and religious life. Absorbed by Soviet imperialism, the Poles have continued to fight for personal liberty and national integrity.

Those Poles who have emigrated to the United States have brought with them their love of liberty and their respect for law and order. They have contributed socially, economically, politically, and culturally to the advancement of our Nation. They have helped to make the United States one of the greatest countries in the world.

I take this opportunity, Mr. Speaker, to give recognition to the great number of Polish Americans who reside in the 11th District of Illinois whom I am proud to represent in the Congress. They form a substantial part of the group of solid hard-working Americans who are the backbone of our country.

As we again observe this anniversary in the House of Representatives, I am honored to join Americans of Polish descent in Chicago and all over the Nation in their hopes and prayers for the reentry of Poland into the community of free nations. The long-suffering Polish people still look to a strong America for moral support in their continuing struggle to achieve their just aspirations to national liberty.

Mr. Speaker, a poem entitled "The Polish Credo" was recently written by my constituent "Harry the Horse" Lyons. Mr. Lyons dedicated his poem to my good Aloysius Mazewski, President of the Polish National Alliance and the Polish American Congress, a man who has rendered outstanding service over the years to Polish-Americans all over the United States. The poem follows:

THE POLISH CREDO

Oh I am a Pole.

In my veins flows the blood of Patriots, Scholars, Scientists and Kings. I am the Descendant of a Copernicus who would reach for the stars, a Madame Curie unraveling the mysteries of nature, and a Jan Paderewski uplifting the soul of man.

Yes, I am a Pole.

My heart beats with love for my Ancestral Homeland and for my adopted Country, this young America. When tyranny or despotism have threatened, I have always been first to resist.

I was with Sobieski lifting the siege of Vienna, Thaddeus Kosciuzko at Valley Forge and the RAF over Channel skies in the battle of Britain.

I am a Poet like Adam Mickiewicz, an Artist like Jan Matejko, an Author like Josef Konrad and a Musician like Frederick Chopin.

I believe in the Dignity of the Human Spirit and oppose Godlessness.

If any man would choose to be my friend, Welcome, as he will know what I stand for.

If not; then let him know that enduring here, I wait and watch . . . For I am a Pole!

"HARRY THE HORSE".●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. On rollcall No. 690, final passage of the Electional Funds Transfer Act, which passed 314 to 2, I was unavoidably absent due to having to leave to make a previous commitment in my district. Had I been present I would have voted "aye." ●

MONTHLY LIST OF GAO REPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BROOKS) is recognized for 5 minutes.

● Mr. BROOKS. Mr. Speaker, the monthly list of GAO reports includes summaries of reports which were prepared by the staff of the General Accounting Office. The June 1978 list includes:

SUMMARIES OF REPORTS

NATIONAL DEFENSE

Benefits And Problems Associated With Improving The Ratio of U.S. Combat Troops To Military Support Personnel In Europe. LCD–78–408A, June 7.

Review Of Navy's Fiscal Year 1979 Appropriation Request For Funds To Construct Trident Base Support Facilities And For Community Impact Assistance. LCD–78–328, June 14.

Determining Requirements For War Reserve Spares And Repair Parts—Importance of The Wartime Planning Process. LCD–78–407A, June 6.

Operational Testing of Air Force Systems Requires Several Improvements. PSAD–78–102, June 2.

Minority Motor Carriers Can Be Given More Opportunity To Participate In Defense Transportation. LCD–78–213, June 6.

Staffing Shortages Within The Defense Audit Service. FGMSD–78–02. Oct. 31, 1977

DOD Problems In Joining Civilian Sewer Systems. LCD–77–359, June 23.

Improved Vehicle Management Needed At Military Installations in Korea. LCD–78–228, June 30.

Is There A Need For Additional Family Housing At Fort Stewart? CED–78–108, June 2.

Letter Reports

Objectives and scope of the joint operational test on tactical aircraft effectiveness and survivability in close-air support anti-armor operations should be reexamined and revised. PSAD–78–119, June 6.

Management of the Army's Care of Supplies in Storage program needs improvement. LCD–78–227, June 13.

The Army should delay full-scale production of Tactical Fire Direction System so the program can be reassessed and improved. LCD–78–116, June 2.

Military personnel accounts in Defense budgets and individual services should reflect the Federal income tax advantage of regular military compensation. FPCD–78–45, June 2.

INTERNATIONAL AFFAIRS

The Independent Review and Evaluation System of The Inter-American Development Bank Needs Support. ID–78–21, June 22.

Effectiveness of The World Bank's Independent Review and Evaluation System ID–78–14, June 5.

Examination of Financial Statements of The Overseas Private Investment Corporation For Fiscal Year Ended September 30, 1977, And Transition Quarter Ended September 30, 1976. ID–78–36, June 7.

ENERGY

Lessons Learned From Constructing The Trans-Alaska Oil Pipeline. EMD–78–52, June 15.

The Uranium Mill Tailings Cleanup: Federal Leadership At Last? EMD–78–90, June 20.

The Federal Government Should Establish And Meet Energy Conservation Goals. EMD–78–38, June 30.

Construction Management Problems Have Delayed Completion of The New Plutonium Facilities At Rocky Flats, Colorado. PSAD–78–90, June 2.

Letter Reports

Summary of studies on energy supply initiatives for various congressional committees to consider for proposed budget changes. EMD–78–92, June 22.

NATURAL RESOURCES AND ENVIRONMENT

Deep Ocean Mining—Actions Needed To Make It Happen. PSAD–77–127, June 28.

Lower Cook Inlet—Another Example of More Data Needed For Appraising Outer Continental Shelf Oil And Gas Resources. EMD–78–48, June 8.

Benefits Derived From The Outer Continental Shelf Environmental Studies Program Are Questionable. CED–78–93, June 1.

Questions Continue As To Prices In Contracting For Architectural-Engineering Services Under The Environmental Protection Agency Construction Grants Program. CED–78–94, June 6.

Waste Disposal Practices-A Threat To Health And The Nation's Water Supply. CED–78–120, June 16.

AGRICULTURE

Foreign Ownership of U.S. Farmland—Much Concern, Little Data. CED–78–132, June 12.

COMMERCE AND HOUSING CREDIT

ICC's Expansion of Unregulated Motor Carrier Commercial Zones Has Had Little Or No Effect On Carriers And Shippers. CED–78–124, June 26.

Cargo Preference Programs For Government-Financed Ocean Shipments Could Be Improved. CED–78–116, June 8.

Savings And Loan Associations: Changes Needed In The Regulation of Their Service Corporations. FOD–78–4, June 14.

Need For Improving Management of U.S. Oceanographic Assets. CED–78–125, June 16.

TRANSPORTATION

Issues In Regulating Interstate Motor Carriers. CED–78–106, June 20.

Summary of Actions Taken To Implement The Recommendations of The Joint Agency Transportation Study. LCD–78–218, June 29.

The National Driver Register—A Valuable Licensing Tool That Needs To Be Improved. CED–78–129, June 15.

Unwarranted Delays By The Department of Transportation To Improve Light Truck Safety. CED–78–119, June 30.

EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

Better Information Needed For Oversight And Evaluation of Selected Elementary And Secondary Education Programs. PAD–78–35, May 30.

Second-Career Training For Air Traffic Controllers Should Be Discontinued. CED–78–131, June 29.

Federal Domestic Food Assistance Programs—A Time For Assessment And Change. CED–78–113, June 13.

Letter Reports

The absence of some social security numbers and the existence of incorrect ones for Aid to Families with Dependent Children recipients could distrot any statistical reporting. HRD–78–133, June 21.

HEALTH

Are Neighborhood Health Centers Providing Services Efficiently And To the Most Needy? HRD–77–124, June 20.

Legislation Needed To Encourage Better Use of Federal Medical Resources And Remove Obstacles To Interagency Sharing. HRD–78–54, June 14.

Letter Reports

Does the United States have an adequate nutrition surveillance system? CED–78–144, CED–78–145, June 29.

INCOME SECURITY

The Investment Decisionmaking Process In Two New Jersey Public Employee Retirement Plans. HRD–77–12, Nov. 11, 1976.

The Investment Decisionmaking Process In Two Georgia Public Employee Retirement Plans. HRD–77–21, Nov. 30, 1976.

The Investment Decisionmaking Process In Two Tennessee Public Employee Retirement Plans. HRD–77–28, Dec. 29, 1976.

The Investment Decisionmaking Process In Two Colorado Public Employee Retirement Plans. HRD–77–30, Dec. 29, 1976.

The Investment Decisionmaking Process In Two Michigan Public Employment Retirement Plans. HRD–77–31, Dec. 29, 1976.

The Investment Decisionmaking Process In Two Virginia Public Employee Retirement Plans. HRD–77–32, Dec. 29, 1976.

To Provide Proper Compensation For Hearing Impairments. The Labor Department Should Change Its Criteria. HRD–78–67, June 1.

VETERANS BENEFITS AND SERVICES

Better Services At Reduced Costs Through An Improved "Personal Care" Program Recommended For Veterans. HRD–77–107, June 6.

Letter reports

Improvements are needed in VA's management of its fee-basis program. HRD–78–108, June 6.

ADMINISTRATION OF JUSTICE

Arson-For-Profit: More Could Be Done To Reduce It. CED–78–121, May 31.

Removing Status Offenders From Secure Facilities: Federal Leadership And Guidance Are Needed. GGD–78–37, June 5.

GENERAL GOVERNMENT

Agencies' Implementation of And Compliance With The Privacy Act Can Be Improved. LCD–78–115, June 6.

Better Management Needed For Exchanging Federal And State Tax Information. GGD–78–23, May 22.

Grim Outlook For The United States Postal Service's National Bulk Mail System. GGD–78–59, May 16.

Increased Competition Can Reduce Elevator Maintenance And Cleaning Service Contract Cost. PSAD–78–115, June 14.

Grievance Systems Should Provide All Federal Employees An Equal Opportunity For Redress. FPCD–77–67, June 13.

Inadequacies In Data Processing Planning In The Department of The Interior. FGMSD–78–41, June 23.

Audit of The House of Representatives Restaurant Revolving Fund July 4, 1976, To October 8, 1977. GGD–78–65, June 9.

Letter reports

Financial statements of the Federal Deposit Insurance Corporation present fairly the financial position of the Corporation at December 31, 1977 and 1976. FOD–78–3, June 8.

Need to report full project costs to the Congress and to develop a top-level agreement between NASA and NOAA regarding project participation. PSAD–78–76, June 19.

GSA should review the responsibilities and capabilities to audit freight charges on payments made in connection with commercial bill of lading shipments. LCD–78–236, June 20.

Data Collection concerning fire losses should be expedited to better develop plans and programs. PSAD–78–123, June 21.

Justification of U.S. Postal Service's proposed transfer of outgoing mail processing functions from Ogden to Salt Lake City, Utah. GGD–78–81, June 23.●

THE McCARRAN-FERGUSON ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

● Mr. LAFALCE. Mr. Speaker, as you know, the business of insurance is presently regulated almost exclusively by the individual States, with virtually no Federal involvement. This exemption from Federal regulation is set forth in the McCarran-Ferguson Act, passed by Congress in 1945 in response to the Supreme Court's decision the preceding year in United States against South-Eastern Underwriters' Association. That case held for the first time that insurance was "commerce" and hence subject to Federal regulation—specifically in that case, regulation under the Federal antitrust laws.

The McCarran-Ferguson Act was hastily conceived and was enacted with scant legislative history. In recent years, it has been the source of increasing litigation, and the subject of much criticism.

I have introduced today four bills amending and or repealing the McCarran-Ferguson Act. At this time, I am not entirely sure what role the Federal Government should play in regulating the insurance industry. I am, however, firmly convinced that the present system of exclusive State regulation of insurance is ineffective.

The four proposals vary across a broad spectrum. They include: First, outright repeal of the McCarran-Ferguson Act; second, amending McCarran-Ferguson to require effective State regulation to obtain the exemption from Federal regulation; third, amending McCarran-Ferguson to clarify that the "business of insurance" includes only true insurance matters—and does not include such extraneous activities as, for example, advertising; and fourth, deleting from the McCarran-Ferguson Act only that portion of it exempting the business of insurance from Federal regulation.

These bills represent alternative approaches that may be taken. While I certainly do not contemplate floor action on any of them during 1978, I sincerely hope that they will focus attention on this important problem. Further, I hope that committee hearings can begin on these measures during the remainder of this session. Perhaps with guidance from the National Commission on Antitrust Laws, which is presently considering the McCarran-Ferguson exemption, Congress may gain a better understanding as to the proper route upon which to proceed.

We are all aware of problems back home regarding virtually all types of insurance, including automobile liability insurance, product liability, and homeowners insurance to name a few. Congress must begin focusing its attention on these difficulties, not in an ad hoc manner, as it has done in the past, but with a view toward the total regulatory environment—so that future insurance "crises" may be avoided before they occur.●

SOME THOUGHTS ON AMERICA'S PUBLIC SCHOOLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 10 minutes.

● Mr. BAUCUS. Mr. Speaker, I would like to discuss today the importance of two major education proposals pending before Congress—tuition tax credits and the 1978 ESEA amendments.

Citizens rightfully demand that their tax dollars be used in the most effective and efficient means possible. It is no surprise, then, that as Americans increasingly view education as a worthwhile and productive venture the demand to invest more Federal funds in education grows.

However, as in most cases of Government intervention, the degree and means of Federal involvement are not clear. The most controversial issue concerning the use of Federal education funds has centered about tuition tax credits for parents with children attending private schools.

TUITION TAX CREDITS

The controversy over tuition tax credits is not unwarranted or unexpected. As the economy continues to suffer from heated inflation, we all naturally look for some type of "break" that will alleviate the pressure. However, when we consider any type of public financing, we must take into account:

First. The cost;

Second. Who will bear that cost; and

Third. Who will benefit from it.

With respect to cost, the price tag for most tax credit bills being considered today runs at least $1 billion a year and some are more than four times that amount.

As to who will benefit from such proposals, suffice it to say that most families in my home State of Montana will not—despite the fact that nearly everyone in our State is feeling the squeeze of reduced buying power due to inflation

and other economic problems. Why? The answer, quite simply, is that most families in Montana do not have children in private schools. That does not mean that they are free of the inflationary pressures of higher taxes and that they do not need some type of tax relief.

Ironically, tuition tax credit proposals are both too narrow and too broad. On the one hand, the category of taxpayers they are designed to help is too limited because it does not include families who do not have children in private schools but yet are having a tough time dealing with the "stagflation" that has been with our economy for the past few years. On the other hand, the tax credit proposals are too broad because they provide tax relief to wealthy families who do not need it. That is, a millionaire who sends a child to a private school would qualify for a tax credit in this proposal, while a family struggling to eke out a living would not if they do not have children in private schools.

In most cases, moreover, tuition tax credits would not relieve the financial burdens now afflicting parents with children in private schools. Economic principles tell us that inflation would eat up most benefits tuition tax credits have to offer. Furthermore, since teachers' salaries in private schools are substantially below those in State or public schools, commonsense suggests that if more funds were available to pay private school costs, private school teachers would seek salaries which are comparable to their public school counterparts.

A far better way to provide tax relief is through "across-the-board" cuts in our income tax table—providing, of course, that such cuts do not stimulate inflation.

1978 ESEA AMENDMENTS

The most constructive use of Federal education dollars has been to improve and expand public school facilities so that they reach a greater number of people and provide more services. In passing legislation to extend the Elementary and Secondary Education Act (ESEA), the House has taken an important step forward to revitalize existing educational programs.

The bill's philosophy is a simple one. By more logically restructuring current education programs, eliminating unnecessary bureaucracy, and progressively changing outdated eligibility requirements, all the States should receive substantial support in Federal education funds. Of course, the total impact will not be clear until the bill goes through the Senate, but it is a reassuring sign to know that both Congress and the administration are working together to promote progressive education programs.

In such areas as impact aid, basic education grants, and poverty concentration programs, Montana should receive over $2.5 million of education money. Other States will likewise reap in substantial funds to boost their educational endeavors. While some funding is not as high I would like to see it, especially for impact aid, the ESEA represents a step in the right direction.

The attractiveness of the 1978 Elementary and Secondary Education Act does not depend solely on its substantial monetary support. The bill is especially responsive to local educators and has accordingly adopted several new "target" programs. Among its provisions, the ESEA has extended community education programs for 5 years. As a result, school facilities are being opened during evening hours and often on Saturdays and Sundays, even in the summer, to offer a wide range of recreational and educational programs for children and adults. This will allow us to get more use out of existing facilities and extend tight budgets so that each dollar spent works harder.

It is rare for any governmental activity to offer not only better public services, but also an efficient use of taxpayers' dollars. The key now will be to insure that there is no loop between the goals of the ESEA and results which affect a broad range of taxpayers.●

GENERAL LEAVE

Mr. CAVANAUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from New York (Mr. LUNDINE).

The SPEAKER pro tempore (Mr. GIAIMO) Is there objection to the request of the gentleman from Nebraska?

There was no objection.

CONFERENCE REPORT ON H.R. 6669

Mr. TEAGUE submitted the following conference report and statement on the bill (H.R. 6669) to establish a national climate program, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 95–1489)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6669) to establish a national climate program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "National Climate Program Act".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) Weather and climate change affect food production, energy use, land use, water resources and other factors vital to national security and human welfare.

(2) An ability to anticipate natural and man-induced changes in climate would contribute to the soundness of policy decisions in the public and private sectors.

(3) Significant improvements in the ability to forecast climate on an intermediate and long-term basis are possible.

(4) Information regarding climate is not being fully disseminated or used, and Federal efforts have given insufficient attention to assessing and applying this information.

(5) Climate fluctuation and change occur on a global basis, and deficiencies exist in the system for monitoring global climate changes. International cooperation for the purpose of sharing the benefits and costs of a global effort to understand climate is essential.

(6) The United States lacks a well-defined and coordinated program in climate-related research, monitoring, assessment of effects, and information utilization.

SEC. 3. PURPOSE.

It is the purpose of the Congress in this Act to establish a national climate program that will assist the Nation and the world to understand and respond to natural and man-induced climate processes and their implications.

SEC. 4. DEFINITIONS.

As used in this Act, unless the context otherwise requires:

(1) The term "Office" means the National Climate Program Office.

(2) The term "Program" means the National Climate Program.

(3) The term "Secretary" means the Secretary of Commerce.

SEC. 5. NATIONAL CLIMATE PROGRAM.

(a) ESTABLISHMENT.—The President shall establish a National Climate Program in accordance with the provisions, findings and purposes of this Act.

(b) DUTIES.—The President shall—

(1) promulgate the 5-year plans described in subsection (d)(8):

(2) define the roles in the Program of Federal officers, departments, and agencies, including the Departments of Agriculture, Commerce, Defense, Energy, Interior, State, and Transportation; the Environmental Protection Agency; the National Aeronautics and Space Administration; the Council on Environmental Quality; the National Science Foundation; and the Office of Science and Technology Policy; and

(3) provide for Program coordination.

(c) NATIONAL CLIMATE PROGRAM OFFICE.—The Secretary shall establish within the Department of Commerce a National Climate Program Office not later than 30 days after the date of the enactment of this Act. The Office shall be the lead entity responsible for administering the Program. Each Federal officer, employee, department and agency involved in the Program shall cooperate with the Secretary in carrying out the provisions of this Act.

(d) PROGRAM ELEMENTS.—The Program shall include, but not be limited to, the following elements:

(1) assessments of the effect to climate on the natural environment, agricultural production, energy supply and demand, land and water resources, transportation, human health and national security. Such assessments shall be conducted to the maximum extent possible by those Federal agencies having national programs in food, fiber, raw materials, energy, transportation, land and water management, and other such responsibilities, in accordance with existing laws and regulations. Where appropriate such assessments may include recommendations for action;

(2) basic and applied research to improve the understanding of climate processes, natural and man induced, and the social, economic, and political implications of climate change;

(3) methods for improving climate forecasts on a monthly, seasonal, yearly, and longer basis;

(4) global data collection, and monitoring and analysis activities to provide reliable, useful and readily available information on a continuing basis;

(5) systems for the management and active dissemination of climatological data, information and assesments, including mechanisms for consultation with current and potential users;

(6) measures for increasing international

cooperation in climate research, monitoring analysis and data dissemination;

(7) mechanisms for intergovernmental climate-related studies and services including participation by universities, the private sector and others concerned with applied research and advisory services;

(8) experimental climate forecast centers, which shall (A) be responsible for making and routinely updating experimental climate forecasts of a monthly, seasonal, annual, and longer nature, based on a variety of experimental techniques; (B) establish procedures to have forecasts reviewed and their accuracy evaluated; and (C) protect against premature reliance on such experimental forecasts; and

(9) a preliminary 5-year plan, to be submitted to the Congress for review and comment, not later than 180 days after the enactment of this Act, and a final 5-year plan to be submitted to the Congress not later than 1 year after the enactment of this Act, that shall be revised and extended biennially. Each plan shall establish the goals and priorities for the Program, including the intergovernmental program under section 6, over the subsequent 5-year period, and shall contain details regarding (A) the role of Federal agencies in the program. (B) Federal funding required to enable the Program to achieve such goals, and (C) Program accomplishments that must be achieved to ensure that Program goals are met within the time frame established by the plan.

(e) ADVISORY COMMITTEE AND INTERAGENCY GROUPS.—(1) The Secretary shall establish and maintain an advisory committee of users and producers of climate data, information and services to advise the Secretary and the Congress on the conduct of the Program. Members of such committee shall not be employed by the Federal Government and may receive compensation at the daily rate for GS–16 of the General Schedule for each day engaged in the actual performance of their duties for the committee and while so serving away from their homes or regular place of business may be allowed travel expenses, including per diem in lieu of subsistence.

(2) The Secretary shall establish and maintain such interagency groups as are necessary and appropriate to assist in carrying out responsibilities under this Act.

(f) COOPERATION.—(1) The Program shall be conducted so as to encourage cooperation with, and participation in the Program by, other organizations or agencies involved in related activities. For this purpose the Secretary shall cooperate and participate with other Federal agencies, and foreign, international, and domestic organizations and agencies involved in international or domestic climate-related programs.

(2) The Secretary and the Secretary of State shall cooperate in (A) providing representation at climate-related international meetings and conferences in which the United States participates, and (B) coordinating the activities of the Program with the climate programs of other nations and international agencies and organizations, including the World Meteorological Organization, the International Council of Scientific Unions, the United Nations Environmental Program, the United Nations Educational, Scientific, and Cultural Organization, the World Health Organization, and Food and Agriculture Organization.

(g) BUDGETING.—(1) Each Federal agency and department participating in the Program, shall prepare and submit to the Office of Management and Budget, on or before the date of submission of departmental requests for appropriations to the Office of Management and Budget, an annual request for appropriations for the Program for the subsequent fiscal year. The Office of Management and Budget shall review the request for appropriations as an integrated, coherent, multiagency request.

(2) Section 304 of the Act of October 18, 1962 (31 U.S.C. 25) (relating to preparation of horizontal budgets for meterology), is amended—

(A) by inserting "and of the National Climate Program established under the National Climate Program Act" after "meterology", and

(B) by striking out "aspects of the program" and inserting in lieu thereof "aspects of the programs".

The amendments made by the preceding sentence shall apply with respect to budgets submitted for fiscal years beginning 6 months or more after the date of the enactment of this Act.

SEC. 6. INTERGOVERNMENTAL CLIMATE PROGRAMS.

(a) ESTABLISHMENT.—The Secretary shall establish a program for Federal and State cooperative activities in climate studies and advisory services. The Secretary is authorized to make annual grants to any State or group of States, such grants to be made available to public or private educational institutions, to State agencies and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services. Such grants may be made for not more than 50 percent of the costs, in any one year, of the research conducted or services provided under the grant. Federal funds received from other sources shall not be used to pay the remaining share of the cost of such research or services. The Secretary shall work with other appropriate mission agencies in conducting this program.

(b) DETAIL OF THE INTERGOVERNMENTAL PROGRAM.—The intergovernmental program shall provide, among others, the following State and regional services and functions:

(1) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy;

(2) atmospheric data collection and monitoring on a statewide and regional basis;

(3) advice to regional, State, and local government agencies regarding climate-related issues;

(4) information to users within the State regarding climate and climatic effects; and

(5) information to the Secretary regarding the needs of persons within the State for climate-related services, information and data.

(c) INTERGOVERNMENTAL PROGRAM REQUIREMENTS.—Prior to making a grant to any State or group of States under this section, the Secretary shall find that—

(1) the State, or each of the States in a group, has adopted a State climate program in accordance with the provisions of this Act and rules and regulations promulgated by the Secretary; and

(2) the State, or each of the States in a group has—

(A) integrated its climate program with the Program; and

(B) established an effective mechanism for consultation

and coordination with Federal and local government officials and users within the State.

The Secretary shall insure that grants made to a State or group of States under this section are made on an equitable basis.

SEC. 7. ANNUAL REPORT.

The Secretary shall prepare and submit to the President and the authorizing committees of the Congress, not later than January 30 of each year, a report on the activities conducted pursuant to this Act during the preceding fiscal year, including—

(a) a summary of the achievements of the Program during the previous fiscal year;

(b) an analysis of the progress made toward achieving the goals and objectives of the Program;

(c) a copy of the 5-year plan and any changes made in such plan:

(d) a summary of the multiagency budget request for the Program of subsection 5(g); and

(e) any recommendations for additional legislation which may be required to assist in achieving the purposes of the Act.

SEC. 8. CONTRACT AND GRANT AUTHORITY; RECORDS AND AUDITS.

(a) Functions vested in any Federal officer or agency by this Act or under the Program may be exercised through the facilities and personnel of the agency involved or, to the extent provided or approved in advance in appropriation Acts, by other persons or entitles under contracts or grant arrangements entered into by such officer or agency.

(b)(1) Each person or entity to which Federal funds are made available under a contract or grant arrangement as authorized by this Act shall keep such records as the Director of the Office shall prescribe, including records which fully disclose the amount and disposition by such person or entity of such funds, the total cost of the activities for which such funds were so made available, the amount of that portion of such cost supplied from other sources, and such other records as will facilitate an effective audit.

(2) The Director of the Office and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of 3 years after the completion of the activities (referred to in paragraph (1)) of any person or entity pursuant to any contract or grant arrangement referred to in subsection (a), have access for the purpose of audit and examination to any books, documents, papers, and records of such person or entity which, in the judgment of the Director or the Comptroller General, may be related or pertinent to such contract or grant arrangement.

SEC. 9. AUTHORIZATION FOR APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATION.—In addition to any other funds otherwise authorized to be appropriated for the purpose of conducting climate-related programs, there are authorized to be appropriated to the Secretary, for the purpose of carrying out the provisions of this Act, not to exceed $50,000,000 for the fiscal year ending September 30, 1979, and not to exceed $65,000,000 for the fiscal year ending September 30, 1980.

(b) AUTHORIZATION OF APPROPRIATION FOR GRANTS.—There are authorized to be appropriated to the Secretary sums not to exceed $10,000,000 for the fiscal year ending September 30, 1979, and not to exceed $10,000,000 for the fiscal year ending September 30, 1980, as may be necessary for grants under section 6 of this Act, to remain available until expended.

Amend the title so as to read:

An Act to establish a comprehensive and coordinated national climate policy and program, and for other purposes.

And the Senate agree to the same.

OLIN E. TEAGUE,
GEORGE E. BROWN, Jr.,
JEROME A. AMBRO,
TIMOTHY E. WIRTH,
ANTHONY C. BEILENSON,
ROBERT S. WALKER,
LARRY WINN, Jr.,
Managers on the Part of the House.

HOWARD W. CANNON,
WARREN G. MAGNUSON,
ADLAI E. STEVENSON,
JAMES B. PEARSON,
HARRISON SCHMITT,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6669) to establish a national climate program, and for other purposes submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The amendment of the Senate struck out all after the enacting clause in the House bill and substituted new language. The Senate bill was passed subsequent to the House bill and incorporated many of the provisions contained in the House bill. The committee of conference agreed to accept the Senate amendment with certain amendments and stipulation proposed by the conferees which would have the effect of including House provisions not fully considered in the Senate version.

The substantive changes made by the Senate amendment, together with further amendments and modifications by the committee of conference are explained as follows:

TITLE

The conferees agreed that because the main action proposed by the legislation is the establishment of a program for action, the word "program" should be added to the short title making it the "National Climate Program Act."

FINDINGS

The conferees noted that the findings of both Houses in section 2 were similar and often overlapping. The conferees agreed to adopt the Senate "Findings" of section 2 with one important addition. The House bill had included utilization of land as a factor affected by climate, and it was agreed that this concept should be included in the conference report. With this amendment the findings of both Houses are included in the language of the conference report.

PURPOSE

Section 3 describes the purpose of the act and the conferees agreed to accept the Senate version with one amendment, which would encompass the House language. The amendment to the Senate amendment would change the word "adapt" to "respond" so that the act would include in its scope the possibility of informed, intelligent action in response to climate as opposed to more passive adaptation to climate.

DEFINITIONS

The conferees agreed that the Senate definitions in section 4 were sufficient. The House bill had included several additional definitions of terms the most important of which was "climate." The conferees decided not to attempt to define in legislation a term which has so many different operational definitions. For the purpose of this legislation "climate" must be considered broadly in some uses and narrowly in others.

Typically, climate is taken to mean the average or statistical state of the weather over extended periods of time and a large geographical area. In contrast, "weather" refers to the atmospheric (and other) conditions at a localized time and place. Therefore, the term "climate" would not refer to short-term weather forecasting nor to purposeful short-term weather modification, but would include seasonal forecasting and long-term modification of the weather such as that caused by the buildup of carbon dioxide in the atmosphere or by a persistent urban plume.

The climatic time scale of principal interest is seasonal or annual, but longer or shorter scales would also be of interest for some purposes. Similarly, the typical geographical scale of interest would be regional, but local as well as national and global climate would also be important in some cases.

Another potential area of confusion in the definition of climate is the inclusion of such nonatmospheric components as the Earth's oceans, snow cover, and ice masses. Because of the close physical coupling between the oceans and the atmosphere, climate must include, in some instances, a consideration of the state of the oceans. However, ocean phenomena certainly are not all strongly climate connected and thus they should not all be considered "climate" phenomena. Similarly, the Earth's snow cover and ice masses are so closely related to climate as to be considered part of it for some considerations but not for others.

Finally, it should be pointed out that the term "climate change" as used in the act should be taken to include all types of changes; that is, changes from one prevailing climate state to another, variability of climate, and climate anomalies. Thus, the conferees recognize that climate change has many manifestations, and they intend that all manifestations be considered under this Act.

NATIONAL CLIMATE PROGRAM

Establishment

Both the House and Senate bills provide that the President shall establish a National Climate Program. The conferees agreed to use the structure of the Senate bill in describing the Program. In setting forth the duties of the President, the conferees agreed to drop the Senate language that the President establish Program priorities and incorporate in place thereof the House provision that the President promulgate a 5-year plan. The development of this Plan would include choices on Program priorities and therefor would be consistent with the langauge in the Senate bill. The 5-year plan is discussed later in this report. The conferees agreed with the Senate provisions that the President shall define the roles of various Federal departments and agencies in the Program and provide for Program coordination. In assigning this duty to the President the conferees intend to emphasize that the Program is to be a national, multiagency Program.

Office

Both the House and Senate bills establish a National Climate Program Office. The conferees agreed to the Senate provision, section 5(c), that this Office be established within the Department of Commerce and added the House provision that such establishment take place not later than 30 days after enactment of this act. The Conferees intend that this Office should be the focal point in the Federal Government for administering the Program, and shall coordinate, plan and serve national, not just Department of Commerce efforts in climate.

The conferees note that in anticipation of the passage of this Act the Department of Commerce has acted to designate an office in the National Oceanic and Atmospheric Administration as a focal point for their climate activities. Some (but not all) of the mission agencies have detailed personnel to this NOAA Office. The conferees believe that such detailing of mission-agency and user-agency personnel to the Program Office would be one excellent way to help insure participation in the Program by the agencies.

Program Elements

The conferees agreed to accept the Senate description of the elements of the National Climate Program with certain amendments to include key House provisions. In general, the Senate language was broader and the House language more detailed. Thus, the House language is encompassed by the amended Senate language.

The Senate language, section 5(d)(1), that provided for procedures for assessing the effect of climate on agricultural production, energy use, water resources, transportation, human health, and national security was amended to provide that the assessments, not only procedures for assessments, would be developed. The conferees also agreed to adopt from the House version additional areas that would be affected by climate—specifically the natural environment and land resources.

The conferees intend that the assessments conducted pursuant to this Act include analyses, studies and recommendations for action concerning—

(1) The impact of small changes in climate on agriculture, the economy, commerce, technology and other areas of human endeavor;

(2) Appropriate changes in agricultural, economic, commercial, technological, and other practices to respond to the effects of climate; and

(3) Appropriate strategies to respond to man-induced changes in global and regional climates.

The conferees agreed that in conducting such assessments it would not be in the national interest to duplicate the capabilities for impact assessment found in existing mission agencies. Therefore, the primary mission agencies would be the first choice for doing assessments of impacts upon activities under their jurisdiction. The Office would be responsible for conducting assessments if they identify gaps in existing efforts.

The conferees agreed to accept the Senate language describing the climate research program. Section 5(d)(2), with the understanding that the comprehensive Senate language include several points made in the more specific House provision. Thus, the conferees intend that the research program be broadly interdisciplinary—encompassing physical, chemical, biological, geological, archeological, and historical investigations as detailed in the House version. The research program should study causes of climate change including the relationships among the atmosphere, the hydrosphere, and the biosphere, that affect the climate. It is hoped these studies would lead to the development of climate models which can be used to predict climate changes.

A concept in the Senate bill which the conferees specifically endorsed was that the research program should include activities to improve the understanding of the social, economic, and political impacts of climate change. This kind of research is necessary to support the impact assessments described in section 5(d)(1).

Section 5(d)(3) of the Senate bill to which the conferees agreed, provides for the improvement of monthly, seasonal, yearly, and longer term forecasts.

With respect to data gathering, the conferees agreed to two amendments to the Senate language of section 5(d)(4) in order to include points contained in the House version. The first amendment adds data "analysis" to the required activities. The second amendment provides that the information so generated must be "useful and readily available." These amendments add to the Senate-passed bill the idea that raw data must be transformed into information—that is, analyzed—and made available to users. The conferees intend that this emphasis on users and data application be reflected in activities carried out in the Program.

The same emphasis, based on the same intent of the conferees, is achieved by adoption of two amendments to the Senate version of section 5(d)(5). That paragraph provides for data and information dissemination. The first amendment broadens the scope of the Senate version to include data "management" and also provides that the data dissemination be "active." By "active," the conferees intend that data dissemination should involve outreach to users rather than being content with mere publication of

information. Further, stressing usefulness, the second amendment to the Senate version adds "climate impact assessments" to the material to be disseminated, and provides for consultations between users (including potential users) of this material and the providers of the material. In referring to "potential users" the conferees intend to include those who are impacted by climate and who could make use of certain climate information were it readily available in the proper form.

The conferees intend that the data and information generated be made accessible and useful by (1) processing, storage analysis, indexing and dissemination in ways to promote its use—for example, informats suitable to user requirements; (2) the preparation and broad publication of reports, inventories, and indices describing and cataloging it; and (3) appropriate affiliation with other data and information systems.

The conferees agreed to the language of section 5(d)(6) making the international cooperation authorized in section 5(f) of the Senate version a Program element. Provisions of the House bill allowed and encouraged international cooperation, but did not make mechanisms for it a specific Program element.

The conferees agreed to the provision, included in both the House and Senate bills, to establish mechanisms for intergovernmental climate-related studies and advisory services, section 5(d)(7), that would include participation by universities, the private sector and others concerned with applied research and advisory services. The conferees provided for an intergovernmental program as an integral part of the national Program under section 6, as described below.

The conferees agreed to drop a separate section in the Senate-passed bill to establish experimental climate forecast centers, and instead agreed to incorporate that provision as part of the national Program established under section 5(d)(8). The forecast centers established under the Senate bill are consistent with the House provision that would provide for climate forecasts, but they would not be the only mechanism to produce improved climate forecasts. The Senate amendment was amended further to provide that the experimental climate forecasts be evaluated for accuracy.

The conferees agreed to a substitute for the Senate language which provided for a 5-year Program plan, section 5(d)(9). The substitute similarly provides for a 5-year plan, but also includes several important points from the House bill.

The Plan provided for in this paragraph is to be promulgated by the President pursuant to section 5(b)(1). Thus, the conferees intend that the plan be developed according to the procedures described below, and be set in motion by the President.

The amendment provides for the development of a preliminary Plan which shall be submitted to the Congress for review and comment. The conferees expect that review of this preliminary Plan will assist the Congress in its oversight responsibilities, and that for the purpose of such review background information and program staff will be available to the Congress in a timely fashion. After considering comments of the Congress and other interested parties and agencies, the preliminary Plan is to be forwarded in final form to the President for promulgation.

The conferees are aware of the need to provide for flexibility in authorizing legislation. Thus, in several instances they have agreed to delete many of the specific details of the Plan that were in the House bill in favor of more general Senate language in order not to be restrictive. Therefore, the conferees agreed to provide for submission of a preliminary plan to the Congress for review to determine if implementation of the program follows congressional intent.

Because of the broad organizational and substantive scope of the activities comprising the program, the conferees consider the plan to be a very important part of the program. That is, the Plan will represent the Program in document form; in one place an interested party will be able to find a description of program goals, objectives, priorities, and agency roles. The conferees intend that the Plan be specific so that agency roles are presented not only as general statements, but also as specific activities to be carried out by the agencies. The Plan must also contain information as to the levels of resources necessary for each activity and the timing of the activties.

The conferees foresee that the Program Plan will have a very broad organizational and disciplinary scope and the effort required to prepare it will be substantial. Further, because the basic program goals are long-range and arrived at after much consideration, they should not be changed frequently. Therefore, the conferees agreed that it would be appropirate to require that the 5-year plan be extended only once every 2 years—that is, every 2 years an additional 2 years would be added to the Plan. Of course the normal vicissitudes of the annual appropriations process would require annual revisions of activities to be carried out without the 5-year Plan and there is a requirement that such revisions be described in the annual report of section 7. Further, the Plan should be revised as often as necessary to deal with unforeseen changes in Program circumstances, goals or objectives especially during the first few years of the Program when agency activities may change substantially. The conferees expect that this updated plan will be the basis for the annual budget request of section 5(g). Provision for the regular biennial extension of the Plan does not imply that authorizations for appropriations should be biennial.

Advisory Committee and interagency groups

Section 5(c) as amended by the conferees provides for an advisory committee and for interagency groups to assist in carrying out the act.

Section 5(e)(1) directs the Secretary to establish an advisory committee balanced between users and producers of climate data, information and services. The breadth of the membership of this advisory committee shall reflect the scope of the Program from data acquisition to application and across many discipines. It is the intent of the conferees to insure that users are strongly represented on such a committee.

The conferees intend that the advisory committee will, (1) continually review the Nation's climate activities, and based on its findings, advise and report to the Secretary and the Congress on the conduct and priorities of the Program, particularly with respect to the scientific rigor of the Program and the delivery of services under the Program: (2) make recommendations with respect to actions the United States should take to strengthen international efforts to understand and respond to changes in the climate.

The conferees intend that the advisory committee be familiar with the entire Program and would expect that the Congress will draw on their knowledge and expertise as necessary in carrying out its oversight responsibility.

While the advisory committee would be the principal advisory body for the Program, for special purposes the Secretary is encouraged to consult with other groups and individuals as appropriate. Two such standing groups could be the Climate Research Board of the National Academy of Sciences and the National Advisory Committee on Oceans and Atmosphere.

The conferees are aware of the delays associated with appointment of standing advisory groups, yet they would encourage the Secretary to seek the input of appropriate outside groups as soon as possible in formulating the initial 5-year plan of section 5(d)(9). Effort should be made to obtain the input of those users of climate information and services who would not normally be aware of the planning process of section 5(d)(9).

Section 5(e)(2) directs the Secretary to establish interagency groups where appropriate to assist in carrying out the act. The purpose of interagency groups is to provide for the participation in the management of the Program of all Federal agencies having a legitimate interest in the Program, both producers and users of climate information. The conferees intend that one interagency group be at a policy level in order to assure substantive agency participation in formulating Program policy.

The conferees believe that the National Climate Program is a prototype of the class of programs which can only succeed if involved organizations are able to transcend the classic patterns of bureaucratic rivalry and inhibited information flow. The entire point of making climate the focus of a national program is to emphasize that it is a subject which cannot be confined in ordinary organizational boundaries, and that it must be considered as a critical element of strategic planning in almost all areas of human endeavor.

The Secretary of Commerce and the Office have an important and challenging responsibility. They must carry out their leadership responsibility in such a way that the other Federal agencies, as well as State and local governments and private interests, perceive the climate program not as a Department of Commerce effort, but as a national partnership, utilizing the best talents and capabilities of all participants in both planning and execution. It is in this context that the organization and utilization of the interagency groups will be critical, and the conferees wish to emphasize the importance of these groups.

Interagency groups should have a major role in developing the program plan of section 5(d)(9), and they should also advise the Program Office on the conduct and priorities of the Program.

Cooperation

With respect to cooperation—section 5(f)—the conferees agreed that the House and Senate provisions are complementary. Therefore, they agreed to amend the Senate amendment by adding the House language as section 5(f)(1) while retaining the Senate language as section 5(f)(2). As a result, the first paragraph broadly authorizes both domestic and international cooperation while the second paragraph provides for cooperation with the State Department in regard to international matters.

Budget request

Section 5(g) deals with the budget request for the Program, and the conferees agreed that certain provisions of the House and Senate versions were complementary and that both should be adopted.

Thus section 5(g)(1) is a provision in the Senate-passed bill which states that each agency should submit its own budget request to the Office of Management and Budget, and that OMB should consider these requests as an integrated, coherent, Program budget. The role of the OMB is very important to ensure that overall Program priorities are reflected in the allocation of resources to the agencies.

Under the language agreed to by the conferees, the OMB will be assisted in its review of the multiagency budget request by the Plan of section 5(d)(9) which will specify Federal funding required to enable the program to achieve its goals. Participation of

the interagency groups in the development of the Plan should help insure that the agency requests to OMB are compatible with the Plan.

Section 5(g)(2) provides for the preparation by OMB of a horizontal budget for the climate program. A horizontal budget cuts across agency lines and presents all the climate-related budget items in one document. Such a document can be used to assure the various groups in the executive and legislative branches which must consider budget requests that there is no duplication of requests. Since many agencies are likely to be requesting appropriations for climate-related activities under the authority of this and other acts, it is important that the requests be coordinated and that such coordination be manifest. Therefore, the conferees agreed to incorporate House language calling for preparation of a unified, horizontal budget which would show how the budget requests of all the program elements relate one to another.

INTERGOVERNMENTAL CLIMATE PROGRAMS

The Senate-passed bill provided the basis for section 6. Intergovernmental Climate Programs. The conferees made two main changes to the Senate language to emphasize the distinction between this component of the National Climate Program and the climate research activities emphasized elsewhere in the act, and the interagency involvement in the intergovernmental climate program.

First, the conferees agreed to substitute the term "studies" for "research" so that the Federal/State program would be one of climate studies and advisory services. The conferees do not intend that the research conducted under this part of the national program to be basic research. Rather the research should be broad based and applied. The broader term "studies" would also allow for the conduct of impact assessment at the State, regional or local level.

The second amendment was the addition of language reflecting the House bill which provides that "the Secretary shall work with other appropriate mission agencies in conducting this program." Thus, the intergovernmental program would not duplicate existing field organizations of mission agencies and where appropriate should work through the field offices, an example being the agricultural extension service.

The committee of conference views as a high priority component of the program the need to greatly expand and improve upon existing climate-related services to user groups throughout the Nation. Too often Federal programs are developed without attention to user group needs and mechanisms for dealing with them. A user group focus for the National Climate Program is essential since the Congress, in passing this act, wishes to emphasize that the Program is not to be viewed as only, or even primarily, a climate research effort. Interactions with user groups, are to be considered as an integral part of the entire Program, and the Congress will carefully review the implementation and administration of the intergovernmental climate program to insure that aggressive Federal leadership and financial support is provided for this activity. The conferees also wish to emphasize their intent that the intergovernmental program be two-way in nature. That is, it should serve as a channel for climate information available under the program to flow to the States, and also to serve as a channel for information on user needs to flow into the Program.

The conferees wish to call attention to the language in section 6 which refers to States or groups of States as participants in the intergovernmental climate program. For certain purposes climate influences are best understood on a regional, as opposed to State basis. Similarly services and information dissemination needs could be common to groups of States within a given climate zone, and then could be handled most efficiently on a regional basis.

Wherever it appears that a program could not be organized on a State level the conferees urge the Secretary to provide incentives for regional organization of the intergovernmental program.

The conferees expect that a separate intergovernmental climate program office with adequate staff and financial resources, be established and maintained within the Program Office.

ANNUAL REPORT

Both the House and Senate versions provided for an annual report, and the conferees agreed to adopt the Senate version as section 7 with amendments to include key House provisions. Both Houses clearly intended that the Program generate a useful, informative annual report. The amendments agreed to would have the annual report high-light any changes made in the 5-year plan of section 5(d)(9) and include a summary of the multiagency budget plan of section 5(g). With these amendments, the conferees intend to emphasize the importance which the Congress attaches to the cooperative, multiagency planning provided for in this legislation, tying together the Program Plan of paragraph 5(d)(9); the horizontal budget of subsection 5(g); and the annual report of section 7.

The report should present a coherent picture of the Program status and progress. Because of the broad scope of the Program it is important that its managers annually assess and describe its achievements, progress, and plans in one document so that any gaps or inconsistencies can be more easily recognized. The Congress would find the report very useful in its oversight role.

The annual report, like the Program Plan, would be an important management tool, and would be a useful mechanism for communication with users and potential users of Program results and services.

The conferees wish to make clear the relationship between the biennial revision and extension of the Program Plan of section 5(d)(9) and the changes in the Plan to be commented on in the annual report under section 7. It is very likely that the Plan will have to be revised to some extent every year in order to reflect the Program response to the difference between appropriations and requests. On the other hand it is not necessary that the Plan be extended a year every year; it can be extended 2 years every 2 years after thorough review and revision.

CONTRACT AND GRANT AUTHORITY; RECORDS AND AUDITS

Section 8 of the conference report is House language to which the conferees agreed. The provisions are intended to facilitate the operation and oversight of the Program. Thus section 8(a) gives general authority for Program activities to be carried out by the pertinent Federal agency either in-house or by contract or grant to an outside performer. The purpose is to insure that the Program is not hindered, for example, by procurement regulations that have been developed for a particular agency's mission that do not apply to a multifaceted effort like the climate Program.

Section 8(b) is standard language recommended by the General Accounting Office to assist them in auditing the Program. This would in turn enable GAO more effectively to assist the Congress in its oversight function.

AUTHORIZATION FOR APPROPRIATIONS

The conferees agreed to the Senate-passed funding levels and the provision in section 9(a) that the authorization of funds for the Program be made available to the Secretary of Commerce. As the lead entity for administering the Program, the conferees agreed that the Secretary should have sufficient resources to assist in carrying out the provisions of the Act. Funds appropriated to the Secretary of Commerce could be expended within that agency or department, or through outside grants or contracts.

The conferees agreed further that since the program must involve many agencies and departments, funds authorized to the Secretary of Commerce could be made available to other agencies and departments on a passthrough basis if those agencies or departments are best suited to carry out certain activities under the act.

Finally, the conferees realize that a number of agencies and departments have existing mission-specific authorities through which they have been, and will continue to receive funds to carry out climate-related activities. The conferees do not intend to hinder these agencies and departments in any way in their efforts to carry out those mission activities.

The conferees agreed to these fundings levels and mechanisms with the expectation that they would be used to support a broad program with the participation of several agencies.

Section 9(b) authorizes $10 million for each fiscal year 1979 and 1980 for the intergovernmental program of section 6. The conferees agreed that this program should be separately authorized and that the authorization should go to the Secretary of Commerce as the lead agency in the program and since there must be a single person making the grants to the State (or groups of States).

TERMINATION

The House bill had contained a provision terminating the authorities in the bill on December 31, 1979—a "sunset" provision. The conferees agreed to drop this provision intending that limiting the authorization to fiscal year 1980 would serve to put the program on notice that it would be subject to extensive oversight by the appropriate Committees of Congress before reauthorization beyond fiscal year 1980.

OLIN E. TEAGUE,
GEORGE E. BROWN, Jr.,
JEROME A. AMBRO,
TIMOTHY E. WIRTH,
ANTHONY C. BEILENSON,
ROBERT S. WALKER,
LARRY WINN, Jr.,
Managers on the Part of the House.

HOWARD W. CANNON,
WARREN G. MAGNUSON,
ADLAI E. STEVENSON,
JAMES B. PEARSON,
HARRISON SCHMITT,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 12928

Mr. BEVILL submitted the following conference report and statement on the bill (H.R. 12928) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes.

CONFERENCE REPORT (H. Rept. No. 95–1490)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12928) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 6, 8, 30, 32, and 33.

That the House recede from its disagreement to the amendments of the Senate num-

bered 1, 4, 5, 10, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 25, 26, 28, 31, 34, 35, and unnumbered Senate amendment changing title, and agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,067,971,000"; and the Senate agree to the same.

The amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$137,978,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,343,711,000"; and the Senate agree to the same.

Amendment numbered 19: That the House recede from its disagreement to the amendment of the Senate numbered 19, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$221,572,000"; and the Senate agree to the same.

Amendment numbered 27: That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$233,000,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$322,301,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 2, 11, 12, and 24.

TOM BEVILL,
EDWARD P. BOLAND,
JAMIE L. WHITTEN,
JOHN M. SLACK,
LINDY BOGGS,
NORMAN D. DICKS,
BILL CHAPPELL,
GEORGE MAHON,
JOHN T. MYERS,
CLAIR W. BURGENER,
VIRGINIA SMITH,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

J. BENNETT JOHNSTON,
JOHN C. STENNIS,
WARREN G. MAGNUSON,
ROBERT C. BYRD,
ERNEST F. HOLLINGS,
WALTER D. HUDDLESTON,
QUENTIN N. BURDICK,
JIM SASSER,
MARK O. HATFIELD,
MILTON R. YOUNG,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
HENRY BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12928) making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Report language included by the House which is not changed by the Report of the Senate, and Senate Report language which is not changed by the Conference is approved by the Committee of Conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein.

The Committee of Conference notes that many appropriations will have substantial carryovers of unobligated balances of appropriations from 1978 as has been the case the past several years. To bring these balances to more manageable levels at the end of fiscal year 1979, the Conferees are agreed that designated unobligated balances at the end of 1978 will be applied to the 1979 program. This amount is not to be construed as savings and slippage to be applied as project reductions in 1979.

Amendent No. 1: Changes language of the enacting clause to provide appropriations for "energy and water development" as proposed by the Senate instead of "public works for water and power development and energy research" as proposed by the House.

TITLE I—DEPARTMENT OF ENERGY

ENERGY, SCIENCE AND DEFENSE ACTIVITIES

OPERATING EXPENSES

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,818,431,000 instead of $4,865,437,000 as proposed by the House and $4,839,850,000 as proposed by the Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The funds appropriated for Operating Expenses are allocated as shown in the following table:

DEPARTMENT OF ENERGY
ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
OPERATING EXPENSES—BUDGET AUTHORITY

Program	Fiscal year 1979 budget estimate	Conference allowance
ENERGY RESEARCH AND SOLAR ENERGY		
Solar thermal applications:		
Heating and cooling of buildings	$33,100,000	$40,000,000
Heating and cooling demonstration program	41,000,000	55,000,000
Agricultural and industrial process heat	11,000,000	11,000,000
Subtotal, solar thermal applications	85,100,000	106,000,000
Technology utilization:		
Solar satellite	4,600,000	4,600,000
Other	14,500,000	9,500,000
Subtotal, technology utilization	19,100,000	14,100,000
Photovoltaics	105,800,000	118,500,000
Wind energy	59,300,000	59,300,000
Ocean thermal	19,000,000	24,000,000
Solar thermal	69,000,000	69,100,000
Total, solar energy	3500,007,30	391,000,000
GEOTHERMAL ENERGY		
Engineering research and development	21,600,000	24,100,000
Resource exploration and assessment	29,400,000	32,400,000
Hydrothermal technology applications	27,200,000	31,200,000
Advanced technology applications	39,600,000	42,600,000
Utilization experiments	7,500,000	11,500,000
Environmental control and institutional studies	11,400,000	11,400,000
Total, geothermal energy	136,700,000	153,200,000
BIOMASS		
Fuels from biomass	36,400,000	41,900,000
HYDROELECTRIC		
Feasibility studies loan program	10,000,000	10,000,000
Low-head hydroelectric development	18,000,000	18,000,000
Total, hydroelectric	28,000,000	28,000,000
FUSION ENERGY		
Magnetic fusion	225,000,000	233,000,000
Total, fusion energy	225,000,000	233,000,000
ELECTRIC ENERGY SYSTEMS AND ENERGY STORAGE		
Electric energy systems	38,000,000	38,000,000
Energy storage	55,900,000	55,900,000
LIGHT WATER REACTORS		
LWR technology	13,900,000	23,900,000
Nuclear fuel cycle	48,850,000	66,850,000
Waste management (civilian applications)	152,100,000	152,100,000
Domestic spent fuel storage	3,000,000	3,000,000
Light water reactor safety studies	6,500,000	6,500,000
International spent fuel storage	3,000,000	3,000,000
Total, light water reactors	227,350,000	255,350,000
LIQUID METAL FAST BREEDER REACTOR		
Advanced technology demonstration project	15,000,000	15,000,000
Breeder reactor demonstration project	13,400,000	172,400,000
Base development program	251,301,000	272,801,000
Total, liquid metal fast breeder reactor	279,701,000	460,201,000
OTHER ADVANCED REACTOR CONCEPTS		
Water-cooled breeder reactor	50,900,000	50,900,000
Gas-cooled thermal reactor	28,500,000	39,500,000
Gas-cooled fast breeder reactor	30,500,000	24,500,000
Nuclear energy assessments	6,300,000	10,300,000
Alternate advanced reactor systems	20,000,000	----------
Total, other advanced reactor concepts	136,200,000	125,200,000
SPACE NUCLEAR SYSTEMS		
Technology development and special projects	4,000,000	4,000,000
Space applications	39,400,000	34,400,000
Total, space nuclear systems	43,400,000	38,400,000
ENVIRONMENTAL RESEARCH AND DEVELOPMENT		
Overview and assessment	48,650,000	48,650,000
Biomedical and environment research	135,338,000	142,338,000
Total, environmental research and development	183,988,000	190,988,000
BASIC ENERGY SCIENCES		
Nuclear science	28,400,000	28,400,000
Materials sciences	72,000,000	72,000,000
Chemical sciences	48,200,000	48,200,000
Engineering, mathematical, and geosciences	23,200,000	15,700,000
Advanced energy products	3,800,000	3,800,000
Total, basic energy sciences	175,600,000	168,100,000
ADVANCED TECHNOLOGY AND ASSESSMENT		
Advanced technology and assessment	16,690,000	5,000,000
Total, energy research and technology development programs	1,940,229,000	2,184,239,000

Program	Fiscal year 1979 budget estimate	Conference allowance
URANIUM SUPPLY AND ENRICHMENT ACTIVITIES		
Uranium resource assessment	$81,200,000	$65,000,000
Isotope separation technology:		
U^{235} process development	72,300,000	72,300,000
Advanced isotope separation technology	46,200,000	46,200,000
Total, isotope separation technology	118,500,000	118,500,000
Uranium enrichment activities	904,100,000	904,100,000
Less uranium enriching revenues	−1,022,600,000	−1,022,600,000
Total, uranium supply and enrichment activities	81,200,000	65,000,000
GENERAL SCIENCE AND RESEARCH PROGRAMS		
High-energy physics	194,000,000	194,000,000
Life sciences research and biomedical applications	39,700,000	39,700,000
Nuclear physics	72,900,000	76,900,000
Total general science and research programs	306,600,000	310,600,000
ATOMIC ENERGY DEFENSE ACTIVITIES		
Weapons Activities		
Research and development	374,694,000	372,694,000
Testing of atomic weapons	210,000,000	210,000,000
Production and surveillance	648,000,000	615,000,000
Total, weapons activities	1,232,694,000	1,197,694,000
Special Nuclear Material		
Production	324,100,000	324,100,000
Process development	12,400,000	12,400,000
Waste management (defense)	165,000,000	165,000,000
Total, special nuclear materials	501,500,000	501,500,000
Other Programs		
Inertial confinement fusion	91,800,000	104,000,000
Nuclear materials security and safeguards	40,089,000	40,089,000
ntelligence and arms control	28,400,000	28,400,000
Naval reactors development	265,600,000	265,600,000
Total, atomic energy defense activities	2,160,083,000	2,137,283,000
POLICY, MANAGEMENT AND SUPPORT		
Salaries and Expenses		
Office of the Secretary:		
Immediate office	512,000	512,000
Executive secretariat	926,000	926,000
Committees and boards	142,000	142,000
Subtotal, Office of the Secretary	1,580,000	1,580,000
Departmental administration:		
Office of the Controller	8,050,000	8,050,000
Inspector General	2,625,000	2,625,000
Procurement and contracts management	5,675,000	5,260,000
Administration	16,890,000	15,690,000
General Counsel	7,330,000	6,800,000
Assistant Secretary for Intergovernmental and Institutional Relations	8,380,000	7,775,000
Assistant Secretary for Policy and Evaluation	5,450,000	5,450,000
Assistant Secretary for International Affairs	3,985,000	3,685,000
Energy research—Staff	1,905,000	1,355,000
Equal employment opportunity—Federal	570,000	570,000
Subtotal, departmental administration	60,860,000	57,260,000
Program administration:		
Assistant Secretary for Energy Technology	22,897,000	22,897,000
Assistant Secretary for Resource Applications	3,983,000	3,983,000
Assistant Secretary for Environment	8,060,000	8,060,000
Assistant Secretary for Defense Programs	8,100,000	8,100,000
Assistant Secretary for Conservation and Solar Applications	2,406,000	2,406,000
Energy research—Line	1,725,000	1,725,000
Field offices:		
Operations offices	$62,180,000	$57,865,000
Regional representatives	7,980,000	7,980,000
Other special project offices	9,019,000	9,019,000
Subtotal, program administration	126,350,000	122,035,000
Other expenses:		
Other salary expenses	12,475,000	11,475,000
Benefits	19,465,000	19,465,000
Travel	10,266,000	10,266,000
Services	70,500,000	70,500,000
Subtotal, other expenses	112,706,000	111,706,000
Subtotal, salaries and expenses	301,496,000	292,581,000
Effect of 391 reduction	−7,500,000	
Total, salaries and expenses	293,996,000	292,581,000
Program Support		
Policy and program analysis	2,905,000	859,000
General systems studies	17,000,000	14,000,000
Institutional relations	29,660,000	28,457,000
Consumer affairs	1,250,000	650,000
Public awareness	3,250,000	3,250,000
International cooperation in nonnuclear technologies	3,250,000	3,250,000
Subtotal, policy and external relations	57,315,000	50,466,000
In-house energy management	3,600,000	3,600,000
Security investigations	13,900,000	13,900,000
Equal employment opportunity	4,332,000	4,332,000
Decontamination and decommissioning	28,000,000	25,000,000
Cost of work for others	22,600,000	22,600,000
Changes in inventories and working capital	35,313,000	−6,000,000
Subtotal, other supporting services	107,745,000	63,432,000
Miscellaneous revenues	−54,000,000	−112,900,000
Total, program support	111,060,000	998,000
Total, policy, management and support	405,056,000	293,579,000
APPROPRIATION FINANCING		
Appropriations transfers	500,000	500,000
Unobligated balances brought forward	−12,300,000	−172,770,000
Total, net appropriation financing	−11,800,000	−172,270,000
Total, operating expenses-budget authority	4,881,368,000	4,818,431,000

DEPARTMENT OF ENERGY—PROGRAM COSTS

	Fiscal year 1979 budget estimates	Conference allowance
Energy research and technology development programs:		
Solar energy	$357,700,000	$374,550,000
Geothermal energy	124,300,000	132,550,000
Fuels from biomass	21,000,000	23,750,000
Hydroelectric power development	22,000,000	23,000,000
Fusion energy	221,000,000	227,000,000
Electric energy systems	36,550,000	36,550,000
Energy storage	48,000,000	48,000,000
Light water reactors	236,215,000	258,715,000
Liquid metal fast breeder reactor	358,760,000	497,960,000
Other advanced reactor concepts	122,140,000	110,000,000
Space nuclear systems	42,100,000	38,350,000
Environmental research and development	181,038,000	186,300,000
Basic energy sciences	169,500,000	163,875,000
Advanced technology and assessment	8,590,000	5,000,000
Total, energy research and technology development programs	1,948,893,000	2,125,600,000
Uranium supply and enrichment activities:		
Uranium resource assessment	66,800,000	55,150,000
Isotope separation technology	$115,650,000	$115,650,000
Uranium enrichment activities	898,039,000	898,039,000
Less uranium enrichment revenues	−1,013,689,000	−1,022,600,000
Total, uranium supply and enrichment activities	66,800,000	46,239,000
General science and research programs	302,800,000	306,600,000
Atomic energy defense activities:		
Weapons activities	1,195,594,000	1,170,850,000
Special nuclear materials	476,400,000	476,400,000
Inertial confinement fusion	92,800,000	101,950,000
Nuclear materials security and safeguards	35,089,000	35,089,000
Intelligence and arms control	27,400,000	27,400,000
Naval reactors development	241,100,000	241,100,000
Total, atomic energy defense activities	2,068,383,000	2,052,789,000
Salaries and expenses	334,300,000	332,885,000
Program support	91,053,000	10,331,000
Total, policy, management, and support	425,353,000	343,216,000
Total, operating expenses	4,812,229,000	4,874,444,000

The Conferees agree that within the funds provided for Solar Energy Development—Thermal Applications, the allowance includes funding for the Federal share of the agriculture buildings solar heating and cooling development and demonstration program in Springfield, Illinois, to match the State share for this project.

The Conferees agree that within the $118,500,000 provided for the Solar Photovoltaics subprogram, $39,000,000 is for the Research and Development element; $8,000,000 is for the Concentrator Technology element; and $37,000,000 is for the Market Pull-Test Applications element. The allowance of $118,500,000 includes initial funding for the paired solar energy experiment to permit testing of various solar alternatives in paired situations under actual conditions.

The Conferees agree that the additional funds provided over the Administration request for the Photovoltaic subprogram element, Market Pull-Test Applications, are for procurement and installation of photovoltaic arrays and associated equipment for use by Federal agencies in life cycle cost effective applications, and in a manner to result in long-term cost reductions for photovoltaic systems.

The Conferees are in agreement on the following levels of funding in the Wind Energy subprogram: Development and Technology Improvement, $10,100,000; Farm and Rural Systems, $14,800,000; Small Wind Systems, $10,900,000; Large Scale (megawatt scale) systems, $19,100,000; Large Scale (multi-unit) systems, $4,400,000.

The Conferees agree that within the funds appropriated for Ocean Thermal Energy Development, $1,000,000 is provided to evaluate the tropic grazing pilot plant concept, and $2,000,000 is for the Federal share of the cost-shared land-based test facility.

The Conferees agree that within the funds provided for Geothermal Energy Development, $4,000,000 is included in the Hydrothermal Technology Applications over the budget request for the Raft River 5-megawatt plant; $27,600,000 is included in Advanced Technology Applications for geopressured resources development activities; and $4,000,000 is included in Utilization Experiments for a second 50 MW demonstration plant in order to demonstrate both the flash

conversion and binary cycle conversion technologies.

The Conferees agree that within the Fuels from Biomass subprogram, $3,000,000 is for Anaerobic Digestion; $5,500,000 is for Fermentation; $21,900,000 is for Thermochemical Conversion, including $10,000,000 for the 1,000 ton per day direct combustion wood burning plant near Lincoln, Maine; and $10,000,000 is for Production and Collection, of which $2,500,000 is for research into the production, collection and conversion of Marine biomass.

The Conferees are in agreement that the allowance for Magnetic Fusion Energy is to provide for additional efforts on experiments, particularly Doublet III and the Polodial Diverter, advanced concepts, alternatives to the Tokamak and Mirror Systems and the realignment of effort in the 14 Mev irradiation testing program.

The Conferees agree that within the funds appropriated for the Nuclear Fuel Cycle subprogram, $32,000,000 is included for Alternate Cycle Technology to support R&D on improved fuel cycles with improved nonproliferation potentials, research on the use of low enriched uranium cycles for university and research reactors, and inclusion of the Barnwell facility in the nuclear fuel cycle program at a level of $16,000,000 for FY 1979. The Conferees agree with the Senate Report language directing that $2,500,000 out of the Department's safeguards budget be provided to continue the Barnwell program in safeguards equipment testing and verification in fiscal years 1978 and 1979. The Conferees further agree with the Senate Report language regarding the expectation that this will be the final year of Federal support for the Barnwell facility.

The Conferees also agree that within the funds appropriated for the Nuclear Fuel Cycle subprogram, $18,850,000 is included for Thorium Fuel Cycle Technology of which $8,850,000 is for research and development for the High Temperature Gas Reactor fuel cycle.

The Conferees note with regret that, as was the case last year, the Congress has not resolved the status of the Clinch River Breeder Reactor project which the Administration has proposed to terminate. The Committees on Appropriations have supported consistently the Clinch River Demonstration project in view of the need to determine at an early date the licensing, technical and economic issues that must be resolved if there is to be a viable breeder reactor option for this Nation. Recognizing the continuing discussions between the Administration and cognizant congressional committees, as well as the differences in the legislative action taken by the House of Representatives and legislation now pending before the Senate, the Conferees have provided an allowance of $172,400,000 to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation, and for no other purpose.

The Conferees are in agreement that the allowance for Biomedical and Environmental Research over the amount requested is for the purpose of increasing research on the environmental effects of coal combustion and conversion processes, carbon dioxide in the atmosphere, high voltage transmission lines and low-level radiation exposure.

The Conferees agree that the Department should allocate $1,000,000 in Plant Engineering and Design funds for the Environmental and Energy Technology Facility at Richland, Washington, to carry out the necessary design work so that this project can be considered for funding in the FY 1980 budget.

The Conferees agree that the allowance for Weapons Production and Surveillance includes initial funding for the production of a new strategic bomb (a modified version of the B–77) in lieu of the B–77 or the modified B–43. The allowance reflects the substantial slippage in weapons production resulting from delays in production decisions, technical problems and the necessary start-up time for new and modified systems.

The Conferees note that the Department recently has signed a multi-year contract for continuing work related to the civilian applications of inertial confinement fusion in a non-federally owned facility. This work traditionally has been funded along with that related to military applications in the Inertial Confinement Fusion program. The Conferees agree that this is the more appropriate budget treatment for FY 1979 and the allowance of $104,000,000 includes funds necessary for the continued support of civilian applications of inertial confinement research at non-federally owned installations.

The Conferees agree with the Senate Report language regarding the continuing need for assistance to the communities of Oak Ridge, Tennessee; Los Alamos, New Mexico; and Richland, Washington. The Conferees agree that within the total provided for Institutional Relations, $2,000,000 is for the work by the National Bureau of Standards for energy inventions evaluations.

The allowance for changes in inventories provides for the following increases for inventories, which are budgeted in both program and central accounts:

	1979 request	Conference allowance
Common use stores	$15,313,000	$10,000,000
Special material production	35,100,000	22,100,000
Weapons inventories	9,500,000	8,500,000
Naval reactors	6,600,000	5,600,000
All other programs	11,600,000	10,600,000
Total	78,113,000	56,800,000

The Conferees note that with the increase of $56,800,000 provided for fiscal year 1979, the Department will have Program and Common use inventories totaling more than $635,000,000 which is up from $421,000,000 in FY 1976. The Conferees consider that with improved management of inventory accounts, adequate funds are available for all essential purposes, including operation of the Heavy Water Production plants at Savannah River at an appropriate level.

The reports of both the House and Senate express the serious concern of the Committees on Appropriations with the Department's staffing allocation for its full-time permanent personnel. Data supplied to the Committees reflect large increases for Departmental staff activities over comparable activities in Department of Energy predecessor organizations, and a shifting of technical and program management positions to staff and overhead positions. Each Assistant Secretary, except for defense programs, appears to have established large staff offices, ranging from 40 to 60 positions for administration and overhead functions, also at the expense of technical program positions. The Conferees reaffirm the Committees' concern and the requirement in the reports of both Houses that the Department work with the Committees' staffs to establish a suitable format and detail for the FY 1980 budget to permit a thorough review of Federal staffing in relation to program responsibilities. The Conferees are in agreement with the employment tables for full-time permanent positions for FY 1979 as shown in the Committees' reports.

PLANT AND CAPITAL EQUIPMENT

Amendment No. 3: Appropriates $1,067,971,000 for plant and capital equipment instead of $1,120,856,000 as proposed by the House and $1,020,971,000 as proposed by the Senate.

The funds appropriated for Plant and Capital Equipment are allocated as shown in the following tables:

DEPARTMENT OF ENERGY
ENERGY, SCIENCE, AND DEFENSE ACTIVITIES
OPERATING EXPENSES—BUDGET AUTHORITY

Project No. and project title	Fiscal year 1979 budget estimate	Conference allowance
CONSTRUCTION		
SOLAR ENERGY		
79-1-m: Ocean thermal energy conversion	$13,500,000	$13,500,000
76-2-b: 10-MW central receiver solar thermal powerplant, Barstow, Calif	28,000,000	28,000,000
79-1-q: Solar Energy Reserarch Institute (SERI) Facility, Golden, Colo		3,000,000
Total, solar	41,500,000	44,500,000
FUSION ENERGY		
MAGNETIC FUSION		
79-6: General plant projects	1,400,000	1,400,000
78-3-a: Mirror fusion test facility, Lawrence Livermore Laboratory, Calif	40,000,000	40,000,000
76-5-a: Tokamak fusion test reactor, Princeton Plasma Physics Laboratory, Plainsboro, N.J	42,000,000	42,000,000
78-3-b: Fusion materials irradiation test facility, HEDL, Washington		6,900,000
Total, fusion energy	83,400,000	90,300,000
LIGHT WATER REACTORS		
NUCLEAR FUEL CYCLE		
78-5-b: Advanced fuel recycle integrated equipment test facility, Oak Ridge, Tenn	6,000,000	6,000,000
79-1-p: Spent LWR fuel storage facility, site undetermined		5,000,000
79-6: General plant projects	750,000	750,000
Total, nuclear fuel cycle	6,750,000	11,750,000
Waste Management (Civilian Applications)		
78-5-a: Facilities for the national waste terminal storage program, site undetermined (land acquisition and long-lead procurement)	25,000,000	25,000,000
LWR Safety Facilities		
79-1-j: Reactivation of radioactive material laboratory and hot cell annex, Test Area North, Idaho National Engineering Laboratory, Idaho	3,000,000	3,000,000
Total, light water reactors	34,750,000	39,750,000
LIQUID METAL FAST BREEDER REACTOR		
Base Development Program		
79-1-b: Modifications to reactors	4,000,000	4,000,000
79-1-c: Security improvements, Richland, Wash	4,500,000	4,500,000
79-1-d: Second power tieline, Idaho National Engineering Laboratory, Idaho Falls, Idaho	2,600,000	2,600,000
79-1-e: Fire safety and protection improvements, Idaho National Engineering Laboratory, Idaho Falls, Idaho, and Argonne National Laboratory, Argonne, Ill	3,100,000	3,100,000
79-1-f: Radioactive waste treatment facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho	2,000,000	2,000,000
79-1-g: Test area north radioactive liquid waste storage and transfer system, Idaho National Engineering Laboratory, Idaho Falls, Idaho	1,000,000	1,000,000
79-h-1: Maintenance and storage facility, Richland, Wash	3,000,000	3,000,000
79-6: General plant projects	14,985,000	14,985,000
78-6-c: Safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A–E, long-lead procurement only)		4,000,000
78-6-d: Experimental breeder reactor II modification, Idaho Falls, Idaho (A–E and selected long-lead procurement only)		5,000,000

Project No. and project title	Fiscal year 1979 budget estimate	Conference allowance
LIQUID METAL FAST BREEDER REACTOR—Continued		
Base Development Program—Continued		
78-6-e: Liquid metal engineering center facility modifications, Liquid Metal Engineering Center, Santa Susana, Calif. (A-E and long-lead procurement only)	$4,000,000	$4,000,000
78-6-f: Fuels and materials examination facility, Richland, Iand, Wash	15,000,000	20,000,000
78-7-a: Modifications to utility system, 300 area, Richland, Wash	900,000	900,000
78-7-b: Test reactor area steam distribution system upgrade, Idaho National Engineering Laboratory, Idaho	600,000	600,000
77-4-c: High performance fuel laboratory, Richland, Wash		5,000,000
77-4-d: Fuel storage facility, Richland, Wash	6,800,000	6,800,000
Total, liquid metal fast breeder reactor	62,485,000	81,485,000
OTHER ADVANCED REACTOR CONCEPTS		
Water Cooled Breeder Reactor		
79-1-i: AWBA test and examination facilities, Bettis Atomic Power Laboratory, West Miffin, Pa	9,000,000	9,000,000
ENVIRONMENTAL RESEARCH AND DEVELOPMENT		
Biomedical and Environmental Research		
79-3-a: Modifications and additions to biomedical and environmental research facilities, various locations	4,000,000	4,000,000
79-6: General plant projects	6,000,000	6,000,000
Total, environmental research and development	10,000,000	10,000,000
BASIC ENERGY SCIENCES		
Materials Sciences		
79-1-k: Intense pulsed neutron source-1, Argonne National Laboratory, Argonne, Ill	6,400,000	6,400,000
78-13-a: National synchrotron light source, Brookhaven National Laboratory, Upton, N.Y	10,000,000	10,000,000
Total. materials sciences	16,400,000	16,400,000
Chemical Sciences		
79-6: General plant projects	2,900,000	2,900,000
78-13-b: Combustion research facility, Sandia Laboratories, Livermore. Calif. (SLL)	3,400,000	3,400,000
Total. chemical sciences	6,300,000	6,300,000
Total, basic energy sciences	22,700,000	22,700,000
URANIUM SUPPLY AND ENRICHMENT ACTIVITIES		
Uranium Resource Development		
79-6: General plant projects	1,500,000	1,500,000
Isotope Separation Technology		
U^{235} Process development		
79-2-d: Technology test facilities, various locations (A-E and long-lead procurement only)	7,000,000	7,000.000
78-14-a: Centrifuge facilities modifications, various locations	16,000,000	16,000,000
Total, isotope separation technology	23,000,000	23,000,000
Uranium Enrichment Activities		
79-2-a: UF-6 tails cylinders and storage yards. gaseous diffusion plants	$11,000,000	$11,000,000
79-2-b: Coal and ash handling modifications, Portsmouth gaseous diffusion plant, Portsmouth, Ohio	2,300,000	2,300,000
79-2-c: Upgrade uranium recovery, Portsmouth gaseous diffusion plant, Portsmouth, Ohio	3,600,000	3,600,000
79-6: General plant projects	15,000,000	9,000,000
78-14-b: Process control modifications, gaseous diffusion plants	5,600,000	5,600,000
78-15-a: Water system improvements, gaseous diffusion plant, Paducah, Ky	2,000,000	2,000,000
77-9-a: Expansion of feed vaporization and sampling facilities, gaseous diffusion plants	3,000,000	4,000,000
76-8-g: Enriched uranium production facilities Portsmouth, Ohio	250,000,000	150,000,000
71-1-f: Process equipment modifications, gaseous diffusion plants	97,000,000	97,000,000
Subtotal, uranium enrichment activities	389,500,000	284,500,000
Less uranium enriching revenues	−156,700,000	−256,700,000
Total, uranium supply and enrichment activities	257,300,000	52,300,000
GENERAL SCIENCE AND RESEARCH PROGRAMS		
High Energy Physics		
79-9-a: Hadron bubble chamber facility Fermi National Accelerator Laboratory. Batavia, Ill	2,200,000	2,200,000
79-9-b: Energy saver/doubler, Fermi National Accelerator Laboratory. Batavia, Ill	10,000,000	12,000,000
79-9-c: Fire protection improvements, Brookhaven National Laboratory, Upton, N.Y	1,300,000	1,300,000
79-9-d: Accelerator improvements and modifications, various locations	4,500,000	4,500,000
79-6: General plant projects	3,800,000	3,800,000
78-10-b: Intersecting storage accelerator (Isabelle) 400 by 400 Gev, Brookhaven National Laboratory, Upton, N.Y	23,000,000	23,000,000
75-6-c: Positron-electron joint project, Lawrence Berkeley Laboratory and Stanford Linear Accelerator Center, Stanford, Calif	14,700,000	14,700,000
Total, high energy physics	59,500,000	61,500,000
Nuclear Physics		
79-9-e: Accelerator improvements and modifications, various locations	1,500,000	1,500,000
79-6: General plant projects	2,900,000	2,900,000
78-12-b: High intensity uranium beams, Lawrence Berkeley Laboratory, Berkeley, Calif	6,000,000	6,000,000
Total, nuclear physics	10,400,000	10,400,000
Total, general science and research programs	69,900,000	71,900,000
ATOMIC ENERGY DEFENSE ACTIVITIES		
Weapons Activities		
Research and development		
79-7-a: Tonopah Test Range upgrade, phase II, Sandia Laboratories, Albuquerque, N. Mex	4,000,000	4,000,000
79-7-b: Fire protection improvements, Los Alamos Scientific Laboratory, New Mexico (A-E and long-lead procurement only)	2,000,000	2,000,000
79-7-c: Proton storage ring, Los Alamos Scientific Laboratory, New Mexico	16,700,000	2,000,000
79-7-d: Water cooling station upgrade, Lawrence Livermore Laboratory, California	$2,300,000	$2,300,000
79-7-1: Systems R. & D. laboratory, Sandia Laboratory		1,000,000
79-6: General plant projects	21,400,000	18,400,000
78-16-c: High explosive flash radiography facility, LLL		5,900,000
18-76-g: Radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico	9,700,000	5,700,000
78-16-i: Laboratory support complex, Los Alamos Scientific Laboratory, New Mexico	14,000,000	11,000,000
78-17-c: Core facilities office building, utilities, and roads, Lawrence Livermore Laboratory, California	9,300,000	9,300,000
79-7-P: Facilities for modern strategic bomb—various locations		15,500,000
Total, research and development	79,400,000	77,100,000
PRODUCTION AND SURVEILLANCE		
79-7-e: Production and assembly facilities, Pantex Plant, Amarillo, Tex	10,000,000	2,000,000
79-7-f: Stockpile quality evaluation facility, Y-12 plant, Oak Ridge, Tenn	2,300,000	2,300,000
79-7-g: Facilities for B43 modernization, various locations	18,000,000	
79-7-m: Weapons materials analytic laboratory, Amarillo, Tex		1,500,000
79-7-n: Utility systems, Y-12		2,200,000
79-7-0: Universal pilot plant, HE Amarillo, Tex		3,500,000
79-8: Plant engineering and design	10,000,000	10,000,000
78-16-d: Weapons safeguards, various locations	11,000,000	9,000,000
78-17-a: Production component warehouse, Pantex Plant, Amarillo, Tex	800,000	800,000
78-17-d: Steam plant improvements, Y-12 plant, Oak Ridge, Tenn	5,000,000	5,000,000
71-9: Fire, safety and adequacy of operating conditions projects, various locations	5,000,000	5,000,000
Total, production and surveillance	62,100,000	41,300,000
Total, weapons activities	141,500,000	118,400,000
Special Nuclear Materials		
Production		
79-7-h: Utilities replacement and expansion, Idaho chemical processing plant, Idaho National Engineering Laboratory, Idaho Falls, Idaho	10,500,000	5,000,000
79-7-i: Transmission and distribution systems upgrading, Richland, Wash	14,000,000	2,600,000
79-7-j: Pollution discharge elimination, Savannah River, S.C	9,000,000	9,000,000
79-6: General plant projects	16,200,000	13,100,000
79-8: Plant engineering and design	1,500,000	1,500,000
78-18-e: Environmental, safety and security improvements to waste management and materials processing facilities, Richland	30,000,000	13,000,000
77-13-a: Flourinel dissolution process and fuel receiving improvements, Idaho chemical processing plant, Idaho	100,400,000	47,000,000
77-13-g: Safeguards and security upgrading, production facilities, multiple sites	3,800,000	3,800,000
Total, production	185,400,000	95,000,000
Waste Mangement (Defense)		
79-7-k: Waste management facilities, Savannah River, S.C	24,000,000	8,000,000
79-8: Plant engineering and design	12,000,000	6,000,000
78-18-a: High-level waste storage and waste management facilities, Richland, Wash	9,000,000	9,000,000
78-18-b: High-level waste storage facilities, Savannah River, S.C	26,000,000	11,000,000

Project No. and project title	Fiscal year 1979 budget estimate	Conference allowance
77-13-d: High-level waste storage and waste management facilities, Savannah River, S.C.	$4,000,000	$4,000,000
77-13-f: Waste isolation pilot plant, Delaware Basin, southeast, New Mexico	40,000,000	10,000,000
75-7-c: Intermediate-level waste management facilities, Oak Ridge National Laboratory, Tennessee	1,000,000	1,000,000
75-1-c: New waste calcining facility, Idaho chemical processing plant, Idaho National Engineering Laboratory, Idaho	10,000,000	26,000,000
Total, waste management (defense)	126,000,000	26,000,000
Total, special nuclear materials	311,400,000	170,000,000
Inertial Confinement Fusion		
79-8: Plant engineering and design (for the electron beam), fusion II, Sandia Laboratory, New Mexico		1,000,000
78-4-a: High-energy laser facility (NOVA), Lawrence Livermore Laboratory, California	20,000,000	20,000,000
75-3-b: High-energy laser facility, Los Alamos Scientific Laboratory, New Mexico	6,000,000	10,000,000
Total, inertial confinement fusion	26,000,000	31,000,000
Naval Reactors Development		
79-6: General plant projects	3,000,000	3,000,000
Total, atomic energy defense activities	481,900,000	322,400,000
POLICY, MANAGEMENT AND SUPPORT		
In-House Energy Management		
79-4-a: Modifications for energy management, various locations	25,000,000	2,655,000
79-4-b: Heating, ventilating, and air-conditioning heat recovery, Richland, Wash	4,000,000	4,000,000
78-1-c: Process waste heat utilization, gaseous diffusion plant, Paducah, Ky	4,800,000	4,800,000
Total, in-house energy management	33,800,000	11,455,000
Other Supporting Activities		
79-5: Plant engineering and design	10,000,000	3,000,000
78-19-a: Program support facility, Argonne National Laboratory, Argonne, Ill	10,600,000	10,600,000
Total, other supporting activities	20,600,000	13,600,000
Total, policy management and support	54,400,000	25,055,000
Unobligated balance brought forward—Function 053	−23,500,000	−23,500,000
Unobligated balance brought forward—Function 271		−11,000,000
Total, construction	1,103,835,000	734,890,000
CAPITAL EQUIPMENT		
ENERGY RESEARCH AND TECHNOLOGY DEVELOPMENT PROGRAM		
Solar Energy		
Solar thermal applications: Heating and cooling of buildings	1,000,000	1,000,000
Photovoltaics	300,000	300,000
Wind energy	1,400,000	1,400,000
Ocean thermal	700,000	700,000
Solar thermal	3,000,000	3,000,000
Total, solar energy	6,400,000	6,400,000
Geothermal Energy		
Engineering research and development	900,000	900,000
Resource exploration and assessment	600,000	600,000
Hydrothermal technology applications	$800,000	$800,000
Advanced technology applications	600,000	600,000
Environmental control and institutional studies	100,000	1,000,000
Total, geothermal energy	3,000,000	3,000,000
Fuels from biomass	500,000	500,000
Fusion Energy		
Magnetic fusion	25,600,000	25,600,000
Electric energy systems	2,000,000	2,000,000
Energy storage	2,100,000	2,100,000
Light Water Reactors		
Nuclear fuel cycle	2,000,000	2,000,000
Waste management (civilian applications)	9,700,000	9,700,000
Light water reactor safety studies	500,000	500,000
Total, light water reactors	12,200,000	12,200,000
Liquid Metal Fast Breeder Reactor		
Base development program	25,181,000	25,181,000
Other Advanced Reactor Concepts		
Water-cooled breeder reactor	3,100,000	3,100,000
Gas-cooled thermal reactor	2,500,000	2,500,000
Gas-cooled fast breeder reactor	1,500,000	1,500,000
Total, other advanced reactor concepts	7,100,000	7,100,000
Space Nuclear Systems		
Technology development and special projects	900,000	900,000
Space applications	3,800,000	3,800,000
Total, space nuclear systems	4,700,000	4,700,000
Environmental Research and Development		
Overview and assessment	2,400,000	2,400,000
Biomedical and environment research	12,200,000	12,200,000
Total, environmental research and development	14,600,000	14,600,000
Basic Energy Sciences		
Nuclear science	1,300,000	1,300,000
Materials sciences	5,900,000	5,900,000
Chemical sciences	3,300,000	3,300,000
Engineering, mathematical, and geosciences	800,000	800,000
Advanced energy products	200,000	200,000
Other capital equipment	1,700,000	1,700,000
Total, basic energy sciences	13,200,000	13,200,000
Total, energy research and technology development programs	116,581,000	116,581,000
URANIUM SUPPLY AND ENRICHMENT ACTIVITIES		
Uranium resource assessment	2,500,000	2,500,000
Isotope separation technology: U^{235} process development	4,700,000	4,700,000
Advanced isotope separation technology	8,000,000	8,000,000
Total, isotope separation technology	12,700,000	12,700,000
Uranium enrichment activities	17,000,000	17,000,000
Less uranium enriching revenues	−29,700,000	−29,700,000
Total, uranium supply and enrichment activities	2,500,000	2,500,000
GENERAL SCIENCE AND RESEARCH PROGRAMS		
High energy physics	41,200,000	41,200,000
Life sciences research and biomedical applications	1,100,000	1,100,000
Nuclear physics	$7,500,000	$7,500,000
Total, general science and research programs	49,800,000	49,800,000
ATOMIC ENERGY DEFENSE ACTIVITIES		
Weapons Activities		
Research and development	36,100,000	36,100,000
Testing of atomic weapons	17,900,000	17,900,000
Production and surveillance	24,000,000	24,000,000
Other capital equipment	8,400,000	8,400,000
Total, weapons activities	86,400,000	86,400,000
Special Nuclear Materials		
Production	30,200,000	30,200,000
Process development	1,800,000	1,800,000
Waste management (defense)	8,000,000	8,000,000
Total, special nuclear materials	40,000,000	40,000,000
Inertial confinement fusion	8,200,000	8,200,000
Nuclear materials security and safeguards	3,000,000	3,000,000
Naval reactors development	22,000,000	22,000,000
Total, atomic energy defense activities	159,600,000	159,600,000
POLICY, MANAGEMENT AND SUPPORT		
Institutional relations	800,000	800,000
Public awareness	100,000	100,000
Subtotal, policy and external relations	900,000	900,000
Decontamination and decommissioning	200,000	200,000
Subtotal, program management and support	1,100,000	1,100,000
Other capital equipment	5,000,000	3,500,000
Total, policy, management and support	6,100,000	4,600,000
Total, capital equipment, budget authority	334,581,000	333,081,000
Total, construction—budget authority	1,103,835,000	734,890,000
Total, plant and capital equipment	1,438,416,000	1,067,971,000

POWER MARKETING ADMINISTRATIONS

OPERATIONS AND CONSTRUCTION

Amendment No. 4: Appropriates $145,473,000 for operations and construction as proposed by the Senate instead of $143,473,000 as proposed by the House.

Amendment No. 5: Earmarks $105,738,000 for the Western Area Power Administration as proposed by the Senate instead of $103,738,000 as proposed by the House.

The Conferees are in agreement that the allowance of $2,000,000 over the request for the Western Area Power Administration provides sufficient funding for an additional 171 full-time permanent positions for WAPA since only partial year costs will be incurred in bringing the additional personnel on board.

GENERAL PROVISION

Amendment No. 6: Restores language proposed by the House prohibiting the use of funds in title I for certain activities related to the Waste Isolation Pilot Plant in New Mexico and deletes language proposed by the Senate that would make the appropriation contingent on the enactment of authorizing legislation.

With regard to the Waste Isolation Pilot Plant (WIPP), the Conferees agree to the funding as proposed by the Senate, $10,000,000, and the language in Section 101 of the Bill as proposed by the House.

WIPP has been authorized as a facility for the permanent disposal of defense transuranic waste and for R. & D. on other waste forms including high level waste. As presently authorized, licensing of WIPP is not required.

A limited demonstration of the permanent disposal of up to one thousand commercial spent fuel assemblies has been proposed by a DOE task force. Such a demonstration and possible attendant licensing requirements have not been agreed to by cognizant committees of Congress and there is opposition to the Department's proposal by certain of these committees.

The action by the Conferees would preserve the existing status of the project to allow thorough review of this matter by the cognizant committees and resolution of the project authorization issue by the Congress.

TITLE II—DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL INVESTIGATIONS

Amendment No. 7: Appropriates $137,978,000 for general investigations instead of $140,014,000 as proposed by the House and $137,138,000 as proposed by the Senate.

The Conferees have included $150,000 for a two-year study of the proposed lower site for the Lukfata Lake, Oklahoma project.

The Conferees understand that existing authorization is not sufficient to allow initiation of construction of the modifications to the Cleveland Harbor project in Ohio. The project has an excellent benefit to cost ratio of 7 to 1 and is essential to the economic stability of northeastern Ohio. Further, the project has the enthusiastic support of labor, industry, and various civic groups in the area. Therefore, the Corps of Engineers and other executive agencies are expected to vigorously proceed with the required actions necessary to fulfill the authorization requirements so that phase I planning can proceed at the earliest possible time.

The Corps is to investigate and determine the authorities needed and the requirements for improvement of the Lake Charles channel, Louisiana, to handle LNG tankers. A preliminary report should be forwarded to the Committee by October 30, 1978.

The Conference recommendation for the Passaic River Basin Phase I, New Jersey project effort takes into consideration the overall District capability and overall unobligated balances based on the latest testimony. The Corps of Engineers is to insure that sufficient additional resources are allocated to this work as are necessary for any interim action studies and measures as contemplated in the authorization and consistent therewith. There should be no delays in the work attributed to funding.

Because of recent and continuing erosion and deterioration of the Bethel, Alaska waterfront, $65,000 from within available funds was recommended in the Second Supplemental Appropriations Bill for 1978 to initiate the study of bank stabilization and other problems prior to the onset of winter weather, thereby preventing another year's delay before preliminary study work could commence.

The Committee recommends that the Corps of Engineers allocate from within available funds $105,000 to continue this study effort in fiscal year 1979.

The Conferees recommend that, upon the Corps' receipt of the appropriate study requirements, an amount not to exceed $135,000 be allocated from within available funds for a study of the feasibility of redeveloping the hydroelectric capacity of the Jackson Mills Dam and the Mines Falls Dam at Nashua, New Hampshire.

Amendment No. 8: Deletes language proposed by the Senate relating to the study of the Diversion of Lake Michigan Water at Chicago.

The Conferees direct that no funds shall be made available to divert water from Lake Michigan in connection with the study during fiscal year 1979.

The funds appropriated are to be allocated as shown on the following table:

General Investigations—State and project	Fiscal year 1979 Budget estimate	Fiscal year 1979 Conference allowance
ALABAMA		
(FDP) Brewton and East Brewton	$86,000	$86,000
(N) Little Lagoon at Gulf Shores		60,000
(SPEC) Tennessee Tombigbee Waterway	300,000	500,000
(FDP) Village Creek	74,000	74,000
ALASKA		
(N) Homer Harbor	76,000	76,000
(FDP) Rivers and harbors, small hydroplants		140,000
(N) Seward Harbor	62,000	62,000
(FDP) Southcentral Railbelt Area	329,000	329,000
(N) Southcentral Region of Alaska	257,000	257,000
(N) St. Paul Island Harbor		132,000
AMERICAN SAMOA		
(N) Harbors and rivers in American Samoa	215,000	215,000
ARIZONA		
(FDP) Gila River and tributaries		50,000
(FDP) Phoenix metropolitan area	545,000	545,000
(FDP) Tucson metropolitan area		320,000
ARKANSAS		
(FDP) Arkansas River in vicinity of Fort Smith-Van Buren		100,000
(FDP) Little Rock metropolitan area	126,000	126,000
(FDP) Ouachita River Basin	425,000	650,000
(FDP) Pine Bluff metropolitan area	115,000	115,000
(COMP) Red River below Denison Dam (auth. rpt.) Ark., La., Okla., Tex	120,000	160,000
(N) St. Francis River navigation	46,000	46,000
(COMP) White River Basin, Ark. and Mo. (auth. rpt.)	75,000	75,000
(FDP) White River Basin Reservoirs, Ark. and Mo	463,000	463,000
CALIFORNIA		
(FDP) Alameda Creek upper basin	165,000	165,000
(N) Bolinas Lagoon		50,000
(SP) City of Alameda shoreline		100,000
(N) Coast of northern California (Harbors for light-draft vessels)	45,000	45,000
(FDP) Eel River		100,000
(FDP) Guadalupe River	200,000	200,000
(N) Humboldt Harbor and bay		170,000
(FDP) Los Angeles County drainage area review	435,000	435,000
(N) Los Angeles-Long Beach Harbors (incl. San Pedro model)	155,000	155,000
(FDP) Northern California streams	142,000	142,000
(FDP) Novato creek and tributaries	70,000	70,000
(N) Oceanside Harbor		85,000
(FDP) Sacramento River and tribs. (bank protection and erosion control)	285,000	360,000
(N) Sacramento River deepwater ship channel	70,000	70,000
(FDP) Sacramento-San Joaquin Delta	275,000	275,000
(N) Sacramento Valley nav		50,000
(FDP) Salinas River Incl. part of Salinas-Monterey metro area	202,000	202,000
(FDP) San Diego County streams	195,000	195,000
(SP) San Diego County, vic. of Oceanside	160,000	160,000
(N) San Francisco Bay Area (in depth)	185,000	185,000
(FDP) San Francisco Bay and Sac.-San Joaquin Delta water qual. and waste disp		200,000
(FDP) San Francisco Bay shoreline		100,000
(FDP) San Joaquin River Basin	500,000	500,000
(N) San Lorenzo River silt removal		75,000
(FDP) San Leandro Bay		50,000
(FDP) San Luis Obispo County	210,000	210,000
(N) San Pedro Bay ports		100,000
(FDP) Santa Ana River (phase I)		340,000
(FDP) Santa Ana River Basin and Orange County	410,000	410,000
(FDP) Santa Clara River	65,000	65,000
(FDP) Whitewater River	300,000	300,000
COLORADO		
(FDP) Arkansas River and tribs. above John Martin Dam (phase I)	500,000	500,000
CONNECTICUT		
(N) Bridgeport Harbor	40,000	40,000
(COMP) Connecticut River Basin auth. report, Conn., Mass., and N.H	158,000	208,000
(COMP) Long Island Sound authorization report		50,000
(SPEC) Long Island Sound—Dredged material containment	$200,000	$300,000
(N) New London Harbor (phase I)	230,000	230,000
(FDP) Rippowam River	150,000	150,000
DELAWARE		
(FDP) Christina River Basin, Del., Md., and Pa	105,000	105,000
(N) Delaware River estuary, salinity intrusion	20,000	100,000
(N) Indian River Inlet and Bay	20,000	20,000
(N) Murderkill and St. Jones Rivers	40,000	40,000
DISTRICT OF COLUMBIA		
(SPEC) Metropolitan Washington, D.C., water supply	600,000	600,000
FLORIDA		
(N) Apalachicola River below Jim Woodruff lock and dam	66,000	120,000
(FDP) Brevard County	100,000	100,000
(FDP) Canal 18—Jupiter Inlet-Loxahatchee River, Central and Southern Florida	100,000	100,000
(FDP) Central and southern Florida water supply	200,000	200,000
(SP) Dade County (north of Haulover Beach Park)	90,000	90,000
(N) Fort Pierce Harbor		65,000
(FDP) Four River Basins	92,000	92,000
(N) Gulf coast passes, IWW		20,000
(FDP) Golden Gates estates		50,000
(N) Jacksonville Harbor	100,000	100,000
(FDP) Jacksonville Metropolitan area	210,000	210,000
(FDP) Kissimmee River		500,000
(SP) Martin County	90,000	90,000
(SP) Monroe County	47,000	47,000
(N) Okeechobee Waterway (St. Lucie Canal)		60,000
(N) Peach Creek to Western Lake		20,000
(N) Pensacola Harbor	100,000	135,000
(FDP) Pensacola-Tallahassee Metro and other urban areas	166,000	166,000
(SP) Pinellas County	10,000	50,000
(SP) Sarasota County	10,000	70,000
(N) St. Petersburg Harbor (economic restudy)		25,000
(FDP) Shark River slough area		50,000
(SP) Shores of northwest Florida	50,000	50,000
(SP) Volusia County shores	64,000	64,000
GEORGIA		
(FDP) Metropolitan Atlanta area	125,000	125,000
(FDP) Metropolitan Savannah area	500,000	500,000
(FDP) Satilla River Basin		50,000
GUAM		
(N) Harbors and rivers in the territory of Guam	350,000	350,000
HAWAII		
(FDP) Harbors and rivers in Hawaii	255,000	255,000
(N) Hilo area comprehensive study	100,000	100,000
(FDP) Kihei district		50,000
(FDP) Lava flow control	130,000	130,000
IDAHO		
(FDP) Columbia River and tribs., Ida., Mont., Oreg., and Wash	1,180,000	1,350,000
FDP) Spokane River and tribs		20,000
(FDP) Upper Snake River and tribs., Ida., and Wyo	415,000	415,000
ILLINOIS		
(FDP) Chicagoland underflow plan (phase I)	1,000,000	1,000,000
(FDP) Chicago—south end of Lake Michigan, Ill. and Ind	300,000	300,000
(FDP) De Gognia and Fountain Bluff levee and drainage district		55,000
(SPEC) Diversion of Lake Michigan water at Chicago	500,000	500,000
(FDP) East Cape Girardeau, Clear Crk, N. Alex, Preston and Miller, D&LD	135,000	135,000
(FDP) Fox River, Ill. and Wisc	250,000	250,000
(N) Illinois Shore from Waukegan, Ill.-Wisc. State line		150,000
(FDP) La Moine River		100,000
(N) Miss. River Yr-Rnd Nav, Ill., Mo., Ia., Wis., Min	100,000	150,000
(FDP) Miss. River, Coon Rapids Dam to Ohio River, Ill., Iowa, and Mo	100,000	100,000
(FDP) Quad-Cities urban study	424,000	424,000
(FDP) Richland Creek		50,000
(FDP) Rock River at Rockford	179,000	179,000
INDIANA		
(FDP) Columbus	140,000	140,000
FDP) Little Calumet River (phase I)	600,000	600,000

General Investigations—State and project	Fiscal year 1979 Budget estimate	Conference allowance
(FDP) Tell City	$60,000	$60,000
(COMP) Wabash River Basin auth. report, Ill.		50,000
IOWA		
(FDP) Des Moines River bank erosion, Mo.		175,000
(FDP) Fox River, Ia. and Mo.	34,000	34,000
(FDP) Iowa and Cedar Rivers, Iowa and Minn.	100,000	100,000
(FDP) Metropolitan Sioux City and Mo. River, Ia., S.D., and Neb.	370,000	370,000
KANSAS		
(FDP) Arkansas River, Great Bend, Kan. to John Martin Dam, Colo.	185,000	185,000
(FDP) Arkansas River, Great Bend, Kans. to Tulsa, Okla.	270,000	270,000
(FDP) Grand (Neosho) River, Kansas and Okla.		50,000
(FDP) Kansas and Osage Rivers, water mgt. study		200,000
(FDP) Kansas River and Tributaries	216,000	500,000
(FDP) Stranger Creek Basin	210,000	210,000
(FDP) Verdigris River, Okla. and Kans.		200,000
KENTUCKY		
(FDP) Clarks River Basin		50,000
(FDP) Camp Ground Lake (phase I)		200,000
(N) Green and Barren Rivers	170,000	170,000
(N) Louisville Harbor		50,000
(N) Lower Cumberland and Tenn. Rivers below Barkley Canal, Ky. and Tenn.	75,000	75,000
(FDP) Tug Fork Valley, Ky., Va., and W. Va. (phase I)	212,000	212,000
(FDP) Upper Cumberland River Basin, Ky., and Tenn.	100,000	100,000
LOUISIANA		
(FDP) Aloha-Rigolette Area (Red River)		65,000
(N) Bayou Manchac and Amite River		62,000
(N) Gulf IWW La. and Tex. Section, La. and Tex.	300,000	300,000
(FDP) Lake Pontchartrain, Jefferson Parish		50,000
(FDP) Louisiana Coastal Area	150,000	150,000
(FDP) Mermentau, Vermilion and Calcasieu Rivers and Bayou Teche	50,000	200,000
(N) Mississippi River, Baton Rouge to Gulf (55 ft channel)		125,000
(N) Mississippi River-Gulf Outlet enlargement		100,000
(N) Mississippi River mooring facilities		60,000
(FDP) New Orleans-Baton Rouge metropolitan area	330,000	330,000
MAINE		
(N) Eastport	40,000	65,000
(SPEC) Passamaquoddy tidal power	510,000	610,000
(N) Portland Harbor (debris)		60,000
(FDP) St. John River	60,000	60,000
MARYLAND		
(FDP) Baltimore metropolitan streams	60,000	60,000
(FDP) Beaverdam Creek and Cabin Branch	98,000	
(SPEC) Chesapeake Bay study, Md. and Va.	2,840,000	2,840,000
(N) Chesapeake City Bridge	80,000	80,000
(FDP) Monongahela-Youghiogheny River Basin, Md., Pa., and W.Va.	424,000	424,000
(FDP) Atlantic Coast of Maryland and Assateague Island		300,000
(N) Smith Island	95,000	95,000
MASSACHUSETTS		
(FDP) Hoosic River, N.Y., and Vt.		50,000
(FDP) Housatonic River Basin, Mass. and Conn.	260,000	180,000
(N) Lynn Harbor	40,000	40,000
(COMP) Southeastern N.E. Auth Rpt, Mass., R.I. and Conn.	100,000	150,000
MICHIGAN		
(N) Great Lakes connecting channels and harbors, Mich., Ill., Ind., Minn., Oh., Pa., NY., Wis.	248,000	248,000
(FDP) Great Lakes, Partic Lakes Ontario and Erie, Mich., Minn., N.Y., Oh., Pa., and Wis.	442,000	442,000
(SPEC) Great Lakes-St. Lawrence Swy. Nav Ssn. Est., Mich., Ill., Ind., Minn., N.Y., Oh., Pa., and Wis.	$6,459,000	$7,484,000
(N) Little Girls Point		50,000
(SPEC) Water levels of the Great Lakes, Mich., Ill., Ind., Minn., N.Y., Oh., Pa., and Wis.	647,000	847,000
MINNESOTA		
(SPEC) Great River resource management study, Minn., Ill., Ia., and Mo.	1,000,000	1,400,000
(FDP) Minnesota River Valley		400,000
(N) Reservoirs at headwaters of Mississippi River	100,000	100,000
MISSISSIPPI		
(N) Biloxi Bay, E. Harrison Co.		20,000
(N) Mississippi Sound and adjacent areas	335,000	335,000
(FDP) Pascagoula River Basin	128,000	128,000
(N) Pearl River		50,000
(FDP) Sowashee Creek (Meridian) (Phase I)		150,000
MISSOURI		
(FDP) Cape Girardeau Jackson Metro Area	215,000	215,000
(FDP) Metropolitan Region of Kansas City, Mo. and Kans.	150,000	150,000
(FDP) Plattin Creek		100,000
(FDP) Prosperity Lake (Phase I)	252,000	252,000
(FDP) St. Genevieve	50,000	50,000
(N) St. Louis Harbor, Mo. and Ill.	350,000	350,000
(FDP) St. Louis Metropolitan Area, Mo. and Ill.	100,000	400,000
(FDP) Wears Creek, Jefferson City (phase I)		50,000
(FDP) White River Basin County Line Lake		50,000
MONTANA		
(FDP) Flathead and Clark Fork River Basins	203,000	250,000
NEBRASKA		
(FDP) Platte River and tributaries		125,000
NEVADA		
(FDP) Truckee Meadows	210,000	210,000
NEW HAMPSHIRE		
(FDP) Connecticut River streambank erosion, N.H., Vt. and Mass.	62,000	32,000
(N) Portsmouth Harbor and Piscataqua River, N.H. and Me.	100,000	100,000
(FDP) Southeastern New Hampshire	130,000	130,000
(FDP) Winnipesaukee River		50,000
NEW JERSEY		
(N) Barnegat Inlet (phase I)		100,000
(FDP) Camden metropolitan area	130,000	130,000
(FDP) Cape May Inlet—Lower Township (phase I)	300,000	300,000
(FDP) Hackensack River, N.J. and N.Y.	240,000	240,000
(FDP) Passaic River Basin (phase I)	2,300,000	2,300,000
(FDP) Raritan River Basin	195,000	195,000
(N) Raritan River, Washington Canal and South River	20,000	20,000
(FDP) Third River	120,000	120,000
NEW MEXICO		
(FDP) Rio Grande and tributaries (Rio Puerco/Rio Salado) (phase I)	330,000	500,000
(FDP) Rio Grande and tributaries N.M. and Colo.	461,000	461,000
NEW YORK		
(N) Big Sandy Creek, Mexico Bay		25,000
(FDP) Buffalo Metropolitan area (Tonawanda Creek)	222,000	222,000
(FDP) Delaware River tributaries in N.Y. State	100,000	100,000
(N) Gowanus Creek Channel	89,000	89,000
(N) Great Lakes to Hudson River Waterway	35,000	
(FDP) Irondequoit Creek	150,000	150,000
(N) Lake Erie to eastern seaboard (all-American transportation system)		200,000
(SP) Lake Ontario shoreline protection		300,000
(FDP) Morrisonville and vicinity	80,000	80,000
(N) Ogdensburg Harbor	$91,000	$91,000
(FDP) Oswego River Basin	390,000	390,000
(N) St. Lawrence Seaway, additional locks	200,000	200,000
(COMP) Susquehanna River Basin Auth. report, N.Y., Pa., and Md.	430,000	430,000
(FDP) Upper Allegheny River Basin, Pa.		50,000
(FDP) Wallkill River, black dirt area, N.Y. and N.J. (phase I)		140,000
(FDP) Westchester County Streams, N.Y. and Byram River, Conn.	229,000	129,000
NORTH CAROLINA		
(SP) Bogue banks and bogue inlet	120,000	120,000
(FDP) Lumber River		162,000
(FDP) Roanoke River (South Boston and vicinity), N.C. and Va.	150,000	150,000
(FDP) Sugar Creek Basin, N.C. and S.C.	88,000	88,000
(SP) West Onslow Beach and New River Inlet	10,000	10,000
(SP) Wrightsville Beach	135,000	135,000
NORTH DAKOTA		
(FDP) Pembina River (Phase I)		300,000
(FDP) Red River of the North, N.D. and Minn.	350,000	660,000
OHIO		
(FDP) Central Ohio Survey	300,000	300,000
(N) Cleveland Harbor (Phase I)		300,000
(FDP) Cuyahoga River Basin	75,000	75,000
(N) Gallipolis Locks & Dam, Oh. & W.V. (Phase I)	340,000	340,000
(FDP) Grand Lake, St. Marys		70,000
(N) Lake Erie Coast, Oh., N.Y., Pa., & Mich.		350,000
(SPEC) Lake Erie-Wastewater Mgmt., Oh., Mich., N.Y., Pa. & Ind.	400,000	600,000
(N) Lorain Harbor	200,000	200,000
(FDP) Miami River, Little Miami River & Hill Cr.	250,000	250,000
(N) Ohio Port Development		50,000
(FDP) Western Lake Erie Shore		200,000
OKLAHOMA		
(FDP) Canadian River & Tributaries, Tx. & N.M.		210,000
(FDP) Tenkiller Ferry Lake	80,000	80,000
(FDP) Tulsa Urban Study	352,000	352,000
OREGON		
(N) Columbia River at the Mouth, Ore. & Wash.	100,000	100,000
(FDP) Crooked River		125,000
(FDP) Days Creek Lake (Phase I)		165,000
(FDP) Klamath River Basin, Ore. & Cal.	54,000	115,000
(MP) McNary Second Powerhouse, Ore. & Wash. (Phase I)	1,600,000	1,600,000
(FDP) Portland-Vancouver Metro Area, water resources study	173,000	173,000
(N) Rogue River at Gold Beach	20,000	113,000
(FDP) Squaw Creek		25,000
(COMP) Willamette River Basin		130,000
PENNSYLVANIA		
(FDP) Clarion River Acid Mine Drain (Phase I)	317,000	317,000
(FDP) Delaware River Basin, Pa., N.J., N.Y.	20,000	120,000
(N) Delaware River Dredging Disposal Study, Pa., N.J. and Del.	100,000	100,000
(FDP) Kiskiminitas River Basin		50,000
(FDP) Lock Haven (Phase I)	388,000	325,000
(SP) Presque Isle Peninsula (Phase I)	300,000	300,000
(N) Schuylkill River Review	120,000	120,000
(FDP) Wyoming Valley (Phase I)	232,000	232,000
PUERTO RICO		
(N) San Juan Harbor (Phase I)	170,000	170,000
RHODE ISLAND		
(FDP) Pawcatuck River and Narragansett Bay Drain Basin, R.I., Mass. and Conn.	200,000	400,000
SOUTH CAROLINA		
(N) Charleston Harbor (Phase I)	250,000	250,000
(FDP) Lynches River	10,000	10,000

General Investigations—State and project	Fiscal year 1979 Budget estimate	Fiscal year 1979 Conference allowance
SOUTH DAKOTA		
(FDP) Eastern South Dakota		$150,000
(FDP) Missouri River, S.D., Nebr., N. Dak., and Mont	$250,000	250,000
(FDP) Upper Big Sioux River and Eastern South Dakota water supply, S. Dak. and Iowa	87,000	87,000
(FDP) Western Dakotas Region of South Dakota		250,000
TENNESSEE		
(FDP) Memphis Metropolitan area	300,000	300,000
(FDP) Metropolitan Region of Nashville	361.000	361,000
TEXAS		
(FDP) Bear Creek	180,000	180,000
(FDP) Brazos Natural Salt Pollution Control (Phase I)	70,000	300,000
(FDP) Brazos River and Tributaries		50,000
(FDP) Buffalo Bayou and Tributaries	100,000	150,000
(FDP) Clopton Crossing Lake (Phase I)	161,000	161,000
(FDP) Colorado River and Tributaries	260,000	260,000
(N) Colorado River to Channel to Bay City	54,000	54,000
(N) Corpus Christi Ship Channel HBR Island	80,000	80,000
(FDP) Denison Dam-Lake Texoma		100,000
(N) Galveston Bay Area Navigation	305,000	305,000
(SP) Galveston County Shore Erosion		330,000
(N) Guadalupe River, Channel to Victoria		30,000
(FDP) Lake Texoma Water Supply Facilities, Tex. and OK	50,000	50,000
(FDP) Lower Rio Grande Basin (Phase I)	52,000	52,000
(FDP) Lower Sabine River	350,000	350,000
(N) Matagorda Ship Channel	55,000	25,000
(FDP) Nueces River and Tributaries	200,000	200,000
(FDP) Palo Blanco Creek and Cibolo Creek	77,000	77,000
(N) Sabine River Navigation		350,000
(F(DP) San Jacinto River and Tributaries	250,000	275,000
UTAH		
(FDP) Jordan River Basin	200,000	200,000
VIRGIN ISLANDS		
(FDP) Puerto Rico-Virgin Islands Pipeline Study, V.I. and P.R.	100,000	100,000
(FDP) Virgin Islands	64,000	64,000
VIRGINIA		
(FDP) Chowan River, Va. and N.C.	150,000	150,000
(N) Deep Creek (Newport News) Disposal Area		80,000
(N) Hampton Roads Drift Removal	75,000	75,000
(N) Norfolk Harbor, Craney Island	100,000	100,000
(SP) Norfolk Vicinity Willoughby Spit	105,000	105,000
(FDP) Richmond (Phase I)	500,000	500,000
(FDP) Roanoke River, Upper Basin	180,000	180,000
(FDP) Virginia Beach (Phase I)		200,000
(N) Wishart Point Channel	20,000	20,000
WASHINGTON		
(N) Ben Franklin Lock and Dam		100,000
(FDP) Chehalis River and Tributaries	150,000	150,000
(N) Des Moines Small Boat Harbor		10,000
(N) Edmonds Small Boat Harbor		10,000
(FDP) Grays Harbor, Chehalis and Hoquiam Rivers (Phase I)		600,000
(COMP) Puget Sound and Adjacent Waters	248,000	688,000
(FDP) Puyallup River		100,000
(N) Seattle Harbor Duwamish Waterway	150,000	150,000
(FDP) Yakima Valley, Regional Water Management	150,000	150,000
WEST VIRGINIA		
(N) Big Sandy River, W.V., Ky. and Va	$76,000	$400,000
(FDP) Guyandotte River Basin, Vic of Logan and Mullens	110,000	110,000
(FDP) Metropolitan Region of Huntington, W. Va.; Ashland, Ky. and Portsmouth, Ohio		400,000
(COMP) Kanawha River Basin Auth. Report, W. Va., N.C. and Va	400,000	400,000
WISCONSIN		
(N) Harbors Btwn Kenosha and Kewaunee	80,000	80,000
(N) Milwaukee Harbor	10,000	
(FDP) Wisconsin River Portage		150,000
Total, all States	55,470,000	73,278,000
NATIONWIDE STUDIES		
(SPEC) Hydropower Resources Study	1,000,000	2,250,000
(SPEC) National Waterway Study	1,200,000	2,000,000
Coordination studies with other agencies	5,570,000	5,600,000
REVIEW OF AUTHORIZED PROJECTS		
Restudies of deferred projects	287,000	507,000
Review of completed projects (Sec. 216; PL 91-611)	498,000	498,000
Review for deauthorization (Sec. 12; PL 93-251)	125,000	125,000
Total, review of authorized projects	910,000	1,130,000
COLLECTION AND STUDY OF BASIC DATA		
Stream gaging (U.S. Geological Survey)	450,000	450,000
Precipitation studies (Natl Weather Service)	270,000	270,000
International water studies	105,000	105,000
Flood plain management services	8,430,000	8,430,000
Hydrologic studies	305,000	305,000
Scientific and technical information centers	160,000	160,000
Coastal data collection	1,400,000	1,400,000
Transportation systems	300,000	300,000
National program of inspection of dams	16,400,000	25,000,000
Total, collection and study of basic data	27,820,000	36,420,000
Research and development	17,300,000	17,300,000
Total, general investigations	109,270,000	137,978,000

CONSTRUCTION, GENERAL

Amendment No. 9: Appropriates $1,343,711,000 for construction, general, instead of $1,392,515,000 as proposed by the House and $1,342,147,000 as proposed by the Senate.

Within the funds provided or available the Chief of Engineers is directed to establish and maintain in the interest of safe navigation an adequate anchorage area with approprate dimensions, in the Mississippi River above Head of Passes in the vicinity of Pilottown, La. U.S. Coast Guard recommendations in 1977 identified this anchorage requirement as high priority immediate need.

The Committee has agreed to provide $5,300,000 for the Missouri Levee System. Within this amount, the Corps should initiate construction of Unit L611-614.

The Conferees believe that it would be highly desirable to create an enduring memorial to the late Congressman Jerry L. Litton, who served the sixth district of Missouri with distinction from 1972 until his tragic death in 1976. Accordingly, with funds provided for the Smithville Lake project, the visitor center — administration buildings complex that is now being planned should be named after Jerry L. Litton and modified to provide a fitting and appropriate exhibit area, to memorialize his accomplishments. In addition to Federal funds which may be up to (but shall not exceed) the limitation established by Corps of Engineers regulations for a regional type facility, these modifications should be carried out with such contributed funds, memorabilia and related curatorial services that may be made available.

The Conferees are aware of the hazardous entrance conditions at the Umpqua River, Oreg., navigation project. The Corps of Engineers has been unable to adequately maintain the authorized project, and through much of the year shoaling results in inadequate channel depths and widths, and dangerous breaker waves at the entrance bar, and dangerous cross currents in the channel. Over 41 lives have been lost at this project since 1951 and the operational problems have been a contributing factor in the general decline of the local economy in the project's tributary area. Douglas County has experienced substantial unemployment since 1970, and is designated as a redevelopment area by the U.S. Economic Development Administration.

The Conferees regard these operational problems to be clear evidence of a design deficiency. Historically, the Corps has corrected design deficiencies under the basic authority used for construction of the deficient project, without seeking additional authorization. The Corps is directed to proceed with corrections to the existing project with the $2 million provided for initiation of these corrections in fiscal year 1979. The Corps of Engineers is expected to proceed with the plan of improvement set forth in the report of the Portland District Engineer dated June 1976.

The Conferees have not included funds in the bill for the Tallahala Creek Lake, Mississippi project pending the report on the discovery of oil in the reservoir area.

Amendment No. 10: Deletes language proposed by the House providing that no part of the funds provided under Construction, General shall be used for projects not authorized by law or limiting the amount to be appropriated.

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language relating to the Willow Creek Lake, Oregon project.

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate allocating $4,000,000 for bank stabilization measures on the North Branch of the Susquehanna River in the vicinity of Forty Fort, Pennsylvania.

The funds appropriated are to be allocated as shown on the following table:

Construction, general—State and project	Budget estimate, fiscal year 1979 Construction	Budget estimate, fiscal year 1979 Planning	Conference allowance, fiscal year 1979 Construction	Conference allowance, fiscal year 1979 Planning
ALABAMA				
(MP) Jones Bluff lock and dam	$2,500,000		$2,500,000	
(N) Mobile Harbor (Theodore ship channel)	10,000,000		19,700,000	
(N) Montgomery to Gadsden, Coosa River channel				$1,400,000
(N) Tennessee-Tombigbee Waterway, Ala. and Miss	142,750,000		156,000,000	

	Construction, general—State and project—Continued	Budget estimate, fiscal year 1979		Conference allowance, fiscal year 1979	
		Construction	Planning	Construction	Planning
	ALASKA				
(FC)	Chena River Lakes	$33,000,000		$33,000,000	
(N)	Hoonah boat harbor	5,485,000		2,000,000	
(N)	Kake small boat harbor		$115,000		$115,000
(N)	Metlakatla Harbor	6,971,000		2,500,000	
(FC)	Talkeetna			498,000	
	ARIZONA				
(FC)	Indian Bend Wash	5,100,000		5,100,000	
(FC)	Phoenix and vicinity (including New River) (stage 1)	2,522,000		2,522,000	
	ARKANSAS				
(MP)	Degray Lake	1,050,000		1,050,000	
(N)	McClellan-Kerr Arkansas River navigation system, locks and dams, Arkansaw and Oklahoma	2,500,000		2,500,000	
(FC)	McKinney Bayou, Ark. and Tex				100,000
(MP)	Norfork Lake-highway bridge construction			2,000,000	
(MP)	Norfork Lake—power units 3 and 4		170,000		170,000
(N)	Ouachita and Black Rivers, Ark. and La	11,000,000		12,500,000	
(FC)	Pine Mountain Lake				100,000
(FC)	Red River levees and bank stabilization below Denison Dam, Ark., La., and Tex	4,000,000		4,000,000	
	CALIFORNIA				
(FC)	Alameda Creek (Del Valle Reservoir)	270,000		270,000	
(FC)	Alhambra Creek				200,000
(FC)	Corte Madera Creek	140,000		140,000	
(FC)	Cottonwood Creek		1,000,000		1,000,000
(N)	Crescent City Harbor			150,000	
(FC)	Cucamonga Creek	11,800,000		11,800,000	
(FC)	Dry Creek (Warm Springs) Lake and channel	35,000,000		45,000,000	
(FC)	Goleta and vicinity		200,000		
(N)	Los Angeles-Long Beach Harbors	19,100,000		500,000	
(FC)	Merced County streams		1,300,000		1,300,000
(MP)	New Melones Lake	27,000,000		27,000,000	
(N)	Noyo River and Harbor				115,000
(FC)	Pajaro River				150,000
(FC)	Sacramento River and major and minor tributaries	200,000		200,000	
(FC)	Sacramento River bank protection project	3,300,000		4,000,000	
(FC)	Sacramento River, Chico Landing to Red Bluff	160,000		160,000	
(BE)	San Diego (Sunset Cliffs) (seg. A)		75,000		75,000
(N)	San Diego River and Mission Bay	350,000		350,000	
(N)	San Francisco Bay to Stockton (J. F. Baldwin and Stockton ship channels)	350,000		350,000	
(FC)	San Luis Rey River		420,000		420,000
(N)	Santa Cruz Harbor	85,000			
(FC)	Santa Maria Valley levees	1,000,000		1,000,000	
(BE)	Surfside-Sunset and Newport Beach	2,300,000		2,300,000	
(FC)	Walnut Creek	3,600,000		3,600,000	
(FC)	Wildcat and San Pablo Creeks		275,000		275,000
	COLORADO				
(FC)	Bear Creek Lake	3,000,000		3,000,000	
(FC)	Chatfield Lake	400,000		400,000	
	CONNECTICUT				
(FC)	New London	3,200,000		3,200,000	
(FC)	Park River	14,800,000		14,800,000	
	DISTRICT OF COLUMBIA				
(FC)	Potomac Estuary pilot water treatment plant	3,500,000		3,500,000	
	FLORIDA				
(BE)	Brevard County	1,400,000		1,400,000	
(FC)	Central and southern Florida	6,500,000		8,500,000	
(FC)	Dade County	1,600,000		3,900,000	
(BE)	Duval County	3,000,000		3,000,000	
(FC)	Four river basins	3,000,000		3,000,000	
(BE)	Palm Beach County (reimb)	1,000,000		1,000,000	
(BE)	Pinellas County	380,000		380,000	
(N)	Port Everglades Harbor (sec. 201)	28,600,000		2,500,000	
(N)	St. Lucie Inlet (sec. 201)	5,020,000		1,500,000	
(N)	Tampa Harbor (main channel)	21,300,000		21,300,000	
	GEORGIA				
(M)	Hartwell Lake (5th unit)	18,400,000		1,500,000	
(MP)	Richard B. Russell Dam and Lake, Ga. and S.C	47,000,000		49,000,000	
(BE)	Tybee Island	310,000		310,000	
(MP)	West Point Lake, Ga. and Ala	4,469,000		4,469,000	
	HAWAII				
(N)	Barbers Point deep-draft harbor	46,600,000		5,500,000	
(N)	Honolulu Harbor	7,700,000		2,500,000	
(FC)	Iao Stream, Maui	4,205,000		4,205,000	
(FC)	Kahoma Stream		230,000		230,000
(N)	Kikiola small boat harbor				50,000
(N)	Maalaea small boat harbor				65,000
	IDAHO				
(MP)	Dworshak Dam and Reservoir	5,400,000		5,400,000	
(MP)	Lewiston-Clarkston Bridge, Idaho and Washington		350,000		680,000
(FC)	Placer Creek		100,000		50,000
	ILLINOIS				
(FC)	East Moline	1,000,000		460,000	
(FC)	East St. Louis and vinicity	800,000		800,000	
(FC)	Eldred and Spankey Drainage and Levee District		125,000		250,000
(BE)	Evanston (reimb)	452,000		452,000	
(FC)	Freeport	175,000		175,000	
(FC)	Fulton	4,100,000		4,100,000	
(FC)	Hartwell Drainage and Levee District		160,000		160,000
(FC)	Hillview Drainage and Levee District				120,000
(N)	Illinois Waterway, Dresden Island lock and dam (rehab)	2,540,000		1,950,000	
(N)	Illinois Waterway, Starved Rock lock and dam (rehab)	1,500,000		1,060,000	
(FC)	Kaskaskia Island Drainage and Levee District			600,000	
(N)	Kaskaskia River navigation	4,200,000		4,200,000	
(FC)	Louisville Lake		290,000		556,000
(FC)	McGee Creek Drainage and Levee District			500,000	
(FC)	Meredosia, Ill. and Meredosia, Willow Creek and Coon Run Drainage and Levee District				100,000

	Construction, general—State and project—Continued	Budget estimate, fiscal year 1979		Conference allowance, fiscal year 1979	
		Construction	Planning	Construction	Planning
	ILLINOIS—Continued				
(FC)	Meredosia Lake and Willow Creek Drainage and Levee District				$100,000
(FC)	Milan	$11,200,000		$250,000	
(N)	Mississippi River between the Ohio and Missouri Rivers (regulating works), Illinois and Missouri	3,300,000		3,300,000	
(FC)	Moline		$200,000		200,000
(FC)	Nutwood Drainage and Levee District		180,000		180,000
(FC)	Rock Island	868,000		868,000	
(FC)	Rock River, areas 2, 3, 4, and 5				60,000
(FC)	Rockford	500,000		500,000	
(N)	Savanna small boat harbor				20,000
(N)	Smithland locks and dam, Illinois, and Kentucky	16,400,000		16,200,000	
(FC)	South Beloit		60,000		60,000
	INDIANA				
(FC)	Big Blue Lake		270,000		270,000
(N)	Cannelton locks and dams, Indiana and Kentucky	200,000		200,000	
(FC)	Evansville	4,495,000		1,400,000	
(N)	Newburgh locks and dam, Indiana and Kentucky	700,000		700,000	
(FC)	Patoka Lake	4,000,000		4,000,000	
(N)	Uniontown locks and dam, Indiana and Kentucky	700,000		700,000	
	IOWA				
(FC)	Big Sioux River at Sioux City, Iowa and South Dakota	1,655,000		1,655,000	
(FC)	Clinton	4,000,000		4,000,000	
(N)	Clinton small boat harbor			103,000	
(FC)	Evansdale (sec. 201)		130,000		155,000
(N)	Mississippi River, old lock 14 (rehab)	1,800,000		1,800,000	
(N)	Mississippi River, old lock 19 (rehab)	2,670,000		1,670,000	
(FC)	Missouri River levee system, Iowa, Nebraska, Kansas, and Missouri	5,300,000		5,300,000	
(N)	Missouri River, Sioux City to mouth, Iowa, Kansas, Missouri, and Nebraska	2,900,000		2,900,000	
(FC)	Red Rock Dam-Lake Red Rock (recreational dev.)			1,500,000	
(FC)	Saylorville Lake	3,400,000		3,400,000	
(FC)	Waterloo	5,000,000		5,000,000	
	KANSAS				
(FC)	Big Hill Lake	4,500,000		4,500,000	
(FC)	Cedar Point Lake		50,000		
(FC)	Clinton Lake	3,000,000		3,000,000	
(FC)	El Dorado Lake	13,600,000		13,600,000	
(FC)	Hillsdale Lake	13,200,000		13,200,000	
(FC)	Kansas City (1962 modification)	900,000		900,000	
(FC)	Perry Lake area (road improvements)	400,000		400,000	
(FC)	Towanda Lake		300,000		300,000
	KENTUCKY				
(FC)	Big Sandy River, dam No. 3, Kentucky and West Virginia			183,000	
(FC)	Big South Fork National River and Recreation Area, Ky. and Tenn	140,000,000		20,000,000	
(FC)	Cave Run Lake	2,700,000		2,700,000	
(FC)	Dayton	1,900,000		1,400,000	
(FC)	Falmouth Lake				200,000
(MP)	Laurel River Lake	1,850,000		1,350,000	
(FC)	Paintsville Lake	8,100,000		8,100,000	
(FC)	Southwestern Jefferson County	7,300,000		6,100,000	
(FC)	Taylorsville Lake	7,200,000		7,200,000	
(MP)	Wolf Creek Dam-Lake Cumberland (rehab)	20,000,000		15,000,000	
(FC)	Yatesville Lake			4,000,000	
	LOUISIANA				
(N)	Atchafalaya River and Bayous Chene, Boeuf, and Black	7,652,000		7,652,000	
(FC)	Bayou Bodcau and tributaries			2,200,000	
(FC)	Grand Isle and vicinity (sec. 201)		150,000		200,000
(FC)	Larose to Golden Meadow (hurricane protection)	6,000,000		6,000,000	
(N)	Mermentau River	1,330,000		1,330,000	
(N)	Mississippi River, Baton Rouge-Gulf Mexico-SW pass and bar	600,000		600,000	
(N)	Mississippi River outlets, vicinity of Venice	876,000		876,000	
(N)	Mississippi River, gulf outlet	1,000,000		1,000,000	
(FC)	New Orleans to Venice (hurricane protection)	1,200,000		1,200,000	
(N)	Overton-Red River Waterway (lower 31 miles only)	2,200,000		2,200,000	
(N)	Petit Anse, Tigre, and Carlin Bayous				50,000
(N)	Red River emergency bank protection, Louisiana, Arkansas, Oklahoma, and Texas	3,900,000		4,400,000	
(N)	Red River Waterway, Mississippi River to Shreveport	40,000,000		56,000,000	
(FC)	Red River Waterway, Shreveport to vicinity of Index		200,000		300,000
(N)	Vermilion lock			500,000	
	MAINE				
(MP)	Dickey-Lincoln School Lakes		1,756,000		1,756,000
(N)	Jonesport Harbor (sec. 201)		140,000		140,000
	MARYLAND				
(N)	Baltimore Harbor and channels, Maryland and Virginia (50 feet)		230,000		230,000
(FC)	Bloomington Lake, Maryland and West Virginia	26,000,000		26,000,000	
	MASSACHUSETTS				
(N)	Cape Cod Canal highway bridges (rehab)	500,000		500,000	
(FC)	Charles River natural valley storage areas	2,500,000		2,500,000	
(FC)	North Nashua River	2,300,000		1,350,000	
	MICHIGAN				
(N)	Cedar River Harbor			50,000	
(N)	Cross Village Harbor				70,000
(N)	Ludington Harbor	1,269,000		1,269,000	
(N)	Muskegon Harbor (rehab)	2,410,000		1,685,000	
(FC)	Red Run drain and Lower Clinton River		900,000		900,000
(FC)	Saginaw River	430,000		430,000	
	MINNESOTA				
(FC)	Bassett Creek		200,000		200,000
(FC)	Chaska		200,000		200,000
(FC)	Mankato and North Mankato	7,000,000		7,000,000	
(N)	Mississippi River, lock and dam 1 (rehab)	5,300,000		5,300,000	
(FC)	Rochester (phase I)		300,000		300,000
(FC)	Roseau River	500,000		500,000	
(FC)	Twin Valley Lake				150,000
(N)	Two Harbors	260,000		159,000	
(FC)	Wild Rice River-South Branch and Felton ditch			1,000,000	
(FC)	Winona	25,920,000		2,000,000	

Construction, general—State and project—Continued	Budget estimate, fiscal year 1979		Conference allowance, fiscal year 1979	
	Construction	Planning	Construction	Planning
MISSISSIPPI				
(FC) Tallahala Creek Lake	$5,500,000			
(N) Yazoo River, Belzoni, Bridge (advance preparation)	2,500,000		$2,500,000	
(N) Yazoo River		$200,000		$400,000
MISSOURI				
(FC) Blue River Channel	114,000,000		750,000	
(MP) Clarence Cannon Dam and Reservoir	11,050,000		11,050,000	
(MP) Harry S. Truman Dam and Reservoir	33,000,000		33,000,000	
(FC) Little Blue River Channel	4,700,000		4,700,000	
(FC) Little Blue River Lakes	9,500,000		9,500,000	
(FC) Long Branch Lake	900,000		900,000	
(FC) Mississippi River, agricultural area No. 8 (Elsberry)			400,000	
(FC) Perry County Drainage and Levee Districts 1, 2, and 3	1,000,000		1,000,000	
(FC) Pine Ford Lake		100,000		600,000
(FC) Smithville Lake	7,900,000		7,900,000	
MONTANA				
(FC) Flathead River near Kalispell				100,000
(FC) Great Falls	3,600,000		3,600,000	
(MP) Libby additional units and reregulating dam	21,000,000		21,000,000	
(MP) Libby Dam, Lake Koocanusa	5,755,000		5,755,000	
NEBRASKA				
(FC) Papillion Creek and tributaries lakes	100,000		100,000	
NEW JERSEY				
(FC) Elizabeth	3,500,000		3,500,000	
(N) Manasquan River (rehab)	1,150,000		1,150,000	
NEW MEXICO				
(FC) Abiquiu Dam (rehab)	2,200,000		2,200,000	
(FC) Los Esteros Lake	3,445,000		3,445,000	
(FC) Rio Grande Floodway (Truth or Consequences unit)				50,000
(FC) Santa Fe River and Arroyo Mascaras		190,000		190,000
NEW YORK				
(FC) Ardsley (sec. 201)		100,000		100,000
(N) Cattaraugus Harbor			820,000	
(FC) Dansville and vicinity		70,000		70,000
(N) Dunkirk Harbor			650,000	
(BE) East Rockaway Inlet-Rockaway Inlet and Jamaica Bay (pt. I)	1,000,000		1,000,000	
(FC) Ellicott Creek			1,000,000	
(FC) Fire Island to Montauk Point				200,000
(N) Irondequoit Bay	100,000		100,000	
(N) Moriches Inlet		160,000		160,000
(N) New York Harbor collection and removal of drift, New York and New Jersey	3,000,000		4,000,000	
(N) Port Ontario Harbor		90,000		90,000
(FC) Saw Mill River at Elmsford and Greenburgh		200,000		200,000
(FC) Scajaquada Creek	500,000		500,000	
(N) Shooters Island, New York and New Jersey				100,000
(FC) Yonkers	3,500,000		3,500,000	
NORTH CAROLINA				
(N) AIWW—Replacement of Federal Highway bridges	2,600,000		2,600,000	
(FC) B. Everett Jordan Dam and Lake	10,000,000		10,000,000	
(FC) Falls Lake	19,500,000		20,600,000	
(N) Manteo (Shallowbag) Bay		210,000		210,000
(N) Masonboro Inlet jetties	4,000,000		4,000,000	
(FC) Randleman Lake		540,000		540,000
NORTH DAKOTA				
(FC) Burlington Dam			1,600,000	
(MP) Garrison Dam and Lake Sakakawea	747,000		747,000	
(FC) Missouri River, Garrison Dam to Lake Oahe	100,000		100,000	
(FC) Sheyenne River		530,000		675,000
OHIO				
(FC) Alum Creek Lake	500,000		500,000	
(FC) Caesar Creek Lake	1,600,000		1,600,000	
(FC) Chillicothe	2,000,000		2,000,000	
(N) Cleveland Harbor (Rehab)	3,000,000		3,000,000	
(FC) Cuyahoga River Basin	1,750,000		750,000	
(FC) East Fork Lake	2,500,000		2,500,000	
(N) Geneva-on-the-Lake				100,000
(FC) Mill Creek	650,000		650,000	
(FC) Muskingum River Lakes (Rehab)	2,800,000		2,800,000	
(FC) Newark	700,000		700,000	
(FC) Point Place	6,320,000		300,000	
(N) West Harbor		75,000		75,000
OKLAHOMA				
(FC) Arcadia Lake		528,000	1,028,000	
(FC) Arkansas-Red River Basins chloride control, Oklahoma, Texas, and Kansas		5,782,000		6,662,000
(N) Big and Little Sallisaw Creeks				60,000
(FC) Candy Lake	1,900,000		2,100,000	
(FC) Clayton Lake	8,200,000		8,200,000	
(FC) Copan Lake	12,450,000		12,450,000	
(PM) Fort Gibson Lake—Power units 5 and 6		220,000		220,000
(FC) Optima Lake	1,509,000		1,509,000	
(FC) Skiatook Lake	12,300,000		12,500,000	
(FC) Waurika Lake	2,679,000		2,679,000	
OREGON				
(FC) Applegate Lake	17,400,000		19,000,000	
(MP) Bonneville second powerhouse, Oregon and Washington	115,000,000		118,000,000	
(N) Coos Bay	3,300,000			
(MP) Lost Creek Lake	2,500,000		2,500,000	
(FC) Lower Columbia River bank protection, Oregon and Washington	728,000		1,600,000	
(MP) McNary Lock and Dam, Lake Wallula, Oreg. and Wash	7,400,000		7,400,000	
(MP) Strube Lake and Cougar additional unit		600,000		750,000
(N) Tillamook Bay and bar	4,128,000		4,128,000	
(N) Umpqua River			2,000,000	
(FC) Willamette River Basin bank protection	500,000		500,000	
(FC) Willow Creek Lake			500,000	

	Construction, general—State and project—Continued	Budget estimate, fiscal year 1979 Construction	Budget estimate, fiscal year 1979 Planning	Conference allowance, fiscal year 1979 Construction	Conference allowance, fiscal year 1979 Planning
	PENNSYLVANIA				
(FC)	Blue Marsh Lake	$5,898,000		$5,898,000	
(FC)	Chartiers Creek	500,000			
(FC)	Cowanesque Lake	19,000,000		19,000,000	
(FC)	Hay Creek, Birdsboro		$185,000		$135,000
(N)	Monogahela River Locks and Dam 3 (rehab.)	7,800,000		7,800,000	
(BE)	Presque Isle Peninsula	450,000		750,000	
(FC)	Tamaqua		150,000		150,000
(FC)	Tioga—Hammond Lakes	5,700,000		5,700,000	
(MP)	Tocks Island Lake, Pa., N.J., and N.Y	500,000		3,500,000	
(FC)	Tyrone	1,000,000		1,000,000	
	PUERTO RICO				
(N)	Ponce Harbor		100,000		100,000
(FC)	Portugues and Bucana Rivers	8,300,000		8,300,000	
	RHODE ISLAND				
(N)	Bristol Harbor				50,000
	SOUTH CAROLINA				
(N)	Cooper River, Charleston Harbor	7,500,000		8,500,000	
(N)	Little River Inlet, South Carolina and North Carolina			1,000,000	
(N)	Murrells Inlet	4,923,000		4,923,000	
	TEXAS				
(FC)	Aquilla Lake	5,600,000		5,600,000	
(FC)	Arkansas-Red River Basins Chloride Control, Area VIII	4,100,000		4,100,000	
(FC)	Aubrey Lake	1,000,000		1,000,000	
(FC)	Baytown		200,000		200,000
(FC)	Big Pine Lake			900,000	
(FC)	Big Sandy Lake				50,000
(FC)	Big Spring		150,000		
(N)	Brazos Island Harbor (1960 Harbor)			500,000	
(FC)	Buffalo Bayou and Tribs	380,000		380,000	
(FC)	Buffalo Bayou and tributaries-Addicks and Barker Dams, (Rehab)	6,000,000		8,000,000	
(FC)	Carl L. Estes Dam and Lake		150,000		150,000
(FC)	Clear Creek				200,000
(FC)	Cooper Lake and Channels	9,400,000		8,900,000	
(N)	Corpus Christi Ship Channel	1,700,000		1,700,000	
(FC)	El Paso	3,300,000		3,300,000	
(FC)	Freeport and vicinity (hurricane flood protection)	2,300,000		2,300,000	
(N)	GIWW-Chocolate Bayou	1,602,000		1,602,000	
(FC)	Highland Bayou	1,300,000		1,300,000	
(FC)	Lakeview Lake	11,000,000		18,000,000	
(FC)	Lavon Lake modification and East Fork channel improvement	1,000,000		1,000,000	
(FC)	Lewisville Dam (rehab.)	1,000,000		1,000,000	
(FC)	Millican Lake		300,000		
(FN)	Mouth of Colorado River		120,000	500,000	
(FC)	Neches River and tributaries salt water barrier		240,000		240,000
(FC)	Plainview		150,000		150,000
(FC)	Port Arthur and vicinity (hurricane flood protection)	5,800,000		5,800,000	
(FC)	San Antoni o channel improvement	800,000		800,000	
(FC)	San Gabriel River	7,500,000		7,500,000	
(FC)	Taylors Bayou			100,000	
(FC)	Texas City and vicinity (hurricane flood protection)	1,600,000		1,600,000	
(N)	Texas City channel industrial canal	700,000		1,500,000	
(FC)	Three Rivers			150,000	
(FC)	Trinity River project		700,000		700,000
(FC)	Vince and Little Vince Bayous	1,135,000		1,135,000	
	VIRGINIA				
(FC)	Fourmile Run	9,500,000		9,500,000	
(FC)	Gathright Lake	8,134,000		8,134,000	
(FC)	Richmond filtration plant		100,000		100,000
(N)	Elizabeth River, southern branch (sec. 201)			2,000,000	
(FC)	Virginia Beach, canal No. 2 (sec. 201)				100,000
(BE)	Virginia Beach (reimb.)	200,000		200,000	
	WASHINGTON				
(N)	Blair and Sitcum Waterways				100,000
(N)	Chehalis River at south Aberdeen, Cosmopolis, Wash. (sec. 201)				200,000
(MP)	Chief Joseph Dam additional units	41,000,000		41,000,000	
(MP)	Ice Harbor additional units	1,500,000		1,500,000	
(MP)	Little Goose additional units	1,500,000		2,400,000	
(MP)	Lower Granite additional units	426,000		426,000	
(MP)	Lower Granite lock and dam	4,132,000		4,132,000	
(MP)	Lower Monumental additional units	1,800,000		2,600,000	
(MP)	Lower Snake River F. & W. compensation plan	78,156,000		5,200,000	
(FC)	Skagit River and levee channel improvement		300,000		300,000
(FC)	Willapa River at Raymond		100,000		100,000
	WEST VIRGINIA				
(FC)	Big Sandy River, including tug and Levisa Forks, snagging and clearing, channelization and dredging project, West Virginia and Kentucky			10,000,000	
(FC)	Beech Fork Lake	900,000		500,000	
(FC)	Burnsville Lake	1,200,000		1,200,000	
(FC)	East Lynn Lake	1,100,000		1,100,000	
(FC)	Oceana		100,000		100,000
(FC)	R.D. Bailey Lake	8,000,000		8,000,000	
(FC)	Stonewall Jackson Lake	6,400,000		6,400,000	
	WISCONSIN				
(N)	Green Bay Harbor				110,000
(FC)	Prairie du Chien	3,933,000		500,000	
	MISCELLANEOUS				
	Small navigation projects (sec. 107)	5,500,000		8,000,000	
	Small flood control projects (sec. 205)	14,000,000		17,000,000	
	Small beach erosion projects (sec. 103)	1,000,000		1,500,000	
	Emergency streambank and shoreline protection (sec. 14)	3,000,000		3,000,000	
	Recreation facilities at completed projects	18,000,000		18,000,000	
	Snagging and clearing (sec. 208)	500,000		500,000	
	Mitigation of shore damages attributable to navigation projects (sec. 111)	1,300,000		1,300,000	
	Drift and debris removal program (sec. 202—WRDA 1976)				50,000
	Streambank erosion control evaluation and demonstration (sec. 32, 1974 act)	6,450,000		9,545,000	
	Shoreline erosion control demonstration (sec. 54, 1974 Act)	1,500,000		1,500,000	
	Aquatic plant control (1965 Act)	3,000,000		4,605,000	
	Employees compensation	3,947,000		3,947,000	
	Reduction applied from prior year unobligated balances and savings and slippages	−79,617,000		−85,167,000	
	Unobligated balances carried forward from previous years applied			−85,000,000	
	Total	1,772,879,000	22,716,000	1,315,152,000	28,559,000
	Total, construction, general	1,795,595,000		1,343,711,000	

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

Amendment No. 13: Appropriates $223,035,000 for flood control, Mississippi River and tributaries, as proposed by the Senate, instead of $232,930,000 as proposed by the House.

The recreation development roads are to include the local road in Lafayette County known as the Coontown road and Mississippi local road 315, known as the Blackjack road in Panola County to recreation areas on the south side of Sardis Lake.

The Conferees direct that work on the Ascalmore-Tippo and Opossum Bayous project shall proceed together in Tallahatchie and Quitman Counties.

No funds are provided in fiscal year 1979 for the Cache Basin, Arkansas project.

The Corps is directed to examine the bank erosion problem at Point Leflore at the confluence of the Yalobusha, Tallahatchie and Yazoo Rivers in Mississippi to determine what can be done to solve the problem and report back to the Committee on Appropriations with their findings.

The Corps is directed to keep the streams above Enid, Grenada, Arkabutla and Sardis Lakes in Mississippi free from log jams, sediment deposits and other obstructions.

The funds appropriated are to be allocated as shown on the following table:

FLOOD CONTROL MISSISSIPPI RIVER AND TRIBUTARIES

	Budget estimate	Conference allowance
1. General investigations:		
(a) Surveys:		
(1) General studies:		
Boeuf-Tensas basin, south Arkansas and north Louisiana		$100,000
Helena, Arkansas and vicinity	$100,000	100,000
St. Francis River basin below Wappapello Lake, Ark., and Mo	165,000	165,000
West Memphis, Ark	22,000	22,000
Mississippi River, Cairo, Ill., to Baton Rouge, La	260,000	260,000
Atchafalaya basin (water and land resources), Louisiana	410,000	410,000
Berwick lock-Atchafalaya basin, Louisiana	100,000	100,000
Louisiana State Penitentiary levee, Mississippi River, La	75,000	75,000
Larto Lake, Saline Area, La		30,000
Mississippi and Louisiana estuarine area, Mississippi and Louisiana	120,000	135,000
Yazoo River basin, Mississippi	300,000	650,000
Obion and Forked Deer Rivers and tributaries, Tennessee and Kentucky	65,000	65,000
Wolf and Loosahatchie Rivers and Nonconnah Creek, Tenn. and Miss	102,000	102,000
St. Francis Mitigation Study, Mo		25,000
Mississippi River-East Bank Levees, Tenn. and Ky		50,000
(2) Phase I stage of advance engineering and design:		
Horn Lake Creek and tributaries, including Cow Pen Creek, Miss. and Tenn	150,000	215,000
St. John's Bayou and New Madrid Floodway, Mo	110,000	145,000
Nonconnah Creek, Tenn. and Miss	150,000	170,000
(b) Collection and study of basic data	160,000	160,000
Subtotal, general investigations	2,289,000	2,979,000
2. Construction and planning		
Eastern Rapids-South Central Avoygelles Parishes, Louisiana		$70,000
Harris Fork Creek, Kentucky and Tennessee	$170,000	170,000
Mississippi River levees	27,700,000	28,000,000
Channel improvement	39,890,000	45,123,000
Lake Neark, Ark., recreation	(0)	(123,000)
Old River, La	2,500,000	2,500,000
Lower Red River, south bank, levees, Louisiana	1,200,000	2,000,000
Atchafalaya basin, Louisiana	26,000,000	29,000,000
Cache basin, Arkansas	2,820,000	
St. Francis basin, Arkansas and Missouri	11,700,000	12,000,000
Tensas basin, Arkansas and Louisiana	(9,300,000)	(13,200,000)
Boeuf and Tensas Rivers, except Lake Chicot pumping plant	500,000	500,000
Boeuf and Tensas Rivers, Lake Chicot pumping plant	5,070,000	6,770,000
Red River backwater area, except Tensas Cocodrie pumping plant	800,000	1,600,000
Red River backwater area, Tensas Cocodrie pumping plant	2,930,000	4,330,000
West Kentucky tributaries, Kentucky	2,900,000	2,900,000
Teche-Vermilion basins, Louisiana	4,000,000	4,000,000
Yazoo basin, Mississippi	(10,279,000)	(16,000,000)
Sardis Lake	901,000	1,301,000
Arkabutla Lake	105,000	105,000
Enid Lake	123,000	623,000
Grenada Lake	1,002,000	1,252,000
Greenwood	11,000	11,000
Upper Yazoo projects	2,385,000	3,685,000
Main stem	282,000	282,000
Tributaries:		
Except Ascalmore-Tippo and Opossum Bayous	1,670,000	2,641,000
Ascalmore-Tippo and Opossum Bayous	300,000	1,200,000
Big Sunflower River, etc	800,000	1,900,000
Yazoo backwater	1,200,000	1,500,000
Streambank erosion control evaluation and demonstration	1,500,000	1,500,000
West Tennessee tributaries, Tennessee	2,500,000	3,500,000
Subtotal, construction and planning	140,959,000	—158,463,000
3. Major rehabilitation Old River, La. (Old River control structure)	10,700,000	10,700,000
4. Maintenance	60,052,000	64,973,000
Less reduction for savings and slippages	—10,000,000	—6,900,000
Unobligated balances applies		—7,180,000
Total	204,000,000	223,035,000

OPERATION AND MAINTENANCE

The Conferees are aware of a serious safety problem existing at the entrance to the Pine Bluff Harbor on the McClellan-Kerr navigation system resulting from the narrowness of the navigation channel and the sharpness of the required turn. This presents a critical problem to barge operators who must moor their tows on makeshift facilities while reconfiguring to enter the harbor. This particular problem has been recognized by the Corps and addressed in concept. The Conferees view safety of navigation at harbor entrances to be as integral a part of overall system safety as is channel safety or lock and dam safety. Accordingly, the Conferees expect the Corps to utilize available operation and maintenance funds to ameliorate this navigation problem.

REVOLVING FUND

Amendment No. 14: Appropriates $46,000,000 for the revolving fund as proposed by the Senate instead of $29,000,000 as proposed by the House.

The Conferees are concerned that the disposal of retired hopper dredges may inhibit the investment by private industry in new dredging fleet and equipment or the use of such new fleet and equipment for its intended purposes. The Conferees request that the Corps retain retired equipment until authorizing legislation is enacted to address this concern.

The Conferees note with deep concern the proposed implementation of regulations by the Coast Guard which could have a severe and drastic impact on essential dredging operations in the Nation. The Conferees direct the Chief of Engineers to advise the Coast Guard of the magnitude of the problem such implementation would cause and urges the Coast Guard to defer implementation of the provisions of 46 U.S.C. 395 and U.S. Coast Guard regulations 46 CFR 90–98 et al, implementing the Seagoing Barge Act until full effects of the proposed action have been determined in consultation with the Corps, and the authorizing committees of the Congress considers legislation to resolve the issue.

The impact upon the dredging industry and the dredging requirements of the Nation would be devastating if the Coast Guard regulations are implemented.

HOPPER DREDGE POLICY AND PROGRAM

In an effort both to provide the Corps of Engineers with a modern minimum hopper dredge fleet and to provide additional assurances to the private dredging industry that the hopper dredges it constructs will have opportunity to compete for dredging work, the Conferees direct the Chief of Engineers to implement the following policy and program:

1. During the next 3 fiscal years the Corps is directed to make available not less than 30 million cubic yards of hopper dredge work per year for industry to bid on, subject to industry's capability;

2. At 6 month intervals meetings shall be arranged with industry representatives to permit them to identify those projects being considered for advertisement on which they wish to bid and for which they have the capability to compete;

3. The projects to be scheduled for advertisement shall be determined by considering the expressed interests and capability of the industry and the annual yardage required for the corps' minimum fleet pursuant to Public Law 95–269, but this does not limit the amount of work the corps may offer to private industry;

4. In fiscal year 1982, the corps shall reassess this program to determine whether industry's response to it warrants an increase or a decrease in the amount of work to be made available for industry to bid on;

5. The corps shall take the necessary steps to assure that the funds required to support the program are available so there are no delays or deferrals in the advertisement program, consistent with other necessary operation and maintenance requirements of the Civil Works program;

6. The corps shall establish its recommendation for the size and composition of the Federal hopper dredge fleet and shall provide to the Committee with the submission of the fiscal year 1980 budget request, its recommendations together with the full and complete justification therefor; and

7. As a part of this program, the Committee has included an additional appropriation of $17 million to the Revolving Fund to initiate construction of the medium class hopper

dredge, but this new dredge is not to be used to reduce the percentage of hopper dredging work by private industry, subject to industry's capability;

8. It is understood that no funding for additional new government hopper dredges will be sought or provided through fiscal year 1982.

The Conferees believe that the policy and program outlined above will provide the necessary incentive for the Industry to construct additional new hopper dredges and to expand its participation in the hopper dredging field. This extension of the Industry Capability Program meets the above objective which is contained in Public Law 95–269.

ADMINISTRATIVE PROVISIONS

Amendments Nos. 15 and 16: Limit total accrued expenditures of the capital investment program of the revolving fund to $102,500,000 as proposed by the Senate instead of limiting total obligations to $1,186,861,000 as proposed by the House.

GENERAL PROVISIONS

Amendment No. 17: Provides a total of 30,300 permanent positions for the civil works program of the Corps of Engineers as proposed by the Senate instead of 30,600 as proposed by the House.

TITLE III—DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

GENERAL INVESTIGATIONS

Amendment No. 18: Appropriates $30,870,000 for general investigations as proposed by the Senate instead of $29,870,000 as proposed by the House.

The Conferees have been advised that the Bureau has recently revised its capability on the Butte Valley Division feasibility study from $100,000 to $300,000 to avoid serious disruptions and delay in the work plan during fiscal year 1979, particularly in completing a production test well. Accordingly, it is recommended that the Bureau allocate from within available funds the additional amount required to equal its capability for this work.

The appropriations are to be allocated as shown on the following table:

General investigations—State and project	Fiscal year 1979 Budget estimate	Fiscal year 1979 Conference allowance
ARIZONA		
Boulder Canyon, Hoover powerplant modification	$580,000	$580,000
Reclamation and energy sources, LMNRA wilderness designation	250,000	250,000
CALIFORNIA		
Central Valley:		
Calaveras County division	50,000	50,000
Cosumnes River division, reformulation	90,000	90,000
Delta Support Studies	435,000	585,000
East Side division, Mid-Valley Canal	40,000	40,000
Fish and wildlife management study	----------	100,000
Friant division, Friant powerplants study	70,000	70,000
Sacramento River division, Red Bluff Diversion Dam powerplant	40,000	40,000
Sacramento River division, West Sacramento Canal unit, reformulation	200,000	200,000
Shasta-Keswick powerplant enlargements	70,000	70,000
Total water management study	285,000	285,000
Trinity division, Whiskeytown powerplant study	30,000	30,000
Energy Research and Development (Geothermal)	200,000	200,000
Geothermal Resources investigations	555,000	555,000
Klamath, Butte Valley division (See Oregon) Lahontan Basin Total Water Management Study (See Navada).		
Orland Stony Gorge-East Park powerplants	30,000	30,000
San Joaquin Valley drainage	80,000	80,000
Solano County water	75,000	75,000
Susanville geothermal investigations	58,000	383,000
Truckee River Basin study, Boca-Prosser powerplants	$40,000	$40,000
Ventura County water management	100,000	100,000
Whipple wash pumped storage	200,000	200,000
COLORADO		
Dominguez Reservoir	100,000	100,000
Energy Research and Development (pumped storage)	241,000	241,000
Front Range unit (Long's Peak division, P-SMBP)	140,000	140,000
Grand Mesa, reformulation	217,000	217,000
Low-Head Hydroelectric Evaluation and Inventory	400,000	400,000
Upper Colorado Resource Study	100,000	100,000
Water Resources Planning and Engineering Research	2,011,000	2,011,000
IDAHO		
Boise, Anderson Ranch powerplant-3rd unit	60,000	60,000
Boise Power and Modification Study	150,000	150,000
Minidoka, Minidoka Powerplant Rehabilitation and Enlargement	170,000	170,000
Owyhee powerplant	100,000	100,000
Palisades powerplant enlargement	175,000	175,000
Southwest Idaho water management study	125,000	125,000
Upper Snake River, Oakley Fan Division, reformulation	10,000	10,000
Upper Snake River Water management Study	150,000	150,000
KANSAS		
Kansas State Water Plan—Phase II	175,000	175,000
Solomon River Basin Water Management study (P-SMBP)	250,000	250,000
MONTANA		
Canyon Ferry Powerplant	55,000	55,000
Gibson Powerplant Study	100,000	100,000
Hungry Horse, Hungry Horse Powerplant enlargement and reregulating reservoir	210,000	210,000
Tiber Powerplant study	75,000	75,000
Total water management study (P-SMBP) (see South Dakota)		
Yellowtail afterbay powerplant study	75,000	5,000
NEBRASKA		
Little Blue Unit (P-SMBP)	50,000	150,000
Otoe-Cass	----------	50,000
Platte River water management study	----------	420,000
Republican River Basin water management study (P-SMBP)	200,000	200,000
Sparks unit	25,000	25,000
NEVADA		
Boulder Canyon, Hoover powerplant modification (see Arizona).		
Lahontan Basin total water management study	90,000	90,000
Reclamation and energy sources, LMNRA wilderness designation (see Arizona).		
NEW MEXICO		
Gallup-Navajo Indian water supply	20,000	20,000
Llano-Estacado total water management study	395,000	395,000
Raton water supply	260,000	260,000
NORTH DAKOTA		
Apple Creek Unit (North Dakota Pumping Div., P-SMBP)	----------	300,000
Garrison Diversion Unit, M&I water facilities (Garrison Division, P-SMBP)	101,000	101,000
Total water management study (P-SMBP) (see South Dakota).		
OKLAHOMA		
Geary	170,000	170,000
Norman modification	230,000	230,000
Oklahoma State water plan	----------	100,000
Seward	120,000	120,000
Wilburton	145,000	145,000
OREGON		
Boise, Anderson Ranch powerplant 3rd unit (See Idaho).		
Grande Ronde River study	----------	75,000
Klamath, Butte Valley division	100,000	100,000
Lower Deschutes River study	----------	75,000
Owyhee powerplant (see Idaho).		
Rogue River Basin, Grants Pass division	$80,000	$80,000
Rogue River Basin, Medford division, reformulation	145,000	145,000
Siletz River Basin study	----------	75,000
Umatilla Basin	10,000	85,000
Upper John Day River study	----------	75,000
SOUTH DAKOTA		
Lower James-Fort Randall water diversion proposal	----------	150,000
Oahe Riverside irrigation study	----------	50,000
Oahe Unit, M&I water facilities (James Division, P-SMBP)	150,000	150,000
Total Water management study, Missouri River upstream of Gavins Point (P-SMBP)	9,000	9,000
TEXAS		
Elephant Butte Reservoir-Fort Quitman (see New Mexico).		
Llano-Estacado total water management (see New Mexico).		
Nueces River Basin study	----------	50,000
Texas Basins	20,000	145,000
UTAH		
Central Utah, Ute Indian unit	112,000	112,000
CRSP power peaking capacity	595,000	595,000
Upper Colorado resource study (see Colorado).		
WASHINGTON		
Columbia Basin, Grand Coulee Dam 3d powerplant extension	20,000	20,000
Yakima, Cle Elum and Tieton powerplant	125,000	125,000
Yakima Valley water management study	125,000	125,000
WYOMING		
RSP power peaking capacity (see Colorado).		
Minidoka, Minidoka powerplant rehabilitation and enlargement (see Idaho).		
Muddy Ridge area, Riverton unit (wind division, P-SMBP)	110,000	110,000
North Platte River hydroelectric power study (Oregon trail division, P-SMBP)	150,000	150,000
Palisades powerplant enlargement (see Idaho).		
Total water management study (P-SMBP) (see South Dakota).		
Upper Snake River, Oakley fan division, reformulation (see Idaho).		
Upper Snake River water management study (see Idaho).		
Willwood powerplant study	75,000	75,000
Wind-hydroelectric energy integrated study	284,000	2,784,000
Wind River Basin water supply study	10,000	10,000
VARIOUS		
Colorado River water quality improvement	1,595,000	1,595,000
General engineering and research:		
Atmospheric water resources management program	4,554,000	8,554,000
Colorado River augmentation demonstration program	----------	(500,000)
General planning studies	160,000	160,000
Power intertie studies	15,000	15,000
Special investigations:		
Environmental and interagency coordination activities	1,690,000	1,690,000
Investigations of existing projects	166,000	166,000
Minor work in connection with completed project investigations	888,000	888,000
Print reports	35,000	35,000
Projects not yet identified	10,000	10,000
Total, various	9,113,000	13,113,000
Distributive charges for service facilities unliquidated obligations, etc	−131,000	−131,000
General reduction due to slippage, savings, and carryover balances	−175,000	−300,000
Classified pay raise (E.O. 12010)	900,000	900,000
Total, general investigations	22,200,000	30,870,000

CONSTRUCTION AND REHABILITATION

Amendment No. 19: Appropriates $221,572,000 for construction and rehabilitation

instead of $244,391,000 as proposed by the House and $208,572,000 as proposed by the Senate.

In the development of the repayment contract for the construction of those irrigation lands located in Block 26 of the Columbia Basin project, Washington, the Conferees direct the Secretary of the Interior to include terms and conditions as set forth in repayment contract 11 R 1444 dated October 9, 1945, as amended, between the United States of America and South Columbia Basin Irrigation District.

The Conferees agree with the Senate report language on the Garrison Diversion, North Dakota project.

Immediately following the construction of the recreation road around Scoggins Reservoir of the Tualatin project by the Bureau of Reclamation, extended abnormal drought conditions occurred during the 2-year warranty period covering the road construction work. During the first heavy rainfall following the severe drought, slide areas developed in the relocated road.

The Conferees feel that Washington County, Oreg., did not receive full value from the warranty provisions of the contract. Therefore, an additional $1,000,000 is provided over the budget request and the Bureau of Reclamation is directed to stabilize the slide areas and to provide road repair at the Tualatin project.

The appropriations are to be allocated as shown on the following table:

Construction and rehabilitation—State and project	Fiscal year 1979			
	Budget estimate		Conference allowance	
	Construction	Planning	Construction	Planning
EXCLUSIVE OF PICK-SLOAN MISSOURI BASIN PROGRAM				
CALIFORNIA				
Central Valley project:				
Allen Camp unit		$213,000		$213,000
Sacramento River division	$34,237,000		$34,237,000	
San Luis unit:				
Westlands distribution and drainage system	9,360,000			
San Luis drain	9,500,000			
All other San Luis unit facilities	6,013,000		6,013,000	
Panoche Creek, preconstruction study for flood control facilities			100,000	
Subtotal, San Luis unit	24,873,000		6,113,000	
Auburn-Folsom south unit:				
Auburn area facilities	13,161,000		13,161,000	
Auburn Dam and Reservoir			20,000,000	
Folsom south area facilities	100,000		100,000	
All other Auburn-Folsom south unit facilities	135,000		135,000	
Subtotal, Auburn-Folsom south unit	13,396,000		33,396,000	
Miscellaneous project programs	13,330,000		13,330,000	
San Felipe division	19,234,000		19,234,000	
Total, central Valley project	105,070,000	213,000	106,310,000	213,000
COLORADO				
Fryingpan-Arkansas project	26,227,000		26,227,000	
San Luis Valley project, closed basin division		500,000	600,000	
IDAHO				
Teton Basin project, Lower Teton division	500,000		500,000	
Upper Snake River project, Salmon Falls division		300,000		300,000
NEW MEXICO				
Brantley project	2,200,000		2,200,000	
NEVADA				
Southern Nevada water project	38,285,000		38,285,000	
OKLAHOMA				
McGee Creek		1,000,000	7,000,000	
TEXAS				
Nueces River project	18,600,000		18,600,000	
Palmetto Bend project	4,992,000		4,992,000	
WASHINGTON				
Chief Joseph Dam project, Oroville-Tonasket unit	55,300,000	500,000	700,000	
Columbia Basin project:				
Irrigation facilities	31,365,000		31,365,000	
Third powerplant	11,120,000		11,120,000	
Franklin D. Roosevelt Lake, Fish, and Wildlife				
Total, Columbia Basin Project	42,485,000		42,485,000	
Yakima project, Kennewick Division		400,000		400,000
VARIOUS				
Drainage and minor construction:				
All American Canal System, Coachella, Calif	$2,000		$2,000	
Boise project, Payette Division, Idaho	695,000		695,000	
Hyrum project, Utah	830,000		830,000	
Kendrick project, Wyo	350,000		350,000	
Klamath project, Oregon-Calif	1,422,000		1,422,000	
Leadville drainage tunnel project, Colo	1,925,000		1,925,000	
Lower Rio Grande project, Mercedes Division, Tex	111,000		111,000	
Minidoka project, American Falls Dam, Idaho	50,000		50,000	
Miscellaneous engineering services, Colo	10,000		10,000	
Newlands project, safety of dams, California-Nevada	356,000		356,000	
Orland project, safety of dams, Calif	1,080,000		1,080,000	
Rapid Valley project, South Dakota	200,000		200,000	
Recreation facilities at existing reservoirs, various States	266,000		266,000	
Rogue River Basin project-Savage Rapids Dam fishway modifications, Oreg	305,000		305,000	
Safety of dams studies and misc. construction			1,000,000	
San Angelo project, Texas	2,000,000		2,000,000	
Solano project-Lake Berryessa recreational facilities, California	775,000		775,000	
Sun River project, Gibson Dam, Mont	600,000		600,000	
Tualatin project, Oregon	200,000		1,200,000	
Umatilla project, McKay Dam, Oreg	430,000		430,000	
Ventura River project-Casitas Reservoir Open Space California	5,626,000		5,626,000	
Washita Basin project, Oklahoma	500,000		500,000	
Washoe project, Nevada-California	688,000		688,000	
Total, drainage and minor construction	18,421,000		20,421,000	
Rehabilitation and betterment of existing projects:				
Carlsbad project, New Mexico	400,000		400,000	
Central Oregon Irrigation District, Oregon	800,000		1,189,000	
Crooked River project, Ochoco Irrigation district, Oregon	120,000		120,000	
Minidoka project, Burley Irrigation District, Idaho	220,000		220,000	
Minidoka project, Island Park Dam, Idaho	250,000		250,000	
Newlands project, Nevada	419,000			
P-SMBP, Frenchman-Cambridge Division, Nebraska	600,000		600,000	
Salt River project, Arizona	1,000,000		1,000,000	
Shoshone project, Garland Division, Wyoming	600,000		600,000	
Sun River project, Greenfield Div., Montana	400,000		400,000	
Uncompahgre project, Colorado	189,000		189,000	
Total, rehabilitation and betterment of existing projects	4,998,000		4,968,000	
Bostwick Division, Nebraska-Kansas	1,078,000		1,078,000	
Canyon Ferry unit (dust abatement), Montana	418,000		418,000	
Dickinson unit, North Dakota	3,256,000		3,256,000	

Construction and rehabilitation—State and project	Fiscal year 1979 Budget estimate Construction	Budget estimate Planning	Conference allowance Construction	Conference allowance Planning
PICK-SLOAN MISSOURI BASIN PROGRAM				
COLORADO				
Narrows unit			$1,500,000	
MONTANA				
Lower Marias unit, Tiber Dam modifications	$3,568,000		3,568,000	
NEBRASKA				
North Loup division	4,130,000		4,130,000	
O'Neill unit	3,758,000		3,758,000	
SOUTH DAKOTA				
Pollock-Herreid unit		$250,000		$250,000
WYOMING				
Riverton unit	2,889,000		2,889,000	
Shoshone extensions unit, Polecat Bench area		400,000		400,000
VARIOUS				
Drainage and minor construction: Bostwick Division, Nebraska-Kansas	1,078,000		1,078,000	
VARIOUS				
Canyon Ferry unit (dust abatement), Montana	418,000		418,000	
Dickinson unit, North Dakota	3,256,000		3,256,000	
East bench unit, Montana	50,000		50,000	
Farwell unit, Nebraska	803,000		803,000	
French-Cambridge Division, Nebraska	145,000		145,000	
Helena Valley, Montana	200,000		200,000	
Owl Creek unit, Montana-Wyoming	70,000		70,000	
Total, drainage and minor construction program	6,020,000		6,020,000	
Total, Pick-Sloan Missouri Basin program	20,365,000	$650,000	21,865,000	$650,000
Undistributed reduction based upon anticipated delays	−15,144,000		−15,144,000	
Unobligated balances carried forward from previous year applied			−60,000,000	
Total	322,299,000	3,563,000	220,009,000	1,563,000
Total, construction and rehabilitation	325,862,000		221,572,000	

COLORADO RIVER BASIN SALINITY CONTROL PROJECTS

Amendment No. 20: Appropriates $17,315,000 for Colorado River basin salinity control projects as proposed by the Senate instead of $27,315,000 as proposed by the House.

OPERATION AND MAINTENANCE

Amendment No. 21: Appropriates $86,373,000 for operation and maintenance as proposed by the Senate instead of $87,873,000 as proposed by the House.

LOAN PROGRAM

Amendment No. 22: Appropriates $36,366,000 for the loan program as proposed by the Senate instead of $38,745,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS

Amendment No. 23: Limits appropriations for the purchase of not to exceed 30 passenger motor vehicles as proposed by the Senate instead of 19 passenger motor vehicles as proposed by the House.

OFFICE OF THE SECRETARY

WATER RESOURCES PLANNING

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to restore the matter stricken by said amendment, amended to read as follows:

"OFFICE OF THE SECRETARY

"WATER RESOURCES PLANNING

"For expenses necessary to enable the Secretary of the Interior to carry out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), $10,913,900, to remain available until expended, of which $600,000 shall be for groundwater studies in the Delaware River Basin and Susquehanna River Basin."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate

The conference allowance is to be allocated according to the following table:

River Basin Commissions	$2,886,000
Planning Grants to States	3,000,000
Level B and Special Studies	3,767,900
Includes:	
a. Columbia River estuary study	(828,900)
b. Hudson River level B study	(135,000)
c. Connecticut River Basin	(150,000)
d. New England port and harbor study	(308,000)
Non Title II R.B.C. entities	660,000
Delaware River Basin groundwater study	300,000
Susquehanna River Basin groundwater study	300,000
	10,913,900

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

Amendment No. 25: Provides a total of 7,800 permanent positions for the Bureau of Reclamation as proposed by the Senate instead of 7,900 as proposed by the House.

TITLE IV—INDEPENDENT AGENCIES

FUNDS APPROPRIATED TO THE PRESIDENT

APPALACHIAN REGIONAL DEVELOPMENT PROGRAMS

Amendment No. 26: Appropriates $368,700,000 for the Appalachian regional development programs as proposed by the Senate instead of $374,000,000 as proposed by the House.

Amendment No. 27: Earmarks $233,000,000 for the Appalachian development highway system instead of $246,000,000 as proposed by the House and $231,000,000 as proposed by the Senate.

The appropriations are to be allocated as follows:

Highways:	
Development highway system	$215,000,000
Access road program	16,000,000
Administration and special planning	2,000,000
Area development	128,000,000
Research and local development districts	7,700,000

The Conferees are agreed that the allowance includes $3,000,000 for planning and other necessary expenses for the construction of a development highway between Birmingham, Alabama, and a point near Fulton, Mississippi, and $6,000,000 for the Goodman road project in Marshall and Benton Counties, Mississippi, and Highway 6 to Natchez Trace Lake, Pontotoc County, Mississippi.

DELAWARE RIVER BASIN COMMISSION

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

Amendment No. 28: Appropriates $245,000 for the contribution to Delaware River Basin Commission as proposed by the Senate instead of $545,000 as proposed by the House.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

Amendment No. 29: Appropriates $322,301,000 for salaries and expenses of the Nuclear Regulatory Commission instead of $321,487,000 as proposed by the House and $328,287,000 as proposed by the Senate.

The Conferees are agreed that the allowance includes $45,210,000 for regulation, $159,000,000 for research, $13,064,000 for program technical support, $27,492,000 for program direction and administration and the amounts allocated by the Senate for gas-cooled reactor efforts. The allowance includes a total of 2,788 permanent positions.

Amendment No. 30: Deletes language proposed by the Senate that would make the appropriation contingent on the enactment of authorizing legislation.

SUSQUEHANNA RIVER BASIN COMMISSION

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

Amendment No. 31: Appropriates $200,000 for the contribution to Susquehanna River Basin Commission as proposed by the Senate instead of $500,000 as proposed by the House.

TENNESSEE VALLEY AUTHORITY

PAYMENT TO TENNESSEE VALLEY AUTHORITY FUND

Amendment No. 32: Appropriates $154,531,000 for payment to the Tennessee Valley Authority Fund as proposed by the House instead of $151,531,000 as proposed by the Senate.

The Conferees agree that the allowance includes $26,000,000 for the Columbia unit, $3,000,000 for capital and $4,600,000 for operating expenses for the Land Between the Lakes recreation area, a total of $5,000,000 for the atmospheric fluidized bed coal combustion technology program and a general reduction of $4,550,000 for program savings and slippages.

WATER RESOURCES COUNCIL

WATER RESOURCES PLANNING

Amendment No. 33: Deletes language proposed by the Senate appropriating $11,773,900 for the Water Resources Council.

TITLE V—GENERAL PROVISION

Amendment No. 34: Deletes language proposed by the House that would have required two percent of the appropriations to be withheld from obligation and expenditure.

Amendment No. 35: Changes part of the citation of the bill as proposed by the Senate.

Unnumbered Senate amendment: Changes a portion of the bill title to "energy and water development" as proposed by the Senate instead of "public works for water and power development and energy research" as proposed by the House.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1979 recommended by the Committee of Conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, and the House and Senate bills for 1979 follow:

New budget (obligational) authority, fiscal year 1978	$10,439,873,000
Budget estimates of new (obligational) authority, fiscal year 1979	[1] 11,039,449,000
House bill, fiscal year 1979	10,341,633,900
Senate bill, fiscal year 1979	10,123,344,900
Conference agreement	10,160,483,900

Conference agreement compared with:

New budget (obligational) authority, fiscal year 1978	−279,389,100
Budget estimates of new (obligational) authority, fiscal year 1979	−878,965,100
House bill, fiscal year 1979	−181,150,000
Senate bill, fiscal year 1979	+37,139,000

[1] Includes $670,550,000 of budget estimates not considered by the House, contained in Sen. Documents 95–106 and 95–109.

TOM BEVILL,
EDWARD P. BOLAND,
JAMIE L. WHITTEN,
JOHN M. SLACK,
LINDY BOGGS,
NORMAN D. DICKS,
BILL CHAPPELL,
GEORGE MAHON,
JOHN T. MYERS,
CLAIR W. BURGENER,
VIRGINIA SMITH,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

J. BENNETT JOHNSTON,
JOHN C. STENNIS,
WARREN G. MAGNUSON,
ROBERT C. BYRD,
ERNEST F. HOLLINGS,
WALTER D. HUDDLESTON,
QUENTIN N. BURDICK,
JIM SASSER,
MARK O. HATFIELD,
MILTON R. YOUNG,
CLIFFORD P. CASE,
RICHARD S. SCHWEIKER,
HENRY BELLMON,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. YOUNG of Alaska (at the request of Mr. RHODES), for the week of August 14 to 18, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CUNNINGHAM), to revise and extend their remarks, and to include extraneous matter:)

Mr. DERWINSKI, for 60 minutes, on Thursday, August 17.

Mr. GRASSLEY, for 20 minutes, today.

Mrs. FENWICK, for 5 minutes, today.

Mr. ASHBROOK, for 20 minutes, today.

(The following Members (at the request of Mr. CAVANAUGH) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. OTTINGER, for 5 minutes, today.

Mr. BROOKS, for 5 minutes, today.

Mr. LAFALCE, for 5 minutes, today.

Mr. BAUCUS, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. JONES of Oklahoma, and to include extraneous matter.

Mr. FASCELL, and to include extraneous matter.

Mr. YOUNG of Florida, and to include extraneous matter in his remarks during debate today on H.R. 12931.

(The following Members (at the request of Mr. CUNNINGHAM), and to include extraneous matter:)

Mr. LENT.

Mr. HARSHA.

Mr. ANDERSON of Illinois in two instances.

Mr. DEVINE.

Mr. QUAYLE.

Mr. SARASIN.

Mr. COUGHLIN.

Mr. CARTER.

Mr. HYDE.

Mr. DORNAN.

Mr. GRASSLEY.

Mr. CORCORAN of Illinois.

(The following Members (at the request of Mr. CAVANAUGH), and to include extraneous material:)

Mr. ANNUNZIO in six instances.

Mr. ANDERSON of California in three instances.

Mr. GONZALEZ in three instances.

Mr. BROWN of California in 10 instances.

Mr. JONES of Oklahoma.

Mr. LUKEN.

Mr. KOSTMAYER.

Mr. DENT.

Mr. FOLEY.

Mr. STUMP.

Mr. SIMON.

Mr. PATTISON of New York.

Mr. BAUCUS in two instances.

Mr. ROE in two instances.

Mr. LEDERER.

Mr. MOORHEAD of Pennsylvania.

Mr. FASCELL.

Mr. FISHER.

ENROLLED JOINT RESOLUTIONS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 682. Joint resolution to provide for the designation of a week as "National Lupus Week";

H.J. Res. 946. Joint resolution to designate October 7, 1978, as "National Guard Day"; and

H.J. Res. 963. Joint resolution designating July 18, 1979, as "National P.O.W.–M.I.A. Recognition Day."

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 153. An act for the relief of Dr. Timothy Kam-Hung Chung; to the committee on the Judiciary;

S. 399. An act for the relief of Dr. Manuel Javier Mariano and his wife, Lilia Zapanta Mariano; to the Committee on the Judiciary;

S. 1680. An act for the relief of Roland L. Outlaw and his wife Carolyn H. Outlaw of Lee County, S.C.; to the Committee on the Judiciary;

S. 2547. An act for the relief of Soo Yung Kim; to the Committee on the Judiciary;

S. 2977. An act for the relief of Renuka Pavla; to the Committee on the Judiciary; and

S. 3001. An act for the relief of Kirthi Chandher; to the Committee on the Judiciary.

ADJOURNMENT

Mr. CAVANAUGH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 21 minutes p.m.), under its previous order, the House adjourned until Tuesday, August 15, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4794. A letter from the Assistant Secretary of Defense (Comptroller), transmitting notice of the proposed obligation of funds available in the Marine Corps Stock Fund and the Army Stock Fund for war reserve stocks, pursuant to section 835 of Public Law 95–111; to the Committee on Appropriations.

4795. A letter from the Deputy Secretary of Defense, transmitting a report on the real and personal property of the Department of Defense as of September 30, 1977, pursuant to 10 U.S.C. 2701(b); to the Committee on Armed Services.

4796. A letter from the Assistant Secretary of Defense (Comptroller), transmitting the selected acquisition reports and SAR summary tables for the quarter ended June 30, 1978, pursuant to section 811(a) of Public Law 94–106; to the Committee on Armed Services.

4797. A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), transmitting notice of the location, nature, and estimated cost of various construction projects proposed to be under-

taken by the Army National Guard, pursuant to 10 U.S.C. 2233a(1); to the Committee on Armed Services.

4798. A letter from the Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment to Iran (transmittal No. 78–72), pursuant to section 813 of Public Law 84–106; to the Committee on Armed Services.

4799. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–247, "To amend the District of Columbia Business Corporation Act to permit the incorporation of certain insurance companies, and for other purposes, "pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4800. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–248, "To order the closing of part of an east-west public alley abutting on Lot 64 in Square 140, bounded by 18th, L, 19th and M Streets, N.W. (S.O. 74–46)," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4801. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–249, "To amend the property tax deferral mechanism, and for other purposes," pursuant to section 602 (c) of Public Law 93–198; to the Committee on the District of Columbia.

4802. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–250, "To amend Chapter V of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1156; D.C. Code, sec. 35–701 et seq.) to update the standard valuation and nonforfeiture law and to adopt a standard nonforfeiture law for individual deferred annuities," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4803. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–251, "To amend the Rental Housing Act of 1977," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4804. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–252, "To amend the District of Columbia Relocation Regulations (Regulation 73–4) to increase the maximum allowable Replacement Housing Payment for homeowners," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4805. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness Flathead and Lewis and Clark National Forests, Mont., together with the supporting study report and environmental impact statement, pursuant to section 3(b)(7) of Public Law 94–557; to the Committee on Interior and Insular Affairs.

4806. A letter from the Secretary Energy, transmitting the financial and statistical summary for the Federal Columbia River Power System for fiscal year 1977, pursuant to section 2(a) of Public Law 89–448, as amended; to the Committee on Interior and Insular Affairs.

4807. A letter from the Deputy Assistant Secretary of the Interior, transmitting a proposed plan for the use and distribution of the Lake Superior and Mississippi Bands of Chippewa Indians judgment funds in two awards in dockets 18–C and 18–T before the Indian Claims Commission, pursuant to sections 2(a) and 4 of Public Law 93–134; to the Committee on Interior and Insular Affairs.

4808. A letter from the Deputy Assistant Secretary of the Interior, transmitting a copy of a proposed contract with IRT Corp., San Diego, Calif., for a research project entitled, "Development of an Ion Implantation System for Surface Alloying," pursuant to section 1(d) of Public Law 89–672; to the Committee on Interior and Insular Affairs.

4809. A letter from the Administrator, Agency for International Development, Department of State, transmitting the annual report for fiscal year 1977 on military expenditures by recipients of U.S. economic assistance, pursuant to section 620(s)(2) of the Foreign Assistance Act of 1961, as amended (83 Stat. 820); to the Committee on International Relations.

4810. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

4811. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment to Iran (transmittal No. 78–72), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on International Relations.

4812. A letter from the Comptroller General of the United States, transmitting a report on the data, methodology, and conclusions in the Joint Chiefs of Staff report entitled "Report on Strategic Mobility Requirements and Programs" (PSAD–78–126, August 14, 1978); jointly, to the Committees on Government Operations, and Armed Services.

4813. A letter from the Acting Comptroller General of the United States, transmitting a report on the suitability of certain salt caverns and mines for the Strategic Petroleum Reserve (EMD–78–65, August 14, 1978); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

4814. A letter from the Secretary of Commerce, transmitting the annual report of the Department of Commerce for fiscal year 1977, pursuant to section 8 of the act of February 14, 1903 [15 U.S.C. 1519]; jointly, to the Committees on Interstate and Foreign Commerce, Merchant Marine and Fisheries, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. THOMPSON: Committee on House Administration. House Resolution 1280. Resolution to create an additional position of assistant chief telephone operator and to abolish five telephone operator positions, and for other purposes (Rept. No. 95–1486). Referred to the House Calendar.

Mr. BROOKS: Committee on Government Operations. H.R. 13500. A bill to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes with amendment (Rept. No. 95–1487, Pt. I). Ordered to be printed.

Mr. EILBERG: Committee on the Judiciary. House Joint Resolution 1041. Joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis (Rept. No. 95–1488). Referred to the House Calendar.

Mr. TEAGUE: Committee of conference. Conference report on H.R. 6669 (Rept. No. 95–1489). Ordered to be printed.

Mr. BEVILL: Committee of conference. Conference report on H.R. 12928 (Rept. No. 95–1490). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DANIELSON (for himself, Mr. PREYER, Mrs. SCHROEDER, and Mr. STRATTON):

H.R. 13850. A bill to require certain officers and employees of the United States, and candidates for Federal office, to file reports as to their income and financial holdings and transactions, and for other purposes; jointly, to the Committees on the Judiciary, Armed Services, Post Office and Civil Service, and the Select Committee on Ethics.

By Mr. DR NAN (for himself, Mr. BINGHAM, Mrs. COLLINS of Illinois, Mr. EDGAR, Mr. FLOOD, Mr. GARCIA, Mr. HEFTEL, Mr. HUGHES, Mr. LAFALCE, Mr. MCHUGH, Mr. NOWAK, Mr. RANGEL, Mr. REUSS, and Mr. STOKES):

H.R. 13851. A bill to provide for certain research and demonstration respecting the disposal of sludge, the reclamation of waters damaged by sludge and sewage, assistance to State and local governments for the removal of sludge and other solid waste from waters and shoreline areas, and to provide that grants for waste treatment works shall be made only if such works provide for environmentally sound sludge management; to the Committee on Public Works and Transportation.

By Mr. HARRINGTON (for himself, Mr. BEDELL, Mr. DOWNEY, Mr. EDWARDS of California, Mr. FRENZEL, Mr. GARCIA, Mr. KASTENMEIER, Mr. MARKEY, Mr. MCKINNEY, and Mr. PATTISON of New York):

H.R. 13852. A bill to declare the need for an explicit population policy and to establish an Office of Population Policy; jointly, to the Committee on Government Operations, and International Relations.

By Mr. LENT (for himself, Mr. PEASE, and Mr. MOTTL):

H.R. 13853. A bill to authorize the Secretary of Housing and Urban Development to make grants to local agencies for converting closed school buildings to efficient, alternate uses, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MOAKLEY (for himself, Mr. RYAN, Mr. BEDELL, Mr. BRODHEAD, Mr. TRAXLER, Mr. RICHMOND, Mr. NEAL, Mr. SEIBERLING, Mr. PURSELL, Ms. SCHROEDER, and Mr. MARRIOTT):

H.R. 13854. A bill to require that the Secretary of Energy notify any State of any investigation of any site in such State for the construction of any radioactive waste storage facility and allow such State to prevent the construction of such facility on such site by an action of the state legislature or a statewide referendum; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. TRAXLER:

H.R. 13855. A bill to amend title 38, United States Code, to treat individuals who were serving as cadets or midshipmen at one of the service academies on December 31, 1976, as veterans of the Vietnam era for purposes of entitlement to educational assistance under chapter 34 of such title; to the Committee on Veterans' Affairs.

By Mr. UDALL (by request):

H.R. 13856. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FISHER (for himself, Mr. LUNDINE, and Mr. SIMON):

H.R. 13857. A bill to amend the Employment Act of 1946 to assist in keeping inflation within reasonable bounds by providing for the establishment of practical wage and price guidelines along with a coordinated

set of economic policies to offset inflationary pressures, and to provide for an effective process (including factfinding, mediation, and other steps) for assuring compliance with such guidelines; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, Government Operations, and Rules.

By Mr. GILMAN (for himself, Mr. HARRINGTON, Mr. HOLLENBECK, Mr. MITCHELL of New York, and Mr. NOLAN):

H.R. 13858. A bill to amend the Agricultural Trade Development and Assistance Act of 1954 to provide for a reserve stock of agricultural commodities for use when sufficient quantities of agricultural commodities are not otherwise available to carry out agreements under that act; jointly, to the Committees on Agriculture, and International Relations.

By Mr. ICHORD:

H.R. 13859. A bill to terminate the authorization of the Meramec Park Lake flood control project, Missouri; to the Committee on Public Works and Transportation.

H.R. 13860. A bill to terminate the authorization of the Union Lake flood control project, Missouri; to the Committee on Public Works and Transportation.

By Mr. LAFALCE:

H.R. 13861. A bill to repeal the McCarran-Ferguson Act; to the Committee on the Judiciary.

H.R. 13862. A bill to amend the McCarran-Ferguson Act to define the business of insurance; to the Committee on the Judiciary.

H.R. 13863. A bill to amend the McCarran-Ferguson Act to remove the present exemption from certain Federal laws which would otherwise relate to regulating the business of insurance; to the Committee on the Judiciary.

H.R. 13864. A bill to amend the McCarran-Ferguson Act to require effective State regulation of business of insurance to obtain exemption from certain Federal laws; to the Committee on the Judiciary.

By Mr. LUNDINE (for himself, Mr. MOORHEAD of Pennsylvania, Mr. FISHER, Ms. MIKULSKI, Mr. MAGUIRE, Mr. MIKVA, Mr. PATTISON of New York, and Mr. SIMON):

H.R. 13865. A bill to reduce the rate of inflation and keep it within reasonable bounds by providing for a comprehensive plan for coordinating Federal economic and regulatory policies to offset inflationary pressures, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Education and Labor, Government Operations, and Rules.

By Mr. CLEVELAND (for himself, Mr. D'AMOURS, Mr. ANDREWS of North Dakota, Mr. CARNEY, Mr. CARTER, Mr. HILLIS, Mr. MOORHEAD of California, Mr. PATTEN, Mr. STANGELAND, Mr. TAYLOR, Mr. SCHULZE, Mr. RAILSBACK, Mr. COUGHLIN, Mr. MCCLOSKEY, Mr. RUDD, Mr. BROOMFIELD, Mr. BRINKLEY, Mr. LOTT, Mr. BROWN of Michigan, Mr. DEL CLAWSON, Mr. DICKINSON, Mr. DORNAN, Mr. GOLDWATER, Mr. GRASSLEY, and Mr. MILLER of Ohio):

H. Con. Res. 693. Concurrent resolution expressing the sense of Congress that all remaining proceedings with respect to the Seabrook Nuclear Station project should be expedited and that all licensing and permitting procedures for the construction and operation of nuclear generating stations should be reviewed and modified to improve the efficiency of such procedures; to the Committee on Interior and Insular Affairs.

By Mr. DERWINSKI (for himself, Mr. CRANE, Mr. DORNAN, Mr. GOLDWATER, Mrs. FENWICK, and Mr. SYMMS):

H. Con. Res. 694. Concurrent resolution relating to the occupation of Czechoslovakia by Soviet troops; to the Committee on International Relations.

[*Omitted from the Record of Aug. 11, 1978*]

By Mr. EDGAR:

H. Res. 1312. Resolution expressing the sense of the House of Representatives with respect to the United Nations Conference on the Law of the Sea and urging the establishment of a Common Heritage Fund; to the Committee on International Relations.

[*Submitted Aug. 14, 1978*]

By Mr. BRECKINRIDGE (for himself, Mr. ROSE, Mr. PRESSLER, Mr. BAUCUS, Mr. WATKINS, Ms. KEYS, Mr. SIMON, and Mr. EVANS of Colorado):

H. Res. 1313. Resolution to establish a select committee to study nonmetropolitan America; to the Committee on Rules.

By Mr. DRINAN (for himself, Mr. BINGHAM, Mr. BLANCHARD, Mr. BRODHEAD, Mr. BURKE of Florida, Mr. EILBERG, Mrs. FENWICK, and Mr. GIAIMO):

H. Res. 1314. Resolution expressing the sense of the House of Representatives with respect to the selection of a site other than the Soviet Union for the 1980 summer Olympic games; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII,

466. The SPEAKER presented a memorial of the Legislature of the Territory of Guam, relative to use of portions of the Paseo de Susana and the Agana Boat Basin for recreational and commercial purposes; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURKE of Florida:

H.R. 13866. A bill for the relief of Joseph P. J. Charette; to the Committee on the Judiciary.

By Mr. EDWARDS of Oklahoma:

H.R. 13867. A bill for the relief of Amis Construction Co.; to the Committee on the Judiciary.

By Mr. OTTINGER:

H.R. 13868. A bill for the relief of Henry Sherman Ochshorn; to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 11280

By Mr. GILMAN:

—Page 144, strike out line 6 and all that follows down through line 8 on page 149 and insert in lieu thereof the following:

"CIVIL SERVICE COMMISSION

"SEC. 201. (a) The Office of Personnel Management, established by section 101 of Reorganization Plan Numbered 2 of 1978, is abolished.

"(b) The United States Civil Service Commission, as constituted under chapter 11 of title 5, United States Code, prior to the transfer of its functions under such reorganization plan, is continued as an agency of the United States.

—Page 144, strike out line 6 and all that follows down through line 8 on page 149 and insert in lieu thereof the following:

SEC. 201. (a) Title 5, United States Code, is amended by adding after chapter 9 the following new chapter:

"Chapter 10—OFFICE OF PERSONNEL MANAGEMENT

"Sec.
"1001. Office of Personnel Management.
"1002. Director; Associate Directors.
"1003. Functions of the Director.

"§ 1001. Office of Personnel Management

"The Office of Personnel Management is an independent establishment in the executive branch. The Office shall have an official seal which shall be judicially noticed and shall have its principal office in the District of Columbia, but it may have field offices in other appropriate locations.

"§ 1002. Director; Associate Directors

"(a) There is at the head of the Office of Personnel Management a Director of the Office of Personnel Management appointed by the President, by and with the advice and consent of the Senate. No person shall, while serving as Director, serve in any other office or position in the Government of the United States except as otherwise provided by law or by the President.

"(b) There was be within the Office of Personnel Management not more than four Associate Directors, as determined from time to time by the Director. Each Associate Director shall be appointed by the Director. Such appointment may be made without regard to the provisions of this title governing appointments in the competitive service.

"§ 1003. Functions of the Director

"(a) The following functions are vested in the Director of the Office of Personnel Management, and shall be performed by the Director, or by such employees of the Office as the Director designates—

"(1) recommending to the President for transmittal to Congress or the Commission such legislation or other measures as will promote an efficient civil service and systematic application of merit system principles, including measures relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure, and separation of employees;

"(2) appointing individuals to be employed by the Office;

"(3) directing and supervising employees of the Office distributing business among employees and organizational units of the Office, and directing the internal management of the Office;

"(4) directing the preparation of requests for appropriations and the use and expenditure of funds;

"(5) executing, administering, and enforcing—

"(A) the civil service rules and regulations of the President and the Commission the statutes governing the civil service; and

"(B) such other activities of the Office as usual in civil service administration;

"(6) investigating matters pertaining to the administration of functions of the Office or the Director; and

"(7) reviewing the operations under chapter 87 of this title.

"(b) The functions enumerated under subsection (a) of this section shall not include any function which is either reserved to the Commission or the Merit System Protection Board including, but not limited to—

"(1) the preparation of rules under section 1301 of this title;

"(2) the prescription of rules, regulations, or similar policy directives;

"(3) the hearing or providing for the hearing of appeals, including appeals with respect to examination ratings, veterans' preference, racial and religious discrimination, disciplinary action, performance ratings, and dismissals, and the taking of final action on these appeals.".

(b)(1) Section 5314 of title 5, United

States Code, is amended by inserting at the end thereof the following new paragraph:

"(67) Director of the Office of Personnel Management.".

(2) Section 5315 of such title is amended by inserting at the end thereof the following new paragraph:

"(122) Associate Directors of the Office of Personnel Management (4).".

(c)(1) Section 1104(a) of title 5, United States Code, is amended by striking out paragraph (5) and redesignating paragraph (6) as paragraph (5).

(2) Section 1302 of such title is amended—

(A) by striking out ", control, supervise, and preserve the records of," in subsection (a);

(B) by striking out "and enforce" in subsection (b); and

(C) by adding at the end thereof the following new subsection:

"(e) The Commission, subject to the rules prescribed by the President under this title, shall have authority to issue such regulations as necessary to prescribe general policy relating to the civil service laws. The Office of Personnel Management shall be guided by such policy in carrying out its functions under this title.".

(d)(1) The United States Civil Service Commission, as constituted under chapter 11 of title 5, United States Code, prior to the transfer of its functions under section 101 of Reorganization Plan Numbered 2 of 1978, is continued as an agency of the United States, except that of the first members appointed after the date of the enactment of this Act, one shall be appointed for a term of 2 years, one for a term of 4 years, and one for a term of 6 years, each such term expiring on March 1 of an odd-numbered year. Thereafter, members shall be appointed as provided under such chapter 11.

(2) If the transfer of any function under such section 101 of such reorganization plan is inconsistent with the provisions of this section, such transfer is superseded by this section.

—Page 145, line 13, strike out "Director." and insert in lieu thereof "Director, a majority of whom shall have served in the competitive service before appointment as Associate Directors.".

—Page 145, line 16, insert "(a)" before "The following".

Page 146, insert after line 16 the following:

"(b)(11) The Director shall notify each agency of any proposed rule or regulation which affects such agency or its employees at least 90 days before its effective date. Upon receipt of such rule or regulation, the agency shall, at least 60 days before such effective date—

"(A) post such proposed rule or regulation in such locations of such offices of the agency as the agency finds necessary to insure notice to the maximum number of employees affected; and

"(B) notify exclusive representatives of employees affected of such proposed rule or regulation.

"(2) Paragraph (1) of this subsection shall not apply to any proposed rule or regulation which is temporary in nature and which is necessary to be implemented expeditiously as a result of an emergency need.

—Page 145, line 18, insert ", subject to section 1104(a) of this title," after "or".

—Page 147, line 5, strike out "service." and insert in lieu thereof "service;"

—Page 147, after line 5, insert the following: "except that the Director may not delegate his ultimate responsibility for the execution, administration, and enforcement of the civil service rules and regulations of the President and the Office and the statutes governing the civil service.".

—Page 146, line 18, strike out "(a) Notwithstanding" and insert in lieu thereof "(a)(1)" Subject to subsection (b)(3) of this section and notwithstanding".

—Page 147, insert after line 14 the following: (3) Nothing in subsection (a) of this section shall be construed as affecting the responsibility of the Director to ensure compliance with the civil service laws and regulations.

—Page 147, line 1, strike out "including" and insert in lieu thereof "other than".

—Page 148, line 11, strike out "section 533." and insert in lieu thereof "section 553.".

Page 148, insert after line 11 the following:

"§ 1107. Personnel Policy Advisory Committee

"(a) There is established the Personnel Policy Advisory Committee (hereinafter in this section referred to as the Committee) which shall be composed of—

"(1) the Director of the Office of Personnel Management who shall serve as Chairman of the Committee;

"(2) the Secretary of Labor or his delegate;

"(3) 5 members appointed by the President from among individuals serving in Executive agencies and military departments in positions not less than the positions of Assistant Secretary or their equivalents;

"(4) 1 member appointed by the President from the Deputy and Associate Directors of the Office of Personnel Management; and

"(5) 7 members appointed by the President from officers of labor organizations representing employees in the Federal government. Appointments made under paragraph (5) shall reflect the relative numbers of Federal employees represented by such organizations, or affiliate thereof, except that no more than 4 members shall be from one such organization or its affiliates.

"(b) It shall be the function of the Committee to provide a forum for discussion by agency management and employee representatives of Federal personnel policy and regulations which affect more than one agency, and to make recommendations with respect to such policies and regulations.

"(c)(1) The Committee shall meet at the call of the Chairman but at least once quarterly. The Chairman shall notify each member of a proposed meeting at least 14 days before it is to be held.

"(2) The Chairman shall prepare an agenda of topics for consideration by the Committee in any meeting and shall include such agenda in the notice sent under paragraph (1).

"(3) Any member of the Committee may suggest matters for consideration by the Committee by notifying the Chairman at least 7 days prior to the meeting. The Chairman may include suggested topics in the agenda, but if he does not the matter shall be discussed if a majority of the members who are designated under—

"(A) paragraph (2), (3), and (4), or

"(B) paragraph (5)

of subsection (a) of this section as members of the Committee and who are present at the meeting vote to discuss such matter.

"(d)(1) Recommendations of the Committee may be considered by the Office of Personnel Management in the formulation of Federal personnel policies and regulations.

"(2) Copies of the transcripts of the meetings of the Committee shall be sent to the Merit Systems Protection Board and the Federal Labor Relations Authority.

"(e)(1) Except as provided in paragraph (2), members of the Committee shall receive as compensation the daily equivalent of the annual rate of basic pay in effect for grade GS–18 for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Committee.

"(2) Members of the Committee who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Committee.

"(3) While away from their homes or regular places of business in the performance of service for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of this title.".

Page 144, in the matter following line 9, after the item relating to section 1106, insert the following:

"1107. Personnel Policy Advisory Committee.".

—Page 152, insert after line 17 the following:

"(d) The Board shall conduct, from time to time, special studies relating to the civil service and to other merit systems in the executive branch, and report to the President and to the Congress as to whether the public interest in a civil service free of prohibited personnel practices is being adequately protected.

Page 152, line 18, strike out "(d)" and insert in lieu thereof "(e)".

—Page 152, after line 20, insert the following:

"(e) The Merit Systems Protection Board shall submit its request for annual appropriations to the Office of Management and Budget and to the Congress."

—Page 170, after line 6, insert the following:

"(c) The Comptroller General of the United States shall review each performance appraisal system established under this section to determine if it meets the requirements of this subchapter and is consistent with the merit system principles established under chapter 23 of this title. The Comptroller General shall report the results of each such review to the Office of Personnel Management to assist the Office in carrying out its responsibilities under section 4304 of this title.

—Page 195, insert after line 9 the following:

(g) Section 3318(b) of title 5, United States Code, is amended by striking out ", on request, is entitled to a copy of" and inserting in lieu thereof "is entitled to receive, on or before the 15th day after the day on which he is passed over, a copy of".

Page 195, line 10, strike out "(g)" and insert in lieu thereof "(h)".

Page 196, line 11, strike out "(j)" and insert in lieu thereof "(i)".

Page 196, line 18, strike out "(k)" and insert in lieu thereof "(j)".

Page 196, line 24, strike out "(1)" and insert in lieu thereof "(k)".

—Page 212, beginning on line 14, strike out "free of improper political interference" and insert in lieu thereof "which insures career appointees and, to the greatest extent possible, noncareer appointees, protection from prohibited personnel practices".

Page 212, line 21, strike out "and".

Page 212, line 23, strike out "executives." and insert in lieu thereof "executives; and".

Page 212, insert after line 23 the following:

"(12) provide for a professional management system which is guided by the public interest and free from improper political interference.

—Page 212, line 21, strike out "and".

Page 212, line 23, strike out "executives." and insert in lieu thereof "executives; and".

Page 212, insert after line 23 the following:

"(12) insure that, notwithstanding the provisions of section 3134 of this title authorizing up to 10 percent of Senior Executive Service positions to be filled by noncareer appointees, political appointments to such positions are minimized to the maximum extent possible.".

—Page 215, strike out lines 4 through 11 and insert in lieu thereof the following:

"(8) 'career reserved position' means a Senior Executive Service position which is designated under subsection (b) of this section

as a position to which a career appointee may be appointed;

"(9) 'general position' means any Senior Executive Service position which is not a career reserved position.

Page 215, beginning on line 15, strike out "career reserved positions." and all that follows down through "Government." beginning on line 19, and insert in lieu thereof "Senior Executive Service positions to which career appointees may be appointed.".

Page 215, line 21, strike out "career reserved" and insert in lieu thereof "such".

Page 215, line 24, insert after "appointee." the following: "Any other Senior Executive Service position may be filled only by a noncareer appointee, limited term appointee, or limited emergency appointee.".

Page 219, line 4, strike out "noncareer appointments" and insert in lieu thereof "general positions".

Page 219, beginning on line 6, strike out "employment of noncareer appointees" and insert in lieu thereof "general positions".

Page 219, beginning on line 11, strike out "authority to employ a specific number of noncareer appointees" and insert in lieu thereof "a specific number of general positions".

Page 219, strike out lines 13 through 18 and insert in lieu thereof the following:

"(b) The number of general positions in each agency will be determined annually by the Office of Personnel Management on the basis of demonstrated need of the agency for such positions, except that the total number of general positions in all agencies may not exceed 10 percent of the total number of Senior Executive Service positions in all agencies.

Page 219, strike out "Senior Executive Service" on line 19 and all that follows down through "appointees" on line 20 and insert in lieu thereof "general positions".

Page 222, in the matter following line 15, strike out "noncareer appointments" in the item relating to section 3134 and insert in lieu thereof "general positions".

Page 223, line 9, insert "'career reserved position',' before "and 'general position' ".

Page 227, beginning on line 4, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, beginning on line 7, strike out "Senior Executive Service position" and insert in lieu thereof "career reserved position".

Page 227, line 12, strike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 227, line 18, strike out "Senior Executive Service position" and insert in lieu thereof "general position".

Page 254, line 25, strike out "title)." and insert in lieu thereof "title), and such position shall be considered a career reserved position.".

Page 256, line 7, strike out "position." and insert in lieu thereof "position, and such position shall be considered a career reserved position.".

Page 256, line 19, strike out "appointment;" and insert in lieu thereof "appointment, and such position shall be considered a general position.".

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Defense Advanced Research Projects Agency of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Defense Investigative Service of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Health Care Financing Administration of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Defense Logistics Agency of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Defense Audit Service of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

—Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of Assistant Secretary for Program Analysis and Evaluation of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

—Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Department of the Army which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Alcohol, Drug Abuse, and Mental Health Administration of the Department of Health, Education and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary Comptroller of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary for Manpower of the Department of Defense which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competiltve service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary for Personnel Administration of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,"

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the National Institutes of Health of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Food and Drug Administration of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a sucessor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

—Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary for Planning and Evaluation of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a sucessor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were before the creation of the successor unit performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

—Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Inspector General of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a sucessor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were before the creation of the successor unit performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Department of the Navy which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Department of the Air Force which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary for Health of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 215, line 13, insert after "section," the following: "and except as provided in paragraph (5) of this subsection,".

Page 216, insert after line 8 the following:

"(5) In order to insure impartiality in, and the public's confidence in the impartiality of, the Federal Government, any position—

"(A) in the Office of the Assistant Secretary for Management and Budget of the Department of Health, Education, and Welfare which is filled by an employee in the competitive service on August 1, 1978; or

"(B) in a successor unit of the unit described in subparagraph (A) of this paragraph the primary responsibilities of which—

"(i) are similar to a position described in subparagraph (A) of this paragraph; or

"(ii) were, before the creation of the successor unit, performed by an employee in the competitive service;

which is designated a Senior Executive Service position shall be designated a career reserved position.

—Page 218, line 15, insert after "agency." the following: "The total number of Senior Executive Service positions authorized under this subsection for all agencies in any fiscal year shall not exceed 9,500.".

—Page 227, line 3, insert "(1)" after "(a)".

Page 227, line 4, strike out "(1)" and insert in lieu thereof "(A)" and insert ", subject to paragraph (2) of this subsection," after "may".

Page 227, line 7, strike out "(2)" and insert in lieu thereof "(B)".

Page 227, after line 10, insert the following:

"(2) A career appointee may be reassigned to any Senior Executive Service position of less responsibility under paragraph (1)(A) of this subsection only—

"(A) for such cause as will promote the efficiency of the service; and

"(B) after 15 days' advance written notice to such appointee, containing a complete statement of all the reasons for such reassignment.".

Any career appointee who is reassigned in violation of this paragraph may appeal such reassignment to the Merit Systems Protection Board.

—Page 227, line 6, insert after "qualified" the following: ", except that a reassignment to a position with lesser responsibilities shall only be for such cause as will promote the efficiency of the Senior Executive Service".

—Page 228, strike out lines 10 through 12 and insert in lieu thereof the following:

"(e)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily reassigned—

"(A) within 120 days after an appointment of the head of such agency; or

"(B) within 120 days after the appointment in such agency of such career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to reassign such career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to any reassignment under section 4314(b)(3) of this title.

Page 232, line 12, strike out "A career appointee" and insert in lieu thereof "Except as provided in subsection (b) of this section, a career appointee".

Page 232, after line 19, insert the following:

"(b)(1) Except as provided in paragraph (2) of this subsection, a career appointee in an agency may not be involuntarily removed—

"(A) within 120 days after an appointment of the head of such agency; or

"(B) within 120 days after the appointment in such agency of such career appointee's most immediate supervisor who—

"(i) is a noncareer appointee; and

"(ii) has the authority to remove such career appointee.

"(2) Paragraph (1) of this subsection does not apply with respect to any removal under section 4314(b)(3) of this title.

Page 232, line 20, strike out "(b)" and insert in lieu thereof "(c)".

—Page 228, insert after the line 16 the following:

"(e) Except in cases where a reassignment is the result of an action initiated under section 4313(b)(3) of this title, a career appointee may be reassigned under subsection (a)(1) only if—

"(1) he consents to the reassignment; and

"(2) the reassignment is part of a program designed to enlarge the responsibilities of the career appointee and to advance his career in the senior Executive Service.

No adverse personnel action shall be taken against a career appointee who exercises his right under this subsection to not consent to such a reassignment.

—Page 232, insert after line 19 the following: "Any career appointee removed under paragraph (2) of this subsection shall be entitled to appeal such removal to the Merit Systems Protection Board under section 7701 of this title."

—Page 237, insert after line 22 the following:

"(c) The Comptroller General of the United States shall review each performance appraisal system established under this section to determine if it meets the requirements of this subchapter and is consistent with the merit system principles established under chapter 23 of this title. The Comptroller General shall report the results of each such review to the Office of Personnel Management to assist the Office in carrying out its responsibilities under subsection (d) of this section.

—Page 237, line 23, strike out "(c)" and insert in lieu thereof "(d)".

Page 237, beginning on line 25, strike out "or regulations under this subchapter," and insert in lieu thereof ", regulations under this subchapter, or the merit system principles established under chapter 23 of this title,".

—Page 245, after line 15, insert the following:

"(d) The rate of basic pay for any career appointee may be reduced from any rate of basic pay to any lower rate of basic pay only—

"(1) for such cause as will promote the efficiency of the service; and

"(2) after 15 days' advance written notice to such appointee, containing a complete statement of all the reasons for such reduction.

Any career appointee whose rate of pay is reduced in violation of this subsection may appeal such reduction to the Merit Systems Protection Board.

EXTENSIONS OF REMARKS

GOLD MEDALLION ACT

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. DENT. Mr. Speaker, I have joined with several Members of Congress in cosponsoring H.R. 11874, the Gold Medallion Act of 1978.

This bill would provide for the production and sale by the Treasury Department of nonmonetary, 1-ounce and one-half ounce gold medallions.

This is a timely and judicious piece of legislation which would aid our balance-of-payments situation by discouraging the import of foreign gold bullion coins. It would return to the American people the right to own American gold, and it would permit the Government to reap in extra revenue from its gold sales.

Hearings have already been scheduled for this bill by the chairman of the Senate Banking Committee. A number of cosponsors of the Gold Medallion Act recently joined with me and sent a letter to Congressmen MITCHELL and FAUNTROY, chairmen of two subcommittees of the House Banking Committee, urging them to support the legislation and schedule action on it.

Mr. Speaker, I submit the letter be printed in the RECORD at this point:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 1, 1978.

Hon. PARREN J. MITCHELL,
Chairman, House Subcommittee on Domestic Monetary Policy, Cannon House Office Building, Washington, D.C.

Hon. WALTER E. FAUNTROY,
Chairman, House Subcommittee on Historic Preservation and Coinage, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Recently, we joined Congressman Symms and others in sponsoring H.R. 11874, a bill which stipulates that a portion of the gold auctioned off by the U.S. Treasury, be sold in the form of one-ounce and one-half ounce gold medallions.

We feel that this bill is economically practical and feasible. Presently, 90 percent of the gold sold by the Treasury goes abroad, primarily to foreign banks. This happens because U.S. gold is sold in 400-ounce bars. At approximately $70,000 apiece, these ingots are far beyond the means of the average American. If Americans want gold, and the large influx of foreign gold indicates that they do, they must buy it in smaller units from other countries.

Of the 1.6 million ounces of gold imported last year, 1.1 million ounces were in the form of South African Krugerrands; over $200 million flowed into South Africa last year from the sale of Krugerrands in the U.S. Many Americans are genuinely repelled by the idea of supporting South Africa's system of apartheid, and if they were given a choice, we are certain that they would prefer to buy American gold. Having the U.S. issue gold medallions would deny the South African government a major source of economic support, and at the same time greatly help our balance of trade.

Also, since the gold medallions would be sold at a premium, the U.S. government would stand to profit at least $10 million more from the sale of 1.5 million ounces of gold than it does when that same amount is sold in brick form.

Recently, the chairman of the Senate Banking Committee has pledged early hearings on this bill. We strongly urge that hearings be scheduled in the House Banking Committee as soon as a practical date can be arranged.

Sincerely,

JAMES M. COLLINS,
G. WILLIAM WHITEHURST,
BOB WILSON,
ROBERT K. DORNAN,
JOHN H. DENT.●

SUBCOMMITTEE CHAIRMAN TO LOOK INTO MUZZLING OF INFLATION CHIEF BOSWORTH

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, last week I was shocked by

Labor Secretary Ray Marshall's announcement that the Director of the Council on Wage and Price Stability, Barry Bosworth, would no longer be permitted to comment on pending wage contracts without the approval of a newly named committee to be headed by Secretary Marshall himself. Secretary Marshall made this announcement following a closed-door meeting with the executive council of the AFL–CIO in Chicago in an obvious attempt to placate AFL–CIO President George Meany and thereby hopefully quell labor's growing disaffection with President Carter.

While it is now apparent that the Bosworth muzzling ploy did not succeed in muzzling Meany, we are nevertheless still left with the most disturbing spectacle of a Council on Wage and Price Stability that cannot exercise its full and independent judgment and voice on the subject of wage stability. COWPS has effectively been reduced to COPS by this new wage inflation censorship board.

Having reread the authorizing statute creating COWPS as well as the debate which took place in this body just last year when we voted a 2-year extension of the Council, the administration's muzzling action raises serious questions in my mind about the ability of COWPS to fulfill its statutory mandate. I consequently wrote a letter to the chairman of the Economic Stabilization Subcommittee of the House Banking and Currency Committee, the gentleman from Pennsylvania (Mr. MOORHEAD), on August 9, requesting "immediate hearings" into the muzzling action "to determine whether the reported instructions under which COWPS Director Bosworth is now operating are both consistent with the statutory intent behind the creation of the Council as well as with its future effectiveness."

I am pleased to report that I have received a prompt response from chairman MOORHEAD promising, in his words, "that I will look into the matter you have noted." I want to compliment the chairman on this prompt and positive response. As I noted in my letter to the chairman, when COWPS was up for extension last year, we were assured by Secretary of the Treasury Blumenthal, OMB Director Lance, and CEA chairman Schultze, in a letter to chairman MOORHEAD dated April 29, 1977, that, and I quote:

> No other agency or agencies of government are in a position to perform the role of the Council. It is an independent agency. It is free from political and bureaucratic pressures that would face bureaus within other agencies, if they tried to perform similar tasks.

It is now apparent that that independence and freedom from political and bureaucratic pressures have been seriously undermined by the intervention of the Labor Secretary and his new censorship committee. I would hope chairman MOORHEAD's preliminary inquiry will lead to a full-scale, public hearing into the legality and propriety of the administration's attempt to inhibit the Council from fulfilling its statutory mandate in the area of wage stability.

At this point in the RECORD, Mr. Speaker, I insert the full text of my letter to chairman MOORHEAD as well as his response:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C. August 9, 1978.

Hon. WILLIAM S. MOORHEAD,
Chairman, Subcommittee on Economic Stabilization, Banking and Currency Committee, Rayburn House Office Building, Washington, D.C.

DEAR BILL: I am writing to request that your subcommittee convene immediate hearings on the report in yesterday's New York Times that the Administration has ordered Director Barry Bosworth of the Council on Wage and Price Stability not to comment on pending wage contracts, apparently to appease AFL–CIO President George Meany.

If this report is true then I think the integrity and independence of COWPS has been seriously breached and its future effectiveness and credibility seriously undermined.

Last year, when you were arguing in the House in favor of a two-year extension of COWPS you profoundly quoted from an April 29, 1977, letter from Sec. Blumenthal et. al. in which they referred to the council as "an independent agency . . . free from political and bureaucratic pressures." The report in yesterday's Times that Mr. Bosworth's future statements will have to be cleared by a new coordinating committee is in obvious contradiction to that earlier characterization of COWPS as independent. Secretary Marshall, according to the article, apparently now thinks that it is sufficient for COWPS to point out price increases and not worry about prospective wage increases which can be "deflationary." While the Secretary is certainly entitled to his opinion, COWPS too should be free to conduct its own studies and exercise its own independent judgment on such matters rather than being forced to clear its conclusions with a new political committee designed to squelch any reports that might be offensive to one special interest group or another and thus damaging to the President.

As I recall, the whole purpose of investing a Council on Wage and Price Stability with statutory authority and a certain amount of independence was to provide the President and the country with a reliable, early warning system to enable us to anticipate and combat inflation before it gets out of hand. To now turn this around and permit COWPS to become first and foremost another extension of the White House political operation, under the management of a Gerald Rafshoon, completely stands the President's whole anti-inflation program on its head. Apparently the thinking behind this goes: if we don't identify certain inflationary pressures early on, maybe nothing will happen.

In conclusion, Bill, I hope you and your subcommittee will make a serious effort to determine whether the reported instructions under which COWPS Director Bosworth is now operating are both consistent with the statutory intent behind the creation of the council as well as with its future effectiveness. I think the bipartisan support for continuing COWPS last year is ample testimony that this is not a partisan matter—that both Republicans and Democrats are committed to success of a fully and freely functioning Council. I hope you will receive my request for hearings in this same bipartisan vein.

With all best wishes, I am
Very truly yours,
JOHN B. ANDERSON,
Member of Congress.

U.S. HOUSE OF REPRESENTATIVES,
Washington, August 11, 1978.

Hon. JOHN B. ANDERSON,
Longworth House Office Building, Washington, D.C.

DEAR JOHN: Thank you for your letter of August 9, concerning the Council on Wage and Price Stability.

You can be assured that I will look into the matter you have noted.

With best regards,
Sincerely,
WILLIAM S. MOORHEAD,
Chairman.●

HUMAN RIGHTS VIOLATIONS IN NORTHERN IRELAND AS DOCUMENTED BY AMNESTY INTERNATIONAL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. BIAGGI. Mr. Speaker, over the past several weeks I and other members of the Ad Hoc Congressional Committee for Irish Affairs have been introducing the 78 cases from the Amnesty International Report on Northern Ireland into the CONGRESSIONAL RECORD.

This report is another in a continuing series of exposés on human rights deprivations which have and continue to occur in prisons in Northern Ireland. These are condemnable practices which thus far have not even merited a comment by the administration, which normally is most outspoken on questions related to human rights.

It is the intention of the ad hoc committee to insert all 78 cases into the RECORD. I now wish to insert case No. 62 from the Amnesty report, which is also the 23d case placed in the RECORD.

CASE NO. 62

Male, arrested 1977 and brought to Castlereagh Holding Centre, and detained for three days before being released without charge. Had a medical examination by a police doctor on arrival at Castlereagh and during his detention there. No information as to whether he had a medical examination by a police doctor on release, but on the day of release he was examined by his own doctor, Dr. Gl.

Maltreatment alleged: beating in face, stomach and head. Bending of wrists, bending of arm against his back, being thrown against a wall, choking to the extent that he became unconscious, hair-pulling.

Symptoms (immediate): pain in his throat and all over his body. (Later): anxiety and nervousness.

Medical report: by Dr. Gl. Examination on day of release.

Signs: haematoma involving the pinna of the left ear, traumatic perforation of the left eardrum with blood staining in the auditory canal. Several bruises: over the left sternomastoid muscle, left shoulder tip, right forehead, left eyelid surrounding area, right trapezoid muscle, right shoulder, on the back, right elbow, left elbow, tenth rib in the left side on the sternal end, ninth rib at sternal end, upper abdomen (size 10 x 5 cm.) and below left knee.

Conclusion: There is consistency between the alleged maltreatment and the signs. It would be of great value to compare the above with the police doctor's report.●

VOTING RECORD OF THOMAS FOLEY

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

Mr. FOLEY. Mr. Speaker, I hereby submit a compilation of my voting record for the second half of the month of July of the 2d session of the 95th Congress.

The compilation follows:

531. HR 12157. Export-Import Bank. Long, D-Md., amendment to prohibit the Export-Import Bank from providing loans to produce any commodity unless the president certified that the commodity was not in surplus in the United States and its importation would not injure U.S. firms and employees producing the same or competing commodity. Rejected 197–199: July 27, 1978. No.

532. HR 12157. Export-Import Bank. Harkins, D-Iowa, amendment to prohibit the Export-Import Bank from participating in transactions with countries that the secretary of state has determined grossly violate internationally recognized human rights. Rejected 103–286: July 27, 1978. No.

533. HR 12157. Export-Import Bank. Brown, R-Mich., amendment to prohibit the Export-Import Bank from extending credit to purchasers of exports whom the secretary of state certifies do not endorse fair and equal employment principles. Rejected 90–288: July 27, 1978. No.

534. HR 12157. Export-Import Bank. Cavanaugh, D-Neb., amendment to require the Export-Import Bank to submit to Congress an evaluation, based on analyses by the Nuclear Regulatory Commission, of the nuclear safety standards in effect in nations with which the bank conducts a transaction for the sale of nuclear reactors. Rejected 106–266: July 27, 1978. No.

535. HR 12157. Export-Import Bank. Passage of the bill to extend the authority of the Export-Import Bank through September 1983 and increase its loan ceiling to $40 million from $25 million. Passed 314–47: July 27, 1978. Yes.

521. HR 10285. Commodity Exchange Act. Foley, D-Wash., motion that the House resolve itself into the Committee of the Whole for consideration of the bill to extend the Commodity Exchange Act and authorize appropriations as needed for the operations of the Commodity Futures Trading Commission through fiscal year 1981. Motion agreed to 362–2: July 26, 1978. Yes.

522. HR 10285. Commodity Exchange Act. Baldus, D-Wis. amendment to permit states to enact and enforce their own commodity futures trading laws that were identical to certain sections of the Commodity Exchange Act. Rejected 141–269: July 26, 1978. No.

523. HR 10285. Commodity Exchange Act. Smith. D-Iowa amendment to require reporting within 48 hours of export commodity sales and certain related information to the Commodity Futures Trading Commission, and to require the commission to publish this information. Adopted 273–125: July 26, 1878. No.

524. HR 10285. Commodity Exchange Act. Passage of the bill to extend the Commodity Exchange Act and to authorize appropriations as needed for the operations of the Commodity Futures Trading Commission through fiscal year 1981. Passed 401–6: July 26, 1978. Yes.

525. HR 3350. Ocean Mining. Breaux, D-La., substitute amendment, to the Udall, D-Ariz., amendment, to place responsibility for the Deep Seabed Mineral Resources program in the Department of Commerce. Adopted 214–184: July 26, 1978. Yes.

526. HR 3350. Ocean Mining. McCloskey, R-Calif., amendment to reword language in the bill to state more clearly that in granting mining permits the United States was not claiming jurisdiction over any areas beyond the 200 mile limit. Rejected 199–202: July 26, 1978. No.

527. HR 3350 Ocean Mining. Passage of the bill to provide for interim federal regulation and taxation of ocean mining of hard minerals by U.S. citizens until an international agreement was reached by the Law of the Sea Conference. Passed 312–80: July 26, 1978. Yes.

528. HR 7577. Economic Opportunity Amendments. Goodling, R-Pa., amendment to alter the proposed funding formula for community action agencies to require 60-percent federal contributions and 40 percent local contributions. Rejected 158–224: July 26, 1978. No.

514. HR 11823. Reservists' Retirement Eligibility. Nichols, D-Ala., motion to suspend the rules and pass the bill to liberalize eligibility for retired pay of members of reserve branches of the military. Motion agreed to 390–8: July 25, 1978. Yes.

515. HR 12349. DuNoir Basin Wilderness. Roncalio, D-Wyo., motion to suspend the rules and pass the bill to add a 34,500-acre area known as DuNoir Basin to the Washakie Wilderness in Wyoming. Motion agreed to 372–22: July 25, 1978. Yes.

516. HR 12973. Social Services Amendments. Corman, D-Calif., motion to suspend the rules and pass the bill to increase spending ceilings to $2.7 billion for fiscal 1979, $3.15 billion for 1980 and $3.45 billion for 1981 for child day care, home assistance for aged and disabled, employment training and other social services programs under Title XX of the Social Security Act. Motion agreed to 346–54: July 25, 1978. Yes.

517. HR 11889. Pension for Medal of Honor Recipients, Roberts, D-Texas, motion to suspend the rules and pass the bill to increase to $200 the adidtional monthly pension paid by the Veterans Administration to eligible persons who held the Congressional Medal of Honor. Motion agreed to 394–4: July 25, 1978. Yes.

518. HR 11890. Benefits for Survivors of Disabled Veterans. Roberts, D-Texas, motion to suspend the rules and pass the bill to liberalize eligibility for the benefits paid to survivors of permanently disabled veteratns. Motion agreed to 393–9: July 25, 1978. Yes.

519. HR 12426. New York City Aid. Adoption of the conference report on the bill to provide up to $1.65 billion in long-term federal loan guarantees to New York City. Adopted 244–157: July 25, 1978. Yes.

520. HR 11877. Peace Corps. Adoption of the conference report on the bill to authorize $112,424,000 for fiscal 1979 plus supplemental funds of $3.7 million for fiscal 1978 programs of the Peace Corps, and to amend Corps Act to emphasis assistance to the poorest countries, the need to integrate women into the economics of third world nations and to make various administrative changes. Adopted 276–120. July 25, 1978. Yes.

507. HR 12433. Housing and Community Development. Ashley, D-Ohio, motion that the House resolve itself into the Committee of the Whole for consideration of the bill to revise and extend certain federal housing and community development laws. Motion agreed to 268-6: July 21, 1978. Yes.

508. HR 12433. Housing and Community Development. Abdnor, R-S.D., amendment to prohibit the Department of Housing and Urban Development from carrying out a reorganization of its field offices. Rejected 133-160: July 21, 1978. Yes.

509. HR 12433. Housing and Community Development. Brown, R-Mich., amendment to delete a provision in the bill to limit property insurance rates under state-operated FAIR plans. Rejected 119-185: July 21, 1978. No.

510. HR 12433. Housing and Community Development. Duncan, R-Tenn., amendment to prohibit Social Security cost-of-living increases from being counted as income when calculating rents in assisted housing. Adopted 256-38: July 21, 1978. Yes.

511. HR 12433. Housing and Community Development. Passage of the bill to revise, extend and authorize $29.3 billion for various housing and community development programs. Passed 270-26: July 21, 1978. Yes.

512. HR 13468. District of Columbia Appropriations, Fiscal 1979. Passage of the bill to appropriate $1,612,185,100 for fiscal 1979. Passed 215-32: July 21, 1978. Yes.

513. H J Res 946. National Guard Day. Lehman, D-Fla., motion to suspend the rules and pass the joint resolution to designate Oct. 7, 1978, as National Guard Day to commemorate the contributions to the national defense of the national guard since 1636. Passed 264–10. July 24, 1978. Yes.

500. HR 13467. Second Supplemental Appropriations, Fiscal 1978. Mahon, D-Texas, motion that the House resolve itself into the Committee of the Whole to consider the bill. Motion agreed to 357-3: July 20, 1978. Yes.

501. HR 13467. Second Supplemental Appropriations, Fiscal 1978. Moss, D-Calif., amendment to delete $15 million in the bill for a Center for Disease Control influenza immunization program and add $3 million for influenza vaccine research programs of the National Institute for Allergy and Infectious Diseases. Adopted 268-127. July 20, 1978. Yes.

502. HR 13467. Second Supplemental Appropriations, Fiscal 1978. Gore, D-Tenn., amendment to add $26 million to the $5 million in the bill "pinpoint" assistance to schools in federally declared disaster areas. Rejected 166–233; July 20, 1978. No.

503. HR 13467. Second Supplemental Appropriations, Fiscal 1978. McHugh, D-N.Y., amendment to add $9.9 million to the $5 million in the bill for "pinpoint" assistance to schools in federally declared disaster areas. Rejected 156–237; July 20, 1978. No.

504. HR 13467. Second Supplemental Appropriations, Fiscal 1978. Crane, R-Ill., amendment to delete the $275,000 appropriation for the U.S. Metric Board. Rejected 75–302; July 20, 1978. No.

505. HR 13467. Second Supplemental Appropriations, Fiscal 1978. Miller, R-Ohio, amendment to reduce all spending in the bill, except for payments required by law, by 2 percent, provided that no one program be cut by more than 5 percent. Adopted 256–114: July 20, 1978. Yes.

506. HR 13467. Second Supplemental Appropriations, Fiscal 1978. Passage of the bill to appropriate $6.3 billion in supplemental funds for fiscal 1978 operations of the government, including $3.2 billion for federal employee pay raises. Passed 311–60: July 20, 1978. Yes.

536. HR 9400. Civil Rights of Institutionalized Persons. Kastenmeier, D-Wis., motion to resolve into the Committee of the Whole to consider the bill to allow the attorney general to sue or intervene in suits to protect the constitutional rights of persons living in state-run nursing homes, prisons, juvenile facilities and institutions for the chronically ill. Motion agreed to 304–4: July 28, 1978. Yes.

537. HR 9400. Civil Rights of Institutionalized Persons. Passage of the bill to allow the attorney general to sue or intervene in suits to protect the constitutional rights of persons living in state-run nursing homes, prisons, juvenile facilities and institutions for the chronically ill. Passed 254–69: July 28, 1978. No.

538. HR 12432. Civil Rights Commission. Edwards, D-Calif., motion to resolve into the Committee of the Whole to consider the bill to extend the Commission on Civil Rights for

five years and to authorize funds for the commission. Motion agreed to 303-5: July 28, 1978. Yes.

539. HR 12432. Civil Rights Commission. Butler, R-Va., amendments, en bloc, to delete provisions to give the commission authority to study discrimination based on age or handicap, including $2 million allocated for such studies. Rejected 87-224: July 28, 1978. No.

540. HR 12432. Civil Rights Commission. Butler, R-Va., amendment to prohibit the commission from engaging in lobbying on legislation before Congress or state legislatures. Adopted 159-125: July 28, 1978. Yes.

541. HR 9998. Ocean Shipping Predatory Pricing. Murphy, D-N.Y., motion to suspend the rules and pass the bill to authorize the Federal Maritime Commission to prevent ocean shipping fleets controlled by certain foreign governments from setting predatory prices for transporting goods between the United States and other nations, subject to presidential disapproval for national defense. Motion agreed to 329-6: July 31, 1978. Yes.

542. HR 12514. Foreign Military Aid. Adoption of the rule providing for House floor consideration of the bill to authorize $999.3 million for foreign military assistance programs for fiscal 1979. Adopted 323-21: July 31, 1978. Yes.

543. HR 12931. Foreign Air Appropriations, Fiscal 1979. Adoption of the rule providing for House floor consideration of the bill to appropriate $7.4 billion for foreign aid programs for fiscal 1979. Adopted 265-84: July 31, 1978. Yes.

544. HR 12514. Foreign Military Aid. Zablocki, D-Wis., motion to resolve into the Committee of the Whole to consider the bill to authorize fiscal 1979 funds. Motion agreed to 317-11: July 31, 1978. Yes.●

IRVIN WESTHEIMER, FOUNDER OF ORGANIZATION OF BIG BROTHERS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. LUKEN. Mr. Speaker, I would like to bring to the attention of my colleagues the achievements of Mr. Irvin Westheimer, founder of the Big Brothers Organization.

Mr. Westheimer began his long career as founder of Big Brothers in Cincinnati back in 1903. The organization was officially recognized as an agency in 1910. Since then it has blossomed into a national and international program, with organizations in Israel, Jamaica, and Canada. Big Brothers provides over 120,000 motherless and fatherless children with a volunteer companion on a one-to-one basis. Also receiving the benefits of this program are children referred by the juvenile courts, welfare department, and those with disabilities. Perhaps the most remarkable part of the whole program is that it is based strictly on a volunteer system.

Mr. Westheimer, who was 22 years of age when he started Big Brothers, will celebrate his 99th birthday on September 16. To this day he is still very active in the organization, requiring a full-time secretary to help him in his extensive correspondence with people all over the world. He is also a member of the Advisory Board for the Big Brothers Organization.

At this time I would like to ask you for your support in obtaining a commemorative stamp in honor of Mr. Westheimer's lifelong work in providing needed companionship for our less fortunate children. I strongly feel that it is a worthwise cause and an excellent way to thank Mr. Westheimer for all he has accomplished.●

CATTERSON PUSHES KEMP-ROTH TAX REDUCTION ACT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. LENT. Mr. Speaker, on July 14, the U.S. Senate held hearings on the Kemp-Roth Tax Reduction Act. A most persuasive witness was James Catterson, Jr., of Suffolk County, N.Y., whose testimony eloquently points up the need on Long Island for a general across-the-board tax cut such as Kemp-Roth would provide.

For the benefit of my colleagues to whose attention Mr. Catterson's remarks might otherwise not come, I submit them herewith for the RECORD:

PORT JEFFERSON, N.Y.,
July 14, 1978.

Senator HARRY F. BYRD, Jr.,
Chairman, Subcommittee on Taxation and Debt Management of the Senate Finance Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: Thank you for this opportunity today to submit a statement for the record on these hearings conducted by the Subcommittee to consider the Kemp-Roth tax reduction proposals.

S. 1860 and H.R. 8333, applicable to taxpayers generally, provide for permanent tax rate reductions for individuals of approximately 30 percent over the next three years, for a permanent reduction in corporate income tax rates from 48 to 45 percent over the next three years, and for a permanent increase in the corporate surtax exemption from $50,000 to $100,000.

Nowhere in America is the need for the economic transfusion afforded by Kemp-Roth more dramatically underscored than on Long Island. Consisting of the suburban counties of Nassau and Suffolk, Long Island represents a major economic sector in New York State. Created by colonial patents some of which date from 1659, the twin counties awakened to a post World War II baby boom and suburban migration explosion that saw their populations increase some 900 percent in twenty-five years.

But the insular nature of Long Island's geography also created strategic pressure points. Transportation developed around a single commuter railroad and three east-west arterials all of which terminated in the colossal sprawl of New York City. The transformation of thousands of acres of truck farm land into bedroom communities gave rise to an overnight need for community municipal services on a scale which gives planners king-sized migraines.

Real property tax rates soared and local manufacturers began an exodus to the sun belt. As the population explosion cooled and the construction boom tapered off, the long range effects of an insufficient industrial tax base, an over-taxed transportation system and an under-developed job oriented economy took its toll. The economy of Long Island became stagnant.

In a series entitled, "Long Island at the Crossroads", the prize winning daily paper Newsday explored in depth the major problems and potential solutions facing this prime cross-section of American society. Newsday pointed out that:

a. Between 1966 and 1975 the average property tax for Long Island increased 137 percent;

b. That if the present rate of increase continues, by the year 2000 Long Islanders will be spending twenty-one percent of their income for local taxes;

c. Auto insurance on Long Island is two times that of cities like Atlanta and property taxes at least two-thirds higher than the Georgia metropolis;

d. Thirty-three percent of the average Long Island family's income goes for taxes in one form or another;

e. Seventy-five percent of Long Island's high school seniors do not plan to settle on Long Island due to a lack of job opportunities and the high cost of living;

f. The out migration of manufacturing firms has cost Long Island more than twelve thousand jobs since the mid-sixties and

g. Since 1969 twenty thousand defense jobs have also been lost;

h. Last year, Nassau and Suffolk were unable to provide jobs for 290,000 persons, an increase from 271,000 in 1970.

Long Island needs an economic shot in the arm which the Kemp-Roth tax incentive bill is uniquely structured to provide. Thomas Conoscenti, native Long Islander, former director of economic research for the Long Island Association of Commerce and Industry and now a faculty member at Polytechnic Institute of New York has estimated that Kemp-Roth would generate an increase of 7.1 percent in personal income for the average Long Island wage earner by 1982. (See letter and table, attached.)

Kemp-Roth would also create 17,000 new jobs in Nassau-Suffolk with a resultant decrease in the unemployment rate from one and half to two percent.

In raw dollars, Mr. Conoscenti calculated Kemp-Roth passage would pump 220.8 million dollars into Long Island's economy by 1982. The ripple effect of this infusion is pegged at about 552 million. The highly regarded economist further estimated that the Gross Long Island Product (G.L.I.P.) would be increased at the end of 1979 by 1.2 percent; by 1980 1.5 percent and increased again by 1.9 percent for 1981 and 1982 respectively. Assuming that the current rate of inflation and wage-prices would remake relatively stable the average Long Island per capita income could be expected to increase from $12,000 in 1979 to $14,100 by 1982.

Such an increase in 1979 dollars would be directly attributable to the Kemp-Roth stimulus and would work to offset the loss in tax revenues occasioned by the slow down in production and industrial growth during the last decade. Mr. Chairman, the obvious benefits of the Kemp-Roth income tax reduction package on the Long Island economy makes it the number one priority for New York's congressional contingent. History has proved that permanent tax reductions are a sure way to get the economy moving and to settle the inflation v. unemployment dilemma. It is axiomatic that people react to rewards for their efforts.

Unfortunately in America today when a worker earns wages, or a manufacturer increases production, or a salesman makes a sale, a greater share of these transactions are being eaten up by government.

When taxes go up, when cumbersome regulations are issued, and when subsidies are offered to individuals on the condition that they refrain from work, the government increases the "wedge" that makes work less attractive than leisure.

When you tax something there is going to be less of that thing in the future. When

you subsidize something there is going to be more of it.

In this country, in this state and on Long Island, we are taxing work, investment, savings, growth and commerce in an unprecedented degree and we are subsidizing debt, welfare, nonwork and mediocrity.

America must construct a coalition for income growth that transcends the partisan and ideological divisions of the past. More and more, America needs and wants a return on its investment, a piece of the pie, a restoration of pride and incentive. The Kemp-Roth tax proposals which move towards tax reduction and income growth will do more than save Long Island. It will point the way towards an exciting, productive new era for the people of New York and for all Americans. Mr. Chairman, the people of Long Island heartily endorse and strongly support Kemp-Roth.

Respectfully submitted,

JAMES M. CATTERSON, Jr., Esq.

August 2, 1978.

ECONOMIC PROJECTS,
OF LONG ISLAND, INC.,
Nesconset, N.Y., August 2, 1978.

JAMES M. CATTERSON, Jr., Esq.,
314 Main Street,
Port Jefferson, N.Y.

DEAR MR. CATTERSON: As per your request, we have estimated the impact of the Kemp-Roth Bill on the Long Island economy.

Based on our calculations, we estimate that between 1979 and 1983 the Kemp-Roth Bill will stimulate the Long Island economy by increasing the Long Island Gross Regional Product by 1.7 per cent. This additional increase in the region's growth rate should create an additional 17,000 jobs in the region which will generate an additional 220.8 million dollars in wages and salaries. Based on the region's estimated multiplier, Income plus 1.5 (Income) we calculate that this will pump into the Long Island economy an additional $552.0 (M) (See Attached)

Should you require any additional information concerning the impact of the Kemp-Roth Bill on the Long Island economy, please feel free to contact me.

Very truly yours,

THOMAS CONOSCENTI,
President.

KEMP/ROTH IMPACT ON THE LONG ISLAND ECONOMY

	Without stimulus growth rate		With stimulus growth rate		Net stimulus impact on Long Island economy	Employment stimulus	Income generation (millions)
	GNP	GLIP[1]	GNP	GLIP[1]			
Year:							
1979	2.4	1.0	2.8	1.2	0.2	2,000	$24.0
1980	2.5	.7	3.4	1.5	.8	8,000	101.6
1981	3.4	1.4	4.4	1.9	.5	5,000	67.0
1982	3.9	1.7	4.4	1.9	.2	2,000	28.2
1983	3.7	1.5	3.6	1.5	0	0	
1984	3.8	1.6	3.4	1.4	0	0	
1985	3.5	1.5	3.2	1.3	0	0	
Total, employment						17,000	$220.8

[1] Gross Long Island product.

Note: Income generation=y+Δ1.5. Income generation=220.8+331.2. Income generation=$552,000,000. Wages assumed to increases by 1980/79 5.8, 5.5, 5.2 to 1983 over base of 12,000. Employment/GLIP ratio (0.1 to 1,000).●

THE TRIAL OF ALEKSANDR PODRABINEK

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. SIMON. Mr. Speaker, on Tuesday, Aleksandr Podrabinek, a young human rights activist charged with violations of article 190–1 of the RSFSR Criminal Code for the alleged circulation of material defaming the Soviet State, will be placed on trial in Elektrostal, a small town 35 miles east of Moscow.

This material, in reality, is an extensive documentation of cases in the U.S.S.R. involving the use of forcible psychiatric treatment as a means of political punishment. Podrabinek, who as the head of the Working Committee on the Use of Psychiatry for Political Purposes, has been collecting documents on such psychiatric cases for many years and has already been the object of KGB scrutiny and threats. His book, "Punitive Medicine," estimates that at least 1,000 Soviet citizens have been confined in special psychiatric hospitals for their political or religious beliefs.

One of these, Sergei Prutov, an engineer, was arrested in 1971 under article 70 of the Criminal Code for anti-Soviet agitation and propaganda, which involved, in his case, organizing a group to return to the principles of pure humanism. He was committed for compulsary medical treatment to a special psychiatric hospital. Having since been sent to two other hospitals. Prutov is now in the special pyschiatric hospital in Talzar a city in the Alma Alta Oblast in Kazakhstan.

The trial of Podrabinek is an unfortunate indication of Soviet disregard for their commitment under the Helsinki accords. Continued actions of repression by the Soviets will only serve to undermine the foundations of détente.●

FREEDOM OF INFORMATION ABUSES

HON. SAMUEL L. DEVINE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. DEVINE. Mr. Speaker, several weeks ago, I introduced H.R. 13040, to amend the Freedom of Information Act. This legislation was also cosponsored by 13 colleagues in the forms of H.R. 13272 and H.R. 13452.

A Washington newspaper last week contained an Associated Press story by Jay Perkins about the misuse of information obtained through the act, and I am attaching the story for the information of those Members who may wish to become cosponsors.

MOBSTER TELLS OF MISUSING FREEDOM OF INFORMATION ACT REQUESTS

(By Jay Perkins)

A convicted loan shark testified yesterday that he used the Freedom of Information Act to tie up law enforcement officers and to find out what the government knew about him and where they were getting the information.

Gary Bowdach told the Senate permanent subcommittee on investigations that although he never was able to identify the informants who were supplying information in his case, he was able to identify the informant on one of his friends.

Asked what happened to that informant, he said he did not know. But he added that judging from the comment of his friends, "I don't expect him to be living anymore."

Bowdach estimated that 50 percent of the legal motions such as habeas corpus he filed for himself were frivolous. He said about 75 percent of the motions he filed for other inmates had no merit.

"Some were totally frivolous and were just to aggravate" the prosecutor who sent Bowdach to jail, he testified. I would send him [the prosecutor] his copy directly.

"We basically tried to bog down the system, to tie up law enforcement officers and prosecutors. They would have to drop the cases they were working on. It just created total turmoil for them," he said.

Bowdach also said he used the Freedom of Information Act, which is designed to open non-confidential government records to the inspection of private citizens, "to determine whether that agency had any pending investigation" that might involve him.

In the case of one request where he said an informant was identified, Bowdach said the name of the person had not been completely deleted. He said the inmates were able to identify one letter in that name. They measured the size of the deletion and "backspaced to see how many other letters were left in the name."

Bowdach also noted that even documents that completely deleted the name of an informant often could prove valuable to inmates seeking to identify the person.

"If I knew I met with you in a restaurant in Miami and I got a report that said a confidential informant who met with Bowdach at a restaurant on a certain date said something, I wouldn't need to know your name," he said.

Sen. Sam Nunn (D-Ga.), chairman of the investigations subcommittee, had said earlier that he believed criminals were using the Freedom of Information Act for such purposes.

Bowdach, who served four years in prison, was testifying for the fifth day before the panel. In earlier appearances he detailed his life in organized crime and in the Atlanta federal penitentiary. An official of the FBI said in a telephone interview Wednesday that "quite a few" requests for information on what the FBI files have on an individual come from prison inmates.

"The general procedure now is for a fellow to check into prison, get his grays [uniform], tin cup and privacy act requests forms," joked Al McCreight, the deputy assistant director

in charge of the FBI's freedom of information branch.●

HUDSON VALLEY COMMUNITY COLLEGE HOSTS LABOR-MANAGEMENT SEMINAR

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. PATTISON of New York. Mr. Speaker, I would like to share with my colleagues an interesting experience I had in my district on June 16. I sponsored a labor-management seminar on economic development. Over 90 leaders from labor and management from throughout the New York State capital district attended. The seminar was held at Hudson Valley Community College in Troy, and the speakers included Mr. James Fitzgibbons, president of the Hudson Valley Community College; Mr. Alan Cobb of the National Center for Productivity and Quality of Working Life; Mr. Howard Bennett, secretary-treasurer of Teamsters Local 294; Mr. William LaRose, president of W. T. LaRose Associates in Cohoes; Mr. Michael Noonan, Commissioner of the Albany office of the Federal Mediation and Conciliation Service; and Mr. John Flanagan of the New York State Department of Commerce. Mr. Cobb of the National Center discussed U.S. productivity trends and sources of Federal assistance for community labor-management efforts while the other speakers offered labor and management views from the local perspective.

Other speakers presented two cases of effective labor-management cooperation. First, Prof. Tove Hammer of the New York State School of Industrial and Labor Relations at Cornell, Executive Director John Ladd of the Mohawk Valley Economic Development District, and Mr. Thomas Hove of the Library Bureau in Herkimer, N.Y., described their recent successful efforts to retain a local industry when the parent company decided to sell it. Second, Consultant Patrick McGinity of the Jamestown Area Labor-Management Committee, Mr. Robert Sparks of the management of Corry Jamestown, and Mr. George Kinney of Corry Jamestown's union (IAM) discussed Jamestown's area labor-management cooperative efforts as well as how those effects have helped Corry Jamestown.

For 4 hours we listened to these speakers relate their past experiences as well as offer their assistance to the people of New York's capital district. There was considerable give and take, and I was extremely pleased by the numbers of good questions and the high level of the entire discussion. Despite the presence of two potentially adverse groups, the discussions were fruitful and will definitely provide a starting point for future activities on the part of the people in the capital district who are concerned with the decline of job opportunities in New York. Once you get them away from the bargaining table, you find that labor union leaders and business executives are probably the individuals who are most concerned about the welfare of their communities.

My concern in sponsoring this seminar was in the direction of doing something which would encourage existing industry to stay in New York, encourage it to expand, and encourage new industry to locate in New York.

We in the Northeast United States are becoming increasingly aware that having a reputation for good labor-management relations is a tremendously important asset for a community hoping to attract and retain industry. Conversely, a city known for labor-management discord faces a significant obstacle to economic progress.

I pointed out at the seminar that there will always be issues of contention between labor and management. But I do think that the time has arrived when management and labor must acknowledge that mutual survival—with sales for management and long-term security for labor—requires a serious effort at cooperation for the success of the total enterprise.

Both parties will need to understand that job security and productivity go together and that the emphasis must be on "working smarter" rather than on "working harder."

Since the mid-1960's the United States has experienced a leveling off in per capita productivity. However, wages have continued to increase, and the result has been an increase in the inflation rate. Inflation will always result when wage increases are not matched by increases in productivity. We must, therefore, concentrate our efforts on increasing productivity, so that we can continue to improve our standard of living.

There are no panaceas for New York or any other area of the country. There is no decision that can be made in Washington or anywhere else that will settle our problems. Progress will only be made when we commit ourselves to a joint effort to solve our mutual problems and meet our mutual goals. Such an effort will have to be based on respect and on trust. It will have to be built slowly over time, and it will have to be based on the recognition that when we are in the same boat, we either float together or we sink together.

I, therefore, commend to my colleagues the use of such seminars. As individual Members of the House of Representatives, we are often limited in what we can do to improve the economic welfare of the people we represent. But by using our positions as elected officials to bring our community leaders together in the spirit of cooperation, we open up endless possibilities.●

THE CASE AGAINST THE PROPOSED 27TH AMENDMENT

HON. DAN QUAYLE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. QUAYLE. Mr. Speaker, as the House prepares to consider House Joint Resolution 638, to extend the deadline for ratification of the equal rights amendment, I wish to bring to the attention of my House colleagues a thought-provoking article by Evelyn Pitschke, of Indianapolis, who is an attorney and serves as chairman of the National Lawyers Committee to Oppose the ERA. The article appeared in the August issue of Res Gestae, official publication of the Indiana State Bar Association. The article follows:

THE CASE AGAINST THE PROPOSED 27TH AMENDMENT

(By Evelyn Pitschke)

The proposed 27th Amendment to the United States Constitution is commonly, and misleadingly referred to as the "Equal Rights Amendment" (ERA). Many thoughtful jurists fear ERA because its Section 1 threatens a social revolution, the scope of which is not adequately appreciated, and because its Section 2 would alter dramatically the relationship between the states and the federal government to the detriment of the former. These two points will be treated in reverse order—first the discussion of Section 2.

Most readers will recall having read at least one article and having heard debates on television in which the statement has been made:

"The Equal Rights Amendment is merely 24 words which state: 'Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.'"

The speaker, or the article, generally follows up with the statement that, "These 24 words are necessary to bring about simple justice—that is, that women be put in the Constitution."

Promoters of the ERA shut their eyes to the fact that there are three sections to the Amendment and not just the simple 24 words contained in Section 1 of the Amendment. Last year, 35 national magazines (usually referred to as "women's magazines") carried articles urging adoption of the ERA. Only 2 out of 35 magazines even acknowledged that there is a Section 2 of the Amendment, and none of the articles mentioned the potential harmful legal effects of the Amendment. Is this because Section 2 has no additional effect? Quite the contrary! Section 2 provides the following:

"Section 2. The Congress shall have the power to enforce by appropriate legislation the provisions of this article."

For a better understanding of the great impact of Section 2, lawyers should know that until 1970 Section 2 read as follows:

"Section 2. Congress and the several states shall have power, within their respective jurisdiction, to enforce this article by appropriate legislation."

If a court in the future should consider this legislative history, it might very well conclude that the change reflected a legislative preference that all power to enforce the Amendment was vested in the federal government to the exclusion of the several states!

During the 1970 Senate Judiciary Hearings, it was pointed out that under the original language of Section 2 that even though Congress might pass women's rights legislation, the states could also do so.

Those who changed Section 2 intended to increase federal power. The Supreme Court of the United States shortly before that time had interpreted the effect and meaning of the present language of Section 2 when it was considering essentially the same wording in Section 5 of the 14th Amendment. The Court's decision was made in the 1966 case of *Katzenbach* v. *Morgan* (1966), 384 U.S. 641, 16 L.Ed. 2d 828, 86 S. Ct. 1717, where the Court said:

"that the grant to Congress to enforce by appropriate legislation is 'a positive grant of legislative power authorizing Congress to exercise its discretion in determning whether and what legislation is needed to secure the guaranties of the amendment.' "

The Court further said that the power thus granted to Congress is limited to adopting measures to enforce the guaranties of the amendment; Congress has no power to restrict, abrogate or dilute these guaranties.

This last will bring about a rude awakening to those proponents who blithely are promising the general public that Congress and the Courts will make exceptions in laws which will take into consideration the unique physical characteristics of the sexes.

There are seven constitutional amendments which have language similar to Section 2. The effect of this language in all seven of the amendments was that the federal government has complete power of enforcement in each instances. One of the amendments is the 13th Amendment prohibiting slavery. Five of the amendments have to do with voting rights, and the seventh is the 14th Amendment, which has been the authority for all federal civil rights legislation passed by Congress, interpreted by the federal courts and enforced by the federal government.

It is interesting to note that the 16th Amendment (which gave Congress the power to levy income tax) does not have a Section 2, and thereby the individual states retained their power to tax incomes. The 18th Amendment (commonly known as the "Prohibition Amendment") had no Section 2 because it was desired that the states should assist in enforcing the amendments. The dramatic difference between those constitutional amendments which have a "Section 2" and those which do not proves that the state legislatures will be voting away their own powers if they ratify the ERA. The American way of government will be radically changed to a more centralized form of government without the general public even realizing what has happened until it is too late.

Granting, then, that Section 2 of the ERA places exclusive power to legislate equality in Congress, is such a grant alarming or a matter of no real importance? Flourishing the proud banner of ERA, Congress would have the power to pass all laws pertaining to either sex or the relationship between the sexes. Arguably, this exclusive authority would include divorce laws, laws pertaining to the custody of children, criminal sex laws and perhaps even inheritance laws! This, in turn, would lead to more federal bureaus and agencies, and, of course, to more federal taxes. To those who believe that it is unlikely that Congress will *use* this authority, one only need listen to the arguments of the proponents before state legislative committtees and in the media. They base their claim that the ERA is necessary on the fact that women's rights laws passed by the individual states would not be uniform throughout the nation, and, therefore, federal laws and federal enforcement are necessary.

A common statement made by proponents of the ERA is that, "The measure and degree of one's equality should not depend on where that person lives, but it must be uniform throughout the nation." (Quoted from the law journal of another state.) Under the Amendment, Congress could move to standardize the laws in all of these areas so as to provide uniformity throughout the nation. Thus, Section 2 is a surrender to Congress and the federal courts of powers which the states now have and which are reserved to the states by the 10th Amendment to the Constitution.

Many lawyers are particularly concerned about the power granted by the ERA because the key phrase "equality of rights" is a nonspecific term—perhaps even more uncertain and more needful of interpretation than the term "equal protection of the law," which is contained in the 14th Amendment. They point out that the 14th Amendment was passed in 1868 and yet is still being given new meaning, broader application and extension by contemporary courts into areas which could not have been conceived of even in their wildest imaginings by its authors. Further, the vagueness of the phrase would tempt future Congresses to usurp more and more power by interpreting the Amendment any way they choose.* An awareness of these dangers led Senator Sam Ervin to state in The CONGRESSIONAL RECORD of March 22, 1972:

"The Federal system which contemplates an indestructible union composed of indestructible states as it is now established by all of the provisions of the Constitution will be substantially destroyed (because of Section 2 of the ERA), and all legislative power relating to the Mansfield relations of men and women would be concentrated in the Congress of the United States. The states would become, to all intents and purposes, meaningless zeros upon the nation's map.* * *"

As to the legal effect of Section 1 of the ERA, if legislative history is a guide, the application of ERA will be strict, absolute and total because Congress rejected numerous amendments** which would have preserved obvious exceptions from the broad language of ERA—these amendments were defeated precisely because it is not equal protection that the proponents of ERA desire—it is a social and moral revolution.

One of the hottest issues at this time between supporters of the ERA and opponents concerns whether the ERA will legalize homosexual marriages. It is entirely possible that the ERA will legalize homosexual marriages because the Amendment makes sex an impermissible legal classification. This means that any law based upon any sexual classification will be closely scrutinized to determine whether or not the rights of any persons are abridged or denied upon the basis of sex. In the case of marriage, a law forbidding homosexual marriage would discriminate against those who have a sexual preference for members of their own sex and deny them a right possessed by those who have a sexual preference for a member of the opposite sex. If it is true that ERA is designed to prohibit sex discrimination to the same extent that the 14th Amendment prohibited racial discrimination, then the reader is asked to reflect on this proposition: The Supreme Court, in considering anti-miscegenation statutes (prohibiting interracial marriages) under the 14th Amendment in the case of *Loving* v. *Virginia* (1967), 388 U.S. 1, 18 L.Ed.2d 1010, 87 S. Ct. (1817), held that a marriage license cannot be denied merely because the applicants are of different races. If the same reasoning is followed with respect to homosexual marriages, I would put my money on the side which contends that homosexual marriages will be legalized under the ERA.

Because the media, for the most part, has presented only the claims of the supporters of the ERA, the American people have been sold a "snow job." Most proponents argue that the seminal issue under the ERA is women's rights. Those who oppose the Amendment respond that an additional constitutional amendment is not necessary in order to give women equality with men. They point to the 5th Amendment to the Constitution, which guarantees due process of law to *all* persons where the federal government is concerned, and the 14th Amendment, which provides for due process of law and equal protection of the law to *all* citizens so far as state governments are concerned. They also cite Title VII of the Civil Rights Act of 1964, the Equal Pay Act of 1963 and the Equal Credit Opportunity Act of 1974 which eliminates discrimination against women who seek credit. The argument that women have been left out of the Constitution and that "simple justice" requires that they be put in is effectively treated when one appreciates that the words "man" or "woman" never appear in the Constitution at all! The words "person" or "citizen" are always used to designate individuals. If women had not been recognized as persons under the Constitution from the beginning, a woman (if she were not a person) could not be guilty of treason; she could not be protected from unreasonable search and seizure; and she would not be entitled to due process of law. Yet, no one ever questioned that woman had these rights. See, for example, *Minor* v. *Happersett,* 88 U.S. (21 Wall.) 162, 178 (1974).

It is interesting to note that what started out to be a struggle for supposed equality for women has now turned into a struggle for equality for all because as knowledge of the effects of the first section of the Amendment grows, it has been learned that certain protections and rights which were given to women under the law in recognition of their roles as homemakers and mothers in fact may soon be taken away from them so that in many areas, men rather than women, will be the beneficiaries of the Amendment!

Hopefully, the writer has made at least two main points. First: Section 1 of the ERA may accomplish a social revolution by making sex an impermissible classification in scores of cases when it has always been a perfectly acceptable classification before. Second: Section 2 of the ERA will endow the federal government with the exclusive authority to promulgate and enforce these laws. Those of us who are active in the battle to stop the ERA believe that our role in saving the liberty of our country is every bit as important as the role of the Minutemen during the revolutionary period. Every man and woman who values the liberty of the individual, the security of our country and the American dual form of government, which was designed to prevent tyranny, should become involved in stopping the ERA. It is not just a job for the women. It is the author's opinion that the socalled ERA has within it the power to destroy our republic. Those who oppose the ERA because of Section 2 should stand with Woodrow Wilson when he said:

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* An example of future Congresses not following through with the intentions of the persons who proposed the Amendment is seen with relation to the 16th Amendment (Income Tax). The opponents wanted a ceiling on the amount which could be taxed on the individual citizen. The proponents assured them that it would never go over 5 percent. That was only 62 years ago. Yet, today the average citizen's tax is well over 20 percent of the fruits of his labor, and a very large segment of the population is paying much more than 20 percent. The intent of the Congress *which passed the Amendment* was that the income tax would be minimal and would not affect the average citizen unduly.

**Exempting women from compulsory military service; exempting women from service in combat units of the Armed Forces; permitting states to continue protective labor legislation for women; permitting states to continue legislation which would protect wives, mothers and widows and which would extend certain benefits to them; permitting states to continue legislation which would impose upon fathers the primary responsibility for child support; securing privacy to men or women, boys or girls—such as in prisons, public and school restrooms, dormitories, etc.; permitting states to continue legislation pertaining to criminal sex offenses; and permitting states to continue legislation which would take into consideration the physiological or functional differences between men and women. These amendments were all rejected by the sponsors of ERA.

"When we resist the concentration of governmental power, we resist the processes of death, because concentration of power always precedes the destruction of human liberty." ●

INTERVIEWS WITH CAMBODIANS

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. ANDERSON of Illinois. I place the following materials, describing conditions in Cambodia, into the RECORD:

INTERVIEW WITH CAMBODIAN REFUGEE IN BURIRAM, THAILAND, CONDUCTED BY AMERICAN EMBASSY OFFICER IN JUNE 1978

ACCOUNT OF SOURCE I

(The name of the individual refugee who provided this account has been excised to protect the identify of family members or friends still in Cambodia.)

Source I, 36, was a teacher in Battambang before April, 1975. Afterward he became a farmer "like everyone else." He fled to Thailand May 16, 1978. His account follows:

Conditions of Life in Democratic Kampuchea. "We had 300 grams of rice for three persons per day through 1975–78. Life was miserable. We had only herbal medicines. There was no school system. The children are not taught to read and write, only to work."

Executions. "In 1975 there were 1,200 people in my village. There are about 900 there now. The former military, professors, students, and richer farmers were killed by clubs regularly since 1975. Sometimes, they are simply taken away. Other times, you are warned first, then killed.

"On April 24, 1975, at Thmar Kul, all officers, about 1,000, including two of my brothers, were massed together in a warehouse. They were ordered to take off their skirts, then tied together, and then shot and killed. Their wives and children were not harmed as far as I know."

JUNE 5, 1975.

KHMER REFUGEE WALKS OUT FROM PHNOM PENH

EXTRACTS FROM A CABLED REPORT FROM THE AMERICAN EMBASSY IN BANGKOK, DATED 5 JUNE 1975

The name of the refugee who provided this account and the name of his village have been excised to protect the identity of family members or friends still in Cambodia.)

Summary. A Khmer who walked from Phnom Penh to Surin Province of Northeast Thailand has given an eyewitness account of hardships on the forced evacuation from Phnom Penh. He described Khmer Communist (KC) efforts to organize and parcel out the marchers, and gave details on the fate of soldiers, civil servants, and police. He also provided some information on personalities. The refugee spent some time in the area of his native village southwest of Kompong Cham City. He estimated that one million people have now settled in the fertile area on the west bank of the Mekong around Kompong Cham.

Mr. M—T— was caught in Phnom Penh's fall and forced to march out of the capital on April 18. He and his children finally made it to Surin Province on May 28. His description of the exodus confirms KC toughness toward the people but adds details showing that they had planned the March prior to their victory. Chief among these details are mimeographed forms which the "Exodus Reception Committee (*Kenakpak Jetuoul Neak Comleas*) of the Khmer United National Front's (FUNK) Northern (ODDAR) Region issued to all heads of family at a headquarters located on Route 6 about 12 kilometers from the Prek Kdam Ferry.

M—T— lived south of the Monk's Hospital in the western section of the capital. The KC forced him and his neighbors west toward Pochentong Airport and then north up the Avenue des Lacs which parallels Route 5. They permitted him to drive until trenches across the highway stopped his car at which point he had to abandon the vehicle. He then carried two of the five bags of rice he had brought out of Phnom Penh and gave the rest away. Most of the marchers, he noted, had enough food at first, food was sometimes available after they crossed the Tonle Sap at the Prek Kdam Ferry. The ration was rice mixed with dried ground banana and a little salt. In some places, however, KC personnel not only provided no food, but confiscated the marchers' extra clothing. The KC insisted that the marchers had "no hope" of ever returning to Phnom Penh.

M—T— saw only a few corpses on the eight-day march from Phnom Penh to the ferry point. He did come across some fresh corpses. Other marchers told him that the KC killed those people as an example because they refused to march on. Insufficient or bad water and sunstroke killed the old and the very young. Then cholera broke out.

The KC inoculated marchers with two kinds of vaccine: one was from the Pasteur Institute and labeled specific to cholera, the other, which the marchers jokingly called "BGI medicine" because it came in Brasseries et Glaceries de l'Indochine soft drink bottles, was a panacea the KC used against every illness or wound. It was not effective against cholera. By the time marchers got close to Kompong Cham City, some four or five people were dying of cholera daily. He understood that cholera hit Sector 22, south of the Mekong, especially hard.

KC efforts to sort out the trekkers started about 12 kilometers east of the Prek Kdam Ferry. They winnowed soldiers, police, and national police internal security agents into one category which M—T— understood would be taken off to dig irrigation ditches and build dams. High-ranking civil servants formed another category but had somewhat lighter tasks. The KC separated both these categories from their families.

One air force lieutenant colonel, a skilled mechanic, went off to a reeducation course. Some naval troops, whom the KC particularly hated, worked carrying dirt near Srei Veal just west of Kompong Cham City. Later at Siem Reap, M—T— learned that officers from the former army's garrison worked chopping wood in the Kulen Mountain forests while their enlisted troops prepared the fields near the foothills. Their families had to move east to Roloot.

Further west on Route 6 at Kralanh, he understood that the KC separated 80 soldiers, possibly officers, from their families and sent them away for "reeducation." Villagers said reeducation consisted of work and study. If a man does not return from a reeducation session within six months, the KC would probably have killed him.

At a headquarters 12 kilometers east of the ferry, the KC issued heads of household with an I.D. paper. The Khmer-language mimeographed half-sheet carries the legend, "Northern Region Exodus Reception Committee," the Khmer abbreviation for FUNK, and entries for name, age, wife's name and age, number in the family, and a rubber stamp of the 43rd Sector.

Eastern Kompong Cham Province, according to M—T—'s information, is divided into, from west to east, Sectors 43, 42 and 41 which extend from the Mekong as far north as the latitude of Rumlong on Route 6, and from the Tonle Sap east to Kampong Cham City. M—T— arrived at the headquarters April 26. The KC asked where he wanted to settle and he gave them the name of his native village. When he saw the simple form the KC gave him he entered a different line and said he wanted to go on to Samrong, Oddar Meanchey.

He got a second form which did not have the endorsement which he feared might have restricted him to his home district and left immediately so he would not be caught when the KC reconciled their lists during the night. M—T—noted that he began to see a red flag with the hammer and sickle in the center after he crossed the Tonle Sap. He had seen only the red banner before. He did not see the hammer and sickle after leaving Kompong Cham.

M—T— separated from his family at this point to hurry to Skoun by bicycle, and lost his children until he found them May 12 at Rumlong on Route 6. In the meantime, he visited his native village and traveled somewhat in the province.

He understood that the furthest point of the march reached north to Phum Bos Rok. M—T— estimated that the KC had relocated one million people into this rich land around Kompong Cham: some came into the area after moving from Phnom Penh through Takeo and Prey Veng. Marchers had to find their own tools to work the land. He noticed elaborate and well-made small-scale irrigation systems. Farmers near Troeung said they were planting higher yielding rice strains and claimed 2.5 to 3.2 tons of paddy per hectare.

At M—T—'s home village, people complained that although they had plenty of rice, they lacked fish because the KC had ordered all the fishermen to plant rice. He noted many cases of malnutrition, citing children with bloated bellies.

Sector 22 on the east bank of the Mekong had a surprising influence on Sectors 43, 42, and 41. M—T— said he understood Sector 22 was in a different region and regions kept aloof from each other. Sector 22 personnel worked in the other three sectors, however. M—T— speculated that although Hou Youn commanded Sector 22, his native village is on the west bank and he watched over his native district.

Monks at Wat Ni Kroat, Sork Peam Chih Kong, said they recognized Khieu Samphan and Hou Youn at a meeting in the Wat on March 8. Indirect evidence of Hu Nim's activities came from villagers who said that the KC had orders to protect Hu Nim's uncle. The uncle had raised Hu Nim and later entered the monastery. Older monks had permission to stay in their wats, according to M—T— but the young ones had to leave and grow vegetables.

After linking up with his children May 12, M—T— led the family northwest up Route 6. The road was passable he said with only a few cuts. Crews were working on the highway. He tried to detour at Siem Reap for a last look at Angkor Wat but KC authorities said no. The family then moved through Siem Reap to Kralanh on Route 6 and cut north.

They crossed into Oddar Meanchey Province and used the old Angkor Empire bridge south of Chongkal on the way to Samrong. They dared not go through Samrong but took to the forest. Villagers near Samrong pointed out three graves and said the KC had executed Lieutenant Colonel Daok and two others who fought to defend Samrong while the province governor got away.

After getting lost for several days they crossed the Thai border. KC authorities only checked papers three times during the second part of his trek. No one ever searched him and he arrived with a passport and other documents. ●

CAPITAL GAINS RELIEF IS NOT A LIBERAL VERSUS CONSERVATIVE ISSUE

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. JONES of Oklahoma. Mr. Speaker, last week's tax cut vote by the House of Representatives, including the relief we provided for capital gains taxes, should not be interpreted as a liberal versus conservative issue. The bill reported by the Ways and Means Committee was a balanced bill which met both the economic and political concerns of the vast majority of Americans.

The support for the House-passed tax bill was evidenced today by the Harris survey. This most recent Louis Harris poll showed that by a margin of 66 to 28 percent, the American people supported the Jones-Ullman-Conable bill to lower capital gains taxes to a maximum 35 percent.

The Harris poll further confirmed the wisdom of the size of the individual tax cuts provided in the ways and Means Committee bill. It was supported by a 75-to-17 percent majority of Americans.

Some liberals erpressed strong reservations about the capital gains tax relief measures in our bill. Sunday's Washington Star column by former Senator Eugene McCarthy, whose liberal credentials are unassailable, should dispel those liberal fears.

Senator McCarthy endorses capital gains tax relief as the best method to infuse new capital, new life and new jobs into the American economy. Following is Senator McCarthy's column which I commend to my colleagues:

CAPITAL GAINS AND CARTER'S ECONOMICS

(By Eugene J. McCarthy)

Harry Truman said once, or possibly more than once, that he was looking for a one-armed economist; because every economist he knew, when talking of economic matters, always said, "On the one hand . . ." and, "Then, on the other hand . . ."

If one takes President Carter's comments on proposals to reduce the rate of taxation on capital gains as economic rather than political judgments, one must conclude that the president is consulting neither one-handed nor two-handed economists. One must conclude that he has become his own economist.

The president has called the proposed reduction "a high tax windfall for millionaires" and "two bits" for the average American (the latter phrase reportedly coming from the resident White House image maker, Gerald Rafshoon). Treasury Secretary Michael Blumenthal, who should know better and probably does, joined in with the suggestion that the legislation be referred to as the "Millionaires' Relief Act of 1978." Given these comments, it may be in order to look at some economic and political realities.

One basic economic fact, on which there is general agreement among economists and businessmen, is that the American economy needs an infusion of new capital. The economic and political reality is that there are three major sources for this needed capital.

One is the government itself, which could provide capital through loans or grants to business and industry, similar to those given to the ailing Penn Central Railroad. This method is not generally favored by either businessmen or politicians, and has not proved to be a very reliable source of investment funds.

A second source is earnings retained by industry and business. The amount of capital available from this source depends on corporate tax rates, investment credit allowances, depreciation schedules and so forth. There is, however, little political support for any major concession in these areas.

The third possible source of funds, and the most desirable from a social point of view, is non-governmental and non-business. It is investment by individuals, either directly or through financial institutions which act as their agents.

Increased investment by individuals could be encouraged most immediately and effectively through a reduction in capital gains rates. That action should be sustained by changes in income tax policies which would permit or assist persons below the "millionaire" category to accumulate earnings to be used for investment.

Administration opponents of the reduction in the capital gains tax rate, as well as other opponents and critics of it, make the obvious point that its initial benefits would go to upper-income persons who have the largest investments.

This is not a compelling argument against reduction of capital gains tax rates. It is a compelling reason for looking at other aspects of the tax system. And it is a compelling reason for looking at the operation of the American economy, which makes it difficult for persons in every income bracket (unless they already have wealth) to accumulate property through savings and investment.

It is important to note that, because of the great increase in value of homes and farms and small-business properties, middle-income persons would benefit significantly from reduced capital gains taxes.

Among the benefits likely to flow, in some measure, from reduced capital gains tax collection are these:

1. The encouragement of savings and investment.

2. The unlocking of assets and the more normal transfer of them, and the discouragement of the present "until death do we part with capital assets" policy and practice.

3. A clear and immediate benefit to home owners who sell and also to those who buy.

4. A reduction of the unhealthy corporate debt-equity ratio.

5. Some aid to U.S. businesses that compete with businesses from Japan and Germany and other countries which do not impose capital gains taxes.

6. An increase in jobs.

7. An increase in the Gross National Product.

8. And, depending on other things being more or less equal, a reduction in the federal budget deficit.●

CONSTABLE TASK FORCE IN PENNSYLVANIA

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. KOSTMAYER. Mr. Speaker, I rise to inform my colleagues of the historical presence and significance of the police constable in the system of law enforcement in the United States.

From colonial days in which common laws were the only laws of our land, the constable has been a time-honored, elected, law enforcement peace officer of the people. Constables receive their income in most instances from fees paid by litigants rather than the taxpayer.

The evolution of modernized police departments bypassed the continuing and important role of the constable in the delivery of justice at the minor court level.

Today, because of the awareness and the combined efforts of the Pennsylvania State Constables Association and the Office of the Chief Court Administrator of Pennsylvania, a constables task force has redefined the role of the constable. As a result, there has been incorporated a National Police Constables Association. Their goal is to give a rebirth to the dignity and respect once proudly enjoyed by constables nationwide.

May I urge my colleagues to give their active support to the valid efforts of the constables, State to State, as they continue their nationwide program to regain their historical role in behalf of the people who elect them to serve the judicial and executive branches of our Government.●

AMTRAK SERVICE IN MONTANA

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. BAUCUS. Mr. Speaker, on July 10 and 12 the Interstate Commerce Commission held hearings in Montana regarding Amtrak service in our State and the Department of Transportation's proposed route structure. Well over 100 Montanans turned out to testify at these hearings, an indication of the widespread support for continued Amtrak service in Montana.

I know that the Montana hearings were not unique, and that Americans all over the country turned out in support of Amtrak and continued rail passenger service to their areas. We in Congress will eventually have to evaluate the Department of Transportation's proposed route structure, and make some hard decisions relative to the future of Amtrak.

Therefore, so that my colleagues can better understand the transportation situation in Montana and our need for continued service along both of our current Amtrak routes, I am submitting for the RECORD a copy of the testimony I submitted to the ICC. On behalf of all Montanans, for whom transportation options are scarce, I urge my colleagues to read this testimony.

TESTIMONY OF REPRESENTATIVE MAX BAUCUS

I am pleased that we in Montana have been given this opportunity to present to the Interstate Commerce Commission our views on Amtrak service in Montana. The Department of Transportation's Study of Amtrak and their proposed route structure has caused a great deal of concern here in Montana, and we all appreciate your coming here to listen to our side of the Amtrak issue.

It often seems to us here in Montana that the Federal government does not understand the transportation needs of the less populated areas of the West. Our access to intercity transportation is already severely limited, yet Federal policies continually thwart

our efforts to obtain and keep adequate service.

Montana's federal highway system is far from complete, and when people use it, they are required by federal law to drive vast distances between Montana towns at 55 miles per hour or less.

Community bus systems, such as Missoula's, are not able to receive federal operating funds which go to urban cities, because most of Montana's cities are not large enough to qualify.

Northwest Airlines is on strike and the Civil Aeronautics Board has been unwilling to pressure both sides into active negotiations.

The Interstate Commerce Commission has just let commercial railroads increase their grain freight rates— while the railroads have been unable to provide boxcars to the state.

And the Federal Aviation Administration threatened to close some of Montana's Flight Service Stations, an action which would cause safety problems for Montana pilots.

When agencies decide to cut back, they cut back service to areas of low population density. This is also the case with Amtrak. Under the route structure proposed by the Department of Transportation, vast areas of the West are to be without rail passenger service. The decision to eliminate service along many routes was based on performance and financial data. In many cases, especially here in Montana, I question the validity of rating our routes based on past performance that has been severely hampered by Amtrak itself

It is impossible to build up ridership without a consistent schedule that both Amtrak personnel and the riding public can depend on. Common sense tells us that people will not become regular riders if one month the train runs in early evening, the next month it comes through mid-morning, and a few weeks later it is changed again— and this time the train came through in the middle of the night. This is exactly what has happened with Amtrak schedules in Montana. Amtrak estimates that since it inaugurated service in Montana some 7 years ago, time schedules have been changed more than two dozen times.

The Southern Amtrak route in Montana has been threatened with discontinuance every year since service began. Every year we have been successful in our efforts to retain service, but it is understandable that people and businesses have been reluctant to come to depend upon the North Coast Hiawatha.

Our routes have also been plagued with outdated equipment that is prone to breakdowns, especially in the winter when heating systems frequently fail to operate. Amtrak has promised new equipment on our routes, but it will arrive two years late— next winter at the earliest.

Amtrak has repeatedly told Congress that in order to make passenger rail service successful, daily service is a necessity. Yet our routes were forced to suffer last winter and did not have enough equipment to run daily trains. Thus, even after Congress voted to fund Amtrak at a level that would permit full operation of the system through the spring of 1978, our two Montana routes were still held to a schedule that Amtrak admits will deter passengers from riding the train.

Yet, despite all of these circumstances, Montana boasts a healthy freight market on Amtrak. Freight shipped on Amtrak brings $54,000 in revenue to the Corporation annually, and this amount would be much higher if our trains were run daily and on a dependable schedule.

Last fall I was active in the fight in Congress to retain full Amtrak service until an impartial, zero-base study of Amtrak could be conducted. My colleagues and I had hoped that such a study would present a fair and clear picture of rail passenger service in the United States, and offer clear suggestions for improving the system.

In many regards the Department of Transportation's study was a disappointment, and I have some reservations about their recommendations. There are routes on the proposed system that lose more money than either of our Montana routes. In addition, the Northeast Corridor is left virtually untouched.

More disturbing, serious doubt about the objectivity of the study exists because the operating cost of the proposed system corresponds exactly to the amount that President Carter announced he would seek for Amtrak. However, President Carter's budget figure was announced months before the Amtrak study was complete.

In presenting the Department's study to Congress, Secretary of Transportation Brock Adams made the following statement:

"Additionally, there is the need to consider Amtrak in the context of the nation's energy shortage. The passenger train, if it is operated well and if it carries a reasonable number of passengers, is energy efficient. The 1973–74 fuel crisis demonstrated that the American people will ride trains when automobile fuel is in short supply. We probably will reach a time when supplies will be permanently limited. In the meantime, we must work at improving the Amtrak system and its operations, so that the American people will, when the time comes, have available an energy-efficient alternative."

I fully agree with this statement, and suggest to you that once fuel does become severely limited, Montana will be hit much harder than other parts of the country. Distances here are great, and many Montanans travel hundreds of miles just to reach the nearest city. The automobile is the most common mode of transportation in our state, and if fuel shortages are to become a way of life in America one Amtrak route, serving less than half of our population, will not suffice.

Even now, Montana has suffered much more than other areas of the country as the result of current energy saving strategies. Montanans have accepted the 55 mile-per-hour speed limit—which hits us much harder than it has New York City or Chicago. We have great distances to travel simply to conduct ordinary business activities. We did this to conserve energy, and now the Department of Transportation is trying to take away one of our best energy savers—Amtrak.

It is indeed unfortunate that the proposed Amtrak system has set northern and southern Montana against each other as they attempt to preserve their respective Amtrak routes. Both are needed and a strong case can be made on behalf of both routes. The North Coast Hiawatha serves the more populated areas of southern Montana, while the Empire Builder serves Montana's Hi-Line which enjoys fewer transportation opportunities.

I urge the Department of Transportation to take into consideration the points that I have raised before they make their final recommendation in December. Give us a chance to operate with daily service, new equipment and a consistent schedule and then look at the routes. We need a fair chance to prove that Amtrak is not only needed in Montana, but that under adequate circumstances our routes can be strong.

Thank you for allowing me to appear before you this morning. I know that you are eager to get on with this hearing, and I too am anxious to hear what my fellow Montanans have to say about our Amtrak service.●

AFTER THE REVOLUTION COMES THE REALITY—THE IMPACT OF PROPOSITION 13 ON SERVICE FOR THE ELDERLY OF CALIFORNIA—PART I

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. BIAGGI. Mr. Speaker, on June 6 the voters of California by a 1.9 million vote margin approved proposition 13 considered to be the most drastic tax reduction proposal ever enacted by a unit of government. It slashed property taxes, limited future increases, and barred increases in other taxes. It was clearly a response by the voters of California to unrelenting increases in their property taxes.

Now that several months have elapsed, attention is being directed at the consequences of proposition 13. With property taxes providing a good portion of the States revenues, real and potential cuts are being felt in important social and human service programs throughout the State. The $5 billion State surplus distributed to most areas has minimized the impact for this year, but for next year and beyond the situation will become quite acute.

On July 5 and 6 the Subcommittee on Human Services of the House Select Committee on Aging conducted 2 days of hearings examining the impact of proposition 13 on services to the State's large elderly population. Our special concern were the more than 200 Federal programs which required matching funds from the State and local governments, programs providing benefits and services for groups of all ages. We learned at the time of our hearing that senior centers, nutrition centers, and other programs were being curtailed in some areas of the State while other programs such as adult education fees, were being charged for the first time.

One theme ran through the testimonies of the more than 30 witnesses we heard from—the worst is yet to come. We are concerned not only about California but also the more than 20 States which are contemplating similar tax reduction proposals. It is obvious that Americans are tired of high taxes. The concern of the American people provided the basis for the House's passage last week of major tax cut legislation.

The message of proposition 13 was best summarized by one of our witnesses who said "I am tired of paying higher taxes and getting lesser returns." Too many Americans see their tax dollars being used to feed an already obese government. Efficiency and reduced spending must be the new themes of government on all levels.

We requested the commissioner on aging for California, Ms. Janet Levy to provide us with her detailed analysis of proposition 13's impact on elderly services once the new budget was filed. I am pleased to insert the first part of this report which touches on potential con-

cerns and real cuts. The ranking minority member of my subcommittee Mr. SARASIN will insert the remaining portion of this report.

JARVIS-GANN INITIATIVE IMPACT ON AGING NETWORK

CALIFORNIA DEPARTMENT OF AGING—
JULY 18, 1978

Following voter approval of Proposition 13, the Jarvis-Gann initiative, all social service programs are assessing the extent to which their programs will be affected. The California Department of Aging is especially concerned about the immediate and long-range impact on aging programs throughout the state.

To accumulate data on the effects of Proposition 13, the Department requested all Area Agencies on Aging (AAA's), Title III programs and Title VII projects to describe the projected impact for their area. From the 17 AAA's, 51 Title III programs in Direct Service Areas and 80 Title VII projects in existence, responses were received from seven AAA's, 19 Title III and 29 Title VII projects. The programs which did not answer may be waiting for a more definite picture of how their projects will be affected.

The responses are speculative in nature, as local governments are just becoming aware of how much relief they can expect from state surplus revenue, and this will affect the kind and extent of their budget cuts accordingly. However, it is possible at this early stage to note trend and similarity in the areas of project income affected, and in turn the impact this reduced income will have upon aging programs themselves.

The primary threat to program viability which respondents consistently note concerns non-federal matching funds. Preliminary indications are that match, hard or soft, cannot be maintained at prior level in most programs.

Public contributions for non-federal match frequently come from revenue sharing or city or county general funds, which are entirely controlled by the local government units. In response to reduced revenues, the aging projects anticipate a major shift in priorities for use of available funds.

Reduction in these public match sources affects aging programs in one of two ways: (1) Either directly—through loss of city, county or revenue sharing supported positions, facilities, or equipment; or (2) Indirectly—through loss of supporting positions funded through other non-match resources. If a program is entirely dependent upon public match, curtailment of these funds could mean its elimination.

Most programs are better off if they relied upon private and in-kind donations as their matching source. However, some projects might be indirectly impacted because the grantee agency which donates in-kind match could lose its public funding as well.

Another feared impact is that city and county governments might reprioritize what services should operate in their community. For example, local governments could offer to match Older Americans Act funds, but only if objectives were consistent with new local government priorities. Two counties have decided to remove grantee agencies from county auspices into a completely independent status.

Cutbacks in the sources of program revenue mean cutbacks in services offered—if no alternate source of revenue can be found. Respondents consistently report four chief areas of program operations that are threatened: (1) Staff positions; (2) Supportive services; (3) Facilities; and (4) Planned expansion.

1. STAFF LOSS

A. Anticipated personnel loss is a real concern in a number of replies; one Title III project foresees the loss of one-half of its staff. The types of defunded positions range from project directors to van drivers—and everything in between. In-kind personnel will also be eliminated; several replies mention loss of CETA and Title IX positions, while one project is being charged for auditing staff and maintenance workers that were formerly supplied by the county.

B. Threatened are not only staff positions, but persons having expertise in the field of aging. Those staff personnel who are exempt from civil service regulations can be laid off; those with civil service protection can be taken out of the aging program and put into another city- or county-funded position. One project reports that its city plans to replace all senior program directors with recreation personnel, quite possibly having little interest or experience in aging-related service functions.

C. Action is being taken at the project level to forestall widespread personnel replacement or dismissal. Some programs report a voluntary or mandatory cut in staff hours or salary and elimination of all out-of-area travel reimbursement. Most programs are experiencing a freeze on both salary and current number of employees.●

AFTER THE REVOLUTION COMES THE REALITY—PART II

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. SARASIN. Mr. Speaker, reports are beginning to surface about the effects of California's proposition 13 the "tax revolution" of 1978. Although statewide property taxes are being cut by 60 percent (or $7 billion), the State has had to use its $5 billion surplus to bail out local governments. This overall reprieve is only good for 1 year, however, and one must wonder who will bail out the localities next year.

The strain caused on programs by increased needs and decreased funds is already being felt up and down the State. This is especially true in human services and nowhere is the stress more apparent than in services to senior adults.

I insert in the RECORD the second part of a study undertaken by the California Department of Aging that describes the emerging impact of proposition 13 on senior supportive services, facilities, and planned expansion. It bears close scrutiny because it shows that proposition 13, although termed "the revolution without bullets," may already have serious casualties:

2. SUPPORTIVE SERVICES LOSS

The aging services most often listed as being in jeopardy are supportive services such as transportation and escort services, nutrition education, recreation activities, health care and information and referral.

A. By all predictions, transportation and escort services will be hardest hit by funding loss. It probably is the most serious victim since it is so essential to most aging projects. Double affected are those rural areas who can depend on no alternative means of transportation. The specific losses vary from program to program, but frequently noted are loss of paid drivers, vans, elimination of volunteer driver reimbursement, and cutbacks in funds for maintenance and gasoline costs for vehicles for both congregate dining and Meals on Wheels usage.

B. As Adult Education funds are unanimously withdrawn statewide, they seriously impact on services offered in nutrition sites and senior centers. Aging programs use Adult Education personnel to render a number of supportive services mandated by law, which now must depend on community volunteers or be paid from another source—such as drawing from meals in Title VII projects.

Besides rendering such services as nutrition education, shopping assistance and counseling, Adult Education classes provide recreation, physical therapy, senior arts and crafts and language and citizenship classes, for a variety of courses offered at one location. Preventive health care for seniors is also threatened as an anticipated loss of health screening programs and cancellation of on-site nursing services is reported.

C. Information and referral (I&R) and legal services are also in trouble. I&R, extensively staffed by CETA workers, is an adjunct to most aging programs, and thus program loss places this service in jeopardy. And assistance to seniors in the form of legal services is scheduled to be cut in a minimum of four out of 40 existing projects so far. This could mean an actual revenue loss to the state as the majority of cases handled through this medium involve underpaid or denied claims from Social Security, SSI or other federal public benefit programs to which the senior citizen is entitled to receive payment.

3. LOSS OF FACILITIES

A. Even if aging programs keep staff and service loss to a minimum, many are currently faced with losing the facilities in which these staff and services operate. Unfortunately a great number of senior centers and nutrition sites are located in buildings owned or leased by the local Parks and Recreation Department. These departments are being severely cut back, and they in turn impose restricted facility use as one cost-saving measure.

B. Complete closure of many senior centers is both anticipated and already in effect. One county is attempting to make do with closing its senior centers one day per week. Other areas are allowing the sites to remain open if the project reimburses the local government unit in some way. Sites are directed to begin payment of rent for a facility that was previously free of charge or to pay the cost of utilities, janitorial or trash-hauling services in return for continued occupancy. The alternative is relocation, and as one project indicates, the cost of relocation is quite high—especially to the elderly patrons who are used to a particular location.

4. PLANNED EXPANSION

Expansion plans of aging programs throughout California are now abandoned in favor of using dollars for existing services. Postponed are new senior centers and nutrition sites, as well as additional legal and regional information and referral services and an alternative housing program for seniors. Barring the receipt of state surplus revenue, no additional aging services are likely to be attempted in California in the near future.

The information thus far received indicates that aging programs are certain to sustain a setback in their progress to effectively serve California's elderly citizens if services providers do not initiate strategy to minimize the impact at the project level.●

REPRESENTATIVE MARK W. HANNAFORD'S COMPLETE VOTING RECORD FOR 1978

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. HANNAFORD. Mr. Speaker, I believe that it is the responsibility of every

Member of Congress to keep his constituents informed of all significant votes taken by the full House of Representatives. In light of this belief, I present below the complete roster of my votes in this 2d session of the 95th Congress. Only those votes of a purely procedural nature have been omitted.

The following format has been adopted for this presentation: the official number of the rollcall vote precedes a complete description of the vote. Mr. Speaker, after this description you will find the date of final consideration, my vote, and the fate and tally of the legislation.

No. 2. Amendment to H.R. 2329, Fish & Wildlife Administration, that strikes language allowing warrantless searches and seizures as "provided by law" and substitutes language that permits warrantless searches and seizures by enforcing officers where "there is reasonable grounds to believe that a person has committed or is attempting to commit an offense in his presence of view"; Jan. 19, 1978; yes; passed, 215–131.

No. 3. H.R. 2329, to improve the administration of fish and wildlife programs; Jan. 19; yes; passed, 292–59.

No. 5. To suspend the rules and pass: H.R. 9165, to authorize the Secretary of State to acquire a statute or bust of George C. Marshall for placement in the Department of State; Jan. 23; yes; passed, 351–22.

No. 6. To suspend the rules and pass: H.R. 8771, to amend title 5, U.S. Code, to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or separation of a Federal employee who is under the civil service retirement system (payments to former spouses); Jan. 23; yes; passed, 369–7.

No. 7. To suspend the rules and pass: H.R. 9471, to amend title 5, U.S. Code, to provide that Japanese-Americans shall be allowed civil service retirement credit for time spent in World War II internment camps; Jan. 23; yes; passed, 366–12.

No. 8. To suspend the rules and pass: H.R. 9169, amend, to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel; Jan. 23; yes; passed, 309–68.

No. 10. To suspend the rules and pass: H.R. 8811, amended, to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court; Jan. 24; yes; passed, 399–1.

No. 11. To suspend the rules and pass: H.R. 7662. amended, to amend the Administrative Conference Act; Jan. 24; yes; passed, 292–103.

No. 12. Conference report on S. 1585, to amend title 18, U.S. Code, to make unlawful the use of minors engaged in sexually explicit conduct for the purpose of promoting any film, photograph, negative, slide, book, magazine, or other print or visual medium, or live performance, clearing for the President; Jan. 24; yes; passed, 401–0.

No. 13. H. Res. 964, rule under which H.R. 1614, Outer Continental Shelf, is being considered; Jan. 25; yes; passed, 247–158.

No. 15. Substitute amendment to committee amendment to H.R. 1614, Outer Continental Shelf, that sought to limit use of alternative bidding systems to not more than 50 percent of the total areas offered for lease annually; eliminate dual leasing; make contracts granted by the Secretary for geological and geophysical explorations subject to annual appropriations and eliminate the Secretary's authority to permit on-structure exploratory drilling; omit the requirement that the Department of the Interior promulgate air quality standards for the OCS; and establish a revenue sharing program for coastal states funded by OCS revenues; Jan. 26; yes; failed, 187–211.

No. 16 Substitute amendment to the committee substitute to H.R. 1614, Outer Continental Shelf, that sought to eliminate the prohibition against joint bidding; eliminate dual leasing; set limits on use of alternative bidding systems to at least 10% of the time, but no more than 30%; eliminate the requirement that OCS operations comply with state standards; delete Offshore Oil Pollution Compensation Fund; create a revenue sharing program that would channel 20% of OCS revenues directly to states through the Coastal Energy Impact Program; and make the Coast Guard and the Interior Dept. responsible for safety regulations rather than OSHA; Jan. 26, no; failed, 143–229.

No. 18 H.R. 5798, to amend the Interstate Commerce Act to authorized appropriations for the Office of Rail Public Counsel for fiscal year 1978—Jan. 30, yes; passed, 318–44.

No. 19 H.R. 5646, requiring ConRail to make premium payments under certain medical and life insurance plans; Jan. 30, yes; passed, 314–50.

No. 20 To suspend the rules and pass: H.R. 9851, to amend the Federal Aviation Act of 1958 to improve the air cargo service; Jan. 31, yes; passed, 403–0.

No. 21 Amendment to H.R. 1614, Outer Continental Shelf, as amended by a substitute, that strikes language allowing the Secretary or other Federal agencies to conduct geological and geophysical explorations; strikes the words "core and test drilling;" and permits only the Secretary to authorize explorations; Jan. 31, yes; passed 328–77.

No. 22 Amendment to H.R. 1614, Outer Continental Shelf, that strikes provisions in the bill on compensation for lease cancellation, and substitutes language stating that "such cancellation shall not foreclose any claim for compensation as may be required by the Constitution"; Jan. 31, yes; passed, 208–194.

No. 23 Substitute amendment to H.R. 1614, Outer Continental Shelf, that sought to limit the mandatory use of alternative bidding systems to not more than 30% but not less than 10%; Jan. 31, no; falied, 196–207.

No. 24 Substitute amendment to H.R. 1614, Outer Continental Shelf, that limits the mandatory use of alternative bidding systems to not more than 50% but not less than 20% of the total area offered for lease; Jan. 31, no; passed, 219–188.

No. 26 Amendment to H.R. 8200, Bankruptcy Reform, that sought to retain the present court structure for dealing with bankruptcies; expand the jurisdiction of bankruptcy courts; provide for appointment of bankruptcy judges by courts of appeals; lengthens the term of judges from 6 to 15 years; and place the U.S. trustees under the supervision of the Judicial Conference rather than the Justice Department; Feb. 1, no; failed, 146–262.

No. 27 Amendment to H.R. 1614, Outer Continental Shelf, that gives the Justice Department and the FTC 30 days to review any prospective lease for possible anticompetitive consequences before the lease is issued; Feb. 1, no; passed, 241–162.

No. 28 Amendment to H.R. 1614, Outer Continental Shelf, that deletes provisions requiring random selection of tracts to be offered under new bidding systems; Feb. 1, no; passed, 225–174.

No. 30 Amendment to an amendment (described below—Roll No. 31) to H.R. 1614, Outer Continental Shelf, that sought to delete the documentation, registry, and manning requirements from the bill; Feb. 2, no; failed, 118–280.

No. 31 Amendment to H.R. 1614, Outer Continental Shelf, that sought to require that 6 months after enactment the Coast Guard must issue standards for design, construction, alteration, and repair of vessels, structures, etc., used in OCS operations; and that one year after enactment, with certain exceptions, all vessels, structures, etc., must be manned by American citizens or permanent residents and all building or rebuilding of such be performed in the U.S.; Feb. 2, no; failed, 201–208.

No. 33 Amendment to H.R. 1614, Outer Continental Shelf, that directs up to 20 percent (not more than $200 million) of OCS funds to coastal states for impact of offshore development; Feb. 2, yes; passed, 279–120.

No. 34 Amendment to H.R. 1614, Outer Continental Shelf, that sought to permit coastal states that do not have a Federally approved coastal zone mangement program to receive Coastal Energy Impact Program funds; Feb. 2, yes; failed, 159–230.

No. 35 H.R. 1614, Outer Continental Shelf Lands Act Amendments of 1977; Feb. 2, yes; passed, 291–91.

No. 36 To suspend the rules and pass: H.R. 9434, to amend the Social Security Act to increase the dollar limitations and Federal medical assistance percentages and applicable to the medicaid programs of Puerto Rico, the Virgin Islands, and Guam; Feb. 6, yes; passed, 253–106.

No. 37 H. Res. 982, providing for the consideration of H.R. 8336, Chattahooche River National Park; Feb. 6, yes; passed, 323–41.

No. 39 Amendment to substitute amendment (described below—Roll No. 40) to H.R. 6362, Timber Sales, that sought to direct the Secretary to "take such action as he may deem appropriate to obviate collusive practices" in bidding; Feb. 6, no; failed, 136–239.

No. 40 Substitute amendment to H.R. 6362, Timber Sales, that authorizes the Secretary to select the bidding method which best ensures fair competition, economic stability for communities dependent on public timber, full value to the government on timber sales, and prevention of collusive practices, and does not establish an advisory committee; Feb. 6, yes; passed, 295–76.

No. 42 To suspend the rules and pass: H.R. 7843, amended, to provide for the appointment of additional district and circuit judges; Feb. 7, yes; passed, 319–80.

No. 43 H. Res. 872, rule under which H.R. 6805, Consumer Representation, is being considered; Feb. 7, yes; passed, 271–138.

No. 44. Amendment in the nature of a substitute to H.R. 6805, Consumer Representation, that sought to establish an Office of Consumer Counsel within each of 23 major Federal departments and agencies and a Division of Consumer Protection and Advocacy in the Justice Department; Feb. 7, no; failed, 93–313.

No. 47. Amendemnt to H.R. 6805, Consumer Representation that sought to require OCR to give the President 30 days notice before seeking judicial review of an action by a regulatory agency as well as nonregulatory agencies; Feb. 8, yes; failed, 195–219.

No. 48. Amendment to H.R. 6805, Consumer Representation, that sought to strike the provision exempting certain proceedings and activities concerning labor disputes and agreements; Feb. 8, no; failed, 138–274.

No. 49. Amendment to H.R. 6805, Consumer Representation, that sought to strike the provision exempting Dept. of Agriculture proceedings concerning crop support, commodities payments and loans, and other Dept. programs; Feb. 8, absent; failed, 105–309.

No. 50. H.R. 6805, to establish an Agency for Consumer Protection in order to secure within the Federal Government effective protection and representation of the interests of consumers; Feb. 8, yes; failed, 189–227.

No. 52. Motion to recommit H.R. 3813, Redwood National Park, for amendment that would have cut expansion of the park from 48,000 to 14,000 acres and deleted the au-

thority of the Dept. to acquire an additional 30,000 acres; Feb. 9, no; failed, 116–274.

No. 53. H.R. 3813, to amend the Act of October 2, 1968, an Act to establish a Redwood National Park in the State of California; Feb. 9, yes; passed, 328–60.

No. 54. Conference report on H.R. 3454, Endangered American Wilderness Act of 1978; Feb. 9, yes; passed, 333–44.

No. 56. Motion to instruct the managers on the part of the House for H.R. 7843, Additional Federal Judgeships, to insist on House language providing for the merit selection of district judges; Feb 9, yes; passed, 321–19.

No. 57. To resolve into the Committee of the Whole for consideration of H.R. 8336, Chattahoochee River National Park; Feb. 14, yes; passed, 325–7.

No. 58. Amendment to H.R. 8336, Chattahoochee River National Park, that sought to permit initial acquisition, planning and management by the National Park Service but require partial funding and long-term management by state and local government; Feb. 14, No; failed, 119–230.

No. 59. H.R. 8336, to enhance the outdoor recreation opportunities for the people of the U.S. by expanding the National Park System and by providing access to and within areas of the National Park System (Chattahoochee River National Park); Feb. 14, yes; passed, 273–79.

No. 60 H.R. 5503, to amend titles 10 and 37, U.S. Code, relating to the appointment, promotion, separation, and retirement of members of the armed forces; Feb. 14, yes, passed, 351–7.

No. 62 Conference report on H.R. 4544, Black Lung Benefits Reform Act of 1977, clearing measure for the President; Feb. 15, yes, passed, 264–113.

No. 63 H.R. 9370, to provide for the development of aquaculture in the United States; Feb. 15, no, passed, 234–130.

No. 65 To suspend the rules and pass: H.R. 10979, amended, to provide emergency assistance for the repair of certain weather related damages to highways and urban mass transportation systems due to the winter of 1977–1978; Feb. 21, no, passed, 274–137.

No. 66 To suspend the rules and pass; H.J. Res. 649, amended, to authorize the President to call a White House Conference on the Arts; Feb. 21, yes, passed, 341–65.

No. 67 To suspend the rules and pass: H.R. 10569, amended, to amend the Alcohol and Drug Abuse Education Act to extend the authorizations and appropriations for carrying out the provisions of such Act; Feb. 21, yes, passed, 409–0.

No. 68 To suspend the rules and pass: H.R. 10606, to authorize funds for the Hubert H. Humphrey Institute of Public Affairs; Feb. 21, yes, passed, 356–53.

No. 71 Motion offered by Mr. Lloyd of California to table the motion to recede and concur in the Senate amendment No. 43 to H.R. 9375, Supplemental Appropriations (amendment rescinds funding for B–1 bomber); Feb. 22, yes, failed, 172–244.

No. 72 Previous question on motion, offered by Mr. Mahon, to concur in Senate amendment No. 43 to H.R. 9375 making supplemental appropriations for the fiscal year ending September 30, 1978 (amendment rescinds funding for B–1 bomber); Clearing measure for the President Feb. 22, no, passed, 234–182.

No. 73 H. Res. 990, the rule under which H.R. 9214, International Monetary Fund, would be considered; Feb. 22, yes, passed, 386–15.

No. 76 Conforming amendment offered by Mr. Neal to the committee amendment to H.R. 9214, International Monetary Fund (limiting the scope of the bill to the SFF); Feb. 23, absent, passed, 253–141.

No. 77 H.R. 9214, to amend the Bretton Woods Agreements Act to authorize the United States to participate in the Supplementary Financing Facility of the IMF; Feb. 23, paired for; passed, 267–125.

No. 78 Amendment offered by Mr. Crane to H.R. 9179, OPIC, that sought to prohibit OPIC loans or guaranties to the National Finance Corporation of Panama without the approval by resolution of the House of Representatives; Feb. 23, paired against; failed, 166–199.

No. 79. Amendment offered by Mr. Moore to H.R. 9179, OPIC, that prohibits OPIC involvement in any project to establish or expand production or processing of palm oil, sugar, or citrus crops; Feb. 23, paired against; passed, 191–167.

No. 80. H.R. 9179, Overseas Private Investment Corporation Amendments Act of 1977; Feb. 23, absent; passed, 191–165.

No. 83. H.R. 9757, Grazing Fee Moratorium of 1977; Feb. 24, general pair; passed, 257–47.

No. 84. Amendment in the nature of a substitute, offered by Mr. Roncalio, to H.R. 3377, Wichita Indian Claims, that deletes the waiver of res judicata and collateral estoppel; further defines affiliated banks and groups; and provides that any claim will be subject to the Act of October 8, 1976, concerning transfer of cases from the Commission to the Court of Claims; Feb. 24, absent; passed, 293–1.

No. 85. H.R. 3377, to authorize the Wichita Indian Tribe of Oklahoma, and its affiliated bands and groups of Indians, to file with the Indian Claims Commission any of their claims against the U.S. for lands taken without adequate compensation; Feb. 24, absent; passed, 226–68.

No. 87. H. Con. Res. 464, approving an amendment to the District of Columbia Charter relating to initiative and referendum; Feb. 27, yes; passed, 321–24.

No. 88. H. Con. Res. 471, approving an amendment to the District of Columbia Charter relating to recall of elected officials; Feb. 27, yes; passed, 350–4.

No. 90. To suspend the rules and pass: H.R. 9622, amended, to abolish diversity of citizenship as a basis of jurisdiction of federal district courts and to abolish the amount in controversy requirement in federal question cases; Feb. 28, yes; passed, 266–133.

No. 91. Conference report on H.R. 3816, Federal Trade Commission Amendments of 1977; Feb. 28, no; failed, 146–255.

No. 92. H.R. 5981, to amend the American Folklife Preservation Act to extend the authorizations of appropriations contained in such act; Feb. 28, yes; passed, 306–80.

No. 97. Passage of H.J. Res. 554, to amend the Constitution to provide for representation of the District of Columbia in the Congress; Mar. 2, yes; passed, 289–127.

No. 100. H. Res. 957, amended, providing funds for the Committee on Veterans' Affairs; Mar. 3, yes; passed, 336–1.

No. 101. H. Res. 953, amended, providing funds for the Committee on the District of Columbia; Mar. 3, yes; passed, 318–15.

No. 102. H. Res. 1012, amended, providing funds for the Committee on Rules; Mar. 3, yes; passed, 321–13.

No. 105. To suspend the rules and pass: H.J. Res. 715, proclaiming May 3, 1978, "Sun Day"; Mar. 6, yes; passed, 348–7.

No. 107 To suspend the rules and pass: H.R. 10551, to extend for one year the authority of the Commissioner of Education to waive provisions of title I of the Elementary and Secondary Education Act for certain local educational agencies; Mar. 7, yes; passed, 404–0.

No. 108 H. Res. 1056, rule under which H.R. 11180, Debt Limitation Increase, was considered; Mar. 7, yes; passed, 285–115.

No. 110 Amendment offered by Mr. Boiling to H.R. 11180, Debt Limitation Increase, that deleted language providing for the debt ceiling, in subsequent years, to be set in the concurrent resolutions on the budget; May 7, yes; passed, 277–132.

No. 111 H.R. 11180, to increase the public debt limit through March 1, 1979, to provide that thereafter the public debt limit shall be established pursuant to the congressional budget procedures and to improve debt management; Mar. 7, yes; failed, 165–248.

No. 112 H.J. Res. 746, making urgent power supplemental appropriations for the Department of Energy, Southwestern Power Administration for the fiscal year ending September 30. 1978: Mar. 7, yes; passed, 353–50.

No. 113 H. Res. 1003, providing funds for the Committee on Public Works and Transportation; March 7, yes; passed, 399–1.

No. 119 H.Res. 1057, the rule under which H.R. 50, Humphrey-Hawkins, was considered; March 8, yes; 349–58.

No. 125 Amendment offered by Mr. Wright, as amended, to the amendment offered by Mr. Sarasin to H.R. 50, Humphrey-Hawkins, that requires the establishment of annual price stability goals and requires the president to formulate specific policies and programs to reduce inflation; March 9, yes; passed, 277–143.

No. 126 Amendment offered by Mr. Jeffords in the nature of a substitute to the amendment offered by Mr. Sarasin, to H.R. 50, Humphrey-Hawkins, that sought to set a 5-year goal of 3 percent inflation; March 9, no; failed, 198–223.

No. 127 Amendment offered by Mr. Jeffords to H.R. 50, Humphrey-Hawkins, that requires the Economic Report to contain two unemployment goals and reporting statistics: one based on employment in the private sector and the second to include both private and public sector employment; and requires reporting of any changes which occur in the method of determining the unemployment figure; March 9, no; passed, 239–177.

No. 128 Amendment offered by Mr. Quie to H.R. 50, Humphrey-Hawkins, that sets a goal of 100% parity of income for farmers at the market-place within 5 years after enactment; March 9, no; passed, 264–150.

No. 129 H.R. 10982, to rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95–285), transmitted pursuant to the Impoundment Control Act of 1974; March 10, yes; passed, 318–0.

No. 131 To order a second to the motion to suspend the rules and pass H.R. 6635, amended, to amend the Second Liberty Bond Act to allow the interest rates paid on U.S. retirement plan and individual retirement bonds to be increased to the rate paid on U.S. series E savings bonds; March 13, yes; passed, 372–1.

No. 132 To suspend the rules and pass: H.R. 7814, amended, to authorize federal agencies to experiment with flexible and compressed employee work schedules; March 13, yes; failed, 242–141 (required a two-thirds vote).

No. 133 To suspend the rules and pass: H.R. 10126, amended, to amend Title 5, U.S. Code, to establish a program to increase part-time career employment within the Civil Service; March 13; yes, passed, 294–84.

No. 134 To suspend the rules and pass: H.R. 9146, amended, to provide for congressional review of proposed changes in postal services; March 13, yes; passed, 371–6.

No. 135 Motion to recommit H. Res. 1010, amended, to provide expenses of investigations and studies to be conducted by the Committee on the Judiciary, to the Committee on House Administration; March 13, no, failed, 161–216.

No. 136 Motion to recommit H. Res. 956, amended, to provide funds for the Select Committee on Assassinations, to the Committee on House Administration; March 13, no; failed, 182–198.

No. 137 H. Res. 956, amended, providing funds for the Select Committee on Assassinations; March 13, yes; passed, 204–175.

No. 143 Motion to order a second to a mo-

tion to suspend the rules and pass S. 1671, Absaroka-Beartooth Wilderness; March 14, absent, passed, 380–20.

No. 144 Motion to order a second to a motion to suspend the rules and pass H.R. 810, travel expenses of certain government officials; March 14, yes; passed, 387–2.

No. 145 Motion to order a second to a motion to suspend the rules and pass H.R. 2028, amended, to authorize the home production of beer and wine; March 14, yes; passed, 388–3.

No. 146 To suspend the rules and pass: S. 1671, to designate the Absaroka-Beartooth Wilderness, Custer & Gallatin National Forests, in the State of Montana, clearing for the President's signature; March 14, yes; passed, 405–7.

No. 147 To suspend the rules and pass: H.R. 810, to amend Section 4941(d)(2)(G) of the Internal Revenue Code (regarding travel expenses of certain government officials; March 14, yes; passed, 372–38.

No. 148 Conference report on H.R. 3813, to amend the Act of October 2, 1968, an Act to establish a Redwood National Park in the State of California; March 14, yes; passed, 317–60.

No. 152 Ashbrook amendment to Baucus substitute to Ashbrook amendment to H.R. 50, Humphrey-Hawkins, that sought to make balancing the budget a goal and to require the President, in choosing means to achieve the unemployment goal, to first recommend policies and programs to achieve a balanced budget; March 15, no; failed, 205–216.

No. 153 Baucus substitute to Ashbrook amendment to H.R. 50, Humphrey-Hawkins, that makes it a purpose of the act to achieve a balanced budget, consistent with the achievement of the unemployment goal; March 15, yes; passed, 411–3.

No. 154 Motion to end all debate on Title I amendments to H.R. 50, Humphrey-Hawkins, at 5:45 p.h.; March 15, yes, passed, 238–170.

No. 155 Quie amendment to H.R. 50, Humphrey-Hawkins, that sought to require the President to submit to Congress permanent tax rate reductions for individuals and corporations as part of the policies and programs to achieve full employment; March 15, no; failed, 194–216.

No. 157 Amendment to H.R. 50 offered by Mr. Jeffords that directs the president to implement, through financial assistance, programs already established by law as major national priorities, such as the removal of architectural barriers to the handicapped; March 16, yes; passed, 398–0.

No. 158 Amendment to H.R. 50 offered by Mr. Pike that sought to provide that the unemployment statistics used for the purposes of the act not include those unemployed because of strikes, those unemployed for less than 4 weeks, those not seeking full-time jobs, those who voluntarily left their last job, and those who have jobs waiting but for their own convenience are not ready to enter employment; March 16, no; failed 199–204.

No. 159 Motion offered by Mr. Wiggins that the Committee of the Whole rise and report H.R. 50 back to the House with the enacting clause stricken; March 16, no; failed, 106–310.

No. 160 Amendment to H.R. 50 offered by Mr. Ashbrook that sought to require the president to consider the impact of all the provisions of the U.S. Code and the Code of Federal Regulations on the national economy; March 16, no; failed, 114–296.

No. 161 Rules Committee amendment to H.R. 50 in the nature of a substitute for Title III, Policies and Procedures for Congressional Review, as amended; March 16, yes; passed, 259–153.

No. 162 Amendment to H.R. 50 offered by Mr. Bauman that sought to terminate the provisions of this act on September 30, 1983, unless extended by Act of Congress; March 16, no; failed, 196–216.

No. 163 Republican amendment in the nature of a substitute to H.R. 50 that sought to establish a Presidential Task Force on Youth Unemployment, direct the president to focus on the problems of inflation and taxation, and to require the Council of Economic Advisors to study the effects of inflation on the income tax structure and marginal tax rates; March 16, no; failed, 137–276.

No. 164 H.R. 50, Full Employment and Balanced Growth Act of 1978; March 16, yes; passed, 257–152.

No. 166 To order a second on a motion to suspend the rules and pass H.R. 11274, to amend Title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students and to amend Section 1208 of such act; March 20, yes; failed, 156–218.

No. 167 H. Res. 996, amended, to provide funds for the expenses of the investigation and study authorized by a resolution adopted on February 3, 1977, by the Committee on International Relations; March 20, yes; passed, 367–13.

No. 168 H. Res. 1078, rule under which H.R. 7700, Postal Service Act of 1978, will be considered; March 20, yes; passed 387–0.

No. 170 H. Res. 1082, expressing condemnation of the recent terrorist kidnapping of Alado Moro; March 21, yes; passed, 398–0.

No. 171 H. Res. 1092, rule under which H.R. 11518, Debt Limit Extension, was considered; March 21, yes; passed, 314–80.

No. 172 H.R. 11518, to extend the existing temporary debt limit; March 21, yes; passed, 233–172.

No. 174 H. Res. 1093, providing for the consideration of H.R. 11315, Federal Election Campaign Act Amendments of 1978; March 21, yes; failed, 198–209.

No. 175 Conference report on H.R. 5383, Age Discrimination in Employment Act Amendments of 1978; March 21, yes; passed 391–6.

No. 177 H.J. Res. 796, making an urgent supplemental appropriation for disaster relief for the fiscal year ending September 30, 1978; March 22, yes; passed, 393–4.

No. 178 H. Res. 1074, rule under which H.R. 9518, Shipping Act Amendments of 1978, was considered; March 22, yes; passed, 365–33.

No. 180 H.R. 9518, Shipping Act Amendments of 1978; March 22, yes; passed, 390–1.

No. 181 Motion offered by Mr. Foley that the House disagree to the Senate amendments to H.R. 6782, Agriculture, to permit marketing orders to include provisions concerning marketing promotion, including paid advertisement, of raisins and distribution among handlers of the pro rata costs of such promotion; and ask a conference with the Senate; March 22, no; passed, 332–63.

No. 182 Motion offered by Mr. Foley to lay on the table the motion offered by Mr. Moore to instruct the conferees on the part of H.R. 6782, Agriculture, to concur in certain language in the Senate amendments concerning flexible parity; March 22, yes; passed, 224–167.

No. 184 To suspend the rules and pass: H.R. 10984, amended, to provide for the establishment of the Friendship Hill National Historic Site in the State of Pennsylvania; April 3, yes; passed, 351–6.

No. 185 To suspend the rules and pass: S. Con. Res. 44, in lieu of H. Con. Res. 359, to provide recognition of the services of General Thaddeus Kosciuszko; April 3, yes; passed, 358–0.

No. 186 To suspend the rules and pass: H.R. 6900, amended, to amend the National Trails Systems Act of 1968 (82 Stat. 919), as amended, to designate the Oregon National Historic Trail and Travelway as a unit of the National Trails System; April 3, yes; passed, 353–4.

No. 187 To suspend the rules and pass: H.R. 11662, amended, to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts; April 3, yes; failed, 228–132. (required two-thirds vote)

No. 189. To order a second to the motion to suspend the rules and pass: H.R. 11003, White House Personnel Authorization; April 4, yes; passed, 239–147.

No. 190. To suspend the rules and pass: H.R. 11003, amended, to clarify the authority for employment of personnel in the White House Office and Executive Residence at the White House, and to clarify the authority for employment of personnel by the President to meet unanticipated needs; April 4, yes; failed, 207–188 (required two-thirds vote).

No. 191. Motion that the House resolve itself into the Committee of the Whole for further consideration of H.R. 7700, Postal Service; April 5, yes; passed, 386–4.

No. 192. Allen amendment in the nature of a substitute to the Simon amendment to H.R. 7700, Postal Service, which sought to prohibit the setting of zone-rated parcel post rates at levels which would undercut the rates of or discriminate against private parcel delivery enterprises furnishing similar or comparable services; April 5, yes; failed, 147–257.

No. 193. Simon amendment to H.R. 7700, Postal Service, which requires parcel post rates to recover any direct or indirect cost of the service; April 5, yes; passed, 292–112.

No. 195. Ashbrook amendment to H.R. 7700, Postal Service, which sought to provide for congressional review of rate, fee, and classification decisions; April 5, yes; failed, 180–218.

No. 197. Corcoran amendment to H.R. 7700, Postal Service, that requires the Postal Service to detail by function how it spent public service funds the preceding year and the proposed expenditure for the new fiscal year; April 6, no; passed, 203–189.

No. 198. H.R. 7700, Postal Service Act of 1978; April 6, yes; passed 384–11.

No. 199. H.R. 10899, to provide for Federal regulation of participation by foreign banks in domestic financial markets; April 6, yes; passed, 367–2.

No. 201. To suspend the rules and pass: H.R. 10730, amended, to authorize appropriations to carry out the Marine Mammal Protection Act of 1972 during fiscal years 1979, 1980, and 1981; April 10, yes; passed, 380–5.

No. 202. To suspend the rules and pass: H.R. 10878, amended, to extend until October 1, 1981, the voluntary insurance program provided by section 7 of the Fishermen's Protective Act of 1967; April 10, yes; passed 365–14.

No. 203. To suspend the rules and pass: H.R. 10882, to authorize appropriations to carry out conservation programs on military reservations and public lands during fiscal years 1979, 1980, and 1981; April 10, yes; passed, 377–8.

No. 204 To suspend the rules and pass: H.R. 10732, amended, to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal years 1979, 1980, and 1981; April 10, yes, passed, 329–55.

No. 205 To suspend the rules and pass: H.R. 10884, amended, to authorize appropriations to the Council on Environmental Quality for years 1979, 1980, and 1981—April, yes, passed, 307–76.

No. 206 To suspend the rules and pass: H.R. 11445, amended, to amend the Small Business Act and the Small Business Investment Act of 1958, April 10; no, passed, 310–72.

No. 208 To suspend the rules and pass: H.R. 7101, to amend certain provisions of law relating to land claims by the United States in Riverside County, California, based upon the accretion or avulsion; April 11, yes, passed, 390–14.

No. 209 To suspend the rules and pass:

H.R. 2497, amended, to reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma as federally supervised and recognized Indian tribes; April 11, yes, passed, 368–33.

No. 210 To suspend the rules and pass: H.R. 11092, to increase the authorization of appropriations under the Act of December 22, 1974 (88 Stat. 1712) (re Navajo-Hopi Relocation Commission); April 11, yes; passed 361–43.

No. 211 H.R. 11662, to provide for the establishment of the Lowell National Historical Park in the Commonwealth of Massachusetts; April 11, yes, passed, 326–76.

No. 212 Conference report on H.R. 6782, Overseas Private Investment Corporation Amendments Act of 1978; April 11, yes, passed, 216–185.

No. 216 Conference report on H.R. 6782, Emergency Agricultural Act of 1978; April 12, no, failed, 150–268.

No. 216 H.R. 3161, to amend Title 5, U.S. Code, to improve the basic workweek of firefighting personnel of executive agencies; April 12, absent, passed, 241–120.

No. 219 Amendment offered by Mr. Bauman to H.R. 11003, White House Personnel Authorization, that sought to reduce the number of White House office employees authorized to be compensated at rates above GS–16 from 100 to 75; April 13, no, failed, 180–215.

No. 220 Amendments offered by Mr. Gilman to H.R. 11003, White House Personnel Authorization, that sought to require the President to submit a new authorization request for Executive Office personnel and related expenses within one year of assuming office; April 13, no, failed, 171–232.

No. 221 Amendment offered by Mr. Symms to H.R. 11003, White House Personnel Authorization, that sought to prohibit the use of authorized funds of personnel to be used in any official capacity to influence members of State legislatures with regard to ratification of proposed amendments to the Constitution; April 13, no; failed, 85–320.

No. 222 H.R. 11003, to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, and to clarify the authority for employment of personnel by the President to meet unanticipated needs; April 13, yes; passed, 265–134.

No. 223 Preferential motion offered by Mr. Moffett that the conference committee meetings between the House and the Senate on H.R. 5289, relating to natural gas regulation, be closed to the public, but that any member of Congress would have the right to attend any closed or open meeting; April 13, no; failed, 6–371.

No. 224 To suspend the rules and pass: H.R. 3489, amended, to amend Section 216 (b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from Guam and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy; April 17, yes; passed, 357–1.

No. 225 To suspend the rules and pass: H.R. 10822, amended, to improve the operations of the National Sea Grant program and to authorize appropriations to carry out such program for fiscal years 1979 and 1980; April 17, yes; passed, 341–23.

No. 226 To suspend the rules and pass: H.R. 10823, amended, to amend the National Advisory Committee on Oceans and Atmosphere Act of 1977 to authorize appropriations to carry out the provisions of such act for fiscal years 1979 and 1980; April 17, yes; passed, 317–47.

No. 227 To suspend the rules and pass: H.R. 11465, amended, to authorize appropriations for the U.S. Coast Guard for fiscal year 1979; April 17, yes; passed, 357–13.

No. 229 To suspend the rules and pass: H.R. 8588, amended, Establishment of Offices of Inspector General in Certain Executive Departments and Agencies; Apr. 18, yes; passed, 388–6.

No. 230 To suspend the rules and pass: S. 2452, amended, to authorize funds for the Hubert H. Humphrey Institute of Public Affairs and for the Everett McKinley Dirksen Congressional Leadership Research Center; Apr. 18, yes; passed, 267–127.

No. 231 H.R. 3787, to direct the Secretary of the Interior to purchase and hold certain lands in trust for the Zuni Indian Tribe of New Mexico; to confer jurisdiction on the Court of Claims with respect to land claims of such tribe; and to authorize such tribe to purchase and exchange lands in the States of New Mexico and Arizona, Apr. 18, yes; passed, 347–48.

No. 232 Amendment offered by Mr. Breaux to H.R. 11400, National Science Foundation, that sought to authorize an additional $3.2 million for ocean margin drilling planning and evaluation; Apr. 18, yes; failed, 111–291.

No. 233 Amendment offered by Mr. Ashbrook to H.R. 11400, National Science Foundation, that sought to reduce by $6 million the authorization for biological, behavioral, and social science projects; Apr. 18, no; failed, 174–229.

No. 234 H.R. 11400, to authorize the appropriation of specified dollar amounts for each of the National Science Foundation's major program areas (and certain subprograms), and to provide requirements relating to periods of availability and transfers of the authorized funds; Apr. 18, yes; passed, 364–37.

No. 235 H. Res. 1139, the rule under which H.R. 8494, Lobbying Disclosure, is being considered; Apr. 18, yes; passed, 368–15.

No. 236 Amendment offered by Mr. Kindness to H.R. 8494, Lobbying Disclosure, that sought to change the geographic exemption by excluding communications by an individual on behalf of an organization if the individual lived or worked in the state represented by a senator or in the congressional district represented by a member of the House, or in a county or standard metropolitan statistical area, all or part of which is within a member's congressional district; April 19, no; failed, 195–212.

No. 237 Amendment offered by Mr. Flowers to H.R. 8494, Lobbying Disclosure, that requires registered organizations to report written lobbying solicitations or solicitations made through advertisements paid for by the organization; Apr. 19, yes; passed, 245–161.

No. 241 Amendment offered by Mr. Pressback to H.R. 8494, Lobbying Disclosure, that sought to include departments or agencies of the executive branch of the federal government and the White House Office as organizations that could be covered by the bill; Apr. 20, no; failed, 44–350.

No. 242 Amendment offered by Mr. Railsback to H.R. 8494, Lobbying Disclosure, that requires registered lobbying organizations to report the name and address of organizations contributing $3,000 or more during the calendar year and the amount given, when the contribution was spent in whole or in part for lobbying and when the lobbying organization spends at least one percent of its budget on lobbying activities; Apr. 20, yes; passed, 251–135.

No. 243 Motion offered by Mr. Danielson that the House end all debate on H.R. 8494, Lobbying Disclosure, and all amendments thereto at 5 p.m.; Apr. 20, yes; failed, 158–215.

No. 244 H. Res. 1143, the rule providing for the consideration of H.R. 11401, NASA Authorization; Apr. 24, absent; passed, 332–0.

No. 245 Amendment offered by Mr. Madigan to H.R. 11504, Agricultural Credit Act, in the nature of a substitute for title II, the Emergency Agricultural Credit Adjustment Act of 1978, that sought to establish one program to offer 100 percent insured and guaranteed "bridge" loans to meet payments on existing loans that come due, and to provide operating loan financing to farmers and ranchers; Apr. 24, absent; failed, 151–215.

No. 246 H.R. 11504, to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the U.S., and extend the Emergency Livestock Credit Act; Apr. 24, absent; passed, 347–23.

No. 248 H.R. 11401, to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management; Apr. 25, yes; passed, 345–54.

No. 249 Amendment offered by Mr. Young of Florida to H.R. 11877, Peace Corps Authorization, that sought to prohibit the use of authorized funds to carry out any program in the Central African Empire; Apr. 25, no; failed, 169–228.

No. 250 H.R. 11877, to authorize supplemental appropriations for fiscal year 1978, and to authorize appropriations for fiscal year 1979, for the Peace Corps, and to make certain changes in the Peace Corps Act; Apr. 25, yes; passed, 297–102.

No. 251 H. Res. 1409, to disapprove Reorganization Plan Numbered 1, transmitted by the President on February 23, 1978; Apr. 25, no; failed, 39–356.

No. 252 H. Con. Res. 573, denouncing the Government of Cambodia for its disregard of basic human rights; Apr. 25, yes; passed, 388–0.

No. 254 H.R. 11832, to authorize appropriations for fiscal year 1979 under the Arms Control and Disarmament Act; Apr. 26, yes; passed, 332–74.

No. 255 Amendment offered by Mr. Santini to H.R. 8494, Lobbying Disclosure, that sought to direct the GAO to study lobbying activities by all levels of government and organizations of state or local elected officials and to delay until January 1, 1980, the coverage under the bill for organizations of state or local elected or appointed officials; Apr. 26, yes; failed, 197–211.

No. 256 Amendment offered by Mr. Kindness to H.R. 8494, Lobbying Disclosure, that states that communications dealing only with the status, existence, or subject of an issue are exempted; Apr. 26, no; passed, 207–188.

No. 257 H.R. 8494, to regulate lobbying and related activities—Apr. 26, yes; passed 259–140.

No. 259 H.R. 11302, to authorize appropriations for environmental research, development, and demonstrations for fiscal year 1979 (EPA Research Authorization); Apr. 27, yes; passed, 367–33.

No. 260 H.J. Res. 859, making supplemental appropriations for the U.S. Railway Association for the fiscal year ending September 30, 1978; Apr. 27, no; passed, 202–196.

No. 262 To suspend the rules and pass: H.R. 11657, amended, to authorized appropriations to carry out the Central, Western, and South Pacific Fisheries Development Act until the close of fiscal year 1983; May 1, yes; passed, 326–23.

No. 263 To suspend the rules and pass: H.R. 10392, to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship; May 1, yes; failed, 219–137 (required a two-thirds vote).

No. 264 To suspend the rules and pass: H.J. Res. 816, to extend the authority of the Federal Reserve banks to buy and sell certain obligations; May 1, yes; passed, 278–77.

No. 265 H. Res. 1150, the rule under which H.R. 9400, Civil Rights of Institutionalized Persons, is being considered; May 1, yes; passed, 320–20.

No. 267 Amendment offered by Mr. Ertel to H.R. 9400, Civil Rights of Institutionalized Persons, that strikes coverage for jails, prisons, and other correctional institutions; May 1, no; passed, 227–132.

No. 269 To suspend the rules and pass: H.R. 11713, amended, to create a solar and renewable energy sources loan program within the Small Business Administration; May 2, yes; passed, 375–17.

No. 270 To suspend the rules and pass: H.R. 8099, amended, relating to the settlement between the U.S. and the Ak-Chin Indian community of certain water right claims of such community against the U.S.; May 2, yes; failed, 256–138 (required a two-thirds vote).

No. 271 To suspend the rules and pass: H. Res. 1158, to provide that the bill H.R. 3881, to amend the Securities Investor Protection Act of 1970, with the Senate amendments thereto, be taken from the Speaker's table, and that the Senate amendments be agreed to with an amendment; May 2, yes; passed, 384–10.

No. 272 H. Res. 1159, resolution of the House that the Speaker certify the report of Claude Powell's contempt of Congress to the U.S. Attorney for Criminal Contempt; May 2, yes; passed 367–16.

No. 274 Amendment offered by Mrs. Holt to H. Con. Res. 559, First Budget Resolution, that sought to reduce budget authority to $548.8 billion; outlays to $488.3 billion; revenues to $440 billion; and the deficit to $48.2 billion; May 3, no; failed, 197–203.

No. 275 Substitute amendment offered by Mr. Stratton to the amendment offered by Mr. Mitchell of Maryland to H. Con. Res. 559, First Budget Resolution, that sought to increase budget authority for national defense by $2.4 billion; May 3, no; failed, 142–262.

No. 276 Amendment offered by Mr. Mitchell of Maryland to H. Con. Res. 559, First Budget Resolution, that sought to reduce national defense by $4.8 billion in budget authority and $2.8 billion in outlays; and transfer these amounts to other employment and economic development programs; May 3, no; failed, 98–313.

No. 277 Amendment offered by Mr. Conable to H. Con. Res. 559, First Budget Resolution, that sought to increase tax cuts by $10.3 billion to a total of $38.7 billion; May 3, no; failed, 163–239.

No. 278 Amendment offered by Mr. Roberts to H. Con. Res. 559, First Budget Resolution, that increases veterans' benefits and services by $1 billion in budget authority and $844 million in outlays; May 3, yes; passed, 362–33.

No. 279 Amendment offered by Mr. Fraser to H. Con. Res. 559, First Budget Resolution, that sought to add $435 million in budget authority and $390 million in outlays to the education, training, employment, and social services function for increased funding of training and employment programs for youth and the elderly; May 3, absent; failed, 123–265.

No. 280 Amendment offered by Mr. Mattox to H. Con. Res. 559, First Budget Resolution, that sought to reduce budget authority and outlays by $255 million to allow for a federal salary increase of 5.5 percent instead of 6 percent; May 3, absent; failed, 172–210.

No. 282 H. Res. 1162, the rule waiving points of order against the conference report on H.R. 6782, Emergency Agricultural Act; May 4, absent; passed, 241–148.

No. 283 Conference report on H.R. 6782, Emergency Agricultural Act of 1978, clearing the measure for the President; May 4, absent; passed, 212–182.

No. 284 Substitute amendment offered by Mr. Luken to the amendment offered by Mr. Coughlin to H. Con. Res. 559, First Budget Resolution, that decreases federal revenues by $635 million for tuition tax credits for elementary, secondary, and postsecondary education (Coughlin amendment sought to decrease federal revenues by only $500 million for tuition tax credit for college tuition only); May 4, absent; passed, 199–173.

No. 285 Amendment offered by Mr. Coughlin, as amended by the Luken substitute, to H.Con.Res. 559, First Budget Resolution, that decreased federal revenues by $635 million for tuition tax credits for elementary, secondary, and postsecondary education; May 4, absent, passed, 227–136.

No. 287 To suspend the rules and pass: H.R. 12481, amended, to authorize appropriations for certain insular areas of the U.S.; May 8, yes; failed, 203–170 (required a two-thirds vote).

No. 288 To suspend the rules and pass: H.Con.Res. 583, relating to Americans missing in action in Southeast Asia; May 8, yes; passed, 369–0.

No. 289 H.J.Res. 873, making an urgent supplemental appropriation for the disaster loan program of the Small Business Administration for the fiscal year ending September 30, 1978; May 8, yes; passed, 346–23.

No. 291 Amendment offered by Mr. Ashbrook to H.Con.Res. 559, First Budget Resolution, that reduces budget authority and outlays for HEW programs by $3.15 billion; May 9, no; passed, 198–189.

No. 292 Amendment offered by Mr. Hansen to H.Con.Res. 559, First Budget Resolution, that seeks to insure greater accountability and congressional oversight of the Panama Canal Company by transferring canal revenues to federal budget; May 9, yes; passed, 231–170.

No. 293 Amendment offered by Mr. Fisher to H.Con.Res. 559, First Budget Resolution, that sought to reduce outlays by $7 billion and budget authority by $8 billion; May 9, no; failed, 195–203

No. 294 Amendment offered by Mr. Brown of Michigan to H.Con.Res. 559, First Budget Resolution, that sought to reduce budget authority by $178.2 billion and outlays by $195.4 million by holding certain regulatory activities to the 1978 level; May 9, no; failed, 196–196.

No. 296 Amendment offered by Mr. Caputo to H.Con.Res., First Budget Resolution, that sought to reduce budget authority and outlays by $56 million for the purpose of deleting Food for Peace funds for South Korea; May 10, absent; failed, 146–254.

No. 297 Amendment offered by Mr. Jacobs to the amendment in the nature of a substitute offered by Mr. Rousselot to H.Con.Res. 559, First Budget Resolution, that sought to set revenues at $464.5 billion, budget authority at $523.8 billion, outlays at $462.7 billion, with a zero deficit and a tax reduction of $9 billion; May 10, no; failed, 45–352.

No. 298 Amendment in the nature of a substitute offered by Mr. Rousselot that sought to set revenues at $464.6 billion, budget authority at $520.4 billion, and outlays at $464.6 billion, with a zero deficit and a tax reduction of $38.7 billion; May 10, no; failed, 170–226.

No. 299. Amendment offered by Mr. Ashbrook to H. Con. Res. 559, First Budget Resolution, that sought to reduce budget authority and outlays for HEW programs by $3.15 billion; May 10; no; failed, 192–205 (This amendment previously had been agreed to on May 9, No. 291.).

No. 300. H. Con. Res. 559, setting forth the congressional budget for the U.S. Government for the fiscal year 1979; May 10; yes; passed, 201–197.

No. 302. H. Con. Res. 617, denouncing the assassination of Aldo Moro; May 11; yes; passed, 398–0.

No. 303. Amendment offered by Mr. Lott to H.R. 12222, Foreign Aid Authorization, that sought to reduce the authorization for population planning to $205 million, international disaster assistance to $8 million, and the Economic Security Fund to $1.82 billion; May 11; no; failed, 183–212.

No. 304. Amendment offered by Mr. Hagedorn to H.R. 12222, Foreign Aid Authorization, that sought to prohibit assistance to nations that do not make reasonable progress toward eliminating domestic impediments to agriculture production; May 11; absent; failed, 141–236.

No. 305. Amendment offered by Mr. Lagomarsino to H.R. 12222, Foreign Aid Authorization, that sought to limit U.S. aid to Panama to 25 percent of the revenues Panama receives from the canal; May 11; absent; failed, 187–187.

No. 308. Amendment offered by Mr. Johnson of Colorado to H.R. 12222, Foreign Aid Authorization, that sought to make tobacco and tobacco products ineligible for use in the Food for Peace Program; May 12; absent; failed, 126–189.

No. 309. Amendment offered by Mr. Derwinski in the nature of a substitute to the amendment offered by Mr. Ashbrook to H.R. 12222, Foreign Aid Authorization, that sought to limit the prohibition only of direct aid to Vietnam, Cambodia, Uganda, or Cuba; May 12; absent; failed, 148–155.

No. 311. To suspend the rules and pass: H.R. 11209, to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime telecommunications services; May 15; yes; passed, 350–0.

No. 312. Amendment offered by Mr. Bauman to H.R. 12222, Foregn Aid Authorization, that reduces authorized funding for programs by 5 percent, with the exception of funds for food and nutrition, and American schools and hospitals abroad; May 15; no; passed, 200–172.

No. 313. H.R. 12222, International Development and Food Assistance Act of 1978 (Foreign Aid Authorization); May 15; yes; passed, 225–148.

No. 314. H.R. 10392, to establish a Hubert H. Humphrey Fellowship in Social and Political Thought at the Woodrow Wilson International Center for Scholars at the Smithsonian Institution and to establish a trust fund to provide a stipend for such fellowship; May 15; yes; passed, 222–152.

No. 315 H.R. 11291, to authorize appropriations for the Federal Fire Prevention and Control Act of 1974, and to change the name of the National Fire Prevention and Control Administration to the U.S. Fire Administration; May 15, yes; passed, 360–11.

No. 317 To suspend the rules and pass: H.R. 12255, amended, to amend the Older Americans Act of 1965 to provide for improved programs for older persons; May 15, yes; passed, 361–6.

No. 318 To suspend the rules and pass: H.R. 4030, amended, to amend the Internal Revenue Code of 1954 to increase the amount of stock which certain private foundations may hold in certain public utilities without being subject to the excise tax on excess business holdings; May 15, no; failed, 218–145 (required a two-thirds vote).

No. 320 To suspend the rules and pass: H.R. 12467, amended, to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, and to provide for independent living rehabilitation services for the severely handicapped; May 16, yes; passed, 382–12.

No. 321 Motion offered by Mr. Bauman to table the motion offered by Mr. Natcher that the House concur, with amendment, to Senate amendment No. 37 to H.R. 9005, D.C. Appropriations (Senate amendment No. 37 con-

cerned appropriations for the civic center); May 16, yes; failed, 190–199.

No. 322 Motion offered by Mr. Natcher that the House concur, with amendment, to Senate amendment No. 37 to H.R. 9005, D.C. Appropriations; May 16, yes; passed, 199–183.

No. 325. Amendment offered by Mr. Weiss to H.R. 11686, Department of Energy National Security Programs, that sought to prohibit the use of any funds for the production of enhanced radiation weapons by removing the exception contained in the bill; May 17, yes; failed, 90–306.

No. 326 H.R. 11686, to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979; May 17, yes; passed, 348–46.

No. 327 Motion offered by Mr. Giaimo that the House agree to the Senate amendment to the House amendment to S. Con. Res. 80, setting forth the congressional budget for the U.S. government for the fiscal year 1979, clearing the measure; May 17, yes; passed, 201–198.

No. 328 H. Res. 1176, the rule under which H.R. 12641, Temporary Debt Limit, was considered; May 17, yes; passed, 320–77.

No. 329 H.R. 12641, to provide for a temporary increase in the public debt limit; May 17, yes; failed, 167–228.

No. 330 H. Res. 1186, the rule under which H.R. 39, Alaska Lands, is being considered; May 17, yes; passed, 354–42.

No. 334. H. Con. Res. 624, expressing the sense of the Congress that the Helsinki Final Act, as well as international law, guarantees the right of members of Public Groups To Promote Observance of the Helsinki Agreement in the U.S.S.R. to pursue their lawful activities, and urging the President to continue to express U.S. opposition to the imprisonment of members of the Soviet Helsinki Groups; May 18, yes; passed, 399–0.

No. 335. Amendments offered by Mr. Young of Alaska to the Udall substitute to the Meeds substitute to the Leggett substitute to H.R. 39, Alaska Lands, that sought to make certain boundary changes in order to reduce the total acreage within parks and wildlife refuges by approximately 5 million acres to permit selection of these lands by the state of Alaska; May 18, no; failed, 141–251.

No. 336. Amendment offered by Mr. Meeds to the Udall substitute to the Meeds substitute to the Leggett substitute to H.R. 39, Alaska Lands, that sought to reduce lands to be designated as wilderness from approximately 66 million acres to 33 million acres; May 18, no; failed, 119–240.

No. 338. Amendment offered by Mr. Santini to the Udall substitute for the Meeds substitute to H.R. 39, Alaska Lands, that continues minerals assessments provisions and requires the President to submit a proposal to Congress by October 1, 1981, for a procedure for evaluating applications by individuals wishing to carry out mineral exploration or extraction on conservation system lands; May 19, yes; passed, 157–150.

No. 339. Motion offered by Mr. Young of Alaska that H.R. 39, Alaska Lands, be recommitted with instructions to report it back containing an amendment in the nature of the Meeds substitute; May 19, no; failed, 67–242.

No. 340. H.R. 39, to designate certain lands in the state of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness systems; May 19, yes; passed, 277–31.

No. 342 To suspend the rules and pass: H. Res. 1072, to disapprove the action of the Commissioner of Education in consolidating certain advisory councils as proposed in the Commissioner's annual report under section 448 of the General Education Provisions Act; May 22, yes; passed, 269–109.

No. 343 To suspend the rules and pass: H.R. 11777, amended, to authorize and direct the Secretary of Agriculture to provide cooperative forestry assistance to states and others; May 22, yes; passed, 373–2.

No. 344 To suspend the rules and pass: H.R. 11778, amended, to authorize and direct the Secretary of Agriculture to carry out forest and rangeland renewable resources research, and to provide cooperative assistance for such research to states and others; May 22, passed, 373–3.

No. 345 To suspend the rules and pass: H.R. 11779, amended, to provide for an expanded and comprehensive extension program for forest and rangeland renewable resources; May 22, yes; passed, 377–7.

No. 346 To suspend the rules and pass: S. 2370, to remove the limitation on the amount authorized to be appropriated under the Volunteers in the National Forests Act of 1972, clearing measure for President; May 22, yes; passed, 378–5.

No. 347 To suspend the rules and pass: H.R. 12353, to amend title 38, U.S. Code, to extend the period of eligibility for veterans readjustment appointments in the federal government for veterans of the Vietnam era; May 22, yes; passed, 388–0.

No. 348 H. Con. Res. 555, approving the extension of nondiscriminatory treatment with respect to the products of the Hungarian People's Republic; May 22, yes; passed, 209–173.

No. 349 H. Res. 1193, the rule under which H.R. 12602, Military Construction Authorization, was considered; May 22, yes; passed, 377–1.

No. 350 H.R. 12602, to authorize certain construction at military installations for fiscal year 1979: May 22, yes; passed, 363–18.

No. 351 Amendment offered by Mr. McCloskey to committee amendment no. 6 to H.R. 10729, Maritime Authorization, that sought to strike the $3 billion increase in ship mortgage guarantee authority; May 22, no; failed, 126–241.

No. 353 To suspend the rules and pass; S.J. Res. 4, amended, establishing the Aboriginal Hawaiian Claims Settlement Study Commission; May 23, yes; failed, 210–194 (required a two-thirds vote).

No. 354 To suspend the rules and pass: H.R. 12299, amended, to establish a Federal Office on Domestic Violence, and a Federal Council on Domestic Violence, and to provide grants for the assistance of victims of domestic violence and for training programs; May 23, yes; failed, 201–205.

No. 355. To suspend the rules and pass: H.R. 3050, amended, to amend section 451 of the Internal Revenue Code of 1954 to provide for a special rule for the inclusion in income of magazine sales for display purposes; May 23, yes; passed, 359–50.

No. 356. To suspend the rules and pass: H.R. 8535, amended, to amend the Internal Revenue Code of 1954 with respect to the treatment of amounts paid to relatives for purposes of the credit for expenses for household and dependent care services necessary for gainful employment; May 23, yes; passed, 363–44.

No. 357 To suspend the rules and pass: H. Res. 238, amended, expressing the sense of the House with respect to the immediate removal of certain regulations unilaterally put in place by the European Economic Community which have the effect of damaging and interfering with historic and acceptable trade patterns in the U.S. exports of dried prunes and efforts made to restrict walnut exports to the EEC; May 23, yes; passed, 407–0.

No. 358 To suspend the rules and pass: H.R. 11370, amended, to authorize an appropriation to reimburse certain expenditures for social services provided by states prior to October 1, 1975, under titles I, IV–A, VI, X, XIV, and XVI of the Social Security Act; May 23, yes; passed, 377–25.

No. 359 Amendment offered by Mr. McCloskey to H.R. 10729, Maritime Authorization, that sought to prohibit authorized funds to be used for any item of wage costs paid to the Transportation Institute, to the Joint Maritime Congress, or the American Maritime Officers Service, or to any other organization which engages in lobbying activities; May 23, no; failed, 168–227.

No. 360. Amendment offered by Mr. McCloskey to H.R. 10729, Maritime Authorization, that sought to prohibit use of subsidies for any item of wage costs that is paid for the training expenses of new entrants into the maritime industry; May 23, no; failed, 111–289.

No. 361 Amendment offered by Mr. McCloskey to H.R. 10729, Maritime Authorization, that sought to prohibit the use of funds to subsidize the carriage of grain to Russia; May 23, no; failed 180–218.

No. 362 H.R. 10729, to authorize appropriations for the fiscal year 1979 for certain maritime programs of the Department of Commerce; May 23, yes; passed, 326–82.

No. 363 H. Res. 1188, the rule under which H.R. 10929, DOD Authorization, is being considered; May 23, yes; passed 330–71.

No. 365 amendment offered by Mrs. Schroeder to the Carr substitute to H.R. 10929, DOD Authorization, that sought to reinstate the committee substitute language for title II, Research, Development, Testing and Evaluation; May 24, no; failed, 107–297.

No 366 Amendment offered by Mr. Carr in the nature of a substitute to the committee amendment to H.R. 10929, DOD Authorization, that sought to replace the committee substitute with the administration's DOD budget request, with the exception of the $911.9 million authorization for the Trident submarine; May 24, no; failed, 115–278.

No. 367 Amendment offered by Mrs. Schroeder to H.R. 10929, DOD Authorization, that deletes the $8.1 million authorization for procurement of a Gulfstream II executive aircraft for use by the Marine Corps in its Aircraft Support Detachment; May 24, yes; passed, 266–136.

No. 368 Amendment offered by Mr. Aspin to H.R. 10929, DOD Authorization, that sought to replace the $2.1 billion authorization for a large nuclear powered carrier (CVN) with a $1.5 billion conventionally powered, medium size carrier (CVV); May 24, no; failed, 139–264.

No. 369 Amendment offered by Mr. Carr to H.R. 10929, DOD Authorization, that sought to delete the authorization for procurement of aircraft carriers; May 24, no; failed, 106–293.

No. 370 Amendment offered by Mr. Downey to H.R. 10929, DOD Authorization, that sought to add a $29.2 million authorization for development of a wide-bodied cruise missile carrier; May 24, yes; failed, 145–246.

No. 371 Amendment offered by Mr. Stratton, as amended, to H.R. 10929, DOD Authorization, that sought to prohibit the use of authorized funds to reduce Army combat troops in South Korea below 26,000, except in the case of an emergency declared by the President; May 24, no; failed, 142–247.

No. 372 H.R. 10929, Department of Defense Appropriation Authorization Act, 1979; May 24, yes; passed, 319–67.

No. 374 S.J. Res. 137, reaffirming the unity of the North Atlantic Alliance commitment, clearing measure for the President; May 25, yes; passed, 370–0.

No. 375 H. Res. 1165, the rule under which H.R. 7814, Flexible Work Schedules, was considered; May 25, yes; passed, 360–0.

No. 376 Motion that the House resolve itself into the Committee of the Whole for

further consideration of H.R. 781, Flexible Work Schedules; May 25, yes; passed, 338–2.

No. 377 H.R. 7814, to authorize federal agencies to experiment with flexible and compressed employee work schedules; May 25, absent; passed, 288–57.

No. 379 Amendment offered by Mr. Railsback to H.R. 9400, Civil Rights of Institutionalized Persons, that reinstates coverage for persons in jails, prisons, or other correctional institutions, but only permits the Attorney Geenral to initiate a civil action in these areas when the court has transmitted a complaint or petition; May 25, yes; passed, 178–109.

No. 382 To suspend the rules and pass: H. Res. 1194, amended, expressing the sense of the House that until the testimony of Kim Dong Jo is made available under oath to the Committee on Standards of Official Conduct, the transfer of anything of value to the Republic of Korea for nonmilitary purposes should be made only where the refusal to do so would imperil the national security of the U.S. or the territorial integrity of the Republic of Korea; and that the refusal of the U.S. to make such transfers would not, under present circumstances, imperil the national security of the U.S. or territorial integrity of Korea; May 31, yes; passed, 321–46.

No. 383 To suspend the rules and pass: H.R. 7041, to rename two lakes that have been completed as part of the Papillion Creek basin project as the Glenn Cunningham Lake and the Standing Bear Lake; May 31, yes; passed, 369–0.

No. 384 To suspend the rules and pass: H.R. 212, to provide that the park referred to as the East Lake Park located within the West Point Lake project on the Chattahoochee River, Ga., shall hereafter be known and designated as the R. Shaefer Heard Park; May 31, yes; passed, 359–4.

No. 385 H. Res. 1204, the rule under which H.R. 12598, Foreign Relations Authorization, was considered; May 31, yes; passed, 363–10.

No. 387 Amendment offered by Mr. Ashbrook to H.R. 12598, Foreign Relations Authorization, that strikes language authorizing the establishment of a Commission on Proposals for a Center for Conflict Resolution; May 31, yes; passed, 237–135.

No. 388 Amendment offered by Mr. Bauman to H.R. 12598, Foreign Relations Authorization, that strikes language authorizing the establishment of an Institute for International Human Rights; May 31, no; passed, 202–164.

No. 389 Amendment offered by Mr. Hansen to H.R. 12598, Foreign Relations Authorization, that prohibits use of authorized funds directly or indirectly to effect implementation of the Panama Canal treaties of 1978 without a specific Act of Congress; May 31, yes; passed, 208–163.

No. 390 H.R. 12598, Foreign Relations Authorization Act for fiscal year 1979; May 31, yes; passed, 240–124.

No. 392 H. Res. 1178, the rule under which H.R. 12050, Tuition Tax Credit, was considered; June 1, yes; passed, 294–97.

No. 393 Amendment offered by Mr. Vanik to H.R. 12050, Tuition Tax Credit, that extends the tax credit to private, nonprofit elementary or secondary school tuition, June 1, no; passed, 209–194.

No. 394 Amendment offered by Mr. Vanik to H.R. 12050, Tuition Tax Credit, that sought to increase from 25 percent to 50 percent the portion of tuition eligible for the tax credit; June 1, no; failed, 142–261.

No. 395 Amendment offered by Mr. Mikva in the nature of a substitute to H.R. 12050, Tuition Tax Credit, that sought to provide deferral of income taxes for college tuition, which the taxpayer would repay over a period of 10 years, rather than a tax credit; June 1, yes; failed, 155–239.

No. 396 H.R. 12050, to amend the Internal Revenue Code of 1954 to provide a federal income tax credit for tuition; June 1, no; passed, 237–158.

No. 397 H. Res. 1168, the rule under which H.R. 12157, Eximbank, is being considered; June 1, yes; passed, 364–4.

No. 398 H. Res. 1208, providing for the consideration of H.R. 15, ESEA; June 1, yes; passed, 339–13.

No. 399 Motion that the House resolve itself into the Committee of the Whole for further consideration of H.R. 12157, Eximbank; June 1,; passed, 314–13.

No. 401 Amendment offered by Mr. Kelly to H.R. 12157, Eximbank, that sought to permit the bank to guarantee, insure, or extend credit to South Africa as long as it also extends credit to or is authorized to extend credit to communist countries; June 1, no; failed, 157–190.

No. 403 Amendment offered by Mr. Ashbrook to H.R. 12157, Eximbank, that sought to strike the language prohibiting the bank's participation in transactions in the Republic of South Africa; June 2, absent; failed, 116–219.

No. 404 Amendment offered by Mr. Vanik to H.R. 12157, Eximbank, that strikes language exempting the People's Republic of China from the provision requiring a presidential determination before the bank may do business in a communist country; June 2, absent; passed, 179–138.

No. 405 To suspend the rules and pass: H.R. 185, to amend section 2632 of title 10, U.S. Code, to provide the secretary of the department in which the Coast Guard is operating with the authority to transport Coast Guard employees to and from certain places of employment; June 5, general pair; passed, 336–0.

No. 406 To suspend the rules and pass: H.R. 188, amended, to amend the Intervention on the High Seas Act to implement the Protocol Relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other Than Oil, 1973; June 5, general pair; passed, 344–1.

No. 407 To suspend the rules and pass: H.R. 12140, to amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the act; June 5, general pair; passed, 338–9.

No. 409 Amendment offered by Mr. Vento as a substitute for the amendment in the nature of a substitute offered by Mr. Oberstar to H.R. 12250, Boundary Areas Canoe Area, that retains most of the provisions of the original bill, but eliminates the recreation area; establishes a mining protection area; and makes certain changes in motorboat use on specified lakes; June 5, absent; passed, 213–141.

No. 410 H.R. 12250, to designate the Boundary Waters Canoe Area Wilderness and to establish the Boundary Waters Canoe Area National Recreation Area; June 5, general pair; passed. 324–29.

No. 411 H. Res. 1191, the rule under which H.R. 12481, Insular Areas Authorization, was considered; June 5, general pair; passed, 344–2.

No. 412 H.R. 12481, to authorize appropriations for certain insular areas of the United States; June 5, general pair; passed, 292–54.

No. 414 To suspend the rules and pass: H.R. 8394, amended, to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries; June 6, general pair; passed, 340–28.

No. 415 To suspend the rules and pass: H.R. 12637; amended, to amend the North Pacific Fisheries Act of 1954; June 6, general pair, passed, 368–0.

No. 416 To suspend the rules and pass: H.R. 12668, amended, to establish a conservation program for the living marine resources of the Arctic and Southern oceans; June 6, general pair, passed, 2c8–103.

No. 417 H. Res. 1205, the rule under which H.R. 12240, Intelligence Authorization, was considered; June 6, general pair, passed, 322–48.

No. 418 Amendment offered by Mr. Weiss to H.R. 12240, Intelligence Authorization, that sought to strike the language requiring the attorney general to notify the House and Senate Permanent Select Committes on Intelligence of each admission of an alien which the attorney general has reason to believe is excludable under certain provisions of the Immigration and Naturalization Act; June 6, absent, failed, 60–312.

No. 419 H.R. 12240, to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System; June 6, General pair, passed, 323–43.

No. 420 H. Res. 1206, the rule providing for the consideration of H.R. 12426, NYC Financial Assistance; June 6, general pair, passed, 339–21.

No. 422 H. Con. Res. 561, authorizing the printing as a House document the folder "The United States Capitol"; June 7, yes, passed, 349–24.

No. 423 S. Con. Res. 89, authorizing the printing of additional copies of volume II of the Senate hearings entitled "Korean Influence Inquiry"; June 7, yes, passed, 329–50.

No. 424 H. Res. 1218, the rule waiving certain points of order against H.R. 12930, Treasury-Postal Service Appropriations; June 7, yes, passed, 376–1.

No. 425 Amendment offered by Mr. McClory to H.R. 12930, Treasury-Postal Service Appropriations, that sought to increase the appropriation for the Bureau of Alcohol, Tobacco and Firearms by $4.2 million; and sought to strike the prohibition on using funds to enforce the Bureau's rules concerning firearms published on 3/21/78; June 7, no, failed, 80–314.

No. 426 H.R. 12930, making appropriations for the Treasury Department, the U.S. Postal Service. the Executive Office of the President, and certain independent agencies, for the fiscal year ending Sept. 30, 1979; June 7, yes, passed, 297–98.

No. 428 Amendment offered by Mr. Symms to H.R. 12929, Labor-HEW Appropriations, that reduces the appropriation for the Occupational Safety and Health Administration to the 1978 level, a reduction of $28.4 million; June 7, no, passed, 201–179.

No. 431 Motion offered by Mr. Stanton to recommit H.R. 12426, NYC Financial Assistance, for amendment that would extend for 3 years the New York Seasonal Financial Act of 1975, with loan amounts of $2 billion the first year, $1.5 billion the second year, and $800 million the third; June 8, No; failed, 109–291.

No. 432 H.R. 12426, to authorize the Secretary of the Treasury to provide financial assistance for the city of New York; June 8, Yes; passed, 247–155.

No. 433 Amendment offered by Mr. Michel to H.R. 12929, Labor-HEW Appropriations, that reduces appropriations for HEW by $1 billion, limited to those areas in which fraud, abuse and waste have been defined and cited; June 8, Yes; passed, 290–87.

No. 434 H.J. Res. 945, making an urgent supplemental appropriation for the black lung program of the Department of Labor for the fiscal year ending September 30, 1978; June 9, Yes; passed, 237–72.

No. 437 To suspend the rules and agree to: H. Con. Res. 612, condemning violations of rights by the Government of the Republic of Uganda and urging the President to take certain actions with respect to those violations; June 12, Yes; passed, 377–0.

No. 438 To suspend the rules and pass: H.R. 12441, to amend the Toxic Substances Control Act to increase the authorization of appropriations contained in such act; June 12, Yes; failed, 190–188 (required a two-thirds vote).

No. 439 Amendment offered by Mr. Shuster to H.R. 12933, Transportation Appropriations, that prohibits the use of funds to implement or enforce any standard or regulation which requires vehicles to be equipped with occupant restraint systems, other than belt systems; June 12, Yes; passed, 237–143.

No. 440 Amendment offered by Mr. Eckhardt to H.R. 12933, Transportation Appropriations, that sought to ensure that funds could be used for research and development of occupant restraint systems and that funds could be used in connection with any court action with respect to any standard or regulation concerning such systems; June 12, Yes; failed, 180–194.

No. 441 H.R. 12933, making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979; June 12, Yes; passed, 347–25.

No. 443 Amendment offered by Mr. Stokes to H.R. 12929, Labor-HEW Appropriations, that sought to strike the language in the bill restricting the use of funds for abortion; June 13, Yes; failed, 122–287.

No. 444 Democratic compromise amendment offered by Mr. Wright to H.R. 12929, Labor-HEW Appropriations, that sought to substitute the compromise language restricting use of funds for abortions that was agreed to by the House and Senate last year for the abortion provisions in the bill; June 13, Yes; failed, 198–212.

No. 445 Amendment offered by Mr. Walker to H.R. 12929, Labor-HEW Appropriations, that prohibits the use of funds to issue or enforce any ratio, quota, or other numerical requirement related to race, creed, color, national origin, or sex with respect to hiring, promotion, and admissions policies; June 13, yes; passed, 232–177.

No. 446 Amendment offered by Mr. Miller of Ohio to H.R. 12929, Labor-HEW Appropriations, that reduces total appropriations not required by law by 2%; June 13, no; passed, 220–181.

No. 447 Separate vote on amendment that had been offered by Mr. Symms to H.R. 12929, Labor-HEW Appropriations, that sought to reduce the appropriation for OSHA by $28.4 million (this amendment had been agreed to in the Committee of the Whole on June 7 (Roll 428)); June 13, no; failed, 184–216.

No. 448 H.R. 12929, making appropriations for the Departments of Labor and Health, Education, and Welfare, and related agencies for the fiscal year ending September 30, 1979; June 13, yes; passed, 338–61.

No. 451 Amendment offered by Mr. Beard of Tennessee to H.R. 12934, SJCJ Appropriations, that prohibits the use of Commerce Dept. funds for promoting or conducting trade relations with Cuba; June 14, no; passed, 241–158.

No. 452 Amendment offered by Mr. Rousselot to H.R. 12934, SJCJ Appropriations, that sought to reduce the appropriation to the Legal Services Corp. by $30 million; June 14, no; failed, 200–203.

No. 453 Amendment offered by Mr. Moorhead to H.R. 12934, SJCJ Appropriations, that prohibits the use of funds appropriated to the Legal Services Corp. for publicity or propaganda purposes designed to support or defeat legislation pending before Congress or any state legislature; June 14, yes; passed, 264–131.

No. 454 H.R. 12934, making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending September 30, 1979; June 14, yes; passed, 359–34.

No. 455 Amendment offered by Mr. Conte to H.R. 12935, Legislative Branch Appropriations, that reduces appropriations not required by law by 5%; June 14, yes; passed, 220–168.

No. 456 Amendment offered by Mr. Anderson of Illinois to H.R. 12935, Legislative Branch Appropriations, that sought to prohibit use of funds to purchase new color television cameras and related equipment for broadcasting House proceedings except by prior approval of the House; June 14, no; failed, 133–249.

No. 457 Amendment offered by Mr. Benjamin to H.R. 12935, Legislative Branch Appropriations, that prohibits use of funds to implement a system for televising House proceedings under which cameras purchased by the House are controlled by persons not employed by the House; June 14, no; passed, 235–150.

No. 458 Amendment offered by Mr. Armstrong to H.R. 12935, Legislative Branch Appropriations, that prohibits use of funds to provide House wall calendars, U.S. Historical Society calendars, USDA yearbooks, plants from the Botanic Garden, and shipping trunks, to members of the House, unless reimbursement for such items is made from members' official expense allowances; June 14, yes; passed, 214–159.

No. 459 H.R. 12935, making appropriations for the Legislative Branch for the fiscal year ending September 30, 1979; June 14, yes; passed, 279–90.

No. 461 H. Res. 1236, the rule waiving certain points of order and providing certain procedures during consideration of H.R. 12928, Public Works-Energy Research Appropriations; June 15, yes; passed, 317–82.

No. 462 Amendments offered by Mr. Jacobs to the amendments offered by Mr. Bevill to H.R. 12928, Public Works, that sought to delete funds for the following projects: Russell Dam, Georgia and South Carolina; Bonneville Unit, Utah; and O'Neill Unit, Nebraska; June 15, no; failed, 108–284.

No. 463 Amendment offered by Mr. Edgar that sought to delete funds for the following 8 water projects: Bayou Bodcau, La.; LeFarge Lake, Wis.; Lukfata Lake, Okla.; Meramec Park Lake, Mo.; Yatesville Lake, Ky.; Fruitland Mesa, Colo.; Narrows Unit, Colo.; and Savery-Pot Hook, Colo.; June 15, no; failed, 142–234.

No. 465 Amendment offered by Mr. Weiss to H.R. 12928, Public Works-Energy Research Appropriations, that sought to prohibit the use of funds for production of enhanced radiation weapons; June 16, yes; failed, 67–259.

No. 466 Motion offered by Mr. Conte that the House recomit H.R. 12928, Public Works-Energy Research Appropriation, with instructions to report it back containing amendment that would reduce total appropriations not required by law by 3%; June 16, yes; failed 93–228.

No. 467 H.R. 12928, making appropriations for public works for water and power development and energy research for the fiscal year ending September 30, 1979; June 16, yes; passed, 263–59.

No. 468 H.R. 12927, making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979; June 16, yes; passed, 278–13.

No. 471 Amendment offered by Mr. Brown of Michigan to H.R. 12936, HUD-Ind. Agencies Appropriation, that sought to decrease appropriations for EPA abatement and control activities by $114.6 million and EPA enforcement activities by $18.9 million; June 19, yes; failed, 173–211.

No. 472 Motion offered by Mr. Miller of Ohio that the House recommit H.R. 12936, HUD-Ind. Agencies Appropriations, for amendment to reduce total appropriations not required by law by 2%; June 19, no; failed, 156–222.

No. 473 H.R. 12936, making appropriations for the Department of Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1979; June 19, yes; passed, 332–47.

No. 474 H. Res. 1230, the rule waiving certain points of order and providing certain procedures during consideration of H.R. 12932, Interior Appropriations; June 21, yes; passed, 353–27.

No. 475 Perfecting amendment offered by Mr. Yates to the amendment offered by Mr. Moffett to H.R. 12932, Interior Appropriation, that sought to provide that not more than $100,000 of funds appropriated to the Economic Regulatory Administration could be used to pay the expenses of parties intervening in proceedings before that body; June 21, yes; failed, 190–221.

No. 476 Amendment offered by Mr. Moffett to H.R. 12932, Interior Appropriation, that sought to strike language prohibiting use of funds appropriated to the Economic Regulatory Administration to pay the expenses of parties intervening in regulatory proceedings before that body; June 21, yes; failed, 126–282.

No. 477 Amendment offered by Mr. Miller of Ohio to H.R. 12932, Interior Appropriations, that sought to reduce total appropriations not required by law by 2%; June 21, yes; failed, 198–211.

No. 478 H.R. 12932, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979; June 21, yes; passed, 356–50.

No. 479 H. Res. 1212, the rule under which H.R. 11493, Amtrak Improvement Act, is being considered; June 21, yes; passed, 375–25.

No. 482. Amendment offered by Mr. Symms to H.R. 13125, Agriculture Appropriation, that sought to reduce the appropriation for the food stamp program by $290 million; June 22, yes; failed, 194–201.

No. 483 Amendment offered by Mr. Wright to H.R. 13125, Agricultural Appropriation, that prohibits use of funds to finance assistance to Korea under the Food for Peace Program; June 22, yes; passed, 273–125.

No. 484 Amendment offered by Mr. Miller of Ohio to H.R. 13125, Agriculture Appropriations, that sought to reduce total appropriations not required by law by 2%, excluding the appropriations for the Agricultural Research Service, Corp. State Research Service, and the Extension Service; June 22, yes; failed, 189–201.

No. 485 H.R. 13125, making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1979; June 22, yes; passed, 326–59.

No. 486 H.R. 12505, to provide for a research, development, and demonstration program to determine the feasibility of collecting in space solar energy to be transmitted to Earth and to generate electricity for domestic programs; June 22, yes; passed, 267–96.

No. 488. Amendment offered by Mr. Steiger to H.R. 11493, Amtrak Improvement Act, that sought to strike language requiring Amtrak to buy American products for any purchase exceeding $100,000; June 23, yes; failed, 93–207.

No. 489. Amendment, as amended, offered by Mr. Madigan, to H.R. 11493, Amtrak Improvement Act, that sought to require a discontinuance hearing for any passenger train where the federal subsidy exceeds $100 per passenger averaged over a successive 12-month period and that service be instituted

over restructured routes after such hearing, if that route had been restructured prior to January 1, 1978; June 23, no; failed, 119–186.

No. 490. Amendment offered by Mr. Neal to H.R. 11493, Amtrak Improvement Act, that sought to have the U.S. Special Trade Representative advise the Secretary when it would not be in the public interest to require the Corporation to purchase American products; June 23, yes; failed, 121–178.

No. 491. H.R. 11493, to amend the Rail Passenger Service Act to extend the authorization of appropriations for an additional fiscal year and to provide for public consideration and implementation of a rail passenger service study; June 23, yes, passed, 204–89.

No. 493. To suspend the rules and pass: H.R. 10341, to amend title 10, U.S. Code, to authorize reserve enlisted members of the Army and the Air Force to retire with 20 years of service; June 26, yes; passed, 283–35.

No. 494. To suspend the rules and pass: H.R. 10342, to revise the rule for recalculation of military retired or retainer pay to reflect later active duty with respect to later active duty performed between October 1, 1963, and October 1, 1973; June 26, yes; passed, 292–30.

No. 495. To suspend the rules and pass: S. 666, amended, to allow federal employment preference to certain employees of the Bureau of Indian Affairs and to certain employees of the Indian Health Service who are not entitled to benefits of, or who have been adversely affected by the application of, certain federal laws allowing employment preference to Indians; June 26, no; failed, 118–204.

No. 499. Motion that the House refer to the Committee on Post Office and Civil Service the message of the President announcing his veto of H.R. 316, to amend Title 5, U.S. Code, to improve the basic workweek of firefighting personnel of executive agencies, and the accompanying bill; June 28, yes; passed, 279–109.

No. 505. To suspend the rules and pass: H.R. 11886, amended, to amend Ttile 38, U.S. Code, to increase the rates of disability compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors; June 28, yes; passed, 400–1.

No. 506. To suspend the rules and pass: H.R. 11888, to amend Title 38, U.S. Code, to change the minimum disability rating a veteran must have in order to receive additional compensation for dependents from 50 per centum to 40 per centum; June 28, yes; passed, 385–16.

No. 507. To suspend the rules and pass: H.R. 10173, to amend Title 38, U.S. Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era; June 28, yes; passed, 398–5.

No. 508. To suspend the rules and pass: H.R. 12841, amended, to prohibit the issuance of regulations on the taxation of fringe benefits; June 28, yes; passed, 386–12.

No. 509. To suspend the rules and pass: H.R. 12589, to authorize appropriations for fiscal year 1979 under the International Investment Survey Act of 1976; June 28, yes; passed, 344–54.

No. 510. To suspend the rules and pass: H.R. 12874, amended, to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other federal agencies; June 28, yes; passed, 385–14.

No. 512. Amendment offered by Mr. Hagedorn to H.R. 12433, Housing and Community Development, that sought to waive Davis-Bacon Act requirements for housing rehabilitation projects if the rehabilitation is performed by neighborhood-based, nonprofit organizations; June 28, no; failed, 173–218

No. 515. Amendment offered by Mr. Brown of Michigan to H.R. 12433, Housing and Community Development, that provides for a one-house veto of rules and regulations promulgated by HUD; June 29, no; passed, 244–140.

No. 516. Amendment offered by Mr. Russo to H.R. 12433, Housing and Community Development, that sought to require HUD to provide pre-purchase counseling to first-time home purchasers who apply for FHA mortgage loans; June 29, no; failed, 93–285.

No. 517. H.R. 8099, relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States; June 29, yes; passed, 292–80.

No. 519. To suspend the rules and pass: H.J. Res. 613, amended, to authorize and request the president to issue annually a proclamation designating the first Sunday of September after Labor Day of each year as "National Grandparents Day"; July 10, yes; passed, 362–8.

No. 520 To suspend the rules and pass: H.J. Res. 1007, amended, authorizing the president to proclaim a week, which is to include the seventh and tenth of the month, during the first ten days in May of 1979 as "Asian/Pacific American Heritage Week"; July 10, yes; passed, 360–6.

No. 521 To suspend the rules and pass: H.J. Res. 773, authorizing and requesting the president to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week"; July 10, yes; passed, 363–11.

No. 522 To suspend the rules and pass: H.R. 13087, to authorize the issuance of substitute Treasury checks without undertakings of indemnity, except as the Secretary of the Treasury may require; July 10, yes; passed, 375–0.

No. 523 To suspend the rules and pass: H.R. 12106, amended, to amend the Independent Safety Board Act of 1974 to authorize additional appropriations; July 10, yes; passed, 340–32.

No. 524 Amendments offered by Mr. Thompson to H.R. 12536, National Parks, that sought to strike language adding the middle Delaware River segment to the Wild and Scenic Rivers System, and to strike language authorizing the Secretary of the Interior to acquire all lands and interests of the Delaware Water Gap National Recreation Area; July 10, no; failed, 110–275.

No. 525 H.J. Res. 1024, making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization Service, for the fiscal year ending September 30, 1978; July 11, yes; passed, 340–48.

No. 526 To suspend the rules and pass: H.R. 11827, amended, to amend the Surface Mining Control and Reclamation Act of 1977 (P.L. 95–87) to raise certain authorized funding levels contained therein; July 11, yes; passed, 323–74.

No. 527 Amendment offered by Mr. Baucus to H.R. 12536, National Parks, that strikes language designating acreage in the Glacier National Park as wilderness and potential wilderness; July 11, yes; passed, 216–181.

No. 528 Amendment offered by Mr. Symms to H.R. 12536, National Parks, that sought to change the boundary of the Hells Canyon National Recreation Area to exclude the Blue Jacket mining area; July 11, no; failed, 147–249.

No. 529 Perfecting amendment offered by Mr. Oberstar to H.R. 12536, National Parks, in regard to language concerning the Upper Mississippi River segments that authorizes the development of a master plan for the administration of the Upper Mississippi and permits Congress to vote on the designation of the Upper Mississippi River segments as part of the Wild and Scenic River System; July 11, no; passed, 205–19?.

No. 530 Amendment offered by Mr. Oberstar to H.R. 12536, National Parks, that sought to strike language removing the St. Croix River from current law limitations on land acquisition by condemnation; July 11, No; failed, 175–218.

No. 532. H.R. 12536, to provide for increases in appropriations ceilings, development ceilings, land acquisition, and boundary changes in certain federal park and recreation areas; July 12, yes; passed, 341–61.

No. 533. Motion to lay on the table an appeal of the ruling of the chair wherein he sustained a point of order against a motion to commit S. Con. Res. 95, condemning the Soviet trials, to the Committee on International Relations for amendment stating that it is the sense of Congress that U.S. representatives to the SALT talks be recalled as further evidence of the commitment of the U.S. to the principles set out in the resolution; July 12, yes; passed, 277–120.

No. 534. S. Con. Res. 95, condemning the trials of Anatoly Scharansky, Viktoras Petkus, and Aleksandr Ilyich Ginzburg; July 12, yes; passed 380–10.

No. 535. H. Con. Res. 599, disapproving the proposed export of low-enriched uranium to India; July 12, no; failed, 181–227.

No. 537. Amendment offered by Mr. Quie to H.R. 15, Education Amendments, that sought to allow local educational agencies who have compensatory education programs to qualify for incentive grants, even if a state program does not exist; July 12 no; failed 150–240.

No. 538. Amendment offered by Mr. Edwards of Oklahoma to H.R. 15, Education Amendments, that sought to retain the provsion in current law that limits the count of AFDC children to two-thirds of such numbers for compensatory education formula purposes; July 12, no; failed 175–212.

No. 539. Motion offered by Mr. Wright to table H.Res. 1267, offered by Mr. McDonald, to impeach Andrew Young; July 12, yes; passed, 293–82.

No. 540. Kildee substitute to the amendment offered by Mrs. Holt to H.R. 15, Education Amendments, that prohibits community education grants for any program being conducted in a community by another public agency unless the Commissioner determines collaboration exists between the local education agency and the public agency; July 13, yes; passed, 197–195.

No. 541. Amendment offered by Mr. Ashbrook in the nature of a substitute to the committee substitute that sought to provide block grants for all federal aid to education programs, distribute funds to states based on the number of children enrolled, and permit states to spend the funds to improve education pursuant to state law; July 13, no; failed, 79–290.

No. 542. H.R. 15, to extend for five years education programs; July 13, yes; passed, 350–20.

No. 544 Amendment offered by Mr. Flowers to H.R. 12163, DOE Research and Development Authorizations, that sought to authorize the secretary to complete only the systems design and component testing on the Clinch River Breeder Reactor Project, to conduct a study on an advanced breeder reactor facility utilizing the uranium/plutonium and uranium/thorium fuel cycles, and to prepare a detailed program plan for

the Liquid Metal Fast Breeder Reactor Base Technology Program; July 14, no; failed, 142–187.

No. 545 Amendment offered by Mr. Flowers to H.R. 12163, DOE Research and Development Authorizations, that authorizes $75 million for a coal liquefaction demonstration plant; July 14; yes; passed, 165–132.

No. 547 To suspend the rules and pass: H.R. 12028, amended, to amend Title 38, U.S. Code, to improve the housing programs of the Veterans Administration; July 17; yes; passed, 373–0.

No. 548 To suspend the rules and pass: H.R. 12232, to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation; July 17; yes; passed, 300–81.

No. 549 To suspend the rules and pass: H.R. 12380, to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such act; July 17; yes; passed, 381–4.

No. 550 To suspend the rules and pass: H.R. 10848, amended, to amend Title VI of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding 5 years; July 17; yes; passed, 351–32.

No. 552. Motion offered by Mr. Fish that the House recommit to the Committee on Science and Technology H.R. 12163, DOE Research and Development Authorizations, for an amendment that would authorize the secretary to complete only the systems design and component testing on the Clinch River Breeder Reactor Project; July 17; no; failed, 157–238.

No. 553 H.R. 12163, to authorize appropriations to the Department of Energy in accordance with Section 261 of the Atomic Energy Act of 1954, Section 305 of the Energy Reorganization Act of 1974, Section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and Section 660 of the Development of Energy Reorganization Act, for energy research and development; July 17, yes; passed, 325–67.

No. 558 To suspend the rules and pass: H.R. 12443, amended, to amend the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy; July 18, yes; passed, 396–20.

No. 559 To suspend the rules and pass: H.R. 12508, to amend the Immigration and Nationality Act to facilitate the admission into the U.S. of more than two adopted children and to provide for the expeditious naturalization of adopted children; July 18, yes; passed, 413–0.

No. 560 To suspend the rules and pass: H.R. 12252, to amend title 38 of the U.S. Code in order to require the administrator of Veterans' Affairs to pay a $150 allowance to any state or any agency or political subdivision of a state in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such state or agency or political subdivision of a state, if the cemetery or section thereof is used solely for the interment of veterans; July 18, yes; passed, 407–9.

No. 561 To suspend the rules and pass: H.R. 12011, to amend the U.S. Code in order to provide for a continuation of the authority of the administrator of Veterans' Affairs to furnish hospital care to certain veterans living in a state, territory, commonwealth, or possession of the U.S. not contiguous to the 48 contiguous states; July 18, yes; passed, 415–0.

No. 562 To suspend the rules and pass: H.R. 11891, to amend title 38, U.S. Code, to provide for a two-step aid and attendance compensation payment system for certain severely disabled veterans; July 18, yes; passed, 418–0.

No. 563 To suspend the rules and pass: H.R. 6075, amended, to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy; July 18, yes; passed, 376–43.

No. 564 To suspend the rules and pass: H.J. Res. 738, amended, American Indian Religious Freedom; July 18, yes; passed, 337–81.

No. 566 H.R. 1609, to amend the Mineral Leasing Act of 1920 (Coal Slurry Pipeline); July 19, yes; failed, 161–246.

No. 567 To order the previous question on H. Res. 1172, the rule under which H.R. 11983, Federal Election Commission Authorizations, was considered; July 19, no; passed, 231–196.

No. 568 H.R. 11983, to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such act; July 19, yes; passed 366–37.

No. 569 H. Res. 1277, the rule under which H.R. 13385, Temporary Public Debt Limit, was considered; July 19, yes; passed, 303–98.

No. 570 Amendment offered by Mr. Vanik to H.R. 13385, Temporary Public Debt Limit, that reduces the temporary increase by $16 billion, from $414 to $398 billion; July 19. yes; passed, 363–37.

No. 571 H.R. 11385, to provide for a temporary increase in the public debt limit; July 19, yes; passed, 205–202.

No. 572 To order the previous question on the motion to recommit to the conference committee the conference report on H.R. 11504, Agricultural Credit Act; July 19, no; passed, 282–105.

No. 573 Conference report on H.R. 11504, to amend the Consolidated Farm & Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the U.S., and extend the Emergency Livestock Credit Act, clearing for Senate; July 19, yes; passed, 362–28.

No. 575 Amendment offered by Mr. Moss to H.R. 13467, Second Supplemental Appropriations, that strikes the $15 million appropriation for the Center for Disease Control for the influenza vaccination program and instead appropriates $3 million to NIH for research and clinical activities related to the influenza vaccination program; July 20, yes; passed, 268–17.

No. 576 Amendment offered by Mr. Gore to H.R. 13467, Second Supplemental Appropriations, that sought to increase impact aid appropriations by $26 million for pinpoint disaster assistance for schools; July 20, no; failed, 166–233.

No. 577 Amendment offered by Mr. McHugh to H.R. 13467, Second Supplemental Appropriations, that sought to increase appropriations for disaster assistance for schools from $5 million to $14.9 million, with the intention that the funds should not be used for pinpoint disaster applications in an amount less than $200,000; July 20, no; failed, 156–237.

No. 578 Amendment offered by Mr. Crane to H.R. 13467, Second Supplemental Appropriations, that sought to delete the $275,000 appropriation for the U.S. Metric Board; July 20, no; failed, 75–302.

No. 579 Amendment offered by Mr. Miller of Ohio that reduces total appropriations for payments not required by law by 2%; July 20, no; passed, 256–114.

No. 580 H.R. 13467, making supplemental appropriations for the fiscal year ending September 30, 1978; July 20, yes; passed, 311–60.

No. 582 Amendment offered by Mr. Abdnor to H.R. 12433, Housing and Community Development Amendments, that sought to prohibit use of funds for the reorganization or transfer of any function of any area, field, or insuring office relating to multi-family housing or community planning or development; July 21, no; failed, 133–160.

No. 583 Amendment offered by Mr. Brown of Michigan to H.R. 12433, Housing and Community Development Amendments, that sought to strike provisions requiring that FAIR insurance rates be no higher than those set by the principal state-licensed rating organization for essential property insurance on the private market; July 21, no; failed, 119–185.

No. 584 Amendment offered by Mr. Duncan to H.R. 12433, Housing and Community Development Amendments, that prohibits Social Security increases occurring after May 1978 from being considered as income for purposes of determining eligibility for, or amount of assistance available to, any recipient under public housing laws; July 21, yes; passed, 256–38.

No. 585 H.R. 12433, to amend and extend certain federal laws relating to housing, community and neighborhood development and preservation, and related programs, July 21, yes, passed, 270–26.

No. 586 H.R. 13468, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said district for the fiscal year ending September 30, 1979, July 21, yes; passed, 215–32.

No. 588 To suspend the rules and pass: H.J. Res. 946, to designate October 7, 1978, as "National Guard Day", July 24, yes; passed, 264–10.

No. 590 To suspend the rules and pass: H.R. 11823, to amend section 1331(c) of title 10, U.S. Code, to allow certain otherwise ineligible reservists to become eligible for retired pay, July 25, yes; passed, 390–8.

No. 591 To suspend the rules and pass: H.R. 12349, amended, to provide for the DuNoir Basin Addition to the Washakie Wilderness, July 25, yes; passed, 372–22.

No. 592 To suspend the rules and pass: H.R. 12973, amended, Social Services Amendments of 1978, July 25, yes; passed, 346–54.

No. 593 To suspend the rules and pass: H.R. 11889, to amend title 38, U.S. Code, to increase from $100 to $200 the monthly rate of special pension payable to each person who has been awarded the Medal of Honor, July 25, yes; passed, 394–4.

No. 594 To suspend the rules and pass: H.R. 11890, amended, to amend title 38 of the U.S. Code to provide that the survivors of a veteran who was rated totally and permanently service-connected disabled for a period of at least ten years would be entitled to dependency and connected disability, July 25, yes; passed, 393–9.

No. 595 Conference report on H.R. 12426, to authorize the Secretary of the Treasury to provide financial assistance to the city of New York, clearing for Senate action, July 25, yes; passed, 244–157.

No. 596 Conference report on H.R. 11877, to authorize appropriations for fiscal year 1979 for the Peace Corps and to make certain changes in the Peace Corps Act, clearing for the President, July 25, yes; passed, 276–120.

No. 598 Amendment offered by Mr. Baldus to H.R. 10285, Commodity Exchange Act Extension, that sought to permit states to pass and enforce state laws identical to those in the Commodity Exchange Act; July 26, no; failed, 141–260.

No. 599 Amendment offered by Mr. Smith to H.R. 10285, Commodity Exchange Act Extension, that requires the reporting of export sales to the commission within 48 hours and requires the commission to then make this

information public; July 26, no; passed, 273–125.

No. 600 H.R. 10285, to extend the Commodity Exchange Act, as amended, for four years; July 26, yes; passed, 401–6.

No. 601 Breaux substitute to the amendment offered by Mr. Udall to H.R. 3350, Seabed Mining, that gives the Commerce Department jurisdiction over deep seabed mining operations; July 26, no; passed, 214–184.

No. 602 Amendment offered by Mr. McCloskey to H.R. 3350, Seabed Mining, that sought to require applicants for licenses and permits to submit comprehensive work plans; July 26, yes; failed, 199–202.

No. 603 H.R. 3350, to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto; July 26, yes; passed, 312–80.

No. 604 Amendment offered by Mr. Goodling to H.R. 7577, Economic Opportunity Act Amendments, that sought to retain the ratio of federal/state assistance contributions to community service agencies at 60% of federal/40% state; July 26, no; failed, 158–224.

No. 605 H.R. 7577, to amend the Economic Opportunity Act of 1964; July 26, yes; passed, 346–38.

No. 606 S. Con. Res. 98, relating to adjournment to a date certain during the remainder of the 95th Congress, clearing measure (Aug. dist. wk. per.); July 27, yes; passed, 302–44.

No. 608 Amendment offered by Mr. Long of Maryland to H.R. 12157, Eximbank, that sought to prohibit the bank from financial transactions to establish or expand the production of commodities, unless the President certifies the commodity is not in surplus and its import would not substantially injure U.S. firms and employees producing the same or competing commodity; July 27, no; failed, 197–199.

No. 609 Amendment offered by Mr. Harkin to H.R. 12157, Eximbank, that sought to prohibit the bank from participating in transactions with countries which the secretary of state determines engage in a consistent pattern of gross violations of internationally recognized human rights; July 27, no; failed, 103–286.

No. 610 Amendment offered by Mr. Brown of Michigan to H.R. 12157, Eximbank, that sought to prohibit the bank from participating in transactions unless the purchaser of exports endorses certain fair and equal employment principles; July 27, no; failed, 90–288.

No. 611 Amendment offered by Mr. Cavanaugh to H.R. 12157, Eximbank, that sought to require the bank to submit an evaluation to Congress, based on an analysis by the Nuclear Regulatory Commission, describing safety standards and nuclear practices of any country in which the bank enters into transactions involving the sale of nuclear reactors; July 27, no; failed, 106–266.

No. 612 H.R. 12157, to amend and extend the Export-Import Bank Act of 1945; July 27, yes; passed, 314–47.

No. 613 Motion that the House resolve itself into the Committee of the Whole for further consideration of H.R. 9400, Civil Rights of Institutionalized Persons; July 28, yes; passed, 304–4.

No. 614 H.R. 9400, to authorize actions for redress in cases involving deprivations of rights of institutionalized persons secured or protected by the Constitution or laws of the U.S.; July 28, yes; passed, 254–69.

No. 616 Amendment offered by Mr. Butler to H.R. 12432, Civil Rights Commission, that sought to delete provisions giving the Commission authority to study discrimination based on age or handicap status; July 28, no; failed, 87–224.

No. 617 Amendment offered by Mr. Butler to H.R. 12432, Civil Rights Commission, that prohibits the use of funds by the Commission to influence the passage or defeat of legislation before Congress or state legislatures, except when the Commission is requested to give an opinion; July 28, no; passed, 159–125.

No. 619 To suspend the rules and pass: H.R. 9998, amended, to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the U.S.; July 31, yes; passed, 329–6.

No. 620 H. Res. 1286, the rule under which H.R. 12514, International Security Assistance Act (Foreign Aid Authorization) is being considered; July 31, yes; passed, 323–21.

No. 621 H. Res. 1247, the rule waiving certain points of order and providing certain procedures during consideration of H.R. 12931, Foreign Assistance Appropriations; July 31, yes; passed, 265–84.

No. 624 To suspend the rules and pass: H.R. 12972, amended, to amend title XVI of the Social Security Act to remove certain work disincentives for the disabled under the supplemental security income benefits program; August 1, yes; passed, 399–4.

No. 625 To suspend the rules and pass: H.J. Res. 963, amended, designating July 18, 1979, as "National P.O.W.–M.I.A. Recognition Day"; August 1, yes; passed, 401–2.

No. 626 H.R. 4030, to amend the Internal Revenue Code of 1954 to increase the amount of the stock which certain private foundations may hold in certain public utilities without being subject to the excise tax on excess business holdings; August 1, yes; passed, 317–86.

No. 627 Amendment offered by Mr. Wright to the amendment offered by Mr. Fascell to H.R. 12514, Foreign Aid Authorization, that lifts the embargo on arms shipments to Turkey upon the President's certification to Congress that it is in the national interest of the U.S. and NATO to do so, and that Turkey is acting in good faith to achieve a just settlement of the Cyprus problem, the early peaceable return of refugees to their homes, continued removal of Turkish troops from Cyprus, and the early resumption of intercommunal talks; August 1, no; passed, 208–205.

No. 628 Amendment offered by Mr. Derwinski to the amendment offered by Mr. Stratton to H.R. 12514, Foreign Aid Authorization, that expresses the sense of Congress that further withdrawal of ground forces from Korea may risk upsetting the military balance in that region, and that requires the President to report to Congress on the effect of any proposed withdrawal plan on preserving deterrence in Korea; August 1, yes; passed, 212–189.

No. 629 Amendment offered by Mr. Stratton, as amended by the Derwinski substitute, to H.R. 12514, Foreign Aid Authorization; August 1, no; passed, 279–117.

No. 631 Amendment offered by Mr. Stark to H.R. 12514, Foreign Aid Authorization, that sought to prohibit delivery of defense articles or services to Chile pursuant to any sale made before the enactment of this act; August 2, yes; failed, 146–260.

No. 632 Motion offered by Mr. Zablocki to limit debate on the amendment offered by Mr. Harkin to H.R. 12514, Foreign Aid Authorization, relating to cutting off aid to Chile; August 2, yes; failed, 171–228.

No. 633 Amendment offered by Mr. Jacobs to H.R. 12514, Foreign Aid Authorization, that sought to prohibit use of funds to provide military assistance to the Republic of Korea until Kim Dong Jo had given testimony to the Committee on Standards of Official Conduct; August 2, yes; failed, 147–257.

No. 643 Findley amendment to the Zablocki amendment offered as a substitute to the Bauman amendment to H.R. 12514, Foreign Aid Authorization, that sought to prohibit the enforcement of sanctions against Rhodesia before October 1, 1979, but provided that the president could reimpose sanctions if he determined that the government of Rhodesia had refused to participate and negotiate in good faith at an all-parties conference or had failed to schedule for free elections; August 2, no failed, 176–229.

No. 635 Ichord amendment to the Zablocki amendment offered as a substitute to the Bauman amendment to H.R. 12514, Foreign Aid Authorization, that prohibits the enforcement of sanctions against Rhodesia after December 31, 1978, unless the president determines that a government has not been installed, chosen by free elections in which all political groups have been allowed to participate freely; August 2, No; passed, 229–180.

No. 636 Separate vote on the amendment offered by Mr. Harkin to H.R. 12514, Foreign Aid Authorization, that sought to prohibit delivery of defense articles or services to Chile pursuant to previous sales, until the government of Chile turns over to U.S. custody those Chileans indicted for the murders of Orlando Letelier and Ronni Moffitt; August 2, yes; failed, 166–243.

No. 637 H.R. 12514, to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize international security assistance programs for the fiscal year 1979; August 2, yes; passed, 255–156.

No. 638 Amendment offered by Mr. Young of Florida to H.R. 12931, Foreign Aid Appropriation, that sought to strike $49 million in appropriations for foreign assistance for the purchase of rupees to be used in India; August 2, no; failed 194–200.

No. 639 Amendment offered by Mr. Young of Florida to H.R. 12931, Foreign Aid Appropriation, that sought to reduce appropriations for the U.N. Development Program by $6.8 million; August 2, no; failed, 189–202.

No. 640 Amendment offered by Mr. Derwinski to H.R. 12931, Foreign Aid Appropriations, that strikes the $90 million in economic support fund appropriations earmarked for Syria; August 2; yes; passed, 280–103.

No. 642 Amendment offered by Mr. Ryan to H.R. 12931, Foreign Aid Appropriations, that sought to reduce military assistance appropriations for the Philippines by $5 million; August 3, yes; failed, 142–264.

No. 643 Amendment offered by Mr. Ashbrook to H.R. 12931, Foreign Aid Apropriations, that sought to strike the appropriation for military education and training assistance to Afghanistan; August 3, no; failed, 152–236.

No. 644 Amendment offered by Mr. Harkin to the amendment offered by Mr. Young of Florida (See text of Roll No. 645) to H.R. 12931, Foreign Aid Appropriations, that sought to prohibit also indirect aid to Chile, Argentina, Uruguay, Korea, Nicaragua, Indonesia, and the Philippines; August 3, no; failed, 41–360.

No. 645 Amendment offered by Mr. Young of Florida to H.R. 12931, Foreign Aid Appropriations, that sought to prohibit use of funds to provide indirect aid to Uganda, Cambodia, Laos, or the Socialist Republic of Vietnam; August 3, no; failed, 198–203.

No. 646 Amendment offered by Mr. Harkin to H.R. 12931, Foreign Aid Appropriations, that reduces total appropriations not required by law for Foreign Assistance Act activities by 2%, except for economic support funds for Israel, Egypt, and Jordan; August 3, yes; passed, 293–52.

No. 648 Amendment offered by Mr. Harkin, as amended by the Obey substitute, to H.R.

12931, Foreign Aid Appropriations, that reduces Foreign Military Credit Sales appropriations by $12.6 million and that provides that not more than $2.5 million of the appropriations shall be available for Lebanon and not more than $8.5 million shall be available to Jordan; August 4, yes; passed, 300–29.

No. 649 H. Res. 1291, the rule waiving certain points of order against H.R. 13635, DOD Appropriations; August 4, yes; passed, 330–7.

No. 650 Motion that the House resolve itself into the Committee of the Whole for further consideration of H.R. 13635, DOD Appropriations; August 7, yes; passed, 320–6.

No. 651 Amendment offered by Mr. Montgomery that increases the appropriations for the incentive programs of the Reserve and Guard components by $15.5 million; August 7, yes; passed, 257–121.

No. 652 Amendment offered by Mr. Volkmer that sought to reduce appropriations not required by law for military personnel by 2 percent; August 7, no; failed, 53–327.

No. 653 Amendment offered by Mr. Dickinson that increases Army operation and maintenance appropriations by $18 million; August 7, yes; passed, 252–128.

No. 654 Amendment offered by Mr. Yates that sought to strike the $2.1 billion appropriation for the CVN–71 nuclear aircraft carrier program; August 7, no; failed, 156–218.

No. 656 Amendment offered by Mr. Giaimo, as amended by the Heckler substitute, to H.R. 13635, DOD Appropriations, that sought to strike the $3 million appropriation for the development by the Army of the AVCR–1360 diesel engine for application in future Army and/or Marine Corps combat vehicles, and to increase the appropriation for the Army's food research progams by $1 million; August 8, no; failed, 107–269.

No. 657 Amendment offered by Mrs. Heckler to DOD Appropriations that sought to increase the appropriation for the Army's food research programs by $1 million; August 8, no; 103–277.

No. 658 Amendment offered by Mr. Howard to Defense Appropriations that sought to permit up to 10% of the appropriated funds for contracts to be used for payments under contracts in labor surplus areas; August 8, yes; failed, 165–213.

No. 659 Amendment offered by Mr. Brown of Michigan to the Defense Appropriations bill that sought to prohibit use of funds for procurement of tactical support, or tracked or nontracked vehicles not manufactured in the U.S. or its possessions, except for test and evaluation purposes; August 8, no; failed, 72–302.

No. 660 Amendment offered by Mr. Conte to the Defense Appropriations bill that strikes language establishing a limitation on the Competitive Rate Program for the transportation of household goods; August 8, no; passed, 269–96.

No. 661 Amendment offered by Mr. Mitchell of Maryland, as a substitute for the amendment offered by Mr. Harkin, to the Defense Appropriations bill that sought to reduce total appropriations in the bill not required by law by one percent; August 8, no; failed, 136–222.

No. 662 Amendment offered by Mr. Harkin to the Defense Appropirations bill that sought to reduce total appropriations in the bill not required by law by 2 percent; August 8, No; failed, 102–252.

No. 664. Amendment offered by Mr. Dornan, as amended, to the Defense Appropriations bill, that prohibits use of funds to pay for abortions except where the life of the mother would be in danger if the fetus were carried to term; August 9, no; passed, 226–163.

No. 665. H.R.13635, making appropriations for the Department of Defense for the fiscal year ending September 30, 1979; August 9, yes; passed, 339–60.

No. 666 Conference report on H.R. 2777, National Consumer Cooperative Bank Act, clearing the measure for the President; August 9, no; passed, 236–164.

No. 667 H. Res. 1201, to disapprove Reorganization Plan Numbered 2 transmitted by the President on May 23, 1978 (Civil Service Reorganization); August 9, no; failed, 19–381.

No. 670 Amendment, as amended, offered by Mr. Cornell, to H.R. 12452, CETA Amendments, that requires the Secretary to revoke all or part of a prime sponsor's funds if a public service employment program is being conducted in violation of the provisions in the act and requires the prime sponsor to refund to the Treasury all funds found to have been expended; August 9, yes; passed, 407–1.

No. 671 Amendment offered by Mr. Goodling to the Krebs substitute to the Erlenborn amendment to the CETA Amendments that sought to make payment of unemployment insurance benefits by prime sponsors for persons in public service jobs optional rather than mandatory; August 9, no; failed, 197–211.

No. 672 Amendment offered by Mr. Ashbrook to the amendment, as modified offered by Mr. Krebs as a substitute for the Erlenborn amendment to the CETA Amendments that sought to prohibit use of funds for retirement contributions after July 1, 1979; August 9, no; passed, 209–194.

No. 673. Amendment offered by Mr. Erlenborn to the CETA Amendments that prohibits the use of CETA funds for contributions to retirement plans after January 1, 1980; August 9, no; passed, 254–140.

No. 674 Amendments offered by Mr. Obey to the CETA Amendments that set a limit of $12,000 for any CETA job in high-wage areas and $10,000 in low-wage areas and set the average wage level at $7,000, which can be adjusted annually by a percentage not to exceed the percentage change in the Consumer Price Index; August 9, no; passed, 230–175.

No. 675 Amendment offered by Mr. Jeffords to the CETA Amendments that places a $3.2 billion ceiling on public service employment except during periods of critically high unemployment and emphasizes youth employment by shifting authorizations from public service to youth programs and programs for private sector opportunities for the economically disadvantaged; August 9, no; passed, 221–181.

No. 676 Amendment offered by Mr. Maguire to the CETA Amendments that provides standards for allowable expenditures by prime sponsors for legal or other associated services; August 9, yes; passed, 200–198.

No. 678 To order the previous question on H. Res. 1306, the rule under which H.R. 13511, the Revenue Act (tax reform bill), was considered; August 10, no; passed, 284–130.

No. 679 Committee amendments (except for section 404, Archer amendment) to H.R. 13511, the Revenue Act; August 10, yes; passed, 409–1.

No. 680 Committee amendment (section 404) offered by Mr. Archer to the Revenue Act that adds language indexing capital gains to the rate of inflation, beginning in 1980; August 10, yes; passed, 249–167.

No. 681 Amendment offered by Mr. Vanik in the nature of a substitute for H.R. 13511, Revenue Act, that sought to extend four tax provisions due to expire at the end of the year; August 10, no; failed, 57–356.

No. 683 Amendment offered by Mr. Corman to H.R. 13511, the Revenue Act that sought to increase the size of the total individual tax reductions by $2 billion and to provide for a graduated alternative minimum tax on capital gains; August 10, yes; failed, 193–225.

No. 684 Motion offered by Mr. Kemp to recommit the Revenue Act with instructions to report it back containing an amendment to provide an across-the-board cut in individual income taxes, averaging 33 percent phased in over three years; August 10, yes; failed, 177–240.

No. 685 H.R. 13511, to amend the Internal Revenue Code of 1954 to reduce income taxes; August 10, yes; passed, 362–49.●

FURTHER UNDERLYING CURRENTS OF PROPOSITION 13

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. BROWN of California. Mr. Speaker, proposition 13's recent passage in California demonstrates that our citizens are angry enough to demand drastic changes in their government. There are numerous and sometimes conflicting reasons why people voted for the Jarvis-Gann initiative. One major reason is our Government's inability to solve the interconnected problems of inflation and unemployment. The various band-aid programs we politicians have set up now fail even to cover the symptoms of the problem.

Inflation is once more rapidly rising while unemployment, especially among the young and black, continues to remain abominably high. Tax rates are increasing, as with social security costs, and people are being pushed into higher income tax brackets. Inflation is particularly out of hand with property values and taxes. While proposition 13 was specifically a property tax relief measure, and many people have tried to limit its importance to that issue, the real problem goes far beyond inflated property values. It touches at the very heart of our modern economic system. I believe the initiative was in part a call for us to go beyond band-aids and solve the core structural causes of inflation and unemployment.

We all know the effects of inflation and how it hurts poor and fixed income people. Economists and other experts disagree, however, on the causes of inflation. Commonsense should give us some clues, though, as to why a dollar does not buy as much as it used to, at least in the long run perspective. It is a fact that the standard "good life" today involves much more material consumption than it once did.

The profusion of "necessary" gadgets in our society is historically amazing. We seem to need more elaborate cars, with former luxury items now standard, color televisions instead of black and whites, stereo consoles, dishwashers, garbage compactors, electronic calculators, digital wrist watches and more. The list of our new "needs" is continually expanding. The devices are increasingly complex and require a great deal more investment, skilled labor and other higher input costs.

I can almost guarantee you, Mr. Speaker, that when something new comes out it replaces something less expensive and simpler to understand. Furthermore, the demand for resources and labor to manufacture these new goods pushes up

the input costs, and thus the consumer prices, of other goods and services. This result together with greater per capita demand for consumer goods and the increased population of this Nation has produced a great multiplier effect that has put a crunch on many of our limited resources. This is specifically true where the increased demand is not offset by any increases in productivity of capital, labor or resource utilization. A major example is land, which is needed for new factories, offices, homes, roads, recreation facilities, and more.

Speculators have rushed in to maximize their personal gain. This of course even further inflates land values. The higher real estate prices enter in as higher input costs for goods and services and thus fuel another part of the overall inflation fires. It especially affects the costs of basic human needs, such as food, clothing and shelter, on which the poor spend the greatest portions of their incomes.

Our new gadgets tend to be much more energy intensive both in their manufacture and use than older products. The electric toothbrush, canopener, knife and so forth save little time, but they substitute inefficiently and expensive electric power for cheap and efficient human power. Furthermore, the electric power is usually centrally generated and controlled by regional monopolies, and distributed over large, complex and sometimes unstable networks. The generation facilities are in turn dependent for fuel either on vanishing resources (oil to crisis situations like the 1973 oil and gas) sometimes provided by unreliable suppliers over long and easily interuptable supply lines controlled by multinational corporations, or on resources frought with yet unclear health and environmental hazards (coal and nuclear). We are thus much more open to crisis situations like the 1973 oil embargo and subsequent quadrupling of oil prices. This crisis might not have occured if we had more decentralized energy production, such as solar energy offers us. Now, every OPEC price increase adds a multitude of additional inflationary costs.

The next facet of the problem is the employment situation. People are tired of politicians' promises and seeing millions of dollars spent on programs that have little effect. The fact of the matter is that we have a two-tiered employment problem. There is still a great demand for skilled workers. Our modern gadgets must be built by increasingly skilled labor forces. Their wages and salaries are high and even growing more so. They are able to demand indexing and other raises to cope with inflation even though this input cost itself becomes a part of inflation. I would like to here include part of an ad I found in a recent edition of the Washington Post. This is a perfect example of the general direction the job market is likely to take:

Engineers are in short supply. That's a troubling sign in these technological times. It's a matter of special concern to us as a high-technology company built on engineering excellence.

The demand for engineers of all kinds has been rising for the past several years, and acute shortages are beginning to develop. Some people believe the shortages may become chronic.

We're troubled about this because engineering is our basic discipline. It lies at the heart of nearly all we do. We employ thousands of engineers. They help us design, develop, manufacture, market, service, and support our products. These include jet engines, helicopters, elevators and escalators, electrical and electronic equipment, flight and space systems, industrial gas turbines, and other precision-engineered equipment.

We need engineers to help keep us in the forefront of advanced technology. We're maintaining and strengthening our leadership in managing technology through heavy investments, year after year, in company-funded research and development.

Last year, our R&D investment was $368 million. That's more than $1 million a day, every day of the year. Of the top ten U.S. corporations in R&D spending, we rank No. 1 in such expenditures as a percentage of sales. Our sales last year were over $5.5 billion.

We look on R&D as an investment in our business future. It enables us to have technology and products ready to meet the needs of our worldwide markets in the years ahead.

But it takes more than money to stay out front in technology. It also takes talent. We want to hire experienced mechanical, aeronautical, electrical, electronic, chemical and materials engineers with the skills we need to help us achieve our goals.

The demand for semi- and unskilled workers, however, is shrinking. The new industries have little use for these people. Their traditional jobs are being rapidly replaced by machines. Businesses have little incentive to train them for more useful and creative work. Employers would rather continue allowing the public school system to educate and train their workers, but these educational institutions are poorly suited to meet the needs of the chronic unemployed. Government job programs are generally too small and poorly directed to be effective. They often only provide make-shift work that provide participants with few skills.

The philosophy behind proposition 13 is that we should try to do better with what we have; without technology, government, taxes, or anything else. The lesson for me in all of this is that we need to stop looking at "progress" in the conventional terms of size and complexity, and instead in terms of the broad goals and values we want to emphasize in this country. Building a new automobile, for instance, should not be viewed only as a challenge of increasing the aesthetic qualities, automatic accessories, engine size, trunk space, or other things that unnecessarily add to the price of the automobile.

It should instead encompass the overall values we want in our transportation system; that is, maximizing resource efficiency, preserving environmental qualities and social values, maximizing public safety, providing accessibility, and freedom for individual lifestyle choices. I believe, Mr. Speaker, that once we allow "progress" to include these broader overall values then we can effectively deal with inflation and unemployment. Proposition 13 directs us to rethink our traditional programs and begin dealing with the inner problems. While this particular initiative was not the solution to these problems, it at least gave the people an opportunity to demand a new approach to solve these problems. It is up to us legislators to begin an attack on the structural economic defects I have discussed that helped bring about the passage of Jarvis-Gann.●

FEDERAL BUREAUCRACY

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. HARSHA. Mr. Speaker, dealing with the Federal bureaucracy can be a frustrating experience and, all too often, an exercise in futility.

As the size of this bureaucracy increases, so do the number of complaints from individual citizens who must do business with it. Today, a Member of Congress spends many hours trying to untangle the redtape so that Government agencies actually provide the services they have been established to provide.

However, even a Member of Congress is sometimes victimized by calculating bureaucrats. I would like to share a recent experience of mine with my colleagues.

In an attempt to secure information on plans by the National Park Service to annex 1,000 acres of land to the Mound City Group National Monument in Chillicothe, Ohio, I was advised last month by the acting associate director of the agency that a study of the project was under review and would not be available until this fall. At that time, I expressed my opposition to the Park Service plans.

Subsequently, I learned that not only had the study been completed in June, but copies of it were floating around my district.

In the following letter, I have advised the Secretary of the Interior of the incident and of my outrage at what appears to be a deliberate deception on the part of certain officials of the Park Service to deceive a Member of Congress. I offer the contents of this letter so that my colleagues may benefit from my latest experience with the Federal bureaucracy.

The text of the letter follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 11, 1978.

Hon. CECIL D. ANDRUS,
Secretary of Interior,
Interior Building,
Washington, D.C.

DEAR SECRETARY ANDRUS: On June 23, 1978, I wrote to Mr. Gary Everhardt, Director of the National Park Service, concerning that department's proposal to expand the Mound City Group National Monument in Chillicothe, Ohio. The area in question is the site of the Hopeton Earthworks, remains of the Hopewell Indians who lived in the Scioto Valley of Ohio from 300 B.C. to 600 A.D. About one thousand acres of this land has been entered into the National Register of Historic Places, and it is this land the Park Service proposes to annex to expand the existing park.

The Acting Associate Director, Mr. Robert Stanton, responded to my inquiry for more information in a letter dated July 25, 1978. In that letter, he stated that a study of the

project was under review, and would not be available until this fall. I am opposed to this expansion, and was interested in obtaining as much information as possible, including the study Mr. Stanton mentioned. Copies of his letter were sent to several of my constituents who had expressed their interest in the proposed expansion.

I subsequently found out that not only had the study been completed, but copies of it were floating throughout the Chillicothe area. The superintendent of the Mound City Group National Monument had seen the report; an employee of the Department of Housing and Urban Development in Columbus had a copy; a local real estate developer had read someone else's copy. This was the study I had been told would not be ready until this fall.

When the National Park Service's Congressional Liaison, Mr. Art Eck, was contacted to explain why I seemed to be the only interested party who had not seen the study, my office was again told that the report had not been completed. He was then told that several of my constituents had seen the study, and the next day, brought the report to my office. It had been published in June, a month prior to Mr. Stanton's letter.

I believe that the National Park Service deliberately misled me into thinking that the report which I had requested was not available. This apparent effort on the part of the bureaucracy to deceive a member of Congress is outrageous. At the same time I was denied a copy of the study, it was circulating freely among my own constituency. The study's existence was not denied by some lowly clerk, but by the Congressional Liaison and the Acting Associate Director of the National Park Service.

Given the fact the Park Service knew of my interest in the proposed expansion, why was I not sent a copy of the report when it was published in June? I want to know why the National Park Service deliberately misled me. Why was the information I sought kept from me?

I am protesting this shabby treatment in the strongest possible manner, and I look forward to hearing from you concerning your department's actions.

Sincerely yours,

WILLIAM H. HARSHA,
Representative to Congress.●

TELECOMMUNICATION CHANGE GOOD FOR NATION

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. STUMP. Mr. Speaker, for more than a decade we have witnessed a process of change in the telecommunication industry of this country. We have also witnessed an accompanying debate which challenges whether certain aspects of the change are in the best interests of all citizens. The debate has been pursued by the interested parties in various Federal and State regulatory forums, the courts and now resides—and I believe appropriately so—in the Congress. I commend the House Communications Subcommittee and its staff for the exhaustive undertaking to review the Communication Act of 1934 in an effort to allow Congress to establish public policy which will enhance the growth and development of the communications industry while assuring the well being of individual communication users, including the broad base of consumers of telecommunications.

In that connection, the recent Western Governors Conference devoted time and attention to matters of telecommunication and passed a resolution which sets forth their concerns and adminitions on that subject. I submit the resolution to be printed at this point in the RECORD.

II. THE COMMUNICATION ACT OF 1934

Whereas, the Western Governors' Conference has a vital interest in policies being maintained which insure the provision of telephone service to as many people as possible at affordable rates; and

Whereas, the benefit of national telephone service is in direct proportion to the percentage of household and businesses having access to the national telecommunications network whether they are urban or rurally situated; and

Whereas, the effectiveness of total telephone service is dependent upon the responsibility and accountability of those providing the service thus the necessity for policies pinpointing the responsibility for provision and maintenance of the basic exchange telephone service; and

Whereas, the attainment of the above stated goals is dependent upon pricing policies based on uniform average charges rather than charges based upon route or locality, and charges that enable intercity services to make an appropriate payment toward the joint costs of providing basic local telephone service;

Now, therefore, be it resolved, that the Western Governors' Conference commends the Congress for undertaking review of the Communications Act of 1934 particularly as it relates to the provision of telecommunications services; that Congress should reaffirm the original purpose of the Act in giving priority to the objective of providing universal telephone service on a basis which insures high quality service at affordable rates to the users of residential telephone service; and that the Congress should set forth such provisions in the law as necessary to assure the availability of intercity telephone service to all citizens at affordable rates; and

Be it further resolved, that a copy of this Resolution be presented to the National Governors' Association for consideration at its meeting in Boston, Massachusetts, on August 28–30, 1978.

I urge my colleagues in the Congress to keep in mind the views of these distinguished leaders of the Western States as we deliberate current legislation, which the House subcommittee chairman characterizes as a "starting point" and subsequent legislation which will determine future telecommunications policy to serve this Nation.●

THE CASE OF VIKTORAS PETKUS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. DORNAN. Mr. Speaker, when will it ever end? The list grows daily of those who, on "trumped-up" charges, are disciplined for exercising the rights due them as human beings. The story of one such human being, Viktoras Petkus, has somehow strangely been overlooked and hidden from public view. Why? Viktoras, a Lithuanian Catholic, was recently sentenced to 10 years imprisonment followed by 5 years of Siberian exile. If this man was just another one of the many dozens of Lithuanian Catholics jailed because of their faith it would be slightly understandable that his trial was "overlooked" by the media heavyweights. But interestingly enough, Viktoras Petkus is a member of the "Civil Rights Group" formed in the Soviet Union to monitor the Communist state's violations of the human rights provisions of the Helsinki agreement. Hardly "a regular" human rights suppression of liberty. Why the news blackout?

Mr. Speaker, in light of what I have just discussed, I insert a recent editorial on the subject from the National Catholic Register:

[From the National Catholic Register, July 30, 1978]

HISTORY AND CATHOLIC TEACHING

We've been reading on every front page, about the trials and shameful convictions of Anatoly Shcharansky and Alexander Ginzburg. Editorials abound deploring the harsh sentences by subservient Soviet judges. President Carter himself has denounced these sordid and brutal violations of civil rights. Nor is our government content with words: the future of arms reduction talks with the Soviets seems to hang in the balance.

Why, then, the utter silence about Viktoras Petkus? The trial of this Lithuanian Catholic before a Soviet court opened the very day Messrs. Shcharansky and Ginzburg went before their judges. His real offense was no more and no less than that of the Jewish and Orthodox defendants: struggling for universally recognized rights. Moreover his trial ended the very day Mr. Ginzburg's did.

Had Viktoras Petkus been just another of the many Lithuanian Catholics jailed by the Soviets for their patriotic and religious convictions, we might understand the silence of the media and of our elected government. But Viktoras Petkus is a member of the civil rights group formed in the Soviet Union to monitor that Communist state's violations of the human rights provisions of the Helsinki Agreements, of which it is a signatory.

We understand that the media might ignore the plight of such a personage, but we cannot understand how our elected government can fall into such blatant bias.●

THE TROUBLE WITH ERA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. HYDE. Mr. Speaker, as we approach the debate on ERA extension, the merits—or demerits—of ERA cannot avoid being a topic of spirited controversy. As a contribution to the literature on this subject, I am pleased to share a recent column by the Chicago Tribune's Mike Kilian:

THE TROUBLE WITH ERA ISN'T GENDER—IT'S JUDGES

(By Michael Kilian)

The women's Equal Rights Amendment is a menace that must be defeated for reasons that have nothing to do with either side of the issue of women's rights.

The reasons have to do with another menace, perhaps the greatest menace to individ-

ual freedom and representative government in the history of our nation:

Government by judicial fiat.

As always in any discussion of the ERA, I must hurry forth with a caveat: I am a wholehearted supporter of equality for women. I wash dishes, cook meals, change diapers, go grocery shopping, and am delighted that my wife has a career. I only wish she made more money.

I do not support what Phyllis Schlafly & Co. seem to have in mind—a constitutional amendment requiring men to open doors for women and keep them in bonbon and chaise-longues all their days.

I do not fear what Phyllis fears, which is that the ERA will lead to all manner of federal court decisions requiring women to serve in foxholes, share rest rooms, or keep their men in bonbons and chaise longues.

What I fear is simply this: The ERA *will* lead to all manner of federal court decisions. It doesn't matter what they are. It matters that they will be made by judges.

It is one thing—and a good thing—for women to lobby for changes in the law or new laws to right wrongs. If women are underpaid, can be passed [and have been passed] by elected legislatures requiring that they be paid the same as men for doing the same work.

Laws tend to be neat, simple, and specific—and provide for swift and workable remedy.

But what the ERA crusaders are pushing is a constitutional amendment—not a change in the laws but a change or implied change in the basic foundation of our laws, in the instrument by which we measure all our laws.

For all its simplicity, the ERA is extremely imprecise. It doesn't deal with one small aspect of American life—say, the number of terms a President can serve or whether one can buy booze. It deals with practically every aspect of American life, and in the most vague, sweeping terms.

"Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex," it says.

Those 24 little words could call into question nearly every federal, state, and municipal statute on the books—every legally accepted business practice and social custom. Everything would have to be reexamined in relation to the new amendment.

And it would have to be done by the federal courts.

As it is—simply because of new civil rights laws—federal judges who know nothing about police or personnel have found themselves managing police personnel departments for months or years. Federal judges are roosting on state and local government the way ravens did on Edgar Allan Poe's writing desk.

In recent years, we've seen people filing such outrageous actions as asking their parents for financial damages for "malparenthood." What sort of lunacy will reign when our already overcrowded courts are choked with suits asking judicial review of every conceivable point of male-female conflict in our society?

Our unelected, unresponsive, appointed-for-life federal judges have usurped enough power from legislatures as it is. Yet the ERA people would have them decide who's to do the dishes.

In last week's hearings over whether Congress should extend the ERA's ratification time, former Sen. Sam Ervin said it had no constitutional authority to do that. ERA Ronald Rotunda [yes, Rotunda] argued that didn't matter, saying: "Constitutionality is not synonymous with wisdom nor even, necessarily, with fairness."

Then what's the point of a constitutional amendment known as ERA? These people are daft. They don't know what they're doing. We shouldn't let them do it.●

AUTOMATIC INDEXING INCOME TAX

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, for some time now I have been interested in the idea of automatic indexing of our income tax to the rate of inflation. Last December, I introduced a bill to accomplish partial indexing, and I joined as a sponsor of a slightly different bill introduced by the gentleman from Ohio, Mr. GRADISON, which was considered but rejected by the Ways and Means Committee this year.

An article by John Pierson in the Wall Street Journal of August 9 gives a good account of the various aspects of the indexing issue, including arguments against as well as those in favor. I believe it is a balanced treatment, and I call it to the attention of my colleagues in the interest of further enlightment on this important question:

IS IT TIME TO INDEX TAXES?

(By John Pierson)

WASHINGTON.—Indexing the tax system for inflation is, as the saying goes, an idea whose time has come.

In the next few days, the House will consider whether to index capital gains taxes. Later this summer the Senate will have a chance to vote on inflation adjustments for other parts of the tax code, too. Canada and several other countries already index portions of their tax systems.

Indexing all or part of the tax code means making adjustments to relieve people from having to pay taxes on the part of their income that reflects higher prices rather than increased purchasing power.

As a matter of fact, tax indexing is an idea that has gone further, even in the United States, than many people realize. Congress has cut taxes five times in the past 10 years, in part to offset the effects of inflation. Meanwhile, accelerated depreciation, last-in-first-out inventory accounting and exclusion of half of capital gains help compensate asset holders for rising prices.

So the question isn't whether to index the tax code—we do already after a fashion—but how to index: automatically on the basis of some inflation measure, or from time to time as Congress sees fit.

In general, conservatives favor automatic indexing because they think it would help reverse the recent tendency of Congress to cut taxes in ways that redistribute money from the rich to the poor. Conservatives also think that automatic adjustments would help reduce inflation and cut the size of government.

Liberals generally prefer to stick with the existing system of *ad hoc* tax cuts. Such cuts, they say, produce more tax fairness and less inflation, while providing the government with the revenue it needs to play an active role.

KIND WORDS FROM SEN. LONG BUT . . .

The House may vote as early as tomorrow to delete capital gains indexing from the tax bill. And even though the chairman of the Senate Finance Committee, Democrat Russell Long of Louisiana, has recently had some kind words for the idea, automatic indexing probably is too new an idea for Congress to swallow this year.

But automatic indexing is an idea that's sure to be with us in the years ahead, especially if inflation continues unabated.

The problem with inflation and taxes is really two problems. First, the income, estate and gift taxes are based on fixed dollar amounts that don't account for changes in the value of the dollar resulting from inflation. The personal exemption, for example, is $750. As prices rise, however, $750 becomes smaller in terms of what it can buy.

Thus, a typical family of four that made $15,000 last year paid taxes of $1,385, or 9.2 percent of its income. Even if the family receives a 7 percent pay increase to match this year's anticipated 7 percent inflation, its taxes will go up faster in 1978, to $1,613, or 10 percent of income. After 10 years of this kind of thing, the family's tax rate would climb to 17.8 percent, almost double what it was a decade earlier.

In the words of Republican Rep. Willis Gradison of Ohio, a leading proponent of indexing, that's an "unlegislated, unvoted, unsigned tax hike."

The second problem is that the tax code fails to define income in a way that takes account of inflation. Someone who sells stock pays tax on his gain, even if it represents nothing more than inflation and hasn't provided him with any increase in real income or purchasing power.

Congress has provided that some of the Government's spending programs, notably Social Security payments, are automatically indexed for inflation. But it has extended automatic indexing to only a few parts of the tax code, notably the limits on employer contributions and employe benefits under qualified pension plans.

Now, as approved by the House Ways and Means Committee, the tax bill would provide an automatic adjustment to eliminate taxes on the inflationary part of capital gains. The cost basis of certain assets—common stock, real estate and tangible personal property—would be increased to reflect monthly increases in the consumer price index under the plan proposed by Rep. Bill Archer, a Texas Republican.

In the Senate, Robert Dole proposes to go even further. In addition to the basis of capital assets, the Kansas Republican would index most of the fixed dollar amounts in the income, estate and gift taxes. His bill wouldn't provide any inflation adjustment for inventories and depreciation allowances, however.

As might be expected in an election year, much of the congressional debate over indexing revolves around the question of tax fairness. While almost everyone agrees it isn't fair to tax unreal income, agreement stops there.

Take capital gains. According to a study by Martin Feldstein and Joel Slemrod of Harvard, individuals selling corporate stock in 1973 paid nearly $500 million in excess taxes because of inflation.

To prevent this from happening in the future, conservatives like Rep. Archer would index capital gains. Liberals, if forced to choose, would prefer indexing to the other major form of tax relief for capital gains currently before Congress—a rate cut of the kind proposed by Republican Rep. William Steiger of Wisconsin. Lower rates benefit all gains, inflationary or not; indexing distinguishes.

But liberals would prefer not to have to choose. They argue that holders of capital assets are already shielded from inflation, in a rough sort of way. This is achieved by the existing exclusion for half of gains, by the 25 percent top rate on the first $50,000 of gains (other provisions can boost the maximum rate as high as 49 percent) and by the fact that tax is deferred until the asset is sold.

It would be unfair to index capital gains without indexing savings accounts, liberals say. Holders of capital assets often have the means to buy their assets on credit. Their interest payments are deductible, and inflation benefits them because they can pay off their debts with cheaper dollars.

In contrast, liberals argue, the typical person with a savings account is using his own money. Interest ceilings prevent him from getting a return equal to inflation. Unlike a share of stock, a savings account can't increase in value. What's more, the depositor is taxed annually on his interest; a stockholder, however, can postpone tax, if not on his dividends, then at least on his gain, until he sells.

Beyond the argument over the fairness of indexing capital gains alone, conservatives complain that the tax cuts Congress has passed in recent years are unfair and unwise because they have been used to redistribute money down the income scale.

It depends on which year you use as the base. If 1960 is the base year, taxpayers below $20,000 of income and above $200,000 have generally done better with the occasional cuts Congress has enacted than they would have done had the code, instead, been indexed from 1960 on. Those with incomes between $20,000 and $200,000 have done worse.

Liberals agree with the analysis and like it. "Over the past several years, most of the more significant loophole-closing measures that have been enacted took place within the context of an overall tax reduction bill," says Andrew Biemiller, the AFL–CIO's chief congressional lobbyist. "These measures have . . . generally improved the overall fairness of the tax structure—something that could not be done if there were a built-in system of automatic tax cuts through indexation."

Will Mr. Biemiller and other liberals retain their enthusiasm for congressional tax changes after this year's tax bill? One wonders, as Congress seems bent on rejecting almost all of President Carter's revenue-raising tax revision plans, while cutting taxes on capital gains and undoing other important liberal "reforms" of recent years.

STOPPING WASHINGTON'S "BONUS"

Hard upon the heels of the argument about fairness comes the argument about how best to fight inflation. Because inflation pushes people into progressively higher tax brackets, and for other reasons, the government's revenues rise about half again as fast as prices. Indexing would stop Washington's inflation "bonus." With less money coming in, most conservatives say, Washington would have to spend less, which in turn would help dampen inflation.

Canada, for example, has indexed parts of its tax code, beginning in 1974. The rate of growth of government spending in Canada has declined from 15.9 percent in 1974 to 10.2 percent in 1975, to 2.7 percent in 1976 and to 2.1 percent in 1977. But some conservatives question whether the same thing would happen in the U.S. They fear that instead of cutting spending as revenues fell, the government might just go deeper into debt.

Conservative proponents of indexing reply that Congress could, and probably would, cut spending in line with declining revenues. Not only would less federal spending restrain inflation, they argue, but it would also reduce the government's role in society.

Liberals, on the other hand, argue that indexing would blunt an important tool in the fight against inflation: automatic tax increases that reduce excess demand by taking purchasing power out of the hands of consumers and businessmen. "If all we know about the economy is that it has been experiencing inflation, economists would generally prefer to have taxes going up rather than going down," says Deputy Assistant Treasury Secretary Emil Sunley.

As for the argument that indexing would reduce government's role in society, that's another reason liberals don't like indexing. "We cannot support measures, which under the guise of protecting workers would . . . further hamstring the federal government's ability to fund programs needed to promote the national interest," says the AFL–CIO's Mr. Biemiller.

With basic differences of opinion like these, it may be a while before indexing becomes a fact whose time has come, rather than just an idea.●

AVIATION ISSUES BEFORE THE 95TH CONGRESS

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. BAUCUS. Mr. Speaker, as we approach the end of the 95th Congress, there are many aviation-related issues which remain to be solved. Legislation is pending which would disapprove of the Mutual Aid Pact under which Northwest Airlines is receiving funds from other airlines during the labor dispute with their pilots, legislation to grant the airlines billions of dollars from the excise tax we pay when we fly will be considered, and Congress just completed consideration of legislation directly affecting flight service stations. We may even get a chance to vote on airline deregulation in the near future.

All of these issues are of great importance to Montanans. In addition to all of the Montanans who depend on the commercial airlines to meet their transportation needs, Montana boasts more private planes and pilots per capita than almost every other State. While in many areas of the country private ownership of aircraft is considered the ultimate in luxury, for many Montanans it is an economic necessity.

Thus, we in Montana are perhaps more aware of the safety hazards which pilots of small aircraft encounter. Not only do we have more pilots and small planes, but we also have some extremely variable weather conditions within our State as a result of our varied geography.

FLIGHT SERVICE STATIONS

Perhaps it is because of this increased sensitivity to the safety needs of pilots that a group of concerned Montanans came all the way to Washington last winter to protest plans to part-time or close some flight service stations. Such an action would have created a serious safety hazard. These stations provide vital weather and traffic information for pilots, and any reduction in this service would have been unwise.

I feel that the arguments presented by the Montanans who traveled to Washington were instrumental in the Federal Aviation Administration's announcement last spring that they had no plan to part-time or close any flight service stations. In short, they backed down from their earlier plan which would have affected many of the flight service stations in Montana.

In addition, Congress recently took action which further protects flight service stations. The final version of the Department of Transportation Appropriations bill, which was signed into law on August 4, states that the FAA cannot part-time or close any flight service station without the written permission of the Transportation Subcommittees of both the House and Senate. This insures that the FAA will have to present a very strong case for any flight service station which they might want to alter, and prove that their action will not create a safety hazard. This legislation is a relief to all of us who are concerned about flight safety.

THE MUTUAL AID PACT

Another issue of great concern to Montanans is the current labor dispute which has kept Northwest Airlines' planes grounded for the last 3 months. It is estimated that Montana alone is losing $13 million a month as the result of this strike.

One aspect of the strike which has disturbed me is the mutual aid pact through which a struck airline is paid a percentage of their usual profit from other airlines. I feel that this arrangement is extremely detrimental to meaningful collective bargaining.

As a result of this agreement, Northwest Airlines is showing a profit even though they are not flying planes. Thus, the airline knows that it is in fine shape—however long the strike may last.

At the same time, the pilots are assured that their employer is fiscally sound and that they are not running the risk of driving the airline out of business as the result of a protracted strike. They are reasonably assured that their jobs are safe.

I recently introduced legislation which would put an end to the mutual aid pact. This resolution also calls for the Civil Aeronautics Board to study the collective bargaining process within the airline industry in hopes that lengthy strikes can be avoided in the future through more responsive bargaining procedures. The text of this resolution appears below.

H.J. RES. 1090

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

STATEMENT OF PURPOSE

SECTION 1. The Airlines Mutual Aid Pact entered into by sixteen airlines under the authority of the Civil Aeronautics Board provides a formula in which the signers of the pact contribute payments to a carrier not operating because of a labor dispute. This pact is adverse to the public interest. The interest of the public will be best served if this five-year agreement which legally expired February 27, 1978, is not renewed by the Civil Aeronautics Board. The Mutual Aid Pact is anticompetitive and it takes away the incentive for an airline to have constructive collective bargaining and labor relations with the unions. In practice, the pact has proven to aid financially healthy airlines at the expense of financially weak carriers and at an unreasonable cost and disruption to the consumers and traveling public. The purpose of this joint resolution is to direct the Civil Aeronautics Board to immediately dissolve the agreement and to immediately terminate any further participation or payments by the member carriers of the Mutual Aid Pact.

DIRECTION TO BOARD

SEC. 2. The Civil Aeronautics Board shall immediately, without further proceedings, disapprove any extension of the Airlines Mutual Aid Pact and terminate any effect of such pact.

SEC. 3. The Civil Aeronautics Board is directed to study the collective-bargaining process within the airline industry and make

recommendations to Congress within six months on methods of alleviating the occurrence of protracted strikes that seriously impact the airline industry and the economy of the areas affected.

This resolution has also been introduced in the Senate by Senator JOHN MELCHER, where it has met with widespread support. Congress needs to act quickly on this legislation so that we can restore an atmosphere conducive to meaningful collective bargaining. I urge my colleagues to support this resolution.

AIRPORT AND AIRCRAFT NOISE REDUCTION ACT

Last January I testified before the Ways and Means Committee's Subcommittee on Oversight about the surplus in the airport and airways trust fund. This fund earns its revenue from an 8-percent excise tax on airline passengers, and it is used to fund safety equipment and facilities at our commercial airports.

There is a proposal here in Congress, the Airport and Aircraft Noise Reduction Act, which would take money out of the fund and give it to the commercial airlines to help them comply with Federal noise regulations.

This legislation would allow 2 percent of the current 8-percent excise tax on airline tickets to be used for financing retrofitting and replacing of engines and replacing planes not in compliance with the 1985 noise standards. This is not the way to go about solving the aircraft noise problem.

If this legislation passes, it would be the first time that the Federal Government paid an industry to comply with its regulations. The automobile industry had to comply with emission standards on its own, as has every other industry faced with compliance to Federal regulations.

I do not argue with the fact that compliance will be expensive for the airlines, or that there is a surplus in the Airport and Airway Trust Fund.

I do feel that a better solution to this problem would be to reduce the excise tax by 2 percent, and then allow the airlines to increase their fares by 2 percent if they could prove to the Civil Aeronautics Board that they need the additional revenue to meet the deadline. Thus, the Government would not be handing out money to the airlines from the trust fund, money which would go to the airlines tax free. Rather, the airlines would be responsible for themselves and the income they would receive from a possible rate increase would be subject to taxation. I feel that this is one fair alternative to using the trust fund to bail out the airlines.

There is also a chance that the House of Representatives will vote on airline deregulation before the end of the 95th Congress. Thus, there are many major aviation-related issues among the unfinished business which Congress must address in the new few weeks.

If the past 2 years are any indication of the future demand for air transportation, we can expect tremendous growth in this industry. The decisions we make today should be geared toward paving the way for sound management and safety precautions for the ever-increasing number of planes flown in our country—both commercial and private.●

DO NOT BAN SACCHARIN

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. GRASSLEY. Mr. Speaker, following congressional mandate, the FDA was forced in 1970 to ban saccharin and cyclamates from the market, because there was a chance that these artificial sweeteners might cause cancer. The study which suggested this result was performed upon laboratory rats using extremely large doses of the concentrated substances. This now-famous study, (which led to the suggestion that what this country needs is a stronger laboratory rat) was, at the time, strongly disputed.

In a recent study done in Baltimore on bladder cancer patients the conclusions of the original study were called into question. Reprinted below is a July 24 Wall Street Journal article detailing the conclusions of the new study.

What is important about the new findings is that they bring to light again the important debate between those who would ban products from the marketplace at the slightest suggestion that they could be harmful and those who would suffer real loss because of such a ban. In the case of saccharin, this debate takes on more than economic dimensions. There are those who need the artificial sweeteners for health reasons, especially diabetics and the elderly. To force them to do without saccharin or cyclamates because of the marginal conclusions of a study on rats, is tantamount to punishing them for their condition. It is a far different case than smoking or pollution control policy decisions pose.

Last year Congress voted to delay the proposed saccharin ban for 18 months, until more conclusive information was acquired. I favored this approach. It seemed sensible in the light of current debate. Now the time has come to lift the ban entirely and permanently. There is, of course, good reason to expect the Federal Government to oversee the production and distribution of foods and drugs, they alone have the resources to monitor this interstate industry, but it is inappropriate for the Federal Govern- to act on inconclusive evidence to ban a needed and time-tested food additive.

I recommend this article to my colleagues not only for what it tells us of saccharin, but what it can tell us of the proper, reasonable, and helpful role of the Federal Government in the lives of this nation's citizens and the workings of its industries.

The article follows:

MODERATE USE OF SACCHARIN, CYCLAMATES UNLIKELY TO CAUSE CANCER, STUDY FINDS

(By Joann S. Lublin)

Ordinary amounts of artificial sweeteners such as saccharin and cyclamates don't appear to cause bladder cancer in humans, scientists reported in a study released today. The study is sure to fuel the long-simmering controversy over the safety of these sweeteners.

The U.S. Food and Drug Administration banned cyclamates in 1970, after a study suggested they caused cancer in laboratory animals. Abbott Laboratories, a North Chicago, Ill., health-care products maker, has been fighting to get cyclamates back on the market since 1973. Abbott had been a major cyclamates producer. Last year, the FDA proposed a ban on saccharin after studies indicated that large amounts cause bladder tumors in rats.

Congress has postponed the ban for 18 months while further studies are made. In the meantime, saccharin-sweetened beverages, foods and other products carry a label warning of the possible health hazard.

STUDY OF 1038 PATIENTS

"Neither saccharin nor cyclamate is likely to be carcinogenic in man, at least at the moderate dietary ingestion levels reported" by patients studied, concluded the latest report, which appears in this week's issue of the Journal of the American Medical Association. The conclusion was based on a Baltimore study of 1,038 patients, evenly divided between those with bladder cancer and those hospitalized for other reasons.

The study doesn't answer the question of whether there is any risk at all of developing bladder cancer from the use of saccharin or cyclamates, conceded Dr. Irving I. Kessler, one of two authors, in an interview. Dr. Kessler is chairman of the University of Maryland School of Medicine's Department of Epidemiology and Preventive Medicine.

But regulators considering a ban on saccharin should consider "the totality of the evidence, the weight of the evidence and the biological consistency of their evidence before making their decision," he added.

Dr. Kessler also noted that if either cyclamates or saccharin did cause bladder cancer, then the bladder cancer patients should have used the sweeteners in greater amounts or for more years than the control group. "Almost always in human cancer, the risk of cancer . . . increases as the dose or length of exposure increases. We carefully analyzed that and could find no relation," he said. This was true, he added, even when such variables as age, sex, occupation, race and smoking habits were controlled.

For the study, Dr. Kessler and his colleagues extensively interviewed the patients about their use of artificial sweeteners in tablet, powder and drop form, as well as in diet beverages and foods. Patients reported how often, how much and how long they had consumed the substances.

CANADIAN FINDINGS DISAGREE

The JAMA article noted that these findings disagree with a recent Canadian investigation of hospitalized cancer patients. Researchers there concluded that bladder-cancer risks rose 60% among men who used saccharin tablets, but not among those who drank dietetic beverages or ate dietetic foods with saccharin. Women didn't seem to have similar increased risk.

Such conclusions don't make sense, the JAMA report suggested. "The divergence in relative risk between men and women observed in Canada would be extraordinary for human carcinogen . . . an equally puzzling, if not biologically inconsistent finding" was the lack of risk for men who consumed saccharin-containing drinks or foods, the report said.

The Calorie Control Council, an Atlanta-based group of diet-food manufacturers and others, praised the Baltimore study as support for its argument "that saccharin should remain available," a spokesman said. Noting that Congress has asked the National Academy of Sciences to investigate saccharin further, he added: "This (study) will be an important contribution to their assessment of saccharin's safety."

A recent FDA report also supports the council's viewpoint. Morris Cranmer, director of the FDA's National Center for Toxicological Research, said in a report released

earlier this month that health hazards posed by saccharin may be outweighed by its possible benefits.

While saccharin may, indeed, cause cancer—either directly or by 'promoting' the effect of some other substance—"the cancer risk of the carbohydrates that saccharin replaces are several times greater than the cancer risk for saccharin," Mr. Cranmer asserted in his study.●

MEMORIAM OF THE SLOVAK-AMERICAN COMMUNITY TO HIS HOLINESS POPE PAUL VI

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. ROE. Mr. Speaker, with your permission I would like to insert in our historic journal of Congress the most revered tribute of our Slovak-American community which very eloquently depicts the highest of reverence, esteem, and respect that we all feel for the lifetime of excellence and multitudinous good works, in service to God and all mankind, of His Holiness Pope Paul VI whose passing is deeply mourned by all peoples throughout the world.

This memoriam, which was edited by the first Slovak-American journalist to have received the "Pro Ecclesia et Pontifice"—for the church and the pontiff—Award of His Holiness Pope Paul VI, the Hon. John C. Sciranka, appeared in the August 9, 1978, issue of the Katolicky Sokol (Catholic Falcon), official publication of the Slovak Catholic Sokol organization with international headquarters in the city of Passaic, in my congressional district, State of New Jersey.

The Slovak-American community tribute to the Most Holy Father, His Holiness Pope Paul VI reads, as follows:

SOKOLS MOURN DEATH OF POPE PAUL VI

On Sunday, August 6th, 1978, Pope Paul VI, the frail, quiet man who led the Catholic Church through 15 years of change and conflict, died at his Summer retreat, Castel Gandolfo, Italy.

The Holy Father, 80, was stricken by a heart attack while listening to a Mass offered in his private chamber by his personal secretary, the Rev. Pasquale Macchi.

The spiritual leader of 700 million Catholics of the world died in peace as he has lived and requested the people of the world to live.

Thousands of worshippers came to pay him tribute. On Wednesday, his casket was brought to St. Peter's basilica, where it will lay in state until Saturday, August 12th, when funeral services will be held. 115 Cardinals, who will elect his successor will attend as will representatives of many governments.

The bells of churches in the Eternal City announced the death of the beloved Pontiff, the 262nd successor to St. Peter.

Pope Paul VI had great admiration for Physical Fitness organizations such as our Slovak Catholic Sokol and bestowed his blessing through the Apostolic Delegate in Washington, D.C., on our many Slets and celebrations.

He was sympathetic to the Captive Nations, including Slovakia.

When he observed the 15th anniversary of his pontificate on June 21st of this year as Vicar of Christ on earth, we recalled his close affiliation with the Slovak people. After assuming the throne of St. Peter as successor of the beloved Pope John XXIII, he received in audience more than 600 American Slovaks who came to Rome for the dedication of the Slovak Institute of SS, Cyril and Methodius.

In 1965 he named the Rev. Michael Rusnak, Slovak Byzantine Redemptorist as Bishop and Apostolic Visitator for the Slovaks of Byzantine Rite in Canada.

In 1973 he named three bishops for Slovakia, and in January 1978 he established a Metropolitan Province in Trnava, Slovakia.

Pope Paul VI. received in private audiences many Slovak prelates and especially our American Slovak leader, the Most Rev. Andrew G. Grutka, bishop of Gary, Ind.

Pope Paul was accompanied on many of his journeys to foreign countries by Bishop Paul Hnilica, S.J., a Slovak leader, residing in the Eternal City.

During the fifteen years, he elevated several of our Slovak priests as prelates and bestowed an award of "Pro Ecclesia et Pontifice" through the Slovak Catholic Federation of America on Mrs. Susan Matuscak, well known American Slovak fraternalist, and Editor John C. Sciranka. He also named Sir John A. Sabol, outstanding American Slovak fraternalist as Knight of St. Gregory the Great.

During the Second Vatican Council, Mr. Stephen B. Roman, was named as lay auditor, the only Canadian layman presented with such great honor.

Pope Paul also honored Msgr. Francis Fuga, a well known Byzantine Slovak leader in Canada and recently elevated Father Andrew Sinal, Byzantine Catholic priest of Montreal, Canada, with the dignity of monsignor.

We recall with great pride the visit of His Holiness in October 1965 to the United Nations, and a celebration of a holy mass at the Yankee Stadium before an audience of 90,000. Here the Slovaks were well represented. We recall also the thousands of Slovaks who made pilgrimage to Rome in 1975, the Holy Year and the General Assemblage of the Slovak World Congress, and in 1977, when over 30,000 Americans attended the canonization of St. John Nepomucene Neumann, the fourth Bishop of Philadelphia. On this occasion the Slovaks were honored when John J. Cardinal Krol spoke in Slovak and our Sokolka, Mrs. Valeria Pavucek Miller, was one of the candle bearers and recited the prayers of the Faithful in Slovak at the famous basilica, Sancta Maria Maggiore, where the famous Pope Hadrian II. approved and blessed the Slavonic Liturgy at the request of SS. Cyril and Methodius, over eleven centuries ago.

Pope Paul VI. was familiar with the problems of Slovaks and other Captive Nations. As a young prelate he spent several years as an assistant to Papal Nuncio in Warsaw, Poland, where he learned the Polish language, which he used on many occasions, including the Vatican Radio. With his knowledge of Polish, he became closely associated with other Slavonic nations.

The Holy Father was interested in the beatification of Sister Miriam Teresa Demjanovich and was informed about her cause through the Postulator, Father Nicola Ferrante, who visited the United States in June and was at the celebration of the first anniversary of canonization of Bishop Neumann in Philadelphia.

There were many noted events during the 15-year reign of Pope Paul, when he showed his love for our Sokol organization and the Slovak people.

We mourn his blessed death and pray that his successor will follow in his footsteps for the Glory of God and peace among the nations.

Mr. Speaker, I appreciate the opportunity to share with you and our colleagues this memoriam of the Slovak Catholic Sokol and the Slovak-American community and join with them and all peoples throughout the world in solemn observance of the passing of a great leader and good friend, the Most Holy Father, his Holiness Pope Paul VI. May he rest in peace.●

SUGAR LEGISLATION

HON. RAYMOND F. LEDERER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. LEDERER. Mr. Speaker, today the Subcommittee on Trade of the Ways and Means Committee is holding hearings on legislation to implement the international sugar agreement. As the decision of this subcommittee may very well determine what price the consumer will be paying for food next year, I would like to share my testimony before the subcommittee with my colleagues in the House:

TESTIMONY OF THE HONORABLE RAYMOND F. LEDERER

Mr. Chairman and Members of the Subcommittee:

I appreciate this opportunity to appear and present my views concerning the competing proposals for sugar legislation which are the subject of this hearing. As the focus of today's hearing will be on H.R. 13848, of which I am a co-sponsor, I wish to make known my strong support for this legislation which encompasses the same responsible approach which I have tried to include in my own bill.

The Chairman's bill, while extending additional benefits to farmers, does not do violence to the consumers. It is a bill which is balanced, moderate, and—in my opinion—sound and constructive legislation. By way of contrast, H.R. 12486 is unworkable, would be totally incompatible with the International Sugar Agreement, and is highly inflationary. A close reading of the bill reveals that rather than providing the purported 16 cents per pound, it would, in truth, result in sugar priced at over 19 cents per pound. This is because Section 207 provides that quotas on fees may not be adjusted or suspended unless the price of sugar is ". . . less then twenty percentum above the current price objective." Quite apart from the considerable demerits of the bill, I find myself deeply offended by the manner in which the de la Garza bill came into being.

In May and again in July, I expressed my uneasiness concerning this matter to my colleagues in the House in the Congressional Record. A brief recital of at least some of the salient facts producing this uneasiness appears in a release issued by the Consumer Federation of America, a copy of which I submit at this time for the record of this hearing. Quite apart from the highly questionable actions of Mr. Dwayne Andreas in conjunction with a number of former Senate staffers, I am particularly concerned and curious as to why a USDA employee, Mr. Robert Stansberry, came to draft what is now the de la Garza bill. This bill is in direct conflict with the policies of the Carter Administration and, indeed, the Department for which Mr. Stansberry works. Apparently, it was done at the behest of the Staff Director and General Counsel of the Senate Agriculture Committee, Mr. Michael McLeod. That gentleman, despite stating that he would not become a lobbyist upon leaving his Hill assignment—as he was quoted in the Washington Post of March 21st of this year, is now

a registered lobbyist for the Florida Cane Sugar League, working to secure passage of the very bill which he caused to be drafted at public expense.

Your bill, Mr. Chairman, is a measure that was arrived at after long and serious consultation with many departments of the Administration and various segments of Industry, as well as other Members of the House. Contrast this to the drafting of the de la Garza bill. At no time was any thought or consideration given to anyone outside the narrow parochial interests of the sugar growers and their allies—the beet processors and corn refiners.

The sole interest of this group is to create an artificial shortage, through restrictive quotas, to drive the price of sugar up to the desired level. This small but powerful group of special interests, representing only one percent of the nation's farmers (but a significant number of huge corporations), have seriously abused the legislative process. They have utilized the services of a Federal Department espousing a clearly opposite sugar policy, to draft sugar legislation which would exclusively serve their own selfish needs. Most tragically, the public has been asked to foot the expense of drafting legislation which would literally take millions of dollars out of their pockets each year.

I say that this is disgraceful. Both bodies of Congress have more than adequate drafting facilities. The private sector has access to a huge number of high-priced and talented Washington law firms, as well as, in the case of the Sugar lobby, numerous ex-Senate staffers. This is the kind of practice—this is the kind of situation—that causes the citizens of this nation to lose respect for their government.

Mr. Chairman, it is my sincere belief that the extreme measures of the de la Garza bill would literally rip-off millions of dollars each year from America's consumers. Its parochial and selfish interests are blatantly evident in both the drafting and substance of H.R. 12486. It is my hope that the members of the Trade Subcommittee would reject the de la Garza bill in favor of the much more responsible and consumer oriented approach taken by Chairman Vanik in H.R. 13848.

CONSUMER FEDERATION OF AMERICA,
Washington, D.C., July 12, 1978.

At a time when consumers can least afford a big boost in sugar prices, why is Congress pushing that hike on behalf of fewer than 1% of our nation's farmers?

Consumer Federation of America, the nation's largest consumer organization, today disclosed information which goes far towards explaining the success of one of the most powerful and effective lobbying efforts now on Capitol Hill.

In announcing its findings, which developed in light of CFA's own intensive lobbying in opposition to pending sugar legislation, Executive Director Kathleen F. O'Reilly stated, "We are convinced that the door between the halls of Congress and the sugar lobby revolves at a disturbingly fast pace."

According to CFA, the ranks of that lobby are filled with former Congressional aides who worked on sugar legislation. Furthermore, it is immeasurably aided by Senators and Representatives from the sugar-producing states of Louisiana, Texas, Idaho, Hawaii, Utah and Minnesota. Since every legislated price hike for sugar is followed by increased markets for corn sweeteners, additional support comes from Congressional representatives of Western and Midwestern corn-producing states. Many of these members hold key positions on Congressional committees with jurisdiction over sugar legislation.

"This powerful combination of forces is totally ignoring the overwhelming inflationary impact on consumers which passage of the Church/de la Garza bills would produce," commented O'Reilly.

"It is clear that the involvement of former Congressional aides goes well beyond the much publicized gifts of Dwayne Andreas, head of the Archer-Daniels Midland Company, a large corn sweetener manufacturer." O'Reilly was referring to the appointment of David Gartner, former administrative assistant to the late Senator Hubert Humphrey (D–MN), to the Commodity Futures Trading Commission, despite Gartner's acceptance of $72,000 in trust funds from Andreas while working for Humphrey.

CFA found that another former key Humphrey aide, Herbert Waters, has followed the revolving door into the sugar industry. Waters is currently president of Tadco Enterprises, a private lobbying firm hired by Archer Daniels to help ensure passage of the Church/de la Garza bills.

The interplay between the industry and Congressional staff members goes even further, CFA disclosed. Tadco has hired Karth-Best Associates, another lobbying firm, to aid in the sugar legislation campaign. Robert Best, partner of former Representative Joe Karth, was a legislative assistant to Senator Russell Long (D–LA) until 1977. (Long, whose Louisiana constituents include a substantial number of cane sugar growers, is chairman of the Senate Finance Committee. His Subcommittee on Tourism and Sugar, chaired by Senator Spark Matsunaga (D-HI), initiated hearings on the Church bill.)

Best has been implicated, along with Karth and Waters, in writing a letter, dated August 16, 1977, which Gartner sent to the Senate Agriculture Committee under Humphrey's signature making recommendations that could bring a multimillion-dollar bonanza to the corn sweetener industry. According to Knight-Ridder Newspapers, the letter was signed by an office signature machine in Humphrey's absence.

Among the employees at Karth-Best is Will Leonard, another former Long legislative assistant. Leondard was appointed to the International Trade Commission (ITC) in 1968, where he led fights for sugar producers. He resigned from the ITC on June 10, 1977, and immediately became involved with Karth-Best in its sugar lobbying efforts.

A close associate of Senate Agriculture Committee Chairman Herman Talmadge (D-Ga.) is also involved in the pattern. Until March 1978, Michael McLeod was general counsel and staff director of the Senate Agriculture Committee and right-hand assistant to Talmadge. He played a key role in drafting the Church bill. He now lobbies for the Florida Sugar Cane League, despite promises upon leaving the committee that he would not become a lobbyist (Washington Post, 3/21/78). Coincidentally, McLeod was retained by the League's Horace Godfrey, a USDA official until 1969. Godfrey also represents Texas sugar growers.

Still another player is Dale Sherwin, former minority staff counsel to the Senate Agriculture Committee and assistant to Senator Robert Dole (D-Kans.) until his resignation in March of this year. He is now lobbying for the Church bill on behalf of A. E. Staley, one of the country's leading corn sweetener manufacturers. Sherwin helped draft and develop the bill while on the Committee staff.

Among other corporate food giants the financial success of which is tied to sugar legislation is the Heinz Corporation. Its corn sweetener interests are represented by the consulting firm of former Nixon White House aide, William Timmons.

"In spite of these overwhelming odds," concluded O'Reilly, "CFA will continue to vigorously voice its opposition on behalf of American consumers and urge the Administration to stand firm in opposing any measure which would raise the price of sugar."●

PUNITIVE MEDICINE AND SOVIET INJUSTICE: THE TRIAL OF ALEKSANDR PODRABINEK

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. FASCELL. Mr. Speaker, next Tuesday, Aleksandr Podrabinek, a 25-year-old medical attendant and founding member of the Working Commission to Investigate the Abuse of Psychiatry for Political Purposes, an affiliate organization to the Moscow Helsinki Watch Group, will go on trial in the outskirts of Moscow. He will probably be forced to sacrifice precious years of his youth to Soviet labor camps for the humanitarian work he has done to expose the misuse of psychiatry for political purposes in the Soviet Union. Podrabinek is the author of a scathing book, Punitive Medicine, in which he describes how Soviet criminal courts dispatch perfectly sane dissidents to psychiatric institutions as a means of physically punishing them. For daring to let this awful truth be known, Podrabinek was arrested on May 15, 1978 and charged, under article 190–1 of the RSFSR criminal code, with "circulation of fabrications known to be false which defame the Soviet State and the social system."

This is not the first time that a Soviet citizen has been prosecuted for libel for printing the simple truth: A colleague of Podrabinek, Yuri Orlov, was recently given 7 years in labor camp and 5 years in internal exile for "anti-Soviet agitation and propaganda" for his Helsinki watch activities, which included the preparation of detailed reports on human rights violations in the U.S.S.R. It is no coincidence that Podrabinek was arrested on the day that Orlov's trial opened, for he had refused to testify against the physicist earlier in the year.

Podrabinek estimates that at least 1,000 people have been confined in psychiatric hospitals because of their political outspokenness against the inhumanity of the Soviet regime. These assertions were backed up last summer at the World Congress of Psychiatry, which passed a vote of condemnation of the Soviet psychiatric practice with respect to dissidents.

As evidence of the truth of Podrabinek's contention that hospitals are being used as torture chambers for dissidents, I cite the example of Zinovy Krasivsky, a teacher and poet, and ardent Ukrainian nationalist. Arrested in 1967 for his activities in the Ukrainian National Front, he was sentenced to five years in prison, 7 in camp, and 5 years of internal exile. In December of 1971, in Vladimir Prison, he was accused under article 70 of the Ukrainian criminal code for the dissemination of his poetry. A commission of medical experts of the Serbsky Institute for Forensic Psychiatry in Moscow then declared him not to be responsible for his actions. In 1972, he was placed in Smolensky Special Psychiatric Hospital and in 1976 transferred to a General Psychiatric Hospital in Lvov where he remains to this day.

Podrabinek is not being prosecuted for "fabrication known to be false," he is being persecuted for fabrications proved to be true. I urge my colleagues to join me in calling for Podrabinek's immediate release, and protest the misuse of psychiatry for political purposes in the Soviet Union.●

ANOTHER EXAMPLE OF SOVIET JUSTICE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. BINGHAM. Mr. Speaker, once more, the Soviet authorities are about to demonstrate their type of "justice." On Tuesday, outside Moscow, the trial of an extraordinary young man on charges of defaming the state will begin. Aleksandr Podrabinek, a 25-year-old dissident who compiled a book on the Soviet use of psychiatry to quash dissent, faces a possible 3 years in labor camp. His only crime has been his efforts to expose psychiatric abuses in the Soviet Union.

In January 1977, Podrabinek and four others founded the Working Commission to Investigate the Abuse of Psychiatry for Political Purposes. The commission, working closely with the Moscow branch of the Public Group to Promote Observance of the Helsinki Agreement in the U.S.S.R., began to issue bulletins documenting instances of the misuse of psychiatry for political purposes. An example of these abuses appeared on December 15, 1977 in Bulletin No. 5 which provides information on the case of Dr. Anatoly Barabanov, the former director of a section at the Sychov Special Psychiatric Hospital. Dr. Barabanov encountered numerous difficulties with the KGB in the course of his work. Finally, in 1976, he courageously refused to follow the KGB's orders regarding treatment of political prisoners. In addition to being expelled from his position at the hospital, he was arrested for anti-Soviet activities and declared mentally ill. He is presently receiving forcible treatment at the Blagoveshchensk Special Psychiatric Hospital. Such incredible and tragic stories appear, unfortunately, all too frequently in the working commission's bulletins.

Podrabinek is not the first member of the commission to face criminal charges. Feliks Serebrov, another founding member, was sentenced in October 1977 to 1 year in strict regime labor camp for allegedly using falsified documents. The repression against Podrabinek has also extended to his family. His brother, Kirill, was arrested on December 31, 1977, and charged with illegal possession of firearms and sentenced, in March 1978, to 2½ years in labor camp. According to dissident sources, both men are innocent of the charges against them.

Now it is Aleksandr Podrabinek's turn to reeceive a measure of Soviet "justice." It does not require a mind reader to predict the outcome of this trial. Arrested on the opening day of the trial of his friend, Yuri Orlov, Podrabinek—in all likelihood—will be found guilty as charged. However, the Soviet Union must stand trial in the court of world opinion and, undoubtedly, will be convicted of blatant disrespect for international standards of human rights.●

HUMAN RIGHTS IN LITHUANIA

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. CORCORAN of Illinois. Mr. Speaker, today as always in America we enjoy an atmosphere of freedom. We can travel at a whim, communicate our views openly without persecution, and worship in a house of our own choice. But even as we enjoy these freedoms which we so easily take for granted, there are people in this world suffering from political oppression.

I am speaking about the proud people of Lithuania. On February 16, 1978, the Lithuanian Declaration of Independence was signed granting this people the freedom to live and prosper. As we all know this ambience of freedom was soon replaced by Soviet intimidation.

The once proud united nation of Lithuania has suffered much torture and hardship inflicted and resulting confusion and disillusionment. They have been subjected to incredible cruelties in a never-ceasing effort by the Soviets to destroy their national spirit. One-sixth of her population has been exiled into desolate regions of the Soviet Union, with many families broken, never to be united again.

The Soviet Union signed the Helsinki agreement guaranteeing basic human rights, but treats its meaning as useless rhetoric. Lithuania has felt no relief from the Soviets in their desperate attempts for liberty. Their reading materials are completely controlled. They are subjected to unexplained and unwarranted searches of their homes and their persons. They are sentenced for make-believe crimes with no possibility of appeal. Communists have even tried to infiltrate the Catholic seminary for the training of priests by the KGB. Human rights violations seem unending and yet this strong people continues to withstand more abuse in their attempts to rebel.

There are over a million Lithuanians in America today. Many in my congressional district have expressed concern to me personally over the plight of their people. Mr. Speaker, as Americans we must continue to resist and denounce this obstinate oppression. We must hold fast to our ideals and encourage the United Nations to use its arm of persuasion in relieving the pain and suffering brought upon the Lithuanian people by an overbearing country. Only when these inalienable human rights are restored to countries, like Lithuania, can we begin to build an environment for world peace and freedom to flourish.●

ANTI-INFLATION AMENDMENTS OF 1978

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. FISHER. Mr. Speaker, I am introducing today "The Anti-Inflation Amendments of 1978," a bill designed to reduce the rate of inflation over the next several years through a guidelines approach for wages and prices. The bill, which would amend the Employment Act of 1946, would also require more explicit coordination of Federal economic policies aimed at achieving anti-inflationary goals.

The statistics on inflation by now are all too familiar. In the past 5 years, the Consumer Price Index has gone up almost 50 percent, and during the past decade over 80 percent. Increases in the cost of food, housing, health care, and energy, together with rising interest rates and general price hikes are eating away at the income of many Americans and reducing their ability to save.

The causes of inflation are many, and simple solutions, however attractive superficially, would not do. Reducing the Federal deficit will help to ease the problem, but by itself will not solve the current inflation dilemma. Similarly, enforcement of antitrust legislation should be simplified and improved, although it will not solve all abuses of economic concentration. Overhaul of Federal regulatory policies is undoubtedly overdue, but we cannot be sure that this will result in significantly lowered prices. All of these policies and others should be pursued in the effort against inflation, but I believe that something more is needed.

Administered prices and negotiated wage settlements, rather than full competition, have come to characterize an increasing proportion of the American economy. The resulting structure of prices and wages has contributed greatly to the present inflationary surge. The inability to come to grips with this development is, I believe, a principal shortcoming in the fight against inflation. This price and wage setting process will not disappear, and it must be dealt with if inflation is ever to be licked.

The bill I have introduced focuses on the wage-price spiral that drives prices higher even in times of recession. I wish to emphasize that this bill is not intended to set the stage for the future imposition of wage and price conrols which I regard to be unnecessary and counterproductive. What this bill would do is to make the guidelines more explicit, thus reducing the current confusion over what constitutes a fair wage or price increase. The bill also provides for prenotification and fact-finding so that public pressure can be brought to bear before inflationary actions take hold. I believe that an effective voluntary guidelines approach such as that contemplated in this bill will relieve the pressures for wage and price controls.

More specifically, the bill would require the following:

First. Each year the President, as part

of his annual economic report, would issue wage and price guidelines for major industries that, if adhered to, would cut inflation back. Guidelines would be recalculated annually, and the Congress could reject the President's recommendations through a joint resolution of disapproval. The guidelines would reflect increases in the cost of living and improvements in productivity minus an anti-inflationary factor which, during times of high inflation, could range up to 25 percent of the other two factors.

Second. The guidelines would be put into operation through a process of prenotification and fact-finding intended to mobilize public opinion whenever the guidelines are about to be breached. The President would be expected to exert the leadership inherent in his office to conform wage and price decisions to the existing set of guidelines. The Council of Economic Advisers would be the President's principal agent in the development of guidelines while the Council on Wage and Price Stability would be chiefly responsible for the prenotification and fact-finding phases of the operation.

Third. In addition, each year the President would prepare anti-inflation recommendations as part of his overall economic and budget program. These would include tax and spending measures, regulatory, antitrust, investment, and other policies intended to achieve anti-inflation goals as set forth in the annual economic report. The Joint Economic Committee would review the President's recommendations and refer them, along with its own recommendations, for appropriate action to the committees in Congress having jurisdiction in the relevant fields.

I am also cosponsoring a bill introduced by Representative LUNDINE and several others that moves along similar lines to combat inflation. I hope that this bill and mine will be considered soon by the Congress.

Text of bill follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Anti-Inflation Amendments of 1978".

ESTABLISHMENT OF GUIDELINES AND COORDINATION OF ECONOMIC POLICIES

SEC. 2. (a) Section 3(a) of the Employment Act of 1946 is amended—

(1) by striking out "and" immediately before "(4)"; and

(2) by inserting before the period at the end thereof the following new clauses: "; (5) a set of guidelines to govern price increases and wage settlements, established in accordance with subsection (c); and (6) a coordinated set of fiscal (tax, expenditure, and borrowing) monetary (as recommended by the Board of Governors of the Federal Reserve System), regulatory, antitrust, investment, productivity, international (including trade, foreign investment, and balance of payments), and other economic policies designed to combat inflation and to achieve the related goals set forth in the Report, and measures to reduce price increases in highly inflationary sectors of the economy (such as energy, health care, food, and housing)".

(b) Section 3 of such Act is further amended by redesignating subsection (c) as subsection (d), and by inserting after subsection (b) the following new subsection:

"(c) The guidelines referred to in subsection (a)(5) shall be designed to reduce the rate of inflation and keep it within reasonable bounds, and shall apply only to business concerns and labor organizations of sufficient size (with annual sales of not less than $100,000,000 in the case of a business concern and a total membership of not less than 10,000 in the case of a labor organization) to have a significant effect upon inflationary factors in the economy. Such guidelines—

"(1) shall be formulated in consultation with business, labor, and private advisers as well as with the Council of Economic Advisers;

"(2) shall take into account existing and projected national economic conditions, the pattern of wage and price movements in recent years, trends in non-labor cost increases, and other relevant considerations;

"(3) shall allow for sufficient flexibility to account for major structural, productivity, and other differences among industries; and

"(4) shall reflect the increase in the cost-of-living which has occurred during the preceding year (as measured by the change in the Consumer Price Index) and shall allow for estimated productivity gains throughout the economy, but shall reduce the amount of any price increases or wage settlements otherwise permissible by a significant anti-inflation factor (in the range of 20 to 25 percent during periods of high inflation of the sum of such cost-of-living increase and such productivity gains.)".

COUNCIL OF ECONOMIC ADVISERS

SEC. 3. (a) Section 4(c)(1) of the Employment Act of 1946 is amended by inserting before the semicolon at the end thereof the following: ", including the portions of such Report establishing guidelines and economic policies as required by clauses (5) and (6) of section 3(a)".

(b) Section 4(e)(1) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and shall seek the advice and assistance of the Council on Wage and Price Stability in carrying out its functions with respect to the portions of the Economic Report establishing guidelines and economic policies in accordance with clauses (5) and (6) of section 3(a)".

CONGRESSIONAL REVIEW BY JOINT ECONOMIC COMMITTEE

SEC. 4. Section 5 of the Employment Act of 1946 is amended by adding at the end thereof the following new subsection:

"(g)(1) In conjunction with its annual review of the Economic Report, the joint committee shall hold special hearings for the purpose of reviewing the President's proposed guidelines for wages and prices (as included in such Report pursuant to section 3(a)(5)) and his proposed economic policies to combat inflation (as included in such Report pursuant to sections 3(a)(6)). Within thirty days after such hearings are completed, the joint committee shall submit to the House of Representatives and the Senate its findings and recommendations with respect to such guidelines and policies and shall in addition transmit directly to the committees of the House and Senate having jurisdiction with respect to such policies its specific recommendations for appropriate action thereon by those committees.

"(2) The proposed guidelines for wages and prices which are included in the Economic Report shall become effective, as the national standard to be followed by business concerns and labor organizations in accordance with section 5 of the Anti-Inflation Amendments of 1978, on the 30th day following the day on which the joint committee submits its findings and recommendations to the House and Senate under paragraph (1), unless prior to such 30th day the Congress adopts a concurrent resolution stating in substance that it disapproves of the guidelines as included in the Report. If the Congress adopts such a concurrent resolution, such guidelines shall not become effective and the President shall within 30 days resubmit them with such modifications as he may consider necessary or appropriate. The congressional review process as provided for in this subsection shall be repeated until no resolution of disapproval is voted within the prescribed time limit of 30 days. At any time during the period of thirty days after the day on which the joint committee submits its findings and recommendations to the House and Senate under paragraph (1) or, in the case of adoption of a concurrent resolution of disapproval, within 30 days after resubmission of guidelines, but before the concurrent resolution has been ordered reported in either House, the President may make amendments or modifications to the proposed guidelines, which amendments or modifications shall thereafter be treated as a part of the proposed guidelines originally transmitted and shall not affect in any way the time limits otherwise provided for in this paragraph."

COMPLIANCE WITH GUIDELINES

SEC. 5. Each business concern to which (under section 3(c) of the Employment Act of 1946) the guidelines currently in effect under section 3(a)(5) of such Act are applicable, and which proposes to make a significant price change in any major product line, shall notify the Council on Wage and Price Stability of such change at least 30 days before it becomes effective. Each professional association representing at least 1,000 members may be required to submit to the Council an annual report on the fee structures of the persons or groups it represents including the results of surveys conducted of such persons or groups. The Council shall monitor and study the trends in wage settlements, the elements in upcoming wage proposals, and the progress in wage negotiations. In carrying out its responsibility under the preceding sentence, the Council shall communicate on a regular basis with major unions and utilize the resources of the Labor Management Services Administration of the Department of Labor.

(b) The Council on Wage and Price Stability, on its own initiative or at the request of any business concern or labor organization substantially affected by the guidelines involved (or at the request of a consumer group having a substantial and direct connection with such a concern or organization), shall make and publish a report on any price increase, wage settlement, or change in fee structures which in its judgment substantially exceeds the applicable wage or price guidelines in effect under section 3(a)(5) of the Employment Act of 1946. Each such report shall cover price trends, wage and other cost trends, agreements reached in similar situations, any mitigating or unusual factors, the profit picture in related firms and industries, and other relevant considerations. Any business concern, labor organization, or professional association whose plans, practices, or actions are the subject of such a report shall be given a reasonable opportunity to reply in writing, citing any special circumstances which may explain or justify the violation of such guidelines or demonstrating that no such violation exists.

(c) Whenever the Council makes a report on a price increase, wage settlement, or change in fee structures under subsection (b), the President, with the advice of the Council, shall—

(1) institute and carry out (in the case of a wage settlement) a process of mediation between the business concern or concerns and the labor organization or organizations which are involved, under the direction of an independent mediator, or

(2) institute and carry out (in the case of

a price increase or a change in fee structures) such process of mediation as in his judgment is suitable to the circumstances, including participation by appropriate business, labor, and consumer interests, in order to achieve compliance with the applicable guidelines.

(d) For purposes of this section, the President shall—

(1) be expected to exert his leadership and good offices and take appropriate administrative steps to achieve wage and price agreements which comply with the applicable guidelines, and

(2) prescribe regulations to carry out this Act.

(e) The Council of Economic Advisers and the Council on Wage and Price Stability shall jointly prepare a study and make recommendations regarding the use of tax incentives and penalties to induce compliance with the wage and price guidelines established under section 3(a)(5) of the Employment Act of 1946. Such study and recommendations shall be transmitted within six months after the date of enactment of this Act to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Economic Committee for their consideration and appropriate action.

(f) Within four years after the date upon which the proposed guidelines for wages and prices have initially become effective pursuant to section 5(g) of the Employment Act of 1946, the Joint Economic Committee shall review the effectiveness of the guidelines in curtailing inflation and transmit a report to each House of Congress containing a detailed statement of the findings and conclusions of the Joint Economic Committee, together with its recommendation of whether to continue, modify, or terminte the guidelines.●

SUPPORT OF TUITION TAX CREDITS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 14, 1978

● Mr. COUGHLIN. Mr. Speaker, as the Senate continues its debate on the tuition tax credit bill, I am pleased to insert into the RECORD an excellent editorial from the Thursday, August 10, 1978, issue of the Washington Star which makes a number of strong points in favor of this sensible form of educational aid.

This editorial makes an effective argument in favor of the tax credit for elementary and secondary schools, an issue which will certainly receive much attention this week on the Senate floor, by asserting that the tax credit will finally allow parents of children in public schools the option of choosing a private school instead if they are unhappy with the public school system.

I strongly urge my colleagues in the Senate to read this editorial which will surely convince them of the great need for this fair form of educational relief.

The editorial follows:

THE TAX CREDIT FIGHT

As the Packwood-Moynihan tuition tax credit bill works its way toward crucial Senate floor action, the quality of the debate steadily deteriorates. What its sponsors view as a measure to promote diversity, choice and fiscal equity in education is denounced as a budget-busting money grab by the rich, or—as *The Washington Post* pronounced the other day—a "radical and ill-considered reversal of longstanding American values . . . a fundamental assault on the public schools," and even a boon for racial segregation.

These conflicting perceptions of the bill cannot be bridged, even allowing for the usual excesses of editorial rhetoric. And indeed the bill clearly raises issues—constitutional, fiscal and educational—of a fundamental sort.

If you think that American education, especially in the lower grades, is always to be a public monopoly; or that "root, hog, or die" must be the iron rule for private religious education; or that the First Congress erected "an eternal wall of separation between church and state," the case for the tax credits is weak indeed.

Happily, those principles, however fervently urged by secular educational lobbies or editorial writers, are largely subjective. They are nowhere chiseled in stone. Still less are they to be found in the Constitution. The Constitution is silent as to how Americans shall elect to educate their children. All it says about religion, apart from banning religious tests for office, is that Congress (and now, by judicial interpretation, the states) may not promote "an establishment" nor interfere with its free exercise.

Set aside the dubious—at times even hysterical—claim that tuition tax credits constitute some sort of foul play against American principles, and what is left? A few practical questions of policy, it seems to us. Would the program injure or strengthen public education? Would it encourage or discourage the proliferation of so-called "segregation academies"? Would it accentuate or arrest racial disparity in education?

It is unthinkable, to us at least, that Congress would seriously contemplate a measure that threatened the basic place of public schools in U.S. education. That primacy is all but universally conceded, and the reasons for it well understood. Rather, the anxieties about the future of public schools, given tuition tax credits, seem to stem from a vast insecurity. The notion, we gather, is that clients of public education are a captive audience, awaiting an incentive to bolt.

Such fears, we faithfully believe, are overwrought. But even if some parents do feel "trapped" in deteriorating and undisciplined public schools (especially in the inner cities), and would welcome an escape hatch, we can attach no other meaning to the ideal of American cultural diversity than that they should have that option. That option is always open to the well-to-do, who usually have mobility to move to the suburbs or the money to pay the steep price of private education, whether or not a fraction of that price may be subtracted from income tax bills—or both.

Prof. James S. Coleman touched on this point in a recent supportive letter to Senator Moynihan. Tax credits, he suggested, "will help give low income people some of the educational opportunity for their children that high income people already have. In a sense," he continued, "it provides an aid to parents to rescue their children from school situations that they find bad; and . . . this is especially the case for black parents who are locked into a given residential situation." Professor Coleman's view has been echoed and endorsed by a number of black scholars, including Thomas Sowell and Walter Williams.

But suppose that a substantial number of public school clients did seize tax credits as an avenue of "escape." Are the public schools so fragile, so far gone in demoralization and in discipline, as to be incapable of responding? Or would keen competition spur them to reform and to compete? The latter, we firmly believe.

Of course, the nitty-gritty of the matter, politically speaking, is the ageless quarrel over public help for schools of religious affiliation, mainly Roman Catholic. It is notable that every recent Democratic presidential candidate, including Mr. Carter, has given handsome pledges to the Catholic educational community. In an October 1976 letter to the Association of Chief Administrators of Catholic Education, Mr. Carter wrote that he was "firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools."

As governor of Georgia, he said, he had supported "annual grants for students attending non-public colleges" and he was of the view that "we must develop similar supportive programs at the national level for nonpublic elementary and secondary schools if we are to maintain a healthy diversity of educational opportunity." Senator Moynihan himself could hardly have stated the promise more clearly.

But as everyone has noticed, Mr. Carter's explicit pledge has gone a-glimmering now that he is faced with an opportunity to make good on it. Why that is so, we can't imagine. But if the president finds it expedient to renege he owes the Catholic educators at least an equivalent legislative alternative.

Of all the attacks on the tuition tax credit proposal, the shabbiest is the insinuation that they are a sugar-coated scheme for promoting racial segregation in the schools. In fact, the main—and the neediest—beneficiaries would be Catholic parochial schools with an old and honorable record of racial equity. And a for the so-called "segregation academies" mushrooming up across the South at the heels of school integration, their students, insofar as racial exclusiveness is their aim, would be ineligible under the tax laws. So much is clearly provided in the latest draft of the bill.

We recognize, again, that there are those who fervently believe that the bill is not in the national interest; that this country is better off with a public monopoly of educational funds. Obviously, keen opposition to the Packwood-Moynihan bill can be squared with that outlook. It cannot, however, be squared with the profession of faith that educational and cultural diversity are what this nation is all about—or should be.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 15, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technolgy, and Space Subcommittee.
To hold joint hearings with the Surface Transportation Subcommittee to receive testimony from officials of the Department of Energy on the matter of nuclear waste disposal.
225 Russell Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Environment and Public Works
To mark up S. 2900, to provide compensation for damages and cleanup costs caused by discharges of oil and hazardous substances, to be followed by consideration of the nominations of Jane Hurt Yarn, of Georgia, to be a member of the Council on Environmental Quality, and Karl S. Bowers, of South Carolina, to Administrator, Federal Highway Administration, DOT.
4200 Dirksen Building

Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1838, and 250).
4232 Dirksen Office Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Business meeting on pending calendar business.
322 Russell Building

Banking, Housing, and Urban Affairs
To continue hearings on S. 3304, proposed Federal Reserve Requirements Act.
5302 Dirksen Building

Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings on the situation in Lebanon, with particular reference to the Christian community.
4221 Dirksen Building

Governmental Affairs
To hold joint hearings with Judiciary Subcommittee on Citizens and Shareholders Rights and Remedies on S. 3005, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
1202 Dirksen Building

Judiciary
Criminal Laws and Procedures Subcommittee
To hold hearings on S. 3270, proposed Justice System Improvement Act and related bills.
2228 Dirksen Building

Select Indian Affairs
To hold hearings on the recommendations of the Bureau of Indian Affairs reorganization task force.
5110 Dirksen Building

Select Intelligence
To hold a closed business meeting.
S-407, Capitol

10:30 a.m.
Appropriations
To meet, in closed session, to mark up proposed appropriations for FY 79 for the defense establishment.
S-128, Capitol

Governmental Affairs
To consider S. 3229, proposed reform of the U.S. Postal Service, and the President's Reorganization Plan No. 3, to consolidate in a new Federal Emergency Management Agency preparedness activities heretofore the responsibility of five different Government agencies.
3302 Dirksen Building

1:30 p.m.
Conferees
On S. 2391, to extend through FY 1984 the life of the Commodity Futures Trading Commission.
S-207, Capitol

2:30 p.m.
Human Resources
Health and Scientific Research Subcommittee
To resume markup of S. 3115, to establish a comprehensive disease prevention and health promotion program in the U.S.
457 Russell Building

AUGUST 17

8:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 3242 and H.R. 12250 designating the Boundary Water Canoe Area Wilderness and establishing the Boundary Waters Canoe Area Mining Protection Area, Minnesota.
3110 Dirksen Building

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Human Resources
Labor Subcommittee
To continue joint hearings with Finance Subcommittee on Private Pension Plans and Employee Fringe Benefits on bills relating to the Employee Retirement Income Security Act (S. 3017, 901, 2992, 3193, 1745, 1383, and 250).
4232 Dirksen Office Building

10:00 a.m.
Agriculture, Nutrition, and Forestry
Agricultural Production, Marketing, and Stabilization of Prices Subcommittee
To resume hearings on S. 3029, legislation pertaining to the federal crop insurance program.
322 Russell Building

Banking, Housing, and Urban Affairs
To continue hearings on S. 3304, proposed Federal Reserve Requirements Act.
5302 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold oversight hearings on the physical and financial condition of the Erie canal
4200 Dirksen Building

Finance
To hold hearings, to receive testimony from Secretary Blumenthal, on H.R. 13511, proposed legislation to reduce income taxes.
2221 Dirksen Building

Foreign Relations
Arms Control, Oceans, and International Environment Subcommittee
To hold hearings on S. 2053, the Deep Seabed Mineral Resources Act.
4221 Dirksen Building

Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings with the Governmental Affairs Subcommittee on Federal Spending Practices and Open Government on S. 2515, dealing with occupational alcoholism programs.
1114 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

10:30 a.m.
Governmental Affairs
To consider S. 2971, 2026, and 1785, bills to require public disclosure of certain lobbying activities.
3302 Dirksen Building

2:00 p.m.
Select on Ethics
To hold an open business meeting.
S-146, Capitol

AUGUST 18

9:00 a.m.
Energy and Natural Resources
To hold hearings on the nomination of Ruth C. Clusen, of Wisconsin, to be an Assistant Secretary of Energy (Environment), and Roger A. Markle, of Utah, to be Director of the Bureau of Mines.
3110 Dirksen Building

Finance
Health Subcommittee
To hold hearings on proposals to expand coverage of mental health services.
2221 Dirksen Building

9:30 a.m.
Judiciary
Penitentiaries and Corrections Subcommittee
To resume hearings on S. 3227, to establish, on a demonstration basis, group therapy programs in ten Federal penitentiaries.
5110 Dirksen Building

10:00 a.m.
Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings on S. Res. 323 and 469, expressing the sense of the Senate concerning human rights in Cambodia.
4221 Dirksen Building

Finance
Public Assistance Subcommittee
To hold hearings on H.R. 12973, increasing the permanent ceiling on Federal spending for social service programs under the Social Security Act.
1114 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To resume mark up of S. 2755, to revise and reform the Federal law applicable to drugs for human use, and to establish within the Department of HEW a National Center for Clinical Pharmacology.
4232 Dirksen Building

Judiciary
To hold hearings on S. 2361 and H.R. 10965, to revise certain U.S. transportation laws.
2228 Dirksen Building

Judiciary
To hold hearings to examine the FBI's programs to prevent and investigate bank robberies.
357 Russell Building

AUGUST 21

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2455, the Home Owner's Equity Act, and S. 70, the Home Buyers Assistance Act.
5302 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board.
235 Russell Building

Finance
To resume hearings on H.R. 13511, proposed legislation to reduce income taxes.
2221 Dirksen Building

11:00 a.m.
Human Resources
Labor Subcommittee
To hold hearings on S. 517, to authorize employees and agencies of the Government of the U.S. to experiment with flexible and compressed work schedules.
4232 Dirksen Building

AUGUST 22

9:00 a.m.
Human Resources
To hold hearings on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building
Judiciary
Constitution Subcommittee
To resume hearings on S. 3164, proposed Citizen's Privacy Protection Amendment.
5110 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue hearings on S. 2455, the Home Owners' Equity Act, and S. 70, the Home Buyers' Assistance Act.
5302 Dirksen Building
Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings on S. 3363, proposed International Air Transportation Competition Act.
235 Russell Building
Environment and Public Works
Regional and Community Development Subcommittee
To mark up S. 3186, to provide public works employment for the long-term unemployed.
4200 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 23

9:00 a.m.
Human Resources
To continue hearing on S. 2645, proposed National Art Bank Act.
4232 Dirksen Building

9:30 a.m.
Environment and Public Works
To hold a business meeting on pending calendar business.
4200 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold joint hearings with the Committee on Governmental Affairs on S. 2750, proposed Consolidated Banking Regulation Act.
3302 Dirksen Building
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 3363, proposed International Air Transportation Competition Act.
235 Russell Building
Governmental Affairs
To resume joint hearings with Judiciary Subcommittee on Citizens and Shareholders Rights and Remedies on S. 3005, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
2228 Dirksen Building
Judiciary
Citizens and Shareholders Rights and Remedies Subcommittee
To continue hearings on S. 3005, to broaden the rights of citizens to sue in Federal courts for unlawful governmental action.
2228 Dirksen Building

AUGUST 24

9:30 a.m.
Banking, Housing, and Urban Affairs
To continue joint hearings with the Committee on Governmental Affairs on S. 2750, proposed Consolidated Banking Regulation Act.
3302 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
Aviation Subcommittee
To continue hearings on S. 3363, proposed International Air Transportation Competition Act.
235 Russell Building
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 25

10:00 a.m.
Banking, Housing, and Urban Affairs
To hold hearings on S. 2843, to provide for the striking of gold medallions, and on gold sales by the Department of the Treasury.
5302 Dirksen Building
Judiciary
Criminal Laws and Procedures Subcommittee
To resume hearings on S. 3270, proposed Justice System Improvement Act, and related bills.
2228 Dirksen Building

AUGUST 28

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

AUGUST 29

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

SEPTEMBER 7

10:00 a.m.
Commerce, Science, and Transportation
To hold oversight hearings on the lengths of motor tractor trailers
235 Russell Building

SEPTEMBER 8

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on S. 2970, proposed Truck Safety Act..
235 Russell Building

SEPTEMBER 14

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter and its overall policy.
2228 Dirksen Building

SEPTEMBER 19

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
6226 Dirksen Building

SEPTEMBER 21

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

CANCELLATIONS

AUGUST 17

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasion of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

AUGUST 22

9:00 a.m.
Judiciary
Constitution Subcommittee
To resume hearings on S. 1845, to prevent unwarranted invasions of privacy by prohibiting the use of polygraph type equipment for certain purposes.
5110 Dirksen Building

SENATE—*Tuesday, August 15, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by Hon. ROBERT MORGAN, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, grant that we may this day endeavor to be that which Thou wouldst have us to be, and to do that which Thou wouldst have us to do; listening to the voice of Thy spirit within us; not leaving one sin unrepented of, one spot in our hearts uncleansed; not looking backward but forward; not looking downward but lifting our vision upward; not lamenting the things undone, but rejoicing in the things done; not leaning for strength upon mortal man, but upon Thee, the Rock of Ages, who endures forever; through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 15, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT MORGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. MORGAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no requirement for my time.

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished minority leader is recognized.

Mr. BAKER. Mr. President, I thank the Chair, I have no need for my time this morning. In the absence of any such requirement, I yield back my time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

DISTRICT OF COLUMBIA REPRESENTATION—HOUSE JOINT RESOLUTION 554

AMENDMENT NO. 3475

(Ordered to be printed and to lie on the table.)

Mr. HARRY F. BYRD, JR. submitted an amendment relating to commuter taxes, intended to be proposed by him to House Joint Resolution 554, proposing an amendment to the Constitution to provide for representation of the District of Columbia in the Congress.

COMMUTER TAX AMENDMENT

Mr. HARRY F. BYRD, JR. Mr. President, I am today submitting an amendment to House Joint Resolution 554, a House-passed resolution now on the calendar proposing full voting representation for the District of Columbia in both Houses of the Congress.

My amendment would have the effect of placing a permanent ban on the imposition of any commuter tax by the District of Columbia.

Every year the District politicians come back to the Congress asking for a commuter tax. It is time to lay this unsound and unfair proposal to rest.

The District is prohibited, under the terms of its Home Rule Charter, from taxing the incomes of Virginia and Maryland residents who work in Washington. But each year, D.C. officials ask removal of this ban.

My proposal is to incorporate a prohibition on any commuter tax into the constitutional amendment giving the District full voting representation in Congress.

If D.C. voting representation is to become part of the Constitution, then I want to include a provision that will end once and for all the threat of a raid by the District on the citizens of Virginia and Maryland.

This year a subcommittee of the House actually approved a commuter tax. I believe it will be defeated, but I also believe that the D.C. government will be back again and again with the same request.

Virginians and Marylanders pay taxes in the District whenever they make purchases there. And like all other Federal taxpayers, they contribute to the Washington city government through Federal taxes.

There is no justification for a third level of taxation.

The District has one of the highest per capita incomes in the country, and its city government spends more per capita than any other city of comparable size in the United States.

Revelations of waste and inefficiency in the District government are frequent events.

What the District really wants is to finance its own extravagance with the hard-earned tax dollars of its neighbors.

This is totally unfair, and it must not be permitted.

I ask unanimous consent that the text of my amendment be printed at this point in the RECORD, and that the amendment be printed and lie at the desk.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3475

On page 2, line 16, strike out the quotation marks and the last period.

At the end of the bill, add the following new section:

" 'Sec. 5. The government of the District of Columbia shall have no jurisdiction or authority to enact any law imposing any tax on the whole or any portion of the personal income, either directly or at the source thereof, of any individual not a resident of the District of Columbia.' ".

COMMITTEE MEETING

Mr. NELSON. Mr. President, I ask unanimous consent that the Senate Select Committee on Small Business be authorized to hold hearings on inflation as it relates to certain segments of the economy and small business on Friday afternoon, August 18, 1978.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TUITION TAX RELIEF ACT OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 12050, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The following proceedings occurred during consideration of H.R. 12050:)

TIME-LIMITATION AGREEMENT—S. 2539, COLLEGE OPPORTUNITY ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 585, S. 2539, the higher education bill, is called up and made the pending business before the Senate, there be a time agreement as follows thereon: 4 hours on the bill, to be equally divided between Mr. PELL and Mr. JAVITS; 1 hour on any amendment; 20 minutes on any debatable motion, appeal, or point of order, if such be submitted to the Senate; and 1 hour on the bill under the control of Mr. MUSKIE; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. HODGES. Mr. President, reserving the right to object.

Mr. ROBERT C. BYRD. Mr. President, I withdraw the request momentarily.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. ROBERT C. BYRD. Mr. President, I now renew the request, which Mr. HODGES had a reservation on earlier and which has been cleared all around.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. It has to do with the time agreement on the higher education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 3073, FEDERAL-AID HIGHWAY ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate proceeds to the consideration of S. 3073, Calendar No. 764, the Federal-Aid Highway Act of 1978, an amendment adding a title on highway safety be inserted by unanimous consent, without

debate, and be considered as original text for the purpose of further amendment.

Provided, that there be 30 minutes on any amendment, with the following exceptions:

One hour on an amendment by each of the following Senators: Mr. GRAVEL, dealing with hydrofoil; Mr. GRAVEL, dealing with planning; Mr. GRAVEL, dealing with Alaska railroad; Mr. KENNEDY, dealing with truck lengths; Mr. ROTH, dealing with bridges; Mr. ROTH, dealing with beach erosion.

Provided further, that there be 1½ hours on each of the following amendments:

An amendment by Mr. GRAVEL, dealing with New York streets; by Mr. HUDDLESTON, dealing with coal haul roads; by Mr. ZORINSKY and Mr. ANDERSON, dealing with rail crossings; by Mr. KENNEDY and Mr. WEICKER, dealing with the trust fund.

Provided further, that there be 2 hours each on the following amendments:

An amendment by Mr. KENNEDY, dealing with planning; by Mr. CULVER, a bridge amendment.

Provided further, that there be 20 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate or on which the Chair entertains debate, to be equally divided between and controlled by the mover of such amendment and the manager of that title of the bill; that the time in opposition thereto be controlled by the minority leader or his designee.

Provided further, that on the question of final passage of the said bill, debate shall be limited to 2 hours on title I, which is the highway bill, to be equally divided between and controlled by Mr. BENTSEN and Mr. CHAFEE; 1 hour on title II, which is the highway safety portion, to be equally divided between and controlled by Mr. CANNON and Mr. SCHMITT.

Provided further, that no amendments to title II shall be in order until the Chair has ascertained that there are no further amendments to title I to be offered, and that once title I of the bill has been amended and the Chair has ascertained that no more amendments to that title will be offered, further amendments to that title will not be in order.

Provided further, that after the amending process on titles I and II has been completed, the bill be laid aside until again called up by the majority leader for the purpose only of adding the text of S. 2441 as title III and germane amendments thereto; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators for this very complex agreement which has been worked out.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements limited therein to 5 minutes each, and that the period not extend beyond 15 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Is there morning business?

TOBACCO RESEARCH

Mr. HUDDLESTON. Mr. President, on Thursday of last week the Associated Press and newspapers throughout the country carried stories concerning research conducted by Dr. Gio Batta Gori, deputy director of cancer prevention at the National Cancer Institute, on efforts to remove harmful ingredients from cigarette tobacco.

In those stories Dr. Gori stated that the new low tar and nicotine cigarettes are "less hazardous" and that when smoked moderately can significantly reduce any danger to the smoker.

"We don't want to call them safe," Dr. Gori said on behalf of himself and his colleague Dr. Cornelius J. Lynch. "We don't think there is such a thing. But some are so low (in tar and other toxic substances) as to cause no observable hazard." This quote comes from an Associated Press story of August 10.

In an interview with the Washington Post, Dr. Gori stated that some cigarettes can be called "less hazardous" and can be smoked in "tolerable" numbers without "appreciable" ill effects on the average smoker.

Mr. President, I ask unanimous consent that both the AP and the Washington Post story be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SOME NEW CIGARETTES CUT RISK GREATLY, SCIENTIST SAYS

(By Michael Putzel)

WASHINGTON.—A top government scientist says an average smoker can consume roughly a pack a day of some new cigarettes on the market "without apparent risk."

"We don't want to call them safe. We don't think there is such a thing. But some are so low (in tar and other toxic substances) as to cause no observable hazard," says Gio Batta Gori, head of the smoking and health program at the National Institutes of Health.

The tobacco industry has developed these new cigarettes with the help of millions of dollars in government research funds.

Gori and Cornelius J. Lynch of Enviro Control Inc., the government's prime contractor on what has become known—despite their objections—as "safe-cigarette research," have identified the "tolerable levels" of smoking for 27 brands with relatively low tar.

Gori said details of their findings are to be published soon in the Journal of the American Medical Association.

(Gori spoke about his study in an interview with The Courier-Journal several months ago, before the results were available. Gori noted then that his figures for tolerable levels were based on averages. Because individuals differ, he said, his figures did not mean that anyone under the tolerable level would be safe.

(Gori's comments appeared in a series of articles on tobacco and health.)

Gori and Lynch define tolerable levels in terms of cigarettes before 1960, when tar and nicotine contents were much higher than today and studies first identified the long-term risks of cigarette smoking.

Gori said studies have shown that people who smoked no more than two pre-1960 cigarettes a day had no higher death rate than nonsmokers.

Therefore, he explained, if the toxic substances in cigarettes could be reduced below the pre-1960 levels, a smoker persumably could smoke more cigarettes without increasing the risk of dying from lung cancer, heart disease or the various other ailments associated with smoking.

A person could smoke 23 cigarettes a day of Carlton Menthol—more than a pack—before reaching the tolerable level, Gori and Lynch said. Tolerable levels of the other brands range from 18 cigarettes a day for Now Menthol to three a day for King Sano, King Sano Menthol, Merit, Merit Menthol, Real and Tempo 3.

Gori said that the government research project has tested more than 150 cigarettes modifications in efforts to reduce the danger and that some of those modifications are showing up on the market.

By changing the porousness of the paper, the soil in which the tobacco is grown, the texture of the cut leaf, the curing process, the filter, the burning temperature and the method of manufacture, scientists have substantially lowered the smoke's toxicity, he added.

The results have been turned over to the tobacco industry, and "some of these new cigarettes are a direct result of this work," Gori said, although the industry has never admitted that cigarette smoking is hazardous.

Tar, the total particulate matter found in cigarette smoke, is generally believed to be the chief cancer-causing agent, while nicotine is known to have short-term adverse effects and is suspected of causing addiction, peptic ulcers and other damage.

Gori and Lynch also compared the amounts of four other hazardous substances in cigarette smoke: carbon monoxide, hydrogen cyanide, nitrogen oxides and acrolein.

While some brands showed higher tolerance levels in some substances, the tolerance level was determined by the hazardous substance reduced least from pre-1960 levels. That means the brands ranked least hazardous aren't necessarily the ones with the lowest tar and nicotine content.

Gori conceded that, because it takes many years for most smoking-related diseases to show up, it will be some time before there is specific scientific evidence to prove or disprove his assumptions.

And some recent studies question the value of low-tar and -nicotine cigarettes, either because people tend to hold the smoke in their lungs longer or because new additives in the tobacco and paper may prove hazardous.

"But we feel confident," Gori said, "that these cigarettes will be useful to the point you will have people smoking a pack a day without apparent risk."

The newest report on smoking by the Department of Health, Education and Welfare, released last month, said studies do show a relationship between the amount of tar and nicotine in cigarettes, the amount a person smokes and the degree of risk.

The HEW report didn't assess the dangers of the newer low-tar brands. But it cited one study that found smokers of cigarettes with less than 17.6 milligrams of tar and 1.2 mg. of nicotine reduce the risk of dying about 15 percent when compared to smokers of high-tar and -nicotine cigarettes. However smokers of low-tar cigarettes still have mortality rates that are 50 percent higher than those of nonsmokers.

None of the 27 brands tested by Gori and Lynch exceeded 10.3 mg. tar or 1.01 mg. nicotine.

Gori's program has spent more than $21 million in federal funds since 1975, nearly half of it in search of less-hazardous cigarettes. But he said his budget is being trimmed as the government puts more emphasis on trying to persuade people not to smoke.

Here is a list of the 27 "low-tar" brands tested and the number of cigarettes of each brand that a person may smoke in a day without exceeding "tolerable levels," according to government researchers:

Carlton Menthol	23
Now Menthol	18
Now	17
Stride	17
Carlton	16
L&M Flavor Lights (King)	8
Lucky 100	8
True	8
True Menthol	8
Decade	7
Pall Mall Extra Mild	7
Decade Menthol	6
Iceberg 100s	6
Kent Golden Light Menthol	6
L&M Long Lights (100)	6
Lark II	6
Tareyton Lights	6
Kent Golden Lights	5
Real Menthol	5
Benson & Hedges Lights	4
Newport Lights Menthol	4
King Sano	3
King Sano Menthol	3
Merit	3
Merit Menthol	3
Real	3
Tempo	3

[From the Washington Post, Aug. 10, 1978]

SMOKING—SOME CIGARETTES NOW "TOLERABLE," DOCTOR SAYS

(By Victor Cohn)

Some cigarettes now have so little tar, nicotine and other harmful elements that they can be called "less hazardous" and can even be smoked in "tolerable" numbers without "appreciable" ill effects on the average smoker, a leading federal cancer scientist said yesterday.

Cigarettes in recent years have been found guilty beyond reasonable doubt of causing lung cancer, heart disease and several other illnesses.

But Dr. Gio Batta Gori, deputy director of cancer prevention at the National Cancer Institute, and Dr. Cornelius J. Lynch said yesterday there has been huge progress "in the last year and year and a half" in removing toxins—or poisons—from some

* * * * *

They expect this will reduce deaths from all diseases linked with smoking. They expect to report this soon in the Journal of the American Medical Association.

"I am not calling any cigarette 'safe,'" Gori emphasized. "The only cigarette that is safe is the cigarette that is not lit.

"I am not talking about what might happen to any individual. I am talking about averages. There may be a risk that still may be there even though we might not see it in overall, large population studies."

Still, he said, there has been so much progress in removing toxins that "we can now begin to talk about 'tolerable' levels of smoking from an overall, public health standpoint. I think we will begin to see some beneficial effects in this country"—that is, some abatement in this nation's lung cancer epidemic and in other diseases—"in five or six years."

Gori said one brand—Carlton Menthols—is so low in the toxins that most persons could smoke 23 a day, more than a pack, with no measurable risk beyond a nonsmoker's.

He said the average smoker might similarly consume 18 Now Menthols, 17 Nows or Strides or 16 Carltons without any problems beyond a nonsmoker's, so far as large-scale statistical studies could detect.

A cancer institute spokesman yesterday said Gori "probably represents the best expertise we have on smoking and health. "Until two weeks ago he headed the institute's program in that field, including the effort to learn to make less hazardous cigarettes.

Dr. Arthur Upton, cancer institute director, nonetheless issued a more cautious statement yesterday saying "our present knowledge does not permit us to establish" any levels "below which smoking might be safe."

"It is the firm position of the National Cancer Institute, the National Heart, Lung and Blood Institute and the Public Health Service that no cigarette now on the market can be considered wholly without risk to health," he said.

He said Gori's figures cannot indicate whether the risk to any single individual is large or small, only that it is "not demonstrable" in epidemiologic or population studies. Upton said "you might double your own risk of cancer," for example, "with no appreciable effect on large-scale population studies."

Gori also said there are many "high risk" individuals who should "never" smoke. These include present or former workers exposed to asbestos or the families of such workers, women using oral contraceptives, pregnant women, and persons with any of the heart, lung or breathing disorders linked to cigarettes.

Some scientists would also caution anyone exposed to any potentially cancer-causing chemical, since many harmful chemicals add to each others' effects in ways that are still little understood.

"What I am saying," Gori explained, is that the average effect of smoking "tolerable" levels of certain "less hazardous" cigarettes today would be as small as the ill effect on persons who smoked only two cigarettes a day before 1960. Virtually all cigarettes then were loaded with poisons like tar and nicotine far beyond present levels.

Gori disclosed his estimates first in an interview with Associated Press reporter Michael Putzel. The Washington Post then obtained a copy of the Gori-Lynch report.

Lynch is manager of the smoking and health program at Enviro Control Inc. of Rockville, the cancer institute's main contractor in the effort.

The five leading brands of less hazardous cigarettes on the Gori-Lynch list—Carlton Menthols, Now Menthols, Nows, Strides and Carltons—represented just under 2 percent of all cigarettes sold last year, Lynch estimated. But 22 more brands—with 17 to 18 percent of the market—are low enough in toxins so the average smoker might use between three and eight a day without appreciable added risk, Lynch said.

The cancer institute program to remove or minimize the effect of the main toxins found in cigarettes or cigarette smoke—tar or "total particulate matter," nicotine, carbon monoxide, nitrogen oxides and acrolein—began in 1970. At the most it has cost $4 million a year, a drop in the bucket compared to cost of smoking's huge toll in death and disease.

Still, it is a program that has often been flayed by some critics of smoking who have argued that efforts should be concentrated on halting smoking altogether.

"I think ours has been a worthwhile program," Gori replied. "We are not trying to endorse cigarettes or smoking in any way. We are only trying to put the facts before the public.

"If we could go from 100,000 cases of lung cancer a year to, say, 2,000 or 3,000 by the development of less hazardous cigarettes, I would still regret the 2,000 or 3,000 deaths but I would think we would have made a tremendous public health gain."

DOCTORS LIST OF CIGARETTES AND THEIR "TOLERABLE" LEVELS

Following is the number of cigarettes the average smoker could consume daily without exceeding a "tolerable" level of risk of cancer or other disease, according to Dr. Gio Batta Gori:

Carlton Menthol	23
Now Menthol	18
Now	17
Stride	17
Carlton	16
L&M Flavor Lights (King)	8
Lucky 100	8
True	8
True Menthol	8
Decade	7
Pall Mall Extra Mild	7
Decade Menthol	6
Iceberg 100s	6
Kent Golden Lights Menthol	6
L&M Long Lights (100s)	6
Lark II	6
Tareyton Lights	6
Kent Golden Lights	5
Real Menthol	5
Benson & Hedges Lights	4
Newport Lights Menthol	4
King Sano	3
King Sano Menthol	3
Merit	3
Merit Menthol	3
Real	3
Tempo	3

Cigarettes not named were not listed by by Dr. Gori.

Mr. HUDDLESTON. Mr. President, these stories were naturally greeted with great approval in the tobacco-producing—not, as some contend, because we view it as absolving tobacco and cigarettes from any health hazards, but because it indicates that our efforts to produce a safer cigarette and reduce potential hazards are showing some beneficial results.

My own State of Kentucky, for instance, commits $4 million annually to research aimed at identifying and removing any harmful components of tobacco. I continue to believe that in this case an ounce of prevention is indeed worth a pound of cure—and research to reduce or eliminate the hazards holds much more promise than efforts to make persons quit smoking.

However, Mr. President, I have been dismayed by the reaction to these published interviews with Dr. Gori. That reaction can only be described as a campaign of vilification and slander aimed at discrediting Dr. Gori and his findings.

I ask unanimous consent that articles in the Washington Post on August 11 and the Washington Star on August 12 be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 11, 1978]

HEALTH OFFICIALS CHALLENGE REPORT ON CIGARETTE USE

(By Victor Cohn)

Administration health officials and the American Cancer Society yesterday disputed vehemently a federal cancer official's contention that smoking limited numbers of certain "less hazardous" cigarettes is "tolerable" from a health standpoint.

But the official, Dr. Gio Batta Gori, deputy director for cancer cause and prevention at the National Cancer Institute, stood firmly by his conclusion. He said in an interview that his superiors are under pressure from Health, Education and Welfare Secretary Joseph A. Califano Jr. to fire him.

Cancer Institute officials denied that there has been any pressure to get rid of Gori, but they joined with Califano and other leaders in the health field in decrying Gori's conclusions.

They said there is no proof yet for his belief that not every smoker, except the "average" one who smokes no more than three to 23 cigarettes daily of some brands now on the market, should suffer no more extra risk of death from any cause than those who smoked only two cigarettes a day before 1960, when all cigarettes were far more dangerous.

Gori said so much tar, nicotine and other chemicals have been eliminated from cigarette smoke that from three to 23 cigarettes of certain brands contain no greater amounts of these chemicals than just two pre-1960 cigarettes. Gori called these smoking levels not safe but "tolerable," meaning the incidence of disease and death would be greatly reduced, though not eliminated.

The health officials said his use of the word "tolerable" in a general population or public health sense would mislead Americans into thinking cigarettes are safe for them as individuals.

"There is no such thing as a safe cigarette" or anything like it and leading government scientists are "all very disturbed" over the fear that millions of people might think so, said Califano, who last January started his own drive to halt cigarette smoking.

Surgeon General and Assistant HEW Secretary Julius Richmond and the heads of HEW's two biggest research units—the Cancer Institute and the National Heart, Lung and Blood Institute—all attacked Gori's "assumptions" that anyone can smoke any number of cigarettes whatsoever at low risk.

Dr. Arthur Upton, Cancer Institute head, said Gori's use of the word "tolerable" was "unfortunate." Gori's statements have "set back our cause, and even if we can correct the misinterpretation, we will have lost valuable momentum," he said.

In further response to the unusual attacks on his conclusions—scheduled to be published in the Journal of the American Medical Association—an upset Gori said in an interview:

"Califano is very hot on his own campaign, so he is putting pressure on the National Cancer Institute to have me disciplined or dismissed or something."

Upton, asked by The Washington Post if he intended to keep Gori in his present job, said, "I have been talking to Dr. Gori" about a change "for perhaps three months," because Gori, a deputy director since 1975, and his new superior, Dr. Gregory O'Conor, "simply haven't found a comfortable working relationship."

But Upton said "there is absolutely no substance" to any contention of pressure from Califano. He said, "I've spoken to the secretary several times today" about this matter, and "at no point has he indicated or asked that Gori was to be disciplined or demoted."

Upton said he had told Gori "that the secretary is upset" and "that the report tends to counteract the secretary's initiative on smoking." But any change in Gori's job, Upton said, will have "nothing to do with his report," since "I knew nothing at all about it until yesterday."

Dr. Sidney Wolfe, head of the Ralph Nader Health Research Group, said Gori should be fired for "the most damaging statement that has been made about smoking in the last 10 years." He called Gori's words "reckless," and said "we have no idea yet what chemicals in cigarette smoke are the dangerous ones," or "what the manufacturers' increases of all sorts of chemical additives for flavor" will do, or whether lower doses of some chemicals will just take longer to cause disease.

Still, Dr. Arthur Holleb, American Cancer Society medical director—while saying "there is no such thing as a proven safe cigarette"—agreed that low tar and nicotine cigarettes impose less serious risks of disease.

Dr. Lawrence Garfinkel, Cancer Society vice president and statistician, said that in two five-year periods—1960–65 and 1966–72—there was a 16 percent drop in mortality from all diseases, a 14 percent drop in heart disease mortality and a 26-percent drop in lung cancer mortality in a half-million male smokers followed by the society.

It was statistics like these that made Gori conclude that further improvements in cigarettes would reduce deaths not only from cancer—his own field—but from heart disease, pulmonary emphysema and other smoking-linked ills.

Garfinkel said these drops were "far from conclusive," but did indicate "some effect" of less dangerous cigarettes Dr. Ernest Wynder, president of the American Health Foundation and well-known cancer scientist, agreed that "it is reasonable to expect some reduction in risks" as cigarettes are made less dangerous.

Gori said the health leaders were themselves misinterpreting his statements. These made it clear that only one brand, Carlton Menthols, is now so low in toxins that by his calculation most persons could smoke 23 cigarettes daily with no measurable risk beyond a non-smoker's. He said the average smoker might similarly consume 18 Now Menthols, 17 Nows or Strides or 16 Carltons without added problems so far as large-scale statistical studies would detect.

But his co-worker, Dr. Cornelius Lynch, said these brands currently represent less than 2 percent of all cigarettes sold—and other "less hazardous" but not nearly as clean cigarettes represent only another 18 percent.

[From the Washington Star, Aug. 12, 1978]

SMOKE BUT NO FIRE AT HEW

Gio Batta Gori, the scientist who touched off a furor this week by suggesting people could smoke some cigarettes without apparent risk, apparently will lose his job in a government reorganization.

"Officials of the National Cancer Institute and the National Institutes of Health have been talking with Dr. Gori for some time about a change in assignment," said a terse announcement yesterday from the institutes' parent agency, the Department of Health, Education and Welfare.

"These conversations go back at least as far as the spring of 1977. The discussions are continuing, and no decision has been made," the statement added.

Gori confirmed that the discussions about his reassignment are the result of an ongoing reorganization, adding that they have been "friendly, above board, and I have no complaints."

Dr. Gregory O'Conor, Gori's division director at the National Cancer Institute, said the Italian-born scientist had been wearing three hats as head of the institute's smoking and health program, nutrition program and deputy director of the division of cancer cause and prevention.

As part of the institutional reorganization, O'Conor said, the smoking and nutrition programs have been removed from Gori's control in recent weeks, and Gori has been told that O'Conor wants someone else as his deputy.

Gori, a $47,500-a-year civil servant, is entitled to be transferred to another post of equal rank, but no agreement has been reached on what job he might take, O'Conor said.

The Division Chief said his relationship with the controversial scientist was "excellent" and that Gori's reassignment had nothing to do with his views on smoking.

But O'Conor also said the emphasis of the smoking and health program probably will shift to behavioral and educational research in line with HEW Secretary Joseph A. Califano Jr.'s campaign against cigarette smoking.

Gori, 48, has been involved in the government research for a less hazardous cigarette almost since the inception of such studies in 1968. The program always has been the subject of some controversy among those who contended the government should concentrate all its energies on stopping the smoking of cigarettes and leave cigarette research to the tobacco industry.

But Gori, a microbiologist by training, has long argued for what he called a more pragmatic approach.

"Since smoking occupies such a prominent position in the mythology of our daily life, it is unrealistic to expect that a society of nonsmokers could be created after a mere 20 years of public education," he wrote in an article published by Science magazine in 1976. "Historic perspective suggests that many decades may be needed to achieve this goal.

"Until then, it is important to protect those who continue to smoke despite all warnings. Leaving them to their fate is neither humane nor economic."

This week it was reported that Gori and a coworker had identified "tolerable levels" of smoke for 27 cigarette brands with relatively low tar.

While Gori was careful to point out that he did not consider the brands "safe," he did say: "Some are so low (in tar and other toxic substances) as to cause no observable hazard" at the levels he cited.

Those levels ranged from three cigarettes a day for several bands to as many as 23 a day for Carlton Menthols.

Publication of Gori's remarks brought an outcry from the U.S. surgeon general and other longtime anti-smoking forces who feared Gori's findings would be interpreted by many as scientific evidence that some smoking is safe.

In a statement issued late yesterday, Gori criticized "the recent misunderstanding" concerning his report.

"This report, and my work of ten years to reduce the toll of death and disability caused by smoking, are on record and testify to my conviction that no cigarette is safe," he said.

"I have consistently maintained that no one should smoke and advocated intensive public education against smoking.

"However, it is apparent that many smokers will not quit smoking despite all inducements to do so. For these smokers, less hazardous smoking materials and ways of smoking are available. These need to be identified, but with a clear warning that a degree of risk will always remain for those who persist in

smoking. My latest report is consistent with this position."

Mr. HUDDLESTON. These articles, Mr. President, indicate that efforts to produce a safer cigarette—or even honest research efforts—are not to be tolerated by some within our Government.

Dr. Gori has been attacked by HEW Secretary Joseph Califano, who Dr. Gori says has tried to get him fired, others within the bureaucracy, and the professional antitobacco lobby.

These actions cause me great concern in two respects: Apparently an effort is being made to fire, discipline or otherwise punish Dr. Gori for candidly reporting the results of scientific research; and this episode causes me to wonder whether research to produce a safer cigarette is being abandoned by the Government.

Mr. President, I have today written President Carter to express those concerns, and I ask unanimous consent that my letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., August 14, 1978.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Earlier this year when Mr. Califano began his anti-smoking and anti-tobacco campaign, I requested and was accorded a meeting with you to express two basic concerns of mine: (1) that the campaign of Mr. Califano not in any way harm the tobacco support program which affects 300,000 family farms, and (2) that the government should give more emphasis to research aimed at producing a safer cigarette.

You gave me strong assurances on both counts, and you have since reiterated your position—most recently on your trip to Wilson, N.C. For that, those of us from tobacco-producing states are grateful.

However, actions in recent days following publication of a report by Dr. Gio Batta Gori, a high-ranking scientist with the National Cancer Institute, have given me cause to wonder if others in this administration share your commitment to research for a safer cigarette.

Last week Dr. Gori and his associate, Dr. Cornelius Lynch, summarized the findings of their research aimed at reducing potential hazards of smoking. They stated that some of the newer low tar and nicotine cigarettes, when used moderately, would "cause no observable hazard."

What has happened since that time can only be described as a campaign of villification and slander designed to discredit Dr. Gori and his findings. This effort to discredit Dr. Gori, even before his research is properly reviewed, has apparently included Mr. Califano, U.S. surgeon general, the head of the National Cancer Institute and Ralph Nader.

This kind of mindless rejection of a serious research project is in direct conflict with your stated objective of continued federal research into the health hazards of tobacco aimed at producing a safer cigarette. It is more reflective of Mr. Califano's opposition to such research on grounds that "there is no such thing" as a safer cigarette.

According to press reports, Dr. Gori is now being moved to another position. He stated in one interview that the move was in the works prior to his recent statements and the resulting outcry. However, in another report Dr. Gori said Mr. Califano is putting pressure on the National Cancer Institute to have him disciplined or dismissed.

I hope you will make certain Dr. Gori is not reprimanded, disciplined, or in any way made to suffer for reporting the facts as he, a scientist, discovered them.

Furthermore, those of us from tobacco states now have serious doubts whether anyone holding the view that a safer cigarette is possible can survive—or even be employed—by an agency under the control of Mr. Califano.

My concern is that we not let this become the death-knell of government efforts to produce a safer cigarette. To do so would constitute a modern-day rejection of science and technology more properly associated with the Luddites.

I have never been one to dismiss scientific research just because its conclusions were uncomfortable. Indeed, when the recent A.M.A. study came out outlining tobacco hazards, I stated publicly that those of us from tobacco states should not reject it out of hand.

By the same token, anti-tobacco forces—especially those within the government itself—should not reject out of hand serious research which tends to show that progress can and is being made in the effort to produce a safer cigarette.

To take that position is actually in contravention to good health. We do not close all factories because air pollution is unhealthy; rather, we find ways of removing or reducing the pollutants before they enter the air we breathe. The same should apply to tobacco.

We should make an even greater effort to identify and remove potentially harmful ingredients in tobacco, and the reactions to Dr. Gori's findings can only make me think the government is becoming an obstacle rather than a catayst toward that objective.

I hope that you can give the tobacco state congressmen and senators, as well as Mr. Califano, renewed indication of your intent to support research to produce a safer cigarette.

Sincerely,

WALTER D. HUDDLESTON.

Mr. HUDDLESTON. As I told the President, the rejection of Dr. Gori's research before it has been seriously reviewed is an attitude more appropriate to the Luddites. To foreswear any hope that science and technology can solve any potential health hazards of tobacco is both shortsighted and counterproductive.

Those of us from tobacco-producing States have always recognized that we will have to provide some answers to the health-and-smoking issue. That is why Kentucky provides $4 million annually in State tax money to search for those answers. That is why I stated publicly that we cannot reject out of hand the research recently released by the American Medical Association stating there is a link between smoking and cancer. And that is why I am not opposed to reasonable and fair efforts to inform citizens of potential hazards in tobacco.

But the other side on this issue must also remained openminded enough to admit the possibility of progress in efforts to produce a safer cigarette. Indeed, Dr. Gori's research indicates that has already happened.

Rather than condemn his findings out of hand, Mr. Califano and like-minded persons should be pleased that progress is being made and provide incentives and encouragement to continue those efforts.

Mr. President, this whole episode leaves me with a bad feeling. It appears that Mr. Califano is trying to develop an orthodoxy on the smoking and health issue which will not be breached by anyone under his control. It appears that Mr. Califano has totally rejected the notion that progress is possible. In short, he has a prohibitionist approach to the whole matter and apparently is totally unwilling to consider any other approach, no matter how well founded in adequate scientific research.

President Carter has on several occasions given his strong endorsement to the tobacco price support program as well as research to produce a safer cigarette. I appeal to him to deliver that message to Mr. Califano before he brings to a halt the only Government research that can provide solutions to the health problem.

Mr. President, I ask unanimous consent that an article about President Carter's trip to North Carolina and an editorial in the Washington Star be placed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CARTER SAYS ANTISMOKING DRIVE, TOBACCO SUBSIDIES BOTH NEEDED

(By Brooks Jackson)

WILSON, N.C.—President Carter said Saturday in the heart of North Carolina tobacco country that he sees no inconsistency in a $30 million federal anti-smoking campaign while the government helps tobacco farmers financially.

At a political rally here, Carter emphasized the need for continued federal research into the health hazards of smoking. Later, at a mock auction at a huge tobacco barn, he said the federal price support for tobacco cost the taxpayer very little, and "as long as I'm in the White House . . . we'll have a good tobacco loan program."

The president began the day in Norfolk, Va., where he dedicated the Navy's newest nuclear-powered cruiser, and flew back to Washington after an afternoon in Wilson, where his remarks and demeanor at times resembled those of a presidential campaigner.

Carter, a non-smoker, brought a lighter touch to the sensitive issue by poking fun at Joseph A. Califano, Jr., secretary of the Health, Education and Welfare Department, who is directing the anti-smoking campaign.

"I had planned to bring Joe Califano with me," the president said. He added that "he decided not to come" after discovering that Wilson's industry produces bricks as well as tobacco.

The president said Califano jested, about two weeks after presidential drug abuse adviser Peter Bourne resigned, "it was time for the White House staff to start smoking something regular."

Carter came here in part to try to advance the political fortunes of a Democratic candidate for the Senate who is trying to unseat conservative Republican Sen. Jesse Helms, who has called for the resignation of the secretary of Health, Education and Welfare.

The Democratic nominee, John Ingram, said: "We Tar Heels thank you, Mr. President, for protecting the tobacco loan program, which this season has given our farmers and a good crop and good prices."

During Carter's speech, a small group of people chanted "Free the Wilmington 10," a reference to the jailing of 10 persons convicted in North Carolina of firebombing. Five of the 10 are still in jail.

Carter acknowledged their presence, saying that regarding human rights, "one of those rights is to speak, even to shout, when other people are trying to speak."

With that, the president drew the loudest applause during his speech.

[From the Washington Star, August 13, 1978]

DR. GORI'S ORDEAL

Dr. Gio Gori's recent musings with an Associated Press reporter about cigarette smoking and the epidemiology of lung cancer have flushed the Savonarolas of the anti-nicotine crusade from their lairs.

The secretary of Health, Education and Welfare, a reformed smoker, seemed to be leading the charge of the hot-gospelers against Dr. Gori with one of Mr. Ralph Nader's health researchers, Dr. Sidney Wolfe, not far to the rear.

Mr. Califano, who has been spreading the gospel of abstinence, is deeply perturbed. Dr. Wolfe proposed what once was called the short way with sinners. Dr. Gori, he said, should be fired for making "the most damaging statement about smoking in the last 10 years." There are even rumors that Dr. Gori, who as deputy director of cancer prevention at NIH is within Mr. Califano's administrative reach, might be relocated. To Siberia, perhaps?

What did Dr. Gori do to incite this wrath? The best approach may be to ask what he did not say. He did not echo President Carter's recent statement in the tobaccoland citadel of Wilson, N.C., that the U.S. needs research "to make the smoking of tobacco even more safe than it is today"—a curious location from which the literal-minded might gather that future tobacco research would build from a solid foundation of safety. (One might as logically speak of a program to make bullets "even more safe" for human intake.)

Nor did Mr. Gori urge people to smoke more, or say that cigarettes are safe. "The only cigarette that is safe," said he, "is the cigarette that isn't lit." We would not be surprised if Dr. Gori personally feels, as we do, that if people had been intended to suck smoke into their lungs they would be born with a portable tobacco patch.

What Dr. Gori was saying, it appears, is (a) that certain cigarette brands recently produced after costly research, some of which he named, are far lower in toxic tars and nicotine than others—so much lower that it would take from 3 to 23 of them to equal the toxic kick of only two of the older, deadlier vintages; and (b) that, as a matter of statistical probability, the new brands might be smoked in limited numbers with "tolerable" improbability of self-injury. "I am not talking about what might happen to any individual," he said, "I am talking about averages."

Dr. Gori and his research associate, Dr. Cornelius Lynch, are excited by the prospect that cigarette-induced illness may be on the way down as a public health hazard. "If we could go from 100,000 cases of lung cancer a year to, say, 2,000 or 3,000 * * * I would think we would have made a tremendous public health gain." And so we would have.

There are two evident lessons in the Gori flap, one slightly comic and the other rather ominous.

The comic part is that vested economic and psychological interests swirling about the smoking-and-health issue are such that a reputable researcher muses about epidemic probabilities at the risk of being slyly exploited by those who think smoking is good for you, or at least would like to have you think so.

As for those who have decided that smoking is bad for themselves, and throb to dragoon everyone else into their company, the situation is roughly parallel; but more ominous. In their eyes, apparently, there are no innocent facts or opinions about cigarettes and cancer, however "scientific" or detached from ulterior motive. Not even Dr. Gori's careful disclaimers excuse him for running the risk of misinterpretation. By such standards, most scientists would have to take a vow of silence.

To measure the danger of that reaction, and how threatening it is to detached comment on a vital issue of public health, merely imagine that Dr. Gori had spoken of encouraging findings about some other hazard—carcinogenous food additives, say, or alcohol—and ask yourself whether the reaction would be as furious.

The fact is that people will eat rich foods, will imbibe spirits, and will even smoke cigarettes despite the evidence that it is no service to good health to do so. Since that is so, more power to researchers who merely put smokers on notice that while any smoking may be unsafe some cigarettes are statistically less deadly than others. And shame on those who treat them as if they were beating the drums for cigarettes and, indeed, for lung cancer.

Mr. HUDDLESTON. The editorial points out that despite the hysterical outcries to the contrary, Dr. Gori did not advocate smoking; he did not say cigarettes are safe; he simply stated that advances have been made in reducing harmful components to the extent that some cigarettes can be smoked in moderate numbers with significantly less hazard.

Dr. Gori should be applauded rather than condemned as some kind of villain. His heresy is that he told the truth in an orthodox environment that does not allow for deviation from the party line.

Finally, Mr. President, I ask unanimous consent that a letter I wrote today to Mr. Califano be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., August 14, 1978.

Hon. JOSEPH CALIFANO,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I have been dismayed at the reaction that has occurred since Dr. Gori summarized last week the results of his research on efforts to reduce and remove harmful ingredients in tobacco.

Of particular concern is Dr. Gori's statement that you are exerting pressure on his superiors to either discipline or dismiss him.

If true, such action on your part is both reprehensible and counterproductive to efforts to enhance the health of our citizens.

To take the attitude, which you apparently have, that no progress is possible is a modern-day rejection of science and technology more properly associated with the Luddites.

More disturbing, however, is that the actions of you and Dr. Gori's superiors are in direct conflict with the pledge you made to tobacco state congressmen and senators that you would be fair and open-minded on the issue.

We asked for and received your assurances that you would consider the evidence on both sides of the issue; however, it now appears that an orthodoxy has been established that will allow no deviation from the party line.

To say that I am disappointed in your actions is an understatement. It is a serious detriment to conscientious efforts to produce a better and safer tobacco, and it is a sad day when government seeks to discredit its own scientist for candidly reporting the results of his research.

Sincerely,

WALTER D. HUDDLESTON.

Mr. HUDDLESTON. As I pointed out to the Secretary, his attitude in the Dr. Gori episode is directly contrary to assurances he gave tobacco-State Congressmen and Senators, when he launched his antitobacco campaign to the effect that he would be fair and consider both sides during his efforts.

It appears to me that Mr. Califano has a totally closed mind, with a prohibitionist attitude, on this matter. He is clearly an obstacle rather than a catalyst for progress toward a safer cigarette.

I might say further, Mr. President, that the statements made by Dr. Arthur Upton, head of the Cancer Institute, to me were simply incredible, for a person who is supposed to be interested in the truth, in research and experimentation to determine the truth, to categorically castigate a statement by Dr. Gori, which was based on research and scientific experimentation, to the effect that Dr. Gori was somehow out of line in revealing what his findings were. If we are going to have scientific research paid for by the Federal Government, we ought to be willing to accept the conclusions of that research or the fundings of that research with an open mind. That obviously is not the case with Dr. Upton, it is not the case with Joseph Califano. I think it is time we took a very hard look at what the objectives of these two gentlemen might be as far as their position relating to the effort to produce safer cigarettes versus the effort to simply eliminate the tobacco industry totally in the United States.

I thank the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, on this same score, I commend our colleague from Kentucky for bringing into focus the Gori findings on the part of the National Institutes of Health in this particular study. I commend to our colleagues this morning's article by Daniel S. Greenberg, "That 'Smoking Is Safe' Report." I ask unanimous consent that the article in its entirety be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THAT "SMOKING IS SAFER" REPORT

(By Daniel S. Greenberg)

The dominant flavor in tobacco politics is what amounts to a tacit non-aggression deal between Washington and the cigarette industry. Grasp that and you're on the way to understanding why a sensible suggestion from a politically naive government scientist sent Washington's high command of health into a fit of petulant pronouncements last week.

The scientist is Gio B. Gori, an administrator at the National Cancer Institute, who for the past five years has supervised a program in which $18 million was spent for the development of "less hazardous" cigarettes. In a paper soon to be published in the Journal of the American Medical Association, Gori and a colleague correctly state that in terms of what are now known to be the most

dangerous components of cigarettes, some present-day brands—while not safe—are safer than most of those sold in 1960. And they urged, "While programs to discourage smoking should continue, these educational efforts should be coupled with others directed toward reducing the risks to persistent smokers," of whom there are many among this nation's 50 million cigarette smokers.

Less noxious smoke, they continued, could lead to a reduction in cigarette-induced illness and death. And then, lapsing into a bit of easily misunderstood technical jargon, they speculated that the reduction might be so great that the toll from cigarettes might be "considered socially tolerable"—meaning that it wouldn't stand out, as it now does, in mortality statistics. In lay terms, their message was: Don't smoke, but if you do, opt for the less poisonous varieties, which they listed in their article.

Press reports of the Gori thesis brought prompt denunciation from the director of the Cancer Institute, from several other top-level government health officials and from the Department of Health, Education and Welfare, whose chief, Joseph Califano, is leading a loudly proclaimed but, as it turns out, very thrifty campaign against smoking. Gori, they charged, is luring the public into thinking smoking is safe.

What's notable about all this is that to the extent that there are anything resembling durable policies in the mercurial U.S. government, they explicitly include the goal—established in 1968—of developing safer cigarettes. Gori, who is relatively low in the government's health-research hierarchy, didn't con anyone into establishing that goal or providing the $18 million. Rather, both goal and money are part of the so-called war on cancer, and have consistently survived periodic reviews that start with committees of scientists, wind through extensive agency and departmental examinations and finally conclude with approval by the House and Senate appropriations committees. Why, then, the eruption when Gori, writing in a respected, professionally screened medical journal, is merely reporting on work that the U.S. government paid him to perform?

The answer is that Gori's governmental denouncers, fervent anti-smokers all, have the misfortune of being in command of a mock war against tobacco. Though none of them raised any valid criticism of the scientific substance of the article, they recognize that a government-linked nod to the relative advantages of "less hazardous" smoking could diminish even the slightest support they now command for anti-tobacco efforts. For if smoking can be depicted as safe, or even safer, why should the government provide any support to encourage cessation?

The present anti-smoking effort, slight as it is, is politically precarious, what with our beleaguered president having recently journeyed to the heart of tobacco land to laud the economic value of the weed, which, produced mostly on small-scale holdings, earned some $2.3 billion last year for 600,000 farm families. To sell that stuff, the cigarette industry spends over $300 million a year to advertise the top 20 brands; against that sum, HEW has upped its anti-smoking educational drive to $6 million, an amount so piddling as to wipe out any claim that the government is determined to help its people kick the habit.

Safer cigarettes? Like it or not, they exist, though it must be emphasized that they are only safer, not safe, and their main benefit may be only that they delay the arrival of cigarette-induced ailments. But given the fact that millions smoke, and that the biggest market growth is among teen-agers, it's preposterous to reject what may be an opportunity for some hazard reduction.

If the health high command were given ample resources to help ween the public from cigarettes, then the rejection of halfway measures would be justified. But since that's not going to happen, why not recognize that Gori's advice, though politically dangerous to the anti-smoking movement, is, unfortunately, medically sound?

Mr. HOLLINGS. Mr. President, the whole point is that we do have a drive on within the Government to produce a safer cigarette, as well as in private industry. As we produce that safer cigarette, presumably, according to the Califano declaration of war, there is not going to be any such thing as a safe cigarette, there are just going to be none. That is his position. In order to carry that out, he excoriates our friend, Dr. Gori, in a totally unreasonable fashion. I think it is interesting that this was caught by Mr. Greenberg in his morning article, when he said:

What's notable about all this is that to the extent that there are anything resembling durable policies in the mercurial U.S. government, they explicitly include the goal—

That is the goal for a safer cigarette: established in 1968—of developing safer cigarettes. Gori, who is relatively low in the government's health-research hierarchy, didn't con anyone into establishing that goal or providing the $18 million.

So it was not that he was off wandering around on some thought-up assignment that was totally amiss and afar from the goals and policies of the Department of HEW, but down in the hierarchy somewhat, he was carrying out orders in his research endeavor. Then Greenberg points out further that he did not provide the $18 million for it:

Rather, both goals and money are part of the so-called war on cancer, and have consistently survived periodic reviews that start with committees of scientists, wind through extensive agency and departmental examinations and finally conclude with approval by the House and Senate appropriations committees.

That is a somewhat similar situation to what we have in the last several days of debate, where we, as Congress, find it necessary and desirable that we have equal educational opportunity, that there be advantage to the disadvantaged, that we have bilingual education for those who cannot speak the English language, that we have provisions made for the handicapped, that the public schools be open to the decipline problems and the unprepared and all the rest. Those are congressional findings, bolstered by court decisions.

Then, when we do that, when they come loaded down almost in the corner ready for the contest, the private schools come out and say, "Well, let us compete, and what we need in order to compete, rather than lifting the load or evening the burden," they instead say, "give us additional money and more than you have given those that you have loaded down."

Now comes the doctor, after making his findings and everything else, and after he has been through what the HEW Department asked him to do, what Secretary Califano asked him to do. Then, when he makes a scientific and medically sound finding he is held up to ridicule and rebuff.

Mr. Greenberg concludes:

If the health high command were given ample resources to help ween the public from cigarettes, then the rejection of halfway measures would be justified. But since that's not going to happen, why not recognize that Gori's advice, though politically dangerous to the anti-smoking movement, is, unfortunately, medically sound?

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

TUITION TAX RELIEF ACT OF 1978

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending bill (H.R. 12050), which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide Federal income tax credit for tuition.

The Senate resumed consideration of the bill.

AMENDMENT NO. 3474

The ACTING PRESIDENT pro tempore. The pending question is the amendment of the Senator from Oregon.

The Senator from Oregon is recognized.

Mr. PACKWOOD. Mr. President, is the amendment number 3474?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. PACKWOOD. Mr. President, I do not see in the Chamber the two principal opponents who spoke last night and indicated they wanted to speak on this amendment.

I shall take only a few moments making my case in chief.

There has been objection stated to the preamble of the bill by several Senators claiming the proponents of the bill are trying to do an end run around the Supreme Court by proclaiming the bill is constitutional.

Mr. President, the argument could be made that any act Congress passes is presumed to be constitutional. The court has found that to be true many times.

Nevertheless, in an endeavor to compromise with those who take offense at the Senate itself making a judicial conclusion, the amendment that I have offered simply is:

"The Congress further finds that the constitutionality of Federal tuition tax credit for the educational expenses of students attending nonpublic schools can only be established by the enactment of a law providing such tax credits, which will in turn provide the Supreme Court of the United States with an opportunity to rule in a decisive and determinative manner.".

Mr. President, note carefully that amendment does not say this bill is con-

stitutional. Senator MOYNIHAN and I, Senator ROTH, Senator RIBICOFF, the other proponents who have argued this for 3 days now, have never maintained that without a shadow of doubt the bill is constitutional.

There is a complete split in the authorities. There is a split in the courts. For every constitutional expert the opponents of this bill can cite saying it is unconstitutional, we can cite one that says it is constitutional.

We had testimony on both sides in the committees. We have letters from both sides, constitutional experts disagreeing with each other as to whether or not the bill is constitutional.

It is obvious there is only one way we are going to find out as to this bill, which is a Federal tax credit. I call the attention of the Senate to the fact there has never been one before. The court has never passed on this issue. The court has never passed on an issue where the breadth of the beneficiaries of a tax credit bill are as broad as in this bill, even at the primary and secondary level. When we add the fact all higher education is added to this, the overwhelming preponderance of the beneficiaries are people who go to public schools.

That was not true in Nyquist. That was not true in Lemon. That was not true in Wolman or any other case. In each of those cases, the Supreme Court found the overwhelming preponderance of the beneficiaries were children attending Roman Catholic schools.

So, one, they never had one with a tax credit; or two, the number of beneficiaries in this case.

Even if we limit it to primary and secondary education, the court never had a bill where we had the breadth of the beneficiaries we now find in primary and secondary private school because the trend in the last 10 years has been a continuing decline in Catholic enrollment and an increase in the enrollment of Protestant and Jewish primary and secondary schools.

Mr. President, I hope it is clear from the debate we have had over the last 3 days that our Founding Fathers would have found no offense at the kind of legislation here proposed. Whatever might have been their intent in drafting the first amendment, it is very clear from their practice that they saw nothing wrong with using public funds to support church-run primary and secondary schools.

Every member of the Constitutional Convention came from a State that, prior to adoption of the Constitution and after, levied taxes—not tax credits, not tax deductions, levied taxes—collected those taxes, and gave the taxes to churches to run primary and secondary schools for the education of those children who chose to go to school.

It was not until 1820 we had a public school system, just the start of it. That was in Delaware. It was the start of the public school system as we know it today. That process was not completed until 1850 in some States. We had a situation of States levying taxes, or local governments levying taxes, giving the money to churches to run schools.

So, regardless of what our constitutional founders may have been thinking about when they drafted and finally ratified the establishment clause, regardless of whether they were thinking of an established religion in the sense of the Church of England, regardless of whether they were thinking of an established religion in the way many of the States had established religion at the time of the founding of the Constitution, regardless of the fact that what they were probably thinking about—and it is very difficult to tell because the debate on this particular amendment was very limited—it would seem that what they were thinking about was an established religion in the normal sense it was understood in the later 1700s, which was a State religion adopting a particular church.

There was not a word in the debate as to whether or not our constitutional fathers intended to prohibit the use of tax money to be given churches to run schools.

All I can say is that in practice, every one of them probably belonged to State legislatures or to city councils or township councils that, indeed, levied those taxes and gave them to church schools.

That is the history. Somehow, some way, by tortuous reasoning, the Supreme Court in past decisions has in some cases, in State cases, found that deductions for tuition under certain circumstances were constitutional. But they had to derive that from a later interpretation of the Constitution than was intended by our founders.

Mr. President, today we have child care credits. We may take up to $400 off our income tax for child care expenses. We may take that off the income tax even though for child care we have sent our child to a church-run care center, run in the basement of the church, run by nuns, run by rabbis, run by whatever other religious order may be in charge of the day care center, apparently on the presumption that from the time a child is at least age 0 to 6 they will be uninfluenced by the religion of the day care center.

The GI bill provides benefits to those attending public or private, primary, secondary, higher education, vocational, and a variety of other schools mentioned. I mentioned primary or secondary and the Veterans' Administration has paid benefits to primary and secondary sectarian schools under that bill, again apparently on the presumption that once we have been in the military we are safe to be entrusted back to a primary or secondary sectarian school without being washed by religion.

So, if there is anything at all, it is only in the age of, roughly, 6 to 17, or 6 to 18.

Now, it is the feeling of the sponsors that the bill as we have drafted it is constitutional. We think it is. We have not intentionally drafted an unconstitutional bill. But because it is arguably unconstitutional, we have provided a 2-year delay in the effect of the primary and secondary tax credits.

We have provided a provision for an expedited court test, so that this issue will go to the Supreme Court and they will decide for the first time whether or not a Federal tax credit for primary and secondary education is constitutional or unconstitutional.

That is all my amendment says. There is no other way that the Supreme Court can pass on that particular issue unless we pass a Federal tax credit bill. They do not give advisory opinions. They have to have some justiciable controversy before them.

Let me close by emphasizing once more that this amendment I have offered changes the preamble, so that the preamble does not find the bill constitutional. The preamble now will say that the only way the court can pass on the issue of constitutionality is for Congress to pass a bill creating the Federal tax credits and sending the issue to the court for determination.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, at this point, while we await the debate between the Senator from Missouri (Mr. EAGLETON) and the Senator from Oregon (Mr. PACKWOOD) relative to constitutionality, I think it would be well to include some items in the RECORD, in the interest of time.

I ask unanimous consent that an excerpt from the report of the Committee on Appropriations in connection with this bill be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

ELEMENTARY-SECONDARY EDUCATION

There are unique features relating to elementary and secondary tuition tax credits legislation which raise serious questions that have not been adequately addressed in the Senate:

First, enactment of tax credits for elementary and secondary education would result in a dramatic shift in Federal education policy in favor of private-school students. Only those private school students most in need, such as handicapped, non-English-speaking, or disadvantaged now receive Federal assistance. In other words, public-school students with no special needs receive no direct Federal assistance. Tax credits would subsidize all students in private schools. Private schools that serve economically disadvantaged children, or other children with special needs, currently receive aid through title I of the Elementary and Secondary Education Act. Under this bill, however, all private schools would receive aid, whether or not they chose to serve students with special education needs whom the Federal Government has required the public schools to serve. By extending blanket assistance to all children in private schools, this amendment would turn on its head the timetested Federal policy of targeting aid to those who need it most.

Presently, the Federal Government supports private-school students at approximately $50 per student. Per capita support for public-school students is approximately $120 per student. Assuming full benefit of the tax credit proposal, the Federal Government would then be in the position of providing more than four times the support for each private school student than it currently does for each public school student.

Second, the ultimate cost of this legislation will be much higher than is generally recognized. Cost estimates do not consider the potential billions of dollars required to fund those students in new private academies established to make advantage of this legislation. Nor does it take into consideration possible moves by public schools to charge tuition.

Third, H.R. 3946 as reported by the Finance Committee raises serious legal questions under the Establishment Clause of the first amendment to the Constitution. The Supreme Court decision in the 1973 *Nyquist* case, prohibited tuition tax credits under a State statute, stating:

"Special tax benefits, however, cannot be squared with the principle of neutrality established by the decisions of this Court. To the contrary, insofar as such benefits render assistance to parents who send their children to sectarian schools, their purpose and inevitable effect are to aid and advance those religious institutions."

Given this relatively recent Supreme Court decision, the Committee believes this proposal holds out a false promise of tax relief.

Fourth, tuition tax credit would make it easier for a student to attend a segregated or minimally integrated school if the parents wished to avoid an integrated public school. Tuition tax credits would be an encouragement and reward to those who flee the public schools to attend private academies created largely in response to desegregation in public schools.

Even though H.R. 3946 limits the tax credit to expenses for tuition for attendance at tax-exempt institutions in order to prevent the credit from benefiting schools with racially discriminatory admission policies, there would be problems of monitoring tax forms and proving discrimination. The Internal Revenue Service should not be forced to assume an expanded role in handling discrimination investigations. Further, it makes no sense to give IRS the responsibility of enforcing civil rights when the Congress has previously delegated that responsibility to other agencies.

Although the foregoing sets forth the highlights of a number of problems and objections raised by H.R. 3946, it is not all inclusive or reflective of the individual views of all members of the Committee. Accordingly, the Committee does believe this measure creates more problems than it would solve and has reported the bill to the Senate with the recommendation that it not be adopted.

Mr. HOLLINGS. Mr. President, this report goes right to the matter of appropriating money for postsecondary education. It is very interesting that the members of the Appropriations Committee, like the Members of the U.S. Senate, have no difficulty in finding out what the law of the land is on this particular score.

The contention of the Senator from Oregon is this: How can they ever learn, unless we introduce a bill? That is a great favor for the Supreme Court of the United States. As if the Court never really has had the opportunity to rule on financial assistance to the elementary and secondary schools, or to the private schools, or to the parochial schools. As if the Court never has ruled on Federal action as well as State action. As if the Court never has ruled on the tuition tax credit approach.

We have only to look at the report of the members of the Appropriations Committee, charged with the financial responsibility of appropriating funds. They cite the 1973 Nyquist case:

Special tax benefits, however, cannot be squared with the principle of neutrality established by the decisions of this court. To the contrary, insofar as such benefits render assistance to parents who send their children to sectarian schools, their purpose—an inevitable effect—was to aid and advance those religious institutions.

My friend intimated in the debate yesterday that you have to be anti-Catholic to have that particular opinion. But this happens to be a legal opinion, not a personal opinion. You do not have to be anti-religious, as my friend said yesterday, to have that opinion. It just happens that under the Constitution, the establishment clause of the first amendment, you cannot aid or inhibit a religion. You should leave it alone. When they come in with a plan to spend the taxpayers' money to aid private schools, which are 85 to 90 percent parochial, they are aiding a religion.

There is no fine borderline case here about providing maps or other technicalities. Instead there are hard decisions on behalf of the Court.

Going further, Mr. President, I was asked on yesterday to put in the RECORD additional letters and resolutions with respect to the position of various organizations. I ask unanimous consent to have printed in the RECORD a letter from the distinguished president of Bob Jones University, in Greenville, S.C.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BOB JONES UNIVERSITY,
Greenville, S.C., June 23, 1978.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: The Packwood-Moynihan Elementary, Secondary, and College Tuition Tax Credit bill is soon coming up for a vote in the Senate. I am writing to request that you vote against the bill.

There is considerable difference of opinion among Christian school educators as to whether the bill is good or bad for private Christian education. I believe it is bad.

Everything that the government and the courts have done with regard to private education in the last eight or ten years has been to hinder private schools and to force them out of existence, if possible. Our basic distrust of the government's attitude toward private Christian education leaves us no reason to think that the government has mellowed its position or intends any good for the private schools with this Packwood-Moynihan bill.

I speak for Bob Jones University when I say that we do not want any government help of any kind. We just want the government to keep its hands off, and any tuition tax credit given to parents for sending their children here will eventually be interpreted by the agencies which administer the program to be federal aid to the college, even as the courts have now interpreted aid to the student to be aid to the college. No decent, Christian school wants aid in any form from the federal government. I'm afraid that the Packwood-Moynihan bill will be the undoing of separation of church and state as it affects Christian education.

I urge you to cast a negative vote when this bill goes to the Senate floor.

Thank you.

Sincerely yours,

BOB JONES III,
President.

Mr. HOLLINGS. Mr. President, I read from the letter:

I speak for Bob Jones University when I say that we do not want any government help of any kind. We just want the government to keep its hands off, and any tuition tax credit given to parents for sending their children here will eventually be interpreted by the agencies which administer the program to be federal aid to the college, even as the courts have now interpreted aid to the student to be aid to the college.

There you are. The Senator from Oregon cannot see it. Those who are in the business of administering these universities come in and say that they are not for any tuition tax credit.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from Howard M. Squadron, president of the American Jewish Congress, dated August 11.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN JEWISH CONGRESS,
August 11, 1978.

Hon. ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: Please be assured of the support of the American Jewish Congress for your amendment to the Tuition Tax Relief Act which is now pending in the United States Senate. We trust the amendment will receive favorable action when it reaches the Senate floor for a vote next week.

The American Jewish Congress has, since its inception 60 years ago, been in the forefront of the struggle to protect the public school system and we do not believe that the federal government should be in a position to weaken that system by underwriting non-public education with the use of public funds.

Furthermore, federal aid to private schools, as embodied in pending tuition tax credit proposals, raises the danger of creating a breach in the wall of separation between church and state. Such aid is in violation of the constitution and in contradiction to the principles upon which our non-sectarian public schools rest.

We are grateful for your efforts to protect one of the most valued institutions in American life, the public school system.

Sincerely yours,

HOWARD M. SQUADRON,
President.

Mr. PACKWOOD. Mr. President, will the Senator yield for a question?

Mr. HOLLINGS. I yield.

Mr. PACKWOOD. Is Bob Jones University the one that lost its 501(c)(3) exemption because of discrimination?

Mr. HOLLINGS. I am not sure whether it did or not. I am sure they had a case, and I see the gentleman nodding there.

Mr. PACKWOOD. I believe the record will show that this university did discriminate on the basis of race. It use to have a 501(c)(3) exemption, and it lost that. It has had its nose out of joint ever since about this issue. I think they are now afraid that if we have this tuition tax credit bill, which students going

to their school will not be entitled to, it will put them at a disadvantage with other schools.

Mr. HOLLINGS. I would not say the university has its nose out of joint. I would say that Bob Jones is typical of many schools and many school administrators in our particular section of the country. It is accredited to be an outstanding college.

The Senator finds many that are outstanding, with great diversity in pluralism. I do not know what that pluralism is. Every time we come to that, I never really know whether we are going to coronate the Senator from Connecticut, on the one hand, or start the Democratic Convention, on the other. Then when we really get into the meat of the coconut and start debating this thing, we run off on tangents of diversity and pluralism.

Bob Jones University happens to have art classes that are internationally known; music courses that are internationally recognized. It has that pluralism. It has that pluralism and it has that diversity.

And if it has a position with respect to discrimination I am not totally familiar with that. I am not hedging. I understand that there was a case brought. I never did really realize what the final outcome was. But I made no bones about the many, many, many protest schools.

The Senator from Rhode Island brought out that it is not the case that the public schools are shoving out the private schools. On the contrary the diminution in enrollment in the parochial private schools, on the one hand, and the public schools, on the other hand, took place during 1965 to the period 1975.

During the 5-year period between 1970 and 1975, the State of Kansas public elementary and secondary schools lost 13 percent of its enrollment; the State of North Dakota between 1970 and 1975 in elementary and secondary schools lost 10 percent of its enrollment.

It is not our contention, necessarily, that the private schools shoved them out of public schools. We are just giving realistic facts, as the Senator from Rhode Island was doing on yesterday afternoon. And they all diminished—private, parochial, and public elementary and secondary schools, over that 10-year period.

Now the decline of private school enrollments has bottomed-out, particularly the Catholic schools, as accounted for by the Catholic Conference. There has been a slight enrollment increase in the last year. What has really occurred is that there has been a blossoming in the past 10 years of protest schools, private schools, that have sprung up over the entire southland, and in other parts of the country.

Referring again to the American Jewish Congress letter from Howard M. Squadron:

> We are grateful for your efforts to protect one of the most valued institutions in American life, the public school system.

Now, the American Jewish Congress is not anti-Catholic; it is not anti-religious. It has fought for 60 years for an established principle of the separation of church and state, and they do not want that wall of church-state separation breached, and that is exactly what they say.

"Such aid is in violation of the Constitution."

They have no difficulty.

Organizations and educators galore, everyone in the land, seems to know the law of the land, but the authors of this bill come up with a unique proposition: We want to help the Supreme Court. How can they decide? We must help them decide.

So in order to get them to decide this unique question that has been decided over and over and over and over and as recent as last summer a year ago, "Now we are going to propose a bill."

Is that not a reasonable request? Do you not want to help the Court to decide what has already been decided?

Mr. President, other organizations, for example, the Southern Baptist Convention met this summer and they passed a resolution, No. 16, on tuition tax credits.

Mr. President, I ask unanimous consent that the resolution in its entirety be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION NO. 18—ON TUITION TAX CREDITS

Whereas the Congress of the United States is considering legislation to give taxpayers a tax credit (that is, a direct subtraction from one's tax bill) for tuition payments.

Whereas the effect of such legislation would be of most benefit to those who can afford to finance their children's attendance at private schools, including elite schools,

Whereas most private elementary and secondary schools are related to churches and exist to serve the religious mission of sponsoring churches,

Whereas tuition tax credit legislation carries the potential of financing private education at the expense of public education,

Whereas the attorney general of the United States has issued an advisory opinion that such legislation is of doubtful constitutionality under the First Amendment, especially with regard to tuition paid to elementary and secondary schools,

Whereas the Baptist Joint Committee on Public Affairs has opposed such legislation because of its threat to the principle of separation of church and state,

Be it therefore Resolved, that we call upon President Jimmy Carter to veto any tax credit legislation now under consideration by Congress, and

Be it further Resolved, that we, messengers to the Southern Baptist Convention, meeting in Atlanta, Georgia, on June 15, 1978, register our opposition to all tuition tax credit legislation pending in Congress; urge the Baptist Joint Committee on Public Affairs to continue to oppose such legislation; and express our concern over such legislation's threat to the First Amendment guarantees of non-establishment of religion and the free exercise of religion.

Mr. HOLLINGS. "Whereas the Baptist Joint Committee on Public Affairs has opposed such legislation because of its threat to the principle of separation of church and state."

They see the inroads. They see the unconstitutionality.

Mr. President, the State of North Carolina is an outstanding State with respect to education. There is no question about it. I tried, in a sense, to emulate its technical training school system. I know its board for higher education and its approach to higher, elementary and secondary education has been considered a leader in our southland.

I never forget they passed a sales tax in North Carolina in 1936 for public education, and it was not until 15 years later, in 1951, that we followed the leadership of North Carolina in trying to build up our public schools.

Incidentally, no one argued at that particular time that because they paid a sales tax and had no children—and since all the sales tax money went for education then "the government should reimburse them because it is unjust and inequitable." What we want is fairness and justice and nondiscrimination.

That is the plea being made today that they should be reimbursed, because their children—who would be allowed into the public schools—chose rather to attend the private school, while the parents paid their property tax.

They passed a sales tax in North Carolina in 1936 and in 1951 in South Carolina, and no one has ever brought a suit or complaint or even extended the idea that since I do not have any children, I do not have to pay a tax.

All the tax, incidentally, every red cent of the 4 percent sales tax in the State of South Carolina, goes to elementary and secondary education.

Now comes the point we were talking about yesterday, on certification and entanglement, and the Senator from Oregon and myself seemed unable to understand each other.

The Senator from Oregon could not understand the almost accepted fact of the Senator from South Carolina that any time you do this you have entanglement. The Senator from South Carolina could not understand the position of the Senator from Oregon that no entanglement whatever was involved.

Let us look at the Columbia Christian Academy and the other Christian academies that are located in North Carolina. Under the State law the State department of public instruction was required, under this new law passed last year, to insure that the nonreligious curriculum of private schools meets certain standards.

We do not have that in South Carolina. But North Carolina, perhaps again leading the way, has attempted under article 32, chapter 1–15, to require just that—that the nonreligious curriculum of the private schools meet certain standards.

Sixty-one schools refused to fill out the necessary forms, and their refusal is premised on the basis of the separation between church and state.

So the State sues the 61 schools for refusing to fill out the State forms, and

that is on its way to the U.S. Supreme Court.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. ALLEN). Without objection, it is so ordered.

Mr. MOYNIHAN. I thank the Chair. Madam President, early last evening—at about 7 o'clock—a not altogether agreeable exchange took place upon this floor. A number of persons who do not support the legislation which Senator RIBICOFF, Senator PACKWOOD, Senator ROTH, and I have introduced expressed great displeasure, even to the point of making personal references, at the fact that we, the bill's supporters, had hoped to get an audience to attend to some of the arguments we were making. We simply hoped to have the opportunity to persuade other Senators of the cogency of our position.

It seemed to trouble people, that we should ask for votes and further discourse. We had one vote. But this came after 2 days during which we spoke to an essentially empty Chamber. Some Senators were away, no doubt, on business. Others no doubt have stayed away by choice, not wanting to hear what we had to say; we resorted to very elemental strategems in the hope of seeking a vote at 7 o'clock, so that these Senators might find it convenient to be present.

Even then, not many chose to stay on the floor.

At that point, given the high level of displeasure with our efforts to gather an audience for our debate, we concluded at an early hour. Now we are back, Madam President. We have been here for an hour, and not one of those concerned with the lateness of the hour last night has yet appeared at this not inordinately early hour. We are once again alone and surrounded by virtual silence. We have stood for 2 days. And I believe we have had fruitful exchanges with the Senator from South Carolina and the Senator from Arkansas, who are also now on the floor. But where are those who were so annoyed at 7 o'clock last night that we were keeping the Senate late and who argued that this debate could best be conducted in the bright and shining hours of the morning? Where are they now?

Madam President, I suggest the absence of a quorum.

Mr. PACKWOOD. Madam President, will the Senator withhold that?

Mr. MOYNIHAN. Yes.

Mr. PACKWOOD. Madam President, I ask unanimous consent that Mimi Weyforth, of my staff, may have the privileges of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EAGLETON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EAGLETON. Madam President, is the pending order of business the Packwood amendment that has been under discussion?

The PRESIDING OFFICER. The Senator is correct.

Mr. EAGLETON. Madam President, I will address my remarks, in essence, to the Hollings amendment, but since the Packwood amendment treats of the question of the constitutionality of tuition tax credits, I think the remarks will be equally germane at this point as well.

I favor, Madam President, the Hollings amendment, which would strike from the Packwood-Moynihan bill those provisions which pertain to tuition tax credits for private elementary and secondary education. I do take this position with simple or benign comfort, for my own personal elementary and secondary education was through private schools. Pluralistic education, as afforded by a mix of public and private schools, is one of the great strengths of our Nation. The private education component of that mix is caught in the creeping squeeze between declining enrollment and rising costs. No doubt the private schools need help. No doubt the private schools have been helped. No doubt the enactment of Packwood-Moynihan, if constitutional, would help private schools. The threshold question for me, Mr. President, is not one of need, but one of constitutionality.

It is clear to me that the mechanism selected by Senators PACKWOOD and MOYNIHAN—the tuition tax credit—is unconstitutional under the Supreme Court's decisions in the Nyquist and Sloan cases—(*Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973); *Sloan* v. *Lemon*, 413 U.S. 825 (1973)).

THE CONSTITUTIONAL ISSUE

The first amendment to the U.S. Constitution reads as follows:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Since the preponderance of private schools in this country are church related, it is the establishment clause which has caused the Supreme Court to monitor closely whether a particular legislative mechanism is or is not violative of the "wall of separation between church and state" as the Supreme Court has expounded first amendment law.

To be sure, the Supreme Court has not at all times spoken with a clarion voice on separation of church and state issues. Prof. Antonin Scalia of the University of Chicago School of Law, a vocal proponent of the Packwood-Moynihan bill, testified with considerable vigor and some persuasiveness on the "confusing" and "bewildering" nature of Supreme Court decisions beginning with the Everson case in 1947 right up through the Wolman case in 1977 with lots of cases—and, admittedly, lots of zigs and zags—in between.

But, Madam President, although there are many unresolved constitutional thickets in first amendment law, there is one area where the Court has spoken precisely and definitively: tuition tax credits for elementary and secondary private education are unconstitutional. That is what the Supreme Court said in both the Nyquist and Sloan cases when it declared unconstitutional statutes in New York and Pennsylvania which sought to provide same.

It is because of the Nyquist and Sloan cases that the Attorney General of the United States has stated that Packwood-Moynihan is unconstitutional. It is because of the Nyquist and Sloan cases that Professors Paul Freund, Harvard Law School; Laurence Tribe, Harvard Law School; Andrew Kaufman, Harvard Law School; Gerald Gunther, Stanford Law School; William Van Alstyne, Duke Law School; Kent Greenwalt, Columbia Law School, amongst others, state that Packwood-Moynihan is unconstitutional.

It is Nyquist and Sloan that the proponents of tuition tax credit cannot escape, although escape they try. Senator MOYNIHAN escapes them by not even mentioning them in his two major public utterances on the constitutional issues involved in his bill. I refer to his article in the April 1978 issue of Harper's magazine and his address to the College of St. Rose, Albany, N.Y., in May 1978. The good Senator flails away at bigotry of the Jacksonian Democrats, the anti-Catholicism of President Ulysses S. Grant, the anti-Papist plank in the 1876 Republican platform, and unintended, but apparent anti-Catholic bias of Justice William O. Douglas, in his speech, I think it is, "I do not think Douglas was anti-Catholic. It is just that ***" Good wordsman that the Senator is, I wonder why he did not have even one word for the two Supreme Court cases which outlaw the premise of his bill? He simply writes them out of existence by failure even to mention them.

Let me quote from the Supreme Court in the Nyquist case:

> Special tax benefits, however, cannot be squared with the principle of neutrality established by the decisions of this Court. To the contrary, insofar as such benefits render assistance to parents who send their children to sectarian schools, their purpose and inevitable effect are to aid and advance those religious institutions.

There is no doubt that the private schools are confronted with increasingly grave fiscal problems, that resolving these problems by increasing tuition charges forces parents to turn to the public schools, and that this in turn—as the present legislation recognizes—(meaning the New York statute that was before the court) exacerbates the problems of public education at the same time that it weakens support for the parochial schools. . . . They are substantial reasons. Yet they must be weighed against the relevant provisions and purposes of the First Amendment, which safeguard the separation of Church from State and which have been regarded from the beginning as among the most cherished features of our constitutional system.

It is true, of course, that this Court has long recognized and maintained the right to choose nonpublic over public education. It is also true that a state law interfering with a parent's right to have his child educated in a sectarian school would run afoul of the Free Exercise Clause. But this Court repeatedly has recognized that tension inevitably exists between the Free Exercise and the Establishment Clauses, and that it may often not be possible to promote the former without offending the latter. . . . However great our sympathy for the burdens experienced by those who must pay public school taxes at the same time that they support other schools . . . neither may justify an eroding of the limitations of the Establishment Clause now firmly emplanted.

The Supreme Court, by the way, misspelled the word "implanted."

Madam President, the Packwood-Moynihan bill is purely and simply a repackaging of the New York and Pennsylvania statutes struck down by the Supreme Court in Nyquist and Sloan. It is specious to argue that putting a pretty new congressional ribbon around an already declared unconstitutional package somehow purifies the contents.

Finally, Madam President, let me address the question as to whether we as Senators should at all concern ourselves about the issue of constitutionality. Some of my colleagues argue: "What the heck, our job is to pass laws. It's the Supreme Court's job to pass on their constitutionality. We should do 'our thing.' Let the Supreme Court do 'its thing.' " Professor Scalia, mentioned earlier as a proponent of Packwood-Moynihan, puts it a bit more professorially: "I urge you, then"—meaning the Members of the Senate—"to approach this issue as a question of what the constitutional law 'should be,' rather than vainly seeking to determine what it 'is' under the decisions of the Court."

I submit that it is our role to enact bills which will make both good public policy and sound constitutional law. Our role is not to grasp at an ephemeral, flimsy pretext of somehow granting the Supreme Court a second-chance learning experience. Our job is not to pass the constitutional buck to the Supreme Court simply to get it off our backs. Time and again in other legislation we make constitutional evaluations pretaining, for example, to the search and seizure clause, the due process clause, the equal protection clause, the interstate commerce clause, and so forth. How can we and why should we shirk our responsibility with respect to the first amendment issue?

Madam President, I am well aware of the political appeal of granting partial relief to parents who support the public schools they do not use. While simple equity might demand that we find a way to relieve these citizens of the heavy financial burden of educating their children, I do not think the tuition tax credit as provided by this bill, insofar as it provides relief at the elementary and secondary school level, comports with the constitutional requirement of separation of church and state, and therefore, at the appropriate time, when we get around to voting on it, I shall support the Hollings amendment to strike it from the bill.

Madam President, I ask unanimous consent that the following items be printed at this point in the RECORD: First, the Library of Congress topical listing. Second the legal opinion of the Attorney General of the United States; and, third the letter opinion of Professors Freund, Tribe, Kaufman, and Gunther.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL PROGRAMS IN WHICH NONPUBLIC ELEMENTARY AND SECONDARY SCHOOL STUDENTS ARE ELIGIBLE TO PARTICIPATE

Asterisks (*) mark programs which have statutory provisions expressly *requiring* the participation of eligible nonpublic school students. Numbers preceding program citations are those assigned to program in the Catalog of Federal Domestic Assistance. Programs for initial preparation of teachers are not included.

I. Programs Administered by the U.S. Office of Education:

Alcohol and Drug Abuse Education Act;

13.420—alcohol and drug abuse prevention.

Education Amendments of 1974—Title IV:

*13.562—education for gifted and talented children and youth (sec. 404; included in consolidation in Title IV, Part C, of the Elementary and Secondary Education Act.

Education Amendments of 1974—Title VII—National Reading Improvement Program:

*13.533—Right to Read—elimination of illiteracy.

Education of the Handicapped Act:

*13.449—formula grants to States (Part B).

13.444—early childhood education (Part C).

13.445—deaf-blind centers (Part C).

13.450—regional education programs (Part C).

13.447—physical education and recreation research (Part E).

13.520—specific learning disabilities (Part G).

Elementary and Secondary Education Act—Title I:

*13.428—formula grants to local education agencies for education of low-income children.

13.427—handicapped children.[1]

*13.429—migratory children.

13.431—neglected or delinquent children.[1]

*13.512—special incentive grants (Part B).

Elementary and Secondary Education Act—Title II:

*13.480—library resources, textbooks and other instructional materials; included in consolidation in Title IV, Part B, of the Elementary and Secondary Education Act.

Elementary and Secondary Education Act—Title III:

*13.519—supplementary education centers and services; guidance, counseling, and testing (sec. 301); included in consolidation in Title IV, Parts B and C of the Elementary and Secondary Education Act.

Elementary and Secondary Education Act—Title VII:

*13.403—bilingual education.

Elementary and Secondary Education Act—Title VIII:

*13.410—dropout prevention (sec. 807); included in consolidation in Title IV, Part C, of the Elementary and Secondary Education Act.

*13.523—school health and nutrition services for children from low-income families (sec. 808); included in consolidation in Title IV, Part C, of the Elementary and Secondary Education Act.

*13.525—Indian education—special programs and projects (sec. 810).

Emergency School Aid Act:[2]

*13.525—basic grants to LEA's.

*13.526—pilot programs.

*13.528—bilingual education projects.

*13.529—special programs and projects.

*13.530—educational television.

*13.532—special programs.

Environmental Education Act:

13.522—environmental education.

Headstart—Follow Through Act (Community Services Act, Title V):

*13.433—Follow Through

Higher Education Act—Title IV:

13.488—Talent Search.

13.492—Upward Bound.

13.543—Educational Opportunity Centers.

Higher Education Act—Title V:

13.489—Teacher Corps.

National Defense Education Act—Title III:

*13.483—strengthening instruction through equipment and minor remodeling; included in consolidation in Title IV, Part B, of the Elementary and Secondary Education Act.

Vocational Education Act:

*13.499—special needs (sec. 102(b); Part B, sec. 122(a)(4)).

13.493—basic grants to States (Part B).

*13.502—innovation (Part D).

13.494—consumer and homemaking education (Part F).

*13.495—cooperative education (Part G).

13.501—work-study (Part H).

13.558—bilingual (Part J).

II. Programs Administered by Other Federal Agencies:

DEPARTMENT OF AGRICULTURE

Food and nutrition service

Child Nutrition Act:

*10.533—school breakfast program.

10.544—nonfood assistance for school food programs.

National School Lunch Act:

*10.555—school lunch program.

*10.556—school milk program.

[1] Program aids children whose education State agency rather than LEA is directly responsible for; States in some cases arrange with private organizations, for instance by contract, to provide educational services to these children.

[2] Participation of eligible nonpublic school children must be provided for by applicant local education agencies; when applicant is other than LEA, statute does not expressly require participation of eligible nonpublic children (although regulations do in some cases).

National agricultural library

5 U.S.C. 5946; 7 U.S.C. 450b, 450i, 2201, 2202, 2204, 2206, 2244, 2264, 2265.

10.700—National Agricultural Library service.

DEPARTMENT OF COMMERCE

Domestic and international business administration

Tariff Schedules of the United States:

11.105—importation of duty-free educational and scientific materials.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

General Education Provisions Act:

13.575—educational research and development (sec. 405).

Office of the Secretary

Federal Property and Administrative Services Act:

13.606—surplus property utilization.

Vocational Rehabilitation Act:

13.603—Office for Handicapped Individuals.

Public Health Service

Executive Order 11562 (September 25, 1970):

13.289—President's Council on Physical Fitness and Sports.

DEPARTMENT OF THE INTERIOR

National Park Service

15.902—national environmental study areas and national environmental education development programs.

Energy Research and Development Administration

Atomic Energy Act; Energy Reorganization Act:

24.002—motion picture film libraries.

24.023—information services.

LIBRARY OF CONGRESS

Act to Provide Books for the Adult Blind (2 U.S.C. 135a, a–1, b):

42.001—books for the blind and physically handicapped.

National Aeronautics and Space Administration

National Aeronautics and Space Act:

43.001—space science education project.

National Foundation on the Arts and Humanities

National Foundation on the Arts and Humanities Act:

45.001—promotion of the arts—architectural and environmental arts.

45.003—promotion of the arts—education.

45.004—promotion of the arts—literature.

45.005—promotion of the arts—music.

45.111—promotion of the humanities—education projects.

National Gallery of Art

20 U.S.C. 71–75:

68.001—extension service.

Smithsonian Institution

Act of Congress approved August 10, 1846:

60.001—programs in basic research and public education.

60.005—educational services for elementary and secondary education.

60.013—traveling exhibition service.

Veterans Administration

38 U.S.C. 1661 (GI Bill)

64.111—veterans educational assistance.

Nancy Dawson,

Education and Public Welfare Division

July 7, 1976.

HARVARD LAW SCHOOL,

Cambridge, Mass., March 27, 1978.

Hon. EDMUND MUSKIE,

Chairman, Budget Committee,

U.S. Senate,

Washington, D.C.

DEAR SENATOR MUSKIE: This letter concerns S. 2142, the Packwood-Moynihan bill, which provides for federal income tax credits for tuition and fees paid for the education of students in colleges and in elementary and secondary schools. Under the terms of the bill, credit applies only to expenses "required for enrollment or attendance" of students; thus the benefit to elementary and secondary school children is essentially confined to those enrolled in nopublic schools, of whom an overwhelming majority—approximately 85%—are parochial school students. This effect is evidently welcomed by the authors of the bill, at least one of whom has explicitly observed that public subsidization of parochial schools is a purpose of the proposed legislation and is likely to pose constitutional problems. See Sept. 26, 1977, Statement by Senator Daniel Patrick Moynihan on Tuition Tax Credit Act of 1977. The character and extent of such constitutional problems is the subject of this letter, which is written in the belief that an appraisal of the likelihood of successful constitutional attack on S. 2142 might be helpful to the Budget Committee in rationalizing federal educational expenditures.

The conclusion seems inescapable that the provisions of S. 2142 regarding elementary and secondary school expenses would be held inconsistent with the Establishment Clause of the First Amendment and thus violative of the Fourteenth Amendment to the United States Constitution. As recently as 1973, the Supreme Court struck down a similar tax relief program enacted by New York State. The Court in *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973), noted that parochial school children comprised over 80% of the benefitted class and reasoned that, although cast as a direct grant or tax benefit to the families of school children rather than to parochial schools as such, "[t]he effect of the aid [was] unmistakably to provide support for nonpublic sectarian education." 413 U.S. at 783. The state grant of this benefit accruing only to nonpublic school children was accordingly held unconstitutional, as was a nearly identical Pennsylvania program. See *Sloan* v. *Lemon*, 413 U.S. 825 (1973). The *Nyquist* Court expressly distinguished *Everson* v. *Board of Education*, 330 U.S. 1 (1947) (permitting publicly funded transportation of parocial school children) and *Board of Education* v. *Allen*, 392 U.S. 236 (1963) (permitting publicly funded text book loans to parochial school children), on the ground that in "both [*Everson* and *Allen*] the class of beneficiaries included *all* school children, those in public as well as those in private schools." 413 U.S. at 782 n. 38 (emphasis in original).

The provisions of S. 2142 regarding elementary and secondary education closely parallel those struck down in *Nyquist* and *Sloan*. The plans invalidated in those two cases included systems of graduated reimbursements and credits constitutionally indistinguishable from the tax credits of S. 2142. The invalidated state plans, though neutral in their terms, benefitted only families of nonpublic school children, the vast majority of whom were enrolled in sectarian schools. Exactly the same is true of S. 2142.

Given the reasoning of the *Nyquist* Court, however, the proposed federal program seems even more constitutionally offensive than the New York and Pennsylvania programs invalidated in 1973. Beyond condemning the impermissibly non-secular effects of the state programs before it, the Court in *Nyquist* and *Sloan* criticized those programs for creating undue risks of impermissible entanglement between church and state: "assistance of the sort here involved carries grave potential for entanglement in the broader sense of continuing political strife over aid to religion." 413 U.S. at 794. Whereas the New York and Pennsylvania programs provided aid of up to $50 and $75 per elementary school student, respectively, and double that level per high school student, the proposed federal program provides a tax credit with a far higher limit—$500. Whatever political strife along religious lines would accompany the small state programs struck down in *Nyquist* and *Sloan* would be greatly magnified by the more expensive and expansive federal program proposed in S. 2142.

Finally, it is inconceivable that the federal tax relief program would be any more favorably received than New York's or Pennsylvania's simply because the federal government would also simultaneously enact a similar tax credit for college (and post-secondary vocational) students. That these are two separate programs is clear from the bill itself, which would enact the elementary and secondary school provisions separately from the provision relating to the college credit, would begin them in different years, and would provide for severability and expedited judicial review—the latter to resolve more swiftly the "validity of any provision." See Senate Finance Committee Report, p. 7.

Moreover, the Supreme Court's Establishment Clause analyses have long been sensitive to the distinction between college education, on the one hand, and elementary and secondary education, on the other, searching aid to the latter far more strictly in order to discern non-secular purposes or effects and risks of administrative or political church-state entanglement. Contrast, e.g., *Roemer* v. *Board of Public Works of Maryland*, 426 U.S. 736 (1976) (permitting noncategorical grants to qualifying colleges and universities, including sectarian institutions, providing that the beneficiaries prepare reports detailing secular uses), with *Wolman* v. *Walter*, 433 U.S. 229 (1977) (applying stricter test for provisions aiding elementary and secondary schools). Clearly, these cases must be read as indicative of the Supreme Court's special concern with insulating early education from any suggestion of government support of religion as such—a concern consistent with isolating, and invalidating, the tax credit for elementary and secondary school tuition in S. 2142.

The converse proposition also seems correct: The Supreme Court would be likely to uphold the validity of the proposed tax credit for college tuition and fees. As indicated above, the Court has been far more tolerant of public support to sectarian colleges. Moreover, since free public education is far from universally offered at the college level, the college tuition tax credit would have the obvious secular effect of subsidizing higher education for a broad class of citizens rather than for a class most of whose members attend religious schools. For a fuller discussion, see L. Tribe, *American Constitutional Law* §§ 14–9, 14–12 (1978).

We hope these views will be of some help to you.

Yours truly,

PAUL A. FREUND,

Leoeb University Professor, Emeritus, Harvard University.

LAURENCE H. TRIBE,

Professor of Law, Harvard University.

ANDREW L. KAUFMAN,
Professor of Law, Harvard University.
GERALD GUNTHER,
William Nelson Cromwell Professor of Law, Stanford University.

DEPARTMENT OF JUSTICE,
Washington, D.C., March 16, 1978.

MEMORANDUM FOR THE ATTORNEY GENERAL

Re: Constitutionality of Packwood-Moynihan Bill

You have asked for our views concerning the constitutionality under the establishment clause of the first amendment of providing either tax credits or grants for tuition payments to nonpublic elementary and secondary schools. You referred to two specific proposals providing such grants or credits: S. 2142, the Packwood-Moynihan bill, which would give limited income tax relief in the form of a credit for tuition payments to nonpublic schools; and the extension of the Basic Educational Opportunity Grant program to include nonpublic elementary and secondary school education.

Under existing Supreme Court decisions both proposals would appear to violate the first amendment guarantee against establishment of religion. The controlling decisions on tuition grants and credits for nonpublic elementary and secondary education are *Committee for Public Education* v. *Nyquist*, 413 U.S. 756 (1973), and *Sloan* v. *Lemon*, 413 U.S. 825 (1973), a companion case.

In *Nyquist*, the Court invalidated a New York tuition reimbursement and tax relief plan. The plan provided limited tuition reimbursements to low income families with children attending nonpublic elementary and secondary schools. Families failing to qualify for tuition reimbursement were allowed tuition tax credits in varying amounts depending upon adjusted gross income. The Court found both facets of the program unconstitutional under the three-part establishment clause test enunciated in *Lemon* v. *Kurtzman*, 403 U.S. 602, 612 (1971):

"First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion . . .; finally, the statute must not foster 'an excessive entanglement with religion.'"

The Court acknowledged that the purposes of the State in enacting the measures—to preserve a healthy, safe educational environment for all schoolchildren, to promote pluralism and diversity in education, and to prevent further overburdening of the public school system—were secular and not inappropriate legislative considerations. It held, however, that the tuition grants and credits failed the second prong of the test because a primary effect of the plan was aid to religious education. The Court noted additionally that the plan created the prospect of politically divisive Church-State entanglement. Adoption of programs assisting sectarian education would generate ongoing controversy along religious lines over continuing or enlarging available relief.

In *Sloan*, the Court held that a Pennsylvania tuition reimbursement program was constitutionally indistinguishable from the New York program invalidated in *Nyquist*. Since the Pennsylvania program had the effect of advancing religion, it too infringed upon the establishment clause guarantee.

The Packwood-Moynihan bill provides an income tax credit for tuition payments to elementary and secondary schools as well as vocational schools, colleges, and universities.[1] The amount of the credit is 50% of tuition up to a total of $500 per student. If the credit to which the taxpayer is entitled exceeds his tax liability, the difference is refunded to him. It is our opinion that the tax relief provided in the bill for tuition payments to nonpublic elementary and secondary schools falls within the scope of *Nyquist*.

Although we have considered carefully possible arguments distinguishing the Packwood-Moynihan tax credit from the New York tax relief program struck by the Supreme Court, we do not believe the differences are of constitutional dimension. It might be argued that the facially neutral, broad based tax relief provided in the bill prevents it from having a "primary effect" of advancing religion. According to that argument, aid accruing to nonpublic elementary and secondary schools would be only "incidental" to an otherwise neutral plan, and therefore would be constitutionally permissible under *Nyquist*. 413 U.S. at 771, 782 n. 38; *Walz* v. *Tax Commission*, 397 U.S. 664 (1970). A realistic appraisal of the tax credits proposal, however, indicates that it is not so neutral or broad based as it might first appear. In analyzing the effect of the tuition tax credit under the establishment clause, it is necessary to separate the elementary and secondary school and higher education components of the package.[2] Recent Supreme Court decisions have consistently distinguished aid to college level institutions from aid to lower level schools, pointing out that religiously affiliated institutions at the college level are less often so "pervasively sectarian" as are schools educating younger students and that older students are generally less impressionable. *See, e.g., Roemer* v. *Board of Public Works of Maryland*, 426 U.S. 736 (1976); *Hunt* v. *McNair*, 413 U.S. 734 (1973); *Committee for Public Education* v. *Nyquist*, 413 U.S. at 777 n. 32; *Tilton* v. *Richardson*, 403 U.S. 672, 685 (1971).

Once the focus is on elementary and secondary school tuition credits alone, it is evident that the effect on sectarian education is not merely incidental. Not only would the credits benefit institutions whose role is to emphasize religious training and beliefs, but they would also benefit sectarian schools in significantly larger numbers than nonsectarian schools. The high percentage of sectarian elementary and secondary schools in New York State—approximately 85 percent of all nonpublic schools—was one factor influencing the Court's decision in *Nyquist*.

Current statistics on nonpublic schools nationally show that nearly 17 percent of the nation's elementary and secondary schools are nonpublic. Of that percentage, 85 percent are religiously affiliated. U.S. Department of Health, Education, and Welfare, National Center for Education Statistics, Nonpublic School Statistics, 1976–77. According to the most recent statistics available, 87.5 percent of nonpublic schools at the elementary level and 70.2 percent of nonpublic schools at the secondary level are sectarian.[3] U.S. Department of Health, Education, and Welfare, National Center for Education Statistics, Statistics of nonpublic elementary and secondary schools, 1970–71. Although sectarian secondary schools do not dominate nonpublic education to the same extent as sectarian elementary schools, we believe that their numbers are sufficiently substantial that no meaningful distinction between credits for elementary and secondary schools could be drawn.

It might be argued that the availability of credits for public elementary and secondary school tuition under the provisions of the bill would significantly affect those statistics. The Court has repeatedly made the point, however, that the actual impact or "effect" of the program is the controlling determinant, not its theoretical or hypothetical consequences. The simple fact is that most public schools are supported by state funds, not tuition payments, and there is no evidence of which we are aware that the structure of state funding is likely to change radically as a result of this legislation. Thus, it appears that the tax credits here, like the tax reductions in *Nyquist*, have a primary effect of benefiting parents of children attending sectarian, nonpublic schools.[4]

The neutrality argument, as the most plausible basis for distinguishing the bill from the statute at issue in *Nyquist* and *Sloan*, deserves elaboration. The argument rests primarily on language in Mr. Justice Powell's opinion for the Court in *Nyquist*, in which he distinguished *Walz* v. *Tax Commissioner*, 397 U.S. 664 (1970). In *Walz* the Court upheld the constitutionality of property tax exemptions for churches. The *Nyquist* Court distinguished the earlier case on several grounds, one of which was the broad based and neutral class of property exempted:

"The exemption challenged in *Walz* was not restricted to a class composed exclusively or even predominantly of religious institutions. Instead the exemption covered all property devoted to religious, educational, or charitable purposes. As the parties here must concede, tax reductions authorized by this law flow primarily to the parents of children attending sectarian, nonpublic schools. Without intimating whether this factor alone might have controlling significance in another context in some future case, it should be apparent that in terms of the potential divisiveness of any legislative measure the narrowness of the benefited class would be an important factor."

413 U.S. at 794. At the end of the above discussion the Court added a footnote referring back to a similar point made earlier, which stated:

"[W]e need not decide whether the significantly religious character of the statute's beneficiaries might differentiate the present case from a case involving some form of public assistance (e.g., scholarships) made available generally without regard to the sectarian-nonsectarian or public-nonpublic nature of the institution benefited."

413 U.S. at 783 n. 38.

The contention might be made on the basis of those remarks that the present bill is valid; because it would benefit a large, diverse class and would not in its operation draw distinctions based upon the religious character of institutions. This argument may be maintained, however, only if no line is drawn between elementary and secondary school and higher education tuition credits. We think the bill cannot be viewed in this manner for several reasons. First, as we noted above, the Supreme Court has repeatedly drawn a distinction between grants to sectarian colleges and universities and similar grants at the precollege level. Second, the history of education in this country has evolved along lines distinguishing between universal free and mandatory public education at the elementary and secondary level and the more restrictive, nonmandatory, and rarely free educational offerings by the States at the higher education level. Because of these differences, the effect of the bill's tax credit provisions will be decidedly different for parents of public schoolchildren than for those whose offspring are enrolled in colleges and universities. Third, comments and testimony submitted on the bill leave little doubt that Congress has been made aware of the differences between tuition tax credits for the families of college students and

Footnotes at end of article.

credits for those families of elementary and secondary schoolchildren who desire a private school alternative.[5] *See, e.g.*, letter dated December 21, 1977 to Senators Packwood and Moynihan from Professor Freund of Harvard Law School.

Finally, we do not think that broadening the class of beneficiaries to mesh elementary and secondary students with college and university students obscures the fact that one of the "primary effects" of the bill is to aid sectarian education. The Court has stated clearly that to constitute a "primary effect" a law need not result exclusively or even predominantly in religious benefits. Rather, a primary effect can exist even where there are any number of other appropriate and praiseworthy consequences of the legislation. Given these considerations, we do not think it reasonable to contend that the provisions of the bill pertaining to tuition for elementary and secondary schools would survive on "neutrality" grounds.[6]

An alternative argument in support of the bill is that federal tax relief is fundamentally different from similar state measures. If the states promote the education of elementary and secondary schoolchildren through the provision of free public schools, the primary effect of any state tax relief for elementary and secondary school tuition is to assist the sectarian schools which make up the bulk of educational institutions charging tuition. It is argued that the federal government, on the other hand, does not provide elementary and secondary schooling, and can attempt effectively to promote the education of schoolchildren only through generally applicable tax relief measures. This argument ignores the focus of *Nyquist*. Although the purpose underlying a tax benefit plan may be both secular and laudable, the effect of the plan may be impermissibly to advance or inhibit religion. As we have said, it is our opinion that the effect upon nonpublic elementary and secondary schools of the Packwood-Moynihan tax credit would be constitutionally indistinguishable from the effect of the *Nyquist* tax reduction legislation.[7]

Our comments with respect to the proposed extension of the Basic Education Opportunity Grant (BEOG) program[8] to include nonpublic elementary and secondary education follow the same vein. Under the present program grants are awarded to students enrolled at institutions of higher learning on the basis of need. The amount of the grant is determined by a number of factors including family size, income, and tuition costs. The proposed extension would make those grants available to pupils in nonpublic elementary and secondary schools as well. Both *Nyquist* and *Sloan* hold that tuition grants for nonpublic elementary and secondary education infringe upon the establishment clause guarantee if a primary effect of the grant or reimbursement plan is to aid sectarian schools. Given the predominantly sectarian affiliation of nonpublic elementary and secondary schools nationally, any broadening of the BEOG program into elementary and secondary education would appear to have a primary effect nearly identical to the tuition reimbursement plans invalidated in *Nyquist* and *Sloan*.

Finally, we note that the problem of entanglement in the form of politically divisive activity described by the Court in *Nyquist* would exist under both tuition relief proposals. Insofar as the programs have a primary effect upon sectarian elementary and secondary schools controversy is predictable. As the Court stated:

[W]e know from long experience with both Federal and State Governments that aid programs of any kind tend to become entrenched, to escalate in cost, and to generate their own aggressive constituencies. * * * In this situation, where the underlying issue is the deeply emotional one for Church-State relationship, the potential for seriously divisive political consequences needs no elaboration.

413 U.S. at 797.

In conclusion, it is our opinion that both the proposed extension of the BEOG and the provisions of the Packwood-Moynihan Bill which would provide relief for tuition payments to nonpublic elementary and secondary schools are unconstitutional under the decisions of the Supreme Court in *Nyquist* and *Sloan*.

JOHN M. HARMON,
Assistant Attorney General,
Office of Legal Counsel.

FOOTNOTES

[1] We understand that the bill as reported out of the Senate Finance Committee was amended in a number of ways but that the basic tax credit provisions remain unchanged.

[2] We understand that a severability clause was added to the bill as recently reported out of the Senate Committee.

[3] Statistics showing the breakdown of schools at the elementary and secondary school levels for the 1976–77 academic year have not yet been completed. Preliminary statistics on student enrollment during 1976–77 are available. however, which, although compiled using a somewhat different format than earlier statistics, suggest that the percentages of nonpublic schools have not changed radically over the last six years.

[4] It is important to avoid placing too great a reliance on the statistical breakdown between sectarian and nonsectarian schools. The Court in *Nyquist* made clear that a law could offend the establishment clause even if aid to religion was not *the* primary effect but was only one of several consequences of that law. An additional New York State program considered by the Court in *Nyquist* provided "maintenance and repair grants" to nonpublic schools limiting those grants to 50 percent of the maintenance and repair costs of public schools. Even though it was clear that most of the funds would be used for nonsectarian purposes, the Court held the grants unconstitutional. The flaw in the program was that it provided no means of excluding State funds from having some substantial effect benefiting religion. 413 U.S. at 778–80. Possibly a clearer example may be found in the Federal higher education construction grants involved in *Tilton* v. *Richardson, supra*. In that case, even though it was clear that the constructed facilities would be used predominantly for secular purposes, the fact that those facilities could be used for sectarian purposes 20 years after their construction was enough to render that portion of the law unconstitutional in the unanimous view of the Court. Indeed, the Court struck that provision down on the ground that the 20 year limitation "will *in part* have the effect of advancing religion," 403 U.S. at 683 (emphasis added), not because that effect was predominant. No one could have claimed there that the law's central effects were secular. Only when the sectarian effects may be characterized fairly as merely "incidental" can a funding program which benefits religion be upheld.

[5] We note that the report of the Senate Finance Committee on the bill as amended separately discusses elementary and secondary school tuition credits and college tuition credits. S. Rep. No. 95–642, 95th Cong., 2d Sess. 2–3 (1978).

[6] Supporters of the bill who seek to distinguish *Nyquist* make one other generalized claim. The assertion is made that the Court's precedents in the establishment clause area of first amendment law have been so changeable and unpredictable that little significance may be attached to recent holdings. In our view that reading of the cases is unfair. Certainly, as the Court has freely acknowledged, the lines are not easy ones to draw. The Court has, however, developed—and adhered to—the three-part test outlined at length eight years ago in *Lemon* v. *Kurtzman, supra*. That test has commanded the votes of every Justice of the Court with the exception of Justices White and Rehnquist. More importantly though, we know of no reason to argue that *Nyquist* and *Sloan*, the precedents directly pertinent here, are of doubtful vitality.

[7] We believe, however, that the Packwood-Moynihan tax credit would be constitutional with respect to college and university tuition. It appears that the benefits of a higher education tuition tax credit would flow to a broad class of individuals, and not, as with elementary and secondary school credits, primarily to individuals affiliated with sectarian institutions. As the Court noted in *Nyquist*, nothing in its decision compels the conclusion that a generally available form of education assistance, such as the "G.I. Bill", 38 U.S.C. § 1651, impermissibly advances religion. 413 U.S. at 783 n. 38. Our views on the constitutionality of the college tuition tax credit are buttressed by the Court's recent summary affirmance of a case involving an establishment clause challenge to a Tennessee program providing grants to students in public and private colleges. *Americans United for the Separation of Church and State* v. *Blanton*, ——— U.S. ———, 98 S. Ct. 39 (1977), *aff'g* 433 F. Supp. 97 (M. D. Tenn. 1977). The District Court, relying in part on the *Nyquist* footnote mentioned above, concluded that the broad Tennessee college scholarship program, with its emphasis on the student rather than the institution, did not have the effect of favoring private or sectarian institutions over public institutions and therefore did not compromise establishment clause values. We believe that the same rationale is applicable to federal tax credits for college and university tuition.

[8] That program is set out at 20 U.S.C. § 107a (Supp. V 1975), *as amended by* 20 U.S.C.A. 1070a (Supp. 1977).

Mr. EAGLETON. Madam President, I yield the floor.

Mr. PACKWOOD. Madam President, would the Senator from Missouri respond to two or three questions?

Mr. EAGLETON. Yes, indeed.

Mr. PACKWOOD. Last October 10, we had on this floor a bill relating to child pornography, specifically amendment 1398, which would have made it a Federal crime to knowingly transport, ship, or mail in interstate or foreign commerce for sale or distribution any film, photograph, and so on, depicting a minor engaged in sexually explicit conduct. In the testimony before the Judiciary Committee on that bill, the Attorney General offered an opinion that that was unconstitutional. Every expert that testified said it was unconstitutional. Yet I note the Senator from Missouri voted for the amendment in the face of this constitutional advice. Why would that be?

Mr. EAGLETON. I do not pretend to be an expert on the free press-pornography issue. I never had to grapple with

it when I was a prosecuting attorney or attorney general of Missouri. Those were "quieter days" insofar as pornography was concerned.

I did have to grapple, I might say, with the establishment clause of the Constitution.

When I was attorney general of Missouri, we had before our office several proposals insofar as assistance to the private and parochial schools of Missouri were concerned. We had our own "separation clause" in the Missouri State constitution. It was a very, very difficult thing to juxtapose the proposed remedial legislation before the Missouri legislature and the stricture on separation of church and state in the Missouri constitution. It was from that origin that I developed an awareness of and an interest in the separation issue.

I have continued that interest and have tried to keep current on the law. I went over to hear the Nyquist case argued before the Supreme Court—I think I was the only Member of the Senate present for that argument—because I thought it would have a profound constitutional impact regardless of how it was decided. Had the New York statute in Nyquist been upheld, obviously, there would be no purpose in even having this debate here today. It would be clear beyond peradventure of doubt that a tuition tax credit mechanism was constitutional. Conversely, once the Supreme Court ruled against the constitutionality of the New York and Pennsylvania statutes, then that ruling serves as the impediment to what Senators PACKWOOD and MOYNIHAN propose here today.

Mr. PACKWOOD. To paraphrase the Senator's answer, what he is saying is that he is not an expert on the first amendment clause; therefore, when every constitutional expert and the Attorney General said it was unconstitutional, he voted for it anyway because he did not know anything about it.

Mr. EAGLETON. What I am saying is that if I have any constitutional expertise on the first amendment, it is under the establishment clause. I do not hold myself out as an expert on pornography.

Mr. PACKWOOD. Then it is not the fact that all these experts that he has cited and the Attorney General say that the Packwood-Moynihan bill is unconstitutional, it is the Eagleton opinion that it is unconstitutional that is the prevailing factor in the Senator's mind.

Mr. EAGLETON. I think it is the opinion of anyone who has taken the time to carefully read the Nyquist and Sloan cases that tuition tax credits are unconstitutional under those two cases. As I said in my opening remarks, the simple fact that it is repackaged in some Federal form, in my opinion, does not elevate or enhance its constitutionality. I think that the Packwood-Moynihan bill is just as unconstitutional within the Federal framework as were the statutes in the State of New York and State of Pennsylvania in Nyquist and Sloan.

Mr. PACKWOOD. Is there any possibility that the Senator could be wrong on this subject?

Mr. EAGLETON. There is always a possibility that any Senator might be wrong, including the Senator from Oregon.

Mr. PACKWOOD. Is there a possibility that this is constitutional?

Mr. EAGLETON. I suspect there is a possibility, although the Nyquist and Sloan doctrines are very, very clear to me and, apparently, were very, very clear to the Attorney General of the United States and the aforementioned professors of constitutional law to which both of us have made reference.

Mr. PACKWOOD. What about Professors Casper, Bork, Katz, Kurland, Rosenblum, Scalia, and Winter, who say this is sufficiently constitutional or could be argued as constitutional so that the Court shall pass on it and——

Mr. EAGLETON. They are entitled to their opinion. I do not happen to agree with them. I do not think it is our role, I say, to pass the constitutional buck to the Supreme Court. I think each Senator has the obligation, to make his own constitutional evaluation of this subject matter, bearing in mind that the Nyquist and Sloan cases are on the books. If those two cases were not on the books, as I said earlier, there would be no purpose in having this debate today. The issue would be an open one from the constitutional point of view. The Packwood-Moynihan would then be resolved purely on the question of whether it is prudent public policy or not.

Mr. PACKWOOD. Madam President, the constitutional issue obviously is open. The Senator from Missouri cited five or six experts and put them in the RECORD. I have cited five or six and they have been put in the RECORD the past 2 or 3 days. The experts divide on this subject. If the Senator from Missouri is so cocksure that his position is right, he should have no fear to let this go to the Court and they will throw it out immediately.

Time and time again, the Senator from New York and I have asked just for an opportunity to get this to the Court. We have never been so positive as to say that, beyond any shadow of a doubt, this is constitutional. All we have said is give us a chance. We have cited authorities that say our position is constitutional.

What I sense in many cases is that, with a few exceptions, some people who use the argument of constitutionality and not get to the main issue. For 2½ days, the Senator from New York and I and Senator ROTH and Senator RIBICOFF have tried and tried to get to what we think is the substance of these issues. We have had to come back to constitutionality. We are arguing it and are prepared to argue it, but we are perfectly prepared to let the Supreme Court decide it and willingly live with the Supreme Court decision. All we ask is a chance to get to the Supreme Court.

I might say, would the Senator from Missouri think it would make any difference if public school tuitions were added in this as well as private school tuitions—primary and secondary we are talking about, not high education?

Mr. EAGLETON. I do not think the doctrine can be cleansed in any way. I think the law is very clear that tuition tax credits when made broadly available for parochial schools are unconstitutional.

Mr. PACKWOOD. Would it make any difference if it were a tax deduction rather than a tax credit?

Mr. EAGLETON. Interestingly enough, a three-judge court in Minnesota this year did draw the distinction between a tuition tax "deduction" and a tuition tax "credit." I have the case somewhere in my files here. That three-judge court said in essence, "Well, we read Nyquist and Sloan as specifically declaring unconstitutional a tuition tax credit and if the Minnesota statute were a tuition tax credit, we would be obliged to declare the Minnesota statute unconstitutional. However, the Minnesota statute is a tuition tax deduction; therefore, it falls without the scope of the Nyquist and Sloan cases."

It was a very curious opinion, I might add.

It also went on to say that because the Minnesota statute was passed in 1955 and the Nyquist and Sloan statutes were of more recent origin, somehow, the Minnesota statute had, because of longevity, garnered some kind of presumptive constitutionality that the Nyquist and Sloan statutes had not. The case is now on appeal.

Also, there was a New Jersey case decided this year by the Federal district court. It discussed the difference between a "deduction" and a "credit" and that judge ruled that, by whatever label, the New Jersey statute was unconstitutional under Nyquist and Sloan.

Mr. PACKWOOD. I take it, from the tenor of the Senator's remarks, that he thinks the Minnesota case will probably be held unconstitutional also.

Mr. EAGLETON. I would guess that, if the Supreme Court takes the Minnesota case, it will probably declare the Minnesota statute unconstitutional with a one-line opinion citing Nyquist and Sloan.

Mr. PACKWOOD. Why did the founders of this country, who wrote this establishment clause, continue in practice to levy taxes, collect the taxes, and give the money to churches for the running of schools if they indeed thought this was unconstitutional?

Mr. EAGLETON. The linchpin of my argument is the Nyquist and Sloan cases. They are there on the law books; they say what they say; they hold what they hold; and they are the hurdle over which Packwood and Moynihan cannot leap.

Mr. PACKWOOD. Does the Senator think those cases are at odds then with the practice of the founders of this Constitution in what they evidenced by levying them to churches to run primary and secondary schools?

Mr. EAGLETON. Well, I do not know about tax levies in States where they

actually levy a parochial school tax and say, "We collected it for you, we help distribute it to parochial schools."

I am not aware of any such statutes.

I do know, as I said in my remarks, there have been many zigs and zags in constitutional law with respect to the first amendment, the establishment clause. We have everything from the Everson case in 1947 through the Wolman case in 1977.

But on one issue it is clear. It is abundantly clear, and a very recent case at that, that tuition tax credits are unconstitutional.

If the Nyquist case had been decided back at the time of Plessy v. Ferguson, back, for example, in the late part of the 19th century or early part of the 20th century, one could say, "Oh well, lots of water has gone under the bridge and, thus, maybe the Supreme Court should take a second look.

But in Nyquist, we are talking about a 1973 case in which the issue was squarely before the court and on which the court squarely ruled. Nyquist is about as fresh as a Supreme Court case can be.

Mr. PACKWOOD. The Senator is aware there were no public schools in this country until about 1820 and that all schools were run by the churches and in part supported by public funds?

Mr. EAGLETON. Well, there was a mixed history and, I take it, fairly accurately reflects some of the discussion previously had on this issue.

Mr. PACKWOOD. The only point I make, I will read into the RECORD the response of the Library of Congress almost a year ago when I asked them the question about history in early State aid to churches, the church-related schools. They responded as follows:

Reference is made to your inquiry of August 10, 1977, requesting information on the above matter, specifically, you ask (1) whether State aid to private church-related schools was a fairly common practice in the United States at least during the first half of the 19th century, and (2) whether such aid violated relevant Federal constitutional safeguards.

The answer to these questions is yes and no, respectively.

It was common. It was not unconstitutional:

I wrote again on January 30, 1978, and they responded, the Library of Congress responded, again as follows on that same subject:

In response to your request of January 30, 1978, for a memo regarding the status of schools in America from 1770 to 1820, the following generalization can be made: All, or almost all, the schools during this period were private, were religious, and were publicly supported, that is, denominational schools received public school funds.

As one educational historian wrote describing the period from 1775 to 1820, "public provision for religion and public support for private and church schools, in some form or other, direct or indirect, explicit or implicit, were either embodied in constitutions, or granted by laws, or carried out in customs or practice.

Then the memo from the Library of Congress went on to go down State by State, both before and after adoption of the Constitution, the different kinds of taxes the States levied, collected the money, gave it to the church, for the purpose of running the school.

Now, I will not quarrel with what the Senator says Nyquist, Wolman, and the others concluded.

All I say is that what the founders of this country intended, at least as evidenced by their practice, was never to preclude the use of public funds to be given to churches to run schools for primary and secondary children.

Somehow along the way the court, interpreting this amendment, has not interpreted what the founders were thinking about or practicing. They have reached the conclusion based upon some other theory that was never in the minds of the people who wrote that amendment.

Mr. EAGLETON. Well, I think that is a very intriguing historical recitation. It is similar, if not identical, to what was presented the court in the Nyquist case. As I say, I was there for the argument. The attorneys appearing on behalf of the State of New York and the State of Pennsylvania went through a long recitation of how parochial schools have somehow or other been assisted.

There were nine justices sitting on the court and they listened to that argument, similar to the argument Senator PACKWOOD is making today. But unfortunately, from the viewpoint of Senator PACKWOOD, they rejected that argument because when they wrote their opinion in 1973 they very bluntly and very directly said that these tuition tax credits are unconstitutional.

What Senator PACKWOOD and Senator MOYNIHAN want is that there be a different doctrine of constitutional law. They do not like the Nyquist and Sloan cases.

We are all entitled to have our likes and dislikes so far as Supreme Court opinions are concerned. I did not much like the Supreme Court opinion on abortion, for example. The Senator from Oregon did like the Supreme Court's opinion on abortion. But once the Supreme Court ruled, that becomes the law of the land, and the law of the land on tuition tax credits is that they are unconstitutional.

Mr. PACKWOOD. Let me ask this, conceding for purposes of argument, but for no other, that the Supreme Court in the past has stated tuition tax credits are unconstitutional, but has never passed on a Federal tuition tax credit, how can we get that issue before the court to see if they would reverse their opinion?

Mr. EAGLETON. The only way to get before the court would be if there were a tuition tax credit on the books.

Mr. PACKWOOD. How will we get one on the books to test that unless we pass one?

Mr. EAGLETON. I do not think we should enact a tuition tax credit because of constitutional barriers and, in the opinion of others like Senator HOLLINGS, public policy reasons as well. I do not think, 5 years after the Supreme Court ruled in Nyquist and Sloan, we should pass a statute saying that we pretend those two cases are not in existence. I do not think we can ignore them or wish them away and say, we cannot say, "Supreme Court, we think you ought to have another learning experience on this. We think the Court has been blind on this issue. We do not think you knew what you were talking about when you wrote the Nyquist and Sloan opinions."

The Supreme Court very much knew what it was talking about and took into account the very same arguments that have been raised in this debate by Senator PACKWOOD and Senator MOYNIHAN.

Mr. PACKWOOD. Madam President, I think we are down to the Senator's last answer. When he is not a constitutional expert, he has no hesitancy to fly in the face of constitutional experts and vote in whatever manner he feels, as he did on the child pornography issue. When he is a constitutional expert in his own mind, when it is constitutional according to EAGLETON, as he sees it, then he will follow that.

But in his last answer here, when I posed the question as to whether or not we wanted to try and give the Supreme Court another chance to see if they wanted to reverse their opinion, he said, "I am opposed to that for constitutional and other policy reasons."

It is those policy reasons we have tried to argue, and argued in vain, because we kept getting back to the constitutional argument.

If the Senator is, indeed, opposed on policy positions, I would love to argue that topic, because I found time and again people hiding behind the constitutional argument because they did not want to talk about the policy issues implicit in this legislation.

I will yield the floor.

Mr. EAGLETON addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Madam President, it is the Supreme Court that declared constitutional policy in Nyquist and Sloan. As much as the two proponents of this bill wish it were the other way, the Supreme Court has ruled on this issue and it has ruled on it very directly.

I know both of them wish Nyquist and Sloan were not on the books.

Senator MOYNIHAN wished so much that they were not on the books that in his two principal presentations on this issue, the two that he gave me for study, he does not mention the Nyquist and Sloan cases. He mentions all the "bigotry" that has pervaded this country, including the 1876 Republican platform, as if that had anything to do with today's debate.

He raises the unintentioned bigotry of Justice William O. Douglas and others. But this "bigotry smokescreen" cannot get around the fact, Madam President, that the Supreme Court of the United States in Nyquist and in Sloan, has declared to be unconstitutional that which Senators PACKWOOD and MOYNIHAN seek to do in their bill.

Mr. HODGES. Mr. President, will the Senator yield for a question?

Mr. EAGLETON. I yield.

Mr. HODGES. The Senator from Missouri at one time was a prosecutor. Is that correct?

Mr. EAGLETON. Yes; for 4 years.

Mr. HODGES. The Senator from Arkansas also has served as a prosecutor.

Does the Senator recall the old adage of defense lawyers, "When you have the facts, you argue the facts; when you have the law, you argue the law; and when you have neither, you try the police officer"?

Mr. EAGLETON. Yes. That is sort of a rule of "unconventional wisdom."

Mr. HODGES. Would the Senator say in that sense, then, that the proponents of this measure exemplify in the highest tradition that approach to the law and the facts? They are, in effect, trying the Supreme Court.

Mr. EAGLETON. The proponents of this issue seem to pin everything on the innate bigotry that is "out there" in the United States and also, apparently and unwittingly, in the hearts and minds of some of the members of the Supreme Court. The one issue they really do not want to face up to is the Nyquist and Sloan opinions. Those opinions truly bother them. They know that those opinions prevent what they are seeking to do. Somehow or other, they wish a modern constitutional miracle were to occur and that the Nyquist and Sloan cases would evaporate into the mist.

Mr. HODGES. Madam President, will the Senator yield for a second question?

Mr. EAGLETON. I yield.

Mr. HODGES. They have put in their bill a provision for expedited review by the U.S. Supreme Court, while at the same time maintaining a great conviction of constitutionality.

Mr. EAGLETON. Yes. One of the witnesses—I do not have it in my file—but one of the witnesses who testified before the House on this issue, a professor who supported Packwood-Moynihan, spent about half his remarks saying:

> Under no circumstances put an expedited appeal clause in here, because if you do that, the people will then know that you are on very shaky constitutional grounds. So let's just go ahead and say that we are on solid ground, and make no indirect admission that we are on thin ice, by putting in an expedited review procedure.

But I have to compliment Senators PACKWOOD and MOYNIHAN in this regard. They know their grounds are so infirm, and that they are over their heads insofar as constitutionality is concerned, that, out of a semblance of good conscience, they felt they had to put in an expedited review procedure.

Mr. HODGES. Is the Senator familiar with the 28th chapter of Proverbs, the 1st verse, which says, as I recall:

> The wicked flee when no man pursueth; but the righteous are bold as a lion.

Mr. EAGLETON. I know that Senator HODGES went from the business of prosecuting to preaching. I went from prosecuting straight on to politics, and I bypassed preaching in between, but I will take his reference to the Scriptures as being accurate.

Mr. HODGES. I thank the Senator.

Mr. MOYNIHAN. Madam President, may I first observe that the advocates of this measure seem to me to have shown extraordinary restraint in having failed to note that our most formidable adversary is, in fact, a Methodist preacher. This emerged perhaps inadvertently in the cross-examination which I believe he, himself, initiated with the Senator from Missouri. Let it be clear that it never would have come from us. I see the Senator smiling, and I know he takes it in the intended spirit.

Madam President, these have been noble days for me. Others may not have noticed—and understandably so—but twice in 2 days the senior Senator from Missouri has drawn to the attention of the Senate certain personal qualities which he feels I display.

Last evening, he made a not altogether friendly suggestion as to what might have been my purpose in having asked for a vote on an amendment Senators PACKWOOD, RIBICOFF, ROTH, and I offered. This morning, he discussed at some length my treatment of some of the issues before us in commencement addresses and articles. He did so in a tone of voice which seems to suggest that I have been evasive of fact and casual with standards of argument.

I take quite seriously the suggestions of someone whose standards of argument I respect, and I should like to address myself to them here.

The Senator said:

> It is Nyquist and Sloan that the proponents of the tuition tax credits cannot escape, although escape they try. Senator Moynihan escapes them by not even mentioning them in his two major public utterances on the constitutional issues involved in this bill.

The Senator from Missouri then refers to an article I wrote for this April's Harper's magazine, and to a commencement address I delivered in May at the College of St. Rose in Albany, N.Y. These are the two of the more recent public statements I have made on this subject. Although the Senator may wish to characterize them as my two major statements, they are certainly not the only ones.

I have been writing about this subject for——

Mr. EAGLETON. Mr. President, will the Senator yield for a brief comment?

Mr. MOYNIHAN. I yield.

Mr. EAGLETON. The Senator was kind enough to come by my office to discuss the constitutionality of this issue.

Mr. MOYNIHAN. That is right.

Mr. EAGLETON. He left with me two documents that he felt summarized his views on the point.

Mr. MOYNIHAN. That is right.

Mr. EAGLETON. The two he left were the two I mentioned.

Mr. MOYNIHAN. But does the Senator think it fair to suggest that the two readings I gave him were my major pronouncements, and to suggest that since I did not deal with Nyquist in them, I have escaped the Nyquist question?

Mr. EAGLETON. I will say that the Senator is an exhausting writer.

Mr. MOYNIHAN. It is exactly that tone that troubles me.

I wonder whether the Senator from Arkansas would also have the kindness to attend to my remarks on this subject.

I first discussed this matter in the Senate in the spring of 1977; I have also done so in three commencement addresses and in one periodical article.

The first commencement address was at LeMoyne College in Syracuse, N.Y., on Saturday, May 14, 1977. I devoted most of that address to the Nyquist decision.

That is where I first spoke on this subject, and where anyone who wishes to know my feelings about the Court's position should begin. Far from evading this issue, I began my remarks with a discussion of it. I shall now take the liberty of reading what I had to say.

I pointed out that the Court's modern ruling on this subject, that is, the general first amendment subject—

> came in the case of *Everson* v. *Board of Education* in 1947. Since then there has been a series of decisions of which the kindest thing to say is that they are unpersuasive. The unkind thing to say is that the Court has been given the thankless task of providing Constitutional legitimacy for the religious bigotry of the 19th Century, and that the quality of its decisions suggests the misgivings with which the deed has been done.
>
> Before I go further let me state my genuine respect for the standards of evidence and scholarship which the Supreme Court in our time has brought to its process of decision.

May I interject at this point the fact that this address was delivered before a college audience and thus I feel that the remark which follows is not an inappropriate one:

> A work of mine was once cited in a footnote of a Supreme Court decision and I can imagine no greater distinction. It is precisely because these qualities seem so absent from the series of decisions on the First Amendment and private school aid that I am so troubled. I hold with Mr. Justice White, who with Mr. Justice Rehnquist, and Chief Justice Burger, has vigorously dissented from a number of these decisions: "I am quite unreconciled . . ."
>
> Justice White so declared in his dissent on *Committee for Public Education and Religious Liberty* v. *Nyquist*, decided in 1973, which is the leading case in this area, and which, by a curious symmetry, concerned a New York State law providing tax reductions to parents of parochial school children. The decision was based, as the majority opinion put it, on the "now well-defined three-part test" to determine constitutionality under the Establishment Clause. "Taken together," Justice Powell wrote for the Court, the Court's decisions "dictate that to pass muster under the Establishment Clause the law in question, first, must reflect a clearly secular legislative purpose . . . , second, must have a primary effect that neither advances nor inhibits religion . . . , and, third, must avoid excessive government entanglement with religion."
>
> Of these three tests only the second provides any serious difficulty, and I will suggest that this difficulty is quite surmountable.
>
> The "secular purpose" test has been applied to state legislation, and the Court has accepted that aid to parochial schools is founded in the desire to aid the students and their parents, rather than the religion in which they believe.
>
> The "excessive entanglement" test emerges, in part, from the Court's worry about the "potentially divisive political effect" of annual appropriations battles in state legislatures. This is a prudential judgment, and it is not for me to suggest that the Court is overly concerned, but in any event an intelligently conceived program *will* avoid "excessive entanglement".

I have earlier remarked that one would think "entanglement" would be enough. Does the Court really suggest that "en-

tanglement" is all right but that "excessive entanglement" is not?

I continue:

It is scarcely beyond the limits of political science or legislative wisdom.

The nub of the Court's concern has been the "primary effect" test, and it is here that the quality of the reasoning simply does not, in my view, bear scrutiny. Thus in *Meek v. Pittenger*, decided in 1975, Justice Stewart announced that "we agree with appellants that the direct loan of instructional material and equipment has the unconstitutional primary effect of advancing religion because of the predominantly religious character of the schools benefiting from the Act" which was being challenged, a Pennsylvania statute.

Observe. The Court asks itself an *empirical* question. What is "the primary effect" of this Act? It then gives an *a priori* answer! The primary effect is to advance religion "because of the predominantly religious character of the schools benefiting from the Act."

That is not a proof. It is an assertion. Where are the facts that support the assertion?

Madam President, I ask unanimous consent that my address at LeMoyne College be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

COMMENCEMENT ADDRESS: SENATOR DANIEL PATRICK MOYNIHAN

It is just sixteen years now since I left Syracuse to join the Administration of President Kennedy. It was a path taken, and one not taken, and it has indeed "made all the difference."

And yet some things persist. Returning today I would like also to return to a subject with which I was quite preoccupied in the months before I left. This is the subject of public assistance to private education, which I hasten to state signifies, in the main, Catholic education, it being the case that three quarters of private elementary and secondary school students attend Roman Catholic schools.

In 1961, I had just completed my collaboration with Nathan Glazer in a study of the persistence of ethnicity in America, which we were to publish as Beyond the Melting Pot.

In the main my contribution to the effort consisted of organizing into somewhat coherent theses things I already knew by virtue of having been raised on the streets of Manhattan and having subsequently been engaged in Democratic politics. The one exception had to do with my researches into the history of the parochial school system in New York. (As I did much of this work here in the Le Moyne College Library, I hope you will forgive this perhaps overgenerous term for what mostly consisted of reading public documents of the first half of the 19th Century.) My finds were wholly accessible, but nonetheless surprising—to me at all events.

Education was largely a church function in the early days of New York, as elsewhere in the nation. In 1805, however, a Free School Society was formed "for the education of such poor children as do not belong to any religious society." The Society's address to the public proclaimed that "It will be a primary object, without observing the peculiar forms of any religious society, to inculcate the sublime truths of religion and morality contained in the Holy Scriptures." That year the legislature established a fund for the support of common schools throughout the State which in New York City was distributed to the trustees of the Free School Society "and of such incorporated religious societies in said city as supported or should establish charity schools who might apply for the same." Under this system Catholic schools, along with Baptist, Methodist, Episcopal, Dutch Reformed, German Lutheran, and Scotch Presbyterian, to mention only some, received state aid.

Assorted serpents entered this denominational Eden, principally the too familiar one of fiscal irregularity. I put it to you: payrolls were padded, teachers kicked back portions of their salaries. Then came the familiar remedy of centralization. The Free School Society, renamed the Public School Society, would get all the money. Protestants did not protest, for the Society was pronouncedly of that persuasion. Catholics did, and by the 1830s the pattern of a dual school system that persists to this day commenced to take form.

In his message to the legislature of 1840, Governor Seward, an upstate Episcopalian if it must be known, averred that this arrangement was patently unfair. He proposed that the Catholic schools should get state aid as well.

"I do not hestitate . . . to recommend the establishment of schools in which they [the children of immigrants] may be instructed by teachers speaking the same language with themselves and professing the same faith."

The next year, Seward's Secretary of State, John C. Spencer, issued a report on the controversy. Spencer, ex-officio Superintendent of Schools, was an authority on the laws of New York State (as well as de Tocqueville's American editor). He began by assuming the essential justice of the Catholic position. "It can scarcely be necessary to say that the founders of these schools, and those who wish to establish others, have absolute rights to the benefits of a common burthen; and that any system which deprives them of their just share in the application of a common and public fund must be justified, if at all, by a necessity which demands the sacrifice of individual rights, for the accomplishment of a social benefit of paramount importance. It is presumed no such necessity can be urged in the present instance."

To those who feared the use of public funds for sectarian purposes, Spencer replied that all instruction must in some way be sectarian: "No books can be found, no reading lessons can be selected, which do not contain more or less of some principles of religious faith, either directly avowed, or indirectly assumed." As for avoiding sectarianism by abolishing religious instruction altogether, "On the contrary, it would be in itself sectarian; because it would be consonant to the views of a peculiar class, and opposed to the opinions of other classes."

Spencer hoped for a system of local option. It was not to be. Faced with that or wholly secular schools. Protestant opinion chose the latter, and now finally our present arrangements were fixed.

The next real challenge to these arrangements came more than a century later, to wit in the Spring of 1961 after a Catholic had been elected President on a platform which called, inter alia, for federal aid to elementary and secondary education. The Catholic Bishops of the nation responded that they could support such legislation only if private schools were included, and so the stage was set for the first legislative stalemate of President Kennedy's term.

May I say that this could be foreseen. Just as I left for Washington I published in *The Reporter* magazine (May 25, 1961) an article entitled "How Catholics Feel About Federal School Aid," in which I recounted the New York background of the existing arrangements and asked that this whole history be understood by those who would make the decisions.

For it seemed to me that Americans at that time, and to this day, know only the history of this issue as it developed in the *second* half of the 19th Century.

This is a history of religious bigotry. Beginning at mid century with the Know Nothing Party anti-Catholicism became what can only be described as a political movement. In 1875, thinking of running for a third term and looking for an issue, President Grant raised the specter of Catholic schools getting public monies and proposed a constitutional amendment to forbid it. His party's platform for 1876 states:

"The public school system of the several states is the bulwark of the American republic; and, with a view to its security and permanence, we recommend an *amendment to the constitution of the United States*, forbidding the application of any public funds or property for the benefit of any school or institution under sectarian control." (emphasis added)

Would not a fair-minded person conclude from this statement that even those against Catholic school aid in 1876 were disposed to believe that it *was* constitutional?

Would it not be reasonable to judge that precisely because such persons felt that it was, and saw the growth of the political influence of those who might support it, that they proposed a constitutional amendment to forbid it? In my Reporter article I noted that at the time of the drafting of the Constitution, and the First Amendment, nine of the thirteen states had esablished churches. Was it not evident, I asked, that the prohibition on Congress' establishing a religion was intended to protect the religions already established in the various states? Was it not the case, I concluded, that "it is only because most Americans no longer have the foggiest idea what an established religion is that they can be persuaded that the words of the First Amendment mean more than they say."

Years have passed and I have become, perhaps professionally, forgiving of the public. But with the greatest respect, it is difficult to be so generous with the Supreme Court.

The Court's first modern ruling on this subject came in the case of *Everson* v. *Board of Education* in 1947. Since then there has been a series of decisions of which the kindest thing to say is that they are unpersuasive. The unkind thing to say is that the Court has been given the thankless task of providing Constitutional legitimacy for the religious bigotry of the 19th Century, and that the quality of its decisions suggest the misgivings with which the deed has been done.

Before I go further let me state my genuine respect for the standards of evidence and scholarship which the Supreme Court in our time has brought to its process of decision. A work of mine was once cited in a footnote of a Supreme Court decision and I can imagine no greater distinction. It is precisely because these qualities seem so absent from the series of decisions on the First Amendment and private school aid that I am so troubled. I hold with Mr. Justice White, who with Mr. Justice Rehnquist, and Chief Justice Burger, has vigorously dissented from a number of these decisions: "I am quite unreconciled. . . ."

Justice White so declared in his dissent on *Committee for Public Education and Religious Liberty* v. *Nyquist*, decided in 1973, which is the leading case in this area, and which, by a curious symmetry, concerned a New York State law providing tax reductions to parents of parochial school children. The decision was based, as the majority opinion put it, on the "now well-defined three-part test" to determine constitutionality under the Establishment Clause.

"Taken together," Justice Powell wrote for the Court, the Court's decisions "dictate that to pass muster under the Establishment Clause the law in question, first, must reflect a clearly secular legislative purpose . . ., second, must have a primary effect that neither advances nor inhibits religion . . ., and, third, must avoid excessive government entanglement with religion."

Of these three tests only the second pro-

vides any serious difficulty, and I will suggest that this difficulty is quite surmountable.

The "secular purpose" test has been applied to state legislation, and the Court has accepted that aid to parochial schools is founded in the desire to aid the students and their parents, rather than the religion in which they believe.

The "excessive entanglement" test emerges, in part, from the Court's worry about the "potentially divisive political effect" of annual appropriations battles in state legislatures. This is a prudential judgment, and it is not for me to suggest that the Court is overly concerned, but in any event an intelligently conceived program will avoid "excessive entanglement". It is scarcely beyond the limits of political science or legislative wisdom.

The nub of the Court's concern has been the "primary effect" test, and it is here that the quality of the reasoning simply does not, in my view, bear scrutiny. Thus in *Meek* v. *Pittenger*, decided in 1975, Justice Stewart announced that "we agree with appellants that the direct loan of instructional material and equipment has the unconstitutional primary effect of advancing religion because of the predominantly religious character of the schools benefiting from the Act" which was being challenged, a Pennsylvania statute.

Observe. The Court asks itself an *empirical* question. What is "the primary effect" of this Act? It then gives an *a priori* answer! The primary effect is to advance religion "because of the predominantly religious character of the schools benefiting from the Act."

That is not a proof. It is an assertion. Where are the facts that support the assertion?

Does not this point come with special force in view of the widely noted use of social science findings by the Court in "education" cases concerning school desegregation and school funding, and generally in the greater use of data by the Court in answering empirical questions?

If the test of "advancing religion" is in fact an appropriate test—and must we concede that it is?—it just happens that for more than a decade we have had, thanks in the first instance to the pioneering work of Andrew M. Greeley and Peter Rossi, an increasing store of social science findings on the effect of Catholic schools on the advancement of Catholicism. I have assumed that these findings have given but little comfort to the Bishops. Would it be presumptuous to express some wonder then that they have not attracted the favorable notice of the Justices?

Briefly, and in the round, the present state of the evidence is that Catholic schooling as such has at most a weak relation to adult religious practice and belief. Save for the fact that Greeley and Rossi were the first to establish this in a large scale study, there is nothing notable in their findings. The same weak-to-nonexistent relationship has since turned up with respect to the effect of all manner of schooling on all manner of performance of all manner of students.

In this academic setting, let me be precise. The *Beta* of Catholic education with subsequent regular attendance at mass is .05. The *Beta* of Catholic education with subsequent desire for a son to become a priest is .12. Translated, these correlation coefficients mean that the number of years of Catholic schooling explain one fourth of one percent of the variance in attendance at mass among Catholics, and one point four percent of preference for having a son enter the priesthood.

At the risk of excessive entanglement, one may say "Amen" to the passage in Chief Justice Burger's dissent in the *Nyquist* case in which he said that: "I fear that the Court has in reality followed the unsupportable approach of measuring the 'effect' of a law by the percentage of the recipients who choose to use the money for religious, rather than secular, education."

If, as I believe, the Chief Justice is correct, the question is: Where does this leave us? Some may differ, but I would respectfully suggest that it leaves us considerably more advanced in this matter than we were sixteen years ago when, after examining the views of those who were for and those who were against Federal aid to nonpublic schools, I concluded my *Reporter* article by stating:

"Before any discussion of compromise can take place . . . it is necessary to dispose of the constitutional 'issue'."

To the contrary, I would argue today that we should continue to discuss compromise and see which one will finally be in accord with what I fully expect will one day be a revised judgment of the Court. For we are under no obligation to agree with the Court, only to obey it. We have the perfect right to press our views. We have more than once seen minorities on the Court become majorities.

In this regard, the position of the national parties is not without relevance. After all, the view to which the Court now adheres first appeared in a party platform.

In the interests of what lawyers term full disclosure, let me acknowledge that I have been involved here. In 1964 I drafted an education "plank" in the Democratic Platform which stated:

"The demands on the already inadequate sources of state and local revenues place a serious limitation on education. New methods of financial aid must be explored, including the channeling of federally collected revenues to all levels of education, and, to the extent permitted by the Constitution, to *all* schools." (emphasis added)

It will be recalled that President Kennedy's proposal for Federal school aid had failed owing to opposition from those who felt nonpublic schools should be included. In effect it was up to the Administration to change its mind. The National Catholic Welfare Conference* said that if the Platform were to include the term "all schools", such opposition as they had mounted to a school aid bill would be withdrawn. They were as good as their word, and the result was the Elementary and Secondary Education Act of 1965.

This legislation was not without consequence. The U.S. Office of Education now, for example, has within it a subdivision of "Nonpublic Educational Services". This office reports that there are eleven ongoing education aid programs of the Federal government which provide some funds to nonpublic schools. Perhaps 4.5 percent of the expenditure under Title I of the Elementary and Secondary Act goes for such purposes.

Still, it is not really possible to state that the agreement of 1964 has been kept. At most we might say it has not been disowned. I was again involved with the Democratic Platform in 1976, and again drafted a plank on this issue:

"The Party reaffirms its support of public school education. The Party also renews its commitment to the support of a constitutionally acceptable method of providing tax aid for the education of all pupils in nonsegregated schools in order to insure parental freedom in choosing the best education for their children. Specifically, the Party will continue to advocate constitutionally permissible federal education legislation which provides for the equitable participation in federal programs of all low and moderate income pupils attending all the nation's schools."

In 1976 the Republican Party Platform spoke to the same issue.

"We favor consideration of tax credits for parents making elementary and secondary school tuition payments."

And so the case can be made that a measure of political consensus has emerged in this area. The task, as I see it, is to use that consensus to give the Supreme Court a chance to reconsider, and hopefully to change its recent position. To that end there is no more direct object than for the Congress to enact and the President to sign legislation that provides what we believe to be Constitutionally acceptable forms of aid. In an ecumenical spirit, let us describe one such form as "tax credits for parents making elementary and secondary school tuition payments."

I shall accordingly, in the coming week, introduce legislation in the United States Senate that will provide a tax credit equal to half the tuition paid, per child, to a nonpublic elementary or secondary school. The maximum allowable credit would be $250 per child. A qualifying school would have to be fully in compliance with our Civil Rights statutes and similar regulations. The median income of families having children in private schools was under $15,000 in 1974, which suggests a standard income distribution, but in the spirit of these things, I believe any tax credit should begin to phase out after family income passes $18,000. The credit will be refundable, meaning that if the parents are entitled to a credit greater than the amount of their tax liability, the difference will be refunded to them in cash.

This cannot be an inexpensive proposal. It may cost a billion dollars a year in what we now call tax expenditures. On the other hand, it may be said that this is less than one twentieth the annual growth of uncommitted Federal revenues. It is by no means a massive sum. More to the point, it is a small sum if we think of it in the light of the long history of denial, and in the view of some at least, of injustice which such a measure would commence to make up for. I might cite the words of the Chief Justice in his dissent in *Nyquist*:

"It is beyond dispute that the parents of public school children . . . presently receive the 'benefit' of having their children educated totally at state expense; the statutes . . . at issue here merely attempt to equalize that 'benefit' by giving to parents of private school children, in the form of dollars or tax deductions, what the parents of public school children receive in kind. It is no more than simple equity to grant partial relief to parents who support the public schools they do not use."

Why, we may ask, does it matter?

I would suggest a dual answer—first narrow, then broad—that follows naturally from the dual beneficiaries of such a plan. *Cui bono?* First, the youngsters who attend private and parochial schools, and the parents whose tax burdens would be somewhat lightened. Second, children who attend public schools, and their parents, which is to say, the rest of the society.

For I take pluralism to be a valuable characteristic of education, as of much else in our society. In "Beyond the Melting Pot," Glazer and I wrote of the persistence of pluralism in American life, and of its values. We are many peoples and our social arrangements reflect this disinclination to submerge our inherited distinctiveness in a homogeneous whole.

At the college and university level, we take for granted that diversity is a good thing, that estimable educational institutions such as Le Moyne College and Syracuse should coexist with the massive public universities as a valuable source of education with qualities that no public institution can supply. New York is in the vanguard of states that have begun to recognize this value—and the dull and costly fate that would befall us if we failed to assist such institutions to survive—

*National Catholic Welfare Conference is now the U.S. Catholic Conference.

and has developed an imaginative and creative set of measures to provide public resources to private colleges and their students. Federal policy is beginning to recognize—again at the level of higher education—the distinctive needs and contributions of private colleges and universities, and to tailor its programs to them as well as to their public sector counterparts. I look forward to playing a part in future such efforts.

Precisely the same values inhere in our private elementary and secondary schools, although public policy has been less ready to embrace them. They provide diversity to the society, choices to students and their parents, and a rich array of distinctive educational offerings that even the finest of public institutions find difficult to supply, not least because they are *public*, and must embody generalized values. Having noted the uncertainty which attends any effort by educational institutions to inculcate values and beliefs, advocates of plural education systems ought to take care lest they seem to suggest that such a system produces students wedded to pluralism. But still there is the plain plural *fact* which a diverse school system constitutes, and this may be said to be a good thing by such as deem such things to be good.

I might add that many of our parochial schools have demonstrated a laudable efficiency in their use of resources. That is not without its costs, is at least possible but it is notable that parents who choose to send their children to private schools can expect that educational value for money. This is perhaps the more important to them as they simultaneously pay their full share of the support of the public schools their children do not attend.

Diversity. Pluralism. Variety. These are values, too, and perhaps nowhere more valuable than in the experiences that our children have in their early years, when their values and attitudes are formed, their minds awakened, and their friendships formed. I cherish these values, and I do not believe it excessive to ask that they be embodied in our national policies for the betterment of American education.

Nor yet do I believe it impossible that this cause of diversity, and this aspect of that cause, will come in time to be seen as the liberal cause in American life. A generation ago Schumpeter warned us that the end of liberal society would not come about through some Marxian convulsion but rather by what he described as the slow but steady "conquest of the private sector by the public sector." There is not an aspect of American life in which this steady encroachment is not to be seen. For a period in the 1960's, with the decline of parochial school enrollment, it looked as if the private sector in education might collapse as well. But this decline has been arrested. A strong and vital nonpublic sector continues in education, and perhaps especially in New York. It is a thing of great value, and should be preserved.

Mr. MOYNIHAN. I thank the Chair. I have had my address printed in the RECORD in order not to hold the Senator from Missouri any longer.

But it seemed to me hardly generous to suggest that I have avoided comments on Nyquist when the very first of my commentaries concentrated on Nyquist.

Madam President, the Senator from Missouri has also suggested that we have somehow been talking about the innate bigotry of the Supreme Court justices. I have said nothing of the kind. And I know of no one on this side of this issue who has said—or implied—anything of the kind.

The Senator speaks of my having suggested the "unintended but apparent anti-Catholic bias of Justice William O. Douglas." I said nothing of the sort. I wrote nothing of the sort. What I wrote had very little to do with Justice Douglas personally.

In another commencement address, I discussed the intellectual difficulties encountered in advancing and defending these causes. I gave this address as a scholar in a community of scholars. I pointed to the casual manner in which seemingly unassailable assertions are often made in this field—assertions that would hardly escape scrutiny and, indeed, rebuke if they were made by any other group.

I observed that at a critical point in the Lemon against Kurtzman decision, Justice Douglas stated his opposition to these forms of aid by saying:

> We do not deal with evil teachers but with zealous ones who may use any opportunity to indoctrinate a class.

The evidence marshalled in these cases seems quite remarkable to me. In this case, Justice Douglas cited a work by Mr. Loraine Boettner entitled "Roman Catholicism" published in Philadelphia in 1962.

I pause to observe that there are three Senators in the Chamber as I make this point. The Senator from South Carolina is returning, so I may have an audience of four. But I wish the RECORD to indicate, Madam President, that we have stood in good faith making serious constitutional arguments for 3 days now, and we have done so to an empty Chamber.

(Mrs. HUMPHREY assumed the chair.)

Mr. MOYNIHAN. This is the passage which Justice Douglas quoted:

> In the parochial schools Roman Catholic indoctrination is included in every subject. History, literature, geography, civics, and science are given a Roman Catholic slant. The whole education of the child is filled with propaganda. That, of course, is the very purpose of such schools, the very reason for going to all of the work and expense of maintaining a dual school system.

There are now five Senators on the floor. If my four colleagues could just listen to this one sentence:

> Their purpose is not so much to educate but to indoctrinate and train, not to teach Scripture truths and Americanism but to make loyal Roman Catholics.

Did everybody hear that line—"Their purpose is not to teach Scripture truths"?

Mr. Boettner objects to the Roman Catholic schools because they are not Presbyterian, and contends on that basis that aid to them is unconstitutional.

I cannot imagine that there are five Presbyterians in the country who agree with him.

Mr. Boettner's book argues that there is only one true church, that the Roman Catholic church is an antichurch, and that the job of the schools is to promulgate the teachings of the true church. He wants the "true scriptures" taught in our schools. He even suggests at one point that Roman Catholics should not be allowed to teach in the public schools because they will not teach the true scriptures, and, after all, teaching the true scriptures is the purpose of the schools.

Madam President, as a member of the community of Catholic scholars, I must say that it was most extraordinary that this incredible proposition went unremarked. Nobody took issue with it. No brother judge said, "Surely, Justice Douglas, you did not mean to cite that book."

Mr. HOLLINGS. Madam President, will the Senator yield?

Mr. MOYNIHAN. I will yield for a question.

Mr. HOLLINGS. Not only did no one remark about it, but no one in the Senate today feels that way or is contending what this language says.

Mr. MOYNIHAN. I do not suggest for a moment that anyone does.

Mr. HOLLINGS. That is what I mean.

Mr. MOYNIHAN. But, I say to the Senator, it was remarkable that no brother Justice saw fit to comment on it. It was a quaint and altogether absurd citation. Here is a pertinent analogy, which I feel, reinforces my basic point. Suppose the Supreme Court were asked to rule on a statute permitting orthodox Jewish shopkeepers to do business on Sunday, and, citing the protocols of the Elders of Zion declared that this was not in the national interest. Might we not expect to hear a word or two from constitutional scholars?

Or, let us suppose that the Supreme Court were asked to rule on a matter of school integration, and, citing a communication from a kleagle of the Ku Klux Klan, held that racial integration was un-American. Might we not expect to hear from constitutional scholars?

I was simply making the point that a matter which would normally have been called into question, and, at the very least, gently decided, went wholly uncriticized in this case.

Mr. HOLLINGS. But you must admit that the Court itself experiences similar intellectual inquisition as the distinguished Senator from New York experiences. The fact is when they were asked about segregation or integration in the public schools of America they consulted none other than a psychologist from Sweden. I mean, they go all around. They used as a formative——

Mr. MOYNIHAN. No.

Mr. HOLLINGS. Book and doctrine the thoughts of Gunnar Myrdal.

Mr. MOYNIHAN. No; they did not.

Mr. HOLLINGS. You do not think—in Brown against the Board of Education, and I will show to you certain indications——

Mr. MOYNIHAN. The citation was not of one psychologist but of the work of two psychologists—the Clarks. You could probably maintain that one of them was from Panama, because Kent Clark was born in Panama.

Mr. HOLLINGS. You are talking to one of the lawyers who argued in December 1952. Gunnar Myrdal was quoted there, and was later quoted in the citation.

Mr. MOYNIHAN. The Senator refers to the psychologists.

Mr. HOLLINGS. That is right. I am not stating any particular fault.

Mr. MOYNIHAN. He is an economist. The psychologists were the Clarks.

Mr. HOLLINGS. But they went to Gunnar Myrdal, and they went to all of these other studies. They took every particular one they——

Mr. MOYNIHAN. That was precisely the point I made in my Albany address—that the empirical standards are simply not supportable. I said that one of the remarkable developments of our age is the often unsupportable way in which the Court has been using social science, and perhaps, using selective evidence.

Yesterday, I spoke at some length of Tilton against Richardson, a case which deals with a Federal statute, and which most closely encompasses the issue before us.

Mr. HOLLINGS. Right.

Mr. MOYNIHAN. Although the Senator from Missouri was not able to be present, I said yesterday that in the decision in Tilton against Richardson, the constitutional distinction which mandates that it is permissible to provide Federal aid to a college freshman but not to a high school senior turned on the question of degree of religious impressionability.

Mr. HOLLINGS. The impressionability, of course, is very easily——

Mr. MOYNIHAN. Here is the citation from the 1970 case of Tilton against Richardson:

> There are general significant differences between the religious aspects of church-related institutions of higher learning and parochial elementary and secondary schools. There is substance to the contention that college students are less impressionable and less susceptible to religious indoctrination. Common observation would seem to support that view.

I said yesterday, and I repeat today, that there is no substance, there is no evidence, to adequately support any conclusion on this question.

I wrote to the president of the American Psychological Association and asked him, "Have you got any evidence on this case?" This is precisely what the courts do. They say, "When we make an empirical statement we back it up."

I read you the answer from Dr. Smith. I simply ask for some evidence regarding the high school versus college comparison in which the Senator is interested, and his emphatic answers was that no such evidence exists.

I reiterate that decisions of this nature are not of the quality we have come to expect of the Supreme Court. It is on those grounds that many scholars have testified before us, written to us, stated to us, that there is no way to predict what the Court will do. Indeed, the Court should pay heed, and might well consider setting those of its positions that are now in disarray in some kind of rational order, or consolidated form.

I say to the Senator from Missouri, that it seems to me that there is almost a judicial pietism in his suggestion that we should not challenge the Court with any of these questions. Surely, the Senator would have agreed that we should have challenged Plessy against Ferguson. Surely even he would have said, "The Court has ruled this way, but the Court is wrong. It should rule differently."

Yesterday I cited the same animus on the part of Abraham Lincoln with respect to the Dred Scott decision.

The Senator from Missouri will recall that last year he introduced an amendment to the HEW appropriation bill to restrict the amount of busing that may be done at Federal expense. The clear consequence of that measure—its obvious intention, perhaps—would have been to limit the amount of racial integration in public schools.

I thought that measure to be a violation of the Constitution, and I think many people here agreed that it would be unconstitutional, and that it might be so held by the Court. We passed the bill anyway, and it may be held one way or the other. It may be challenged at any time in the Court.

Congress has a responsibility to do what it thinks to be constitutional, for there is no way the system can work until the Court is presented with a tangible act. Senator RIBICOFF has said that the Supreme Court does not issue advisory opinion. If we want to resolve our questions about this legislation, then, we must pass it and put it before the Court.

I would maintain that if the impressionability distinction between high school seniors and college freshmen is the basis for the decision the Court will render, then that distinction will not survive an insistence upon empirical evidence.

I have delineated the procedure of the Supreme Court in making empirical statements and in rendering a priori judgments. By this process, the Court has said tuition tax credits for colleges—whether denominational or nondenominational—private or public—are constitutional but that they are not constitutional for high schools.

Though I am not extraordinary competent in the law, I have read Tilton against Richardson—the one case which deals with impressionability—and I have concluded there is no evidence to support the distinction; it simply will not sustain a thoughtful inquiry.

Madam President, I do hope the Senator from Missouri now understands that, far from trying to avoid the Nyquist decision, I actually began the series of comments I have made in this field by dealing squarely with the Nyquist decision.

Could I ask the Senator from Missouri if he takes my point? He is not required to know the details of every commencement address I have ever made, but does the Senator take my point?

Mr. EAGLETON. Mr. President, will the Senator yield so that I may respond?

Mr. MOYNIHAN. I yield, yes.

Mr. EAGLETON. The two speeches, the two documents to which I referred were the two the Senator left with me when he came to see me at my office a week or so ago. These are the two that he thought best reflected his judgment on this constitutional issue, because that is what we discussed in my office, the constitutional issue.

He left his Harper's article; he left his speech to the St. Rose College in Albany, N.Y.; and he left the testimony of Professor Scalia, and those are the ones I read, because the Senator thought they were very relevant and useful.

And in the Harper's article and the St. Rose speech the Senator dealt at some length with the constitutional issue. In neither of these did he make any reference to the Nyquist case, which I take to be the controlling case. That is the point I was making.

Mr. MOYNIHAN. It was an understandable misimpression which the Senator received.

Mr. EAGLETON. I received no misimpression after reading the two speeches. If the Senator thought his more memorable address was the one he gave the year before, I assume he would have left that with me also, but he did not give a copy of that one to me.

Mr. MOYNIHAN. Before the Senator embarks upon an intellectually questionable practice, I wish to point out that had he had only have instructed one of his assistants to call me up and ask, "Do these two works comprise the sum of your corpus—or your oeuvre, as the French say—on this matter, or is there more?" There is much more.

As I have said repeatedly, far from avoiding Nyquist, the first commentary I made on this matter was devoted primarily to Nyquist. We have been trying to maintain decent standards of evidence and argument on our side—as I know everyone else is endeavoring to do—and consequently I do very much regret that the Senator has understood much of our argument to somehow refer to the innate bigotry of the Justices of the Court. I do not know of anyone on our side who has stated anything of the kind.

The problem here, I will state once again is simply that the standard of these decisions does not match the high standard the Court maintains in other areas. That is the judgment of scholars and commentators for whom I have the highest regard, and it is a judgment which I share. And it seems to me that in the face of firmly held opinions, pro and con, those who would not let this matter be tested before the Supreme Court demonstrate a less than complete confidence in their position and a less than complete confidence as to what the outcome of a Supreme Court test would be.

I thank the Chair.

Mr. HODGES. Madam President, I would like to take this opportunity to address an issue which I think is most relevant and most important in this bill, and which has not yet been addressed. I think the constitutionality is very relevant, and I think it is of paramount importance to many of us. But I would also suggest that the policy considerations are important.

One of the effects of this bill in terms of Arkansas and in terms of our Nation is going to be its effect on blacks. The editorials in the Washington Star, and

in others, have indicated that this should not be an issue; and I do not blame people with a weak case for trying to take out those parts which are most advantageous to the opponents; therefore they say, "Let us ignore constitutionality," and I suppose they would like also to ignore race.

But I call upon all who would look at this bill, and I particularly call upon the Senator from New York, who likes to talk about the traditions of the Democratic Party, and I further call upon the Republican Party, which is making a renewed effort to win minorities, to look closely at this bill in the light of race; and I think we might view those Republican two-thirds who will vote for it, and wonder, perhaps, about them also.

In the Washington Post of Tuesday, August 8, 1978, there was published an article entitled "Tuition Credit's Impact Feared." I ask unanimous consent that the article written by Saundra Saperstein, be printed in full at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD.

[From the Washington Post, Aug. 8, 1978]

TUITION CREDIT'S IMPACT FEARED

(By Saundra Saperstein)

White enrollment in private and parochial schools in the 1960s was closely tied to the racial makeup of the nation's largest cities, and these enrollments often increased in cities with heavily black populations, a Johns Hopkins University study has shown.

Washington topped the list of the cities in the study whose white enrollment in nonpublic schools increased. About 37 percent of Washington's white students were enrolled in these schools in 1960; the figure was 47 percent 10 years later.

The study indicates that tuition tax credits designed to aid parents of private and parochial school students "may result in greater social-class and racial segregation of American children than now exists," according to study director Henry Becker.

Becker said the tax credits might intensify the relationship between race and private school enrollment found in the study. The tax credits, he said, might be "more widely used by white families in cities with large or growing black populations, and could inhibit progress on school desegregation in these cities."

A controversial proposal to establish federal income tax credits for private college, secondary or elementary tuition is scheduled to come up in the Senate this week.

Spokesmen for public schools, including Health, Education, and Welfare Secretary Joseph A. Califano Jr., have warned that providing a tax subsidy for private school tuition would increase the exodus from public schools and seriously hurt many systems.

Becker noted in his study that the large cities where white enrollment in private and parochial schools increased in the '60s were either southern cities or northern ones with large black populations. These cities included Washington, Atlanta, Miami, Charlotte, Dallas, Fort Worth, Philadelphia, Detroit, Newark and New York.

The rise in white enrollment in nonpublic schools in Washington between 1960 and 1970 seems "more startling when you realize that in most large northern cities the figure was going down," Becker said.

He pointed, for instance, to Milwaukee, a city with a low minority population. In 1960 about 36 percent of the white students were enrolled in non-public schools; by the end of the decade the percentage was down to 26, he said.

Washington's experience of increasing white enrollment in parochial and private schools appears to be continuing in the 1970s, according to figures provided by the Division of Research and Evaluation. In October 1977, about 55 percent in the city's "nonblack" students were attending non-public schools, the figures showed.

The Hopkins study was based on data from the 1960 and 1970 censuses. According to Becker, it was the first statistical look at private school enrollment according to race.

Becker emphasized that the figures do not necessarily reflect what has happened in the 1970s.

Still, the Council for American Private Education found the study "alarming and misleading," according to council executive director Robert Lamborn.

"The facts since 1970 are substantially different than the facts prior to 1970," said Lamborn, whose organization is an umbrella group for about 90 percent of the nation's private and parochial schools.

"I'm not criticizing the scholarship of this study, but I am worried when a study done by anyone attributes movement to factors that are basically racial," he said.

"A great deal of movement from public to private schools has had nothing to do with race. Most of the changes have been attitudinal, reflecting desires of parents to find the best schools possible for their children."

Mr. HODGES. That article indicated there was a considerable correlation between the growth of private schools and racial desegregation, or racial segregation. I would suggest, and I will show statistics in a moment from Arkansas that make it absolutely clear, that this is the case, and that the very bill which we have before us will cause resegregation, and give aid and comfort to those who are trying to avoid integrated schools in this Nation.

The truth of the matter is that this country has been undergoing a social revolution which began with Brown against Board of Education in 1954. One of the most dramatic and first impacts of this occurred in the State of Arkansas, at Central High School in Little Rock, where there was a confrontation between the Federal Government and the Federal courts and the State government. I daresay that if you checked around the world today and asked people what is the most difficult situation that has been faced in the integration of schools in the United States, Central High School would still be mentioned, although there have been, since that time, far more bitter and far more difficult adjustments made.

We have had only a short period of time in this Nation's history to live with full and complete integration, and yet there would not be a single Senator who would stand on his feet in this body now and argue that that is not a good thing. Senators might feel differently in their hearts; they might act differently in terms of where they send their children and what they espouse in their own lifestyles, but no one now has the courage to openly court the segregation vote.

I would say that if you took the pronouncements of some in this body today——

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. HODGES. Yes.

Mr. MOYNIHAN. A brief question. On June 28, 1977, the Eagleton amendment was offered here on the Senate floor, after nonacceptance by the committee.

Senator BROOKE offered an amendment to delete this language, which was rejected 51 to 42 although I voted for it.

Then Senator BROOKE offered an amendment with substitute language which I cosponsored. We lost. What does the Senator think was going on in the Senate that day?

Mr. HODGES. I have not the foggiest notion.

Mr. MOYNIHAN. It was an amendment to restrict the use of funds for busing. What does the Senator think was going on here?

Mr. HODGES. I have not the foggiest notion. I hope the Senator, in his question, will make this relevant to what I am saying.

Mr. MOYNIHAN. Nobody said it was courting the segregation vote.

Mr. HODGES. Openly, I said. Do you have a Senator who is openly courting the segregation vote?

Mr. MOYNIHAN. I missed the word "open."

Mr. HODGES. I indicated also in my remarks there are those who vote hoping to get the segregation vote but no one will openly seek that vote.

Mr. MOYNIHAN. I am glad to be corrected.

Mr. HODGES. I thank the Senator.

I will also say to the Senator from New York that those who believe in their heart in racial equality, but vote for this bill, are going to cause severe problems of racial equality in the South, and most certainly in Arkansas.

Let me go back to the point I was making. We have only had effective integration in the schools in this country since 1965.

Mr. MOYNIHAN. Will the Senator yield for a question? He refers to the South.

Mr. HODGES. I am sorry?

Mr. MOYNIHAN. The Senator referred to the public schools of the old South.

Mr. HODGES. I would say effective integration has not yet come to many Northern cities. I would say there is no integration in Washington, D.C., for we have schools which are 95 percent black. I am talking about a racial balance.

Mr. MOYNIHAN. A "racial balance" is the term used by the Senator?

Mr. HODGES. Yes.

I would say to the Senator again that time has shown that there are significant racial problems in the Northern cities as there are in the South. I am talking about the public school system.

I say that the great experiment which is underway today, and that is whether we can have a viable, integrated society in terms of the public schools, has only been going on some 13 or 14 years. There is no question but that there have been problems with it. Apparently there are those who are willing to abandon the problem. I count as effective abandonment those who are advocating this bill, not because they want to abandon it, but because that is going to be the result.

Let us look for a moment at the national distribution of children in public and nonpublic schools by race. There are in the public schools 17.2 percent nonwhites and 82.8 percent whites. That is the public schools.

In the private schools, there are 92 percent whites and 8 percent nonwhites, which is less than half of minority enrollment in public schools.

That ought to call your attention to something. That ought to tell you something, Madam President.

What is it in terms of my State of Arkansas? Let us look at some school districts which have established academies, private academies, private schools, in the last few years. In Chicot County, Ark., the percentage of blacks in the school-age population is 21.8 percent. The percentage in the public school after the academy was established is 88 percent. Are you listening?

In Saint Francis County they established an academy. The percentage of blacks eligible of school age is 20 percent, and in the public schools it is 57 percent and growing yearly.

Mr. HOLLINGS. Will the Senator yield?

Mr. HODGES. I would like to finish. In Crittenden County, where an academy was established, the eligibility of black school-age children is approximately 20 percent and it is 50 percent in black students in public schools and growing. In Phillips County, where an academy was established, the eligibility of young people, blacks for the public school, is 22 percent and the actual enrollment is 72 percent.

Does that prove a point? That was the result of academies being established, and the same pattern is true of other States.

I do not know, and I am sure the question is going to come, are these academies approved by IRS?

Mr. HOLLINGS. Will the Senator yield?

Mr. HODGES. Yes.

Mr. HOLLINGS. What they really want us to do at the Federal level is to start financing those academies. There is a great need here, for pluralism and diversity. To get pluralism and diversity, we are told, we ought to go ahead and start financing these academies from Washington, and call it a liberal trend, or liberal movement.

Mr. HODGES. Yes. What they are asking us to do is to put our stamp of approval as the Federal Government on this flight.

I would like to make one thing clear. Those people who have put their children in those academies have a legitimate right to do so. I think they are morally wrong. I think people who abandon tough public problems are gutless. My children are in the public schools of Washington, D.C.

Let us talk for a moment, then, about who is diverse, who is concerned about democracy, which party is concerned.

Senator MOYNIHAN, you are not going to drag my party down through this bill. My party has fought consistently for equality. Those of us in the South who have fought for the public schools are not going to retreat from tough problems and have not.

The reason I am involved in this bill lies in these statistics, and in the fact that we have less public school students in Arkansas now than 1972 and more private school students, and also in knowing that there will be more and more private students because this bill is encouraging such.

The very fact that on the floor of the Senate such a bill would be proposed causes me great perplexity. But to put on it the stamp of approval of the Democratic Party and thereby try to bring into disrepute men who have always stood for racial equality is startling.

Mr. MOYNIHAN. Will the Senator yield?

Mr. HODGES. I would like to reiterate one thing. I am not saying that is their motive or the reason why they have done it. I am saying that is the true effect of the bill. The side effects of some things done in Washington often are far worse than what they started out to be. It is like some drugs where the side effects are devastating and the cure ends up being worse than the disease.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HODGES. Will the Senator let me finish? Then I will be happy to yield.

Where then, does this leave us? Where it leaves us is that if this bill passes, we will shore up these white flight academies and encourage others to open in other school districts. My town in which I live has a fine public school, fully integrated—not without its problems, Mr. President, but we have solved problems and we are going to live with this school. Those of us who are committed to public education and to democracy are going to continue to fight for our school. My county has the same percent of eligible black young people as other counties in Arkansas. But we do not have an academy. If we get an academy I will tell you what we are going to have: We will see that national tilt begin to occur, and we will see the handicapped and others left in the public schools because the private schools cannot afford them, or because such schools are selective, or because they do not want the problem children.

We cannot exist as a democracy if we create islands.

I did not want to make this debate a party thing. Perhaps it ought not to be. But the sponsors have tried to make it a party issue as if somehow the Republicans are highly esteemed and are for the American people, and are for diversity and pluralism and motherhood and the flag, solely because they are for this bill. Just the opposite is true. This is an island-building bill. It is just the opposite of the Statue of Liberty. This says, "Take away from me the poor. Take away from me the oppressed. Put them into the public schools."

It is a strange thing about problems: they do not go away.

The problems in Washington, D.C., such as the tremendous unemployment among black youth, will not go away. The problems in the Washington, D.C., system with assaults and fear will not go away. If we create, in Arkansas, islands of black public schools and white academies, those problems will not go away but will grow.

At first blush, such schools seem good for the whites: Get your own school system, make it exclusive, and argue that it is better for your children. I suggest that it is true. My children would be better off academically in a private school right now. But I do not want for them the lessons they would learn there about democracy. I do not want such lessons inculcated in them in terms of living in a real world. I say they are far better off staying with the people with whom they are going to have to live in real life.

Life is not one long series of upper income suburbia. Life is not one long series of private academies, either.

I say to the Senate that the future effect of this bill in Arkansas is obvious, because you can see now what has already happened. But for those of you who do not know anything about Arkansas or who wonder whether these figures are right or wrong, walk out and look in Washington, D.C.

Do you know that about 37 percent of Washington's white students were enrolled in private schools in 1960—and this is quoting from the study that I mentioned earlier in the Washington Post article of August 8, 1978. The figure was 47 percent only 10 years later. Do you know what the figure is now? It must be 95 percent, because Washington is only 5 percent white in its public schools.

One of the most courageous men who has ever served in politics in this era with relation to race relations was Congressman Brooks Hays of Arkansas. He now lives, I believe, in the State of the distinguished Senator from North Carolina, who is on the floor. Brooks Hays is quite a man. He was a Congressman from Little Rock at the time of the Central High crisis. It was a tremendous crisis to those of us living in Arkansas at the time, particularly for the minority of people who felt strongly that what was being done was right in terms of integrating schools.

Brooks Hays stood up for what was right, and he was counted, but he unfortunately was counted out. He lost on a write-in vote to the bigotry and emotions of the times. He certainly is no less a man, and, from what I have seen of him, probably a better man. But let me tell the Senate what Brooks Hays has said, a man who has paid all to the bigot:

> We must have a firm commitment to the democratic traditions as expressed in our procedures and institutions. Our public school system must be preserved. Without it, the freedom that flowers from an educated citizenry would perish. James Madison put it succinctly: Without popular education, popular government will be a farce or a tragedy, perhaps both."

I say to the Senate that the effect of this bill will have strong racial overtones. The point could not have been made better than by one of the star witnesses of the proponents, Mr. Coleman. Mr. Coleman said that those blacks who could not afford to vote with their feet would not get any benefit from private schools, and that therefore this bill would give them

an option which they deserved. I think that, to some extent, he is correct, because the flight is not just white flight. The flight from the public schools is middle-income and upper-income flight, whether such people be black or white or red or yellow. So what Mr. Coleman is suggesting is that the good, stabilizing, middle-income blacks want to get out, too. They have had enough, and then we will sure enough have good public schools, will we not? Let us take all the stabilizing influence out.

I suggest that Mr. Coleman ought to recommit himself, as everybody in this Senate ought to, to make work the experiment in social adjustment which we are going through. When did all this crisis begin to occur in private education? It really and truly occurred when the blacks began coming into the public school system, because it is from that period of time that we begin to see the most statistics quoted. If you want a parallel, look for parallels in that area.

I am not saying that segregation is the only bad effect of this bill, but I am saying that, in certain parts of the country, this will be one of its most devastating effects.

(Mr. HOLLINGS assumed the chair.)

Mr. MOYNIHAN. Will the Senator yield for a question at this point?

Mr. HODGES. I am happy to yield.

Mr. MOYNIHAN. Does the Senator understand that when we talk of a crisis in our school system, or of the difficulty with the private school system, we talk about the decline in their enrollment? The Senator just said, "When did the crisis begin? It began when blacks," I quote, "started coming into the public schools."

That may be what happened in Arkansas. It did not happen in Benjamin Franklin High School in East Harlem, where I went to school.

But leaving that aside, is the Senator saying that enrollment in the private schools began to decline at that moment when the public schools began to integrate?

Mr. HODGES. No.

Mr. MOYNIHAN. That is what the Senator said. He must explain this: If this is a racial phenomenon, how is it that at the point where racial integration begins to appear, enrollment in the private schools begins to drop?

Mr. HODGES. To save time for the Senate——

Mr. MOYINHAN. The Senate has plenty of time for that subject.

Mr. HODGES. There really is such little consequence to that point that I shall back up and drop it.

Mr. MOYNIHAN. Fair enough. Because it is certainly clear that we need not engage in making spurious arguments, and we know there are difficulties in this particular one.

Mr. HODGES. Would the Senator respond, though? Since the Senator is interested in getting in, let us have the Senator respond to the effect of this bill in the South, in a State like Arkansas, based on what has happened already and based further on what obviously will be the future trend?

Does the Senator just write off Arkansas?

Mr. MOYNIHAN. Not at all. I understand that there is a real set of difficulties down there that are not unique to the Senator's State but instead are characteristic of a region. I am perfectly willing to acknowledge them. But it seems to me to be less than charitable that the Senator will not acknowledge ours.

The Senator knows what we are talking about. He knows what the Democratic Party was talking about when it made the commitments that I have repeatedly referred to. Senator GEORGE MCGOVERN made them, Senator Hubert Humphrey made them. They made them with respect to the church-related schools of the North and of the West, schools that have never been the domain of the elite. To the contrary, they have been the schools of the working people of the industrial cities of America, and they have never been segregated, and they have never had any of the characteristics of the academies the Senator talks about.

I am altogether willing to acknowledge the reality of the Senator's problem, but let us have a little charity about ours, just a little from the Old South, for once.

Mr. HODGES. The Senator just made the statement that these academies have never been segregated.

Mr. MOYNIHAN. Our schools in the North? No, never.

Mr. HODGES. Private schools?

Mr. MOYNIHAN. The church-related schools I am talking about? No, never. N-o, n-e-v-e-r; no, never.

Mr. HODGES. Certainly, the Senator is clear in his opinion, but I would suggest to the Senator that if he were to check he would find that many of those have, in fact, been segregated.

Mr. MOYNIHAN. Are not the school systems I was talking about——

Mr. HODGES. In the Senator's mind, but let us talk about reality. I do not know what the Senator is talking about.

How about Andover or Exeter? Does the Senator think there have been blacks over the years in those schools?

I will tell the Senator that I know because I attended Princeton as an undergraduate.

Mr. MOYNIHAN. I am not talking about Andover or Exeter. The Senator knows very well that I am not.

Mr. HODGES. Let us get the point of what the Senator has in mind, not as to what the Senator has not made clear.

Let us get to the facts. That is part of what is honest, candid debate.

Tell me what it is in the Senator's mind and to what school he refers, and then I can respond.

Mr. MOYNIHAN. I am talking about parochial schools.

Mr. HODGES. Is the Senator talking about the Roman Catholic parochial schools?

Mr. MOYNIHAN. Yes.

Mr. HODGES. All right. That is fine.

Mr. MOYNIHAN. Now, with regard to Andover and Exeter there is an Exeter man in this room.

Mr. HODGES. The Senator from New York has, I think, 22 people on the floor. The chances are he has someone from almost any school I can think of amongst the 22. However, I have only one. We are just poor Arkansas boys.

But I will say this, regardless of whether he has an Andover or Exeter man, and I cannot even remember all the names—I remember Lawrenceville was a good one in New Jersey—we never saw any blacks in those schools in the 1940's and 1950's. Let us be honest about it. We never saw them anywhere.

So we cannot talk about they might have had one or two, or something.

But the point still remains: what is the effect of this bill going to be? That is the issue. That is really the issue.

One of the things I think needs to be said unequivocally is that this bill is going to cause resegregation, it is going to erode the public school system in Arkansas, and I daresay there are other Southern States it will have an equal effect upon.

I would like to go on to one last point. That is, who really benefits by this bill?

Let me mention one last thing about blacks in private schools. I do not know how we get around the fact that only 8 percent of the private school students are black and that almost 18 percent, and the percentage is growing, are black students in the public schools. The fact is that whites are going more and more to the private schools and leaving the blacks in the public school.

But let me talk for a moment about who is going to benefit by this bill.

I say, first of all, the bill will primarily benefit those who are affluent. But I would also say to those using the private sector, those who have children in private elementary and secondary schools, and those who are interested in receiving these tuition grants, that they ought to think twice before they get them. Because one thing the Supreme Court mentions in Nyquist and in decision after decision on the first amendment is the insatiable desire of the Federal Government, once it gets an entree, to grow and to increase its control, and to spread its bureaucracy and its rules and regulations.

If we think it is going to be a simple matter, or procedure, to give these grants, or tuition tax credits, or however it is ultimately done, and not have follow a considerable amount of redtape, investigation, looking and seeing where it goes, and whether or not it is being used properly——

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HODGES [continuing]. And so on, I say that we are absolutely out of our minds.

It has never happened yet, and it is going to happen, I guarantee, in this case.

I will yield for a question.

Mr. MOYNIHAN. The Senator seems to have reversed his field somewhat. Is he now suggesting that most dreaded of Southern conflicts—if this bill passes there are going to be Federal Government people down in the Old South, looking into the schools to see whether or not they are integrated?

Mr. HODGES. I say to the Senator from New York, he does far better when he does not attempt a Southern accent, as I do not think he does it well.

If I take his intent to disparage either my accent or the region I am from, I will not take umbrage, but I would suggest that we keep the debate on a plane which I think the Senate rules require.

Mr. MOYNIHAN. I will restate my question.

Is the Senator suggesting that the danger of this bill is that there will be Federal agents inquiring into the conduct of the private schools in the South?

Mr. HODGES. I say that that already exists, in theory.

Mr. MOYNIHAN. In theory?

Mr. HODGES. Yes.

Mr. MOYNIHAN. But is the Senator suggesting that the process now exists in the South?

Mr. HODGES. What I am suggesting to the Senator is that the larger a Federal program becomes, the more we see of rules and regulations, the more we see increased interest of the Government in where the grants are going, the more we see bureaucrats looking and evaluating. Then we will have someone come into the Senate with a report that there are gross abuses of tuition tax credits, and that there are more credits being taken than there are people eligible for elementary and secondary schools in the Nation. We will appoint 14 inspectors. They will bring a report back. We will have a division of control in the tuition tax credit section of the Internal Revenue Service.

That is all I am suggesting. If we look at the history since 1960 when we began social engineering in Washington, D.C., then I would suggest that is what we will find.

Mr. MOYNIHAN. Would not the Senator agree that the social engineering that is involved has been in the direction of enforcement of civil rights statutes?

Mr. HODGES. I am not talking about——

Mr. MOYNIHAN. And that, indeed, this legislation mandating some degree of Federal involvement in the whole range of private schools—including those which might have been established for the purpose of avoiding the civil rights statutes—might facilitate the upholding of those classrooms?

Mr. HODGES. I think if the Senator will check, he will discover they are already subject to such scrutiny, and if he will further check the 1975 and 1976 Civil Rights Commission Report he will find that the IRS approved seven private schools in Mississippi that clearly practice segregation, and that they were given a clearance for charitable deductions.

I am simply saying, and I am not making it a regional statement only, dealing with the effect on my region, that in the Northern cities we see incredible hypocrisy. Here in Washington, D.C., we do. We are surrounded by some of the finest public schools in the country, but they exist, oftentimes, at the expense of the blacks. And in this city, too.

If I might go on and complete my remarks about who is going to benefit, then I will be happy to yield the floor, not for questions, but even questions in the form of statements.

Mr. MOYNIHAN. Even statements in the form of questions.

Mr. HODGES. Either one, whichever way the Senator wishes to do it, because the floor would be his.

Let us talk for a moment about the income levels of those people who are going to benefit from this bill, because that is a relevant public policy issue.

The fact is that families of four—a father, a mother, and two children—must earn $7,250 to get a nickel's worth of credit; and even then, for the first $100, they get only $4 worth of credit. They are simply not eligible under this bill.

So when we hear these arguments that are being made about how this bill is going to help the poor and how this bill is going to give everyone a chance, that is just hogwash. The sponsors took out the refundability part. They took out that part of it. So now the bill applies only to people who make more than $7,250 a year.

However, the statistics about the percentage of people in private schools and what they make is very interesting, because when you get down to the lowest income levels, we are talking about $1,000 to $7,000 of income. At the lowest level, $1,000 to $1,999, 97 percent of students are in public schools, and 3 percent in private schools.

When you get to $50,000 and over, 75 percent are in the public schools, and 25 percent are in the private schools. But all those at $50,000 and over are going to get the $250—or, with two children, $500.

We are changing, for the first time, significant policy. We are not going to base Government help on need. The millionaire is going to get exactly the same amount as someone earning—well, you do not get $250 until you earn about $10,000.

So, really, who is going to get the assistance? The average parent of a child in a private school earns 25 percent more than the average parent of a child in the public school. That is the way it is now.

Equally important—and the thing that puzzled me—was when you got to $50,000 and over, I thought perhaps the percentage would be greater of those having their children in the private schools. But do you know why it is not? Some of the finest schools in this country, including even the finest private schools, are public schools in the wealthy suburbs. I daresay that within 15 to 20 minutes of this very hall in which we stand there are 5 or 10 of the finest, wealthiest, well-financed public schools in the Nation, and they train their young people as well as anywhere else. So they do not need it. So even these figures are distorted.

The Republican Party, perhaps two-thirds of them, should vote for this. I grew up what was called a "yellow-dog Democrat" in the country. Everybody blamed the Republicans for everything. I found out, however, that the Democrats have done their share, too, I must say.

So this is not a bill to aid the average man or the common man. This is a bill that does not even have in it any controls for a cutoff place. They required even more money for it than it does now. When they had the full $500 credit, it took about $12,000 in income to receive it.

Mr. President, I will conclude my remarks by quoting from a case which is really the critical case for us to look at, in terms of both the constitutional issues and some very practical issues inside the bill before us. It is the case of Committee for Public Education and Religious Liberty, et al. against Nyquist. At page 42 of its decision, the court said the following:

> But we know from long experience with both Federal and State Governments that aid programs of any kind tend to become entrenched, to escalate in cost, and to generate their own aggressive constituencies. And the larger the class of recipients, the greater the pressure for accelerated increases.

That is one thing the court pointed out. The second was this, on page 36: They indicated that one of the critical tests was whether such aid would result in entanglement of the State with religion in the sense of a comprehensive, discriminating, and continuing State surveillance. They say:

> But the importance of the competing societal interests implicated in this case prompts us to make the further observation that, apart from any specific entanglement of the State in particular religious programs, assistance of the sort here involved carries grave potential for entanglement in the broader sense of continuing political strife over aid to religion.

What were they talking about? What sort of program was it that they said carried such grave potential for entanglement? They were talking about the matter of issuing tax credits to elementary and secondary private schools in the State of New York.

I thank the Chair and yield the floor

Mr. MOYNIHAN. Mr. President, two things.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I hope the Senator from Arkansas will accept that having been born in Oklahoma I came by my Southern accent fairly. In response to his statement, I shall make two remarks and then a general statement. I hope the Senators will hear me in this room.

It does not make much sense to say that it is interesting that the crisis in the nonpublic schools came about at a time when Federal integration efforts were commencing. It makes little sense, when in fact the crisis consists of a decline in the enrollment of the nonpublic schools. That contention does not bear logical examination.

Second, raising the issue of civil rights, and simultaneously raising the issue of Federal interference in private institutions also does not bear much logical scrutiny.

But, Mr. President, it is now time for some of us to get just a little more serious about our feelings.

Let me read a brief passage from a lengthy editorial on this debate, which appeared in the Washington Star of Thursday, August 10, 1978:

> Of all the attacks on the tuition tax credit proposal, the shabbiest is the insinuation that they are a sugar-coated scheme for promoting racial segregation in the schools.

We have never hesitated to say, openly, in 3 days of the debate in this empty Chamber, that—

In fact, the neediest beneficiaries would be Catholic parochial schools with an old and honorable record of racial equity. And as for the so-called "segregation academies" mushrooming up across the South at the heels of school integration, their students, insofar as their racial exclusiveness is their aim, would be ineligible under the tax laws. So much is clearly provided in the latest draft of the bill.

The Senator from Arkansas invoked the name of James S. Coleman, with whom I have been associated as a colleague for many years. I was coauthor, with Frederick Mosteller, of the largest analysis of Coleman's 1975 report. I have chaired a 2-year seminar at the American Academy of Arts and Sciences on Coleman's findings.

And the same Star editorial says:

Prof. James S. Coleman touched on this point in a recent supportive letter to Senator Moynihan. Tax credits, he suggested, "will help give low income people some of the educational opportunity for their children that high income people already have. In a sense," he continued, "it provides an aid to parents to rescue their children from school situations that they find bad; and . . . this is especially the case for black parents who are locked into a given residential situation." Professor Coleman's view has been echoed and endorsed by a number of black scholars, including Thomas Sowell and Walter Williams.

Mr. President, we have tried in 3 days of debate in this empty Chamber to suggest that there are complexities here, to acknowledge our own uncertainties, and to say that we do not know what the Court will finally rule. Yet we simply ask for a ruling. We have put this measure forward as a petition of right with the conviction that an injustice has been done us. We have asked for the Court to rule, and we openly aver that we will absolutely accept the ruling of the Court.

We accept there are, and will be, difficulties; surely there will be some difficulties in a place such as Arkansas. The thought that somehow we might be inviting those difficulties is, however, most unseemly. We have tried to accept the complexity of this matter and even to admit that it may at some point involve a conflict of rights, but to suggest that we seek anything but social justice and equal opportunity is to debase the debate. I am sorry it has been done.

I thank the Chair.

Mr. PACKWOOD and Mr. HODGES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HODGES. Mr. President, will the Senator yield for a quick response to the last statement? I will not make it a long response.

Mr. PACKWOOD. No, I think not. We are drawing close to a time to vote.

Mr. HODGES. I am sorry. The Senator has his amendment up. I will respond, though, to what the Senator from New York said which I think was highly inaccurate.

Mr. PACKWOOD. I am delighted that the Senator from Arkansas got off the issue of constitutionality and I do not intend to come back and touch it again.

We are going to vote on that about 1 o'clock, and that is fine. See what happens then.

But the Senator first mentioned three times, and I was curious about the almost rhyming of his litany of those of us who are committed to the public schools and democracy, public schools and democracy, public schools and democracy.

The two do not necessarily have to be solely intertwined. There are those people who go to private schools who share some of the beliefs in democracy that those who go to public schools share.

This whole country grew out of private schools. When time and time and time again we are cited as the founding beacon of democracy in this country it was out of a private school system that it grew, not a public school system.

So, let us not demean those who go to private schools by tying together those words as only those who somehow have their education paid for by public taxes can have the proper view about the way the Government should be run.

Second, he talked about the complexity and once we pass this we are ipso facto going to have Federal agents and the Federal heavy hand, and what not.

For the better part of the last 100 years, at least while we have had the income tax, we have had charitable deductions which somehow have managed to go along without at least an overwhelming entanglement of the Federal bureaucracy. From time to time I admit the IRS has had to pass on whether or not there was a legitimate charitable purpose and therefore you could have a deduction for a contribution.

Mr. HODGES. Mr. President, will the Senator yield?

Mr. PACKWOOD. No, I will not.

But by and large it has worked out very well, and we have gotten more money for our dollar out of private charitable institutions in this country than anything else that the Federal Government has ever devised to spend money on, and it has worked amazingly well.

We allow a person to give money to his church and again from time to time as a new church comes along there is a period when you question about is this a religion, but it has worked reasonably well.

We have allowed a person to give money to his church, take it off his income tax without the heavy hand of the Government saying, "Oh, you can't do that."

We even allow a person to give money to a church school and take it off his income tax, and somehow the heavy hand of the Government has not intervened.

We allow people to make all kinds of deductions and take credits through the income tax system, and by and large it has proved in my mind to be a much more preferable system than the system of appropriation and expenditures by the Federal Government.

Allowing tax credits for the cost of tuition is not that substantially different from a charitable contribution to a school. It makes utterly no sense to say that I can send my child to a private school, give the school $500 and take part of that off the income tax, but I cannot pay them $500 tuition and take part of that off my income tax because of the heavy hand of the Government that will follow the latter but not the former. It simply does not follow.

As far as the handicapped persons are concerned, the Handicapped Persons Association, the principal association of handicapped schools in this country, support this legislation.

It was never the public schools that wanted to take handicapped students. They got shunted aside. If, unfortunately, you were a parent of a handicapped or retarded student, you paid, if you could afford to, to send them to a private school. There was no help from the public schools. It was the private sector that did the best they could under overwhelming and burdening expenses to try to take care of handicapped students in this country.

No wonder the Association of Handicapped Schools is for this legislation. Let us not say it was the private schools that threw out the handicapped and that the public schools welcomed them.

The public schools have been fighting for the last 3 years the obligations that were imposed upon them by the Federal Government to put ramps and put in things to handle handicapped students. Hopefully we will have upset that situation and we will have laid that at last to rest. The public schools never will be supportive or will want the handicapped student.

Now, as to income: The Roper poll has been cited frequently as evidence that the public does not want the tuition tax credit. I think there have been put in the RECORD, I might say to the Senator from New York and the Senator from Arkansas, other polls that have been taken in the last 2 years, every one of which supports tuition tax credit, including a number of polls where they were asked specifically, "Do you prefer the credit or do you prefer the grant approach?" including the Roper poll of 1 year ago. If we are just going to weigh where the public is based upon polls, they are overwhelmingly on the side of the tax credits.

In the last Roper poll, one of the questions he asked was, "What do you consider middle income?" Interestingly enough, the answer was $20,000 to $40,000. That was considered by those whom Roper polled, $20,000 to $40,000 a year.

In this bill as it is now written, without refundability, 77 percent of the benefits will go to people who make $30,000 or less, and that is the Joint Committee on Taxation source.

If you want to add refundability to it, 78 percent of the benefits will go to those under $30,000 a year.

I am frank to say I do not know many people who are making $35,000 and $40,000 a year, trying to send their children to college or even to a public university, who are overwhelmingly wealthy. They are having the same problems that everybody else is having in trying to educate their children, be it in a public or private college or a public or private primary and secondary school. But that issue has been raised.

You know, if I thought there were enough people in this Senate who really accepted the philosophy that the Senator from New York and I are driving

at about diversity and pluralism, I would be willing to compromise and compromise and compromise so long as we could maintain two principles: One, the concept of a tax credit or a tax deduction. I could even be convinced of that, although a tax deduction has more favoritism toward the rich than a tax credit, and, two that primary and secondary private schools, including religious schools, be included. Those are the only two basic issues.

If constitutionality is the issue, I think the expedited test would satisfy anybody with a fair mind because there is an honest difference of opinion on constitutionality.

If the issue is the endowment of St. Paul's, Exeter, or Choate, if that was the issue, if the idea is that 22 percent of the people who make over $30,000 might get some benefit, and I thought that was the real issue, I would vote for that cap.

If refundability was the issue, and by refundability I mean when you simply are entitled to more money back from the Government than you owe them in taxes, if under this bill you would get a $250 tax credit for sending your child to a Catholic, parochial, primary school, and you happened to be under that $7,200 income level for a family of four, and you pay no taxes, and the Government would give you back $250 because you are too poor to afford it, if I thought that was the issue that would turn the Senate around because it was too expensive, I would vote for it, and we would get to it in another year, much as I would hate to leave it out now.

If the issue was really cost, total cost, I would be willing to cut these benefits down to $50 for primary and secondary schools, and $100 for college for the sake of starting a principle that is important.

But you know what the problem is. Constitutionality is not the issue. The Senator from Missouri admitted in his last statement when he finally said it is not just constitutionality, it is policy. Then he walked off the floor and we never talked about the policy.

It is not the issue of millionaires being able to take $250 off their income tax. Ladies and gentlemen, be serious. For anyone who can send his children to Deerfield, Groton, Exeter at tuitions of $4,000 or $5,000 a year, do you think it makes any difference to him if he can take $250 off his income tax?

The sure way to make positive that nobody but the rich has the opportunity for private education in this country is to defeat this bill. Do not worry about the Deerfields and the Grotons, they will continue. There will be people who make $50,000, $80,000, and $100,000 and who will send their children to those schools, with or without this bill.

The real problem is seldom addressed by the opponents. The real objection to this bill is control. It was stated by the senior Senator from Vermont in his statement that if this bill passes it is going to disperse control of the educational system, decentralize it, even divide it among different committees of the Congress. Heaven forbid that more than one committee should have jurisdiction over educational policy.

The Senator from Rhode Island (Mr. PELL) said it in response to a question from Senator MOYNIHAN when the Senator from Rhode Island was saying he thought it was unfair that so much more money was going to be spent on private students than public students. I hope we have set that to rest.

If this bill passes, the Federal Government—not all public expenditures, just the Federal Government if this bill passes—will still spend substantially less money on private education, private primary and secondary education, than they do on public education. The Federal Government, let alone all of the money that States and local governments spend on public education, is what I am talking about.

But, in response to the question of the Senator from New York when he asked would the Senator from Rhode Island, if the matter of the preponderance of money that is spent in public students as opposed to private students, if that is his principal concern, if we were to cut down the bill and make the amount spent on private students smaller, would that allay his objections? No, he said. His real objection was the tax credit, because control by the Federal Government was lost.

(Mr. HASKELL assumed the chair.)

Mr. HODGES. Mr. President, will the Senator yield?

Mr. PACKWOOD. No, I will not yield.

The Department of Health, Education, and Welfare, when they testified on this bill—and interestingly enough after they were able to send the Secretary of Health, Education, and Welfare to how many, four or five, hearings on the bill in the House and Senate, when the time came for testimony on this bill, 3 days of testimony set 3 months ahead of time, 8 hours a day, managed to send an Assistant Secretary for Legislative Affairs. Not the Secretary, not the Assistant Secretary for Education, not the Commissioner for Education, but an Assistant Secretary for Legislative Affairs, who used to be a lobbyist for the United Automobile Workers, and now he is an Assistant Secretary for Legislative Affairs. If you translate that, he is now a lobbyist for the Department of Health, Education, and Welfare, paid at public expense to come up here and lobby for the things they want. He has not changed jobs; he has just changed hats.

He is a nice fellow. He is a fellow who came up and testified against this bill, testified very emphatically, of course, against the primary and secondary parts because it was unconstitutional, because of a whole variety of reasons, and then he got to the higher education part.

Now, understand how this works. You send your child off to Oregon State University or Ohio State University and you pay $800 a year tuition for your child. Under this bill, when it is in full effect, you can take $400 off your income tax, and there is a line for an income tax credit for child care, a credit for political contributions, and we would then add another line that says "tuition tax credit," and, assuming you can divide by two and subtract, that is how the bill works.

If you add up all of the deductions, you figure out your tax. If it turns out that you owe $1,400 in taxes and you are entitled to a $400 credit for tuition you pay the Government $1,000. Now, ladies and gentlemen, that is not too complicated, too difficult to figure out, is it?

But what did the Secretary testify to? They were——

Mr. MOYNIHAN. The Secretary's representative.

Mr. PACKWOOD. Pardon me——

Mr. MOYNIHAN. The Secretary did not appear.

Mr. PACKWOOD. The Secretary's assistant. The Secretary's assistant's assistant.

What did he say? That they were opposed to our bill because it was too complex.

Too complex. You know, the problem here, they say, if you have too many children in college—and only an HEW bureaucrat could testify this way—is not that you have too many children too close together, they are all going to college at once, and you could not afford them all. The problem is that you are a victim of sibling overlap.

Who would use that kind of language except somebody from the Department of HEW? The problem is not that you cannot afford to send your children to college. If you could spread it over an entire working life, you could afford it. You are just a victim of a temporary liquidity crisis.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr MOYNIHAN. Would he explain to us the nature of this disease afflicting so many American households? Sibling overlap?

Mr. PACKWOOD. A terrible disease. I do not know how many people are killed every year because of it.

Mr. MOYNIHAN. What is sibling overlap?

Mr. PACKWOOD. Sibling overlap means you have too many children too close together.

Mr. MOYNIHAN. I see.

Mr. PACKWOOD. Or, to put it in simple terms, you had too many kids too quick.

Now, what is the answer, at the higher education level, to these tuition tax credits? That they already have basic education opportunity grants programs that cost $2.6 billion a year, they are going to add, if they are successful, another $1.2 billion on legislation we will have before us Tuesday, for a total of $3.8 billion; and if you add work study programs and other programs, they have about $5 billion a year.

HEW lost last year, according to the GAO, $7 billion on account of fraud, abuse, and waste. In the student loan program alone, they have lost $356 million. Out of $4.5 billion of loans outstanding, over $1 billion are in default. Twenty-two percent, and they have the audacity to come in here and say that what we are suggesting is too complex.

Let us take a look at what they are of-

fering. Here is a form for applying for basic educational opportunity grants for 1978–79. Twelve pages, counting instructions. It looks like a very complicated income tax form. I defy any Member of the Senate to fill this form out correctly the first time.

Assuming that you are not a lawyer or a CPA, and you have tried to figure this out, you are just a little old second-year college student, maybe you have lived in this country 2 or 3 years, and are not too comfortable with the language, and you get down to the last line, and what does it say?

Any person who knowingly makes a false statement or misrepresentation on this form shall be subject to a fine, or to imprisonment, or to both, under provisions of the United States Criminal Code.

That is simplicity; if you make a mistake you go to jail.

Let us take an example of simplicity. Parents. Can you write a definition of a parent? Most students, I think, could grasp the idea of what a parent is. But listen to this:

If you are able to answer no—

The "no" is in big black letters—

to every—

"Every" in italics—

If you are able to answer no to every question for every year with regard to your mother and father, their financial information will not have to be provided. However, if some person other than a parent (or spouse) provided or will provide more than half of your support during 1978, you would complete section C with that person being considered your "parent." If you can still answer no to every question for every year, you would go on to section E. If you answer yes to any question for any year with regard to your "parent," you would complete section D using their financial information.

If you have understood it thus far, the last sentence is:

In no case would a spouse be considered to be the applicant's "parent."

Well, if it has gotten that bad, that we have to have a paragraph of instructions to state that your spouse cannot be your parent, I do not see how HEW could come in and argue that our provisions are too complex.

If I were a lawyer, I might devise some arguments against it, but what I would not have the audacity to do is use the argument that HEW used on control: "We do not want to give up these programs because we are going to lose control."

I had a debate with the president of the National Education Association, John Ryor, a televised debate, and two other people on this subject, with the argument on constitutionality, being raised by Mr. Ryor, who has his principal interest in primary and secondary education; there is no greater benefactor of primary and secondary education in the United States now than the National Education Association.

I said to Mr. Ryor, as he was arguing the constitutionality of primary and secondary education benefits, "All right, let us exclude the religious schools. Would you be in favor of benefits for the nonreligious schools?

His answer is no; he is opposed to any expenditure that is not controlled by public agencies.

Control by public agencies. Ladies and gentlemen, there it is. That is the nut of the issue we are talking about. When it comes to the education of our children or the education of ourselves, if we are putting ourselves through college, are we going to allow the parents or the students to choose their school, or to go to the primary or secondary school of their choice, pay their tuition, and take something off their income tax in a relatively simple, uncomplicated transaction, or are we going to continue to funnel the money through an agency that lost $7 billion through fraud, waste, and abuse last year, or 22 percent of whose loans are in default, administered by people who work for the Federal Government, making an average salary of $12,000 and who work for the Department of HEW, whose job it is to enforce these laws?

Are we going to follow that "simple procedure" or adopt the "complex procedure" Senator MOYNIHAN and I and others are contending for? Ladies and gentlemen, I leave it to you. I do not know how a more clear-cut issue can be presented to Congress than the issue of control over our lives by the Government, or control by parents or the students themselves by the passage of a bill that gives you the opportunity to decide where you will spend your educational money, when you want to spend it, and on what institution you want to spend it.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, we are scheduled to vote in just 2 minutes, I believe, on this matter, and I take this opportunity to observe that there are now 10 Senators on this floor, and of course the distinguished Senator from Colorado (Mr. HASKELL) is in the Chair.

I believe this is the largest number I can recall during this debate. Those Senators who have just arrived are welcomed to it. They might like to know that this is now the middle of the third day of a debate, during which, in the main, we have addressed an empty Chamber. To whatever degree we have succeeded in addressing what we feel to be important constitutional issues, what we have encountered here is an extraordinary degree of indifference. It is not our purpose to alarm, but hopefully it is to persuade, and it may be that in the remainder of the debate—which is by no means concluded—we will see more Senators participating, if only to the extent of listening passively.

We have tried to make our case as calmly as possible. We have tried to be factual. We have tried to state honestly the probabilities where there was no certainty. I do not know why there has been so little attendance.

It may be that the measure of detachment we have exhibited is not conducive to the engagement of an audience; but at all events, Mr. President, as the hour of 1 o'clock approaches, may I ask if the yeas and nays have been ordered on the amendment by Senator PACKWOOD?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MOYNIHAN. I then ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. I thank the Chair, and yield the floor.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, the question is on agreeing to the amendment of the Senator from Oregon (Mr. PACKWOOD). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND) and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—56

Allen	Hansen	Packwood
Anderson	Hatch	Pearson
Baker	Hathaway	Proxmire
Bartlett	Hayakawa	Ribicoff
Bayh	Heinz	Roth
Bellmon	Helms	Sarbanes
Bentsen	Jackson	Sasser
Biden	Laxalt	Schmitt
Brooke	Long	Schweiker
Church	Lugar	Sparkman
Clark	Magnuson	Stevens
Curtis	Matsunaga	Stone
Danforth	McClure	Tower
Dole	McIntyre	Wallop
Domenici	Melcher	Weicker
Garn	Morgan	Williams
Goldwater	Moynihan	Young
Gravel	Nelson	Zorinsky
Griffin	Nunn	

NAYS—42

Abourezk	Ford	Leahy
Bumpers	Glenn	Mathias
Burdick	Hart	McGovern
Byrd, Harry F., Jr.	Haskell	Metzenbaum
Byrd, Robert C.	Hatfield, Mark O.	Muskie
Cannon	Hatfield, Paul G.	Pell
Case	Hodges	Percy
Chafee	Hollings	Randolph
Chiles	Huddleston	Riegle
Cranston	Humphrey	Scott
Culver	Inouye	Stafford
DeConcini	Javits	Stennis
Durkin	Kennedy	Stevenson
Eagleton		Talmadge
		Thurmond

NOT VOTING—2

Eastland Johnston

So the amendment (No. 3474) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1654

(Purpose: To limit the credit to post-secondary expenses)

Mr. HODGES. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. RIEGLE). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. HODGES) for himself Mr. HOLLINGS, Mr. ABOUREZK, Mr. BELLMON, Mr. DOMENICI, Mr. MARK O. HATFIELD, Mr. EAGLETON and Mr. BENTSEN, proposes an unprinted amendment numbered 1654.

Mr. HODGES. I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the committee substitute amendment add the following new section:

SEC. . Elimination of policy references, constitutional references and credits and deductions for elementary and secondary school expenses.

Notwithstanding any of the aforesaid provisions of this committee amendment, any provision for a tax credit or deduction, be it property or income, for elementary and secondary education is hereby inoperative.

UP AMENDMENT NO. 1655

(Purpose: To limit the credit to post-secondary expenses)

Mr. HOLLINGS. Mr. President, I send a perfecting amendment to the Hodges amendment to the desk and ask that it be considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) for himself, Mr. ABOUREZK, Mr. BELLMON, Mr. EAGLETON, Mr. DOMENICI, Mr. MARK O. HATFIELD, Mr. BENTSEN, and Mr. HODGES, proposes an unprinted amendment numbered 1655 to unprinted amendment No. 1654:

Strike out all after "notwithstanding" and insert in lieu thereof the following: "any of the aforesaid provisions of this committee substitute amendment, all references to elementary and secondary school policy and elementary and secondary constitutionality are inoperative, and any provision for a tax credit or deduction, be it property or income, for elementary and secondary education is inoperative."

Mr. HOLLINGS. Mr. President, I am glad to yield to the distinguished majority leader to see if we can get a time limitation agreement.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time, and I thank the distinguished Senator from South Carolina for yielding, to ascertain the possibilities or the likelihood of our getting a time agreement of some kind on the pending amendment and on other amendments and on the bill.

Mr. PACKWOOD. Will the Senator yield?

Mr. ROBERT C. BYRD. If the distinguished Senator will continue to yield.

Mr. PACKWOOD. I just want to ask for a moment, as to it being read, this is a perfecting amendment, no amendments are now in order to that amendment, is that right?

The PRESIDING OFFICER. The Chair would advise that the amendment before us is in the second degree and, therefore, is not amendable.

Mr. PACKWOOD. Mr. President, I will object to any time limit. We have played very fair and square on this. We told of all amendments we were going to bring up. This is a total surprise. It is a low blow.

Mr. ROBERT C. BYRD. Mr. President, for the time being, I take it we cannot get one.

I thank the Senator for yielding.

Mr. HOLLINGS. Mr. President, I would like to claim my right to the floor.

I yield to the Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask unanimous consent that Peter Connolly of my staff be granted privilege of the floor during debate and roll calls on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, let me make just a few comments with respect to the amendment.

The PRESIDING OFFICER. Will the Senator suspend to get order in the Chamber?

Can we have order, please, in the Senate Chamber.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, for several weeks now, the matter of elementary and secondary tuition tax credit, or aid to elementary and secondary parochial and private schools, has been debated.

I have had one particular singular thrust. It is evident in the RECORD on Friday, in the RECORD numerous times yesterday, and in the RECORD now made by my perfecting amendment in the second degree.

I did not want to engage in the higher education debate. I did not want this misunderstood or confused by technicality. I thought fundamentally—not just constitutionally, but fundamentally—it was unsound to begin general assistance coming from the Federal Government in education, and going to the private and parochial schools, while it was simultaneously prohibited from going to the public schools.

My intent was clear. They talk about playing fair, and maneuvering around. Mr. President, it is they who have been maneuvering, they who have been amending their own amendment, they who have been in and out of the Finance Committee twice, they who said, "No, take the refundable credit out, but, by the way, we'll put it back in later for you. Or we will agree on the constitutionality, but, no, we now have language with respect to the preambular section on the constitutionality."

I just could not keep up with the maneuvering, if we are going to talk about who is playing fair.

So I consulted parliamentary procedure brilliance and I said, "How in the world do I do this?" I figured out that this was the only way fairly to do it, to get a perfecting amendment to a perfecting amendment, namely, one in the second degree. There would not be any substitute, there would not be any perfecting amendments to it. So, my colleagues, in fairness—and I emphasize that word—my colleagues then in fairness would understand. They would not have to race to the floor and say, "Wait a minute, what is this, what is this change," and so on. They all understand this now after 3 days of debate. They understand our amendment by the distinguished Senator from Arkansas and the distinguished Senator from Texas, the distinguished Senator from South Dakota, the distinguished Senator from Oklahoma, the distinguished senior Senator from Oregon, the distinguished Senator from Missouri, and the distinguished Senator from New Mexico.

We have always debated credits for higher education. We have passed it six times in the U.S. Senate in the past 10 to 12 years. But this is the first real attempt and novel attempt, if you please, to put general assistance into the private and parochial schools. And yet they come and say now, "We are going to keep you from hogging it all." Let us find out who hogs it all.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HOLLINGS. No, not now. I have been listening for 3 or 4 days, I know where I am right now and I want to say where the benefits go and who hogs it all.

Because there are approximately 74 million families in America, but there are 56.1 million families in the Nation that have children in the elementary and secondary schools, or at least eligible for it.

We estimate that of the 44 million students in elementary and secondary schools in this Nation, roughly 5 million are enrolled in the private sector. If we assume each of these 5 million students belongs to a separate family, we would say $5/56.1$ million or 9 percent of all families in the Nation had children in private and elementary schools.

However, Mr. President, the average number of children per family for all families in the Nation with children ages 5 to 17 is 1.9. Catholic families average 2.6 children per family. More than 67 percent of the children in private and elementary and secondary schools are in Catholic schools, a figure has been pointed to of 75 percent, but the ones I rely on for this discussion are figures furnished by the Department of HEW.

So if we formulate that out we come to slightly over 3 percent of the families in the Nation have children in private elementary and secondary schools, if all families with children in private schools send all their children to these schools.

Now, who is going to hog it all?

I refer, if you please, for Senators who were not on the floor yesterday to the Senator from Oregon's expression when he said, and I quote from the RECORD of yesterday, page 25813:

Just as a century earlier the church "ins" did not want to share any of their money and wanted to hog it all, now the public education lobby, especially led by the NEA, wants to hog it all and not share it with anybody.

Now, let us see who is hogging it all, for we come down to a little over 3 percent of the families in this country are eligible and are going to enjoy this great democratic initiative.

But the Senator from New York is talking about the Democratic Party, if you please. We will not go into that. Let us get to the facts here.

Now, family income, let us see what it says. It says here the family income, the percent of the total benefits for this particular bill from zero to $15,000 in 1980, only 12 percent of the families in that income group are going to enjoy any benefit out of this particular bill.

The remainder of the recipients the 88 percent, are above $15,000.

I can break it down for 1980 to 1983. I can do it from the $15,000 to the $25,000 bracket, $25,000 to $30,000, $30,000 to $40,000, and over $40,000.

Eighty-nine percent of the families in the great State of South Carolina make $15,000 or less. So look at this. Eighty-eight percent of the benefits, I say to the Senator, go to about 10 percent of the people of South Carolina.

They say, "Senator, why are you so excited about this?" And then they get off on constitutionality.

We start reading about Irish mythology and the habits and practices within the church here, there, and yonder. We are not trying to get into a church argument. We are trying to get into an education argument—an argument on the matter of education and education alone.

We can see exactly what is occurring. The Senator from Rhode Island on yesterday was trying to point out that the public schools are not shoving them out. We can go to all the States. I do not want to dwell too long on too many points when I get a few Senators who will listen, but between 1970 and 1975, we can see the facts.

In the State of Kansas, there was a 12.9 percent decline in enrollment in the elementary and secondary public schools. I am looking at the declining enrollments, table 1 of the State school systems.

We look at North Dakota: 10.2 percent decline in enrollment in public elementary and secondary schools; Oklahoma, 5.7 percent; Iowa, 6.6 percent.

What we really have is a decline between 5 percent and 13 percent in enrollment in public school education because of the birthrate, the declining birthrate in America. That occurred also in the private schools.

The Senator from New York said earlier this morning that is when the crisis started. The crisis started, he said, when we got declining enrollment in the private schools. So he will do something for the private schools when the crisis starts there.

But here is our charge, as Senators. The duty of the Government, for the public, is to public schools. The duty of the Government for the private schools is to leave them alone. That is what we are trying to do.

We give targeted, categorical aid for disadvantaged in the private schools. We do not demean private education. People have that choice and that right to decide where to send their children to school.

A lot of my friends—I cannot say a majority of my friends, one way or the other—but many have had children in both private and public schools right here in Washington, D.C. I have had children in both public and private schools iri Washington.

The fact is that we have tried our level best to stay out of the administration of the public schools at the State and local level, and that is why we have resisted effort after effort and only come in with categorical grants for disadvantaged, bilingual, handicapped, and the various titles. We never went to general aid for public education, because we knew that was one of the finest strengths of America—the public education.

As Madison said, "Popular government without popular education is a farce and a tragedy."

We have relied on public education over the many years, and we have relied on its diversity and its pluralism.

Every time we run proponents of this measure up a tree and show them court decisions that they cannot ignore, and every time we get them in a corner somewhere, they burst out with "pluralism" and "diversity." Where is there more pluralism and diversity than in the 107,000 public schools in America, administered by 16,000 elected school boards? Are you going to get that pluralism in the church school?

Let us be honest. If I wanted to compare, say, my public school in Charleston, S.C., with a public school in Washington, D.C., I probably would find there was great diversity between the two. If I wanted to find a similarity, I could take a parochial school in my hometown and a parochial school here, and find that similarity.

I know where you would find the sameness: At Andover, Phillips Exeter, Lawrenceville, and St. Paul, with endowments of $50, $60, $57 and $45 million.

Hog it all? Who is hogging it all? We cannot get the benefits. They give them all to the rich. They give them all to the private schools. Public schools are open to everyone, but, in the name of equity and justice, they want you to put in tax money that goes to a church school or a private school—and they have admission policies. They have selectivity.

I have one person on my staff who graduated from a Catholic elementary and a Catholic high school, and if I have to produce the witness, I will give the empirical evidence the Senator from New York wants. Not one black was in that parochial school during her elementary or secondary school years. That is historically the way it has been. Let us be honest with each other.

Who gets into the schools? I told yesterday of my experience in trying to get my boy into St. Albans. They said, "Your son is all right, but we are looking for some young lads with voices. We have a famous choir." That is their right; that is fine. My boy sounded like his daddy. He sounded lousy. He did not have any voice, so we did not get him into St. Albans.

We went to another school. They said, "We have enough children of Congressmen and Senators." They must have known something about us Senators long before the Roper poll and the Louis Harris poll, about the public disregard for Congressmen and Senators. They told me this 12 years ago. This is a very perceptive school in the city of Washington. They have admissions policies.

The bill has the public giving public money where there is no control whatsoever.

On top of this, they talk of competition. When they get through with diversity and pluaralism, then they jump to competition. Let us talk about the fairness of this kind of competition.

In 1965, when we passed the Equal Educational Opportunity Act, the States and localities said, "Look, we don't have the money." So we said, "All right. We passed the Elementary and Secondary Education Act. We gave them Title I for the disadvantaged, and title IV."

Then we came under section 504 of the Vocational and Rehabilitation Act, and the distinguished senior Senator from West Virginia is familiar with this one. The senior Senator from West Virginia was a leader, and has been a leader for many years, with respect to the vocational and rehabilitation program.

We gave assistance to the handicapped. Then the bilingual. We said, "Congress mandates bilingual capabilities in the public education system of America." This was because, for example, many Spanish-speaking kids came in and did not have the understanding or comprehension to obtain an education, to receive the curriculum. So we did this on bilingual education.

Imagine the public schools, over here in the corner. We are getting ready for the contest to compete. The public schools are weighted down by the requirements of Congress and the Supreme Court of the United States—the Law decision on bilingual, the Swann decision on equal education opportunity, and so on. Having been weighted down in the corner with all these requirements, we have to take the difficult problem; we have to take the unprepared; we have to take the handicapped; we take them all, going right down the line.

Then, having been burdened by all these, Congress is now supposed to say, "we need a little diversity, a little pluralism, and a little competition, so we are going to give a little money to the private schools that do not have any of that."

What kind of competition are they talking about? You have your hands tied behind your back while you try your admirable best on the local level.

The people of California, after voting for proposition 13, were polled. They were asked, "What are you going to cut out?" They said, "Cut down on some of that bureaucracy at city hall. Cut down even on the police protection and the fire protection. But, last of all, do not interfere with public education."

People are supporting the public schools. One Senator said on yesterday they were in terrible shape; we have discipline problems and all the rest.

When I was in school and when the Senator from West Virginia (Mr. RANDOLPH) was there, they could cane you and toss you out. The private school does not toss you out. The private school does not let you in in the first place. They are selective. It has done pretty good. You do not even get in. You get suspended quick in private education. But now under public education the policy is, under the national Congress, do not suspend the child, keep the door open, and let us work with the child.

I think that is commendable.

Let us try our best. But as we try, let us not cut and run. When they do have

that problem child, it is not a deterioration.

The contrary is true. We are paying public school teachers better. The programs are now getting back to the basics. We are having public support for public education. And I refer only, if I may, to the letter of the coalition to see those who understand public education and what the issues are. You cannot often get people in this fragmented society to get together on anything. You just really cannot.

The farmers come up and they bring billygoats in your office, sit down and demand, "you vote for this Senator or I strike. One hundred percent parity, or nothing."

Everyone comes in. They want to strike. I was here earlier this year with a hearing before my Subcommittee on State, Justice, and Commerce, and the FBI was out there striking. The doctors downtown in Washington were striking. Everyone strikes.

Is it not interesting that we now have an issue upon which the public generally can come together as a coalition? There are the American Association of Colleges for Teacher Education.

American Association for Health, Physical Education, and Recreation.

American Association of School Administrators.

American Civil Liberties Union.

American Ethical Union.

American Federation of State, County, and Municipal Employees.

American Federation of Teachers, AFL–CIO.

American Humanist Association.

American Jewish Congress.

Americans for Democratic Action.

American United for Separation of Church and State.

A. Philip Randolph Institute.

Association for International Childhood Education.

Baptist Joint Committee on Public Affairs.

Coalition of Labor Union Women.

Council for Educational Development and Research.

Council for Exceptional Children.

Council of Chief State School Officers.

Council of Great City Schools.

Division of Homeland Ministries, Christian Church (Disciples of Christ).

Federal Education Project of the Lawyers Committee for Civil Rights Under Law.

Horace Mann League.

Labor Council for Latin American Advancement.

League of Women Voters.

National Association for the Advancement of Colored People.

National Association of Elementary School Principals.

National Association for Hearing and Speech Action.

National Association of Secondary School Principals.

National Association of State Boards of Education.

National Coalition for Public Education and Religious Liberty.

National Committee for Citizens in Education.

National Congress of Parents and Teachers.

National Council of Churches.

National Council of Jewish Women.

National Council of Senior Citizens.

National Education Association.

National School Boards Association.

National Student Association.

National Student Lobby.

National Urban Coalition.

National Urban League.

Student National Education Association.

Union of American Hebrew Congregations.

Unitarian Universalist Association.

United Auto Workers.

United Methodist Church, right on down the line from every angle.

Again I quote my friend in his debate. He says when you pose this, and I quote the Senator from Oregon on yesterday:

> It is an anti-Catholic bigotry that has existed in this country for the better part of a century and a quarter, at least in the school system, and continues to exist in the minds of many people today.
>
> The irony today is that it is no longer just anti-Catholic. It is anti-religious. . . .

Mr. President, it is not that at all. The groups I have just named destroy that argument.

What we point to is what Justice Douglas and others said about public education. Earlier in the history of this country, when he was talking and writing in his famous document, and this is one of the real liberals and minds of our time, Justice Douglas said:

> Horace Mann, the educator, once said that this law laid the foundation of the present system of free schools. The idea of an educational system that was at once both universal, free, and available to all the people, rich and poor alike, was revolutionary. This is the great thing about America. No other nation ever had such an institution. Three centuries later it is a stranger to the bulk of the people of the world. The free public school system which puritans conceived has been in large measure the secret of America's success. In these classrooms children of all races, nationalities, and tongues learned a common language and became imbued with one central idea, the American conception that all men are created equal, that opportunities are open to all, that every minority, whether respected or despised, has the same guaranteed rights as the majority. Parents who landed here often brought with them the antagonisms, the rivalries, the suspicions of other continents, but their children became one and united in pursuit of a democratic ideal.

If there is any meaning to the United States of America there it is in that little paragraph by Justice Douglas. It tells us what we are really concerned about. The Senator from Arkansas and I, both with experience in our own States, have tried to maintain our way of life, we have tried to maintain the integrity of the law of the land, the constitutional decrees of Brown against Board of Education, and all the other decisions, that there be a unitary school system, that we have the different programs in order to bring about equality within education. And the public schools have been through a traumatic state in the last 20 to 25 years, but they are stabilizing, they are rebuilding. We are bringing back discipline. We are getting parental interest, and we are working hard because we share the thoughts Justice Douglas described so eloquently.

Instead, in the name of diversity, pluralism, justice and equity, the other side wants to start rewarding the protest schools, and we know exactly what that means.

We have some pretty good ones. The parents have every right in the world to send their children there. That is their privilege. It is not our position here to deter that kind of freedom of choice. They can choose any private school they want, and they have my respect. That is their business with their children, and I am never going to try to get in between a parent and his child. But do not come to the Senator from South Carolina and say, "Senator, we want you to take public tax moneys and finance this," because we went from some 30 private schools 20 years ago in my State to 207. They broke out like measles. They have had now about a 10-year trial period, and they are not working out too well. There is just not that much money. They never talk about the budgetary implications there. But there is not that much money to finance a dual school system.

The little schools and the academies did not have moneys for gymnasiums. They did not have moneys then for a library. They did not have moneys for a physics or science lab and as a result they are not giving as well-rounded an education. They are not giving all that diversity they are talking about.

Senator MUSKIE talked about the Trojan horse yesterday. It looked like a nice gift, shiny in broad daylight and so appealing, but then when dark came, the horse opens up and there is a foot in the door, and you have on your doorsteps a budget buster. Every fact and figure that we have from the Budget Committee shows it is a budget buster.

I ask unanimous consent to have printed in the RECORD a letter, dated August 10, with an enclosure and stated amounts from the Congressional Budget Office.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 10, 1978.

Hon. ERNEST F. HOLLINGS,
Committee on the Budget,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLINGS: In response to our meeting yesterday, we have estimated the costs of the proposed tax credit (H.R. 12050) if it were fully operational in fiscal year 1978. The total costs due to the inclusion of elementary and secondary education would have been $1.15 billion or $217 per student enrolled in private schools.

In fiscal year 1978, federal education grant programs provided $115 and $61 per student in public and private elementary and secondary schools, respectively (see attached Table 1). If the tuition tax credit had been fully operational in that year, total federal support would have been $115 and $278 per student in public and private schools, respectively.

Support for education also results from the tax expenditures associated with the tax deductibility of state and local tax payments and charitable contributions to schools. Esti-

mates of the levels of these tax expenditures are, however, highly uncertain. If this support is added to support from current grants and the proposed tax credit, the federal support per student would be $229 and $325 in public and private schools, respectively (see attached Table 2).

We enjoyed meeting with you yesterday. Should you need further assistance, do not hesitate to call.

Sincerely,

DAVID S. MUNDEL,
Deputy Assistant Director for Human Resources and Community Development.

TABLE 1.—*Direct Federal support for elementary-secondary education by type of school (dollars per student in fiscal year 1978)*

	Public	Private
Direct Federal outlays[1]	115	61
Proposed tax credit (H.R. 12050)[2]	0	217
Total direct support	115	278

[1] Includes all programs within budget subfunction 501 (Elementary-Secondary Education) except Human Development Services Programs (Head Start, etc.) and the postsecondary portion of vocational education support. Library programs and special projects funds are also included.

[2] Assumes that H.R. 12050 would be fully operational in FY 1978. If enacted as currently drafted, H.R. 12050 would have no elementary and secondary costs in FY 1978.

TABLE 2.—*Total Federal support for elementary-secondary education by type of school (dollars per student in fiscal year 1978)*

	Public	Private
Direct Federal outlays[1]	115	61
Proposed tax credit (H.R. 12050)[2]	0	217
Total direct support (excluding existing tax expenditures)	115	278
Current tax expenditures (estimate)	114	47
Total support	229	325

[1] Includes all programs within budget subfunction 501 (Elementary-Secondary Education) except Human Development Services Programs (Head Start, etc.) and the postsecondary portion of vocational education support. Library programs and special projects funds are also included.

[2] Assumes that H.R. 12050 would be fully operational in fiscal year 1978. If enacted as currently drafted, H.R. 12050 would have no elementary and secondary costs in fiscal year 1978.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. RANDOLPH. Mr. President, will my knowledgeable friend from South Carolina yield?

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. I do not gather from your remarks that you are against collegiate and university education that is private or church-related?

Mr. HOLLINGS. The Senator's impression is correct. I am not talking to higher education. The fact is, the RECORD will show, that the Senator from South Carolina has supported and voted for tuition tax credit for higher education at least four times.

Mr. RANDOLPH. I think over and over again this point must be made——

Mr. HOLLINGS. Yes.

Mr. RANDOLPH [continued]. By you, because here there are two strata of help, is that correct, that are involved?

Mr. HOLLINGS. That is exactly correct, two strata of help involved, differentiated in fact and in law. The lower strata is no impact on religion. Look at the facts in the universities, look at the Lutheran colleges, look even at the Catholic universities, look at the various church schools, Trinity University, Duke, look at Furman, the Baptist school.

We found yesterday, for example, that the student body complement at Furman University is somewhere less than 40 percent made up of Baptists, so they are not of the one religion. The faculty is not in habit or garment, there is no nun or priest within the order. On the contrary, the majority of the faculty could be of any religion.

The emphasis, unlike elementary and secondary schools, is not on the catechism or the principles and precepts or faith of the Catholic or other church faith. On the contrary, you can go all the way through these particular church colleges that you talk about and never take a particular church or religion subject. You can get a degree.

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. HOLLINGS. Wait a minute, I am not finished. I am not going to yield now.

So you get that particular difference in higher education not because just of impressionability. The Supreme Court found that particular age, children did not have the impressionability that people of the age in elementary and secondary schools have.

You know, it is tough for you and for me—you had a son in college and I have had three children in college already—and it is hard to keep up and pay the bills, without wondering about what is going on in their minds. You are just like a tenth-round boxer. So impressionability is not there.

You can take little children and come up to me and I will teach them Bible school lessons in a parochial school. You cannot take that college student, unless he learns otherwise, and teach him the same way. So you do not have the impressionability.

Then, finally going to the makeup of the entire student body, 80 percent of those in higher education are in the publicly supported, in State, local, universities, and colleges of one kind or another. Less than 20 percent are in the so-called church colleges; whereas 85 to 95 percent in private elementary and secondary education are in the parochial schools. So the money given is obviously money that impacts upon a religion at the elementary and secondary level. The money given at the higher level obviously does not impact upon a religion, and that is the finding in the GI bill of rights.

Mr. RANDOLPH. Well, the Senator make a very important point in connection with the primary and secondary education, and his percentages as contrasted with the collegiate levels of education. This is very important.

Mrs. Randolph and I have not had one son but two sons in college, and we understand the problems that parents have. I do say we are glad to report here—and, perhaps, it is not a part of the record, it is too personal—that our two sons were working their way through college, sir, as perhaps was your son and other sons.

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. In connection with the college with which I have had a particularly close affiliation, it was principally founded by my grandfather, who had only five winters of schooling. That is all he had, did Jesse Randolph. Yet he rode horseback through the valleys and over the hills to bring into being a college.

We must remember that in the State of West Virginia in earlier days we did not have our university system, we did not have our State college system, we did not have our community system of schools with 2 years of training, but we did have those persons who are, let us say, members of certain religious organizations who were realizing that it was very, very important not to work upon the creed of a particular denomination but there was, sir, the responsibility of church people to bring an independent college into being.

So that happened in West Virginia. It happened in South Carolina. Today, of course, the figures of the enrollments are with the State-supported institutions. But even though it is apart from what the Senator is saying or others may say here today, I am a strong believer in higher education, in the independent or the church-related institutions of learning. I believe that is very important in our country.

I think we lose something if we simply rely upon public-supported universities and colleges and the junior colleges. I think these independents, so-called church-related, colleges as they began but are more independent now in nature, that there is a very important place they have to fill.

Today many families, parents and students alike, are searching for alternatives to the assembly-line teaching of many thousands of young people who are ill-equipped to go on to higher education or to enter the work force. They are searching for schools where the ratio between faculty and student is small, where there is a personal contact between student and scholar. They search for institutions where there is an emphasis on scholarship, on character and integrity, and where there will be equal opportunities for all.

If diversity in our society is a virtue, and most assuredly it is, then it is surely a continuing necessity that we work together to see that it survives.

I join with my colleague (Mr. HOLLINGS) in supporting this amendment which would eliminate the provision for tuition tax credit as it would apply for elementary and secondary schools. I believe that we must find ways to

strengthen and maintain our system of private education at the elementary and secondary level, but I do not feel that this proposed legislation is a realistic way of approaching the problem at this time. To promote a true diversity in our education system and maintain the standards of excellence which we desire will require the collective efforts of the Members of Congress. All segments of our society must work to achieve an equitable and effecitve solution. Does the Senator agree?

Mr. HOLLINGS. I definitely agree. There is not any question about it. I appreciate the place they do fill. I just do not think it is our responsibility, I think we would be remiss in our responsibility, if we started to interpose the Federal Government.

Our President ran on a program of getting away from bureaucracy, Washington control, Washington involvement, and Washington regulations. On that particular score that is one reason why the Council of Churches feels as it does, and the same applies to the various organizations, whether they be Presbyterian, Methodist, or Baptist, all down the line. When the Roper Survey came out the week before last it showed two-thirds of all Americans opposed the private elementary and secondary tax credit. And it found that of the Catholic citizenry of this land, only 43 percent favored tuition tax credits for elementary and secondary parochial schools, while 48 percent opposed tuition tax credit for the elementary and secondary parochial schools.

So when we talk about the people, the people know and appreciate this. They do not want government interfering with their parochial school and their private school system. They enjoy it and they appreciate it. But there are a few who have become overzealous about the Democratic Party platform, and a few other things, who keep running up here trying to have a misreading of history—they call it a fair reading of history. It is a misreading of history.

I am trying to yield—I thank the Senator very much.

Mr. RANDOLPH. I have not finished.

Mr. HOLLINGS. No, I appreciate the contribution the Senator is making to the dialog.

Mr. RANDOLPH. I shall be very brief.

Mr. HOLLINGS. Yes.

Mr. RANDOLPH. The two sons I have mentioned that Mrs. Randolph and I have had in the college and university level of education, both of those young men as they went through the primary and secondary, that is the grade and the high schools, were in the public sector. The Senator understands that?

Mr. HOLLINGS. That is right.

Mr. RANDOLPH. We believed in that.

Mr. HOLLINGS. That is right.

Mr. RANDOLPH. Then we believed when they came, if they so desired and we so desired, in the collegiate and university level of education that that was a decision that would be made as to whether it would be a public university supported by public funds or whether it would be an institution of whatever type, whether it is Salem College or Yale University or what-not, and that is the way it should be; is that correct?

Mr. HOLLINGS. That is correct. I agree with the Senator.

Mr. RANDOLPH. One further question.

Mr. HOLLINGS. I welcome it.

Mr. RANDOLPH. The Senator talked about everybody striking. That was an expression the Senator used.

Mr. HOLLINGS. That is right, I feel it and I see it.

Mr. RANDOLPH. And only because the Senator expressed alarm, depart from the primary educational problem. Would the Senator tell us, does he believe that public employees have the right to strike?

Mr. HOLLINGS. No, sir; I do not.

Mr. RANDOLPH. I thank the Senator. I believe as he believes.

Mr. HOLLINGS. I thank the distinguished senior Senator from West Virginia (Mr. RANDOLPH). He has been in the Halls of Congress since 1933.

Mr. RANDOLPH. It has been a challenging time.

Mr. HOLLINGS. JENNINGS RANDOLPH was a college professor when he was first elected to Congress. He was a dean of a university and served as a college trustee for over 50 years. He has served in private industry with distinction.

He came to the Senate in 1958, is on the Education Subcommittee. Our colleague has been an active sponsor of legislation for educational and training opportunities. He has been effective in the formulation and passage of such landmark legislation as the Elementary and Secondary Education Act, the Higher Education Facilities Act, the Library Services and Construction Act, the Education for the Handicapped Act, and others.

Probably no Member of Congress is better equipped by experience and expertise for the tasks he has undertaken. His comment on this particular subject is exceedingly helpful to both sides of this issue.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. HOLLINGS. Yes; I yield the floor to the Senator from Virginia.

Mr. SCOTT. I appreciate very much the Senator's yielding.

Certainly, Mr. President, I support the amendment of the distinguished Senator from Arkansas as amended by the amendment of the distinguished Senator from South Carolina. However, I do rise in opposition to the bill before us without these amendments.

I have in the past cosponsored tax credits to assist parents with college expenses, and I heard the distinguished Senator from West Virginia speak of his own children. Such a measure would not benefit me personally; I am rather proud of my own three children having a total of 55 years in school between them, all of them graduates of a State-supported school, the College of William and Mary, but then going to different schools for graduate study, the older daughter going to Cornell University and the two boys to the law schools, one at William and Mary and one at the University of Virginia.

So I know, as other Senators know, that whether they go to a private school or to a public school, there are expenses in connection with sending your youngsters through college. But I have a little reservation, even, about this bill, that portion, now, because it looks as though some would use it as a vehicle to obtain tax credits for elementary and secondary tuition.

The bill presently before us, providing assistance for parents who send their children to private or parochial elementary or secondary schools, in my opinion would be expanded over the years to increase the amount of aid, in the event it should be found valid by the Supreme Court.

All parents have the right, in my judgment, to determine whether their children should attend the public school system or attend either a private or a parochial school. I am in agreement with their right to make that determination. However, the public school system, supported by tax funds, is available to all children, regardless of their political persuasion, regardless of their race or their ethnic background. To me, it would be unreasonable for taxpayers who support a public system of education also to be required to contribute to the cost of the education of children whose parents prefer to send them to a private or a parochial school.

There is no doubt that the cost of maintaining three different systems of education—and I believe we do have to think of this as three different systems, the private school system, the parochial school system, and the public school system—at public expense would be greater than the cost of maintaining one unified system for all of the children whose parents choose to send them to the public school.

In the Nyquist case, involving tax credits, the Supreme Court, at page 797, referred to the initial cost, and indicated that the programs start at modest levels, but that long experience with those Federal and State governments indicated that aid programs of any kind tend to become entrenched, to escalate in cost, and to generate their own aggressive constituencies; and that the greater the class of recipients of aid, the greater the pressure for accelerated increases.

Moreover, the State itself, concededly anxious to avoid assuming the burden of educating children now in private and parochial schools—may we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Senate will be in order.

The Senator from Virginia may proceed.

Mr. SCOTT. Moreover, the State itself, concededly anxious to avoid assuming the burden of educating students now in private and parochial schools, has a strong motivation for increasing this aid as public school costs rise and population increases.

In this situation, where the underlying issue is the deeply emotional one of church-state relations, the potential for seriously divisive political consequences needs no elaboration.

It is interesting to note that pages 23 and 24 of the bill provide for an expedited review of the constitutionality of the educational expense credit, including an appeal to the Supreme Court, while at the same time the first section of the bill, section 1(b), entitled "Declaration of Policy," indicates that the Congress further finds that the provision of such assistance in this manner fully complies with all the provisions of the Constitution of the United States, that it does not constitute excessive Government entanglement with religion, that it is wholly secular in purpose, and that such assistance will neither advance nor hinder religion.

It also appears unusual that the findings of the Congress fly in the face of the opinion of Attorney General Bell that the measure is unconstitutional.

If it is wholly secular in nature, it seems unusual for Catholic priests, from the pulpit, to be urging their congregations to contact their Senators, to obtain favorable votes on this legislation.

Mr. President, I am well aware of the Packwood amendment being adopted last night, that would eliminate portions of the objectionable feature, and the fact that the amendment before us by the Senator from South Carolina would in itself tend to eliminate part of this. But I had not known. The distinguished Senator from Oregon mentioned that he has always dealt fairly, and that he has never taken anybody by surprise. I had already prepared my remarks with no knowledge, no indication that there would be a change in this bill. I do thank the distinguished Senator, however, for eliminating a congressional finding of constitutionality, because in my judgment the courts, regardless of the findings of Congress, will make their own determination as to whether a measure enacted by Congress is a violation of the Constitution or not.

Of course, there are faults in our public schools, as is true in the case of every public and private institution, and I would hope that we would work to improve the quality of education. Yet the American public school system is a cornerstone of our Republic. It has contributed mightly to national stability, to equality, to greatness. For roughly 150 years our public schools have demonstrated a method of achieving an enlightened and unified citizenry, in assisting the children of those coming to our shores from different lands, from various cultures and religious backgrounds, speaking different languages, and of different intellectual qualities, to become united into one nation. This is part of the traditional American melting pot.

Therefore, it would seem reasonable to me that its preservation should be of vital concern to all Americans.

The sense of community closeness, or equality, is bound to be developed when children attend school together for a period of 12 years, beginning in early childhood. To me this is part of the strength of America; and providing subsidies to encourage parents to remove their children from the public schools will tend to diminish this unity and this strength. We might well ask whether new immigrants coming to our shores will bridge the language difficulties and the cultural differences between their old and their new countries as readily if we weaken the public schools of the country. I am quite aware, Mr. President, that many Members of Congress are disillusioned with teachers sometimes going on strike, with their interests sometimes appearing to weigh more heavily on their own economic welfare than the welfare of the children they teach, of the demands made by the leaders of their unions, by whatever name they may be called; but if we disagree with some of these policies, it would appear that we should attempt to change them rather than to do what may result in irreparable damage to the public school system.

While the public school system has been the melting pot, the place where children from all backgrounds can come together and develop characteristics of good citizens which we feel are laudable, parochial and private schools may emphasize ethnic differences. I would hate to see a classification of Chinese children, or Jewish children, of Italian children, of Spanish children rather than children—American children. Children from throughout the world coming to our shores attending our public schools can develop much more unity than if they are divided along ethnic or religious grounds.

We see an example of this in our neighbor to the north where the French-speaking Province of Quebec is threatening to break away from the rest of Canada. In other words, Mr. President, I disagree with the declaration of policy in the bill that would have Congress declare it to be the policy of the United States to foster diversity and pluralism at taxpayers' expense. Those words are still in the policy statement of the bill. In a different vein, some of the religious leaders who support this bill might consider whether they want to continue the right to govern their parochial schools, to provide textbooks of their own choosing, and to use their own methods of teaching of children rather than to have more policies dictated to them by State and Federal Governments. While the declaration of policy refers to tax credit that will be made available to those schools which fully comply with all the applicable Federal and State laws and requirements, including civil rights provisions, the language is more detailed at page 26 under section 3 entitled "Report on Civil Rights Enforcement by Internal Revenue Service." Does the parent who voluntarily sends his child to a private or parochial school want our Federal Government to exercise the same type of control over those schools as they now exercise over the public schools? Many of the private schools were constructed in order that children could escape some of the regulations affecting the public schools. But if tuition grants or tax credits are commenced and expanded, is there any doubt in the mind of any thinking person that the private and parochial school leaders will not be as free to make decisions governing their schools as they are today?

In the opinion of the Attorney General, S. 2142, the Packwood-Moynihan bill, now included to a large extent in H.R. 12050, is unconstitutional. The Attorney General finds that the establishment clause of the first amendment prevents the Federal Government from making tuition grants or tax credit for nonpublic elementary and secondary education. To support his opinion he relies to a large extent on the cases of *Committee For Free Education* against *Nyguist*, 413 U.S. 756 (1973), and *Sloan* against *Lemon*, 413 U.S. 825 (193), a companion case. The court found the State law examined in these cases to be unconstitutional under the three-part establishment clause tests enunciated in *Lemon* against *Kurtzman*, 403 U.S. 602 (1971).

To be valid the statute must first have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, the statute must not foster an "excessive entanglement with religion." Section 1b of the measure as reported by the committee provides attempts to meet these objectives by merely stating that the Congress finds that such conditions exist under this bill. If Congress had the power to determine the constitutionality of a bill it enacts, there would be no need later on in the bill to have an expedited review of its constitutionality. In fact, the courts would be relieved of part of their judicial duties by action within the legislative branch. But under the division of powers, while an act of Congress is presumed to be constitutional, the ultimate decision is made by the courts.

On the surface, Mr. President, it would appear that the authors of the bill intend to make an unconstitutional measure more palatable by stating that Congress finds that it is constitutional. I had intended to offer my amendment No. 3461 at a later time to strike section 1B, the declaration of policy provision, and to permit the Court to determine whether or not the bill, in all of its ramifications, is valid or invalid. I believe the Court will do this in any event but why should we attempt to hamstring the Supreme Court of the United States in the performance of a judicial function? There may still be objectable features in 1(b) even with the Packwood amendment.

I believe the amendment by the distinguished Senator from South Carolina, if adopted, will eliminate this and it will not be necessary for me to offer my own amendment. But should that be defeated, then I do propose to offer the amendment.

During the past decade, I believe every legislative effort, both State and Federal, to give aid to parochial schools beyond the furnishing of text books and transportation has been held invalid. The question of tax credits or tuition grants to parochial schools by the State of New York was decided to be invalid by the Supreme Court in the Nyquist case and on page 785 of its opinion, the Court refers to the various ingenious plans for channeling State aid to sectarian schools that periodically reach this Court.

On page 790 of the same opinion, the court indicates that "constitutional an-

alysis is not a legalistic minuet in which precise rules and forms must govern, instead we must examine the form and the relationship for the light it casts on the substance."

At page 792, the Nyquist case states:

Indeed it seems clear that tax benefits for parents whose children attend parochial schools are a recent innovation, occasioned by the growing financial plight of such nonpublic institutions and designed, albeit unsuccessfully, to tailor state aid in a manner not incompatible with the recent decisions of this court.

It seems obvious that the bill before us, and especially section 1b, the declaration of policy provision, is tailored to meet decisions of the Supreme Court that direct or indirect aid to parochial schools in the form of tuition grants or tax credits at the elementary or secondary school level is contrary to the establishment clause of the Constitution. Again, it appears unworthy of what we like to believe is the greatest deliberative body in the world to attempt to foist an unconstitutional law upon the courts and the American people by labeling it constitutional.

Before discussing recent cases to a greater extent, it might be well to reflect a bit on the first amendment. We often times hear about first amendment rights as they pertain to freedom of the press, but the amendment begins:

Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

A Virginian, James Madison, played a major part in the drafting of this amendment, although, he is understood to have been influenced by Jefferson, who believed that the bill provided a wall of separation between church and state.

Mr. President, that should read "bill" because I am talking about the Virginia Statute of Religious Freedom. I am perhaps more partial to that, it being something that is a part of the law in my own State and something that was put together by two prominent Americans, Madison and Jefferson, both of whom happened to be Virginians.

A portion of the Virginia Act of Religious Freedom after the enacting clause reads as follows:

That no man shall be compelled to frequent or support any religious worship, place of ministry whatsoever, nor shall be enforced, restrained, molested, or burthened, in his body or goods, nor shall otherwise suffer on account of his religious opinion or belief; but all men shall be free to profess, and by argument, to maintain their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

The act, of course, has not been changed or repealed and indeed has been reaffirmed time after time, the most recent affirmation, I note, being in 1919. However, a similar provision is embodied in the State constitution.

Over the years, the portion of the first amendment of the Federal Constitution relating to separation of church and state, and especially the establishment clause, has been subject to judicial interpretation, and been subject to some changes as the membership of the Court changed. Perhaps it would be well to review this before returning to the latest cases.

The explication of the religion clauses by the scholars has followed a restrained sense of their meaning. Story thought that—

The right of a society or government to interfere in matters of religion will hardly be contested by any persons, who believe that piety, religion, and morality are intimately connected with the well being of the state, and indispensable to the administration of civil justice.

Story, in his "Commentaries on the Constitution of the United States" looked upon the prohibition simply as an exclusion from the Federal Government of all power to act upon the subject. He said:

[Footnotes not included.]

The situation . . . of the different states equally proclaimed the policy, as well as the necessity of such an exclusion. In some of the states, episcopalians constituted the predominant sect; in others, Presbyterians; in others, Congregationists; in others, Quakers; and in others again, there was a close numerical rivalry among contending sects. It was impossible, that there should not arise perpetual strife and perpetual jealousy on the subject ecclesiastical ascendancy, if the national government were left free to create a religious establishment. The only security was in extirpating the power. But this alone would have been an imperfect security, if it had not been followed up by a declaration of the right of the free exercise of religion, and a prohibition (as we have seen) of all religions tests. Thus, the whole power over the subject of religion is left exclusively to the state governments, to be acted upon according to their own sense of justice, and the state constitutions; and the Catholic and the Protestant, the Calvinist and the Armenian, the Jew and the Infidel, may sit down at the common table of the national councils, without any inquisition into their faith, or mode of worship.

"Probably," Story also wrote, "at the time of the adoption of the constitution and of the amendment to it, now under consideration, the general, if not the universal, sentiment in America was, that Christianity ought to receive encouragement from the state, so far as was not incompatible with the private rights of conscience, and the freedom of religious worship. An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation." The object, then, of the religion clauses was not to prevent general governmental encouragement of religion, of Christianity, but to prevent religious persecution and to prevent a national establishment.

Before considering the development of the two religion clauses by the Supreme Court, one should notice briefly the tests developed by which religion cases are adjudicated by the Court.

While later cases rely on a series of rather well-defined, if difficult-to-apply, tests, the language of earlier cases "may have been too sweeping utterances on aspects of these clauses that seemed clear in relation to the particular cases but have limited meaning as general principles."[10] It is well to recall that "the purpose [of the religion clauses] was to state an objective, not to write a statute."

In 1802, President Jefferson wrote a letter to a group of Baptists in Danbury, Connecticut, in which he declared that it was the purpose of the First Amendment to build "a wall of separation between Church and State."[12] In *Reynolds* v. *United States*,[13] Chief Justice Waite for the Court characterized the phrase as "almost an authoritative declaration of the scope and effect of the amendment." In its first encounters with challenges to state programs on religious grounds, the Court looked to Jefferson's metaphor for substantial guidance.[14] But a metaphor may obscure as well as illuminate and the Court soon began to emphasize neutrality and voluntarism as the standard of restraint on governmental action.[15] The concept of neutrality, though, is a coat of many colors,[16] and three standards which could be stated in objective fashion emerged. The first two standards were part of the same formulation. "The test may be stated as follows: what are the purpose and the primary effect of the enactment? If either is the advancement or inhibition of religion then the enactment exceeds the scope of legislative power as circumscribed by the Constiution. That is to say that to withstand the strictures of the Establishment Clause there must be a secular legislative purpose and a primary effect that neither advances nor inhibits religion."[17] The third test is whether the governmental program results in "an excessive government entanglement with religion. The test is inescapably one of degree . . . [T]he questions are whether the involvement is excessive, and whether it is a continuing one calling for official and continuing surveillance leading to an impermissible degree of entanglement."[18] The Justices disagree among themselves on the results of the applications of these tests and the fact that the tests have evolved over time means that the cases do not follow a consistent line of development. Nonetheless, evaluation of the results of each case and of its continuing vitality in the light of later decisions is somewhat easier with the tests in mind. Finally, the Court has established one distinct difference between establishment cases and free exercise cases; in the latter but not in the former, a challenger must demonstrate the coercive effect of a policy or enactment in order to prevail.[19]

We are speaking of a portion of the first amendment: Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. I continue:

One value which both clauses of the religion section serve is to enforce governmental neutrality in deciding controversies arising out of religious disputes. It will often be the case that schism will develop within churches or between a local church and the general church, which will result in secession or expulsion of one faction or of the local church. A dispute over which body is to have control of the property of the church will then often be taken into the courts. It is now established that both religion clauses prevent governmental inquiry into religious doctrine in settling such disputes and contrarily require courts to look simply to the decision-making body or process in the church and to give effect to whatever decision is officially and properly made.

The first such case was *Watson* v. *Jones* which was decided on common-law grounds in a diversity action without explicit reliance on the First Amendment. A constitutionalization of the rule was made in *Kelroff* v. *St. Nicholas Cathedral*, in which the Court held unconstitutional a state statute that recognized the autonomy and authority of these North American branches of the Russian Orthodox Church which had declared their independence from the general church. Recognizing that *Watson* v. *Jones* had been decided on nonconstitutional grounds, the Court nonetheless thought that the "opinion radiates . . . a spirit of freedom for religious organizations, and independence from secular control or manipulations—in short, power to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." Then, in a 1969 case, the

Court severely circumscribed the power of state courts to resolve church property disputes. "First amendment values are plainly jeopardized when church property litigation is made to turn on the resolution by civil courts of controversies over religious doctrine and practice. If civil courts undertake to resolve such controversies in order to adjudicate the property dispute, the hazards are ever present of inhibiting the free development of religious doctrine and of implicating secular interests in matters of purely ecclesiastical concern . . . The Amendment therefore commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrines." What a court must do is to look at the church rules; if the church is a hierarchical one which reposes determination of ecclesiastical issues in a certain body, the resolution by that body is determinative, while if the church is a congregational one prescribing action by majority vote that determination will prevail. Courts may, however, make a limited or marginal inquiry to determine the legality of the actions taken, whether church rules have been complied with. Whatever rule is applied must be one which is neutral with regard to the content of religious doctrine.

"[F]or the men who wrote the Religion Clauses of the First Amendment the 'establishment' of a religion connoted sponsorship, financial support, and active involvement of the sovereign in religious activity." However, the Court's reading of the clause has never resulted in the barring of all assistance which aids, however incidentally, a religious institution. Outside this area, the decisions generally have more rigorously prohibited what may be deemed governmental promotion of religious doctrine.

Several recent decisions make clear that the discretion of state and federal bodies to assist financially sectarian elementary and secondary schools is quite limited; at the same time, the Court's prior disposition to allow a greater discretion when colleges affiliated with religious institutions are aided has been reaffirmed.

Mr. President, at the Department of Justice, I had a secretary for a number of years who was from Massachusetts. She mentioned to me that she was a graduate of Boston University. I said, "Well, that is a Methodist school." She argued with me that it was not affiliated with any church.

Here was a young lady who had spent 4 years at a church-related school and was not even aware that the school was church-related. I think that adds a little credence to the suggestion that there is a difference between young people at the elementary and high school level and the more mature students at the college level.

Returning to the notes:

Moreover, these decisions reveal a division of opinion among the Justices upon the application of two of the three tests developed in past litigation to provide "helpful signposts" in the resolution of concrete controversies. *Hunt* v. *McNair* 413 U.S. 734 at page 741 (1973).

In Committee for Public Education against Nyquist—this, to me, is the leading case on the matter before us—reported at 413 U.S. 556, it is indicated that—

A secular purpose is the first requirement to sustain the validity of legislation touching upon religion and upon this requirement the Justices were united; state desire to preserve a healthy and safe educational environment for all of its school children, state interest in promoting pluralism and diversity among its public and nonpublic schools, and state concern to prevent an overburdening of the public school system that would accompany the financial failure of private schools provided adequate legitimate, nonsectarian bases for the legislation under review. Upon the tests of secular primary effect and church state entanglement, however, varied views were expressed. Thus, Chief Justice Burger, in dissent, argued that "government aid to individuals generally stands on an entirely different footing from direct aid to religious institutions." Direct aid to institutions may involve government in assisting the religious institutions sectarian functions and to avoid this impermissible primary effect necessitates the imposition of governmental monitoring and reviewing activities leading to an impermissible entanglement of state with church.

Justice Powell, speaking for the Court, denied any controlling significance to the delivery of funds, either directly in grants or indirectly in tax credits, to parents rather than to schools. Delivery to parents is only one factor among many to consider. The controlling question is whether government has established "an effective means of guaranteeing that the state aid derived from public funds will be used exclusively for secular, neutral, and nonideological purposes." Grants directly to religious schools would be invalid without such a guarantee and no reason existed for treating differently aid to parents "when the effect of the aid is unmistakably to provide desired financial support for nonpublic, sectarian institutions."

Substantial unanimity, at least in result, prevailed among the Justices in dealing with direct financial assistance to sectarian schools, as might have been expected from the argument over the primary effect test. Thus, a state program to reimburse nonpublic schools in the State for a variety of services mandated by state law was struck down because the statute did not distinguish between services, some secular and some potentially religious, the costs of which would be reimbursed.[7] Similarly, a program of direct money grants to nonpublic schools to be used for the maintenance of school facilities and equipment failed to survive the primary effect test because it did not restrict payment to those expenditures related to the upkeep of facilities used exclusively for secular purposes and because "within the context of these religion-oriented institutions" the Court could not see how such restrictions could effectively be imposed.

Two other programs of assistance that went to private, including sectarian, schools were struck down in *Meek* v. *Pittenger*. First, legislation authorizing the loan of instructional material and equipment directly to qualifying nonpublic elementary and secondary schools in the State was voided as an impermissible extension of assistance to religion. This conclusion was reached because 75 percent of the qualified schools were church-related or religiously affiliated educational institutions and the assistance was available without regard to the degree of religious activity of the schools. The materials and equipment loaned were religiously neutral but the substantial assistance necessarily constituted aid to the sectarian school enterprise as a whole and thus had a primary effect of advancing religion. Second, legislation authorizing the provision of auxiliary services—remedial and accelerated instruction, guidance counseling and testing, speech and hearing services—by public employees on nonpublic school premises was invalidated because the Court thought the program had to be policed to ensure religious neutrality and it saw no way that could be done without impermissible entanglement. The fact that the teachers would, under this program and unlike one of the programs held unconstitutional in *Lemon* v. *Kurtzman*, be public employees rather than employees of the religious schools and possibly under religious discipline was insufficient in the Court's view to permit the State to fail to make certain that religion was not inculcated by subsidized teachers.

Substantially similar tuition reimbursement programs from New York and Pennsylvania were also struck down. New York's program provided out of general tax revenues reimbursements for tuitions paid by low-income parents to send their children to nonpublic elementary and secondary schools; the reimbursements were of fixed amounts but could not exceed 50 percent of actual tuition paid. Pennsylvania provided fixed-sum reimbursement for parents who send their children to nonpublic elementary and secondary schools, so long as the amount paid did not exceed actual tuition, the funds to be derived from cigarette tax revenues. Both programs, it was held, constituted public financial assistance to sectarian institutions with no attempt to segregate the benefits so that religious activities did not receive any.

New York had also enacted a program of tax relief for those parents sending their children to nonpublic schools; relief was available to parents not qualifying for the tuition reimbursements so long as they made less than $25,000 per year and the relief was in the form of fixed sums bearing no relationship to the amounts of tuition paid.

Reading from the opinion in the Nyquist case, the court said:

In practical terms there would appear to be little difference, for purposes of determining whether such aid has the effect of advancing religion, between the tax benefit allowed here and the tuition grant allowed under § 2. The qualifying parent under either program receives the same form of encouragement and reward for sending his children to nonpublic schools. The only difference is that one parent receives an actual cash payment while the other is allowed to reduce by an arbitrary amount the sum he would otherwise be obliged to pay over to the State. We see no answer to Judge Hays' dissenting statement below that "[i]n both instances the money involved represents a change made upon the state for the purpose of religious education."

Mr. President, in summary I believe we should give credence to the opinion of the Attorney General that this proposal is unconstitutional. I believe we should give credence to the most recent Supreme Court cases combined by the Court in 1973, the cases from New York and Pennsylvania, holding tuition grants and credits as unconstitutional violations of the establishment clause of the first amendment. I believe we should give credence to the views of the distinguished chairman of the Budget Committee that this measure would add substantially to the cost of Government and further increase the existing deficit.

In my own judgment, rather than promoting diversity and pluralism within our country, it would appear that we should promote unity. The concept that the United States is a place where people can come from various cultures, various races and religions and over a period of time, under the melting pot concept, become Americans regardless

of their race, color or creed. The public school system, with all of its faults, has served our country well.

I do not believe that we can afford to have the taxpayers finance alternate systems, two additional systems of schools. Certainly those who desire to send their children to private schools for any reason should be entirely free to do so. Certainly those who prefer to send their children to church schools for any reason should be entirely free to do so. This is in accordance with the constitutional concept of religious freedom. We should bear in mind, however, the statistics included within the Attorney General's opinion that the proposed law is contrary to the establishment clause of the first amendment. He indicated current statistics on nonpublic schools nationally show nearly 17 percent of the Nation's elementary and secondary schools are nonpublic.

Of that percentage, 85 percent of the nonpublic schools are religiously affiliated. Citing U.S. Department of Health, Education and Welfare, National Center for Education Statistics, nonpublic school statistics, 1976–77. According to the most recent statistics available, 87.5 percent of nonpublic schools at the elementary level and 70.2 percent of nonpublic schools at the secondary level are sectarian. He continues that although sectarian secondary schools do not dominate nonpublic education to the same extent as sectarian elementary schools, we believe that their numbers are sufficiently substantial that no meaningful distinction between credits for elementary and secondary schools could be drawn.

Mr. President, we are considering a bill that the committee estimates will cost something approaching $10 billion within the next 5 years; and, as the court the court in the Nyquist case:

> Government aid programs of any kind tend to become entrenched, to escalate in cost, and to generate their own aggressive constituencies. The greater the class of recipients, the greater the pressure of accelerated increases.

Quoting again from the opinion of the court in the Nyguist case:

> In this situation, where the underlying issue is the deeply emotional one of church-state relations, the potential for seriously divisive political consequences needs no elaboration. And while the prospects of such divisiveness may not alone warrant the invalidation of state laws that otherwise survive the careful scrutiny required by the decisions of this court, it is certainly a warning signal not to be ignored."

I urge, Mr. President, that the proposal be rejected, that we as Senators attempt by our activities to obtain unity. A United Nation can be far more effective in dealing with both domestic and foreign affairs than a divided nation. Regardless of everything else, this is a divisive bill we have under consideration.

In my judgment, it would be rejected by a vast majority, of Americans if it were put to a referendum of the people of the country. In my judgment, it is contrary to the establishment clause of the first amendment.

Mr. President, I yield the floor.

Mr. BENTSEN and Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas had earlier asked for recognition.

The Senator from Texas.

Mr. BENTSEN. Thank you very much, Mr. President. We do not often have debates in this Senate lately that are really educational for the membership. But I think Senator MOYNIHAN and Senator HOLLINGS have made that kind of a contribution by discussing at some length the merits and the problems resulting from a Federal system of private education.

We have heard an outstanding debate on the constitutional questions and that has carried over for three legislative days.

So I will not continue to pursue that part of the subject.

I shall address my remarks instead to the practical problems today of financing public education.

My cosponsorship of the Hollings amendment stems from a deep sense of disquiet about how this Nation is handling its finite resources. Rather than spreading around some more tax credits, I think we should be concentrating on seeing what we can do to improve public education in this country of ours.

This Nation has long embraced an abiding commitment to first class public education and it is a commitment that has served this Nation well.

It has given us a population equipped to sustain democracy and make a success of freedom. Quality public education is fundamental to the American experience but education today faces severe problems in our own country.

Many of these problems are directly attributable to inflation, to a decreasing tax base, to things like proposition 13.

In Brownsville, Tex., a town of about 60,000 people, we have a school district today that is having to add a schoolroom every 15 days—a schoolroom for the children of legal aliens. Now, by any stretch of the imagination you would not think that the private schools can accept that kind of a burden. When you have the children of legal aliens, who is going to question and who is going to deny that child coming into the schoolroom? The public schools have to accept them.

When I told you they are adding a new schoolroom every 15 days, what kind of a schoolroom is it? It is a temporary schoolroom because that is all they can afford. We have the lowest per capita income in the United States along the Mexican border, a low tax base, not able to handle the situation, and that is where we should concentrate our efforts.

These problems are duplicated a thousand times over in communities across the country, many of them with low tax bases, limited resources, and are suffering from inflation. To the extent that we divert the taxpayers' money to private education, we diminish our ability to fulfill our primary commitment, which is the best possible education for the greatest number of people.

Providing tax credits to pay tuition for private elementary and secondary schools is bad educational policy, and it is bad tax policy. In both instances we will be using general revenues to benefit a small and a generally privileged segment of our population.

The Federal Government, of course, is already assisting public education in the States by funding special targeted educational assistance in areas of special need, and private schools also benefit, although to a lesser degree, from these programs.

We help them on aid to the handicapped, on bilingual education, and other programs. I think that is money well spent, and money that must be spent.

In addressing the Texas Council on Exceptional Children last week I stressed my strong support for such programs. I have in-house counsel on that since my daughter is a teacher in special education, so I admit to some bias on that particular subject.

Mr. President, no one is going to quarrel with the right of a parent to be able to send his child to a private school, just as no one is going to quarrel with the right of a private citizen if he does not want to attend the public schools. While no one is required to swim in the public swimming pools, taxpayers should not have to finance a person's private pool. The right of choice is inherent in everything we stand for in this Nation.

My own children attended both public and private schools. That right of choice, however, does not imply that the American taxpayer should be required to shoulder the financial burden of education at private elementary and secondary institutions.

I would submit that the taxpayers' obligation ends where private education begins. I would submit that we have enough problems in the field of public education without diverting our limited resources into the private sector.

It has been suggested that the tuition tax credits do not really go to the children, that they go to the parents. Now, that really seems to me to be a distinction without a difference, since nothing in this bill would prohibit those private schools from raising their tuition to match whatever the tax credit happens to be.

If the tax credits enable additional children to attend private schools, then I think what we really do is run the risk of a two-tiered educational system, and we saw that two-tiered system in the stock market, and it did not turn out too well, and I do not believe it will work to accomplish the objectives we want for education in this country.

Private schools, heavily endowed, could still pick and choose those children who meet their educational standards. They certainly would not be concentrating on the least advantaged. They certainly would not be taking large numbers of alien children. So I believe such a development would jeopardize one of our most cherished precepts, that of providing a free quality education for all of our children.

If, on the other hand, the tax credit is not sufficient to induce new students into private schools, we will simply have

passed a relief bill for the most financially privileged class of our Nation.

And finally, Mr. President, we should all be aware that the budget implications of elementary and secondary tuition tax credits are astounding. Estimates vary on the cost of the proposal because we simply do not know how many people might take advantage of it. We do, however, know that there will be pressure every year to increase the size of any tax credit that might be enacted. We can also predict with certainty that the public school system would want—and could make a very convincing case for—an equal measure of assistance. While we do not know the exact magnitude of the cost involved, we can safely predict the trend, and it is higher and higher. It would go on and on and on.

I am committed to support education—quality public education that serves the needs of all our people. I can see little merit in a proposal that taxes every American to subsidize the few who chose not to take advantage of public educational facilities. There is just not enough money to go around; not enough money to meet current, pressing public educational needs. The issue is that simple, and it leads me to conclude that tuition tax credits for elementary and secondary education are not a proper form of Federal education assistance.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ANDERSON). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I call up an amendment from the floor and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Objection.

The PRESIDING OFFICER. Objection is heard.

The Senator from Delaware.

Mr. ROTH. Mr. President, as we approach a vote on the Roth-Ribicoff-Packwood-Moynihan tuition tax relief bill, I want to emphasize once again my strong support for elementary and secondary tax credits.

In addition to the rising cost of colleges, the cost of nonpublic elementary and secondary schools has also increased substantially. And as a result, enrollment in these elementary and secondary schools has dropped sharply.

In 1960, 14 percent of elementary and secondary school children attended private and parochial schools. By 1976, only 9 percent of our schoolchildren were attending nonpublic schools.

Between 1965 and 1976, nonpublic elementary and secondary schools lost 1.8 million students. And in 1976, there were 2,246 fewer private schools in existence than there were 10 years ago.

Catholic elementary and secondary schools have been hit especially hard by increasing costs. In the last 10 years, Catholic schools have lost 39 percent of their enrollment, more than 2 million students.

Mr. President, I believe in freedom of choice. I believe parents should be free to choose whether to send their children to a public school or a nonpublic school.

But as the sharp drop in nonpublic school enrollment shows, too many parents no longer have a freedom of choice. In fact, more and more parents are being deprived of the freedom of choice to send their children to nonpublic schools by a government which takes more of their own earnings through higher taxes and inflation.

I believe a tuition tax credit will restore freedom of choice to the millions of American families who are struggling to pay both nonpublic school tuition and higher taxes for public schools.

Mr. President, I am a strong supporter of public schools. I personally am a product of public school education, and my two children attend public schools in Delaware.

I do not believe the tuition tax credit will destroy our public schools. The Federal Government will spend $15 billion this year in support for public elementary and secondary schools. Government at all levels will spend $73 billion this year on public elementary and secondary schools.

At the Federal level, Federal assistance for public elementary and secondary schools amounts to $352 per pupil. Total government support per public school student is about $1,400 per student.

According to the Joint Committee on Taxation, the tuition tax credit would be worth, an average of $170 per private elementary and secondary school student. When combined with existing programs, the total government assistance per private school student would be $268 per student.

Clearly, these figures do not support the argument that a tuition tax credit would destroy public schools. Instead, a tuition tax credit will reverse the decline in enrollment which threatens to destroy our nonpublic schools.

Mr. President, I also cannot accept the argument that a tuition tax credit will only benefit the rich. According to Census Bureau figures, 78.5 percent of private elementary and secondary school students are from families with income of less than $25,000; 64 percent are from families with income under $20,000.

By giving them the freedom of choice, low-income minority students will particularly benefit from tuition tax credits. According to Mr. Roy Innis, National Director of the Congress of Racial Equality:

> Passage of tuition tax credits at the elementary and secondary levels will have a tremendous potential impact on poor and minority kids throughout this country by giving them what they desperately need: options.

Finally, I do not believe this bill is unconstitutional. The Supreme Court has never ruled on the constitutionality of tax credits for colleges, vocational, elementary and secondary schools, and arguments exist on both sides of the issue.

The Attorney General has given his opinion, based on an opinion written by the Assistant Attorney General, that tax credits limited to elementary and secondary schools would be unconstitutional. But his immediate predecessor in that position believes this bill is constitutional.

I, too, believe this bill is constitutional, and there are numerous parallels. For example, a tax deduction is allowed for contributions to churches and church-sponsored charities. The GI bill provides direct Federal payments for students attending private and religious schools, including parochial elementary and secondary schools.

Finally, I do not believe Congress should not act on an issue merely because some scholars believe the Supreme Court may rule it unconstitutional. It is about time that Congress recognize it is a coequal branch of government, and I believe we should act and allow the Court to rule on the issue. The sponsors of the legislation have made provision for the Court to rule quickly.

Mr. President, I urge this body to endorse tuition tax credits for elementary and secondary students. At stake in this vote are freedom of choice, pluralism, civil rights, and opportunity for low- and middle-income families and their children. Mr. President, I again urge my colleagues to support tuition tax credits.

The PRESIDING OFFICER. The Senator from Maine.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. MUSKIE. I yield to the majority leader, without losing my right to the floor.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I have been making up what I hope will be an agreement to vote on certain amendments at certain times. It goes like this:

That following the comments of Mr. MUSKIE, the amendment by Mr. HOLLINGS then be temporarily set aside; that an amendment by Mr. PACKWOOD—and Mr. MOYNIHAN?

Mr. PACKWOOD. Yes.

Mr. MOYNIHAN. Jointly.

Mr. ROBERT C. BYRD. That an amendment by Mr. PACKWOOD and Mr. MOYNIHAN be called up, that there be a 30-minute time limitation thereon, to be equally divided between the sponsors and—Mr. HOLLINGS?

Mr. HOLLINGS. I may be on the same side.

Mr. ROBERT C. BYRD. And the minority leader or his designee.

That there then be called up an amendment by Mr. METZENBAUM, Mr. HOLLINGS' amendment continuing to be temporarily set aside; that there be a 30-minute time limitation on the amendment by Mr. METZENBAUM, to be equally divided between Mr. METZENBAUM and Mr. HOLLINGS; and that upon the disposition of the amendment by Mr. METZENBAUM, Mr. MOYNIHAN or Mr. PACKWOOD be recognized to move, without debate, to table the amendment by Mr. HOLLINGS.

Mr. PACKWOOD. I might ask if the time on the Metzenbaum amendment could be divided between Mr. METZENBAUM and myself.

Mr. ROBERT C. BYRD. You mean the time of the proponents, or are you opposed to it?

Mr. PACKWOOD. I am going to oppose the higher education part of it.

Mr. ROBERT C. BYRD. That the time

on the Metzenbaum amendment be equally divided between Mr. METZENBAUM and Mr. PACKWOOD.

Mr. HOLLINGS. That will be all right.

Mr. ROBERT C. BYRD. That upon the disposition of that amendment, Mr. MOYNIHAN be recognized to move to table, without debate, the amendment by Mr. HOLLINGS, and that if that motion to table fails, there be 20 minutes for further debate on the amendment by Mr. HOLLINGS, to be equally divided between Mr. HOLLINGS and Mr. MOYNIHAN, at the conclusion of which an up or down vote occur on the amendment by Mr. HOLLINGS.

That would dispose, one way or the other, of the Hollings amendment, and then other amendments to the bill would be in order.

Mr. STEVENS. Mr. President, reserving the right to object, do I understand this Metzenbaum amendment would have 30 minutes, and then a motion to table the Hollings amendment, and then 30 minutes on each side if it is not tabled, the amendment then to be voted on up or down, and then 30 minutes on the Hodges amendment, to be equally divided?

Mr. ROBERT C. BYRD. No. There would only be 20 minutes for debate on the Hollings amendment if the motion to table fails. After the 20 minutes, the vote would occur up or down on the Hollings amendment.

Mr. HOLLINGS. Then the vote on the Hodges amendment, because mine is an amendment to his.

Mr. STEVENS. After which there would be 20 minutes on the Hollings amendment?

Mr. ROBERT C. BYRD. It presumes the Hollings amendment would be disposed of before the Hodges amendment is taken up.

Mr. STEVENS. And the Hodges amendment would follow?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. What about the Domenici amendment?

Mr. ROBERT C. BYRD. It would come after the Hodges amendment.

Mr. MOYNIHAN. I would like to request 10 minutes, to be equally divided, on each side, if we should get to that point, between the Hollings amendment and the Hodges amendment.

Mr. ROBERT C. BYRD. Is that all right?

Mr. ROTH. Mr. President, reserving the right to object, I am not clear as to what the Senator from Ohio is proposing in the way of an amendment.

Mr. METZENBAUM. The Senator from Ohio has an amendment at the desk which would provide a limitation as pertains to income related to both primary and secondary and higher education, with different levels. There would be a $20,000 limitation, with phase-out to $25,000, for primary and secondary education, and there would be a limitation of $30,000, with a phase out to $40,000, for higher education. That depends; whether the amendment is ultimately in that form or some other form would relate directly to the action taken by this body on the Packwood amendment, because I have indicated to Senator PACKWOOD I would join with him in the Packwood-Moynihan amendment, since it covers the first half of the amendment I am offering. If that amendment fails, then I would make my amendment applicable only to higher education; or to primary, secondary, and higher education, all together. If his passes, I would make it applicable only to primary and secondary education.

Mr. ROTH. Mr. President, I am not willing to agree at this time to an agreement on time with respect to higher education.

Mr. STEVENS. I think I am still reserving the right to object. Do I understand that these are the only two amendments that will take place when the Hollings amendment is set aside?

Mr. ROBERT C. BYRD. That is correct.

Mr. STEVENS. There will be no more requests for setting aside the Hollings amendment and the time would be roughly 2 hours that we are talking about?

Mr. ROBERT C. BYRD. Not 2 hours, no. Well, including the rollcall votes, yes.

Mr. STEVENS. I do not object, as I understand it.

Mr. SCOTT. Reserving the right to object, it is my understanding this does not in any way affect any subsequent amendment to the Hollings amendment. Is that accurate?

Mr. HOLLINGS. Once we have the vote on our amendment and the Hodges amendment, they would be in the bill. I guess it would be parliamentarily in order. We hope to get a motion to reconsider tabled. It would not forego any amendments to the bill itself.

Mr. SCOTT. I am talking about up to final passage. I would still have a right to offer an amendment.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. But not to the amendment of the Senator from South Carolina. This does foreclose any further amendment to the amendment of the Senator from South Carolina.

Mr. DOMENICI. Senator HOLLINGS called me and that is why I am late. Will the leader state again what it is we are agreeing to, please?

Mr. ROBERT C. BYRD. Yes. Mr. President, allow me to restate the request.

Mr. ROTH. Mr. President, reserving the right to object, my only concern with this proposed time limit is to have the limitation on higher education brought up during a discussion of the Hollings amendment. I would be willing to agree to a time limit, once we completed debate on the elementary and secondary.

Mr. METZENBAUM. That would not be acceptable. That is the entire issue. That is the whole purpose of this discussion.

Mr. ROTH. Mr. President, I object.

Mr. PACKWOOD. I wonder if we might do this, and I do not think it would take very long. Could we agree to the order without a time limit on my amendment? That is, the amendments would be taken in the order stated.

Mr. HOLLINGS. Without a time agreement?

Mr. PACKWOOD. You mean the time agreements just on the amendments, do you not?

Mr. ROTH. Basically, I would like to complete the discussion on elementary and secondary before we get into the amendments modifying college provisions.

Mr. ROBERT C. BYRD. I think we have been discussing that for 2 or 3 days, Mr. President. I am not referring to a specific amendment.

Mr. HOLLINGS. Mostly elementary and secondary.

Mr. ROTH. I think it is a parliamentary question as to whether or not the amendment applying to colleges would come in at this stage. It is just a question of trying to bring it up in an orderly manner.

Mr. ROBERT C. BYRD. Could we agree to set aside the Hollings amendment long enough to take up the Packwood amendment?

Mr. MOYNIHAN. Yes.

Mr. METZENBAUM. I object, Mr. Leader. I want to be cooperative.

Mr. ROBERT C. BYRD. The best way to be cooperative is not to object.

Mr. METZENBAUM. I have just had an amendment offered which was objected to by the distinguished Senator from Oregon, and I have no objection to his doing that. But I said to him earlier I was not willing to stand back while his amendment went before mine. He came and inquired of me on that subject and I said I would agree with it. But I am not now willing to stand that far behind and wait until the Hollings amendment is disposed of before I offer my amendment.

Mr. PACKWOOD. It was a time limit situation but not the order, is it not?

Mr. ROTH. I objected to the order.

Mr. HOLLINGS. That is the whole thing.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum—no, I will withhold that.

Will the Senator proceed?

Mr. MUSKIE. I will be happy to.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, I am not sure how relevant my remarks may be to the discussion which has just taken place or how it may influence the final outcome of that discussion, but I wish the conferees all good luck in arriving at a time agreement on this issue.

Since they have left the floor, I take it they are not interested in anything I might say or that anything I might say would influence the result of the conference.

Mr. DOMENICI. Will the Senator from Maine yield for a question to him at this point?

Mr. MUSKIE. I have not made my speech yet.

Mr. DOMENICI. I did not know that. I apologize.

Mr. MUSKIE. I wonder if I might proceed. This is not a long statement today. May I ask, is it a question related to the speech I am about to make?

Mr. DOMENICI. Actually, it relates to asking if the Senator would let me try to exchange an approach I have, to see

if the Senator would have an objection. I have an unprinted amendment. I would like to submit it so that I may make reference to it in the deliberations about time agreements.

Mr. MUSKIE. I yield for that purpose.

Mr. DOMENICI. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. Is it in order for the Senator from New Mexico to submit an unprinted amendment to the bill at this point?

The PRESIDING OFFICER. It requires unanimous consent.

Mr. MUSKIE. If it requires unanimous consent——

Mr. DOMENICI. I do not intend to call it up. I just want to submit it.

The PRESIDING OFFICER. The Senator has that right.

Mr. MUSKIE. Will the Senator withhold just long enough until we find out what the procedure should be? I will be glad to yield shortly.

Mr. DOMENICI. I thank the Senator from Maine.

Mr. MUSKIE. Mr. President, I have followed with respect and interest the forceful presentation Senator HOLLINGS has made against this tax credit bill.

I share his view that we cannot afford this new multibillion dollar program for tuition assistance.

I share his concern that such tuition aid may be abused by those who would establish private schools to perpetuate racial segregation.

I oppose this tax credit bill because it must be deficit financed.

I oppose this bill because it provides the same benefits to the richest family in America as it does to the poorest family in Maine.

And it does so at higher tax cost to all our citizens, whether they ever personally benefit from it at all.

I think we underestimate the citizens we represent here if we think they want this bill when it means more deficit and more inflation.

These are compelling reasons to vote against this poorly designed, budget-busting, deficit-deepening bill.

But I am unable to see how one part of this bill is anymore acceptable than the other.

If the Hollings amendment is adopted, we will save only 40 percent of the $8.5 billion cost of this bill during the next 5 years.

We will save only about 40 percent of the deficit it will cause,

And all the inequities in the bill will continue in the college tuition part of the bill, which accounts for 60 percent of its cost:

The rich will still get exactly the same aid as the poor;

Those millions of taxpayers whose children are beyond college age will pay higher taxes for benefits to other families, including the very well-to-do, whose children do go to college;

The 70 percent of all our young people who will never go to college will pay the bill in higher taxes all their lives for those who do go to college;

And the deficit will be deeper for the indefinite future by the full $1.5 billion cost of the college part of the bill.

I intend to vote against this entire bill because we cannot afford it, because it is a poorly designed response to the problem it seeks to address, and because our fellow citizens want a balanced budget before the Treasury is tapped for new Federal programs which must be bought by higher taxes and deeper deficits.

I am concerned about the potential abuse of Federal tuition aid to start private schools which perpetuate segregation. The basis for my vote against the entire bill includes that concern.

Frankly, if I thought we could afford even half of this bill, I would be hard pressed to decide for which half to vote.

I see no compelling reason to vote against the elementary and secondary part of this very expensive bill which does not apply to the college part as well. We cannot afford either half, but I find no less merit in one half than the other.

In my own view, the preservation of a private elementary and secondary school system is a legitimate and important national objective. Several of my own children have attended parochial grade and high schools, so, perhaps I have a special appreciation of the valuable role such schools play in a wholesomely diverse society like our own.

The argument has been made that tuition aid to private elementary and secondary schools is unconstitutional, because such aid may violate the constitutionally required separation of church and state. Supreme Court decisions have been frequently cited in this debate as if they had settled this difficult question.

Surely the first amendment's guarantee of religious liberty is one of our most treasured freedoms. It derives directly from the religious intolerance and persecution our early settlers experienced in the Europe from which they fled.

At the same time, it is also clear that the application of the first amendment's bar against "the establishment of any religion" is not self-evident. It has required substantial and continuing interpretation by the courts.

I do not believe we are in a position today to determine what the Supreme Court would say about this bill. The Supreme Court has not settled this issue.

As an opinion by the Library of Congress has summed it up: The constitutionality of a bill such as this one "cannot be said to have been definitely determined."

The Supreme Court has found State government tuition aid to be unconstitutional in some cases. But those same cases have refused to formulate any general principle against all such aid, such as the GI bill of rights, which can be used for seminary training, or the Federal deduction for charitable expenses, which may be used to establish sectarian schools. An the court has specifically upheld local property tax exemptions for charitable institutions even though without them, many sectarian schools would find it too expensive to operate.

Also, the tuition cases so far considered have not produced the end of general aid contained in this bill which is directed to both elementary and secondary, and public and private college education.

The Senate has a duty to uphold the Constitution in clear cases. But the Senate is not the Supreme Court. The Founding Fathers could have given the Senate, like the British House of Lords, a duty to interpret the laws. But our Constitution places the burden of interpreting the laws squarely on our Supreme Court.

It is premature to judge the constitutionality of a proposal such as this one. A vote against this is not compelled on constitutional grounds.

The Hollings amendment confronts us with many difficult questions.

It would reduce the cost of the bill, but not sufficiently to make the bill acceptable.

It would eliminate the major constitutional issue the bill presents, but would do so prematurely, since the courts should, and would, eventually decide this open issue.

It would reduce the possibility of segregationist abuse, but it would do so at the expense of every other private elementary and secondary school established for legitimate purposes.

If the Hollings amendment is adopted, it will not reduce the most expensive part of this bill. That is the part which passes out deficit-financed payments for college tuition without regard to need. In fact, success for the Hollings amendment would enhance the chance for passing the more expensive portions of the bill.

We can afford neither this bill nor any of its parts. If our citizens could afford the $8 million in deficit this bill will cost in the next 5 years, the choice might be more difficult. But looking into the jaws of a $40 billion deficit this year—and with more to come—the choice is easy.

The choice is clear: It is to vote no on this amendment, and no on the entire budget-busting bill.

Mr. MOYNIHAN. Mr. President, I should like to say to the Senator from Maine that no one envies his responsibility in this Chamber and that few could equal his performance. I attempted yesterday to make an economist's point about the elementary and secondary school provision of our bill—a point that is not without some relevance to his concerns. A very large proportion of the nongovernment schools in this country comprise a sector which could very easily go out of operation entirely, as the considerable decline in their enrollment over the last decade would indicate. If they do, their students would begin attending public schools, and, as a result the cost per student to the economy would treble or quadruple. I simply make the point that the nonpublic sector is an efficient sector of education, at least to the extent that it spends less. I do not mean by "efficient" anything other than less expensive.

On the second point, I should like to thank the Senator from Maine for acknowledging what we have tried to acknowledge—that it is not at all certain

how the Court would respond if a statute such as ours were presented to it. I see him nodding in agreement. It simply is not certain. And for that reason, we have said repeatedly there is only one way to resolve the matter logically, and that is to enact the statute and find out.

There may be objections for hundreds of reasons on other grounds. The Senator from Maine, it seems to me, has pointed to the most formidable one, which is the cost.

Mr. MUSKIE. I appreciate the Senator's comment. I will not take up his time, or the time of the Senate as a whole, much longer.

But I would like to say this about the problems of the private school sector at the elementary and secondary level, especially that of the problem facing private parochial schools.

I have been a supporter, of course, as a Catholic, of parochial schools. My children have attended them. All except one have attended and benefited from Catholic elementary and secondary education through all of their precollege years. So I appreciate the values that go with it.

As a Catholic and as a parishioner in Maine, two or three parishes at one time or another, and here in Washington, I am concerned about the trends and the difficulties that the schools face, and they are not simple. But there is the problem of cost. There is the problem of recruiting teachers. I suspect that there is also the problem of changing perspectives on Catholic education on the part of Catholic parents in various parts of the country, depending upon how they perceive the quality of the education provided and the values pursued in their schools.

So I suspect that Catholic parochial schools are going through a shaking-down period. I hope it does not mean that they are in danger of fading out. But they are going to a shaking-down period, as are all institutions in our society in the public schools at the present time.

If the problems of these schools as perceived is purely a financial one that can be solved by providing a tuition tax credit of $250 per student per year, no one would be more pleased than I, but I doubt that it is that simple.

I suspect, secondly, that if the problem is principally economic—principally economic—this $250 tax credit is not going to solve that problem. How much it will take to solve it if it does not, we will learn in the years ahead.

I have seen so many entitlement programs grow from so-called modest first year costs. The food stamp program occurs to me. Medicaid occurs to me. Medicare, social security, and all the programs we have tied to it, all have begun with relatively modest costs.

I wrote my senior thesis as a college senior on the Social Security Act, which was enacted the year before I graduated from college.

So I have lived with these so-called solutions to massive social problems that have resulted in massive budgetary impact at the Federal level to which our people are at the present time rebelling in ways we are all seeking to interpret.

My view on this bill is very simple. I am not saying that there is nothing to this proposal that recommends it at the Federal level. But I am saying. No. 1, that at the present time our first priority, in connection with the Federal budget overriding every other priority, should be the Federal budget, the contribution it makes to the state of our economy, and particularly inflation. To me, at the present time, it overrides every other priority.

Second, granted that, then I find myself comfortable with the idea that these proposals, both halves of the bill, if we look at it in halves, as I do, require further maturing and evaluation, and the state of the Federal budget and our national economy impels us to give us the time to do that.

So I find my position serving the national interest from both points of view. I do not say "no" forever to the proposal with respect to elementary and secondary schools. I have been for 20 years, long before the budget process was ever created, opposed to college tuition tax credit for other reasons I have not gone into because I wanted to focus my remarks on the two particular points I have tried.

I know the Senator from New York understands my duty and my responsibility. I appreciate that.

Mr. President, I yield the floor at this time.

Mr. MOYNIHAN. I thank the Senator.

I said that few would envy his responsibilities as chairman of the Budget Committee and fewer still could equal his performance of them.

It was pleasant to hear that this bill is not totally a work of the devil.

I yield for a question to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. It seems to this Senator, may I suggest this, that Senators needlessly confuse themselves when they look upon a tax cut as a Federal expenditure. That, I think, is what has caused people needless cause for concern.

A tax credit is a tax cut. It is a reduction of our taxes. It means the Government takes that much less from our pocket, and it leaves that much more in our pocket.

Now, we can cut taxes two ways. We can do as we do with a gift to education or a gift to charity, where we provide a deduction. We just say that we do not tax the money that is to be used for that purpose. That is an old, long-established part of the law.

Now, one can call that a tax expenditure if he wants to. But we can give a tax cut insofar as income is used for a particular purpose, or we can just cut taxes, period. We have done it both ways. Throughout the code we see it done both ways.

Now, we are going to have tax cuts, just depend on it—not as big as the Senator from Delaware (Mr. ROTH) wants, but we will get some big ones, you can depend on it. We will get a big tax cut this year, and there will be a tax cut in future years for the simple reason that inflation is here to stay for some time and because of the inflationary pressures, the tax laws will be extracting more money from the pockets of taxpayers.

Every Congress will be talking about how we should adjust taxes to take inflation into account and to take various other things into account. The people of this Nation are going to demand tax cuts, if you have not gotten the word. I just read the Economist, a British-published magazine. What happened out in California is sweeping the whole wide world. People are complaining about too much tax and they want their governments to cut back on expenditures.

Mind you, they do not mean the so-called tax expenditures—a tax cut is what they want. That is what they expect. In their mind it does not make too much difference whether we cut taxes by letting them keep some money in their pocket to educate their children or whether we do it by reducing the amount of taxes they pay generally.

So I do not think Senators need to say too much about whether we cut taxes so people can have more money for education or whether we just cut taxes so people can have more money, period.

If we just disabuse ourselves of the theory that a tax cut means Uncle Sam is digging more money out of the people's pockets when it means just the opposite, it seems to me we can face the issue on a more reasonable basis.

We will be bringing a big tax cut bill to the Senate, and we will consider all the needs of the American citizens while we are voting on it. There will be further tax cut bills in the future.

The public would like us to reduce the spending that the Government does. I am not proposing that we have any reduction in spending for education. Some people want to contend that if we let people keep some of their own money to spend to educate their children, we are somehow going to reduce the amount of money available to the public school system. This Senator has no such intention, and I am sure the Senator from New York has no such intention.

Those little children do not get the quality education we would like them to get in the public schools, for the most part, the way it is now, especially in the congested areas. We expect to help with that, but we do not want to neglect any education, whether it is education in the private schools, the public schools, or the parochial schools. You will find a passage in the Bible where the Master said:

> Do ye these things, but leave not the other undone.

By all means, let us provide for public education; but for those who, for whatever reason, want their children to have some education in religion, to go along with their education in other things, so much the better.

Let them pay for it, but let us help them if we can, because they are having a difficult time doing it.

For those who think their children are not getting an adequate education because there is overcrowding in the classrooms and who want to pay their own money to put their children in a private school, why not? It is a matter

of not ignoring anybody. If one wants to put his children in a private school because his conscience as a parent dictates that, why discriminate against him?

We are going to provide for public education and Federal aid to public education, if the money is available, to try to provide the best we can for children in the public schools.

When you try to help everyone look after his children, you have discriminated against none.

I salute the Senator for the fine fight he has made.

Mr. MOYNIHAN. I think that is fine.

Mr. President, I take this occasion to emphasize what the Senator from Louisiana, the chairman of the Finance Committee, has said. This is a tax cut bill—a tax bill that reduces taxes.

There is something about the concept of tax expenditure that bothers me. There is something about it that makes me think of it as a totalitarian idea. There is a notion implicit in it that your income somehow belongs to the Government and the Government has given you the share which you are allowed to keep. It is not so.

I do not want to suggest any disapproval of Prof. Stanley Surrey, who is a good friend and a fine man, but one's income does not belong to the Government. Taxes are a form of forced labor exacted by Government. It is labor that is, in a sense, taken from you.

I refer those who think otherwise to the recent works of Professor Mosteller. Income belongs to the individual who garners it. We give taxes to the Government. The Government does not give income to us.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. LONG. Implicit in all this is the theory on behalf of some of us—I know the Senator from New York feels this way—that the Government works for us, rather than the other way around. At least, that is the way it is supposed to be.

Mr. MOYNIHAN. That is the theory. That is why the Constitution is filled with limitations on what government may do.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. MOYNIHAN. The Senator from Idaho was on his feet first.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. HOLLINGS. I would like to be heard on the amendment.

Mr. McCLURE. Mr. President, I commend the Senator from New York on the statement he just made about so-called tax expenditures, because it troubles me in the same way it troubles the Senator from New York: That it is implicit that somehow the Government owns the income and what is left in our hands is a grant from Government.

I believe, in spite of that feeling on my part, that the concept of tax expenditure does allow us at least to take a look at what we have done in terms of priority setting with respect to the use of the economic muscle of this country, but only in that limited concept. I share the instinctive reaction against the idea.

Mr. MOYNIHAN. I appreciate what the Senator has said. No one has suggested that this is not a useful subject to keep an eye on, to index, perhaps, but it should not be subtly transformed into an argument on behalf of Government ownership of income.

Mr. McCLURE. I agree totally.

Mr. MOYNIHAN. The presumption is that Government owns none of your income; a law must be adopted solemnly, in a bicameral legislature, and must then be approved by the executive, before the Government can take a penny of your income.

Does the Senator from Maine have a question?

Mr. MUSKIE. Mr. President, I have the faintest of suspicions that the distinguished chairman of the Finance Committee rose to put his question to the floor manager of the bill because his question followed a speech by the Senator from Maine and perhaps the speech the Senator from Maine delivered yesterday.

I did not use the words "tax expenditure" yesterday or today, at any time. I talked about the cost of these programs.

I could conclude, if I were simplistic in my thinking, and I am not, that these bills can be passed without cost to anybody because they are simply a cut in taxes, so they do not cost anybody anything. Those who are tempted to believe that to be the case are referred to my speech of yesterday, on page 25853 of the RECORD.

I talked about what this bill will cost to those who think they would benefit from it; to children who think they would benefit from it; to those whose children never will go to private elementary or secondary schools; to those whose children will never go to college. Anybody who tries to argue with me that this bill will cost them nothing is going to have a steep argument.

But if those who support the bill choose to believe that the issue really is somebody's definition of "tax expenditure," they are fooling the public.

What we are concerned about is the cost. The cost of this bill—both halves of it, in my judgment—would be unacceptable to the majority of the American people today if they understood what was in it. I think it is intolerable from the point of view of the Federal budget and its potential impact on inflation in the months or year or two immediately ahead. That was my thesis.

We can argue about what "tax expenditure" means or "tax loophole" or "tax-privilege" or "tax avoidance" or whatever bland phrase those who dislike the words "tax expenditure" would like to use. These bills have costs associated with them, and that is the only point I tried to make yesterday and today.

I say this to the Senator from South Carolina, because I understand that he is disturbed that I will not support his amendment. I tried to make that clear in the speech he did not hear because he was understandably engaged in a conference with the leadership and the other side, in an attempt to reach a time agreement.

I have struggled long with this question. I applaud his effort to reduce the cost of the bill. But I find difficulty in confronting this question: Is this half of the bill less palatable, from a budget point of view, than the college part of the bill? To me, it is not. They are equally unpalatable.

Second, just from a tactical point of view, I believe there is a better chance of defeating this bill if we vote on it in its entirety than if we vote on it with a successful Hollings amendment having divided it in half.

Those are the two reasons I voted as I did. But I wanted the Senator from South Carolina to know that to the extent that his opposition to this bill stems from his concern about the budget—which, for my part, is legendary, and I greatly value his contribution to the budget process—I applaud that part of it; and I wanted to explain to him, while he is in the Chamber, the two reasons why I find it difficult to go along.

Mr. MOYNIHAN. The Senator from South Carolina wishes the floor, and I will yield in a moment.

I assure the Senator from Maine that I understand his position precisely. This is a tax cut proposed, and it will reduce Federal revenue; it was the extent of the reduction and its desirability—or lack thereof—to which he addressed himself.

I took the opportunity during a moment when we are trying to get a time agreement and most of the advocates of this measure are not on the floor, to discourse freely—and I hope not too irrelevantly—on this matter. I had been seeking some pause in the Senate's proceedings to touch briefly upon it.

Mr. MUSKIE. I suggest to the Senator that it is well if, from time to time, we discuss things that are of less than global interest.

Mr. MOYNIHAN. I thank the Senator, and I yield the floor.

Mr. HOLLINGS. Mr. President, let me just make one comment or two to bring this into perspective because the Senator from Maine did shock the Senator from South Carolina with his comment, and I say this respectfully. The Senator knows I know how to solicit and try with charm and courage to persuade, and what I am about to say of course will not help persuade him, or to get his vote back, because this is just the most illogic reason I ever heard.

There are certain difficulties that we had in this measure. One of the big difficulties started with the President of the United States when he let it out that he was going to veto the measure. That put everyone in a position of a freebee. So they can tell the bishop, "Surely I will vote for your parochial aid to education, I am with you." And the Senator from Louisiana calls it minority politics. Those are the people who will remember you. The majority that you stand for never remember you on election day, but you take a single concerted organized group, such as the church, and say, "Surely, I will be for you," and then you know the

President is going to veto it. If it is vetoed, it is not going to hurt public education, so you go to the polls having helped someone. That is one of the big difficulties we have, because when the President intimated this, then, of course, the Senator from New York picked up some 51 cosponsors.

So we started with a majority already against us, and not frankly having even considered elementary and secondary education. The history will also show that the Senate has passed tuition credits for higher education six times in the last 10 years. So we did not have to worry whether we got enough help to defeat higher education. On the contrary, what we are trying to do is to take this elementary, secondary, parochial, private school crowd and take an already proved six times successful higher education measure and piggyback the private school system without due consideration for the substance of the measure.

I am confident they did not have a real debate on the House side because I have looked at the RECORD, talked to Members of the House of Representatives, and witnesses, all of these in the coalition who were interested, and they said they were all looking at that higher education part. They had been in the campaigns. They talked about tuition tax credits. It has been in campaigns for over 10 years. Wilbur Mills had it. We had it. I voted for it at least four times myself.

But they say we never could single out elementary and secondary education and get the attention of the Senate, anyone in Congress, on the radical departure with respect to Federal financing of education in this country that the Moynihan-Packwood elementary and secondary part started.

Let us look at the costs. Let us look at the problem. Certainly it is that, and I am using the CBO figures, that we use in the Budget Committee. On higher education in 1978 it is $21 million; in 1979 it is $491 million; in 1980 it is $704 million; in 1981 it is $1.41 billion; in 1982 it is $1.409 billion; and in 1983 it is $1.523 billion.

So the higher education cost part is $5,289,000,000.

And we look at the elementary and secondary. That was drawn so that you could not see it, and it was only the members of the Budget Committee who finally caught it. I am persuaded if they can reduce the limits, if they can reduce the income levels, if they can reduce the amount, if they can get the principal fixed for $1 for a parent, they would be tickled and call it a victory. They arranged it so this year there is no impact, and next year no impact. They tried to get by the budget process, but the budget process caught it. In 1980 then it starts with $100 million; in 1981 it is $754 million; in 1982 it is $1.237 billion; and in 1983 it is $1.238 billion; for a total of $3.329 billion.

The task of the Senator from South Carolina, was to try to bring the attention of this Senate to what we were really doing with respect to a matter of budget-busting proportions, not to mention the constitutional and educational policy ramifications. Here is an opportunity at least budgetwise to save $3.329 billion rather than for the total of almost $10 billion because when you add the three and the five it is $8.5 billion—$8.5 billion rather than $10 billion, and you had a chance to save $3.3 billion.

And the Senator from Maine now comes and says, "No, let us not save that at all. I really think I can kill off the $8.8 billion if I have yours."

Mr. MUSKIE. Mr. President, will the Senator yield.

Mr. HOLLINGS. I yield.

Mr. MUSKIE. I am not saying that at all, may I say to my good friend. There were three votes on college tuition tax credits in the last 2 years, two of them stimulated by motions made by the Senator from Maine. If I remember correctly, the Senator from South Carolina voted for those tuition tax credits.

Mr. HOLLINGS. I just stated that.

Mr. MUSKIE. All right. So the Senator voted for them.

Mr. HOLLINGS. That is right.

Mr. MUSKIE. Now, my objection is to the total cost. I know that I do not have the Senator's support, if the Hollings amendment is defeated. If the Hollings amendment is——

Mr. HOLLINGS. Enacted.

Mr. MUSKIE (continuing). Is enacted. So that is one vote less that I know I do not have against the total bill.

The Senator says, "You are going to lose it anyway, so why fight it."

If I had taken that position, may I say to my good friend, a lot of the memorable fights on this floor that have helped establish the budget process would never have been waged.

I know the tendency of this body. It is to spend unless someone tries to block it. I am not going to avoid a fight simply because I thank the odds are against me.

I fought college tuition tax credits three times in the last 2 years. I know what the odds are. I can remember the votes. But now there are other factors that I hope will cause a majority of the Senate to take another look at it.

No. 1, inflation is a much more serious problem than it was any of the last 3 years.

No. 2, there is an alternative in the President's program to the college tuition part of the bill which may take some votes away from the college part of the bill.

No. 3, the total cost of the two packages, college tuition and elementary and secondary tuition, is so staggering potentially that in combination that should turn some votes around.

So I think what may appear to be a hopeless fight will not be a hopeless fight. At least I see my duty as making the fight, and I think I am going to get more votes if this whole bill stands together on final passage than I got in either of the last 2 years.

No, my argument is not as simple as the Senator from South Carolina puts it, and I think he understands that. If there were a way after final passage on the total package to consider part of it, I would be with the Senator.

Mr. HOLLINGS. Mr. President, I stated just as simply as the Senator from Maine stated it. I heard him and I listened clearly. He said that with the Hollings amendment defeated they would have a better chance to defeat the entire bill. That is exactly what he said. I am saying that is not the problem because we know he is trying to get in other things about the President's program, but I am saying we come to this particular problem with a different history and a different record, and I know it and I know what the odds are when you start up with a bill having passed the House overwhelmingly, then coming over to the Senate. No one on the Human Resources Education Committee was particularly interested. You cannot get them to speak. In fact, they go back and they propose another half billion dollars.

The precedent set here of general financial aid for parochial and private schools for the first time in history does not disturb them. I am not on that committee, and so you have graduation speeches and Harper's articles and Outlook articles and appearances on national TV and all the rest—and 51 votes.

Do not tell me about odds. I am fighting uphill now, and I know it, and I know there is a better way to fight to get your vote, but I told you in the beginning that I heard you clearly. I know I will not, but I can tell you now——

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. HOLLINGS. No.

I am talking about the art of the possible. We are talking about how we measure things in that Budget Committee, Senator from New Mexico. We know how we measure it. It is a frustration for all of us sitting there. If we could have it our way we would cut it all down. Many times we actually put in things to head off budget cuts.

One of the best examples I know of is solar energy. Heavens above. No one around here much knows anything about the energy crisis, but there is one way to demonstrate our commitment. This is a political body, so you demonstrate knowledge that there is a crisis. Whenever you hear the word "solar" you raise your hand and say "aye." We go in there and we mark up a budget, the President recommends $60 million, and we say we will give him $80 million. We come out and they put in $50 million more.

We go in with $110 million the next time and we add another $50 million to $60 million and say that will forestall cutting it, and they put in $50 milion more. We are up to more than $404 milion, and the scientists and all say, "We don't know where to spend it."

I think in every budget that comes through the State Department they say they want a solar demonstration project on every embassy in the world to show our concern about the energy crisis. Absolute nonsense and waste.

So I have finally determined, Senator, where you want whole hog, and we have heard about whole hog earlier from the Senator from Oregon, I want what we can get budgetarily, what we can save. I would solicit your assistance to help us knock out at least $3.3 billion. If we cannot get up to $8.5 billion, at least knock out $3.3 billion that is dangerous.

This is not a minor one. This is the dangerous one.

The Senator from Maine also said when I came back into the room, I could hear just part of it, that the real major one was the tuition tax credit for higher education, that that was the big one. If he could head it off with the little one by voting against the little one then maybe he could make them both sink, that is his logic.

On the contrary, the big one is aid for elementary and secondary private schools, because if this carries and we go back home we are going to hear from the constituents saying, "What in heaven's name happened to you? We sent you to Washington charged with looking out, among other things, for the public's interest and the public's concern. We sure did not tell you to take over the church schools down the street. The priests and the bishop of the parish have control of them. We did not send you down there to take care of private schools. You have gone and doubled the amount of aid—general assistance for the first time and for private schools only—to the private and the parochial schools as compared to what you have given to the poor public schools students."

We would do this for 4.5 million youngsters at the expense of the other 44.5 million. Down the road, Congress might decide to include them, too. Take that $250, multiply it out, and see if we would not end up with at least $10 billion more.

The biggie in this one is the foot in the door. The Senator from New York said, in talking of pluralism and diversity, he hoped they did not avoid Greek. The only thing Greek I understood was when the Senator from Maine was talking yesterday about that Trojan horse. I could hear him clearly. How pretty and bright and gentle and sweet and innocent-looking was the Trojan Horse in the daylight. But when the fiscal darkness of night fell, the animal opened up and there came the conquering enemy. I wish you could go back to that staff and yesterday's talk and make it over again. I could hear you clearly then. I cannot hear you now.

Mr. MUSKIE. You cannot hear it now either.

The PRESIDING OFFICER (Mr. DURKIN.) The Senator from New York.

Mr. MOYNIHAN. Mr. President, we have been debating this matter for a full 3 days now, and we have now reached a point where our national motto "E Pluribus Unum," a brief but emphatic hymn to pluralism, has been described as Greek. I think it is time we voted.

But I would be happy to yield to the Senator from Maine for a question.

Mr. MUSKIE. I really would have preferred it if my good friend from South Carolina had yielded.

I really do not have any trouble knowing that you hear what I say, Senator, but you do not alway repeat it in a way that makes it come out the way that my position is.

Just a few moments ago you praised me for yesterday's speech privately. Now you are frustrated that I do not apply the budget-restraining values that prompted that speech in a way that pleases you. Well, it did not please me when you voted for college tax credits against my motions in the past, and I know you are going to vote for it again. If your amendment succeeds and only the higher education tuition tax credit provision remains, you are going to vote for it again.

Just how you presume to judge me because I am against the total bill and you are for half of it I do not understand. You want me to be against the part that you oppose most vigorously but not against the part that you support most vigorously. That, unfortunately, is the kind of standard that motivates us too often on the floor of the Senate.

But I am against the whole bill, and I said it yesterday, and before this debate is finished, before a vote on passage of the bill, I will fully vote to implement yesterday's speech, but you will not.

Mr. METZENBAUM. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. MOYNIHAN. I yield.

Mr. METZENBAUM. I ask unanimous consent that David Lippy and Barry Direnfeld have the privileges of the floor during the pendency of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, does the Senator from California (Mr. HAYAKAWA) desire to ask a question? I will yield to the Senator for a question.

Mr. HAYAKAWA. I have a short statement to make, about 4 or 5 minutes.

Mr. MOYNIHAN. We are about to commence voting. I wonder if the Senator could put his statement in the form of a question to me?

Mr. HAYAKAWA. Let me look at it, let me see. [Laughter.]

It is only a two-page statement.

Mr. MOYNIHAN. If the Senator will put it in the form of an interrogatory I will yield to him.

Mr. HAYAKAWA. I will try to put it in the form of an interrogatory tone.

Mr. President, the last time I spoke on the floor about tuition tax credits, my remarks concerned the rights of minority students and their parents to utilize education as a means of personal liberation from poverty and racism. I want to express my appreciation to our colleagues, Senator PACKWOOD and Senator MOYNIHAN, for their kind appraisal of my speech that day and for their distribution of it to other congressional offices. It is a pleasant surprise to find one's intellectual currency so much in circulation.

As an advocate of tuition tax credits, especially at the elementary and secondary level, I realize that my remarks will draw criticism as well as approval. We have heard dire warnings that, if we give parents control of their children's education, the public schools of America will close their doors and, one presumes, be turned into warehouses. This is nonsense! I, for one, have more faith in public education than to presume that a little bit of competition would finish it off.

This has been a rough issue. The lobbyists have come out of the woodwork. The heavy hand of the National Education Association—what a name; you would think it were something more than a self-interested union—has attempted to stifle the facts with smokescreens about the Constitution, about segregation, and about costs. And one by one, the winds of change have blown away their obfuscations.

But that does not make it easier to take a stand on principle and support tuition tax credits in the face of rigorous political opposition.

Let us make no mistake about it: There will be a price to pay if we stand up for the parents and children of America. Some interest groups will never forgive us for doing that. Their political action committees will target us, and their membership will be instructed to knock us off at the polls. But so what? What, after all, are we here for?

I will not rehearse again today all the arguments in favor of tuition tax credits. We all know them by heart. Are they constitutional? Ask Billy Graham or Antonin Scalia, our former Assistant Attorney General. Would they help minorities and the poor? Ask Prof. James Coleman and the Harlem Parents Union.

Let us look beyond the pressure groups. Let us look toward an America which trusts its citizens enough to permit them their own choices. Let us look toward the day when poor kids have the same latitude in education as the children of Members of Congress. Let us take our stand in defense of parental rights and educational freedom.

The question I would like to ask, Mr. President, is, Has any serious estimate been made of the degree to which public education would suffer from tuition tax credits, or has any clear-cut explanation been made of the degree to which public education will benefit from the inducements offered? Have there been specific instances of cities or communities where that kind of assistance has improved the quality of public education, or have there been specific instances of communities in which there has been a significant loss to public education as a result?

Mr. MOYNIHAN. Mr. President, I would like to say that in the State of Minnesota a tuition tax credit was not accompanied by any decline in public school enrollment; we have been able to establish that there is a fairly clear correlation between the number of students in nonpublic schools and the level of support for public schools. Where there is a fairly large enrollment in nonpublic schools—and the enrollment in nonpublic schools is, of course, never more than 15 percent of the total—the public schools are generally well supported. Where there is a relatively low enrollment, the public schools are comparatively not as well supported. I say to my distinguished friend from California that the validity of the correlation may not yet have been established to his satisfaction.

Mr. HAYAKAWA. I thank the distinguished Senator and my friend from New York.

Mr. President, I ask unanimous con-

sent that an editorial entitled, "The Tax Credit Fight," published in the Washington Star of August 10 be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE TAX CREDIT FIGHT

As the Packwood-Moynihan tuition tax credit bill works its way toward crucial Senate floor action, the quality of the debate steadily deteriorates. What its sponsors view as a measure to promote diversity, choice and fiscal equity in education is denounced as a budget-busting money grab by the rich, or—as *The Washington Post* pronounced the other day—a "radical and ill-considered reversal of longstanding American values . . . a fundamental assault on the public schools," and even a boon for racial segregation.

These conflicting perceptions of the bill cannot be bridged, even allowing for the usual excesses of editorial rhetoric. And indeed the bill clearly raises issues—constitutional, fiscal and educational—of a fundamental sort.

If you think that American education, especially in the lower grades, is always to be a public monopoly; or that "root, hog, or die" must be the iron rule for private religious education; or that the First Congress erected "an eternal wall of separation between church and state," the case for the tax credits is weak indeed.

Happily, those principles, however fervently urged by secular educational lobbies or editorial writers, are largely subjective. They are nowhere chiseled in stone. Still less are they to be found in the Constitution. The Constitution is silent as to how Americans shall elect to educate their children. All it says about religion, apart from banning religious tests for office, is that Congress (and now, by judicial interpretation, the states) may not promote "an establishment" nor interfere with its free exercise.

Set aside the dubious—at times even hysterical—claim that tuition tax credits constitute some sort of foul play against American principles, and what is left? A few practical questions of policy, it seems to us. Would the program injure or strengthen public education? Would it encourage or discourage the proliferation of so-called "segregation academies"? Would it accentuate or arrest racial disparity in education?

It is unthinkable, to us at least, that Congress would seriously contemplate a measure that threatened the basic place of public schools in U.S. education. That primacy is all but universally conceded, and the reasons for it well understood. Rather, the anxieties about the future of public schools, given tuition tax credits, seem to stem from a vast insecurity. The notion, we gather, is that clients of public education are a captive audience, awaiting an incentive to bolt.

Such fears, we faithfully believe, are overwrought. But even if some parents do feel "trapped" in deteriorating and undisciplined public schools (especially in the inner cities), and would welcome an escape hatch, we can attach no other meaning to the ideal of American cultural diversity than that they should have that option. That option is always open to the well-to-do, who usually have mobility to move to the suburbs or the money to pay the steep price of private education, whether or not a fraction of that price may be subtracted from income tax bills—or both.

Prof. James S. Coleman touched on this point in a recent supportive letter to Senator Moynihan. Tax credits, he suggested, "will help give low income people some of the educational opportunity for their children that high income people already have. In a sense," he continued, "it provides an aid to parents to rescue their children from school situations that they find bad; and . . . this is especially the case for black parents who are locked into a given residential situation." Professor Coleman's view has been echoed and endorsed by a number of black scholars, including Thomas Sowell and Walter Williams.

But suppose that a substantial number of public school clients did seize tax credits as an avenue of "escape." Are the public schools so fragile, so far gone in demoralization and indiscipline, as to be incapable of responding? Or would keen competition spur them to reform and to compete? The latter, we firmly believe.

Of course, the nitty-gritty of the matter, politically speaking, is the ageless quarrel over public help for schools of religious affiliation, mainly Roman Catholic. It is notable that every recent Democratic presidential candidate, including Mr. Carter, has given handsome pledges to the Catholic educational community. In an October 1976 letter to the Association of Chief Administrators of Catholic Education, Mr. Carter wrote that he was "firmly committed to finding constitutionally acceptable methods of providing aid to parents whose children attend parochial schools." As governor of Georgia, he said, he had supported "annual grants for students attending non-public colleges" and he was of the view that "we must develop similar supportive programs at the national level for nonpublic elementary and secondary schools if we are to maintain a healthy diversity of educational opportunity." Senator Moynihan himself could hardly have stated the promise more clearly. But as everyone has noticed, Mr. Carter's explicit pledge has gone a-glimmering now that he is faced with an opportunity to make good on it. Why that is so, we can't imagine. But if the president finds it expedient to renege he owes the Catholic educators at least an equivalent legislative alternative.

Of all the attacks on the tuition tax credit proposal, the shabbiest is the insinuation that they are a sugar-coated scheme for promoting racial segregation in the schools. In fact, the main—and the neediest—beneficiaries would be Catholic parochial schools with an old and honorable record of racial equity. And as for the so-called "segregation academies" mushrooming up across the South at the heels of school integration, their students, insofar as racial exclusiveness is their aim, would be ineligible under the tax laws. So much is clearly provided in the latest draft of the bill.

We recognize, again, that there are those who fervently believe that the bill is not in the national interest; that this country is better off with a public monopoly of educational funds. Obviously, keen opposition to the Packwood-Moynihan bill can be squared with that outlook. It cannot, however, be squared with the profession of faith that educational and cultural diversity are what this nation is all about—or should be.

Mr. HAYAKAWA. I thank the Senator from New York.

Mr. MOYNIHAN. I thank the distinguished Senator from California, who has vast experience as an educator in both public and private institutions. He has served a great private university, the University of Chicago, and has also attained renown as an administrator at State universities and colleges, in particular the San Francisco State University. Thus, he is eminently qualified to speak on this subject, and his support has been a matter of great importance to us.

Mr. ANDERSON. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. I am happy to yield to the distinguished Senator from Minnesota, about whose State I commented earlier.

Mr. ANDERSON. Mr. President, a number of Members of this body have expressed apprehension that if we have tax credits applying strictly to elementary and secondary levels, there would be a massive desertion from public schools to private schools. I would like to apprise the Members of the body that in Minnesota we have had some experience to go on, because we have had a tax credit in Minnesota that would apply to the elementary and secondary schools. In 1971, we passed a tuition tax credit bill which provided, really, more relief than is being offered in the Senator's bill.

Senators might be interested to know that despite the fact that our tuition credit in Minnesota was in percentage terms more generous, the first year the law was in effect, the enrollment in parochial and private schools dropped over 11 percent. The second year the drop-off was over 8 percent. Perhaps the drop would have been even larger without the tax credit, but the fact is that during the period of time we had the tuition tax credit in effect, there was no dramatic shift out of public education into private education, and in the light of our experience, it appears unlikely that the tuition tax credit would do any damage to public education.

I am also reminded that in Minnesota, despite the fact that the per capita income is normally below the national average, our per capita spending for public education and all forms of education is sixth from the top. We have made a dramatic commitment to public education that has been of great benefit, but we have also found the resources to put into the private sector, and we think it has tremendously benefited our young people, regardless of where they go to school.

Mr. President, in the past decade the cost of a college education has skyrocketed. The overall cost of a private college education rose 119 percent between 1964 and 1976. The cost of attending a public university increased by 99 percent during the same period. The average annual total cost of a private university is now $4,811, with the cost of a public university now averaging $2,906.

These increasing costs are reasons why college attendance has declined in the past few years, with the sharpest declines coming from middle-income students.

All of American society benefits from young people receiving all the education that they desire. One of the most vital tasks of Government is to make education easily available to all who could benefit from it. For that reason, as Governor of Minnesota, I proposed major increases in the funding of public higher education, sought to restrain tuition increases, and, in one budget, proposed a freeze on tuition increases at public colleges and universities and opposed plans to impose tuition at Minnesota vocational-technical institutes.

Private higher education also has a real contribution to make to society and is deserving of public assistance. While the initiatives taken to aid private higher education were modest compared to the increases given to public colleges, they were justified and effective. We enacted

per capita aids to directly subsidize private colleges, provided State guarantees for private college construction programs, and greatly increased State scholarship and loan programs which were available to students going to either public or private institutions. These programs were successful in restoring the financial health of a number of Minnesota colleges which faced deficit budgets.

There is no justification for the allegations that tuition tax credits for higher education represent an attack on public education by private colleges. The trend over the past decades has been clearly in the direction of public institutions, as private colleges have passed on increased costs in tuition while taxes have cushioned the impact of inflation on public colleges. In the early 1950's about 50 percent of all college students were in private institutions. Today less than 25 percent of higher education students attend private colleges and the proportion continues to decline.

The pending Federal tuition tax credit will provide much needed assistance to the 11.3 million U.S. students in public and private postsecondary institutions. It will relieve some of the burden of inflating tuition costs and reverse the trend of decreasing college attendance by middle-class students.

Those who support education must stop thinking in cliches and realize changing American educational needs and traditions. The fluid labor market, different lifestyles, economic pressures, and new types of jobs all influence the educational needs of Americans. Retraining and continuing education have become an economic necessity for many. Other Americans begin or return to college in midlife to refocus their lives or to prepare for a career.

Many of these returning students are women looking to reenter the job market, and many of these women are single heads of households supporting children. College attendance among people 35 and older increased 50 percent between 1973 and 1975. These career adjustments or reentry efforts directly affect our national employment picture; yet these Americans who are trying to help themselves through education receive limited public assistance. Traditional scholarship and grant programs are not designed to assist these types of students. But a tuition tax credit will be of major assistance to these nontraditional students.

In 1980, the Senate version of the tuition tax credit bill would be extended to elementary and secondary schools. While 62 percent of the benefits for the postsecondary tuition tax credits will go to students at public institutions, all of the elementary-secondary benefits will go to students at private schools as no public elementary or secondary schools charge tuition. Approximately 5 million nonpublic school students would become eligible compared to the 11.3 million public and private postsecondary students covered.

During my tenure as Governor, State appropriations for aid to elementary and secondary education rose from $660 million to over $1.7 billion or a $1 billion increase in just 6 years. The system of State aids was reformed to compensate school districts with inadequate access to property tax funds with additional State funds; funding for education for mentally and physically handicapped children nearly tripled; additional aid was given to districts experiencing falling enrollment; and supplemental aid was provided districts with concentrations of children from socially deprived backgrounds.

Public education in Minnesota still faces problems but Minnesota's system of financing is more equitable than most States, our system is more stable than most States, and we remain one of the most generous States in the Nation toward public education as shown by Minnesota's per capita public spending on public education which is sixth highest in the Nation. Minnesota's public education problems, while serious, pale into insignificance when compared to the shortened school years, prolonged Christmas vacations, inability to meet payrolls, and chronic financial crisis which afflict many major school systems around the Nation.

The way in which Minnesota reformed our school finance system, along with significant changes in aids to municipal and county governments and direct property tax relief programs also allowed us to bring property taxes under control. In 1971, when I came into office as Governor, Minnesota property taxes were 13th highest in the Nation and well above the average. Yet Minnesota did this while maintaining the high investment in education, sixth highest in the Nation, and without sacrificing needed public services. Because Minnesota acted wisely and rationally about bringing its property taxes under control, Minnesota does not face the kind of drastic action that is now taking place in California.

Private education has a role in elementary-secondary education that is valuable. Nonpublic education provides diversity and variety in education that is highly desirable as a matter of social policy. This variety has been steadily declining over the past decades as inflation and changes in the programs that schools offer has greatly increased costs. The result has been that nonpublic education has played a steadily smaller and smaller role in American schools.

In the period from 1965 to 1975, the national enrollment in public schools kindergarten through grade 8, declined slightly, from 30,563,000 to 30,545,000. In the nonpublic schools, enrollment in grades kindergarten through grade 8 declined from 4,900,000 to 3,900,000, a decline of 20 percent.

In the last 10 years the decline in enrollment in private secondary schools was 13 percent compared to a net national increase in public school secondary enrollment. In 1965 86 percent of all students were in public schools and 14 percent in private education. By the latest figures that ratio has changed to 91 percent in public education and 9 percent in nonpublic schools. Minnesota figures show a similar trend. In 1967, 14.5 percent of students in Minnesota were enrolled in nonpublic schools. In 1975, the figure was 9.5 percent.

Again, the figures show that the proportion of students in nonpublic education is declining, and, charges that tuition tax credits represent an offensive against public education are not based upon the evidence.

There are several other points about the Senate tuition tax credit bill which should be kept in mind. First, 75 percent of the benefits of the bill would accrue to college and postsecondary students. Of this, 62 percent of the benefits for postsecondary students will be for students enrolled in public institutions. Only 25 percent of the total benefits are for students in elementary-secondary nonpublic schools.

Approximately 57 percent of the benefits will go to families with incomes of $20,000 or less; 85 percent of the benefits are for families with incomes of $30,000 or less. In order to provide greater relief to low-income families the tax credit is made refundable. This will provide relief to low-income families who have no tax liability or whose tax liability is too small to benefit fully from a nonrefundable tax credit.

The strong feeling many people have against tuition tax credits is understandable. Much of the strong objection is based on a commitment to public education, a commitment which I share. But I do not believe that tuition tax credits will damage public education at the college level or the elementary-secondary level.

I do not believe the predictions that if a tuition tax credit is provided that there will be a massive desertion of public education for private schools. In 1971 the Minnesota Legislature passed a tuition tax credit bill which provided a credit of up to $100 for elementary students and $140 for secondary students. While these maximums are lower than those provided in the pending Senate bill, considering the inflation costs and the 50-percent limit of the pending Senate bill, the 1971 Minnesota law was comparable to the pending bill. The 1971 Minnesota law provided a credit which was usually 100 percent of the tuition of Minnesota parochial elementary schools and just under 50 percent of the tuition of parochial secondary schools.

In spite of the fact that the tuition credit in Minnesota was, in percentage terms, more generous than the pending Senate bill, in the first year the law was in effect, enrollment in parochial schools dropped 11.4 percent, nearly double the drop of the prior year. In the second year the drop was 8 percent, still larger than the 6-percent drop prior to the law. Perhaps the drops would have been larger without the credit. But the facts are that in the years the tuition tax credit was in effect in Minnesota, there was no shift out of public education into private education.

In light of the Minnesota experience, it appears unlikely that tuition tax credits will damage public education. If, after enactment, tuition tax credits do harm public education, I will work to repeal the credits. But, I do not believe that any harm will occur. Tuition tax credits will help both public and private postsecondary education and may stop

the decline of nonpublic elementary-secondary education.

Mr. MOYNIHAN. Mr. President, this is remarkably helpful information from a Senator who has been a remarkably successful Governor of a great State which has tried out this system and found that it works. His statement lends remarkable credence to our position, and I thank the Senator very much for his comments.

Mr. GRIFFIN. Mr. President, will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the distinguished Senator from Michigan.

Mr. GRIFFIN. Mr. President, having sponsored and strongly supported tuition tax credit legislation for many years, I am very pleased that the Senate now is considering H.R. 12050.

In past years, legislation to provide tuition tax credits has passed the Senate on six different occasions—but each time it failed of enactment for one reason or another.

I feel confident that it will be different this year; a number of factors lead me to such a conclusion. First, the House of Representatives already has passed its version of the same legislation. The House bill is a bit more modest, but nevertheless the mandate was convincing.

Second, this year tuition tax credit legislation must be viewed in the context of a citizen tax revolt that exploded in California and is now sweeping the country. It is clear that middle-income taxpayers in this country are fed up with excessive Government spending and with tax burdens that have grown too heavy Nowhere is the burden heavier than in the area of education.

When it comes to providing education for their youngsters, middle-income wage earners are caught between a rock and a hard place. If they were poor, they could look to the Government for help. If they were wealthy, of course, they would have no problem. But, being "in the middle" they just pay and pay.

No wonder so many feel so strongly that it is high time for tax relief that helps the middle-income wage earner. This tuition tax credit bill is a good beginning.

I also think prospects for enacting this legislation were improved by modifications made within the Senate Finance Committee—modifications that respond responsibly to many of the concerns expressed about the earlier bill. As revised by the committee, the tuition tax credit program would be implemented in two stages:

First. Effective August 1, 1978, a tax credit of 50 percent of tuition and fees—up to $250 per student—would be available for full-time students in universities, colleges, junior and community colleges, and postsecondary vocational schools.

Second. Effective October 1, 1980, tuition paid for nonpublic elementary and secondary education would be eligible for 50-percent credit—up to $250 per student. In addition, the maximum credit for college and vocational schools would be increased to $500, and tuition paid for students attending less than full time—but at least half time—would become eligible.

The revised version of the bill would reduce the estimated revenue loss associated with the bill from $5.2 billion to $2.88 billion (when fully implemented in 1982)—a cut of 45 percent.

In addition, the Senate committee has included a requirement that the amount of tax credit available in the case of any student be reduced by the amount of any need-based Federal grant which the student might receive; this would prevent a form of "double dipping," and would, in effect, provide a choice.

Finally, the Senate committee added a provision to assure that tuition tax credits would not be used to foster or encourage racial discrimination.

Mr. President, as one of the original architects of a major student assistance program—the National Direct Student Loan (NDSL) program—I have long been concerned about the need and importance of making educational opportunities available on a broad basis.

This year, I am cosponsoring a bill to create an educational savings bond program to provide strong incentives for parents and youngsters to save for a future in college. The interest on such bonds would be tax free if the savings are later used for college tuition, room, and board.

Unfortunately, despite help that is available from a variety of sources, the dream of a college education has been fading for youngsters of many middle-income families who are squeezed severely by inflation, higher taxes, and soaring tuition costs. Consider these disturbing facts:

Between 1967 and 1976, the average tuition costs at public colleges and universities increased 93 percent; the figure is the same for private colleges and universities.

During the same period, the after-tax—or disposable—income of median income families increased only 66.8 percent.

During the same period, the percentage of disposable income required for tuition costs at a public university rose 16.3 percent; for private schools the figure is 15.7 percent.

It is estimated that in 1990 it will cost $47,000 to send a youngster to a public university or college; if he or she goes to a private college, the cost will be closer to $82,000.

In light of such statistics, it is no wonder that the enrollment rate of middle-income students at colleges and universities has been declining over the past 10 years. Unless action is taken soon to help, we may soon reach a situation in which only the very wealthy and the poor will be able to send their children to college. The group in the middle—those who bear the heaviest tax burdens—will be unable to afford it.

This tax credit program is a simple, efficient and equitable means of providing some needed relief. It would allow families to keep a little more of their hard-earned income and would allow them to determine their own spending priorities.

I favor this tax credit approach because it can be easily administered without expanding an already swollen bureaucracy. Eligibility could be declared on one or two lines of an income tax form; students and parents would not be required to fill out reams of HEW forms.

Mr. President, this tax credit program is an investment in our Nation's future. Because it will increase educational opportunities for our children, it will increase their earning potential—and society will eventually reap dividends many times greater than the original cost.

Mr. President, of course I recognize that there is wide disagreement over one aspect of this bill—that portion which provides tax credits for nonpublic elementary and secondary tuition costs.

As nearly as I can boil it down, opposition to this part of the legislation is based upon two major concerns: First, that availability of tax credits for nonpublic schools will lead to the deterioration of our public education system, particularly in urban America; and second, that, because many nonpublic schools are church-related, it is argued that the tax credits would violate the first amendment's prohibition against State action to "establish" a religion.

I know these concerns are expressed sincerely. As a strong believer in our public school system—and as the father of four children who have attended and thrived in public schools—I appreciate the value and importance of a vibrant, healthy public education system. If I thought this bill would actually result in deterioration of our public school system, I would vote against it. I would also vote against it if I thought the tax credits were clearly unconstitutional. I do not agree with such pessimistic appraisals. Let me set forth my reasons.

Implicit in the argument that tax credits for nonpublic schools will produce a mass exodus from the public schools—as Albert Shanker, head of America's largest teachers' union, has suggested—is the assumption that public schools are in such a precarious and tenuous state that they can survive only if they enjoy a monopoly on primary and secondary education. Even to advance such an argument does a grave disservice to our public school system; I do not accept it.

No real evidence has been offered to substantiate dire predictions of the demise of public education with the advent of such tax credits. In fact, the best evidence available indicates that the true cause for alarm is—not the deterioration of public schools—but the continuing decline of the nonpublic alternative.

Over the past 12 years, enrollment in nonpublic elementary and secondary schools has dropped by 1.3 million students—or one-fifth of their enrollment. Further, in 1960, 14 of every 100 students attended nonpublic schools; today the figure is only 9 out of 100.

It is by no means certain that tax credits will halt this erosion; it is only possible that the tide may be stemmed. It should be clear that, tax credits or no tax credits, the overwhelming majority of America's children will continue to receive a public education.

Another concern sometimes suggested is that such a tax credit might provide a windfall for whites and would thereby "foster segregation" of our schools—with whites in nonpublic schools and blacks in public schools. This argument is simply unsupported by the facts.

Some of the leading civil rights advocates strongly support tuition tax credits for nonpublic schools. Just last week, Mr. Roy Innis, national director of the Congress of Racial Equality (CORE), wrote in the Washington Post as follows:

> We believe the passage of tuition tax credits at the elementary and secondary levels will have a tremendous impact on poor and minority youngsters throughout this country by giving them what they desperately need: options. . . . To us, it is perhaps most important that this legislation would provide a competitive stimulus to the public schools . . . Innovation in both public and private education would be stimulated by the tax credit. . . . We believe it is time that the laws of this country give more than lip service to freedom of choice and quality education.

Dr. James S. Coleman, sociologist and a noted expert on desegregation whose studies have been cited by the U.S. Supreme Court, has announced his support for the elementary and secondary tax credit legislation. He said it "would increase the opportunity of black parents to escape from schools they think hurt their children."

It has been pointed out that significant numbers of urban blacks and other minorities already attend nonpublic schools. In testimony before the Senate Finance Committee, the noted black economist, Prof. Thomas Sowell of UCLA, expressed his support for tax credits on the basis of his own extensive research in the area. He found that "one of the great untold stories of contemporary American education is the extent to which Catholic schools, left behind in ghettoes by the departure of their original white clientele, are successfully educating black youngsters there at low cost."

A socioeconomic survey of public and nonpublic student populations at the elementary and secondary levels reveals that family incomes of nonpublic school students are remarkably similar to the income patterns for the entire American population:

About 20 percent of the nonpublic school students are families with income under $10,000.

Fifty-seven percent of all nonpublic school students come from families earning between $10,000 and $25,000.

Eighty-two percent come from families with incomes below $30,000.

Ninety-two percent come from families earning less than $40,000.

Perhaps most significantly, as a percentage of enrollment, nonpublic schools enroll only 2.5 percent more wealthy students than do public schools.

These figures hardly indicate a windfall for the wealthy. Instead, they do suggest that ordinary people who now pay—and will continue to pay—property taxes for support of public schools would receive at least a bit of assistance in paying for the nonpublic education they favor for their children. I do not believe this modest assistance will result in the ruin of public education.

Of course, it is also argued that such tax credits for tuition paid to parochial elementary and secondary schools would be an unconstitutional abridgement of the first amendment's "establishment of religion" clause.

I will not dwell on the relative merits of the arguments on both sides of this constitutional issue. Scholars—and, I suspect, members of the Supreme Court—are very much divided on this difficult question. In recent years, the Court has ruled on a series of State programs which have included various types of assistance for parochial schools. The results have been rather confusing, to say the least.

For example, in a recent decision, Wolman against Walter, involving an Ohio plan, the Court concluded:

> In summary, we hold constitutional those portions of the Ohio statute authorizing the State to provide nonpublic school pupils with books . . . . We hold unconstitutional those portions relating to instructional materials . . . .

If this bill is enacted, the Court should be given an opportunity to rule on its constitutionality as early as possible.

I am pleased that this is precisely what the bill before us contemplates. The measure expressly provides for expedited judicial review, allowing the courts to rule on the constitutionality of any section of the bill—even before tax credits can be claimed. This would insure that there will be no confusion for taxpayers—or the Internal Revenue Service—when the time arrives for the credits to take effect. This is the responsible way to proceed.

Mr. President, this is important legislation that is urgently needed. We pass it at a time when wage earners and taxpayers are expecting and demanding more tax equity. I hope it will become law.

● Mr. CHURCH. Mr. President, reaching a decision on whether to support or oppose the Hollings amendment has not been easy. I have tried to ponder the question carefully and have come to a conclusion only after considerable soul searching.

I believe in diversity at every level in our educational system. A mixture of public, private, and parochial grade schools and high schools has been good for our country. In Idaho, although there are relatively few parochial schools, those that do exist are of fine quality. I, myself, entered the first grade at St. Joseph's School in Boise where I received my first three grades of instruction. Years later, the Bishop Kelly High School was built in Boise and I have enjoyed a cordial relationship with the faculty and student body there. The academic standards and the high order of discipline at Bishop Kelly High School have attracted many students from Protestant, as well as Catholic, homes.

If my vote were governed by sentiment alone, I would vote for the committee bill and against the Hollings amendment. I want to help strengthen the parochial schools but I am unpersuaded that it would be wise to do so at the expense of the public schools.

It is not the constitutional question—the first-amendment provision which separates church and state—that influences my decision. In correspondence with Idaho's Catholic Bishop Treinan, I agreed that the courts, rather than Congress, should settle the constitutional issue.

It is the public policy that Congress must decide upon. This bill brings us to a fork in the road. We must ask ourselves which is the right direction to take. What will happen to our tax-supported public education system, which is available free of charge, to all children of grade school and high school age, if Federal tax credits are given to subsidize tuition paid to competing private and parochial schools?

If we start subsidizing this tuition, where is the stopping place? It is said that the $250 tax credit per student falls far short of actual tuition costs, and that the bill, as reported by the committee, would therefore do no serious damage to the public school system. This argument has been seriously challenged in the course of the debate. However, even if it were true, this bill represents a new departure. The public policy embodied in the bill, that of allowing Federal tax credit to compensate parents for tuition paid to private and parochial schools at the elementary and secondary level, would set the course for the future. The tax credits would later be enlarged, with consequences that could seriously impair the quality, nature, and scope of free public education in America. Moreover, the social impact of such a decision could easily be even more injurious than the erosion inflicted upon the public schools themselves. My concern, in this regard, is documented in a recent article which appeared in the Washington Post on August 8, 1978, captioned, "Tuition Credit's Impact Feared." I submit for the RECORD the full text of this article.

These considerations, despite my sentiments, have led me to conclude that I must vote in favor of the Hollings amendment. Another way can be found to assist private and parochial schools without the risk of undermining the public school system in this country. Too much is at stake to take that risk.

The article follows:

STUDY CITES POSSIBILITY OF MORE SEGREGATION—TUITION CREDIT'S IMPACT FEARED

(By Saundra Saperstein)

White enrollment in private and parochial schools in the 1960s was closely tied to the racial makeup of the nation's largest cities, and these enrollments often increased in cities with heavily black populations, a Johns Hopkins University study has shown.

Washington topped the list of the cities in the study whose white enrollment in nonpublic schools increased. About 37 percent of Washington's white students were enrolled in these schools in 1960; the figure was 47 percent 10 years later.

The study indicates that tuition tax credits designed to aid parents of private and parochial school students "may result in greater social-class and racial segregation of American children than now exists," according to study director Henry Becker.

Becker said the tax credits might intensify

the relationship between race and private school enrollment found in the study. The tax credits, he said, might be "more widely used by white families in cities with large or growing black populations, and could inhibit progress on school desegregation in these cities."

A controversial proposal to establish federal income tax credits for private college, secondary or elementary tuition is scheduled to come up in the Senate this week.

Spokesmen for public schools, including Health, Education and Welfare Secretary Joseph A. Califano Jr., have warned that providing a tax subsidy for private school tuition would increase the exodus from public schools and seriously hurt many systems.

Becker noted in his study that the large cities where white enrollment in private and parochial schools increased in the '60s were either southern cities or northern ones with large black populations. These cities included Washington, Atlanta, Miami, Charlotte, Dallas, Fort Worth, Philadelphia, Detroit, Newark and New York.

The rise in white enrollment in nonpublic schools in Washington between 1960 and 1970 seems "more startling when you realize that in most large northern cities the figure was going down," Becker said.

He pointed, for instance, to Milwaukee, a city with a low minority population, in 1960 about 36 percent of the white students were enrolled in non-public schools; by the end of the decade the percentage was down to 26, he said.

Washington's experience of increasing white enrollment in parochial and private schools appears to be continuing in the 1970s, according to figures provided by the Division of Research and Evaluation. In October 1977, about 55 percent of the city's "non-black" students were attending nonpublic schools, the figures showed.

The Hopkins study was based on data from the 1968 and 1970 censuses. According to Becker, it was the first statistical look at private school enrollment according to race.

Becker emphasized that the figures do not necessarily reflect what has happened in the 1970s.

Still, the Council for American Private Education found the study "alarming and misleading," according to council executive director Robert Lamborn.

"The facts since 1970 are substantially different than the facts prior to 1970," said Lamborn, whose organization is an umbrella group for about 90 percent of the nation's private and parochial schools.

"I'm not criticizing the scholarship of this study, but I am worried when a study done by anyone attributes movement to factors that are basically racial," he said.

"A great deal of movement from public to private schools has had nothing to do with race. Most of the changes have been attitudinal, reflecting desires of parents to find the best schools possible for their children.●

● Mr. SCHMITT. Mr. President, education is New Mexico's and the Nation's most vital resource for the future. Communication through the education of young people is literally direct communication with this future. There is no more awesome responsibility for parents and teachers who teach, or for legislators who create the environment for teaching.

New Mexico's future, the Nation's future, the Earth's future, our leadership, and our survival depend on the success of our educational system. An educated and farseeing electorate is essential to democracy; democracy in the United States is essential to freedom in the world.

These things I believe.

But today's argument is more pragmatic: How to begin the search for a better, indeed an adequate educational environment through legislation. Obviously, what we have been doing recently has not worked for the majority of America's young people. The rate of improvement of their education is not keeping pace with the rate of increase in the societal demands upon them.

The quality of the public school system is declining; the private school system is disappearing. How can we reverse these trends?

The typical American answer is to increase the incentives for providing a good education. Many of us believe this can be done by the tuition tax credit, a simple way of increasing the range of choice available to parents for the education of their children. With increased freedom of choice comes increased competition among schools to become the beneficiaries of that choice. With competition comes improvement of the educational service being offered whether it be public or private.

The argument is raised that providing a tax credit for private education, some of which is church affiliated, is unconstitutional. This question must be answered by the courts; but I ask you, how can an increase in the freedom of choice be unconstitutional in a Nation created to preserve freedom of choice?

Mr. President, as a cosponsor of the tuition tax credit bill, I will vote for H.R. 12050, the Tuition Tax Relief Act of 1978. The question of tuition tax credits is an issue whose time has finally arrived. While the Senate has passed similar bills on numerous occasions in the past, this is the first time that the House has also passed a tuition tax credit bill. Three fundamental reasons exist for support of this concept.

First of all, it provides some tax relief for the citizens of this country. A very clear message is being sent by the citizens of this country to their elected officials on all levels of government. The people of the United States are overtaxed. They want government spending and taxes reduced. They want more personal control of their income.

Second, and more importantly, this bill will provide citizens with a greater degree of freedom in the choice of education programs. The choice of education which has always been available to the rich will now be available to the middle- and lower economic classes. Parents will once again, and in some cases, for the first time be able to have some control over the education of their children.

Third, and most importantly, the quality of education will improve. Through the healthy competition which will certainly result from this proposal, both public and private schools will improve the quality of the educational services which they provide. Our children will be the ultimate beneficiaries of this.

Too many of our children are being denied a good education, and their parents feel helpless to do anything because of financial considerations. Under this bill, finances will play less of a role in the decisionmaking. Though to send one's children to a nonpublic school will still require a major financial commitment, it will be less of one than now. The beneficiaries will be the middle- and lower-economic classes. It is precisely these groups which require the assistance the greatest.

Mr. President, we talk about aiding the poor, eliminating the ghetto, and assisting those individuals who start their lives at a disadvantage. This bill will do more to accomplish those goals than anything else we can do. No longer will a poor family be forced to send their children to the public school even if it fails to provide adequate education. These parents will now be able to exercise some choice. Competition will increase to provide them that choice. Public and private education will both benefit from the competition.

The benefits will be greatest to minorities. On June 26, I submitted for the RECORD an article which appeared in the Washington Post. The article was about the University of Chicago sociologist James Coleman who endorsed tuition tax credits. Professor Coleman, long active in desegregation movements, pointed out that "low-income black parents" will benefit from the increased range of choices. Recently, Roy Innis of the Congress of Racial Equality (CORE) endorsed this approach. The Hispanic community has long favored choice in education.

Mr. President, Coleman and Innis have spent more time working for desegregation and racial equality than almost any two individuals. I do not believe that they would endorse any proposal that would not assist minorities and would promote segregation in the schools. Plus, their position is supported by the logic of their case.

When I contacted Hispanic groups in New Mexico to inquire as to their feelings about tuition tax credit, the response was enthusiastically in support of this proposal. I was told that any proposal which aided education, which gave parents more control over the education of their children, and which prompted competition and choice in education was welcome. These groups, some of which are involved in education, understand that minorities stand to benefit the most under this bill and not at the cost of some other groups.

Mr. President, all too often we in the Congress receive negative mail; that is, mail from constituents who are opposed to legislation being considered. The issue of tuition tax credits, however, has sparked much positive mail. During the past year I have received a great deal of mail supporting tuition tax credits. This mail has been from a cross section of New Mexicans and has outnumbered mail opposed to this issue by a wide margin.

Mr. President, I think many of the fears expressed in the past few days of debate are unfounded. I have supported the bill for elementary and secondary schools as well as for colleges because I feel that this is the best approach to assisting our citizens in providing for quality education.●

Mr. HEINZ. Mr. President, I rise in support of H.R. 12050, the Tuition Tax Relief Act of 1978, and as an original cosponsor of the Packwood-Moynihan bill, S. 2142, whose principles this bill embodies.

I have been an advocate of constitutionally acceptable aid to students in nonpublic schools before I ever ran for Congress many years ago. This is, therefore, a longstanding conviction and goal. The one way I know how to achieve this goal is through a tuition tax credit available only to students or parents. Such a credit is a simple, efficient, and fair approach to providing families some relief from rising education costs. It steers clear of institutional support, and it avoids the costs and invasions of privacy too frequently found when a Federal middleman is invited to collect and disburse the taxpayer's money.

The bill before us today would begin immediately to offer a tax credit to postsecondary students, and beginning on October 1, 1980, 2 years from now, extend that credit to students in elementary and secondary schools. It is a responsible approach and legislation that will be good for American education.

I believe that education in the United States must be a national priority. Toward that end, this bill is an important step; the proposal to create a separate Department of Education, of which I am a cosponsor and expect enactment this year, is another. For education has been and is still the lifeblood of a strong and dynamic America. It has always stood out as the hope of parents for a better opportunity for the next generation. America's greatness does not rest on her military might or economic power or humane instincts alone, but stems also from her unique and successful system of public and private education which has enabled young men and women of diverse races and backgrounds to give flower to their inate skills and abilities.

The bill before us addresses an important and fundamental principle, that of a pluralistic society. Pluralism is a unique part of America, and our confidence in the principle of educational pluralism in America is longstanding. This pluralism is threatened by the increasingly escalating costs of education which have made it more and more difficult for families of modest or moderate means to exercise their freedom of choice to pursue a nonpublic education which they believe may best meet their and their children's needs. This distinguished body has recognized this problem, and has passed six college education tax credit proposals in the past 10 years as a means of providing relief from those escalating costs.

H.R. 12050 is a departure from the past. It would provide tax credits for elementary and secondary education as well as higher education. Both have the same objectives. Tax credits for college tuitions go to parents to relieve public and private education costs: To deny them for elementary and secondary tuition costs, as the sponsors of the Hollings amendment seek to do, would constitute an artificial distinction that is wholly inconsistent with our earlier actions.

Not only would this be inconsistent educational policy, it would be bad social policy. The erosion of the tax base in many of our urban neighborhoods is an inescapable fact. The main cause is the flight of both white and black middle and upper income families from inner city areas. As a result of the decrease in local revenues, public schools in these areas are "educationally deteriorating and physically dangerous." And I for one am deeply concerned with keeping nonpublic schools alive in our urban neighborhoods. This is especially important, for these schools are often the one thing standing in the way of both black and white flight to the surburbs. And here tuition tax credits will help; indeed, I believe they are an essential element in saving our urban neighborhoods and our cities themselves.

As a matter of educational policy, tax credits will mean not less, but more, money for education. The combined impact of the tuition tax credit and the anticipated growth of Federal appropriations for public education programs will mean exactly that, and that will be good for our children as it can only serve to improve our educational system. I trust this proposition is self-evident.

One point I also want to be unambiguous about is that passage of this bill will in no way lessen my strong support for public education. Insofar as I am concerned, our system of public education in America is absolutely essential to the future of America. And I would oppose any measure that would give preference to nonpublic education over public education. But this clearly is not the case with tuition tax credits. Leaving aside the amount of State and local support per child, which in my own State of Pennsylvania totals $1,785 per student, the total elementary and secondary tax credit claimed by Federal taxpayers will be an estimated $900 million by 1983, or approximately $170 per nonpublic education student. This is less than half the estimated Federal support of $352 per public education student. Clearly, then, H.R. 12050 maintains a proper balance of support for public education.

Mr. President, I want to say again that I remain committed to seeking increased support for public education through funding of the Elementary and Secondary Education Act, the Education of the Handicapped Act, and other appropriate measures. But I am equally committed to the support embodied by this bill. I believe that the tuition tax credits provided in H.R. 12050 will allow for support for education in a way that will be good for education.

Philosophically, this tuition tax credit measure goes to the heart of another very serious matter, that of individual choice and personal freedom which we Americans hold so dear. I strongly agree with the noted sociologist James S. Coleman, the author of the landmark Coleman report, who has argued convincingly that any measure such as this that would increase the range of choice for low-income and minority parents and offer greater opportunity for individuals is a positive step forward and that more freedom of choice for Americans cannot possibly be bad for this country.

Mr. President, I am aware that there are those who are opposed, from sincere motivations, to this legislation. At the same time, I believe that the authors of the bill have carefully examined and made every effort to accommodate all legitimate concerns, and I commend the authors for their sensitivity and forthrightness in addressing those concerns:

To the concern of constitutionality, the bill provides for expedited review by the Supreme Court and defers for 2 years the credit for elementary and secondary students to allow the judicial review to be completed;

To the concern of a proliferation of segregated academies, the bill provides for monitoring of IRS enforcement of nondiscrimination standards;

To the concern of nonaccredited "fly-by-night" schools, the bill requires compliance by schools with applicable State laws for its students to be eligible for tax credits;

To the concern that middle- and upper-income families will receive a check from Washington, the bill does not provide for refunds—only credits against taxes owned.

Mr. President, some concern has been expressed about the financial impact of H.R. 12050. The total cost of this program when fully effective by 1983 is estimated to be approximately $2.8 billion: $1.9 billion, attributable to postsecondary education, $900 million to elementary and secondary education. Of the $726 billion in estimated Federal receipts for 1983, the total involved is less than two-fifths of 1 percent. This is a minimal amount. And to those concerned about Federal spending, I want to stress that this is not an outlay. At the worst, this is money we will not collect; at best, this is money over which the taxpayers themselves will have more control, and the opportunity of a better education for their children.

In sum, Mr. President, I believe the public interest is best served by passing H.R. 12050 and making a tuition tax credit available. I am equally confident that the quality of our American system of education will continue to thrive from the diversity and competition that have always been the hallmark of American education, and I urge my colleagues to support this important legislation.

Mr. HELMS. Mr. President, I support the concept of the tuition tax credit. I was a cosponsor of one of the original measures, and I still believe that the concept is sound.

I believe that the concept is sound because it provides a way to offer relief to the taxpayer without involving the Federal Government in the educational process. But that concept has been seriously damaged by the legislation and legislative history that has been developed over the past few days.

As the bill came from the House of Representatives, it was exclusively a revenue measure, unrelated to assistance to education, either public or private. In fact, it even contained a clause insuring that the tax credit not be considered as

Federal assistance to educational institutions. That clause read: "Any educational institution which enrolls a student for whom a tax credit is claimed under this Act shall not be considered to be a recipient of Federal assistance under this Act." That statement was reiterated in the House report.

Yet the Senate Finance Committee, in rewriting the bill, pointedly omitted that clause, even though it accepted verbatim the language of the preceding and succeeding paragraphs. Although that action in itself would not have been determinative, I was deeply disturbed to learn in a colloquy last night with the distinguished Senator from New York that the sponsors did appear to consider this measure as assistance to the institution, rather than as relief to the taxpayer. I gave them every opportunity to deny that interpretation, and they failed to do so.

Now I realize that there are those who maintain that this bill amounts to Federal subsidy for segregated schools. In this day and age, such a charge is a red herring that has very little meaning in practice. It is true that two decades ago many schools were organized as a result of the desegregation decisions of the Supreme Court. But desegregation in itself was not a cause that could long sustain the sacrifices of parents and teachers. Indeed, many of the schools that were set up only for the purposes of avoiding desegregation have already closed.

On the other hand, the development of the Christian school movement is increasing rapidly. With the deterioration of academic standards, moral standards, and teaching standards throughout the Nation, and the steady erosion of cultural and religious values by the infiltration of secular humanism into the curricula of the public schools, many parents have felt the need to remove their children from that environment.

The Christian school movement is based upon the premise that the religious. social, cultural, and academic aspects of education are a totality. To maintain the integrity of that unit, it is necessary to have absolute control over all parts of it. That means control not only over the academic content. but also over the social behavior of students, the attitudes portrayed in textbooks, the Christian witness of the teachers, the ethics of moral problems. There are many, of course, who would disagree with the goals and aims of the Christian schools; but they are not required to participate in voluntary, private activity.

Yet, if by means of false legislative interpretation of the tuition tax credits, we suddenly transform this wholesome, socially useful private activity into an area subject to State action, we destroy the integrity of the activity. Moreover, in a democracy, we open ourselves to the charge of funding religious activity.

Now, although the debate so far has been directed toward the false issue of segregation, we cannot escape the fact that once Federal control is interjected into any portion of an area, it rapidly extends to control the whole area. No one can maintain that Federal concern over possible segregation will stop at that point. The HEW bureaucrats have a totalitarian mentality. They distort the entire educational process because their only priority is to achieve mathematical desegregation. But for most private schools the whole issue of race has very little priority at all. It is simply no big thing. There are so many aspects of education that are so much more important that they of necessity crowd out racial issues. To adopt HEW's ideological and social priorities would completely distort the educational process.

This problem is emphasized by section 3 of this bill, which provides for the Secretary of the Treasury, the Secretary of HEW, and the Attorney General to report on the effectiveness of IRS procedures on civil rights. This in itself is an ominous provision; in effect, it gives the Secretary of HEW oversight on certain private school activities. We have seen how HEW in dealing with public schools looks at everything through the myopic lens of desegregation, and distorts its requirements accordingly. Now HEW is supposed to become an advisor to IRS to "enhance enforcement * * * of public policies against racial discrimination and other forms of discrimination which are contrary to law or against public policy." The three Cabinet officers are also supposed to report to Congress on "Revenue Ruling 71–447, Revenue Procedure 75–50, and any other rulings, procedures, directives, or memoranda designed to enhance civil rights enforcement by the Service."

This is not a narrowly draw directive. It is an open invitation to the Federal Government to invent any kind of rulings it wishes on the basis of its interpretation of public policy. Nor is the directive limited to racial discrimination. It embraces "rulings, procedures, directives, or memoranda designed to enhance civil rights enforcement." Thus even if a problem does not involve racial discrimination per se, it comes within HEW's orbit if it merely enhances enforcement of discrimination.

It does not take too much imagination to see HEW demanding coed sports programs, coed dormitories, the hiring of homosexual teachers, the availability of abortion counselors, and the abolition of male and female choirs, and so forth, all erected upon some pretext of public policy.

Indeed, the very directives mentioned in section 3 are directives which themselves have no legislative foundation. They are directives which were invented out of the air by the admission of the Director of Internal Revenue, Mr. Jerome Kurtz. Mr. Kurtz himself said so in a public speech only 8 months ago on January 9. He said:

> We have almost no specific statutory guidance; our authority and obligations on racial issues derive from the constitutional doctrine announced in *Brown* v. *Board of Education in 1954*, and cases enforcing and interpreting it, and from the broad national policy announced in the 1964 Civil Rights Act.

In the same speech, Mr. Kurtz also describes the role of the IRS in permitting tax exemption to churches. He points out that IRS is making rulings in the definition of what constitutes a "church" without any statutory authority:

> For many years, and now with increased frequency, the Service has been required to rule regularly and with far-reaching consequences on a term about which we have received no guidance from Congress.

Mr. Kurtz goes on to detail the revenue procedures which are mentioned in section 3 of the bill before us today, and points out that they are interrelated with tax implications for church-sponsored schools and the churches themselves:

> Church related private schools are covered within this policy, as well as the churches that operate and control them.

Finally, Mr. Kurtz describes the IRS as being "on the cutting edge of developing national policy."

Mr. President, this bill appears to give sanction to the extraordinary assertions of Mr. Kurtz. But even if section 3 were not in the bill, his statements give full evidence of the tendency to totalitarian control inherent in the bureaucratic mind. For if both the churches and the schools are equally subject to civil rights enforcement, then we are preparing the way for doctrinal and ritual intervention by HEW against religious practices and beliefs involving the roles of the sexes and the morality of sexual practices.

From that kind of intervention, it is only a step to demanding HEW-approved curricula, HEW standards for teachers, HEW approved textbooks, and so on. What can stop "the cutting edge of developing national policy"?

Mr. President, I admit that this trend is already well-advanced, whether or not this bill is passed. But the Senate should not approve—it must not approve—the principle that a tax credit to an individual is a Federal contribution to an institution, thus placing that institution in line for all kinds of Federal control. The area of private action must be jealously safeguarded, and that has not been done in the Senate version of the bill.

Mr. President, I ask unanimous consent that the speech by Mr. Jerome Kurtz, Commissioner of the IRS, be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY JEROME KURTZ

DIFFICULT DEFINITIONAL PROBLEMS IN TAX ADMINISTRATION: RELIGION AND RACE

Of all the interpretative judgments the Internal Revenue Service must make in administering the tax laws, probably none is more difficult and none demands more sensitivity than those concerning tax consequences affected by questions of religion and civil rights. These questions are far afield from the more typical tasks of tax administrators—determining taxable income. Nevertheless, our tax law places the IRS near the forefront in making delicate decisions involving definitions of "religion" and "church" and also places on the Service a substantial responsibility in making determinations relating to racial discrimination.

I'd like to discuss briefly why we must take positions in these areas and the factors considered by the Service in attempting to resolve these problems.

Statutory terms involving religion are found throughout the Code. Significant tax benefits follow from a determination that an organization is a "religious sect." For example, under section 1402(g) it is exempt from payment of Social Security taxes. Donations made to a group "organized and operated exclusively for religious . . . purposes" under section 170(c)(2)(B) qualify for deductions at higher limits.

Moreover churches today have only minimal demands made on them by the Service. For example, they are not required to seek exemption, they have no filing requirement, and they receive the benefit of the restraints imposed on the Service prior to an audit by section 7605(c).

Fundamental to most (but not all) of these usages in the Code is (1) the characterization of an organization's purposes as "religious" as that term is used in section 501(c)(3), and (2) qualification of an organization as a "church."

All of government—including the IRS—is constrained in the largest context by the First Amendment's Free Exercise and Establishment Clauses. In the Supreme Court's words, religious exercise must be permitted "to exist without sponsorship and without interference." (*Walz* v. *Tax Commission*, 397 U.S. 664, 669 (1970)). Exemption of religious institutions, whether from property or income taxes, has been characterized by the Court as representative of a "benevolent neutrality towards churches and religious exercise generally" that is "deeply imbedded in the fabric of our national life." (*Id.* at 676–77). In addition to the constraint implicit in neutrality, government must ensure as well that the *effect* of otherwise appropriate decisions does not result in an "excessive entanglement" with religion.

The most fundamental perception we have of our role then is to administer these provisions with unimpeachable neutrality, using as our premise Justice Douglas' eloquent phrase that this society will "make room for as wide a variety of beliefs and creeds as the spiritual needs of man deem necessary." (*Zorach* v. *Clausen*, 343 U.S. 306, 313–14 (1952)).

Having said that, however, does not mean that these First Amendment rights are absolutes or can be asserted as a screen for any kind of conduct. While the Court has found within the religious clauses of the First Amendment both a freedom to believe and a freedom to act, it has also found that the former is absolute while the latter is not. (Reyonds vs. U.S., 98 U.S. 145 (1878))

The Service, of course, has no concern with an individual's privately held beliefs, but it cannot always avoid concern with actions based on such beliefs. When a group makes its beliefs and programs a basis for seeking preferential tax treatment, then the Service has an obligation to inquire whether such preferences should appropriately be extended to such group.

From this distinction, the Service has constructed the first of two basic inquiries it makes of an individual or organization seeking to meet the "religious purpose" test of section 501(c)(3): Are the practices and rituals associated with the belief or creed illegal or contrary to clearly defined public policy? If a group's actions, as contrasted with its beliefs, are contrary to well established and clearly defined public policy, then tax preferences are inappropriate. The group will fail to meet the religious purpose test. Because "Religious Purpose" implies the absence of activities which are illegal or harmful in an important way to others. Under this test the Service revoked an exemption granted for ostensibly conventional charitable and religious purposes when we learned the group was actually organized to carry out a vicious, anti-semitic campaign.

The second inquiry, which is rather limited, is whether the particular belief is truly held. The Supreme Court ruled more than a generation ago that citizens may not be put to the proof of their religious doctrines or beliefs:

"The Fathers of the Constitution were not unaware of the varied and extreme views of religious sects, of the violence of disagreement among them, and of the lack of any one religious creed on which all men would agree. They fashioned a charter of government which envisaged the widest possible toleration of conflicting views. . . . The religious views espoused by respondents might seem incredible, if not preposterous, to most people. But if those doctrines are subject to trial before a jury charged with finding their truth or falsity, then the same can be done with the religious beliefs of any sect." U.S. vs Ballard, 322 U.S. 78, 87 (1943).

Nevertheless, the Court did hold that to enjoy a benefit based on a religious belief, the belief must be truly and sincerely held. This determination is tilted in favor of the applicant by the Service in this manner: In the absence of a clear showing that the beliefs or doctrines under consideration are not sincerely held by those professing them, the Service will not question the religious nature of those beliefs.

For example, within recent years the Service has ruled favorably on a sect that worshipped pagan dieties. The members of the sect consider themselves pagans engaged in the practice of witchcraft, magic, healing, and clairvoyance. There was no evidence that the beliefs were not sincerely held and none of their activities violated any law or clearly-defined public policies. Their beliefs appeared to serve the same function in the lives of their adherents as the beliefs of a more conventional religion serve in the lives of its adherents, the "functional equivalence" test enunciated by a California appellate court some twenty years ago in upholding exemption for a secular humanist society. *Fellowship of Humanity* vs. *County of Alameda*, 315 p. 2d 394, 409–10 (1957)).

Often associated with the determination of "religious purpose" is the question of whether the organization is a "church." For several reasons, more controversy has been generated in recent years about this part of the religion question than any other. Prior to 1970 all religious organizations and exempt organizations "operated, supervised, or controlled by or in connection with a religious organization" were excused from virtually all accountability to the public. Congress, in the Tax Reform Act of 1969, narrowed the exceptions from filing an information return and indirectly attached greater significance to classification of an organization as a church or an integrated auxiliary of a church. Of less obvious significance than accountability, but of great practical consequence to qualifying as a church under section 170(b)(1)(A)(i), is the absence of the public support tests to avoid private foundation classification.

For many years, and now with increased frequency, the Service has been required to rule regularly and with far-reaching consequences on a term about which we have received almost no guidance from Congress. Frankly, it is a difficult and thankless task, but one that we cannot avoid because of the significant tax implications that follow when an organization qualifies as a church.

In determining whether an admittedly religious organization is also a church, the Service follows the principles enunciated by the Court in *De La Salle Institute* vs. *United States*. In holding that a religious order operating schools and a novitiate was not a "church," and therefore not exempt from the tax imposed on unrelated income generated by a winery operated by the corporation, the Court was terse and direct:

"To exempt churches, one must know what a church is. Congress must either define 'church' or leave the definition to the common meaning and usage of the word; other wise, Congress would be unable to exempt churches. It would be impractical to accord an exemption to every corporation which asserted itself to be a church. Obviously Congress did not intend to do this." *De La Salle Institute* vs. *U.S.*, 195 F. Supp. 891, 903 (N.D. Cal. 1961).

The Tax Court carried that concept further in *Chapman* vs. *Commissioner*, 48 T.C. 358 (1967) when it determined that Congress used "church" more in the sense of a denomination or sect than in a generic or universal sense.

Consistent with these principles, the Service does not accept any and every assertion that an organization is a church. We have adopted a ruling position based on historical and practical considerations in arriving at what the Court in *De La Salle* called "the common meaning and usage" of the word "church." As important as these historical and practical considerations, however, have been our attempts over the years to isolate and distill from authoritative judicial sources those indicia of the existence of a church that are the most objective and least involved with particular beliefs, creeds or practices. But beliefs and practices vary so widely that we have been unable to formulate a single definition. The determination whether a particular organization is a church must, therefore, be made on a case-by-case basis. It may be helpful to list the characteristics we utilize:

(1) A distinct legal existence,

(2) A recognized creed and form of worship,

(3) A definite and distinct ecclesiastical government,

(4) A formal code of doctrine and discipline,

(5) A distinct religious history,

(6) A membership not associated with any other church or denomination,

(7) A complete organization or ordained ministers ministering to their congregations,

(8) Ordained ministers selected after completing prescribed courses of study,

(9) A literature of its own,

(10) Established places of worship,

(11) Regular congregations,

(12) Regular religious services,

(13) Sunday schools for the religious instruction of the young,

(14) Schools for the preparation of its ministers.

We are aware that few, if any, religious organizations—conventional or unconventional—could satisfy all of these criteria. For that reason, we do not give controlling weight to any single factor. This is obviously the place in the decisional process requiring the most sensitive and discriminating judgments. We are aware of this and that awareness is, perhaps, the best guarantee that we are trying to administer this difficult area carefully and evenly.

While I don't want to overstate the case, the alternatives to this admittedly imperfect process would weaken fundamental tax administration principles. Acceptance at face value of the assertion that an organization is a church would invite abuse. We must, for example, make preliminary determinations of bona fides in determining the application of section 7605(c) audit restraints.

A description of a current tax avoidance device illustrates the problem. Some individuals and organizations are marketing and promoting "plans" to avoid income taxes. While the "plans" vary in certain respects, a common theme calls for an individual taxpayer to obtain minister's credentials and a charter for a church or religious order by mail for a fee from churches that may or may not be recognized as exempt from Federal income tax under IRC 501(c)(3). No profession of adherence to a creed, dogma, or moral code is required and no duties or fiduciary responsibilities are undertaken in order to receive and administer these charters or credentials.

The "plan" then calls for the individual to take a "vow of poverty" and to assign his assets (house, car, savings account, etc.) and the income earned from current employment to the purported church or order. A major portion of the income assigned to the church or order from this unrelated occupation is

set aside for housing, food, clothing, and other items for the individual. Most of the remaining income is set aside for the upkeep of the premises in which he resides, the maintenance of the individual's car which is provided for his unrestricted use, and for occasional "spiritual retreats", by the individual to traditional vacation areas. Under the "plan," less than 10 percent of the remaining assigned income is utilized for gifts to the poor, prayer books, bibles, and other church functions.

Typically, the solicitations conclude that a vow of poverty can make a person rich.

Those interested in protecting the preferences for churches must agree that the Service has an obligation to be vigorous in stopping such schemes.

We have been criticized for the scope and breadth of the criteria we use and it has been implied that the Service has been trying in recent years to discourage new religions and new churches. I can assure you that that is not the case with the IRS. But the protection of church preferences requires that such preferences not be distorted.

We will do our best to administer this difficult area with tact and discretion. We may err occasionally but I remind you that Treasury and the Service were among the most vigorous advocates of the declaratory judgment procedures for exempt organizations so that there would be prompt judicial resolution of disputed rulings.

RACE

Equal in difficulty to the religious issues are those involving race. Again, the Service has been pulled from both directions, being criticized at the same time for doing too little and too much. Guidance on racial issues is less clear than that on religious issues. We have only a little more than 25 years of history and development of the law and Federal policy on school integration compared with 200 years of history on religious issues.

We have almost no specific statutory guidance; our authority and obligations on racial issues derive from the constitutional doctrine announced in *Brown* v. *Board of Education* in 1954, and cases enforcing and interpreting it, and from the broad national policy announced in the 1964 Civil Rights Act.

Our policy and administration in this area is developing. As in the case of the religious issue, this is not an area with which tax administrators typically deal. Our experience is limited. We are, however, moving to fulfill our responsibility as promptly as we reasonably can. As I will relate in a moment, the Service has taken significant steps in recent years to improve compliance with its private school policy. We expect further guidance from the courts since we are presently involved in litigation about our enforcement program.

The most demanding tax administration problem for the Service is in determining whether private schools have adopted and implemented a racially nondiscriminatory student admissions policy. While this is obviously not the only tax problem involving race, it is the one that has received most attention from the Service and its constituency in recent years. Service ruling policy is found in Revenue Rulings 71–447 and 75–231. Guidelines and procedures are found in Revenue Procedure 75–50. Essentially, these three documents deny tax exemption to private schools that discriminate in their admissions policy on the basis of race or ethnic origin. Church-related private schools are covered within this policy, as well as the churches that operate and control them.

These rulings positions had their origins in the early part of this decade when a Federal court enjoined the Secretary and the Commissioner from granting exemption to private schools in the State of Mississippi that discriminated on the basis of race in their admissions policies. The first ruling in this area extended a similar prohibition to all private schools in the United States. Schools were notified of this ruling and given an opportunity to adopt a suitable admissions policy and publicize it to the communities they served. More than 100 schools chose not to adopt such a policy, resulting in the revocation of their exemptions.

In 1975, the Service announced that that policy was equally applicable to schools operated or controlled by churches and, in the same year, issued Revenue Procedure 75–50 articulating important standards and guidelines by which both Service agents and the affected schools could determine whether the latter were in compliance. A brief background discussion about the evolution of these latest developments may be helpful.

In the fall of 1974 a Task Force composed of IRS and Chief Counsel personnel undertook to evaluate, in the broadest context, Service policy affecting private schools. They studied every part of the IRS responsibility, from rulings policy in the National Office to examination practices in the field. They discovered what appears to be almost a truism: translating policies and guidelines about race into compliance and enforcement practices presented the Service with the most difficult kind of tax administration judgments. The basic charge to the Task Force was to prepare recommendations to give field agents specific and objective guidance both in considering exemption applications and in conducting examinations of private schools. Within the past few weeks, the final item resulting from the Task Force's work has been issued to the field. In addition to the revenue rulings and procedures, our private school program includes the following:

An internal management reporting system to record and track complaints, audit results, and exemption letter activity.

Specific and detailed examination guidelines and a checksheet to assist field agents.

A revised Schedule A to Form 1023 (Application for Exempt Status) to conform it to the informational requirements established by Revenue Procedure 75–50.

A revised Form 990 to provide for the annual certification required by Rev. Proc. 75–50 that the school is complying with all aspects of the Rev. Proc. and to collect information to assist us in selecting private school returns for examination.

Revised basic training materials for exempt organizations specialists to reflect the new guidelines.

Audit coverage of private schools has increased dramatically in the past two years. In fiscal year 1977 784 private school returns were examined, representing approximately 10% of the private schools with individual rulings in each Key District. That coverage includes a number of church-related private schools as well.

Notwithstanding that the Service is committed to removing tax exemption from schools that discriminate racially, and has devoted significant resources to ensure that its enforcement activity is equal to the task of assuring nondiscriminatory admissions policies, certain troublesome questions persist. One question is how we should evaluate the bona fides of the admission policy of schools located in communities subject to desegregation orders that operate over a long period of time without actually enrolling any minority students. Does that fact create a presumption calling for more careful scrutiny? Might a similar rule be applicable even in the absence of local desegregation orders? And, on the other side of that question, what steps can an exempt school take in such a situation to establish that it, in fact, has been open to children of all races and ethnic groups?

An equally serious question is whether and how far the issue of racial nondiscrimination extends beyond private schools to other exempt activities. Congress gave some intimations of its feelings on this question in 1976 when it added section 501(h) to the Code prohibiting certain social clubs from discriminating in their governing instruments on the basis of race, color, or religion.

Questions in this area are obviously sensitive and put the IRS, in some cases, on the cutting edge of developing national policy. But this is where we find ourselves and we will do our best.

I appreciate this opportunity to share with you some of our views on matters of as great concern to the Service as they are to the public we serve.

Mr. PERCY. Mr. President, I support the amendment offered by Senator HOLLINGS to remove the elementary and secondary school provisions from H.R. 12050, the Tuition Tax Relief Act of 1978. The provision of a tax credit for sectarian elementary and secondary school tuition is clearly, in my judgment and that of many constitutional authorities, unconstitutional. It would be a cruel hoax on many families for the Senate to approve this tax credit, recognizing that the Supreme Court will strike it down.

The evidence for the unconstitutional nature of this tax credit would appear to be conclusive. It is true, as argued by proponents of the tax credit, that the Federal Government is already providing certain subsidies to elementary and secondary sectarian schools. And I fully supported these subsidies. However, the basic distinction which the Court makes in determining the unconstitutional nature of a subsidized activity is whether the educational and religious aspects of that activity can be separated.

Thus, for example, the Court has upheld the use of public funds where it is possible to make the distinction between educational and religious purposes. The most recent finding of the Court in this regard was Wolman against Walter, a case decided in 1977. In this case, the constitutionality of an Ohio law which authorized various forms of aid to nonpublic schools, most of which were sectarian, was challenged. The Court held that—

Those portions (of the law) authorizing the State to provide nonpublic school pupils with books, standardizing tests and scoring, diagnostic services, and therapeutic and remedial services are constitutional. Those portions relating to instructional materials and equipment and field trips are unconstitutional.

In this decision, those activities with either specific educational and secular purposes, such as books for secular subjects and standard tests, or general welfare services, such as diagnostic services, were ruled constitutional. Those activities, though, where no clear distinction could be made between the educational and religious aspects, such as instructional materials and equipment which could be used for teaching both secular and nonsecular subjects, were ruled unconstitutional. This is the case with any type of tuition assistance. In Lemon against Kurtzman, Superintendent of Public Instruction of Pennsylvania, a case decided in 1971, the Court developed three tests regarding the use of public funds for sectarian schools:

Every analysis in this area must begin with consideration of the cumulative cri-

teria developed by the Court over many years. Three such tests may be gleaned from our cases. First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, the statute must not foster "an excessive government entanglement with religion."

Under the first—the determination of secular purpose—the tuition tax credit would fail because it would be impossible to distinguish nonsecular from secular purposes, since the subsidy is not for a specific educational and secular activity. Under the second test—a determination of primary effect—the tuition tax credit would fail because the Court has already ruled, in a definitive manner, that even indirect aid cannot be used to subsidize sectarian schools when the primary effect of such aid is to advance religion. Under the third test—the determination of excessive entanglement—the tuition tax credit would fail because it would undoubtedly result in a greater, and unwanted, Government involvement with sectarian schools.

Proponents of the tax credit for elementary and secondary school tuition also argue that it is intended to benefit the students and their parents, not the schools themselves, and therefore it is constitutional. However, the Court has specifically rejected this argument on two separate occasions, in its ruling on Committee for Public Education and Religious Liberty against Nyquist, Commissioner of Education of New York, and Sloan, Treasurer of Pennsylvania against Lemon. Both cases were decided in 1973.

In Nyquist, New York State had designed two programs to aid parents who wanted to send their children to private elementary and secondary schools. The programs would have provided a direct reimbursement for a certain amount of tuition costs for low-income families, and a tuition tax relief plan, including both a credit and a deduction, for higher-income families.

In Sloan, Pennsylvania had developed a program to reimburse parents for a portion of nonpublic elementary and secondary school tuition expenses. Although, in Nyquist, the State argued that the tuition subsidies would benefit the parents and not the schools, the Court held that:

1. The propriety of a legislature's purpose may not immunize from further scrutiny a law that either has a primary effect that advances religion or fosters excessive church-state entanglements.

2. The maintenance and repair provisions of the New York State statute violate the Establishment Clause (of the First Amendment) because their inevitable effect is to subsidize and advance the religious mission of sectarian schools. Those provisions do not properly guarantee the secularity of state aid by limiting the percentage of assistance to 50% of comparable aid to public schools. Such statistical assurances fail to provide an adequate guarantee that aid will not be utilized to advance the religious activities of sectarian schools.

The tuition reimbursement grants, if given directly to sectarian schools, would similarly violate the Establishment Clause, and the fact that they are delivered to the parents rather than the schools does not compel a contrary result, as the effect of the aid is unmistakably to provide financial support for nonpublic, sectarian institutions.

The fact that the grant is given as reimbursement for tuition already paid, and that the recipient is not required to spend the amount received on education, does not alter the effect of the law. . . .

The system of providing income tax benefits to parents of children attending New York's nonpublic schools also violates the establishment clause, like the tuition reimbursement program, it is not sufficiently restricted to assure that it will not have the impermissible effect of advancing the sectarian activities of religious schools.

Because the challenged sections have the impermissible effect of advancing religion, it is not necessary to consider whether such aid would yield an entanglement with religion. But it should be noted that, apart from any administrative entanglement of the State in particular religious programs, assistance of the sort involved here carries grave potential for entanglement in the broader sense of continuing and expanding political strife over aid to religion.

The Court made a similar ruling in Sloan, finding that—

There is no constitutionally significant difference between Pennsylvania's tuition grant scheme, with its intended consequences of preserving and supporting religion-oriented institutions, and New York's tuition reimbursement program held volative of the Establishment Clause in (Nyquist).

In short, the Court has definitively ruled that the effect of tuition relief subsidies, in any form, is to provide financial support for sectarian elementary and secondary schools because it has the immediate effect of supporting and advancing religious activities.

In addition, as I have previously stated, sectarian elementary and secondary schools do receive some public funds. This subsidy, for specific educational programs, amounts, I believe, to approximately $61 per pupil. This compares with $115 per pupil in Federal funds received by public elementary and secondary schools. These figures are congressional budget office estimates. Public schools serve 90 percent of our elementary and secondary school students. Thus, from a policy standpoint, I cannot approve of a bill which would provide private schools with a possible $278 per pupil subsidy when the per pupil subsidy for public schools, which are in great financial distress, is only $115 per pupil.

I have long supported private elementary and secondary schools. These schools do provide an invaluable service and a quality education to their students. They provide to us an invaluable yardstick against which to judge the quality of public education, other than to students and parents of those in institutions of higher education. Private schools, parents, and their students need and deserve additional Federal assistance. However, the tuition tax credit is not a constitutionally sound way to provide this assistance.

We can successfully address this problem in a constitutional manner. Through the Elementary and Secondary Education Act and the school food programs, we already provide much needed assistance. When the ESEA authorization and the Labor-HEW appropriations is considered by the Senate, we should seriously consider increased assistance through these channels.

For these reasons, I will vote for the Hollings amendment.

Mr. STEVENS. Mr. President, I would like to express my support for the Tuition Tax Relief Act of 1978 as reported by the Senate Finance Committee. I believe that an excellent case has been made by the proponents of the bill and I commend them on their efforts to promote the concept of tax credits as a means of alleviating the burdensome cost of education. To reiterate the stated arguments would be pointless at this stage of the debate. I feel that my colleagues are all aware of the major issues involved and will take each into account.

There is, however, one subject that has received little, if any, attention and one which I would like to address at this time. The subject is the effect of the present student aid programs on the relationship between the student and his or her parents. While this issue might seem extraneous to the topic discussed today, it is nonetheless important and deserving of consideration. It is my contention that the tuition tax credit concept is a preferable program to the present student aid programs conducted by the Department of HEW with regard to its effects on the student-parent relationship and the whole structure of the family unit.

Mr. President, any proposal which the Senate considers must be viewed in light of its alternatives. We cannot expect to judiciously pass judgment without first reviewing the alternatives. What we are debating today is not the existence of a problem—we all recognize that some relief is needed from the high cost of education. What we are discussing is the method by which this problem can be best addressed.

The cost of education has increased at all levels, in both private and public institutions, and is pricing many students out of the market. Starting with the assumption that education is a desirable commodity, both for the individual and society as a whole, Congress must reaffirm its commitment to insure adequate educational opportunities for all Americans by enacting that proposal which provides education that is both affordable and of the highest possible quality. All aspects of the alternatives must be viewed and it is for this reason that I wish to elaborate on the familial aspects of the tuition tax credits and the existing student aid program.

It has traditionally been assumed that the family has the basic responsibility to provide for a child's education, either directly through tuition payments or indirectly through taxation. The Government's student aid programs were established to provide equal educational opportunities by offering aid based on financial need. The education programs were not intended to shift this basic responsibility or assume the family's role, but merely to provide for education when the family resources are not adequate. I am concerned, however, that the effects of these programs have been to contribute to the breakup of the family unit, a phenomena which disturbs me a great deal. The main contributing factor is the program's encouragement of students to claim independency from their parents for the purposes of eligibility for these Government programs.

The chances of students receiving aid increases with their independent status because the needs analysis does not consider the potential family support for independent students and since most independent students have few resources, they get higher awards. The average award given to an independent student is generally about 60 percent higher than that for the average dependent student. This, of course, is an incentive for students to disassociate themselves from their parents, especially those coming from middle-income families where there is some question as to whether or not they can qualify for aid. This phenomena has been occurring more and more since the early 1970's when the present definition of "independent student" was established for the student aid programs.

From 1974 to 1975 alone, there was actually a 100-percent increase in the number of independent students qualifying for aid in most of these programs, including the BEOG. Students are realizing more and more that independence allows them to receive larger awards and with the increased cost of education, this fact becomes a sufficient inducement for the change in status. The mass media is also helping to encourage this type of claim. For example, Women's Day magazine ran an ad stating:

If your son or daughter has been self-supporting, he or she may be eligible for college aid, regardless of your ability to pay.

One immediate effect of more students claiming independence and receiving higher awards is, of course, that there will be fewer dollars for other eligible and perhaps more needy students. And the results may well be the opposite of what is intended in that lower income students will not receive adequate levels of aid and be priced out of the opportunity for education. There are other ramifications stemming from the eligibility requirements besides the obvious financial ones.

For example, in these student aid programs, "independent student" is defined as one who: First is not claimed as a dependent by anyone except his or her spouse; second, has not and will not receive more than $600 from his or her parents in the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested, and third, has not and will not live for more than 2 consecutive weeks in the home of a parent during the year in which aid is received and during the year prior to the academic year for which aid is requested.

By disallowing any parental financial assistance in excess of $600 and by not permitting the student to live with the parent for more than 2 consecutive weeks, one can hardly expect that a strong parent-child relationship will be maintained. Those students who are no longer living at home will probably experience some loss of emotional support and declaring independence may well serve to exacerbate the problem. In addition, some tests required by the program in order to establish independence makes things harder.

In order to qualify, many middle-income students have to either get their parents to lie or disclaim them. Also, Government standards are such that some parents refuse to submit the necessary confidential financial information to establish eligibility protesting that it is an invasion into their private lives. Others feel it is degrading to have to establish for one's children that one is too poor to provide the necessary financial educational assistance.

Independence for the student is not necessarily describing a group of individuals whose status as "independent" has been traditionally recognized. Basically, the concept has been created legislatively, through the 26th amendment fixing the age of majority at 18, and through regulatory fiat setting arbitrary parameters for independence. It must be kept in mind, however, that for students, independence means simply that dependency has shifted from the parents to the Government. Through financial incentives, students are encouraged to look to the Government for the assistance traditionally supplied by the parents.

While initially claiming independence may be strictly for the purposes of receiving aid and is based solely on legal technicalities, there are certain to be other psychological effects on the student and the parent relating to their general attitude toward each other and the Government. The situation I have just described is only one example of the trend in our country toward greater reliance on the Government. We look to the Government for financial assistance through social security, economic development, disaster assistance, public housing, old age assistance, and child welfare. The Government further influences our behavior and guides our actions through health and safety guidelines, environmental and energy controls, minimum standards on food and nutrition, and requirement for the activities of both business and labor. And mostly, as a result of the areas of Government involvement I have just mentioned, the Government provides regulation management and enforcement and legal advice and services. As Government continues to grow and invade our private lives, reliance on the Government to provide us with what we need or want will continue to grow and continue to curtail our traditional reliance on the family structure.

In addition to the student aid program, there are other assistance programs which encourage Government dependence such as the food stamp program which requires independency for students. Another example is the welfare program which guarantees a minimum income to poor families. I do not have to remind my colleagues of the famed Seattle-Denver income maintenance program which was found to have actually contributed to family breakups. I understand that the intent of these programs is meritorious, yet, I do not believe they serve the best interests of the students and their families. Mr. President, I do not mean to infer that the student aid program is necessarily leading to the breakup of the family unit, I merely mean to bring my colleagues' attention to the possible consequences of this type of educational aid.

As I stated earlier, every proposal must be viewed in light of its alternatives and if one alternative appears to create an effect we view as detrimental, then let us consider that fact when assessing the overall merits of the proposal. I believe that the tax credit approach to providing aid is preferable for numerous reasons and in light of its familial effects, it is certainly the better alternative. The tax credits will encourage the students to look to their parents for aid instead of the government. The Tuition Tax Relief Act, as reported by the Finance Committee, allows a taxpayer to claim a credit equal to 50 percent of certain education related expenses incurred by himself, his spouse, or his dependent. The credit can only be claimed by a taxpayer and most student's incomes are such that they do not pay any taxes. Therefore, in most cases, the students would have to be a dependent of his parents in order for the credit to apply toward his education. With the tax credit, there is no incentive for the student to disassociate himself from his parents for the purposes of receiving educational assistance.

Another advantage of the tax credit relative to the student aid program is its simplicity and lack of Government intrusion. A family need not submit confidential financial statements to HEW; there are no long and complex application forms to be filled out; there is no uncertainty as to whether or not the assistance will be granted; and the decision rests with the taxpayer, not HEW.

Mr. President, I support the concept of tuition tax credits as a means of alleviating the increasing cost of education. I feel it is a far superior mechanism, especially with regard to its effects on such a fundamental unit in our society as the family, and I would certainly hope that my colleagues will not ignore this effect when voting on this legislation.

Mr. MOYNIHAN. Mr. President, I move that the pending amendment be laid on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. I ask for the yeas and nays also on the amendment, if the motion to table fails.

The PRESIDING OFFICER. That would require unanimous consent.

Mr. HOLLINGS. I ask unanimous consent to that effect.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HOLLINGS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HODGES. Mr. President, assum-

ing the Hollings amendment to my amendment prevails, I ask unanimous consent that it be in order to ask for the yeas and nays on my amendment also.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object, Mr. President. I do not know about that amendment.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the motion to lay on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

The result was announced—yeas 40, nays 57, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—40

Allen	Hayakawa	Nelson
Anderson	Heinz	Packwood
Biden	Huddleston	Pearson
Curtis	Jackson	Proxmire
Danforth	Laxalt	Ribicoff
DeConcini	Long	Roth
Dole	Lugar	Schmitt
Durkin	Magnuson	Schweiker
Garn	Mathias	Stevens
Goldwater	Matsunaga	Tower
Griffin	McIntyre	Wallop
Hansen	Melcher	Zorinsky
Hatch	Moynihan	
Hathaway	Muskie	

NAYS—57

Abourezk	Domenici	Metzenbaum
Baker	Eagleton	Morgan
Bartlett	Ford	Nunn
Bayh	Glenn	Pell
Bellmon	Gravel	Percy
Bentsen	Haskell	Randolph
Brooke	Hatfield,	Riegle
Bumpers	Mark O.	Sarbanes
Burdick	Hatfield,	Sasser
Byrd,	Paul G.	Scott
Harry F., Jr.	Helms	Sparkman
Byrd, Robert C.	Hodges	Stafford
Cannon	Hollings	Stennis
Case	Humphrey	Stevenson
Chafee	Inouye	Stone
Chiles	Javits	Talmadge
Church	Kennedy	Thurmond
Clark	Leahy	Weicker
Cranston	McClure	Williams
Culver	McGovern	Young

NOT VOTING—3

Eastland	Hart	Johnston

So the motion to lay on the table UP amendment No. 1655 was rejected.

Mr. HOLLINGS. I move to reconsider the vote by which the motion was rejected.

Mr. HODGES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment of the Senator from South Carolina. The yeas and nays have been ordered. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HART), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

The result was announced—yeas 56, nays 41, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—56

Abourezk	Domenici	Morgan
Baker	Eagleton	Nunn
Bartlett	Ford	Pell
Bayh	Glenn	Percy
Bellmon	Gravel	Randolph
Bentsen	Haskell	Riegle
Brooke	Hatfield,	Sarbanes
Bumpers	Mark O.	Sasser
Burdick	Hatfield,	Scott
Byrd,	Paul G.	Sparkman
Harry F., Jr.	Helms	Stafford
Byrd, Robert C.	Hodges	Stennis
Cannon	Hollings	Stevenson
Case	Humphrey	Stone
Chafee	Inouye	Talmadge
Chiles	Javits	Thurmond
Church	Kennedy	Weicker
Clark	Leahy	Williams
Cranston	McGovern	Young
Culver	Metzenbaum	

NAYS—41

Allen	Hayakawa	Muskie
Anderson	Heinz	Nelson
Biden	Huddleston	Packwood
Curtis	Jackson	Pearson
Danforth	Laxalt	Proxmire
DeConcini	Long	Ribicoff
Dole	Lugar	Roth
Durkin	Magnuson	Schmitt
Garn	Mathias	Schweiker
Goldwater	Matsunaga	Stevens
Griffin	McClure	Tower
Hansen	McIntyre	Wallop
Hatch	Melcher	Zorinsky
Hathaway	Moynihan	

NOT VOTING—3

Eastland	Hart	Johnston

So Mr. HOLLINGS' amendment (UP No. 1655) was agreed to.

(Mr. BIDEN assumed the chair.)

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HODGES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. STEVENSON). The question is on agreeing to the amendment of the Senator from Arkansas, as amended.

The amendment, as amended, was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HODGES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the Senator from Ohio was seeking recognition. If the Chair will recognize the Senator, then the Senator will yield to me.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

UP AMENDMENT NO. 1656

(Purpose: To provide for a phase out of the credit as adjusted gross income exceeds $30,000 for higher education expenses)

Mr. METZENBAUM. Mr. President, I call up an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1656.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, between lines 11 and 12, insert the following new paragraph:

"(4) Phase-out of credit above certain adjusted gross income amounts.—Notwithstanding any other provision of this section, the credit allowable under subsection (a) shall be reduced to the extent that the amount of the credit allowable for the taxable year is attributable to educational expenses other than expenses described in paragraph (2), by 5 percent of the amount by which the adjusted gross income of the taxpayer for the taxable year exceeds $30,000 ($15,000 in the case of a married individual making a separate return of tax).

Mr. MOYNIHAN. Mr. President, may we have order?

Th PRESIDING OFFICER. The Senate will be in order.

TIME AGREEMENTS ON AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I wonder whether it would be possible at this time to get some indication from Members as to whether or not they are going to call up amendments, Mr. METZENBAUM has an amendment pending. I understand that Senator DOMENICI has an amendment. Are there any other amendments?

Mr. BUMPERS. Mr. President, will the Senator yield for a question?

Mr. ROBERT C. BYRD. If the Senator from Ohio will allow me.

Mr. METZENBAUM. Without losing my right to the floor.

Mr. BUMPERS. I understood that the floor managers were going to offer an amendment on the refundability of this tax credit. Has that been done?

Mr. MOYNIHAN. The floor managers were to have done that, had the tax credit for elementary and secondary schools been retained. It has not been retained.

Mr. BUMPERS. But the Senator does not anticipate offering such an amendment for tuition tax credit. Is that correct?

Mr. PACKWOOD. That is correct.

Mr. BUMPERS. I thank the Senator.

In light of that, I probably will offer an amendment to accomplish that.

Mr. ROBERT C. BYRD. Mr. METZENBAUM has an amendment, Mr. DOMENICI has one, and Mr. BUMPERS probably will offer one. Are there any others?

May we get a time agreement on the amendment?

Mr. METZENBAUM. I am agreeable to a time limit.

Mr. HOLLINGS. I understand that the amendment of the Senator from Ohio refers to higher education and not elementary or secondary.

Mr. METZENBAUM. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the amendment by Mr. METZENBAUM of 30 minutes, to be equally divided in accordance with the usual form. I have discussed this with Mr. METZENBAUM, and he is agreeable.

Mr. PACKWOOD. Mr. President, reserving the right to object, has it been

discussed with Senator LONG? I reserve the right to object, for the moment, because I know he is very interested.

Mr. ROTH. What is that?

Mr. PACKWOOD. A time limit on the Metzenbaum amendment.

Mr. ROBERT C. BYRD. Thirty minutes all together.

Mr. ROTH. That is all right.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the amendment by Mr. DOMENICI of 1 hour, to be equally divided in accordance with the usual form. I have discussed this with Mr. DOMENICI.

Mr. MOYNIHAN. The time to be divided between whom?

Mr. ROBERT C. BYRD. Who opposes it?

Mr. PACKWOOD. I am not sure.

Mr. MOYNIHAN. Shall I accept the opposition time and manage it as seems appropriate?

Mr. DOMENICI. Fine.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, Mr. GLENN has an amendment. How much time does the Senator want on his amendment?

Mr. GLENN. Thirty minutes on a side.

Mr. PACKWOOD. Is that the sunset amendment?

Mr. GLENN. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation on the amendment by Mr. GLENN of 30 minutes, to be equally divided between Mr. GLENN and Mr. MOYNIHAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by Mr. METZENBAUM there be a time limitation of 40 minutes, instead of 30 minutes, to be equally divided in accordance with the usual form.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, that covers all amendments with the exception of that by Mr. KENNEDY.

Mr. KENNEDY. Mr. President, I have an amendment together with the Senator from New Hampshire (Mr. DURKIN). We intend to offer it, and we would like a brief time for discussion. I do not believe there will be a vote on it. We will be glad to schedule it when it is convenient. If we could have 20 minutes, that would be sufficient.

Mr. ROBERT C. BYRD. Twenty minutes equally divided?

Mr. MOYNIHAN. If the Senator is not going to ask for a vote, I am sure 20 minutes will be sufficient.

Mr. BELLMON. Mr. President, reserving the right to object, I would like to have time on this amendment. Could I have 5 minutes?

Mr. KENNEDY. That is fine.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limit on the amendment by Mr. KENNEDY of 20 minutes, all of which is to be controlled by Mr. KENNEDY.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Mr. President, reserving the right to object, and before the final agreement, I ask that it be repeated, as to how many amendments we have and what we have agreed to, or what we are about to agree to.

The PRESIDING OFFICER. There is 1 hour on the Domenici amendment, 30 minutes on the Glenn amendment, 20 minutes on the Kennedy Amendment, and 40 minutes on the pending Metzenbaum amendment.

Mr. PACKWOOD. So we have 2½ hours, plus votes, and other amendments still to be called up.

Mr. ROBERT C. BYRD. I see no indication of other amendments, except for Mr. BUMPERS, who possibly will call up an amendment.

Mr. KENNEDY. Mr. President, that is not correct. I think it is going to be acceptable to Mr. ROTH. It is a refundability amendment.

Mr. ROBERT C. BYRD. Can we have a time limitation on the amendment by Mr. BUMPERS?

Mr. BUMPERS. I am happy to agree to an hour, with the understanding that we will do our best. I think the amendment may be accepted, and we may be able to do it in 15 minutes. I would like the agreement to be for an hour, equally divided.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a limitation of 1 hour on the amendment by Mr. BUMPERS, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, apparently these are the only amendments that will be offered. Senators, therefore, should be prepared to vote on final passage of the bill this evening. The way it looks now, it will be between 8 and 9 o'clock. I hope it is not that late.

Mr. METZENBAUM. Mr. President, on August 10, the distinguished chairman of the Budget Committee circulated a letter to all Senators in which he warned that passage of this legislation and the Carter tuition grant proposal will make it virtually impossible to achieve the goal endorsed by the Senate of balancing the Federal budget by 1981. "If either of these bills is enacted," Senator MUSKIE wrote, "We will certainly fail to balance the budget by 1981—or even 1983." "Whatever the merits of any of these bills," he added, "we cannot afford them now. We cannot have them and a balanced budget."

And I agree with him that this bill is indeed a budget buster.

According to the Congressional Budget Office, the bill before passage of the Hollings amendment would have added over $8.6 billion to the Federal deficit by the end of 1983, and because the bill has no income limitation on eligibility for credits half of those dollars would have gone to the fewer than 5 percent of the families in this country that earn in excess of $40,000 per year.

Mr. President, the bill as written will give Federal aid to anyone, to everyone, who pays tuition, to the successful doctor, to the lawyer, to the businessman, as well as to the hard-pressed middle-class wage earner struggling to keep children in college.

We talk about legislation of this kind as if it were intended for the middle class. But the fact is that as drafted this bill in its present form really provides a tax bonanza, a giveaway to those who need it the least in our community. It subsidizes elite education for the well-to-do.

It is yet another example of welfare for the rich, and I believe that it is grossly unfair to ask the average American working family in this country to pay additional taxes to provide for it.

Let us not kid ourselves. What comes in must go out, and if you reduce the amount of money coming into the Federal till by reason of the benefits provided in this legislation for those who need it the least, then those who can afford to pay it the least will wind up paying the most, and it will be an unfair piece of legislation.

Mr. President, the amendment by the Senator from South Carolina to exclude elementary and secondary school tuitions from eligibility for the credit will reduce the estimated cost of the legislation between now and 1983 by more than $3 billion.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. METZENBAUM. I yield.

Mr. HATCH. Mr. President, I ask unanimous consent that Matthew Goldman, Becky Mosely, and Vicki Degges, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. But even with that reduction, the cost by 1983 for the higher education component of the bill will come to more than $5.25 billion.

That, I am convinced, is still far too high a price to pay and, unless the Senate acts to place an income limit on eligibility for the higher education credits, the most affluent families in our country will get a disproportionate share of the benefits that will be available.

Without an income limit, families earning over $25,000 per year will be the recipients of approximately $2.9 billion in higher education subsidies tuition tax credits by the end of 1983, and families in the $40,000-plus category will receive over $1 billion of that amount. And the 38 percent of American families earning $15,000 or less per year, the ones that we talk about in proposing legislation of this kind, will receive only 12 percent of the benefits, a little more than half of the share that will go to the rich.

Mr. President, the amendment I am offering today is designed to cut the fat out of the tuition tax credit for higher education. It will, quite simply, reduce

eligibility for tuition tax credits by 5 percent of family income above an adjusted gross income level of $30,000.

I point out to the Senate we are not talking about gross income. We are talking about adjusted gross income of $30,000, which is something totally different. If anything, maybe my amendment is too generous, but leaning over on the side of conservatism and trying to be fair we adopted it so that it will start at an adjusted gross income of $30,000 and phase out by adjusted gross income of $40,000.

With this formula, a family earning $35,000 would receive 50 percent of the credit. At an income of $40,000, there would be no credit.

According to the estimate by the Congressional Budget Office, my amendment will reduce the cost of the higher education component of the bill by approximately $2 billion, and that is a saving of $2 billion over and above the $3 billion saved by the passage of the Hollings amendment. We are talking, Mr. President, about savings of over $5.25 billion.

Mr. President, I make no bones about it. I do not intend to vote for the bill in its final passage because I do not believe the Federal Treasury can stand this kind of beneficence. I do not believe that we can come to the floor of the Senate and talk about saving money, talk about economies, and talk about balancing the budget, and then start on the legislation that is before us on that very day.

But the fact is that if the Senate is inclined to move in that direction, and it seems to me there is some sentiment moving in that direction, we should do so in as fair and fiscally prudent a manner as possible.

I believe that my amendment will move the bill in the direction of fiscal prudence by substantially reducing the drain that it would produce on the Treasury, and I believe that it will also move the bill in the direction of fairness by confining tax subsidies to those families that truly need them.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, is the Senator from Louisiana seeking recognition?

Mr. LONG. No.

The PRESIDING OFFICER. Does the Senator from New York yield time to the Senator from Delaware?

Mr. MOYNIHAN. The Senator from New York yields such time as needed. There are 20 minutes on the bill from this side, and the Senator yields the 20 minutes or as much as he may wish to the Senator from Delaware.

Mr. ROTH. I thank the Senator from New York and I ask the Chair to advise me when I have consumed 10 minutes.

Mr. President, I think it is important to keep in mind exactly what we are trying to do through this legislation, that is, to make it possible for Americans to go to college. The problem with the amendment proposed by the distinguished Senator from Ohio is that he is limiting the effect of this legislation so that in effect it is not of great help to most of working America.

Mr. President, I think first of all it is important to recognize what is happening to the cost of college. I just wish to point out in the New York Times on Sunday, July 6, there was an article that says:

> All but people in the very highest income brackets feel the pinch of paying for their children's college education. The effect this is having on college-going is substantial. From the look of things most middle income families are going to need all the help they can get.

Cost of college is rising substantially. According to the Congressional Budget Office total annual college costs increased approximately 75 percent between 1967 and 1976. According to the National Center For Education the average tuition fees at a private university increased 93 percent between 1967 and 1976, from $1,297 to $2,500.05.

It has been estimated for a child 1 year old it will cost something over $83,000 to send that child to private college, or $47,000 at a public school.

And yet, Mr. President, the Senator from Ohio would limit the benefits to those earning more than $30,000.

Mr. President, according to the Joint Committee on Taxation, 78 percent of the benefits will, under our legislation, go to families earning less than $30,000. Only 5 percent of the benefits will go to those earning more than $50,000. Only 11 percent of the benefits will go to those earning more than $40,000.

And I think it should be pointed out that those earning more than $30,000 are paying over 39 percent of the total income tax. So it is inequitable and it is unfair to claim that these people are getting a gift, as has been indicated earlier.

Mr. President, what we are trying to enable working America to do is to keep their own earnings to send their children to college. It makes no sense to put on an income limit, to require paperwork, needs allowances, and invasion of privacy.

I point out that we have many kinds of tax credits. They are not limited by an income limit. We have a home mortgage deduction. We have personal exemptions. We have child care credits. The administration has proposed a home insulation credit and a solar tax credit. But it does not propose that in these cases that there be any income limitation.

Mr. President, in the newspaper just a few weeks ago there was an article that a Congressman, Mr. HARRINGTON, was stepping down from Congress because he could not afford to send his children to college. In this case we are talking about $57,500.

A few years ago, Mr. Bell, the Commissioner of Education, resigned for exactly the same reason. He said he could not afford to send his children to college.

What we are trying to do, Mr. President, is to give some aid to the middle class, to the working Americans, not through an expensive grant form or which requires administrative paperwork but in a manner that enables them, as I say, to keep their earnings, has no expensive administrative costs, will not require and will not be a charge with respect to fraud and waste, as some of the other programs are.

So I would urge the Senate to again vote against this cap, exactly as it did last year.

The House of Representatives, in adopting legislation providing for a tax credit, has no income limitation. I think Senators ought to recognize that the people who are making $30,000 and $40,000, even $50,000, are entitled to some help in sending their children to college.

The facts show that the one group that is sending less children to college today is these middle-income people. The Roper poll recently showed, for example, that the average American considers middle class to be $20,000 to $40,000, and yet under this proposal we would give them no assistance.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ROTH. I would be happy to yield to the Senator.

Mr. LONG. If I understand the amendment, it would provide that if a man is making $20,000, say—and we have lots of people working right in our office buildings, working for us, who are making that much, and, let us say, his wife is making $20,000, or he is making $30,000 and his wife is making $15,000, and they have four children going to college, they would not be able to get any benefit out of the bill.

Mr. ROTH. That is absolutely correct.

Mr. LONG. I think that the bill ought to be amended to make this a refundable tax credit, and I woulld vote for such an amendment, whoever offers the amendment. It seems to me that if you are going to help parents send their children to school, you ought to do it for all parents, not just some of them. This is a substantial benefit we are talking about. How would you like to go around and have somebody ask you, "Are you one of the Senators who voted for that tuition credit for youngsters to go to college?" If he is a man with four children and if he and his wife have a combined income of $40,000, he makes $25,000 and she makes $15,000, and you say yes, I voted for that credit, you would probably get punched in the nose rather than get thanks.

If you are going to vote for the credit, you should vote to treat all parents alike, and Senators should keep in mind that those couples who make over $40,000 as a couple have a lot of expenses to contend with, and they are paying a lot more taxes.

It is fine to talk about all they make. But if you talk about adjusted gross income, you had better talk about what they have left after getting through paying all these taxes at the Federal, State, county, and city level.

Mr. ROTH. I agree wholeheartedly with the Senator from Louisiana. It is my understanding that there is going to be a refundability provision offered at a later stage. As far as this Senator is concerned I would be happy to accept that so that there is equity built into it. As a matter of fact, we had it in the earlier legislation, but because of questions raised we decided it was better to

take it out and not have it in the bill reported.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. ROTH. I yield myself 5 more minutes.

But the Senator from Louisiana makes a very valid point that the people are paying high taxes, they are facing inflation. In many cases, the Senator says, they have one, two or three children, and it is extraordinarily difficult for them to make the after-tax savings to send those children to college.

Mr. LONG. Frankly, I say to the Senator, if we voted for the credit with the Metzenbaum amendment in it, I would think anybody would take his life in his hands to go before a civic club and discuss what he did with the people in that club, because about half of them would benefit and the other half would not benefit. I can imagine that the half who would not benefit would be just as sore as hornets to find out that you voted for something that took care of their neighbor but did not let them, paying as much tax as they pay, participate in that program.

Mr. ROTH. Absolutely.

Mr. LONG. Furthermore, who has the greater burden, the family that has $41,000 and four children to educate or the family that has $40,000 and one child to educate?

Mr. ROTH. That is a difficulty with this kind of an approach. You are getting into all kinds of difficult questions to answer, and you are overlooking basically what we are trying to do, which is to provide this country with well-educated people. I can give the Senator one illustration of exactly what the Senator is talking about.

A teacher came into my office about a year ago. She said she had a full-time job in the daytime, she had a nighttime job, and her husband worked as an administrator, and I gather they made well in excess of $40,000.

But they had three children in college. She said, "Mr. Senator, I cannot afford to pay that. We had to withdraw one of them. What are you going to do about it?" That is the very point the Senator from Louisiana is making now.

Mr. President, I hope the Senate again will reject this cap and provide that this tax credit, which has as its goal that of helping working America send its children to college irrespective of what they have, one, two, three, or four, and I would point out that the cost of this legislation is well within the budget. It has been provided for. It is substantially less than what the President has proposed in his extension of the college grant.

For that reason I urge the Senate to reject the amendment of the Senator from Ohio.

Mr. DANFORTH. Mr. President, will the Senator yield for a question?

Mr. ROTH. I would be happy to yield.

Mr. DANFORTH. I wonder if the Senator or Senator METZENBAUM or anyone has any idea of what the revenue effect would be of Senator METZENBAUM's amendment?

Mr. METZENBAUM. What? The revenue what?

Mr. DANFORTH. The revenue effect.

Mr. METZENBAUM. Two billion dollars.

Mr. DANFORTH. Two billion dollars when?

Mr. METZENBAUM. Between now and 1983.

Mr. DANFORTH. When the program is fully in effect, how much per year would it be?

Mr. METZENBAUM. I will have to give you that answer later.

Mr. ROTH. We do not have the exact figures, but I would say, if I understand these figures—Mr. President, I yield back the floor. We are seeking the figures. As soon as we get them, we will let the Senator know.

Mr. DANFORTH. Mr. President, who has the floor?

Mr. ROTH. Mr. President, I yielded back the floor, without yielding back the time of the Senator from New York.

Mr. MOYNIHAN. Yes. Mr. President, how much time has the Senator from New York?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. MOYNIHAN. Does the Senator from Missouri desire 2 minutes?

Mr. DANFORTH. Well, I would simply like to ask a question, either of the Senator from New York, the Senator from Ohio, or whoever can answer it.

As I understand, the program will be fully in effect 2 years hence; is that correct?

Mr. MOYNIHAN. That is right.

Mr. DANFORTH. What is the total revenue effect of the program, with and without Senator METZENBAUM's amendment?

Mr. MOYNIHAN. I believe those numbers are being computed at this moment by the Senator from Delaware (Mr. ROTH) and his able assistant, Miss Barker.

Mr. METZENBAUM. Mr. President, will the Senator yield? I believe I can answer that question, if the Senator from New York will yield.

Mr. MOYNIHAN. I yield.

Mr. METZENBAUM. It was $8.6 billion before the Hollings amendment. The Hollings amendment saved $3 billion. My amendment would save an additional $2 billion. The cost thereafter would be approximately $3.5 billion. That is between now and 1983. Those figures are cumulative figures between now and 1983.

Mr. DANFORTH. What would be more helpful as far as I am concerned would be not the cumulative figures, because the program does not start for 2 years, but when the program is fully in effect, what would be the revenue loss of the program with and without Senator METZENBAUM's amendment?

Mr. METZENBAUM. The revenue loss for fiscal 1981 of the bill as reported by the Finance Committee is $1.5 billion, rounded.

Mr. ROTH. I have the figures here. For 1979, the figures would be $116 million. In 1980, it would be $199 million. In 1981, when it would go into full effect, it would be $318 million.

Mr. DANFORTH. Three hundred eighteen million dollars?

Mr. ROTH. Yes.

Mr. DANFORTH. What would be $318 million?

Mr. ROTH. The savings.

Mr. DANFORTH. With Senator METZENBAUM's amendment?

Mr. ROTH. Yes.

Mr. DANFORTH. So in 1981 the total cost of the program for college education only, without Senator METZENBAUM's amendment, would be what?

Mr. ROTH. It would be $1.4 billion.

Mr. DANFORTH. And with Senator METZENBAUM's amendment?

Mr. ROTH. It would be $1.5 billion.

Mr. METZENBAUM. Mr. President, if the Senator will yield, let me give you the figures we have received from the Congressional Budget Office.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. ROTH. I would point out that the figures I quoted were from the joint committee.

Mr. MOYNIHAN. I yield the remaining 3 minutes to the Senator from Delaware, if he desires.

Mr. ROTH. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I did not hear the Senator. Is he yielding to me?

Mr. ROTH. I yield the floor.

Mr. METZENBAUM. Let me respond to the Senator from Missouri. In 1981, with the Senator's amendment, the cost would be $1.481 billion, and with my amendment in, it would only be $645 million. If I may have the attention of the Senator from Missouri——

Mr. DANFORTH. Yes.

Mr. METZENBAUM. I am only answering for him. In 1983, the cost of the bill in its present form would be $1.523 billion. With my amendment, it would be reduced to $849 million, or approximately half.

Mr. DANFORTH. I thank the Senator.

Mr. PACKWOOD. May I ask how you come to those conclusions? I agree with you on the $1.5 billion for the bill in its present form, but your cap is $480 million?

Mr. METZENBAUM. My figures were from the Congressional Budget Office.

Mr. PACKWOOD. I am looking at——

Mr. METZENBAUM. Mr. President, I reserve the remainder of my time.

Mr. PACKWOOD. I am looking at figures from the Joint Committee on Taxation, which show that 89 percent of the benefits——

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Will the Senator from Delaware yield me 1 minute?

Mr. ROTH. I yield.

Mr. PACKWOOD. Eighty-nine percent of the benefits, according to the Joint Committee on Taxation, go to people making $40,000 or less, 38 percent to people making $30,000 or less, so, sliding from 40 to 30, you have about 49 percent of the benefits to those making between $30,000 and $40,000. So all you are saving is about 13 percent, or $200 million, as I look at it. I do not know where you cut the cost of this in half.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. How much time do the two sides have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from Delaware has 2 minutes. The Senator from Ohio has 9 minutes.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. I do not have the floor, do I?

The PRESIDING OFFICER. If neither side yields time, the time shall run equally against both sides.

Mr. ROTH. Mr. President, I ask unanimous consent that if a quorum call is going to be made, the time not be charged against either side. We have only 2 minutes left.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. What is the rule when neither side wishes to use time and the time is running?

The PRESIDING OFFICER. Under the precedents of the Senate, the time runs equally against both sides.

Mr. MOYNIHAN. Then it is not possible for us to object.

The PRESIDING OFFICER. Then what?

Mr. MOYNIHAN. That is the precedent, and it must be followed.

The PRESIDING OFFICER. The Senator is correct.

Mr. MOYNIHAN. What is the precedent for breaking precedents?

The PRESIDING OFFICER. It requires unanimous consent.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the time——

Mr. GOLDWATER. I object, anyway.

Mr. MOYNIHAN. Objection having been heard, this Senator withdraws any implication he might have made that he might have been going to make a unanimous-consent request.

The PRESIDING OFFICER. The time runs equally against both sides.

Mr. ROTH. Is the Senator from Ohio willing to yield back the remainder of his time?

Mr. METZENBAUM. No; I am considering amending my amendment. That is the reason I am perfectly willing to leave the time as it is.

Mr. BARTLETT. Mr. President——

The PRESIDING OFFICER. Who yields time?

Mr. BARTLETT. Will some Senator yield me enough time for a unanimous-consent request?

Mr. GOLDWATER. I yield it.

Mr. BARTLETT. Senator Goldwater yields me such time as he has.

Mr. SCHMITT. You may have a minute of my time.

Mr. BARTLETT. Will someone yield me time?

Mr. METZENBAUM. I yield.

Mr. BARTLETT. The distinguished Senator from Ohio, I think, is yielding me a few seconds to ask that Mike Roush of my staff be accorded the privilege of the floor during the consideration of this bill and all amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I would like to be heard.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I was quite certain that my amendment achieved a certain objective but I was not positive about it. I wanted satisfactory clarification provided for myself. The amendment has a specific intent. I thought it was drafted in accordance with that intent. I am now satisfied that it is.

Some have indicated a concern that if the earnings of the individual or the family run between $30,000 and $40,000, and if they have four children in college, that still might be an unbearable burden for them because of the high cost of education today.

The intent of this amendment was and is to provide that the tax credit would be applicable between $30,000 and $40,000 and phased out at $40,000 if there was one child in college; it would go to $40,000 to $50,000 if there were two children in college, and proportionately higher as the number of children in college that the particular family had increased. Some Members of the Senate have indicated some concern on that subject. I feel that that was the desirable road to go because that extra $10,000 after taxes would not really provide that much extra funding, particularly in view of the high cost of education at the present time.

I am now satisfied to represent to the Senate that it is both the intent and the structure of the language of the legislation that that indeed is what will occur under this legislation. Should there be any question raised subsequently, the Senator from Ohio would be prepared to see to it that appropriate clarification was made at some point in the legislative process.

I reserve the remainder of my time.

Mr. ROTH. Mr. President, have I any time remaining?

The PRESIDING OFFICER. The Senator has no time remaining.

SEVERAL SENATORS. Vote. Vote.

Mr. METZENBAUM. What did the Senator from Delaware ask?

The PRESIDING OFFICER. He asked how much time he had remaining. He has no time remaining. The Senator from Ohio still has time remaining.

Mr. METZENBAUM. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from South Dakota (Mr. McGOVERN) are necessarily absent.

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—39

Abourezk	Hart	Metzenbaum
Bayh	Haskell	Muskie
Bumpers	Hatfield, Mark O.	Pell
Burdick	Hathaway	Randolph
Cannon	Hodges	Riegle
Chiles	Hollings	Sarbanes
Church	Humphrey	Sparkman
Clark	Jackson	Stafford
Cranston	Javits	Stone
Culver	Kennedy	Talmadge
Durkin	Leahy	Williams
Eagleton	Magnuson	Zorinsky
Glenn	McIntyre	
Griffin		

NAYS—58

Allen	Goldwater	Nelson
Anderson	Gravel	Nunn
Baker	Hansen	Packwood
Bartlett	Hatch	Pearson
Bellmon	Hatfield, Paul G.	Percy
Bentsen	Hayakawa	Proxmire
Biden	Heinz	Ribicoff
Brooke	Helms	Roth
Byrd, Harry F., Jr.	Huddleston	Sasser
Byrd, Robert C.	Inouye	Schmitt
Case	Laxalt	Schweiker
Chafee	Long	Scott
Curtis	Lugar	Stennis
Danforth	Mathias	Stevens
DeConcini	Matsunaga	Stevenson
Dole	McClure	Thurmond
Domenici	Melcher	Tower
Ford	Morgan	Wallop
Garn	Moynihan	Weicker
		Young

NOT VOTING—3

Eastland	Johnston	McGovern

So the amendment (No. UP 1656) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. LEAHY. Will the Senator yield?

Mr. DOMENICI. Yes.

Mr. LEAHY. Mr. President, I ask unanimous consent that Harry Jaffe be granted privilege of the floor during debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMENICI. Mr. President, I yield to the Senator from Wyoming for a unanimous consent request.

Mr. WALLOP. Mr. President, I ask unanimous consent that Bob Reynolds of my staff be granted privilege of the floor throughout the debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask

unanimous consent that Letitia Chambers of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1657

(Purpose: To strengthen participation of private school children in Elementary and Secondary Education Act programs)

Mr. DOMENICI. Mr. President, I have an unprinted amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes an unprinted amendment numbered 1657.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, between lines 18 and 19, insert the following:

TITLE I—TUITION TAX CREDIT

On page 27, after line 4, insert the following:

TITLE II—PARTICIPATION OF PRIVATE SCHOOL CHILDREN IN ELEMENTARY AND SECONDARY EDUCATION ACT PROGRAMS

AMENDMENT RELATING TO PRIVATE SCHOOL PARTICIPATION IN TITLE I PROGRAMS

SEC. 201. Section 141A of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 141A. (a)(1) To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall make provision for including in projects assisted under this title special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) which meet the requirements of section 122, subsections (a), (b), and (d) of section 124, and subsections (b) and (c) of section 126, and which provide to those children an opportunity to participate in programs and projects assisted under this title on a basis equitable to that provided to similarly deprived children enrolled in public schools.

"(2) Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of those children) to expenditures for children enrolled in the public schools of the local educational agency.

"(3) The Commissioner shall set forth procedures for the determination of the pro-rata share of funds necessary to provide equitable expenditures for educationally deprived children enrolled in private schools, and such other regulations as may be required to implement this section.

BY-PASS ARRANGEMENTS

"(b)(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Commissioner shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If a State educational agency does not choose or is unable to provide for participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the State educational agency shall notify the Commissioner at such time as the Commissioner deems appropriate. Upon notification, the Commissioner shall waive the requirements of subsection (a) and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(3)(A) If any private elementary and secondary school determines that the State or local education agency has substantially failed to provide for the participation on an equitable basis of the educationally deprived students enrolled in that school, the private school may appeal to the Commissioner following such procedures as he may establish.

"(B) If the Commissioner determines that a State or local educational agency is not providing for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), he may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a) upon which determination the provisions of subsection (a) shall be waived.

"(C) The Commissioner shall decide on any appeal from a private school under this paragraph within 90 days.

"(D) After the decision of the Commissioner pursuant to subparagraph (C) of this paragraph, the Commissioner shall not take any final action under this section until he has afforded the State educational agency and local educational agency affected by such action at least 60 days' notice of his proposed action and an opportunity for a hearing with respect thereto on the record.

"(E) If a State or local educational agency is dissatisfied with the Commissioner's final action after a hearing under subparagraph (C) of this paragraph, it may within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commission. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

"(F) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(G) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(c)(1) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative cost of arranging for the services, from the appropriate allocation or allocations under this title.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of these services.

"(3) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).".

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS IN TITLE IV PROGRAMS

SEC. 202. (a) Section 406(b) of the Elementary and Secondary Education Act of 1965 is amended by inserting "(1)" after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) The Commissioner shall set forth procedures for the determination of the pro rata share of funds necessary to provide equitable expenditures for children enrolled in private schools and such other regulations as may be required to implement this section."

(b) Section 406(d) of such Act is amended by inserting "(1)" immediately after the subsection designation and by adding at the end thereof the following new paragraph:

"(2) If a State educational agency does not choose or is unable to provide for the participation in programs of children enrolled in private elementary and secondary schools as required by this section, the State educational agency shall notify the Commissioner at such time as the Commissioner deems appropriate. Upon notification, the Commissioner shall waive the requirements of this section, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(3) If a private elementary and secondary school determines that the State or local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private schools, the private school may appeal to the Commissioner following such procedures as he may establish. The Commissioner shall rule on any appeal from any private school under this subsection within 90 days."

STUDY OF THE IMPACT OF FEDERAL PROGRAMS ON PRIVATE SCHOOLS

SEC. 203. (a) The Secretary of the Department of Health, Education and Welfare shall conduct, either directly or by way of grant, contract, or other arrangement, a thorough study of—

(1) the impact of current Federal assistance programs in elementary and secondary education on private schools; and

(2) the potential impact of a tuition tax credit for private elementary and secondary education on public elementary and secondary schools.

(b) The Secretary shall report to the President and to the Congress, not later than one year after the date of enactment of this Act, on the results of the study required by subsection (a) of this section, together with—

(1) proposals which are considered constitutional for alternative methods of providing assistance to nonpublic elementary and secondary schools; and

(2) such other additional recommendations as the Secretary deems appropriate.

(c) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, even though I have an hour, I am not going to take much time.

Mr. MOYNIHAN. Mr. President, if I may interrupt the Senator, I suggest it is an hour on his amendment, equally divided.

Mr. DOMENICI. I understand.

Mr. President, I yield myself 10 minutes.

Mr. President, the bill before us today provides fiscal relief for two purposes. First, it contains a provision establishing a tuition tax credit for higher education, as originally introduced by Senator ROTH. This proposal has passed the Senate three times, and on each occasion I have actively supported and voted for this much needed relief from the spiraling costs of college tuition for middle-income families. The second purpose of the bill is to provide a tuition tax credit for parents of private school students. The policy questions inherent in these two provisions are quite different, and for that reason I believe the merits of both should be considered separately.

The cost of higher education has increased significantly over the past 10 years. At the same time, disposable income available to middle- and lower-income families to spend on a college education for their children has actually decreased due to inflation and increased tax liability. The resultant squeeze on families sending their children to college is a major problem. This country has made a strong commitment to the proposition that all who wish to go to college should have access to it. The Congress has clearly adopted this policy through the provision of student grant and loan programs.

The basic educational opportunity grant and other student aid programs have made access to higher education possible for children at the lower end of the income scale. We are now faced with a situation where the poor have access to college, the rich certainly are able to send their children to college, but many middle-income families, ineligible for student aid and without the needed disposable income, are unable to afford college for their children, without great sacrifice.

I believe the Congress should continue the established policy of seeing that all qualified persons have access to higher education if they so desire. The easiest, least entangling and least bureaucratic way of providing fiscal relief to these middle-income families is through a tax credit. I am firmly convinced that a tax credit for higher education is a sound and desirable public policy.

The issues raised by the elementary and secondary tax credit are of a different nature. In this country children already have access to elementary and secondary education through the public schools. Private schools provide an option or choice for families who desire, for their children, an education that is different than the public school provides. I myself am a product of a private parochial school. Because I place great stock in the values inculcated by parochial schools, several of my own children attend parochial school. I have exercised this option because I want my children to learn the values that I adhere to, as they are taught in church schools.

Not only am I a product of Catholic education, but I happen to have members of my family who have given their entire lives as educators in the parochial school system. My older sister has been a teacher, a principal and a nun for almost 30 years.

As a supporter of private education, I recognize that inflation and increased taxes on middle- and lower-income families have made it more and more difficult to opt for a private education. I am also sympathetic to the plight of private institutions Most private schools are struggling to make ends meet. Inflation has made the cost of education more expensive and many private schools are in the sad situation of having to reduce services or raise tuition.

Mr. President, I am a strong supporter of education. An examination of my record on educational issues will show that, as a legislator, I have given high priority to education. As a fiscal conservative with a commitment to a balanced budget, I have felt that support for education should not be diminished, but in fact that it should be increased substantially. I believe an investment of Federal dollars in the education of our children is a sound investment in the future. If we have schools, public and private, who are doing their jobs well, we can eliminate many of the social problems of this country.

Federal support for education has risen dramatically over the past few years, but it still constitutes less than 10 percent of the total funds used to operate our public school system. Procedures for financing education vary from State to State, and it should be stressed, Mr. President, that education is and should remain primarily the responsibility of State and local officials.

In recent years the Federal Government has provided programs for special purposes targeted at specific students. That aid flows to the public schools, and private school children are eligible for these services through the public schools. Unfortunately, while the system for serving private school students with Federal money is constitutional, it is not working. While the average per pupil Federal expenditure for students in public schools is $128 per pupil, the average per pupil Federal expenditure for private school students is estimated by HEW to be only $40, and I am told that figure is overstated.

Private school students are not receiving their fair share of Federal programs. I believe this fact has been partially responsible for the push for tuition tax credits for the parents of private school students.

Since the mechanism for providing Federal programs to private school students is not adequate, I believe it is appropriate to explore other methods to see that private school involvement in Federal programs is equitable.

Tuition tax credits for elementary and secondary education would certainly help hard-pressed families who wish to send their children to private schools. For that reason, I am sympathetic to such a tax credit. When elementary and secondary credits were first proposed I was taken by the idea. It seemed an ideal way to help taxpayers and to provide some fiscal relief for struggling private institutions. The fact that private school students are not receiving a fair share of Federal funds made the idea even more appealing.

In studying the issue, which I have now done in depth, I found that there were several policy issues to be considered. Federal policy in education has centered around access—access to higher education for all students regardless of income level, access to public schools for the handicapped, access to the public school classroom through compensatory programs and bilingual programs, access for all students to needed materials and books.

The elementary-secondary tuition tax credit does not provide basic access to education, but rather provides choice for those who already have access. I believe in freedom of choice. Our system should and does allow choice. It is a far different issue, however, to ask the Federal Government to provide choice in addition to access.

Mr. President, I have serious questions concerning the Federal Government's involvement in private education. I know that most private school educators favor the elementary and secondary tax credit. I have strong reservations, however, about allowing a Federal "foot in the door" of private schools. The entanglement which could occur in regard to administration of the tax credit is not to be taken lightly.

Another area of concern to me was the level of the proposed tax credit. The current Federal average-per-pupil expenditure is $128. The tuition tax credit would provide up to $250 per pupil. I recognize that private school students are not now getting their fair share, and I believe it is encumbent upon the Congress to see that they do.

However, tax credits of $250 will overcompensate for the inequity that exists and could provide an average Federal expenditure on private school students that is twice as much as the average per pupil expenditure for public education.

From the standpoint of public policy, I cannot justify in my mind this disparity. Perhaps some means other than a $250 tuition tax credit, which is general aid, can be found to provide private school students with a fair share of the targeted programs which the Federal Government provides for education.

Mr. President, my amendment proposes to increase the participation of private school students in existing Federal elementary and secondary school programs. The purpose of this amendment is to decrease the disparity between Federal expenditure on public and private school students. Since the current mechanism for serving private school students is not adequate, I have worked to develop a plan to improve the mechanism so it will work.

Mr. President, this issue is very complex, due to the fine line between what is

and what is not constitutional in regard to aid for private school students. Of the two major proposals the Senate will consider this year to aid private elementary and secondary schools, I believe one, the new title XII to the Elementary and Secondary Education Act, which has been reported by the Human Resources Committee, is clearly unconstitutional.

It provides direct grants to private schools, which I believe offers a false promise to parents of children enrolled in private schools. I also believe the other proposal, tuition tax credits for elementary and secondary education, is unconstitutional, though that is a debatable point.

The amendment I propose, which is constitutional, will provide an increase in participation in Federal programs for private school students. The amount of the increase is difficult to project. While the disparity in per pupil expenditure between public and private students will not be eliminated, I do believe my amendment will significantly increase private student participation in existing Federal programs for elementary and secondary education.

The current mechanism for private school participation puts the burden for service on the local public education agency. The public schools get the funds, plan the programs to meet their own needs, and then allow eligible private school students to participate in the program. This mechanism works well in some school districts and does not work at all in others. Some districts refuse to provide service or offer only token assistance. Even in the local districts that do meet the responsibility of serving private school students, the programs are planned around public school and not private school needs.

In an effort to rectify the disparity in service, the administration has recently taken several steps to increase participation of private school students. In addition, the Human Resources Committee in the Education Amendments of 1978 requires State and local education agencies under titles I and IV of the Elementary and Secondary Education Act to provide for equality of service. However, if we are to be certain that eligible private school students receive a fair share, additional action will be necessary.

My amendment proposes several steps in order to insure service for private school students. The first step directs that the Commissioner of Education shall establish, by regulation, procedures to be followed in determining a pro rata share of service for private school students. Thus, public and private education agencies will be clear on what constitutes equitable service.

If a private school determines that its students are not receiving a fair share of services, it can appeal to the Commissioner. My amendment defines the appeals process and directs the Commissioner to rule on all appeals within 90 days. The Commissioner is directed to waive the State or local education agency requirement to serve students and to bypass the State or local education agency, providing service directly through whatever arrangements the Commissioner deems appropriate. The public education agency allocation shall be reduced by the private schools' "fair share" of expenditure in order to fund these direct services.

In several States it is illegal for local education agencies to serve private school students. In order to provide services in these States, the Elementary and Secondary Education Act contains a bypass provision under which the Commissioner of Education makes other arrangements to serve private school students. This is usually accomplished by contracting with a private nonprofit, nonsectarian organization to provide the services directly to the private school students.

The bypass arrangements, where they exist, have several advantages. The private school students get their fair share of the funds, the programs are planned around the needs of the private school students, and the local education agencies are relieved of the responsibility to serve such students.

The bypass mechanism works to the advantage of all. My amendment will expand this bypass mechanism in ESEA in title I which provides compensatory services, and in title IV, which provides for materials, equipment and innovative programs.

The amendment will allow any State on behalf of itself and all its local education agencies to invoke the bypass arrangement. The State will simply notify the Commissioner of Education that it does not intend to serve private school students.

The Commissioner, by regulation, will set the deadline for such notification prior to the school year. Upon notification, the Commissioner will reduce the grant award for the State education agency by the private schools' pro rata share based upon regulations promulgated by the Commissioner. The Commissioner will then make arrangements for the provision of services using the private schools' pro rata share.

This expansion of the bypass to any public education agency which wants it will provide an option in areas where the present system is not working.

My amendment then provides three situations where the bypass will be used:

First. In States where it is unlawful for the public school to serve private school students (as in current law);

Second. In State education agencies which choose not to offer such services; and

Third. In State or local education agencies which assume the responsibility for serving private school students but fail substantially to do so.

The final portion of my amendment directs the National Institute of Education to conduct a study of the impact of current Federal assistance on private schools, and an analysis of the potential impact on public schools of a tuition tax credit for private elementary and secondary school students.

This study is necessary for several reasons. The debate concerning elementary and secondary tax credits has suffered from both a lack of valid data concerning current private school involvement in Federal programs, and lack of objective analyses on the potential impact of tax credits. Claims that tax credits would destroy public education are certainly cause for lengthy and detailed analysis. Tuition tax credits are popular though controversial, and I do not expect the issue to disappear. Congress needs real information, not emotional arguments, concerning the impact of elementary and secondary tax credits.

In summary, my amendment is designed to increase participation of private school students in Federal education programs. This is accomplished through stronger requirements, an appeals procedure, and through expansion of the bypass mechanism which insures that the private school gets its fair share and allows programs to be based upon the needs of the private school students.

This amendment does not expand the eligibility of private school students or add any new programs for which they were heretofore ineligible. It simply deals with the mechanism for providing service that these children are already eligible for under the Elementary and Secondary Education Act.

Several sets of contradictory figures have been bandied about in the debate on tuition tax credit. However, the one thing that everyone agrees on is that the Federal Government programs are not providing equal services to eligible private school students. My amendment is designed to rectify this fact. I urge all Senators, regardless of position on elementary-secondary credits, to support my amendment which provides for additional service to private school students in a manner that is constitutional.

Mr. President, this is a difficult issue. As a strong supporter of education, both public and private, I have given long and careful thought and study to this matter, as have many of my colleagues. While this is not an easy issue, I want to commend my colleagues on the Finance Committee for their attention to and their support for education.

In closing, Mr. President, let me summarize briefly, once again, the provisions in my amendment:

First, it directs the Commissioner of Education to establish procedures for determining the pro rata share of funds necessary to provide equitable expenditures under title I and title IV of the Elementary and Secondary Act.

Second, it establishes an appeal process for use by private or parochial schools which feel that their students are not getting their fair share as mandated by Congress.

Third, we expand the public school bypass mechanism which currently exists in States where service to private or parochial school students is prohibited by State law. The bypass mechanism will be expanded to any State which prefers to use that mechanism for serving private school students.

That merely means that, in some States, a nonprofit entity can be established to accept and distribute Federal money to private schools in a constitutional manner.

Fourth, there has been much concern on the part of public schools that aid to private and parochial schools, by way of

the tax credit which was defeated today, might have an adverse impact on the public schools. My amendment directs the Secretary to study the impact of Federal programs on private school students, constitutional methods of increasing aid to private schools, and an analysis of the potential impact on public schools of a tuition tax credit for private elementary and secondary education.

I am a strong proponent of tax credits for higher education. I have no questions concerning the need for and the appropriateness of the original Roth proposal for higher education credits.

I understand and appreciate what Senators PACKWOOD and MOYNIHAN were trying to do for private school students. I had reservations, however, concerning the elementary-secondary tuition tax credit. I fear that the controversy over the elementary-secondary portion could have the effect of killing the higher education portion. Since the President has indicated he will veto the measure, I was concerned that Senators opposed to the elementary-secondary portion will be hesitant to vote for a veto override.

In addition, I was concerned about the constitutionality of the elementary and secondary credit. The amendment I am offering will provide programs in a manner known to be constitutional. Thus, the current inequity to private school students can be lessened. I ask the Senate to adopt this important amendment as a part of H.R. 3946.

It is here and now, while we are in the midst of a thorough debate on Federal support for private school students, that we should let our intent be known. Past inequities to private school students must be corrected. I urge passage of this amendment.

Mr. MOYNIHAN. Mr. President, although I can speak only for myself, I believe it would be the disposition of those of us who have joined in sponsoring this legislation to accept and to vote for the amendment of the Senator from New Mexico.

I take the time of the Senate to draw attention to a certain anomaly in the proposal before us.

We have heard through the better part of 3 days of debate about the unconstitutional nature of our tuition tax credit, which would provide aid to the parents of students in nonpublic schools. It is evident that that position has prevailed. The members of my party, it seems, voted 2-to-1 that any such aid would be unconstitutional.

Now we proceed to the next step, proposing a large effort to increase the flow of direct aid, in one form or another, to these very schools, to which indirect aid was held to be unconstitutional. It is a fact, then, that just as the opinions of the Court in this matter are in disarray, so is the practice of the Government.

The position I would find most favorable—not surprisingly—is that stated by Chief Justice Burger in his opinion in the Nyquist decision. He said:

> The establishment clause does not forbid governments, State or Federal, to enact a program of general welfare under which benefits are distributed to private individuals, even though many of those individuals may elect to use those benefits in ways that "aid" religious instruction or worship.

The Chief Justice concluded:

> However sincere our collective protestations of the debt owed by the people generally to the parochial school systems, the wholesome diversity they engender will not survive on expressions of good will.

We have chosen today not to provide aid to students in order that the enrollments in these schools might be maintained or even, conceivably, increased. Now the proposal of the Senator from New Mexico would increase the flow of HEW program funds in the manner contemplated by the Democratic Party platform in 1964, in the plank which I wrote. I still think is is a good thing to do.

There was a small office in the Office of Education that looked after this matter. One of the first steps the current Secretary of HEW took when he came to office was to abolish it. Then when our bill was put forth he announced that he was creating the office which in fact he had been busy abolishing. So this measure will undoubtedly add to the bureaucracy. We know that.

I have one concern: what this measure will in large measure accomplish is simply to add to the slack and waste in the school system which now accounts for the fact that the average public systems generally cost four times as much per capita as nonpublic systems. We will get more nonsense this way. I doubt that we will get more education. But it will do little harm, I suppose.

However, I would like to make one further suggestion, and for that reason I send to the desk a perfecting amendment to the amendment of the Senator from New Mexico.

The PRESIDING OFFICER. Until the time on the pending amendment either has been used or yielded back, the amendment would not be in order.

Mr. MOYNIHAN. I withhold my request. I will yield my time back very shortly.

I should like to describe the amendment, which I think the Senator will find rather simple.

This amendment simply adjusts section 203 of his proposal, which asks that the Secretary of the Department of Health, Education, and Welfare conduct the study he discusses and that he report the results to Congress a year later.

Mr. President, I regret to say this, but I have no confidence that a study conducted by the incumbent Secretary of Health, Education, and Welfare in this matter would be unbiased. An unbiased man would never have requested of the Attorney General that he rule on the constitutionality of this matter by selecting from our bill only the provision for aid to nonpublic schools, so as to make certain that the response of the Attorney General would be that our bill was unconstitutional. In fact, only a caricature of our bill was being considered.

Mr. DOMENICI. The Senator is going to ask that the Comptroller General do that?

Mr. MOYNIHAN. I ask that.

Mr. DOMENICI. That is what I was also going to propose. I will have no objection.

Mr. MOYNIHAN. That is fine. The Comptroller General is an officer of Congress, and we have the highest regard for the personal capacities of the incumbent and for the continued performance of his good office.

With that change, I am happy to support the Senator from New Mexico.

I suggest one further change. His section 203, subparagraph 2 reads:

> The potential impact of a tuition tax credit for private elementary and secondary education on public elementary and secondary schools.

I wonder if he will agree to change that wording to "public and private elementary and secondary schools," because we have been asked by both the Senator from Minnesota and the Senator from California about the impact of tuition tax credits on both the public and nonpublic sector.

Mr. DOMENICI. I say to my friend from New York that we modify my amendment to provide that the "Comptroller General" not the Secretary of HEW will undertake these studies. I also agree to add "public" and on line 18, page 8 of my amendment.

Mr. MOYNIHAN. That is fine.

Will the Senator submit those amendments when we are through and yield back our time?

Mr. DOMENICI. I will shortly, that is right.

Mr. MOYNIHAN. In that case, Mr. President, I wonder if there is another Senator who wishes to speak on this matter?

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Mr. Tom Cator, of Senator HUMPHREY'S staff, be accorded the privilege of the floor during the debate and votes on the present bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 2 minutes.

Mr. DOMENICI. Mr. President, I greatly appreciate the comments of the distinguished Senator from New York, and I simply wish to make this point.

We are not adding new programs. I tend to agree with the Senator that there probably is a better way to spend the dollars we do spend. My amendment seeks to change some of these laws so Federal dollars will be spent more effectively.

We do not add any new constitutional issue because the kinds of services presently being received in the United States by some students in parochial schools have been ruled constitutional. We are just trying to direct some attention to the problem areas where eligible students are not getting assistance, in that respect nothing else changes. I am merely saying since we do not have the tax credit we should do everything we can to see that the original intention of Congress be carried out in terms of students with special needs. We should

make certain that they receive the services they need in a constitutional manner.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, I thank the Senator from New Mexico for his initiative.

I take this opportunity to note that the senior Senator from Rhode Island is in the Chamber and that he proposes a new section. He informed us yesterday that there will be a new title XII to the ESEA bill which he will be bringing forward shortly. It will provide up to a half billion dollars in aid for nonpublic schools, according to schedules that will be discussed and reported on by the Senator from Rhode Island when he brings the bill to the floor. I believe that will occur immediately after we dispose of the legislation before us now.

Mr. DOMENICI. Mr. President, will the Senator from New York yield for just a moment?

Mr. MOYNIHAN. I am happy to yield to the Senator from New Mexico, and then I will yield to the Senator from Rhode Island.

Mr. DOMENICI. I understood that the Senator wanted to go ahead and modify the amendment before we proceeded any further.

Mr. MOYNIHAN. I do think we are going to proceed. I think the Senator simply wants to make a comment.

Mr. DOMENICI. Let me see if we can do it this way.

I send a modified version of my amendment to the desk which complies and comports with the request of my good friend the Senator from New York and I ask unanimous consent that the modified amendment be in order.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the Senator from New Mexico that the amendment which he has offered be modified in accordance with what he sent to the desk?

Hearing none, it is so ordered. The amendment is so modified.

The modified amendment is as follows:

"(3) If a private elementary and secondary school determines that the State or local educational agency has substantially failed to provide for the participation on an equitable basis of children enrolled in private schools, the private school may appeal to the Commissioner following such procedures as he may establish. The Commissioner shall rule on any appeal from any private school under this subsection within 90 days."

STUDY OF THE IMPACT OF FEDERAL PROGRAMS ON PRIVATE SCHOOLS

SEC. 203. (a) The Comptroller General shall conduct, either directly or by way of grant, contract, or other arrangement, a thorough study of—

(1) the impact of current Federal assistance programs in elementary and secondary education on private schools; and

(2) the potential impact of a tuition tax credit for public and private elementary and secondary education on public elementary and secondary schools.

(b) The Comptroller General shall report to the President and to the Congress, not later than one year after the date of enactment of this Act, on the results of the study required by subsection (a) of this section, together with—

(1) proposals which are considered constitutional for alternative methods of providing assistance to nonpublic elementary and secondary schools; and

(2) such other additional recommendations as the Comptroller General deems appropriate

(c) There are authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

Mr. DOMENICI. I thank the Senator.

Mr. MOYNIHAN. I thank the Senator, and I thank the Chair.

I yield to the Senator from Rhode Island such time as he may desire.

Mr. PELL. I thank the Senator very much.

Mr. President, the bill which immediately follows this, the College Opportunity Act, S. 2539, will contain provisions for increasing the income limitations of the families of those students who now get basic grants from $12,500 to approximately $25,000.

The bill we are talking about, however, of concern to the Senator from New Mexico is S. 1753, the Education Amendments of 1978, which we have reported out of the Committee on Human Resources and which is on the calendar, I am informed by the leadership that it will be taken up within the next week. That is the expectation.

Mr. MOYNIHAN. Fine.

Mr. PELL. That legislation contains in it two items I think of very real interest to the discussion in the Chamber here today. It contains a bypass provision in title I of the Elementary and Secondary Education Act. By chance if any Senators have it before them, it is at page 59. This provision contains many of the elements of the amendment of the Senator from New Mexico. In addition to that S. 1753 contains another provision in title XII that would provide a half billion dollars for textbooks, instructional materials, guidance and counseling, speech and hearing services, psychological services, testing services, and transportation services, all previously approved as being constitutional. It would simply enlarge the amount of money going there.

So that is another way of helping the private schools, the students, and their parents who certainly need help.

I recognize the merit of the amendment of the Senator from New Mexico and I intend to support it, but I add that if any perfecting amendment is needed, or we may want to examine it in greater length, we will have another go-round within a week as we go over the bypass provisions in our act.

Mr. MOYNIHAN. I thank the Senator from Rhode Island, who has been as staunch and effective in this matter as he was in founding the Pell grants, which he hopes now to expand.

Having become excessively sensitive to the problems of constitutionality in the course of this debate, I wish to warn him that under the provisions of Wolman against Walter, decided last June, we may provide textbooks but not teaching aids. Teaching aids are unconstitutional. Textbooks are different. They are apparently not teaching aids these days. The Court is passing on the quality of textbooks as well as on the Constitution.

Mr. PELL. The Senator may have noticed I very carefully did not mention teaching aids.

Mr. MOYNIHAN. I did notice, and I warn: do not let any careless staff work slip "teaching aids" in.

If you will read the debate of the House of Representatives in 1787, it was then held that textbooks are constitutional, and that teaching aids are not. A map, for instance, is a teaching aid. A book of maps, which is an Atlas, poses a deep problem. But I do not think we can resolve this today.

Mr. PELL. Teaching aids, and "aides" spelled with an "e" between the "d" and "s."

Mr. MOYNIHAN. Teaching aides could consist of the Sisters of Mercy, and then the roof would certainly tumble down.

Mr. PELL. So aids or aides are not constitutional; is that correct?

Mr. MOYNIHAN. I think that is the present standing in the Court. But we have not heard so for sure. The Court is in recess, so I think we are safe in that judgment, at least until October.

I would like to ask one last question of the Senator from New Mexico. Would he have any judgment about the approximate extent of the flow of additional funds which might proceed under this? It is not possible to assess?

Mr. DOMENICI. No.

Mr. MOYNIHAN. That is something we might learn from the Comptroller General?

Mr. DOMENICI. That is correct. I believe if it turns out that this is a more equitable flow, it may put us in a posture of needing additional funds. Of course, it would be to the overall cost of the program not to any one phase of it, to the private or to the public. It could be that equalizing these services will cause us to need to put more money into the overall appropriation.

I want to say to the Senator from Rhode Island that I am most appreciative of his support here today. I clearly understand that we have a chance to perfect and make much improvement on the amendment the Senate will vote on here today. I hope it will help the Senator's bill when the Senate tonight, as I think they will, indicates its support for more equity in terms of special needs of our Nation's children, whether they are in private or parochial schools.

● Mr. JAVITS. Mr. President, I believe the Domenici amendment is based on a sound principle, to wit, nonpublic school children should participate fully in the existing Federal education programs in the Elementary and Secondary Education Act (ESEA).

Later this month, the Senate will turn to S. 1753, the Education Amendments of 1978, which will reauthorize ESEA. During 2 years of consideration of these amendments by the Human Resources Committee, I and other members have carefully reviewed the participation of nonpublic school children in these programs. We have found that participation to be woefully low in terms of numbers of students and in terms of dollars per student. I have authored or cosponsored over 15 amendments now

contained in S. 1753, as reported by the Committee on Human Resources, which strengthen and will increase the participation of nonpublic school students.

I submit for the RECORD the list of these nonpublic school related amendments prepared by the Human Resources Committee.

Mr. President, this amendment is a means for the Senate to express its desire to use ESEA programs to aid nonpublic school students who qualify. Between today and the floor consideration of S. 1753, we can review in detail the provisions of the Domenici amendment and determine if any improvements are advisable. For these reasons, I will vote for this amendment.

The material follows:

[From the Human Resource Committee staff paper]

PROVISIONS FOR PARTICIPATION OF CHILDREN IN PRIVATE, NON-PROFIT SCHOOLS IN FEDERAL ELEMENTARY AND SECONDARY EDUCATION PROGRAMS AS AMENDED BY S. 1753, THE EDUCATION AMENDMENTS OF 1978

TITLE I: SPECIAL EDUCATIONAL PROGRAMS AND PROJECTS FOR EDUCATIONALLY DEPRIVED CHILDREN

The largest single program of aid to elementary and secondary schools, Title I will provide well over $2 billion to local school districts for the 1978–79 school year. School districts receive aid according to their numbers of children in low-income families. Within the districts, aid goes to the schools with the greatest numbers or proportions of such children. The aid is used for special compensatory programs designed to contribute to the cognitive, emotional, social, or physical development of educationally disadvantaged children.

Current law

The Title I legislation currently enacted requires that local public schools which receive Title I funds extend the services provided from those funds to children in nonpublic schools who live within the attendance area served by the public school. Non-public school children must participate on an equitable basis with the public school children. When a public school system fails to include such children as the law requires, or is prohibited from doing so by state law, then the U.S. Commissioner of Education must by-pass the public agency and arrange for appropriate services to the non-public school children. Funds for this purpose are to be derived from the local school system's allocation.

Additional provisions in S. 1753

S. 1753 supplements the existing law with the following provisions:

Where a public school provides compensatory services to its own students from state or local funds and therefore is excluded from the Title I program, Title I services must be made available to eligible non-public school students who otherwise would have participated in that school's Title I services.

When the Commissioner of Education arranges for a by-pass and deducts funds from the public school system's allocation to provide services to non-public school children, he must deduct the administrative costs as well as the actual costs of the services.

If a complaint has been filed or an investigation is underway regarding insufficient participation of non-public school children, the Commissioner of Education may withhold from the public school system in question the amounts of Title I funds necessary to fund appropriate non-public school services pending final resolution of the complaint or investigation.

The Commissioner's determination that a by-pass of services is necessary will remain in effect until the Commissioner determines that the local education agency will properly meet the requirements for serving non-public school students.

When a complaint has been filed against a state or local education agency regarding inadequate participation of non-public school children, the amount of time allowed for the agency to show cause before the Commissioner makes a determination is reduced from sixty to forty-five days.

The state education agency must have a plan for monitoring and enforcing local school systems' compliance with Title I requirements. This plan must describe how the state education agency will determine whether local school systems are serving non-public school children as required. It must also contain procedures for resolving complaints that non-public school children are not receiving services for which they are eligible.

The Commissioner of Education must develop and implement written procedures both for resolving appeals of state complaint resolutions, and for conducting independent onsite investigations. These procedures must include the following elements:

specific time limits for resolving a complaint or for completing a review and any necessary independent investigation within sixty days;

opportunity for the complainant to present evidence;

requirement that the complainant and others involved be notified in writing within ten days after the resolution of the appeal of the nature of the resolution, the reasons therefor, and the right to an administrative appeal;

dissemination of information concerning the procedures.

TITLE II: BASIC SKILLS AND EDUCATIONAL PROFICIENCY

This is a new program of aid proposed to help state and local education agencies improve the skills of children in reading, mathematics, and written and oral communication.

In order to receive funds, state and local education agencies must consult with non-public school officials and design their funding proposal to take into account the needs of children in non-public schools and provide an opportunity for them to participate on an equitable basis with public school children.

TITLE III: SPECIAL PROJECTS ACT

This Act provides funds to state and local education agencies, other public and private agencies, organizations and institutions, and to individuals, to carry out projects which meet special educational needs or place particular emphasis on national education priorities, or to disseminate information to state and local education agencies. The Act is an umbrella for a number of specific program areas, including separate funds for metric, arts, consumers law-related, environmental, health, correction, and population education, plus funds for preparing disadvantaged youth to pursue training in the biomedical sciences, and for preparing young people for jobs.

S. 1753 adds the following new provision which is applicable to all programs under the Special Projects Act:

In order to receive funds, state and local education agencies must consult with non-public school officials and design their funding proposals to take into account the needs of children in non-public schools and provide an opportunity for them to participate on an equitable basis with public school children.

TITLE IV: EDUCATIONAL IMPROVEMENT, RESOURCES, AND SUPPORT

Title IV provides funds to state and local education agencies for a number of different purposes, including acquisition of instructional materials and library resources; improvement of educational practices (such as meeting special local educational needs, or involving parents more in the education of their children); guidance, counseling, and testing; and special programs for gifted and talented children.

Current law

Existing law for Title IV mandates the equitable participation of non-public school children in programs operated by public school systems. When the local school system is prohibited by state law from providing, or has substantially failed or is unwilling to extend its Title IV programs to non-public school children on an equitable and comparable basis, the Commissioner of Education is authorized to by-pass the public school system and pay for the cost of services to these children from the state's allotment of Title IV funds. The findings of the Commissioner with respect to proper participation of non-public school children are to be conclusive, except that the courts may remand a case to the Commissioner for further action if deemed appropriate. In addition, the guidance and counseling programs newly incorporated under Title IV by S. 1753 contain provision for institutes, workshops, and seminars to improve the qualifications of teachers and counselors in non-public schools as well as in public schools.

Additional provisions in S. 1753

S. 1753 retains the above provisions of existing law and adds the following new provisions:

Pending final resolution of an investigation or complaint, the Commissioner may withhold from the state or local education agency the amount of their Title IV funds necessary to pay the cost of appropriate services to non-public school children.

The Commissioner's determination that a by-pass of funds to serve non-public school children is necessary is to remain in effect until the Commissioner determines that there will no longer be a failure of the state or local education agency to meet the requirements of equitable and comparable participation of non-public school children.

The amount of time allowed for a local or state education agency to show cause or submit objections before the Commissioner make a determination in response to an allegation of insufficient non-public school participation is reduced from sixty to forty-five days.

When a local school district receives no Title IV funds for acquisition of library and learning resources, the state education agency is to arrange for services to non-public school children in that district when such services are requested.

Title IV funds for "improvement in local educational practices" can be used to meet the need of children in non-public schools for improved educational services, and to diagnose learning problems and asseess educational problems of children in such schools.

In order to qualify for funds for acquiring library and learning resource materials and for programs for gifted and talented children, local education agencies must consult with private school officials in order to take into account the needs of non-public school children in the design of their proposal.

TITLE V: STATE LEADERSHIP

This is a new title which provides funds to state education agencies for administering ESEA* programs and for strengthening education agency management. The title contains the following provisions with respect to participation of non-public school children in ESEA programs:

A state education agency may withhold ESEA funds from local education agencies which do not comply with requirements for

*Elementary and Secondary Education Act.

participation of non-public school children.

A state education agency may use Title V funds for strengthening management for:

Assessing the educational progress of children in non-public as well as in public schools;

Coordinating public school programs with non-public school programs;

Monitoring participation of non-public school children in Federal education programs.

States must make information and technical assistance available to private school officials who desire to arrange for children in their schools to participate in Federal education programs.

State Advisory Councils on Quality Education must include representatives of non-public elementary and secondary schools.

TITLE VI: EMERGENCY SCHOOL AID ACT

This Act provides assistance to local school systems and certain organizations for instructional services, human relations efforts and other activities related to the purposes of preventing, reducing and eliminating minority group isolation and the resulting educational disadvantagement.

Current law

S. 1753 extends the provisions currently in the law regarding participation of non-public school children and staff in ESAA programs. The law requires that there be equitable participation of children, teachers, and other educational staff in non-public schools when such schools meet certain non-discrimination criteria and when their participation would help achieve the purposes of ESAA.

Current law provisions continued by S. 1753 also require that there be a by-pass of the local public school system and direct provision of services to non-public school children and education staff when the local education agency fails to provide for their appropriate participation or when the agency is prohibited by state law from doing so.

TITLE VII: BILINGUAL EDUCATION ACT

The Bilingual Education Act supports programs in local school systems which demonstrate effective ways of helping children with limited English proficiency progress through the educational system.

Current law

The law currently requires that services funded under this act must be extended to non-public school children whose educational needs are of the type the program is intended to serve and who attend schools in the area to be included in the public school program.

Additional provisions in S. 1753

S. 1753 retains the requirements of existing law and adds the following new provisions.

When a public school system which applies for funds is unable or unwilling to provide for the required participation of non-public school children, the Commissioner of Education may either withhold approval of the application until the school system demonstrates compliance with the requirements, or reduce the amount of the grant by the amount required to assess the needs of the non-public school children and to carry out a program for them.●

Mr. MOYNIHAN. Mr. President, on the strict understanding that no teaching aids will be authorized under any of these companion measures, I yield back the remainder of my time and I call for the yeas and nays on the amendment.

Mr. DOMENICI. They are already ordered.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from New Mexico. The yeas and nays have been ordered on the amendment, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The result was announced—yeas 85, nays 10, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—85

Allen	Hansen	Moynihan
Anderson	Hart	Muskie
Baker	Haskell	Nelson
Bartlett	Hatch	Nunn
Bayh	Hatfield, Mark O.	Packwood
Bellmon	Hatfield, Paul G.	Pearson
Bentsen	Hathaway	Pell
Biden	Heinz	Percy
Brooke	Helms	Proxmire
Burdick	Hodges	Randolph
Byrd, Robert C.	Hollings	Ribicoff
Cannon	Humphrey	Riegle
Case	Inouye	Roth
Chafee	Jackson	Sarbanes
Chiles	Javits	Sasser
Church	Laxalt	Schmitt
Clark	Leahy	Schweiker
Cranston	Long	Sparkman
Culver	Lugar	Stafford
Danforth	Magnuson	Stevens
DeConcini	Mathias	Stevenson
Dole	Matsunaga	Stone
Domenici	McClure	Talmadge
Eagleton	McGovern	Thurmond
Ford	McIntyre	Tower
Garn	Melcher	Wallop
Goldwater	Metzenbaum	Williams
Gravel	Morgan	Young
Griffin		Zorinsky

NAYS—10

Bumpers	Glenn	Scott
Byrd, Harry F., Jr.	Hayakawa	Stennis
Curtis	Huddleston	Weicker

NOT VOTING—5

Abourezk	Eastland	Kennedy
Durkin	Johnston	

So Mr. DOMENICI's amendment (UP No. 1657) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SARBANES). The Senate will be in order. Senators will please take their seats.

Mr. MOYNIHAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MOYNIHAN. May I call up the amendment of the Senator from Ohio?

The PRESIDING OFFICER. The Senator may call up an amendment of another Senator, yes.

Mr. MOYNIHAN. In that case, Mr. President, I do so. I call up the amendment of the Senator from Ohio, and ask for its immediate consideration.

Mr. President, I regret that the amendment is not at the desk. Senator GLENN is on his way to the Chamber. As soon as he comes in, he will be able to proceed.

Mr. President, does the Senator from Louisiana desire the floor?

UP AMENDMENT NO. 1658

(Purpose: To provide for the refunding of credit in excess of tax liability)

Mr. LONG. Mr. President, I send an amendment making this tax credit refundable to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment No. 1658.

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

The amendment is as follows:

On page 18, strike out lines 5 through 11.

On page 23, between lines 2 and 3, insert the following:

(b) Refund of Excess Credit.—Subsection (b) of section 6401 of such Code (relating to excessive credits) is amended—

(1) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44C (relating to credit for educational expenses),", and

(2) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44C".

On page 23, line 3, strike out "(b)" and insert in lieu thereof "(c)".

On page 23, line 19, strike out "(c)" and insert in lieu thereof "(d)".

On page 25, line 3, strike out "(d)" and insert in lieu thereof "(e)".

On page 25, line 15, strike out "(e)" and insert in lieu thereof "(f)".

On page 25, line 21, strike out "(f)" and insert in lieu thereof "(g)".

Mr. MUSKIE. What was the unanimous-consent request?

The PRESIDING OFFICER. That further reading of the amendment be dispensed with.

Mr. LONG. Mr. President, if we pass a tuition tax credit, the vote of the Senate on the Metzenbaum amendment indicates that it is the judgment of the Senate that no one should be denied a tax credit because he is too rich.

I believe that the counterpart of that judgement is that no one should be denied this tax credit because he is too poor.

Mr. President, many times I have voted against measures that seemed meritorious to me. I have voted that some measures were not germane; because I thought we should stick to a germaneness rule. I have lost several times in recent years because of that. It has happened two times during this last month.

Here, Mr. President, it would be a complete travesty if we say, "You cannot be denied the tax credit because you are too rich, but you can be denied it because you are too poor and do not owe quite enough in taxes."

I have no doubt what the Senate's view would be if the Senators vote on the merits—of my amendment.

The Senate would decide to give the tax credit whether it is a credit against your income tax, or whether it is more than your tax, if you did not owe enough to get the full credit.

A refundable tax credit is already in the law. This credit is called the earned income credit. We provide it for the working poor. We give a working poor man a right to a refundable tax credit because he is working and trying to support his family, instead of being on the welfare. The same thing, Mr. President, ought to be true if a poor working man wants to send his youngster to college. Sending a child to college is a great sacrifice for a low-income family. But if they want to do it, they ought to have the help of a refundable tuition credit.

Mr. President, I suppose an objection will be raised that my amendment does not comply with the Budget Act.

Well, that may be so. But in this case, Mr. President, I just do not feel like standing still for the kind of miscarriage of justice which would occur if that objection defeated my amendment. It would be unfair to deny the tax credit to the least well off of all Americans. I may be compelled to appeal the ruling of the Chair in this case. I think we would be justified in doing so.

Mr. President, I would point out that the cost of this amendment to benefit lower income people would be only $45 million in fiscal year 1979, $81 million in fiscal year 1980, $133 million in fiscal year 1981, $204 million in fiscal year 1982, and $196 million in fiscal year 1983. It would not work out to more than about 10 percent of the cost of the bill.

For my part, I would prefer that those who are less fortunate have the benefit of this bill just as those who are more fortunate. I am pleased to vote so that no one would be denied the credit because he is in reasonably good circumstances. I think that we also should not deny the credit to someone because he is in less fortunate circumstances.

Mr. MATSUNAGA. Will the Senator yield?

Mr. LONG. I yield.

Mr. MATSUNAGA. I rise in support of the amendment offered by the Senator from Louisiana. We have been talking here about helping the poor, helping the poor, that is what this is all about, that the poor are unable to send their children to college. This amendment would take care of the really poor, as the Senator has so well put it, who are unable to take advantage of the tax credit because they are so poor, their earnings are so small, that they do not pay enough taxes to even take advantage of the credit provided by the bill.

If we are going to provide credit to the rich, as this bill would, and we are saying we are intent upon helping the poor to send their children to college, the amendment which the Senator from Louisiana offers is one which just fits the bills. I rise in support of this amendment.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. MUSKIE. Mr. President——

The PRESIDING OFFICER. There is no time remaining.

Mr. MUSKIE. Mr. President, I raise a point of order.

First of all on procedural grounds, which I will explain as extensively as I can within the time limitation I have. The first tuition tax credit bill reported by the Finance Committee had this provision included. The Finance Committee also reported out a waiver resolution as required under the Budget Act. The waiver resolution is required in part because of this refundable provision. That waiver resolution, as required by the Budget Act, was sent to the Budget Committee. The Budget Committee rejected it on other grounds. The Finance Committee reconvened and reported the bill we have been considering on the Senate floor, striking the provisions that met with the disapproval of the Budget Committee.

So if the distinguished chairman of the Finance Committee really intends to fight for a principle, why did he not fight it through the Budget Committee in accordance with the procedures of the Budget Act, face the waiver resolution, which was reported unfavorably, and face the fight on that resolution?

Unfortunately for those who are concerned with the budget process, this amendment is subject to a point of order just as would the original bill have been subject to a point of order if it had been referred to the Budget Committee.

So this is the Finance Committee chairman's final act in a strategy to get around the Budget Act, to get around the Budget Committee, and to bring this proposal to the Senate.

I warned the Senate yesterday that this was coming. Another Senator gave consideration to offering it and rejected it on the basis of the next point I am going to make. In any case, this is a clear case of a strategy which backed off the bill the Finance Committee really wanted, a bill that would have cost $5.3 billion a year by 1983. That is the bill they really wanted, but they knew the Budget Act required a waiver resolution. They reported it out, it came to the Budget Committee, we debated it at length, reported it unfavorably by a vote of 9 to 4 to the Senate floor.

After that action was taken by the Budget Committee and in order to avoid a fight on that waiver resolution, the Finance Committee chose this other route, with a bill with lower benefits, a lower cost, and without this refundable provision.

That is what has taken place, and I cannot think, if I said nothing more, of a clearer way for the Senate to repudiate the budget process than to support this proposal by the chairman of the Committee on Finance.

I make another point: Under the provisions of this bill, a family would be eligible for a tax credit up to $250. However, recipients of direct categorical assistance for education, low- and moderate-income families will receive little, if any, assistance from the tax credit since the amount of the grant is deducted from the prospective tax credit. So that, for the poor, this refundable credit provision will provide no assistance, because the bill itself trades off the tax credit against the direct categorical aid programs.

So we are being asked to go through a procedure in defiance of the budget process to provide no benefit to the people that the chairman of the Finance Committee will tell us he is intending to help.

To take up the time of the Senate at this late hour on this bill for those purposes, seems to me to be indefensible. I do not think I need to say anything more on this bill, so I yield the floor.

Mr. LONG. Mr. President, if there is any question about an offset in the credit bill which affects welfare or other aid, we can take care of that matter when the Finance Committee acts on the welfare bill. If it is the judgment of the Senate that low-income people should have the same benefit as those who are better fixed, we shall provide that result in the bills within the jurisdiction of the Finance Committee. That is no problem.

The problem, Mr. President, is with the budget process. I voted for that budget process. I helped to establish it. I was on the original committee that worked on it. But, the one thing that I recognized about the budget process was that it would always be the decision of the Senate whether it wants to observe or waive the budget procedures.

Now under the Budget Committee procedures, if we think something is just, or unjust, but voting on it on the floor violates the Budget Act, we have to send it to the Budget Committee first.

Mr. MUSKIE. Will the Senator yield? The Senator knows that the waiver resolution comes to the Senate and whether it is unfavorable or favorable, the Budget Act makes the Senate the final actor. But the Senator chose not to go that route.

Mr. LONG. I do not know about that.

Mr. MUSKIE. I think the Senator knows that very well.

Mr. LONG. I just happen to think that I am a better witness about what I know than somebody else is. But I know something about the Budget Act, because I helped to write that act—I played a part in some of the early negotiations on that bill and some of the first versions that were reported out. In the Budget Act, we posed a great number of procedural difficulties for somebody who wants to do something that the Budget Committee does not want done. But in the last analysis, the decision whether or not to do something is the decision of the Senate and not the decision of the Budget Committee. It is not the Finance Committee's decision, not the Appropriations Committee's decision; it is the full Senate's decision.

Now this bill now creates an obvious miscarriage of justice. No one will be denied the tax credit because he is too rich. The bill takes care of that group—the rich—very well. And I am proud that I have voted that way. But the bill does not allow some people the credit because they are too poor. That result is not fair.

As far as this Senator is concerned, I have tried to comply with the budget process. The Senate sent the bill to the Budget Committee, and to the Appropriations Committee. Then they sent it back to the Budget Committee. By the time everyone got through kicking it between one committee and another, it

was decided that it could not contain the refundable feature.

So we said that we will try to add it on the floor. Then we come out to the floor and we are told there will be an objection on a point of order.

In the last analysis, if the majority of the Senate wants to do something, they will do it—notwithstanding the objections of the Budget Committee and notwithstanding the objections of some other committee. At some point, I say to the Senators, you just ought to vote your conscience on the merits of the issue in spite of all the procedural impediments that may be posed in front of you.

This refundable credit is not a big budget item. It adds less than 10 percent to the cost of the bill. At some point, we ought to go ahead, do what is right, and make the credit refundable.

Has the Chair ruled on the point of order?

Mr. MUSKIE. Mr. President, I have not yet made the point of order.

Mr. LONG. I will make that point of order that this is out of order under the Budget Act. I appeal the ruling of the Chair.

Mr. MUSKIE. Mr. President, may I make the proper point of order? I understand the Senator from Louisiana wants to cut me off by using the rules in spite of the fact that he is just arguing that every Senator——

The PRESIDING OFFICER. The Senator from Louisiana has made a point of order which is not debatable——

Mr. MUSKIE. What is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Louisiana has made a point of order which is not debatable.

Mr. MUSKIE. I have another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. I understood earlier, when I inquired of the Parliamentarian, that a point of order could not be raised until all time is expended. The time on this amendment has not been expended.

The PRESIDING OFFICER. There is no time limit on this amendment.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

Mr. DOLE and Mr. MOYNIHAN. Regular order, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A point of order having been made that, under section 401 of the Budget Act, new spending authority is created by this amendment and further that section 303 of the Budget Act is violated, the point of order is sustained.

Mr. LONG. Mr. President, I appeal the ruling of the Chair. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—75

Allen	Goldwater	Muskie
Anderson	Griffin	Nelson
Baker	Hart	Nunn
Bartlett	Haskell	Pearson
Bellmon	Hatfield, Mark O.	Pell
Bentsen	Hathaway	Percy
Bumpers	Helms	Proxmire
Burdick	Hodges	Randolph
Byrd, Harry F., Jr.	Hollings	Riegle
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Humphrey	Sasser
Case	Inouye	Scott
Chafee	Jackson	Sparkman
Chiles	Javits	Stafford
Church	Kennedy	Stennis
Clark	Laxalt	Stevens
Cranston	Leahy	Stevenson
Culver	Lugar	Stone
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
Domenici	McClure	Wallop
Eagleton	McGovern	Weicker
Ford	McIntyre	Williams
Garn	Metzenbaum	Young
Glenn	Morgan	Zorinsky

NAYS—21

Bayh	Hatfield, Paul G.	Packwood
Biden	Hayakawa	Ribicoff
Brooke	Heinz	Roth
Curtis	Long	Schmitt
Danforth	Matsunaga	Schweiker
Gravel	Melcher	Talmadge
Hansen	Moynihan	
Hatch		

NOT VOTING—4

Abourezk	Eastland	Johnston
Durkin		

So, the ruling of the Chair was sustained as the judgment of the Senate.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the ruling of the Chair was sustained as the judgment of the Senate.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1659

(Purpose: To provide for the refunding of credit in excess of tax liability)

Mr. LONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 1659.

Mr. LONG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with. I will explain it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, reserving the right to object, does the Senator have a copy of his amendment we can read?

Mr. LONG. It has the same basic effect as my earlier amendment. I have made a few changes. I have stricken some of the cross references and the conforming references. This amendment stands for the same moral principle as the earlier one, but it changes the legislative language, for parliamentary reasons.

Mr. MUSKIE. The vote just taken indicates that those technicalities can be very significant.

Mr. LONG. The Senator can appeal the ruling of the Chair, if he wishes.

Mr. MUSKIE. How long is the amendment? I am not inclined to object. I am reserving the right to object. I would like some clear idea——

The PRESIDING OFFICER. The Senator from Maine has a right to have the amendment read.

Mr. MUSKIE. I am not asking for that at this point. I am hoping that the distinguished sponsor of the amendment might give us enough of a clue in advance so that—Mr. President, a parliamentary inquiry. Could I ask to have the amendment read later?

Mr. LONG. Of course, I am just trying to save the time of the Senate. I will explain the amendment.

Mr. MUSKIE. I am willing to go that route, until I find it unsatisfactory.

The PRESIDING OFFICER. If the Senator does not waive the reading, he may have it read later.

Mr. MUSKIE. I do not insist that it be read now. I reserve the right to have it read later and will permit the Senator from Louisiana to proceed.

Mr. LONG. Mr. President, I ask unanimous consent that the amendment can be read any time the Senator wants it read.

Mr. MUSKIE. That is satisfactory.

The PRESIDING OFFICER. The Senator has that right.

The amendment is as follows:

On page 18, strike out lines 5 through 11.

On page 23, between lines 2 and 3, insert the following:

(b) Refund of Excess Credit.—Subsection (b) of section 6401 of such Code (relating to excessive credits) is amended—

(1) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44C (relating to credit for educational expenses),", and

(2) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44C".

Mr. LONG. Mr. President, I wish to comply with the budget resolution. But, I do not want to do a grave injustice to some poor people, just because they do not happen to be well fixed financially. And we will do such an injustice, if we do not agree to this amendment.

Mr. President, the Senator pointed out what he thought was the right way to obtain a waiver of the budget rules. The Budget Committee has pointed out its procedures. We tried to follow that. At least we thought we did. We sent our proposal to the Budget Committee. The Budget Committee sent it on to the Appropriations Committee, and the Appro-

priations Committee sent it back to the Budget Committee. The last I heard of it, the Budget Committee was not willing to grant a waiver.

Mr. MUSKIE. Mr. President, will the Senator yield for a point of clarification?

Mr. LONG. That is my impression.

Yes; I yield to the Senator.

Mr. MUSKIE. The Budget Act requires certain provisions go to the Appropriations Committee. We did not arbitrarily refer it to the Appropriations Committee. The Budget Act provides that because it involved the spending of money or at least a budgetary cost. The Budget Committee exercised the responsibility with which it is charged under the Budget Act and so did the Appropriations Committee. There is nothing arbitrary about it.

Mr. LONG. Yes; I am not complaining about that. I did not say the Budget Committee did not do everything it is supposed to do and did not exercise its conscience. All I am saying is that we on the Finance Committee followed the procedure as we understood the procedure, we were asking for a waiver and did not receive it.

But I read, Mr. President, under the Budget Act, section 904(b) which is the provision from which I appeal because I am trying to do what is right for those who are not so fortunate:

Any provision of title 304 may be waived or suspended in the Senate by a majority vote of the Members voting, a quorum being present, or by unanimous consent of the Senate.

Obviously we would not obtain unanimous consent on this waiver. However, a quorum is here. By majority vote, the Senate can waive section 303, which is the section that we have to request to waive.

So, Mr. President, so that not only rich and middle-income parents have the benefit of the tax credit, but so that lower income parents may have it, also, it will be necessary to ask the Senate for a waiver.

Mr. President, the Senator from Maine said there were provisions in the bill that kept the poor from receiving as much benefit as some of us think they should out of this legislation. But, the cost estimates for this amendment show that these people would be helped. The fact is that only if they are getting a fellowship for a scholarship or Government grant or something of that sort, they cannot get the credit.

By adopting my amendment, the Senate would increase the cost of the bill only $45 million in fiscal 1979; $81 million in fiscal 1980; and $133 million in fiscal 1981. But this additional cost would help a lot of low-income people who could participate in this if the Senate wants to let them participate in it.

I hope that this is the proper way to act, Mr. President. I move that under section 904(b) the requirements of section 303 of the Budget Act be waived so that the amendment can be considered.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

Mr. PACKWOOD and Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. LONG. Yes; I yield for that purpose.

The PRESIDING OFFICER. The Senator will state it.

The Senator from Maine.

Mr. MUSKIE. I ask whether or not there has been a sufficient change in the amendment to make it in order at this point under the Senate rules, not under the Budget Act?

The PRESIDING OFFICER. Under the precedents of the Senate once an amendment has been rejected or ruled out on a point of order it can not be reoffered unless it is substantially different.

Mr. MUSKIE. I make that point of order, Mr. President.

The PRESIDING OFFICER. Does the Senator yield for the point of order?

Mr. LONG. I yield for the point of order.

The PRESIDING OFFICER. It is the ruling of the Chair that there is no substantial change in the amendment, therefore, the point of order is sustained.

Mr. LONG. Then I will make some more changes.

Mr. President, send it back to me and I will make some more changes.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1660

(Purpose: To provide for the refunding of credit in excess of tax liability)

Mr. LONG. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes unprinted amendment numbered 1660.

On page 18, strike out lines 5 through 11.

On page 23, between lines 2 and 3, insert the following:

(d) refund of excess credit.—subsection (b) of section 6401—

Mr. LONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with except for the change that was penciled in. Please read the change on the second page.

The assistant legislative clerk read as follows:

(1) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit) and 44C (relating to credit for educational expenses incurred after September 30, 1980),", and

(2) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44C".

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 18, strike out lines 5 through 11.

On page 23, between lines 2 and 3, insert the following:

(b) Refund of Excess Credit.—Subsection (b) of section 6401 of such Code (relating to excessive credits) is amended—

(1) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44C (relating to credit for educational expenses incurred after September 30, 1980),", and

(2) by striking out "39 and 43" and inserting in lieu thereof "39, 43, and 44C".

Mr. LONG. Mr. President, under section 904(b) I move that section 303 of the budget rule be waived in order that the amendment might be considered.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. I still do not have a copy of this amendment. I do not know whether a substantial change has been made. We had a decisive vote on the point of order relating to the Budget Act under section 401 and section 303. I do not know how many times we have to go through this exercise, but a reading of the amendment such as we have had from the clerk is not a sufficient basis for me to make a judgment on whether or not we are being asked to vote on substantially the same amendment.

So I put the parliamentary inquiry to the Presiding Officer.

The PRESIDING OFFICER. The Chair at this point will state that this amendment is substantially different than the last amendment; therefore, it is in order under the Senate rules and precedents. As to the Budget Act, that is another matter.

Mr. LONG. Mr. President, I renew my motion under section 904(b) of the Budget Act, that the provision of section 303 of the Budget Act be waived in order that this amendment might be considered.

Mr. MUSKIE. Mr. President, I will make the point of order, but before I do I think I owe the Senate some explanation of section 904.

In the first place, with respect to this amendment, I have not seen it. Only one Senator has seen it. This subject of refundable credits was considered at length by the Finance Committee. It was included in legislation which was referred under the Budget Act from the Budget Committee to the Appropriations Committee. They had specific language before them dealing with this proposal. They acted on it. Both committees, overwhelmingly reported unfavorably on it. And the language was actually reported. Before those reports could get to the Senate floor so that the Senate could consider the waiver resolution which had been acted on unfavorably, the Finance Committee changed its legislative vehicle and did not include this language at all. I have no idea whether the language the distinguished chairman of the Finance Committee has just sent to the desk is the same language that came to the Budget Committee at one point or not. There is no basis for me to make a comparison. There is no basis whatsoever.

Now, what I have said goes to section 904.

As a member of the Government Operations Committee I spent most of a year writing the Budget Act, and spent the time in conference with the House of Representatives. I know that section 904 is intended to state only what is obvious, that the Senate can at any time suspend the Budget Act. So the question before us now is do we do that casually, do we do it when the Budget Act itself provides an orderly procedure for considering the issue in question?

There is an orderly procedure under the Budget Act to consider the very subject of this amendment. It was used by the Finance Committee.

It went through the Budget Committee. The Budget Committee reported it to the floor. That report is before the Senate. But the Committee on Finance backed off that because, following the procedure set down by the Budget Act, it did not give them the result they wanted. They wanted a favorable report, and because they did not get it they pulled back from that procedure and came back to the Senate without the refundable credit, which the chairman of the Committee on Finance now sends to the desk in language that no other Senator has seen, in language that may or may not be the same as that which the Budget Committee and the Appropriations Committee considered, and now the chairman of the Committee on Finance says we ought to get away from the specific procedure which was provided to handle just this kind of a problem, and waive the Budget Act altogether, which is what section 904 is.

It says that any time the Senate wants to it can suspend the Budget Act altogether and, of course, that is a statement of fact. It did not have to be written into section 904.

So now the chairman of the Committee on Finance puts it as boldly and as blatantly as he has wanted to for a long time. He does not like the Budget Act, and he wants to suspend the Budget Act so that he can do in his own way what the Budget Act makes possible for him to do in an orderly way.

So I oppose the motion and I hope the Senate will support my opposition.

Mr. LONG. Mr. President, I dare say, 90 percent of the Senators, and maybe more than 90 percent of the Senators, will find the same difficulty with which I am confronted. They will be confronted with all the parliamentary obstacles placed in the way of getting something to a vote, if they always have to go past the Budget Committee and the Budget Act.

But if you are right, Mr. President, it only takes 51 votes to sustain your position.

Why should we provide that everybody, except those who need it the most, will have the tax credits? Under the bill, the very rich will have it. I voted for that. But why deny the poor the credit, why deny the credit to the working poor, the least of them all, merely because of a technicality? Well, not if we have it within our power to do something about it.

I am no longer trying to overrule the Chair, I am not talking about that. I tried that. I was badly defeated. I accept the verdict and do not complain about that.

The ruling that the Chair made is not involved here. What is involved here is doing what is right. I find I have precedent for what I seek to do.

In April 1976, the Senate considered food stamp legislation which created new entitlement authority. Senator MUSKIE made a point of order against it under section 401 of the Budget Act. Senator TALMADGE then moved to suspend the provisions of the Budget Act under section 904(b), the same section I am referring to here.

The motion was carried by a vote of 63-to-27. So you voted in favor of that waiver, Senators, at least two-thirds of us voted that way. We did it so that we could vote on a proposal dealing with food stamps. So the precedents are on my side this time.

I am just asking that we waive the Budget procedures for this worthy amendment. I am not asking to suspend the Budget Act as Senator TALMADGE did. I am just asking that we waive it enough so that we can offer one little amendment. I am not talking about a $1 billion amendment, but talking about an amendment that costs about $133 million the first year. By comparison, that is a small amount of money. I am asking that we waive the Budget Act provision so that the Senate can consider the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. PACKWOOD. I might say further in support of the motion that when we waived the Budget Act during the food stamp consideration, the Senator from Maine had several comments, and I might quote what he said:

> Under the Budget Act, a procedure open to him is a motion to suspend section 401 (b) with respect to this point of order, and I should support that motion, for the reasons that I have outlined here briefly . . .
>
> But the Senate also has a procedural right under the act which enables it to say: "We are going to take it up on the floor of the Senate, notwithstanding the point of order." That is not a waiver of the procedures. It is an exercise of rights that the Senate has under the procedures.
>
> If we had so structured the Budget Act as to absolutely prohibit Congress from considering any change in entitlement programs, including this bill by these months of delay, I doubt that Congress would have adopted the Budget Reform Act.
>
> So when the Senator says that somehow the Budget Committee ought to deprive the Senate of that option, I say to the Senator in all respect that I do not think that it is what the Budget Act says. If we tried to impose that rigid a discipline in the process, the process would break down before the year was up.

So, Mr. President, what we are back to again is a whose-ox-is-gored argument. At the time that the Senator from Maine wanted to waive the Budget Act to consider an amendment by Senator DOLE under the food stamp bill, he was in favor of waiving it under the procedures, as is allowed. When he is opposed to this whole act, and he has made it clear from time immemorial—I will give him credit for consistency—that he is opposed to primary credits, secondary credits, college credits, vocational credits, part-time credits, graduate credits, and all other kinds of credits, he is opposed to it, so he does not want to follow the procedures of the Budget Act and allow us to vote on this, to do the very same thing that he endorsed doing on a bill making an issue of a waiver when he supported it.

It is simply a question of whether or not you agree with the issue of refundability and want to consider it. If you do not, that is fine. Leave it out. But we should not think that we are making a change in the Budget Act, that we are doing anything we have not done before or we are doing anything that the Senator from Maine has not supported before when the issue that he wanted to consider was one that he supported.

Several Senators addressed the Chair.

Mr. MOYNIHAN. Mr. President, a brief word on the substance of the amendment of the Senator from Louisiana. With the elementary and secondary school provisions eliminated, the legislation before us is, of course, different legislation.

On the 1st of October 1980, the bill moves up to a different level altogether: there is at that point a potential refund tax credit of $500 at the college and university levels.

This amendment would take effect on October 1, 1981. We are talking about quite a substantial sum of money that persons will receive if we accept this, and will not receive if we fail to do so. This is, therefore, an important amendment.

Mr. MUSKIE. Mr. President, first of all, in response to the distinguished Senator from Oregon, I think my memory is pretty good, and I would not try to reconstruct the circumstances to which he speaks.

Mr. President, I am as sure as I am that I am standing here that those circumstances were no precedent for these. Here a route was deliberately not taken, under the Budget Act, by the Finance Committee, a route open to accomplish precisely what the Senator from Louisiana seeks to accomplish today, and he backed off; with what consequence? Leaving us in doubt as to precisely what legislative language we are considering, leaving us in doubt as to the cost, unless he chooses to presume that he ought to be the final authority on cost, and without the benefit of CBO's analysis of the cost in the light of the changes that have been made in the bill on the Senate floor.

The whole purpose of this process is to make sure the Senate has complete information on costs when it votes on legislation with these long-term cost implications. There is precedent for that.

As to what weight ought to be given to that precedent, I would not presume to try to suggest, without being able to review the record myself, before the tactic of the chairman of the Finance Committee is adopted. But I know if we were to approve what he has proposed, if we were to support his motion, we would set a

precedent with much more significant, serious, and lasting implications for the viability of the budget process than the one to which the Senator from Oregon refers.

The second point I would make, that I made in my discussion of the Senator's first amendment—we are now considering his third one—his first one did not eliminate an offset provision, which means that students would lose any direct assistance they get from Federal programs, dollar for dollar, for the tax credit relief they get up to $250.

That was a weakness in the Senator's first amendment. He has not discussed it in connection with the second one, but if the weakness has not been corrected, then it still stands, and the amendment would not do the poor any good.

But the final point I make, Mr. President, is that the Senator justifies this because it is needed to correct an obvious injustice. Well, if the injustice is that obvious, why did the Finance Committee, in its deliberations, put this offset provision in? Earlier the Senator from Louisiana said, "Oh, well, that is within our jurisdiction, we can correct it."

I ask him, why did you not correct it when it was before you? My understanding is that the offset provision was put in deliberately, because there were those in the committee who felt that not to have it would mean that there would be people who would get benefits under both the tax credit option and the direct assistance, and they did not want to subject the bill to that criticism.

I say much of this on the basis of hearsay, because I do not have the benefit of the Finance Committee report, which was before us with respect to the original bill, which gave us the Finance Committee's arguments, which evaluated the bill for us so that we could have the benefit of their deliberations.

I have to act ad hoc, on the basis of the third amendment the Senator from Louisiana was able to put together this afternoon, without seeing the language, without being able to compare it with what we had before. I have the responsibility, whether the Senator from Louisiana likes it or not, and I am going to discharge that responsibility even if no one on this floor listens. I have the responsibility of giving the Senate the benefit of my best advice. This is the way I see it, and I would appreciate the Senate's support.

Mr. PACKWOOD. Mr. President, the Senator has asked why we did not preserve the offset. I can tell the Senator why. It was to prevent double dipping. We offered the Department of HEW this provision, and they turned it down out of hand.

The matter is very simple. If somebody, in September, when starting school if students feel they are so desperately poor and are entitled to a grant, and they get it, and they could not go or they do not think they could get through school without the grant, this would let them take it, and then, when it comes time to sign the tax return in April, they can offset the amount they got as a grant against the credit, but they cannot take a grant and also take a tax credit if they paid tuition.

Conversely, if you think you can make it until April without a grant, if you take the tax credit you cannot also take the grant. It was designed to offer the students a choice, and to offset the cost of the bill, which the Finance Committee tried to do in a number of respects.

That was all this offset provision was. It had to do with preventing double dipping, and with the philosophy that I think the Finance Committee, almost to a man, shared: It endeavored to give the recipients a choice, in September, as to whether they wanted to go the grant route or the credit route. Pay your money and take your choice.

I think the reason we were turned down by the Department of HEW is that they did not want these two programs side by side, because I think I know what will happen. For most students going to school, and who are dependent on their parents, when they are faced with this situation, if the parent pays any tax at all, and they look at the BOEG form and what they have to reveal, they say, "To heck with it, I will pay it now and take it off the tax next April."

When this measure has been in effect 3 or 4 years, and HEW finds they prefer to go the tax credit route instead of the BOEG route, I believe HEW will be disappointed. But that is all that offset provision is about. It should not even be discussed in connection with this refundability and waiver of the Budget Act tonight.

Mr. LONG. Mr. President, I would hope the Senate by now understands what this is all about.

When we try to debate a tax credit so people can send their children to college, we are confronted with the argument, "Oh, that only helps those who are taxpayers; the poor will not benefit; you are going to help the rich people with this, and the poor could not enjoy it. How could you be so unfair?"

If we pass this bill without the amendment I am trying to offer, and if the President decides to veto the bill, as sure as I am talking to you, the President will come down on the fact that the bill would not benefit the poor. It will not be available to the poor because they do not pay any tax, or not enough tax to take advantage of the credit. We want to help the poor, but so far the poor are left out of this bill. When we tried to help the poor, we were confronted with every complexity that the Budget Committee can devise.

The Budget Committee is not against the poor; that committee is against this bill. Their chairman might deny it, but if he had his way he would deny the Senate the opportunity to make this bill applicable to all American children and their parents, rich or poor.

The chairman of the Budget Committee has made his position clear. He is going to work to defeat this bill however he can. He has talked about the cost of this amendment. But this amendment's cost is small in the totality of things. The Senator says he cannot rely on my estimates. Mr. President, all I have ever been able to rely on is the Joint Committee on Internal Revenue Taxation, now known as the Joint Committee on Taxation. I always have regarded that staff as the most reliable group anywhere for estimating the impact of a revenue measure whether on the House side or the Senate side of the Hill. I stand by their estimate.

Mr. President, I have stricken fiscal years 1979 and 1980 from my amendment; it would not apply for the next couple of years. That is a substantial change in the amendment. So, parliamentarywise, we are within the rule. We are following precedent; we are seeking to invoke the same precedent that Mr. MUSKIE himself approved on the food stamp bill.

We are trying to address the merits of the issue. Why not just vote on the amendment? The technicalities are finally behind us. It is just a question of whether the Senate wants to let us vote on the amendment.

As I say, we tried to follow the procedures of the Budget Committee and did not have any luck there. We did the best we could. We now seek to invoke the precedent the Senator has recognized. We now ask for a vote on the amendment.

(Mr. DECONCINI assumed the chair.)

Mr. MUSKIE. Mr. President, I will undertake to do my best to give the details on that precedent, and provide the Senate with as much information as I can. We would have been able to provide more if regular procedures had been followed.

As to that precedent—and it may have been a mistake—let us understand what it was. It had to do with the 1976 food stamp reform. My good friend from Kansas would probably remember that.

It involved another amendment which had been sanctioned by the budget resolution and taken into account by the budget resolution, and upon the adoption of the budget resolution by Congress, it effected the sanction.

So it is not outside the budget resolution.

The point of order was raised that the McGovern amendment had an immediate effective date rather than October 1. Under the budget resolution, section 401, any entitlement legislation which takes effect before October 1 or the next fiscal year, is not in order.

The fact is that because of the complexity of the food stamp bill, this judgment came to us on the basis of Senator DOLE'S advice and Senator TALMADGE'S advice. It was not possible to draft the McGovern amendment in another form to eliminate that technical objection.

We could not see at that point that any Budget Act purpose could be served by the point of order. The point of order would simply have obstructed a bill that had been assumed by the budget process.

That is the best and clearest reconstruction I can give of the circumstances at that time.

To me, those circumstances are far different from these.

With respect to the offset provision,

the basic education opportunity grant program for the income group $5,000 to $10,000, the average grant, is $1,132. As I understand it, the amount of the grant is deducted from the prospective tax credit. As a result an average grant recipient from a family with an income below $10,000 would not get any benefit under the tax credit, since his BEOG's grant of $1,132 would greatly exceed the prospective $250 tax credit. The refundability provision, cannot restore the tax credit to these students.

For people in the income group up to $10,000 there is no injustice being corrected here. The result I am told the offset provision would have would still obtain. So we are being asked to set a serious precedent under the Budget Act which does not accomplish what its sponsor proposes. That is the simple fact.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered——

Mr. LONG. Mr. President, if this would not help the poor, why does it cost $81 million in fiscal year 1980, and $133 million in fiscal year 1981? Those are the budget estimates. They show what it would cost to help the poor.

If this amendment leaves anything to be desired, if there is anything in this bill or in this amendment that would deny some poor person a benefit to which he is entitled, we still have the right to correct it. I would be glad to support an amendment to do that or support further legislation to achieve a proper result. But, we will not have the opportunity to do anything about an obvious injustice in this bill affecting the poor unless my motion prevails, and we are offered the opportunity to vote on my amendment.

Mr. PACKWOOD. Mr. President, one last clarifying point, so we understand who is saving money and who is not saving money. When we waived this provision on the food stamp bill 2 years ago, what happened is that the Agriculture Committee had worked extensively in trying to cut down food stamp expenditures. We had a program then estimated to cost about $6.5 billion. The Agriculture Committee, with GEORGE MCGOVERN and BOB DOLE leading the fight, came up with reforms that would have cut it to about $6 billion but they would not have gone into effect until October 1 of that particular year. At the same time, the Department of Agriculture announced regulations to go into effect immediately which would have cut the annual cost of the food stamp program to $4.8 billion.

This Senate, I was one and most of the other Senators were on final passage, let alone the budget waiver, thought that cut, which was legal under the existing law, was too deep. So by virtue of waiving the rules we cost ourselves and this country about $1 billion during that year, money we thought justifiable was to be spent. But let no one think that by that waiver we saved money from what would have been cut from the food stamp program had we not waived it. We would have cut an additional $1.2 billion by administrative action. It is because our ox collectively was being gored. We did not want to cut it that far and we waived it.

The PRESIDING OFFICER. The question is on agreeing to the motion. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from New Hampshire (Mr DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Texas (Mr. JOHNSTON), and the Senator from Mississippi, Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT) is necessarily absent.

The result was announced—yeas 31, nays 62, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—31

Allen	Hansen	Melcher
Anderson	Hatch	Moynihan
Bentsen	Hatfield, Paul G.	Packwood
Biden	Hathaway	Ribicoff
Brooke	Hayakawa	Roth
Cannon	Heinz	Schmitt
Case	Long	Schweiker
Curtis	Mathias	Sparkman
Danforth	Matsunaga	Talmadge
DeConcini	McIntyre	Williams
Gravel		

NAYS—62

Baker	Griffin	Nelson
Bartlett	Hart	Nunn
Bayh	Haskell	Pearson
Bellmon	Hatfield, Mark O.	Pell
Bumpers	Helms	Percy
Burdick	Hodges	Proxmire
Byrd, Harry F., Jr.	Hollings	Randolph
Byrd, Robert C.	Huddleston	Riegle
Chafee	Humphrey	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Stafford
Clark	Kennedy	Stevens
Cranston	Laxalt	Stevenson
Culver	Leahy	Stone
Dole	Lugar	Thurmond
Domenici	Magnuson	Tower
Eagleton	McClure	Wallop
Ford	McGovern	Weicker
Garn	Metzenbaum	Young
Glenn	Morgan	Zorinsky
Goldwater	Muskie	

NOT VOTING—7

Abourezk	Inouye	Stennis
Durkin	Johnston	
Eastland	Scott	

So Mr. LONG's motion was rejected.

Mr. MUSKIE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, what is the parliamentary situation at this point?

The PRESIDING OFFICER. The amendment of the Senator from Louisiana is the pending question.

Mr. MUSKIE. Then, Mr. President, I raise a point of order as to the amendment under the budget.

The PRESIDING OFFICER. The waiver not having been granted, this amendment, like the predecessor, violates section 303 of the Budget Act. Therefore, the point of order is sustained.

The Senator from Massachusetts.

UP AMENDMENT NO. 1661

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself, the Senator from New Hampshire (Mr. DURKIN), and Senator from South Dakota (Mr. MCGOVERN).

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY), for himself, Mr. DURKIN and Mr. MCGOVERN, proposes unprinted amendment No. 1661.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tuition Advance Fund and Tax Credit Act".

SEC. 2. TUITION ADVANCE FUND; REPAYMENT

Title IV of the Higher Education Act of 1965 is amended by adding immediately after part C thereof the following new part:

"Part D—TAX COLLECTABLE TUITION ADVANCES TO STUDENTS IN INSTITUTIONS OF HIGHER EDUCATION

"STATEMENT OF PURPOSE AND AUTHORIZATION OF APPROPRIATIONS

"SEC. 451. (a) It is the purpose of this part to authorize the Commissioner to establish a program for the making of advances to cover costs of tuition and other education-related expenses to students at institutions of higher education and to provide for the referral to the Secretary of the Treasury for collection under the Internal Revenue Code of 1954 of those obligations which are in repayment status.

"(b)(1) There is hereby established in the Treasury a trust fund which shall be available, without fiscal year limitation, to the Commissioner for purposes of this part. There shall be deposited in such fund amounts appropriated pursuant to paragraph (2) and all amounts collected pursuant to section 5 of the Internal Revenue Code of 1954.

"(2) There is authorized to be appropriated, for each fiscal year beginning on or after the effective date of this part, to the fund established by paragraph (1) an amount sufficient to fulfill the purposes of section 452 of this Act, not to exceed $4,500,000,000 adjusted by the inflation adjustment factors established by the Commissioner under section 454(b)(2). Such authorization shall not apply to any fiscal year which is more than two fiscal years after the fiscal year (hereinafter referred to as the 'break-even year') in which the income from the unused portion of such funds plus the amount collected pursuant to section 5 of such Code for such break-even year exceeds the amount necessary to fulfill the purposes of section 452 of this Act for such break-even year.

"(3) If the sums available in any fiscal year for making advances to students under this part are not sufficient to pay in full the total amounts which all students are entitled to receive under this part for such fiscal year, the maximum amounts which all students are to receive for this year shall be ratably reduced. In case additional funds become available for making such advances for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF OBLIGATIONS

"SEC. 452. (a) An advance shall be made by the Commissioner under the provisions of this part only to a student—

"(1) who has not successfully completed a program of undergraduate education and is thirty-five years of age or younger;

"(2) who is enrolled in such a program at an eligible institution, has successfully completed the first year of such program, and is in good standing as determined by the institution; and

"(3) who is carrying at least one-half the normal full-time academic workload as determined by the institution.

"(b) No advance made under this part to any student for any academic year shall exceed $5,000, adjusted by the inflation adjustment factors established by the Commissioner under section 454(b)(2) or the allowable tuition and expenses, whichever is less. The aggregate unpaid principal amount for all such advances made to any student shall not at any time exceed $15,000, adjusted by the inflation adjustment factors established by the Commissioner under section 454(b)(2).

"(c)(1) An advance made under this part shall be evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement;

"(B) provides for disbursement of the proceeds of the advance by check, payable to the institution at which the advance recipient is in attendance, requiring endorsement by such recipient;

"(C) provides that the portion of such proceeds allocable to nontuition expenses described in subsection (d)(2) shall be paid by such institution to the advance recipient upon presentation of satisfactory evidence to the institution that such portion shall be used for such expenses;

"(D) provides for repayment in accordance with section 5 of the Internal Revenue Code of 1954 during the period in which such student is in repayment status;

"(E) provides for repayment of the total principal amount of advances under this part plus an amount equal to 50 per centum thereof, subject to the limitations contained in paragraph (2);

"(F) entitles the advance recipient to accelerate without penalty repayment of the whole or any part of the advances, plus an amount equal to 50 per centum thereof, in accordance with regulations prescribed by the Commissioner; and

"(G) contains such other terms and conditions, consistent with the provisions of this part, as may be required by the Commissioner and agreed to by the borrower.

"(2) For purposes of this subsection and section 453, an advance recipient shall be deemed to be in repayment status from the beginning of the first calendar year which begins after such recipient ceases to carry at an eligible institution at least one-half the full-time academic workload as determined by the institution and certified to the Commissioner until the earlier of (A) the beginning of the calendar year in which such borrower will become sixty-five years of age, or (B) the date on which the total principal amount of advances made to the borrower, plus an amount equal to 50 per centum of the total of such advances, is paid in full.

"(d) For purposes of subsection (b), the term 'allowable tuition and expenses' means—

"(1) the tuition charged by the eligible institution at which the borrower is enrolled, plus

"(2) an amount determined, in accordance with regulations prescribed by the Secretary, as necessary to cover education-related expenses such as transportation, room, board, and materials, but not exceeding $1,000.

"COLLECTION PROCEDURES

"SEC. 453. (a) The Commissioner shall, not later than January 1 of each year, certify to the Secretary of the Treasury for each borrower in repayment status on such date an amount equal to the sum of the total principal amount of advances made to such borrower plus an amount equal to 50 per centum of such total minus the sum of any amounts collected pursuant to section 5 of the Internal Revenue Code of 1954. A copy of such certification with respect to a borrower shall be sent by the Commissioner to such borrower.

"(b) Any borrower who receives a notice of certification under subsection (a) and who believes such notice to contain an error of statement or omission, or asserts a debt for which the borrower is not obligated or to which he desires to raise a defense or excuse, shall file an objection thereto with the Commissioner within sixty days after receipt of such notice. The Commissioner shall, within thirty days of receipt of such an objection, affirm, adjust, or withdraw such certification and send notice thereof to the borrower and to the Secretary of the Treasury. Such decision shall be reviewable by an appropriate district court of the United States as a final agency decision.

"DEFINITION

"SEC. 454. (a) The term 'eligible institution' means an institution of higher education as defined in section 1201(a)—

"(1) which has not, except under circumstances certified by the Commissioner as vital to the mission and purpose of such institution, increased undergraduate enrollment—

"(A) by more than 2 per centum in any academic year beginning after the enactment of this part; or

"(B) by more than 10 per centum in all the academic years beginning after such enactment;

"(2) which has not imposed any excess charges in any academic year beginning after the date of enactment of this part, except under circumstances certified by the Commissioner as vital to the mission and purpose of such institution.

"(b)(1) For purposes of subsection (a)(2), the term 'excess charges' means any amount charged by an eligible institution for tuition which exceeds the tuition charged by such institution in the academic year which ends in the calendar year preceding the calendar year in which this section is enacted (hereafter referred to as the 'base tuition') plus an amount equal to the sum of—

"(A) such base tuition adjusted by the inflation adjustment factors determined under paragraph (2), plus

"(B) in the case of eligible public institutions, an amount not to exceed 10 per centum of such base tuition.

For purposes of applying subparagraph (B), no additional amount of tuition at any eligible public institution shall be taken into account unless the Commissioner determines that such additional amount is available to such institution to carry out its educational purposes.

"(2) The Commissioner shall prescribe a schedule for the calculation of inflation adjustment factors for purposes of paragraph (1) for each academic year beginning after enactment of this section which shall be based upon the increase in the Consumer Price Index as determined by the Secretary of Commerce for the calendar year preceding the calendar year in which such academic year ends.".

SEC. 3. REPAYMENT

(a) IN GENERAL.—Part I of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to tax on individuals) is amended by redesignating section 5 as section 6 and by inserting after section 4 the following new section:

"SEC. 5. TAX IMPOSED FOR REPAYMENT OF FEDERAL TUITION ADVANCES.

"(a) IMPOSITION OF TAX.—In addition to the other taxes imposed by this chapter there is hereby imposed on the includible adjusted gross income of every Federal tuition advance recipient in repayment status for the taxable year a tax equal to the lesser of—

"(1) the amount equal to the applicable percentage of such includible adjusted gross income, or

"(2) the sum of the aggregate amount payable on all Federal tuition advance of such recipient plus an amount equal to 50 per centum of such aggregate amount payable.

For purposes of paragraph (2), the aggregate amount payable on any such advance shall be determined as of the last day prescribed by law for filing the return of tax imposed by this chapter for the taxable year.

"(b) Applicable Percentage.—For purposes of subsection (a) the applicable percentage with respect to any Federal tuition advance recipient in repayment status shall be determined in accordance with the following table:

[In percent]

	Annual income of recipient					
	Up to $5,000	$5,000 to $10,000	$10,000 to $15,000	$15,000 to $17,500	$17,500 to $20,000	$20,000 and above
Total tuition advance fund obligation:						
Up to $3,750	0	2	2	2	2	2
$3,750 to $5,250	0	2	2	2	2	2
$5,250 to $6,750	0	2	2	2	2	2
$6,750 to $8,250	0	2	2	2	2	2
$8,250 and up	0	2	2	2	2	2

"(c) DEFINITIONS.—For purposes of this section—

"(1) Tuition advance.—The term 'tuition advance' means any advance made pursuant to part D of title IV of the Higher Education Act of 1965.

"(2) Tuition advance recipient in repayment status.—The term 'tuition advance recipient in repayment status' means for any taxable year any individual from whom a certification has been received by the Secretary pursuant to section 453(a) of the Higher Education Act of 1965 and has not been withdrawn pursuant to section 453(b) of such Act.

"(3) Includible adjusted gross income.—The term 'includible adjusted gross income' means—

"(A) in the case of a single individual the adjusted gross income of such individual,

"(B) in the case of married individuals filing a joint return under section 6013, where both spouses are tuition advance recipients, an amount equal to the adjusted gross income of such individuals,

"(C) in the case of a married individual filing a separate return, or a married individual filing a joint return under section 6013 where the spouse of such individual is not a tuition advance recipient, the greater of—

"(i) the adjusted gross income of such individual, or

"(ii) an amount equal to one-half of the sum of the adjusted gross incomes of such individual and such individual's spouse.

"(d) SPECIAL RULES.—

"(1) TAX TREATED AS INCOME TAX.—For purposes of this title, the tax imposed by subsection (a) shall be treated, under regulations prescribed by the Secretary, as an income tax imposed by this chapter.

"(2) MARITAL STATUS.—For purposes of this section, marital status shall be determined under section 143.

"(3) CERTIFICATION BY SECRETARY OF ADVANCE AMOUNT REPAID.—The Secretary shall certify to the Commissioner of Education the amount of tax paid under subsection (a) for the taxable year with respect to each tuition advance recipient in repayment status.".

(b)(1) CONFORMING AMENDMENTS.—The table of sections for such part I is amended by striking out the item relating to section 5 and inserting in lieu thereof the following:

"Sec. 5. Tax imposed for repayment of Federal tuition advances.
"Sec. 6. Cross references relating to tax on individuals.".

(2) Subsection (a) of section 6012 of such Code (relating to persons required to make returns of income) is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and by adding at the end thereof the following new paragraph:

"(8) Every individual who, at the close of the taxable year, is a Federal tuition advance recipient in repayment status (as defined in section 5(c)(2)).".

(3) Subsection (a) of section 3402 of such Code (relating to income tax collected at source) is amended before the period in the third sentence by inserting "and to reflect an additional amount of tax to be deducted and withheld by reason of the tax imposed by section 5".

(c)(1) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) of this section shall apply to taxable years ending on or after the first day of the first calendar year beginning after the date of the enactment of this Act.

(2) The amendment made by subsection (b)(3) shall apply to wages paid on or after the first day of the first calendar year beginning after the date of the enactment of this Act.

(d) BANKRUPTCY.—For the purpose of section 17 of the Bankruptcy Act, any tax imposed by section 5 of the Internal Revenue Code of 1954 shall be deemed to be a tax which became legally due and owing by the bankrupt to the United States within three years preceding bankruptcy.

(e) REPORT.—The Secretary of the Treasury and the Commissioner of Education shall, not later than January 15 of each year, submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate any recommendations for changes in the rates or methods of collection of the taxes imposed by section 5 of the Internal Revenue Code of 1954 that may be necessary to insure the continued solvency and availability of the trust fund established pursuant to section 451(b)(1) of the Higher Education Act of 1965.

Mr. KENNEDY. Mr. President, I yield myself such time as I might need.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Massachusetts is entitled to the attenion of the Senate.

Mr. CHILES. Will the Senator yield?

Mr. KENNEDY. Yes, for a unanimous consent.

Mr. CHILES. Mr. President, I ask unanimous consent that Rick Brandon and Carnie Hayes of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I offer this amendment on behalf of myself, the Senator from New Hampshire, and the Senator from South Dakota. We are considering ways in which we might meet the problems of higher tuition costs. I think the tuition advance fund provides a new, creative and financially responsible way of dealing with this problem.

This proposal has not had the consideration of the Education Subcommittee, although I have talked to the chairman of the Education Subcommittee and he has given assurances that we will have the opportunity for hearings on this proposal in the next session.

Basically, Mr. President, what this amendment would do is provide for a tuition advance fund which would make enough money available to allow people to go to college and to continue in college. The tax credit is only for $250 and we know that the burdens of tuition far exceed that.

It would also provide additional resources for room and board. It would be generally available to all of those who seek higher education.

The loan would be paid back over a period of years during which the particular student that took advantage of the program is working and earning. These funds would go back into a revolving fund for use by future students.

This fund would be self-sustaining after a period of years and would no longer drain the Federal Treasury, as a tax credit program would or even as a scholarship does.

And, it puts the responsibility on the one who will benefit, the student, rather than the parent.

Mr. President, this particular concept has been placed forward by a distinguished educator in my own State, President John Silber, president of a great university, Boston University. He has given it a great deal of thought, a great deal of study.

It seems to me to be both the financially responsible and the educationally responsible approach toward meeting the extraordinary burdens of higher tuition on the young people in this country, and their families.

Mr. President, I would now like to more formally list the virtues of this proposal for my colleagues.

Mr. President first, the tuition advance fund would make enough money available to allow people to continue in college. It is difficult for students to meet the burden of tuition, room and board today. Average tuition alone in a private college is now $2,500; room and board costs $1,000 or more. The proposed tuition tax credit would return only $250 a year in tax savings to the family which was putting someone through college—and this money would be returned some 10 months after the close of the school door for the year. It is obvious that $250 10 months late is not going to make much of a difference.

Second, the tuition advance would be available to all people who are going to accredited colleges, the 925,000 in private schools and the 3.7 million in State schools. People with financial needs would not have to search through a variety of programs and hope that, in the year in which they are applying, enough money remains in the program, or that they meet that year's eligibility criteria. It is thus as comprehensive as the tax credit.

Third, the proposal recognizes that students who go through college are the primary beneficiaries of a college education. They owe something to a society which has allowed them the resources to enjoy that education. They begin to pay society for the benefit which has been extended to them through this bill. In turn, they make it possible for society to award similar funds to students who follow in their path. It is fair that they do so. Those who go to college enjoy far greater earnings over the course of their lifetime than those who do not. The bureau of the census reports a $232,000 difference between the wages of a college and a high school graduate. They enjoy the other benefits that education bestows. They should be paying for that education when they can afford to do so, to help those who subsequently need assistance.

Fourth, the bill promotes, societal values through a payback scheme which does not force people into taking jobs purely because those jobs offer higher salaries. Those people who wish to take lower paying jobs which might be of service to society—those people who want to enter VISTA after their graduation, or those who cannot find higher paying jobs would only pay a flat percentage of their salary that year, rather than an amount calculated purely on the basis of the amount that they borrowed. This compares to the present system where, like a home mortgage, people must pay back their loans in a certain period regardless of their incomes. Gaging payback rates to income will also probably lead to fewer outright defaults.

Fifth, the program would eventually be self-sustaining. During the first few years, we would have to spend more money on the educational loans than we now do. But within a few years college graduates would begin paying back loans. As compared to the social security system, the tuition system would result, over the next few decades, in a larger and larger proportion of people graduating and paying back the amount they borrowed as they moved into jobs. There are always far more people in the work force, who are there for a 40-year period, than in college, where they are eligible for a tuition advance for a 3-year period.

Mr. President, the tuition advance fund is simply a better way to insure a college education to all the people in America who want one. It is simply a fairer way of allocating the cost of guaranteeing a college education.

I hope we will be able to test out these thoughts in the Education Committee

and come back and make a recommendation to the Senate.

● Mr. DURKIN. Mr. President, our amendment strikes those portions of the tuition tax credit bill dealing with tax credits to parents paying tuition to colleges and universities. In place of those provisions, my amendment substitutes an alternative college financing plan.

There is little doubt that a $250 tax credit would be welcomed by any person struggling to meet the high costs of tuition. But that $250 which comes in the spring will be of cold comfort when a $3,000 tuition bill arrives in the fall. For this reason, I am offering an amendment which establishes a program covering up to $5,000 of tuition and related expenses while placing responsibility for repayment where it belongs—squarely on the shoulders of the person who benefits from that education, the student. Repayment will be made over the borrower's working lifetime.

My amendment, which is cosponsored by the Senator from Massachusetts, Mr. KENNEDY and the Senator from South Dakota, Mr. MCGOVERN, is identical to the Tuition Advance Fund Act which I introduced earlier this year. Similar legislation has been introduced in the House by Congressman HARRINGTON, who helped develop the plan along with President John Silber of Boston University.

There is no question that a comprehensive program is needed now if a college education is to be a realistic goal for those who are not wealthy.

The cost of sending a child to college has risen by more than 77 percent in the last 12 years. The average cost of tuition, room, and board at a nonpublic institution of higher education is more than $19,000 over 4 years, and still rising. The costs at taxpayer supported colleges have also risen considerably to the point where it now costs an average of $2,500 per year to cover education expenses for students at these schools.

Federal loan and grant programs have been a partial solution to the problem of rising costs but have not been enough to place a college education within reach of all who wish to attend. The primary Federal program to assist middle class students, the guaranteed student loan program, has been of considerable help, but has not been a universal answer. Some lenders have been unwilling to write such loans at all or have set aside an insufficient amount to meet the needs of all those wishing to borrow. Other Federal student assistance programs are not available to middle class because their incomes are supposedly too high. For instance, 94 percent of all basic education opportunity grants go to persons with family incomes under $15,000. We all know that the financial burden on families with incomes over this level is great, too great, and as a result they may not be able to offer their children the opportunity of a higher education.

Our proposal authorizes the commissioner of education to make advances of funds to students to cover the costs of tuition and certain other related expenses such as room and board up to a limit of $5,000 annually. The loans would be made to undergraduates in their sophomore, junior, or senior years, that is, to students who have made a commitment to their education. Also, to be eligible for an advance, the student must be in attendance on at least a half-time basis at an eligible institution. An eligible institution is one which has allowed only reasonable increases in its charges to students.

The repayment method contained in our amendment is also simple and will avoid the problem of defaults found with current student loan programs. Recipients will repay the money advanced to them during their working lifetime through the Federal income tax system. The student will begin payments once he or she ceases to be in school on at least a half-time basis and will continue until the amount borrowed plus a 50-percent surcharge has been repaid or until the recipient reaches age 65.

The funds will be withheld from the advance recipient's salary as a tax, and, as such, are not avoidable by declaring bankruptcy. The abuses which exist under the present student loan programs would not be possible.

Two other aspects of the proposed repayment plan are important to note. First, students with an annual income of less than $5,000 during their repayment period will not be taxed during the years their income is below that level. Second, married individuals with a tuition advance obligation will repay 2 percent annually on the greater of (A) his or her individual earnings or (B) half of the combined income of both spouses.

Mr. President, we are fond of saying that education has made this country great, and that human capital is our most important asset. It is time we backed rhetoric with action. This plan recognizes that an investment in education is an investment in human capital. Just as the Federal Government subsidizes other capital investments through tax credits and other incentives, so should we recognize investments in human capital. Just as we amortize our other capital investments, so should we allow the amortization of human capital investments, that is investments in education.

The system provided for in our amendment will give all students a chance to pursue higher education, a chance to invest in their future. I urge its consideration by the Senate.●

Mr. BELLMON. Will the Senator yield?

Mr. KENNEDY. Yes, I yield such time as the Senator from Oklahoma wants.

Mr. BELLMON. I thank the distinguished Senator from Massachusetts for yielding.

Mr. President, I want to begin by saying that I agree with the position the Senator has taken favoring student loans.

On last Friday, I introduced a National Student Loan Bank Act (S. 3403) bill intended to provide source of funds to young people whose families cannot or will not furnish needed support.

It is a loan program. It is not grants. The loans are to be fully repaid at the cost of interest to the Treasury.

I agree with Senators DURKIN and KENNEDY that affordable loans are the answer to the cash crunch problem confronted by middle-income families, particularly if their children want to attend high cost private schools or colleges.

S. 3403, the National Student Loan Bank Act is different from the Durkin-Kennedy plan in both its repayment requirements and its structure.

Mr. President, this matter is of great import, both from a budgetary and a humanitarian standpoint, because it does offer the students what they might have at a minimal cost to the Treasury.

I hope we could have hearings on both the Kennedy-Durkin bill and on S. 3403.

I think we can learn a lesson from our experience this week. The Senate has had under consideration two bills—the tax credit now on the flooor and the President's proposed expansion of the basic education opportunity grant program, which we will soon consider. It is plain that a more orderly, more workable, more inclusive system of student aid is needed.

I join Senators DURKIN and KENNEDY in calling for hearings, hopefully one set of hearings which will address both their bill and S. 3403.

I hope hearings could occur early next year, so the product of such hearings can be considered in conjunction with the reauthorization of all existing higher education programs, which is due to occur next year.

Mr. President, I believe that this is the first step toward a reasonable, comprehensive, affordable program for student loans which will offer a solution to the problems of students from middle income families when they attempt to seek higher education.

Mr. KENNEDY. I just want to express my appreciation to the Senator from Oklahoma for his suggestions.

We are approaching this in a similar way by a revolving loan fund with a payback provision. It seems to me to be sound education policy as well as financial policy.

I want to give assurance to the Senator from Oklahoma as a member of the Education Committee that we will certainly consider his approach to it with Senator DURKIN'S, Senator MCGOVERN'S and mine.

I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I congratulate the Senator from Massachusetts for bringing up this matter for discussion. I know it is a very interesting approach and a very novel and sensible one.

I have had several conversations—at least one long one—with President Silber, of Boston University, and think the idea has a great deal of merit.

I look forward in the coming session of Congress—if it does not pass this session, it may pass in the next session, although I make no commitments in that regard—but I am looking forward to a hearing and a discussion on it in our Education Subcommittee.

Mr. KENNEDY. I thank the Senator.

Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT NO. 1662

(Purpose: To provide a termination date for the tax credit)

Mr. GLENN. Mr. President, I send to the desk an unprinted amendment for myself, Mr. EAGLETON, Mr. MUSKIE, Mr. BELLMON, and Mr. KENNEDY.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. GLENN), for himself and others, proposes an unprinted amendment numbered 1662.

At the end of the Act insert the following: "SEC. —. TERMINATION DATE. No credit shall be allowed under this Act for any taxable year beginning after December 31, 1983."

Mr. GLENN. Mr. President, the House-passed version of the tuition tax credit bill provided for a termination date for the credit at the end of 1980, thus allowing for review of the legislation by the Congress 2 years after enactment. The bill reported by the Senate Finance Committee would not provide for a termination date and thus would enact the credit in perpetuity.

My amendment would provide for a termination date of December 31, 1983, thus rejecting the in perpetuity feature of the committee bill but allowing for a more realistic review schedule than that provided by the House.

It is my view that as a general rule major tax credits or incentives—and major authorizations for that matter—ought to be reviewed routinely after they have been in operation for a time period long enough to enable us to evaluate them. Only by adopting this principle will we be able to establish control of our budget deficits and, more than that, control of government as a whole.

The college tuition tax credit, whether attractive to the Congress at this time or not, ought to be no exception to this rule. The House acknowledged this by providing for a termination date in its bill. My view, however, is that the review schedule provided by the House is too tight and that more effective review would be possible 5 years after enactment. Accordingly, my amendment would terminate the credit at the end of 1983 with the understanding that at that time Congress could leave the credit at the level provided in the legislation or revise it upward or downward.

Mr. President, every Senator in this body is very concerned about budgetary controls and the resulting impact on inflation—inflation that erodes not only our buying power but which is literally seeing the dollar drift to a second-rate currency around the world. The most uncontrollable part of our Federal budgeting process has been the rapid increase over the last 10 years of tax incentives, deductions, and credits, which all lumped together have been called tax expenditures, or in other words, Federal-revenues-not-realized.

The revenue loss through tax expenditures has grown rapidly. It amounts to an estimated $124 billion in 1978, and is estimated to increase to $187 billion by 1983. While these figures point the need for sunset tax legislation which I have previously proposed and will propose again as part of the broader sunset legislation, I believe we must address this revenue loss problem on each major addition to tax expenditures which come before us, including this bill.

The House has addressed this problem in their version of this tuition tax credit legislation by placing a 2-year sunset provision in their bill. I believe 2 years is an insufficient time in which to properly assess a change in educational patterns of this magnitude, and my amendment would propose a sunset provision in the Senate version of 5 years. Certainly 5 years is an adequate time period to assess the impact and value of this legislation. I think the House has correctly specified that they also intend to review the credit and may revise or adjust it. If the legislation is working satisfactorily at that time, Congress could extend the credit beyond the cutoff date. If, however, the tax credit is not working as planned and has some adverse impacts not foreseen at this time, then it should be sunsetted, terminated.

Mr. President, I understand that the floor managers of the bill are prepared to accept this amendment, and I would be prepared, upon their acceptance, to yield back the remainder of my time. I urge acceptance of this amendment.

Mr. HART. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. HART. Will the Senator add my name as a cosponsor?

Mr. GLENN. Mr. President, I ask unanimous consent that the name of the Senator from Colorado (Mr. HART) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. We accept the amendment.

Mr. MOYNIHAN. Mr. President, the Senator from Ohio is correct. The managers of the bill are happy to accept his amendment and do so.

I yield back the remainder of my time.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. BELLMON. Mr. President, I ask unanimous consent that Carol Cox, Peter Boyd and George Merrill, of the Budget Committee staff, have the privilege of the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, the Senator from California has asked for the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. HAYAKAWA. Mr. President, some of my colleagues may be surprised at what I am about to say. I intend to vote against final passage of the tuition tax credit bill.

Because my career in education was at the university level, many people have assumed that my support for the so-called Packwood-Moynihan bill was based on a desire to provide tuition tax credits at the college level. However, I have indicated throughout the months of discussion on tuition tax credits that my real interest was in providing the credit for elementary and secondary education. Now that we have eliminated the credit for elementary and secondary education, I find that I can no longer support the bill.

Mr. President, we have dealt private education a severe blow today. Despite empty gestures that we may make through other amendments, I believe that parents who chose the alternative of private education for their children will not be fooled.

But most important, Mr. President, by accepting the Hollings amendment, the Senate has made this bill as regressive and as racist as it could be. Whether we make the credit refundable or not, whether we accept an income limitation or not, this bill is regressive.

It is regressive because those who need the assistance of a tuition tax credit the most are those less fortunate parents whose children's futures are held captive to poor quality public schools in the ghetto. Their children do not go to college. They don't make it that far. And they do not make it that far because their parents cannot afford to provide them with an alternative to the miserable neighborhood public schools.

These are the students that drop out of high school before they graduate. They drop out because of a lack of discipline. They drop out because their schools are not safe. They drop out because their minds are not challenged.

Mr. President, I want these children to go to college, too. But they will never be able to so long as we do not do something meaningful to help them get a decent education at the primary and secondary levels.

I in no way wish to imply any dissatisfaction with my distinguished colleague from Delaware. I commend his efforts to secure some relief in these times of high taxes for those who pay college tuition for themselves or their children. And I appreciate his efforts to help secure the same consideration for parents of elementary and secondary students. But I cannot in good conscience turn my back on those I most wish to help. So I must therefore cast my vote against final passage of this bill.

Mr. MOYNIHAN. Mr. President, I ask for third reading of the bill.

Mr. GOLDWATER. Mr. President, will the Senator yield?

Mr. HAYAKAWA. I yield.

Mr. GOLDWATER. Mr. President, I asked the Senator to yield just to say that I agree with his remarks completely.

I think I was the first one to have introduced this bill in the Senate, way back in 1958.

The way this bill has been butchered and amended and changed, it is not going to help the young student who wants to go to college, and I therefore will vote against it.

Mr. MOYNIHAN. Mr. President, I ask for third reading.

Mr. MORGAN. Mr. President, since last Thursday the Senate has been engaged in debate over the most appropriate method of providing additional relief to students and families from college costs. We have before us two proposals, one sponsored by Senators MOYNIHAN and PACKWOOD, and the other by Senator PELL, and if we choose one over the other, it will have significant consequences for the future of educational assistance in this country.

This is an important debate, but I am greatly disturbed by its implicit assumption, that the Federal Government needs to increase appropriations for tuition assistance, exclusive of the GI bill, by 40 percent. And that is what both of the proposals before us would do. We are proposing to increase our spending for tuition assistance from $3.8 billion to about $5.3 billion, an increase that cannot be justified when one looks at the change in the cost of a college education, and one that cannot be justified when one looks at the size of the Federal deficit and at the many other pressing problems requiring action and money from the Federal Government.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Will the Senate please come to order? Senators will cease from talking and those on the floor will take their seats.

Mr. MORGAN. Mr. President, I realize the hour is late, but I listened patiently for about a week to all the others and I have a few things I wish to say before passage of this bill.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Mr. ROBERT C. BYRD. The Senator is entitled to be heard also regardless of what the hour is or what stage of the proceedings the Senate has reached.

I hope the Chair will protect the Senator.

Mr. MORGAN. Mr. President, I think we should look at some facts.

Between 1967 and 1976, the cost to the student of attending college, whether public or private, increased by about 75 percent. At the same time, the median income rose by 88.6 percent, and Federal appropriations per college student increased by an astounding 262 percent, from $87 per student to $315 per student. Taxpayers pay about 14 percent of the cost of educating each student in a private school, and three-quarters of the cost in public colleges.

A glance at college enrollment figures also fails to support the need for a 40-percent increase in Federal financial aid to students, whether it be through tax credits or a grant and loans program. The percentage of dependent 18- to 24-years-old attending college was virtually the same in 1976 as it was in 1967—about 39 percent. The percentage of 18- to 24-years-olds attending college has risen about equally at all income levels following the major drop when the draft ended in 1973. These figures all indicate that young people who wish to attend college are able to do so.

While some additional assistance to students, however distributed, may be justified because of the inflation that has taken place in the last year, a 40-percent increase over 1 year does not seem to be justified.

We have to remember that college education is still a personal responsibility. Maybe one day, it shall be national policy to provide everyone with a free college education, but the country does not want to nor can afford to do this today. We should also remember that going to college is a highly profitable investment. The average income for high school graduates is 70 percent of that for college graduates. A college degree is worth well over $150,000, even including the cost of the college education. A person profits greatly from going to college, and he should be willing to pay for it, even if he or she must initially go into debt. Thus, I am greatly disturbed by the proposals before us, which would greatly increase grants, whether it be through the tax system or a program run by the Department of Health, Education, and Welfare.

The administration originally did not feel that such an increase could be justified, for they proposed a $200 million increase when the budget proposal was released last January. This increase, over 5 percent, in my view, is more in line with the realities of the situation. Maybe an increase somewhat larger than 5 percent can be justified, but not 40 percent.

The country will be lucky if Congress holds the budget deficit to below $50 billion for the upcoming fiscal year. Interest on the national debt will be over $40 billion. Very little progress has been made with regard to reducing Federal spending in the last 4 or 5 years, although a number of Senators, notably the distinguished chairman and ranking minority member of the Budget Committee have spent innumerable hours working on this.

I, too, am greatly concerned about the cost of college education. I will shortly be paying for two daughters to attend college, and it is roughly estimated if this bill were to pass I probably would stand to gain or benefit at least $7,000 or $8,000 during their college days. But I do not feel a 40-percent increase in student aid is justifiable, and believe we will be doing the country a favor by not supporting any such proposal.

Earlier this year, when discussing a proposal to use general revenues to finance the social security system, the distinguished chairman of the Finance Committee was quoted as saying, "What general revenues?" I think the same logic applies today to these proposals.

I was greatly impressed by what the chairman of the Budget Committee said yesterday when he pointed out that if we enact these proposals, or either of them, we might as well throw to the wind any idea of balancing the budget in years to come.

Finally, Mr. President, let me say this, that I had my staff do a little research which many Senators probably have already done, but if they add up all of the assistance that the Federal Government makes for college students today, taking the basic grants of $1,439 million, supplemenal grants of $248 million, the work-study program, which is one of the finest, of $358 million, the Federal loans, the GI bill, and the social security student benefits, the total comes to more than $7 billion, nearly $7.25 billion.

Then if we take the tax expenditures, the exemptions for fellowships and scholarships, the GI bill exclusions, and so forth, we have another $1.25 billion.

Senators know there are not but 4.6 million students in the whole of the United States in college. There are 925,000 in private colleges and there are 3,700,000 in the public colleges.

Take the total Federal aid of $8.5 billion and a tax loss of $1.2 billion and grants and loans, we spend in this country about $1,843 for every college student.

My State of North Carolina appropriates somewhere between $2,000 and $3,000 for every college student. It occurred to me that it might be better if we just took all this money and shipped our students over to Oxford or somewhere in England and educated them there.

I think somewhere there has to be a limit. If there were unlimited funds in Congress then I would be willing to vote for either one of these bills. But, Mr. President, I wish to voice my objection to increasing further expenditures in this area as long as we are running a $50 billion deficit.

Thank you, Mr. President.

Mr. MOYNIHAN. Mr. President, I ask for the third reading of the bill.

● Mr. BAKER. Mr. President, the revised tuition tax credit bill now before the Senate is designed to provide tax relief to individuals for college fees and tuition and to parents for tuition paid to private elementary and secondary schools. It has strong support because inflation has increased tuition costs at all levels of education, impacting heaviest upon low- and middle-income families. I sympathize with those who see their tax bills climb simultaneously with the cost of living and who are finding it increasingly difficult to provide the best possible education for their children.

As revised by the Finance Committee, the bill provides an immediate tax credit for up to 50 percent of tuition and fees for full-time students in colleges and post-secondary vocational schools with a maximum of $250. By October 1, 1980, the bill would increase the credit to $500 and would extend a credit of up to $250 for tuition at private elementary and sec-

ondary schools. Students attending college at least one-half time, but less than full time, would also become eligible for the credit.

Clearly, college tuition costs have risen enormously in the last few years. Since the 1970–71 school year, average fees and tuition for 4-year colleges rose 54 percent at private institutions and 57 percent at public institutions. Similar increases have occurred at 2-year colleges. Yet existing Federal student assistance programs are aimed primarily at low-income families. Only those with income under $15,000 are eligible for the Basic Educational Opportunity Grant program, and only students from families with adjusted income below $25,000 are eligible for subsidized interest payments on a federally-guaranteed student loan. As a result, thousands of families find themselves ineligible for any existing student assistance program even though the burden of rising tuition costs has become increasingly severe.

Since I began my first term in the Senate, in 1967, I have cosponsored legislation, including bills offered by the distinguished Senator from Connecticut (Mr. RIBICOFF) providing income tax credits for college tuition expenses. In 1975, I cosponsored a measure introduced by the junior Senator from Texas (Mr. BENTSEN) providing an income tax credit for savings for the payment of post-secondary educational expenses. I regret that none of these proposals have been enacted into law, because I believe that the time to provide some relief to middle-income families for the expenses of college tuition is long overdue. The tax credit approach provides this relief in a simple and effective way. By allowing a credit against tax due rather than a simple deduction for a portion of tuition, it benefits all taxpayers equally. It eliminates the need for students and their parents to file long and complex applications for assistance from HEW—a task which many families find demeaning. And it eliminates the costs associated with administration of a grant program.

Operating in conjunction with existing student aid programs which primarily assist low-income families, the college tuition tax credit will provide needed relief to middle-income citizens who shoulder an inordinate share of the tax burden.

While many proponents of tuition tax credits compare assistance at the college and postsecondary level with assistance to elementary and secondary schools, I believe that tax credits for elementary and secondary school tuition raise several different issues which must be weighed carefully.

First, while college tax credits benefit those attending both public and private institutions, elementary and secondary education tax credits would be available only for children attending private schools. Existing programs of Federal aid to precollege public schools are targeted at specific areas of need, such as education of disadvantaged students and the handicapped, rather than individual students. The tax credit proposed in the bill is not need based. It would equal $250 for every private school child whose parents pay taxes. This is significantly more than the average Federal expenditure per student in the public schools.

Second, I believe that we must examine the potential impact of tax credits for private schools on our national commitment to providing low-cost, high quality education for all. Our public school system is hardly the monolithic creature some have described it. It is a system administered by thousands of independent, locally selected school boards whose decisions reflect the wishes of the individual communities they serve. This system is utilized by 90 percent of children in the United States and it represents a combined local-State-Federal commitment of billions in public funds.

It is important, Mr. President, during our consideration of this bill, to distinguish between tax relief and tax incentives. As my colleagues are well aware, I am strongly committed to providing relief for all taxpayers in the form of an across-the-board reduction in Federal income tax rates. The virtue of an across-the-board reduction is that it will benefit all taxpayers and will permit them to make their own decisions as to how their income will be spent, rather than leaving those decisions to the Federal Government.

The tax incentive recommended by the Finance Committee affords relief only to those parents who send their children to private schools. To the extent that the tax credit would encourage parents to utilize private schools for educating their children, the tax credit most certainly has the potential for weakening the public schools, whose continued quality and success depend on the willingness of local taxpayers to provide the necessary financial support.

While the impact of these tax credits may be small at first, it seems likely that, once the precedent has been established, the effect as well as the amount of the tax credit can be expected to increase in the future. Bearing in mind the financial difficulties confronting many public school systems today, I am not persuaded that it would be wise public policy for Congress to offer incentives that may undermine institutions which governments at all levels are firmly committed to support.

Third, I am concerned about the potential impact of elementary and secondary school tuition tax credits upon desegregation of the public schools. Proponents of the tax credit cite statistics showing a decline in enrollment at private schools throughout the country as evidence of a need for Federal support of alternatives to public education. The fact remains, however, that in many urban areas, enrollment in private schools has increased in recent years as school busing and other tools to achieve racial integration have been implemented.

My own State of Tennessee affords an excellent example of this development. In the city of Memphis, the school system has experienced a loss of 45,000 white students since busing was initiated in 1972. At the same time, more than 20 new private academies have been established in the city's suburbs, and their enrollement is increasing. As a result, problems of racial concentration in the public schools have increased and taxpayer support for public schools has dropped as more affluent families flee the public school system. Yet it is the public schools upon which we rely to educate the poor, the handicapped, and those who do not meet the entrance standards of private schools.

I am aware that the tax credit bill contains a provision designed to restrict eligibility for tax credits only to those institutions which qualify for tax exempt status under section 501(c)(3) of the Internal Revenue Code, and have nondiscriminatory policies. As a practical matter, however, private schools which have been established to evade school desegregation will hardly prove attractive to inner-city families, most of whom would find tuition costs out of reach even with the limited tax credit available in the bill.

The implications of adopting a Federal policy which may operate to exacerbate the problems public schools are already experiencing as they undergo desegregation are far-reaching, Mr. President. While I would be the first to acknowledge the importance of private and parochial schools in sustaining and contributing to the diversity of thought and point of view which has made this country great, we must bear in mind that it will always be the public schools upon which we rely to provide educational opportunities to the vast majority of American children. It is the public schools which we will expect to bear the burden of training our future generations to deal with the problems our Nation will confront in the decades ahead. And it is the public schools which we hope will help the disadvantaged escape poverty by providing them with the training necessary to secure meaningful jobs.

In conclusion, Mr. President, I will support a tax credit for postsecondary education because I believe that it is necessary and because it will apply equally to students attending public and private institutions. I will oppose extending tax credits for private elementary and secondary school tuition because I feel they will assist only a small minority of taxpayers and that they will conflict with our national commitment to public education. The potential for harm to public schools and desegregation, in my view, outweighs the benefits to be derived from alleviating some of the burden of tuition at private schools. For this reason, I will support the amendment offered by the distinguished Senator from South Carolina (Mr. HOLLINGS) to delete from the bill tax credits for elementary and secondary education. I hope that his amendment will be approved.●

● Mr. DOLE. Mr. President, H.R. 12050. the Tuition Tax Credit Act, presents the Senate with some very difficult decisions. I believe a majority of the Senate agrees with the Senator from Kansas that some assistance must be given to help deal with skyrocketing educational costs.

The Senator from Kansas has been a long-time supporter of the college tax

credit. When this issue has been presented to the Senate in the past, I have consistently voted for the creation of a college tax credit. The prospects for enactment appear brighter than ever. The House has approved legislation similar to the bill now before the Senate. Despite President Carter's veto threat, enactment of some form of tuition tax credit is likely.

NEED IS CLEAR

Mr. President, the Senator from Kansas believes there needs to be some form of tuition relief to maintain the vitality of the American educational system. Middle-income families are pushed to the limit of their resources by large tuition bills. The National Center for Education Statistics reports that the average tuition and fees in both public and private universities increased 93 percent between 1967 and 1976. During that same period, the after-tax income for middle-income taxpayers only increased 66 percent. The ability of the average American family to send children to college has slipped dramatically in the past 10 years.

QUALITY EDUCATION IS IMPORTANT

Further declining enrollment due to increased education costs threatens to deprive our country of a valuable resource—its well-educated citizens. The diversity in the American educational system has not only promoted healthy competition but insured that individual needs are met. Private and public institutions have complemented each other in the task of educating our youth. This basic freedom of choice in education should be available to all students without high costs foreclosing middle-class students.

EFFECT ON PUBLIC SCHOOLS

One of the most difficult questions that has been raised is the impact of a tuition tax credit on public school systems. I might point out that public colleges and universities have competed with private institutions for years. The Senator from Kansas is certain that all of higher education, both public and private, would benefit greatly from a tuition tax relief. The benefits would not favor one system over the other.

ELEMENTARY AND SECONDARY CREDIT

A tax credit for tuition to elementary and secondary schools presents a more complex issue. Traditionally, Federal aid to private education has been very limited. Some have questioned the constitutionality of a tax credit for elementary and secondary schools associated with religious groups. Others have contended that public schools would be faced with reduced community support and, as a consequence, their educational quality would decline. These claims are legitimate and should be considered.

Proponents of extension of credits to pre-college students respond that the financial burdens of those who send their children to these schools will still be high. The credit will not be of sufficient size to approach parity in costs. Those parents who select private education will bear an extra cost in any case.

COST OF THE PROGRAM

As with any major program, the costs and benefits of this legislation must be carefully weighed. The Finance Committee has made several alterations in the credit designed to hold the cost to a minimum. The maximum elementary and secondary credit will only be $250 per student rather than the $500 for college or post-secondary vocational school. Graduate and less than half-time students will no longer be eligible for a credit. Unlike earlier versions, this credit would not be refundable. In addition, the amount of the credit would be reduced by certain need-based Federal aid.

PROPER ROLE OF FEDERAL EDUCATION AID

A tuition tax credit provides support to education without requiring any significant new Government regulation or expansion of present regulations. Some argue that, with the tuition tax credit, the Federal Government will lose control over how this education aid is disbursed. To the Senator from Kansas, giving individual citizens a greater choice of educational opportunities is a primary benefit of the tax credit approach. Removing the Federal Government from the process of determining the shape of educational programs is a very commendable accomplishment of the tuition tax credit.

CONCLUSION

Mr. President, the tuition tax credit legislation now before the Senate represents a chance for the Senate to reaffirm the importance of education to America. Students and their parents are looking to the Senate to help them insure that a quality education remains available to everyone who is dedicated to pursuing it. There is no greater tragedy than denying an opportunity for education to a young person. Passage of this legislation will be an important step toward guaranteeing educational opportunities for everyone.●

● Mr. BARTLETT. Mr. President, while I have long been a firm believer in the value and necessity of private schools, I do not believe a convincing case has been established for a massive program of Federal assistance to elementary, secondary and private schools in the form of a tuition tax credit.

My objections to this form of aid to education are not constitutional in nature. In fact, I believe that, as written, H.R. 12050 would be found constitutional. My objections are primarily pragmatic ones.

First, supporters of this legislation have attempted to justify tuition tax credits for private school attendance by claiming that the declining enrollment in private schools is a result strictly of higher tuition costs. Such declining enrollments are more plausibly the result of a smaller student population than in the past. All schools are experiencing declining enrollments because of the demographic changes in our population. There is also a distinct possibility that with such an across-the-board subsidy as proposed by this bill, tuition rates might be increased because of it, potentially negating the benefits of a tuition tax credit.

I also oppose this section of the Tuition Tax Relief Act because it is enormously expensive and yet unfocused in its assistance. The cost of proposed tax relief to parents of private school students would ultimately total approximately $900 million annually. Unlike the many other forms of Federal educational assistance, tuition tax credits would be extended without regard to the student's need or scholastic merit. I believe these are legitimate criteria which should be applied to any form of Federal aid to education.

Finally, the tuition tax credit for private, elementary, and secondary school attendance would create a new dimension of Federal involvement in the educational system. Many conservatives have been attracted to this proposal in the belief that it will get the Government out of the education business, thereby lessening the direct paper work burden on effected tax payers and lessening the justification for bureaucrats and bureaucratic regulation. Unfortunately, this will not be the case. The tuition tax credit does not replace the current Federal programs, it merely supplements them. In fact, the paper work burden and bureaucratic complexities of obtaining an education would probably be increased by this proposal.

Although Federal policy in the area of education should certainly not abridge the right of individuals to send their children to private schools, the Federal responsibility does not and should not extend to subsidizing the cost of private education.

For these reasons I support the Hollings amendment to delete provisions of the Tuition Tax Relief Act relating to private, secondary, and elementary schools.●

● Mr. CLARK. Mr. President, the tuition tax credit legislation currently being considered in the Congress is a genuine attempt to relieve the heavy burden of education costs on middle-income families. I fully recognize the need for middle-income family support, and as both a legislator and a parent will seek the most equitable and effective approach to assisting students and families in meeting educational costs. However, I am not convinced that the tuition tax credit proposal is the best approach.

Tuition tax credits are costly and uncontrollable. In the Senate version of the bill, a tax credit would result in an aggregate revenue loss of approximately $9.2 billion by fiscal year 1983, and an additional loss of at least $2.8 billion for each fiscal year thereafter. During a time when we all must be particularly concerned about balancing the Federal budget, this approach unnecessarily contributes to the Federal deficit.

Tuition tax credits are not targeted to those families and students most in need. The Congressional Budget Office estimates that 50 percent of the benefits will go to families with annual incomes exceeding $25,000, and of that 17 percent would be to families with incomes exceeding $40,000. Families with annual incomes less than $9,000 would receive only 6 percent of the benefits.

Tuition tax credits would threaten existing student aid programs. Because of the significant loss in Federal revenues due to a tax credit, the Congress will be hesitant to continue and increase support to current student aid programs such as the basic educational opportunity grant program and the college

work-study program. These programs are often the only means by which many middle- and low-income students can continue their education.

Tuition tax credits are a flat grant received after the cost of education has been incurred. The credit is partial reimbursement for an expenditure most families cannot bear at the outset. A credit does nothing to assist with the initial registration costs for the student, and comes months after tuition and fees are due.

Tuition tax credits are not indexed to the actual costs of education. Because the tax credit is neither income-tested nor cost-tested, it distributes benefits to those able to bear the costs as well as those who need support.

These, in general, are reasons that I remain unconvinced that the tuition tax credit will benefit those who need it the most. In addition, I have specific concerns about the effect of tuition tax credits at the elementary and secondary levels.

I have thought long and hard about the extent to which the Federal Government can and should provide support to nonpublic education for grades kindergarten through 12, and about the form which that support should take. I know that nonpublic elementary-secondary education is in serious financial need and am fully supportive of Federal efforts to help fulfill that need in ways which are consistent with the Constitution. I also believe in freedom of choice, and for an individual's right to choose between private and public education. However, I cannot support subsidization of private education at the expense of the American taxpayer. It is the right and voluntary choice of the individual to use a nonpublic school. It is an involuntary choice conferred upon the taxpayer to pay once for public education and again for a subsidy to private education. It is this double taxation that I cannot support.

Additional concerns that I have with respect to the tax credit for grades K–12 focus on constitutional and equity questions. While I am aware that the Supreme Court has not decided on circumstances that are identical to those presented in the bill, I am also aware that the bill does closely resemble those circumstances in the 1973 Nyquist case for which the Court ruled Federal aid was unconstitutional. It is my understanding that such aid is constitutional only when it provides general welfare and health services, textbooks, and transportation to all children, and when it does not contribute to the operational budget costs of the nonpublic institutions. Because the tax credit proposal would provide benefits to those parents of nonpublic school students and not those of public school students, and because the credit would be a direct subsidy to the parent for the operational costs of the nonpublic school—85 percent of which are church-related—providing a tax credit for private education raises serious constitutional questions.

The tax credit for grades K–12 would also provide for at least twice as much Federal Government support for private education as for public education. This strikes me as highly inequitable. The Federal money currently going to nonpublic education is in the form of school lunch programs, and moneys from title I of the Elementary and Secondary Education Act for disadvantaged students with learning problems. I support this type of Federal assistance to nonpublic schools, and will vote for increases in such funding as they are proposed in the reauthorization of ESER bill. I cannot, however, support the expenditure of public funds at twice the rate for private education as for public education.

Tuition tax credits at the elementary-secondary levels might also lead to a drain on our public schools, and a resegregation of the public school system. A tax credit would make it easier and cheaper to attend a de facto segregated school for those parents who wish to avoid an integrated system. I recognize and applaud the Catholic Church in its efforts to achieve racial integration throughout the Nation at large, and credit the church with the success of integration in many parts of the South, in particular. But I must still recognize the advent of private "protest schools" which have risen in objection to racial integration, and which may be encouraged by a tax credit. I must do what I can to guard against such an occurrence.

I am also most reluctant to support with Federal funds nonreligious elite private schools that exclude students for class reasons as well. I am unwilling to help perpetuate race and class divisiveness within the American education system.

Instead of the tuition tax credit approach, I prefer the College Opportunity Act of 1978, S. 2539 which is scheduled for floor activity before the Labor Day recess. This approach expands the eligibility to include middle-income families for such student aid programs as the basic educational opportunity grant program, college work study, supplemental educational opportunity grant, State student incentive grants, and guaranteed student loans.

For the BEOG program, S. 2539 significantly changes the family contribution schedule. Under this bill, the family will be expected to contribute, at most, only 10.5 percnt of their "discretionary income" for the cost of higher education. "Discretionary income" is that income that remains after Federal income taxes and necessary family and catastrophic expenses. Currently the contribution rate is 20 percent for discretionary incomes less than $5,000, and 30 percent for discretionary incomes in excess of $5,000. This change in the family contribution rate would allow an additional 1.5 million students in the BEOG program. Under this bill, a student from a family of four with an annual income of $25,000 will be eligible for a grant.

Further, the Guaranteed Student Loan Program is expanded under S. 2539, making students eligible for a subsidy interest on their loans during their in-school period, regardless of their families' incomes. Currently, subsidized loans are available only for those students of families of adjusted gross incomes less than $25,000. This bill no longer discriminates in the ability of a student to secure a GSL loan on the basis of family income.

Additionally, the other existing student aid programs are also expanded to provide financial assistance to students of middle-income families. It is for these reasons I prefer this bill to the tuition tax credit proposal. The provisions in this bill are indexed to family need and the cost of tuition, and will cost $1.4 billion per year. This approach is more equitable, less costly, and more efficient than the tuition tax credit proposal.

I have seriously studied the pros and cons of both sides of the middle-income assistance issue and have concluded that the tuition tax credit proposal is not the best means by which we can support middle-income families.●

● Mr. LUGAR. Mr. President, I recently received a letter from Rev. Henry R. Mascotte, pastor of St. Augustine Catholic Church in South Bend, Ind., in support of tuition tax credits. In his letter, Father Mascotte speaks not only for his parishioners, but for low-income innercity residents throughout the country who look to tuition tax credits to provide them greater economic freedom in educating their children. I ask that Father Mascotte's letter be printed in the RECORD.

The letter follows:

ST. AUGUSTINE CATHOLIC CHURCH,
South Bend, Ind., August 7, 1978.

Senator RICHARD LUGAR,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LUGAR: The enclosed lists indicate a portion of our peoples interest in the Packwood-Moynihan bill. St. Augustine's is a small inner-city parish of 150 families, that is 65% black. The history of nonprofit schools has played a major role in moving people out of poverty in the United States. Many blacks look to those kinds of schools to help them but they are fast fading from lack of funds. This bill could change that.

Competition is the hallmark of the American way. Public schools financed with taxes, we all pay, have an advantage that puts them out of competition. This bill will improve education by providing that competitive edge.

We appreciate your support of this bill.

Sincerely,

HENRY R. MASCOTTE,
Pastor.●

● Mr. KENNEDY. Mr. President, I am opposed to the use of the Internal Revenue Code as a backdoor source of new Federal spending for education at any level—whether in colleges or secondary schools.

In my view, the longstanding and carefully structured system of Federal aid to education should be built upon and strengthened, not bypassed and undermined by an expensive and untried new method of assistance through the tax laws.

The tax credit proposals in the pending legislation would be expensive, inefficient, and inequitable methods of providing Federal aid to education. The proposals would result in losses of nearly $3 billion a year to the Federal Treasury when fully phased in. These are real dollars that will cost American taxpayers real money, at a time when the Federal Government is awash in red ink and budget deficits. It is ironic that so many

in Congress who call themselves fiscal conservatives and who consistently vote for balanced budgets and against increased spending in other areas are so quick to support this sort of wasteful spending through the Internal Revenue Code. If we have $3 billion in tax money to spend on education, we ought to spend it fairly and wisely.

I am also deeply concerned about the harmful impact of the tax credit proposals on one of our Nation's most valuable resources—our public schools. Constitutional scholars are overwhelmingly of the view that tax credits for the costs of private elementary and secondary school education would be unconstitutional under the first amendment. Therefore, in addition to the policy reasons for opposing such a credit, there is also the strong likelihood that it will be ruled invalid by the Supreme Court.

In the sensitive area of Federal education, Congress ought to be struggling to find imaginative new ways to meet the requirements of the Constitution, rather than simply defying the Supreme Court's recent decisions or asking the Court to change its mind. Unfortunately, the inevitable result of enactment of this legislation will be to raise public expectations, only to have them dashed once the Supreme Court rules on the proposal.

Expectations of relief are likely to be proved ephemeral in another major respect as well. Even if this legislation successfully runs the gauntlet of a Presidential veto and the Supreme Court's ruling, the proffered relief will be short-lived. As many economists have observed, the immediate result of enactment of this legislation is likely to be an irresistible incentive for schools and colleges to "capture" the credit by raising their tuition costs by amounts equal to the credit. As a result, parents and students will get little or no real benefit from the admitted burden of rising tuition costs.

An additional inequity in this legislation is its failure to make the tax credits "refundable." The effect is to deny the benefits of the credit to the lowest income groups and to many parents with large families, since they are the ones who will not have sufficient tax liability to take advantage of the tax credit. Yet these are precisely the parents and families who need the relief the most and who deserve to share in the benefits of this legislation if it goes forward. Unfortunately, the Finance Committee bill unfairly denies them this opportunity.

A much sounder approach to providing Federal education assistance is the College Opportunity Act of 1978, which provides a comprehensive approach to meeting the increased needs for educational assistance, with special emphasis on the needs of hard-pressed, middle income families. The Nation's basic Federal education programs have served us well in the past. With these significant 1978 improvements, they will serve us far better in the future than the unproved tax credit approach. The last thing we need in American education is to bring the Internal Revenue Service into the classroom of our schools and colleges.●

● Mr. WILLIAMS. Mr. President, the Senate has before it a difficult group of decisions as to the best means to provide assistance to families in their pursuit of education for their children. These decisions are made the more arduous by the common knowledge that our financial resources are limited and must be spent carefully, that our actions affect inflationary and recessionary potentials, and that our ability to sustain additional taxes has been exhausted.

The providing of elementary and secondary education is the primary responsibility of State and local governments. The Federal Government has always maintained a secondary role and has avoided placing itself in the position of controlling the States or the school districts of our Nation or the families who utilize educational services. The Federal Government has always refrained from involvement in curriculum, uniform standards or uniform approaches in the field of education. The Federal Government has only become involved to protect the special needs of the most disadvantaged. We have sought to minimize the Federal role and we have staunchly refused setting a National education policy beyond this limited scope.

It is, therefore, not the role of the Federal Government to intervene in State policies with respect to the kind of schools and the sources of support of those schools beyond monitoring compliance to constitutional standards and supplementing assistance for special populations such as the poor and the handicapped. It is certainly not the role of the Federal Government to equalize Federal benefits granted for those special purposes with subsidies to nonpublic institutions, directly or indirectly, in any local community or taken as a while throughout the Nation.

The history of the development of public education is instructive in this regard. Education developed in the States under the powers delegated by the 10th amendment which reserves to the States the governance of matters not otherwise singled out for Federal concern in the Constitution. Education is one of those matters.

During the late 18th century education was debated in the States, initially with different emphases and different results. Thomas Jefferson, for example, devoted 3 years of his work after the Declaration of Independence to the passage in Virginia of a compulsory and universal education law which would have provided education for 3 years in the basic skills. His efforts were successful insofar as adoption of the principle by the Virginia legislature, but the counties were free to implement the act voluntarily. The idea was too unfamiliar, and no counties implemented the measure.

Soon thereafter, however, the role of education in assuring the economic and political development of the Nation won acceptance. State after State began to develop systems of universal education. As the agrarian society gave way to our industrial society, compulsory education was enacted by the States under the powers granted them by the Constitution. Indeed, many State constitutions emphasize the regulation of education as a primary State interest.

Compulsory school attendance was enforced by the States and was implemented through school facilities and the employment of school personnel. The supreme court in State after State rejected suits brought against the institution of public education in the second half of the 19th century. Challenges to the tax system which supported public education were also overruled. The famous Kalamazoo case in 1874 brought in the Michigan Supreme Court a landmark decision that a school district cannot be restricted in its efforts to offer education opportunities and to underwrite their costs.

By the beginning of this century, universal, free public education through high school had been accepted widely, and compulsory school attendance was the established rule of law prompting and expanding that system of education. The Federal role in elementary and secondary education was virtually nonexistent until the mid-1960's when special populations such as poor children and the children of minority groups were accorded supplemental Federal assistance as part of our antipoverty and civil rights efforts.

In the bill before us. we are now being asked to reverse Federal policies with respect to elementary and secondary education and to establish a National policy with far-reaching and unforeseen implications. To what extent for example, would such a policy reversal dampen the State efforts and local willingness to underwrite education? We are all aware that the property tax is of great concern across the Nation. To what extent would tripling the Federal support to private education in the form of tuition tax credits impose greater burdens on the property tax if huge incentives were generated to favor private education? And to what extent will our efforts to bring equal opportunity to the disadvantaged and minority groups be undercut by the tuition tax policy urged upon us by the tax credit bill?

Respected authorities differ, but I cannot help but be concerned by the most recent study of this matter emanating from Johns Hopkins University. That study predicts that a tuition tax credit would prove to be an incentive to segregation. While such projections cannot contain the certainty of experience, I am concerned about the possible dangers posed.

In my opinion, Mr. President, it is unwise to accept the invitation of H.R. 12050 to embark on a National education policy through tuition tax credits for elementary and secondary education. Education should and must remain a State and local responsibility and when given the opportunity to respond to tuition tax credits, an overwhelming majority of Americans in the most recent and respected poll of public opinion rejected the approach. Two respected committees of this Senate have raised serious reser-

vations about such an approach, reservations which need not be recounted here given the recent, repeated statements of our colleagues. And finally grave constitutional issues cloud the validity of this measure.

Accordingly, I urge this body to consider alternative assistance to pupils whose economic or personal circumstances warrant special assistance; assistance which is available through the time-tested approach of Federal categorical support and which emphasizes the primacy of the State and local roles in education.

I urge this body to consider such approaches—which are financially controllable, which permit the Congress to periodically review the efficacy and the effectiveness of Federally authorized programs, and which annually adjust levels of Federal spending directly through the budget and appropriations process. In my opinion, the use of the taxing device is not the best approach to solving the problems of the spiraling costs of education for elementary and secondary school expenses. In this era of economic concern, we should not open the door to new policies depending upon the vagaries of backdoor spending.

H.R. 12050 concerns postsecondary education as well. And here we have different issues and different concerns. Here we have different policies by tradition and past congressional actions.

When higher education student assistance was first authorized in the mid-1960's, the Federal objective was to open access to college for America's capable, low-income students. We had earlier, through veteran's education programs and through the National Defense Education Act, taken the position that it was Federal policy to promote higher education for certain worthy groups such as veterans, older learners and the disadvantaged.

It is timely now to provide access to middle-income families whose ability to bear college burdens is strained by spiraling costs. The question facing us is selection of the best means to achieve that end.

In vivid contrast to our posture respecting elementary and secondary education, our higher education policy has been geared to a Federal role and a pluralistic group of programs to achieve that leadership.

Accordingly, a tuition tax credit program would be consonant with our policies and actions in the higher education field, even if it is not the sole or preferred means to implement those policies.

Tuition tax credits at the post-secondary level are not nearly so clouded by constitutional issues. Their principal advantage is the simplicity of their administration. Their principal disadvantage is that they provide significantly less assistance to middle income families than provided through the basic grant and loan programs.

For example, we could provide $700 a year for a family of four earning $19,000 adjusted income with one child in college under the basic grant program but only $250 as a tuition tax credit for that family. In addition, the basic grant program is more efficient economically and more realistic for family finances. However, it does require far too much paperwork, and that is one reason that the addition of tax credit device may be a useful device in our arsenal of higher education programs.

It was for this reason that I voted in favor of the Roth amendment to the Social Security Act in the first session of this Congress. That amendment passed the Senate and would have provided tuition tax relief to families with college students. It is for this reason that I am disposed to vote for the college tuition tax credit portion of H.R. 12050. For I believe that college credits can promote diversity of support for our national college student assistance policy.

In conclusion, Mr. President, we should reject tuition tax credits as an education policy at the elementary and secondary level, but consider favorably the adoption of this approach to enhance the Nation's higher education assistance programs.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Several Senators addressed the Chair.

Mr. MOYNIHAN. Mr. President, I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I shall not delay the Senate more than 2 or 3 minutes.

I rise to compliment the managers of this bill. They have taken care of it for the rest of us on the Finance Committee. Their debate has been learned and eloquent, and I especially mention Senators PACKWOOD, ROTH, and MOYNIHAN, and others who have participated in the debate.

Mr. President, I view this proposal as a tax matter and not an educational bill. We are dealing with money that belongs to individual taxpayers. It is a matter of tax reform, tax equity, and nothing more.

At the present time all taxpayers pay to support the public schools. That is correct. Taxpayers who are single individuals, taxpayers who are couples who have no children, corporations, trusts, all others pay taxes to support the public schools, not for the purpose of educating their children but because it is in the public good to do that.

Now, parents who send their children to private and church schools pay the tax to support the public schools. That is their duty and obligation as citizens. That is as it should be.

When the parents do that, when they spend their money to support a church and private school, they are saving the taxpayers the costs of buildings, gymnasiums, classrooms, equipment, teachers' salaries, supervisors, and books.

If the parents thus save the public expense by this expenditure they ought to have a tax deduction.

Now, this bill is written as a credit. I wish it were a deduction. I think all of these things should be handled that way.

I call attention to the fact that if you make a contribution to a charitable organization the reason back of that is that if that charitable organization takes care of widows, orphans, the poor and the homeless they relieve the public expense by that amount, and because they do it we give the donor a tax benefit.

Likewise when parents pay the full tax to support the public schools and then they make a further payment in order to lessen that expense on the public, they should be encouraged with a tax benefit.

It is not new. At the present time an employer can send his employees to school to upgrade his training and take a deduction for it. Why should we not permit parents to do the same thing?

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. The Senator from Rhode Island has asked for the floor. May we have order so that the Senator from Rhode Island may be heard?

The PRESIDING OFFICER. The Senator is correct, and the Senate is not in order.

The Senator from Rhode Island.

Mr. PELL. Mr. President, I would like to remind my colleagues we will have immediately following this bill, S. 2539, which also seeks to help middle-income America, and does it by raising the limitation for the basic educational opportunity grants from about $13,000 a year to $25,000 a year.

We will also have coming up very shortly, within a week the leadership indicated, S. 1753, which seeks to assist nonpublic schools by giving money to them in accordance with the present methods that have been ruled constitutional.

So in casting our vote at this time, we should bear in mind that we have these two anchors to windward to help the youngsters of hard-pressed middle America.

Mr. ROBERT C. BYRD. Mr. President, has the bill advanced to third reading yet?

The PRESIDING OFFICER. It has been advanced to third reading.

Mr. ROBERT C. BYRD. Mr. President, I will not delay the Senate. I want to make an announcement.

S. 2539, HELP TO HIGHER EDUCATION BILL

Mr. President, the bill which will immediately follow final action on this bill tonight is S. 2539, the help to higher education bill. There will be no more rollcall votes today after the final vote on this bill, it being now 6 minutes until 9 p.m.

Now, I would like to, if I could, find out how many Senators wish to offer amendments to the higher education bill. The opening statements will be made tonight, there will be no more rollcall votes tonight.

I ask unanimous consent that when the Senate convenes tomorrow it convene at 10 a.m.—no, Mr. President, I will

leave the meeting time at 9:30 as it now stands. Rollcall votes will be occurring early.

Mr. MOYNIHAN. Mr. President, on behalf of the managers of the bill I would like to express our appreciation to Senator CURTIS for his generous remarks.

I move passage of the bill.

The PRESIDING OFFICER. The question is, Shall the bill pass? The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from New Hampshire (Mr. DURKIN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Virginia (Mr. SCOTT) is necessarily absent.

(Mr. SASSER assumed the chair.)

The result was announced—yeas 65, nays 27, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—65

Allen	Hansen	Nunn
Anderson	Haskell	Packwood
Baker	Hatch	Pearson
Bayh	Hatfield,	Percy
Bentsen	Paul G.	Proxmire
Biden	Hathaway	Randolph
Brooke	Heinz	Ribicoff
Byrd,	Helms	Riegle
Harry F., Jr.	Hollings	Roth
Byrd, Robert C.	Huddleston	Sasser
Cannon	Humphrey	Schmitt
Case	Jackson	Schweiker
Church	Laxalt	Stevens
Curtis	Long	Stevenson
Danforth	Lugar	Talmadge
DeConcini	Magnuson	Thurmond
Dole	Mathias	Tower
Domenici	Matsunaga	Wallop
Eagleton	McClure	Weicker
Ford	McIntyre	Williams
Garn	Melcher	Zorinsky
Gravel	Moynihan	
Griffin	Nelson	

NAYS—27

Bartlett	Goldwater	Metzenbaum
Bellmon	Hart	Morgan
Bumpers	Hatfield,	Muskie
Burdick	Mark O.	Pell
Chafee	Hayakawa	Sarbanes
Chiles	Hodges	Stafford
Clark	Javits	Stone
Cranston	Kennedy	Young
Culver	Leahy	
Glenn	McGovern	

NOT VOTING—8

Abourezk	Inouye	Sparkman
Durkin	Johnston	Stennis
Eastland	Scott	

So the bill (H.R. 12050), as amended, was passed.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the bill H.R. 12050 be printed with the amendments of the Senate numbered and that in the engrossment of the amendments of the Senate to the bill the Secretary of the Senate be authorized to make necessary technical and clerical changes and corrections, including corrections in sections, subsections, and so forth, designations and cross-references thereto.

The PRESIDING OFFICER (Mr. SARBANES). Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I move that the Senate insist upon its amendments to the bill H.R. 12050 and ask for a conference with the House thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. LONG, Mr. RIBICOFF, Mr. BENTSEN, Mr. MOYNIHAN, Mr. PACKWOOD, Mr. ROTH, and Mr. DOLE conferees on the part of the Senate.

Mr. MOYNIHAN. I thank the Chair.

INTERNATIONAL BANKING ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 995.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10899) to provide for Federal regulation of participation by foreign banks in domestic financial markets.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

There being no objection, the Senate proceeded to consider the bill (H.R. 10899) which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

SHORT TITLE; DEFINITIONS AND RULES OF CONSTRUCTION

SECTION 1. (a) This Act may be cited as the "International Banking Act of 1978".

(b) For the purposes of this Act—

(1) "agency" means any office or any place of business of a foreign bank located in any State of the United States at which credit balances are maintained incidental to or arising out of the exercise of banking powers, checks are paid, or money is lent but at which deposits may not be accepted from citizens or residents of the United States;

(2) "Board" means the Board of Governors of the Federal Reserve System;

(3) "branch" means any office or any place of business of a foreign bank located in any State of the United States at which deposits are received;

(4) "Comptroller" means the Comptroller of the Currency;

(5) "Federal agency" means any agency of a foreign bank established and operating under section 4 of this Act;

(6) "Federal branch" means a branch of a foreign bank established and operating under section 4 of this Act;

(7) "foreign bank" means any company organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, which engages in the business of banking, or any subsidiary or affiliate, organized under such laws, of any such company. For the purposes of this Act the term "foreign bank" includes, without limitation, foreign commercial banks, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating;

(8) "foreign country" means any country other than the United States, and includes any colony, dependency, or possession of any such country;

(9) "commercial lending company" means any institution, other than a bank or an organization operating under section 25 of the Federal Reserve Act, organized under the laws of any State of the United States, or the District of Columbia which maintains credit balances incidental to or arising out of the exercise of banking powers and engages in the business of making commercial loans;

(10) "State" means any State of the United States or the District of Columbia;

(11) "State agency" means an agency of a foreign bank established and operating under the laws of any State;

(12) "State branch" means a branch of a foreign bank established and operating under the laws of any State;

(13) the terms "bank", "bank holding company", "company", "control", and "subsidiary" have the same meanings assigned to those terms in the Bank Holding Company Act of 1956 and the terms "controlled" and "controlling" shall be construed consistently with the term "control" as defined in section 2 of the Bank Holding Company Act of 1956; and

(14) "consolidated" means consolidated in accordance with generally accepted accounting principles in the United States consistently applied.

DIRECTORS OF NATIONAL BANKS

SEC. 2. Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended by striking out the period at the end of the first sentence and adding the following new provision: ", except that in the case of an association which is a subsidiary or affiliate of a foreign bank, the Comptroller of the Currency may in his discretion waive the requirement of citizenship in the case of not more than a minority of the total number of directors.".

EDGE ACT CORPORATIONS

SEC. 3. (a) It is the purpose of this section to eliminate or modify provisions in section 25(a) of the Federal Reserve Act that (1) discriminate against foreign-owned banking institutions, (2) disadvantage or unnecessarily restrict or limit corporations organized under section 25(a) of the Federal Reserve Act in competing with foreign-owned banking institutions in the United States or abroad or (3) impede the attainment of the Congressional purposes set forth in section 25(a) of the Federal Reserve Act as amended by subsection (b) of this section. In furtherance of such purpose, the Congress believes that the Board should review and revise its rules, regulations, and interpretations issued pursuant to section 25 (a) of the Federal Reserve Act to eliminate or modify any restrictions, conditions, or limitations not required by section 25(a) of the Federal Reserve Act, as amended, that (1) discriminate against foreign-owned banking institutions, (2) disadvantage or unnecessarily restrict or limit corporations organized under section 25(a) of the Federal Reserve Act in competing with foreign-owned banking institutions in the United States or abroad, or (3) impede the attainment of the Congressional purposes set forth in section 25(a) of the Federal Reserve Act as amended by subsection (b) of this section. Rules and regulations pursuant to this subsection and section 25(a) of the Federal Reserve Act shall be issued not later than 150 days after the date of enactment of this section and shall be issued in final form and become effective not later than 120 days after they are first issued.

(b) Section 25(a) of the Federal Reserve Act is amended by adding after the first paragraph (12 U.S.C. 611), the following new paragraph:

"The Congress hereby declares that it is

the purpose of this section to provide for the establishment of international banking and financial corporations operating under Federal supervision with powers sufficiently broad to enable them to compete effectively with similar foreign-owned institutions in the United States and abroad; to afford to the United States exporter and importer in particular, and to United States commerce, industry, and agriculture in general, at all times a means of financing international trade, especially United States exports; to foster the participation by regional and smaller banks throughout the United States in the provision of international banking and financing services to all segments of United States agriculture, commerce, and industry, and, in particular small business and farming concerns; to stimulate competition in the provision of international banking and financing services throughout the United States; and, in conjunction with each of the preceding purposes, to facilitate and stimulate the export of United States goods, wares, merchandise, commodities, and services to achieve a sound United States international trade position. The Board of Governors of the Federal Reserve System shall issue rules and regulations under this section consistent with and in furtherance of the purposes described in the preceding sentence, and, in accordance therewith, shall review and revise any such rules and regulations at least once every five years, the first such period commencing with the effective date of rules and regulations issued pursuant to section 3(a) of the International Banking Act of 1978, in order to ensure that such purposes are being served in light of prevailing economic conditions and banking practices.".

(c) The second sentence of the fourth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 614) is amended by striking out ", all of whom shall be citizens of the United States" after "to elect or appoint directors".

(d) The first sentence of the sixth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615(a)) is amended by striking ", but in no event having liabilities outstanding thereon at any one time exceeding ten times its capital stock and surplus"; and the first sentence of the twelfth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 618) is amended by inserting a period after "and in section 25 of the Federal Reserve Act as amended", and by striking the remainder of the sentence.

(e) The third sentence of the sixth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 615(a)) is amended by striking ", but in no event less than ten per centum of its deposits" and inserting in lieu thereof "for member banks of the Federal Reserve System".

(f) The thirteenth paragraph of section 25(a) of the Federal Reserve Act (12 U.S.C. 619) is deleted and the following paragraph is inserted in lieu thereof:

"Except as otherwise provided in this section, a majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States. Notwithstanding any other provisions of this section, one or more foreign banks, institutions organized under the laws of foreign countries which own or control foreign banks, or banks organized under the laws of the United States, the States of the United States, or the District of Columbia, the controlling interests in which are owned by any such foreign banks or institutions, may, with the prior approval of the Board of Governors of the Federal Reserve System and upon such terms and conditions and subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, own and hold 50 per centum or more of the shares of the capital stock of any corporation organized under this section, and any such corporation shall be subject to the same provisions of law as any other corporation organized under this section, and the terms 'controls' and 'controlling interest' shall be construed consistently with the definition of 'control' in section 2 of the Bank Holding Company Act of 1956. For the purposes of the preceding sentence of this paragraph the term 'foreign bank' shall have the meaning assigned to it in the International Banking Act of 1978.".

(g) The Board shall report to the Congress not later than 270 days after the date of enactment of this Act its recommendations with respect to permitting corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act, to become members of Federal Reserve Banks.

(h) As part of its annual report pursuant to section 10 of the Federal Reserve Act, the Board shall include its assessment of the effects of the amendments made by this Act on the capitalization and activities of corporations organized or operating under section 25 or 25(a) of the Federal Reserve Act, and on commercial banks and the banking system.

FEDERAL BRANCHES AND AGENCIES

SEC. 4. (a) Except as provided in section 5, a foreign bank which engages directly in a banking business outside the United States may, with the approval of the Comptroller, establish one or more Federal branches or agencies in any State in which (1) it is not operating a branch or agency pursuant to State law and (2) the establishment of a branch or agency, as the case may be, by a foreign bank is not prohibited by State law.

(b) In establishing and operating a Federal branch or agency, a foreign bank shall be subject to such rules, regulations, and orders as the Comptroller considers appropriate to carry out this section, which shall include provisions for service of process and maintenance of branch and agency accounts separate from those of the parent bank. Except as otherwise specifically provided in this Act or in rules, regulations, or orders adopted by the Comptroller under this section, operations of a foreign bank at a Federal branch or agency shall be conducted with the same rights and privileges as a national bank at the same location and shall be subject to all the same duties, restrictions, penalties liabilities, conditions, and limitations that would apply under the National Bank Act to a national bank doing business at the same location, except that (1) the requirements of section 5240 of the Revised Statutes (12 U.S.C. 481) shall be met with respect to a Federal branch or agency if it is examined at least once in each calendar year; (2) any limitation or restriction based on the capital stock and surplus of a national bank shall be deemed to refer, as applied to a Federal branch or agency, to the dollar equivalent of the capital stock and surplus of the foreign bank, and if the parent bank has more than one Federal branch or agency the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation; (3) a Federal branch or agency shall not be required to become a member bank, as that term is defined in section 1 of the Federal Reserve Act; and (4) a Federal agency shall not be required to become an insured bank as that term is defined in section 3(h) of the Federal Deposit Insurance Act.

(c) In acting on any application to establish a Federal branch or agency, the Comptroller shall take into account the effects of the proposal on competition in the domestic and foreign commerce of the United States, the financial and managerial resources and future prospects of the applicant foreign bank and the branch or agency, and the convenience and needs of the community to be served.

(d) Notwithstanding any other provision of this section, a foreign bank shall not receive deposits or exercise fiduciary powers at any Federal agency. A foreign bank may, however, maintain at a Federal agency for the account of others credit balances incidental to, or arising out of, the exercise of its lawful powers.

(e) No foreign bank may maintain both a Federal branch and a Federal agency in the same State.

(f) Any branch or agency operated by a foreign bank in a State pursuant to State law and any commercial lending company controlled by a foreign bank may be converted into a Federal branch or agency with the approval of the Comptroller. In the event of any conversion pursuant to this subsection, all of the liabilities of such foreign bank previously payable at the State branch or agency, or all of the liabilities of the commercial lending company, shall thereafter be payable by such foreign bank at the branch or agency established under this subsection.

(g)(1) Upon the opening of a Federal branch or agency in any State and thereafter, a foreign bank, in addition to any deposit requirements imposed under section 6(a) of this Act, shall keep on deposit, in accordance with such rules and regulations as the Comptroller may prescribe, with a member bank designated by such foreign bank, dollar deposits or investment securities of the type that may be held by national banks for their own accounts pursuant to paragraph "Seventh" of section 5136 of the Revised Statutes, as amended, in an amount as hereinafter set forth. Such depository bank shall be located in the State where such branch or agency is located and shall be approved by the Comptroller if it is a national bank and by the Board of Governors of the Federal Reserve Bank if it is a State Bank.

(2) The aggregate amount of deposited investment securities (calculated on the basis of principal amount or market value, whichever is lower) and dollar deposits for each branch or agency established and operating under this section shall be not less than the greater of (1) that amount of capital (but not surplus) which would be required of a national bank being organized at this location, or (2) 5 per centum of the total liabilities of such branch or agency, including acceptances, but excluding (A) accrued expenses, and (B) amounts due and other liabilities to offices, branches, agencies, and subsidiaries of such foreign bank. The Comptroller may require that the assets deposited pursuant to this subsection shall be maintained in such amounts as he may from time to time deem necessary or desirable, for the maintenance of a sound financial condition, the protection of depositors, and the public interest, but such additional amount shall in no event be greater than would be required to conform to generally accepted banking practices as manifested by banks in the area in which the branch or agency is located.

(3) The deposit shall be maintained with any such member bank pursuant to a deposit agreement in such form and containing such limitation and conditions as the Comptroller may prescribe. So long as it continues business in the ordinary course such foreign bank shall, however, be permitted to collect income on the securities and funds so deposited and from time to time examine and exchange such securities.

(4) Subject to such conditions and requirements as may be prescribed by the Comptroller, each foreign bank shall hold in each State in which it has a Federal branch

or agency, assets of such types and in such amount as the Comptroller may prescribe by general or specific regulation or ruling as necessary or desirable for the maintenance of a sound financial condition, the protection of depositors, creditors and the public interest. In determining compliance with any such prescribed asset requirements, the Comptroller shall give credit to (A) assets required to be maintained pursuant to paragraphs (1) and (2) of this subsection, (B) reserves required to be maintained pursuant to section 7(a) of this Act, and (C) assets pledged, and surety bonds payable, to the Federal Deposit Insurance Corporation to secure the payment of domestic deposits. The Comptroller may prescribe different asset requirements for branches or agencies in different States, in order to insure competitive equality of Federal branches and agencies with State branches and agencies and domestic banks in those States.

(h) A foreign bank with a Federal branch or agency operating in any State may (1) with the prior approval of the Comptroller establish and operate additional branches or agencies in the State in which such branch or agency is located on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establisment of branches by a national bank if the principal office of such national bank were located at the same place as the initial branch or agency in such State of such foreign bank and (2) change the designation of its initial branch or agency to any other branch or agency subject to the same limitations and restrictions as are applicable to a change in the designation of the principal office of a national bank if such principal office were located at the same place as such initial branch or agency.

(i) Authority to operate a Federal branch or agency shall terminate when the parent foreign bank voluntarily relinquishes it or when such parent foreign bank is dissolved or its authority or existence is otherwise terminated or canceled in the country of its organization. If (1) at any time the Comptroller is of the opinion or has reasonable cause to believe that such foreign bank has violated or failed to comply with any of the provisions of this section or any of the rules, regulations, or orders of the Comptroller made pursuant to this section, or (2) a conservator is appointed for such foreign bank or a similar proceeding is initiated in the foreign bank's country of organization, the Comptroller shall have the power, after opportunity for hearing, to revoke the foreign bank's authority to operate a Federal branch or agency. The Comptroller may, in his discretion, deny such opportunity for hearing if he determines such denial to be in the public interest. The Comptroller may restore any such authority upon due proof of compliance with the provisions of this section and the rules, regulations, or orders of the Comptroller made pursuant to this section.

(j)(1) Whenever the Comptroller revokes a foreign bank's authority to operate a Federal branch or agency or whenever any creditor of any such foreign bank shall have obtained a judgment against it arising out of a transaction with a Federal branch or agency in any court of record of the United States or any State of the United States and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied that such foreign bank is insolvent, he may, after due consideration of its affairs, in any such case, appoint a receiver who shall take possession of all the property and assets of such foreign bank in the United States and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller.

(2) In any receivership proceeding ordered pursuant to this subsection (j), whenever there has been paid to each and every depositor and creditor of such foreign bank whose claim or claims shall have been proved or allowed, the full amount of such claims arising out of transactions had by them with any branch or agency of such foreign bank located in any State of the United States, except (A) claims that would not represent an enforceable legal obligation against such branch or agency if such branch or agency were a separate legal entity, and (B) amounts due and other liabilities to other offices or branches or agencies of, and wholly owned (except for a nominal number of directors' shares) subsidiaries of, such foreign bank, and all expenses of the receivership, the Comptroller or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the foreign bank, shall turn over the remainder, if any, of the assets and proceeds of such foreign bank to the head office of such foreign bank, or to the duly appointed domiciliary liquidator or receiver of such foreign bank.

INTERSTATE BANKING OPERATIONS

SEC. 5. (a) Except as provided by subsection (b), (1) no foreign bank may directly or indirectly establish and operate a Federal branch outside of its home State unless (A) its operation is expressly permitted by the State in which it is to be operated, and (B) the foreign bank shall enter into an agreement or undertaking with the Board to receive only such deposits at the place of operation of such Federal branch as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act under rules and regulations administered by the Board; (2) no foreign bank may directly or indirectly establish and operate a State branch outside of its home State unless (A) it is approved by the bank regulatory authority of the State in which such branch is to be operated, and (B) the foreign bank shall enter into an agreement or undertaking with the Board to receive only such deposits at the place of operation of such State branch as would be permissible for a corporation organized under section 25(a) of the Federal Reserve Act under rules and regulations administered by the Board; (3) no foreign bank may directly or indirectly establish and operate a Federal agency outside of its home State unless its operation is expressly permitted by the State in which it is to be operated; (4) no foreign bank may directly or indirectly establish and operate a State agency or commercial lending company subsidiary outside of its home State, unless its establishment and operation is approved by the bank regulatory authority of the State in which it is to be operated; and (5) no foreign bank may directly or indirectly acquire any voting shares of, interest in, or substantially all of the assets of a bank located outside of its home State if such acquisition would be prohibited under section 3(d) of the Bank Holding Company Act of 1956 if the foreign bank were a bank holding company the operations of whose banking subsidiaries were principally conducted in the foreign bank's home State. Notwithstanding any other provisions of Federal or State law, deposits received by any Federal or State branch subject to the limitations of an agreement or undertaking imposed under this subsection shall not be subject to any requirement of mandatory insurance by the Federal Deposit Insurance Corporation.

(b) Unless its authority to do so is lawfully revoked otherwise than pursuant to this section, a foreign bank, notwithstanding any restriction or limitation imposed under subsection (a) of this section, may establish and operate, outside its home State, any State branch, State agency, or bank or commercial lending company subsidiary which commenced lawful operation or for which an application to commence business had been lawfully filed with the appropriate State or Federal authority, as the case may be, on or before July 26, 1978.

(c) for the purposes of this section, the home State of a foreign bank that has branches, agencies, subsidiary commercial lending companies, or subsidiary banks, or any combination thereof, in more than one State, is whichever of such States is so determined by election of the foreign bank, or, in default of such election, by the Board.

INSURANCE OF DEPOSITS

SEC. 6. (a) No foreign bank may establish or operate a Federal branch which receives deposits of less than $100,000 unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act.

(b) After the date of enactment of this Act no foreign bank may establish a branch, and after one year following such date no foreign bank may operate a branch, in any State in which the deposits of a bank organized and existing under the laws of that State would be required to be insured, unless the branch is an insured branch as defined in section 3(s) of the Federal Deposit Insurance Act, or unless the branch will not thereafter accept deposits of less than $100,000.

(c)(1) The Federal Deposit Insurance Act (12 U.S.C. 1811–1832) is amended as set forth hereinafter in this subsection, in which section numbers not otherwise identified refer to sections of that Act.

(2) Section 3(h) is amended by inserting "(including a foreign bank having an insured branch)" immediately after "(h) The term 'insured bank' means any bank".

(3) Section 3(j) is amended by inserting "or of a branch of a foreign bank" immediately before the period at the end thereof.

(4) Section 3(m) is amended (A) by changing "(m) The" to read "(m)(1) Subject to the provisions of paragraph (2) of this subsection, the", and (B) by adding at the end thereof the following new paragraph:

"(2) In the case of any deposit in a branch of a foreign bank, the term 'insured deposit' means an insured deposit as defined in paragraph (1) of this subsection which—

"(A) is payable in the United States to—

"(i) an individual who is a citizen or resident of the United States,

"(ii) a partnership, corporation, trust, or other legally cognizable entity created under the laws of the United States or any State and having its principal place of business within the United States or any State, or

"(iii) an individual, partnership, corporation, trust, or other legally cognizable entity which is determined by the Board of Directors in accordance with its regulations to have such business or financial relationships in the United States as to make the insurance of such deposit consistent with the purposes of this Act;

and

"(B) meets any other criteria prescribed by the Board of Directors by regulation as necessary or appropriate in its judgment to carry out the purposes of this Act or to facilitate the administration thereof.".

(5) Section 3(q) is amended to read as follows:

"(q) The term 'appropriate Federal banking agency' shall mean—

"(1) the Comptroller of the Currency in the case of a national banking association, a District bank, or a Federal branch or agency of a foreign bank;

"(2) the Board of Governors of the Federal Reserve System—

"(A) in the case of a State member insured bank (except a District bank),

"(B) in the case of any branch or agency of a foreign bank with respect to any provision of the Federal Reserve Act which is made applicable under the International Banking Act of 1978,

"(C) in the case of any foreign bank which does not operate an insured branch,

"(D) in the case of any agency or commercial lending company other than a Federal agency, and

"(E) in the case of supervisory or regulatory proceedings arising from the authority given to the Board of Governors under section 7(c)(1) of the International Banking Act of 1978, including such proceedings under the Financial Institutions Supervisory Act, and

"(3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured Bank (except a District bank) or a foreign bank having an insured branch.

Under the rule set forth in this subsection, more than one agency may be an appropriate Federal banking agency with respect to any given institution. For the purposes of subsections (b) through (n) of section 8 of this Act, the term 'insured bank' shall be deemed to include any uninsured branch or agency of a foreign bank.".

(6) Section 3 is amended by adding at the end thereof the following new subsections:

"(r) The terms 'foreign bank' and 'Federal branch' shall be construed consistently with the usage of such terms in the International Banking Act of 1978.

"(s) The term 'insured branch' means a branch of a foreign bank any deposits in which are insured in accordance with the provisions of this Act.".

(7) Section 5 is amended (A) by changing "SEC. 5." to read "SEC. 5. (a)" and (B) by adding at the end thereof the following new subsections:

"(b) Subject to the provisions of this Act and to such terms and conditions as the Board of Directors may impose, any branch of a foreign bank, upon application by the bank to the Corporation, and examination by the Corporation of the branch, and approval by the Board of Directors, may become an insured branch. Before approving any such application, the Board of Directors shall give consideration to—

"(1) the financial history and condition of the bank,

"(2) the adequacy of its capital structure,

"(3) its future earnings prospects,

"(4) the general character of its management, including but not limited to the management of the branch proposed to be insured,

"(5) the convenience and needs of the community to be served by the branch,

"(6) whether or not its corporate powers, insofar as they will be exercised through the proposed insured branch, are consistent with the purposes of this Act, and

"(7) the probable adequacy and reliability of information supplied and to be supplied by the bank to the Corporation to enable it to carry out its functions under this Act.

"(c)(1) Before any branch of a foreign bank becomes an insured branch, the bank shall deliver to the Corporation or as the Corporation may direct a surety bond, a pledge of assets, or both, in such amounts and of such types as the Corporation may require or approve, for the purpose set forth in paragraph (4) of this subsection.

"(2) After any branch of a foreign bank becomes an insured branch, the bank shall maintain on deposit with the Corporation, or as the Corporation may direct, surety bonds or assets or both, in such amounts and of such types as shall be determined from time to time in accordance with such regulations as the Board of Directors may prescribe. Such regulations may impose differing requirements on the basis of any factors which in the judgment of the Board of Directors are reasonably related to the purpose set forth in paragraph (4).

"(3) The Corporation may require of any given bank larger deposits of bonds and assets than required under paragraph (2) of this subsection if, in the judgment of the Corporation, the situation of that bank or any branch thereof is or becomes such that the deposits of bonds and assets otherwise required under this section would not adequately fulfill the purpose set forth in paragraph (4). The imposition of any such additional requirements may be without notice or opportunity for hearing, but the Corporation shall afford an opportunity to any such bank to apply for a reduction or removal of any such additional requirements so imposed.

"(4) The purpose of the surety bonds and pledges of assets required under this subsection is to provide protection to the deposit insurance fund agains the risks entailed in insuring the domestic deposits of a foreign bank whose activities, assets, and personnel are in large part outside the jurisdiction of the United States. In the implementation of its authority under his subsection, however, the Corporation shall endeavor to avoid imposing requirements on such banks which would unnecessarily place them at a competitive disadvantage in relation to domestically incorporated banks.

"(5) In the case of any failure or threatened failure of a foreign bank to comply with any requirement imposed under this subsection (c), the Corporation, in addition to all other administrative and judicial remedies, may apply to any United States district court, or United States court of any territory, within the jurisdiction of which any branch of the bank is located, for an injunction to compel such bank and any officer, employee, or agent thereof, or any other person having custody or control of any of its assets, to deliver to the Corporation such assets as may be necessary to meet such requirement, and to take any other action necessary to vest the Corporation with control of assets so delivered. If the court shall determine that there has been any such failure or threatened failure to comply with any such requirement, it shall be the duty of the court to issue such injunction. The propriety of the requirement may be litigated only as provided in chapter 7 of title 5 of the United States Code, and may not be made an issue in an action for an injunction under this paragraph.".

(8) The first sentence of section 7(a)(1) is amended by inserting "and each foreign bank having an insured branch which is not a Federal branch" immediately before "shall make to the Corporation".

(9) The first sentence of section 7(a)(3) is amended (A) by inserting "and each foreign bank having an insured branch (other than a Federal branch)" immediately before "shall make to the Corporation" and (B) by inserting ", each foreign bank having an insured branch which is a Federal branch," immediately before "and each insured district".

(10) Section 7(a) is amended by adding at the end thereof the following new paragraph:

"(7) In respect of any report required or authorized to be supplied or published pursuant to this subsection or any other provision of law, the Board of Directors or the Comptroller of the Currency, as the case may be, may differentiate between domestic banks and foreign banks to such extent as, in their judgment, may be reasonably required to avoid hardship and can be done without substantial compromise of insurance risk or supervisory and regulatory effectiveness.".

(11) Section 7(b) is amended (A) by changing "(4) A bank's assessment base" to read "(4)(A) Except as provided in subparagraph (B) of this paragraph, a bank's assessment base" and (B) by adding at the end thereof the following new subparagraph:

"(B) in determining the assessment base and assessment base additions and deductions of a foreign bank having an insured branch, such adjustments shall be made as the Board of Directors may by regulation prescribe in order to provide equitable treatment for domestic and foreign banks.".

(12) Section 7(j)(1) is amended (A) by changing "(j)(1) Whenever" to read "(j)(1)(A) Except as provided in subparagraph (B) of this paragraph, whenever", and (B) by adding at the end thereof the following new subparagraph:

"(B) The Board of Directors may by regulation exempt from the reporting requirements of subparagraph (A) of this paragraph any transaction in the stock of a foreign bank to the extent that the making of any such report would be prohibited by the laws of the country of domicile of the foreign bank in effect at the time such bank makes its application under section 5(b) of this Act, or rendered impracticable by the customs and usages of such country, but the Board of Directors shall weigh the existence of any such prohibition or impracticability in connection with its consideration of the factors enumerated in sections 5(b)(4) and 5(b)(7).".

(13) Section 7(j)(2) is amended by changing "(2) Whenever" to read "(2)(A) Except as provided in subparagraph (B) of this paragraph, whenever" and by adding at the end thereof the following new subparagraph.

"(B) The requirements of subparagraph (A) of this paragraph shall not apply in the case of a loan secured by the stock of a foreign bank if the lending bank is a foreign bank under the laws of whose domicile the report otherwise required by subparagraph (A) would be prohibited.

"(C) No foreign bank under the laws of whose domicile a report in compliance with subparagraph (A) of this paragraph would be prohibited in the case of a loan to acquire the stock of an insured bank which is not a foreign bank may make, acquire, or retain any such loan. Each report of condition filed under subsection (a) by any foreign bank to which this subparagraph applies shall contain either a statement of the amount of each loan made, retained, or acquired by the foreign bank in violation of this subparagraph during the period from the date it became an insured bank or the date of its last report of condition, whichever is later, to the date of the report of condition, or a statement that no such loans were made and no such loans were outstanding during such period.".

(14) The first sentence of section 8(a) is amended by inserting ", a foreign bank having an insured branch which is a Federal branch, a foreign bank having an insured branch which is required to be insured under section 6 (a) or (b) of the International Banking Act of 1978," immediately after "(except a national member bank".

(15) Section 8 is amended by adding at the end thereof the following new subsection:

"(r)(1) Except as otherwise specifically provided in this section, the provisions of this section shall be applied to foreign banks in accordance with this subsection.

"(2) An act or practice outside the United States on the part of a foreign bank or any officer, director, employee, or agent thereof may not constitute the basis for any action by any officer or agency of the United States under this section, unless—

"(A) such officer or agency alleges a belief that such act or practice has been, is, or is likely to be a cause of or carried on in connection with or in furtherance of an act or practice within any one or more States which,

in and of itself, would constitute an appropriate basis for action by a Federal officer or agency under this section; or

"(B) the alleged act or practice is one which, if proven, would, in the judgment of the Board of Directors, adversely affect the insurance risk assumed by the Corporation.

"(3) In any case in which any action or proceeding is brought pursuant to an allegation under paragraph (2) of this subsection for the suspension or removal of any officer, director, or other person associated with a foreign bank, and such person fails to appear promptly as a party to such action or proceeding and to comply with any effective order or judgment therein, any failure by the foreign bank to secure his removal from any office he holds in such bank and from any further participation in its affairs shall, in and of itself, constitute grounds for termination of the insurance of the deposits in any branch of the bank.

"(4) Where the venue of any judicial or administrative proceeding under this section is to be determined by reference to the location of the home office of a bank, the venue of such a proceeding with respect to a foreign bank having one or more branches in not more than one judicial district or other relevant jurisdiction shall be within such jurisdiction. Where such a bank has branches in more than one such jurisdiction, the venue shall be in the jurisdiction within which the branch or branches involved in the proceeding are located, and if there is more than one such jurisdiction, the venue shall be proper in any such jurisdiction in which the proceeding is brought or to which it may appropriately be transferred.

"(5) Any service required or authorized to be made on a foreign bank may be made on any branch located within any State, but if such service is in connection with an action or proceeding involving one or more branches located in any State, service shall be made on at least one branch so involved.".

(16)(A) The first sentence of section 10(b) is amended (i) by inserting "any insured State branch of a foreign bank, any State branch of a foreign bank making application to become an insured bank," immediately after "(except a District bank)", and (ii) by inserting "or branch" before the comma after "any closed insured bank".

(B) The second sentence of section 10(b) is amended by inserting ", insured Federal branch of a foreign bank," between the words "national bank" and "or District bank".

(C) The third sentence of section 10(b) is amended by inserting ", and in the case of a foreign bank, a binding commitment by such bank to permit such examination to the extent determined by the Board of Directors to be necessary to carry out the purposes of this Act shall be required as a condition to the insurance of any deposits" immediately before the period at the end thereof.

(17) Section 11(c) is amended by inserting ", insured Federal branch of a foreign bank," immediately before "or insured District bank,".

(18) The first sentence of section 11(e) is amended by inserting "or any insured branch (other than a Federal branch) of a foreign bank" immediately before "shall have been closed".

(19) The second sentence of section 11(e) is amended by changing "such insured State bank," to read "such insured State bank or insured branch of a foreign bank,".

(20) Section 11(f) is amended by inserting "or insured branch of a foreign bank" immediately before "shall have been closed".

(21) The first sentence of section 11(g) is amended by inserting ", insured branch of a foreign bank," immediately before "or District bank,".

(22) The third sentence of section 11(g) is amended by changing "In the case of any closed insured bank," to read "In the case of any closed insured bank or closed insured branch of a foreign bank,".

(23) Section 12(a) is amended by inserting ", branch of a foreign bank," immediately after "a closed national bank".

(24) Section 13 is amended by adding at the end thereof the following new subsection:

"(g) The powers conferred on the Board of Directors and the Corporation by this section to take action to reopen a closed insured bank or to avert the closing of an insured bank may be used with respect to an insured branch of a foreign bank if, in the judgment of the Board of Directors, the public interest in avoiding the closing of such branch substantially outweighs any additional risk of loss to the insurance fund which the exercise of such powers would entail.".

(25) Section 18(c) is amended by adding at the end thereof the following new paragraph:

"(11) The provisions of this subsection do not apply to any merger transaction involving a foreign bank if no party to the transaction is principally engaged in business in the United States.".

(26) Section 18(d) is amended by inserting the following new sentence immediately after the first sentence thereof: 'No foreign bank may move any insured branch from one location to another without such consent.".

(27) The first sentence of section 18(g) is amended by inserting "and in insured branches of foreign banks" immediately after "in insured nonmember banks".

(28) Section 18(j) is amended by adding at the end thereof the following new sentence: "The provisions of this subsection shall not apply to any foreign bank having an insured branch with respect to dealings between such bank and and affiliate thereof.".

(29) Section 21 is amended by adding at the end thereof the following new subsection:

"(1) The provisions of this section shall not apply to any foreign bank except with respect to the transactions and records of any insured branch of such a bank.".

(30) The first sentence of section 25(a) is amended by inserting "insured branch of a foreign bank," immediately after "No insured bank,".

AUTHORITY OF FEDERAL RESERVE SYSTEM

SEC. 7. (a)(1)(A) Except as provided in paragraph (2) of this subsection, subsections (a), (b), (c), (d), (f), (g), (i), (j), (k), and the second sentence of subsection (e) of section 19 of the Federal Reserve Act shall apply to every Federal branch and Federal agency of a foreign bank in the same manner and to the same extent as if the Federal branch or Federal agency were a member bank as that term is defined in section 1 of the Federal Reserve Act; but the Board either by general or specific regulation or ruling may waive the minimum and maximum reserve ratios prescribed under section 19 of the Federal Reserve Act and may prescribe any ratio, not more than 22 per centum, for any obligation of any such Federal branch or Federal agency that the Board may deem reasonable and appropriate, taking into consideration the character of business conducted by such institutions and the need to maintain vigorous and fair competition between and among such institutions and member banks. The Board may impose reserve requirements on Federal branches and Federal agencies in such graduated manner as it deems reasonable and appropriate.

(B) After consultation and in cooperation with the State bank supervisory authorities, the Board may make applicable to any State branch or State agency any requirement made applicable to, or which the Board has authority to impose upon, any Federal branch or agency under subparagraph (A) of this paragraph.

(2) A branch or agency shall be subject to this subsection only if (A) its parent foreign bank has total worldwide consolidated bank assets in excess of $1,000,000,000; (B) its parent foreign bank is controlled by a foreign company which owns or controls foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000; or (C) its parent foreign bank is controlled by a group of foreign companies that own or control foreign banks that in the aggregate have total worldwide consolidated bank assets in excess of $1,000,000,000.

(b) Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such restrictions, limitations, and regulations as may be imposed by the Board of Governors of the Federal Reserve System, each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1978. In exercising any such powers with respect to any such branch or agency, each Federal Reserve bank shall give due regard to account balances being maintained by such branch or agency with such Reserve bank and the proportion of the assets of such branch or agency being held as reserves under section 7 of the International Banking Act of 1978. For the purposes of this paragraph, the terms 'branch', 'agency', and 'foreign bank' shall have the same meanings assigned to them in section 1 of the International Banking Act of 1978.".

(c)(1) The Board may make examinations of each branch or agency of a foreign bank, and of each commercial lending company or bank controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank, the cost of which shall be assessed against and paid by such foreign bank or company, as the case may be. The Board shall, insofar as possible, use the reports of examinations made by the Comptroller, the Federal Deposit Insurance Corporation, or the appropriate State bank supervisory authority for the purposes of this subsection.

(2) Each branch or agency of a foreign bank, other than a Federal branch or agency, shall be subject to paragraph 20 and the provision requiring the reports of condition contained in paragraph 6 of section 9 of the Federal Reserve Act (12 P.S.C. 335 and 324) to the same extent and in the same manner as if the branch or agency were a State member bank. In addition to any requirements imposed under section 4 of this Act, each Federal branch and agency shall be subject to subparagraph (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248(a)) and to paragraph 5 of section 21 of the Federal Reserve Act (12 U.S.C. 483) to the same extent and in the same manner as if it were a member bank.

(d) On or before two years after enactment of this Act, the Board after consultation with the appropriate State bank supervisory authorities shall report to the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the United States Senate its recommendations with respect to the implementation of this Act, including any recommended requirements such as limitations on loans to affiliates or capital adequacy requirements which should be imposed on foreign banks to carry out the purposes of this Act.

NONBANKING ACTIVITIES

SEC. 8. (a) Except as otherwise provided in this section (1) any foreign bank that

maintains a branch or agency in a State, (2) any foreign bank or foreign company controlling a foreign bank that controls a commercial lending company organized under State law, and (3) any company of which any foreign bank or company referred to in (1) and (2) is a subsidiary shall be subject to the provisions of the Bank Holding Company Act of 1956, and to sections 105 and 106 of the Bank Holding Company Act Amendments of 1970 in the same manner and to the same extent that bank holding companies are subject thereto, except that any such foreign bank or company shall not by reason of this subsection be deemed a bank holding company for purposes of section 3 of the Bank Holding Company Act of 1956.

(b) Until December 31, 1985, a foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may retain direct or indirect ownership or control of any voting shares of any nonbanking company in the United States that it owned, controlled, or held with power to vote on the date of enactment of this Act or engage in any nonbanking activities in the United States in which it was engaged on such date.

(c) After December 31, 1985, a foreign bank or other company to which subsection (a) applies on the date of enactment of this Act may continue to engage in nonbanking activities in the United States in which directly or through an affiliate it was lawfully engaged on July 26, 1978 (or on a date subsequent to July 26, 1978, in the case of activities carried on as the result of the direct or indirect acquisition, pursuant to a binding written contract entered into on or before July 26, 1978, of another company engaged in such activities at the time of acquisition), and may engage directly or through an affiliate in nonbanking activities in the United States which are covered by an application to engage in such activities which was filed on or before July 26, 1978; except that the Board by order, after opportunity for hearing, may terminate the authority conferred by this subsection (c) on any such foreign bank or company to engage directly or through an affiliate in any activity otherwise permitted by this subsection (c) if it determines having due regard to the purposes of this Act and the Bank Holding Company Act of 1956, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices in the United States. Notwithstanding subsection (a) of this section, a foreign bank or company referred to in this subsection (c) may retain ownership or control of any voting shares (or, where necessary to prevent dilution of its voting interest, acquire additional voting shares) of any domestically-controlled affiliate covered in 1978 which engages in the business of underwriting, distributing, or otherwise buying or selling stocks, bonds, and other securities in the United States. Except in the case of affiliates described in the preceding sentence, nothing in this subsection (c) shall be construed to authorize any foreign bank or company referred to in this subsection (c), or any affiliate thereof, to engage in activities authorized by this subsection (c) through the acquisition, pursuant to a contract entered into after July 26, 1978, of any interest in or the assets of a going concern engaged in such activities. Any foreign bank or company that is authorized to engage in any activity pursuant to this subsection (c) but, as a result of action of the Board, is required to terminate such activity may retain the ownership of control of shares in any company carrying on such activity for a period of two years from the date on which its authority was so terminated by the Board. As used in this subsection, the term "affiliate" shall mean any company more than 5 per centum of whose voting shares is directly or indirectly owned or controlled or held with power to vote by the specified foreign bank or company, and the term "domestically-controlled affiliate covered in 1978" shall mean any affiliate the majority of whose voting shares is owned by a company or group of companies organized under the laws of the United States or any State thereof, if it has been under continuous domestic majority-controlling ownership since July 26, 1978, and if a foreign bank or group of foreign banks does not own or control directly or indirectly, 25 percent or more of its voting shares.

(d) Nothing in this section shall be construed to define a branch or agency of a foreign bank or a commercial lending company controlled by a foreign bank or foreign company that controls a foreign bank as a "bank" for the purposes of any provisions of the Bank Holding Company Act of 1956, or section 105 of the Bank Holding Company Act Amendments of 1970, except that any such branch, agency or commercial lending company subsidiary shall be deemed a "bank" or "banking subsidiary", as the case may be, for the purposes of applying the prohibitions of section 106 of the Bank Holding Company Act Amendments of 1970 and the exemptions provided in sections 4(c)(1), 4(c)(2), 4(c)(3), and 4(c)(4) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c), (1), (2), (3), and (4) to any foreign bank or other company to which subsection (a) applies.

(e) Section 2(h) of the Bank Holding Company Act of 1956 is amended (1) by striking out "(h) The" and inserting in lieu thereof "(h)(1) Except as provided by paragraph (2), the", (2) by striking out the proviso, and (3) by inserting at the end thereof the following:

"(2) The prohibitions of section 4 of this Act shall not apply to shares of any company organized under the laws of a foreign country (or to shares held by such company in any company engaged in the same general line of business as the investor company or in a business related to the business of the investor company) that is principally engaged in business outside the United States if such shares are held or acquired by a bank holding company organized under the laws of a foreign country that is principally engaged in the banking business outside the United States, except that (1) such exempt foreign company (A) may engage in or hold shares of a company engaged in the business of underwriting, selling or distributing securities in the United States only to the extent that a bank holding company may do so under this Act and under regulations or orders issued by the Board under this Act, and (B) may engage in the United States in any banking or financial operations or types of activities permitted under section 4(c)(8) or in any order or regulation issued by the Board under such section only with the Board's prior approval under that section, and (2) no domestic office or subsidiary of a bank holding company or subsidiary thereof holding shares of such company may extend credit to a domestic office or subsidiary of such exempt company on terms more favorable than those afforded similar borrowers in the United States.".

STUDY OF FOREIGN TREATMENT OF UNITED STATES BANKS

SEC. 9. The Secretary of the Treasury, in conjunction with the Secretary of State, the Board, the Comptroller, and the Federal Deposit Insurance Corporation shall within 90 days after enactment of this bill commence a study of the extent to which banks organized under the laws of the United States or any State thereof are denied, whether by law or practice, national treatment in conducting banking operations in foreign countries, and the effects, if any, of such discrimination on United States exports to those countries. On or before two years after enactment of this section, the Secretary of the Treasury shall be required to report his findings, conclusions, and recommendations from such study to the Congress and describe the efforts undertaken by the United States to eliminate any foreign laws or practices that discriminate against banks organized under the laws of the United States or any State thereof, or that serve as a barrier to the financing of United States exports to any foreign country.

REPRESENTATIVE OFFICES

SEC. 10. (a) Any foreign bank that maintains an office other than a branch or agency in any State shall register with the Secretary of the Treasury in accordance with rules prescribed by him, within one hundred and eighty days after the date of enactment of this Act or the date on which the office is established, whichever is later.

(b) This Act does not authorize the establishment of any such office in any State in contravention of State law.

CEASE-AND-DESIST ORDERS

SEC. 11. Subsection (b) of section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by adding at the end thereof the following new paragraph:

"(4) This subsection and subsections (c), (d), (h), (i), (k), (l), (m), and (n) of this section shall apply to any foreign bank or company to which subsection (a) of section 8 of the International Banking Act of 1978 applies and to any subsidiary (other than a bank) of any such foreign bank or company in the same manner as they apply to a bank holding company and any subsidiary thereof (other than a bank) under subparagraph (3) of this subsection. For the purposes of this subparagraph, the term 'subsidiary' shall have the meaning assigned to it in section 2 of the Bank Holding Company Act of 1956.".

AMENDMENT TO THE BANKING ACT OF 1933

SEC. 12. Section 21 of the Banking Act of 1933 (12 U.S.C. 378) is amended by striking clause (B) of paragraph (2) of subsection (a) thereof and inserting in lieu thereof the following: "(B) shall be permitted by the United States, any State, territory, or district to engage in such business and shall be subjected by the laws of the United States, or such State, territory, or district to examination and regulations or,".

REGULATION AND ENFORCEMENT

SEC. 13. (a) The Comptroller, the Board, and the Federal Deposit Insurance Corporation, are authorized and empowered to issue such rules, regulations, and orders as each of them may deem necessary in order to perform their respective duties and functions under this Act and to administer and carry out the provisions and purposes of this Act and prevent evasions thereof.

(b) In addition to any powers, remedies, or sanctions otherwise provided by law, compliance with the requirements imposed under this Act or any amendment made by this Act may be enforced under section 8 of the Federal Deposit Insurance Act by any appropriate Federal banking agency as defined in that Act.

(c) In the case of any provision of the Federal Reserve Act to which a foreign bank or branch thereof is subject under this Act, and which is made applicable to nonmember insured banks by the Federal Deposit Insurance Act, whether by cross-reference to the Federal Reserve Act or by a provision in substantially the same terms in the Federal Deposit Insurance Act, the administration, interpretation, and enforcement of such provision, insofar as it relates to any foreign bank or branch thereof as to which the Board is an appropriate Federal banking agency, are vested in the

Board, but where the making of any report to the Board or a Federal Reserve bank is required under any such provision, the Federal Deposit Insurance Corporation may require that a duplicate of any such report be sent directly to it. This subsection shall not be construed to impair any power of the Federal Deposit Insurance Corporation to make regular or special examinations or to require special reports.

REPORT ON M'FADDEN ACT

SEC. 14. (a) The President, in consultation with the Attorney General, the Secretary of the Treasury, the Board, the Comptroller, and the Federal Deposit Insurance Corporation, shall transmit a report to the Congress containing his recommendations convening the applicability of the McFadden Act to the present financial, banking, and economic environment, including an analysis of the effects of any proposed amendment to such Act on the structure of the banking industry and on the financial and economic environment in general.

(b) The report required by subsection (a) shall be transmitted to the Congress not later than one year after the date of enactment of this Act.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the committee amendments be agreed to and treated as original text.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

UP AMENDMENT NO. 1663

(Purpose: To require a report on State consultation, and for other purposes.)

Mr. McINTYRE. Mr. President, on behalf of Senator HEINZ and myself I send amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. McINTYRE) for himself and Mr. HEINZ, proposes an unprinted amendment numbered 1663.

Mr. McINTYRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, line 13, after the period insert the following: "Not later than 180 days after the enactment of this Act, the Board shall report to such Committees the steps which have been taken to consult and cooperate with State bank supervisory authorities as required by subsection (a) (1) (B).".

On page 65, line 23, before the period insert a comma and the following: "or unless the Comptroller determines by order or regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts".

On page 68, line 8, before the period insert a comma and the following: "or unless the Federal Deposit Insurance Corporation determines by order of regulation that the branch is not engaged in domestic retail deposit activities requiring deposit insurance protection, taking account of the size and nature of depositors and deposit accounts".

On page 56, line 19, strike out "parent" and insert in lieu thereof "foreign".

On page 58, line 6, strike out "(a)".

On page 69, line 4, before the period insert "or any commercial lending company owned or controlled by a foreign bank".

On page 77, line 5, after "branches" insert "or agencies".

On age 77, line 7, after "branches" insert "or agencies".

On page 77, line 9, after "branches" insert "or agency or agencies".

On page 77, line 15, after "branch" insert "or agency".

On page 77, line 17, after "branches" insert "or one or more agencies".

On page 77, line 18, after "branch" insert "or agency".

On page 89, line 25, strike out "two years" and insert in lieu thereof "one year".

On page 65, lines 11 and 12, insert the following:

Strike out "July 26, 1978" and insert in lieu thereof "July 27, 1978".

Mr. McINTYRE. Mr. President, the first of these amendments would require the Federal Reserve to report to the Congress within 180 days of the steps it has taken to consult and cooperate with State bank supervisors under the reserve setting authority granted section 7(a)(1)(B).

The second amendment would give the FDIC authority to determine that in a particular case the mandatory deposit insurance provision of the legislation is inappropriate because of the wholesale nature of the business of the foreign branch's depositors and their deposits.

There follows a series of technical corrective amendments clarifying inaccuracies and perfecting the venue provisions of the legislation.

Another amendment would require the Secretary of the Treasury to report back to the Congress within a year on his study of the treatment of American banks in foreign countries.

The final amendment, sponsored by Senator HEINZ, would move the grandfather date under section 5 of the legislation forward 1 day to July 27, 1978, the date the committee had been scheduled to complete its markup on H.R. 10899.

Mr. President these amendments have been cleared with the leadership on both sides in the committee.

Mr. President, I move the amendment be agreed to en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McINTYRE. Mr. President, on July 26, 1978, the Committee on Banking, Housing and Urban Affairs ordered reported legislation (H.R. 10899, with an amendment) to provide for Federal regulation of participation by foreign banks in domestic financial markets and on August 8, 1978, the committee filed its report.

Foreign banks have become a significant factor in our domestic banking markets. In 1973, there were approximately 60 foreign banks operating banking offices in the United States with assets of about $37 billion. By 1978, 122 foreign banks were operating in the United States with assets of $90 billion. Moreover, these U.S. offices of foreign banks had more than $26 billion in commercial and industrial loans. This was equal to about 20 percent of similar loans by large banks that report weekly to the Federal Reserve. Foreign banks in this country are not specialized institutions engaged principally in foreign trade financing on the periphery of our banking system. They are in the mainstream of our domestic banking system. This growth of foreign banking institutions operating in this country has created the need to subject their operations to monetary policy controls and to Federal regulatory oversight over their affairs.

Our policy respecting foreign enterprises doing business in the United States is one of national treatment. Under this policy foreign enterprises operating in the host country are treated as competitive equals with their domestic counterparts. There is, at this time, no uniform national policy concerning foreign banking operation in this country. As a result, foreign banks enjoy many competitive advantages over our domestic banks. This bill establishes the principle of competitive equality under law between foreign and domestic banks.

Fortunately, the climate in which this bill has been considered is one of relative calm. Foreign banks doing business in the United States have behaved in a responsible manner, and their presence here has been a benefit to the banking industry as a whole. Enactment of a rational framework of Federal regulation at this time is appropriate and will serve to avoid future problems while enhancing the competitive environment.

Mr. President, this legislation establishes a fair Federal framework within which foreign banks may continue to participate as a strong competitive force in our domestic financial markets. This Federal framework is essentially as follows: First, availability of Federal deposit insurance for deposits of branches of foreign banks to safeguard depositors funds; second, monetary policy controls over the funds of branches and agencies of foreign banks to enable the Federal Reserve to better implement monetary policy although only after consultation and cooperation with State supervisory authorities in the case of State branches and agencies in keeping with our dual banking system; third, residual authority to examine foreign bank operations in the United States by Federal regulatory authorities to insure the safety and soundness of the banking system; and fourth, authority for foreign banks to continue to operate across State lines but in a manner that insures competitive equality between foreign and domestic banks while encouraging foreign bank entry in those States that desire a foreign bank presence.

The bill provides in section 6 for FDIC insurance of deposits in branches of foreign banks for the first time. Several witnesses testified that FDIC insurance of deposits in branches of foreign banks, should be made mandatory. On the other hand, other witnesses, most notably the FDIC, urged that such insurance be voluntary, not mandatory, citing insufficient legal and regulatory controls over the parent foreign bank itself.

While deposit insurance may be viewed as a competitive consideration, given the costs involved, there is a con-

sensus that deposits in branches of foreign banks are by and large "wholesale" in nature. In this regard, most proponents of mandatory insurance concede that the primary concern is for the protection of the individual retail, not commercial depositors. The committee struck a balance here in requiring FDIC insurance protection for retail operations while permitting FDIC insurance on a voluntary basis for foreign banks in the United States which engage only in wholesale banking. In those instances where such branches do accept "detail" deposits, defined to be deposits of less than $100,000, FDIC insurance of all deposits in such branches is made mandatory.

Section 7 of this legislation provides the Federal Reserve with authority to set reserves for Federal and State branches and agencies. This authority extends over all branches and agencies of foreign banks that have $1 billion or more in worldwide assets. Those branches and agencies for which the Federal Reserve holds reserve balances also have access to Federal Reserve discount, borrowing, and clearing facilities subject to such restrictions, limitations, and regulations as may be imposed by the Federal Reserve Board. The financial institutions in the size category have the ability to significantly affect fund flows in and out of the country and to make sizable loans. Federal Reserve monetary authority over these institutions should provide the Federal Reserve with the ability to better control monetary policy.

In keeping with our dual banking system of Federal and State authority, the Federal Reserve Board may establish reserve requirements for State licensed branches and agencies only after consultation and cooperation with State bank supervisory authorities. While the committee felt that reserve setting authority over State-licensed foreign bank branches and agencies was necessary for monetary policy purposes, the committee did not impose reserve requirements over State chartered bank subsidiaries and commercial lending companies. This decision was in keeping with existing practice under the duel banking system whereby State chartered institutions retain the option for joining the Federal Reserve and being subject to monetary controls.

The committee retained the present Federal-State regulatory framework in providing the Comptroller, the FDIC, and the States with primary examining authority over such operations within their jurisdiction. But the committee amended the House bill to provide the Federal Reserve Board with residual examining authority over all banking operations of foreign banks, including branches, agencies, commercial lending companies, and bank subsidiaries. The committee has provided the umbrella of one Federal agency over all domestic operations of foreign banks. Thus, Federal branches and agencies will be subject to examination by the Comptroller, federally insured State branches will be examined by the State agencies and by the FDIC, and non-federally insured State branches and all State agencies and commercial lending companies will be examined by the appropriate State authorities or, if not so examined, by the Federal Reserve. All such organizations will however be subject to special examination by the Federal Reserve.

It is intended that if the Federal Reserve deems it necessary to review the activities of a branch agency, or commercial lending company, the Federal Reserve, in order to avoid duplicative regulation, will make as much use as possible of relevant reports of examination made by the Comptroller, the FDIC, and the States. It is to be expected that, the Federal bank regulatory agencies will cooperate with one another and with State banking authorities so as to develop and implement consistent and effective examination standards.

The most controversial aspect of this legislation concerned the matter of interstate branching by foreign banks. Foreign banks have been able to branch across State lines because they are not subject to the limitations on branching that are imposed on domestic banks under the McFadden Act. The heart of the controversy is competitive equality between domestic and foreign banks; however, other important issues of competitive equality between States and discriminatory treatment of domestic banks abroad are also involved.

It is clear that foreign banks do enjoy privileges not extended to domestic banks under our laws—the ability to receive deposits, make loans, and pay checks at banking offices located in several States. The extent to which this opportunity gives foreign banks a competitive advantage over their domestic counterparts is a matter of some earnest dispute. The essence of banking is the ability to receive deposits, and it is in this that foreign banks do enjoy a growing, significant interstate advantage over domestic banking organizations, which cannot receive domestic bank deposits outside of their home State. The real culprit is the McFadden Act which prohibits U.S. banks from competing across State lines for deposits. Nevertheless, until the McFadden Act is changed the committee felt that similar restrictions should apply to foreign banks as applicable to domestic banks. However, it would be unwise in attempting to establish competitive equality between domestic and foreign banks to impose restrictions so rigid that they would confine foreign banks to a single state of operations, and consequently reduce foreign capital inflows and the development of international banking centers throughout the country. Such a solution would also be inconsistent with this Nation's dual banking system which has served local, national, and international credit needs well throughout our history.

The committee reconciled these issues in a way that it believes equitably takes into account the interests and concerns of Federal and State officials, and domestic and foreign banks. The committee struck a compromise that it believes will establish the general rules for future competitive equality between domestic and foreign banks, preserve and enhance the ability of the States to attract foreign capital and develop international banking centers, and give the United States some leverage to secure more equitable national treatment for U.S. banks abroad.

Under section 5(a) foreign banks would be able to establish branch or agency offices in any State where this is permissible. The decision to attract foreign bank entry is, as now, left to the individual States. However, in the case of a branch to be established and operated outside of a foreign bank's home State of operations, which State would essentially be determined by the foreign bank, such branch would be able to accept such credit balances as agencies would be able to accept under relevant State and Federal law, but, with respect to deposits, would be limited to accepting the types of foreign-source and international banking and finance related deposits permissible for international banking corporations organized under section 25(a) of the Federal Reserve Act—the Edge Act.

Mr. President, as I have said, the real culprit is the McFadden Act which was enacted over 50 years ago and whose ghost limits competition in our banking system.

Various proposals to amend this act have been discussed for many years but no action has been taken to remove this anachronism from our laws.

Therefore, section 14 was added to the bill which directs the President in consultation with the Secretary of the Treasury, and the Attorney General and the appropriate Federal bank regulatory agencies, to present a set of recommendations to the Congress with regard to the applicability of the McFadden Act to the current banking structure. These recommendations are to be made within 1 year of the enactment of the bill.

This provision will serve to keep the pressure on for meaningful change in the outdated McFadden Act.

I commend this legislation to my colleagues.

● Mr. BROOKE. Mr. President, today we consider the International Banking Act of 1978 (H.R. 10899), a landmark piece of legislation which will provide a national framework for involvement by foreign banks in domestic banking activities. During the past several years, studies have been conducted and legislation has been considered regarding the activities of foreign banks in the United States. This bill represents a culmination of the Banking Committee's efforts to promote domestic involvement by foreign banks in a regulatory setting which insures competitive equality between such banks and domestic financial institutions.

Trying to reach agreement on such complex and farreaching legislation is not an easy task, and I think one reason why the committee unanimously ordered this bill to be reported was the fine work done by Senators McINTYRE and STEVENSON on the legislation. Senator McINTYRE as chairman of the Subcommittee on

Financial Institutions, has ably guided the international banking bill through the committee, and Senator STEVENSON, providing expertise on the technical aspects of the bill, proposed important revisions to the legislation which have strengthened it and broadened its acceptability among all committee members.

In the past few years, foreign banks have played an increasingly important role in our nation's banking system. Federal Reserve Board statistics indicate that, as of April 1978, 122 foreign banks operated banking facilities in the United States and that such U.S. offices had more than $26 billion in commercial and industrial loans.

This bill will establish uniform national treatment of foreign banks in the United States and place them on a more equal footing with domestic financial institutions. Under this legislation, the ability of foreign banks to conduct an interstate banking business will be restricted with respect to deposit-taking functions, but will not be limited with regard to lending or other banking activities. The interstate banking provisions of the bill are of particular concern to me because my home State of Massachusetts is interested in increasing its share of foreign financing business. While I was reluctant to impinge at all on the ability of States to attract foreign banks to their communities, I believe the compromise reached in the Banking Committee regarding the interstate activities of foreign banks will help assure States like Massachusetts that they can continue to compete with the large money center States for foreign bank business.

In addition to providing a uniform national policy on interstate banking by foreign banks, the bill provides that non-U.S. citizens may serve on the boards of directors of Edge corporations and national banks; revises the Edge Act—enacted in 1919—to make Edge corporations more attractive as export financing vehicles; mandates FDIC insurance on retail deposits of foreign branches; limits domestic nonbanking activities of foreign banks; and provides the Federal Reserve Board with reserve setting authority over foreign branches and agencies. The committee also added two provisions to the bill directing that studies be made on the treatment of U.S. banks abroad and on the interstate banking restrictions of the McFadden Act. The former study should be of assistance in determining the extent to which other nations are regulating American banks in the same manner as they regulate their own banks. The latter study should provide facts and legislative recommendations on the whole issue of interstate banking.

The bill has been carefully studied by the Banking Committee, and I believe we have presented the full Senate with a piece of tightly drawn legislation. I also should note that the committee was very ably assisted in its work on the bill by our staff. Jeremiah Buckley. John Collins, James Reinhardt, William Weber, Charles L. Marinaccio, and Gary Welsh deserve special recognition for providing sound counsel and technical expertise to the committee on this bill.

Mr. President, the rapid increase in foreign bank activity in the United States during the past few years necessitates that we establish national policies with respect to such activity. The international banking bill will provide uniform standards under which foreign banks may engage in domestic banking activities in a manner comparable to U.S. banking organizations. It is a good bill whose time has come, and I urge my fellow Senators to act on it promptly.●

● Mr. PROXMIRE. Mr. President, I support passage of this legislation to provide a Federal regulatory framework over the activities of foreign banks operating in the United States.

This legislation provides a fair solution to some knotty problems. Under its provisions foreign banks will retain an incentive to establish multistate operations. This will provide healthy competition for loans, bring in new capital, and foster our export trade with its consequent benefits. At the same time, this bill should insure that our own domestic banks are not subjected to unfair competition by the activities of foreign banks that are forbidden to domestic banks.

The legislation also provides the Federal Reserve with the authority it needs to better control monetary policy by subjecting branches and agencies of foreign banks to reserve requirements. In the case of State branches and agencies this must be done after consultation and cooperation with State regulatory authorities.

The legislation further provides the Federal Reserve with residual examinations authority over foreign banks operating in the United States. The Federal Reserve must to the extent possible use the reports of other regulatory bodies. Nevertheless, this legislation provides the public with the umbrella of a single bank regulatory agency over the operations of foreign banks operating in domestic financial markets.

I commend Senator MCINTYRE for his leadership in guiding this landmark legislation and I commend this bill to my colleagues.●

● Mr. STEVENSON. Mr. President, I commend the distinguished Senator from New Hampshire—Mr. MCINTYRE—for his outstanding leadership and hard work on H.R. 10899, the International Banking Act of 1978. Legislation to regulate the growing operations of foreign banks in the United States has been before the Congress since 1975. The plethora of issues raised by such legislation has spanned every aspect of our banking system—State/Federal regulation and supervision, interstate banking, deposit insurance, nonbanking activities, Federal Reserve monetary controls, and the international banking operations of our own U.S. banks. H.R. 10899, as reported by the Committee on Banking, Housing and Urban Affairs, under the leadership of the Senator from New Hampshire—(Mr. MCINTYRE), deals with each of these issues as they affect foreign banks in an intelligent and equitable manner that takes into consideration and resolves the interests and concerns of State and Federal officials and domestic and foreign banks.

I believe the Banking Committee's report on H.R. 10899 is an excellent summary of the major issues involved in regulating foreign banks and ably describes the reasons supporting the committee's actions on the bill. I would like, however, to discuss briefly and, in some cases, clarify certain amendments which I proposed to the bill and which were accepted by the committee.

Section 3 of the bill, as reported, contains the first amendments to the Edge Act since its enactment in 1919. The principal purpose of the Edge Act was to facilitate U.S. exports by providing for the Federal chartering of international banking and financing corporations at locations throughout the United States. These Edge Act corporations presently operate under an antiquated set of statutory and regulatory restraints that disadvantage them in competing with foreign banks both here and abroad and impede their primary mission of financing U.S. exports. The amendments adopted in committee should bring these corporations into the competitive and banking realities of the present era and make them a greatly improved vehicle for facilitating U.S. exports. In particular, I believe the amendments should make it easier for non-bank concerns involved in exporting, including domestic trading companies, to own or organize such corporations and use them to provide necessary financing for exports throughout the world.

The need for these Edge Act changes was made clear in the comprehensive hearings that have been conducted this year by the Subcommittee on International Finance on U.S. export policy, and their passage today is an important step in the process of reorienting our trade and financing laws toward the elimination of unnecessary export impediments that we impose from within.

Section 5 of the bill, as reported, compromises the controversial interstate banking issue by letting foreign banks establish banking offices wherever they can find a receptive State, subject only to the limitation that outside of their home State of operations they accept the same types of foreign source and international deposits that can be accepted by our own banks outside of their home State of operations. Since this section is discussed at length in the committee's report, I only state here my concurrence with the report language and stress in particular that the "choice of home State" privilege afforded in section 5(c) should be interpreted by the Federal Reserve Board in a manner consistent with the limitations imposed under section 5(a), namely to limit full-service deposit-taking to one State only, except where there are grandfathered operations. For those foreign banks that currently have no deposit-taking facilities in the United States, their home State should be the State where they establish their initial full-service deposit-taking branch or subsidiary. However, I believe that under section 5(c), a foreign bank with a single

branch office in the United States at time of enactment which is eligible for grandfathering under section 5(b), could not thereafter establish a branch in another State, designate that second State as its home State, and thus seek to have full-service branch offices in two States. In my judgment, that type of manipulative use of section 5(c) is not intended to be permitted.

Section 9 of the bill as reported by the committee provides for a study by the Secretary of Treasury of the treatment afforded U.S. banks abroad, and in particular the effects, if any, of such treatment on U.S. exports. This study is necessitated by the fact that several foreign countries, whether by law or practice, do not afford U.S. banks national treatment in their operations in those countries. In proposing this section of the bill, it was not my intent to require the Secretary to study the treatment accorded U.S. banks in every foreign country abroad. Rather, I believe the Secretary should focus his study on those countries from which foreign banks have come to do a banking business in the United States. In fact, I believe it would be valuable each time a new foreign country were represented in our banking market, if the Treasury would provide to each of the Federal and State banking authorities an analysis of the treatment of our banks in such country.

I conclude by recognizing that George W. Mitchell, former Vice Chairman of the Federal Reserve Board and now a consultant to the Board on electronic banking matters, recommended Federal legislation to regulate foreign banks some 5 years ago. Our action today is a belated recognition of George Mitchell's wisdom and foresight on this issue. I will always think of this bill as the Mitchell bill, in honor of the distinguished public servant who brought this subject to our attention.●

● Mr. TOWER. Mr. President, the International Banking Act of 1978 represents a significant development in the regulation of foreign banks in this country. This legislation establishes the framework for Federal regulation of foreign banking activities in the United States and attempts to create an environment in which foreign and domestic banks can operate on a competitively equal basis.

The issues raised in this legislation are extremely complex and very controversial. On the one hand, there is the legitimate interest on the part of the State bank regulators in seeking legislation that would allow foreign banks to operate in their State. Their interest in this matter reflects a concern that restrictions on the multi-State activities of foreign banks would result in a concentration of foreign banking operations in only one or two States, New York and California in particular. This would deny other States the benefits which foreign banks can offer in the way of fostering international trade and a more diversified banking system.

On the other hand, there is the equally legitimate concern of American bankers and others that the absence of restrictions on the operations of foreign banks in this country would give foreign banks a competitive advantage over domestic banks, particularly with respect to deposit taking authority in more than one State. A related concern is that the unrestricted operation of foreign banks in this country would be unfair because domestic banks do not face unrestricted access to banking markets abroad.

The committee has attempted to resolve these issues by adopting a compromise that will allow foreign banks to establish and operate branches in more than one State, providing those branches only accept deposits that are incidental to foreign trade. It also would eliminate certain existing restrictions on the foreign trade activities of domestic banks.

This is a reasonable resolution to a difficult problem. It will allow foreign banks to operate in more than one State for the purpose of promoting and facilitating international trade. This could be particularly important to Texas, where international trade is an important and growing sector of the State's economy, and to cities like Houston and Dallas, which will undoubtedly become major money market centers in the future.

At the same time, the legislation addresses the need to establish a competitive situation in which both domestic and foreign banks can operate equitably. Finally, the legislation calls for the further study of related issues, including the McFadden Act—dealing with the branching of domestic banks—and the treatment of U.S. banks abroad. This will allow Congress to reassess the issue of foreign banking in the United States and determine the need for any additional legislation in the future.●

● Mr. HEINZ. Mr. President, as section 5 of the International Banking Act of 1978 was reported from the Senate Committee on Banking, Housing, and Urban Affairs, it prohibits interstate State branch banking by foreign banks unless: First, the State branch's operation is approved by the bank regulatory authority of the State in which the State branch is to operate and second, the foreign bank agrees to take only those deposits which an Edge Act corporation is permitted to take. In addition, the Senate committee version grandfathers foreign branch banks which commenced lawful operations or for which an application to commence business had been lawfully filed with the appropriate State or Federal authority on or before July 26, 1978.

I know of at least one example, in my home State of Pennsylvania, where this arbitrary date—fixed to coincide with the date on which we happened to markup this bill, rather than the day that we were scheduled to complete markup—will by 1 day's time deprive a foreign branch bank of its ability to do business in as fully a manner as it might have if we had fixed a more rational cutoff date.

The application of the foreign branch to which I have referred was received in the Commonwealth's Banking Department in Harrisburg on July 27, 1978, the date that markup was scheduled to be completed. The actual committee markup date is too arbitrary a grandfather date for the cutoff on this section, especially when it is realized that the Committee markup might just as easily have been completed, as scheduled, a day later, on July 27, 1978.●

The PRESIDING OFFICER. The bill is open to further amendment. If there is no further amendment to be offered, the question is on the engrossment of the amendment and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 10899), as amended, was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. McINTYRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may we proceed to the next order, please?

COLLEGE OPPORTUNITY ACT OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of Calendar Order 585, S. 2539, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2539) to amend the Higher Education Act of 1965 to improve the basic educational opportunity grants program and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Human Resources with amendments as follows:

On page 2, line 3, strike "14" and insert "10.5";

On page 2, line 6, after "411(b)(5)" insert "(B)";

On page 2, line 7, strike "subparagraph (B)";

On page 2, line 8, strike "$600,000,000" and insert "$500,000,000";

On page 2, beginning with line 9, insert the following:

(c)(1) Section 411(b)(5)(A) of that Act is amended by striking out "$130,093,000" and inserting in lieu thereof "$370,000,000 for the fiscal year 1979, and $450,000,000 for the fiscal year 1980, and thereafter".

(2) Section 413(b)(1) of that Act is amended by striking out "and for each of the succeeding fiscal years ending prior to October 1, 1979" and inserting in lieu thereof the following: "and for each of the five succeeding fiscal years, and $250,000,000 for the fiscal year ending September 30, 1979".

(d) Section 415(b)(4) is amended by inserting before the semicolon at the end thereof a comma and the following: "except in any State in which participation of nonprofit institutions of higher education is in violation of the Constitution of the State".

On page 3, beginning with line 21, insert the following:

(f)(1) Section 425(a)(1)(A) of that Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

On page 3, line 24, strike "(f)" and insert "(2)";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "College Opportunity Act of 1978".

SEC. 2. (a) Section 411(a)(3)(B) of the Higher Education Act of 1965 is amended by adding at the end thereof the following new division:

"(iv) Beginning with the academic year 1979–1980 and thereafter, in determing the expected family contribution under this subparagraph no rate in excess of 10.5 per centum shall be applied to parental discretionary income.".

(b) Section 411(b)(5)(B) of that Act is amended by striking out "$237,400,000" and inserting in lieu thereof "$500,000,000".

(c)(1) Section 411(b)(5)(A) of that Act is amended by striking out "$130,093,000" and inserting in lieu thereof "$370,000,000 for the fiscal year 1979, and $450,000,000 for the fiscal year 1980, and thereafter".

(2) Section 413A(b)(1) of that Act is amended by striking out "and for each of the succeeding fiscal years ending prior to October 1, 1979" and inserting in lieu thereof the following: "and for each of the five succeeding fiscal years, and $250,000,000 for the fiscal year ending September 30, 1979".

(d) Section 415(b)(4) is amended by inserting before the semicolon at the end thereof a comma and the following: "except in any State in which participation of nonprofit institutions of higher education is in violation of the Constitution of the State".

SEC. 3. (a) Section 428(a)(2)(A) of that Act is amended to read as follows:

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by such institution), which—

"(i) sets forth such student's estimated cost of attendance, and

"(ii) set forth such student's estimated financial assistance.".

(b) Section 428(a)(2)(B) of that Act is repealed.

(c) Subparagraphs (C) and (D) of section 428(a)(2) of that Act, and all cross references thereto, are redesignated as subparagraphs (B) and (C), respectively.

(d) Section 428(a)(2)(B) of that Act (as redesignated by subsection (c) of this section) is amended by striking out the semicolon at the end of clause (iii) and inserting in lieu thereof a period, and by striking out clause (iv) of such section.

(e) Section 428(a)(9) of that Act is repealed.

(f)(1) Section 425(a)(1)(A) of that Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

(2) Section 423(b)(1)(A)(i) of that Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

Mr. PELL. Mr. President, I ask unanimous consent that the following members of the staff of the Human Resources Committee be granted the privileges of the floor during the debate and votes on S. 2539, the College Opportunity Act of 1978; Richard Jerue, Jean Frohlicher, David Evans, Alexander Crary, Christine Fruggiero, Stephen Paradise, Franklin Zweig, Sven Groennings, Gregory Fusco, Polly Gault, and Nancy Barrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, the bill now before the Senate is S. 2539, the College Opportunity Act of 1978.

The purpose of this bill can be very simply stated—it is to make college affordable once again for our Nation's middle-income families.

I think all of us here recognize the problems middle-income America is facing in its attempt to secure a college education for her children.

We have seen the efforts made in the last couple of days by the Senate. We have seen a bill just passed, a bill that I believe will be correctly vetoed by the President. So we will still be left trying to find some alternative way to help middle-income families who find themselves pinched to the bone by college costs.

Middle-income families find themselves so pinched, yet, while they are finding it harder and harder to finance their children's college education, they are also finding that they are not eligible for most governmental programs that would assist them in this financing.

We all know the contributions middle-income America makes in our country. These families go through life doing the work of our society, paying the bills of our society, and bearing the brunt of the taxes. Rarely do they seek governmental help. But they need our help now.

If we fail to help middle-income America with the cost of college, we will be allowing the doors of higher education to be slammed shut on a large segment of our society. We will be in danger of creating a system of higher education available only to the rich—who can afford to pay their own way—and to the poor—who are eligible for Federal financial aid.

We cannot let this happen.

If we pass this legislation, Mr. President, we will be taking a giant step toward preventing that occurrence.

S. 2539 is a very simple bill, Mr. President. It does not create any new Federal programs. What it does is build upon the basic building blocks of already existing Federal student aid programs. These programs—the basic educational opportunity grant programs, the supplemental educational opportunity grant programs, college work-study, State student incentive grants, and guaranteed student loans—are already well known to students and parents throughout the country. They are programs which high schools and colleges understand and are able to deal with. S. 2539 takes what we already have and makes it better. I think that is a very worthwhile approach.

I want to also point out that S. 2539 is totally supported by President Carter. It reflects his concerns and beliefs. It focuses aid on students who need our help the most. Eighty-nine percent of the benefits of this bill will go to families with incomes of $25,000 or less. Sixty-four percent of its benefits will go to middle-income families, families with incomes within the $15,000 to $25,000 range. These are the families who need our help the most. These are the families toward whom we should be directing our assistance.

I think two of the provisions of S. 2539 require the most attention. These provisions deal with two important programs, the basic educational opportunity grant programs and the guaranteed student loan program.

With respect to basic grants, this legislation will expand that program so that families with incomes of $25,000, and one child in college, will be eligible for a basic grant of at least $250. Currently, the cutoff point for the basic grant program is approximately $13,000. Above that point, a family is usually not eligible for a basic grant. S. 2539 would significantly reduce the amount a family is expected by the Federal Government to contribute to their child's education under the basic grant program. The result would be that an additional 1.5 million students would be eligible for basic grants. For an average family of four, with one child in college, it would mean the following—with an income of $12,000, a basic grant of almost $1,300; with an income of $15,000, a basic grant of about $1,000; with an income of $21,000, a basic grant of $540; and with an income of $24,000, a basic grant of about $300.

I think from this brief analysis, one can see the merits of the basic grant portion of this legislation. It is need-based. It takes into account a family's relative ability to pay for their child's education. It is sensitive to a family's financial situation. It does not give all familes the same amount, for it recognizes that different families have different needs. I think this is the best approach for any student assistance program.

We make a significant change in the guaranteed student loan program through this legislation. We repeal entirely the unsubsidized portion of the guaranteed loan program. This program is the primary program that is today available to middle-income families to pay for their children's college education. Under this program, the Federal Government will guarantee the college loan that the lender makes. Also, if a family has an adjusted gross income of less than $25,000, the Federal Government will pay the interest on the loan while the student is in college.

President Carter requested that we raise this gross income figure to $40,000 as an attempt to provide more loan assistance to middle-income families. We decided to remove the ceiling completely, since those who would be covered under the President's proposal would represent 98 percent of our Nation's population. We felt that 98 percent of our people should not have to go through the paperwork required to determine their need so that 2 percent of our population could be kept out of the program. By removing the ceiling entirely, which S. 2539 does, we will both help our middle-income families and reduce the paperwork requirements of the guaranteed student loan program.

Mr. President, I would like to point out one other significant feature of this legislation. No additional paperwork will be required by this legislation. This legislation builds upon already existing programs. The forms and procedures of those programs, already in existence and

already familiar to families who send their children to college, will be utilized. No new data items or forms would have to be filled out by parents.

In addition, no new bureaucracy would be required to administer or monitor this legislation. The change made in basic grants would only require a computer change at the Office of Education. Staff to administer and monitor the program are already in place.

Mr. President, I think this bill will represent a very significant step in our efforts to assist middle-income America meet the high costs of college education. It is supported by the President. It is the foundation of his middle-income college assistance efforts. It is a good bill, and I urge that my colleagues act favorably upon it.

I believe the most important point in it is that it does not create a new bureaucracy, a new set of forms, new paperwork. It is a simple program seeking to achieve the objective we all have of helping middle-income America and doing it by building on already tested and proved-successful programs.

Mr. President S. 2539 was reported by the Human Resources Committee on February 28, 1978. Its primary purpose it to make college affordable once again for our Nation's middle-income families.

Mr. President, over the past decade the costs of sending a child to college have skyrocketed. Between 1967 and 1976, the cost of sending a child to an average college has increased by 77 percent.

Today, the average yearly cost of tuition, room, and board at a nonpublic college is $4,800. The equivalent average costs at public institutions is nearly $3,000 a year. And, the prospects of those costs increasing are definite.

If a family has a child, today, who is 1 year old, it is estimated that that family will have to save an average of $1,570 a year so that they will have the funds to pay for 4 years of education at a public university when their child becomes old enough to enter college. If that same family decides they want to send their child to a private college, they will have to save about $2,700 a year.

The projected cost of what 4 years of public college will cost when today's 1-year-old reaches college age is $47,380. For private college, the equivalent figure is $82,830.

These figures are startling. Yet, I think they accurately represent the harsh reality many American families are experiencing in their attempts to secure the American dream of a college education for their children.

I think all of us here today are aware of the fact that many American families are finding it increasingly difficult to pay for a college education for their children. Middle-income families are most severely affected by this development.

These families find themselves pinched to the bone by college costs. Yet, they are the very same families who are not eligible for most of the existing Federal grant and loan programs.

These middle-income families go through life doing the work of our society, pay the bills of our society, and bearing the brunt of the taxes. Rarely do they seek our help. But, they need our help now. If we fail to help them, we will be allowing the doors of higher education to be slammed shut on a large segment of our society. We will be in danger of creating a system of higher education available only to the rich—who can afford to pay their own way—and to the poor—who are eligible for Federal financial aid. We cannot let this happen.

With the passage of this bill, Mr. President, we will be taking a giant step toward preventing that occurrence.

This bill is designed to meet the overwhelming need of that unserved segment of our society, the middle income. S. 2539 builds upon the basic building blocks of already existing Federal student aid programs—basic educational opportunity grants, supplemental educational opportunity grants, college work-study, State student incentive grants, and guaranteed student loans—programs which are already familiar to schools, college, students, and parents across the country.

I must point out that this bill is supported by the President. It reflects the concerns that he expressed that any Federal student aid program provide assistance to those students who need our help the most. Under this bill, 89 percent of the assistance it provides will go to families with incomes of $25,000 or less. Sixty-four percent of the benefits of S. 2539 will go to middle-income families, those with incomes within the $15,000 to $25,000 range. I raise this fact because I think it distinguishes this bill quite clearly from the college tax credit legislation. Under the tax credit bill, 55 percent of the benefits would go to families with incomes in excess of $25,000. In my opinion, these families need our help a lot less than those who are in the $15,000 to $25,000 range.

Let me give you a little example of what S. 2539 will mean to the average family. I shall only consider the basic grants portion of our bill, since it is the major component of our legislation. Under that portion of our bill. a family of four, with one child in college, and an average income of $12,000, would receive a basic grant of almost $1,300. That grant would come at the beginning of the college year, when the family needs the help the most. On the other hand, that same family would receive under the tax credit proposal a credit of only $250, and they would have to wait until the spring of the year following the beginning of college to receive it.

If that same family had an income of $15,000. it could receive a basic grant of approximately $1,000. They would still only receive $250 under tax credits.

That same family at $21.000 would receive a basic grant of $540. Under the tax credit, again, they would only receive $250.

At $24.000. that family would receive a basic grant of about $300. Under the tax credit, they would receive $250.

I think from this brief analysis, one can see the merits to the legislation now before us. It is need-based. It takes into account a family's relative ability to pay for their child's education. It is sensitive to a family's financial situation, and it considers the large variations in the costs of attending different schools. Tax credits, on the other hand, are flat grants, with the same amount going to each family. I think the approach of S. 2539 is far preferable.

Now, I should like to briefly explain the principal features of this bill. The largest item in the bill would amend the basic educational opportunity grant program. This program was originally enacted in 1972. The guiding principle behind basic grants is that the student is the consumer. He or she takes their basic grant eligibility to the institution of his or her choice and has their basic grant award applied to the cost of that particular college. A student is not at the mercy of the college for student aid, but is able to choose himself.

Section 2(a) of this legislation amends the basic grant program. It provides that, beginning with the academic year 1979–80 and thereafter, the Commissioner of Education may apply a rate no higher than 10.5 percent in determining a family's expected contribution from parental discretionary income under the basic grant program. Currently, the rate applied is 20 percent of the first $5,000 of parental discretionary income and 30 percent of any excess. The change made by this legislation would add approximately 1.5 million students as being eligible for basic grants. It would cost approximately $1.2 billion over the current level of $2,054 million. Under this legislation, a family of four, with one child in college, no unusual expenses, and an annual income of $25,000, would be eligible for a basic grant of approximately $250. A family with a smaller income, more children in college, and a different family circumstance, would receive a larger grant This legislation would provide a new and much needed middle-income focus to the basic educational opportunity grant program.

Subsection 2(b)—College work-study: This section increases from $237,400,000 to $500 million the minimum amount which must be appropriated for the college work-study program before funds may be made available under the basic grant program. The college work-study program pays 80 percent of a student's salary for a part-time job for his or her institution of higher education or other nonprofit organization.

Subsection 2(c)—Supplemental educational opportunity grants: This section increases the mandatory minimum funding for the supplemental educational opportunity grant program from $130,093,000 to $370 million for fiscal year 1979 and to $450 million for fiscal year 1980 and thereafter. These levels, again, must be met before funds can be made available for basic grants. The section also increases the authorization for initial year supplemental grants—those available to first year students—from $200 million to $250 million. Supplemental educational opportunity grants are intended to supplement the basic grant program, providing grants to qualified students of exceptional financial need,

and allowing student financial-aid officers to make available additional grant assistance to students in special circumstances which the basic grant program is unable to measure. Grant size, based on the student's need as determined by the higher educational institution, ranges from $200 to a maximum of $1,500 for an academic year, or one-half of the total of financial aid provided to the student by the institution, whichever is the lesser amount.

Subsection 2(d) State student incentive grants: This section makes a technical amendment to the State student incentive grant program to allow continued participation in that program of States which have constitutional prohibitions against participation of nonprofit institutions of higher education in State grant programs. Under the State student incentive grant program, the Federal Government provides grants to States on a 1-to-1 matching basis, to assist them in providing individual grants, based on financial need, to undergraduate students attending institutions of higher education.

Section 3—Guaranteed student loans: This section repeals the unsubsidized portion of the guaranteed student loan program, making students eligible for a subsidy of interest on their loans during their in-school period, regardless of their families' income. For more than a decade, the guaranteed student loan program has been the primary program available to middle-income families to finance their children's education. Yet, even these loans have not always been easy to get.

Until 1976, only families with adjusted gross incomes of less than $15,000 per year were eligible for subsidized guaranteed loans, the subsidy meaning that the Federal Government paid the student's 7 percent interest charge during the period the student was in school. Above the $15,000 income level, families were theoretically eligible to receive federally guaranteed loans without the interest subsidy for the in-school period.

These loans were all too often unavailable, however, as they were unattractive to lenders. Subsidized loans in a lender's portfolio could have all interest subsidies billed as a single item to the Federal Government. Each unsubsidized loan meant that a lender would have to undertake the paperwork necessary to collect interest from the borrower on a monthly or quarterly basis. Given the size of the loans—about $1,000 on the average—and the rate of return—7 percent—many lenders simply refused to make unsubsidized loans.

In 1976, Congress recognized that the $15,000 adjusted gross income level for an interest subsidy was far too low and raised that level to an adjusted gross income of $25,000.

The President, on February 8, 1978, proposed to raise this ceiling to an adjusted gross income of $40,000. Since those who would be covered by the revision proposed by the President would make up 98 percent of our Nation's population, it was decided to remove the ceiling completely. This legislation does not.

Mr. President, in my opinion, S. 2539 is the best approach to help our Nation's middle-income families with the high costs of college. It provides assistance to the families who need our help the most. With its passage, college will be affordable once again for all Americans. I urge the passage of this important legislation.

I wish some amendments might be called up, if there are any.

Mr. BAKER. Will the Senator yield to me briefly?

Mr. PELL. I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, I might say to the distinguished managers of the bill on both sides of the aisle, as well to the distinguished majority leader, that I have done a canvass on this side since all amendments appear to be on my side of the aisle, but none of them appeared to be ready at this moment.

So while I had hoped we could call up an amendment and at least make it the pending question for the morning, that does not appear possible at this time.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. PELL. I yield.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the minority leader for the efforts he has put forth to locate Senators who indicated they would be calling up amendments. He has tried to locate them. They, understandably, cannot be located at this hour of 9:35 p.m. I thank him and we will just hope they will not call them up tomorrow.

I yield.

Mr. STAFFORD. Mr. President, I understand the Senator from South Carolina would like 5 seconds. I am glad to yield him 10 seconds.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. Lockimer, of my staff, be granted privilege of the floor during consideration of this bill and the vote on it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no further time be charged against the bill today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I support the College Opportunity Act of 1978 and urge my colleagues to view it as an essential and universally applauded effort to provide college access for the children of middle-income families.

This measure builds upon the proven and effective foundation of our national student assistance policy for higher education. The elements in that policy are the basic educational opportunity grant program, the supplemental educational opportunity grant program, the college work study program and the guaranteed student loan program. These programs constitute an organic whole and are depended upon by our citizens. These programs work hand in glove and in combination weave together a basic fabric of educational access and opportunity for those pursuing higher education. Together, they make giant strides in assuring college for our citizens who have the motivation and capability of improving their knowledge, their skills and the Nation's quality of life.

The bill as reported from the Committee on Human Resources would expand the basic grants program to assure educational opportunity for an additional 1.5 million students from middle-income families. It would promote attendance at the more expensive colleges and universities for lower- and middle-income persons by expanding in two installments the supplemental opportunity grant program. It would add another 280,000 students from middle-income families who combine earning and learning in higher education. It would remove the cap from the guaranteed student loan program and permit any qualified family or person to borrow from private lenders funds for education which would be amortised and repaid through the private loan market with 100 percent payment guarantees by the Federal Government.

The total cost of these improvements and extensions to our middle-income families is $1.46 billion in authorized funds. The entire package is arranged and orchestrated to provide balance and coverage for middle-income persons, those families earning between $15,000 and $25,000 a year after taxes and major, essential expenses. The components have been established and linked to provide economic assistance to families, economic stimulus for the economy and financial stability for our higher education policy.

For example, while increased grant would cost the Treasury $1.2 billion, enhanced tax returns of graduated students will be leveraged by such expenditures. Moreover, the stimulus given to the private loan market through the guaranteed student loan program builds capital availability for education in the private sector and comprises a source of risk-free investment for qualified lenders. This federally generated economic stimulus is multiplied many times over by State education loan and grant programs now operated in almost every State in the Nation. Thus, our Federal investment yields important economic and human resources returns.

The package presented in S. 2539 has been endorsed by virtually every responsible spokesperson for higher education. It has been endorsed, by the administration which has emphasized the importance of higher education expenditures within a long-term perspective of fiscal constraint.

Recent actions of the Appropriations Committee in maintaining previous levels of spending for these programs may defer our ability to implement a middle-income package by 1979. That committee has preferred to wait until this body has acted and looks toward a supplemental appropriation for middle-income college assistance if the Congress enacts this measure. I am confident that the Appropriations Committee will view such a supplemental appropriation favorably and I urge the Senate's favorable action of this measure.

In conclusion, Mr. President, the bill before us, S. 2539, the College Oppor-

tunity Act of 1978, presents an excellent means for the Senate to provide essential assistance to middle-income families based on our proven higher education policies and programs.

PAYING COLLEGE COSTS—A SOUND ALTERNATIVE

Mr. JAVITS. Mr. President, today I join with our colleague, the distinguished chairman of the Subcommittee on Education, Arts, and Humanities, in bringing to the Senate legislation to amend the basic educational opportunity grants and the guaranteed student loan programs. I believe this legislation is a preferred alternative to an untargeted tax credit available regardless of financial circumstances. In my opening statement on tuition tax credits, I detailed my reasons in support of S. 2539 and opposition to H.R. 12050.

Mr. President, I believe that this bill gives us the very viable, feasible, and wise alternative to the bill which was just adopted, the tuition tax credit. I have stated my reasons for opposing a tuition tax credit for some years. My reasons are fully detailed in the debate which I inserted respecting the bill just passed.

Mr. President, my reasons are: First, that the tuition tax credit does not give consideration to the financial needs of a family—it gives benefits where they really are not needed when we consider the needs of others; second, the incentive provided simply will cause most colleges and universities to lift their tuition fees, making the taxpayer no better off than he is now; and third, the cost is very much higher than the cost of building up and fortifying the basic educational opportunity grants, as done in S. 2539.

We are definitely moving aid up into the middle class, which is the whole claim for the tuition tax credit the opportunity for basic educational opportunity grants.

We adopted in the Human Resources Committee, and I am a ranking member and I have been for some years, the principle that we would equip the student with the ability to shop around seeking what he considered to be best in terms of his own education. We believe that this would have the healthiest effect upon the higher education system of the United States.

I still believe that principle to be valid. The bill which Senator PELL and I, and Senator STAFFORD, are submitting here follows that principle. It is for that reason that I voted against the tuition tax credit. I deeply believe this bill is much to preferred as a course for higher education and as a cost of financial soundness in this country.

The bill under consideration today provides that an individual family at the $25,000 annual income level will receive approximately the same level of benefit in the form of a basic grant, $250 per year. Families with lesser financial resources will receive proportionately greater benefits. If enacted, this proposal can be implemented quickly, because it requires only an adjustment in the existing and highly successful Basic Educational Opportunity Grant program. Because the benefits are not available to everyone, colleges will be constrained from tuition increases. The benefits will accrue to individuals based on their economic need and the cost of the education which they choose. Students who have higher costs because they have chosen a nonpublic college will receive proportionately greater assistance. In the present price structure of higher education, this seems a reasonable approach.

Mr. President, I fear that the long debate over tax credits has obscured the understanding of S. 2539. I believe that many Senators are not familiar with its provisions. It is a simple bill to expand two highly successful programs—the Basic Educational Opportunity Grants Program, BEOG—also known as Pell grants—and the Guaranteed Student Loan Program, GSLP. The major provisions of S. 2539 can be summarized as follows:

The basic educational opportunity grant program would be amended under this bill so that the benefits of that program will become available to middle-income families. The current breakpoint for the basic grant program for an average family of four with one child in college is approximately $13,000. If a family has a larger income than $13,000, it most likely would not be eligible for a basic grant under the existing program. S. 2539 would change that, thus making the same average family eligible for a basic grant of $250 if it has an income of $25,000. Its basic grant would be larger if it had a smaller income.

The guaranteed student loan program would be amended to eliminate the income limit on interest-subsidized guaranteed loans. Currently, families with adjusted gross incomes of $25,000 or less are eligible to have the interest on their guaranteed loans paid by the Government while their child is still in college. President Carter has requested that the income ceiling be raised to $40,000. This would make approximately 98 percent of the population eligible for this subsidy. Since only 2 percent of the population would not be covered, and since a great deal of paperwork would be required to perform a needs analysis for the 98 percent that would be eligible, S. 2539 would remove the income ceiling completely.

Under the revisions made by the committee, H.R. 12050 no longer overlaps with the BEOG program. I believe that the tuition tax credit bill may be vetoed and may not become law. But if it does become law, either this year or in the future, it is important to realize that there can be no "double dipping" with a single individual receiving both a tuition tax credit and a BEOG. This underscores the need for S. 2539, regardless of the final disposition of the tax credit issue.

Mr. President, unlike tax credits, the provisions of S. 2539 have the support of the administration, which proposed a similar approach and has requested full funding for fiscal year 1979. Unlike tax credits, S. 2539 enjoys broad support among the higher education leadership in our country. I ask unanimous consent that the letter of support for S. 2539 from nine leading higher education associations be printed at the conclusion of my remarks.

Regarding costs, I believe we must look at three aspects: the annual costs of S. 2539 compared to tax credits; the distribution of funds by income group; and the ability to review annually the Federal assistance in education. The Congressional Budget Office estimates that S. 2539 will cost $1.464 billion in fiscal year 1979 and $1.630 billion in fiscal year 1983. The estimates for tax credits begin with only $667 million in fiscal year 1979 because it would not then be fully implemented, but rise to $2.88 billion in fiscal year 1983. When fully in effect, the tax credits would cost almost twice as much as S. 2539, and most importantly, not be subject to annual review.

The Senate has on several occasions passed college tuition tax credit measures, although none has become law. The President has clearly stated his opposition to tax credits and his firm intention to veto any tuition tax credit measure sent to him. I believe that if we are to provide tuition relief to middle-income families, we must pass S. 2539 and also provide the necessary funds to implement its provisions. I have not supported tax credit proposals because of the reasons I have already given. I very much hope that my colleagues will support this alternative as a much better approach.

May I say finally, Mr. President, there are millions of dollars which we are dealing with in the budget. These cuts of $100 million or $50 million or $10 million which we spend infinite time on people may pride themselves on feeling that they are great economizers, do not begin to measure up. You have to have 50 of them to equal what is at stake here.

For all of those reasons, Mr. President, I commend the bill to the Senate and hope the Senate will pass it.

I yield to my colleague from Vermont, if Senator PELL will indulge us, who wishes to put some remarks into the record, to follow the remarks which I have made, which will follow those of Senator PELL.

Mr. STAFFORD. Mr. President, I join in what my distinguished colleague, the senior Senator from New York (Mr. JAVITS) has said.

Mr. President, I wish to express my support for S. 2539, the College Opportunity Act. Its purpose coincides with that stated by most Members of this body. It is to reduce the financial strain upon middle-income families with children in college. The main effect of this bill would be to increase the participation of students from middle-income families in the basic grant program.

More than 6 years ago, as a new member of our Education Subcommittee, I supported the effort that established the program of basic educational opportunity grants. This program now aids more than 2 million young Americans. It gives them the chance to go to virtually any college where they qualify for admission, regardless of poor economic circumstance. Because the assistance is based on need, which is of course related to educational cost, it effectively provides freedom of choice, enabling students to attend the institutions which can best fulfill their aspirations. This program has been an enormous success in provid-

ing opportunity to our young people. More students from poor families have been able to continue their education beyond high school than ever before in our history.

However, as is well known, increasing college costs, which now total $2,000 to $7,000 per year, have created extraordinary burdens for many middle-income families. Probably all of us have received many letters of concern. I wish to offer the perspective that just as it was unfair to deny the opportunity for college education to the poor, it is unfair to compel the sons and daughters of middle-income Americans to lower their educational sights solely for economic reasons. It makes sense to safeguard their opportunities.

It also makes sense to utilize the present mechanism to provide assistance to middle-income students. It is successful. It is based on the right principles for our public policy. It is well established and well understood. It requires no new bureaucracy and no new types of forms or data items. The aid goes directly to the student when he or she needs it at the beginning of the school year. It provides no incentive for colleges and universities to increase their tuition.

The bill eases the requirements of the present law with regard to parental discretionary income. It requires that parental discretionary income not be assessed in excess of 10.5 percent in determining eligibility for grants, effective 1979–80. The mechanical effect is to change the computer's calculations of families' ability to pay. The impact is that Federal grants would be available to help pay the educational costs of a student from a family with an annual income of up to approximately $25,000, and nearly one and a half million additional students would be served.

This bill also builds upon another advantage of the present law; namely the flexibility of being able to create combinations of different kinds of assistance to meet the differing needs of individual students. It would increase authorized funding for the college work-study program in order to help provide work opportunities for additional students from middle-income families especially. It also would increase authorized funding for supplemental opportunity grants, with the anticipated effect of providing grants to some 180,000 additional students from middle-income families. These would complement the States' student grant programs, which are on a one-to-one matching basis with Federal funding.

Finally, it would expand the guaranteed loan program, which has been the main program available to middle-income families to finance their children's education. These are subsidized loans. The Federal Government pays the interest charge during the years of study. The family-income ceiling for eligibility for a subsidized loan is currently an adjusted gross income of $25,000. Today that ceiling is too low, especially in light of our proposal to extend eligibility for minimum grants to that level. The present administration, which supports S. 2539, proposed increasing that figure to $40,000, which equals a net income of approximately $47,500. As this ceiling would cover 98 percent of the population, and as it would not be sensible to submit that huge majority to a needs test in order to keep the other 2 percent from getting subsidized loans, the Committee on Human Resources voted to lift all income ceilings on subsidized loans. That decision will save a lot of paperwork. That saving is a trade-off against the relatively few loan subsidies which would go to the relatively affluent. On balance, this is a sensible trade-off. No members of the Human Resources Committee had difficulty accepting the concept of lifting the income ceiling for this program completely.

During the last year I have received letters from numerous professional associations in the field of higher education as well as from leaders of numerous colleges and universities. Every one of them has favored this bill and preferred this approach to any other approach for providing relief from the burdens of college expenses. Confirmation of their analysis is to be found in the college board's just-published report entitled "Middle-Income Students: A New Target for Federal Aid?" It says:

> The proportion of new benefits going to middle-income ($15,000 to $25,000) families under the student-aid proposals would be nearly twice that of any of the tax-credit bills, which provide a disproportionate share of assistance to families with incomes above $25,000.

Finally I would like to cite the new public opinion poll by the Roper Organization which was released at the end of July and showed that, by a margin of more than 3:1, people prefer grants and loans to tuition tax credits as the means to help students from middle-income families meet college expenses.

Mr. President, with my fellow members of the Committee on Human Resources and with the overwhelming support of the higher education community, I wish to recommend this measure very positively to my colleagues. It is the logical and needed next step in our long quest to provide equality of educational opportunity to the sons and daughters of all Americans.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business with Senators allowed to speak for up to 3 minutes therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal, which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

HOUSE JOINT RESOLUTIONS SIGNED

At 9:33 a.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 682. A joint resolution to provide for the designation of a week as "National Lupus Week";

H.J. Res. 946. A joint resolution to designate October 7, 1978, as "National Guard Day"; and

H.J. Res. 963. A joint resolution designating July 18, 1979, as "National P.O.W.–M.I.A. Recognition Day".

The enrolled joint resolutions were subsequently signed by the Acting President pro tempore (Mr. MORGAN).

At 12:31 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House disagrees to the amendments of the Senate to H.R. 13468, an act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. NATCHER, Mr. GIAIMO, Mr. MCKAY, Mrs. BURKE of California, Mr. CHARLES WILSON of Texas, Mr. BENJAMIN, Mr. MAHON, Mr. BURGENER, Mr. KEMP, and Mr. CEDERBERG were appointed managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, without amendment:

S. 405. An act for the relief of Chong Cha Williams; and

S. 1335. An act for the relief of Chin Myong Yo Purdom, also known as Myong Yo Sin.

ENROLLED BILL SIGNED

At 6:30 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the Speaker has signed the following enrolled bill:

H.R. 10732. An act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes.

The enrolled bill was subsequently signed by the Acting President pro tempore (Mr. MORGAN).

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–4140. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on

rescissions and deferrals, August 1978; to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on Human Resources, and the Committee on the Judiciary, jointly, pursuant to order of January 30, 1975.

EC–4141. A communication from the Assistant Secretary of Defense, reporting, pursuant to law, the intent to obligate $73.5 thousand of funds available in the Marine Corps Stock Fund and $11.0 million in the Army Stock Fund for war reserve stocks; to the Committee on Appropriations.

EC–4142. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Israel for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4143. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Spain for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4144. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, concerning 10 construction projects to be undertaken by the U.S. Army Reserve; to the Committee on Armed Services.

EC–4145. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to the Republic of China for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4146. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army proposed Letter of Offer to the Republic of China for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4147. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4148. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Iran for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4149. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Korea for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4150. A communication from the Director, Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Thailand for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–4151. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on real and personal property of the Department of Defense, as of September 30, 1977; to the Committee on Armed Services.

EC–4152. A communication from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on 2 construction projects to be undertaken by the Army National Guard; to the Committee on Armed Services.

EC–4153. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of a certain naval vessel, and for other purposes; to the Committee on Armed Services.

EC–4154. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of a certain naval vessel, and for other purposes; to the Committee on Armed Services.

EC–4155. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of a certain naval vessel, and for other purposes; to the Committee on Armed Services.

EC–4156. A communication from the Secretary of the Navy, transmitting a draft of proposed legislation to approve the sale of certain naval vessels, and for other purposes; to the Committee on Armed Services.

EC–4157. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report of the Secretary of Commerce for the fiscal year ended September 30, 1977; to the Committee on Commerce, Science, and Transportation.

EC–4158. A communication from the General Counsel, Department of Energy, reporting, pursuant to law, notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–4159. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with IRT Corporation, San Diego, Calif., for a research project entitled "Development of an Ion Implantation System for Surface Alloying"; to the Committee on Energy and Natural Resources.

EC–4160. A communication from the Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed contract with Eagle Crusher Co., Galion, Ohio, for a research project entitled "Portable Crusher For Underground Mining Applications: Phase II—Construction and Testing and Phase III—Production Test in Underground Mine"; to the Committee on Energy and Natural Resources.

EC–4161. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report of changes in the market shares of the statutory categories of retail gasoline marketers; to the Committee on Energy and Natural Resources.

EC–4162. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report of changes in the market shares of the statutory categories of refined petroleum products; to the Committee on Energy and Natural Resources.

EC–4163. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a study report on the Great Bear Wilderness Study Area in the Flathead and the Lewis and Clark National Forests in Montana, a final environmental statement, and a draft of proposed legislation to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana; to the Committee on Energy and Natural Resources.

EC–4164. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, the first annual Report of the Task Force on Environmental Cancer and Heart and Lung Disease; to the Committee on Environment and Public Works.

EC–4165. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for 2025 M Street NW., Washington, D.C.; to the Committee on Environment and Public Works.

EC–4166. A communication from the Secretary of the Army, transmitting, pursuant to law, a final environmental impact statement and supplemental information on the Mobile Harbor (Theodore Ship Channel), Ala., project; to the Committee on Environment and Public Works.

EC–4167. A communication from the Acting Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, a report on Inventory of Nonpurchased Foreign Currencies as of March 31, 1978; to the Committee on Foreign Relations.

EC–4168. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within 60 days after the execution thereof; to the Committee on Foreign Relations.

EC–4169. A communication from the Chairman, Civil Service Commission, transmitting, pursuant to law, a report on a new personnel record system for use by the U.S. Civil Service Commission; to the Committee on Governmental Affairs.

EC–4170. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "A Management Concern: How To Deal With the Nonproductive Federal Employee," August 10, 1978; to the Committee on Governmental Affairs.

EC–4171. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 11, 1978, which would amend the Rental Housing Act of 1977 (Act 2–251); to the Committee on Governmental Affairs.

EC–4172. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 11, 1978, which would amend the property tax deferral mechanism, and for other purposes (Act 2–249); to the Committee on Governmental Affairs.

EC–4173. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 11, 1978, which would order the closing of part of an east-west public alley abutting on Lot 64 in Square 140, bounded by 18th, L, 19th and M Streets, N.W. (S.O. 74–46) (Act 2–248); to the Committee on Governmental Affairs.

EC–4174. A secret communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the data, methodology, and conclusions in the Joint Chiefs of Staff report entitled "Report on Strategic Mobility Requirements and Programs"; to the Committee on Governmental Affairs.

EC–4175. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Questionable Suitability of Certain Salt Caverns and Mines for the Strategic Petroleum Reserve," August 14, 1978; to the Committee on Governmental Affairs.

EC–4176. A communication from the Assistant Secretary for Administration, Department of the Treasury, transmitting, pursuant to law, reports of changes to three Bureau of Engraving and Printing Systems of Records in accordance with the Privacy Act of 1974 and OMB Circular A–108 Transmittal Memorandum No. 1, dated September 30, 1975; to the Committee on Governmental Affairs.

EC–4177. A communication from the

Chairman, Council of the District of Columbia transmitting, pursuant to law, an act adopted by the Council on July 11, 1978, which would amend the District of Columbia Relocation Regulations (Regulation 73–4) to increase the maximum allowable Replacement Housing Payment for homeowners (Act 2–252); to the Committee on Governmental Affairs.

EC–4178. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an Act adopted by the Council on July 11, 1978, which would amend Chapter V of the Life Insurance Act, approved June 19, 1934 (48 Stat. 1156; D.C. Code, sec. 35–701 et seq.) to update the standard valuation and nonforfeiture laws and to adopt a standard nonforfeiture law for individual deferred annuities (Act 2–250); to the Committee on Governmental Affairs.

EC–4179. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on July 11, 1978, which would amend the District of Columbia Business Corporation Act to permit the incorporation of certain insurance companies, and for other purposes (Act 2–247); to the Committee on Governmental Affairs.

EC–4180. A communication from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend the Abandoned Property Act, as amended (40 U.S.C. 301); to the Committee on Governmental Affairs.

EC–4181. A communication from the Chairman, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, the third quarterly report on full-time permanent employees hired and promoted; to the Committee on Governmental Affairs.

EC–4182. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Region at the Crossroads—The Pacific Northwest Searches for New Sources of Electric Energy," August 10, 1978; to the Committee on Governmental Affairs.

EC–4183. A communication from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, Final Regulations—Handicapped Research and Demonstration Programs; to the Committee on Human Resources

EC–4184. A communication from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, Final Amendment for Part 185, Emergency School Air—Suspension, Termination, and Voiding of Assistance; to the Committee on Human Resources.

EC–4185. A communication from the Secretary of Labor, transmitting, pursuant to law, a report pertaining to fair labor standards in employment in and affecting interstate commerce; to the Committee on Human Resources.

EC–4186. A communication from the Acting Executive Secretary to the Department of Health, Education, and Welfare, transmitting Final Regulation for Part 173—Community Service and Continuing Education Programs; to the Committee on Human Resources.

EC–4187. A communication from Acting Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of Seneca Nation judgment funds in Docket 342–G before the Indian Claims Commission; to the Select Committee on Indian Affairs.

EC–4188. A communication from the Deputy Assistant Secretary for Indian Affairs, Department of the Interior, transmitting, pursuant to law, a proposed plan for the use and distribution of the Lake Superior and Mississippi Bands of Chippewa Indians judgment funds in two cases in Dockets 18–C and 18–T before the Indian Claims Commission; to the Select Committee on Indian Affairs.

EC–4189. A communication from the Principal Deputy Under Secretary of Defense (Research and Engineering), transmitting, pursuant to law, a report on procurement from small and other business firms for October 1977–December 1977; to the Select Committee on Small Business.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–774. A resolution adopted by the Better Roads and Transportation Council, Denver, Colo., regarding highway/transit funding legislation; to the Committee on Commerce, Science, and Transportation.

POM–775. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Energy and Natural Resources:

"RESOLUTION No. 347

"Be it *resolved* by the Legislature of the territory of Guam:

"Whereas, in Public Law 86–664, the United States granted to the territory of Guam the areas known as the Paseo de Susana and Agana Boat Basin; and

"Whereas, use of this land was restricted for 'civic, park and recreational purposes'; and

"Whereas, the territory, in an effort to become more self-sufficient, has encouraged the development of agricultural and small fishing industires on the island; and

"Whereas, the only feasible location for certain facility of benefit to recreational boatsmen and small commercial fishermen is within the restricted land; and

"Whereas, presently, a very hazardous situation exists because small boatsmen must carry fuel on the most heavily traveled highway in Guam to the Basin and fuel their boats from containers rather than at a fuel station; and

"Whereas, it is feared that continuation of this practice necessitated by the lack of a fuel station could result in a disastrous explosion; and

"Whereas, the land proposed for use of the boatsmen has disintegrated into a 'junk yard' for the storage of abandoned hulls and boats; and

"Whereas, the Guam Fishermen's Cooperative Association has proposed the construction of a facility for use by all small boatsmen which would include a fueling center, a cold storage plant and ice plant, an easy loader, a scale platform and a headquarters building for the Guam Fishermen's Co-Op; and

"Whereas, this facility could be used by recreational boatsmen as well as fishermen; and

"Whereas, construction of this facility is compatible with the original intent that the area be for recreational and civic purposes because the only use of the Agana Boat Basin is for recreational boating and small commercial fishermen whose boats do not exceed forty feet; and

"Whereas, the government proposes to lease an area not to exceed one acre to the Guam Fishermen's Cooperative Association; and

"Whereas, the initiative and self-sustaining effort of the Guam Fishermen's Co-Op is applauded in Guam; now, therefore, be it

"*Resolved*, that the Fourteenth Guam Legislature, on behalf of the people of Guam, respectfully requests the United States Congress to amend Public Law 86–664 to provide for use of a portion of the land granted to the territory of Guam for construction of the proposed facility; and be it further

"*Resolved*, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Speaker of the United States House of Representatives; to the President of the Senate; to Congressman Philip Burton; to Congressman Antonio B. Won Pat; to the Secretary of Interior; to the Director, Office of Territories; to the Guam Department of Parks and Recreation; to the Guam Fishermen's Cooperative Association; to the Chairman, Economic Adjustment Committee and to the Governor of Guam."

POM–776. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 13

"Whereas, The overwhelming endorsement by California voters of Proposition 13 has spurred a nationwide taxpayer's revolt against high taxes and excessive government spending; and

"Whereas, While numerous local governments and states, including Texas, are sincerely responding to citizen demands for tax limitations coupled with responsible spending, the federal government, where budget restraint is most needed, has reacted to the message of Proposition 13 in a halfhearted and disappointing manner; and

"Whereas, The federal budget is increasing at an alarming rate, several times that of inflation, as seen by a 140 percent increase since 1970; and

"Whereas, The federal government through many years of deficit spending has incurred a national debt of astronomical and dangerous proportions; the gross national debt is currently estimated to be almost $800 billion, over twice the figure for 1962 and about 40 percent of the nation's gross national product; and

"Whereas, Statutorily imposed 'permanent' debt ceilings repeatedly raised by Congress, have proved to be no impediment to the monstrous growth of the national debt; this disgraceful legacy for future generations has swollen by $177 billion over the past three years and has fostered an interest payment of $50 billion for this year; and

"Whereas, Persistent deficit financing is a major factor contributing to income-robbing inflation, high interest rates, and an unstable, unpredictable economy, and results in the funding of government programs of questionable benefit and need; and

"Whereas, Texas' enviable financial position among state governments is largely due to its 'pay-as-you-go' constitutional provision restricting deficit spending by the legislature; and

"Whereas, During the 1977 regular session, this legislature adopted House Concurrent Resolution No. 31 memorializing congress to initiate a constitutional amendment that would similarly prevent deficit spending and therefore halt the growth of the national debt, the greatest threat to this nation's future well-being; now, therefore, be it

"*Resolved by the House of Representatives of the State of Texas, the Senate concurring*, That the 65th Legislature, 2nd Called Session, hereby reaffirm the provisions of House Concurrent Resolution No. 31 calling for an amendment to the United States Constitution requiring a balanced annual federal budget and hereby request the Texas congressional delegation to sponsor this vital amendment; and, be it further

"*Resolved*, That this amendment require the achievement of a balanced budget within a reasonable period after adoption and establish a procedure for amortizing the national debt; and, be it further

"*Resolved*, That the Governor of Texas be hereby requested to actively seek the

sponsorship of the amendment by the Texas congressional delegation and to use the financial resources of his office to promote support for the amendment; and, be it further

"Resolved, That the governor, the lieutenant governor, and speaker of the house be hereby requested to contact government leaders of other states to solicit and encourage support for the amendment; and, be it further

"Resolved, That the lieutenant governor and speaker of the house be authorized to designate separate or joint committees or individual legislators to represent them and the state in this endeavor and that reasonable expenses incurred by them or their designees in efforts to initiate the amendment be paid from the contingent expense fund of the appropriate house; and, be it further

"Resolved, That official copies of this resolution be prepared and forwarded to the President of the United States, to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to all members of the Texas delegation to the congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States of America."

ORDER FOR STAR PRINT—S. 2236

Mr. BAYH. Mr. President, I ask unanimous consent that we have a star print made of S. 2236, relative to international terrorism, so that we may make technical changes in the Intelligence Committee's amendments on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHILES, from the Committee on Governmenal Affairs and the Committee on the Judiciary, jointly, with an amendment:

S. 3178. A bill to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies (Rept. No. 95–1118).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

Nicholas A. Veliotes, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Hashemite Kingdom of Jordan.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

POLITICAL CONTRIBUTIONS STATEMENT

Nominee: Nicholas A. Veliotes.

Post: Amman, Jordan.

Nominated: June 26, 1978.

Contributions, amount, date and donee:

1. Self: $25.00, March 1974, Doug Bennett for Congress Committee; $25.00, February 1976, Citizens with Celeste; $25.00, March 1976, Jack Calkins Congressional Committee; and, $25.00, February 1977, Citizens with Celeste.

2. Spouse: $25.00, March 1974, Doug Bennett for Congress Committee; $25.00, February 1976, Citizens with Celeste; and, $25.00, March 1976, Jack Calkins Congressional Committee.

3. Children and Spouses: Christopher, none; Michael, none.

4. Parents: Irene Zoobrick (mother), none. Loucille Horrom (mother-in-law), $5.00, summer of 1976, Local Democratic Campaign Committee.

5. Grandparents: None.

6. Brothers and Spouses: John Otis, none; Phyliss Otis, none.

7. Sisters and Spouses: Dorothy Chessari, none; John Chessari, none.

I have listed above the names of each member of my immediate family including their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

By Mr. SPARKMAN, from the Committee on Foreign Relations:

James David Isbister, of Maryland, to be an Associate Director of the International Communication Agency.

Harold F. Schneidman, of Pennsylvania, to be an Associate Director of the International Communication Agency.

(The above nominations from the Committee on Foreign Relations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. NELSON:

S. 3410. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion from gross income of the first $1,500 of net capital gains; to the Committee on Finance.

By Mr. GLENN:

S. 3411. A bill to provide for the employment and compensation of employees of the General Accounting Office without regard to certain provisions of title 5, United States Code, and for other purposes; to the Committee on Governmental Affairs.

S. 3412. A bill to provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes; to the Committee on Governmental Affairs.

By Mr. THURMOND:

S. 3413. A bill for the relief of Emi Ohta; to the Committee on the Judiciary.

By Mr. WALLOP (for himself, Mr. YOUNG, Mr. CHAFEE, Mr. EASTLAND, Mr. CULVER, Mr. SCOTT, Mr. HODGES, Mr. FORD, Mr. ANDERSON, Mr. MORGAN, Mr. CURTIS, Mr. HATCH, and Mr. DOLE):

S. 3414. A bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates; to the Committee on Finance.

By Mr. PACKWOOD:

S. 3415. A bill for the relief of George D'Souza; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NELSON:

S. 3410. A bill to amend the Internal Revenue Code of 1954 to provide an exclusion from gross income of the first $1,500 of net capital gains; to the Committee on Finance.

CAPITAL GAINS EXCLUSION

● Mr. NELSON. Mr. President, last week by an overwhelming vote of 362 to 49 the House passed H.R. 13511, the Revenue Act of 1978. The House bill includes provisions which would reduce taxes on capital gains. The House bill would repeal the alternative tax on capital gains of individuals and remove capital gains from the list of tax preference items for purposes of applying the minimum and maximum tax. Thus, under the House bill the rate of tax on capital gains would be reduced from a maximum of 49.125 percent to 35 percent.

In the Senate, over 60 Senators have cosponsored similar legislation, S. 3065. The Senate version would reduce the maximum rate of tax on capital gains to 25 percent. Obviously, the Congress intends to pass some form of capital gains tax relief this year.

However, under both the House and Senate bills, over 90 percent of the tax relief benefits go to taxpayers with adjusted gross incomes of over $50,000. This group comprises less than 2 percent of the total number of taxpayers in this Nation.

Mr. President, today I am introducing an alternative capital gains tax relief bill which is far more equitable to the average middle-income taxpayer as well as all taxpayers, than any other proposal for capital gains tax reduction that has been advanced so far.

This proposal targets a major portion (over 72 percent) of its relief to taxpayers with adjusted gross incomes of less than $50,000, a group which comprises over 98 percent of the Nation's taxpayers. Under the proposal, a single taxpayer would be entitled to exclude the first $1,500 of capital gains from income. A married taxpayer filing a joint return would be entitled to a $3,000 exclusion. Moreover, this proposal will not add complexity to our present tax system since it does not affect the rate of tax, present exclusion or minimum/maximum tax. It merely provides that an individual will take an initial capital gains exclusion equal to a maximum of $1,500 ($3,000 in the case of a joint return).

Unlike the House bill, however, this proposal offers the average taxpayer a substantial tax benefit. The table below compares the House bill with my proposal:

NELSON CAPITAL GAINS TAX RELIEF BILL[1]

Adjusted gross income	Total individuals with a tax decrease		Percent distribution of tax benefits	
	House[2]	Nelson	House	Nelson
Up to $5,000	700	49,100	0.1	0.1
$5'000 to $10,000	0	539,200	0	4.2
$10,000 to $15,000	0	566,700	0	7.5
$15,000 to $20,000	10,500	681,700	.2	11.0
$20,000 to $30,000	29,200	985,900	.8	22.4
$30,000 to $50,000	98,600	867,200	5.5	27.0
$50,000 to $100,000	123,600	424,700	19.4	20.6
$100,000 to $200,000	43,000	105,800	17.3	5.1
$200,000 or more	21,500	33,700	56.5	2.0
Total	327,200	4,253,800	100.0	100.0

[1] Revenue estimates provided by the Joint Committee on Taxation.

[2] Under the House bill, the maximum capital gains tax rate is cut to 35 percent, which overwhelmingly affects the taxes paid by upper income taxpayers. However, it is possible that these taxpayers can shelter most, if not all, of their adjusted gross income, but have substantial capital gains, With the imposition of a minimum tax of 10 percent on capital gains, these people would appear as lower income taxpayers in the chart.

REVENUE ESTIMATE

	House	Nelson
1978	953,000,000	863,000,000
1979	1,050,000,000	949,000,000

As the chart dramatically discloses, the House bill would benefit only some 327,000 individuals; whereas, this proposal would benefit over 4 million individuals. At a time when millions of middle-income taxpayers are revolting against regressive and inequitable taxation, we cannot in due conscience provide greater tax relief for the wealthy at the further expense of the middle class. Under the proposal, over 72 percent of the total tax benefits would go to taxpayers earning less than $50,000. Moreover, over 49 percent of the benefits would go to taxpayers in the $20,000 to $50,000 bracket. The House bill, however, concentrates over 93 percent of the benefits to the income class of over $50,000 and 74 percent over $100,000. Under the House proposal, the average individual would receive virtually no capital gains tax relief. This bill affords even the small investor with less than $20,000 in adjusted gross income over 22 percent of the tax benefits. The wealthy few, however, would not receive a disproportinate share of the tax benefits.

If Congress is going to have a responsible tax relief package this year, it must benefit the majority in need of relief and at the same time, serve the needs of the country. A capital gains tax reduction concentrated in the $20,000 to $50,000 brackets would make available millions of dollars for capital formation which is currently being channeled to passive savings, tax free municipal bonds, or consumer consumption.

The problem of capital scarcity and its significance to the business community and this country is well documented. For example, the NYSE estimates that over the next 10 years, the United States will require $4.5 trillion of new capital if we are to continue to support a real annual growth rate of 3.6 percent over the next decade. Although $3.9 trillion could be raised from personal savings and retained earnings, a $600 billion capital shortage remains. The exchange estimates that of this $600 billion, $250 billion will have to come from new equity investment, with an essential part of that being provided by individual investors.

The bear markets of the 1970's, 10 percent inflation and high interest rates have been major causes of the individual investor's departure from the marketplace. It is also true that our increasingly restrictive Federal income tax structure has played a significant role in the decline of capital formation. The Tax Reform Acts of 1969 and 1976 restricted the use of the 25 percent alternative rate on capital gains to the first $50,000 in gains and imposed a minimum tax on capital gains which increased the incremental tax rate to a maximum of 49.125 percent. These restrictive measures have become major investment disincentives discouraging the individual investor from productive investment and encouraging consumption.

Our securities industry today has the most serious problems in the history of U.S. financial markets. America's individual investors continue to resist the purchase of common stock. This has a direct impact upon the ability of small- and medium-sized companies to raise desperately needed capital. Arthur Levitt, Jr., chairman of the American Stock Exchange, discussed the extent of the individual investors' participation in his testimony before the Senate Finance Committee on June 20, 1978. He indicated that:

By 1975, the United States shareholder population had dropped . . . more than 18 percent, and the shareholder percentage of the entire population was down to 11.8 percent, or scarcely one in eight. The percentage of shareholders with total investments of under $10,000 fell from 62 percent to less than 50 percent; those with total investments of under $5,000, fell from 41 percent to less than one-third.

This bill is aimed at the very problem posed by Mr. Levitt. Its purpose is to encourage the small- or middle-income investor to get back into the stock market by concentrating over 72 percent of the total tax benefits to taxpayers earning less than $50,000.

If our Nation is to continue its growth in areas of technology, innovation, and production, we need a tax system which encourages individuals and business to continue to invest in America.

We need to encourage investors to invest by providing economic incentives not disincentives. However, these incentives must not be at the expense of the middle-class taxpayer who is already heavily burdened by high interest rates and high inflation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3410

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part I of subchapter P of chapter 1 of the Internal Revenue Code of 1954 (relating to treatment of capital gain) is amended by adding at the end thereof the following new section:

"Sec. 1203. Partial Exclusion of Net Capital Gains.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income of an individual does not include the net capital gain of an individual for any taxable year to the extent that such net capital gain does not exceed $1,500 ($3,000 in the case of an individual filing a joint return).

"(b) EXCEPTION.—Subsection (a) shall not apply to any net capital gain for any taxable year to the extent that such gain is attributable to the sale or exchange of the prinicpal residence (within the meaning of section 1034) of the taxpayer.

"(c) COORDINATION WITH OTHER SECTIONS.—For purposes of determining the amount of the alternative tax under section 1201 and the amount of the deduction under section 1202, net capital gain shall not include any amount which is excluded from gross income under subsection (a).".

(b) The table of sections for such part I is amended by adding at the end thereof the following new item:

"Sec. 1203. Partial exclusion of net capital gains.".

(c) Section 57(a)(9)(A) of such Code (relating to capital gains as an item of tax preference) is amended to read as follows:

"(A) INDIVIDUALS.—

"(i) IN GENERAL.—In the case of a taxpayer other than a corporation, an amount equal to one-half of the net capital gain for the taxable year (other than any amount included under clause (ii)).

"(ii) EXCLUSION.—In the case of an individual, an amount equal to any amount excluded from gross income under section 1203.".

(d) The amendments made by this section shall apply to taxable years beginning after December 31, 1978.●

By Mr. GLENN:

S. 3411. A bill to provide for the employment and compensation of employees of the General Accounting Office without regard to certain provisions of title 5, United States Code, and for other purposes; to the Committee on Governmental Affairs.

S. 3412. A bill to provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes; to the Committee on Governmental Affairs.

● Mr. GLENN. Mr. President, I introduce for appropriate reference two bills regarding the General Accounting Office.

The first bill would exempt GAO employees from laws administered by the Civil Service Commission regarding appointments, position classification and certain other personnel actions.

The need for the change in the law, according to the GAO, is to prevent conflict-of-interest situations which could compromise GAO audits. GAO increasingly reviews personnel procedures and management within the executive branch and is sometimes critical of the Civil Service Commission, which controls the personnel system upon which GAO must rely for its staff. CSC now could direct the GAO to reduce the grades and salaries of GAO staff members or refuse to promote or appoint GAO personnel.

The second bill I am introducing today deals with the retirement and survivor benefits of comptrollers general.

A comptroller general who completes his 15-year term is entitled to retire at full salary minus a quarter percent for each month he is under age 65. He may retire at full salary after 10 years service if he has attained the mandatory retirement age of 70 or is permanently disabled.

At present a retired comptroller general receives no cost-of-living increases. Under the bill I am introducing today his retirement would increase according to annuitants under the civil service retirement system. However, the annuity could not exceed the annual rate of compensation of the incumbent comptroller general.

At present 3 percent of the Comptroller General's salary is deducted for survivor benefits, if he so elects. No deductions are made for his own retirement, which is financed out of funds ap-

propriated for the General Accounting Office. Under this bill future comptrollers general would contribute 8 percent of their salary, as Members of Congress do, to finance their own and their survivors' benefits.

The bill also increases benefits for survivors of deceased comptrollers general. These changes are generally comparable to those Congress provided for survivors of Federal judges in Public Law 94–554.●

By Mr. WALLOP (for himself, Mr. YOUNG, Mr. CHAFEE, Mr. EASTLAND, Mr. CULVER, Mr. SCOTT, Mr. HODGES, Mr. FORD, Mr. ANDERSON, Mr. MORGAN, Mr. CURTIS, Mr. HATCH, and Mr. DOLE):

S. 3414. A bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates; to the Committee on Finance.

● Mr. WALLOP. Mr. President, today I am introducing legislation that would change the capital gains tax treatment of agricultural lands owned by nonresident aliens. This legislation would add gains from the sale or exchange of agricultural or timber lands to the list of items on which a nonresident alien must pay capital gains. At present, nonresident aliens can avoid paying capital gains tax on the sale or exchange of agricultural property.

The question of foreign investment in U.S. agricultural lands has generated much concern on the part of farmers, who are troubled over the effects these investments will have on escalating land prices. At the same time, consumer organizations question how increased foreign ownership of our agricultural lands could one day affect food prices for all Americans. Mr. President, it is not my claim that all foreign investment in U.S. agriculture either benefits or harms farmers and consumers. I argue, however, that the present favored capital gains tax treatment for foreign investors in U.S. agricultural lands provides an incentive for land investment that is neither needed nor desired. There is no reason to provide foreign investors with the added incentive of a decided tax favor which is unavailable for our American farmers and their families.

Aside from the questions of equity, which are by no means unimportant, there is a strong economic case to make against providing such an incentive to foreign investors. The unequal application capital gains tax on the sale of property only encourages speculation. Foreign investors who seek a quick profit from escalating land prices face no tax deterent. Indeed it results in a built-in foreign advantage of up to 20 percent on initial investment. As such purchases and sales increase in number, there is a ratchet effect of escalating land prices.

The tax incentive given to foreign investors places domestic farmers at a competitive disadvantage when land purchases are required to expand a farm operation. Many American farmers have already been priced out of further land investments. There is no reason why the U.S. Government should retain a tax law which only encourages foreign investment that conflicts with the best interests of the American farmer and consumer.

There are those who are properly concerned with the maintenance of capital flows from OPEC and other balance-of-payments surplus countries. Investments made by those countries in the United States are useful to our economy and the balance-of-payments position of the United States. Altering the capital gains treatment of all foreign investments would jeopardize a source of financing that has become increasingly important over the past few years. To those concerned with this issue, let me point out that this bill affects the capital gains treatment of agricultural land sales alone; it has no effect on the tax treatment of nonagricultural securities or industrial facilities. As such, the balance-of-payments effects of this kind of legislation are minimal, especially when we consider the underlying economic forces that will still encourage foreign investments in U.S. farm lands.

It is evident that the favored capital gains tax exemption on nonresident aliens creates a singular incentive for foreign investors to buy U.S. agricultural lands. This is just one of several incentives which attract foreign investors to our land market. There are economic forces in motion which insure that even without the capital gains tax exemption, there will still be a steady flow, and perhaps excessive flow of foreign investments into U.S. farm lands. The U.S. trade imbalance with the OPEC countries and our industrial trading partners has put billions of dollars in the hands of Arab, Japanese, and German investors. At the same time, the U.S. trade deficit has weakened the dollar in relation to other major currencies. A devalued dollar permits foreign investors to buy U.S. products, securities, and farmlands at a discount. In other words, Mr. President, there has never been a time in our Nation's history in which farmlands could be purchased by foreign investors at such bargain rates as they are today.

The fact that the prevailing rate of inflation in the United States is well below the inflation rate of many other industrial countries creates another incentive to invest in the United States.

What better place is there to invest money than in U.S. food-producing lands? In 1975 agricultural land values rose by 13 percent. In 1976 land values rose again by 14 percent. Last year, the average price increase in U.S. agricultural lands was 17 percent. In a world of expanding food demands, we can be certain that agricultural land investments will remain as good hedge against inflation.

Mr. President, I make these points only to demonstrate that there is already too great an incentive to invest in U.S. agricultural lands without providing a capital gains tax loophole for foreign investors. The capital gains tax treatment of foreign investments in agriculture can only attract the worst kind of speculative investment in our land markets. This bill would close a capital gains tax loophole available to foreign investors and help restore some balance between farmers and nonresident aliens who wish to invest in agricultural lands. I urge the Senate to act quickly to change this unfair and harmful section of the tax code.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3414

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (2) of section 871(b) of the Internal Revenue Code of 1954 (relating to determination of gross income of nonresident alien individuals which is connected with United States business) and paragraph (2) of section 882(a) of such Code (relating to determination of taxable income of foreign corporations which is connected with United States business) are each amended to read as follows:

"(2) Determination of taxable income.—In determining taxable income for purposes of paragraph (1)—

"(A) gross income includes only gross income which is effectively connected with the conduct of the trade or business within the United States, and

"(B) gain from the sale or exchange of—

"(i) land used in farming (as defined in section 180(b)), 2032(e)(4) land suitable for use in farming (as defined in section 182(c)(2)), or other undeveloped land (as defined by the Secretary in regulations), or

"(ii) stock in a corporation, or interest in a partnership, determined by the Secretary to have been formed or availed of for the purpose of acquiring, holding, or selling such land, shall be treated as gross income which is effectively connected with the conduct of a trade or business within the United States.".

(b) Paragraph (1) of section 337(b) of such Code (relating to definition of property for gain or loss on sales or exchanges in connection with certain liquidations) is amended—

(1) by striking out "and" at the end of subparagraph (B).

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma and the word "and", and

(3) by adding at the end thereof the following new subparagraph:

"(D) property described in section 882(a)(2)(B)(i).".

Sec. 2. The amendments made by the first section of this Act shall apply with respect to sales and exchanges in taxable years beginning after the date of enactment of this Act.●

ADDITIONAL COSPONSORS

S. 2856

At the request of Mr. MORGAN, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 2856, the Uniformed Services Survivor Benefit Plan Amendments Act of 1978.

S. 3007

At the request of Mr. DOLE, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 3007, a bill to disregard, for the purpose of certain taxes imposed by the Internal Revenue Code of 1954 with respect to employees, certain changes since 1975 in the treatment of individuals as employers.

S. 3178

At the request of Mr. CHILES, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 3178, the Contract Disputes Act of 1978.

S. 3408

At the request of Mr. INOUYE, the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 3408, the National Aquaculture Policy Act of 1978.

SENATE JOINT RESOLUTION 65

At the request of Mr. KENNEDY, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of Senate Joint Resolution 65, to amend the Constitution to provide for representation of the District of Columbia.

SENATE JOINT RESOLUTION 151

At the request of Mr. HEINZ, the Senator from Minnesota (Mr. ANDERSON), the Senator from Tennessee (Mr. BAKER), the Senator from Florida (Mr. CHILES), the Senator from Arizona (Mr. DECONCINI), the Senator from New Mexico (Mr. DOMENICI), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Indiana (Mr. LUGAR), the Senator from Illinois (Mr. PERCY), the Senator from Maryland (Mr. SARBANES), the Senator from New Mexico (Mr. SCHMITT), the Senator from Alaska (Mr. STEVENS), the Senator from South Carolina (Mr. THURMOND), the Senator from Wyoming (Mr. WALLOP), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of Senate Joint Resolution 151, authorizing and requesting the President to designate November 11 through 17, 1978, as "Vietnam Veterans Week."

AMENDMENT NO. 3446

At the request of Mr. HUDDLESTON, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of amendment No. 3446 intended to be proposed to S. 3073, the Federal-Aid Highway Act of 1978.

SENATE RESOLUTION 526

At the request of Mr. DOLE, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of Senate Resolution 526, commemorating the 10th anniversary of the invasion of Czechoslovakia.

SENATE CONCURRENT RESOLUTION 92

At the request of Mr. GOLDWATER, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Concurrent Resolution 92, to seek the resurrection of the Ukrainian Orthodox and Catholic Churches and other religions in Ukraine.

SENATE CONCURRENT RESOLUTION 102—SUBMISSION OF A CONCURRENT RESOLUTION ON THE NEED FOR CAPITOL HILL CHILD CARE CENTER

Mr. McGOVERN submitted the following concurrent resolution, which was referred to the Committee on Governmental Affairs:

S. CON. RES. 102

Whereas it has been documented that 150 employees of the Senate, the House of Representatives, the Library of Congress, and the Supreme Court have expressed the need for a child care center for their children and are willing to offer moral and financial support to the effort;

Whereas it has been documented that 190 children of these Capitol Hill employees need this service;

Whereas a child care center would strengthen family ties by bringing parents and children together at the workplace; and

Whereas reduction of absenteeism and improved work productivity result from the improved psychological well-being of those parents whose children are provided quality child care at the site of work; Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that a child care center should be established on Capitol Hill for the children of employees of the Senate, the House of Representatives, the Library of Congress, and the Supreme Court.

CAPITOL HILL CHILD CARE CENTER

Mr. McGOVERN. Mr. President, I have long been concerned for the children of Capitol Hill employees, having learned through my own conversations that quality child care facilities are not always available to them. In conjunction with the Congressional Clearinghouse on Women's Rights I recently sent a questionnaire to employees of the Senate, House of Representatives, Library of Congress, and Supreme Court, to specifically determine the extent to which child care is needed on Capitol Hill. The responses bear out my suspicions. They indicate an overwhelming need for this service. One hundred and fifty parents responded that at least one of their children would attend a child care center if it were located at, or near their place of work. Results of the questionnaire show that 190 children need this service. In order to respond to this need, I am today submitting a resolution to establish a child care center for the children of Capitol Hill employees.

There is not a Member of the Senate that is not aware of the increasing pressures placed on the American family. Unfortunately, Government policies can often exacerbate family burdens. High taxes, inflation, education costs, high medical bills, unemployment, and inadequate child care for children of working parents all help to contribute to family problems. Statistics bear out the bad situation: over 14 nations have a lower infant mortality rate than the United States; we continue to incarcerate young juvenile offenders when most should remain with their families; every year 1 million children are victims of child abuse, with 5,000 children dying as a result of these injuries; and it is estimated that one-fifth of our children have no regular source of health care.

Furthermore, we cannot ignore the fact that over 6.4 million children under the age of 6, and 22.5 million children ages 6 to 17, have mothers in the labor force. These children, for most of their waking hours, do not have their mother at home to take care of them. Many people contend that mothers seek employment because they are tired of raising their children. This is not true; most women are forced to work in order to support their families, in order to give them the things they need.

We know it can be difficult for families where both parents work. For many generations our society has described a good family as one where the father makes enough money to allow the mother to stay home and care for the children. Although social scientists tell us that children of working mothers are not necessarily disadvantaged, working parents fear that their children are being neglected. And unfortunately, in too many cases this is true. Children are neglected not because their parents are negligent, but because proper child care is not available.

There are millions of children in this country who come home after school to a locked, empty house. These "latch key" children have no relatives to take care of them; babysitters often have proved to be untrained or unavailable on a regular basis, and there are very few afterschool child programs available to them. The situation is worse for parents with preschool children. In the questionnaire that was sent to our employees, many parents commented that a child care center on Capitol Hill would be preferable to their present arrangement because their child is usually alone all day with a babysitter who is merely putting in time, and who pays very little attention to the child. Other parents wrote that they worry about the child being miles away from them during the day. If an emergency arises, mother or dad cannot be there to help and comfort their child.

We are all aware of the controversy surrounding Government funding of child care. Many legislators, parents, and concerned citizens are understandably skeptical of the Government's involvement in their lives. I appreciate this concern. But this would not be charity or welfare. All of the Capitol Hill employees interested in this service are paying for their present child care arrangements, and responded favorably to the questionnaire knowing that a Capitol Hill child care center would not be free of cost.

It is evident, however, that most parents who need this service for their children cannot afford the initial startup costs of a day care center. The U.S. Senate houses the restaurant, the credit union, the barber shop, and the Senate beauty salon services our employees need. Now we have substantial evidence of what would seem to be a more fundamental need for more adequate child care facilities to serve the children of our employees while their parents are at work.

Mr. President, we in the U.S. Senate have an opportunity to assist our staffs and their families. This effort is not without precedent. There are seven Government agencies in this city operating child care centers for the children of their employees. Many of these centers are operating successfully, experiencing

low drop-out rates, and have long waiting lists. By establishing a child care center on Capitol Hill, the home, in a sense, can be brought to the work place, bringing children and parents together. Lunch hours and/or coffee breaks could afford parents the opportunity to be with their children; eat lunch with them, participate in their activities. If a child becomes ill, the parent is immediately available. The psychological well-being of children and parents is supported in these ways. Parental work attendance also becomes more stable.

Mr. President, for these reasons I urge my colleagues to support this resolution creating child care facilities for Capitol Hill employees. The distinguished chairman of the Committee on House Administration, my longtime friend and colleague, Congressman FRANK THOMPSON of New Jersey is introducing a companion resolution in the other body.

AMENDMENTS SUBMITTED FOR PRINTING

DISTRICT OF COLUMBIA REPRESENTATION—HOUSE JOINT RESOLUTION 554

AMENDMENT NO. 3475

(Ordered to be printed and to lie on the table.)

Mr. HARRY F. BYRD, JR. submitted an amendment intended to be proposed by him to House Joint Resolution 554, proposing, an amendment to the Constition to provide for representation of the District of Columbia in the Congress.

(The remarks of Mr. HARRY F. BYRD, JR.) when he submitted the amendment appear elsewhere in today's proceedings.)

FEDERAL-AID HIGHWAY PROGRAMS—S. 3073

AMENDMENT NO. 3476

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed to S. 3073, a bill to amend title 23, United States Code, to authorize Federal-aid highway programs through fiscal year 1980, and for other purposes.

TARIFF TREATMENT OF FILM, STRIPS, SHEETS, AND PLATES OF CERTAIN PLASTICS OR RUBBER—H.R. 5285

AMENDMENT NO. 3477

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY (for himself, Mr. WILLIAMS, Mr. PELL, Mr. NELSON, Mr. CRANSTON, and Mr. HATHAWAY) submitted an amendment intended to be proposed by them, jointly, to H.R. 5285, an act to amend the tariff schedules of the United States with respect to the tariff treatment accorded to film, strips, sheets, and plates of certain plastics or rubber.

HOSPITAL COST CONTAINMENT

● Mr. KENNEDY. Mr. President, last year when I introduced the Hospital Cost Containment Act of 1977, I indicated that "Americans can no longer afford to pour unlimited dollars into our fragmented nonsystem of health care." In the intervening year, without any cost containment effort on the part of the hospitals, the cost of hospital care has gone up at a remarkable 16 percent—almost three times the rate of inflation in the general economy. In real dollars that is almost $10 billion. Unfortunately, this was not an isolated phenomenon—over the last 3 years the costs of hospital care have jumped almost 50 percent with no evidence that hospitals are making people healthier or that the quality of care has improved.

We can no longer just sit back and watch health costs continue to escalate at past rates. For too long we have allowed hospitals to be reimbursed at whatever level they wanted. Their budgets have been open-ended, and they have had no economic incentive to hold down cost. Ironically, our reimbursement system tends to encourage hospitals to add expensive new facilities, personnel, and technologies. We have encouraged more hospital beds than are needed, and today the consumer is bearing the burden of paying for the cost of greatly underutilized facilities, services, and equipment. A study by the prestigious Institute of Medicine documented that this Nation as a whole has at least 100,000 more hospital beds than it needs. These beds, which should be closed or used for other purposes are costing all of us well over $2 billion per year. We have been pouring so much money into hospitals for these extra beds, for unneeded tests, and for unnecessary surgery that we have not had money to spend on basic preventive health care.

The Hospital Cost Containment Act of 1977 that was ordered reported by the Committee on Human Resources on August 2, 1977, was designed to constrain the rate of increases in inpatient hospital costs through various incentives and limitations in hospital revenues. The bill, which was designed to be implemented quickly and simply, contained provisions for the development of permanent reforms that would increase efficiency, effectiveness, and quality of health care in the United States. It specifically provided for phasing in to a system that would classify hospitals according to size, geographical location, and other criteria which would reflect efficiency and services provided. The bill also provided that a system that more accurately measured the changes in hospital costs associated with changes in hospital volume, and a system that monitors, on a concurrent basis, shifts in case mix were to be developed. A cornerstone to the bill was the development of an inflation index specific to the hospital industry that would accurately reflect the rate of increases in prices of the inputs necessary for the production and delivery of hospital services.

Today, more than a year later, in part due to the lobbying efforts of the hospital industry and the AMA, we still have not enacted a bill that would constrain the rate of increase in hospital costs; tragically, instead we have watched the costs of hospital care continue to escalate at an alarming rate—$1 million an hour—$24 million a day—$168 million a week—and almost three-quarters of a billion dollars a month.

In the period since the Committee on Human Resources has reported the bill by a vote of 11 to 3, I have been working with new data in an attempt to further strengthen the bill and address the hospitals' assertions that the cost containment provisions would be applied retrospectively, and that they were not sensitive to the needs of the individual institutions. I believe that, because of the changes in the state of data collection and the greater sophistication within the Health Care Financing Administration, that we are now in a position to modify some of the original provisions, and some of these changes are included in a bill to be introduced by my distinguished colleaguc, Senator NELSON.

Mr. President, the Subcommittee on Health and Scientific Research held 5 days of hearings on S. 1391, "The Hospital Cost Containment Act of 1977" and after deliberations in both the subcommittee and in the Committee on Human Resources, the bill, as amended, was ordered reported to the Senate on August 2, 1977.

At that time a detailed report on that legislation was prepared and distributed as a committee print because, under the Senate Rules, legislation such as this which is jointly referred to two or more committees must be jointly reported. This effective cost containment bill has been left on the floor of the Senate Finance Committee.

Last week, the Senate Finance Committee reported a bill, H.R. 5285, which includes provisions that affect hospital reimbursements; unfortunately, those provisions will not significantly affect hospital cost escalation. The bill reported from the Committee on Human Resources would save almost $60 billion over the next 5 years. The Finance Committee bill reported last week would save less than 1 percent of that amount—less than $400 million over the next 5 years.

Mr. President, today I am submitting an amendment to H.R. 5285. This amendment is title I of the bill reported by the Committee on Human Resources—a bill which would save $60 billion. My distinguished colleagues Senators WILLIAMS, PELL, NELSON, CRANSTON and HATHAWAY have joined me as cosponsors. I am hopeful that this amendment will be enacted so that we can begin to effectively slow down the rising costs of health care.

Mr. President, so that my colleagues and their staffs may have the benefit of the deliberation of the Committee on Human Resources, I ask unanimous consent that the amendment and portions of an analysis prepared by the Committee on Human Resources of title I of the bill reported by the committee be printed in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3477

Beginning on page 3, line 1, strike out through line 19, page 20, and substitute the following:

REPORT ON PERMANENT REFORM IN THE DELIVERY AND FINANCING OF HEALTH CARE

SEC. 2. The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall submit to the Congress, no later than March 1, 1979, a report setting forth his recommendations for permanent reforms in the delivery and financing of health care which will increase the efficiency, effectiveness, and quality of health care in the United States and which will replace the transitional provisions of.

TITLE I—TRANSITIONAL HOSPITAL COST CONSTRAINT PROVISIONS

PART A—PURPOSE OF THE PROGRAM

SEC. 101. It is the purpose of the transitional hospital cost containment program established by this title to constrain the rate of increase in total hospital inpatient costs, beginning January 1, 1979, and continuing until the adoption of the permanent reforms referred to in section , by limiting the amount of revenue which may be received by the hospitals that are subject to the provisions of this title from Government programs, private insurers, and individuals who pay directly for hospital care.

PART B—ESTABLISHMENT OF HOSPITAL COST CONTAINMENT PROGRAM

IMPOSITION OF LIMIT ON HOSPITAL REVENUE INCREASES

SEC. 111. (a) The average reimbursement payable per admission to a hospital by any cost payer, and the average inpatient charges per admission of a hospital for any accounting year any part of which occurs after December 31, 1978, may not (except as provided in subsection (b), or in section 114, 115, 117, 118, 119, 124, or 131) exceed such average reimbursement payable per admission or such average inpatient charges per admission, respectively, for the hospital's base accounting year adjusted by a percentage equal to the product of the following factors—

(1) one hundred plus the percentage by which the hospital's costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) would have increased in the period after the close of the hospital's base accounting year and prior to January 1, 1979, if such costs had increased (during that period) at the average annual rate of increase in the hospital's costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) during the two-year period ending with the close of such base accounting year, except that such percentage as applied for purposes of this section shall not be more than 15 per centum nor less than 6 per centum.

(2) one hundred plus the percentage by which such average reimbursement payable per admission or average inpatient charges per admission would have increased in the period after December 31, 1978 (or after the close of the hospital's base accounting year, if later), and prior to the first day of the accounting year for which the limit is being imposed if such average reimbursement payable per admission or average inpatient charges per admission had increased (during such period) at an annual rate equal to the inpatient hospital revenue increase limit determined and promulgated under section 112(b), and

(3) one hundred plus the percentage by which such average reimbursement payable per admission or average inpatient charges per admission would increase (or decrease) in the hospital's accounting year (except for any part thereof occurring before January 1, 1979) for which the limit is being imposed if such average reimbursement payable per admission or average inpatient charges per admission increase (or decrease) during such accounting year at an annual rate equal to the adjusted inpatient hospital revenue increase limit applicable to the hospital under section 112(a).

(b) For an accounting year which ends after December 31, 1978, but before December 31, 1979, the ceiling established under subsection (a) for average inpatient charges per admission of a hospital and for average reimbursement payable per admission to that hospital by each cost payer shall be applied only to that percentage of the inpatient charges or reimbursement paid, respectively, as the number of days in that accounting year occurring after December 31, 1978, is of the total number of days in that accounting year.

(c) For purposes of subsection (a), in the case of the admission of an individual whose inpatient hospital services are paid for in part by more than one cost payer, the admission shall be attributed to the cost payer which pays for any such services excluding any amounts paid as a deductible by a cost payer.

DETERMINATION OF ADJUSTED INPATIENT HOSPITAL REVENUE INCREASE LIMIT

SEC. 112. (a) The "adjusted inpatient hospital revenue increase limit" which is applicable to any hospital for purposes of section 111(a)(3) with respect to any accounting year shall (subject to sections 124 and 131) be equal to the inpatient hospital revenue increase limit determined and promulgated under subsection (b) of this section for the twelve-month period in which such accounting year ends, modified by the application of the "volume load formula" which is promulgated under section 113 and applied to that hospital.

(b)(1) Between October 1 and December 31 of each calendar year beginning with 1978, the Secretary shall promulgate a figure which (subject to paragraph 2)) shall be the "inpatient hospital revenue increase limit" applicable to accounting years ending in the twelve-month period beginning January 1 of the next year. Such figure shall be, except as provided in section 131, the sum of—

(A) the rate of increase in the implicit price deflator of the gross national product as calculated by the Bureau of Economic Analysis of the Department of Commerce and published in the Survey of Current Business (hereinafter in this title referred to as the "GNP deflator") for the twelve-month period ending September 30 of such year over the GNP deflator for the previous twelve-month period and

(B) one-third of the difference between—

(i) the average annual rate of increase in total expenditures of hospitals (or distinct parts thereof) which satisfy the requirements of section 121(a) which is found by the Secretary to have occurred during the two previous calendar years, and

(ii) the average annual rate of increase in the GNP deflator for the two previous calendar years.

(2) If the Secretary finds that for any twelve-month period for which a figure is promulgated under paragraph (1) the GNP deflator with respect to such period has exceeded or is expected to exceed by more than 1 percentage point the GNP deflator which was used in making the determination under paragraph (1) (or in making a prior adjustment under this paragraph), the Secretary shall increase (or further increase) the GNP deflator so used by the amount of such excess; except that no adjustment made under this paragraph shall be effective with respect to any accounting year ending prior to the calendar quarter preceding the calendar quarter in which such adjustment is made.

PROMULGATION OF VOLUME LOAD FORMULA

SEC. 113. (a) The volume load formula shall be promulgated by the Secretary within thirty days after the date of enactment of this Act. It shall be defined for any accounting year for which an adjusted inpatient hospital revenue increase limit is determined as the average of—

(1) the per centum change in the number of admissions since the base year, and

(2) the per centum change in the number of patient days since the base year.

(b) The volume load formula shall be applied to generate an adjusted inpatient hospital revenue increase limit for each hospital applicable to the average inpatient charges per admission of the hospital and to the average reimbursement payable per admission to the hospital by each cost payer, and for a hospital whose volume load (in the accounting year to which the adjusted inpatient hospital revenue increase limit applies)—

(1) increases by less than 2 per centum or declines by less than 10 per centum of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted by the inpatient hospital revenue increase limit if there were no change in volume load,

(2) increases by 2 per centum or more but less than 15 per centum of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the sum of (A) the amount specified under clause (1), and (B) one-half of the amount specified under clause (1) multiplied by the increase in volume load above the 2 per centum limit.

(3) declines by 10 per centum or more but by less than 15 per centum of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the difference between (A) the amount specified under clause (1), and (B) one-half of the amount specified under clause (1) multiplied by the decline in volume load below the 10 per centum limit,

(4) increases by 15 per centum or more of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the greatest maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted under clause (2), or

(5) decreases by 15 per centum or more of the total volume load in the hospital's base accounting year, the maximum total inpatient charges and the maximum reimbursements payable by cost payers permitted for that accounting year shall equal the difference between (A) the smallest maximum total inpatient charges and the smallest maximum reimbursements payable by cost payers permitted under clause (3), and (B) the amount specified under clause (1) multiplied by the decline in volume load below the 15 per centum limit.

BASE ACCOUNTING YEAR AND MODIFICATION OF CHARGES AND REIMBURSEMENT FOR THAT YEAR

SEC. 114. (a) For purposes of this title, a hospital's "base accounting year" is its accounting year which ended in 1977, or, if later, the second accounting year during all of which the hospital has been a hospital as defined in section 121.

(b) For purposes of calculating under section 111(a) the average inpatient charges per admission of a hospital and the average reimbursement payable per admission to the hospital by each cost payer for the base

accounting year, the inpatient charges of the hospital (and the reimbursement payable to the hospital by a cost payer) for the base accounting year shall (except as provided in subsection (c)) be reduced by an amount equal to any inpatient charges (in the case of a cost payer, inpatient charges attributable to that cost payer) for such base accounting year for element of inpatient hospital services which cease to be furnished in an accounting year which is subject to this title, multiplied by the portion of that accounting year (or part thereof) subject to this title during which such services are not furnished.

(c) Subsection (b) shall not apply with respect to inpatient hospital services which have been found to be not appropriate pursuant to section 1523(a)(6) of the Public Health Service Act by the State health planning and development agency designated under section 1521 of such Act for the State in which the hospital is located.

ESTABLISHMENT OF EXCEPTIONS

SEC. 115. (a) Upon request by a hospital, the Secretary may grant exceptions from the limits established under this title to such hospital to the extent that such hospital provides evidence satisfactory to the Secretary—

(1) of the extent to which costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act) for such hospital in an accounting year exceed such costs in the base accounting year as the result of—

(A) changes in volume load in the range specified in clause (4) or (5) of section 113, or

(B) changes in capacity or in the character of inpatient hospital services available in the hospital, or renovation or replacement of physical plant which changes, renovation, or replacement increase costs for inpatient hospital services per admission by more than the per centum specified in section 112(b)(1)(B) over costs for inpatient hospital services per admission in the previous accounting year; and

(2) that the current ratio of assets to liabilities (determined in accordance with the last sentence of this subsection) is less than two; and

(3) that the changes in volume load, capacity, or character of inpatient hospital services, or the renovation or replacement generating the excess costs described in paragraph (1) have been found, pursuant to section 1523 of the Public Health Service, to be needed or appropriate by the State health planning and development agency designated under section 1521 of such Act for the State in which such hospital is located.

For purposes of paragraph (2), the term "current ratio of assets to liabilities", with respect to any hospital, means the sum of the cash, notes and accounts receivable (less reserves for bad debts), marketable securities, and inventories held by such hospital divided by the sum of all liabilities of that hospital falling due in an accounting year for which the exception is requested under this section.

(b) Upon request by a hospital, the Secretary may grant exceptions from the limits established under this title to such hospital to the extent that such hospital provides evidence satisfactory to the Secretary that—

(1) there has been a change in the inpatient hospital services for such hospital for which reimbursement is payable by a cost payer, or the basis on which the reimbursement payable by a cost payer is calculated has changed, or

(2) the percentage of inpatient charges attributable to any cost payer has changed for such hospital, and such change has reduced the total revenue of such hospital by at least the per centum specified in section 112(b)(1)(B) of the costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act).

(c) The Secretary shall either approve any request for an exception made by a hospital under subsection (a) or (b), or deny such request, within a period not to exceed ninety days after the hospital has filed in a manner and form prescribed by the Secretary the evidence required by such subsection. (If such hospital has not received written notice within fifteen days that such request has not been filed in such manner and form, such request shall be deemed to have been filed in the prescribed manner and form.) Any such request not denied within such ninety-day period shall be deemed approved.

(d) Any hospital granted an exception under subsection (a) shall make itself available for an operational review by the Secretary. As a result of such review, the Secretary may make recommendations to such hospital for improvements to increase such hospital's efficiency and economy. The Secretary may discontinue, after notice and an opportunity for a hearing on the record, any such exception for failure of the hospital to implement any such recommendation.

(e)(1) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (a)(1)(A), the upper or lower 15 per centum limitation specified in clauses (2) and (3), respectively, of section 113(b) shall be permanently changed for that hospital to the upper or lower per centum limitation determined by the Secretary.

(2) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (a)(1)(B), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year and all subsequent accounting years (and the limit on the allowable rate of increase under section 111 for charges imposed by the hospital and reimbursement from its cost payers shall be adjusted upward accordingly) in an amount no greater than the amount the Secretary estimates, at the time he grants the exception, is necessary to maintain the current ratio of its assets to liabilities (determined in accordance with the last sentence of subsection (a)) at the level specified in subsection (a)(2).

(3) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (b)(1), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year and all subsequent accounting years (and the limit on the allowable rate of increase under section 111 for charges imposed by the hospital and reimbursement from its cost payers shall be adjusted upward accordingly) in an amount equal to the amount the Secretary estimates, at the time he grants the exception, is necessary to offset the loss in revenue caused by the changes for which the exception was granted.

(4) If the Secretary grants an exception with respect to any accounting year to a hospital on the grounds set forth in subsection (b)(2), such hospital shall be allowed increased total revenue for purposes of this title for such accounting year (and the limit on the allowable rate of increase under section 111 for charges imposed by the hospital and reimbursement from its cost payers shall be adjusted upward accordingly) in an amount equal to the amount the Secretary estimates, at the time he grants the exception, is necessary to offset the loss in revenue caused by the changes for which the exception was granted.

(f)(1) Any hospital, or any entity described in section 1842(f)(1) of the Social Security Act, which is dissatisfied with a determination of the Secretary made under this section may obtain a hearing before the Provider Reimbursement Review Board established under section 1878 of the Social Security Act, if the amount in controversy is $10,000 or more and the request for such hearing is filed within one hundred and eighty days after receipt of the Secretary's determination.

(2) The Secretary (notwithstanding section 1878(h) of the Social Security Act) shall appoint five additional members to the Provider Reimbursement Review Board, following the specifications for expertise applicable to the existing five members. Such five additional members shall constitute the Board for purposes of reviewing appeals under this title. The other provisions of subsections (c), (d), (e), (f), (h), and (i) of section 1878 of the Social Security Act shall apply, except that the Board as so constituted shall be considered as reviewing decisions of the Secretary rather than of a fiscal intermediary.

(g) Upon request by a hospital, the State health planning and development agency designated under section 1521 of the Public Health Service Act for the State in which the hospital is located shall make a finding as to the appropriateness of specific institutional health services for purposes of subsection (a)(3) or section 114(c) of this title, after requesting the recommendations of the appropriate health systems agency. The finding of a State health planning and development agency under this subsection shall not be subject to further review.

ENFORCEMENT

SEC. 116. (a) Notwithstanding any provision of title XVIII of the Social Security Act, reimbursement for inpatient hospital services under the program established by that title shall not be payable, on an interim basis or in final settlement, to the extent that it exceeds the applicable limits established under this title or under the program for a State whose hospitals have been excluded under section 117 or 119 from the application of this title.

(b) Notwithstanding any provision of title V or XIX of such Act, payment shall not be required to be made by any State under either such title with respect to any amount paid for inpatient hospital services in excess of the applicable limits established under this title; nor shall payment be made to any State under either such title with respect to any amount paid for inpatient hospital services in excess of such limits.

(c) Notwithstanding any other provision of law, the imposition by any hospital of inpatient charges in excess of the applicable limit established under this title, or any payment by any cost payer (as defined in section 122(e)(2)) for inpatient hospital services in excess of such limit, shall subject such hospital or cost payer—

(1) to the Federal excise tax imposed by section 4991 of the Internal Revenue Code of 1954 (as added by section 128 of this Act), and

(2) to exclusion, at the discretion of the Secretary, from participation in any or all of the programs established by title V, XVIII, or XIX of the Social Security Act.

(d) Any hospital shall be exempt from the penalties set forth in subsection (c) if it holds in escrow an amount equal to its inpatient charges in excess of the applicable limit established under this title multiplied by the percentage of such charges not attributable to cost payers until such time as future inpatient hospital charges fall below the applicable limits established under this title, in an amount equal to the amount in escrow; but any such hospital which fails to do so shall be subject to such penalties.

EXEMPTION FOR HOSPITALS IN CERTAIN STATES

SEC. 117. At the request of the Governor (or other chief executive) of any State the Secretary may exclude from the application of this title except for sections 125 and 126 all hospitals (as defined in section 121(c)) physically located in such State if—

(a) the Secretary finds that such State has in operation as of the date of such request a program capable of containing hospital costs for inpatient hospital services in the State which covers at least 90 per centum of the hospitals in the State which would otherwise be covered under the program established by this title;

(b) the Secretary finds that the State program applies at least to all revenues for inpatient hospital services of hospitals covered by the program and has applied for at least one year prior to the date of such request to at least half of those revenues (excluding revenues received under title XVIII of the Social Security Act);

(c) the Governor (or chief executive) certifies, and the Secretary determines, that the aggregate rate of increase in revenues over the previous accounting year for inpatient hospital services for all hospitals in the State will not (1) exceed 110 per centum of the inpatient hospital revenue increase limit determined pursuant to paragraphs (b)(1) and (b)(2) of section 112, except that, at the option of the State, the above limit shall increase by the amount of increases in revenues attributable to increases in regular wages (as defined in section 124(b)(1)) which are exempt under section 124, nor (2) be less than the increase in the GNP deflator applicable to that fiscal period; and

(d) the Governor (or chief executive) has submitted, and had approved by the Secretary, a plan for recovering any excess of total revenue which (notwithstanding paragraph (c)) may occur.

EXEMPTION FOR HOSPITALS ENGAGED IN CERTAIN EXPERIMENTS OR DEMONSTRATIONS

SEC. 118. A hospital or group of hospitals (as defined in section 121(c)) may be excluded from the application of this title except for sections 125 and 126 if the Secretary determines that (1) such exclusion is necessary to facilitate or continue an experiment or demonstration entered into under section 402 of the Social Security Amendments of 1967, section 222 of the Social Security Amendments of 1972, or section 1526 of the Public Health Service Act, and (2) such experiment or such demonstration is not inconsistent with the provisions of this title.

EXEMPTION FOR STATES WITH COST CONTAINMENT PROGRAMS

SEC. 119. (a) Any State may submit to the Secretary a plan for a hospital cost containment program for approval. The Secretary shall approve such a program and exempt from the application of this title except for sections 125 and 126 all hospitals (as defined in section 121(c)) physically located in such State if the Secretary determines that such program—

(1) designates an identifiable unit of State government which has the authority to supervise the administration of the program;

(2) provides for a methodology to assure that the aggregate rate of increase in revenues for inpatient hospital services over the previous year for all hospitals in the State will not exceed 110 per centum of the inpatient hospital revenue increase limit determined pursuant to paragraphs (b)(1) and (b)(2) of section 112 nor be less than the increase in the GNP deflator applicable to that fiscal period. Such methodology may include alternative methods for classifying hospitals, for establishing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system, in order to stimulate hospitals through positive (or negative) financial incentives to use their facilities and personnel more efficiently without adversely affecting the quality of services;

(3) includes a methodology for the recovery of any excess of total revenues which (notwithstanding paragraph (2)) may occur;

(4) provides for sanctions and enforcement procedures adequate to insure compliance with the program;

(5) provides for uniform definition of all costs;

(6) provides for the evaluation of standards of institutional performance;

(7) provides that the limit specified in paragraph (2) shall increase by the amount of increase in regular wages (as defined in section 124(b)(1)); and

(8) provides for compliance with such other criteria as the Secretary deems necessary to accomplish the purposes of this title and which are not inconsistent with the provisions of this title.

(b) The Secretary may make grants to any State which has an approved program pursuant to subsection (a) to assist such State in the implementation of its program. For the purposes of this subsection, there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1979, and such sums shall remain available until expended.

(c) The Secretary shall promulgate regulations to implement this section within one hundred and eighty days of the date of enactment of this Act.

REVOCATION OF EXEMPTIONS UNDER SECTIONS 117, 118, AND 119

SEC. 120. (a) The Secretary shall review annually any program, experiment, or demonstration that has received an exemption pursuant to section 117, 118, or 119 to determine whether such program, experiment, or demonstration is in compliance with such section and the regulations promulgated thereunder. The Secretary may revoke, after notice and an opportunity for a hearing on the record, any such exemption if he determines that such exemption is no longer justified because the conditions for such exemption are no longer being met.

(b) Upon revocation of an exemption awarded under section 117, 118, or 119 each hospital that would otherwise be subject to this title will be subject to the limits established under this title for each full accounting year as defined by section 122(a)(1) any part of which was not subject to the program, experiment, or demonstration established under section 117, 118, or 119.

PART C—DEFINITIONS AND MISCELLANEOUS PROVISIONS

DEFINITION OF HOSPITAL AND APPLICABILITY OF TITLE

SEC. 121. (a) For purposes of this title (subject to subsection (b), (c), and (d) of this section), the term "hospital", with respect to any accounting year, means an institution (including a distinct part of an institution if the distinct part participates in the program established under title XVIII of the Social Security Act) which—

(1) satisfies clauses (1) and (7) of section 1861(e) of the Social Security Act, and

(2) had an average duration of stay of thirty days or less in the preceding accounting year.

(b) A hospital shall not be subject to this title except for the purposes of sections 125 and 126 for an accounting year if it—

(1) has met the conditions specified in subsection (a) (under present and previous ownership) for less than two years before such accounting year;

(2) derives more than 75 per centum of its inpatient care revenues, disregarding revenues received under title XVIII of the Social Security Act, from one or more health maintenance organizations (as defined in section 1301(a) of the Public Health Service Act) during such accounting year;

(3) has had, in the three accounting years preceding such accounting year, average annual admissions of two thousand or less; or

(4) has had in the three accounting years preceding such accounting year, average admissions that are greater than two thousand and less than four thousand; is a sole community provider, as defined by the Secretary; and, is not physically located within a Standard Metropolitan Statistical Area.

(c) For the purposes of sections 117, 118, and 119, the term "hospital", with respect to any accounting year, means an institution (including a distinct part of an institution if the distinct part participates in the program established under title XVIII of the Social Security Act) which meets the requirements of paragraphs (1) and (2) of subsection (a) except that a hospital shall not be subject to the provisions of such sections if it meets the requirements of paragraph (2) of subsection (b).

(d) A hospital shall not be subject to any provisions of this title if it is a Federal hospital.

OTHER DEFINITIONS

SEC. 122. For purposes of this title—

Accounting Year

(a)(1) The term "accounting year" means except as provided in paragraph (2),—

(A) in the case of a hospital participating in the program established by title XVIII of the Social Security Act, a period of twelve consecutive full calendar months including the same months as the last full reporting period allowed for reimbursement purposes under such title; and

(B) in the case of a hospital not participating in the program established by title XVIII of the Social Security Act, a calendar year, or, if requested by the hospital, such other period of twelve consecutive full calendar months as the Secretary may designate.

(2) The Secretary may establish an "accounting year" of less than twelve months, and make appropriate adjustments in the application of this title to that period, for an entity whose "accounting year" under paragraph (1) is changed from one twelve month period to another or for other reasons that the Secretary deems appropriate.

Inpatient Hospital Services

(b) The term "inpatient hospital services" has the meaning given it by section 1861(b) of the Social Security Act including in addition the services otherwise excluded by paragraph (5) thereof.

Inpatient Charges

(c) The term "inpatient charges" means (1) charges (as defined in section 405.452(d)(4) of title 20 of the Code of Federal Regulations as in effect on the date of enactment of this Act) for inpatient hospital services or (2) except for purposes of subsection (e), the hospitals costs for inpatient hospital services (as calculated for purposes of title XVIII of the Social Security Act), if such costs are greater than the charges as defined in clause (1).

Admission

(d) The term "admission" means the formal acceptance of an inpatient by a hospital, excluding newborn children (unless retained after discharge of the mother) and excluding transfers within inpatient units of the same institution.

Cost Payer

(e) The term "cost payer" means—

(1) a program established under title V, XVIII, or XIX of the Social Security Act, and

(2) any organization which (A) meets the definition in section 1842(f)(1) of the Social Security Act, and (B) reimburses a hospital subject to this title for inpatient hospital services on a basis related to the hospital's costs in furnishing those services or on any other basis other than inpatient charges.

(f) The term "reimbursement payable by a cost payer" means the sum of—

(1) the amounts payable by the cost payer to a hospital for inpatient hospital services, and

(2) the amounts payable by an individual to the hospital for inpatient hospital services if the individual's expenses for such services are payable in part by the cost payer, to the extent that those amounts are calculated as a portion of the costs or other basis on which the amounts payable by the cost payer are determined.

State

(g) The term "State" includes Puerto Rico, Guam, the District of Columbia, and the Virgin Islands.

DETERMINATION OF INPATIENT REIMBURSEMENT

SEC. 123. For purposes of section 111, inpatient reimbursement under a program established under title V, XVIII, or XIX of the Social Security Act shall be determined without regard to adjustments resulting from the application of section 405.460(g), 405.455(d), 405.415(f), or 405.415(d)(3) of title 20 of the Code of Federal Regulations.

EXEMPTION OF NONSUPERVISORY PERSONNEL WAGE INCREASES FROM REVENUE LIMIT

SEC. 124. (a) The Secretary shall modify the inpatient hospital revenue increase limit (for purposes of section 111(a)(2)) and the adjusted inpatient hospital revenue increase limit (for purposes of section 111(a)(3)) otherwise established for any hospital which is subject to the provisions of this title except for those hospitals exempted pursuant to section 117, 118 or 119 for any accounting year beginning before April 1980, as prescribed in subsection (b).

(b) Such modified limits for any accounting year shall be calculated by adding together—

(1) the average percentage increase in regular wages (as that term is used for purposes of the Fair Labor Standards Act of 1938) per employee per hour granted to employees other than doctors of medicine or osteopathy and supervisors (as defined in section 2(12) of the National Labor Relations Act) during that accounting year multiplied by the percentage of total costs for in-patient hospital services (as calculated for purposes of title XVIII of the Social Security Act) attributable to such wages in the preceding accounting year; and

(2) the adjusted inpatient hospital revenue increase limit otherwise applicable to the hospital for that accounting year under this title multiplied by the percentage of such costs attributable to all other expenses in the preceding accounting year; and

(3) 100 percent plus the average percentage increase in regular wages (as defined in clause (1)) per employee per hour granted to employees specified in clause (1), multiplied by the product of (A) the percentage of total costs for inpatient hospital services (as calculated under clause (1)) attributable to such wages in the preceding accounting year, and (B) the fractional increase in the average number of such employees in the accounting year for which the modified limit is calculated over the average number of such employees in the preceding accounting year; provided, that the total percentage determined under this clause may not exceed the difference between the percentage which would be obtained under clause (1) if the adjusted inpatient hospital revenue increase limit were used instead of the average percentage increase in regular wages per employee per hour, and the percentage actually calculated under clause (1).

(c) The modified inpatient hospital revenue increase limit and adjusted inpatient hospital revenue increase limit established under subsection (b) for any hospital with respect to any accounting year shall constitute such hospital's inpatient hospital revenue increase limit under section 111(a)(2) or, as appropriate, the adjusted inpatient hospital revenue increase limit under section 111(a)(3), for such accounting year for all purposes of this title.

DISCLOSURE OF FISCAL INFORMATION

SEC. 125. (a) Every hospital shall submit to the health systems agency designed under section 1515 of the Public Health Service Act for the health service area in which it is located by March 1 and September 1 of each year, a report, in a form prescribed by the Secretary, the rates charged for each of the 30 most frequently used hospital services, as specified by the Secretary, including the average semiprivate and private room rates.

(b) Each such hospital shall submit annually to such health systems agency, within ninety days of the close of each such hospital's accounting year, a report, in a form prescribed by the Secretary, which contains information, as specified by the Secretary, describing the ownership, management, and financial status of each such hospital including:

(1) a balance sheet as of the end of such accounting year, setting forth assets and liabilities at such date, including all capital, surplus, reserve, and depreciation;

(2) a statement of operations for such accounting year, setting forth all operating and non-operating revenues and expenses including the percent increase in wages for nonsupervisory personnel during such accounting year (including a comparison with all previous accounting years subsequent to the date of enactment of this Act);

(3) the name and address of any person—

(A) who has (directly or indirectly) an ownership, lease or rental interest of 5 per centum or more in such hospital, or who is the owner (directly or indirectly) of an interest of 5 per centum or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such hospital or any of the property or assets thereof, or

(B) who is an officer or director of the hospital if it is organized as a corporation; and

(4) the name and address of any individual, corporation, partnership or other legal entity with whom the hospital has had, during the previous twelve months, business transactions in an aggregate amount in excess of $5,000 if a person described in paragraph (3) or a person who exercises discretionary authority or discretionary control respecting the financial management of the hospital (A) is such an individual or (B) has (directly or indirectly) an ownership interest of 5 per centum or more in such corporation, partnership or other legal entity; and

(5) the names and annual compensation including salary and benefit increases of the hospital's principal operating personnel, as defined by the Secretary.

(c) Every hospital shall submit annually to such health systems agency all costs reports submitted to each cost payer, as defined in section 122(e) of this Act, and its overall plan and budget described in section 1861(z) of the Social Security Act (if it participates in the program established by title XVIII of that Act).

(d) If a hospital fails to fully comply with the requirements of subparagraph (a), (b), and (c) and any regulation promulgated thereunder, the Secretary shall notify the hospital and any payment due to such hospital pursuant to titles XVIII, XIX, and XX of the Social Security Act or any other program supported in whole or in part by funds supplied by the United States shall be reduced by 10 per centum effective with the date of such notice and such reduction shall continue in effect until the hospital fully complies with the requirements of subparagraphs (a), (b), and (c) or any regulation promulgated thereunder: *Provided*, That if the Secretary finds that the hospital has fully complied with such requirements within ninety days of notification by the Secretary of a violation, the Secretary may, in his discretion, waive all or part of the reduction in payments prescribed herein.

(e) Each such health systems agency shall make available to the public for inspection and copying (at the reasonable expense of the public) the information supplied to the health systems agency pursuant to this section in readily understandable language and in a manner designed to facilitate comparisons among the hospitals in the health system agency's health service area.

IMPROPER CHANGES IN ADMISSION PRACTICES

SEC. 126. Upon written complaint by any person that one of more hospitals has changed its admission practices in a manner that would tend to reduce the proportion of inpatients of such hospital or hospitals for whom reimbursement is less than the anticipated inpatient charges applicable to such inpatients, the Secretary shall investigate the complaint. The Secretary may impose, after notice and an opportunity for a hearing on the record, the sanction set forth in section 116(c)(2) if he determines that such complaint is justified.

REVIEW OF CERTAIN DETERMINATIONS

SEC. 127. Any determinations made on behalf of the Secretary under this title with respect to the application of its provisions to individual hospitals (other than determinations made under section 115 or 126) shall be subject to the provisions of section 1878 of the Social Security Act in the same manner as determinations with respect to the amount of reimbursement due a provider of services under title XVIII of such Act.

EXCISE TAX ON EXCESSVE PAYMENTS FOR INPATIENT HOSPITAL SERVICES

SEC. 128. (a) Subtitle D of the Internal Revenue Code of 1954 (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 45—TAX ON CERTAIN EXCESSIVE PAYMENTS FOR INPATIENT HOSPITAL SERVICES

"Sec. 4991. Imposition of tax.

"SEC. 4991. IMPOSITION OF TAX

"(a) IN GENERAL.—(1) There is hereby imposed, with respect to the receipt by any hospital of any payment made by any cost payer for inpatient hospital services in excess of the applicable limit established by , and with respect to any payment made by any cost payer as defined in section 122(e)(2) of such Act for inpatient hospital services in excess of such limit, a tax equal to 150 percent of the amount of such excess. The tax imposed by this paragraph shall be paid both by the hospital and by the cost payer.

"(2) There is hereby imposed, with respect to the inpatient charges of any hospital in excess of the applicable limits established by multiplied by the percentage of such charges not attributable to cost payers, a tax equal to 150 percent of the amount of such excess. The tax imposed by this paragraph shall be paid by the hospital.

"(b) EXCEPTION.—The tax imposed by subsection (a)(2) shall not apply with respect to any hospital so long as it is determined by the Secretary of Health, Education, and Welfare to be taking the corrective action described in section 116(d)(2) of the .

"(c) DEFINITIONS.—Terms used in subsections (a) and (b) have the meanings given them by .

"(d) ADMINISTRATION.—Under and to the extent provided by regulations of the Secretary, the appropriate provisions of subtitle F (relating to procedure and administration) shall be made applicable with respect to the tax imposed by subsection (a) of this section.".

(b) The table of chapters for subtitle D of such Code is amended by adding at the end thereof the following new item:

"Chapter 45. Tax on certain excessive payments for inpatient hospital services.".

EFFECT OF ACT ON PAYMENTS BELOW THE ESTABLISHED LIMITS

SEC. 129. This Act shall not require any Federal or State program or any person to pay a hospital more than that program or person would have been required to pay had this Act not been enacted.

CITIZEN'S CIVIL ACTIONS

SEC. 130. (a) Except as provided in paragraph (b) of this section any person may commence a civil action for injunctive relief, including interim equitable relief, on his own behalf, whenever such action consitutes a case or controversy—

(1) against any person (including the Secretary) who is alleged to be in violation of section 125, 126, 128, or 129 of this title or any regulation promulgated thereunder; or

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty pursuant to section 125, 126, 128, or 129 of this title or any regulation promulgated thereunder.

The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount of controversy, or of the citizenship of the parties.

(b) No civil action may be commenced—

(1) under paragraph (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation to the Secretary and to any alleged violator in such manner as the Secretary may by regulation require; or

(B) if the Attorney General or the Secretary has commenced and is diligently pursuing judicial proceedings or administrative action with respect to such alleged violation; or

(2) under paragraph (a)(2) of this section, prior to sixty days after the plaintiff has given notice to the Secretary of such alleged failure to perform an act or duty.

(c) In any action under this section, the Attorney General or the Secretary may intervene as a matter of right. The decision and rulings of the court, in any judicial proceeding commenced under this section, shall not be a bar to the institution of any judicial proceeding or administrative action by the Secretary against a party to such judicial proceeding. No factual finding by such court shall be determinative as to any fact in any subsequent judicial proceeding or administrative action brought by the Secretary, unless the Secretary is a party to the proceeding under this section.

(d) The court, in issuing any final order in any action brought pursuant to subsection (a), may award costs of litigation (including a reasonable attorney's fee, based on the prevailing rates for such services, and expert witness fees) to any party, whenever the court determines that such an award is appropriate.

(e) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or at common law to seek enforcement of any regulation or order or to seek any other relief.

(f) Nothing in this section shall require the disclosure of any trade secret information or any other confidential information except as provided by the Federal Rules of Civil Procedure.

SEC. 131. (a) Within one year of the date of enactment of this Act, the Secretary shall—

(1) after consultation with the Bureau of Labor Statistics of the Department of Labor, the Bureau of Economic Analysis of the Department of Commerce, and other appropriate public and private organizations, promulgate a figure that more accurately reflects the rate of increase in the prices of the inputs necessary for the production and delivery of hospital services. Such figure shall replace the figure promulgated pursuant to section 112 as the new inpatient hospital revenue increase limit; and

(2) make any changes in the exceptions process established by section 115 as deemed necessary or appropriate by the Secretary as a result of the promulgation of the new inpatient hospital revenue increase limit pursuant to paragraph (1) of this section. The Secretary shall make such changes in order to insure that—

(A) only hospitals that are experiencing financial crises, as defined by the Secretary, and that have not incurred expenses in excess of those found to be necessary pursuant to section 1861(v)(1)(A) of the Social Security Act are allowed to receive exceptions; and

(B) exceptions will only be granted to hospitals that qualify under clause (A) and that have—

(i) experienced an unforseeable or unavoidable rise in the price of malpractice insurance, other liability insurance, energy or such other items as the Secretary deems appropriate which result in hospital expenditures in excess of the figure promulgated pursuant to paragraph (1) of this subsection;

(ii) experienced a change in patient mix resulting from expanded institutional capacity provided such expansion has been either found by a State health planning and development agency designated under section 1521 of the Public Health Service Act to be in conformity with applicable standards, criteria, and plans under an agreement pursuant to section 1122 of the Social Security Act or approved by such agency under a certificate-of-need program which is satisfactory to the Secretary under section 1523(a)(4) of the Public Health Service Act;

(iii) experienced unusual increased expenses, as defined by the Secretary, associated with the closing, modifying, or changing usage of all or part of its facilities by eliminating excess bed capacity; discontinuing an underutilized service for which there are adequate alternative sources; or, substituting for the underutilized service some other service which is needed in the area and which is consistent with the findings of an appropriate health planning agency; or

(iv) experienced such other change in condition that the Secretary deems an appropriate justification for an exception:

Provided, That such reasons for hospitals qualifying for exceptions as set forth in clauses (i) through (iv) have been found pursuant to section 1523 of the Public Health Service Act to be needed or appropriate by the State health planning and development agency designated under section 1521 of such Act for the State in which the hospital requesting the exception is located.

(b) The changes in the inpatient hospital revenue increase limit and the exceptions process prescribed by subsection (a) shall apply to hospitals for their accounting years commencing after such changes are in effect.

(c) Any changes made pursuant to sections (a)(1) and (a)(2) shall become effective after sixty days of continuous session of the Congress after the Secretary has submitted such changes to the Congress together with a detailed statement of the reasons underlying such changes, unless either House passes a resolution during such sixty-day period stating in substance that it does not favor such changes.

SEC. 132. The Secretary, after consultation with appropriate public and private organizations, shall establish within one year of the date of enactment of this Act the following:

(a) an accounting and uniform functional cost reporting system (including uniform procedures for allocation of costs) for determining operating and capital costs of hospitals providing services.

(b) a system which will classify hospitals according to size, geographical location, and other criteria which will reflect efficiency and services provided;

(c) a system that more accurately measures the changes in hospital cost associated with changes in hospital volume;

(d) a system that monitors, on a current basis, shifts in case mix including shifts of cases with higher than average costs per admission:

(e) a system that measures the output of hospitals which includes a way to identify hospitals that provide better than average care than hospitals of similar characteristics; and

(f) a system that would reimburse hospitals of similar characteristics differently based on the system established pursuant to subsection (e).

SEC. 133. (a) The Secretary shall arrange for the conduct of a study or studies of methods for controlling the costs of and/or revenue received for hospital outpatient services, long term care services, and ambulatory care services.

(b) The study or studies required by subsection (a) shall be completed within one year of the date of enactment of this Act. Within thirty days of the date of completion of such study or studies, such study or studies and the report or reports thereon shall be submitted to Congress. Such report or reports shall include recommendations, if any, for legislative and administrative action.

SEC. 134. The Secretary shall monitor, on a current basis, the economic impact of all the provisions of this title including sections 117, 118, 119, and 124. He shall report anually to the Congress the results of such monitoring including the percentage of increase in the cost of energy, malpractice and other liability insurance, and the wages for nonsupervisory personnel.

SEC. 135. In carrying out the purposes of this title the Secretary or a State is authorized to enter into contracts with State or national cooperative information centers established under section 304 or 306 of the public Health Service Act.

The table of contents on page 3 is amended by striking item 2 and substituting:

SEC. 2. REPORT ON PERMANENT REFORM IN THE DELIVERY AND FINANCING OF HEALTH CARE.

TITLE I—TRANSACTION HOSPITAL COST CONSTRAINT PROVISIONS

PART A—PURPOSE OF THE PROGRAM

PART B—ESTABLISHMENT OF HOSPITAL COST CONTAINMENT PROGRAM

PART C—DEFINITIONS AND MISCELLANEOUS PROVISIONS

I. SUMMARY OF S. 1391 AS REPORTED BY THE COMMITTEE ON HUMAN RESOURCES

The bill would establish a transitional hospital cost-containment program to constrain the rate of increase in inpatient hospital costs through incentives and limitations in hospital revenues and would provide for the publication and disclosure of information designed to encourage efficient use of available hospital resources. The bill would also provide for the development of permanent reforms on order to increase the efficiency, effectiveness, and quality of health care in the United States.

Beginning January 1, 1979, most acute-care and specialty hospitals would be subject to a limit on increases in their revenues from inpatient services. The revenue increase limit would apply to increases in payments

by each third-party cost payer (for example, medicare, medicaid, and Blue Cross) and to increases in charge-based payments by private health insurance companies and self-pay patients in those States that have effective cost containment programs permitting an exemption to the Federal program.

Application of limit.—Under cost containment, the rate of increase in each hospital's inpatient revenues from average charges imposed or costs paid by each government or nongovernment cost payer would be limited to a fixed percentage of revenues in the hospital's base accounting year. A hospital's base accounting year would be its accounting year which ended in 1977 or, if later, the second year throughout all of which it met the definition of hospital for purposes of cost containment. The precentage limitation would be calculated as the product of (1) the inpatient hospital revenue increase limit currently in effect, as modified by any adjustments or exceptions for which the hospital may qualify, (2) the basic inpatient hospital revenue increase limit in effect in prior cost-containment years (or any higher percentage previously allowed under an exception to reflect major increases in patient load or higher costs associated with major capital expenditures), and (3) the percentage allowable for increases in the hospital's costs between the end of its base year and January 1, 1979, the effective date of cost containment. The interim-period adjustment would be calculated to allow an average annual rate of increase in hospital costs equal to the average annual increase in the hospital's inpatient costs in the base year and the preceding accounting year. The interim period adjustment would, however, be limited to a range of not less than 6 nor more than 15 percent.

These constraints on inpatient revenues would apply to all hospitals which have an average length of stay of 30 days or less, except Federal hospitals, hospitals which derive more than 75 percent of their income from one or more health maintenance organizations, and hospitals which, in the three previous accounting years, had fewer than 2,000 admissions per year or, if they were sole community hospitals, had more than 2,000 but less than 4,000 admissions per year.

Basic limit.—Each year, the Secretary would promulgate a basic limit on increases in inpatient hospital revenues to be effective in the following calendar year. In the first year, the basic limit would be set by a formula reflecting general price trends in the economy as measured by the rate of increase in the implicit price deflator of the gross national product ("GNP deflator") in the 12-month period ending September 30 of the year of promulgation, plus an additional allowance for increases in the intensity or real level of services provided per admission. The intensity factor would be equal to one-third of the difference between the rate of increase in the GNP deflator and the average annual rate of increase in hospital costs in the 2 preceding years.

Within 1 year after enactment, the Secretary would be required to develop and thereafter to promulgate the basic limit in accordance with a methodology which more accurately reflects the rate of increase in the prices of the goods and services which go into the delivery of hospitals services.

Basic limit modifications.—The bill provides for certain adjustments, exceptions, and exemptions from the basic limit on inpatient hospital revenue increases.

Volume load adjustment.—The basic limit would be adjusted to take into account major changes in a hospital's patient load. No revenue adjustment would be made if the hospital's volume, since the base accounting year, had increased by less than 2 percent or decreased by less than 10 percent. Increases or decreases in volume outside these limits would result in allowable revenue increases or decreases, respectively, at the rate of one-half of the allowable per-admission revenue limit for each admission above or below the limit. The full amount of allowable revenue per admission would be deducted for decline in volume below 15 percent, and no recognition would be given to increases in volume above 15 percent except as expressly provided under the exceptions process.

Exceptions.—The Secretary would have authority to grant an exception to the inpatient hospital revenue increase limit otherwise applicable in certain cases where (1) a hospital's volume load had increased by more than 15 percent, or (2) the hospital had undertaken major changes in facilities or services approved by the State health planning and development agency, provided the hospital could also demonstrate a relatively poor financial position. Any hospital granted an exception would be subject to an operational review of its effectiveness and efficiency by the HEW Audit Agency, whose report would be made public. Continuance of the exception would be contingent upon the hospital's implementation of any recommendations arising out of the operational review. A modified exception process may be used in future years under the revised method for determining the basic limit. This modified exception process requires congressional approval.

Nonsupervisory wage increase exemption.—The revenue increase limit otherwise applicable in the case of a particular hospital would be adjusted to reflect increases in the wages of the hospital's nonsupervisory employees.

Exemption for hospitals in certain States.—The Secretary would have authority under section 117 of the bill to exempt from the provisions of the Federal program hospitals in States that have a hospital cost-containment program of demonstrated effectiveness. In order to quality for an exemption, the State program would have to apply at least to those revenues to which the Federal program applies, cover at least 90 percent of the State's hospitals which would otherwise be subject to Federal cost containment, and demonstrate a capacity to contain inpatient revenue increases for all hospitals in the State within a range of not less than the rate of increase in the GNP deflator nor more than 110 percent of the basic inpatient hospital revenue increase limit. The 110-percent limit could, at the State's option, be adjusted to reflect wage increases to nonsupervisory hospital employees.

Similarly, the Secretary would have authority under section 119 of the bill to grant an exemption from Federal requirements to hospitals located in a State which has developed a proposed hospital cost-containment program that the Secretary determines would achieve essentially the same cost-containment objectives as those required under established State programs. Pass-through of nonsupervisory wage increases would be mandatory under new State programs.

The Secretary could also exempt a hospital whose exclusion he determined to be necessary to facilitate the conduct of an experiment or demonstration project consistent with the purposes of cost containment.

Disclosure.—Each hospital (including those exempted under an approved State program) would be required to submit to its health systems agency a semiannual report reflecting its rates for the 30 most frequently used hospital services; an annual report describing its ownership, management, and financial status; and copies of all cost reports submitted to cost payers. All such reports would be made available to the public by the health systems agency.

Enforcement.—Reimbursement above the cost-containment limit would be disallowed under medicare and medicaid. Excess revenues paid by any other cost payer or received by a hospital would be subject to a 150-percent tax on both the hospital and the payer. A similar tax on excess charge revenue would be imposed on a hospital unless the hospital placed the excess amount in escrow until it had incurred a shortfall in allowable charge revenue equal to the amount of excess previously acquired.

Hospitals which fail to provide the reports required to be submitted to the health systems agency would receive a 10-percent reduction in amounts otherwise payable under all programs supported in whole or in part by Federal funds.

Hospitals which seek to reduce costs by altering their admissions practices could be excluded by the Secretary from participation in medicare and medicaid. Moreover, the bill provides that citizens may bring civil suits against the Secretary and any other person or provider alleged to have violated or failed to have carried out various requirements of the bill.

II. NEED FOR THIS LEGISLATION—THE PROBLEM OF HEALTH CARE COST INFLATION

During the past 25 years, national health expenditures have increased not only in aggregate terms and on a per capita basis, but also as a percentage of the gross national product (GNP). In 1950, national health expenditures amounted to $12 billion, or 4.5 percent of the GNP. Preliminary estimates for fiscal year 1976 indicate that total health expenditures amounted to $139.3 billion, or 8.6 percent of the GNP. Expenditures for hospital care are the largest component of national health expenditures, reaching an estimated $55.4 billion in fiscal year 1976 for about 40 percent of total health care expenditures.

Expenditures for hospital care have risen annually at double-digit rates for a decade. During fiscal year 1965, the year prior to enactment of medicare and medicaid, expenditures for hospital care amounted to nearly $13.2 billion. Within 5 years the annual outlay had almost doubled to $25.9 billion, and by fiscal year 1976 expenditures had more than quadrupled to $55.4 billion. The average annual increase from 1965 to 1976 was 13.9 percent; adjusted to reflect constant prices in the general economy, the average annual increase was still 8.6 percent. If this rate of increase continues, total spending on hospital care alone could be $220 billion by 1986.

TABLE 1.—*Expenditures for hospital care, selected fiscal years, 1950–76*

Fiscal year	Total expenditures (billion)	Annual percentage increase
1950	$3.7	
1955	5.7	9.0
1960	8.5	8.4
1965	13.2	9.1
1970	25.9	14.5
1971	29.1	12.3
1972	32.7	12.4
1973	36.2	10.7
1974	41.0	13.3
1975	48.2	17.6
1976	55.4	14.9

A. The effects of health cost inflation

Public opinion polls indicate that rising health care costs are among the top three domestic concerns of the American people—even ranking ahead of rising energy costs. This concern reflects a fundamental fact—rising health costs add significantly to burdens in the taxpayer, on the wage earner, and on those consumers who lack adequate health insurance protection.

Each day American taxpayers pay $48 million for hospital care provided under medicare and medicaid.

Private health insurance premiums have jumped 20 to 30 percent in the last year, cutting into most workers' take-home pay. Indeed, Americans today must work more than 1 full month of every year just to pay for their health care. It takes about 2 weeks' wages to cover hospital costs alone. Higher health insurance premiums paid for fully or in part by employers drain off money that could be provided to workers in the form of higher wage increases or pension benefits

For the 18 million individuals in this country without any health insurance, the 19 million additional individuals with very inadequate insurance policies, and the 115 million people without major medical insurance coverage, rising health care costs—especially spiraling hospital costs—pose the direct threat of financial ruin, and a lifetime of indebtedness.

Rising heatlh care costs have also hampered the ability of Federal and State governments to meet other pressing social problems. For example, between 1966 and 1978, the HEW health budget increased from $3 billion to $44.5 billion. Of this increase, $37.3 billion has gone to pay for benefits under medicare and medicaid, with only $4.2 billion left over for expansion of other governmental health activities beyond their 1966 level. The rapid increases in hospital costs have also made it necessary for many States to make serious cuts in ambulatory care services under medicaid.

TABLE 2.—*Total health expenditures between 1975 and 1980*

[In billions of dollars]

Fiscal year	Percentage of GNP	Amount	Estimated amount
1975	8.4	$122.2	
1976	8.6	139.3	
1977	8.7		$159.7
1978	8.9		181.1
1979	9.0		204.5
1980	9.1		228.8

TABLE 3.—*Expenditures for hospital care between 1975 and 1980*

Fiscal year	Amount	Estimated amount
1975	$48.2	
1976	55.4	
1977		$64.6
1978		74.4
1979		85.7
1980		97.4

B. Causes of hospital cost escalation

The amount spent for hospital care has risen because of increases in cost per patient-day and in the number of hospital days. The former factor is much more important, accounting for about 90 percent of the increase. In spite of the intense and sustained inflationary trends in hospital costs, the demand for hospital care has not abated. A major reason for this is the corresponding growth in health insurance payments, which now account for 91 percent of all hospital revenues. Because private insurers and public third-party payers, such as medicare and medicaid, finance the overwhelming proportion of the care rendered in community hospitals, the actual "net costs" of care for most patients at the time of hospitalization are very small. The patient and his agent, the physician, therefore can elect the most expensive care available—more expensive than they might elect if the third-party payment programs did not exist.

The patient has limited ability to distinguish necessary from unnecessary care. Once in a hospital, he has a strong interest in receiving the best care available, regardless of the cost. The insuring agent has usually chosen not to question the value of or need for the services provided. The physician, who acts on the patient's behalf, is inclined to use all the services that will improve his diagnosis and therapy or reduce the possibility of malpractice suits. The hospital administrator is concerned that the quality of care be of a high standard and that his facilities and equipment be such as to attract physicians to the hospital. The administrator is therefore willing to meet physician's requests to expand the scope and complexity of the services the institution provides. This entails little financial risk for the administrator because the majority of hospital insurance payments are based on the costs incurred. If costs rise because of new or more intensive testing, more complex procedures, or more staff, higher reimbursements will be forthcoming.

This unique set of characteristics has encouraged the following hospital and communitywide inefficiencies in the use of health resources:

Uneconomic hospital operation. — Inefficiency occurs when the combination of resources used to provide hospital services is more costly than necessary.

Uneconomic provision of services.—Inefficiency occurs when services are provided that cannot reasonably be expected to have a medical value that justifies their cost.

Excess community capacity to provide general care.—Even a carefully operated hospital may be relatively uneconomical if demand is low relative to capacity.

Excess community capacity to provide various forms of special-purpose care. — An otherwise economically run hospital may have a special facility that is underutilized because other hospitals in the area have developed the same capability.

Excessive utilization resulting from the existence of excess hospital facilities or equipment. — Unnecessary hospital admissions and utilization of procedures and equipment may be stimulated by the availability of capacity because no participant is motivated to be cost conscious.

C. Prior efforts to moderate hospital costs

The problem of spiraling hospital costs has not gone unnoticed on either the Federal or State levels. Many of the theories mentioned above as to the causes of hospital cost inflation have provided theoretical bases for previous efforts to constrain increases in provider costs. The programs discussed below represent the major examples of past and current efforts to hold down the ever-increasing costs of hospitalization.

1. Economic stabilization program.—The economic stabilization program (ESP) established a series of economy-wide wage and price controls which were designed to reduce inflation by about one-half in the economy as a whole. The program began with a freeze on wages and prices in August 1971 (phase I). The freeze was replaced in December 1971 with control programs for each major sector of the economy (phase II), including health.

For the health care industry, phase II consisted of a ceiling of 6 percent per year (adjusted for changes in volume of services) on increases in price and revenues per inpatient day for institutional providers of health care such as hospitals. Within the overall 6-percent ceiling, a 1.7-percent increase in expenditures for new technology was provided. In adidtion, separate ceilings were applied to wage-related expenses (5.5 percent) and to nonwage expenses (2.5 percent). Non institutional providers, such as physicians and dentists, were allowed a 2.5-percent increase per year in their prices. The effect of the phase II controls was approximtely a 50-percent decline in increases in hospital room and board rates and a 25-percent decline in cost per adjusted patient-day and cost per adjusted admission.

Phase III, which lasted from January 11, 1973, to June 13, 1973, was an extension of phase II for many areas of the economy, including the health care industry. On June 13, 1973, another freeze on the prices of all commodities and services began and lasted until July 1, 1973, when it was superseded by Phase IV. Phase IV covered many industries, including health, until April 30, 1974, when ESP authority expired and the program ended.

The goals of the hospital controls under Phase IV as expressed by then President Nixon were to reduce the excessive rate of increase in the cost of hospital stays; to moderate increases in new services and selectively control capital expenditures; to provide economic incentives for the substitution of less expensive ambulatory care for inpatient hospital care; to provide for the development of State rather than Federal administration of health care controls; to allow internal flexibility and incentives for health care managers to improve productivity; and to be responsive to cost-saving innovations, such as health maintenance organizations.

For the health care industry, phase IV included:

A limitation of 7.5 percent on increases in hospital charges and costs per inpatient admission, with adjustments for volume of services.

A 6-percent-increase limit on outpatient charges per procedure.

A 4-percent-increase limit on medical practitioners' aggregate annual fees, with a 10-percent-increase limit for individual fees over $10 and a $1-increase-limit for fees under $10.

A 6.5-percent-increase limit for long-term care institutions on average realized revenues per day by class of purchaser (for example, medicare, medicaid, and all other) or level of care (for example, skilled nursing care, or existing levels by State or by institutions).

The phase IV controls differed from phase II in their emphasis on the total costs of a hospital stay, also called an admission, rather than the individual price per day. In addition, phase IV treated separately increased costs due to new and approved capital expenditures and separated controls on inpatient and outpatient services.

Before ESP went into effect, the annualized rates of increase in prices of medical care and of hospital charges (semiprivate room) exceeded that of prices in the economy as a whole. During the various phases of ESP (August 1971 to April 1974), not only were the rates of increase for medical care and hospital charges reduced, but the rates of increase dropped below prices in the economy as a whole. In the post-ESP period, after the controls were lifted, the rate of increase for medical care and hospital charges rose above the pre-ESP levels and once again exceeded prices in the economy as a whole (see table 1). This temporary effect in lowering prices was due in part to the fact that ESP did not attempt to address the underlying problems in the process of health care delivery, some of which are the unusual system of supply and demand where the users of health care usually pay only a small portion of the costs they incur; the maldistribution of manpower; and the high costs of medical and technological advances.

2. Hospital reimbursement limits under

medicare and medicaid.—The 1972 amendments to the Social Security Act authorized the Secretary of HEW to establish prospective limits on the costs to be reimbursed under the medicare program. The Secretary was given broad discretion in the selection of the institutions and kinds of costs to which the limits are applied and in the method of setting the limits.

Under present policy, cost limits are established each year for the routine cost portion of hospital costs—essentially, the cost related to bed and board. Individual hospitals are assigned to one of various groups, depending on the hospital's size and the per capita income of the area where it is located. The cost limit for hospitals in each group is set by a formula that establishes the limit high enough to permit the routine costs of well over 80 percent of the hospitals to be covered in full.

In fiscal year 1975, the first full year of implementation, approximately 345 hospitals were reported to be in excess of the limit by a total of $36 million. Fiscal year 1976 data are not yet complete, but thus far 334 hospitals have been reported to be in excess of the limit; it is expected that the total will increase above the fiscal year 1975 number when all reports are in.

The objective of the cost limits provision is to establish ceilings that reasonably prudent and cost-conscious hospitals can be expected to live within. And by setting the limits in advance, it was intended that high-cost hospitals could, if they wished, undertake the cost-reduction measures to avoid loss of reimbursement. Where a hospital exceeds the limit and wishes to make up the lost income by imposing a special charge on the patients, the patients must be advised of the situation in advance.

The 1972 legislation also authorized medicare, medicaid, and the maternal and child health program to withhold reimbursement from hospitals for certain capital expenditures for plant, property, or equipment if the designated planning agency has determined them to be inconsistent with State or local health facility planning requirements. The reimbursement amounts that may be withheld include depreciation, interest on borrowed funds, and other costs related to capital expenditures. Where a proprietary hospital is involved, the return on equity capital is also affected. The provision applies only to expenditures that exceed $100,000, that would change the bed capacity, or that would substantially change the services offered by the hospital unless the State chooses to give the provision wider applicability.

3. Federal experimentation and State programs.—The Department of Health, Education, and Welfare is conducting a range of research and experimental activities relating to reimbursement and is attempting to control costs under experimental authorities included in the Social Security Amendments of 1967 and 1972, and section 1526 of the National Health Planning and Resources Development Act of 1974. The 1972 amendment authorized a broad program of experimentation in prospective reimbursement and other alternative reimbursement and ratesetting methods.

Under its authority, the Department evaluated State and local systems which were already operating without Federal funding, and began supporting demonstrations, evaluations, and developmental projects in other States.

Three principal prospective reimbursement methodologies have been identified, which are generally used in some combination:

(*a*) *Budget review approach.*—Involving setting or approval of reimbursement rates based on a detailed review of the projected budgets of individual hospitals and their departments. This approach is used in Maryland in its ratesetting, and is used in New Jersey and Connecticut in combination with a formula approach. Budget review can be done by exception, involving review only of those portions of an institution's budget exceeding established screens.

(*b*) *Formula methods.*—Involving the use of formulas to determine rates of payment, or to determine ceilings or target rates under current reimbursement practices. New York uses a formula approach, and other States use this approach in combination with the other methods.

(*c*) *Negotiated rates.*—Involving joint decisionmaking by the hospital and the rate setter. Rhode Island uses a negotiated budget methodology.

HEW has identified five elements which it believes are essential in a prospective rate-setting system:

(1) All hospitals within a given system should submit accounting and reporting data based on uniform systems.

(2) Health planning and rate setting should be closely coordinated.

(3) Prospective rate setting systems should focus on total hospital expenditures, including utilization factors.

(4) Prospective rate setting systems should cover all payers.

(5) Hospital participation in prospective rate setting systems should be mandatory.

In addition to evaluations of ongoing activities, HEW is funding a number of demonstration and developmental activities to gather further information on ratesetting systems.

A recent American Hospital Association survey identified 25 rate-regulation programs, including several Blue Cross prospective reimbursement plans. Budget review was the principal method used but often in combination with other methods. A total of 2,070 hospitals and 1,407 nursing homes participated in the programs surveyed. In addition to the 25 programs currently in effect, the survey identified 13 States as contemplating some form of program.

III. HISTORY OF LEGISLATION

The legislation was introduced on April 21, 1977, by Senators Kennedy, Hathaway, and Anderson and was referred to the Committee on Human Resources and the Finance Committee. On May 24, May 26, June 17, June 21, and July 6, 1977, the Subcommittee on Health and Scientific Research held hearings on this legislation and alternative methods of controlling the increasing costs of hospital care.

Testimony was received from the Department of Health, Education, and Welfare which supported the legislation. There was general agreement among the many other witnesses that there is a need to control the increasing costs of health care, although many did not support the legislation in its entirety.

Witnesses included:

May 24, 1977

Hon. Joseph A. Califano, Jr., Secretary, Department of Health, Education, and Welfare.

Hon. Michael DuKakis, Governor, Commonwealth of Massachusetts.

Charles M. O'Brien, Jr., Administrator, Georgetown University Hospital.

Leo J. Gehrig, M.D., senior vice president, American Hospital Association.

May 26, 1977

Douglas A. Fraser, president, International Union United Auto Workers.

Andrew J. Biemiller, Bert Seidman, American Federation of Labor, and Congress of Industrial Organizations.

Michael D. Bromberg, Andrew W. Miller, Federation of American Hospitals.

Jere W. Annis, M.D., William C. Felch, M.D., American Medical Association.

Terrance Pitts, supervisor, Milwaukee County, Wisconsin, National Association of Counties.

June 21, 1977

Mr. Bernard Tresnowski, executive vice president, Blue Cross Association.

Mr. Morton D. Miller, vice chairman of the board, the Equitable Life Assurance Society of the United States.

Mr. Henry DiPrete, second vice president, group operations, John Hancock Mutual Life Insurance Co.

Mr. Robert J. Kilpatrick, president, Connecticut General Life Insurance Co.

Mr. William McC. Hiscock, executive director, Central Maryland Health System Agency, Inc., American Association for Comprehensive Health Planning.

Mr. James M. Hacking, American Association of Retired Persons, National Retired Teachers Association.

June 17, 1977

The Honorable Thomas J. McIntyre, U.S. Senator, State of New Hampshire.

Mr. Joe Czerwinski, National Conference of State Legislatures.

Mr. Mancur Olson, Maryland Health Services Cost Review Commission.

Joanne E. Finley, M.D., New Jersey State Commissioner of Health.

Robert P. Whalen, M.D., Commissioner, New York State Department of Health.

Mr. Stanley Wisnjewski, Services Employees International Union.

Mr. Moe Foner, National Union of Hospital and Health Care Employees.

David D. Thompson, M.D., Director, The New York Hospital, New York City, Chairman, Council of Teaching Hospitals, Association of American Medical Colleges.

Mr. David L. Everhart, President, Northwestern Memorial Hospital, Chicago, Chairman, Council of Teaching Hospitals, Association of American Medical Colleges.

Robert M. Heyssel, M.D., Executive Vice President and Director, The Johns Hopkins Hospital, Baltimore.

Prof. John D. Thompson, Chief, Division of Health Services Administration, Yale University School of Medicine.

Edward S. Hyman, M.D., American Council of Medical Staffs.

July 6, 1977 (in Bangor, Maine)

Isador Seeman, Mike Samuels, Ph. D., Department of Health, Education, and Welfare.

Thomas W. Cathcart, Blue Cross and Blue Shield of Maine.

Stanley Hanson, Maine Health Systems Agency.

Fletcher Bingham, Maine Hospital Association.

Kenneth A. Hews, Eastern Maine Medical Center.

Andrew Fennelly, Maine Health Care Association.

Kenneth Robinson, Maine Health Care Association.

Kenneth Morgan, AFL–CIO.

D. Jeffrey Hollingsworth, Maine Medical Association.

Dr. Harrison Aldrich, Maine Osteopathic Association.

Derek V. Bush, Maine Coast Regional Health Facilities.

Martin S. Ulan, York Hospital, York, Maine.

Janet Beach.

In addition, statements were supplied for the record by the following organizations and individuals:

Alice M. Rivlin, Director, Congressional Budget Office, U.S. Congress.

The American Association of Neurological Surgeons.

American Federation of State, County, and Municipal Employees.

American Mutual Insurance Alliance.

American Nurses Association.

American Protestant Hospital Association.

American Psychiatric Association.

American Public Health Association.

American Society for Medical Technology.

American Society of Hospital Pharmacists.

American Society of Internal Medicine.
Alfred M. Bell and Associates.
Association of Rehabilitation Facilities.
Association of State and Territorial Health Officials.
Arizona Hospital Association.
The Catholic Hospital Association.
Chamber of Commerce of the United States.
Chicago Hospital Council.
Colorado Hospital Association.
Community Memorial Hospital, Staunton, Ill.
Community Services Society of New York.
Corry Memorial Hospital.
Detroit Osteopathic Hospital Corporation.
Florida Hospital Association.
Georgia Hospital Association.
Health Research Group—Public Citizen.
Hospital Association of New York State.
Hospital Association of Pennsylvania.
Hospital Affiliates International.
Hospital Financial Management Association.
Hospital Financing Study Group, Washington, D.C.
The Kansas Hospital Association.
Kentucky Hospital Association.
Legislature of Michigan.
Leon Hamrick, M.D., State of Alabama.
Maryland Hospital Association.
Massachusetts Department of Public Health.
The Medical College of Pennsylvania.
Medical Society, County of Kings, New York.
Minnesota Hospital Association.
Missouri Hospital Association.
Montana Hospital Association.
National Association of Health Services Executives.
National Audio-Visual Association, Inc.
National Conference of State Legislatures (Martin Sabo).
National Council of Community Hospitals.
National Council of Health Care Services.
National Health Law Program.
National Taxpayers Union.
Nebraska Methodist Hospital.
New Mexico Hospital Association.
Radiation Imaging Products Division.
Resurrection Hospital.
Scientific Apparatus Makers Association.
South Carolina Hospital Association.
South Dakota Hospital Association.
State of South Dakota (Governor Kniep).
Texas Hospital Association.
Union County Hospital Association.
Union County Hospital Society.
United Mine Workers Health and Retirement Funds.
United Societies of Physiotherapists, Inc.
Utah State Hospital Association.
Vermont Hospital Association.
Washington Business Group on Health.
Letter from Lawrence Hill, New England Medical Center Hospital.
Letter from Sherman Katz, Attorney at Law.
Letter from David Troob, Loeb, Rhodes & Co.

The legislation was subsequently considered in open executive session by the Subcommittee on Health and Scientific Research on July 26, 1977, at which time the bill was amended and ordered reported to the Committee on Human Resources. The amended bill was considered in open executive session on July 29 and August 2, 1977, by the Committee on Human Resources, amended further, and as further amended, ordered reported favorably to the Senate.

IV. COMMITTEE VIEWS

The major purpose of this legislation is to establish a transitional hospital cost containment program that will constrain the rate of increase of inpatient hospital costs. The bill would also provide for the publication and disclosure of information designed to encourage efficient use of available hospital resources. The bill would also provide for the development of permanent reforms in order to increase the efficiency, effectiveness, and quality of health care in the United States.

The committee recognizes that its bill makes numerous important and substantive changes in the way that health care will be financed and delivered. At the time that this bill was considered by the committee other important proposals for changes in the financing and delivering of health care were recommended to the committee by its members and by other Senators. Many changes in the Health Planning and Resources Development Act of 1974 (Public Law 93-641) were suggested. These proposals deserve serious consideration and such consideration will be forthcoming in the months ahead as the implementation of Public Law 93-641 is thoroughly reviewed.

The committee would like to highlight the rationale for and the intent of many of the changes in existing law that are proposed by the committee's bill.

The committee's bill employs a revenue increase limit applicable to all hospitals included in the program. The committee believes that this method can and should be implemented quickly and can be administered without unnecessary complexity, as this method does not rely on the development of new procedures and technology. For example, new methods of classifying hospitals that would be capable of distinguishing between high costs arising from atypical services and differing patient needs and the development of new reporting and compliance systems are not needed.

It is the committee's view that adequate methodology is not presently available for a sophisticated system of hospital classification; however, the Secretary is instructed to develop and then implement a system which includes a system of hospital classification. In this respect then, title I accepts the wide variations in hospital costs and charges for the transitional period but limits further inflationary pressures on government and private financing systems while permanent, more sophisticated cost containment programs are being developed and put in place.

The committee realizes that the calculations imposed by section 111 of the bill to adjust the limits imposed starting January 1, 1979, to the various accounting years of hospitals may appear complex. This approach is preferable, however, to the alternative of forcing adaptation of every hospital's accounting year to the administrative needs of a cost containment program which was rejected by the committee as inappropriate and unduly costly to hospitals in a transitional program. It should be noted that those who will actually be performing the limit calculation, such as hospital administrators, accountants, and medicare cost reimbursement technicians, will find that the calculations involve relatively minor adaptations of present techniques to data that is already reported for medicare purposes.

In order to discourage a hospital from increasing its costs to the revenue limit, the committee's bill utilizes a fixed base plus a compounded percentage increase approach which permits a hospital to retain for future years any percentage by which it comes in under the limit in a particular year. Thus, the system avoids incentives to come up to the limit that would exist under a "use or lose system." The basic limit is used during intervening years because the adjustments for patient loads are always based on changes between the subject and base years.

Section 112 of the committee's bill requires the Secretary to promulgate annually a basic limit on increases in inpatient hospital revenues to be effective in the following calendar year. In the first year, the basic limit would be set by a formula reflecting general price trends in the economy as measured by the rate of increase in the implicit price deflator of the gross national product ("GNP deflator") in the 12-month period ending September 30 of the year of promulgation, plus an additional allowance for increases in the intensity or real level of services provided per admission. The intensity factor would be equal to one-third of the difference between the rate of increase in the GNP deflator and the average annual rate of increase in hospital costs in the 2 preceding years.

This basic limit is tied to percentage increases in the gross national product deflator. This was chosen because it is the broadest and most representative measure of inflation in the general economy presently available. The bill provides for an expansion factor, for example, one-third of past differences between general inflation and the rise in hospital costs which the committee believes will allow for continued expansion of needed services. The committee believes that it is essential for this type of program that hospitals are compensated for expected inflation in the overall economy when calculating the basic limit. Thus, if the GNP deflator estimate is significantly lower than actual inflation, paragraph (2) of section 112 allows for such adjustments. The adjustment period is limited to hospitals that have ended the fiscal years no more than 3 months prior to the date of the adjustment period. This is to avoid any need for cost payers to reopen cost reports after they have been filed, which generally is about 90 days after the close of a fiscal year.

Within 1 year after enactment, the Secretary would be required to develop and thereafter to promulgate the basic limit in accordance with a methodology which more accurately reflects the rate of increase in the prices of the goods and services which go into the delivery of hospital services. Simultaneously the committee intends that the Secretary shall promulgate an expanded exceptions process.

Under section 113 of the committees' bill the basic limit would be adjusted to take into account major changes in a hospital's patient load. No revenue adjustments would be made if the hospital's volume, since the base accounting year, had increased by less than 2 percent or decreased by less than 10 percent. Increases or decreases in volume outside these limits would result in allowable revenue increases or decreases, respectively, at the rate of one-half of the allowable per-admission revenue limit for each admission above or below the limit, assuming there has been no change in admissions. The full amount of allowable revenue per admission would be deducted for declines in volume below 15 percent, and no recognition would be given to increases in volume above 15 percent except as expressly provided under the exceptions process.

The volume load formula is designed to compensate hospitals for significant changes in patient load, while encouraging reduction in admission and lengths of stay through better utilization review. If volume declines by up to 10 percent, no reduction in revenue is imposed, thus providing an incentive to prevent unnecessary admissions. For hospitals which experience small increases in volume load—up to 2 percent—total revenue is also to be constant with the hospital expected to absorb the modest variable cost increases that would be involved in such a change. There is also an incentive to reduce lengths of stay to avoid the need to economize further. Automatic adjustments are allowed for increases in volume beyond the initial range; such adjustments add or subtract revenue approximating marginal costs.

In the case hospitals experiencing dramatic increases in patient volume, which the committee expects will be a very small proportion of all hospitals, no adjustment is allowed for increased volume load beyond 15

percent and there is imposed a dollar for dollar reduction in revenue on hospitals experiencing decreased volume beyond 15 percent unless the reason for such changes are closely examined through the exception process which is outlined in section 115.

The marginal cost of 50 percent was chosen recognizing the body of existing research, and although an imperfect figure, the committee felt reflected fairly the marginal cost to the hospital of increased admissions.

The committee believes that when particular kinds of services cease to be furnished by a hospital, the past amounts of revenues from such services should be removed from the hospital's base year revenue calculations. Section 114(b) of the committee's bill includes such a provision.

For example, a CT "CAT" scanner is operated by the hospital in the base year, but leased to a physician in the subject year, the CAT scan charges attributable to Medicare inpatients in the base year would be deducted from Medicare reimbursement in the base year. Similar adjustments would be made in base revenue from each other cost payer and total base year CAT scan charges would be deducted from total base year inpatient charges in determining allowable reimbursement in the subject accounting year.

The committee believes however, that charges attributable to inpatient services that were discontinued, on recommendation of the State health planning and development agency based on a finding that the services were inappropriate, should not be deducted from the base year as otherwise required above. Thus a hospital receives an incentive for the discontinuance of any inappropriate service in that it can continue to pay for debt and redirect the full amount of the operating costs of the discontinued service to other services that will continue to be provided by the hospital.

Section 115 of the committee's bill gives the Secretary the authority to grant an exception to the inpatient hospital revenue increase limit otherwise applicable in certain cases where (1) a hospital's volume load had increased or decreased by more than 15 percent or (2) the hospital had undertaken major changes in facilities or services approved by the State health planning and development agency, provided the hospital could also demonstrate an existing or potential revenue loss which would adversely affect the hospital. Any hospital granted an exception would be subject to an operational review of its effectiveness and efficiency by the HEW Audit Agency, whose report would be made public. Continuance of the exception would be contingent upon the hospital's implementation of any recommendations arising out of the operational review. A modified exceptions process may be used in future years under the revised method for determining the basic limit. This modified exceptions process requires congressional approval.

The committee, in formulating the exceptions process, attempted to draw a balance between simplicity of administratability within government, at the Federal and local level, and fairness and equity for individual institutions in the manner by which they could have access to the exceptions process. It is the committee's view that the Secretary should have appropriate discretion to implement this process.

Whenever an exception is given, the Secretary may require the hospital to undergo an operational review. The findings of such a review are to be made public, and the hospital will be required to implement the recommendations made as a result of the review if it wished to continue to receive the added revenues from the exception. This procedure is likely to rectify some of the factors which are contributing to the need for an exception and subsequently to reduce the number of exceptions.

In all cases when an exception is granted, the additional allowable revenue should be related to the cause of the exception and the revenue should be at a level adequate to maintain a current assets to liability ratio of two.

The committee felt it was essential that an appeals mechanism be instituted when a hospital believed that the decision of the Secretary was adversely affecting the hospital. The Provider Reimbursement Review Board was chosen by the committee to bear the appeals because it was judged that this board, which previously had been established to judge determinations made for the purposes of medicare reimbursement has been doing an adequate job. This would also avoid the need to create a new hearing body for the purposes of the committee's bill.

Under section 117 of the committee's bill the Secretary would have authority to exempt from the provisions of the Federal program hospitals in States that have a hospital cost-containment program of demonstrated effectiveness. In order to qualify for an exemption, the State program would have to apply at least to those revenues to which the Federal program applies, cover at least 90 percent of the State's hospitals which would otherwise be subject to Federal cost containment, and demonstrate a capacity to contain inpatient revenues increases for all hospitals in the State within a range of not less than the rate of increase in the GNP deflator nor more than 110 percent of the basic inpatient hospital revenue increase limit. The 110 percent limit could, at the State's option, be adjusted to reflect wage increases to nonsupervisory employees.

Similarly, the Secretary would have authority under section 119 of the bill to grant an exemption from Federal requirements to hospitals located in a State which has developed a proposed hospital cost-containment program that the Secretary determines would achieve essentially the same cost-containment objectives as those required under established State programs. Pass-through of non-supervisory wage increases would be mandatory under new State programs.

Under section 118 of the bill the Secretary could also exempt a hospital whose exclusion he determined to be necessary to facilitate the conduct of an experiment or demonstration project consistent with the purposes of cost containment.

While Federal controls are necessary on a national level to restrain hospital cost inflation in the short run, the committee was persuaded that, under certain well defined circumstances, cost containment efforts at the State and local levels could be stimulated. Sections 117, 118, and 119 provide three avenues for State authorities to obtain exemptions from the Federal program for hospitals within their boundaries. Firm Federal guidelines underlie each alternative to insure that the exemption may be retained only if an adequate level of cost savings is achieved through a well-administered program.

A number of factors entered into the committee's decision to encourage the long-term growth of State cost containment efforts. Testimony before the committee documented some success by State programs already in operation. Variations among State cost containment techniques demonstrate that some State programs have fostered successful experimentation and have attuned regulatory controls to widely differing geographic, economic, political, and health care conditions.

The committee believes that State programs should facilitate coordination of cost control efforts with local health planning and quality review programs, and the committee intends that there should be coordination between the ratesetting agency and certificate of need and/or 1122 reviews. At a minimum this should mean: (A) that the State health planning and development agency (SHPDA) may be—although need not be the ratesetting agency; (B) the ratesetting agency should not duplicate functions performed by the SHPDA when the ratesetting agency is distinct from the SHPDA—for example, if the SHPDA approves a capital expenditure the ratesetting agency must include reasonable operating costs and the capital costs in the rate, but if the SHPDA disapproves an expenditure the expenditure should not be included in the rate; and (C) the role for the HSA's and SHPDA's under section 117 should be analogous to their role under the Federal title I program.

Section 117 is primarily designed to grant existing State cost control programs meeting certain standards an immediate exemption from the Federal program.

The committee intends that in those States where a cost containment program is already attaining the goals of this title, it is reasonable to exclude hospitals located in that State from the application of this title. The requirement that a State have a program, means that a State must have a program for containing hospital costs, rather than the interpretation that the State must be the sole operator of the program. Responsible parties, including hospital associations, insurers, and consumer groups, can be permitted to participate and share with the State in operating the State's program.

The committee developed the criteria set forth in section 117 in order to assure that only sound programs are approved by the Secretary. However, a sound program can take on several forms, and the Secretary should not restrict his approval to those programs that are based in legal authority. A contractual agreement is sufficient authority to assure the quality, continuity, and responsiveness of a State program. A State program could be considered acceptable, even if it were not based completely on a legislated program as long as the Governor or chief executive of the State could provide the necessary assurances to the Secretary. A State program would have to assure the accountability of all hospitals participating in the program, whether that participation is grounded in State law or in a binding agreement reached either under State law or under the sponsorship of the Governor or chief executive of the State. Upon termination of such agreement, all hospitals would revert back into the program mandated in title I, even if the termination of the agreement under which the section 117 exemption had been granted occurred during a fiscal year. Thus there would be no time when hospitals in these States would not be subject to any cost containment program.

In using the phrase "capable of containing hospital costs" in section 117(1), the committee intends that the Secretary have discretion in approving State projects. In exercising such discretion, the Secretary should examine the program for the following characteristics:

(a) A mutually binding agreement or statute, that commits the various parties to engage in cost containment.

(b) An assurance that hospitals will participate in the program.

(c) An assurance that sanctions exist, that are sufficient to assure participation.

(d) A history in the State that shows innovation, experience, and effectiveness in various aspects of health planning, and cost controls (whether they are existing programs or predecessors).

In making the determination, that a State meets the requirements of section 117, the Secretary should look for one or more of the following: (1) Rate review program; (2) experiments in prospective review; (3) certificate of need; (4) decertification program;

(5) effectiveness of planning regulations; (6) effectiveness of voluntary programs; (7) statutes, contracts, or agreements relating to cost containment.

The committee included an optional wage pass through for nonsupervisory hospital employees in states exempted from the Federal cost control program pursuant to section 117. The committee believed that to require a mandatory wage pass through in those states that may qualify for an exemption pursuant to section 117 would necessitate legislative action in many of these states which would disrupt state cost control efforts that are already successfully underway.

Section 118 would exempt from the Federal ceiling certain prospective reimbursement experiments operating under existing law. The committee accepts the administration's recommendation that such programs be permitted to operate free of additional constraints until the potential of various prospective reimbursement methodologies being tested may be fully evaluated.

The committee intends that section 119 of the bill stimulate the development of new cost containment programs by the States not qualifying for exemptions under sections 117 or 118. The criteria contained in section 119 are designed to be as flexible as possible and still insure that State programs meet Federal priorities.

Section 119(a)(8) authorizes the Secretary to promulgate such additional criteria as the Secretary deems necessary to accomplish the cost containment objectives of title I. The purpose of this provision is to provide the Secretary with some measure of administrative flexibility to meet changing and unforeseeable conditions; however, the Committee intends that such additional criteria be published by the Secretary early enough to give the States sufficient advance notice to develop cost containment programs with full knowledge of all qualifying conditions. If a State program meets the criteria of section 119, including those announced under subsection (a)(8), the Secretary would be required to approve an exemption for that program.

The committee avoided more detailed restrictions on State programs in the interest of local experimentation and flexibility. However, it would urge States developing cost containment plans to consider the following points:

1. The "identifiable unit of State government" designated to administer a cost control program should be an agency which is not under the supervision of the State medicaid Administrator. Such separation will help avoid potential conflicts of interest between a State's role as a regulator of costs and a purchaser of care.

If a State establishes a cost control commission, its members should be appointed for staggered terms, should have an understanding of the delivery and financing of health services in the State, and should not be otherwise employed by the State, a local government, a health care institution, or be otherwise engaged in the delivery of financing of health services.

2. Although the use of varying cost-saving methodologies are acceptable under section 119, the committee encourages the further development and refinement of prospective budget review techniques which examine the feasibility of budget review under a system which classifies hospitals by bed size, type, and diagnostic case mix.

3. Although this section provides for aggregate rate of increase in hospital revenues, the committee feels that State programs should discourage the shifting of costs between purchasers. However, rate differentials between payers may be justifiable where the financial relationship between any payer and the institutional provider results in an identifiable saving in required or necessary costs.

4. Positive incentives to reduced costs and administrative efficiency should be an integral part of any long term cost containment effort. These might include programs permitting hospitals to retain achieved savings, up to specified limits, and application of costs savings to experiments in administrative efficiency.

5. In implementing legislation, the States should clearly identify a viable means for continued financing of cost containment programs which might include taxation of institutional providers.

6. State programs should include a policy review board, with membership appointed for staggered terms and representative of health care providers, third party payers, and the public. The board must actively encourage coordination between health planning, quality review, and cost containment activities.

7. In evaluating revenues related to the financing of capital expenditures, the State cost control agency should approve revenues only for those facilities and services which have been approved by the appropriate health planning authority.

The committee intended that States receiving an exemption pursuant to section 119 include a mandatory wage pass through for non-supervisory hospital employees. The committee believed that the implementation of State cost control efforts pursuant to section 119 would not be delayed by requiring a mandatory wage pass through as these States presently do not have cost control programs and will need to enact enabling legislation establishing cost control programs. A mandatory wage pass through could, therefore, be included as part of a single legislative action.

Recognizing that many States may be reluctant to initiate hospital cost control programs without Federal assistance, a $10 million authorization for startup grants is included under section 119, in addition to existing authorizations for experimental programs under section 402 of the Social Security Amendment of 1967, 222 of the Social Security Amendment of 1972, and 1526 of the Public Health Service Act.

The committee, when it exempted from the revenue increase limits those hospitals that had in the 3 previous accounting years preceding the subject accounting year, an average annual admissions of between 2,000 and 4,000 admissions, intended that only those within a standard metropolitan statistical area and are sole community providers be included for the exemption. It is the committee's intent that the definition of sole community provider used by the Secretary for this exemption be the same definition as is used under title XVIII of the Social Security Act. The committee, after careful review of data on the aggregate costs of medical care in these small hospitals, was of the belief by excluding these hospitals the administration of the program would be considerably easier and the resultant loss of savings relatively small.

Federal hospitals are especially excluded from coverage by the provisions of each title of the committee bill. These Federal hospitals include Veterans' Administration hospitals, Department of Defense hospitals, Public Health Service Hospitals, Bureau of Prisons Hospitals, or any other hospital run by a Federal department, agency, or instrumentality. The committee intends that the Secretary define a Federal facility so as to include a facility which was a Federal facility for any day in an accounting year.

Although Federal hospitals are excluded from the revenue limits of title I, the committee believes that such hospitals should work closely with the other health care providers in their respective areas and that the Federal budgetary process should take into account the limits promulgated under section 112.

The above illustrates the importance of close Congressional scrutiny of the interrelations in planning for health services between the Federal hospitals and non-Federal hospitals.

Under section 124 of the committees' bill the revenue increase limit otherwise applicable in the case of a particular hospital would be adjusted to reflect increases in the wages of the hospital's nonsupervisory employees.

It is the committee's view that nonsupervisory personnel have in the past sometimes been subjected to financial discrimination by individual hospitals. The committee thus exempted from the revenue limit the wages of nonsupervisory personnel as defined by the National Labor Relations Act. The committee intends that shift differential and overtime be included in this wage exemption.

Section 124(b)(3) provides that to the extent that a hospital's exempted wage increases to nonsupervisory employees does not exceed the adjusted inpatient hospital revenue increase limit applicable under section 124(b)(2), the difference may then be applied toward wages for increased numbers of employees whose wage increases in future years would be subsequently exempted under the provision of that section.

Under section 125 of the bill, each hospital (including those exempted under an approved State program) would be required to submit to its health systems agency a semiannual report reflecting its rates for the 30 most frequently used hospital services; an annual report describing its ownership, management, and financial status; and copies of all cost reports submitted to cost payers including the percent increase in wages for nonsupervisory personnel. All such reports would be made available to the public by the health systems agency.

It is the committee's belief that the public needs to be made more aware of the costs of health care and their effects and should be more involved in planning for changes in the financing and delivering of health care at the local level. By having access to the information required under section 125, the health systems agencies, the State health planning and development agencies, and individual citizens will be better informed. The health systems agencies by having comparable information from multiple hospitals will be able to develop, along with the State health planning and development agencies, a more sophisticated State medical facilities plans and State health plans.

Section 130 of the bill provides that citizens may bring civil suits against the Secretary and any other person or provider alleged to have violated or failed to have carried out the various requirements of the bill. This section is intended to provide a measure of accountability under several specified sections of the bill: 124 (Exemption of Nonsupervisory Personnel Wage Increase from the Revenue Limit), 125 (Disclosure of Fiscal Information), 126 (Improper Changes in Admissions Practices), 128 (Excise Tax on Excessive Payments for Inpatient Hospital Limits, 129 (Payment Below the Established Limits). These provisions, although not part of the basic restraint mechanism are important safeguards of the integrity of the entire cost containment program and are worthy of special provisions to assure that they are implemented and followed to the full extent.

The court, in issuing any final order may award cost of litigation including a reasonable attorney's fee based on the prevailing rates for such services. The purpose of this provision was to assure that legitimate actions under this section will not be discouraged because of lack of financial resources of a party contemplating such action. The setting of an award by the court is designed to discourage spurious challenges yet not discourage action brought in the public interest.

Within 1 year of the date of enactment of this bill after consultation with the Bureau of Labor Statistics of the Department of Labor, the Bureau of Economic Analysis of the Department of Commerce, and other appropriate public and private organizations, the Secretary is required to promulgate a figure that more accurately reflects the rate of increase in the prices of the inputs necessary for the production and delivery of hospital services. When this index is promulgated it will replace that promulgated pursuant to section 112. The purpose of this provision is to replace the general economy measure of inflation, the GNP deflator, as the basis for establishing limits on revenue increases. This market basket will more accurately represent the actual proportions in which hospitals combine their inputs. The new figure is to be based on the best information available at the time it is promulgated, and should be sensitive to the goals of the national transitional cost containment program.

Additionally, at the same time the Secretary promulgates this new index, he is expected to make changes in the exception process as deemed necessary or appropriate. It is the committee's expectation that changes in the exception process should reach a balance between effective administration and against the needs of the individual institutions. The exception process should allow greater attention to the unique or special needs of institutions, but any exception must be specifically for costs incurred which are greater than the limits promulgated in this section.

In order to qualify for an exception the committee believes that the State health planning and development agency designated under section 1521 of the Public Health Service Act for the State in which the hospital requesting the application is located should make a finding that the hospital has demonstrated the need for the appropriateness of the proposed service or facility.

The purpose of these provisions is to grant the Secretary the flexibility to expand the exceptions process after 1 year based on his assessment of the need for such expansion and the methodologies and administrative resources available to administer them. The section further emphasizes the concept of community needs and appropriateness as determined by the State health planning and development agencies.

In order to insure an orderely transition to the new provisions, with a minimum amount of administrative burden to hospitals, the government, and other third party payers, the changes in the program will apply to hospitals in the accounting years that begin after the changes are in effect.

The Secretary is required to submit his proposed changes in the inpatient revenue increase limit and in the exceptions process to the Congress together with a detailed statement of the reasons underlying these changes. The changes will go into effect unless either House acts to prevent the changes within the prescribed time. The purpose of this section is to provide for a streamlined process for congressional comment or disapproval of the Secretary's proposed changes, but one that does not require the Secretary to request new legislation which could significantly delay implementation of changes designed to improve the responsiveness of the cost containment program to the needs of the individual hospitals.

The committee believes that the Hospital Cost Containment Act is only a first step toward controlling the escalating costs of health care. It fully expects the Secretary to arrange for the conduct of a study or studies as mandated in section 133 of the committee's bill of methods for controlling the cost and/or revenue received for outpatient hospital services, long term care services, and ambulatory care services including physician services. These studies are required to be completed within 1 year, and submitted to Congress within 30 days of completion. The reports are to include the recommendations for legislative and administrative action should also include a report of the economic impact of the ongoing cost control program.

The committee believes that long term reform in the health care system will not take place until the excess capacity in the health care system is reduced including the reduction of unneeded surplus beds and facilities.

The committee has found in its initial review of the implementation of the National Health Planning and Resources Development Act of 1974 (Public Law 93–641) that the necessary regulations for the development of State medical facilities plans, State health plans, health systems plans, and annual implementation plans have *not* been promulgated by the Secretary of the Department of Health, Education, and Welfare in a timely fashion, and expects that the Secretary will proceed immediately to issue these overdue regulations.

The Secretary in promulgating regulations under section 1602 of the Public Health Service Act should include, among other standards. occupancy standards and bed to population ratios as part of the requirements for individual State medical facilities plans.

V. CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 1391.

2. Bill title: Hospital Cost Containment Act of 1977.

3. Bill status: As reported by the Senate Committee on Human Resources.

4. Bill purpose: To establish a means of containing the cost of hospital services by establishing an annual revenue growth limit. This limit would, initially, be based on a formula reflecting overall economic growth (the GNP deflator) and an intensity factor for inpatient costs (rises in hospital prices over the previous two years). These controls are only applied to short-term community hospitals and exclude federal facilities, long-term care institutions, and hospitals with 4,000 admissions where the facility is a sole community provider outside of Standard Metropolitan Statistical Areas (SMSA). Adjustments in the growth ceiling can be made in a given year for a specific hospital based upon increases in patient volume of more than 2 percent over the previous year or upon the rate of increase in wages for non-supervisory personnel.

5. Cost estimates:

[In billions of dollars]

Savings	1978	1979	1980	1981	1982
Medicare	1.15	2.60	4.04	5.93	8.30
Medicaid	.09	.23	.39	.60	.87
Total	1.24	2.83	4.43	6.53	9.17

6. Basis of estimate: Savings are calculated on the basis of CBO's current policy projections for total costs of Medicare and Medicaid hospital costs from 1978–1982 as compared to growth in these programs using the growth formulae as indicated in S. 1391. Also, base year expenditures in fiscal year 1977 do not reflect actual expenditures but, rather, an adjusted level as required by the legislation which excludes hospital increases of over 15 percent and under 6 percent. An annualized rate of 14.5 percent over fiscal year 1976 was used (because of a change in the fiscal year, increases were calculated on the basis of five quarters—July 1976 to September 1977). The following table shows the growth rates in total Medicare and Medicaid hospital costs as projected by CBO and the growth ceiling (with adjustments) calculated as outlined in S. 1391.

Percent measure over previous year

	Medicare	Medicaid	Growth ceiling [1]
1978	17.25	13.83	9.96
1979	16.10	13.72	10.29
1980	16.06	12.68	9.42
1981	16.18	12.74	8.88
1982	16.57	13.10	9.02

[1] Growth ceilings are those used in the CBO document "The Cost Containment Act of 1977: An Analysis of the Administration's Proposal", as published by the Senate Committee on Human Resources, July 1977.

The basic growth ceiling (i.e., without adjustments for volume or wages) for fiscal years 1978 and 1979 was calculated using the following formula:

Growth Ceiling=GNP deflator [1] ÷ ⅓ (Total hospital expenditure increase [2]—GNP deflator [2])

[1] For the previous 12 month period.
[2] For the previous 2 calendar years.

For fiscal years 1980–82, the basic growth ceiling was assumed to be 8 percent, 7 percent, and 7 percent respectively. Under Section 131 of the bill, the Secretary is required to promulgate a growth limit based upon an index that "more accurately reflects the rate of increase in the prices of the inputs necessary for the production and delivery of hospital services." Although no exact data is available, the experience of certain states in establishing such a limit would indicate that the yearly rate of increase would be approximately 7 percent. In the first year, an 8 percent rate is used to account for some phasing-in of this growth limit.

Actual revenue limits include adjustments for both wage increases and volume adjustments. Under Section 124, the growth rate is modified by requiring that each hospital's limit be adjusted to reflect the average percentage increase in wages for non-supervisory personnel. This adjustment to the limit is based upon the following formula:

Adjusted Growth Limit = .35 (increase in wages) ÷ .65 (Basic growth ceiling)

where .35 and .65 represent weighting factors for the proportion of wage and non-wage costs (i.e., wages for non-supervisory personnel account for 35 percent of total hospital costs). Adjustments used in this cost estimate for wages are based upon CB projections for compensation per man hour for hospital employees for fiscal years 1978–82. An increment of 0.5 percent per year was added to currently projected levels in order to reflect the mandatory nature of this provision which would tend to force wages up to a higher level than exists under current policy. The adjusted wage increases used in this estimate are: 1978, 9.4; 1979, 9.2; 1980, 9.2; 1981, 9.5; 1982, 9.9.

Under Section 113, an adjustment to the hospital revenue increase limit can be made on the basis of volume load. These adjustments will be permitted for an individual hospital when the average increase (or de-

crease) in numbers of admissions and total patient days exceeds 2 percent (in the case of increases) or 10 percent (in the case of decreases) of the previous year. In each case, every one percent increase above 2 percent or decrease below 10 percent will lead to a half percent increment or decrement in the revenue increase limit. Thus, if a hospital has a 4 percent increase in admissions and a 2 percent increase in total patient days (for an average increase of three percent) it would have its limit adjusted upward by 0.5 percent (or 50 percent of 3–2). In the same way, a hospital that had a 12 percent decrease in admissions and a 14 percent decrease in total days (for an average decrease of 13 percent) would have its limit adjusted downward by 1.5 percent (or 50 percent of 13–10). Increases or decreases, however, are limited to 15 percent and changes above that level are calculated to be 15 percent. For the purposes of this estimate, it was assumed that total hospital revenues would be increased by 1.0 percent as a result of this provision.

In calculating the total savings, another provision that was considered was that of Section 121(a) (3 and 4) which excludes hospitals from the revenue limit that either have less than 2,000 admissions per year or have 2,000 to 4,000 admissions per year and are sole community providers physically located outside of an SMSA. According to information provided by the Human Resources Committee, this would account for approximately 7 percent of total expenditures and, thus, this proportion of the savings was deducted in the estimate. Also, because of the fact that fiscal year 1978 will begin shortly, savings in the first year were assumed to be for only three-quarters of that year.

Although Section 117 exempts certain states which have cost-containment programs from the provisions of this title, only two of these states' programs now applies to Medicare reimbursement. This, it was assumed that, although states might receive an exemption under Section 117, the savings accrued from this Bill would not be significantly diminished.

Lastly, while Title II of S. 1391 provides for a moratorium on the acquisition of new health care equipment and facilities, no additional savings above those attributed under Title I will be accrued. While Title II might help facilitate hospitals' efforts to meet the limits established under Title I, they would not reduce expenditures below that amount. Also, because of existing capital commitments of facilities and the lag in experiencing the effect of new commitments, no significant impact of this provision will be seen until fiscal year 1981 or 1982.

7. Estimate comparison: None.
8. Previous CBO estimate: None.
9. Estimate prepared by: Jeffrey Merrill.
10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

VI. REGULATORY IMPACT STATEMENT

Regulations issued pursuant to the provisions of this bill will potentially limit cost increases in about 4,000 non-Federal short-term acute care and specialty hospitals. It is estimated that approximately 60 percent or 2,400 hospitals affected by the bill may have costs of inpatient services which increase at a rate in excess of the limit. This number, however, is subject to further reduction to the extent that exceptions and exemptions are allowed pursuant to sections 115, 117, 118 or 119 of the bill. Hospitals requesting exceptions or exemptions as sole community provider under section 121 will incur some additional paperwork in preparing and documenting the request and meeting disclosure requirements. The bill will not apply to the smaller hospitals with 2,000 admissions or less and those sole community hospitals with between 2,000 and 4,000 admissions annually. Although these smaller hospitals make up approximately 40 percent of all hospitals in the nation, they account for less than 10 percent of the total operating expenses that would be subject to the cost control program.

Section 115 of the bill allows exceptions to the revenue limits for certain specified reasons and requires the hospital requesting the exception to provide satisfactory documentation to support the request. It is estimated that approximately 700 hospitals may file a request for exception and that on an average, each request will require about 40 hours to prepare and accumulate required documentation such as balance sheets, certificate of State health planning agency approval, schedules of computation of exception amount, etc.

Section 116 provides that where a hospital imposes inpatient charges in excess of the limits specified in the bill, it will be subject to the Federal excise tax specified in section 128 of the bill and to possible exclusion from participation in Federal programs. A hospital may avoid these penalties by maintaining an amount equal to the excess charges in an escrow account. It is estimated that in the first year approximately 300 hospitals may be required to place funds in an escrow account to avoid the penalty and that approximately 8 hours will be required to establish the account. It is also estimated that the impact of this section will be much less significant in subsequent years.

Section 124 of the bill exempts nonsupervisory personnel wage increases from the revenue limit. This section will require additional work for all hospitals subject to the provisions of this bill to identify nonsupervisory employees and calculate the average percentage wage increases. The amount of this additional work will vary among hospitals as a result of the sophistication of their payroll systems. Hospitals with computerized payroll systems would be able to perform this task with a minimum amount of additional work. If the hospital uses a manual payroll system, approximately 40 hours of additional work will be required to identify the nonsupervisory positions, the number of employees in such positions, the basic wage for each position and compute the amount of wage increase.

Section 125 of the bill which addresses "disclosure of fiscal information," requires that the names and annual compensation of the hospital's principal operating personnel, the name and address of any person who has an ownership interest of over 5 percent or who has a 5 percent or more interest in any mortgage or other obligation secured by hospital property or assets and the name and address of any individual or firm with which the hospital had business transactions aggregating over $5,000 and where an owner of the hospital or note holder has an interest of 5 percent or more in the firm be reported annually. To the extent that this information is disclosed, the bill could have a possible effect on the privacy of the individual concerned.

In addition, each hospital must annually report information describing its financial status (balance sheet and statement of revenue and expenses), copies of all cost reports submitted to each cost payer, and its budget. Moreover, the hospital must report twice a year the rate charges for each of 30 hospital services including average semi-private room rates. Although the information be readily available to most hospitals, this section will require about 30 hours of additional work to photocopy the information and prepare the reports.

Where a hospital fails to comply with the reporting requirements, it is subject to a 5 percent reduction in Federal payments.

Section 132 of the bill requires that the Secretary establish within 1 year of the date of enactment an accounting and uniform cost reporting system for determining operating and capital costs of hospitals providing services. Upon implementation of this part of section 132, hospitals will be required to modify their present accounting system to conform to the new requirements of this section. Also, sections 132 (e) and (f) direct the Secretary to establish a system which will identify hospitals which provide "better than average care" and develop a system for reimbursing such hospitals. This would impact the reimbursement for these hospitals although neither the extent nor the direction of the impact can be determined until the system is developed.

In addition, all hospitals subject to the cost limits will experience some increase in paperwork as a result of other additional cost reporting requirements. Except for those hospitals not currently participating in existing Federal programs, such increase would not be significant since much of the required information is already provided as part of cost reporting requirements for these programs. For example, each hospital will be required to submit information relative to base year average reimbursement per admission by any cost payer, average inpatient charges per admission, and total admissions by each type of third-party payer. It is estimated that an additional 35 hours will be required to collect and submit miscellaneous required information.

The estimated additional paperwork discussed above applies for hospitals currently participating in Federal programs. For hospitals not currently participating in existing Federal programs, the additional paperwork required is estimated to be approximately twice the estimate for hospitals participating in Federal programs.

VIII. SECTION-BY-SECTION ANALYSIS OF THE HOSPITAL COST CONTAINMENT ACT OF 1977 (S. 1391) AS REPORTED BY THE COMMITTEE ON HUMAN RESOURCES

Section 1. The first section contains the short title of the bill—"The Hospital Cost Containment Act of 1977." Section 2. The second section requires that by March 1, 1979, the Secretary of Health, Education, and Welfare—referred to as "Secretary" in later provisions—will submit a report by March 1979, setting forth his recommendations for permanent reforms in the delivery and financing of health care, which will replace the transitional provisions of the bill. The remainder of the bill is as follows:

TRANSITIONAL HOSPITAL COST CONSTRAINT PROVISIONS

PART A—PURPOSE AND GENERAL DESCRIPTION OF THE PROGRAM

Sec. 101 Purpose

Section 101 defines the general purpose of the transitional hospital cost-containment program established by this title. The overall purpose of title I is to constrain hospital cost increases by limiting the amount of revenue which may be received by hospitals or paid to hospitals from medicare, medicaid, private insurers, and paying patients. The provisions will go into effect on January 1, 1979 and remain in place until such time as permanent reforms in health care financing are adopted. The method by which the transitional cost constraint program will be carried out is to limit increases in inpatient costs by limiting the allowable increase in inpatient revenues of short-term acute care and specialty hospitals—other than new hospitals, certain small hospitals, and certain HMO-related hospitals—in the manner outlined.

PART B—ESTABLISHMENT OF HOSPITAL COST CONTAINMENT PROGRAM

Sec. 111 Imposition of limit on hospital revenue increases

Section 111(a) provides that for any period affected by this title, the average reimbursement per admission for inpatient serv-

ices paid by each class of payer—medicare, medicaid, each other cost payer, and all charge payers together—may not exceed the base year average reimbursement per admission for inpatient services by a percentage greater than the product of the factors set forth in paragraphs (1), (2), and (3) of this subsection.

Paragraph (1) of section 111(a) sets a factor which identifies the extent to which costs—that is, total hospital inpatient costs per admission as determined for medicare purposes—would have increased between the end of the base accounting year and the effective date of the program if they had increased by the average annual rate actually experienced by a hospital during the 2-year period ending with the close of the base year except that the percentage will not be less than 106 nor more than 115.

Paragraph (2) of section 111(a) sets a factor by which costs would have increased from the effective date of the program to the start of any subject accounting year if they increased at an average annual rate consistent with the basic limit set under section 112(b). That is, for purposes of computing the total limit applicable in a subject accounting year, the basic limit without any adjustment for patient loads is applied to the period intervening between January 1, 1979 and that accounting year. This percentage will be zero for the first subject accounting year since there will be no intervening period for that particular year.

Paragraph (3) of section 111(a) sets a percentage equal to the adjusted—that is adjusted for differences between subject year and base year admissions—inpatient hospital revenue increase limit set under section 112(a) applicable to the subject accounting year.

Subparagraphs (1), (2), and (3) of subsection (a) set forth the components of the percentage increase over the fixed 1976 base to be allowed in any subject accounting year. Paragraph (1) allows a percentage increase for inflation from the end of the 1976 base year to the January 1, 1979 effective date of the cost containment program. This inflation rate is set by using the actual experience of a past period. The increase which can be carried forward is limited to 15 percent. A rate of at least 6 percent is allowed when past increases have been low. Paragraph (2) adds the basic limits in effect for periods intervening between the January 1, 1979, effective date of the hospital cost containment program and the start of any subject accounting year to allow for inflation at the target rate for such periods. Paragraph (3) allows the limit for the subject accounting year to be adjusted for changes in admissions. Allowable revenues are either increased or decreased based on the marginal cost changes resulting from admission changes.

Section 111(b) provides that where less than a full accounting year falls within the first year (Dec. 31, 1978 to Dec. 31, 1979) for which the limits are set, the limits will be applied to reimbursement and charges in the hospitals accounting period in the same proportion as the number of days in the accounting period falling within the period for which the limit is applied bears to the total days in that accounting year. Thus, for a hospital with an accounting year ending September 30, 1978, and assuming an annual rate of cost increase of 15 percent in the 24-month period ending December 1977, and a 9-percent basic limit with no adjustments effective for the period January 1, 1979 through December 3, 1979, the allowable percentage increase would be 10.5 percent. This 10.5 percent figure is derived by adding the 15-percent annual inflation allowance for the one-fourth of the year between the end of the base accounting year (Dec. 31, 1977) to the effective date of cost containment (Jan. 1, 1979), or 3.75 percent, to the basic 9-percent limit applied for the three-fourths year following after the effective date, or 6.75 percent. The 10.5-percent would be the limit on increases in reimbursement per admission for the last three quarters of the accounting year ending September 1979. This limit would be applied on a monthly basis only to that portion of the year which falls after enactment. Reimbursement for the months prior to enactment is based on existing practices. For any subject year which follows the first subject year one basic limit figure is added to the limit calculated for the first subject year.

Section 111(c) provides that in the case of an admission for which a hospital will be reimbursed by more than one cost payer, the first cost payer who pays for any services rendered to the patient will count the patient and all costs attributable to that patient as one of its admissions. The purpose of this provision is to avoid double counting of admissions and costs through a simple administrative mechanism that is consistent with current practices.

Sec. 112. Determination of adjusted inpatient hospital revenue increase limit

Section 112(a) provides that the adjusted inpatient hospital revenue increase limits (adjusted limits), applicable to a hospital during any accounting year under section 111(a)(3), will be the inpatient hospital revenue increase limits (basic limits) promulgated under section 112(b) for the 12-month period in which the subject accounting year ends modified by the "volume load formula" promulgated under section 113. The adjusted limit, then, is the limits derived from the percentage increase in the GNP deflator and in total hospital expenditures as specified in the following section, modified to account for changes in a hospital's admissions and number of patient days during a subject accounting year.

Section 112(b) requires the Secretary to promulgate the "inpatient hospital revenue increase limit" (basic limit) which will apply during any period subject to this title.

Paragraph (1) of section 112(b) provides that the Secretary will, between October 1, and December 31 of 1978 and each succeeding calendar year, promulgate a figure which will be the basic limit applicable to the following calendar year period. The figure will be the sum of (A) the percentage increase in the implicit GNP price deflator (published by the Department of Commerce and used to adjust the gross national product calculated by that Department for the effects of inflation—hereafter referred to as the "GNP deflator"—for the 12-month period ending October 31 of that year as compared to the preceding 12-month period), plus, (B) a factor that allows for continued expansion of essential hospital services. The expansion factor will be one-third the difference between (i) the average annual rate of increase in total hospital expenditures which is found by the Secretary to have occurred during the 2 years ending December 31 of the prior year, and (ii) the average annual rate of increase in the GNP deflator for the 2 years ending December 31 of the prior year.

Paragraph (2) of section 112(b) provides that the Secretary may adjust or readjust the limit to compensate for actual inflation of more than 1 percentage point above the GNP deflator used to set the limit in section 112(a). Any adjustments will affect all accounting years which end in the calendar quarter preceding the calendar quarter in which the adjustment was made, and all subsequent accounting periods.

Sec. 113. Promulgation of volume load formula

Section 113 provides that basis on which the volume load formula will be promulgated. The formula will be promulgated by the Secretary within 30 days of enactment of the act and will then be applied under the terms of section 112 of this act.

Paragraph (a) provides that the volume load formula will consist of the arithmetic average of the percentage increase in inpatient admissions over the base year and the percentage increase in inpatient days since the base year. This provision allows for recognition of volume changes in setting the revenue increase limits.

Paragraph (b) of section 113 provides that the volume load formula will be such that it establishes a range of percentage change in volume load, decreases of up to 10 percent in the base year and increases of up to 2 percent, within which a hospital will not be subject to any adjustment in total revenues for any changes in patient load over the patient load experienced during the base accounting year.

Paragraph (b)(2) of section 113 provides that the formula will be such that it allows total revenue to increase by one-half of the revenue which would be allowed in paragraph (1) when there is no change in volume loads multiplied by the percentage increase in volume above the range set forth in paragraph (1), but not beyond a 15-percent increase in volume load.

Paragraph (b)(3) provides that if volume load declines by more than 10 percent but by less than 15 percent the formula must require a decrease in allowable total revenue equal to one-half of the revenue which would be allowed under paragraph (b)(1) if there were no change in volume load multiplied by the percentage decline in volume between 10 and 15 percent.

Paragraph (b)(4) provides that if volume load increases by more than 15 percent the volume load formula will provide that the hospital can receive no more total revenue increase than the maximum specified in paragraph (b)(2).

Paragraph (b)(5) provides that if volume load decreases by 15 percent or more the volume load formula will require that the maximum allowable revenue shall decrease from the lower limit set in paragraph (b)(3) by one-half the revenue specified in paragraph (b)(1) if there were no changes in volume load multiplied by the percentage decline in volume below 15 percent.

Sec. 114. Based accounting year and modification of changes and reimbursement for that year

Paragraph (a) of section 114(B) provides that the base accounting year will be a hospital's accounting year which ended in 1977. In the case of a new hospital, which did not meet the definition of a hospital under this title for at least 1 full accounting year prior to its accounting year ending in 1977, the base year will be that accounting year which immediately precedes the accounting year in which the new hospital satisfied the definition in section 121.

Section 114(c) provides that charges attributable to inpatient services determined by a State planning agency to have been inappropriate will not be deducted from the base year as otherwise required by subsection (b).

Sec. 115. Establishment of exceptions

Section 115 authorizes the Secretary to grant exception from the limits established under title I to hospitals which meet certain requirements. The hospital must request the exception and must provide any and all evidence necessary for the Secretary to make a determination.

Paragraph (1) of section 115(a) sets out the two reasons why exceptions may be granted as (A) changes in volume load beyond (either higher or lower than) 15 percent, and (B) changes in the capacity of a hospital, significant changes in the type of services offered in the hospital, or major renovation or replacement of facilities but only if such changes have increased in-

patient costs per admission (as determined for medicare purposes) more than the intensity growth factor—one-third of the difference between increases in the GNP deflator and increases in hospital costs—allowed for hospital growth under subparagraph 112(b)(1)(B).

Paragraph (2) of section 115(a) requires that, to be considered for an exception, a hospital must demonstrate that without an increase in the revenue otherwise allowable under the limit (taking into account all other available resources, including such resources as unrestricted endowment) the major changes in volume load, capacity, facilities, or services would cause it to experience a current ratio of assets to liabilities of less than 2.0. For purposes of this paragraph, "current ratio of assets to liabilities" is defined as the sum of the cash, notes and accounts receivable (less reserves for bad debts), marketable securities, and inventories divided by the sum of all liabilities of the hospital falling due in the accounting year for which the exception is requested.

Paragraph (3) of section 115(a) requires that if a hospital is to be considered for an exception, the appropriate State health planning and development agency (which has been designated under section 1521 of the Public Health Service Act) must find that the major changes in admissions, capacity, plant, or services are necessary to the health needs of the community and are appropriate to the prevailing conditions in the community

Section 115(b)(1) provides that the Secretary shall grant exceptions from the limits for hospitals that demonstrate that there has been a change in the inpatient hospital services for which reimbursement is made by a cost payer or in the basis for calculating reimbursement. This exception is designed to accommodate significant changes in policy coverage by an insurer.

Section 115(b)(2) provides that the Secretary shall grant an exception if the percentage of inpatient charges attributable to any cost payer has changed, and the change has reduced the total revenue of the hospital by at least the percentum specified in section 112(b)(1)(B). This exception is designed to accommodate a major shift in the type of patients served in a hospital, where the shift is not away from nonpaying and medicaid patients. Section 115(c) requires the Secretary to make a determination on every exception request within 90 days after the request is satisfactorily filed. This subsection assures that all exceptions will be approved or denied in a timely manner.

Section 115(d) provides that the Secretary may require a hospital which has been granted an exception to undergo an operational review. The findings of the review would be public. A hospital will be required to implement recommendations made as a result of the review if it wishes to maintain its exception. This subsection provides that any hospital that receives an exception, and, therefore, added revenue, may be closely examined to determine whether or not its operating procedures might be contributing to the need for an exception. If factors contributing to the need for an exception are identified, suggestions for correctional measures must be followed.

Section 115(e) defines how a new limit will be set for a hospital which has been granted an exception.

Paragraph (1) of section 115(e) provides that if a hospital is granted an exception on the basis of changes in volume load of more than 15 percent, then its maximum allowable revenues will be increased or decreased according to a per centum limitation determined by the Secretary.

Paragraph (2) of section 115(e) provides that if a hospital is granted an exception for major changes in capacity in the type of service offered, or in its plant, it will be allowed an increase in its total allowable revenues no greater than the amount necessary to maintain a current ratio of assets to liabilities of 2:0.

Paragraph (3) of section 115(e) provides that if a hospital is granted an exception on the basis of changes in a cost payer's reimbursement practices, then the hospital will be allowed an increase in its total allowable revenue as is necessary to offset the changes for which the exception was granted.

Paragraph (4) of section 115(e) provides that if a hospital is granted an exception on the basis of changes in the type of patients it serves (as indicated by the type of payers covering the patients), then the hospital will be allowed an increase in its total allowable revenue as is necessary to offset the changes for which the exception was granted.

Paragraph (1) of section 115(f) entitles a hospital which is dissatisfied with the Secretary's determination on its exception to request a hearing before the Provider Reimbursement Review Board established under section 1878 of the Social Security Act. For a case to be heard the amount in controversy must be over $10,000 and the petition for a hearing must be filed within 180 days after receipt of the Secretary's decision. Paragraph (2) of section 115(f) authorizes the Secretary to appoint five additional members of the Provider Reimbursement Review Board for the purpose of reviewing appeals which may arise from the exception process.

Section 115(g) provides that upon request by a hospital, the State health planning and development agency designated under section 1521 of the Public Health Service Act for the State in which the hospital is located shall make a finding as to the appropriateness of specific institutional health services for purposes of subsection (a)(3) of section 114(c), after requesting the recommendations of the appropriate health systems agenecy. The findings of the State health planning and development agency under this subsection will not be subject to further review.

Sec. 116. Enforcement

Section 116(a) provides that medicare payments may be made only to the extent that reimbursements are within the established limits on payment for inpatient hospital services. Section 116(b) provides that state medicaid and maternal and child health and crippled children's services programs need not pay amounts in excess of the established limits on payments for inpatient hospital services. Subsections (a) and (b) limit Federal payments to hospitals within the established limits so that compliance with respect to Federal payments is automatic.

Section 116(c) provides for sanctions on hospitals and cost payers who do not comply with the limits on payment for inpatient hospital services established by this title. Receipt on a cost or charge basis of any amount in excess of the established limits on payment for inpatient hospital services will subject a hospital to (1) a Federal excise tax of 150 percent of the excess amount under section 4991 of the Internal Revenue Code of 1954 (as added by section 128 of the act), and (2) exclusion, at the Secretary's discretion, from participation in any or all of the medicare, medicaid, and maternal and child health and crippled children's services programs established under titles V, XVIII, and XIX of the Social Security Act The same sanctions are applicable to any nongovernment cost payer that makes payments in excess of the established limits on payment for inpatient hospital services.

Section 16(d) provides the enforcement mechanism which will apply to billed charges and additionally provides that a hospital will be exempt from the sanctions set forth in paragraphs 116(c)(1) and 116(c)(2), that is, the excise tax and exclusion from the Government programs, if it holds aggregate excess billed charges attributable to charge payers in esrow until equivalent aggregate amounts in charges below the limits are experienced. Any hospital which bills for charges in excess of the limits must make a public announcement in its own community that such excessive charges did occur.

Sec. 117. Exemption for hospital in certain States

Section 117(a) provides that where a State has a satisfactory program for containing hospital costs, the Governor or chief executive of the State may request that the Secretary exclude the hospitals physically located in the State from the application of title I. Paragraphs (a), (b), (c), and (d) set forth the conditions under which a State program can be approved for this purpose.

Paragraph (a) requires that a State program must be in effect as of the date when a request is made. Such a program must cover at least 90 percent of the hospitals which would be covered by title I.

Paragraph (b) requires that the State program must apply to at least all inpatient revenues, and must have applied for at least 1 year prior to the date of such request to at least half of those revenues (excluding those received from the medicare program under title XVIII of the Social Security Act).

Paragraph (c) requires that the Governor or chief executive must certify that the aggregate rate of increase for inpatient hospital revenues for all hospitals in the State will not (1) exceed 110 percent of the basic limit established by the Secretary under paragraphs 112(b)(1) and 112(b)(2). However, at the option of the State, increases which would be exempt under the nonsupervisory wage passthrough in section 124 will increase the limit in the manner prescribed in that section. No State program shall require an increase in aggregate inpatient revenues less than the increase in the GNP deflator applicable to that fiscal period.

Paragraph (d) requires that the Governor or chief executive must submit, and have approved by the Secretary, a plan for recovering any excess revenue which may occur under the State's plan.

Sec. 118. Exemption for hospitals in certain experiments or demonstrations

Section 118 provides that the Secretary may exclude a hospital or group of hospitals from application of title I if (1) such exclusion is necessary to facilitate an experiment or demonstration entered into under section 402 of the Social Security Amendments of 1967, section 222 of the Social Security Amendments of 1972, or section 1526 of the Public Health Service Act and (2) the experiment or demonstration is consistent with the purposes of this title. This provision may apply to a single hospital, to a group of hospitals, or to an entire State.

Sec. 119. Exemption for States with cost containment programs

Section 119(a) provides that a State desiring to conduct a hospital cost containment program may submit a plan to the Secretary. He would be required to approve that plan if it satisfied the criteria set forth in the section. Paragraph (1) requires that there be an identifiable unit of State government which has the authority to supervise the administration of the program. Paragraph (2) requires that there be a methodology that assures that the aggregate rate of increase in revenues for inpatient hospital services for all hospitals in the State will not exceed 110 percent of the inpatient hospital revenue increase limit determined pursuant to section 112(b)(1) and section 112(b)(2), nor

be required to be less than the increase in the GNP deflator applicable to that fiscal period. The section also provides that the methodology may include alternative methods for classifying hospitals, for establishing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system. Paragraph (3) of section 119(a) requires that the plan include a methodology for recovery of any excess of total revenues. Paragraph (4) of section 119(a) requires that the plan include sanctions and enforcement procedures to insure complaints. Paragraph (5) of section 119(a) requires that the plan provide for uniform definition of all costs. Paragraph (5) of section 119(a) requires that the plan include provisions for the evaluation of standards of institutional performance.

Paragraph (7) of section 119(a) requires that the plan provide for the mandatory exemption of wage increases for nonsupervisory personnel as specified in section 124 from any revenue or cost limits. Paragraph (8) of section 119(2) requires that the plan comply with such other criteria as the Secretary deems necessary to accomplish the purposes of title I and which are not inconsistent with the provisions of title I.

Section 119(b) authorizes the awarding of $10 million in grants to assist States in implementing cost containment programs which meet the criteria of section 119(a).

Section 119(c) requires that the Secretary promulgate regulations to implement section 119 within 180 days of the date of enactment of the act.

Sec. 120. Revocation of exemptions under section 117, 118, and 119

Section 120(a) provides for an annual review by the Secretary of any program, experiment, or demonstration that has received an exemption under section 117, 118, or 119.

The Secretary may revoke any exemption if he determines that the conditions of the exemption are no longer being met. The revocation may occur only after a notice of intent has been published and an opportunity for a hearing on the record has been provided.

Section 120(b) provides that upon revocation of an exemption each affected hospital will become subject to the limits imposed by title I for each full accounting year, any part of which was not covered by the exemption.

PART C—DEFINITIONS AND MISCELLANEOUS PROVISIONS

Sec. 121. Definition of hospital

Section 121(a) defines the term "hospital," for purposes of this title, and with respect to any accounting year, as an institution (including a distinct part of an institution participating in the medicare program established by title XVIII of the Social Security Act, which (1) satisfies paragraphs (1) and (7) of section 1861(e) of the Social Security Act, and (2) has an average length of stay of 30 days or less in the preceding accounting year. Paragraph (1) of section 1861(e) of the Social Security Act defines a hospital as an institution primarily engaged in providing diagnostic and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons by or under the supervision of physicians, rehabilitative services by or under the supervision of physicians. Paragraph (7) of that section requires that the institution be licensed or meet the requirements for licensure, where State law so requires.

Section 121(b) provides that an institution shall not be a hospital except for purposes of section 125, if it meets the criteria set out in paragraph (1), (2), (3) or (4) below during any part of a period to which title I applies. However, all institutions which meet the criteria established in section 121(a) will be subject to the disclosure provisions of section 125 of this act.

Paragraph (1) excludes institutions which otherwise meet the criteria for hospitals, but are less than 2 years old.

Paragraph (2) excludes institutions which otherwise meet the criteria for hospitals, but derive more than 75 percent of their inpatient care revenues, disregarding revenues received from the medicare program, from one or more health maintenance organizations (as defined in subsection 1301(a) of the Public Health Service Act). A health maintenance organization is defined by section 1301 of the Public Health Service Act as a legal entity which provides basic and supplemental health services to individuals enrolled with the organization on the basis or a prospective periodic rate without regard to the "frequency, extent, or kind of a health service . . . actually furnished" and meets certain other criteria specified in the Public Health Service Act.

Paragraph (3) excludes institutions which have had, in the 3 previous accounting years preceding the subject accounting year average annual admissions of 2,000 or less.

Paragraph (4) exempts those hospitals that had in the 3 previous accounting years preceding the subject accounting year an average annual admissions of between 2,000 and 4,000 admissions and that are not physically located with a Standard Metropolitan Statistical Area and are sole community providers as defined by the Secretary.

Section 121(c) establishes for purposes of sections 117 and 119 the definition of a hospital. This definition, in contrast to the one generally applicable to title I, requires the inclusion of small hospitals and new institutions covered by acceptable State cost containment programs on the grounds that such programs can deal appropriately with the special problems experienced by these hospitals.

Section 121(d) exempts any hospital that is a Federal hospital.

Sec. 122. Other definitions

Section 122 defines five major terms for purposes of this title. Paragraph (1) of section 122(a) defines the term "accounting year" for purposes of this title as:

(A) a period of 12 consecutive full calendar months which correspond to the last full period allowed for medicare reimbursement purposes (for a hospital participating in the medicare program established under title XVIII of the Social Security Act); or (B) a calendar year, or if requested by the hospital, some other 12-month period as designated by the Secretary (for hospitals not participating in medicare).

Paragraph (2) of section 122(a) provides that the Secretary may establish an accounting year of less than 12 months, and make appropriate adjustments in the application of this title, for a hospital whose "accounting year" under paragraph (1) is changed from one 12-month period to another.

Section 122(b) defines the term "inpatient hospital services" as services so defined for medicare purposes plus the services of a private-duty nurse or other private-duty attendant.

Section 122(c) defines the term "inpatient charges" as regular rates, applied to all inpatient services, which are used in apportioning costs between medicare beneficiaries and all other patients.

Section 122(d) defines the term "admissions" as the formal acceptance of an inpatient by a hospital. Newborn children (unless retained after discharge of the mother) and transfers between inpatient units of the same hospital are excluded from this definition of admission.

Section 122(e) defines "cost payer."

Paragraph (1) of section 122(e) defines a "cost payer" as one of the programs established by or under title V, XVIII, or XIX of the Social Security Act. These are the maternal and child health and crippled children's services, medicare, and medicaid programs.

Paragraph (2) defines a "cost payer" as any organization which (A) meets the definition of a carrier in section 1842(f)(1) of the Social Security Act and (B) reimburses a hospital on the basis of costs. Section 1842(f)(1) of the Social Security Act describes a carrier as "a voluntary association, corporation, partnership, or other nongovernment organization which is lawfully engaged in providing, paying for, or reimbursing the cost of health services under group insurance policies or contracts, medical or hospital services agreements, membership or subscription contracts or similar group arrangements in consideration of premiums or other periodic charges payable to the carrier, including a health benefit plan duly sponsored or underwritten by an employee organization." Section 122(f) defines "reimbursement payable by a cost payer" as the sum of (1) the amounts payable by the cost payer to a hospital for inpatient hospital services, and (2) the amounts payable by an individual to the hospital for inpatient hospital services if the individual's expenses for such services are payable in part by the cost payer, to the extent that those amounts are calculated as a portion of the costs or other basis on which the amounts payable by the cost payer are determined. Section 122(g) defines a "State" to include Puerto Rico, Guam, the District of Columbia, and the Virgin Islands.

Sec. 123. Determination of inpatient reimbursement

Section 123 provides that the base inpatient hospital reimbursement for the maternal and child health and crippled children's, medicare, and medicaid programs will be determined without adjustment for the following regulations: carry forward of costs disallowed under limits on reasonable costs (CFR 405, 460(g)), carry forward of costs disallowed under the lower of cost or charges (CFR 405.455(d)), recapture of accelerated depreciation (CFR 405.415(d)(3), and section 405.415(f)). Thus, the revenues used in base and subject-year calculations will be that portion of revenues directly attributable to costs which are incurred in those years.

Sec. 124. Exemption of nonsupervisory personnel wage increases from revenue limit

Section 124(a) provides that the Secretary shall modify the basic limit, and its adjusted limit as applied to each hospital subject to this title to allow, without restriction, revenue equal to the average amount of any increase in regular wages granted to nonsupervisory personnel. For purposes of title I, the term "nonsupervisory personnel" means any employee who does not meet the criteria for a "supervisor" as defined in the National Labor Relations Act. This exemption does not apply to physicians, but does apply to State and local employees. A hospital must provide all data necessary for the required calculation. This section is applied to all hospitals, except for those exempted under section 117 or 118, for any accounting year beginning before April 1979.

Section 124(b) provides that the modified limit will be calculated by adding together the percentages in paragraphs (1), (2), and (3).

Paragraph (1) of section 124(b) sets forth one part of the formula as the average percentage increase in wages granted to nonsupervisory personnel since the close of the preceding accounting year multiplied by the percentage of total inpatient cost (as determined for medicare purposes) attributable to such wages.

Paragraph (2) of section 124(b) sets forth one part of the formula as the limit (basic or adjusted, as appropriate) otherwise applicable under title I multiplied by the percentage of total inpatient cost (as determined for medicare purposes) attributable to all other expenses in the preceding accounting year.

Paragraph (3) of section 124(b) provides that to the extent that a hospital's exempted wage increases to nonsupervisory employees does not exceed the adjusted inpatient hospital revenue increase limit applicable under section 124(b)(2), the difference may be applied toward wages for increased numbers of employees whose wage increases in future years would be exempted under the provisions of this section.

Section 124(c) provides that the modified limit calculated in section 124(b) will constitute that hospital's basic or adjusted limit for purposes of imposing a limit on revenues under section 111 of the title, and for all other purposes of this title.

Sec. 125. Disclosure of fiscal information

Section 125(a) requires that on March 1 and September 1 of each year every hospital must submit the charges for 30 designated services, including its average semiprivate room rate, to the appropriate health systems agency (as designated under section 1515 of the Public Health Service Act). For purposes of this title, the Secretary will designate 30 services to be reported which he finds to be the most frequently used or most important for purposes of comparing hospitals.

Section 125(b) requires that a hospital shall submit annually to the appropriate health systems agency, within 90 days of the close of each its accounting year, a report, in a form prescribed by the Secretary, which contains information describing the ownership, management, and financial status of each such hospital, as specified by the Secretary, including:

(1) A balance sheet as of the end of such accounting year, setting forth assets and liabilities at that date, including all capital, surplus, reserve, depreciation.

(2) A statement of operations for that accounting year, setting forth all operating and nonoperating revenues and expenses including the percent increase in wages for nonsupervisory personnel during that accounting year (including a comparison with all previous accounting years subsequent to the date of enactment).

(3) The name and address of any person—

(A) who has (directly or indirectly) an ownership interest or lease or rental interest of 5 percent or more in such hospital, or who is the owner (directly or indirectly) of an interest of 5 percent or more in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by such hospital or any of its property or assets, or

(B) who is an officer or director of the hospital if it is organized as a corporation.

(4) The name and address of any individual, corporation, partnership or other legal entity with whom the hospital has had, during the previous 12 months, business transactions in an aggregate amount in excess of $5,000 if a person described in paragraph (3) or a person who exercises discretionary control respecting the financial management of the hospital is such an individual or has (directly or indirectly) an ownership interest of 5 percent or more in such corporation, partnership or other legal entity.

(5) The names and annual compensation including salary and benefit increases of the hospital's principal operating personnel, as defined by the Secretary.

Section 125(c) requires the hospital to make available to the health systems agency in its area all cost reports submitted to cost payers and submit the annual overall plan and budget required for medicare participation.

Section 125(d) provides that if a hospital fails to comply with the disclosure provisions of this section the Secretary may reduce by 10% any payment due to the hospital under programs established under titles XVIII, XIX, or XX of the Social Security Act.

Section 125(e) requires that each health systems agency make available to the public material collected under the provisions of this section.

Sec. 126. Improper changes in admission practices

Section 126 requires that the Secretary must investigate a written complaint by any person to the Secretary that a hospital is attempting to avoid its revenue limits by intentionally reducing the proportion of patients not expected to pay full charges.

If the Secretary finds that the complaint is justified, he may impose the sanction (exclusion from Government programs) set forth in section 116(c)(2) of title I.

Sec. 127. Review of certain determinations

Section 127 provides that the determinations made on behalf of the Secretary (excluding exceptions under section 115 and improper changes in admissions under section 126) are subject to the provisions for hearings on appeals of such determinations before the Provider Reimbursement Review Board.

Sec. 128. Excise tax on excessive payments for inpatient hospital services

Section 128(a) amends subtitle D of the International Revenue Code of 1954 (relating to miscellaneous excise taxes), by adding the following new chapter:

CHAPTER 45—TAX ON CERTAIN EXCESSIVE PAYMENTS FOR INPATIENT HOSPITAL SERVICES

Sec. 4991. Imposition of tax

The new chapter establishes a tax equal to 150 percent of the amount of any payments a hospital receives in excess of the limits established by title I of the Hospital Cost Containment Act of 1977. The same provisions apply to payments by a cost payer which are made in excess of the applicable limits. Subsection (b) of the new chapter exempts a hospital from the tax where it holds the excess charges in escrow as set forth in section 116(d)(2) of the Hospital Cost Containment Act of 1977. Section (c) of the new chapter ties all definitions, where applicable, in the new section to the meanings given them in title I of the Hospital Cost Containment Act of 1977. Subsection (d) of the amendment provides for the administration of the excise tax.

Sec. 129. Effect of act on payments below the established limits

This section provides that the act not require any Federal or State program or any person to pay a hospital more than that program or person would have been required to pay had this act not been enacted.

Sec. 130. Citizen's civil actions

Section 130(a) provides that in general any person may undertake a civil action for injunctive relief on his own behalf against any person (including the Secretary) who is alleged to be in violation of sections 125, 126, 128, or 129 of this title, or the regulations promulgated thereunder. Similarly, the section provides that action may be commenced against the Secretary for an alleged failure to perform any act or duty pursuant to sections 124, 125, 126, 129, or 130. The U.S. district courts will have jurisdiction over actions brought under this section.

Section 130(b) limits the ability of a person to commence a civil action prior to 60 days after the plaintiff has given notice to the alleged violator (if suit is brought for alleged violations of the above sections) or to the Secretary (if suit is brought against the Secretary for alleged nonperformance of requirements under these sections). No suit for alleged violations may be commenced by a person if the Attorney General or the Secretary has commenced and is diligently pursuing judicial proceedings or administrative action with respect to such alleged violations.

Section 130(c) provides that in any action under this section, the Attorney General or the Secretary may intervene as a matter of right. However, the Secretary is not limited by any findings of a court under this section with respect to his ability to institute judicial proceedings or administrative action against a party to such judicial proceeding. Further, the Secretary is not limited by the factual findings of any proceeding (with respect to subsequent judicial proceedings or administrative action) unless he was a party to the proceedings under this section.

Section 130(d) provides that a court, in issuing any final order in any action brought pursuant to section 130(a) may award costs of litigation (including a reasonable attorney's fee, based on the prevailing rates for such services, and expert witness fees) to any party whenever the court determines that such an award is appropriate.

Section 130(e) preserves the right of any person to seek enforcement at any regulation or order or seek any other relief under any statute or at common law.

Section 130(f) provides that nothing in section 130 shall require the disclosure of any trade secret information or any other confidential information except as provided by the Federal Rules of Civil procedure.

Sec. 131. Additional provisions

Paragraph (1) of section (a) provides that within 1 year of the date of enactment of the act, and after appropriate consultation, the Secretary shall promulgate a figure that more accurately reflects the rate of increase of the prices of the inputs necessary for the delivery of hospital services. This figure is to replace the figure promulgated pursuant to section 112 as the inpatient hospital revenue increase limit.

Paragraph (2) of section 131(a) provides that at the same time that the Secretary promulgates a new figure under paragraph (1) of section 131(a), he shall make any changes in the exceptions process as deemed necessary or appropriate. Such changes shall be made in order to insure that—

(A) Only hospitals that are experiencing financial crises, as defined by the Secretary, and that have not incurred expenses in excess of those found to be necessary pursuant to section 1861(v)(1)(A) of the Social Security Act are allowed to receive exceptions; and

(B) Exceptions will only be granted to hospitals that qualify under clause (A) and that have—

(*i*) experienced an unforeseeable or unavoidable rise in the price of malpractice insurance, other liability insurance, energy, or such other items as the Secretary deems appropriate which result in hospital expenditures in excess of the figure promulgated pusuant to paragraph (1) of this subsection;

(*ii*) experienced a change in patient mix resulting from expanded institutional capacity provided such expansion has been approved pursuant to section 1122 of the Social Security Act or title XV of the Public Health Service Act;

(*iii*) experienced unusual increased expenses, as defined by the Secretary, associated with the closure, modification, or change in usage of all or part of its facilities resulting from the elimination of excess bed capacity; discontinuance of an underutilized service for which there are adequate alternative sources; or substitution for the underutilized service of some other service which is needed in the area and which is consistent with the findings of an appropriate health planning agency; or

(*iv*) experienced such other change in condition that the Secretary deems an appropriate justification.

A hospital granted an exception under

these provisions must have demonstrated the need for and appropriateness of the proposed services or facilities to the State health planning and development agency designated under section 1521 of the Public Health Service Act for the State in which the hospital requesting the application is located.

Section 131(b) provides that changes in the program established under subsection (a) will apply to hospitals for their accounting years commencing after such changes are in effect.

Section 131(c) provides the Congress with a 60-day review period for any changes proposed by the Secretary pursuant to section 131(a). The Secretary is to submit these changes to the Congress together with a detailed statement of the reasons underlying such changes. The changes will go into effect automatically unless either House passes a resolution during the 60-day period stating in substance that it does not favor such changes.

Sec. 132. Additional provisions

Section 132 provides that after consultation with appropriate public and private organizations, the Secretary shall establish several new monitoring and accounting systems within 1 year after the date of enactment of this act.

Section 132(a) provides for the establishment of an accounting and uniform functional cost reporting system (including uniform procedures for allocation of costs) for determining operating and capital costs of hospitals providing services.

Section 132(b) provides for the establishment of a system which will classify hospitals according to size, geographical location, and other criteria which will reflect efficiency and services provided.

Section 132(c) provides for the establishment of a system that more accurately measures the changes in hospital costs associated with changes in hospital volume.

Section 132(d) provides for the establishment of a system that monitors, on a current basis, shifts in case mix including shifts of cases with higher than average costs per admission.

Section 132(e) provides for the establishment of a system that measures the output of hospitals which includes a way to identify hospitals that provide better than average care than hospitals of similar characteristics.

Section 132(f) provides for the establishment of a system that would reimburse hospitals of similar characteristics differently based on the system established pursuant to subsection (e).

Sec. 133. Additional provisions

Section 133(a) directs the Secretary to arrange for studies of methods for controlling the costs of and/or revenue received for hospital outpatient services, long-term care services and ambulatory care including physician services. This provision specifically details for the Secretary which areas should be examined in order to develop a long-term strategy to contain increases in health costs.

Section 133(b) provides a 1 year deadline for completion of the studies mandated in paragraph (a) and requires that within 30 days after completion they be submitted to the Congress along with any associated reports completed by the Secretary, including recommendations, if any, for legislative and administrative action.

Sec. 134. Additional provisions

The Secretary is required to monitor, on a current basis, the economic impact of all the provisions of this title, including sections 117, 118, 119, and 124. He is to report annually to the Congress the results of such monitoring including the percentage of increase in the cost of energy, malpractice, and other liability insurance, and the cost of wage increases for nonsupervisory personnel.

Sec. 135. Additional provisions

This section states that in carrying out the purposes of this title the Secretary or a State is authorized to enter into contracts with State or national cooperative information centers established under section 304 or 306 of the Public Health Service Act.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON HUD-INDEPENDENT AGENCIES APPROPRIATIONS

Mr. PROXMIRE. Mr. President, I wish to announce that the Subcommittee on HUD-Independent Agencies of the Committee on Appropriations will hold a hearing on House Joint Resolution 1088—the New York City loan guarantees bill on this coming Friday, August 18, 1978, at 10 a.m., in room 1318, Dirksen Senate Office Building. Mr. Roger C. Altman, Assistant Secretary for Domestic Finance at the Department of the Treasury, will testify on this measure which will, if approved, provide financial assistance for the city of New York.

SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, the Select Committee on Small Business will hold 2 days of hearings, beginning on Friday, August 18, on inflation as it relates to certain segments of the economy and small business. The second day of hearing will be on Monday, August 21. Specific times and witnesses are not yet available. More information may be obtained from the committee, 224–5175.●

SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

O Mr. GLENN. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Energy, Nuclear Proliferation and Federal Services. The hearing is scheduled for Friday, August 18, 1978, beginning at 9:30 a.m., in room 3302, Dirksen Senate Office Building. The purpose of the hearing is to receive testimony from the administration and others on S. 1493, the energy impact assistance bill of 1978.

For further information regarding the hearing, you may contact Ms. Donna Lavigne at 224–2627.

Those who wish to submit a written statement for the record should write to the Subcommittee on Energy, Nuclear Proliferation and Federal Services, room 6206, Dirksen Senate Office Building, Washington, D.C. 20510.●

COMMITTEE ON THE JUDICIARY

● Mr. ABOUREZK. Mr. President, I wish to announce that the grand jury reform hearings which are scheduled for August 17, 22, and 24, 1978, will begin each day at 9:30 a.m., in room 2228, Dirksen Building, instead of at 10 a.m., as previously scheduled.●

ADDITIONAL STATEMENTS

CETA SUCCESSES

● Mr. JAVITS. Mr. President, the Senate is expected this month to take up S. 2570, the Comprehensive Employment and Training Act (CETA) Amendments of 1978.

While there will be, of course, debate on the specific provisions of the committee bill—and I believe S. 2570 is a very good bill—often inadequate attention is given to the many success stories in the CETA program.

The National Association of Counties has selected 27 county prime sponsors in the United States to receive its 1978 County Achievement Award for special CETA employment and training projects. The award winners operate special programs for: for example, youth; women; veterans; public assistance recipients, and the handicapped.

I ask that an overview of some of these special CETA programs, which appeared in the June 1978 issue of the County Employment Reporter, be printed in the RECORD.

I know I will be joined by many of my colleagues in paying tribute to the dedicated personnel of these county prime sponsors who have worked so faithfully to make the CETA program a vital influence in the lives of the unemployed poor of our country.

The article follows:

CETA SUCCESSES CITED

In an effort to give national recognition to progressive county activities that demonstrate improvements in local structure, management, or services, NACo conducts the County Achievement Award Program each year. For 1978, twenty-seven counties have received awards for employment and training projects. Many troubled youths, displaced homemakers, handicapped persons and Vietnam-era veterans would be among those unemployed if it were not for special projects conducted by county government.

Highlighted below are several of the award-winning programs. They are divided into seven subject areas.

YOUTH

The Cooperative Diversified Occupations Education Program, Mercer County, New Jersey. Operated through CETA, this dropout prevention and employment program concentrates on potential dropouts or those who have recently left school. The program provides academic preparation for graduation in conjunction with occupational skill training to enhance employability.

For the supervised, on-the-job, vocational training program, a coordinator develops private-sector work stations with local businesses and industries. Participants work on a full-time basis. Wages are paid by the employer.

Classroom instruction is given two evenings each week for thirty-six weeks at a local high school. Instructors cover materials related to employment situations, and provide individual and group counseling. Both parts of the program must be completed successfully for participants to receive a high school diploma. After graduation, the adult evening school staff and county office of manpower administration offer placement assistance so graduates may acquire full-time employment or further their education.

Over a three-year period, forty-nine youths have participated in the program. Eighty-eight percent of the enrollees have obtained their degrees and 82 percent acquired unsubsidized full-time employment. Graduates have been placed into entry- and intermediate-level jobs with accounting and auditing firms, engineering firms, computer-related industries, automotive-related industries, pharmacies, machine shops, and food service firms.

For more information, contact the Office of Manpower Administration, 577 South Broad Street, Trenton, New Jersey 08611, 609/989–6824.

Youth Conservation Corps Program, Oswego County, New York. Last summer, eighty youths working thirty-five hours a week for eight weeks built and upgraded recreational facilities and public lands. Ten crews performed such activities as transforming vacant county land into a multi-use recreation area for hiking, picnicking and cross-country skiing, cutting logs, winterizing camp buildings, and installing subsurface drainage.

In addition to work experience, the program offered enrollees a chance for career exploration on two levels. Professionals conducted career workshops at several locations in the county. Health occupations and industrial opportunities were two of the sessions offered. Secondly, crews tried out their newly acquired skills on a competitive basis at the annual woodsmen's field day. Events included chopping and bow-sawing contests, a pulp toss, a log roll, an obstacle course and a greased-pole climb.

Accomplishments of the Oswego County Conservation Corps include acquisition of basic skills, participation in teamwork effort, peer group interaction, formation of good work habits and attitudes, introduction to various occupational areas, and appreciation of the nation's natural resources. In addition, the community felt the benefits of the program in needed beautification, conservation and modernization.

The summer program, funded through CETA and 4–H donations, will be offered again this summer in Oswego County, which ranks first in unemployment among New York's counties. With additional CETA funds, the program has been expanded year-round to serve high school dropouts. Three crews, each with four young adults between the ages of sixteen and twenty-one, work on environmental projects and study to obtain their high school diplomas.

For more information, contact the Office of Employment and Training, 200 North Second Street, Fulton, New York 13069, 315/598–0840.

Outreach Program Unit, Broward County, Florida. The county youth development division of the department of human resources has implemented an outreach program unit which has established projects in thirteen communities. Each unit works within the community to modify the behavior of its target population through individual and group interaction; assist youths and their families in meeting emotional and social needs; provide guidance for youth in education, employment, family life and social adjustment, and develop resources and a service system for meeting the needs of youths and their families.

A joint study conducted by a non-profit service provider, the county, the school board, and the state had revealed a lack of community-based youth programs in Broward County.

The programs are located in areas of minimal or nonstable social service intervention, unemployment, and high environmental potentials for delinquency. In these areas, the average income for a family of five is $7,000 and the density is 5,134 persons per square mile. Many in these communities were unaware of resources and services; others did not feel free to use the facilities, and some turned to activities that caused greater problems.

Each outreach location has meeting facilities and a few offer recreational equipment. Activities have ranged from personal grooming and youth club activities to career guidance and educational programs.

To ensure the quality of service delivery and enhance professional development, each staff counselor receives 120 hours of initial training followed by monthly in-service training. In addition, each staff member participates in a personal development project. The staff also works with other social service and community-based agencies to set up "client systems" for meeting the total needs of families on a preventive basis.

Annual objectives were outlined for program implementation and subobjectives must be met before a program can be terminated. The outreach unit's goal is to accomplish its objectives in an area within three years and then move to another area that needs its services.

The program started in January 1977 and is financed through the county's general fund at $345,812 for salaries and operating expenses. Donations and fund-raising projects provide for various activities.

CETA funds, under Title III and the Youth Employment and Demonstration Projects Act of 1977, are available for these activities.

For more information, contact the County Youth Development Division, Department of Human Services, 10 35th Avenue, N.W., Fort Lauderdale, Florida 33311, 305/584–8810.

Experiences in Child Care for Young Adults, Westchester County, New York. Through a grant from CETA, the county youth bureau established a day care service for working parents which provides meaningful employment and learning experiences for young adults between the ages of sixteen and twenty-one. Youths assist state-licensed family day care mothers and receive training in child development. Other objectives include developing healthy work attitudes and self concepts, fostering the development of skills in working with adults and children, and preparing the youth for parenthood.

During the second program year, training was expanded to include the following components:

Child Development: Materials are supplemented by workshops and youths are placed in family day care homes and group centers.

Vocational Counseling: Training for youth is provided in choosing, finding, getting and keeping jobs, and some youths participate in a summer internship in the career of their choice.

Group Counseling: Regularly scheduled sessions are conducted, and individual referrals are made when necessary.

Sex Education: Through family planning groups, project participants receive sex education.

Funds for the project director and salaries for youth are provided by the office of employment and training. To be eligible, youths must meet the family income criteria under the Youth Employment and Training Program (YETP). Twenty youths were served in the first year of the program, which began October 1, 1976. This program year, thirty youths are participating and about half are in school.

For more information, contact the County Youth Bureau, 148 Martine Avenue, Room 944, White Plains, New York 10601, 914/682–3064.

WOMEN

Minority Women's Training for Nontraditional Jobs, Monmouth County, New Jersey. Through a competitive grant from the Department of Labor (DOL), the county received $203,000 to operate a minority women's employment and training program. Welfare mothers, housewives returning to the job market, and husbandless women with children are the target groups served by the program.

Intensive classroom and experimental training in conjunction with counseling and guidance are offered to participants to develop salable skills that would afford them higher salaries, career advancement and flexible hours. In addition, training is aimed at changing their expectations and role perceptions toward nontraditional employment in commissioned sales fields.

Low-income women were bitterly disillusioned with previous programs that offered little or no support during the critical job search period. This program has been successful in several areas: Fifty-eight percent of the participants have been placed; all women agree that their self-esteem has increased and their skills, abilities and potentials are marketable; a private firm under contract with the Employment and Training Administration chose the program as one of the top twelve in the United States that are recommended for replication; and major companies are permitted to recruit and have hired about 6 percent of the graduates for sales positions.

For more information, contact the county Comprehensive Employment and Training Agency, Building 427, Fort Monmouth, New Jersey 07724, 201/542–5400.

Women Working in Nontraditional Careers, Westchester County, New York. The county was awarded a $400,000 one-year grant from DOL under Title III of CETA to place women in nontraditional careers, those areas in which women make up less than 38 percent of the total work force. The grant funded a three-part program consisting of public service employment (PSE), skill training on an individual referral basis, and on-the-job training (OJT).

In the PSE component, fourteen women were placed in municipalities, nonprofit agencies, and school districts in jobs such as apprentice electrician, assistant commissioner of public works, bus mechanic trainee and laborer. The PSE slots have been terminated and eleven women have obtained unsubsidized employment.

Skill training had the largest enrollment with eighty-one women in vocational training schools where they learned such occupations as truck driving, electronics, radio engineering, plumbing, printing, and heating and air conditioning repair. A low dropout rate and a high placement rate were attributed to specially trained employment counselors and workshops that emphasized goal development and decision making. In addition, another twenty-three women attended school due to the efforts of the Women's Center staff who helped them apply for other grants and loans.

In OJT, women were placed in positions such as manager trainer, printer and van driver. A key to this program's success was counseling. After women atended an appropriate workshop program, the counseling and support continued through their job training situation. The eight-day workshop series included orientation to nontraditional careers, career assessment, an overview of the job market, assertiveness training, job finding methods, and interviewing techniques.

More than 150 women have been placed in nontraditional jobs. Prior to their participation in this program, most of these women received some form of public assistance.

Other important program services included an interagency referral service for women with personal problems, and efforts to educate women and businesses about occupational areas open to women.

For more information, contact the Employment and Training Office of the County Executive, 201 County Office Building, White Plains, New York 10601, 914/682–3048.

New Phase: A Career Readiness Center for Women, Montgomery County, Maryland. This program is designed to meet the needs of displaced homemakers and women reentering the labor force. It offers individual career counseling in conjunction with workshops and group discussions that clarify goals, needs, and ways to overcome obstacles.

Participants attend workshops on an overview of the job market, skills assessment and transfer, stress management, life plan-

ning, career changing, resume writing, and interview techniques. At New Phase, women also receive information from and referral to any public or private service that may help solve their problems.

In a six-week period, 154 women participated in the program. The majority of clients are over thirty-six. Half indicated that they were separated, divorced, or widowed.

For more information contact Commission for Women, 50 Monroe Street, Rockville, Maryland 20850, 301/279–1800.

VETERANS

Veterans' Emplyment Service, Oakland County, Michigan. The county's Manpower Division and Veterans' Service Division joined forces to diminish an unemployment rate that neared 17 percent for Vietnam-era veterans in November 1975. Four approaches were used to assist veterans in obtaining gainful employment:

Create employer awareness of the program.

Create veteran awareness of employers,

Counsel veterans in the techniques of interviewing,

Place veterans directly into jobs.

A mass mailing campaign and free spot media announcements are used to increase the awareness of private employers. This results in hundreds of new job listings.

A "jobs board" helps veterans become more aware of potential employers. Want ads, with military skill requirements, are highlighted and all levels of government employment are categorized for convenience. The listings are posted and updated on a weekly basis.

The counseling of veterans was expanded to include resume writing, employment markets, educational counseling, and veterans' benefits.

The service helped to place 194 veterans at a cost of $206 per person. In terms of taxes paid and government services terminated (i.e., unemployment compensation, welfare), the dollar return was $5,922 per person. As of December 31, 1977, the unemployment rate for veterans had been reduced to 7.8 percent. The civilian rate had been reduced from 11.6 to 6.2 percent.

Through CETA Title III, on-the-job training programs with employers have been established. All services will be sustained until the veterans' unemployment rate no longer exceeds the average rate.

For more information, contact Veterans' Service Division, 1200 North Telegraph Road, Pontiac, Michigan 48053, 313/858–0790.

PUBLIC ASSISTANCE

Special Employment Counseling Group, Monroe County, New York. The program was created in October 1977 to provide special counseling and job referrals for Home Relief recipients. Its goal is to find jobs for employable recipients, thus removing them from the welfare rolls or reducing their dependence.

The Home Relief Program in New York is a public assistance program to meet the needs of those who do not qualify for federally funded programs such as Aid to Families with Dependent Children or Supplemental Security Income. Program costs are shared equally by the state and localities.

By law, recipients must be enrolled in a work program to receive public assistance. Monroe County was the first to implement a work experience program (WEP) and it became a model for other localities. The county found that WEP, however, was insufficient in meeting the needs of its clients. As a result, the Special Employment Counseling Group was established through a CETA grant.

Through a one-to-one approach, the staff evaluates job skills, monitors job listings, contacts potential employers and counsels a select group on how to apply for a job and the importance of self-confidence and good work habits. Forty-five employable recipients are enrolled in the six-week project, and another is cycled in when a client leaves the program. If a client completes the six-week program and has not found a job, he or she returns to WEP.

In less than a two-month period, twelve persons had found permanent jobs and were removed from the welfare rolls. The program's goal is to place at least 50 percent of the enrollees.

For more information, contact the county Department of Social Services, 111 Westfall Road, Rochester, New York 14620, 716/442–4000.

HANDICAPPED

Vocational Rehabilitation Services Work Experience Project, Heartland Manpower Consortium, Florida. Counseling guidance, evaluation, training, and job replacement services are provided to enable physically and mentally handicapped people to return to work. The consortium uses Title I funds to pay a person's wages while he or she works at a public or private nonprofit agency to gain practical work experience.

To be eligible, an applicant must meet Title I criteria and be:

A person who has satisfactorily completed vocational training but has no work experience.

A high school graduate who possesses a skill or has the potential to learn a vocation.

Someone who is skilled but cannot locate unsubsidized employment.

The program started October 1, 1977 with twenty agencies participating in a five-county consortium—Polk, Okeechobee, Highlands, Hardee and DeSoto counties. By December 22, thirty job slots had been filled in Polk County, and the program has expanded into Highlands and Hardee counties. Job positions include secretary, bookkeeper, respiratory therapy technician, child care aide, sales manager and nursing assistant.

In addition, six high school seniors who cannot function in the classroom will graduate with their classes thanks to the project. They have been provided accredited jobs and will have the opportunity to enter public service jobs upon graduating.

The participating agencies are gaining the benefit of workers for which their budgets don't allow, and are learning firsthand about the skills of the handicapped.

For more information, contact the Heartland Manpower Consortium, 1555 West Main Street, Bartow, Florida 33830, 813/533–0621.

Program for Mentally and Physically Handicapped, Somerset County, New Jersey. With a $400,000 grant from DOL the county offers a variety of services: transportation for clients, classroom training programs, work experience, job developer services, access to a county CETA job bank, on-the-job training, public service employment, job-seeking skills training, support services, job placement services and alcohol-related counseling. An open line of daily communication is maintained among all of the participating agencies to coordinate their efforts.

In a three-month period, the program enrolled 326 individuals and terminated 261, placing 145 in unsubsidized employment. An additional forty-five participants were placed into public service employment positions.

The county is trying to find funding to maintain the level of services after the federal grant expires. For more information, contact the county Employment and Training Agency, County Administrative Building, Somerville, New Jersey 08876, 201/725–4700.

PUBLIC AWARENESS

Public Awareness Pilot Program, Cumberland County, New Jersey. The county CETA department received a grant from the state's discretionary fund to promote and publicize the county's $6 million CETA services. The program involved information dissemination, public speakers, press tours, and publicity for CETA programs and learning centers.

When this program started in April 1977 there was little reference material on CETA programs, policies, benefits to the community, successes and failures. In a short time, the Public Awareness Program created a library of materials which explained CETA to county residents.

The program informs the public about CETA opportunities and services, contributes to the private sector's understanding and involvement, and projects a positive image of CETA through the local media and in Congress. It is under consideration for refunding by the state to transmit expertise to other prime sponsors.

For more information, contact the county CETA, P.O. Box 457, Bridgeton, New Jersey 08302, 609/451–8920.

GENERAL EMPLOYMENT AND TRAINING

Nontraditional Training of Human Service Generalists, Humboldt County, California. A recruiting and training program for human services workers has been part of the county's service delivery system since 1976, when the program's federal funding expired. The New Careers program involves the county mental health department, CETA, a local college, and many local service providers. Community college classroom training is combined with accredited work experience.

The program was founded on the premise that human services can be more effective when delivered by those who have been users of the system and have learned how to provide assistance. Accomplishments include a rise in the level of services offered by the county, development of career ladders for participants, and recruitment of those with the most severe barriers to employment. Seventeen of twenty-four persons completed the first two-year training cycle.

Further evidence of the program's success is the comparison of salary levels achieved by the participants. When they entered the program, only six persons earned $3 or more an hour. At the end of the training cycle, fifteen were earning $3 or more and eight of these over $5 an hour. An example of a new careerist is a forty-five year-old woman with two children who was an alcoholic and receiving public assistance. She is now a recovering alcoholic and director of a women's recovery home.

For more information, contact the county CETA Department, 922 Fourth Street, Eureka, California 95501, 707/445–7715.

School District Counseling Intake Agencies, Oakland County, Michigan. The CETA intake and counseling program was decentralized to ensure that CETA services were provided equitably to county residents in a 900-square mile area. A comprehensive approach to the delivery of employment and training services is exemplified by the county's use of school districts, the state employment office, local government, nonprofit agencies and private businesses in establishing the intake agencies.

Ten agencies provide intake counseling, development of employability plans, referrals to training programs, on-the-job training and job placement services. In fiscal year 1977, the agencies placed 3,000 enrollees into unsubsidized jobs, a placement rate of 66 percent. Over seventy classroom training courses representing twenty-two occupations were offered which resulted in a twenty-five percent increase in wages for participants when compared to their wages prior to training.

For more information, contact the Department of Manpower, 2370 Pontiac Lake Road, Pontiac, Michigan 48054, 313/858–1078.

Preemployment Evaluation Program, Cumberland County, New Jersey. The county CETA office initiated a program to help skilled people find employment. Many did not know how to look for a job, prepare a resume, market their backgrounds and present their talents to prospective employers.

Through an intensive four-week course, participants learn how to choose a vocational goal and reach it.

Although the program began in October 1977, about 70 percent of the students have found employment. Those who do not find a job are assigned a job developer for assistance.

For more information, contact the county CETA Department, P.O. Box 457, Bridgeton, New Jersey 08302, 609/451–8920.

CETA/Public Service Employment Aimed at Private Sector Jobs, Baltimore County, Maryland. The program is designed to develop transfer skills so that workers can be trained in the public sector and find jobs in private industry. CETA workers and their supervisors attend a series of workshops which emphasize private sector placement. Local community college staff act as trainers and resume consultants. A job developer visits local businesses to distribute resumes.

Other courses such as speed writing, turf management, stress management and high school equivalency examinations are offered with paid release time. In addition, private employers speak at special seminars.

The total rate of positive terminations is 66 percent. After completing the program, the average wage of a participant rose from $3.31 per hour to $4.02.

Also contributing to the program's success are paid time for job search activities and a mandatory eighteen month limit on participation.

For more information, contact Research and Public Affairs, CETA/PSE Office, Courthouse Mezzanine, Towson, Maryland 21204, 301/494–2470.

South Dade Skill Center, Dade County, Florida. The county population includes many Spanish-speaking seasonal farm workers who have been displaced by automation and lack the skills needed to obtain other jobs. Through the efforts of the county, school board and community organizations, the skills center was built in 1976 with local and federal funds. Additional funds were obtained from the Community Development Administration to build a child care center at the same facility in 1977.

The center has classrooms, a learning lab, a cafeteria, landscaped grounds, patios and parking facilities. A primary goal is to assist persons seventeen years and older to choose, prepare for, and secure a vocation. The county manpower division has responsibility for recruiting trainees, orientation, supportive services, job development and placement. The school board develops course content and provides teachers and equipment. Community organizations provide transportation and other support services.

The center serves the entire community with an emphasis on the migrant farm worker. The staff also seeks to recognize and deal with the social, personal, occupational and motivational problems that are part of unemployment. During fiscal year 1977, of the 585 persons who entered training, 64 percent completed the program and 54 percent obtained jobs.

For more information, contact the Department of Human Resources, 140 West Flagler Street, Room 1503, Miami, Florida 33130, 305/579–5416.

South Shore Chamber Job Fair, Norfolk County, Massachusetts. Through the joint efforts of the county and the chamber of commerce, a job fair was held in which more than fifty companies and 5,000 job seekers participated. More than 525 jobs were filled ranging from unskilled to professional.

For more information, contact the county Economic Planning and Development Office, 1776 Heritage Drive, North Quincy, Massachusetts 02171, 617/326–1600.●

CRITICISM OF CONGRESS

● Mr. HATHAWAY. Mr. President, we in Congress have been subject to an increasing crescendo of criticism. There is no question that Congress recent performance has been disappointing, especially to many Members. Much of the criticism, unfortunately, is unfounded or shrill. It is most helpful, therefore, to read a thoughtful and concerned analysis of our situation by someone who is intimately familiar with Congress. Such a commentary was published in the Boston Globe on this past Friday by Steven Pearlstein, administrative assistant to Representative MICHAEL J. HARRINGTON of Massachusetts, who, unfortunately for Congress and for his constituents, has recently announced his intent to retire.

I think that all of us can profit by reading Steve's balanced and penetrating analysis, and I ask that it be printed in the RECORD.

The commentary follows:

[From the Boston Globe, Aug. 11, 1978]

WHY CONGRESS DOESN'T WORK ANY MORE

(By Steven Pearlstein)

Congress doesn't work.

It's not just that Congress doesn't work well, or that it has made mistakes, or that it's misdirected. More fundamentally, Congress no longer provides a legitimate forum by which a democracy of 210 million people define the parameters of public policy. Perhaps all that can be said is that Congress each year finances the continuing operations of an increasingly independent bureaucracy.

In school, they used to teach the competing interest theory of legislation. According to that theory, the competing special interests exercise their weight in the halls of Congress on issues of concern. The product that comes out is an accommodation to those interests in rough proportion to their size and influence. It assures the greatest good for the greatest numbers, or so the theory goes.

It can now be revealed that the theory is out of date because it predicated on two assumptions which are no longer valid.

The first is that members of Congress, and the public generally, have a commitment to the process of legislating which transcends individual or group interests in any particular issue. Whether because they are frustrated or because they want to cast themselves in the role of "The Scrapper" for the folks back home, many members have decided to be legislative "kamikazes," willing to halt, subvert, corrupt the entire process of legislation until they get their way. These legislators are spurred by special interest groups who look to the Vietnam era protesters for their models: keep disrupting, make no compromises, and eventually you'll win. And all too often, it works.

Recent examples include the right-to-life campaign, which is content to hold up any important piece of legislation as hostage to its cause—usually at the expense of the elderly the poor, and the disabled. Foes of natural gas deregulation are willing to allow the United States to drift for another decade without an energy policy rather than accept a policy containing a natural gas compromise. Business lobbies are willing to tie up the Senate for the equivalent of an entire legislative year by fueling filibusters on labor law reform, antitrust enforcement and consumer protection.

Now, as the House and Senate trip over themselves to adjourn by Sept. 30, so many pieces of legislation will be held hostage pending defeat or passage of other legislation, that the leadership will need a computer to sort the whole thing out. Majority rule is a myth.

In short, there is no longer, on the part of many congressmen and interest groups, a commitment to the process of legislation sufficient to support the acceptance of a full or partial defeat on a controversial issue. No legislation at all is seen better than unacceptable legislation in a particular area. And it is no legislation that we are getting. In 18th Century jargon, the checks no longer balance.

The second false premise among political theorists is that there are basic human values which are accepted by the actors in the process of legislation—congressmen, staffs, lobbyists, the press and constituents. Those values would translate into a set of beginning assumptions: that a congressman is honest until proven otherwise; that what is said is what is believed; that a commitment to a cause or another politician is a commitment not to be lightly dissolved; that there is a minimum level of civility by which intelligent human beings should interact; that a secret is confidential. Those assumptions are no longer valid, and the civility is no longer there.

Felix Rohaytan, speaking to a group of Harvard Business School graduates in New York the other day, summed it up nicely: "The ruthlessness of political relationships, the callous disregard for a minimum level of human kindness, have to be seen to be believed."

The very fabric of the legislative process has been torn asunder and as a result, the process has degenerated to a point that Congress doesn't function any more. It is simply more than coincidence that we have no energy policy, no government reorganization, no anti-inflation policy, no handle on the dollar slide abroad, no coherent approach to the Russians or the Chinese, no sense of what an equitable tax code would look like, no strategy for ameliorating the poverty at home and abroad. The problem is not so much that we have no solutions to these problems, but that we have no viable framework by which to fashion them collectively.

The blame for this predicament can be spread very neatly all around the landscape, a healthy dose of it to the press, which often panders to the obstructionists and reactionists and ignores most attempts at thoughtful legislation. The solution will involve a very slow and painful process of mending the fabric by which individuals and interests interact in the congressional setting. Without that solution, the Congress will soon rival the Italian parliament in its ability to tie itself in knots.●

PRIVATE PSYCHIATRIC HOSPITALS

● Mr. MATHIAS. Mr. President, I commend to my colleagues an article in private psychiatric hospitals written by Dr. Robert W. Gibson, medical director and trustee of the Sheppard and Enoch Pratt Hospital of Towson, Md. The article appeared in the July 1978 edition of the American Journal of Psychiatry. Its discussion of the contributions of the private sector to the development of psychiatric care in this country merits the fullest consideration. I ask that the article be printed in the RECORD.

The article follows:

PRIVATE PSYCHIATRIC HOSPITALS: "EXCELLENCE IS THEIR WATCHWORD"

(By Robert W. Gibson, M.D.)

Although private psychiatric hospitals accounted for only 3 percent of the total pa-

tient care episodes in 1975[1] and have probably never provided more than 5 percent of that care, they have been and continue to be a major force in psychiatry. During the 1800s a small group of psychiatric hospitals, by their espousal of the moral treatment of the insane, were instrumental in bringing patients out of the almshouses, attics, and prisons. John S. Butler, M.D., who served from 1843 to 1873 as the fourth Superintendent of the Hartford Retreat (now the Institute of Living), was a leader in the movement toward humanitarian care of the mentally ill. Describing his visit in 1842, the year before Dr. Butler moved to the Hartford Retreat from the state hospital in Boston, Charles Dickens marveled that "every patient in this asylum sits down to dinner every day with a knife and fork, and in the midst of them sits the gentleman [Butler] whose manner of dealing with the charges I have just described. . . . At every meal moral influence alone restrains the more violent among them from cutting the throats of the rest: but the effect of that influence is reduced to an absolute certainty and its found even as a measure of restraint to say nothing of it as a means of cure, a hundred times more efficacious than all the strait waistcoasts, fetters, and handcuffs that ignorance, prejudice, and cruelty have manufactured since the creation of the world."[2]

In 1948, when Albert Deutsch wrote The Shame of the States,[3] this same humanistic concern within private psychiatric hospitals provided the evidence that the mentally ill deserved more than the custodial warehousing and neglect to which they were then relegated. Some private psychiatric hospitals engaged in major programs of research, and virtually all were innovators in applying the newly emerging concepts to their treatment programs. As freestanding accredited training centers or in affiliation with academic centers, many private psychiatric hospitals offered physicians an opportunity to learn from intensive work with a small number of patients under the tutelage of experienced clinicians. As treatment services increased and patterns of care changed, private psychiatric hospitals, frequently in collaboration with newly developing facilities, continued as models of excellence committed to serving the patient. Guided by Francis J. Braceland, M.D., the Institute of Living continued to be an outstanding example of excellence.

A CHANGING MENTAL HEALTH DELIVERY SYSTEM

Action for Mental Health (4), the report of the Joint Commission on Mental Illness and Health, contributed to several important changes in health care delivery during the past two decades: a significant increase in the number of psychiatric units in general hospitals, the development of community mental health centers with federal support, and sharp decreases in the number of beds in state and county mental hospitals. Patient care episodes[14] more than quadrupled, increasing from 1.7 million episodes in 1955 to 6.9 million in 1975. The rate of patient care episodes per 100,000 population tripled, increasing from about 1,000 in 1955 to 3,000 in 1975. Inpatient episodes accounted for 77 percent of the total in 1955 but only 27 percent of the total by 1975, with 70 percent outpatient and 3 percent day treatment patient care episodes.[5]

Despite these increases total admissions and patient care episodes still fall short of the estimated need. In its preliminary report of September 1977 (5), the President's Commission on Mental Health estimated that "between 20 and 32 million Americans need some kind of mental health care at any one time". As a consequence—

"The current direct cost of providing mental health services is about $17 billion a year. The social costs, when measured in terms of lost wages and a shortened life span, is estimated to be another $20 billion.

And beyond these statistics—

"There are millions more who seek help for emotional problems elsewhere, especially from their personal physicians or from health care clinics. For example, 15 percent of patients seen in general medical practice are found to have psychiatric or emotional problems. At any given time, 25 percent of the population is under the kind of emotional stress that results in symptoms of depression or anxiety."

The increase in patient care episodes should continue. The need is there, and progress is gradually being made to overcome the stigma that impedes the treatment of mental illness. The trend toward greater reliance on community mental health centers, general hospitals, and private psychiatric hospitals is appropriate. The financing of mental health care is grossly inadequate but is improving slowly. Improved financial resources should reduce the dependence on government institutions, and state mental health programs are making a deliberate effort to shift care toward the private sector. Private psychiatric hospitals are already modifying their role and can be expected to do so without compromising quality.

CHANGES IN PRIVATE PSYCHIATRIC HOSPITALS

Until 1972 the numbers of patients served by private psychiatric hospitals and the distribution between inpatient and outpatient services were relatively stable. Bethel[6] reported that during the period 1968–1971 the number of hospitals stayed at about 150. The number of inpatients in residence at year-end varied only from about 10,200 to 11,000; annual admissions fluctuated from a low of about 87,000 in 1970 to a high of 92,000 in 1969. Changes in the distribution of admission diagnoses were slight, with depressive disorders accounting for approximately 40 percent of the total and schizophrenic reactions for 20 percent. However, there was a trend toward the admission of younger patients; patients under age 25 at the time of admission constituted 18 percent of all admissions in 1968 and 24 percent in 1971.

Substantial changes began to occur during the period 1972–1975, when the number of hospitals increased to 180, the number of inpatients in residence at year-end rose 10 percent to about 11,500, and annual admissions rose to 130,000. The growth in the number of hospitals was due largely to new investor-owned hospitals. By 1975 nearly two-thirds of all private psychiatric hospitals were operated by corporations, individuals, or partnerships on a for-profit basis, with the other third operated by not-for-profit groups, including church foundations. The greatest number of hospitals and beds was concentrated in the mid-Atlantic region, with the smallest number in the Northwest. Private psychiatric hospitals in New England had the greatest number of beds per 100,000 U.S. resident population. About 15 states had no private psychiatric hospitals, and 11 states had only 1; California had 27, and New York had 14.[7]

Although private psychiatric hospitals are organized to provide inpatient care, alternatives to inpatient treatment are being developed. Between 1971 and 1975 admissions to private psychiatric hospital outpatient programs increased 80 percent, day treatment, 67 percent; and inpatient care, 44 percent.[8] By 1975, of a total of about 180 private psychiatric hospitals, 42 percent provided day treatment; 35 percent, outpatient care; 24 percent, emergency services; and 8 percent, halfway houses.[9]

CHARACTERISTICS OF THE PRIVATE PSYCHIATRIC HOSPITAL—1975

In an effort to clarify the role of the private psychiatric hospital in the mental health delivery system, the National Institute of Mental Health and the National Association of Private Psychiatric Hospitals jointly conducted a survey of one month's admissions to private psychiatric hospitals.[10] This study yielded information from three-fourths of the hospitals surveyed, making it reasonably representative of the total. During May 1975, the month surveyed, 7,864 people were admitted to the inpatient services of 139 private psychiatric hospitals.

Of the total number of patients admitted, 42 percent had depressive disorders; 22 percent had schizophrenia; 9 percent had alcohol disorders; 6 percent had adjustment reactions of adolescence, adulthood, or late life; and 5 percent had personality disorders. The remaining 16 percent suffered from drug disorders, organic brain syndrome, childhood disorders, and neuroses excluding depressive states. About 45 percent of the patients admitted were male and 55 percent female. The trend toward younger patients continued, with 27 percent under 25 years of age, 37 percent aged 25–44, 27 percent aged 45–64, and 10 percent 65 years old or older.[10]

The survey indicated that the three major referral sources of all inpatient admissions were private psychiatrists (44 percent), followed by self, family, or friends (24 percent) and by other physicians (11 percent). Approximately three-fourths of the patients admitted reported previous psychiatric care. Thirty-nine percent had received previous inpatient care in the same hospital to which they were admitted, and 30 percent had received inpatient care in another psychiatric hospital.[10] About 3 out of 10 patients had seen private psychiatrists, and more than 1 out of 10 had had other types of nonpatient psychiatric care. This suggests that most of the patients admitted posed serious therapeutic problems and many had been treatment failures.

The types of psychiatric treatment most frequently received by the patients in the survey were individual psychotherapy (90 percent), drug therapy (83 percent), group psychotherapy (61 percent), family therapy (20 percent), and electroconvulsive therapy (8 percent). Ninety-four percent of the patients received two or more types of treatment, and about 70 percent received three or more types. The median number of days spent in the hospital was directly related to the number of treatments, presumably because of the greater severity of illness in those patients receiving multiple therapies. Patients receiving one type of treatment stayed a median of 8 days, two types 17 days, three types 21 days, four types 25 days, and five or more types 31 days.[10]

Staff-patient ratios are too gross to be an indicator of the quality or adequacy of treatment programs. Many factors are not taken into account in such an index—for example, the patient mix in terms of age, diagnosis, or severity of condition, and the type and intensity of the program. Nevertheless, comparisons of staff-patients ratios for the various types of mental health facilities do illustrate major differences in the intensity of patient care and give some indication of the level of care in private psychiatric hospitals.

According to Taube and Witkin,[11] in January 1974 the staff-patient ratio for all private mental hospitals in full-time equivalents of staff per 100 average resident patients was 204 total staff, with 124 patient-care staff (66 professional and 58 other). Not-for-profit private hospitals had a ratio of 238 total staff compared with 173 total staff in investor-owned hospitals; there were 140 patient-care staff in not-for-profit hospitals compared with 110 in investor-owned hospitals. Within the nonpublic general psychiatric hospital units the total number of staff per 100 patients was 130, with 115 patient-care staff (65 professional and 50 nonprofes-

Footnotes at end of article.

sional). In state and county mental hospitals the total staff per 100 patients was 88, with 57 patient-care staff (18 professional and 39 other).

Of the May 1975 admissions to private psychiatric hospitals, about 95 percent of the patients were discharged in 4 months or less. Over 90 percent of all patients were discharged within 12 weeks, with 23 percent in 7 days or less, 17 percent in 8–14 days, 25 percent in 15–28 days, 14 percent in 29–42 days, and 13 percent in 43–84 days. Of the patients discharged, about half had been referred to private psychiatrists for further treatment and one-fourth to out-patient psychiatric clinics or services.[10]

In summary, about two-thirds of the patients admitted had depressive disorders or schizophrenia. Over half were referred by psychiatrists or other physicians and one-fourth by self, family, or friends. Most patients had had previous psychiatric treatment, often inpatient care. Psychotherapy (individual, group, and family) and drug therapy were the principal treatment modalities, with the vast majority receiving multiple therapies. Staff-patient ratios were generally higher in private psychiatric hospitals than in other mental health facilities, with the not-for-profit hospitals highest at 238 total staff and 140 patient-care staff per 100 patients. About two-thirds of the patients were discharged within 4 weeks and 90 percent within 12 weeks, with three-fourths referred for continued treatment.

A PLURALISTIC SYSTEM

At this juncture there is no reason to believe that one type of facility is in all respects superior to another. Each has its strengths depending on the mission and characteristics of the institution. For this reason a pluralistic approach is in order and will probably continue indefinitely. However, it is helpful to examine the differences among facilities in order to understand how each can best serve the patient.

In the psychiatric units of nonpublic general hospitals, inpatient services are stressed and about 50 percent of the patient care episodes involve this treatment mode. Treatment is usually short-term, with an emphasis on crisis resolution and reliance on somatic therapy. The ready availability of surgical and general medical services gives the psychiatric unit of the general hospital a particular advantage in the treatment of patients with interrelated physical illness, psychiatric complications of medical and surgical conditions, severe psychosomatic illnesses, substance abuse requiring detoxification, and severe organic disorders. Because an attending psychiatrist can follow a patient through all modes, including inpatient, outpatient, and day treatment, continuity of care is enhanced. However, physical space, facilities for activities, and specialized treatment services are often limited, particularly in smaller units. Hospital support services designed for the needs of medical and surgical patients are not always well suited to the needs of psychiatric patients, particularly those requiring intermediate or long-term care. Daily costs are usually higher than in psychiatric hospitals, but this is offset by generally better third-party coverage. Some patients and families find treatment more acceptable in the psychiatric unit of a general hospital because these units are in the mainstream of the medical care system.

Community mental health centers place heavy emphasis on outpatient and day treatment (about 81 percent and 7 percent, respectively, of patient care episodes in 1975)[11] as alternatives to hospitalization. As an organized system of care, most provide at least the five basic services initially required for federal funding (inpatient, outpatient, day treatment, emergency, and consultative services). They are expected to identify and meet the needs of residents, particularly the underserved, within a defined catchment area and to strive for early and prompt intervention. There is less reliance on psychiatrists, with correspondingly greater use of other mental health professionals and paraprofessionals. Matching funds helped community mental health centers get started, but severe fiscal problems have been created by the withdrawal of these funds. Somewhat belatedly, the centers are looking to other sources of financial support such as Blue Cross, commercial carriers, and personal payment.

State mental health systems, particularly state hospitals, have come under intense pressure as the cost of health care has escalated and budgets have not kept pace. This has caused an erosion of resources available to the hospitals and has provided only limited funds for new outpatient and day treatment services in the community. Deinstitutionalization programs all too often have been imposed by politicians with the intent of cutting costs rather than meeting the needs of patients. The leaders of many state mental health programs have recommended that rather than being direct providers of care, states should assume the initiative in identifying needs, planning, coordinating, determining priorities, setting standards, allocating resources, and evaluating. Despite the problems, many state programs are excellent. As direct providers of care the state systems potentially are in the best position to provide programs that fill needs not currently met by the private sector. In many instances these efforts can be enhanced by collaborative arrangements with private hospitals, general hospitals, and community mental health centers.

ROLE OF THE PRIVATE PSYCHIATRIC HOSPITAL

The main purpose of the private psychiatric hospital is to serve the patient. Many private hospitals, as collateral purposes, engage in teaching, research, and community consultation. Most private psychiatric hospitals strive for excellence that goes beyond simply meeting needs at an acceptable level of quality. As a consequence, they have, over the years, served as models against which to measure other programs.

In private psychiatric hospitals, treating the mentally ill is not simply one of many specialty services as it is in the general hospital. Even though private hospitals are expanding day treatment and outpatient programs, the emphasis continues to be on the inpatient treatment of individuals with severe psychiatric disorders, whereas community health centers stress emergency, crisis intervention, outpatient, and day treatment services. This allows the private psychiatric hospital to maintain programs to meet the needs of patients with more severe psychiatric disorders that require more specialized care.

Because of the emphasis on the treatment of psychiatric patients, the private psychiatric hospital is so organized that the institution becomes a therapeutic instrument in its own right. There has been a natural evolution from the moral treatment of the 1800s to the therapeutic community of the mid-1900s. The private psychiatric hospital provides the setting and resources for a coordinated treatment program in which most patients receive multiple therapeutic modalities. The potential is greater for definitive treatment beyond crisis intervention and symptom removal.

The private psychiatric hospital has an advantage over other types of facilities in preserving a more direct relationship with the patient. A higher degree of confidentiality can be maintained despite the encroachment of some third-party payers and government requirements. The greater freedom of choice enhances the patient's capacity to develop a therapeutic alliance. The direct relationship to those they serve has made private psychiatric hospitals more directly accountable to the patient than is usually possible in large public systems dominated by the political process and government bureaucracy.

As part of the private sector, private psychiatric hospitals have relied on revenue from patient care as their major source of funding. Of the total admissions to private psychiatric hospitals in 1975, the principal sources of payment were as follows: Blue Cross, 37 percent; commercial insurance, 30 percent; Medicare, 11 percent; other types of government payment, 10 percent; and personal payment, only 6 percent.[12] This reliance on revenues from services to patients has made private psychiatric hospitals cost conscious and has stimulated the development and refinement of management services. As part of the private sector, they have retained close ties with the majority of private psychiatrists, some 2,000 of whom serve as staff and resident psychiatrists, with several thousand more on attending or courtesy staffs.

Private psychiatric hospitals have struggled against such external regulation as the growing requirements of health planning, certification of need, and government third-party funding. The constraints are considerably greater than they were 10 years ago, but the private psychiatric hospital still has a greater flexibility and opportunity for self-determination than do most other psychiatric institutions. With its multiple funding sources, the private psychiatric hospital has greater latitude in responding to the dictates of third-party payers. Addressing the National Association of Private Psychiatric Hospitals, Dr. Braceland noted. "Government money is 'soft money,' and when economy programs are in vogue that money disappears just as government training and research money is disappearing now. Your hospitals are immune, for they should be dependent upon themselves."[13] Individually, and through areawide and national associations, private psychiatric hospitals have been vigorous advocates and effective leaders in influencing the funding policies of government and private insurers.

THE FUTURE

In the future, inpatient care of high quality for children, adolescents, and adults should continue as the hallmark of the private psychiatric hospital. Major expansions should be made in outpatient and day treatment programs. More specialized alternatives to inpatient care, such as halfway houses and community services, are needed. To be more accessible and responsive to community needs private psychiatric hospitals should initiate more diagnostic, evaluation, emergency, and crisis intervention services. The spectrum of patients served should be broadened by greater emphasis on alcoholism programs, active treatment for the elderly, programs for the drug abuser, and special education for the mentally disabled. Greater involvement is needed in preventive programs of (1) consultation to community agencies, (2) public education, especially for those who influence others, such as executives, teachers, labor leaders, judges, and politicians, and (3) counseling, school guidance, and vocational rehabilitation.

Private psychiatric hospitals should participate actively in continuing education for mental health professionals and place greater emphasis on in-service training as a method of maintaining and improving the quality of psychiatric care. In keeping with their emphasis on excellence they should utilize, refine, and assess the new techniques for quality assurance. Private psychiatric hospitals can make significant contributions to research, particularly in the application and evaluation of newer therapeutic approaches. They should explore the opportunities for

Footnotes at end of article.

collaboration with public and private agencies, general hospitals, and state mental health systems, as well as with other organized health care systems such as health maintenance organizations and community mental health centers. As more resources are made available through government and private insurers, private psychiatric hospitals should strive to provide more patient services to the underserved.

As Dr. Braceland has so succinctly put it, "As to the future of the private mental hospitals, it is bright providing excellence is their watchword".[13]

FOOTNOTES

[1] Taube CA, Redick RW: Provisional Data on Patient Care Episodes in Mental Health Facilities, 1975. Statistical Note 139. Rockville, Md. National Institute of Mental Health, 1977

[2] Dickens C: American Notes and Pictures from Italy. New York, Charles Scribner's Sons, 1898.

[3] Deutsch A: The Shame of the States. New York, Arno Press, 1948.

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[5] Preliminary Report to the President from the President's Commission on Mental Health. Washington, DC, Sept. 1977.

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STOPPING THE INTERNATIONAL BIDDING GAME

● Mr. METZENBAUM. Mr. President, last week the Ford Motor Co. announced that it will build a $533 million engine plant in Ontario, Canada, instead of in Lima, Ohio, where the company had also been conducting negotiations. That plant would employ 2,600 people and will produce a newly designed V–6 engine that will be used in the Ford cars of the 1980's. Ford's decision to locate the plant in Ontario will not create any new unemployment in Lima, so that is not the major concern for me. However, I am deeply upset with the role of the Canadian Government during negotiations for this plant.

According to reports from the Department of Treasury and in the media, the Canadian national government offered a variety of cash subsidies to Ford worth $61.2 million to attract the plant to Ontario. Other reports indicate that the Canadian Government has proposed to give General Motors $77 million to locate a foundry near Montreal. Mr. President, I find this kind of government subsidy to private car manufacturers unacceptable. It pits one country against another in a bidding war that hurts the overall interests of each country. Canada is our longtime ally. We exchange goods and commodities on a massive scale. We share a common border and many common interests. I am not saying that American car manufacturers should not be allowed to build their plants in Canada, but I do not believe that the Canadian Government should be involved in this game of international auctioning, where manufacturers locate a plant in the country of the highest bidder.

The Department of Treasury has already registered its strong objection to the Canadian Government's subsidies. Last Friday, Assistant Treasury Secretary, Fred Bergsten, went to Ottawa to discuss this urgent problem and others relating to trading relations between the United States and Canada. I have not been in touch with Mr. Bergsten since he has returned, but news reports from that meeting have stated that the Canadian Government and U.S. Government have agreed in principle to stop the government-incentive competition to attract new auto industries. This is a necessary first step to ending what Secretary Bergsten referred to as a "mugs' game" to attract private corporations with taxpayers' dollars, and I welcome this agreement. In recent testimony before the Housing Banking Committee, Assistant Secretary Bergsten stated that the United States "cannot sit by while these interventionist practices are escalated to the Federal level." I would urge the Treasury Department to stand fast in its efforts to end this kind of Government subsidy system which undermines our international trading agreements. I would also urge the Canadian Government to cooperate in these efforts to prevent another round of international subsidy competition, which would greatly harm our history of cooperation and mutual understanding.●

PODRABINEK'S TRIAL AND THE MISUSE OF PSYCHIATRY FOR POLITICAL PURPOSES

● Mr. LEAHY. Mr. President, 25-year-old Aleksandr Podrabinek will stand trial today under Article 190—1 of the RSFSR Criminal Code, "circulation of fabrications which defame the Soviet State and the social system". He faces a possible sentence of 3 years in a Soviet labor camp. The "fabrications" that Podrabinek has circulated are in fact accurate and detailed descriptions of the grim conditions prevailing in Soviet psychiatric hospitals where political prisoners are often sent for mental and physical punishment.

The misapplication of the law in the Podrabinek case is clear. As a founding member of the Working Commission to Investigate the Abuse of Psychiatry for Political Purposes set up on January 5, 1977. which is closely affiliated with the Moscow Public Group to Promote Observance of the Helsinki Agreement, Podrabinek has been a target of KGB reprisals for some time: In July 1977 Podrabinek was interrogated twice in connection with the case of Yuri Orlov of the Moscow Group and told that he would be arrested if he did not cooperate in testifying against Orlov. The Soviet authorities tried to blackmail Podrabinek into emigrating from the USSR by threatening to arrest his brother, Kirill. After Podrabinek refused to leave the country on the condition that he take his father and brother with him, his brother, on December 31, 1977, was indeed arrested and convicted on the basis of false evidence that was planted in his apartment by KGB agents. On May 15, 1978, the opening day of Orlov's trial, Podrabinek himself was arrested.

The Soviet practice of sending perfectly sane dissidents to insane asylums on the contention that their dissent is a manifestation of schizophrenia and that the constant KGB persecution of which they complain is nothing more than paranoid delusion is by far the most damning example one can find of the mis-application of law in the USSR.

In his book entitled "Punitive Medicine", that appeared in samizdat form in 1977, Podrabinek described many instances where the Soviet authorities have converted places of healing into torture chambers for political undesirables. In the name of medicine, perfectly healthy people are made to suffer physical and psychological abuse and often leave the hospital broken men and women.

These abominations are unconscionable.. That Podrabinek has risked his freedom to make them public does defame the USSR and condemns the Soviet state and social system in the eyes of the world—but it is a justifiable defamation for it is based on fact and not fabrication.●

ALASKA LANDS BILL

● Mr. HATHAWAY. Mr. President, I am pleased to join in support of S. 1500—amendment 2176, as proposed by my colleague from New Hampshire, Senator DURKIN. This is the Alaska lands bill, which is supported by a broad coalition of groups, from the National Council on Senior Citizens and the United Auto Workers to the major environmental and conservation organizations.

For most of us, Alaska truly represents America's last frontier, a State of unequaled pristine beauty and an abundance of natural resources. In the past decade, we have all come to realize the value of wilderness itself as a rich natural resource. In Alaska, we have the oppor-

tunity to avoid the errors committed during the development of the lower 48 in the past century, while still permitting the development of the mineral, forest, and petroleum resources needed for this century and the future.

S. 1500, with amendment 2176, strikes a sound balance between conservation and development. The Senate Energy and Natural Resources Committee is giving the Alaskan legislation top priority. I commend my colleagues on that committee for the long hours and thoughtful consideration they are putting into this issue so important to all of us.

The specific authority under which 80 mililon acres of Federal land was withdrawn from the State selection process or development—the so-called d–2 lands—expires at the end of this calendar year. It is not in anyone's interest to prolong the uncertainty as to the future status of these lands. The Secretary of the Interior has indicated that if Congress does not act, he will use his administrative authority to protect these lands. Failure to act this year will result only in prolonged uncertainty; such uncertainty does not produce gas or oil nor serve the interests of those who have reservations about the legislation. It is essential that we make every effort to have final action on this question in this session of Congress.

Any mineral and petroleum resources which will be affected by the new conservation units under the legislation will be a hedge against the future, both the for Alaskans and for all Americans. They are not "locked up" for all time; they are preserved just as the wilderness will be preserved for future generations to use and develop. These future years are likely to bring increasingly sophisticated ways both to exploit the resources and to preserve the pristine values, side by side.

Mr. President, at this time, I ask to have printed in the RECORD a brief background memorandum on the Alaskan issue and on the impact of S. 1500/amendment 2176.

The memorandum follows:

BACKGROUND ON THE ALASKAN "d–2" ISSUE

Alaska is approximately 375 million acres, nearly all of which is federally owned. In the 1958 Statehood Act, the state was to choose 104 million acres by 1984. In 1966, a freeze was put on this state selection process until native claims could be resolved.

This was accomplished in 1971 when Congress passed the Alaska Native Claims Settlement Act. Under Section 17(d–2) of that Act, 80 million acres of Federal (Bureau of Land Management) land was protected from state selection or development to see if it should be further protected in conservation units. Decision on these "d–2" lands is due from Congress by the end of 1978.

S. 1500/Amendment 2176 would provide protection for 110 million acres of Alaskan lands. Along with existing conservation units, the bill would put a total of 37% of Alaskan lands into one of 4 conservation units—the National Park System, the National Wildlife Refuges, Wild and Scenic River System, and the National Forest Service.

40 percent of Alaskan lands would be available to the state, to Native Corporations authorized under the 1971 Settlement Act, and to private landowners. These lands are thought to be those with the most mineral and petroleum potential.

The following is a statistical breakdown of Alaskan lands under the bill:

—40 percent (149 million acres) will be the property of the State, private landowners or Native Corporations.

—23 percent (86 million acres) will be Federal land open to mineral entry, logging and other uses.

—63 percent (235 million acres, the sum of the above) will be open to a wide variety of uses.

—37 percent (140 million acres) will be in one of the conservation units already existing or designated under the bill.

—70 percent of the metallic mineral potential in Alaska will be outside conservation system units.

—90 percent of all the land in Alaska could be open to sport hunting.

—95 percent of all high potential oil and gas lands in Alaska will be open to possible development.

—100 percent of all Federal lands in Alaska will be open to mineral assessment by the Department of Interior.●

PROPOSED ARMS SALES

● Mr. SPARKMAN. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification I have just received.

The material follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 14, 1978.

Hon. JOHN J. SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith, Transmittal No. 78–72, which concerns the Department of the Army's proposed Letter of Offer to Iran for major defense equipment, as defined in the International Traffic in Arms Regulations (ITAR), estimated to cost $185.9 million and support costs of $6.1 million for a total estimated cost of $192.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA.
Director.

[Transmittal No. 78–72]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Iran.
(ii) Total Estimated Value:
Major Defense Equipment*, $185.9 million.

Other, $6.1 million.
Total, $192.0 million.

(iii) Description of Articles or Services Offered:

Eighty four (84) self-propelled 8" Howitzers, M110A1 and two hundred fourteen (214) self-propelled 155mm Howitzers M109A1B.

(iv) Military Department: Army.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Date Report Delivered to Congress: Aug. 14, 1978.

*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).●

SIX MILLION UNEMPLOYED—HUMPHREY-HAWKINS ESSENTIAL

● Mrs. HUMPHREY. Mr. President, on August 4 the Bureau of Labor Statistics reported that over 6 million Americans who wanted to work were unable to find jobs in July. The overall unemployment rate rose from 5.7 percent in June to 6.2 percent in July—the largest monthly increase since March 1975.

While these figures represent a tragedy for all Americans, minorities, women and young people have been hardest hit. The jobless rate for blacks is up to 12.5 percent, more than twice the rate for whites. In fact, while the national unemployment rate has eased from close to 7 percent last year, black unemployment has been little changed since last December, hovering between 12 and 13 percent. For women, the unemployment rate went up to 6.5 percent. Moreover, 1 out of 10 women who heads a family was unable to find work to support herself and her dependents. For teenagers the situation can only be termed a depression. Official statistice indicate jobless rates of 16.3 percent for all teens and a whopping 37 percent for minority teens. In some inner-city neighborhoods unofficial surveys find 2 out of 3 teenagers unable to find a job and a generation of young people growing up without skills, work experience or a stake in our society.

Mr. President, we should all be jolted by these statistics and the economic and social costs they represent. But more important than simply reacting to monthly variations in the economic indicators, we should be focusing on the critical task of devising long-term policies and effective programs to insure that in future months Americans will not be denied the opportunity to earn a living.

That is why I believe that passage this session of S. 50, the Full Employment and Balanced Growth Act is so vital. This legislation establishes in law this country's commitment to a job for every American able and willing to work and sets in motion a comprehensive planning process to reach this goal. It brings a critical dimension of rationality and concern for the jobless into our economic decisionmaking and as such is an absolutely essential first step toward achieving a genuine full employment economy.

The legislation sets interim targets and a timetable for the reduction of unemployment: A 3-percent rate for those 20 and older and a 4-percent rate for those 16 and over within 5 years of passage. Thereafter, the goal would be to attain genuine full employment as soon as practicable and to maintain it.

In addition, the bill recognizes the special importance of finding jobs for

those segments of society—women, minorities, and young people—who experience the most severe rates of joblessness. It contains a very strong commitment to reduce and eliminate unemployment gaps for such groups. Among the methods proposed for achieving these goals are targeted training programs, improved labor market information and antidiscrimination enforcement. The coordination of monetary and fiscal measures with these structural policies are key to reducing the overall unemployment rate without adding to inflationary pressures.

Unfortunately, some have called for delay or drastic changes in this legislation based on the mistaken notion that it ignores the threat of inflation. This is false. S. 50 includes major anti-inflation provisions far stronger than current law or policy. It declares that relative price stability is a high national priority for the first time in law. More specifically, the bill requires that the President set forth each year, in his economic report annual numerical goals for prices for that year and for each of the next 4 years. These explicit inflation goals would parallel the other goals in the bill and be considered by Congress in all of its deliberations on national economic policy questions. The bill provides an annual process for the appropriate committees of the Congress and the Congress as a whole to review the numerical goals and timetables set by the President and, if it wishes, modify them. The bill also calls for the use of a set of specific policies to be initiated by the President to combat inflation.

The Senate Banking Committee, in my view, unwisely added a provision which sets a zero-percent inflation goal by 1983. Others have proposed a goal of 3 percent inflation by 1983. Neither of these goals makes any sense to me. They are not based on any careful objective analysis, serious study or open debate on what percentage makes sense or what year such a percentage can reasonably be expected to be reached. Frankly, Mr. President, this is just the kind of unsubstantial and misleading congressional action that undermines the credibility of this institution with the public. And, I am afraid it detracts from any serious attempt to provide national leadership from the Senate of the United States.

Mr. President, I have dealt with this proposal in great detail in my testimony to the Senate Committee on Banking, Housing, and Urban Affairs. I will not repeat those arguments here. Let me conclude on this subject by simply saying that those who propose to reach heroic inflation goals must be willing to propose specific, credible steps to be approved by Congress at the time such goals are set. Otherwise, the Congress risks adding to public cynicism and reducing the momentum to really reduce inflation.

Combating inflation will require sensible monetary and fiscal policies, specific actions to stem cost and price pressures in many sectors of the economy, and at least some good luck. The job will not be enhanced by establishing unrealistic and inflexible inflation goals and timetables. A far better course is the process of policy coordination, and annual inflation targets already contained in the legislation.

Mr. President, S. 50 provides a major improvement in the way in which economic policy decisions are made. It establishes a process of comprehensive and integrated policy planning and coordination involving the President, the Congress, and the Federal Reserve Board.

Mr. President, for too long our economic policies and programs have been established and carried out in fragmented, uncoordinated and too often futile ways. The American people desperately need and deserve a better performance from their Government. S. 50 provides the framework for comprehensive and flexible economic policymaking. It sets long-range and short-range goals which are realistic and achievable. In setting our sights on these goals we will be able to measure year by year the progress of particular policies and programs rather than myopically reacting from month to month as economic indicators fluctuate. We cannot afford to wait for more monthly unemployment data to tell us what is already obvious—our Nation needs prompt enactment of the Full Employment and Balanced Growth Act.●

CANADIAN/UNITED STATES GRAIN PRODUCTION SIMILARITIES AND DIFFERENCES

● Mr. MCGOVERN. Mr. President, I have taken a substantial interest in the agricultural affairs of our traditional neighbor to the north, Canada. This interest has taken me earlier this year to Winnipeg, Manitoba, together with Senators MELCHER and BELLMON, to discuss world wheat prices with the marketing agents and legislators of that great country. In my judgment, these talks were a forerunner to what can become a better deal for United States and Canadian wheat producers in developing a mechanism for getting these producers a price for wheat which approximates North American production costs plus a reasonable profit.

Many Members of Congress are not as familiar as they might be with the Canadian agricultural system. Though we coexist on the same continent, our method of doing business substantially differs. Warren Wolfe, an unusually gifted reporter for the Minneapolis Tribune, has authored an excellent article entitled "Canadian Farmers See U.S. Policies as Income Barometers" in the August 6, 1978, edition of that newspaper. Because of its unusual merit on an important subject, I ask that the text of the article to which I have referred be printed in the RECORD.

The article follows:

CANADIAN FARMERS SEE U.S. POLICIES AS INCOME BAROMETERS

(By Warren Wolfe)

STE. AGATHE, MANITOBA.—When the U.S. Congress starts its juggling act with alternative agriculture policies, Canadian farmer Lorne Parker holds his breath.

"Every major agriculture policy in Washington affects my business," Parker explained. "I keep one eye on the (Canadian) Wheat Board and the other on Washington, eh?"

Agriculture Secretary Bob Bergland's decision recently that U.S. farmers could pawn their wheat for a dime more, to $2.35 a bushel, at the government hock shop, for instance, meant that the Chinese might pay slightly more for their next shipload of Canadian wheat leaving Vancouver.

How the U.S. deals with problems of world hunger, trade barriers, beef shortages and farmer unrest may mean more income—or less—for Parker and his neighbors at the northern end of the Red River Valley, 75 miles above the Minnesota border.

It is one of many examples, Canadian officials say, of how the United States dominates hemispheric economics, politics and culture.

"I don't know why that comes as a surprise to so many Americans," Parker said.

There is a touch of gentle criticism in his voice as he explains that most people from the United States don't know much about Canadian agriculture.

"You people hear about how our Wheat Board guarantees us a price, and the railroads guarantee us a rate, and it seems very popular in the United States to believe that the Canadian farmer is reaping the reward while you are taking all the risk," he said.

"If that were true, Canadian farmers would earn more than U.S. farmers, and we don't," he said.

Canadian farm income averaged about $11,100 in 1974, compared with the U.S. average of $26,500 that year. Incomes of farmers in both countries have dropped since then with falling crop and livestock prices.

South-central Canada is the end of a 7,000-mile ribbon of grain fields that winds down the Americas through Argentina. Canada and the United States are the Western Hemisphere's leading grain producers. Both countries compete for buyers of their vast supplies of wheat and other small grains.

Although Canada is the world's No. 2 exporter of wheat, American prices and policies dominate the world. More than half the wheat in international trade is grown in the United States. Less than one-fourth comes from Canada.

But wheat is one of Canada's leading sources of foreign currency. It accounts for about half of Canada's agricultural exports, or about $2 billion. Dependence on wheat for trade income—plus a history of government involvement in agriculture—has transformed Canada's agriculture system into one quite different from the U.S. system.

The Canadian system falls somewhere between America's government interest in agriculture and the Soviet Union's complete government control of agriculture.

Parker can plant and harvest all the wheat, barley and oats he can handle, but he's guaranteed a price on only specified amounts of those crops.

He knows that the Wheat Board this year will pay him at least $3.34 (in U.S. dollars) a bushel for a specific number of bushels per acre—a number based on expected demand and sometimes updated during the growing season—of top-quality wheat he grows.

Each farmer is assigned a number of "quota acres," his share of Canada's grain-marketing opportunities. He may use those acres anyway he wants. He could plant it all to wheat, or split it among the board or non-board crops.

In the United States, a farmer also can plant any amount of any crop—although this year he may not be eligible for some government income-support programs if he harvests too much wheat or corn.

But the American farmer's only guarantee is a government loan. He depends for his livelihood on the vagaries of the marketplace. Some years he earns more per bushel than a Canadian farmers. Some years, such as last year, he earns less.

The Canadian Wheat Board guarantees prices and marketing of only the three "board" crops—wheat, barley and oats. Rape-

seed (an oil-seed crop), sunflowers, potatoes, corn, rye, soybeans, vegetables and other crops are marketed by private traders. Beef, pork and other livestock are sold at markets or, in some cases, are raised under contract to meat companies.

If Parker, 47, sounds a bit like a government official when he describes how Canadian agriculture works, that's because he is not an average Canadian farmer.

He represents the eastern half of the province on the Wheat Board Advisory Committee; he's first vice president of the Manitoba Farm Bureau, an amalgam of most farm groups in the province; he's on the boards of the Manitoba Beef Growers, the Canadian Grains Council, the Canadian Federation of Agriculture and the Prairie Rail Action Committee.

He's an agricultural-economics graduate of the University of Minnesota; he has spent months overseas representing Canada in various agricultural-development projects and at meetings; and this year he's been a farmer observer at international trade talks at Geneva.

Like more than a score of other farmers, grain-trade people and government officials interviewed, Parker is convinced that Canada's agriculture system fits its dependence on a handful of crops for its agricultural livelihood.

Despite striking differences between U.S. and Canadian agriculture systems, there are similarities between farmers such as Parker, a grain and livestock farmer with 1,600 acres, and their counterparts in the United States.

Both know that their incomes will depend largely on the livestock and crops they produce. Both produce far more than their countrymen can eat.

Consequently, both closely monitor agriculture production and policies of other countries, because a big slice of each dollar they earn comes from exports of their agriculture products overseas.

Both worry about rising costs, taxes, undue government restrictions, the weather, crop and livestock diseases and excessive paperwork.

But the differences between U.S. and Canadian agriculture—from weather to marketing systems—are vast:

Climate—Short summers allow farming only in southern Canada—and good farming only in the southernmost 200 miles. But good farming in Canada provides an average wheat yield that's 20 percent less than in the United States.

Crops—That short season allows only selected crops to flourish in Canada. Wheat accounts for about 70 percent of Canadian grain production. Other small grains, such as barley, rye and oats, make up most of the rest. Canadian grain production is concentrated in the prairie provinces of Manitoba, Saskatchewan and Alberta.

With new, short-season hybrids, Canadian farmers are beginning to grow a smattering of corn and soybeans for livestock feed.

The United States, with a climate that makes most of the soil productive throughout the country, has an agriculture belt 2,000 miles deep. It produces more volume and variety of grain, fruit, vegetables and other crops than any other country.

Livestock—Cold winters and short summers also make raising livestock a tougher job than in the United States. Most livestock production is confined to dairy farms and beef-breeding herds that produce calves.

Some of the calves are raised on grass and hay feed and sold to make hamburger; some are fed wheat or other grain and make better grade beef cuts. Some of those calves are sold in the United States to feedlot operators who turn out choice beef.

Most of the livestock in Canada is produced in areas that are less suitable for crops.

Here is how the two countries rank in the world in various livestock-production categories: beef and veal, U.S. No. 1, Canada No. 8; pork, U.S. No. 1, Canada No. 15; mutton, lamb and goat, U.S. No. 3, Canada No. 25; milk, U.S. No. 1, Canada No. 7; chicken, U.S. No. 1, Canada No. 13.

Land in farms—With agriculture confined to a narrow, southern belt, productive land constitutes only 16 percent of Canadian soil, compared with 48 percent of the land in the United States.

Canada has about 339,000 farms averaging about 500 acres each, a total of 169 million acres. The United States has 2.78 million farms averaging about 390 acres, a total of 1.08 billion acres.

Transportation—With an agriculture belt 200 miles deep and 3,000 miles long, moving grain to Canadian export terminals is no mean feat. One-third of the export grain must move across the Rocky Mountains to West Coast ports.

And all rail traffic must squeeze through Crowsnest Pass, which last year was closed for more than a week during a snowstorm. The snow froze so solidly that it had to be dynamited. That delay in moving grain to waiting ships—combined with other snags in the rail-transportation system—is still being felt.

Marketing—Grain buying, handling and marketing is far different in Canada. It's done through a mixture of farmer-owned wheat pools and the government's wheat board, with a little free enterprise on the side.

The four regional wheat pools were formed in the late 1920s because, said Parker, "the private grain companies had been taking advantage of us shamefully."

The companies had divided up the territory, paid low prices and precipitated a farmer revolt that led to the wheat pools, he said.

After nearly going under, the wheat pools were rescued with an injection of government money and promises of guaranteed minimum prices for the basic grains.

Now, farmers grow the grain and store it at wheat pool elevators. They receive their guaranteed payments when they deliver the grain. The wheat board charts the movement of grain to domestic users or to export facilities.

The Wheat Board decides how much grain the market will bear the next year, then sets a minimum price that farmers will be paid. The board negotiates agreements with foreign buyers and if those deals bring in more money than the farmers were promised, they get bonus payments.

But if the grain sales bring in less money, the government makes up the difference.

This year, for the first time since 1970, the government probably will shell out some money to back up its guarantee of a minimum $3.34 a bushel for wheat. Minnesota farmers last year earned an average $2.50 a bushel for their wheat.

No one will know how much the guaranteed-payment program will cost the government until early next year, after all the income and bills have been toted up. The Wheat Board is not yet admitting officially that government money will be needed.

The Winnipeg Grain Exchange is still an active market for "non-board grains," but it's primarily a domestic market doing far less volume than during its heyday 50 years ago.

"It's a system that works for us, but I'm not sure it'd work in the United States," Parker said.

That is a message that visiting American farmers frequently take home with them after visiting the Canadian Wheat Board main offices in Winnipeg, board officials say.

"We've had lots of Americans up here—some of them the farm strikers who were looking for a better system than you've got—who think they'd like to take the wheat board plan back to the states with them," said John Morriss, a spokesman for the board.

"That's before they hear about the quota system. Ideally, what the Americans would like is guaranteed prices with no production restrictions. Our farmers would like that, too, but I don't know how it can be done," Morriss said.

Canada needs that system so it can cope with the monumental barriers of climate and topography facing Canadian farmers, Parker said.

"You have more alternatives than we do. We've got wheat, and you've got that plus everything else; we've got railroads to move our grain, and you've got rail and truck and barge; you've got a good, integrated private market system, and ours has atrophied," he said.

"One of the big differences between Canadian and American farmers is that most of us don't know how to market our crops. You Americans are pretty adept at watching the markets and selling when the price is right. We haven't had the experience."●

PROPOSED MILITARY BASE REALINEMENTS

● Mr. PERCY. Mr. President, Senator STEVENSON, Congressmen ED MADIGAN, MEL PRICE, and I attended a meeting this morning at the Department of Defense on the department's proposed plans for military base realinements.

About 40 leaders of the communities in Illinois affected by the possible changes met with Dr. John P. White, Assistant Secretary of Defenese for Manpower, Reserve Affairs and Logistics as well as high-ranking officials from the three services.

I would like to make the statements of these Illinois leaders a matter of public record, because they raise issues crucial to the local communities and important to Department of Defense decision-making.

Mr. President, I ask that the statements be printed in the RECORD.

The statements follow:

CITIZENS FOR CHANUTE, MUNICIPAL BUILDING, RANTOUL, ILL.

We feel these facts are important and must be factored into any decision affecting the status of Chanute Air Force, Base.

1. If Chanute Air Force Base closes the economic "impact" would be the loss of $176.7 million in personal income. This represents 18% of all personal income received in this area.

2. The base closure would adversely affect approximately 5,000 jobs in the surrounding area.

3. Local Government would lose $9 million and the State of Illinois would lose $11 million in revenue.

4. Chanute Air Force Base procurement for operating supplies, maintenance and other services would be cut by $6.8 million annually for those business firms within a 50 mile radius of Rantoul, $10.2 million for other business firms within the State of Illinois, and $8.3 million for the remainder of the United States which is a total cut of $25.3 million.

5. Just this year, 1978, a total of 2,527 civilian workers are employed at Chanute Air Force Base.

6. Over 74% of the civilian employees live in Rantoul, Gifford, Ludlow, Thomasboro, and Fisher.

7. Sixty-three percent of these civilian base workers who live in Champaign County reside in Rantoul.

8. The 1,165 civilians residing in Rantoul and working at Chanute comprise 22.9% of the village's civilian work force.

9. Assuming there will be no job replacements the unemployment rate could jump as high as 9.7% for Champaign County, 31% in Rantoul alone.

10. The income loss due to the disappearance of base income and the loss of secondary jobs in Ford County would be $7,986,000.00. Iroquois County would lose $2,046,000.00 and Vermilion County would lose $2,922,000.00.

11. While Thomasboro is not a major retail/service center, its few commercial establishments are heavily patronized by Chanute personnel; therefore, its sale tax revenues, would be hit extremely hard.

12. The 362 civilian base workers residing in Paxton make up 21.3% of the communities civilian labor force.

13. There is also Loda which includes 7.9% and Buckley at 9.8% of the total civilian workers.

School aid

City	Federal "impact" Aid	State Aid	Total aid received	City	Federal "impact" Aid	State Aid	Total aid received
Rantoul—High school	$305,000	$650,000	$955,000	Thomasboro	$9,065	$19,242	$28,307
Rantoul—City schools	1,100,000	1,480,000	2,580,000	Buckley-Loda	9,987	5,280	15,267
Urbana	55,000	112,140	167,140	Paxton	46,228	217,427	263,655
Champaign	55,000	85,000	140,000				
Gifford	10,900	12,500	23,400	Totals	1,591,180	2,581,589	4,172,769

PRESENTATION BY LEO F. KUKLA, MAYOR OF NORTH CHICAGO

As Mayor of the City of North Chicago which has a conditional annexation of the Great Lakes Naval Base, I am here with grave concern regarding the recently publicized plans of the Pentagon, which are in the preparatory stages, for a partial closedown of the Great Lakes Naval Training Recruit Command in our city and Fort Sheridan Army Base in Highwood, Illinois. I would like to state publicly that our city of North Chicago would suffer a very severe economic setback by the closing of these facilities as many citizens of North Chicago are employed at the Base of which I am told approximately 362 jobs in that area, not withstanding the fact that a great majority of our business in whole or part are patronaged by the naval personnel. I am speaking mainly of our two motels, the Holiday Inn of North Chicago and the Pagoda Motor Inn which without the support of the visitors at weekly Recruit Training Graduation can and will prove that without this support the businesses will virtually close. Our food services, which are mainly fast food services, almost 75 to 80% realize in whole or in part patronage of the naval personnel.

Getting down to the City of North Chicago which would be drastically affected by this closing, as the current population of the City of North Chicago comprises part of the base wherein the City of North Chicago receives Illinois State Income Tax and Motor Fuel Funds. Notwithstanding the fact that the federal government presently has declared North Chicago to be an economically distressed municipality and at this time is considering some applications which involve federal funds to help pump the economy into our community. We are confused as to why at this critical time, we will be receiving help through possible federal funds on one hand and the elimination of jobs on the other.

The removal of Great Lakes Recruit Training would further add to and make an almost impossible economic drain on the city and on the municipal government of the city. The City of North Chicago wants to do all within it's power to convince the United States that the continued operation of Great Lakes at it's current level is absolutely imperative to the economic existence of the City of North Chicago.

Speaking from the latest census dated 1970, North Chicago had a population of 47,275. That population includes Great Lakes, however minus Great Lakes, the total population of North Chicago from the same census is 12,999 of which the racial mix comprises of 6,644 whites, 5,546 blacks, 184 other, 465 Spanish and 160 Puerto Rican. In the 1970 census data, our median family income was $8,899 and the mean family income $9,889. The unemployment rate data from the Illinois Bureau of Employment Security average unemployment rate for 1976 was 8.41, far above the national level. The average unemployment rate for 1977 was 6.98. So as you can see we do have our problems.

Besides the tremendous economic burden placed on North Chicago by the closing of Great Lakes Recruit Training Command, I would also like to state, and the facts bear me out, that Great Lakes Naval Training Recruit Command is by far the most modernly equipped than any other base and has much more to offer including the area and space for much needed expansion if need be.

As far as our concern for Fort Sheridan is concerned, this is also a grave and serious concern because of it's direct and indirect effect on the citizens of our community. The direct effect of the loss of 123 jobs for North Chicago citizens as of April 1978 plus the indirect economic effect of the spending power of these employees. There is some talk about a needed beach in the Fort Sheridan area. What about the much needed beach for North Chicago where we don't have any facility for a beach for our citizens because of the erosion of Lake Michigan upon our shores.

In closing, I would just like to remind the President, the Department of Defense and all concerned, that we have another problem of possible unemployment and that is the possible closing of the U.S. Steel Mill, Waukegan Works, which borders North Chiago and our sister city of Waukegan further eliminating 450 jobs. We have also just recently been informed that Goodyear Tire which uses a North Chicago mailing address and is adjacent to our community is closing down it's plant in the very near future and will be phasing out an additional 493 to 495 jobs in our immediate area. I am willing to go to any length to get more specific information to show that the city sincerely desires with all it's earnestness in it's heart to call upon the Department of Defense to realize the absolutely devastating effect that the removal of any part of Great Lakes and the Fort Sheridan Army Base, it's growth level or operation, would have upon the city of North Chicago and it's citizens. In fact, Gentlemen, if you could look at the true picture, I am sure you would wholeheartedly agree with me that this area does not and should not have any type of cut backs but should have added impetus in creating the necessary jobs for the many, many unemployed we are strapped with.

I would like to at this time to sincerely thank the Honorable Adlai Stevenson III for setting up this hearing. I would also like to thank the Department of Defense, Senator Charles H. Percy, Congressmen Robert McClory, Philip M. Crane, Melvin Price, Edward R. Madigan and Dan Rostenkowski for their time and effort in allowing the city of North Chicago to plead it's case.

Thank you.

TESTIMONY SUBMITTED BY CHARLES C. ISELY, PRESIDENT OF THE WAUKEGAN/LAKE COUNTY CHAMBER OF COMMERCE

Ladies and Gentlemen, it is a pleasure for me to present testimony to you on behalf of the Waukegan/Lake County Chamber of Commerce and its over 800 members located in Lake County.

For many years, the Chamber has been cognizant of the economic input of these military installations in our area. It has been through past efforts, that various economic facts have been researched and published. One of the most interesting items has been the residency of employees at these two installations within the county. The average one-way trip of employees at these installations is 21 miles; therefore, the economic input is not limited to the immediate adjacent community. It affects the county as a total unit. The cost effectiveness for the operation of these two installations is constantly being stated as "high cost!" The Chamber is interested in learning if there is a "normal" cost which the Department of Defense utilizes as an average to operate a square foot of space for administration of training functions, and if so, we should be apprised of this cost, and how it would be cheaper in another location.

Even though the Department of Defense says there is no collation between the Army and Navy Recruiting Commands, to the layman, it would appear their mission and function would be the same. Both military commands do conduct recruiting actiivties specifically for their element within the corporate limits of the United States. The central location here in the Chicago metropolitan area was given as one of the reasons why the Army Recruiting Command was moved here. The empty space at Fort Sheridan was an economic factor, since the Army was leasing space in the Washington area. However, since it has come to our attention that construction of additional space at Fort Benjamin Harrison would be necessary to accommodate the Army Recruiting Command, it is hard for us to accept that money is going to be saved, because if you build additional space, you are going to increase your annual upkeep cost to compensate figures that exist currently at Fort Sheridan.

In connection with the relocation of the Navy Recruit Training Command we raise the following questions. This Chamber is cognizant of the previous request made by the community of Orlando, Florida, to have their Navy Recruit Training Command Facility closed down. They felt they did not need that economic input to their community. Since the manning level of the Navy does not support the need for three recruit training stations, why not close down the one that the communit does not want? Also, we think it is significant to note that there are many service school ratings that are only taught at Great Lakes, and since the trend is to maintain a one-station training facility, why

not have it be Great Lakes, because if the recruits are trained at other locations, they will still have to come here for this additional training, with added travel expenses and other related costs.

Therefore, the Chamber feels, given the central location of these two facilities, and based upon the information and facts we have been able to obtain at this point in time, the proposed realignment seems to be unreasonable and financially unsound.

It is the Chamber's intent to support all the activities of the Lake County group to maintain the military facilities on an economic and sound basis for the overall mission of providing support to the military establishment.

I appreciate very much, the opportunity to meet with you today.

TESTIMONY OF BRUCE GIANGIORGI

My name is Bruce Giangiorgi. I am here in my capacity as Co-Chairman of the "Save the Bases Committee", which is a subcommittee of the Lake County Economic Development Commission. Our Committee was created by resolution of the Lake County Board. We are here today for the express purpose of addressing problems relating to the possible closure of Ft. Sheridan and proposed base realignment at Great Lakes Naval Training Center.

Our members represent all facets of the County: namely Chambers of Commerce, School Districts, (both public and parochial), Township Supervisors, Veterans Associations, Council for Senior Citizens, Retired Military, Civil Defense Groups, N.A.A.C.P., County Board, American Federation of Government Employees and City Governments, etc.

Based on information in our possession, we have strong reason to believe that not only our County, but the entire State of Illinois would suffer severe economic and social hardships.

A recent article appearing in a local newspaper stated:

A total of $116.9 million in annual income will be lost in the Lake County area if Ft. Sheridan and Great Lakes Naval Bases are closed. . . .

The economic impact figures were compiled by the State Commission for Economic Development.

In 1976, Ft. Sheridan generated some $39.9 million in civilian and military paychecks and supply purchases. As this basic income circulated in the area, the Commission estimates it created additional non-basic income of approximately $30.2 million. Total personal income of the operation of Ft. Sheridan, therefore, is estimated to have been $70.1 million in 1976.

This impact is what would be lost in income to the area if the federal funds coming into Ft. Sheridan were to be discontinued. . . . Close to 2,000 jobs in the private sector near the Fort could also be affected by the loss.

The Great Lakes Recruitment Training Command in 1976 generated about $27.3 million in basic income, and another $19.5 million in non-basic income. The total person income impact of the operation of the Training Command, therefore, is estimated to be $46.8 million annually.

Some 1,200 jobs in the private sector near the base could be affected by the termination of the Training Command program.

In addition to all that income loss, it's been estimated that the closing of the two installations would bring about a $7 million income tax loss to the State of Illinois, plus $5.4 million in local tax loss in the county.

The effects of Ft. Sheridan's closing on School District No. 111 invariably covers the economic effects, such as the loss of $558,000 in Federal Assistance in Federally Affected Areas, commonly called Impact Aid; the 38 certificated and noncertificated jobs which would be eliminated; and the 18–20 classrooms which would be vacated.

Another very significant effect is that a vital part of the District would be lost—425 of its 1408 students, over 30% of their enrollment, together with their parents who contribute so much to the schools as parent-teacher organization officers, and members, tutors, etc. Large portions of two of the District's Schools were built with Federal Public Law 815 moneys because of Ft. Sheridan.

Twenty-two Lake County public school districts received a total of more than three million dollars in Federal Impact Aid last year. Also, many students in the 34 parochial schools in Lake County are dependents of Federal Military and Civilian employees. St. James Parochial School would lose between 25 and 30% of its students which could mean the ultimate closure of the school.

Township High School District #113, operating two high schools, received $218,661.-00 during 1977–78 for their claim of Impact Aid. Estimates for 1978–79 are $225,000.00. A survey conducted showed 219 federally connected students attend school with a potential count distribution to be 155 residing on Ft. Sheridan, another 23 working on Post, 18 in other military services and 23 working on other federal property.

North Chicago would suffer a very severe economic set back by the closing of the facilities. Approximately 362 jobs would be affected.

In 1970, North Chicago had a population of 47,275, however, minus Great Lakes, the population would be 12,999 of which the racial mix comprises of 6,644 Whites, 5,546 Blacks, 465 Spanish, 160 Puerto Rican and 184 Other. In the 1970 census data, the medium family income was $8,899 and the mean family income was $9,889. The unemployment rate data from the Illinois Bureau of Employment Security stated that the average unemployment rate of 1976 was 8.41%, far above the national level. The average unemployment rate of 1977 was 6.98%.

There were 123 employees from North Chicago working at Ft. Sheridan as of April 1978.

The Federal Government presently has declared North Chicago to be an economically distressed municipality and is considering some applications which involve Federal funds to help pump the economy into the community. Why help through possible Federal funds on one hand and the elimination of jobs on the other?

North Chicago also faces another problem and that is the possible closing of the U.S. Steel Mill, Waukegan Works, which border North Chicago and the City of Waukegan, further eliminating 450 jobs.

It is our expressed feeling that the closure of Ft. Sheridan and the realignment of Great Lakes would be detrimental to the social and economic well-being of Lake County and the State of Illinois. We respectfully request that information to be developed from the impact study be made available to our committee for review before being implemented. We strongly urge you to reconsider your original proposal and transfer more activities to both Ft. Sheridan and Great Lakes.

PRESENTATION BY MELVIN L. KLAFTER

Ladies and Gentlemen: I am highly privileged and honored in being allowed to appear before this august body and address myself to the question of retaining the three military installations in the great State of Illinois, namely: Fort Sheridan, Great Lakes, and Chanute Field. My remarks will apply only to Fort Sheridan. Others will direct their attention to the other installations.

As you know, Fort Sheridan was established at about the turn of the century so as to have army troops close to the great City of Chicago in the event of domestic or other troubles. Before the turn of the century, it was necessary to bring troops from Fort Leavenworth, Kansas in times of domestic troubles.

The City's Elders and Fathers in their good judgment dedicated the land which is now Fort Sheridan to meet crises and calamities confronting Chicagoland.

The said actions did portend future events, for over the years Fort Sheridan served this metropolitan area to the full expectations of the dedicating city elders. Needless to say, that through two world wars, Korea, and Vietnam, Fort Sheridan was the hub of military activity in the State of Illinois. Without this outstanding military facility. Chicagoland and the surrounding area would have been handicapped for obvious and manifold reasons.

In the event that Fort Sheridan is closed and in the event of another national military crisis, there would not be an installation or facility in the Midwest that could replace its loss. If for no other reason Fort Sheridan must remain open.

However, your attention is directed to the Fort's comparatively recent military contributions. During the riots when the National Guard was alerted in 1965; when the National Guard was actually called out in 1966; and during the riots when the National Guard was again called out and the Regular Army brought in in 1968, Fort Sheridan was the focal point of logistical operations for the troops participating. In 1965 during the National Guard alert, Fort Sheridan furnished additional rations. In 1966 when the National Guard was called out in the "Cicero, Illinois Episode", Fort Sheridan furnished the rations and ammunitions. In 1968 during the riots when the West Side of Chicago was almost burned out, Fort Sheridan gave necessary logistical support to the Regular Army.

Attention must additionally be called to the year 1967 when a tornado struck Oak Lawn and Belvidere, Illinois, when the National Guard was called out to alleviate the damage and suffering at those localities. Additional vehicles were needed, food rations had to be given to the troops, together with winter clothing. The Army had to send stoves, cots, blankets, food and tents to the citizens of those localities in the same manner that they had to send the same type of equipment to those people who were burned out during the riots of 1968.

Since 1968 the Army has repeatedly helped the citizens of Illinois when struck by catastrophies, both man-made and natural. Such as when tornadoes and storms caused power failures, and generators had to be brought in for power in hospitals and other public and quasi-public facilities; when the water power systems failed in down-state Illinois the Army brought in mobile purification systems and plants. In these above cited calamities it was Fort Sheridan that had the materials and equipment at hand to do the job. It was Fort Sheridan that had the manpower readily at hand; and it was Fort Sheridan's commanders who directed these operations either directly or indirectly.

Obviously, if Fort Sheridan is closed, these disasters and crises will not stop. What will happen in such events when the nearest army installation, Fort Benjamin Harrison, hundreds of miles from Chicagoland, will be depended upon to do the job that Fort Sheridan has done in the past, but without Chicago's airfields, railway lines, general communication systems, truck and bus terminals, manpower and manufacturing capabilities.

Notwithstanding the foregoing, the Army in its computing, figures that there are 2,000 military personnel assigned to Fort Sheridan and in that it disperses $144,000,000 yearly it costs $7,200 per individual to maintain

the post, and that amount is too costly. *We disagree.* There are in fact about 200,000 military related personnel serviced by Fort Sheridan, which brings the cost to about $72.00 per individual as distinguished from $7,200.00.

The 200,000 manpower figure is not exaggerated. Fort Sheridan supports 100,000 reservists from Illinois, Wisconsin, Michigan, Northern Indiana and Iowa. These reservists are paid from Fort Sheridan when on active duty, and their families can use the PX facilities at Fort Sheridan. In addition—reserve units have its weapons and vehicles repaired at Fort Sheridan without having to travel hundreds of miles for these purposes at great extra expense.

Additionally, there are about 47,000 National Guard troops served by Fort Sheridan. There are about 28,000 army retirees, widows and orphans who use all the facilities at Fort Sheridan. There are 1,900 R.O.T.C. students from both the colleges and the high schools. There are about 1,200 Department of the Army civilians; 4,000 active duty army people who both serve on the post and use the post as their headquarters; and about 90,000 eligible dependents of these said individuals. I repeat $144,000,000.00 divided by 200,000 persons equal $72.00 per person.

Moreover, so long as we have a volunteer Army, and recruiting is important, it must be remembered that Fort Sheridan offers such attractions as a golf course, arts and crafts studies, education facilities—there is a full college course offered, including one for advanced degrees.

As a senior vice-president of the Chicago U.S.O., I can report that in 1977, 49,000 service people used the U.S.O. facility at Chicago O'Hare Airport, the world's busiest airport, and 46,500 used the U.S.O. facility in Downtown Chicago. These U.S.O. facilities are supported entirely by private funds—not a dime of government money is involved; and I can say without equivocation that if Fort Sheridan was closed so would the Chicago U.S.O.—or at least the O'Hare facility would be closed.

Attention is directed to the fact that the Chicago District Recruiting, Middle Western, and National Recruiting Commands are all located at Fort Sheridan. The latter two, if Fort Sheridan closes, are scheduled to go to Fort Benjamin Harrison in Indiana, and the Chicago District Recruiting Command will have to rent space in Chicago as do units now located in the 1819 Pershing Road Building, together with the North Central Division of the United States Army Corps of Engineers, and the Chicago Engineers District. If the Army is really trying to save money, it should move Army units which rent space in Chicago to Fort Sheridan where there is ample and available space instead of trying to close it.

And may I add parenthetically, Fort Sheridan should be used to its fullest potential. One way to do this would be to move installations from other sections of the Country to it—to be perfectly blunt—let's stop stripping the military from "Yankee Country".

Further, in regard to recruiting attention is invited to the fact, I do not have the exact figures, but I am told that a great number of the recruits come from the Chicagoland area. In Chicago, parades, ceremonials and display of military hardware materially help recruitment. Without Fort Sheridan such activities should be impossible and recruitment would therefore suffer.

As a retired Army JAG Colonel, AUS, I can attest to the fact that Fort Sheridan has over the years proven to be a great training facility for troops. In 1959 when I activated, organized—and then commanded the 7th JAG Detachment, I can well remember with fond memory Fort Sheridan and all its training and recreational facilities.

As a past Commander of the Chicago and Illinois Chapters of the Military Order of World Wars; as a past Illinois Department President of the Reserve Officers Association of the United States; as a past Chief of Staff of the Military Order of the Purple Heart; as a Mason, Shriner and Knight Templar; as a senior partner in an established Chicago law firm, and as a fourth generation Chicagoan; I abhor the thought, and I am terribly distressed by the proposal to close Fort Sheridan.

May I say in conclusion, it would be a crying shame if the second largest city in the United States was denied a nearby military post.

Thank you, and I especially thank the elected officials from Illinois.

TESTIMONY OF THOMAS H. COULTER, CHIEF EXECUTIVE OFFICER, CHICAGO ASSOCIATION OF COMMERCE AND INDUSTRY

Illinois' and Metropolitan Chicago's vital importance to the nation's economy stems from its central location at the focal point of commerce, industry, agriculture and population.

Because of the enormous cost savings which central location implies for movement of freight, executive flight, long distance toll charges, postal rates, employee movement and other geographically related costs, Chicago has become the nation's leading manufacturing center. According to the 1976 Survey of Manufactures of the U.S. Department of Commerce, Metropolitan Chicago led all other areas in manufacturing shipments with 51 billion dollars. The 1978 Survey of Industrial Purchasing Power puts the current year's total at 68 million dollars—ahead of all other areas. The same report indicates manufcturing shipments of 103 billion dollars for the State of Illinois—the highest total for any state.

Geography has also created the largest transportation industry in the nation in Chicago. Metropolitan Chicago ships 27 millions of manufactured tons by truck and 23 million tons by rail, according to the U.S. Census of Transportation, to top the tonnage of any other area. Chicago employs more trucking and warehousing employees than any other area.

Chicago's air passenger volume will top 50 million passengers in 1978, the largest in the world. Its airline schedules service 231 direct non-stop flights. Both totals exceed those of any other metropolitan area. O'Hare International Airport handles more air cargo tons than does any other air facility in the country.

Chicago's manufacturing importance and its housing growth within the last ten years cf 367,000 units . . . tops for any area . . . have boosted its construction industry to the highest level of expenditure anywhere in the U.S. From 1967 through 1976, the area spent over 21 billion dollars for construction contract awards, highest in the nation. Last year, Chicago spent 3.5 billion dollars on all kinds of construction, again to lead all other areas. Chicago's expenditures for new industrial plant and equipment, 13 billion dollars in the six-county area and 18 billion dollars in the eight-county area from 1963 through 1976, far exceeded comparable totals for other metropolitan areas.

Metropolitan Chicago and the State of Illinois are leaders in research and development of nuclear energy through the Argonne National Laboratories and Fermi Labs, and in the development of energy by conversion of coal and petroleum to natural gas at the Institute of Gas Technology and the ERDA facility downstate. Chicago's research facilities led by those of The University of Chicago, the Illinois Institute of Technology, Northwestern University and The University of Illinois have provided the academic springboard for much of this research.

In 1975, the State of Illinois contributed 19 billion dollars in taxes to the federal government—the third highest total among the states. Illinois' net outflow of taxes—that is federal taxes minus federal expenditures in the state—was 5.3 billion dollars, the highest net outflow of federal taxes of any state.

In 1886, at the time of Chicago's Haymarket riot, The Commercial Club of Chicago, a private civic organization of business leaders, donated almost 600 acres of land to the U.S. Army for the construction of Fort Sheridan. They were motivated to do so because of their great public concern for the protection of the city's population and resources from the ravages of civil disturbance. At the time, Chicago had a population of only 600,000. Today, the area and its suburbs contain 7.6 million persons, and has grown to be the nation's largest industrial complex with vast resources for the defense of the U.S.A. The Chicago Ordnance District was the largest producer of military equipment and supplies during World War II and has grown in potential since then.

It is unthinkable to the Chicago Association of Commerce and Industry that any federal military establishment so essential to the security of this area be drastically reduced. This is especially true for Fort Sheridan which plays a major traditional role in supplying all kinds of material and manpower for natural disasters, civil disturbances and military operations. Under no circumstances should Fort Sheridan be closed or drastically reduced from its present level of operations.

For many years, Metropolitan Chicago has attracted the largest new capital investments by U.S. industries which obviously must seek the most efficient, low-cost locations in the nation. The Department of Defense can enjoy many of the same advantages. Chicago and Illinois need their fair share of defense establishments. We feel confident that, with objective judgments, the Department of Defense must arrive at the same conclusion.

TESTIMONY OF LYNETTE M. KEATING, PRESIDENT OF THE AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LOCAL 1426

What? Move again? The Army's current plan for moving the Army Recruiting Command to the Great Lakes Naval Base 10 miles north of Fort Sheridan or anywhere else leaves me puzzled.

With an eye to cost, which apparently is the motivation for the recently announced plans to study the closing of Fort Sheridan, it doesn't make sense. The Recruiting Command has already moved once—from Hampton, VA in 1974.

When the Senate Armed Services Committee becomes concerned because the volunteer Army is in distress, perhaps we would be better off to spend the money recruiting and training rather than moving.

The Army has made some of its moves pay off. Units which had been renting commercial facilities in Chicago or paying rent to other federal institutions were moved to Fort Sheridan for that very purpose—to save Army dollars which the taxpayers provide. These same units are under consideration for another move.

But some moves just don't make economic "cents". Some of the Army's already well-laid plans include moving some of the maintenance work for reserve unit equipment to Fort McCoy, WI. Currently, McCoy is operating at near maximum capacity for the number of personnel they have. With work coming from Fort Sheridan they would have to hire more people and in all probability erect more buildings. Again, the payroll would not be decreased, just moved to another locale. That means more jobs for Wis-

consin, fewer government paychecks in Illinois. This state can ill-afford more reduction in defense spending when, as it is now, for every dollar in taxes that leaves the state, the Pentagon sends only three cents back.

With repair work and maintenance of Army equipment in Wisconsin there would be added fuel consumption for units forced to travel the additional 210 miles—something to consider in light of the energy crisis, which is apparently not just going to go away.

Military vehicles are not known for their economy. Some trucks get only three miles per gallon. Fort Sheridan services equipment for some 44,000 reservists in Illinois, Michigan, and Indiana. People cannot drive and do other jobs at the same time. In addition, they have to be paid—$35 a day for food and lodging for every day they are away from their duty station.

Fort Sheridan has been described as being near the heart of the nation's most "park-starved" metropolitan area. That hardly seems to be the case when there are 26,000 acres of state recreational areas in northeast Illinois alone, not to mention the county recreational areas.

Who could agree that 389 acres is worth the 1,188 military jobs and the 1,365 civilian jobs that will be lost if the post closes? Is 389 acres worth 390 minority jobs? That's how many blacks, Spanish, Indian and Orientals are employed at the post now.

The school districts will undoubtedly be hurt. There are few not already feeling the economic pinch. Voters are becoming notorious for turning down bond issues, trimming "luxuries" such as athletics from school programs.

And it's not only Lake County that will be affected. Even schools in Chicago and suburbs benefit from the $1,281 per pupil contribution that the federal government pays to the districts. Of course, it will hit hardest closest to home. Last year in Highland Park, over 600 dependent school age children were enrolled in the school system. The 400 who attended grade school comprised about 29 percent of the district's total enrollment. The support which the schools received amounted to almost $900,000. Without these pupils and the federal funds, what will happen to the budget one can only imagine. Cuts will have to be made in teaching staff and physical facilities.

The schools will feel the crunch, but who will benefit from it? Will it be the taxpayer spent on local purchases in the area because of Fort Sheridan. Money doesn't grow on trees nor in communities where there are no people renting homes or eating in restaurants or purchasing the services of the community.

And if the government plays landlord, who will benefit from it? Will it be the taxpayer or private individuals or corporations waiting in the wings for this valuable property to become available.

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, LODGE 1426

We have endeavored through the attached enclosures to relay the feelings of *The People* relative to the closure of Fort Sheridan and the maintenance of our military strength.

In a recent opinion poll, the citizens favor maintenance of strong military forces and are concerned by their doubts about the nation's defense posture.

Fort Sheridan's prime purpose is the "Readiness of Reserve Components of the Army." However, due to an antiquated formula, Fort Sheridan is referred to as the most expensive Army base per capita of military personnel in the country. If properly and fairly evaluated, Fort Sheridan is as cost effective as other installations because it directly supports over 44,000 Reserve personnel which is not taken into consideration.

It is realized that Fort Sheridan is located on property of "extraordinary value" in the exclusive North Shore suburbs of Chicago. However, this land was donated for the purpose it has and is now serving. Its strategic location to Chicago was considered when concerned citizens donated the property. None of the functions Fort Sheridan performs will be eliminated, only transferred. Does it make economic "cents" to transfer functions to other bases, that will have to hire more people and spend more taxpayers money to erect more buildings and increase the cost of support of the Reserves?

Can the Closure of Fort Sheridan Save the Nation the Millions of Dollars As Proposed?

How can you hurt one state's economy and not have it reflected in the overall picture?

As Fort Sheridan is the only "Army" base in the state of Illinois, should not the taxpayers money be spent on studies to add and preserve rather than abandon this base and the people involved?

"FORT SHERIDAN, ILLINOIS COST EFFECTIVENESS"

There is a justifiable need to clarify the cost effectiveness of the Fort Sheridan, Illinois operation and to set the facts straight.

The indication that "Fort Sheridan is one of the most expensive Army Bases per capita of military personnel in the country" is a very misleading half truth. If properly and fairly evaluated, Fort Sheridan is as cost effective as most installations.

The Army utilizes an old formula which is based on the military population of the Post. This is OK for large Divisional Posts whose primary mission is to train/support active Army troops, but is unrealistic for a small post, such as Fort Sheridan with approximately 700 acres, whose primary mission is supporting off post Reserve troops.

The reorganization of the Army in 1973 under Project Steadfast recognized, planned for and adopted the policy that the Reserve Components should be depended upon for 50 percent of the Army's requirements for Mobilization.

Fort Sheridan's Military Post Population is only 1870, however it directly supports over 44,000 Reserve personnel for which it receives no credit. Additionally, Fort Sheridan supports retirees and their dependents totalling about 43,800 for which no credit is allowed.

The Army needs to revise/update its formula in consonance with the Steadfast Reorganization and give proper credit for this work load. This would bring Fort Sheridan's cost ratio down with other Posts.

Since Fort Sheridan's Budget is over $32.6 million for P5–OMAR (Operation and Maintenance Army Reserve) versus $18.5 P2–OMA (Operation and Maintenance Army) funds, consideration should be given to carrying Fort Sheridan as a P5 Type Funded Post rather than P2, similar to Fort McCoy, Wisconsin whose mission also is supporting Reserve components. Accordingly, we would not be unfairly compared against the large P2 Active Army Divisional Type Posts, and would be in a similar category with Fort McCoy which is excluded from P2 comparison.

There are personnel cost figures to be considered if Fort Sheridan functions are transferred.

Four hundred seventy-eight employees would be entitled to severance pay. Figuring approximately $7 per hour for 20 weeks, each individual would draw approximately $5,600. Thus the total cost of severance pay would be $2,676,800.00.

Seven hundred eighty-five employees would be entitled to draw unemployment compensation. Using a median figure of $125 per week for 26 weeks, this would result in a cost of $2,551,250.00. It would also add to the unemployment rate of the State of Illinois.

The above represents an irrecoverable loss.

NOTE.—90 percent of the personnel own their homes. If 500 were transferred, based on a family of four, it would cost the government $10,000 for each family for a total of $5,000,000.00.

SO THEY SAY! SHOULD FEDS CLOSE ILLINOIS MILITARY BASES?

(By Mercedes Meyers)

CARPENTERSVILLE.—The Carter administration is considering moving all or most of four military bases out of Illinois as part of a nationwide economy action. The bases are Chanute Air Force at Rantoul, parts of Fort Sheridan, parts of Great Lakes Naval Training Center and an Army agency at the Rock Island Arsenal.

Shoppers at the Meadowdale Shopping Center were asked if they favored the Defense Department's economy proposal to cutback or close the Illinois bases. Their views appear below:

Ronald Knox, of Carpentersville, said: "A cutback could hurt the economy in Illinois.

"I was stationed at a base in Japan that closed its facility and saw what happens. Many jobs were lost. It really hurt a lot of civilians working at the base canteen and other civilian jobs.

"And, can you picture a business area like Meadowdale Shopping Center being near a base and what would happen to their businesses if the base moved out?

"It's a simple case of supply and demand. Take away the military base personnel's demand for consumer goods and you drastically reduce the supplier's income and the local and state revenue.

"And, as to transferring thousands of civilian personnel working at the military bases, not everyone can tear up their roots that easily.

"It can mean pulling children out of one school and transferring them to a new school in another state. That can be a traumatic change for a child to make the adjustment. It can mean breaking a lease or selling a house and clearing up old debts before moving across the country. It's not as easy as it sounds."

Mrs. Ronald (Deana) Knox, of Carpentersville, said: "I agree with my husband. Not many civilians can afford to move."

Mrs. Edward (Florence) Pfeiler, of Barrington, said: "I don't think the Defense Department should cutback or close the bases in Illinois. We need the facilities.

"If they remove the operation, the facilities will deteriorate into an eyesore and safety hazard. If the area were converted into, say, parkland, that would be at the expense of Illinois taxpayers.

"A cutback or closing of four bases in our state would definitely hurt Illinois economy. Many civilians would be out of work. Many more people who are spending consumer dollars at the bases would be gone to pour their dollars into some other state's economy.

"On top of all that, it is difficult for people to transfer from one job site to another, especially to another state clear across the country, away from friends and relatives."

Mrs. Tom (Caroline) Johnson, of Schaumburg, said: "I don't like it at all.

"It would mean laying off so many people. We don't need more unemployment here.

"It also means cutting back defense areas. It wouldn't make me feel too secure.

"It just involves too much. Thousands of military and civilian jobs would go down the tube. How would that help the nation's economy?"

Mrs. Bob (Margo) Price, of Hanover Park, said: "It would swell the unemployment lists here drastically. We don't need that.

"I can't see how the proposed cutbacks will save the nation the millions of dollars the administration says it will. How can you

hurt one state's economy and not have it reflected in the overall picture."●

LAWYERS AND THE CORPORATE BOARD ROOM

● Mr. McGOVERN. Mr. President, a line of modern court decisions has placed increasing personal burdens on those who serve on the board of directors of the Nation's corporations both large and small. Indeed, because of the increasing risks of personal responsibility for corporate decisions many Americans are becoming reluctant to be board members unless they have the time, resources, and personal expertise to serve.

The modern corporation, especially the large ones, have become models of complexity requiring the most sophisticated of legal representation and counsel. Too often the chief client of the corporate counsel is a tight band of central executive officers to the exclusion of other board members who oftentimes serve on the board nominally—their chief interests being their own individual businesses. In many instances management decisions of great magnitude turn out to be disasters much to the chagrin of the board and ultimately the public stockholders. Legal advice either fell short of the test of competency or was only available to the principal operating officers.

Mr. Victor H. Palmieri, a noted financial analyst in Los Angeles, has written eloquently and purposefully of these matters of sufficient and competent legal counsel in an article which appeared in the Wall Street Journal on August 14, 1978. The article is entitled "Officers of the Board" and I ask that the text of the article be printed in the RECORD.

The article follows:

OFFICERS OF THE BOARD?

(By Victor H. Palmieri)

The subject of "corporate governance" has become a favorite preoccupation of Congressmen, SEC commissioners, legal scholars and Naderites.

"How can we improve the way corporations are run?" is the question they are asking. The answers come in three clusters: (1) Making sure that directors are "independent" (i.e., not under management domination); (2) increasing the responsibility of the audit committee of the board for monitoring sensitive disclosure issues such as questionable payments; and (3) raising the level of federal and state standards for corporate behavior in relation to investors and the public.

All the principal actors on the corporate stage—directors, managers, and auditors in particular but also regulators and legislators—have received their fair share of criticism in the course of this debate. All, that is, but lawyers. In the wave of corporate disasters that followed the Penn Central debacle—National Student Marketing, Equity Funding, the R.E.I.T. bankruptcies, the foreign payments cases—lawyers have by and large managed to stay out of the line of fire.

To anyone reasonably familiar with the real world of the board room this immunity is bound to be puzzling, because in practice the quality of corporate governance is so clearly and consistently linked to the performance of counsel in the board room.

As a practical matter, neither the existence of tougher standards on the books nor a majority of independent directors in the board room is likely to make an important difference in the quality of corporate governance. Access to information in depth by itself is no guarantee of understanding, even with the most sophisticated directors. The classic example is the Penn Central, where an independent board majority composed of the nation's business elite remained oblivious to the problems and essentially inert month after month while the company lurched toward the biggest bankruptcy in history. Penn Central may be a classic in the annals of corporate disasters, but it is not unique.

The biggest problem in my judgment is the corporate lawyers' traditional concept of their own role. Until a crisis arises, the lawyers who sit with the board typically see themselves as the chief executive's counsel. Because they are usually selected by the CEO and serve, if not at his pleasure, with their compensation and tenure highly dependent on the CEO's pleasure, corporate lawyers tend to relate to the chief executive as the client. They deal with the board as a specially important constituency of management which, like other constituencies, has to be managed. This perspective, consciously or unconsciously, governs their participation in all interactions between the board and management.

In these situations lawyers have obviously failed to identify their clients, in the words of the ABA Code of Professional Responsibility, the lawyer "owes his allegiance to the entity and not to a stockholder, director, officer, employe, representative, or other persons connected with this entity."

This does not mean that company lawyers should fail to be responsive to the needs of the CEO. It is important to the company for the chief executive to be able to rely on a confidential relationship with the company's counsel. It does mean that lawyers in no instance should compromise their legal judgment to satisfy the purposes of the chief exectuive. If this imposes a burden on counsel, it is simply an occupational hazard that has to be accepted to make the system work.

In relating to the board, corporate counsel needs to use its best efforts to perform three critical tasks on a consistent basis:

1. Detecting and calling attention to any material inaccuracy or non-disclosure in management's presentation on the issues under discussion;

2. Explaining fully and fairly to the board the latent as well as patent risks involved in proposed actions or decisions;

3. Making themselves available to discuss the concerns of the independent directors away from the board meetings and out of the presence of the chief executive.

Lawyers' traditional reluctance to be drawn into "matters of business judgment" often insulates them from important information and leaves them without sufficient understanding of problems which they and the board should know about. In today's world, for instance, corporate lawyers who lack a firm grasp of financial and accounting principles and practice, or who are innocent about corporate relations with politicians or journalists, or who are not up to date on the changing contour of regulatory policy are simply not equipped for their job.

In particular, the emergence of the audit committee as the prime board instrumentality for monitoring sensitive issues such as executive perquisites, questionable payments, political contributions and other required disclosures creating a need for sophistication in dealing with audits and auditors that many lawyers simply do not possess.

Corporate counsel must be energetic in assisting the board to develop a philosophy of governance and a process so structured that, formally or informally, all information and viewpoints which may enhance the directors' capabilities to monitor the performance of management and to make sound decisions are brought to them. It is not a role for a technician, or an advocate, or a lawyer's lawyer. Rather it calls for an entirely different level of professional consciousness and independence, one in which corporate counsel come to be viewed as "officers of the Board" in the same sense that trial lawyers have long been viewed as "officers of the court."●

SUPPORT FOR S. 3007

● Mr. HASKELL. Mr. President, today I join with Senator DOLE in cosponsoring S. 3007, as amended. I agree in the principle of this bill, having already sponsored S. 3037. I believe that all businesses in addition to real estate, need relief in this area. However, I reserve the right to offer amendments to S. 3007, as amended, if the bill as drafted needs to be tightened up to prevent abuses.●

THE BLACK HILLS PASSION PLAY

● Mr. McGOVERN. Mr. President, for almost 40 years, the Black Hills Passion Play has excited and inspired millions of Americans who witnessed these moving performances at Spearfish, S. Dak.

In his sensitive portrayal of Christ, Mr. Josef Meier has brought to this demanding role an historic and religious understanding that is equaled by few in the world today.

Internationally acclaimed for the perceptions he brings to this exacting drama, Mr. Meier continues to create new meaning for his audiences in this "greatest story ever told."

Mr. Tom Zito of the Washington Post has recently visited with Mr. Meier and has seen the Black Hills Passion Play.

Mr. President, I ask that his article be printed in the RECORD.

The article follows:

THE MAN WHO PLAYS CHRIST: 8,000 PERFORMANCES AND 50 YEARS IN THE PASSION PLAY

(By Tom Zito)

SPEARFISH, S. DAK.—Josef Meier has spent the last 50 of his 74 years playing Christ—more than 8,000 performances in "The Black Hills Passion Play," set here in a natural amphi-theater near Mt. Rushmore and Devil's Tower.

It's an eerie, impressive setting. A three-block stage under the West's magnificent and awesome skies, where camels and sheep parade forth and a cast of 250 act out the last week of Christ's life, right down to the crucifixion of Josef Meier, on a mountain specially carved out for the play.

Never mind that Meier has been playing Christ for much longer than the 33 years Christ himself lived.

"His mission would have continued in the same vein if he hadn't been killed," Josef Meier said.

Indeed, Meier himself has taken on the passion play as his mission in life. Raised in Luenen, Germany, having studied medicine as a boy, he was chosen to play Christ in the town's Lenten passion drama. In 1932, after a Pittsburgh Shriner had seen the play in Germany, the enterprising Meier brought the production to that town's Sylvia Mosque. From there Meier put it on the road (including an evening at Washington's Constitution Hall) for five years, carting sheep, camels, horses, costumes, sets, and players on railroad cars.

"It was a pleasure to travel by rail in those days," he says, lost in the intricacies

of managing a road troupe. Meier is rummaging through the desk in his office at the amphitheater, looking for his old diary and fondling his pet miniature poodle, Teeney.

He could be a Russian count out of a Marx Brothers film, with his tiny mustache, close-cropped beard and foreign accent. His fiery eyes have a glint that make him seem like a character out of an outrageous '40s comedy film.

"We approach our work with a serious attitude," he says of himself and his company of 250 actors. Thirty-eight of them are professionals, and two—Harold Rogers, who plays Peter, and Meier's wife as Mary the mother of God—have been with him since the onset. "We bring to our work a sense of faith and believing. If this became a commercial, cold business, the essential symbolic value would be lost."

With money from the road production, Meier built the amphitheater in 1939 and has presented the passion play in the Black Hills every summer since. It is seen by 6,000 people three nights each week. In the fall the production moves to Lake Wales, Fla., where Meier built an amphitheater in 1932.

"I first came here for political reasons," Meier says. "You could sense then in Germany that things were not going in the right direction. I'm worried that the situation in this country today is not unlike the situation in Germany then. We've lost a sense of responsibility and inflation is eating up people's money.

"When I began to travel around this country with the play, I really saw the need for it. The separation of church and state here is extreme. In Europe, every school has a serious religious program. Here we would find that children really knew very little about religion, but they were fascinated by the character of Jesus. You must always reinforce, never disturb people's concept of Jesus."

After 8,000 performances in the same role, you might think an actor would become tired. But not so with Meier, who says that every performance is a re-dedication to his life's goal.

"I gain by the role," the Roman Catholic says. "People often say to me, 'It's a heavy cross. Aren't you tired?' He said, 'Ask and ye shall receive.' And if I need strength, I get it. The good Lord will tell me when it's time to retire. (Meier is grooming a nephew to take on his role and his daughter for the role of Mary.) He's the one who'll make the joints go stiff and the voice grow cold."

Meier often relies upon scripture to express his point. Referring to Christ's words to Peter at the Last Supper he says " 'The Kingdom of which I speak is different than the one you have known. The greatest will become the least.' These are the qualities that must remain with you in every single line when you are on stage. Otherwise it becomes a hollow role."

If all this sounds obsessive Meier says he is careful not to let his role become the world's most amazing case of method acting.

"I'm too terribly aware of my shortcomings, and always want to remain so," he says. "Doing something like that would be a form of insanity."

Which is not to deny that there is some religious spillover from the play into Spearfish's secular life.

A young girl who had just begun appearing in a crowd scene surprised her father one evening when he arrived home from work. She came running out of her bedroom, waving a branch of palm and shouting, "Hail Hosanna." ●

CONSPIRACY AGAINST THE ARMY

● Mr. GOLDWATER. Mr. President, in recent months, I have been very disturbed at the number and quality of criticisms being directed at the All-Volunteer Army. Admittedly, the present system of recruitment has encountered serious problems. But I hardly think the situation calls for the kind of attacks which have been appearing in the news media on the quality of the men and women in our military services. In this connection, former general of the Air Force, Ira C. Eaker, recently wrote an interesting article entitled "Conspiracy Against the Army." I submit for the RECORD the article by General Eaker which appeared in the July issue of the magazine Officer Review.

CONSPIRACY AGAINST THE ARMY

(By Ira C. Eaker)

Last month an hour-long television program on one of the major networks charged that the present-day Army was a collection of misfits from the lower strata of our society. It pronounced the all-volunteer recruitment system a failure. No one would think of joining the Army, it implied, unless he had failed to find any other employment.

More recently, a headline in a Washington paper's Sunday edition read, "As Officers Forget Duty—Honor—Country and Learn to Look Out for No. 1, the Military Loses Its Fight. It's Happening in the U.S. Army."

These are not isolated cases. There have been many other scurrilous attacks in the news media on the quality of the men and women in the military services. These examples are but the latest and most vicious.

Who is behind this effort to denigrate, defame and destroy our Army today? A careful analysis will show it is comprised of two groups, one subversive, the other pacifist, both dedicated to the disarmament of the U.S.

Since Congress, in misguided zeal, has gutted the FBI and castrated the CIA, the influx of enemy agents and money has more than doubled.

For example, within 48 hours after Moscow vehemently opposed the B–1 bomber, 25 pacifist groups in the U.S. obediently took up the refrain. As a result, the B–1 was cancelled. Exactly the same process and result occurred in the case of the neutron bomb.

The pacifist, the unilateral disarmament group in this country, most of whose members may not realize that they are being used as tools by the Kremlin, is busily engaged in destroying the military power of the U.S. The principal components of military power are modern weapons and competent Defense Department people in adequate numbers.

The joint campaign of the left-wing liberal groups has succeeded thus far in preventing the deployment of any new weapons to modernize our defense forces. The present effort concentrates on reducing military manpower.

Taking full advantage of the antimilitary sentiment growing from the Vietnam war and its slanted reporting, these critics now charge our failures there were due to defective Army leadership.

Actually, it was not Army but political leadership which failed us in Vietnam.

The crux of the present campaign is to use Army people to condemn the Army. There are always a few people in the Army, as in any large organization, who cannot measure up and who must be eliminated. Some of these "early-outs" become embittered and dedicated to revenge against the organization which found them defective.

Many flee to the tenured, sheltered status of academia and write books and articles viciously attacking the military. They have learned, unfortunately, that critical books, emphasizing controversy, have more sales appeal.

The facts are that our Army today is representative of the average of the U.S. population. It is admirably trained and dedicated to the defense of the country. Its officer corps, noncommissioned and commissioned, is not only adequate, but superior, the best we have ever had.

If the present conspiracy against the all-volunteer system of recruitment is allowed to succeed, by 1984 the Army will be at half-strength, completely inadequate for its critical defense mission.●

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. ROBERT C. BYRD. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Robert J. Cindrich, of Pennsylvania, to be U.S. attorney for the western district of Pennsylvania for the term of 4 years vice Blair A. Griffith.

Tyree A. Richburg, of Alabama, to be U.S. marshal for the southern district of Alabama for the term of 4 years vice Harold S. Fountain, resigned.

On behalf of the chairman (Mr. EASTLAND) and the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, August 22, 1978, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.●

AMENDMENT NOS. 3456 AND 3457 TO S. 1392 (CHAP)

● Mr. CRANSTON. Mr. President, on August 10, I submitted for printing two amendments to S. 1392, amendment Nos. 3456 and 3457, and asked that they be printed in the RECORD at the close of my introductory remarks.

Through an inadvertence, several amendments were printed in lieu of the two amendments I introduced. I ask, Mr. President, that the two amendments I submitted, Nos. 3456 and 3457, be printed at this point in the RECORD, and that the permanent RECORD be changed accordingly.

The amendments follow:

AMENDMENT No. 3456

On page 2, line 22, strike out "six" and insert in lieu thereof "twenty-one".

On page 3, line 19, strike out "SIX" and insert in lieu thereof "TWENTY-ONE".

On page 4, line 1, strike out "six" and insert in lieu thereof "twenty-one".

On page 4, line 24, strike out "six" and insert in lieu thereof "twenty-one".

On page 3, line 12, insert "when the care or services for those conditions are not provided pursuant to paragraphs (1) through (5) of section 1905(a)" after "disabilities".

On page 3, at line 14, insert "or discovered by a dentist if the dental assessment is done by direct referral to a dentist" after "assessment".

On page 3, at line 18, insert a comma and "and for the referral of any individual under the age of 21, who has received his periodic assessment, for appropriate care and services not available under this title" before the semicolon.

On page 5, at line 9, insert "for physical and mental problems" after "assessments".

On page 11, at line 21, strike out "September 30, 1977" and insert in lieu thereof "June 30, 1974".

AMENDMENT NO. 3457

On page 12, after line 13, insert the following:

MEDICAID COVERAGE OF PREGNANT WOMEN

SEC. 9. Section 1905 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(m) (1) For purposes of this title—

"(A) any pregnant woman shall be deemed to be a relative specified in section 406(b)(1) with whom a child is living who is a dependent child as defined in section 406(a), and

"(B) any pregnant woman who would meet the income and resources requirements of the State plan approved under part A of title IV if she had borne a child with whom she was living shall be deemed to be receiving aid under that State plan.

"(2) Any woman who is eligible for care and services under this title by reason of paragraph (1) of this subsection shall remain eligible for such care and services for a period of two months following the month in which the pregnancy terminates. Notwithstanding any other provision of law, any such woman shall remain eligible under this title for one additional pregnancy-related check-up beyond such two-month period if the fee for the check-up has been included in a single overall charge for all pregnancy-related care and services.".●

THE SALE OF OIL MACHINERY TECHNOLOGY TO THE SOVIET UNION

Mr. THURMOND. Mr. President, it was with great disappointment that I read in the newspapers yesterday that President Jimmy Carter had approved the sale to the Soviet Union of a large plant for producing oil well drilling bits.

Central to this sale is turning over to the Soviets a sophisticated electron-beam welding machine which is operated with its own computer. Neither President Carter nor the people in his administration seem to understand that the Soviet Union is in a race with the United States for political and economic power. History is replete with their efforts to expand communism to all states of the world.

Why are we transferring to them the technology their system cannot produce? Why are we making it easier for them to obtain oil to run a war machine which threatens us in Europe? Why are we helping them get oil when their ships are undercutting our merchant marine fleet, and their trucks and war machines are spreading Communist doctrine and supporting Communist dictators in Africa?

The Soviets have not lived up to agreements they have entered into on human rights or anything else. We should not give them our technology irregardless of Soviet policy on human rights. By transfer of technology we are strengthening a nation and a system which is spending billions and billions of dollars more than the United States to build a war machine far in excess of anything they could conceivably need for national defense.

Our own defense expenditures could be greatly reduced if it were not for the huge drive by the Soviets to attain military dominance over the United States and export their system throughout the world.

Mr. President, it is shortsighted policies, such as sale of this oil drill machinery, and especially the electron beam and computer techniques, that will lead to real U.S. problems in the future. Computers are at the heart of all advanced defense technology. The Soviets have been working directly and through other nations to get our computer technology. Now we are handing it to them on a platter.

Only an outcry in Congress has prevented other sales of high technology items to the Soviets. Apparently Congress did not make enough noise on this one. The administration should be providing leadership on this subject as the director of our foreign policy, but it seems Congress has to fight to stop such sales to the Soviets.

Mr. President, this particular sale is part of a larger policy carried out throughout the West. In the last 6 years the Soviet debt to Western sources has risen from $2.5 billion to $14.4 billion. I certainly would urge that this country not finance any loan for the $144 million involved in this sale.

Mr. President, it is time Congress started giving attention to legislation to end these technology transfers, if the administration is going to follow the type policy they seem intent on promoting.

This particular sale includes three important transfers: First, it involves a plant which includes our advanced manufacturing techniques. a feature the Soviets lack and which they can apply to military production; second, we are enhancing their capability to get oil, a fuel which they need for their huge war machine; and third, the electron beam and computer technology has significant application to defense weapons, such as the long range ballistic missiles targeted on this city and all over the United States.

Mr. President, I ask unanimous consent that an article entitled "U.S. To Allow $1 Million Soviet Sale," which appeared in the August 10, 1978 issue of the Washington Post newspaper be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 10, 1978]

U.S. TO ALLOW $1 MILLION SOVIET SALE

(By Don Oberdorfer)

The Carter administration, in a decision with political and economic significance for relations with the Soviet Union, has decided to allow the sale to that country a large plant for producing oil well drilling bits.

The $144 million deal worked out by Dresser Industries, a Dallas firm, was the subject of widespread speculation and a new round of government policymaking when President Carter ordered reprisal actions last month for the political trials of dissidents Anatoly Scharansky and Alexander Ginzburg.

At that time Carter canceled the sale of a computer ordered by Tass news agency and decided to ban most travel to the Soviet Union of policy-level U.S. officials. Carter also announced that future exports of oil technology to Russia would be placed under a high-level review.

Most of the Dresser sale had been previously approved, but a $1 million segment to provide a sophisticated electron-beam welding machine was subjected to study under the president's order. This machine contains a computer of its own.

According to the Deputy Assistant Secretary of Commerce Stanley Marcus, the decision was made yesterday to approve the export license for the welding machine, which will permit the entire Dresser deal to go forward.

White House officials said Carter had decided to allow the case to be decided on its bureaucratic and technical merits, without regard for the state of U.S.-Soviet political relations.

The effect of the decision is to limit, at least for now, U.S. economic reprisals for the dissident trials to the single case of the Tass computer.

There had been a sharp division of opinion within the administration about such actions, with Secretary of State Cyrus R. Vance and Secretary of Commerce Juanita Kreps opposing the use of trade as political leverage, and presidential assistant Zbigniew Brzezinski and some of his National Security Council staff on the other side.

Ten days ago Vance informed the Commerce Department, which is charged with processing of export licenses, that he favored moving ahead with the sale of the oil drill plant.

Several senators, including Henry W. Jackson (D-Wash.), had called for cancelation of the Dresser oil deal. Jackson expressed regret last night that the final element of the arrangement has been approved, and said his permanent subcommittee on investigations will look into the matter.

He said providing such sophisticated technology is a poor idea at a time when the United States is attempting to persuade the Soviet Union to "live up to its commitments" on human rights.

Advocates and critics of the Dresser deal agreed that it would enhance the Soviet Union's ability to exploit its potentially vast oil resources.

Proponents of the sale said, among other things, that it is in the United States' interest that Russia be relatively self-sufficient in petroleum rather than be forced to draw large amounts of oil from the tight international market expected in the 1980s.

HUMPHREY ARTICLE URGES UNITED STATES TO RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, the United States has long been active on the human rights front. Both at home and abroad, this country has steadfastly stood for the sanctity of individuals. Since we declared our independence in 1776, we have continuously worked to guarantee certain inalienable rights to every citizen of the world.

In recent years, our commitment to human rights has become more vocal and more vehement. Universal human rights has become the leading tenet of our foreign policy, and we have become the leading advocates of universal human rights.

But is our moral leadership secure? Are we doing all that we can to further the cause of human rights? Will our present policies successfully achieve universal human rights?

One of the Senate's most beloved and respected Members, Senator Hubert Humphrey, addressed this very issue. He warned the Senate about our human rights leadership. In an article for the American Bar Association, Humphrey wrote:

The success or failure of attempts to institutionalize international human rights law and development of workable enforcement

mechanisms may be determined by the continuity and consistency the U.S. gives to this issue within our overall foreign policy framework.

Do we have a consistent human rights policy? Do we indeed lead the world struggle for human rights?

Mr. President, I fear not. Sadly, I must concur with the late Senator Humphrey when he wrote:

. . . The moral leadership which the U.S. could exercise in this critical area is diminished by our failure to ratify numerous human rights conventions, including, that most fundamental of documents—the Genocide Convention.

Is not our failure to accede to the Genocide Treaty inconsistent with our human rights policy? It most certainly is. We who so strongly support human rights have not yet acted to protect the most fundamental of human rights—the right to live.

How can we profess to be the leading advocates of human rights when we have not yet ratified the Genocide Convention? Eighty-three nations, including our major NATO and SEATO allies have already signed the treaty. Are we not undermining our own leadership?

Mr. President, universal human rights is a goal that Senator Humphrey sincerely cherished and that we all deeply desire. To make our policy more consistent and more successful, we must ratify the Genocide Convention.

THE 20-YEAR HITCH

Mr. THURMOND. Mr. President, an article entitled "The 20-Year Hitch" by Brig. Gen. J. D. Hittle, U.S. Marine Corps, retired, appeared in the June 24, 1978, issue of the New York Times.

This article offers a very concise and informative exploration of why 20-year retirement is so important to our career military personnel. As usual, General Hittle does not engage in hazy theory, but goes to the practical and real aspects of the issue of 20-year retirement. He clearly points out its effect on the serviceman and his family and on retention of personnel. He cites the dangers of scuttling it as has been proposed by some groups in the Defense Department.

As the Members of this Senate who know Don Hittle recognize, he has unique credentials for speaking out on such matters. He has commanded Marine Corps field units from a platoon to a battalion. He has served as Legislative Assistant to the Comandant of the Marine Corps and later as Assistant to the Secretary of Defense for Legislative Affairs. Following retirement from active service, he served as consultant to the House Armed Services Committee. Then, as Special Counsel to the Senate Armed Services Committee, he conduced the investigation of absenteeism in the armed services. During the Vietnam war, he was appointed and confirmed as the Assistant Secretary of the Navy for Manpower and Reserve Affairs.

When General Hittle resigned to return to private business, a leading service publication editorially said he had been "the greatest civilian personnel chief any service ever had."

Mr. President, in this article he offers a view well worth consideration. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE 20-YEAR HITCH

(By J. D. Hittle)

ARLINGTON, VA.—The President's Commission on Military Compensation has made the big decision to recommend junking 20-year retirement for future career servicemen. So, it's just a matter of time before the White House and Congress will have to come to grips with the issue.

Unfortunately, few outside the career military community really understand how important 20-year retirement is to the serviceman and to our national security. The fact is that the 20-year retirement is what the serviceman and his family can look to as the nation's recognition and appreciation for putting up with the conditions of service life that the average civilian wouldn't put up with.

The average person wouldn't for a good reason—it's a different kind of life, a life of family separation, long hours with no overtime pay, and frequent moves that pull the kids out of school and plop them down in a different community, or even a different country. It's the wife keeping the home fires going, while, as in the Navy, the husband is on foreign deployment.

It's not enough to say that the fighting man is well-paid—even overpaid, according to some "experts"—for what he does. If service pay is so good, why aren't civilians breaking down the recruiting-office doors?

Whatever opinions I had on 20-year retirement I found reaffirmed as a member of the "white hats' panel," which consisted of retired military personnel and members of Congress, and was sponsored by the Fleet Reserve Association, national association of retired Navy and Marine Corps enlisted personnel. Seven public hearings were held at major naval bases, and testimony was heard from 164 active-duty enlisted men and women.

In Norfolk, Va., for instance, the panel listened to noncommissioned officers and petty officers representing 20 commands. What they said, in plain language, boiled down to this: 20-year retirement is the main reason for staying in service now, and it will be needed for the same reason in the future.

Twenty-year retirement is not a one-sided benefit, all in favor of the serviceman. It, of course, is good for him. But it is both a "carrot" and a "stick." The "stick" part of it is seldom recognized. It's this: It's an all-or-nothing proposition. There isn't any real in-between departure point. No "vesting," no delayed retirement if he leaves short of 20 years retirement.

To put it bluntly, he has to give his first 20 working professional years to the service or he gets no 20-year retirement. This is the way the Government keeps his training, experience, schooling and his devoted service for these two decades.

Retirement pay is computed on base pay. This does not include allowances and incentive pay. So, 20-year retirement pay actually works out to about 35 percent of gross pay. Civil Service retirement is based on gross pay.

A senior petty officer told the panel he had done an analysis of his first 20 years in the Navy, and his hours on duty. On the basis of an eight-hour day, five-day week, he had put in at least 30 years of service.

The 20-year retirement is a psychological "escape hatch." With all of a service career's separations, poor duty assignments, housing crises and schooling problems for the kids, the fighting man's continuing incentive is the 20-year retirement.

After he's close to the end of his second hitch, he can handle the disadvantages of service life. He can say to himself that he has "his leg up on 20" and that he can do it "standing on his head" if necessary until he has time in for retirement. Without that "magic 20" point, a lot of good, needed servicemen would leave much earlier. Of course, a lot do leave at 20. But, also, there are a lot who don't and go for 30.

I'm puzzled that so much effort is being devoted to end the system of 20-year military retirement. What about other Federal Government retirement systems? Some could be judged as good or better than what the military man has. Why aren't these being downgraded?

Too many overlook how 20-year retirement serves a very constructive personnel purpose. Voluntary retirement at 20 years reduces the number who have to be forced out, as the pyramid of rank structure narrows, in order to provide flow of promotion, and avoid top-level accumulation of "dead wood." Without 20-year retirement, the force-out percentages would rise to impair morale and cast doubt on the wisdom of a military career.

Yeoman 2d Class B. T. Brollini of the Coast Guard pointedly summed up 20-year retirement in his testimony at the white hat's panel: "If there were no 20-years retirement system there would be few people in the military. Almost everyone I know would not be in the service if it were not for the retirement system. If you want to disband the services, change the 20-year retirement system.

It's possible that Yeoman Brollini and his shipmates could be right, and the blue-ribbon commission could be wrong.

TRIBUTE TO MR. WILLIAM BENJAMIN BYRD OF NORTH AUGUSTA, S.C.

Mr. THURMOND. Mr. President, on July 28, 1978, I attended a dinner sponsored by the North Augusta Chamber of Commerce honoring Mr. William B. Byrd of North Augusta, one of the outstanding citizens of that city and of our State. William Benjamin Byrd has led a life well worth emulating by others, and our State and Nation are justly proud of him.

A large crowd of several hundred people attended the dinner and many tributes were paid to him at that time.

Mr. President, I ask unanimous consent that a copy of the W. B. Byrd appreciation dinner program and the following additional items be printed in the RECORD:

First. Welcoming remarks by Mr. Mel Storey;

Second. Invocation by Dr. Sam Smith;

Third. Toast offered by Mr. W. Hammond Burkhalter;

Fourth Remarks by Mrs. Mary Strickland;

Fifth. Letter of appreciation signed by Mrs. Frances Hom;

Sixth. Remarks by Mr. Bill Fuqua, president of the Greater North Augusta Chamber of Commerce;

Seventh. Remarks by Hon. BUTLER DERRICK, Member of Congress;

Eighth. Remarks by Dr. Stanyard Bell, president of Erskine College, Due West, S.C.

Ninth. Proclamation signed by Mayor Henry McKenney for the city of North Augusta.

Tenth. Proclamation from the Aiken County Council signed by its chairman, Hon. Carrol Warner;

Eleventh. Resolution signed by Hon. Cecil Collins for the South Carolina House of Representatives;

Twelfth. Resolution signed by all Members of the South Carolina Congressional Delegation;

Thirteenth. Newspaper article by Mrs. Mim Woodring from the Star of North Augusta entitled "Byrd Testimonial Draws Accolades from City, County, State and Nation";

Fourteenth. Remarks by Senator STROM THURMOND.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

W. B. BYRD APPRECIATION DINNER

7:30 p.m. Social Hour.

8:00 p.m., Welcome, Mel Story. Invocation, Dr. Sam Smith, Director (Retired) Connie Maxwell Children's Home.

8:15 p.m. Dinner. Tributes: Friend—Hammond Burknalter; Family—Mary B. Strickland; Employee—Katherine Mobley, Frances Hon; Business & Community—W. D. Fuqua, President, Greater N.A. Chamber of Commerce; Government—Hon. Butler Derrick; U.S. Congressman, Third Congressional District; Education and Religion—Stanyard Bell, President, Erskine College.

Presentations: City—Hon. Henry McKenney, Mayor, City of North Augusta; County—Hon. Carrol Warner, Chairman, Aiken County Council; State—Hon. Cecil Collins, S.C. House District 83; Federal—Hon. Strom Thurmond, United States Senator.

Closing Remarks—Mary G. Mittelberg.

Benediction—The Reverend Larry Scales, Associate Pastor, First Baptist Church of N.A.

WELCOMING REMARKS BY MR. MEL STOREY

Welcome. We are all here tonight to demonstrate our appreciation to Mr. William B. Byrd. We will hear many different verbal expressions and see many gestures of love and respect. A paraphrased version of a poem by Will Allen Dromgoole expresses some sentiments I would like to share.

THE BRIDGE BUILDER

An older man, going a lone highway,
Came at the evening, cold and gray,
To a chasm, vast and deep and wide,
Through which was flowing a sullen tide.
The man crossed in the twilight dim—
That sullen stream had no fears for him;
But he turned, when he reached the other side,
And built a bridge to span the tide.

"Wise Sir", said a fellow pilgrim near,
"You are wasting strength in building here.
You never again must pass this way.
You have crossed the chasm, deep and wide,
Why build you the bridge at the eventide?"

The builder lifted his grey head
"Good friend, in the path I have come," he said,

"There followeth after me today
A youth whose feet must pass this way.
This chasm that has been naught to me
To that fair-haired youth may a pitfall be.
He, too, must cross in the twilight dim;
Good friend, I am building the bridge for him."

Bill Byrd has built many bridges. That's why we're here tonight. Mr. Byrd will come in at approximately 8:15 and join us. As he enters, please stand and sing "For He's A Jolly Good Fellow." Until then, please remain seated and enjoy the fellowship.

INVOCATION BY DOCTOR SAM SMITH

Our Heavenly Father, we invoke thy blessings upon this special occasion which brings together family, friends, and business associates of one whom we seek to honor. We express the gratitude of our hearts for his rich and full life of service to his family, to his church, his community, and to his God, for this quality of faith and courage; for his integrity of character and his delightful sense of humor; or his devotion to duty and his boundless energies directed toward his life's goals; for his spirit of generosity in sharing of the products of his heart and hands; and for his stewardship of life itself.

Our lives have been blessed by the impact of the influence of this, thy servant and our friend, and we are grateful for these ties of friendship and or those ties which bind us together in the family of God.

And now, our Father, we express our thanks to those who planned for this special occasion and for the food and fellowship of this hour, in the Name of Christ, our Savior, Amen.

TOAST TO WILLIAM B. BYRD (1978)

(By W. H. Burkhalter)

Every town or community which thrives and progresses must have a nucleous of a few concerned citizens who not only possess much more than the average ability, initiative and intelligence, but they must be willing to unselfishly contribute of their talents for the common good of their fellow citizens. William B. Byrd is such a man and it has been North Augusta's good fortune that he came here to live a number of years ago. He has given of himself and his finances without stint during the entire time he has lived in our city.

As a result of his contributions, the religious, civic and business facets of our town have all profited greatly through sharing his far above the average abilities.

I have always considered it a great privilege to have Mr. Byrd as my friend and to feel that I can call on him at any time for help, information, and advice. This in spite of the fact that we are something of competitors in business. He has never let this prevent him from offering his assistance. In fact, on occasion he has become so caught up in some of my business problems that you would almost think he was the principal who was involved instead of an outsider just offering his suggestions and help!

Edgefield County is famous for producing so many outstanding men and leaders in many different fields. Therefore, it is no surprise that W. B. Byrd is an Edgefield County product. He came from Pleasant Lane. If you don't know where that is, you probably could not find Colliers or Poverty Hall either!

Mr. Byrd attended Furman University where he roomed on the second floor, west wing of Montague Hall. Montague Hall was noted as the home of many athletes. As you know, usually the athletes are the "Big Men On Campus", but during Mr. Byrd's tenure there, he dominated Montague Hall even if he was not an athlete.

He was an exceptionally bright student and he managed to have enough spare time to be constantly planning and devising tricks, pranks and schemes for the purpose of his enjoyment and providing fun for his fellow students (and sometimes for their embarrassment). Throughout his college career he was noted for his wondefully pleasant disposition and good humor.

W. B. Byrd's early contribution of service to Aiken County was as an educator, serving as a teacher and principal of the Clearwater Elementary School for a number of years. His administrative and business ability was soon recognized by the people of Aiken County when they elected him to the office of Superintendent of Education of Aiken County during the depression years of the mid-thirties. He served in this office with distinction for about ten years before resigning in 1946.

When Mr. Byrd assumed leadership of the Aiken County schools, there were some 35 or 40 separate and independent school districts in the county and they were almost all in desperate financial condition as a result of the depression. In one district the previous deficit was more than all the taxes due that district for the current year.

I had some first hand experience with the financial condition of the county schools when I was one of the first school boy bus drivers in 1933 and 1934. My salary was $15 per month but then usually the school district did not have any money to pay, so they issued a voucher which would be good when they did get some money! I was only able to cash the last of these two years after I finished high school and after Mr. Byrd had taken over and brought some financial order out of the chaos.

Mr. Byrd's business acumen and financial ability came to light early during his time as County Superintendent and under his leadership and in cooperation with the county delegation a school district consolidation program was begun. Legislation was enacted for a county-wide equalization fund and by the time Mr. Byrd left office, the schools were on a sound financial basis. It is interesting to note that while accomplishing this the county education staff consisted of Mr. Byrd, his secretary and one clerk.

While putting together a strong school program and at the same time balancing the school budget with available tax moneys, Mr. Byrd had to make some hard decisions and deny many requests. Some of these were from prominent politicians but he did so very smoothly. On one occasion he had to use some strong words in denying the request of one of the district superintendents. Realizing he may have hurt this man's feelings, Mr. Byrd then made a special trip to his house to apologize, thus demonstrating a sensitivity of concern for the feelings of his fellow man—a characteristic we all recognize as so evident in Mr. Byrd today.

Mr. Byrd's interest and talents were directed towards buying land and building houses in a number of different developments after 1950. As a result of Mr. Byrd's interest in developing subdivisions, the city of North Augusta has had millions of dollars worth of utilities and streets installed by Mr. Byrd and deeded to the city at no cost to the taxpayers. Approximately a thousand families live in homes built by Mr. Byrd.

Mr. Byrd has been an outstanding success story financially. You know the definition of success, don't you? "Success depends upon the proper functioning of the glands—especially the sweat glands." His motto has been: "God helps those who help themselves" and "Either push, pull or get out of the way." I assure you that Mr. Byrd is always in there pushing and pulling; he is never just going to get out of the way and stand on the sidelines.

Mr. Byrd has shared his wealth with many worthwhile causes. He has been a very heavy contributor to Furman University and to Connie Maxwell Orphanage, as well as the First Baptist Church of North Augusta, Grace Methodist Church and many, many other causes too numerous to mention. He has given aid to many high school and college students and others in need. This all being done very quietly and inconspiciously.

In the world of politics, many local, state and national leaders have been the recipients of his wise counsel.

All in all, Mr. Byrd's many achievements in all his various fields of endeavor, and his many contributions to society are exceeded only by his modesty!

REMARKS BY MRS. MARY STRICKLAND

Dear William! How proud and honored we are to be members of your family!

You have always been completely selfless, sharing materially, intellectually, and spiritually, asking nothing in return.

In times of trouble and sorrow, you are the first one we call upon, and always you have responded without hesitation.

It is said, "A good name is rather to be chosen than great riches." How good and honorable you have made your name. How proud and fortunate we are to be your family!

SOUTHERN PINE PRODUCTS, INC.,
North Augusta, S.C.

Mr. BYRD. Mrs. Mobley and I have been associated with you for over twenty years; and as time goes on, we realize more and more what a truly great man you are.

We enjoy working for you and matching the wonders you accomplish with telephone, pen and pencil, and most of all your remarkable mind. We know how much pleasure you receive from working and helping others.

We love, admire and respect you. You are the finest man we know.

FRANCES HOM.

GREATER NORTH AUGUSTA,
CHAMBER OF COMMERCE,
North Augusta, S.C.

The North Augusta Business Community is indebted to Mr. Byrd for his vision and ability. He has been, and still is, a major catalyst in the growth and development of our area, having developed 10 sub-divisions and approximately 1000 homes.

He was elected Citizen of the year in 1955 by the Chamber of Commerce, has been a faithful supporter of the Chamber and its activities, particularly the Industrial Development Board and its successor, the Industrial Development Corporation.

By giving unselfishly of his time and energies, he has in some measure touched the financial lives of many of us. From the business community a sincere "Thank You", Mr. Byrd.

BILL FUQUA,
President, Greater North Augusta, Chamber of Commerce.

HOUSE OF REPRESENTATIVES,
Washington, D.C. July 28, 1978.

It is my highest pleasure to say a few words about my good friend, William Byrd.

I, like most of you here, have known this man most of my life. And, I suppose, it is only natural to think of "Mr. William" as a builder of homes, simply because the splendid evidence of this facet of his life is all over Aiken County. This, along with his excellent leadership in the Aiken County Industrial Development Board, truly means that William Byrd is a man who has transformed Aiken County.

Before "Mr. William" was in the lumber and building business, he was Superintendent of Schools in Aiken County, and I always like to think that his commitment to education led to his interest in politics. Though this man never ran for public office, his influence in the political process has been keenly felt in this county and state for many years. His advice and help to me have gone far beyond the bonds of our friendship, and I both respect and enjoy his counsel.

So, I would like to propose and extend a toast to William Byrd and end the way I began. He is my fine friend and valued counselor, and I am both pleased and deeply honored to be here tonight.

BUTLER DERRICK,
Member of Congress,
Third District, S.C.

ERSKINE COLLEGE.

Society's bank of accumulated knowledge is its college and university system. To this bank, society sends its most brilliant sons and daughters to withdraw sustenance for enhancing their life and the life of their neighbor. Doctors, lawyers, engineers, teachers, ministers, business economists, homemakers and many others participate regularly in a centuries-old tradition which lifts baskets from lights, identifies, stretches and enriches talents, seeks, knocks and asks with divine sanction; and above all suffer the young over to draw nearer to their Creator in all of His splendor.

Mr. Byrd, you have paved a way for students who had no way to this depository. You have left the name of Orene Irwin Byrd as a perpetual witness to love, hope and encouragement.

May the only clouds in your life be those that make for a beautiful sunset.

STAN BELL, *President.*

PROCLAMATION

Whereas, Mr. W. B. Byrd has made significant contributions to the growth and development of the City of North Augusta, South Carolina, and

Whereas, He has given of his time, wisdom and patience to individuals and groups within the City of North Augusta, and

Whereas, He has been a willing listener to the dreams and aspirations of many persons in the community and has worked tirelessly to participate in the fulfillment of these dreams and aspirations,

Now, therefore, I, Henry R. McKenney, Jr., as Mayor of North Augusta and representing the Council and citizens do commend Mr. W. B. Byrd and recognize his gifts to his community and its citizens and award him the Key to the City of North Augusta this 28th day of July in the year of our Lord, nineteen hundred seventy-eight, and do proclaim this day to be his day in North Augusta, South Carolina.

PROCLAMATION

Whereas, William B. Byrd has made significant contributions to the City of North Augusta, the County of Aiken, the State of South Carolina, and the United States of America, and

Whereas, William B. Byrd was elected County Superintendent of Education in the 1930's when the County was divided into more than thirty individual School Districts, and

Whereas, Mr. Byrd's business education and ability provided the knowledge and expertise to organize a School District consolidated program, and

Whereas, Mr. Byrd's efforts in the area of school administration put the Aiken County Schools on a sound financial basis, and

Whereas, Mr. Byrd spent exhaustive work and time in the formation and organization of the Aiken County Planning and Development Commission, and

Whereas, Mr. Byrd served as Chairman of the Commission, which provided information to potential industries in the County, and

Whereas, Mr. Byrd realized the need of a greater tax base in Aiken County by bringing industry to the County, and

Whereas, William B. Byrd's interest in education has provided the way for many Aiken County students to receive college education, and

Whereas, Mr. Byrd has encouraged many of these young people to settle in the County and subsequently become solid citizens of the County, and

Whereas, these contributions have added significantly to the growth and prosperity of Aiken County, Now therefore, be it

Resolved, That the Aiken County Council does hereby proclaim and designate Friday, July 28, 1978 as William B. Byrd Day in Aiken County and calls on all the citizens thereof to appropriately acknowledge the massive contributions of William B. Byrd to the growth, prosperity, peace and well being of said County.

Signed: CARROL WARNER.

A HOUSE RESOLUTION TO JOIN WITH THE NORTH AUGUSTA COMMUNITY IN HONORING AND RECOGNIZING THE OUTSTANDING COMMUNITY SERVICE OF WILLIAM BENJAMIN BYRD OF NORTH AUGUSTA

Whereas, the North Augusta community is honoring William Benjamin Byrd of North Augusta with a banquet on July 28, 1978, recognizing his outstanding service to the community; and

Whereas, Mr Byrd, a former Aiken County Superintendent of Education, is successfully engaged in the lumber and building business in the North Augusta community where he has developed more than ten subdivisions and built more than one thousand homes frequently with his personal financial assistance thereby enabling many residents of Aiken County to own their own homes; and

Whereas, Mr Byrd has been an active supporter in local, county, state and national politics where he has a strong force in the establishment of good government and where his efforts and contributions to education both at the local and state levels have manifested a genuine and dedicated interest in young people and in the development of their careers; and

Whereas, Mr Byrd has been an active member in the Greater North Augusta Chamber of Commerce and the Industrial Development Board of Aiken County and was the recipient of the North Augusta Citizen of the Year Award; and

Whereas, it is appropriate that the General Assembly join with the North Augusta community in recognizing the long and productive career of community service of this distinguished South Carolinian: Now, therefore, be it

Resolved by the House of Representatives: That by this resolution the members of the House of Representatives recognize the long and distinguished career of public service performed by William Benjamin Byrd of North Augusta who has contributed so much to the development of the North Augusta area and to the improvement of education at both the local and state levels by his generous support and contributions to numerous educational institutions and his active participation in other community activities: Be it further

Resolved, That a copy of this resolution be presented to Mr Byrd at the banquet in his honor on July 28, 1978, in North Augusta.

RESOLUTION

DATED: JULY 28, 1978.

Whereas William Benjamin Byrd has been a citizen and resident of North Augusta, in Aiken County, South Carolina, for most of his adult life, and

Whereas the said William Benjamin Byrd has given increasingly of his energies and abilities in making significant contributions to the religious, education, financial, civic, cultural, political, and social development of his community and fellow citizens, and

Whereas the said William Benjamin Byrd's life exemplifies in purest tradition and spirit that moral exercise of the freedom which is the cornerstone of our American society, so sacred to each of us, and typifies the boundless success obtainable to one who is willing to honestly work and avail himself of his opportunities, and

Whereas William Benjamin Byrd has generously and selflessly shared life's rewards, both tangible and intangible, with his community and his fellow man, and

Whereas friends, acquaintances, and fellow citizens have found it fitting and proper to express their appreciation and to pay some small tribute and honor to this distinguished gentleman, whose sincere modesty would

never allow him to claim credit for his accomplishments and deeds, and

Whereas state and national leaders are likewise acutely aware of the wisdom of this leader and the enrichment to the life of Community, State, and Country which he has made possible, and

Whereas the Congressional Delegation of the Sovereign State of South Carolina would therefore find it fitting and proper to share in honoring this distinguished American, now therefore, be it, and it hereby is,

Resolved, That the Congressional Delegation of the Sovereign State of South Carolina join with local and community leaders and friends in paying tribute, respect, and honor to William Benjamin Byrd, and in offering earnest thanks for his past and continuing contributions to the life of his Community, State, and Nation; further, be it, and it hereby is.

Resolved, That a copy of this Resolution be reproduced in the United States Congressional Record.

Ernest F. Hollings, Floyd Spence, John W. Jenrette, Jr., Mendel J. Davis, Strom Thurmond, Butler Derrick, James R. Mann, and Ken Holland.

[From the North Augusta (S.C.) Star, Aug. 3, 1978]

BYRD TESTIMONIAL DRAWS ACCOLADES FROM CITY, COUNTY, STATE AND NATION

(By Mim Woodring)

("Rings and other jewels are not gifts, but apologies for gifts. The only gift is a portion of thyself."—Emerson)

William Benjamin Byrd was honored at a dinner last Friday as friends gathered to say thank you to a man small in stature but giant in heart who has given a portion of himself continuously throughout his life.

A series of toasts by his family, business associates, civic leaders and educators was followed by proclamations honoring him and proclaiming July 28 William B. Byrd Day in the city and county.

Coming to Aiken County as a teacher at Clearwater Elementary School, Bill Byrd was elevated to principal. In the mid-1930's he was elected county superintendent of education at a time when there were between 35 to 40 separate independent school districts in the county with most in desperate financial condition, according to Hammond Burkhalter who spoke concerning his friend at the appreciation dinner held at Houndslake Country Club.

"Mr. Byrd's business acumen and financial ability came to light during this time," Burkhalter continued, "and under his leadership and in cooperation with the County Delegation a school district consolidation program was begun. It is interesting to note that while accomplishing this the county education staff consisted of Mr. Byrd, his secretary and one clerk."

Long-time employees Frances Hom and Catherine Mobley spoke of their employer's "remarkable mind" which was molded at Furman University where he graduated. He continued his education at University of Georgia, receiving a master's degree.

Mr. Byrd entered the world of free enterprise with a $500 loan. This propelled him into several expansive lumber businesses and launched him in the home contracting business in 1951.

With the advent of the Savannah River Plant, W. B. Byrd saw the necessity of housing in the city and, realizing the opportunities in this business, first developed Rose Hill on Old Edgefield Road, followed by a group of housing on Crosland Avenue.

Perhaps the largest section was Lynnhurst. Many newcomers in the area have wondered why all the streets in this subdivision, which has been built in three phases, are named for birds. Mr. Byrd uses a theme in street naming of his subdivisions.

Streets in Pinehurst and Pinecrest have names of the various evergreens and in the Colony the streets are named after two famous South Carolinians who were friends of Mr. Byrd. One was the late James F. Byrnes, renowned statesman, and the other the late John Riley, former congressman.

The influence of W. B. Byrd has been experienced by thousands and much of his wealth has been shared with young people he felt needed the boost which would give them a solid foundation.

A firm believer in education, Furman University has named this North Augustan a life member of its Founders Club. Hundreds of students have been educated as a result of Mr. Byrd's generosity to his alma mater. Representing Furman at the dinner was vice president Dr. Robert Christenberry.

The largest single scholarship benefactor at Erskine College is W. B. Byrd who established a fund in memory of his beloved wife, Orene Irwin Byrd. As Dr. Stan Bell, president of Erskine, toasted this man, he stated, "Society's bank of accumulated knowledge is its college and university system. To this bank society sends its most brilliant sons and daughters to withdraw sustenance for enhancing their life and the lives of their neighbors . . . Mr. Byrd, you have paved a way for students who had no way to this depository . . ."

Connie Maxwell Children's Home is of major interest to W. B. Byrd. Not only has he given gifts to the home in money and land, he is developing a section of this land so that the proceeds will go toward this home for children, with the same scrutiny he has pursued his own business ventures.

Representing the home were Maxie F. Moorhead, secretary-treasurer, and retired director Sam Smith.

Many couples have become home owners because of this man's penchant for development of potential. "Lending institutions cannot make loans because they believe in a person," said Mel Story, "but Mr. Byrd has found great satisfaction in this endeavor. His judgment has been 100% correct because every person he helped purchase a home has paid their loan."

Described as a "major catalyst in the growth and development of the area" by Bill Fuqua, president of the Greater North Augusta Chamber of Commerce, Mr. Byrd has developed 10 subdivisions and approximately 1,000 homes. In 1965 the Chamber named him its Citizen of the Year.

Fuqua continued, "He has been a faithful supporter, particularly of industrial development . . . By giving unselfishly of his time and energies he has in some measure touched the financial lives of many of us."

Foresight is another personality trait which has served Aiken County well. Mr. Byrd helped establish the County Planning and Development Commission which was the nucleus that first began attracting industry to the county. County council chairman Carrol Warner commended Mr. Byrd for his devotion to the county, both in education and in laying the ground work for a good industrial base, in a proclamation read at the dinner.

In a proclamation read by North Augusta Mayor Henry R. McKenney, he described W. B. Byrd as having been "a willing listener to the dreams and aspirations of many persons in the community and he has worked tirelessly to participate in the fulfillment of these dreams and aspirations." As he gave Mr. Byrd the ceremonial Key to the City of North Augusta, McKenney said it was a small way to "recognize his gifts to the community."

Cecil Collins, representing House District 83, read a tribute and proclamation to become a House resolution and stated, "Mr. Byrd had been a strong force in the establishment of good government. . . ."

A toast was offered by the Honorable Butler Derrick. Both natives of Edgefield County, Derrick spoke of this gentle man in glowing terms as did the Honorable Strom Thurmond whose resolution will be reproduced in the United States Congressional Record.

Both Derrick and Thurmond alluded to the extreme modesty and humility of the man who sat at the head table and, later, hand on hip declared himself undeserving.

Senator Thurmond declared Mr. Byrd's "life exemplifies in purest tradition and spirit that moral exercise of the freedom which is the cornerstone of our American Society, so sacred to each of us, and typifies the boundless success obtainable to one who is willing to honestly work and avail himself of his opportunities."

The most poignant of tributes was a toast which began the series of tributes. Mrs. Bishop Strickland, niece of W. B. Byrd, spoke for the Byrd family which had come from all sections of the state to take part in an almost surprise event.

Mrs. Strickland said, "Dear William! How proud and honored we are to be members of your family. You have always been completely selfless, sharing materially, intellectually and spiritually, asking nothing in return. In times of trouble and sorrow, you are the first one we call upon, and always you have responded without hesitation. It is said 'A good name is rather to be chosen than great riches.' How good and honorable you have made your name. How proud and fortunate we are to be your family!"

Life has not been free of pain and suffering for this determined man. But a congenital disability has been just another personal challenge to this man of discipline and persistence.

A quiet person recognized by his cane, cigarette-holder and wit, W. B. Byrd was overwhelmed with the well-deserved accolades. Time and again he commented as people congratulated him there were many more deserving persons than he.

His reticence in having his philanthropic activities made public makes this man all the more genuine and humble. His help at First Baptist Church, Nancy Carson Library, North Augusta High School Stadium, Boy Scouts of America and list of community causes are innumerable. However, much of his real joy has come from serving as an anonymous benefactor.

"The only gift is a portion of thyself" succinctly portrays the life of William Benjamin Byrd.

REMARKS BY SENATOR STROM THURMOND, REPUBLICAN, SOUTH CAROLINA

It is indeed a pleasure for me to be present on this auspicious occasion and to have a small part in honoring a long-time friend and an outstanding citizen, William B. Byrd. Mr. Byrd served in many capacities and performed well his duties in all of them.

He served as a teacher for a number of years and then as Superintendent of the Clearwater High School and developed a fine reputation as a leading educator in our State. He has always been vitally interested in young people, and as an educator, he manifested great concern about them and inspired and encouraged them to great heights.

As a businessman, Mr. Byrd was one of the finest. He was possessed of a lot of commonsense and good judgment. He built over 1,000 houses in the North Augusta area and provided homes for many people. In his dealings as a businessman, he was never known to take short cuts or take advantage of people. He was always honest and fair in his business relations with others and developed an outstanding reputation in this regard.

Mr. Byrd took a special interest in public affairs. He was a good judge of human nature and when candidates were offering for office,

he would study them and decide who would best serve the public and did not hesitate to support such candidates openly and above board.

He was a student of governmental affairs and was well posted on the issues at the local, State, and national levels. He could discuss intelligently questions of the day with anyone interested and was always able to make a fine contribution in such discussions.

Mr. Byrd was a dedicated church leader. He served as teacher of his Sunday School class, as a Deacon in his church, and was looked up to as one who lived an exemplary life.

Mr. Byrd was an outstanding civic leader. He was always eager to promote the welfare of the city in which he lived as well as that of the citizens who lived there. He took a leading part in promoting activities for the betterment of his community. He was always ready to lend a helping hand to promote progress.

There is one quality about Mr. Byrd with which a number of people may not have been familiar. He was a philanthropist who helped many worthy causes; he also helped many worthy individuals in need. He not only helped members of his own family but assisted hundreds of other people in one way or another.

Many institutions have benefited from his generosity. Numerous young people have been aided by him to continue their training at college, a technical school, or in some other institution.

Mr. Byrd was a good neighbor. He was respected and loved most by those who knew him best. His sterling qualities endeared him to others who enjoyed the privilege of his close friendship.

Mr. Byrd was a true friend. He is one of the best friends I ever had and countless others felt the same way. He stood ready to advise, counsel and assist people who appreciated his wisdom and sound judgment. If those whom he has befriended could speak out, they would come forth by the legion, as the love and friendship he has demonstrated for his fellow man were unexcelled.

Mr. Byrd believed in the American form of government and supported it to the fullest. He believed in the principles that made our Nation great. He realized that we must keep it strong militarily if we are to remain free. He enjoyed the benefits of our free enterprise system and was a strong exponent of it. He believed in competition, which is the bedrock of the private enterprise system in this Nation. He was of the opinion that if people will prepare themselves in their calling and are willing to work, that the opportunities our Nation afford are superior to those of any place in the world.

He was a sound financier and was opposed to deficit spending by our Government and strongly advocated balanced budgets. He felt that government, like people, should not spend more than is taken in so that it can remain strong economically. Mr. Byrd's life exemplifies in purest tradition and spirit that moral exercise of freedom, which is the cornerstone of our American society, so sacred to each of us, and typifies the boundless success obtainable to one who is willing to honestly work and avail himself of his opportunities.

Mr. Byrd came from a large family which lived in the country, and he was brought up the hard way, like so many other successful leaders. However, he never complained of any disadvantage of any kind and forged ahead, making his own way and setting an example which could well be emulated by others in accomplishing their goals. His spirit was undaunted and his determination was without end. He was the type of man that obstacles did not deter.

I think the following words describe Mr. Byrd's life as well as any one could, and I give them here to illustrate the qualities of that great American, William B. Byrd:

"I do not choose to be a common man; It is my right to be uncommon, if I can.

"I seek opportunity, not security.

"I do not wish to be a kept citizen, humbled and dulled by having the state look after me.

"I want to take the calculated risk, to dream and to build, to fail and to succeed.

"I refuse to barter incentive for a dole. I prefer the challenges of life to the guaranteed existence; the thrill of fulfillment to the stale calm of utopia.

"I will not trade freedom for beneficence nor my dignity for a handout. I will never cower before any master nor bend to any threat. It is my heritage to stand erect, proud, and unafraid; to think and act for myself; enjoy the benefits of my creations; and to face the world boldly and say this I have done with the help of God.

"All this is what it means to be an American."

ARTICLE ON STATUS OF S. 274, THURMOND BILL TO BAR MILITARY UNIONS

Mr. THURMOND. Mr. President, I am pleased to report to the Senate that S. 274, the bill which prohibits military unions, has now been reported out favorably by both the Armed Services and Post Office and Civil Service Committees of the House.

This legislation passed the Senate on a 72-to-3 vote earlier this year and its passage in the 2d session of the 95th Congress is essential if the threat of military unions is to be stamped out.

Mr. President, the threat and even the likelihood of military unions will hang over the Armed Forces if the Congress fails to follow through on this legislation. As the session wears on, I have been informed union interests are urging their supporters in the Congress to let the bill die.

Nothing could be more dangerous to the welfare of the All Volunteer Force. If Congress fails to act on S. 274 it will, in effect, be saying the danger has passed and we could witness union efforts overnight. In fact, the failure to act could be seen as an invitation to the unions to renew their interests as Congress would have demonstrated it lacked the will to say "no" to the unions.

Mr. President, the sentiment in the Congress is strong against unions in our military. That fact was proven by the huge vote in favor of S. 274 in the Senate. I urge the House membership to consider carefully the work of the two House Committees which have reported the bill out favorably, and to bring the will of the membership to bear on its consideration on the floor soon.

In closing, Mr. President, I ask unanimous consent that an article by Marine Capt. P. G. C. Coulter, entitled, "Three Strikes; Is the Union Out?" which appeared in the August 1978 issue of the Marine Corps Gazette, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THREE STRIKES; IS THE UNION OUT?

One sunny day, not long ago, a brand new recruit from Alabama encountered a gruff old officer, "Mawnin," drawled the recruit pleasantly.

The outraged officer launched into a stinging lecture on military courtesy with a great deal of emphasis on saluting.

"Lawdamighty," said the rookie, "if I'd a knowed you was gonna carry on like that, I wouldn't of spoke to you a-tall!"

This joke has made the rounds for many years now, but has only recently taken on a second meaning.

Military customs and courtesies are not quite etched in stone but most can be traced back hundreds, if not thousands, of years. In all those years, as they developed, there was never a real threat to the well structured and disciplined lifestyle they represented—that is, until just these past couple of years as the possibility of military unions became a reality.

Many military leaders and authors have devoted considerable time and effort exploring the reasons behind this new and heretofore unthinkable phenomenon. Depending upon whom one listens to, the main problem is an actual or perceived erosion of traditional benefits. Anyone who has been in Service more than an hour is aware of this situation. Gen. George S. Brown, USAF, past chairman of the Joint Chiefs of Staff, put it very well when he delivered his 1978 posture statement before the House Armed Services Committee:

"Since 1972 there have been repeated attempts to reduce, eliminate, transfer and transform military compensation and entitlements—factors which help to induce the individual to enlist or to make the military service a career."

This was the second year in a row the outgoing Chairman of the JCS made a strong appeal to Congress to act on this matter. He went on to point out that unions are not only attractive to the younger Service members, the ones hurt the most when benefits are cut, but more and more careerists are giving unions a serious once over. Brown urged the lawmakers to act:

"Fundamental causes that would make union membership attractive within the military must be addressed, such as uncertainty about the economic stability of a military career."

Numerous studies, reports and articles in the various news media have offered wide-ranging discussion of the union movement and how it has come to be a real threat to the Armed Forces of this country. Maj. B. J. Fagan in his "Commentary on the Corps" (Gazette, October 1977) presented an interesting corollary when he observed that "if 1976 can be taken as the year of the union challenge, 1977 may well become the year of confrontation." How perceptive he was! In the last days of 1977 there were three major confrontations between union advocates and those opposed to a unionized military. They may well be called the three strikes that could put the union out:

The American Federation of Government Employees (AFGE) vote not to proceed with plans to unionize the military.

The U.S. Senate vote on a bill aimed at banning military unions.

The Department of Defense (DoD) directive that was designed to halt meaningful union activity among military personnel.

This article updates this highly emotional issue and analyzes these three recent actions that could impact significantly on each and every military person.

THE AFGE VOTE

In September 1976, the American Federation of Government Employees (AFGE) amended its constitution to allow military

membership. Immediately the storm flags went up in the Department of Defense. Union watchers zeroed in on the AFGE to find out what its next move would be.

In less than six months, it came. On 7 March 1977 the union's National Executive Council Military Committee issued "Memorandum: 14–Military." This memo told union leaders that unionization of the military was "inevitable." Beginning in May, AFGE locals began to poll their members. To many observers, this referendum to learn how members felt about actively seeking out military memberships, was seen as the final step in the unionization drive by AFGE.

Specifically what did the union really want? According to "Memorandum: 14–Military" it was after actual shop steward representation. This would include bargaining with base commanders and DoD itself over housing, leave, foreign service, education and training, travel allowances, commissary and PX priviliges, recreational facilities, parking, day care, dress and hair codes, political rights and their exercise, health and dental care, efficiency ratings, promotions, equal employment opportunity matters (women's rights), safety and reprimands or discipline under Article 15 of the Uniform Code of Military Justice (UCMJ).

The memo went on to detail other areas of negotiation the union sought: the legal representation to be supplied by the union "primarily in connection with administrative (discharge) boards and UCMJ proceedings. They also pledge "legislative an policy representation." This last category is interpreted by many to mean bargaining with Congress on pay, retirement and benefits. At this point we begin to enter areas that are clearly covered by law.

When he learned of this move by the AFGE, Gen. Maxwell D. Taylor, retired former chairman of the Joint Chiefs of Staff, said:

"Collective bargaining over such matters as pay, overtime and safe working conditions has no place since pay is fixed by law, overtime has no meaning in a profession always on duty, the work is of necessity often dangerous."

Once all this had been presented to the membership, the vote was an overwhelming 4 to 1 against attempting to unionize the military. The actual count was 151,582 against and 38,764 for.

Undoubtedly, many in Congress, the Pentagon and elsewhere throughout the Administration, not to mention the upper echelons of the AFGE, heaved a collective sigh of relief at the outcome of the referendum. AFGE president, Kenneth Blaylock has said a number of times since then that his union will abide by the vote, but he personally believes the military needs union representation.

When asked why the membership was so strongly opposed to unionizing the military, Blaylock replied in a Navy Times interview, "It's obvious the main concern was they felt that AFGE resources and money ought to be spent for the civilians and not the military." Blaylock went on to express concern about this attitude among the members of his union. He said:

"If they are philosophically opposed to the military having unions because of the effects it may have on combat effectiveness, and you've got to have a chain of command, control and authority, that's one thing. I understand that. But for trade unionists to take the position 'Let's help ourselves and the hell with anybody else,' that bothers me."

A number of other union leaders agree with Blaylock that this issue is far from dead. Most feel that now that AFGE is out of the picture for the forseeable future, some stronger and perhaps more aggressive unions will step into the void.

There is little doubt that unless something is done to address the underlying causes of military unrest, unions will continue to be an attractive option for those in uniform who feel no one is aware of or cares about them, except maybe in time of war. In fact, after the votes had been counted and the AFGE position announced, Leo Pulerzi, the general counsel of AFGE, was asked on a radio talk show if all this activity had really accomplished anything at all. He replied:

"To the extent that our input into organizing the military has gained the attention of responsible defense officials, and perhaps members of the Congress and the President, we feel it's been very salutary in and of itself, because it has called to the attention of the appropriate policy officials of this government a condition that needs to be addressed in some way."

And, indeed, it had done that, and, indeed, it was this problem that the lawmakers of the land addressed.

THE SENATE VOTE

Even before the AFGE had finished voting, strong voices in Congress were deliberating long and hard on this complicated and emotion-charged issue. Less than a week after the vote by AFGE had been announced to the media, the Senate voted overwhelmingly 72–3 in favor of a bill, the sole purpose of which was to ban military unions.

This action by the legislative branch of the government, like that of the AFGE, is not a recent phenomenon. It did not just happen in 1977, although it may appear that way.

The banner headlines and editorials across the country told the American people that the lawmakers of this land were not about to sit by and watch some union come in and wrest command of our soldiers and sailors from the generals and admirals. Before the Senate vote, we saw:

"Democracy in Ranks Essential" and "Strikes too Horrible to Imagine," The Chicago Tribune

"The Senate Vote," The Atlanta Journal

"Military Union Talk Stirs Opposition," The Christian Science Monitor

Then shortly after the Senate passed S–274 and sent it on to the House, we read in the papers:

"Senate Panel OK's Ban on Military Unions," The Washington Post

"No GI Unions," The Cleveland Plain Dealer

"Ban Military Unions," New Orleans Times Picayune

These newspaper articles are but a brief sampling of what was being printed by the media. Military-oriented publications, of course, went into considerable detail in their coverage of the Senate action.

Samuel Gompers, the great labor leader, was once asked what American Labor wanted, and his response may well be the most eloquent speech he ever made.

"More," he said.

That response, perhaps is the key to why so many in Congress are reluctant to let the unions make even the slightest inroads to the Services.

The AFGE has often used the argument that a Serviceman (or woman) has all legal rights ascribed all other citizens of the U.S. under the First Amendment of the Constitution—that is the right to "assemble, and to petition the government for redress of grievances." To the contrary, argued Senator Strom Thurmond (R-S.C.) who first introduced legislation early in the 95th Congress (March 1976) to ban military unions. His rationale at that time was to ensure "a sound and responsive defense force for our country." His bill did not make it through that year, but in January 1977, he reintroduced it as S–274.

In an essay for the Chicago Tribune, Thurmond responded to the AFGE argument headon:

"While members of the military are not deprived of the freedom of association granted by the First Amendment, the different character of the military community and of the military mission requires a different understanding of this right. The fundamental need for obedience and the consequent need for discipline make it impossible for servicemen to do some of the things that civilians are entitled to do."

While the debate raged in the Senate, the House was also busy on this issue. During the same time period the House considered no less than twenty-six measures dealing with military unions.

Maj. Fagan pointed out that the Congressional basis for legislation against unionization of the Services also cited the U.S. Constitution, specifically Article I, Section 8, as authority for Congress to "provide for the common defense and general welfare of the United States . . . raise and support armies . . . make rules for the Government and Regulation of the land and naval forces . . . provide for organizing, arming and disciplining the militia and for governing such part of them as may be employed in the service of the United States . . . (and) make all laws which shall be necessary and proper for carrying into execution the foregoing powers . . . ."

As with most legislation, S–274, by Senator Thurmond and forty-nine other Senators, could have languished in committee for some time. It was the action by the AFGE, however, that injected a sense of urgency into the efforts to get this type of bill on the floor for full consideration and vote. Public hearings began on 18 March 1977 and concluded in July.

The Senate Armed Services Committee (SASC) chaired by Senator John Stennis (D-Miss.), a cosponsor of the bill, passed it to the full Senate with the blessing of all eighteen members. They expressed a fear of an "immediate threat" of unionization.

Briefly S–274 was designed to make it unlawful for:

A Service member to join a military union or solicit or maintain membership, knowing its activities or objectives.

A labor organization to enroll military members, or solicit or accept dues, to negotiate or bargain with the government for military members or to represent them in grievance proceedings.

Any military or civilian Defense official to negotiate or bargain with a purported military union or authorize union activity on government property.

Any individual to bargain on behalf of Service members to use military property for union purposes, or organize a strike or other concerted effort against the government.

There was considerable debate at the time on the floor of the Senate. One needs only to review the Congressional Record to get a feeling for the mood that prevailed as discussions progressed. Most of the talk centered around two amendments that were proposed by Senator James Abourezk (D-S.D.). His amendments (numbers 859 and 860) were an attempt to resolve the unusual status civilian technicians hold in the reserve forces.

These technicians work for National Guard or reserve units during the week and are also members of these same units. According to the National Guard Bureau, which lobbied to put the prohibition on technician unions into the bill, about 14,000 of these 61,000 people are union members in connection with their civilian status.

Senator Abourezk was clearly outnumbered in his fight to get his amendments accepted.

Senator Stennis began the argument by anticipating the objection to S-274 based on the reserve technicians. Contending that if these reserve technicians were allowed to remain in their unions and retain their reserve status it would be planting "the germ" of unionism in the services. Stennis said:

". . . we would have a situation where

some men and women in the military were permitted to have union membership and to others it was denied. To the great majority it would be denied."

He then turned his attention to the effects unions could have on the traditional customs, courtesies and disciplines inherent in the military, saying:

"The military is built on discipline and immediate response to orders, and any development which would damage the chain of command weakens that discipline and response. Unions would inevitably create a second loyalty which would affect the chain of command and as a result cannot be tolerated."

The bill, as written, would have given these technicians a period of ninety days to give up their union status or quit their jobs. Abourezk felt this was too harsh and opposed the bill as an abridgement of the free speech rights of military people. In support of the amendments, Senator Jacob Javits (R-N.Y.) said:

"The key rationale stated by the Senate Armed Services Committee—that unionization is incompatible with the discipline and obedience necessary to maintain an effective military establishment—can easily be overgeneralized. Our citizens do not surrender all their rights just by putting on a military uniform."

Senator Abourezk questioned the constitutionality of the bill. He found it to be "especially reprehensible," because it did not allow a civilian technician to have some sort of representation. He and Javits felt this provision, if challenged in court, would cause the bill to be ruled unconstitutional. They cited Executive Order 11491, and said these technicians should be afforded "the same rights as other Federal civilian employees of the Department of Defense and all other Federal agencies."

Senator Thurmond countered these arguments by assuring all present that the SASC had considered the constitutionality issue from every angle. They had a number of the best legal minds of the country go over the bill word by word, and they were convinced it would be sustained in court.

Thurmond also included in his argument for passage:

A reiteration that it was not an antiunion bill, but rather a promilitary bill.

A discussion of the total force concept and the issue of benefit erosion.

A review of the problems European countries were having with military unions.

Examples of how an AFGE local in an Air National Guard unit in New Jersey had engaged in a work stoppage.

A discussion of the bans on unions applicable to the FBI and CIA as well as Foreign Service officers. He emphasized the unique status of these organizations and related them to the military.

Perhaps his strongest argument came as he effectively closed out the debate on the two amendments when he said they would negate entirely S-274's purpose of prohibiting military unions:

"Any member of the Senate who supports this (these) amendment(s) might as well recognize and understand that he is voting in favor of unionizing the military."

The votes that followed were solid defeats of the amendments. Amendment 859 which would permit unions to represent active and reserve forces in matters that did not include combat, combat readiness and tactical training exercises was soundly rejected by a vote of 3 yeas, to 73 nays. Amendment 860 which sought to exempt the civilian technicians from the ban on soldiers in suits by a union was also defeated, but not as resoundingly. The final vote was yeas 34, nays 43.

Once these votes were completed and the results announced, the bill itself came up for decision. The outcome—72 yeas and 3 nays. The vote was followed by the usual round of praises for those who worked to get the bill passed.

Interestingly enough, the final words on this issue were spoken by one of the dissenting voters. Senator Javits again took the floor to remind the assemblage that he was against unionization of the Armed Forces, even though he had voted against S-274. He was convinced the way to deal with the issue of the civilian technicians was by executive order. He felt the fatal defect in this bill was the way it treated those technicians. He closed his remarks, and ultimately the debate on the Senate side of Congress, by making a plea to the House of Representatives to:

". . . take a very hard look at this technician question and perhaps make whatever revision in the bill that would be dictated by elementary justice in that regard."

Immediately following the announcement of the Senate vote, AFGE President Kenneth Blaylock said that his union and other labor organizations would fight the bill. He said they did not expect to defeat it but they did think they could eliminate the requirement that technicians give up their union membership or lose their jobs.

At this writing it still is not clear when action on the bill will be completed by the House. The bill is stalled in the Post Office and Civil Service Committee after being reported favorably by the Armed Services Committee.

Representative Robin Beard (R-Tenn.), a member of the HASC, urged his colleagues to consider this type of legislation at the earliest possible date. He warned that they should not be lulled into a false sense of security by the AFGE vote, saying:

"This is likely to be only a temporary condition. The AFGE leadership is not about to give up the substantial economic and political gains which would result from bringing the military into the union fold."

THE DOD DIRECTIVE

All the while the legislative branch was busy with S-274, the executive branch was equally engaged in formulating its own solution to the union question.

Defense Secretary Harold Brown urged Congress to hold off on legislation banning military unions until he could issue DOD regulations dealing with them. He told Congress that rules constraining unionization efforts had a better chance than law of surviving a constitutional challenge. He recommended trying them for about a year.

Secretary Brown was attempting to hold off passage of S-274 while his aides could draft what was subsequently issued as DoD Directive 1354.1. The first published hints of exactly what language would be contained in the new regulation came when a draft version was published in the Federal Register of 16 August 1977. After reading what the Secretary was proposing, Senator Thurmond called it "weak-kneed."

While Brown was urging restraint on the part of Congress, Thurmond, who was equally committed to his bill, continued his attack against the Secretary and the Department for not taking a strong enough stand against military unions. He said the DoD proposal would not prohibit union membership by military members or prohibit union activities on or off base. He also charged the Brown proposal would weaken the ability of DoD to cope with this problem in the future.

When finally issued, the directive was quite lengthy but can be summarized briefly as follows:

It prohibits commanders and supervisors from engaging in negotiations or collective bargaining.

It prohibits members of the Armed Forces from engaging in strikes, slowdowns, work stoppages or other job actions by two or more persons which are intended to and do obstruct or interfere with the performance of military assignments, and picketing for the purpose of causing any of the foregoing, when such actions are related to terms or conditions of military service.

It proscribes specified efforts on military installations to recruit members of the Services into certain types of organizations and, in specific circumstances, prohibits membership of Service people in certain organizations.

It vests responsibility for assuming compliance in the hands of the various Departments (each Service).

With the DoD directive published and on the way toward implementation and the Senate bill in the hands of the House with no real substantive barrier to passage, the debate over which is the better course of action continues, albeit at a lower key for the time being. I believe it is reasonable to expect it to remain so through the hearings in the House with the volume and vigor increasing in direct proportion to the closeness of the final vote. It is also reasonable to assume that the DoD order will come under increasing attack as it ages.

Those involved in this deliberation would be well advised to keep the following variables in mind during 1978:

The AFGE vote has taken a good deal of the sense of urgency out of this issue. There are no large unions that appear interested or ready to actively seek out military members. Even the Teamsters has adopted a "wait and see" attitude toward the military. The threat has diminished.

Consequently, the House may be inclined to direct its attention to more urgent matters, and final action could be held in abeyance until some "clear and present danger" of unionization is once again perceived by the lawmakers.

As a result of the extensive debate on S-274, there is a new awareness among top-level government officials of the root causes of military dissatisfaction with current conditions. It follows, therefore, that a good deal of the attractiveness and appeal of the unions to those in the Services who thought "no one knew or cared" may have been lost or at least somewhat tarnished.

All of this can be traced back to the awareness or perception of an erosion of traditional benefits. It came to a head when a national public sector union (AFGE) on the decline in membership, turned its attention toward the Services. The time was right. The first ball was thrown:

The Union vote—strike one.

The Senate vote—strike two.

The DoD Directive—strike three.

Third strike. Is the union movement out? That may have been the last union player at bat for this inning, but the game is far from over. The players have returned to the dugout to rest.

Many think the rest may be long lasting. A recent editorial in the San Diego Union said:

". . . a GI is wiser with a dog tag only and not, say a card from the AFL-CIO. It is safe to say that the attempt to organize the military is dead. So the nation need not worry, it will be an enemy's line, not any picket line, that needs crossing."

I disagree! The editor was premature in his statement. The problems that Gen Brown and others have expressed concern about are still there. Congress has done little, if anything to change most Service members' perception that their benefits are, in fact, dwindling.

Back in the ball park, it is the leaders of the legislative and executive team at bat now, with the judiciary serving as umpire, standing by to render a decision if called upon to do so. They will stay at bat as long as they pay attention to the needs of those troops in the field. The balls being thrown by those who serve.

The first team has a good chance to build a solid lead. But if they strike out in 1978 and the union gets another turn at bat, it could be a whole new ball game.

THE DANGERS OF TRANSFER OF U.S. COMPUTER TECHNOLOGY TO SOVIETS CITED BY JACK ANDERSON'S COLUMN

Mr. THURMOND. Mr. President, in today's issue of the Washington Post newspaper the columnist Jack Anderson has offered an interesting and informative column entitled "U.S. Computers Feared Vulnerable."

Mr. Anderson draws the attention of the public to still another danger involved in the transfer of U.S. computer technology to the Soviets, the possibility that by studying our computers they will gain the knowledge to render them ineffective in a national crisis.

This new danger involved in technology transfers of computers rests on the expert testimony of Dominic Paul Baron who raised the issue of computer security in an article prepared for the London based Foreign Affairs Research Institute.

Mr. Baron warns that by selling some of our computers to the Soviets, as we have already done, we may be enabling them to develop means to render ineffective our computers in wartime. He also points to the great dependence of the West on computers, thus increasing our vulnerability.

The writer is also a strong opponent of transfer of computer technology to the Soviets. He warns that "the damage already done is incalculable."

Mr. Baron also finds great fault with U.S. business in its rush to sell the computers to the Soviets. He writes "The Western businessman's sheer naivete in dealing with the astute Soviet negotiators is quite depressing."

Mr. President, I would like to point again to the fact that we have laws to prevent the transfer of valuable technology to Communist nations if only the executive branch has the will and judgment to use them. It is the lack of will and judgment in the executive branch that resulted in the recent approval for the sale to the Soviets of a $141 million oil well drilling bit plant.

That sale also included transfer of a electron-beam device which contained its own computer, an extremely advanced state of our technology. I urge the President to stop these sales immediately.

Mr. President, I place this article by Mr. Anderson to be printed in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 15, 1978]

U.S. COMPUTERS FEARED VULNERABLE

(By Jack Anderson)

The star wars that are fought on our movie screens may not be as futuristic as they seem. The wars to come, in the opinion of some strategists, may be just about as fantastic as the scriptwriters have portrayed them.

These strategists are convinced that the next war could be won or lost, not on the battlefields, but on complex, whirring and fishing computer panels.

Yet the military brass, though geared for supersonic warfare, continue to base their strategy on past wars. They seek to apply old solutions to new situations. Around the world, the generals and admirals have deployed U.S. forces as though they were preparing to fight World War II, the Korean war and the Vietnam war again.

But some planners are looking behind the great missile, air and sea armadas at the computer systems that will control them. These authorities believe that the military brass, enamored of their growing stockpiles of sophisticated weaponry, are ignoring the vulnerability of computers to attack by enemy forces or terrorists.

A recent report by computer expert Dominic Paul Baron, prepared for the London-based Foreign Affairs Research Institute, examines the problem of computer security. Baron's conclusion:

"If at a time of international tension, a relatively small number of key computers in a modern industrial state could be put out of action by terrorist, commando or sabotage attacks, such a state would be desperately vulnerable when faced with an ultimatum from a hostile foreign power.

"Enemy missiles, forces, ships and submarines could not be monitored; reserve forces could not be mobilized; electric power could not be depended upon; money could not be paid for wages and transport and communications would be paralyzed."

It should be borne in mind, says Baron, that a war effort would not depend only upon the heavily guarded military computer centers. Virtually every system that keeps western civilization ticking is run by computers. Financial institutions, for example, "would grind to a halt almost overnight if their computers ceased functioning."

The United States, moreover, has been far too eager to supply the Soviet Union with sophisticated computer technology and training, Baron believes. "Computer companies in the West fall over each other in their enthusiasm to compete for the favors of the Soviet buying agencies," writes Baron. "The Western businessman's sheer naivete in dealing with the astute Soviet negotiators is quite depressing."

The one-sided exchange, Baron believes has given the Soviets "a sizable quantity of personnel fully acquainted with the characteristics of our systems . . . No one in the West has anything like the in-depth knowledge of Soviet computer systems that the Soviets have about our . . . systems. The damage already done is probably incalculable."

As a result of the technology give-away, the free world has "made it that much easier for [the Soviets] to train their experts to devise methods of exploiting our own computer facilities." With their well-trained cadre, he warns, Soviet agents could, in time of war, take over our computer systems and bend them to the Kremlin's will.

But the ultimate fear is the frightening prospect that a ruthless band of terrorists may crack computer security and make off with a nuclear weapon. Technically trained terrorists, says, Baron, could use "ever cheaper and sophisticated micro-processors . . . to perfect systems to neutralize elaborate electronic protective devices around sensitive installations in order to steal a nuclear weapon."

ORDER FOR MODIFICATION TO TIME AGREEMENT ON S. 3073

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the following modification be entered with respect to the time agreement on Calendar Order 764, S. 3073, the highway bill; provided that the text of S. 2441 be inserted without debate, and be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 3073 (Order No. 764), a bill to amend title 23, United States Code, to authorize Federal aid and highway programs through fiscal year 1980, and for other purposes, debate on any amendment (except the following amendments: 3 by Senator GRAVEL, one each on planning, the hydrofoil, and the Alaskan Railroad, on each of which there shall be 1 hour; one by Senator KENNEDY, relative to truck lengths, on which there shall be 1 hour; 2 by Senator ROTH, relative to bridges and beach erosion, on each of which there shall be 1 hour; one by Senator GRAVEL, relative to New York streets, on which there shall be 1½ hours; one by Senator HUDDLESTON, relative to coal haul roads, on which there shall be 1½ hours; one by Senators ZORINSKY and ANDERSON, relative to rail crossings, on which there shall be 1½ hours; one by Senators KENNEDY and WEICKER, relative to the highway trust fund, on which there shall be 1½ hours; one by Senator KENNEDY, relative to planning, on which there shall be 2 hours; and one by Senator CULVER, relative to bridges, on which there shall be 2 hours) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That amendments first be offered to title I, and then to title II, with no amendment in order to either title once the amending process ends on each title: *Provided further*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment which is not germane to the provisions of the said bill shall be received.

Ordered further, That on titles I and II of the said bill, debate shall be limited to 3 hours, with 2 hours on title I of the bill, to be equally divided and controlled by the Senator from Texas (Mr. BENTSEN) and the Senator from Rhode Island (Mr. CHAFEE), and with 1 hour on title II of the bill, to be equally divided and controlled by the Senator from Nevada (Mr. CANNON) and the Senator from New Mexico (Mr. SCHMITT): *Provided*, That after the disposition of title II, the bill be set aside to be called up at a later time by the majority leader to add a title III: *Provided further*, That when the majority leader calls up the bill to add the text of S. 2441 as title III, it be agreed to without debate and be subject to amendment as original text with germane amendments: *Provided further*, That when the amendment proposing title II is called up it be added without debate and considered as original text for the purpose of further amendment: *Provided further*, That the said Senators, or any one of them, may, from the time under their control on titles I and II of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ORDER VITIATING RECOGNITION OF LEADERS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the standing order for the recognition of the two leaders tomorrow be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF CERTAIN SENATORS TOMORROW AND FOR CONSIDERATION OF THE PENDING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the prayer tomorrow, Mr. MORGAN be recognized for not to exceed 15 minutes, that he be followed by Mr. BELLMON and Mr. DANFORTH for not to exceed 15 minutes each, and that at the conclusion of the orders for the recognition of Senators the Senate resume its consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 9:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 a.m. tomorrow.

The motion agreed to; and at 9:39 p.m., the Senate recessed until tomorrow, Wednesday, August 16, 1978, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 15, 1978:

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be Members of the Board of Directors of the Corporation for Public Broadcasting for terms expiring March 26, 1984:

Geoffrey Cowan, of California, vice Joseph D. Hughes, term expired.

Paul S. Friedlander, of Washington, vice Gloria L. Anderson, term expired.

Kathleen Nolan, of California, vice Amos B. Hostetter, Jr., term expired.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Sam Sims Walker, [redacted], (age 52), Army of the United States (major general, U.S. Army).

WITHDRAWAL

Executive nomination withdrawn from the Senate August 15, 1978:

FEDERAL ELECTION COMMISSION

Samuel D. Zagoria, of Maryland, to be a member of the Federal Election Commission for a term expiring April 30, 1982, vice William L. Springer, term expired, which was sent to the Senate on April 10, 1978.

HOUSE OF REPRESENTATIVES—*Tuesday, August 15, 1978*

The House met at 10 a.m.

Rev. Ronald W. Cadmus, Verona United Methodist Church, Verona, N.J., offered the following prayer:

By faith we live and trust in the past; by hope we live in the future; by love we live in the present. Remove the clumsy vestments of traditional expressions of religion by making us sensitive as we strive for character ideals within people. Help us to show that life is worth living. The decisions we make can make life vibrant and valuable. Guide us from making life an absurdity—an absurdity when we are confronted by human needs yet remaining unreasonably silent to a people yearning for dignity. It is easy to assume that as we dedicate ourselves to the principles of our leadership that we are governed by our own motivations. Make us wise to know that You work within us, so that through our minds and our hearts You give us the will and the power to achieve Your purposes. Amen.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, under clause 1, rule I, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 701]

Ambro	Beilenson	Burton, John
Andrews, N.C.	Bonior	Butler
Applegate	Bowen	Byron
Archer	Breaux	Caputo
Armstrong	Brodhead	Clay
Cochran	LaFalce	Risenhoover
Cohen	Le Fante	Roncalio
Conyers	Leggett	Rousselot
Cornwell	Lloyd, Tenn.	Ruppe
Crane	McDonald	Russo
Dent	McHugh	Santini
Diggs	Maguire	Scheuer
Evans, Colo.	Metcalfe	Seiberling
Evans, Del.	Mikva	Shipley
Flowers	Milford	Sisk
Forsythe	Miller, Calif.	Solarz
Fowler	Mitchell, Md.	Spellman
Fraser	Moffett	Stark
Gammage	Murphy, Ill.	Teague
Garcia	Obey	Tsongas
Harrington	Patterson	Udall
Harsha	Pepper	Waxman
Heckler	Pike	Wilson, Tex.
Jenkins	Railsback	Young, Alaska
Kasten	Richmond	Young, Tex.

The SPEAKER pro tempore (Mr. ROONEY). On this rollcall 357 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 687. Concurrent resolution directing the Clerk of the House of Representatives to make a correction in the enrollment of H.R. 10732.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12106. An act to amend the Independent Safety Board Act of 1974 to authorize additional appropriations.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2333. An act for the relief of James Edward Slowey, Carole Anne Slowey, Christopher James Slowey, Elaine Margaret Slowey, and Carole-Ann Slowey.

PRIVATE CALENDAR

The SPEAKER pro tempore. This is Private Calendar Day. The Clerk will call the first individual bill on the Private Calendar.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

There being no objection, the Clerk read the bill, as follows:

H.R. 1798

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Kwong Lam Yuen may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

IRENE HOFFMAN

The Clerk called the bill (H.R. 5612) for the relief of Irene Hoffman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 1415) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

STEFAN KOWALIK

The Clerk called the bill (H.R. 1400) for the relief of Stefan Kowalik.

There being no objection, the Clerk read the bill, as follows:

H.R. 1400

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Stefan Kowalik may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Barbara and Leon Andrzejczyk, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, strike out the name "Leon Andrzejczyk" and insert in lieu thereof "Leon Andrzejczyk,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JUANA TODD ATHERLEY

The Clerk called the bill (H.R. 1931) for the relief of Juana Todd Atherley.

There being no objection, the Clerk read the bill, as follows:

H.R. 1931

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Juana Todd Atherley shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

Strike out all after the enacting clause and insert: That, in the administration of the Immigration and Nationality Act, Juana Todd Atherley may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Cecilia and Guillermo Todd, a citizen and lawful permanent resident of the United States, respectively, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

IRMA VICTORIA BOLARTE ALVARADO

The Clerk called the bill (H.R. 3613) for the relief of Irma Victoria Bolarte Alvarado.

There being no objection, the Clerk read the bill, as follows:

H.R. 3613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Irma Victoria Bolarte Alvarado may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Leo and Celia Bolarte, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARINELLE KHRISTY CRUZ

The Clerk called the bill (H.R. 5163) for the relief of Marinelle Khristy Cruz.

There being no objection, the Clerk read the bill, as follows:

H.R. 5163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Marinelle Khristy Cruz may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Alfredo Criz, a lawful permanent resident and citizen of the United States respectively, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sister of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, beginning on line 6, strike out the following language: "Mr. and Mrs. Alfredo Cruz, a lawful permanent resident and citizen of the United States respectively", and substitute the following language: "Mrs. Nellie Lenora Cruz, a citizen of the United States".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING APPOINTMENT OF COL. LLOYD LESLIE BURKE TO THE GRADE OF BRIGADIER GENERAL ON THE RETIRED LIST

The Clerk called the bill (H.R. 13268) to authorize the appointment of Lloyd Leslie Burke, colonel, U.S. Army, to the grade of brigadier general.

There being no objection, the Clerk read the bill, as follows:

H.R. 13268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, the President is authorized and requested to appoint Lloyd Leslie Burke ([redacted], colonel, United States Army, to the rank of brigadier general in the United States Army upon his retirement from active duty on June 30, 1978, after thirty-four years of military service. No increase in basic pay, retired pay, allowances, or other benefits shall accrue to Lloyd Leslie Burke as a result of such appointment.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, notwithstanding any other provision of law, the President is authorized and requested to appoint Col. Lloyd Leslie Burke ([redacted]), U.S. Army, Retired, to the grade of brigadier general on the Retired List of the U.S. Army. No increase in basic pay, retired pay, allowance, or other benefits shall accrue to the said Lloyd Leslie Burke as a result of such appointment.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize the appointment of Colonel Lloyd Leslie Burke, United States Army, retired, to the grade of brigadier general on the Retired List of the United States Army."

A motion to reconsider was laid on the table.

LING-YUNG KUNG

The Clerk called the bill (H.R. 10407) for the relief of Ling-Yung Kung.

There being no objection, the Clerk read the bill, as follows:

H.R. 10407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of section 203(a)(1) and 204 of the Immigration and Nationality Act, Ling-Yung Kung shall be held and considered to be the natural-born alien son of Byron Jerome & EaLing Lee Dudding, citizens of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, strike out lines 3, 4, 5, 6, and line 7 through "United States:" and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Ling-Yung Kung may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Byron Jerome and Ealing Lee Dudding, citizens of the United States, pursuant to section 204 of the Act:

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROSARIO A. CALVIN

The Clerk called the bill (H.R. 1402) for the relief of Rosario A. Calvin.

There being no objection, the Clerk read the bill, as follows:

H.R. 1402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Rosario A. Calvin shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien, as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant admissions authorized pursuant to the provisions of section 21(e) of the Act of October 3, 1965.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That for the purposes of section 203(a)(1) and 204 of the Immigration and Nationality Act, Rosario A. Calvin shall be held and considered to be the natural-born alien daughter of Carol Lee Calvin, a citizen of the United States: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NOEL ABUEG EMDE

The Clerk called the bill (H.R. 7387) for the relief of Noel Abueg Emde.

There being no objection, the Clerk read the bill, as follows:

H.R. 7387

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Noel Abueg Emde shall be deemed to be an immediate relative within the meaning of section 201(b) of that Act and may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, in the administration of the Immigration and Nationality Act, Noel Abueg Emde may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Arthur Emde, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FRANCESCO GIUTTARI

The Clerk called the bill (H.R. 8751) for the relief of Francesco Giuttari.

There being no objection, the Clerk read the bill, as follows:

H.R. 8751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of sections 203(a)(4) and 204 of the Immigration and Nationality Act, Francesco Giuttari shall be held and considered to be the natural-born alien son of Tindaro Giuttari, a citizen of the United States: *Provided,* That the natural mother of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, after the word "natural" strike out the word "mother" and insert the following: "parents or brothers or sisters".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RAYMOND VISHNU CLEMONS

The Clerk called the bill (H.R. 9610) for the relief of Raymond Vishnu Clemons.

There being no objection, the Clerk read the bill, as follows:

H.R. 9610

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Raymond Vishnu Clemons may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by David J. and Sally Ann Clemons, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EUSTACE JOHN D'SOUZA

The Clerk called the bill (H.R. 9613) for the relief of Eustace John D'Souza.

There being no objection, the Clerk read the bill, as follows:

H.R. 9613

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Eustace John D'Souza may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Kenneth Cartier, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DIRECTING THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS IN CLEAR CREEK COUNTY, COLO., TO HAROLD AND DORIS HARLAN

The Clerk called the bill (H.R. 10029) to direct the Secretary of the Interior to convey certain lands in Clear Creek County, Colo., to Harold and Doris Harlan.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized and directed to convey to Harold Harlan and Doris Harlan, Idaho Springs, Colorado, all right, title, and interest of the United States in and to a tract of land in lot 17, section 1, township 4 south, range 73 west, sixth principal meridian, Clear Creek County, Colorado, known as the Thomas C. Austin Building Site, and more particularly described as follows:

Beginning at Corner Numbered 1, whence corner Numbered 2, Survey Numbered 2053,

Gardner Placer, bears south 1 degree 15 minutes west 377.0 feet; thence north 37 degrees east 226.0 feet to corner numbered 2, whence the Shaft Honor on the Gold Medal Mine bears north 30 degrees 40 minutes east and a prominent point of rocks bears north 86 degrees 28 minutes east; thence north 53 degrees west 121 feet to corner numbered 3; thence south 37 degrees west 226.0 feet to corner numbered 4; thence south 53 degrees east 121.0 feet to corner numbered 1, the place of beginning.

SEC. 2. The conveyance authorized by this Act shall be made upon the payment of such sum as may be fixed by the Secretary to reimburse the United States for the administrative costs of the conveyance.

With the following committee amendment:

Page 1, line 6, strike out "17," and insert in lieu thereof "18,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

ELISABETTA BASSO GALLIZIO

The Clerk called the bill (H.R. 4530) for the relief of Elisabetta Basso Gallizio.

There being no objection, the Clerk read the bill, as follows:

H.R. 4530

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Naturalization Act the provisions of section 312(1) of that Act shall be in applicable in the case of Elisabetta Basso Gallizio: *Provided further,* That any fee received by any agent or attorney on account of services rendered relating to the introduction of this bill shall be unlawful, any contract to the contrary not withstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

On page 1, strike out all of lines 5 through 12 and insert in lieu thereof the following: "be inapplicable in the case of Elisabetta Basso Gallizio."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARGARET SOMERVILLE JEFFERIS

The Clerk called the bill (H.R. 7604) for the relief of Margaret Somerville Jefferis.

There being no objection, the Clerk read the bill, as follows:

H.R. 7604

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Margaret Somerville Jefferis may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VASILIOS GEORGIOS VALCANOS

The Clerk called the bill (H.R. 7419) for the relief of Vasilios Georgios Valcanos.

There being no objection, the Clerk read the bill, as follows:

H.R. 7419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Vasilios Georgios Valcanos may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by George Louis Valcanos, a citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, strike out the name "Valcanos" and insert the name "Valcanos,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SHIN MYONG YO PURDOM, ALSO KNOWN AS MYONG YO SIN

The Clerk called the Senate bill (S. 1335) for the relief of Shin Myong Yo Purdom, also known as Myong Yo Sin.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1335

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Shin Myong Yo Purdom, also known as Myong Yo Sin may be issued a visa and be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHONG CHA WILLIAMS

The Clerk called the Senate bill (S. 405) for the relief of Chong Cha Williams.

There being no objection, the Clerk read the Senate bill, as follows:

S. 405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Chong Cha Williams may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LILY LIRIO GALINDO

The Clerk called the bill (H.R. 6664) for the relief of Lily Lirio Galindo.

There being no objection, the Clerk read the bill, as follows:

H.R. 6664

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Lily Lirio Galindo shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(c) of such Act.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:
That, in the administration of the Immigration and Nationality Act, Lily Lirio Galindo, the widow of a citizen of the United States, shall be held and considered to be within the purview of section 201(b) of that Act and the provisions of section 204 of such Act shall not be applicable in this case.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOANNE LAPOINTE

The Clerk called the bill (H.R. 7550) for the relief of Joanne Lapointe.

There being no objection, the Clerk read the bill, as follows:

H.R. 7550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Joanne Lapointe shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs

(1) through (8) of section 203(a) of the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 4, strike out the name "Joanne Lapointe" and substitute the name "Johanne LaPointe".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read:

"A bill for the relief of Johanne Lapointe."

A motion to reconsider was laid on the table.

LESTER BRUCE PRIDAY

The Clerk called the bill (H.R. 1446) for the relief of Lester Bruce Priday.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ROLANDO R. GAZA AND TERESITA C. GAZA

The Clerk called the bill (H.R. 2655) for the relief of Rolando R. Gaza and Teresita C. Gaza.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

MONIKA GRANTZ

The Clerk called the bill (H.R. 8977) for the relief of Monika Grantz.

There being no objection, the Clerk read the bill as follows:

H.R. 8927

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212 (a) (23) of the Immigration and Nationality Act, Monika Grantz may be issued a visa and admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JAMES WILLIAM DIBBEN

The Clerk called the bill (H.R. 9352) for the relief of James William Dibben.

There being no objection, the Clerk read the bill as follows:

H.R. 9352

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212 (a) (23) of the Immigration and Nationality Act, James William Dibben shall be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of such Act. This exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the date of enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CRAIG DAY

The Clerk called the bill (H.R. 9611) for the relief of Craig Day.

There being no objection, the Clerk read the bill as follows:

H.R. 9611

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212 (a) (23) of the Immigration and Nationality Act, Craig Day may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DERRICK TAN

The Clerk called the bill (H.R. 2939) for the relief of Derrick Tan.

There being no objection, the Clerk read the bill as follows:

H.R. 2939

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Derrick Tan may be classified as a child within the meaning of section 101 (b) (1) (F) of the Act, upon approval of a petition filed in his behalf by Constante and Pearl Tan, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendments:

On page 1, line 4, strike out the name "Derrick Tan" and substitute the name "Derrick Mariano Tan".

On page 1, lines 6 and 7, strike out the following:

"Constante and Pearl Tan, citizens of the United States," and insert in lieu thereof the following: "Constante and Pearl Tan, a lawfully resident alien and a citizen of the United States, respectively,".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed.

The title was amended so as to read: "A bill for the relief of Derrick Mariano Tan."

A motion to reconsider was laid on the table.

ESTABLISHING THE TRUE LOCATION OF A PORTION OF NORTHERLY BOUNDARY OF THE ANGELES NATIONAL FOREST, CALIF.

The Clerk called the bill (H.R. 11451) to establish the true location of a portion of northerly boundary of the Angeles National Forest, located in Los Angeles County, Calif., on the common line between sections 16 and 17, township 4 north, range 10 west, San Bernardino meridian, and to establish the center quarter corner of said section 16.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PROVIDING FOR THE CONVEYANCE OF CERTAIN PUBLIC LANDS IN MONTANA TO THE OCCUPANTS OF THE LAND

The Clerk called the bill (H.R. 7849) to provide for the conveyance of certain public lands in Montana to the occupants of the land.

There being no objection, the Clerk read the bill as follows:

H.R. 7849

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to convey to Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest, all right, title, and interest of the United States, except right, title, and interest in deposits of all minerals, in lands identified as tracts numbered 1, 2, and 3 in that part of the west half, southwest quarter of the northwest quarter, section 2, township 10 north, range 1 west, Montana principal meridian, Lewis and Clark County, Montana, lying east of the "Erroneous Survey Line", lying north of the county road right-of-way as shown on Bureau of Reclamation drawing numbered 296–604–170, dated September 24, 1971, and as determined available for sale by the Secretary of the Interior. Such conveyance shall be made only upon application therefor within six months after the date of this Act, and upon payment of the appraised fair market value of the land as of the date of sale plus the administration costs of making the conveyance, as determined by the Secretary of the Interior within one year after notification by the Secretary of the Interior of the amount due. In determining the fair market value of the land, the Secretary of the Interior shall not include any values added to the land by Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest, or their heirs. Any conveyance made pursuant to this Act shall reserve to the United States all deposits of all minerals in the lands together with the right to mine and remove the same, under applicable laws and regulations established by the Secretary of the Interior.

SEC. 2. Acceptance of Francis T. Oleson and Zona I. Oleson, husband and wife; Don Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest of any conveyance made hereunder shall constitute a waiver and release by them of any and all claims against the United States arising out of the operation, maintenance, or construction

of the Canyon Ferry Unit, Pick-Sloan Missouri Basin program, as now or hereafter authorized.

With the following committee amendments:

Page 2, line 7, strike "application" and insert in lieu thereof "applications by such aforementioned individuals".

Page 2, line 11, strike "administration costs" and insert in lieu thereof "administrative costs, including costs of a land survey,".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FACILITATING THE EXCHANGE OF CERTAIN LANDS IN THE STATE OF OREGON

The Clerk called the bill (H.R. 12772) to facilitate the exchange of certain lands in the State of Oregon, and for other purposes.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) in order to facilitate the exchange of certain lands in the State of Oregon for purposes of enlarging the Ecola State Park, the Secretary shall convey to the State of Oregon the reversionary interest retained by the United States under the first proviso of the first section of the Act of August 11, 1916 (39 Stat. 505) in a tract comprising about one hundred and sixty acres and described as the northwest quarter, Section 8, Township 5 North, Range 8 West, Willamette Meridian. Such conveyance shall be made, upon relinquishment of patent numbered 602062 by the State, by issuance of a new patent describing all lands which were described by patent numbered 602062.

(b) The new patent issued under subsection (a) shall contain all reservations and exceptions required by the Act of August 11, 1916, and contained in patent numbered 602062 except that the reverter provision contained in the proviso referred to in subsection (a) shall not apply to the one hundred and sixty acre tract in subsection (a).

With the following committee amendment:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That (a) in order to facilitate and exchange of certain lands in the State of Oregon for purposes of enlarging the Ecola State Park, the Secretary of the Interior (hereinafter referred to as "the Secretary") is authorized and directed to convey to the State of Oregon the reversionary interest retained by the United States pursuant to the first proviso of the first section of the Act of August 11, 1916 (39 Stat. 505) in a tract comprising about one hundred and sixty acres and described as the northwest quarter, section 8, township 5 north, range 8 west, Willamette Meridian. Such conveyance shall be made, upon relinquishment to the Secretary of patent numbered 602062 by the State, by issuance of a new patent describing all lands which were described by patent numbered 602062. The conveyance directed by this section shall be made only if, in the judgment of the Secretary, the requirements of sections 2 and 3 of this Act have been met by the State.

(b) The new patent issued under subsection (a) hereof shall contain all reservations and exceptions required by the Act of August 11, 1916, and contained in patent numbered 602062 except that the reverter provision contained in the proviso referred to in subsection (a) shall not apply to the one-hundred-and-sixty acre tract described in subsection (a) of this section.

SEC. 2. No conveyance shall be made and no new patent issued pursuant to this Act unless the State of Oregon has shown to the satisfaction of the Secretary that:

(a) the lands described in the first section of this Act will be exchanged for lands of at least equal value, or if not of at least equal value that the values will be equalized by payment of money or other consideration to the State;

(b) the lands received by the State in exchange are at least as suitable for park purposes as the lands conveyed;

(c) the lands obtained by exchange by the State will be used for public park purposes in perpetuity; and

(d) any amount of money or other consideration paid to the State to equalize values on a land exchange under this Act will be used for park purposes.

SEC. 3. The Secretary, upon his determination that the requirements of Section 2 of this Act are satisfied, is authorized and directed to enter into an agreement or agreements with the State of Oregon whereby, in consideration of a conveyance of the reversionary interest of the United States in the lands described in the first section of this Act, and issuance of a new patent, the State of Oregon agrees that:

(a) title to the lands acquired and dedicated for public park purposes pursuant to Section 2 of this Act will vest in the United States if such lands ever cease to be used for public park purposes; and

(b) the State of Oregon will include provisions to this effect in any document of transfer of such property; and

(c) the State will execute a document to this effect and deliver such document to the Secretary.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. This concludes the call of the Private Calendar.

IMPOUNDMENT OF THE NATIONAL COMMISSION ON SOCIAL SECURITY

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I come today to talk about presidential impoundment, not impoundment of appropriated funds but impoundment of a commission.

In December we passed the social security bill creating a National Commission on social security to provide some long-term answers. This was to be composed, among others, of actuaries and pension people to completely review the system.

Twice I wrote to the President asking him to name members. It is my understanding the Speaker and the majority leader of the Senate have done so, but President Carter has not sent a single name of his five appointments on the Senate list for confirmation. The Commission has 2 years, after members are picked, to come up with some recommendations. By then if nothing happens, payroll taxes will soar—if nothing is done.

Mr. Speaker, it is incumbent upon the President of the United States to appoint these members of this Commission so that next year we can have some true social security reform.

VIETNAM VETERANS' WEEK

(Mr. HILLIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, I am today joining many of my colleagues in cosponsoring House Joint Resolution 1091 to authorize the President to declare "Vietnam Veterans' Week" commencing November 11, 1978.

The Vietnam veteran is perhaps the most maligned veteran of our Nation's history. He served in an unpopular war and when he returned home, he was greeted with mistrust—"where have you been, where did you go?"

The passage of this resolution will lay to rest once and for all the notion that America is not grateful for the service these veterans performed. They did not question the correctness of serving in Vietnam—they simply answered their Nation's call and served with the same honor and valor as have their predecessors in earlier years—from 1776 forward.

Passage of this resolution will not only pay tribute to the Vietnam veteran, but it will also serve to remind all Americans that were it not for these and all veterans we might not be here today enjoying the privilege of living in freedom—free from the autorcratic rule imposed on other citizens of the world, free to protest governmental decisions we conside to be wrong, free to pay tribute to those who have gone before us.

BILL LINKING BUDGET RESOLUTIONS TO LONG-TERM BUDGET GOALS

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, my colleague on the Budget Committee from South Carolina BUTLER DERRICK and I will introduce a bill today that forces us to realistically look at the future of the Federal budget. Our bill requires that each budget resolution include 5-year projections for budget authority, outlays and Federal revenues. In order to insure that this information is presented as a safeguard in every resolution, our bill amends the Congressional Budget and Impoundment Control Act of 1974.

The need for this 5-year targeting is acute. Right now the Budget Committee is barraged with many spending projections that play a subtle role in our final targets and ceilings. But we never present these as part of the resolution, for our colleagues to examine and act upon.

A second problem with our current system of resolutions is the lack of continuity between one year's budget and that for the next. We regard each spending resolution in the isolated context of that year alone. As a result we never sift

through the special interest demands for funds. We merely produce an incremental budget. The consequences of this annual lapse into pork-barrel wisdom are a whopping deficit and increased expenditures.

The only way to correct this is by linking each resolution to long term budget goals. Our bill accomplishes this. We will be forced to take a much harder look at potential increases if we also have to see their consequences over the next 5 years.

Under our present system, we reduce to simple rhetoric the concepts of a balanced budget and reduced spending. Each resolution is created in a short term context. We are losing the discipline and control for which the Budget Committee exists in the first place.

This legislation also provides for periodic updates on spending bills compared to the 5-year targets. This will give us direction in pursuing our budget goals once they are in place.

What our bill does is force us to confront our spending actions head on. There is nothing we need more in order to make the purposes of the budget act a reality. I encourage my colleagues to join us in cosponsoring this legislation.

U.S. POSTAL CORPORATION—RIGHT STAMP, WRONG PLACE

(Mr. JOHN T. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN T. MYERS. Mr. Speaker, the U.S. Postal Corporation has once again used its usual good judgment by issuing a commemorative stamp honoring automobile racing and having on that stamp an Indianapolis racing automobile, the roadster racing automobile, but issuing the first issue in Ontario, Calif.

I think everyone knows that the granddaddy of automobile racing, the greatest spectacle in automobile racing, is the Indianapolis 500. The Postal Corporation honors that racing sport, but releases the first issue in Ontario, Calif. It would be similar to honoring the Liberty Bell located in Philadelphia by releasing the first issue in Las Vegas.

I am not speaking against the fine race that takes place at Ontario annually. They put on a good race I am sure, and that race is a tribute to the sport.

This morning, Jane Pauley, of the Today Show spoke about this situation. At the end she quoted that the Postal Service had advised her that a commemorative stamp was issued last year showing a butterfly and the first issue was in Indianapolis. They say it was the best seller and that Indianapolis should be pleased with that. That is not the issue. Every race driver dreams of driving the Indianapolis 500. Indianapolis is recognized worldwide as the greatest automobile race and the first issue should be made there.

Mr. Speaker, we in Indiana think it is again an example of how efficient and how capable and what good judgment the U.S. Postal Corporation uses.

COMMENDING CONGRESSMAN LESTER WOLFF ON DRUG ENFORCEMENT WORK

(Mr. FREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FREY. Mr. Speaker, I just would like to commend the gentleman from New York (Mr. LESTER WOLFF) and the Committee on Drugs for the work they have done and the effect it has had in Florida. About a month or two ago the committee met in Florida and found that about 90 percent of the cocaine coming into the country was coming in to our State and about 70 percent of the marihuana. Since the push given by the committee, there has been a tremendous amount of drugs recovered and a lot of pressure put on the drug traffic.

I will put into the RECORD the exact tonnage, and I say tonnage of marihuana, that has been recovered; but it points out the need for tougher action against the pusher, not the kid or the addict, but the drug smuggler.

AUTHORIZING APPOINTMENT OF COLONEL BURKE AS BRIGADIER GENERAL

(Mr. BOB WILSON asked and was given permission to address the House for 1 minute.)

Mr. BOB WILSON. Mr. Speaker, I strongly support H.R. 13268, which just passed on the Private Calendar. The bill authorizes and requests the President to appoint Col. Lloyd Leslie Burke as a brigadier general on the retired list of the U.S. Army, but without any added cost to the Government.

I am pleased that my colleagues on both sides of the aisle have seen fit to confer this well-deserved honor on Col. Burke as a small token of our respect and admiration for a man and a soldier who in three wars and over a military career of more than 30 years has rendered unstinting service to the Army and to the Congress. He has literally devoted his entire adult life to the service of the country and has unhesitatingly risked his life on the battlefields of World War II, the Korean war and the Vietnam war.

Here is a man who was awarded the Medal of Honor during the Korean war. I will not read the entire description of the series of acts which gave rise to that award, but listen to these few words from the citation:

> . . . he charged the third emplacement, catching several grenades in midair, and hurling them back at the enemy. Inspired by his display of valor, his men stormed forward and overran the hostile position.

Mr. Speaker, I think the award that we are giving Colonel Burke this morning is much deserved, and I am sure it will be much appreciated.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 638, PROPOSED EQUAL RIGHTS AMENDMENT EXTENSION

Mrs. CHISHOLM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1295 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1295

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 638) extending the deadline for the ratification of the equal rights amendment. After general debate, which shall be confined to the joint resolution and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the joint resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the joint resolution for amendment, the Committee shall rise and report the joint resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the joint resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, let me say that during the consideration of this resolution, I will yield for the purposes of debate only.

House Resolution 1295 provides for the consideration of House Joint Resolution 638, a bill extending the deadline for the ratification of the equal rights amendment. This is an open rule providing for 2 hours of general debate to be equally divided and controlled by the chairman and ranking minority member of the Judiciary Committee. All amendments that are germane can be offered under this rule. It also provides for one motion to recommit.

Mr. Speaker, House Joint Resolution 638 is a resolution which authorizes an additional 3 years, 3 months, and 8 days for the States in this Nation to ratify or reject House Joint Resolution 208 as passed by the 92d Congress by an overwhelming vote of 354 to 24 in the House in 1971, and by 84 to 8 in the Senate in 1972. As you are aware, House Joint Resolution 208 is the proposed equal rights amendment which states:

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.
>
> The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.
>
> This amendment shall take affect two years after the date of ratification.

As of this date 35 States have ratified this proposed amendment. Three more States are necessary to ratify this proposal if the amendment is to become part of our Constitution.

Because many Members of this House consider the equal rights amendment an issue affecting the human rights of our citizens, a resolution was introduced to extend the period for ratification for an additional 7-year period to allow the State legislatures to discuss this important issue free of the time-related pressure that the initial 7-year limit created. It was felt by the sponsors that additional time was needed to allow the States to consider the proposed amendment based on its merits.

Once the resolution was introduced, the Subcommittee on Civil and Constitutional Rights of the Judiciary held extensive hearings on the extension resolution. A number of important constitutional questions were raised and considered fully by the committee. After careful examination of the proposal, the Judiciary Committee deemed that Congress has the authority to extend the deadline for ratification. In addition, the committee decided that the discussion of the proposed equal rights amendments is, indeed, timely and is therefore, worthy of an additional 3 years, 3 months, and 8 days to allow the States the opportunity to further consider ratification of the ERA.

Mr. Speaker, arguments which assert that all debate on the ERA has subsided or should subside are not accurate representations of the feelings of the American people. The current debate over the equal rights amendment is very heated, with a great deal of confusion among supporters and opponents as to what the amendment would actually do. For Congress to allow debate to be limited to the original 7 years would thwart the greatly needed educational process which must go along with an amendment of this magnitude. Moreover, I think my colleagues realize that the U.S. Congress has the responsibility of oversight in all laws that it creates. Therefore, it seems legitimate, that as a part of oversight responsibility we must reassess the political climate of our times and extend the deadline for ratification of the equal rights amendment.

Mr. Speaker, I strongly believe that the extension resolution before us is both a necessary and constitutional means of granting the American people additional time to consider a most historic issue of constitutional and human rights. I request that we adopt House Resolution 1295 so that we may proceed with the consideration of the extension resolution.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentlelady from New York has spoken eloquently about this rule which proposes to make in order House Joint Resolution 638, the extension of the deadline for ratification of the equal rights amendment. The rule provides for 2 hours of general debate and that the resolution will be open to germane amendments.

At the outset I think it is absolutely necessary, regardless of whether one is for or against ERA, to define the sole issue confronting the House at this time: Should not the full House of Representatives have the opportunity to decide whether House Joint Resolution 638 must pass by a two-thirds vote of the Members present?

In order to arrive at a determination of the question, it is necessary to examine the U.S. Constitution, the statutes, case law, and the precedents. Article I, section 7 of the Constitution states:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (Except a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him . . .

The footnote to this section follows with:

> It has been settled conclusively that a joint resolution proposing an amendment to the Constitution should not be presented to the President for approval (*Hollingsworth v. Virginia*, 3 U.S. [3 Dall.] 378 [1798]). Such joint resolutions, after passage by both Houses, are presented to the Administrator of General Services (1 U.S.C. 106b)."

In article V we find the requirement that whenever two-thirds of both Houses propose constitutional amendments, such amendments must be ratified by the legislatures of three-quarters of the States. Again, in the footnote succeeding this article, we are reminded that constitutional amendments "are proposed in the form of joint resolutions * * * but are not presented to the President for his approval." Instead, such amendments are filed with the Administrator of GSA who is responsible for their certification and publication once they are ratified by the States.

The footnote to article V continues by providing:

> The vote required on a joint resolution proposing an amendment to the Constitution is ⅔ of those voting, a quorum being present, and not ⅔ of the entire membership. The requirement of the ⅔ vote applies to the vote on final passage and not to amendments, or prior stages, but is required where the House votes on agreeing to Senate amendments, or on agreeing to a conference report.

Section 397 of Jefferson's Manual lays down the precedent that a joint resolution "is a bill as far as the processes of the Congress in relation to it are concerned. With the exception of joint resolutions proposing amendments to the Constitution, all these resolutions are sent to the President for approval and have the full force of law."

From these citations we can extract several principles applicable to the issue before us. These rules may be outlined as follows:

First. A two-thirds vote of those members present of both Houses is required on final passage of any proposed amendment to the Constitution;

Second. The President has no power of participation in the constitutional amendment process;

Third. Subsequent to the passage by two-thirds of both Houses of a proposed constitutional amendment, such amendment is filed with the Administrator of General Services for certification and publication once ratified by three-fourths of the States;

Fourth. Amendments adopted prior to final passage of a constitutional amendment require only a simple majority vote, but a two-thirds vote is required where the House votes on agreeing to Senate amendments or on agreeing to a conference report; and

Fifth. Under a majority vote procedure, a joint resolution must be signed by the President.

So what do we have here? House Joint Resolution 638 seeks to amend House Joint Resolution 208 of the 92d Congress. House Joint Resolution 208, the proposed equal rights amendment, passed the House and Senate by the necessary two-thirds vote and was submitted to the States for ratification. Any amendments to the resolution which were adopted before final passage needed only a majority vote. The 7-year limitation, imposed by Congress pursuant to its constitutional power to determine details of the ratification process (*Dillion* v. *Glass*, 256 U.S. 368), was part of the total package which passed the House by two-thirds vote. Consequently, every amendment to House Joint Resolution 208 proceeded past two obstacles—a majority vote and then a two-thirds vote.

To require anything less than a two-thirds vote on House Joint Resolution 638 flies in the face of proper parliamentary procedure, not to mention the U.S. Constitution. The coalition forged to obtain the necessary two-thirds when the resolution originally passed the Congress very likely would have been undone had the Members at that time anticipated a rules change prior to the end of the game. To renegotiate the terms now without mandating a two-thirds vote will violate law and policy.

The proponents of this extension resolution do not intend that it will be sent to the President for his signature. It is settled that the President has no power of participation in the constitutional amendment process. However, under a majority vote procedure a joint resolution must be signed by the President. Without his or her signature such a resolution can have only the effect of a concurrent resolution. Such a resolution expresses only the sense of the 95th Congress that States should have extended time to ratify and, accordingly, will have no binding legal effect.

Let there be no misunderstanding, House Joint Resolution 638 is an attempt by Congress to exercise its power to propose a constitutional amendment pursuant to article V. We are concerned, then, with a change in the fundamental law of the land. Every step along the way must be free from any cloud, legal or otherwise. To require anything less is insufficient.

I am advised that several constitutional questions arose during the consideration of the joint resolution of extension by the Judiciary Committee. Few, if any, of these questions were resolved conclusively prior to the vote to report the resolution. The question of a two-thirds vote requirement on final passage was but one such unresolved issue. But it is an issue of such magnitude that it should not be left to a single committee to determine. The full House of Representatives should be given the opportunity to speak directly on the subject.

For this reason I propose to offer an amendment in the nature of a substitute to the rule which will permit the offering of a motion to require a two-thirds vote on final passage of House Joint Resolution 638. This is similar to the amendment I offered in the Rules Committee which failed by an 8-to-8 vote. The motion would be in order after the vote on the motion to recommit and prior to vote on final passage. 30 minutes of debate time would be allowed, equally divided between the mover and the opponents of the motion. If the motion is not approved by a majority vote, then only a majority vote would be required for final passage of the resolution.

During consideration of the extension by the Rules Committee, testimony was received on the question of whether an amendment to allow States to rescind their prior ratification would be in order as an amendment to House Joint Resolution 638. The committee took no action with respect to his question. Hence, it still looms before us. In an effort to submit this issue to the full membership of the House for determination, I have incorporated it as part of my substitute rule.

I am convinced beyond any doubt of the constitutional requirement that House Joint Resolution 638 be passed by a two-thirds vote. I also am convinced of the merits of permitting a State to rescind a prior ratification. This rule neither provides such terms nor permits the House to decide if it wants to impose them. The rule, then, does not provide an adequate procedural framework for dealing with the general proposition of extending the time for ratification of the equal rights amendment.

The rule simply is incomplete. This consequence makes it necessary to defeat the previous question on the rule so that a substitute rule can be offered which is structurally sound.

I strongly urge the Members to vote down the previous question and allow the full House to speak on the serious constitutional questions of final passage by a two-thirds vote and the right of States to rescind prior ratification.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Illinois.

Mr. MICHEL. I thank the gentleman for yielding.

I commend the gentleman for the statement he has made.

As he knows, I was prepared to testify before the Rules Committee in support of an open rule that would leave these decisions up to all the Members of this body including the one having to do with whether the resolution should be adopted by a two-thirds vote or not.

I know there are a number of constitutional scholars and lawyers who will argue both sides of that question, and if this extension ever gets through both Houses of the Congress it will undoubtedly be argued in our courts.

In view of the fact that some of the States have ratified the amendment with the preamble of the original amendment and some without can very well be argued in the courts. I have predicated my own decision to support a two-thirds vote on the grounds that we have had the biggest turnover in this House of Representatives since the amendment was passed back in the 92d Congress.

I was here then. I supported the amendment, but I do not support the extension of time for its ratification, and here we have today more than half the Members of this body voting for the first time on the equal rights amendment. Even though the vote is simply on an extension of time, the original 7 years provided for was passed by a two-thirds vote of both Houses of Congress, and it just seems to me right and appropriate that a two-thirds vote be required to pass this resolution. Furthermore, I would be willing to wager that without its passing by a two-third vote, the other body will never take up the issue during this Congress.

Finally, Mr. Speaker, I hope Members will vote down the previous question and adopt the substitute rule proposed by the gentleman in the well. Then we can have a clear expression of the will of this House on all the issues. I personally intend to vote down the previous question and if that fails to vote for the privileged resolution that will be offered by the gentleman from Tennessee (Mr. QUILLEN). Furthermore, I intend to support the Railsback amendment, providing for rescission. That vote will indeed be a very close one, and I hope a majority of members will support the Railsback amendment. I commend the gentleman for making such a good case for his point of view, and thank him again for yielding so that I might outline my own position on this very important issue.

Mr. LOTT. Mr. Speaker, I thank the gentleman from Illinois for his comments.

I want to emphasize again this is not a question whether one is for or against ERA or even an extension. This is just a question of doing this matter properly, procedurally and constitutionally. Once those questions have been resolved, we can make our decision on the merits of the question.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Speaker, after all the battles fought on the House floor over closed rules, modified closed rules, and modified open rules, I never thought I would argue against an open rule. As others have so eloquently pointed out, we are considering a very questionable open rule. Any rule which prohibits the House from considering and resolving the questions which it is charged to decide is in effect a closed rule.

The heart of the issue, which was cleverly avoided by the Judiciary Committee and blocked from this House's consideration by the Rules Committee is simply what vote must this resolution attain in order to be lawfully and constitutionally passed by the House. Everyone has a different opinion on that, and my reading of the cases and listening to the scholars' testimony leads me to believe that the bottom line is right here in the House. This open rule, however, prohibits the House from making up its own mind on this crucial question.

Whether or not Members support a simple majority or a two-thirds vote, we should unanimously uphold the prerogatives of the House and not let the sponsors of House Joint Resolution 638 stifle the House's right to work its will.

The equal rights amendment permits no favoritism by the government based on sex. It mystifies me how some of the strong proponents of this amendment can, on the one hand, urge equal and fair treatment for all, and on the other hand, prohibit the House from deciding what vote is required for passage of House Joint Resolution 638.

Those of us who remember when this House attempted to expel a former Member, will recall that the key question was what vote was necessary for the House to take that action. A former Speaker at the time put the question to the House improperly and the Supreme Court reprimanded us for the error and reinstated the Member.

Let us not make the same mistake again. Even if you wish to see this extension passed, it is important that it be done correctly. To prohibit the House from deciding what vote is necessary to pass House Joint Resolution 638, after the reporting committee has failed to do so, is not only unfair but would clearly jeopardize any action we may take.

Mr. Speaker, I expect to vote against those who believe the resolution must have a two-thirds vote for final passage. But I will certainly support their right to have the House consider and resolve the questions. Any and all amendments, including rescission, should be protected by this rule and be eligible to be offered. What could be more fundamentally fair?

A vote against the previous question is in no way a vote against the equal rights amendment. A vote against the previous question is merely a statement that the House must face its responsibilities and decide just what this resolution purports to be and just what vote is necessary for it to be effective. It is most appropriate that the House have this opportunity. This is the first time in our history that anything like House Joint Resolution 638 has been before us. It is unprecedented. It is thus our duty to decide what procedure will make it an effective act of this body. The question cries to be answered. If we don't answer the question, who will?

I urge a "no" vote on the previous question.

Mrs. CHISHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. BOLLING).

Mr. BOLLING. Mr. Speaker, I supported this rule in the Committee on Rules. I think it is an important rule that should be passed nearly unanimously. It does not prevent any germane amendments. I think we should get on with this rule and proceed with the consideration of the extension of the time for ratification of this very important constitutional amendment.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, at the appropriate time I intend to offer a privileged resolution requiring that the House

vote by a two-thirds majority on final passage of the joint resolution before us. When the rule is adopted, the privileged resolution will be presented and then the vote will occur on that particular resolution.

But, Mr. Speaker, I would urge the Members of the House to first vote down the previous question on the rule allowing Members a two-thirds vote on final passage of House Joint Resolution 638, and making in order an amendment to allow rescission, but if that fails, then I intend to offer my privileged resolution.

Mr. Speaker, my question of privilege arises under rule IX of the rules of the House. Rule IX provides as follows:

Questions of privilege shall be, first those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of Members, individually, in their representative capacity only; and shall have precedence of all other questions, except motions to adjourn.

Mr. Speaker, my question of privilege is based on the part of rule IX which states that those questions are privileged which relate to the integrity of the proceedings of the House. My contention is that passage of House Joint Resolution 638 by a simple majority vote, rather than by a two-thirds vote, violates the integrity of the proceedings of this House.

Mr. Speaker, in order to support my contention, it is necessary to review the facts in this particular situation.

First, it is clear that a two-thirds vote is necessary for Congress to propose an amendment to the Constitution. Article V of the Constitution begins with the following words.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, . . .

It was under this procedure in article V that the 92d Congress proceeded when it passed House Joint Resolution 208, which proposed the equal rights amendment in the first place.

Mr. Speaker, House Joint Resolution 208 was a short, simple resolution. Let me read the text.

HOUSE JOINT RESOLUTION 208

Proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States *within seven years* from the date of its submission by the Congress:

"Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"Section 3. This amendment shall take effect two years after the date of ratification."

Mr. Speaker, it is important to note that the 7-year time limit is included as a part of the joint resolution. It was not a separate piece of legislation.

House Joint Resolution 208 was passed by a two-thirds vote in the House on October 12, 1971. The Senate passed the resolution by a two-thirds vote on March 22, 1972. Again the 7-year time limit was a part of the resolution.

Now, the House is ready to consider House Joint Resolution 638, changing the time limit provision of House Joint Resolution 208.

The integrity of the proceedings of the House will be violated if House Joint Resolution 638 is passed by a simple majority of the Members present and voting. What was done in a joint resolution requiring a two-thirds vote for passage should not be undone in a joint resolution requiring only a majority vote for passage.

The constitutional prerogatives of the House to propose amendments to the Constitution and to impose necessary conditions thereto would be violated if House Joint Resolution 638 is passed by a simple majority vote.

The SPEAKER. The time of the gentleman from Tennessee (Mr. QUILLEN) has expired.

Mr. LOTT. Mr. Speaker, I yield 1 additional minute to the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, I thank the gentleman for yielding.

My privileged resolution gets down to the heart of the matter and provides the same vote as on the originating Equal Rights Amendment resolution passed by the House in 1971, a two-thirds vote of the Members of this House, with a quorum being present. Unless this vote occurs, Mr. Speaker, I have grave doubts that the amendment will follow the unconstitutional process and be extended.

Mr. Speaker, I voted for ERA. I do not think that this is a question of pro- or anti-ERA. I think it is a question of preserving the integrity of this House; and at the appropriate time, I intend to offer my privileged resolution.

Mrs. CHISHOLM. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana (Mr. LONG).

Mr. LONG of Louisiana. Mr. Speaker, I rise in support of the rule on and the equal rights extension.

In reviewing the resolution for consideration of this bill, the Rules Committee received from the Judiciary Committee careful documentation from the Justice Department and guidance from many of our Nation's leading scholars on constitutional law. The overwhelming evidence supports the proposition that Congress does have the power to extend the time limit for State consideration of ERA and that it can do so with a vote of a simple majority.

I raise the majority vote issue only because it has been one of the more persistent questions surrounding the proposed extension. Efforts to require a two-thirds vote in order to change the time limit were defeated in the Judiciary Committee; they were rejected again by the Rules Committee during our consideration of the question. The committee determined, after hearing all arguments, that this is a procedural matter that clearly governs "setting the time period." It is a matter of detail which neither establishes a new amendment nor changes the nature or substance of the amendment in any way.

Mr. Speaker, further I am pleased to lend my support to the extension legislation because this gives me yet another opportunity to voice my unwavering support for passage of the Equal Rights Amendment.

This issue is one whose time has come, though it has been a long time coming.

Women waited 131 years to vote, and began working as far back as 1923 to include an amendment in our Constitution guaranteeing equality to women and men under the law of the land.

The interest shown by our legislative bodies, our communications media, our clubs and organizations, and by our families tells us that the issue is still vital and that further opportunity for discussion is in order. It is an issue that will not go away despite efforts in some quarters to distort the real purpose—to insure that all citizens share equally the rights and responsibility of citizenship under the law. Surely human rights begin at home. And in view of the long struggle women have had to earn the right to vote, to hold office, to own and control property, to have better working conditions, pay, pensions, medical benefits and fair credit, it seems reasonable to me to ask for more time to consider this very important basic piece of legislation.

If our State legislatures reflected the will of the vast majority—established through every legitimate public opinion poll ever conducted—and if a majority vote were all that were required in each State legislature, the equal rights amendment would be a part of our Constitution today.

I think it is important that we cut right to the heart of the matter and avoid extraneous talk about a two-thirds vote or rescission or any other diversion. I am convinced that Congress has the right to grant an extension; that it has the power to approve an extension through a simple majority vote; and that it can best resolve the recission question at the time three-quarters of the States have ratified, as it did during certification of the 14th amendment.

Never before has a fundamental issue of civil rights been resolved under traditional guidelines. It took a civil war to determine racial equality under the law. The suffrage amendment granting women the right to vote contained no time limit; my own State ratified only 8 years ago.

I believe there can be no time limit for equal rights for anybody. I believe, further, that the need exists for a clear message to the courts and to the legislatures that support has not waned for insuring that our laws are fair to everybody. I fully support the extension resolution. All I have to do is think of my mother—of my wife—of my daughter, and ask myself whether I want the same legal rights and responsibilities for them that I want for my son and for myself. The answer is "yes."

I urge my colleagues to adopt the rule and join me in voting to extend the

deadline for ratification of the equal rights amendment.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, let me preface my comments on this rule by stating that I have long been a strong supporter of the equal rights amendment, I continue to be fully committed to its ratification today, and therefore I will vote in favor of this limited, 3¼-year extension of the ratification period. I do not happen to think that a 10-year ratification period in any way strains the "contemporaneous" approval standard as set forth by the Supreme Court in Dillon against Gloss. In that decision, the Court held the Congress could set a time limit on ratification, provided it was reasonable, and it further held that a 7-year ratification period could be considered reasonable.

In the case of Coleman against Miller, the Supreme Court held that after an amendment had been proposed with no time limit on ratification, a subsequent Congress could determine the reasonableness of the time period in passing on the validity of a ratification. It would therefore follow, in my opinion, that when Congress initially proposes an amendment and sets the ratification period outside the text of that amendment, a subsequent Congress may extend that ratification deadline, provided the extension period does not do violence to the "contemporaneous" approval standard. In this regard, I would point out that when this extension resolution was originally introduced with an additional 7-year ratification period, I opposed the resolution because I felt it did strain the bounds of the contemporaneous approval standard. But, in my opinion, this more limited extension period of 3 years, 3 months and 8 days, is a reasonable timeframe which will still permit contemporaneous approval by the States.

Mr. Speaker, the story of America's greatness has been one of adapting to the changing times. Our civilization—be it seen in our economic and military might, or our social progress, or our thriving democracy—has not been achieved with the philosophy of standing pat. In fact, it has been achieved by looking ahead rather than backward.

There should no longer be much question that someday the equal rights amendment will be enshrined in the American constitution. This amounts only to a simple recognition of the 20th century reality that the role of women is changing; and to a simple faith in the responsiveness of the American system to such change. The real question that faces us is whether the 95th Congress is to be remembered as the one that came to grips with this change, or one that swept it again under the rug for another day.

I do not question the sincerity or motives of those who oppose the ERA. But I am afraid that exaggerated claims about the effect of the amendment have colored the issue with much more emotion than it deserves. In truth, the equal rights amendment is simple and straight-forward, and the product of the most extensive and thoughtful consideration over the last 55 years since it was first introduced in Congress. The scare stories that the amendment will encourage homosexual marriages or unisex public restrooms, put women in the front lines of combat or require them to work if they want to be homemakers, are not only contradicted by voluminous legislative history, but, moreover, by any degree of commonsense. The Constitution has force only insofar as it is interpreted and enforced by the courts, the Congress, and the President. Why is it assumed that these branches of our Government would not be even half-way reasonable in performing their solemn constitutional responsibilities?

The amendment does not mandate wholesale changes in human behavior and social custom; it merely secures legal rights. It is not a prescription for disrupting our social system; rather, it is an accommodation to the change that has already occurred, something meant to ease the transition as new values and social roles evolve on their own. Traditions will be eroded much more by time and inclination than by this amendment.

Instead, this amendment has only the benign purpose of eliminating discrimination based on arbitrary State and Federal law, and of requiring that people be treated as individuals rather than stereotypes. Is it conceivable we could ever find ourselves debating the merit of racial-based classification, or religious-based classification, or political-based classification? Why are matters of gender to be treated any differently?

It is not surprising that 35 States, representing three-fourths of our Nation's population, have already chosen to ratify the amendment. Unfortunately, in part due to obstructionist tactics, the amendment is still three States shy of ratification. A 7-year period for ratification was originally established, because it was thought useful and customary to spell out a deadline. Court opinions, however, seem to make it clear that the duration of the ratification period need only be a "reasonable" one, and that its definition is a procedural detail and political question entirely within the province of Congress to decide. If 7 years is thought reasonable, in terms of making the various ratifications "contemporaneous" and reflective of a "prevailing national consensus," then one is hard-pressed to make the case that less than half-again as much time crosses the line to become "unreasonable." Indeed, the 3 years, 3 months, and 8 days arrived at by the Judiciary Committee very much represents a compromise from the 7-year renewal supporters originally sought.

Mr. Speaker, the equal rights amendment has now become as symbolic as it is real. It is not only that the 14th amendment, historically intended to relieve racial discrimination and only gradually applied more broadly, has proved inadequate as a basis for addressing sex-based discrimination; it is also that the ERA has now become a token of the respect this country is willing to observe for the pursuit by women of the equal opportunity and individual achievement that America has always proclaimed its creed.

The ERA is not just a women's issue; fundamentally, it is an issue of freedom and justice, and, as such, it affects all of us. Congress, in particular, has an obligation to care about these ideals. I urge extension for the ERA.

Mrs. CHISHOLM. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I would first like to say that as a member of the subcommittee and the Committee on the Judiciary, I have come to the conclusion that it is necessary for final passage of this resolution that a two-thirds vote be required. I rise in opposition to the previous question on the rule and ask the Members to vote against the previous question so that we can offer an amendment to the rule to permit an up or down vote by this House on this very important constitutional question. Whether one is for it or against it, I believe that the issue needs to be addressed. The issue was not addressed directly on an up or down vote either in the subcommittee or the Committee on the Judiciary.

The issue we are addressing is not the merits of the equal rights amendment, of which I have been a long-time supporter and still am. It is the constitutional amendment process and the procedure to be followed. We must remember that whatever we do here today will be setting a precedent for future actions of later Congresses. I have tried to approach this matter objectively. We are not only concerning ourselves with the extension of time for ratification of the equal rights amendment, but we are also setting a precedent in the amendatory process of the Constitution, and because we are taking an unprecedented action, we should objectively examine all facets of this matter before deciding the substantive and procedural issues.

My research of the testimony and statements of the constitutional experts, the Supreme Court cases, the discussions of the constitutional debate, the Constitution, the statutes and precedents, have led me to the conclusion that the only proper constitutional procedure requires the use of a joint resolution passed by two-thirds of both the House and Senate.

The SPEAKER. The time of the gentleman has expired.

Mr. LOTT. Mr. Speaker, I yield 2 additional minutes to the gentleman from Missouri.

Mr. VOLKMER. I thank the gentleman.

I am supported in this conclusion by several constitutional authorities, namely, Erwin Griswold, former solicitor general and former dean of the Harvard Law School, Charles L. Black, Jr., sterling professor of law, Yale Law School; Professor Thomas I. Emerson, lines professor or law emeritus, Yale Law School, who said:

> I think the general principle should be that you either have a two-thirds vote . . . or a Presidential signature; and this is a sound general principle.

And Professor William Van Alstyne, College of William and Mary, who also supports a two-thirds vote.

So I ask a no vote on the previous question so that the House will have the

right to vote on this issue. Whether you are for or against the two-thirds requirement, surely you would not deny the House this opportunity.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Speaker, I rise in support of the remarks of the gentleman and in opposition to the rule.

I think it is most unfortunate that the merit of the individual cause is used as a substitute for constitutional substance here. The Coleman against Miller decision did not say, nor even hint, suggest, or imply in any way, shape or form, that this body had the right to make two different decisions, at different times, and in different ways, with respect to what constituted or should constitute a reasonable time for amendments to the Constitution. That is precisely what is being proposed here.

I well understand the emotional motivation and the necessary political expediency that is implicit in this kind of expectation and request of the House; but we are wrong if we do it this way. We are wrong constitutionally and we are wrong in terms of what this body should stand for in terms of a response to a very reasonable request, and that is the equal rights amendment.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Speaker, there is one option that ought to be available to us to consider in this very serious process that will not be available to us today unless an extraordinary thing happens, and that is defeating the previous question twice; but I think the Members ought to be aware there is another option described in two "Dear Colleague" letters that have gone to your offices to which very little attention may have been paid, perhaps. But you might be anxious to know that that additional option could be the fairest and best position for this House of Representatives to take with respect to the equal rights amendment; that is, in effect, the opportunity should be afforded to us to vote on the content of a new equal rights amendment which has been introduced in the House in House Joint Resolution 1066, which provides for the equal rights amendment to be submitted to the States again, but with a different section 2, which preserves to the States their role in our Federal system. It is exactly the same equal rights amendment, except that section 2 reads:

> The Congress and the several States shall have the power to enforce this article by appropriate legislation. This amendment shall not be so construed as to delegate to the United States any powers otherwise reserved to the States, or to the people.

That is the stumbling block problem of the equal rights amendment as currently proposed in section 2, which gives only to the Congress the power to enforce section 1 by appropriate legislation.

Many State legislators have felt that the Congress could and would preempt vast areas of law within the present jurisdiction of the United States, if the equal rights amendment is ratified in its present form. We will not have an opportunity to vote on that other option unless we defeat the previous question today.

Mrs. CHISHOLM. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Speaker, I thank the gentlewoman from New York for yielding to me this time.

We have heard many pronouncements coming from those who oppose this rule. Some have made constitutional pronouncements and judgments apparently forgetting that they are legislators—not judges. The gentleman from Mississippi began his comments saying why go through this agony and ecstasy and agony again?

I would say to the gentleman from Mississippi (Mr. LOTT) that women have been going through agony and ecstasy all their lives, and we shall continue to do so until the words "equal rights under the law shall not be denied because of sex," are a part of the Constitution. We shall continue unrelentingly as long as is necessary.

There have been other statements made here. For instance, the gentleman from Nevada (Mr. SANTINI), an excellent lawyer, states that we are misreading the Coleman case, that the case does not stand for Congress making one judgment at one time and another judgment at a subsequent time. The gentleman is correct. Coleman certainly does not stand for that. But Coleman also does not say that Congress does not have the total power and the total authority to work within the framework of time limitations under the authority of the mode of ratification.

What the Coleman case says is that we can set the time, and if we can set the time, we can change the time.

What we are doing now is saying that we need more time, and we are asking this House to give us more time. Two-thirds versus one-half? I hope the Members will not require a two-thirds vote either by way of amendment or by voting down the previous question on this rule.

If we want to follow parliamentary procedure, if we want to follow Jefferson's manual, every decision that is made under general parliamentary law may be made by majority decision. If an extraordinary majority is required it has been so specified by the Founding Fathers who were astute enough to tell us exactly when we should have a supermajority. When the Senate ratifies a treaty between the United States and a foreign country, when we are engaged in the matter of the impeachment of a President, when we are voting on the expulsion of a Member of Congress—these are instances where it is clearly stated that a two-thirds majority would be required.

Why, I ask my colleagues in the Congress, would we set it upon ourselves to require that we have a supermajority in this instance? Why would we impose the requirement of a supermajority in a matter which can clearly be decided by a simple majority? Why the supermajority?

Mr. Speaker, I support the rule. I hope the Members will support and vote for the rule, and I hope they will vote against anything which would be crippling and destructive of House Joint Resolution 638.

We need your support on this day, and you will honor the spirit of the Founding Fathers if you decide that on this day you are going to give this country, the United States of America, just a little more time to find itself.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FISH).

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. FISH. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I wish to rise and echo, if I may, the words of our colleague, the gentlewoman from Texas, Miss BARBARA JORDAN.

What more can really be said?—except perhaps to say that the negative symbol, if we vote against this today, will be heard around the world.

And that is not exaggerated. What does this say to the people of the developing countries and to the women in those countries? It says that even this country, the United States of America, does not really want to admit that women are equal citizens here.

What does it do to all the struggling people who are trying somehow to come out from under the terrible burdens this world has imposed upon women everywhere, and most awfully and most terribly in those areas where women are the poorest and the most deprived? What does it say?

It says that we are not prepared to accept women as equal citizens here, that this Nation under God, which was supposed to have a new birth of freedom, does not extend equal rights to women, and that somehow we did not really mean for it for half the population of this Nation.

I do not know what to say to my colleagues. How do we appeal to you? Nobody is going to be mistaken as to what we do here today. We discuss parliamentary procedures and voting the previous question, and we all know what is back of it. There is much emotion in some of the speeches here; they pretend to be concerned with matters that are strictly legal, but they are not. They are finding ways to avoid a step toward this new freedom. And that is the truth. They are evasions of a simple but important question. The positive symbol the adoption of the amendment is not even to be compared to the negative symbol that rejection would present.

Yes, women are equal citizens. That does not sound like much, does it? But when you say they are not, what does it say?

Mrs. CHISHOLM. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Speaker, we are told correctly that proposing a constitutional amendment requires a two-thirds vote of both Houses. But beyond that, we are told that unless House Joint Resolution 638 is enacted by a two-thirds vote it will have no more binding effect than a

concurrent resolution. To this I take exception, and will attempt to clarify the law as regards article V functions.

It has also been argued that Congress, under article VI, has but three ways it can create a legal obligation. We have been told that House Joint Resolution 638 is an attempt to create a legal obligation nowhere empowered in the Constitution.

My answer, Mr. Speaker, is that article VI has no relevance to the current debate over extending the time for ratifying the proposed equal rights amendment.

A unanimous Supreme Court stated in the case of *Dillon* v. *Gloss*, 256 U.S. 368 (1921),

> The power to amend the Constitution and the mode of exerting it are dealt with in article V * * *

The Dillon court later in that same opinion took care to reiterate that Congress power to act with regard to the amending process, including the power to establish a time period for ratification, comes from article V and not from Congress normal legislative powers. Indeed, this very point had been made the previous year in the case of *Hawke* v. *Smith*, No. 1, 253 U.S. 219 (1920).

In Hawke, the Court held that the power of State legislatures to ratify proposed Federal constitutional amendments found its source in article V and was not to be viewed as "legislation in the proper sense of the word," 253 U.S. at 229. In arriving at this result, the Court had occasion to reexamine one of its very early decisions, *Hollingsworth* v. *Virginia*, 3 Dall. 378 (1798), in which it had held that the President has no role to play in the process of amending the Constitution.

The "lesson" of Hollingsworth, as made clear by the court in Hawke, is that when Congress acts with regard to the constitutional amendment process, it does not perform an act of "ordinary" legislation that is subject to other procedural requirements in the Constitution. We look only to article V.

What we have then is an additional way that Congress can create a legal obligation. This occurs when Congress is performing an article V function. These actions by the Congress could be dealing with a time limit, choosing the method of ratification or certifying the validity of ratifications.

These court decisions tell us that when Congress sits to consider details of ratification, they are not considering legislation in its ordinary sense. Article V regulates the process. The power of Congress stems from article V itself and not out of the necessary and proper clause. The general rule whether or not an action by the Congress takes a simple majority is fully applicable here.

The Constitution is explicit where supermajorities are required. In those rare instances when the Constitution intends congressional action to require a two-thirds vote, it says so.

Article V of the Constitution prescribes a two-thirds vote only when Congress proposes a constitutional amendment. We are not here proposing an amendment. We are merely deciding whether a reasonable time for consideration by the States has passed. We are deciding whether a proposed amendment remains a vital contemporaneous issue so that debate and legislative considerations should be allowed to continue.

Article V leaves to the Congress matters of detail pertaining to reasonableness of time and the mode of ratification. Coleman versus Miller; Dillon versus Gloss. These article V actions are termed details and do not require a supermajority.

Applying the general rule, the Constitution does not require a supermajority, therefore, a simple majority will suffice.

I support the rule.

Mrs. CHISHOLM. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I wish to thank my colleague, the gentlewoman from New York (Mrs. CHISHOLM), for permitting me to speak on the rule.

Mr. Speaker, it is not often that we are granted an opportunity to speak up for human rights and to do something about human rights. And this is that opportunity.

We celebrated only recently our country's 200th birthday. But in part, that celebration was incomplete because women were not fully protected under the Constitution.

Just a few weeks ago, in the well-known *Bakke* case, a Justice of the Supreme Court reiterated the fact that even though the 14th amendment requires that all persons be afforded equal protection and that all persons be afforded due process of law, that the term "persons" did not fully apply to women. Now is the opportunity to change that and to help insure that there is a fair and full debate in the States over the issues of human rights and equal rights for women.

This rule that comes before the House today is designed to do the same thing, to assure a fair and full and open debate.

The rule is an open rule. It allows 2 hours of debate. It allows all germane amendments. It waives no points of order. It permits full and fair debate.

Those who get up to attack the rule have made arguments that are really not accurate, I would say to may colleagues. In the first place, they claim something—it is not clear what—about rescission. In fact, amendments regarding rescission are germane. In fact, the gentleman from Illinois (Mr. RAILSBACK) withdrew his request before the Rules Committee to make his amendment specially in order, recognizing, conceding and admitting that his amendment would be germane here. It is the intention of everyone who has been connected with obtaining this rule that amendments regarding rescission should be germane, because we think the House should vote on that issue.

Those who attack this rule say, "Well, let's have a vote on two-thirds." I want to make two simple points about that. In the first place, if the previous question is defeated, the resolution that they would put in order would not allow the House to vote on the issue of two-thirds. It would mandate a two-thirds vote. The opponents of this rule will, therefore, not permit the House to vote on this issue, not one bit—and do not be fooled by that claim.

Secondly, on the two-thirds requirement, only 1 out of 11 scholars who testified before the House Judiciary Committee said it was mandatory under the Constitution. Ten out of eleven did not argue that there was any constitutional requirement for a two-thirds vote to make this resolution effective.

Mr. Speaker, I hope the rule is sustained.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, ladies and gentlemen of the House, what we are about to do is to change the fundamental law of the land—the U.S. Constitution. It is very important that the process itself be free from question. To do otherwise is to encourage litigation and cast doubt over thousands of situations that arise under that process.

I think the Constitution requires that this action, if authorized at all, requires that it be done by two-thirds vote. Some think otherwise. The applicable cases indicate that the Congress is the ultimate body to resolve such questions.

The rule denies Congress the opportunity to vote on this question. I think this is wrong. It reflects on the integrity of Congress and reflects on the House of Representatives itself. It taints the entire process.

The only way to permit the House of Representatives the opportunity to decide this fundamental question for itself is to vote down the previous question and open the rule for amendment.

Contrary to what the previous speaker just said, the amendment to the rule does not mandate a two-thirds vote. The alternate rule would give the Members the opportunity to vote on whether we would require two-thirds or not. So, leaving aside for a moment the merits of the question, whether two-thirds are required or not, a decent respect for the process requires that we permit this body to determine this important question for itself. I urge the Members to vote down the previous question and give ourselves the opportunity to do what the Constitution tells us we should do.

I realize that it is difficult to ask the House not to support an open rule; however, we are faced with a most unique set of circumstances. The sponsors of House Joint Resolution 638 tell us they want no special favors or considerations and have, therefore, requested an open rule. Oddly enough, an open rule in this particular case is a limitation on the House's ability to consider amendments to this joint resolution.

The precedents of this House clearly prohibit amendments to the clause which proposes a joint resolution. Thus, an open rule could very well prohibit the House from making that determination.

On its face, the joint resolution does not speak to whether House Joint Resolution 638 requires a simple majority or a two-thirds majority vote for passage. Because we are taking an unprecedented step, all of the traditional sources which would normally help us resolve such a

question are silent. The Constitution does not offer any guidance. The Supreme Court has not addressed the issue specifically except to indicate that the amendment process is a matter for the Congress. The constitutional scholars who addressed this issue during our subcommittee hearings were divided over just what vote was necessary to pass this joint resolution.

The only consensus which seems to emerge after studying the authorities and the testimony of the scholars is that Congress must determine how this matter will be considered.

The Judiciary Committee did not have the opportunity to vote up or down on whether two-thirds was or was not necessary for the House to pass the joint resolution. The Rules Committee split 8 to 8 on simply giving the House the opportunity to decide. All I ask is that the House be permitted to do its duty and decide whether this resolution must be passed by a majority or a two-thirds vote.

It is also important to realize that while a rescission amendment may be in order, we have no guarantees. The rule should specifically make in order rescission amendments so that the House may work its will. If by some chance a point of order would lie against the amendment, which a majority of this House appears to support, the American people will have good reason to believe that the equal rights amendment will, in effect, be ratified by trickery and not by the established constitutional processes.

If this House is determined to extend the ratification period for the ERA, we would be foolish to attempt to taint the process. The sponsors of this extension have been so involved in parliamentary maneuvering in their efforts to secure passage of this resolution that they have forgotten the most important point: That is, whether the ERA will be ratified. If the American people believe that this extension was secured by manipulating the process, then a serious backlash will occur. The House must act responsibly on this question and insure that an amendment permitting rescissions and a vote on whether this motion should be considered by a simple majority or a two-thirds majority of the House are in order.

Mr. Speaker, I urge defeat of the previous question.

Mr. LOTT. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. WIGGINS).

Mr. WIGGINS. Mr. Speaker, the key vote will be on the previous question. I urge a no vote on the previous question to permit this House to work its will. At the risk of being arrogant, I am going to venture an opinion that the approval of this pending resolution by two-thirds of the House is constitutionally required if the resolution is to have any effect at all after January 3, 1979.

Article VI states that the supreme law of the land shall be the Constitution, laws enacted in pursuance thereof, and all treaties under the authority of the United States.

And there is no other way known to our Constitution to create a legal obligation. House Joint Resolution 638 is not a law, for it cannot and will not be submitted to the President. House Joint Resolution 638 is not a treaty. And House Joint Resolution 638 is not a proposed constitutional amendment, unless it is approved by two-thirds of the House.

If adopted by a majority vote, what then is House Joint Resolution 638? And the answer is: It is none of the above. If adopted, it is merely an opinion which will lack any force of law. To give any legal force to the resolution—and I am sure its supporters intend it to have legal force—it must be enacted pursuant to the Constitution and by a two-thirds vote. We have no other options.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. RUDD).

Mr. RUDD. Mr. Speaker, I will oppose any extension of time for the ratification of the so-called equal rights amendment, and I hope that other Members of the House will do the same.

My constituents in Arizona's Fourth Congressional District are overwhelmingly opposed to such a time extension for the ERA.

And I have received communications from leaders of the Arizona State Legislature, where the ERA has been considered every year since it was proposed by Congress for ratification, who strongly oppose continuing this controversy beyond the 7-year period initially allowed for ratification.

I personally feel that the issue before us is not really whether the equal rights amendment is good or necessary.

But those arguments have inevitably become a central issue of the debate.

This could hardly be avoided. Section 2 of the proposed amendment opens the door to a Federal Government takeover of all matters dealing with marriage, divorce, child raising, child support, and so forth, by requiring Congress to pass all legislation considered necessary to implement total equality of the sexes.

Quite apart from the argument of whether or not the proposed ERA is necessary to obtain equal treatment and equal opportunities for men and women, section 2 of the proposed amendment is a diabolical further intrusion of the Federal Government into areas of State and local government concern and jurisdiction.

There is no way to avoid considering this element of the ERA controversy in connection with this proposal to extend the ratification period.

And it is for this reason as much as any other that this proposed time extension should be defeated.

A friend of mine once remarked sadly that, in his view, women had always been superior. Now they just want to be equal.

I do not think that the failure of the necessary 38 States to ratify the proposed ERA within the traditional 7-year time limit should be construed as a defeat for the cause of equal rights.

We have made tremendous progress over the past decades, through statute law in some cases, but more importantly through a changing attitude. And women have brought about this change. I applaud them for their concern, and for their participation.

It now seems to me that they are running the risk of sacrificing their dignity and their respect by asking for a change in the rules.

Three outs, and the inning is over. But they want more than three strikes, and more than three outs, when the game is almost over, and the proponents of the ERA are not winning.

This outrages the American sense of fair play.

But there is more involved here than just a sense of what is fair. The proposed extension will inflict irreparable harm on the integrity of the Constitution and the amendment process.

We have, as James Madison informed us in Federalist Paper No. 43, a procedure for amending the Constitution which "guards against that extreme facility which might render the Constitution too mutable, and that extreme difficulty which might perpetuate its discovered faults."

My hope is that we keep it that way.

Mr. Chairman, I cannot overemphasize my belief that this bill to extend the ratification period of the ERA is a real and present danger. It flouts the Constitution, would be destructive of responsible tradition, and makes a mockery of prudent provisions established to protect the integrity of the constitutional process.

Since the first 10 amendments were ratified in 1791—the group we call our Bill of Rights—there have been nearly 6,000 proposed constitutional amendments introduced in the Congress. Only 22 of these proposed amendments since 1791 have been passed by the required two-thirds majority of both Houses and sent to the States for ratification. Only 16 have been ratified by three-fourths of the States and become part of the Constitution.

It would be well to remember that article 5 of the Constitution provides two avenues for amendment. I want to quote those provisions verbatim from the Constitution. It says—

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as one or the other Mode of Ratification may be proposed by the Congress: Provided that no Amendment which may be made prior to the year 1808 shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Alexis De Tocqueville, writing in his famous work "Democracy in America", states—

> The Federal system, therefore, rests upon a theory which is necessarily complicated and which demands the daily exercise of a considerable share of discretion on the part of those it governs.

The language of the proposals passed by the House and the Senate offering the ERA specifically called for ratification within 7 years.

In 1921, the U.S. Supreme Court, in its ruling in the case of Dillon against Gloss, stated—

Article 5 of the Constitution strongly implies that proposal and ratification were but succeeded steps in a single endeavor—

And further that amendments—

should be considered and disposed of presently—

And that—

ratification must be within some reasonable time after the proposal.

The Court stated that—

Nothing was found in Article 5 which suggested that an amendment once proposed was to be open to ratification for all time, or that ratification in some States might be separated from that in others by many years and yet be effective.

Clearly, any amendment must reflect the concurrent judgment of the required legislative bodies on a current proposal. In 1921, the term of 7 years was established as a reasonable period.

Every amendment to the Constitution added in the last 30 years has had the 7-year limitation. No amendment has taken as long as 4 years for ratification. The 24th amendment was ratified in 1 year and 6 months. The 23d amendment was ratified in 10 months.

The 22d amendment took 3 years and 11 months, but the 21st amendment was ratified in 10 months. The 20th amendment was ratified in 12 months, the 19th in 14 months, and the 18th in 18 months.

It would seem obvious to all of us that all parties involved—those in favor and those in opposition to the ERA—would recognize the possible destructive effect of extending the time limit for ratification of this proposed amendment, as proposed by legislation we are now considering.

We all know that laws are obeyed, not enforced. In this century, we have suffered the inevitable dislocation which occurs when citizens in disagreement with the law defy the law.

The social rebellion resulting from the Volstead Act, commonly known as Prohibition, is still remembered. If the time frame should be extended, and the ERA is ratified, it will certainly provide good cause for wholesale disobedience of the law.

To my mind, the action of those who propose to extend the time limit is comparable to the losers of an undisciplined, adolescent baseball team demanding the rules be changed, but only to suit them.

They want more than three strikes per player and more than three outs per inning in order to win. But they do not wish to allow additional strikes and outs for States that have already ratified ERA, in the event that these States wish to reconsider and rescind their ratification.

This action is more than sufficient grounds to question the sincerity and the maturity of those who now want to change the rules.

It is one-sided reasoning that Congress should reject. We cannot on the one hand require legislatures that have refused ratification to vote again and again on the ERA, which this legislation proposes, while at the same time refusing to allow States that have ratified the ERA to withdraw their ratification while the ratification process is still open.

It seems to me that this "heads I win, tails you lose" attitude is indicative of the arrogance now being manifested in those who are pressuring for an extension of time.

Eminent legal scholars have pointed out that the 7-year limitation was clearly a condition for ratification by those States which have voted in favor of ratification.

If the time limit is extended, the action of possibly 28 States is certain to be challenged on the solid ground that their original action embraced a covenant for the 7-year limitation.

It does seem strange to me that the sponsors of this proposed equal rights amendment, who appear to be fully persuaded of its merit, have not been forced by their failure to date to achieve ratification to reexamine the original proposal.

We should remember that proponents have been lavishly financed by tax dollars. The opponents of this amendment have been forced to depend upon the voluntary contributions of concerned citizens.

The wife of the President of the United States has lobbied State legislatures in favor of ratification. The President has taken a position in favor.

Those of us who oppose this bill are not merely unable to comprehend the true merits of this proposal, as its proponents have attempted to present them.

We are for equal treatment for women, equal pay for equal work, and all possible end to unwarranted discrimination. But these ends can be achieved—and are being achieved—through appropriate changes in people's attitudes and behavior, and where necessary by statutory changes in the law.

The proposed equal rights amendment is fraught with known and unknown dangers that enough State legislatures have had the wisdom to recognize, so that the necessary two-thirds ratification has not yet been obtained.

The proposed time extension for the ratification period is an unwarranted and diabolical assault on our constitutional process of amendment, and I urge its defeat.

Mr. LOTT. Mr. Speaker, to close the debate on our side, I yield my remaining time to the ranking gentlewoman of the House, the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, now we can appreciate the role of women in the Congress: I have 15 seconds, I understand.

Mr. Speaker, I would just simply say the basic concept here is this concept of fairness. I have seen those who oppose the ERA who wear buttons saying: "Vote for Fairness." I misunderstood this message. I thought they were on our side, because we the proponents of ERA have been the victims of unfairnesss.

I cite for the record the plea of the Washington Post which published an editorial called "ERA Resistance in Richmond," in which they said:

ERA: RESISTANCE IN RICHMOND

Once again a few members of Virginia's House of Delegates have kept their colleagues from voting on ratification of the Equal Rights Amendment. That isn't fair. And it isn't exactly in keeping with the sort of participatory democracy envisioned by the drafters of the Constitution.

The Constitution says that Congress "shall propose Amendments" that "shall be valid . . . when ratified by the Legislatures of three-fourths of the several States." Granted, Article V does not explicitly prevent Virginia's House Privileges and Elections Committee from bottling up ERA, as that panel has done since 1973 and last week voted 12 to 8 to do again.

But the spirit of the Constitution, at the very least, ought to encourage state legislatures to debate and vote on amendments that Congress has proposed. Changing the federal charter is a decision of far greater magnitude than the run-of-the-mill legislation the House usually considers. If representative government means much, it surely means that all the people, through their state representatives, should have a voice in that national decision.

Down in Richmond, though, four-fifths of the House of Delegates have never voted on ERA straight-forwardly, because a few of their colleagues—12 this year—have stood between the measure and the House and proclaimed, "It shall not pass." This may or may not reflect the views of most delegates or most Virginians. Nobody knows. ERA's backers are not counting on Virginia, though there are signs that the amendment does have considerable support throughout the state. The only fair way to find out is to have all the delegates answer a roll call—and then answer to their constituents for their votes.

Perhaps fairness is no longer a factor in this fray. Perhaps ERA has taken on so much emotional and political freight in Richmond that the House can no longer address it squarely at all. There have certainly been enough setbacks and shenanigans in the past six years to make even the most decorous ERA supporters scream a bit from sheer frustration. But the House of Delegates can still redeem itself. It should amend its rules, retrieve the measure from its committee, or otherwise bring ERA to a floor vote before the congressionally set deadline in March of next year.

The SPEAKER. The time of the gentlewoman from Massachusetts has expired.

Mrs. CHISHOLM. Mr. Speaker, I yield 1 additional minute to the gentlewoman from Massachusetts.

Mrs. HECKLER. I thank the gentlewoman from New York for yielding.

In this age of acronyms, the meaning of ERA is almost universally known: "Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex." It is a topic of nationwide debate. This debate goes beyond the substantive question of whether the ERA should or should not be the 27th amendment to the Constitution to a procedural issue of extending the deadline for its consideration by the States.

In my view, this procedural question of extension of the deadline for 7 years beyond the present March 1979, cutoff date goes to the heart of a concept basic to American society: the opportunity for full discussion of matters of national concern.

When the Congress overwhelmingly approved the ERA in the early part of this decade, it continued a recent practice of setting a 7-year limit for consideration by the States of a proposed amendment—no time limits at all were set for most of the first 20 amendments—in order to have the issue settled within a "reasonable" time. Reasonableness of time as to ERA was based partly on the

then prevailing view that the issue would be fully debated and acted upon—either positively or negatively—by middecade.

Instead, contrary to that view, the intensity of debate on this matter of significant political, social, and economic concern and the slowness of State legislatures in bringing the matter to a vote have combined to make the 7-year period now appear in retrospect to have been unreasonable.

At a time when more and more individuals, officials, and representatives of organizations are enterng the debate, there is the prospect that they will be denied their say, unless House Joint Resolution 638, which I am cosponsoring, is adopted, thereby extending the discussion period to March 1986. Complex economic issues such as discrimination against women in countless existing statutes, among them the social security law and the equal pay act, must be fully and fairly discussed, and the issue of supposed loss of rights must be fully considered, dispelling what are the myths and fictions, while resolving genuine questions.

Some States that have yet to act on ratification have no legislative sessions in 1978, among them Nevada and Arizona. In other States, such as Utah, where only the budget will be considered in 1978, legislators have used intricate procedural devices to preclude consideration of the amendment. Moreover, with the memberships of those legislatures slated to be voted upon in the November 1978, election, there is little opportunity—unless the period is extended—for voters to have their views, as expressed by their selections in the voting booths, truly reflected in legislative rollcall yeas and nays on the ERA.

Representatives of the Justice Department have testified that in their opinion the Congress has the constitutional and legal right to extend the deadline. When the ERA was drafted the 7-year provision was inserted in a procedural clause—the preamble—a clause which is separate and distinct from the ERA amendment already approved by 35 of the 38 needed States.

In my judgment Congress has not only the right but also the responsibility to extend the deadline, if only to demonstrate its concern for the issues to which the ERA responds, and to acknowledge the widespread public interest in and discussion of these issues.

I hope Congress will exercise that right and fulfill that responsibility, keeping the forum open for much-needed local, State, and national debate. To do otherwise—to allow the March 1979, cutoff to go into effect—would be to draw the curtain on many, both proponents and opponents, who are waiting in the wings to have their say.

Mrs. CHISHOLM. Mr. Speaker, to close the debate on the rule, I yield 4 minutes to the gentleman from New Jersey (Mr. RODINO), chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Speaker, I strongly urge the House to adopt the rule under consideration; it would be a mistake to defeat the previous question.

The Judiciary Committee did not approach its inquiry into this matter lightly. The constitutional and procedural questions were met head on—they were studied closely, they were the subject of lengthy testimony from the Nation's most eminent legal scholars.

Mr. Speaker, it is inaccurate to suggest that somehow we have overlooked the issue of whether House Joint Resolution 638 requires a two-thirds vote or can be passed by simple majority. That issue has been studied exhaustively by the committee.

Let me assure the House that a very hard look has been taken at that very question.

The Department of Justice was clear in its testimony before the Judiciary Committee. Assistant Attorney General Harmon said this:

> With regard to the question whether the resolution to extend the period must be approved by a two-thirds vote in each House or whether a simple majority is constitutionally sufficient, it is my opinion that a two-thirds vote is not required.

Mr. Harmon cited two Supreme Court cases to substantiate the Department's position. He pointed out that Dillon against Gloss and Coleman against Miller, read together, establish that it would frustrate constitutional principles to require a supermajority to resolve issues subsidiary to the text of the proposed amendment itself. And he concluded by saying:

> Moreover, a requirement of a two-thirds majority would be incompatible with the operating principle of our Constitution that those cases in which a greater than majority vote are to be required are clearly contemplated and made explicit in unmistakable language.

The committee, however, probed further. It sought the opinion of important constitutional thinkers outside the Department. And it found support for the Department's position. Professor Tribe of Harvard, Professor Emerson of Yale, Professor Ginsburg of Columbia—they all assured the committee that only a majority vote was required to pass House Joint Resolution 638.

Under the decisions of the Supreme Court, Mr. Speaker, and by historical precedent two things are clear: an amendment to the Constitution may become valid only if ratified "within some reasonable time" after its proposal, and the Constitution commits to Congress both the power and the duty to decide whether that implied condition of reasonableness has been satisfied. And the Justice Department emphasizes there is no reason whatsoever to believe the Constitution requires other than a majority vote on that issue, or on any issue subsidiary to the actual proposal of the amendment. Such was the case at the time of the ratification of the 14th amendment, and there is simply no reason to defeat the previous question on the rule to test that issue yet again.

This is a subsidiary matter. In considering it, surely, we need not impose upon ourselves a requirement not imposed by the Constitution itself. I urge adoption of the rule.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 171, not voting 18, as follows:

[Roll No. 702]

YEAS—243

Addabbo	Fish	Myers, Michael
Akaka	Fisher	Neal
Alexander	Fithian	Nix
Ammerman	Flood	Nolan
Anderson, Calif.	Florio	Nowak
	Foley	Oakar
Anderson, Ill.	Ford, Mich.	Oberstar
Andrews, N.C.	Ford, Tenn.	Obey
Annunzio	Forsythe	Ottinger
Applegate	Fowler	Panetta
Ashley	Fraser	Patten
Aspin	Frenzel	Patterson
AuCoin	Gammage	Pattison
Baldus	Garcia	Pease
Baucus	Gaydos	Pepper
Beard, R.I.	Giaimo	Perkins
Bedell	Gilman	Pettis
Beilenson	Glickman	Pickle
Benjamin	Gonzalez	Pressler
Biaggi	Green	Preyer
Bingham	Hanley	Price
Blanchard	Hannaford	Pritchard
Blouin	Harkin	Pursell
Boggs	Harris	Rahall
Boland	Hawkins	Rangel
Bolling	Heckler	Reuss
Bonior	Heftel	Richmond
Bonker	Holland	Rinaldo
Bowen	Hollenbeck	Rodino
Brademas	Holt	Roe
Breckinridge	Holtzman	Rogers
Brodhead	Horton	Roncalio
Broomfield	Howard	Rooney
Brown, Calif.	Hughes	Rosenthal
Brown, Ohio	Jeffords	Rostenkowski
Buchanan	Jenrette	Roybal
Burgener	Johnson, Calif.	Ryan
Burke, Calif.	Johnson, Colo.	Sarasin
Burke, Mass.	Jordan	Scheuer
Burlison, Mo.	Kastenmeier	Schroeder
Burton, John	Keys	Seiberling
Burton, Phillip	Kildee	Sharp
Byron	Kostmayer	Simon
Carney	Krebs	Smith, Iowa
Carr	Krueger	Smith, Nebr.
Carter	Leach	Solarz
Chisholm	Lederer	Spellman
Clausen, Don H.	Leggett	Staggers
	Lehman	Stark
Clay	Levitas	Steed
Cleveland	Lloyd, Calif.	Steers
Cohen	Long, La.	Steiger
Collins, Ill.	Long, Md.	Stockman
Conable	Luken	Stokes
Conte	Lundine	Studds
Conyers	McCloskey	Thompson
Corman	McCormack	Thornton
Cornwell	McFall	Traxler
Cotter	McHugh	Tucker
Coughlin	McKinney	Udall
D'Amours	Maguire	Ullman
Danielson	Mahon	Van Deerlin
Dellums	Markey	Vander Jagt
Derrick	Marks	Vanik
Dicks	Mattox	Vento
Diggs	Meeds	Walgren
Dodd	Metcalfe	Waxman
Downey	Meyner	Weaver
Drinan	Mikulski	Weiss
Early	Mikva	Whalen
Eckhardt	Miller, Calif.	Whitten
Edgar	Mineta	Wilson, Bob
Edwards, Calif.	Minish	Wilson, C. H.
Eilberg	Moakley	Wilson, Tex.
Emery	Mollohan	Wirth
Ertel	Moorhead, Pa.	Wolff
Evans, Colo.	Moss	Wright
Evans, Del.	Murphy, Ill.	Yates
Evans, Ind.	Murphy, N.Y.	Yatron
Fary	Murphy, Pa.	Zablocki
Fascell	Murtha	Zeferetti
Fenwick	Natcher	

NAYS—171

Abdnor	Goldwater	Myers, Gary
Ambro	Goodling	Myers, John
Andrews, N. Dak.	Gore	Nedzi
Archer	Gradison	Nichols
Armstrong	Grassley	O'Brien
Ashbrook	Gudger	Pike
Badham	Guyer	Poage
Bafalis	Hagedorn	Quayle
Barnard	Hall	Quie
Bauman	Hamilton	Quillen
Beard, Tenn.	Hammer-schmidt	Railsback
Bennett	Hansen	Regula
Bevill	Harsha	Rhodes
Brinkley	Hefner	Roberts
Brooks	Hightower	Robinson
Brown, Mich.	Hillis	Rose
Broyhill	Hubbard	Rousselot
Burke, Fla.	Huckaby	Rudd
Burleson, Tex.	Hyde	Runnels
Butler	Ichord	Santini
Cavanaugh	Ireland	Satterfield
Cederberg	Jacobs	Sawyer
Chappell	Jenkins	Schulze
Clawson, Del	Jones, N.C.	Sebelius
Cochran	Jones, Okla.	Shuster
Coleman	Jones, Tenn.	Sikes
Collins, Tex.	Kasten	Skelton
Corcoran	Kazen	Skubitz
Cornell	Kelly	Slack
Crane	Kemp	Snyder
Cunningham	Kindness	Spence
Daniel, Dan	LaFalce	St Germain
Daniel, R. W.	Lagomarsino	Stangeland
Davis	Latta	Stanton
de la Garza	Lent	Stratton
Delaney	Livingston	Stump
Derwinski	Lott	Symms
Devine	Lujan	Taylor
Dickinson	McClory	Thone
Dingell	McDade	Treen
Dornan	McDonald	Trible
Duncan, Oreg.	McEwen	Volkmer
Duncan, Tenn.	McKay	Waggonner
Edwards, Ala.	Madigan	Walker
Edwards, Okla.	Mann	Walsh
English	Marlenee	Wampler
Erlenborn	Marriott	Watkins
Evans, Ga.	Martin	White
Findley	Mathis	Whitehurst
Flippo	Mazzoli	Whitley
Flowers	Michel	Wiggins
Flynt	Miller, Ohio	Winn
Fountain	Mitchell, N.Y.	Wydler
Frey	Montgomery	Wylie
Fuqua	Moore	Young, Fla.
Gephardt	Moorhead, Calif.	Young, Mo.
Gibbons	Mottl	
Ginn		

NOT VOTING—18

Breaux	Milford	Shipley
Caputo	Mitchell, Md.	Sisk
Dent	Moffett	Teague
Harrington	Risenhoover	Tsongas
Le Fante	Ruppe	Young, Alaska
Lloyd, Tenn.	Russo	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Russo against.

Mr. Mitchell of Maryland for, wtih Mrs. Lloyd of Tennessee against.

Mr. Le Fante for, with Mr. Breaux against.

Mr. Moffett for, with Mr. Shipley against.

Until further notice:

Mr. Dent with Mr. Caputo.

Mr. Harrington with Mr. Ruppe.

Mr. Risenhoover with Mr. Milford.

Mr. Sisk with Mr. Tsongas.

Messrs. ROSE, WATKINS, and THONE changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR A TWO-THIRDS VOTE OF MEMBERS PRESENT AND VOTING ON FINAL PASSAGE OF HOUSE JOINT RESOLUTION 638

(Mr. QUILLEN asked and was given permission to address the House for 1 minute.)

Mr. QUILLEN. Mr. Speaker, at the conclusion of my remarks I shall offer a resolution involving a question of the privileges of the House and ask for its immediate consideration.

Mr. Speaker, the "Resolved" clause of my resolution demands a two-thirds vote on final passage of the constitutional resolution extending the ERA. At the appropriate time I will offer my privileged resolution.

The SPEAKER. The Chair will state to the gentleman from Tennessee (Mr. QUILLEN) that now is the time for the gentleman to offer his resolution.

PRIVILEGES OF THE HOUSE—PROVIDING FOR A TWO-THIRDS VOTE ON MEMBERS PRESENT AND VOTING ON FINAL PASSAGE OF HOUSE JOINT RESOLUTION 638

Mr. QUILLEN. Mr. Speaker, I rise to a question of the privileges of the House and offer a privileged resolution (H. Res. 1315) involving a question of the privileges of the House, and I ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

First, the Chair will state that he has had an opportunity to examine the resolution as offered by the gentleman from Tennessee (Mr. QUILLEN), and in the opinion of the Chair the resolution presents a question of the privileges of the House and may be considered under rule IX of the rules of the House.

The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 1315

Whereas H.J. Res. 638 of this Congress amends H.J. Res. 208 of the 92nd Congress, proposing an amendment to the Constitution;

Whereas H.J. Res. 208 of the 92nd Congress was passed by an affirmative vote of two-thirds of the Members present and voting, as required by Article V of the Constitution, and submitted for ratification on March 22, 1972;

Whereas the integrity of the process by which the House considers changes to H.J. Res. 208 of the 92nd Congress would be violated if H.J. Res. 638 were passed by a simple majority of the Members present and voting; and

Whereas the constitutional prerogatives of the House to propose amendments to the Constitution and to impose necessary conditions thereto in accordance with Article V of the Constitution would be abrogated if H.J. Res. 638 were passed by a simple majority of the Members present and voting;

Resolved. That an affirmative vote of two-thirds of the Members present and voting, a quorum being present, shall be required on final passage of H.J. Res. 638.

Mr. EDWARDS of California. Mr. Speaker, I move to table the resolution.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 230, nays 183, not voting 19, as follows:

[Roll No. 703]

YEAS—230

Addabbo	Fisher	Myers, Michael
Akaka	Flood	Natcher
Alexander	Florio	Nix
Ammerman	Foley	Nolan
Anderson, Calif.	Ford, Mich.	Nowak
	Ford, Tenn.	Oakar
Anderson, Ill.	Forsythe	Oberstar
Andrews, N.C.	Fraser	Obey
Annunzio	Frenzel	Ottinger
Ashley	Gammage	Panetta
Aspin	Garcia	Patten
AuCoin	Gaydos	Patterson
Baldus	Giaimo	Pattison
Baucus	Gilman	Pease
Beard, R.I.	Glickman	Pepper
Bedell	Gonzalez	Perkins
Beilenson	Green	Pettis
Benjamin	Hanley	Pickle
Biaggi	Hannaford	Pressler
Bingham	Harkin	Preyer
Blanchard	Harris	Price
Blouin	Hawkins	Pritchard
Boggs	Heckler	Railsback
Boland	Heftel	Rangel
Bolling	Holland	Reuss
Bonior	Hollenbeck	Richmond
Bonker	Holt	Rinaldo
Brademas	Holtzman	Rodino
Breaux	Horton	Roe
Brodhead	Howard	Rogers
Brown, Calif.	Hughes	Roncalio
Buchanan	Jeffords	Rooney
Burgener	Jenrette	Rose
Burke, Calif.	Johnson, Colo.	Rosenthal
Burlison, Mo.	Jordan	Roybal
Burton, John	Kastenmeier	Ryan
Burton, Phillip	Kemp	Sarasin
Byron	Keys	Sawyer
Carney	Kildee	Scheuer
Carr	Kostmayer	Schroeder
Cavanaugh	Krebs	Seiberling
Chisholm	Krueger	Sharp
Clausen, Don H.	LaFalce	Simon
	Leach	Smith, Iowa
Clay	Lederer	Smith, Nebr.
Cleveland	Leggett	Solarz
Cohen	Lehman	Spellman
Collins, Ill.	Lloyd, Calif.	St Germain
Conable	Long, La.	Staggers
Conte	Long, Md.	Stark
Conyers	Luken	Steers
Corman	Lundine	Stockman
Cornwell	McCloskey	Stokes
Cotter	McCormack	Studds
Coughlin	McDade	Thompson
D'Amours	McFall	Traxler
Danielson	McHugh	Tucker
Dellums	McKinney	Udall
Derrick	Maguire	Ullman
Dicks	Markey	Van Deerlin
Diggs	Marks	Vander Jagt
Dodd	Mattox	Vanik
Downey	Mazzoli	Vento
Drinan	Meeds	Walgren
Early	Metcalfe	Walker
Eckhardt	Meyner	Waxman
Edgar	Mikulski	Weaver
Edwards, Calif.	Mikva	Weiss
Eilberg	Miller, Calif.	Whalen
Emery	Mineta	Whitten
Ertel	Minish	Wilson, Bob
Evans, Colo.	Mitchell, N.Y.	Wirth
Evans, Del.	Moakley	Wolff
Evans, Ind.	Moorhead, Pa.	Wright
Fary	Moss	Yates
Fascell	Murphy, Ill.	Yatron
Fenwick	Murphy, N.Y.	
Fish	Murphy, Pa.	

NAYS—183

Abdnor	Applegate	Badham
Ambro	Archer	Bafalis
Andrews, N. Dak.	Armstrong	Barnard
	Ashbrook	Bauman

Beard, Tenn.	Gradison	Neal
Bennett	Grassley	Nedzi
Bevill	Gudger	Nichols
Bowen	Guyer	O'Brien
Breckinridge	Hagedorn	Pike
Brinkley	Hall	Poage
Brooks	Hamilton	Quayle
Broomfield	Hammer-schmidt	Quie
Brown, Mich.	Hansen	Quillen
Brown, Ohio	Harsha	Rahall
Broyhill	Hefner	Regula
Burke, Fla.	Hightower	Rhodes
Burke, Mass.	Hillis	Roberts
Burleson, Tex.	Hubbard	Robinson
Butler	Huckaby	Rostenkowski
Carter	Hyde	Rousselot
Cederberg	Ichord	Rudd
Chappell	Ire.and	Runnels
Clawson, Del	Jacobs	Santini
Cochran	Jenkins	Satterfield
Coleman	Johnson, Calif.	Schulze
Collins, Tex.	Jones, N.C.	Sebelius
Corcoran	Jones, Okla.	Shuster
Cornell	Jones, Tenn.	Sikes
Crane	Kasten	Skelton
Cunningham	Kazen	Skubitz
Daniel, Dan	Kelly	Slack
Daniel, R. W.	Kindness	Snyder
Davis	Lagomarsino	Spence
de la Garza	Latta	Stangeland
Delaney	Lent	Stanton
Derwinski	Levitas	Steed
Devine	Livingston	Steiger
Dickinson	Lott	Stratton
Dingell	Lujan	Stump
Dornan	McClory	Symms
Duncan, Oreg.	McDonald	Taylor
Duncan, Tenn.	McEwen	Thone
Edwards, Ala.	McKay	Thornton
Edwards, Okla.	Madigan	Treen
English	Mahon	Trible
Erlenborn	Mann	Volkmer
Evans, Ga.	Marlenee	Waggonner
Findley	Marriott	Walsh
Fithian	Martin	Wampler
Flippo	Mathis	Watkins
Flowers	Michel	White
Flynt	Miller, Ohio	Whitehurst
Fountain	Mollohan	Whitley
Fowler	Montgomery	Wiggins
Frey	Moore	Wilson, C. H.
Fuqua	Moorhead, Calif.	Winn
Gephardt	Mottl	Wydler
Gibbons	Murtha	Wylie
Ginn	Myers, Gary	Young, Fla.
Goldwater	Myers, John	Young, Mo.
Goodling	Natcher	Zablocki
Gore		Zeferetti

NOT VOTING—19

Caputo	Moffett	Teague
Dent	Pursell	Tsongas
Harrington	Risenhoover	Wilson, Tex.
Le Fante	Ruppe	Young, Alaska
Lloyd, Tenn.	Russo	Young, Tex.
Milford	Shipley	
Mitchell, Md.	Sisk	

The Clerk announced the following pairs:

On this vote:

Mr. Mitchell of Maryland for, with Mrs. Lloyd of Tennessee, against.

Mr. Teague for, with Mr. Russo, against.

Until further notice:

Mr. Dent with Mr. Ruppe.

Mr. Risenhoover with Mr. Sisk.

Mr. Moffett with Mr. Caputo.

Mr. Le Fante with Mr. Harrington.

Mr. Tsongas with Mr. Milford.

Mr. Shipley with Mr. Pursell.

Mr. Charles Wilson of Texas with Mr. Young of Alaska.

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. EDWARDS) to offer a motion.

POINT OF ORDER

Mr. ASHBROOK. Mr. Speaker, I make a point of order against the present consideration of House Joint Resolution 638.

Mr. Speaker the committee report on House Joint Resolution 638, House Report 95–1405, clearly takes the position that the resolution about to be called up amends statutory law and does not amend the constitutional amendment which was submitted to the States by House Joint Resolution 208 adopted on October 12, 1971, by the House and March 22, 1972, by the other body. This position is further evidenced by the view of the majority of the committee that only a simple majority is required for the passage of the pending resolution, which position was just affirmed by vote of the House on tabling the Quillen resolution of privilege and in voting down the previous question on the rule.

Apparently the committee and supporters of the pending resolution feel that it will only amend the preamble of House Joint Resolution 208 which they deem to be statutory.

That being the case, I call attention of the Chair to clause 3 of rule XIII of the rules of the House, the so-called Ramseyer rule, which requires that any joint resolution amending "any statute" must contain in the report a proper printing showing the statutory changes set out in distinctive type. The report on the pending resolution does not comply, or even attempt to comply with the Ramseyer rule and, therefore, I make a point of order that it is not in order to consider the resolution at this time until such compliance is achieved.

Mr. EDWARDS of California. Mr. Speaker, may I be heard on the point of order?

The SPEAKER. The gentleman from California (Mr. EDWARDS) will be heard on the point of order.

Mr. EDWARDS of California. Mr. Speaker, I rise in opposition to the point of order raised by the gentleman from Ohio (Mr. ASHBROOK).

It is the position of the House Committee on the Judiciary that a "Ramseyer" is not required, and I ask for a decision against the point of order.

The SPEAKER. The Chair is prepared to rule.

In the opinion of the Chair, the joint resolution does not amend any law and a Ramseyer is not required.

The Chair will cite rule XIII on page 485 of the Rules of the House of Representatives:

In order to fall within the purview of the rule, the bill must seek to repeal or amend specifically an existing law. (Cannon's VIII, 2235).

So the point of order raised by the gentleman from Ohio (Mr. ASHBROOK) is not in order.

PARLIAMENTARY INQUIRIES

Mr. WIGGINS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. WIGGINS. Mr. Speaker, upon the conclusion of our consideration of House Joint Resolution 638, including the adoption of any amendments to it, when the question is put on the final passage of that resolution, must the vote of the House to adopt the joint resolution be by a simple majority of those present and voting or by two-thirds of those present and voting?

The SPEAKER. In response to the parliamentary inquiry raised by the gentleman from California, the Chair feels that the action of the House in laying on the table House Resolution 315 was an indication by the House that a majority of the Members feel a majority vote is required for the final passage of House Joint Resolution 638. The Chair would cite the precedent contained in Cannon's VIII, section 2660, that affirmative action on a motion to lay on the table, while not a technical rejection, is in effect an adverse disposition equivalent to rejection.

The Chair, by ruling that House Resolution 1315 properly raised a question of the privileges of the House under rule IX, believed it essential that the question of the vote required to pass House Joint Resolution 638 be decided by the House itself. The House now having laid that resolution on the table, the Chair feels that the result of such a vote, combined with the guidance on this question furnished by the Committee on the Judiciary on page 6 of its report, justifies the Chair in responding that, following the expression of the House, House Joint Resolution 638 will be messaged to the Senate if a majority of those present and voting, a quorum being present, vote for passage.

Mr. WIGGINS. I have a further parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. WIGGINS. Do I understand the ruling of the Chair correctly to be that a vote not to consider a privileged resolution is equivalent to a rejection of the text of the resolution itself?

The SPEAKER. The vote was not on the question of consideration. The Chair will state that he believes he has answered the question raised in the gentleman's original inquiry. The Chair has stated that a motion to table is an adverse disposition.

Mr. WIGGINS. Mr. Speaker, I understood the answer, then, to be "Yes?"

The SPEAKER. The answer is "Yes."

PROPOSED EQUAL RIGHTS AMENDMENTS EXTENSION

Mr. EDWARDS of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 638) extending the deadline for the ratification of the equal rights amendment.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. EDWARDS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 638), with Mr. PIKE in the chair.

The Clerk read the title of the joint resolution.

The CHAIRMAN. Without objection, the first reading of the joint resolution will be dispensed with.

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, I wonder whether we can have order, first of all.

Further reserving the right to object, Mr. Chairman, can the Chair do the

Committee of the Whole the honor of stating the rules of the House governing the conduct of those in the galleries during debate.

The CHAIRMAN. The Chair will simply state, as the gentleman is well aware, for the benefit of those in the gallery that those in the gallery are to remain silent during the debate and to show by neither expressions of approval or disapproval their views as to the proceedings on the floor.

Mr. BAUMAN. I thank the Chair and withdraw my reservation of objection.

The CHAIRMAN. Without objection, the further first reading of the joint resolutions will be dispensed with.

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from California (Mr. EDWARDS) will be recognized for 1 hour and the gentleman from Virginia (Mr. BUTLER) will be recognized for 1 hour.

The Chair recognizes the gentleman from California, (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I suggest that a reading of the newspapers over the past few weekends emphasizes the importance of this legislation.

Does the country need ERA? Listen to this.

The Justice Department admits that discrimination against women in professional positions at the Department of Energy has been so flagrant that the women will be paid up to $12 million in damages.

Since January 1975 women at the agency were hired for same jobs as men but were paid $3,000 less a year.

And, regardless of merit, the men got promoted.

And the U.S. Farmers Home Administration agreed to eliminate what one civil rights official called an alarming bias against women in farm loan programs.

Women farmers were being denied loans and farm widows were discriminated against at most critical time.

The regulations had references to "the borrower's wife."

Those examples just came to light recently and took place in our Federal Government.

In the U.S. Federal Code, the U.S. Commission on Civil Rights in 1977 found over 800 provisions which would assign to women an inferior role.

If the discrimination is that pervasive in the Federal Government, can you imagine how huge it is in the remainder of our national life.

A key problem is while the Supreme Court affords "close judicial scrutiny" to charges of discrimination against racial minorities, it has been unwilling to label sex an "inherently suspect classification" while ERA is pending.

In the 1973 Frontiero case (411 U.S.C. 677) Justice Powell's concurring opinion, joined in by Justice Blackmun and Chief Justice Burger, he said the Court was not going to make that decision—that it was up to the legislative process, specically the ratification or nonratification of ERA.

Mr. Chairman, cases since Frontiero have not resolved the issue. Yes, cases have been won by women. Some Federal and State laws have been enacted to eliminate sex bias.

But the case by case route is incoherent, expensive, and divisive. A single national mandate is required. Ratification of ERA is essential to achieve equity for the majority of American citizens.

Indeed, failure to enact this legislation—as reported by Judiciary Committee—will be taken as a signal by the courts and by the legislators that we do not want progress to continue—that we do not want equal rights for American women.

When the extension legislation proposed many months ago was assigned to the Judiciary Subcommittee I chair, as was the original ERA constitutional amendment 6 years ago, we determined to take a long, hard look at the proposition.

We wanted to be certain of two things: Is it constitutional and just as important; is it a wise and good thing to do?

On the first question; it is constitutional. The record compiled by the subcommittee is substantial. We have proceeded slowly and with caution. We have explored the issue carefully.

Some of the best legal minds in the country have been consulted. The large majority is of opinion that Congress has the authority to enact such legislation by majority vote. There are some who disagree, but in the end a majority of the subcommittee and of the full Judiciary Committee strongly believe that the legal case for extension is much stronger than the case against it.

Indeed, Mr. Chairman, the Judiciary Committee is more united in favor of this extension legislation than it was for the original ERA bill 6 years ago. Then, the Judiciary Committee refused to endorse the ERA proposal, and reported to the full House and emasculated version that was totally unsatisfactory.

The House then, in its wisdom, overturned the Judiciary Committee, rejected the ruinous amendment (Wiggins) approved by the committee, and went on to approve the bill by the overwhelming majority of 354 to 23.

Today we will have a replay, in a certain sense, of a vote on an amendment that if approved, would destroy the legislation just as surely as the Wiggins amendment of 6 years ago would have.

That amendment is the Railsback proposal that purports to amend article 5 of the Constitution.

The difference is that 6 years ago the Judiciary Committee supported Mr. WIGGINS by a single vote. In Mr. RAILSBACK's case, the Judiciary Committee defeated his amendment by a vote of 21 to 13. We ask that you make the same wise decision today.

Since James Madison first expressed the view nearly 200 years ago that the act of ratification by a State must be "in toto" and "forever," Congress, the courts, and virtually all legal scholars who have addressed the question have accepted the principle that article V of the Constitution recognizes the validity only of affirmative acts. With regard to the constitutional amendment process, the rule has meant that a State that first rejects a proposed amendment may later ratify it and a State, once it ratifies an amendment, may not later rescind the earlier ratification. Simply stated, article V gives a State the power to bind subsequent legislatures by its ratification, but not its rejection of a proposed constitutional amendment.

In 1788, the convention called in New York to consider ratification of the newly proposed Constitution followed Madison's principle. In 1789, the State of North Carolina, and in 1791, Pennsylvania, did the same. In 1868, the full Congress applied Madison's principle when it declared ratification of the 14th amendment. In 1870, 1913, 1919, and 1920 the Secretary of State (exercising the authority now granted to the General Services Administration under 1 U.S.C. 106b), recognized and applied Madison's principle in proclaiming ratification of the 15th, 16th, 18th, and 19th amendments. The Senate most recently acknowledged the historic acceptance of the principle in 1971, when it was considering a bill to establish procedures for calling constitutional conventions.

In 1939, seven Justices of the Supreme Court reaffirmed Madison's principle in *Coleman* v. *Miller*, 307 U.S. 433, stating the view that the law on this question had been settled by "historic precedent." Although the Coleman decision characterized the question as a "political" one, we share the view of Prof. Noel T. Dowling expressed the following year that the result reached by the Court "involve[d] something akin to a decision on the merits" and that this aspect of Coleman was in reality "a pronouncement on the law."

In light of the foregoing history, we believe that Madison's principle that a State's ratification must be "in toto" and "forever" is firmly embedded in our constitutional jurisprudence and that State legislatures and legislators are bound by that rule in 1978 as they have been throughout the life of the Constitution. Congress power, derived from article V, to tend to the subsidiary details of the amendment process cannot be extended to sanction recognition of the validity of a State's purported rescission, which would abrogate this basic constitutional principle.

Mr. RAILSBACK says in his amendment that even if article 5 does not permit rescission by the State, Congress can nevertheless provide for rescission by a majority vote resolution.

There are two answers to that proposition.

First, if article V itself requires a State's ratification to be "in toto" and "forever," we believe it indisputable that a congressional action providing for rescission would be nothing less than a repudiation of Madison's principle. If Congress wants to do that, it must amend article V.

Second, nothing the 95th Congress does with regard to rescission would prevent the 96th or a subsequent Congress

from refusing to recognize the validity vent the 96th or a subsequent Congress were to be presented the question of ratification of the proposed equal rights amendment. This proposition flows from the fundamental tenet that one Congress cannot bind a future Congress with respect to questions of constitutionality and policy, and also from the conclusion that questions involving the constitutional amendment process are governed by article V and not by the legislative judgment of a particular Congress. In other words, questions such as rescission inevitably must be resolved as a matter of constitutional interpretation rather than as a matter of policy choice.

This is not to say that Congress may not in appropriate circumstances express its views on constitutional questions, including the question of rescission. The 95th Congress might desire to communicate to future Congresses and to the States its view that the validity of rescissions by the States during an extension period should be recognized by Congress should the occasion to do so present itself. We do not recommend that course. As Prof. Charles Black wrote in a letter to Chairman Rodino in 1972, (arguing against the wisdom of S. 215), even though such a bill would not bind future Congresses, "it might be used as a specious talking-point supporting the assertion of an obligation which, on reflection, cannot be created, morally or practically," by the 95th Congress. On the contrary, based on 190 years of constitutional precedent, it may be unfair to the States to suggest at this time that their rescissions would be recognized as valid and binding by a future Congress.

There are some who say that ratification has had a fair shot at winning and that we are trying to change the rules of the game by extending the time.

Well, it is not a game. It is a matter of justice for American women.

The issue of discrimination against women is a vital American issue and the people and the legislators should have ample time to discuss it and vote on it.

The time limit of 7 years is not a part of the resolution that would be added to the Constitution.

Indeed, it was not until the 18th amendment that a time limit was included. The first 17 had none. The 19th had none.

All of this history, coupled with the Supreme Court's ruling in Dillon against Cross that Congress has a wide range of power in prescribing subsidiary details such as a reasonable time and the underscoring in Coleman against Miller impels the conclusion that this Congress does indeed have the power to extend the original 7 year period.

Mr. Chairman, other considerations will be raised in the reading of the bill. I assure you that any and all of the possible objections have been considered in great depth by the Judiciary Committee.

I assure you that the legislation we bring to the House today is not only constitutionally sound. It is also good and decent legislation.

ERA is more vitally needed and more widely supported than in 1972. Hardly a day—hardly an hour—passes without some incident of discrimination because of sex.

The ERA is needed for women—and for American men too—as the 14th amendment was needed a hundred years ago for black Americans.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. Mr. Chairman, I yield myself 1 additional minute, and I yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Chairman, I would like to have a question answered that will play a key role in my decision on this measure. Furthermore, I think it is important to the extension vote that we get the question and answer on the record.

Mr. Chairman, will the gentleman assert for the record that the equal rights amendment is a measure which does not recognize the right to abortion to exist anywhere in the Constitution, including that which was held to exist by the Supreme Court in the Roe against Wade decision?

Mr. EDWARDS of California. Mr. Chairman, in answer to the gentleman, I do so assert. Roe against Wade was premised on a theory and right to privacy and not on the grounds that sex discrimination was present.

Mr. RINALDO. Mr. Chairman, if the gentleman will yield further; in other words, there is no connection between the extension of ERA and the right to abortion?

Mr. EDWARDS of California. That is correct.

Mr. RINALDO. Mr. Chairman, I thank the gentleman, and based on that assurance, I will support the extension.

Mr. BUTLER. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I yield to the gentleman from Illinois (Mr. CRANE), the next President of the United States.

Mr. CRANE. Mr. Chairman, I thank my distinguished colleague from Virginia for yielding.

Mr. Chairman, no one is in favor of artificially imposed inequality, and certainly reasonable people do not want to deny women either equal opportunity or equal pay for equal work. For all of that, I rise in opposition to efforts to extend the period of ratification of the equal rights amendment. Approving House Joint Resolution 638 would be a serious evasion of our collective and individual responsibilities to defend and protect the Constitution of the United States.

The very process of amending the Constitution is at stake; such a venerable document should be altered only when a strong consensus so dictates. The process is slow and deliberate by choice. Article V expresses the congressional duty of specifying the means of amending the document. Congress must decide if a time limit is necessary on the ratification period of a constitutional amendment and has done so since early in this century. Any retroactive change in the time frame because the desired result has not been achieved violates the solemn spirit with which any constitutional amendment should be approached.

Clearly, in the case of the equal rights amendment, Congress has performed its duty. In 1972, the amendment was sent to the States clearly bearing a 7 year time limit for ratification, as all such proposals since the 18th amendment have included. In light of the fact that all amendments to the Constitution have been ratified in 4 years or less, this is a fair time requirement. Only three amendments have taken more than 3 years—the 11th, the 16th, and the 22d—and five have taken less than 1 year to receive the required number of approvals by State legislatures—the 12th, 13th, 20th, 21st, and the 26th. Not only is this time limit reasonable; it is necessary to insure contemporaneity. The ratification of an amendment must reflect the will of the people from all sections of the country at relatively the same period of time.

Indeed, there is nothing contemporaneous about extending the ratification period 3 or more years. Even should such an extension be granted, I am not sure that the required number of States could be found in support of the amendment. Thirty of the 35 States that have approved the amendment did so within 1 year of its submission to the States. During the last 5½ years, only five States have been added in the approval column; in the same period, four have voted to rescind approval. Over this period, the equal rights amendment has been rejected either in committee or on the floor nearly 90 times in the legislatures of the 15 States that have never ratified. The statistics clearly support the fact that this equal rights amendment has stalled. Efforts by the supporters at this point could best be spent toward securing the necessary votes before the curtain falls on March 22, 1979, or plotting the strategy for success with a new piece of legislation.

Should this extension be granted, the question of what to do with those States that have approved it prior to this time is raised. A study by Prof. Jules B. Gerard, professor of law at Washington University, indicates that 24 of the States that have favored the proposed amendment up to this point included the time limit either directly or indirectly in their deliberations. Responding studies by the Justice Department and the Congressional Research Service present the case that the 7-year time limit is not part of the amendment itself; therefore, it is dispensable language. This does not concur with past experience. The limitation language included in past amendments has been retained; indeed, the time constraints on the 18th, 20th, and 21st amendments continue to clutter up the Constitution and will remain there forever.

A venerable document such as the Constitution should be altered only when a strong consensus so dictates. The belief that all persons deserve equal liberties boasts such a mandate; that the equal rights amendment is the necessary means to this end is not so clear. One fact not shadowed by doubt is that to extend the period of ratification would set bad precedent. Altering the ratification process because of pressure from the groups involved is a step I am wary of taking.

The end of the ratification period does not preclude further debate, and there is no obstacle to reintroduction of the same or a similar resolution. However, extending the period of approval amid questions of the constitutionality of such an action is dangerous indeed. I caution my enlightened colleagues to avoid such an act.

Mr. BUTLER. Mr. Chairman, all of us are faced with a very difficult decision; one which I believe most of us would prefer not to make. In light of the virtual certainty that the other body will not consider this measure this year and the promise of considerable litigation carrying over well into any extended period, I am puzzled why proponents have asked all of us to dive into political quicksand and rush to resolve several very difficult constitutional questions.

We should consider this resolution with the full realization that it is without precedent, and that we are dealing with the fundamental law of the land—the Constitution of the United States. Every step we take involving this process should be in complete compliance with the Constitution and free from doubt. If we err, it should be on the side of caution.

Article V of our Constitution establishes the procedures for its amendment. The process is by design a deliberate one. The obstacles to change are substantial. If 13 of the 49 State legislatures in the country decline to affirmatively ratify a proposed constitutional change, they can frustrate its most fervent proponents. In my judgment, this is as it should be. It is a careful and solemn process.

The framers purposely crafted the process this way in order to permit fundamental changes to our Constitution only after a large majority of the American people have agreed to the change at substantially the same time. It has worked: there have only been 26 amendments to the Constitution.

No amendment in our Constitution has taken more than 4 years to achieve ratification, and most have been ratified within just 1 year.

One year after its submission to the State legislatures, 30 States had ratified the equal rights amendment. Since that time, only 5 more States have ratified, but 4 have rescinded their earlier ratifications.

As the time for ratification of the equal rights amendment extends further and further beyond the time of its first submission and earliest ratifications, it is less and less certain that a substantial majority of the American people still support the proposed amendment.

It is well to remember, however, that extension of the ratification period has very little, if anything, to do with the merits of the equal rights amendment itself. The extension question just happens to have been raised with respect to this amendment because it is in trouble. The constitutional process is the issue; and, of course, that is the reason a number of the witnesses before the subcommittee who have voted in their legislatures or in this Congress for the equal rights amendment are opposed to this extension.

Any action taken by the Congress, however, will create precedents affecting ratification of future constitutional amendments. Thus, we are confronted with an important policy decision with extensive implications—far beyond the equal rights amendment.

There is considerable doubt about the authority of Congress to consider an extension of the time limitation for ratification. That fact alone should, but will not, be decisive.

Congress has the power, proponents tell us, to change the time because one Congress cannot bind a subsequent one on a procedural matter; and this time limitation is merely a matter of procedure and not substance. They rely for support on two Supreme Court cases—*Dillon* v. *Gloss*, 256 U.S. 368 (1921), and *Coleman* v. *Miller*, 307 U.S. 433 (1939).

In Dillon, the Supreme Court decided Congress had the authority under article V to fix a time for ratification as an incident to its power to determine the mode of ratification. The only requirement of Congress when it fixes a definite time is that the time limitation must afford the States a reasonable time to ratify. In Coleman, the Court added that what constitutes a reasonable limit of time for ratification is a political matter, soley in the power of Congress to determine under article V.

In short, proponents tell us that Congress has the authority to set time limitations and determine their reasonableness. What they fail to note, however, is that neither Dillon nor Coleman is on point. In Dillon, the time limitation was in the text of the amendment and could not have been changed by any subsequent Congress once set by the proposing Congress. In Coleman, the proposed amendment did not contain any time limitation. In fact, the Court looked for a time limit in both the text of the proposed amendment and in the resolution of submission; then and only then, did the Court reject petitioners' argument that the Court can and should decide what is a reasonable period for ratification.

What these cases tell me is that Congress does not possess the power to extend the time. The power of Congress ends when it enacts the resolution of approval, only to be reopened when it determines whether there has been ratification or not. To suggest that a different effect results because a Congress decided to unclutter the Constitution and place the time limitation in the proposing clause rather than in the text, misreads the case law.

All agree that Congress is prohibited from changing its designated mode of ratification or the text of a pending amendment. Subsequent Congresses are certainly bound to honor these article V prerogatives selected by a prior Congress. A time limitation is no more or less procedural than designating a mode of ratification. And when the evidence suggests, as it does here, that inclusion of a time limitation was necessary to secure a coalition of votes sufficient to propose the amendment to the States, I submit the time period is unalterable.

The constitutional amendment process is analogous to the conclusion of a contract between parties. The Congress has made an offer to the States that a change in the Constitution will be effected and a compact concluded if three-fourths of the State legislatures agree within 7 years. Any change in the terms of the offer by extension of time is a withdrawal of the earlier proposal.

Accordingly, the States have been led to believe that failure to ratify within 7 years will terminate the offer. Moreover, they have relied upon this assurance. To now alter the terms of the offer would be a breach of faith unwarranted by the circumstances.

House Joint Resolution 638 might be more appealing to me if an affirmation of the States' power to rescind prior ratifications were included in the resolution. The contractual relationship in the ratification process between the Congress and the States as envisioned by article V makes it completely inappropriate for one party to alter the terms of its part of the bargain without permitting the other party to at least reconsider its previous acceptance. Isn't it only fair that an extension of time should permit consideration of this proposed amendment by all parties, not just those who have failed to accept the unaltered offer during the first time period?

In sum, House Joint Resolution 638 in its present form is inappropriate. It is so clearly surrounded by unanswered questions and immersed in doubt that it will result in poor policy and set a bad precedent. It is an unwarranted intrusion in the constitutional amendment process, which can only be perceived by the States and the people as a breach of faith.

Moreover, it is simply unnecessary. The alternative to this resolution, which is clearly the proper approach, is resubmission. That would not violate the process. Congress will not have to take this very questionable step, and once and for all, we will learn whether the equal rights amendment is still politically and socially viable and wanted by our constituents as much in 1979 as it was in 1972.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for yielding.

As one Member who voted for the original equal rights amendment I rise in opposition to the legislation which would extend the time limitation for ratification of the equal rights amendment. My position on this is not based on the merits of the amendment itself, but rather on the lack of merit of the time extension legislation. I have heard it said today that those of us who oppose this legislation are demonstrating arrogance by making constitutional pronouncements, and I would answer that there is nothing more arrogant than the assumption that right and goodness resides on only one side of a debatable question and I would further suggest that John Stewart Mill was correct in his estimation of the importance of the right of private judgment. I have also heard that we should pass this time extension because it is a symbol, but I would say that we are not

dealing here with symbols. We are dealing with written law, and there are written laws and rules governing how we may enact laws. I have also heard that somehow those of us who oppose the extension are engaging in sophism for purposes of avoiding the ERA, but I would say that the issue of sophism is entirely esoteric in this case.

We will not be voting on the equal rights amendment today; we will be voting on a joint resolution, to extend the allowable time for ratification of a proposed amendment to the Constitution. And I construe that the weight of evidence indicates that what we are considering today is improper legislation, that it is unfair, and finally that it is unconstitutional.

Why is this improper legislation—if, indeed, the term "legislation" can be applied in this case? Article VI of the Constitution gives Congress only three ways to create a legal obligation—treaties, laws, and constitutional amendments. In none of these cases may Congress act alone; it must act in concurrence with another institution of government, either the States or the President. Implicitly, Congress does not have the power to create new methods of legal obligation, but that is exactly what we are trying to do. House Joint Resolution 638 will not be sent to the President for signature and it will not go the to States for ratification. This is a totally new legislative vehicle. I believe my colleague from California (Mr. WIGGINS) is correct when he states:

> What an anomalous result it would be that our system requires a law to appropriate a penny but allows Congress—unchecked—to alter the amendment process during the pendency of a proposed constitutional amendment.

Why is the extension unfair? I have heard many slogans, but not one of them mitigates the fact that we are changing the rules at the last minute. If we would be outraged at changing the rules in a football game and furthermore rigging those rules to the benefit of one side, how much more of an outrage is it when we are trying to do precisely that for something as serious and as far reaching as amending the Constitution? Even such stalwarts of the liberal press as the Washington Post and the New York Times has called this legislation unfair and urged its rejection. Both those publications have strongly endorsed the passage and ratification of ERA, but they detect something terribly wrong with the time extension.

The proponents want 3 more years to try and change the minds of the 15 States which have thus far refused to ratify; but the resolution does not allow those who have voted "yea" to change their minds and vote "nay." In other words, we are going to change the rules to allow action on the amendment, but we are only going to allow one kind of action—ratification. I have heard it said today that this extension is fair because the opponents of ERA are "liars"; that their claims are "preposterous" and that more time is needed to straighten their thinking out. Talk about arrogance. I would say, Mr. Chairman, that all reason and all scholarship does reside with one side, and perhaps—just perhaps—those legislatures which have rejected the amendment have done so with scholarship and reason.

Finally, and most importantly, the time extension imposes several serious constitutional questions.

The Supreme Court in Dillon against Gloss stated that article V of the Constitution strongly implies that "proposal and ratification were but succeeding steps in a single endeavor"; that amendments "should be considered and disposed of presently"; and that "ratification must be within some reasonable time after the proposal." Is the Congress unduly interferring with the ratification process which is strictly under the purview of the States? I say we are. We sent them an amendment and told them in the resolution that their ratification would be automatically rescinded if three-fourths of the States failed to ratify within system years. The Constitution does not provide for the Congress' participation in the ratification process nor does it provide for going back to the Congress for another vote on the issue.

This amendment is to be passed by a simple majority in the House. I say this is patently unconstitutional. It took a two-thirds majority to pass the resolution containing the equal rights amendment, but we are now going to try and amend that resolution by a simple majority. The Congress did not vote for the equal rights amendment in absence of the time limitation. It voted on the resolution which contained the amendment. How then can we constitutionally propose to amend the resolution in this way?

The Judiciary Committee has stated that there is no legal authority for the Congress to shorten the time period; nor does the Congress have the authority to change the amendment itself. If there is no legal or constitutional basis for these two actions, then where, oh where, is that authority for time extension? I would construe that the absence of authority in the first two instances, indicates absence in the third.

In closing I would like to share a quote from the play, "Man for All Seasons." I recognize that there is an enormous amount of emotion surrounding this debate and I do not minimize the import of this issue to those who support the ERA, but even in the pursuit of something you believe in totally, does the end justify the means? Please think about the principle discussed in the following:

> What would you do, Roper, cut a great road through the law to get to the devil? And when the last law was down, and the devil turned round on you—where would you hide—the laws all being flat? This country is planted thick with laws and from coast to coast—Man's laws, not God's—and if you cut them down, do you really think you could stand upright in the winds that blow then?

Mr. EDWARDS of California. Mr. Chairman, I yield 4 minutes to the distinguished chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Chairman, no order of business can be as important to the House as its commitment to the constitutional protection of equal rights—unless perhaps it is its concern for the integrity of constitutional processes.

Because the resolution before us today directly affects both of these issues, it is a matter of paramount importance. It needs careful analysis and it requires an honest confrontation of issues.

I have given much thought to House Joint Resolution 638 because it is a matter that raises difficult questions. But the Judiciary Committee has not shied from difficult issues in the past, nor has this House.

Mr. Chairman, this resolution is the fruit of an 8 month study. It is on balance a reasonable proposal. It is a workable proposal. It merits the support of the full House.

The resolution needs to be considered in the context of House Joint Resolution 208, adopted by the 92d Congress in 1972. That resolution, submitted to the States for ratification pursuant to article V, proposed a 27th amendment to the Constitution of the United States.

In part, it stated that "equality of rights under the law shall not be denied or abridged by any State on account of sex."

House Joint Resolution 208 also included the following:

> The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the Legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress.

The 7-year period enunciated by the resolution will expire on March 22 of next year—less than 8 months from today. As of this date, legislatures of 35 States have ratified the amendment. Thirty-eight ratifications, however, are required to satisfy the article V requirement of ratification by three-fourths of the States. In addition, legislatures in four States have adopted resolutions purporting to withdraw or rescind their previously certified ratifications. Clearly, the debate is still ongoing and viable. The Judiciary Committee believes a 3-year, 3-month extension of that debate—in light of the important constitutional principles involved—is a reasonable and workable proposal.

Initially, House Joint Resolution 638 proposed a 7-year extension of the time allowed for ratification. The committee, however, felt that such an extension—equal in time to the initial period granted in 1972—would be excessive.

The committee, however, also focused on issues that are far more significant perhaps than the period of time extended, or even perhaps than the ERA itself. At issue is the constitutional process of amendment. At stake is the meaning of article V. What this Congress does by House Joint Resolution 638 will have ramifications that will apply to all proposed amendments to the Constitution—to the role of the Congress in proposing them and to the role of the States in ratifying them.

The Subcommittee on Civil and Constitutional Rights, so ably chaired for nearly a decade now by our friend and

colleague DON EDWARDS, was not unmindful of that fact. Mr. EDWARDS, when he opened the subcommittee's hearings a year ago, made clear that the issue was not simply whether one was for or against the ERA. Long days of hearings were held, constitutional lawyers were consulted and the most eminent students of American law were placed on the record regarding the constitutional and procedural issues raised by the resolution.

Mr. Chairman, the report of the Judiciary Committee is 64 pages long. I believe it proceeds at the highest level of constitutional debate. I believe it fairly and fully presents the issues for the House. I think the House has a responsibility to address those issues. And as it does, I believe it will conclude—as the committee concluded—that the cause of equal rights surely warrants the adoption of this modest and reasonable resolution.

Mr. BUTLER. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, if the only purpose of this proposed extension of time for ratifying the ERA is to provide equal pay for equal work, then we certainly would not have to go through this ordeal. We already have the authority legislatively to require equal pay for equal work. There should not be any question about that subject. That is not the issue which we are debating here today. One problem with the proposal before us is that it is unprecedented. It imports all kinds of legal and constitutional doubts. It is going to foist all kinds of litigation on the courts and will involve those who we are trying to benefit. If this measure is enacted this whole subject of equality will be in doubt and in litigation and in limbo for perhaps years and years to come.

Mr. Chairman, I cooperated with the distinguished gentleman from California (Mr. EDWARDS) in 1972 as he handled the equal rights amendment on his side and I handled it on our side, and we succeeded in getting a near unanimous vote. I think there were about 24 votes against this proposal when we adopted it here. And I have supported ratification of ERA in the States, including the State of Illinois, and I would venture to say that the State of Illinois will ratify this amendment before the end of the year. Then, all that is needed is just two more States between now and next March 22, 1979.

What do we have? Five or six more months. They all have legislative sessions except one or two, and the opportunity for ratification is there. But what are we doing? We are wasting our strength and energy and losing our support for ERA through this very unwise and unprecedented and, probably, unconstitutional motion that we are going through here. I think it is a most unfortunate step that we are taking. We are not talking about the merits of ERA here today; we are talking about an extension of time. We are talking about binding a future Congress. We are talking about doing something inconsistent with what was done by a prior Congress. We are providing for a departure from a practice that was adopted 60 years ago. For 60 years we have provided for ratification of constitutional amendments within a 7-year period. And, as a matter of fact, no constitutional amendment that has been ratified has taken longer than 4 years, and all but two of them have been adopted in less than 2 years.

Thirty of these 35 States adopted this constitutional amendment within the first year, and it has taken until now for the next 5 to come along.

But, there is still time for the other three to come along, and that is the area to which we should be devoting our attention. I know we are going to have the subject of rescission here before us in the form of a proposed amendment. I am going to vote against rescission, I might say, because I do not think rescission should be a part of the ratification process. But, I think if we extend the time, I think rescission is implied. I think we will open the gates to rescission in all the 35 States that have already ratified.

If we adopt House Joint Resolution 638 we will be resubmitting ERA to the 50 States with the shortest time limit that has even been provided for the ratification of a constitutional amendment. I do not see how we could be more unwise. I do not see how we could put this subject more in limbo, more in jeopardy, than by supporting this extension. Consequently, it is my hope that we will vote against this proposed extension even though it has been stated that it will never be acted upon in the other body anyway.

But, regardless of that, we should stop devoting our energies on this proposal here in the Congress of the United States. We cannot ratify; we cannot provide one State's ratification in this body. It can only be done in the 50 States. If we do lose out—and on March 22, 1979, less than 38 States have ratified the equal rights amendment, then, what I say is, let us submit it again, and then submit it to State conventions just as the repeal of prohibition amendment was submitted, and get ratification through the State convention process. No amendment was adopted more speedily than that amendment.

We could use that process here. That is a reasonable alternative. But this proposed extension of time for ratification is no alternative at all. It seems to me that this is defeatism. It is a confession that we cannot get ERA ratified by the necessary 38 States, and so we are going to have to extend the period of time. During the extended period, we are apt to have more rescissions, it seems to me, than we are going to have ratifications.

In 1972, I was the chief Republican supporter of ERA in the House, I fought in committee and on the floor against all sorts of limits on equality that then-Chairman Celler and then-ranking Republican McCulloch and former Senator Sam Ervin wished to place on ERA. Although we lost in committee, the House soundly rejected the committee amendments and ERA scored a major victory.

My support for ERA continues undiminished today. When the idea of asking for an extension was first raised last year, I met with several women's organizations in my district to discuss the desirability of such a measure. In their opinion and mine, extension was not a good idea. It appeared to be bad strategy, both legally and politically.

Legally, House Joint Resolution 638 raises many unanswered and unanswerable questions. Do we have the power to amend a proposal of the 92d Congress after 35 States have ratified? If, as proponents say, one Congress cannot bind another, why do we have to act at all? If one Congress cannot bind another, why should we try to bind future Congresses? If Congress can rescind the conditions imposed on ratification, are States bound by their prior ratification? Does the extension nullify those ratifications? Or at least must an extension to be valid permit rescission? Do States generally have the power to rescind ratifications? If not, does extension by necessity create that power? Are these questions reachable by Congress or are they matters of constitutional interpretation for the Supreme Court to resolve? If Congress can act, must it be by a two-thirds vote of each House or by a simple majority? If the latter, must the President sign the resolution? Either way, if Congress can act to extend the time, must it not also have the power to reduce the time?

Well, with all these questions to be answered, the Subcommittee on Civil and Constitutional Rights called in legal scholars of their choice. As one might expect, a majority of those who testified agreed that Congress had the power. But somewhat unexpectedly, there was no agreement how we had the power and there was no agreement on the many other issues I recounted. Unfortunately, the printed hearings do not include statements by Sam Ervin and by Professor Wright.

But even if each and every one of these legal questions could be answered in favor of House Joint Resolution 638, passage of this measure would hurt—not help—ERA. I am certain that discussion of extension has already had some adverse effect. Supporters have more and more come to focus their attention on Congress even though Congress cannot furnish a single ratification. And whatever attempts there may have been for special sessions to ratify ERA, they no longer seem as necessary while there is hope for an extension.

But beyond that the basic political argument in favor of extension is invalid. Proponents say that more time is needed so the national debate on this vital issue may continue. But that is not what House Joint Resolution 638 does. It allows only States who have rejected ERA to participate in this continuing debate. A State that voted yes in 1972 is excluded from the extension. A State that voted no is invited to reconsider. Thus to the American public and to State legislators, House Joint Resolution 638 appears not to be neutral on the issue. Neutrality could be achieved if all 50 States were permitted to participate in the national debate on ERA. But an extension that treats all States equally might well be a net loss for ERA.

Such an extension may well turn out

to be a loss for ERA because it is, in effect, a resubmission of ERA with the shortest time limit ever imposed for the ratification of a constitutional amendment. And one can reasonably assume that the four States that have recently rescinded would do so again. So proponents may have to achieve a net gain of seven States and not merely three. The contest will be waged in all 50 States so that supporters could not concentrate their efforts on winning only three more ratifications. As a practical matter—and on that basis I must make my judgment, an extension on such terms would not benefit ERA.

Thus, either way, whether House Joint Resolution 638 permits rescission or does not, ERA is hurt. Rather than risk so worthy a cause on so unwise a course, it would seem politically and legally a superior strategy to abandon extension efforts immediately and try to win three more States by next March 22. Should that effort fail, then Congress could resubmit ERA once again, having written official rebuttals to opponents' specious arguments in committee reports, and perhaps designate that the mode of ratification be by State conventions instead of by the State legislatures.

I am confident that by this procedure the ERA would be part of the Constitution well before June 30, 1982. This procedure would enable State legislatures to be bypassed and allow the ratification decision to be made by elected delegates. This was the very procedure used to repeal prohibition and gain ratification of the 21st amendment, which incidentally is the only other proposed amendment that was plausibly opposed on "moral" grounds. That procedure is ideally suited for ERA. Yet, for all practical purposes, this superior alternative is foreclosed if Congress agrees to an extension. For if supporters convince Congress to grant an unprecedented extension and fail to succeed nevertheless, it is doubtful that Congress would by a two-thirds vote of both Houses give ERA a third chance.

Mr. Chairman, you do not have to be a constitutional scholar to see that House Joint Resolution 638 is a politically and strategically bad idea.

There are 35 States that have ratified the equal rights amendment—up to the present time. It is my expectation that Illinois will complete ratification in November. Then there will be needed ratification by only two additional States in order for ERA to become part of our Constitution. All but one of the 15 States that have not yet ratified the ERA amendment will have legislative sessions before the March 22, 1979, deadline. Let us devote our efforts toward ratification instead of extension.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from New Jersey (Mrs. MEYNER).

Mrs. MEYNER. Mr. Chairman, I rise in support of House Joint Resolution 638. As a woman, and as a Member of this body, I am deeply committed to the passage of the equal rights amendment and to the extension of the time limit for the States' ratification.

This resolution is designed to allow the voices both for and against the equal rights amendment to be heard. It will allow this controversial debate to be fully considered by the American people and the State legislatures. I do not believe that any Member of this House can refute the fact that the equal rights amendment has been the object of uncertainties and misunderstandings. Yet, at the bottom of these arguments—clouded by fears of unisex toilets and the demise of the American family—rests a basic human rights issue. I do not find it "unfair" as the opponents of House Joint Resolution 638 do, to request that we provide the necessary time for a full and honest debate of the issue.

Profound social change is not hastily accomplished. Nor should it be. It took more than a century and a civil war to secure basic human rights for the blacks of this country. It took almost three-quarters of a century to secure women's sufferage. And, it took almost 50 years before the Congress adopted the equal rights amendment. And now, by subjecting it to an arbitrary time limit, this work may be undone.

Mr. Chairman, as we look at the time required to effectuate political and social change, I think that we should look closely at the 15 States that have not ratified the amendment. With all due respect for my colleagues from those States, I submit that we are discussing several States that have been somewhat slow to embrace social and political changes in the form of constitutional amendments. Seven of these fifteen ratified the 19th amendment since 1950. And one State has never ratified that amendment. To expect the supporters of the ERA to garner the necessary votes in those States in the remaining time, is not only unrealistic, but the fundamental unfairness issue of this debate.

Last month, we witnessed one of the largest demonstrations in recent history. Thousands of people—men and women—came to Washington to rally in support of the amendment. A recent Harris poll indicates that 57 percent of adult Americans support this extension of the time limit for ratification. I can think of few issues that face the Congress and the people that are more vital and more relevant than the inclusion of women in the Constitution.

Mr. BUTLER. Mr. Chairman, I yield 8 minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, let me say at the outset that I have been a sponsor of equal rights amendments in principle and practice since voting for it in 1971, and I genuinely believe that there is still a need for an equal rights amendment. Recently in my district I got out a press release urging men and women to attend a rally addressed by Maureen Regan and Judy Carter urging that the voters in Illinois and the legislators in Illinois approve by the three-fifths supermajority vote the ERA in Illinois.

But to me the issue of rescission, the issue of extension without rescission is far different than the equal rights amendment itself. The question of extension, particularly by a majority vote, is a new one, unprecedented, never before tried by this body.

Without question we are by our actions on this extension resolution writing on a blank page of constitutional law and in my opinion we must take care to write fairly and precisely so that the image we create will not come back to haunt us during consideration of some future constitional amendment.

What is the real issue that confronts us today? Why are so many of us concerned about a one-way extension? That is what we are talking about: a one-way extension.

Let me explain in the case of Dillon against Gloss, one of the few Supreme Court decisions interpreting article 5 of the Constitution, it was made clear that in order for a constitutional amendment to be validly adopted, there must be submission of the proposed amendment to the States followed by ratifications "sufficiently contemporaneous * * * to reflect the will of the people in all sections at relatively the same period * * *" Submission and contemporaneous approbation: Nothing more and nothing less is required for the adoption of a constitutional amendment.

But what is the history of the equal rights amendment? It was submitted to the States over 6 years ago. Thirty States within the first year ratified, and since that time five States have ratified and four States have attempted to rescind. The average time theretofore for States ratifying constitutional amendments that have been adopted was under 2 years. In other words, all of the other amendments that have been adopted were done in less than 2 years, with the exception of one which took 3 years and 6 months and another which took 3 years and 11 months.

It seems to me that it would be fundamentally unfair for us to pass a one-way extension, thereby perhaps foreclosing those, that may have ratified it in the first 7 years, the opportunity to reconsider, if they desire. To provide an extended period of years for ratification but not for reconsideration in my opinion smacks of expediency. To many Americans such an action would suggest that Congress has decided to amend the Constitution by whatever means it finds necessary and at whatever the price. Despite the nobility of the ends sought by the proponents of the equal rights amendment, these ends do not, in my opinion, justify the means which give rise to the appearance of impropriety. I am not alone in this belief, and I want to make this point. There are many, many proponents that have seen fit to editorialize about the extension, differentiating between extension and the equal rights amendment itself.

The New York Times, the Washington Post, the Washington Star, the Chicago Sun Times, the Charlotte Observer, the Baltimore Sun, the New Republic and a host of other newspapers and magazines have editorialized their opposition to the extension, at least the extension without rescission for just that reason.

Let me quote what some of these publications had to say.

The Washington Post concluded:

Congress has put time limits on recent proposed amendments for good reason: to ensure that ratification, if achieved, will reflect a national consensus on a fundamental constitutional change. If the time period for approving ERA is going to be extended at the last minute, surely states that have already ratified should be allowed to reconsider and, if they wish, rescind those votes. The pending legislation would not permit that.

The New Republic observed:

It doesn't seem quite fair that one side can change its mind but the other cannot. It also undermines the apparent purpose of the ratification machinery that two-thirds of the states approve of a new amendment simultaneously.

The New York Times stated:

The nation's founders wisely prescribed a slow and difficult process for amending the Constitution, to protect it from transient politics and policy. They left it to Congress to decide how long the states would be given to vote their approval on an amendment. Any retroactive change in this time schedule, because the set period did not produce a desired result, would plainly offend the solemn spirit of the amendment process.

Finally, the Baltimore Sun noted:

The Supreme Court has also said, and common sense dictates, that the amending process ought to be "timely" and "contemporaneous." Fourteen years is not too long a period in which to seek a consensus, assuming that all changes in public opinion during that period are allowed to register. Otherwise the Constitution would be altered (and this would be bad precedent) with one set of states from the early 1970s and another set from the middle 1980s. It would count states where public opinion shifted in one direction but not those where it shifted the other way. To so amend the Constitution, even for a cause so meritorious as ERA, is neither justified nor, given the Railsback idea, necessary.

These are opinions and editorial comments of newspapers and magazines which have supported the equal rights amendment.

Those of us on the House Committee on the Judiciary have done a great deal of homework because of the importance of the pending resolution. I had a chance to read the testimony of the constitutional scholars and I read the Supreme Court decisions in the Coleman and Dillon cases, and the memorandums of law supplied by various parties to this legislative effort. I found it persuasive that a noted constitutional scholar, Charles L. Black, sterling professor of law at Yale, stated unequivocally before the House Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary.

* * * that it would be entirely impermissible to extend the time for ratification without also extending the time for rescission.

In fact, four out of the seven constitutional scholars appearing before the House Subcommittee examining the equal rights amendment extension testified that Congress does have the power to provide a statutory right of rescission.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAILSBACK. Mr. Chairman, may I ask the gentleman from Virginia if I may have 2 additional minutes?

Mr. BUTLER. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Just last week, a professor of law from the University of Illinois and a co-author of a treatise on constitutional law, who appeared before Senator BAYH's Senate Subcommittee on the Constitution, during a hearing on ERA, added his support for a statutory right of rescission when he testified before that subcommittee.

Because I want to see the equal rights amendment ratified, I cannot support the extension proposal in its present form.

Mr. Chairman, the gentleman from Pennsylvania (Mr. ERTEL) and I will offer an amendment to House Joint Resolution 638. The amendment would provide that those States ratifying the equal rights amendment during the first 7-year period have a right to reconsider that action during this extension period. It would also insure that Congress, and not the General Services Administrator—and this is very important—will make the ultimate determination of the validity of the adoption of this constitutional amendment. Rescission is not an issue distinct and separate from the extension resolution which we are now considering. It is not a question which would be best deferred to some later Congress. I think we have a responsibility, a most important responsibility, to provide some direction in this matter.

Mr. Chairman, I might just mention in closing that the gentlewoman from Maryland indicated there was an opinion poll which said that the majority were against rescission. There is a very recent poll by Opinion Research, which is a respected polling company, which found that 61 percent of the people surveyed felt that if we have an extension, we ought to be permitted to go both ways and provide for States which ratified to have an opportunity to rescind.

Mr. Chairman, I urge the Members of the House to listen carefully to all of the debate. If they do, they will support the rescission amendment and then will be able to support the extension with the rescission amendment.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. SEIBERLING), a valued member of the subcommittee.

Mr. SEIBERLING. Mr. Chairman, I am glad that the gentleman from Illinois (Mr. RAILSBACK) did not read some of the editorials which have tried to analogize this matter to a ball game and have argued that we should not be changing the rules in the middle of the "game" by extending the number of innings.

For this is not a game. We are dealing with fundamental human rights of at least a majority of the population of the United States; and we are acting not for years or even decades, but for as long as this Nation endures.

Therefore, let us try to focus not on what editorial writers have said, but on what is our duty as legislators dealing with an amendment to the U.S. Constitution.

Mr. Chairman, there is nothing in the original equal rights amendment, House Joint Resolution 208, which says anything about the right of rescission. If there is a right of rescission, it is going to be determined not by this Congress, but by the Congress which has to determine whether 38 States have acted. Therefore, there is no occasion for any right of rescission in House Joint Resolution 638. If there is a right of rescission, then that will be dealt with by a subsequent Congress, after 38 States have filed instruments of ratification; and nothing we can do in this Congress can preempt the decision of that Congress.

Mr. Chairman, the Supreme Court in Coleman against Miller said that such decision is a political decision to be decided by the Congress which deals with the question of whether 38 States have ratified.

Again, Mr. Chairman, there is no need, there is no occasion for the amendment of the gentleman from Illinois (Mr. RAILSBACK) because we are not going to pass upon that question. We do not need to pass upon it. We do not reach it in this House at this time, so I respectfully suggest that those who may think that if we do not express our views at this time, we deny the States the right to rescind, should realize that there is no such implication in this resolution.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, may I just respond to the gentleman very, very briefly by saying that I have read that GSA statute which appears to make the Administrator of the GSA the sole repository for the notices of ratification that come in. I am not at all certain that Congress has any right whatsoever to express itself in any way on the matter.

Mr. SEIBERLING. The Supreme Court has held that, in the final analysis, it is the Congress which decides whether there has been ratification. I suggest that we do not need to pass upon that question at this time; and certainly if we fail to support the amendment of the gentleman from Illinois, we are not, by any means, carrying with it any implication that we deny the right of States to rescind. I personally believe that the Constitution does not permit States to rescind, and there are a great many constitutional authorities who feel that way. As we have just heard, there are some who feel the other way, but we do not have to decide that question at this time, and we do not do so by adopting this resolution.

Mr. BUTLER. Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. FISH).

Mr. FISH. I thank my good friend and colleague, the gentleman from Virginia, very much for being so generous in yielding.

Mr. Chairman, this Congress has the opportunity and duty to make a timeless decision, applying objective criteria that are divorced from and independent of the merits of the pending constitutional amendment. The passage of House Joint Resolution 638 will be then an affirmation by Congress that this proposal meets the applicable standards and criteria set forth as guidelines by

the Supreme Court and supported by historic precedent.

In determining a reasonable time for ratification, the Supreme Court has laid down certain objective guidelines which must be considered by the Congress. In so deciding, Congress should not look to the merits of the equal rights amendment. The merits are to be decided by the States.

In 1972, Congress placed a 7-year time limit on the ratification process for the proposed equal rights amendment which will be reached on March 22, 1979. In initially setting a 7-year period, Congress did not undertake to study and analyze a reasonable period for ratification. The 92d Congress chose 7 years since it had been the time period selected by Congress in most past proposed amendments in this century.

It is generally agreed by legal scholars and was not seriously questioned in deliberations before the Committee on the Judiciary that Congress possess the authority to extened the ratification period. Yet our decision has historic importance as this is the first Congress to face the issue. The question presented to this House by House Joint Resolution 638 is whether an extension of 3 years, 3 months and 9 days is reasonable so as to allow the States to continue the debate upon the appropriateness of the proposed equal rights amendment.

The Supreme Court has twice addressed itself to the standards Congress is to apply in determining the reasonableness of the ratification period. *Coleman* v. *Miller;* 307 U.S. 433 (1939); *Dillon* v. *Gloss*, 256 U.S. 368 (1921). The principle guideline to be followed by Congress is to determine whether the issue, "Is the law what it should be?" remains vital and sufficiently contemporaneous so that debate and legislative consideration should be allowed to continue, or whether the proposed amendment has become a dormant issue which can no longer respond to the needs and objectives which generated its initial proposal. That is the only question that need be before us.

The High Court in Coleman held that the reasonable time issue calls for an essentially political judgment as it involves "relevant conditions, political, social and economic * * *" These are the factors Congress must look to in deciding whether these conditions have:

> So far changed since the submission as to make the proposal no longer responsive to the conception which inspired it or whether conditions were such as to intensify the feeling of need and the appropriateness of the proposed remedial action. *Coleman* v. *Miller*, 307 U.S. at 453–454.

Measured against these objective standards, the issue is vital and contemporaneous, and there is a continuing need for a constitutional solution.

The single unifying theme to be found in the many hours of hearings before the subcommittee and the debates of the full committee is that there exists throughout the Nation, a intense, ongoing, vigorous political controversy over the proposed equal rights amendment. The testimony received demonstrates that the issue is being hotly debated in the State legislatures and that State officials are being subjected to intense lobbying from all sides. Thirty-five States have ratified, comprising 71 percent of the population. Several States have placed an equal rights amendment in their State constitution. Fifteen States have not yet ratified, while several States have sought to rescind their prior ratifications. Witnesses cited two recent national polls that demonstrate a substantial majority in favor of ERA, with the same polls showing that support has increased over the past few months. Others cited State referenda opposing ERA. Plainly, these events demonstrate that the equal rights amendment remains a vital and contemporaneous issue.

While some argue that the proposed amendment is not needed; that courts can require equality, it appears from the testimony that the judicial debate is currently articulating more sharply the need for the amendment. Witnesses cited numerous recent Supreme Court cases, including the Bakke case, to demonstrate that the Supreme Court has refused to apply the 5th and the 14th amendments to gender-based discrimination in the same manner that these amendments are applied to racial classifications. The *Vorscheimer* v. *School District of Philadelphia*, 97 S.Ct. 1671 (1977); *Frontiero* v. *Richardson*, 411 U.S. 677 (1973) decisions substantiate this claim. Thus, they argued that sexual discrimination is tolerated under law where racial discrimination is not. Rather than quelling the controversy, it appears the decisions of the Supreme Court in explicating the law have actually intensified it.

The controversy surrounding ERA extends well beyond the courts. In demonstrating continuing need for the amendment, several witnesses testified that sexual discrimination exists in substantial proportions withir. educational institutions. They also pointed to a recent decrease in the proportionate share of women's income as compared to men, despite Federal legislation aimed at achieving equal employment practices. Another witness cited over 800 gender-based classifications in the United States Code which diminish the rights and privileges of women.

The witnesses contended, therefore, that recent developments have not lessened the need for ERA. They concluded the lack of a judicial resolution of the issue and the widespread need requires more than the present piecemeal approach. They called for an amendment which would provide a fundamental national principle and coherent theory on which courts and legislatures could rely in dealing with sex discrimination.

Only recently, the Congress had to act to overturn the Supreme Court opinion in *General Electric Co.* v. *Gilbert*, 429 U.S. 125 (1976) holding that an employer's failure to cover pregnancy in a disability pension program which covered other voluntary disabilities was not illegal. That we acted so expeditiously shows that the issue of sex discrimination is very much alive within our halls.

In view of the intensity of debate and controversy as demonstrated in the testimony presented to the Judiciary Committee, Congress should ask itself whether it would have set a 7-year time limit in 1972 if it had been aware of the conditions which exist today. More importantly, if no time limit had been set in 1972, would we be able to now decide that the ERA is a dormant issue upon which debate and consideration should be cut off? Surely, we would not.

Irrespective of one's individual views on the merits of the ERA, the vigor of the debate as well as the continuing vitality of the issue requires that the Congress pass House Joint Resolution 638 without amendment.

Finally, Mr. Chairman, we must realize that the achievement of equality between the sexes is an ongoing historical movement of which the ERA is but the latest reflection. To cut off debate would be unreasonable and contrary to our historic strivings for equality. Such a broad-based movement and the need for this solution will not suddenly disappear on March 22 of next year.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman from New York for his scholarly statement and for pointing out the waste of time that would occur if we had not provided for this compromise extension to be considered by the States on adoption of the equal rights amendment.

Mr. Chairman, Adlai Stevenson once said, "There can be no gains without pains." His words might well be used to describe the history of the pursuit of equal rights in our society, equal rights for all persons regardless of sex.

The equal rights amendment has been introduced in Congress in various forms since 1923. It has survived one of the most difficult tests for a controversial and challenging idea: Its need and the recognition of that need have not changed in more than half a century.

I support the equal rights amendment and strongly believe that it is long overdue. Our Constitution is based upon the premises of civil rights and civil liberties. We cannot foster a society in which some people are more equal than others.

Persistent issues keep emerging which point out the need for an equal rights amendment—credit laws, pregnancy disability, inequities in wages and benefits, to name just a few examples. Without the equal rights amendment, these issues will continue to require specific legislative action that really should not be necessary.

Many of the court decisions in recent years on questions of equal rights and equal protection have been cases where men instead of women claimed discrimination. It is not just a matter of enforcing existing laws. Court case after court case has shown these laws to be inadequate.

The question before us today is a fairly simple one, but its simplicity should not belie its importance. Should the deadline for ratification be extended?

The 39-month extension approved by the House Judiciary Committee and be-

fore us today will allow remaining States an orderly means of considering this proposed amendment and will enable them to reach a decision after calm deliberation instead of the intense emotional pressure that would otherwise exist.

There is nothing sacrosanct about 7 years. We are all familiar with the legal arguments for the extension. The time deadline was added to the ERA resolution almost as an afterthought when a few Senators who opposed the amendment argued that a time limit should be included. Early amendments to the Constitution contained no time period for ratification. And even after a time limit was placed on ratification of the 18th amendment, the next amendment did not have one.

The Justice Department argues, I think convincingly, that by placing the time period on the proposing resolution rather than the text of the amendment, the 92d Congress effectively decided that the proposal should remain viable for at least 7 years without barring a subsequent Congress from making a more informed judgment at a later time about the reasonableness of the ratification deadline. This is certainly in line with the "contemporaneous consensus" test set forth by the U.S. Supreme Court.

In addition to the legal basis for extension, there are strong political reasons. Thirty-five States containing 72 percent of the country's population have ratified the amendment. Recent national polls show the majority of Americans support both the ERA and the extension. Special interest groups which might not normally take a stand on such an issue have come out strongly in favor of the ERA—groups such as the national AFL-CIO, the Friends Committee on National Legislation, and many labor unions.

But apart from the legal and political considerations—important as these might be—there are spiritual and moral values at stake here which we cannot in good conscience overlook or ignore.

There can be no issue which is more basically "right" than the issue of human rights. I simply cannot support the idea that we can set a time limit on equality for all people. I cannot support the idea that equal rights can be compromised. And I cannot support the idea that the fight for equal rights should end in March 1979. It is a fight that people have been waging since the founding of our country. Defeating the equal rights amendment in 1978 or 1979 does not mean it will go away. If we fail in extending the ratification period, the process will simply begin anew until we succeed in ridding our society of a dual system of "equal protection" under the law.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Maine.

Mr. Chairman, I would like to take this opportunity to commend the gentleman from New York for his statement and thank the gentleman for his strong support of the Committee on the Judiciary and associate myself with the gentleman's remarks.

I would also point out to the gentleman that this issue is not clear cut. I commend the gentleman for indicating in his statement that it is not without some doubt; but it has been the policy of the Committee on the Judiciary to try to resolve those issues of doubt.

Mr. Chairman, it is clear from the debate today that we are negotiating our way up a path that is not fully cut, and one that is only partially lighted. The lack of clarity in the law is compounded by the intensity of emotion generated by advocates and opponents of the matter before this Congress.

There are essentially two questions before us—one of power, one of policy.

According to the Justice Department, Congress has the power to determine a reasonable period of time for the ratification of a constitutional amendment when initially passed by Congress, and the power to determine what is reasonable when no time limit is specified—and according to the Justice Department, it has the power to extend a time period when it is not a substantive part of the amendment itself, but in the resolving clause as is the case of the equal rights amendment.

I believe Congress has the power to extend, and the critical question, the one that I and the other Members of this Congress have been struggling with, is the one of policy—of fairness, of equity—what is the appropriate course of action to follow taking into account the importance of the question, the viability of the debate, the contemporaneity of the issue, and whether events and circumstances have so changed that the amendment is no longer relevant to current events or to the conception that inspired its original passage.

But since this is a congressional question rather than a judicial one, I think we should place this issue in a larger time frame of our history as a nation.

In one of Abigail Adams' letters to her husband, John, she encouraged him to modify the British laws and customs that dictated the near total subordination of a woman's status and identity to that of the man. She asked him to remember the ladies.

Well, something happened on the way to the convention—neither Adams, nor Jefferson, nor Madison, nor Hamilton seemed to remember the ladies—they were not included in the Constitution, and women have been struggling for nearly 200 years to secure the basic rights that are guaranteed to men, ones that we accept as self-evident truths.

One of the principal arguments against the equal rights amendment and any extension is that the amendment is unnecessary—that many, if not most of the rights have been granted or are being granted by statute or judicial decision or could be achieved through an expanded interpretation of the 14th amendment. In other words, this amendment will simply clutter up the Constitution.

It is written in the Declaration of Independence that we hold these truths to be self-evident—that all men are created equal. Well, we have learned through the painful experiences of history, including a bloody civil war, that not all men were created equal in the eyes of the law, and it took the 13th and 14th amendments to clutter up the Constitution and declare that the color of one's skin was not a rational or fair determination of one's rights.

Today, we have many laws that seek to eliminate an irrational or prejudicial bias against women. There are many more that remain. I submit that the 27th amendment to the Constitution will be no more redundant for women than the 13th and 14th amendments were for ethnic or racial minorities. I maintain this is much more than a symbolic gesture, but if it were only symbolic it would be no less important. Our lives, our values, our social conscience are strongly influenced by symbols. "The flag is a bit of bunting that men have opened their veins for" because it is a symbol of those virtues and those values without which life is not worth living.

The thrust of the amendment is to allow each person to achieve the highest level of his or her potential. Nothing could be more fundamental than allowing each individual the opportunity to reach as high as his or her talent will allow.

Opportunity for achievement should not be based upon quotas or upon race or religious beliefs or upon gender—but upon merit and qualification—upon ability.

Justice Holmes once noted:

> The hell of the Old World's literature was when people were taxed beyond their powers; but there is a deeper abyss of intellectual asphyxia—when powers conscious of themselves are denied their chance.

This is at the heart of the matter. That not just for years, not just for generations, but for centuries, women have been regarded as being less than deserving of full and equal rights and responsibilities in our societies. That powers conscious of themselves have been denied their chance.

By sheer accident of birth, by an uncalculated fusion of chromosomes, a majority of the citizens in our society, regardless of physical ability, regardless of intellectual capacity, regardless of their potential for social contribution, are granted different rights, enjoy greater preferences, and suffer greater prejudices.

Let me say a word about responsibilities, for that is the corollary to rights. When I was practicing law, I handled my share of domestic cases. Nothing was more frustrating to me or struck me as being unfair than the rule that the mother was automatically entitled to an award of custody—irrespective of the facts, as to the love, the care or the devotion of the father, the closeness of his relationship to his children. He was presumed by law to be inferior in his capacity to care for his children.

That is not fair or equal treatment to the men in our society, but it is the inevitable result when we insist upon following a rule of thumb instead of a rule of reason, when we insist upon the mechanical application of rules that are rooted in the past, or sunk in the mire of prejudice.

The issue, we are told, is not the substance of the equal rights amendment,

not the merits, but the process and the procedure.

I mentioned at the outset that it is my belief that Congress has the power to consider whether or not to extend the time frame of a proposed constitutional amendment, and that the critical issue is one of policy.

And so in weighing the equity of a policy that we are given the choice of pursuing or foreclosing, I believe we must consider the centuries of discriminatory policies which over the years have denied women a separate legal existence if they were married, denied their right to own or sell property, denied them the right to vote and to the present day has denied them the right to equal participation and responsibility in our society.

I conclude that in fairness, as a matter of equity, a period of extension should be granted—to allow a continuation of the debate in a rational and informed fashion.

And for these reasons I urge my colleagues to support this bill.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, my position on the question of equal rights under the Constitution has not changed since I first cosponsored the equal rights amendment in 1966 and supported its passage in 1972. I stand firmly behind the right to equal treatment under the laws of the land and certainly as a part of our Constitution.

I have consistently voted for measures directed at eliminating discrimination on the basis of sex, creed, or color and believe that in applying the Bill of Rights we must place heavy emphasis on the individual's right to equal opportunity.

I support the 3 years, 3 months extension of the deadline for ratification to allow for a thorough and rational debate of the issue by the people of our respective States.

Article V of the Constitution does not delineate any time period for ratification. It was not until the 18th amendment in 1917 that Congress first attached a time limit to a proposed amendment. They added a deadline then so that unratified amendments would not have to be considered by State legislatures years after they had lost immediacy and relevancy. Clearly, the Congress has the power to extend the deadline as the social, economic, and political considerations which gave rise to the amendment still prevail.

It is interesting to note that a time limit was not applied to the 19th amendment which gave women the right to vote. It took from 1848 to 1920—a period of 72 years—for women to win the right to vote. In my opinion proposals of this magnitude and significance have historically taken a great deal of time—time to allow for the fair and complete consideration of the merits of the issue setting aside the emotional aspects of it.

I find it difficult to accept the fact that the equal rights amendment has not yet been ratified and made a part of our Constitution. Our Nation rests on a principle of equal rights for all its citizens. The amendment merely emphasizes this basic freedom.

I urge my colleagues to support the extension as contained in House Joint Resolution 638.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. DRINAN), a valued member of the subcommittee.

Mr. DRINAN. Mr. Chairman, as the distinguished gentleman from New York (Mr. FISH) so well said just now, in 1972 if this House had anticipated and contemplated the events that were forthcoming in the last 6 years, it would not have put on the arbitrary 7-year limit.

We cannot conclude that there is anything sacred about the arbitrary 7-year limit. If the last eight amendments had that particular period, we should remember that many of those were technical amendments, such as the Presidential successors amendment or the amendment on Presidential electors to the District of Columbia.

The ERA is concerned with the deepest attitudes about some of the profoundest issues of human existence. We must recognize that it took from 1848 to 1920 for women to get the right to vote, and that was 72 years. It takes time to topple myths and fears. It takes a long time to allow the issues to be fairly considered on their merits, and there is no point to cutting off discussion when there is a great national debate proceeding.

Seven years is too short a period for a fair and comprehensive hearing, and it is entirely within the authority of this House to establish a more reasonable time. Does that time mean rescission?

Mr. Chairman, there is no law, there is no custom, there is no court decision that has ever allowed a rescission. James Madison wrote that a ratification is not rescindable. There is no linkage between ratification and rescission. They are entirely separate questions.

I think, therefore, Mr. Chairman, that we should have an extension of the ERA for 39 months, with no action on the right of a future Congress to decide on ratification or rescission. The need is still present. The Supreme Court has ruled in several decisions, including the Bakke decision, that the 5th and 14th amendments do not necessarily protect against discrimination on the basis of sex.

Mr. Chairman, I strongly support House Joint Resolution 638, as amended, which would extend the ratification period for the proposed equal rights amendment until June 30, 1982.

My support for this measure was not quickly nor easily won. When I first learned of the proposed extension I forced myself to consider how I would feel if the amendment involved was one, unlike the equal rights amendment, which was repugnant to me. Would I then support an extension of the ratification period?

As a member of the Judiciary Subcommittee on Civil and Constitutional Rights, which considered this legislation, I carefully examined the testimony presented by a cross-section of legal scholars last November. I concluded that the Congress indeed did have the authority to extend the ratification period for the equal rights amendment, and for any other amendment which might incur similar difficulties in the future.

The Constitution of the United States gives the Congress the power to propose amendments and to determine the mode of ratification. The Supreme Court has additionally determined that Congress has the implied power under article V to impose a time limitation on the ratification process. (*Dillon* v. *Gloss*, 256 U.S. 368 (1921) and *Coleman* v. *Miller*, 307 U.S. 433 (1939)). The only limit placed upon the Congress is that ratification must occur within a "reasonable time" after the amendment is proposed. And the Supreme Court clearly indicated that it is up to the Congress—not the courts—to determine the length of a "reasonable time" period.

The 7-year limitation for ratification was accepted by the 92d Congress on the ground that it was a "customary" time limit. Indeed, eight of the nine preceding amendments were subject to a 7-year period for ratification. Unfortunately, there was virtually no debate nor discussion as to whether or not 7 years was the appropriate period of time for this particular amendment.

Had such a debate occurred, I would like to suggest to my colleagues that the outcome might have been different. For the equal rights amendment, unlike the amendment on Presidential succession, or the limitation on Presidential terms, or the allocation of Presidential electors to the District of Columbia, is an issue which arouses strong and lingering emotions on both sides. The equal rights amendment debate, not unlike the debate over slavery or women's suffrage, is concerned with the proposal of a fundamental attitudinal change about a majority of our population. We must recall that it took from 1848 until 1920 for women to win the constitutional right to vote—a total of 72 years. And the abolition of slavery, eventually accomplished by the 13th amendment, was the subject of national debate for decades. Progress in human rights and social change has historically taken a great deal of time—time to dispel myths and fears and to allow the issues to be fairly considered on their merits.

Unfortunately, the ERA debate has been plagued by a national campaign of scare tactics and distortions. The meaning and impact of the equal rights amendment have been subject to an unprecedented degree of misunderstanding and misrepresentation. Additional time is desperately needed to counter the widespread fear and confusion concerning what the equal rights amendment seeks to accomplish and what its effects will actually be.

I have heard it argued that with the passage of recent Federal laws designed to eliminate sex discrimination the equal rights amendment is no longer necessary. Some argue that State and Federal laws still requiring reform to eliminate sex bias can be amended on a piecemeal basis. I believe such an approach would be totally insufficient and inadequate.

In a title-by-title review of the United States Code conducted by the U.S. Civil Rights Commission in April 1977, over 800 instances of sex bias in our Federal laws were found. Federal legislation in the areas of employment, credit, education, and social security have simply not eliminated the need for a national policy against sex discrimination. The most stunning example is in the area of employment where women continue to be denied equal pay and equal employment opportunity. According to the U.S. Civil Rights Commission, the 1976 median income for females was only 60 percent of the median income for males.

If we compare men and women in the same full-time occupation, we find that, according to a 1973 study, women clerical workers earned 61 percent of the salaries of men clerical workers; women managerial or administrative employees received 53 percent of their male counterparts' earnings; saleswomen earned 38 percent of what salesmen earned; and female operatives received 56 percent of male operatives' pay. The Congressional Research Service admits that the Supreme Court's treatment of gender-based discrimination has puzzled both legal scholars and the lower courts.

The equal rights amendment is still desperately needed to clarify inadequate Government regulations, to mandate the enforcement of existing laws, and to comprehensively wipe out the sex discrimination that has pervaded our legal system for the past 200 years.

I read with great satisfaction in the Washington Post a large advertisement by "Men for ERA." The sponsors were scores of respected men in various spheres of public life, including Arthur Goldberg and Bruce Jenner, John Kenneth Galbraith, and John Denver, Father Theodore Hesburgh, and Paul Newman. I am happy that men realize that the ERA stands not only for correction of the gross injustices suffered by women in our land, but for correction of some possibly smaller, but still important, injustices suffered by men.

I have heard it argued that if Congress extends the ratification period, it should also allow States which have ratified the equal rights amendment to rescind their ratification.

Article V of the Constitution speaks only in positive terms of ratification of a proposed amendment, giving the States the power to ratify a proposed amendment, but not the power to reject. The only original Framer of the Constitution who addressed the question of rescission and the intent of article V was James Madison. During the ratification debates in the State of New York, Madison stated, in a letter to Alexander Hamilton, that a State's ratification was unconditional and irrevocable:

> The Constitution requires an adoption in toto and forever. It has been so adopted by the other States. An adoption for a limited time would be as defective as an adoption of some of the articles only. In short any condition whatever must viciate the ratification.

Throughout our constitutional history, Madison's principle has been upheld and accepted. Congress has consistently adopted the view, in the cases of the 14th, 15th, and 19th amendments, that a State may not rescind.

John Harmon, an Assistant Attorney General of the Department of Justice, testified in great detail before our subcommittee on the legislative and judical history of rescission. The conclusion of the Justice Department after extensive study was unequivocal—States may not rescind a ratification.

It is vital that Congress look to the past for guidance in this area. Certainly in our ratification process it is vital that the procedure be orderly and equitable. If a State knows its ratification is unconditional and irrevocable, as it has been recognized in the past, there results a clarity and definiteness. Otherwise the chaotic situation could result where a State would turn around its position on an amendment with each new legislative session.

I have heard it argued that it is "not fair" to treat States' rejections of a proposed amendment as reversible while treating ratifications as irreversible.

In their wisdom the framers of our Constitution set up in article V many obstacles to be overcome before an amendment becomes a part of that document. The proposed amendment must be passed by both houses of Congress by a supermajority vote of two-thirds. It must then be ratified by threefourths of the State's legislatures or conventions. It has been pointed out that in the legislature system, since the proposed amendment is considered first at the committee level in most States, 140 out of 193 decisional units must approve the proposed amendment. Further, the amendment may be challenged in the courts if it is felt that the ratification was not within some reasonable time after the proposal.

Thus the cards are stacked against the ratification of an amendment. This is as it should be. But there is no reason why ERA opponents should feel that this time-honored rule is "unfair" merely because it incidentally represents a small advantage on the side of the amendment's proponents.

I have heard it argued that if the extension is to be enacted, it ought to be passed by a two-thirds majority of Congress rather than by a simple majority.

Our Constitution is explicit in describing when a "super-majority" vote is needed for any measure; when it is silent, only a simple majority is needed. Although a two-thirds vote is needed for Congress to propose an amendment, a two-thirds vote is not needed with respect to matters of detail pertaining to the mode of ratification. In its original two-thirds vote on the ERA, Congress happened to include the original 7-year time limit provision, but it could have voted on this procedural matter of detail separately, and that vote would have required only a simple majority.

I have heard it argued by people tired of this debate that we should let the original 7-year time period lapse, and be done with the matter. Obviously, this question is not going to go away. We have two choices. We can extend the original period, or we can have a renewal of the entire ERA beginning next March. We can have an extension of the present "ball game," or we can have a new "ball game." But to think that it is going to go away and that we will have settled it is like a Congressman saying, I wish that all the difficult problems we have about wiretapping and busing, energy and inflation, would go away. That is what legislators are for; that is why the people elected us.

Finally it is worth noting that the debate over the equal rights amendment is by no means dormant. It brings tens of thousands of people to Washington to demonstrate and lobby; it floods our mailbags; it continues to be the subject of front-page stories and editorials in newspapers across our country. It would hardly be appropriate to cut off debate on a subject of such urgent public conern. The Congress has the power to revise its original action and should exercise that power now by extending the ratification period until June 30, 1982.

Mr. EDWARDS of California. Mr. Chairman, I yield 4 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I rise in support of House Joint Resolution 638, as reported by the Committee on the Judiciary.

Although I am not a constitutional expert, I believe that when Tom Jefferson, Alexander Hamilton, and Abigail Adams helped to found America, they really wanted women to be included in the Constitution by the year 1978. For I believe our Founding Fathers and Mothers believed that fundamental equal rights belonged to everyone irrespective of their biological characteristics. That is the sum and substance of the equal rights amendment.

However, the ratification has become bogged down in State legislatures because of horse-trading; we are the "throw away" issue in each and every general assembly meeting. The debate has also been clouded by provocative and irrelevant questions. It has been attacked by the same type of coalition that fought against abolition, fought against suffrage, and fought against end to child labor. They used fear and scare tactics then and still do so now.

I think it is time that we bring an end to the efforts of those who would manipulate democracy and extend time to those who would expand democracy.

We need ERA simply because women are economically more vulnerable in the United States.

In 1977 a review of the United States Code shows 800 sex-biased laws on the books. To those who would argue that the change is going too far I would say that the change is not going far enough.

If we look at Georgia, we find that the law says a family home belongs to the husband even if the wife contributed to the financial purchase of it. In West Virginia and Maine, if a husband and wife own and operate a business, the profits belong solely to the husband.

I could go on and on and cite other sex-biased laws, but I think those examples pointedly show it is abundantly clear that the equal rights amendment is urgently needed to clarify the status

of 100 million women in the United States.

The equal rights amendment is not just a symbol. It would establish a national standard that cannot be tinkered with and would not be subject to any current fad or temporary wave of fanaticism. The equal rights amendment would make our status permanent, clear and unequivocal.

Many of my colleagues have asked me, "If that's all the equal rights amendment is, why hasn't it been ratified? Why is additional time needed?"

While the equal rights amendment is a matter of simple justice, getting justice is not always simple. Significant change does take a long time, as the gentleman from Massachusetts outlined. For women, equal rights are still revolutionary, because many of the basic structures of our society are built on women's inequality. The equal rights amendment does challenge the present economic power structure and no one gives up power voluntarily.

There are two types of amendments to the Constitution, such as those that change the political process by giving the 18-year olds the right to vote, but there are those that go to the fundamental structure of our very civilization, and those require more time. They require more time because of the enormous impact that such action will have on our personal lives and our society.

For those who raise the issue of rescission and fairness, I say to them, I think that the fairness question is this: Is it fair to exclude over 100 million women from equal protection under the Constitution of the United States of America? Is it fair that women have had to wait over 200 years to get full equality in this country? I think that it is unfair that we have had to fight horse-trading State legislators and smear tactics of the opponents. I think that it is fair for the debate to continue and thus I urge passage of the resolution as reported by the committee. Congress has the power to extend the time and I think that it is fair and responsible for Congress to pass this resolution. I want to be recognized as a full citizen in the Constitution during my lifetime; I want the equal protection for my niece who is 9 years old; and I want the inclusion for all women in this country.

Do not treat this like a term paper for some Yale law review article. Do not become so obsessed with rarefied nitpicking that you lose sight of the point, and the point is, do we base the laws in the United States of America on biological characteristics, or, in the eyes of God and the Constitution, all people are finally equal.

Mr. WIGGINS. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentleman from California.

Mr. WIGGINS. I thank the gentlewoman for yielding.

Mr. Chairman, I merely want to add a footnote to this debate with respect to whether women are in the Constitution. The Constitution is essentially neutral with respect to sex. Neither the word "man" nor "woman" appears in the Constitution. It is true that the word "male" appears in the 14th amendment, in a section which is no longer operative, and it is also true that the pronouns "he," "his," and "him," appear frequently, particularly with respect to the Executive branch. But this is, I suggest, a common problem of legislative draftsperson-ship.

Mr. BUTLER. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding 4 minutes. It is a day of considerable importance in the consideration of this matter, and it seems that the process of amending the Constitution of the United States is being taken seriously by everyone. But the process of amending the Constitution is a matter of compact between the States, just as the Constitution itself is, and, therefore, the process must have the respect and the support of the States and of the people. And it seems to me that it is not the proper role of the Congress to detract from or to destroy that respect and support. Indeed, it is the responsibility of the Congress and Members of Congress to do all they can reasonably do to foster, to nurture, and to be eroded, if not exploded.

If House Joint Resolution 638 in its present form were to be passed by both Houses of the 95th Congress, we could foresee that respect, if not the support. of the people and their elected representatives in the State legislatures could be eroded, if not exploded.

There is only one fair way to extend the time for the debate of the proposition ccntained in the equal rights amendment, and that is to propose the matter in the States, again. Indeed, House Joint Resolution 638, which we are considering today, does that, but under procedures valid and which a subsequent Congress might find invalid. Indeed, a subsequent Congress might decide the ratification process has been too long and, in effect, declined to accept ratification during the proposed extended period.

Just as it is argued that this Congress may extend the time for ratifying the ERA, because we are not and cannot be bound by the procedures established by the 92d Congress, so we must also accept the fact that House Joint Resolution 638, a procedural matter, cannot be binding upon a future Congress.

Why should the Congress take a chance on this new and doubtful course when a constitutionally proper method is available for the purpose of extending the time for consideration of the principle of the equal rights amendment. House Joint Resolution 1066 would provide an additional 7 years—not 3 years plus, but 7 years—for the debate to be extended, for the principles to be considered further. It would require a two-thirds vote for such a House resolution to be adopted.

I firmly believe that the two-thirds vote is here and available in both Houses of this Congress. Rescission would not be a question under those circumstances. Ratification would be likely to be promptly achieved, I think, because one of the most important arguments against the equal rights amendment as presently proposed would be removed. That is because House Resolution 1066, and others that might be proposed like it, has all the wording the same as the currently proposed equal rights amendment except for section 2. In section 2, the position of the States in our constitutional system would be preserved. Instead of providing that the Congress alone would have the power to enforce article I of the amendment by appropriate legislation, it would provide that the Congress and the several States shall have the power to enforce this article by appropriate legislation.

But, it goes on to say that this amendment shall not be so construed as to delegate to the United States any powers otherwise reserved to the States or to the people. Surely, we can argue about whether that is the best way, and I regret that we do not have the opportunity to consider it today.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. BUTLER. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. KINDNESS. Can you imagine this Congress dealing with the kind of legislation that State legislatures now have within their jurisdiction; the laws relating to marriage, divorce, probate, licensing of occupations and professions, regulation of insurance? A great many matters that come under State jurisdiction at the present time could, by the presently proposed equal rights amendment if ratified, be preempted by this Congress. We do not belong in that field of legislation, and perhaps would not preempt those areas, but it has been suggested by some that if the equal rights amendment as presently proposed is ratified, we should at least have a national divorce law.

I do not believe we need to take that into the scope of the work for the Congress. The Federal court system would still be available to all of those whose rights may be infringed upon by States. I think if this Congress does not pass House Joint Resolution 638, then I think many, the majority of those who both oppose and support the present equal rights amendment, would support such a proposal as is contained in House Joint Resolution 1066. Why not now?

Mr. EDWARDS of California. Mr. Chairman, I yield 30 seconds to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. I thank the gentleman.

Mr. Chairman, I just wanted simply to respond to the statement of the gentleman from California when he disclosed that the Constitution was neutral and that it did not mention men or women specifically. Unfortunately, the spirit of the Constitution was not neutral because women were not really allowed to participate in the democratic process until 1920, when they were given the right to vote.

So, I think that argument is clearly an unfortunate one.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. VOLKMER), also a valued member of the subcommittee.

Mr. VOLKMER. Mr. Chairman, mem-

bers of the Committee, undoubtedly, as we know, the House has spoken indirectly on the issue that I say has bothered me the greatest about House Joint Resolution 638, the resolution before us. That is the question of majority or two-thirds vote on final passage. I still have some, what I believe to be questions, in regard to House Joint Resolution 638 that need to be addressed later on during the debate.

One of those specifically is whether or not—and I have heard other gentlemen allude to it, and I believe we need discussion on it—as to whether or not the resolution shall be binding on later Congresses during the extension period; whether or not it shall be binding on the Administrator of the General Services Administration; whether this is actually a joint resolution to be treated as a bill under section 7, article I.

I remember listening to the gentlewoman from New York (Mrs. CHISHOLM) during the debate on the rule, when she designated this resolution as a "bill." It makes a significant difference as to whether this is a bill or whether it is not a bill, because of course as we all know, as was pointed out after the adoption of the rule and the parliamentary inquiries to the Speaker, there is a question as to whether or not it is statutory and whether or not it shall be submitted to the President.

I am pleased and I do join with the proponents, a majority of the committee, that the President, as stated on page 16 of the majority part of the report, has nothing to do with the amendatory process of our Constitution. Feel very strongly about that and that it should be preserved, that the constitutional amendment process is a matter between the States and the Congress, just as the framers of the Constitution saw fit to provide.

But it concerns me that the words on page 16 say that now basically the resolution if submitted to the President would be symbolic—no more than that. And if it is only symbolic, then why does it have to go there? And if does have to go there, on the other hand, is it not a statute? And we are not actually involving the President?

Can the President veto it? And if the President can veto it, is that veto effective unless overriden by two-thirds? And if not overriden by two-thirds, is the extension valid and binding?

The other question I have, and I think it is valid, is: What is going to occur when the three-fourths of the States have ratified and if it occurs during the extension? If it occurs, as I would like to see it occur, by March 22, 1979, we have no problem; but if it occurs after that time and during the extension period, what is the proper action of the Administrator of the GSA? I would like to quote from a proponent of House Joint Resolution 638, Mrs. Ginsburg, before our subcommittee:

> First, as Professor Van Alstyne has pointed out, technically, the General Services Administration might certify and not even bring the question to the attention of Congress. 1 U.S.C. 106(b), at least if read literally, makes that possible.

Neither I, nor do I believe the proponents, wish that to occur in the event the extension were passed, but I do believe we do need to give direction in this debate on that issue.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, does the gentleman not recall the Constitution in article 1, section 7 provides a bill must be submitted to the President?

Mr. VOLKMER. That is correct.

Mr. ECKHARDT. And then, in a separate section, anything requiring the concurrence of both bodies must be so submitted.

Mr. BUTLER. Mr. Chairman, I yield 1 minute to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Chairman, I rise in support of the extension of the time for ratification of the equal rights amendment as reported by the House Judiciary Committee. I believe the passage of House Joint Resolution 638, without amendments, is an absolute necessity. For the women of this country, the votes we cast today signal our belief in the concept of equality as one of the basic tenets on which this Nation was founded. It also shows our support for the passage of the equal rights amendment and our belief that we have not yet completed the task of giving full legal representation to the majority of the people in the United States.

The issue before us today is whether we will allow an arbitrary and customary deadline to obstruct attempts to rectify years of inequality for women. Since coming to the Congress last February, I have been an active supporter and cosponsor of House Joint Resolution 638, the extension resolution, because I do not believe that stopping the vote on ERA in the States is fair, justifiable or in the best interests of all Americans.

The purpose of the ratification process is to allow time for debate and consideration in the States on crucial issues. Surely no one can argue that the debate on ERA is over or that the expression of public support in favor of it has been realized.

While ratification is still three States short, nationwide polls show that support for ERA ratification is nationwide, not regional. The most recent Gallup polls reported in July of this year reflect nearly a 2-to-1 margin of support—58–31 percent in favor. Increased support for ERA by a 55–38 percentage also emerges in the Harris poll, up from a January Harris poll of 51–34 in favor of its ratification. In addition, polls in States which have not ratified the ERA continue to show that the majority of citizens in those States support ERA.

The current March 1979 deadline is not relevant to the scheduled meetings of some State legislatures because they may not have an opportunity to vote after the 1978 elections. In addition, the legislative consideration in some States, as widely reported in the press, has been fraught with the actions of a vocal minority which has succeeded in barring full legislative action by holding ERA in committees and not giving both houses of State legislatures the opportunity to vote. To those who say that it is "not fair" to extend the ERA deadline, I respond that it is not fair to bottle up the amendment and subject it to ridiculous and untrue rhetoric designed to scare off legislators from working the people's will.

As a lawyer, I have carefully reviewed the arguments against Congress taking action on this question. I am not persuaded by those who argue that Congress cannot take this step. The Justice Department and many constitutional scholars have stated that we have the authority to extend the deadline as part of Congress power over the ratification process. What we are doing today is altering a procedural matter. The 92d Congress placed a time limit for consideration of this amendment in the preamble of the texts, not in the body of the amendment itself, and in so doing decided that the amendment should be viable for at least 7 years. Future Congresses such as ours are in no way barred from deciding that the reasonable time for consideration of ERA was in fact not enough time at all. Thus, we in the 95th Congress have the power to make that judgment on the basis of the passage to date by States which have 72 percent of this country's population, the record of delay and obstruction in several others and the overwhelming display of public sentiment in favor of the ERA.

I also believe it is imperative that we pass this extension without any amendments which would allow States to rescind their previous ratification. The Judiciary Committee's version of House Joint Resolution 638 says nothing about rescission, and the full House version of the resolution should not either. The appropriate time to decide this issue is when three-fourths of the States have ratified the ERA, and not before. There are many legal and historical precedents against allowing rescission at all, and Congress itself disallowed attempted rescissions on the 14th, 15th and 19th amendments. This is not the time to determine grave constitutional questions. For those who believe that it is a question of fairness that rescission be given a chance, I remind them that House Joint Resolution 638 does not prevent future rescissions, or validate or encourage them. It properly does not deal with this issue at all.

As I have talked to my colleagues and circulated information to them about this extension resolution, I have expressed a consistent theme: ERA needs more time. I firmly believe that by passing extension those of us in favor of ratification will have given supporters in the remaining States—and, indeed people across the Nation—the help they need to achieve our common goal. With this added impetus, the desires of millions of American women—and men—can be fulfilled.

It has taken far too long for women to achieve their rightful place in the Constitution of this country. We cannot allow a pattern of years of discrimination to remain, and we should not delude ourselves that without ERA it can be erased. A piecemeal attack on separate discriminatory laws takes too much time and is

a risk we cannot afford to keep taking.

In closing, the most eloquent statement of all about what we must do here in the House today in passing House Joint Resolution 638 can be found in the words of the ERA itself:

Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Mr. ECKHARDT. Mr. Chairman, I am glad to see the gentleman from Kentucky present, and I thought I had seen a gentleman from Virginia, and another Member or two that I thought possibly had not made up their minds on this subject, in the audience today.

I would like to say this, the question of whether or not the resolution should have originally been passed was indeed a political question, a political issue in which I am very ardently in favor of the submission of the constitutional amendment. The question of the manner of the extension is not a political question, it is a constitutional question. When the courts use this term, "a political question" what is really meant is that the final decision may be made by Congress. But that does not mean that this body is not as solemnly bound to determine this question as a constitutional question just as the U.S. Supreme Court would be bound. There is only one oath we take here and only one oath we have to take in order to serve this body and that is to uphold the Constitution.

On that basis I voted to seat Adam Clayton Powell, not a very popular issue at the time, and on that basis I shall vote for an extension today because I am able to justify it constitutionally, but I cannot vote for an extension of the entire period in which States are bound without opportunity to rescind to a period of 10 years.

I come to that conclusion because I think that Congress, under article V, by a two-thirds vote, provided the appropriate period of time in which States could ratify and during which time they could not rescind. I cannot convince myself that the two-thirds vote would have been obtained had the submission been for an unlimited period of time, and I do not believe it appropriate for us to conjecture what would have happened at that time if the period had been 10 years.

Mr. Chairman, the point is simply this, that under Coleman against Miller, it is clearly stated that "They"—that is, the powers here granted—"arose under article V of the Constitution, which alone conferred the power to amend and determine the manner in which the power could be exercised."

Mr. Chairman, two-thirds of this body submitted the amendment. Two-thirds of this body provided the method of ratification as being limited to 7 years.

I submit that a majority of this body may not change the method of submission, which was done pursuant to article V.

I agree that an extension of 3 years may be permissible under the same authority, Coleman against Miller, which states: "Where there has not been an initial provision of limitation of time, Congress retains authority to determine what is a reasonable time."

The CHAIRMAN. The time of the gentleman from Texas (Mr. ECKHARDT) has expired.

Mr. BUTLER. Mr. Chairman, I yield 4 additional minutes to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, Coleman against Miller says as follows: "If it be deemed that such question"—and that is the question of time for ratification—"is an open one when the limit has not been fixed in advance, we think that it should also be regarded as an open one for the consideration of Congress when, in the presence of certified ratifications by three-fourths of the States, the time arises for the promulgation of the adoption of the amendment."

In this case Congress did not leave the question as an open question. Congress, in submitting the amendment, closed that question and by a two-thirds vote, and as a part of its determination in connection with the submission, provided that, in effect, the States should get out of this binding situation at the end of 7 years. A State did not even have to rescind. It was free to get out of its commitment at the end of 7 years because at the end of 7 years the full time for ratification would lapse.

Therefore, Mr. Chairman, I say that if we are to constitutionally extend the time—and indeed, I think we can, and indeed, I think we should—we must respect the determination made under article V by two-thirds of this body, which we cannot say would have agreed to the submission but for the 7-year limitation.

Mr. Chairman, we must carve this resolution around that constitutional submission which occurred in 1972; and to the extent that we attempt to alter that or further extend the net to further bind beyond the 7-year period, we, in my opinion, act unconstitutionally.

Mr. WIGGINS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Chairman, I commend the gentleman from Texas (Mr. ECKHARDT) for his statement. I believe that he is exactly correct in his analysis of one of the several constitutional issues confronting this body.

I further wish to commend the gentleman for the scholarly research he did in connection with the Powell-McCormack issue, which was noted by the Supreme Court, that the Court is not permitted to speculate as to whether or not Members of this body would have voted by a two-thirds majority when that issue was not directly before them.

Again, Mr. Chairman, I commend the gentleman for his statement.

Mr. BUTLER. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, we have all thought a great deal about this proposal for extension of the time for ratification of the equal rights amendment to the Constitution.

There are many legal and constitutional niceties which have been raised in debate, some of them real and some of them primarily arguments against the merits of the ERA.

Mr. Chairman, I supported ERA in the first place, and I shall support what I consider to be a reasonable period of extension, satisfied that that extension is within the legal capacity of the Congress.

I am not happy about the emotional environment of this decision by the Congress or the divisiveness that advocacy and counteradvocacy have created. I have never considered ERA much more than a symbolic act expressing national will but requiring countless additional steps to have real meaning. Enactment of ERA will not of itself or in any automatic sense affect patterns of life or of work. For the average American woman it will bring no discernible change because most of the remaining discrimination against women is vestigial, the result of attitude conditioning or social pattern rather than legal stricture.

Why bother, then? Mr. Chairman, while the positive symbolism of passing ERA, or permitting its possible passage by extension, would not be that significant, the negative symbolism of a vote which could be interpreted as a vote against equality for women would be devastating. America leads the world in the rights practiced by our people. Women all over the world, particularly in backward areas or areas where religion accords a secondary role to women, see America as a beacon of hope with respect to their status as human beings. Their expectations will be dashed by a conscious act of the Congress which they will see as a turn of public opinion against equality for women in this country. Perhaps some women in this country will see it the same way.

I regret the extent to which the women's movement in this country has made ERA the litmus test of public attitudes toward women. If that was bad judgment—and the confusions and misinterpretations involved in this national debate lead me to believe it was—that does not justify our using even worse judgment by flashing at best an equivocal and at worst a primeval signal to the Nation's and the world's women.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I think it is human nature to find all sorts of excuses why we should not do something, and I think especially the nature of this body where it is so much easier to get caught up in form and not deal with substance.

Many of the speeches that I heard today I think have shown that we are still not dealing with the substance of what the equal rights amendment is really all about and why it is not just a symbolic act. The equal rights amendment is very important.

One of my frustrations in talking about the equal rights amendment as I go around the country is that I have to spend most of my time saying what it does not do. It does not make unisex toilets. We are not talking about making

men and women the same. The Congress may not be the brightest body in the world, but even we know we cannot pass legislation that is going to change people's chromosomal composition. I have people saying, "That is baloney; you women are already in the Constitution." I wish someone had told our foremothers that when over a thousand of them went to jail, when they were force-fed, and carried on a fight for years to get the right to vote. I do not know if the Supreme Court was reading the Constitution differently then than they would now, but, nevertheless, it was thought they were not in the Constitution, and they had to go through all that to get the right to vote.

I think if one talks to the Department of Justice, one will find that they think the ERA is a bit more than a symbolic act. They have compiled at this point over 800 incidents in the Federal court where there is sex discrimination, and they go from things that one might consider minor, such as if you are a Boy Scout you can fly space-available on military planes if you are in uniform, but if you are a Girl Scout, you cannot, all the way to more serious matters. Many of these even discriminate against men. We find in many instances if you are the mother of a disabled veteran, you get certain benefits, but the father does not. Why should he not get benefits? He is also providing for the family.

A lot of this legislation is outdated. A lot of these things, changes should be made. People say, "We will change them without the ERA." We will not get 800 pieces of legislation correcting sex discrimination through this body. We know that, but if the equal rights amendment passes, we will have a couple of years to do it. It will force us to focus on discrimination. That is the substance we are talking about in the Equal Rights Amendment. It is very serious.

I have heard the other side come up to me in tears saying, "Mrs. SCHROEDER, why do you want my daughter to go into combat?" I say to them, No. 1, your daughter can be drafted with or without the equal rights amendment; but, No. 2, to let that side wrap themselves in the flag and say, "That is the American way" offends me because if one looks at the history of this country, American women have always participated.

I find it incredible that with or without an equal rights amendment if this country were in trouble that the women of America would say, "I'm sorry. We don't want to go. It's just too bad. We're privileged, don't count on us."

That is not the way the women of this country have acted in prior wars. That is not the way I ever want it to be. We hope there are no more wars for our sons or daughters; but the equal rights amendment, I do not think, makes any difference whether women are in the draft or not in the draft.

Mr. Chairman, I urge that we keep focus on the substance of the ERA as we discuss it.

Mr. BUTLER. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. MOORHEAD).

Mr. MOORHEAD of California. Mr. Chairman, I rise in opposition to House Joint Resolution 638. This morning we are considering legislation which would set an important and fundamental precedent in our constitutional history. Should Congress, for the first time, extend the previously-fixed time period for the ratification of an amendment to the Constitution?

When the 92d Congress adopted the equal rights amendment in 1972, its clear intent was that the proposal be accepted or rejected by the several States in a 7-year period. Within 1 year after its submission to the States, 30 States had ratified ERA. Since that time only five additional States have ratified, while four State legislatures have acted to rescind their earlier ratifications.

What is a "reasonable time" period for ratification? Under article V, Congress is granted the power to determine the "mode of ratification" of the Constitution. Thus, Congress has the right to determine what is a reasonable time and this discretion has been recognized by the Supreme Court. *Dillon* v. *Gloss*, 256 U.S. 368 (1921); *Coleman* v. *Miller*, 307 U.S. 433 (1939). It is not a question of whether Congress can extend the period constitutionally. Clearly, Congress can do so. Rather it is a question of whether Congress ought to extend the time.

To me, then, the issue of extension is not a constitutional question. Rather, it is a question of good public policy. The process of amending our Constitution was not intended to be simple or expeditious or casual. From the beginning, it has been intended to be a deliberate, difficult process—aiming at assuring that a strong national consensus exists on the matter in question. The Supreme Court, in the Dillon case, spoke of the ratification process as being aimed at achieving a "contemporaneous consensus."

It seems to me that 7 years is a reasonable period of time within which a national consensus should reflect itself. No constitutional amendment submitted to the States with a 7-year time limitation has taken more than 4 years to achieve ratification, and most have been ratified within 1 year. To change the rules at this point undermines the possibility of attaining a true, genuine consensus on this issue. We should not change the terms of the contractual scheme which Congress offered the States 7 years ago. We should not change the means of achieving a true national consensus, simply because the ERA is particularly controversial or symbolic in some quarters.

Fairness, consistency, precedent and the desire to achieve genuine consensus—all of these factors argue against the extension of the time period. Nothing prevents ERA proponents from starting over again in the next Congress, with a new amendment and a new, uncluttered 7-year ratification period.

I urge a "no" vote on House Joint Resolution 638.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Chairman, I find it inconceivable that today we are still debating the question of equality for over one-half of the population of the United States. I also find it inconceivable that there are those in this House who question the fact that women are not yet being given equal status—we see it every day in lower salaries, we see it every day in unfair treatment in the granting of credit, we see it every day in the handling of rape cases in the courts. We see it every day in a hundred different ways.

Thank goodness, today we recognize the inequalities—for the greatest part of my lifetime we did not. Women were subjected to indignities and accepted them as their lot.

The amendment is a simple statement which says:

> Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Substitute for the word "sex" the words, "race, religion, or age," and there is no State legislature that would refuse ratification to an amendment on those grounds.

Equal rights is a pressing concern for many in today's society, and with the deadline close at hand, the debate is livelier than ever. This amendment deserves the additional time extension for full consideration.

Constitutional recognition of the equal rights of all people, men and women under the law is of such importance that we should encourage it in every way. A vote for the deadline extension will insure the additional time needed for discussion in many of the State legislatures.

We cannot turn our backs to this vital legislation, causing women to continue to fight the law—line by line, regulation by regulation, to achieve equality.

Would there be any doubt in the mind of anyone present that we should take the additional time to seek ratification if we were attempting to erase discrimination based on the shade of ones skin? Of course not. I ask that we do no less to erase discrimination which is based on the shape of my skin.

Mr. BUTLER. Mr. Chairman, I yield 3 minutes to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Chairman, it is quite obvious to everyone in this Chamber that this is not a usual legislative day. We are not going to have a vote on a humdrum legislative matter, but one of great difficulty, of high anxiety, for Members of this body.

This is really a moment for history, history in terms of the rights of women. It is a moment that millions of Americans as well as scholars of the women's movement and of the progress of women in American society will evaluate in their communities and classrooms and in the libraries across America for some years to come.

The issue before the Congress, of course, is the question of the extension of the deadline for the ratification of the equal rights amendment. I think this issue goes to the heart of the concept

that is most basic to all American society, and that is the right and the need for full discussion of all issues of national concern.

Of course, 7 years ago, when Congress considered the ERA and sent it to the States, we faced in debate a large number of issues. We expected that these issues would also be debated similarly in State legislatures across the country. However, we found that what was then believed to be a reasonable time turned out to be not time enough, merely because in many of these State legislatures there was no consideration of the issue whatsoever. Committees with few members bottled up the issue according to their parliamentary procedure and removed the opportunity for discussion.

The question today is this: Is there really a need for equal rights for women? Should the debate go on?

I ask each Member of this House to search their offices for a document that I have found helpful—a document called "Sex Bias in the United States Code," published by the U.S. Commission on Civil Rights in April 1977. It is a 220-page document, cataloging all the areas of discrimination against women on the basis of sex—discrimination not against women but discrimination on the basis of sex, most of which occurs in relationship to women.

Mr. GILMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I want to commend the gentlewoman from Massachusetts (Mrs. HECKLER) for her leadership and devotion to this important cause. I strongly supported this cause in the New York State legislature, and I intend to support it today.

Mr. Chairman, I am rising in support of the extension of the equal rights amendment ratification deadline, in opposition to the recission clause, and in opposition to the call for a two-thirds vote on the extension. After long and careful consideration of all the issues involved, I believe that these positions are sound, and that the endorsement of an extension is bringing us a step closer to equal rights for all persons without regard to sex.

It is a sad chapter in American history that discloses that equal rights are denied to over one-half the population simply on the basis of sex. While the United States has taken a leadership role in urging all nations to respect the human rights of their citizens, there has been an abridgment of the rights of our American women. This is not an issue of simply "extending a deadline"; rather, the issue embraces basic human rights which have been too long in coming. So many misconceptions, so many distortions of the truth have made this issue cloudy, camouflaging the real issue here. What is at stake is the well-being and human dignity of all women—allowing, as if we should allow, as if this right is not inherent—women to earn as much as men, allowing them the freedom to enjoy the rights which should be theirs from birth.

Mr. Speaker, several constitutional issues are involved in this extension, and I believe that each legal argument, carefully weighed, will prove that this extension is legal. Congress has the right and the authority to set the time limitation on the ratification of amendments. In exercising this authority, the Congress is taking into account that sweeping social changes, such as those resulting from the passage of the equal rights amendment, may take years to take effect. A 7-year ratification period is not necessarily realistic, nor should it be considered binding. The equal rights amendment is timely, contemporaneous and extremely important to the quality of life for all Americans, Mandates such as this one, which affects the basic conditions under which women live, should be given time—time to dispel myths, time to drive the point home, time to enable all of the differences to be aired. Obviously, 7 years has not been enough.

With regard to rescission, I have carefully reviewed the issues at hand. The Constitution presently has a mechanism for voicing a change of opinion in reference to amendments already adopted and that vehicle is repeal. That is a proper route for those seeking rescission. As early as two centuries ago, one of our Founding Fathers, James Madison, stated that the States cannot rescind their agreements, and that a positive vote for an amendment is a trust between the State and the Federal Government which should not be broken. If, after the ratification process has taken place, any State deciding to rescind its affirmative vote on the amendment, may seek to repeal the amendment. Repeal is a legal and proper way for States to express their disapproval.

Another question which has arisen in the consideration of this proposal is the question of the number of Members who must vote on this extension proposal before it is accepted. Since this is a procedural vote, I believe that a simple majority, as opposed to a two-thirds vote, is adequate, and this contention has been supported by many members of the Judiciary Committee. A two-thirds vote is necessary only in a few instances; the ratification of treaties, the override of vetoes, and on a constitutional amendment. The extension proposal in no way should be construed as a constitutional amendment. The extension is a simple procedural act of Congress which allows the States which have not ratified the amendment already, to have more time to include this important amendment in our Constitution.

The crucial consideration in all this is the urgency with which this amendment must be viewed. Daily, women are being denied rights and earnings which are not being denied to men in equal position. For instance, women earn only 57 percent of a male's income. There are presently 800 instances in the United States Code which assign women to subordinate positions solely on the basis of their sex. Scholarships are denied to women, and women professors earn an average of $3,000 less than their male counterparts. These are but a few examples of discrimination against women; the list goes on and on.

An argument which has been voiced on many occasions in opposition to the equal rights amendment is that the passage of this amendment will have a detrimental effect on family life in America. This is blatantly false. The equal rights amendment will raise the status of women, permitting them to choose careers, to choose conditions under which they exist, and will allow them to contribute more fully to their families. Choice is crucial here. Passage of this amendment will not force judgment upon most women, or will it alter their lifestyle. What it will do is allow women a freedom which had never been theirs, to accept responsibility, to earn a full wage, and to glean the self-respect which should have been theirs all along.

How ludicrous that in this Nation we maintain our pride about equal opportunity, equal access, human rights—yes, human rights for all the rest of the world, but for half our population, there have been subserviance and subordination. Is this the legacy we want to leave our children? Is this the example that we wish to set for the rest of the world? If it is, then we cannot call upon other nations of the world to honor human dignity when we fail to do so at home.

Accordingly, I urge my colleagues to extend to our women the same rights as we have, the same rights that we share as a common heritage. It is time for equality, time for this raising of status, for the realization that all men and women are created equal and have equal potential.

Mrs. HECKLER. Mr. Chairman, I thank the gentleman from New York (Mr. GILMAN) for his kind and supportive comments.

Mr. Chairman, I go back again to a discussion of the document I mentioned and the cataloging of ills affecting our society based on Federal laws which discriminate on the basis of sex, and I cite one particular instance of discrimination that should plague the conscience of each and every Member of this House.

We spent countless hours in this House on the subject of social security and the reform of the social security system. Many of us and I was among them, who wanted to vote to roll back the social security taxes, but the House did not have the will to accomplish this, despite the exorbitant level of taxation imposed on the American people. The issue was never actually brought to a vote. Who can assert with integrity that this Congress will vote to make the social security system fair to workingwomen.

The CHAIRMAN. The time of the gentlewoman from Massachusetts (Mrs. HECKLER) has expired.

Mr. EDWARDS of California. Mr. Chairman, I yield 1 additional minute to the gentlewoman from Massachusetts.

Mrs. HECKLER. I thank the gentleman for yielding Mr. Chairman, continuing our discrimination against women in the social security system, I would stress to my colleagues that deductions are made from the weekly

wage of every workingwoman across America.

In Fall River, Mass., a special city in my district, where the garment industry is the major employer, women are paid $4.12 an hour per person. At that level the garment worker receives a deduction from her salary per week, and over a 20-year period she contributes to the social security system $10,000, but if she claims benefits based on her husband's higher income, her $10,000 is lost.

For the average American secretary, her $15,000 that she has contributed to the system is lost if she draws on her husband's pension.

Is that fair to the workingwomen of America? That is the type of economic issue that deserves full debate in America.

So, Mr. Chairman, I ask my colleagues to support this extension, not because they want to be beneficent to women but in the name of simple justice for all. That is what this democracy is about.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Chairman, the subject of extending the time period for the States to ratify the equal rights amendment to the Constitution has been difficult and complex. I believe the House Judiciary Committee, on which I serve, has acted carefully and deliberatively; we have studied legislative history, court opinions, and the views of many legal scholars, and then acted. The committee has reported a sound resolution.

I support House Joint Resolution 638, extending until June 30, 1982, the time period for ratification of the equal rights amendment.

It is important to understand that article V of the Constitution is silent on the subject of time limitations for ratification periods. During the first 125 years of our constitutional history, Congress did not provide for such limitations. In more recent years, time limits have appeared in the proposing clauses—not in the proposed constitutional amendments themselves. Legislative history shows that Congress began including time limits to avoid "cluttering up" the Constitution with language that had no bearing on the substance of the amendment itself or on the merits of the issue embodied in the amendment. By doing so, Congress did two important things:

First, Congress separated from the merits of the proposed amendment the question of time limits and the issue of what constitutes contemporaneous approval by the States; and

Second, Congress retained the authority to review the limit, should circumstances so warrant.

I believe this is an important consideration and basic to our discussion today. The issue of a constitutional amendment guaranteeing equal rights is very much alive today. It is an urgent public, social concern. Sufficient time for public debate and State legislative action should be allowed.

A constitutional amendment is not a frivolous political poker game. It is a change in the fundamental document of our Government, a very serious action. I believe the public needs an adequate time to consider making such an important change in our Constitution.

To put this in the proper historical perspective, I would like to make the point that the public debate on the constitutional amendment guaranteeing women the right to vote lasted for 72 years, from 1848 to 1920. Similarly, the 13th amendment, abolishing slavery, was publicly discussed for decades. Issues reflecting fundamental questions take time for full public debate and understanding, time to address fears, time to consider the issues on their merits.

The issue of rescission of ratifications by the States has also plagued the extension issue. This resolution is silent on the issue of rescission: it neither allows it nor prevents it. The legal scholars appearing before our committee generally agreed that the decision on rescission is a decision to be made by the Congress sitting at the time the 38th State ratifies. Any action by a Congress prior to that time would be premature and not binding. Taking such action today would be misleading. The Congress in session when the last State has ratified should make the decision on whether the 38 ratifications are in fact valid.

I have supported the equal rights amendment for a number of years. I do so because I believe that the U.S. Constitution should guarantee full and equal rights to citizens without regard to sex. I reject the notion that the equal rights amendment will alter family structure, set up numerical quotas, or impact on abortion laws. It is a fundamental policy statement that one's sex should not be a barrier to participation in our society.

In recent years we have made great strides in equality for women. Many doors are opening. Many stereotypes are falling. Guaranteeing equality is a positive step forward, not a fearful plunge. "Equal opportunity for all" should not merely be a shibboleth; it is not just a slogan on a coin; it should be a fundamental constitutional principle. For in my view, democracy will only work for all the people if all the people are part of it—and importantly, if they know they are part of it.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. HARRIS. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding, and I would like to ask the gentleman a question. Is it the gentleman's statement that the States do not have the power or the right to rescind a previous ratification?

Mr. HARRIS. Quite clearly they do not have it under the Constitution.

Mr. HYDE. Is that because the Constitution does not confer that power on them in article V?

Mr. HARRIS. Quite clearly.

Mr. HYDE. I would like to ask the gentleman how he justifies or explains away the 9th amendment and the 10th amendment to the Constitution, which says:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

I always thought the flow of power came from the people to the Congress and any power not specifically delegated in the Constitution is reserved to the people. Is not that what the Constitution says?

Mr. HARRIS. I think that is an interesting question. The Constitution is quite clear in article V that the States are empowered to ratify a constitutional amendment, certainly not to rescind it.

Mr. HYDE. It does not say that, though.

Mr. EDWARDS of California. Mr. Chairman, I yield 3 minutes to the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, the gentleman from Texas, I believe, was right in two substantial respects. First of all, the assumption that he was addressing about two, possibly three, people in the House of Representatives who had not already arrived at the point of conviction on the issue, before the House may well be correct. Second, he was right when he courageously and consistently pursued and fulfilled his long-established and identified role as a civil libertarian in this body.

It is extraordinarily difficult, with an issue of this magnitude and this emotional conduct, to ask for such courage and consistency. But he zeroed in on the very fundamental question that has been submerged and buried in the overwhelming emotional and intellectual appeal of the basic issue of the equal rights amendment. Is this process that we pursue constitutional? I believe that it is a critically important issue. I think we as a body demean or detract from our collective identity when we treat the constitutional mechanism as merely an irritating and detracting incidental barrier in the fulfillment of a justifiable cause, the rights of women of our country. It is sad to have the response that constitutional contentions are merely a technical hangup or handicap that detractors of womankind are resorting to undermine the basic cause. I suggest that such conclusions are unfair nonsense.

A substantial number of this body with whom I have conferred both publicly and privately have themselves expressed grave reservations about the device that is being employed here to achieve a desirable goal and objective. Because in the process of pursuing a goal of basic fairness the sponsor's of extension are proposing an amendment process that may haunt this body for years to come. I would offer this hypothetical illustration to the members of this committee, who are ardent and avid supporters of the extension. Suppose, for a moment we were considering on this floor this afternoon a constitutional amendment that would permit rescission only.

Assume with me, if you will, that 37 States had ratified, and in 2 months time it appeared that the 38th State was going to ratify.

The CHAIRMAN. The time of the gentleman from Nevada has expired.

Mr. EDWARDS of California. Mr. Chairman, I yield 2 additional minutes to the gentleman from Nevada.

Mr. SANTINI. Assume with me that

we are at this threshold of ratification. Opponents of ratification come in and say that we need 3 years, 3 months, for rescission. What then would be the call and response of those who have fought so long and so hard in the trenches of equality to that kind of outrageous proposal? Why, the cries of indignation would ring across the Nation. Not only would the bones of our Founding Fathers be rattling in the Chamber, they would be rattling across the Nation in outrage at this kind of constitutional highjinks.

I would submit the issue is the same in our present context. All must accept that we are exploring murky and unprobed constitutional waters. These are turbulent constitutional seas that have never been sailed before. I would urge each and every Member who has a modicum of objectivity left on this issue to consider the precedent and action we set here.

If he or she is totally satisfied in their minds that this action is consistent with the kind of constitutional precedent they want to serve this Nation in the future then by all means endorse wholeheartedly the extended proposal. But remember if this elastic amendment process can apply to ERA then it will also apply to abortion, busing, and prayer in school. But if they share with me the greatest of concerns about the device we employ here to achieve the most desirable objective, then I hope they will share with me an opposition to this extension proposal.

Mr. BUTLER. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. MARKS).

Mr. MARKS. Mr. Chairman, I stand before this body today as the father of three young women. I stand before this body today as one along with so many others throughout the country who are determined to end discrimination that has for so many years been acknowledged as discrimination against women in this country. I suggest to all of us here that the issue is not a procedural one any longer. It is not an issue of the extension any longer, or rescission any longer.

It is the issue that has been portrayed, particularly by the women Members of this Chamber when they suggested to us that it is a matter of finally ending discrimination. This is an emotional issue. This is not one in which we can stand idly by and speak casually.

I suggest today, as Mrs. HECKLER mentioned is an important day in history, and will go down in history as a most significant, important day for this Chamber. It is one in which all of us, men and women alike, must look about us and see to it that the women of this country no longer must bear any burden due to discrimination in any form. We must send out a message today that those of us in this Chamber will no longer tolerate that discrimination.

May I ask the Members to join me in seeking this is taken care of once and for all with the opportunity we have today.

I hope to have the occasion to speak again on the amendment pertaining to rescission, but I ask my fellow Members to join those of us who are so strong in our sentiments to make this the day when we end discrimination once and for all by seeing to it that we have the extension of time to do it.

I ask all of you to join me in voting to extend the time for ratification.

Mr. EDWARDS of California. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Chairman, I yield briefly to the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I thank the gentleman very much for yielding.

I just wanted to congratulate the gentleman from Pennsylvania (Mr. MARKS), who preceded the gentleman from New York in the well, because I think what the gentleman from Pennsylvania was saying so very eloquently is what we are all talking about, the achievement of equality of the sexes which is an ongoing historical movement. We are dealing today with the latest reflection of it and this movement is not going to end in 1979, no matter what we do here today.

Mr. SCHEUER. I quite agree with the gentleman from New York (Mr. FISH) and I also on my own behalf wish to congratulate the gentleman from Pennsylvania who preceded me in the well.

During this year, I have had the opportunity to gain a new perspective on the need to guarantee the equal rights of women. During the hearings on population and development assistance of the Select Committee on Population, numerous witnesses suggested that development programs as well as the very vitality of societies, will be impaired unless and until the contributions, potentials and needs of women who will be affected by them are understood and addressed at every stage of planning and implementation.

In the developing world, hundreds of millions of women—indeed, the majority of the population of every country—have been almost uniformly excluded from the benefits of development. This has occurred despite the key role women have played in such essential areas as agricultural production and processing.

In the developing world, millions of women do not have access to the most basic of educational experiences; they do not have access to economic opportunities outside the home or the farm; nor do they have the right to participate—even marginally—in the political and social decisions of their society.

The main condition of discrimination around the world is not color discrimination, it is not racial discrimination, it is not age discrimination, and it is not political discrimination: It is discrimination against women. Anybody who has ever participated in an international conference on human rights knows that a pervasive problem around the world in economic and social development—indeed, in terms of simple decency and humanity—is the systematic demeaning of the status of women.

Our global population is growing at an unprecedented rate. At the present rate of population growth, the current population of 4 billion will grow to 7 billion by the end of the century and possibly level off somewhere between 12 billion or 20 billion or 22 billion is a question of monumental importance to all of us.

The key to this issue of affecting the fertility decisions of hundreds of millions of couples in the developing world is their status in the eyes of society and the perceptions women hold of themselves. If women are born and bred and conditioned themselves as merely childbearing creatures with no other possibility in life for expressing their humanity, enriching themselves and contributing to society, other than bringing children into the world, they cannot be expected to do anything else, and indeed they act out that role as their only way of expressing their humanity. But as soon as countries in the developing world give the local communities and the local women access to elementary education so they can become literate and give them opportunities in the job market, as soon as there is a reasonable minimum age for marriage, then women begin to change their perceptions of themselves and begin to look at themselves as people with independent values and independent worth apart from their child-bearing functions. They then begin to participate in society in all of the multiple ways American women have been doing for generations.

The question is why so little substantive attention and concern have been paid to the roles of women in society. Why have so few serious attempts been made to strengthen and expand the productive activities and opportunities of women so that they can reach their full potentials? Why have women's concerns been viewed as separate issues—issues that can be resolved by a token project here or there attached to a larger development project—rather than as issues that are central to the success or failure of the entire development endeavor?

The answer to these and other questions surrounding the equity of women can be found in the political, attitudinal and conceptual roadblocks that have been erected and maintained by male-defined, male-oriented and male-dominated hierarchies.

I submit to you that those same roadblocks in the developing world are also inhibiting the ratification of the Equal Rights Amendment in the United States; in fact, those same barriers are inhibiting congressional action to extend the timeframe in which the ERA can be ratified.

Last year, a number of colleagues and I had the opportunity to participate in the first meeting of an International Group of Parliamentarians Concerned with Population and Development. This group is planning a major international conference of parliamentarians from over 50 countries, scheduled for August 1979 in Sri Lanka. During a subsequent planning meeting in Tokyo, the issue of women's rights throughout the world was raised. The U.S. delegation to this conference expressed an interest in preparing a report on the status of women, to be presented to the parliamentarians attending the Sri Lanka Conference.

It was our intention to do a systematic

review of conditions in most countries of the industrialized as well as the developing world. Logically, the best place to begin this study would be in the United States.

The most obvious roadblock to improvements in the status of women in the United States is our inability to ratify the Equal Rights Amendment. As long as the rights of American women are not formalized in our hallowed Constitution—the most precious document in the world to lovers of freedom and equality everywhere, in effect, we cannot say that women do indeed have equal rights in the United States of America. To remedy the mistakes of the past—where it was possible openly to discriminate against women in, say, the job market—we must set the record straight and put our constitutional house in order in unmistakable fashion by passing the ERA. We cannot, in all honesty, criticize other nations for their unequal treatment of women and urge them to take the painful steps down the road to progress so long as our own country has not assured women constitutional equality here at home.

I hope that the U.S. delegation to the Sri Lanka Conference will not have to report that the U.S. Department of Justice has produced a 200-page list of structured, legislated and administered inequalities between men and women in the United States—where women are overwhelmingly the victims—and that this list remains in effect partly because the Equal Rights Amendment is not a part of the U.S. Constitution. The Congress now has a unique opportunity to show its support for the official recognition of the equal rights of women. If we waste this opportunity and shun our responsibility to the majority of the U.S. population, we will also, thereby, exhibit to the entire world how shallow and hollow are our own exhortations to them to move swiftly in enlarging freedom and making progress toward real equality of all women everywhere.

Mr. BUTLER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

Mr. BUTLER. Mr. Chairman, I yield 9 minutes to the gentleman from California (Mr. WIGGINS), a member of the committee.

Mr. WIGGINS. Mr. Chairman, central to the argument advanced by those who support this resolution is that the equal rights amendment remains a vital issue and that the debate should continue. It is said that the ERA issue is alive and that the debate is proceeding with intensity. I wish to challenge that threshold and central argument. Of course, a debate is continuing, as is the usual custom after any election is over, but with respect to the ERA, all of the preelection debate has been concluded. Three-fourths of the States are necessary to ratify. One-fourth of the States can defeat ratification. In other words 38 States must agree to approve; 13 States must agree to disapprove. To date, 14 States have voted no. One additional State, Mississippi, is so clearly opposed that it has refused even to consider the amendment. Therefore, we can state with some confidence that 15 States, 2 more than is necessary to defeat the equal rights amendment, have expressed their opposition to it. And four more, those which have rescinded, can hardly be counted as ERA supporters. The necessary votes to defeat ERA have in fact already been cast. Therefore, the current debate, Mr. Chairman, is among those on the losing side of the issue.

Related to this matter of the vitality of the current debate is the requirement that for any amendment to become a part of our Constitution, it must embrace a consensus, a current consensus, of three-fourths of the States.

It is my belief that ERA does not now embrace that consensus and cannot reach that consensus within the time frame contemplated by this amendment.

The unstated reason why this resolution is on the floor is because the proponents are unconvinced that a new ERA proposal would receive a two-thirds vote of the Congress, or if it did, that it would gain ratification in those 35 States which have heretofore ratified ERA. That unstated reason, Mr. Chairman, is a tacit confession, even by its supporters, that the required consensus of three-fourths of the States does not now exist and could not be gained within the next 3 years and 3 months.

Parliamentary manipulation will not strengthen the uneasy coalition which now exists in only 31 States. In fact, it may poison the well. It may destroy the coalition entirely.

This point was made strongly by a member of the committee in his separate views, the gentleman from Illinois (Mr. MCCLORY) and the gentleman is right.

During this debate, Mr. Chairman, we have talked about rescission and we have talked about the presumed power of a subsequent Congress to rule on the question of rescission. There has been a general assumption drawn from dicta in the Coleman case that following ratification by three-fourths of the States, Congress has the power to hold post-ratification review and by a simple concurrent resolution, passed by a majority, to declare the amendment to be part of the Constitution.

Well, Mr. Chairman, I am not sure that Coleman is good law on that point. The Coleman case was described by a distinguished law professor, Professor Black, as so thin that a cat could not walk on it, and I agree. That case is, indeed, a shaky precedent. The case reviewed the history of the 14th amendment and noted that such a concurrent resolution approving ratification was passed in that Congress. But can we be sure that the court would have condoned a concurrent resolution rejecting the amendment? I think not; especially in view of the plain language of article 5 and the holding of the Dillon case that the amendment becomes part of the Constitution when ratified by the last State. Of course, a question may arise as to whether ratification, in fact, occurred, as was the case in Kansas with the child labor amendment.

For my part, such technical issues relating to ratification surely lend themselves to judicial review and are not political questions. I place the issue of rescission in that category. I do not believe rescission is a political question. The only political question decided by Coleman was that when Congress failed to establish a time for ratification, a judgment as to what is a reasonable time was political. What should be the power of Congress in the event of a stale ratification? The timeliness of a ratification where no time limit is contained in the amendment itself poses a difficult question. As I see it, there are two general options available to Congress: Congress can act after the last ratification to determine its timeliness, or alternatively, Congress can act before the last ratification to withdraw a stale amendment.

The first option, as I said, is discussed in Coleman; but I find that a very troublesome precedent.

The second option runs afoul of the conventional wisdom that Congress may not withdraw an amendment previously submitted to the States. This is scholarly opinion, and it is only that, since it has never been tried, should be challenged. If Congress were to do so, that is, the States were to withdraw an amendment, the States are not without their remedy.

They could propose their own amendment in the manner prescribed in article V of our Constitution. Moreover, the withdrawal of ratification is consistent with the contract analogy mentioned in the views of the gentleman from Virginia (Mr. BUTLER), which I find to be a good one.

In addition, any constitutional effort to withdraw would certainly trigger prompt affirmative action by States which desire to ratify but had merely been tardy in doing so.

But most important of all, Mr. Chairman, Congress would be denied the power by a simple majority to overrule three-fourths of the States. Such a procedure discussed in the Coleman case offends constitutional principles. It would be difficult to hold a future Congress to consider only the issues of timeliness. Surely the wisdom of the amendment itself would infect such congressional deliberations, as it has done so today.

Mr. Chairman, I think I have said

enough about the law. I want to appeal to the Members' sense of parliamentary regulatory procedures. I ask the Members to picture this scene, if you will:

Let us say a vote is being taken under suspension of the rules. Two-thirds is necessary, of course, for passage, and more than one-third have voted against the measure. As the clock ticks down to 1 minute remaining, the Speaker announces that the time will be extended for an additional 5 minutes, during which period only the aye votes will be counted and Members will be permitted to change their vote to aye only.

What would be the response of the Members? Pandemonium, I suggest. We simply would not tolerate it. It would offend our sense of parliamentary regularity and our sense of fairness.

Mr. Chairman, the proposal before the House today deeply offends my sense of fairness, and I hope the Members will vote against it.

Mr. EDWARDS of California. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Chairman, I would initialy like to indicate where I stand on the equal rights amendment and on the extension. I am for both. I believe that we do need to have in this Nation a clear declaration that there shall be equal rights for all, and that includes sex.

I am also for the extension, because I believe it is fair to allow the debate on this issue to go forward and, I hope, eventually to ratification of the amendment.

But when I look at the initial amendment as proposed, I find they put in a 7-year time limit. I think it was a mistake to have done so, but that was a mistake made by a previous Congress in which I did not participate.

However, having had that particular 7-year period included in there, now comes the issue today: How can we extend the time and do it fairly to allow the debate to continue?

The Constitution requires a contemporaneous ratification by the States. It seems to me that when the Congress put in the 7-year period, they said, "This is a reasonable time, as far as we can judge, for a contemporaneous ratification."

We are now proposing to extend that time. Yet we have as a Congress made a good faith commitment to the States and to all other people in this Nation that a 7-year period would be allowed and that it was an appropriate time for contemporaneous ratification. We are now going back and changing it.

I think we can do that, but to do so we must do it fairly, with a sense of justice and a sense of fairness. It seems to me we must say to those States that have already ratified and who relied on that 7-year period that "You shall have the opportunity, through these additional three years, to say, 'No, I want to change my mind.'"

We are almost at this point saying, "This is a new ball game. This is a new amendment that is being proposed to you."

Under the law, if a State or some legislative body has acted, that implies a continuing affirmation of that action forever unless thay change their mind. If we pass a statute today, 10 years from now or 20 years from now that is still a good statute.

That continuing intent is there. But here I think, with a 7-year period, that a continuing attempt expires. If we are going to continue it and say that the continued attempt is continuous, we must give them the right to say, "No, we do not agree to continue it." And we must give them that, in fairness, so that this amendment, when it is ratified, will not be subject to controversy in the Court.

Mr. Chairman, I will address that issue during the 5-minute rule.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of House Joint Resolution 638.

I have long been a supporter of the equal rights amendment, and believe that the need for its passage is as compelling today as it was in 1972. The need to establish a national standard prohibiting sex discrimination is unquestionable. One need only examine the statistics: women earn 59 percent of what men earn, although they represent 47 percent of the labor force. And 70 percent of the women in the labor force work either because they are the sole support of their families, or to bring the family income up to $10,000. But although it is clear that this measure is of vital importance, it is threatened with extinction unless we extend the time for debate.

The issue at stake is whether this Congress has the authority to provide an extension. After examining the relevant documents, I have concluded that we do indeed have this responsibility; it is our duty to allow discussion of the ERA to continue. The defeat of House Joint Resolution 638 would prematurely end consideration of this amendment; dealing a blow to the spirited debate being conducted by proponents and opponents alike. The 7-year limitation for ratification was included in the preamble because it was a customary time limit. But in retrospect, it appears as though the issue would have benefited from greater discussion at the time of consideration. The equal rights amendment is a profound human rights issue involving a fundamental change in attitude about a majority of our population. Because of the strong emotion it generates, it was perhaps naive to believe that ratification could be achieved within 7 years.

The Supreme Court has ruled on two occasions—Dillion against Gloss and Coleman against Miller—that Congress has the power to determine a reasonable length of time for ratification of a proposed constitutional amendment; reasonable being that which was determined by the issue's vitality and timeliness. Surely, the ERA meets this criteria.

Critics of the ERA contend that it is unnecessary as a vehicle for fighting sex bias, because the 14th amendment sufficiently does so. Others argue that discriminatory State and Federal laws can be amended on a piecemeal basis. However, in a study of the United States Code conducted by the Civil Rights Commission in April 1977, over 800 instances of sex bias in our Federal laws were found, including the areas of employment, credit, education, and social security. The equal rights amendment will rectify this situation through the establishment of one system of justice for all. It is imperative that debate on this issue be allowed to continue, for the question of equality for more than half our citizens is one which can be subjected to no time limit.

In conclusion, I would like to share with my colleagues a thought of Walt Whitman's:

> Of equality—as if it harmed me giving others the same chances and rights as myself—as if it were not indispensable to my own rights that others possess the same.

Mr. BUTLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I urge the defeat of House Joint Resolution 638, which would extend the time for ratifying the equal rights amendment. Seven years to ratify this amendment is long enough.

By expiration of the March 1979 deadline, State legislatures will have had 7 full years to consider the proposed equal rights amendment. For 7 years advocates of ERA will have had an opportunity to convince the members of these legislatures that the amendment should be added to the Constitution.

Seeing failure on the horizon, however, proponents of the amendment now want to extend the ratification period for at least another 3 years, 3 months and 8 days. Any extension of time would be a mistake. Again, 7 years is long enough.

ERA proponents already have had more time to gain ratification than for any other amendment added to the Constitution. In fact, the longest ever taken is less than 4 years.

Let us look for a moment at the time needed to ratify a few of these amendments. It took less than 5 months for the 18-year vote. The right to vote for women required just a year. And it took only 2 years for the first 10 amendments—the Bill of Rights—to become part of the Constitution.

On the whole, the 26 amendments took an average of only 1.2 years each to be ratified. So it seems inappropriate and unfair to devote more than a decade of our national attention and energies to efforts at adopting an amendment which is an emotional response to the legitimate goal of equal rights for women at best, capricious at worst.

Perhaps it is just too difficult for the liberal ERA supporters to realize that support for their proposal is weakening, as is support for many of today's liberal and radical causes. The antibusiness crusade of the liberals has backfired. Environmentalism at any price is no longer in vogue. Quotas disguised as civil rights are out and even the more strident antimilitary cadres are depleting. ERA appropriately fits into this same liberal graveyard.

Seven years is long enough, especially after a careful consideration of the original resolution passed by the Congress

in 1972. The 7-year time limitation for ratification by the States was done to place a meaningful limit on debate and public attention on the issue. Equally significant is the fact that the Congress and the majority of State legislatures approving the equal rights amendment specifically referred to the 7-year time frame. It would be a travesty on our system of laws to change course in midstream.

Even more appalling is the attitude of the Abzug-type ERA proponents who take the curious position, in fighting any efforts to allow legislatures to rescind during the proposed 7-year extension period, that you can change your mind if you agree with them but you should be prohibited from changing your mind if you do not. The American people see through that one-sided sham. It is this type of arrogance that has helped bring the ERA movement to its knees.

Finally, it is significant to note that public opinion has swung against the equal rights amendment. Thirty States ratified the amendment within the first year. During the next 5⅓ years, however, only five more States have joined the list. At the same time, four of the previously ratifying States withdrew their ratifications.

This means a net gain of only one State in the last 5-plus years. Meanwhile, the ERA has been defeated in committee or on the floor almost 90 times in the 15 State legislatures that have never ratified. Just recently, Illinois twice turned back ratification efforts. The tide has clearly turned.

And it has turned for good reason. Proponents who once felt that public attitudes could be changed by law are now realizing that performance is a better gage for change. Women who were once subjected to discrimination on jobs, in business or at banks are now finding that a job well done earns more respect than a law on the books. As more and more women excel in former male domains, public opinion is changing and it is this change in attitude that will do more for women today than a constitutional amendment could ever do.

So 7 years is indeed long enough for this issue to have been battered and bartered. It was a good fight and the end result may have been as good if not better. Women are making great strides on their own abilities and on their own performances and that is a greater achievement than may have been realized with the adoption of an emotional symbol in the form of the equal rights amendment.

Mr. BUTLER. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois (Mr. FINDLEY).

The CHAIRMAN. The gentleman from Illinois (Mr. FINDLEY) is recognized for 1½ minutes.

Mr. FINDLEY. Mr. Chairman, I rise in support of the legislation to extend the time period during which the equal rights amendment may be ratified. I also raise a question to my colleagues on the Republican side of the aisle: I am troubled by the emphasis on rescission. I will vote for rescission, but I feel that it is a lesser issue when contrasted with the much more fundamental issue of human rights; namely, the rights of women. I hope we will not be denied the opportunity to vote for the resolution extending the time for ratification of ERA if the rescission amendment is accepted. To me, the issue of rescission is important, but much less important than the extension of time for the ratification of ERA.

I do not know when ERA will become a part of our Constitution, but I am sure that the day will come. And when that day comes, I hope that members of the party of Abraham Lincoln will be in the forefront of the accomplishment. It would certainly be true to our traditions to have this so. We can take note of the fact that only once in our history have the human rights of a greater portion of our population been at issue, and that was when the Union itself was threatened with dissolution. On that occasion, of course, the individual rights of our citizens, North and South, men and women, were threatened as never before or since.

The authority of a Republican President and a Republican Congress ended that threat to human rights, and ever since the sovereignty of the individual citizen in our political system has been unchallenged.

Republican Presidents and Republican Congresses were in control when other great human rights issues were met, when amendments were attached to the Constitution protecting the human rights of blacks and establishing women's suffrage.

As we ponder the issues of ERA, it is instructive to note that the young Lincoln, seeking his first term in the Illinois legislature, spoke up bravely for women's rights.

But now the Republican Party languishes as the minority force on Capitol Hill, and has been so relegated for over 20 years.

Is there a connection between the low estate of our party's political fortunes and the clear fact that our party no longer carries the torch for human rights as it once did? I do not know the answer, but I am troubled.

Mr. EDWARDS of California. Mr. Chairman, I yield the balance of time to the principal sponsor and author of the bill, the distinguished gentlewoman from New York (Ms. HOLTZMAN).

The CHAIRMAN. The gentlewoman from New York (Ms. HOLTZMAN) is recognized for 6½ minutes.

Ms. HOLTZMAN. Mr. Chairman, before I begin, I wish to pay my deepest respects to the gentleman from California (Mr. EDWARDS) for the fairness and ability with which he has conducted these proceedings and for his diligence and his concern. All of us have to be deeply grateful to him. I also wish to compliment my colleagues on both sides of the aisle for their concern about this issue.

Mr. Chairman, somebody remarked recently that he was offended by this proceeding.

I just want to say that there are hundreds of thousands, millions of Americans, who are offended by the fact that women still do not have equal rights under the Constitution of the United States.

Mrs. COLLINS of Illinois. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentlewoman from Illinois.

Mrs. COLLINS of Illinois. Mr. Chairman, I certainly agree with the gentlewoman, and rise in support of this resolution.

Mr. Chairman, I rise in support of House Joint Resolution 638, which would extend the time available to States to ratify the proposed equal rights amendment (ERA). On October 26, I joined with 13 other members of the Congresswomen's caucus in cosponsoring this resolution—the passage of which is essential because it will permit continuation of the debate on what I view as one of the most important human rights issues of this century.

Although our Constitution protects the rights of all our citizens in theory, history has proven time and again that this is not always the case in practice. It is now some 200 years since the Bill of Rights was signed by our forefathers and such supposed civil rights as equal pay for equal work still do not apply in practice to over 50 percent of this country's citizens. Although women constitute the majority of our population, many laws and practices exist which discriminate against them solely on the basis of sex.

It is long past time for this Nation to establish constitutional protection against sexism just as was done earlier in the century with regard to racism. The vehicle for this achievement is the equal rights amendment which will be the basis for legal equality for women. It reads:

> Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.

It is of interest to note that the "stop ERA" proponents claim that ratification of the amendment will destroy the family. In their view, the typical family is composed of a male breadwinner who works all day leaving child rearing and housekeeping to his dependent spouse who, a full-time wife and mother. Unfortunately, this group gives no credence to Department of Commerce statistics which indicate that a mere 7 percent of America's families fit this description. The remaining 93 percent are single-parent households, families with two working parents, families with wives as breadwinners and husbands as students, and so forth.

The equal rights amendment would eliminate the use of sex as the sole factor in determining, for example, who in a divorce action would be awarded custody of a child, or who would have responsibility for family support. Thus, certain responsibilities and protections which are now enjoyed by members of one sex but not by members of the other would have to be extended to everyone.

It took from 1848 until 1920 for women to win the right to vote. It took nearly half a century to get the ERA to the floor of Congress for serious consideration. In this light, it is important to note

that while considerable lipservice is being paid to the issue of human rights, when it comes to writing it down in our Constitution, there is quite a bit of foot dragging. I look forward to the day when equality of opportunity will be a reality for all.

The question of whether to allow rescission will be presented to the House today as part of the debate on the extension. In my view, the two issues—extension and rescission—are totally separate in constitutional terms and should not be considered as if they are interconnected.

Substantial doubt exists about Congress ability to authorize rescissions without a constitutional amendment. The Department of Justice has testified that: Congress cannot give to the States a right to rescind by any means short of amending article V of the Constitution.

For nearly 200 years—from the adoption of the Constitution itself to the Senate debate on the 25th amendment in 1974—Congress has never recognized the right of States to rescind. In fact, Congress specifically disallowed attempted rescissions of the 14th, 15th, and 19th amendments.

I believe that this is not the time to decide about the validity of rescission. That decision should be made by the Congress sitting when the 38th State ratifies ERA. Indeed, any ruling by this Congress on rescission would be purely advisory and would not be binding.

I ask that my colleagues take advantage of this historic opportunity to approve additional time to continue debate on the equal rights amendment. Each of us has the responsibility to insure that human rights in this great Nation is for all a reality—rather than just an empty slogan.

Ms. HOLTZMAN. The equal rights amendment is necessary because women of the United States are still, unfortunately, subject to discrimination. They are still subject to discrimination in pay; still subject to discrimination in employment; they are still subject to discrimination throughout our society. If anybody wants to say that our present laws protect women from discrimination in employment or in other areas, they are wrong, flat wrong.

The extension becomes necessary so that the American public can deliberate in a reasoned, reasonable manner on whether or not the Constitution of the United States should fully protect women. That is an important decision. It is a decision that will not only have a profound impact on the people of the United States, on the generations to come, but on the world itself.

I submit, and I think the Congress is well aware, that that decision has now become clouded because of an attack of lies and propaganda and denunciations, and the poor equal rights amendment has had to withstand an onslaught of the kind we have not seen leveled against any single issue.

I think it is wholly consistent with the principles on which this democracy is based that the decision on equal rights be made with an understanding of the facts so that this barrage of false propaganda can be seen for what it is, and so that the decision on equal rights can be made intelligently and rationally.

I would say to my colleagues that there is nothing more consistent with our democratic processes than permitting the decision on the equal rights amendment to be made in an informed and in a rational fashion—nothing. That is exactly what we intend to do here. To those people who say there is something unfair, I would like them to show me one time that anybody was ever hurt by the truth. All we are trying to do here is to allow sufficient debate for the truth to come out.

I say to those people who talk about constitutional impediments, they have not thoroughly listened to those people who testified, the legal scholars who testified before the House Judiciary Committee. The overwhelming number of legal scholars have testified that Congress has the power to permit the extension.

To those people who say, "Well, but this issue is not free from doubt," how many issues are there in which we can have absolute certitude? This is an issue in which we can, however, take comfort from the fact that the overwhelming majority of legal scholars support the action of the House Judiciary Committee, support the action on extension, support our denial of rescission.

And then, there are some who say, "Let's separate the extension from the equal rights amendment; they are two different things." I say to you, that is the height of sophistry, because the extension and the equal rights amendment are one and the same thing. If we want the American people to make an intelligent and informed decision on ERA then we need the extension. A vote against the extension will be a vote against the equal rights amendment.

Then, the final argument: "Well, but no other constitutional amendment took more than 3 years." I would say that those people who make that argument forget history, because the only other time we had to deal in our country's past with an issue of profound human rights resulted in a Civil War. The 14th amendment was adopted because the States were told, "Unless you ratify the 14th amendment you cannot come back into the Union." That amendment was ratified at the barrel of a gun.

We are not asking for occupying troops; we are not asking for States to be thrown out of the Union; we are not asking for anybody to point a gun at anybody else. We are just asking for time and reason and debate.

I would urge this House at this time to vote for the extension and to sustain the action of the Judiciary Committee.

● Mrs. BURKE of California. Mr. Chairman, on March 22, 1972, after a century of struggle for women's rights, the Congress of the United States passed the equal rights amendment [1] and sent it to the States for ratification. This action culminated almost 50 years of attempts at passage of an equal rights amendment in the Congress, beginning with its introduction in 1923 and followed by its reintroduction every year thereafter.[2] Debate over the equal rights amendment was preceded by 50 years of struggle for women's suffrage, beginning in 1871 with ratification of the 14th amendment and ending August 26, 1920, with ratification of the 19th amendment.[3]

Within 1 week of Congress submission of the amendment, six States ratified it. By the end of the summer of 1972, 18 States had ratified the amendment.[4] To date, 35 States have ratified the amendment, leaving only 3 more States to complete the three-fourths needed to make the amendment part of the U.S. Constitution.[5]

Despite ratification, however, and as the result of lobbying by anti-ERA groups, a few States have considered rescinding ratification of the amendment. To date, only Nebraska [6] and Tennessee [7] have successfully passed rescission resolutions. Since there is pressure in other States to consider rescission, and since the amendment is close to obtaining the three-fourths vote needed for ratification, the validity of Nebraska's and Tennessee's rescission attempts is a crucial issue. Vital to a determination of that issue is the question of whether the issue itself is justiciable in the courts. It will be contended here that the States do not have power to rescind a prior ratification and that the issue is not a "political question," but a proper question for the courts.

A. ARTICLE V AMBIGUITIES

While legal precedent largely rejects any power within the States to rescind prior ratifications and declares that such controversies can and should be handled by the courts in partnership with Congress, the legal status of this assumption is still uncertain. The original source of ambiguity on this issue is article V of the Federal Constitution, which defines the constitutional amendment process:

> The Congress, whenever two thirds of the Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress.[8]

A few moments' study of article V readily exposes the ambiguity. The article itself says nothing about rescission. so interpretation of the article revolves around the meaning of the words "when ratified." There are three possible interpretations of these words.

Under the Coleman against Miller [9] theory, which is the prevailing assumption, an original vote of rejection is inconclusive, while an original vote of ratification is deemed to be final.[10] The reasoning here is that article V of the Constitution creates only the positive power

Footnotes at end of article.

to ratify. Ratification therefore exhausts the power granted to the States, while failure to ratify leaves the power intact to be exercised at any time within the ratification period set by Congress. From this view, it follows that once a ratification resolution is passed—and the constitutional power exhausted—there is no power to rescind.

A second view, expressed in Chandler against Wise,[11] the companion to Coleman, asserts that the initial decision of of State legislature is binding, even if it is a rejection. Chandler was dismissed by the Supreme Court after the opinion in Coleman was handed down, on the Coleman ground of a nonjusticiable issue. Thus, the holding of the lower court was left standing, thereby adding to the ambiguity of the Court's decision.[12]

A third view, which has received little support, is that neither ratification nor rejection may be regarded as final until three-fourths of the States have ratified and the amendment has been adopted. The argument here is that treating both ratification and rejection as final is logically consistent and that one should not be more final than the other.[13]

B. HISTORY OF THE AMENDING PROCESS

In order to determine which view should prevail, it is necessary to review the judicial and political history of the amending process. Historical precedent bolsters the argument that the courts have a role to play in interpreting article V, for each case heard by the Supreme Court has also witnessed some involvement by Congress in the amending process. Moreover, the roles played by the Court and Congress have been complementary, not hostile.

Congress action with respect to the 14th amendment is perhaps the most notable example of a purely political determination of an amendment controversy.[14] The unusual setting of the controversy was Civil War Reconstruction. At perhaps no period in U.S. history was the Government on such precarious ground. Uniting the States once again after 5 years of a divisive conflict required an abnormal amount of solidarity among the Government departments. Congress and the Supreme Court rose to the occasion.

At that time (1868), there were 37 States in the Union, so that 28 were required to ratify the 14th amendment. Upon request by Congress, Secretary of State Seward produced a list of 28 ratifying States.[15] Among them were Ohio and New Jersey, which had attempted to rescind their prior ratifications. Since Secretary Seward was undecided whether or not the ratifications were valid, he merely stated that if the previous ratifications were in force, the amendment was ratified.[16]

On the following day, Congress solved the problem by passing a resolution accepting the ratifications of New Jersey and Ohio, as well as those of South Carolina, Georgia, and North Carolina, who had initially rejected the amendment and subsequently ratified it.[17] One week later, on July 28, 1868, the Secretary of State issued a certificate proclaiming ratification and including Ohio and New Jersey among the ratifying States. At that time, however, the ratifications of Ohio and New Jersey were unnecessary, for on July 27, the 30th State ratified the amendment.

Another factor which weakened the precedential value of the controversy was the fact that Congress in effect coerced ratification by conditioning the readmission of several States on their ratification of the Civil War amendments. This and the need to reunite the Nation were probably the primary reasons Congress quickly passed the concurrent resolution proclaiming ratification of the 14th amendment. They are also arguably the reasons the Court chose to stay out of the controversy. It is unlikely that such a procedure would be upheld by the Courts today—and they would certainly review such an action by the Congress.

Following these actions by Congress, the Supreme Court handed down their decision in White against Hart.[18] In holding the new Georgia constitution to be a valid enactment despite alleged coercion by Congress, the Court addressed itself to the finality of the States ratifications of constitutional amendments:

> The result [the Georgia Constitution] was submitted to Congress as a voluntary and valid offering, and was so received and so recognized in the subsequent action of that body. The State is estopped to assail upon such an assumption [coercion by Congress]. Upon the same grounds she might deny the validity of her ratification of the constitutional amendments.[19]

Much of the same situation mooted the controversy over the 15th amendment. In that case, Ohio rejected and then ratified the amendment,[20] and New York ratified and then rescinded.[21] A resolution was introduced in Congress to proclaim the two States ratifications, but it never reached a vote.[22] However, Congress counted the two States among those that ratified.[23] By the time the certificate of ratification was issued by the Secretary of State, two additional States had ratified, making a ruling on the actions of Ohio and New York unnecessary.[24]

Other legislative attempts to set a policy concerning prior rejection and subsequent rescission attempts have received little action in Congress.[25] The inadequacy of past legislative attempts highlights the need for judicial action. Moreover, congressional action has produced no common theme which would be frustrated by judicial decision.

Some commentators have dismissed the controversies surrounding the 14th and 15th amendments as aberrations, products of the unusual temper of the times, and suggest that they may not be valid authority today.[26] However, the opinion in the Slaughter House cases,[27] handed down 2 years after adoption of the 15th amendment, recognized the turbulent times, but nonetheless recognized the amendment's validity by construing it in that case.

Furthermore, the 14th amendment has in recent times undergone challenges to its validity on the grounds of unconstitutional ratification, but the courts have consistently upheld the finality of the States ratification of that amendment.[28] Thus, following the Civil War, it was assumed by Congress and the courts that the States had no power to rescind ratification of a constitutional amendment.

Still another rescission attempt occurred with respect to the 19th amendment. Tennessee attempted to rescind its prior ratification, while West Virginia ratified following an initial rejection. Congress ignored both attempts and counted both States as ratifying in the declaration by the Secretary of State.[29]

In Leser against Garnett,[30] a suit was brought against the board of registry of Maryland to disenfranchise two women, despite adoption of the 19th amendment. In this case, counsel argued that procedural irregularities in West Virginia and Tennessee negated effective ratification by these States, thereby resulting in less than the required three-fourths vote. Despite the States violation of their own procedural laws, the Supreme Court determined that their ratifications were final and conclusive. The Court held that if ratification occurs in accordance with the Federal Constitution, a State may not deny its validity because of irregularities within its own system.[31]

Two years earlier, in 1920, the Supreme Court heard a case which involved article V questions, but did not revolve around a rescission attempt. In Hawke against Smith,[32] plaintiff sought to enjoin the secretary of state of Ohio from submitting the proposed 18th amendment to the people in a referendum as provided in the Ohio constitution. The issue here was the interpretation of the term "legislatures" in article V. The Supreme Court held the provision of the Ohio constitution invalid, thereby establishing the principle that the action of a State legislature in ratifying an amendment to the Federal Constitution is a purely Federal function under article V, transcending any limitation sought to be imposed by the people of a State through their own constitutions:

> [R]atification by a State of a constitutional amendment is not an act of legislation within the proper sense of the word. It is but the expression of the assent of the State to a proposed amendment. . . . It is true that the power to legislate in the enactment of the laws of a State is derived from the people of the State. But the power to ratify a proposed amendment to the Federal Constitution has its source in the Federal Constitution. The act of ratification by the State derives its authority from the Federal Constitution to which the State and its people have alike assented.[33]

By characterizing the amending process as a Federal function, the Court squarely provided for its own assertion of jurisdiction, since one of the major sources of Supreme Court jurisdiction is a case involving a Federal question.[34]

Nineteen years later, Coleman against Miller[35] was decided by the Supreme Court, presenting a problem similar to Leser, but with quite a different result. In Coleman, members of the Kansas Legislature sought a judgment nullifying a

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ratification of the child labor amendment after passage of the ratification resolution. They argued that a prior rejection of the amendment by the legislature precluded the subsequent ratification.

The case presented two issues: whether a State can ratify an amendment following rejection of it, and whether a State can ratify an amendment 13 years after it has been proposed. Although the Court ruled both questions to be political, the different treatment accorded each issue is inconsistent and confusing. The majority of the Court responded to the first issue by reviewing the congressional precedent of ratification of the 14th and 15th amendments, reaching the following conclusion:

Thus the political departments of the Government dealt with the effect both of previous rejection and of attempted withdrawal and determined that both were ineffectual in the presence of an actual ratification.[36]

The Court considered precedents which held ratification to be a final act, but ultimately did not decide that question.[37] Moreover, Coleman completely ignored the cases of the 1920's and 1930's dealing with the amending process. These cases, as noted previously [38] firmly established the Supreme Court's role in interpreting the article V amending process, but the majority made no effort to distinguish them. One observer, commenting on this significant omission, concluded:

Reference shows that Coleman v. Miller is contrary to most precedent, and supported by none, on this issue.[39]

The second issue in Coleman, concerning timeliness of ratification, was discussed according to two standards enunciated by the Court for determining the existence of a political question:

In determining whether a question falls within that category, the appropriateness under our system of government of attributing finality to the action of the political departments and also the lack of satisfactory criteria for a judicial determination are dominant considerations.[40]

The Court found the timeliness issue to be too complex:

In short, the question of a reasonable time in many cases would involve, as in this case it does involve, an appraisal of a great variety of relevant conditions, political, social and economic, which can hardly be said to be within the appropriate range of evidence receivable in a court of justice.[41]

However, in making this determination, the Court failed to override Dillon against Gloss,[42] where the Court had held 7 years to be a reasonable time for ratification, and where the question of whether ratification had occurred within a reasonable time was deemed appropriate for judicial review.[43]

Justice Black, in his concurring opinion, recognized this anomaly, though he dissented from any implication that the Court may have implicitly assumed a power of judicial review on the question:

The Court here treats the amending process of the Constitution in some respects as subject to judicial construction, in others as subject to the final authority of the Congress. There is no disapproval of the conclusion arrived at in *Dillon* v. *Gloss*, that the Constitution impliedly requires that a properly submitted amendment must die unless ratified within a "reasonable time." Nor does the Court now disapprove its prior assumption of power to make such a pronouncement. And it is not made clear that only Congress has constitutional power to determine if there is any such implication in Article V of the Constitution.[44]

Decided the same day as Coleman, Chandler against Wise [45] reached the Court on a writ of certiorari from the Court of Appeals of Kentucky. Suit was brought in Kentucky to restrain the Governor and other State officials from sending to the Secretary of State of the United States a certified copy of a resolution enacted by the State legislature purporting to ratify the proposed child labor amendment, and for a judgment invalidating the action of the General Assembly. The contention was that the proposed amendment could not be adopted since it had initially been rejected. The Kentucky court upheld this argument:

We think the conclusion is inescapable that a State can act but once, either by convention or through its Legislature, upon a proposed amendment; and, whether its vote be in the affirmative or be negative, having acted, it has exhausted its power further to consider the question without a resubmission by Congress.[46]

In reaching its conclusion, the lower court noted that article V only mentions ratification. Arguably, then, rejections were not contemplated and thus were not authorized:

Certainly, had the framers of the Constitution entertained so unique a theory, they would have adopted language more clearly expressing their intention.[47]

The Supreme Court dismissed the case, after deciding Coleman, on the Coleman argument of nonjusticiability.[48] Thus, the Court never reached the merits:

[Certiorari] dismissed upon the ground that after the Governor of Kentucky had forwarded the certification of the ratification of the amendment to the Secretary of State of the United States there was no longer a controversy susceptible of judicial determination.[49]

By dismissing Chandler, the Court left the judgments in both cases standing, that of Coleman for ratification because the Court thought it was correct, and that of Chandler against ratification because the Court lacking justiciability, could not pass on the question. Confusion on the issues presented extends beyond the opposite holdings in the two cases. In Coleman, the majority opinion, written by Chief Justice Hughes, was shared by only two members of the Court—Justices Stone and Reed. The concurring opinion written by Mr. Justice Black and joined by Justices Douglas, Frankfurter, and Roberts indicated that the entire amending process should be regarded as a political question:

No . . . division between the political and judicial branches of the government is made by Article V which grants power over the amending of the Constitution to Congress alone. Undivided control of that process has been given by the Article exclusively and completely to Congress. The process itself is "political" in its entirety, from submission until an amendment becomes part of the Constitution, and is not subject to judicial guidance, control or interference at any point.[50]

This reasoning was not shared by the majority which, by refusing to overrule prior Court decisions in this sphere, implicitly approved the exercise of jurisdiction. Together with the dissenters, Justices McReynolds and Butler, the decision favoring some kind of Court jurisdiction totals 5–4. Thus, the confusion engendered by the Court's seeming departure from prevailing precedent is aggravated by the reasoning of the Court.

C. THE QUESTION OF JUSTICIABILITY

Since most of the confusion on this matter stems from the Coleman Court's finding of a nonjusticiable controversy, it becomes necessary to inquire into the validity of this holding in light of prior Supreme Court cases and, most particularly, with respect to the Court's opinion in 1962 in Baker against Carr,[51] the leading case on the political question doctrine. A review of these cases demonstrates that with the sole exception of Coleman, the Court has viewed article V issues as justiciable in the past and suggests that it would continue to do so in light of Baker against Carr.

Hollingsworth against Virginia,[52] which dealt with the validity of the adoption of the 11th amendment,[53] was the first case constructing the amending process to reach the Supreme Court. The most significant aspect of the case with regard to the justiciability question was the absence of argument on the point. In passing upon an unrelated procedural problem,[54] the Court was silent on the question of justiciability, apparently assuming it.

Nevertheless, consideration of the case in the context of the times and the circumstances in which the assumption was made indicates that greater weight must be given to the viability of the Court's determination. Since the case involved the first instance of amendment of the new Constitution,[55] the justiciability issue was ripe for adjudication. Furthermore, various members of the Court had been influential forces in the drafting of the Constitution.[56] The fact that these individuals had implicitly assumed the justiciability of the question is of significance in the argument that the amending process should be open to judicial review.[57]

The next case in which the issue of justiciability of article V questions appeared was Luther against Borden,[58] where the discussion occurred in dictum. In that case, Chief Justice Taney described questions concerning the validity of an amendment as nonjusticiable.

The political department has always determined whether the proposed constitution or amendment was ratified or not by the people of the State, and the judicial power has followed its decision.[59]

The context of this litigation, however, weakens the contention that the Court based its holding squarely on the merits of the issue. The question arose in a setting of armed conflict between rival factions disputing the validity of a new state constitution. In its opinion, the Court approved the argument that fundamentally divisive controversies of such a nature preclude the orderly and meaningful functioning of judicial authority:

Judicial power presupposes an established

Footnotes at end of article.

government capable of enacting laws and enforcing their execution, and of appointing judges to expand and administer them. The acceptance of the judicial office is a recognition of the authority of the government from which it is derived. And if the authority of that government is annulled and overthrown, the power of the courts and other officers is annulled with it.[60]

As can be seen, the propriety of the finding of nonjusticiability in this case lay in the unique factual circumstances rather than in the merits of the dispute.

Similar considerations supported the Court's dictum in White against Hart [61] that the validity of the Civil war amendments was a political question. The case, as noted earlier,[62] concerned a dispute over a contractual obligation, resolution of which turned on whether the Georgia Constitution of 1968 was illegally coerced by Congress. Although the Civil War was over, Reconstruction problems probably justified removal of the issue from the judicial arena. The problems inherent in the task of reuniting a war-torn and divided people under a single effective national government required a solidarity of purpose throughout the Government departments.[63]

It is also arguable that the Court's decision in White against Hart implied that the Court could hear challenges regarding ratification of amendments. The Court assumed that the Georgia Constitution was submitted voluntarily to Congress. Therefore, Congress could accept it and it could not be rescinded,[64] just as Congress could accept ratifications and deny withdrawals. However, if the State's action was forced by Congress, submission of the Constitution would be invalid, for "Congress has no power to supersede the National Constitution." [65] It is arguable, then, that if Congress exceeded its authority in accepting an invalid constitution or ratification, its action could be challenged in the courts.

Between 1868 and 1920, though no cases reached the Supreme Court, the State courts were faced with analogous problems involving amendments to their state constitutions.[66] The view that emerged was that all steps of the State constitutional amendment process are justiciable.[67]

In 1920, the Supreme Court faced squarely a number of issues involving article V and adoption of the 18th and 19th amendments. Hawke against Smith [68] involved the validity of State constitutional provisions which attempted to bind State legislatures to the dictates of popular referenda on the ratification process. The Court held this to be an impermissible restriction on the power of a State legislature under article V.[69]

The National Prohibition Cases [70] involved the issues of whether the content of the prohibition amendment was constitutional, as well as the interpretation of the phrase "two-thirds of both House" contained in article V. The Court held that the substantive content of the 18th amendment was valid and that "two-thirds of both Houses" means two-thirds of the Members present and voting and not two-thirds of the Members, both present and absent.

In 1921 in Dillon against Gloss,[71] the Court held that Congress, acting under article V, could impose a reasonable limitation on the time allotted for ratification by the States and that 7 years was a reasonable period.[72] The Court did not, however, indicate what might be an unreasonable period. In Lester against Garnett,[73] the Court held the content of the 19th amendment constitutional.

Although the Court did not discuss the issue of justiciability in any of these cases, the fact that it considered so many facets of the article V amending process severely weakens the Borden argument that all article V questions are nonjusticiable. It is arguable that the reluctance of the Court to consider the issue was deliberate, for the matter was put before the Court in the National Prohibition Cases by the Solicitor General, who specifically alleged nonjusticiability on the basis of Borden and cases following it.[74] The Court did note at another point that proper notification by a state served on the Secretary of State [75] would be conclusive on the courts in controversies relating to the validity of the State's action.[76]

The prevailing absence of comment on the issue continued in United States against Sprague,[77] where the Court overruled an attack on congressional power under article V to choose whether ratification should be by convention or State legislature,[78] but it decided little else. Again the court treated the matter as justiciable, but did not address the issue directly.

Eight years later, controversy over the proposed child labor amendment resulted in the companion cases of Coleman against Miller and Chandler against Wise, discussed earlier,[79] in which the Court in Coleman held that both the effect of a prior State rejection of a proposed amendment and the interval of time available for a State to ratify were political questions.

The Court premised its holding concerning subsequent rejection on the precedents of congressional action with regard to the Civil War amendments and also on the absence of any specific constitutional or statutory mandate for judicial intervention in the article V amending process.[80] The underlying reasoning for these contentions has been ably refuted by Professor Orfield:

> With respect to the first, it seems an unusual approach for the body recognized as having the power to review acts of Congress to adopt and rely on an Act of Congress as precedent, particularly since the Act of Congress was passed in a period of unrest and since the court had had no opportunity to pass on its validity. With respect to the second reason, it should be observed that there were no stronger constitutional or statutory basis for the decisions rendered in previous cases arising concerning the amending process.[81]

While these cases concerning the amending process largely skirted or ignored the issue of justiciability, the landmark case of Baker against Carr [82] squarely faced the political question doctrine and established six criteria relating to determination of a political question:

> Prominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on one question.[83]

To discover whether questions pertaining to the ratification process would be considered political questions, it is necessary to test them against these criteria. If at least one of the criteria applies to a given case, the case would be dismissed for nonjusticiability.[84]

The initial test is whether there is "a textually demonstrable constitutional commitment of the issue to a coordinate political department." Under this test, determining whether the validity of rescission attempts is a political question requires an inquiry to determine whether Congress alone is given power to control the ratification process. But this, in itself, requires interpretation of the Constitution, according to the majority in Baker against Carr:

> Deciding whether a matter has in any measure been committed by the Constitution to another branch of government, or whether the action of that branch exceeds whatever authority has been committed, is itself a delicate exercise in constitutional interpretation, and is a responsibility of this Court as ultimate interpreter of the Constitution.[85]

Hence, as "ultimate interpreter of the Constitution," the Court arguably must decide the constitutionality of a State's action regarding ratification, even if the decision merely affirms an action taken by Congress, since the question involves interpretation of the Constitution. "The effect of rejection is very much the sort of question which the Court habitually decides, since it arises out of an interpretation of the Constitution." [86]

The second criterion, "lack of judicially discoverable and manageable standards," equally presents no obstacle, since the standard in the instant case is the Constitution itself. Determining whether State rescission or ratification conforms to the Constitution requires only that the Court consider historical precedent and interpret the Constitution, both of which the Court does constantly. Even the question of timeliness of ratification presents no problem, as the Court demonstrated in Dillon against Gloss.[87]

Furthermore, the vital policy consideration here—the need for finality in litigation as opposed to the need for the most contemporaneous expression of the people's will—is not necessarily confined to the congressional province. That issue is not really severable from the constitutional questions under article V, Powell against McCormack [88] demonstrates.

In that case, the Court was confronted with the suggestion that, in deciding whether Congressman Adam Clayton

Powell could be excluded from the House, it was granting itself the power to interfere with the internal business of Congress. The Court disagreed, responding in the following manner:

[A] determination of petitioner Powell's right to sit would require no more than interpretation of the Constitution. Such a determination falls within the traditional role accorded courts to interpret the law, and does not involve a "lack of the respect due [a] coordinate [branch] of government," nor does it involve an "initial policy determination of a kind clearly for nonjudicial discretion" (citation omitted). Our system of government requires that federal courts on occasion interpret the Constitution in a manner at variance with the construction given the document by another branch. The alleged conflict that such adjudication may cause cannot justify the court's avoiding their constitutional responsibility (citation omitted).[89]

The Court's policy determination in a rescission case would revolve around interpreting whether the Constitution dictates finality or contemporaneity as the more important consideration, as well as whether contemporaneity is actually demonstrated in a given case of rescission.

Powell against McCormack also establishes that the Courts may construe the constitutional limits of congressional authority in an area assumed to be under congressional control without "expressing a lack of respect due coordinate branches of government," the third criterion of Baker against Carr. In light of the strong congressional interest in and control over the qualifications of Members, it is arguable that if the Court has jurisdiction in a case like Powell, it should certainly have jurisdiction over the amending process. In this sense, it is difficult to see how interpreting the validity of a State's rescission attempt would show disrespect to Congress.

A case in point in Hoellen against Annunzio,[90] where it was argued that determining whether the franking privilege had been misused by a Member of Congress was a political question. The Court held that no political question was involved in their interpretation of the statute regulating the privilege:

The mere fact that this statute purports to regulate the conduct of Members of Congress does not, without more, take it outside the bounds of proper judicial scrutiny. For this court to construe this statute no more involves a lack of respect due the Congress *** than the construction of a statute not involving the conduct of Congressmen.[91]

Finally, it is evident that there is no need for "adherence to a political decision already made," since the political decision to rescind is the question at issue here. According to the majority in Baker against Carr,

The courts cannot reject as "no law suit" a bona fide controversy as to whether some action denominated "political" exceeds constitutional authority.[92]

Moreover, there is no "potential of embarassment from multifarious pronouncements by various departments on one question," because a finding of the Supreme Court on the issue would preclude action by the Congress. Indeed, in light of the absence of strong congressional response on article V issues in the past, it is possible that the Congress would welcome pronouncements by the Court.

A judicial decision interpreting the power of the States to rescind or the power of Congress to accept that rescission is a necessary result of judicial interpretation of the Constitution. The possibility that other branches of the Government might disagree with the Court's decision should not deter the Court from acting.

By setting forth workable criteria for the political question doctrine, Baker has effectively overruled Coleman. The Court now has an opportunity to return to the line of precedent for which Coleman is a deviation. This line of precedent permits the Court to decide without hesitation the validity of ratification of constitutional amendments.

IV. THE VALIDITY OF RESCISSION ATTEMPTS

Once the question of justicability has been settled in favor of judicial review of article V issues, the substantive question of the validity of rescission attempts remains to be settled. For a number of reasons, attempts to rescind ratification of a constitutional amendment should be held invalid.

In the first place, the ratification process itself is a Federal function, which means that a State's power to act in this sphere is limited. This view is the accepted view, as a number of cases have demonstrated. In Dodge against Woolsey,[93] the Court discussed the supremacy of the Constitution with regard to article V:

It is supreme over the people of the United States, aggregately and in their separate sovereignties, because they have excluded themselves from any direct or immediate agency in making amendments to it, and have directed that amendments should be made representatively for them, by the Congress of the United States, when two-thirds of both Houses shall propose them; or where the legislatures of two thirds of the several states shall call a convention for proposing amendments. . . .[94]

Hawke against Smith[95] firmly established that the act of ratification, although performed by individual States, is a Federal function.[96] Two years later, Leser against Garnett[97] specifically followed Hawke on this point:

[T]he function of a state legislature in ratifying a proposed amendment to the Federal Constitution, like the function of Congress in proposing the amendment, is a federal function derived from the Federal Constitution; and it transcends any limitations sought to be imposed by the people of a state.[98]

In 1931, United States against Sprague[99] settled the points that Congress had full discretion in choosing the mode of ratification, by State legislatures or by conventions, and that the 10th amendment[100] was no barrier to Federal control of the ratification process.[101] More recently, in Trombetta against State of Florida,[102] a district court relied on the combined holdings of Hawke and Leser and held void an attempt by Florida to withhold consideration of Federal constitutional amendments until a majority of its legislature's members had been elected subsequent to submission of the amendment. The court reasoned that action of the kind contemplated would be unconstitutional State interference with a Federal function. One observer noted that State decisions have agreed with this estimate of the article V amending process as Federal in nature:

The State decisions also hold that where the legislature proposes an amendment to the State constitution it is not legislating. The provisions of the State constitution and the rules of the legislature as to the passage of statutes, bills, and other forms of legislation are not controlling in the adoption of an amendment. The legislature in ratifying is exercising a ministerial or constituent function; the ratifying process is equivalent to a roll call of the States. The courts have asserted that the legislature acts as a Federal agent and exclusively under the Federal Constitution.[103]

A second reason for holding State attempts to rescind a prior ratification invalid is that article V speaks only of ratification, not of rescission, and therefore ratification should be viewed as binding. Judge John Jameson phrased the argument in this manner:

The language of the Constitution is, that amendments proposed by Congress, in the mode prescribed, "shall be valid to all intents and purposes, as part of this Constitution, *when ratified by the legislatures of three-fourths of the several states. . . .*" By this language is conferred upon the States, by the national Constitution, a special power; it is not a power belonging to them originally by virtue of rights reserved or otherwise. When exercised, as contemplated by the Constitution, by ratifying, it ceases to be a power, and any attempt to exercise it again must be nullity. But, until so exercised, the power undoubtedly, for a reasonable time at least, remains. . . . When ratified all power is expended. Until ratified the right to ratify remains.[104] (Emphasis in original.)

Making ratification binding also recognized the need for finality in the law and the amending process. A persuasive argument concerning this need has been advanced by one observer in speaking of ratification of the equal rights amendment:

At the end of the seven-year ratification period, the Congress which decides which states have effectively ratified the Equal Rights Amendment will not be the same one which proposed it. It can be argued that the proposing Congress acted under the dominant assumption that ratification, but not rejection, is final. However, while this view of efficacy will not be legally binding on the Congress presented with the question of which state ratifications to honor, citizen lobbyists, state legislators and even members of Congress have relied on the continuing validity of this consistent legislative precedent. A change in procedure by Congress during the ratification period would leave both opponents and proponents of the Equal Rights Amendment in confusion. If such a change should come when the ratification period has ended, it could severely prejudice the legitimate expectations of whichever side ultimately loses.

The courts may well have a role to play in protecting the reliance interests of the citizenry and the states and ensuring that their efforts at orderly change are not disrupted by unexpected action on the part of Congress in reversing a longstanding precedent concerning the proper procedures for ratification. The courts can bring to this precedent the necessary finality to make it a reliable guide to present and future actions concerning constitutional amendment.[105] (Footnotes omitted.)

Footnotes at end of article.

Moreover, the purpose of the Framers in devising article V was surely to provide for orderly change to meet the exigencies of the times. Indeed, James Madison touched on this purpose in a brief discussion of the article V amending process:

> That useful alterations will be suggested by experience could not but be foreseen. It was requisite, therefore, that a mode for introducing them should be provided. The mode preferred by the convention seems to be stamped with every mark of propriety. It guards equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty which might perpetuate its discovered faults.[106]

In light of this statement, it is anomalous that a strictly construed political question doctrine could be the means to promote the disorder resulting from a reversal of precedent. This would, indeed, violate the Supreme Court's own stated purpose for the application of the doctrine, that "a tool for maintenance of governmental order will not be so applied as to promote only disorder." [107]

Furthermore, during drafting of article, V, concern was expressed that Congress not have absolute power in proposing amendments.[108] To balance the interests, the States were also given a role in the process.[109] Hence, there seems no reason to conclude that the framers intended to give exclusive control of the process to Congress. Madison expressed the point in this way:

> It [the amending process], moreover, equally enables the general and the State governments to originate the amendment of errors, as they may be pointed out by the experience on one side, or on the other.[110]

Since ratification is a Federal function, and no historical reasons appear for excluding the Court from its traditional role of interpreting the Constitution, it should be able to determine whether a State has complied with the requirements of the article V amending process, whether this requires interpretation of article V or of congressional precedent.

An alternate view of the weight to be given ratification, which has received little support, proposes that neither ratification nor rejection may be regarded as final until the matter is foreclosed, either by ratification of three-fourths of the States or by a time limit set by Congress.[111]

Though this solution might be logical, it is not necessarily just. Indeed, it would instill such uncertainty into the process that it would be extremely difficult to know when the process had been completed. For example, suppose 38 States have submitted resolutions of ratification, but at the time the 38th State ratifies, one of the other ratifying States has pending a resolution of rescission. Can the amendment be said to be ratified? Alternatively, suppose a ratifying State is in the middle of a rescission debate at the time the 38th State ratifies. Is a State which is considering rescission to be characterized as ratifying? The prospects for confusion and delay are great.

A second argument advanced by proponents of this minority view is that a more accurate picture of public opinion at the final date of ratification is obtained thereby.[112] In this writer's view, this argument is entirely specious, particularly when considered in light of Nebraska's attempted rescission of its ratification of the equal rights amendment in 1973. Aside from the fact that it is exceedingly difficult to determine what "public opinion" is, it can just as easily be argued that Nebraska's rescission was the result of pressure from a vocal minority and not the view of the majority. This view is bolstered by the perception that the amendment was debated in Congress for years before passage, that passage occurred by overwhelming majorities,[113] and that opponents of the amendment had ample time to prepare their case during Nebraska's original debate on the amendment. For those who still argue hasty ratification, this writer would point out that rescission, occurring 1 year after ratification, was even hastier.

Hence, to prevent a constitutional "free-for-all" in the ratification process, it is necessary to declare, as does judicial and congressional precedent, that ratification is a final act. One observer has argued persuasively regarding the arbitrariness of a system allowing rescission:

> [T]he price of uncertainty and instability would be too high to pay. State legislatures, such as Nebraska's, could change their minds in every legislative session or every time there is a change in legislative personnel. Proper consideration of the amendment the first time would defeat most desires to rescind, and if the mood of the country really has changed drastically, ratification in the remaining needed states will certainly be defeated. It is always possible to hypothesize that a state ratifying within the first year may have genuinely reconsidered and changed its mind by the time the amendment is finally passed, especially if passage comes in the sixth year. But simulataneous ratification is not possible and if we are to maintain order in the system, seven years, the period within which Congress has deemed it reasonable to amass the required votes, must be seen as sufficiently contemporaneous.[114]

Withdrawal of ratifications disrupts the amending process in the same manner as a withdrawal of consideration of the amendment from the States by Congress. The process of amending the Federal Constitution is a serious undertaking and should be handled in an orderly manner. There must be finality of judgment or the law becomes impotent. The best way to insure this finality is to allow the courts a role in interpreting the dictates of article V.

FOOTNOTES

(NOTE.—This article was prepared with the assistance of Virginia M. Schlundt of my staff.)

[1] Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.

H.J. Res. 208, 92d Cong., 2d Sess. (1972); S.J. Res. 8, 92d Cong., 1st Sess. (1971).

[2] *Sex Discrimination and the Law* (Babcock, Freedman, Norton and Ross eds. 1975) 129.

[3] *Id.* at 8, *et. seq.*

[4] The first eighteen states to ratify the Equal Rights Amendment were the following: Hawaii (March 22, 1972), Delaware (March 23, 1972), New Hampshire (March 23, 1972), Idaho (March 24, 1972), Kansas (March 28, 1972), Nebraska (March 29, 1972), Tennessee (April 4, 1972), Rhode Island (April 14, 1972), New Jersey (April 17, 1972), Texas (April 19, 1972), Colorado (April 21, 1972), Iowa (April 21, 1972), West Virginia (April 22, 1972), New York (May 3, 1972), Michigan (May 22, 1972), Maryland (May 26, 1972), Massachusetts (June 21, 1972), Pennsylvania (September 26, 1972). Holcomb, "Equal Rights Amendment," Congressional Research Service, Library of Congress, Washington, D.C. (November 6, 1975), 6.

[5] The last sixteen states which have ratified the amendment include the following: Alaska, California, Connecticut, Kentucky, Maine, Minnesota, Montana, New Mexico, North Dakota, Ohio, Oregon, South Dakota, Vermont, Washington, Wisconsin and Wyoming. *Id.*

[6] 1973 *Neb. Laws* 1547 (Leg. Res. No. 9 adopted by 83d Leg., 1st Sess., March 15, 1973).

[7] S.J.Res. 29, 88th Gen. Assembly (April 23, 1974).

[8] *U.S. Const.*, art. V.

[9] 307 U.S. 433 (1939).

[10] *Id.* at 449–50.

[11] 307 U.S. 474 (1939).

[12] It is intriguing to note that, under either the *Coleman* or *Chandler* theories, the attempted rescission of Nebraska and Tennessee would be invalid because the original legislative action was ratification.

[13] L. Orfield, The Amending of the Federal Constitution 70–72 (1942).

[14] Note, "Constitutional Amendments—The Justiciability of Ratification and Retraction," 41 Tenn. L. Rev. 93, 102–03 (Fall, 1973).

[15] 1 U.S.C.A. § 106(b) (1972). Today, the Administrator of General Services performs this task. See note 75 *infra*.

[16] 15 Stat. 707 (1868).

[17] 15 Stat. 709 (1868).

[18] 80 U.S. (13 Wall.) 646 (1871).

[19] *Id.* at 649.

[20] *Cong. Globe*, 41st Cong., 1st Sess. 110 (1869).

[21] *Cong. Globe*, 41st Cong., 2d Sess. 377 (1870).

[22] *Id.* at 1444.

[23] 16 Stat. 1131 (1870).

[24] *Supra* note 21, at 2290.

[25] For a review of these attempts, see Note, *supra* note 14, at 104–05.

[26] Bondfield, "The Dirksen Amendment and the Article V Convention Process," 66 Mich. L. Rev. 949, 967 n. 70 (1968); Corwin and Ramsey, "The Constitutional Law of Constitutional Amendment," 26 Notre Dame Lawyer 183, 201–06 (1951).

[27] 16 Wall. 36 (1872).

[28] United States v. Gugel, 119 F. Supp. 897 (E.D.Ky. 1954); Negrich v. Hohn, 246 F. Supp. 173 (W.D.Pa. 1965).

[29] 41 Stat. 1823 (1920).

[30] 258 U.S. 130 (1922).

[31] *Id.* at 137.

[32] 253 U.S. 221 (1920).

[33] *Id.* at 229–30.

[34] *U.S. Const.*, art. III, § 2.

[35] 307 U.S. 433 (1939).

[36] *Id.* at 449.

[37] *Id.* at 449–50.

[38] *Supra* notes 30–35 and accompanying text.

[39] Clark, "The Supreme Court and the Amending Process," 39 Va. L. Rev. 621, 646 (1953).

[40] 307 U.S. at 454–55.

[41] *Id.* at 453.

[42] 256 U.S. 368 (1921).

[43] 307 U.S. at 452.

[44] *Id.* at 458 (Black, J., concurring).

[45] 307 U.S. 474 (1939).

[46] Wise v. Chandler, 270 Ky. 1, 19, 108 S.W.2d 1024 (1937).

[47] 270 Ky. at 14.

[48] 307 U.S. at 477–78.

[49] *Id.*

[50] *Id.* at 459 (Black, J., concurring).

[51] 369 U.S. 186 (1962).
[52] 3 U.S. (3 Dall.) 378 (1798).
[53] "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." *U.S. Const.*, amend XI.
[54] The issue was whether the amendment was valid even though it had never been approved by the President. The Court found such approval unnecessary. 3 U.S. at 382.
[55] The Bill of Rights was part of the whole Constitution as originally adopted by the states.
[56] *See* Note, *supra* note 14 at 97, n. 24 for a discussion of the roles of William Cushing, James Wilson, James Iredell, Samuel Chase and Oliver Ellsworth in the adoption and ratification of the Federal Constitution.
[57] Justice Frankfurter presented a similar argument in his concurring opinion in Adamson v. California, 332 U.S. 46 (1947), where he commented upon the proper interpretation of the fourteenth amendment:

"[A]n amendment to the Constitution should be read in a 'sense most obvious to the common understanding at the time of its adoption'. . . . A surer estimate of [an amendment's] bearing was possible for judges at the time than distorting distance is likely to vouchsafe. Any evidence of design or purpose not contemporaneously known could hardly have influenced those who ratified the Amendment." 332 U.S. at 63–64.

See also the opinion of Mr. Justice Holmes in Eisner v. Macomber, 252 U.S. 189, 220 (1920).
[58] 48 U.S. (7 How.) 1 (1849).
[59] *Id.* at 40.
[60] *Id.* at 40–41.
[61] 80 U.S. (13 Wall.) 646 (1871).
[62] *Supra* note 18 and accompanying text.
[63] This case illustrates one of the criteria later laid down in Baker v. Carr for determining the existence of a political question—that there be "an unusual need for unquestioning adherence to a political decision already made." 369 U.S. 186, 217 (1962).
[64] 80 U.S. (13 Wall.) at 649.
[65] *Id.*
[66] *See,* e.g., Collier v. Frierson, 24 Ala. 100 (1854); Koehler v. Hill, 60 Iowa 543, 14 N.W. 738 (1883); Miles v. Bradford, 22 Md. 170 (1864); Dayton v. St. Paul, 22 Minn. 400 (1876); Green v. Weller, 32 Miss. 650 (1856).
[67] *See generally* 53 Harv.L.Rev. 134 (1939); 24 Minn.L.Rev. 393, 402–05 (1940).
[68] 253 U.S. 221 (1920).
[69] *Id.* at 231.
[70] 253 U.S. 350 (1920).
[71] 256 U.S. 368 (1921).
[72] *Id.* at 376.
[73] 258 U.S. 130 (1922).
[74] *See* 253 U.S. at 382.
[75] 1 U.S.C.A. § 106(b) (1972). A 1951 amendment requires ratification to be made on the Administrator of General Services:

"Whenever official notice is received at the General Services Administration that any amendment proposed to the Constitution of the United States had been adopted, according to the provisions of the Constitution, the Administrator of General Services shall forthwith cause the amendment to be published, with his certificate, specifying the States by which the same may have been adopted, and that the same as become valid, to all intents and purposes, as a part of the Constitution of the United States."

[76] Leser v. Garnett, 258 U.S. 130, 137 (1922).
[77] 282 U.S. 716 (1931).
[78] *Id.* at 730–34.
[79] *Supra* notes 35–50 and accompanying text.
[80] 307 U.S. at 449–50.
[81] Orfield, *supra* note 13, at 20.
[82] 369 U.S. 186 (1962).
[83] *Id.* at 217.
[84] *Id.*
[85] *Id.* at 211.
[86] Clark, *supra* note 39, at 645.
[87] 256 U.S. 368 (1921).
[88] 395 U.S. 486 (1969).
[89] *Id.* at 548–49.
[90] 348 R. Supp. 305 (N.D. Ill. 1972).
[91] *Id.* at 312.
[92] 369 U.S. at 217.
[93] 18 How. 331 (1856).
[94] Annot., 83 A.L.R. 1374, 1375 (1933).
[95] 253 U.S. 221 (1920).
[96] *Id.* at 230.
[97] 258 U.S. 130 (1922).
[98] *Id.* at 137.
[99] 282 U.S. 716 (1931).
[100] "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." *U.S. Const.*, amend. X.
[101] *Accord,* United States v. Thibault, 47 F. 2d 169 (2d Cir. 1931).
[102] 353 F. Supp. 575 (M.D. Fla. 1973).
[103] Orfield, *supra* note 13, at 63.
[104] J. Jameson, *A Treatise on Constitutional Conventions* §§ 579–81 (1887), cited in Note, "Reversals in the Federal Constitutional Amendment Process: Efficacy of State Ratifications of the Equal Rights Amendment," 49 Ind.L.J. 147, 153–54, n. 40 (Fall, 1973).
[105] Note, *supra* note 104, at 154–55.
[106] *The Federalist No. 43* (J. Madison).
[107] Baker v. Carr, 369 U.S. 186, 215 (1962).
[108] Orfield, *supra note* 13, at 2.
[109] *Id.* at 61.
[110] *The Federalist No. 43* (J. Madison).
[111] Orfield, *supra* note 13, at 70–72.
[112] *Id.* at 71–72.
[113] The House vote on October 12, 1971 was 354–24. 117 *Cong. Rec.* 35815 (1971). The Senate vote on March 22, 1972 was 34–8. 118 Cong. Rec. S–4612 (1972).
[114] Note, "Equal Rights Amendment: Will States Be Allowed to Change Their Minds?" 49 Notre Dame Lawyer 657, 662 (Feb. 1974).●

● Mr. ROSENTHAL. Mr. Chairman, I rise in support of House Joint Resolution 638, which extends for 39 months the time in which States may consider the equal rights amendment.

The question before the House is not whether equal rights can be advanced by ERA but whether an adjustment in the time granted to the States for consideration of the amendment is constitutional and appropriate. Therefore, I would like to limit my remarks to this particular point.

The Constitution makes no mention of time limits for State consideration of a proposed amendment; in fact, the first 17 amendments had no deadlines at all. However, the Supreme Court, in Dillon against Gloss—1921—and Coleman against Miller—1939—held that the Congress had the power and the right to determine a reasonable length of time for ratification of a proposed amendment. The Court expressly noted that the period of time so established must be reasonable, and that "reasonable" is to be determined by the issue's vitality and timeliness.

Beginning in 1917, the Congress has included in all proposed amendments a time limitation of 7 years. This provision became the customary way of insuring that proposals which had lost their vitality were not deliberated upon endlessly by States. However, the choice of seven as the number of years was arbitrary and not based on any considered judgments concerning variations in the time period during which amendments of varying importance and effect retain vitality.

Today it is clear that ERA is an extraordinarily significant amendment that will remain vital to the legal, economic, social, and political well-being of more than half this Nation's inhabitants for many years to come. The amendment is necessary to clarify inadequate and contradictory judicial decisions on sex discrimination. The Supreme Court has recently ruled that the 5th and the 14th amendments do not necessarily protect against discrimination on the basis of sex. In addition, the Civil Rights Commission study of the United States Code last year found 800 instances in which the law permits sex discrimination.

Moreover, 35 States, containing 71 percent of the Nation's population, have already ratified the amendment. Thus, while it may not be customary, it is eminently reasonable that this amendment be given more than 7 years for State ratification.

Acceptance of equal rights for both sexes is part of the evolution of freedom in America. As always, a step toward greater personal freedom is of concern to some, but I believe the men and women of this country deserve this freedom and the opportunity to achieve independence and self-reliance.●

● Mr. LEGGETT. Mr. Chairman, I firmly believe that this House has an obligation to extend the deadline for ratification of the equal rights amendment on the merits of the issue alone. The equal rights amendment is necessary to provide a legal and moral foundation to eradicate sex discrimination in this country. Those who support this goal, must unite behind this proposal to extend the deadline for ratification.

While many of my colleagues will be casting their vote this afternoon based on their support or opposition to the equal rights amendment itself, the debate on the House floor has focused on points of Constitutional law and procedural precedents. This is as it should be because the Congress is already clearly on the record as favoring the adoption of this constitutional amendment. I believe that a thorough analysis of Supreme Court decisions, a close reading of the Constitution, and a proper understanding of the procedural rules of this legislative body all support extending the ratification period for this amendment for 3 years and 3 months as recommended by the House Judiciary Committee.

As I have listened to the debate today, it is clear that there are four central constitutional questions which the House should consider when deciding whether or not to extend the deadline for the ratification of this amendment. All four points have been the subject of considerable controversy and debate in this chamber today. These questions deal with the authority of the Congress to extend ratification time limits for any proposed amendment, whether or not a simple majority or a two-thirds majority is required to authorize such an extension, whether the President must approve the action of the Congress, and whether or

not an extension of the time limit must be accompanied by provisions to allow States which have already ratified the amendment to rescind their prior action.

As I review the opinions of the many constitutional lawyers that have commented on this issue, it is clear to me that authority to extend the time provided for ratification of this amendment rests with the Congress. Article V of the Constitution assures us of this fact, and any who doubt this point should read the case of Dillon versus Gloss. In this decision, the Supreme Court recognized that incident to its power under article V to propose amendments to the Constitution, Congress has both the power and the duty to assure that an amendment has been ratified "within some reasonable time after the proposal." The Court held that the Congress could set any time period it chooses so long as the time period selected allows for a reasonably contemporaneous "expression of the approbation of the people" in the required three-fourths of the several States. Obviously, the Congress may if it wishes to do so, set a time period longer than 7 or even 14 years, so long as the time period established is "reasonable" and meets the "contemporaneous" test.

Congress addressed this time limit question for the first time in 1917, with Senator Ashurst's explanation that "10, 12, 14, 16, 18, or even 20 years" would be reasonable so long as some limit were imposed. Indeed, no one now suggests that Congress could not have submitted the ERA to the States with a 10-year, 3-month, limit on March 22, 1972; the sole question is whether Congress is constitutionally disabled from achieving that result in two steps rather than one—whether the 1972 choice of a 7-year period must govern even if Congress concludes in 1978 that a period of 10 or perhaps 14 years could be more reasonable in light of "public interests and changing conditions," to quote Dillon versus Gloss once again. Clearly, nothing stands in the way of the Congress accomplishing this purpose in two steps and the constitutional authority to do so cannot be questioned. The matter is committed to Congress as a political question; but, even if it were not, the existence of the authority at issue is clear beyond reasonable doubt.

The question of whether a simple majority of each House is sufficient to accomplish the extension is one to which the only correct answer is a definite "Yes."

The power of the Congress to extend the time for ratification is simply a facet of its power to establish a "mode of ratification" for an amendment proposed under article V. The vote to alter the mode of ratification must obviously be the same as that required to propose the mode of ratification in the first place. In neither step—initial proposal nor subsequent modification—does article V specify anything beyond a simple majority. The article, in contrast, does point out specific instances where a supermajority is needed. That clearly is not the case here.

Throughout the Constitution, the established pattern is that all decisions are to be resolved by simple majorities unless a larger vote is expressly required. It would be an unwise decision for the Congress to create an exception to this general rule this afternoon. Past congressional practice is also consistent with the view that a simple majority suffices on matters relevant to the mode of ratification. Both logic and history, then, clearly state that a majority is sufficient.

In considering the proposition whether the extension may be accomplished without presentation to the President for his veto or approval, the answer is clearly "Yes." The text of article V provides no role for the President in the amendment process. The President is simply not a proper actor in this process and any attempt to provide for his participation cannot be supported as consistent with the Constitution.

Having discussed three of the more commonly raised questions regarding this isssue, I want to address the fourth and most controversial question before us today. How will an extension of time affect the power of States to rescind prior ratifications?

The answer to this question is much more than just a personal interpretation of the Constitution. Power to rescind ratification of an amendment cannot be found in the Constitution. Further, allowing rescission would be contrary to both historic and legal interpretations. James Madison, I believe, should have the final word on this issue when he maintained that a State's ratification was "unconditional and irrevocable."

Furthermore, Mr. Speaker, the Congress should consider what would happen if this legislative body were to allow States to rescind ratification of amendments. If the States were allowed to change their position of each amendment with each new legislative sesssion in the respective State capitols, chaos would surely result. A constitutional system of government cannot survive if rescission is allowed.

Mr. Chairman, most constitutional experts agree that making a decision of the rescission issue today would not only be premature and misleading, but would not be even binding on future Congresses. The validity of rescissions by States can only be reviewed by the Congress sitting at the time the equal rights amendment is ratified by the 38th State.

As my colleagues well know, the Congress considered the rescission issue when the 14th amendment was passed; the Congress rejected the right of States to rescind ratification and the Supreme Court upheld that action. Congress has reaffirmed time and time again the proposition that rescissions by States are not valid and that only the Congress, not the States, has the prerogative to determine if a State's action to ratify an amendment is sound.

Mr. Chairman, in my opinion legal equality remains a timely and moral issue. Surely, the contemporaneous nature of this issue from the standpoint of continuing public interest cannot be in doubt. Not only is the issue still hotly debated in the daily press, but a substantial majority of Americans have taken a firm stand on this issue. Happily, all polls agree that a majority of Americans support the passage of the equal rights amendment. In fact, a majority of the public even in States that have not yet ratified the equal rights amendment support its adoption. Surely, we cannot prevent the adoption of a concept so widely endorsed by failing to extend the deadline for ratification in this instance. Should the equal rights amendment not be ratified by 38 States by March 22, 1979, it will be the first time in our history that a proposed constitutional amendment has failed not for lack of interest or because of obsolescence, but because of an unreasonable and arbitrary deadline of 7 years.

Extending the deadline for ratification of the equal rights amendment is constitutional, in conformity with past precedents, and is clearly the will of the American people. Extension of the deadline is clearly necessary if the equal rights amendment is to receive the attention it deserves from the State legislatures. The equal rights amendment continues to be necessary to provide a moral and legal foundation to eradicate sex discrimination in this country. For these reasons, I urge my colleagues to support House Joint Resolution 638 this afternoon as I will.●

● Mr. KASTENMEIER. Mr. Chairman, I strongly support the resolution before us today, to extend until June 30, 1982, the period for ratifying the equal rights amendment.

As an ardent advocate of civil rights and civil liberties, I simply do not believe that we should foster a society where some people are more equal than others. It is hypocrisy of the highest order for us to demand adherence to human rights by countries around the world when here, in our own country, more than half of our population is denied the full rights of citizenship.

Failure to provide the extension called for in this resolution will send a signal not only to nations around the world, but to the vast majority of our own citizens who support this amendment and whose will has been thwarted.

Those States which have ratified the equal rights amendment hold 72 percent of this country's population. Even in the States which have not ratified the amendment, the majority of the electorate has shown clear support for the ERA.

It is not the people who have denied the amendment the vote of three-fourths of the States needed for ratification. It is a handful of political figures in the unratified States who have used highly questionable tactics to cut off, bottle up in committee or stall debate in order to deny the vote.

These politicians have resorted to such tactics as changing Members' committee assignments, changing rules of procedure, using distortion and misinformation as argument to deny the vote needed for ratification.

The people deserve more time to show these public officials that such tactics cannot win in the end.

I fully believe that this extension is constitutional. The courts have consist-

ently held that it is up to the Congress to determine the details of the amendment process. There is nothing in the Constitution to deny such an extension.

The Justice Department argues, I believe convincingly, that by placing the time period in the proposing resolution rather than in the text of the amendment, the 92d Congress effectively decided that the proposal should remain viable for at least 7 years without barring a subsequent Congress from making a more informed judgment at a later time as to the reasonableness of the time period for ratification of the ERA.

I maintain, as do most constitutional experts, that the 95th Congress has the authority to ascertain whether the equal rights amendment is still viable and that this Congress, upon that determination, can extend the period during which the States may consider ratification of the amendment. I also maintain that there can be no doubt that the equal rights amendment is still an important and viable issue politically, socially, and economically.

The rescission amendment which is being proposed, however, should be defeated. Precedent clearly holds that States do not have the right to rescind their ratification. That view goes all the way back to James Madison, one of the original Framers of our Constitution.

In 1778, in a letter to Alexander Hamilton, Madison stated that:

> The Constitution requires an adoption in toto and forever. It has been so adopted by the other States. An adoption for a limited time would be as defective as an adoption of some of the articles only. In short, any condition whatever must vitiate the ratification.

Congresses throughout history have ignored rescission. During the ratification process of the 14th amendment, Ohio and New Jersey reversed their prior ratification. These States were included in the list of those who had ratified the 14th amendment.

The 15th amendment, in a similar manner, was ratified by the requisite number of States which was contingent on those States that had tried to rescind.

The Secretary of State, to whom ratification resolutions were sent for certification, refused to recognize the States that proposed to repudiate their prior ratification of the 16th, 18th, and 19th amendments.

Both historical precedent and scholarly comment indicate that once a State has ratified, its power to act with regard to a constitutional amendment is ended.

Amending the Constitution is not something to be taken lightly. We have done it only 26 times in our 200-year history and then, only when there is a need to establish a broad principle not yet contained in the Constitution. The principle that women and men are equal before the law is not now expressed in the Constitution.

Mr. Chairman, half the human race cannot move forward leaving the other half behind. I hope that one day we will look back on this debate and wonder why what was so obviously of paramount importance took so long to accomplish.●

● Mr. FRENZEL. Mr. Chairman, as a supporter of the ERA, I am anxious that this Chamber act to extend the time limit for ratification by the remaining States. I support the original 7-year extension, but am willing to go along with the 3-year, 3-month extension as reported by the Judiciary Committee.

Because I believe strongly that the ERA is badly needed to fill in the gaps in our State and Federal statutes which prevent equality in many legal matters for women, I think this body would make a mistake if it did not grant this extension. The latest poll in my home State of Minnesota shows that 72 percent of the people support the ERA. I believe we should not ignore the feelings of the majority of our population.

I do not want to impose an arbitrary time limit on equality. An extension may not be the best to pass the ERA, but it now looks like the only way.

There are charges that by extending the time period we are "changing the rules of the game," but social changes take time, especially one that has been so misunderstood. Eighteen of our original constitutional amendments were ratified without provision for time limits, and most constitutional experts agree that Congress does have the authority to set or not to set deadlines as it deems necessary.

Mr. Chairman, I also opposed the moves to change the rule granted for the extension to provide for a two-thirds vote rather than the simple majority specified by the Rules Committee. We are not voting on the ERA itself, which would require a two-thirds vote. We are voting on whether or not to change the language in the preamble of the amendment to grant a time extension for ratification of the ERA, which is separate from the ERA text itself and should not require a two-thirds vote.

On the question of rescission, I can see good arguments from constitutional experts on both sides of the issue. However, I believe that rescissions should not be allowed. In any case, I do not believe that the rescission question should be attached at this time on this piece of legislation. The question most properly belongs to the interpretation of the federal courts, rather than to the Congress.

Whether or not we all believe in the merits of the ERA, I think that nearly all of us can agree that the ERA has been interpreted in ways which have absolutely no relationship to its true intent. I therefore believe that this important, current and vital question deserves a longer time limit in which some of these misunderstandings can be discussed and subsequently cleared up. I hope my colleagues will join me in support of the ERA extension without amendment at a simple majority vote.●

● Mr. WOLFF. Mr. Chairman, this is a sad day for Congress, and a sad day for the Nation. At this late date, not merely 6 years from the proposal of the ERA by Congress, but 191 years after the adopting of the Constitution, this Nation still has not accepted the principle of equality and dignity for all its citizens under the law. It is a sad day when the Congress must consider a measure such as this: extending the time, which it originally thought sufficient, allowable for State legislatures to endorse equal rights.

We are truly exploring uncharted constitutional waters in discussing this matter, but from time to time we come across a beacon in the form of a Supreme Court ruling.

In 1921, the High Court acknowledged Congress right to set time limits on amendment ratification as one of the "subsidiary matters of detail" in the amendment process. This ruling endorsed a broad interpretation of the implied powers of the Congress in the amendment process under article V's granting of control over the "mode of ratification." The Dillon versus Gloss decision further grants authority to Congress to decide if a State's ratification has been obtained within a "reasonable time" of the Nations ratification. What is significant is that the "reasonable time" determination can only take place after the necessary three-fourths of the States have ratified. Therefore, only a future Congress can decide if a State has considered an amendment within the guidelines of fairness and constitutionality.

We must also recognize the history of the time limit. The first 17 amendments were considered without any time limit on ratification at all, as was the 19th. The sole purpose of a deadline, apparently, is to prevent unratified amendments from floating in legal limbo, able to be acted upon though socially obsolete. Yet this possibility has been virtually eliminated with the granting to Congress of the power to determine "reasonable time."

In other words, the time limit not only has no constitutional foundation, but it has now become itself obsolete.

It is known that many of my colleagues are considering a measure which, in my opinion, would undermine the amendment process and contradict every applicable precedent in law. This is the attaching of the ability to rescind to any extension authorization Congress might approve. I urge a careful consideration on the part of my colleagues of the implication of such a so-called compromise and would like to cite a few relevant historical precedents.

Rescission goes against congressional precedent, court determinations, and the intent of the father of the Constitution. It goes against the seriousness of the amendment process.

Congressional precedent is clear and straightforward on this point. When two States tried to rescind ratification of the 14th amendment and when my own State of New York attempted to retract approval of the 15th amendment, Congress, with full realization of the importance of its actions, firmly denied that States had the right to rescind and placed the three States on the rolls of the ratified. These are the only two occasions where States attempted to rescind ratification, and twice the unconstitutionality of the attempt was asserted by Congress.

Concurring in that sentiment, in the only statement regarding rescission credited to one of the Framers of the Constitution, is James Madison. In a

letter to Alexander Hamilton replying to Hamilton's inquiry as to whether New York could place a condition on its ratification of the Constitution, Madison stated that:

> A reservation of a right to withdraw if amendments be not decided on . . . is a conditional ratification. Any condition must vi(t)iate the ratification.

He went on to say that "the Constitution requires adoption in toto and forever." It is clear that Madison's reasoning, aimed at article VII, the ratification procedure of the Constitution itself, should also apply to the amendment process.

But despite all that, in the final analysis this is not a legal question—that portion of the issue is for the courts to decide. Rather, our consideration of this matter tests the seriousness with which we respect the most fundamental concepts of American philosophical orientation: equal opportunity and universal respect for human dignity.

If we continue to designate one-half of our species second-class citizens because of their hormonal design, it makes one wonder about America's oft-expressed pride in liberty, freedom, and dignity. Will not America's place in history be reduced from an original and noble example of free democracy to a hollow, cynical joke of hypocrisy and double-standard? Make no mistake, colleagues, this is the magnitude of the questions faced in our consideration of the ERA, and to trivialize them would be to diminish the credibility of our claims to enlightenment in the international context.

The United States has, through its history, given preference under the law to the white over the black, the wealthy over the poor, and the male over the female. Each of these segments of discrimination—racist, materialist, and sexist—is being gradually erased from the theory, if not always the practice, of society.

We are presented, in the form of the equal rights amendment, with an opportunity to take a major step toward, for the first time, eliminating one of these discriminations. We cannot cut off its chances now.

But that is the danger we are presented with. Although 70 percent of the States and, according to recent polls, a clear majority of Americans, favor the ERA, it is about to expire unratified. Therefore, I favor the proposed extension, which is entirely within congressional prerogative.

Opponents of the ERA will respond that the proponents have already had the time to present "their" case; the 7 years originally allowed. They "lost," some say, and now they want to "change the rules of the game." Some have equated the situation with the ending of a football game, where the losing team demands an extra quarter of play so they can catch up.

Well, all I can say is that the question of equal rights is not a game. To treat it as such, or to take the attitude that the rules are more important than the philosophy, is to elevate form over substance. Such an attitude is to the detriment of a fair consideration of the question, and it demeans its importance.

It is in the interests of both proponents and opponents that a clear picture of the effects the ERA will have on all our lives be an object of universal awareness. You only need turn to a television debate on your local station and see spokespersons on both sides of the issue exchanging insults and charges of distortion while avoiding a substantive discussion of the issue, to see how the national debate has been poisoned by overemotionalism and irrationality.

The fact is, many Americans have been confused by emotional distortions, and a clear picture has yet to emerge. The ERA has the floor of national debate. Let us not table it, but rather keep it on the floor, so that a more constructive level of discussion between opponents and proponents can begin, to the benefit of us all.●

● Mr. CONYERS. Mr. Chairman, I come to the issue of equal right for women without any dramatic conversion or extended study. I have supported this proposition ever since I first understood it. What I am convinced about, however, is that it is an urgent matter, one we have to deal with now.

Make no mistake, we are dealing with a fundamental human right, and no amount of rationalizing about technical difficulties, no amount of quibbling about constitutional niceties will change that simple fact. The Equal Rights Amendment embodies fundamental human rights: the right of women to equal pay as men when they are employed in similar circumstances; the right of women to full and equal protection under the law; the right of women not to be discriminated against, in their jobs, as heads of households, and after retirement. There really is no good reason in the world why women now, on the average, earn 20 percent less than men for equal work, as the President's Council of Economic Advisors has estimated. Or that they should have any diminished standing before a court simply because they happen to be women.

The struggle behind ratification of the equal right amendment represents the latest stage in the historic struggle for equality in this country. It is part of the struggle that involved black Americans and members of other minority communities in the great and revitalizing movement to make this society more inclusive, more participant, and more representative.

So I urge my colleagues, most of whom happen to be gentleman, to recognize that the time has come to make it possible for the ratification of ERA. It really is not going to hurt much. It really will be best for all of us. Let us take firmly into our hands the responsibility of deciding that this constitutional amendment will become law one day, so that we can enter upon a new age in which the U.S. Constitution for the first time will recognize the existence of women. I am absolutely convinced that an affirmative vote cast today will be to our collective credit for all time.●

● Mr. ANDERSON of California. Mr. Chairman, I rise to support the resolution to extend the deadline for ratification of the equal rights amendment.

There is nothing sacred about ratification being accomplished within a period of 7 years. Amending our Constitution, when considered in its totality, is often a long process involving much more than a period of ratification by the States. Every new idea starts with a minority of one. Substantial time is often necessary for a good idea to come to fruition, for the people and Governments to become aware of a problem, and to achieve a broad consensus on the solution. Formal ratification by the States is only the last step in the process.

The long period of consensus-building is especially characteristic of questions of human rights. Of the 16 amendments adopted since the Bill of Rights, only 6 involved much controversy; of those 6, only 3 deal clearly with human rights. The other 10 amendments were generally noncontroversial, and State ratification was speedy. However, from Jefferson's proposal to abolish slavery in the Declaration of Independence to the adoption of the 13th amendment took 89 years. The 19th amendment, recognizing the right of women to vote, was first introduced in Congress 70 years before it was ratified.

So, too, with the equal rights amendment, first introduced in 1923. In 1950 and again in 1953, an equal rights amendment was passed by the Senate. Thus, we did not simply wake up one morning in 1971 to find both sex discrimination and the ERA newly on our doorstep. The problem of sex discrimination will not go away by defeating the ERA, or by frustrating it by adhering to an artificial deadline. Nor will defeating the ERA make sex discrimination right. We would be merely requiring some future Congress to start the amendment process anew, and forcing 35 States to duplicate the exercise of ratification.

There are perhaps as many as 300 laws in the United States Code which the Civil Rights Division of the Justice Department has identified as invidiously discriminatory on the basis of sex. One example is the discrepancies in the treatment by social security of nonworking wives versus nonworking husbands. Another example is the ineligibility for aid to dependent children allowance if the mother, rather than the father, loses a job; this especially hurts our society as a disincentive to family cohesion.

The problem of rescission is separate from extension and is most properly left to the Congress which sits when three-fourths of the States have completed the ratification process. I am especially impressed with the analysis by the gentleman from Massachusetts (Mr. DRINAN) of the Judiciary Committee, who, though he strongly supports the ERA extension, considered the question of rescission as if the amendment were repugnant to him. He concluded that he would still have to vote against rescission. I, therefore, believe it would be wisest for the Congress now to remain silent on the subject.

Much of the discussion on the extension has revolved around the legality of Congress action and the means of ex-

tension. But, I am convinced that we have the legal right to extend the deadline, and the moral responsibility to do so. If we are to continue to make social progress in this country, we can do no less today than vote for this resolution. If we are to continue to exert our leadership for securing human rights elsewhere in the world, we can do no less today than give our fullest support to the ERA.●

● Mr. FRASER. Mr. Chairman, today the House voted on a matter of great importance, whether or not to extend the ratification deadline for the equal rights amendment until June 30, 1982.

I supported the extension, opposed a rescission amendment, and approved the decision of the Rules Committee that a majority vote was appropriate.

Extending the deadline for ratification does set a precedent. And for that reason, many have questioned the legality and appropriateness of the extension. However, a close examination of the facts resolves the question of legality.

The time limit is not in the amendment itself, but in the preamble. It is a matter of detail, and within the powers of Congress to change. This is the opinion of the Justice Department, and of many constitutional scholars who have also studied the somewhat sparse judicial history.

I opposed the rescission amendment because this Congress cannot dictate the actions of future Congresses. The Constitution clearly provides that the Congress sitting at the end of the ratification period makes the decision to accept or reject rescissions.

Is it appropriate for Congress to extend the ratification deadline? Yes, I think so. We are setting a precedent, to be sure. Yet we are setting a precedent on a profound and urgent matter—equality of men and women under the law.

I have worked for and will continue to work for equal treatment of the sexes. I am also the husband of a strong and good woman who both shares my convictions and strengthens them. And we have tried to pass these convictions on to our children, so that they may choose their roles based not on their genders—but on their principles and their talents.

Why did it take so long for Congress to pass the ERA? Certainly one reason was that the House and Senate of the United States have been predominantly male.

Women worked for suffrage and won it; they worked for passage of the ERA and won it. Women Members of the House have done much of the work that resulted in floor consideration of House Joint Resolution 638. The women of the United States will continue to work to convince legislators in all States of the truth that a majority of Americans now accept. The ERA will do simply what it says it will do—treat men and women equally under the law.●

● Mr. MOORE. Mr. Chairman, today's actions to extend the ratification period by some 3 years and 3 months present to me several extremely important constitutional procedure questions totally separate and distinct from the substantive ERA issue. I favor the equal rights amendment and if the extension provided in House Joint Resolution 638 is not approved by the Senate, I will be an early and ardent sponsor of a new ERA in the next Congress. My concern today is that we do not inflict damage that will jeopardize the strength and stability of the Constitution and the amendment process.

House Joint Resolution 638 is a procedural instrument that serves as a vehicle to extend an earlier designated ratification deadline on an important issue of the day. It does not question or detract in any way from the merits of the equal rights amendment. Foremost among all considerations today must be its procedural and nonissue purpose. Once recognition is given to these considerations, there are four aspects of the design of House Joint Resolution 638 and the method of its consideration by Congress that have caused many including myself to disagree with the measure as drawn by the House Judiciary Committee. Others who support the equal rights amendment, including the American Bar Association, have gone on record in opposition to House Joint Resolution 638 due to constitutional precedent considerations.

First, never before has the time limitation for the ratification of a proposed constitutional amendment been extended. I have researched the issue of the 7-year time period and I have found that the 1st through 17th amendments and the 19th amendment had no ratification limit. The 18th and 20th through 26th all did with the exception of the 25th. I do not know why the 25th did not have one, but I have been informed that evidently since the 20th amendment, the Congress has consistently, with the exception of the 25th amendment, provided for a 7-year time period in the constitutional amendment resolution. The reason for the 7-year period is that it is the period determined by the Congress to be "a reasonable" time period for ratification.

No other constitutional amendment has ever taken anywhere near as long as 7 years, the average being 1.2 years and the longest being 3 years 11½ months. The Congress in interpreting the decision of the U.S. Supreme Court of *Dillon* v. *Gloss*, 256 U.S. 368 (1921), indicated that "ratification must be within some reasonable time after the proposal." The question of what was a reasonable time was left up to Congress and Congress has selected a 7-year time period in all recent amendments except one. There has never been a specified ratification period longer than 7 years.

It appears to me that we are in grave danger of destroying a reasonable time period test by extending the ratification time period for ERA and thereby adversely affecting the amendment process in the future as a proposed constitutional amendment could essentially have forever to be ratified. I am convinced that such uncertainty is not intended in article V of the Constitution which prescribed the amendment process.

Second, there is the problem of whether or not a State can rescind its ratification, as three have done already on ERA. Several others have made serious attempts at rescinding their ratification. The extension bill allows additional time to ratify but does not recognize the right to rescind. This is certainly unjust and makes little sense as if the whole purpose in a ratification period is to give a State time to take action to ratify, it would seem logical that it would also give the State time to rescind its ratification at any time up to the point that 38 States have ratified it.

Third, 24 of the States that ratified the ERA did so conditioning their action on the March 22, 1979, deadline. In other words, if it is not ratified by that date, all 24 so-conditioned ratifications will be invalid. This extension bill overlooks the clear wording and intent of these States.

Fourth and lastly, article V requires a two-thirds vote of each House of Congress to initiate an amendment resolution which includes the 7-year time limit, so it would seem logical and proper that it would take a two-thirds vote to extend the time limit of such a resolution. This bill requires only a majority vote which is yet another mistake.

These are four very serious problems which will have a profound impact upon our Constitution and I feel set very dangerous precedents. Any one of these questions is serious. All four together make it so serious as to not jeopardize the amendment process to the Constitution for this one amendment. The decision we will make in voting for or against the extension is a historic one and may well be very detrimental. The decision to start over again, and again pass a constitutional amendment resolution for ERA, would likewise be historic, but not detrimental. I would support its reintroduction and vote for it.

The drafters of the Constitution intended the amendment process be rigorous. James Madison in Federalist Paper No. 43 explained that the ratification procedure decided upon for amending the Constitution was intended to prevent it from being amended too early yet not be too extremely difficult to amend. I submit that up to this point we have not jeopardized that amendment process and we run grave risk of doing so by the extension. Therefore I again conclude that this is a procedural matter of the process of amending the Constitution and not a substantive matter of whether you support or oppose the merits of the equal rights amendment itself.

My concerns are shared by the majority of my constituents as 73 percent of those responding to my May 1978 questionnaire opposed the extension.

With rejections of the procedural vote to mandate a two-thirds vote in order for approval to be given to House Joint Resolution 638 and the Railsback amendment to allow rescission, I found constructive and constitutionally sound refinements to House Joint Resolution 638 denied. In view of this denial of properly drawn constitutional protec-

tions, I voted against House Joint Resolution 638.●

● Mr. TREEN. Mr. Chairman, the equal rights amendment, which provides that "equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex" was proposed by Congress in 1972. The congressional resolution provided that the amendment would become part of the Constitution when ratified by the necessary number of States within 7 years.

The 7-year period for ratification expires on March 22, 1979. Approval of 38 States is required; thus far 35 States have passed resolutions of ratification; and of these 35, 4 have passed rescissions, the validity of which is questioned.

House Joint Resolution 638, being considered by the House of Representatives today, would amend the original proposal by enlarging the 7-year period by an additional 3 years, 3 months and 8 days—extending the time for ratification to June 30, 1982.

The extension presents some very serious legal and constitutional questions, as well as some policy issues.

As an attorney and a strong believer in strict adherence to the Constitution, I am concerned, at the moment, with the legal and constitutional questions which envelop the proposed time extension.

An important issue is whether or not the proposed extension requires a majority vote by the House and Senate or a two-thirds vote. The Constitution clearly provides that a two-thirds vote is needed in order for the Congress to propose a constitutional amendment. The proposal adopted in 1972, which included a 7-year limitation for ratification, was approved, of course, by a two-thirds vote.

May a subsequent Congress make a change in the original proposal by a simple majority, or must any such change require a two-thirds vote?

There is serious legal question as to whether a subsequent Congress may extend the time for a proposed constitutional amendment at all. There are no legislative precedents because Congress has never attempted to enlarge the time limit for a constitutional amendment. Nor does there appear to be any judicial precedents which would shed light on this question. Moreover, there is no agreement that the issue is one for resolution by the courts or by the Congress itself.

It is clear that Congress may impose a time limit for ratification, and the 7-year period has been customarily used for most of the amendments since the 18th amendment. The Supreme Court in Dillon against Gloss (1920) upheld the power of Congress to impose a 7-year time limit.

Today, the House by a vote of 230 to 183 refused to even permit debate of an amendment to the resolution offered by Congressman QUILLEN of Tennessee which would require a two-thirds vote for approval of the resolution. I am dismayed that a majority of the House would not even consider debating what is obviously a very legitimate issue.

It is my judgment that any change in the proposal made by the 92d Congress in 1972 can only be valid, if indeed a change is valid at all, if it is approved by a two-thirds majority of both the House and the Senate.

A second major question surrounds the issue of whether or not States which have heretofore ratified the amendment should be permitted to rescind during the extension. Congressman RAILSBACK of Illinois proposed that if the Congress extends the time for ratification, it should, in fairness, permit any State that ratified on the basis of a 7-year ratification period to rescind that ratification. His amendment did not address the question of whether or not the four States that have passed rescissions may validly do so. He leaves that question for future determination.

The proponents of extending the time for ratification argue that there is no sanctity to the idea of limiting the ratification process to a 7-year period. I would agree with that. A 5-year or 10-year, or perhaps even a 15-year period, could all have been defended as reasonable at the time the proposal was made. But the fact of the matter is that a time limit was adopted at the time the proposal was made, and the record is clear that it was not done without some thought. Regardless, the time period was an explicit expression by the Congress of one of the terms upon which ratification was founded. And, as noted above, the Supreme Court in Dillon against Gloss has specifically held that Congress

What should our position be with respect to the Railsback amendment to permit rescissions during the extension period?

There are some that argue that Congress does not have the power to permit rescission, and precedents are cited, particularly with reference to the 14th and 15th amendments.

But the question presented by the Railsback amendment is different. Clearly the Congress is not compelled to permit an extension of time. If Congress has the power to extend the time, and lawfully exercises that power, may it add the condition that States which have previously ratified may now rescind? Second, if it may do so, should it do so as a matter of policy?

There are no clear precedents, so we are each left to our own notions as to: First, the applicability of general principles of law, second, basic fairness or equity, three, possible legal entanglements, and fourth, the effect of our decision as a possible precedent. Let me discuss each of these.

First. It is a general principle of law that if an offer is made by one party to another party—in this case the Congress offering to the States the opportunity of amending the Constitution if 38 of them will approve within 7 years—it must be accepted on the offeror's terms. If accepted on those terms, the offeror may not change the terms and still hold the acceptor contractually bound. This is particularly true when there are multiple offerees/acceptors.

Second. It offends my sense of equity and basic fairness to tell the 35 accepting States that the time is being extended for the 15 nonaccepting States to reconsider their failures to accept and, in some instances, their outright rejections, and, at the same time, to bar the 35 accepting States from reconsidering their acceptance during the extension period.

Third. Extension of the ratification period without permitting rescission raises some serious legal questions which could result in a long period of uncertainty with respect to whether or not the amendment had been lawfully ratified. It would seem to me that this uncertainty should be avoided. Prof. Jules B. Gerard, professor of law of Washington University, in St. Louis, Mo., calls attention to the fact that many of the States which ratified the proposed amendment made reference to the 7-year time limitation in their acts of ratification. Thus, he argues that the ratification in 20 of the States "will be incontestably invalid." There is no legal precedent to support Gerard's opinion, but the logic of his view is difficult to refute. The acceptance of a proposal in terms which specifically makes reference to those terms makes it terribly difficult to argue that one of those terms or conditions was inconsequential or irrelevant.

Fourth. I am also concerned about the precedent which might be established by the adoption of the extension proposal. At the very least, it would introduce the element of uncertainty with respect to any future constitutional amendment in which Congress establishes a time limitation. The States have an interest in a fairly contemporaneous decision by their sister States. If the States may not depend upon the application of a time limit, I can imagine circumstances in which that might act as a disincentive to the ratification of a constitutional amendment.

Further, with respect to the ERA amendment itself, what is to prevent a second extension of time if the necessary number of States have not ratified by June 30, 1982?

I take note of the fact that the American Bar Association, by a vote of 153 to 135 of its policymaking house of delegates, rejected an effort to enlist the ABA in lobbying efforts in favor of the extension. It was reported that this vote reflected the concern by many lawyers of the constitutionality and appropriateness of extending the ERA deadline. My source is an Associated Press story out of New York reported in the Washington Star on Wednesday, August 9, 1978.

For the foregoing reasons I voted for the Railsback amendment. Unfortunately, that failed by a vote of 196 to 227. It is interesting to note that according to a public opinion poll conducted very recently by the Associated Press-NBC, the majority of Americans oppose extending the time for approval of ERA, although a majority favor the amendment itself.

Because this House refused to approve the Railsback amendment, and refused even to debate the Quillen amendment involving the issue of whether a two-thirds majority or a simple majority is required to change the time period for acceptance, I have no choice but to be true to my views of the U.S. Constitution,

which I have sworn to uphold, and vote against House Joint Resolution 638.

On the issue of equal rights for women, I wish to make my position clear. I firmly believe that persons must be treated equally by the law, without respect to gender. Indeed, there are laws on the books now which spell out this protection, and I support those laws. Furthermore, the Supreme Court has said that sexual discrimination violates the equal protection clause of the 14th amendment.

I do not believe that philosophical commitment to sexual equality obligates one to reject every distinction based on gender. For example, I do not believe that women should be subjected to involuntary conscription into the military services. I also do not believe that Congress should be required to send women into combat on the same basis as men. It is my judgment that the equal rights amendment as presently drawn would provide a legal basis for any man required to particiapte in combat to complain that he is being discriminated against on the basis of his sex, inasmuch as his chances of being chosen for combat are mathematically increased as a result of the exclusion of women.

To a somewhat lesser extent, I am concerned about the effect of ERA on the historical rights of States to lawfully enact statutes which establish differing obligations and responsibilities on husband and wife and mother and father. Although such laws should be viewed as constitutionally permissible based upon the marital or parental relationship, I am fearful that they would be struck down by this or a future Supreme Court adopting the view that ERA permits no distinctions if they are in any way rooted in the biological difference between man and woman.

I will support a constitutional amendment, although I do not believe one to be necessary in order to protect the rights of women, which would incorporate the language of the present ERA but which would also provide against the two contingencies I have described.●

● Mr. McHUGH. Mr. Chairman, I rise most reluctantly to oppose this joint resolution. I say "most reluctantly" because I believe strongly in the equal rights amendment. Its declaration that in our country there must be no discrimination based on sex is absolutely fundamental. It is a proposition of such basic equity that it should be part of our Constitution. Accordingly, it is and always has been my fervent hope that the ERA will be ratified by the required 38 States.

The question before us today, however, does not relate to the ERA's merits, as worthy as they are. The issue today relates to the orderly process established by Congress for the States to consider ERA, and whether that process should be changed at the 11th hour. This issue, which also involves questions of fundamental fairness, is important in itself and must be considered on its own merits.

When Congress passed the ERA in 1972, it expressly provided that the States would have 7 years to debate the issue and act upon it. The Congress could have chosen 10 years, or 14, or set no time limit at all. In hindsight, and as an ERA supporter, I wish that Congress had chosen a longer period. Consistent with its practice in the last 60 years, however, Congress did establish a 7-year limitation, and the debate in the States proceeded with full knowledge on that basis. In establishing this 7-year limit, Congress made it an integral part of the process by which the issue would be considered. In a very real sense, it was part of the compact Congress made with the people, pro and con, who would ultimately decide whether the Constitution should be amended. Thus, it is not a minor or "technical" point to be set aside because we who support the ERA have not yet been successful. For us to alter the compact at this point would be a breach of faith with those who have relied on the terms Congress itself established.

I believe that our colleague, Mr. BROOKS of Texas, reflected my concerns very well in his dissenting views to the Judiciary Committee report:

> The integrity and regularity of our processes must not be overlooked in this debate. It is that integrity and regularity which has distinguished our constitutional processes and set them apart. It is that integrity and regularity which forms the base for all our social and legislative intercourse.
>
> This proposal, if followed, will inject into the process of ratifying constitutional amendments an element of uncertainty and confusion which has no place there. The value of certainty in our major constitutional process cannot have so soon been lost on us. It provides the stability which permits us to have bloodless changes of leadership in times of crisis and high emotion. It provides the stability which allows us to contemplate impeaching the highest elected official in our land. It provides the stability for the citizens of our country to know that our system for amending the Constitution is rooted in concepts of fundamental fairness and is not one to be tinkered with no matter how worthy the cause.

The cause in this case is worthy, and many of ERA's proponents fear that without an extension of time this basic equal rights provision will never be written into our Constitution. I do not agree. If the time expires, there is nothing to prevent Congress from passing the ERA again and sending it out to the States for ratification. If the ERA is an important and necessary amendment, as I believe it is, it will gain the support of the people and be ratified by their elected State representatives.

In my judgment, the end can be achieved without compromising the means.

It is also important, of course, to consider the precedent we are setting. If the orderly process of amendment can be distorted in this case, it can be done in others. For example, suppose that Congress should adopt an amendment prohibiting abortions. And suppose further that the proponents had failed to obtain ratification in the required 38 States and had but 7 months remaining to do so. If the proponents then came to Congress asking for an extension of time, and Congress were favorably disposed to the right to life amendment, would those who oppose that amendment think it fair for Congress to grant such an extension? I think not.

Finally, Mr. Chairman, there is the question of rescission, that is, should Congress permit States that have ratified the ERA to rescind their ratification? I do not think so. Once again, I base my view on the need for an orderly process in amending our Constitution. To allow rescission would be to introduce uncertainty and confusion into the amendment process. It would erode the stability which is required, regardless of the particular amendment at issue.

In considering these important questions, Mr. Chairman, I hope that this House will look beyond the passions of the moment. Our decisions will have long-term implications for the amendment process, and when it is the Constitution we are amending, the integrity of that process is vital.●

● Mr. STOKES. Mr. Chairman, I rise in support of House Joint Resolution 638 which extends the period of time in which States may ratify the proposed equal rights amendment to the Constitution by 39 months.

First of all, I would like to address the issue of women's rights. For too long, the women of this country have been denied equal rights under the law. Statistics support this statement. For instance: A female head-of-household earns less than two-thirds of what a male head-of-household earns, and the gap is widening. In 1972, the 402,025 women-owned businesses represented only 4.6 percent of all large and small U. S. firms. Men in college receive more financial aid and higher grants than women. Women college professors earn on the average, $3,000 per year less than men college professors. Women represent only 2 percent of the total secondary school principals, although they comprise 63 percent of the public school teachers. Women earn 59 percent of what men earn and the percentage continues to decline.

These are just a few of the discrepancies that exist between men and women in this country. In view of the fact that women represent 47 percent of the labor force and the percentage continues to increase, and, in view of the fact that 70 percent of the women in the labor force work because they are the sole support of their families or to bring the family income up to $10,000, I submit that sex discrimination must be brought to a halt. ERA is designed to do just that.

Second, I would like to address the constitutional issues surrounding the extension. Opponents of ERA have been using the deadline as a weapon, shifting the dialog from the merits of the ERA to the time limit itself.

Mr. Chairman, there can be no time limit on equality. And I am satisfied that extending the ratification period for the ERA is both within the congressional authority and appropriate. The Supreme Court, ruled on two occasions that Congress has the power to extend the time limit for ratification of a proposed constitutional amendment. In its rulings the Court held that a reasonable length of time is determined by the issue's vitality and timeliness. I believe ERA meets

these standards. A similar position has been adopted by the Justice Department which has written that under the Constitution, Congress is empowered to determine the period of ratification and can change, by resolution, any previously established ratification period.

Additionally, an advisory opinion by the constitutional law experts at the Library of Congress states that the 7-year limit for ratification was established as part of an underlying procedural resolution, not as part of the substantive language of the amendment itself. Thus, it can be changed if Congress decides that the time limit does not meet the reasonable standards which case law on the subject has established.

Mr. Chairman, it took from 1848 until 1920 for women to win the right to vote. It took nearly 50 years to get the ERA before the Congress for serious consideration. I personally do not feel that the extension is unreasonable in view of the profound consequences the issue may have on this country.

With respect to allowing a State to rescind their ratification, I believe the legal and historical precedents are against allowing rescission. Congress disallowed rescission in connection with the 14th, 15th, and 19th amendments. Additionally, constitutional scholars maintain that the appropriate time to resolve questions relating to a State's rescission of an amendment is at the point at which the requisite number of States have ratified the amendment.

Mr. Chairman, the equal rights amendment is long overdue. Lengthening the ratification period for the ERA is a giant step in the struggle for equal rights for American women. ERA represents a constitutional statement for the fair treatment of women under the law and is a necessary tool for women to gain full legal recognition.

Mr. Chairman, I urge my colleagues to support House Joint Resolution 638. Failure to pass the ERA will mean that this Nation has gone on record in opposition to full equality for all its citizens.●

The CHAIRMAN. All time having expired, under the rule, the Clerk will read the joint resolution.

The Clerk read as follows:

H.J. RES. 638

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled. That notwithstanding any provision of House Joint Resolution 208 of the Ninety-second Congress, second session, to the contrary, the article of amendment proposed to the States in such joint resolution shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within fourteen years from the date of the submission by the Congress to the States of such proposed article of amendment not later than June 30, 1982.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On the first page, beginning in line 8, strike out "within" and all that follows through line 1, page 2, and insert in lieu thereof "not later than June 30, 1982.".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. RAILSBACK

Mr. RAILSBACK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAILSBACK: On page 2, line 2, strike the period and insert the following: ": *Provided, however,* That any legislature which shall have ratified the article of amendment within the first seven years of this period may, by the same vote and procedure required for ratification, rescind that action at any time after this resolution becomes effective and prior to adoption of the amendment. The Administrator of the General Services Administration shall certify to Congress all resolutions of ratification or rescission of this amendment as received from the several States for final determination by the Congress as to whether the amendment shall have been adopted."

Mr. RAILSBACK. Mr. Chairman, the amendment which I am offering jointly with my colleague, the gentleman from Pennsylvania (Mr. ERTEL), has two very, I believe, clear objectives.

First, it would provide that those States ratifying the equal rights amendment during the first 7-year period would have the right to reconsider that action during any extension period. It does not seek to address the question of validating or invalidating any rescissions that have already occurred. I want to make that point.

Second, and in my opinion equally important, it would assure that Congress and not the General Services Administrator will make the ultimate determination of the validity of the adoption of this constitutional amendment.

In addition to insuring fundamental fairness in the amending process, the limited right of rescission which I propose has the ancillary benefit, and I think maybe this is most important of all, of guaranteeing that ratification of the equal rights amendment when it does occur—and I hope that it does occur—will manifest the contemporaneous approval of the States, an implicit requirement of article 5, according to the Supreme Court's opinion in Dillon against Gloss.

Since submission to the States 6 years ago, 35 States have seen fit to ratify, 30 within the first year, and since that time 5 more States, I think the last one in January of 1977, and then, maybe equally importantly, 4 States have attempted to rescind.

What really bothers me is the Congress in its constitutional amendment which was submitted established that there would be a 7-year period for ratification. Ratification by the requisite three-quarters of the States has not occurred.

I do not believe that we should have a one-way extension without providing opportunities for those 35 States that may have ratified within the 7-year period without giving them an opportunity to reconsider.

I cannot believe that anybody can argue that we really have had contemporaneous approval, as required by the Dillon case.

Again, in my opinion, this amendment would insure that this Congress, not the General Services Administrator, will make the ultimate determination of validity of this constitutional amendment.

The state of the law is very unclear, but there are strong indications that under title I, United States Code, section 106(b), that the Administrator of the General Services Administration could simply certify the adoption of this constitutional amendment without submitting the many difficult, controversial, and unresolved questions of constitutional law to this body.

What is even more significant, I believe, is that his certification has the force of law and it is binding on the courts under the Leser case.

This delegation of authority to the General Services Administrator should be clarified and the constitutional powers of the Congress reasserted. The amendment which the gentleman from Pennsylvania (Mr. ERTEL) and I are introducing will attempt to do just that.

There are those who have suggested that the amendment we propose is unconstitutional, but they have apparently failed to take note of a number of facts to the contrary. First of all, they have apparently chosen to ignore the fact that four out of seven constitutional scholars appearing before the House Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary testified that Congress has the power to provide a statutory right of rescission and that just last week a co-author of a treatise on constitutional law added his support for a statutory right of rescission when he testified before the Senate Subcommittee on the Constitution.

Second, they are apparently unaware of the fact that the Supreme Court in Coleman against Miller clearly stated that Congress can determine the effect of a State's withdrawal of its ratification.

Third, and finally, those suggesting that this limited right of rescission is unconstitutional failed to mention that in 1971 and again in 1973 the other body, the U.S. Senate, unanimously passed a measure relating to constitutional conventions which included a right of rescission even broader than that which we are proposing today, without one objection being raised that such a provision was unconstitutional.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. RAILSBACK was allowed to proceed for 3 additional minutes.)

Mr. TUCKER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I am just about through and then I will be happy to yield to the gentleman from Arkansas (Mr. TUCKER).

Mr. Chairman, the amendment at the desk does not present issues separate and distinct from the extension resolution which we are now considering. It is not a question which would be best deferred to some later Congress.

Let me just say about that, as earnestly as I can, it is my opinion those that would argue that this could best be left to a later Congress are overlooking the

very sad fact of life that maybe that General Services Administrator can simply pronounce, and that pronouncement will constitute a binding determination of ratification and adoption without the Congress, without subsequent Congresses ever having had the opportunity to speak to the issue.

Now I will yield to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, I appreciate the remarks made by the gentleman from Illinois (Mr. RAILBACK). I am concerned in this debate about the degree of stability and orderliness which we bring to the entire process of amending the constitution and that prompts me to inquire because of several points the gentleman has raised, why does the gentleman's amendment not deal with those rescissions which have already taken place?

Mr. RAILSBACK. I will be happy to try to answer that.

My feeling is that we should not at this time attempt to validate those four rescissions that have already occurred. That should be determined by the Congress making the final determination. As a matter of fact, I would have voted with the majority in respect to the adoption of the 14th amendment that we ought not recognize rescission by the State of Ohio and the State of New Jersey, being then within what I think was a contemporaneous time period.

The reason why my amendment is prospective is we are dealing with an extension period, we are extending time for ratification, it seems to me, in the light of history of the amendments that we certainly ought to give power to those States that may wish to reconsider.

Mr. TUCKER. Mr. Chairman, if I may inquire further, the gentleman has not given consideration in his amendment to those rescissions which have taken place. Yet, we attempt through this amendment to authorize States to engage in the rescission process in the future in the hope that that will lead to a national consensus, or, at least, a more favorable national contemporaneous consensus than we have; is that correct?

Mr. RAILSBACK. Yes, that is right.

Mr. TUCKER. What happens if between now and the expiration of the time of the resolution before us a State such as my own, Arkansas, which has not yet allowed this resolution to even come out of committee so that the legislature could consider it, what happens if my State next year approves it and the following year rescinds it, and another State next year rescinds it and the following year approves it? Does that clarify in any way the existence of the national contemporaneous consensus, or would we be better off if we all had to live with our responsibility with our decisions?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. TUCKER and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. RAILSBACK. Mr. Chairman, may I just say to the gentleman that I think he has raised a very legitimate question. We have dealt with that question.

I will tell the gentleman how I feel about it. In our amendment we direct the General Services Administrator to forward all notices of ratification to the Congress and also notices of rescission. That would include notices of rescission that had been filed with the General Services Administrator right now, and there are, I think, either three or four.

My feeling is that in this amendment, by giving back to the Congress the clear-cut right to make the final determination, the Congress which sits at that time will be able to take into account the past rescissions or future rescissions. However, my feeling is and my and Mr. ERTEL's amendment is addressed simply to giving those 35 States which may have once ratified the amendment, out of a sense of fairness, a chance to reconsider.

What I am saying is that we address the matter expressly by taking it from the General Services Administrator and giving it back to Congress. I think Congress would have and should have the right to determine past or future rescissions.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I think the question also ascribes to the State legislature a certain sense of irrationality by acting one way one year and another way in the next year. I do not think we give that presumption any credence under the law. We presume that the State legislatures are just like us, that they act rationally, and that they will not flip-flop every year.

I think that is another consideration and that perhaps the example is just not appropriate at this time.

Mr. RAILSBACK. Mr. Chairman, if I can just say so, I agree with the gentleman's comment. It is very unlikely, in my opinion, that a State, within a 3.3-year-time frame, would be apt to ratify and then rescind.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, did I understand the gentleman from Illinois (Mr. RAILSBACK) has made remarks to the effect that four of the seven constitutional scholars who appeared before the committee took the position that we could constitutionally provide for rescissions?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. FISH and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 1 additional minute.)

Mr. RAILSBACK. Yes. The answer is that four of seven expressly stated that it could be done.

Mr. FISH. Constitutionally?

Mr. RAILSBACK. Yes, constitutionally. Lawrence Tribe did not favor it as a policy matter, nor did one of the others. Erwin Griswold favored it, and Charles Black was unequivocal. Charles Black said that it is impermissible to do it without having rescission.

Mr. FISH. I agree with the gentleman; they did say it could be constitutionally done.

Mr. RAILSBACK. Yes.

Mr. FISH. But four out of seven opposed the idea of coupling rescission with this amendment; is that correct?

Mr. RAILSBACK. As I recall, Professor Ginzberg was not able to address the constitutionality. Lawrence Tribe did.

Mr. FISH. I know that Lawrence Tribe did, but as we all know, four out of seven opposed the idea of rescission.

Mr. RAILSBACK. Lawrence Tribe, the professor from Harvard, made a most persuasive argument initially in the House hearings that it would be fundamentally fair, certainly, to let States retract, but he would have the Congress make that ultimate policy decision.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(On request of Mr. ERTEL and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 2 additional minutes.)

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, I know the gentleman from Illinois (Mr. RAILSBACK) addressed this issue; but I think he might have passed over it rather quickly in his presentation.

However, it is not true that the person who makes the decision at this point with this amendment and with this resolution is the General Services Administrator, the decision as to whether or not rescissions are valid and whether or not ratifications are valid? That person is a political appointee of the United States, whom we have no control over, and he makes the final decision as to whether or not the amendment has been ratified; is that not correct?

Mr. RAILSBACK. That is correct.

Let me recite what the General Services Administrator testified to over in the Senate. He did not say that he would refer it to Congress for a final resolution. He said that was one of his options. What the General Services Administrator did was set forth three or four additional options, one of which was he could simply bang the gavel and say that we have received three-fourths of the notices of ratification and that is it, without regard to the notices of rescission. I think that is very dangerous. I think we ought to reclaim that power.

Mr. ERTEL. If the gentleman will yield again on the same point, is his determination under the existing case law reviewable in the courts at all? I cite the gentleman the case of Leser against Garnett decided by the Supreme Court, which says: "and being certified to by his proclamation, is conclusive upon the courts."

Does that mean if he honors a rescission, that is conclusive; if he fails to honor, that is conclusive; and there is no appeal to the courts? Is that the way the gentleman interprets it?

Mr. RAILSBACK. That is exactly the holding in the Leser case, and that is what is giving so many of us cause for concern. We are not sure Congress can ever express itself.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Ms. HOLTZMAN, and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 4 additional minutes.)

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

I think the gentleman has raised a point that has troubled some people, and I would like to clarify it. I think the gentleman is well aware that when the 14th amendment was ratified. what happened was that the Secretary of State made a list of all of the States that had ratified, including a list of the States that had rescinded, and wrote Congress a rather lengthy letter setting forth the facts.

Mr. RAILSBACK. Yes. Might I just say that he did that gratuitously and voluntarily, without any statutory requirement at all. He had the good judgment to do that.

Ms. HOLTZMAN. Will the gentleman yield further?

Mr. RAILSBACK. I yield to the gentlewoman.

Ms. HOLTZMAN. And he wrote a letter to the Congress, and the Congress then made a determination by concurrent vote both in the House and Senate that the 14th amendment was ratified, rejecting the rescission.

Mr. RAILSBACK. Yes. Congress made that determination. But what really bothers me is that that Secretary of State had the good judgment to submit it to Congress. He did it voluntarily and gratuitously, and I am very much worried about what this General Services Administrator would do in the absence of some direction.

Ms. HOLTZMAN. Will the gentleman yield again?

Mr. RAILSBACK. Yes.

Ms. HOLTZMAN. The gentleman is aware, of course, that the statute under which the Secretary of State operated when the 14th amendment was adopted was a statute that was first put into effect in 1818 and has remained continuously in effect—up to the present time—exactly the same, with exactly the same words except for the fact that the powers granted to the Secretary of State are now granted to the General Services Administrator?

Mr. RAILSBACK. I believe the gentlewoman is right, but if she had a chance to redraft that statute after reading it, would she not want to make it much clearer than it is?

Ms. HOLTZMAN. I would just ask the gentleman, in view of the fact that the Secretary of State on the Fourteenth Amendment operated under exactly the same statute that the General Services Administrator is acting under, in view of the fact that the Congress gave powers to the General Services Administrator, Congress saying, "We do not mean in any way to change the way in which this statute is to be interpreted," in view of all this is it not clear that the GSA Administration must report any controverted ratifications to Congress before validating them?

Mr. RAILSBACK. In my opinion, the gentlewoman's conclusion there is not correct. I think all that I ask is let the Members of the House read that General Services Administration statute. I hope one of our Members gets up and reads it. It is a very short thing that does not even make it clear exactly when there is going to be a pronouncement.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding.

I will read the statute. This is title I, section 106b:

> Whenever official notice is received at the General Services Administration that any amendment proposed to the Constitution of the United States has been adopted, according to the provisions of the Constitution, the Administrator of General Services shall forthwith cause the amendment to be published, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid, to all intents and purposes, as a part of the Constitution of the United States. Added Oct. 31, 1951, c. 655, § 2(b), 65 Stat. 710.

Mr. RAILSBACK. That is the only direction at all, without any reference to Congress. So what many of us are worried about, and the reason for that second part of our amendment which we think is most important, is to make it very clear that we want Congress to have an ultimate say, particularly in light of where there may be rescissions there may be some very difficult unanswered questions.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, apropos of that, I am sure the gentleman is aware that the GSA representatives testified in the Senate Committee on the Judiciary that this statute gave them four options; once 38 States ratified, only one of these options was in reference to the Congress for determination. Basically, it gave a unilateral right to decide whether ratification was valid. If they needed assistance, they could consult the Department of Justice.

Also, the gentleman is aware that Professor Van Alstyne in his testimony before us also commented on this.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. RAILSBACK) has expired.

(At the request of Mr. BUTLER, and by unanimous consent, Mr. RAILSBACK was allowed to proceed for 1 additional minute.)

Mr. BUTLER. Mr. Chairman, if the gentleman will yield further, Professor Van Alstyne said:

> It is technically within the unilateral authority of the Administrator of General Services to make the decision to report or not to the Congress.

Mr. RAILSBACK. That is what bothers many of us. We do not think Congress even has the power to act unless the GSA Administrator gratuitously gives it to us.

Mr. BUTLER. Mr. Chairman, if the gentleman will yield further, apropos of the 14th amendment, I feel compelled to tell people, the only reason that they knew—this is the testimony of Professor Black—they knew the day before the proposal that Georgia had already ratified and they were voting on a moot question; so to talk about the precedent of the 14th amendment is to ignore the fact that the people knew that the rescission did not have to be considered in making their determination as to ratification.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. FISH. Mr. Chairman, will the gentleman yield just briefly?

Mr. SEIBERLING. I am glad to yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I think something should be said before any time elapses from the last discussion had on the second half of the pending amendment having to do with the General Services Administration. What we have before us in House Joint Resolution 638 cannot change the basic law. We are not amending 1 U.S.C. 106. At best we are supplying by this amendment a specific exception to do this for this particular ERA and limiting it to the period of extension. We are not changing the basic thrust of 1 U.S.C. 106, as Members might infer from the debate.

Mr. SEIBERLING. Mr. Chairman, it always amazes me how my fellow lawyers can take something that is simple and make it complicated.

The amendment that has been offered by the gentleman from Illinois has two sentences in it. The first sentence is the one that the gentleman really has been pushing; namely, the provision that would expressly confirm the right of the States to rescind. The second sentence provides that the matter shall be referred to the Congress for decision.

Now, if the gentleman is concerned as to whether the GSA on its own can decide whether 38 States have ratified, then all the gentleman has to do is strike out the first sentence and leave in the second sentence of the amendment. But that is not really the thrust of the amendment. This debate about GSA is all a smokescreen.

The Supreme Court has said that Congress is the final authority for deciding whether States have ratified the Constitution after approval of an amendment by three-fourths of the States. If Congress decides that 38 States have not ratified who do you think is going to win in the argument between the Congress and the Administrator of GSA? He is merely directed in the statute to perform a ministerial function, to record whether 38 States have filed instruments of ratification.

The important point that I think we all need to remember is that, no matter what this particular Congress says about

whether States have the right to rescind, we are not the final arbiter of that question.

The original resolution did not say anything about whether the States had a right to rescind. There is no reason why the resolution for extension of time has to say anything about that question. If the States have the right to rescind, they can rescind; and if they do not, they cannot rescind. Whatever this Congrss says will have no bearing on the outcome.

It is for the Congress that sits when 38 States have filed valid instruments of ratification to decide that question, and we in this Congress cannot preempt them from making that decision.

So, Mr. Chairman, this amendment is unnecessary because this resolution, even if it is unamended, will not preempt that question. Furthermore, it will not have any effect on whether or not the Congress has the final say-so, which it has under Supreme Court decisions.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, does the gentleman believe that a simple majority of Congress, upon the ratification of the 38 States during the total 10 years involved, can alter the determination of the Congress in 1972 that, of course, submitted the constitutional amendment in accordance with article V and which qualified the submission with an agreement within 7 years? Does the gentleman believe the majority can in any way alter what was done under article V in 1972?

Mr. SEIBERLING. Mr. Chairman, I think the answer to that is the answer that judges usually give as to hypothetical situations: Namely, that case will have to be decided at the time if it comes up in the light of all the relevant circumstances.

I think it is perfectly clear that it is the Congress that will decide whether or not 38 States have filed valid instruments of ratification. As to whether the ratification has been timely, that is another question.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield further?

Mr. SEIBERLING. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, that is the question I am asking the gentleman. Does the gentleman from Ohio (Mr. SEIBERLING) believe that this joint resolution would authorize the Congress or any Congress at the time of the ratification by the 38 States to in any manner alter the determination of the Congress in 1972 in submitting the amendment on a two-thirds vote, with respect to the limitation of time?

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(On request of Mr. ECKHARDT, and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Mr. Chairman, I can only answer that question by saying that if this Congress does not extend the time beyond the 7 years and if after the 7 years expired, but not before, 38 States should have filed instruments of ratification, I would think that that Congress would have a serious dilemma in terms of the comity that ought to exist within the Union. But that is not the issue that is presented to us by this resolution, and, therefore, I do not see the relevance of it to this question.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will be glad to yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, would the gentleman tell me how he interprets this section, section 106b, amendments to the Constitution, which states:

"* * * the Administrator of General Services shall forthwith cause the amendment to be published, with his certificate, specifying the States by which the same may have been adopted, and that the same has become valid * * *?

If the gentleman says that the Congress has the right to determine validity, then why did we give that right back to the General Services Administrator?

Mr. SEIBERLING. For the simple reason that the Congress, if it decided that the amendment had not become valid, would preempt any action by the General Services Administrator. That is the simple answer.

Mr. ERTEL. Mr. Chairman, will the gentleman yield further?

Mr. SEIBERLING. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. Mr. Chairman, if that is true, once it has become valid and signed by the General Services Administrator, we can then appeal an amendment which has become valid by a concurrent resolution of the Congress?

Mr. SEIBERLING. Mr. Chairman, I do not construe that statute as saying that the Administrator has the authority to make that final decision. He merely records whether or not there has been a filing of instruments of ratification by three-fourths of the States. Whether that constitutes a valid ratification is a matter that the Congress sitting at that time, and only the Congress, can decide.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to point out that the gentleman from Pennsylvania (Mr. ERTEL) read only the latter part of the statute to which he was referring.

Mr. SEIBERLING. I was going to point that out myself.

Ms. HOLTZMAN. Mr. Chairman, the first part of the statute says this:

When ever official notice is received at the General Services Administration that any amendment proposed to the Constitution of the United States has been adopted, according to the provisions of the Constitution * * *

The CHAIRMAN. The time of the gentleman from Ohio has again expired.

(On request of Ms. HOLTZMAN, and by unanimous consent, Mr. SEIBERLING was allowed to proceed for 1 additional minute.)

Ms. HOLTZMAN. Mr. Chairman, if the gentleman will yield further, I think if the 14th amendment is any precedent, then it is perfectly clear that this matter will be submitted to the Congress for decision, and indeed, under the very language of section 106, unless an amendment to the Constitution has been adopted in accordance with the provisions of the Constitution, the GSA Administrator has absolutely no power.

Mr. SEIBERLING. The gentlewoman is exactly right. That statute merely directs him to perform the ministerial function of certifying whether or not the necessary number of instruments of ratification have been filed.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield further?

Mr. SEIBERLING. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I think this debate has been important on the discussion of this issue, but with regard to the GSA Administrator, I believe it is an absolute smokescreen. The real issue is whether the Congress, in violation of all its precedents and of all its history, is going to allow this issue.

Mr. EDWARDS of California. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I would just like to emphasize what the gentlewoman from New York (Ms. HOLTZMAN) has said. This issue is a smokescreen. This is a very bad amendment, it has no validity to it, and I think it ought to be totally ignored.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

Mr. EDWARDS of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I am really amazed that there are several fundamental misconceptions about the amendment offered by the gentleman from Illinois (Mr. RAILSBACK) that have been accepted so readily by too many Members of this body.

Let me just make several points. This bill does not forbid State legislatures from passing resolutions of rescission. State legislatures are going to do that, like they have in the past, on perhaps this constitutional amendment and on future constitutional amendments. This resolution that we have before us today has nothing to do with whether or not they are going to pass them.

This legislation before us today does not legitimatize rescissions passed by any States. And I assure the Members that the amendments offered by the gentleman from Illinois (Mr. RAILSBACK) does not legitimatize rescissions passed by the States. The gentleman from Illinois does not make that claim. It has no effect on them whatsoever. The gentleman from Illinois (Mr. RAILSBACK) recognizes that, I am sure.

Regardless of anything we have heard

or read, this amendment will not make effective these rescissions.

Ratification is provided for an article V of the U.S. Constitution—ratification of constitutional amendments. Any rescission amendment would modify the ratification process. And it is very clear that any law changing the ratification process in article V would have to be by constitutional amendment. It cannot be by statute.

Not one witness before the Committee on the Judiciary said any differently than what I just said to the Members. I have heard to the contrary, but I will accept any statement from any witness where they said that that could possibly be the law.

This is not to say that rescissions, as they are presently enacted by State legislatures from time to time, have no possible effect whatsoever. They do have some effect. When it is time—we have talked a lot about this—for Congress to decide if ratification is valid—and I assure the Members that Congress will always make that decision when there are controversial constitutional amendments such as ERA—then pursuant to the law as established in Coleman versus Miller, the Supreme Court case, the fact of any rescission, together with all other relevant facts, political, legal, and historical, will be taken into account by a future Congress when it makes a decision as to whether or not the amendment is validly ratified.

The last and perhaps the most important point I would like to make is this: We could win this resolution much easier, I am sure, if the amendment offered by the gentleman from Illinois (Mr. RAILSBACK) were accepted or won. There is no doubt about that. It would make it more attractive to a number of people who have doubts today. However, I must point out that the sponsors of this resolution would consider it a defeat, a total defeat. With the Railsback amendment added, there is no bill.

You might ask me why, when I have just told you that it does not authorize or make effective State rescission—because it does not—then why am I making such a fuss about it, why are we all making such a fuss about it? The answer is that the constitutionally established process in use in this country for the last 200 years for amending our Constitution would be sorely damaged. And that is more important than anything else to us. That is what the Railsback amendment would do. The message would immediately go out to 50 State legislatures. Here is what the message would say: Congress says that ratification can be conditional. It is not a serious matter. You can just pass ratifications lightly because next year you can rescind, which you cannot do now.

It would make every statehouse in the Nation a battleground at every session, and we do not desire that; not just for the ratification of ERA or anything else. That is why the Railsback amendment cannot be accepted, not only for the ERA amendment, but for every constitutional amendment in the future that we are passing down to our children and grandchildren.

Mr. Chairman, I urge a no vote on the Railsback proposition.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. LEVITAS and by unanimous consent, Mr. EDWARDS of California was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, on that last point, because that is the question I was going to ask the gentleman, is there not a distinction between this situation and other situations both before and after, because in this situation as compared to others, there is an unprecedented request to the Congress that an additional period for ratification be provided, and the Railsback proposal would apply only where an extension of time is requested, not where no extension is sought or exists.

Mr. EDWARDS of California. It would still have to be done by constitutional amendment. Congress has no power by statute to modify the ratification process.

Mr. LEVITAS. But if you believe that Congress has no power to provide for recission, then in other words it would be a nullity for Congress to attempt to do so. Then, why is it so mischievous? The worst case is that a court would hold this to be an ineffective attempt at the exercise of this power. Nothing would be lost. Without the Railsback amendment we will never know whether Congress has this power. There must be something else involved, or else the gentleman in the well, whom I respect so greatly, would not be so concerned about this if this amendment is a nullity. What is the big question? What is the unstated concern that is so great?

Mr. EDWARDS of California. It is not a nullity, as I explained. It would cause dissension and anarchy in every statehouse in the country because they listen to what we say.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the gentleman from California has really laid it out when he has referred to the fact that every State will be a battleground if the subject of rescission is brought into this debate. And yet, the subject of rescission is brought into this debate, because as the gentleman from Ohio, (Mr. SEIBERLING) has set it forth clearly when he said that whether the Railsback amendment is adopted or not, the subject of rescission is going to be before the States.

So, it seems to me that what we are doing with this extension resolution is to open the door for a debate throughout the 50 States on the subject of ratification and the subject of rescission or rejection. The gentleman from California (Mr. EDWARDS) said, in effect, "We don't want them (the States) to have the opportunity to reject. We only want them to have the opportunity to ratify."

Well, it is true that article V only talks about ratification, and I think it appropriately does so. So, the cases hold that we can have ratification after rejection. In proposed legislation for the conduct of a constitutional convention if a sufficient number of States compel us to have a national convention for amendment of the Constitution, it is provided in that proposal that has already passed the Senate in 1973 that we should put in the law and provide the opportunity for rescission.

So, this is a very live subject which we have here today before us. If we want to provide fairness, which is inherent in the issue here, are we going to be fair in connection with this extension? It seems to me that fairness might dictate that we should provide an opportunity to take action one way or the other during this time of resubmission of the equal rights amendment. However, I fear we will be departing dangerously from the intent of article V—the amendatory article of the Constitution—if we are to condone rescission—once an act of ratification has taken place.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I would just like to say I am not sure the gentleman correctly understood the point I was making. My point is that we do not need to provide for the right of rescission in this resolution because that right either exists or does not exist, independently of anything that we do on this resolution.

Mr. McCLORY. Right. I am not disagreeing with the gentleman at all, and I think especially that with respect to those States that have attempted rescission, their attempt up to the present time is invalid. But during this proposed extension of time I think we can say—under a doctrine of fairness—that their rescissions might be held to be valid and effective.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Maine.

Mr. COHEN. As I understand the gentleman's comment, it is that while he is opposed to an extension of the period for the ERA, he is clearly opposed to any provision for rescission.

Mr. McCLORY. I am opposed to writing it into the amendment, right, but I do not want to say that the right to rescind is not present during this proposed extended period of time, and I think that is one of the dangers that exist in this extension. I think we are opening the door to rescission, for all kinds of litigation and all kinds of questions we should not be presenting to the courts or to future Congresses or to the American people. We should not be opening up these 50-State battlegrounds that have been referred to and that have already been delineated during the course of this debate.

Ms. HOLTZMAN. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, I strongly oppose the amendment that would permit recissions. I do so for a number of reasons.

In the first place, I think that we need to understand that we have never in our country's history, starting from the very

day that the Constitution was ratified, recognized a right to rescind or validate any recissions. If we adopt the Railsback amendment we will be thumbing our nose at 200 years of our country's constitutional history.

Secondly, we will be thumbing our nose at the Constitution. There are many authorities that state that rescission is not a power that can be exercised constitutionally by States. The Justice Department has reiterated this position. We have all received a letter to that effect. We would be thumbing our nose at the Constitution to adopt this amendment.

Finally, we would be thumbing our nose at some very important policy considerations that lie behind the refusal of our country in its past history to recognize those recissions. Some of those policy considerations have been enumerated, but we need to understand them clearly.

If we allow recission now, we will be allowing it for all time. Just like the original 7-year period that was adopted to the 18th amendment. That 7-year period was accepted mindlessly at that time and it has been followed mindlessly with one exception ever since.

What does that mean? It means on every single constitutional amendment we will have there will be a question whether to ratify, and after it has been ratified whether to rescind; and whether after it has been rescinded it should be ratified, and whether after it has been ratified it should be rescinded.

We are opening up our constitutional procedures to absolute chaos. I think that would be a grave mistake. The fact that no one in our past history has recognized the right to rescind suggests that our predecessors thought it would be a grave mistake too.

The second thing we will be doing, if we permit rescissions, is to allow the State legislators to adopt amendments to the Constitution too lightly. Legislators should not be able to say: "I am up for election this year. Here we have an amendment doing away, for example, with the fifth amendment to the Constitution and I can vote for it, and it will be good for my election, and some other year our State legislature or some other State legislature will bail me out."

We should not permit our constitutional processes to be lightly used—ever. I think that would be the result.

Finally, this amendment is not timely. It does not bind another Congress actions with regard to rescissions. It is purely advisory. In fact it is purely illusory.

What I am saying to you is, if you adopt the Railsback amendment you will be doing something that not only is not binding, and you will be doing something that not only is just advisory, but you will be standing precedents on their head. You will be doing something that has serious constitutional questions attached to it. You will be doing something that has a bad policy implication for the future and will create grave problems for our constitutional process.

I urge the Members to consider that this is an issue that goes beyond the equal rights amendment, this affects our constitutional amendment process. So I urge you to defeat the Railsback amendment.

Mr. VOLKMER. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, at this time I do not want to discuss basically the question of the properness of the Railsback amendment. I basically agree with the gentlewoman on that, but, on the other hand, let us take extension as it presently is without the Railsback amendment, to use the gentlewoman's own words, really, it is not binding on a later Congress, and is it not basically advisory to a later Congress?

Ms. HOLTZMAN. No, I do not agree. I think there is substantial authority that says once you send a constitutional amendment to the States, you cannot withdraw it.

Mr. VOLKMER. I agree with that.

Ms. HOLTZMAN. But I also would like to say that the argument that this is a one-way street is absolutely fallacious. It is not a one-way street in the unratified States; they can vote to ratify or not to ratify. It is not a one-way street; it is a two-way street. What the Railsback amendment does would make it a 100-way street with everybody running around in all different directions.

Mr. SEIBERLING. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, I think the gentlewoman from New York (Ms. HOLTZMAN) has made an extremely persuasive argument.

The CHAIRMAN. The time of the gentlewoman has expired.

(On request of Mr. SEIBERLING, and by unanimous consent, Ms. HOLTZMAN was allowed to proceed for 1 additional minute.)

Mr. SEIBERLING. I repeat, I believe the gentlewoman from New York (Ms. HOLTZMAN) has made an extremely persuasive argument as to why the rescission portion is a very bad constitutional doctrine. I believe the weight of the authority is totally on her side. But I think that even if it is bad, and even if subsequent Congresses choose to ignore rescission, this amendment is an invitation to all of the parties involved to start the process all over again in every State and that it will cause turmoil and uproar for really the next 3 years if the States have the right to rescission, then nothing in this resolution prohibits them from exercising that right. It seems to me we should not extend an invitation to all of them to start down that path because to do it would mean we certainly are making a mockery of the amending process.

Ms. HOLTZMAN. I thank the gentleman from Ohio (Mr. SEIBERLING) for his remarks.

The Railsback amendment is an invitation to chaos.

I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Chairman, as chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary, I share a definite respect for the right of free speech, and I have no wish at any time to cut debate or to limit it. However, Mr. Chairman, I wonder if we could have some sort of happy agreement on how much longer we will debate this particular amendment? I might add that the 5 minutes allotted to each speaker are running into 10 and 12 minutes, and we would like to finish this and get on with the budget resolution.

The CHAIRMAN. The Chair will state that insofar as the extension of the 5 minutes to 10 or 12 minutes is concerned, that is up to the Members and they can stop it if they wish to do so.

Mr. WIGGINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. EDWARDS of California. Mr. Chairman, would the gentleman yield for a unanimous-consent request?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, I would inquire of the Members whether there would be a disagreement on another hour of debate? If not, I would ask unanimous consent that we do so.

The CHAIRMAN. The Chair would inquire, is it the request of the gentleman from California (Mr. EDWARDS) that all debate on this amendment and all amendments thereto cease in 1 hour?

Mr. EDWARDS of California. Let us make it 5 o'clock.

Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close at 5 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BUTLER. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The gentleman from California (Mr. WIGGINS) is recognized for 5 minutes.

Mr. WIGGINS. Mr. Chairman, a few moments ago my distinguished subcommittee chairman, the gentleman from California (Mr. EDWARDS) said that the constitutional submission to the States could not be altered save by a constitutional amendment.

Well, then, what in the world is this all about? What is this resolution all about except to alter the terms of a constitutional amendment previously submitted to the States?

Rather than doing it by two-thirds, which I believe is clearly indicated, we propose to do it by a simple majority. Mr. EDWARDS' arguments demonstrates the impropriety of the vote by which this measure may be approved.

Mr. Chairman, rescission goes to two issues: Power and propriety.

Let us not take long in discussing propriety. My goodness, what could be fairer than to give States an opportunity to vote either yes or no? What could be fairer than that?

The opponents of rescission say, "But that will invite the States to vote no."

If this resolution is adopted, surely we are going to invite those 15 States to vote aye. Why not send an equal message: "Yes or no, up or down, take your choice."

Let the people establish a consensus, not lock 35 States in artificially. That is precisely, of course, what the opponents of rescission hope to do.

No, Mr. Chairman, it should not take us long to decide the issue of propriety. Propriety mandates that we authorize and encourage rescissions if that be the will of the people.

But what of power? It has been suggested here that Congress lacks the power. Basically, according to the argument Congress has no constitutional power to authorize or consider a rescission, because article V speaks only in terms of ratification, and rescission is not ratification. Professor Black calls that a trivial argument, and Professor Emerson agrees with him. I think I would be less kind. That argument is without substance.

Of course, constitutional powers are stated affirmatively. But that is not to say that Congress may not act negatively. We have the power to regulate commerce, but who would say that it would be beyond the constitutional power of Congress to deregulate? That is not a sensible argument.

The second argument proceeds from a letter written by Madison to Mr. Hamilton on the occasion of the debate surrounding the ratification of the Constitution itself, and more particularly, the debate in the State of New York.

Hamilton wrote Madison a letter, and he asked him whether or not New York could attach an express condition to their ratification. Madison replied, in substance, "I have but a moment to consider the issue, but it seems to me no."

Mr. Chairman, I agree with him. Of course, States may not attach conditions to their ratification.

That simple expression in a letter from Madison has been elevated, exalted to a claimed principle that the right to vote "no" is a condition.

That is foolishness. There is no constitutional prohibition against a rescission.

Mr. Chairman, I suppose, in the final analysis, that the States can do what they please. The question is whether we count their vote.

I do not believe for one moment that a future Congress, by adopting a concurrent resolution by a simple majority, could overturn a decision of three-fourths of the States. If Coleman stands for that, it is not good law. It is inconsistent with constitutional principles.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, as I read the amendment, the amendment only provides that those States which had agreed during the 7 years may rescind. If we took no action, they would automatically have rescinded because the time would run out.

If there is authority to extend the time, there is certainly authority to extend the time without permitting those States to be held to their ratification without the opportunity to rescind during the extended period.

The CHAIRMAN. The time of the gentleman from California (Mr. WIGGINS) has expired.

(On request of Mr. VOLKMER and by unanimous consent, Mr. WIGGINS was allowed to proceed for 2 additional minutes.)

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Missouri.

Mr. VOLKMER. Does the gentleman agree with me that the joint resolution as presented, if passed with a majority vote, and not to be signed by the President, has no binding effect on a later Congress?

Mr. WIGGINS. No, it would have no effect at all after January. Strangely, the operative effect is to take place after March of next year.

Mr. VOLKMER. After March, and it is purely advisory in nature; is that correct?

Mr. WIGGINS. Advisory, indeed. Any State that purports to ratify on the authority of this resolution will do so at its own peril.

Mr. VOLKMER. I thank the gentleman very much.

Mr. ERTEL. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Pennsylvania.

Mr. ERTEL. I thank the gentleman for yielding. The gentleman is a noted attorney, and I know he is returning to the practice of law. But I am concerned about some procedural aspects of this.

Let us assume for a moment that 37 of the States ratified, and 4 have rescinded, and there is no declaration by this Congress as to rescission, and this is down the road in the extension period. Does a lawsuit lie, and could an injunction be gotten against the General Services Administrator to enjoin his proclamation that the 38 states would have in fact ratified and could that be appealed all the way to the Supreme Court, and could that in fact delay and tie up this constitutional amendment for a substantial period of time with litigation in the courts, and we would not know where we stood?

Mr. WIGGINS. Of course, it could. Coleman against Miller discussed the issue of standing and found that the legislators of the Legislature of Kansas had standing to sue and did in fact, seeking an injunction preventing a proclamation of that State's purported ratification to the Congress. So there is no question of standing. The issue rather is the political question doctrine as applicable to rescissions, and I do not think the political question doctrine applies to rescission.

Mr. ERTEL. My final question is, Does not the amendment offered by the gentleman from Illinois (Mr. RAILSBACK) and myself clarify this since the General Services Administrator merely sends it over here to the Congress and we make the decision, and we cannot be enjoined, and we will have definiteness when this amendment is finally agreed to?

Mr. WIGGINS. The gentleman is absolutely right. Whenever we think about rescission, the last sentence of the amendment is imperative.

Mr. ERTEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment. I have already made my statement that I am a supporter of the equal rights amendment, and I am a supporter of the extension. But rather than spend a great deal of time, I have heard this amendment discussed, chewed up, and misinterpreted here on the floor, and I would like to go through it to make sure that we know exactly what this amendment provides.

I would like the author or the coauthor of this amendment to clarify or correct anything I say about the amendment and what it purports to do. I would like to take the first sentence of the amendment:

Provided, however, That any legislature which shall have ratified the article of amendment within the first seven years of this period may, by the same vote and procedure required for ratification, rescind that action at any time after this resolution becomes effective and prior to adoption of the amendment.

It is my interpretation of that that by implication it invalidates any rescissions which would have been passed prior to the expiration of the initial 7-year period; is that correct?

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

It would be my answer that it does not expressly invalidate nor does it expressly validate. What it is meant to do is deal with the extension period specially prospectively. It is not meant to set any kind of a precedent at all in regards to future constitutional amendments.

The issue of extension is brand new. We are talking about tinkering with the legislative process. the constitutional process. We have never before had an extension. I want to make that point.

Mr. ERTEL. What the gentleman is saying is that it does nothing to the rescissions which have already been passed.

Mr. RAILSBECK. Yes, if I can tell the gentleman how I feel personally about it, if I were asked to vote on validating one of those previous rescissions that occurred within the initial 7-year ratification period, I would vote not to recognize those rescissions. What I am saying here is it is a matter of fairness. Where we are going to have a prospective extension, at least let us let all of the States participate so that we have contemporaneous approval.

Mr. ERTEL. I thank the gentleman.

Mr. BUTLER. Mr. Chairman, will the gentleman yield on that point?

Mr. ERTEL. If I may for just a moment finish with the gentleman from Illinois. I will be glad to yield to the gentleman from Virginia. I have some more questions I want to clarify so everybody understands the amendments and perhaps the definition and terminology. During the 3-year extension period does the amendment mean that if a State rescinds or attempts to rescind, that that is valid, or does it mean that this is merely a procedure by which they have

to abide so that the Congress in the final determination will determine whether that rescission in valid or invalid?

Mr. RAILSBACK. Yes; if the gentleman will yield further, that is the intent and the gentleman is correct.

Mr. ERTEL. In other words, this does not validate future rescissions, but sets up a procedure which should be followed, have definiteness in form, and then it comes back to the Congress in 1982, or some earlier period of time.

Mr. RAILSBACK. I may disagree on that. I think that what the gentleman is saying is that it is the direction of this Congress provided by us by way of this amendment to a future Congress that at the time we granted an unprecedented extension, the first time we have had an extension, and by a majority vote, which also troubles me some, that we are providing an opportunity for States that may have ratified; namely, the 38 States that ratified, we are giving them a chance to rescind.

In that case, if I were a sitting Member of Congress when it came to final determination, I would vote to ratify those States that came within the extension period.

Mr. ERTEL. It is a directive, is it not?

Mr. RAILSBACK. It is more a directive, more a procedure, not much different than the unprecedented extension. It is not meant to set any kind of precedent that says from now on we are going to have recessions. It does not do that. It deals with the extension period only.

Mr. ERTEL. There is one thing definite in the amendment, that is the final decision is made by the Congress whether the amendment is adopted, that it gives to a future Congress the absolute authority to certify and to indicate whether that amendment has been adopted; is that correct?

Mr. RAILSBACK. The gentleman is correct and that is accurate and important with the first part of the amendment.

Mr. ERTEL. Does that not overrule the statutory section, "Amendments to the Constitution," section 106–B, which says "that the General Services Administrator, specifying the States by which the same may have been adopted, and that the same has become valid."

Does that not overrule it?

Mr. RAILSBACK. Yes, it does, with respect to the extension period.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. ERTEL) has expired.

(By unanimous consent, Mr. ERTEL was allowed to proceed for 2 additional minutes.)

Mr. ERTEL. Mr. Chairman, I yield to the gentleman from Illinois.

Mr. RAILSBACK. The answer is "Yes," during this extension period. We are dealing with an extension period.

Mr. ERTEL. Mr. Chairman, one final question. This amendment requires the Administrator of the General Services Administration to certify to Congress each and every time he gets a ratification or rescission from the States.

Assuming for the record we had 38 ratifications and 4 rescissions, would the Congress then make a determination whether the rescissions were valid at the time they get the 38 ratifications?

Mr. RAILSBACK. Yes, if they got 39 and 4 and so on. This could come up periodically for review whenever somebody had this ratification for the Congress.

Mr. ERTEL. And that means you could go forward with the amendment?

Mr. RAILSBACK. Yes.

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Chairman. I am not certain this colloquy clarifies the question on the rescission aspect of this amendment.

The question I would ask is in respect to including the phrase, "granting the right to rescind" during the extended period of time. Is that meant to assure the States that would take rescinding action a reasonable assurance would exist that their action would be affirmed or should be affirmed by a future Congress?

Mr. ERTEL. I do not believe we can legally bind a future Congress. Therefore, we are trying to give them the direction in which to go, with the reasonable assurance that this Congress in the future would abide by previous Congresses; but we cannot absolutely do that, because we cannot bind them to a final determination by the Congress at the time.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, I think the gentleman is correct. By the same token, I do not believe we can bind a future Congress with an extension that it may decide to repeal, and that is what we are talking about.

Mr. ERTEL. Mr. Chairman, I would agree with the gentleman.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. ERTEL) has again expired.

(At the request of Mr. GARY A. MYERS, and by unanimous consent, Mr. ERTEL was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, will the gentleman yield?

Mr. ERTEL. I yield to the gentleman.

Mr. GARY A. MYERS. Mr. Chairman, since there is a considerable doubt on what the effect of this whole process will be, whether it is binding in any resolution on a future Congress, whether during extension, ratification, or rescission, is it not quite possible that some of these questions will find themselves in the courts and that by providing the express intent of this Congress in the passage of an extended period, that a court could use that as a basis for deciding for or against States action during the period of time?

Mr. ERTEL. I do not agree with the gentleman. The courts cannot do what they want. They act based on the law and they are supposed to interpret the law; but this amendment says Congress will have the final determination, and that means no review in the court and that we will finally determine the amendment process.

Just as the courts have said previously, the General Services Administrator is the final determiner, and there is no appeal. So too will this amendment make the Congress.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. ERTEL) has expired.

(On request of Mr. GARY A. MYERS, and by unanimous consent, Mr. ERTEL was allowed to proceed for 1 additional minute.)

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield further, with respect to our action specifically stating that rescission is a right of the State, would that not be considered as final congressional action?

Mr. ERTEL. It could be if we said that. We have not said that.

Mr. GARY A. MYERS. That could be considered and would in fact be a condition of this extension with this amendment?

Mr. ERTEL. Yes, but we have not done that.

Mr. Chairman, if I may reclaim my time, all this amendment does is it sets up a procedure by which the States get some sort of certainty, and, second, it returns to the Congress the final determination. We are not leaving it up to the Supreme Court and we are not leaving it up to a political appointee, the General Services Administrator, to make our decisions for us.

Mr. Chairman, I think this amendment should be agreed to, and this should once and for all clarify the process. I think those who are supporters of the equal rights amendment should support this amendment, because otherwise they could wind up in the court system, and we would never know whether we have an equal rights amendment or not, even if we get 38 States to ratify it.

Mr. FISH. Mr. Chairman, I move to strike the requisite number of words.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I am happy to yield to the gentleman from Maine.

Mr. COHEN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, there has been a great deal of discussion here on the dichotomy between power and policy, and I think the majority of this House recognizes that Congress does indeed have the power to extend the time period for ratification. The question now becomes one of policy as far as the question of extension and rescission is concerned.

Several Members have stated that four out of seven professors testified that Congress has the constitutional power to grant to the States the right to rescind. They fail to mention that four out of those seven are opposed to Congress adopting a policy of allowing rescission.

I would like to indicate for the RECORD, for example, that Professor Tribe of Harvard has specifically asked the record to show he does not want to be cited as being in favor of rescission or as being prorescission.

Professor Emerson had this to say:

When Congress comes to determine whether the requisite number of States have

ratified, the issue of rescission will be presented. The matter will be decided on the basis of the situation as it then exists. That decision need not, indeed cannot, be made at this time. * * * Congressional action at this time is superfluous.

Professor Ginsburg said as follows:

As I see it, the rescission issue is not ripe for disposition at this time. It would be premature for this Congress to address the question of rescission.

Professor Van Alstyne has said this:

May I * * * urge, as a professional matter, that Congress do nothing to intimate to the States that they generally possess a power to rescind. I think that profoundly ill-advised constitutional policy * * * No State ought to consider an amendment to the Constitution under the misimpression from this body that it may do it with some sort of celerity or spontaneity. * * * I would hope that you, as responsible Members of Congress, would vigorously oppose it.

Mr. Chairman, I thank the gentleman for yielding.

Mr. FISH. Mr. Chairman, I thank the gentleman from Maine (Mr. COHEN).

Mr. Chairman, the Congress is urged by this amendment to couple rescission with extension. I maintain that these are totally distinct and separate issues, that it would be improper and misleading for us to join them, and that it would be a major break with our past.

There is a profound difference. With respect to extension, we are breaking new ground. The Supreme Court has laid out objective guidelines for Congress to consider in determining a reasonable time for ratification, but admittedly we have no precedent precisely on point.

In the case of rescission, however, there are 190 years of legal and historical precedent, and this is precisely the distinction the proponents of the amendment fail to see. Today we are being asked to reverse this settled rule and, still worse, to do it selectively.

What are the precedents? The 40th Congress, by a simple majority vote, disallowed rescissions with regard to the 14th amendment.

Acting on that precedent, secretaries of state counted ratifications and disallowed rescissions when promulgating the ratification of the 15th, 16th, 18th, and 19th amendments.

Years later, the Supreme Court in Coleman against Miller had the occasion to recount the history surrounding the action taken by the 40th Congress and noted with approval their action respecting congressional nonrecognition of rescission. In that opinion, the Court said:

We think that in accordance with this historic precedent the question of the efficacy of ratification by State legislatures, in the light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the amendment. (At 450.)

This is the most specific language we have on this point.

"The question of the efficacy of ratification," the court tells us, belongs "with the ultimate authority in the Congress" And at what point? "In the exercise of its control over the promulgation of the adoption of the amendment."

In other words, the appropriate time to deal with the efficacy of ratifications, the States' previous rejections or attempted withdrawals, is not before us in 1978.

It is a question the Congress considers at the time the ratification by the necessary three-fourths of the States occurs. Whatever Congress that is, it is not this one. Any decision with regard to rescission made prior to that time is premature, not binding and constitutes a serious break with precedent.

This Congress should know what it is being asked to do. We are being asked to couple with extension an invitation to rescind that reverses 190 years of constitutional practice. We are being asked to do so only for this proposed amendment and only during its period of extension.

The CHAIRMAN. The time of the gentleman from New York (Mr. FISH) has expired.

(By unanimous consent, Mr. FISH was allowed to proceed for 2 additional minutes.)

Mr. FISH. Mr. Chairman, while this amendment appears as some reasonable political compromise, that is precisely its vice. Congress is being asked to announce for itself that it has the power to pick and choose which rescissions, and thus which ratifications, are valid.

It would be far wiser to act under orderly procedures, if we wish to consider departing from such settled precedent. The proper course would be to embrace some neutral principles of rescission of which we can be proud. That cannot be accomplished under House Joint Resolution 638.

Mr. DRINAN. Mr. Chairman, will the gentleman yield?

Mr. FISH. I yield to the gentleman from Massachusetts.

Mr. DRINAN. I thank the gentleman for yielding, and I want to associate myself with the gentleman's remarks and commend him for it. It is one of the finest presentations here this afternoon, and I do hope that this view will prevail in this body. I thank the gentleman for his statement.

Mr. FISH. Mr. Chairman, I really appreciate that statement coming from one of the foremost scholars in the House in the field of law.

Mr. Chairman, as the hour of the day grows late, it may well be time to inject a less serious note in the deliberations. My good friend, the gentleman from California, the speaker, a minute or so ago alluded to the so-called Madison principle and tried to minimize its importance. I am willing to accept that if the gentleman is willing to accept the Seward-Fish principle. The 14th amendment ratification was promulgated by Secretary of State Seward, and we have heard much about that. We do not hear quite as much about Secretary of State Hamilton Fish, who was the one who, likewise, did not allow rescission in the case of the 15th amendment but promulgated the ratification. I think on that great precedent it can hardly be expected that I would accept rescission today.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I believe that this amendment brings out in clear detail one of the major imperfections in the joint resolution before us. I first would like to say that I agree with the gentlewoman from New York, and with the others, who have said that in their opinion that rescission, this amendment, would have no binding effect, that it would be advisory in nature. I agree with that. However, I believe it was brought out also in this debate, and I must agree also with the other statement, and that is the position of Mr. Harmon from the Department of Justice, who said that, even though we can do this by majority vote, it is not binding on a later Congress. And I agree with that. If you do it this way, it is not binding. And if it is not, then what can a later Congress do under this resolution, even without this amendment? Can a later Congress then say, 3 years from now, that there was no contemporaneous ratification by the States, when the last State ratified in 1981 along with the proposing 92d Congress in 1972? The proposal before us will do that. Does that not do violence and serious injury to our whole constitutional amendment process? I say it does. We have always had in the last 200 years constitutional amendment proposals made by Congress to the States that once made cannot be withdrawn. And I believe that is clear.

Nor can the time be reduced by Congress. Once Congress has submitted it, then that is the end of Congress as far as reducing or withdrawing or as far as saying anything about it. Yet, under this resolution a later Congress would be able to say, even without a rescission during the extended time, that there has not been contemporaneous ratification. That does injustice; that does violence to the decision of the Supreme Court in the case of Dillon vs. Gloss.

In that case, the Supreme Court said that an amendment to our Constitution takes place at the time that the 38th State, or the State which constitutes three-fourths of the total, the last State, actually ratifies it; not when the Administrator of GSA says it has been done. The Administrator of GSA does not make any amendment a part of our Constitution. When the last State ratifies it, the Supreme Court has held, is the time. That case arose under the 18th amendment. A man was actually arrested for a violation that occurred between the time of the last State ratification and the secretary of state, at that time, promulgating that it had been ratified. The Supreme Court said that it takes place at the time of the last State ratification, so the GSA Administrator does not decide when an amendment to our Constitution takes place.

Therefore, I say that we have a very serious imperfection in the proposal before us. The last imperfection is that if it is by majority vote, and if it is to be submitted to the President, then too what we are doing violates other constitutional traditions of this country, to article V and the framers of the Constitution, who said that the Executive would have no power in the mandatory process of the Constitution. It is a matter between the States and the Congress;

the Executive has no power to exercise in the process.

Mr. HYDE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I listened very carefully to the debate this afternoon from a great number of extremely knowledgeable people about the U.S. Constitution and its amendatory processes, but it seems to me that four professors, or seven professors, or the opinion of the Supreme Court in Dillon against Gloss or Coleman against Miller, nor any action by this House or by previous secretaries of state, can repeal the 9th and 10th amendments of the Constitution.

Now, may I remind my colleagues that the ninth amendment—which is still a part of this great document that we profess such reverence for—says that the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people. Now, we have in the fifth article of this Constitution language expressly conferring upon Congress the power of specifying the mode of ratification, but there is nothing at all about rescission. So, the Constitution is silent about rescission.

Now, the 10th article says—and it is still a part of the Constitution—that the powers not delegated to the United States by this Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people. So, I submit to the Members that the power of rescission, not being forbidden in the Constitution, the Constitution being silent about rescission and only mentioning a mode of ratification, that by that fact the power of rescission resides in the people under the 9th amendment and the 10th amendment—that is, to the States. And any effort to repeal these two clauses strikes me as aberrational, to say the least.

I might point out that the Justice Department is not exactly the most reliable source of information, not exactly the Rock of Gibraltar on the question of whether or not a recission can be made, because Mr. Harmon, who is the Deputy Attorney General, has testified before the distinguished subcommittee headed by the gentleman from California, and did say, as to recissions:

> . . . That Congress cannot give to the States a right to rescind by any means short of amending Article V of the Constitution.

Of course the States already have it under the residual reserved powers of the 9th and 10th amendments. So he is right there, but not in the way he meant it. He goes on to say:

> Article V gives to the States the power to ratify a proposed amendment, but not the power to reject.

It is, in my humble opinion, a basic misconception of constitutional law. Authority flows not from the Constitution to the States but in reverse. It flows to the Federal Government from the States and powers not specifically specified nor prohibited are reserved to the people. I know that principle of law has been ignored all these long years but it is still there and we have not amended it out of the Constitution.

But at any rate Mr. Harmon on pages 6 and 7 of the printed testimony says that, no, the States cannot rescind, but then on page 38 he says:

> The fact that a State has rescinded its ratification may be a factor for the Congress to look at when it determines what the will of the people is, because the obligation remains that Congress has to satisfy itself that the amendment has received the reasonably contemporaneous approval of three-fourths of the people. And that is an obligation and a heavy obligation.

And may I say in a more calm atmosphere, not under the pressure of the ERA deadlines, the other body across the Rotunda has passed a bill in 1972 called the Federal Constitutional Convention Procedures Act. The chief sponsors of it are some of the strongest supporters of ERA over there. That bill passed virtually unanimously, by a vote of 87 to 1, I believe, and in that bill they provided for ratification and recission, the philosophy being that full and deliberate and comprehensive debate should occur, and the only time when ratification occurs is when 38 States at the same time have ratified. So if recission is a viable constitutional concept, and the other body has so enshrined it, then, it ought to be an acceptable concept in this body.

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield?

Mr. HYDE. It would be an honor to yield to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. I thank the gentleman for yielding.

I have enjoyed tremendously his very scholarly constitutional argument based on the 9th and 10th amendments in which, if I understood him, he said this.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. HYDE) has expired.

(On request of Mr. ANDERSON of Illinois, and by unanimous consent, Mr. HYDE was allowed to proceed for 1 additional minute.)

Mr. ANDERSON of Illinois. Mr. Chairman, will the gentleman yield further?

Mr. HYDE. I do so, indeed, if I have enough time to answer the gentleman's scholarly question.

Mr. ANDERSON of Illinois, Mr. Chairman, the gentleman's argument is under the 9th and 10th amendments that this power resides in the people. Why then do we as a Congress even presume to entertain an amendment as suggested by the gentleman from Illinois (Mr. RAILSBACK) which, as he explained a few minutes ago, as I was sitting here, directs the States that they have this power to go ahead within this 3-month period to rescind amendments previously made? If the gentleman's arguments make any sense at all, this would be a useless action.

Mr. HYDE. The gentleman is masterful in restating the question. I believe the Railsback amendment would be unnecessary, but under the Bakke decision, where we are not sure what that decision means concerning racial discrimination, it may be well to spell out for the courts what we previously assumed the law to be but that would not repeal the 9th and 10th amendments, and nothing we do here will do so.

Mr. ANDERSON of Illinois. I was not under the impression we had that much luxury of time this afternoon that we could spend all the time we have taken here this afternoon to pass an amendment which the gentleman believes to be unnecessary.

Mr. ECKHARDT. Mr. Chairman, I rise in favor of the amendment and I move to strike the last word.

Mr. Chairman, the first question we should address ourselves to is whether or not the Railsback amendment is permissible under the Constitution.

I think there is absolutely no doubt that is so. I think that question is finally determined in Dillon against Gloss. There it is stated:

> First, proposal and ratification are not treated as unrelated acts, but as succeeding steps in a single endeavor, the natural inference being that they are not to be widely separated in time.

It further provides that—

> As a rule the Constitution speaks in general terms, leaving Congress to deal with subsidiary matters of detail as the public interests and changing conditions may require.

The court, pursuing that line of reasoning, held that a seven year limitation for ratification for an amendment was within the authority of Congress as an implied power under article 5.

Of course, the 1972 Congress exercising their constitutional amending authority under article 5, and by a two-thirds vote, voted that that equal rights amendment should be submitted and that the equal rights amendment should be ratified in no longer period of time than 7 years.

Now, do we have the authority, at the present time, to further extend the period in which ratification may be had? I think we do. But I do not think we have authority by a simple majority rule at the present time to bind the States to a longer period than 7 years in which they are held as ratifying States without the opportunity to rescind. I do believe we can extend the period for ratification for another 3 years but not the period in which they are bound to 10 years.

I think it is absolutely clear that if Congress had the authority to limit in 1972 the period for ratification, it also has the authority now to grant to States, which were told in effect that because rescission will be automatic after 7 years, that those States may rescind in the extended period of approximately 3 years. As a matter of fact, in Dillon versus Gloss it is said:

> An examination of Article 5 discloses that it is intended to invest Congress with a wide range of power in proposing amendments. Passing a provision long since expired, it subjects this power to only two restrictions: one, that the proposal shall have the approval of two-thirds of both houses, and the other excluding any amendment which will deprive any state, without its consent, of its equal suffrage in the Senate.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, the gentleman from Texas (Mr. ECKHARDT) raises a question in his last comments that I find very intriguing.

Is the gentleman's position that, in the absence of extension of the 3-year period, the effect of the expiration of 7 years would result in an across-the-board rescission of ratifications previously adopted by the several States, and if the process were to continue, it would have to begin ab initio requiring 38 States in the beginning?

Mr. ECKHARDT. Yes, if no action were taken by Congress before the termination of the 7-year period, all States would be, in effect, treated as if they had rescinded in the event that the amendment were again submitted under the article V process. And if the amendment, which is now proposed, should be adopted without the amendment of the gentleman from Illinois (Mr. RAILSBACK) the result would be that the decision of the Congress in 1972 in which the submission was made would, in effect, have been altered. The very basis upon which we submit this matter to the States rests on that 1972 amendment. And Dillon against Gloss says that proposals and ratifications are not treated as unrelated acts. We may not, in my opinion, extend the net permitted in that amendment from 7 years to 10 years. This amendment by the gentleman from Illinois (Mr. RAILSBACK) simply prevents that unwarranted extension. It does not permit rescission during the additional 3 years for States which come in during those 3 years. It is silent on that, just as the original amendment was.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. PANETTA. Is there anything in the Supreme Court decision in Dillon against Gloss that specifically says that rescission was a power that the States would have?

Mr. ECKHARDT. No, Dillon against Gloss clearly says that the 7-year limitation is constitutionally permissible.

But it also said that Congress has a wide range of powers to implement the submission, which it ordinarily may exercise as incidental to other authorities it exercises.

Mr. EDWARDS of California. Mr. Chairman, I wonder whether this is the time when we could arrive at an amicable agreement as to termination of this debate, with everybody having ample opportunity to speak.

Mr. Chairman. I ask unanimous consent that all debate on this amendment and all amendments thereto end in one-half hour.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, I really believe that with respect to this constitutional amendment, an objection should be made in behalf of the first amendment.

Therefore, Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end in 45 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. LEVITAS. Reserving the right to object, Mr. Chairman, I do so because I note a number of Members standing; and realizing that we are talking about a constitutional process which is so fundamental, I think it would be inappropriate to invoke cloture on something this important.

Therefore, Mr. Chairman, I do object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of California. Mr. Chairman, I would like to point out that when I asked for unanimous consent, that was by agreement. I point out to the gentleman from Georgia (Mr. LEVITAS) that there was never any intention of invoking cloture.

The CHAIRMAN. Objection has been heard.

Mr. BUTLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will speak very briefly.

I rise in support of the Railsback amendment.

I would like to say to the Members that I live in terror of incurring the wrath of the gentlewoman from Texas, who spoke so eloquently this morning about those of us who would presume to discuss the Constitution in this hallowed body. Therefore, I am not going to engage the Members in an extended constitutional discussion.

I just want to utter two brief sentences on this subject. Basically, we have to assume, for purposes of this debate, that Congress has control of this aspect of the process. Otherwise, there is no way by which we can consider extending the time for ratification.

Beyond that, Mr. Chairman, there is something basically unfair about extending the time for ratification without including the option to reconsider earlier ratifications of this amendment. Therefore, I think this is a fair-play amendment and nothing more than that. All of the constitutional arguments we may offer cannot cloud that single, basic question. Are we going to treat fairly these States which have considered this amendment earlier, or are we not?

Mr. Chairman, I think the Railsback amendment is a fair-play amendment; and I urge support for it.

Mrs. BURKE of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Railsback amendment.

Mr. Chairman, I must comment that it appears that we are trying to do here indirectly what we cannot do directly.

The gentleman from Illinois (Mr. RAILSBACK has emphasized that he assumes that those States which have already ratified cannot now rescind, and that he does not attempt to change that state of the law.

Mr. Chairman, even though the last gentleman spoke as though there would be power in those States which have already ratified to now rescind, the gentleman from Illinois (Mr. RAILSBACK) has made it very clear that he assumes that they cannot rescind even if we adopt this amendment.

Mr. Chairman, in addressing this whole question of fairness, some people seem to have a problem with the idea that once a State has ratified, then it should also have the right to rescind, and that by extending a time limit, suddenly a State should have a right to rescind.

Either there is a doctrine that is provided for in the Constitution that you can rescind, or there is not, and we cannot sit here and make a constitutional doctrine that does not exist. There is nothing unusual that you may very well have the power to do an affirmative act but that you cannot then undo that act. We confirm appointments all the time, and the next day it does not mean we cannot unconfirm them. We have to then have a different procedure.

This whole ratification process was described very well by one of our learned jurists in 1887, Judge Jameson, who uses these words. He says that the language of the Constitution created a special power.

> . . . It is not a power belonging to them originally by virtue of rights reserved or otherwise. When exercised, as contemplated by the Constitution, by ratifying, it ceases to be a power, and any attempt to exercise it again must be nullity. But, until so exercised, the power undoubtedly, for a reasonable time at least, remains . . .

Here we have a power to ratify. We know that the courts have said that you can reject and you can then exercise that power, but there is no power that gives you a right, once you have ratified, that you can then rescind. It has never been recognized.

What I would certainly hope that we would do is have some consistency. If we accept the idea that we cannot do that directly, how can we then go in the backdoor and create a power to rescind it even if we extend a ratification period? How can we create a new power that was not created under article V of the Constitution?

I would also like to address this whole policy question. Anyone who has ever served in a State legislature realizes the confusion that can be created by an annual vote. If you have a power to rescind every year, you are going to have absolute chaos because you are going to have every single legislature in this country reconsidering the equal rights amendment every year. We will never have a final outcome. Look at the future. Once you adopt this doctrine of recision, it is something that will probably be accepted in the future. It will probably be recognized, and we will then just as a matter of policy create so much difficulty for future amendments that we attempt to ratify. It will almost be impossible to ratify another amendment unless it is one that is totally uncontroversial. Hopefully, we would not be considering adding amendments unless they would have some substance and that would be in areas that certainly reasonable people may differ.

I oppose this amendment.

Mr. EVANS of Delaware. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Constitution of the United States has been described as the "most perfect document ever struck by mankind." I share that belief for in the almost 200 years of its existence, it has been amended only 26 times and survived momentous change in our country. It is the foundation of our Nation and its laws.

The framers of the Constitution wisely realized the sound value of the Constitution. They foresaw that many pressures would be exerted on it to change it and add to it as a result of changing times and changing attitudes. However, they also wisely realized that tinkering with it without full debate and careful scrutiny could undermine its permanence and inviolability. It is a sacred document. The amendatory process, which the framers developed, was therefore necessarily cumbersome, requiring a two-thirds majority in both the House and Senate and ratification by three-quarters of the States. What we are contemplating here today is not whether the equal rights amendment is a good idea or not but whether we should be changing the way that the constitutional amendatory process works to change the most basic law of our land.

I support passage of the equal rights amendment and hope sincerely that three more States will ratify it before March 22, 1979, so that it will become part of our Constitution. I was proud to see the State which I represent in the Congress become the second State in the Union to ratify the ERA amendment back in 1971. Delaware tried to be the first just as it was the First State to adopt our Constitution back in 1787 but unfortunately it was beaten out of that honor. I wish it had not. For it is vitally important for everyone in our country to have equal rights.

However, the fairness of the situation as well as the integrity of the amendatory process would be violated if we adopt an extension to the time for ratification of the ERA without also including in that extension Mr. RAILSBACK's and Mr. ERTEL's amendment to allow States to rescind prior to ratification of the ERA amendment. Such a provision would insure that there is a contemporaneous reflection of the will of the American people. I urge my colleagues to vote for the rescission amendment and if adopted, for the extension itself.

If the rescission amendment fails, then fairness requires me to oppose extension of the period for consideration of the amendment. We cannot deal lightly with the basic laws of our land. They are too sacred. By approving an extension without rescission, we are turning the will of our constitutional framers on its head and adopting a dangerous precedent. We owe a special obligation to future generations to follow the fair approach of allowing rescission.

Mr. Chairman, one of the most esteemed Members of the U.S. Senate, Sam Ervin, stated "What is good for the constitutional goose is good for the constitutional gander." I agree with that statement and urge my colleagues to adopt the Railsback-Ertel amendment which offers fundamental fairness to all people.

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Mr. Chairman, let me say, I think the gentleman has made a fine statement.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. EVANS of Delaware. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I want to associate myself with the gentleman's extremely fine statement on the subject.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I would like to commend the gentleman from California for the fair manner in which the gentleman has presented this important issue to the House; also, I commend those persons who have spoken in support of or in opposition to the bill and to the amendment now pending, because I think the importance of this issue and the importance of this debate go far beyond the few hours that we have been spending on this subject.

Mr. Chairman, I would like to reflect and express some views, which based on my conversations with other Members of this body, I think, are not just confined to me. I approach this issue and this decision on this amendment and on the bill itself with a more troubled and disturbed conscience than on any other single matter that I have dealt with as a Member of this body. That is for a variety of reasons.

First of all, with respect to the equal rights amendment, I for one think it is totally outrageous that in the latter part of the 20th century we still are arguing about whether the Constitution of the United States should say that men and women should be considered equal under the law. That we should still have that argument as a matter of national debate and not have resolved it years ago is, I think, a sad commentary.

I remember well when I served as a member of our State legislature the day when we first voted on ratification of the equal rights amendment. I was proud to have voted for that ratification, and I remember the sense of concern I felt when it was not ratified by our State legislature, because I think it is just fundamental human rights.

I do not believe that ERA will bring all the benefits its proponents have claimed. Nor do I believe that ERA will bring all the dire consequences which its opponents predict. It is mainly a symbolic statement, but it is a very important statement and symbols are important.

But I am also very concerned and troubled about the entire process of adopting constitutional amendments. This is a very delicate and vital mainspring of our system of government. It should not be lightly tampered with.

If we do not respect the process by which our Constitution is amended in some way, then we will find that the precedents that we set today will come back to haunt us tomorrow.

There are many people who are strong advocates of the equal rights amendment and strong advocates of this extension resolution who, if the issue were different, if it were not the equal rights amendment but an amendment about the so-called "right-to-life" amendment, an amendment on school busing, or an amendment on prayer in schools, would perhaps feel that the constitutional issues were different. They may hear of these decisions again.

But I say to them that whatever action we take today is going to be the precedent for the future, and it will be one we will have to live with. There is a maxim in the law that "hard cases make bad law," and I am troubled by that.

I am also fundamentally aware of the fact that we are talking about an amendment that means much to many people, many people I know, many people I love as it is important to me. But in the process of achieving that end should our means be of questionable wisdom and fairness.

Where rules are set for procedures to make important decisions we should be careful before we change those rules and if we decide to change them we should try to act fairly and realize that our reasons must be weighty.

Given these two pulls upon conscience and upon one's respect for our Constitution, I have come to the conclusion in my own mind that we should do one of two things. If there are those of us who are concerned that we are doing violence to the process of amending the Constitution and setting a precedent that will haunt us, then perhaps the thing to do is to vote against the Railsback amendment and against this extension without regard to the merits of the ERA.

On the other hand, there are many of us who feel so strongly that the equal rights amendment needs the opportunity to be ratified that perhaps the thing to do is to vote for the Railsback amendment and then vote for the equal rights extension.

But, Mr. Chairman, I think the votes we cast today, in either direction, has to come down to one of those two courses, which I am wrestling with in my own mind.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, the gentleman is expressing my views, my doubts, my apprehensions, and my hopes more fluently and more eloquently than I could myself. I associate myself with the gentleman's remarks.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Mrs. HECKLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with a sense of the seriousness of the questions before us that I rise in opposition to the Railsback amendment.

Two of the three reasons which I would offer for voting against the Railsback amendment would be applicable to any

constitutional amendment, and I think the first question that we should face in looking at the subject before us is this: How would we judge the issue on the basis of any other subject matter?

How would we apply our thinking to another issue with which we might agree or with which we might disagree?

I would suggest, first of all, that it is inappropriate for this Congress to take a stand on the issue of rescission. The Railsback amendment proposes the authorization or the expressed authority to States to rescind their action during the extension of the equal rights amendment.

This flies totally in the face of constitutional authority.

In the correspondence between Hamilton and Madison, during adoption of the Constitution, the Madison principle was expressed which holds that article V of the Constitution provides the States with the right of assent, or ratification, the right of positive approval of amendments, and makes their approval total and forever binding.

Madison simply and emphatically wrote:

> The Constitution requires an adoption in toto and forever. In short any condition whatever must vitiate the ratification.

An examination of the history of ratification shows the uniform application and general acceptance of this position—that ratification must be unconditional.

That is the principle which has been followed by all Congresses. And in consideration of the 14th and 15th amendments, the issue of the acceptance of rescission was rejected by the application of an extension of the Madison principle. And in fact it was so clearly acknowledged that Congress did not have the right to reorganize rescission, that in 1924 a Member of Congress sponsored an amendment which would have allowed for the right of rescission. That amendment did not gain sufficient support in the House or the Senate to be considered. Thus constitutional history shows that a States right to rescind has never been accepted by the Congress.

I say it is inappropriate for us to expressly authorize that right of rescission now.

Second, the amendment itself, the deadline extension which is before us, is neutral on the question. It allows the States to vote affirmatively or negatively. It does not deny them the right to vote negatively. Therefore, an express authority to vote negatively is unnecessary. I would say further that it is premature. Above all things, the right of rescission should not be considered by any Congress until the 38th State has ratified, and it is at that point that the Congress, sitting at that time, knowing the circumstances and the facts, should make the decision as to whether or not rescissions were or were not effective.

So I say, in terms of constitutional practice, based on past history, that the right to rescind should not be approved because it is inappropriately placed in this legislation, that it is premature for this Congress and in fact possibly illegal and unconstitutional. And I would say for this amendment it is particularly unfair. One of the reasons why 7 years was not long enough was because the debate has not centered on the merits of the equal rights question. If we allow rescission, we further deflect the attention of the country and the legislatures from the question of equal rights for men and women and we place it in another parliamentary conundrum which the legislatures across the country would be involved in discussing. Again we set back the true consideration of the issue of equal rights for women.

Mr. Chairman, for all of these reasons I urge a "no" vote on the Railsback amendment.

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude at 5:15 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. EDWARDS of California. Mr. Chairman, I withdraw my unanimous-consent request.

Mr. SANTINI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, at this point in the course of the committee's debate I would like to invite the distinguished chairman of the subcommittee, who has in the course of his congressional career perhaps established a hallmark of concern for human rights long before it was adopted as an identification with the White House. I do so in the context of specific concerns, some of which I shared with the gentleman before, some of which I have not, that persuade me that, in balance, we are perhaps foisting here a cruel hoax of expectation upon the millions who have endeavored so mightily for so long to achieve in this Nation a basic status of fairness.

Mr. Chairman, in your—and you have had considerable experience both with the subcommittee testimony you have considered and your own personal research—in the course of that conduct is it your opinion that this House would have the legal authority or power to have cut short the extension time from, say, 7 to 4 years if they had made that decision?

Mr. EDWARDS of California. If the gentleman will yield, no, I believe not. I believe by far the weight of opinion is that we would not have the legal authority to do that.

Mr. SANTINI. And why would we not have had that legal authority?

Mr. EDWARDS of California. Well, it is just that you cannot withdraw it once it has been established. That is the weight of authority, and I have not looked into it. Perhaps it is a social contract.

Mr. SANTINI. Social contract is a concept that has not interjected itself into the deliberations, but what is the legal basis for saying that this body would not have the power or legal authority for shortening the period? Let me go to a second question, Mr. Chairman.

Is it your considered opinion that this body would have the authority at the end of the proposed 3 years, 3 months, to enact a further 3-year, 3-month extension for the purposes of ratification?

Mr. EDWARDS of California. I would not want to make an observation on that without further study. If there was a bill on it, I think we would have to look at it very carefully. I am not at all sure that I would want to be absolutely emphatic on that one way or the other.

Mr. SANTINI. Well, Mr. Chairman, let me pursue a third question. What do you understand to be the precise legal nature of House Joint Resolution 638?

Mr. EDWARDS of California. It is appropriate pursuant to article V of the Constitution, wherein Congress is authorized to provide the mode of ratification. This is what the cases hold, and this is what our committee found.

Mr. SANTINI. Mr. Chairman, does not article V of the Constitution require a two-thirds vote?

Mr. EDWARDS of California. Not for the mode of ratification. There are many instances to fortify my view and the view of the House Judiciary Committee on that issue. When an amendment has been ratified by three-quarters of the States, in many instances wherever there is controversy it has come back to the Congress for ratification by a majority vote. Senator Ervin's bill and other legislation that provides for machinery for constitutional conventions to provide amendments to the Constitution are also voted in the House and Senate by a majority vote. That is pursuant to article V, which provides that Congress provides for the mode of ratification.

Mr. SANTINI. Then you classify this as having the legal effect under the authority of article V of being immediately effective upon passage by the House and the Senate?

The CHAIRMAN. The time of the gentleman from Nevada has expired.

Mr. SANTINI. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Nevada?

Ms. HOLTZMAN. Mr. Chairman, reserving the right to object, and I have no objection to any additional time, but I just wonder when the debate is going to end on this, if ever.

Mr. EDWARDS of California. Mr. Chairman, if the gentlewoman will yield, as soon as the gentleman from Nevada and I are finished, I think it is appropriate that I should ask unanimous consent for a particular time.

Ms. HOLTZMAN. I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. EDWARDS of California. In answer to the gentleman's question, no, article V of the Constitution does not require the President's signature on this legislation.

Mr. SANTINI. Is, Mr. Chairman, contemporaneous consent a constitutional mandate?

Mr. EDWARDS of California. That is a decision of the Supreme Court.

Mr. SANTINI. Is the opinion of the gentleman from California as well that it is a constitutional mandate, contemporary consensus?

Mr. EDWARDS of California. I would say it is the law, the present law.

Mr. SANTINI. That being true, is rescission as proposed in the pending amendment in any way contributing to the establishment of or reinforcing the necessity of contemporaneous consensus?

Mr. EDWARDS of California. It would be one of the elements that future Congress would consider when it would make that decision. The Court held that the timeliness of the particular constitutional amendment and other elements having to do with the constitutional amendment would be considered by the Congress, and that would be one of them.

Mr. SANTINI. And rescission would be a factor?

Mr. EDWARDS of California. Rescission would be a factor, yes.

Mr. SANTINI. To that extent then, Mr. Chairman, would that not be a meritorious reason for supporting the rescission proposal?

Mr. EDWARDS of California. No. That is the present law. The rescission proposal, as has been very interestingly pointed out today by its proponents, does not do anything except to muddy up the waters. Already, as I said in my remarks, the State legislatures can pass resolutions of rescission or not. They are going to in the future. They would be considered by future Congresses.

Mr. SANTINI. Reclaiming whatever time is left, Mr. Chairman, I disagree respectfully with that decision.

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto be completed at 5:15, which is 20 minutes from now.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Ms. OAKAR. Reserving the right to object, Mr. Chairman, I would just ask my esteemed colleague if the spirit of that action is meant to include only those Members who have spoken? Some Members have spoken three and four and five times, and I do not think frankly it is just fair. I would hope that was the spirit and obviously I would agree to it, but if it is not, then I would unfortunately have to object.

The CHAIRMAN. Objection is heard.

Mr. EDWARDS of California. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto conclude at 5:30.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Chair recognizes the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, these votes today will measure our devotion and commitment to assuring standards of stability and orderliness in interpreting the Constitution of the United States.

It is the Constitution we are debating, and debate on this amendment reaches far beyond the subject matter of this resolution.

If this Congress gives in to the temptation to breach those standards, of stability and orderliness, on this issue, that temptation will rise again and again in the future.

This amendment specifically authorizes a legislature which has previously ratified to rescind. That is a major constitutional change. Perhaps recission is an implied power of a State already; but once we recognize this as a specific power for the States we will have taken a major, and I would suggest, a very inadvisable step.

Furthermore the amendment does not answer such questions as these.

If Arkansas authorizes this amendment next year and then attempts to rescind it, it will be of no effect because the amendment does not provide for recissions in the extension period by those States which did not approve before the extension period.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FISH. Mr. Chairman, I ask unanimous consent that I may yield my time to the gentleman from Arkansas (Mr. TUCKER).

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. ASHBROOK. I object.

The CHAIRMAN. Objection is heard.

Mr. ASHBROOK. If the gentleman wants to be recognized and yield on his own time, I will not object.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. FISH).

Mr. FISH. Mr. Chairman, I yield to the gentleman from Arkansas (Mr. TUCKER).

Mr. TUCKER. Mr. Chairman, I thank the gentleman for yielding.

Second, Mr. Chairman, let us assume that Colorado, which has previously approved this amendment, attempts to rescind before expiration of the original 7 years. That rescission apparently would not be recognized under this amendment. And what would happen in this event: three States approve it within the next few months following expiration of the original time limit, thus achieving a three-fourths majority. According to the amendment being offered here, there is an affirmative right to rescind granted to all of the States ratifying in the original 7 years to ". . . rescind that action at any time . . . prior to adoption of the amendment." By that grant does the Congress preclude "adoption" until the extension expires? Does Congress lose the power to approve the ratification once the three-fourths majority is reached because of that right of States to rescind in the future, as specifically provided in the amendment?

Mr. Chairman, I strongly support the equal rights amendment. It is right, it is the future—and it is a future that is past due.

How can anyone look at their wife, their mother, their daughter, the women they know and respect and work with and say that it is all right for those women not to have all the rights guaranteed to men under the 14th amendment?

I want my children to grow up with a constitution in this country that assures that. And I hope my State will act soon, before March 22, 1979, to ratify.

But I cannot support an extension for the same reasons I approve this amendment. The process we have is difficult and fragile enough.

Let us not issue an invitation, with this amendment, to a constitutional chaos which could later be distorted for the worst regional or political reasons.

Process, where our Constitution is concerned, is more than a formality. It is, and has been proved over and over again to be, the heart and substance of our freedoms and our country.

Mr. FISH. Mr. Chairman, the gentleman has accurately stated the intent of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, the basic issue that faces the House is whether we are going to extend the period for ratification of the equal rights amendment. This is difficult in and of itself politically and constitutionally. The tendency when we face a difficult issue like this is to try to find an easy alternative, some kind of an out that makes it all very simple. But, Mr. Chairman, there is no easy way out of this basic issue itself because there is a difference between the question of extension and the question of rescission. Extension involves little or no constitutional precedent but rescission involves 200 years of precedent that clearly states that article V of the Constitution does not permit rescission in the ratification process.

This was made clear by the framers of the Constitution, by the Constitution itself in article V, by the history of the 14th, the 15th, and the 19th amendments, when the Nation refused to except rescission by a few States, and by the courts that have recognized that once an amendment has been ratified, the power to act ceases to exist.

If you question an extension of the ERA, then go ahead and question it based on its own merits up or down, but do not buy a vote for extension at the very high price of permitting rescission. Let us not ignore history or legal precedent, let us not create constitutional chaos; let us support the basic process of ratification that has served the Nation so well for 200 years.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I ask unanimous consent that I may be permitted to yield my time to the gentlewoman from Ohio (Ms. OAKAR).

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I yield to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I move to strike the last word:

There are times when we must call things what they are.

This amendment, however eloquent the debate, would essentially obstruct the passage of the equal rights amendment. It is subtle politically and would give Members a way out. It may not be the intention of all, but it is the intention of some individuals to obstruct the bill before us. So that truly once again the issue must be: Why have more time to extend simple justice to all Americans regardless of sex? Clearly, it is the most fundamental of human rights issues. Clearly international attention is turned to our own country today.

What is really involved here is our attitude toward justice and our attitude toward life.

I have been amazed that some groups would discuss such a lofty issue on the basis of toilets, lifestyles, or group appeal unisex. This amendment does not single out one woman in particular, but all women.

What we are really dealing with, in general, is our treatment of American women. The ERA can be embraced by the entire rainbow of American women as mirrored by our own women's congressional caucus.

Single women, married women with children, grandmothers, white and black, Republican and Democrat who represent a wide variety of opinions on a wide variety of issues. Unfortunately, there are those who have chosen to distort the facts.

I have spoken to certain Members who need to hear me address a very sensitive issue. The relationship of abortion to the equal rights amendment. I have been one of two women to speak against medicaid funds as they relate to being used for abortions. My stand is clear—I say to the Members of the House who have the same attitudes toward life that I do. Do not be fooled by those people who equate the two issues—they are separate. As a matter of fact, I believe that if you respect the life of the unborn the ERA amendment is an extension of that philosophy. We must be concerned about the quality of life for the women in this country.

We must be concerned with the fact that between 1973 and 1975, the unemployment rate for women heads of households increased by 50 percent, while the jobless rate for wives doubled.

We must be concerned that the average woman over 65 lives on $1,300 a year while the average male over 65 lives on $3,000 in part due to inequitable pension plans.

We must be concerned that when women seek to collect unemployment insurance they are faced with a complex conglomeration of Federal laws and individual State statutes governing their eligibility that men do not face.

We must be concerned that women were not allowed to vote until 1920, 140 years after our first American election.

We pride ourselves in being leaders of human rights, on having a democratic free society based on justice and liberty. We have today the opportunity to put the spirit of our American beliefs into action—by passing this bill without the destructive rescission amendment. I know this is a tough political issue for some in a political year. But I say to you, be courageous and just, and you will be rewarded. Vote against this amendment and for justice in this country.

The CHAIRMAN. The Chair recognizes the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Chairman, I rise in support of the Railsback amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I have not been close to this debate and I would like to direct my comments to the other Members of the House, who, as I, have not been deeply involved, either in committee or in public.

I have two thoughts. First, I oppose the amendment primarily because I think any State legislature considering ratification in the past has done so in the context of the fact that certain other States have already ratified. This must, of course, be true in the future.

Ratification is somewhat like signing a compact or a treaty. One does not put his name on such a paper and then, soon after other parties have signed it, take his name off. One can hardly expect this Nation to maintain order in such matters if a State can ratify, and then rescind its ratification after other States have signed.

In short, Mr. Chairman, in ratifying any amendment, a State does so somewhat on its reliance that other States have already ratified. I think that principle of action in reliance would apply to any future proposed amendment to the Constitution.

Mr. Chairman, rescission should not be allowed to any proposed amendment, and we should not be seeking to establish a precedent.

My second point is similar to the one expressed by the gentlewoman from California (Mrs. BURKE). If we were to accept the Railsback amendment and to allow rescission, we would be condemning each legislature of the 35 ratifying States to chaos.

The CHAIRMAN. The time of the gentleman from Washington (Mr. McCORMACK) has expired.

The Chair recognizes the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Washington (Mr. McCORMACK).

The CHAIRMAN. Is there objection to the request of the gentlewoman from Texas?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentlewoman from Texas (Miss JORDAN).

Miss JORDAN. I thank the Chair for recognizing me.

Mr. Chairman, I rise in opposition to the Railsback amendment and yield to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I thank the gentlewoman from Texas (Miss JORDAN) for yielding.

As I was saying, if we were to accept the Railsback amendment and allow rescission, we would be condemning the legislatures of the 35 ratifying States to chaos when they convene next spring. We would be creating a three-ring circus in every one of these State legislative bodies that have so much important work to do. We do not have the moral right to do that much damage to our State governments. I think we should avoid that situation.

Mr. Chairman, I voted for ERA here on this floor in 1972. The concept of an extension originally seemed to me not to be orderly. However, the issue of equality for women is so overwhelming that it sweeps away such inconsequential ideas. Equality for women in this country—now—is so fundamental that it overrides all of the technical arguments.

Mr. Chairman, we should vote against the Railsback amendment and vote for extension.

The CHAIRMAN. The Chair recognizes the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, this debate has taken me back to my law school days. Somehow, I wish we had this as a final examination question rather than a vote because it is very complicated.

I oppose the Railsback amendment. I made that decision while listening on the floor today.

Mr. Chairman, I would like to ask the gentlewoman from New York (Ms. HOLTZMAN) two basic questions because I think there is a fundamental question raised by the gentleman from Illinois (Mr. RAILSBACK).

No. 1, does Congress have unequivocally the final right to determine whether the amendment has been accepted and is contemporaneous? No. 2, what is the process by which the Congress will utilize that discretion in the event that, hypothetically there would be 38 ratifications and a large number of rescissions at the end of the 3-year extension? What would happen in the case of a scenario like that?

Ms. HOLTZMAN. If the gentleman will yield, Mr. Chairman, I would like to say that I have consulted the manager of the bill, and the response is that Congress does have the final say with respect to the issue of whether 38 States have ratified. In other words, Congress does have the right to review any rescissions that may have taken place and determine their effect.

Of course, the Supreme Court may have the ultimate decision; but between the Congress and the General Services Administrator there is no question in my mind that the Congress would have that right. I think the precedent set by the 14th amendment would apply here, and the General Services Administrator would be bound by it.

The CHAIRMAN. The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. I would like to further respond. The process by which Congress would make that decision is the ordinary process. It is not going to be an easy decision, depending upon the factual situation at that time. But there is no question in my mind that the General Services Administrator would advise Congress of the situation when the

38 States ratify, as to the number of ratifications and the other materials that have been received in connection with the process of ratification.

Mr. GLICKMAN. Mr. Chairman, if the gentlewoman would yield, what we are doing now is laying the legislative history groundwork for a situation that could result in 3 years where we have a controversial situation where we have rescissions and ratifications, and where this Congress would in fact make that final decision.

Ms. HOLTZMAN. That is right. I read the law as requiring the General Services Administrator to come to Congress in the event there are rescissions, in the event the matter of ratification is not clear.

Mr. GLICKMAN. I thank the gentlewoman.

The CHAIRMAN. The time of the gentlewoman has expired.

The Chair recognizes the gentleman from Pennsylvania (Mr. MARKS).

Mr. MARKS. Mr. Chairman, I oppose rescission. To permit rescission, in my opinion, is to condone discrimination, for rescission can only come about once the citizens of a State have voted to eliminate discrimination. If discrimination was wrong at the time they voted against it, then it continues to be wrong. I strongly urge a vote against this amendment.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. MARKS) has expired.

The Chair recognizes the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Illinois (Mr. RAILSBACK).

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ASHBROOK. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ERTEL. Mr. Chairman, I yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. I thank the gentleman for yielding.

Let me make, once again, very clear, what the General Services Administration representatives testified to as far as their purpose about 1 or 2 weeks ago before the Senate. The General Services Administration representatives testified in the Senate Committee on the Judiciary hearings last week that the existing statute gave them four options. Once the 38 States ratified ERA, only one of those options was referral to Congress for determination of the validity of the States ratifications. As I recall, the General Services Administrator even said that one option would be to ask the Department of Justice for its ruling. The Department of Justice has indicated that it does not believe that the rescissions are valid and that they are unconstitutional. I would suggest very strongly that if we want to be very clear about the power of the Congress to determine the ultimate validity of such adoption and ratification, we had better spell that out, and that is what our amendment does.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. ERTEL) has expired.

The Chair recognizes the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Chairman, I rise in support of the fair play amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

Mr. Chairman, I now yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. I thank the gentleman for yielding.

Let me repeat something that I said earlier that I think may be very meaningful to those Members who may still be undecided. It is not a question of the gentleman from Pennsylvania (Mr. ERTEL) or the gentleman from Texas (Mr. ECKHARDT) or myself that what we are doing is really the fair thing to do. There are many ERA proponents who have stated unequivocally and very clearly that either they favor no extension at all because of the fairness doctrine or in the event of an extension, there should also be rescission.

The Washington Post summarizes it perhaps better than I can:

> Congress has put time limits on recent proposed amendments for good reason, to ensure that ratification, if achieved, will reflect a national consensus on a fundamental constitutional change. If the time period is approved, ERA is going to be extended at the last minute. Surely states that have already ratified should be allowed to reconsider and, if they wish, and rescind those votes.

The CHAIRMAN. The time of the gentleman from North Carolina (Mr. MARTIN) has expired.

The Chair recognizes the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Chairman, in addition to the Washington Post, the New York Times subscribes to a similar view; the Baltimore Sun said exactly the same thing. The Chicago Sun Times also dealt with the issue of fairness.

Also, what really bothers me is the law that we may be tinkering with; that is, under the Dillon against Gloss case, unless you add the right to rescind and for contemporaneous approbation or approval, you really do not have a valid ratification.

I ask, in light of the fact we have 30 States' ratification after the first year, 4 States after the first year, 5 States trying to rescind, how do we have contemporaneous approval if now we have ratification without giving those 35 States also a chance to reconsider?

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Chairman, I rise in opposition to the Railsback amendment, and in favor of the extension of the ratification time for the equal rights amendment.

I would like to address a short comment to what the Railsback amendment, giving States the right to rescind their ratification, would mean to State legislatures across this land. I am a former member of a State legislature. And I am a former leader in that legislature—in New York State. I know from 13 years experience what it is like to be harassed by a vocal minority into year after year of fruitless consideration and attention to issues that have no chance of passage. I know firsthand what it is like to run the gauntlet of angry partisans day after day, distracting legislators from the serious business of responsible government. The Railsback amendment would not lead to rescission in many States; I can almost guarantee that. But what it will lead to is an exhausting and useless struggle against a law that is simple, that is clear, that is just. My colleagues in New York, and yours in the other 49 States should not be exposed to that. There are many compelling constitutional and legal reasons for voting against the Railsback amendment. But this is certainly not a minor consideration that I hope you will take into account today.

Mr. Chairman, I stand here today, not only for myself and for my two teenage sons, both of whom will derive the benefits of the action we will take today, but to bear witness for my sister, Amy Cortese. Amy is a minister, and she is, without question one of the greatest spiritual leaders I have known. Her awareness, her sensitivity and her ability to communicate God's love are unequaled. And, my colleagues, those are qualities that have no gender. Her capacities, and her spirituality were not determined by her sex. She is the first female prison chaplain to be hired by the State of New York, and she has brought her great skills to serve those who have needed her most. She has been first, but it is what we do here today that will assure that she will never be the "only."

Another first for Amy was that on the day the New York Senate debated the State equal rights amendment, she became the first woman to deliver the benediction in that body. And what she said that day should guide our deliberations today:

> Dear Lord, we do not want to walk taller
> Dear Lord, nor do we want to walk in front of
> All we want, dear Lord, is to walk alongside.

I ask each of you to take that simple message with you as you think about your vote. Women just want to walk alongside.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

At the urging of the gentleman from Virginia (Mr. BUTLER), the Subcommittee on Civil and Constitutional Rights asked the constitutional scholars who testified before the subcommittee last fall to discuss the merits of the States rights to rescind their prior ratifications or proposed constitutional amendments.

The views expressed by the scholars were certainly surprising, particularly to strong proponents of extension.

Prof. Laurence Tribe, a strong proponent of the equal rights amendment and extension, made it clear that while he did not particularly like the idea of

rescission, authorizing a State the right to rescind could well be the quid pro quo for Congress power to alter the time for ratification.

Prof. Charles Black noted that it would be entirely impermissible to extend the time for ratification without also extending the time for rescission.

Prof. William Van Alstyne testified that Congress did not even have to speak to the issue because States already possessed the right as a result of article V.

In sum, it is fair to say that a majority of the scholars, including the ones who submitted their testimony in writing which do not appear in the printed record of the hearings, acknowledge a State's right to rescind.

At the heart of this issue is the question of whether a State having once acted in the affirmative is prohibited from further action. Coleman tells us that a State which has previously rejected a proposed constitutional amendment may act again and again. The Court has not told us, however, what rights a State has when it has ratified and subsequently seeks to rescind. In dicta, Coleman suggests that this may well be a question for the Congress to decide.

Congress has never spoken directly on the issue, either. Proponents tell us that the Congress rejection of the rescissions by Ohio and New Jersey constitute a clear precedent on this matter. Anyone who has studied the circumstances surrounding the adoption of the 14th amendment was aware that two additional States were prepared to ratify the amendment. Moreover, there was very little discussion of the rescission question by the House.

Since the equal rights amendment calls for fair and equal treatment by the Government with respect to men and women, the process which insures that this amendment will become a part of the Constitution must likewise be fair and afford equal treatment to all involved. To extend a time period for consideration of the proposed amendment, which is, in effect, a reconsideration on the part of the Congress, without permitting the States the same opportunity to reconsider their earlier ratifications, is patently unfair.

We have the opportunity to insure this extension will be fair for all. I urge support of the Railsback-Ertel amendment.

Mr. Chairman, moreover, we should vote "yea" on this amendment because first, without the Railsback-Ertel rescission amendment, States would be permitted to switch from no to yes—but forbidden to switch from yes to no. That is not fair; second, without the Railsback-Ertel rescission amendment, the debate can continue in only 15 States—but 35 States would be excluded from the ERA debate. That is not fair; third, without the Railsback-Ertel rescission amendment, the situation would be like reconsideration of a House vote where Members would be permitted to change from no to yes, but all "yes" votes would be permanently locked in and could not change. That is not fair.

The CHAIRMAN. The Chair recognizes the gentleman from Connecticut (Mr. MOFFETT).

Mr. MOFFETT. Mr. Chairman, it is hard for me to understand how people who call themselves supporters of extension can support a very explicit move that would bring about rescission in many places. There have been fascinating legal arguments on both sides, but I tend to come out quite firmly against the amendment, because among other things, something that really has not been discussed is the question of what does the rescission process amount to in most States? I wish we would ask ourselves that question. It amounts to a process in which the odds are stacked quite firmly against the opponents of rescission. Why? Well, I listened on the way to work for about 10 minutes to Liberty Lobby, for example. Most of us have it in our district, the Liberty Lobby Radio Show. They are, of course, against extension. They are for rescission and they will continue to be in the States.

The forces for rescission and against ERA will always have more media access, will always have much more money than the ERA proponents, and that is exactly the road we are going down when we make a statement against rescission. I think that is a good argument.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Chairman, I think what we should recall is that we are dealing with the entire amendatory process. We are taking unprecedented action with respect to the proposed extension time and with respect to the subject of rescission. There is no authority in article V of the Constitution for rescission. There is only authority for ratification. I think we should leave the Constitution the way it is and not try to change specifically what it says there.

I am not going to support the Railsback amendment; although, I also want to indicate that I am not going to support the extension of time. I think they are both contrary to the intent of the amendatory process and I think they are both unwise steps. I think they both should be rejected.

The CHAIRMAN. The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Chairman, I have listened to this debate all afternoon. My parents spent a small fortune sending me to Harvard Law School, and there is a great temptation to leap up and give citations from cases and do my old law school revue number. I've done the research and feel precedent clearly comes down on the side of coming out strongly against this amendment.

I find the amendment really very mischievous. I must say, after listening to this whole debate, that I get the same feeling in my stomach as the one I experienced as a history student when I found, after reading their statements and their ideas, that my heroes, the great forefathers who founded this Nation and who put together the Constitution really intended it to be a private club for white male landowners. Here we are 200 years later trying to get equal rights for women included in the Constitution. I must say that my historic heroes moved down a couple of notches when I was exposed to their opinions on women.

I must say I am dismayed today to see this amendment on the floor, because if this is adopted, we are going to change the whole Constitution ratification and rescissional process just because women are wanting in. To see those already protected by the Constitution explain how States should be allowed to undo their mistake of letting women in the Constitution angers me.

Mr. Chairman, I think in all fairness this amendment should be defeated and the extension should be granted.

The CHAIRMAN. The Chair recognizes the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

Mr. Chairman, some of the constitutional scholars who have addressed this issue believe that rescissions of prior ratifications of constitutional amendments are not permitted because article V speaks only of ratification and never mentions rescission. In addition, I am told they allege that the Congress has already considered the validity of rescissions when it determined that the two States which rescinded their ratifications of the 14th amendment were invalid.

We all know that proponents are basing their support for the authority to extend the time limit on the powers of article V. Of course, article V does not speak of extending ratification periods, but where is the power to extend implied? Article V as a matter of fact, makes it quite clear that Congress' role in proposing amendments and designating the mode of ratification is a single endeavor which can be exercised once and once only.

Thus, proponents are able to overlook provisions articulated in article V and continue to search for implied article V powers. In my view, a State's power to rescind is just as implied in article V as Congress power to extend.

With respect to the merits of the 14th amendment, as a precedent on rescission, I suggest Members read page 72 of the subcommittee hearings. Professor Black accurately recreated the circumstances under which the House allegedly invalidated two rescinded ratifications and declared the amendment ratified. He correctly notes that the House was aware when it voted that the requisite number of States had ratified without counting Ohio and New Jersey's rescissions.

There is a recent and much more relevant precedent concerning the view of the Congress about the validity of rescis-

sions. In 1971, the Senate took up and passed S. 215, the Federal Constitutional Convention Procedures Act. The bill was designed to provide guidelines for the portion of article V which permits two-thirds of the States by conventions to propose constitutional amendments. The bill was intended to establish the machinery for this alternative method of proposing amendments.

The Senate Judiciary Committee report provides interesting insight into the thinking of the Senate on many of the issues we are addressing today. For example, the bill provided that both applications for convention and referred amendments would remain timely for 7 years only. The committee report noted that a much longer time would not satisfy the desire for a consensus of the States. Section 13 of the bill provided that States may rescind by the same procedure as that used for ratification. The Senate specifically and emphatically enclosed a State's right to rescind a prior ratification. With these two provisions, the bill passed the Senate by a vote of 84 to 0. In 1973, the bill again passed the Senate by a voice vote.

What this tells me is that our colleagues in the other body, especially the lawyers on the Judiciary Committee, studied the question of rescission and have agreed that, at least with respect to amendments proposed by convention, that rescissions of prior ratifications by States are permissible. I suggest that we concur with the unanimous opinion of the Senate.

I urge adoption of the amendment.

In case it is not perfectly clear to all Members what the political strategy involved in this unprecedented tampering with the constitutional process is, I would be happy to elaborate. The purpose of extension is to insure that the 35 States which have ratified this proposed amendment during the initial time period will be prohibited from reconsidering their ratifications. At the same time, more time will be extended to the proponents of the equal rights amendment in order to attain the additional three States necessary for ratification.

Proponents tell us that the time period for ratification of the equal rights amendment should be extended because the debate on the merits of the amendment is still ongoing and viable. If that is true, then proponents should abide by the constitutional processes as outlined in article V and reintroduce this amendment in the 96th Congress for resubmission to the States. If the amendment is still politically, socially, and economically viable it will stand the muster of ratification by three-fourths of the States in either the State legislatures or in special conventions.

However, proponents fear that if the amendment is reintroduced, it may not receive the necessary two-thirds vote of both Houses of Congress or be able to attain the 35 ratifications which it now has mustered.

By extending the time period and prohibiting rescissions the 35 States are safe, and all efforts can be concentrated on those errant 15 States. Such a scheme is analogous to asking this House to reconsider a vote and only permit those who voted "incorrectly" to vote on the reconsideration. Of course, this House would never stand for such unfair procedure. We should not endorse the same scheme for the ratification process.

The only fair way to award more time to States which have not yet ratified this amendment is to permit all States the opportunity to reconsider the ERA. Locking in States which ratified 6 years ago cuts off the extended debate in 35 States which proponents say is so desperately needed to refute the bias about ERA. Debate includes both sides and all States should have the opportunity to participate.

I urge adoption of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. EDWARDS) to close debate.

Mr. EDWARDS of California. Mr. Chairman, I remind my colleagues that this is the cutting edge. This is the great decision to be made.

We have had a wonderful debate. This is a fair proposition that we are offering, but it will be damaged severely, really totally, by this amendment.

Mr. Chairman, I ask for a no vote on the Railsback amendment.

Mr. HANSEN. Mr. Chairman, the Constitution of this great Nation is the most powerful weapon against tyranny ever devised, its authors opposed oppression in all forms. Separation of powers, the Bill of Rights, 10th amendment guarantees, and the amending process requirements were all included to protect against ostentatious power grabbing by any would-be tyrannical forces. Today this Constitution is being tried for its viability by deliberate congressional efforts to skirt constitutional guidelines and intents, under the disguise of fairness.

The equal rights amendment had a good first inning by posing as a cure-all for women, but 7 long years of debate have revealed a supposed panacea to be a Pandora's box, resulting in divisional strife typifying anything but the attitude of good will and concensus that would pervade when amending the Constitution. The ERA now stands doomed by the rules its proponents offered as fair and equitable for adoption, yet faced with impending defeat, these same proponents now feel that the importance of its passage supersedes the necessity to adhere to fair and constitutional guidelines.

It is amazing that while the ERA supporters are appealing to our sense of fairness and right they refuse to consider the fairness of reconsideration by States who wish to rescind their vote of ratification is not a settled issue. If the power to allow recission is delegated to Congress, then to wait until after a State has rescinded, to declare that rescission is not allowed constitutes an ex post facto law. Congress still cannot bar a recission for there is nothing in the Constitution which denies the States the power to reconsider and rescind since with the 10th amendment guarantee of States rights there would have to be a constitutionally stated absolute prohibiting rescission. ERA'ers may look for it, they may desire it, but it is not there.

The Heritage Foundation gives an excellent overview of the rescission question:

> The constitutionality of rescissions has never been decided definitely. In Coleman v. Miller (1939), the Supreme Court ruled that Congress could decide whether to accept rescissions. Opponents of rescissions contend that Article V of the Constitution gives states the power only to ratify but not to rescind that ratification. That is, ratification, once given, is final and unchangeable. By way of comparison, the Constitution gives the power to make laws only (article I, section 3, clause 18), not to repeal them. Yet, no one has ever questioned the authority of Congress to repeal laws. The power to repeal laws has always been considered power implicit in the power to make law. Indeed, if all laws became immutable at birth, it could hardly be said that the United States has a democratic system of government. The point seems even more important in matters concerning the Constitution, which by practice and precedence has always been regarded as a document to be changed only with the greatest care and circumspection. Whether it is constitutional ratification or making of laws the power to create inherently possesses the power to destroy.

Finally, the Supreme Court, in Dillon against Gloss, ruled that a constitutional amendment is ratified on the day that the last State of the required three-fourths majority approves it, not when the Secretary of State proclaims that ratification has been completed. In 1920, the States reported their ratification to the Secretary of State, who announced when the ratification process had been completed. Today the head of the General Services Administration has this task. Thus, if Congress chooses to ignore the problem of rescissions a political and constitutional crisis could erupt when—and if—the ERA receives three more State approvals. According to the court, the ratification would then be complete. Yet, more States may have taken back their approvals by that time.

There is no logical reason or constitutional provision to justify not allowing rescission, those who oppose this privilege hope to accomplish their objectives by delaying any decisions until the whole issue is exacerbated by three more ratifications, thus allowing exigency to supplant logic and fairness.

Article V of the Constitution must not be contorted to justify congressional tampering with amendment proposals after they are already presented to the States. The Founding Fathers would roll over in their graves if they knew we intended to interpret article V in a manner to permit the amending process to go as follows: with a two-thirds vote of Congress, we could offer proposals to the States for ratification, gain nearly all the ratifications necessary, then allow a congressional majority and the President to change the terms, and finally proceed to conclude the ratification disallowing any reconsideration by the States which adopted the previous proposal.

The proponents of extension argue that the heightened awareness now prevalent justifies more time for consideration. The States necessary to pass the amendment have rejected it within the past 7 months. In effect, the proponents argue that extended time for debate

should be granted to States which have acted within the past 7 months, but not to those who have been unable to act for a substantial part of the last 7 years. If the increased awareness about the amendment were the result of a heightened need for the amendment, it certainly is not indicated by the current trend, a trend which shows diminishing ratifications with increasing rescissions.

The past 7 years has shown an attitudinal change in all branches of Government. The Equal Employment Opportunity Act of 1972 protects against salary discrimination. The Federal Equal Credit Opportunity Act of 1975 prohibits discrimination in granting consumer credit. The Higher Education Act of 1972, the Nurse Training Act and the Comprehensive Health Manpower Act of 1971, the Higher Education Act including title IX and the Equal Educational Opportunities Act which extended title VII of the Civil Rights Act which were both passed in 1972, the Comprehensive Employment and Training Act of 1973, and a similar array of State statutes accomplish the precise objectives supposed to have been the intent of the ERA. Moreover, these laws will not require a surreptititous abuse of constitutional powers and privileges as we see in the ERA extension proposal.

The judiciary has consistently held that the Constitution as amended adequately protects the rights of women. Teed against Reed, Frontiero against Richardson, Taylor against Louisiana, Weinberger against Wiesenfeld, Stanton against Stanton, Craig against Boren, Califano against Goldfarb, Owens against Brown, all uphold that the rights to be extended to women through the ERA, do in fact, already exist.

More than ever ERA has come to mean exceptionally redundant and ambiguous. If its proponents are concerned with an imperfect constitution, this amendment will do more to extend that imperfection than to improve it. As legislators, one of the first things we become painfully aware of is, "The principle of unforeseen consequences." There are enough difficulties arising out of clear and solid legislation, properly enacted, that we need not promote the passage of ambiguous statutes through constitutionally questionable means.

I have seen a number of badges and stickers which say, "The ERA Won't Just Go Away" and I think we had better heed that warning. If passed without fairness and proper observance of constitutional rules, rules interpreted with an intent to insure democratic fairness of choice, some day we will be haunted by that message, that ERA just will not go away. The petty and irrelevant arguments we now hear may seem a bit more biting when we have to live with what we have done. People will become bitterly aware of the tactics used in the passage of this bill. It will permeate in the public a distrust and ill confidence that could haunt every future attempt at amending the Constitution. The amendment process was designed to be accomplished with a "contemporanious concensus" of both Congress and the necessary States. If we determine that the Congress has the power at any time to reconsider or change the provisions, but the States only have the option to approve, and then to remain silent hostages regardless of what changes are made, then we may as well title the 27th amendment the last amendment.

Chief Justice John Marshall in what is historically known as the most famous decision ever handed down by the Supreme Court, recognized the faultiness of passing legislation which abuses the same principles we hope to achieve. In Prof. William Van Alstyne's analysis of Marbury against Madison we read:

Marshall initially responds to this question, which, of course, is the issue which has made the case of historic importance, by posing his own rhetorical question, "whether an act repugnant of the Constitution can become law of the land." That it cannot is clear, he says, from the following considerations.

The people in an exercise of their "original rights" established the government pursuant to a written Constitution which defines and limits the powers of the legislature. A "legislative act contrary to the Constitution is not law," therefore, as it is contrary to the original and Supreme will which organized the legislature itself.

The fundamental principle of constitutional government is that no end is ever more important than the observance of fair and proper means of achievement. Extension without rescission will not in itself create justice for women or society, but does an injustice to the whole concept of constitutional law.

Why attempt to achieve equality and fairness through a process that denies that fairness? Why add one's wishes to the Constitution by subverting its principles? What strength is added to the women's cause if in adding the amendment to the Constitution they prove that the document can be contorted to mean whatever someone would like it to mean for the expedience of meeting personal objectives. If there is a need for the ERA to be part of the Constitution, there is a constitutionally acceptable way of doing it with fairness. Trying any other way to pass an amendment is about as practical as deciding to sell the horse to buy a buggy.

I have pioneered legislation called the Hostage Relief Act which was introduced on October 28, 1977, to allow acceptance of rescissions by States who have already approved ERA such as in Idaho, Nebraska, Tennessee, Kentucky.

Since then key members of the Judiciary Committee in response to pressure for extension of time for ERA consideration have come to support the premise of my amendment particularly when provisions of a contract are changed, such as extension would entail, which should provide for reaffirmation or declination by the principal parties.

The Railsback amendment before us is a modified application of my Hostage Relief Act which I strongly support and which should be passed as the fair play amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. RAILSBACK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. RAILSBACK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 196, noes 227, not voting 9, as follows:

[Roll No. 704]

AYES—196

Ambro	Flowers	Myers, Gary
Andrews, N.C.	Flynt	Myers, John
Andrews, N. Dak.	Fountain	Natcher
	Frey	Neal
Annunzio	Fuqua	Nedzi
Applegate	Gaydos	Nichols
Archer	Gibbons	O'Brien
Armstrong	Goldwater	Oberstar
Ashbrook	Goodling	Perkins
Bafalis	Gradison	Pettis
Barnard	Grassley	Pike
Bauman	Gudger	Poage
Beard, Tenn.	Guyer	Preyer
Bedell	Hagedorn	Quayle
Bennett	Hall	Quie
Bevill	Hamilton	Quillen
Boland	Hammer-schmidt	Railsback
Bowen		Rhodes
Breaux	Hansen	Roberts
Breckinridge	Harsha	Robinson
Brinkley	Hefner	Rostenkowski
Brooks	Hillis	Rousselot
Broomfield	Holt	Rudd
Brown, Mich	Hubbard	Runnels
Broyhill	Hyde	Santini
Buchanan	Ichord	Satterfield
Burke, Fla.	Ireland	Schulze
Burleson, Tex.	Jeffords	Sebelius
Butler	Jenkins	Shuster
Byron	Jenrette	Sikes
Carter	Johnson, Colo.	Skubitz
Cederberg	Jones, N.C.	Slack
Chappell	Jones, Tenn.	Smith, Nebr.
Clawson, Del	Kasten	Snyder
Cleveland	Kazen	Spence
Cochran	Kelly	St Germain
Coleman	Kemp	Stangeland
Collins, Tex.	Kindness	Stanton
Corcoran	Lagomarsino	Steed
Coughlin	Latta	Steiger
Crane	Lent	Stockman
Cunningham	Levitas	Stump
D'Amours	Livingston	Symms
Daniel, R. W.	Lott	Taylor
Davis	Lujan	Thone
de la Garza	Luken	Thornton
Delaney	McDonald	Treen
Dent	McEwen	Trible
Derwinski	McKay	Ullman
Devine	Madigan	Vander Jagt
Dickinson	Mahon	Waggonner
Dingell	Mann	Walker
Dornan	Marlenee	Walsh
Duncan, Oreg.	Marriott	Wampler
Duncan, Tenn.	Martin	White
Eckhardt	Mathis	Whitehurst
Edwards, Ala.	Michel	Whitley
Edwards, Okla.	Milford	Wiggins
English	Miller, Ohio	Wilson, C. H.
Erlenborn	Mitchell, N.Y.	Winn
Ertel	Mollohan	Wright
Evans, Del.	Montgomery	Wydler
Evans, Ga.	Moore	Wylie
Evans, Ind.	Moorhead, Calif.	Young, Fla.
Fary		Zablocki
Findley	Motti	
Flippo	Murphy, Ill.	

NOES—227

Abdnor	Baucus	Brodhead
Addabbo	Beard, R.I.	Brown, Calif.
Akaka	Bellenson	Brown, Ohio
Alexander	Benjamin	Burgener
Ammerman	Biaggi	Burke, Calif.
Anderson, Calif.	Bingham	Burke, Mass.
	Blanchard	Burlison, Mo.
Anderson, Ill.	Blouin	Burton, John
Ashley	Boggs	Burton, Phillip
Aspin	Bolling	Carney
AuCoin	Bonior	Carr
Badham	Bonker	Cavanaugh
Baldus	Brademas	Chisholm

Clausen, Don H.	Huckaby	Price
Clay	Hughes	Pritchard
Cohen	Jacobs	Pursell
Collins, Ill.	Johnson, Calif.	Rahall
Conable	Jones, Okla.	Rangel
Conte	Jordan	Regula
Conyers	Kastenmeier	Reuss
Corman	Keys	Richmond
Cornell	Kildee	Rinaldo
Cornwell	Kostmayer	Rodino
Cotter	Krebs	Roe
Danielson	Krueger	Rogers
Dellums	LaFalce	Roncalio
Derrick	Leach	Rooney
Dicks	Lederer	Rose
Diggs	Leggett	Rosenthal
Dodd	Lehman	Roybal
Downey	Lloyd, Calif.	Ruppe
Drinan	Long, La.	Russo
Early	Long, Md.	Ryan
Edgar	Lundine	Sarasin
Edwards, Calif.	McClory	Sawyer
Eilberg	McCloskey	Scheuer
Emery	McCormack	Schroeder
Evans, Colo.	McDade	Seiberling
Fascell	McFall	Sharp
Fenwick	McHugh	Simon
Fish	McKinney	Skelton
Fisher	Maguire	Smith, Iowa
Fithian	Markey	Solarz
Flood	Marks	Spellman
Florio	Mattox	Staggers
Foley	Mazzoli	Stark
Ford, Mich.	Meeds	Steers
Ford, Tenn.	Metcalfe	Stokes
Forsythe	Meyner	Stratton
Fowler	Mikulski	Studds
Fraser	Mikva	Thompson
Frenzel	Miller, Calif.	Traxler
Gammage	Mineta	Tsongas
Garcia	Minish	Tucker
Gephardt	Mitchell, Md.	Udall
Giaimo	Moakley	Van Deerlin
Gilman	Moffett	Vanik
Ginn	Moorhead, Pa.	Vento
Glickman	Moss	Volkmer
Gonzalez	Murphy, N.Y.	Walgren
Gore	Murphy, Pa.	Watkins
Green	Murtha	Waxman
Hanley	Myers, Michael	Weaver
Hannaford	Nix	Weiss
Harkin	Nolan	Whalen
Harrington	Nowak	Whitten
Harris	Oakar	Wilson, Bob
Hawkins	Obey	Wilson, Tex.
Heckler	Ottinger	Wirth
Heftel	Panetta	Wolff
Hightower	Patten	Yates
Holland	Patterson	Yatron
Hollenbeck	Pattison	Young, Mo.
Holtzman	Pease	Young, Tex.
Horton	Pepper	Zeferetti
Howard	Pickle	
	Pressler	

NOT VOTING—9

Caputo	Lloyd, Tenn.	Sisk
Daniel, Dan	Risenhoover	Teague
Le Fante	Shipley	Young, Alaska

The Clerk announced the following pairs:

On this vote:

Mr. Teague for, with Mr. Le Fante against.

Mrs. Lloyd of Tennessee for, with Mr. Shipley against.

Mr. DENT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: On page 2, following line 2, insert the following new section:

"SEC. 2. The Administrator of the General Services Administration shall certify to each member of the Senate and the House of Representatives all resolutions of ratification of this amendment as received from the several States for final determination by the Congress as to whether the amendment shall have been adopted."

Mr. VOLKMER. Mr. Chairman and members of the committee, I offer this amendment solely for the purpose of establishing in the record the provisions of the amendment. Later on, after I have a colloquy with the chairman of the subcommittee, the gentleman from California, (Mr. EDWARDS), on this I plan to ask unanimous consent to withdraw the amendment.

At this time I would like to ask the gentleman from California (Mr. EDWARDS) whether the gentleman has had time to examine the amendment?

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, I have examined the gentleman's amendment, yes.

Mr. VOLKMER. The provisions of the amendment which would provide that the administrator of the General Services Administration would in the future certify ratifications from the States themselves to Members of the House and Senate, is that the provision that will be followed with or without the amendment?

Mr. EDWARDS of California. That is correct. The amendment is actually unnecessary because the law would permit and would allow it on any controversial amendment, any amendment about which there is any controversy the matter would have to be submitted to the Congress for a vote by the GSA Administrator.

Mr. VOLKMER. So that the General Services Administrator then would not make the final determination on the issue?

Mr. EDWARDS of California. That is correct.

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent that I may be permitted to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. BUTLER. Mr. Chairman, reserving the right to object, if I may have the attention of the gentleman from California (Mr. EDWARDS) is it the view of the gentleman from California that the proposed amendment, which the gentleman has asked to have withdrawn, that the proposed amendment is a restatement of the existing law and therefore is unnecessary?

Mr. EDWARDS of California. Mr. Chairman, if the gentleman will yield, not exactly, it is more what actually happens where there is a controversial amendment. Where amendments are so simple that there is no question about their ratification, then the General Services Administrator would just publish it in the Federal Register.

Mr. BUTLER. Further reserving the right to object, Mr. Chairman, would it be fair to state that the equal rights amendment is a controversial amendment within the meaning of the explanation the gentleman has just given?

Mr. EDWARDS of California. Yes, that is correct.

Mr. BUTLER. Further reserving the right to object, would it be the understanding of the gentleman from California (Mr. EDWARDS) that it is now the responsibility of the Administrator of the General Services Administration to take each resolution that is received by the Administrator and forward it immediately to the Congress for its consideration? Is that the gentleman's understanding?

Mr. EDWARDS of California. No, that is not my understanding.

Mr. BUTLER. Is that not what this amendment does?

Mr. VOLKMER. If the gentleman will yield, Mr. Chairman, I would say that even though the amendment would make such a provision, it is my understanding from talking to the gentleman from California (Mr. EDWARDS) and the gentlewoman from New York (Ms. HOLTZMAN) that when the 38 States had ratified, at that time the Administrator of GSA would notify the Congress by sending a list of the States that had ratified, along with a list of the States than had rescinded. Then that particular Congress would be requested to take action by the Administrator of the GSA as to whether or not there had been contemporaneous ratification by the States.

Mr. BUTLER. Further reserving the right to object, it is the gentleman's understanding, then, that we have no right, as a Congress, at this point to know what the Administrator of the General Services Administration is thinking about the resolutions that have come to him?

Mr. VOLKMER. If the gentleman will yield further, as I understand it, the Administrator of GSA is merely a ministerial person. He receives the ratification certificates from the States and files them. He also receives rescission certificates and files those, and anybody can get copies of them.

Mr. BUTLER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. RHODES. Reserving the right to object, Mr. Chairman, I would like to ask the gentleman from Missouri (Mr. VOLKMER), who offered the amendment, a question.

I am at a loss to understand what the gentleman had in mind. As far as I can tell, this amendment would require the GSA Administrator to certify to the Members of the Congress whether or not a State had properly ratified. However, the second part of the amendment seems to indicate that then the Congress, by some means, can finally determine whether the ratification was, in fact, proper.

If the gentleman really intends for the Congress to have final determination, should not the Administrator certify the matter to the Speaker of the House?

Mr. VOLKMER. If the gentleman will yield, Mr. Chairman, I am sure that if past procedures are followed by the Administrator of the GSA, he will certify to either the Clerk of the House

or the Speaker and also either to the majority leader or to the clerk of the Senate as to the ratifications then received.

Mr. RHODES. Mr. Chairman, I do not intend to object because I think the amendment is meaningless anyway.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

● Mr. VOLKMER. Mr. Chairman, what I have brought out with this colloquy between myself and the gentleman from California (Mr. EDWARDS) is simply this: the proponents admit that this resolution, House Joint Resolution 638, is not binding upon a later Congress and not a final positive action. Proponents admit that they will permit a later Congress to determine whether the ratification occurring within the extended period under this resolution was contemporaneous.

The constitutional amendment procedure under article V requires an orderly process to be followed by the Congress in proposing a constitutional amendment and the State legislature or State convention in ratifying it. In order for the procedure to be orderly, there must be binding, final and positive action by both the Congresss and the States in their respective parts.

The actions we take today are not binding and final. Admittedly, there is no finality of action and there is disruption of the process.

The 92d Congress proposed the equal rights amendment, House Joint Resolution 208. That Congress made a determination that 7 years was a reasonable time in which the States were to act and provided a period of contemporaneous ratification. This period could not be reduced or withdrawn by any later Congress and if three-fourths of the States ratify within that period, the amendment will become a part of the Constitution without any further action of a later Congress. In fact, no later Congress can make a decision in regard to the reasonableness of the time period in that amendment even if there were States that had rescinded ratification because article V does not permit rescission. Rescission is not permitted because, not only does there have to be a final positive action by Congress, but there also has to be a final positive action by the State, either by the legislature or convention in order to effect an orderly process. The States' ratification is a final and positive action and it cannot be withdrawn or conditioned but it is binding on the State as much as a proposal with the limitation is binding on the Congress.

This Congress, in extending the time period, is making a determination that a period longer than 7 years is reasonable and ratification within the extended period along with those ratifications that occurred immediately after the proposal by Congress in 1972 are contemporaneous and within a reasonable time. That should and must be a final positive action by this Congress which cannot be withdrawn, reduced, or conditioned in any way by any later Congress. It cannot be subjected to any Congress' later determination as to whether or not reasonable time had actually expired or contemporaneous ratification had occurred. However, the proponents now say that the Administrator of the GSA is to send the certificate of ratification to the Congress when the 38th State has ratified in order for that Congress to make the final determination. Therefore, this joint resolution is not binding on a later Congress; does not provide for a final positive action by this Congress, and is unconstitutional. It is only by a two-thirds vote on final passage that this Congress can bind a future Congress under article V as to the reasonable time period and contemporaneous ratification occurring within the extended period.

The case of Coleman against Miller addresses itself to a constitutional amendment proposal which was submitted by Congress in 1924 with no time limitation. That proposal was for the child labor constitutional amendment and since it did not have a limitation there had been no determination by the proposing Congress as to what was a reasonable time or when contemporaneous ratification had to occur. Such was the case also of the 14th and 15th amendments as well as the 19th amendment. Therefore, since there had been no prior determination of what was a reasonable time period, or, when contemporaneous ratification had to be effected by the States, a later Congress had the power to make that determination. However, where a proposing Congress makes a determination as to what is a reasonable time and if sufficient three-fourths of the States ratify within that time period, a later Congress does not have the power to determine that contemporaneous ratification has not occurred.

By the statements of the proponents in debate today, the proponents are now saying that even though this Congress is making a determination that a period to June 30, 1982, is a reasonable time and that ratification, if accomplished, is contemporaneous with others that occurred within the original time period, that is, however, conditioned upon Congress thereafter having the power to make a decision to the contrary and therefore this resolution is not a final and positive act and disrupts the constitutional amendment procedure.

The final argument in conclusion for a two-thirds requirement, is that upon reading CONGRESSIONAL RECORDS on the debate on the 7-year limitation in the present proposed amendment and the prior House and Senate debate in 1970 and 1971 leads one ultimately to the conclusion that it is very possible that House Joint Resolution 208 would not have passed the Senate by two-thirds majority without the 7-year limitation. No one will ever know this for sure but it was unable to make it without any limitation in 1970 and one of the last actions in the Senate in that year was a proposed substitute by Senator Bayh of Indiana incorporating a 7-year limitation.

Because what we are doing is not binding, is not a final action and is not part of the orderly constitutional process, I cannot support the resolution. House Joint Resolution 638, in my view, is unconstitutional and I therefore urge its defeat.●

Mr. LAFALCE. Reserving the right to object, Mr. Chairman, could the chairman of the subcommittee answer a question or two.

One of the issues that I am concerned about is clarifying whether or not the Congress or the Administrator of the GSA has the power to determine what actions of a State constitute ratification.

It is the gentleman's understanding, I believe, that it is the Congress which has that power and that the Administrator simply fulfills a ministerial function; is that correct?

Mr. EDWARDS of California. If the gentleman will yield, Mr. Chairman, that is exactly correct and has been supported historically by congressional conduct over the years.

Mr. LAFALCE. Further reserving the right to object, Mr. Chairman, while I strongly favor ERA, but oppose the extension on the grounds of possible unconstitutionality, probable mischieviousness, bad precedent, and blatant unfairness, I also believe that the supermajority requirements that seven States have are also unfair and inequitable. Further, I believe it is within the power of Congress and within the responsibility of Congress to articulate what actions of a State do, in fact, constitute ratification for purposes of our Federal Constitution. It is my judgment—and I have introduced a joint resolution—that a simple majority action of a State legislature constitutes ratification and that, therefore, the State of Illinois has already ratified, and Congress has only to so adjudge it, and that the Arkansas Legislature could, with a simple majority, ratify it. Further, the Georgia Legislature could meet and with a simple majority ratify. I am wondering whether and when we might be able to bring that question to the floor.

Mr. EDWARDS of California. That legislation is pending in the House Committee on the Judiciary and I am sure will be examined very carefully by the House Committee on the Judiciary and if found meritorious can be brought to the floor.

Mr. LAFALCE. I thank the gentleman. I hope they will, and soon.

Mr. Chairman, I would now like to explain my position more fully. I support the equal rights amendment to the U.S. Constitution. I voted for ratification of the ERA when I served in the New York State Legislature. I believe it should become part of the basic law of the land.

Yet, today, I shall vote against extending the time limit for ratification of the ERA. I take this stand for a number of reasons which I have outlined in some detail in a letter to my constituents and

in a weekly column which I prepared for publication in various local newspapers in my congressional district. Following these remarks I will submit copies of these documents, along with editorials on this subject from various publications and organizations, in hopes that my decision today will be seen in its true and proper context.

Before submitting the documents, however, I feel I should make my views known on two other issues relating to this matter.

First, prior to the final vote we were presented with a proposed amendment to permit States to rescind ratification votes. I joined the majority of our colleagues in voting against that amendment, and I am pleased that it failed, for passage of it could have created constitutional and political chaos. States might, in the future, move into and out of the "ratified" column on an amendment solely because of issues extraneous to the constitutional amendment in question, in hopes that a changed stance on the amendment might affect other matters pending between that State and the Federal Government.

Second, I would like to remind my colleagues once again of a proposal I made earlier this month to provide that any majority vote by a State's legislature, notwithstanding any State requirement for more than a majority's approval, would constitute ratification of an amendment to the U.S. Constitution submitted to the States by the Congress. I firmly believe that the question of what constitutes ratification of an amendment to the National Constitution is appropriately one that Congress can answer, and I think it is time we did just that.

Without further ado, Mr. Chairman, I submit the materials I mentioned earlier and request that they be printed in the RECORD with these remarks.

Thank you for contacting me to express your support for extension of the ratification period for the Equal Rights Amendment.

First, I strongly support the ERA. As a member of the New York State Senate in 1972 I voted for its ratification as part of our Federal Constitution. I also voted in 1974 to send it to the electorate of the State of New York to amend the New York State Constitution.

I fervently hope that the ERA will be ratified by the requisite number of states prior to March 22, 1979. If it should not be ratified by that date, I believe it would be a great setback for the cause of women's rights, and would simply impede the inevitable progress that women must and will make in their fight for equality.

Further, should the ERA regrettably not be ratified, I would be among the first to start the process over by supporting a new equal rights amendment.

However, as strongly as I feel on that, I cannot adopt the principle that the end justifies the means. That principle has always been abhorrent to me. Therefore, as much as I desire the "end" of making the ERA part of our Constitution, I cannot do that by a means that I would consider inherently unfair. It seems to me that procedural fairness requires that we abide by the seven year period that was initially established.

To be sure, the Congress that existed in 1972 did not have to establish a seven year period; but it did! And both proponents and opponents of the ERA had the exact same period of time to marshal all of their arguments and all of their forces for and against its ratification. I spoke and speak for it. I voted for it. But I do not believe that simply because we are nearing the end of that period that we can then extend the period and consider ourselves "fair" to all in the process.

Let me present an analogy. Suppose Congress has adopted an amendment prohibiting abortion except when necessary to preserve the life of the mother. Such an amendment is strongly supported by the members of the Right to Life organizations. Suppose those individuals mustered the support of 35 states and had but eight months remaining in which to ratify, and it didn't look as if they were going to make it. Further suppose that they then came to Congress, which was favorably disposed toward the right to life amendment, and asked for an extension of the period of time. Further suppose that you are amongst the group that for over six years had vigorously fought in all the states against the right to life amendment. Would you then think it fair for Congress to extend the period of time for ratification? I think not.

In closing, I'd like to draw your attention to the enclosed editorials from the League of Women Voters, the New York Times, and the New Republic, which argue for a redoubling of the effort to secure final ratification within the present time limit. This would make the extension debate moot. Most important, it would make the ERA part of the law of our land. I agree completely with these editorials. I think we can do it; I know we should try.

Best regards,

Sincerely,

JOHN J. LAFALCE,
Member of Congress.

[From the New York Times, July 4, 1978]

THE RIGHT WAY TO FIGHT FOR E.R.A.

The pressure on Congress to extend the deadline for ratification of the Equal Rights Amendment will reach a crescendo next weekend as marchers and lobbyists descend on Washington. They see their just cause as a tantalizing three states short of the 38 needed for adoption and seek a reprieve from almost certain defeat in their seven-year struggle for women's rights. But the means by which they prevail should not be subordinated even to a noble end. To alter the amendment procedures with the extension they demand would, we think, cause even greater damage than a further delay in the ratification of the E.R.A.

The very process of amending the Constitution is at stake. If the E.R.A. were given a second seven-year term for ratification by the states it would be a clear case of manipulating the process in an effort to achieve a desired result. It would be particularly damaging if such an extension were decreed by a simple majority vote, as its sponsors hope, instead of the two-thirds majority constitutionally required for amendments. If the two-thirds vote were in fact to be found, the amendment process could be started all over again, albeit for a new round of struggle, state by state.

The nation's founders wisely prescribed a slow and difficult process for amending the Constitution, to protect it from transient politics and policy. They left it to Congress to decide how long the states would be given to vote their approval on an amendment. Any retroactive change in this time schedule, because the set period did not produce a desired result, would plainly offend the solemn spirit of the amendment process.

Moreover, once the rules are bent, all forces can play the same game. The next time around, on an amendment to forbid abortion, for instance, these same marchers would deeply resent a similar maneuver. The way to judge the wisdom of a procedure is to imagine your worst enemy having the benefit of it.

Besides questions of fair play, there are also some important questions of tactics. An extension might not in fact serve the cause of those who seek it. Four of the 35 states that have already approved E.R.A. have since voted to rescind the endorsement. The validity of such rescission has not been established. If the deadline were extended, no one knows how the courts would treat past rescissions and future ones.

Other amendments have been the object of even longer and more grueling battles. It took women nearly 75 years to gain the constitutional right to vote. Amendments to abolish slavery, to guarantee due process and to extend the vote to black men could be passed only after a bloody Civil War. The E.R.A., like other just constitutional causes of the past, will eventually be adopted. If the current version lapses next March, another should soon take its place, with another, perhaps even longer but duly considered deadline for state action.

As the battle continues, let us hope it will be better fought than in recent years. The tactics against the E.R.A. in some state legislatures have been deplorable, but they could have been more ably countered. The propaganda of some opponents of the amendment has also been shabby, frightening some people into believing that the constitutional equality of the sexes would end their separation in public restrooms, or reduce widows' Social Security benefits, or force women to work outside the home or to leave their young children with caretakers. These scare stories are easier to concoct than to refute, but they, too, can be more ably countered.

Finally, there has been a more subtle problem afflicting the sponsors of the E.R.A. Although more than half the population still favors its passage, public support has declined. In part, this may be due to a feeling of reduced urgency; 16 states have adopted their own versions of the amendment, and court decisions as well as legislation have asserted some of the same rights. But the decline in support may also reflect a growing impression that the E.R.A. is some kind of elite measure designed mainly to improve the lives of highly educated women who want full-time jobs outside the home. In this view, it seems to have little to offer to poor women in routine jobs or women who intend to devote themselves fully to children and home.

We recall the ticket seller in an Albany train station who said in 1976 that she had voted against New York's referendum on a state E.R.A. Asked why, she pointed to the restrooms in the station, saying, "I didn't know what the E.R.A. meant, but I thought it was a women's libber type thing. . . . You'll probably think I'm stupid, but I'm not a women's libber at all. Except for equal pay, of course. I'm all for that.

And so, of course, is the E.R.A. But somehow that message was lost. Until the way to reassert it is found, we fear the amendment, too, will remain lost.

[From ERA Campaign Committee, League of Women Voters of the United States]

WHY NOT EXTENSION?

Pressure has been building for the League to mount a national effort in favor of the ERA time limit extension. In part this is because there is a sense of discouragement after recent losses; in part it comes from increased lobbying on the part of other groups. We still believe that the position we took in October is the correct one: the League is going to concentrate its activities on getting ERA ratified by March 22, 1979.

We believe that it is possible to ratify by March 22, 1979. At the same time, we recognize there are other options open to us if, later, ratification by the deadline no longer seems possible.

Our position on extension has been based on organizational, political and constitu-

tional considerations. The campaign we set up last summer is in full force; for us to announce we are rearranging our energies to lobby for extension would be tantamount to admitting we think we can't ratify by March of 1979. The deadline has brought us money and workers which we never were able to mobilize to such a degree in the past when the deadline was far in the future. With Leagues all over the nation committing themselves to the campaign we believe we can win.

Our political reservations about extensions are still valid. Sources in Congress continue to believe it is questionable whether there are enough votes in Judiciary to bring the measure to the floor of the House. Similar problems exist in the Senate Committee and chances are that it could not survive cloture and filibuster in the Senate. A negative vote or a narrow pass would make it look as though ERA had lost national support. In addition, extension presumes that state legislatures in unratified states will be more inclined to ratify in the future, which is somewhat doubtful.

Passage of extension would bring up serious constitutional questions about the amending process itself. Because the League is a multi-issue organization, we hesitate to advocate something which would impact on future constitutional amendments in ways that are not foreseeable. Of great concern to us is the possibility that the validity of recission would again be subject to reinterpretation. Although final judgment about recission has to be made by Congress when the full complement of ratification has been achieved, an amendment has to reflect the "roughly contemporaneous" opinion of the country's citizens. Proponents of recission would have as much stronger argument that this didn't exist toward the end of an additional seven years, and they would also have more time to rescind.

For all these reasons we believe that at this time we should devote our full energies to ratification within the original deadline, and keep our options open about what to do should that effort fail. Right now, the League will continue to devote its efforts toward ratification so that the whole question of extension will become moot.

[From the New Republic, July 29, 1978]

ERA: START FROM SCRATCH

This has become the summer of the ERA. The Equal Rights Amendment was originally scheduled by Congress to be ratified or rejected by the states after a seven year period ending on a cool day now eight months away: March 22 1979. But still three states short of the 38 needed for ratification and running out of time, the ERA was brought back to the capital in the July heat for a new lease on life. On July 9, a crowd in white sweated under the DC sun and posed a grand question: can there be a time limit on justice, the cause of equal human rights? Others in ordinary dress, both for and against the ERA, have been asking a more prosaic question: is extension of the ratification deadline for the ERA a fair or advisable procedural innovation? Sitting bleached under the TV lights in the committee room last week, opponents and proponents of the extension got their first answers from the House Judiciary Committee. Yes, there is a time limit—until June 30, 1982; but yes, the extension is fair and advisable for three and a quarter years. Proponents clapped at the results. We support the ERA, but we doubt this is the way to achieve it.

The long day of debate dealt with the constitutional procedure of extension, not the substance of ERA. Citing Supreme Court precedents and the testimony of constitutional scholars, the committee members generally agreed that Congress has the power to enact an extension of a ratification time limit that Congress itself has imposed. Here the consensus stopped. Committee members disagreed on the policy of exercising that power. Among those who supported an extension, there were three points of controversy. First, the length of the extension. How many years satisfies the vague standard that three-fourths of the states approve an amendment "contemporaneously"? Second, the issue of rescission. If states that have ratified an amendment wish to change their minds, is this merely fair play or a dangerous constitutional innovation? Third, the question of method. Must an extension be approved by the two-thirds majority required to start the amendment process, or only by a simple majority?

These procedural problems make us doubt the wisdom of extension. The controversy over procedure is not likely to be resolved easily, and it shouldn't be. It is a constitutional controversy and involves, like the ERA debate, principles we like to think are fundamentally important. But neither the constitution nor the ERA need be sacrificed to the other. If the extension passes, it may mean bad press for the ERA and a bad precedent for the constitutional process of amending. An extension could be the arbitrary time limit that ends up killing the ERA; if it fails to be ratified, even with a three-year extension—which can't be ruled out—the amendment will be dead.

Even if the ERA is ratified after an extension, its symbolic power may be diminished by general sentiment that the ratification procedure smacked of foul play, especially if rescissions are not allowed. To tamper with the constitutional amendment procedure now makes it more susceptible to tampering later, when the purpose may not appeal to liberals who want to fiddle now.

Instead of extending the ERA, why not start from scratch if its deadline expires without three more ratifications? A conservative House Judiciary Committee has passed an extension and is hopeful that it will pass a full House, even with a two-thirds majority, if the Rules Committee calls for it. This makes it hard to believe that a new ERA, unencumbered by constitutional problems, wouldn't be approved. Ratification would be a bigger project with a fresh start, but there would be more time and fewer public relations problems. Polls show that most people support the ERA on its merits. A new beginning would shift the debate back to those merits. If the ERA is an important and necessary amendment, and we feel it is, an examination of what it really means should give it the full and informed support it may now lack.

WEEKLY COLUMN: NEWS FROM CONGRESSMAN JOHN J. LAFALCE, NEW YORK

ERA, FAIRNESS, AND THE CONSTITUTION

Three-fourths of all the states must ratify any constitutional amendment following its approval by Congress. Congress passed the Equal Rights Amendment on March 22, 1972, and stipulated that the states would have seven years in which to ratify it. This seven year stipulation complied with the constitution principle that amendments to the Constitution be approved "at relatively the same period," and to "sufficiently contemporaneous" to reflect the will of the people.

The effort to enact the ERA has now raised a number of serious constitutional, legal, and policy issues which I want to address. The overall controversy centers around the merits of the ERA, whether Congress is able to and should extend the seven year period contained in the original ERA approval, and whether a state may effectively reverse a prior vote on ratification.

It is now proposed by some ERA backers that Congress extend the original seven year period for another seven years, and that when counting the number of ratifying states, ignore state legislatures that have rescinded prior ratification. This effort grows out of the fear that the additional three states (or six, if rescissions are effective) needed for ratification may not be found in the next year and a half.

As a member of the New York State Senate, on May 19, 1972, I voted in favor of ratifying the ERA to the U.S. Constitution, and on April 24, 1974, as a New York State Assemblyman, I voted in favor of adding the Equal Rights Amendment to the New York State Constitution by voting to send it to the people for referendum. Thus, I have supported the ERA.

In spite of this, I am deeply troubled that some of the other advocates of ERA are so blinded by their zeal that they are promoting a concept of the ratification process which is fundamentally unsound, unfair and potentially dangerous.

Whether the time period for ratification should be extended raises serious legal and equity questions, as does the corollary concept of counting toward ratification the votes of states which have rescinded their ratification.

The legal answers are not clear cut. Neither theory has ever been decisively used to ratify or block an amendment. Now is not the time to so taint an amendment to our Constitution nor, in my judgment, should there ever be such a time.

A Constitutional amendment needs and deserved undiluted respect; and I fear the rancor, dispute, and distrust, not to mention legal tremors which would surely follow if our procedures are not unquestionably fair and legitimate. An extension of the ratification period cannot be logically premised on a claim that seven years is inherently too short a time for ratification. The first ten amendments were ratified within 27 months, and no ratified amendment has yet taken more than four years. For the past 50 years, every potential amendment submitted to the states has had a seven year ratification limit.

When passing ERA, each state in essence said it wants the amendment if another 37 states also agree to it within the seven year period. We will be deceiving the states if we now change the rules. Even if not absolutely prohibited legally, it seems unfair to change the rules at this point in the process. Had ERA forces asked for a longer time period at the outset, it might have been granted by Congress But not now!

The frustration of believing in a cause deeply, and coming so close, is real and compelling, but we will have to live in the future with any contortions of the course of the current ERA struggle. If instead of ERA, we faced an amendment on some new type of tax or the restructuring of the nation's educational system, our focus might change. How would backers of ERA feel if they faced a decision which would be based on the same theories relied on for extending it? They would feed cheated and deceived, and would legitimately yell foul.

If the nation wants ERA, the Constitutional hurdles can be overcome, but if it does not, those in favor would do a great disservice to our Constitutional system by obtaining its passage by dubious means.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri (Mr. VOLKMER)?

There was no objection.

Mr. GARY A. MYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take a few moments here to state that I would have voted to extend this period, had the two-thirds vote prevailed as well as the Railsback amendment.

I think the most important responsibility we have today is our responsibility of providing and protecting a proper amending process for the Constitution. I believe much of what we are doing here on this measure before us could set precedences which, if fully concluded, will be used as tests on future Constitution amendments. General debate was limited to a number of Members. Some Members during that time attempted to persuade the House to vote on the basis of some political issues other than the more proper constitutional questions.

One of the political reasons put forth by some I am concerned about that may be very easy and tempting for some to embrace today was that political judgment which accuses and criticizes some States to allow some small legislative committees to tie up this issue and prevent it from being brought to the floor of their legislative bodies. Before we rush to embrace that as a reason to extend the ERA deadline, I think we ought to recognize that this very subcommittee of the Congress that is bringing this proposed extension to us had to trip over and climb over several proposals to amend the Constitution, most notably the request for a human life amendment, which were pending long before this particular action was necessary. If the question is whether the human life amendment is relative or not, we ought to look at how the House has voted each time the issue has come before us on appropriations issues and the statements made by Members during those debates. There have been a number of us who have asked that this committee and subcommittee not bottle that amendment up in the committee, and I would hope that Members of those committees would take it upon themselves to give the House the right to vote on that human life amendment the same sense that they have criticized with righteous indignation some States for allowing this issue to be bottled up in some committees of State legislatures.

I do not endorse a committee in either the House of Representatives, the other body, or in State legislatures in preventing issues which have national and respectively State importance and interest from being brought to the floor of the legislative bodies. I take this opportunity to send a message to this committee and subcommittee that I believe that in all fairness with regard to their criticisms of the State legislatures and their committees for bottling important issues in committees, these individuals and committees who are responsible for the handling of proposed constitutional amendments owe it to this House to make a commitment to bring a human life amendment to the floor and allow us to have a vote on it. To do anything less subjects them even more to the tests of their own words of criticism of their counterparts in those States which practice control by denying whole legislative bodies opportunities to vote on important issues.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

I want to commend the gentleman on his statement, and I associate myself with his remarks.

● Mr. SARASIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the legislation before us to allow States additional time in which to ratify the equal rights amendment. I have long supported the equal rights amendment and the principles of equality embodied in the measure. It is true that we have come a long way in providing equal status to women in employment, housing, credit, educational opportunities, and domestic relations. However, the hit or miss approach of selected legislation to assure fair treatment of the majority of our population has not neccessarily guaranteed women the rights to which they are entitled, because of inadequate enforcement, less than uniform application of laws, or oversights in drafting of bills.

Ratification of the equal rights amendment will insure the force of legal, moral, and symbolic sanction in the eradication of sex discrimination and provide a necessary impetus to the development of future legislation which will hopefully, supply the means to ending discrimination on the basis of sex in our lifetime.

We are faced with many troublesome constitutional questions in bringing this legislation to the floor for consideration. The Constitution does not directly address the problem of time limits imposed by Congress when passing constitutional amendments. Certain precedents have been established with regard to time limits both in the body of amendments and, as with the ERA, limits included in the proposing language. Though we are breaking new ground in returning to alter the time limit imposed by an earlier Congress, most constitutional experts agree that, since the 7-year limit was included only in the resolving clause of the amendment, it has no bearing on the substance of the amendment and is not related to the issue which States have been asked to consider.

Clearly, we have the authority, historically supported by action on the part of the courts and the Congress, to allow additional time for consideration of the ERA. It has been sufficiently established that Congress can, indeed should, examine the question of timeliness and appropriateness of the amendment and determine whether the issue is still contemporaneous. If it is, we have the responsibility to extend the time limit. I think the vigorous political controversy that surrounds this issue is sound evidence that the issue remains very much alive even after nearly 7 years of debate throughout our country. Recent Harris polls reveal that a majority of the American public still supports the ERA and the ERA extension, offering further testimony that this is an issue which the public does not want to see die because of a time limit which, has no constitutional foundation.

While the question of allowing States to rescind their ratification of a constitutional amendment is perhaps more difficult, especially in light of our actions on extension, we do have historical precedents with which to adequately decide the merits of such a proposal. Congress has never recognized a rescission as being valid, and the courts have consistently agreed with congressional actions. In recent weeks, many have looked to Madison for clarification on rescission and his statement that the Constitution requires adoption in toto and forever is most persuasive. Judicial precedents support this statement, and Coleman against Miller offers us the most concise ruling on rescission:

> From the foregoing and from historical precedents, it is also true that where a State has once ratified an amendment, it has no power thereafter to withdraw such ratification. To hold otherwise would make article V of the federal constitution read that the amendment should be valid "when ratified by three-fourths of the States, each adhering to its vote until three-fourths of all the legislatures shall have voted to ratify."

Nor is this the time for decisions as to the validity of rescission. It would be most inappropriate for this Congress to rule on rescission since no future Congress would be bound by our actions and would have the historical prerogative to rule on the question when they determine if the requisite number of States have ratified.

I would hope that the 95th Congress will be able to go on record as reaffirming the right to equal treatment under the law for women by passing the extension resolution and rejecting the amendment which would allow for rescission. We will, I am sure, continue to make progress in assuring equality for women, but I hope that we will begin today to demonstrate our continued commitment by allowing the strength of our convictions to be reffected in the strength of our support for this vital and necessary legislation.●

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the 5 minutes, but I want to share with the Members one thing that explains the basis for my urging the extension of this ratification period, notwithstanding the fact that I supported the amendment of my colleague, the gentleman from Illinois (Mr. RAILSBACK), which was defeated.

Last Sunday afternoon I was waiting to board an aircraft in Birmingham, Ala., and just before I got on the flight, one of my constituents introduced me to a tall, young black American, and he said she was one of the ranking tennis players in the United States in her 14-year-old class. She, through no fault of her own, had missed her flight and had to stand by and board that flight to

make a big tennis tournament in Lincoln, Nebr. I wished her well, boarded the aircraft, sat down in my seat. Then I did what any one of you would have done. I stood up, got off the aircraft, and stood by the counter and said to my friend in private, "If she has no other seat, she shall have mine."

Why did I do that? For me it was a slight inconvenience to miss a dinner flight and take the Earlybird the next morning, but for her it was now or never for her big tournament. This is now or never for many women in the United States.

If those of us who are proponents of equal rights for women are defeated this day, we shall continue our fight, and we shall win it sooner or later. But for one out of eight women in the work force who are heads of households—70 percent of the women in the work force who are heads of households or married to husbands who earn less than $7,000 a year—and for many young women like my own two daughters, 14 and 21, it is now or never for equal rights.

Mr. Chairman, I urge the adoption of this resolution.

The CHAIRMAN. Are there any further amendments?

Mr. RYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Oklahoma (Mr. JONES).

● Mr. JONES of Oklahoma. Mr. Chairman, I rise to oppose extension of the March 1979 deadline for ratification of the equal rights amendment. This extension is not necessary in my judgment and to extend this deadline will only create more confusion and legal questions. I also feel that serious constitutional questions are involved concerning any extension whatsoever.

My opposition to this extension legislation represents my decision on this particular procedural issue. It does not represent my views on the substantive subject of nondiscrimination on the basis of sex. My record against sex discrimination is clear. I have strongly opposed such discrimination as evidenced by my work for equal pay for equal work, for equal access to credit, for prohibiting sex discrimination in pension rights, for maternity insurance benefits in the workplace, and for many other issues of a similar nature.

A 7-year time period was set for ratification of the ERA. Such a time period has been sufficient for the ratification of other amendments to the Constitution. I firmly believe that the March 1979 deadline gives the remaining 15 States ample time to decide on ratification.

Fairness indicates that if time to ratify is extended, then time to rescind should also be extended. This is only fair in the same sense that nondiscrimination is justified on the basis of fairness. However, many more legal questions arise by this rescission extension. I can foresee that if this extension is granted that all we will be doing is generating scores of court tests. In the final analysis, any rescission will have to be determined by the Congress anyway.

Therefore, I will vote against any extension. The rules of the game for ratifying the equal rights amendment were set. The rules were fair. If the 7-year period does not resolve the issue, then it probably means that further clarification of an amendment is needed and Congress can take whatever action is necessary at that time. To change the rules now would be neither fair nor prudent.●

Mr. RYAN. Mr. Chairman, I may be one of the few Members on this floor that has not committed himself either way on this amendment even now.

There is one question left, which I believe needs to be considered by every single Member of this body, because this action on this question is not resolved by itself for now and no other time. This action taken in extending this ERA by three years sets a precedent, I believe, for at least many decades to come in the process of amending the Constitution. When any question is as tight as this one is, always it is a good idea for me, anyway, to review the polarity and look at it from exactly the opposite point of view.

Now, those who are in favor of extending this amendment, I have asked those people the question, "What would you do, would you support say those who are in favor of antiabortion, those who are in favor of putting an abortion amendment in the Constitution for all time, and who would come in here after 7 years and say, 'We didn't make it and may we have a 3-year extension?' Would you then support their right to the same kind of additional extension?"

I kind of doubt it. The answer I have gotten so far has been a nonanswer which consists of, "Well, we will meet that question when we come to it."

I cannot do it, because I am a Member of this House now and not later. My job is to represent as a Member of the board of directors the people who come after me, as well as now.

The question I have not yet resolved in my own mind, and I guess I will have to pretty soon, is because particular action must be taken, the question here is one of the immediacy of the moment.

There is a great deal of emotion here; but those who argue without concern for the future on action taken now will sooner or later be asked to reconsider what they did before. I do not want to be in that position.

Mr. Chairman, I yield to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Chairman, I thank the gentleman for yielding.

I can only say within the future, if such an amendment would come, I would certainly support the right of those who ask for that amendment to bring it to the floor for a vote.

Mr. RYAN. In fact, the gentlewoman is saying there is no hard rule to be given for the length of time to ratify an amendment to the Constitution.

Mrs. FENWICK. That is absolutely right. There is no length of time and any Member has a right to bring it to the floor as to whether or not that time should be extended.

Mr. RYAN. Mr. Chairman, I yield to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding.

I would just like to repeat something that I said about 10 minutes earlier; that is, as one who has spoken on the floor against abortion, I feel very strongly that the issues are two separate issues. They deserve to be treated separately.

Frankly, there has been too much equating of the equal rights amendment with the abortion issue. I think some people have distorted the issue, not perhaps intentionally. It is a separate issue. You deserve to act separately on this issue; evaluate objectively what the equal rights amendment is all about, period.

Mr. RYAN. Mr. Chairman, whatever is fair for one is fair for another, I would think.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in a few moments we are going to be voting on an issue here which is unprecedented in the history of Congress. I think we should remind ourselves that the debate on the subject of equal rights without regard to the subject of sex took place on the floor of this House in 1971 and 1972.

That is not the issue tonight. The issue tonight is whether or not we shall take this unprecedented action of extending for 3 years and 3 months the time within which States may ratify. I would like to suggest that there is implicit in that period of time the right to rescind or to take some other action which may be more damaging to the cause of equal rights than that which would take place if we took no action here or if indeed we defeated this joint resolution.

It is my hope that the proposal to extend the time will be defeated. It is my hope that those who are lending their energies toward this action here today urging adoption of this resolution of extension will devote their time, instead, toward getting ratification in the 15 States which have not yet ratified. There is ample time between now and next March 22 with only three additional States needed to complete ratification.

Mr. Chairman, I think we are going to do more harm than good to the subject of equal rights by passing this measure here today. I hope the Members will vote to reject House Joint Resolution 638.

Mr. DUNCAN of Oregon, Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to say one thing very briefly, and I will only take a minute.

I share the doubts that have been expressed very seriously by the gentleman from California and the gentleman from Illinois, but there is one unanswerable question that I have—and no one has yet been able to solve this for me—and that is whether a no vote on the next issue is grounds for divorce in the State of Oregon.

Mr. Chairman, there have been many difficult votes—the right to work, situs picketing, and others. This one, however, is unique. It is unique because it involves many difficult, undecided or fuzzily-decided constitutional principles, some so tinged with rancor and bitterness of the Civil War as to be of little help. There is no clearly marked constitutional path for us to follow.

Yet, each of us is sworn to support and defend the Constitution. I consider that to be the issue that faces us, and I consider that to be of far greater importance than the substance of the resolution. On close constitutional issues arising in the ordinary course of business, a vote either way can, arguably, satisfy the obligation of our oath. But here, what unsatisfactory precedents we find, indicate that these questions of ratification, recision and what is a reasonably contemporaneous period for expression of opinion are ours, and ours alone to decide. The Supreme Court has said that they are political decisions with which they will not interfere.

Accordingly, we cannot with any degree of certainty, look to the courts for a constitutional decision. We must make that determination. The determination we make on this issue of equal rights for women will bind us as we approach other proposals for constitutional amendments in the future. The sword we fashion today will have two edges. Today it is raised for a just cause. Tomorrow it may be raised for a cause which today's proponents oppose. It may be an anti-abortion provision, a provision to require prayers in the schools, the repeal of part or all of the Bill of Rights, or even, as the late Senator Dirksen wanted, to make the marigold the national flower.

We are not simply passing a statute. We are proposing to amend the basic organic law of the Nation that has served us so well for over 200 years. It has served us well because it has been adaptable to changing circumstances. Who could imagine that a few people, over 200 years ago, could write a few rules that would serve us so well in the 20th century. The 6th and 14th amendments do not speak in terms of limited gender. They say "all persons" are entitled to equal protection of the law. It is true that it has not always been constitutionally so interpreted with respect to women. It is also true that the trend is definitely in that direction today. It is also true that the 14th amendment for years sustained "separate but equal" schools, but Brown against Board of Education changed that. Whether the ERA passes or not, equal rights for women is already a constitutional right.

But even if what I say is not so, in my judgment it is better that the ERA go down to rise again tomorrow than that the basic structure of the Constitution be so altered and impaired. A particular substantive measure can be raised again. But the constitutional structure once impaired will never be made whole again.

I have, I believe, lived my life on the principle of equality and justice for all. I have espoused these principles in the courtroom, on the political platform, and I hope and believe in my day-to-day life.

But the supreme law of the land is defined in article VI of the Constitution as:

> This constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States.

This resolution will not become a law of the United States because it will not be submitted to the President for his approval. It is not a treaty because no foreign power is involved. It must thus be an amendment to the Constitution, which requires, under the fifth amendment, a two-thirds vote of both Houses. I therefore supported the efforts to require its passage by a two-thirds vote, a requirement I deem necessary to comply with the Constitution.

My reading of the cases and the history of the amendatory process leads me to the conclusion that before an amendment is added it must reflect a reasonably contemporaneous expression by three-fourths of the States of their approval. Where a period of time elapses, and particularly where States that have once voted "No" but later have voted "Yes" are counted as ratifying, it seems to me to be absolutely essential to achieve that contemporaneous expression of approval, that the Congress address the question of the rights of a State to rescind its previous ratification. I, therefore, supported the Railsback amendment.

Both of these efforts to conform this resolution to the Constitution having failed, supporting as I do the objectives of the resolution, and being painfully aware of intense pressures emanating not only from the electorate but from my own family—both male and female—and from my office staff—again of both sexes—the effort required not to conform is immense. I know that there will be little agreement with what I do, but I hope that there will be a modicum of understanding of the motivations therefor.

The CHAIRMAN. Are there further amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. PIKE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 638) extending the deadline for the ratification of the equal rights amendment, pursuant to House Resolution 1295, he reported the joint resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. M'CLORY

Mr. McCLORY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the joint resolution?

Mr. McCLORY. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. McCLORY moves to recommit the joint resolution (H.J. Res. 638) to the Committee on the Judiciary.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BUTLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 233, nays 189, not voting 10, as follows:

[Roll No. 705]

YEAS—233

Addabbo	Dicks	Kostmayer
Akaka	Diggs	Krebs
Ambro	Dodd	Krueger
Ammerman	Downey	Leach
Anderson, Calif.	Drinan	Lederer
	Early	Leggett
Anderson, Ill.	Edgar	Lehman
Annunzio	Edwards, Calif.	Levitas
Ashley	Eilberg	Lloyd, Calif.
Aspin	Emery	Long, La.
AuCoin	Ertel	Lundine
Baldus	Evans, Colo.	McCloskey
Baucus	Evans, Ind.	McCormack
Beard, R.I.	Fary	McFall
Bedell	Fascell	McKinney
Beilenson	Fenwick	Maguire
Benjamin	Findley	Markey
Biaggi	Fish	Marks
Bingham	Fisher	Mattox
Blanchard	Flood	Meeds
Blouin	Florio	Metcalfe
Boggs	Foley	Meyner
Boland	Ford, Mich.	Mikulski
Bolling	Ford, Tenn.	Mikva
Bonior	Forsythe	Milford
Bonker	Fowler	Miller, Calif.
Brademas	Fraser	Mineta
Brodhead	Frenzel	Minish
Broomfield	Gammage	Mitchell, Md.
Brown, Calif.	Garcia	Moakley
Buchanan	Gaydos	Moffett
Burke, Calif.	Giaimo	Mollohan
Burke, Mass.	Gilman	Moorhead, Pa.
Burton, John	Glickman	Moss
Burton, Phillip	Gonzalez	Murphy, Ill.
Byron	Goodling	Murphy, N.Y.
Carney	Green	Murphy, Pa.
Carr	Gudger	Myers, Michael
Carter	Hanley	Natcher
Cavanaugh	Hannaford	Neal
Chisholm	Harkin	Nix
Clausen, Don H.	Harrington	Nolan
	Harris	Nowak
Clay	Hawkins	Oakar
Cohen	Heckler	Oberstar
Collins, Ill.	Heftel	Ottinger
Conable	Hollenbeck	Panetta
Conte	Holt	Patten
Conyers	Holtzman	Patterson
Corman	Howard	Pattison
Cornell	Hughes	Pease
Cornwell	Jacobs	Pepper
Cotter	Jeffords	Perkins
Coughlin	Jenrette	Pettis
D'Amours	Johnson, Colo.	Pressler
Danielson	Jordan	Preyer
Dellums	Kastenmeier	Price
Dent	Keys	Pritchard
Derrick	Kildee	Pursell

Rahall	Schroeder	Vander Jagt
Rangel	Seiberling	Vanik
Reuss	Sharp	Vento
Richmond	Simon	Walgren
Rinaldo	Smith, Iowa	Waxman
Rodino	Smith, Nebr.	Weaver
Roe	Solarz	Weiss
Rogers	Spellman	Whalen
Roncalio	Stark	White
Rooney	Steers	Wilson, Bob
Rose	Stockman	Wilson, C. H.
Rosenthal	Stokes	Wilson, Tex.
Rostenkowski	Stratton	Wirth
Roybal	Studds	Wolff
Ruppe	Thompson	Wright
Russo	Thornton	Yates
Ryan	Traxler	Yatron
Sarasin	Tsongas	Young, Tex.
Sawyer	Udall	
Scheuer	Ullman	

NAYS—189

Abdnor	Gephardt	Mottl
Alexander	Gibbons	Murtha
Andrews, N.C.	Ginn	Myers, Gary
Andrews, N. Dak.	Goldwater	Myers, John
	Gore	Nedzi
Applegate	Gradison	Nichols
Archer	Grassley	O'Brien
Armstrong	Guyer	Obey
Ashbrook	Hagedorn	Pickle
Badham	Hall	Pike
Bafalis	Hamilton	Poage
Barnard	Hammer-schmidt	Quayle
Bauman		Quie
Beard, Tenn.	Hansen	Quillen
Bennett	Harsha	Railsback
Bevill	Hefner	Regula
Bowen	Hightower	Rhodes
Breaux	Hillis	Roberts
Breckinridge	Holland	Robinson
Brinkley	Horton	Rousselot
Brooks	Hubbard	Rudd
Brown, Mich.	Huckaby	Runnels
Brown, Ohio	Hyde	Santini
Broyhill	Ichord	Satterfield
Burgener	Ireland	Schulze
Burke, Fla.	Jenkins	Sebelius
Burleson, Tex.	Johnson, Calif.	Shuster
Burlison, Mo.	Jones, N.C.	Sikes
Butler	Jones, Okla.	Skelton
Cederberg	Jones, Tenn.	Skubitz
Chappell	Kasten	Slack
Clawson, Del	Kazen	Snyder
Cleveland	Kelly	Spence
Cochran	Kemp	St Germain
Coleman	Kindness	Staggers
Collins, Tex.	LaFalce	Stangeland
Corcoran	Lagomarsino	Stanton
Crane	Latta	Steed
Cunningham	Lent	Steiger
Daniel, R. W.	Livingston	Stump
Davis	Lott	Symms
de la Garza	Lujan	Taylor
Delaney	Luken	Thone
Derwinski	McClory	Treen
Devine	McDade	Trible
Dickinson	McDonald	Tucker
Dingell	McEwen	Van Deerlin
Dornan	McHugh	Volkmer
Duncan, Oreg.	McKay	Waggonner
Duncan, Tenn.	Madigan	Walker
Eckhardt	Mahon	Walsh
Edwards, Ala.	Mann	Wampler
Edwards, Okla.	Marlenee	Watkins
English	Marriott	Whitehurst
Erlenborn	Martin	Whitley
Evans, Del.	Mathis	Whitten
Evans, Ga.	Mazzoli	Wiggins
Fithian	Michel	Winn
Flippo	Miller, Ohio	Wydler
Flowers	Mitchell, N.Y.	Wylie
Flynt	Montgomery	Young, Fla.
Fountain	Moore	Young, Mo.
Frey	Moorhead, Calif.	Zablocki
Fuqua		Zeferetti

NOT VOTING—10

Caputo	Long, Md.	Teague
Daniel, Dan	Risenhoover	Young, Alaska
Le Fante	Shipley	
Lloyd, Tenn.	Sisk	

The clerk announced the following pairs:

On this vote:

Mr. Le Fante for, with Mr. Teague against.

Mr. Shipley for, with Mrs. Lloyd of Tennessee against.

Until further notice:

Mr. Risenhoover with Mr. Caputo.

Mr. Sisk with Mr. Dan Daniel.

Mr. Long of Maryland with Mr. Young of Alaska.

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the joint resolution (H.J. Res. 638) just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 11209, INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS ACT

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11209) to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from New York? The Chair hears none, and appoints the following conferees: Messrs. STAGGERS, MURPHY of New York, VAN DEERLIN, BIAGGI, and CARNEY, Ms. MIKULSKI, and Messrs. WIRTH, RUPPE, BROYHILL, and FREY.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO HAVE UNTIL 6 P.M., FRIDAY, AUGUST 25, 1978, TO FILE REPORTS ON H.R. 12603, H.R. 12959, H.R. 11658, H.R. 11861, H.R. 13372, H.R. 13745 and H.R. 13392

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries may have until 6 o'clock p.m., Friday, August 25, 1978, to file its reports on the following bills:

H.R. 12603, Great Lakes Pilotage Act.

H.R. 12959, to amend the definition of the term "qualified vessel" under a Capital Construction Fund.

H.R. 11658, to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel.

H.R. 11861, to establish a Navy-Maritime Advisory Board.

H.R. 13372, Duck Stamp Act amendments.

H.R. 13745, New Sikes Act Reauthorization for Conservation Programs on Military Reservations.

H.R. 13392, amending the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 12927, DEPARTMENT OF DEFENSE MILITARY CONSTRUCTION APPROPRIATIONS, 1979

Mr. McKAY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 12927) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

CONFERENCE REPORT

(H. Rept. No. 95-1495)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12927) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 10, 11, 12, 13, 14, 19, and 22, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$711,509,000"; and the Senate agree to the same.

Amendment numbered 4: That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$760,145,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows; In lieu of the sum proposed by said amendment insert "$483,264,000"; and the Senate agree to the same.

Amendment numbered 16: That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows: In lien of the sum proposed by said amendment insert "$60,560,000"; and the Senate agree to the same.

Amendment numbered 18: That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amend-

ment insert "$35,335,000"; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 3, 5, 7, 8, 9, 15, 17, 20, and 21.

GUNN MCKAY,
ROBERT L. F. SIKES,
JOHN P. MURTHA,
TOM STEED,
JOHN J. FLYNT, Jr.,
CLARENCE D. LONG,
GEORGE MAHON,
ROBERT C. MCEWEN,
RALPH S. REGULA,
ELFORD A. CEDERBERG,
Managers on the Part of the House.

WALTER D. HUDDLESTON,
WARREN G. MAGNUSON,
J. BENNETT JOHNSTON,
DANIEL K. INOUYE,
JAMES R. SASSER,
TED STEVENS,
MILTON R. YOUNG,
HENRY L. BELLMON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12927) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

ITEMS OF GENERAL INTEREST

Prefinancing of NATO infrastructure projects

The conferees agree with the House that only limited use of prefinancing of NATO infrastructure projects should be made. The House report states: ". . . the United States and the NATO allies must operate on a 'fair-share' basis which does not impose an undue or unfair burden on any individual member." Consistent with this view, the conferees agree that funding in future years for prefinanced NATO infrastructure projects will be subject to the following specifications: (1) The NATO allies must agree in advance of submission of such projects to the Congress that they are eligible for NATO funding to assure recoupment of prefinanced funds; (2) the NATO allies must agree to a repayment schedule which specifies in which NATO funding slice the amount of funds are to be repaid to the United States, and (3) the submission of projects for prefinancing must be based on military urgency which is defined in pertinent DOD directives in terms of specific criteria.

Panama Canal

The conferees agree that funding for military construction in the Panama Canal Zone should be the subject of review by the House and the Senate, but that limited prior approval reprogramming of emergency construction required for the realignment of military installations consistent with the responsibility of the United States to defend the Canal and provide for the security of U.S. personnel may be necessary before a budget amendment or supplemental could be acted on by the Congress. In such event, the requirement and emergency nature of such construction must be certified by the President of the United States before submission to the Committees on Appropriations of the House and Senate.

Competition for A&E contracts

The conferees agree with the House that a pilot test program using price as a factor in selecting A&E firms to design military facilities should be conducted. The conferees, however, feel that an adequate test could be conducted by a single service rather than by the Army, Navy, Air Force, and Defense Agencies. The conferees direct that the Army conduct this test and have set aside $5,000,000 for this purpose in Army planning and design funds.

Reprogramming criteria

The conferees concur with the Senate language on reprogramming criteria with the following exceptions: (1) The Services are to submit reprogramming requests at a 25% level instead of a 20% level recommended by the Senate, and (2) notification reprogramming for emergency construction or projects increasing in cost below the lesser of 20% or $1,000,000 is not required.

Reduction by authorization to the 5 percent contingency

The authorization conference reduced a series of Army and Navy projects based on the belief that a 5% contingency was sufficient for all types of projects. Because the Appropriations Committees also took a general reduction in the request, this reduction is not considered additive to the appropriation reduction but should be distributed by the Services consistent with authorization action.

Contingent appropriations

The conferees agree with the Senate proposal that funds provided for projects where a base realignment study is under way are contingent upon certification by the Secretary of Defense that the effort remains valid in light of final realignment decisions. These projects are so identified in the Senate report.

Other matters addressed by only one committee

The reports of the House and the Senate contain items addressed by only one committee. Unless otherwise indicated in this report, those items should be considered to be approved by the committee of conference.

PLANNING AND DESIGN

Amendment No. 1

Deletes title proposed by the House.

MILITARY CONSTRUCTION—ARMY

Amendment No. 2

Appropriates $711,509,000 instead of $628,644,000 as proposed by the House and $712,053,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Planning and Design	+$64,400,000
Fort Carson, Colorado: Direct Support Maintenance Facility	+900,000
Fort Hood, Texas: Barracks Modernization	+7,115,000
Fort Lewis, Washington: Surgical and Obstetrical Suite Addition and Alteration	+3,307,000
Electrical Distribution System	+1,776,000
Fort Meade, Maryland: Composite Dental Facility	+1,600,000
Fort Richardson, Alaska: Engine Exhaust System	+1,974,000
Fort Bliss, Texas: Dental Clinic	+1,905,000
Fort Eustis, Virginia: Pier Utilities	+740,000
Fort Jackson, South Carolina: Energy Monitoring and Control System	+3,300,000
Sodium Lights	+234,000
Fort Knox, Kentucky: Aircraft Control Tower	+702,000
Anniston Army Depot, Alabama: Metal Finishing Facility	+7,836,000
Red River Army Depot, Texas: Quality Assurance Laboratory	+813,000
Germany, Various Locations: POMCUS Storage & Maintenance Facilities, Various	+36,922,000
General Reduction, Army	+8,900,000
Fort Bragg, North Carolina: Tactical Equipment Shop and Facilities	—386,000
Fort Campbell, Kentucky: Boiler Conversion Gas to Gas/Oil	—2,699,000
Fort Riley, Kansas: Fuel Conversion	—1,886,000
Fort Sill, Oklahoma: Fuel Conversion	—2,225,000
Fort McNair, Washington, D.C.: New Boiler	—133,000
Korea, Various: Milk Plant, K–16	—1,000,000
Germany, Various Locations: Airfield Facilities, Ansbach	—1,599,000
Aircraft Maintenance Hangars, Coleman Barracks, Mannheim	—11,981,000
Aircraft Maintenance Hangar, Buedingen	—2,864,000
Basic Load Site, Hanau	—1,204,000
Total Force Ammunition Storage, Various	—17,781,000
Ammunition Upload Facilities, Various	—13,269,000
POL Pollution Control, Various	—35,000
Pave Roads and Holding Areas, ASP 1, Vilseck	—1,622,000
Pave Roads and Holding Areas, ASP 2, Hohenfels	—875,000
Total	+82,865,000

Fort Meade, Maryland, Dental Facility

The conferees agree to appropriations in the amount of $1,600,000 for the dental clinic portion of the composite dental facility at Fort Meade, Maryland. The committee of conference directs the Army and Navy to study the feasibility that a joint facility could be constructed for the training and research portion of the proposed composite facility.

Prepositioning of Material Configured in Unit Sets (POMCUS)

The conferees agree with the concept of POMCUS in order to enhance NATO readiness. The difference between the House and the Senate concerns only who should pay for NATO operational facilities, such as POM CUS, rather than whether or not there is a requirement for specific facilities. The conferees agree to provide the Army with $36,922,000 for the construction of POMCUS facilities in Europe instead of the $56,922,000 provided by the Senate and to permit the use of $20,000,000 from recoupments or new budget authority provided above the President's request in the Defense Agencies NATO infrastructure appropriation to fund the additional portion of the POMCUS construction.

Amendment No. 3

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide $64,400,000 for planning and design, as originally proposed by the House in a separate title, instead of $67,400,000 as proposed by the Senate.

The complete text of the amendment is as follows: "1983: *Provided*, That of this amount, not to exceed $64,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are neces-

sary for such purposes and notifies the Committees on Appropriations for both Houses of Congress of his determination and the reasons therefor".

MILITARY CONSTRUCTION, NAVY

Amendment No. 4

Appropriates $760,145,000 instead of $683,695,000 as proposed by the House and $806,124,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Planning and Design	+$46,300,000
Naval Academy, Annapolis, Maryland: Physical Education Center	+500,000
Commandant, Naval District Washington, D.C.: Administrative Office (NARDAC)	+1,350,000
Administrative Office (CHESDIV)	+585,000
Naval Submarine Base, New London, Connecticut: Industrial Support Facility	+4,700,000
Naval Station, San Diego, California: Machine Shop	+6,000,000
Naval Station, Adak, Alaska: Radar Air Traffic Control Facility	+1,000,000
Bachelor Enlisted Quarters Modernization	+760,000
Drainage Ditch	+240,000
Polaris Missile Facility Atlantic, Charleston, South Carolina: Missile Magazines	+6,500,000
Naval Supply Center, Oakland, California: Dust Removal	+200,000
Naval Air Test Center, Patuxent River, Maryland: Runway Upgrade	+3,100,000
Naval Supply Center, San Diego, California: POL Pipeline	+4,100,000
General Reduction, Navy	+8,200,000
Marine Corps Base, Camp Lejeune, North Carolina: Physical Fitness Center	—530,000
Naval Fuel Annex, Casco Bay, Maine: Oil Spill Prevention	—1,150,000
Naval Air Rework Facility, Jacksonville Florida: Energy Monitoring and Control System	—35,000
Naval Weapons Station, Yorktown, Virginia: Community Center	—2,800,000
Naval Station, Keflavik, Iceland: Approach Lighting	—220,000
Naval Station, Rota, Spain: Small Craft Berthing Repairs	—2,350,000
Total	+76,450,000

Data automation facilities

The conferees agree to an appropriation of $1,350,000 for the Naval Regional Data Automation Center to be located at the Washington Navy Yard in Washington, D.C. The committee of conference, however, recommends that the $2,200,000 requested for the Naval Data Automation Command headquarters be deferred and that the Navy should locate this command at an alternate location outside the National Capital Region.

Shore intermediate maintenance facilities

The conferees agree to proceed with construction of shore intermediate maintenance facilities at Naval Submarine Base, New London, Connecticut and Naval Station, San Diego, California. The conferees defer the large new shore intermediate maintenance facilities at Naval Station, Mayport, Florida and Naval Station, Pearl Harbor, Hawaii. The committee of conference notes the need for improved intermediate maintenance of Navy ships but wants the Navy to review further all of the elements associated with proceeding with the extensive facilities proposed at Mayport and Pearl Harbor.

Adak, Alaska, projects

The conferees agree to an appropriation of the full amount requested for projects at Adak, Alaska.

The conferees agree with the House that the Department and the Services should make use of military personnel to do construction at remote locations where substantial training benefits can be derived or where significant cost savings can be achieved.

Amendment No. 5

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide $46,300,000 for planning and design, as originally proposed by the House in a separate title, instead of $49,300,000 as proposed by the Senate.

The complete text of the amendment is as follows: "1983: *Provided*, That of this amount, not to exceed $46,300,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

MILITARY CONSTRUCTION, AIR FORCE

Amendment No. 6

Appropriates $483,264,000 instead of $461,703,000 as proposed by the House and $519,984,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Planning and design	+$52,000,000
Robins Air Force Base, Ga.: Control contaminated water	+2,500,000
Eglin Air Force Base, Fla.: Arm-disarm pad	+815,000
Bachelor enlisted quarters	+865,000
Keesler Air Force Base, Miss.: Logistical storage and maintenance facility	+7,015,000
Access roads	+600,000
Energy monitoring and control system	+820,000
Dover Air Force Base, Del.: Aircraft corrosion control facility	+7,310,000
Malmstrom Air Force Base, Mont.: Education center	+1,200,000
Shaw Air Force Base, S.C.: Electronic countermeasure facility	+584,000
Precision measuring equipment facility	+706,000
U.S. Air Force Academy, Colo.: Library addition	+4,000,000
Decimomannu Air Base, Sardinia, Italy: Air combat maneuvering instrumentation facility	+986,000
General reduction, Air Force	+8,200,000
Wright-Patterson Air Force Base, Ohio: Air Force Museum	—2,330,000
Various locations, AFSC: Joint surveillance system	—620,000
Rhein-Main Air Base, Germany: Freight terminal	—6,550,000
Kadena Air Base, Japan: Squadron flight operations facility	—582,000
Base supply and equipment facility	—882,000
Ramstein Air Base, Germany: Hardened avionics maintenance facility	—4,000,000
Various locations, USAFE: Airfield protective shelters	—27,669,000
Minimum essential aircraft operational facilities	—7,587,000
Semihardened logistics facilities	—6,000,000
Semihardened munitions storage facilities	—8,820,000
Passive defense improvements	—1,000,000
Total	+21,561,000

Wurtsmith AFB, Michigan, Access Roads

The conferees agree with the Senate position which permits $750,000 in existing funds to be used for access roads at Wurtsmith Air Force Base, Michigan.

Rhein-Main Air Base, Germany, Open Mess

The conferees agree with the House position that the proposed officers open mess at Rhein-Main Air Base be constructed as a consolidated officer-noncommissioned-enlisted open mess of the same size proposed for the officers open mess and utilizing common kitchen and administrative facilities.

Amendment No. 7

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide $52,000,000 for planning and design, as originally proposed by the House in a separate title, instead of $55,000,000 as proposed by the Senate.

The complete text of the amendment is as follows: "1983: *Provided*, That of this amount, not to exceed $52,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

MILITARY CONSTRUCTION, DEFENSE AGENCIES

Amendment No. 8

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows: In lieu of the sum proposed by said amendment, insert $194,880,000. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Planning and Design	+$9,400,000
(DNA) Armed Forces Radiobiology Research Institute, Bethesda, Maryland: Animal Research Facility	+300,000
General Reduction, Defense Agencies	+1,900,000
Total	+11,600,000

NATO Infrastructure Program

The conferees concur with the authorization action to transfer funding for the infrastructure program from the Army to the Defense Agencies appropriation. The conferees agree with the House proposal to fund the infrastructure program at $90,000,000 in new budget authority. This is consistent with the House view that increased funding by the NATO allies through the infrastructure program should be made.

The conferees also agree that the additional $20,000,000 in new budget authority as recommended by the House, or the planned recoupment of $20,000,000 as proposed in the budget of prefinanced funds from NATO, may be used to offset the reduction in Army POMCUS construction funding which was reduced by a comparable amount by the conferees.

Amendment No. 9

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide $9,400,000 for planning and design, as originally proposed by the House in a separate title, instead of $11,400,000 as proposed by the Senate.

The complete text of the amendment is as follows: "designate: *Provided further*, That of the amount appropriated, not to exceed $9,400,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor".

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

Amendment No. 10

Appropriates $52,200,000 as proposed by the Senate instead of $43,500,000 as proposed by the House. The conferees have agreed to the following additions to the amounts and line items as proposed by the House:

Anchorage, Alaska:	
Combined Support Maintenance Shop alteration	+$120,000
Forsyth, Georgia:	
Brigade logistical facility	+122,000
Kaunakakai, Hawaii:	
Organization maintenance shop	+115,000
Springfield, Kentucky:	
60-person armory	+453,000
Oakgrove, Louisiana:	
60-person armory	+408,000
Vidalia, Louisiana:	
60-person armory	+404,000
Reidsville, North Carolina:	
200-person armory	+479,000
Greenville, Tennessee:	
60-person armory	+451,000
Planning and design	+2,900,000
General reduction	+3,248,000

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

Amendment No. 11

Appropriates $44,750,000, as proposed by the Senate, instead of $35,800,000 proposed by the House. The conferees agreed on the following adjustments to the amounts and line items approved by the House:

Hulman Field, Indiana:	
Arm/dearm pads	+$440,000
Selfridge ANGB, Michigan:	
Avionics/weapons release facility	+550,000
Rosecrans Memorial Airport, Missouri: Aerial Port training facility	+550,000
Hancock Field, New York:	
Fuel systems maintenance dock	+580,000
Avionics/weapons release shop	+1,030,000
McGhee-Tyson Airport, Tennessee:	
Maintenance control facility	+330,000
Planning and design	+3,400,000
General reduction	+2,070,000

MILITARY CONSTRUCTION, ARMY RESERVE

Amendment No. 12

Appropriates a total of $37,100,000, as proposed by the Senate, in lieu of $26,900,000 proposed by the House. The following adjustments are applicable to levels approved by the House:

Upland, California: Expand to to 200-person center with shop	+$920,000
Miami, Florida: Expand to 400-person center w/shop, maintenance support	+1,270,000
Omaha, Nebraska:	
600-person Reserve Center w/ organizational maintenance shop	+1,942,000
Planning and design	+5,500,000
General reduction	+568,000

MILITARY CONSTRUCTION, NAVAL RESERVE

Amendment No. 13

Appropriates $21,850,000 as proposed by the Senate. The conferees agreed to the following adjustments to the $16,600,000 program recommended by the House:

Naval Air Station, Dallas, Texas: Bachelor Enlisted Quarters	+$2,600,000
Planning and design	+1,500,000
General reduction	+1,150,000

MILITARY CONSTRUCTION, AIR FORCE RESERVE

Amendment No. 14

Appropriates $13,000,000, as proposed by the Senate, in lieu of $8,900,000 as proposed by the House. The conferees agreed that the following adjustments were applicable to levels allowed by the House:

Richards-Gebaur AFB, Missouri: Short field takeoff/ landing zone	+$590,000
Carswell AFB, Texas:	
Electronic countermeasures pod shop	+310,000
Planning and design	+1,300,000
General reduction	+1,900,000

FAMILY HOUSING, DEFENSE

Amendment No. 15

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows: In lieu of the sum proposed by said amendment, insert $1,679,865,000. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Planning and Design	+$750,000
Defense Attache Housing	+500,000
Furnishings Budget	+6,500,000
Leasing Budget	+3,500,000
Improvements to Family Housing	−5,000,000
Maintenance Budget	−15,000,000
Total	−8,750,000

Amendment No. 16

Provides $60,560,000 for construction, Army, instead of $62,310,000 as proposed by the House and $58,695,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Planning and Design	+$250,000
Improvements to Family Housing	−2,000,000
Total	−1,750,000

Amendment No. 17

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment which reads as follows: In lieu of the sum proposed by said amendment, insert $33,446,000. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to provide $33,446,000 for construction, Navy and Marine Corps, instead of $34,696,000 as proposed by the House and $43,451,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Planning and Design	+$250,000
Improvements to Family Housing	−1,500,000
Total	−1,250,000

Naval Submarine Support Base, Kings Bay, Georgia, family housing

The conferees agree to construction of 250 family housing units at Naval Submarine Support Base, Kings Bay, Georgia. The total estimated cost for these units, $11,505,000, is to come from funds that are available in previous year family housing new construction appropriations. The conferees desire that the housing mix should consist of 18 units for officers, 20 for noncommissioned officers, and 212 for enlisted personnel in grades E–6 and below.

The conferees also direct the Navy to carefully study the use of solar energy for the new family housing units at Kings Bay. Use of solar energy for these units should be based on sound economic feasibility, including the costs of maintenance as well as the per unit capital costs.

Amendment No. 18

Provides $35,335,000 for construction, Air Force, instead of $36,585,000 as proposed by the House and $33,935,000 as proposed by the Senate. The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Planning and Design	+$250,000
Improvements to Family Housing	−1,500,000
Total	−1,250,000

Amendment No. 19

Provides $3,024,000 for construction, Defense Agencies, as proposed by the Senate instead of $2,524,000 as proposed by the House. The conferees have agreed to the addition of $500,000 to the amount proposed by the House for attache housing.

Amendment No. 20

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment which reads as follows: In lieu of the sum proposed by said amendment, insert: $1,399,400,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have agreed to the following additions and deletions to the amounts and line items as proposed by the House:

Furnishings Budget	+$6,500,000
Leasing Budget	+3,500,000
Maintenance Budget	−15,000,000
Total	−5,000,000

Amendment No. 21

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which adds language establishing a floor for maintenance of real property facilities.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

Amendment No. 22

Appropriates $1,500,000 as proposed by the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1979 recommended by the committee of conference, with comparisons to the fiscal year 1978 amount, the 1979 budget estimates, and the House and Senate bills for 1979, follows:

New budget (obligational) authority, fiscal year 1978	$2,977,720,000
Budget estimates of new (obligational) authority, fiscal year 1979	4,253,000,000
House bill, fiscal year 1979	3,844,887,000
Senate bill, fiscal year 1979	3,964,746,000
Conference agreement	3,880,863,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1978	+903,143,000
Budget estimates of new (obligational) authority, fiscal year 1979	−372,137,000
House bill, fiscal year 1979	+35,976,000
Senate bill, fiscal year 1979	−83,883,000

GUNN MCKAY,
ROBERT L. F. SIKES,
JOHN P. MURTHA,
TOM STEED,
JOHN J. FLYNT, Jr.,
(except for the language relating to construction in the Panama Canal Zone),
CLARENCE D. LONG,
GEORGE MAHON,
ROBERT C. MCEWEN
(except for the language relating to construction in the Panama Canal Zone),
RALPH S. REGULA,
ELFORD A. CEDERBERG
(except for the language relating to construction in the Panama Canal Zone),
Managers on the Part of the House.

WALTER D. HUDDLESTON,
WARREN G. MAGNUSON,
J. BENNETT JOHNSTON,
DANIEL K. INOUYE,
JAMES R. SASSER,
TED STEVENS,
MILTON R. YOUNG,
HENRY L. BELLMON,
Managers on the Part of the Senate.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2701, WATER RESOURCES PLANNING ACT, FISCAL YEAR 1979

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that the conferees may have until midnight tonight to file a conference report on the Senate bill S. 2701, Water Resources Planning Act, fiscal year 1979.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 95–1494)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2701) to amend the Water Resources Planning Act (79 Stat. 244, as amended), having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That (a) section 401(a) of the Water Resources Planning Act of 1965 (79 Stat. 244, as amended) is hereby amended by deleting the words: 'Not to exceed $6,000,000 for fiscal year 1978' and inserting in lieu thereof: 'The sum of $2,886,000 for fiscal year 1979.

"(b) Section 401(b) of the Water Resources Planning Act (79 Stat. 244, as amended) is further amended by deleting the words: 'not to exceed $2,000,000 for fiscal year 1978' and inserting in lieu thereof: 'the sum of $2,668,000 for fiscal year 1979'.

"(c) Section 401(c) of the Water Resources Planning Act (79 Stat. 244, as amended) is amended by deleting the words: 'Not to exceed the sum of $3,905,000 for fiscal year 1978 for preparation of assessments, and for directing and coordinating the preparation of such river basin plans as the Council determines are necessary and desirable in carrying out the policy of this Act: *Provided*' and inserting in lieu thereof: 'The sum of $3,179,900 for fiscal year 1979 for preparation of assessments, and for directing and coordinating the preparation of such river basin plans as the Council determines are necessary and desirable in carrying out the policy of this Act: *Provided*, That $828,900 shall be available under this subsection for preparation of the Columbia River Estuary Special Study: *Provided further*, That $308,000 shall be available under this subsection for preparation of the New England Port and Harbor Study and $135,000 shall be available for completion of the Hudson River Basin level B Study: *Provided further*, That $150,000 shall be available under this subsection for completion of Case Studies of the Application of Cost Sharing Policy Options for Flood Plain Management in the Connecticut River Basin: *Provided further*'.

"(d) Section 301(a) of the Water Resources Planning Act (79 Stat. 244, as amended) is amended by deleting the words: 'for fiscal years 1977 and 1978, $5,000,000 in such year' and inserting in lieu thereof: '$3,000,000 for fiscal year 1979".

"(e) Appropriations authorized by this Act for salary, pay, retirement, or other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases authorized by law'.

And the House agree to the same.

LLOYD MEEDS,
MORRIS K. UDALL,
BRUCE F. VENTO,
MANUEL LUJAN, Jr.,
Managers on the Part of the House.

MIKE GRAVEL,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
PETE V. DOMENICI,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill S. 2701 to amend the Water Resources Planning Act (79 Stat. 244, as amended), submit this joint statement in explanation of the effect of the language agreed upon by the managers and recommended in the accompanying conference report.

The amendment of the House to the bill of the Senate consisted of striking all after the enacting clause and substituting in lieu thereof new text which differed from the Senate bill in four significant particulars. With respect to the first significant difference, the committee of conference accepted the Senate language for subsection 1(b), except the amount authorized to be appropriated for administration of the Water Resources Council and coordination of non-Title II activities and the appraisal program was reduced from $3,328,000 in the Senate bill to $2,668,000. This action has the effect of retaining the Water Resources Council as an administrative entity; whereas, the House amendment would have abolished the Council and transferred its functions to the Secretary of the Interior.

The managers on the part of both House and Senate certainly do not intend, by inclusion of language to continue the Council, to approve the past actions of the Water Resources Council. The one-year extension of this authorization will allow the next authorization of the Water Resources Council to be addressed in the context of the establishment of a national water policy as the House and Senate consider the President's proposed water policy. This intensive review will be undertaken next year and will coincide with the expiration of the authorization contained in S. 2701.

With respect to the second and third significant differences, the committee of conference accepted the House text of subsection 1(c) which authorizes $3,179,900 to be appropriated for level B and special studies as compared to $2,871,900 in the Senate bill. This action reconciles two differences in the differing texts by accepting an amount of $308,000 included in the House amendment for the New England Port and Harbor Study which was omitted from the Senate bill and accepting an amount of $459,000 included in the Senate bill for the Great Lakes water and energy study which was omitted from the House bill.

The last significant difference is resolved by the conferees by accepting the text of the House amendment with respect to subsection 1(d) of the bill thereby retaining the amount of $3,000,000 in lieu of the amount of $5,000,000 contained in the Senate bill. In accepting this amount, the conferees take note of the fact that both the House and Senate in passing the Public Works Appropriations bill have limited this activity to the $3,000,000 level, and acceptance of the larger sum would be essentially meaningless.

LLOYD MEEDS,
MORRIS K. UDALL,
BRUCE F. VENTO,
MANUEL LUJAN, Jr.,
Managers on the Part of the House.

MIKE GRAVEL,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
PETE V. DOMENICI,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

OLIN E. TEAGUE VETERANS' CENTER

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11579) to designate the Veterans' Administration center located at 1901 South First Street, Temple, Tex., as the "Olin E. Teague Veterans' Center," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

"TITLE I—NAMING OF THE TEMPLE, TEXAS, VETERANS' ADMINISTRATION CENTER FOR OLIN E. TEAGUE

"SEC. 101. The Veterans' Administration center located at 1901 South First Street, Temple, Texas, shall hereafter be known and designated as the "Olin E. Teague Veterans' Center". Any reference to such center in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Olin E. Teague Veterans' Center.

"SEC. 102. The provisions of this title shall take effect on January 4, 1979.

"TITLE II—NAMING OF CERTAIN VETERANS' ADMINISTRATION HOSPITALS

"SEC. 201. The Veterans' Administration hospital in Tampa, Florida, shall hereafter be known and designated as the 'James A. Haley Veterans' Hospital'. Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the James A. Haley Veterans' Hospital.

"SEC. 202. The Veterans' Administration hospital in Bedford, Masachusetts, shall hereafter be known and designated as the 'Edith Nourse Rogers Memorial Veterans' Hospital.' Any reference to such hospital in any law, regulation, document, map, record, or other paper of the United States shall be deemed to be a reference to the Edith Nourse Rogers Memorial Veterans' Hospital.

"SEC. 203. The Veterans' Administration hospital in Columbia, South Carolina, shall hereafter be known and designed as the 'Wm. Jennings Bryan Dorn Veterans' Hospital'. Any reference to such hospital in any law, regulation, document, or other paper of the United States shall be deemed to be a reference to the Wm. Jennings Bryan Dorn Veterans' Hospital.

"SEC. 204. The provisions of this title shall be effective on the date of enactment of this Act."

Amend the ttile so as to read: "An Act to designate the Veterans' Administration center located at 1901 South First, Street, Temple, Texas, as the 'Olin E. Teague Veterans' Center'; and for other purposes.".

Mr. ROBERTS (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendments be dispensed with and that they be printed in the RECORD. I will be happy to explain them.

The SPEAKER. Is there objection to the second request of the gentleman from Texas?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I will not object, I do so for the purpose of yielding to the distinguished gentleman from Texas (Mr. ROBERTS), the chairman of the Committee on Veterans' Affairs, so that he might explain the Senate amendments.

Mr. ROBERTS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Texas.

Mr. ROBERTS. Mr. Speaker, on August 7, 1978, the House unanimously passed and sent to the other body, H.R. 11579, a bill to designate the Veterans' Administration Center at Temple, Tex., as the "Olin E. Teague Veterans' Center."

On June 20, 1977, the House unanimously passed H.R. 1678, a bill to name the Veterans' Administration hospital at Tampa, Fla., the "James A. Haley Veterans' Hospital." On the same date, the House also passed H.R. 7643, a bill to name the Veterans' Administration Hospital at Bedford, Mass., the "Edith Nourse Rogers Memorial Veterans' Hospital."

Last Friday, August 11, the other body passed H.R. 11579 with two amendments. One amendment would incorporate the provisions of H.R. 1678, naming the hospital at Tampa, for the Honorable James A. Haley. The other amendment would incorporate the provisions of the other House-passed bill, H.R. 7643, naming the VA hospital at Bedford, Mass., as the "Edith Nourse Rogers Memorial Veterans' Hospital." In addition, the other body amended the bill to include a provision naming the VA hospital at Columbia, S.C., after the former chairman of the Committee on Veterans' Affairs, the Honorable William Jennings Bryan Dorn, of Greenwood, S.C.

Mr. Speaker, the entire South Carolina congressional delegation has sponsored legislation to name the hospital in Columbia after Mr. Dorn. The veterans organizations support the proposed legislation, and I am personally pleased that the bill as amended by the other body, has recognized the great work of our former chairman in behalf of veterans and their dependents. For his great work the Veterans of Foreign Wars, at its national convention in Minneapolis, Minn., adopted a resolution that the hospital in Columbia bear Mr. Dorn's name.

William Jennings Bryan Dorn was born in Greenwood County, S.C., on April 14, 1916. He was elected to the South Carolina House of Representatives at age 22 and to the South Carolina Senate at the age of 24, becoming the youngest State senator in the history of that great State.

Although exempt from the draft as a public official, following the bombing of Pearl Harbor, he resigned his seat in the State senate and volunteered for military service. He served for 3½ years in the Army Air Corps and was one of seven brothers in service during that wartime period.

Upon his return to civilian life, Mr. Dorn was elected to the U.S. House of Representatives in 1946 where he served for 26 years on the Committees on Veterans' Affairs and Public Works and Transportation. Mr. Dorn was a member of the Committee on Veterans' Affairs for 23 years, serving as its chairman during the 93d Congress before retiring from the House.

As a member of the committee, Mr. Dorn sponsored, or cosponsored every major legislative proposal adopted by the Congress pertaining to veterans' programs. As chairman of the Subcommittee on Compensation and Pension, he was instrumental in the enactment of major compensation, DIC and pension reform measures. He labored to bring about outstanding education and training programs for veterans who served during the Korean conflict and the Vietnam era. His sensitivity to the needs of the disadvantaged helped lead to the enactment of a special program for educationally disadvantaged veterans.

Mr. Dorn provided strong leadership in helping establish the very excellent medical program for veterans we have today. A new replacement hospital is now being constructed in Columbia and Bryan Dorn, more than any other single individual, is responsible for this great new facility. He helped bring about a second veterans hospital located in Charleston. He was instrumental in helping establish the new medical school at the University of South Carolina, and his State now has two outstanding medical schools and a medical complex in Columbia that ranks among the best in the country. Veterans and nonveterans alike will benefit from Mr. Dorn's efforts in their behalf.

Mr. Speaker, I concur in the Senate amendments to H.R. 11579, and urge the adoption of the bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, further reserving the right to object, I would like to express my full support for these amendments to H.R. 11579. As the chairman indicated, the House earlier passed and sent to the other body bills which would name hospitals after James Haley and Edith Nourse Rogers. My views in favor of those bills were expressed at that time, and have not changed. With respect to Hon. Bryan Dorn, I would like to associate myself with the remarks of the chairman. I knew William Jennings Bryan Dorn as a colleague in the House and on the Veterans' Affairs Committee, and was privileged to work closely with him when he was chairman of the committee. He has had a distinguished career as a public servant, as a member of our Armed Forces during a period of war, and in particular as a Member of Congress with a special dedication to the well-being of our Nation's veterans.

As such, Mr. Speaker, I strongly urge H.R. 11579 be adopted by the House, as amended.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas that the Senate amendments be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from Texas (Mr. ROBERTS)?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the legislation just under consideration the Senate amendments to H.R. 11579.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SECOND CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEAR 1979

Mr. GIAIMO. Mr. Speaker, pursuant to section 305(a), title II of Public Law 93-344, the Congressional Budget Act of

1974, and the order of the House of August 10, 1978, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 683), revising the congressional budget for the U.S. Government for the fiscal year 1979.

GENERAL LEAVE

Mr. GIAIMO. Mr. Speaking, pending that motion, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks, and include extraneous matter, during consideration of House Concurrent Resolution 683.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Connecticut (Mr. GIAIMO).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the U.S. Government for the fiscal year 1979, with Mr. NATCHER in the chair.

The Clerk read the title of the concurrent resolution.

The CHAIRMAN. Without objection, the first reading of the concurrent resolution will be dispensed with.

Mr. BAUMAN. Reserving the right to object, Mr. Chairman, I do so only to ask the gentleman from Connecticut (Mr. GIAIMO) what the schedule will be for the remainder of the evening.

Mr. GIAIMO. If the gentleman will yield, Mr. Chairman, it is my intention to proceed with general debate. As the gentleman knows, we have 10 hours of general debate. I hope we will not have to use all of the 10 hours. It is our intention to proceed with general debate, and then, hopefully, to conclude general debate this evening.

I have a committee amendment which I would then offer and then would immediately move that the committee rise so that we can debate the amendment tomorrow and act on it.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman from Connecticut, and I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the first reading of the concurrent resolution will be dispensed with.

There was no objection.

The CHAIRMAN. Pursuant to section 305(a), title III, Public Law 93-344, of the Congressional Budget Act of 1974, the gentleman from Connecticut (Mr. GIAIMO) will be recognized for 5 hours, and the gentleman from Ohio (Mr. LATTA) will be recognized for 5 hours.

The Chair recognizes the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of House Concurrent Resolution 683, the second budget resolution for fiscal year 1979.

I am pleased to say that the resolution, while accommodating full funding for the total range of authorized Federal programs provided in the first budget resolution, calls for substantially reduced spending and a dramatically lower deficit from what most of us expected when we convened at the beginning of the year.

The President's January budget proposals, you will recall, projected fiscal year 1979 spending of more than $500 billion and a deficit of over $60 billion. We reduced those levels significantly in the first, or target, budget resolution adopted in May. The latest analyses of agency needs and spend-out rates, coupled with restrained and disciplined congressional action on appropriation bills, now show that we can make substantial further reductions.

I intend to offer a committee amendment adjusting the resolution as reported by the Budget Committee to reflect House actions since it was reported, including passage of the Revenue Act of 1978. When so adjusted, the resolution will set a spending ceiling that is nearly $10 billion below the President's January proposals. It will project a deficit that is more than $20 billion lower, representing a slash in the deficit of more than 33 percent.

The deficit figure—despite nationwide inflation that has pushed up the costs of all Government programs and despite new Federal initiatives in such areas as urban programs, education, energy and veterans affairs—is the lowest of any deficit in the last 5 fiscal years.

I believe this represents remarkable progress in the space of a single year by a Congress too often accused of fiscal irresponsibility. Adoption of this resolution will demonstrate that we can manage the taxpayers' dollars with prudence and discipline, and it will move us solidly along the road toward a balanced budget in the 1980's.

I also believe that adoption of the resolution, with its substantially reduced outlays and deficit, is the best anti-inflation contribution that Congress can make to the Nation at this time. I believe it is in harmony with the mood and desires of the American people and consistent with the broad priorities of the great majority of Members of Congress.

I urge its adoption so that we can set in place the revenue floor and spending ceilings which are key parts of our system of budget control.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. GIAIMO. I yield to the gentleman from Oregon.

Mr. AuCOIN. I thank the gentleman for yielding.

Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Twenty-one Members are present, not a quorum.

The Chair announces that pursuant to rule XXIII, clause 2, he will vacate proceedings under the call when a quorum of the committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The committee will resume its business.

The gentleman from Connecticut (Mr. GIAIMO) is again recognized.

Mr. GIAIMO. Mr. Chairman, the second budget resolution for fiscal year 1979, when adjusted by the committee amendment, will set the following budget aggregates:

Budget authority: $561.2 billion, $7.7 billion below the first budget resolution.

Outlays: $490.5 billion, $8.3 billion below the first resolution.

Revenues: $450 billion, $2.1 billion above the first resolution.

Deficit: $40.5 billion, $10.4 billion below the first resolution.

The lower outlays result from a combination of factors including, as I have indicated, spending reestimates and congressional actions.

Updated outlay estimates based on the latest information from the executive branch now show expected savings of $5.5 billion for fiscal year 1979. That means that the full range of Federal programs authorized by the Congress and provided for in the first budget resolution can be carried out with no cutback in services at a cost that is $5.5 billion lower than estimated earlier this year.

At the same time, congressional action accounts for a reduction from the first budget resolution of $5 billion in budget authority and $2.5 billion in outlays. Much of this reduction is due to the across-the-board and other cuts in a number of House-passed and one Senate-passed appropriation bills. These cuts together total $1.9 billion in budget authority and $1.4 billion in outlays.

The revenue level is $2.1 billion above the target set in the first budget resolution due primarily to the smaller size of the tax bill adopted by the House last week and a lower revenue loss than assumed in the first budget resolution.

While no one can predict with certainty the ultimate size and shape of the tax bill after action by the other body and in conference, the committee amendment adjusts revenues to conform with the Revenue Act of 1978 as passed by the House.

The size of the Revenue Act of 1978 is $10.1 billion for fiscal 1979, compared to the first budget resolution level of $14 billion, which included a recommendation for partial rollback of social security payroll tax increases. Although there is no recommendation in the ways and means tax bill for a social security tax cut, I believe this is an issue that we should carefully consider next year.

I believe the fiscal policy in the second budget resolution is realistic and appropriate in light of today's economic conditions and those we expect in the coming fiscal year.

We have made considerable progress since recovery from the recession which began in the spring of 1975. Continued economic growth has reduced the unemployment rate from about 9 to 6.2 percent in July of this year.

But while unemployment has declined, the rate of inflation has accelerated, and the inflationary pressures remain powerful.

The Consumer Price Index jumped from 5.8 percent in 1976 to 6.5 percent last year. If the reduction in the rate of inflation for food continues, we expect a 6.9 percent annual rate of increase this year compared to last for the overall index.

The difficult challenge we face is to design a balanced fiscal policy that will sustain economic recovery and yet not create new inflationary pressures.

That is the balance the second budget resolution for fiscal year 1979 seeks to achieve. The budget committee believes that a tax reduction of the moderate proportions adopted by the House is essential to keep the recovery moving. We also believe that restraint in spending and a reduced deficit are essential to keep inflation in check. Our projections show that the fiscal policies in the resolution will enable us to reduce both the rate of inflation and unemployment next year, while promoting a reasonable 4 percent rate of growth.

The unemployment rate is expected to fall from the 5.9 percent we expect this calendar year to 5.7 percent in 1979. The inflation rate, meanwhile, is expected to decline from 6.9 to 6.7 percent. While neither reduction would be dramatic in scale, the downward direction is crucial. It is imperative that we cut both rates.

Another mix of spending and revenues could send one index or the other on an upward path. Major spending reductions would stall our steady progress in reducing unemployment. On the other hand, too much stimulus, either in spending or in the size of the tax cut, would push up the inflation rate, which to countless Americans is already intolerably high.

Furthermore, even if we wanted to risk runaway inflation by an all-out assault on unemployment through the stimulus of Federal spending, there is a serious question whether the overall jobless rate would fall as much as we would like. Economists increasingly agree that our most serious unemployment problems are structural in nature. They do not necessarily lend themselves to solution through broad fiscal stimulus, but rather to more carefully targeted programs aimed directly at those groups in which unemployment remains persistently and stubbornly high, and we have provided for these.

While outlays and the deficit in the resolution are substantially down, I want to emphasize that important Federal programs and services are in no way compromised.

The committee recommends continued support for jobs and employment training programs, including maintenance of 725,000 public service jobs. It also increases the President's request by $150 million to keep the summer youth program at the 1978 level.

The resolution recommends substantial funding for major urban initiatives including $1 billion for labor-intensive "soft" public works, $1 billion to continue the accelerated public works program, and $1 billion for supplementary fiscal assistance to States and localities.

The resolution provides $1.4 billion in outlays for new veterans' initiatives in pension, compensation, and readjustment programs.

It provides for a 25-percent increase over the estimated 1978 appropriation level for education programs, and provides for a $1.4 billion middle-income student assistance program.

It recommends $4.6 billion in additional funding for highway programs over amounts now available.

It provides an allowance of $750 million above what the House already has provided for energy programs, primarily to cover GNMA energy conservation loans for low- and middle-income families and for other energy programs.

Mr. Chairman, the congressional budget process is still a new and difficult discipline. The first budget resolution for fiscal year 1979 was adopted in the House by a margin of just four votes. The conference report was approved by a margin of only three. Nearly every affirmative vote in both instances was from the majority side of the aisle.

I would hope that more minority Members would support this second resolution.

Its lower outlay ceiling and substantially reduced deficit answer many of the stated objections of the minority to past resolutions.

We are recommending a tight budget. It should be borne in mind that the second budget resolution, under normal circumstances, is less of a policy resolution than the target resolution in the spring. Unless there are dramatic changes in economic conditions or compelling reasons to alter policy choices, the second resolution traditionally makes adjustments and reflects actions taken by the Congress since adoption of the target resolution.

This resolution fully reflects the actions taken by the House in cutting appropriation bills. We should, therefore, exercise great care, I believe, in considering any amendments that would make additional across-the-board cuts beyond those we have already adopted.

I would ask also that as we consider amendments we bear in mind that this is not a line item resolution. If we should adopt line item amendments, let us not delude ourselves that we are adopting the line items. Instead, we may well be engaging in meaningless gestures by accommodating, in the spending totals, programs that have no chance of approval by the legislative committees of the House. As I have said before, budget resolutions should not be vehicles for the "sending of political messages." The message that I believe we should be sending the American people in this or any budget resolution is that Congress can act not only with concern and compassion, but also with prudence and discipline in meeting the needs of the Nation and in managing the taxpayers' dollars.

Finally, I want to take this opportunity to pay tribute to four members of the Budget Committee who will be retiring from the House at the end of this Congress—OMAR BURLESON, of Texas; BOB LEGGETT, of California; OTIS PIKE, of New York; and DON FRASER, of Minnesota. All four have rendered diligent and valuable service to the Budget Committee and to the House. All of them have demonstrated their dedication to the budget process. We will miss them and their important contributions to our work.

I want to express my appreciation also to all of the members of the Budget Committee for their hard work and their cooperation during this budget year. In particular, I want to thank the ranking minority leader of the committee (Mr. LATTA) for his support, despite our often differing views, in working to achieve the goals of the Budget Act.

Mr. Chairman, I urge support of the resolution.

Mr. LATTA. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, at the outset I would like to echo what our chairman of the committee has said about our retirees on the Committee on the Budget. They have rendered outstanding service not only to this Congress but to the Nation and I am certain that every member of the Committee on the Budget and the Members of this Congress are going to miss them.

Mr. Chairman, I too want to thank the members of our staff for the diligent work they have done during the period of time that we have been deliberating.

I also wish to say, Mr. Chairman, that it is always a great pleasure to work with the chairman of the committee, the gentleman from Connecticut (Mr. GIAIMO) and all of the members of the committee in toto. We do have our disagreements but we disagree agreeably.

Mr. Chairman, I have served on the Budget Committee since its beginning, and during this time I have voted against every budget resolution both in committee and on the House floor because in every instance, spending and the resulting deficit were far too high. I intend to vote against this resolution as well for the very same reasons. I regret to say that the Congressional Budget Act has not proven, in my humble judgment, to be the restraint on spending which most of us had envisioned.

The record reveals that in the 5 fiscal years in which we have been subject to the Budget Act, we have increased Federal spending 82 percent and have seen the five biggest deficits in peacetime history. By the end of fiscal year 1979, we will have spent $260 billion more than we took in, just since 1974. We have in this same timespan nearly doubled the size of the Federal budget and have managed to add $356 billion to the public debt. This is not what I would call fiscal restraint.

In short, the Budget Act has not changed nor controlled the big spending habits of this Congress. We have, however, added another layer to the bureaucracy and left the impression that Congress was really doing something to control spending.

I am convinced that we can do a better job and that job can be done by placing a cap or a ceiling on total spending before we begin our work. Only in this way can we accomplish what we really want to accomplish; namely, to cut back on the growth of Federal spending.

What is particularly saddening to me is that for the past 24 years we have been systematically spending the country into bankruptcy. All you have to do is to take a look at the record. Next year we are going to have to go to $842 billion worth of public debt and that will not even get us through calendar year 1979.

We can hold the line, as I said earlier, on spending, only by ascertaining at the outset how much income we are going to have, then by agreeing not to spend any more than this amount. In effect, we are putting a cap on Federal spending before deciding how much money should go to each and every program.

Indeed, tomorrow the gentlelady from Maryland (Mrs. HOLT) will offer an amendment which does exactly this. It is the same amendment I first offered in the Budget Committee where it attracted bipartisan support. This amendment would first set a total spending ceiling; after adoption, it be in order to consider spending for individual programs. In the end, the sum of these individual programs could not exceed, that spending ceiling. Moreover this amendment provides for taxing and spending policies far more attractive than those recommended by the Budget Committee. While Mrs. HOLT will describe her amendment in more detail tomorrow, let me point out some of the things that make it a considerable improvement over the resolution now before us:

First, spending would be $10.5 billion less than the committee calls for, and budget authority in our amendment is $22.5 billion below the Budget Committee.

Second, the deficit would be $35 billion, or almost $9 billion under the committee's level. Finally, our amendment has a larger tax cut, one which—unlike the committee's recommendation—would actually reduce peoples' taxes next year. The following table spells these differences out in more detail:

FISCAL YEAR 1979 BUDGET

[Dollar amounts in billions]

Budget category	Republican amendment	Budget committee recommendation	
Revenues	$445.0	$446.8	Committee $1.8 higher.
Budget authority.	539.0	561.5	Committee $22.5 higher.
Outlays	480.0	490.5	Committee $10.5 higher.
Deficit	35.0	43.7	Committee $8.7 higher.
Public debt	833.3	842.0	Committee $8.1 higher.
Tax cuts	20.0	15.6	Republicans $4.4 higher.

If anyone is unaware of the condition of the American economy today, I would urge him to read the financial page of any good newspaper. We have double-digit inflation which exceeds that of all our major trading partners. The American dollar reaches new lows against the major foreign currencies almost on a daily basis. New capital investment and productive capacity lag far behind the rate needed to create new jobs and to keep this country competitive in world markets. Productivity has actually declined, while interest rates reach steadily upward.

Mr. Chairman, we did not get in this condition overnight. The factors which have succeeded in undermining our economy have been at work for many years, until today we have managed to at least strangle or partially strangle the goose that lays the golden egg.

For example, Mr. Chairman, since 1955 we have seen spending in this Congress increase by 592 percent, from an outlay figure of $70.9 billion to $490.5 billion. In just the last 20 years, we have seen an increase of 433 percent, from $92.1 billion to $490.5 billion.

In the last 10 years we have seen an increase of 166 percent, from $184.5 billion to $490.5 billion.

In the last 5 years, we have seen an increase of 82 percent; in the last 4 years, 50 percent; in the last 3 years, a 34-percent increase; and in the last 2 years, a 22-percent increase, from $401.9 billion to $490.5 billion.

Budget authority, which commits the Government to spending in future years, has been growing at the rate of 10.6 percent over the past 3 years.

Yes, Mr. Chairman, even in this budget resolution we see an increase of 9.7 percent, from $447 billion to $490.5 billion.

During the comparable period to which I have alluded, we have seen the national debt go from $222 billion to the projected figure I mentioned earlier of $842 billion in fiscal year 1979.

Mr. Chairman, these are startling figures, when we consider the fact that it took the first 173 years of our country's existence before we reached our first $100 billion budget, but it took Congress only 9 more years to reach $200 billion; 4 more years to reach $300 billion; and only 2 additional years to reach the $400 billion mark.

Since 1955 Federal spending has grown $422 billion, or almost 600 percent.

Mr. Chairman, we have had deficits in every one of these 24 years except 3. The interest needed to pay this debt has grown from below $5 billion per year to $48 billion, almost a tenfold increase; and the interest on the national debt is now the Government's fourth largest item in its budget and is costing more per day than all of our imported oil.

Let us look at it in another way. The Federal interest payments cost the taxpayers 8 cents per person per day in 1955. Today it is costing every American 58 cents per day.

How does this affect the man on the street? Prices have risen 150 percent during this period of time, with no end in sight. Government regulation of business has grown so rapidly that virtually every aspect of even the smallest concern is affected by the 15,000 new regulations which now flow out of Washington every year.

Mr. Chairman, these are the real reasons we are in such big trouble economically today. These policies based on more and more spending have been taking their toll. The Government has consistently encouraged consumption at the expense of thrift and savings. High taxes and higher and higher inflation have so eroded savings and investments that many retired people are now crying for mercy, when a few years ago they believed they were adequately prepared for retirement. Worse yet, we have been living off our children's credit cards and our children's children's credit cards and increasing the bill without giving the slightest thought as to how they will manage to pay in their day the current cost of Government plus the interest on the debt which grows larger every day.

What people once had to work and save for, many of today's generation demand as their birthright. The Government has given so freely of other people's hard-earned money that a whole recipient class has grown up to believe that there really is such a thing as the free lunch. The 95th Congress, like the 11 which preceded it, has made the free enterprise system a dirty word and consigned work and risk-taking to the dead-letter file. It has penalized success through the tax code and bestowed more and more benefits on those who choose not to work.

Let me expand on this last observation. The big spending liberals are constantly telling us our tax system is unfair, that it favors the wealthy at the expense of the poor. We heard these arguments just last week during debate on the tax bill. Well, this is just not the case. Instead, our tax system has become heavily weighted against the middle- and upper-middle income taxpayer. As the table below illustrates, the half of the American people earning above the median income—in 1976 that was anybody earning $9,561 or more—paid over 93 percent of all Federal taxes.

PERCENT OF TOTAL TAXES PAID BY HIGH- AND LOW-INCOME TAXPAYERS, 1971 AND 1976

Adjusted gross income class	Income level		Percent of tax paid		Average tax	
	1971	1976	1971	1976	1971	1976
Highest 10 percent	$18,034 or more	$24,971 or more	46.5	49.9	$5,324	$8,378
Highest 25 percent	$12,125 or more	$17,292 or more	70.0	72.3	3,208	4,857
Highest 50 percent	$7,292 or more	$9,561 or more	91.1	93.3	2,086	3,133
Lowest 50 percent	$7,291 or less	$9,560 or less	8.9	6.7	205	224
Lowest 25 percent	$3,291 or less	$4,372 or less	.7	.6	34	39
Lowest 10 percent	$1,270 or less	$1,707 or less	(1)	(1)	2	3

[1] Less than 0.1 percent.

Source: Tax Foundation computations based on Internal Revenue Service, Statistics of Income.

This percentage has increased in recent years because every tax bill since 1969 has given most of the cuts to the lowest income groups while ignoring the middle class. This is what I mean by tax policies which discourage savings, risk-taking, hard work, and success. If people wonder why we have such a shortage of capital investment these days, I would suggest he look at the tax laws for a big part of the answer.

We are in economic trouble but not for the reasons that the President of the United States chooses to tell us. It is not OPEC; it is not high-priced beef or pork; it is not the lawyers or the high-priced doctors that have pushed the country to the edge of an economic precipice. It is the ever growing spending of the Congress of the United States. We cannot point downtown and blame the President, whether he is Democrat or Republican, because that President, whoever he may be, cannot spend one red cent that is not first appropriated by this Congress. So the buck stops here, and I hope that before this resolution is adopted we will have another look at it. We can reduce the figures that have been alluded to by the Chairman because, frankly, I feel these are too high. When we are calling for a $44 billion deficit, I think that is much too high, and it can and must be reduced.

Mr. Chairman, I reserve the remainder of my time.

Mr. GIAIMO. Mr. Chairman, I yield 5 minutes to the gentleman from Florida, (Mr. LEHMAN).

Mr. LEHMAN. Mr. Chairman, I rise in support of the second concurrent resolution on the fiscal year 1979 budget, but I would first like to take a moment to mention that it has been a privilege to serve on the Budget Committee with my distinguished and able chairman, BOB GIAIMO, and the other members who are leaving the House or are due to rotate off the committee this year. It's not always easy to sit on this committee. Attempts to exercise fiscal restraint, or to reorder priorities within the limits of our budgetary resources, generate strong feelings and heavy pressures. But it is much harder to be the symbol of restraint and responsibility, to represent the committee in pointing out the sometimes unfortunate budget effects of otherwise attractive legislation, to play the storm cloud at the picnic.

I believe BOB GIAIMO has done a superior job as our chairman, and in difficult times. First, our economy is at a place where we need continued economic stimulus to be sure that our recovery does not falter, but, at the same time, we must be sure that our fiscal policies do not worsen the already worrisome inflation situation. Moreover, we must continue to provide assistance to those groups, particularly the minority unemployed, who seem to have been left behind by the recovery. Second, the budget process is beyond the point where we can ask for support merely because it is new and has potential. Budgets must begin to stand on their own, and I believe this budget is an important milestone largely due to the hard work of our chairman, and the staff under his leadership.

The House, too, deserves some credit for this resolution. While I might quarrel with some specific actions, the trend has been toward prudence and restraint, and most spending and revenue measures have been well within the targets set in the first resolution.

Whatever the necessity of running deficits in periods of recovery or slack economic activity, many of the constituents I have talked to over the months of this recovery, businessmen, retired people, homemakers, or workers, have expressed concern over the size of the deficit and public debt, and over the Nation's financial future. This resolution, then, with a deficit figure much lower than most of us could have dreamed of just a few months ago, will be reassuring to such people, and show them that the House is headed in the right direction.

The deficit in this resolution, $43.7 billion, is nearly $5 billion below the latest administration estimate. It is $7 billion below the figure in the first budget resolution, and nearly $17 billion below the President's January request. And, with the amendment to be offered by the committee, to make the resolution conform to House actions since it was reported, we may well find that the deficit for fiscal year 1979 ends up below $40 billion. This would be a reduction of more than $20 billion, or one-third, below the Presidents' request, and our lowest deficit since 1974.

Mr. Chairman, this is a good budget, but we still have much to do in future years, especially if budgets, as anticipated, continue to grow more restrictive and priority decisions grow even harder. I hope my colleagues will join me in supporting this resolution and proving that we can, as the buttons say, hold the line.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, I would like to get the record straight here. Could I have the attention of the gentleman from Ohio, please?

We talk about high deficits and the free-spending Congress. I would like to suggest during the last 5 years of the Budget Committee's existence, we are coming in now with a deficit that is going to be in the low 40's, or even below, somewhat below the 40's. With a little luck, it could be.

I would like to point out that last year's deficit, which was estimated to be about $61 billion will come in somewhere in the neighborhood now with reestimates of about $51 billion.

I would like to point out that this year is the first real Carter budget. Last year's budget deficit, which was estimated at $61 billion, and which will undoubtedly come in somewhere in the neighborhood of $51 billion was the first year of President Carter's administration, but it was basically the President Ford budget, with some changes made by the new President, as you know happens in the transition period; but if we look back, this year's budgets are the former administration; and what were the budgets of the former administration, the deficits? 1978, $51 billion; 1977, $45 billion.

The CHAIRMAN. The time of the gentleman from Florida (Mr. LEHMAN) has expired.

Mr. GIAIMO. Mr. Chairman, I yield 5 additional minutes to the gentleman from Florida.

Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Chairman, in 1976, $66 billion; 1975, $45 billion.

Now, let me say that it is not quite correct to blame Congress for these huge deficits. The fact is that the administration sends up each year substantial budget requests. In some instances, Congress adds to them. In other instances, Congress deducts from them; but the administration carries an equal, if not greater burden, in the amount of expenditures made by the Federal Government.

I think that it is not quite accurate to say it is the free-spending Congress that brings this about. I would say that in most instances it is the administration which starts the request and asks for these huge expenditures of money. It is Congress which I think has exercised some restraint and discipline.

I must say that I think the new administration is to be commended in that we are really beginning to get the deficits down and that we are also getting unemployment down and that we are trying to reduce deficits with a view to having a balanced or a near-balanced budget in the early 1980's.

I do not want to get into a Republican versus Democratic situation here. I think we both have lots of time for that; but I do not want to let pass the charge that we have a free or a wild-spending Congress here. I think we are trying and I think that over the last few years we have made efforts to get a better situation here.

Mr. LATTA. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Chairman, let me say to my friend, the gentleman from Connecticut (Mr. GIAIMO), that I am sure he does not dispute the fact that they cannot spend any money downtown that we do not first appropriate. The gentleman does not dispute that, does he?

Mr. GIAIMO. No, I do not dispute that.

Mr. Chairman, if the gentleman from Florida (Mr. LEHMAN) will yield further, I also know that they make some pretty handsome requests downtown from year to year in many areas, and I would say that the large deficits that I have become accustomed to in the Congress came about in the years under the last administration and not under the administration of Mr. Carter.

Mr. LATTA. Mr. Chairman, let me say, if the gentleman from Florida (Mr. LEHMAN) will yield further, that President Ford planned to present a balanced budget in fiscal year 1979, and spelled out exactly how he would do it in the last budget he submitted to Congress. When the Carter administration came in, I heard that they were going to balance the budget by 1981, but that has all been forgotten about now.

Mr. GIAIMO. Mr. Chairman, I do not quite know how Mr. Ford would have gone from an estimated $61 billion deficit in 1978 to a balanced budget in 1979 without some drastic and practically impossible actions.

Mr. DERRICK. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Chairman, in answer to the statements of the gentleman from Ohio (Mr. LATTA), I might say that when I came here, President Ford had given us a $76 billion deficit. We now have it down to $40 billion, and I will just say to the gentleman that we are doing the best we can. If he will just give us a little more time, we will work it out.

Mr. LEHMAN. Mr. Chairman, I would just like to say in the short time I have remaining that without the Committee on the Budget, even with all the deficits we still have, there would have been in my opinion a very much larger deficit. I think we have been a very constructive influence to keep the deficit from getting too far out of hand.

Mr. BURGENER. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the gentleman from California.

Mr. BURGENER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, while we are busy patting ourselves on the back, those of us who are on the Committee on the Budget, let me just remind my colleague in the well that we might think again about what the budget and the deficit might have been without us, because the national debt 4 years ago, when this vehicle was created, was some $400 billion, and today it is close to $800 billion.

Presidents do not enact tax laws, Presidents do not appropriate dollars; Congress does it, and "there ain't no two ways about it."

Mr. LEHMAN. Mr. Chairman, I will only say briefly in answer to that that I am still not convinced by the argument of the gentleman from California (Mr. BURGENER).

The CHAIRMAN. The time of the gentleman from Florida (Mr. LEHMAN) has expired.

Mr. GIAIMO. Mr. Chairman, I yield 2 additional minutes to the gentleman from Florida (Mr. LEHMAN).

Mr. Chairman, will the gentleman yield?

Mr. LEHMAN. I yield to the chairman of the committee.

Mr. GIAIMO. Mr. Chairman, I will say that meeting the needs of the American people is a job in which both the Congress and the executive branch play a role and must play a role.

The purpose of my comments was not to cast bouquets at the Committee on the Budget. My remarks were in response to statements that were made about this dreadful or this free-spending Congress, as if Presidents did not make requests for necessary expenditures and send up budget messages and requests to Congress each and every January. I think there are very real reasons why we make these expenditures of money, and I am not faulting former President Ford for the requests that he made and which were necessary in all areas of Federal activities—in defense, in foreign aid, in education, in income security, in health, and all the rest of them. I am not faulting him at all.

I am just saying, let us not play the game of trying to create the impression in the minds of people that this is some new phenomenon of free-spending and wild-spending that Congress has developed.

I will say, in defense of the Budget Committees, that I think the Budget Committees have acted as a discipline on us, albeit not a perfect one, because the process is new and I think we have a lot to learn as to what the effects of voting for legislation is on outlays. But I think we are making a start, and I think we have exercised caution and gotten across to the Members of this body the idea of a need for discipline in our spending and a need for restraint. I do not think we have reached the "Promised Land" yet, but I do not like to leave the impression that the White House and those in the executive branch do not have anything to do with the magnitude and size of the national budget.

Mr. LATTA. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me say to my friend, the gentleman from Connecticut (Mr. GIAIMO), if I may refresh his memory, that one of the first acts of the Carter administration was to send down a request to add about $21 billion for CETA, public works and other so-called stimulus programs to the Ford budget. That request came to our committee. So we have had a lot of add-ons to that Ford budget by this administration and by this "stimulus" package.

Mr. GIAIMO. Mr. Chairman, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Connecticut.

Mr. GIAIMO. The gentleman recalls that these took place, I think, in the third budget resolution. This was in the latter days of the Republican administration.

Mr. LATTA. The gentleman did not say "the Latta days," did he?

Mr. GIAIMO. In the later days of the Republican administration, when we were in the depths of a recession, as the gentleman will recall. And there was a need for stimulus and a need to bring the country back out of this recession and the low rate of economic growth and high employment.

Mr. LATTA. Mr. Chairman, let me say that these little add-ons added about $20 million to the deficit. I have to agree there is a function for the administration, but there is also a function for this Congress to perform, and especially the Budget Committee, and I think we can perform that function much better by putting these spending ceilings on in the beginning and saying that we are going to live with them instead of going along with the various requests which keep adding up and hoping that by the time we end up we will come out all right. That was one of the reasons we came forward with the Budget Act, in the first place, because we had these Appropriation Committees making appropriations and hoping that in the end everything would come out OK. Now we have the Budget Committee and we are doing the same thing the Appropriations Committee did. I just hope we will be able to do something about it tomorrow by adopting the figures that will be proposed by the gentlewoman from Maryland (Mrs. HOLT) and that we can make some further reductions without anybody getting seriously hurt.

Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland (Mrs. HOLT).

Mrs. HOLT. Mr. Chairman, the able chairman of our committee says that he does not want us to try to create the impression that Congress is free spending. Well, I do not think we have to try to create that impression. I think we are hearing—and I know the chairman agrees with me—day after day from people all over this country trying to reclaim their birthright to liberty. They are rising up about our wasteful spending and our high taxes. I will bet there are not 50 Members in this body who would say that their constituents want more government. Proposition 13 in California recently excited the Nation about voting to limit governments' power to tax, and we are seeing this all over the

country. It is happening back in my State of Maryland.

So tomorrow I am going to offer an amendment to the second concurrent budget resolution that will permit us to really impose some discipline on ourselves. Remember that this is the purpose of the Budget Act which we passed in 1974—to set a limit on the growth of Government. The Budget Committee, a majority of the committee, thus far has failed to exercise this responsibility. It has become an accounting operation, estimating and adding numbers to arrive at bigger budgets to accommodate everybody's wish list. And that is why I feel compelled to offer this amendment to the budget proposed by the committee. We must have some meaning in this budget process. We can make this second budget resolution the beginning of a direct and certain path toward a balanced budget.

The President, just yesterday, in Columbia, Mo., was quoted as saying that the Congress must stop the spiraling growth rate of Government.

Mr. Miller, Chairman of the Federal Reserve Bank, said before our committee that this was the only way to curb inflation and to restore confidence in our dollar.

Mr. GILMAN. Mr. Chairman, will the gentlewoman yield?

Mrs. HOLT. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment in the nature of a substitute which will be offered by my distinguished colleague, the gentlelady from Maryland (Mrs. HOLT) to House Concurrent Resolution 638, the second concurrent resolution on the budget, fiscal year 1979.

The gentlelady's measure is a fiscally sound, comprehensive Republican alternative budget for fiscal year 1979, representing the first year of a 5-year plan to ease Federal tax burdens and to produce a balanced budget by 1982. It is an alternative that responds to the rightful demands of the American people for relief from escalating taxes supporting wasteful and ineffective Federal programs.

To stem double-digit inflation and inordinately escalating Federal taxes which are robbing the pocketbooks of our Nation's taxpayers, this measure would accomplish the following: (1) limit the growth in Federal spending for 1979 to approximately 7.4 percent (versus 10 percent proposed by the Budget Committee); (2) cut taxes by $28 billion beginning January 1, 1979; and reduce the deficit to $35 billion ($10 billion below the Budget Committee's proposal for fiscal year 1979 of $43.7 billion).

The Holt measure is a viable alternative to those budget proposals emerging from the majority in Congress which have spelled record-high spending rates and record-high taxes. This misdirected fiscal planning only fuels inflation; inflation which was 4.8 percent in 1976, 6.9 percent in 1977, and now in 1978 has reached 10.3 percent—an increase of over 100 percent.

Under the proposal I am urging my colleagues to support, spending would increase, but at a fixed rate of approximately 7 percent which is designed to hold current levels of spending after adjusting for inflation. By adopting this approach, we are in effect saying that if the President or the Congress wants new programs then it is incumbent on them to find the money to fund those programs by cutting waste and reallocating moneys from outdated, ineffective programs.

Mr. Chairman, there are many who proclaim that rising taxes and accelerating inflation are the No. 1 enemies of the American people. Yet after identifying these two economic culprits, we are still left with the task of minimizing their deleterious effect upon the taxpayers of this Nation. Many of my colleagues and I attempted to do just that by supporting and voting for the Kemp 33-percent tax cut, and voting against previous budget resolutions containing sky-high spending and bloated deficits.

Unfortunately, however, even though the proposition 13 inspired antitax sentiment has elevated taxpayer resentment to tidal wave proportions there are still those supporting swollen budgets which in no way recognize the loud protests of this Nation's taxpayers.

Accordingly, I urge my colleagues to support the proposed amendment to be offered by the gentlelady from Maryland providing this Nation with a budget specifically designed to reduce inflation, to cut unnecessary Federal spending, and to trim the national deficit so that the scales of our Nation's economy will finally be tipped in favor of our taxpayers and hopefully will result in a balanced budget by 1982.

Mr. DERRICK. Mr. Chairman, will the gentlewoman yield?

Mrs. HOLT. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Chairman, I rise in strong support of the second budget resolution for fiscal year 1979, and urge all of my colleagues to vote for its passage.

A little more than 3 years ago the Budget Committee brought to the House the first budget resolution for fiscal year 1976; its action under the, then new, Congressional Budget Act. That first resolution recommended a deficit of $73.2 billion; it reflected an economy that had an unemployment rate of 8.7 percent, and which was recovering from the worst recession since the 1930's. We are now in the third year of recovery; unemployment is in the 5.5- to 6-percent range; the economy has created a record number of jobs; business investment and profits are looking better; and your Budget Committee is recommending a deficit of about $40 billion.

The economy is still not completely back on track. Inflation is too high; unemployment, especially "structural" unemployment, is too high, the rate of capital formation is too low, and our balance-of-payments position is precarious. It would be ingenuous to argue that all of the credit for the recovery, or the responsibility for the future of the economy, belongs to the budget process. We all know that fiscal policy is only one instrument of economic policy. Monetary policy, trade policy, and regulatory policy are equally important. I would argue that the fiscal policies called for in our past budget resolution have contributed significantly to the recovery. I believe that the fiscal policy called for in this resolution will help sustain the recovery. and I hope that future budget resolution will guide the economy back to full employment without igniting another round of double-digit inflation.

This is a good budget resolution. It will be made better by a budget committee amendment reflecting House action on the tax bill, and the defense and foreign aid appropriations bill. With the committee amendment the deficit will be $40.5 billion, $10.4 billion less than the first resolution, and will be the lowest deficit since fiscal 1975 and outlays of $490.5 billion, $7.8 billion less than the first resolution.

There will be some other amendments offered on the floor which purport to make major changes in your Budget Committee's recommendations. I would like to point out to my colleagues that some of these amendments would require the Ways and Means Committee to report out a new tax bill, and the appropriations Committee to report out 12 new appropriations bills and that the House and Senate act on these bills before this Congress can adjourn. I do not believe that this is realistic. Such amendments, because they demand unrealistic actions are inherently not worthy of our support. This budget resolution largely reflects actions already taken by the House; about 96 percent of the "dollars" in this resolution have already been acted on by the House. We have spent months fashioning tax and spending legislation. I do not believe we are prepared to do this work again.

This resolution restrains total Federal spending while providing for needed increases in defense, education, agriculture, jobs, veterans, and transportation programs. It provides for a large tax cut. It is a good resolution and it needs your support.

Mrs. HOLT. Mr. Chairman, our Budget Committee chairman has told us that this is a lean and austere budget. This is really not the case. We have simply reestimated the amounts that the agencies can spend. They cannot spend money as fast as we have been shovelling it out to them. Actually, a slim committee majority has reported a budget with a growth rate of almost 10 percent in fiscal year 1979. My amendment simply proposes a 7-percent growth rate, which should be enough to accommodate existing Federal programs adjusted for inflation. I am not proposing cuts in any program.

I am suggesting that we can expand less rapidly, and budget authority must be curbed. We cannot blindly go on increasing budget authority in future

years if we hope to ever control our budget.

The committee majority has proposed a phantom tax reduction which is really a tax increase. It falls far short of offsetting the increase in social security taxes and the inflationary push of people into higher tax rate brackets. Moreover, the committee uses an unrealistic inflation rate.

My substitute allows for a substantial tax reduction of $20 billion. The chairman of the Finance Committee in the other body has indicated that he wants a tax reduction significantly larger than that recently approved by the House. My budget allows for this happy possibility.

Last week, as we debated the tax bill, speaker after speaker said that we need a real tax reduction, but that it must be linked with a slowdown in the rate of the growth. This amendment really gives us the opportunity to do this.

Mr. PICKLE said in his comments:

The American people are scared to death of inflation.

Mr. YOUNG of Missouri said:

All of us sense the present mood of the Nation in favor of a reasonable tax cut and a sensible reduction in Federal spending.

Mr. BIAGGI said:

Enactment of a tax cut coupled with a concerted effort to reduce inflation must be viewed as this Nation's most important domestic priority.

The CHAIRMAN. The time of the gentlewoman from Maryland has expired.

Mr. LATTA. Mr. Chairman, I yield 3 additional minutes to the gentlewoman.

Mrs. HOLT. Mr. VANIK said:

They want tax cuts to come out of a Government which is going to spend less. . . .

The gentleman from Missouri (Mr. ICHORD) reminded us very eloquently that we cannot cut taxes without cutting spending. We cannot do either without experiencing devastating inflation. He went on to say:

We should start paying the fiddler if we continue the spending dance.

I think we got the message in all the comments Members made. The committee has reported a $44 billion deficit, which represents very little improvement from the inflationary deficit this year. My substitute would reduce the deficit further, and demonstrate that we really want to start the trend toward responsibility.

We are going to be told that we cannot accomplish this goal because of time limitations. It can be done. If we adopt this amendment, it will force us to really budget; decide how much money we anticipate receiving from a tax rate which would be more acceptable to the American people; how much we should spend; how we can reach a balanced budget.

This would then start a responsible trend in our economy and show that we are able to cope with our troubled economy and reach a balanced budget.

What greater accomplishment could we achieve before we go home to face the voters.

Mr. GIAIMO. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, first of all I would like to express my appreciation to the chairman of the Budget Committee for the leadership he has exhibited in working with all of us in trying to resolve the different problems that always are involved in putting the budget resolution together. I know that through his patience and willingness to take, I guess one might call it, input from all of us, he has been able to guide our committee through the very difficult task of coming up with a budget resolution. I wanted to express that first of all.

Second, Mr. Chairman, I rise in support of House Concurrent Resolution 683, the second concurrent resolution on the budget for fiscal year 1979.

This resolution represents the culmination of the third complete cycle of the congressional budget process. The success of this process, and the willingness of the House to support it, is an accomplishment of which the membership of this body should be especially proud. At a time when confidence in Government seems to sink lower with the release of each new public opinion poll, the vitality of the budget process should come as a welcome sign to the American voter.

Quite frankly, this second budget resolution for fiscal year 1979, which decreases the deficit by some 24 percent compared to the President's budget request last January, will be quite popular with our constituents. It responds to the sentiment for reduced expenditures, yet still provides adequate funding for important national priorities. I think this is a budget the American voters will be happy with.

House Concurrent Resolution 683 revises the first budget resolution, taking into account action taken by the House since adoption of the first budget resolution, changing economic conditions, and recent estimates of Government spending. In essence this second resolution continues the policies of the first resolution, yet suggests that we reduce budget authority by $7.3 billion and outlays by $8.3 billion. Beyond this, the committee will offer an amendment which will conform the amounts in the resolution to reflect actions taken on the floor since the committee reported the resolution. If the House accepts that amendment the deficit will be over $20 billion lower than the figure projected by the President last January, and almost $10 billion below the amount projected in the first budget resolution. Thus, House Concurrent Resolution 683 represents real progress toward reaching a balanced budget early in the 1980's.

Mr. Chairman, the budget resolution is Congress single most important statement of fiscal policy. The economic assumptions for calendar year 1979 underlying this resolution are as follows: A real GNP growth rate of 4 percent, an unemployment rate of 5.7 percent, industrial capacity utilization rate of 83.6 percent, and an inflation rate of 6.7 percent.

The economic situation we face today is one of relatively high rates of unemployment and near double digit rates of inflation. During preparation of this second budget resolution the committee heard testimony from a great number of economists and budget experts. Almost unanimously these people agreed that appropriate fiscal policy under today's conditions must sustain effective demand and encourage investment, while restraining stimulative efforts that would increase the rate of inflation. Large increases in Federal expenditures or greatly enlarged tax cuts could easily add to inflationary pressures, ultimately leading to a credit crunch which would abort the healthy pattern and level of investment now emerging.

Therefore, the committee has designed the second budget resolution to achieve two broad economic goals:

First, to maintain a healthy rate of economic growth and to move the American economy closer to full utilization of manpower and capital resources; and

Second, to achieve such a healthy rate of growth without adding to inflationary pressure in the economy.

These goals are to be accomplished by restraining expenditures to a level nearly $10 billion below the President's original budget proposals, and by a tax cut that will provide stimulus without accelerating inflation.

Mr. Chairman, despite the notable progress we have made in employment since the recession in 1975, there are groups in our society which still suffer from intolerably high rates of unemployment. During 1977, while overall unemployment fell, black unemployment rose. Among black youths in this Nation's cities, unemployment is reaching levels of 50 and 60 percent.

Recognizing the needs of these groups, this resolution recommends support for ongoing training and employment assistance programs, including maintenance of 725,000 public service jobs. It recommends support for the accelerated local public works program, and for job-creating "soft" public works.

I ask my colleagues to hold the line on these programs. We are all concerned with the fight against inflation and so we are tempted to cut these job-creating programs. This would be a short-sighted move that will contribute nothing to reducing inflation. To turn our backs on these groups now is tantamount to saying we will fight inflation with the jobs and livelihood of the black poor.

Again, I ask you to hold the line on these programs. For many people these public service jobs are the only hope they have in the fight against inflation. These are narrowly focused programs of a targeted nature. They do not create pressures in the labor market—in fact, most economists agree that if we are going to fight inflation on a long term basis, structural unemployment programs, such as these, are essential to insure that an adequate labor force will exist in the years ahead.

Finally, Mr. Chairman, I hope we can

all be guided by the underlying purpose of the congressional budget process: to insure that we in Congress assume the responsibility for the total fiscal consequences of our various actions. I rise in support of House Concurrent Resolution 683 because I want to urge every Member of Congress to assume that responsibility. A "no" vote on final passage is an indiscriminate and irresponsible vote. Nay-saying does not offer an alternative; it only sabotages the one mechanism by which each Member of Congress must take responsibility for the consequences of the many separate decisions we make.

I would urge all Members to vote in favor of the second budget resolution for fiscal year 1979 and support the congressional budget process of which it is a part.

Thank you.

Mr. LATTA. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, first of all I want to compliment the chairman of the Budget Committee. It has been a pleasure serving with him and I appreciate the evenhanded way in which he presides over this committee. I think we all work hard at trying to solve the problems, recognizing that there is a great diversity of opinion as to how to deal with budget matters.

Second, I want to indicate my support for the amendment that will be offered by the gentlewoman from Maryland (Mrs. HOLT). I think this is a vital step toward a balanced budget, a goal that many pay lip service to but find difficult to achieve.

I think it is interesting and it probably says more eloquently than words, as to our priorities that here we are dealing with a budget resolution which will have a substantial impact on what the pollsters tell us is the No. 1 concern of the American public; namely, the problem of inflation, and yet we speak to an empty Chamber and to a largely empty press gallery.

If it were not for the fact that in the chair presiding tonite is the gentleman from Kentucky (Mr. NATCHER) who, in my judgment, is the finest presiding officer in the House of Representatives, I would not believe that consideration of the budget is one of the most important activities of this body.

In assessing blame, for our present financial situation, we should recognize that there is enough to go around with varying degrees of responsibility. What we have is a legacy from previous Congresses and previous Presidents. We need to search for techniques that will bring fiscal stability to the people's business.

I remember so well the statement that we could have guns and butter, that it did not require anything in the way of increased taxes because this Nation was so rich we could afford to have both. Yet just the other day I read that the estimated cost of those guns that we were talking about at that time; namely, the Vietnam war, when finally the bill is totally in, will be in excess of $500 billion, to say nothing of the cost in human terms.

That is a figure that was probably never discussed on this floor and yet, when it is all totaled, this will be the cost to the taxpayers of the United States.

I think this points out the fact that it is vital that we begin to have a greater public dialogue on budget matters; to recognize that there are no free meals and that somebody has to pay for every government activity and for every benefit bestowed by Government.

Today my colleague, the gentleman from South Carolina (Mr. DERRICK) and I introduced an amendment to the Budget Impoundment Act that would require 5-year targets in the budget resolution. This is at least an attempt to look ahead as to what the overall cost of the programs that are started in any given year might be in the future. I think perhaps in this way we can, in part, have some public recognition that these meals are not free and if we are going to start small programs or small projects that they eventually get large and costly and must be ulimately paid for by taxpayers.

I am reminded as we go forward with the budget debate today of the statement of Senator RUSSELL LONG about public attitude toward taxes. It goes like this: "Don't tax me, don't tax thee, tax the man behind the tree."

We find the same attitude when it comes to proposals to reducing spending increases or in the debate we find that everybody is for a balanced budget. We hear it on the streets of our hometowns, people are for reducing taxes, but when it comes to their favorite program, it is, "Don't cut me, don't cut thee, cut the man behind the tree." In other words, cut somebody else's program and thereby achieve our goals.

I think we have to recognize if we really do want to achieve fiscal responsibility it is going to mean a reduction in the increases in most of the Federal programs. It seems to me that we need to adopt a long range program that would have the following elements.

First of all, we need a permanent tax reform package, particularly in the middle income brackets, to encourage productivity, capital investment and ultimately greater tax receipts.

Last week we had a start in the passage of the tax bill that had bipartisan support in the Committee on Ways and Means and on the floor.

Second, I think we need to declare a moratorium on new programs, unless the same can be financed by eliminating or reforming the existing failures.

The CHAIRMAN. The time of the gentleman has expired.

Mr. LATTA. I yield 3 additional minutes to the gentleman from Ohio (Mr. REGULA).

Mr. REGULA. Mr. Chairman, we need to bring management to the Government.

Third, I think we need to reduce gradually program aspects evaluated to be unsuccessful and/or duplicative.

During the committee hearings I asked the Director of OMB if agencies are required to prioritize their programs, and he indicated that that is the case.

I have written to several agencies and requested information about how they have done this. This information should be helpful to the Budget Committee. Today a number of Members reintroduced a bill that would require the President to rate programs as to effectiveness. This is a good step toward a better management handle for Government activities and a very essential part of reducing the expenditures of the Federal Government as a part of our gross national product.

Another value that will result from this proposed legislation, if adopted, would be that of stimulating public dialog as to what we really want in terms of Government programs, and more particularly, as to what people are willing to pay for. It is great to talk about Federal programs, but people somehow think that the "man behind the tree" ultimately is going to pay the bill.

Fourth, Mr. Chairman, I think we need to hold the majority of existing programs and funding at current policy levels. I can see no reason that expenditures for Federal programs should rise faster than our gross national product and the Consumer Price Index.

Fifth, I think we need to reform major Federal programs, such as welfare and health, to provide better management of the delivery system.

The experience in HEW where the head of the agency points out that there is anywhere from $5 billion to $7 billion that cannot really be accounted for, is indicative of the need for a better control or management of the delivery system for these services.

Sixth, we need to revise the Federal structure to coincide with the private sector in the areas of retirement and Federal wages so as to equal, but not exceed, comparable private employment.

Mr. Chairman, I think that if we could start down the road outlined herein perhaps, working together, we can achieve what the American people, in my judgment, want; and that is a responsible Government which gives them value received for their hard-earned tax dollars, which maintains the kind of economic system that rewards productivity, which encourages people to participate in the economic system and which has brought this Nation dynamic growth during the past 200 years.

Mr. GIAIMO. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman and my colleagues in the House, my distinguished colleague, the gentleman from Ohio (Mr. REGULA) has referred to the paucity of the crowd here on the floor and in the galleries. While we may lack something in quantity, we have quality here tonight for our brief discussion, and I think I can say that with unanimous agreement.

Mr. Chairman, I would like to join my colleagues in commending our chairman

for handling a difficult chore with great skill. I also commend the staff which is here. We are going to be losing one staff member to the Federal Reserve Board if the published reports are accurate. We shall miss her services. The staff has been excellent.

Mr. Chairman, I also want to commend our colleagues on the other side of the aisle. We have had a good working relationship, which has not always been evidenced by the votes on final passage. Beyond that, however, the working relationship has been good.

Mr. Chairman, let me just make a couple of points very quickly. One is the bottom line, and that is the deficit. After having in fiscal year 1978 a deficit of about $50 billion, we are coming in with a figure in the committee amendment which is down to $40 billion for fiscal year 1979. In fact, after we take further action in the House and the Senate and we have shortfalls, it will probably be below $36 billion.

That is an appreciable drop. If the Members remember where we started, the President recommended a $60 billion deficit and the Chairman of the Joint Economic Committee came in and said it would probably be $70 billion. Many of us—and I was one of them—agreed with them at that point because there were many things included and many assumptions made by the President that we did not think were realistic—hospital cost containment, and a variety of other things. We have moved from that assumption of about $70 billion down to $36 billion, and even if you include the off-budget items, we are down to roughly $70 billion in deficit.

The chances for the future, I think, depend on three things. One is restraint on the part of all of us. No. 2, what can happen in the area of defense. Can the United States and the Soviet Union mutually reach agreements that are enforceable that will permit us to have some realistic reductions in this major controllable expenditure. The third area is what can happen in the area of employment. My distinguished colleague, the gentleman from Ohio (Mr. LATTA) said that the goal of no deficit by 1981 is unrealistic. If one takes a look at where we have come from in 1978 to 1979, from about $50 billion down to $36 billion and simply project it, then we get down to an $8 billion deficit, and with a little restraint and with a little luck it seems to me that that it is not an unrealistic possibility to hope for a balanced budget in 1981. It may be that at some point, particularly in a nonelection year, we will exercise a little more restraint. I personally was one of those who voted for the Vanik-Pickle amendment. Had that amendment been adopted, we would be another $10 billion below this projection.

The distinguished gentleman from Ohio (Mr. LATTA), the minority member on the Committee on the Budget, complained that we have not been doing what we should on the Budget Committee, but the Budget Committee has not worked effectively and has not had a restraining effect at all. I would differ with him

Mr. LATTA. Will my friend yield to me?

Mr. SIMON. I yield to the gentleman from Ohio.

Mr. LATTA. I do not believe the gentleman is quoting me accurately. I think we could have done a better job. I think we could have done more of a restraining job than we have done.

Mr. SIMON. The gentleman did add that. In fact, I have in quotes that we can do a better job. There is no question—and I do not care what committee it is—we can do a better job, and I think gradually we are going to do a more effective job in the area of priorities.

Just as a matter of interest, as I was seated there, I looked at the areas where we have increased. The most areas of percentage we have decreased. The areas we have increased are energy; natural resources and environment; community and regional development; education, training, employment, and social services; health; income security; and interest. In 17 of the 19 categories we have increased. In the others we have decreased. I am talking about from 1971 to 1975 in interest we went from $19 billion to $48 billion. The big increase other than in income security, incidentally, is in health where we have gone from $14 billion to $49 billion.

I think this budget that we have is a sound proposal. As I sense the mood of the House, it will be carried and carried surprisingly not by a small margin. I am proud to be a part of this committee. I am proud to be associated with the men and women of this committee who are on the floor and in the gallery. I hope we do the responsible thing tomorrow and pass this overwhelmingly, and I hope we can come back from the conference committee with a final figure that is approximately the same as the one that will emerge from the House.

Mr. LATTA. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Chairman, it is nearly 8 o'clock and with less than 10 Members on the floor, this is an important resolution and if anybody bothers tomorrow to read the RECORD, I think we ought to put a few statistics in so we know what this is all about. Some of our colleagues have been patting themselves on the back and trying to create the impression that this is a conservative Congress, probably stimulated by the successful passage of proposition 13 in California.

We have an opportunity to vote on this second concurrent budget resolution tomorrow. We should keep in mind that this resolution includes an increase in Federal spending of 9.7 percent over 1978; an increase in budget authority of 12.3 percent; an increase in taxes of $11.4 billion; a budget deficit of $44 billion, and an extra tax bill of about $700 per American family.

It will result in higher rates of inflation and it includes funding for wasteful and pork-barrel programs.

The fiscal and economic policies of the Democrat-controlled Congress and the Carter administration are responsible for taxes nearing confiscatory levels. The record for the past 3 years of this Democrat-controlled Congress shows that Federal spending has increased by $122 billion, or 33 percent, over 1976. Cumulative deficits for the 3 years total a recordbreaking $140 billion.

Consumer prices have risen from an annual rate of 4.8 percent in 1976 to an annual rate of almost 11 percent. Wholesale prices have risen from an annual rate of 4.7 percent in 1976 to 11 percent.

The Holt amendment that was described by the charming gentlewoman from Maryland (Mrs. HOLT) represents the first year of a 5-year plan to gradually lower the Federal tax burden and produce a balanced budget by 1982. It contains a real tax cut of $28 billion beginning next January. It holds the rate of growth in Federal spending to 7.4 percent, and reduces the budget outlays by $10 billion.

I hope that the Members will support the Holt amendment when it is offered tomorrow.

The message from the American people is that the burdens of Government have become too great. It has eroded the earnings and savings, destroying aspirations, and crippling the ability of people to make productive, job-creating investments.

As my colleague, the gentleman from Ohio (Mr. LATTA) said, notwithstanding who is in the Congress, only the Congress can authorize, only the Congress can appropriate Federal funds and the Democrats have controlled the Congress for a quarter of a century uninterruptedly. They can take the credit or accept the blame, whichever pleases them the most.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. DEVINE. I yield to the distinguished gentleman from Iowa.

Mr. GRASSLEY. Mr. Chairman, I congratulate the gentleman from Ohio for his comments. I thank the gentleman for yielding.

Mr. Chairman, I rise to point out that the Senate passed a balanced budget amendment on July 31, 1978. It passed by a vote of 58 to 28. It was sponsored by the good and fiscally responsible senior Senator from Virginia. This is the first time I know in the 4 years I have been in Congress that the Senate has expressed its opinion on balanced budget amendments. Obviously, this is a result of the proposition 13 movement.

I hope we do not have any trouble with the amendment of the gentlewoman from Maryland (Mrs. HOLT), a very responsible amendment to have a balanced budget in 5 years. In fact, I am hoping that with the Senate, as liberal a body as the Senate tends to be, that we will be able to accomplish a balanced budget in less than 5 years since the Senate is now inclined to go in that direction.

So once again, I thank the gentleman from Ohio for his comments and hope as the gentleman does, that we will be able

to get a balanced budget sooner than in 5 years.

Mr. DEVINE. Mr. Chairman, I thank the gentleman from Iowa for his contribution.

Mr. Chairman, in conclusion, let me say this: When the Committee on the Budget was created, with the hope of getting a handle on spending, I think our national debt was around $400 billion. It is double that now. I think we just passed an increase in the budget of over $800 billion. I wonder where we would have been had this conservative budget committee not been created.

Mr. Chairman, I yield back the balance of my time.

Mr. GIAIMO. Mr. Chairman, I have no further requests for time.

Mr. LATTA. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, I do not intend to take a great deal of time, except to say that I do support the Holt substitute, which I think will be far more responsible than what the committee has finally produced.

In addition to that, I will offer a balanced budget amendment in the nature of a substitute along the lines of what my colleague, the gentleman from Iowa (Mr. GRASSLEY) has just suggested we might achieve.

There are three ways in which I think we can reduce expenditures or put a restraint on the increases in expenditures.

First, several General Accounting Office reports show that there is a minimum of $25 to $30 billion per year wasted through cost overruns, mismanagement, and unwarranted expenditures. We must put pressure on the various agencies to eliminate that amount of waste and inefficiency.

Second, the Congressional Budget Office estimates that for fiscal year 1979 there will again be shortfalls in the executive level of expenditures. Four to five billion dollars, they report. In other words, we go ahead and appropriate money, and they still cannot spend it as fast as we dish it out, as my colleague, the gentlewoman from Maryland (Mrs. HOLT), has already indicated.

Mr. Chairman, in current years we have had so-called shortfalls—what many of us would call savings on the expenditure side—of anywhere from $12 to $17 billion. So here again is an area where a simple restraint on increases in expenditures could be applied. If we would just trim that expenditure level to conform with those shortfalls, we would be able to bring down the expenditure level.

Additionally, there are very, very substantial unexpended balances in many of the agencies. These unexpended balances add up to billions.

So, even though we did not appropriate any dollars in this budget in certain function categories for this coming budget for 1979, many of these agencies would be able to survive very readily on just unexpended balances.

So, Mr. Chairman, I suggest that, as the Senate has recommended in its resolution on July 31, we can come to a balanced budget much more quickly, and I intend to offer that balanced budget amendment tomorrow on the floor at an appropriate time.

Let me now review that amendment in the nature of a substitute:

Amendment in the nature of a substitute to the second concurrent budget resolution by Mr. ROUSSELOT:

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $464,148,000,000 and the amount by which the aggregate level of Federal revenues should decrease is $29,500,000,000;

(2) the appropriate level of total new budget authority is $519,046,000;

(3) the appropriate level of total budget outlays is $464,148,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $0; and

(5) the appropriate level of the public debt is $798,300,000,000 and the amount by which the statutory limit on such debt should accordingly be increased is $300,000,000 (this figure represents off-budget agency outlays and trust fund surplus).

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $127,102,000,000
(B) Outlays, $112,403,000,000
(2) International Affairs (150):
(A) New budget authority, $8,754,000,000,
(B) Outlays, $6,200,000,000
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,146,000,000,
(B) Outlays, $5,001,000,000.
(4) Energy (270):
(A) New budget authority, $9,200,000,000,
(B) Outlays, $7,100,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,900,000,000,
(B) Outlays, $11,001,000,000.
(6) Agriculture (350):
(A) New budget authority, $9,197,000,000,
(B) Outlays, $7,628,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,386,000,000,
(B) Outlays, $2,814,000,000.
(8) Transportation (400):
(A) New budget authority, $16,200,000,000,
(B) Outlays, $16,500,000,000.
(9) Community and Regional Development (450):
(A) New budget authority, $8,500,000,000,
(B) Outlays, $9,001,000,000.
(10) Education, Training, Employment and Social Services (500):
(A) New budget authority, $22,100,000,000,
(B) Outlays, $26,600,000,000.
(11) Health (550):
(A) New budget authority, $48,600,000,000,
(B) Outlays, $46,102,000,000.
(12) Income Security (600):
(A) New budget authority, $182,394,000,000,
(B) Outlays, $150,100,000,000.
(13) Veterans Benefits and Service (700):
(A) New budget authority, $21,100,000,000,
(B) Outlays, $20,913,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,100,000,000
(B) Outlays, $4,051,000,000;
(15) General Government (800):
(A) New budget authority, $4,098,000,000
(B) Outlays, $3,903,000,000;
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,019,999,000
(B) Outlays, $9,237,000,000;
(17) Interest (900):
(A) New budget authority, $43,500,000,000
(B) Outlays, $43,500,000,000;
(18) Allowances (920):
(A) New budget authority, −$1,087,000,000
(B) Outlays, −$743,000,000
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, −$17,163,000,000
(B) Outlays, −$17,163,000,000

● Mr. LEGGETT. Mr. Chairman, the report of the House Budget Committee on the second concurrent budget resolution is now available to Members of the House. Unfortunately, my concurring views which appear in the report contain several significant typographical errors which substantially alter the thoughts I intended to express. For that reason, I wish to insert in the RECORD at this point a corrected copy of those views which address primarily the necessity for a balanced budget and for the House to hold the line on spending as set in the second resolution. As preamble to that statement, an illustration of the recent meteoric increase in the Federal debt more than illustrates the need for budgetary restraint:

Year	Gross national product	Budget receipts		Outlays (total)		Federal debt, end of year			
						Total		Held by the public	
		Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP
1956	411.0	74.5	18.1	70.5	17.1	272.8	66.4	222.2	54.1
1957	432.7	80.0	18.5	76.7	17.7	272.4	62.9	219.4	50.7
1958	442.1	79.6	18.0	82.6	18.7	279.7	63.3	226.4	51.2
1959	473.3	79.2	16.7	92.1	19.5	287.7	60.8	235.0	49.7
1960	497.3	92.5	18.6	92.2	18.5	290.9	58.5	237.2	47.7
1961	508.3	94.4	18.6	97.8	19.2	292.9	57.6	238.6	46.9
1962	546.9	99.7	18.2	106.8	19.5	303.3	55.5	248.4	45.4
1963	576.3	106.6	18.5	111.3	19.3	310.8	53.9	254.5	44.2

Year	Gross national product	Budget receipts		Outlays (total)		Federal debt, end of year			
						Total		Held by the public	
		Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP	Amount	Percent of GNP
1964	616.2	112.7	18.3	118.6	19.2	316.8	51.4	257.6	41.8
1965	657.1	116.8	17.8	118.4	18.0	323.2	49.2	261.6	39.8
1966	721.1	130.9	18.1	134.7	18.7	329.5	45.7	264.7	36.7
1967	774.4	149.6	19.3	158.3	20.4	341.3	44.1	267.5	34.5
1968	829.9	153.7	18.5	178.8	21.5	369.8	44.6	290.6	35.0
1969	903.7	187.8	20.8	184.5	20.4	367.1	40.6	279.5	30.9
1970	959.0	193.7	20.2	196.6	20.5	382.6	39.9	284.9	29.7
1971	1,019.3	188.4	18.5	211.4	20.7	409.5	40.2	304.3	29.9
1972	1,110.5	208.6	18.8	232.0	20.9	437.3	39.4	323.8	29.2
1973	1,237.5	232.2	18.8	247.1	20.0	468.4	37.9	343.0	27.7
1974	1,359.2	264.9	19.5	271.1	19.9	486.2	35.8	346.1	25.5
1975	1,454.6	281.0	19.3	334.1	23.0	544.1	37.4	396.9	27.3
1976	1,625.4	299.2	18.4	372.9	22.9	631.9	38.9	480.3	29.5
1977	1,838.0	356.9	19.4	410.6	22.3	709.1	38.6	551.8	30.0
1978 est	2,043.2	400.4	19.6	473.7	23.2	785.6	38.4	617.8	30.2
1979 est	2,274.6	439.6	19.3	512.7	22.5	87.37	38.4	690.8	30.4

The size of the annual deficit has become, in the mind of the public, the yardstick by which to measure the shortcomings of Federal fiscal policy and programs. Why is the Federal Government committed to spending more money than it takes in, thereby making deficit politics an almost permanent feature of American Life? Although the answer may not be clear, what is certain is that Washington is no longer regarded simply as the Nation's Capital; it is also regarded as the capital of waste, bureaucratic arrogance and mismanagement, and irresponsible spending.

My 4 years on the Budget Committee have convinced me that we must balance our budget in order to restore confidence in our Government, to take a step toward the elimination of waste and mismanagement, and to restrain the continuous crunch on our credit system that has driven interest rates to all-time high levels. The best and most politically feasible way we can accomplish this goal in our highly charged, special interest oriented political environment is to make a balanced budget a constitutional requirement.

I support this resolution because within the constraints of what would pass, and in view of the outside pressures on all Members, this, perhaps, is the best we could do. The deficit has been reduced from an estimated $60.1 billion included in the President's budget submission in January and $50.9 billion targeted in the first budget resolution passed in May, to a $43.7 billion estimated deficit recommended in this resolution. Some of this reduction was accomplished through a sort of budgetary legerdemain; that is, the ingenious device of reestimates; but some of it also results from specific program decisions. That greater progress could have been made toward balancing revenue with expenditures is obvious to all of us on the Budget Committee. Yet, it is equally obvious that there is insufficient self-discipline to balance the budget without the additional leverage of a constitutional requirement.

Despite its imperfections and the frequent timidity of its proponents, the budget process has achieved a degree of discipline in spending and tax policy that may not have been possible without it. In this resolution, it is apparent that the spending committees of both bodies have stayed within the targets adopted in the first resolution. In so doing, and as we do in this resolution, the Congress has continued to address the critical fiscal policy questions brought about by high unemployment and high inflation.

In fiscal year 1979, we should be able to produce an additional 1 million jobs as a result of public service and public works employment programs. We have provided over $1 billion in aid to cities in fiscal distress. We have increased our commitment to education, veterans, the aged and the poor by providing higher levels of funding than those recommended by the President. Also, we continue to provide more than adequate resources to preserve our national security. This year's budget ceiling carries $127.1 billion in budget authority and $112.4 billion in outlays for function 050—national defense.

I believe, however, that the resources committed to national defense exceed necessity. For example, we do not need another $2 billion aircraft carrier. I am convinced, based upon the hearings held before the Task Force on National Security, which I chair, that we can further reduce defense expenditures by at least $1 billion at no peril to our military posture. In fact, I would argue that if we trimmed the defense budget properly and eliminated some of the waste and mismanagement we would be significantly stronger militarily.

Although I endorse the policies in this ceiling resolution, I am greatly troubled by the state of our economy. I believe that our fiscal policies have helped to keep the economy from being worse off than it is and, therefore, I have supported them, but the figures do not lie. We are in trouble.

We are estimating an annual inflation rate in this resolution of 6.7 percent and that is overly optimistic. Our international dependence on oil—which pushes the inflation rate up—has not diminished. We are spending over $45 billion annually to import oil, which causes our balance-of-payments deficit and undermines the value of the dollar. True we have shown more restraint in Federal spending, but certainly no where nearly enough to curb the inflationary spiral. The President has called for a deceleration program, but it is very mild, indeed, and the Congress has not even endorsed it. Let me just cite the current price figures to show how entrenched inflation has become in our economy:

Consumer Price Index for all urban consumers: Rose 0.9 percent in June, 0.9 percent in April, and 0.9 percent in May;

Food prices: Rose 1.4 percent in June, 1.8 percent in May, and 2.4 percent in April, and

The Producers Price Index—finished goods: Rose 0.7 percent in June, 0.7 percent in May, and 1.3 percent in April.

The time has come for a wage/price control policy. We do not have to be too rigid about this, but at least we need some effective guidelines. In short, it will take more than mere words, slogans, and jawboning to curb inflationary pressures. Hobart Rowen has made this clear in a recent article that appeared in the Washington Post. Let me quote him at length:

IS IT TIME FOR WAGE-PRICE CONTROLS?

(By Hobart Rowen)

This country is barrelling downhill into a disastrous inflation, without a policy to cope with it. For the first six months of 1978, the consumer price index has been advancing at the double-digit rate of 10.4 percent, and there is no relief in sight.

An unbridled American inflation was a basic concern at the recent economic summit in Bonn, because alone among leading powers, the United States has shown an inability to bring inflation down.

While the United States has moved to the 10-plus inflation level from 5.5 percent last year, Japan has seen a decline from 7.5 percent to 5 percent, and West Germany's 4 percent inflation rate of 1977 has dipped to an astonishing 3 percent this year.

That explains the weakness of the dollar, the agitation in currency markets, and the recent phenomenal rise in the price of gold to well over $200 an ounce. What the rest of the world is saying to the United States by pricing the dollar down and gold up is that it doesn't believe the Carter administration knows how to manage the American economy.

What is needed in this situation is a bolder attack on inflation, perhaps leading to wage and price controls, rather than the namby-pamby jawboning exercised by a willing but powerless Robert S. Strauss.

It is true that the very suggestion of wage and price controls tends to be controversial and—to some—frightening. A pledge against the institution of controls has tended to become synonymous with purity and virtue, a symbol of dedication to the free-market system. President Carter has made such a pledge, but can he keep it?

It's not yet been publicized, but Carter aides have been directed to look for some sort of sanction to apply in individual cases—short of full-fledged controls. "Words alone are not enough," a high official told this reporter.

Convinced that the next six months will be crucial, Carter policymakers have thrown

the problem to the "Troika"—the deputies at the Treasury, Council of Economic Advisers and the Budget Bureau.

The idea is to get a new policy in place before a crucial round of labor negotiations begins with the Teamsters next year. "If that round is again 10 percent a year, forget about moderating inflation in the near future," says Barry Bosworth of Carter's Council on Wage and Price Stability.

It is plain, as made clear in Brookings' 1975 landmark text, "Exhortation and Controls," that the success of controls depends on achieving a real national consensus on supporting the goals and the rules of such a policy. That is not likely to be achieved "except in wartime or under other emergency conditions," the Brookings book concludes.

But I suggest that those emergency conditions are virtually upon us, and warrant the sober consideration of mandatory controls, at least on a selective basis. The only alternative is a fiscal and monetary crunch that will produce an unacceptable recession.

Moreover, the case for controls is buttressed by the public's growing willngness to accept them—which shows that the voters have moved out ahead of their national leadership.

The latest Gallup poll figures, unaccountably ignored by much of the media, were published in the organization's August edition from a survey taken in mid-April. They show that 52 percent of respondents favor reimposition of governmental wage-price controls, against 44 percent in February of this year, 44 percent in December 1976, and 50 percent in August 1974.

Even more significant, sentiment in favor of controls increased since February among every single grouping—by sex, race, education region, income, political or labor-union affiliation. Moreover, the only groups of which a majority oppose controls are the most conservative—the best educated and most affluent.

For Carter or any president, the main roadblock to controls is the strong opposition of labor leaders. The standard George Meany pitch is that wage-price controls are really wage controls—that labor gets shafted while prices are not held in check.

Labor would rather endure a 10 or 12 percent inflation than support controls. Union leaders feel their members could come close to staying even, whatever happens to the rest of the economy.

But judging from the Gallup poll, Carter would have the country (including rank-and file union members) behind him if he called business and labor together and tried to work out an equitable program.

That, by the way, is the secret of West Germany's success in controlling inflation. The Germans run a big budget deficit—proportionately bigger than ours. But at the beginning of each legislative session, business and labor leaders sit down with the government and agree on broad wage and price standards that are compatible with the government's plans for growth of the economy.

Carter has not only the opportunity, but the obligation, to seize leadership. Perhaps he can find a halfway, guidepost measure between the current toothless program and full controls. If not, he ought to go all the way.

Equally disturbing is the persistent problem of high unemployment, particularly among our young people and minorities. The following figures dramatize the failure of the capitalistic system and the fiscal policies of our Government to deal adequately and responsibly with our unemployment situation:

[Percent—July 1978]

Unemployment:	
Total, 16 and over	6.2
Men, 20 and over	4.1
Women, 20 and over	6.5
Both sexes, 16 to 19	16.3
White, total	5.3
Men, 20 and over	3.6
Women, 20 and over	5.6
Both sexes, 16 to 19	13.4
Black and others, total	12.5
Men, 20 and over	8.4
Women, 20 and over	11.6
Both sexes, 16 to 19	37.0

Unless we stop the pernicious growth of inflation, reduce unemployment, eliminate waste and mismanagement in Government, and eliminate deficit spending once and for all, we are going to carry this Nation into economic catastrophe. Hidden underneath almost all of our economic forecasts are these seeds of economic destruction. We are going to have to deal with these problems more effectively in the months and years to come and perhaps give up a few luxuries in order that we may target our efforts toward solving our basic economic problems. On balance, the budget process has been helpful to all of us in understanding our dilemma, but has yet to be very effective in helping us to solve our problems. This is going to have to change, but the motor for change must be the will of the Congress, not the mere existence of mechanical budget procedures.●

● Mr. FRENZEL. Mr. Chairman, the second budget resolution, House Concurrent Resolution 683, as presented by the Budget Committee, seems at first blush to be a great improvement over the first resolution. Outlays have been reduced by about $8 billion, and the deficit reduced by $7 billion.

But, after analysis, the net reductions are shown to be reestimates of costs, not program cuts. The good news is not very good. The largest single cut, $3.3 billion in national defense, results from a reduced outlay estimate because the Department of Defense cannot spend fast enough in fiscal 1979. Many of the actual outlay cuts result not from Budget Committee frugality, but from cuts in appropriations bills by the full House.

But by far the great criticism of the Budget Resolution is the same criticism I had of the first resolution. In short, it is that the committee missed some wonderful opportunities to make deep, significant cuts in expenditures.

Outlays of $490 billion are still much too high. A deficit of $44 billion is still too high.

We are not going to make a dent in the rate of inflation by reestimating or by making timid little cuts in amounts that were too big to spend anyway.

Until the Federal Government tightens its belt and shows a real willingness to make sacrifices, no other persons or institutions in our economy are going to make any sacrifices. Cutting Government spending is not the only way to reduce inflation, but no other solutions will help much until spending is cut.

We need a balanced budget as soon as possible. I know we can never get a balanced budget unless we establish a specific year in which we can reach that goal. President Ford established fiscal year 1979 as his goal. The open-handed Congress rejected his budget and that goal.

President Carter promised to balance the budget by 1981. Then he promptly raised his spending budgets so a balance was not achievable by 1981. Congress liked that. It was relieved that it would not have pressure to balance its budget. In fact, the majority in the House recently voted down an amendment setting a target for a balance in 1983.

It was, therefore, a great disappointment to me, but no surprise, that the Budget Committee voted down an amendment which would have cut spending further and produced a balanced budget by 1982 at the latest. That plan would have cut outlays another $10 billion. That is only a modest cut of about 2 percent, but it would set our feet on the path of righteousness. Had the committee adopted it, we would be heading toward a balance.

But a simple balance is not enough. Any free-spending Congress can balance its budget if it is willing to raise taxes high enough. I personally insist on a balance at a level of taxation no higher than 18.6 percent of GNP. That was the average rate from the early 1950's until 1976.

Under this budget that figure has escalated to 19.7 percent already. President Carter's projected budget, which moves too slowly toward a balance, does so only over the broken bodies of the taxpayers, who under this budget estimates, would be paying taxes of 22 percent of GNP by the middle 1980's.

To return to the spending side, I cannot vote for a resolution that increases spending by nearly 10 percent, and increases budget authority by over 12 percent. The spending increase is profligate on its face, but in some ways the budget authority increase is worse. It allows future expenditures at higher rates, and has been described, accurately I believe, as a time bomb set to detonate in the future. Unspent money or unused budget authority never lapses. It is simply a promise of future spending over which there is no control.

I therefore will vote for the Holt amendment, which reduces aggregate outlays by $10 billion and budget authority by $22.5 billion. It will reduce the deficit this year by $4 billion, and in future years by even more.

The Holt amendment addresses only aggregates. It allows appropriations committees, or the House, to make the cuts they, or it, feel are most reasonable. Each of us has some favorite appropriations that should never be cut and each of us has some pet prospects for cuts.

In actual practice, if the Holt amendment is passed, the resolution will probably be returned to the Budget Committee which then will adjust the program costs as it sees fit.

But, I do not see how the budget process can establish the law and order we desire unless it first deals with aggregate figures. So far the Budget Committee

has never set a goal, but has rather compiled a list of committee and subcommittee wants. When the list is totaled, the committee is surprised to find we are in the red again.

Aggregates have been described as a blunt instrument, and indeed they are. But I see no other way to control the process.

I have discussed taxes earlier in this discussion. but it is important to restate that the budget process must include both tax and spending projections. The integrated projections must begin from two assumptions or lead to two goals. They are: First, taxes must not exceed 16.5 percent of GNP; and second, the budget must be balanced by 1982.

The Holt amendment has these assumptions and goals, and it still would cause a greater increase in GNP through its 5-year period than the committee bill. The difference is 10 percent and it means more economic activity and more jobs.

In summary. the second budget resolution does nothing to reduce the double digit inflation of the second quarter this year. A budget resolution which ignores or exacerbates the country's No. 1 problem is not deserving of support. If not amended, it should be defeated.●

● Mr. ARMSTRONG. Mr. Chairman, how much inflation will Congress inflict on the Nation next year? This is the main question to be settled as we vote on the budget resolution now pending before the House.

A vote for the Budget Committee resolution is a vote for more inflation, more taxes, more unemployment, and slower economic growth.

The House Budget Committee resolution provides for expenditures of $490.5 billion, up 9.7 percent from a year ago. Budget authority, which commits the Government to spending in future years, is set at $561.5 billion, up 12.3 percent from a year ago. Taxes will increase by $11.4 billion. The budget deficit will grow by nearly $44 billion.

All serious economists today agree that it is deficit spending by the Federal Government that is the principal and underlying cause of inflation. A glance at the evidence makes it impossible to conclude otherwise. Since 1973, we have run deficits of $14.9 billion, $4.7 billion, $45.1 billion, $66.4 billion, and $45.4 billion. In those years the rate of inflation was 6.2, 11, 9.1, 5.8, and 6.5 percent, respectively. Inflation has returned to double digit levels in 1978, averaging 10.5 percent so far this year.

One of the most insidious effects of inflation has been taxflation, a secret tax amounting to confiscation of wealth on all working Americans. As nominal incomes rise, taxpayers are forced into higher and higher brackets, even though the purchasing power of the dollars they earn has stayed the same or even declined. Since 1969, taxflation has confiscated between $350 and $450 each year from every family in America.

All too often debate on the budget bogs down in economic terminology and statistics. A discussion that is, somehow, far removed from human concerns.

But today I hope Members of the House will be thinking of people, individuals, and families, at home as they vote on this resolution. I hope Members will ask themselves how the inflation caused by this resolution will affect the people at home.

How many young couples will be unable to buy a home because of the inflationary impact of this bill? How many elderly persons, and others on a fixed income, will be forced to accept a cut in their standard of living as a result of the inflation this bill will foster? How many people of all ages will see the buying power of their wages and savings accounts eroded? How many people will be thrown out of work because of the inflation this bill will inflict on the Nation's economy?

As far as I am concerned, human hardship is the real issue in this budget. It is time for Congress to make a conscious, deliberate decision to balance Federal spending and revenues, not for some abstract and theoretical reason, but because the people of this country are suffering. We, in Congress, have caused their suffering. Only we can alleviate it by balancing the Federal budget.

We have permitted the budget to get so far out of kilter that it may be impossible, as a practical matter, to bring it into balance within a single fiscal year. However, my fellow Republicans and I will present today an amendment which points the way toward a balanced budget within 5 years.

My colleague MARJORIE HOLT will propose an amendment which will lower the spending proposed by the Budget Commitee by a modest, but extremely significant amount.

Under the Republican proposal, outlays for fiscal 1979 would be only $480 billion, $10.5 billion less than proposed by the committee. Budget authority would be set at $539 billion, $22.5 billion less than recommended. The GOP substitute provides for a tax cut of $20 billion, $5 billion more than the tax cut provided in the pending resolution. Most important, the projected deficit would be only $35 billion, $8.7 billion less than in the committee plan.

I personally favor even lower spending and deficit totals and a higher tax cut. However, I recognize that compromise is the essence of the legislative process. In that spirit, I urge my colleagues to support the Republican plan. It is not a stringent reduction; on the contrary, our substitute would increase spending for all Federal agencies by 7.4 percent—enough to fund all needed functions at an adequate level.

By adopting this amendment, Congress can take a major step toward balancing the Federal budget, the essential prerequisite for controlling inflation. If the Republican amendment is not adopted, the entire resolution should be defeated and returned to the committee for further study.●

Mr. LATTA. Mr. Chairman, I yield back the balance of my time.

Mr. GIAIMO. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Pursuant to clause 8 of rule XXIII, the concurrent resolution is considered as having been read for amendment and open to amendment at any point.

The concurrent resolution is as follows:

Resolved by the House of Representatives (the Senate concurring), That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $446,800,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $23,900,000,000;

(2) the appropriate level of total new budget authority is $561,506,000,000;

(3) the appropriate level of total budget outlays is $490,487,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $43,687,000,000; and

(5) the appropriate level of the public debt is $842,000,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $44,000,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $127,102,000,000;
(B) Outlays, $112,408,000,000.
(2) International Affairs (150):
(A) New budget authority, $12,540,000,000;
(B) Outlays, $7,138,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,146,000,000;
(B) Outlays, $4,991,000,000.
(4) Energy (270):
(A) New budget authority, $9,601,000,000;
(B) Outlays, $8,684,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,963,000,000;
(B) Outlays, $11,380,000,000.
(6) Agriculture (350):
(A) New budget authority, $12,225,000,000;
(B) Outlays, $7,628,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,551,000,000;
(B) Outlays, $2,814,000,000.
(8) Transportation (400):
(A) New budget authority, $19,451,000,000;
(B) Outlays, $17,063,000,000.
(9) Community and Regional Development (450):
(A) New budget authority, $10,327,000,000;
(B) Outlays, $9,474,000,000.
(10) Education, Training, Employment and Social Services (500):
(A) New budget authority, $34,022,000,000;
(B) Outlays, $31,446,000,000.
(11) Health (550):
(A) New budget authority, $52,158,000,000;
(B) Outlays, $49,298,000,000.
(12) Income Security (600):
(A) New budget authority, $192,139,000,000;
(B) Outlays, $159,650,000,000.
(13) Veterans Benefits and Services (700):
(A) New budget authority, $21,251,000,000;
(B) Outlays, $20,913,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,163,000,000;
(B) Outlays, $4,173,000,000.
(15) General Government (800):

(A) New budget authority, $4,098,000,000;
(B) Outlays, $4,035,000,000.
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,019,000,000;
(B) Outlays, $9,297,000,000.
(17) Interest (900):
(A) New budget authority, $48,000,000,000;
(B) Outlays, $48,001,000,000.
(18) Allowances (920):
(A) New budget authority,—$1,087,000,000;
(B) Outlays,—$743,000,000.
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority,—$17,163,000,000;
(B) Outlays,—$17,163,000,000.

The CHAIRMAN. Are there any amendments?

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GIAIMO

Mr. GIAIMO. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. GIAIMO: Strike all after the resolving clause and insert in lieu thereof the following:

That the Congress hereby determines and declares, pursuant to section 310(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $450,000,000,000, and the amount by which the aggregate level of Federal revenues should be decreased is $19,900,000,000;

(2) the appropriate level of total new budget authority is $561,242,000,000;

(3) the appropriate level of total budget outlays is $490,463,000,000;

(4) the amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $40,463,000,000; and

(5) the appropriate level of the public debt is $838,800,000,000, and the amount by which the statutory limit on such debt should accordingly be increased is $40,800,000,000.

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 310(a) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $127,013,000,000;
(B) Outlays, $112,403,000,000.
(2) International Affairs (150):
(A) New budget authority, $12,365,000,000;
(B) Outlays, $7,119,000,000.
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,146,000,000;
(B) Outlays, $4,991,000,000.
(4) Energy (270):
(A) New budget authority, $9,601,000,000;
(B) Outlays, $8,684,000,000.
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,963,000,000;
(B) Outlays, $11,380,000,000.
(6) Agriculture (350):
(A) New budget authority, $12,225,000,000;
(B) Outlays, $7,628,000,000.
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,551,000,000;
(B) Outlays, $2,814,000,000.
(8) Transportation (400):
(A) New budget authority, $19,451,000,000;
(B) Outlays, $17,063,000,000
(9) Community and Regional Development (450):
(A) New budget authority, $10,327, 000,000;
(B) Outlays, $9,474,000,000.
(10) Education, Training, Employment and Social Services (500):
(A) New budget authority $34,022,000,000;
(B) Outlays, $31,446,000,000.
(11) Health (550):
(A) New budget authority $52,158,000,000;
(B) Outlays, $49,298,000,000.
(12) Income Security (600):
(A) New budget authority $192,139,000,000;
(B) Outlays, $159,650,000,000.
(13) Veterans Benefits and Services (700):
(A) New budget authority, $21,251,000,000;
(B) Outlays, $20,913,000,000.
(14) Administration of Justice (750):
(A) New budget authority, $4,163,000,000;
(B) Outlays, $4,173,000,000.
(15) General Government (800):
(A) New budget authority, $4,098,000,000;
(B) Outlays, $4,035,000,000.
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,019,000,000;
(B) Outlays, $9,297,000,000.
(17) Interest (900):
(A) New budget authority, $48,000,000,000;
(B) Outlays, $48,001,000,000.
(18) Allowances (920):
(A) New budget authority, —$1,087,000,000;
(B) Outlays, —$743,000,000.
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$17,163,000,000;
(B) Outlays, —$17,163,000,000.

Mr. GIAIMO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. GIAIMO. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. NATCHER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the concurrent resolution (H. Con. Res. 683) revising the congressional budget for the U.S. Government for the fiscal year 1979, had come to no resolution thereon.

LEGISLATION REQUIRING LABELING OF BREAD TO DISCLOSE COST TO MANUFACTURER OF INGREDIENTS

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, I am introducing a bill today to lay the groundwork for legislation to be passed as early in the next Congress as possible. This legislation will require the label of any loaf of bread to disclose the cost to the manufacturer of the farm product ingredients.

We have heard much in the past few weeks about the cost of food. News stories often mention increases in the grocery store and increases on the farm in the same breath. Bills that are brought to the floor of this Chamber attempting to improve the income of the family farmers of our country are branded as inflationary and often anticonsumer.

Low prices and rapid changes on the agricultural scene have forced many farmers off the farm this past year and into the cities looking for jobs that yield a steady paycheck. While some farm prices are up a little over what they were last year, prices are still below the farmers' cost of production.

This is an important piece of consumer legislation. The time has come for consumers to understand what effect an increase in the price of wheat has on the cost of bread. The wrapper often costs more than the wheat in that bread.

It is necessary for all of us to place the price of farm products in proper perspective. We must come to clearly understand this issue before we find ourselves depending on someone besides the family farmer for our daily bread.

The farmer can no longer bear the full burden of fighting inflation. The producer cannot continue to see production and living costs soar while the prices of farm products are kept at levels of past years.

The requirements of this legislation will be simple to comply with for the manufacturers. The cost on the wrapper is based on the average cost for the previous marketing year. The "by the loaf" figure will place the cost in terms to which we all can relate.

It is not my purpose to add any burden to the cost of the baker, but his interests will also be better served by the understanding of costs by the consumer.

I am confident this can go a long way in creating better understanding between farmers and consumers. No group in this country consumes like the American farmer. Inflation is the problem for rural America as it is for urban America.

If we can reach an understanding that keeping the family farmer in business is as important to the housewife as it is to the farmer and baker, we are well on our way to finding long range answers to our food and fiber problems. I urge each of you here today to join me in starting us down that road.

NATIONAL HEALTH SOCIALISM

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DEVINE. Mr. Speaker, those pushing for the "cure-all" national health insurance should read Anthony Lejeune's article entitled "The Two Enemies." All that glitters is not gold.

THE TWO ENEMIES

(By Anthony Lejeune)

Doctors in Britain today are having to fight a constant battle on two fronts—against what they are increasingly compelled to regard as twin enemies; against the unions within the National Health Service and the politicians who control it. Recent

clashes have been so bizarre that they would have seemed scarcely credible even a few years ago.

Starting at some 200 hospitals in the West Midlands, but then spreading to other parts of the country, the telephone operators went on strike. Or rather they announced that they were "working to rule," and the rule they decided to work to was that they would allow no calls through the switchboard, in or out, which did not deal with urgent medical matters. If any doctor, administrator, or patient had the temerity to make a call which, in the opinion of the listening switchboard operator, was not "genuine," the operator was instructed by the union simply pull out the plug.

Actually four unions were involved—the National Union of Public Employees (NUPE), the Confederation of Health Service Employees (COHSE), the Transport and General Workers Union, and the General and Municipal Workers Union. They were angry because there had been a breakdown in their pay-talks; talks not with specific hospitals, but, since they are working for a National Health Service, at national level. The hospital doctors, administrators, and patients were not involved at all, except as instruments of blackmail.

Mr. Keith Holmes, the COHSE shop steward who was coordinating strike action in the West Midlands, explained his policy. "We are allowing doctors to take calls or make calls which involve patient care, emergency work, or hospital business," he said condescendingly. "We are not being rigid about emergency only calls at this stage because we realize that would involve clinical decisions which we are not qualified to make. But unless our pay dispute is settled, there is no doubt that a firm emergency call rule will be enforced as the next phase of the action."

In this next phase, apparently, the strikers would be quite prepared to make clinical decisions which they realize they are not qualified to make. Indeed some of their colleagues were already doing so. Mr. Mohammed Yussuf, the NUPE shop steward, had instructed his members to allow only emergency calls, because, he explained, a few of the hospital staff had been making non-medical calls "on the pretext of being emergencies, and it is these we are concerned about."

In most of the hospitals involved, the administrative staff were not allowed to make any calls through the switchboard at all. They had to use public phone booths, in order, for example, to allocate beds. And, despite the comfortable assurances of Mr. Holmes, instances were soon being reported of urgent medical calls failing to get through.

Among these which were unplugged in mid-sentence were: a general practitioner asking for an urgent admission, a surgeon asking an anesthetist to attend, a junior doctor asking the advice of a consultant surgeon before starting an operation, and a doctor requesting drugs from a laboratory.

At Kingston Hospital, near London, the switchboard operators simply walked out. Doctors who dialed the emergency code could get no reply. Among them was a senior consultant trying to answer a junior house doctor's urgent plea for help over a patient suffering a sudden hemorrhage, and a general practitioner wanting emergency medical supplies.

Dr. William Bond, a leading cancer specialist at the Queen Elizabeth Hospital, Birmingham, said he was quite sympathetic to the telephonists' cause, but didn't see how they could possibly justify interfering in, and eavesdropping on, confidential medical calls. The switchboard operators had refused to let him call a research laboratory for information about a special appliance which could ease a patient's pain; wouldn't allow a call to another hospital to tell the nursing staff that the doctor would be late and other arrangements should be made; and cut him off while he was trying to change a patient's appointment.

"They cross-question us, he said, "and want to know if a call is private or concerns a patient. My colleagues are very angry about what's going on. Many would be happy to leave the hospital service at the earliest opportunity.

"Once it was a case of getting a patient out as quickly as possible and getting another patient into bed, achieved through teamwork. But now, if a hospital (orderly) picks up a parcel and says it's too heavy, there is potential trouble."

That sort of trouble had just closed the two main operating rooms at Dulwich Hospital in south London. Orderlies were refusing to work in the operating rooms because they didn't like the senior nurse. "She treats surgeons better than she treats us," one of them grumbled. Another complained that he was just having a cup of coffee when she asked him to move a trolley. "I said she could move it herself. I was upset."

Other orderlies in the Dulwich Hospital who explained their grievances to the press said that tea-breaks were too short and that they were expected to clean out the storerooms and collect items from the laundry. One was extremely indignant because he had been told to stop reading a novel in the operating room.

The man at the center of this particular row was an orderly named Joe Daly, whose behavior had brought a series of warnings from the hospital authorities, culminating in a final warning after the nurse, Mrs. Jennifer Burke, had caught him wheeling a bicycle through the operating room. He stirred up the other orderlies, who "blacked" the operating room.

When Sister Burke went on vacation, the orderlies came back, but the nurses then refused to work with them. They supported Sister Burke, saying that she's been bullied and abused by the orderlies. Deadlock. Operations had to be cancelled, patients (including one with cancer of the stomach, another with a gangrenous leg) sent home or transferred to other hospitals. The union—NUPE—was unrepentant. "We are fed up with being treated like dirt," said a union representative. Both the union and the hospital managers were annoyed when the story was published in the newspapers. It would make negotiations more difficult, they said.

But this was by no means an isolated incident. During the past two or three years union militancy has been rampant in British hospitals. And pay demands have been only part of the reason. The other part was ideological, an egalitarian resentment of authority and a determination to shape the National Health Service in a left-wing political mold. The unions' crucial victory was when they persuaded, or forced, the Labor government to squeeze out all private patients from the hospitals.

Since then there has been a whole series of horrifying episodes, most of which ended in appeasement, if not a complete surrender to the unions.

Last year, for example, food and medical supplies were cut off from elderly and mentally ill patients in the Epsom health area during an eight-day strike by ancillary workers over a new roster system. At Hackney hospital two patients committed suicide, depressed (so it was said) by the conditions there. According to one of the doctors, it was "a public showplace of squalor," because of the falling standard of ancillary care and low staff morale.

At the Queen Elizabeth Hospital for Children, telephone operators and cleaning staff—members of NUPE—walked out, leaving the switchboard and the special emergency telephone system for cardiac arrests to be operated by inexperienced volunteers. At the Great Ormond Street Hospital for Children it was the orderlies—also members of NUPE—who walked out.

In September militants from both NUPE and COHSE at Greenwich hospitals refused to hand over bodies to funeral workers unless they produced union cards.

And so on. The list could be almost endlessly extended.

John Studd, a 37-year-old obstetrician and gynecologist, who works a 12-hour day, including Saturday and Sunday, and who could earn perhaps five times his present income by moving to America or Europe, put the situation vividly in context when he was interviewed by a reporter from the London *Daily Mail* about the Dulwich affair.

"Like any nationalized industry," he said, "the Health Service is rapidly being dominated by unionized non-medical staff. The inevitable result is that patients will die. It's quite clear to me that NUPE are looking very hard for 52 percent membership of hospital staff, so that they can have a closed shop and speak for all the hospitals.

"Five years ago it was a disgrace to cancel an operation. Now it's commonplace. When you have to cancel for the second or third time, it's devastating for the patient.

"All the major decisions of the past ten years in the Health Service have been bad ones. The reorganization of the service was a disaster. It created an army of bureaucrats—60 percent of NHS employees are clerical staff—all with decreasing responsibility and overwhelming powers of delegation . . .

"The public is getting a rotten service and paying through the nose for it. They are, quite simply, being swindled.

"The saddest thing is that doctors have been so battered by governments and abused by unions that they've lost heart. There are funds available in the National Health Service, but they're going to ancillary workers and bureaucrats."

Almost while Dr. Studd was talking to the Daily Mail, one of Britain's leading orthopedic surgeons, Dr. John Cozens-Hardy, was addressing a crowded meeting of his patients or would-be patients. He felt they were entitled to know why they had to spend years "imprisoned by constant pain." At the present rate, he told them, it would take 36 years to clear the 127 people on his waiting list. The delay was caused by a chronic shortage of beds, operating rooms, and trained medical staff; and the reason for the delay was political.

"I'm paid to help these people," he said before the meeting, "but I am denied the opportunity. They have paid, through their contributions and taxes, for that help. When this everworsening situation goes on, year after year, one reaches the point where one either resigns, commits suicide, or screams. I have decided to scream.

"It was the comment of Mr. Ennals, the Health Minister, that really angered me. He was quoted as saying 'In spite of the prophets of doom, some of them inside who ought to know better, the National Health Service is very much alive and providing magnificent service to our people.'

"I thought, well, I'm on the inside and I ought to know better. I have 127 crucial patients getting excellent service? The top man says they are! I decided it was time someone told the truth."

In fact, quite a lot of people have told the truth about the National Health Service by now. They are the ones referred to by Mr. Ennals as "prophets of doom." But so far they have had little or no effect.

Part of the problem could at least be eased by tapping new (or, rather, old) sources of

money; by encouraging, instead of discouraging, private insurance, local charity, and payments for service. Another part is a symptom of the general British sickness; it can be cured only when the balloon of trade union arrogance is pricked and the dead wood of bureaucracy slashed. The essence of the trouble, however, as Dr. Studd pointed out, lies in the fact that the Health Service is a nationalized industry—from which certain consequences flow, always and inevitably. How they could be reversed, without denationalizing it, no one can suggest.

LET US STRENGTHEN THE FARMER'S MARKET POWER IN THE MARKETPLACE

(Mr. AMMERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AMMERMAN. Mr. Speaker, on behalf of the Pennsylvania Farmers Association and its parent organization, the American Farm Bureau Federation, I am today introducing the National Agricultural Bargaining Act of 1978. The members of our association in Pennsylvania believe that, in the quest for greater market power for the farmer, the approach embodied in this bill represents, at least in part, an alternative to farmers' strikes and demands for mandated parity.

As many Members will know, similar legislation has been considered at various points over the past 10 years, with several bills having been introduced by our retiring colleague from California, the Honorable BERNIE SISK. In this instance the bill's sponsors have developed support from a broad spectrum of farm organizations. I am informed that not only the Farm Bureau but also the Grange, the Farmers Union and the National Council of Farmer Co-ops have participated in the drafting of this legislation and fully support it.

Mr. Speaker, I don't presume to speak for these other organizations, but I do believe that Pennsylvania farmers, as represented by the PFA, believe one important way we can help farmers get better returns is to strengthen their bargaining position in existing markets. By doing that we will be improving the farmer's economic position within the traditional structure of the American free market system. Thus the PFA recommends greater reliance on advance contract selling of agriculture commodities. Selling agriculture products on contract with terms of sale negotiated prior to planting or growing the product is a reasonable approach. Its premise, purely and simply, is that farmers can no longer afford the luxury of growing the crop and then hoping there will be a market for it. With the inflationary cost-price squeeze he is caught in, this can only lead farmers to financial disaster.

We all know that major changes have occurred in the food and fiber production, processing, and distribution industries in recent years. Traditional methods are rapidly giving way to new technology, and changes in market structure have accompanied those changes in technology. Firms throughout the food and fiber industries are becoming fewer, larger, and more specialized, and are requiring larger amounts of capital. The traditional terminal and auction markets are giving way to direct buying, vertical integration, forward contracts, and other coordinating arrangements.

Processors and retailers are more specific in their requirements for products regarding quantity, quality, and coordination of production and marketing activities similar to that of the more complex industrial operations.

Integration of production-market functions by processors has had a great impact on market structure. Individual farmers are at a competitive disadvantage in such an economic climate. Their position is continuing to weaken, as fewer and larger buyers negotiate for the farmer's products. Present trends indicate that large-scale marketing agencies will push integration even further to gain greater control over product supply, time and condition of delivery, and product quality and appearance.

To help cope with these changes, growers in various commodity areas have formed bargaining associations as one way of securing what is commonly referred to as bargaining power, muscle in the marketplace, or countervailing power. Many new bargaining groups have been formed including groups which bargain for milk, fruits, vegetables, and other specialized commodities. Others have been proposed. The ultimate success of these associations, however, may well depend on legislative clarification and sanction for these bargaining activities.

The National Agricultural Bargaining Act of 1978 establishes standards of fair practices that shall be observed by handlers and associations of producers in their dealings in agricultural products, provides standards for the accreditation of cooperative associations of producers of agricultural products for the purpose of bargaining, defines the mutual obligations of handlers and associations of producers to bargain with respect to the production, sale and marketing of agricultural products and provides for the enforcement of such obligations.

Under this act, associations of farmers can petition the Secretary of Agriculture, who will be the program administrator, stipulating the conditions of the proposed bargaining unit. These items will include such things as the commodity and handlers involved and such other information as the Secretary may request, such as suggested time and duration of the negotiating period.

The association requesting accreditation must be owned and controlled by producers; must have contracts, which are binding under State laws, with its members empowering the association to sell or negotiate terms of sale for the products of its members; must represent a sufficient number of producers or products to enable it to function as an effective agent for producers in bargaining with the designated handler; and must have negotiations with handlers as one of its principal functions. Once the Secretary has decided to accredit an association, he will give notice to the handlers designated in the petition.

This act does not require that either party come to an agreement. It does prescribe the mutual obligation of a handler and an accredited association to meet at reasonable times and for reasonable periods of time for the purpose of negotiating in good faith with respect to the price, terms of sale, compensation for products produced under contract, or other provisions relating to the products that are marketed within the bargaining unit. This bill provides guidelines for mediation and arbitration services if requested by the accredited association or handler, or if in the Secretary's judgment, an impasse in bargaining has occurred. It also repeals the Agricultural Fair Practices Act of 1967, but replaces the unfair practices described in the 1967 act with an expanded list of unfair practices, not only for handlers but also, for the first time, for accredited associations.

The need for this new authority is becoming more acute as a result of the continuing decline in the number of auction and central markets which have provided a source of price information and an alternative market outlet for many producers. More and more farm production is being sold directly to handlers under forward contracts.

Organized marketing and bargaining provides an alternative to increased reliance on the Federal Treasury for farm income subsidy payments, and with minimal Government intervention. Producers of all farm commodities would be more apt to commit capital and farm produce to existing or newly created bargaining associations if they have assurance that handlers will not be able to circumvent or sabotage the bargaining process.

Numerous associations already exist for crops, and new ones would likely be formed by producers of other commodities sold under forward contracts such as cattle and hogs. These associations will be able to improve farm prices and the conditions and terms of sale, which are now prescribed by handlers with individual producers or associations having little power to counter or reject the contract offered by the handler or processor.

In sum, passage and implementation of marketing and bargaining legislation will improve the capability of farmers to enhance their net farm income and standard of living. I urge my colleagues to give due consideration to this market-oriented alternative to greater reliance on Government price supports.

THE AMERICAN ROLE IN AFRICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, the U.S. Government throughout his-

tory has often said that the U.S. role in world affairs is one of a peacemaker. We sought out to be a stabilizing influence. Under the Carter administration, the rhetoric of the right of self-determination seems louder than ever. Yet, our actions in Africa seem to contradict all that we have been saying.

Soviet-Cuban intervention throughout Africa has had a tremendous destabilizing effect on the internal self-determination movements of several African countries. By supporting radical factions that are often in the minority, such as in Angola, the Soviets are attempting to enlarge their sphere of influence by such manipulation. The Soviets can maintain this position unless there is counteraction by the West. In Angola, the success of the Cubans would have been in doubt if the United States continued to send military support, not men, to the majority groups. At the time the United States stopped sending arms, 22 African nations were ready to support the pro-Western groups. Then we withdrew our support, and many nations concerned over the apparent unreliability of the United States switched sides.

An estimated 40,000 Cuban troops in 17 African countries are not a stabilizing influence, regardless of what the whims of Andy Young may indicate. Our policy of condemning Soviet internal policies and turning our cheek regarding their external activities is contributing to the collapse of any semblance of American foreign policy.●

TEAM APPROACH FOR CANCER PATIENTS: AN UPDATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 5 minutes.

● Mr. CLEVELAND. Mr. Speaker, on November 1, 1973, I submitted an article, written by the Director of Nurses at the Claremont (N.H.) General Hospital, Patricia Waite, R.N., which was inserted in the CONGRESSIONAL RECORD. The article discussed the development of a specialized team nursing program for the particular needs of the victims of various categories of illnesses. Since the article appeared in the CONGRESSIONAL RECORD in 1973, many improvements and developments have been made with regard to the concept of specialized team nursing practiced at Claremont General Hospital, the cancer nursing team in particular.

A breast cancer rehabilitation team was established at Claremont General Hospital in 1974 to provide important postoperative care and support for both the patient and family. Special educational programs for the nursing staff at Claremont General, and for patients, have also been developed.

Eleanor Champagne, R.N., cancer nurse coordinator at Claremont General Hospital, has been instrumental in the field of nurse education for the American Cancer Association of New Hampshire, and has been awarded for the past 3 years for her contributions. Mrs. Champagne received the American Cancer Society award for outstanding cancer nursing program in 1974–75 and the outstanding professional education program award for Sullivan County, N.H., in 1977. At the Third Annual National Oncology Convention in Washington, D.C., during April 1978, the paper "Travelling Oncology Education for Nurses" was presented by Eleanor Champagne, and the two abstracts she wrote were printed in the proceedings of the Oncology Nursing Society—Third Annual Convention.

I would like to submit the following: "Update of the Cancer Nursing Team at Claremont General Hospital" and two related abstracts, written by Cancer Nurse Coordinator Eleanor Champagne, R.N.

UPDATE OF CANCER NURSING TEAM AT CLAREMONT GENERAL HOSPITAL

(By Eleanor Champagne, R.N.—Cancer Nurse Coordinator Claremont General Hospital)

The Cancer Nursing Team consists of six R.N.'s, two L.P.N.'s, one of whom is an Enterostomal Therapist, a surgeon and a radiologist. The surgeon is a team consultant, the radiologist is a coordinator for the Norris Cotton Cancer Center. Team nurses are resources for all three shifts. Each nursing team member has specific duties and responsibilities. A manual of ostomy guidelines has been compiled by the Enterostomal Therapist. An ostomy team is being implemented. Each ward has a qualified Self Breast Exam instructor. Nurse examiners for Pap Smears insure that all females have a pap smear before they leave the hospital. Monthly in-service programs in Cancer Nursing are presented to all three shifts.

A Breast Cancer Rehabilitation Team was developed in 1974. All mastectomy patients are seen by the social worker, physical therapist, a Reach to Recovery Volunteer and a Cancer Nursing Team member. A free evaluation visit is done by the V.N.A. cancer team member two weeks after discharge. A telephone interview three months after discharge is done by the Cancer Nursing Coordinator. Evaluations and follow up indicate the teaching program to be very effective. Patients have developed a support group. The patient and family are aware that a special teaching program has been set up. Patients and families have requested programs to be developed for each type of cancer. The interest, cooperation and support of the entire medical, nursing and allied health staff at Claremont General Hospital has made this successful program possible.

Special educational programs for the entire nursing staff have been presented. A seven contact hour "Overview" on Breast Cancer reached a total of 29 nurses from Obstetrics, ICU, Medical and Surgical Departments. The sessions were attended simultaneously by means of Interact Television by nurses from Rockingham Memorial and Central Vermont. The videotapes were distributed to other community hospitals as a model type of nursing education in community hospitals.

A Nurse Education and Patient Teaching program was implemented as a result of a six contact hour session "Overview" in GYN Cancer. Telephone interviews will be done on all Gynecological cancer patients in order to evaluate preoperative, postoperative and discharge teaching.

The Cancer Nursing Team has shown dedicated commitment to continuing education not only in their own facility, but facilities throughout the state. As chairman of the A.C.S., N.H. Division, Nurse Education Subcommittee, Eleanor Champagne was instrumental in setting up a Travel Oncology Nurse Team. The Team presented 39 inservice programs on Breast Cancer, Ostomy Care and developing Cancer Nursing Teams to community hospitals, VoTechnical Colleges and Nursing Homes.

Eleanor Champagne was the first nurse in the State of New Hampshire to be cited by the American Cancer Society for her work with cancer patients. She received the American Cancer Society award for Outstanding Cancer Nursing Program in 1974–75 and the Outstanding Professional Education Program award for Sullivan County in 1977.

The following abstracts were printed in the Proceedings of the Oncology Nursing Society—Third Annual Convention in Washington, D.C., April 1978. The paper: "Traveling Oncology Education for Nurses" was presented by Eleanor Champagne, R.N.

DEVELOPING CANCER NURSING TEAMS IN COMMUNITY HOSPITALS

(By Eleanor Champagne, Nurse Coordinator in Cancer, Claremont General Hospital)

The Cancer Nursing Team consists of six R.N.'s, two L.P.N.'s, one of whom is an enterostomal therapist, a surgeon and a radiologist. The surgeon is a team consultant. The radiologist is a coordinator for the nearby Cancer Center. Team nurses are resource nurses for all three shifts. Each Nursing Team member has specific duties and is a qualified R.N. who promotes knowledge, skills and monitors the nursing care given to cancer patients. She sets up guidelines for the care of cancer patients, detection, provides team members with information concerning cancer conferences and acts as coordinator for members of the health team when a multidisciplinary approach is used. In order to initiate change, she must have extensive background in cancer, be well established in her role and have significant support in her own setting. The Enterostomal Therapist sets up guidelines for the care of ostomy patients. She enables the ostomate to leave the hospital with the mental and physical confidence in his ability to care for changes in body function. Each ward has a qualified instructor in SBE. Nurse Examiners for Pap Smears insure that females 18 years and older have a pap smear performed before they leave the hospital. Home care follow-up is done by a Visiting Nurse team member.

The Cancer Nursing Team has developed a Breast Cancer Rehabilitation Team which consists of a nurse, a physical therapist, a social worker and a Reach to Recovery Volunteer. An "Overview" in Breast Cancer has been presented to R.N.'s, L.P.N.'s and nursing assistants. Cancer Nursing Teams meet the need of the cancer patient and continuing education in community hospitals.

BREAST CANCER "OVERVIEW" IN A COMMUNITY HOSPITAL

(By Eleanor Champagne, Nurse Coordinator in Cancer, Claremont General Hospital)

A five-session seminar entitled "Overview" in Breast Cancer was presented to the Nursing Staff for Continuing Education. The purpose was to promote knowledge, skills and a positive attitude in delivering comprehensive nursing care to the breast cancer patient.

Specific objectives were to update the nurse's knowledge in breast cancer, to develop the nurse's role in caring for the breast cancer patient, to increase the nurse's involvement in early detection, to make known the social agencies, resources available and to develop a cooperative effort among the Rehabilitation Team and the direct-care provider. Through the use of nursing process, the nurse will demonstrate her ability to coordinate and deliver quality nursing care, understand the newer advances in detection techniques and demonstrate awareness of the Rehabilitation Team by making appropriate referrals.

The first session dealt with the role of the nurse and the Reach to Recovery Volunteer. Guidelines were presented on Mastectomy teaching, nurse care plans and progress notes. The program "Reach to Recovery" has been described by the Volunteer. The second session was covered by the role of the Physical Therapist and the Social Worker. Goals and objectives of the Physical Therapist were presented. The Social Worker described patient's visits and community referrals. In the third session the Pathologist lectured on Histopathology and staging. The Radiologist explained the Breast Screening Program, advances in Mammography-Thermography and needle technique biopsy on the fourth session. The surgeon presented in the final session curative versus palliative measures, preoperative and postoperative care and aspects of rehabilitation.

TRAVELING ONCOLOGY EDUCATION FOR NURSES

(By Susan B. Baird, R.N., B.A.; Mary Allen, R.N.; Eleanor Champagne, R.N.)

Less than 4 percent of practicing nurses were reached by the New Hampshire Division, American Cancer Society nursing symposia in 1976, and the majority were hospital based. The discovery of this startling statistic mandated that the Nursing Education Committee investigate alternative methods to reach nurses in varied settings throughout the state and led to the development of the Oncology Nursing Traveling Education Team. The goal of this approach is to provide nurses with updated and relevant information on the care of the cancer patient. By taking programs to nurses in their respective settings, it was hoped that larger numbers of nurses could be reached than by traditional methods and that content could be specifically geared to needs identified at individual facilities.

To initiate the two year pilot program, letters outlining the program were sent to Directors of Nursing Service and Inservice Coordinators at hospitals, long term care facilities, home health agencies and technical nursing programs. Three topics were offered; nursing care of the ostomy patient, nursing care of the breast cancer patient, and the delivery of quality care through the cancer care team. Instructors for the program were five members of the Nursing Education Committee who evidence expertise in one or more of these areas and whose employers agreed to free them for this purpose.

The response to the initial introductory letter was greater than anticipated and during the first year of the project, 39 programs have been delivered reaching a significantly larger nursing population than by traditional methods. Desired outcomes at participating facilities were identified as an increase in cancer Inservice programming, the development of a cancer care team and the request for other travel team programs. Evaluation based on these outcomes is in progress and preliminary findings are very favorable.

During the second year of the pilot program, three new topics will be added to the existing offerings. More volunteer instructors will be recruited and trained to allow the traveling team to meet the increased demand for programming. The Nursing Education Committee views this project as a highly effective means to help meet the cancer education needs of practicing nurses in the state.

Meeting the cancer-related educational needs of nurses in New Hampshire is the primary function of the Nursing Education Subcomimttee of the New Hampshire Division, American Cancer Society. For several years, committee members have utilized a centralized workshop as their main approach to supplement unit level activities. While evaluations by those nurses present were consistently favorable, committee members became increasingly concerned with shortcomings of this format. Attendance patterns were evaluated and it was found that:

Less than 4 percent of New Hampshire nurses were reached by these workshops.

The majority of attendees were from community hospitals. Fewer nurses attended from long term care facilities, home health or ambulatory care settings.

Only two to four nurses from each facility were freed for attendance.

Large workshops allow insufficient flexibility to encompass individual learner needs.

The Cancer Nursing Travel Team was developed to address those shortcomings and to supplement rather than replace the centralized workshop. It was felt that updated and relevant information on the care of the cancer patient could be offered to nurses in their respective settings, thus reaching larger numbers of nurses. Content could be geared to specific facility or agency needs to increase its relevancy. A two years pilot project was initiated in the Fall of 1976 with the first several months devoted to planning.

An important concern, which surfaced during planning, was that programs offered should reflect an understanding of the way cancer patients are cared for in New Hampshire. (slide 1) Here, community hospitals maintain a vital role in the diagnosis and treatment of cancer. An analysis of tumor registry data demonstrated that certain cancer sites are more likely to receive primary therapy at the community hospital level than other sites. Educational programs targeted for nurses working at these facilities should focus on informational needs related to those sites. Care of the ostomy patient and the postmastectomy patient were selected as the first two program areas to be developed. Selection was based on incidence rates in our area and treatment patterns at the community level. Increased concern with the provision of quality care through a team approach encouraged us to include the cancer care team as a program choice.

The committee anticipated that they would serve as faculty members and that any additional faculty requirements could be met from outside the committee. Letters outlining the project were sent to Directors of Nursing Service and Inservice Coordinators at hospitals, long term care facilities, home health agencies and technical nursing programs. (slide 2) The letters carefully outlined the division of responsibilities between requesting agencies as outlined here, and the sponsor. Asking the requesting facility to assume these duties clarified responsibilities and evidenced their commitment to the program. (slide 3) While requesting agencies' responsibilities were mainly organizational in nature, the American Cancer Society retained content and delivery responsibilities. It was anticipated that specific informational needs of the requesting agency would be identified at the time scheduling arrangements were made and that the nurse presenting could gear the content accordingly.

The response to the initial letter was far greater than anticipated (slide 4) and during the spring and summer of 1977, 39 programs were delivered. As depicted in this circle graph, community hospitals received 56% of the programs given, but long term care facilities accounted for very significant amount of programming. It is notable that programs were given at half of New Hampshire's general acute hospitals. (slide 5) The most frequently requested program was Quality Care, the title of the program on the team approach to cancer care. Interest in the formation and operation of cancer care teams accounts for a large proportion of this interest. Popularity was also due in part, however, to some confusion over the content in this program. Analysis of the evaluation forms has led to the belief that a few facilities elected this offering because it was the only program offered that was not site specific and they erroneously interpreted this to mean it was an overview. (slide 6) Through review of postprogram evaluation forms completed by participants and supplemented by feedback from those serving as faculty, the effectiveness of the project's first year has been determined. It had been anticipated that this programming would stimulate these agencies to begin to take a more active and informed role in the provision of quality cancer care. This objective has been met, as evidenced by an increase in cancer related inservice programs and in hospital activities such as the formation of cancer patient care guidelines. Certainly, the program strengths as outlined here outweighed the weakness noted. I would like to spend just a minute discussing the problems encountered in the first year—hopefully you might avoid them if you plan a similar program!

Scheduling difficulties arose because agencies phoned in their request to the American Cancer Society office over the span of several months. Coordinating schedules between available faculty and requesting agency was very time consuming and inefficient.

Too few instructors also added to scheduling difficulties. The committee had planned to purchase part of an E.T.'s time from a nearby hospital to do the ostomy programming. When budget constraints made this impossible, the increased load was borne by a few committee members. The rurality of the region and its accompanying long travel distances between agencies increased the time demands to accomplish programming. Few committee members were able to make that kind of commitment. The total programming was accomplished by only five nurses.

The lack of clarity in objectives for certain programs led to some minor confusion and was evident in varying degrees.

The inability to meet some specific learner needs was perhaps a shared weakness; faculty members were not always flexible enough in their presentations to address individual needs, and some agencies were unable to identify specific learner needs.

These weaknesses have served as an important tool in the planning for Year II of the program. Mary Allen will describe this to you.

In preparation of Year II of this pilot project, the committee reviewed the evaluation forms from Year I, and discussed at length the strengths and weaknesses from Year I. An approach to remedy each identified problem area was developed.

(Slide 7) To ease scheduling difficulties, all requests will be written on a form included in the handout you received. All scheduling will be done centrally to geographically group programming requests, decrease travel time and make the most efficient use of available instructors.

(Slide 8) More instructors have been recruited and they are more geographically distributive. While the programming will be concentrated somewhat into the spring months, a greater response will necessitate extension of programming periods.

(Slide 9) In Year I, specific program objectives were communicated only over the phone, and not included in the written proposal. As noted in the handout, this year we have included the specific program objectives for requesting agencies to review and revise before the program request is made.

(Slide 10) Learner needs may be better met when the requesting facility has a clearer idea of what the program has to offer. Inclusion of content outlines in the proposal letter should assist requesting facilities to identify their own specific needs before programs are requested. The preferred content focus can then be agreed upon.

The handout you received is a somewhat abbreviated form of the material that was mailed to Directors of Nursing Service and Inservice Coordinators in February. You will note we are again offering the same topics as last year. Originally, the committee had planned to expand or change the topics offered during the second year. The decision to keep the topics the same was based both on directives from evaluation forms, and from the feeling by committee members that the original target population had not yet been reached. Judging from the response to date, this assumption seems to be true. (Slide 11)

During Year I, the travel team reached 525 nurses. Even though only one statewide workshop was held during the 1976–77 program year, the total numbers of nurses reached by chapter level activities was more than doubled. Projections for the 1977–78 year program are even greater.

Far more important than total numbers reached is what is going on at those facilities requesting programs. Increased interest in quality cancer care and assumed responsibility by nurses for the provision of that care has become more apparent. There is increased utilization of designated resource people and growing communication and sharing between facilities.

The cancer care travel team program can very easily be adapted to meet changing needs and varied target populations. This project is viewed as a highly effective means to help meet the cancer educational needs of practicing nurses in the state.

Thank you.●

THE COMPREHENSIVE ANTI-INFLATION ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LUNDINE) is recognized for 30 minutes.

● Mr. LUNDINE. Mr. Speaker, yesterday with Mr. FISHER, Mr. MAGUIRE, Ms. MIKULSKI, Mr. MIKVA, Mr. MOORHEAD of Pennsylvania, Mr. PATTISON of New York, and Mr. SIMON, I introduced the comprehensive Anti-Inflation Act of 1978.

There should be little dispute about the gravity of this Nation's inflation problem. The June increase in consumer prices, which translated to an annual inflation rate of over 10 percent, is only the most recent setback. For the last 3 years, we have experienced a basic inflation rate of at least 6 percent, despite a major recession and substantial economic slack. Whether or not the latest figures signal a return to "double digit" inflation, it is clear these conditions must not go unchecked.

While the impact of inflation is somewhat uneven, ultimately everyone is hurt. Even people with moderate incomes find it difficult to avoid some erosion in their standard of living, and increasing numbers of families see their budgets strained by the costs of basic necessities alone. Above all, our inability to control inflation is undermining confidence—of the business community and of individual citizens—in our economy and its promises of opportunity. Despite hard work and thrift, many manage at best to break even, and are simply losing hope of ever getting ahead.

We are convinced these conditions are not inevitable. In sponsoring this legislation, moreover, we do not believe the country faces an inherent choice between inflation and unemployment. While economists traditionally warned of a trade-off relationship between these two problems, we have managed to experience intolerable levels of both at the same time.

A little over a year ago, I arranged an informal discussion group for House Members with mutual interests in innovative economic policies. Since January, this group has defined inflation as its principal focus and met regularly to explore alternatives to the macroeconomic remedies relied upon in the past. In rejecting the tradeoff theory, we have sought solutions that encourage economic growth and allow us to pursue the objectives of reducing inflation and unemployment together.

For these sessions, the idea of a comprehensive anti-inflation policy evolved. The group consulted with outside experts, as well as colleagues with particular responsibility for economic policy. Gradually and methodically, we settled on the elements of the bill we are introducing today.

Basically, our bill would require a coordinated Federal approach to combating inflation, combining fiscal, monetary, and regulatory policy. Each year, as part of the economic report, the President would propose numerical inflation goals and prepare a plan for meeting those goals. An annual statement is similarly required of the Federal Reserve Board. Our ultimate aim is to obtain agreement between the President and the Congress on a comprehensive strategy to control inflationary pressures in a manner consistent with our other economic priorities.

The choice of specific policies is purposely left open, though the bill suggests a number of options worth considering. Where possible, we emphasize incentives—in the tax system and other areas of Federal policy—to encourage noninflationary behavior in the public and private sectors.

Other provisions require the President to formulate specific guidelines for wages and prices, and suggest ways to promote voluntary compliance. Mandatory controls, however, are explicitly ruled out.

The bill further calls for special hearings by the Joint Economic Committee to review the full set of policy and guideline proposals. The guidelines will take effect unless disapproved by the Congress, while legislative recommendations must be referred to appropriate committees for action.

As a group, we essentially view this approach as a solid first step, rather than a final answer. In many cases, additional measures would be needed to implement suggested changes in policy. Several of the proposals from this act may be introduced separately: My distinguished colleague from Virginia (Mr. FISHER), for example, is introducing a measure stressing the guidelines approach. Others of us intend to develop the tax incentive proposals, to authorize tax cuts rewarding voluntary restraint by workers and businesses. The anti-inflation bill we are outlining today should give a sharper focus to these efforts and assure a more systematic approach to the basic problem.

There is presently little cohesiveness to Federal anti-inflation efforts. Legislation and administrative regulations are considered one by one, without much attention to the collective impact. Last year, for example, I am convinced the Government undermined its attack on inflation by sharply raising social security payroll taxes and minimum wage rates. In the case of social security, proposals with much less of a direct effect on price levels were largely ignored.

Our bill would encourage the Government to put its own house in order. Recognizing the "cost-push" nature of much of the current inflationary pressures, we suggest a variety of ways to cut Government-induced costs.

In the regulatory area, for example, we recommend significant revision of procedures for setting standards, to assure more careful balancing of the need for particular requirements against the added costs they impose. The bill specifically seeks incentives for agencies to develop cost-effective regulations and advances the idea of a special "regulatory budget." Under such a system, which I believe was first proposed by economist Robert Crandall of the Brookings Institution, the Office of Management and Budget would recommend annual limits on the total amounts of resources that could be required to meet the standards of each regulatory agency. Along with encouraging more thorough analysis of costs and benefits, the process should guarantee a greater effort to minimize the costs of compliance.

Other options discussed in the bill include tax revision, deregulation of certain industries, measures to increase productivity, antitrust and trade policies. As I have already indicated, overall fiscal and monetary policies must be supportive. While the bill does not mandate particular choices, I personally feel it is inappropriate to maintain huge Federal deficits in a period of recovery. Ultimately, without a credible effort by Government to reduce its own contribution to the inflation problem, we stand virtually no chance of securing support from from the private sector.

Government, clearly, cannot break the wage-price spiral by itself. Lasting progress will depend on cooperation by the private sector in moderating wage and price behavior. But traditionally, the problem with voluntary restraint has been that no one wants to be the first to settle for lower wages or price increases, for fear that others will not go along.

Our bill seeks ways to make such voluntary efforts worthwhile. Specific recommendations include the use of tax incentives, in the form of credits or refunds, to induce workers and firms to hold cost increases below particular levels. Modeled on proposals of Brookings economist Arthur Okun, the program we envision would be entirely optional. But with properly designed incentives, workers and firms should want to participate, causing the momentum of the wage-price spiral to subside.

Our proposals for annual wage and price guidelines also stress cooperation rather than coercion. Though the levels may be determined by formula, the President is also directed to seek the recommendations of representative industries and labor organizations concerning guidelines they believe they could attain. The bill further establishes procedures and timetables for congressional action on the guidelines.

Finally, we recognize that in certain sectors of the economy—like food, energy, health care, and housing—prices have accelerated at unusually rapid rates. Our bill proposes separate examinations of the problems in these sectors, and urges a reconsideration of certain Federal policies.

What we envision, in conclusion, is a multifaceted approach to inflation, involving new efforts by both the public and the private sectors. Our legislation offers a way to fit the policies together, and achieve some consensus on the elements of a workable anti-inflation plan.

SECTION-BY-SECTION ANALYSIS

Section 1. Comprehensive Anti-Inflation Act of 1978.

Section 2. Purposes.

(1) to reduce and stabilize the rate of inflation, without impairing economic growth, adding to unemployment, or creating inefficiencies and distortions in the allocation of resources.

(2) to obtain agreement between the President and the Congress on a comprehensive plan for combating inflation, including specific economic and regulatory policies and programs.

(3) to promote consideration of new policies to encourage voluntary wage-price restraint.

(4) to promote analysis of the costs and benefits of Federal regulatory and program activities, and establish a Federal commitment to minimize the excess costs imposed by such policies.

(5) to require short- and long-term inflation goals and establish reasonable guidelines for price increases and wage settlements.

TITLE I—COORDINATION OF ECONOMIC POLICIES

Section 101. Amends the Employment Act of 1946 to require the President to include, as part of his annual Economic Report, a comprehensive plan for reducing inflation. The plan shall include numerical inflation goals for the next two years (short-term goals) as well as longer-term objectives covering a five-year period. Both short and long-term goals must be consistent with other national economic priorities, including maintenance of healthy economic growth and progress toward full employment. The plan shall also include the President's recommendations on fiscal policy and on specific programs intended to achieve the anti-inflation goals. In explaining the plan, the President's report shall discuss the range of options considered and the reasons for particular choices.

Section 102. Requires an independent annual statement from the Federal Reserve Board describing its anticipated monetary policies and the relationship of those policies to the President's anti-inflation goals.

TITLE II—ESTABLISHMENT OF GUIDELINES

Section 201. Amends the Employment Act of 1946 to require the President to formulate annual wage and price guidelines. These targets, to be set forth in the Economic Report, should apply to all businesses and labor organizations. The President may use a formula to determine guideline levels, and also seek recommendations from representative industries and labor organizations concerning the levels they think they can attain. A possible formula would take the cost-of-living increase for the preceding year, and add an estimate for economy-wide productivity gains, and subtract from the sum an inflation reduction factor of approximately 25 percent. The section further permits the President to take steps to promote voluntary compliance with the guidelines, but forbids the use of mandatory wage or price controls.

Section 202. Provides for appropriate consultations between the Council of Economic Advisers and other government agencies, including the Council on Wage and Price Stability, in preparing the President's anti-inflation plan and guidelines.

TITLE III—POLICIES AND PROGRAMS TO REDUCE INFLATION

Section 301. The purpose of the title is to set forth a variety of options for the President to consider as elements of a comprehensive anti-inflation plan, in recognition of the drawbacks of relying solely on general economic remedies. Each section lists policy alternatives aimed at reducing costs, to encourage wage and price moderation without undermining other national economic objectives.

Section 302. Recommends reducing or replacing taxes which directly increase prices, including Federal payroll taxes, Federal excise taxes, state and local sales, excise, and consumption-related taxes, and providing needed financing from income taxes and other revenue sources.

Section 303. Recommends revision of Federal regulatory procedures, to include thorough analyses of the costs and benefits of regulatory standards and to encourage the private sector to meet the requirements with as little extra cost as possible. The section further directs the President and the Office of Management and Budget to consider preparing a "regulatory budget" that would set annual limits on private and public expenditure levels that could be required to meet the standards of each regulatory agency.

Section 304. Recommends deregulation, specifically in the transportation sector.

Section 305. Recommends steps to encourage private and public sector productivity, including federal support for voluntary labor-management activities.

Section 306. Recommends the use of tax incentives to induce workers and firms to hold cost increases to specified levels. The section suggests incentives in the form of tax credits or refunds for achieving such moderation, but also requires a study of the possibilities from the Council of Economic Advisers and the Treasury Department. The section further outlines procedures the Council on Wage and Price Stability may use to obtain information and promote voluntary compliance with the wage and price guidelines. The Council may choose to require prior notice of price increases anticipated by large firms, as well as information concerning wage settlements and fee structures of professional associations, and issue reports when particular guidelines appear to have been violated. The President may further utilize mediation processes to achieve compliance in such cases.

Section 307. Provides for special attention to sectors exhibiting unusually rapid increases in prices, including food, energy, housing, and health care.

Section 308. Recommends efforts to strengthen and improve enforcement of the antitrust laws.

Section 309. Recommends emphasis on fair trade policies that could lower domestic costs, with appropriate consideration of the effects on domestic production and employment.

TITLE IV—CONGRESSIONAL REVIEW

Section 401. Amends the Employment Act of 1946 to provide for review of the President's anti-inflation plan and proposed wage and price guidelines by the Joint Economic Committee. After holding hearings, the committee is required to issue a report and refer its policy recommendations to the appropriate legislative committees. The section further sets a timetable for congressional action on the proposed guidelines, providing 30 days for the House and Senate to disapprove these targets by concurrent resolution. If the guidelines are disapproved, the President may resubmit new ones to Congress within 30 days. If Congress fails to act by the deadline, the President's guidelines would take effect.

H.R.—

A bill to reduce the rate of inflation and keep it within reasonable bounds by providing for a comprehensive plan for coordinating Federal economic and regulatory policies to offset inflationary pressures, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Anti-Inflation Act of 1978".

PURPOSE

SEC. 2. It is the purpose of this Act to—

(1) reduce the rate of inflation and to keep it within reasonable bounds, without impairing economic growth, adding to unemployment, or creating other inefficiencies and distortions in the allocation of resources;

(2) obtain agreement between the President and the Congress on a comprehensive plan for moderating inflationary pressures, that outlines the role of specific economic and regulatory policies and programs;

(3) promote consideration of new policies to encourage voluntary wage-price restraint;

(4) promote analysis of the costs and benefits of Federal regulatory and program activities, and establish a Federal commitment to minimize the excess costs imposed by such policies; and

(5) require short- and long-term inflation goals and establish reasonable guidelines for price increases and wage settlements.

TITLE I—COORDINATION OF ECONOMIC POLICIES

COORDINATION OF ECONOMIC POLICIES

SEC. 101. (a) Section 3(a) of the Employment Act of 1946 is amended—

(1) by striking out "and" immediately before "(4)"; and

(2) by inserting before the period at the end thereof the following new clause: "(5) a coordinated set of fiscal (tax, expenditure, and borrowing), monetary, and other economic and regulatory policies designed to combat inflation and to achieve the related goals set forth in the Report, established in accordance with subsection (c)".

(b) Section 3 of such Act is further amended by redesignating subsection (c) as subsection (e), and by inserting after subsection (b) the following new subsection:

"(c) The economic and regulatory policies referred to in subsection (a)(5) shall set forth—

"(1) current trends in the levels of prices, wages, productivity, and production costs, as well as analysis of relevant factors and economic conditions affecting such trends, including projections for inflation rates in the next calendar year;

"(2) annual numerical inflation goals for the calendar year of the Economic Report and for the following calendar year, designated as short-term goals, which shall be

fully consistent with the goals of maintaining healthy economic growth, achieving full employment, increasing productivity, and promoting efficient uses of resources; and longer-term inflation objectives designated for a period of five years beyond the calendar year of the report, together with acceptable ranges for annual fluctuations in the price level;

"(3) fiscal policy targets for the calendar year of the Economic Report, with an explanation of how the President's recommended levels of outlays and receipts are consistent with the short-term goals of clause (2), and the direction of budgetary policy for the full five-year period and its relation to the longer-term objectives in clause (2); and

"(4) specific programs and initiatives designed to achieve the inflation goals in clause (2), including any recommendations of the President respecting programs and policies described in title III of the Anti-Inflation Act of 1978.

In describing the policies, the President shall indicate the range of options considered and give the reasons for his choices.".

FEDERAL RESERVE BOARD MONETARY POLICIES

SEC. 102. The Board of Governors of the Federal Reserve System shall annually transmit to the Congress an independent statement of its intended monetary policies for the year, and explain their relationship to the short-term and longer-term inflation objectives set forth in the Economic Report for such year as required by clause (5) of section 3(a) of the Employment Act of 1946. Nothing in this Act shall be interpreted to require that policies proposed by the Board be followed if the Board and the Federal Open Market Committee determine that they cannot or should not be followed because of changing conditions.

TITLE II—ESTABLISHMENT OF GUIDELINES

ESTABLISHMENT OF GUIDELINES

SEC. 201. (a) Section 3(a) of the Employment Act of 1946 is amended by inserting before the period at the end thereof the following new clauses: "; and (6) a set of guidelines to govern price increases and wage settlements, established in accordance with subsection (d)".

"(d) The guidelines referred to in subsection (a)(6) shall be designed to reduce and stabilize the rate of inflation, and shall apply to business concerns and labor organizations. Such guidelines—

"(1) shall be formulated in consultation with congressional, business, labor, and private advisers, as well as with the Council of Economic Advisers;

"(2) shall take into account the recommendations of representative industries and labor organizations from major sectors of the economy respecting annual targets which such industries and organizations could comply with;

"(3) shall take into account existing and projected national economic conditions, the pattern of wage and price movements in recent years, trends in nonlabor cost increases, and other relevant considerations; and

"(4) may be based on a formula that reflects the increase in the cost-of-living which has occurred during the preceding year (as measured by the change in the Consumer Price Index) and adds an estimate of productivity gains throughout the economy and subtracts from this sum, a factor of approximately 25 percent of such cost-of-living increase and such productivity gains, or any other formula the President considers appropriate.

The President may take appropriate actions to promote voluntary compliance with the guidelines, but the President shall not utilize any form of mandatory controls on either wages or prices.

COUNCIL OF ECONOMIC ADVISERS

SEC. 202. (a) Section 4(c)(1) of the Employment Act of 1946 is amended by inserting before the semicolon at the end thereof the following: ", including the portions of such Report establishing economic policies and guidelines as required by clauses (5) and (6) of section 3(a)".

(b) Section 4(e)(1) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and shall seek the advice and concurrence of the Council on Wage and Price Stability, as well as the cooperation of other departments and agencies of the United States, in carrying out its functions with respect to the portions of the Economic Report establishing economic policies and guidelines in accordance with clauses (5) and (6) of section 3(a)".

TITLE III—POLICIES AND PROGRAMS TO REDUCE INFLATION

PURPOSE

SEC. 301. The Congress recognizes the inadvisability of relying solely on general economic policies to reduce inflation in a manner consistent with other national objectives for economic growth and employment as provided for in title I of this Act. It is, therefore, the purpose of this title to urge the President to undertake, with recommendations to the Congress where necessary, additional programs and policies capable of achieving the anti-inflation goals set forth in this Act.

TAXES

SEC. 302. In formulating and revising tax policy, the President shall endeavor to reduce, or substitute for, taxes which significantly increase price levels. The President shall specifically consider—

(1) reductions in Federal payroll taxes for social security and unemployment compensation, with provision for alternative financing of some segments of these programs to produce sufficient revenues;

(2) rescinding of Federal excise taxes, replacing lost revenues with income taxes;

(3) the use of Federal revenues to compensate States and localities that choose to reduce or repeal indirect taxes, such as sales taxes, excise taxes, and various consumption-related taxes, for at least part of their revenue losses, if these jurisdictions do not substitute other cost-raising taxes; and

(4) the use of tax incentives to induce workers and firms to hold down cost increases.

REGULATORY REVIEW

SEC. 303. (a) The Congress recognizes that Federal regulatory requirements have added substantially to costs in many industries and that existing procedures for setting standards do not assure thorough analysis of either the costs or the social benefits, or comparison of alternative approaches to achieving particular regulatory aims.

(b) To promote the purposes of this Act, the President shall encourage executive and independent agencies to utilize analytic information on costs and benefits in determining appropriate standards. As far as possible, regulations shall allow private agents the technolcgical and administrative flexibility to meet the requirements in the least costly way.

(c) The President, in consultation with the Office of Management and Budget and other advisory agencies, shall further develop specific procedures to promote the promulgation of economically efficient and socially desirable regulations. Such a system could include annual limits on the total amounts of private and public resources that could be devoted to meeting the requirements of each regulatory agency, to provide incentives to adopt cost-effective regulations and obtain maximum benefits for given levels of expenditures.

DEREGULATION

SEC. 304. The President shall take appropriate steps toward deregulation of industries over which the Federal Government has rate-setting authority, if he determines that deregulation would promote competition and reduce service costs without harm to the public. The President shall specifically consider deregulation of entry and fare-setting in the transportation sector, including the airline, trucking, shipping, and railroad industries.

PRODUCTIVITY

SEC. 305. The President shall encourage the growth of productivity in both the private and public sectors, and develop policies to promote investment in human resources as well as technological advancement. To accomplish these purposes, the President may support the establishment and operation of joint labor-management activities conducted by plant, area, and industry-wide committees, designed to increase productivity and organizational effectiveness, and improve the utilization of human resources.

VOLUNTARY WAGE AND PRICE RESTRAINT

SEC. 306. (a)(1) In seeking voluntary cooperation from business and labor to achieve objectives of this Act, the President shall examine the use of tax incentives, to workers and to firms, to hold cost increases to specified levels. Such approaches could involve tax refunds, equal to a particular percent of wages, to workers whose companies hold average pay increases to a specific rate per year. Corresponding tax reductions could be offered to firms that pledge in advance to take such action, and to firms that limit their price increases to a specific annual rate.

(2) The Council of Economic Advisers and the Department of the Treasury shall jointly prepare a study and make recommendations regarding the use of tax incentives to induce compliance with the wage and price guidelines established under section 3(a)(6) of the Employment Act of 1946. Such study and recommendations shall be transmitted to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Economic Committee for their consideration and appropriate action.

(b)(1) The Council on Wage and Price Stability may require each business concern with annual sales of not less than $100,000,000 to which (under section 3(c) of the Employment Act of 1946) the guidelines currently in effect under section 3(a)(6) of such Act are applicable, and which proposes to make a significant price change in any major product line, to notify the Council of such change at least 30 days before it becomes effective. In addition, the Council on Wage and Price Stability may require each professional association to submit to the Council an annual report on the fee structures of the persons or groups it represents, including the results of surveys conducted of such persons or groups, and the Council may monitor and study the provisions of all major wage settlements.

(2) The Council on Wage and Price Stability may obtain information respecting the range of anticipated wage settlements from the Department of Labor.

(c) The Council on Wage and Price Stability, on its own initiative or at the request of any business concern or labor organization substantially affected by the guidelines involved (or at the request of a consumer group having a substantial and direct connection with such a concern or organization), may make and publish a report on any price increase, wage settlement, or change in

fee structures which in its judgment exceeds or violates the applicable wage or price guidelines currently in effect under section 3(a)(6) of the Employment Act of 1946. Each such report shall cover price trends, wage and other cost trends, agreements reached in similar situations, any mitigating or unusual factors, the profit picture in related firms and industries, and other relevant considerations. Any business concern, labor organization, or professional association whose plans, practices, or actions are the subject of such a report shall be given a reasonable opportunity to reply in writing, citing any special circumstances which may explain or justify the violation of such guidelines or demonstrating that no such violation exists.

(d) Whenever the Council makes a report on a price increase, wage settlement, or change in fee structures under subsection (b), the President may—

(1) institute and carry out (in the case of a wage settlement) a process of mediation between the business concern or concerns and the labor organization or organizations which are involved, under the direction of an independent mediator, or

(2) institute and carry out (in the case of a price increase or a change in fee structures) such process of mediation as in his judgment is suitable to the circumstances, including participation by appropriate business, labor, and consumer interests.

in order to achieve compliance with the applicable guidelines.

SPECIAL SECTORS

SEC. 307. (a)(1) The Congress recognizes that food prices have contributed significantly to recent inflationary trends, and that Federal policies to stabilize crop prices and farm income have tended to exert upward pressure on prices. These include such choices as price supports, acreage set-asides, and other output limitations.

(2) In formulating agricultural policy, the President shall strive to preserve production incentives and allow market forces to operate wherever possible. The President shall specifically consider—

(A) the use of commodity reserves to moderate price fluctuations; and

(B) direct payments to farmers, subject to an appropriate limit, as the means of support during periods of low income.

(b)(1) The Congress recognizes the urgent need for a national energy policy that reduces United States dependence on imported oil, and takes appropriate action to promote conservation. To the extent such measures increase energy prices to discourage consumption, higher costs will be felt throughout the economy.

(2) The President, with assistance from the Council on Wage and Price Stability and other relevant agencies, shall explicitly address the price implications of energy policies in the Economic Report and seek ways to offset inflationary effects.

(c) The President shall examine and analyze the causes of rapid acceleration in housing prices, and seek ways to reduce supply bottlenecks and lower land, financing, and other relevant costs. In formulating policy in this area, the President shall also explore with the Federal Reserve Board the role of its actions on interest rates and possibilities for accommodations in the general structure of interest rates.

(d) The President shall set forth programs and policies to limit the acceleration of health care costs, including proposals to restrain increases in hospital costs.

ANTITRUST

SEC. 308. The President shall explore ways to increase competition in concentrated industries and take appropriate action to strengthen and enforce the antitrust laws.

TRADE

SEC. 309. The President shall pursue negotiations for fair trade agreements with foreign nations and explore the potential for adjustments in trade policies that would lower domestic costs. In recommending revisions, the President shall weigh the effects on domestic production and make appropriate arrangements for direct assistance to workers and industries affected by such policies.

TITLE IV—CONGRESSIONAL REVIEW

CONGRESSIONAL REVIEW BY JOINT ECONOMIC COMMITTEE

SEC. 401. Section 5 of the Employment Act of 1946 is amended by adding at the end thereof the following new subsection:

"(g)(1) In conjunction with its annual review of the Economic Report, the joint committee shall hold special hearings for the purpose of reviewing the President's proposed economic policies to combat inflation (as included in such report pursuant to section 3(a)(5)) and his proposed guidelines for wages and prices (as included in such report pursuant to section 3(a)(6)). As soon as possible after such hearings are completed, the joint committee shall submit to the House of Representatives and the Senate its findings and recommendations with respect to such guidelines and policies (and shall in addition transmit directly to the committees of the House and Senate having jurisdiction with respect to such policies its specific recommendations for appropriate action thereon by those committees).

"(2) The proposed guidelines for wages and prices which are included in the Economic Report shall become effective, as the national standard to be followed by business concerns and labor organizations in accordance with section 401 of the Anti-Inflation Act of 1978, on the 30th day following the day on which the joint committee submits its findings and recommendations to the House and Senate under paragraph (1), unless prior to such 30th day the Congress (in accordance with paragraph (3)) adopts a concurrent resolution stating in substance that it disapproves of the guidelines as included in the Report. If the Congress adopts such a concurrent resolution, such guidelines shall not become effective and the President may within 30 days resubmit them with such modifications as he may consider necessary or appropriate; and the guidelines as so resubmitted shall become effective unless prior to the 30th day after the date of resubmittal the Congress (in accordance with paragraph (3)) adopts a concurrent resolution stating in substance that it disapproves of the guidelines as resubmitted.

"(3) Any concurrent resolution described in paragraph (2) which is introduced in either House of Congress shall be considered under and in accordance with the procedures set forth in section 1017 of the Congressional Budget and Impoundment Control Act of 1974, as though it were a resolution to which that section applies; except that for purposes of applying such procedures (A) a concurrent resolution which has passed one House and is transmitted to the other House shall be considered to have been introduced in the latter, and (B) the term '25 calendar days of continuous session of the Congress' in subsection (b)(1) of such section 1017 shall be deemed to read "15 calendar days'.".●

● Mr. PATTISON of New York. Mr. Speaker, during my two terms in Congress, I have spoken with thousands of my constituents about the inflation problem. Time after time, people in my congressional district have told me that they are concerned over the Federal Government's inability to really do something about inflation.

In these discussions, I often point out the complexity of the inflation problem, and the need for industry, labor, consumers, and government on all levels to work together to find a solution. However, for a retiree struggling to make ends meet on a fixed income, or for a young couple trying to maintain a decent standard of living for a growing family, such generalities have little meaning.

Clearly, the Federal Government must take the lead. As a member of the Economic Policy Group of the class of the 94th Congress, I have met periodically with several of my colleagues to discuss methods and to draft legislation to bring about a unified Federal policy on inflation. Today, we are introducing this legislation—the Comprehensive Anti-Inflation Act of 1978.

The main thrust of this bill is to foster a comprehensive Federal approach to lower the inflation rate, and to take actions, short of wage and price controls, to encourage business and labor to avoid excessive wage and price increases.

The approach of the bill is long-term and "process" oriented. It provides no easy or quick fix to the problem.

The Comprehensive Anti-Inflation Act directs the President to submit to Congress an annual statement of short-term and long-term policies for combating inflation. It mandates a coordinated effort among the White House and the Federal agencies for drawing up voluntary wage and price guidelines for major industries in consultation with labor and management, reducing the social security payroll tax and other taxes which most directly increase the costs of goods and services; reforming Federal regulations to minimize their inflationary impact; fostering greater labor-management cooperation for increased productivity; and improving the enforcement of the antitrust laws to foster competition. The bill also requires an independent annual statement from the Federal Reserve Board describing its anticipated monetary policies and the relationship of those policies to the President's anti-inflation goals.

Finally, the Comprehensive Anti-Inflation Act provides a defined process of congressional review of the President's report.

Our current efforts to slow the inflation rate are hamstrung by conflicting policies. We cannot confront a complex problem with piecemeal solutions. The President's wage and price guidelines are hard to sell to companies who feel that Government regulations needlessly increase their costs of doing business. Furthermore, we cannot expect some segments of the economy to bear all the burdens of fighting inflation.

Once a large group of workers, the coal miners, for example, obtain large wage increases, other workers are understandably reluctant to accept less. We must look at the economy as a whole, so that our attempts to slow inflation are not counteracted by other policies.

This does not mean that we should cut back on our attempts to clean up the environment, improve occupational safety, or set standards for goods and services. What we must do, and what the Anti-

Inflation Act mandates, is that we examine all of our options in a coordinated way and try to accomplish our other goals in the least costly manner possible.

It is my hope that this bill will be an important tool for fighting inflation. While it does not demand any fundamental shift in our present policies, it does provide a central focus to our efforts to solve this problem. And I do not think it will be possible to cut the inflation rate without a truly comprehensive policy.

I commend my colleague from New York, Congressman STAN LUNDINE, for his leadership on this issue. Congressman WILLIAM MOORHEAD, showing his usual commitment to solving tough economic problems, has committed the Economic Stabilization Subcommittee, which he chairs, and on which I serve, to hold hearings on this bill in September. I urge my colleagues to support the Comprehensive Anti-Inflation Act of 1978, and I look forward to its early passage when the 96th Congress convenes in January.●

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I am pleased to be a cosponsor of the Comprehensive Anti-Inflation Act of 1978, and to announce that the Subcommittee on Economic Stabilization of the Banking Committee, of which I am chairman, will hold a hearing on the bill next month. While it may be too late in the current session of Congress to enact comprehensive legislation this year, I want to remind Members that the House will certainly consider legislation in this field next year, if for no other reason than the need for renewal of the statutory life of the Council on Wage and Price Stability, which expires September 30, 1979.

While I am not wedded to every provision of the bill introduced today, it is an excellent starting point for considering the difficult question of how we can improve and toughen our legislative approach to inflation. My opposition to mandatory wage and price controls is unchanged—and is confirmed in this bill—but beyond that my mind is open.

Apart from the controversial question of price and wage guidelines, Mr. Speaker, Members will note that this bill serves as an excellent reminder of all the ways in which the Government can affect the price level beyond its macroeconomic monetary and fiscal policies. It instructs the President to examine every one of them, and make recommendations. From payroll taxes to farm policy, from cost-raising regulation to the role of imports, the list is extensive.

We have learned to our sorrow that inflation will not just go away—and indeed that even a deep recession, with all its pain and suffering, will no longer make a major dent in inflation, as illustrated by the experience of 1974–1976. It is a time for fresh thinking, and I believe the Comprehensive Anti-Inflation Act of 1978 being introduced today starts us in that direction.●

A RECOGNITION OF OUR CONSTITUTED AUTHORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, I was indeed delighted to hear from Mr. Arthur Burck of Palm Beach, Fla., a longtime friend and most dedicated citizen, concerning some of his experiences while attending and testifying at several subcommittee hearings in the House of Representatives.

Mr. Burck wrote a most interesting letter that has been submitted to several leading newspapers for publication, and I wish to share this letter with you as a source of inspiration for all "constituted authority" and a sincere recognition that the American public does indeed empathize with the difficult plight of elected officials. I include the text at this point:

PALM BEACH, FLA.,
August 4, 1978.

Letter to the Editor:

Our Senators and Congressmen in Washington are too often viewed as mediocrities who are overprivileged, overpaid and oversexed. For years our press has been headlining the occasional peccadilloes of our legislators, but rarely is there an article summarizing the hard work, dedication to duty and ability of incredible breadth that are required by the complexities of the myriad issues they must deal with.

Last week I testified before a Senate and a House Subcommittee, made presentations before two chairmen of powerful House committees and addressed all FTC commissioners. In addition we had a small cocktail party for some government leaders and Washington friends.

Again, as we had observed in prior work with Congressional committees and government leaders, we were impressed by the complete dedication to duty of what on average is a group of exceptional ability. We taxpayers can be thankful that we don't have to pay overtime rates to our legislators because more often than not they are in legislative session until late evening hours. Indeed, a leading Washington hostess commented that evening sessions had become so common that astute hostesses no longer plan sit-down dinners—buffets have become the practical means for fashionable entertaining when legislators and high government officials are invitees.

My work as a corporate merger expert takes me into scores of the nation's leading executive suites every year. It is my observation that our leading businessmen and their subordinates do not work as hard as our national legislators and their staffs. It is therefore time we put to rest some of the many canards concerning goings-on in Washington.

To be sure, many have human frailities, as do all of us. Moreover, everyone is impatient with the pace of progress in resolving the many problems that surround us. But today's problems have no easy solution. Unmindful of these difficulties, some are flailing out for quick and easy answers, and so we have a proliferation of "to hell with our leader" ideas that may also be characterized as the "Proposition 13" mentality.

The danger of course is that such lack of respect for constituted authority accompanied by deep-seated problems that bother the common man, is fertile ground for the emergence of crackpots with easy solutions. We should all study the history of Germany and Italy in the twenties and thirties before we lightly follow any Pied Piper, or needlessly denigrate our governmental leaders at any level.

ARTHUR BURCK.●

CRIME SUBCOMMITTEE POSTPONES HEARING ON REAUTHORIZATION OF THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

● Mr. CONYERS. Mr. Speaker, the Subcommittee on Crime, which I chair, has postponed its scheduled hearing on legislation to reform and reauthorize the Law Enforcement Assistance Administration. This hearing was scheduled to take place on August 16, 1978, at 9 a.m. in room 2141 Rayburn House Office Building. As soon as a new date has been set, it will be announced.●

TEAGUE RETIRING FROM HOUSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. ROBERTS) is recognized for 5 minutes.

● Mr. ROBERTS. Mr. Speaker, veterans across the Nation, speaking through their great organizations, share the sorrow all of us feel at the coming retirement of OLIN TEAGUE from Congress. An expression of this general feeling of loss appeared in the June–July issue of the Veterans of Foreign Wars national magazine.

I include it in the RECORD at this point:

TEAGUE RETIRING FROM HOUSE

When the 96th Congress convenes, one House member who will be missing for the first time since the end of World War II is Texas' Olin E. (Tiger) Teague who has carved a record for himself as one of the veterans' best legislative friends.

Teague is resigning from the House at the end of his present term because of ill health brought on by the wounds he suffered during World War II as a battalion commander in the 314th Infantry of the 79th Division. He spent two years in an Army hospital recovering from his injuries.

Commissioned on his graduation from Texas A & M, Teague volunteered for the Army in 1940 after serving three years as an enlisted man in the National Guard. During World War II he was awarded the Silver Star, Bronze Star and Purple Heart three times each. He also was decorated with the French Croix de Guerre and fourragere.

He was discharged as an infantry colonel in 1946 to take his seat in the 79th Congress.

From the 84th Congress through the 92nd, he chaired the Veterans' Affairs Committee, working closely with the V.F.W. to provide the veterans of all wars with benefits tailored to their special needs.

He resigned his chairmanship of that committee to head the Space and Astronautics Committee during the 93rd Congress and continued in that leadership role through the 95th. It has since been named the Science and Technology Committee. Meanwhile, he did not let his interest in veterans' concerns lapse, for he retained his membership on the Veterans' Affairs Committee as senior majority member. He chairs the Education and Training Subcommittee.

Teague also has served on a variety of Congressional boards and commissions, including the Board of Visitors to the U.S. Military Academy at West Point from 1955 to 1971.

One of the highlights of his Congressional career came when he was honored by the

V.F.W. at the 1969 Washington Conference with the annual Congressional Award. At that time he was its sixth honoree.

In his acceptance speech, he noted that "there are a lot of problems in America but there are a lot more things that are right with America than there are that are wrong."

"Our system demands that we seek out and identify our problems," he continued. "It is true that there are some who still suffer the indignities of inequality and the shame of injustice. We must forever and with all our energy continue to seek to correct these injustices and inequalities. We must always strive to improve the quality of life for all our people, but sometimes it seems to me that we become so engrossed in these problems, so centered on what is wrong, that we seldom acknowledge what is right."

Since the presentation of his award occurred at the height of anti-Vietnam War rioting and student protests, his words came as a welcome antidote.

Teague, a supporter of American efforts in Vietnam, announced at the 1968 V.F.W. National Convention in Detroit that he would not support a Democratic presidential nominee who would back away from the U.S. commitment in Southeast Asia.

Teague was one of the first in Congress to recognize the plight of American prisoners of the North Vietnamese and Viet Cong, as well as those missing in action.

To underscore the tragedy of those men, he brought the wives of four of them to the 1969 V.F.W. National Convention in Philadelphia and in 1970 to Miami Beach to tell their heartbreaking story and to arouse public opinion on that issue.

Throughout his Congressional career, Teague participated in many other V.F.W. National Conventions to bring delegates up to date on the status of veterans' legislation, to criticize VA shortcomings in fulfilling its missions of assistance to Veterans and to advocate further veterans' benefits.

To enable V.F.W. members to demonstrate their gratitude for what Rep. Teague has been able to accomplish for veterans during his 32 years in the House of Representatives, a scholarship has been established in his honor at Texas A & M University to which they may contribute.

The first $1,000 for the Olin E. Teague Scholarship Fund was given by the V.F.W. during the Washington Conference through Commander-in-Chief John Wasylik.

Contributions may be sent to the Olin E. Teague Scholarship Fund in care of the Quartermaster General, V.F.W. National Headquarters, Kansas City, Mo. 64111.●

OFF-ROAD VEHICLES, FUEL RATIONING AND LAND MANAGEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Montana (Mr. BAUCUS) is recognized for 10 minutes.

● Mr. BAUCUS. Mr. Speaker, I am concerned that we in Washington occasionally lose sight of the valuable contributions made by off-road vehicles, or ORV's, in many parts of the United States. ORV's often provide the only access to rugged or snowbound areas in States such as Montana, and many farmers, ranchers, and outdoorsmen have come to depend upon these vehicles for their livelihoods, as well as for recreational purposes.

I have noticed an unfortunate tendency among some people that associate ORV operators with antienvironmentalists who would pollute and abuse natural resources at every opportunity. This is an unfair misconception. The great majority of those who use off-road vehicles do so in order to experience the very qualities in nature which all of us value and appreciate. In areas such as Yellowstone National Park, snowmobile users have been among the visitors who were most considerate of their natural surroundings.

Additionally, while I can understand that many city dwellers and suburbanites would think that ORV's are only used for recreational purposes, we must not let ourselves forget that ORV's have many unique, practical applications for farmlands, grazing lands, and forest areas. Many farmers and ranchers rely on snowmobiles for cattle feeding and other agricultural tasks during the winter. ORV's have also been responsible for saving thousands of lives during rescue operations and provide access to off-road areas for land management purposes. In short, just as automobiles are often used for recreational or nonessential purposes, off-road vehicles are necessities for the lifestyles of many Americans.

Naturally, ORV users become resentful when we try to restrict their activities based upon some of the misconceptions I have just outlined. As an example, the Department of Energy recently proposed a contingency gas rationing plan (Federal Register, June 28, 1978). This plan would be implemented by Congress and the President during a fuel shortage to "assure access to gasoline by all motorists" in order to "mitigate the economic dislocation caused by a severe energy supply interruption." Yet nowhere, Mr. Speaker, does this plan provide for a fuel allocation to the off-road vehicle users I have been discussing.

Though I support the idea of a contingency rationing plan, no such plan should neglect the economic and recreational importance of ORV's or assign these vehicles a low priority. The Department of Energy should provide a gasoline allocation for registered ORV's as they do for other registered motorized vehicles.

Such an allotment could be calculated as a percentage of the amount granted to automobiles. For instance, the average snowmobile uses approximately 80 gallons of gasoline per year, or roughly one-tenth the amount consumed by an automobile. Thus, the contingency plan might allow for a snowmobile fuel allotment equal to one-tenth the amount provided for an automobile during a given shortage. Allocations for other ORV's could be similarly determined.

During an especially severe shortage, another possibility might be to ask ORV users to distinguish between the essential and nonessential uses of their vehicles. ORV users would voluntarily comply with national energy needs in such cases rather than facing the undue restrictions which the present plan certainly imposes.

In any case, a failure to allocate fuel for ORV use would tantamount to ignoring the transportation needs of many Americans. During the energy crunch several years ago, Congress repeatedly expressed its opposition to discriminating against any industry or any region of the United States—including recreational activities. As we formulate our plans to deal effectively with any future shortages, we should ensure that such activities as ORV use are not unduly discriminated against.

An example of such a good nondiscriminatory policy in another area is contained in the Bureau of Land Management's proposed regulations for ORV use on lands under its jurisdiction. While it would be convenient if ORV's could travel in an accessible region, wise land management practices necessitate the regulation of ORV's in certain areas. Most ORV operators understand and appreciate efforts to preserve fragile lands which have a low capacity to handle ORV use.

The BLM regulations are exemplary in that they allow for the diversity among different types of ORV's, flexibility from season to season and area to area, and minimize conflicts among users and needs for a particular area.

Snowmobiles, motorcycles, four-wheel drive vehicles, and all-terrain vehicles each have different capabilities and affect the land they use in different ways. For example, an area which may have to be closed to motorcycles in the summer could be opened to snowmobiles in the winter because of the protection which the snowpack affords. The BLM regulations permit such areas to be "restricted" by type of vehicle or season in order to allow for variations in soil capabilities, wildlife migration patterns, or severe weather-related developments, such as droughts.

In other cases, lands can be "closed" to ORV's where other uses of the land would be endangered or "open" to ORV's, where no damage would result.

Until a given area is designated under these new provisions, it will be open to ORV use unless it is subject to previously issued restrictions. In all instances, however, the BLM is inviting the public to submit comments for each specific case as it comes up for designation. The BLM anticipates that all of its lands will receive the new designations by 1987. In the meantime, I urge my colleagues to take advantage of this time allowance to insure that ORV operators and other interested groups receive a fair representation in this process.

Finally, the BLM regulations establish certain minimum requirements which protect its lands from wreckless or inconsiderate operation of ORV's. Reasonable licensing provisions and equipment standards are included in their proposals to maintain ORV use as the safe and constructive activity that it has been in the past.

Effective land management policies must not only guarantee that damage to areas of natural beauty or importance is avoided, but we must also provide access to such lands so that the public may enjoy them. Otherwise, we may find ourselves in the position of the art collector who is so concerned about the safety of his paintings that he locks them up in a vault where they can never be appre-

ciated. Many Americans rely on ORV use as a helpful, practical and enjoyable outdoor experience, and I am encouraged that the BLM has given them such consideration during the development of ORV policy.

In conclusion Mr. Speaker, Montana has a great number of ORV users who want and feel a responsibility to share the concerns of conserving energy and our natural resources. It is important that the Congress, as well as other Government agencies, maintain an appropriate perspective toward ORV users as we formulate relevant legislation. We should not fall prey to the misconceptions which have led to discriminatory practices in the past. I urge my colleagues to contact the Department of Energy on behalf of ORV users and to review the specific BLM designations as they are presented.●

PERSONAL EXPLANATION

(Mr. SHUSTER asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. SHUSTER. Mr. Speaker, I ask that the RECORD show that I was not present yesterday, August 14, 1978, because I was attending the funeral of a close relative, Miss Sylvia Zeigler, in Duquesne, Pa. Had I been present, I would have voted against the foreign aid bill.●

TASK FORCE ON EMPLOYEE FRINGE BENEFITS BEGINS WORK

(Mr. PICKLE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PICKLE. Mr. Speaker, today the Ways and Means Committee's task force on employee fringe benefits began its work on settling the very difficult question of whether or not to tax fringe benefits.

Today's hearings received testimony from Assistant Secretary of the Treasury for Tax Policy Donald Lubick, and Commissioner of the Internal Revenue Service Jerome Kurtz. The task force also had before it a brief report on the problems in this area from the Joint Committee on Taxation staff.

I would ask that these materials be placed in the CONGRESSIONAL RECORD along with the announcement of the hearings.

The reason I seek this permission is because I want the widest possible circulation for the statements of the IRS, Treasury, and Joint Committee staff. These are very important statements for the task force's consideration. They lay out the parameters for our work in drafting up a recommendation solution to what is, or is not, taxable benefits. The task force is now soliciting statements from interested parties on their thoughts on taxation of fringe benefits. We are asking that the statements be submitted to us by September 5, and that where possible they be limited to three pages.

These statements that I am putting in the RECORD will aid those wanting to submit statements by giving them the opportunity to analyze what the executive branch agencies and congressional staff are saying about fringe benefits.

Mr. Speaker, today's hearings begin a very tough assignment for the Ways and Means Committee. Fringe benefits, and their treatment under the Tax Code, has plagued our income tax system since it started in full force in the 1920's.

Our task force's task will not be easy, for every American believes that he or she has certain inalienable rights, including life, liberty, the pursuit of happiness, and their own fringe benefits—tax free.

CHAIRMAN J. J. PICKLE, TASK FORCE ON EMPLOYEE FRINGE BENEFITS, COMMITTEE ON WAYS AND MEANS, INVITES WRITTEN STATEMENTS FROM THE GENERAL PUBLIC, TO RECEIVE TESTIMONY FROM TREASURY DEPARTMENT OFFICIALS AND IRS COMMISSIONER JEROME KURTZ, WITH RESPECT TO THE TAX TREATMENT OF FRINGE BENEFITS

The Honorable J. J. Pickle (D., Texas), Chairman of the Task Force on Employee Fringe Benefits, Committee on Ways and Means, today announced a one-day hearing on Monday, August 14, 1978, to receive testimony from Treasury Deparment officials and Commissioner of Internal Revenue Jerome Kurtz with respect to the tax treatment of "fringe benefits". The Task Force is charged with the responsibility to review this important area of tax policy, and make recommendations to the full Committee. In announcing this hearing, Chairman Pickle indicated that the Task Force intends to explore thoroughly the administrative and enforcement problems that exist under present law, as well as such policy recommendations as the Administration may be prepared to present at this time.

In addition, Chairman Pickle stated: "The treatment of fringe benefits is one of the most sensitive and complex tax issues that will come before Congress. We will be looking into the tax treatment of fringe benefits such as free travel for employees, free parking, company-paid entertainment, employee discounts on company goods and services, and many other areas. The result of the debate on this issue will have an impact on nearly every employee and employer in the nation."

The hearing will begin at 10:00 a.m. on August 14, 1978, in the Main Hearing Room of the Committee on Ways and Means, Room 1100 Longworth House Office Building. Treasury Department officials and Commissioner of Internal Revenue Jerome Kurtz will be the only witnesses at this hearing. However, at the present time, the Task Force anticipates conducting further hearings with invited public witnesses, prior to adjournment of the 95th Congress.

In addition to announcing the August 14 hearing, Chairman Pickle takes this occasion to invite all interested individuals and organizations to submit *written comments and recommendations* to the Task Force on any aspect of the tax treatment of employee fringe benefits. The Task Force is particularly interested in receiving information about (1) the specific concerns of those parties submitting statements; (2) areas of present law involving the greatest uncertainty; (3) such statistical information relating to fringe benefits as those parties submitting statements may wish to include; and (4) constructive recommendations for either legislative or administrative solutions to the problems. The Task Force encourages all interested parties to limit their written statements, to the extent practicable, to 3 pages, and requests five copies of any submission. In the event that it is necessary to exceed the suggested length of written statements, the Task Force strongly urges the party to include a brief summary of principal points and recommendations.

The written statements should be submitted to John M. Martin, Jr., Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, Room 1102 Longworth House Office Building, Washington, D.C. 20515. Statements must be received no later than close of business Tuesday, September 5, 1978. It is the present intention of the Task Force to compile and print these written submissions in due course for release to the general public.

TAXATION OF FRINGE BENEFITS

(Prepared for the use of the Task Force on Employee Fringe Benefits, Committee on Ways and Means)

I. INTRODUCTION

This pamphlet was prepared by the staff of the Joint Committee on Taxation for the use of the Task Force on Employee Fringe Benefits of the House Committee on Ways and Means. The pamphlet contains a brief background statement of current law concerning the taxation of fringe benefits as well as a description of legislative action in the 95th Congress affecting this issue. In addition, the pamphlet contains examples of some of the types of fringe benefits which are currently in widespread use.

II. TAXATION OF FRINGE BENEFITS

A. Background of tax treatment

Section 61 of the Internal Revenue Code, and the regulations issued under that section, are quite broad, providing that gross income includes income in any form. Under these rules, income may be realized in the form of services, meals, accommodations, stock or other property, as well as in cash. The Supreme Court has also interpreted section 61 broadly to mean that "all accessions to wealth" realized by taxpayers are subject to tax unless specifically exempted. See *James* v. *United States*, 366 U.S. 213 (1961).

However, there have long been certain statutory exceptions to these rules for such items as employer contributions to qualified pension plans, health and disability plans, specified amounts of group life insurance, and meals and lodging furnished for the convenience of the employer.

In addition, certain kinds of fringe benefits have been exempted by rulings or regulations. For example, in 1921, the Service issued a ruling to the effect that railroad passes issued to railroad employees were gifts and did not constitute income to the employes (O.D. 946, 4 C.B. 110). This ruling has generally been interpreted to apply to airline and bus transportation provided by those carriers for their employees. In 1920, the Service ruled that reimbursement for supper when paid to an employee in connection with voluntary overtime work is for the convenience of the employer and therefore is not income (O.D. 514, 2 C.B. 90).

Other types of fringe benefits, such as free parking furnished at the worksite by an employer, have been considered nontaxable, even though there is no statute, ruling or regulation which specifically provides this.

Issued involving fringe benefits often turn on the facts and circumstances of a particular case. For example, the IRS has successfully litigated cases holding that the personal use of an automobile provided by an employer to an employee is taxable income to the employee. *Dole* v. *Commissioner*, 351 F. 2d 308 (1st. Cir. 1965). On the other hand, the taxability of the use of demonstrator automobiles by car salesmen and free or discount cars for automobile company employees or executives has not been publicly ruled on by the National Office. Another issue which the National Office has not yet publicly ruled concerns the treatment of

Federal employees who have use of a Federal car and chauffeur.

Further illustrating the continuing controversy over taxability of certain fringe benefits, the U.S. Supreme Court recently decided that amounts paid to State police officers as a cash allowance for meals consumed while on duty were includible in gross income (because such payments did not come within the statutory—meals for the convenience of the employer—exclusion adopted by Congress in sec. 119 of the code). *Commissioner* v. *Kowalski*, 98 S. Ct. 315 (1977).

Another troublesome issue which has recently come to the forefront is the treatment of tuition remission to families of university employees. In 1976, the IRS issued proposed regulations, holding that these amounts constituted taxable income. However, these proposed regulations were later withdrawn.

Other examples of types of fringe benefits which are commonly furnished to employers include employer-furnished subsidized housing, daycare centers, free schools, interest free loans provided to employees, free financial counseling, free trips to conventions for families, reimbursement for or directly furnished free commuting, subsidized cafeteria for employees or executives, health care services or medicial expense reimbursement plans not exempt by statute, price discounts and rebates for employees, tickets to sporting or cultural events, and employer-paid club dues. The issue as to the taxability or nontaxability of many of these benefits has not yet been finally resolved by ruling or litigation.

The problem concerning the taxation of fringe benefits is generally considered in the context of the Federal income tax. However, other areas of the Internal Revenue Code are also affected. For example, there is the question of whether fringe benefits should be taken into account for purposes of social security (FICA) taxes, unemployment (FUTA) taxes, and Federal income tax withholding.

B. 1975 Treasury discussion draft

In 1975, the Treasury Department issued a "discussion draft" of proposed regulations relating to fringe benefits which was later withdrawn in December of 1976. Under this discussion draft, there would have been a "safe harbor" (nontaxable treatment) for fringe benefits meeting three tests—(1) the goods or services provided to the employee were owned or provided by the employer in connection with a regular trade or business; (2) the goods or services were furnished to the employee under such conditions that the employer incurred no substantial incremental costs; and (3) the goods or services were made available to employees on a nondiscriminatory basis.

Fringe benefits not qualifying under the safe harbor were to be evaluated in terms of a non-part facts and circumstances test. These factors included (1) the cost to the employer of providing the benefit is not significant; (2) use of the benefit occurs during, or immediately before or after the employee working hours and the benefit is provided at or near the business premises of the employer; (3) the benefit is provided under a nondiscriminatory basis; (4) the service is similar to one commonly provided by a government agency; (5) the benefit is related to the convenience of the employer; (6) the benefit constituted reimbursement for cost of living factors necessitated by employment; (7) the benefit is safety related; (8) the value of the benefit is relatively modest in comparison to the employee's regular compensation; and (9) the item is generally not thought of as constituting compensation. Not one of the facts or circumstances was necessarily controlling.

In addition, the discussion draft provide a de minimis rule exempting from taxation fringe benefits of little value. Where an item was required to be taken into income under the discussion draft, however, the amount includible in gross income constituted the amount the employee would have had to pay for the goods or services on an arm's length basis.

The Internal Revenue Service raised objections to the discussion draft, believing that in some cases the discussion draft changed prior law and would have conferred nontaxable status on items which had previously been held to be taxable. Prior to the withdrawal of the discussion draft, the Service and the Assistant Secretary for Tax Policy agreed upon a package of revenue rulings in the area of fringe benefits. On December 17, 1976, Secretary Simon announced that the rulings would not be issued. The general thrust of the rulings would have been much less favorable to taxpayers than the Treasury discussion draft. The general tenor of the Internal Revenue Service ruling package did become public, even though some of the specifics were not known. This in turn triggered a public reaction on the part of certain groups which felt that their tax position might be worsened if the fringe benefit controversy were finally resolved within the Administration.

As indicated above, the so-called discussion draft was withdrawn in December of 1976 and the Internal Revenue Service package of rulings were never published. At this point, the situation is that the National Office of the IRS is not making any new rulings in the fringe benefit area. However, fringe benefit questions continue to be raised by IRS agents upon audit, and some of these questions are currently being litigated. Until such time as Congress, Treasury, or the IRS, as the case may be, resolve some of these issues on a national basis, there is a possibility that fringe benefit cases involving similar facts and issues may be resolved differently, depending on the jurisdiction where the case is audited or litigated.

C. Current congressional action

The Tax Treatment Extension Act of 1978 (H.R. 9251) provided that no rulings or regulations are to be issued in final form on or after October 1, 1977, and before July 1, 1978, providing for the inclusion of any fringe benefit in gross income by reason of section 61 of the Code. That bill passed the House on October 25, 1977, and the Senate on May 11, 1978. H.R. 12841 extends the freeze on the issuance of fringe benefit regulations until January 1, 1980. This bill was passed by the House on June 28, 1978, and by the Senate on August 4, 1978 (with an unrelated amendment).

The House Committee on Ways and Means has also established the Task Force on Employee Fringe Benefits to consider the legislative aspects of the issues in the fringe benefit area.

STATEMENT OF DONALD C. LUBICK, ASSISTANT SECRETARY OF THE TREASURY FOR TAX POLICY

Mr. Chairman and Members of this Task Force: I am pleased to appear here today to comment on the tax treatment of employee fringe benefits.

The income tax treatment of most types of fringe benefits is clear. Unless specifically exempted from tax by statute, the Internal Revenue Code requires that fringe benefits be included in income, and the courts have upheld this requirement over many years in many different circumstances.

The uncertainty which exists under present law is limited primarily to two types of fringe benefits. One type is the fringe benefit which is a product of the employer's business—such as transportation provided by a transportation company, education provided by a university, and discounts provided by a company which produces or sells the discounted goods. Another type is the fringe benefit which is indirectly related to the employee's job, such as limousines for commuting and "supper money".

The primary question before this Task Force, then, is whether these two types of fringe benefits should be taxable. The answer to this question will turn on identification of the true nature of the particular benefit and the administrative feasibility of subjecting it to tax. I shall, at a later point, suggest some principles to be applied in deciding these issues. However, I would like first to discuss the considerations of equity and economic efficiency which demonstrate that these issues must be squarely faced.

INEQUITY AND ECONOMIC INEFFICIENCY CAUSED BY EXEMPTING FRINGE BENEFITS FROM TAX

Fringe benefits come in a wide variety of shapes and sizes. They also vary widely in their patterns of distribution. As the Commissioner has pointed out, the nature and extent of fringe benefits vary from industry to industry, from employer to employer within industries, and from employee to employee in the case of a single employer. For these reasons, exempting fringe benefits from tax or valuing them at less than real value creates substantial tax inequities among employees.

Fairness requires that taxpayers with equal incomes be treated equally for income tax purposes. Compensation received in kind may be just as valuable as compensation received in cash. When fringe benefits are exempted from tax, taxpayers with equal incomes pay unequal taxes.

Exempting fringe benefits from tax produces unfairness not only among employees at the same income level, but also among employees at different income levels. When a fringe benefit is exempted from tax, the exemption is of greater value to a high-income taxpayer than to a low-income taxpayer. For a person in the highest tax bracket, an exemption provides 70 cents in tax savings for every dollar's worth of fringe benefits received. For a person in the lowest tax bracket, the exemption is worth only 14 cents. For a person with income too low to be taxed, the exemption is worth nothing.

There may be a social welfare purpose which justifies these horizontal and vertical inequities for the statutory exclusions, such as for pensions or life insurance, which already exist. No such purpose exists with respect to the cases which have become controversial.

When a fringe benefit is exempted from tax, the resulting tax savings to the employee makes the fringe benefit worth more than cash compensation of equal value. Suppose, for example, that an employee in the 50 percent tax bracket receives as a fringe benefit an item worth $100. In order to purchase that benefit out of after-tax dollars, the employee would have to earn $200 in wages, pay tax on the wages, and then use the remainder to purchase the item. It is true that the item may not be worth $100 to the employee; that is, the employee may only be willing to pay $80 in after-tax wages for the item. Still, since that would require $160 in before-tax wages, the employee would prefer the $100 fringe benefit to any amount of wages up to $160. Thus, exempting fringe benefits from tax creates a strong incentive to convert cash compensation into tax-free fringe benefits.

This incentive to provide tax-free fringe benefits instead of cash has unfortunate effects. First, it is likely to result in significant erosion of the tax base. This, in turn, would make it necessary to increase tax rates for items of income which are not exempt, exacerbating tax inequities among employees which resulted from exempting fringe benefits in the first place.

As taxpayers perceive themselves as being treated unfairly in comparison to other tax-

payers, they may begin to lose confidence in the income tax system and in government. In a tax system that is dependent upon self-reporting, such a decline in confidence may lead to a decline in compliance.

Second, an incentive to provide tax-free fringe benefits instead of cash reduces economic efficiency. When fringe benefits are exempted from tax, employees demand and employers provide more compensation in the form of those benefits than they would if the benefits were taxed. This shift in demand causes a distortion in the economy. The tax law is interfering with free choice in the allocation of economic resources.

Third, exempting fringe benefits from tax leads to distortions in labor markets and creates inequities among employers. Employees accept less total compensation if a portion is in tax-free fringe benefits than if the entire compensation is in cash. In the example I gave before, an employer offering less than $160 in wages could not compete with an employer offering the $100 fringe benefit. Thus, employers who are able to provide compensation in the form of tax-free fringe benefits are given a competitive advantage over employers who are not. When fringe benefits are exempted from tax, employees shift to the tax preferred industries. Employers who do not want to play these games, who want to pay cash compensation, who want to concentrate on increasing production rather than finding ways to take advantage of tax subsidies, or who simply are limited in the extent to which they can offer fringe benefits, are heavily penalized.

In sum, exempting fringe benefits from tax leads to inequities among employees and employers and distortions in demand and in labor markets. These inequities and distortions imply added complexity in the economy and loss of welfare to individuals.

PRACTICAL PROBLEMS IN TAXING FRINGE BENEFITS

Despite these compelling policy reasons for taxing fringe benefits, some claim that practical problems make it impossible to do so. They point to difficulties in distinguishing between fringe benefits and working conditions. They point to problems in valuing fringe benefits. And they point to the administrative burdens of accounting for many benefits of small value.

While these obstacles to taxing fringe benefits may be significant, they should not be insurmountable. However, problems in identifying, valuing, and reporting fringe benefits are an appropriate subject for public comment before this Task Force. We can suggest some general guidelines.

Working conditions distinguished

Some noncash items provided by employers to employees are so closely connected with the employee's performance of his job that the items would not be considered compensation and therefore would not be taxed. Items provided to enable the employee to perform the job, rather than to compensate him for performing it, are commonly called working conditions.

The basic factor in distinguishing between working conditions and other noncash items is the relationship between the item and the employee's performance of his job. Generally, items which are used by the employee in performing his job should be considered working conditions, at least to the extent of that use.

Many working conditions are easy to recognize. For example, tools provided by an employer for an employee's use on the job are working conditions. Offices also are working conditions, even if they have features designed to make work more pleasant, such as air conditioning and piped-in music. Even if those features do, in fact, make work more pleasant, the office still is a working condition.

Many items which are not working conditions also are easy to recognize. An all-expenses-paid vacation at a luxurious resort may improve an employee's attitude toward his job, but that vacation is no more a working condition than is a $5,000 bonus.

In determining whether an item is used by the employee in performing his job, it is relevant to look at where and when the item is used. Items are more likely to be working conditions if they are used by the employee at his place of employment during normal working hours. For example, if an automobile manufacturer provides one of its executives with a new car for personal use and requires that the executive report his reaction to the car, the use of the car is not likely to be a working condition even though it must be used in order to write the report.

Even if an item is not used in performing the employee's job, it still may be appropriate to consider it a working condition if it plays an essential role in enabling the employee to perform the job. For example, lodging provided at the job site because the employee is required to be available for duty at all times, is excludable from income under Code section 119.

The relationship between an item and the employee's job should be scrutinized with particular care if the item is essentially personal in nature. By "essentially personal" items, I mean those which individuals ordinarily pay for out of after-tax dollars, such as food, clothing, shelter, and any item provided to a member of the employee's family.

Items which are essentially personal are likely to be compensatory. If exempted from tax, they are also likely to be a primary source of inequity among taxpayers. In developing rules to determine which essentially personal benefits are to be subject to tax, it would seem appropriate to focus on whether the cost of an item would be deductible if paid for by the employee. Since personal expenses such as meals and commuting are not deductible, the creation of rules of inclusion which deviate too far from the rules regarding employee deductibility could result in substantial inequity.

Even when use of an item is noncompensatory at a particular time, allocation between periods of compensatory and noncompensatory use should be made where it is feasible to do so. Such allocation often is possible where personal and business use of an item do not occur simultaneously. For example, a salesperson may use an employer-provided automobile during the day to travel to customers, and may use the same automobile during the evening for personal purposes. In such a case, allocation of value should be made between compensatory and noncompensatory use.

Valuation

The next question is how taxable fringe benefits should be valued. As the Commissioner has said, the regulations under section 61 require the recipient of compensation paid in any form other than cash to include in income the "fair market value" of the compensation. In addition, a specific statutory provision, section 83 of the Code, provides that where "property" has been transferred in connection with the performance of services, the recipient is required to include in income the excess of the fair market value of the property over the amount paid for it. For these purposes, "fair market value" is the price which would be paid for the benefit if it were purchased in an informed marketplace transaction. This standard has been generally applied by the courts in determining the value of in-kind benefits and was specifically adopted by the Staff of the Joint Committee on Taxation in determining the amount of income President Nixon realized on account of the personal use of government aircraft by his family and friends.

Some assert that it is unfair to treat a fringe benefit as having a value equal to its market price because fringe benefits are generally nontransferable and are substituted for cash in a process which depends upon the relative bargaining strengths of the employer and the employee. They conclude that the value of the benefit should be equal to the cash payment the employee would demand if the benefit were not available. In other words, they assert that subjective value is the appropriate income measure.

Subjective value is a superficially appealing choice. Indeed, it was adopted once by the Tax Court in determining the value of first class steamship tickets won as a prize on a radio quiz. Assuming accurate measurement of the personal value of the benefit, a system based on personal value would achieve a type of tax neutrality. It would avoid establishing a tax incentive to provide benefits in kind, without creating an offsetting tax disincentive. By definition, tax treatment would not determine whether compensation is received in cash or in kind because tax liability would not vary according to the form of the payment.

Unfortunately, however, it would be administratively impossible to tax fringe benefits on the basis of their subjective value to the recipient. It is unreasonable to expect a self-assessment tax system to function effectively if income is subjectively determined on a case-by-case basis. Problems of accurate withholding and information reporting under such a system are virtually insoluble.

Of course, even if it is agreed that fringe benefits should be taxed on the basis of objective fair market value, a number of important questions remain. An item may have more than one objective fair market value. For example, when the Joint Committee Staff determined the value of the economic benefit to President Nixon of personal use of government aircraft, it had to choose between two "fair market" values—the per-passenger cost of first class air fare on a commercial airline, or an allocated portion of the cost of renting a comparable plane. It chose the former.

The same issue arises in other contexts. For example, if an employee discount is treated as a taxable fringe benefit, should the value of the discount be determined by reference to the price of the discounted item at the time of purchase, or the lowest price at which the item has been offered to the public within a defined time period?

Further, notwithstanding the fact that the objective fair market value standards is consistent with generally accepted valuation standards, it may be appropriate to consider the alternatives. For example, some suggest that the objective fair market value standard be adopted as the base for income inclusion but that the base value be discounted by some percentage to reflect individual utility.

Administrative difficulties of valuation, particularly those involving withholding, may be alleviated by the creation of generally applicable guidelines or safe harbor rules regarding either the value of the benefit or the amount to be withheld. As an illustration of the former, the value of a personal flight on a company airplane could be determined by reference to first class airfare between the points. As to the latter, an employer who allows an employee to use, in nonworking hours, a company car usually used for business could be deemed to have satisfied his withholding obligation by withholding based on a fixed dollar amount.

Accounting and reporting

The taxability of noncash items provided by employers to employees should depend not only on the nature of the item, but also on the administrative implications of taxing it. Tax simplicity is as important as tax equity. Unreasonably expensive recordkeeping requirements should not be imposed on

employers. Nor should Internal Revenue Service audit resources be frittered away.

Compensation in kind should not be taxed if it would be administratively impractical to do so. If the total combined costs of an employer in accounting for an item and of the government in collecting tax on it would be unreasonably large in relation to the value of the item, the item should not be subject to tax.

When looking at specific, isolated examples of employer-provided items, it is not difficult to suggest some which should be exempt from tax for administrative reasons. For example, Revenue Ruling 59–58, 1959–1 C.B. 17 holds that the value of a turkey or ham provided by an employer to each of his employees at Christmas or a comparable holiday should be excludable from income. Similarly, employees should not be taxed on the value of attending their employer's annual company picnic.

Rules for determining which benefits should be excluded for administrative reasons (de minimis rules) could apply on an item-by-item basis. For example, an item whose value did not exceed a specified dollar amount could be excludable from income. A discount on an employee purchase could be excludable if the sales price of the item purchased did not exceed a specified dollar amount, or if the discount did not exceed a specified percentage of the sales price. We are not suggesting that we have decided upon these rules. Rather, we raise them as examples of the types of solutions the public may wish to address in its comments.

We note that applying de minimis rules solely on an item-by-item basis could allow large total amounts to be excluded from income. A Christmas dinner may be de minimis, but a year of free meals in an executive dining room may not be. A set of china may not be de minimis, and every piece of china in the set can be purchased separately.

To avoid becoming a sieve, ideally de minimis rules should take into account in some way the aggregate value of noncash items provided by an employer to an employee during the year. We recognize the potential difficulty of accounting for numerous small items, but we believe this difficulty can be avoided. Reasonable approximation of value may well be appropriate for some types of items. We also note that employers already keep records of the amounts and recipients of many types of fringe benefits. They may do so for purposes of tax deductibility, internal cost accounting, or disclosure required by the Securities and Exchange Commission.

In conclusion, we note that most types of fringe benefits are clearly subject to tax and that an exemption for others would create serious inequities and economic distortions.

We recognize that there are potential administrative problems in taxing some types of fringe benefits. However, we believe these problems can be solved. Hearings before this Task Force could provide the information needed to do so.

STATEMENT OF JEROME KURTZ, COMMISSIONER OF INTERNAL REVENUE, BEFORE THE TASK FORCE ON EMPLOYEE FRINGE BENEFITS, COMMITTEE ON WAYS AND MEANS, AUGUST 14, 1978

Mr. Chairman and Members of the Task Force: I appreciate the opportunity to appear before this Task Force today to assist you in finding an equitable solution to the vexing problem of the taxation of nonstatutory fringe benefits.

It might be helpful as background for your consideration of these problems if I review where the Service is today in administering these rules, and how we got here.

A fringe benefit or perk may be defined generally as a personal benefit made available to an employee in connection with employment, other than normal salary. It may be and frequently is a benefit made available in kind, although it may be in the form of cash payments that are designed as reimbursements or allowances for specific personal expenses. There is a great variety of fringe benefits.

The Internal Revenue Code definition of gross income is all inclusive—"all income from whatever source derived." [1] The legislative history states that this definition is intended to include income "realized in any form." [2]

Under the Code, when compensation for services is received in the form of property, the fair market value of the property, less any amount paid for it, is includable in income.[3] No deductions from amounts included in gross income are allowed for personal, living, or family expenses, with certain limited statutory exceptions.[4]

Consistent with the broad statutory language and the broad intent stated in the legislative history as to the scope of gross income, Treasury regulations have long provided that if services are paid for other than in money, the fair market value of the property or services taken in payment must be included in gross income.[5]

Further, the regulations provide that the value of meals or living quarters that an employee receives in addition to salary constitutes gross income,[6] unless furnished for the convenience of the employer under the rules of Code section 119.

As early as 1929, the Supreme Court held that a fringe benefit was taxable.[7]

Later, in 1945, the Supreme Court stated that the Code "is broad enough to include in taxable income any economic or financial benefit conferred on the employee as compensation, whatever the form or mode by which it is effected" [8] The Court has repeated this theme on several occasions.[9]

From time to time, over the years, Congress has specifically exempted from taxation certain fringe benefits, most of which would otherwise be taxable under section 61. However, when Congress has excluded certain benefits from income it has usually done so within relatively narrow limits; frequently subject to restrictions such as ceilings on the amounts excludable and requirements that the benefit be broadly available.[10]

Most of these exclusions from income are based on a desire of Congress to encourage employers to provide specific benefits, viewed as socially desirable, to wide range of employees. Examples are pensions, life, accident and health insurance, death benefits and most recently, group legal service plans. In other cases the purpose of the exclusion was to clarify an unsettled state of the law (such as the convenience-of-the-employer rule for meals and lodging) or to provide equity and limits to an area that had evolved with inconsistencies, such as moving expenses.

Courts have frequently been called upon to decide whether taxpayers are taxable on their receipt of a variety of fringe benefits that are not specifically exempt by statute. Significantly, the Government has experienced considerable success in the litigation of these issues. There are many reported court cases involving a variety of fringe benefits, holding that the fair market value of the economic benefit conferred on an employee by the employer must be included in the employee's gross income as compensation for services. For example, courts have held taxable the fair rental value of housing provided an employee;[11] the value of the personal use of an automobile; [12] a per diem living allowance paid to an employee who was not "traveling away from home"; [13] the value of meals and lodging that are provided an employee but are not exempt under section 119; [14] premiums paid on an employee's individual life insurance policy; [15] reimbursement of an employee's indirect moving expenses; [16] sums paid by a corporation for the personal medical expenses of its president, [17] cash allowances "in lieu of subsistence and quarters" received by a civilian shipmaster; [18] the payment of an employee's spouse's travel expenses while accompanying the employee on a business trip; [19] the amount of the expenses, paid by the employer, for a convention trip for an employee and the employee's spouse where the convention was found to be primarily for pleasure; [20] the fair market value of vacation trips provided employees by the employers; [21] and distributions from corporate educational benefit trusts for children of employees.[22]

Within the last year, the Supreme Court has held that cash meal allowances paid to state troopers who are not away from home overnight are taxable.[23] This May, the Tax Court Small Tax Case Division held that the amount of substantial discounts provided by a residential builder to certain employees on their purchases of homes was taxable to the employees.[24] And the Tax Court held in June that an employer's reimbursements of employees' club dues, and the reimbursements of amounts paid by employees for their own lunches when entertaining others at a business lunch, are taxable income.[25]

The Service has also issued rulings expressing its position on the taxability of a wide variety of fringe benefits. In accordance with the Code and court decisions, these rulings have generally held the particular benefit in question to be taxable. For example, the Service has issued rulings holding taxable an employer's payment of an employee's expenses at a resort health program,[26] the amount of loans forgiven by an employer to its commissioned salesmen,[27] the value of prize points redeemable for merchandise awarded by a distributor to employees of its dealers,[28] the amounts a club distributes to club employees from a fund made up of club contributions,[29] employees' FICA contributions paid by the employer without withholding from the employees' income,[30] "tool allowances" paid to employees who were already provided a complete set of tools by the employer and were not required to account for the allowance,[31] and distributions from corporate educational benefit trusts for educational expenses of employees' children.[32]

Notwithstanding the legislative and judicial background and the many published rulings holding numerous fringe benefits to be taxable, inconsistencies in the treatment of similar items remain, and administrative problems are increasing.

Why is this so?

In the very early days of the income tax—1920 and 1921—before there was much judicial interpretation of the scope of the income tax, the Service issued two rulings. One held that free personal railroad passes issued to railroad employees were nontaxable gifts.[33] The other held that "supper money" paid to an employee in connection with voluntary overtime work was nontaxable.[34] Subsequent judicial decisions raise the question whether these rulings are consistent with the present state of the law.[35]

Taxpayers argue that by analogy these old rulings should be extended to cover other types of benefits; and some inconsistencies in the treatment of generally comparable benefits have developed over the years. For example, on the basis of the 1921 railroad pass ruling, the Service has not ruled taxable the value of free or discounted personal air travel provided by airlines to their employees. Yet the use of company cars for vacation and other personal purposes is taxable.[36]

Footnotes at end of article.

Similarly, though "Supper money" paid to those working overtime is not taxed under the 1920 ruling, other cash meal allowances are taxed.

Other areas in which inconsistencies have developed over the years involve the treatment of employer-provided scholarships or tuition assistance for dependents of employees, and retail discounts for employees on employer products.

Existing regulations provide that if an educational institution maintains or participates in a plan whereby the tuition of a faculty member's child is remitted by a participating institution, the amount of tuition remitted will not be taxed to the faculty member but will be considered a tax-free scholarship.[37] At the same time, tuition benefits provided by employers other than educational institutions, for employees' dependents, are taxable.[38]

In the case of retail discounts, existing regulations provide that "courtesy" discounts of relatively small amounts, that are furnished by an employer to employees generally to promote goodwill, are not subject to withholding of income tax or to employment tax payments.[39] Substantial discounts, such as discounts of several thousand dollars provided by a residential builder to employees on their purchase of a new home, have been taxed.[40]

Why have the problems in this area become aggravated recently?

Agents have always raised fringe benefit issues on examinations of individual taxpayers; but audit coverage of individuals is limited by available resources. With the advent of our special employment tax program in 1972, employers' fringe benefit practices came under closer scrutiny than had previously been the case. When examining the employers, fringe benefits became major issues as agents saw the large amount of benefits involved in the aggregate. Agents began raising more and more fringe benefit issues. Through field requests for technical advice and taxpayers requests for rulings, National Office attention focused on a broad range of fringe benefit issues.

To deal with the numerous questions that were arising, Treasury published on September 5, 1975, a "discussion draft" of proposed regulations on fringe benefits. The document was a "discussion draft" rather than a proposed regulation because the latter requires the consent of the Commissioner of Internal Revenue, and the Commissioner did not agree to the draft. In the view of many, the draft departed substantially from well established legal principles. After much comment, it was withdrawn on December 28, 1976.

Prior to withdrawal of the "discussion draft", the Commissioner of Internal Revenue and the Assistant Secretary for Tax Policy agreed on a package of 11 fringe benefit rulings. However, the Secretary of the Treasury did not agree to issue the proposed rulings and they were not issued.

Proposed regulations that would have taxed tuition remission to employees of educational institutions were issued on November 1, 1976, and withdrawn on January 17, 1977.

Pending legislation provides that no final regulations requiring the inclusion of any fringe benefit in gross income by reason of Code section 61 should be issued before January 1, 1980.

Not being able to provide rules to taxpayers and to our own personnel creates severe problems for tax administration. Existing inconsistencies continue and expand. Uncertainties and apparent inequities in the treatment of different benefits undermine the voluntary compliance system. It is important to formulate a comprehensive and consistent treatment of fringe benefits.

INCOME TAX WITHHOLDING AND EMPLOYMENT TAX CONSIDERATIONS

Up to this point, I have been discussing only the question whether certain fringe benefits are taxable income to the employee.

A completely separate question is whether the employer is required to withhold income tax and the employee's portion of the FICA tax, and to pay the employer's portion of the FICA tax and the employer FUTA tax, with respect to fringe benefits.

The Internal Revenue Code requires the employer to withhold income tax and to withhold and pay employment taxes with respect to "wages."[41] "Wages" are separately defined for income tax withholding, FICA and FUTA purposes.[42] Though by and large the definitions are similar, there are some fringe benefit items, such as the value of meals and lodging exempt from tax under Code section 119, that are not subject to income tax withholding but that are nevertheless subject to employment taxes.[43] While this rule requires the employer to keep records for employment tax purposes, even though the benefits are exempt from income tax, it permits the employee to accrue additional Social Security and unemployment benefit rights.

There are also some fringe benefits that are taxable income to the employee but that have been held not to be wages under the present provisions of the Code and regulations. We are currently considering the implications of the Supreme Court's decision in *Central Illinois Public Service Company* v. *United States* [44] with respect to the fringe benefits area generally. The Court in that case held that certain cash meal allowances were not subject to income tax withholding, although taxable to the employee.

Withholding is a crucial enforcement mechanism. It is important that the withholding obligations of employers be clarified.

CONCLUSION

Fringe benefits are an increasingly popular form of compensation. In our experience the variety of such benefits is large and growing.

It has been our experience that the nature and extent of fringe benefits varies from industry to industry, from employer to employer within industries, and from employee to employee in the case of a single employer. In many instances, fringe benefits are provided in greater amounts to highly compensated or executive personnel than to lower-paid employees. An example in a recent case is the discounts on the purchase price of homes, provided by a residential real estate builder to its employees, than ranged from 2% for lower paid employees to 8% for top level personnel.[45]

Any examination of the fringe benefits area should be comprehensive. If particular fringe benefits are exempted from taxation without consideration of the full range of benefits, we can expect inconsistencies and uncertainties to develop just as they have done in the past and constant pressure for further exclusion by analogy. Moreover, if any item of compensation is specifically exempted because of its form, we can expect compensation which would otherwise have been paid in cash to be converted to the exempt form in large amounts, reducing the tax base and requiring higher rates for all taxpayers.

As a tax administrator, the values I rank highest in this controversial fringe benefit area are certainty, uniformity, and compliance.

By certainty, I mean that the answers as to whether particular benefits are taxable should be clear. Taxpayers should be able to plan their affairs with certainty. Our agents must make decisions on audit and we must be able to answer the questions of taxpayers or our agents about taxability of benefits in particular cases.

By uniformity, I mean that the answers should not vary depending on such irrelevant factors as geography or the type of industry involved. The only way to achieve uniformity is by enunciating comprehensive rules.

By compliance, I mean that whatever is determined to be taxable should be collectable without the expenditure of undue compliance resources. One way to accomplish this is to dovetail withholding at the source with whatever benefits are taxable.

I believe that formulation of a comprehensive and consistent treatment of fringe benefits will contribute to voluntary compliance by supporting a public perception that the tax system in fairness treats substantially similar compensation in a comparable way.●

FOOTNOTES

[1] Code section 61(a).

[2] S. Rep. No. 1662, 83d Cong., 2d Sess. 168 (1954).

[3] Code section 83.

[4] Code section 262.

[5] Sections 1.61-2(d)(1) and 1.61-2(d)(2)(i) of the Income Tax Regulations.

[6] Section 1.61-2(d)(3) of the Income Tax Regulations.

[7] *Old Colony Trust Co.* v. *Commissioner*, 279 U.S. 716 (1929) (holding that the amount of income taxes paid by an employer for an employee was taxable income to the employee).

[8] *Commissioner* v. *Smith*, 324 U.S. 177, 181 (1945).

[9] *Commissioner* v. *Jacobson*, 336 U.S. 28 (1949); *Commissioner* v. *Glenshaw Glass Co.*, 348 U.S. 426 (1955); *Commissioner* v. *LoBue*, 351 U.S. 243 (1956); *James* v. *United States*, 366 U.S. 213 (1961).

[10] Among the benefits specifically exempted are:

Employer contributions to qualified pension and profit sharing plans which meet the elaborate nondiscrimination provisions and the other rules of ERISA (Code sections 402(a) and 403(a)).

Group term life insurance premiums subject to a ceiling of $50,000 of insurance. (Code section 79).

Certain employee death benefits subject to a $5,000 ceiling (Code section 101(b)).

Certain employee accident or health insurance benefits and certain disability payments. (Code section 105).

Certain military injury or sickness benefits. (Code section 104(a)(4)).

Contributions to accident or health plans. (Code section 106).

Meals and lodging furnished for the convenience of the employer. (Code section 119).

Employer contributions and services provided under group legal service plans which do not discriminate in favor of the highly compensated. (Code section 120).

Limited exclusion for contributions by exempt organizations to employees' annuity plans. (Code section 403(b)).

The rental value or rental allowance for a parsonage. (Code section 107).

Certain government civilian employees' allowances in foreign areas. (Code section 912).

Reimbursement of employees' moving expenses within defined dollar limits. Such amounts are included in gross income under Code section 82 but are deductible without regard to whether the standard deduction is taken, up to limited amounts under Code section 217 and 61(8).

Certain employees' stock option or stock purchase plans subject to severe limits concerning price and terms. (Code section 421(a)).

[11] E.g., *Dean* v. *Commissioner*, 187 F. 2d 1019 (3d Cir 1951).

[12] E.g., *Dean* v. *Commissioner*, 351 F. 2d 308 (1st Cir 1965), *aff'g per curiam* 43 T.C 697 (1965).

[13] *Cockrell* v. *Commissioner*, 321 F. 2d 504 (8th Cir 1963).
[14] E.g., *Commissioner* v. *Anderson*, 371 F. 2d 59 (6th Cir 1966).
[15] E.g., *Lee* v. *United States*, 219 F Supp. 225 (W.D.S.C. 1963).
[16] *Ritter* v. *United States*, 393 F. 2d 823 (Ct. Cl. 1968), *cert denied*, 393 U.S. 844 (1968).
[17] *Estate of M K. Kartsen* v. *Commissioner*, 13 CCH Tax Ct. Mem. 1042 (1954).
[18] *Van Rosen* v. *Commissioner*, 17 TC 834 (1951).
[19] E.g., *United States* v. *Gotcher*, 401 F. 2d 118 (5th Cir. 1968).
[20] E.g., *Patterson* v. *Thomas*, 289 F. 2d 108 (5th Cir. 1961), *cert denied*, 368 U.S. 834 (1961).
[21] *Campbell Sash Works, Inc. v. United States* 217 F. Supp. 74 (N.D. Ohio).
[22] *Armantrout v. Commissioner*, 78-1 USTC Par 9232 (7th Cir. 1978, *aff'g* 67 T.C. 996 (1977).
[23] *Commissioner v. Kowalski*, 98 S. Ct. 315 (1977).
[24] *Howard A. and Janice M. Beckert*, T.C. Summary Opinion 1978-211 (filed May 11, 1978).
[25] *James P. Fenstermaker*, 37 T.C.M. 898 (CCH Dec. 35,200(m) (1978)).
[26] Rev. Rul. 57-130, 1957-1 C.B. 108.
[27] Rev. Rul. 69-465, 1969-2 C.B. 27.
[28] Rev. Rul. 70-331, 1970-1 C.B. 14.
[29] Rev. Rul. 64-40, 1964-1 (Part 1) C.B. 68.
[30] Rev. Rul. 74-75, 1974-1 C.B. 19.
[31] Rev. Rul. 65-187, 1965-2 C.B. 382.
[32] Rev. Rul. 75-448, 1975-2 C.B. 55.
[33] O.D. 946, 4 C.B. 110 (1921).
[34] O.D. 514, 2 C.B. 90 (1920).
[35] E.g., *Dole* v. *Commissioner*, 351 F. 2d 308 (1st Cir. 1965), *aff'd per curiam* 43 T.C. 697 (1965) holding the value of personal transportation through use of an employer-provided car to be taxable; *Commissioner* v. *Kowalski*, 98 S. Ct. 315 (1977), expressly questioning the continued validity of O.D. 514 and holding certain cash meal allowances to be taxable.
[36] E.g., *Dole* v. *Commissioner*, 351 F. 2d 308 (1st Cir. 1965), *aff'd per curiam* 43 T.C. 697 (1965) holding the value of personal transportation through use of an employer-provided car to be taxable; *Commissioner* v. *Kowalski*, 98 S. Ct. 315 (1977), expressly questioning the continued validity of O.D. 514 and holding certain cash meal allowances to be taxable.
[37] Treas. Reg. sec. 1.117-3(a).
[38] Rev. Rul. 75-448, 1975-2 C.B. 55; *Armantrout* v. *Commissioner*, 78-1 USTC Par. 9232 (7th Cir. 1978).
[39] Treas. Reg. sec. 31.3121(a)-1(f), 31.3306 (b)-1(f), 31.3401(b)(10).
[40] *Howard A. and Janice M. Beckert*, T.C. Summary Opinion 1978-211 (filed May 11, 1978).
[41] Code sections 3402, 3301, 3102, 3111.
[42] Code sections 3401, 3306, 3121, Treas. Reg. secs. 31.3401(a)-1, 31.3306(b)-1, 31.3121 (a)-1.
[43] *Compare* Treas. Reg. sec. 31.3401(a)-1(b) (9) *with* Treas. Reg. secs. 31.3306(b)-1(f), 31.3121(a)-1(f). *See* Rev. Rul. 59-409, 1959-2 C.B. 48; Rev. Rul 62-150, 1962-2 C.B. 213; Rev. Rul. 68-322, 1968-1 C.B. 416.
[44] 98 S Ct. 917 (1978).
[45] *Howard A. and Janice M. Beckert T.C.* Summary Opinion, 1978-211 (filed May 11, 1978).●

GENERAL LEAVE

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include therein extraneous material on the subject of the special order today by the gentleman from New York (Mr. LUNDINE).

The SPEAKER pro tempore (Mr. NATCHER). Is there objection to the request of the gentleman from Texas?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. GONZALEZ, and to include extraneous material, for 15 minutes today.

(The following Members (at the request of Mr. CUNNINGHAM) and to revise and extend their remarks and include extraneous matter:)

Mr. GOLDWATER, for 5 minutes, today.
Mr. CLEVELAND, for 5 minutes, today.

(The following Members (at the request of Mr. ECKHARDT) to revise and extend their remarks and include extraneous material:)

Mr. LUNDINE, for 30 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. CONYERS, for 5 minutes, today.
Mr. ROBERTS, for 5 minutes, today.
Mr. BAUCUS, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PICKLE, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,642.50.

(The following Members (at the request of Mr. CUNNINGHAM) and to include extraneous matter:)

Mr. SNYDER.
Mr. SAWYER.
Mr. VANDER JAGT.
Mr. PURSELL.
Mr. ANDERSON of Illinois in two instances.
Mr. FINDLEY.
Mr. HYDE.
Mr. LENT in two instances.
Mr. DERWINSKI.
Mr. WHITEHURST.
Mr. JEFFORDS.
Mr. KASTEN.
Mr. HANSEN in three instances.

(The following Members (at the request of Mr. ECKHARDT) and to include extraneous material:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. RANGEL.
Mr. HARKIN.
Mr. McDONALD in five instances.
Mr. PEPPER.
Mr. DINGELL in two instances.
Mr. DRINAN.
Mr. DANIELSON.
Mr. PATTISON of New York.
Mr. SIKES.
Mr. NEAL.
Mr. SIMON in three instances.
Mr. LEGGETT.
Mr. WAXMAN in three instances.
Mr. ADDABBO.
Mr. TEAGUE.
Mr. NOWAK in five instances.
Mr. BRECKINRIDGE in two instances.
Mr. LONG of Maryland.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2333. An act for the relief of James Edward Slowey, Carole Anne Slowey, Christopher James Slowey, Elaine Margaret Slowey, and Carole-Ann Slowey; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 10732. An act to authorize appropriations to carry out the Fishery Conservation and Management Act of 1976 during fiscal year 1979, to provide for the regulation of foreign fish processing vessels in the fishery conservation zone, and for other purposes.

ADJOURNMENT

Mr. ECKHARDT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 9 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, August 16, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4815. A letter from the Assistant Secretary of Defense (Comptroller), transmittnng notice of transfers between accounts of various amounts appropriated to the Department of Defense for fiscal year 1978, pursuant to section 833, of Public Law 95-111; to the Committee on Appropriations.

4816. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting proposed final regulations governing the award of grants for the planning and operation of magnet schools, cooperative programs between local educational agencies and universities or businesses, and the planning of neutral site schools under the Emergency School Aid Act, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4817. A letter from the Administrator, Agency for International Development, Department of State, transmitting notice of a proposed change in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4818. A letter from the Secretary of State, transmitting notice of the State Department's intention to obligate Middle East Special Requirements funds for a study of the economic implications of peace in the Middle East, pursuant to section 903 of the Foreign Assistance Act of 1961, as amended; to the Committee on International Relations.

4819. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Nicholas A. Veliotes, Ambassador-designate to Jordan, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on International Relations.

4820. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the International Energy Program to be held August 16, 1978,

in New York, N.Y.; to the Committee on Interstate and Foreign Commerce.

4821. A letter from the Administrator of General Services, transmitting a prospectus proposing the continued lease of space at 2025 M Street, NW., Washington, D.C., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4822. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the National Credit Union Administration for the 15 months ended September 30, 1977 (FOD–78–2, August 14, 1978), pursuant to sections 102(f) and 209(b) of the Federal Credit Union Act, as amended; jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

4823. A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to amend section 3755 of the Revised Statutes, as amended (40 U.S.C. 310) to transfer to the Secretary of the Interior the functions of the Administrator of General Services with respect to wrecked, abandoned, or derelict property, and for other purposes; jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

4824. A letter from the Under Secretary of Energy, transmitting modification 9 to the Department of Energy contract with the Ohio Valley Electric Corp., for the supply of electric power to the DOE uranium enrichment plant at Portsmouth, Ohio, extending the contract through December 31, 1979, pursuant to section 164 of the Atomic Energy Act of 1954, as amended; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4384. A bill to amend the laws relating to the Osage Tribe in Oklahoma (Rept. No. 95–1491, pt. I). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2101. An act to modify the boundary of the White River National Forest in the State of Colorado; with amendment (Rept. No. 95–1492). Referred to the Committee of the Whole House on the State of the Union.

Mr. EILBERG: Committee on the Judiciary. H.R. 13349. A bill to repeal certain sections of title III of the Immigration and Nationality Act, and for other purposes; with amendment (Rept. No. 95–1493). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee of conference. Conference report on S. 2701 (Rept. No. 95–1494). Ordered to be printed.

Mr. McKAY: Committee of conference. Conference report on H.R. 12927 (Rept. No. 95–1495). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. AMMERMAN:

H.R. 13869. A bill to establish standards of fair practices that shall be observed by handlers and associations of producers in their dealings in agricultural products; to the Committee on Agriculture.

By Mr. COCHRAN of Mississippi:

H.R. 13870. A bill to clarify the circumstances under which territorial provisions in licenses to manufacture, distribute, and sell trademarked soft drink products are lawful under the antitrust laws; to the Committee on the Judiciary.

By Mr. GRASSLEY:

H.R. 13871. A bill to amend the Internal Revenue Code of 1954 to provide that nonresident aliens are taxable on gain from the sale or exchange of farming property and undeveloped real property at capital gains rates; to the Committee on Ways and Means.

By Mr. HIGHTOWER (for himself, Mr. GLICKMAN, Mr. SEBELIUS, Mr. HAGEDORN, Mr. ENGLISH, Mr. FITHIAN, Mr. WEAVER, Mr. MARLENEE, Mr. HARKIN, Mr. BAUCUS, Mr. NOLAN, and Mr. KRUEGER):

H.R. 13872. A bill to require the label on each loaf of bread to disclose the cost to the manufacturer of the farm product ingredients; to the Committee on Interstate and Foreign Commerce.

By Mr. KASTEN:

H.R. 13873. A bill to amend part A of title IV of the Social Security Act to require each State, under the AFDC program, to establish a maximum income level beyond which an individual or family may not be eligible for aid to families with dependent children; to the Committee on Ways and Means.

By Mr. MADIGAN (for himself, Mr. WAMPLER, Mr. LEACH, and Mr. BALDUS):

H.R. 13874. A bill to provide indemnities to beef, goat, or sheep producers or owners when import quotas are used to suppress market prices; to the Committee on Agriculture.

By Mr. MAGUIRE (for himself, Mr. CORRADA, Mr. DOWNEY, Mr. DRINAN, Mr. EDGAR, Mr. EVANS of Delaware, Mrs. FENWICK, Mr. HEFTEL, Mr. HOLLENBECK, Mr. HOWARD, Mr. HUGHES, Mr. LE FANTE, Mr. MCHUGH, Mr. MCCLOSKEY, Mr. MARKEY, Mrs. MEYNER, Mr. MIKVA, Mr. MILLER of California, Mr. MINETA, Mr. MINISH, Mr. MOFFETT, Mr. MOSS, Mr. PATTEN, Mr. PATTISON of New York, and Mr. RANGEL):

H.R. 13875. A bill to amend section 307 of the Communications Act of 1934 to provide that each State shall have at least one very high frequency commercial television station located within the State; to the Committee on Interstate and Foreign Commerce.

By Mr. MAGUIRE (for himself, Mr. RINALDO, Mr. RODINO, Mr. ROE, Mr. SIMON, Mrs. SPELLMAN, Mr. THOMPSON, Mr. TSONGAS, Mr. WALGREN, and Mr. WAXMAN):

H.R. 13876. A bill to amend section 307 of the Communications Act of 1934 to provide that each State shall have at least one very high frequency commercial television station located within the State; to the Committee on Interstate and Foreign Commerce.

By Mr. QUIE:

H.R. 13877. A bill to direct the Secretary of Agriculture to establish a price support program for honey; to the Committee on Agriculture.

By Mr. REGULA (for himself and Mr. DERRICK):

H.R. 13878. A bill to amend the Congressional Budget Act of 1974 to require that congressional budget resolution set forth 5-year target levels of budget authority, budget outlays, and Federal revenues; to the Committee on Rules.

By Mr. SANTINI:

H.R. 13879. A bill to amend the Geothermal Steam Act of 1970 for the purpose of enhancing the development of geothermal resources situated beneath Federal lands; to the Committee on Interior and Insular Affairs.

By Mr. SAWYER:

H.R. 13880. A bill to require the Federal Bureau of Investigation to classify the offense of arson as a part I offense for purposes of the Uniform Crime Reporting Program and the Uniform Crime Reports for the United States; to the Committee on the Judiciary.

By Mr. SYMMS (for himself, Mr. EVANS of Georgia, Mr. MCDONALD, Mr. DEVINE, Mr. GEPHARDT, Mr. KEMP, Mr. EDWARDS of Oklahoma, Mr. FRENZEL, Mr. WHITEHURST, Mr. GUYER, Mr. KINDNESS, Mr. HANSEN, Mr. BOB WILSON, Mr. BADHAM, Mr. COLLINS of Texas, and Mr. RYAN):

H.R. 13881. A bill to amend the Federal Food, Drug, and Cosmetic Act to provide that drugs will be regulated under the act solely to assure their safety, to promote the efficient and fair treatment of new drug applications, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. WAGGONNER (for himself and Mr. FRENZEL):

H.R. 13882. A bill to amend the Internal Revenue Code of 1954, and the Tax Reduction Act of 1975, with respect to employee stock ownership plans; to the Committee on Ways and Means.

By Mr. BRODHEAD:

H.R. 13883. A bill to amend the Internal Revenue Code of 1954 to allow certain individuals who are participants in employer pension plans a deduction for their contributions to individual retirement savings plans; to the Committee on Ways and Means.

By Mr. KEMP (for himself, Mr. MARRIOTT, and Mr. MOLLOHAN):

H.R. 13884. A bill to provide for an alternative amortization period for pollution control facilities; to the Committee on Ways and Means.

By Mr. STEIGER (for himself, Mr. GEPHARDT, Mr. HORTON, Mr. FUQUA, Mr. LAGOMARSINO, Mr. KEMP, Mr. WINN, Mr. ANDREWS of North Dakota, Mr. WHITEHURST, Mrs. HOLT, Mr. FORSYTHE, Mr. CORCORAN of Illinois, Mr. STEERS, Mr. EDWARDS of Oklahoma, Mr. HYDE, Mr. REGULA, Mr. QUIE, Mr. LOTT, Mr. PATTERSON of California, Mr. STOCKMAN, Mr. ERLENBORN, Mr. MANN, Mr. CONABLE, and Mr. WEAVER):

H.R. 13885. A bill to require biennial reports to Congress on the effectiveness of Government programs, and for other purposes; to the Committee on Government Operations.

By Mr. WOLFF (for himself and Mr. PRICE):

H.R. 13886. A bill to amend the Internal Revenue Code of 1954 to suspend the imposition of interest and to prohibit the imposition of a penalty for failure to pay tax on underpayments of tax resulting from erroneous advice given in writing by the Internal Revenue Service; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H. Con. Res. 695. Concurrent resolution setting forth the congressional budget for the U.S. Government for the fiscal year 1979; to the Committee on the Budget.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7308

By Mr. LATTA:

—Page 40, after line 4, insert the following new subparagraph and redesignate subparagraphs (2) and (3) accordingly:

(2) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods up to one year—

(A) during a period of war declared by the Congress; or

(B) during a period of national emergency, declared by the President in accordance with the National Emergencies Act, with specific reference to this Act, and upon the transmittal to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate of a statement by the President setting forth the facts and circumstances giving rise to the need for such declaration.

H.R. 11280

By Mr. DERWINSKI:

—Strike out title VII (beginning on line 12 of page 288, and ending on line 12 of page 348) and insert in lieu thereof the following new title:

TITLE VII—LABOR-MANAGEMENT RELATIONS

SEC. 701. (a) Subpart F of part III of title 5, United States Code, is amended by adding after chapter 71 the following new chapter:

"Chapter 72—FEDERAL SERVICE LABOR-MANAGEMENT RELATIONS

"Subchapter I—General Provisions

"Sec.
"7201. Findings and purpose.
"7202. Definitions; application.
"7203. Federal Labor Relations Authority; General Counsel.
"7204. Powers and duties of the Authority and of the General Counsel.

"Subchapter II—Rights and Duties of Employees, Agencies and Labor Organizations

"7211. Employees rights.
"7212. Recognition of labor organizations.
"7213. National consultation rights.
"7214. Exclusive recognition.
"7215. Representation rights and duties.
"7216. Unfair labor practices.
"7217. Standards of conduct for labor organizations.
"7218. Basic provisions of agreements.
"7219. Approval of agreements.

"Subchapter III—Grievances and Impasses

"7221. Grievance procedures.
"7222. Federal Service Impasses Panel; negotiation impasses.

"Subchapter IV—Administrative and Other Provisions

"7231. Allotments to representatives.
"7232. Use of official time.
"7233. Remedial action.
"7234. Subpenas.
"7235. Regulations.

"Subchapter I—GENERAL PROVISIONS

"§ 7201. Findings and purpose

"(a) The Congress finds that the public interest demands the highest standards of employee performance and the continued development and implementation of modern and progressive work practices to facilitate and improve employee performance and the efficient accomplishment of the operations of the Government.

"(b) The Congress also finds that, while significant differences exist between Federal and private employment, experience under Executive Order Numbered 11491 indicates that the statutory protection of the right of employees to organize, to bargain collectively within prescribed limits, and to participate through labor organizations of their own choosing in decisions which affect them—

"(1) may be accomplished with full regard for the public interest,

"(2) contributes to the effective conduct of public business, and

"(3) facilitates and encourages the amicable settlement between employees and their employers of disputes involving personnel policies and practices and matters affecting working conditions.

"(c) It is the purpose of this chapter to prescribe certain rights and obligations of the employees of the Federal government subject to the paramount interest of the public and to establish procedures which are designed to meet the special requirements and needs of the Federal government in matters relating to labor-management relations.

"§ 7202. Definitions; application

"(a) For purposes of this chapter—

"(1) 'agency' means an Executive agency other than the General Accounting Office;

"(2) 'employee' means an individual who—

"(A) is employed in an agency;

"(B) is employed in a nonappropriated fund instrumentality described in section 2105(c) of this title;

"(C) is employed in the Veterans' Canteen Service, Veterans' Administration, and who is described in section 5102(c)(14) of this title; or

"(D) is an employee (within the meaning of subparagraph (A), (B), or (C)) who was separated from the service as a consequence of, or in connection with, an unfair labor practice described in section 7216 of this title;

but does not include—

"(i) an alien or noncitizen of the United States who occupies a position outside the United States;

"(ii) a member of the uniformed services (within the meaning of section 2101(3) of this title);

"(iii) for purposes of exclusive recognition or national consultation rights unless authorized under the provisions of this chapter, a supervisor, a management official, or a confidential employee;

"(3) 'labor organization' means any lawful organization of employees which was established for the purpose, in whole or in part, of dealing with agencies in matters relating to grievances and personnel policies and practices or in other matters affecting the working conditions of the employees, but does not include an organization which—

"(A) except as authorized under this chapter, consists of, or includes, management officials, confidential employees, or supervisors;

"(B) assists, or participates, in the conduct of a strike against the Government of the United States or any agency thereof or imposes a duty or obligation to conduct, assist, or participate in such a strike;

"(C) advocates the overthrow of the constitutional form of government of the United States; or

"(D) discriminates with regard to the terms or conditions of membership because of race, color, religion, national origin, sex, age, or handicapping condition;

"(4) 'agency management' means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this chapter;

"(5) 'Authority' means the Federal Labor Relations Authority established under section 7203 of this title;

"(6) 'General Counsel' means the General Counsel of the Federal Labor Relations Authority;

"(7) 'Panel' means the Federal Service Impasses Panel established under section 7222 of this title;

"(8) 'Assistant Secretary' means the Assistant Secretary of Labor for Labor-Management Relations;

"(9) 'confidential employee' means an employe who assists, and acts in a confidential capacity to, individuals who formulate and carry out management policies in the field of labor relations;

"(10) 'management official' means an employee having authority to make, or to influence effectively the making of, policy with respect to personnel procedures or programs which is necessary to an agency or an activity;

"(11) 'supervisor' means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

"(12) 'professional employee' means—

"(A) any employee engaged in the performance of work—

"(i) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or in a hospital, as distinguished from work requiring knowledge acquired from a general academic education, an apprenticeship, or training in the performance of routine mental, manual, or physical processes;

"(ii) requiring the consistent exercise of discretion and judgment in its performance;

"(iii) which is predominantly intellectual and varied in character and not routine mental, manual, mechanical or physical work; and

"(iv) which is of such a character that the measurement of the output produced, or of the result accomplished, cannot be standardized by relating it to a given period of time; or

"(B) any employee who has completed the courses of specialized intellectual instruction and study described in subparagraph (A) and who is performing related work under the direction or guidance of a professional employee to qualify the employee to become a professional employee.

"(13) 'agreement' means an agreement entered into as a result of collective bargaining pursuant to the provisions of this chapter;

"(14) 'collective bargaining', 'bargaining', or 'negotiating' means the performance of the mutual obligation of the representatives of the agency and the exclusive representative as provided in section 7215 of this title;

"(15) 'exclusive representative' includes any labor organization which has been—

"(A) selected pursuant to the provisions of section 7214 of this title as the representative of the employees in an appropriate collective bargaining unit; or

"(B) certified or recognized prior to the effective date of this chapter as the exclusive representative of the employees in an appropriate collective bargaining unit;

"(16) 'person' means an individual, labor organization, or agency covered by this chapter; and

"(17) 'grievance' means any complaint by any person concerning any matter which falls within the coverage of a grievance procedure.

"(b) Except as provided in subsections (c), (d), and (e) of this section, this chapter applies to all employees of an agency.

"(c) This chapter shall not apply to—

"(1) the Federal Bureau of Investigation;

"(2) the Central Intelligence Agency;

"(3) the National Security Agency;

"(4) any agency not described in paragraph (1), (2), or (3), or any unit within any agency, which has as a primary function intelligence, investigative, or national security work, if the head of the agency deter-

mines, in the agency head's sole judgment, that this chapter cannot be applied in a manner consistent with national security requirements and considerations;

"(5) any unit of an agency which has as a primary function investigation or audit of the conduct or work of officers or employees of the agency for the purpose of insuring honesty and integrity in the discharge of official duties, if the head of the agency determines, in the agency head's sole judgment, that this chapter cannot be applied in a manner consistent with the internal security of the agency;

"(6) the United States Postal Service;

"(7) the Foreign Service of the United States;

"(8) the Tennessee Valley Authority; or

"(9) officers and employees of the Federal Labor Relations Authority, including the Office of General Counsel and the Federal Service Impasses Panel.

"(d) The head of an agency may, in the agency head's sole judgment and subject to such conditions as he may prescribe, suspend any provision of this chapter with respect to any agency, installation, or activity located outside the United States if the agency head determines that such suspension is necessary for the national interest.

"(e) Employees engaged in administering a labor-management relations law who are otherwise authorized by this chapter to be represented by a labor organization shall not be represented by a labor organization which also represents other employees covered by such law or which is affiliated directly or indirectly with an organization which represents such employees.

"§ 7203. Federal Labor Relations Authority; Office of General Counsel

"(a) There is established, as an independent establishment of the executive branch of the Government, the Federal Labor Relations Authority.

"(b) The Authority shall consist of three members, not more than two of whom may be adherents of the same political party and none of whom may hold another office or position in the Government of the United States except as provided by law or by the President.

"(c) Members of the Authority shall be appointed by the President, by and with the advice and consent of the Senate, and shall be eligible for reappointment. The President shall designate one member to serve as Chairman of the Authority. Any member of the Authority may be removed by the President.

"(d) The term of office of each member of the Authority is 5 years, except that a member may continue to serve beyond the expiration of the term to which appointed until the earlier of—

"(1) the date on which the member's successor has been appointed and has qualified, or

"(2) the last day of the session of the Congress beginning after the date the member's term of office would (but for this sentence) expire.

"(e) A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority. An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member such individual replaces.

"(f) The Authority shall make an annual report to the President for transmittal to the Congress and shall include in such report information as to the cases it has heard and the decisions it has rendered under this chapter.

"(g) There is established within the Authority an Office of General Counsel. The General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be appointed for a term of 5 years and may be reappointed to any succeeding term. The General Counsel may be removed by the President. The General Counsel shall hold no other office or position in the Government of the United States except as provided by law or by the President.

"§ 7204. Powers and duties of the Authority and of the General Counsel

"(a) The Authority shall administer and interpret the provisions of this chapter, decide major policy issues, prescribe regulations, and disseminate information appropriate to the needs of agencies, labor organizations, and the public.

"(b) The Authority shall, in accordance with regulations prescribed by it—

"(1) decide questions submitted to it with respect to the appropriate unit for the purpose of exclusive recognition and with respect to any related issue;

"(2) supervise elections to determine whether a labor organization has been selected by a majority of the employees in an appropriate unit who cast valid ballots in the election;

"(3) decide questions with respect to the eligibility of labor organizations for national consultation rights; and

"(4) decide unfair labor practice complaints.

"(c) The Authority may consider, in accordance with regulations prescribed by it, any—

"(1) appeal from any decision on the negotiability of any issue as provided in subsection (e) of section 7215 of this title;

"(2) exception to any arbitration award as provided in section 7221 of this title;

"(3) appeal from any decision of the Assistant Secretary issued pursuant to section 7217 of this title;

"(4) exception to any final decision and order of the Panel issued pursuant to section 7222 of this title; and

"(5) other matters it deems appropriate in order to assure it carries out the purposes of this chapter.

"(d) The Authority shall adopt an official seal which shall be judicially noticed.

"(e) The Authority shall maintain its principal office in or about the District of Columbia but it may meet and exercise any or all of its powers at any time or place. Subject to subsection (g) of this section, the Authority may, by one or more of its members or by such agents as it may designate, make inquiry necessary to carry out its duties wherever persons subject to this chapter are located. A member who participates in such inquiry shall not be disqualified from later participating in a decision of the Authority in the same case.

"(f) The Authority shall appoint an Executive Director, such attorneys, regional directors, administrative law judges, and other officers and employees as it may from time to time find necessary for the proper performance of its duties and may delegate to such officers and employees authority to perform such duties and make such expenditures as may be necessary.

"(g) All of the expenses of the Authority, including all necessary traveling and subsistence expenses outside the District of Columbia, incurred by members, employees, or agents of the Authority under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the Authority or by an individual it designates for that purpose and in accordance with applicable law.

"(h)(1) The Authority is expressly empowered and directed to prevent any person from engaging in conduct found violative of this chapter. In order to carry out its functions under this chapter, the Authority is authorized to hold hearings, subpena witnesses, administer oaths, and take the testimony or deposition of any person under oath, and in connection therewith, to issue subpenas requiring the production and examination of evidence as provided in section 7234 of this title relating to any matter pending before it and to take such other action as may be necessary. In the exercise of the functions of the Authority under this title, the Authority may request from the Director of the Office of Personnel Management an advisory opinion concerning the proper interpretation of regulations or other policy directives promulgated by the Office of Personnel Management in connection with a matter before the Authority for adjudication.

"(2) If a regulation or other policy directive issued by the Office of Personnel Management is at issue in an appeal before the Authority, the Authority shall timely notify the Director, and the Director shall have standing to intervene in the proceeding and shall have all the rights of a party to the proceeding.

"(3) The Director may request that the Authority reopen an appeal and reconsider its decision on the ground that the decision was based on an erroneous interpretation of law or of a controlling regulation or other policy directive issued by the Office of Personnel Management.

"(i) In any matter arising under subsection (b) of this section, the Authority may require an agency or a labor organization to cease and desist from violations of this chapter and require it to take such remedial action as it considers appropriate to carry out the policies of this chapter.

"(j)(1) The Authority shall maintain a record of its proceedings and make public any decision made by it or any action taken by the Panel under section 7222 of this title.

"(2) The provisions of section 552 of this title shall apply with respect to any record maintained under paragraph (1).

"(k) The General Counsel is authorized to—

"(1) investigate complaints of violations of section 7216 of this title;

"(2) make final decisions as to whether to issue notices of hearing on unfair labor practice complaints and to prosecute such complaints before the Authority;

"(3) direct and supervise all field employees of the General Counsel in the field offices of the Authority; and

"(4) perform such other functions as the Authority prescribes.

"(l) Notwithstanding any other provision of law, including chapter 7 of this title, the decision of the Authority on any matter within its jurisdiction shall be final and conclusive, and no other official or any court of the United States shall have power or jurisdiction to review any such decision by an action in the nature of mandamus on appeal of that decision or by any other means, except that nothing in this section shall limit the right of persons to judicial review of questions arising under the Constitution of the United States.

"Subchapter II—Rights and Duties of Employees, Agencies and Labor Organizations

"§ 7211. Employees' rights

"(a) Each employee shall have the right freely and without fear of penalty or reprisal to form, join, or assist any labor organization, or to refrain from such activity, and each employee shall be protected in exercising such rights. Except as otherwise provided under this chapter, such rights include the right to—

"(1) participate in the management of a labor organization,

"(2) act for the organization in the capacity of a representative,

"(3) present, in such representative capacity, the views of the organization to agency heads and other officials of the executive branch of the Government, the Congress, or other appropriate authorities, and

"(4) bargain collectively, subject to the limits prescribed in section 7215(c) of this title, through representatives of their own choosing.

"(b) This chapter does not authorize—

"(1) a management official, a confidential employee, or a supervisor to participate in the management of a labor organization or to act as a representative of such an organization, unless such participation or activity is specifically authorized by this chapter, or

"(2) any employee to so participate or act if such participation or activity would result in any conflict of interest, or appearance thereof, or would otherwise be inconsistent with any law or the official duties of the employee.

"§ 7212. Recognition of labor organizations

"(a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for such recognition or consultation rights under this chapter.

"(b) Recognition of a labor organization, once accorded, shall continue as long as the organization meets the requirements of this chapter for recognition.

"(c) Recognition of a labor organization shall not—

"(1) preclude an employee, regardless of whether the employee is in a unit of exclusive recognition, from exercising grievance or appellate rights established by law or regulation or from choosing the employee's own representative in a grievance or appellate action, except when the grievance or appeal is covered by and pursued under a negotiated procedure as provided in section 7221 of this title;

"(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees in connection with veterans preference; or

"(3) preclude an agency from consulting or dealing with a religious, social, fraternal, professional, or other lawful association not qualified as a labor organization with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members.

Consultations and dealings under paragraph (3) shall not assume the character of formal consultation on matters of general employee-management policy covering employees in that unit or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interest of other employees.

"§ 7213. National consultation rights

"(a) An agency shall accord national consultation rights to a labor organization which qualifies under criteria established by the Authority as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit if a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights shall not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights if the labor organization ceases to qualify under the established criteria.

"(b) If a labor organization has been accorded national consultation rights, the agency shall notify representatives of such organization of proposed substantive changes in personnel policies that affect employees such organiation represents and provide an opportunity for such organization to comment on the proposed changes. Such organization may suggest changes in the agency's personnel policies and have its views carefully considered. Representatives of such organization may consult, at reasonable times, with appropriate officials on personnel policy matters and may, at all times, present in writing the organization's views on such matters. An agency is not required to consult with any such organization on any matter on which it would not be required to negotiate if the organization were entitled to exclusive recognition.

"(c) Any question with respect to the eligibility of a labor organization for national consultation rights may be referred to the Authority for decision.

"§ 7214. Exclusive recognition

"(a) Any agency shall accord exclusive recognition to a labor organization if the organization has been selected as the representative, in a secret ballot election, by a majority of the employees in an appropriate unit who cast valid ballots in the election.

"(b) A unit may be established on an agency, plant, installation, craft, functional, or other basis which will assure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency in the agency's operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes—

"(1) except as provided in section 701(b)(1) of the Civil Service Reform Act of 1978, any management official, confidential employee, or supervisor;

"(2) an employee engaged in Federal personnel work in other than a purely clerical capacity; or

"(3) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit.

Any question with respect to the appropriate unit may be referred to the Authority for decision.

"(c) All elections shall be conducted under the supervision of the Authority or persons designated by the Authority and shall be by secret ballot. Employees eligible to vote shall be provided the opportunity to choose the labor organization they wish to represent them from among those on the ballot and, except in the case of an election described in paragraph (4), the opportunity to choose not to be represented by a labor organization. Elections may be held to determine whether a labor organization should—

"(1) be recognized as the exclusive representative of employees in a unit;

"(2) replace another labor organization as the exclusive representative;

"(3) cease to be the exclusive representative;

"(4) be recognized as the exclusive representative of employees in a unit composed of employees in units currently represented by that labor organization or continue to be recognized in the existing separate units. An election need not be held to determine whether an organization should become, or continue to be recognized as, the exclusive representative of the employees in any unit, or subdivision thereof, during the 12-month period after a valid election has been held under this chapter with respect to such unit.

"§ 7215. Representation rights and duties

"(a) If a labor organization has been accorded exclusive recognition, such organization shall be—

"(1) the exclusive representative of employees in the unit and is entitled to act for and negotiate agreements covering all employees in the unit;

"(2) responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership; and

"(3) given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

"(b) An agency and an exclusive representative shall have a duty to negotiate in good faith and in exercising such duty shall—

"(1) approach the negotiations with a sincere resolve to reach an agreement;

"(2) be represented at the negotiations by appropriate representatives prepared to discuss and negotiate on all negotiable matters;

"(3) meet at such reasonable times and places as may be necessary; and

"(4) execute upon request of the agency or the organization a written document embodying the terms of, and take such steps as are necessary to implement, any agreement which is reached.

"(c) An agency and an exclusive representative shall, through appropriate representatives, negotiate in good faith as prescribed under subsection (b) of this section with respect to personnel policies and practices and matters affecting working conditions but only to the extent appropriate under laws and regulations, including policies which—

"(1) are set forth in the Federal Personnel Manual,

"(2) consist of published agency policies and regulations for which a compelling need exists (as determined under criteria established by the Authority) and which are issued at the agency headquarters level or at the level of a primary national subdivision, or

"(3) are set forth in a national or other controlling agreement entered into by a higher unit of the agency.

In addition, such organization and the agency may determine appropriate techniques, consistent with section 7222 of this title, to assist in any negotiation.

"(d) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall give due regard to the obligation to negotiate imposed by this section, except that such obligation does not include an obligation to negotiate with respect to matters concerning the number of employees in an agency, the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty, or the technology of performing the agency's work. The preceding sentence shall not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

"(e)(1) If, in connection with negotiations, an issue develops as to whether a proposal is negotiable under this chapter or any other applicable law, regulation, or controlling agreement, it shall be resolved as follows:

"(A) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under regulations prescribed by the agency.

"(B) An issue not described in paragraph (1) which arises at a local level may be referred by either party to the head of the agency for determination.

"(2) An agency head's determination under paragraph (1) concerning the interpretation of the agency's regulations with respect to a proposal shall be final.

"(3) A labor organization may appeal to the Authority from a decision under paragraph (1) if it—

"(A) disagrees with an agency head's determination that a proposal is not negotiable under this chapter or any other applicable law or regulation of appropriate authority outside the agency, or

"(B) believes that an agency's regulations, as interpreted by the agency head, are in violation of this chapter or any other applicable law or regulation of appropriate authority outside the agency, or are not otherwise applicable to bar negotiations under subsection (c) of this section.

"§ 7216. Unfair labor practices

"(a) It shall be an unfair labor practice for an agency—

"(1) to interfere with, restrain, or coerce an employee in connection with the exercise of rights assured by this chapter;

"(2) to encourage or discourage membership in any labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

"(3) to sponsor, control, or otherwise assist any labor organization, unless such assistance consists of furnishing customary and routine services and facilities—

"(A) in a manner consistent with the best interest of the agency, its employees, and the organization, and

"(B) on an impartial basis to organizations (if any) having equivalent status;

"(4) to discipline or otherwise discriminate against an employee because the employee has filed a complaint, affidavit, petition, or given any information or testimony, under the provisions of this chapter;

"(5) to refuse to accord appropriate recognition to a labor organization qualified for such recognition; or

"(6) to refuse to consult or negotiate in good faith with a labor organization as required by this chapter.

"(b) It shall be an unfair labor practice for a labor organization—

"(1) to interfere with, restrain, or coerce an employee in connection with the exercise of the rights assured by this chapter;

"(2) to cause or attempt to cause an agency to coerce an employee in the exercise of rights under this chapter;

"(3) to coerce or attempt to coerce an employee, or to discipline, fine or take other economic sanction against a member of the labor organization, as punishment or reprisal or for the purpose of hindering or impeding work performance, productivity, or the discharge of duties of such employee;

"(4) to—

"(A) call, or participate in, a strike, work stoppage, slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes or reasonably threatens to interfere with an agency's operations, or

"(B) condone any activity described in subparagraph (A) by failing to take action to prevent or stop it;

"(5) to discriminate against an employee with regard to the terms or conditions of membership in the organization because of race, color, religion, national origin, sex, age, or handicapping condition; or

"(6) to refuse to consult or negotiate in good faith with an agency as required by this chapter.

"(c) It shall be an unfair labor practice for a labor organization which is accorded exclusive recognition to deny membership to an employee in an appropriate unit unless such denial is for failure to meet reasonable occupational standards uniformly required for admission or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This subsection shall not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or bylaws which conform to the requirements of this chapter.

"(d) Issues which can properly be raised under an appeals procedure may not be raised as unfair labor practices prohibited under this section. Except for matters wherein, under section 7221 (e) and (f) of this title, an employee has an option of using the negotiated grievance procedure or an appeals procedure, issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or as an unfair labor practice under this section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice decisions under this chapter nor as a precedent for such decisions. All complaints of unfair labor practices prohibited under this section that cannot be resolved by the parties shall be filed with the Authority.

"(e) Any question with respect to whether an issue can properly be raised under an appeals procedure shall be referred for resolution to the agency responsible for final decisions relating to those issues.

"§ 7217. Standards of conduct for labor organizations

"(a) An agency shall only accord recognition to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in subsection (b) of this section, an organization is not required to prove that it is free from such influences if it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated, or in which it participates, containing explicit and detailed provisions to which it subscribes calling for——

"(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and provisions defining and securing the right of individual members to participate in the affairs of the organization, to receive fair and equal treatment under the governing rules of the organization, and to receive fair process in disciplinary proceedings;

"(2) the exclusion from office in the organization of persons affiliated with communist or other totalitarian movements and persons identified with corrupt influences;

"(3) the prohibtion of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

"(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provisions for accounting and financial controls and regular financial reports or summaries to be made available to members.

"(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in subsection (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles if there is reasonable cause to believe that—

"(1) the organization has been suspended or expelled from, or is subject to other sanction, by a parent labor organization, or federation of organizations with which it had been affiliated, because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by subsection (a) of this section; or

"(2) the organization is in fact subject to influences that would preclude recognition under this chapter.

"(c) A labor organization which has or seeks recognition as a representative of employees under this chapter shall file financial and other reports with the Assistant Secretary, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

"(d) The Assistant Secretary shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall conform generally to the principles applied to labor organizations in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary. In any matter arising under this section, the Assistant Secretary may require a labor organization to cease and desist from violations of this section and require it to take such action as he considers appropriate to carry out the policies of this section.

"§ 7218. Basic provisions of agreements

"(a) Each agreement between an agency and a labor organization shall provide the following:

"(1) In the administration of all matters covered by the agreement, officials and employees shall be governed by—

"(A) existing or future laws and the regulations of appropriate authorities, including policies which are set forth in the Federal Personnel Manual,

"(b) published agency policies and regulations in existence at the time the agreement was approved, and

"(C) subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level.

"(2) Management officials of the agency shall retain the right to determine the mission, budget, organization, and internal security practices of the agency, and the right, in accordance with applicable laws and regulations, to—

"(A) direct employees of the agency;

"(B) hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees;

"(C) relieve employees from duties because of lack of work or for other legitimate reasons;

"(D) maintain the efficiency of the Government operations entrusted to such officials;

"(E) determine the methods, means, and personnel by which such operations are to be conducted; and

"(F) take such actions as may be necessary to carry out the mission of the agency in situations of emergency.

"(b) Nothing in subsection (a) of this section shall preclude the parties from negotiating—

"(1) procedures which management will observe in exercising its authority to decide or act in matters reserved under such subsection; or

"(2) appropriate arrangements for employees adversely affected by the impact of management's exercising its authority to decide or act in matters reserved under such subsection,

except that such negotiations shall not unreasonably delay the exercise by management of its authority to decide or act, and such procedures and arrangements shall be consistent with the provisions of any law or regulation described in 7215(c) of this title, and shall not have the effect of negating the authority reserved under subsection (a).

"(c) Nothing in the agreement shall require an employee to become or to remain a member of a labor organization or to pay money to the organization except pursuant to a voluntary, written authorization by a member for the payment of dues through payroll deductions.

"(d) The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

"§ 7219. Approval of agreements

"An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or his designee. An agree-

ment shall be approved within 45 days from the date of its execution if it conforms to this chapter and other applicable laws, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation), and regulations of other appropriate authorities. An agreement which has not been approved or disapproved within 45 days from the date of its execution shall go into effect without the required approval of the agency head and shall be binding on the parties subject to the provisions of this chapter, other applicable laws, and the regulations of appropriate authorities outside the agency. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

"Subchapter III—Grievances and Impasses

§ 7221. Grievance procedures

"(a) An agreement between an agency and a labor organization which has been accorded exclusive recognition shall provide a procedure, applicable only to the unit, for the consideration of grievances. Subject to the provisions of subsection (d) of this section and to the extent not contrary to any law, the coverage and scope of the procedure shall be negotiated by the parties to the agreement. Except as otherwise provided in this section, such procedure shall be the exclusive procedure available to the parties and the employees in the unit for resolving grievances which fall within its coverage.

"(b) Any employee or group of employees in the unit may present grievances falling within the coverage of the negotiated grievance procedure to the agency and have them adjusted without the intervention of the exclusive representative if the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given an opportunity to be present at the adjustment.

"(c) A negotiated grievance procedure shall provide for arbitration as the final step of the procedure. Arbitration may be invoked only by the agency or the exclusive representative. Except as provided in subsection (g) of this section, the procedure must also provide that the arbitrator is empowered to resolve questions as to whether or not any grievance is on a matter subject to arbitration under the agreement.

"(d) A negotiated grievance procedure may cover any matter within the authority of an agency if not inconsistent with the provisions of this chapter, except that it may not include matters involving examination, certification and appointment, suitability, classification, political activities, retirement, life and health insurance, national security, or the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

"(e) Matters covered under sections 4303 and 7512 of this title which also fall within the coverage of the negotiated grievance procedure may, in the discretion of the aggrieved employee, be raised either under the appellate procedures of section 7701 of this title or under the negotiated grievance procedure, but not both. Similar matters which arise under other personnel systems applicable to employees covered by this chapter may, in the discretion of the aggrieved employee, be raised either under the appellate procedures, if any, applicable to those matters, or under the negotiated grievance procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise a matter either under the applicable appellate procedures or under the negotiated grievance procedure at such time as the employee timely files a notice of appeal under the applicable appellate procedures or timely files a grievance in writing in accordance with the provisions of the parties' negotiated grievance procedure, whichever event occurs first.

"(f) An aggrieved employee affected by a prohibited personnel practice under section 2302(b)(1) of this title which also falls under the coverage of the negotiated grievance procedure may raise the matter under a statutory procedure or the negotiated procedure, but not both. An employee shall be deemed to have exercised his option under this subsection to raise the matter under either a statutory procedure or the negotiated procedure at such time as the employee timely initiates an action under the applicable statutory procedure or timely files a grievance in writing, in accordance with the provisions of the parties' negotiated procedure, whichever event occurs first. Selection of the negotiated procedure in no manner prejudices the right of an aggrieved employee to request the Merit Systems Protection Board to review the final decision pursuant to subsections (h) and (i) of section 7701 of this title in the case of any personnel action that could have been appealed to the Board, or, where applicable, to request the Equal Employment Opportunity Commission to review a final decision in any other matter involving a complaint of discrimination of the type prohibited by any law administered by the Equal Employment Opportunity Commission.

"(g) Any question that cannot be resolved by the parties as to whether or not a grievance is on a matter excepted by subsection (d) of this section shall be referred for resolution to the agency responsible for final decisions relating to those matters.

"(h) In matters covered under sections 4303 and 7512 of this title which have been raised under the negotiated grievance procedure in accordance with the provisions of subsection (e) of this section, an arbitrator shall be governed by the provisions of section 4303(f) or 7701(d) of this title, as applicable.

"(i) Allocation of the costs of the arbitration shall be governed by the collective-bargaining agreement. An arbitrator shall have no authority to award attorney or other representative fees, except that in matters where an employee is the prevailing party and the arbitrator's decision is based on a finding of discrimination prohibited by any law referred to in section 7701(h) of this title attorney fees may be awarded and shall be governed by the standards applicable under the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e–5(k)).

"(j) Either party may file exceptions to any arbitrator's award with the Authority, except that no exceptions may be filed to awards concerning matters covered under subsection (e) of this section. The Authority shall sustain a challenge to an arbitrator's award only on grounds that the award violates applicable law, appropriate regulation, or other grounds similar to those applied by Federal courts in private sector labor-management relations. Decisions of the Authority on exceptions to arbitration awards shall be final, except for the right of an aggrieved employee under subsection (f) of this section.

"(k) In matters covered under sections 4303 and 7512 of this title which have been raised under the provisions of the negotiated grievance procedure in accordance with the provisions of subsection (e) of this section, the provisions of section 7702 of this title pertaining to judicial review shall apply to the award of an arbitrator in the same manner and under the same conditions as if the matter had been decided by the Merit Systems Protection Board. In matters similar to those covered under sections 4303 and 7512 which arise under other personnel systems and which an aggrieved employee has raised under the negotiated grievance procedure, judicial review of an arbitrator's award may be obtained in the same manner and on the same basis as could be obtained of a final decision in such matters raised under applicable appellate procedures.

"§ 7222. Federal service impasses panel; negotiation impasses

"(a)(1) There is established within the Authority, as a distinct organizational entity, the Federal Service Impasses Panel. The Panel is composed of the Chairman, and an even number of other members, appointed by the President solely on the basis of fitness to perform the duties and functions of the Office, from among individuals who are familiar with Government operations and knowledgeable in labor-management relations. No employee (as defined under section 2105 of this title) shall be appointed to serve as a member of the Panel.

"(2) At the time the members of the Panel (other than the Chairman) are first appointed, half shall be appointed for a term of 1 year and half for a term of 3 years. An individual appointed to serve as the Chairman shall serve for a term of 5 years. A successor of any member shall be appointed for terms of 5 years, except that an individual chosen to fill a vacancy shall be appointed for the unexpired term of the member whom such individual replaces. Any member of the Panel may be removed by the President.

"(3) The Panel may appoint an executive secretary and such other employees as it may from time to time find necessary for the proper performance of its duties. Each member of the Panel is entitled to pay at a rate equal to the daily equivalent of the maximum annual rate of basic pay currently paid, from time to time, under the General Schedule for each day the member is engaged in the performance of official business on the work of the Panel, including traveltime, and is entitled to travel expenses and a per diem allowance under section 5703 of this title.

"(b) Upon request, the Federal Mediation and Conciliation Service shall provide services and assistance to agencies and labor organizations in the resolution of negotiation impasses.

"(c) If voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Panel to consider the matter.

"(d) The Panel or its designee shall promptly investigate any impasse presented to it under subsection (c) of this section. The Panel shall consider the matter and shall either recommend procedures to the parties for the resolution of the impasse or assist the parties in arriving at a settlement through such methods and procedures, including fact finding and recommendations, as it may find appropriate to accomplish the purposes of this section. Arbitration, or third-party fact finding with recommendations to assist in the resolution of an impasse, may be used by the parties only when authorized or directed by the Panel. If the parties do not arrive at a settlement, the Panel may hold hearings, compel under section 7234 of this title the attendance of witnesses and the production of documents, and take whatever action is necessary and not inconsistent with the provisions of this chapter to resolve the impasse. Notice of any final action of the Panel shall be promptly served upon the parties and such action shall be binding upon them during the term of the agreement unless the parties mutually agree otherwise.

"Subchapter IV—Administrative and Other Provisions

"§ 7231. Allotments to representatives

"(a) If, pursuant to an agreement negotiated in accordance with the provisions of this chapter, an agency has received from an employee in a unit of exclusive recogni-

tion a written assignment which authorizes the agency to deduct from the wages of such employee amounts for the payment of regular and periodic dues of the exclusive representative for such unit, such assignment shall be honored. Except as required under subsection (b) of this section, any such assignment shall be revocable at stated intervals of not more than 6 months.

"(b) An allotment for the deduction of labor organization dues terminates when—

"(1) the dues withholding agreement between the agency and the exclusive representative is terminated or ceases to be applicable to the employee; or

"(2) the employee has been suspended or expelled from the labor organization which is the exclusive representative.

"§ 7232. Use of official time

"Solicitation of membership or dues and other internal business of a labor organization shall be conducted during the nonduty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except that the negotiating parties may agree to arrangements which provide that the agency will authorize a reasonable number of such employees (not normally in excess of the number of management representatives) to negotiate on official time for up to 40 hours, or up to one-half the time spent in negotiations during regular working hours.

"§ 7233. Remedial actions

"If it is determined by appropriate authority, including an arbitrator, that certain action will carry out the policies of this chapter, such action may be directed by the appropriate authority if consistent with law, including section 5596 of this title.

"§ 7234. Subpenas

"(a) Any member of the Authority, including the General Counsel, any member of the Panel, and any employee of the Authority designated by the Authority may—

"(1) issue subpenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia, except that no subpena shall be issued under this section which requires the disclosure of intramanagement guidance, advice, counsel, or training within an agency or between an agency and the Office of Personnel Management; and

"(2) administer oaths, take or order the taking of depositions, order responses to written interrogatories, examine witnesses, and receive evidence.

"(b) In the case of contumacy or failure to obey a subpena issued under subsection (a)(1), the United States district court for the judicial district in which the person to whom the subpena is addressed resides or is served may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

"(c) Witnesses (whether appearing voluntarily or under subpena) shall be paid the same fee and mileage allowances which are paid subpenaed witnesses in the courts of the United States.

"§ 7235. Regulations.

"The Authority, including the General Counsel and the Panel, and the Federal Mediation and Conciliation Service shall each prescribe rules and regulations to carry out the provisions of this chapter applicable to them. Unless otherwise specifically provided in this chapter, the provisions of subchapter II of chapter 5 of this title shall be applicable to the issuance, revision, or repeal of any such rule or regulation.".

(b)(1) The amendments made by subsection (a) shall not preclude—

(A) the renewal or continuation of an exclusive recognition, certification of a representative, or a lawful agreement between an agency and a representative of its employees entered into before the effective date of this section; or

(B) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the effective date of this section.

(2) Policies, regulations, and procedures established, and decisions issued, under Executive Order Numbered 11491, or under the provision of any related Executive order in effect on the effective date of this section, shall remain in full force and effect until revised or revoked by Executive order or statute, or unless superseded by appropriate decision or regulation of the Federal Labor Relations Authority.

(c) Any term of office of any member of the Federal Labor Relations Authority and the General Counsel of the Federal Labor Relations Authority serving on the effective date of this section shall continue in effect until such time as such term would expire under Reorganization Plan Numbered 2 of 1978, and upon expiration of such term, appointments to such office shall be made under section 7203 of title 5, United States Code. Any term of office of any member of the Federal Service Impasses Panel serving on the effective date of this section shall continue in effect until such time as members of the Panel are appointed pursuant to section 7222 of title 5, United States Code.

(d) There are hereby authorized to be appropriated such sums as may be necessary to carry out the functions and purposes of this section.

(e) The table of chapters for subpart F of part III of title 5, United States Code, is amended by adding after the item relating to chapter 71 the following new item:

"72. Federal Service Labor-Management Relations ---------- 7201".

(f) Section 5314 of title 5, United States Code, is amended by adding at the end thereof:

"(69) Chairman, Federal Labor Relations Authority.".

(g) Section 5315 of title 5, United States Code, is amended by adding at the end thereof:

"(124) Members (2), Federal Labor Relations Authority.".

(h) Section 5316 of title 5, United States Code, is amended by adding at the end thereof:

"(145) General Counsel, Federal Labor Relations Authority.".

REMEDIAL AUTHORITY

SEC. 702. Section 5596 of title 5, United States Code, is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) An employee of an agency who, on the basis of an administrative determination or a timely appeal, is found by appropriate authority to have suffered a withdrawal, reduction, or denial of all or part of the employee's pay, allowances, differentials, or other monetary or employment benefits, or a denial of an increase in such pay, allowances, differentials, or other monetary or employment benefits, which would not have occurred but for unjustified or unwarranted action taken by the agency—

"(1) is entitled, on correction of the action—

"(A) to be made whole for all losses suffered less, in applicable circumstances, interim earnings, and

"(B) if appropriate, to reinstatement or restoration to the same or a substantially similar position, or promotion to a higher level position; and

"(2) for all purposes is deemed to have performed service for the agency during the period of the unjustified or unwarranted action, except that—

"(A) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Office of Personnel Management, and

"(B) annual leave credited under subparagraph (A) of this paragraph but unused and still available to the employee under regulations prescribed by the Office of Personnel Management shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

"(c) For the purposes of this section—

"(1) 'unjustified or unwarranted action' includes—

"(A) any act of commission, either substantive or procedural, which violates or improperly applies a provision of law, Executive order, regulation, or collective bargaining agreement; and

"(B) any act of omission, or failure to take an action, or confer a benefit which must be taken or conferred under a nondiscretionary provision of law, Executive order, regulation, or collective-bargaining agreement;

"(2) 'administrative determination' includes, but is not limited to, a decision, award, or order issued by—

"(A) a court having jurisdiction over the matter involved;

"(B) the Office of Personnel Management;

"(C) the Merit Systems Protection Board;

"(D) the Federal Labor Relations Authority;

"(E) the Comptroller General of the United States;

"(F) the head of the employing agency or an agency official to whom corrective action authority is delegated; or

"(G) an arbitrator under a negotiated binding arbitration agreement between a labor organization and agency management;

"(3) 'appropriate authority' includes, but is not limited to—

"(A) a court having jurisdiction;

"(B) the Office of Personnel Management;

"(C) the Merit Systems Protection Board;

"(D) the Federal Labor Relations Authority;

"(E) the Comptroller General of the United States;

"(F) the head of the employing agency or agency official to whom corrective action authority is delegated; or

"(G) an arbitrator under a negotiated binding arbitration agreement between a labor organization and agency management.

"(d) The provisions of this section shall not apply to reclassification actions nor shall they authorize the setting aside of an otherwise proper promotion by a selecting official from a group of properly ranked and certified candidates.

"(e) The Office of Personnel Management shall prescribe regulations to carry out this section. However, the regulations are not applicable to the Tennessee Valley Authority and its employees.".

Page 143, beginning on line 19, strike out "Section 7203 of title 5, United States Code (as redesignated in section 703(1) of this Act)" and insert in lieu thereof "Section 7153 of title 5, United States Code,".

Page 264, beginning on line 14, strike out "supervisor or management official (as de-

fined in paragraphs (10) and (11) of section 7103 of this title, respectively)" and insert in lieu thereof "management official or supervisor (as defined in paragraphs (10) and (11) of section 7203 of this title, respectively)".

Page 376, beginning on line 1, strike out "before '7203' (as added in section 703(d)(2) of this Act)" and insert in lieu thereof "before '7153'".

Page 386, beginning on line 1, strike out "7203, and 7204 (as redesignated in section 703(a)(1) of this Act)," and insert in lieu thereof "7153, and 7154,".

Conform the table of contents accordingly.

H.R. 11280

By Mr. QUAYLE:

—Page 195 at line 10: insert a new (g) to read:

"(g) Section 3318(a) of title 5, United States Code is amended to read as follows:

"(a) The nominating or appointing authority shall select for appointment to each vacancy from the highest 7 eligibles available for appointment, unless the Office of Personnel Management determines that another referral and selection procedure is appropriate.".

Redesignate succeeding lines and sections accordingly.

—Page 219 at line 17: following the words "may not exceed", delete "10" and insert in lieu thereof "20".

H.R. 11622

By Mr. EDGAR:

—Page 55, strike out line 15 and all that follows down through line 23 and insert in lieu thereof the following:

"(d)(1) Not later than 1 year after the date of the enactment of this subsection, the Secretary shall conduct a study, and submit a report thereon to the Congress, on the effects which would result from including within the coverage of this Act various types and classes of facilties and equipment used in the transportation on land of gas or liquefied petroleum gas in interstate or foreign commerce, or storage in connection with such transportation. If the Secretary finds, based on such study that the purposes of this Act would be furthered, he shall, by regulation, provide that the provisions of this Act, in whole or in part, apply to any such type or class of facility or equipment to the same extent and manner as such provisions apply with respect to pipeline facilities.

H.R. 11622

By Mr. OTTINGER:

—Page 41, line 20, strike out "or".

Page 42, line 3, strike out the period and insert in lieu thereof ", or".

Page 42, after line 3, insert the following:

"(C) if such pipeline facility has been the subject of a recommendation from the National Transportation Safety Board to the owner or operator of such facility correct a hazardous condition determined to exist by such Board in connection with any investigation by such Board of an accident or hazardous condition.".

Page 43, line 3, strike out the quotation marks and the period which follows.

Page 43, after line 3, insert the following:

"(5) The Secretary shall require any operator of a pipeline facility which has been the subject of a recommendation described in paragraph (2)(C) to demonstrate to the Secretary, within 15 days after receipt of such recommendation, that such person has implemented such recommendation with respect to such facility and all other pipeline facilities for which it is likely that similar conditions exist as those precipitating the Board's investigation. Such demonstration shall not be considered adequate unless the operator involved has conducted such system tests as the Secretary may require.".

Page 72, line 18, insert after "facilities" the following: "; other penalties".

Page 72, line 21, strike out "subsection" and insert in lieu thereof "subsections".

Page 73, line 8, strike out the quotation marks and the period which follows.

Page 73, after line 8, insert the following:

"(c) Any person who willfully continues to operate a pipeline facility without making any demonstration required under section 10(b)(5), shall, be fined not more than $15,000 or imprisoned not more than five years, or both.".

—Page 51, strike out line 6 and all that follows down through line 17, and insert in lieu thereof the following:

"(b) Any storage facility, or category of storage facilities, used for the storage of liquefied petroleum gas shall be included by the Secretary, by regulation, within the meaning of subsection (a)(5) if the Secretary finds that such inclusion would further the purposes of this Act.".

—Page 59, after line 12, insert the following:

PREEMPTION

SEC. 110. Section 3(a), as redesignated, is amended by striking out the last 2 sentences and inserting in lieu thereof the following new sentence: "Any State agency may adopt additional or more stringent standards for pipeline transportation if such standards are compatible with the Federal minimum standards.".

—Page 60, line 17, after "was filed" insert "and finally approved".

H.R. 12611

By Mr. SNYDER:

—Page 138, after line 18, insert the following new section:

COLLECTION OF FEES, CHARGES, AND PRICES

SEC. 33. Notwithstanding any other provision of law, neither the Secretary of Transportation nor the Administrator of the Federal Aviation Administration shall collect any fee, charge, or price for any approval, test, authorization, certificate, permit, registration, conveyance, or rating relating to any aspect of aviation (1) which is in excess of the fee, charge, or price for such approval, test, authorization, certificate, permit registration conveyance, or rating which was in effect on January 1, 1973, or (2) which did not exist on January 1, 1973, until all such fees, charges, and prices are reviewed and approved by Congress.

Renumber the succeeding section of the bill accordingly.

H.R. 13488

By Mr. JEFFORDS:

—At the end thereof, add the following:

SEC. 10. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures, plus

"(3) the qualified hydrogen energy expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified energy conservation expenditures are 20 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCES.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit.

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(3) HYDROGEN ENERGY.—In the case of any dwelling unit, the qualified hydrogen energy expenditures are 20 percent of so much of the hydrogen energy expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(4) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior taxable year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1), (2), or (3), (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(5) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURE.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States, the Virgin Islands, or Guam,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'renewable energy source expenditure' includes only expenditures for—

"(i) renewable energy source property,

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of renewable energy source property, or

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a function other than the function of such storage.

"(8) HYDROGEN ENERGY EXPENDITURES.—

"(A) IN GENERAL.—The term 'hydrogen energy expenditures' means an expenditure made on or after April 20, 1977, by the taxpayer for hydrogen energy property and installation installed in connection with a dwelling unit—

"(i) which is located in the United States, the Virgin Islands, or Guam, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) ITEMS INCLUDED.—The term 'hydrogen energy expenditures' includes only expenditures for—

"(i) hydrogen energy property, and

"(ii) labor costs properly allocable to the onsite preparation, assembly, or installation of hydrogen energy property, or to the modification of conventional property for the use of hydrogen as a fuel.

"(4) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(5) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system.

"(iii) an electrical or mechanical furnace ignition system which replaces a gas pilot light.

"(iv) a storm or thermal window or door for the exterior of the dwelling,

"(v) an automatic energy-saving setback thermostat,

"(vi) caulking or weather stripping of an exterior door or window,

"(vii) a heat pump which replaces an electric resistance heating system,

"(viii) meters which display the cost of energy usage,

"(ix) a replacement fluorescent lighting system,

"(x) an evaporative cooling device,

"(xi) is an item (other than a fireplace) which is designed to use wood and peat as a fuel for space heating, the heating of water or cooking of food, or any combination thereof, including any controls, ducts, stovepipes, footing or other item (other than a chimney) necessary for the safe and efficient operation of any such item, or

"(xii) an item of the kind which the Secretary specifies by regulations as increasing (by conversion or otherwise) the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards, if any which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

In establishing regulations under this paragraph, the Secretary shall prescribe (i) guidelines setting forth the criteria which are used in the determination of whether an item is an energy-conserving component, and (ii) a procedure under which a manufacturer of an item may request the Secretary to specify or certify that item as an energy-conserving component.

"(6) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses solar energy in either an active or passive method the primary purpose of which is heating or cooling such dwelling or providing hot water for use within such dwelling, or in the production of electricity,

"(ii) uses wind energy for nonbusiness residential purposes,

"(iii) is necessary to distribute or use geothermal deposits (as defined in section 613 (e)) which provide geothermal energy to heat or cool such building or provide hot water for use within such building, or

"(iv) uses any other form of renewable energy which the Secretary specifies by regulations,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(7) HYDROGEN ENERGY PROPERTY.—The term 'hydrogen energy property' means property—

"(A) which, when installed in connection with a dwelling—

"(i) uses hydrogen as a fuel for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

"(ii) is used in the electrolysis of water for the production of hydrogen,

"(B) the original use of which begins with the taxpayer

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards, if any, which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(8) CONSULTATION IN PRESCRIBING STANDARDS.—Performance and quality standards shall be prescribed by the Secretary under paragraphs (4), (5), (6), and (7) only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal agencies.

"(9) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) Except as provided in subparagraph (B) an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) The amount of any expenditure shall be the cost thereof.

"(D) If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of the preceding sentence, use for a swimming pool shall be treated as use which is not for residential purposes.

"(10) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(1) ENVIRNMENTAL RESTRICTIONS ON CERTAIN WOOD AND PEAT BURNING ITEMS.—No credit shall be allowed under subsection (a) for expenditures with respect to any item described in paragraph (5)(A)(xii) which are to be installed in any metropolitan or other area after the date on which—

"(A) the Administrator of the Environmental Protection Agency certifies to the Secretary that the emissions from such items would cause air quality in such area to be in violation of any Federal law, or

"(B) the Secretary of Agriculture certifies to the Secretary that additional consumption of wood in connection with such items would endanger forests in that area.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year; and

"(B) each of such individuals shall be allowed a credit under subsection (a) for the taxable year in which such calendar year ends (subject to the limitation of paragraph (5) of subsection (b)) in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who holds stock as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means and organization which meets the requirements of paragraph (1) of section 528 (c) other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985.".

(b) CARRYOVER OF UNUSED CREDIT.—If the amount of the credit determined under this section for the taxable year exceeds the liability for the taxpayer for the tax under this chapter for the taxable year, the excess shall be carried over to each of the two taxable years succeeding that taxable year. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the two taxable years to which it may be carried, and then to the succeeding taxable year to the extent that it may

not be added for a prior taxable year to which it might be carried.

(c) INSPECTION.—To the extent not presently authorized and utilized by any agency of the United States in the assessment and collection of income taxes, no procedure or practice which utilizes onsite inspection of the residence of an individual shall be employed to determine if that individual is entitled to a credit under section 44C of the Internal Revenue Code of 1954, as added by subsection (a), unless such procedure or practice provides that such inspection shall take place only with the written consent of such individual.

(d) TECHNICAL AND CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 44B the following new item:

"Sec. 44C. Residential energy credit.".

(2) Subsection (c) of section 56 (defining regular tax deduction) is amended by striking out "credit's allowable under—" and all that follows and inserting in lieu thereof "credits allowable under subpart A of part IV other than under sections 31, 39, 43, 44C, 44E, 44F, 44G, 44H, 44I, and 44J.".

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 44C(e), in the case of property with respect to which a credit has been allowed under section 44C.".

(4) Subsection (b) of section 6098 (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C"

(e) EFFECTIVE DATE.—Notwithstanding subsection (a) of section 9, the amendments made by this section shall apply to taxable years ending on or after April 20, 1977.

H. CON. RES. 683

By Mr. ROUSSELOT:

(Amendment in the nature of a substitute.)

—strike all after the resolving clause and insert the following:

That the Congress hereby determines and declares, pursuant to section 301(a) of the Congressional Budget Act of 1974, that for the fiscal year beginning on October 1, 1978—

(1) the recommended level of Federal revenues is $464,148,000,000 and the amount by which the aggregate level of Federal revenues should decrease is $29,500,000,000.

(2) the appropriate level of total new budget authority is $519,046,000;

(3) the approrpriate level of total budget outlays is $464,148,000,000;

(4) The amount of the deficit in the budget which is appropriate in the light of economic conditions and all other relevant factors is $0; and

(5) the appropriate level of the public debt is $798,300,000,000 and the amount by which the statutory limit on such debt should accordingly be increased is $300,000,000 (this figure represents off-budget agency outlays and trust fund surplus).

SEC. 2. Based on allocations of the appropriate level of total new budget authority and of total budget outlays as set forth in paragraphs (2) and (3) of the first section of this resolution, the Congress hereby determines and declares pursuant to section 301(a)(2) of the Congressional Budget Act of 1974 that, for the fiscal year beginning on October 1, 1978, the appropriate level of new budget authority and the estimated budget outlays for each major functional category are as follows:

(1) National Defense (050):
(A) New budget authority, $127,102,000,000,
(B) Outlays, $112,403,000,000;
(2) International Affairs (150):
(A) New budget authority, $8,754,000,000,
(B) Outlays, $6,200,000,000,
(3) General Science, Space, and Technology (250):
(A) New budget authority, $5,146,000,000
(B) Outlays, $5,001,000,000
(4) Energy (270):
(A) New budget authority, $9,200,000,000
(B) Outlays, $7,100,000,000
(5) Natural Resources and Environment (300):
(A) New budget authority, $12,900,000,000
(B) Outlays, $11,001,000,000
(6) Agriculture (350):
(A) New budget authority, $9,197,000,000
(B) Outlays, $7,628,000,000
(7) Commerce and Housing Credit (370):
(A) New budget authority, $5,386,000,000,
(B) Outlays, $2,814,000,000
(8) Transportation (400):
(A) New budget authority, $16,200,000,000,
(B) Outlays, $16,500,000,000
(9) Community and Regional Development (450):
(A) New budget authority, $8,500,000,000,
(B) Outlays, $9,001,000,000
(10) Education, Training, Employment and Social Services (500):
(A) New budget authority, $22,100,000,000
(B) Outlays, $26,600,000,000
(11) Health (550):
(A) New budget authority, $48,600,000,000,
(B) Outlays, $46,102,000,000
(12) Income Security (600):
(A) New budget authority, $182,394,000,000,
(B) Outlays, $150,100,000,000
(13) Veterans Benefits and Service (700):
(A) New budget authority, $21,100,000,000
(B) Outlays, 20,913,000,000
(14) Administration of Justice (750):
(A) New budget authority, $4,100,000,000
(B) Outlays, $4,051,000,000;
(15) General Government (800):
(A) New budget authority, $4,098,000,000
(B) Outlays, $3,903,000,000;
(16) General Purpose Fiscal Assistance (850):
(A) New budget authority, $9,019,000,000
(B) Outlays, $9,237,000,000;
(17) Interest (900):
(A) New budget authority, $43,500,000,000,
(B) Outlays, $43,500,000,000;
(18) Allowances (920):
(A) New budget authority, —$1,087,000,000
(B) Outlays, —$743,000,000
(19) Undistributed Offsetting Receipts (950):
(A) New budget authority, —$17,163,000,000
(B) Outlays, —$17,163,000,000

EXTENSIONS OF REMARKS

AUDREY PERRY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. PURSELL. Mr. Speaker, this summer has brought Monroe County, Mich. the retirement of one of its most respected educators, and a woman I have long admired, Mrs. Audrey Perry. On July 18, Mrs. Perry presented her resignation to the Monroe Public Schools Board, announcing her intentions to retire to Florida. With this retirement, Mrs. Perry leaves vacancies at the Monroe Junior High School where she was eighth grade assistant principal, and on the Monroe County Community College Board of Trustees, a post she has held since 1976.

Mrs. Perry has led a very active life, not only in education, but in politics as well. She was elected chairman of the Monroe Education Association Women's Political Caucus, was elected chairman of the Monroe County Republican Committee, was named president of the Michigan Republican Women's Political Caucus and was founder and president of the State Coalition of Michigan's Women's Organizations, "WOMAN."

Also in the field of education, Mrs. Perry was elected president of the Monroe City Education Association in 1962.

In that same year, she helped organize the Parent's Association for the Mentally Retarded in Monroe. She was a high school teacher and then assistant principal, and then principal of Riverside Elementary School in Monroe. She has been a member of the executive board of the Michigan Association for Talented and Gifted Children, a representative to the State legislature for the Monroe Public Schools, and first vice president of the Monroe County Council for High Potential Youth.

In addition to her very active life in education and politics, Mrs. Perry was also the first woman to be elected first vice president for the Eastern Michigan Chapter of Phi Delta Kappa. She was a member of the National Honor Society of the Humanities and Arts, and a member of the Michigan Chamber of Commerce Task Force on Education and Welfare.

Mrs. Perry was also honored in 1977 by receiving the Governor's Award during Michigan Week, and was chosen woman of the year that year by the Monroe Business and Professional Women's Club.

Obviously, Audrey Perry is a woman of many talents, and those talents will be sorely missed by the people of Monroe. She served her community with distinction and honor, as well as making a meaningful contribution to the political life of the State of Michigan.

We do not often see people of the stature of Audrey Perry in public life, and Monroe County has indeed been fortunate to have had her services.

I offer Audrey Perry my very sincere congratulations and thanks for an out-

standing career. I am grateful to have known her these many years, and wish her every success and happiness in her new life.●

NO UNEMPLOYMENT

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. WHITEHURST. Mr. Speaker, a constituent and good friend of mine, Mr. Henry Dusinberre of Norfolk, Va., recently sent me the following commentary on the value of personal involvement, and I am pleased to take this opportunity to share it with my colleagues. I think it has great merit.

Mr. Dusinberre told me, too, that during his last command at sea, they had a program of personal improvement, and as a result 34 percent of the crew were advanced in rating on the servicewide examinations. Thus his comments are the result of considerable personal experience and deserve our careful attention.

NO UNEMPLOYMENT

I didn't say reduce unemployment. I said eliminate unemployment.

It is reported that Japan, in a recent depression, sent everyone, not otherwise occupied, to school, either to learn or to teach.

The greatest loss during a recession, depression, or unemployment period, is the time lost. It can never be regained.

Prisoners of war found that the only way they could keep from going nuts, was for each prisoner, in turn, to teach the others whatever his specialty was. If one knew German, he taught the others all the German he knew. Another knew mathematics and taught that. The point is that learning is basic. Furthermore, each generation must, in turn, learn everything, as everyone is born completely ignorant.

(Also, Ben Franklin said that if you would pour your pocketbook into your head, no one could steal it from you.)

Back to Japan, the net effect of the program was an investment in human resources. Every technician out of a (paying) job became a better technician. No wonder Japan is flooding this country with radios, tape recorders, TV's and automobiles.

When I ran "Forty-Plus of Tidewater" for people in the upper brackets who were unemployed, we used to tell them that they already had a job. Their job was to find a job! They had to learn how, they had to prepare a resume, make a prospect list, join with others in Forty-Plus to do cooperative canvassing and promotion. This job didn't pay anything but it was a job just as any other task-assignment was a job, and they had to work at it.

Along the same lines, it should be possible to organize all "unemployed" in an educational program. In other words, everyone was either (1) working at a paying job, or (2) learning a job skill of their choice in order to get a paying job, or (3) learning to improve their job skill in order to get a better paying job than the last one they had, or (4) are teaching others how to do the jobs at which they are proficient.

In other words, everyone has a job. No time is lost. Productivity may be lost, but our human resources are improved.

I am speaking here at the lowest level, that is, where we believe that everyone should be able to be self-supporting, certainly off welfare. Once the person is self-supporting and not a burden upon society, he then has a free choice as to his pursuits.

Our basic requirements for a good citizen are, briefly:

Be literate; be a registered voter; be self-supporting, certainly off welfare; be a taxpayer; be law-abiding; and be a supporter of the law-abiding system.

It would seem that society has a responsibility to educate citizens to good citizenship, and the periods of "unemployment" would present an opportunity to do this.

Particularly helpful would be those interest and aptitude tests which point an individual's efforts toward those occupations, trades or professions where that particular individual would be most happy and most successful.

Maybe, if we called it a "Lifetime Employment" program it would catch on.

Thomas Edison is quoted as saying that he never did a day's work in his life, it was all fun.●

BOTSWANA AMBASSADOR POINTS TO RECORD

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. SIMON. Mr. Speaker, I noted with pleasure recently that the Ambassador of Botswana had a letter to the editor in which he made clear that Botswana does not assist terrorism in any way.

One of the most stable, progressive and enlightened countries of Africa is Botswana.

That country has no shortage of problems, and I hope that there can be a growing, working relationship between the United States and Botswana.

I insert this item in the CONGRESSIONAL RECORD simply to make sure there is no misunderstanding about the policies of Botswana.

BOTSWANA DOES NOT ASSIST TERRORISM

The Embassy of Botswana has read with dismay the July 7 column by Jack Anderson listing Botswana as one of the "patrons" of "dealers in death."

We further note that Jack Anderson alleges that his source of information is secret Central Intelligence Agency papers. That article is completely untrue.

The embassy wishes to make it very clear that Botswana does not harbor, or assist, any form of terrorism. It is assumed that by terrorism the article is referring to activities of freedom movements against minority regimes in southern Africa. If that is the case, the embassy wishes to state categorically that Botswana does not wish her territory to be used as a springboard for any movement launching attacks against neighboring states.

Botswana has repeatedly taken this stand when it was attacked by the Rhodesian forces, under the pretense that they were following freedom fighters in Botswana, or were attacked by freedom fighters based in Botswana. There are no bases or camps for freedom movements in Botswana.

Botswana has made this policy known to the international community at various forums such as the OAUUNO. Botswana continues to adhere to this policy.

Therefore the article referred to is both untrue and without foundation.

On July 4, the president of Botswana reiterated that policy.

The embassy is tempted to suspect that the idea in the article, being identical with the one Ian Smith's regime uses to attack Botswana, identifies the writer and his alleged sources with the views of the Smith minority regime—i.e., perpetuation of the suppression of the blacks and using Botswana as a scapegoat against mounting activities by the freedom fighters in Rhodesia.

BIAS MOOKODI,
Ambassador of Botswana.●

POLICEMAN IN THE GHETTO

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. PATTISON of New York. Mr. Speaker, in the Washington Post of Friday, August 11, 1978, there appeared an article containing an interview with Tony Bouza, the commander of the New York City Police Department with jurisdiction in the Bronx.

It is a thoughtful interview of a thoughtful cop. I have met Tony Bouza and have discussed the problems with him that he discusses in the article. He has been a cop all his adult life. He is an excellent cop, and he has risen through the ranks to his present position of responsibility. He knows what he is talking about. I hope my colleagues will take a few minutes and read the article. Maybe, just maybe, we can avoid reliving the "hot summers" of the 1960's over and over again.

The article follows:

A POLICEMAN IN THE GHETTO

(This article is excerpted from an interview with Anthony V. Bouza, Bronx borough commander of the New York Police Department, on "The Police Tapes," a program aired by WNET–TV in New York and seen locally on WETA–TV. The program was produced by Alan and Susan Raymond.)

Chief Bouza: You look at the average policeman, and he comes from the lower middle class or upper lower class, and suddenly he's going to become a policeman. He wants security; he wants a nice-paying job; he wants to work out of doors; he wants to help people. And this is the psychology.

And he goes to the police academy, and he is taught how to help people. He's going to be preserving the fabric of our society. He's going to be preserving life and property and maintaining peace.

And then he gets out there, and he suddenly discovers that he's regulating human behavior, that he is bitterly resented. And he's shocked. The police officer's reaction to this is absolute shock—that a citizen, and I mean the citizen generically, should resent his presence. And it is resented. And it is resented rightly. We all bridle at control.

The policeman has great difficulty assimilating that knowledge. He becomes a bit cynical. He becomes a bit hardened. He cannot permit every motional contact to drain him: He has to have emotions for his life and for his family. So like the prostitute who cannot afford to become emotionally, romantically involved with every client, the policeman cannot afford to become emotionally or romantically involved with every client. And the result is that he develops callouses over his emotions.

As a matter of fact, that hardness and that cynicism permit him to cope with what he encounters. I think that if you maintained the involvement of the philosopher in the

ghetto in a policeman, he'd disintegrate after a very little while. . . .

The policeman fundamentally has a ringside seat on the greatest show on earth. One of the beautiful things about being a policeman is that you're at the center of action all the time. You are seeing people, sometimes famous people, under most incredible circumstances. You're in on every secret of society in a sense. And that's very exciting.

The public doesn't understand everything that you see. You can't even explain it. Most policemen have a tighter relationship with their partners than they do with their wives, which is a whole different situation. So the insularity grows, the secretiveness grows, the parochialism grows. Society doesn't understand. The policeman is shocked that society doesn't appreciate him sufficiently, and they are driven apart. And that really creates a kind of ineluctable drift that I don't know how to combat. . . .

Just as in "Clockwork Orange," a dehumanized and impersonal society is brutalizing and conditioning its citizens. . . . We have a subculture in our society, and it resides in the ghetto. And we are conditioning that subculture, and their reaction is very predictable. B. F. Skinner would have no difficulty identifying what is happening there. We are conditioning people to become alcoholics. We are conditioning them to be violent. And we give them no other mechanisms with which to cope.

There is nothing inevitable about it. It is a process that is taking place because of forces that are conditioning this response, just as forces are conditioning my response to educate my children effectively—make sure they get a good education. I pay my mortgage, pay my taxes. I resolve my disputes with my wife or my colleagues through communications. In the ghetto I'd be stabbing and punching and kicking and scratching and doing everything else that everybody else is doing—simply because I'm a human being, and I'm conditionable. . . .

The levels of rage and frustration have created an emotional gorge that people are permanently endowed with in the ghetto. So it may take quite a while for me to get you angry enough to be violent; if you were walking around with an emotional gorge up to here, it would take only another fraction of an inch to get you to respond.

And that's really what is happening. The frustrations that I'm talking about: the heat, the misery, the lack of rest, the whole miserable condition of poverty. And Aristotle did say 2,500 years ago that poverty is the parent of revolution and crime. It is still true. And when you're going around with those levels of frustration and permanent anger, and you don't even know what you want, the first available target becomes the focus of the violence.

America attacks the problems that it sees. It doesn't see these problems. They're now under the rug. The fact is that we have ignored them. They are being more ignored now than they ever have been. They're poorer than they ever have been. There hasn't been a significant redistribution of income in this nation for 30 years. The bureaucracy and the government are failing, and fundamentally, the federal government has simply got to look at what is happening in the city ghetto and address it. And one of the reasons it hasn't done so is that no one is filming it, no one is writing about it, no one is doing stories about it. It is just invisible, and if you go out into the streets of the Bronx, you will see a lot of black and Hispanic energetic young men and women all dressed up, no place to go, nothing to do, no jobs, no point in living, and seeking any form of escape that they can find, whether that form is drugs or alcohol or whatever. Most frequently it's alcohol, and thank God that it's so freely available.

To the degree that I succeed in keeping the ghetto cool, to the degree that I can be effective—to that degree, fundamentally, am I deflecting America's attention from discoverng this cancer? And the longer the discovery is deferred—as in Vietnam—the greater the moral dilemma, the greater the moral problem when it is ultimately discovered. So maybe I would be better off failing. Maybe I'd be better off not working quite so hard. Maybe I'd be better off not being as effective as I presume myself to be.

And that way America would be confronting the problem as it had to do during the urban riots of the '60s and so on. The fact of the matter is that we are manufacturing criminals. We are manufacturing brutality out there. We are very efficiently creating a very volatile and dangerous sub-element of our society. And we are doing it simply because we don't want to face the burdens and the problems and the responsibilities that their existence imposes on any society with conscience. So rather than awaken your conscience to the problem, you're far better off just ignoring it.

And that's what we are doing. And I am very well paid, almost to be the commander of an army of occupation in the ghetto. And that is a great tragedy, I think, and I don't know that anyone's useful life ought to be employed in that kind of a pursuit however well paid one is.●

FIFTY YEARS OF CARING

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. VANDER JAGT. Mr. Speaker, I want to take this opportunity to recognize an outstanding business firm in our 9th Congressional District in Michigan, Gerber Products Co., of Fremont, which this year marks its 50th anniversary in the baby food business. As I mentioned in a "Dear Colleague" letter today in distributing a very special booklet on the company's golden anniversary, Gerber's first introduced a line of five strained baby foods in 1928 because Mrs. Dan Gerber asked her husband why baby food couldn't be strained at the family cannery. Dan Gerber agreed that "there must be a better way to feed a baby."

Today, the company offers 160 varieties of strained and junior foods, cereals, meats, juices, and related items in 80 countries. In addition to its food line, Gerber produces a broad line of infant clothing, nursers, and nurser accessories and baby need items.

"Fifty Years of Caring" is the theme selected by Gerber for its yearlong anniversary observance. Gerber interest and its belief that nothing can be too perfect for the world's babies have brought the company and its customers along a road of constant development and improved health.

In recognition of the anniversary, a number of commemorative events are planned by the company. A major event is an international symposium on infant nutrition scheduled for October 16–19 in Lansing, Mich. The symposium will be under the auspices of the Nutrition Foundation with Dr. Robert A. Stewart, retired director of research for Gerber Products Co., spearheading the informational and educational gathering. The major topic of discussion will concern how the world's, including Third World nations, nutritional needs are being met and what factors influence that status.

The 50th anniversary observance is a time Gerber people everywhere take pride in a job well done while looking ahead to continual growth, prosperity, and a better world for all babies.●

THE LEGACY OF POPE PAUL VI

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. LENT. Mr. Speaker, during the past week, millions of Roman Catholics throughout the world, along with millions of their brethren of other faiths, have joined in mourning the death of Pope Paul VI. Sadly, for all too many, the passing of this world leader brought for the first time a real appreciation of his courage, his ability, and achievements.

Pope Paul's election in 1963 coincided with very great changes in the Roman Catholic Church and within its heirarchy, many of which had been instituted by his predecessor Pope John XXIII. As these changes progressed, and their effects multiplied, Pope Paul's steady, compassionate leadership guided the church through some of its most difficult years of this century.

Pope Paul's courage became most evident in his profound devotion to defense of human life. Paul's 1968 encyclical "Humane Vitae" rejected artificial birth control. It provoked much criticism. But the encyclical clearly demonstrated the pontiff's unwavering commitment to preservation of strong moral values in the world.

I am sure that most of us will remember Pope Paul's fervent devotion to the cause of world peace. Those of us in New York will not forget his visit in 1964, and his emotional plea to the United Nations "Never again war. War never again." And ceaselessly, Pope Paul labored to achieve that goal. Unlike most of his predecessors, Paul frequently left the Vatican. He visited world leaders and the people in 16 countries on 6 continents. He truly was—as he pledged he would be—a "pilgrim Pope." His pilgrimages always were in the cause of peace and dignity for all mankind.

That pilgrimage has now ended. But Pope Paul's unremitting efforts on behalf of his fellow man will continue to provide a source of inspiration and encouragement for all of us.●

THE BUSINESS OF AMERICA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. McDONALD. Mr. Speaker, business whether it is agriculture or industrial provided the basis for America's greatness. It is only because of this strength that the United States of America has been able to do many of the things it has done under the free enterprise system. However, since our Government embarked upon the road to Government controls and interference in the business of America some 50 years ago, the inevitable price is now being paid and we are seeing our economic position in the world decline, of which the tobogganing slide of the dollar is just one symptom. Mr. Anthony Harrigan, in a recent editorial that appeared in the U.S. Industrial Council Bulletin for August 1, 1978, thoughtfully describes this trend and how it fits with the current tax revolt mood of the American people. I commend this item to the attention of my colleagues. The item follows:

THE BUSINESS OF AMERICA

(By Anthony H. Harrigan)

Fifty years ago no one seriously questioned the statement that the business of America is business. Indeed, President Calvin Coolidge used those very words in describing the nation's primary activity.

Since that time, attitudes towards a business civilization have changed radically. For years, Coolidge has been treated—by liberals—as a ludicrous figure. His comment on the "business of America" has been treated as a narrow-minded observation.

Yet, as the American people sink deeper into debt slavery, as inflation worsens, and as the dollar is increasingly discounted on world money markets, the soundness of the Coolidge years—the business epoch—is beginning to come across to many formerly doubting Americans. The current tax revolt is a sign of a new awareness of economic realities.

Syndicated newspaper columnist Holmes Alexander recently called attention to a remarkably discerning statement by Richard N. Needham, a writer for the Toronto, Canada, *Globe and Mail*

Mr. Needham made reference to the Coolidge statement about "the business of America is business." Then he added:

"That was then, this is now. The business of President Jimmy Carter's America is politics, bureaucracy, welfare, the redistribution of wealth from people who've earned it to people who haven't. The business of Jimmy Carter's America is legislation, regulation, litigation, rehabilitation, confrontation, discrimination, taxation, inflation and centralization. The business of Jimmy Carter's America is 'human rights' and 'unmet needs' and 'social justice.' The business of Jimmy Carter's America is to moralize and meddle all over the place (how Coolidge would have hated this) from Asia to Africa to the Middle East to Latin America."

Mr. Needham then added this punch line: "Real business—the efficient production of marketable goods and services—has got lost somewhere in the shuffle. Or perhaps I should have said transferred itself to more favorable environments."

Unquestionably, the American people lost their way somewhere between the 1920s and the 1970s. While remarkable things were achieved in those years in technological terms, the country lost sight of the primacy of business.

It lost sight of the vital importance of allowing people to accumulate money, of investment in new productive facilities, of the importance of capitalization of heavy industry, of profits as the key to a comfortable life for all our people.

One has only to listen to President Carter's condemnation of proposals to improve the capital gains tax situation to realize that he doesn't understand the importance of strengthening the truly productive, investing sector of the American population.

America prospered in the early 20th century because the free enterprise system permitted the enrichment of energetic individuals. They were allowed to earn money and to keep it. We have had more than 45 years of "soak the rich" policy, and the antiquated, rundown character of much of our basic industry—our railroads, for instance—is a by-product of that political philosophy.

It will be very hard, after these years of economic leveling philosophy to rebuild public support for an economic philosophy that favors allowing people to make money and to keep it. Today, we have an army of bureaucrats and academics who believe government exists to transfer the wealth of individuals to those deemed deserving.

The result of the transfer philosophy, however, is the gradual deterioration and impoverishment of our country. It's very simple: if you aren't allowed to keep your money, you won't work hard to earn it.

The current public protest against high property taxes, which are a form of wealth transfer by bureaucrats, is the first encouraging sign of a return to reason. We need to work very hard to educate a new generation that the business of America *is* business.●

MARK FRANKLIN COMMENDED BY CONGRESSMAN DANIELSON

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. DANIELSON. Mr. Speaker, it is my great pleasure to bring to the attention of my colleagues the installation of Mark Franklin as president of the Alhambra Friendship B'nai B'rith Lodge 1179.

The installation and membership breakfast will take place on Sunday, September 10, 1978 at the Temple Beth Torah in Alhambra, Calif. Lodge 1179 encompasses the cities of Alhambra, Monterey Park, Montebello, and the west San Gabriel Valley area.

Mark Franklin is a resident of Monterey Park, a city in the 30th Congressional District which I am privileged to represent and in which I also reside. He is the owner of Alton Litho Printers, and vice president and director of Technology Associates of Southern California, also of Monterey Park. A graduate of MIT with a B.S. degree in business and engineering administration, Mark has a wonderful wife, Shirley, and three equally fine children: Edie, Michael, and Karen.

Mr. Speaker, Mark is a dedicated civic leader. A long-time resident of Monterey Park, he is a past director of the chamber of commerce, the Rotary Club, and the American Institute of Industrial Engineers. He is a member of the Valley Booster Chapter of the City of Hope; the Los Angeles World Affairs Council, past president of the local Toastmasters International and a director of Temple Beth David in Temple City. Mark, a public spirited citizen, was also a candidate in 1976 for the Monterey Park City Council.

Mark Franklin is an outstanding citizen and is most deserving and qualified for the honor and responsibility which will be his on September 10.

Mr. Speaker, I am sure that my colleagues join me in congratulating Mark Franklin on the occasion of his installation as president of B'nai B'rith Lodge 1179, and to convey to him, his wife and family our very best wishes.●

NUCLEAR FUSION: ENERGY FOR THE FUTURE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. RANGEL. Mr. Speaker, I would like to bring to your attention and to the attention of my colleagues an article in the Sunday, August 13, Washington Post reporting a major advance in nuclear fusion technology. For the first time, scientists have been able to produce and maintain the tremendously high temperatures necessary for the fusion reaction to take place without damaging the magnetic field that contains the fuel material.

Nuclear fusion, the joining of two atomic particles at high temperatures, is the true power of the future. Yielding 180 times more usable energy than it consumes, nuclear fusion is a clean energy process which leaves no radioactive wastes. Furthermore, one glass of water contains fusion fuel equal to the energy in one ton of gasoline.

The nuclear fusion produces no radioactive wastes, inspires hope and confidence. For the wastes of nuclear fission—fission is the process of splitting the atom—make that process so dangerous as a power source. We are unable to dispose of those wastes safely, and they will endanger our descendants for centuries. In the fusion process there are no such wastes and no such dangers.

There are still many problems to be overcome before fusion is commercially applicable; the article estimates that that time is 20 to 30 years away. Almost miraculously, that coincides with most estimates of the time of depletion of the world's oil supplies. If we continue our fusion research, we will be able to implement fusion technology just as our oil runs out.

The implications of this advancement are tremendous. A solution to the world's energy problems is before us. We must seize the initiative and pursue it. This breakthrough compels us to redirect our energies and to channel further funds and attention into highly promising and

vitally important nuclear fusion research. The text of the article follows:

[From the Washington Post, Aug. 13, 1978]

U.S. MAKES MAJOR ADVANCE IN NUCLEAR FUSION

(By Bill Peterson)

Princeton University scientists have made a major advance in the race to tame nuclear fusion—the hydrogen bomb process—which a top government energy expert said yesterday could lead to the production of the first practical working fusion reactors.

Using a small, donut-shaped test reactor, the scientists produced sun-like temperatures of more than 60 million degrees centigrade inside a kind of magnetic bottle.

"It is the first time we've produced the actual conditions of a fusion reactor in a scale-model device," said Dr. Stephen O. Dean director of the Department of Energy's magnetic confinement systems division.

"This is the biggest thing that has ever happened in fusion research," he said.

"The question of whether fusion is feasible from a scientific point of view has now been answered," Dean added. "The practical questions of what price it will cost and when it will be duplicated commercially are now engineering and economic questions."

The potential payoff is unlimited electrical energy, one of the prerequisites for the long-term survival of advanced civilization.

The attractions of taming the fusion process are great. Fusion, the joining of two atomic particles at high temperatures, is the same nuclear reaction that powers the sun.

The reaction is the most efficient one known, producing 180 times more usable energy than it consumes. Its fuel, "heavy" forms of hydrogen, is as inexhaustible as sea water. One glass of water contains fusion fuel equal to the energy in a ton of gasoline. One pound of "heavy" hydrogen produces the same energy as 5,000 tons of coal.

Heavy hydrogen refers to isotopes of hydrogen known as deuterium and tritium. They possess much greater mass than ordinary hydrogen. They occur naturally and can be extracted from sea water.

The fuel has the added attraction of "burning out" without leaving radioactive waste like that from modern atomic power plants.

Current nuclear reactors use fission, the same process used in the atomic bomb. They depend on a limited world supply of uranium and plutonium.

Scientists have known about the fusion process for more than 40 years. It was first made to work in the hydrogen bomb.

But the problem has been controlling it for peaceful uses. The basic problem has been to contain a searing plasma of hydrogen ions long enough and in thick enough concentration for them to smash together with sufficient energy to fuse, releasing energy.

Two conditions must be met for the ionized plasma to undergo a continuous fusion: the reaction temperature must be at least 44 million degrees centigrade, and each cubic centimeter of the plasma must contain at least 100 trillion ions for one second.

Two years ago both American and Soviet scientists achieved 10 million degrees in experiments. The Princeton group, working under government contracts, reached 25 million degrees last December.

Using a donut-shaped device called Princeton Large Torus, a concept originally developed by the Soviets, the New Jersey scientists produced a temperature of 60 million degrees in recent weeks, and they estimate that their scale model will reach up to 100 million.

They did so without damaging the confinement of the plasma in its strong magnetic field—a fear long expressed by scientists.

The experiments were conducted in a 3-foot-high and 10-foot-wide donut-shaped device that encloses two smaller donuts. The smaller plasma donut is about 30 inches in diameter. It is surrounded by a vacuum chamber about 3 times as large, which forms a "magnetic bottle."

An intense beam of hydrogen atoms is shot through the walls of the magnetic bottle to heat up the plasma and make the reaction occur.

The process was developed by Dr. Harold P. Eubank of Princeton's Plasma Physics Laboratory and Dr. H. H. Hazleton of Oak Ridge, Tenn.

It is to be announced in a scientific paper to be delivered Aug. 23 at an international conference on controlled fusion and plasma physics at Innsbruck, Austria.

The Department of Energy is expected to announce the advance next week, although official press spokesmen yesterday denied that.

Dr. Harold Furth, one of the chief Princeton researchers, said DOE officials had asked the scientists to refrain from comment.

"All I can say is we've developed something really important," he said. "Nothing has happened of this significance in fusion research in the last 10 years."

Dean said the temperature experiment was one of two major breakthroughs expected in the fusion reactor field. The second, expected next year, will be to sustain the temperature for longer periods.

"We now know how to set the size of the reactor and how to calculate and scale it up in size," he said.

The temperature and time elements will be brought together in a full-scale test reactor, currently under construction at Princeton. It is scheduled to be completed in 1982.

It will probably be 20 to 30 years before the commercial applicability of fusion reactors is demonstrated, Dean said.●

SHOULD U.S. IMPLEMENT NEW TREATIES AS PANAMA MOVES CLOSER TO SOVIET ORBIT?

HON. GENE SNYDER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. SNYDER. Mr. Speaker, it did not take long for the Torrijos regime in Panama to vindicate those of us who have opposed the new Panama Canal treaties because, among other grave factors, that regime has too often shown pro-Soviet and pro-Communist leanings.

Shortly after Persident Carter in ill-advised haste, and in my belief, contrary to the intent of the Senate, flew to Panama City to exchange instruments of ratification with dictator Omar Torrijos, the Panamanian Foreign Ministry declared the United States should get out of its strategic naval base at Guantanamo, Cuba.

Other aspects of the international Communist line were parrotted in a broad foreign policy statement issued by the Torrijos regime.

Mr. Speaker, I have warned, as have others, that as the United States withdrew from the Isthmus of Panama over the next two decades, the Soviet Union would move in.

There is continuing evidence this move has already set in.

The Torrijos regime's declaration in support of the Communist effort to drive the United States from all its overseas military bases, including those in the Canal Zone and Guantanamo, is but one notable item.

Mr. Speaker, today I wish to call to the attention of my colleagues an item from Moscow applauding Panama's increasing ties to the U.S.S.R. and its Socialist bloc of satelite states.

As a "news story" it was just about buried in seven lines in the Washington Post for August 9 on page C6 which reported an Associated Press dispatch:

PRAVDA SEES CLOSER TIES WITH PANAMA

Moscow (AP).—The communist daily newspaper Pravda praised Panama yesterday for taking steps to develop warmer relations with the Soviet Union and other communist countries.

Mr. Speaker, the Carter administration loudly proclaimed the new Panama Canal treaties were vital to the success of the foreign policy of the United States, not only in Latin America, but throughout the world.

The bankruptcy of that concept, in my belief, is demonstrated by the full text of the Moscow commentary on which the above-mentioned dispatch was based.

It shows that the new treaties in no way have strengthened the hand of the United States. Rather it shows new strength throughout Latin America by the ever aggressive Soviets.

Mr. Speaker, Pravda for August 8 carried a commentary by Yuliy Rusanov entitled, "Reliable Partners." The text of that commentary is as follows:

[Text] As has been reported in the country's press, the Panamanian Government intends to strengthen relations of friendship and cooperation with socialist states and to develop economic ties with them on a mutually advantageous basis. A socialist countries section has been created in Panama's Foreign Ministry for this purpose.

Panama's initiative is yet another indication of the changes taking place in Latin America, whose peoples do not want the United States to continue looking upon their countries as its private domain. The urge to establish and to broaden economic, scientific and technical and cultural cooperation with the socialist world is growing in a number of states in the region.

The public in many Latin American countries advocates mutual understanding, friendship and cooperation with the socialist world, is sure that this is essential for the establishment and development of the national economy and for strengthening political and economic independence.

It was led to this conclusion by all the previous experience of relations with the United States, other imperialist powers and the multinational monopolies. For their part, the peoples of Latin America have always been subjected to harsh diktat, oppression and exploitation in the pursuit of superprofits. The United States acts as patron in this region to such harsh dictatorships as, for example, that in Chile, since these regimes safeguard its imperialist interests here.

The socialist community states are building their relations with the developing countries on a profoundly democratic foundation, strictly adhering to the principles of complete equality and mutual benefit. Rigorous adherence to these principles has brought them well-earned trust as reliable partners.

Economic cooperation between the developing states of Latin America and the socialist community countries has already been enriched by considerable useful experience and has yieded concrete and positive results. The agreement on cooperation concluded between Mexico and CEMA is being successfully implemented. The recent visit to the USSR by Mexican President Jose Lopez Portillo, was a fruitful one. Despite the intrigues of reaction Soviet-Venezuelan economic ties are developing normally. Colombia is declaring its interest in cooperation with the Soviet Union and other socialist countries. Cooperation between the USSR and Argentina in the energy sphere is growing.

Cooperation between the USSR and the other socialist community states and the developing countries of Latin America fully accords with the interests of peace and progress.●

CATTERSON PUSHES KEMP-ROTH TAX REDUCTION ACT

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. LENT. Mr. Speaker, recently the U.S. Senate held hearings on the Kemp-Roth Tax Reduction Act. A most convincing and persuasive case in favor of the bill was made in a statement for the record submitted by an attendee at those hearings. Mr. James Catterson, Jr., of Suffolk County, N.Y., eloquently points up in his argument the need on Long Island for a general across-the-board tax cut such as Kemp-Roth would provide.

For the benefit of my colleagues to whose attention Mr. Catterson's statement might otherwise not come, I submit it herewith for the RECORD:

PORT JEFFERSON, N.Y.

Senator HARRY F. BYRD, Jr.,
Chairman, Subcommittee on Taxation and Debt Management of the Senate Finance Committee, 2227 Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR BYRD: Thank you for the opportunity to submit a statement for the record on the hearings conducted by the Subcommittee during consideration of the Kemp-Roth tax reduction proposals.

S. 1860 and H.R. 8333, applicable to taxpayers generally, provide for permanent tax rate reductions for individuals of approximately 30 percent over the next three years, for a permanent reduction in corporate income tax rates from 48 to 45 percent over the next three years, and for a permanent increase in the corporate surtax exemption from $50,000 to $100,000.

Nowhere in America is the need for the economic transfusion afforded by Kemp-Roth more dramatically underscored than on Long Island. Consisting of the suburban counties of Nassau and Suffolk, Long Island represents a major economic sector in New York State. Created by colonial patents some of which date from 1659, the twin counties awakened to a post-World War II baby boom and suburban migration explosion that saw their populations increase some 900 percent in twenty-five years.

But the insular nature of Long Island's geography also created strategic pressure points. Transportation developed around a single commuter railroad and three east-west arterials all of which terminated in the colossal sprawl of New York City. The transformation of thousands of acres of truck farm land into bedroom communities gave rise to an overnight need for community municipal services on a scale which gives planners king-sized migraines.

Real property tax rates soared and local manufacturers began an exodus to the sun belt. As the population explosion cooled and the construction boom tapered off, the long range effects of an insufficient industrial tax base, an over-taxed transportation system and an under-developed job oriented economy took its toll. The economy of Long Island became stagnant.

In a series entitled, "Long Island at the Crossroads", the prize winning daily paper Newsday explored in depth the major problems and potential solutions facing this prime cross-section of American society. Newsday pointed out that:

a. Between 1966 and 1975 the average property tax for Long Island increased 137 percent;

b. That if the present rate of increase continues, by the year 2000 Long Islanders will be spending twenty-one percent of their income for local taxes;

c. Auto insurance on Long Island is two times that of cities like Atlanta and property taxes at least two-thirds higher than the Georgia metropolis;

d. Thirty-three percent of the average Long Island family's income goes for taxes in one form or another;

e. Seventy-five percent of Long Island's high school seniors do not plan to settle on Long Island due to a lack of job opportunities and the high cost of living;

f. The out-migration of manufacturing firms has cost Long Island more than twelve thousand jobs since the mid-sixties;

g. Since 1969 twenty thousand defense jobs have also been lost; and

h. Last year, Nassau and Suffolk were unable to provide jobs for 290,000 persons, an increase from 271,000 in 1970.

Long Island needs an economic shot in the arm which the Kemp-Roth tax incentive bill is uniquely structured to provide. Thomas Conoscenti, native Long Islander, former director of economic research for the Long Island Association of Commerce and Industry and now a faculty member at Polytechnic Institute of New York has estimated that Kemp-Roth would generate an increase of 7.1 percent in personal income for the average Long Island wage earner by 1982. (See letter and table, attached.)

Kemp-Roth would also create 17,000 new jobs in Nassau-Suffolk with a resultant decrease in the unemployment rate from one and one half to two percent.

In raw dollars, Mr. Conoscenti calculated Kemp-Roth passage would pump 220.8 million dollars into Long Island's economy by 1982. The ripple effect of this infusion is pegged at about 552 million. The highly regarded economist further estimated that the Gross Long Island Product (G.L.I.P.) would be increased at the end of 1979 by 1.2 percent; by 1980 1.5 percent and increased again by 1.9 percent for 1981 and 1982, respectively. Assuming that the current rate of inflation and wage-prices would remain relatively stable the average Long Island per capita income could be expected to increase from $12,000 in 1979 to $14,100 by 1982.

Such an increase in 1979 dollars would be directly attributable to the Kemp-Roth stimulus and would work to offset the loss in tax revenues occasioned by the slow down in production and industrial growth during the last decade. Mr. Chairman, the obvious benefits of the Kemp-Roth income tax reduction package on the Long Island economy makes it the number one priority for New York's congressional contingent. History has proved that permanent tax reductions are a sure way to get the economy moving and to settle the inflation v. unemployment dilemma. It is axiomatic that people react to rewards for their efforts.

Unfortunately in America today when a worker earns wages, or a manufacturer increases production, or a salesman makes a sale, a greater share of these transactions are being eaten up by government.

When taxes go up, when cumbersome regulations are issued, and when subsidies are offered to individuals on the condition that they refrain from work, the government increases the "wedge" that makes work less attractive than leisure.

When you tax something there is going to be less of that thing in the future. When you subsidize something there is going to be more of it.

In this country, in this state and on Long Island, we are taxing work, investment, savings, growth and commerce in an unprecedented degree and we are subsidizing debt, welfare, nonwork and mediocrity.

America must construct a coalition for income growth that transcends the partisan and ideological divisions of the past. More and more, America needs and wants a return on its investment, a piece of the pie, a restoration of pride and incentive. The Kemp-Roth tax proposals which move toward tax reduction and income growth will do more than save Long Island. It will point the way toward an exciting, productive new era for the people of New York and all Americans. Mr. Chairman, the people of Long Island heartily endorse and strongly support Kemp-Roth.

Respectfully submitted,

JAMES M. CATTERSON, Jr., Esq.

ECONOMIC PROJECTS OF LONG ISLAND, INC.,
Nesconset, N.Y.

JAMES M. CATTERSON, Jr., Esq.,
Port Jefferson, N.Y.

DEAR MR. CATTERSON: As per your request, we have estimated the impact of the Kemp-Roth Bill on the Long Island economy.

Based on our calculations, we estimate that between 1979 and 1983 the Kemp-Roth Bill will stimulate the Long Island economy by increasing the Long Island Gross Regional Product by 1.7 per cent. This additional increase in the region's growth rate should create an additional 17,000 jobs in the region which will generate an additional 220.8 million dollars in wages and salaries. Based on the region's estimated multiplier, Income plus 1.5 (Income) we calculate that this will pump into the Long Island economy an additional $552.0 (M). (See Attached)

Should you require any additional information concerning the impact of the Kemp-Roth Bill on the Long Island economy, please feel free to contact me.

Very truly yours,

THOMAS CONOSCENTI,
President.

KEMP/ROTH IMPACT ON THE LONG ISLAND ECONOMY

[Income generation = y + Δ1.5 (220.8 + 331.2 = 552,000,000)]

	Without stimulus growth rate		With stimulus growth rate		Net stimulus impact on L.I. economy	Employment stimulus	Income generation (millions)
	GNP	GLIP[1]	GNP	GLIP[1]			
1979	2.4	1.0	2.8	1.2	0.2	2,000	24.0
1980	2.5	.7	3.4	1.5	.8	8,000	101.6
1981	3.4	1.4	4.4	1.9	.5	5,000	67.0
1982	3.9	1.7	4.4	1.9	.2	2,000	28.2
1983	3.7	1.5	3.6	1.5	0	0	
1984	3.9	1.6	3.4	1.4	0	0	
1985	3.5	1.5	3.2	1.3	0	0	
Total						17,000	220.8

[1] Gross Long Island product.

Note: Wages assumed to increases by 1980/79 5.8, 5.5, 5.2 to 1983 over base of 12,000. Employment/GLIP ratio [0.1 to 1,000].●

STATEMENT OF HON. JOHN M. MURPHY, CHAIRMAN OF THE MERCHANT MARINE AND FISHERIES COMMITTEE ON THE FLOOR OF THE HOUSE, IN REGARD TO H.R. 13268

HON. JOHN M. MURPHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. MURPHY of New York. Mr. Speaker, I introduced H.R. 13268 on June 30, 1978. It is a sample bill that authorizes the appointment of Col. Lloyd Leslie Burke, U.S. Army (retired) to the grade of brigadier general on the retired list of the Army. The measure provides no increase in basic pay, retired pay, allowance, or other benefit not now accruing to Colonel Burke after 34 years of the most dedicated kind of service to his Nation.

He did not seek this promotion, nor was he aware that I was to introduce it on his behalf. It is not in his character to seek self-aggrandizement. I was moved personally to introduce this measure out of respect for one of America's genuine heroes—a selfless man who has given the best he had in him during more than three decades of public service. But I was not alone in sharing these feelings, more than 80 of my colleagues have written me and would be listed here today as cosponsors but for a ruling by the Parliamentarian that the measure is a private bill and as such could not be cosponsored. I have listed them earlier in the RECORD.

It all began some 34 years ago when Colonel Burke, who retired on June 30, 1978, stepped out of the crowd at Stuttgart, Ark., and into the recruiting office in 1943 to volunteer his services on behalf of his country. Since that time his exploits have been legendary. And more, he has always had the respect of both his officers and his men.

There probably is no former private currently on active duty as a full colonel who has been awarded more decorations for valor. These decorations as a combat soldier in three wars include: the Congressional Medal of Honor, Distinguished Service Cross, Silver Star, two Bronze Stars for valor, four purple Hearts, two Combat Infantry Badges, and sundry other commendations and citations.

This is an exemplary record of a citizen soldier turned professional. As such, it serves as a lasting standard for present and future volunteers, not only for the Army, but for all of our defense branches.

My proposal is not new or novel in any way, and the precedent for such legislation was set many years ago. On June 21, 1930, Congress approved similar legislation which provided for the promotion of Peyton C. March and Parker H. Bliss to the rank of general in the Regular Army on the retired list. This act gave wartime rank, "* * * without increased pay or allowances to officers and former officers of the U.S. Army upon retirement from active service." There have been a number of other such precedents, most recently the belated promotion of George Washington to the rank of General of the Army. A similar promotion was conferred on Adm. Hyman Rickover by an act of Congress, November 16, 1973, and in the 2d session of the 89th Congress in similar legislation, the Senate recommended the promotion of Maj. Gen. Robert Wesley Colglazier, Jr., to the grade of lieutenant general, Report No. 1598.

For the past 10 years, Colonel Burke has been an Army liaison officer to the U.S. House of Representatives. This assignment, rounding out 35 years' military service, has been carried out in his typically excellent way. Colonel Burke voluntarily remained in this important assignment beyond the normal expectation, where his exceptional ability to represent the Army was of crucial importance during a difficult period. By voluntarily remaining in this position, Colonel Burke relinquished the opportunity for rotation into command assignments within the Army, which would have provided greater opportunity for further promotion as an active duty officer. H.R. 13268, therefore, is intended to provide unique recognition for a unique career.

The measure has been considered carefully by the House Armed Services Committee which reported it unanimously on August 2, 1978. The Congressional Budget Office has considered the measure carefully and found that it will cost the Government nothing. The fact is, there has been no objection registered to H.R. 13268.

I believe approving this promotion is an honor which a grateful America can well afford to confer on that rare breed of man whose character and courage are the bricks and mortar that have made this Nation a bastion of freedom. It would be an honorable and civilized way for a grateful Nation to say, "thank you."

I believe it would be an appropriate recognition for a soldier who has dedicated a lifetime of selfless service to a Nation when his help was needed most, and a fitting reminder to our youth that their efforts on behalf of this Nation will not go unrecognized.●

TIGER CAGES IN USE AGAIN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. McDONALD. Mr. Speaker, we can all recall the carefully staged press conferences arranged by the anti-Vietnam claque and certain members of the press corps to dramatize the "sudden" discovery of the "tiger cages" at Con Son. The carefully orchestrated howls of outrage lasted for weeks. Now of course, the "tiger cages" are again in use—this time by the Communist government of Vietnam. Where are the howls of outrage? Where are the ringing denunciations by our so-called objective press? Don't hold your breath folks. However, just for the record, I am including the story from the London Daily Telegraph of August 9, 1978, for the edification of those of us who never seem to learn. The news item follows:

[From the London Daily Telegraph, Aug. 9, 1978]

TIGER CAGES IN USE AGAIN

(By Ian Ward)

The infamous "tiger cages" on the Vietnamese prison island of Con Son are back in business again restored to their role of housing hardcore political detainees by the same Hanoi authorities who led the worldwide propaganda effort to have them abolished seven years ago.

Vietnam's Communist leaders are believed to have restored the "tiger cages"— to full-time prison cells within the past 12 months.

Western sources who have just returned from the Vietnam-China border regions said that they spoke to an ethnic Chinese refugee from Vietnam who had been held prisoner on Con Son island and had fled the country soon after his release.

The refugee, a former academic from Saigon University, said that the "tiger cages" were now crammed with prisoners in conditions infinitely worse than had ever existed there during the anti-Communist regime of former President Nguyen van Thieu.

SUCCESSFUL PROPAGANDA

The Con Son "tiger cages" became one of the most successful propaganda exercises ever conducted by Hanoi's psychological warfare department.

The story was first written by American

Left-wing journalist, Don Luce, and quickly became a rallying point in the early part of this decade for the anti-Vietnam war movement in the United States.

For several months the Western Press hammered the alleged horrors of the "tiger cages" in the island.

Night after night Hanoi Radio beamed propaganda broadcasts to the English-speaking world running excerpts from the American Press reports.

Libera and Leif-Wing elements alike, fed with further information from North Vietnamese front operations based in Paris, worked up the issue until Washington finally applied heavy political pressure on President Thieu, forcing him to abandon the "tiger cages" in favour of rows of pre-fabricated cells constructed within the same general compound.

IRONY OF STORY

One of the real ironies of the "tiger cage" story was that the cells themselves, built by the former French colonial authorities, were portrayed as particularly horrifying because they were underground.

Only their ceilings, which consisted in part of thick steel bars, were above ground and the Communist-inspired news accounts made much of how prisoners were fed through the bars like caged tigers.

But immediately the South Vietnamese prisoners were removed from the underground cells to the ground-level prefabricated replacements, government officials and their families took up residence in the "tiger cages."

Because of their underground position the cages happened to be among the coolest spots on the steamy tropical island.

According to refugees recently arrived in China from Vietnam the present prisoner list on Con Son island consists mainly of intellectuals and former members of the professional class in what was South Vietnam.

The Chinese authorities have also learned from the refugees that the prisons throughout the southern region of Vietnam, about 1,000 political prisoners, are now jammed with more than twice that number.

And it would seem that the reality of the extraordinarily successful Vietnamese "political prisoners" propaganda line—so strongly supported by Peking at the time—is finally making its mark with the Chinese authorities.●

ADDITIONAL THOUGHTS ON FINANCIAL DISCLOSURE

HON. STEPHEN L. NEAL

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. NEAL. Mr. Speaker, in May of this year I entered into the CONGRESSIONAL RECORD the Federal income tax returns for my wife and me for 1977 and a full financial disclosure for me, my wife, and our children for 1977. At this time, I would like to amend and elaborate on the financial disclosure.

Reexamination of the records from which the disclosure statement was compiled reveals two oversights which I have reported to the Clerk of the House as an amendment to my original statement, and which I am now reporting here to make the statement in the RECORD complete. The two items are (1) an asset of $11,035.77 which I have invested in the retirement system, and (2) a liability of $21,226.16, a procedural loan from the small businesses which I previously operated.

Mr. Speaker, going over these records again makes me doubly aware that this financial reporting is a nuisance and an invasion of privacy. It has taken much of my personal time and caused me a good deal of irritation. But, also, I have come to the conclusion that it is very necessary and I hope that when we consider the ethics legislation, we will make a full disclosure requirement a part of the law.

Mr. Speaker, this is a time of great distrust of public officials at all levels, and in a very real way, our country runs on confidence. Almost as important as solving the problems of inflation, energy, trade deficits, and so forth, is the problem of trying to restore confidence. I can think of no better way of starting than by conducting all of the Nation's business in the full light of day, making our voting records public, and requiring complete disclosure of the tax returns and personal financial statements of people in public life, as well as those of their immediate families.

On another level, it is important for the constituents of one in public life to know where and how a person gets his or her money; how he or she has accumulated assets; and why and to whom he or she owes money. This information tells us much about the person concerned, for all our thinking is bound to be molded and colored by previous experience. Nowadays, that's known as "where we're coming from."

In my own case, I have spent most of my adult life in small business. I know that has influenced my attitude, my view of the world, and of my place in it. Certainly, it influences my voting on fiscal matters. In small business, we struggled for years meeting a payroll. We had to make the business pay its own way. We could not run constantly in debt. We learned the value of saving; of getting the cooperation of people; of working together to get the job done. We learned by and through our own experience that life is not easy for small business people, or for small farmers, or for people who work for modest salaries or wages. Everyday life can become a constant struggle. Faced with economic forces beyond our control—such as apparently unmanageable inflation—each day can be filled with uncertainty for the worker, the small farmer, the small businessman. We get the helpless feeling that we would not be able to meet the payroll, or pay the mortgage, or pay medical costs, or educate our children. We also learn that we cannot waste and expect to escape any of these financial horrors.

Again, Mr. Speaker, I admit that my experience influences my thinking. It is part of me and I could not, even if I wished, escape from it. I came here out of a world of small business, where one must work hard and conserve at the same time. The small farmers and the working people are, in this respect, the same as small business people. They have to apply these principles of hard work and good management to their farms, their homes, and their lives. They cannot afford to waste, or to spend more than they have, and they do not want to see the Federal Government waste or spend more than it has.

Mr. Speaker, a person's background greatly influences his or her present attitudes and behavior and full financial disclosure is a very important way of knowing about a person's background. When we consider making our ethics rules a part of the law, I hope we will include a full disclosure requirement. I believe it will help the public make better decisions about those they elect to represent their views and will go a long way toward restoring confidence in this great system of constitutional democracy.●

DESCRIPTIONS OF LIFE IN CAMBODIA

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, I would like to have the following accounts of life in Cambodia placed in the RECORD:

[Interview with Cambodian refugee in Surin, Thailand conducted by American Embassy officer in June 1978]

ACCOUNT OF KHUT PHAY*

Khut Phay, 43, was from Romiet, Siem Reap. In February, 1978. He was ordered to move to Cheung Tien. He fled to Thailand June 6 and arrived June 14, 1978. His account follows:

Conditions of Living in Democatic Kampuchea. "We had rice gruel to eat, but the ration was very small. We usually received only one bowl of gruel each day. About once a month, we received two bowls.

"We had only herb medicines in the village which did not help people who were sick."

System of Administration and Punishment. "Our village was run by civilian administrators. There were no soldiers or spies (chhlop) we knew about. We could not complain or suggest anything. We could only work. If we became sick and they did not believe you, then you were executed. I knew a fellow with penumonia. They didn't believe him and he was 'taken away.'

"My son, Say, 22, was assigned to collect human excrement. After collecting the excrement, he mixed it with water buffalo dung and water hyacinth to make fertilizer.

"In March 1978, I asked the collective chief to let Say marry Mon, a girl in our village whom Say had known for many years. Mon was 24 and very pretty. Her parents also asked permission for them to marry. The collective chief said 'no', and warned them not to get together again. It was after this happened that Say was assigned to collect excrement, in an area away from Mon.

"The young do not like the new regime. Nobody likes it."

Executions. "I knew of a dozen people who were executed on three different occasions. I don't know why. I also know of a huge graveyard in the village of Phum Ta Ngel near O Chik in Siem Reap Province. There is a hole there twenty meters square and eight meters deep. The families of former solders, officials and teachers were killed and thrown into the pit. People are not allowed near the place, but refugees, including myself, have seen it."

Human, Civil and Political Rights. "The Khmer Rouge had some rights but the peo-

*(Refugee agreed to use of his name in public document.)

ple had no rights. The Khmer Rouge had the right to kill the people. We had no freedom of movement and had to stay in the same place."

ANGKOR REVISITED

[Airgram report by an Officer of the American Embassy at Bangkok, March 3, 1976]

SUMMARY

After Siem Reap fell to the communists and persons associated with the government were executed, along with their families, the remaining people were sent to work at Angkor, which was in fairly good condition. In early May, Siem Reap was completely evacuated.

INTRODUCTION

Radio Phnom Penh has announced that Cambodian Deputy Prime Minister Ieng Sary has escorted a group of diplomats to Siem Reap for the purpose of viewing the damage caused by the alleged U.S. bombings. The diplomats were to travel to Angkor Wat to visit the celebrated ruins on March 1. This first (at least publicly announced) visit by foreigners since well before the fall of Cambodia will hopefully produce some interesting photographs and commentary on the condition of the ruins by some of the participants in the guided tour. By way of comparison, the following observations of the area last year on the part of a refugee who arrived in Thailand in mid-January are of interest.

SIEM REAP

The source was a schoolteacher, a native of the city of Siem Reap. On April 17–18, he watched the Khmer Communists empty the hospital of all its patients. On April 18, the KC forced all known GKR military and civilian employees and their families to leave the town. There were sufficient sightings of the bodies of these people later to conclude that all were executed. This included the head of the fourth military region, General Em San; his legs were cut off at the knees on April 20, and he was left to bleed to death. (We have heard a different report that he was executed by crucifixion to the east of Siem Reap.)

ANGKOR

Those remaining in Siem Reap after April 18 included teachers, health personnel, and Chinese residents. They were all made to go daily to the Angkor area to repair the roads, across all of which the KC had dug trenches during the war for security reasons. While working there, the teacher noticed several things. First, the ruins were essentially in good condition. Only part of the right side of the main monument of Angkor Wat (looking at it from the western causeway) had been damaged, as had some of the wall around the monument. This the KC blamed on military action taken by the Lon Nol side. Second, the KC had erected a war memorial at Angkor Wat, at the top of which was a sign in red with the names of communist soldiers, their dates of birth, and the location where they were killed, indicated. He said there was also a burial ground there. Finally, the teacher was dismayed to find that all statues of Buddha in the Angkor area were either headless or destroyed, reportedly the result of KC soldiers searching for jewels inside them. Gold Buddhas had been removed.

On April 23, the population of Siem Reap was required to turn out for a communist victory celebration at Angkor Wat. Banners were erected, one large one reading "Long Live Marxist-Leninist Thought" and another "Long Live Communist Cambodia". Flying above Angkor Wat's central tower was a large red flag with a hammer and sickle in the upper left-hand corner. Red flags also flew over the other four main towers. With people crowded on the western causeway, the main figure of attention was apparently Chey Sombat, of whom it was said that he had led the KC capture of Siem Reap and Oddar meanchey provinces. (Although he has reportedly undergone a name change, Chey Sombat is said to have remained on the scene as military chief of the sector encompassing Siem Reap province.)

In early May all the residents of Siem Reap were moved out into the countryside to work in the ricefields, according to our source, leaving the town largely empty.●

TAX REVOLT AND PERSONAL LIBERTY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. McDONALD. Mr. Speaker, Governor Meldrim Thomson of New Hampshire made a very eloquent speech on August 2, 1978, before the annual sales meeting of the West Publishing Co. in St. Paul, Minn. In this speech he outlined the history of tax revolt in the United States and how tax revolt is as American as "apple pie" and certainly did not begin in California with proposition 13. He further points out why and how this present tax revolt has come about. I commend his speech to the attention of my colleagues:

TAX REVOLT AND PERSONAL LIBERTY

(By Governor Meldrim Thomson, Jr.) [1]

Tax revolt in America did not begin in California with Proposition 13.

Protest, revolt and ultimately revolution against oppressive taxation actualy began in New Hampshire more than two hundred years ago.

On January 9, 1766, nine years before our national Declaration of Independence, the Liberty Boys of Portsmouth, New Hampshire flew a flag from their liberty pole protesting the iniquitous Stamp Act of 1765. This was the first such protest made in the colonies.

The stamp tax was resorted to by Great Britain to raise the large revenues required to protect the colonies against the Indians and French.

The oppressiveness of the tax was felt with excruciating pain by the colonists as a result of the suddenness of its imposition.

Imagine what would happen to the legal profession today if abruptly a tax equivalent to the value of two pounds was levied on every "skin or piece of velum or parchment, or sheet or piece of paper" on which was engrossed the certificate of any degree taken in any university, academy or college of learning!

Or suppose tomorrow every lawyer receiving his certificate of admission had to pay a tax equal to ten pounds.

What indeed would be the reaction in West Publishing Company, or any other printer of books, if the next news from Washington advised that for every sheet in every pamphlet, book or newspaper a tax of one shilling must be paid?

A quick calculation of a popular pocket supplement suggests that the stamp tax, if applied to it, would cost a modern publisher about $1 million for the tax alone!

I suspect that consternation and revolt would quickly become the order of the day.

The stamp tax pervaded every aspect of colonial life—foodstuffs, lumber, legal papers, advertisements, spiritous liquors, cards, dice, and host of other articles in daily use.

Small wonder protest spread across the colonies like wildfire.

While New Hampshire people were protesting in Portsmouth and other parts of our colony, and Sam and John Adams began their surreptitious work in Massachusetts against the foreign tyrant, Patrick Henry rose in righteous indignation in the Virginia House of Burgess to proclaim that he knew not what course others might take but that as for him he wanted liberty or death.

However, as repressive as the stamp tax was on the lives of the colonists, it could never compare with the weight of oppressive taxation which Americans meekly bear today.

Every year the productive workers of our nation labor from January through March for the federal government. Then they dutifully work from March through most of May for their state and local governments.

Forty-four cents of every dollar earned today goes for taxes.

But worse still, the very excessive escalation of the costs of government in recent years has sapped the dollar of its value. For example, a 1967 dollar was worth only 52 cents as of May of this year.

Back in 1789 when our federal government came into being the total national budget for our four million people was $630,000. This amounted to a levy of about 23 cents per capita.

Today the annual per capita cost of the federal government is more than $2,500!

From 1789 to 1929 the total of all of the costs of the federal government—including all the wars we fought, all the ships we built, all the services rendered, all the labor expended to conquer and develop a continent—amounted to approximately $100 billion.

Then, just 33 years later, in 1962, the Congress adopted our first annual budget of $100 billion. Nine years later the annual budget rose to $200 billion. Four years later it climbed to $300 billion. And now, four years later we are putting together our first $500 billion budget plus.

By gradation we have allowed ourselves to be taxed far beyond the worst tax nightmares of our Founding Fathers.

The significance of the adoption of Proposition 13 in California is that it jolts the consciousness of the American taxpayer to a realization of the heavy tax burden he bears and arouses a hope that he might do something about it.

Proposition 13 itself is bitter medicine in that it severely cuts back on the amount of taxes to be raised on real estate. It will inevitably mean a shifting of tax burdens. Once the current $5 billion surplus is exhausted, new taxes will sprout in California as freely as weeds in a garden.

Instead of the drastic action of Proposition 13, what is needed at all levels of government, is a severe curb on the escalating costs of government.

The quickest, surest way to restore confidence in our faltering dollar would be to balance our national budget, curb the expansion of the federal bureaucracy, and get the tax collectors sticky fingers out of the pockets of our producers.

New Hampshire, the third oldest English settlement in America, was first in many ways in its contributions to the American system of government.

Our people were the first to strike a blow for freedom when on December 14th, 1774 we captured Fort William and Mary and captured powder, muskets and cannon that were used the next summer at the Battle of Bunker Hill.

Sixty percent of those who fought at Bunker Hill were New Hampshire men.

It was New Hampshire men under our illustrious and highly independent John Stark, who three years later won the Battle of Ben-

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nington, recognized by historians as the successful turning-point of the Revolutionary War.

On January 5, 1776 New Hampshire wrote the first Constitution of the western hemisphere and two weeks before the national Declaration of Independence we impatiently declared our independence from the Mother Country.

When we rewrote our Constitution in 1784, now the second oldest in continuous operation, we included several interesting provisions in our Bill of Rights, among these is an admonition that advises our citizens that "a frequent recurrance to the fundamental principles of the Constitution, and a constant adherence to justice, moderation, temperance, industry and frugality and all the social virtues, are indispensable necessary to preserve the blessings of liberty and good government.'

Through the years our people have practiced industry and frugality. These great virtues are reflected in the way we operate state government.

By our Constitution we prohibit a graduated income tax. We are the only state in the nation with neither a sales nor income tax!

I believe our government to be the most democratic of any in America.

The governor is elected once every two years.

Our legislature, consisting of 24 Senators and 400 Representatives, is the third largest in the English speaking world. One legislator represents less than two thousand people. Under our Constitution we pay our legislators the lowest salary of any state—$200 a biennium.

Small wonder our lawmakers ruefully say that with their income it is clear why our state motto is "Live Free or Die."

In New Hampshire we have not strayed far from our founding roots.

We have the lowest state tax in the nation at $235 per capita.

Our state and local tax, which includes real estate, is the lowest in New England at $571. In Massachusetts, fondly referred to by some as Taxachusetts, the state and local tax amounts to $902.

We are the only New England state with a Triple A bond rating.

Also, we are the only state in New England with a surplus in our employment security fund. This means we have not had to borrow from the federal government a half billion dollars as has Connecticut, or a quarter of a billion, as has Massachusetts, to pay off unemployment benefits. All of this must some day be paid off by the employers of the borrowing states: Unless, of course, a fiscally slipshod administration is prepared to forgive more than $5 billion in unemployment indebtedness owed by 23 states.

Our favorable tax climate, fostered by such advantages as no general sales or income tax, no inventory or stock-in-trade tax, and no corporate tax as such, but only a flat tax of 8 percent on business profits, has been very attractive to new businesses.

Also, the work ethic of our people who believe in giving a good day's work for a good day's pay, and the favorable attitude of our administration toward the free enterprise system have all helped to attract more than 250 new businesses to New Hampshire and 20,000 new jobs in the past five years.

In my fight to keep state government off the back of our business community I have vetoed 105 bills in five and a half years and had most of them sustained. And that is more vetoes than were made by all of my predecessors in the last one hundred years.

New Hampshire was correctly referred to several months ago by *Newsweek* as a "Standout State in a Hard Luck Area."

During my almost six years as Governor we have completed every fiscal year with a surplus, which is no easy task with a legislature that likes to spend everything in sight—and more besides!

As of May our unemployment was 2.7 percent—the lowest in New England, and one of the lowest, if not the lowest, in the nation.

Our Constitution, adopted four years prior to the Federal Constitution and eight years before the tenth amendment guaranteeing State sovereignty, contains a provision proclaiming that we are a free, sovereign and independent people except for such powers as we have expressly delegated to the Congress. We believe that those delegated powers are precious few, indeed!

That is why I am constantly at war with the Federal Government.

When we were asked to take a census of our State employees and show their ethnic and racial background by merely eyeballing them I told the feds to scram. I instructed our personnel director to write in the word "American" to describe our employees.

And when the Coast Guard told me they were taking over our rivers and lakes, I replied "not without a fight." After a successful statewide petition drive in protest and favorable support in the Congress, the Coast Guard struck its colors and fled.

More recently when I tried to fly our flags at half mast on Good Friday that great un-American Civil Liberties Union, which as far as I know has never once defended a patriotic institution or cause, took me to court. We lost on a procedural technicality and are now taking the case to the Supreme Court on its merits.

If this nation is to remain strong and a government of the people, it is essential that the concept of dual sovereignty, as devised by the drafters of the federal Constitution and as described by James Madison in the 45th Federalist Paper, be preserved. The powers over the lives, property and liberty of the people that have been ruthlessly usurped by the federal government, must be returned to the people in their respective states.

We have a saying in our state that, "New Hampshire is What American was." We say that not in disrespect of our sister states but because we believe we have held firm to the basic concepts of liberty and the free enterprise system that made this nation great.

We listen to and try to follow the words of the prophet in the book of Proverbs, "Remove not the ancient landmark which thy Fathers have set."

However, we know well the truth of our distinguished son, Daniel Webster, that ours is a union indivisible.

We are a part of the whole, and though we have been frugal and industrious in our ways, we realize that our fortunes and our future are woven inextricably into the warp and woof of the national fabric.

What we see occurring on the national scene leaves us distraught and sad of heart.

This nation cannot long survive half capitalistic and half socialistic. No man, company or state can live forever on credit. The road of the prodigal borrower leads only to bankruptcy.

The great strength of our nation has been our ability to produce a flood tide of products in the free enterprise system.

Although we have only 5 percent of the world's population, we produce 28 percent of the world's goods.

In agriculture, for example, in the last 38 years the number of American farms and workers has been reduced by two-thirds while during the same period farm output has increased by three-fourths.

When our farmers finish feeding Americans they export 60 percent of their wheat and rice and 50 percent of their soybeans.

In a recent excellent book by former Secretary of the Treasury entitled, "A Time for Truth," Bill Simon points out that—

"America was born a capitalist nation, was created a capitalist nation by the intent of its founders and the Constitution, and developed a culture and a civilization that was capitalist to the core."

Three books were mainstays of early American culture—the Bible, Blackstone's Commentaries on the Common Law, and The Wealth of Nations by Adam Smith.

One fortified and shored up the morality of the new nation; one provided the foundation for our legal system; and one provided the guidelines and inspiration for our free enterprise system.

For almost two hundred years we curbed the state and gave the American citizen virtual free reign to travel the highroad of ambition as far as his imagination and industry would take him. During most of that time we believed that governments, like men, had to operate within their income.

Then came a generation ago, the preachers of new liberalism, the practitioners of the new welfare state, the new deal and new society politicians who boasted they would tax and tax, spend and spend and elect and elect.

Gradually, while you and I have been busy trying to make a living and responding wearily to ever growing tax burdens, we have seen public debt rise to ubiquitous heights and bureaucracy expand until now one in six employed persons in America is on the public payroll.

A socialistic society has gradually replaced our once robust free enterprise system. And thus we have allowed the competitive profit system that makes men stretch for the unreachable goals to be diluted and its very existence threatened.

In the last 50 years we have balanced our national budget only eight times.

In 1955 the total public debt for all levels of government was $318 billion. Twenty years later it was $754 billion. Included in that figure is the indebtedness of local governments which rose from $33 billion to $149 billion.

Such irresponsible spending has drained the sources of available long-term capital funds so that today all levels consume 80 percent of such capital.

The same warning that Winston Churchill gave his countrymen almost 35 years ago about the spread of socialism in Great Britain is, I believe, poignantly applicable to us. This great conservative said:

"I am sure that this policy of equalizing misery and organizing scarcity instead of allowing diligence, self-interest and ingenuity to produce abundance has only to be prolonged to kill this British island stone dead."

When Abraham Lincoln was a young man of 28 he addressed the young men's Lyceum Club of Springfield on the subject of America's future.

He said, "all the armies of Europe, Asia and Africa with all of the wealth of the world in their treasury (our own excepted) and with a Bonaparte as a commander, could not take a drink from the Ohio or make a track on the Blueridge in a trial of a thousand years.

"If destruction be our lot then we ourselves must be its author and finisher. As freemen we must live through all time or die by suicide."

Personal liberty and economic freedom are inseparable twins. Destroy one and the other will fall.

If we are not to commit economic suicide and thereby totally destroy our personal liberties, then we must make here and now whatever resolves and sacrifices that may be necessary to restore the American free enterprise system to its once healthy and productive state.

Let us in the coming fall contests elect only those to our state and national legislatures who will fight taxes, balance budgets and dismantle the great and useless hordes of officeholders, who like the bureaucrats of the days of King George III, spend their waking hours eating out the substance of our people.

Only by such strong action can the American business community save itself and thus the great nation that gave it birth and substance.

FOOTNOTE

[1] Presented at the annual sales meeting of West Publishing Company, St. Paul, Minnesota. August 2, 1978.●

HOW CAPTIVE NATIONS WEEK WAS OBSERVED HERE AND OVERSEAS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. DERWINSKI. Mr. Speaker, the 20th observance of Captive Nations Week was commemorated by rallies, church events, and other activities across our country and abroad. One of the chief sources of vexation to the occupants of the Kremlin is the constant reminder that the annual Captive Nations Week illustrates the long series of Soviet Russian conquests and aggression from 1920 to the present. One of the main techniques employed by the Russians is to induce a loss of memory on the part of its targeted subjects as to the victimization of nations and peoples under the heel of Soviet Russian imperialism in yesteryears. Unfortunate for them, the annual Captive Nations Week will not let them off the string.

In a wholesome bipartisan undertaking, I wish to insert several examples of how Captive Nations Week was observed here and overseas. The following are illustrations of the spirit and intent of Public Law 86-90: First, proclamations by Gov. James R. Thompson of Illinois; Gov. Michael S. Dukakis of Massachusetts; and Gov. Robert F. Bennett of Kansas; second, a letter which appeared in the July 7, Brattleboro, Vt., Reformer; third, a report on the week in the Free China Weekly of July 23; and fourth, a letter by Lee Edwards in the Washington Post of August 6.

STATE OF ILLINOIS EXECUTIVE DEPARTMENT

PROCLAMATION

Americans enjoy the freedoms that peoples in captive nations do not know. The rights we take for granted are fought for every day by those who do not rule themselves.

Each year, the third week in July is set aside for commemoration of captive nations. Here in Illinois, the Captive Nations Observance in Chicago is July 14-15, highlighed by a National and Human Rights Rally.

In the hope that all peoples throughout the world may find their freedom, I, James R. Thompson, Governor of the State of Illinois, proclaim July 16-22, 1978, Captive Nations Week in Illinois.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of Illinois to be affixed.

Done at the Capitol in the City of Springfield, this FIFTH day of JULY, in the Year of Our Lord one thousand nine hundred and SEVENTY-EIGHT, and of the State of Illinois the one hundred and SIXTIETH

JAMES R. THOMPSON,
Governor.

THE COMMONWEALTH OF MASSACHUSETTS
A PROCLAMATION, 1978

Whereas: The week of July 16–22, 1978, is observed nationally as "Captive Nations Week" in accordance with Public Law 86–90; and

Whereas: This year marks the 20th anniversary of the Captive Nations Resolution, which was enacted by U.S. Congress on July 17, 1959; and

Whereas: The captive nations of Central—Eastern Europe—Armenia, Byelorussia, Estonia, Georgia, Latvia, Lithuania, Ukraine, and others—constitute the Achilles' heel in the Russian communist empire; and

Whereas: Hundreds of Ukrainian, Lithuanian, Latvian, Armenian, Georgian and other dissidents and human rights activists are held in Communist Russian jails and concentration camps for demanding the implementation of the U.N. Universal Declaration of Human Rights and the Helsinki Accords for their respective peoples; and

Whereas: The 1978 "Captive Nations Week" serves as an appropriate forum to manifest public support for the restoration of national independence of captive nations;

Now, therefore, I Michael S. Dukakis, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of July 16–22, 1978, as Captive Nations Week, and urge all citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

Given at the Executive Chamber in Boston, this twenty-first day of June, in the year of our Lord, one thousand nine hundred and seventy-eight, and of the Independence of the United States of America, the two hundred and second.

MICHAEL S. DUKAKIS,
Governor.

EXECUTIVE DEPARTMENT, STATE OF KANSAS

PROCLAMATION

By the Governor, to the people of Kansas, greetings:

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nation constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86–90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations:

Now, therefore, I, Robert F. Bennett, Governor of the State of Kansas, do hereby proclaim the week of July 16–22, 1978, as Captive Nations Week in the State of Kansas, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

Done at the Capitol in Topeka under the Great Seal of the State this 18th day of July, A.D., 1978.

ROBERT F. BENNETT,
Governor.

[From the Brattleboro (Vt.) Reformer, July 7, 1978]

OBSERVING CAPTIVE NATIONS WEEK IN THE AREA

(Editor of The Reformer)

Once again in the second part of July we will observe "Captive Nations Week." Captive Nations Week became a part of American history, and there is no hope in sight, that the captive countries will be free again. There is a saying, what the communists have they never give up.

This should be a remainder to the people of the United States. From coast to coast in the United States, refugees from the enslaved countries, their American friends, and also many American leaders bring freedom to the foreground by observing Captive Nations Week. Their pleas will reach the hearts of many freedom loving Americans and tell them about the misery people have to endure under communism. We are here to remind every American and people of the Free World about the enslaved brothers by the communist regime and communist tyranny.

Once again, we are appealing to all Americans, to young and old, men and women, girls and boys, red, yellow, white and black, to high school or college students, to all Americans of different origin, clergy, to everyone who desires to live in freedom with liberty, justice and peace, join me to save the United States from the Red tyranny of communism.

In this Captive Nations Week observance, we are asking you to pray for those who have lost their lives in communist labor camps and prisons. To pray for many families who live behind the Iron Curtain, and who are persecuted by the Communist Regimes. To pray for those who are longing to be free. Pray to keep our country free and that freedom may come soon to all captive nations.

Remember freedom is the greatest gift and blessing for all kind and today we are demanding freedom for the captive nations. Look at the map of the world. In the last 10 years you will notice that the communists have gained countries, territory and people! I think it is a right time for you my friends to examine this before it will be too late!

God Bless America, God be with our brothers behind the Iron Curtain. Help us destroy the communist influence and protect our beloved country that it may never fall prey to communist tyranny. This year the "Captive Nations Week" observance for the States of Vermont and New Hampshire will be held on Sunday, July 16, 1978, at the "Captive Nations Memorial" in Epsom, N.H.

[From the Free China Weekly, Taipei, Taiwan, July 23, 1978]

FREEDOM SEEKERS REVEAL MISERY OF MAINLAND LIFE

"Ordinary people on the mainland have to use the same towel for eight years," said Chow Kang-han, a freedom seeker, when he condemned the totalitarian rule of the Communists at a rally July 19 to mark the 1978 Captive Nations Week.

Chow told the participants, including U.S. Representative John Ashbrook; Bertrand Motte, chairman of the National Center of Independents and Farmers of France; George Creppy, president of the Administrative Chamber and vice president of the Supreme Court of Ivory Coast; and some 200 freedom fighters that 85 per cent of the farmers on the mainland oppose Communist rule.

He said the freedom seekers flee the mainland not only to escape hardship, but also to tell the world the truth about what is going on there.

Tai Yen-shih, another freedom seeker,

noted that the living standards on the mainland have not improved in the last 20 years He pointed out, however, that the number of people killed by the Communists increased from 30 million to 80 million and the escapees totaled over 30 million.

During the rally, the freedom fighters also resolved to send cables to U.S. President Carter, the U.S. Congress and drew up a declaration as follows:

"We have come from all sectors throughout the Chinese mainland but have one thing in common; we all possess tear and blood-stained records of our bitter opposition to tyranny.

"Countless people on the Chinese mainland had fallen before our rise. All they had as they faced the tyrants' guns was their mortal flesh, but they wrote epics with blood and used their bodies to pave the way to freedom. Many such forerunners died young.

"Our choice was to remain in servitude or rise to resist. As we decided to be brave, we grew taller and taller. We started walking over the blood of our comrades. The price could be life itself, but there was not retreat once we began fighting Communist tyranny.

"People who have all along lived in free areas do not know how painful it is to be without freedom and dignity.

"We hope that all the conscientious individuals of the world will see that even slaves with no private possessions behind the Iron Curtain can dream about a beautiful tomorrow. How can those living in freedom and dignity feel so hopeless about the future? What we shall be depends on what we ourselves do. We cannot let a handful of politicians arbitrarily decide our fate.

"Let us all be brave fighters against Communism and tyranny. The future then will be ours."

[From the Washington Post, August 6, 1978]

CAPTIVE NATIONS WEEK

Your columnist, Stephen Rosenfeld, calls Captive Nations Week a "dangerous dream" ["The 'Captive Nations' Fantasy," op-ed, July 14]. But Sen. Jacob Javits (R-N.Y.) asserts that the week is not "old hat," but needed today more than ever.

Furthermore, Nobel laureate and dissident Andrei Sakharov has called the Shcharansky and Ginzburg trials, which came on the eve of Captive Nations Week, "a challenge to all foreign governments and anyone working for human rights. If we don't weaken our efforts, the authorities will have to soften their attacks."

Frankly, I think that Dr. Sakharov, rather than Mr. Rosenfeld, is in a position to know what is best for captive nations and captive peoples.

LEE EDWARDS,
Secretary, American Council for World Freedom.●

"JIM"—JAMES GRANT BOLLING

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. ADDABBO. Mr. Speaker, I would like to extend my deepest sympathies to my dear colleague, DICK BOLLING, on the loss of his wife, Jim. My heart goes out to my friend, for we all share in the grief over the loss of a remarkable woman.

In addition to being a warm friend and a loving wife, Jim Bolling distinguished herself in politics and government.

A team at home and at work, the Bolling's relationship was truly remarkable. They brought the best out of each other—to the benefit of themselves and the Nation.

Jim Bolling was brilliant, capable, and dedicated. At the same time she was warm, vivacious, and a good friend. An asset to the Nation and a loving companion to her husband, Jim Bolling's passing is our great loss.●

OUR FOREIGN AID PROGRAM

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. HARKIN. Mr. Speaker, yesterday the House passed the foreign aid appropriations bill by a vote of 223 to 167. I was one of those who voted "no" on final passage. However, I do not want my "no" vote to be interpreted as a reflection of an implacable attitude of mine against foreign aid. In fact, quite the opposite is true.

I personally feel that I am a strong supporter of the type of aid this country ought to be extending around the world. I believe that as the richest and most powerful nation on earth that we have an obligation—not merely a "political" obligation—but we have a moral obligation to share with those who are less fortunate some of the wealth that God has given us. We are the richest Nation in the world due in no small part to the industriousness of our people and our social, economic and political structure.

Still, no one can deny that all of this rests upon a foundation of natural resources which were not put here through the efforts of human beings. We are blessed with abundant natural resources. We are blessed with the finest soil and the best climate conducive to producing food and fiber. Not every region of the world has been so blessed with this type of a foundation on which to build its economic, social and political structure.

That is why I believe we have a moral obligation to feed the hungry, clothe the naked, and heal the sick regardless of race, color, creed, or wherever in the world these conditions exist. I believe we should extend this type of humanitarian aid to people in need regardless of the governmental system they may be living under. In nearly every case, it is the poor, the hungry, and the sick who have no say in how their governments operate.

Humanitarian aid, not "political" aid, ought to be the hallmark of our foreign aid program. To a certain extent this has happened in the past. One can point to many examples of where our aid has gone for humanitarian purposes. But even a casual observer can see that much, if not most, of our foreign aid today is done for "political" reasons. Of course the chief "political" reason is the old catch word "national security." The emotionalism surrounding this phrase "national security" has led our foreign aid program to be more of a military aid program than a humanitarian aid program. We now supply military training, military arms, and military "credit" sales to nearly every country in the world. Where people are starving, we send them guns; where people are ill housed and ill clothed, we send them tanks; where people are sick, we send them tear gas. I believe this type of foreign aid is wrong and no amount of persuasion regarding "national security" will ever convince me that this type of foreign aid is in anyone's best interests, except for the short-term interests of those who may be in charge of the governments of these poor nations.

There are many good things in this foreign aid bill that the House just passed, but the things that are good and decent and humanitarian are far outshadowed by the amount of money that is being spent to prop up repressive dictatorships and to provide economic and military support for those governments—for those dictators who suppress the legitimate human rights of their people.

There is a section in this bill that prohibits direct U.S. aid to such countries as Uganda, Laos and Vietnam. Now while I do not condone the actions of the governments of these countries, such as Uganda's Idi Amin, the fact is there are people in those countries who desperately need our help. Reports indicate there are epidemics of tuberculosis in Uganda. There is an epidemic of malaria in Laos. In Vietnam, there are people—who are still our friends, I believe—who are suffering from malnutrition because their countryside was devastated during the long years of the Vietnam war, for which our country bears more than just a little responsibility.

I offered an amendment on the floor of the House to open up our direct aid to the peoples of those countries if such aid went for humanitarian measures, such as food, clothing, or medicines to eradicate tuberculosis and malaria. I could not even get 20 people to stand on the floor of the House to get a recorded vote on this amendment. Yet at the same time, we are willing to continue to pour millions of dollars in aid to the government, say of the Philippines, where the Marcos family is tightening its dictatorial grip on the nation and getting richer and richer every day with the help of U.S. aid money and U.S. military support. Idi Amin is a ruthless and I believe demented dictator. The Ugandan people, under his heel, have suffered a great deal. If there is any way that we can provide medicine and health care to help relieve that suffering, we should do it. First, out of charity, and secondly, because Idi Amin will soon be gone. If the Ugandan people are more healthy, more educated, and more well fed, they will more likely bring in a better form of government to replace Amin.

There may also be some misinterpretation on my vote against this bill because so much of this bill is aid to the nation of Israel. I believe that my remarks on the floor during debate establishes that in no way do I wish to cut down on our support for Israel. While I may not entirely agree with Prime Minister Begin and his policies, the fact is that Mr. Begin was elected by his people in a free and open election, and he

will have to stand for reelection in that same open and free system. Israel is a democratic nation, much like our own, and we have a special relationship with that country. While there are valid indications that certain violations of human rights are taking place in occupied territories by Israel, and I in no way can condone these violations of human rights, I believe that diligent efforts are being made to reach a peaceful settlement of these differences. Moreover, these violations of human rights do not in any way approach the severity of the violations that occurred and are occurring in other countries, such as Argentina, Chile, the Philippines, and Indonesia. Therefore, I do not want my vote to be interpreted as a vote against our support for the State of Israel.

It is said that charity covers a multitude of sins. Any objective readers of our Nation's history will see that this country has not always been the beacon of what is humane and good and decent. But we have always struggled to overcome these failings, and to a great extent we have done so. I believe that we have overcome many of our failings because we are a charitable Nation. If we cease to be charitable, we will cease to be a good Nation.

I want to be able to feel good about our foreign aid. I want no other rewards or returns for our humanitarian aid other than the knowledge that it is helping to alleviate hunger, poverty, sickness and illiteracy. This foreign aid bill is not designed to do this. Until our foreign aid becomes less military and more humanitarian, I will have to register my vote against it.●

PERSONAL EXPLANATION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. McDONALD. Mr. Speaker, due to my absence over the past few days, I missed certain votes. I requested to be paired on each vote missed, but did not receive a live pair on each vote. Therefore, I would like to explain how I would have voted if I had been present.

*Roll No. 664, "yes."
Roll No. 665, "yes."
*Roll No. 666, "no."
*Roll No. 667, "yes."
Roll No. 668, "no."
Roll No. 670, "yes."
*Roll No. 671, "yes."
*Roll No. 672, "yes."
*Roll No. 673, "yes."
*Roll No. 674, "yes."
*Roll No. 675, "yes."
Roll No. 676, "no."
*Roll No. 678, "yes."
Roll No. 679, "yes."
*Roll No. 680, "yes."
Roll No. 681, "no."
*Roll No. 683, "no."
*Roll No. 684, "yes."
Roll No. 685, "yes."
*Roll No. 687, "no."
Roll No. 690, "yes."
*Roll No. 692, "no."
Roll No. 693, "yes."
*Roll No. 694, "yes."
*Roll No. 695, "yes."
*Roll No. 696, "yes."
*Roll No. 697, "yes."
Roll No. 698, "yes."
Roll No. 699, "yes."
*Roll No. 700, "no:" ●

* Live pair.●

OUR FOREIGN POLICY AND RHODESIA

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. HYDE. Mr. Speaker, the troublesome problems our foreign policy must deal with are nowhere more crucial than in Rhodesia.

Another significant contribution to informed discussion is made by Georgie Anne Geyer, whose experience as a foreign correspondent and her knowledge of the area and personalities is comprehensive.

Her most recent column on the issue of Rhodesia appeared in the August 14 issue of the Chicago Sun-Times, and it deserves the thoughtful consideration of my colleagues:

[From the Chicago Sun-Times, Aug. 14, 1978]

RHODESIAN BISHOP HAS A RIGHT TO BE BITTER

(By Georgie Anne Geyer)

WASHINGTON.—There is a disturbing sense of political deja vu about meeting here with Bishop Abel Muzorewa, the black Methodist churchman-leader of the black and white interim government of Rhodesia. The sense that you've seen them all before, these foreign, would-be, might-be, will-be leaders who come to the capital of the world for blessing.

But Muzorewa, the short, attractive person virtually every analyst and poll shows to be the natural leader of the new Zimbabwe, is understandably bitter. "The administration policy?" he said. "I find it very discouraging, this close-mindedness or unwillingness to be true to America—and I mean the America that believes in freedom and the freedom of other people. I would have thought they would recognize the real effort for democracy in Zimbabwe and support it and nurture it until it matured."

The administration's policy might be understandable in purely Machiavellian terms. That is, the belief that the opposition Patriotic Front, with its guerrillas, could forever sabotage any black majority government like Muzorewa's. But it is more than that. Listen to these quotes from United Nations Ambassador Andrew Young that are not as well known as his famous "political prisoners";

In his second interview with the French Socialist newspaper, Le Matin, Young said that the interim government, which will turn over all the power to a black majority government in December, was responsible for the recent massacres of missionaries. "If this was a planned operation of attacks against missions, it can only have come from the (Ian) Smith camp," he said.

In another largely ignored interview with the London Times on May 22, Young said that "nonviolence is in many ways being practiced by the Patriotic Front. . . . Basically, what they're doing is moving around the villages and conducting political seminars and singing songs—which is exactly what we did."

To Young, this "liberation struggle" is a "fulfillment of the ideal of British education and values." In another speech in the South this spring, he compared the guerillas to the French resistance to the Nazis.

But there is more: Of Robert Mugabe, the fully admitted extremist Marxist who wants a one-party state under his rule, Young said, "The only thing that frustrates me about Robert Mugabe is that he's so damned incorruptible. . . . He is a very gentle man."

Now, all of this is qute staggering. Among the many things that Mugabe has said is, "We have mapped out our strategy on how the whites will be eliminated from our God-given land" (Daily Telegraph, Aug. 8, 1977).

When Sec. of State Cyrus Vance went to Africa this spring, he was stunned by the extremism he found in Mugabe—and by Young's romanticized version of him. In my personal talks with the highest British diplomats, who do not support the interim government either, they have said privately that Mugabe's men were mostly "savages." The idea that they are not behind the brutal terrorism simply does not occur to any knowledgeable person. "Singing songs" is apparently something they do after marching back from axing the missionaries who educated them.

And here we come to the root of the problem. The trouble with American policy in Africa is not only that it fully supports violence over compromise, but that it is built on lies. In a weird sort of way it is a kind of "Marxism" in the sense that it does not matter what the truth is; it matters what service people like Young believe the lies and misconceptions can be put to. We have been wrong before, but never quite in this way.

Bishop Muzorewa has been and is meeting with guerrillas within Rhodesia, and he says most are fighting for majority rule and not for any individual man. He believes many if not most will stop once there are elections in December. We could help that process, but we aren't.

I hear the strangest echoes of history in all of this. In 1965 we refused to back the democratic candidate in the Dominican Republic, Juan Bosch, because we wanted to support the right. Now we will not support the popular candidate in Rhodesia because our diplomats want to support the left.●

JANE BROYHILL

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. ADDABBO. Mr. Speaker, last Sunday, Jane Broyhill, the wife of our former colleague, Joel T. Broyhill, died at her home in Arlington.

I remember Mrs. Broyhill as a warmhearted woman and a gracious hostess. During Joel's 22 years in the House, Mrs. Broyhill campaigned effectively and tirelessly at his side. In addition, she was active in philanthropic and community affairs, serving as a volunteer at the National Orthopaedic Hospital and the Arlington Circle of the Florence Crittenton Home.

I would like to extend my deepest sympathies to Joel and his family for their great loss.●

HEALTH INSURANCE AND RISING COSTS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. FINDLEY. Mr. Speaker, Americans today are increasingly concerned about the rising costs of health care, and rightly so. It is estimated that the Nation's health care bill this year will amount to $180 billion. That is more than the proposed 1979 defense budget. And costs continue to rise at a rate of 15 percent annually.

Increased costs result in part from improved medical technology. But other factors also increase the expense: The high cost of staying in the hospital, the overtreating and overcharging by some doctors, and perhaps foremost, the poor administration and supervision of many health programs.

The Boston Herald American recently ran an excellent five article series that pointed out a variety of abuses in the health insurance system and asserted the need for reform. I commend the series to my colleagues, and include excerpts in the CONGRESSIONAL RECORD.

EXCERPTS FROM THE HEALTH PROFITEERS

(By Mort Young and John Hall)

A Michigan woman won't let the health insurance company pay for her unexpected hysterectomy and refuses to pay the bill herself. "I wondered where my third ovary came from," she recalls, infuriated. "Why didn't the insurance people object?"

Both ovaries had been removed six years ago.

A patient is billed $350 for maternity delivery room service, which the insurance company blindly processes through even though mom is a man.

An insurance company inexplicably foots the bill for a six-month supply of birth control pills—charged to a seven-year-old boy.

Such abuses, added to runaway fees, blatant conflicts of interest and callous profiteering, turn health care in America into a money-making machine for those controlling the industry.

The flaws are deeply embedded in the system, investigations of local health insurance companies across the United States indicated.

What has gone wrong with the health care system is reflected by the giants of the industry, Blue Cross and Blue Shield.

The Blues insure one out of every two Americans. They administer government health programs, and handled payment of most of the $60 billion in Medicare and Medicaid filed in 1977.

But regulation of the 139 Blues and other health insurance plans is perfunctory. Hazily-written state laws are pocked with loopholes making enforcement often no more than a travesty.

Most abuses go undetected because they're "invisible": they're not outrageous, multi-million dollar scandals that attract attention.

"They're the 10 percent to 15 percent overcharges for everyday procedures," explained Kenneth Tannenbaum, a former Michigan deputy health commissioner and now president of Health Benefits Administrators in Ann Arbor, an insurance advisory firm.

"Only rarely, if a bill is outstandingly excessive, will the insurer investigate," Tannenbaum said. "Most companies don't scrutinize routine items because, individually, each doesn't amount to a lot of money. In the aggregate, though, they amount to a great deal of money."

In some states, premiums run higher each year without clearly-defined causes.

Massachusetts Blue Cross and Blue Shield, a combined plan, is an example. Despite attempts to keep costs down, insurance premiums go up.

What pushes up premiums are extra services—lab tests, X-rays, that doctors increasingly order and then bill to the Blues. Quantity of service tends to financially compensate doctors for the lower insurance company payments.

Further, the Massachusetts Blues permit specialists to charge more for a service than general practitioners are allowed, assuring that the higher fee prevails, thanks to agreements between doctors to "live and let live".

Similarly inflationary, specialists paid a percent of total hospital charges for all services given a patient force up costs. A hospital pathologist can earn $125,000 as his share for what a salaried pathologist is paid $50,000.

Another slippery area about which insurance companies don't keep the public fully informed is possible conflicts of interest.

Some local Blues appear to offer advantageous financial opportunities to those directly and indirectly associated with them.

In New York, Blue Cross and Blue Shield of Central New York have interlocking boards of directors that also interlock with local banks carrying large Blues accounts.

The question raised by the overlapping financial interests of doctors, hospitals and those running local non-profit health insurance plans, is whether they are able to resist improving their private incomes at the expense of the faceless premium-paying public.

In the mixed bag of health care coverage, there are really two basic choices.

One is the traditional fee-for-service practice. Doctors and hospitals bill the patient or insurance company for each service rendered—from asking you to say "ah" to the cost of the plastic water pitcher at your hospital bedside.

The other, which the government subsidizes if they meet certain criteria, are health maintenance organizations, or HMO's. An HMO charges a subscriber a fixed monthly fee in advance to treat him when he gets sick, whether it is the flu, a dislocated hip, or a heart attack.

In both categories there are so many variables that they defy description.

The prime example of what an HMO can be is in Seattle, where Group Health of Puget Sound, in 30 turbulent years, has bucked the local medical society and doubts by the community to become a stable and competitive part of the health care industry.

In fee-for-service insurance, doctors and hospitals have an economic incentive to maximize hospital time in order to collect insurance payments of bills and to use the hospital insurance as a shield against malpractice claims.

But HMOs incentive is the opposite: to keep patients out of the hospital so that overall costs will be less.

Cooperatives such as Puget Sound, San Francisco's Kaiser Foundation, Boston's Harvard and New York's Health Insurance Plan (HIP) are major exhibits in the federal government's case for a national health insurance bill in which HMOs would be a centerpiece.

But in the headlong rush to duplicate the efforts of successful HMOs in other parts of the country, federal and state governments are managing to turn a dream of health care at a low cost into a nightmare of medical commercialism, illicit profiteering and fraud.

California prepaid health plans (PHP's) are under investigation by a special grand jury probing for evidence of criminal fraud and ties to state officials and legislators.

Many of the clinics provided inadequate or non-existent service.

A U.S. Senate subcommittee found that more than half the Medicaid funds plowed into the PHPs in 1974 were written off for administrative costs and profits, although most of the 54 plans were supposedly non-profit.

But Hale Champion, a HEW undersecretary and a leading proponent of HMO's, believes the California experience was a "sport"—a temporary diversion from the real progress prepaid health has made.

Something is going right with health care in Delaware—unlike in other states.

What has emerged in Delaware is a reversal of attitude by the insurance companies from aloof arrogance toward the public to that of open cooperation. The reward is health services at a price that has begun to level off.

Unlike most Blue Cross-Blue Shield boards of directors, which are dominated by health practitioners and high corporate executives, of the 21 seats on the Delaware Blues board only five are filled by men associated with health care: four doctors and a college administrator who also sits on a hospital board.

Another uncommon aspect is the board's high turnover rate.

Nor is absenteeism tolerated by the Delaware Blues.

Only a few years ago, however, the Delaware Blues were in bad shape.

Board meetings were conducted in secret. Subscribers who protested decisions affecting their benefits were ignored. Blue Shield even stopped sending policy-holders copies of bills their doctors submitted to the insurance company.

"The public didn't have the opportunity to do anything because the health insurance setup, nationwide, gives the public very little influence," according to Frances West, secretary of the Blues board and director of Delaware's Division of Consumer Affairs.

"A reason I'm on the board were complaints that the public wasn't represented. You certainly don't need the president of of every company the Blues insure sitting on its board. They often don't have time to delve into what needs looking into. They become almost a rubber stamp," West said

Besides opening directorships to the public, an advisory committee was formed to represent various "consumer publics" in Delaware such as farmers, teachers, local businessmen.

"The committee came up with changes, attitudes and ideas for the board to act on," West explained.

"It was the first step to help the public understand what was going on," she continued.

The Blues were afflicted by inept claims processing as well as a lack of responsiveness to subscriber complaints; "lousy housekeeping," as West put it.

The old Blues management was fired and more responsive administrators hired.

"The handwriting is on the wall," West cautioned.

They are reading it in Delaware. But can that state's experience be repeated elsewhere, not only with the immense Blue Cross and Blue Shield, but with the hundreds of HMO's—health maintenance organizations—being offered as alternate insurance companies across the United States?

The answer seems to be that it can be done, if greater emphasis by health insurance companies is placed on serving the public rather than almost automatically funneling insurance premiums to doctors and hospitals, according to the Federal Trade Commission, the Moss Subcommittee on Oversight and Investigations, and the Department of Health, Education and Welfare, all of which are probing the health care system.

The increased pressure of public opinion for an end to the upward costs finally has brought the health care industry to the threshold of reform. Whether it crosses over remains to be seen.●

CAPTIVE NATIONS WEEK

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. NOWAK. Mr. Speaker, this year marked the 20th annual observance of Captive Nations Week, which serves both as a reminder of the need for vigilance and dedication in maintaining our personal freedoms and also as a catalyst for reaffirming our efforts to achieve human rights and peace on an international basis.

The strong support that still flourishes in our country for the spirit of Captive Nations Week is evidenced by the many and diverse local observances that are held to mark this anniversary. I should like to bring to the attention of the House the following expressions of support for Captive Nations Week—resolutions issued by the Captive Nations Committee of Western New York, Buffalo's Mayor James D. Griffin and Erie County Executive Edward V. Regan:

CAPTIVE NATIONS COMMITTEE OF WESTERN NEW YORK

RESOLUTION

Whereas, the relentless and steadfast resolve of the Russian Communist expansion to further their imperialistic drive for world domination has not diminished; and

Whereas, this plan of action has met in the last year with visible success as demonstrated by the recent African epsodes; and

Whereas, this aggression by proxy which has cleverly used Cuban forces to further Russian imperialistic aims and has brought the world close to a major flare-up; and

Whereas, this brinkmanship has dangerously involved major parts of the world and has caused bloodshed and was averted only by a fast action of the free world; and

Whereas, the Panama Canal issue has widely divided the American public and polls clearly indicate that most Americans do have strong reservations to the surrender of the Canal; and

Whereas, the decision to return the St. Stephen's Holy Crown to the Communist Hungarian regime—despite valiant efforts of the free Hungarians—is a gross breach of confidence and has created a dangerous precedent; and

Whereas, the broadening of the economic detente with the Soviet Russian world has definite seeds of danger and might create a Communist build-up strategic computer oriented arsenal; and

Whereas, the recent trials and convictions of the dissidents have caused rightly a furor and a public outcry, the shocking state of the Ukrainian and other enslaved nations resistance movements have gone almost unreported despite the Russian created "Holocausts"; and

Whereas, the swift and merciless reaction of the Russian regime to attempt to silence the Helsinki monitoring groups is a clear indication of their Achilles heel and have served only to consolidate the resolve of many fearless men and women to continue their fight for national and human rights; and

Whereas, inspired by the devotion to freedom of these brave men and women who, notwithstanding the ruthless suppression and great personal hardship, have shown valor and exceptional spirit, have given us a valuable lesson in courage;

Now, therefore, we, assembled here to commemorate this 20th anniversary of Captive Nations Week, do hereby resolve to work diligently to inform and pressure our public officials to use all available tools of diplomacy in order not only to alleviate individual hardships but create a fertile ground for human and national rights to flourish on a world-wide basis.

CITY OF BUFFALO, EXECUTIVE CHAMBER

Whereas, our nation recently celebrated the bicentennial of our existence and has demonstrated to the world the viability of democracy by showing our willingness and courage to defend these unalienable rights time and again; and

Whereas, the cause of freedom is indivisible, its loss reverberates and perils freedom everywhere, encroaches upon hard won liberties and undermines even the stablest nations; and

Whereas, Communist aggression by proxy so vividly brought forth on the African Continent only recently could have caused a major conflagration with the shedding of innocent blood; and

Whereas, the Russian imperialistic and expansionistic Communism drives by using Cuban forces as their aggressive arm have attempted to blackmail our resolve; and

Whereas, the human rights movement eloquently represented by President Carter, has enunciated the absolute need to address our attentions to the severe repressions of said rights by certain Russian signatories of the Helsinki Accords; and

Whereas, the Captive Nations, the first victims of Communist totalitarian aggression, are waging a valiant struggle to free themselves of the shackles imposed upon them by this repressive force; and

Whereas, we Americans have been on record that we take the stewardship of freedom seriously and take inventory of freedom's cause daily but especially during Captive Nations Week and reiterate this dedication by building bridges to those oppressed; and

Whereas, the submerged and subjugated nations have demonstrated through their long and tenuous fight their total commitment to gain independence for their respective peoples, and have a right to believe that America shall not desert this righteous path; and

Whereas, no peace can be won by subterfuge, no peace can be hoped for by dealing with the aggressors, for as the great Emerson once said, "nothing can bring peace but the triumph of principles!",

Now, therefore, I, JAMES D. GRIFFIN, Mayor of the City of Buffalo, do hereby declare the week of July 16–22, 1978, as "Captive Nations Week" and urge our people to rededicate their lives to the cause of liberty and dignity of man and ask all our people, regardless of faith, to attend their House of Worship and pray for peace with freedom for all mankind.

In witness whereof I have hereunto set my hand and caused the Seal of the City of Buffalo to be affixed this 17th day of July, 1978.

JAMES D. GRIFFIN,
Mayor of Buffalo.

COUNTY OF ERIE

OFFICE OF COUNTY EXECUTIVE

Whereas, our nation recently celebrated its Bicentennial and has demonstrated to the world the viability of democracy. It has shown willingness and courage to defend these unalienable rights and has unselfishly given proof of supreme sacrifices; and

Whereas, the cause of freedom is indivisible, its loss reverberates and perils freedom everywhere, encroaches upon hard won liberties and undermines even the stablest nations; and

Whereas, communist aggression by proxy was so vividly brought forth on the African continent, and which only recently could have caused a major conflagration with the shedding of innocent blood. Russian imperialistic and expansionistic communistic drives, by using Cuban forces as their aggressive arm, have attempted to blackmail our resolve; and

Whereas, by this tactic the aggressors aim to paralyze our foreign policy and thus effectively render vulnerable in the future by designing to sap our national nerve; and

Whereas, the human rights movement eloquently represented by President Carter, has enunciated the need to address our attentions to the severe repressions of said rights by certain signatories of the Helsinki Accords; and

Whereas, the Captive Nations, the first victims of Communist Russian totalitarian aggression, are waging a valiant struggle to free themselves of the shackles imposed upon them by this repressive force; and

Whereas, Americans have been on record as taking inventory of freedom's cause daily, but especially during Captive Nations Week and reiterate this dedication by building bridges to those oppressed; and

Whereas, the submerged and subjugated nations have demonstrated through their long and tenuous fight total commitment to gain independence for their respective peoples, and have a right to believe that America shall not desert this righteous path. No peace can be won by subterfuge, no peace can be hoped for by dealing with the aggressors, for as Emerson once said: "Nothing can bring peace but the triumph of principles!"

Now, therefore, I, Edward V. Regan, Erie County Executive, do hereby proclaim the week of July 16–22, 1978 as Captive Nations Week and urge our people to rededicate their lives to the causes of liberty, and to attend their House of Worship and pray for peace with freedom for all mankind.

In witness whereof, I have caused to be affixed the Seal of the County of Erie this — day of — 1978.

EDWARD V. REGAN,
County Executive.●

BREAKTHROUGH IN MAGNETIC FUSION

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. TEAGUE. Mr. Speaker, last month the Department of Energy research team at the Princeton Plasma Physics Laboratory (PPPL) achieved a major milestone in the magnetic fusion program. In a doughnut-shaped device called the Princeton Large Torus, a temperature of 60 million degrees centigrade was achieved; this is almost three times the previous highest fusion temperature. It is recognized by the Science and Technology Committee that fusion energy promises us virtually unlimited supplies of electrical energy but requires extremly high temperatures so that certain nuclear reactions can occur. This breakthrough carries the magnetic fusion program a long way toward the "ignition" temperature of 100 million degrees which is required for the fusion reaction

to sustain itself. Hydrogen nuclei are heated to these unusual temperatures by neutral beams and this experiment indicates that this way of heating the fusion plasma in doughnut-shaped machines is very promising. In fact, the next step in magnetic fusion will be to use bigger and better neutral beam injectors in the Tokamak Fusion Test Reactor (TFTR) a device now under construction at Princeton, N.J.

Both myself and the ranking minority member, Mr. JOHN WYDLER, wrote to the Department of Energy officials in June of this year voicing our concern about the future of the magnetic fusion program. Our committee is keenly aware of the critical stage of technology development which the program has reached and feels that good management and optimum use of major facilities are key to its ultimate success.

Mr. Speaker, this Nation is eager for victories on the energy front and demonstrating advanced technology to top renewable resources is mandatory if we are to show other nations that we are serious about energy supply. The Princeton team is to be congratulated for its achievement and the Government/industry team at PPPL should be encouraged to aggressively pursue the next step, successful construction and operation of the TFTR. The stakes are too high for this Nation to take a timid approach to magnetic fusion. We must move aggressively on this option and our committee expects the Department of Energy to reap the fruits of this latest advancement.

The Department of Energy press release follows:

PRINCETON FUSION MACHINE ACHIEVES RECORD TEMPERATURE FOR TOKAMAKS

The Department of Energy announced today that the Princeton Large Torus (PLT) fusion device has achieved a new temperature record for a tokamak-type machine. A temperature of 60 million degress Centigrade was reached, well above the 44 million degree minimum required for a sustained release of fusion energy.

Scientists at the Princeton Plasma Physics Laboratory (PPPL) in New Jersey, sponsored by DOE, have for the first time achieved the temperatures required for producing sustained reactions in a tokamak machine. They have also gained an understanding of how the particles react in the plasma at these temperatures.

Temperature is one of three critical elements needed to achieve a self-sustained fusion reaction. The other two elements are confinement time (the number of seconds the hot plasma can be confined within the device) and density (the number of particles in a cubic centimeter of the plasma).

Higher confinement times and density have been reached in other tokamak experiments especially designed for these purposes. However, all three of the criteria needed to create a sustained fusion reaction have never yet been achieved at the same time.

One key to the success of the current Princeton experiment was the use of a technique called neutral beam injection to help heat the plasma. This neutral beam system was developed by DOE's Oak Ridge National Laboratory in Tennessee.

On the basis of the Princeton experiments, scientists now calculate that the minimum size for a power-producing fusion reactor may be no more than two-to-three times the plasma size of the PLT, which has a radius of 18 inches.

A new device, the Tokamak Fusion Test Reactor, already under construction at Princeton and scheduled to operate in 1981, is twice the size of the PLT. Scientists are now confident that it may be possible to achieve a sustained release of fusion energy in the TFTR.

Fusion, the energy source of the sun and stars, is produced by the nuclei of light atoms, such as hydrogen, combining into heavier nuclei with an accompanying release of energy. Conventional atomic energy uses fission, in which heavier atomic nuclei are split to release energy.

The PLT's record temperature is four times hotter than the 15 million degree temperature of the sun's interior. It is twice the previous tokamak temperature record of 25 million degrees, also set by the PLT. Two neutral beam injection systems have been added since the previous record was set.

Temperatures of several hundred million degrees have been reached in mirror-type fusion machines, which are linear. The temperatures in tokamak and mirror devices are not comparable due to the losses of particles at the end of the mirror machines.

Tokamak machines contain the fusion reaction inside a toroidal, or doughnut-shaped, magnetic field. The hydrogen-based fuel converts to a plasma when heated to the high temperatures.

The PLT experiments were led by Dr. Wolfgang Stodiek and Dr. Harold Eubank of Princeton, under the direction of Dr. Harold P. Furth and PPPL Director Melvin G. Gottlieb. The PLT experiment was initially proposed by Dr. S. Yoshikawa of PPPL. The neutral beams were provided by the Oak Ridge Fusion Energy Division group headed by Hal H. Haselton, under the direction of Dr. O. B. Morgan.●

ARSON—A NEGLECTED CRIME

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. SAWYER. Mr. Speaker, at the present time, arson is not considered a major, or "part 1" crime for purposes of the FBI Statistical Crime Index. Those crimes classified as major crimes are: murder, larceny, burglary, forcible rape, robbery, assault, and auto theft. The total loss of human life and property as a result of arson, often exceeds these other crimes, however.

Property losses from serious crimes, 1974[1]

[In millions of dollars]

Offense	Property loss	Average loss per offense
Robbery	$142	$321
Burglary	1,181	391
Larceny	816	156
Auto theft	841	1,246
Arson:		
Incendiary and suspicious	616	3,294
Incendiary and suspicious plus one-half unknown cause	1,284	2,558

[1] Loss data for crimes other than arson were obtained from the 1974 FBI Uniform Crime Reports.

From the point of view of the economy as a whole, losses from arson are greater than other crimes—for robberies, burglaries, larcenies, and auto thefts may be viewed as involuntary transfers of assets with little net loss to the economy. Arson causes assets to be destroyed.

As indicated in the chart, above, losses under the narrower definition were comparable to the other property crime categories; with the broader definition, arson losses were greater. Furthermore, loss per offense was significantly higher for arson than for the other offenses.

In view of the relative magnitude of arson, it is surprising that it has not received more attention in the past. This situation is likely due to the lack of a single, well known source of national statistics, as is provided for other offenses by the FBI Uniform Crime Reports.

The lack of reliable statistics leads to local apathy. "Part 1" crime statistics, which are thoroughly reported, are publicized in small and large communities, through the local press and television news stations. These statistics are compared with last years figures and with the statistics of other communities to give residents a clear picture of the number and degree of part 1 offenses being committed in their area. Arson, however, receives no such coverage.

Deaths and injuries from serious crimes, 1974[1]

Offense	Deaths	Injuries
Murder	20,600	
Police killed	132	
Aggravated assault		[2] 453,000
Arson:		
Incendiary and suspicious	1,000	[3] 10,000
Firefighters killed	45	NA

[1] It should be noted that deaths and injuries due to arson are included in the total for the categories of murder and aggravated assault, respectively.

[2] Includes unsuccessful attempts.

[3] Estimate.

Classification of arson as a part 1 crime would have several beneficial consequences.

First. Increase awareness of the problem by publication of statistics which will, no doubt, shock citizens.

Second. Identify arson as a major law enforcement problem which will induce increased funding for research and control programs.

Third. Increase the motivation for the development of better training programs for firemen and the hiring of more trained arson inspectors.

Fourth. Incentive to get better arson laws on the books combined with more diligent prosecution and stiffer sentences.

Fifth. Greater attention by the insurance industry to prevent arson fraud.

As a "part 2" crime, and thus dubbed coequal with gambing, drunkeness, and violating a curfew, arson has been neglected. This neglect has led to a severe nationwide problem of immense proportions. No longer can we stand idly by and let arsonists destroy lives and property. Action to reclassify this devastating crime is our first step in the right direction. With this action we can enlighten the public as to the seriousness of arson,

to let them know that it is not an isolated occurrence and that they are paying, through higher insurance rates, for the actions of persons who are not being held accountable.

In recognition of the greatly increasing incidence of arson and of the lack of adequate statistical records on this crime, I am introducing, today, legislation which will instruct the FBI to include arson as a part 1 or serious offense for purposes of the FBI Crime Reports. This bill will not only serve the purpose of increasing the reliable statistics on arson, but it will aso serve as a warning to arsonists that the American public is taking action on this neglected crime and will be on the alert for offenders. I request your attention and support of this timely legislation.●

CHARLOT: A PORTRAIT OF THE ARTIST

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. HEFTEL. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following: The genius possessed by a great artist almost assuredly is recognized sooner or later. Unfortunately, that recognition often comes too late for the artist to appreciate. Such is not the case for Jean Charlot.

Mr. Charlot, who has lived in Honolulu for nearly 30 years, is now 80 years of age, but he is still engaged in a prodigious amount of work—still adding to an international reputation that will transcend time.

I am pleased to include the following profile of Mr. Charlot from the Honolulu Advertiser for the benefit of my colleagues and the art-loving public as a whole.

CHARLOT: A PORTRAIT OF THE ARTIST

(By Beverly Creamer)

When Jean Charlot was a very small boy and lived behind the Opera House in Paris, he would go to the Louvre every weekend.

He walked by himself, a very small boy with intense eyes, straight down through there, over the bridge, or sometimes not over that bridge, through the heavy gates to the grandest art museum in the world.

Over to the side were the Tuileries, the gardens where young lovers still walk hand in hand under shade trees, where little boys send sailboats out into the eddies cast by flying drops of water in a fountain.

Into the Louvre he went, up marble stairs, down hallways, to stand in front of his favorites, the Italian Primitives.

At this point, the very little boy in Charlot pauses and Charlot, the artist, looks critically at his interviewer whom he has assumed, rightly, knows far less then he about great art.

Those are the paintings done "before Raphael," he says and his magnificently bushy gray eyebrows shoot upwards toward the navy blue visor clamped over his forehead. Who knows, the eyebrows seem to do their own thinking, perhaps she doesn't know Raphael.

Charlot goes back to being a small boy.

One of his favorites of the Italian Primitives was by Paolo Uccello. He spells it. It was full of the action of horsemen with thrusting lances.

His first fresco done in Mexico, "Massacre at the Great Temple," is filled with horsemen bearing thrusting lances. The horsemen are the Spanish invaders. Their lances are raised against the people of the land.

The Italian Primitives, the French cubists popular as the very small boy was growing up, both are strong underlying influences of the Charlot art. Charlot sounds modest when he says it. They are "a good base."

It is three-quarters of a century since Jean Charlot was a little boy staring at his favorite paintings in the Louvre, never realizing they would shape his own style years from then.

Three-quarters of a century, two oceans, a continent and the art work of a lifetime separate him from those long-ago untroubled memories.

He looks aged and fragile these days, with a kind of built-in vulnerability. Even as little as six months ago he moved with agility, jumping up and down out of his chair during an interview, leaping up to pull books down from an endless collection across one entire wall in his livingroom, catching his cat in the garden for a photograph.

He no longer does those things. Over the space of two hours he sits quietly in a chair in one of his favorite places, a breezy lanai next to the canal in Kahala where he has lived for 20 years and where he painted a fresco along one livingroom wall in the midst of the furious work of the carpenters building his house. The wind rustles the leaves of a lauhala tree overhead.

Charlot is occasionally restless and pulls one leg slowly up to let the foot rest on the seat of the chair. He no longer throws it recklessly over the arm of his chair.

And when he finally arises, after two hours of talking that have apparently been part pleasure, part ordeal, he walks slowly with the help of a cane.

"I never knew I wanted to be a painter," he says, placing the tip of the black cane lightly against the taperecorder on the table in front of him.

"And I don't fancy myself an artist in the sense that people think an artist should be. If I used a word I would use artisan. That is a man who handles well the tools of his craft.

"There is a saying of Cezanne I like very much. You know the artist Cezanne? Spell it. Very good. Cezanne said a painter does his art as a snail trails his ooze. o-o-z-e. That's exactly what happens to a real painter. He just paints."

He went on: "I look very little at my old things. Sometimes I'm idle and I look through them, but I'm mostly interested in doing. Once it's out of me it's done."

As for his place in art, Charlot scoffs at worrying about such things. "It's none of my business," he snapped. "It's all decided by professors of art history. (He taught art history for years.)

"I hope that the things that came out of me are important enough so that people will take them into account. But it's not for me to judge."

Those who have known Charlot for many of the 29 years he has lived and worked in Hawaii, say he has never been a person to temper his natural impatience to fit the circumstances of the moment. Perhaps that is the personality—or the right, some say, of genius.

As the interview went on late into the afternoon and Charlot seemed impatient to be done with it, he asked at one point: "What do you want to do, stay for supper?"

While Charlot can be testy, certainly, and has a sense of humor that some of his friends label "very French," and therefore, almost unfathomable to the American funny bone, there is a strong streak of warmth and compassion in the Charlot soul. It surfaces most often in connection with his art.

It was in 1967 while he was at work on a massive mural depicting western culture at the East-West Center's Jefferson Hall, that he noticed a young art student visiting each afternoon to watch him work.

The student, an amateur but gifted potter, seemed never to be without a large, heavy hunk of clay wrapped in plastic.

Though it took him out of his way to visit Charlot, and it was an effort because he had to carry the clay, he rarely missed a day.

When the mural was finished, Charlot peered at the young man and noted that he had been faithfully watching the unfolding of the fresco.

Then, impulsively, Charlot pulled out a section of his original drawing, signed it and gave it to the student.

Then, just as impulsively, he grabbed it back again. "Wait, that is not good enough for you," he said.

He then unfolded an entire section, 11 feet by three feet, signed it and rolled it up. "This is for you," he said, handing it to the dumbfounded student.

Charlot has always been generous with his art. He has given much away, sold others for just a few dollars, partly because he firmly believes art is for the people and should be accessible to them.

Some of his work he trades, like those he has traded Helena Chock for luaus. "Helena's," he repeats when asked about his favorite Hawaiian restaurant, Helena's Hawaiian Food on North King Street.

"It's a marvelous Hawaiian restaurant. Actually we are friends. She has on the walls of her restaurant quite a nice collection of Charlot paintings on Hawaiian subjects.

"She trades for luaus. If I have friends I want to luau with, I let her know. It makes a fair exchange, I think."

Charlot, a student of the Hawaiian language since his first years here, believes that the culture of a place is implied in the cooking.

"She's good for my Hawaiian," he says of Helena and her restaurant which he visits whenever he is in the neighborhood. "She doesn't speak Hawaiian, no, but, she cooks Hawaiian and I eat Hawaiian."

Jean Charlot is one of Hawaii's most prestigious, most renowned, most industrious and productive artists. Even at 80 he is constantly at work.

There are two major new projects on the horizon, one a fresco mural for a new building, the other a massive sculpture larger even than his "Alii Nui" in front of the Ala Moana Americana hotel. And there are new books coming out all the time.

The two new projects are still partly secret. The final contracts have not been signed and Charlot will say no more.

What he does like to talk about is his latest series of lithographs, now on sale at Gima's Gallery in Ala Moana Center.

Entitled "Kei Viti," the series of five features themes of Fiji, an island Charlot visited more than 15 years ago.

"The things I did now are things I saw in Fiji in 1961 so it takes a long time to percolate, you see."

The lithograph series, priced at $600 for the entire set of $175 apiece, depict the same stylized, strongfeatured people that populate Charlot's murals, paintings and prints on Hawaiian themes.

"A curious thing," he says, pulling his glasses off and folding them up in his hand. "There are very few pink people in my work.

"It's mostly American Indians, Melanesians, Polynesians, and that I never realized until I was around the age I am at now.

"I am part Aztec Indian myself, from my great-grandmother and that's what happened to Gaugain. . . . Gaugain was part Peruvian

Indian and I am part Aztec and I can't shake it off either. My favorite models were dark-skinned people."

Charlot has made a life's work painting native peoples, gaining his first recognition in the 1920s in Mexico when he worked with leading painters of the Mexican Mural Movement.

Diego Rivera, Jose Clemente Orozco, even painter David Alfaro Siqueiros were his compatriots. Charlot says they were paid the same wages as house painters.

It was here in 1931 that he met a young American student, Zohmah Day, there for the summer with an art student girlfriend on a scholarship.

The two young women invited a group of young film-makers and painters to dinner one evening and Charlot happened to be among the group.

The women were budgeting so carefully at the time that all they could afford to serve were boiled carrots.

Zohmah remembers that Charlot was the only one who made nasty, sarcastic remarks about dinner and she kept hoping this "awful man" would be quiet.

(But she married the "awful man" eight years later after a sporadic long distance courtship marked by only occasional visits (he was living in New York then and she in California), original hand-drawn Charlot Valentine's every February, letters decorated with sketches, drawings and paintings and one cancellation of their wedding plans.)

Charlot had gone to Mexico at a "tragic, tragic moment" in his life.

His father had died several years before, he had just lost a church mural commission and "there was nothing in France for us."

He and his mother packed up and went to visit the Mexican relatives.

His mother had been born in Paris but her parents were born and married in Mexico and there is still a long line of cousins there.

Charlot attended the Coyoacan Open Air Art School in Mexico City and through this association came to meet and work with the young revolutionary artists.

It was Charlot who produced the first true fresco in the New World in modern times, "Massacre at the Great Temple" in the stairwell of the National Preparatory School in Mexico City.

He was known as "The Little Frenchman" and it was his writings about the Mural Movement that brought the young artists their first international prominence.

Before leaving Mexico Charlot worked as an archeological draftsman with the Carnegie Institute on the first excavations at Chichen Itza in the Yucatan.

The influence of the pre-Columbian frescoes found in the excavations were to have a major impact on the Charlot style.

A copy of one of the decorative friezes is displayed across one wall in his Kahala living room and it is easy to see how Charlot's works echo the same strengths as those ancient stylized figures.

It wasn't until 1949, long after Charlot had moved to the United States and begun to teach, that he first came to Hawaii.

Ben Norris, then head of the University of Hawaii Art Department, invited him to teach a summer class in fresco painting. He's been here ever since and only retired from teaching in 1966.

It was that first summer that he painted his first Hawaii mural at Bachman Hall on the University campus. It was that mural that his children cut their teeth on.

"I would always leave them a little extra piece of lime surface," he said. They'd paint around the edges and at the end of the day their father would cut off their section.

"They were painting frescoes before they were 10 years old," Charlot says.

Titled the "Relation of Man and Nature in Old Hawaii," that first fresco shows, in a corner, one of Captain Cook's ships arriving in the Islands.

"The relationship always interested me . . . to what extent the people who make the conquest of the land are in turn conquered by the land itself," says Charlot.

"In Mexico it is very obvious . . . in Hawaii it also interested me . . . To what extent the missionaries who came to Hawaii were converted by the Hawaiians to Hawaiian culture, to Hawaiian thought.

"If you know old missionary families, there is an infusion of Hawaiian manners, Hawaiian aloha."

Charlot is convinced that it was the missionaries who were conquered and says emphatically that the Hawaiian culture is very much alive.

A case in point, he believes, is the recent concern over an ancient Hawaiian aumakua that went on the auction block at Sotheby's in England.

The Hawaii public pledged $100,000 to the Bishop Museum toward buying the carved wooden figure and bringing it back home to Hawaii, but the figure sold far above that price to a wealthy European bidder.

Charlot is not upset primarily because Hawaii lost the aumakua, though he does feel "these things have an esthetic value in Hawaii they wouldn't have anywhere else," but rather because he considers there is a basic misunderstanding of the figure itself, especially of the terrifying expression on its face.

He is critical of people who feel that "prettiness" is tied to beauty in art.

"It's important to see that there are some ideas in art that are not Playboy, not bunny-like," he says. "Goodness and prettiness do not always go together . . . and the sense of ugliness does not mean evil."

Charlot says that the figure exudes a sense of "terribilita," an Italian word which means a sense of awe rather than fear. It is the sense of terribilita that is so admired in the work of Michelangelo, for instance, says Charlot.

For Charlot, participation in the world of art began early.

His mother was a painter in her own right and had exhibited in Paris. He modelled for her as a child.

It was she who told him the story about his first drawing.

"I was four years old and I did a drawing which of course I didn't pay an attention to," he says.

"It was a dog climbing a steep hill and it seems that the legs of the dog were well-placed to climb a hill."

Charlot received his early training with the Catholic Gilde Notre-Dame in Paris.

The Gilde was a group of young artists, most in their teens, "who wanted to bridge the gap between artisanship and artistry," says Charlot.

They studied a wide range of techniques, from woodblock cutting to enamelwork to glass windows to fresco.

As a fresco artist, Charlot had to master more than just an ability to express ideas artistically. He had to learn to work with materials that had a life of their own.

In the early days, he was his own mason, learning to mix the lime and sand and spread it on the wall surface. The line mixture hardens within about five hours so you can only work on one small section at a time, he says.

"You trace on the wall, like a jigsaw puzzle, an area for that day and the mason comes and covers it with lime and sand.

"You have to wait until it's slightly hardened. . . . It is very important to do it when it's fresh. (Fresco is Italian for fresh.)

"If it's too wet the tracing paper will stick to it and destroy the surface. And if it's too hard the paint won't take.

"Then you trace your line drawing on that. (Charlot traced with the point of a nail and drew the original on butcher paper before transferring it to tracing paper.)

"Then you paint it with color mixed with pure water. I was using Japanese brushes which are very nice for fresco.

"The paint goes in, the wall dries and lime water comes out of the wall and makes a coat of transparent lime over the color. It's a double movement—in for the color, out for the lime."

In his days in Mexico, Charlot purchased his earth colors from a hardware store. Once purchased they had to be ground even more finely and mixed with water.

Frescos will last forever, he says, but they can be damaged. At the University of Georgia where he taught for several years before coming to Hawaii, there has been damage to one.

"I found that where the students could reach, they had made funny heads," says Charlot. The mural has since been repaired.

The only damage to frescos at the University of Hawaii is not physical but "mental," explains Charlot.

"At one time someone wanted to beautify Bachman Hall and put a row of pots and plants in front of my fresco," he said. Charlot suggested that this was not appropriate and the pots were removed.

Over the years Charlot has been artist, writer, teacher, lithographer, book illustrator, cartoonist (his religious cartoons are published in a number of Catholic newspapers) and playwright. And his children have followed his lead.

"I hoped they would not be artists," he says, partly in jest. "I wanted them to be bankers.

"But they tend to do things that I could understand. Not that I approve of their being artists, but they are. I don't approve and I don't disapprove.

"There's no way of disguising the fact that I was doing those things. I wrote books, plays, I painted and so forth. So do they."

His daughter, Ann, is a poet; his eldest son, John, is a theologian; his next son, Martin, is a muralist and his youngest, Peter, is involved in the performing arts.

The only non-artist in the family in his daughter's husband. "She got married to someone in Venezuela," explains Charlot. "He is the only executive in our family. Steel and what not . . ."

Though he never returned to France to live, Charlot retains the citizenship of his homeland along with his American citizenship. But he likes to joke about how American he has become.

"The other day I was with a friend and I wanted to show how American I am," he says.

So he ordered a hamburger and ate it with a lettuce leaf.

Afterwards, Charlot said his friend said; "You're not a good American.

"You didn't put on it the mustard, the mayonnaise, and the A-1, and the pickles and the dill pickles."

Those bushy grey eyebrows shoot up again and Charlot smiles broadly at the little joke he has just made. He is still, as they say, "very French." ●

THE DEFENSE BUDGET: TARGET FOR TAXPAYERS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. DRINAN. Mr. Speaker, we are all familiar with "proposition 13 fever" and the cuts in Federal spending resulting from it. But we seem to be ignoring the

one area in which Government expenditures can and should be cut significantly with few negative repercussions. That area is military spending, which continues to command the largest single portion of the American tax dollar.

Continuing the furious buildup of nuclear arsenals is a worthless expenditure in the power game between the United States and the U.S.S.R. The United States now possesses enough weaponry to devastate any enemy 100 times. As Norman Cousins points out in an editorial in the August Saturday Review, "beyond a certain point, the use of nuclear force is an exercise in the pulverization of rubble."

Second, Americans' "keep up with the Jones'" attitude is exemplified in the buildup of weaponry to match or outspend the Soviet Union. What we forget is that a great deal of Soviet military expenditure is directed not at the United States but at China. After the point at which U.S. defense expenditures deter the U.S.S.R. from an attack, we are engaged in an exercise which is pointless.

These unnecessary expenditures are not harmless. The huge amounts of money spent on the military feed inflation by increasing aggregate demand without augmenting the supply of goods available for civilian consumers. According to Ruth Leger Sivard's report, "World Military and Social Expenditures: 1978," military spending also has a negative effect on employment and investment.

U.S. public expenditures on the military were $1.179 billion from 1960–1976. In 1975 alone these expenditures were $91 billion, compared to $39 million for international peacekeeping, $88.6 billion for education, $46.6 billion for health, and $4 billion for foreign economic aid. The average American family pays more in taxes to support the arms race than to educate its children, pay for health care, or help developing nations. A simple 5 percent cut in military spending in 1975 would have meant a $4.5 billion saving; this money could then have been used for more fruitful purposes, including tax reductions to stimulate the economy and lighten the burden of the average taxpayer.

If this Congress is to be taken seriously in its expressed dedication to reducing Government expenditures and lowering taxes, we must take another look at defense spending. In this regard, I commend to the attention of my colleagues the following excellent editorial by Norman Cousins in the Saturday Review of August 1978.

[From the Saturday Review, August 1978]

TARGET FOR TAXPAYERS

So far, the revolt of the American taxpayer has been a skirmish on the periphery. State and local taxes, which have served as the basis for the uprisings of the citizenry, are only marginal compared to the bite out of every dollar taken by the federal government.

The largest single portion of that dollar goes for military spending, which has long since passed the point where it has anything to do with genuine national security. The principal argument being offered these days for a mammoth military budget is not so much that it is necessary for defense as that we don't want to be outspent by the Russians. We are playing a macho game; it is almost as though we have to prove our manhood by outdoing the Russians in pumping money into a military machine.

What makes the game so manic and senseless is that no one thinks to ask where the Russian money is going. It is just assumed that it is all being spent on weapons that could be used against the United States. Have the advocates of megadollars for the military in this country ever stopped to explain to the American people that a large part of the Soviet military budget is connected to its disputes with the People's Republic of China?

Exact figures are not available on the number of Russian soldiers now stationed on the long common border with China. The estimates have ranged from one million to three million men. Whatever the precise size, supplying a major armed force over a vast distance requires billions of rubles. Thousands of tanks and other heavy military equipment are involved in this particular operation. How is it that such facts are never mentioned when spokesmen for the military in this country rush forward to tell the American people that we must not under any circumstances allow the Russians to have a bigger military budget than our own?

Now we learn that President Carter wants to revert to the civil defense emphasis of the early Sixties because, he says, the Russians are beefing up their own civil defense. One would think we would have learned by now that thermonuclear explosives make a farce out of civil defense in general and underground shelters in particular. It is possible, of course, that the President has been advised that the best way to head off a taxpayers' revolt on federal spending, with the military budget as a prime target, would be to create an atmosphere of national insecurity and tension. If so, the strategy is bound to backfire. Vietnam is too fresh in the American memory for yet another major manipulative venture by government.

Imitation of the Russians is the biggest single weakness in American society today. At one time we prided ourselves on the fact that we had become a model for the rest of the world. But that was before we got into the habit of allowing the Soviet Union to define our standards and values. Perhaps the most dramatic and damaging specific example is the CIA, created because the Soviet Union was engaged in a wide range of undercover activities, including subversion and murder. We deluded ourselves into thinking we had no choice except to do the same. Yet we did have a choice. We could have trained massive searchlights on Russian undercover activities, exposing them pitilessly and remorselessly before the entire world community. Does anyone think that Russian secret operations could have continued if the cover kept being removed? Publicity converts such operations into national liabilities, as the history of our own CIA has demonstrated.

The various books on the CIA that have appeared recently have documented the negative impact on American institutions of its undercover activities. What remains to be done, however, is to document the cost to the American taxpayer. The CIA budget has never been presented to the American people. They have no way of knowing whether the cost to them is one hundred million dollars or fifty times that amount or more. One searches in vain through the U.S. Constitution for any provision under which such secret spending can be legally undertaken.

The American people are not mandated to wreck their own economic system just because the Russians find it necessary to spend well in excess of one hundred billion dollars on their armed forces. Perhaps the time has come for Americans to pay as much attention to federal taxes as they do to property taxes. When they do, they will discover that the government itself is the largest single cause of inflation—and that the military budget accounts for the biggest single chunk of government spending. The concern over high taxes, therefore, is directly related to the fight against inflation. Inflation erodes the value of the dollar faster than people can increase their earnings. The military budget is the one place where substantial reductions can be made without impairing the function for which the money is being spent.

Any scrutiny of the military budget must give proper weight to the cost of, as well as the necessity for, the steady accumulation of holocaust-making weapons. A good authority on these matters is Robert McNamara, who as Secretary of Defense told Congress 10 years ago that a total of 400 megatons of nuclear force can destroy at least three fourths of any enemy's industrial capacity. He explained that a fourfold increase of our nuclear stockpile would destroy only one percent more of the industrial capacity of that same enemy. Beyond a certain point, the use of nuclear force is an exercise in the pulverization of rubble.

It is estimated that the United States now possesses something on the order of 40,000 megatons of nuclear force, or about 100 times more destructive power than is required to devastate any potential enemy. The human mind is incapable of comprehending either this kind of power or its implications. One way of visualizing the size of the nuclear stockpile is to think of 43 million tons of TNT being manufactured every day for 6,000 years—or the time span of recorded history.

The sum total of all that explosive force now resides in our arsenals and is getting bigger every day.

The incredible and outrageous fact is that our leaders are unwilling to say at what point they are prepared to call a halt to the further accumulation of nuclear weapons. But there is no reason why they should not be compelled by the force of public opinion to accept a limit. If we are concerned not just with taxes but with the survival of this nation and its values, we will put at least as much passion into the fight to end the arms race as we do into the effort to bring local expenditures under control.—N.C.●

POPULATION TRENDS AND DISTRIBUTION—BALANCE(S) OF POWER SERIES BOOK II(F)

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 15, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, one of the bases for national power, and a primary element of a nation's strategic position in the world is its population. Demographic characteristics and trends in population distribution have important consequences for the nation's potential productivity, mobilization, and economic health, not to mention its ability to sustain its modern armed forces without harm to the civil sector.

Today's selection in the "Strategic Balance" series, "The Soviet People: Population Growth and Policy," details recent demographic trends in the Soviet Union and outlines the concerns to which Soviet leaders must give attention, such as a growing regional imbalance, migration to areas already surplus in labor,

and the flow of productive members from agricultural areas. Since Soviet decisions to influence these trends and others will have a bearing on the Soviet Union's future strategic position vis-a-vis the United States, it is important to be familiar with the demographic strengths and weaknesses of the third most populous nation in the world.

This selection is excerpted from a 1973 publication of the Population Reference Bureau, Inc., entitled Population Bulletin.

THE SOVIET PEOPLES: POPULATION GROWTH AND POLICY

Stretching across the top of Asia and Eastern Europe from the Baltic Sea to the Pacific, the Soviet Union comprises the largest land mass of any nation in the world. Its 8 million square miles approximately equal the combined area of North and Central America, although a much smaller proportion lies within the Temperate Zone.

Most of this vast area forms an uninterrupted plain from west to east, broken only by the relatively low Ural Mountains which divide Europe and Asia. In the north it is practically uninhabited—an arc of treeless tundra succeeded to the south by thick coniferous forests virtually impenetrable except via a few north-south river valleys.

South of the evergreen belt on the European side of the Urals lies an area of deciduous forests that contains the heart of what became the Russian Empire. In this area around Moscow, and later in the rich plains or steppes of the Ukraine and European Russia, was formed the society that spread its influence halfway around the world.

But the openness of the terrain, while posing few barriers to expansion, also meant that the growing country was vulnerable to invasion and destruction. Incursions by nomadic tribes from the east kept European Russia from expanding during the late Middle Ages as did the rest of Europe; later, the threats came from the west, as boundaries and territory in East Europe shifted continually throughout centuries of war.

By 1725 the Russian Empire contained only about 20 million people, and although its territory included Siberia, only 2 percent of the population lived east of the Urals. Information about population size and distribution is meager for the 18th and 19th centuries, but it seems to have grown at a modest rate throughout this period. When the first and only complete census of the Russian Empire was conducted in 1897, a total population of 94 million was recorded.

At that time Russia included not only the Slavic areas, radiating from the core around Moscow into Belorussia, Lithuania, and the Ukraine, but also a center of population in the Caucasus Mountains, including Georgia, Armenia, and Azerbaijan, and a number of Turkic peoples living in Turkmenistan, Uzbekistan and Kazakhstan east of the Caspian Sea.

The U.S.S.R. today is still a polyethnic union, dominated by its Slavic population but with many areas inhabited by unassimilated ethnic minorities. Its total population in 1972 was 248 million, making it the third most populous nation in the world.

INTO THE MODERN WORLD

During the first half of the 20th century Russia changed from a backward, underdeveloped stepchild of Europe into a major superpower.

WAR AND ITS EFFECTS

World War II had a devastating effect on Soviet population, but the full extent of the disaster was not revealed until 1959, when the first postwar census revealed a total population of 209 million. Despite high estimated rates of growth during the postwar years, the population had increase only 17 million from 1939 to 1959, not counting the population acquired by territorial changes. The average annual growth rate for that period was only 0.4 percent. Losses caused by the war included an estimated 25 million people killed and about 20 million fewer births than would have taken place had there been no war.

Fatalities on this massive scale left great distortions in the age and sex distribution of the Soviet population, and these anomalies are still visible in the age structure revealed by the 1970 census.

Of the 242 million people counted in 1970, 130 million were women and only 112 million were men. This difference in sex distribution occurs among those over 45 years of age, who were 16 years and older in 1941 when the war began There is a sharp pinch in the 1970 age distribution "pyramid" in 45-to-54 year age groups, more pronounced for men but present also for women. In the 50-to-54 year age group, the cohort that was hit hardest by the war, there are almost 2 million fewer people than in the age group 70 years and older.

Another pinch in the pyramid occurs in the 25-to-29 year cohort—those who were born during the war. The size of the youngest cohort—those 4 years old or younger—also is reduced. In part this reflects an "echo-effect," caused by the relatively small war-born cohort, who were in their most fertile years during the 5 years previous to the 1970 census.

RECOVERY AND GROWTH

Following World War II the Soviet Union experienced a period of rapid population growth that lasted into the 1960s. Since 1958, when the rate of annual growth was 1.8 percent per year, the Russian population has increased at a more modest pace, and by 1969 the growth rate was half that figure. The rates for 1970 and 1971 were slightly higher. In terms of numbers of persons added to the population, the 2.2 million increment during 1970 was only a little more than 60 percent of the number added each year during the late 1950s.

The 1970 age and sex distribution of the Soviet population reflect the changing growth rates since 1950, as well as the catastrophic effects of revolution, famine and war that occurred earlier. The high growth rates that had prevailed between 1955 and 1965 are reflected in the 1970 age pyramid, which shows large numbers in the 5–9 and 10–14 age groups. The reduced population growth rates between 1965 and 1970 are evident in the smaller size of the 0–4 year cohort.

The population in the working, or "able-bodied" group—defined officially as 16 to 59 years for males and 16 to 54 for females—has increased less rapidly since 1950 than those in the younger and older age groups. The most rapid increase has occurred in the older, nonworking age groups, whose numbers nearly doubled from 1950 to 1970. Old people represent a steadily rising proportion of the total Soviet population.

The 25 years since the end of World War II have seen a decrease in the great deficit of males created by the war, the revolution and other catastrophic events. The excess of 22 million females which existed in 1950 was reduced to 19 million by 1970.

The process of rectifying an abnormal sex distribution is slow, however: The sex ratio of 80 males per 100 females in 1950 had increased to 85.5 by 1970, but is still far from the 95–99 males per 100 females that is typical of populations where growth has been normal. Projections of the Soviet population indicate that the ratio will be approximately 90 in the year 1990.

WHO ARE THE SOVIET PEOPLE?

The U.S.S.R. has an extraordinarily varied population, composed of about 100 separate nationalities related mainly to Slavic, Finnic, Turkic, Georgian, Armenian, Ivanian, Mongolian or Siberian ethnic groups. The 1970 census in most instances allowed Soviet citizens to designate the ethnic group to which they belonged. According to census results, the Great Russians, the principal Slavic group, are numerically predominant with 129 million. This and the 2 other major Slavic groups, Ukrainians and Belorussians, account for three-quarters of the Soviet population.

Other principal groups are the Baltic peoples, including Lithuanians, Latvians and Estonians; the peoples of the Transcaucasus, including Georgians, Armenians, Azerbaijanians; and Central Asians, the most numerous of whom are Uzbeks, Kazakhs, Tadzhiks and Turkmenians. Tatars, most of whom live in the Russian Republic, are also an important ethnic group.

In contrast to the low and declining growth rates of the Slavic and Baltic groups, the Turkic peoples of the Central Asian republic increased rapidly during the 1959–1970 period. While the national population increased 16 percent. the numbers of Uzbeks, Kazakhs and Tadzhiks increased by approximately 50 percent, not counting those who may have been assimilated into the Russian population.

The total number of Great Russians—the predominant ethnic group—increased during the intercensal period in all republics except Georgia. The greatest increase, of course, occurred in their home republic; the Russian Soviet Federated Socialist Republic. The next largest increase was in the Ukraine, 2 million, followed by that in Kazakhstan, 1.5 million—in both cases due largely to migration from other republics.

POPULATION SHIFTS: WEST TO EAST, FARM TO CITY

The 1970 census revealed no surprises regarding the distribution of the population among the various regions of the country. In general, interregional shifts have followed long-term trends.

On trend that continued throughout the intercensal period was the movement of population from west to east. In 1959 there were 45.5 million persons living east of the Urals in the Asiatic part of the Soviet Union—slightly more than one-fifth of the total. This population increased 28 percent, nearly twice as fast as the total population during the intercensal period, and in 1970 numbered 58.2 million, about one-fourth of the total population.

The basis for this shift, however, lies primarily in the high rates of growth in Kazakhstan and the 4 Central Asian republics. Only one of the economic regions in the eastern part of the R.S.F.S.R.—the Far Eastern region—increased more rapidly than the national total. The heavily than the national total. The heavily industralized Urals region and Western Siberia increased at less than half the national rate.

Another trend in population redistribution has been from the western and central regions of European Russia to the southern republics and regions.

Losses in population occurred primarily in central European areas where neither agriculture nor new industries have developed.

Migration played a major role in this net redistribution of population. The estimated net inmigration for Kazakhstan constitutes 19 percent of the increase in population reported for the republic between the censuses, and that for the Ukraine is 8 percent. For Latvia and Estonia, inmigration made up an estimated 45 percent of the population increase—an indication of the need for manpower to these areas to bolster their low natural increase rates and meet demands for labor.

The regional imbalances of manpower which exist in the Soviet Union today, and the continuing flow of migrants to labor surplus areas, such as the North Caucasus and southern Ukraine, are of great concern to Soviet officials. Other difficulties are the high turnover among workers migrating to Siberia and the North, and the loss of young farm workers migrating to the cities.

URBAN GROWTH, RURAL GROWTH

The pattern of change in the urban and rural populations of the republics during the intercensal years roughly followed the regional patterns for the total population. The urban populations of the Russian republic, the Ukraine, Latvia and Estonia increased less rapidly than the national trend, while the rural populations of these republics decreased more rapidly than the total rural population. In the eastern and southern republics, rural population increased significantly.

Growth of urban population was high in Kazakhstan, the Central Asian republics and 2 republic of the Transcaucasus, Azerbaijan and Armenia. This growth was the result of both high rates of natural increase and migration. Urban growth was also at a high level in Belorussia, Lithuania and Moldavia, where rates of natural increase were low. The percentage of urban population in the latter republics was relatively low in 1959; during the intercensal period a massive rural-urban migration brought about what might be called an urban revolution.

Moldavia, which was only 22 percent urban in 1959, achieved the highest urban growth rate—76 percent—between the censuses. In Lithuania the urban proportion increased from 39 percent in 1959 to 50 percent in 1970; in Belorussia it went from 31 percent to 43 percent.

In the U.S.S.R. as a whole, there was an increase of 36 million in urban population. Of this, 14.6 million were added due to natural increase, 5 million as a result of converting rural communities into urban places, and more than 16 million resulted from rural-to-urban migration. Nearly 900 cities and city-type settlements were added to the official list of urban places between censuses.

Rates of increase among the various classes of large cities varied considerably in the intercensal period. While total urban population grew 36 percent, cities greater than 250,000 in 1959 grew at slower rates, and the largest cities grow most slowly.

In 1959 only 3 Soviet cities—Moscow, Leningrad and Kiev—had more than 1 million inhabitants. By 1970, there were 10 in that size category. Moscow's 7 million and Leningrad's 4 million population still overshadowed the other cities in 1970, but the relative differences in size were reduced because the smaller cities grew faster. Tashkent grew 49 percent in 11 years to reach 1.4 million population; Kiev's 1.6 million in 1970 was a 47 percent increase over 1959.

Although the total rural population decreased by almost 3 percent in the intercensal period, rural residents increased by more than a third in Central Asian republics, and by nearly a quarter in Kazakhstan. In each of these areas rural growth exceeded the rate of natural increase for the republic, reflecting relatively higher rural fertility and, in all likelihood, some migration from the other republics. The net loss of nearly 7 million persons from the rural population of the Russian Republic, largely from the Central European and Western Siberian regions, more than offset the gain of rural inhabitants in the eastern republics.

Projected growth of Soviet population

[In millions]

Year	Series B*	Series C**
1970	241.6	241.6
1975	253.7	253.0
1980	267.0	264.5
1985	281.5	276.5
1990	295.3	287.6
1985	307.7	297.3
2000	319.5	305.8

* Constant fertility.

** Declining fertility.

Young men are now required to register for the draft when they reach 17 years of age, and if called into service they enter at age 18. According to the projections, the number of males at the entry age of 18 years will fluctuate between 2.4 and 2.5 million for the next few years, then rise to nearly 2.7 million in 1979. Following this the size of the age group will decline until 2000. Males in the prime military ages of 18 to 34 years will increase in number over the next 15 years. By 1988 it is estimated that they will total 39.8 million, a 31 percent gain in their number over 1970. Most of the increase is anticipated in the late 1970s and early 1980s. During the rest of the century the group will decrease 7 percent to about 37 million.

The population in the working ages (15 to 54 for women and 15 to 59 for men) is projected to increase by 43 million (25 percent) between 1970 and 2000, but the largest part of this increase will be during the present decade. From 1971 to 1976 this age group will increase by 12.4 million, and during the next 5-year period (1976 to 1981) it will rise by 10.8 million. The number of males in these ages will increase nearly twice as fast as the comparable numbers of females over the projection period.

The most significant change in the age structure of the population will occur in the older, or pension, ages—55 and older for women and 60 and older for men. From 1971 to 2000, this age group will increase by 25.2 million, or 70 percent. The number of males will more than double, from less than 9 million to more than 20 million. The number of females will increase from 28 million to 41 million, a 68 percent increase.

Despite these increases, however, the proportion of the population in the nonworking age groups is projected to decrease in coming years.

POPULATION AND POLICY: CAUSE AND EFFECT

Population questions have a high political content in Marxist countries. The issues go back to the 19th century, when Marx and Engels scathingly rejected the social theories of Thomas Malthus. Until recently, the usual Marxist position has been that population size is not a problem, even for developing nations; it is the type of economy that is important. Anyone who suggested the need for slowing population growth was labeled a neo-Mathusian and accused of trying to substitute population programs for needed changes in the economic system.

Since 1967, Soviet spokesmen have moderated this position, acknowledging that some developing countries have been adversely affected by too-rapid population growth, and advocating the adoption of effective birth control programs. Regarding population growth within the Soviet Union itself, most of the attention has been focused on the question of raising fertility where it is low. An increasing number of journal articles and monographs have been devoted to the general topic of fertility decline and the need for an official population policy to counteract the trend. In the latter half of the decade a number of nationwide and regional conferences and symposiums were devoted to these topics. The popular press has not ignored the matter, particularly the literary weekly, *Literaturnaya gazeta*, which has carried many articles by well-known scholars and actively solicited the views of readers.

Attention has been focused mainly on the long-term implication of present fertility trends for the numbers of entrants into the work force. The tight labor supply which existed throughout most of the 1960s prompted increased study of demographic trends.

The concern over possible labor shortages is not unanimous: At least the demographer, A. Y. Kvasha of the Central Statistical Administration, has publicly expressed the view that a further rise in the birth rate may not be advantageous. "The optimal type of population reproduction in our nation," he says, ". . . can be considered to be 'slightly expanding' or close to stationary. . . . With this there will be an expanding labor force, including youth, and at the same time the size of demographic investments will not be extraordinarly high."

Kvasha also took note of differences in fertility in the various Soviet publics. He argued that "optimal" reproduction should be brought about by "stimulating fertility in areas where it is low and at the same time furthering the limitation of fertility in areas where it is very high."

Other demographers, however, and Soviet officials in general, are reserved about suggesting anything that might be interpreted as discrimination against ethnic minorities. They point out that fertility among these groups, while much higher than the average, has been declining along with that of the rest of the country. They argue that further urbanization, economic development and contact with increasing numbers of Slavs who migrate to the ethnic republics as development proceeds will stimulate further reductions in fertility without the need for specific policies.

They also point out that clashes between Slavic and non-Slavic groups have declined since the Stalin era, so that the growth of ethnic minorities and the relative decline in the number of Slavs is not looked on as threatening.

Regardless of the lack of an official position, however, a number of policies of the Soviet government have had an effect opposite to what is considered favorable: They have apparently discouraged fertility among the urbanized, Slavic population while having either no effect or a positive effect on the high fertility among the non-Slavic population. Among these policies are those concerning abortion, family allowances, women in the work force and urban housing.●